



Episode Title: REACH and GHS in Latin America -- A Conversation with Melissa Owen

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Lynn L. Bergeson (LLB): Hello, and welcome to *All Things Chemical*, a podcast produced by Bergeson & Campbell (B&C®), a Washington, D.C., law firm focusing on chemical law, business, and litigation matters. I'm Lynn Bergeson.

This week, I had the real pleasure of speaking with Melissa Owen, owner of and attorney with Ambiente Legal, about the significant regulatory developments regarding chemical registration in Latin America, including Latin American Registration, Evaluation, Authorization, and Restriction of Chemicals, AKA [also known as] REACH, based on the European Union (EU) Registration, Evaluation, Authorisation and Restriction of Chemicals (EU REACH) regulation initiatives, and the Globally Harmonized System of Classification and Labeling of Chemicals, GHS. We discussed Brazil REACH, which requires by law the government to have an implementing regulation issued by May 2025 [Note: The deadline has changed since the recording was made.], which is fast approaching; Colombia REACH, also subject to a fast-approaching May 2025 deadline; and other Latin American REACH and GHS deadlines. We also discussed the August 2025 deadline in Chile for the notification of chemicals included in professional and consumer products and much more regarding developments in countries south of our border. Now here is my conversation with Mel Owen.

Mel, I am so thrilled that you are with us today. I've been looking so forward to chatting with you. Say hi to our listeners.

Melissa Owen (MO): Hi, such a pleasure, and the smile on my face is perhaps audible.

LLB: It is. Mel, you are so well known to many of our listeners because you've been deeply embedded in this space for a number of years. But there might be a listener or two who may not know much about you. Can you tell us a little bit about yourself and how you came to develop such a robust, and rich, and essential Latin American practice?

MO: It would be a pleasure. I'm actually Mexican-born and didn't even move to rural South Texas until I was in junior high school. I'm a Mexican national, U.S. national as well, and

Spanish was my first language. When I ended up going to law school, I had always enjoyed environment and biology in undergrad and realized I wasn't a litigator and I wasn't scientific enough to sit for the patent bar, so I went into environmental law and have never looked back. I went in to my first interviews in Austin, Texas, 30 years ago now -- hard to believe -- went into the law firm saying, "I want to do Latin American environmental law," much to their chagrin, and the strange smiles. They would tell me, "But there is no such thing," and I said, "But there is, and we will create it." Of course there was, but we ended up -- I was lucky to start out in the offices of Baker Botts in Austin, Texas, under the leadership of Pam Giblin, who was herself a bi-national Mexican-U.S. citizen. So when I said, "I want to do Latin American environmental law," she said, "Let's do it."

We ended up creating a practice group they still have. I have been out on my own now. I ended up leaving, and I've had my own firm for the last over 25 years. I've always worked exclusively on Latin America. I don't do -- if you need anything on the United States or Canada, call Lynn Bergeson. That's what I tell *all* my clients. But no, I do exclusively Latin America.

Along the way, with my first projects, Lynn, I realized that if I didn't speak Portuguese, I was really going to be limited because of the importance of the Brazil market. For my first big database project for an oil services company, I realized I had not grown up knowing any Brazilians. I'm from Mexico and South Texas, and there just weren't many Brazilian communities. The first time I looked at it, I'm like, "This reads exactly like Spanish. I mean, what could this be?" So I started getting into it, and I've learned Portuguese over the years.

LLB: So you're trilingual.

MO: I actually speak also French and Italian, but that's for social reasons.

LLB: Oh, I hate you, Mel. I am so jealous.

MO: That's for social reasons: an Italian ex and a French husband. So that's how that came about. But the real -- I'm very blessed in that Latin America -- like you, I love what I do -- and so Latin America is at the heart of what I do. About seven or eight years ago, I was on a panel up in San Francisco with the then-head of the chemical agenda for Brazil, a brilliant woman, now head of oceans for the UN [United Nations] named Leticia Carvalho. I gave a talk, and she said, "No, you're not really an expert on that topic." And I said, "What?"

LLB: What?

MO: She said, "You're actually just an expert on Latin America more generally." I came home and changed my LinkedIn profile. I thought, that more accurately describes me because I've worked so much across the region that I really am kind of more of a jack of all trades, master of none. I really know Latin America, and then specific questions in it, like the chemical regulatory agenda. Or I'm actually a fractional regional counsel for companies, like I used to do for Dell computer. I was regional counsel, so I saw everything the regional counsel would see for a couple of years. I dealt with everything from labor disputes, to tax issues, to whatever a corporate in-house attorney would see for the region. That's where I really got a better understanding of the legal and cultural context more broadly than just environmental regulations or chemical regulations, appreciating how it all fits together, what countries have strict labor laws and what countries are more known for customs enforcement or something. It is -- it's a big backyard that keeps me plenty busy.

LLB: No, absolutely, and just so totally wise beyond your years, Mel, for focusing on Latin America. It's kind of bustling with activity these days, which is why you are on this podcast. We at B&C, and our consulting affiliate, have worked with you and your firm for years on a really wide range of issues, to your point, not just on chemical regulatory matters, but compliance and permitting, and other issues that require the deep cultural understanding of the ways of the regulatory system south of the border there.

You are a lawyer. You were trained here in the United States. Maybe you can tell us, with a little more specificity, so our listeners can fully avail themselves of your extraordinary skill set, the subject matter areas that you consider part of your portfolio.

MO: Absolutely. My elevator speech when people call is that I help multinational companies with plants and products across the region. The plant side, I used to do industrial hard hat audits, two and three weeks at a time for one of the major car companies across Mexico and South America. That was where I would be the local law expert and do a dual audit with the team from Detroit that knew the company's performance criteria. I got to know plants, and I worked on that side.

But here in the last ten years or more, I really am helping companies with products more than plants, so I help people bring products to market. During the pandemic, I joked that 2022 was the year of the disinfectant, and I became an expert on biocide regs across the region. But I really work now, especially with regard to all things chemical, since that's what we're talking about. I help clients with the two big categories for our region, which are regulated products and industrial substances.

Regulated products are what Latin America has had laws on for decades. That's everything that you would think of needs some kind of regulatory oversight to be placed on the market: biocides, pesticides, fertilizers, bio inputs, anything in the biotech space. And then also all of cosmetics, personal care, personal disinfectants, household cleansers, chemical precursors, things that might be in a little packet that you ship down to the country.

Now, the big thing that's coming and that I talk about so much is the REACH-inspired regulations in the region, where for the very first time, Latin American countries are requiring some type of registration or controls on hazardous industrial substances or more generally chemical substances under the new Brazil REACH-inspired rules. Those are already active in Colombia and Chile.

Colombia is the one really moving the dial right now, because it's all due by May 30, and Peru has adopted their standard. We're waiting on an implementing reg, and Brazil is the big beast in this, because it's just so much bigger than the other countries, and they adopted their new law last fall. I'm very active these days in chemical matters, but both regulated products and, like you said -- and then just all of the attendant strange and interesting compliance questions you and I get, Lynn, like, "Is this substance that can also be a date rape drug something that I need to worry about in my glue?" -- or things like that that clients deal with.

LLB: We're always entertained by those, "I just did this. Is that okay?" Well, no, no, and hell no, but let's talk about it.

You've already partially answered my next question, which is for listeners who are tangentially or generally aware of what's going on in Latin America today, maybe you can help them focus and expand upon what you said a moment ago. Like if you are a chemical

producer, an importer, a formulator, a product manufacturer in Latin America or products going into that part of the globe, what do you think our listeners should be focusing on? Can you just prepare them for some of the more granular details that we're going to be sharing about the REACH-like programs that are propagating all over Latin America?

MO: Absolutely, Lynn. Great question. I think, again, let's do a *parte aguas* or split the waters into two categories. I will not be talking about the regulated product regs, because those are not new. They've been online for decades. And as I said, Latin America already has rules around chemical precursors. We already have regulations for regulated products from cosmetics to pharmaceuticals, fertilizers to pesticides. And we also have worker exposure laws. Labor laws have been on the books for decades, and there are exposure limits for all those things. So, that's what already exists and isn't new.

What your listeners need to be preparing for is the REACH-inspired regulations in Latin America. They are not REACH; we use REACH as a shorthand or as a code to mean new chemical framework laws that are going to, for the first time, require manufacturers and importers to register or notify their substances in a national inventory so that that country can subsequently decide if there are substances of concern or priority for which they will require risk assessments in order to then issue or ask for risk management measures. That's important to remember this path that we're on, and that's what we call these REACH-inspired laws. I use "REACH-inspired" because I don't like "REACH-like." These are not like REACH.

They are all coming online at the same time, because all of these countries -- Brazil is the *caso aparte*, or is the exception -- but for Chile, Colombia, and Peru, they were all adopted in order to meet the OECD [Organisation for Economic Co-operation and Development] standard that is implied to be required that you have a framework chemical management law in order to have accession to the OECD because becoming an OECD country is a big deal to my region. Those countries see that as kind of the country club of countries and that membership in that will allow their businesses to flourish, and they'll have access to markets and credit they wouldn't otherwise have.

Chile is a member, Colombia is a member, and Peru is up for accession, so is Brazil. That's why you saw them moving. Peru in 2023 adopted its REACH-inspired reg. Where are we? Quick overview on the REACH-inspired regs. The first two to adopt were Chile and Colombia. In Chile in 2021, it beat Colombia by just a few months, and Colombia later in 2021. Chile already has registration ongoing. It decided to move it into four different phased-in deadlines. For Chile, hazardous industrial substances -- that's the pure or neat substances -- were registered last year. Right now, between February 9 and August 30, 2025, you are supposed to be registering your hazardous non-industrial substances -- again, pure or neat -- and non-industrial for Chile means professional or consumer use.

Then in 2027 and 2029 is when Chile will really get busy, because in 2027, you will be registering your hazardous substances in industrial mixtures, and in 2029, your hazardous substances in *non*-industrial mixtures. That's where most of the big bucket of chemical substances will lie, according to the work I'm doing with my clients. For Chile, you should be really thinking about getting a handle on that, because you've got some time in the meantime.

Colombia is everything, and it is now. They have had their registration system open, actually, for three years. It's an online platform known as the *INSQUI*, or "in-ski," by its Spanish acronym. That registration is due by May 30 of this year. That's what's keeping me

up at night right now. We've had some problems with the registration platform, but that is for hazardous industrial substances only.

Then Peru adopted its -- kind of -- what I call a skeleton regulation on GHS and its new REACH-inspired system in 2023. It's designing a very different plan for its implementation, where manufacturers and importers will be submitting their SDS [safety data sheet], their classification, their label for approval by the government and then later registering only the quantities in their online inventory. It's very confusing. When that draft reg went out last fall, they got over a thousand comments. The government's working through them. One of my consultant partners actually down in the region, in her role as a UNITAR [United Nations Institute for Training and Research] trainer, has been helping Peru with that, and it looks like they're going to move forward with it, despite the fact that they've gotten pushback from industry and all, but we expect that later this year.

Then Brazil is the elephant in the room. They adopted their REACH-inspired law, November 14 of last year, Law 15.022. They have a fabulous multidisciplinary group drafting the implementing regulation, which is due at the end of May. We don't know if it might be a little bit delayed. I was at ChemCon in Boston with the woman who leads the environmental agenda on that for Brazil, and she was saying that she's in favor of a quality reg over a rushed reg. I agree, but it does look like they're moving forward. I think what they're trying to do is potentially leave some of the issues to future resolutions and measures that are below the decree level, because the implementing regulation will be in a decree, and under Brazil's hierarchy of laws, that is much more difficult to create and change. And if they leave some of the issues pending to resolutions or another type of ministerial act known as a *portaria*, the administration can issue those and revise those, and all without having to go all the way back up to the highest levels of government for permission to make those changes. They're working hard on the development of the implementing reg.

LLB: But you think, Mel, that it actually *could* be out? I mean, we're recording this in early April.

MO: Yes, it could be out.

LLB: May is knocking on the door right now.

MO: Yes, it could make it. It could make it. I really don't know, but the important thing to note is that we were informed that it will not go through a public comment process, so it will just be issued as a decree, so I'll wake up with my cup of green tea and just see it in the *Federal Register* of Brazil, the *Diário Oficial da União*, will just have it online. We will not get --

LLB: -- another shot, another bite of the apple. Right.

MO: No, no. And that's the great thing, Lynn. If they leave some of these to future standards and all, it gives us more chance for input and comment.

LLB: That's a great, great overview of a very complicated *gamish* of programs and deadlines. Those of our listeners listening are probably kind of mildly freaking out right now.

MO: I'm sorry. Not the goal. Not the goal. I geek out on this stuff.

LLB: But people need to know, right?

MO: Yes.

LLB: But how -- if you can, in just very broad strokes -- how similar or dissimilar are these? You say REACH inspired. Some people say REACH adjacent. Are they generally pretty similar or quite wildly different?

MO: In Mexico -- in my native Mexico -- we say, "*Dios está en los detalles*" -- God is in the details. And here in the United States, they say, "The devil's in the details." So I think when we give these generic overviews of the similarities and differences, we do have to remember that this is a discussion to guide you at the highest level. When you go to see whether these apply to you or not, I think it's important to dive into the details. But at the highest level, they have some very strong similarities. The biggest similarity is that they are all geared toward the same big goal, which is control of chemicals imported or manufactured in the country.

Step one is registration of the substance. All of them have that. Some call it notification, some registration, but that's the goal. Then the next step is the government is going to take these substances, prioritize them, and then request or do a risk assessment of them to finally end up with reasonable risk management measures, either requested or imposed, depending on the scheme we're talking about. That's the general outline of all of these countries.

The big picture is that most of them are based around an IT [information technology] platform. Let's talk about the registration step because that's what we're in right now. For registration, most of them are based around an IT platform in which the manufacturer or importer will input information as required into that system. One of the similarities is that they are all data light compared to REACH; these are not dossiers. This in theory should be information that's available on an SDS.

LLB: Okay.

MO: I say in theory because now, if you look into the details, Colombia, you need molecular weight. You need Hill notation, so there is more detail than might be on an SDS. But the general idea is that the data requirements are light. It's more like a notification than a registration, right? And then there are loads of exemptions, and that's something shared across the new schemes. The first step as a company, to see whether you're covered or not, is to understand that all of them so far are only requiring registration by local importer or local manufacturer. A foreign manufacturer, there is no extraterritorial duty on you to do anything by law. You are not required to register anything. You register your substances in order to keep market access and be able to sell your fabulous substances to your lovely customers in those specific countries. But across the board, the duty to register substances in Brazil, Chile, Peru, Colombia falls on the local manufacturer and local importer. And that's really key for us talking to these chemical companies that will probably be foreign manufacturers.

If they have a local entity, if they actually have, you know, *ACME do Brasil* or *ACME de Colombia*, then their local ACME will need to be an importer and/or manufacturer and do the registration. The other thing to remember is the role of the foreign manufacturer differs by country, and so far, but for Brazil, there is no Only Representative option. So in Chile, in Peru, and in Colombia, you don't have access to register your substances. In Chile, you have nothing. There is no exclusive representative. There is no CBI [confidential business information] protection option. It is on the local importer and local manufacturer. All you can do is, in a commercial setting, support your local importer by letting them know, "Hey, these wonderful products we sell you have these industrial hazardous substances or non-industrial hazardous substances, and you need to register these." Another big similarity is

that Chile, Colombia, and Peru are all focused on hazardous substances for the most part. Peru, we'll have to see the implementing reg. Maybe they'll expand, but for the most part, Chile and Colombia are exclusively hazardous.

Brazil will be all chemicals, hazardous and non-hazardous, if they comply with the requirements. So as a company, whether you ship into or you manufacture in, look at your substances, see if they fit within the definition of these schemes, and then look for exemptions. The exemptions are generally found in two big buckets. They are either found in the implementing law or decree itself, usually Article 2 or 3. And then if not there, they can be expanded upon and refined. What we're finding in Chile and in Colombia is that there was more definition of them given in the instruction guides that have been issued as to how to register in those online platforms. They actually include important regulatory details, like definitions of exemptions.

And there are a lot of exemption. For Colombia, they realized that their technical capacity to handle some of these complex substances didn't allow them to really have the technical teams to handle. So, UVCB [unknown or variable composition, complex reaction products or biological materials] are exempt in Colombia.

LLB: No kidding! That's huge.

MO: No kidding, yes. UVCB across the board are exempt. Polymers are exempt as well, as well as the monomers and additives *in* them, as long as they form part of the polymeric structure. Chile has some broad exemptions as well. The exemptions look a little bit alike across all of them, too. There are some similarities. One of the big ideas is to exempt substances that are already regulated by the country, for example, cosmetics, foods, food additives, fertilizer -- I'm sorry, fertilizers, depends on the country -- and some of those pharmaceuticals. Those tend to be exempt, Lynn, because they already require sanitary registration.

LLB: Right. So is the big line in the sand -- and I was listening carefully to your remarks about hazardous versus non-hazardous, it's really embedded within that scheme -- is existing regulations with regard to what we would regard here in the United States as regulated under FFDCA [Federal Food, Drug, and Cosmetic Act] versus TSCA [the Toxic Substances Control Act] versus FIFRA [the Federal Insecticide, Fungicide, and Rodenticide Act]. If there is a pre-existing regulatory system, if it's hazardous or non-hazardous, if it's already regulated elsewhere, that's an exemption. Is that correct?

MO: Yes and no. They are exempt if they're non-hazardous by definition, but this brings me up -- I'd made one note. I'm like, do not let myself get through this without talking about GHS. And that is just the most perfect segue.

The GHS is the key to all of this. The Globally Harmonized System is the definition for all of these schemes as to what is and is not hazardous. To define whether or not you are subject to registration for these schemes that make it only for hazardous, you will be looking at the GHS as adopted in that country. GHS is coming online in Latin America. It's been adopted for a decade in several, so the GHS map -- and by the way, latest, latest: hot off the press is El Salvador has adopted the GHS now. But generally, these large countries that we're talking about (or large for our region) have adopted the GHS. In fact, they adopt it as part of the scheme.

For example, in Chile, the decree that adopted this REACH-inspired scheme, they had the OECD breathing down their neck, and they adopted it all in one. It's a beast of a decree, 57

of 2019, adopted in 2021, actually is over 200 pages. The first 195 are adoption of the GHS. Then the second part is this REACH-inspired scheme, so what you will have to do is look at the GHS version adopted by the country and then determine if your substances are hazardous or not under that.

I flag that because the one thing lacking in the Globally Harmonized System is harmonization. So --

LLB: -- despite its name!

MO: Yes, it's really bad, because as U.S.-based companies, our clients and stuff, they will send the SDS down to my clients down in Latin America without realizing that because the United States has not adopted the environmental aspects of the GHS, we will classify a substance as non-hazardous, but it will be hazardous in that target country, because they have adopted across the board all three aspects. They look at physical hazards, environmental hazards, and health hazards. If you are hazardous under *any* of those three, then you are hazardous.

LLB: You're hazardous, right.

MO: Yes. The real --

LLB: Wow. You're laying this out in a way that is so clear, Mel, that it's also fraught with a lot of nuance and familiarity with the regional systems in place. Do you have about 50 people working under you?

MO: That's -- I am so lucky to have -- I work for myself and by myself, but not alone, if that makes sense. I work for myself, and I get to work with amazing people like you and your team. And shout out to your team, by the way. I have not met a single person through B&C that wasn't brilliant and nice, and that's a tough combo.

LLB: Thank you.

MO: But I'm very blessed that Latin America is rich in top talent. We have some really smart people. And I want to shout out to the agency folks, too. I do not want to throw any LATAM [Latin American] agency under the bus. If there are issues with the IT or there are issues with registration, these are teams of two and three people trying to set up schemes that are based on ECHA [the European Chemicals Agency] in Europe, and that staff, and that budget. We have to understand, for one, that we're trying to localize them to our systems. They're new to our systems, and we don't have a ton of people on it.

I'm very blessed that for each project, I have a roster -- a deep bench of consultants and law firms that I work with. Depending on the question, or -- I'm very picky, like you are, Lynn. So if somebody -- I don't always go with somebody that tells me, "Oh yes, I do everything!" That's probably not one I'm going to work with.

No, yes, so I found that consultants in country that are brilliant at pesticides may not get cosmetics. I do a lot of cosmetic work. The cosmetics team -- I say that, yet in Brazil, my amazing folk do both. But generally, I try to get with very specialized teams. People who are going out and doing pesticide field studies are not probably also top-notch on the industrial chemical side.

Then the other thing we're finding is that these industrial chemical schemes are new to our region. I mean, they are like from yesterday, so we do not have anybody who's worked on these forever. No one's got 20 years' experience on these things, so we're all kind of pioneering and learning together. My consultants that I work with -- my law firms -- sometimes, strangely enough, just because I work on this and I've been working on it from the outside for so many years, I can sometimes be more up to speed on an issue in their country than a really top-notch law firm, just because this is so new.

LLB: Mel, that is why we work with you. You are *the* expert in these areas.

MO: I don't know about that, Lynn, but I really love what I do.

LLB: You have boots on the ground.

MO: We're trying.

LLB: You've grown up with these programs. You speak *many* languages, and all the important ones for Latin America, but segue to a slightly different, non-substantive, but equally important, and then --

I'm just fascinated by each country's ability to implement. You alluded to this, that you have maybe teams of two and three professionals brilliantly executing on implementation of these programs. But I would imagine each country's technical infrastructure varies quite a lot. You talked about IT platforms. Are all programs facilitated by an electronic registration system, or are paper systems still in play? Or are they all evolving to an IT platform? Are they user-friendly, or do you really need locals to help out on this stuff? What can you tell our listeners?

MO: Oh my gosh. This is really -- this is the million-dollar, completely geeky question that I can geek out on. But the issue is the following. The goal is electronic registration systems across the board. That's the goal. That is the gold standard. The issue is funding, not competence, and I want to be really clear about that. These people are very, very bright, but the funding for some of these systems is not there.

The system that got designed in Chile was the first in our region to do this new REACH-inspired registration in the fall of last year. The IT system absolutely collapsed. It collapsed in the last -- it was collapsing over the summer, and there was conversation, and industry was documenting the issues and all, but government, I think, waited and hoped against all hope that it would work out, and it did not. So at the very last minute -- and I do mean like days before the deadline -- they made the announcement: "You know what? This just ain't working. We're going to bail on this. We're moving to Excel sheets."

I had to laugh because there's a great TikToker somewhere, this woman I heard talking about, "I don't care how advanced AI [artificial intelligence] is. Your company is run on about three Excel programs somewhere." And I thought, yes, that's the case for us. In Chile right now, despite the IT platform existing and it being online, if you go to the registration website, it literally tells you, download this Excel and submit it. So it's not paper; it is electronic, but it is not the IT platform. It's Excel sheets that you download, fill out, and submit. The interesting thing was I had clients that we had supported and actually done the online registration, and we had to go back and do Excel. It wasn't accepted.

LLB: No kidding?

MO: No kidding.

Now, let's talk about Colombia. They have had a great system up, the *INSQUI* system. *INSQUI* has been open for three years, actually, Lynn. I knew companies that registered within the first six months, so it worked. Here in the last -- since the beginning of the year, we've been having problems. I'm documenting them. We're doing screenshots. I'm submitting e-mails to the government saying, "Look. This just isn't working." Clients are having meetings. We're able to -- my consultant and I are able to get in and out of it. Right now, luckily, this week's been better; last week was better. We're getting kicked off sometimes, but it saves what you've done.

They're all online for now. I've not heard of any move. I keep getting questions whether or not we're going to get an extension in Colombia, and I just don't know. If you are a listener to this program and you have documented problems, document them, submit them via e-mail, and let's get noise going that this isn't working for us and we need an extension, you know? In Latin America generally, unlike in the United States, these governments are very collaborative with industry. It's something we need to remember. It is a very different environment between industry and -- The regulated community and the regulators are much more collaborative and cooperative and open to conversation than they are in the United States, because historically we are a less litigious group, and so there are not as many lawsuits. You don't lawyer up. "Lawyering up" is not a verb in Spanish. There is no, there is -- no, these are the --

LLB: -- it's probably the only place on Planet Earth that it isn't.

MO: I don't know, but these are just the conversations I have to have with my clients, but the reason I say that is that this is new for all of us. Grace and space for everybody, and industry needs to realize that these regulators are doing the best they can with these IT systems that maybe weren't prepared for the onslaught of everybody that waited till the last three months. Here we are -- no shade to any of my clients, but we are coming in at the tail end of a three-year registration window. But the system's having a little bit of problems.

Peru is designing this really complex system through their implementing reg, and I wish them luck. That one's going to be super challenging, Lynn. No, it's going to be very challenging because of the way they're describing it. Their concept in Peru is that we will not be registering the information for substances that have already gone through registration in any capacity, sanitary registration or other, and that the government will itself populate the new platform with that information through this process that they're calling interoperability, which I think sounds beautiful, but I just don't know. I'm not a tech person, but it seems like it is a very big --

LLB: -- ambitious program.

MO: It's ambitious. Thank you. That's the word for it.

Brazil, actually the IT platform, they know how important it is, and that actually drives the kickoff to the deadline for all companies. Under the Brazilian scheme, the law gives the agency three years to develop the IT platform. As soon as that platform is ready and publicly released, it starts the three-year time period for registration of all substances in Brazil. They know that that registration platform is key. Brazil is already working with a consultant to get that ready. They have three years, so the deadline to have that platform ready is November 2027, but it could well be ready before then, maybe 2026 or so. Keep

eyes open for Brazil, but that will be electronic. To answer your question, the goal is electronic, but here sometimes it ends up being digital, but not electronic, as with Chile and the Excel sheets.

LLB: As the expression goes, whatever works.

MO: Exactly.

LLB: What about language? Are there barriers? We have Portuguese in Brazil. Are English and Spanish all accepted, or must you develop documents and translate them into Portuguese in Brazil?

MO: Great, great question. Across the board -- I'm going to say this, of course there's Curaçao and there are -- but generally it's Spanish for everywhere but Brazil for these schemes. And it has to be in Spanish. Your SDS, for example, in Chile actually has to be attached to your submission. And your SDS has to be in Spanish. Those REE [*Representante Exclusivo del Exterior*] letters for Colombia, for the foreign representative, must be in Spanish. Your confidentiality support documents *must* be in Spanish. Everything is in Spanish for all of these schemes but Brazil, and in Brazil, it *has* to be Portuguese. Your SDS have to be compliant with the local NBR [*Norma Brasileira*] 14725, and *that* needs to be in Portuguese. Everything must be in the country's official language. English is not accepted for these schemes.

LLB: Are the countries themselves collaborating internally with sharing information, or is it, "Nope. Here's *our* program. You have to meet *our* specs. This is *our* REACH-adjacent program, and don't even think about repurposing what you just did in Colombia or Peru." Is there some collaboration between and among countries there?

MO: There is no formal collaboration between the countries. In other words, having registered in Chile has potentially nothing to do with your registration in Colombia, and likewise for Peru and Brazil. The schemes -- as I said, God or the devil is in those details, and they are not similar. There is -- great place to bring up -- industry, back in 2016, 2017, in the region, brilliant friends of mine were like, "Our countries don't talk enough, and they really should be getting together and discussing these things." So from the industry side, they created the Latin American Regional Cooperation Forum, which has the unfortunate acronym of LARCF, the "*LARCF*" as we call it in Spanish. But the LARCF, which is now recognized by ICCA [the International Council of Chemical Associations], is a space in which the various national chemical industry associations -- so *Abiquim* for Brazil, and *ANIQ* for Mexico, and the different country industry associations --

Membership is through those national industry associations. They assign groups to be part of this LARCF. The LARCF has been fabulous about bringing these countries in -- every single one that we've talked about today -- and providing training on what these systems look like, models, exposing them to OECD and EU tools. The governments come and learn, and the governments come and share. But that's about the only actual intergovernmental cooperation on these issues that we see, unless the governments are meeting and chatting at the international forums, because Latin American countries are across the board member of every meaningful international convention in this space that exists. They are signatories and members of -- card-carrying members of -- Minamata on mercury, Stockholm on the persistent organic pollutants, Basel and Rotterdam on the PIC [prior informed consent] convention, and Montreal on the ozone-depleting substances, and the *newer* Montreal substances as well. These countries meet at those fora, and the government officials know

each other from there, but there is no intent to harmonize these new REACH-inspired schemes in Latin America.

LLB: Just out of curiosity, is LARCF a public-private cooperation, or is it funded largely by industry?

MO: It's strictly industry. It is an entity that exists through -- now under the ICCA -- it's an ICCA recognized entity, and it was created, and membership is through national chemical industry associations. So you can't not be in a national chemical industry member association of LARCF and be a member of LARCF.

LLB: I've got a couple of more questions. I could talk to you all day, Mel, because you are just a super font of information. But in terms of takeaway messages or words of advice, what can you tell our listeners regarding what to expect this year and beyond in Latin America with regard to REACH-inspired regulatory regimes and GHS implementation, and perhaps even beyond that, although what we've gathered today to talk about -- which is the REACH-inspired and GHS initiatives -- plenty to worry about, plenty to get our heads around. But are there other things that are creeping onto your radar screen?

MO: Yes, there are. Latin America loves a good EPR scheme. They love extended producer responsibility. I know that that is -- we don't technically think of that as a chemical issue, but it's something to keep in mind, because some of your chemical products, like used lubricant oils, are subject to EPR schemes now, so you need to think about do you need to be a member of a management program for your used lubricant oils, for example. That's online in Colombia, that's online in Brazil, that's now online in Chile. Are you a tire manufacturer?

And they're getting progressive; they're starting to create new -- expanding, like Chile, because of a situation in their desert, which is this large, on-land dump -- illegal dump -- for textiles and clothing. They actually will be the first to move forward with EPR for textiles. EPR schemes are big.

LLB: No kidding!

MO: We don't -- the one that's the million-dollar question: LATAM will adopt trends as they come up, so plastics are really big. A lot of regulation of single-use plastics; I see that growing and continuing. A lot of take-back for those substance requirements, labeling requirements on plastic. If you are involved in plastics, really be aware that LATAM is looking at those, regulating those, already some existing and more coming online. PFAS [polyfluoroalkyl substances] is the one that has just not picked up in LATAM the way it has everywhere else.

LLB: Yes, amen to that.

MO: For now, PFAS is not on our radar, and it may be that our government agencies are busy enough to not talk about it. The only things on PFAS that I've seen are a pending bill in Brazil and that the Brazilian government has now started talking about PFOS [polyfluorooctane sulfonate], which is a PFAS within the context of agricultural pesticides. The government just held a first forum discussing that publicly, the issue of PFOS and what to do about it.

Big picture, I would be remiss to not say that I'm seeing a decoupling of Latin America from North America and Europe on the broader sustainability agenda. If I can use the maligned letters ESG [environmental, social, and governance factors], or just call it sustainability, Latin America is not stepping back like the EU and the United States, with the SEC [Securities and Exchange Commission] and the EU stepping back from its ambitious goals. LATAM, for some reason, given the current political structures in Latin America and current people in office, is moving full speed ahead. They are not turning around. I've not seen a 180. They still continue to talk about ESG and adoption of sustainability measures.

The big things coming online to keep an eye on in Brazil is the Brazilian sustainable finance taxonomy -- the sustainable taxonomy -- because that is where some of these ESG standards begin to get teeth, in order to be defined as a sustainable mining operation. It gets granular: in order to be defined as a sustainable nickel mining operation in the Brazilian taxonomy, you will have to comply with these four or five different parameters. That rating, as sustainable or not, under the taxonomy will eventually be linked to your access to finances.

Be aware of the sustainable taxonomies. They already exist in Mexico and Colombia. They are coming online in Chile and Brazil. That's these top-level things to keep in mind. Sustainable chemical manufacturing is within the Brazilian taxonomy, so you'll want to drill down and look at what that means for your sector or your industry in the years to come. Mandatory sustainable reporting for publicly listed companies in Brazil, as of 2026 using ISSB [International Sustainability Standards Board] IFRS S1 and S2, that's coming. Despite the SEC dismantling its requirement, LATAM moving ahead; Mexico as well, so definitely keep an eye on those kind of things for the region.

LLB: Great heads up, Mel. Final question. You are just so superbly informed on everything relating to Latin America. How can our listeners obtain more information about you and your company? Where can you direct them right now? Because we need you; they need you. I think if there are mailing lists or further information on you, where would you direct them?

MO: I got enough requests for that, so finally, my pro bono passion project is a free LinkedIn newsletter called *Around Latin America*. You can sign up for that. I'm not selling you anything. Every Monday, God willing, in your inbox, you'll get my top-line insights for that week. It's a weekly publication, been going on about three years, called *Around Latin America* on LinkedIn for free. In addition to that, I actually have courses that -- one woefully needs to be updated -- very reasonably priced, because clients I realize can't just -- not everybody can afford my one-on-one chats and all. So I have a Teachable platform, courses like Crash Course on Chemical Laws in Latin America. That's through the Teachable platform.

My website is just like my name, Ambiente Legal, A-M-B-I-E-N-T-E L-E-G-A-L, which means the legal environment in Spanish, *Ambiente Legal*. Ambientelegal.com is out there, and always connect with me on LinkedIn. I'm very active there, and I love to share with the region -- like you, Lynn, and all that you share through this podcast.

LLB: No, but you're so generous with your time and your expertise, Mel. I want our listeners to know that you're --

MO: So are you, Lynn. Look at this podcast and all you publish.

LLB: No, we like to push information out. I also just want to make sure that all of our listeners are aware of your extraordinary skills and gifts.

MO: Oh, well.

LLB: We love working with you. We love you, and I want to thank you so much for joining us today and sharing your wisdom, your knowledge, and your expertise with our listeners.

MO: Absolute honor, Lynn. I have been smiling since the day you told me I might be invited on. You are absolutely -- I look up to you so much, admire you so much, so any chance to be on your podcast. I was just so excited.

LLB: The pleasure has been ours. Thanks, Mel.

MO: Thank you.

LLB: My thanks again to Melissa Owen for speaking with me today about the many consequential developments underway in Latin America regarding REACH and GHS.

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