

# University of Miami Inter-American Law Review

---

Volume 9 | Number 1

Article 6

---

2-1-1977

## Inter-American Legal Developments

Rafael C. Benitez

*University of Miami School of Law*

Follow this and additional works at: <https://repository.law.miami.edu/umialr>



Part of the [Comparative and Foreign Law Commons](#), and the [International Law Commons](#)

---

### Recommended Citation

Rafael C. Benitez, *Inter-American Legal Developments*, 9 U. Miami Inter-Am. L. Rev. 126 (1977)

Available at: <https://repository.law.miami.edu/umialr/vol9/iss1/6>

This Report is brought to you for free and open access by University of Miami School of Law Institutional Repository. It has been accepted for inclusion in University of Miami Inter-American Law Review by an authorized editor of University of Miami School of Law Institutional Repository. For more information, please contact [library@law.miami.edu](mailto:library@law.miami.edu).

## INTER-AMERICAN LEGAL DEVELOPMENTS

R. C. BENITEZ\*  
*Faculty Advisor*  
*Lawyer of the Americas*

NOTE: All legislative and regulatory enactments in this report pertain to 1976 unless otherwise indicated.

### ARGENTINA

Law 21.304 authorized the Executive to update the capital limit (presently 5 million pesos) which makes a business association under the present Company Law subject to State supervision. The new law aims to escalate the limit in response to inflationary pressures, thus complying with the spirit of the Company Law to make only major companies subject to State supervision. Further, Law 21.304 nullified the requirement that companies having a capital in excess of 5 million pesos have at least three syndics.

The Bank of the Argentine Nation was established by Law 21.351. The bank is a state institution whose main functions, in general, are: enhance agriculture and cattle production; promote foreign commerce; serve the financial needs of commerce and industry; and promote balanced regional development.

Law 21.357 amends Law 19.550 by exempting certain business associations, upon incorporation, from publishing in the Official Bulletin the entire text of the articles of incorporation and bylaws; subsequent amendments are also exempt from publication. Henceforth a summary of salient points will suffice.

Law 21.364 amended the organic law of the Central Bank and gave this entity additional authority with respect to national monetary mat-

---

\*The assistance of the following attorneys is gratefully acknowledged: R. W. Brown, F. J. Cavico, Jr. and R. Alan Hale.

ters. Concurrently, its Board of Directors was restructured by increasing the number of members and by eliminating labor and managerial representations.

The Customs Law was extensively amended by Law 21.369. Titles affected included: Indexing, Interests, Procedural Regime, and Import Procedures, among others.

Law 21.383 extends the functions of the *Fiscalía Nacional de Investigaciones Administrativas* to include investigations of public officials after they have left office for conduct during their tenure. Additional powers granted, among others, include sequestering of property, interception of correspondence and ordering of detentions, provided the judiciary is informed within twenty four hours. A Permanent Commission for Administrative Rationalization (*Racionalización Administrativa*) to assist the Executive in the formulation of just and equitable plans relating to public administration was established by Decree 1230.

Decree 1818 regulates Law 18.828 and establishes a National Hotel Register.

Law 21.395 approved the Budget for 1976 and grants the Executive authority to issue currency in amounts necessary to meet the expenditures contemplated in the law, and to determine pertinent matters re external bonds.

Resolution 213 of the Office of Economic Programming and Coordination established norms to guide public entities in matters relating to external debts.

Law 21.400 provides that in times of public disorder and economic or social emergency, or during a state or siege the Executive is authorized to suspend forcible actions (*medidas de acción directa*) by employers and workers. Heavy sanctions (imprisonment and fines) were made part of the new legislation.

Decree 2099 regulated Law 20.852 which granted various benefits to businesses engaged in international sales, financed by the Inter American Bank.

Law 21.430 established an emergency tax on wages, for November and December, 1976, of 3% on all wages above 112,000 pesos. Effective September 1, 1976, a 12% across the board wage increase was decreed for Argentine workers.

A Ministry of Planning was established by Law 21.431 to assist the President on all matters relating to national planning.

Decree 2253 suspended the right granted foreign investors under the Foreign Investment Law (No. 21.382) to remit profits abroad and to repatriate capital. During the suspension period, investors duly registered may obtain "external bonds" in an amount equivalent to the profits they wish to remit abroad. The right of suspension described above is provided for in the Foreign Investment Law in the event difficulties are encountered in meeting external payments.

A new regime to regulate the export of goods from zones immediately adjacent to the country's borders was promulgated by Decree 2292.

Laws 21.448 and 21.449 regulate the procedures under which persons detained by the Executive may seek to leave the country.

Law 21.450 authorized the Executive to exempt from certain duties and taxes goods imported by foreign states or international entities for use in trade fairs and exhibitions; Law 21.453 established new norms for the exportation of agricultural products; and Decree 2554 exempted from freight taxes those non-profit import and export operations conducted to promote Argentine cultural, social or sporting values.

In late December, 1976, the law under which public employees may be discharged without cause was extended for one year, to December 31, 1977. Objective of the extension is to reduce the fiscal deficit and to purge the governmental bureaucracy.

Internationally, Argentina, among others: (1) adhered (with reservations) to the Convention for the Prevention of Pollution of the Seas by Hydrocarbons; (2) agreed with West Germany to avoid double taxation and to promote commercial exchanges; signed three protocols with Paraguay: (a) regarding labor and social security, (b) transport of equipment and machinery, and (c) automotive transit. Also, the Convention on Financing the Development of the Plate River Basin was approved.

The Supreme Court has annulled the Deltec decision (6 *Law. Am.* 320, 1974).

## BOLIVIA

Decree Law (DL) 13509 establishes a State monopoly over the development of the nation's iron ore and manganese resources. It also pro-

vides for the cancellation of private concessions previously granted when the developer has failed to initiate operations or to pursue these actively.

Early in 1977 a new Investment Law is due to supersede the present investment statute (DL 10045, 1971).

The regulations for the preparation of financial statements (8 *Law. Am.* 786, 1976) were promulgated by DL 13525.

The benefits of the Investment Law were extended to the hotel industry by Supreme Decree (SD) 13646.

SD 13707 reduced from 25 to 10 percent the deposit established by DS 12929 (1975) for imports of equipment, machinery, tools, spare parts and raw materials required from industrial, manufacturing concerns in the private sector.

The transportation of hydrocarbons is reserved to the State by DS 13720. This activity may be carried out by YPFB directly or via third parties.

In the international area the following is noted: Signature of the International Coffee Agreement (1976). Also, the signature of agreements with Argentina, re (1) sales of natural gas to Argentina, (2) sales of wheat to Bolivia, (3) financial cooperation, and (4) the linkage of northern Argentina with southern Bolivia via paved roads.

A Permanent Chilean-Bolivian Bilateral Commission was officially established in November, 1976. The creation of the Commission evidences, according to both Governments, the desire of both countries to promote cooperation and the high level of understanding reached in their bilateral relations.

Bolivia's aspirations for an outlet to the Pacific (8 *Law. Am.* 786, 1976) have met a reversal. Specifically, Chile has "declined to consider" Peru's offer of November, 1976 to cede a corridor to Bolivia from the latter's border to the Pan American Highway and a tripartite administration of a coastal zone from the Highway to the Pacific ocean. The Peruvian proposal includes tri-national administration of Arica, and this particular point appears to be the basis for Chile's stiff reply that Peru's proposal did not respond to the terms of the 1929 treaty (8 *Law. Am.* 92, 1976). Peru claims it has been responsive, and Bolivia is "studying the matter." Perhaps it is unduly pessimistic, but a statement from prominent

Bolivian exiles in Caracas seems to sum up the mood of the moment. They said: "The Peruvian reply has put the final period to the bilateral negotiations to give Bolivia an outlet to the sea."

## BRAZIL

Duty exemption for the luggage of passengers arriving in Brazil shall apply only to personal objects, used clothing, souvenirs up to US \$100.00, books and magazines, utensils and jewelry of a nature and in a number compatible with the duration and purpose of the trip. Duty exemption is extended to other items in the case of diplomats returning to the Itamaraty, public servants returning home after an assignment abroad, Brazilians returning home after having spent at least two years working for an international organization to which Brazil is a party, Brazilians who have lived abroad for more than five years, foreigners transferring their residence to Brazil, Brazilian or foreign scientists, and engineers and technicians living abroad. (Normative Ruling 19/76 of the Secretary of Federal Revenue).

The Customs Policy Council has empowered the Foreign Trade Department of the Bank of Brazil (Cacex) to make decisions in cases involving the destruction, or return to the foreign suppliers, of goods imported under draw-back benefits under item II of Article 1 of Decree 68.904/71 (Resolution 2.782/76).

Companies registered with Cacex as exporters in accordance with Communication No. 493/74 may apply for exemption from the prior deposit of Cr\$ 12,000 in the case of international trips to be made by their representatives. Such application shall be made at the Cacex agencies on the company's letterhead paper with the signature of the company's managers or legal representative for whom signature cards have been previously filed with Cacex (Cacex Communication 552/76).

As established in Article 4 of Decree Law 1.427/75, a register of importers has been instituted within the Foreign Trade Department of the *Banco do Brasil S.A.* Only companies, entities and individuals previously registered in this register of importers shall have the right to import. A commercial or professional company or entity must comply with the following requirements in order to obtain registration as an importer: a) its capital must be paid up in the minimum amount determined by Cacex; b) the proposed imports must be included in its business objectives; c) it may not have any tax debts; d) it must enjoy a good reputation; and

e) it may not have suffered the penalties of a final administrative decision in respect of violations of customs, exchange, foreign trade or abuse of economic power (Portaria 251/76 of the Minister of Finance).

The Administrative Council of Suframa has approved the following rulings: (a) No. 22/76 approving the Internal Regulations of the Administrative Council of the Superintendency of the Manaus Free Zone (Suframa) which establish the basic guidelines to be followed in the definition, programming and performance of its activities in the Amazon area, as stipulated in Decree Law 288/67 and supplementary legislation; (b) No. 24/76 establishing the system for the determination of the minimum nationalization indices of the electric and electronic products listed in Decree Law 1.435/75.

The Minister of Finance has been authorized to take all steps required for securities of the Federative Republic of Brazil to be placed in Japan up to an amount of ten billion yen (Decree No. 78.247/76).

The Central Bank issued the following new resolution, among others: No. 382/76 increases the compulsory deposit to be made by commercial banking establishments on sight deposits from 33% to 35%. The banking establishments must comply with the new levels by the end of August 1976, in the case of deposits made up to the end of July. The additional two percent is to be paid exclusively in cash.

The funds that commercial leasing companies or authorized financial institutions have obtained abroad, while not invested in the acquisition of leasing goods, may remain deposited with the Central Bank in the currency of the loan and no longer in the cruzeiro equivalent. The full or partial release of these foreign currency deposits shall be made in the cruzeiro equivalent pursuant to the Central Bank having sold the exchange at the repass rate prevailing on the date of the exchange closing. These cruzeiro funds derived from the full or partial release of the foreign currency deposits must then be used to acquire goods to be leased up to the business day following the date on which the Central Bank sold the corresponding exchange (GECAM Communication No. 322/76 issued by the Central Bank on July 28, 1976).

The Minister of Finance issued *Portaria* 396/76 with a list of the goods that may take advantage of bonded warehouses upon importation. Goods intended for fairs and exhibitions and imported under the bonded warehouse system will not be subject to inclusion in the list. Goods admit-

ted to bonded warehouses prior to the date of publication of the Portaria and not included in the list, may remain within the bonded warehouse system up to the end of the permitted period, although no extensions will be allowed.

Decree 78.718, authorized SUNAMAM (National Superintendency of the Merchant Marine) to permit foreign ships to engage in Brazilian coastal shipping until December 31, 1977, in order to help meet the demand for the transportation between Brazilian ports of bulk vegetable edible oil, liquid cargo for industrial purposes, liquid petroleum gas, heavy volumes requiring special equipment on board when such equipment is not available at the embarkation and/or disembarkation ports, national flour in bulk or bags during the harvest period, and other essential food-stuffs in the case of public need.

The Commission of Export Incentive issued Resolution 1/76 to approve the norms for the representation of Export Programs. Applications for the tax incentives mentioned in Item I of Portaria 318/76 are to be submitted to the department of the Secretary of Federal Revenue or the Cacex agency having jurisdiction over the establishment of the applicant. Upon examination of the application, the Commission of Export Incentives may request the applicant to render additional information on the proposed Export Program. Once the Minister of Finance has approved the Export Program, the Commission of Export Incentives will have the applicant company sign an "Export Commitment."

The Minister of Finance issued Portaria 450/76 to establish the percentage in which financial institutions may provide for bad debts. These provisions are limited to the following percentages applied to the sum total of the receivable credits as contained in the balance sheet closing the fiscal year: (a) commercial banks, up to 3%; (b) investment banks, up to 2%; (c) credit, financing and investment companies, up to 3%. Only credits which have been protested, claimed in court or registered for more than sixty days as Credits in Liquidation may be debited to the provision for bad debts.

The Coordinator of the Taxation System issued Normative Act 31/76 to declare that a legal entity is considered legally incorporated for the purposes of Articles 13, 14 and 15 of Decree No. 66.095/70, on the date on which its incorporation documents are filed and registered with the Commercial Registry or, in the case of professional companies, on the date of their enrollment in the Civil Registry of Legal Entities. These dates shall



not apply in the case of companies requiring governmental authorization or approval, which will be considered legally incorporated on the date on which such authorization or approval is granted.

The following jurisprudence is noted: (1) In *Limitada* companies, a partner who is also a manager is liable for the payment of the company's tax debts when caused by non-fulfillment of a legal obligation (2nd Group of the Federal Court of Appeals, in Appeal No. 49.379); (2) Loans between companies in which one owns capital shares or quotas of the other shall be considered as a disguised distribution of profits when the loan operations do not comply with the conditions stipulated in Article 251 (g), Items I, II and III, of Decree 58.400/66. (4th Chamber of the 1st Taxpayers Council in Appeal No. 79.216); (3) Bonuses in the form of new shares may not be used to absorb the profit deductions of the beneficiary company, as provided for in income tax legislation on profits and dividends. (Appeal No. 78.141 of the 4th Chamber of the 1st Taxpayers Council); (4) Aval guarantees given by a director of a commercial company on behalf of such company shall be valid even if such guarantees conflict with the company's Articles of Association, provided that the borrower acted in good faith. (Decision in Extraordinary Appeal No. 69.522 of the 1st Group of the Federal Supreme Court).

Internationally: (1) The Treaty of Friendship, Cooperation and Trade signed between Brazil and Uruguay was enacted by means of Decree Law 78.158. The treaty is effective from July 9, 1976; (2) The treaty between Austria and Brazil to avoid double taxation and tax evasion was ratified by Decree 78.107, effective July 1, 1976; (3) Agreements were signed with the U.S. on (a) trade, investment and financial matters and (b) reciprocal acceptance of airworthiness certifications.

The Commissions of Constitution and Justice, and of Economy, Industry and Commerce have received Project of Law No. 2.460/76. The Project of Law provides for auditing services in Brazil to be limited to auditing firms having Brazilian partners and capital, through duly qualified Brazilian auditors, and forbids national and foreign auditing firms to enter into operational agreements.

The President of the Republic submitted Project of Law No. 2559/76 to the National Congress. The Project of the new Company Law is to be urgently examined by Congress so that it can come into force in January, 1977. The National Congress has also received the Project of

Law dealing with the securities market and creating the Securities Commission. (Editor's Note: *Legal Memoranda* in this issue covers the salient points of the proposed Company Law).

## CHILE

Decree Law (DL) 1.509 authorized the *Sindicatura de Quiebras* to alienate as a unit all commercial, industrial, agricultural, mining and similar establishments constituting a single economic unit whenever a partial sale would injure any one of the individual parts of the total entity. The decree law also authorized CORFO to request the sale of the whole unit or part thereof whenever so indicated by the country's social or economic interest.

The Chile Foundation to carry out scientific and technological research, and to apply the results thereof to the production and service sectors was given juridical personality by DL 1.528. The Foundation was capitalized at \$50 million, supplied equally by Chile and ITT. Decree 259 approved the 1976-1980 National Scientific and Technological Plan drafted by the Commission bearing the same name.

DL 1.551 promulgated a series of *Actas Constitucionales*. Among them: No. 2 established the bases for Chile's institutional framework; No. 3 established constitutional rights and guarantees; and No. 4 regulated the Emergency Regimes.

The Organic Law of the Chilean Nuclear Energy Commission was amended by DL 1.557. The amendments provide that all matters related to exploration, exploitation of atomic materials lie within the jurisdiction of the Commission, and that operation contracts will be authorized by Supreme Decrees following a report by the Foreign Investment Committee, regardless of the origin of the investment.

DL 1.560 authorizes judges to suspend actions of ejectment for a period up to one year on lands occupied prior to September 11, 1973, if the judicial decree could result in social difficulties.

On November 19, 1976 the Government lifted banishment orders which had relegated 189 Chileans to remote parts of the country for political activity contrary to the best interests of the nation. Three days previously approximately three hundred political prisoners, held without charges under state of siege provisions, had been released.

A series of decrees and bank circulars dealt with foreign investments. Among them: No. 239A re investments by foreign residents, and 239B re legalization of existing investments. Central Bank Circular 2517 dealt with compatibility between the Foreign Investment Law and the Foreign Exchange Law with regard to the inward flow of foreign capital, and Circular 2554 covered repatriation of profits.

In the area of jurisprudence a decision of the Supreme Court of June 28, 1976 is worthy of note. On that date the Court ruled that the consignee of merchandise exported from abroad is not, not being a party to the contract between the charterer and shipper, bound by a provision in the contract in which the last two parties agreed to submit any dispute to a predetermined tribunal.

Internationally, the following are noted: The approval of two agreements with China re (1) economic and technical cooperation, and (2) credit. Also, DS 386 (Foreign Relations) promulgating a double taxation convention relating to air transportation with the United States; DS 363 (Foreign Relations) promulgating the Inter-American Convention on Conflict of Laws concerning Bills of Exchange, Promissory Notes and Invoices; DS 364 (Foreign Relations) promulgating the Inter-American Convention on International Commercial Arbitration; DL 1473 approving the Inter-American Convention on the Taking of Evidence Abroad; DL 1.474 approving the Inter-American Convention on the Legal Regime of Powers of Attorney to be Used Abroad; and DL 1.475 approving the Inter-American Convention on Letters Rogatory.

Arguments by Argentina and Chile concerning the sovereignty of three islands in the Beagle Channel (8 *Law. Am.* 402, 1976) were heard in Geneva in October 1976. The U.K. is the arbiter by agreement between the parties.

On October 30, 1976 after a prolonged period of tension and anxiety Chile withdrew from the Andean Pact for lack of a common ground with the other members of foreign investment, common external customs tariffs, and development programs. Subsequently the Ministry of Public Education issued a statement saying that Chile will continue its cultural relations with other pact members despite the fact that it has withdrawn from another part of the Andean Pact. It was noted that the withdrawal of Chile from the Cartagena agreement "does not necessarily mean retirement from other agreements that tie together the Andean nations." The regional integration process includes several groups. These are: The Andean Development Corporation in the financial area, the Cartagena Agreement

in the economic field, the Andres Bello Pact for educational, scientific and cultural activities, the Hipólito Unanue Pact covering health projects, and the Simón Rodríguez Agreement in the labor field.

## COLOMBIA

Article 115 of Decree 150 which permitted international arbitration clauses to be placed in loan agreements between the Colombian Government and foreign lenders was declared unconstitutional by the Supreme Court.

Articles 59 and 60 of Decree 187 (1975) were declared illegal by the Council of State in a decision dated June 18, 1976. Both articles had established a 10% limitation on the deduction of payments made by branches located in Colombia to their home offices abroad.

Decree 1175 amended the law governing the operations of the official agency for the promotion of exports (*Fondo de Promoción de Exportaciones*).

Decree 1361 contains the regulations on Certificates of Tourism Development. These are certificates given to investors in hotel establishments, either for new hotels or for the expansion of existing hotels. The certificates are given for a value of up to 15% of the real value of the investment made. The Certificates do not generate interest, are bearer instruments, freely negotiable and may be used to pay Colombian taxes. Additionally, in a related area the Government's National Corporation issued three resolutions (*Acuerdos Nos. 005,008 and 032*) with the intention of lightening up the rules under which travel agencies operate. Resolutions 032 and 005 spell out severe penalties for violation of existing rules, and Resolution 008 requires travel agents to deliver to customers detailed written descriptions of the services the agency has promised to provide the customer.

In accordance with Decree 1623 new minimum salaries were established for workers employed for the maximum legal day's schedule. Those employed in the primary sector which includes agriculture, cattle-breeding, forestry, hunting, fishing, agro-industrial and milk processing will receive preferential treatment. Increases in the minimum are provided for on January 1 and on July 1, 1977.

In an attempt to stimulate the industrial sector the Government issued new regulations on depreciation. Depreciable assets acquired after

December 31, 1975, and which on that date had not been in use in Colombia may be depreciated at an accelerated pace. The taxpayer is allowed to select the years in which he will take the depreciation (Decree 1649).

The following resolutions of the Monetary Board are noted: Resolution 29 which granted permission for mining companies to contract foreign loans was regulated by General Circular 37. An important restriction set forth in the regulations is that the total amount of the loans may not exceed 80% of the total value of the project; Resolution 53 reinstated the system of prior deposits in imports which had been in effect since 1973, but was suspended in January 1976. The new deposit rate is 10% and must be paid before an import license can be obtained; Resolution 58 authorized credit institutions to receive and keep foreign currency accounts for certain persons and entities, including those which, though not specified in the Resolution, are found by the Exchange Control Office to deal in foreign exchange in the ordinary course of business; and Resolution 0903 extended the period given to exporters (except coffee) to deliver earned foreign exchange to the Bank of the Republic to 270 days.

In accordance with Resolution 430 of the Superintendency of Exchange Control all individuals or entities which receive foreign exchange for goods or services must register with the Superintendency. In addition, a monthly report must be submitted to the Superintendency setting forth the volume of foreign currency transactions of each individual or entity.

Pursuant to General Customs Regulation 309 import and export merchandise remaining in the custody of the Customs Administration for a period in excess of two months shall be deemed abandoned in favor of the State.

As a means of stimulating exploration of crude oil, Resolution 050 was promulgated establishing that all crude oil produced from newly discovered fields will be priced equally to the international price for similar crude oil processed at Ecopetrol's Cartagena refinery.

The Colombianization of foreign banks (8 *Law. Am.* 792, 1976) is now practically a *fait accompli*. The seven banks involved have announced willingness to comply with the pertinent legislation (Law 55, 1975) declared constitutional by the Supreme Court on June 17, 1976. The new names for the U.S. banks affected are: Bank of America — *Banco Colombo Americano*; and First National City — *Banco Internacional de Colombia*.

In the international area the following actions, among others, were taken: Agreements with the U.S. re (1) procedures to be followed in the Lockheed Aircraft case, and (2) rural cooperative programs; ratification of the UPU Constitution; and accession to the Convention on Tonnage Measurement of Ships and to the Universal Copyright Convention, revised.

### COSTA RICA

The Costa Rican Commercial Representations Abroad, established to provide foreign investors with information concerning the country, were regulated by Executive Decree 6195.

An Industrial Advisory Commission for the Construction Industry was established within the National Planning System by Executive Decree 6240.

Decree 6400 established the Regional Urban Planning System, and Law 5930 promulgated a new Transit Law.

Law 5932 extended the insurance program covering national agricultural production in order to protect the local growers against national disasters.

The Legislative Assembly, in early November 1976, repealed Costa Rica's Extradition Law (No. 5197, 1974), and passed new legislation on the subject which avoids the alleged "personal considerations" which led to the passage of the 1974 statute (6 *Law. Am* 442, 1974). The reference to personal considerations is to Robert Vesco who, in 1972, moved to Costa Rica following charges of fraud in connection with the operations of mutual funds, and specifically Investors Overseas Services, Inc. The 1974 law (so-called Vesco Law) was effective in blocking Vesco's extradition to the U.S. where he has been indicted by a U.S. grand jury in New York. Vesco's position under the new law is precarious and it is rumored that he will leave the country, but a judicial restraining order may not allow him to do so. This order was issued by a Costa Rican court to insure his presence at a judicial proceeding initiated by a Costa Rican citizen who is seeking restitution for his investment in Investors Overseas Services, Inc.

The Costa Rican Legislative Assembly is considering a bill to establish a Department of Censorship to ban the dissemination of anything that "might influence the destruction or deformation of the fundamental

values of man and the Costa Rican society." The proposed department would control the content of public performances, radio and television. Of interest also with respect to future legislation is the statement of the President that the Executive is interested in amending the *Ley de Extranjería* to define with more precision the cases in which a foreigner may be considered "an undesirable person" and thus subject to deportation.

In October, 1976 Cuba and Costa Rica signed a technical banking agreement designed to implement the commercial relations between the two countries. Additionally, the following international actions are noted. Ratification of Protocol of the Inter-American Treaty of Reciprocal Assistance, and agreements with the United States on (1) cooperative efforts to curb illegal narcotics production and traffic, and (2) a national nutrition program.

## CUBA

On October 10, 1976 approximately 11,000 Cubans were chosen by the electorate to serve in 169 municipal assemblies which, in turn, elected 481 members to a National Assembly of People's Power. The National Assembly came into being on December 2, and represents the fifteen provincial units into which the country is now divided. It is responsible for legislation, overseeing basic industries, and naming Supreme Court justices, among other functions. The Assembly is at the apex of State power; a Council of State, selected from among the Assembly members, acts for the Assembly when it is not sitting; additionally, there is a Council of Ministers. On December 3, Mr. Castro was named president of the Council of State, but it was not announced if he had retained the title of Prime Minister. Further changes took place in the administrative machinery. Specifically, three administrative levels have been created — State Committees; Ministries, and Institutes. The new State Committees (superministries) are: Science and Technology; Construction; Statistics; Finance; Normalization; and Labor and Social Security. The following new ministries were established: Agriculture; Culture; and Fisheries. Also newly established were a Tourism Institute and an Institute of Automatic Systems and Computerization.

In the international area the following are noted: Accession deposited to (1) Convention on Psychotropic Substances, (2) Convention to Facilitate Importation of Commercial Samples and Advertising Material; and

(3) Convention on Intervention in High Seas in Oil Pollution Casualties. Ratification was deposited to the International Plant Protection Convention.

In September, 1976 Cuba signed a banking agreement with Venezuela, involving \$2.3 million, subject to increase if the trade between the two countries exceeds the projected figures. Cuba is also the beneficiary of an agreement signed later in the year between Venezuela and the USSR under which the latter will supply certain Venezuelan oil markets in Europe, while Venezuela supplies Cuba with oil heretofore received from the USSR.

Invoking a clause in the U.S.-Cuba Antihijacking Treaty (1973) allowing either side to renounce on six months notice, Cuba notified the U.S. on October 15, 1976 that the pact would expire on April 15, 1977. Cuba's action stemmed from alleged U.S. (CIA) complicity in the crash of a sabotaged Cuban airliner off Barbados on October 6, 1976.

## DOMINICAN REPUBLIC

The Executive is considering new mining legislation on the basis that the present statute favors the interests of private concerns over those of the Government. If approved in the form submitted to the Executive by a U. N. Advisor, the new legislation would include, among others: (1) increased share by the Government in profits; (2) denials of repatriation of depreciation charges; and (3) higher taxes.

Egypt and the Dominican Republic have established diplomatic relations at the embassy level. Other international action included: Depositing ratification to (1) Protocol to Inter-American Treaty of Reciprocal Assistance, and (2) the Terrorism Convention. Also, signing the International Coffee Agreement (1976). Further, two agreements were signed with Venezuela in early December, 1976. The first grants the Dominican Republic a loan of \$60 million (at an interest rate of 8%, payable in two years) for partial financing of the country's oil imports from Venezuela. The second guaranteed an annual sale of 100,000 metric tons of sugar to Venezuela at a price corresponding to that of the Venezuelan market.

## ECUADOR

Supreme Decree (DS) 558 amends the Organic Law of the Judiciary and the Code of Civil Procedure. With respect to the former it spells out



with more particularity the functions of regional judges, as well as those of non-judicial officials in the investigative phase of the criminal process. The amendments to the Code of Civil Procedure relate to the appellate process, and to the amounts which determine the classification of the proceeding (*menor o mayor cuantía*).

The Law of the Rights of Authors (DS 610) is an extensive and comprehensive law of 147 articles, divided into four main titles, plus corresponding chapters and subchapters. Title I covers the overall regime which protects the authors of literary, artistic and scientific works; Title II spells the specific rights of an author; Title III deals with violations, sanctions and procedure; and Title IV covers the rights of artists and performers.

DS 529 authorized the Central Bank to intervene in the exchange market through the purchase and sale of foreign exchange under regulations promulgated by the Monetary Board.

DS 679 promulgated the Bidding Law providing that contracts executed by public entities will be subject to bids, with certain exceptions. Among the latter: contracts not exceeding an amount determined by a formula set forth in the law; contracts mandated by major emergencies (earthquakes, floods, etc.); and contracts involving the national security.

The Company Law has been amended (DS 678) to set new capital minimums for a number of business associations.

DS 689 made effective Decision 48 of the Cartagena Agreement.

The Official Register (RO) No. 183 of September 30, 1976 codified the Amnesty Law.

RO No. 186 of October 5, 1976 contains the Commune Organization Law which provides that any aggregation of people not having the Status of a *parroquia* shall be known as a commune. Communes have juridical personality, may own goods in common and will be administered by a *cabildo*. The juridical status of the communes is spelled out in RO 188 of October 7, 1976.

DS 793 set forth the diplomatic regime for Ecuador setting forth, among others, the diplomatic hierarchy, procedures for presentation of credentials, the rules governing diplomatic correspondence, precedence and other diplomatic formalities.

DS 797-B interpreted Art. 1505 of the Civil Code to mean that an agreement to submit to a foreign jurisdiction is effective only with respect to contracts executed outside national boundaries.

A new Trade Mark Law is found in RO No. 194 of October 18, 1976. The new law is a modernization of previous legislation and its provisions are relevant to all those who wish to market their products in Ecuador.

DS 800-A amended the General Banking Law. It authorized banking institutions to invest up to five percent of their capital in companies dedicated to render automation and computerization services to the investing company and other companies.

RO 195 of October 19, 1976 carried an Exclusive Patent Law relating to the Exploitation of Inventions.

DS 813 established the Capital Goods Commission whose objective is to promote maximum participation of the engineering and industrial sectors in major investment and acquisition projects undertaken by Ecuador.

A new Finance Companies Law is found in RO No. 202 of October 28, 1976.

A Taxpayers Register was established by DS 832. Registration is mandatory for all persons, natural or juridical, who carry out economic activities in the country, who own property, or who in any manner receive a taxable profit, benefit, or remuneration.

DS 850 promulgated a Sentencing and Social Rehabilitation Code containing 155 articles. In general, the Code is a substantial forward step in the treatment of the criminal and aims to rehabilitate rather than to punish those convicted of crime.

The Permanent Legislative Commission continues to study draft versions of new Civil, Penal, Civil Procedure, Labor and Commercial codes.

Two of the three Commissions which will guide the return of the country to a constitutional regime began their labors early in January, 1977. The first commission will draft reforms to the present Constitution; the second will draft a new document, and a peoples referendum will decide between the two. The third commission will prepare the Political Parties Law and the Electoral Statute. It is estimated that the return to constitutionality will take place early in 1978.

On December 31, 1976 the property of Gulf Oil in Ecuador passed to the state oil corporation (CEPE) which now holds 62.5% of the consortium (now Texaco and CEPE). The purchase price is allegedly \$82 million with possibilities of additional payments, pending the result of an arbitration proceeding concerning the investment in the trans-Andean pipeline.

Internationally, among other actions, Ecuador ratified: Cultural and Scientific Exchange Conventions with Israel and Hungary, and a Technical and Scientific Cooperation Convention with Bolivia. It also approved a Convention with Peru for the protection of the vicuna; an agricultural technical assistance agreement with Canada; a cartography and geodetic survey agreement with the United States; and a protocol to regulate the traffic of persons and vehicles with Colombia. Additionally, it entered into agreements with different international entities as indicated: with the United Nations for the exploration of natural resources; with the Latin American Social Sciences Faculty respecting privileges and immunities; it also concluded two basic agreements with the Center for the Improvement of Corn and Wheat, and with the International Service for Agricultural Development.

## EL SALVADOR

Decree 51 sets forth the requirements for the position of Commercial Attaché established by the Export Promotion Law (Decree 81, 1974). The post was created to provide expertise abroad on matters relating to exports from El Salvador. Although it is clear that the legislation looks to Salvadoreans to fill such posts in foreign countries, provision is made for designation of non-Salvadoreans in the absence of qualified national candidates.

The port of La Libertad was transformed into a tourist development zone by Decree 70. The use of the port as an "open port" for international commerce was terminated by Decree 492.

The minimum wage for workers engaged in the coffee, cotton and sugar harvests in 1976-1977 was set by Decree 77.

Merchandise brought to El Salvador by visitors and certain designated Salvadoreans is exempt from customs duty if its value is \$100 or less under Decree 118. The previous value was \$50, set by Decree 182 (1948).

Decree 78 regulates the examinations for Certified Public Accountants. The legislation clearly provides that only Salvadoreans are eligible to qualify for the examination, success in which is a prerequisite to be licensed as Certified Public Accountant.

Executive Accords No. 835 and 836 provide for the issuance and approval of Agrarian Transformation Bonds up to C 50 million (8 *Law. Am.* 798, 1976).

Decree 123 amended fourteen articles of the law establishing the Salvadorean Institute of Agrarian Transformation (ISTA), and three articles in the decree creating the First Project of Agrarian Transformation (8 *Law. Am.* 797, 1976). The new decree resulted from strong opposition by substantial sectors of the citizenry to the manner in which agrarian reform was conceptualized under ISTA. Yielding to heavy community pressure, the Executive proposed Decree 123 which was promptly passed by the Congress. In essence, the major amendment provides (Art. 32) that agrarian reform will affect, among others, "lands acquired by ISTA through expropriation when such lands do not fulfill the *social function* . . ." The social function is subsequently defined and, in general, it is fulfilled when the land is efficiently exploited and utilized in such manner that the factors of production are efficiently employed therein. Decree 123 defused a potential major crisis in the history of El Salvador; it is found in *Diario Oficial* of October 22, 1976.

On June 9, 1976 El Salvador signed the International Coffee Agreement (1976).

## GUATEMALA

Decree 16 concerning the exemption of construction materials from import duties was regulated by an Accord dated July 22, 1976. A subsequent Accord (Aug. 23) prohibits the export of planed woods, with exceptions.

Art. 2018 of the Civil Code concerning the obligations of builders was amended by Decree 38.

A special Law on Housing Credits, backed by governmental guarantees, was promulgated by Decree 39. The decree was subsequently regulated by Accord 28-76.

The National Financial Corporation (CORFINA) established in 1972 to promote the development of the industrial, mining and tourist sectors was reinforced financially through the issuance of Treasury Bonds, per Decree 44.

Decree 46 (1976) sets out norms to facilitate the registration in the Civil Register of deaths resulting from the 1976 earthquake. An issue of Treasury bonds, denominated Reconstruction bonds, has been floated; every national and resident in Guatemala must subscribe. Individual subscriptions vary with income; the bonds have a fifteen year maturity and are income tax free.

The banking law passed by the Congress in late July, 1976 was vetoed by the President and returned to the Congress for reconsideration.

Internationally, the following are noted: Decree 21 approving an agreement with Mexico for the protection against the Mediterranean fly; Accord 54 of the Ministry of Economy regulating the Free Commerce and Preferential Exchange Treaty with Panama; Decree 30 approving the extension of the Wheat Agreement (Washington, 1975); Decree 36 approving the Convention for the Producers of Phonograms (Geneva, 1971); and Decree 37 approving the Convention for the Protection of Artists, Interpreters et al (Rome, 1961).

The conflict between Guatemala and the United Kingdom concerning Belize appears to remain on dead center. Panama was the site of talks in late September, 1976, but the public announcement merely said that the "delegation had met." A new round of talks was scheduled for January, 1977.

## HONDURAS

The Protocol to the Inter-American Treaty of Reciprocal Assistance (San José, Costa Rica, July 2, 1975) was approved by the Military Government, and an agreement concluded with the U.S. relating to the sales of agricultural commodities.

The conflict between Honduras and El Salvador dating from 1969 (8 *Law. Am.* 813, 1976) continues to move towards a peaceful solution. On September 10, 1976 the Foreign Ministers, meeting at the OAS in Washington, reached an "agreement to negotiate" which, inter alia, provided for the naming of a mediator. The agreement was subsequently

approved by the respective governments and on October 6, again at the OAS Headquarters, the two countries agreed that "the mediation procedure agreed to by the Parties should be directed toward the conclusion of a formal treaty," to "bring to a peaceful conclusion the differences existing between the two countries." The agreement also provided that the two parties "by common accord shall prepare a list of four Spanish-speaking jurists, of recognized integrity and capacity, who would carry out the functions of mediator." The mediator shall be chosen by lot from among the names appearing on the list, and shall "in the simplest and most direct way assist the parties in the settlement of their disputes, and he shall be at complete liberty to request any information he considers necessary to conduct the investigations, hearings, and inspections, and obtain whatever evidence he considers pertinent." Both parties are required to submit to the mediator, thirty days after his appointment, a report on accords previously reached. Thirty days thereafter written memorials are due, and these are answerable by counter-memorials, subject to time limits set by the mediator. Ninety days after the pleadings are completed the mediator will meet with the parties to attempt to draft a treaty. If agreement is reached, the parties will follow their respective ratification processes; in case of disagreement, the mediator will make his own recommendations. If the mediation fails, the parties are free to resort to any other method for the pacific settlement of disputes. The October 6 agreement provided that the process under which the mediator would be appointed would be set in motion sixteen days after the agreement became effective. Regretfully, this has not yet occurred, and action by El Salvador is not expected until after the February, 1977 presidential election. All parties interested in the welfare of Central America regret the delay but are optimistic for the future. To them, the October 6, 1976 agreement was truly a breakthrough.

## MEXICO

A number of decrees in the *Diario Oficial* (DO) relate to ocean law and coastal matters. DO of June 8 fixes the outer limit of Mexico's Exclusive Economic Zone; DO of June 28 amends the Federal Law for Fisheries Development; and DO of 6 September relates to the issuance of fishing permits to foreign fishing vessels. On a related matter, Mexico and the U.S. reached agreement on establishing a quota for the catch of tunny.

Various public entities were affected as indicated: The following were established—National Sports Institute (DO of June 7), National Institute

of Penal Sciences (DO of June 22), Research Center for Social Integration (DO of August 31) Additionally a decree in DO of June 28 enlarged the functions of the Socio-Economic Development Committees of the states.

Decrees in DO of July 2 and September 15, 1976 amended the Federal Labor Law and authorized an increase in the minimum wage, respectively.

Rates for registration in the Registry for Technology Transfer were set by decree, effective October 27, 1976.

Social and legal problems connected with agrarian reform continue to plague Mexico. In November, 1976 the Agrarian Reform Ministry expropriated substantial acreage for distribution to landless *campesinos*. The landowners alleged an illegal act, motivated by political considerations, which would ultimately result in an agricultural production crisis for the country. Amidst mounting evidence of social unrest, a federal judge in early December overturned the expropriation decree of 250,000 acres in Sonora, and ordered the land returned to its former owners. Peculiarly, the judicial ruling was not announced by the court, but by a lawyer representing the landowners in Sonora. The gist of the ruling was that the expropriation decree violated a restraining order issued previously in behalf of the landowners. The stage is thus set for a serious confrontation not only between the interested parties, but also between the *campesinos* and the Government who may be called upon to remove them forcibly per the judicial ruling. In this very tense situation the Government has acted to negotiate a settlement. *Campesino* leaders and representatives of the landowners have been summoned to Mexico City for meetings in the Agrarian Reform Ministry.

On December 3, 1976 Mexico's new President Portillo submitted to the Congress a bill to reform the ministerial structure of the country. The bill proposes the adoption of a Council of Ministers, the elimination of some of the existing ministries (Presidency, Industry and Commerce and Hydraulic Resources), and the establishment of new ministerial entities (Fisheries plus Planning and Budget).

Internationally, Mexico took the following actions, among others: Extended the International Sugar Agreement (London, 1975); adopted the Paris Convention for the Protection of Industrial Property (Stockholm, 1967); and adopted the Convention on the Code of Conduct for Maritime Conferences (Geneva, 1974). Bilaterally, the following are noted: Commercial agreements with Czechoslovakia, Hungary and Jamaica; Economic

and Industrial Cooperation treaties with Roumania, Cuba and Finland. There were two accords reached with Senegal: One with respect to tourism; the other related to co-production of moving pictures. Air transport agreements were signed with Colombia, Jamaica and Panama, and on archaeological matters with Guatemala and Peru. Also, conventions on Cultural and Economic Cooperation were concluded with Peru and the USSR, and on Tourism Cooperation with Roumania. Further, a Customs Convention was signed with the U.S. which also agreed with Mexico to deal with the thorny subject of U.S. citizens in Mexican jails. Under the agreement, which must still complete the treaty making process in each country, nationals of each country may complete sentences in their respective countries. The pact does not cover political or immigration offenses.

### NICARAGUA

A Free Zone Authority was established by decree to govern the operation of free zones for export industries. The decree provides the usual incentives, such as exemptions from custom duties and income taxes to concerns taking advantage of the free zones. Concessions will be granted for a minimum of ten and a maximum of fifteen years. In mid-December, 1976 the first of the free zones was inaugurated adjacent to the Las Mercedes International Airport.

Nicaragua and Costa Rica have agreed to initiate, "at the earliest possible date," preliminary studies to define the maritime boundaries between the two countries. Also in the international area, Nicaragua ratified the International Coffee Agreement (1976).

### PANAMA

Widespread dissatisfaction with the Labor Code has elicited a promise from the Chief of State that the Code will be revised.

Panama entered into an agreement with the Union of Banana Exporting Countries (UPEB) under which officials of the latter were granted "privileges and immunities" by the former. UPEB, whose membership is composed of Colombia, Costa Rica, Guatemala, Honduras, Panama and the Dominican Republic is headquartered in Panama. On a related matter, UPEB is organizing a multinational concern to market bananas. It will be known as COMUNBANA.



Early in January, 1977, the Chief of State announced a series of measures and projected activities to promote economic recovery. These were: (1) Construction of a new international airport, a fishing port, an expressway between Arraijan and Chorrera, and a state cement plant; (2) investment in a large scale low cost housing project; (3) a 5% consumption tax, with a higher tax for liquors, beer and cigarettes; (4) efforts to increase the registration of flags of convenience; and (5) the defense of the international price of sugar, plus a search for better markets for meat exports.

A maritime boundary treaty was concluded with Colombia on November 20, 1976, and approved by the Panamanian Senate on December 2. It was noted that approval in the record time of twelve days was done "to confirm the friendship and solidarity between the two nations."

The negotiations between Panama and the United States concerning the Panama Canal have entered a new stage. Panama, through various channels, has given notice that now that the U.S. presidential race has been decided the time for action has arrived. Panama's Foreign Minister visited Washington in early December, 1976 allegedly to press for a renewal of negotiations and for the conclusion of a treaty by Spring, 1977. The U.S. Chief Negotiator travelled to Panama in mid-December but results, if any, are not publicly known. The stage is thus set for President Carter, obviously he will be given little time to solve one of the most difficult problems which has arisen in the inter-American area.

## PARAGUAY

A revision to the Constitution dealing with the tenure of the President has been approved by the National Assembly.

Decree 25029 prohibits the establishment of certain industries potentially damaging to the environment within 20 kilometers of Asunción. The decree refers to industries to be established and does not affect plants already in operation. The Ministry of Industry and Commerce is charged with issuing the implementing regulations.

Act 26 of the National Economic Coordinating Council approves the list of investments entitled to benefits in geographical regions selected for preferential development.

Internationally, the following are noted: An agreement with Argentina for the improvement and expansion of the telecommunications net-

work between the two countries, and acceptance (ad referendum) of the Agreement Regarding International Trade in Textiles.

## PERU

Decree Law (DL) 21492 aims to promote non-traditional exports by establishing a series of incentives for a period of ten years. The Ministers of Commerce, Economy and Finance, charged with issuing the necessary regulations, complied through the issuance of Supreme Decree (DS) 012-76-CO/AJ. Additional implementary regulations are found in DS 015, 016 and 018-CO/CE, in DL 21530, and in Ministerial Resolution (RM) 508-76-CO/CE.

A series of decrees to conform imports to national priorities and to the annual foreign exchange budget were promulgated. These were DL 21493, DS 013-76-CO/CF and DL 21496.

The Foreign Investments and Technology National Commission (CONITE) was established by DL 21501 to carry out a uniform program with respect to foreign investments and technology.

DL 21546 approved Decisions 56 and 56A of the Commission of the Cartagena Agreement relating to international terrestrial transportation.

*Grupos Campesinos* were granted juridical personality by DL 21548 in order that these entities may carry out all types of civil and commercial operations, pending their organization into associations contemplated in the Agrarian Reform legislation.

DL 21549 repealed DL 17796 and established the Ministry of Integration whose functions are: (1) propose a national integration policy; (2) guide its implementation; and (3) guide national activities to insure Peru's participation in the economic and social progress of Latin America.

*An Advisory Council* on Transportation and Communications was created by DL 21553 to serve as an investigative and advisory body to the Ministry of Transportation and Communications.

The Government, through the Ministry of Industry and Tourism, imposed a levy on the salaries of all common industrial workers (*trabajador comunero industrial*) amounting to S/20.00 monthly for a period of six months, beginning July 1, 1976. The stated purpose is to provide self-financing for the Second National Congress of Community Industries.

D. L. 21558 provides that *Pesca Peru* will transfer its fleet to Small Businesses of the Private Sector.

DL 21584 permits businesses which have been declared bankrupt to continue operating provisionally if such action is sought by the workers. Specifically, upon declaration of bankruptcy the workers may request the Court for authority to manage the business, but within 90 days they must present to the appropriate Ministry an operating plan justifying the continuation of the enterprise. The Ministry must reach a decision within the next thirty days, and if favorable to the workers the Court will order the transfer of the business to the workers. The decree provides that the workers may not seek the management if the bankruptcy resulted from an illegal strike, reduction of the rhythm of work, or loss of production attributable to the workers. DL 21584 abrogates DL 20023 and 20158.

DS 130-76-EF approves the regulation for the supervision of enterprises formulated by the National Commission for the Supervision of Enterprises and Securities (CONASEV).

The norms which regulate the constitution and operation of limited Liability Companies are set forth in DL 21621. This is one of the business associations under which Small Businesses of the Private Sector may carry on economic activities under DL 21435.

Peru has signed a series of international agreements to finance a number of economic and social projects. Nations which made funds available were: Japan, Belgium, The Netherlands and the United Kingdom. Additionally, Peru (1) entered into a technical cooperation agreement with Spain to train personnel in handicrafts, and in the fishing and mining industries; (2) renewed an animal husbandry agreement with New Zealand; (3) ratified two conventions with Brazil concerning (a) the conservation of the flora and fauna and (b) tourist cooperation; signed two agreements with the USSR on (a) technical cooperation, and (b) supply of machinery and equipment to state entities and private concerns. Further, it deposited its acceptance to the International Coffee Agreement (1976).

## UNITED STATES

The following bills with international ramifications were enacted into public law subsequent to June 1, 1976; Public Law (PL) 94-329 authorizing \$3 billion through Fiscal 1977 for international security assistance,

and which, among other things, (1) declares as the policy of the U.S. that no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights, (2) prohibits the granting of assistance to any country that grants sanctuary to international terrorists, (3) and prohibits military assistance and limits economic assistance to Chile; PL 94-441 authorizing \$5 billion during Fiscal 1977 for foreign assistance and related programs, and which appropriates, among other major allocations, \$270 million for the IADB; PL 94-467 implementing the Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance, and the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons; PL 94-468 permitting the President to designate up to thirty-six foreign nationals to receive instruction at the Coast Guard Academy; PL 94-472 authorizing the President to collect information on international investment and provide analyses of such information to Congress, executive agencies, and the general public; PL 94-564 amending the Bretton Woods Agreements Act to authorize the U.S. Governor of the International Monetary Fund to accept a package of proposed amendments to the Articles of Agreement of the IMF; and PL 94-584 authorizing the people of the Virgin Islands and Guam to organize governments pursuant to Constitutions of their own adoption.

The following additional bills enacted subsequent to June 1, 1976 merit special attention: PL 94-553 supersedes the Copyright Act of 1909, which will remain in effect until the new enactment takes force on January 1, 1978. The new statute provides for copyright protection in original works of authorship in any tangible medium of expression now known or later developed; permits the fair use of a copyrighted work by one not the copyright holder for such purposes as criticism, comment, news reporting, teaching, scholarship, and research; permits a library or archive to make limited copies of a copyrighted work; and provides that a copyright shall endure for the life of the author, plus fifty years. PL 94-571 amends the Immigration and Nationality Act to extend to the Western Hemisphere the seven-category preference system, the 20,000 per-country limit, and the provisions for adjustment in status currently in effect for Eastern Hemisphere countries. The measure will also discourage illegal immigrants by fining employers who hire them, unions which offer them membership, and agencies which find them jobs. PL 94-583 (Foreign Sovereign Immunities Act) adds a new Chapter 97 to 28 U.S.C.A. to provide when and

how parties can maintain lawsuits against foreign states and foreign entities in the courts of the U.S. It sets forth when a foreign state will be entitled to sovereign immunity. The Act grants United States District Courts original jurisdiction, without regard to amount in controversy, of any non-jury civil action against a foreign state as to any claim for relief in person with respect to which the foreign state is not entitled to immunity. The Act declares that a foreign state is not immune from the jurisdiction of the U.S. courts if: the state has waived its immunity, the action is based on commercially related activities or rights in property, connected with commercial activity, taken in violation of international law, or money damages are sought against a foreign state for personal injury or death, or damage to or loss of property, occurring in the U.S. and caused by the tortious act or omission of the foreign state or its official or employee acting within the scope of his office or employment. The law covers exemptions to the above, as well as the subjects of counterclaims, service of process, attachment and execution, and venue, among others. The law is to take effect ninety days after enactment.

The 95th Congress convenes in early January, 1977 and, as usual, it is expected that a substantial number of bills will be introduced in both Houses early in the session. These will be reported in the June, 1977 issue of the *Lawyer*.

Internationally, the following actions are noted: Senate advice and consent given to the Convention on Registration of Objects Launched into Outer Space (subsequently ratified by the President) and to the International Convention for Safe Containers. The following were proclaimed by the President: The Statutes of the World Tourism Organization and the Inter-American Convention on the Granting of Political Rights to Women. Further, the Procedures for Mutual Assistance in the General Tire and Rubber Co. and Firestone Co. cases in Mexico entered into force. Lastly, agreements were entered into with the following international organizations: UPU re procedures for U.S. income tax reimbursements, and ITU permitting third party exchanges between ITU and amateur stations under U.S. jurisdiction.

## URUGUAY

Law 14.500 provides that payments made pursuant to judicial or arbitral awards will be pegged to the monthly price index in one more

effort to curb the effects of inflation. Execution on these awards shall take into account the changes in the value of the award between the time of the award and its execution.

Decree 161 modified Art. 33 of the Law of Checks (Decree 730, 1975) to authorize banks to maintain accounts in foreign currency.

The requirement that all loan documents be for a minimum period of three years (Decree 570, 1970) was modified to except bank acceptances by Decree 188. The latter decree was regulated by Central Bank Circular 735.

In an effort to increase financial and foreign exchange operations, Decree 221 abrogated a law dated April 22, 1959 which prohibited purchase agreements in foreign currency other than for import and export transactions.

Pursuant to the Foreign Investment Law (March 28, 1974), Resolution 558 of the Council of Ministers authorized the First National Bank of Boston to invest \$2 million in the purchase of a local bank, imposing a restriction prohibiting repatriation of capital within three years. Certain other restrictions on the receipt of profits were set forth in the resolution.

Two draft laws, among others, are under consideration. The first refers to a projected "Dangerous State Law" sanctioning conduct which, although not criminal, could be prejudicial to the legal order. This draft law seeks to solidify "social peace" in the country. The second concerns amendments to the Penal Military Code under which military judges would be granted authority to release political prisoners who had already served a sentence equal to the reduced periods set forth in the proposed amendments to the Code.

Law 14.511 approved the Geneva Accord on Textiles (1973) governing the production and commerce of textiles under the ambit of GATT. Additionally in the international area, Uruguay reached agreement in principle with Ecuador to intensify the commerce between the two countries, and to boost their exchanges in the area of technology and tourism. A multinational Education Plan with Brazil and Paraguay was also concluded.

The U.S. Congress, in October, 1976, suspended military aid to Uruguay for its failure to respect human rights.

## VENEZUELA

With the goal of bringing greater stability to its budgetary system, the Government of Venezuela has adopted a Basic Law of the Budgetary System (G.O. No. 1.893). One of the most important aspects of this new law is the creation of a Central Office of Appropriations which will function under the auspices of the President of the Republic. This public institution will be charged with governing budgetary appropriations for the entire public sector. Chapter II of the new Law replaces the existing, somewhat mechanical, system with one which is designed to reflect the seasonal particularities of each respective program seeking appropriations. Under this approach, public institutions will be obligated to program their human resource necessities to conform to the flow of revenues. It is interesting to note that the new provisions of the Basic Law do not immediately repeal all existing articles of the present law now in force. The new law is designed to replace the existing laws in a piece-meal fashion as the new provisions are gradually implemented. In this manner it is hoped that by permitting the transitory application of some of the provisions of the old law, that the possibility of creating a vacuum during the transition will be eliminated.

A second piece of important legislation is the Basic Law of Public Credit (G.O. No. 1.893). This law was presented in its initial draft to the Congress by the Ministry of Finance on March 11, 1976. With its adoption, the all-too-frequent practice of many public institutions of incurring short-term obligations without considering the availability of budgetary resources in order to meet these obligations as they reach maturity, will be eliminated. This will aid in preventing original short-term obligations from having to be re-financed as long-term obligations because of a lack of available revenues. The new law imposes sanctions which range from dismissal of offending public officials to cancelation of operations funded through resources raised without meeting the requisites of the new statute. Included under the provisions of the new law are associations in which the Republic or any other public juridical person participates in an amount equal to or greater than 51% of corporate capital. These provisions are also extended to companies which fall into the above stated category, as well as to foundations which are managed or controlled by such companies or associations.

In an attempt to maximize judicial economy, a Basic Law of the Supreme Court of Justice (G.O. No. 1.893) has been duly enacted. The

aim of the new Law is to relieve the pressures of over-crowded court dockets so that adequate time may be given to each case as it comes before the Court for consideration. The law's provisions permit the Court in *banc* to authorize the formation of special panels when the number of pending actions in each of the presently constituted panels exceeds 100. These special panels will be staffed by four magistrates and one of either a deputy or associate magistrate from each respective panel. The new law will extend this procedure to the Political-Administrative Panel which, because the present Basic Law of the Court of Cassation only allowed such special panels to be formed in the Panels of Civil and Penal Cassation, respectively, faced an inordinate back-log of pending actions. One innovative aspect of the new Basic Law is the creation of Regional Courts. These newly formed courts will act as courts of first instance for the protection of the citizen against actions or regulations of the state. The competence of these domestic tribunals is designed to give citizens rights of defense against state actions before having to resort to the Supreme Court of Justice which is located only in the capital of the Republic, in order to seek redress of grievances arising from administrative acts. It is hoped that this will operate as an effective check on the abuses by public administrators which all too frequently have been occurring to the prejudice of the general citizenry. One final provision worthy of note is that which will function to augment the number of justices sitting on the Court and its different panels. A retirement system will also be established.

Of great interest are the provisions of eight proposed tax reform laws which have been introduced for consideration with the view of modernizing the Venezuelan fiscal system. These new laws have already received the approval of the Council of Ministers. Observers report that these laws are not aimed at merely increasing taxes, but rather seek to revamp the entire system of fiscal administration. A massive nation-wide debate is expected over what has been foreseen to be a complete reformation of the financial laws of the country. The President of the Republic has consulted with the most prominent leaders throughout the public sector, including representatives of banking, industry and economic specialists, seeking to discern the opinion of those sectors which will be most affected by the proposed reforms. The proposed tax laws as they are presently constituted will retain the same tax structure for those whose income does not exceed 200,000 bolivares. However, those whose income exceeds this amount will be faced with a progressive tax rate designed to allow the nation's treasury to obtain greater resources.



A plethora of government organizations, including the Ministries of Economic Development, Public Works, Education, Health and Social Assistance, Communication and the Office of Co-ordination and Planning, among others, have been mobilized by Decree 1.709 to join with the government of the State of Tachira and the Company for the Deveolpment of the Industrial Zone of Tachira (COMDITACA) to implement plans for the urban-industrial development of the zone known as La Fira. This area is previewed as a fundamental axis in the economic activity of the northern region of that state. An integrated system of cities is planned for the area lying between San Cristóbal and La Fría. Financing for these extensive public works will be co-ordinated by the National Fund for Urban Development. Plans call for the construction of an international airport at La Fría, as well as for extensive geological surveys through-out the region to map existing mineral and hydro-carbon reserves. Other developments in the State of Táchira include the setting aside of the Jaúregui and Libertador (formally Balneario Chururu) districts as centers of tourism and recreation because of their natural beauty and characteristic architecture (Decrees 1.710; 1.713)

A Law of Security and Defense and a Law of Banks were introduced in the Congress. The first of these laws, the Law of Security and Defense, was ratified by the Congress on August 18, 1976 (G.O. No. 1.899). Its provisions contemplate the formation of a National Council of Defense whose purposes would include the development of national policies in the areas of crime prevention, substantive penal law and the general penal system. The National Council will have its seat in Caracas, with regional councils in the capitals of each state and federal territory. The provisions of the Law of Banks are aimed at the possible creation of Latin-American Banks in Venezuela. Its provisions are at the time of publication, under consideration.

By Decree 1.707, the President of the Republic announced the creation of the School of Highway Vigilance and Security which will function under the auspices and joint guidance of the Ministries of Defense and Communications, respectively. The purpose of this school, which fused the School of Vigilance of Terrestrial Transit formerly under the Ministry of Communications with the Armed Forces' School of Highway Specialization, will be to train personnel whose duties will include the supervision and control of terrestrial transit and transportation on urban, inter-urban and rural highways.

By Decree 1.704, the President, in fulfilling his stated duty of protecting the morals of the Venezuelan populace, has prohibited the importation, fabrication, installation, sale or lease of machines operated by coin or token known as *traganiquetes* or *tragamonedas* throughout Venezuela. Vending machines which dispense products automatically are excluded from this prohibition. Fines and temporary closures are imposed upon establishments which continue to make available these types of machines.

Through the Ministry of Education, a set of regulatory guidelines have been established under G.O. No. 31.045, dealing with the administrative personnel of the National Universities. These provisions establish minimum requisites for employment and also establish guidelines for promotion, classification of positions and compensation. Other topics dealt with include pensions, duties, disciplinary actions and retirement.

The adoption of new regulations for the General Law of Co-operative Associations (Decree 1.761) is noted. These regulations detail the organization and method of operation for new co-operatives of any type. They further outline the internal organization of such co-operatives as well as approved methods of administration.

Venezuela has continued to participate actively in the international community and particularly in the Latin American region through the adoption of several international agreements. The Congress of the Republic has ratified the International Convention of Telecommunications which had been promulgated on October 15, 1973 by the Conference on Telecommunications in Málaga, Torremolinos. The primary purpose of this Convention was the formation of the International Union of Telecommunications whose purpose will be to promote international co-operation in the utilization of all forms of telecommunications (G.O. No. 31.072). By Presidential Decree 1.725, Venezuela has placed in force Decision #91 of the Commission of the Accord of Cartagena aimed at promoting the petro-chemical industries in the participating states. The agreement creates an elaborate system of tariffs, information and technical assistance reporting mechanisms, and production allocation procedures, all of which are designed to promote the efficient development of the petro-chemical industry throughout Latin America. By G.O. No. 1.890 Venezuela ratified the Hipólito Unanue Convention, drafted by the governments of Bolivia, Colombia, Chile, Peru, Ecuador and Venezuela, to promote the health and welfare of their respective citizenry. The creation of a permanent organization to promote these matters was approved in Caracas on July 22, 1976. G.O. No. 31.057 ratifies and adopts the Accord Between the

Government of the Republic of Venezuela and the Secretary of the Organization of American States (OAS) for the fulfillment of activities for instruction, investigation and technical assistance in the field of rural and urban development. Special emphasis is placed on so-called "marginal" areas. Additionally, Venezuela and the government of the United Mexican States have entered into a Convention of Cultural and Educational Interchange (G.O. No. 1.895).

Under Decree 1.790, Venezuela has officially declared that the Bicentennial of Venezuelan Integration would continue through July 13, 1986. Other decrees with respect to this matter have created numerous historical and cultural organizations to promote the cultural heritage of Venezuela.

On November 26, 1976, during a visit of the President of Venezuela to Moscow, an agreement was reached between Venezuela and the USSR to exchange petroleum markets. Under the new arrangement Venezuela is to ship 20,000 barrels of crude oil a day to Cuba and, in turn, the Soviet Union will take over the supply of some of Venezuela's Western European markets. There was no immediate indication from either country as to when the agreement will be implemented, but knowledgeable observers foresee complications arising from the differences in grade of Soviet and Venezuelan oil. The oil accord is part of a larger three year agreement on economic cooperation under which the USSR is scheduling to sell manufacturing equipment to Venezuela and to train workers. The two countries also plan exchanges on geology, electric power and in fisheries. A commercial agreement is also contemplated in the near future.

## MISCELLANEOUS

A new export marketing service designed to provide American manufacturers with a weekly index of all foreign trade opportunities was announced early in January, 1977 by the U. S. Department of Commerce. The service, called TOP Bulletin, contains an index of all trade opportunities processed by the department's Trade Opportunities Program (TOP). TOP is a computerized service that supplies American businessmen with overseas sales leads for particular products in specific countries, based on cabled reports from U. S. embassies and consulates throughout the world. The Commerce Department then matches the reports with specifications of businessmen subscribing to the TOP notice service. The service costs \$100 a year and is available from the Trade Opportunities Program, Room

2323, Bureau of International Commerce, U. S. Department of Commerce, Washington, D. C. 20230, or through any Commerce Department district office.

*This report summarizes a select number of statutory enactments and other developments. Therefore, no decision should be made without consulting the complete texts and related materials; moreover, consultation with a competent local attorney is recommended.*