

University of Miami Inter-American Law Review

Volume 8
Number 2 *Lawyer of the Americas, Volume 8*
Number 2 (June 1976)

Article 7

6-1-1976

Inter-American Legal Developments

R. 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

R. C. Benitez, *Inter-American Legal Developments*, 8 U. Miami Inter-Am. L. Rev. 399 (1976)
Available at: <https://repository.law.miami.edu/umialr/vol8/iss2/7>

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.

INTER-AMERICAN LEGAL DEVELOPMENTS

R. C. BENITEZ*
Editor-in-Chief
Lawyer of the Americas

ARGENTINA

Laws 21.014 (1975) and 21.015 (1975) Supplement Law 20.545 (1975) relating to customs regulations.

Law 21.037 (1975) provides that loans in foreign currency contracted in Argentine territory by nationals or residents must meet certain reporting requirements; otherwise, the loan will be considered to have been contracted for in Argentine pesos, and any clause requiring repayment in foreign currency will be nullified.

Retirement benefits for specified workers are modified by Law 21.118 (1975).

Law 21.173 (1975) amends the Civil Code by adding a new Art. 1071 dealing with *intromisión en la vida ajena*. Specifically, whoever "arbitrarily interferes in the life of his neighbor" thereby violating his privacy will be made to cease and desist and pay money damages fixed by the court.

A System of Family Courts was established by Law 21.180 (1975). The new courts will be constituted by a National Appeals Court, ten trial courts, and a Conciliation Forum.

Law 21.217 (1975) regulates mortgage loans to business associations located in the interior of the country.

Tax exemptions for the promotion of the fishing industry are set forth in Decree 1501 (1975).

*The assistance of the following attorney is gratefully acknowledged: R. W. Brown. Also, that of the following J.D. candidates at the University of Miami: R. D. Axelrod, S. B. Blaney, G. M. Maer, K. R. Moran, R. D. Newman and M. R. Vásquez.

Under Decree 2784 (1975) crediting banks are authorized to pay automatically for exported goods without waiting for documentation from customs. The exporter must present a duplicate of the shipping permit verified by the appropriate customs official. Upon receipt of the final documentation, the banks may make any necessary adjustment in payment. Also, FOB transactions are enlarged to include payment for shipping and insurance if they have been contracted for in the country and the goods will be shipped by an Argentine company.

Decree 2785 (1975) establishes a Registry of Contracts in which export contracts with fixed dates and bids in international actions must be listed. Registration accomplished within thirty days of the finalizing of the contract or the opening of the bids is retroactive to that date, but registration later than thirty days will be effective as of date of filing.

Ministry of Economy Resolution 7 (1975) extended the effectiveness of certifications issued by the Foreign Investments Registry (Section B), and Resolution 446 (1975) authorized exchange houses to deal in foreign exchange.

General Resolution 1704 (1975) covered tax exemptions for the promotion of the forestry industry, and Circular 968 (1975) clarified General Resolution 1716 (1975) relating to stock dividends.

Central Bank Resolution B1232 (1975) modified Resolution B1180 concerning the criteria defining small and medium businesses.

On March 24, 1976 the military, in a bloodless coup d'état, overthrew the government headed by President Maria E. Perón. The Executive Power is now vested in the commanders of the Armed Forces which appointed a Cabinet of six officers and two civilians. Provincial Governors and municipal mayors were removed and replaced by military men; the Congress was disbanded and a Legislative Advisory Commission of nine senior officers appointed; also replaced was the full bench of the Supreme Court. Jurisdiction over crimes involving national security and subversion was removed from the civil courts and lodged in "special war councils" with power to decree the death penalty and to confine those accused of crimes against security for indefinite periods. Activities of labor unions were suspended and military intervenors named in the General Confederation of Labor and twelve major unions. The right to strike was suspended, but assurances were given that basic rights such as minimum wages, separation pay, pension rights, plus medical and social services would be maintained. Concurrently, all political and union activities on

university campuses were banned and military officers assigned as interventors. In the economic area, among other measures, price controls and substantial governmental restrictions on business and foreign investment were lifted. State monopolies on trading and on the export of grain and beef were ended, but increases in taxes payable by the business sector were predicted. The activities of all political parties were suspended. Overall, the nation welcomed what it felt was a long overdue change and initially, the military Junta seems to have the support of the citizenry forced, for too many years, to live in a state of chaos and uncertainty. Shortly after the takeover, the United States joined a long list of nations which quickly recognized the new government. Shortly after assuming power, the Junta issued the following communiqué on the "International Position of Argentina."

The Argentine Republic, whose historic inheritance and human and material potential make it worthy of a significant position in the community of Nations, shall seek to restore, affirm and project the genuine expression of the State's image and of its nationality.

To this end, the Government shall undertake the undeniable responsibility of achieving the Nation's permanent aims, which are essential for the Republic's international consolidation.

The purposes and goals established do not alter the characteristics of the traditional Argentine foreign policy, whose outstanding feature conform to the following principles of international relations:

1. Full acceptance of international law rules, as the appropriate and unreplaceable means for maintaining reciprocal relationships among Nations, reasserting the fundamental principle of non-intervention, directly or indirectly, in the domestic affairs of other States.
2. Strict compliance with all obligations and commitments arising from treaties, agreements and other contractual acts of law and of international legal bodies, promoting unanimous agreement for the peaceful solution of disputes between two or more States.
3. Maintenance of relationships with all countries of the world, insofar as they respect the principles of international law and do not act to the detriment of the State's safety and welfare, jeopardizing its sovereign decision-making power.
4. Strengthening of cooperation and solidarity with other States, especially with those wherewith there are historic and cultural bonds and common values and goals.

5. Affirmation of respect for human dignity and the principles of international moral values, without distinction of nationality, race or creed, contributing to safeguard justice in the world and ensuring protection to the lives, property and interests of foreigners living in this country.

Thus, starting from the above stated principles and reasserting the bases which rule our conduct towards other States, the Argentine Government shall actively participate in the sphere of its international relationships, allowing the conditions necessary for harmonic and joint development of peoples and the accomplishment of the human being in dignity and freedom.

Internationally, the following are noted (all in 1975): Law 21.017 approved the International Sugar Agreement; Law 21.027 approved a cooperative scientific and technical agreement with Mexico and Laws 21.029 and 21.032 similar agreements with Paraguay and Chile respectively; Law 21.028 approved a Social Security Agreement with Uruguay; Law 21.032 sanctioned the Charter of the Latin American Civil Aviation Commission; and Law 21.202 approved an agreement with Bolivia concerning a railway line.

The sovereignty of Picton, Nueva and Lennox, three islands in the Beagle Channel, are the subject of controversy between Chile and Argentina. An Advisory Council to the International Court of Justice is looking into the matter, preparatory to the initiation of more formal proceedings on the subject.

BAHAMAS

On October 24, 1975, the Governor General of the Bahamas assented to the following: The Road Traffic (Amendment) Act (No.2), 1975 (No. 23 of 1975) which amended The Road Traffic Act, Ch.284 of the Laws of the Bahamas (1965); The Health Service Act, 1975 (No.24) amending Ch.215; The Representation of the People (Amendment) Act, 1975 (No.25) which amended No.40 of 1969. Again, on October 27, he assented to the Immigration (Amendment) Act, 1975 (No.26) amending No.25 of 1967. Also, the Tariff (Amendment) (No.2) Act, 1975 (No.33); The Stamp (Amendment) Act, 1975 (No.34); The Companies (Amendment) Act, 1975 (No.35); The Police (Amendment) Act, 1975, and the Insurance (Amendment) Act, 1975 (No.37).

The following additional legislative activity, among others, is noted: Adoption of Rules (1975) to the Industrial Property Act (Amendment) regarding patents; issuance of Land Surveyors Regulations (1975); amending of Price Control (General) Regulations, as well as Price Control (Gas and Diesel) Regulations.

Notification of succession has been submitted concerning the following multilateral activities: (1) The 1963 Convention on Offenses and Certain Other Acts Committed on Board Aircraft; (2) the 1948 Convention on the Prevention and Punishment of the Crime of Genocide; (3) the 1965 International Convention on the Elimination of Racial Discrimination; (4) the 1912 Convention on Suppression of the Abuse of Opium and Other Drugs; (5) the 1946 Protocol amending the Agreements, Conventions and Protocols of 1912, 1925, 1931, and 1936 on Narcotic Drugs; (6) the 1949 Protocol bringing under international control drugs outside the scope of the 1931 Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs; (7) the 1961 single Convention on Narcotic Drugs. The Bahamas has also furnished notification that it continues to be bound by the 1929 Warsaw Convention; further, that it has acceded to the International Telecommunications Convention (Malaga, 1973).

BERMUDA

Apart from the Industrial Relations Act which is discussed below, the Bermuda Legislative Council and the House of Assembly have enacted the following legislation:

The Care and Protection of Animals Act, 1975 (No. 33) which repeals the old Animals Protection Act, 1923 (No. 5). This Act gives the Minister of Works and Agriculture the power to make regulations governing the care, husbandry, welfare and housing of animals (s.8). Cruelty to animals is an offence and the meaning of cruelty in this context is set out in s.9. If the animal abused by the guilty person belongs to another person, the former may be made to pay compensation for damage done by his cruelty. General and supplementary provisions are made in Part V which include the power of the Minister to recognise certain societies for the prevention of cruelty to animals (s.17), powers of officers of the Department of Agriculture and Fisheries to enter premises where animals are kept for the purpose of ascertaining whether there is or has been any contravention of the provisions of the Act or its regulations (s.18), and such regulations could be made in accordance with ss.19 and 20.

The Betting (Regulation and Tax) Act, 1975 (No. 24) which must be read along with the Lotteries Act, 1944 (ss.2 and 3(1) of the 1975 Act). Part II of this Act deals with licensing of Bookmakers and Pool Betting Agents. There is a right of appeals to the Supreme Court against the licensing authority's refusal to grant a license to an applicant (s.15). Offences are created to cover the conduct of bookmakers and pool betting agents in licensed premises. Betting duty is the subject of Part IV.

Water resources is the theme of the Water Resources Act, 1975 (No. 53). This Act establishes a Water Authority for Bermuda. Before one can abstract water or construct a well, he must obtain a water right in accordance with this Act (s.4). Those who have an existing water right may apply to register it within one year of this enactment (s.7). The granting of water rights which may be made appurtenant to land (s.12) is provided for in Part IV. Well-diggers in Bermuda must have a well-diggers licence (s.22). Penalties for breaches of the Act are covered by Part IX.

The Employment Tax Act, 1973 (No. 43) has been amended by No. 77 of 1975. Similarly, the Motor Car Act, 1951 has been amended by No. 27 of 1975; and the 1970 Hospital Insurance Act by legislation of similar title No. 70 of 1975.

The Labour Relations Act, 1975 (No. 15) of Bermuda has repealed in its entirety the Labour Dispute (Arbitration and Enquiry) Act, 1965 and partially repealed and amended some sections of the Trade Union Act, 1965. The new law makes provisions for arbitration, settlement of labour disputes and appointments of Boards of Enquiry. In the private sector, settlement of labour disputes remains voluntary. The parties can use the services of a sole arbitrator, an arbitrator and assessor(s), nominated arbitrators or the Permanent Arbitrator Tribunal (s.3), or the Minister may appoint a Board of Enquiry to inquire into the dispute (s.4). Compulsory arbitration, however, obtains in the essential services (s.8) when strikes and lockouts are restricted (s.9). The establishment of the Permanent Arbitration Tribunal is the subject of s.14. This is the Tribunal to which the Minister may refer trade disputes in the essential services. Proceedings before the Permanent Arbitration Tribunal and Boards of Inquiry are covered in Part V of the Act. Part VI covers special legal provisions.

BOLIVIA

Decree Law 12926 (1975) establishes the Superintendency of Insurance and Reinsurance as the supervisory agency for private insurance companies. Foreign insurance companies operating in Bolivia are subject to its jurisdiction and laws, are obligated to establish an agency in the country, and to name a board with authority to settle any disputes that may arise, with the State or the parties insured. Further, any controversy arising from contracts carried out in Bolivia is to be litigated solely in Bolivian courts; policies providing otherwise will be void. Existing insurance contracts must be brought within the terms of the new law within ninety days from the effective date of the decree. The decree was published in the Official Gazette on November 14, 1975.

Supreme Decree (SD) 12929 (1975) provides that all private importers are now required to deposit 25% of the value of the merchandise four months prior to the expected date of arrival. Among the granted exemptions are: petroleum, cement, wheat flour, milk products, edible oil and pharmaceuticals. The decree was regulated by a SD dated October 23, 1975.

SD 12991 (1975) approved new regulations for travel agencies.

Ministerial Resolution 975/76 of the Ministry of Transport and Communications regulates charter flights in international air cargo transportation.

SD 13334 (1976) establishes the General Secretariat for Integration under the Presidency to coordinate national and international integration activities. The Secretariat will be headed by a Secretary General; policy guidance will be supplied by a Policy Council. The new entity supersedes the present Technical Office for Integration.

Bolivia, Peru and Chile, the three governments involved in finding an acceptable solution to Bolivia's aspirations to gain access to the Pacific continue to exchange views on the matter. In mid-March, 1976 Bolivia took a strong position in rejecting Chile's views regarding (1) demilitarization of the zone to be ceded to Bolivia, (2) the utilization of the waters of the Lauca River, and (3) a territorial exchange which would include maritime areas. Political observers see in the Bolivian response an indication that negotiations, insofar as Bolivia is concerned, must take place on bases other than those proposed by Chile. This temporary impasse appears to have shifted the focus of the negotiations to Chile and Peru.

On grounds that any cession of territory by Chile in the Arica region must have Peru's consent (8 *Law.Am.* 92, 1976), these two countries opened a series of talks in late April, 1976 in Lima. The talks recessed after a week without any public announcement except that the negotiators would meet again in June in Santiago.

BRAZIL

A decree has been issued to control pollution caused by industrial units. Industrial pollution is defined as being any alteration of the physical, chemical or biological characteristics of the atmosphere, caused by any form of power or solid, liquid or gas substance or a combination of industrial waste material capable of, directly or indirectly, or damaging the health, safety or well-being of people, of creating conditions adversely affecting social and economic activities, and of causing damage to the flora, fauna and other natural resources. (Decree 76,389, 1975).

The import duties on luxury goods have been raised by 100% and on intermediary goods by 30%. These new tariffs will not apply to goods imported from countries belonging to LAFTA and GATT, which will continue subject to the former import duty rates. (Decree Law 1,421, 1975).

Restrictions and limits have been imposed on the importation, commercial lease, or local acquisition of foreign goods by governmental agencies and departments. States which adopt these same restrictions shall be granted federal financial support. (Decrees 76,406, 76,407 and 76,408, 1975).

Under Decree 76,576 (1975) the National Superintendency of the Merchant Marine (SUNAMAN) has been authorized to grant permission up to December 31, 1976 for foreign vessels to carry out coastal shipping exclusively for the purpose of helping in the transportation, between Brazilian ports, of frozen cargo, bulk edible vegetable oils, bulk liquid cargo for industrial purposes, bulk liquified petroleum gas, volumes of great weight requiring special transportation equipment on board when such equipment is not available at the loading and/or unloading ports, bulk or bagged national wheat during the harvest period, and other essential foodstuffs, in the case of public need.

Import licenses shall be issued only against the deposit of the corresponding FOB value for a period of 360 days without earning any

interest nor monetary correction. The former period for this compulsory deposit was 180 days (Decree Law 1.427, 1975).

Federal government agencies will have to reduce their fuel consumption by 20% in the year 1976. (Decree 76,703, 1975).

For the purpose of promoting Brazilian exports for the international markets and of reducing imports, the following measures among others, have been approved.

(i) Decree-Law 1.428 (1975) providing that the Industrial Development Council, the Customs Policy Council, the Commission for the Concession of Fiscal Benefits and Special Programs for Export, the Northeast Development Superintendency, the Amazonia Development Superintendency, the Fishing Development Superintendency, and the Executive Group for the Mining Industry may grant reduction of import duty on machinery, equipment, apparatus, instruments, accessories and tools under the terms, limits and conditions established by the government.

(ii) Resolution 352/75, of the Central Bank allowing the use of funds of the Export Financing Fund, FINEX, to stimulate exports, with the commercial banks acting as repassing agents.

(iii) Resolution 353/75, setting up the Special Export Incentive Program, for the purpose of supplying working capital to manufacturing and export enterprises which show an increase in their volume of export.

(iv) Resolution 354/75, establishing conditions for the payment and return of the sum (equivalent to the FOB value of the imported goods) referred to in Decree-Law No. 1.427/75.

(v) Resolution 355/75, authorizing the Central Bank to register foreign loans for the importation of capital goods, intermediate products, raw materials and other goods, without discrimination as to the identity of the importer and the destination of the goods.

(vi) *Comunicado* GECAM 286/75, establishing regulations for Resolution No. 352/75 for the conduct of the exchange operations linked to the refinancing of exports, through CACEX, as agent of FINEX, with the investment banks and banks authorized to operate in exchange acting as repassing agents.

(vii) *Comunicado* GECAM No. 288/75, providing that goods imported through the Manaus Free Zone are exempt from the requirement referred to in item 1 of Resolution No. 354/75. The dispatch to other

destinations in Brazil, of goods covered by Resolution No. 354, imported in national or foreign currency through the Manaus Free Zone, will be conditional on the payment in *cruzeiros* of a sum equivalent to the FOB value of the goods, which will be refunded at the end of the 360-day period. In the case of imports in foreign currency, the *cruzeiro* amount of payment will be calculated at the rate of sale of the foreign currency on the date of payment.

(viii) *Comunicado* GECAM 289/75, determining that the contracting of exchange for payment of imports at sight or on credit may only be effected if the following conditions are fulfilled: (a) presentation of the shipping documents; and (b) prompt payment on the due date, with a maximum anticipation of two business days, if the transfer of the foreign currency is effected by cable or telex, or ten business days if effected by air mail or check.

(ix) *Comunicado* GECAM 290/75, providing that personal remittances, of up to US\$300 per month, shall henceforth be effected through banks authorized to operate in foreign exchange, only by persons who have had a current account with such a bank for at least six months and who sign a declaration that within the previous thirty days they have not made another remittance to the same beneficiary and know of no other person who has made such a remittance.

(x) *Comunicado* GECAM 291/75, suspending the issue, by establishments authorized to operate in foreign exchange, of checks in foreign currency.

(xi) *Comunicado* FIRCE 2/75, establishing regulations for Resolution No. 355/75 and simplifying the procedure necessary for the examination and registration of the foreign loans for imports for periods in excess of 360 days.

(xii) *Portaria* 470/75, of the Minister of Finance, suspending until December 31, 1976 the exemption from import duty and IPI on imports of petrochemical raw materials by companies which have projects approved by governmental departments.

(xiii) *Portaria* 471/75, extending the fiscal benefits granted by Decree No. 68,044/71 to freight, even when not yet paid, to insurance premiums and to commissions paid or credited to agents or representatives abroad.

The Industrial Development Council, by means of Resolution 46/75 has adopted a policy of incentives for the development of naval equipment.

Decree-Law 1.434 (1975) creates a reserve, consisting of resources derived from the Participation Fund of the States, the Federal District and the Territories, to benefit the states in the North and Northeast.

The President has extended, until December 31, 1976, the period established by Art. 1 of Decree No. 75,438/75, which temporarily reduces the rates of IPI (tax on industrialized products) on textile products (Decree 76,784, 1975).

The President has signed a decree-law altering the system of fiscal incentives for tourism. In accordance with the new law, the incentives will henceforth be granted by means of tax reduction, and no longer by means of exemptions. The new system imposes stricter controls on the beneficiary firm, for the purpose of preventing the manipulation and consequent evasion of the incentives. The tax reduction will be conditional on the payment of an equal amount by instalments, out of the beneficiary firm's own resources, to the General Tourism Fund (Decree-Law 1,439, 1975).

The following Resolutions and *Portarias* are noted: (1) Companies manufacturing pharmaceutical products for human, veterinary and dietary uses are no longer subject to having their prices controlled in respect of both existing and new products (Resolutions 71/75 and 72/75, Inter-ministerial Price Council); (2) The Minister of Finance has created an Advisory Group for Foreign Trade, mainly intended to coordinate the participation of government finance agencies in matters relating to international trade agreements. This group will also coordinate the preliminary work for international negotiations, propose the policy to be followed in international meetings on customs tariffs and trade, analyze the results of such international meetings and negotiations and propose the necessary measures for the fulfillment of commitments assumed in international trade agreements (*Portaria* 377/75); (3) The Central Bank has issued Circular No. 284/75, regulating Resolution No. 353/75, which created the Special Export Incentive Program; (4) Five years have been established as the period for the storage in bonded warehouses of parts, components and other materials imported for the maintenance or repair of: (a) airplanes, (b) airplanes engines or turbines, (c) equipment for personal training and flight simulators and (d) ground equipment. When these goods are sold or used for maintenance and repair services offered by the party enjoying the benefit of the bonded warehouse ruling, the purchasers of the goods may directly provide for the release of the goods for consumption (*Portaria* No. 439/75 of the Ministry of Finance).

The Federal Supreme Court has issued a number of decisions regarding the incidence of monetary correction in various circumstances, and has overruled some earlier rulings, as is the case, for example, of the correction of the amount of damages resulting from an illegal act (RE No. 83,824). Some other cases worthy of mention are the following: (a) monetary correction is due on any refund of tax (RE No. 81,654-SP); (b) The Usury Law has no application to operations involving financial institutions, which function under the control of the National Monetary Council, and whose rates and scales of monetary correction therefore do not infringe the said Law (RE No. 81,120-SP); (c) monetary correction is not a remuneration of capital, but merely assures that the capital retains its value over a period of time. Accordingly, it should not be confused with interest, which constitutes a genuine capital remuneration (RE No. 28,419-SP). The following judicial decisions are also noted: (1) Foreign currency sent to Brazil in payment of technical, technical assistance, administrative and other similar services rendered to Brazilian companies by companies established abroad are not to be included in the taxable profits (Appeal No. 72.764 of the 1st Chamber of the 1st Taxpayers Council); (2) transfers of title to frontier land made between private parties are considered null if INCRA has not participated or intervened in the transfer (Federal Court of Appeals, Decision of September 20, 1973); (3) if the creditor or debtor is resident or domiciled abroad, payments may be stipulated in foreign currency, their amount being determined by applying the current exchange rate (Appeal No. 201,981, 2nd Civil Chamber of the 1st Court of São Paulo).

A number of Double Taxation Conventions have come into force, the purpose of which is to avoid double taxation and prevent fiscal evasion in respect of tax income and capital. The Convention with Spain came into force on December 3, 1975; the Convention with Germany came into force on December 30, 1975; the Convention between Brazil and Sweden entered into force on December 29, 1975. Dividends and profits dealt with in paragraph 2 and paragraph 8 (b) of Art. 10 of the Convention between Brazil and France, promulgated by Decree No. 70,506/72, to avoid the double taxation of income resulting from investments with the Central Bank of Brazil are subject, as from January 1, 1976, to tax at the rate of 15% (*Portaria* No. 20/76 of the Minister of Finance).

Brazil concluded an agreement with Japan for the joint agricultural development of the Great Central Plain comprising parts of the states of Minas Gerais, Goiás and Mato Grosso; and on February 21, 1976 an

agreement was signed with the United States under which the two nations agreed to consult on all important economic and political issues involving both countries and their relations with the rest of the world.

Brazil has also deposited ratification to the following: (1) the 1975 modification to the 1971 Wheat Trade Convention; (2) the 1971 Convention for the Protection of Producers of Phonograms; (3) the 1973 Convention re Endangered Species of Wild Flora and Fauna; and (4) extension of the 1968 international coffee agreement.

CANADA

Canada's Prime Minister has put before Parliament his proposals to make the Constitution of Canada a Canadian document instead of a British statute (the British North America Act of 1867) which can be amended in key clauses (e.g. the authority of the central and provincial governments, the use of French or English, and educational rights) only by another act of the British Parliament. Previous attempts at "patriation" have been unsuccessful because of the inability of the national and provincial governments to find a mutually satisfactory formula for amending the document. The Prime Minister's proposals include the extension of the Constitution to guarantee the right of Canadians to use either French or English in dealing with official agencies, and the protection of regional interests in future amendments by requiring the support of either Ontario or Quebec (the most populous of the two Atlantic provinces), plus two western provinces.

The Canadian Parliament engaged in intensive debate in Spring 1976 over substantial reforms to the Criminal Code. Among the reforms proposed by the Government: Abolish capital punishment, stiffer gun controls, and increased electronic surveillance, among others.

Internationally, the following are noted: Acceptance of 1974 amendments to Convention on Intergovernmental Maritime Consultative Organization; (2) termination of an agreement concerning a space-tracking facility related to Project *Skylab*; (3) extended agreement with U.S. relating to seismograph station at Kluane Lake, Yukon; (4) ratified the Convention on Prevention of Maritime Pollution (London 1972); (5) approved extended joint extradition procedures with the U.S. to curb airplane hijacking, terrorism and narcotics traffic.

CARIBBEAN

ANTIGUA

The Antigua Legislature approved the Representation of the People Bill which was enacted as No.19 of 1975 in time for the General Elections held February, 1976. This legislation intends to "provide for the establishment and annual revision of a register of electors; for the manner in which electors may vote at elections for members to the House of Representatives, for the nomination of candidates at such elections, for the establishment of an Election Court, its powers and procedures; and for matters connected therewith and incidental thereto."

But the General Elections saw a change in government and a number of drastic changes in some areas of law are expected. First, it has been hinted that the new Government will repeal the controversial Press Legislation for the Privy Council which it unsuccessfully challenged in *Attorney-General & Another v. Antigua Times, Ltd.*, (1975) 3 WLR 232. *Antigua Times* held that the Antigua Newspapers Registration (Amendment) Act, 1971, and the Newspaper Surety Ordinance (Amendment) Act, 1971, did not contravene the right to freedom of expression or of the press in Antigua. Second, the issue of the check-off system was a source of conflict between the two political parties. The Administration enacted the Protection of Wages Act in 1970 (No. 3) to outlaw the check-off system. Subsequently, the new Government of Walter repealed that part of the 1970 Act by making check-off lawful in the Protection of Wages (Amendment) Act No. 17 of 1971 and reintroducing it through the Labor Code Act, 1975. One wonders what the new administration will do now. The third question is the approach towards the settlement of Labour disputes. One's bewilderment as to what measures the present Government will introduce is based on the wrangling over the establishment of the Industrial Court in 1967. That Court was swiftly wound up by the Walter Government as soon as they took to office in 1971. This question is clearly connected with the one concerning the whole issue of the Labour Code Act. Will the new regime interfere with the Labour Code or what?

BRITISH VIRGIN ISLANDS

The Legislative Council of the British Virgin Islands has passed a Labour Code Ordinance for the Islands. But the Labour Code Ordinance,

1975 (No.7 of 1975) (Gazetted 26th June, 1975) is not as comprehensive as the Antigua Labour Code Act (discussed in the *Lawyer* of October, 1975). Notwithstanding that in its statement of its objects, it is claimed that it is "An Ordinance to bring together in terms appropriate for the present state of the economy of the Virgin Islands, all legislation applicable to employment standards and industrial relations," the Code does not appear to have touched on the subject of industrial relations. In effect, there are no provisions relating to trade unions, collective bargaining or settlement of labour disputes involving unions and employers or unions and unions. This omission is understandable in view of the apparent non-existence of trade unions in this colony. It is submitted that the Code is that in which all employment laws of the Virgin Islands have been brought together and up-dated.

In terms of provisions relating to individual employment, the Code appears to be comprehensive. In the Declaratory Division (Division A), the Code outlines the national policy underlying its introduction, the organisation and contents of the Code, interpretation of certain terms and phrases used therein, employers and employees affected by the Code's provisions, enforcement of the Code provisions where the employer is the Crown and in s.A8 it is provided that "to the extent that there may be conflict between any provision of this Code and any provision of existing law not specially repealed in one or another or the Division therein, the applicable provision of this Code, as of its effective date, shall prevail over said provision of existing law."

The overall responsibilities for the administration of the Code are entrusted upon the Minister of Labour who in discharging the functions may delegate authority to perform such acts as do not call for the exercise of his personal discretion (s. B4). The responsibilities of the Labour Commissioner (s. B5); the Minister in the event of a referral by the Labour Commissioner (s. B6] and the Labour Inspector (s. B7) are also set forth in the division.

Basic Employment provisions are made in Division C of the Code. At a glance, one can read the essence of this Division's provisions from the declarations of National Policy in s. C2. The following expressions of public policy shall be used in the interpretation of the various provisions of this Division:

1. Every workman should know what his job consists of, what his working conditions shall be, and, if his employment be terminated, the reason therefor;

2. Every workman is entitled to reasonable breaks in employment, whether because of physical disability or for rest and rehabilitation;
3. Every employment ought to provide at least that wage which will ensure a minimum standard of living;
4. In the interest of spreading employment opportunities and of preventing industrial accidents, there must be a reasonable limitation upon working hours of employees;
5. To the extent that circumstances dictate that work-hours be reasonably extended, premium remuneration ought to be received therefor.

One remarkable provision under Part I of this Division (Commencement, Elementary Requirements and Termination of Employment) is that the employer is prohibited from discriminating against any person with respect to employment, tenure, wages, hours or any other condition of work, by reason of race, colour, creed, sex, age or political beliefs. It must be noted that prohibitions against discrimination appear in all the written Constitutions in the Caribbean but those provisions would appear to be available in public employment and would not operate against an individual employer. It must be recalled that similar provisions are contained in the Antigua Labour Code Act.

In this part of the Code, provisions are made for the supply of a statement of working conditions to an employee by the employer within ten (10) days of hiring (s.C5). The employer and the employee are free to enter into lawful individual contracts of employment excepting that they cannot stipulate for conditions which fall below the minimum employment standards established by the Code or that the employee refrain from associating with other employees or with a trade union for collective bargaining purposes (s.C7). Other provisions in this part include the regulation of employer's notice of termination (s.C9); statements upon termination (s.C10); and employee's notice of termination (s.C11).

Leave privileges of employees are regulated in Part 2 of this Division while Part 3 deals with Remuneration and Hours of Work. In the latter Part; national minimum wage rate, minimum wage rates for occupation; penalties for not paying minimum wage; form of wages; deductions from wages; period, time and place of wage payments; penalties and workman's right to recover amount wrongfully deducted from his wages and the repeal of the Protection of Wages Act, 1964 (No. 8 of 1964) are provided for.

Parts 4 and 5 of this Division create entirely new rights. They confer on the worker the right to receive severance pay (Part 4 s.C43) and the right not to be unfairly dismissed (Part 5 s.C55). None of these rights has any root at common law, they are purely statutory. The computation of severance pay (s.C44); when it is payable (s.C45); limitations on severance pay and the offer of equivalent employment (s.C47); the liability of predecessor and successor or employers (s.C48) are all dealt with. In relation to unfair dismissals, the test for measuring good cause for dismissal is not whether or not a dismissal was fair or unfair but whether in the circumstances the employer has acted reasonably or unreasonably (s.C57(2)). Subsection (1) of that section enumerates the "good causes for dismissal". Misconduct which is one of such good causes are partially defined (s.C58). Part 6 of this Division concentrates on administration and miscellaneous.

Division D deals with Employment, Health, Safety and Welfare, while Division E regulates the Employment of Women, Young Persons and Children, thus repealing The Employment of Women, Young Persons and Children Act (Cap.214), and the Employment of Children (Prohibition) Ordinance (Cap.213). Division F is the division on Work Permits.

ST. CHRISTOPHER-NEVIS-ANGUILLA

In addition to the Sugar Estates Land Acquisition Act, 1975, the Governor of St. Christopher-Nevis-Anguilla assented to the following enactments for that territory: The Liquor Licenses Ordinance (Amendment) Act, 1975 (No. 3); The Sugar Industry Labour Welfare Fund (Reimbursement of Loan) Act, 1975 (No. 6); The Education Act, 1975 (No. 18) and the West Indies Associated States Supreme Court (Saint Christopher, Nevis and Anguilla) Act, 1975 (No. 17) (hereinafter, Supreme Court Act).

The Supreme Court Act is intended to repeal and replace the Supreme Court Act, 1940 (No. 20 of 1939) which created the Supreme Court of the Windward Islands and Leeward Islands and the Federal Supreme Court Regulations, 1958 and to confer jurisdiction upon the West Indies Associated States Supreme Court and for other matters connected therewith. This Act is divided in eight parts. In the first part, the jurisdiction of the High Court is stated. Accordingly, the High Court has jurisdiction in Admiralty and Lunacy. Then the practice of the Court in Bankruptcy

and Criminal Proceedings and Civil Proceedings and in Probate, Divorce and Matrimonial causes. S.12 provides for the jurisdiction of a single judge. Law and equity are to be administered concurrently in the High Court (s.13). Common law and statutory rights are recognised in s.19 and the Court must give effect to them, and the Courts can give both legal and equitable remedy (s.20). It is clearly stated that in all matters in which there was or is a conflict or variance between the rules of common law and equity then, equity shall prevail (s.21). The mode of trial in the High Court is the subject of s.23 while the granting of mandamus, injunctive and other legal and equitable remedies are covered in s.24.

Part II deals with the Court of Appeal and its jurisdiction is stated in s.28. This Court inherits the jurisdictions vested in the defunct Court of Appeal (see the Supreme Court Act, Cap.79 and the Federal Supreme Court Regulations, 1958). The Court of Appeal will sit as a Criminal Division in relation to criminal matters and in civil matters as a Civil Division (s.29). Appeals are restricted in certain matters (s.31(3)). The powers and supplementary powers of the Court of Appeal on hearing an appeal in a civil matter are stated in ss.33 and 34, respectively, and new trials are regulated in s.35, ss.37-59. The Registrar of the High Court has a duty to publish the judgments of both the High Court and the Court of Appeal in the State's *Official Gazette*. Part V of the Act deals with officers of the Court and Part VI with barristers and solicitors, their admission to practice in the State (s.71), enrolment (s.72), suspension and similar matters. Witnesses and miscellaneous provisions are dealt with in Parts VII and VIII respectively.

On February 10, 1976 Anguilla returned to colonial status under Great Britain. Paradoxically the move was led by the Anguillans who culminated nearly nine years of struggle with the adoption of a new constitution putting the thirty-five square mile island and its 6000 inhabitants once more under direct British rule.

TRINIDAD AND TOBAGO

Legislation transforming Trinidad-Tobago to a republican form of government within the British Commonwealth passed both Houses of Parliament in the midst of strong opposition from various sectors of the population. It is expected that the change-over will take place in September, 1976 at which time Trinidad-Tobago will become the second former British colony to achieve the status of a republic. Guyana did so in 1970.

Internationally, Trinidad-Tobago approved the 1974 amendments to the Convention on the Intergovernmental Maritime Consultative Organization (1948).

COLOMBIA

Under Decree Law 444 (1967), the cornerstone legislation for all matters involving foreign exchange, it is provided that all contracts for personal services in which payment is stipulated in foreign currency, must be approved and registered by the Colombian Exchange Control Office. In General Circular No. 57 (1975) the Exchange Control Office issued instructions to the effect that all such service contracts must be presented to that office for study and consideration prior to performance of any services under the contract. In cases of an extremely urgent need for a technician, a carbon copy of the telex communication will suffice for presentation.

Law 33 (1975) provides new statutes of limitations for criminal actions involving violations of the country's exchange control laws. Infractions prescribe in four years and sanctions in eight years. In the case of infractions, the statute is tolled when an official investigation is opened at which time the statute commences running anew for a period of four years.

Decree 2085 (1975) contains regulations covering most of the important aspects of radio broadcasting from licensing to commercials. Interestingly, the decree is peppered with provisions aimed at fostering Colombian ideals. For instance, radio stations are obligated to devote at least 25% of their musical programs to music of Colombian composers. Also, at least 35% of the musical compositions played by a station must be interpreted by Colombian artists. On the subject of licensing, licenses may be issued only to Colombian nationals, or to Colombian companies with at least 75% of the capital held by Colombians and the control and management of which is exercised by Colombians.

The Cartagena Treaty of May 26, 1969 (the Andean Pact) called for the imposition by each member country of External Minimum Common Tariffs i.e., tariffs applied to imports from non-pact countries. Colombia has implemented this obligation by promulgating Decree 2677 of 1975 which sets out the External Minimum Common Tariff effective January 1, 1976.

Law 51 (1975) contains provisions regulating the profession of journalism. Among the various aspects covered are the qualifications for practicing journalism on a permanent basis. Law 53 (1975) recognizes the activity of chemist as a profession requiring a university degree, and regulates the exercise of this professional activity.

Under the Colombian Labor Code workers have a right to receive a type of seniority pay called *cesantía*. For each year employed the worker has a right to an amount equal to one month's salary or a fraction thereof for lesser employment periods. Except when borrowed for purposes of housing acquisition during the term of employment, the worker's right to receive the *cesantía* matures at the termination of his contract. Under Law 52 (1975) workers are given a right to receive in January of each year, during the term of their contracts, an amount equal to 12% interest on the *cesantía* balance owed to them on the preceding December 31.

Law 55 (1975) which provides for the "Colombianization" of foreign banks was approved by Congress and signed into law on December 18, 1975. New foreign investment in the insurance and banking sectors will be prohibited. Investments by nationals of other members of the Andean Pact will be exempted from this restriction when Colombian investors receive similar treatment in the other member countries. Existing foreign banks and financial institutions that desire to continue providing public services must sell 51% of their capital to local investors. The 51% must be sold via the Central Bank and the Banking Superintendent must approve the share purchases to assure that such purchases are by nationals. Foreign banks and financial institutions currently in existence that do not wish to transform will have to cease operations after December 31, 1976; thereafter they will only be allowed to carry out those operations necessary for liquidation.

In a move to reduce the pressures brought to bear on the economy by the country's unusually high foreign currency reserves, the government has eliminated the requirement of making a prior deposit on the price of imports as a condition to obtaining an import license. Commencing December 22, 1975, no prior deposit is necessary to obtain import licenses. This will have the effect of encouraging imports and the utilization of the excessive foreign reserves.

Decree 2815 (1975) regulates extensively the contract of *aparcería*, i.e., the contract between the owner of rural land and a third party under the terms of which the parties are to jointly work the land to share the fruits thereof. The decree sets forth compulsory obligations on the part

of both parties, prohibitions against the landowner, how profits are to be distributed, consequences of breaches of contract, termination of the contract and the procedure for resolving controversies.

As a member of the Andean Group, Colombia adopted Decision 91 (1975) which established a sectorial program for the petrochemical industry.

On April 23, 1976 a controversial Press Law was enacted. The new law, regulating all aspects of journalism in Colombia aims, according to a high level authority, to curb excesses of the press in stressing sensationalism in promulgating the news.

The following in the area of Resolutions is deemed pertinent: Regulations were issued covering the subject of group life insurance by the Banking Superintendency in Resolution 2356 (1975); (2) all manufacturers and importers of office equipment and supplies must register with the Superintendency of Industry and Commerce pursuant to Resolution 873 (1975); (3) all contracts covering the rendition of services for which payment is made in foreign currency must be approved by the Office of Exchange in accordance with General Circular 57 (1975); (4) Resolution 003307 (1975) established a new price for gasoline and other petroleum derivatives due to the high cost of importing petroleum and the deficiency in national production; and (5) new controls on propane gas were established pursuant to Resolution 003364 (1975). Within ninety days from the effective date of the resolution all industrial users of propane must register with the Division of Hydrocarbons which will then assign a monthly ration of gas to each user.

On January 6, 1976 Colombia approved two international agreements relating to the protection of authors and artists, respectively. Later in the year it approved extension of the International Coffee Agreement of 1968.

COSTA RICA

Laws 5841, 5849 and 5872, all of 1975, approved three financing contracts with the Central American Economic Integration Bank. The first dealt with the Center for the Distribution of Food Products of San Jose; the second with the airport Juan Santamaria; and the third with Cargo Terminals, Warehouses, and Custom Houses.

Art. 41 of the Social Security Fund was amended by requiring employees to pay the quotas corresponding to the workers (Law 5844, 1975).

Executive Decree 5411-P (1975) set forth the regulation for Art. 9 of the National Planning Law. The regulation establishes priorities for public investments, and a National System of Public Investments as part of the National Planning System.

Law 5870 (1975) established the National Communications Office within the Ministry of Interior. The new office will supervise the Mail Service, Telegraph Service and the National Radio.

Executive Decree 5358-MEIC (1975) regulates the activities of real estate brokers. Foreigners are permitted to obtain the required license provided they have been permanent residents of Costa Rica for at least five years and their countries of origin give similar treatment to Costa Ricans.

A National Committee of Hydrology and Meteorology was established by Executive Decree 5503-P (1975), and an Advisory Committee was created by Executive Decree 5463-SPPS (1975) to counsel the Ministry of Health on matters relating to research and experimentation on human beings.

Law 5862 (1975) authorizes the State to guarantee up to \$5 million for the development of small industries and handicrafts.

Law 5869 (1975) modifies the expropriation procedure insofar as it relates to compensation in the Arenal Hydroelectric Project.

The operating conditions of the Caribbean Merchant Fleet (NAMUCAR) are set forth in Law 5873 (1975), and departure taxes by air, land or sea are established by Law 5874 (1975).

Executive Decree 5728-SPPS (1976) establishes norms for the Housing Program, and Executive Decree 5849-RE (1976) regulates the Costa Rican Atomic Energy Commission.

Law 5877 (1976) approved amendments to the Charter of the Inter-American Development Bank; Law 5882 (1976) approved Costa Rica's adhesion to the European Convention Relating to Foreign Laws (London, 1968); and Law 5885 (1976) approved the amendments to the Inter-American Reciprocal Assistance Treaty.

The following additional legislative activity is noted: (1) a bill authorizing a new Presidential residence; (2) a bill to create various regional Supreme Tribunals, and (3) an amendment to the Constitution authorizing ex-Presidents to be candidates for the presidency in 1978. Another proposed law which would limit media ownership to Costa Rican

citizens has been approved by the Committee on Administration and Government. Advertising agencies, as well as newspapers and magazines would be required to issue all shares in the name of the stockholders (as opposed to bearer shares) and to publish the names of all shareholders every six months.

Costa Rica and the U. S. have signed an agreement whereby the latter supports Costa Rican efforts to curb the production and traffic in illegal narcotics.

CHILE

The regulation to Decree Law (DL) 1094 covering the entry and length of stay for foreign tourists, residents, official residents and immigrants is now in effect. Article 56 stipulates the conditions for political refugees: "Residential visas for political asylum may be granted those aliens who, for reasons of personal safety and the political conditions prevailing in their country of residence, are compelled to leave said country and seek asylum in a Chilean diplomatic mission. The head of the Chilean diplomatic mission may grant asylum to the person for his safety when such person is in danger of being deprived of his life and liberty for reasons of political persecution and is unable, without imminent risk, to save himself in any other manner. In any event, such asylum will be of a provisional nature. . . ." As to foreigners coming from countries with which Chile has tourism and transit agreements, the regulation states they may enter national territory with the necessary documents provided for in said agreements. On entry, they will receive a "tourist card" which should be kept in their possession throughout their stay in the country. A provision covering transitory agreements specifies: "Those aliens who have entered the country prior to January 1, 1970 and who are in an irregular situation and have remained on national territory from that date should apply for permanent residence."

According to DL 1225 (1975) owners of nonagricultural real property with a value of more than \$4,318 on July 2, 1978 now have to file a description of their property along with an estimate of its value.

DL 1233 (1975) authorizes the President to establish free zones under certain conditions.

A new travel tax was introduced by DL 1234 (1975). Residents for more than one year are required to pay a travel tax of 10% of the "ticket value"; trips to adjacent countries are included.

The automotive industry was affected by DL 1239 (1975) which, among other things, established percentages governing the integration of national goods in the assembled products.

DL 1263 (1975) regulates the manner in which public revenues are to be obtained and the application of said revenues to the requirements of the State. It defines the Public Sector, Public Debt, Public Credit and State Guarantees. It requires that the Minister of the Treasury approve obligations incurred by the public sector, and the countersign of the Comptroller General on documents evidencing public debts. Additionally, it regulates the nation's budgetary system.

DL 1281 (1975) modifies the Nation's Security Law by granting Chiefs in Emergency Zones authority to suspend, for limited periods, the distribution and sale of newspapers and magazines, as well as radio and TV broadcasts where these communications media promulgate news tending to create alarm and dissatisfaction among the inhabitants. Relief from the sanctions imposed lies with Military and Naval Courts.

Aircraft mortgages and other guarantees relating to aircraft are found in DL 1286 (1975).

DL 1289 (1976) contains the Organic Law for the Municipalities. It is a comprehensive statute setting forth, among others, the functions of the municipalities, the responsibilities of its organs and officials, as well as the role of local entities in the administration of these political subdivisions.

DL 1296 (1976) authorizes the President to negotiate with other governments reciprocal exemption of duties with respect to air and maritime transportation companies, and DL 1297 (1976) establishes that up to 50% export shipments may be transported in craft belonging to the country of destination, if reciprocity is granted to Chilean means of transportation.

A Council of State, composed of the ex-Presidents of Chile, an ex-President of the Supreme Court, an ex-Comptroller, and one ex-Chief of each of the Armed Forces, among others, was established to counsel the President in matters of State and civil administration (DL 1319, 1976.)

Supreme Decree 1401 (1976) of the Ministry of Justice extended to December 31, 1982 all the identification cards held by the citizenry.

On January 28, 1976 the Government issued a decree relating to the rights of persons detained under present martial law. Specifically, the decree provides that any person detained under Article 1 of Decree 1009

(1975), before entering security offices or places of confinement shall be examined by a doctor who shall submit at once a written report of the detainee's physical state to the Ministry of Justice. If, in the physician's estimation, the detainee has suffered maltreatment or undue compulsion, the Ministry of Justice shall denounce such occurrences to the corresponding administrative, institutional or judicial authority. Detentions may only be effected by a written order signed by the head of the respective security branch. A copy of the order shall be delivered to the next of kin specified by the detainee within 48 hours. If to carry out the detention, search of a public or private dwelling must be made, a written order must be issued by the head of the security branch concerned. Such order shall be previously shown to the owner of said building and a copy delivered to him once the assignment is completed. If during search or arrest a foreigner is taken into custody, the Ministry of the Interior shall expel him from the country. Places and establishments of detention shall keep a duly numbered book where the ingress and egress of the detainees, indicating the day and hour as well as the originating order, shall be logged. The President of the Supreme Court and the Minister of Justice may inspect without warning any place of detention to verify strict compliance with legal rules and regulations in effect, and are required to notify the pertinent authorities of any abnormalities. They may also order an immediate medical examination of any detainee who shows signs of maltreatment during his stay in the place being inspected. In the case of infractions, a summary court shall be ordered within 48 hours to determine responsibility and apply the necessary sanctions. Any functionary obstructing the aforesaid procedures shall be held responsible for serious dereliction in his obligations.

DL 1340 (1976) modifies Transitory Art. 3 of the Foreign Investment Law by extending until 1976 the time given foreign investors to comply with the law.

Ministry of Health Decree 428 (1976) regulates pharmacies and drugstores, as well as the preparation of pharmaceutical products.

DL 1320 (1976) establishes a system of cooperatives whose main objectives are to buy and sell personal and real property, subdivide and urbanize building lots, construct housing units and safeguard real property constructed by or under the control of the cooperatives.

DL 1328 (1976) abrogates DFL 324 (1960) and regulates the functions of mutual fund companies in the country.

DL 1167, 1349, and 1350, all of 1976, affect the Chilean copper industry in various ways. Salient features of these decrees cover the registration of mining rights, the organizational structure of nationalized companies, alienation of exploitation rights, establishment of Chile's Copper Commission, modifications to Law 16.624 covering investments in the *Gran Minería del Cobre*, establishment of the Chilean National Copper Corporation to exploit the *Gran Minería del Cobre* and *Compañía Minera Andina*, and the dissolution of the Collective Societies created by State in 1972, among others.

Internationally, Chile has taken the following actions, among others: (1) Ratified the Inter-American Convention on Waterborne Transportation; (2) acceded to the 1958 Convention on Recognition and Enforcement of Foreign Arbitral Awards; and (3) concluded bilateral agreements with the U. S. on the sale of agricultural commodities and rescheduling of certain debts owed the U. S.

CUBA

On February 15, 1976 more than five million Cubans gave overwhelming approval to a new socialist state constitution (8 *Law.Am.* 112, 1976). The new national charter replaces the Constitution of 1940, which in theory at least has been in effect since that year. The new document is noteworthy, from the foreign observer's point of view, for two of its articles. Article 61, which comes close to the end of the chapter on fundamental rights, duties and guarantees, proclaims that "none of the liberties recognized in the citizens can be exercised against what is established in the constitution and the laws, nor against the existence and ends of the socialist state, nor against the decision of the Cuban people to construct socialism and communism. The infraction of this principle is punishable." Article 12 condemns "imperialism," as "the principal force of aggression and war and the worst enemy of the peoples." The constitution went into effect on February 24, 1976.

The governments of Cuba and the USSR have signed their first five-year trade agreement which calls for doubling trade between the two countries in the next five years. The Soviet Union is the first country with which Cuba has signed a five-year agreement. Also, the governments of Cuba and Sweden have agreed to extend for three years the commercial agreement between the two countries. Additionally, in the international area, in late 1975, Cuba deposited adherences to a series of conventions,

protocols and declarations of understanding regarding the Northwest Atlantic Fisheries, all done in Washington between the years 1949 and 1975. Lastly, Cuba deposited its acceptance to the Intergovernmental Maritime Consultative Organization.

ECUADOR

Supreme Decree (DS) 924-I (1975) approved the Industrial Parks Development Law authorizing the establishment of industrial parks whose main objective is to accelerate the nation's economic development.

DS 943 (1975) regulates the procedures to be followed in the elaboration and planning of all projects directed to the technical, economic and legal developments of the country.

DS 944 (1975) promulgated the Law of Centers and Chambers of Agriculture with the objective of giving the agricultural sector more viable entities through which to achieve orderly and efficient development.

The Agrarian Reform Law was amended by DS 954 (1975). The amendment establishes local offices to determine, *ab initio*, the impact of agrarian reform in the jurisdiction in question.

The Foreign Exchange Law was amended by DS 980 (1975), and DS 982 (1975) established the taxation regime for the petroleum industry.

DS 989 (1975) contains the General Budget of the State and sets forth the income and expenditures for the year 1975. It was published in R.O. No. 963 of December 31, 1975. The 1976 budget totals 16.78 billion *sucre*s, some 9.8% over the 1975 budget. The Finance Minister stated that it is "one of the lowest increases in recent years." The new budget is based on the same wage and salary scales as 1975; it provides for strict limitations on hiring additional personnel and a reduction in the purchase of governmental supplies.

DS 991 (1975) excluded from the patrimony of the Agrarian Reform and Colonization Institute those lands which, on October 15, 1973, belonged to certain educational institutions.

DS 1005 (1975) amended the Foreign Service Law respecting the categories and functions of the members of the Foreign Service.

The Charter of the National Center for Small Industries and Handicrafts was promulgated by DS 1020 (1975). The new law aims to encourage the development of the industries affected.

DS 1092 (1975) sets forth the new monthly minimum salaries to prevail in different sectors of the economy.

DS 1083 (1975) amends the Tourism Development Law.

DS 20-A (1976) promulgated the Social Security Code, but due to severe critical reaction its effectiveness is being held in abeyance.

On January 11, 1976 a change of government took place in Ecuador, and a triumvirate composed of the heads of the Armed Forces assumed control of the Executive power. The Junta considers itself a transitional government and has indicated that power will be returned to civilians by the end of 1977.

DS 100C (1976) extended for two years housing lease contracts and froze rents for this period of time. The decree aims to aid large segments of the population in a period of housing shortage.

DS 31C (1976) established the National Commission of Human Resources in furtherance of U.N. Resolution 3128.

The Customs Organic Law, as amended, became effective under DS 60C (1976).

R.O. No. 48 of March 19, 1976 contains a codification of the law regulating the Scholarships and Educational Credits Institute.

A Security Law was promulgated on April 12, 1976, abrogating a prior law on the subject dating from 1964. The new law contains 167 articles and is divided into four main titles: national security, general mobilization, civil defense, violations and sanctions.

In the international area the following approvals are noted: Bilateral agreements with the United States relating to (1) immunities of the Inter-American Geodetic Service Mission, and (2) air transportation; agreement with Colombia re definition of maritime and submarine waters, as well as maritime cooperation, in general. Additionally, agreements were concluded with the Latin American Energy Organization (OLADE), and with the OAS concerning establishing an OAS office in Ecuador. Lastly, Ecuador approved the Convention on Cargo Lines (London, 1966); the Charter of SELA (Panama, 1976); and various postal arrangements within the Universal Postal Union.

EL SALVADOR

Legislative Decree 375 (1975) modified the Electoral Law (Decree 292, 1961) by establishing new population bases for the election of legislators, fixing dates for elections, and regulating certain procedures relating to the suffrage.

Executive Decree 74 (1975) authorizes the "Bank of America National Trust and Savings Association" to establish a branch in El Salvador.

The *Ley de la Administración Nacional de Acueductos y Alcantarillados* was substantially amended by Legislative Decree 386 (1975).

Legislative Decree 406 (1975) interprets Art. 87 of the Notaries' Law (No. 218, 1962) to the effect that the Law of Validity of Private Documents (1904) was unequivocally abrogated under Art. 43 of the Judicial Tariff Schedule.

Under Legislation Decree 415 (1975), the Agrarian Law (Legislative Decree 60, 1941) was modified in relation to the guarantees extended to owners and those in possession of agrarian lands; also in relation to the responsibilities of owners of wandering cattle.

Legislative Decree 427 (1975) authorized the issue of Government Bonds totalling 98 million *colones*.

The *Ley de Creación del Instituto de Transformación Agraria* was amended through an interpretation of Art. 37. Specifically, the amendment defined the term "commercial partition of agrarian lands (Legislative Decree 437, 1975). A second amendment extends the time limit in Art. 127 in which commercial partition may be carried out (Legislative Decree 438, 1975). Further, Legislative Decree 1 (1976) promulgated the General Regulations for the Institute.

Ministry of Economy Accord published in the *Diario Oficial* of January 20, 1976 established a Technical Group to review the policies concerning customs duties in the Central American Area. This is an additional step taken in pursuit of the reorganization of the Central American Common Market.

GUATEMALA

Decree 83 (1975) amends the customs schedule with respect to the export duty on bananas.

The Code of Criminal Procedure (Art. 94) was amended by eliminating the discharge of civil liabilities in order to obtain provisional liberty and judicial pardons, among others.

Decree 2 (1976) prohibits the exportation of planed wood.

Governmental Accord of February 20, 1976 establishes norms for the adjudication of areas destined for petroleum exploration and exploitation; a second Accord of the same date creates the National Petroleum Commission; and Ministry of Economy Accord of February 23, 1976 selects areas for the exploration and exploitation of petroleum.

To develop industry for export, Guatemala is to offer tax holidays for foreign and domestic capital to set up or expand business in this field. A governmental bill in Congress offers a 100% profits tax exemption for five years and a 50% exemption for a further five years, as well as a one year exemption from import and stamp duties and other official charges on the raw materials needed to manufacture such exports. Imported fuel and lubrication oils needed for the production process also are duty-free. In addition, machinery, plant and spares required for the same purpose may be imported duty-free, although in the case of foreign-owned corporations such exemption is only temporary, and the machinery must eventually be re-exported. Further, foreign firms will not profit from the profits tax exemption if the tax they pay in their country of origin is equal to or higher than the Guatemalan tax.

Other subjects expected to be dealt with by the Congress include: Obtaining a \$30 million line of credit for housing; a tax on the capital of business associations ranging from 1% to 2% of said capital; reduction in the price of basic grains; reforms to the Labor Code; reforms to the Rent Law to ameliorate the rise in rents caused by the earthquake; penal responsibility for improper construction of buildings; nationality of orphans forced to abandon Guatemala; amendments to the Industrial Promotion Law; compulsory instruction in schools regarding natural disasters; and exemption from taxes for construction materials needed in the reconstruction of the country.

The President ratified the Protocol amending the Drug Convention (New York, 1961) per Decree 76 (1975).

In late March, 1976 Guatemala reaffirmed, via its Foreign Minister, that Belize can not become a member of the Organization of American States, inasmuch as it is claimed as national territory by Guatemala. Negotiations between Guatemala and Great Britain regarding Belize were

scheduled to begin anew on April 26, 1976 in New Orleans. The Guatemalan Foreign Minister heads his delegation; the Colonial Minister, the delegation from Great Britain; and Belizes' Prime Minister will head his group.

In other international actions Guatemala ratified: (1) The 1972 Multilateral Convention on the Prevention of Marine Pollution, and (2) the Protocol amending the Single Convention on Narcotic Drugs (1961); signed two 1975 amendments to the Warsaw Convention; and acceded to the Study of the Preservation and Restoration of Cultural Property (1975).

HONDURAS

A new law designed to control imports has been seriously protested by the private sector. In essence, the new legislation disregards invoices accompanying imported goods in determining their value, and substitutes therefor valuations set by customs officials at the port of entry. These government officials are to be guided by catalogues obtained abroad which reflect sales prices to the importers. Leading the movement against the new law was Honduras' Private Business Council (COHEP).

MEXICO

A decree in D.O. of November 13, 1975 established the Agrarian Tripartite Commission as a consultative organ to the Federal Executive. The Commission will focus principally on expediting agrarian reform and in implementing presidential resolutions on the subject.

A General Rural Credit Law was submitted to the Congress in October 1975 and approved two months later. The main objectives are: raising peasants' living standards, achieving self-sufficiency in the production of foods and raw materials, and overcoming the structural defects in the country's antiquated rural credit system. The law transcends matters of financing and deals with the promotion of farm commodity industrialization and marketing to enable the peasants to raise their productivity and living standards. It extends the definition of rural credit to encompass all activities in the agricultural production process, including such new concepts as family consumption loans extended during the planting period and rural industry credit. The law provides for creation of the National Rural Industry Finance Company, which will finance not only rural industrialization but also rural housing. The functions of the National Ejido

Development Fund are specified and national agrarian development and rediscount funds set up in national credit institutions. The intention is to achieve a specialization of functions among the several agencies and delimit the area of their activities so as to arrive at effective complementarity in the integral financing of rural activities. In support of official credit programs, the law contains provisions to coordinate federal rural development programs and reinforce the organization and training of producers. Further, it empowers the national rural credit system to attract funds from other agencies and the public, especially from the producers themselves, for the purpose of diversifying its finance sources, strengthening its structure as a banking organization and increasing its supply of funds. Among the provisions applicable to both official and private banking institutions is recognition of the credit worthiness of moral and physical persons specified in the Federal Agrarian Reform Law, that is, ejidos and communities, rural production companies, ejido and community unions, unions of rural production companies, collective rural associations, settlers and small landowners. The law tends to bolster the economically weaker producers to help them raise their productivity. To this end, local farm credit companies are transformed into rural production companies and their structure and operation simplified; collective rural associations are created for profit-making, marketing, purchase of inputs, services and other activities relating to agricultural exploitation. Such associations can be constituted by ejidos, communities and small land owners. As a means to promote the collective organization of ejidos and communities, the law establishes a system of preferences in the assignment of credit to sectors working collectively; when not working collectively, ejidos, communities and small landholders will be given priority over groups of producers or individuals of higher economic capacity. Another basic aspect of the law, designed to capitalize resources for the farm sector and increase the availability of funds for producers, is the tax exemption granted ejidos and rural production companies, or the union of both. Tax exemptions are also granted to collective rural associations, and on payment of the corporation income tax levied on earnings from agricultural products, and the processing, preservation, marketing, storage and industrialization of farm commodities, and payment of the one percent payroll tax. A further feature of the General Rural Credit Law is that investments and loans made in keeping with rural infrastructure building, organization, technical aid and training programs will be regarded as special operations in support of credit-worthy producers. To be thus defined, such operations must be subject to zonal or regional development programs and act to supplement present credit plans.

Lastly, the law establishes a public rural credit registry for nationwide control and supervision of credit recipients and the management of funds placed at their disposal.

The Institute of Electrical Research was created by Presidential Decree of December 1, 1975 as an autonomous public agency, with juristic personality and its own assets, to promote the sector's scientific and technological development. The Institute's chief objectives are to carry out scientific and technological research with the aim of fostering growth of the electrical industry; provide assistance to the Federal Electricity Commission, manufacturing companies and all those related to the electrical service; provide specialization and updating courses; patent and license research results; maintain contact with similar agencies in Mexico and other countries; propose research programs and relevant short, medium and long-term plans of operation, investment and financing.

The Regulation to the Federal Law on Archeological Monuments and Zones was published in D.O. of December 8, 1975.

D.O. of December 15, 1975 contains a decree abrogating the Development Law for New and Necessary Industries of January 4, 1955, but business concerns that obtained incentives under the law are not affected by the abrogation.

The Maritime Commerce and Navigation Law was amended and supplemented by a decree found in D.O. of December 22, 1975. Another decree in the same *Diario Oficial* promulgates the Electrical Energy Public Service Law.

Modifications to the Environmental Law relating to the contamination of the atmosphere and waters are found in D.O. of December 22, 1975 and January 2, 1976.

In December 1975, the Congress approved a new Mining Law (8 *Law.Am.* 119, 1976) The new Law is based on Constitutional Article 27 which states that "the Nation has original ownership over lands and waters within the limits of the national territory" and direct dominion over "all minerals and substances which in lodes, strata or beds constitute deposits the nature of which is different from components of the soil . . ." The main criterion underlying the new Mining Law is conservation of the nation's interest over any private interest. It also establishes the following specific objectives: "to reaffirm the country's sovereignty over its natural resources; promote complete "Mexicanization" of mining in its several stages; prevent incentives granted by the State from being

centered in a small number of big companies; develop and modernize mining operations and promote greater processing of minerals so as to make them more competitive at world scale; improve the living standards and working conditions of miners." The law proposes to eliminate the structural defects that limit mining expansion and endow the sector with new instruments that permit to fulfill its development objectives. It creates an appropriate legal system giving the State greater power to regulate mining in the public interest. Through the Mining Development Commission and majority state-participation enterprises, the law reserves for the State the exclusive exploitation of mineral resources considered basic to the country's economic and social development. Additionally, it broadens possibilities to exploit radioactive substances and modifies the system of concessions by establishing different periods of validity according to the nature of the concession: three years of exploration; 25 years, renewable for the same term, for exploitation, and 25 years, renewable for an indefinite period, for processing. In the institutional and administrative area, the law specifies that the Ministry of National Patrimony shall be empowered to define the country's mineral policy, fix production quotas, establish—together with other authorities—a mining export policy and tax system, and promote the organization of mining companies. It increases the powers of this Ministry and of the Ministry of Labor and Social Security to oversee safety conditions in the mines and suspend operations in certain cases. Further, it empowers the Mining Development Commission and majority state-participation enterprises to conclude work contracts with Mexican nationals, exclusively Mexican-owned companies or state-participation enterprises, and to install and operate processing plants. It specifies the functions of the Public Mining Registry and cases in which the registration of documents may be denied; it creates the Council of Mineral Resources as an autonomous agency.

The International Extradition Law is found in D.O. of December 29, 1975.

The National Adult Education Law was promulgated on December 31, 1975. It aims to increase knowledge and skills of persons over fifteen years at primary and secondary school level. The new law provides for studies of all kinds, updating activities and labor and professional training. Adult education will be given through the extracurricular system based on self-instruction and social solidarity.

D. O. of December 31, 1975 contains, among others, the following: A decree amending Art. 87 and 501 of the Labor Law; decree authorizing

the issuance of national bonds for economic development; and a decree increasing the guarantees of the Mexican Government in regard to lending operations with the World Bank.

The National Institute for the Protection of Infants was restructured under a decree in D. O. of January 2, 1976.

SELA's Charter was approved by decree (D. O., January 8, 1976).

General Resolution No. 11 in D. O. of January 15, 1976 deals with the criteria applicable to Art. 8 of the Foreign Investment Law.

The Federal Law on Consumer Protection became effective on February 5, 1976. The new law brings together a number of provisions scattered throughout civil and mercantile legislation and places them under the heading of social law; they are systematically arranged to permit the regulation of business transactions and prevent abusive or unfair practices. The consumer is provided with a single body of law specifying his rights in the matter. The law focuses on advertising and imposes the obligation on all dealers and suppliers of services to provide consumers with truthful, adequate information on the origin, components, qualities and characteristics of a product or service. They must also make good the guarantees or offers they announce to the public, stating clearly how they are to be obtained. Further, it is forbidden to use publicity texts implying discriminatory superiority, such as "export products" or "export quality," unless the term is expressly authorized and justified as desirable for the country's economy. Certain offers and promotions must have Ministry of Industry and Commerce authorization and it is forbidden to tie the sale of a product or service to the purchase of another product or service. Manufacturers or importers of goods sold to the public must insure a timely supply of parts and replacements during the period that these items are manufactured, assembled or distributed in the country and during a reasonable time thereafter in accordance with the useful life of such items. An innovative element of the law, compared with similar legislation in other countries, is the regulation of credit sales. Dealers are obliged to provide information on credit characteristics and conditions; it is established that interest can be computed only on the cash price, less the down payment, and collected on the unpaid balance; the capitalization of interest is banned, as is an interest charge on interest; nor can the payment of interest be demanded in advance. The Ministry of Industry and Commerce is empowered to fix maximum interest rates. It should be noted that the consumer is given the choice of rescinding an installment purchase contract or making back payments when more than half the price of the article

has been paid. The law protects consumers when product quality does not respond to the claims made by producers or when quantity is less than ordered or indicated on containers or packages. When services involve repairs, renovation or cleaning, the replacements and parts used must be new and adequate, and the consumer is entitled to demand indemnification for damage caused by defective service, or when the article in question has suffered deterioration for causes imputable to the service, a sum equivalent to the rental of the article during the time required for additional repairs. Service suppliers, too, are obligated to respect the terms, conditions, modalities and reservations by which a given service is arranged. In the case of tourism services, repeated nonfulfillment makes the supplier liable to administrative sanctions. The service rates of a given establishment must be placed clearly in sight of the public; differential prices cannot be fixed for the same service when it is provided by a middleman acting in agreement with the direct supplier of the service. The law establishes a Federal Public Prosecutor's Office for Consumer Defense to oversee compliance with its provisions; the office is considered a social service, acting autonomously, with its own legal personality and assets. Its functions will be to represent consumers individually or collectively before the administrative authorities and before suppliers of goods and services. It will also give legal advice to consumers, act as conciliator and arbitrator and, in general, supervise the fulfillment of consumer protection provisions. Additionally, the National Consumer Institute was created to inform and guide the public in the rational use of its purchasing power, the exercise of its rights and the formation of consumption habits that protect the family income. The Institute will be composed of representatives of several state ministries and agencies and of labor, peasant and business organizations. Its activities include statistical studies, dissemination of useful data, and educational courses.

On February 11, 1976 the new Patents and Trademarks legislation became effective. The law makes substantial changes in the patent regime by eliminating patents in a number of areas (e.g. pharmaceuticals, chemicals, agriculture) and substituting therefor "inventor's certificates" which permit collection of royalties, but not the control of licensing. Where still allowed, duration of new patents is reduced from fifteen to ten years, but companies failing to use patents within three years of registration may lose them. The legislation also affects substantially the trademark regime.

Internationally, the following are noted: A Memorandum of Understanding with Canada re Travel and Employment of Mexican agrarian workers in that country (D. O., November 25); convention with Brazil

on Maritime Transportation (D. O., December 1); amendments to the ILO Charter (D. O., December 9), the WHO Charter (D. O., December 19), and the IDB Charter (D. O., December 22); promulgation of International Textiles Agreement (Geneva, 1973), and International Telecommunications Convention (Málaga, 1973).

Diplomatic relations at the ambassadorial level were established with the governments of the Fiji Islands, Ireland, Democratic Republic of Vietnam, Ivory Coast Republic, Lesotho, the Maldiv Islands, Surinam, Nepal, Botswana, United Republic of Cameroon, Kingdom of Swaziland, Singapore, Republic of Madagascar and Republic of Rwanda.

NICARAGUA

In late 1975 the government adopted a range of measures aimed at attracting more tourist money from abroad. Essentially, the government is providing major inducements to foreign investors willing to invest in tourist facilities. Among them: an offer to sell government owned land for tourist projects, tax exemptions up to ten years, and waivers of import duties on furniture, equipment or material used in setting up tourist facilities.

Decree 229 (1976) promulgates an Expropriation Law based on Art. 82 of the Constitution. The new law which became effective on March 9, 1976 abrogates the previous law on the subject dated April 4, 1961. Chapter I contains General Provisions and provides, inter alia, that all types of properties or rights are subject to expropriation, whether ownership rests on a person or an entity (Art. 1). Art. 2 defines "public purpose" with regard to expropriation and holds this to be served if the nation receives any rights, use, improvement or enjoyment of common benefits, or if the action taken is in furtherance of the objectives of the State. Expropriation is also justifiable (Art. 3) to satisfy "the social interest." Chapter II deals with expropriation procedures in general (Art. 4 to 9). To exercise their expropriatory power, specified State, Municipal or National District entities (or in emergencies the President and Ministers) must present a formal declaration of the public purpose or social interest involved, including technical data and other information to determine if the subject property or right is necessary and must be acquired. At the time of such statement or subsequently, a person or agency in charge of accomplishing expropriation is named as *Unidad Ejecutora* (Art. 7). A private person, as well as public entities may be beneficiaries of the Declaration of Social

Interest if the statutory requirements are met (Art. 6). Notice by publication of the declaration through *La Gaceta*, and other news media is provided for. The notice sets a fifteen-day period for those; claiming an interest to appear before the respective authorities to arrive at an agreement as to just compensation and method of payment for the expropriated property. If within eight (8) days of appearance no settlement has been reached, an expropriation trial follows. Art. 9 provides that based on Art. 82 and 196 of the Constitution, payment may be made in bonds. Chapter III deals with the pertinent judicial proceedings (Art. 10 to 30). During expropriation proceedings, the owner or party in possession of the subject property or right is to facilitate discovery of relevant information. Failure to cooperate may result in a court order to compel discovery through police assistance, after a hearing on the issues. If a civil trial is necessary, the *Unidad Ejecutora* brings the action on behalf of the beneficiaries. Under Art. 11 the issues at trial are as follows:

1. Amount of compensation;
2. whether the expropriation should be total or partial;
3. whether the subject matter of the petition is affected by the declaration of public purpose or social interest on which the petition is based.

The statute is explicit on the contents of the pleadings and requires that a copy of the decree on which the petition is based, as well as a recording certificate revealing liens or encumbrances be attached to the petition. Where a respondent defaults, the court shall appoint a guardian-ad-litem to represent him (Art. 16). Minors, incompetents, and parties not within the national jurisdiction shall also be represented by a guardian appointed by the Public Ministry. If prejudice would result from expropriation of a part of the subject property or right, respondent may request that the whole be taken (Art. 17). For expropriation purposes, realty or immovables are considered a whole even if they consist of different parcels with titles resting on different parties. A claim for an easement shall not exceed fifteen percent (15%) of the value of the realty affected by the easement and additional consequential damages. The statute also provides for the trial not to exceed eight (8) days. In the interest of speedy resolution, the court may appoint an appraiser where opposing parties' named appraisers do not reach an agreement (Art. 18). After the issue is joined, the Judge will fix the compensation, payable in cash or bonds, or a combination thereof (Art. 19). Art. 21 provides for appeals within three days. Interests of third parties are to be resolved at

common law to avoid delay in adjudication, and the prevailing party recovers from the amount for compensation deposited with the Bank of Nicaragua (Art. 23). A party who refuses to give up expropriated property will be forcibly ejected (Art. 27). Under Art. 28 expropriated property passes free and clear, but recourse may lie against the person expropriated in certain instances. Chapter IV covers the transfer and registry of expropriated property, and, among others, deals with charges payable to Public Real Estate Registrars (Art. 31); exemption from taxation re pertinent documentation (Art. 32); and methods to return the property to the original owner if the intended use is abandoned (Art. 33). Chapter V concerns bonds. Art. 34 provides that bonds will be issued by the public entity decreeing the expropriation in the amounts and conditions determined by law. Bonds will be nominal, and redeemable within twenty (20) years (Art. 36); negotiable and transferable according to law (Art. 38); callable at any time by the issuing entity (Art. 42); and carry certain basic information thereon (Art. 44). All payments connected with the bonds will be made in *córdobas* or in specie, if agreed by the parties (Art. 48).

Decree 237 (1976) established the *Instituto de Tecnología* (INTA) with the objective of conducting research and promulgation of information in the agricultural and animal husbandry fields.

A Forestry Law is under consideration by the Congress and is expected to become effective before the end of 1976.

PANAMA

A new law, effective January 1, 1976 removed import duties on an extensive list of luxury consumer goods. Further, the law lowered import duties on certain types of communication equipment and established a new category for electronic calculators.

The controversy with the United States over the "new Panama Canal Treaty" is not permitted to attenuate in spite of the efforts of both administrations, U.S. and Panama, to await the results of U.S. presidential elections in 1976. Panama seems to recognize the political problem in the United States and appears disposed not to force the issue, but U.S. political activity militates against the statesmanlike approach required to settle a complex and explosive situation. The differences between President Ford and his leading Republican challenger led Panama's Foreign Minister in late April, 1976 to accuse the challenger of "wilfully deceiving the people of the United States" and "of inflaming patience in my country." Recog-

nizing the sensitivity of the issue by stating that he was not "trying to mingle into the political campaign of the United States," he reaffirmed the need "to defuse this explosive situation, but by negotiations . . . by negotiating within the next twelve months a new canal treaty that would be fair for both countries." Thus, matters stand in late April, 1976, i.e., a thorny, volatile inter-American issue caught in the web of internal U.S. politics. As the presidential campaign heats up it appears that matters will get worse before they get better.

Additionally, in the international area, Panama (1) deposited acceptance to the 1974 Amendments to the 1948 Convention on the Intergovernmental Maritime Consultative Organization, and (2) deposited ratification of the 1972 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter.

PARAGUAY

Two new cooperative agreements in the field of communications have been signed by Paraguay and Brazil. The two countries plan to establish a joint program to interconnect their communications systems. Toward this end, the agreements call for the exchange of technicians and technical documents, the establishment of reciprocal scholarships for technical and administrative personnel, the technical improvement of postal services, and the proffer of electronic engineering training in Paraguay. The agreements will be effective for five years.

Paraguay has signed a \$12.5 million contract with Nippon Electric to build a satellite communication's system, and a DM 12-million agreement in West Germany to help finance the second phase of the modernization of the country's telecommunications network.

Further, in the international area, Paraguay approved the multilateral Treaty for the Prevention and Punishment of Crimes Against Internationally Protected Persons Including Diplomatic Agents (New York 1973).

PERU

The following Decree Laws (DL), Supreme Decrees (SD), Supreme Resolutions (SR), Directory Resolutions (DR), Ministerial Resolutions (MR) and Resolutions (R), among others, were promulgated in the latter part of 1975 and in the first half of 1976.

DL 21304 (1975) establishes a national system concerning the development of the Social Property Sector. The purpose of the new law is to promote, strengthen and consolidate the system of Social Property Companies (EPS) created by DL 20598 (1974).

DL 21306 (1975) unifies the taxes on the exportation of sugar. The taxes introduced by laws 7540, 14920, 15049 and 16576 are substituted by the new uniform tax of 3% of the FOB-value.

DL 21307 (1975) charges the Judicial Reform Commission with the reform of the administration of justice.

DL 21309 (1975) declares the Superintendency of Banks and Insurance responsible for the supervision of mutual loan associations.

DL21310 (1975) requires all industrial enterprises to distribute 10% of the annual net profits among full-time workers.

SD 011-75 CO/CE (1975) reestablished the national register of importers; the registration of all importers (profit or non-profit) and their representatives is compulsory.

DL 21317 (1975) provides that agricultural co-operative societies, agricultural societies impressed with a social interest and other agricultural societies can be transformed voluntarily into Social Property Companies (EPS) established by DL 20598 (1974).

MR 011-75/PM-INAP (1975) resulted in a new commission which will study general problems of enterprises owned by the State.

DL 21333 (1975) determines the maximum dimensions of small and medium rural properties which may be owned by natural persons.

DL 21353 (1975) promulgates a liquor importation monopoly in favor of the State.

DL 21372 (1975) establishes a new System of National Statistics (SEN) with the purpose of coordinating the various official statistical activities.

MR 2414-75-EF/74 (1975) promulgates a list of fines applicable to public notaries for illegal certification of contracts.

According to DL 21297 (1975), the State will control all mining operations exploiting radioactive materials. The immediate supervision belongs to the Peruvian Institute of Nuclear Energy.

DL 21390 (1975) requires importers, prior to placing an order, to obtain from the Commerce and Trade Ministry permits specifying the goods to be purchased abroad. Further, the tax on import is to be raised to 30% from 20% and shipments of alcoholic beverages and newsprint are to be cut by 30% and 15% respectively.

Emergency measures designed to confront fiscal and trade imbalances were announced by the Economic Minister early in 1976. Among them: Increase in corporate taxes, imposition of taxes on cooperative and social property enterprises, a tax on foreign travel and revaluations of real estate.

In February, 1976 the government amended the law restricting the amount by which workers' salaries could be raised. Formerly, increases were limited to \$36.50 monthly; the modification permits raises up to \$46.50 per month if the profits of the particular enterprise warrant it.

On December 11, 1975 the United States and Peru signed a memorandum of understanding on an interim agreement relating to compensation for the Marcona Mining Company.

Peru has established diplomatic relations at the ambassadorial level with Nepal.

Additionally, Peru entered into understandings with the U.S. relating to the Air Transport Agreement of 1946, and as to the termination of the 1971 Trade Agreement on Cotton Textiles. Peru also deposited its ratification to the 1973 Convention re Endangered Species of Wild Flora and Fauna. Lastly, it agreed to extend the International Coffee Agreement.

UNITED STATES

The following bills with international consequences have been enacted into public law: Public Law (PL) 94-141 authorizing funds for fiscal 1976 for the promotion of foreign relationships; PL 94-155 granting alien children adopted by single U.S. citizens over twenty-five the same relative status for immigration purposes as children adopted by U.S. citizens and their spouses jointly; PL 94-161 authorizing three billion dollars for foreign economic assistance through September 30, 1976 and which, among other things, permits denial of such funds to the government of any country grossly violating international rights; PL 94-196 which increases the size of the Executive Protective Service to protect foreign missions in the United States; and PL 94-241 which grants self-governing commonwealth status to the Northern Marianas islands (formerly part of the trust territory of Micronesia).

Bills of interest introduced in the House of Representatives through April 2, 1976 follow: H11,075 to amend the Agricultural Trade Development & Assistance Act of 1954 to allow representatives of the domestic alcoholic beverage industry to take part in overseas trade fairs; H11,095 to amend the Internal Revenue Code to reduce rates of excise taxes in transportation by air; H11,099 to impose an unjust enrichment tax regarding illegal license fees on importation of oil and petroleum products; H11,200 to approve the compact of Permanent Union between Puerto Rico and the United States; H11,232 to authorize the payment of oil import license fees collected for imports into Puerto Rico; H11,261 to establish procedures for granting permanent residence to certain non-immigrant aliens in the Virgin Islands; H11,569 to authorize the use of travel grants to foreign participants in familiarization tours to the United States (companion bill in Senate S3041); H12,045 to amend title 28 of the U.S. Code to authorize the establishment of U.S. magistrate positions in the District Court of the Virgin Islands; H12,046 to provide for relief and rehabilitation assistance to victims of earthquakes in Guatemala (companion bill in Senate, S3044); H12,103 to provide for federal regulation of participation by foreign banks in domestic financial markets; H12,231 to amend the Immigration and Nationalization Act to increase immigration from the Western Hemisphere; H12,370 to require imported meat and imported meat products to be labeled "imported"; H12,641 providing for the temporary deferment of payment to the Treasury on the net direct investment of the government in the Panama Canal Company; and H12,807 to amend the Internal Revenue Code to deny foreign tax credit for taxes which are attributable to foreign oil related income.

The following bills introduced in the Senate are noted: S2805 to permit any person eligible to become a naturalized citizen during calendar year 1977 to do so in calendar year 1976; S2825 to make unlawful the entering into a conspiracy to assassinate a foreign official outside the U.S. or the attempted assassination thereof; S2998 to amend the Puerto Rico Federal Relations Act; S3102 to amend the Board for International Broadcasting Act of 1973 and to authorize appropriations for fiscal years 1977 and 1978 for carrying out the Act; S3151 to establish a program for gathering and analyzing information with respect to multinational enterprises, and to require publication of such material on a regular basis; and S3155 to implement the Convention on the Prevention & Punishment of the Crime of Genocide.

In addition, several treaties are in the Senate Foreign Relations Committee for appropriate action: Protocol to the Inter-American Treaty

of Reciprocal Assistance, providing for lifting of sanctions by majority vote and narrowing the geographic area in which "attack against one, attack against all applies" (December 1, 1975); treaty updating extradition procedures between the U.S. and Spain and adding to the list of extraditable offenses (February 3, 1976); treaty relating to the U.S.-Spanish Defense relationship and assistance for the modernization of the Spanish military (February 11, 1976); and the International Coffee Agreement (1976) seeking to stabilize prices and, among other things, to provide assurances that no restrictions will be placed on the flow of coffee while the prices are high (April 5, 1976).

Internationally, the United States had ratified the following as of March 29, 1976: Protocol modifying and further extending the Wheat Trade Convention (January 5, 1976); protocol modifying and further extending the Food Aid Convention (January 5, 1976); and protocol for the continuation in force of the International Coffee Agreement 1968, as amended and extended (January 7, 1976).

The following agreements, among others, entered into force: Grant agreement with Brazil on consultant services, technical assistance, and training to further university development (August 22, 1975); loan agreement with the Dominican Republic to aid the financing of a health sector program in the Dominican Republic (October 1, 1975); agreement with Haiti limiting the imports from Haiti of certain types of meat (October 10, 1975); memorandum of understanding with Peru on interim agreement relating to compensation for the Marcona Mining Company (December 11, 1975); agreement with Ecuador supplementing the commercial air transport agreement of January 3, 1947, as amended (December 31, 1975); agreement with Mexico extending the air transport agreement of August 15, 1960, as amended and extended (December 15, 1975); multilateral agreement on an international energy program (January 19, 1976); agreement with Chile relating to relief from double taxation on earnings derived from the operation of aircraft (January 30, 1976); agreements (3) with Mexico relating to the provision of aircraft, helicopters, supplies, equipment, and service by the United States to curb the production and traffic in illegal narcotics (January 29, February 4, 1976); memorandum of understanding with Brazil concerning matters of mutual interest (February 4, 1976).

The status of the Northern Marianas Islands, as noted in the laws section, is no longer unclear. The grant of commonwealth status to the islands, pursuant to PL 94-241, constitutes the first time the United States has acquired new territory in fifty-one years. PL 94-241, in addition to

conferring such status on the islands, authorizes appropriations, establishes a federal district court, and provides for application of a full range of federal programs to the new commonwealth.

URUGUAY

The 35% minimum advance deposit on imports was abolished effective December 1, 1975, and replaced with a 7% duty surcharge. The new tariff will be levied on all products originally subject to the *consignación mínima*, except for imports of capital goods, which had already been exempted from the advance deposit requirement in August, 1975. Also abolished in late 1975 were the minimum financing requirements for imports of investment goods. Previously, only imports of capital equipment valued up to \$20,000 annually were free from the requirement; imports amounting to \$20,000 to \$100,000 had to be financed abroad for at least three years, and those over \$100,000 necessitated the granting of credits by foreign suppliers for at least five years.

Decrees 730 and 739 (1975) promulgated new regulations for the Check Law of August 8, 1975.

Law 14.433 (1975) governs option contracts to promises to sell-purchase commercial establishments, creating a real property right which, upon registration in the Public Registry, will establish a priority lien plus rights to compel an ultimate sale.

Decree 758 (1975) published the new Organic Regulations governing the administration of customs in Uruguay. The new law contains 470 articles and abrogates all previous legislation on the subject.

Law 14.470 (1975) deals with standards to be observed in national prisons, including among others, treatment of prisoners, discipline and rehabilitation.

Decrees 996 (1975) and 999 (1975) promulgated two laws. The former deals with the payment of Income Taxes; and the latter with the Value Added Tax.

Acceptances have been deposited relating to the following multilateral agreements: (1) The 1968 Protocol on the Authentic Trilingual Text of the 1944 Convention on International Civil Aviation; and, (2) the 1961 Convention on Narcotic Drugs, as well as the 1972 Protocol. Additionally, Uruguay deposited its ratification to two 1971 Protocols relating to Amendments to the Convention on International Civil Aviation.

VENEZUELA

The Venezuelan Congress is considering a new Civil Procedure Code, elaborated after eight years of work by a high level Drafting Commission composed of practitioners, law school professors, and judges. The new Code is made up of an Introductory Title and Four Books. The First Book deals with general matters such as the parties, jurisdiction, and the different civil procedures, among others. Book Two covers the trial; Book Three appeals, and Book Four special proceedings. A novel feature of the new Code is the extended use of the oral procedure which until now has had limited application in Venezuela; a second is the participation of the *Ministerio Público* in judicial proceedings. The activities of this government office are likewise extended considerably beyond its present undertakings.

The Venezuelan Congress is also considering a *Ley de Playas* (Waterfront Law) which is being challenged on constitutional grounds. Specifically, the proposed law states all *playas*, without exception, are the property of the State. Additionally, the law provides that two special zones measured landward from the *playas* may be declared property of the State. The provisions transferring private ownership of the *Playas* to the State are considered by the opponents of the law an uncompensated taking, and in violation of Art. 99, 101 and 102 of the Constitution.

Other bills which may be considered by the Congress in the near future include a Draft Commercial Code and a Draft Industrial Property Law.

Acceptances have been deposited relating to the following: (1) The 1973 Amendment to Articles 34 and 35 of the Constitution of the World Health Organization; and, (2) the 1948 Convention on the Intergovernmental Maritime Consultative Organization, as well as the 1974 amendments. Additionally, Venezuela ratified the 1968 Treaty on the Non-proliferation of Nuclear Weapons, and signed (1) two 1975 Protocols amending the Warsaw Convention on International Air Carriage, and (2) the 1975 Amendment to the Inter-American Treaty of Reciprocal Assistance.

MISCELLANEOUS

MULTINATIONALS

The Second Session of the U.N. Commission on Transnational Corporations was held in Lima, Peru, March 1-12, 1976. The Commission was

established by the Economic and Social Council in December, 1976 to be the forum, within the U.N. system, for the comprehensive consideration of questions involving the transnationals.

The Commission made several recommendations during and at the conclusion of the Second Session. These included:

1. The formation of a working group to elaborate a draft code of conduct on the activities of transnational corporations. This group would be composed of all the members of the Commission, and would convene before the Commission's session next year. The Commission proposes that the formulation of such a Code be assigned the highest priority. The Secretary General would be asked to solicit the views of all States and on the basis of these statements the working group would prepare an annotated outline for the Commission's session next year. A final draft code would be presented for the Commission's consideration two years hence. Expert opinions would be available to assist the working group. The Centre on Transnational Corporations would be requested to prepare an "action oriented" paper containing the proposals received from the governments on all the issues involved. The Centre would also prepare a paper presenting the views of non-governmental interests, particularly those of trade unions, business groups, and consumer groups.
2. The issue of corrupt practices of transnational corporations should be included in the Commission's work program for the purpose of proposing ways and means to prevent such practices. The Commission forwarded a U.S. proposal for an international agreement on this issue to the Council's summer session, with the recommendation that the Council consider the subject on a "priority basis."
3. A proposal that the Secretary-General, in consultation with all Commission members, submit names of persons with profound knowledge of issues relating to transnational corporations to assist the Commission in its work. The members of this "expert group" would be selected on the basis of their practical experience, particularly in the areas of trade unions, business, public interests groups, and universities. They would be drawn from both developed and developing countries, and would act in a consultative capacity.

4. A proposal that action be taken in the following areas, which the Commission feels are the key areas in which work should be concentrated:
 - a) The aforementioned code of conduct.
 - b) The establishment of a comprehensive information system which, among other things, would further understanding of the nature and effects of the activities of transnationals on both home and host countries, and or relations between developed and developing countries.
 - c) Research into the political legal, economic, and social effects of the operations of transnationals.
 - d) Technical cooperation programs to strengthen the negotiating capacities of developing countries in their dealings with transnational corporations.
 - e) Work leading to a more precise definition of the term "transnational corporation."

The provisional agenda approved by the Commission for its Third Session in 1977 contains the following items:

1. Work related to the formulation of a code of conduct.
2. Technical cooperation.
3. Studies on the effects of the operations and practices of transnational corporations.
4. Corrupt practices.
5. International standards of accounting and reporting.
6. Comprehensive information system.
7. Work leading to a definition of transnational corporation.
8. Issues arising from decisions taken by the General Assembly or the Economic and Social Council.

OLADE

A significant step toward the consolidation of Latin American energy policy was taken at the Sixth Meeting of Ministers of the Latin American

Energy Organization (OLADE) held in Mexico City. OLADE, comprising fifteen member countries, is a consultative body designed to promote a cooperative program of energy development within the Latin American area. See C. Joyner, *Latin America's Communal Response to the Energy Crisis*, 6 *Law Am.* 637 (1974). The organization, formally established in November, 1973, remains in its incipient stages.

The working plan adopted by the Permanent Secretariat and submitted to the Meeting of Ministers outlined the organization's goals with regard to achieving a cooperative plan of energy development and conservation and reducing regional dependency upon external sources. The salient proposals include the establishment of a regional inventory system of renewable and non-renewable energy resources within the region; formulation of an energy production plan to serve as a guideline for each member state; establishment of a consultative body within OLADE to implement a regional energy market; and the undertaking of the necessary studies for establishment of a regional financing agency.

Also agreed upon was the establishment of a mechanism to promote communication with other multinational associations of raw material producers, particularly OPEC.

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.