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VENEZUELA

The following is a summary of legal and economic developments in Venezuela.

I. EUROBOND ISSUE

The Venezuelan Government returned to the Eurobond market on February 11, 1988 with an issue of US\$100 million, backed by Morgan Guaranty. One purpose of this relatively small issue was to test the market for its acceptance of Venezuelan Government paper.

II. FOREIGN INVESTMENT

It now appears that Exchange Agreement No. 6, which was publicized as a liberalization of the foreign investment regulations, was in fact quite restrictive in its scope.

Now, by Decree 1988 and an amended version of Exchange Agreement No. 6 (both of which are in the Official Gazette of February 5, 1988), the rules were somewhat relaxed. In particular, the debt-equity conversion mechanism provided for by Decree 1521 and Exchange Agreement No. 4, of April 1987, may now be used to invest in the enterprises covered by Exchange Agreement No. 6. Certain limits were placed on the amount of the foreign investment that may consist of debt-equity conversions. Where the foreign investment was of US\$20-100 million, the portion consisting of debt-equity conversion may not exceed 50%. Where the foreign investment was more than US\$100 million, that portion may not exceed 80%.

III. IMPORTS

Decree 1995 reduced the red tape for obtaining import licenses by permitting a single import license to be issued for different categories of raw materials. Previously, a separate application had to be made for each category of raw material.

IV. TAX

The Official Gazette of February 10, 1988 contained several decrees with income tax exemptions. Among these were Decree 1990, which exempts interest on foreign loans for industrial, agricultural, livestock, forestry, fishing, and certain construction investments, provided the loan is for a period of at least one year. The exemption is for five years.

Prior to the Tax Reform Law of October 1986, there was a dispute as to whether tax-deductible expenses could be attributed, by a taxpayer with both taxable and exempt income, entirely to his taxable income, or whether such expenses had to be apportioned between the taxable and the exempt income. The dispute arose particularly in relation to the income of banking institutions. Article 15 of the Income Tax Law, as amended by the 1986 Law, clearly provided that the expenses have to be apportioned between taxable and non-taxable income. Decree 1981 (Official Gazette of February 3, 1988) provided rules for determining this apportionment.

V. AMENDMENTS TO THE BANKING LAW

On February 4, 1988 the long-awaited amendments to the Banking Law appeared in the Official Gazette. The amendments were very substantial, and only some of the more important ones can be summarized here:

— minority shareholders must be represented on the board of directors;

— the acquisition by one person or entity of more than 10% of the shares of a bank must be approved by the Superintendency of Banks;

— penalties are introduced or increased for the following: the making of loans by a bank to its officers; the making of loans to persons or entities who do not present certain minimum accounting information; the making of loans to one person or entity in excess of 10% of the bank's paid capital and reserves, or to related persons or entities in excess of 20% of the bank's paid capital and reserves; breach of the strict limits on persons serving as officers or directors of more than one bank; the presentation of information that gives a false view of the bank's economic situation;

— changes are made to the rules as to "encajes" (reserves or

margins);

— the Superintendency of Banks may prohibit advertising by banks which “may encourage distortions adverse to the normal progress of the financial markets.”

VI. ORGANIC LAW OF PROTECTION OF CONSTITUTIONAL RIGHTS AND GUARANTEES

This Law was signed by President Lusinchi on January 22, 1988. It permits citizens to apply to the courts for protection of their constitutional rights and guarantees. The courts are empowered and required to decide and act promptly in respect to such petitions. The Law is a flexible instrument of which good use could be made in cases such as illegal arrest, invasion of property rights by government agencies, and infringement of labor rights.

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