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## Inter-American Legal Developments

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## INTER-AMERICAN LEGAL DEVELOPMENTS

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NOTE: All legislative and regulatory enactments in this report pertain to 1978 unless otherwise indicated.

## ARGENTINA

Law 21.673 (1977) established the National Research and Development Fisheries Institute within the Ministry of Economy to formulate and implement plans relating to national fisheries resources and their exploitation.

An exemption from the 0.5 percent tax levied on the transfer of securities was made applicable to the sale or other disposals of short term Treasury drafts under Law 21.680 (1977).

Certain tax benefits granted to international tourist hotels under Law 17.752 were extended to December 31, 1978, by Law 21.694 (1977).

Investments in forestation and reforestation projects will receive specified fiscal credits under the Forestry Law (No. 21.695, 1977), and Resolution ME19 approved the National Forestry Plan in pursuance of the basic law.

Law 21.698 (1977) approved an increase in Argentina's contribution to the International Monetary Fund.

Decree 3722 (1977) regulated Law 21.626 with respect to the National Tax Court.

Law 21.713 granted incentives to refrigerating plants to induce these to invest in machinery so as to supply meat products, packaged and in cuts, to the consumer. Law 21.740 restructures, organically and functionally, the National Meat Board, charged with the control and promotion of the cattle and meat industries, except for the control of production.

Law 21.778 (1977) established the rules under which tenders for the exploration and exploitation of oil will be issued, in accordance with the "risk contract" system. The main features of this law are as follows: (1) It entrusts the State Oil Corporation, and the National Gas Board with the calling of tenders; (2) establishes the obligations of the contracting companies to assume the risks arising out of these operations and to provide the technical and financial resources required for their execution; (3) stipulates that the contractors will be remunerated in cash in proportion to the amount of petroleum or gas that they deliver to the State Oil Corporation or National Gas Board; (4) makes the possibility of payment in kind — petroleum or gas

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— contingent upon the country achieving self-sufficiency and an adequate margin of reserves; (5) regulates the procedure for tenders and contracts and the conditions which contracting companies must comply with, e.g., guaranteeing investment undertakings and compliance with the work plans included in their respective bids, and submission of contracts for approval of the National Executive Power; (6) subjects the contracts to the general tax regime with a few modifications which contemplate the specific characteristics of these high-risk operations; and (7) establishes precise and explicit rules which guarantee the legal security and stability of this type of contract.

Art. 2 and 3 of Law 20.652 which gave *Yacimientos Carboníferos Fiscales* a monopoly on the commercialization of petroleum carbon residuals was abrogated, and the new legislation returned this function to the private sector. (Boletín Oficial No. 23-885 of April 4, 1978).

Maritime interests were affected by Resolution 774 (1977) which repealed the regulation covering the Naval Industry Register. The new resolution, among other innovations, allows foreign capital companies and firms engaged in other business activities outside the maritime industry sector to register. Law 21.763 amended Art. 112 and 143 of the Navigation Law (No. 20.094) by permitting non-Argentines to command and crew fishing vessels when Argentine personnel are not available to discharge either of the above functions.

The classification of small and medium enterprises was shifted from the Central Bank to the National Development Board by Law 21.726.

Resolution 1150 (1977), of the Ministry of Economy, effective in 1978, set forth extensive regulations governing imports, and Resolution 1168 (1977) of the same Ministry established increases in the import duties fixed by the Tariff Nomenclature and Import Duties (NADI).

Decree 95 modifies Decree 592 (1973) relating to the Promotion Regime for the Petrochemical Industry with respect to the benefits which may be available to investors.

The norms governing the merger and incorporation of cooperatives was promulgated under Resolution 675 of the National Cooperative Action Institute.

Law 21.775 authorizes the Executive to establish quantitative and qualitative restrictions on exports when the national security is involved.

Decree 3952 amends Decree 4112 (1967) concerning the admission to Argentina of the goods of aliens who have decided to enter the country as immigrants.

SEDI's Resolutions 42 and 43 affected the operations of industrial plants located in Buenos Aires.

In the international area, among others, the following are submitted:  
(1) Law 21.769 approved an agreement with Uruguay on the subject of

water transportation; (2) Decree 173 approved an agreement with a Japanese fisheries consortium under which Argentina granted contract tenders for fisheries research and exploitation in Argentine waters for a period of one year; (3) negotiations with Chile regarding the Beagle affair and with Great Britain regarding the Falkland (Malvinas) Islands are continuing, but without concrete solutions having been reached.

### BOLIVIA

Supreme Decree (DS) 14797 (1977) set forth guidelines for the establishment of financial companies and branches of foreign commercial banks.

The Ministry of Industry, Commerce and Tourism was given jurisdiction over the automotive industry by DS 14814 (1977).

The Bolivian Coffee Committee (COBOLCA) was given the status of a decentralized public entity by DS 14871 (1977), and DS 14953 (1977) established a Technical Directing Council for Public Entities to advise the Executive on matters relating to public mixed companies.

The Lima Protocol, additional to the Cartagena Agreement, was ratified by DS 14972 (1977).

DS 14979 (1977) established that all *llave en mano* contracts must provide for the use of local goods.

A National System for Scientific and Technological Development was established by DS 15111 (1977) to implement the objectives of the National Economic and Social Development Plan.

DS 15134 (1977) ratified a convention under which Bolivia was designated as the situs of the Financial Fund for the Development of the Plata Basin. The Fund was created by the Plata Basin Treaty of 1969.

Under DS 15182 (1977), Bolivia ratified its adhesion to the Charter of the International Fund for Agricultural Development (FIDA), established by the United Nations in 1974.

### BRAZIL

Decree 81.240 regulates Law 6.435/77 which deals with closed private assistance entities. The forty-two articles of the decree establish the rules for investments, support plans and requirements to be observed by such private assistance organizations which are equivalent to non-profit assistance, educational or religious entities. Closed entities are entitled to render assistance services provided their basic purpose is the implementation and administration of benefit plans, and their participation in the costs of the benefit plan is not less than thirty percent.

The Ministry of Finance issued Portaria 75/78 to regulate the application of Law 6.463/77 making the disclosure of the full sales price compulsory. According to the Portaria, all retail sale establishments are required to clearly show the cash price of the products they sell. The publicity made

for credit sales must expressly indicate the cash price of the same goods in addition to the number and amount of the installments payable and the amount of the first payment, if any. When the conditions of a credit sale provide for installments of different amounts or for intermediary payments, the complete payment plan must be set forth.

The Secretary General of the Industrial Development Council (CDI) issued Portaria 513/78 to establish the conditions for the approval of plans for the nationalization of components of equipment, vehicles and machines already manufactured in Brazil. Companies with projects approved by the CDI and wishing to obtain the incentives offered for the nationalization of components are required to: (1) Comply with the minimum indices of national content established by the CDI, preferably by obtaining national components from existing local suppliers or from companies to be set up in Brazil; (2) supply information on the technology to be employed and prove that they have the necessary technical staff and adequate facilities; (3) adopt the norms of the National System of Normalization and Industrial Quality; (4) estimate the expected domestic sales and exports of the product; (5) submit the specifications of the products, clearly identifying the components which are to be nationalized. The manufacturers of the components to be nationalized will receive a Certificate of Production Registration, which will permit them to obtain official financing and tax incentives. Once the nationalization period approved by the CDI has expired, this Certificate will only serve to obtain preferred official financing. Additionally, CDI issued Portaria 535/78 to establish the minimum indices of national content for diesel-electric locomotives manufactured in Brazil. The manufacturers that comply with these minimum indices shall enjoy an eighty percent reduction of the import duties and IPI tax due on the importation of supplementary parts not produced in the country.

The Commercial Registry of the State of São Paulo issued a Communiqué on its position regarding the period allowed for existing companies to adapt their by-laws to the requirements of the new Corporation Law (6.404 of December 15, 1976). The wording of the pertinent article of the law, Article 296, has given rise to several doubts. The understanding of the Commercial Registry is the following: (1) The one-year period granted by the law for adaptation to its provisions expired on February 15, 1978; (2) such adaptation can, however, be made after that date and the adapted by-laws may be filed with the Commercial Registry at any time; (3) the adapted by-laws should always be filed with the Commercial Registry within thirty days of the date on which they are drawn up, the filing being effective as from such date (if filed after these thirty days, the filing will be effective only as from the date of actual registration). Companies that failed to adapt their by-laws prior to February 15, 1978, although still able to adapt, have lost the right to establish the compulsory dividend at the percentage they deem fit, being now obliged to establish a percentage of at least twenty-five percent of the annual profit.

The Central Bank has issued among others, the following Resolutions: (1) No. 460/78, establishing the rules for the application of the technical reserves of private pension funds; (2) No. 461/78, establishing a minimum period of 180 days for commercial and investment banks to receive term deposits and for bills of exchange to be issued with the acceptance of credit, financing and investment institutions; (3) No. 462/78, defining short-term operations with fixed-income securities and establishing that income tax will apply to the purchases and subsequent resales or redemptions of fixed-income securities effected by individuals within less than ninety days; (4) No. 463/78, reducing from three to two times the allotted capital, the operational limit of commercial and investment banks and distributor institutions in fixed price operations with non-financial corporate entities, excluding debenture operations; (5) No. 464/78, readjusting the brokerage fees chargeable for Stock Market operations and establishing a new table for varying income securities based on the total value of all operations carried out on one day for the same client; (6) No. 465/78, exempting importations of meat and soybeans from the prior deposit; (7) No. 466/78 and Circular No. 364/78, equalizing the interest rates for special Proterra and Polocentro programs into three groups of ten percent, twelve percent and fourteen percent depending on the amount of the investment; and (8) No. 467/78, permitting the General Tourism Fund (FUNGETUR) to invest up to six percent of its resources in its own projects or programs.

Decree 81.402 regulates Law 6.435/77, concerning open private pension funds. The decree defines open private pension funds, establishes the regulations for their incorporation and operation, classifies them according to their purpose, and includes them in the National Private Insurance System. Open private pension funds are also subject to the control and requirements of the National Private Insurance Council (CNSP) and of the Private Insurance Superintendency (SUSEP). Open private pension funds created for profitable purposes shall necessarily take the form of a "*sociedade anônima*" and at least fifty-one percent of their capital shall be represented by common registered shares. Private pension funds organized for non-profitable purposes shall be formed as civil companies. In addition, any amendments to the by-laws of private pension funds shall require the approval of the Minister of Industry and Commerce.

The Central Bank and the Securities Commission issued a joint notice to the effect that upon the latter becoming fully operational on April 6, 1978 it would assume the following functions now discharged by the Bank of Brazil: (1) Registration of companies for trade on the stock market or over-the-counter market; (2) registration of public issuances of securities; (3) registration of independent auditors; (4) examination of public offers for the disposal of the share control of open companies not subject to governmental authorization; and (5) control of the Securities Market. Further, on April 6, the Commission issued a notice stating that it would provide the following services: (1) Registration of companies for the negotiation of their securities on the Stock Exchange or Over-the-Counter Market; (2) periodic updating of the information relative to the registration mentioned in (1); (3) registra-

tion of public issuances of securities; (4) special simplified registration of companies with shares held by FINOR, FINAME, and FISET; (5) examination of public offers for the transfer of control of open companies not subject to governmental authorization; (6) authorization for the constitution, organization, and operation of Stock Exchanges; (7) authorization for the members of the securities distribution system to participate in the activities of the securities market. In addition, the president of the Securities Commission issued Declaratory Act 1/78 to authorize the following parties to continue exercising their respective activities in the securities market for the purposes of Article 16 of Law 6.385/76 (which requires the authorization of the Securities Commission for their activities): (1) Independent auditors registered with the Central Bank of Brazil; and (2) members of the distribution system defined in Article 15 of Law No. 6.385, who may now operate in the securities market.

The Secretary of Federal Revenue issued Normative Ruling 12/78 to extend the application of the special customs ruling of temporary admission to machinery, equipment, apparatus, instruments, tools, replacement materials, parts, pieces and accessories imported for the performance of services contracted between PETROBRAS and national or foreign companies, provided that they are intended for the exclusive purpose of prospecting, extracting, refining or transporting crude oil and its by-products, or rare gases of any origin.

The Minister of Finance issued Portaria 166/78 to amend the wording of item I of Portaria 645/77. Accordingly, the local sale of products manufactured in Brazil, made by the manufacturers to a foreign company that has signed a risk contract with PETROBRAS or to a foreign subcontractor for the same services, shall be held equivalent to an exportation for the purposes of tax incentives. This treatment will, however, only be given if the manufactured products are acquired for exclusive use or consumption in such services and are paid for in convertible foreign currency. Additionally, Portaria 186/78 suspends, until June 30, 1979, the granting of exemption from import duties and from IPI tax imports of raw materials and raw material transformation products, made by petrochemical industries.

Decree 81.615 establishes the new minimum salaries payable as from May 1, 1978. In the States of São Paulo, Rio de Janeiro, Minas Gerais and the Federal District, the minimum salary was raised to Cr\$ 1.560,00.

According to Normative Ruling 17/78, foreign goods imported into the Free Zone of Manaus or the West Amazon Region may be checked and cleared at the warehouses of the Superintendency of the Manaus Free Zone (SUFRAMA). The goods may remain in these warehouses for a period of 180 days as from the date of unloading at the port or airport.

The President of the National Institute of Industrial Property (INPI) signed Normative Act 32 making it compulsory for all agreements providing for the transfer of technology to be submitted to the INPI for prior consultation. This prior consultation is to be applied for by filling in a required

form together with a draft of the agreement in both Portuguese and in the language of the foreign party, the two texts appearing in parallel columns. The draft is to reflect the terms that have been negotiated up to the time of the submission. Prior consultation will be required from July 1, 1978.

Law 6.530 regulates the profession of real estate brokers. The activity of real estate brokers shall only be exercised by those professionals who have obtained the title of technician in real estate transactions.

The Minister of Industry and Commerce and the Minister of Finance issued Portaria Interministerial 284 authorizing a discount of up to fifteen percent from the expenses incurred by foreign tourists in Brazil, provided that the bills are paid in currency or with credit cards issued abroad. The fifteen percent discount is foreseen for hotel, restaurant and entertainment expenses as well as the payment of services rendered by tourist agencies for passenger transportation (DOU-I, 1 of May 18, 1978).

Under Decree No. 81.667 of May 16, 1978, the Minister of Finance has been authorized to take all the actions necessary for the placement in Japan of bonds of the Federal Republic of Brazil, up to an amount of 30 billion yen.

The Executive Director of the Special Agency of Industrial Financing (FINAME) in Circular 35 established the criteria for the enrollment of new products manufactured by companies not effectively controlled by national capital. One of the criteria is the requirement of a national content ten percent above the highest content verified in Brazil for products similar to that which is being enrolled, in the case of products made to order. Furthermore, the new regulation determines that no new products made to order may be enrolled once four or more manufacturers have been enrolled with FINAME.

In the jurisprudential area the following are noted: (1) Amendment 6/78 of the Federal Supreme Court providing that decisions handed down by judges and courts may be reexamined by the Federal Supreme Court if their enforcement can be the cause of immediate danger or serious injury to the public order, health, security or finances. This reexamination is always to be requested by the Attorney-General of the Republic; (2) Foreign Decision 2.374 of the Federal Supreme Court holding that pursuant to Constitutional Amendment No. 9/77, foreign divorce decrees in which one of the spouses is Brazilian may be freely ratified by the Brazilian Federal Supreme Court; (3) Appeal 78.886 of the First Taxpayers Council to the effect that "operational expenses" include the amounts spent by companies to acquire tickets for the transportation of a contracted professional and his family from his original domicile to his place of work, both at the beginning and at the end of his contract; (4) Civil Appeal 34.937 of the Federal Court of Appeals concerning sea transportation, holding that the carrier which does not carry out its contractual obligation of delivering the goods at its destination will also be liable for exchange fluctuation in the conversion of the original amount in foreign currency; (5) Appeal 42.527 of the Federal



Court of Appeals regarding liability of a managing partner to the effect that the managing partner of a private company shall be liable for the company's debts from his own personal estate when he has exceeded his authority and performed acts that contravene the law. The liquidation of the company without proper application of its assets represents not only excess of authority but also an act that contravenes the law. The failure to pay a tax when due cannot be considered an act that contravenes the law and thus can not result in the seizure of the manager's property to cover the company's debt; and (6) Claim 8.047 of the 8th Civil Chamber of Guanabara holding that even when a company has only two partners, the death of one of them does not necessarily require the winding-up of the company's assets and liabilities, particularly if the other partner does not claim such winding up, and if the articles of incorporation establish otherwise.

Internationally, the following are noted: (1) The President signed Decree 18.194 to sanction the Protocol which amends the Double-Taxation Treaty signed between Brazil and Japan on March 23, 1976. The amendment increases the withholding tax income earned in Brazil by Japanese companies from ten to 12.5 percent. Subsequently, the Minister of Finance issued Portaria 92 establishing the different tax rates applicable to dividends, profits, interest, royalties, technical assistance and services, and also stipulating the tax treatment to be given to other forms of income; (2) The President signed the following in connection with the Latin American Free Trade Association (LAFTA): (a) Decree 81.478 providing for the application of the Sixteenth Additional Protocol of Supplementation Agreement No. 16 regarding products of Chemical Industries of Oil By-Products between Brazil and Mexico, (b) Decree 81.479 providing for the application of the Fifteenth Additional Protocol regarding the same products, between Brazil, Argentina, Chile and Mexico, and (c) Decree 81.480 providing for the application of the Tenth Additional Protocol of Supplementation Agreement No. 15 regarding products of Chemical and Pharmaceutical Industries, between Brazil, Argentina and Mexico; and (3) Decree 80.102 (1977) providing that effective June 30, 1978 Brazil will no longer be a party to the Statute of the Hague Conference on Private International Law, which was adopted in the Hague in October 1951.

## CANADA

Among others, the following were proclaimed: Aereonautics and National Transportation Amendment Act; Canadian Human Right Act; Cultural Property Export and Import Act; Bretton Woods Amendment Act; Currency and Exchange Amendment Act; and the Metric Conversion Law. Additionally, the following, among others, have undergone readings in either or both Houses: Air Canada Reorganization Act; Business Corporation Amendment Act; Canadian Ports Act; and Petroleum Companies Act.

### *British Columbia*

The following have received assent: Labour Code of British Columbia Amendment Act; Societies Act 1977 replacing the Societies Act, last revised

in 1947; Copper Smelting and Refining Incentive Act; Department of Mines and Petroleum Resources Amendment Act; Metric Conversion Act; Mineral Act; Mineral Land Tax Amendment Act; and the Residential Tenancy Act repealing and updating the Landlord and Tenant Act, 1974.

### *Manitoba*

The following were proclaimed: Farm Lands Protection Act; Landlord and Tenant Act; and the Marital Property Act.

### *Nova Scotia*

The Freedom of Information Act and the Legal Aid Act were proclaimed.

### *Ontario*

The following have entered into force: Airports Amendment Act; Children's Law Reform Act which, *inter alia*, removes any distinction in law between legitimate and illegitimate children; and the Labour Relations Amendment Act. The following received assent: The Marriage Act, 1977 revising the Marriage Act for the purposes of implementing some of the recommendations of the Ontario Law Reform Commission, and the Succession Law Reform Act providing for a comprehensive reform of the law of estate and intestate succession as part of the general reform of family law.

### *Quebec*

The Charter of the French Language came into force on August 26, 1977, the date of its assent. The Act, replaced the 1974 official Language Act, and declared French to be the official language of Quebec. A summary of the provisions principally affecting business is set forth below:

In Chapter V, the Act requires the public utility firms, the professional corporations and the members of the professional corporations to ensure that their services are available in the official language, and to use the official language in their texts and documents intended for the public, and in their communications with the public administration and with artificial persons. The professional corporations: are to be designated by their French names alone; are not authorized to issue permits except to persons whose knowledge of the official language is appropriate to the practise of their profession; are allowed, however, to issue temporary permits valid for one year, renewable, only twice, with the authorization of the Office de la langue française, to persons whose knowledge of the official language does not meet the requirements of the Act; are allowed, furthermore, with prior authorization of the Office, to issue a restricted permit to a person already authorized to practice his profession outside Quebec, authorizing him to practise his profession for the account of a sole employer, in a position that does not involve his dealing with the public.

In Chapter VI, the Act requires employers to draw up their written communications to their employees and their offers of employment or promotion in the official language. Collective agreements, the schedule to them, and decisions rendered pursuant to them or under the Labour Code are required to be drafted in French, on pain of nullity. An employer is prohibited from dismissing, demoting or transferring a member of his staff for the sole reason that he is exclusively French-speaking or that he has insufficient knowledge of a particular language other than the official language. Any contravention of this provision, in addition to being an offence against the Act, gives an employee the same entitlement to vindicate his rights under the Labour Code as if he were dismissed for union activities. An employer is also prohibited from making the obtaining of an employment or office dependent upon the knowledge of a language other than the official language, unless the nature of the duties requires the knowledge of that other language. Associations of employees are required to communicate with their members in French. The chapter on the language of labour relations is to be deemed a part of every collective agreement.

Chapter VII deals with the language of commerce and business. The inscriptions on a product or on its wrapping or on a leaflet, brochure or card supplied with it are required to be in French. The same rule applies to catalogues, brochures and folders, toys and games, contracts pre-determined by one party, job-application forms, order forms, invoices, receipts and quittances, signs and posters and firm names. French alone is permitted on signs and posters and in firm names, with certain exceptions. The chapter provides for certain cases where one language other than French is allowed: in the labelling of certain products; in contracts pre-determined by one party, for instance, if that is the express wish of the parties; advertising carried in news media that publish in another language; messages of a religious, humanitarian, political or ideological nature, if for a non-profit motive.

### *Saskatchewan*

The following were proclaimed: Business Corporations Act (in part); Consumer Products Warranties Act (in part); and Labour Standards Act.

## CENTRAL AMERICA

### *El Salvador*

Legislative Decree (LD) 369 (1977) extended to December 31, 1980 the date after which certain business associations were required to have their income tax returns certified by certified public accountants or persons licensed in public accounting, as required by LD 416 (1975) and LD 58 (1976).

LD 377 (1977) provides that, in case of loss of originals, copies of documents found in court files will have the same validity as the originals. LD

378 (1977) imposes upon all parties to judicial proceedings the duty to supply a copy of each original document presented so that the court may prepare a duplicate record.

A National Population Commission was established by Decree 20 (1977) to implement the Population Integration Policy approved by the Council of Ministers in October 1974.

The National Rent Law (LD 2591, 1978) was amended to bring within its purview public centers where the population has the opportunity to carry on recreational pursuits (Decree 399, 1977).

A strong law for the Defense and Guarantee of the Public Order was promulgated by Decree 407 (1977). The new legislation reaffirms the duty of the Government to preserve a republican, democratic and representative type of government and states that totalitarian doctrines are contrary to the democratic regime. A series of acts, evidencing crimes against the State are set out in Title I. Among them: Rebellion against the Government, inciting the Armed Forces to disobedience, clandestine trafficking in arms, conspiracy with foreigners to transgress this particular law, sabotage or interruption of essential public services, among others. Titles II and III deal with the competence of the courts to deal with infractions of the law and with the legal procedures to be followed from charge to appeal.

A National Council for Training of Professionals was decreed by Decree 33 (1977). The main objective of the Council is to formulate a national training policy so that the individual may realize his potential as a tradesman, artisan or professional.

LD 406 (1977) authorized the *Federación de Cajas de Crédito* to issue bonds in order to better carry out its financial activities. Decree 430 gave similar authority to the Social Security Institute.

LD 419 (1977) introduced necessary modernizations to the 1963 law which established the National Telecommunications Administration (ANTEL).

A law for the Development of Communities was promulgated under Decree 425 (1977). The new law supplements the existing Community Development and Corporation Law but emphasizes that the latter is limited in scope and that community development should be furthered to achieve the social and economic welfare to which the people are constitutionally entitled.

Decree 431 (1977) established new quotas for contributors to the Social Security System.

A new *Impuesto Territorial Agropecuario* was established by Decree 435 (1977).

Decree 4 established special regulations for the commercial division of lands destined for agricultural, forestry or cattle raising purposes. The decree supplements Art. 37 of the law which created the Salvadorean

Agrarian Transformation Institute which set out, in general terms, how such divisions were to be effected.

Sugar and cotton growers are required to plant at least five percent of their acreage in basic grains in accordance with Decree 12.

Decree 36 (1977) and 38 (1977) amended respectively Art. 26 and the Regulations to the Central American Convention of Fiscal Incentives for Industrial Development.

El Salvador, late in 1977, entered into a cooperative technical-agricultural agreement with the Republic of China.

### *Guatemala*

Legislative Decree 26-77 established a six percent tax on maritime shipments to fund an "assistance reserve" for Guatemalan merchant ships. The decree exempted said vessels from certain duties and repealed legislation which made it mandatory for certain shippers to use Guatemalan vessels (9 *Law. Am.* 564, 1977).

Legislative Decree 61-77 promulgated a new Tobacco Law covering the planting, cultivation and commercialization of tobacco and its products. The new law, in Chapter V, deals at length with the taxes affecting tobacco and its products.

A number of modifications approved at the 18th Meeting of the Central American Vice Ministers of Economy in San José, Costa Rica, February 23 and 24, 1978, were made to the Regulation of the Central American Convention on Fiscal Incentives for Industrial Development (Accord 26 (1978) of the Ministry of Economy). Decree 62-77 of the Congress approved Chapters I, II and IV of the third Protocol to the Central American Convention on Fiscal Incentives for Industrial Development, but set forth a reservation with respect to Chapter III dealing with emergency measures relating to the defense of balance of payments. The President ratified the Protocol, with the indicated reservation, a few weeks after it was approved by the Congress.

A Price Regulation Office to assist the Minister of Economy to formulate and complement policies on the subject of price regulation was created by Accord 29 (1978) of the Ministry of Economy. The new Accord abrogates Accord 79 (1974) which established the Office of Price Control.

The *Diario Oficial* of January 27 carried an Accord which broadened the mineral reserve zone established by Governmental Accord dated June 20, 1977.

Legislative Decree 66-77 set the export tax applicable to hydrocarbons included in Art. 15 of Decree 96-75 (The National Petroleum Law). Governmental Accord No. 1 (1978) published in the *Diario de Centro América* of January 13, 1978 contains the regulations for the exploration and exploitation of hydrocarbons in the country, and on January 25 the same publication carried the convocation of the Minister of Economy for

the presentation of offers to carry out explorations and exploitations in the national territory.

Decree 10 approved the Second Amendment to the Constitutive Charter of the International Monetary Fund (IMF), thus freeing the quetzal from its linkage to gold.

Accord 15-77 of the Ministry of Agriculture set forth the regulations to govern all matters relating to the bee-keeping industry in the El Peten Department.

A commercial agreement with South Korea was approved by Decree 7.

No progress can be reported in the dispute between Guatemala and the United Kingdom regarding Belize. At a June 1978 meeting between representatives of Her Majesty's Government and Belizean leaders it was agreed that any settlement reached will be submitted to a referendum in Belize; further, that at future talks both the Belizean Government and the opposition will be represented.

## CHILE

Decree 833 (1977) implements the exemption from double taxation made available to maritime and air transport companies under an agreement previously reached with Colombia.

Decree Law (DL) 2096 extended until December 31, 1978, all fisheries exemptions granted by DL 266 (1960).

The banking system was amended by DL 2099. Among others, modifications affected the penalties for alteration of documents, reserves, banking guarantees, debt limits, bank investments, mortgage operations, and the operations of development banks.

On April 19 the Government decreed a general amnesty for persons being held for violation of state of siege laws between September 11, 1973, and March 10, 1978, but who had not been sentenced. The state of siege was lifted on March 11 after being in effect more than four years.

On March 17 Bolivia broke off diplomatic relations with Chile on the grounds of the latter's, "indifference" with respect to Bolivia's aspirations to gain access to the sea. Bolivia's action was unexpected and was taken three years after the two countries had reestablished relations after a previous break in 1962.

## COLOMBIA

Decree 2902 (1977) regulated, in part, Art. 2 of Law 31 (1975) granting the National Navigation Company priority for the import and export shipments of the nation's public entities.

Life, accident and mortgage insurance to protect public servants will henceforth be placed with La Previsora, a mixed company under Decree 2771 (1977) which amends, in part, Decrees 2222 (1962), 406 (1970) and 2793 (1973).

Law 53 (1977) regulated the profession of Social Workers.

Regulations relating to general and extraordinary meetings of cooperatives were promulgated by Resolution 0759 (1977) of the Superintendency of National Cooperatives, and Resolution 0772 (1977) regulated the *Asambleas de Delegados* (a substitute for general stockholders' meetings).

Law 54 (1977) was promulgated requiring income taxes to be adjusted in accordance with increases in the consumers' price index. In addition the law excluded technical assistance services, rendered from abroad, from income tax. Interest and fee payments abroad, however, are subject to new requirements. This law was regulated by Decree 250.

In accordance with Resolution 4032 (1977) new rules were issued governing the activities of those representing foreign financial institutions.

General Customs Regulations 322 (1977) sets forth new requirements on the baggage that may be brought into Colombia by travelers. Furthermore, new prohibitions were also placed on the amount of household effects permitted to be brought into Colombia by persons establishing residences in the country.

Law 5 granted the President authority to revise the salary scales and classifications of certain public employees. Decree 0710, in pursuance of the above law, established a new remuneration system for employees in the executive branch.

The Ministry of Finance, pursuant to Decree 0149 placed a five percent withholding tax on prizes won in lotteries, raffles or bets.

The Regime of Minor Imports, characterized by non-prior registry, no import license, and no consular visas, and applicable to products not exceeding U.S. \$500 was established by Decree 0175. Customs Regulations 00324 is also pertinent to this subject.

Decree 0211 regulated, in part, Legislative Decree (DL) 2366 (1974) relating to the credits granted by the Fund for the Promotion of Exports (PROEXPO).

General Circular 6 established the foreign exchange guidelines applicable to Colombian and foreign firms operating in Free Industrial and Commercial Zones.

The Banking Superintendency in Circular 010 fixed the norms to govern the opening of branches and agencies by financial companies.

Resolution 08500 (1977) of the Superintendency of Corporations fixed the amount which business entities must pay in support of the Superintendency. Additionally, the Superintendency issued instructions relating to the general meetings of stockholders in Circular 002, and in Resolution 01902 it offered assistance to business concerns in the establishment of new corporations, specifically revision of projected charters and bylaws. Also, in 1977 its Legal Division issued an opinion which held that a change of the legal

representative or fiscal auditor of a foreign company's branch need not be recorded in a Notary's protocol. However, when the change also includes alteration of powers or functions, then inclusion in the protocol is required.

Decree 0324 established a schedule of professional fees for engineering services.

Resolution 027 of the Colombian Foreign Commerce Institute sets forth a codication of current regulations relative to the conditions, requirements, and presentation of applications for imports. Resolution 528 of the Institute contained additional matter on the same subject.

## ECUADOR

The Education and Culture Law is found in Supreme Decree (DS) 461 (1977). Its main objective is to set the goals and policies to be pursued in developing national education and culture. The law contains sixty-eight articles and spells out in detail the mission of the educational system of the country as well as its structure. Subsequently, DS 2144 amended the basic law and imposed upon the parents the primary responsibility for the education of children, under the supervision of the State. The amendment covers, among other things, the subsidies to be received by schools instructing students of low economic resources.

DS 1923 (1977) amended the General Banking Law by permitting National Banks, with prior authorization from the Ministry of Finance and the Superintendency of Banking, to acquire shares in international financial institutions and foreign banks, not to exceed ten percent of the paid in capital and reserves of the investing bank.

DS 1969 (1977) establishes norms to guide the National Electrification Institute and other electrical companies in laying out transmission lines and other electrical installations required for the provision of electrical services.

The Tourism Development Law was amended by DS 1979 (1977) which, *inter alia*, extended the scope of tax incentives to tourist companies designated as such under the basic law.

The admission and stay of foreign warships in Ecuadorian waters is regulated by DS 2018 (1977).

A National Fisheries Institute was established by DS 2027 (1977). The decree designates the Institute as a public entity within the Ministry of Natural Resources and Energy, with situs in Guayaquil. DS 2129 created the Fisheries School to prepare Ecuadorian personnel to discharge all functions related to the fisheries industry.

The Penal Code was modified by DS 2060 (1977). The modifications now make punishable conduct which tends to promote racial discrimination.

DS 2062 (1977) promulgated the Law of the National Financing Corporation whose purpose is to promote the nation's economic development, particularly in the manufacturing, tourism, fisheries and agricultural areas.



The Law of Author's Rights received additional regulation under Accord 10284 (1977).

The scope of the Ecuadorian Housing Bank to grant mortgage loans was broadened under DS 2073 (1977). A subsequent decree (No. 2106) prohibited the alienation of housing acquired through loans of the said bank.

A Law for the Colonization of Ecuador's Amazonic Territory was promulgated under DS 2092 (1977). The law establishes that the colonization of said territory is an urgent national priority and sets forth, among other things, the process to be followed in colonization.

Regulations concerning the gainful occupation of foreigners in Ecuador were promulgated in Accord 1806 (1977).

Public, semipublic and private institutions with public or social objectives are authorized to make investments in foreign currencies in Ecuador; further, these institutions may maintain foreign exchange deposits in the Central Bank (DS 2135).

DS 3138 established a National Sports Corporation to oversee the nation's physical education, sports and recreation in general.

The Manabi Rehabilitation Center was created by DS 2180 to promote the socio-economic development of this particular province.

The freeze on housing rentals was extended for one year by DS 2185-A, but the extension does not apply to property leased for commercial or industrial purposes.

The issuance and transfer of horizontal property deeds has been expedited by the provisions of DS 2203.

To promote the production and commercialization of books throughout the national territory a law of *Cámara Ecuatoriana del Libro* was promulgated by DS 2211.

DS 2225 decreed an increase in worker's retirement benefits to be paid by employers.

Registration and fishing permit fees for foreign fishing vessels were set by DS 2258. These were \$1,000 for registrations, and \$80 per registered ton for the fishing permit.

In the international area the following actions, among others were taken: Adherence to the Convention for the Prevention of Collisions at Sea; acceptance of the four language text of the Civil Aviation Convention (Montreal, 1977); acceptance of the Convention for the Prevention of Illegal Acts Against Civil Aviation; ratification of (1) the International Sugar Agreement (1977), (2) the second amendment to the IMF Constitutive Convention, (3) the Inter-American Commercial Arbitration Convention. Bilaterally, Ecuador ratified (1) an agreement with Spain regarding atomic energy, (2) a convention with West Germany on the subject of double tax-

tion, (3) a scientific cooperation agreement with Mexico, and (4) a technical cooperation agreement with France. Additionally, Ecuador declared in effect Decision 91 of the Andean Group (Sectorial Program for Industrial Development of the Petrochemical Sector).

### MEXICO

Two decrees found in *Diario Oficial (DO)* of January 9 amend Subsections XII, XIII and XXXI of Section A of the Constitution. Subsection XII deals with the obligation of the employer to provide, where applicable, comfortable rooms, schools and clinics for the workers; Subsection XIII with the obligation to provide public markets and recreation centers when the workers' population exceeds 200 persons, and Subsection XXXI with the jurisdictions of the States and the Federal Government relative to the application of labor laws.

The regulation for the establishment and operation of the Economic Promotion Committees of the National Development Program for Border Zones and Free Zones was promulgated in DO of January 18.

An accord in DO of January 30 charges the Naval Ministry with the implementation of the convention for the prevention of the pollution of the sea through waste discharges.

A law and a decree in DO of February 2 set forth the organic law of the Federal Tax Court and an amendment to the Federal Tax Code, respectively.

Personnel serving in the federal administration were made subject to new reassignment procedures under an accord found in DO of February 16.

Two decrees in DO of February 17 amend the Tariffs on General Export and General Import Duties.

Three accords in DO of February 20 grant subsidies for imports of (1) machinery and equipment for small and medium businesses producing goods necessary to the social welfare, (2) machinery for the fishing industry, and (3) machinery destined to produce goods for export.

The Organizing Committee for the X Competition of World Universities was established by decree in DO of February 21.

An accord in DO of February 22 established the Intersecretarial Commission for Oceanographic Research, and a decree in DO of March 1 created the National Coordinating Commission for the Naval Industry.

A number of tax incentives were granted by Accord 101-165 to the manufacturers of capital goods, and Accord 101-187 established a committee for the financial evaluation of the program for the development of the capital goods industry.

General Guidelines for the registration of national political associations were promulgated in DO of March 13.

A National Education Board for Underprivileged Groups was established by an accord in DO of March 30.

Extensive Amendments to the Federal Labor Law became effective on May 1, 1978.

Considerable international activity took place in the first months of 1978, to wit: a convention with Hungary on scientific and technical cooperation; agreements with Spain on economic and commercial cooperation, scientific and technical cooperation, tourism cooperation, and cultural and educational cooperation; conventions with Bulgaria on cultural and educational cooperation and on commercial matters; convention with Portugal on scientific and cultural matters; agreement with the USSR on economic and technological cooperation; agreement with the United States regarding extradition, tourism and fisheries in U.S. waters; conventions with West Germany and Algeria on cultural cooperation; and a consular convention with the German Democratic Republic. In the multilateral area the following are noted: Approval of four of the six Inter-American Conventions on Private International Law, signed in Panama on January 30, 1975, i.e., the conventions on Conflict of Laws regarding Checks, Taking Evidence Abroad, International Commercial Arbitration, and Letters Rogatory; approval of the Charter of the International Center for Public Enterprises of Developing Countries; and signing of a convention regarding Equal Treatment for Nationals and Foreigners on Social Security matters. Additionally, a number of labor related conventions were approved. Among them: (1) Tripartite Consultations to Promote the Application of International Labor Norms (2) Rural Workers Organizations in Social and Economic Development and, (3) Professional Guidance and Training of Human Resources. The three conventions immediately above were adopted at the International Labor Organization (ILO) Conference in Geneva, 1975/1976.

## PARAGUAY

Law 662 (1977) approved and ratified the Convention on International Commercialization of Textiles (Geneva, 1973).

Decree 35683 (1977) substituted "ad valorem duties" for "specific duties" in the import duty schedule.

Resolution 18 of the Central Bank authorized banks to engage in borrowing operations through the medium of banker's acceptances.

## PERU

Decree Law (DL) 22038 (1977) authorized the issuance of Foreign Exchange Bank Certificates permitting banking concerns and natural and juridical persons (residents and non residents) to issue and acquire said certificates in foreign exchange determined by the Central Reserve Bank. The certificates will be bearer paper, will freely negotiate locally and abroad, and may be issued up for periods up to 360 days against the corresponding foreign exchange.

A ministerial reorganization under DL 22042 resulted in the establishment of two new ministries — the Ministry of Agriculture and Support (Alimentación) and the Ministry of Industry, Commerce, Tourism and Integration.

1978 was declared "Austerity Year" by Resolution 0238-77-PM.

A Permanent Commission of Prices and Wages was established by Supreme Decree DS 0177-77 to coordinate the nation's economic, financial and wage policies.

DL 22096 extended to April 30, 1978 the time up to which unclaimed goods in customs could be recouped by their owners. DL 21908 (1977) had set an original date of January 30, 1978.

Resolution 0011-78-TC/DS promulgated the regulations to govern the activities of Tourism Transportation Companies, as required by DS 024-76. DS 010-78 covered regulations for better implementation of DL 21948 relative to incentives applicable to the tourism industry, and DL 22155 set forth the Organic Law of the Tourist Training Center to formulate and implement policies concerning the education, training and improvement of personnel connected with tourist activities.

DL 22126 set forth detailed norms to improve stability in labor-management relations.

A Ministerial Resolution (No. 177-78 ICTI) grants additional powers to the *Organo Competente* so that it may resolve conflicts arising from agreements reached by the General Assembly of the Industrial Communities.

DL 22135 granted additional incentives to the agricultural and forestry sectors.

The Organic Law of the Ministry of Industry, Commerce, Tourism and Integration was promulgated under DL 22151.

A Commission to study the problems of the public transportation service was established by Resolution 00 73-78-PM.

The regulations to DL 22112 which established the Horizontal Property Regime were promulgated by DS 019-78.

An agreement (Protocol of Arequipa of April 1978) to which Peru became a party, together with Bolivia, Colombia, Ecuador, and Venezuela extended certain dates originally established in the Cartagena Agreement and the Lima Protocol relating to common external duties.

In March 1978 substantial amendments were made to the Labor Stability Law (1970). Although many of the amendments were proposed by the managerial class, the law nevertheless increased the penalties for unjustified discharges and for failure to abide by the decisions of governmental authorities in the labor area.

In early June 1978, the Government suspended the State of Emergency and reestablished most individual guarantees in preparation for elections for a Constitutional Convention which took place on June 18.

Peru and Spain signed an agreement exchanging certain social benefits so that their respective nationals would be protected when residing in the other country.

Peru has ratified the Convention on Economic, Social and Cultural Rights, the Convention on Civil and Political Rights, and the Convention for the Prevention of Crimes Against Diplomats.

### UNITED STATES

The following laws have been enacted: PL 95-241 providing that aircraft registered by citizens of the United States are not required to be based and primarily used in the United States to be eligible for registration; PL 95-242 establishing a "framework for international cooperation" to meet the energy needs of all nations and to insure nuclear non-proliferation; PL 95-257 authorizing the Secretary of Commerce to guarantee obligations up to 87.5 percent of the cost of constructing or reconstructing fishing vessels; PL 95-268 listing factors OPIC must take into consideration in evaluating projects, and other matters; and on April 24 the President signed into law a bill extending OPIC's operating authority to September 30, 1981.

On the subject of pending legislation the Senate passed, among other legislation: (1) S. 9 (Outer Continental Shelf Lands Act Amendment of 1977) providing for the production of oil and natural gas for the Outer Continental Shelf; (2) S. 1566 the proposed Foreign Intelligence Surveillance Act; (3) S. 2493 (Air Transportation Reform Act) concerning deregulation of the air passenger industry (Note: PL 95-163 deregulated the air cargo industry). The House passed, among other bills: (1) H.R. 9214 authorizing the participation of the United States in the Supplementary Financing Facility of the IMF; and (2) H.R. 6803 (Comprehensive Oil Pollution Liability and Compensation Act) which would establish strict liability for oil discharges and create a back up fund to meet claims where the responsible party cannot be identified. Additionally, the following legislation has been introduced: S. 2775 (Nuclear Siting and Licensing Act) establishing a streamlined process for licensing, siting, construction and operation of nuclear power plants; H.R. 10601 providing for a research program to determine viability of collecting solar energy in space and transmitting it to earth to generate electricity; S. 2525 to reorganize and reform the United States intelligence agencies; H.R. 9370 providing financial incentives to promote the development of aquaculture in the United States; H.R. 8729 encouraging programs to measure and reduce the noise produced by aircraft and airports; S. 2236 to strengthen Federal programs for combating international and domestic terrorism.

In the international area the United States: (1) Deposited its acceptance to an agreement establishing the International Fund for Agricultural Development; (2) ratified a protocol relating to an amendment to the con-

vention on international civil aviation, and the international convention for safe containers (CSC); (3) entered into agreements with (a) Canada, on the subject of transit pipelines and nuclear cooperation, (b) Antigua, regarding defense areas, (c) Argentina, relating to air transport services, (d) Dominican Republic, concerning sales of agricultural commodities and limitation of meat imports, (e) Chile, on a cooperative meteorological program, (f) Paraguay, concerning a housing loan, (g) Jamaica, relating to trade in textiles, and (h) Guatemala, Haiti, Honduras and Nicaragua regarding limitation of meat imports; (4) signed a protocol on the authentic quadrilingual text on the convention on international civil aviation and a protocol to the Geneva Conventions of 1949 relating to protection of victims of non-international armed conflicts; and (5) proclaimed the Patent Cooperation Treaty. Of course, the most significant event in the inter-American area was the exchange of ratifications with respect to the Panama Canal treaties in Panama in June, 1978.

### URUGUAY

Internationally, Uruguay (1) entered into a cooperative agreement with Argentina for the peaceful use of atomic energy, (2) ratified a protocol for the prohibition of the use in war of asphyxiating, poisonous or other gases, and bacteriological methods of warfare, and (3) signed the international convention concerning the protection of diplomats against crime, approved by the U.N. General Assembly in 1973.

### VENEZUELA

Gaceta Oficial (GO) 2.057 (1977) carried two laws approving the establishment of the Andean Reserve Fund subscribed by the governments of Bolivia, Colombia, Ecuador, Peru and Venezuela with a capital of \$240 million.

Decree 2504 established January 1, 1978, as the date for the Central Office of Statistics and Information to initiate its functions.

Social benefits available to personnel of the Foreign Service were set forth in Decree 2510.

Decree 2511 promulgated the Organic Rules for the Ministry of Foreign Relations, and Decrees 2518, 2521, 2570 and 2571 performed similar functions for the Budget System, the Secretariat of the Presidency, the Ministry of Sanitation and Social Assistance, and the Ministry of Urban Development, respectively.

Decree 2514 promulgated the general norms governing the physical security of banking institutions.

Decree 2517 authorized the Venezuelan-Guyana Corporation, among other functions, to adopt measures for the training and promotion of personnel serving the Corporation and its subsidiaries.

A *Ley de Colegiación Farmacéutica* was promulgated in GO 2.146, and the Venezuelan Postal and Telegraph Institute was established by a law found in the same publication. The Institute, as a public entity, will administer the nation's postal and telegraphic services.

Decree 2539 regulated, in part, Law 764 (1975), as amended, dealing with the functions of the National Council for the Development of the Aeronautical Industry.

Decree 2552 prohibited the felling of trees, deforestation and exploitation of timber in the Federal Territory of Amazonas. measures to increase income performance of the Ministry consonant with the purposes for which it was established.

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Decree 2568 provided relief for farmers and cattlemen who suffer losses through force majeure.

A commission to identify and evaluate the *insumos* and capital goods of the petroleum, petrochemical and energy industries was established by Decree 2597. The Commission, among other functions, will coordinate purchases abroad and determine the feasibility of producing the required goods in the country after taking a census of the nation's present capabilities in the sectors concerned.

Decree 2614 established a National Coordinating Commission for Urban Development.

An Industrial Credit Fund was promulgated by a law found in GO 2.254. The purpose of the Fund is to grant credits to public and private entities in order to promote programs which will increase, diversify and integrate, to the maximum extent possible, the nation's natural resources.

Decree 2672 declared 1979 "International Year of the Child" and established an organizing Commission to formulate, coordinate and implement necessary plans.

*Executive Instruction* No. 36 of May 9, 1978 set forth the general norms to be followed by public entities in matters of insurance.

In the international area, the following are noted: GO 31.385 (1977) contained a resolution of the Ministry of Foreign Affairs granting juridical personality in Venezuela to the European Coal and Steel Community, the European Economic Community and the European Atomic Energy Committee; GO 31.392 (1977) set forth the terms of an economic industrial cooperative agreement with France; GO 2.118 (Extraordinary 1977) contained the law approving the Lima Protocol to the Cartagena Agreement; GO 2.112 (Extraordinary 1977) carried the laws (a) approving the Convention on Immunities for the Organization for the Proscription of Nuclear Weapons in Latin America (OPANAL) and (b) Decision 109 of the Cartagena Agreement; GO 31.410 set forth a bilateral cultural and scientific

cooperation agreement with Yugoslavia; GO 31.412 contained a protocol to the agreement with Brazil on sanitary matters; GO 2.146 (Extraordinary) carried three laws approving the International Convention on Economic, Social and Cultural Rights, the International Convention on Civil and Political Rights, and the Protocol to the latter, plus three other laws approving (a) the Convention on International Responsibility for Damages Caused by Space Objects, and (b) and (c) the Convention Establishing a Special Fund for OPEC countries, and an amendment thereto; GO 31.429 contained the resolutions arrived at the Conference of OPEC countries held in Caracas, December 20-21, 1977; GO 31.444 carried resolutions from the Ministry of Foreign Relations subscribing to a Protocol to the Constitutive Convention of the Andean Development Corporation, and to a Friendship and Cooperation Treaty with Surinam; GO 2.200 promulgated a law approving Decision 113 (Social Security) of the Andean Commission, as well as a law approving Additional Protocol No. 1 to the Warsaw Convention (1929); Decree 2.631 made effective Decision 84 (Technological Policy) of the Andean Commission; GO 31.486 contained a memorandum of understanding with the United States on cooperative efforts to halt illegal traffic in drugs; a resolution of the Ministry of Foreign Relations in GO 31.491 reorganizes the National Commission which maintains liaison with UNESCO. Additionally, in the international area Venezuela signed a Friendship and Cooperation agreement with Surinam, a maritime boundaries pact with the Netherlands Antilles, and an agreement with the United States on maritime boundaries.

*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 always recommended.*