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## Inter-American Legal Developments

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## INTER-AMERICAN LEGAL DEVELOPMENTS

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### ARGENTINA

Resolution 5/75 (DNT) extended for ninety days the freeze on applications for licenses for travel agents, and for the establishment of new branches of existing travel agencies. Resolution 216/75 (DNT) established a Register for Professionals in Tourism as an additional step in furthering tourism in the country.

Decree 260 (75) declared the "absolute nullity" of the contracts between the National Telecommunications Company on the one hand and Standard Electric Argentina, Siemens of West Germany and Siemens Argentina, on the other. These contracts were originally approved by Decree Law 18.166 (1969) but derogated by Law 20.743 (1974).

Decree 376 (1975) imposes upon business associations the obligation to insure that all employees over sixteen years of age present, at the time of employment, identification documents prescribed by previous legislation.

Decree 395 (1975) contained a partial regulation of Decree Law 20.429 (1973) — National Firearms and Explosives Law.

Decree 711 (1975) contains a partial modification of the charter of the Corporation for the Development of Small and Medium Size Businesses.

Resolution 444/75 (DI) established a Registry of Beneficiaries of Promotional Programs to centralize information on the companies benefited, and the discharge of the obligations assumed by said companies when they joined a particular program.

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\*The assistance of the following attorneys and of Mr. P. P. Saez, J. D. University of Miami is gratefully acknowledged: R. W. Brown, Esq.; G. T. Ramani, Esq.; and T. K. Mahon, Esq.

The time to rule on foreign investment registrations by the Office of Programming and Economic Coordination was extended to January 1, 1976 by Decree 777 (1975).

Financial Operations involving foreign exchange are to be carried out only by financial institutions covered by Decree Law 18.061 (1969), as modified. The Central Bank is charged with the implementation of this measure designed to cut down on black market operations (R. 446 Ec, 1975).

Resolution 972/75 (DNM) delegates to the Foreigners' Admissions Department the resolution of all requests for departures, extensions, changes in classification, and permanent residency presented by aliens to the Government.

Decree 807 (1975) regulated the "option to leave the country" found in Art. 23 of the Constitution, and Decree 831 (1975) set forth the conditions under which the Federal Police would issue "certificates of personal background" to those requiring such a document for admission to institutions of higher learning.

The make-up of the National Commission on Prices, Income and Living Standards, established within the Ministry of Economy, was altered by Decree 981 (1975).

A reserve Fund of Family Contributions for the purpose of providing loans to working families was established by Decree 984 (1975).

Resolution 12.387 (SSN) covered insurance for personal and air accidents. Specifically, it provided for prorata indemnification when the insured failed to notify the insurers that coverage exceeded 500,000 pesos.

The organic structure of the Ministry of Foreign Relations was modified by Decree 1145 (1975).

News agencies, national and foreign, operating in Argentina are required to register in a newly established News Agency Registry under Decree 1273 (1975). Art. 4 of the decree prohibits the propagation of news referring to Argentina when the information has been supplied by foreign news agencies. Sanctions include, among others, suspension or loss of the right to publish or broadcast as well as expulsion from the country in the case of foreign correspondents.

Decree 1327 (1975) authorizes YPF to associate with YPFB of Bolivia and the Bolivian Development Corporation for the construction of an industrial complex in Bolivia for the manufacture of pesticides.

Decree 1346 (1975) established import duties for certain products originating in Bolivia, Brazil, Chile, Ecuador, Mexico, Paraguay and Venezuela.

Decree 1943 (1975) sets forth the contributions due from the business associations which make up the Corporation of National Companies.

On June 18, 1975 the Argentine Government signed an agreement with eight multinational auto producers deferring approximately \$500 million in payments for imported materials over a two-year period. The measure will help the country's balance of payments situation and hopefully spur production by the auto industry which of late has been experiencing heavy losses. Directly, the agreement will allow unrestricted imports of parts and materials such as plastics, steel and items needed for final production of presently unfinished automobiles. U.S. companies affected are Ford, General Motors and Chrysler.

The unstable political situation in Argentina may lead to a new Constitution. The present Administration has asked institutions such as political parties, labor unions, business organizations, the Armed Forces, and the Church, among others, to submit their views on a proposed Constitution's fundamental principles. Elections for a Constitutional Assembly are planned for 1976.

The dispute between Argentina and Great Britain over the Malvinas (Falkland Islands) continues to simmer. The latest development concerns the interest of a Canadian oil company in the area, which asked the British for permission to explore. Reportedly, the request was turned down, but this did not suit the Malvinas Legislative Council which asked for reconsideration. Meanwhile, Argentina reacted and reaffirmed that the possible existence of oil in the Malvinas continued to be a matter of concern to Argentina and its people.

## BAHAMAS

The following Acts, among others, were assented to: The Tariff Act (1975) which contains new provisions for the Importation and Collection of Customs duties and other matters connected therewith; the Bahamas Industrial Company Limited (Exemption from Taxation) Act (1975)

which grants the Bahamas Industrial Company exemption from liability to pay certain taxes; and the Diplomatic Agents and Consular Officers (Oaths and Notarial Acts) Act (1975) which empowers Diplomatic Agents and Consular Officers to administer oaths, take affidavits and to perform notarial acts.

Rules, effective August 1, 1975, relating to rates for the carriage of freight were promulgated as the Inter-Insular Mail Shipping Rules (1975).

## BOLIVIA

*Decreto Supremo* (DS) 12183(1975) regulates the prices of basic articles, and DS 12185(1975) freezes certain prices related to DS 12183. The former decree also sets forth the sanctions for violations of DS 12183. An additional DS (No. 12239, 1975) relates to the functions of the National Price Board in the implementation of DS 12183.

Prices of pharmaceutical products are regulated by DS 12190(1975) which also grants tax exemptions in order to reduce the cost of these items to the consuming public.

DS 12191(1975) provides tax rebates to promote imports, and DS 12192(1975) liberalizes import duties relating to the importation of vehicles. DS 12193(1975) also modifies duties concerning textile products.

DS 12211-A(1975) requires certain foreign professional associations to associate with national entities.

The administration of the Bolivian Development Corporation is re-organized under DS 12223(1975).

DS 12252(1975) makes effective Decision 57 of the Cartagena Agreement concerning the Metalworking Sector.

The Bolivian Investment Institute reports that a new investment law is under consideration to replace the present law. The latter has failed to generate foreign investments in the amounts expected by the Bolivian government.

Alleging the need to combat external provocations tending to create a feeling of ill will between Chile, Peru and Bolivia, Peru's Foreign Minister on August 9, 1975 proposed a non-aggression pact between the three countries. The pronouncement was made at La Paz on the celebration of Bolivia's 600th anniversary. At the same occasion, the Foreign

Minister stated that Peru would study with "sympathy and care" any formal proposal to grant Bolivia access to the sea which, although primarily a Bolivian-Chilean matter, has touched the conscience of all Latin America.

## BRAZIL

Central Bank Resolution 317/75 bears upon a decision by the National Monetary Council limiting the total investment of investment banks to an amount equivalent to twelve times their capital and reserves in national as well as in foreign currency. This limit may be raised under special conditions.

Decree 75.385 (1975) deals with the enforcement of the results of the fourteenth round of annual negotiations for the establishment of a Free Trade Zone, as instituted by the Treaty of Montevideo. From January 1, 1975 the importation from Paraguay and Ecuador of products listed in the annex to this Decree is subject to the duties specified therein. The listed products are to form an integral part of the Special Non-Extensive Concession Lists granted by Brazil to the above mentioned countries.

Normative Declaratory Act 3/75 issued by the Coordinator of the Tax System provides that foreign ships chartered by national shipping companies and authorized to operate on long haul routes will enjoy the same privileges with regard to tax benefits as ships sailing under the Brazilian flag.

The Division for Foreign Trade (CACEX) issued Communiqué 500/75 establishing a comprehensive reference book containing all the current administrative procedures for importation.

The Minister for Social Welfare issued Portaria 147/75 approving the set-up and the functions of the Benefit Fund for Rural Workers—FUNRURAL. This is an independent body under public law attached to the Ministry of Social Welfare. It will be self-supporting and will have administrative, operational and financial independence.

The Secretary for Planning to the Presidency of the Republic issued the following Portarias dealing with monetary correction: (a) 18/75 giving the indices applicable to the working capital of companies which close their business year within the period from March 1974 to February

1975 inclusive; (b) 19/75 giving the February 1975 indices for lease contracts on non-residential property; (c) 20/75 giving the indices for liabilities and for the readjustment of loans based on contracts concluded in accordance with Law No. 4.864/65; (d) 26/75 giving the indices for lease contracts on non-residential property, referring to March 1975; (e) 27/75, giving the indices applicable to the working capital of companies which close their business year within the period between April 1974 and March 1975 inclusive; (f) 28/75, giving the indices for the outstanding balance of the price and for the readjustment of installments under agreements for the purchase of real estate based on contracts concluded in accordance with Law 4.864/65; (g) 30/75, giving the indices for debts relating to labor contracts falling due during the second quarter of 1975; (h) 31/75, giving the indices for National Treasury Bonds; (i) 32/75, giving the indices applicable to the working capital of companies closing their business year at the end of April 1975; (j) 33/75, giving the indices for the outstanding balance of the price and for the readjustment of installments under agreements for the sale and the construction of housing property with deferred payments; and (k) 34/75, giving the indices for rent payments for non-residential property.

The Council for Industrial Development of the Ministry of Industry and Commerce issued Portaria 378/75, setting out norms governing applications for tax exemption in respect of spare parts imported by newspapers and publishing houses and used in the repair and maintenance of equipment for the composition, printing and furnishing of books, periodicals and newspapers. The same Council issued Resolution 37/75, published in DOU-I, 1 of March 5, 1975, establishing the norms according to which the tax incentives for developments in the field of mechanics and mechanical equipment shall be granted.

The Central Bank issued Resolution 320/75, limiting the total engagement of building societies to an amount equivalent to fifteen times their capital and reserves. Not included therein are credits used for re-financing as well as loans guaranteed or eligible for guarantee by the National Housing Bank (BNH).

The Governor of the State of Rio de Janeiro signed Decree-Laws 5 and 6 (1975) establishing taxation codes for the state and the municipality of Rio de Janeiro.

In Portaria 69/75, the Minister of Finance approved the Internal Regulations of the Commission for Mergers and Incorporations of Com-

panies (COFIE), which will deal with proposed mergers, and incorporations and other forms of combination of companies, as established in Decree-Law 1.346/74.

The Interministerial Council for Prices (CIP) issued Resolution 8/75 establishing that the price readjustments of any goods manufactured or distributed and of any service rendered in Brazil may be subjected to analysis, appraisal and control by CIP, whenever the general economic policy of the federal government so requires. The same does not apply to goods or services of companies with a total invoicing in the last business year of not more than the equivalent of 15,000 times the highest minimum salary, including the value of the Tax on the Circulation of Goods (ICM) and excluding that of the Tax on Industrialized Products (IPI).

The Central Bank issued Resolution 319/75, which amends Resolution 289/74, establishing that for all imports on which duties of 37% or more are due, the exchange contract has to be closed before the imports are made. This means that payment for these imports has to be made prior to the remittance of the goods to Brazil.

Law 6.203 (1975) refers to Art. 469, 470 and 659 of the Consolidated Labor Laws establishing the terms applicable and the compensation to be paid in the case of the transfer of an employee.

The DCN-I of April 16, 1975 published the draft of Law 194/75 establishing that company reserves realized by the retention of profits, the receipt of premiums derived from the subscription of shares, the revaluation of fixed assets and the maintenance of working capital are to be capitalized by readjusting the nominal value of the existing shares.

The *Estado de São Paulo* of April 25, 1975 reported the draft of a law establishing that only one-third of the total number of administrative managers of a company—national or foreign—may be foreigners. Companies already established are given one year to adapt to this provision.

The General Secretary of the Council for Industrial Development (CDI) issued Portaria 380/75 in setting out the norms applicable to the presentation of industrial development projects and manufacturing programs in the fields of mechanics and mechanical equipment.

Decree 75.583 (1975) refers to Law 6.138 (1974) establishing an overall control over the importation, production and sale of fertilizers and other agents used in agriculture.

The DCN-I of April 9, 1975 published the draft of Law 132/75 consolidating the current provisions regarding fiduciary alienation with guarantee.

The President of the Republic signed a Decree-Law on May 7 regulating the admission of foreign capital to the national stock market.

The Institute of Reinsurance of Brazil announced in the *Estado de São Paulo* of April 15, 1975 that a new form of insurance will be introduced establishing comprehensive cover for the loss and damage of leased equipment.

The Department of Foreign Trade issued Communiqué 493/75 establishing that no person, cooperative, association, company, group or other entity may engage in activities related to foreign trade and the promotion thereof without prior registration with the Registry of Exporters.

The Brazilian Congress voted down a bill to legalize divorce, giving the Roman Catholic church and its congressional adherents a victory after two months of national controversy. Because the bill was a proposed constitutional amendment, it required two-thirds of all congressional votes for passage. Pro-divorce legislators could muster only 222 of the 287 votes needed.

The Minister of Finance issued Portaria 68/75 with regard to the application of the double-taxation convention concluded between Brazil and Denmark. It sets the rates applicable to all types of revenues derived from investments or contracts registered with the Central Bank and determines that taxes paid in Denmark on income subjected to taxation in Brazil may be deducted; and the *Estado de São Paulo* newspaper of April 17, 1975 reported that representatives of Brazil and West Germany have signed a convention with regard to the elimination of a double taxation.

Decree 75.572 (1975) promulgates the Convention of Paris for the Protection of Industrial Property.

In June, 1975 Brazil signed a multi-billion dollar nuclear technology agreement with West Germany under which Brazil pledged not to use the pact to build atomic bombs or explosive devices. The new agreement provoked some concern in U.S. governmental circles which, it is reported, had pressed West Germany for tighter controls than those provided in the treaty.

In the area of jurisprudence the following are noted:

The 1st Division of the Supreme Federal Court ruled in Extraordinary Appeal 77,773 of São Paulo that remittances abroad by national companies, being payment for services rendered in the foreign country by a foreign company, are not subject to income tax.

The 1st Civil Court of Appeals of São Paulo ruled in respect to Appeal 197,399 that remarks at the back of a promissory note, added to prohibit its negotiation and to link it to the underlying contract do not make it void, as restrictions to the negotiability of bills of exchange are to be considered as not having been added.

The 1st Civil Chamber of the 1st Court of Appeal of São Paulo ruled in Appeal 200,434 that registered shares can only be transferred by the due instrument of transfer as provided by Brazilian Commercial Law.

The 2nd Division of the Federal Court of Appeal ruled in Appeal 36,263 with reference to Art. 135 of the National Taxation Code (CTN) that the managing partner is held personally liable for the tax credit resulting from infringements of laws or of the articles of association.

The 3rd Civil Chamber of the Court of Justice of Minas Gerais confirmed in Appeal 40,422 that neither a declaration of legal intent nor a contract between the parties suffices for the transfer of registered shares. Such transfer can only be effected in the way determined by law, i.e., by means of an instrument drawn in the proper book signed by both the assignor and the assignee.

The 6th Civil Chamber of the Court of Appeals of São Paulo ruled in Appeal 200,240 that registered tax debts, including fines and surtaxes, come under monetary correction.

## CANADA

The following acts, among others and those not previously reported, were passed by the Federal Parliament in the first six months of 1975: Canada Business Corporation Act; Statute Law (Status of Women) Amendment Act (1974); Canadian Radio-Television and Telecommunications Commission Act; Excise Tax (Amendment) Act; Customs Tariff (Amendment) Act; Ocean Dumping Control Act; Cultural Property

Export and Import Act; Petroleum Administration Act; Supreme Court (Amendment) Act; Statute Law (Income Tax) Amendment Act; and Law Reform Commission Amendment Act.

The following acts, among others and those not previously reported, were passed by the Legislature of the provinces listed in the first six months of 1975 unless otherwise indicated.

### *ALBERTA*

Land Titles Amendment Act.

### *BRITISH COLUMBIA*

Landlord and Tenant Amendment Act (1974); Timber Products Stabilization Act; Mineral Amendment Act.

### *MANITOBA*

Child Welfare Act.

### *NEWFOUNDLAND*

Forest Land Management and Taxation Act and Labour Relations Amendment Act.

### *ONTARIO*

Travel Industry Act; Land Speculation Tax Amendment Act; Wool Marketing Act; Condominium Amendment Act; Mining Tax Amendment Act; Business Practice Act; Energy Corporation Act; Corporations Tax Amendment Act; Forestry Amendment Act; Income Tax Act; Farm Products Marketing Act; and the Succession Duty Act. The following received assent on the date indicated: Pollution Abatement Incentive Amendment Act (March 26); Expropriations Amendment Act (May 2); Ombudsman Act and Mechanic's Lien Amendment Act (July 3); plus Petroleum Products Price Freeze Act and Niagara Escarpment Planning and Development Amendment Act (July 8).

*PRINCE EDWARD ISLAND*

Consumer Reporting Act.

*QUEBEC*

Election (Amendment) Act.

*SASKATCHEWAN*

Revised Statutes Amendment Act; Tax Enforcement Amendment Act; Labour Standards Amendment Act; Married Women's Property Amendment Act; and Vital Statistics Amendment Act.

In June, 1975 the Supreme Court of Canada upheld the right of provinces to pass laws governing land ownership by foreigners, and in the specific case involved, by non-residents of Prince Edward Island.

The test case involved two Rochester, N.Y., men who bought a 36-acre piece of land in Canada's smallest province, Prince Edward Island, from the Ontario man who owned it. The purchase violated a provincial law that limits purchase of land in Prince Edward Island by non-provincial residents to ten acres, with no more than 330 feet of shoreline. All nine other Canadian provinces backed Premier Alex Campbell's legal battle, but the Canadian federal government supported the two Americans in the Supreme Court. Upholding of the province's law by the Supreme Court is expected to end the operations of some large U.S. development companies that purchase Canadian vacation property, then subdivide it for mail-order sale in the United States. Nonislanders were buying up land at the rate of 4,500 acres a year, and the year the law was passed applications had been received for purchase of 15,000 acres by outsiders. Nova Scotia and New Brunswick are now contemplating restrictive legislation. Ontario, Canada's second largest province, has also moved to slow foreign buying of land by levying a 20% tax on a property purchase by foreigners. In its ruling the Court rejected the federal argument that the law discriminated against other Canadians. It said there was nothing stopping anyone from moving to the province and becoming a resident, if he wanted to make a large land purchase. "Absentee ownership of land in a province is a matter of legitimate provincial concern," it added. It is unlikely that any Canadian province would legislate against any non-provincial resident purchasing enough land for a personal summer

retreat, providing a minimum amount of property was involved. Expected legislation will aim rather at stopping massive land purchases for development by foreigners and Canadians outside the province in question. All provincial governments have monitored the Prince Edward Island test case carefully, while preparing their own legislative responses to the common problem of diminishing recreational land.

## CARIBBEAN

*Editor's Note:* *Lawyer of the Americas* welcomes Mr. Chuks Okpaluba, Lecturer in Labour Law, University of the West Indies, Trinidad to its growing number of Correspondents. Mr. Okpaluba has graciously agreed to report on the Caribbean; his first report follows.

## THE ASSOCIATED STATES

### ANTIGUA

Apart from a number of minor pieces of legislation, e.g. the Misuse of Drugs (Amendment) Act, 1975 which amends the principal legislation of 1973; the Income Tax (Amendment) Act, 1975 which amends the Income Tax Ordinance (Cap. 266, Laws of Antigua) by providing for the payment of tax by instalments by certain persons; the Football Pool Betting Tax Act, 1975 which imposes a football pool betting tax payable under certain conditions; the Pension (Increase) Act, 1975, authorizing the increase of pensions payable in respect of public service; an Act to amend the Hotels Tax Act, 1962 (No. 14 of 1962)—The Hotels Tax (Amendment) Act, 1975, which principally re-defines "hotel bill" in respect of which 5% tax must be paid; the Appropriation Act, 1975, authorising Government Expenditure for the year, the Antigua Parliament has before it four major bills, namely: the General Statistics Bill, 1975; the Caribbean Investment Corporation Bill, 1975; The Arbitration Bill, 1975; and the Labour Code Bill, 1975.

Through the General Statistics Bill, Antigua hopes to establish, for the first time, a co-ordinated statistical system for the taking of censuses and surveys for the collection, compilation, analysis and publication of statistical information. The new Statistical Division which will be established as a Government Department will be directed by the Head of the Statistics Division.

The principal objective of the Caribbean Investment Corporation Act is the establishment of a statutory organ, the Caribbean Investment Corporation, to give effect to the provisions of the Agreement to which Antigua is a party.

The Arbitration Bill purports to repeal the old Arbitration Ordinance, 1907 (Cap. 7, Laws of Antigua) which expressly incorporated the Arbitration Act, 1899 of the Imperial Parliament but which is now obsolete in the United Kingdom. Through the new Arbitration Act, a modern arbitration system will be at the disposal of civil disputants and will enable speedy and expeditious disposal of disputes without resort to the ordinary courts of the land. Briefly, the bill provides for the referral of certain disputes to arbitration, defines the power of arbitrators and umpires, the conduct of proceedings and witnesses, among others, and also includes provisions relating to awards and their enforcement, as well as other matters incidental to the foregoing.

By far the most interesting and innovative of all labour legislation in the Commonwealth Caribbean in recent times is the draft Antigua Labour Code Bill published in April of this year. The draft bill which runs into 131 printed pages does not only purport to deal comprehensively with the substantive labour laws of Antigua but also with their administration. The ruling PLM had argued during the 1971 Electioneering Campaign that the Labour Department needed re-organisation as much as a Labour Code was necessary for the State. If, and when the Labour Code Bill becomes law, the ruling Party would have achieved its main objective in the labour front. Antigua will then be operating a system quite alien to the rest of her Caricom partners and it is to be expected that the other Caricom countries will soon consider following the Antigua example.

The coming into force of the Labour Code Law would mean the repeal of the bits and pieces of legislation governing labour in Antigua, ranging from the contract of employment down to wages, dismissals, trade unions and collective labour relations. The Code starts off with a Declaratory Division (Division A). Administration is the next Division. Although the Minister of Labour shall have overall responsibility for the administration of the Code, his duties may be delegated to public servants the chief of whom is the Labour Commission under whose jurisdiction a number of other subordinate officers will fall. Division C concerns Employment *simpliciter*, namely commencement, elementary requirements and termination of employment. It also covers leave privileges, remuneration and

hours of work, severance pay, and unfair dismissals. This is closely followed by the Division dealing with employment, health, safety and welfare. Here, penalties are provided and legal proceedings may be taken against anyone who contravenes any obligation imposed under this Division of the Code. Division E provides special protection for Women, Young Persons and Children in certain types of employment. Regulation of Work Permits form the subject of Division F, thus repealing the Work Permit Act, 1971 (No. 6 of 1971) and the Regulations made thereunder. Trade Union law occupies Division H. of the Code.

Among other things, the Trade Union Division legalises actions of unions in pursuance of the statutory objectives. Within the limitation set forth in this Division, the rules relating to the amenability to suits of trade unions are clearly stated, so are provisions relating to the enforceability of trade union contracts, prohibition of tort actions against trade unions, removal of liability for restraints of trade, and reducing the breach of the employment contracts. Provisions are also included in relation to trade disputes, picketing, limitations on injunctive relief in trade disputes, and very importantly, section G.13 stipulates that no officer or member of any trade union, and no trade union participating or interested in a labour dispute, shall be held responsible or liable in any Court for the unlawful acts of individual officers, members or agents, except upon proof of actual participation in, or actual authorisation of, such acts, or of ratification of such acts after actual knowledge thereof (Cf. The Trinidad and Tobago Industrial Relations Act, 1972, section 63 and see further, *Transport and Industrial Workers' Union v. Fernandes* (1968) 13 WIR 310; *Martin & Beddoe v. Gift* (1970) 17 WIR 400 both of which cases were decided under similar provisions of the ISA, 1965). Application of union funds and the formation of trade unions are also regulated, as well as the general principles applicable to registered trade unions.

Every trade union or federation of trade unions in Antigua composed of seven or more members shall be eligible for registration under Division H of the Code. While section H4 deals with the requirements for registration, section H5 describes the functions and powers of the Labour Commissioner with respect to the applications for registration. Then a set of rules referred to as principles of conduct for registered trade unions are laid down and these include principles relating to admission, participation in union government, disciplinary procedures, periodic election of officers, general requirements of registered bargaining agents, removal and cancellation of registration.

The questions of employee representation are dealt with in Division J. Under this Division, the vexed problems of determining bargaining units, exclusive rights of representation and the provisions for agency shop agreements are made. The procedures for the administration of these matters are accordingly laid down. Division K concerns Industrial Relations Regulations and includes provisions for the protection of self organisational rights of employees and their infringement thereof by employers. Here, too, the Government undertakes to provide machinery for the settlement of all trade disputes and dispute procedures are described in the case of a "major trade dispute" (a term defined at K.13). Pursuant to this, the Labour Commission shall compile a list of what is called "The Code Arbitrator Panel" from which the parties shall select the person to hear and determine the dispute. The right to take industrial action and the limitations thereof both appear in ss.K.19 and K.20, respectively. Finally, Part IV of Division K concerns the question of collective agreements.

Both the academic and practising lawyers in the Commonwealth Caribbean are anxiously awaiting the arrival of the report of Her Majesty's Privy Council decision on the constitutionality of two pieces of legislation enacted in Antigua in 1971, namely, the Newspaper Registration (Amendment) Act, No. 8 of 1971, and the Newspaper Surety Ordinance (Amendment) Act, No. 9 of 1971 the combined effects of which was the coming to an end of newspaper publishing in the State. This, because of the heavy annual licensing fees prescribed by Act No. 8 for publishing in Antigua and the heavy sums to be deposited as surety with the Accountant-General to be drawn against the publisher in the event of a finding by a Court of law of the commission of the tort of libel against the Newspaper. Both of these Acts were held by Louisy, J. in *Antigua Times Ltd. v. Attorney General of Antigua and the Minister of Home Affairs*. (June 15, 1972) and the majority of the Court of Appeal of the West Indies Associated States in *Attorney General of Antigua and the Minister of Home Affairs v. The Antigua Times Ltd.* (Civil Appeal No. 4 of 1972, decided on June 13, 1973) to be unconstitutional infringements of the plaintiffs' right of freedom of expression and therefore in contravention of section 10 of the 1967 Constitution of Antigua. The local news media have recently reported that the Privy Council has now overturned these local decisions and upheld the vires of these Acts. If the news reports are true, fatal blows would have been dealt to the freedom of the press not only in this small State but also in the other Caricom States. Further, it has just been announced that the Parliament of the newly

Independent Caricom State of Grenada has enacted legislation restricting press freedom in that Island State and that the same has come into effect forthwith (for a previous opinion of the Privy Council vis-à-vis the right to free expression in another Associated State see *Francis v. Chief of Police* (1973) 2 WLR 505 (affirming however, W.I.A.S. CA (1970) 15 WIR 1).

### ST. LUCIA

Reform of the State's Labour Laws has also been a major pre-occupation of the St. Lucia Government. In February, 1974 the Trade Unions and Trade Disputes Ordinance (Amendment) Act (No. 3 of 1974) was passed amending the Trade Unions and Trade Disputes Ordinance 1959. The main purpose of the 1974 Act was to increase the powers and to re-define the functions of the Registrar of Trade Unions (section 3) and specifically to make new provisions and stipulate new requirements for the registration of trade unions in the State. For instance, section 10(a) (ii) has raised the requirement of ten signatures in order to obtain registration as under the 1959 law to thirty so that a trade union shall not be entitled to be registered under the Laws of St. Lucia if its membership consists of less than thirty members. The First Schedule to the Act described the requirements relating to constitution and management, membership, property and finance of Trade Union.

Just a year after the Trade Union Act was enacted, the Governor of St. Lucia, Sir Allen Lewis assented, on January 31, 1975, to an Act to provide for the settlement of trade disputes in the Essential Services passed by the St. Lucia House of Assembly. This piece of legislation short titled the Essential Services Act, 1975 (No. 3), has, for the first time, provided for a machinery for the settlement of labour disputes in the essential services of the State. At the centre of this new provision, is the Tribunal system of settling labour disputes and the award of the Tribunal is binding. What the Act gives, is the system of compulsory arbitration in the essential services, but it does take away the employee's right to strike (section 10(i)) and fixes penalties for breach of the strike or industrial action prohibition (section 10(ii)). Essential Services are widely defined so as to include even private establishments so far as they have anything to do with the generation and supply of electricity to the public, any Hospital Service, public Health Service, Sanitation and Telephone Services and Water Supply (Schedule I).

## THE INDEPENDENT STATES

*JAMAICA*

The Government of Jamaica has been seriously embarrassed by the problem of repressing crimes of violence and the maintenance of law and order. Just as the Jamaican citizen has witnessed the increase of crimes of violence, they have also witnessed an outbreak of legislation intended to contain the criminals. Such enactments included: (a) The Suppression of Crime (Specific Provisions) Act, 1974 (No. 3); (b) The Juvenile (Amendment) Act, 1974 (No. 4); and (c) The Gun Court Act, 1974 (No. 8). These enactments have received unprecedented seminal reaction in contemporary Jamaican legal circles with an issue of the *Jamaican Law Journal* solely devoted to them. Mr. W.C. Gilmore of the Law Faculty has since reviewed and analysed the constitutional implications of the Suppression of Crime Act in (1975) *Jamaican Law Journal* 14, while the Gun Court Act and the appeals are discussed on pp. 19 and 24 by Dr. L.C. Barnet and Mr. D.V. Daly, respectively.

The Gun Court Act was enacted to establish a court to deal particularly with firearms and offences. It provides that "in the interest of public safety, public order or the protection of the private lives of persons concerned with the proceedings," the trial in the Gun Court shall be in camera. Section 19 amended the Firearms Act, 1967 dealing with the possession of firearms and that a finding of guilt thereof, shall upon summary conviction result in detainment at hard labour "during the Governor General's pleasure" (section 8(ii)).

The interesting aspect of the whole matter is the conflicting decisions of the Jamaica Court of Appeal in two sets of Gun Court cases. In *R. v. Martin & Others* (Resident Magistrates' Criminal Appeals 41-44, 1974) the Gun Court Act was challenged in the Jamaica Court of Appeal as being contrary to section 17 of the Jamaica Constitution of 1962, in that the sentences thereunder imposed upon the appellants subjected them to "torture or to degrading or inhuman treatment." It was further argued that it was unconstitutional and void because it is part of a scheme which transfers judicial power from the constitutional judicial officers and is inconsistent with the constitutional scheme for the exercise of Royal Prerogative of review and pardon. Similarly, the holding of proceedings in camera is in breach of section 20 of the Constitution. The Jamaica

Court of Appeal, (Luckhoo, P. (Ag.) and Zacca, JA (Ag.), Swaby, JA dissenting) dismissed the appeals and affirmed the convictions and sentences.

But the decision of a subsequent Court of Appeal has produced not only a lively constitutional talking point but also a jurisprudential one in that it raises the question of the application of the doctrine of *stare decisis* i.e., whether the Court of Appeal can review a previous decision of its own on similar legal points and issues. With Zacca, JA (Ag.) reaffirming his previous judgment in the foregoing appeals, Graham-Perkins, JA presiding, and Swaby, JA came to a completely different conclusion in *R. v. Trevor Jackson* (R.M.C.A.) 53 of 1974) by holding that they were driven to the inescapable conclusion that the Gun Court Act of 1974 is *ultra vires* the Constitution of Jamaica, hence the trial of the appellant thereof was a nullity. The Court endorsed the view expressly by Swaby, JA in his dissenting opinion in the previous appeals to the effect that:

It is appreciated that at the time of the enactment of the Act the State was confronted with a crippling problem of gun crimes, and the Government beset with a grave situation took measures to deal with the situation as deemed appropriate and suited the conditions, thinking, one must presume, that it had the power to do so and was acting rightly... These considerations, however, are irrelevant and can bestow no validity to legislation which infringes the Constitution.

This appeal has been argued before the Privy Council in London and their Lordships have reserved their judgments.

On the labour scene, the Jamaican Parliament has recently approved three bills all of which were drafted last year. Two of these deal with the employment relationships and the third concerns industrial relations matters. An Act to amend the old Minimum Wage Law of 1938, Cap. 252, Laws of Jamaica (as amended) termed the Minimum Wage (Amendment) Act, 1975 has been introduced to establish a permanent Minimum Wages Advisory Commission (section 4), the functions of which are clearly articulated in section 4a. The constitution of the Commission is the subject of the Second Schedule to the Act. The Advisory Commission's principal duty shall be to consider and advise the Minister of Labour on all matters relating to national minimum wages and any other minimum wages which may be fixed under this Act.

The Employment (Termination and Redundancy Payments) Act, 1974 (No. 31) was enacted on December 9, 1974 in Jamaica after its forerunner, a Bill of similar title, was dropped in 1971 following stiff opposition from the now Government (then the Opposition) Party. The main objectives and reasons for this Act appear in its long title and they are: to repeal the now defunct Masters and Servants Law, Cap. 240, Laws of Jamaica, which came into operation in 1824; to regulate the minimum period of notice to terminate the employment contract where an employee has been continuously employed for four weeks or more (section 3); to protect certain employees by implying into their contracts of employment suitable transportation, or a sum computable to provide such facility to enable them to return to their ordinarily residential homes at the termination of their employment; and for the provision of redundancy payment rights for employees dismissed by reason of redundancy. The entitlement to redundancy payment arises on the completion by the employee of 104 weeks of continuous employment with the employer (section 5). The meaning of "dismissed" by reason of redundancy is stated in section 5(2) while section 6 deals with the general exclusion from the right to receive redundancy payment. The Employment (Termination and Redundancy Payments) Regulations, 1974 handles the manner of computing the period of employment (Clauses 3 and 4); the method of computing the employee's continuity in employment (Clause 5); and the manner of calculating redundancy payment in other employments (Cause 8), and for seasonal employment (Clause 9).

The Labour Relations and Industrial Disputes Act, 1975 was assented to by the Governor-General of Jamaica on April 8, 1975. The Act, which is now No. 14 of 1975 has originally drafted and published in *The Jamaica Gazette* of March 1, 1974. By section 29 of this Act, the two earlier enactments purporting to have provided machinery, *albeit* half-heartedly, for the settlement of labour disputes in both the private (Trade Disputes) (Arbitration & Enquiry) Law, and the public (Public Utilities Undertaking and Public Services Arbitration Law) sectors, are hereby repealed. The repeals apart, the major provisions of the Act can briefly be stated. The Minister of Labour has been obligated to prepare a draft labour relations code (within one year of the coming into force of this Act) which will embody practical guidelines for the promotion of good industrial relations so as to effectuate free collective bargaining, develop the maintenance of orderly procedures in industry and to develop and maintain good personal management techniques (section 3(1)). The idea is that the Code will not be legally enforceable but its principles may be

taken into account as may be found appropriate by the Tribunal or Board in determining any question (section 3(4)). The difference between the Antigua Code (*supra*) and the Jamaica Code to-be is that in the one, the entire labour laws are codified whilst in the other the code will merely embody what is thought to be the basic principles underlying good industrial relations practices for the guidance of the parties to industrial relations. Again the one will be an enforceable legal document i.e. the law itself, whereas the other will only serve as a code of practice.

The rights of workers in respect of trade union membership are protected (section 4). Section 5 provides for the system of secret ballot voting in order to determine bargaining rights of trade unions for the purposes of collective bargaining. Once the proper bargaining unit is determined, recognition by the employer of that union certified by the Minister of Labour as having the bargaining right becomes automatic and any breach of the recognition provision is a summary offence. There is also the possibility of joint bargaining rights in circumstances where no union emerges as having the necessary statutory percentage of votes but such joint bargaining rights could only be considered by the Minister on the application of at least two of the trade unions involved (section 5(6)). The Labour Relations and Industrial Disputes Regulations, 1975 (No. 135) intended to amplify the procedure for the taking of bargaining rights votes have also been published.

Every collective agreement must contain the procedure for the settlement of labour disputes without stoppage of work, otherwise the implied procedure laid down in section 6(2) will apply. One of the principal objects of the Act is the establishment of an Industrial Disputes Tribunal. This, and the functions of the Tribunal are covered in Part III of the Act. Section 10 deals with the circumstances in which the Minister of Labour may intervene in the "public interest" in which case compulsory arbitration may be restored to in order to resolve the trade dispute in the circumstances. There are also provisions for the voluntary referral of industrial disputes by the parties to Industrial Disputes Tribunal (section 11). The rules regulating the awards of the Industrial Disputes Tribunal can be found in section 12. Industrial disputes in undertakings providing essential services have been regulated in section 9 while penalties for the offences in connection with unlawful industrial action fall within section 13. Under ss.14 and 15, the Act retains the system of appointing Boards of Inquiry to inquire into and to report their findings and recommendations to the Minister of Labour. Further provisions relating to the powers of the Industrial Disputes Tribunal and Boards of Inquiry are stated in

Part V of the Act. The list of essential services appears in the First Schedule to the Act while the constitution of the Tribunal is contained in the Second Schedule. The other two Schedules deal, respectively, with the summonses of witnesses and writs of attachment.

### TRINIDAD AND TOBAGO

On May 15, 1975, the newly constituted and rejuvenated Law Commission of Trinidad and Tobago published in a Special Supplement to the *Trinidad and Tobago Gazette* (Vol. 14, No. 148) its Working Paper No. 1. The Working Paper and the Bill appended to it relate to the reform of certain aspects of the law of transfer of property. The bill proposes (Clause 2) to repeal and replace section 5 of the Conveyancing and Law of Property Ordinance (Cap. 27, No. 12, Laws of Trinidad and Tobago) by substituting 30 years for 40 years as the period of commencement of the title a purchaser may require after the completion of a contract of sale of land in the absence of a contrary stipulation in the contract. The bill also covers, inter alia, the backdating of a release of mortgage on lands intended to be conveyed free from encumbrances to the date of the conveyance of the lands where the latter deed is executed before the former; the removal of doubts as to the validity of deeds and other documents executed in Trinidad and Tobago by attorneys of local corporations; and, designates diplomatic agents and consular officers of Trinidad and Tobago before whom may be made affidavits and solemn declarations concerning execution of deeds abroad.

Working Paper No. 2 which was published on May 26, 1975 (*Gazette* Vol. 14, No. 157) embodies the Commission's proposal for the reform of the law relating to compensation for injuries sustained by an employee in the course of his employment as well as the reform of some aspects of family law.

Although certain legislation such as the Workmen's Compensation Ordinance 1960 (No. 24) and Compensation for Injuries Ordinance, Ch. 5 No. 5 and probably too, the National Insurance Act, 1971 (No. 35), have made some inroad into the doctrine of common employment at common law in that under these Acts an injured employee may recover compensation or receive some kind of sickness benefit, the doctrine which was established in 1837, popularly known as the rule in *Priestly v. Fowler*, is still applicable as the common law of Trinidad and Tobago (see *Springer v. Lalla & Another* (1964, 7 WIR 325) when claims are made

by the employee against the employer based on the negligence of another employee. Now, the Law Commission, through its draft Law Reform (Miscellaneous Provisions Bill, 1975 seeks to abolish the common law doctrine of common employment in actions brought against the employer by an employee for negligence. This doctrine has since been erased from the English jurisprudence by the Law Reform (Personal Injuries) Act, 1948. Jamaica abolished the defence of common employment through their Law Reform (Common Employment) Law, 1961. The other provisions recommended by the Commission in connection with compensation for injuries include the abolition of certain sections of Ch. 5 which produce hardships to litigants by requiring them to give notice to the injury (severely criticised by Phillips, JA in *Springer v. Lalla* (1964) 7 WIR at pp. 330-331); the extension of range of dependents and of periods of limitation; and the question of excluding certain benefits in computing compensation, e.g. payments under insurance policies, national insurance scheme, friendly societies, pensions or gratuity (for criticisms of the present position see per Wooding, C.J. in *Deonarine v. Narine* (1969) 14 WIR 33 at p.37; Fraser, JA (*ibid.*) at p. 40).

Family Law in the common law Caribbean has always been criticised as being out of touch with the social realities of West Indian family life in that the English common law relating to family based on the English family system is made to apply in the West Indian environment with remarkably different family structure. But even where the common law has been amended in England, the West Indian common law is often found lagging.

Quite recently, the Government of Trinidad and Tobago embarked on the reform of the State's Family Laws [see the Matrimonial Proceedings, and Property Act, 1971, No.2 of 1972 (as amended by No.39 of 1973) and the Matrimonial Clauses Rules, 1973 Govt. Notice No. 190]. As it would appear from the long Title of the Matrimonial Proceedings, etc. Act, it is intended to amend the grounds of divorce, nullity and judicial separation, to facilitate reconciliation in matrimonial causes; to regulate matrimonial proceedings; and to amend the law relating to the property of married, divorced and separated persons. Thus, the perennial sore points of the family law remained intact. The law relating to Children: custody, guardianship, wardship, illegitimacy and legitimation are the most crucial areas that highlight the defects of the common law in a West Indian setting. The Law Commission proposes the amendment of these areas. Accordingly, the proposed Law Reform (Miscellaneous Pro-

visions) Act, would re-define "infant" to include illegitimate child and "parent," "father" and "mother" to be accordingly construed (cf. section 7 of the Infants Ordinance, Ch.5 No.12); the Affiliation Ordinance (Ch.5 No. 4) will be amended so that an order made under s.5(1) shall apply to an order of maintenance in respect of an illegitimate child; an order under section 5 (5) may be made against a person who has been adjudged to be the putative father of the illegitimate child. Provisions are also made for wardship of children; legitimation by subsequent marriage of parents (cf. section 3 of the Legitimation Ordinance, Ch.5 No.13); Sections 2, 3 and 8 of the Affiliation Ordinance, Ch.5 No.14 have all to be repealed and replaced, and lastly, section 4 of the Separation and Maintenance Ordinance, Ch.5 No.15 is to be repealed and replaced.

The High Court and the Court of Appeal of Trinidad and Tobago have been kept quite busy recently with the challenge of constitutionality, not only of legislation and executive actions but also of judicial actions. A number of conceivable and inconceivable constitutional points have been argued here in recent times. On April 30, 1974, the Court of Appeal (Sir Isaac Hyatali, CJ, Phillips and Corbin, JJ.A.) dismissed an appeal (argued by the English barrister, Blom-Cooper, QC) in the *Matter of the Application of Abdul Malik* (Civil Appeal No.13 of 1974) who was alleging that sections 1, 2, 3, 4, 5 and 7 of the 1962 Constitution of Trinidad and Tobago were being or were likely to be contravened in relation to him in that he had been sentenced to death for murder by the trial judge Rees, J. He asked that the judgment be set aside, the respondents (Registrar of the Supreme Court, Attorney General and the Commissioner of Prisons) their servants or agents be restrained from executing any warrant for his execution, and that a less severe punishment be substituted. All the arguments were rejected by a unanimous decision of the Court of Appeal and the applicant has since been hanged.

But the applicant in the *Matter of the Application of Terence Thornhill* (No.2765A of 1973) decided on May 31, 1974 by Georges, J. was more successful in obtaining the Court's declaration as to a prisoner's fundamental right to counsel. The applicant was arrested by the Police and charged with the commission of a number of crimes which included shooting with intent to murder, possession of an unlicensed firearm and possession of ammunition. While he was in police custody he was refused access to his counsel because the police thought that as the applicant was on very serious charges an interview with a lawyer was likely to impede the investigation. The applicant's assertion that there was a

contravention of his guaranteed legal right under the Constitution when he was denied access to his legal adviser was upheld by Georges, J.

There are two constitutional cases on contempt of Court. The judgment in the one where counsel was sentenced to seven days imprisonment by a High Court Judge following an incident in the Judge's Court and who has since challenged the constitutionality of the Judge's order, has yet to be given by Scott, J. while judgment has been delivered in the other. This is *In the Application of Patrick Chokolingo* (No.81 of 1975). The applicant was convicted for contempt of court in *Trinidad and Tobago Law Society v. Chokolingo* (1972) XIX T&TR (Inskip Julien ed.) Pt.V 375, for an article which appeared in the weekly newspaper *The Bomb* of which he was and still is the Editor entitled "The Judge's Wife—Short Story by David Lincott" and found by trial judge Hassanali, J. to be "a scandalous and scurrilous attack on the Judges of the country in the charge that they accept bribes." Before Cross, J. the applicant argued that the order made for his conviction by Hassanali, J. in the exercise of his criminal jurisdiction in the contempt proceedings was unconstitutional, null and void and of no effect, that the order of his imprisonment was illegal and in violation of the human rights and fundamental freedoms guaranteed to him by section 1 of the Constitution of Trinidad and Tobago, that is to say, the High Court order deprived him of his liberty and was made without due process of law; was a contravention of the applicant's right to freedom of thought and expression; and contravened the right to freedom of the press. A host of judicial remedies were asked for including the award of damages against the Law Society for wrongful imprisonment. Cross, J. threw out the case as the proceedings before Hassanali, J. did not infringe any of the applicant's human rights.

The other cases concern the challenge of the constitutionality of certain Acts passed by the Legislature of Trinidad and Tobago. *In the Application of Ramesh Kumar Mootoo* (Unreported No. 2920A of 1974), the applicant, a self-employed medical practitioner challenged as unconstitutional the Unemployment Levy Act (No.16 of 1970) in that it violates the human rights and freedoms enshrined in Articles 1 and 2 of the Constitution. Specially, it infringes the fundamental right of the citizen to the enjoyment of his property guaranteed by these articles. The enactment made it obligatory for persons within a certain income bracket to pay a levy called "unemployment levy". The question which the learned trial judge, Braithwaite, J. had to decide was whether the applicant has been deprived of the enjoyment of his property otherwise than by "due process of law" (an expression considered for the first time by the Court

of Appeal of Trinidad and Tobago in *Lasalle v. Attorney General* (1971, 18 WIR 379). It was held that since on the face of the Act there is no express declaration within the meaning of section 5 of the Constitution nor is there any indication by what majority the Act was passed into law, and that since there is no question that its provisions have deprived those citizens to whom they apply of their property, the Act is declared *ultra vires the Constitution*, null and void and of no effect.

*In the Matter of the Application of Prakash Seereeram* (Unreported, No. 2919 of 1974) involved also the question of the deprivation of a citizen's right to his property as well as his right of freedom of association. This was the case where a cane farmer asked the Court to declare as unconstitutional the Cane-Farmers Incorporation and Cess Act, 1965 (No.1) in that by incorporating the Trinidad Islandwide Cane Farmers Association and making every cane-farmer a member, his fundamental right of free association was being infringed. Further, by authorising Caroni Ltd. with whom he contracted to sell cane to deduct money in respect of sugar sold to the Company by the applicant by way of cess, his right to the enjoyment of his property was being infringed.

A previous and similar challenge was made by the appellant's father in *Maharaj v. Attorney General* (1972) XIX T&TR Part V 478, but was thrown out by Hassanali, J. In the present application, however, Braithwaite, J. grounded his jurisdiction on the amendment to the 1965 Act by Act No.14 of 1973. He rejected a proposition that an amending Act should have, at most, a minimal influence on the Principal Act. The case of the applicant which was upheld by the learned judge was that "where an Act of Parliament in terms forces a citizen in order to gain the livelihood of his choice to be and to remain to be a member of an Association ascertained by that Act and in addition compels that citizen whether he is willing or not to have deducted from his earnings at source a certain percentage of those earnings any such act must be regarded by a Court on an application under section 6 of the Constitution to be, at least, an infringement of section 1(a) of the Constitution." Accordingly, the Judge declared *ultra vires* those sections of Act No.14 of 1973 read together with Act 1 of 1965 which imposed restrictions on the cane cultivator and vendor in order to earn his livelihood to remain a member of the Trinidad Island-Wide Cane Farmers Association and those which infringe his enjoyment of his property.

The Government of Trinidad and Tobago with the publication of the Criminal Law (Amendment) Bill, 1975 continues to legislate on the

subject of maintenance of law and order in this small but rich oil state. The Criminal Law Bill, is intended to cover those areas not included in the Firearms Act, 1970 (No.44); Sedition (Amendment) Act, 1971 (No.36); and especially the Summary Offences (Amendment) Act, 1971 (No.1 of 1972). The Criminal Law (Amendment) Bill which has sparked off sharp responses from the legal profession in the country has, as its major objectives, the amendment of the Offences Against the Person Ordinance, the Malicious Damage Ordinance, the Summary Courts Ordinance, the Indictable Offences Ordinance, and to provide for the defence of the community against the acts of violence, particularly against intimidatory acts taking place during a period of industrial strife. This bill proposes to establish an offence—illegal possession of materials for making explosives—and reduces the manner of adducing evidence by stipulating the admissibility of certain evidence in certain offences. Forfeiture of motor vehicles used in the furtherance of certain offences and other severe penalties are provided for. But the most controversial aspect of this bill is Clause 8 providing that when a person is charged with the offence of malicious damage to any plant, storage tank etc. and that person is employed in connection with the plant, machinery or other property alleged to have been unlawfully and maliciously damaged, he shall be found guilty if the prosecution has proved its case on *a balance of probabilities* "any other rule of law notwithstanding." This standard of proof is often sufficient to establish civil liabilities or to prove the defence to the same. But in criminal cases, the standard of proof has always been that the prosecution has to prove his case *beyond all reasonable doubts*. Thus, this bill purports to change the centuries-old evidential quantum of proof in criminal cases.

The Draft Mental Health Bill will repeal the Lunacy and Mental Treatment Ordinance Ch. 12 No. 10 and the Petitions in Lunacy Ordinance, Ch. 5 No. 11 whereas the Criminal Procedure Ordinance Ch. 4 No. 3 will be amended. The Act deals with admission and detention in a psychiatric hospital or ward of any person who is, or is reasonably believed to be in need of psychiatric treatment; provides for a Psychiatric Hospital Tribunal and a Mental Health Review Tribunal, and defines the powers and duties of the Psychiatric Hospital Director. It also deals with the protection of the property of patients, admission to a psychiatric ward, and the certification of approved homes for persons who are mentally ill.

The following Acts have been enacted: Insurance (Amendment) Act, 1975 (No. 27 to amend the 1966 Insurance Act; the Industrial

Relations (Amendment) Act, 1975 No. 20 to amend the Industrial Relations Act, 1972 especially section 2(3)(e), section 23(6), section 33 and ss. 37 and 38; the Trade (Amendment) Act, 1975 (No. 21) to amend the Trade Ordinance of 1958; the Private Hospitals (Amendment) Act, 1975, to amend the Private Hospitals Ordinance of 1960; Income Tax (Amendment) (Nos. 1 and 2) Act, 1975 to amend the Income Tax Ordinance Ch. 33 No. 1; the Supreme Court of Judicature (Amendment) Act, 1975 (No. 3) to amend the Principal Act of 1962; and the Debtors (Amendments) Act, 1975 (No. 2) to amend Ch. 6 No. 3.

## CHILE

DS 724 (1975) modifies some of the norms established by the Regulations for Private Warehouses set forth in DS 4094 (1932).

DL 913 (1975) establishes that a *despido colectivo* has taken place when more than ten workers have been discharged during any calendar month; and DL 930 (1975) adds new provisions under which discharges of workers may take place under Law 16.455. They mainly refer to conduct which threatens the security of the State. Hours of labor may be fully established by commercial establishments under DL 934 (1975).

DL 966 (1975) modifies the economic structure of the country by granting the Ministry of Finance certain extraordinary powers to help materialize the economic policies of the Government, and specifically to (a) administer at all levels the general regulation of economic activities which compete with the Government; (b) propose the legal norms, regimes and instructions which are necessary for the materialization of the economic and financial policies of the government; (c) direct and command the policies, programs and administrative measures related to areas of vital economic concern; (d) ensure the faithful completion of the instructions issued by the Ministry, and to sanction those parties responsible for interference or inefficiencies; and (e) make use of all human and material means for the faithful, expeditious and opportune completion of its task. In addition, in matters strictly related to financial and economic policies, the Ministry can carry out and control the completion of those policies through other Ministries, as well as through other governmental entities such as ODEPLAN and CORFO, with the exception of the office of the Comptroller General of the Republic.

The Forestry Law (DL 701) was amended by DL 945 (1975).

Central Bank Circulators published in DO on the dates indicated had the following effects: May 29, 1975 fixed norms for the transfer of capital under Art. 14 of the Exchange Law; June 3 regulated the repatriation of capital contributions and loans, nullifying the norms set forth in DO of October 19, 1974.

DS 11M/75 (Agriculture) approves the regulations over the division of farm lands, specially when such decision concerns lands less than twenty hectares, forest lands, or lands not to be used for agricultural purposes.

DL 1.006 (1975) deals with charters of business associations and establishes that these may adopt whatever juridical structure they desire. Companies may retain whatever system of workers' participation they now have, but must comply with two minimum types of participation: (a) Company Committee where the number of employees exceeds 100, and (b) Labor Representative on the Board. The new rules will become effective with the new Labor Code.

DL 1.008 (1975) amends the Constitution, and DL 1.009 (1975) modifies the National Security Law, providing that detentions during the *Estado de Sitio* may not exceed five days. The manner in which detentions will be made and the Tribunals having cognizance are also set forth.

Companies expropriated before September 11, 1973 are covered by DL 1.022. Specifically, the Corporation for the Development of Production (CORFO) was authorized to annul any of the expropriation decrees issued by the Allende government and to return the properties to the former owners. Additionally, among other alternatives, the Government is prepared to negotiate for the compensation of property expropriated.

DL 1.025 (1975) grants an added incentive through accelerated depreciation to new investors for the purposes of the Income Tax Law. The decree sets forth the conditions which must be met before the incentive can become effective.

DL 1.028 (1975) sets forth the rights and duties of Undersecretaries of State.

DL 1.044 (1975) modifies Book IV of the Customs Ordinances relative to the functions of the Customs Board, among others.

DL 1.055 (1975) authorizes the establishment of free zones in Iquique and Punta Arenas; and duty free warehouses in a number of specified ports in the country.

Guidelines for the reduction of public expenses are covered in full in DL 1.056 (1975).

DL 1.060 (1975) extends until July 18, 1975 the time to register firearms under the requirements of Law 17.798.

DL 1.064 (1975) deals with the issuance of bonds and debentures by corporations. The decree replaces Law 4.657, and, among other things, establishes that the Directors may incur jail sentences if the above securities are issued without compliance with the new decree. Issuance will be under the strict supervision of the Superintendency of Corporations.

DL 1.078 (1975) creates a Council composed of the Ministers of Coordination, Finance, Economy, *ODEPLAN*, President of the Central Bank, and a representative of the President whose primary function is to determine the financial policy of the country. The decree also sets forth the functions of the Central Bank, nullifying DFL 247 (1960) and modifying certain articles of the Export, Import and International Exchange Law (Decree 1.272, 1961).

Petroleum contracts are now governed by DL 1.089 (1975). Some of the salient points of the new legislation follows:

- 1) The political Constitution grants control to the State over all hydrocarbon deposits. This does not exclude the Government's right to conclude contracts for exploration and exploitation which, considering the special development of the fuel market during the last years, must be flexible instruments.
- 2) The law lists contractor's obligations, such as: proof of residence in Chile, supply of capital, equipment, materials, personnel, technology, etc. required to comply with an uninterrupted exploration program to be initiated within one year. Area of exploitation shall not exceed half that of exploration. Exploitation operations shall be initiated within one year from the expiry of the exploration period.
- 3) Exploration and exploitation periods shall not exceed five and thirty years respectively.
- 4) Compensation to a contractor for his services shall be called "retribution" and may be stipulated in Chilean or foreign currency. It will cover all investments and costs as well as contractor's profit.
- 5) The contractor shall be subject to tax calculated directly on the total amount of the retribution.

DL 1.085 (1975) modifies the Health Code, and DL 1.090 (1975) amends the Mining Code with special reference to mining in the territorial sea.

Corporations which were dissolved prior to DL 231 (1973) for loss of more than 50% of their capital, may seek rehabilitation under DL 1.091 (1975).

DL 1.094 (1975) and DS 940/75 of the Ministry of Interior establish norms for the entrance and permanency of foreigners in Chile. Five types of visas are established: contract, student, official, temporary and refugees, the attributes of each clearly spelled out in the decree. DS 332 (1975) establishes new guidelines for the issuance of diplomatic, official and special passports, and sets forth the governmental positions entitled to each of these three classifications.

DL 1.097 (1975) establishes a Superintendency of Banks and Financial Institutions to replace the Superintendency of Banks. The new entity will have supervision over all banks and financial institutions, and, in addition, will assume certain of the functions of the Superintendent of Corporations in the area of banking and financial entities.

Internationally Chile, among others, took the following actions: DS 175 abrogated and denounced the 1952 commercial convention with Cuba; DL 953 approved the amended protocol to Art. 50 of the International Civil Aviation Convention; DS 437 approved an investment and industrial complementation convention with Paraguay; DS 266 promulgated the Berne Convention for the Protection of Literary and Artistic Works, previously approved by DL 908; DL 1.095 approved the U.N. Convention (1958) on the Recognition and Execution of Foreign Arbitral Awards; and DS 241 approved an international Convention on Cargo Airlines.

## COLOMBIA

In accordance with Decree 295 (1975) a Commission was established to transform foreign banks and credit institutions into mixed enterprises as defined in Art. I of the Andean Foreign Investment Code (Decision 24). Under the rules approved by the Andean Pact nations, any member government has the authority to direct a foreign financial institution to phase out up to 80% of its stock in behalf of nationals. In mid-summer, 1975 the Colombian Government decreed that foreign-owned banks have until June 30, 1976 to dispose of 51% of their capital stock

to Colombian investors. The measure affected the First National City Bank, the Bank of America, the Bank of London and South America, the French and Italian Bank, the Royal Bank of Canada, the Franco-Colombian Bank, and the Royal Bank of Brazil, all of which, except the First National City (Citibank) expressed agreement in principle with the nationalization. In mid-August 1975, Citibank informed the Colombian Government that it would rather cease operations in Colombia than comply with the governmental order. It added that it respected Colombia's legal right to require the phase out but that it could not do business under those conditions, and that its international structure in more than one hundred countries did not permit it to cede a controlling interest in its Colombian branches. Further, that it was interested in continuing its operations in Colombia and expressed the hope that the dialogue with the Government would continue.

The minimum time period for foreign loans to local private parties was reduced from five to three years as set forth in Resolution 7 (1975).

The internal commercialization of products was regulated by Decree 169 (1975). Only the National Department of Planning will be permitted to authorize new direct foreign investment in the internal commercialization of products. Not within the scope of this decree is the internal commercialization of products manufactured by enterprises located within Colombia.

Circular D-029 (1975) permits financial institutions to extend credit up to a thirty-six month period for financing the sale of consumer products.

The Office of Exchange will no longer accept contracts for registration unless they are written in the Spanish language as promulgated by General Circular 15 (1975).

The Ministry of Public Credit issued new regulations for the sales tax in accordance with Decree 584 (1975).

Pursuant to Resolution 248 (1975) enterprises, including national and foreign, must present a list of their traveling commercial agents to the Superintendency of Industry and Commerce.

Law 27 (1974) was regulated by Decree 626 (1975) which authorized the Family Welfare Institute to establish and maintain child care centers.

Decree 2373 (1974), which established a common subsidy for workers employed in rural areas, was regulated by Decree 627 (1975). All em-

ployers who maintain a capital base of 30,000.00 pesos or who employ more than ten persons are subject to the regulation.

Decree 743 (1975) regulates Decree 2310 (1974) which abolished the concession system for the exploration and exploitation of petroleum. Except for concession contracts in force as of the date of issuance of Decree 2310, ECOPETROL (Colombian Petroleum Enterprise) will have the sole right to engage in the exploration and exploitation of hydrocarbons belonging to the State. ECOPETROL may conduct the activities, however, either directly or through contracts of association with natural or juristic, foreign or Colombian persons. ECOPETROL may renounce at any time the concessions it obtains from the Colombian Government.

The Ministry of Mines and Energy promulgated Decree 844 (1975) establishing new restrictions on prices for oil and gas along with regulations regarding payment for same in foreign currency.

Pursuant to Decree 896 (1975) new regulations were issued concerning the contributions oil and gas exploiters make to the Scholarship Fund of the Ministry of Mines and Energy.

The Monetary Board issued Resolution 26 (1975) whereby banks meeting the required ratio between public liabilities and paid-in capital plus legal reserve may issue time-deposit certificates without limits as to amount.

The 15% single customs duty on indispensable machinery for industries of economic or social interest to the country, as established by Decree 2133 (1974), has been extended by Decree 953 (1975).

Regulations were promulgated by the Institute of Foreign Trade requiring the registration at the Superintendency of Foreign Trade all those engaged in export activities on a permanent basis. Resolution 0397 (1975).

The exportation of Urea and fertilizers was regulated by Resolution 012 (1975). National producers of these products will be restricted in their exportation to 60,000 tons per year.

The census system was reorganized pursuant to Resolutions 448, 449 and 450 (1975). Subjects dealt with include the urban, industrial and tourist areas along with reorganization of the census administration.

Import duty exoneration was granted on all machines, equipment and accessories used directly in the exploration and exploitation of minerals in accordance with Decree 314 (1975).

Pursuant to Decree 770 (1975) social security benefits have been extended to immediate members of a worker's family. The Colombian Social Insurance Institute will coordinate overall administration of services and benefits while the corresponding Sectional Fund will be in charge of the services and benefits within its territorial area. The worker must have been registered for a minimum of four weeks before he or his family is eligible to receive benefits. The right to collect any subsidy benefit will expire one year from the date on which the right becomes due and payable.

The Supreme Court of Justice, on June 15, 1975, upheld the constitutionality of Decree Law 2821 (1974) which in part requires foreign individuals or companies not resident in Colombia but who hold assets or obtain income in the country, to file a Colombian income tax return.

## COSTA RICA

The Consumer Protection Law (No. 5665, 1975) was published in the Official Gazette of April 9, 1975.

Law 5670 (1975) ratifies the convention establishing the Union of Banana Exporting Countries (UBEC). The Union, comprised of the governments of Colombia, Costa Rica, Honduras, Guatemala and Panama, has as its main objective the establishment and defense of fair and equitable levels of the selling price of bananas. The organs of UBEC are (1) the Conference of Ministers, (2) the Council, and (3) the Executive Secretariat.

The University of Costa Rica, the National University and the Technological Institute of Costa Rica were exempt from all types of taxes by Law 5684 (1975).

Law 5688 (1975) prohibits the exportation of coffee reserved for national consumption. The new law heavily sanctions any infraction thereof.

Law 5695 (1975) established a National Registry and incorporated within the new registry all the existing registries.

Law 5699 (1975) extended national jurisdiction to the 200 mile limit to protect and exploit the country's marine resources. Sovereignty is limited to twelve miles.

Law 5711 (1975) was a special law covering the jurisdiction of the tribunals with respect to the new Criminal Code of Procedure, effective July 1, 1975.

Executive Order No. 4636-T (1975) regulates Civilian Aviation schools; No. 4865-G (1975) compulsory fire insurance for condominiums; and No. 4844 (1975) Self Help Agricultural Community Enterprises which are associations of farmers of limited means established for the purpose of owning and exploiting lands jointly.

The Constitution of Costa Rica suffered a number of modifications in recent months. Specifically, Law 5697 (1975) modified Art. 84, 86, and 88 referring to the major institutions of higher learning, i.e., the University of Costa Rica, the National University and the Technological Institute. The same law also modified Art. 111 establishing the incompatibility between the positions of legislator and any other public officer, except that of Minister. In the last instance the legislator reverts to his legislative role upon the completion of his tenure in the Ministry involved. Law 5698 (1975) amends Art. 98 by permitting the Communist Party to participate in the electoral process, as long as it abides by the constitutional process of the Republic; Law 5700 (1975) amends subparagraph 5 of Art. 139 and permits the President to travel to other Central American countries and Panama for a maximum of ten days without requesting permission from the Legislature; Law 5701 (1975) modifies Art. 10 and eliminates from the juridical regime *contratos-leyes* under which foreign companies obtained certain tax privileges. The amendment reaffirms that the right to legislate can be limited by convention, treaties or contracts; Law 5702 (1975) amends Art. 24 by providing that an administrative contract or agreement cannot have the force of law, even though implemented in the same form as a law; and Law 5704 (1975) amends Art. 9 and confers upon the Supreme Electoral Tribunal independence vis-à-vis the other branches of government.

In the international sphere the following are worthy of note: (1) a Commercial Treaty between Korea and Costa Rica, including most favored nation treatment, among other benefits, was approved by Law 5675 (1975); (2) Law 5693 (1975) approved a contract for the purchase of railway locomotives from Rumania; (3) Law 5681 (1975) approved a Technical Cooperation Agreement with Great Britain in the area of professional training; (4) Law 5683 (1975) provides for adherence to the Protocol to Extend the International Wheat Agreement of 1971; and (5) Law 5682 (1975) ratifies the Universal Rights of Authors Convention

(Paris, 1971). The Convention of the Union of Banana Exporting Countries was approved by the Legislature in April, and the instrument of ratification deposited in Panama on May 14, 1975.

## CUBA

On July 29, 1975 at San Jose, Costa Rica the OAS abolished the embargo imposed on Cuba by the OAS Foreign Ministers on July 26, 1964. The decision came in the form of a resolution which, after reaffirming adherence to the "principles of inter-American solidarity and cooperation" freed the Member States "to normalize or conduct in accordance with national policy and interests of each their relations with the Republic of Cuba at the level and in the form that each State deems advisable." Supporting the resolution were Argentina, Bolivia, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, the United States, Haiti, Honduras, Mexico, Panama, Peru, the Dominican Republic, Trinidad and Tobago and Venezuela. Opposed were Paraguay, Chile and Uruguay. Two countries—Brazil and Nicaragua—abstained.

Subsequent to the San Jose meeting the following events in the United States are worthy of note. On July 30, Senator Brock of Tennessee introduced a sense of the Senate Resolution which declared that:

It is the sense of the Senate of the United States that before bilateral economic or diplomatic relations be resumed with Cuba, the following issues must be resolved:

1. Acceptance of fundamental human rights through a liberalization of travel restrictions, free emigration of Cuban and American citizens still in Cuba, access by impartial observers to prisons and detention centers, and the extension of constitutional guarantees to those now unlawfully imprisoned.

2. Acceptance of the standards of international law in dealing with international criminals such as hijackers.

3. Acknowledgment of the claims for compensation for confiscated American property and prompt, good-faith negotiations on a comprehensive settlement.

4. Cessation of illegal terrorist activities in Puerto Rico. They are totally unacceptable and must cease forthwith.

The preamble to the Resolution notes that:

the Castro regime in Cuba has imprisoned and continues to imprison political prisoners in large numbers, has sought and still seeks to train insurgents and to promote insurgency in this hemisphere by violent means, has seized and refused compensation for more than one and a half billion dollars in American-owned properties, has refused to permit the inspection of forced labor camps and political prisons by the International Red Cross or bodies of jurists or other impartial agencies, has permitted and continues to permit the use of nuclear submarines and its land for military purposes by the Soviet Union, has insulted and continues to insult the United States of America on every available occasion taking even the occasion of a visit by two members of the United States Senate to issue a diatribe against the United States.

The second event took place three weeks later. On August 21, the U.S. Government lifted a twelve year old ban on exports to Cuba by foreign subsidiaries of American companies, but retained the present embargo on direct trade between the two countries.

Three other significant measures were taken by the U.S. Government on the same date. These were:

1. An end to the prohibition on aid to nations that permit their ships or aircraft to carry goods to or from Cuba.
2. Initiation of steps to modify regulations that deny docking and refueling in the United States to ships of other nations that trade with Cuba.
3. A request to Congress to repeal legislation that prohibits credit food sales to nations trading with Cuba.

The conciliatory measures were not limited to the United States. Earlier in August, Premier Castro had moved to ease tensions by returning \$2 million taken from the hijackers of a U.S. airline's plane which landed in Cuba in 1972. Thus, concessions were being made on both sides, but normalization still appears to be in the distant future and many diplomatic moves away.

For example. The U.S., at least at this stage, is taking a very strong position on the subject of adequate compensation for U.S. property

nationalized by the Cuban Government. The Cubans have also made their position clear on the subject. They will ask compensation for the alleged damage suffered as a result of the embargo which isolated the country. It is reported that Cuba will seek \$4 for each \$1 sought for nationalized properties which will make the Cuban claim amount to \$7.2 billion, i.e. four times the \$1.8 billion certified by the U.S. Government against Cuba. This set of figures does not take into account interest which, if figured at 6% for 15 years, would make the respective sums \$3.4 billion claimed by U.S. against \$13.6 claimed by Cuba. Experienced observers note that compromise, if it is ever reached, will not approximate these figures, but the amounts are indicative of the stakes in the game. The future moves on this particular diplomatic chessboard will not be due.

## ECUADOR

DS 212 (1975) provides that any account of 500 *suces* remaining dormant in a bank for a period in excess of five years will escheat to the National Children's Fund.

DS 226 (1975) extended certain guarantees to the labor force for one year. Specifically, workers may not be dismissed prior to April 1, 1976 except under the provisions of the Labor Code; unwarranted dismissal entitles the worker to a full year's pay. DS 329 (1975) amended the Labor Code by granting a monthly pension to retirees from the Social Security Institute; a further amendment was made by DS 350 (1975) which, effective May 1, 1975, established new minimum wages. DS 424 (1975) exempted employers from fines due the Social Security Institute arising from late payment of obligations due the Institute.

DS 239 (1975) provides that Ministers of State may reorganize, eliminate or establish such entities within their Ministries as they deem advisable for the Improvement of their departments.

The Ecuadorean Medical Association Law was amended by DS 242 (1975).

A Radio and Television Law was promulgated by DS 256-A (1975), replacing an outdated regulation which only covered the radio industry. The new law contains fifteen *Titulos* and provides extensive coverage in areas such as licensing, power requirements, tariffs, programming, guarantees re broadcasting and televising, and sanctions, among others.

DS 257 (1975) authorizes CENDES to execute contracts for the study of projects assigned Ecuador under Decisions 28 and 57 of the Cartagena Agreement.

On the subject of public employees the following are noted: DS 244-A (1975) giving authority to the higher authorities in the Universities and Technical Schools to determine the tenure of professors, even though such tenure is fixed at forty years by the Public Employee's Law and the Social Security Law; DS 280-A (1975) amended a previous decree under which public employees were required to declare their patrimony, before assuming and after discharging their public functions; DS 287-A (1975) provides for a census of public employees, but excepted are the Armed Forces, National Civil Police, the Military Customs Police, and those public employees on consulting or part-time functions; DS 332 (1975) requires all public employees to register their appointments or contracts in the National Personnel Office; and DS 331 (1975) provides that only the President of the Republic may authorize a public employee to remain in service in excess of forty years.

In the area of petroleum and its derivatives the following are noted: RO 285 and RO 790 (1975) established the participation of the State in petroleum production at 25%, to be calculated on the bases established by the Ministry of Energy and Natural Resources; DS 286 (1975) amending the Hydrocarbon Law provided for concurrent exploration and exploitation in certain areas; DS 287 (1975) likewise amended the Hydrocarbon Law to the effect that oil and gas wells, of proven productivity, must be developed and placed in production within three years from discovery, otherwise the pertinent areas will revert to the State; DS 492 (1975) amended the law relating to the Ecuadorean State Petroleum Corporation (CEPE) with respect to the *regalías* due from the exploitation of hydrocarbons.

The National Finance Corporation is authorized by DS 313 (1975) to participate in the establishment of industrial enterprises.

DS 328 (1975) deals with the role of *Interventores* in the application of Ecuador's Company Law.

DS 352 (1975) grants authority to the Superior Foreign Commerce Council to deal with matters relating to foreign investment in Ecuador, and DS 458 (1975) issued regulations to avoid speculation and price fixing in imports.

DS 539 (1975) amends Art. 24 of the Diplomatic Immunities and Privileges Law by granting diplomatic personnel more liberal privileges in the sale of their private automobiles.

*Acuerdo* 5013 of July 15, 1975 deals with the adoption of Ecuadorean minors by foreigners. It requires the personal intervention of the minor and rejects intermediaries except in special cases.

Internationally, Ecuador took the following actions, among others: Ratified Cultural Agreements with Mexico and Colombia; executed a Bilateral Air Agreement with Spain; ratified an agreement with BID on Technical Cooperation, and concluded an accord with the OAS for the establishment of an Inter American Center of Crafts and Popular Arts; concluded agreements with West Germany for the establishment of a Professional Center in Guayaquil, as well as a Technical Cooperation Agreement; and ratified a protocol to the Hispanic-American Social Security Convention. In the area of multilateral agreements the following are noted: Ratification of the (a) International Convention for the Prevention and Punishment of Apartheid; (b) Protocol for the Extension of the Wheat Agreement (1971); (c) the Inter-American Conventions re: Conflict of Laws on Checks, Taking of Evidence Abroad, and Letters Rogatory.

At the close of this report the Ecuadorean press reported that the new Law of the Press was well on the way to enactment; also that two new codes are being revised—the Civil Procedure Code and the Labor Procedure Code. Also under study, but somewhat closer to enactment are the drafts of a Penal Code and a Penal Procedure Code.

## EL SALVADOR

Decree 242 (1975) amended the law relating to the National Housing Finance Company and Savings and Loan Associations (Legislative Decree No. 282, 1963) by providing that the National Housing Finance Company may participate in the establishment of similar entities in other countries of the Americas. The need for the modification arose from the growing interrelation of these entities, as well as Savings and Loan Associations in the Americas, which calls for more cooperation and coordination among them in pursuit of their common objectives.

Decree 278 (1975) extends to Salvadoreans who have resided abroad for more than ten years, and who return definitely to El Salvador, the

same privileges accorded foreigners who take up permanent residence in the country. These privileges were set forth and made effective by Legislative Decree 476 (1973). However, to qualify returning Salvadoreans must receive income from abroad amounting to no less than 750 *colones* monthly.

Decree 302 (1975) established the Salvadorean Institute of Agrarian Reform (ISTA) for the purpose of implementing, in concert with other governmental entities, the agrarian reform policies promulgated by the National Agrarian Reform Commission. ISTA will be administered by a Board of Directors whose rights and obligations are set forth in Art. 6 to 23. Art. 24-31 cover ISTA's patrimony, as well as budgetary and fiscal matters. Art. 32-107 cover, in general, the implementation of the process of agrarian reform, and specifically (1) agrarian reform projects, (2) acquisition of lands, (3) evaluation and payment of lands, (4) provisional administration of lands acquired, (5) adjudications, (6) agrarian reform contracts, and (7) judicial proceedings. Art. 108 refers to tax benefits accruing to ISTA, and Art. 109-128 relate to general provisions, transitory provisions and date of effectiveness (June 8, 1975). Decree 302 abrogates the decree which established the Colonization Institute (No. 112, 1950) and the Organic Law of the Colonization Institute (No. 342, 1961).

On February 11, 1975 El Salvador deposited a declaration of approval with respect to the Statutes of the World Tourism Organization, and an agreement with the United States relating to the limitation of exports from El Salvador to the United States of certain meats during 1975 entered into force on April 30, 1975.

## GUATEMALA

Decree 9(1975) approved the bilateral air agreement between Switzerland and Guatemala; ratified by the President on March 24, 1975.

Decree 11(1975) approved the Free Trade and Preferential Interchange Agreement between Panama and Guatemala; ratified by the President on March 18, 1975.

Decree 16(1975) approved WHO Resolution 2036 of the XX World Health Assembly amending Art. 24 and 25 of WHO's Constitution.

Art. 125 of the Communications Code concerning official telegrams was modified by Decree 23(1975).

The Convention to Prevent Sea Pollution through Discharge of Wastes and Other Matters (Mexico, 1973) was approved by Decree 25(1975).

Decree 26(1975) approved the Protocol extending the Wheat International Agreement(1971).

Various articles in the Notaries Code were modified by Decree 29(1975); and the fees for lawyers and experts, among others, were set by Decree 20(1975).

The Central American Convention for the Protection of Industrial Property became effective on June 17, 1975 per *Diario Oficial* of June 26, 1975.

A new Petroleum Law is under active consideration by the Guatemalan Congress. The proposed legislation would require oil companies to pay \$1 million before signing an exploration contract with the Government; it would also require that 51% of the oil found become the property of Guatemala. The new time limit of operations would be cut to twenty years from the present forty, but the exploration limit would be extended from five to six years.

Another bill being proposed concerns the disclosure of assets, prior to assuming office, by those popularly elected. A similar law existed during the regime of General Ubico (1930-1944) but was abrogated by those who assumed power at the time.

The talks between Guatemala and Great Britain on the subject of Belize collapsed in early summer, 1975 after Great Britain rejected a Guatemalan compromise to cut Belize in half, with Guatemala annexing the southern part. Thus, the conflict continues without any prospect of solution and with positions hardening on both sides. And, in Costa Rica during the meeting to amend the Rio Pact in July, 1975, the Guatemalan representative reaffirmed his country's position that it would resist any attempt to cast any doubt on Guatemala's sovereignty over Belize.

## HONDURAS

Decree 234 (1975) established the Department of Culture, Tourism and Information as a *Secretaría de Estado*. The functions of the new department, among others, are to:

- (1) Promote and develop those civic, moral, cultural and historical values contributing to the growth of Honduran and Central American nationality.
- (2) Preserve the cultural and artistic riches of the country.
- (3) Establish policies and programs for the promotion and guidance of cultural, sport and tourist activities.
- (4) Communicate the plans, objectives and activities of the Government, without affecting the security of the State.
- (5) Direct and implement the policies leading to the effective exercise of free expression, subject to observance of law and order.
- (6) Promote, through appropriate guidance, the welfare, harmonious coexistence and the development of the Honduran community.

Functions (5) and (6) are noted with particular interest because of their constitutional overtones.

Decree 253(1975) rescinds the concessions that for more than half a century have been enjoyed by Standard Fruit and Tela Railroad Company in Honduras. The rescissions affecting the two U.S. banana exporting companies becomes effective on September 15, 1975. In making public the governmental decision, the Chief of State stated that the action "did not constitute an expropriation, nor injury to rights legally acquired." What the Government ordered, he continued, was "to end the privileged position of the companies so as to place them on the same juridical level as Honduran companies." The Chief of State also added that the Honduran Banana Corporation would be established in the near future to formulate and implement the country's banana policies.

An agreement with the United States for the sale of agricultural commodities entered into force on March 5, 1975.

## MEXICO

Art. 527 of the Federal Labor Law was amended by a decree in D.O. February 7, 1975. The amendment consisted of adding the following to the industries already listed in the above article: Manufacture and Assembly of Automobile Industry, Chemical-Pharmaceutical Products Industry, and the Cellulose and Paper Industry. D.O. of May 2

regulated Art. 121 and 122 of the Federal Labor Law concerning worker's participation in company profits.

The need to rationalize public sector imports led to the creation of the Public Sector Import Committee in 1959. Its objectives are, among others, to stimulate domestic production, unify the public sector's foreign demand, and avoid unjustifiable pressures on the country's trade balance. The Committee became part of the Mexican Foreign Trade Institute in February 1971 and the Regulation of the Mexican Foreign Trade Institute Law relating to public sector imports went into effect in March, 1975. The Regulation establishes the rules which public offices must follow when purchasing goods from abroad.

D.O. of April 8 contains the regulation for the operation of ports under the administration of the state.

A decree in D.O. of April 9 established a consultant agency to be known as the Committee for Development of the Publishing Industry and Book Marketing. The Committee will draft programs to stimulate the development of natural culture and foster the creativity of Mexican writers, among other objectives.

A National Fertilizer Committee was established by decree in D.O. of April 24. The Committee was charged with drafting a fertilizer policy at nationwide, regional and crop levels. It will also provide technical assistance, set up fertilizer boards, undertake scientific research, and act to coordinate the work done in this area by the National Farm Research Institute, the Agricultural Extension Office and the state-affiliated enterprise *Guanos y Fertilizantes de México*.

The law regulating Art. 4 and 5 of the Constitution relating to the exercise of the professions in the Federal districts and territories was amended by a decree in D.O. of May 8.

D.O. of May 13 promulgates a decree establishing the Mexican Steel Research Institute with the following major functions: To foster technological and scientific studies in this industrial area; to promote personnel training; to study means to make more rational use of raw materials; to work with other institutions and enterprises in research projects and promote practical application of the results obtained; to provide technical assistance and create steel information and documentation mechanisms.

An *Oficio* in D.O. of May 14 amends the bylaws of the Chamber of Mines of Mexico. There was a *convocatoria* in D.O. dated May 15 for the

election of worker's and employer's representatives to the Minimum Wage National and Regional Commissions.

The internal regulations of the Secretariat of Communications and Transport were promulgated in D.O. of May 20; the regulations of the *Procuraduría Federal de la Defensa del Trabajo* appeared in D.O. dated June 2; those relating to Transit in Federal Highways in D.O. of June 10; and those concerning the *Administración Aeroportuaria* in D.O. dated June 16.

A trust fund designated as the National Fund for Port Development was established by a decree in D.O. of May 30. Purpose of the fund is to promote port developments throughout the nation.

D.O. of June 25 carried an *Acuerdo* of the Supreme Court establishing certain Circuit Courts and additional District Trial Courts.

Internationally the following actions were taken, among others, during April-June, 1975; Promulgation of an Accord concerning the Latin American Social Sciences Faculty (Paris, 1971); promulgation of Commercial and Cultural Conventions with Rumania; promulgation of an Interchange Agreement with Austria; promulgation of a Cultural and Educational Convention with Cuba; and promulgation of a Commercial Agreement with the USSR.

Negotiations for an agreement between Mexico and the European Economic Community were initiated late last April in Brussels, headquarters of the EEC Council of Ministers and the Commission of European Communities. The Mexican delegation set forth its reasons to Community members for the basic principles underlying Mexico's foreign trade policy. At the suggestion of the Community's delegation, a second meeting was scheduled for June 9 and 10, at which the first round of negotiations was to be examined and an agreement text drafted.

The Director General of *Petróleos Mexicanos* (PEMEX) and the President of *Petróleo Brasileiro*, S.A. (PETROBRAS) signed an agreement on April 22 for the interchange and training of technicians in the fields of oil exploitation, production, refining and transportation. The agreement also provides for joint research programs and mutual aid in the area of petrochemicals.

## PANAMA

Recent legislation specifies three types of licenses which will govern the operations of banks. These are: (1) General Banking Licenses, (2)

International Licenses, and (3) Representation Licenses. The number of banking institutions continues to grow, and as of June, 1975 there were sixty-three banking institutions operating in the Republic. Of these forty-one operate under a general license, eighteen under an international license, and four as representative offices.

Draft legislation to attract the international reinsurance business 6 *Law. Am.* 763 (1974) continues to elicit interest and it is reported that a new law on reinsurance will be ready in a few months. The law—rather unique—is expected to guarantee reinsurance companies tax exemption on their foreign operations, and to insure close supervision so that only responsible reinsurers are established in Panama. Presently only five reinsurance companies are operating in the country but the number is expected to grow substantially if the proposed legislation is enacted into law.

Negotiations between the U.S. and Panama on a new canal treaty are caught in the web of U.S. politics. Given the strong sentiment in the U.S. Congress—both in the House and Senate—against the grant of any significant concessions to Panama, the Administration is moving very cautiously and attempting to postpone any positive action until after the presidential election in 1976. In the meantime, Panama continues to enlist support from the Latin American nations and there appears to be a solid block against the U.S. on the issue. Warning that continued procrastination will trigger a crisis of major proportions in U.S.-Latin American affairs, Latin America is signalling the United States to act before the situation gets out of control. The U.S. position was weakened by the action of the House of Representatives in early summer when it voted to cut off funds for the negotiations; but the Department of State reacted promptly and stated that it had no intention to cut off negotiations. Surprisingly, the actions of the Congress and the pronouncements of some of its members have not triggered any violent reactions in Panama. Perhaps that country understands—better than others—the U.S. political system, or perhaps it has received assurances from the Administration that the commitments of the U.S. Secretary of State will eventually be honored. In any event, Panama's present restraint is being taken as a good omen, and the hope repeatedly expressed that its officials can continue to control one of the most potentially explosive situations in the recent political history of the Western Hemisphere.

An agreement amending the air transport agreement with the United States entered into force on March 6, 1975, and on May 29 Panama

deposited the accession to an agreement relating to INTELSAT (Washington, 1971).

## PARAGUAY

Decree 501 (1974) established *Siderurgia Paraguaya* and promulgated its charter.

The Labor Code was modified by Decree 506 (1974) and D.L. 10 (1975) established a service for the promotion of handicrafts.

Regulations to the Forestry Law (No. 422/74) and to the Customs Valuation Service were promulgated by decrees No.11681 (1975) and No.12317 (1975) respectively.

Resolution 15 (1975) of the Central Bank regulates certain articles in the Banking Law (No.417/74). Resolution 1 (1975) of the Bank establishes norms for rediscount of credits to agriculture exports, and industry in general; Resolution 2 (1975) performs the same function with regards to production.

Resolution 55 (1975) of the Ministry of Industry and Commerce establishes guidelines for the commercialization of petroleum derivatives.

An agreement on investments and industrial cooperation was signed between Chile and Paraguay on July 17, 1975.

## 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 1975 unless otherwise indicated.

DL 21067 promulgated law of the Housing and Construction Sector. DL 21099 promulgated the Organic law of the State's Publicity Agency which was established by DL 20599; and DL 21117 set forth the organic law of the *Empresa Minera del Centro*.

The *Comisión Consultativa de Insumos*, established under Art. 11 of Law # 16726, was restructured under DL 21102.

DL 21104 sets forth the norms controlling the hiring of personnel for public enterprises, and DL 21116 provides that workers discharged for grievous fault will not lose their social benefits.

DL 21109 established the *Fuero Privativo de Comunidades Laborales*, charged with exclusive jurisdiction to resolve disputes arising from the application of legislation covering Industrial, Mining, Fishing, Telecommunications and Compensation Communities, and, in general, any other labor community. The resolution of strictly labor problems still lies within the jurisdiction of the Minister of Labor or the *Fuero Privativo de Trabajo*.

SD 001-75-AE requires all public entities to use AEROPERU for transportation connected with the public business.

The bylaws of the *Empresa Nacional de Comercialización de Insumos* (ENCI) were approved by SD 002-75-CO.

Norms regulating the tax amnesty decreed by DL 21063 were promulgated under MR 287-75-EF/74, and MR 401-75-EF/74 extended the time for the submission of the Sworn Declaration on the Income Tax and Patrimony of Companies.

DR 041-75-IT/DGT abrogated DR 108-74-IT/OG7/74 limiting the number of travel agencies in Lima and the Province of Callao. The new resolution sets no limits on the number of travel agencies, but establishes that a request to establish such an agency must be accompanied by a feasibility study.

SD 012-75-EM/DGM sets forth the procedure to follow before the voluntary reduction of mining activities, and MR 259-75-EM/DGM requires that mining entities with Mining Communities must submit a report to the General Office of Mining setting forth the participation achieved by workers under Law 11672, as well as the participation of the Mining Communities during the year 1971.

DL 21138 sets forth the guidelines for the opening of branches or agencies of banks operating in the Republic.

An Office of Foreign Investment in the Commercial Sector (OIESCO) has been established within the Ministry of Commerce by MR 304-75-CO/AJ.

DL 21146 prohibits any donations or grants between public enterprises or by public enterprises to private entities without approval of the Council of Ministers, through a Supreme Decree.

DL 21147 sets forth the norms for the conservation of forestry resources and the fauna which were declared national resources by DL 20653.

DL 21149 establishes a public company designated as *Industria Aeronáutica del Perú* (INDAER PERU) whose objective is to carry out research and to assist in the development of the aeronautical industry of the country.

The guidelines regulating commerce at the borders of the nation are set forth in DL 21155.

A bill regulating Industrial Communities, established by DL 18350 and first regulated by DL 18384 has been presented as an *Anteproyecto de Nueva Ley de Comunidades Industriales*.

The National Development Plan 1975-1978 was approved by SD 009-75-PM.

MR 471-75-EM/OPS named a commission to carry out a study to identify investment opportunities in the jungles of Peru so as to generate new sources of work for personnel who have completed their activities in oil exploration in the remote parts of the country.

In mid-August, 1975 the Government nationalized foreign companies engaged in the production and distribution of electricity in Lima.

It is reported that a law elevating *Quechua* to the status of an official language will be promulgated in the near future.

Internationally, Peru, among others, signed a commercial treaty with Hungary, and a treaty with the USSR establishing a Mixed Commission for Economic and Commercial Cooperation. Also DL 21103 approved a loan from Great Britain up to 350,000.00 pounds for road building equipment.

## UNITED STATES

Legislative activity in the First Session of the 94th Congress still remains mainly within the Committee structure of both houses of the Congress. A few bills with international ramifications have been enacted into public laws. Among them: Public Law (PL) 94-29, the Securities Amendment Act of 1975; PL 94-37 concerning U.S. contribution to U.N. Peacekeeping Forces; PL 94-55 authorizing funds for the International Travel Act (1961); PL 94-58 providing for implementation of shrimp fishing agreement with Brazil; PL 94-62 making funds available for programs to regulate dumping in the oceans; PL 94-70 concerning the Atlantic Tuna's Convention.

The following bills introduced prior to the summer adjournment are noted: S 1984 to establish an Office of Foreign Policy and National Security Analysis for the Congress to enable the latter to fulfill more effectively its constitutional responsibilities in the field of defense and foreign affairs; S 2137 to provide for the entry of non-regional members, Bahamas and Guyana, to the IDB; S 2139 to amend the Fish and Wildlife Act (1956) to authorize loans to U.S. fishermen whose fishing vessels or gear have been damaged by foreign vessels; S 2223 to provide for increased U.S. participation in the IDB; S 2247 to suspend U.S. participation in, and withhold payments from any U.N. entity which acts discriminately; H 7539 gives the Secretary of State responsibility for monitoring overseas business activity of U. S. companies to detect violations of federal law, and makes it unlawful to bribe a foreign official; H 7712 to prohibit actions by U.S. exporters supportive of restrictive trade practices imposed against countries friendly to the U.S. by other foreign countries; and H 7835 to amend Foreign Military Sales Act to require Congressional approval for any sale of a major weapon system or defense service.

The political process under which the northern Marianas seeks commonwealth status within the U.S. system continues its forward progress. On June 17 the people of that Pacific territory voted overwhelmingly for U.S. citizenship and the commonwealth. The plebiscite must now be followed by several steps before full commonwealth status is reached. These include the approval of the covenant by Congress, presidential approval of a locally drafted constitution and approval by the United Nations Security Council for the dissolution of the trusteeship. United Nations action is not expected until 1980 or 1981.

In mid-August, 1975 the White House released the terms of a proposed compact between the United States and Puerto Rico which would change the political status of the island from a commonwealth to a "free associated state." The new agreement results in gains for the White House and Puerto Rico at the expense of the Congress, which has yet to approve the compact. If so approved the people of Puerto Rico will have their say through a referendum. The proposals which will alter considerably the existing relations between the United States and Puerto Rico are the product of an Ad Hoc Advisory Group on Puerto Rico which has been at work for the last two years.

Internationally, the United States took the following actions, among others from mid-April to mid-June, 1975. The following were proclaimed

by the President on the dates indicated: (1) International Convention re Intervention on High Seas in Cases of Oil Pollution Casualties (March 19); (2) Convention on Prohibition of Development of Bacteriological and Toxin Weapons (March 26); (3) Protocol re Amendment to Convention on International Civil Aviation (April 2); (4) Protocol for Prohibition in War of Poisonous and other Gases (April 29); and (5) Convention on International Trade in Endangered Species of Wild Fauna and Flora (May 12). The following entered into force as indicated: (1) Agreement with OAS re Privileges and Immunities (March 20); and (2) an Agreement with Canada on Reciprocal Fishing Privileges (April 24). Acceptances were deposited to the following (1) Convention on Intergovernmental Maritime Consultative Organization (April 2); (2) amendment of Art. VII of the Convention on Facilitation of International Maritime Traffic (April 2); and (3) Amendment to Art. 24 and 25 of WHO's Constitution (May 19). Further, on April 10 the United States deposited a declaration to adopt the Statutes of the World Tourism Organization.

## URUGUAY

Law 14.350 (1975) amended Arts. 106, 107 and 109 of the Civil Code so as to eliminate the requirement of parental consent for marriage upon acquiring 21 years of age, and the restriction of Article 112 of the Civil Code which prohibited remarriage following divorce or having become widowed for a specific period, upon the presentation of a medical certificate that the woman is not pregnant.

Law 14.371 (1975) amended Law 14.179 (1974) to the effect that the Central Bank of Uruguay can in no way limit the right of foreign investors to remit their profits or capital outside the country, and assuring that there will be free convertibility and transferability of profits and capital.

Law 14.373 (1975) provides for confiscation and forfeiture of all properties real and personal, which are used directly or indirectly by persons engaged in subversive activities. The confiscation is implemented by the military.

On May 20, 1975 the Central Bank issued a thirty-five page compilation of all regulations issued by the Bank concerning the financial system.

Consular invoices previously required for all shipments to Uruguay have been eliminated. Although Uruguayan consulates will still label commercial invoices with the stamp *Factura Consular*, no fees will be collected.

In April 1975 YPF (Argentina) and Uruguay's Fuel and Alcohol Administration signed an agreement under which the former will explore for hydrocarbon deposits in an area close to Montevideo.

## VENEZUELA

The legislative process relating to the takeover of the oil industry ended on August 29, 1975 when President Perez signed a bill approved by the Congress following nearly six months of parliamentary and public debate. Actual takeover of the assets of the foreign oil companies involved is scheduled to take place on December 31, 1975, when the concession agreements are terminated. In the interim, there will be a four month transitional period during which the government will complete discussions with the oil companies for compensation and negotiate contracts for supplying technology and marketing Venezuela's two million barrel per day exports. Among the companies affected are subsidiaries of Exxon, Gulf, Mobil, Sun, Texaco, and Occidental Petroleum, which, together with other foreign companies, estimate the value of their interests to amount to over \$5 billion; Venezuela's estimate is \$1.1 billion. The nationalized industry will be operated by a new government controlled oil company—*Petróleos Venezolanos (Petroven)*.

A resolution of the Ministry of Mines and Hydrocarbons has given the Venezuelan Petroleum Corporation the exclusive right to exercise public interest services including all activities pertaining to the importation, transportation, supply, storage, distribution and consumption of all products derived from hydrocarbons in the state of Lara beginning on March 17, 1975. The aforementioned services are to be provided as follows: a) directly: importation and supply, and b) directly or through agreements with either natural or juridical persons domiciled in Venezuela and properly authorized by the Ministry: storage, distribution, transportation (G.O. 30.647, 1975).

The Governments of Venezuela and Panama entered into an air transport agreement on June 14, 1974 the text of which is published in G.O. 30.654 (1975).

Pursuant to a resolution of the Ministry of Finance, all importing firms registered with said Ministry which operate in Margarita Island under the Free Port Regulations can no longer establish more than one branch, office or agency under the same regulatory regime.

By Decree 560 (1975), the National Enterprise of Salt Mines, C.A. is compelled to revoke, beginning on May 21, 1975, all authorizations, permits and contracts granted for the exploitation of salt mines referred to in Art. 2 of the Organic Law on Taxation of Salt Mines.

A state enterprise for the development of the aircraft industry is established by Decree 764 (1975).

Decree 797 (1975) promulgates the Law of the Industrial Bank of Venezuela. The Bank was created by a law of July 23, 1937 for a term of fifty years reviewable automatically for terms of equal duration unless provided otherwise by a special law (Art. 1). Its fundamental objective is to contribute effectively to the short and medium-term financing of production and commercialization of the industrial sector. Particularly it offers financial assistance to industrial enterprises that will expand or diversify production as a result of such assistance. It also offers assistance for the promotion and financing of exports of industrial products of national origin (Art. 3). Art. 4 provides that the capital of the Bank shall be Bs.160,000,000 fully paid. Said capital shall be divided into shares of Bs.1,000 each, but no person may own more than 500 shares and the State must own at least 95% of all outstanding shares (Art. 5, 6). Under Art. 31 the Bank is given the power to engage in all international operations consistent with the nature of its business within the limitations and prohibitions contained in the law and in conformity with the provisions of foreign laws. The amount of loans and credits extended by its international branches in the currency of the respective country may not exceed the amount of the obligations and deposits received in that currency. By Art. 49, the Law of the Industrial Bank of Venezuela of July 1937 is repealed.

Decree 829 (1975) promulgates Partial Regulation No. 1 of the Law of Fisheries. It applies to all commercial fishing in jurisdictional waters and fishing done by vessels carrying the national flag outside territorial waters, whether or not the catch is brought into a Venezuelan port.

A resolution of the Ministry of Health and Social Assistance ratifies the creation of the Investigative Division on Environmental Contamination which is charged with developing a national program of investigation on environmental pollution.

By a joint resolution of the Ministries of Finance and Agriculture all consignees of imports of cattle of the bovine species which originate in the Republic of Colombia are exempt from the tax prescribed by Art. 22(a) of Decree 1,565 of December 31, 1973.

Decree 878 (1975) provides that within the 180 day period commencing with the date of this decree (April 22, 1975) the Venezuelan Social Security Institute will extend benefits for invalidity or partial disability, old age, death and marriage to the entire national territory and will apply to all enterprises, employers or groups of employers, and employees, wherever they may be.

A resolution of the Ministry of Development repealed a prior resolution (No. 6.075 of Sept. 6, 1974) republished by mistake in G.O. 30.511 of Sept. 27, 1974. The repealed resolution dealt with norms and regulations for stock transfers among foreign investors.

Pursuant to Decree 857 (1975) a partial reform of the Regulations on Scholarships for Studies Abroad was promulgated. The revised regulations have the effect of increasing the various stipends and allowances granted to the scholar to make up for increases in the cost of living. For actual figures see G.O. 30.691 (1975).

By Decree 859 the Labor Law is amended by the elimination of subparagraph 1 of both Art. 37 and 39. In turn, Art. 41-45 are added in their place. These articles provide that indemnification for seniority and unemployment assistance will now be credited annually to an independent account of the employee. Such funds as are accumulated will be handed over to the employee only upon the termination of his employment by the contributing enterprise. However, the employee may provide for a periodic distribution of funds, prior to terminating the employment relationship, through an agreement or contract with the employer. Nonetheless, such funds as are distributed will be placed in a trust fund the principal of which will consist of the employer's contribution to date. These funds would not be distributed until termination of the employment relationship, but income earned on that principal can be either capitalized or distributed at the employee's option.

Decree 887 (1975) provides that the National Council of Energy is to act as a consultative body to advise the Executive in all matters pertaining to the production, distribution and consumption of the various kinds of energy resources.

Decree 877 (1975) provides that, without prejudice to the provisions of the Law of the National Institute of Educational Cooperation for Vocational Training of Minors, every employer who has more than ten workers must employ and train, within 180 days of the promulgation

of this decree (May 5, 1975), a number of persons equal to no less than 5% of the employer's active work force on the date of the decree. (G.O. 30.684, 1975).

On May 22, 1975 three major pieces of legislation emanated from the Presidency in the form of rather lengthy decrees. Decree 869 (1975) pronounced the General Law of Banks and other Credit Institutions (G.O. 1.742); Decree 870 (1975) promulgated the Law of Insurance and Surety Companies; and Decree 882 (1975) set forth the Law of Capital Markets (G.O. 1.744). The latter seeks to regulate public offerings of stocks and other securities of medium and long-term character. It also creates a National Securities Commission under the Ministry of Finance for the purpose of supervising the provisions of the law and issuing regulations under it.

Pursuant to Decree 881 (1975) a partial reform of the Law of Incentives to Export was promulgated. The revision adds another subparagraph to Art. 1 in order to extend the benefits provided under the law to manufacturers of local products who send all or part of their production to free ports, duty-free zones and to parts of the national territory subject to special customs regulations. Terms and conditions for obtaining these benefits will be determined by the Executive.

Decree 919 (1975) promulgated the law which authorizes the Establishment of Multinational Banks of Credit for Housing for the purpose of creating and developing American institutions specialized in financing housing projects, and urban and suburban development. These multinational banks will take the form of corporate enterprises with a paid-in capital of not less than Bs. 40 million. Only juridical persons can hold stock in these banks and these must be official entities in American countries in charge of savings and loan programs for housing, or other national or international entities which provide for the housing needs of the countries of America.

Norms for the Development of the Automotive Industry are set forth in Decree 920 (1975). The purpose of these norms is to increase domestic production of automotive parts and components for use in domestic automobile production. Certain parts which are already being produced domestically must be used in local plants of assembly e.g., engines, gear shifts and other basic components. New projects for manufacturing basic components may be undertaken by local and mixed capital enterprises. Decree 921 (1975) goes farther than Decree 920. It provides that all

motor vehicles produced locally should reach, by December 31, 1980, an integration of locally-produced parts of 75% of the value of the car as a whole.

Decree 922 (1975) sets forth a partial reform of the General Law of Cooperative Associations (G.O. 1.750, 1975).

Pursuant to Decree 883 (1975) norms are set out for the development of the military industries. By "military industries" is meant the group of firms whose primary function is the manufacture of arms, munitions, explosives and other materials or equipment of similar nature serving the interest of national defense. The decree provides for the use of import restrictions, tax exemptions and credits, direct or indirect subsidies to firms in the industry, financing assistance for technical development and greater facilities for the ingress of foreign technical personnel contracted by the industry. All of the above are designed to stimulate and provide incentives for the growth and expansion of the military industrial sector (G.O. 1.745, 1975).

By Decree 925 (1975) norms are laid out for the development of the nuclear industry. The decree provides for the creation of a National Council to be composed inter alia, of representatives from the Ministries of Foreign Relations, Defense, Development, Education, Health and Welfare, and Mines and Hydrocarbons. The Council will be charged with carrying out studies on the peaceful uses of nuclear energy in the economic and social development of the country, as well as with the promulgation of norms and regulations relating to the acquisition, transportation, storage, use and transfer of equipment, nuclear installations and radioactive materials. The Council will advise the Executive on the desirability of participation in treaties, conventions and other international agreements on the matters (G.O. 1.751, 1975).

Decree 926 (1975) partially reforms Decree 764 (1975) dealing with norms for the development of the aeronautical industry. The revision provides for the creation of a National Council similar to those found in the military and nuclear industries. In like fashion, Decree 927 (1975) partially reforms Decree 641 (1974) to provide for the creation of a National Council in charge of implementing the norms for the development of the naval industry.

Decree 977 (1975) fixed the wholesale price of a metric ton of sugar at Bs. 1.122 for direct consumption and at Bs. 1.500 for industrial consumption.

Three resolutions were issued by the Ministry of Development on 4 June, 6 June and 12 June, 1975. The first fixed the maximum sale prices of cement. The second declared as an item of primary necessity spare parts for vehicles. And the third fixed maximum sale prices of agricultural equipment.

A law was passed giving approval to the Statute of the Latin American Commission on Civil Aviation (CLAC). This Commission, created at a conference celebrated in Mexico in December, 1973, is designed to provide the civil aviation authorities of the member states with an adequate structure within which they may discuss and plan all measures required for coordinating civil aviation activities. Chapter III of the Statute provides that the Commission is to maintain close relations with ICAO in order that the former's activities may be in harmony with the goals and purposes of the latter. The Commission may also maintain relations of a consultative nature with the OAS, the United Nations Economic Commission for Latin America (UNECLA), LAFTA, the Andean Group, the Central American Common Market, and the Caribbean Free Trade Association (CARIFTA) in order to render them assistance in the field of civil aviation. For full text of the statute see G.O. 30.730 (1975).

A law approved the International Convention for the Conservation of Tuna from the Atlantic, celebrated in Rio de Janeiro in May, 1966. The text of the agreement is found in G.O. 30.731 (1975).

The Protocol for extending the International Wheat Agreement of 1971 one more year until June 30, 1975 was subscribed to by Venezuela on April 22, 1974 and published in G.O. 30.723 (1975).

Still on the drafting or legislative process are several measures worthy of note: (1) A bill to control monopolies and cartels; (2) a bill to regulate foreign investment in accordance with Andean Part Rules; (3) a banking measure limiting foreign participation in Venezuelan finance companies and the amount local banks may lend companies in which foreign ownership exceeds 40% of the shares; (4) tax measures which would double the present tax burden; (5) the *Ley de Cultura* has found strong opposition because of its apparent clash with certain constitutional principles, particularly that of freedom of expression; and (6) the Law of the National Council for Scientific and Technological Investigations (1967) is being subject to searching review on the grounds, among others, that the Council lacks sufficient powers to carry out the legislative mandate.

## MISCELLANEOUS

On July 30, 1975 the Department of Justice of the United States brought suit against the prestigious Washington, D.C. law firm of Covington and Burling to force the firm to let the Government inspect records dealing with its representation of the Republic of Guinea. According to the Government's complaint, the firm has violated the Foreign Agents Registration Act by refusing to submit for inspection more than 1,000 pages of documents relating to Guinea. The firm's position is that the act should be interpreted in the light of the lawyer-client privilege and that the privilege — unless waived by Guinea — prevents the firm from complying with the Government's request. A spokesman for the law firm added "We are perfectly happy to have the issue referred to a court and have the court tell us we are right or wrong. If the court tells us we are wrong, we turn over the documents."

An International Women's Conference was held in Mexico in summer, 1975 and ended on July 2 after adopting a ten-year plan of action designed to improve the status of the world's two billion women. The plan stressed the need to increase the role of women in development and in the decision-making processes in their countries. Specific areas dealt with included the status of women in education and training, the political process, employment and related economic roles, health and nutrition, the family, population questions, housing and social services.

*This reporte 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.*