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LATIN AMERICAN ECONOMIC INTEGRATION

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LATIN AMERICAN FREE TRADE ASSOCIATION (LAFTA)

The Ninth Regular Meeting of the Contracting Parties of the Montevideo Treaty took place at Caracas, Venezuela, beginning October 23, 1969. The importance of the event was shown by the fact that the participating countries had to adopt fundamental decisions with respect to the orientation and progress of the integration process. The position of the countries within the Andean Group, which favor a more advanced formalization of the common market as an institution, and of the more highly developed countries (Argentina, Brazil and Mexico), which favor the establishment of a free trade zone first of all, was evidenced in two proposed protocols to the Treaty.

Fortunately, the meeting was able to agree on a single protocol, the "Protocol of Caracas", which will enter into force as soon as it is ratified by all the states. This protocol embraces the principal points of the position taken by the two groups of countries. On one hand, the protocol extends for seven years the term fixed for the establishment of a free trade zone, from 1973 to December 31, 1980. On the other, it gives the Standing Executive Committee until December 31, 1973 to prepare the studies relating to the establishment of the common market provided for in Article 54 of the Treaty.

Among other matters, the Protocol of Caracas also provides that:

a) With respect to national lists, duty reductions will proceed at a rate of 2.9 percent annually, although countries that cannot maintain this rate may grant special reductions;

b) With respect to the common list, prior to December 31, 1974 new procedures will be issued, and until then the provisions of the Treaty referring to the common list are suspended.

Apart from the new Protocol, other decisions were adopted in Caracas, the most important of which broadens considerably the authority of the Financial and Monetary Policy Board, enabling it to administer

effectively the Multilateral Agreement on Attenuation of Temporary Deficiencies in Liquidity of the Balance of Payments, signed on September 26, 1969 in Santo Domingo, Dominican Republic.

From the economic point of view, the meeting was without doubt a success. From a lawyer's point of view, it is once again made patently clear that the LAFTA integration process, as with other similar movements in Latin America, is not concerned with introducing *a priori* an ideal institutional model, like the European model, for example, but rather, it reflects the vigor of the integrationist idea in a constant search for legal and economic formulas that would conform to the changing realities of the different countries of the region. Legal studies, therefore, must conform to these realities as well, in order to be fruitful and to effectively contribute all that pertains to juridical science in the problem of overall development of Latin America. A mere comparison *in abstracto* with European formulas results in a sterile effort or an academic exercise at best.

THE ANDEAN GROUP (AGREEMENT OF CARTAGENA)

The brief title "Agreement of Cartagena" has been established as the official name of the Andean Subregional Integration Pact, which was signed in May 1969 at Bogotá by Colombia, Chile, Bolivia, Ecuador and Peru within the framework of the Treaty of Montevideo.

Beginning March 8, 1970, the Commission, the high-level body of the Agreement, met to approve the bylaws of the Executive Board, which is the technical organ of the Pact. The Commission also approved its work plan, which, among other things, consists of (a) preparation of a common policy for all countries participating in the treatment of foreign capital, and (b) common legislation on trademarks, patents, fees and royalties.

CENTRAL AMERICAN COMMON MARKET

The immediate future of the Central American Common Market depends on the conditions that can be found at the inter-American level of the Thirteenth Meeting of Consultation of Ministers of Foreign Affairs for maintaining permanent peace between El Salvador and Honduras. Such peace is essential to making reconstruction of the common market practicable on a renewed legal basis and, at the same time, to make workable the international economic, financial, commercial and technological cooperation needed to attain the goals of a customs union and a free circulation of workers and capital.

From this immediate perspective of peace and its relationship to the common market, it should be noted that to the difficulty which existed previously in connection with the closing by the Honduran government of the Pan American Highway in its territory to merchandise coming from El Salvador, another difficulty has been added by the destruction by explosion of the Santa Clara Bridge (at Kilometer 208 of the Pan American Highway in El Salvador), making it impossible to transport goods to Guatemala and Nicaragua through El Salvador. Meanwhile, efforts are continuing at the inter-American level to find a solution to the dispute.

From the long-range point of view, the reconstruction of the common market and its impetus toward more advanced growth depends mainly on the efforts of the Central American countries. In this connection, two recent events are noteworthy:

a) The *ad hoc* committee of jurists and economists proposed by the Central American Ministers of Foreign Affairs at their meeting of December 1969 is in the process of being formed; its Guatemalan, Nicaraguan and Costa Rican representatives have already been designated. This committee will make a study of the juridical and economic restructuring of the common market.

b) Meanwhile, in an address delivered to the Assembly of the Salvadorian Association of Industrialists in February 1970, the head of the Permanent Secretariat of the General Treaty of Central American Economic Integration indicated the importance of non-economic factors in integration, especially the juridical aspects. In particular, the international official pointed out the need for Central America to face the problem of foreign investments.

CARIBBEAN FREE TRADE ASSOCIATION (CARIFTA)

The year 1970 will be an active year and, hopefully, a fruitful one for the Caribbean Free Trade Association. CARIFTA must gradually permit industrialization and diversification of the economies of the participating countries. This undertaking is not without its difficulties: the difficulty of communications, intrazonal trade which hardly reaches six percent of the total trade of the area, a population explosion and unemployment, disparity in levels of development, among other difficulties, will put to the test the legal instruments and common institutions that must coordinate and lead joint efforts.

From the economic viewpoint, the most important events that may be singled out are the following:

a) The post of Secretary General of the Agreement has devolved upon a distinguished economist from Trinidad and Tobago, William Demas, who assumed his duties in early January.

b) The Caribbean Development Bank has begun its activities under the presidency of the noted economist, Sir Arthur Lewis. The Bank's authorized capital is 50,000,000 dollars, and it has a special Development Fund for granting long-term credits, low interest rates, and deferred amortization — subscribed by the United States, Great Britain and Canada.

c) At its fifth meeting, the CARIFTA Council of Ministers discussed the probable economic implications of the entry of Great Britain into the European Common Market and also considered the report of experts on the establishment of a common foreign tariff and the implications of the Protocol on Marketing of Agricultural Products.

From the legal viewpoint, the legal profession has already begun to participate in the systematization of the legal problems involved in the process of economic integration of the Caribbean. As a matter of fact, a Seminar on the Legal and Institutional Aspects of Caribbean Economic Integration was held at Bridgetown, Barbados, February 9-13, 1970, under the auspices of the Organization of American States and the University of the West Indies. Its purpose was to begin to systematize the legal problems that the Caribbean integration process may encounter so that the legal profession can, at an early stage, lend its support to the task of integrated development of the area. Representation at the meeting included governmental and CARIFTA officials and the academic sector both within and without the area.

The main problems to which the meeting called attention for future study, by multidisciplinary teams if necessary, are the following:

a) Constitutional problems derived from different grades of political independence between the member countries of the Agreement, independent countries, members of the Commonwealth, and colonies, *vis-a-vis* the question of who is "party" to the Agreement and to the other future agreements that may be necessary to sign in order to comply with the objectives of integrated development;

b) the problems of the adequacy of the Agreement itself, taken

almost literally from the Treaty of Stockholm which created the European Free Trade Association, in systematizing policy for integrating an area so different from the European;

c) the institutional problem with respect to the competence of the organs of the Agreement to direct, coordinate, and promote integration in the application of the principal legal instrument and other supervenient instruments;

d) the problems of rules of origin and norms on disloyal trade as related to the need to promote a well-balanced development of the area;

e) the problem of the adequacy of the study and teaching of law in terms of the requirements for integration development.