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INTER-AMERICAN LEGAL DEVELOPMENTS

S. A. BAYITCH
*Professor of Law Emeritus
University of Miami*

ARGENTINA

National political goals have been articulated in Decree No. 46(1970). The aims are political, cultural and economic independence; a solidarist society; a country integrated without regional differences; an effective democracy with community participation; an industrial-agrarian economy; security to further development in time of peace and strength in time of conflict. The goals shall be achieved, among other ways, by the guarantee of civil rights, political pluralism, a balance of powers and by recognizing the initiative of the Executive branch, but without minimizing the respect owed to a representative legislature and an independent judiciary. The program supports — among others — population growth through increase in the birth rate, protection extended to large families and infants, and by increasing immigration. In the area of education, universities shall become live centers of research and culture, imbedded into the total educational system. Foreign investments shall be considered in the light of national goals in order to safeguard national interests, and will be subject to effective controls and take into account factors such as profitability, technological contributions, cooperation with domestic capital, location, employment of domestic technical personnel and their contribution to economic development. Among diplomatic aims, the decree lists the international acceptance of maritime sovereignty as claimed by Argentina “in order to avoid that by the exercise of such rights said area be a permanent source of conflicts; to intensify its exploitation and to assure an effective control.” In regard to the United States, the cultural interchange shall be maintained, the economic adjusted, and the scientific-technical intensified on the basis of respect to the sovereignty of Latin American countries and the recognition of Argentine policies.

The President announced that over the next few years significant socio-economic reforms will be enacted, if necessary, by constitutional

amendments. Among them is the provincial participation in federal tax revenues and the establishment of unemployment insurance. The dissolution of political parties which existed in 1966 is final.

Law No. 18.670 (1970) transferred jurisdiction over certain crimes listed in the Criminal Code and the Code of Military Justice to federal investigative agencies and to federal courts. The provisions regulating habeas corpus contained in Arts. 618 and 639 of the Code of Criminal and Correctional Proceedings have been modified by Law No. 18.799 (1970). Where there is more than one competent judge in a place, the proceedings may be initiated only before the appellate court which will determine where the matter shall be heard, according to *acordadas* (directives) adopted by the appellate chamber. Such *acordada* was adopted on October 22, 1970. The ruling in habeas corpus proceedings is now appealable; particular treatment is provided in regard to persons who are "at the disposition of the executive power."

Due to an unprecedented increase in the number of corporations and other legal entities as well as their misuse, Law No. 18.805 (1970) has strengthened the administrative control over the establishment and functioning of such entities. Control is to be exercised by a newly created *Inspección General de Personas Jurídicas* in the Ministry of Justice. Subject to the intensified control will be not only corporations but also civil associations, foundations, savings associations and mutual investment funds, with some exception in favor of entities regulated by particular laws. As indicated, the control will include the establishment, functioning, dissolution and liquidation of the entities affected. The methods of control are set out in the new law for every type of association covered. With regard to subsidiaries and agencies of foreign associations, the *Inspección General* will license their operations and check the documents by which they have been established and the amendments thereto, except as provided by Law No. 8867 (1912). Article 287 of the Commercial Code, to which the latter law refers, provides that business associations legally created abroad which establish subsidiaries or any other representation in Argentina will be subject to local laws, including the Commercial Code, in regard to registration, the publication of their organizational acts and the authority of their agents. According to Law No. 8867 such business associations may engage in business without an administrative permit, provided they prove before the competent court that they have been constituted in accordance with the laws of their respective countries and register their charters (*estatutos y documentos habilitantes*) in the commercial register. The *Inspección* will also monitor any change of the capital and supervise activities, including any liquidation and dis-

solution resolved by the association. Civil associations and foundations, established abroad will have to apply for recognition and for a license to operate in Argentina, and their activities will be closely supervised. In cases of disputes between such associations and their members, *the Inspección* may act as arbiter. The *Inspección* has the power to investigate, to call general assemblies, to enjoin improper activities, and if necessary, act through judicial proceedings.

Law No. 17.811 (1970), regulating the securities market, was implemented by *Acuerdo* No. 493 dealing with the registration, suspension and withdrawal of securities on the Buenos Aires stock exchange, with additional *Acuerdos* bearing Nos. 547 and 687 (1970).

A new state controlled sugar company was created by Law No. 18.685 (1970)

The National Directorate of State Industries was liquidated (Law No. 18.568, 1970).

Law No. 18.587 (1970) on foreign investments was implemented by decree No. 1.625 (1970).

In education, two significant acts have been passed, one dealing with the status of teachers in primary education (Law No. 18.631, implemented by Decree No. 803), and the other regulating the status of professors in secondary schools (Law No. 18.614, 1970).

Labor legislation was implemented by Law No. 18.624 (1970), dealing with working minors. The collection and the unification of contributions to *Casas Nacionales de Previsión* was regulated by Laws No. 18.820 and 18.821 (1970).

The investigation of aviation accidents is now regulated by Decree No. 934 (1970).

The terminology and fees for social medical services are regulated by Law No. 18.483; medical specialities by Law No. 18.691, including those imported from abroad.

National parks and monuments are the subject of Law No. 18.594, implemented by Decree No. 637 (1970).

Permits to aliens who are permanent residents to reside abroad for more than two years are regulated by Law No. 18.653 (1970).

Packinghouses are regulated by a new law entitled *Ley de Sanidad Animal* (No. 18.811, 1970).

Yielding to inflationary pressures, the Government has approved raises in salaries varying from 6 to 14% for persons privately employed (Law No. 18.752, 1970). Pensions are similarly affected (Law No. 18.754, 1970). Raises to civil service employees have been given by Decrees No. 634 and No. 635 (1970).

Among conventions recently ratified by Argentina two may be noted: the Treaty of Cuenca del Plata (1969) for economic cooperation between Argentina, Bolivia, Brazil, Peru and Uruguay (Law No. 18.590, 1970); and another with Spain concerning cooperation in cinematography (Law No. 18.625).

A number of important legislative drafts are under consideration by the respective professional organizations. Among others, a general law of business associations; a law regarding horizontal property, a law on transfer of enterprises; others are designed to prevent fraud in exports, to regulate competition, credit institutions, foreign investments, bankruptcy, rent controls and mining.

The draft of a new law is under consideration under which Argentine Government departments and State enterprises will be obliged to "buy Argentine" materials, goods and products, and to contract the services of Argentine advisory and construction firms. An "Argentine company", is one which has been formed in accordance with Argentine laws, has Argentine legal residency, and at least 80% of its executive staff lives in Argentina.

Buenos Aires

Law No. 7.600 (1970) established labor courts; another law appellate tax courts (No. 7.603). Amended were the tax law (No. 7.589, by Decree No. 2.043, 1970) and the traffic code.

The Agrarian Code (Law No. 7616, 1970, 2 *Law. Am.* 402, 1970), replacing the Code of 1865, became the subject of serious criticism. In view of its scope (433 articles) and the diverse matters it covers, doubts have been raised respecting the constitutionality of some provisions, particularly the ones which disregard those contained in the national Civil Code, as well as those which provide for "agrarian transformation" including expropriation of land which is found to be "ineffectively exploited" (Art. 64).

Catamarca

A Code of Civil and Commercial Procedure, adjusted to the federal model, was adopted by Law No. 2339 (1970) as was a law regulating

fishing (No. 2.344, 1970). The tax law underwent considerable changes (Law No. 2.346, 1970). The organization of the judiciary is established by Law No. 2.337 (1970)

Chaco

Marketing of bread was regulated by Decree No. 1.689 (1970).

Cordoba

A veterinary medicine law was enacted (Law No. 5.142) and the tax law amended (Law No. 5.152, 1970). A new Code of Criminal Procedure was enacted by Law No. 5.154 (1970).

Corrientes

The action of *amparo* was regulated by Law No. 2.903 (1970); juvenile courts by Law No. 2.902 (1970), replacing the code enacted in 1939.

Entre Rios

An industrial development law was adopted (No. 4.855) while the tax law was amended (Law No. 4.894, 1970). Administrative procedures of the provincial government are regulated by Decree No. 2 (1970); fishing by law No. 4.892 (1970).

La Rioja

Retirement benefits were regulated by Decree No. 10.426 (1970).

Mendoza

The keeping of dogs was regulated by Decree No. 69 (1970); the tax law was amended (Law No. 3.668, 1970).

Misiones

State enterprises are regulated by Law No. 524 (1970).

San Luis

Tourism was regulated by Decree No. 3.968 (1970).

Salta

Promotion of mass marketing (supermarkets) is regulated by Law No. 4.349 (1970).

Santa Fe

A law to control narcotics was enacted (No. 6.608). Urban planning is regulated by Decree no. 447 (1970).

Tucuman

Workers' cooperatives are regulated by Law No. 3.654 (1960); the tax law was amended (Law No. 3.654). Additional benefits to workers are established by Law No. 3.654 (1970).

BRAZIL

The President has recently signed into law three decrees designed to favor labor. One tackles the problem of illiteracy generally. The second establishes a program for social integration through a general participation fund to be administered by the *Caixa Econômica Federal*. Contributions to this fund shall come from business and are set at a percentage of the income tax paid (2%) and an increasing share based on sales (0.15% in 1971; 0.25% in 1972; 0.40% in 1973; and 0.50% from 1974 on). Companies which do not engage in sales will contribute according to the income tax paid. Of the total contribution made by a company, 50% will be deposited in a special account for its employees and credited to individual employees according to their annual salaries; the remaining 50% will be credited to employees depending on seniority. Provided also is additional income for the worker's funds, among them interest paid on such deposits. Worker's funds shall constitute a worker's property; he may receive the whole amount upon his marriage, when he retires, or if he has contracted an incurable disease. At his death, the assets pass to his heirs. The fund also may be used for a down payment for a house. Certain sums, among them interest accrued on the fund, may be withdrawn annually. The amounts accruing to such funds are not considered income and consequently not taxed. The third decree provides support to labor unions for medical services, education and cultural, and athletic activities. The Government will make it possible for unions to acquire medical equipment at cost; will establish colleges and provide for scholarships; give free legal aid in industrial accidents and give loans for the construction of cultural and athletic centers.

The President has signed a decree implementing a 1969 decree (No. 64.345) dealing with engineering firms operating in Brazil. Companies, active in Brazil for four years without having qualified as Brazilian companies, have the choice to comply with requirements to become Brazilian companies or be limited in their operations to areas where there are no

Brazilian engineering firms. Companies included in this decree are those engaged in the preparation of engineering studies and projects; in the execution or supervision of construction works, including highways, railroads and the installation and assembly of industrial plants.

An extensive regulation has been issued implementing Decree-Law No. 941 (2 *Law. Am.* 45, 1970) dealing with the status of aliens.

Limitations regarding acquisition of land by aliens are being criticized. Proposals have been submitted to the Legislature to allow alien purchases provided a plan is submitted to the National Colonization and Agrarian Reform Institute describing the utilization of the respective area. Members of agricultural cooperatives furthering immigration and colonization should be able to purchase up to 150 hectares of land. In case the utilization plan is not submitted, the purchaser shall forfeit the land.

A number of important reforms are being prepared, among them the draft of a new civil code and a code of procedure for labor courts. A draft for a new corporation law is being discussed as are drafts regulating insurance companies, patents and trademarks, and coffee. Existing legislation dealing with coffee may be revised and a National Coffee Council established. Financing of planting, prices, agricultural institutes, elimination of subsidies and quotas as well as the protection of the instant coffee industry will be considered.

A much needed consolidation of administrative agencies charged with agrarian problems has been enacted under a presidential decree which created a National Institute for Colonization and Agrarian Reform (INCRA) to take over functions previously performed by three separate agencies, namely the Brazilian Institute for Agrarian Reform (IBRA), the National Institute for Agrarian Development (INDA), and the Executive Group for Agrarian Reform (GERA).

BRITISH WEST INDIES

Anguilla

The difficulties arising from the island's secession continue. The Commission studying the problem under the chairmanship of the former Trinidad and Tobago Chief Justice Wooding published its report urging the maintenance of the status quo in view of the factors which, in its opinion, are the main cause of difficulties, namely the geographic distance from St. Kitts, lack of economic development, neglect of Anguilla's needs and the hardening of attitudes on both sides. Premier Bradshaw accepted the report while the Anguillan Council unanimously rejected it.

Antigua

The Government plans to develop the provident fund into a social security scheme.

Bahamas

The Industrial Relations Act (1970) regulated trade unions and their recognition as well as collective (industrial) agreements. An Industrial Relations Board shall be set up to hear and decide trade disputes, to register industrial agreements and to hear and decide any other matter brought before the Board under the Act. In case of a trade dispute, the Board may remit the dispute to the parties involved with "conditions as the Board may determine;" it may make an order or award, dismiss the matter or refrain from further action in case the matter is considered trivial; or order any party to the dispute to pay "such costs and expenses as are specified." The proceedings are regulated by rules, which include also provisions regarding strikes and lock-outs, both legal and illegal. Freedom of association is guaranteed by prohibiting any employer to require membership in a union; workers refusing to participate in illegal labor practices are protected; union funds may not be used for political purposes; picketing is regulated; and intimidation and annoyance by violence prohibited. Violations of the Act may be enjoined by court order or punished by fine or imprisonment.

Standard working hours, vacations and minimum wages for the hotel industry have been established by Act No. 13 (1970); it also abolished the fellow-worker doctrine.

The Hotels Act (No. 18, 1970) provides for licensing and taxation of hotels.

The control of waterskiing and operation of motor boats in coastal waters is regulated by Act No. 16 (1970).

Act. No. 17 (1970) made provision for the protection, exploration and exploitation of the continental shelf, defined as the "seabed and sub-soil of the submarine areas adjacent to the coasts, but outside of the territorial waters, to the depth of two hundred meters or, beyond this limit, to where the depth of the superadjacent waters admits of the exploitation of the natural resources" of these areas. All rights are vested in "Her Majesty in right of Her Government of the Bahama Islands." The Governor may regulate the entry of ships into such area. Furthermore, any act or omission which "takes place on, under or above a structure on the continental shelf or in any waters within five hundred meters of such a structure, and would, if taking place in any part of the Bahama Islands,

constitute an offence under any law in force in the Islands," will be treated as taking place in the Bahama Islands; the Governor may regulate questions arising out of acts or omissions taking place in or on the continental shelf or the waters above the shelf, in connection with the exploitation thereof and confer jurisdiction on Bahamian courts. Any construction within the area requires consent of the Minister of Transportation. Additional provisions deal with the discharge of oil, construction, operation and status of structures, agreements, licenses and the prosecution of offenses.

The Real Property Tax Act (No. 23, 1969) was implemented by the Real Property (Forms and Notices) Regulations (S.I. No. 41, 1970).

To provide for financial means for the development of the Out Islands, bonds will be issued (Acts No. 22 and 23, 1970).

A number of acts have been amended, among them Immigration Regulations (S.I. No. 41, 1970); the Supreme Court Rules (S.I. No. 42, 1970); the Petroleum Regulations (S.I. No. 49, 1970), dealing with oil mining leases which may be granted for twenty years and renewed for successive periods of ten years, against an annual rental for each acre; the Dentist Act (No. 19, 1970); the Tax Act (No. 20, 1970), and the Emergency Tax Act (No. 21, 1970). The Education Act was amended (No. 15, 1970) so as to enable the Minister of Education to require corrective measures or to revoke his consent whenever courses in educational institutions are "of no educational, cultural, economic or other benefit to the Bahama Islands," as well as for lack of qualified personnel, or if he finds that a particular institution is not in the best interest of the public.

The Rules of 1969 have been amended regarding the prosecution of persons under sentence of death in view of petitions for special leave to the Privy Council, including those made in *forma pauperis* (O.G. No. 44, 1970).

Dominica

Dominica's Caribs complained to the United Nations alleging that they never received title to their "reserve" land and that, as a consequence outsiders encroached on the land and even acquired titles thereto.

Grenada

The Government plans to deport all immigrants who entered the island illegally or overstayed their residence there. All permits will be checked and in case of illegalities even persons with permanent residence or work permits may be affected.

St. Lucia

Attempts by the Government to provide benefits for retiring parliamentarians were withdrawn due to strong protests from all segments of the population.

The Petroleum (Production) Ordinance of 1958 has been implemented by regulations (No. 44, 1970). The regulations also affect non-resident companies, i.e., those not "controlled in Saint Vincent," regardless whether such companies are "incorporated or engaged in trade and business" there. Activities to "search and bore for, and get petroleum," include areas "on the landward side of the high water mark of the sea at ordinary spring tide" and the areas seaside surrounding the coasts of the island "including the seabed and subsoil situated beneath the territorial waters and the continental shelf." The regulation contains model clauses for applications and licenses.

A Fugitive Offenders Act (No. 33, 1970) provides for the return of persons accused or convicted in other Commonwealth courts and for the treatment of persons accused or convicted in St. Vincent and returned from such countries.

A Development Corporation was created (No. 7, 1970) and an act for the licensing of yachts adopted (No. 20, 1970). An act regulating insurance also was enacted, containing extensive provisions regulating foreign insurance companies (No. 10, 1970).

The Genocide Convention of 1948 and the convention concerning the Caribbean Development Bank have taken effect (No. 31 and 14, 1970).

The Aliens (Land-holding Regulation) Ordinance (S. R. & O. No. 7) underwent extensive modifications by Act No. 19 (1970). The persons "belonging to Saint Vincent" are now clearly defined. The Governor may grant aliens an annual general license to hold mortgages "as security for funds that the alien may from time to time invest on loan in Saint Vincent," banks may be exempt on application to the Governor. Companies "under alien control" are carefully defined.

The controversial Emergency Powers Bill was passed by the House.

West Indies Associated States

The Federal Supreme Court Rules enacted in 1958, have been repealed by the Supreme Court Act of 1970.

CANADA

In addition to federal enactments reported previously (2 *Law. Am.* 406, 1970), the following shall be mentioned: Water Act (1970) dealing with pollution and quality of waters; the Criminal Record Act (1970); the Expropriation of Land Act (1970); the International Development Research Centre Act (1970); the Law Reform Commission Act (1970) to "study and keep under review the statutes and other laws of Canada with a view to making recommendations for their improvements"; the Nuclear Liability Act (1970); the Arctic Waters Pollution Prevention Act (1970), reprinted in 9 *Int'l Leg. Mat.* 543 (1970); the Agricultural Product Cooperative Act (1970); the Quarantine Act (1970); the Radiation Emitting Devices Act (1970); and the Textile Labelling Act (1970).

Existing legislation was amended in 1970 as indicated: The Labor (Standards) Act (1970), raising the minimum wage; the Criminal Code, introducing the crime of genocide and hate propaganda against "identifiable groups", with defenses added; the Territorial Sea and Fishing Zones Act extending the territorial sea to 12 nautical miles from the base line; the Bills of Exchange Act protecting consumers by requiring that negotiable instruments (except checks) issued by a consumer for the payment of goods, must be marked as such to avoid nullity; the consumer retains against the holder any defense which he would have against the seller; the Corporation Act introducing a new type, the "constrained-share" company, also extending insider trading rules and regulating proxies, investigations, reporting and "take-over bids"; the Coastal Fisheries Protection Act, enlarging the definition of a fishing vessel to include the provisioning, servicing, repairing or maintaining a vessel of a foreign fleet. Amendments also affected the Supreme Court Act, the Foreign Insurance Corporation Act, and the Shipping Act.

Canada's Consumer and Corporate Affairs Minister, has introduced an omnibus bill proposing a total approach to provide consumers with basic information on all packaged goods. The proposed Consumer Packaging and Labelling Act is complemented by Bill S-5, a new Weights and Measures Act already introduced in the Senate.

The Government announced December 18, 1970, the establishment of fisheries closing lines which purport to extend unilaterally Canadian jurisdiction over areas traditionally regarded as high seas. The areas affected are The Gulf of St. Lawrence and the Bay of Fundy on the Atlantic coast, and Queen Charlotte Sound and Dixon Entrance-Hecate Strait on the Pacific. The closing lines will come into effect at the end of February 1971, immediately upon the expiration of the mandatory 60-day waiting

period imposed by the amended Territorial Sea and Fishing Zones Act. Effects of this action will be to assert Canadian jurisdiction over fisheries conservation and management in an additional 80,000 square miles of coastal waters.

Alberta

A number of acts have been amended, among them the Fire Prevention Act (1965); the Teachers Retirement Fund Act (1970), and the Insurance Act (1970).

British Columbia

The Litter Act (1970) came into force.

Manitoba

The following acts took effect: Government (Continuing Consolidation) Act (1970); the Age of Majority Act (1970); the Automobile Insurance Act (1970); the Credit Unions Act (1970), and the Law Reform Commission Act (1970). Amended, among others, were the following acts: Highway Traffic Act (1970); Insurance Act (1970); Landlord and Tenant Act (1970), and the Securities Act (1970).

New Brunswick

The Insurance Act (1968) came into force. Amendments affected the Child Welfare Act (1970) and the Health Act (1970).

Newfoundland

The following acts have been recently assented to: the Clean Air, Water and Soil Protection Act (1969); the Consumer Protection Act (1969); the Youth Administration Act (1968, amended 1970); the College of Trades and Technology Act (1969); the Constabulary Act (1970), and the Local School Tax Act (1970). The following, among others, have been amended: Child Welfare Act (1970); Social Assistance Act (1970); Urban and Rural Planning Act (1969); the Department of Education and Youth Act (1970); the Refinery Agreement Act (1970), and the Rural Electrification Act (1970).

Nova Scotia

The Expropriation Procedure Act (1969); the Police Services Act (1969); the Settlement Act (1970); and the Social Assistance Act (1970) have been assented to.

Ontario

The Educational Communications Authority Act (1968/69), as well as amendments to a number of acts have been assented to. Among them, the Registry Act (1969); the Elevators and Lifts Act (1970); the Industrial Safety Act (1970), and the Employment Standards Act (1970).

Prince Edward Island

The Agrologist Act (1970), and the Health Services Payment Act (1970) have been assented to. The Community Improvement Act (1970) was amended.

Quebec

The following acts took effect: the Health Insurance Act (with amendments), and an Act respecting explosives which makes punishable the possession of explosives without a permit. Amendments deal with cooperative associations; savings and credit unions; the charter of Montreal, granting the right to vote to 18 year old domiciliaries; corporate taxes; and the highway code.

Saskatchewan

The Cattle Marketing Voluntary Deductions Act (1970); the Garage Keepers Act (1970); the House Building Assistance Act (1970); the Mental Health Act (1970), and the Urban Municipality Act (1970) have been assented to, as have been amendments to the Vehicles Act (1970); Fuel Petroleum Products Act (1965), and the Summary Offences Procedure Act (1970).

CHILE

Law No. 17.366 (1970) grants protection to authors of artistic, literary and scientific works during their lifetime and 30 years after their death in favor of their heirs, legatees or assignees.

Decree No. 356 (1970) contains rules for handling vessels entering and leaving ports.

As already noted, Law No. 17.308, 1970, (2 *Law. Am.* 409, 1970) has amended both the Commercial Code (1865), and Decree-Law No. 251 (1931), regarding insurance companies, corporations and stock exchanges, among others. The amendments affecting the Commercial Code contained in Art. 1 of the new law may be summarized. The

existence of corporations depends now on approval (*resolución*) by the *Superintendencia de Compañías de Seguros, Sociedades Anónimas y Bolsas de Comercio* (hereinafter *Superintendencia*) instead of a Presidential Act (Art. 427); the rule applies also to agencies of foreign corporations (Arts. 427 and 468). Requirements for approval have been modified (Arts. 428, 430 and 431), particularly for investment corporations (Art. 432; Decree-Law No. 324, 1960). Apports instead of cash as consideration for shares must be approved by the *Superintendencia* (Art. 443). Benefits available to promoters are clearly limited (Art. 447). All shares must be nominative (Art. 451). Additional changes have been made by amendments to Decree-Law No. 251 (1931). Among them a few may be noted. There is a considerable increase in powers vested in the *Superintendencia* (Art. 83). Additional provisions deal with promoters' shares and benefits (Art. 93). Incompatibilities imposed upon directors have been expanded; they include, among others, membership in central committees of political parties (Art. 95). New provisions prohibit interlocking directorates (no more than three, Art. 96). Directors must post security for proper performance of their duties (Art. 98). Questions arising from voting (cumulative voting is available, Art. 98) and proxies (Art. 100) are answered. There are limitations on benefits available to directors (Art. 102); conflicts of interests are regulated (Art. 104). The purchase of a corporation's own shares is regulated (Art. 108). The creation of subsidiaries is strictly limited (Art. 121). Provisions re agencies of foreign corporations are now contained in Arts. 122 to 129 of Decree-Law No. 251 (1931). Modifications are only slight; in most cases they reflect the substitution of the *Superintendencia* for the President. Art. 2 of Law No. 17,366 deals with insurance companies. Among others, the modified Art. 14 of Decree-Law No. 251 (1931) introduced a special tax on insurance contracts between persons domiciled in Chile and foreign insurance companies not established in Chile, in the amount of 60% of the first year premiums payable abroad. Art. 13 of Law No. 17,366 introduced compulsory insurance for liability incurred by the owner and the driver of a motorcar, to be regulated by a Presidential decree. Even the transitory provisions contain interesting innovations. Art. 2 further develops rules regarding the relationship with subsidiaries; Art. 3 implements the modified provision of Art. 426 (3) of the Commercial Code that the corporate charter contain also a "clear, precise and complete statement of the particular object of the society and of its activities." As a consequence, diversified corporations (*sociedades que tengan negocios múltiples*) must determine their specific activity, except in cases of subsidiaries or complementary activities, and liquidate or transfer "business foreign to this object" within a period set by the *Superintendencia*, but no longer than two years.

A recent decree issued by the Ministry of Economy (D.O. September 17, 1970) regulates changes in corporate charters and lists those corporate matters which require a two-thirds quorum.

The Government has announced its intention to institute a program of nationalization. Affected, among others, will be the copper industry, mines, banks and insurance companies. The measures covering the above nationalizations, and possibly others, will be reported in subsequent issues of the *Lawyer*.

COLOMBIA

Pressures from the organized Bar against some of the provisions in Decree No. 320, 1970, (2 *Law. Am.* 409, 1970) have resulted first into an abrogation of the "bar privilege" conferred on law school graduates by Decree No. 1390 (1970); now the law degree only qualifies for municipal and circuit judgeships and for certain legal positions in the public administration. Subsequently, all new legislation dealing with the Bar was suspended by Decree No. 1766 (1970), namely, Decree No. 320 mentioned above; Decree No. 1350 (1970) regulating disciplinary matters, and Decree No. 1158 (1970) establishing fees. As a consequence, previous legislation took effect: Law No. 62 (1928) regulating the legal profession, Law No. 21 (1931) amending Law 62, and Law No. 69 (1945), implementing Art. 40 of the Constitution.

Notaries became officers of the State under Decree No. 2153 (1970) for a salary to be determined by the *Superintendencia de Notariado y Registro* on the basis of income declared for 1969. Notarial books and registers are public property to be acquired by the State, by expropriation, if necessary. Income from notarial activities belong to the public treasury, to be used to maintain notarial services.

Additional decrees (Nos. 1975, 2156, 1250, 1970), deal with public registers and registrars. Decree No. 1250 lists instruments to be registered, the organization of registers, and the cancellation of registers or individual inscriptions. Generally, no instrument subject to inscription will have evidentiary value unless properly registered, nor will it have effect in relation to third persons (Arts. 43, 44). Further provisions regulate the status of registrars, the organization of their offices, with additional provisions dealing with the cadaster, i.e., the combination of documents referring to a piece of land with its physical description, evaluation and legal status (Art. 72).

To promote tourism, the Ministry of Economy and Public Credit will issue, in accordance with Art. 7 of Law No. 60 (1966), certificates for

the development of tourism. The certificates are available to those who invest in new hotels or in the improvement of existing facilities, and to those who exploit such investments. The certificates may be used for the payment of taxes but will not be exempt from taxation. The decree defines investors and covers what constitutes economic exploitation of tourist facilities. It also sets forth the procedures to obtain the said certificates.

To define multinational enterprises which enjoy significant customs privileges (Resolution 005, 1969), the Ministry of Economy and Public Credit has issued a resolution (No. 101, 1970) declaring as such, those enterprises with 80% of their capital belonging to Latin American persons or legal entities, and in which Colombian participation is no less than that of participants from other countries.

The Council of State (Administrative Department) has ruled (June 23, 1970) that foreign companies which do not distribute dividends in Colombia, need not declare their income, also persons not residing in Colombia (September 15, 1970).

It appears that the present Government does not favor the enactments of the Commercial Code as drafted (2 *Law. Am.* 409, 1970). Extensive discussions continue regarding patents.

The Government has proposed a far-reaching urban reform, including expropriations and increase in taxes; also the establishment of a National Council of Urban Reform to deal with expropriations, taxes and rents and to set general standards for urban development.

COSTA RICA

Provisions of the Commercial Code of 1964, dealing with foreign companies, have been amended by Law No. 4625 (1970). The status of merchant as defined in Art. 5 of the code, will be granted to foreign companies and to their subsidiaries and agencies which are engaged in business in Costa Rica, only when they act as distributors of products manufactured by them in Costa Rica (Art. 5, d); however, this status will be given without limitations to Central American companies which are engaged in commerce in Costa Rica (Art. 5, e). Individual alien merchants may engage in commerce under conditions required by Art. 8 of the code, with an addition, namely that they have been permanent residents in the country for at least ten years." Individual enterprises and foreign companies" referred to in Art. 5 must have, in order to open subsidiaries in the country, a local agent with widest authority (*apoderado generalismo*) as defined in Art. 226 of the code. The document conferring such powers must, among others, contain an express declaration that the representative

and the subsidiary "submit to the laws and courts of Costa Rica in regard to all acts or contracts which are made or are to be executed in the country and renounce expressly the laws of their domicile" (Art. 226). Foreign companies referred to in Art. 5, d may transfer to Costa Rica, in accordance with the laws of the country where they have been established, after having applied for inscription in the mercantile register on the basis of documents listed in Art. 227. The provisions of the Commercial Code dealing with representatives of foreign firms (*casas extranjeras*) have been amended only in two places. One provides (Art. 362) that a representative who is a foreigner, will be licensed only if he has resided in Costa Rica for at least ten years (instead of three). The other contains a rather far-reaching limitation, providing in the amended Art. 366 that foreign firms may "freely engage in business in Costa Rica through distributors, concessionaries, agents (*apoderados*) or factors and representatives of foreign firms, provided they are Costa Ricans or aliens within the limitations set by Art. 362, except agencies and subsidiaries of foreign companies the products of which are manufactured in Costa Rica; they may directly and freely distribute and represent their own products and those of Central American origin, properly evidenced" (Art. 366).

A subsequent law (No. 4684, 1970) regulates the position of distributors and representatives of foreign firms or their subsidiaries and defines as "natural or legal person he who continuously and independently, with or without being a legal representative, prepares, promotes, facilitates or executes the sale of goods or services which the other alien merchant or industrialist sells or offers" (Art. 1). In case the contract for distribution or representation terminates for causes other than the intent of the representative, the parent company (*casa matriz*) shall indemnify him with a sum equivalent to two months of gross income for each year of service up to eight years (Art. 3); the foreign firm also shall buy the inventory at cost (Art. 4). In case the agreement is limited in duration, Art. 3 will apply whenever the agreement is not continued for reasons other than the intent of the representative (Art. 5). Art. 6 lists just causes for terminating an agreement with foreign firms; those available to the representative are defined in Art. 8. All rights of the representative under this law are cogent, i.e., may not be modified by parties' agreement (Art. 9). Claims arising under this law are barred after six months (Art. 10). Damages owed to the representative must be paid in one sum immediately upon termination of the contract (Art. 11).

The Protocol of San José implementing the Central American General Treaty of Economic Integration (1958) was adopted by Law No. 4635 (1970). It is designed to protect the balance of payments and contains a

surcharge of 30% on tariffs on importation from outside the Central American Common Market, with some exceptions for essential items listed in the Protocol.

The Legislature is considering several drafts, among them a family code, a mining code, a code of municipalities and a tax code, dealing primarily with procedure. Additional drafts deal with public administration, railroads, and income and sales taxes.

The National Assembly has passed, and the President signed into law, a new trade agreement with the Soviet Union. The Soviet trade mission in Costa Rica will have diplomatic status and privileges.

DOMINICAN REPUBLIC

The Austerity Law enacted in 1966 (1 *Law. Am.* 57, 1970) has been repealed.

In view of continuing terrorist activities bail is denied to all persons "accused of crimes" without additional specification.

Decree No. 126 (1970) imposed price controls on rice.

The President has signed into law (Nov. 30, 1970) amendments to the income tax law of 1962 (No. 5911). One of the amendments affects foreign investors. In case their investments have been made subsequently to this amendment; foreign investors may not take advantage of privileges under Art. 55, para. (II), unless they filed a certificate issued by the Department of Foreign Exchange of the Central Bank to the effect that the foreign investment has in fact been executed in the country and is properly registered in the Department. In case of non-compliance with this requirement, the taxpayer will be taxed under Art. 65 or with 18%, regardless whether the taxpayer is a person or a legal entity.

The Government has submitted to the Legislature a law to regulate private insurance companies, replacing the Law of Insurance Companies enacted in 1954 (No. 3788), including provisions of the Commercial Code (1884) dealing with maritime insurance. An advisory council shall be created with representatives of domestic and foreign insurers, to cooperate with the *Superintendencia de Seguros*.

A reform of public administration is planned to be completed during 1971. The program has been articulated in eight points.

The Legislature has adopted laws dealing with the marketing of gasoline; discard of governmental vehicles; and, life and invalidity in-

surance for civil servants. A new law (No. 595, 1970) to provide for export incentives was enacted. It provides for 95% rebate on related import duties as well as production and sales taxes on components of exported goods. The Industrial Development Department certifies eligibility.

The President has submitted to the Legislature three significant legislative proposals. One deals with urbanization and construction; the other with the establishment of an *Autoridad Portuaria Dominicana* to administer ports independently from customs authorities; and a third to establish a retirement fund for civil servants supported by one percent of salaries as well as additional government subsidies.

Law No. 595 (1970) has been enacted to stimulate the diversification and increase of exports of Dominican industrial products. Under the law, exporters have the right to recover up to 95% of the amount paid as import taxes, as well as any other taxes on production and sales. In addition to creating an export incentive, the law will also help to increase the monetary reserve of the nation. A novel feature of the new law is that the refund of taxes paid is made by a Certificate of Compensation which allows the businessman to deduct the amount to be reimbursed from future taxes payable to the government.

ECUADOR

A new Civil Aviation Law was enacted (R. O. No. 32, August 5, 1970). The government will control civil aviation within Ecuadoran territory, as well as airports and their operations through the *Dirección de Aviación Civil*, attached to the Ministry of National Defense. It comprises a *Comandante General*; a National Aviation Council; a General Director and additional administrative officers. The National Council has, among others, the power to grant permits to domestic and foreign carriers and to revoke or suspend them. The *Dirección General* shall, through its Director, among other functions, issue permits and control the activities of national and foreign air carriers and keep the national aeronautical registers. A *Comisión Nacional de Facilitación* is charged with the study of airport facilities. The law also provides for financial resources, among them for an 8% tax on domestic and 10% on foreign fares; commercial transactions related to aviation are taxed up to 4% of their value; another tax is imposed on gasoline. The new law has replaced the previous Civil Aviation Law enacted in 1963, as amended in 1964 and 1965.

A law to abolish provisional (*precario*) tilling of land by non-owners prohibits cultivation of land in any of the traditional dependent arrange-

ments as, for example, leases and share-cropping. Tillers of land which they do not own, have the right, after at least three years, to demand immediate expropriation for their benefit.

The Government has prepared a draft law consisting of 144 articles, dealing with higher education. A National University Council shall be set up, consisting of representatives of the administration and students. Admission examinations will be reinstated as well as tests during the academic year and final examinations. Education shall be free and administered by autonomous university authorities.

EL SALVADOR

The new Commercial Code (Decree No. 761, 1970) with its 1563 articles is the most extensive among the recently enacted commercial codes. In its first book the code deals with merchants and auxiliary personnel, individuals and associations. The latter are divided into personal associations (partnerships, limited partnerships, and limited liability firms) and associations with capital (corporations and limited partnership with shares). Foreign associations must meet requirements contained in Arts. 358 to 361. Foreign associations engaged in banking, insurance, saving and generally dealing with money of the public, must invest in El Salvador their mathematical reserves and the proceeds from contracts executed in the country, as well as the required percentage of deposits kept (Art. 361). The second book establishes professional commercial duties (registration in the mercantile register and keeping books); also the standards of commercial operations, i.e., statutory law, commercial customs and good faith; prohibition against restrictive and unfair practices; the same book also regulates bankruptcy. The third book deals with mercantile things, namely enterprises (also with the individual enterprise with limited liability), negotiable instruments (with Title XII containing conflict of laws rules, Arts. 920-929). Book four contains provisions on mercantile obligations generally, also unilateral acts and contracts, with rules governing adhesion contracts (Arts. 976-978), followed by regulation of particular types of contracts: arbitration, sales (including those on installments), agency, bailment, and others. An extensive title is dedicated to credit and banking operations, including trusts (Arts. 1233-1262). Provisions on transportation and insurance follow. The final title deals with guarantees (pledge, surety, mortgage). The new code replaced the Commercial Code enacted in 1904.

Credit institutions and auxiliary organizations are now regulated by Legislative Decree No. 94 (1970). This is an extensive law consisting of 254 articles regulating the organization and functioning of banking and

related institutions. Among organizational rules are those dealing with foreign as distinguished from domestic institutions. Domestic institutions must maintain at least 80% of their capital in the hands of Salvadorans, or other Central Americans provided reciprocity exists. In case of legal entities, these must be composed of persons of the nationalities just mentioned, or of Salvadoran non-profit associations with charters approved by administrative authorities. Under no circumstances may shares of domestic corporations be acquired by foreign governments or their dependencies, or by associations in which aliens participate, nor may credit institutions enter into relations with foreign governments, institutions or associations, except when domestic institutions act as correspondents, fiduciaries, or trustees for a foreign institution (Art. 15). Foreign credit institutions must obtain an administrative permit in order to establish subsidiaries locally. The same applies to agencies or offices which supply information or allocate funds in El Salvador, but without engaging in passive operations there (Art. 26). In applying for said permits, the foreign institutions must submit documents and declarations listed in Art. 27; then the Ministry of Economy will decide on the basis of guidelines contained in Art. 28, para.(2). With regard to administration, foreign institutions must entrust local administration to one or more persons domiciled in El Salvador, with sufficient authority to handle local business (Art. 33). The law lists various types of credit operations and regulates required capitalization; deposit and saving banks; credits; shares; bonds; investments; trust operations; and other types of commercial operations and institutions. The final chapter deals with activities of auxiliary credit institutions, among them warehouses and stock exchanges.

A Law for the Development of Maritime Fishing was enacted (No. 97, 1970) with the intent to develop in El Salvador enterprises for maritime fishing within the territorial waters (up to 200 maritime miles) and beyond. The maritime area within the scope of this law falls into two zones: the maritime fishing *de altura* which includes the area from 60 miles from the low-water mark to 200 miles off the coast, and the maritime fishing zone *de gran altura*, i.e., on the high seas (Arts. 2 and 3). Anyone, whether domiciled in El Salvador or not, may apply so that an enterprise already established or to be established there, may be qualified as a maritime fishing enterprise for either or both zones mentioned (Art. 4). These enterprises will enjoy significant benefits (Arts. 5 and 7) for ten years (Art. 6). Enterprises which qualify for either or both zones and process their catch for the domestic market or for the Central American Common Market, will enjoy benefits available under the respective Convention (Art. 8). In order to qualify as maritime fishing enterprises,

natural or legal persons not domiciled in El Salvador must maintain a legally authorized representative in the country "able to exercise rights and assume obligations which he may or must assume in the country as a person in representative capacity" (Art. 11). The qualifying decision will be granted by the administration in a combined *acuerdo* subscribed by the Ministries of Economy, Defense and Finance (Art. 14). After such *acuerdo* has been issued, a contract will be made between the state, represented by the Ministry of Economy, and the enterprise (Art. 15) regulating matters listed in Art. 17. Moreover, the State may guarantee for ten years socio-economic rights arising under this law as well as tax benefits contained therein (Art. 16).

In the area of labor law, two decrees may be mentioned. One set minimum wages for the present harvest of coffee, sugarcane and cotton (Decree No. 35, 1970); the other expanded the coverage under social security and services, (Decree No. 33, 1970).

In economic matters, a law creating a guarantee fund for small industry was enacted as Legislative Decree No. 117 (1970); a law on industrial uses of ethyl alcohol (Legislative Decree No. 144, 1970); a law for the development of export industries (Legislative Decree No. 117, 1970), and an amendment to the law regulating international (financial) transfers allowing foreign companies to repatriate all profits instead of the 10% previously authorized (Decree No. 37, 1970).

A law regulating drainage and irrigation (Legislative Decree No. 153, 1970) provides for the establishment of drainage and irrigation districts, indicating the maximum and minimum of land required.

The General Law of Cooperative Societies (Legislative Decree No. 559, 1969) was implemented by regulations (Executive Decree No. 20, 1970).

FRENCH ANTILLES AND GUIANA

Authorized by Decree No. 25-612 (1968) to fix prices subsequent to the devaluation of the franc (August 10, 1969), prefects have — in view of inflationary pressure — frozen commercial margins and salaries (Arrêté No. 69-1524, 1969) through December 31, 1970, except for commercial enterprises and certain classes of employees (Arrêté No. 70-230, 1970). New price schedules have been promulgated for imported timber (No. 70-271, 1970), drinking water (No. 70-235, 1970), electricity (No. 70-329, 1970), fish (No. 70-3, 1970), sugar (No. 70-234, 1970) and transportation (No. 70-229, 1970).

Decree No. 57-44 (1957) regarding allocation of social aid was amended by Decree No. 70-881 (1970).

Certain provisions of the *Code Rural* (Art. 879-bis) have been amended by Decree No. 70-916 (1970). It may be added that a previous decree (No. 60-406, 1960) adjusted the legislative regime and the administrative organization of the Antilles and Guiana to existing legislation.

GUATEMALA

A number of decrees enacted by the previous military government have been abrogated by Decree No. 1.725 (1970).

In the area of criminal law two significant enactments shall be noted. One contains an extensive reform of the Code of Criminal Procedure (1898) by Decree No. 63-70 (1970). The other reformed a number of provisions contained in the Criminal Code (Legislative Decree No. 2.164, 1936). Decree No. 51-70 (1970) has, in most instances, increased the sanctions and in a few cases, modified the definitions of the crimes involved. Such changes affect public disorders (Arts. 156 and 158); freeing of detained persons. (Art. 159); falsification of identity papers and their use (Arts. 106 and 108), as well as falsification of license plates for cars (Art. 211). Other amendments affect denial of obedience by civil servants (Art. 259); illegal detentions by public officials (Arts. 171 and 173), including abuses of detained persons (Art. 276), and various kinds of bribery (Arts. 281, 285, and 287). The special provision for infanticide (Art. 303) was abolished; provisions dealing with abortion (Art. 305); rape (Art. 330); molestation (Art. 331), and statutory rape by persons in authority, including incest (Art. 332), have been modified. Further modifications affect private deprivation of liberty (Arts. 367 and 368), including kidnapping (Art. 269); also invasion of private residences (Art. 377), and illegal coercion (Art. 382). A new crime was added to Art. 126 dealing with crimes against peace, namely price-hiking regarding goods for which prices have been set by authority, or by hoarding goods of prime necessity.

An administrative decree regulates treatment of prisoners (D. O. August 13, 1970).

Decree No. 1862 (1936), dealing with the organization of courts, was amended by Legislative Decree No. 74-70 (1970).

Regulations dealing with governmental purchases of goods and services (2 *Law. Am.* 415, 1970), have been further implemented by Administrative Decree No. 36-70 (1970) and by Legislative Decree No. 64-70

(1970). Amended also was the basic law of the Bank of Guatemala (Legislative Decree No. 62-70, 1970).

Legislative Decree No. 74-70 (1970) regulates private security agencies.

The *Ley de Orden Público* dealing with powers available to the government in emergency situations was amended by Decree No. 89-70 (1970).

Over-flight by foreign military aircraft was regulated by Decree No. 58-70 (1970); the Tokyo Convention was ratified (Decree No. 70-70, 1970).

Exploitation and export of certain types of timber have been regulated by two decrees (G. O. November 5, and October 19, 1970).

GUYANA

The new Insurance Act (1970), in force since January 1, 1971, requires foreign insurance companies to invest no less than 95% of their statutory fund in local assets; this rule applies also to no less than 90% of premiums collected on policies issued in Guyana and to 20% of any annual increase in their statutory fund. Moreover, foreign insurance companies are required to deposit \$250,000 in order to be permitted to operate in Guyana.

A recent law has increased fines imposed on vessels illegally fishing in Guyanan waters from \$50 to \$500. The law applies only to vessels over 50 feet in length.

HONDURAS

An agreement is being drafted to settle the dispute with the United States over the Swan Islands. The islands have been under United States control since 1860; the Honduran claim dates from 1923. However, Honduras relies on privity with Spain. The agreement while recognizing Honduran sovereignty will permit United States installations to remain on the island.

JAMAICA

The Criminal Justice Administration (Amendment) Act (No. 21, 1970) deals with criminal acts of persons in governmental service outside Jamaica. Persons affected are "guilty of an offense of the same nature, and subject to the same punishment, as if the offense has been committed in Jamaica."

The River Rafting Act (No. 39, 1969) was implemented by regulations (No. 241, 1970).

A National Family Planning Board has been created by Act No. 22 (1970), to "prepare, carry out and promote the carrying out of family planning programs in Jamaica."

The Inter-American Development Act, 1970 (No. 26) was adopted.

A number of laws in force have been amended, among them the Electrical (Frequency Conversion) Act (No. 18, 1970); the Loan Act (No. 19, 1970); the Banana Board Act (No. 23, 1970); the Income Tax Law (No. 24, 1970); the National Insurance Act (No. 27, 1970), and the Trade Act (No. 28, 1970).

In the present parliamentary session the Unit Trust Act, 1970, was introduced, designed to provide for an effective regulation of mutual funds.

An attempt by the minority leader in the Senate for the appointment of an ombudsman was defeated.

MEXICO

Art. 57 of the Nationality and Naturalization Law (1934) was implemented by a regulation (D. O. August 11, 1970). It demands that Mexicans born abroad to a Mexican father or mother, and Mexicans born in Mexico to an alien father or mother, establish their Mexican nationality by a certificate to be issued by the Ministry of Foreign Relations. In all transactions which require for their validity Mexican nationality, the notaries, public registrars and other authorities will have to require that such certificate be presented. In case that the certificate is not presented, the competent authority may find such acts to be null, unless the certificate is obtained within a period set by the authority. In any case, nullity will not affect third persons acting in good faith.

A number of international conventions have been ratified: the Inter-governmental Maritime Consultative Organization (D. O. August 3, 1970); the Cultural and Scientific Interchange with the Soviet Union (*ibid.*); the Facilitation of International Transportation by Water, signed in Mar del Plata in 1963 (D. O. September 15, 1970); the authentic trilingual text of the Civil Aviation Convention signed at Chicago in 1944 (D. O. September 17, 1970); amendments to the Convention for the Safety of Life at Sea, 1960, 1967 (D. O. October 5, 1970); the texts of the Tokyo Convention (D. O. October 24, 1970), and of the International Convention on Load Lines of 1966 (D. O. October 24, 1970); priv-

ileges and immunities of the *Organismo para la Proscripción de Armas Nucleares en América Latina* (D. O. October 29, 1970), and the Convention on Recognition and Execution of Foreign Arbitral Awards (November 14, 1970).

Four agreements have been concluded with the United States; one providing for the designation of officials to maintain contact between Mexico and the United States in matters relating to economic and social development in the border area (signed and entered into force on June 23, 1970), the agreement for the creation of a joint commission to study such problems, signed in 1966, has been terminated. The agreement on air transportation of 1966 was extended by an exchange of notes on July 1, 1970. Finally, a treaty of cooperation for the recovery and return of stolen archeological, historical and cultural property was signed on July 17, 1970; the text appears in 9 *International Legal Materials* 1028 (1970).

NETHERLANDS WEST INDIES

Measures concerning the independence of Surinam have been discussed in conferences between the representatives of the Netherlands and Surinam. Preparations are under way to enable Surinam to enter into international agreements, to introduce conscription and to establish a Surinam citizenship. A joint committee consisting of representatives of the Netherlands, Surinam and the Antilles will be set up under an agreement "in order to enable the countries to make a choice from the obtainable alternatives in the field of national and international law, to formulate the possibilities from which the choice might be made, and to consider the consequences resulting from each."

Surinam is about to draft a National Independence Plan. In addition to economic, socio-cultural and political factors, the plan will pay particular attention to guarantees for a "sound functioning of a democratic constitutional system." The timing of steps toward independence will be studied as well as the desirability of a popular referendum.

Conferences have been held with Guyana aiming at a closer cooperation between the two countries, particularly with regard to air transportation, telecommunications, cultural and educational matters, geological, particularly mining matters, and regional planning.

NICARAGUA

Private investment companies are now regulated by a law, enacted on April 10, 1970 (G.O. June 10, 1970). The law defines operations which may be undertaken by such companies and sets minimum capital and

requirements in regard to ownership. The Central Bank may set ceilings for their credit operations, and on their assets and liabilities; the Bank will also review foreign borrowings and regulate business standards in order to bring them into a uniform credit program.

PANAMA

Decree No. 344 of October 31, 1969, reported in 2 *Law. Am.* 57 (1970), has been implemented by an administrative decree (No. 9, 1970), supplying needed definition and procedural rules for the establishment and registration of businesses in Panama.

A *Comisión Bancaria Nacional* was established by Decree No. 238 (1970). The decree authorizes three types of licenses for banking institutions, one of them for institutions established abroad. Capital of such institutions must be maintained in Panama and supported by an emergency credit available from a foreign bank or the parent bank abroad in U.S. dollars in the amount of 10% of the bank's assets, to be used in case the withdrawals within a period of six months amount to more than 10% of the deposits. Every bank must keep 5 to 25% of local deposits readily available of which 30% must be in cash. Further provisions regulate liquidity, interest rates, documents, prohibitions and limitations, governmental inspection and intervention as well as reorganization.

Horizontal property was introduced by Decree No. 217 (1970) and is available in apartments, in whole floors or even in whole buildings.

The *Comisión Nacional de Valores*, created by Decree No. 247 (1970) and attached to the Ministry of Commerce and Industry, shall regulate and supervise companies dealing in shares. The *Comisión* will authorize sales, grant licenses to brokers, monitor mutual funds, and examine annually the financial status of brokerage firms. Additional extensive provisions regulate brokers and the financing of brokerage firms. Added are provisions designed to protect minority shareholders, amending Arts. 418, 420, 444 and 531 of the Commercial Code as reenacted in 1946.

Another decree regulates the activities of mutual funds (No. 248, 1970). Such funds may not buy shares on margin nor sell shares not owned by them, or deal in shares of companies whose shares are not authorized by the *Comisión Nacional de Valores*, or guarantee the marketing of shares. In addition to domestic mutual funds, foreign mutual funds are regulated (Arts. 12-17). Foreign mutual funds may market their shares in Panama only if they have qualified their local agencies. (Art. 13) and have been licensed upon application to the *Comisión Nacional de Valores* (Art. 16). Both domestic and foreign mutual funds must invest at

least 25% of local proceeds in local securities listed in Art. 18. Only persons qualified in accordance with Arts. 21 to 29 may market their shares. Additional provisions deal with the purchase of such funds (Art. 30) and their liquidation (Arts. 31, 41-63):

The Ministry of Labor and Social Welfare was organized by Decree No. 249 (1970).

Decree No. 260 (1970) grants a number of tax benefits to aliens who retire in Panama.

Diplomatic and consular privileges and immunities are regulated by Decree No. 280 (1970).

A Panamanian Commission for Industrial and Technical Norms was created by Decree No. 282 (1970).

Telecommunications are now regulated by Decree No. 214 (1970). Concessions may be granted only to Panamanians, individuals or companies, or aliens domiciled in Panama; also to alien enterprises which operate in the Republic (Art. 14).

PERU

The General Industrial Law (No. 18.350, 1970, 2 *Law. Am.* 425, 1970) was implemented by a law regulating industrial communities (No. 18.384, 1970). Industrial communities will be established in industrial enterprises with more than six workers or less whenever the annual gross income amounts to more than one million gold *soles*. Until the assets of the community reach, in value, 50% of the firm's (employer's) capital, members will receive, after one year of service, a corresponding share in the income from shares, plus participations and interests received by the community. Members will also acquire, as personal property, shares issued by the community on its holdings, after they surpass fifty percent of the firm's capital. Assets of the community are derived from the 15% of the net profit to be contributed by the firm; from investments in this or other enterprises, and from other income. Shares and other types of participation in the firm's capital may not be transferred or used as security, except in dealings with the State Bank, nor are transferable shares issued by the community on its holdings; they may only be redeemed by the community itself. The general fund of the community is divided into two kinds: the regular and the irregular. The regular fund receives dividends and interests from securities it holds and the 15% of the net income of the firm, once the value of community's holding has surpassed 50% of the firm's capital. The irregular fund consists of no more than 20% of the annual amount

set aside for labor accidents, but only in case that there are no means to pay departing workers' claims against the community. The general fund will supply financial means for payments of departing workers, but only until the holdings of the community reach 50% of the firm's capital. Later, the general fund will be used not only to pay off departing members, but also for the redemption of shares from departing members, for investments in this or in other enterprises or in state bonds, and for the payment of dividends and other benefits due on shares issued by the community. The community is administered by the General Assembly of its members and by the Council. Special rules are established for the determination of the firm's capital and the mode of cooperation of the community in the firm's managing organs, according to its varying nature, namely in enterprises operated by individual owners, by partnerships, by limited liability firms and by corporations. Provisions contained in this law must be incorporated into contracts entered into with industrial enterprises with foreign capital participation. Subsidiaries (*subsidiarias y filiales*) of enterprises having their principal seat abroad will be considered as industrial enterprises established as corporations.

The agrarian reform legislation has been further implemented. Under a supreme decree (No. 264-70-AG, 1970) agrarian land may be used by government agencies. Regulations for agrarian-industrial agreements (Arts. 144-147 of the Agrarian Reform Law No. 17.716) have been issued, defining parties to such agreements, their objectives as well as the composition of *juntas permanentes* (Supreme Decree No. 261-70-AG, 1970); the resulting agro-industrial complexes are regulated by a ministerial resolution (No. 2.459-70-AG, 1970). Bonds issued for the agrarian reform are regulated by two supreme decrees (No. 267-70-AG and 189-70-AG, 1970). Additional regulations deal with administrative matters: agrarian labor (Supreme Resolution No. 184-70-AG, 1970); *Inspectoría General de Reforma Agraria* (No. 3.029-70-AG, 1970); *Centro Nacional de Capacitación e Investigación de Reforma Agraria* (Law No. 18.348, 1970), and the *Comité de Supervigilancia* (Supreme Resolution No. 579-70-AG, 1970).

A revised text of the agrarian law (No. 17.716) was published under a supreme decree (No. 265-70-AG, 1970), including criminal provisions added by Law No. 18.158 (1970), dealing with activities designed to affect adversely agrarian operations.

The *Empresa Minera del Perú*, created by Law No. 18.225 (1970) was organized by Law No. 18.436 (1970); a *Consejo de Empresas Públicas de Energía y Minas* was established (Law No. 18.433, 1970).

An investigation of people's nutrition was initiated by a ministerial resolution (No. 2896-70-AG, 1970).

In further regulating the securities market, the Government has amended Law No. 18.302 (1970, 2 *Law. Am.* 423, 1970) by Law No. 18.353 (1970), providing — inter alia — that exchanges be organized as civil non-profit associations (according to the Civil Code); Art. 6 modified Art. 188 of the Civil Code in regard to transactions on the exchange; Art. 9 amended the law regulating negotiable instruments (No. 16.587, 1967) and the fifth and sixth section, Book I of the Commercial Code (Arts. 64-84 and Arts. 88-115). Two supreme decrees (No. 187-70-EF and 230-70-EF, 1970) supplied additional regulations. The exchange in Lima will operate according to regulations published in *El Peruano* (September 5, 1970); the *Comisión Nacional de Valores* according to Supreme Decree No. 230-70-EF (1970).

In the area of financial operations, foreign exchanges have been regulated by a supreme decree (No. 217-70-DE, 1970). Subsidiaries of foreign banks must have a minimum capital of 60 million *soles* (Law No. 18.351, 1970); in addition, foreign banks authorized to operate in Peru are required to put at the disposal of the National Bank every three months a credit in foreign currency equal to the increase in deposits received as further regulated by a supreme decree (No. 242-70-EF, 1970), which provides for two accounts: *cuenta capital* and *cuenta depósitos*. The former shall amount to double the capital held by the bank on July 31, 1970, while the latter must meet the tri-monthly increase in deposits, as against the holding on the same day. The decree also provides for penalties.

A reform of the labor legislation, including procedural and jurisdictional aspects, was initiated according to a supreme resolution (No. 270-70-TR, 1970).

Reinsurance abroad must be handled through the National Bank (Law No. 18.425, 1970); also foreign exchange (*divisas*) under Law No. 18.332 (1970).

In the radio industry, any transfer or other disposition regarding licenses to operate radio stations is prohibited by Law No. 18.371 (1970).

The status of private enterprises with government participation has been clarified by Law No. 18.446 (1970) in the sense that they may continue operating as private enterprises (including those engaged in banking, financing and insurance) as provided in their charters and applicable laws; personnel will not be considered civil service personnel.

In the area of fishing, the goals of the *Fondo de Desarrollo Pesquero*, established by Law No. 18.196 (1970), have been set by Law No. 18.357 (1970) and implemented by Regulations No. 021-70-PE (1970). The

Consultative Council of Fishing, established by Law No. 18.121, 1970) is now regulated by a supreme decree (No. 071-70-PE, 1970). The *Empresa Pública de Servicios Pesqueros* has been regulated by a supreme decree (No. 081-70-PE, 1970); the *Empresa Pública de Comercialización de Harina y Aceite de Pescado*, established by Law No. 18.253 (1970) is regulated by a supreme decree (No. 019-70-PE, 1970). Internal marketing of fish meal is regulated by a supreme resolution (No. 0091-70-PE, 1970).

The *Consejo Superior de Hidrocarburos* has been regulated by a supreme decree (No. 010-70-EM, 1970).

Among administrative matters recently regulated, the following may be noted: status of Peruvian diplomatic personnel (Law No. 18.378, 1970); public translators (Supreme Decree No. 0013-70-RC, 1970); procedure for customs courts (Supreme Decree No. 231-70-ET, 1970), and for the tax courts (Supreme Decree No. 232-70-EF, 1970). A register of coffee producers was introduced by Law No. 18.432 (1970).

The *Organismo Regulador de Tarifas de Transportes* (ORETT), established by Law No. 17.848 and charged with regulation of tariffs (including those on railways and in cabotage), was regulated by a supreme decree (No. 025-70-TC, 1970).

In the area of transportation by sea two decrees may be noted: one regulating the *Compañía Peruana de Vapores* (No. 024-70-TC, 1970), and another dealing with the *Empresa Nacional de Puertos* (No. 023-70-TC, 1970). A fund for shipbuilding was set up (Law No. 18.435, 1970).

A far-reaching educational reform is being planned. Among significant changes the following may be noted: bilingual education in zones with Indian population; scholarship for indigent students; duty of graduates to work a certain time in public service; co-education; uniform dress; and improvement in mass communications used in education. The main goal of the projected reforms is to achieve a fundamental transformation of the existing social, political and economic status of the population.

TRINIDAD AND TOBAGO

A *Firearms and Ammunition Act* was adopted by the Legislature. The *Highway Act* was adopted but not yet proclaimed.

The Government plans to introduce new labor legislation to replace the controversial Industrial Stabilization Act. Another draft is designed to streamline cooperatives which are presently regulated by the Credit Union Societies Ordinance, by the Cooperative Societies Ordinance and by the Agricultural Credit Societies Ordinance.

A bill to deal with international air piracy is being drafted under the Cabinet's instructions.

An anti-corruption law patterned after a similar law in force in Tanzania is being considered by the Government.

The National Security (Public Order, Public Safety and Defense) Act 1970 was withdrawn due to unfavorable comments.

The debate over the death penalty which started in the Legislature was referred to a Commission of Inquiry, appointed by the Governor.

The decision whether or not to cut ties with the Privy Council continues. It is interesting that the local Bar favors the status quo.

The Defense Act of 1962 is about to be amended by a provision outlawing para-military organizations illegally wearing military uniforms or uniforms closely resembling them.

Trinidad and Tobago has signed two agreements with Venezuela on September 29, 1970, dealing with cultural and agricultural cooperation; however, the difficult issue of fishing rights has been left open.

The present Aliens Landholding (Amendment) Act of 1969 is being criticized by foreign investors as cumbersome and bureaucratic.

At the opening of the present law term, the Chief Justice pointed out that in spite of the fact that the unrest in the islands has placed the courts under additional stress, they are nevertheless sadly neglected. "The clamor that is made from year to year for law reform, law revision, new court building, improved terms and conditions for judges and magistrates alike, must once again be voiced," continued the Justice. Reforms are needed in the area of family and divorce law, with regard to the death penalty, compensation for criminal injuries, jury qualification, and a simplified procedure which is presently "far too cumbersome and expensive for the every-day run of small claims." About one year ago a Law Reform Commission was established, but its work remains unreported.

UNITED STATES

Two significant acts have been passed dealing with activities of the federal government: the Legislative Reorganization Act of 1970 (84 Stat. 1140) designed to improve the operation of the federal legislative branch, and the Postal Reorganization Act (84 Stat. 719).

In regard to the District of Columbia, Congress established a Commission on the Organization of the Government (84 Stat. 845) and adopted an extensive Court Reform and Criminal Procedure Act (84 Stat. 473).

Legislation dealing with health problems includes, among others, the following acts: the Heart Disease, Cancer, Stroke and Kidney Disease Amendment of 1970 (84 Stat. 1297) amending the Public Health Service Act; the Health Training Improvement Act of 1970 (84 Stat. 1236); the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236); and the Developmental Disabilities Services and Facilities Construction Amendments of 1970 (84 Stat. 1316).

Housing was involved in two enactments: the Emergency Home Finance Act of 1970 (84 Stat. 450) and the Veterans Housing Act of 1970 (84 Stat. 1108).

Regarding crime the extensive Organized Crime Control Act of 1970 (84 Stat. 922) deals with the most urgent problems amenable to federal action; indigent defendants in federal criminal proceedings received needed representation (84 Stat. 916).

In the area of transportation, all modes of transportation became involved in federal legislative actions. Urban transportation received assistance through the Urban Mass Transport Assistance Act of 1970 (84 Stat. 962); the railroads are affected by two acts: the Federal Railroad Safety and Hazardous Materials Transportation Control Act of 1970 (84 Stat. 971) and the Rail Passenger Service Act of 1970 (84 Stat. 1327). The merchant marine had its Merchant Marine Act of 1936 extensively amended (84 Stat. 1018). In the area of aviation the act implementing the Tokyo Convention (84 Stat. 921) should be noted.

In the area of pollution, the legislation reported previously (2 *Law. Am.* 226, 1970) has been further implemented by the Environment Education Act (84 Stat. 1312); the Resource Recovery Act of 1970 (84 Stat. 1227), and by the creation of the Interstate Commission on the Potomac River, an interstate compact, consented to by the Congress (84 Stat. 856).

Arts and sciences were not neglected as shown by two enactments: one establishing a National Commission on Libraries and Information Science (84 Stat. 440), and another, amending the National Foundation on Arts and Humanities Act of 1965 (84 Stat. 443).

To assist newspaper publishers in economic distress, Congress has enacted the Newspaper Preservation Act of 1970 (84 Stat. 466), exempting from antitrust laws joint operating arrangements between such publishers.

Credit institutions have been affected by two enactments: an amendment to the Federal Credit Union Act (84 Stat. 994), and the Federal

Deposit Insurance Act, requiring — among others — reporting to the Department of Treasury of international financial transactions (84 Stat. 1114).

The International Travel Act of 1961 was amended (84 Stat. 1071).

Congress consented to the Western Interstate Nuclear Compact (84 Stat. 979).

Employment Security Amendments of 1970 (84 Stat. 695) have been enacted.

The Federal Aid in Wildlife Restoration Act of 1937, and the Federal Aid to Fish Restoration Act of 1950 have been amended (84 Stat. 1097).

The Bankruptcy Act was amended in regard to discharge of debts (84 Stat. 970). The act shall be studied by a special commission (84 Stat. 468).

The Convention on the Recognition and Enforcement of Foreign Arbitral Awards, sponsored by the United Nations (New York, 1958) has been ratified and subsequently implemented by legislation (84 Stat. 692). This act provides, among others, that the Convention does not apply to arbitration agreements entirely between nationals of the United States unless the relationship “involves property located abroad, envisages performance or enforcement abroad, or has some other reasonable relation with one or more foreign states,” adding that a corporation is a citizen of the United States if it is “incorporated or has its principal place of business in the United States.” Jurisdiction in matters involving the Convention are considered as arising under the laws and treaties of the United States and, consequently, within the original jurisdiction of federal district courts, regardless of the amount in controversy. Cases filed in state courts may be removed to federal courts. An order by a competent court may compel arbitration at any place provided for in the agreement regardless “whether that place is within or without the United States.” Any party to an arbitration under the Convention may, within three years since the rendition of the award, apply for its confirmation; the court will comply unless there is ground for refusal or deferral of recognition or enforcements as specified in the Convention.

URUGUAY

Among administrative measures, Decree No. 104 (1970) ordered that all heretofore independent governmental agencies involved in the development of natural resources be coordinated in the Office of Planning and

Budget. Decree No. 127 (1970) prohibits civil servants from holding and being paid from more than one public appointment.

New regulations have been issued regarding control over pharmaceutical products (Decree No. 232, 1970).

In the area of domestic economy, an extensive decree (No. 128, 1970) regulates the assembly of motor cars. The Ministry of Economy and Finance published a general price index showing the growth of inflation (D. O., April 30, 1970).

Protection granted to renters of flats has been extended by a suspension for 30 days of all evictions (Law No. 13.846, 1970); a similar law was enacted for evictions from rural lands (Law No. 13.861, 1970). Finally, Law No. 13-870 (1970) suspended all evictions through December 31, 1970, in some cases with rents frozen through December 1, 1971. At the same time a new landlord-tenant system was inaugurated.

Decree No. 116 (1970) prohibits hunting and marketing of indigenous animals, with specific exceptions.

Special measures have been enacted by Decree No. 92 (1970) against air piracy, including the right to search passengers and baggage.

The import of breeding cattle was facilitated (Decree No. 115, 1970).

Tariff exemptions have been extended to machinery, etc., used in the tobacco industry (Decree No. 123, 1970). Other exemptions have been granted to specific articles, among them foods, machinery, etc., by Decree No. 149 (1970).

Measures have been undertaken to increase industrial output (Decree No. 252, 1970). Tariff and related benefits have been granted to wool (Decree No. 306, 1970) and the marble and granite industries (Decree No. 307, 1970). For fiscal and political reasons stricter controls have been imposed on the import and use of newsprint (Decrees No. 326 and 327, 1970).

Tax and tariff benefits have accrued to publishing houses by having them classified as productive industries (Decree No. 96, 1970).

A number of international conventions have been adopted, among them those dealing with the use of gas and bacteriological warfare, Geneva, 1925, (Law No. 13.843, 1970); for the exploration and utilization of outer space (Law No. 13.854, 1970); on maritime privileges and mortgages (Law No. 13.855); on non-proliferation of nuclear weapons

(Law No. 13.859); conventions related to the International Postal Union (Law No. 13.858) and the International Telecommunications Convention (Montreux, 1965).

The operation of international governmental and non-governmental organizations, their status and their customs privileges are regulated by Decree No. 334 (1970).

The planned World Industrial Fair was called off (Resolution No. 234, 1970).

VENEZUELA

A law regulating the administrative career (civil service) was enacted (G. O. No. 1.428, 1970).

The new election law (G. O. No. 1.435, 1970) replaced the law enacted in 1964; it provides for proportionate elections and regulates organizations in charge of conducting elections, voters' registers and the process of elections, including electioneering, election controversies and penalties.

The functions of the office of Attorney General (*Ministerio Público*) are regulated by a law recently enacted (G. O. No. 1.434, 1970), derogating a law passed in 1955. The law dealing with public debts i.e., obligations undertaken not only by the central or state governments but also by municipal governments and autonomous institutions, has been amended (G. O. No. 29.322, 1970).

A National Boundaries Council has been established by Decree No. 407 (1970).

Handling of explosives in urban zones has been regulated by Decree No. 422 (1970).

In agriculture, a law regulating the agricultural market through the *Corporación de Mercadeo Agrícola* (G. O. No. 29.298, 1970) was enacted.

The development of the Northeast Region is entrusted to an autonomous corporation, *Corporación de Desarrollo de la Región Nororiental* (CORPORIENTE) attached to the presidency of the Republic (G. O. No. 29.313, 1970).

To formulate, coordinate, evaluate, plan and promote foreign trade, a new *Instituto de Comercio Exterior* was established (G. O. No. 29.294, 1970, supplemented by a regulation, G. O. 29.359, 1970).

The law regulating universities was recently amended (G. O. No. 1.429, extraord. 1970).

Future legislation is being considered in various areas, among them notaries (G. O. No. 29.314, 1970); payments into courts (G. O. No. 29.321, 1970); public works (G. O. No. 29.330, 1970); dangerous things (G. O. No. 29.367, 1970); the code of forensic medical investigation, control of corporations, administrative procedure and National Archives (G. O. No. 29.367, 1970).

A new international airport is planned at Maiquetia (G. O. No. 29.316, 1970); a planning commission has been set up (G. O. No. 29.354, 1970).

The International Regulation to Avoid Collisions at Sea (London, 1960) has been ratified (G. O. No. 1.422, extraord. 1970).

A partial reform of the Law of Banks is being widely discussed and so is a new Securities and Exchange Law to regulate the capital market.

A draft law was submitted to the Legislature for an administrative reform which would eliminate some ministries and consolidate others. Another draft law deals with traffic, granting jurisdiction to the FAC (*Fuerzas Armadas de Cooperación*) and to municipal police, respectively; the principle of objective responsibility shall remain, but excludes acts of God. It seems that comparative liability (*conurrencia de responsabilidades*) is also being considered.

The law regulating expropriations for public and social goods, enacted in 1966, is to be partially amended.

A draft was submitted to the Senate designed to guarantee stability of employment to persons employed in private business. While the present labor law provides for termination of employment by proper notice, the draft provides (both for regular and seasonal workers but not for those employed for a definite time) that any termination of employment shall be null unless given for "a socially justifiable reason." In all other cases the employee may demand reinstatement with back pay. The employee may object to an unjustified notice before the labor court where the employer will have to justify the termination. Mass dismissals shall not be allowed, except in cases of extreme emergency affecting the enterprise, economic or technical in nature. The draft law evoked strong objections.