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COSTA RICA

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CONVENTION ABOLISHING THE REQUIREMENT OF LEGALIZATION FOR FOREIGN PUBLIC DOCUMENTS

Congressmen recently approved on second debate the bill N°17,718. This document is the “Approval of the Adhesion to the Convention Abolishing the Requirement of Legalization for Foreign Public Documents”, which has been already approved by 98 countries since the 1961 Hague Conference on Private International Law.

This agreement is intended to eliminate the long procedures required for the diplomatic or consular legalization of foreign public documents, thereby facilitating trade between countries in the world.

The Convention modifies the requirement of legalization of foreign public documents by introducing a special seal called “Apostille”. This stamp has its series and registration, which provides greater security and control to documents, while eliminating unnecessary and cumbersome requirements for legalization, by being recognized by local and foreign authorities of States Party to the Convention.

The seal of the Apostille must certify the authenticity of the signature, the capacity in which the person signing the document has acted, and the identity of the seal or stamp it bears.

It applies to public documents that have been authorized in the territory of a Contracting State and must be delivered in the territory of another Contracting State. The following should be considered as public documents: documents from an authority connected with the State’s courts, administrative documents, affidavits and official certificates. However, the Convention does not apply to documents executed by diplomatic or consular agents, or to administrative documents dealing directly with commercial or customs operations.

The bill solely requires the signature of President Laura Chinchilla and its subsequent publication in the Official Gazette for its entry into force.

Nicaragua

DGA ISSUED A TECHNICAL CIRCULAR TO REGULATE TIME LIMITS AND ROUTES FOR THE OPERATION OF NATIONAL AND INTERNATIONAL CUSTOMS TRAFFIC INLAND FREIGHT.

The Customs General Office issued on January 25th 2011 the technical notice number CT/013/2011, which regulates time limits and routes for the operation of national and International inland freight customs traffic.

This notice has two annexes:

Annex I: Time limits and routes for national inland Customs traffic.

Annex II: Time limits and routes for International inland Customs traffic.

This technical notice aims to set deadlines in order to create security conditions for land transportation, partially amending the technical notice CT/081/2002 on Traffic and merchandise control in regards to routes and time limits; and repeals the technical notice CT/007/2011 that established transitional time limits.

DRAFT OF THE GENERAL CUSTOMS LAW

On December 1st 2010, the President of the Republic of Nicaragua sent to the President of the National Assembly the Draft of the General Customs Law for its consideration and appropriate legislative action, which consists of 190 articles.

The preamble of the Bill states the motives to create and refine the organizational structure of the Customs General Office, in order to provide comprehensive functions that are responsible for the entire verification process and service, and regulate the exercise of the powers of the Customs General Office in the control of legal relations and international trading arising from the entry and exit of persons, goods, vehicles and transportation units to and from the country.

This Bill is intended to encompass all National Customs Legislation into one legal body, with tendencies to facilitate and improve the customs processes and procedures. Consequently, this initiative is intended to repeal all or part of the Customs Laws in force to date.

Currently this Bill is being analyzed by different groups involved in Customs activities, and they are in the process of forming a commission to study the law point by point.

One of the topics that has attracted attention within the text of the draft are the sanctions and greater authority to the Customs General Office. It can impose sanctions to the Auxiliaries for violations that could be considered remedied without falling into the grounds for disqualification, penalties or cancellation. This could lead to the obstruction of international trade rather than facilitating it, contradicting the spirit and principle of simplicity of the Bill, and imposing unreasonable penalties instead of proportional sanctions in relation to the violations.

Also, this Bill reflects its punitive nature by stating in Article 159 that “The conducts constituting customs violations under this Law shall be prosecuted independently, even though they have their origin in the same Declaration of Goods, applying the penalty provided for each specific violation, notwithstanding that it can be done in one act.” Accordingly, one person can commit several infractions with each resulting in a different penalty. Likewise, the inspector for the Customs General Office (DGA) is mentioned in the proposed Bill to restrict the freedom of trade, as Article 41 notes that the Customs Authority may request information on Business abroad, thus leaving Auxiliaries forced to disclose all information that might be required on this.

The Bill does not provide legal treatment to the administrative procedures for violations and administrative penalties as well as the disqualification, suspension and cancellation of Auxiliaries, which does not guarantee legal certainty to the Auxiliaries.

Another deficiency found in this Bill that leaves a legal loophole is the lack of Articles relating to Customs Appeals and procedures to follow, referring merely to the Regulation of the Law.

Honduras

MODERNIZATION ON TAX PAYMENTS IN THE INDUSTRIAL CITY OF HONDURAS

Citizens of San Pedro Sula will be able to pay their taxes electronically as of Tuesday February 2 2011. Mayor Juan Carlos Zúniga said that the digital operations with Banco Atlántida and Banco del País will begin and claimed: “We are ready to be linked with all the banks. We are performing security trials at the moment and on Tuesday we will begin to operate with two of the banks”. The head of the Department of Information Technology stated that this system will be linked to local banking in order to facilitate the taxpayer the payment of municipal taxes by simply entering a Pin or a cadastral number.

This modern system will enable the population to know through the Internet their specific tax balance and pay their taxes with a credit or debit card or pay cash, visiting any bank, among other things.

The Municipality of San Pedro Sula created the database to have the information online and hopes that in the coming days one hundred percent of the banking system has it, so the taxpayers are able to pay their taxes at any bank teller window at any time and day or from their cell phones or their computers over the Internet.

This really is a breakthrough and the corporate crowd looks kindly at this modernization.

HONDURAS PORT CITIES WILL RECEIVE THE 4% OF PORTS REVENUE

The Amapala port will be awarded 8 percent of the revenue received for all other national ports. Empresa Nacional Portuaria, (ENP), will transfer 6.7 millions of Lempiras between the municipalities of the ports of Cortés, La Ceiba, Amapala, San Lorenzo and Tela, where it maintains its main sea terminals.

The General Manager of ENP, Maynor Pinto, claimed that these transfers are equivalent to four percent of ports revenue of the last quarter of 2010, which they are referred to in the Legislative Decree 72-86, and it is their social responsibility to fulfill it for the benefit of the inhabitants of these Atlantic and Pacific Honduran Ports.

The executive explained that the Municipality of Puerto Cortés will receive 5,322,979.50 million Lempiras and Amapala and San Lorenzo, in the department of Valle will be given 865,095.15 lempiras and 166,230.94 respectively. Amapala port will receive 8 percent of the revenue accruing to all other ports.

Meanwhile, the municipality of Tela will collect 211,849.17 lempiras, while La Ceiba's will obtain a net value of 154,607.39 lempiras. The percentage disbursement to Tela is because they only get vessels with oil product while La Ceiba maintains a sustained movement of trade with the insular sector and the Mosquitia, as well as the daily arrival of tourists.

The port Management has explained that the municipalities benefiting from these transfers are required to invest these resources derived from the 4 percent in works of general interest to promote the development of each one of these ports.

Guatemala

REGULATIONS INSURANCE LAW IN GUATEMALA

On January 1st, 2011, the new Insurance Law in Guatemala, Decree 25-2010, entered into force. Its main purpose is to open the domestic market to the entry of foreign insurance companies. It also defines crimes of insurance intermediation and illegal selling to those who do business with unauthorized companies in the country.

Later on January 17 2011, the "Regulations on Registration of Insurance Intermediaries, Reinsurance and Insurance Independent Adjusters", contained in the Resolution of the Monetary Board of Guatemala, Number JM-13-2011, issued on January 12 2011, was published in the "Centro American Diary" (Diario de Centro America - the official newspaper in Guatemala) and came into force.

This Regulation aims to establish the requirements and procedures for the registration of individuals or entities seeking to act as a broker for "Insurance Intermediaries, Reinsurance and Insurance Independent Adjusters" before the Superintendency of Banks of Guatemala.

In this Regulation, the term insurance intermediaries are dependent insurance agents, independent insurance agents and insurance brokers, the latter forming a new institution within the Guatemalan law.

Dependent agents are individuals who are dedicated to the promotion and sale of insurance policies for insurance companies, with which they work as employees thereof. To register with the Superintendency of Banks they must demonstrate that relationship.

Independent Insurance Agents are individuals or entities who are dedicated to insurance brokerage, based on contracts of commercial nature signed with the relevant insurance company; therefore, they must demonstrate the related Agency Agreement.

Insurance Brokers are individuals or entities who are engaged in insurance intermediation, without maintaining a contractual relationship involving benefits with insurance companies; they offer independent advice, professional and impartial to those who demand their services.

As for the reinsurance intermediaries, it is established that within what is applicable they shall be governed by the provisions that are set for insurance intermediaries.

This regulation also provides that in Guatemala the adjustments of claims may be made directly by the insurers or reinsurers, or entrust them to an “Independent Adjuster”, who must also be registered in the Superintendency of Banks. In this sense, Insurance Independent Adjusters are individuals or entities who, at the insurers or reinsurers request, examine or investigate the causes of the incident, assess the amount of damages, qualify the applicability of the conditions of the policy and recommend their client about the merits of the claim and how to claim the losses.

This new Regulation accelerates the process of registering insurance intermediaries and others, and without formalities and unnecessary steps that previously delayed its enrollment and start-up of activities. It also opens the competition for International Insurers who may participate openly in Guatemala.