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Andean Common Market - Regulation of Foreign Investments: Blueprint for the Future

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Introduction

For the past two decades the nations of Latin America have made considerable efforts to accelerate economic development. Economic integration, particularly the formation of a common market, has played a key role in these efforts. The Latin American Free Trade Association (LAFTA), the Central American Common Market (CACM), the Andean Common Market (ANCOM) and the Caribbean Free Trade Association (CARIFTA) reflect the desires of the countries of the area to preserve and expand trade with one another, to develop a larger market, to increase efficiency of production and to present a common front to the rest of the world on economic and political matters.

This paper will focus on the efforts by the Andean Common Market to regulate new and existing foreign investments. This is a worthwhile endeavor because of the importance of the countries involved, particularly Venezuela, and because the ANCOM nations have made more progress toward economic integration than most similar groups of countries in and out of Latin America. Consequently, it is quite possible that the experience of ANCOM will be followed or repeated elsewhere.

ANCOM was created by the Agreement of Cartagena, signed in May of 1969. The original member countries were Bolivia, Chile, Colombia, Ecuador and Peru. Venezuela joined ANCOM in February, 1973 by signing the Consensus of Lima. ANCOM adopted a foreign investment code in July, 1971. When Venezuela joined the group in 1973, it pledged to adopt all prior agreements and in fact has done so over the past couple of years.[1]

ANCOM's foreign investment code established "a common regime for the

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[1]For general information on the ANCOM, see: *Andean Pact: Definition, Design and Analysis*, Council of the Americas, New York, 1973.

treatment of foreign investments, trademarks, patents, licenses and royalties."[2] The code, usually referred to as *Decision 24,* requires implementation by legislation in each member nation. It is now in force to varying degrees in all of the ANCOM countries. However, only Venezuela has acted to implement Decision 24 to its full extent. Other countries, particularly Chile, are taking a more cautious approach.

Both Venezuela and Chile have recently adopted foreign investment codes. In the case of Venezuela, Decision 24 is followed almost to the letter; in the case of Chile, the variance is considerable. Therefore, this paper will concentrate its analysis of ANCOM's regulation of new and existing foreign investments on these two countries.

Whether ANCOM's overall legal structure or Decision 24 itself allows for the variance is a highly debatable question. The fact is that Venezuela has so acted because it has a very strong economic situation and a government determined to follow a nationalistic path. Chile, however, badly needs outside investments and after the overthrow of Allende's marxist regime committed itself to a strong capitalistic system.

Decision 24: The General Principles

The adoption of Decision 24 by the ANCOM countries was not done in a vacuum. It was based on a number of well-conceived practical and theoretical considerations of the political, social and economic conditions that have prevailed, are prevailing and will prevail in the area in the years to come.

It was clearly recognized that foreign investments, private and public, are needed to foster economic development.[3] Moreover, it was recognized that foreign investments have been and can continue to be a source of progress and strength for Latin America, particularly when they allow for the participation of local capital and when they are applied to the less developed areas of the national economies.

Frequently, however, foreign investments have been geared to the needs of investors and the originating countries rather than to those of the host peoples and countries. This has been specially true in the case of direct foreign investments by large multinational corporations, particularly when no local participation has been allowed and there have been no permanent beneficial effects. Hence, the days when foreign investors came to the Andean countries seeking markets and natural resources and were permitted relatively free operations are in terms of Decision 24, a thing of the past.

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[2]*Gaceta Oficial de la Republica de Venezuela*, No. 1,620, November 1, 1973 (hereinafter cited as *Gaceta*, No. 1,620), p. 24.

[3]*Gaceta*, No. 1,620, p. 23.

Furthermore, as the new guidelines make clear, foreign investments must have a beneficial developmental effect in terms of capital inputs, new industries, import substitution products, new technologies, increased foreign exchange, more jobs, etc. Foreign investments must be selected according to national and even regional, needs and they must be controlled to assure that they fulfill beneficial roles.[4]

Consequently, the fundamental purpose of Decision 24 is not to prevent foreign investments but to prevent only their most undesirable aspects while enhancing their most beneficial effects. In order to achieve its purpose, Decision 24 attempts to regulate and control foreign investments, direct them to those areas of the local economies where they will do the most good and requires a majority participation of national capital, public or private, in the ownership of the business coupled with a proportional majority distribution of directors, officers and employees at all levels of the enterprise.

Decision 24: Regulation and Control of New and Existing Foreign Investments: The Venezuelan Situation

Venezuela has implemented the foreign investment policies of ANCOM by means of complementary national legislation to a higher degree than any other member country. Therefore, the summary that follows, taken from The Venezuelan Official Register, can be considered to represent the highest order of official regulation and control of foreign investments found in the Andean area.[5]

The definitional section of Decision 24 created a few new terms but for the most part it redefined old concepts to fit the general scheme and orientation of ANCOM. One of the most important of these is the definition of *direct foreign investment:* Funds originating outside the country property of foreign natural persons or foreign companies given to the capital of an enterprise, in freely convertible currency, or as industrial plant, machinery or equipment when coupled with the right to the re-exportation of its value and the transfer of profits out of the country.[6]

Also considered as direct foreign investments are those investments made in national currency if subject to the right to be removed from the country. New foreign investments are those made after January 1, 1974 either in existing enterprises or new ones.[7]

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[4]*Ibid.*

[5]See: *Gaceta*, No. 1,620, pp. 1-51, and *Gaceta Oficial de la Republica de Venezuela*, No. 1,650, April 29, 1974 (hereinafter cited as *Gaceta*, No. 1,650), pp. 1-7.

[6]*Gaceta*, No. 1,620, p. 24.

[7]*Ibid.*

Investors are divided into foreign and national. A *foreign investor* is a natural or juridical person who owns a direct foreign investment. *National investors* are: The State and national natural or juridical persons. Also considered as national investors are those foreign natural persons who have one year of uninterrupted residence in the country, waive their rights to export their capital and agree to reinvest profits locally.[8]

Perhaps the most important definitions of all are those that classify enterprises into three categories: National, mixed and foreign.[9] A *national enterprise* is one incorporated in the host country and whose capital is owned 80 percent or more by national investors, if, in the judgment of the appropriate national regulatory entity, this proportion is reflected in the technical, financial, administrative and commercial management of the enterprise.

A *mixed enterprise* is one that incorporates in the host country and whose capital is owned more than 51 percent but less than 80 percent by national investors, if in the judgment of the appropriate national regulatory entity, this proportion is reflected in the technical, financial, administrative and commercial management of the enterprise. A *foreign enterprise* is one whose capital is owned less than 51 percent by national investors or even when national investors own more than 51 percent of the capital in the judgment of the appropriate national regulatory entity this is not reflected proportionately in the technical, financial, administrative and commercial management of the enterprise.

Decision 24 provides that each ANCOM country may reserve certain sectors of its economy for national enterprises.[10] Consequently, Venezuela has reserved the following sectors of its economy for national enterprises:

a) public services: telephones, mail, telecommunications, water and sewer; the generation, transmission, distribution and sale of electric power and those services dealing with the security of persons and property;

b) television and radio, newspapers and magazines printed in Spanish; the internal transportation of goods and persons; advertisement and the internal commercialization of goods and services when performed by enterprises engaged in these activities except when said goods are produced by them in the host country;

c) professional services related to activities of consulting, advising, designing and analyzing projects and the conducting of general studies in areas that require the participation of professionals whose activities are regulated by national laws; and

d) insurance, commercial banking and other financial institutions.[11]

Foreign enterprises or investors currently active in the above mentioned

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[8]*Ibid.*
[9]*Ibid.*
[10]*Gaceta*, No. 1,620, p. 27.
[11]*Gaceta*, No. 1,650, p. 1.

sectors have a period of three years from May 1, 1974, in which to convert into national enterprises or ownership.[12] Naturally no new foreign investments will be allowed in the four sectors. However, if in the judgment of the host country there are special circumstances, that host country may apply different norms from those outlined above concerning sectors of the economy reserved for national enterprises.[13] For example, mixed enterprises may be allowed to be active and participate in some of the reserved areas of the economy.

In addition to the immediate limitations discussed above, Decision 24 stipulates that all foreign enterprises shall become at least mixed enterprises within a period of 15 years in the more developed countries (Venezuela, Colombia, Peru and Chile) and in 20 years in the less developed (Bolivia and Ecuador).[14] Upon the sale of their participations to national investors, foreign investors who voluntarily agree to the nationalization of their enterprises may re-export their capital plus capital gains, if any, after payment of appropriate taxes.

Furthermore, enterprises that have foreign investors as shareholders shall not distribute dividends to those foreign investors or forward dividends out of the host country in excess of 14 percent of the authorized and registered direct foreign investment of the enterprise computed after taxes.[15] Exceptions, however, may be authorized by the appropriate national regulatory entity when there are special circumstances or when excess distribution is to be reinvested locally.

This 14 percent limit on exportation of earnings by foreign investors has been frequently criticized as unrealistic in the ANCOM nations, including Venzuela. Together with the measures taken to regulate and control foreign investments, it is considered the major factor that may keep foreign investors away from the Andean area.

In order to better implement Decision 24 the government of Venezuela has created a regulatory agency called *Superintendency of Foreign Investments.* The main functions of this agency are:

a) to establish and operate a registry of all existing foreign investments;

b) to authorize and register all new foreign investments;

c) to authorize and register all contracts dealing with the importation of technology or the use of foreign trademarks and patents;

d) to authorize and regulate the distribution of dividends to foreign investors and their possible subsequent repatriation;[16]

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[12] *Gaceta,* No. 1,620, p. 28.
[13] *Ibid.*
[14] *Gaceta,* No. 1,620, p. 26.
[15] *Gaceta,* No. 1,650, p. 6.
[16] Enterprises that make unauthorized distributions to foreign investors shall be obligated to reimburse the National Treasury in an amount equal to the unauthorized distribution and may be subject to criminal penalties. Enterprises that make repeated unauthorized distributions may have their foreign investment authorization suspended or revoked.

e) to control the purchase and sale of stock of Venezuelan corporations by and/or to foreign investors; and

f) to supervise the participation of nationals in the technical, financial, administrative and commercial management of Venezuelan corporations that have foreign shareholders.[17]

The law that created the Superintendency of Foreign Investments stipulates that foreign investments may be authorized for those enterprises that meet at least some of the following conditions:

1) they are using, or plan to use, within a reasonable time, at least 50 percent national ingredients or materials in their products;

2) they produce or will produce an export product and at least 30 percent of such product is made of national ingredients or materials;

3) they, in the opinion of the Executive Branch, generate or will generate sufficient employment as to be considered of national importance;

4) they, in the opinion of the Executive Branch, are located or will be located in areas of comparatively less economic development;

5) they, in the opinion of the Executive Branch, incorporate technology beneficial to the nation;

6) they are mixed or foreign and they agree to transform themselves into mixed or national enterprises in a reasonable time; or

7) they agree to invest or reinvest, as the case may be, in those areas that are considered beneficial for the economic development of the nation.[18]

Venezuelan law clearly requires that every existing foreign investment be registered with the Superintendency and that every new investment be reviewed and approved by the agency. There are billions of dollars in existing foreign investments affected by this measure. The estimated total foreign investment in Venezuela at the end of 1972 was: $3,350 million.[19] Also affected will be all future foreign investment of every origin and form. It is almost certain that the Superintendency of Foreign Investments will soon become a super entity.

Decision 24: Regulation and Control of New and Existing Foreign Investment—The Chilean Case

Chile enacted its foreign investment statute to implement Decision 24 in July, 1974.[20] It has many similarities with its Venezuelan counterpart, but also substantial differences. One of the most obvious is found in the introductory section of the statute. It is stated therein that "in order to achieve the rapid devel-

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[17]*Gaceta*, No. 1,650, p. 3.
[18]*Gaceta*, No. 1,650, p. 4.
[19]*Inversiones Extranjeras*, MENSAJE ECONOMICO FINANCIERO, October-November, 1974, p. 32.
[20]*Decreto Ley No. 600*, July 11, 1974.

opment of the country's economic activity, foreign investment is essential as a complement of national investment"[21] and that "the economic policy of the government of the Republic of Chile is designed to introduce an economic regime that imposes real, effective and healthy competition among the various productive activities, which implies that there shall be no discrimination in the treatment of national and foreign investments, that foreign investors shall be guaranteed the right to transfer abroad the capital invested and the profits generated and that they shall be granted due access to the currency market,"[22] and it further states that "said economic policy . . . . [is] designed to bring about a genuine promotion of foreign investment and encourage its development in the country on a permanent basis."[23]

The difference is clear: The main purpose of Chile's foreign investment statute is *not* to control and direct foreign investments, but to encourage their participation and guarantee their operations. Moreover, unlike Venezuela, Chile in its foreign investment statute has set no specific timetables for the nationalization of foreign enterprises.

The Chilean definition of foreign investment is not materially different from the Venezuelan definition. A *foreign investment* is defined as a contribution, coming from abroad, to form or increase the capital of an enterprise, belonging to foreign individuals or to legal entities with a majority of foreign capital or to nationals residing abroad for more than three consecutive years and with the right to repatriate capital and profits.[24]

Likewise, contributions to the capital of an enterprise made in local currency originating from a previous foreign investment will be considered as a foreign investment but will be given especially favorable treatment if they are beneficial to the economic and social development of the country.[25]

Chile's foreign investment statute does not distinguish between foreign, mixed and national enterprises. This is a major departure from the Venezuelan model. In fact, the statute specifically stipulates that there will be no discrimination against foreign investors or investments nor against the enterprises in which they participate.[26]

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[21]Banco de Chile, INVESTING IN CHILE—FOREIGN INVESTMENT STATUTE, Santiago (1974) (hereinafter cited as *Statute*), p. 7.

[22]*Statute*, p. 7.

[23]*Ibid.*

[24]The term contribution as used in the Statute includes: National or foreign currency, new or used capital assets, such as plants, equipment, machinery, etc., mineral, animal or vegetable products, technology and services. *Statute*, p. 8.

[25]*Statute*, p. 9.

[26]*Statute*, p. 13. Note: In the Venezuelan model there is discrimination against foreign investors and investments in several important areas, such as loans from commercial banks and other local financial institutions, the utilization of capital earnings and the use of foreign credits and loans.

The guaranty of nondiscrimination means, according to the statute, that no laws or regulations will be enacted which exclusively affect foreign investors, foreign investments or the enterprises in which they participate with respect, among other things, to the following:

a) assessment of income for tax purposes;
b) tax rates and surcharges;
c) customs duties, quotas, absolute or limited prohibitions and prior deposits;
d) assessments of obligations, charges or burdens, increases or reductions of the existing ones, exemptions or repeal of same;
e) regulation governing amortization and depreciation;
f) statutes governing foreign exchange, imports and exports; and
g) provisions relating to remittances, privileges, subsidies, exchange rates, taxes or other exceptions that may be applicable to a given productive activity.[27]

An interesting corrollary to the nondiscrimination guaranty is the provision that if laws or regulations are enacted affecting foreign investors or investments and if they are deemed discriminatory by the affected parties, the affected parties may apply to the government for the removal of the discrimination and even in certain circumstances receive compensation for damages.[28] Likewise, national investors may appeal laws or regulations which they consider damaging to their interests.[29]

Chile's foreign investment law is not totally free of discrimination. There are three aspects of it that are obviously discriminatory in nature. First, there is a provision that states simply that "no foreign investment shall be allowed in those areas reserved by law to national investment."[30] In this aspect, at least the Chilean foreign investment statute follows closely the principles established by Decision 24. However, the Chilean statute, unlike its Venezuelan counterpart, does not specifically set out the reserved sectors. This, incidentally, is not required by Decision 24.

Second, Chile, like Venezuela, requires that all new foreign investment must be approved by and registered with a single regulatory agency.[31] The statute further provides that existing foreign investments will continue to be regulated by the legal provisions in force at the time they were admitted. These foreign investments, however, must be registered with the appropriate regulatory agency within a year of the date of publication of the foreign investment

[27] *Statute*, p. 13.
[28] *Ibid.*
[29] *Statute*, p. 14.
[30] *Statute*, p. 8.
[31] *Ibid.*

statute.[32] The owners of the aforementioned existing foreign investments may petition the government to have their investments covered by the provisions of the foreign investment statute if they believe this to be advantageous.[33]

Third, the statute stipulates that only in special cases and with the prior approval of the appropriate regulatory agency will foreign investments intended to increase the capital of existing enterprises be allowed.[34] The investment will not be approved unless the agency decides that the transaction is important for national development, that the transaction is authorized by the majority of the shares owned by Chilean shareholders and that the foreign investment does not exceed 20 percent of the authorized capital and reserves of the enterprise.[35] This last requirement may be waived in very special cases.[36]

The regulatory agency created by the Chilean government to deal with foreign investments is the *Foreign Investment Committee.*[37] It consists of the Ministers of Economy, Development and Reconstruction, Finance and Foreign Affairs, the Director of the National Planning Office, the Executive Vice-President of the Development Corporation, the President of the Central Bank of Chile, the President of the Production and Commerce Confederation and the Minister head of the Ministry involved with the specific foreign investment application if not already a member of the Committee.

Committee meetings are chaired over by the Minister of Economy, Development and Reconstruction, and in his absence by the Minister of Finance. However, regular members may be substituted by an officer appointed for them for the respective ministry or institution. A meeting with the attendance of the two presiding officers and four other members constitutes a quorum. Decisions must be adopted by a majority of the members attending the meeting; in the event of a tie with the presiding member will decide.[38]

Some of the more important powers and obligations of the Foreign Investment Committee are:

1) to receive, consider, and approve or deny foreign investment applications;
2) to open and maintain a register of foreign investments which shall include all the information necessary for their control;
3) to promote the entrance of foreign investments into the country;
4) to certify and investigate the origin of foreign investments and to analyze

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[32] *Statute,* p. 31.
[33] *Ibid.*
[34] *Statute,* p. 19.
[35] *Statute,* p. 10.
[36] Venezuelan law generally provides that foreign investment will not be allowed to buy out national investors except in special circumstances, such as when the national enterprise is in danger of bankruptcy.
[37] *Statute,* p. 21.
[38] *Statute,* pp. 21-22.

the elements of national convenience which may justify their authorization;

5) to control the fulfillment of the obligations of foreign investors or the enterprises in which they participate and to report any violations to the competent authorities and public institutions; and
6) to delegate authority to subcommittees, to hire persons to work for the Committee and its subcommittees or to do studies for them, and to issue the internal rules necessary for the application of the Foreign Investment Statute.[39]

In order to better fulfill its powers and obligations, the Foreign Investment Committee will have a Secretariat attached to the Development Corporation with the following specific duties:

a) to receive, study and report on the applications of foreign investors;
b) to act as the administrative body of the Committee preparing such data and studies as may be required; and
c) to carry out functions of obtaining information, registration, compiling statistics, coordination and control of foreign investments when directed to do so by the Foreign Investment Committees.[40]

The statute stipulates that foreign investment authorizations granted by the Committee will be formalized by a fixed-term contract executed by the President of the Committee, on behalf of the Chilean State, and the individuals or legal entities making the foreign investment.[41]

It is further provided that these foreign investment contracts will normally be for periods of up to ten years. However, it is also provided that they may be extended, up to twenty years when so justified by the nature of the business activity involved and, in very special cases, the Foreign Investment Committee may authorize contracts of even longer duration.[42]

Foreign investments will be admitted to Chile only through the execution of contracts with the Foreign Investment Committee.[43] Such contracts shall specify the agreement between the Committee and the foreign investors as to the manner of repatriating the investments, or the profits or dividends legally produced by them.[44] The foreign investment statute specifies no limit on investment or profit remittances out of Chile.

In addition to the general guarantees provided in the foreign investment statute already discussed, the contracts may contain special guarantees. For instance, the statute stipulates that foreign investors and the enterprises in which they

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[39]*Statute*, pp. 22-25.
[40]*Statute*, p. 25.
[41]*Statute*, p. 9.
[42]*Ibid.*
[43]*Statute*, p. 14.
[44]*Ibid.*

participate engaged in the exploitation of natural resources may obtain in their respective contracts the guarantee that the tax regulations and special concessions that may be granted therein will not be modified.[45]

Moreover, should the conditions set forth in the contracts between the foreign investors or the enterprises in which foreign investors participate and the Foreign Investment Committee, at a later date be unilaterally modified or extinguished, the State of Chile will compensate said investors or enterprises for the damages caused by such breaches.[46]

A foreign investor who has a damage claim may apply for the corresponding compensation before the Foreign Investment Committee. If the claim is accepted for processing it will be forwarded to the Comptroller General for evaluation and eventual payment. Decisions refusing or reducing claims may be appealed to a special three-member court composed of a judge of the Supreme Court and two judges of the Santiago Court of Appeals.[47]

Another benefit that may be bestowed on a foreign investor is that if there are no agreements to prevent double international taxation between the country of origin of the foreign investment and Chile, the Committee may agree in the contract to reduce the tax affecting the investor provided that the resulting combined tax rate is considered as internationally acceptable by the Committee.[48]

Decision 24: Current Status and Some Final Observations Based on The Venezuelan and Chilean Experiences

It is very difficult to give an accurate description of the current status of Decision 24. There is a great information gap about ANCOM and Decision 24 in general and particularly about the various national legislative attempts to implement its provisions. In part this is due to the newness of ANCOM and Decision 24 and the way that the regulation and control of foreign investments are supposed to work. This is basically a two-level process. First, the countries agree on a common ANCOM approach and, second, each nation adopts the general agreement and enacts implementing legislation.

It is also important to understand that the whole Decision 24 situation is still very fluid. There is not one single ANCOM nation that can reasonably claim that it has developed a final and complete approach to dealing with foreign investments which is acceptable to the other members and that has established the administrative machinery and procedure to enforce it.

Since Decision 24 was adopted in 1971, two countries, Ecuador and Chile have

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[45]*Statute*, p. 16.
[46]*Statute*, p. 26.
[47]*Statute*, p. 27.
[48]*Statute*, p. 16.

experienced fairly drastic changes in government; Peru has become a leader of the Latin American left; and Colombia's Supreme Court has declared the enactment of Decision 24 into national law unconstitutional on the theory that it represents an usurpation of legislative power by the executive.

Even in Venezuela there was a minor crisis during the latter part of 1974 concerning the situation of resident aliens. Many among this very sizeable group thought that they would be considered foreign investors. Consequently, there were filed thousands of petitions for naturalization. The situation did not return to normal until the government announced that aliens with at least one year of continuous legal residence in the country and who agreed to waive their right to export their investments would be considered as national investors.

The point is that the ANCOM countries are still working on the details, some even on the generalities, of their national-internal response to Decision 24. New laws, new bureaucracies, and new interpretations must be expected in this area for many years to come.

Very briefly and tentatively then, the situation in each ANCOM country is as follows:

Venezuela: Venezuela has probably now taken the lead in implementing Decision 24. This is likely to alarm potential investors. However, because Venezuela's social, economic and political conditions for investment are among the best in the world, many investors will nevertheless try to operate there even though to do so they must submit to various controls and regulations.

Colombia: After the Supreme Court's decision declaring unconstitutional the enactment of Decision 24 into national law, the Colombian Congress and the President enacted legislation that closely reflects most of its provisions. Therefore, Colombia now has legislation that substantially implements Decision 24.

Ecuador and Bolivia: Decision 24 is generally not being applied. Both countries want to attract new foreign investments. The necessary national legal and bureaucratic apparatus has yet to be completed.

Peru: The policy orientation of the current Peruvian government generally makes the application of Decision 24 unimportant. Peru is pursuing a leftist path, thereby creating a situation somewhat similar to the one that existed in Chile when Allende was in power. There have been very few foreign investments made in Peru since 1968 when the present government took over.

Chile: Chile, very much like Ecuador and Bolivia, needs foreign investments and is actively promoting them. It has, however, taken a different approach. Instead of delaying implementation of Decision 24, it has gone ahead and enacted a foreign investment statute that both follows many of the provisions of Decision 24 and encourages foreign investments with various special benefits and guaranties. This has caused a controversy in ANCOM that has not yet been resolved.

One of the fundamental objectives of Decision 24 was the unification of the

AMCOM countries and the creation of a common front or position vis-à-vis foreign investment. This has not yet occurred because of differences in needs and attitudes among the member nations. This does not mean, however, that ANCOM will not eventually have its common front.

Compared with the much slower progress of the 13-year-old LAFTA, and the 15-year-old CACM, ANCOM has developed with remarkable speed. If it can overcome such problems as the Chilean government change and the border dispute between Colombia and Venezuela, it seems likely that ANCOM will continue to progress at a satisfactory rate. However, ANCOM's leaders always should remember that CACM was doing very well until the brief but bloody war between Honduras and El Salvador a few years ago.

The problem with ANCOM, as with all other international organziations, is that in the final analysis the application of common group agreements or goals cannot take precedence over the individual country's political, social and economic situation. There are many examples to support this conclusion. The obvious one, of course, is the different approach taken by Venezuela and Chile in the implementation of Decision 24.

Even if the ANCOM countries have not reached a perfect agreement on Decision 24, it appears that many of its features have been accepted by all members and that they will become a permanent part of the rules for foreign investments in the Andean area.

It is clear that foreign investors who wish to invest in the ANCOM countries will have to consider the developmental needs of the potential host countries perhaps equally with the profitability of the venture. The guidelines dealing with the authorization of foreign investments mentioned in the Venezuelan law should offer a general idea of what the ANCOM nations are looking for. It is equally clear that they will have to seek and obtain approval for the investments from the appropriate authorities and that once the investments are approved, they will have to submit to registration and controls.

There is certainly a trend away from majority owned foreign investment. Greater attention will have to be given to the participation of local capital management and personnel. Moreover, there will probably be an increase in the formation of joint ventures between foreign investors and area governments, these often taking the form of specific contracts.

A predictable effect of Decision 24 is that foreign investment ventures are going to be more difficult to put together and manage than ever before. They are going to be more time-consuming and costly. Ironically, perhaps, the big companies will fare better because they can mobilize the resources to implement their investments. Small companies, unless they really know the ropes, however, might simply be overwhelmed by the legal-bureaucratic apparatus in the new controls and regulations.

Decision 24 does not mean that the ANCOM countries will cease to offer opportunities for investment to large as well as to small foreign companies. It does mean that only foreign investments offering capital and technology needed for the development of the host respective countries will be accepted and that this acceptance will still be subject to registration and control.

Latin America has often been a trendsetter of the other developing areas. The various efforts at Latin American integrations are examples of this. ANCOM in particular should be considered a model for other developing regions. Decision 24 will be no less.