

March 1, 2005 • Sto. Dgo., R. D. • Year I, Volume VII

**Editor's Note.** *Characters of a NRA.*

Early last year, Professor Alexandre SANTOS DE ARAGAO, Published in Rio de Janeiro, Brazil the Second Edition of his book "*Agencias Reguladoras y su Evolución en el Derecho Administrativo Económico*" (Regulatory Agencies and its Evolution under Administrative Economic Law). This event was celebrated by the Universities of Rio de Janeiro and Sao Paulo, Professor García Enterría among others participated during this event. Shortly after publishing the book, I was in the country for a telecommunication event, during which I learned the relevance and importance of this author for the Brazilian community related in this activity, as well as universities students from that country, who did not leave the place before buying a copy.

SANTOS ARAGAO has created a superlative exposition for his ideas, illustrated with living experiences in different national regulatory agencies ("NRA") of energy, fuel, potable water, telecommunications, oil, supplementary health, land and air transportation in Brazil; and for the in-depth analysis of recognized *iuspublicistas* ideas and economists in America and Europe. His broad knowledge of the regulating theme, allows him the ability to present it in both theory and practice, in his book a clear and linear argument based on WALLINE, VEDEL, administrative criteria along with the teachings on constitutional subject of HABERNA, GOMEZ CANOTIHLO, and HABERLES, everything is duly endorsed with the economy, with important notes from relevant researchers such as STIGLIZT or KEYNES.

Likewise, SANTOS DE ARAGAO establishes key links among the public regulating tools of the economy from the

point of view of the economy to the proportionality, the inadequateness of the traditional regulatory model, to try the market regulation; the ruling powers of the regulatory agencies, and the strengthened autonomy or independence of it among other aspects.

I would like to share some of the reflections of this Brazilian jurist in regards with the characteristics of the regulatory agencies models. The author identifies a total of six basic characteristics: 1) autonomy, including patrimonial and financial regulations; 2) diversity and broadness of performances, through ruling, fiscal, sanctioning, annulling, arbitrating activities; 3) flexibility and consensus in performance of duties; 4) the technical aspects of its performances; 5) the selection process of the staff for their positions; and 6) constitutionality of the regimens for bidding procedures.

The professional education of our new Administrative Economic Law is a great opportunity for diligent and empirical researches related to the achievement of our regulatory bodies responsible of regulating the market to the ideal standard. It will be revealing an evaluation based on these six parameters to measure the administrative efficiency to performances carried out and still pending by SIE, SIV, INDOTEL, SIB, and Civil Aeronautical as well as those only existing in writing in some passed laws without complete execution such as Antidumping and Social Security Laws that create new NRA.

I recommend to all professionals involved in regulatory issues to purchase this masterpiece, which can be purchased at [www.editorarenovar.com.br](http://www.editorarenovar.com.br).

March 1, 2005 • Sto. Dgo., R. D. • Year I, Volume VII

**Consumer.** Draft Consumer Protection Law approved.

---

The Chamber of Deputies unanimously approved on second lecture the draft Consumer Protection Law this past February 15. This draft law is currently with the Senators.

**Competition.** Submit a draft law to modify Law No. 28-01, creating a Special Zone for Frontier Development.

---

The Senators are reviewing a draft proposed by the Senator of Montecristi, Bernardo Alemán Rodríguez, with the purpose of adding two paragraphs to Article 2 of Law No. 28-01. The new draft proposes the following:

- Transference within the territory of manufactured goods and services provided by companies benefited by this law will be subject to paying ITBIS.
- Selective Tax to Consumer will be applied to the beneficiaries dedicated to the production of beers and cigarettes.
- Import of capital goods will be subject to the payment of this commission or any similar added charge established or to be established in the future by the Monetary Board or another entity or State Power.
- For the purposes of the proposed law, it is understood as raw material and/or inputs, goods that require to undergo an input process and to substantial processes in the Dominican Republic to generate a local aggregated value to the commercialized product by the beneficiary, which must include a minimum national aggregated value of 20% of the costs of manufacture,

that will be determined in accordance to the principles of accounting generally accepted.

**Finances.** Economical Program of the Dominican Republic 2005-2006: New *Stand-By Agreement* with the International Monetary Fund.

---

On January 31st, the International Monetary Fund approved the Setter of Intent for a Stand-by Agreement with out country. This new agreement will have the duration of 28 months. We would like to emphasize the following issues included in this agreement:

**1. Exchange and Monetary Policies:**

The Central Bank will maintain the inflation rate between 11 and 13 percent during the year 2005, and will reduce it to 8% by year 2006, with the purpose of increasing international reserves. On the other hand, the monetary politic will have as its main tool auctions of Central Bank certificates.

**2. Strengthening of Institutional Framework:**

For this purpose the Dominican Government will submit next July a new draft to modify the Monetary and Financial Law. In addition, the Superintendancy of Banks recently established a supervising system of banking liquidness, through daily reports that banks must submit to the Superintendancy.

**3. Electricity Sector:**

According to the agreement, the reform in said sector will reduce in the short term the existing deficit and assures its financial feasibility in the medium term. The challenge facing is the reduction of losses in transmission items and improving collection rates, as well as improving the regulating framework, varying the electricity tariff using as parameters the changes in the exchange



March 1, 2005 • Sto. Dgo., R. D. • Year I, Volume VII

rates and oil prices. Other short term plans included in this document will be: Reduction in the cost of electricity generation; rationalizing energy supply; increase average income of distributor companies; and renewing the amount due to private operators.

By: A. Cruz  
Editor: A. Noboa

**NOBOA PAGÁN – Abogados**

Av. Los Próceres, Plaza Diamond, Arroyo Hondo  
Telephone (809) 334.5717 • Fax (809) 334.5716  
[www.noboapagan.com](http://www.noboapagan.com)