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VI. THE AGRARIAN REFORM LAW

A. Summary

The adoption on 17 June 1952 of a comprehensive agrarian program foreshadows significant sociological, economic and political changes in Guatemala. Full implementation of the law would free thousands of agrarian workers from a centuries-old dependence upon the privileged landholding class, but would subject them to close control by the state through supervision by a virtually autonomous National Agrarian Department (DAN), through limitation on land usage, through population concentrations and through the extension of technical and other assistance.

Full and rapid implementation of the law would be likely to produce serious economic repercussions. Thus far uncertainty and confusion have depressed business activity, particularly in Guatemala City. To date, however, agricultural production apparently has not been affected.

Implementation of the law will be difficult because of the unavailability of suitably located lands, because of the long-standing customs and prejudices of the largely Indian agrarian population, and because of the probability that a competent and uncorrupt administrative organization cannot be perfected. Furthermore, the cost of establishing the necessary organization for administering the law will probably be very high and may deter the progress of its implementation. 76/

B. Background

The Agrarian Reform Law, which was enacted 17 June 1952, is not exclusively a program of the Arbenz administration, but had its origin in the Guatemalan revolutionary policy introduced in 1944. The groundwork for this legislation was laid in the Constitution of 1945, which provided for state direction of the national economy, expropriation of unused private lands with prior compensation, incorporation of such lands into the national patrimony, rental and granting of nationalized lands, formation of agricultural communities, collective farming, protection of ejidal and communal lands and state technical and other assistance to agricultural communities.

During the seven-year interval between the adoption of the Constitution and the enactment of the Agrarian Reform Law a number of land proposals were advanced. Almost all of them advocated the expropriation and division of large privately-owned estates. Except for the passage of the compulsory land rental legislation in 1950, no positive action was taken by the Arevalo regime (1945-51). President ARBENZ, however, firmly committed himself to agrarian reform, and repeatedly stressed the inequity of land ownership, the semi-feudal nature of tenancy and laboring arrangements, and the antiquated cultivation methods employed on small holdings. On 10 May 1952, he submitted to the National Congress the draft legislation which became law the following month. In the final preparation and enactment of the bill Communists played a prominent role. 77/

C. Provisions for Redistribution of Land

Under the provisions of the law, certain land is specifically designated for redistribution and certain land is exempt. Land to be redistributed includes uncultivated land, land not cultivated directly by or for the owner, land rented in any form, land needed to establish rural farm settlements, state farms and certain other national lands, certain municipal lands and excess lands determined by new surveys prior to expropriation. Excluded are farms of less than 221 acres whether or not cultivated, farms of from 221 to 664 acres if at least two thirds of these lands are cultivated, land belonging to Indian or farm communities, land of agricultural enterprises producing essential crops--COFFEE, cotton, citronella, lemon grass, bananas, sugar cane, tobacco, rubber, quinine, fruits, feedgrass, beans and cereals--except land not directly used by the enterprises or exploited by systems established by this law, lands used for cattle raising, all legal forest reserves and land within five kilometers of Guatemala City and in the immediate vicinity of other municipalities.

Expropriated land may, at the discretion of the administrative authority, be granted to small farmers and agricultural workers in plots not to exceed 43 acres, or it may be nationalized. Nationalized lands may be rented to agricultural capitalists, or the department may grant the use of small parcels to farmers and agricultural workers for the duration of the grantee's lifetime. 78/ Users of the land will pay an annual rental fee of three per cent of the value of the annual harvest to the National Agrarian Department.

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Nationalized lands may be rented to any person who can guarantee not less than 15 per cent or more than 25 per cent of the investment necessary to develop the land. No person may rent more than 689 acres nor pay more than five per cent of the annual harvest as rental. Contracts may be cancelled at the end of two years if the renters have not made good use of the land. 79/

The state-owned fincas will be included in the program under the following conditions:

- (1) If the majority of the workers of a finca so desire. In such event, the land would be divided among the workers, each to receive a parcel for use during his lifetime. If any land is left over after the distribution among the workers, it will be made available to small farmers.
- (2) If a majority of the workers so desire, they may operate the farm as a cooperative.
- (3) The equipment and supplies of the fincas that become subject to this program will be turned over to the National Agrarian Department, which will make them available, at its discretion, to the small farmers and cooperatives.
- (4) Natural Guatemalans may obtain up to 3,321 acres of grazing land in the Department of El Peten. The land will be rent free for six years, after which, if it is properly developed, in the judgment of the DAN, the user may obtain a lease under terms to be established by the department. The department may recapture the land at the end of the second year, however, if it believes the land is not being properly used.
- (5) The National Agrarian Department is authorized to set up agricultural corporations to operate the state-owned fincas which are not made a part of the reform program. The state would hold 51 per cent of the shares, and Guatemalan capital would hold 49 per cent. Private shareholders would manage the fincas. 80/

D. Availability of Land for Redistribution

Of the land available for redistribution under the law, only a small part is desirably located. In the most productive sections of the country, principally the highlands, the privately-owned farms generally are small or for other reasons exempt from expropriation. Those that are larger are situated almost entirely in the undesirable lowland regions or in inaccessible parts of the highlands. Much of the suitably located and available land is that comprised in the state farms. This situation and the reluctance of the largely Indian agrarian population to migrate to the lowlands probably influenced the administration during August and September 1952 to make the first actual distributions of land from a national plantation and other holdings. In November 1952, arrangements were being completed for the breakup of the 110 state farms, and several have since been distributed. Effective 29 December 1952 the Departamento de Fincas Rusticas Nacionales e Intervenidas (Department of National and Intervenid Farms) was legally dissolved, and its properties transferred to a liquidating commission pending distribution of the land under the Agrarian Reform Law. 81/ On 30 June 1953, scheduled completion date of liquidation of the National Farms, those farms not yet distributed were transferred to the National Agrarian Department.

In the last week of June, Congress approved an amendment to Article 28 of the Agrarian Reform Law transferring the commercial and industrial establishments administered by the National Farms to the Production Development Institute (INFOP) and providing for the dissolution of any government-private companies formed to operate such establishments under that article. As originally proposed to Congress by the Executive in March, the amendment would have transferred to INFOP only those installations not taken over by government-private companies before the scheduled 30 June liquidation of Fincas Nacionales. But no applications for mixed ownership were approved and Congress has now eliminated the possibility of participation by private business. Before 30 June, approximately 51 applications had been made to operate the approximately 78 coffee and sugar mills located on the National Farms, but an INFOP official said confidentially that the government was afraid private operators might take advantage of farmers when buying green coffee and sugar cane and that this might cause conflicts between them. Actually, a few sound business men were interested in partnerships in which the government would have a controlling interest. 82/

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E. Administration of the Law

Authority for implementing the law rests with (1) the president of the Republic; (2) the National Agrarian Department; (3) the National Agrarian Council; (4) the Departmental Agrarian Committees, and (5) the Local Agrarian Committees.

According to the law the president is the "supreme and executive" instrument, empowered to resolve definitely all questions arising under the law. The National Agrarian Department, functioning "as a dependency of the president," is authorized to prepare regulations for implementing the law, the indemnification of the landowners for expropriated properties and to grant titles to new owners or leases to renters. 83/ Major Alfonso MARTINEZ, close friend and former private secretary to President ARBENZ, is chief of the National Agrarian Department. He is described as "unscrupulous, corrupt, and shrewd." 84/

Local Agrarian Committees take inventory of land subject to expropriation under the law, process applications for denunciation of affected land and award the use of such land.

Departmental Agrarian Commissions have been set up to review the acts of the local committees, and the National Agrarian Council is the high court of review, although its decisions may be reversed by the president. 85/ As originally set up, the Departmental Committees were composed of five members, two of whom were representatives of the Communist-dominated labor confederation, CGTG, and small farmers and tenants union, CNCG. On 19 June 1953, Congress passed an amendment to the Agrarian Reform Law reducing the representation of the Departmental Commissions from five to three members; the departmental governor and one representative each from the CGTG and the CNCG. This legislation, which has yet to be approved by the president, was proposed to Congress by its Special Committee on Agrarian Reform headed by Communist leader Victor Manuel GUTIERREZ. GUTIERREZ' success represents a check for Major Alfonso MARTINEZ, chief of the DAN, who originally proposed the elimination of CGTG and CNCG representation on the commissions in apparent hope for more orderly implementation of the law. 86/

F. Procedure for Acquisition of Land Subject to Expropriation

The law establishes that land expropriated or subject to expropriation will be granted by the state through the National Agrarian Department to peasants, farm hands, other agricultural workers and agricultural capitalists who request it. The first three groups may acquire it in usufruct for life or in lease for the period established in each case. Agricultural capitalists may acquire it only under lease. The National Agrarian Department also may grant to the peasants, farm hands and other agricultural laborers ownership of parcels of land of not more than 18 hectares. The law also provides that any person, agriculturer or not, with capital will have the right to request under lease up to 279 hectares of nationalized lands provided he guarantees not less than 15 per cent or more than 25 per cent of the investment necessary to develop the land.

To acquire land, any of these persons may file with the local Agrarian Committee a verbal or written denouncement of the land subject to expropriation. Within three days the committee will inspect the land covered by the denouncement, sending its findings and recommendations to the Departmental Agrarian Committee. After the departmental committee's receipt of the claim, the owner of the denounced land will be granted five days to submit his legal objections. If the owner requests, the committee will grant him an additional eight days to submit evidence to support his objections. Within three days of the end of this period, the departmental committee will issue a resolution approving, modifying or rejecting the local committee's recommendation.

The landowner may appeal this resolution to the National Agrarian Council, which will grant him 15 days to make his statement and will give its decision within the following three days. The decision may be appealed to the president of the Republic. If the landowner accepts the resolution of the Departmental Committee or if his recourses are denied by the president, the claim will be submitted to the Executive which will then issue a decree of expropriation countersigned by the minister of interior. The decree will be forwarded to the National Agrarian Department for its application and enforcement, and the Local Agrarian Committee will be empowered to give possession of the land affected by the expropriation to the beneficiary mentioned therein.

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Requests for leases of nationalized lands must be filed with the National Agrarian Department, which will resolve the request within 10 days from the filing date. If the resolution is acceptable, the department will grant the requestor the lease contract. If the request is denied, the solicitor may take the legal recourse of "Reposicion." If the recourse is denied, an appeal for a final decision may be made to the president. 87/

G. Implementation

During 1952, implementation of the law proceeded slowly and produced some confusion and controversy. Many misinformed rural workers evidenced great disappointment when informed that lands exempt from expropriation could not be distributed to them. The program was accelerated in the pre-electoral period of 1953. In the course of the accelerated land distribution program, "squatting" and forced seizures by the peasantry have taken place, and some have been upheld by the government. 88/

On the first anniversary of the enactment of the law, the National Agrarian Department announced that during that past year 373,158 acres of uncultivated private lands had been expropriated and were to be divided among 100,000 farm laborers. The DAN also claimed that 722,526 acres of the 110 national farms had been redistributed to 25,000 workers, including 6,000 organized in cooperatives; that 11,000 head of cattle had been distributed, and that \$384,924 in credits had been extended the new landholders through the National Mortgage Bank. 89/

Geographic distribution of the lands expropriated and delivered to campesinos through 12 May 1953 was outlined in the 15 May edition of the pro-government Nuestro Diario. The paper reported that 122 private fincas covering a total of 190,838 manzanas (a manzana is approximately 1.72 acres) have been redistributed; owners of these lands have been indemnified with agrarian bonds valued at Q1,569,615.47.

The expropriated fincas are distributed through 12 departments as follows: Guatemala, 38 fincas (15,451 manzanas, indemnified with bonds valued at Q226,835.07); Chimaltenango, 19 (12,945 manzanas, at Q116,588.70); Sacatepequez, 2 (581 manzanas, at Q7,798.46); El Progreso, 1 (60 manzanas, at Q309.77); Escuintla, 17 (132,911 manzanas, at Q808,683.08); Santa Rosa, 10 (5,153 manzanas, at

Q88, 725.91); Solola, 1 (194 manzanas, at Q6, 497.88); Suchitepequez, 12 (7,097 manzanas, at Q177, 432.57); San Marcos, 8 (2,356 manzanas, at Q45, 922.53); Baja Verapaz, 1 (712 manzanas, at Q1, 399.30); Alta Verapaz, 7 (9,951 manzanas, at Q39, 693.63), and Jutiapa, 4 (3,427 manzanas at Q9, 728.57). 90/

The percentage of coffee growing lands included in these properties has not been reported, but according to an official Guatemalan radio report of 24 June 1953, the finca Velazquez, belonging to Herrera y Compania, one of the important coffee exporters, was scheduled to be distributed within 15 days. 91/

If the Agrarian Law is fully implemented, the impact upon private landholders will be borne by a relatively small group. The Guatemalan General Directorate of Statistics estimates that of 341,191 private agricultural holdings, 1,710 would be affected. These 1,710 holdings, however, comprise more than half of the total private acreage. Their owners would not suffer a drastic loss of cultivated land, but would be prevented from expanding future operations by expropriation of their uncultivated lands. For owners whose lands have been condemned, provision exists for indemnification based upon the generally low-tax valuations as of 9 May 1952. Compensation is to be in bonds bearing three per cent interest, redeemable in 25 years or less. 92/

H. Financial Provisions

The National Agrarian Department established an Agrarian Debt Fund from which owners of expropriated lands were to be indemnified and financial and technical assistance and credit made available to small farmers and workers to whom land has been awarded.

The department is authorized to issue Agrarian Reform bonds up to 10,000,000 quetzals. The bonds are guaranteed by the state and pay three per cent interest. Payment is to be made from revenue received from the rental and leasing of expropriated land, from fines and from other means.

The bonds are to be used to indemnify the owners of expropriated property. The bonds will be redeemed on a sliding scale ranging from 50 per cent annually for properties valued above 30,000 quetzals. 93/

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The law also provided for the creation of a National Agrarian Bank (BAN), which was approved by the Congress and the president in July 1953. The BAN represents a new type of financial institution for Guatemala. The National Mortgage Bank, a government agency, has been furnishing nominal credits to beneficiaries of the Agrarian Reform Law but has not been in the position to meet the requirements of agrarian reform. The initial Q5,000,000 capital for the BAN was provided in the Q20,000,000 public works bond issue authorized by Congress in March 1953. 94/

The bank is authorized to extend agricultural credit, and the Agrarian Debt Fund will be used to give necessary technical and economic assistance to the users and lessees of the expropriated land. Economic aid is to consist of supplying "at a just price and in the most favorable conditions of payment," seeds, work animals, tools and agricultural machinery. 95/

Leftist influence in the operations of the BAN was insured by a provision in the Organic Law giving the Communist-dominated CGTG and the Communist-oriented CNCG one seat each on the board of directors. Their representatives are to serve at the pleasure of the organizations nominating them and hence may be removed at any time if their actions are displeasing to their principals. 96/

I. Economic Repercussions

Thus far, a serious business recession, particularly affecting Guatemala City, has been the major economic repercussion of implementation of the reform program. Rapid and immoderate implementation of the law may well affect agricultural production, the basis of Guatemala's economy, but this has not yet taken place. Landholders greatly fear that labor shortages, loss of land, the depreciation of land values and a decline in credit will be increasingly harmful to their activities. 97/

J. Sociological Implications

Inherent in the law is the far-reaching social change of freeing thousands of agrarian workers from a centuries-old dependence upon the privileged, large landholding class. Existing forms of

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servitude, such as the lending by one landowner to another of the personal services of farm laborers, the forced distribution of Indians and the payment of land rental in labor are now prohibited.

Under the agrarian program the rural classes would be subjected to rather close control by the state. This would be exercised through the National Agrarian Department, which is responsible for enforcing certain limitations upon those using redistributed land. Because the great bulk of the land expropriated would be incorporated into the public domain, holdings could be acquired only on the basis of life grant or by rental. Another feature of the law facilitating state control is the provision for concentration of the agrarian workers on each private plantation into a single village. Further control may be exercised through the National Agrarian Bank and the Agrarian Debt Fund, which may arbitrarily extend or deny credits or technical assistance. 98/