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The Decolonization of Puerto Rico in Light of International Legal Precedents: A Case for Post-Independence Advocacy

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I. Introduction

A peculiar relationship has existed between the United States and Puerto Rico during the past 85 years. This relationship has been the central focus of political debate in Puerto Rico. Yet, the essence of this relationship has remained virtually unchanged. A seemingly acquiescent attitude on the part of Puerto Ricans has combined with a “let sleeping dogs lie” approach by United States policy-makers. The dust has piled up high under the post-World War II rug of history, and the case of Puerto Rico has begun to gather increasing attention from the international community. 1

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1 Most notably, the United Nations Decolonization Committee and the Socialist International have announced their positions on the status of Puerto Rico. See infra ch. II.B.2.
The colonial relationship between Puerto Rico and the United States is by now an open secret. When the press and other communications media are out of reporting range, not even many of the United States' staunchest allies will go to any lengths to deny it. Even in Puerto Rico, where "status" is the power of the merry-go-round of internal politics, prominent leaders of all political persuasions — independence, statehood, and status quo advocates — have by now publicly criticized the colonial nature of Puerto Rico's relations with the United States. Furthermore, the international character and implications of this U.S.-Puerto Rico relationship has been underscored, ironically, by those Island political leaders who have travelled to the United Nations to deny that Puerto Rico's colonial status is an appropriate matter for discussion in such international forums.2

Puerto Rico's colonial status has thus become a thorn in the side of U.S. policy in the international arena. And while its bleeding is not yet profuse, the discomfort points to a potentially dangerous infection with far-reaching effects. Puerto Rico's status will inevitably come to the forefront of public attention, both within the United States and internationally.

Although it is necessary to discuss at some length the nature and development of U.S. colonialism in Puerto Rico, such is not the main purpose here. Rather, because Puerto Rico's history, like that of the rest of Latin America, is inextricably interlinked with the United States in a very peculiar way, such a discussion provides the essential background for the type of analysis which could help both the United States and Puerto Rico to find a constructive way out of the present and increasingly deteriorating situation.

Puerto Rico will not sink into the ocean like a modern-day Atlantis. Neither will the U.S. change its geographical location. Thus, in the absence of world cataclysms, which are fortunately not in sight, both will have to learn to live with each other in the same hemisphere in a civilized and friendly manner, after re-structuring the bases of their present relationship.

As in a forced marriage which eventually comes to a crisis, the relationship of dependency is the problem, not the solution. For Puerto Rico and the United States, the marriage realistically cannot go on. When all is said and done, and the hard facts of life are confronted by both parties, a divorce by mutual consent is then the only fair and civilized solution — with rehabilitative alimony payments and all.

Ending the unhealthy dependency relationship between Puerto Rico and the United States is the solution herein proposed. To guide both parties through this difficult transition, one must look to existing precedents and arrangements which have been devised elsewhere, such as those existing between other industrialized countries and their former colonies. The Lomé Conventions of 1975 and 1980 provide such a helpful background. The new-born Caribbean Basin Initiative (CBI) may also be useful in the gestation of alternatives for the birth of a new U.S.-Puerto Rico relationship. A new relationship will allow the heretofore dependent "partner" to grow and develop autonomously, within a framework of global interdependence.

I am proposing that the alternatives for a new U.S.-Puerto Rico relationship must be devised within the context of a juridically independent and sovereign Puerto Rico. The thrust of this essay is therefore an exercise in post independence advocacy. For it is only in the context of juridically sovereign and independent countries that international

2 In 1978, both Mr. Rafael Hernandez Colón, President of the Popular Democratic Party, which defends the existing "Commonwealth" status, and Mr. Carlos Romero Barceló, President of the pro-statehood New Progressive Party, appeared before the United Nations Decolonization Committee when Puerto Rico's colonial status was being discussed, to express their viewpoints.
relations can realistically work in today's world. And it is only in a realistic international context that solutions to the present no-win situation can be devised.

Puerto Rico is a nation, a Latin American nation, and the problems arising out of its present colonial relationship with the United States have obvious international implications. To suppose that the colonial illness of today can be treated with colonial medicines is to allow the condition to worsen. Annexation, on the other hand, is like attempting to cure an internal infection with a topical band-aid; it would be, under the circumstances, merely a further exercise in self-delusion.

The reality of interdependence in today's world must not be used as a smokescreen to mask Puerto Rico's need for independent juridical sovereignty, either. That type of interdependence would be nothing but an excuse for continued economic and political domination:

The interdependence of nations is usually urged as a restraining call over the assertion of individual national interests, particularly with regard to third world claims. . . . The "age of interdependence" is here, but there have surely been other ages of interdependence, such as interdependence of colonies and mother countries, and hegemonic powers and client states. The fact of interdependence does not justify the terms. . . .

What has to be understood from the very beginning is that the present relationship between Puerto Rico and the United States is not a separate issue from those arising from the generalized call for a new international economic order (NIEO). Western European scholars and policy-makers have taken a more realistic approach in charting the course which present world configuration demands. U.S. policy-makers thus far have been more than reluctant to follow suit, especially in the matter of Puerto Rico. One may speculate as to the reasons for this ostrich-like attitude. Is it the harmless naïveté of expressions such as "The United States does not have colonies"? Or is it the candid arrogance of an undiplomatic statement, like "Puerto Rico is ours to do with it as we please"? Perhaps the more enlightened attitude of Western European nations stems from the sense of historical awareness evidenced by Romain Yakemtchouk, professor at the University of Louvain. In his analysis of how the first Lomé Convention brought Western European nations to restructure their relationships with other less-developed countries, many of them former colonies, Yakemtchouk states:

Our leaders and our public opinion know that the time of national selfishness belongs to the past, they know that they are confronted today with a duty of human solidarity, they know that not only moral imperatives, but their well-understood interests call for the reinforcement of cooperation with poor countries. . . .

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4 The first of these statements is attributed to Under Secretary of Interior Pedro San Juan, in a visit to the Virgin Islands in February of 1982. See, J. Puryear, Puerto Rico: An American Dilemma (March 17, 1983) (unpublished paper prepared for the Americas Society Conference on Press and the Political Status of Puerto Rico). The second, one would like to think, is the product of mental speculation.

5 R. YAKEMTCHOUK, LA CONVENTION DE LOMÉ: NOUVELLES FORMES DE LA COOPERATION ENTRE LA C.E.E. ET LES ETATS D’AFRIQUE, DES CARAIBES ET DU PACIFIQUE 9 (1977). The original in French follows:

Nos dirigeants et notre opinion publique savent que l’époque des egoismes nationaux
But moral imperatives in the international political sphere are, unfortunately, not enough. If they were, neither apartheid nor colonialism would exist. Nor are good intentions or U.N. resolutions sufficient. If they were, there would be no nonself-governing territories illegally deprived of their right to self-determination and independence; and U.N. Resolution 1514 (XV) of 1960 would have put an end to the colonial relationship between Puerto Rico and the United States. None of this has happened and the United States has been drawing on its power and international IOU's for over 20 years in order to block U.N. recognition of the obvious. In spite of whatever lip service developed nations like the United States may have paid to self-determination and a new international economic order:

> It is self-evident that concessions on the NIEO would only be forthcoming when they are in accord with the national interest of industrialized countries, or at least not in conflict with this self-interest. Morality and philanthropy cannot play an autonomous role in this process.  

My contention is that, in the case of the United States, the time for some concessions regarding Puerto Rico and the Caribbean has come. For, as regards these two countries, the time for an harmonious interplay between moral imperatives and national interests is at hand. Puerto Rico has much to gain in terms of opportunities for developing and transforming its economy from one of dependence to one of a free nation in true interdependence with the United States and the rest of the world, particularly other Caribbean nations. The United States has much to gain, both economically and in terms of political goodwill, from an independent Puerto Rico on its way to a healthy integration as part of a truly developing Caribbean region. The moment is crucial for both nations. Independence for Puerto Rico could be the key to setting the international stage for policies essential to the well-being of both parties for a long time to come.

II. Puerto Rico and the U.S.: The Unchanged Economic and Political Structure

When stating the obvious one always runs the risk of simplistic redundancy; but when the obvious is not stated it runs the risk of being overlooked. While it is obvious that the international correlation of forces in the world today is quite different from what it was thirty-eight years ago, many of today’s international tensions stem from the behavior of world powers which act “as if” the obvious were not true.

According to C. Fred Bergsten, there have been three “waves” of international institution-building since World War II. “The first wave,” he writes, “came immediately after 1945, with the creation of the United Nations system. . . .” This system includes a host of economic components that are still with us, such as the International Monetary Fund, the World Bank, and the General Agreement on Tariffs and Trade (GATT). The creation of the European Economic Community, by virtue of the Treaty of Rome (1957) gave rise to the “second wave.” Bergsten identifies the existence of a “third wave” which began around ten years ago, and continues to the present.

appartiennent au passé, ils savent qu’ils sont placés aujourd’hui devant un devoir de solidarité humaine, ils savent que non seulement les impératifs moraux, mais aussi leur intérêt bien compris militent en faveur du renforcement de la coopération avec les pays pauvres. . . .

6 Minta, supra note 3, at 36.
7 Bergsten, Interdependence and the Reform of International Institutions, 30 INT’L ORG. 361 (1976).
8 Id.
According to Bergsten:

The two political objectives of institution building were (a) the ratification and legitimation of the power structure underlying international relationships of the time and (b) the integration of newcomers into those relationships. In 1945, this largely meant codifying U.S. hegemony. . . . Around 1960, it meant an increased role for the now-recovered economies of Western Europe and Japan, and incorporation of the newly independent developing countries of Asia and Africa. Now it requires new modes of collective leadership and sharing the rights and responsibilities of leadership across the entire spectrum of nations, including the Third World, on many important issues.9

It is precisely in this context that the colonial relationship between Puerto Rico and the United States must be analyzed. Accordingly, this monograph will summarize the salient points of this relationship in order to present a clearer idea of the economic and political structures which characterize it.

A. The “Showcase” Model

No one can seriously deny that dramatic changes have taken place in Puerto Rico since the end of the Second World War. Puerto Rico’s per capita income, for example, rose from under $200 in the late 1940s to almost $1,200 by 1967.10 Per capita figures are always deceiving, especially in the case of less developed nations, since they are not indicative of how that income is actually distributed. Nevertheless for purposes of comparison, Puerto Rico’s relatively high per capita income, although no longer the highest in Latin America, must be cautiously acknowledged. While this per capita figure estimated for 1982 at around $3,11211 is largely due to increased federal transfers to the Puerto Rican economy, it can be a useful indicator with regard to other qualitative changes in the nature of Puerto Rican every-day life.

For instance, it is estimated that approximately 93% of Puerto Rican families now have television sets. There is one car for every three Puerto Ricans. Although in large urban areas, such as San Juan, roads are increasingly inadequate, the over-all system of roads is generally good. There are multiple health centers and hospitals throughout the Island. Schools have proliferated, reaching most points even in rural areas. Low-income housing projects in urban areas have also increased. Federal welfare programs extended to Puerto Rico have allowed for a relatively healthy population, free from the shocking conditions of malnutrition and physical disease which plague many of the less developed countries in Latin America. In short, Puerto Rico has developed a relatively modern infrastructure. This places Puerto Rico in a rather advantageous position relative to other colonies prior to achieving independence in this post-war period.

All of this progress has been attributed to “Operation Bootstrap,” the economic development strategy designed by the governments of the United States and Puerto Rico

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9 Id. at 362.
10 Unless otherwise specified, the economic data for Puerto Rico is taken from the official reports of the Puerto Rico Planning Board for the year in question. [Hereinafter cited as Official Reports.]
11 Banco Popular de Puerto Rico, Progress in Puerto Rico: Facts Calendar Year 1982 19 (1983). This figure is much less indicative of economic productivity in Puerto Rico due to the ever-increasing federal transfers in welfare programs. For example, in the four years from 1976 to 1980, annual direct federal payments to individuals increased from around $1.6 billion to over $2.3 billion. Official Reports.
in the late 1940s; and to its political "arm," the Estado Libre Asociado — ambiguously translated into English as "Commonwealth" status. As pointed out by Berrios Martínez:

This model became a "showcase" for the United States and some international agencies. Here you had a small country which was experiencing rapid rates of economic growth following much of what is considered orthodox capitalist doctrine: (1) free trade; (2) no obstacles to foreign investment; (3) acting as a support agent for private enterprise; (4) the adoption of social, cultural and technological norms based on those of a highly industrialized nation (the United States); and (5) a party system with periodic elections. Puerto Rico became the proposed U.S. alternative to national liberation and socialist development of colonial peoples and underdeveloped countries, and it was aggressively promoted as such.\(^\text{12}\)

The model is indicative of the free trade mentality prevalent in the post-war era's international economic relations, and the universal benefits presumably accruing therefrom. In this regard, "Operation Bootstrap" and the Estado Libre Asociado could be characterized as the idea of the universal benefits of free trade: a "convenient myth,"

... not because it was the truth but because it was nearer the truth than any alternative principle, and because general advantage ensues from the existence of some generally accepted organizing principle. ... Yet as is well known, the convenience of a myth is no help in resuscitating it once its credence is blown.\(^\text{13}\)

The myth of Puerto Rico's "showcase" has cracked and its credence has been blown. The model in which Puerto Rico's economic development was encased after the Second World War responded to the objectives of U.S. economic policy internationally during the first "wave" of institution-building identified by Bergsten. It responded to the ratification and legitimation of the power structure underlying international relationships in the years following 1945. Politically, also, it responded to the codification of U.S. hegemony in that first post-war phase. To the extent that existing international institutions reflect the political and economic realities which underlie them, the subsequent phases of institution-building have by-passed the model which the United States designed for Puerto Rico. The present U.S.-Puerto Rico relationship is thus a problem. As Berrios Martínez has phrased it, the so-called Commonwealth has become "a political and economic anachronism."\(^\text{14}\)

1. Setting the Economic Stage for "Operation Bootstrap"

When the Second World War ended in a macabre twist of history called Hiroshima, the United States found itself the undisputed political power of the world. By virtue of the destruction pervading European nations and Japan, the U.S. was also the undisputed economic power. Faced with an almost total absence of competition from these former industrial powers, the expanding capitalist economy of the United States went in search of investment markets beyond its shores. Conveniently enough for U.S. entrepreneurs, there was Puerto Rico, an "unincorporated" territory of the United States\(^\text{15}\) within the


\(^{13}\) Hirsch, Is There a New International Economic Order, 30 INT'L ORG. 521, 530 (1976).

\(^{14}\) Berrios Martínez, supra note 12, at 561.

\(^{15}\) See, the so-called Insular Cases decided by the Supreme Court between 1901 and 1905. The ones considered most important are: De Lima v. Bidwell, 182 U.S. 1 (1901); Dooley v. United States,
U.S. tariff system, which could be successfully marketed as a "paradise" for North-American investors.

Two years after Puerto Rico was taken over by the United States as a result of the Spanish-American War of 1898, Congress passed the Foraker Act. Among other provisions, the Foraker Act of 1900, not only included Puerto Rico within the U.S. tariff system, but also exempted Puerto Rico from the application of federal tax legislation. A few years later, the Jones Act of 1917 completed the picture of U.S. domination of Puerto Rico. The second decade of this century saw the U.S. Constitution and Congressional legislation made applicable to the Island. Currency, defense, citizenship, international commerce and political relations among other matters, were thus under the exclusive jurisdiction of the United States government.

The ultimate control exercised by the U.S. Congress over Puerto Rico under the Jones Act made Puerto Rico, by the end of the 1940s, a safe place under the U.S. flag for private investors. The first 40 years of U.S. rule in Puerto Rico, however, did little to improve the impoverished conditions of the Island, except to dismantle the economic power of what had been the budding Puerto Rican bourgeoisie under Spanish colonial rule. This dismantled class was replaced by U.S. absentee landowning interests which essentially ruled the economic affairs of Puerto Rico as their own semi-feudal domain. Although the Jones Act of 1917 allowed for the existence of a legislature, its power and jurisdiction were limited to purely local matters. As described by Berrios Martinez:

The smaller middle-sized estates owned by Puerto Ricans became uneconomical as absentee corporate bodies accumulated vast latifundia centered on modern, well capitalized sugar mills and tobacco manufacturing companies. Laws were enacted to forbid corporate bodies to hold lands over 500 acres but such laws were not enforced against the U.S. trusts and corporations. The Puerto Rican landowning classes were decimated, became permanently indebted to their corporate masters or led a life of idleness on the income derived from land leases. Thus patterns of social, political and cultural leadership were disrupted in Puerto Rico long before the urban industrial development of the 1940s and 1950s.

Meanwhile, the predominantly agrarian working classes changed masters. Agrarian capitalism was implanted. Politics became subordinated to the interests of large absentee-
landholders. As the late Puerto Rican writer and journalist, César Andreu Iglesias, wrote in 1968:

But agricultural development under capitalism is necessarily limited. Hence its concentration on the sugar industry. Its growth finally stagnated in the 1930s with the advent of the world economic crisis. Sugar industry, based on latifundia and absenteeism, began to collapse. The present close-down of sugar refineries [in 1968] is but the end of that cycle. But [that cycle] had already reached its boiling point as the 1940s approached. 21

By the fourth decade of this century, U.S. investors further realized that this “investment paradise” could also provide cheap labor, well below mainland minimum-wage laws. Finally, since all Puerto Ricans since 1917 were U.S. citizens, potential social “tensions” caused by unemployment could be minimized on the Island via the escape valve of a policy that would stimulate migration to the mainland. 22

Hence we see that the economic development strategy known as “Operation Bootstrap” fit neatly into the realm of what was economically possible and politically desirable for post-World War II U.S. investors. There was a conveniently close locus of (1) cheap labor, (2) in an “unincorporated” territory under the U.S. flag within the U.S. tariff system, (3) in a world where the U.S. held the upper hand in the economic championship competition.

Meanwhile, an old concept, nationalism, began to take hold as an ideology of liberation developed in those areas of the world over which the pre-World War II powers held colonial domination. As new nation-states were born, they had to be integrated into the new international configuration.

The United States does not admit to colonial forays, given colonialism’s inherent contradiction to dearly-held postulates of freedom and democracy. Somehow then, this contradiction had to be made to seem to disappear. Thus, U.S. hegemony during this post-war era required a form of “ratification and legitimation” for this unincorporated territory, as well. 23

2. Commonwealth: Colonialism-by-Consent

As a consequence of the class-dismantling which U.S. corporate absentee interests perpetrated over the incipient national bourgeoisie under former Spanish rule, pro-

21 Andreu Iglesias, El Movimiento Obrero y la Independencia de Puerto Rico, in LIBERTAD y CRÍTICA EN EL ENSAYO POLÍTICO PUERTORRÍQUEÑO [hereinafter cited as LIBERTAD y CRÍTICA]. Translated from the Spanish original:

Pero el desarrollo de la agricultura bajo el capitalismo es forzosamente limitado. De ahí la concentración en la industria azucarera. Su crecimiento, finalmente, se estancó en la década del treinta con el advenimiento de la crisis económica mundial. La economía azucarera, latifundista y absentista, comenzó a venirse abajo. El actual cierre de las Centrales [en 1968] no es nada más que el fin de aquel ciclo. Pero ya había llegado a su punto de ebullición al acercarse la década del cuarenta.

22 Berrios Martínez, supra note 12, points out at 569:

It has been the official government posture that it neither stimulated nor obstructed the migration process [which occurred between 1945 and 1964]. However it has become abundantly clear from documents which recently came to light that in fact the government has a very active migration policy.

23 Bergsten, supra note 7, at 362.
independence sentiment and political movements began to flourish in Puerto Rico.24

At the time of the U.S. invasion of Puerto Rico in 1898, this Caribbean island already enjoyed a tradition of electoral democracy.25 It was natural, then, that nationalist sentiments would find expression in electoral organizations during the first four decades of this century. Four such organizations held center-stage in Puerto Rico’s political history: the Nationalist Party, the Liberal Party, the Popular Democratic Party, and the Puerto Rican Independence Party.

Nationalism developed its mode of radical expression in the Nationalist Party of Puerto Rico of the 1920s and 1930s, until the government’s effective and violent suppression of its President, Pedro Albizu Campos, in the late 1930s, and thereafter.26

Electorally, the Liberal Party was the strongest organization, obtaining 44% of the vote in the 1932 elections, and 46% of the vote four years later. The Liberal Party, however, proved a cumbersome tool for progressive electoral struggle which, for complex historical and sociological reasons, had found its vehicle for expression in a pro-statehood, Socialist Party of Puerto Rico headed by Santiago Iglesias Pantín. Hence, a new electoral organization headed by the most radical, pro-independence elements of the Liberal Party, obtained its first electoral victory by a slim margin in 1940.

The Popular Democratic Party (PDP), headed by Luis Muñoz Marín under the slogan of Ipan, tierra y libertad (“Bread, Land, and Liberty”) instituted a series of reforms within the existing colonial structure, thus attempting to fuse independence and socialist ideologies. But in the 1940s, Puerto Ricans were pushed into the U.S. war effort. The crisis served to facilitate the transition from the PDP’s 1940 electoral slogan of “Independence is just around the corner,” to 1944’s “The Istatus is not at issue.” During the war years and afterward, the United States needed to consolidate political power and to provide stability for the economic development strategy of “Operation Bootstrap.”

In order to cope with independence advocates within the PDP, affiliation with pro-independence organizations was decreed incompatible with PDP membership. Consequently, the Puerto Rican Independence Party (PIP) was organized in 1946, to become the largest opposition party in the 1948 and 1952 elections. Part of the strategy for neutralizing and defusing the independence movement in Puerto Rico — besides the more overt forms of political persecution and repression which coincided with the McCarthyist period in the United States — was to “legislate” internationally that Puerto Rico was no longer a nonself-governing territory.

In order to accomplish this, the political arm of “Operation Bootstrap” was devised. In 1950, the U.S. Congress enacted Public Law 600 to allow Puerto Rico to draft an organic law, subject to Congressional approval. This new organic law would be labelled

24 In 1913, the Puerto Rico Union Party, the majority party in Puerto Rico during the early decades of this century, assumed an anti-statehood and pro-autonomy platform that called for Puerto Rico’s political process to culminate in independence. See J. Trías Monge, El Sistema Judicial de Puerto Rico 71-72 (1978). The Puerto Rico Union Party was the historical predecessor of the Liberal Party, founded in 1932, which called for independence through the 1930s. In 1922, the Nationalist Party came into existence as a radically pro-independence party. See C. Rosa Nieves & E. Melón, Biografías Puertorriqueñas: Perfil Histórico de Un Pueblo 54-56 and 15-17 (1970); Zavala and Rodríguez, Introducción, in Libertad y Crítica, supra note 21, at 26-27. See also R. Bothwell, Puerto Rico: Cien Anos de Lucha Política (1979).

25 The electoral tradition in Puerto Rico could be said to date back to the organization of the cabildos (town councils), in existence by the late 18th century. See A. Caro Costas, Antología de Lecturas de Historia de Puerto Rico (Siglos XV-XVIII) 491-541 (1971).

26 See Zavala and Rodríguez, supra note 24, at 26-28, 33.
Puerto Rico’s “constitution.” P.L. 600, known as the “Federal Relations Act,” retained most of the provisions of the old (1917) Jones Act, with a 1947 amendment providing for the election of the governor of Puerto Rico by popular vote. The Federal Relations Act would allow for some form of restructuring of the local government apparatus. Nevertheless, the United States retained all the basic powers that inhere to sovereignty. And although Puerto Rico obtained no additional powers, the myth of a new concept in association within the federal system was sold to the voters of Puerto Rico in a yes-or-no referendum. The *Estado Libre Asociado* was proclaimed on July 25, 1952, on the 54th anniversary of the U.S. invasion.

It is also important to note that in 1952, Resolution 648 (VII) of the U.N. General Assembly had itemized the criteria for former colonies to be taken off the list of non-self-governing territories. These criteria for decolonization included (1) the former colony’s capacity to unilaterally modify or dissolve an association with the former metropolis; (2) international representation; (3) wide-ranging internal autonomy; (4) absence of economic pressure from the metropolis; (5) judicial autonomy; and (6) total power to legislate. Under the legal fiction of a simultaneous transfer of theoretical powers (which Puerto Rico had never held), the U.S. Congress maintained ultimate power over Puerto Rico in all of these areas.

Nevertheless, the codification of U.S. hegemony, which occurred in the first wave of institution building in the years after 1945, assured passage of Resolution 748 of the U.N. General Assembly in 1953. By virtue of this Resolution, Puerto Rico was deleted from the list of non-self-governing territories. Pro-independence groups (including the PIP, by then the second largest political party) that opposed passage of this Resolution were denied the right to a hearing. For the time being, therefore, colonialism in Puerto Rico appeared to have vanished by consent.

### B. The Failure of the “Showcase”

As stated earlier, dramatic changes did occur in Puerto Rico from a few years before the Commonwealth’s official proclamation to the late 1960s. In the 1950s, the PDP consolidated political power and organization through government machinery. Government jobs came as a reward of partisan fidelity. Unfortunately many competent non-
partisan Puerto Ricans were thus excluded from positions in which they could have contributed much to sound administration. Partisan bickering has continued to characterize the inconsequential changes in political parties' administrations since 1968.\(^\text{31}\)

As implied by this last statement, the PDP today has lost its once seemingly monolithic control.\(^\text{32}\) Nor has the economic model survived the events of the last quarter century. These two situations are, naturally, inextricably intertwined.

In 1940, Puerto Rico's GNP was growing at an average rate of 7.6%. In 1950, the beginning of Operation Bootstrap's industrialization program achieved an average yearly GNP growth of 6.8%, culminating in a fully blossomed 9.7% in 1960. The next decade, however, showed how the "bootstraps" had loosened. In a steady decline, average yearly growth of the GNP plummeted to 5.4% in 1970, 2.8% in 1980, and in 1982, to negative growth: \(-3.8\%\).\(^\text{33}\)

At the international political level, Commonwealth status came increasingly under attack by U.S. adversaries from the communist camp at the United Nations, and by new nation-states from the Third World who knew about colonialism from their own experience.\(^\text{34}\) Furthermore, since 1978, international rebukes of cloaked colonialism in Puerto Rico have become quite clear, even from traditional allies of the United States.\(^\text{35}\)

While it is true that one can now employ the wisdom and authority of hindsight, the seeds of failure had been there all along. Economic dependency is inherent to colonialism. Just as the "miracle" of "Operation Bootstrap" was an exquisitely possible event within the post-war context previously analyzed, the political and economic stagnation of the "Commonwealth" was the perfectly inevitable result of a model whose basic problem is systemic.

1. The "Boot's Trap"

The strategy for Puerto Rico's economic development was simple. Given the existing relationship with the U.S. after World War II, the PDP government would obtain capital for industrial development from U.S. investors. These investors would, in fact, finance the production of duty-free goods for the U.S. market under labor conditions and wages inferior to those existing in the mainland. The government of Puerto Rico would further offer tax-free status to these U.S. tax-exempted investors, along with other subsidies and incentives. This strategy hinged on reliance on U.S. funds to finance both the social and infrastructural costs of economic development. Since most of the investment capital was "foreign" (U.S.), production in Puerto Rico was naturally geared for export. Consumption was consequently tied increasingly to imports.

\(^\text{31}\) Although in 1980 the incumbent governor won reelection by a slim margin, the opposition PDP won control of the Legislature. Since then, everyday politics involves a barrage of claims and counter-claims of discriminatory hirings and firings, and of administrative corruption in the executive and legislative branches of government. Although at the time of this writing (late 1983), one hears unsubstantiated allegations of judicial misconduct, the judiciary seems to have escaped most of the "mud-slinging" so far.

\(^\text{32}\) It should be recalled that the PDP had been elected to power for the first time in 1940. See supra, at 12.

\(^\text{33}\) The 1982 figure comes from Banco Popular de Puerto Rico, supra note 11. All others, see, Official Reports, supra note 10.

\(^\text{34}\) The Congress of Non-Aligned Nations has been a frequent critic of U.S. colonialism in Puerto Rico.

\(^\text{35}\) Specifically the Latin American political parties of the Socialist International. See infra, ch.II.B.2.
For its success, this model presupposed a double nexus to the U.S. which, at the time of its inception, was comfortable to presume. On the one hand, investment in this tax-haven would attract labor-intensive industry which theoretically would create jobs. Thus a channel for the extraction of profits was created. On the other hand, it was presumed that a channel for influx of federal funds could take care of that part of the population which would neither migrate nor be integrated into the labor market.

Berrios Martínez has stated that:

By 1967, it had already become evident that the process of industrialization, with emphasis on light industry . . . had reached its limit. This was caused by a number of factors. Puerto Rico was confronted with competition from a number of countries in Europe, Japan and from low-salary countries (e.g., Taiwan, South Korea, the Dominican Republic, Haiti, etc.), particularly in those industries that had been the core of its development: textiles, women's clothing, shoes and other light industry. Forced to buy U.S.-imported goods at New York prices, labor demanded higher wages. This reduced Puerto Rico's absolute advantage in relation to the rest of the world as well as to the states of the Union, particularly those of the South. As a result, the government looked to capital-intensive, highly polluting petro-chemical industries as a means of continuing the industrialization process.\(^\text{36}\)

By 1973, Puerto Rico's economy was at a standstill.\(^\text{37}\) The heavy industry venture had failed to produce the anticipated number of jobs. At the same time, the need for an artificial influx of funds grew as the Commonwealth found itself without the means to finance government expenditures, given the wide-ranging and indiscriminate tax exemption of industries. The government of Puerto Rico, therefore, resorted to expanding the public debt, and increased participation in the burgeoning federal welfare programs of the 1960s. In fiscal year 1959-1960, federal transfers constituted 10% of the gross domestic product. Again in 1969-1970, the net figure of federal disbursements remained about the same, at 10.4%. But by 1979-1980, this figure had grown to almost 30% of Puerto Rico's gross domestic product, over $3.2 billion.

The public debt figures are equally revealing. Whereas in 1969 the public debt was approximately $1.5 billion, by the mid-1970s this figure had grown to $6.6 billion. Puerto Rico's public debt has since grown to $8.1 billion in fiscal year 1982. In other words, Puerto Rico's public debt increased from 35.4% of the GNP in 1970 to over 60% of the GNP a decade later.

In spite of these policies (or, more precisely, because of them) the economy of Puerto Rico has not recovered. From 1960 to 1970, the average income per family, expressed at constant prices, increased from $2,539 to $4,013 — a yearly increase of almost 6%. Yet, from 1970 to 1980 the increase registered was only 1.5% — from $4,013 to $4,636. In 1981 and 1982, average income per family decreased 0.6% and 1.6% respectively.

An already chronic unemployment situation continues to deteriorate. From an uncomfortable but conceivable rate of 12% in 1973, unemployment reached an incredible 25.3% in January, 1983. However, given the extremely low rate of participation in Puerto Rico's labor force (40.7% in January of 1983) real unemployment is unquestionably much higher.

\(^{36}\) Berrios Martínez, supra note 12, at 570.

\(^{37}\) For economic data used in the subsequent analysis, see Official Reports, supra note 10, except as otherwise indicated.

All of this means, on the one hand, that channeling federal transfers to Puerto Rico has exacerbated a situation of dependency in which income and productive work bear increasingly little relationship to each other. Thus, a growing segment of the population earns income without engaging in productive work. On the other hand, the channel which extracts funds from Puerto Rico has also been growing. Income from investments, mostly profits, dividends and interest to foreign (mostly U.S.) capital increased from $593 million in 1970 to $4.7 billion in 1982. This represents a jump of 12.6% in 1970 to 37.4% in 1982, vis-a-vis Puerto Rico's GNP.

In short, "Operation Bootstrap" has created "an economy based on a small industrial sector with few jobs, a large service sector . . . , and the migration (or subsistence on federal transfer payments) of an increasingly large proportion of the population."39 Both channels are now flooded.

2. Commonwealth's Uncommon Uncertainty

Not only have the winds of economic development within a system of complete dependence failed to materialize; but also, the purported autonomy of the "Commonwealth" ship has never reached the port for expansion repairs. If anything, economic dependence has eroded what little autonomy colonialism-by-consent could ever have hoped for.40

Internally, opposition to Commonwealth status began to crystallize around the pro-statehood parties: the Statehood Republican Party of the 1950s and its 1960s heir, the New Progressive Party (NPP). Within the context of the cold war games in which Commonwealth was born, and the often-times violent suppression of nationalist forces in the 1950s and since, it is hardly surprising that opposition would not openly express itself through the PIP. Furthermore, the shudder which the Cuban Revolution of 1959 sent through the circulation of U.S. capital in the 1960s became a useful propaganda tool with which to scare Puerto Rican voters. Finally, the PIP's inability to explain the foreseeable crash of an economy based on dependency, at a time when that economy appeared to be a showcase, hindered the PIP's effective competition at the polls. Without U.S. support, the word "independence" became associated with "hunger," "lack of stability," "communism," and every conceivable "evil" under the Caribbean sun. Ironically, independence may be the only life raft available today.

In light of the negative connotations given to the independence option, and in light of the Puerto Rican government measures taken against independence advocates in general,41 opposition began to crystallize around the pro-statehood parties around 1956. By 1968, when the "bootstraps" of the economy had stretched to the point of weakness, the first pro-statehood administration achieved an electoral victory. The inherently inequitable condition of colonialism — the making of fundamental decisions in the center of

39 Berrios Martinez, supra note 12, at 572.
40 See id., at 568. See also, supra note 29. While the power of the U.S. Congress to discriminate against Puerto Rico under the territorial clause has lately been upheld regarding the extension of welfare-benefits programs, Harris v. Rosario, and Califano v. Gautier, supra, Puerto Rico's power to determine its own fundamental policy has been consistently denied, Torres v. Commonwealth of Puerto Rico and Examining Board . . . v. Flores de Otero, supra. Furthermore, requests in 1959 and in 1975 for expanded autonomy which have enjoyed official government support, have been shelved into oblivion by the U.S. Congress.
41 See, Concepción de Gracia, La Revolución de 1950, in Libertad y Crítica, supra note 21, at 257-270. See also, Meléndez Rivera, Antecedentes de Maravilla, in El Mundo, Dec. 10, 1983.
ultimate power without the participation of those affected — has been a propelling force of the statehood "movement" in Puerto Rico. As a matter of fact, the twice-elected pro-statehood governor of Puerto Rico, Carlos Romero Barcelo, has repeatedly stated that if the U.S. Congress should deny a Puerto Rican petition for statehood, he would opt for independence. As recently as March 17, 1983, Governor Romero Barcelo clearly stated his strategy at the symposium on "Press and the Political Status of Puerto Rico," sponsored by the Americas Society in New York. As told by attorney-journalist Juan M. García Passalacqua, Romero Barceló:

declared that he will call a yes-or-no plebiscite on statehood in early 1985 and will define the request as one including the retention of Spanish as [Puerto Rico's] official language, a 20-year transition period on federal taxes and the assumption by Congress of the island's public debt.

* * *

If Congress does not approve any of the three conditions, the governor intimated, it is possible that the Puerto Rican people may reject any other kind of statehood than that including the three conditions. If they do, then no other statehood would be acceptable. If that were the case, the governor did not elaborate on the option. Yet, it was clear to everybody listening that the governor seems ready . . . to keep the word he gave to the New York Times and to CBS News several years ago, and opt for independence. . . .

More recently, at a forum on the Future of the Relationship Between the U.S. and Puerto Rico, sponsored by the student-run Sociedad Interamericana and the Harvard Law School Forum, Governor Romero Barceló again stated that the 1980s should be, for Puerto Rico, "the decade of decolonization."43

The parity of strength of the pro-statehood and pro-commonwealth parties at the polls44 should not lead one to overlook the pivotal role which the P.I.P. now plays. After its virtual disappearance in the 1960s, the P.I.P. has returned as a major party for three consecutive elections since 1972. If Puerto Rico had a parliamentary system of government with proportional representation, the P.I.P. would hold the balance of power. The role it now plays is nonetheless a reminder of the attention which any attempt to "solve" the status issue must pay to Puerto Rican nationalism. As stated by Berrios Martinez:

To argue that a well-defined, homogeneous nationality like that of Puerto Rico can be assimilated, or that nationalism and the urge for freedom are not felt by the immense majority of Puerto Ricans, by pointing to the result of one or another colonial election, would be as futile as confusing the size of an iceberg with that of its visible tip.45

Aside from the uncommon uncertainty as to the meaning of periodic elections in Puerto Rico's political arena, other manifestations of the erosion of Commonwealth's legitimacy as a political status have also been taking place.

By 1972, the Colegio de Abogados de Puerto Rico, the Puerto Rico Bar Association, was openly expressing itself on the nature of Puerto Rico's "Commonwealth" status. In a

43 At Harvard Law School, April 25, 1983.
44 In the 1980 elections, the PDP and the NPP both achieved little more than 47% of the votes, with the pro-independence vote making up the difference.
45 Berrios Martinez, supra note 12, at 582. Also reiterated at the Harvard Law School forum on The Future of the Relationship Between the U.S. and Puerto Rico, April 25, 1983.
report which was unanimously approved by the Bar's General Assembly, the Bar Association Report characterized the Law of Federal Relations as "archaic and with clearly obsolete provisions." It went on to say:

The statute is of a colonial nature. The "Law of Federal Relations with Puerto Rico" does not correspond to the present juridical situation between Puerto Rico and the United States, nor does it comply with its presumed objective of establishing the relations between the two countries. If the law is to reflect the present juridical situation, its total revision is indispensable.

This report constituted the basis for the Bar Association's report a year later to the United Nations Special Committee of the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples — the U.N. Decolonization Committee. This 1973 Report traced the history of the Bar Association's anti-colonialist stance since 1944, based on the principles of sovereignty enunciated by its General Assembly in 1962 under prevailing international law. Again in 1975, the Bar Association announced its position on a proposal submitted by the government of Puerto Rico to the U.S. Congress for a "New Pact of Association." On the basis of its historical stance, the Bar Association's report on this "New Pact" concluded that, were the U.S. Congress to enact the limited proposals submitted by the government, such modifications would still not comply with the minimum requirements for decolonization established by international law.

In 1977, the Bar Association once more expressed itself on the decolonization of Puerto Rico. It reiterated and ratified the 1963 Report on the substantive principle of sovereignty as requiring that the U.S. Congress transfer all powers over Puerto Rico to the Puerto Rican people and adopted the principle as an essential procedural requirement. It further called for a decolonization process involving a transitional period that would guarantee the effective functioning of a Constituent Assembly. Only then would decolonized alternatives be presented to the people of Puerto Rico. The report recognized that U.S. military and economic presence (exemplified by military bases throughout the Island, and by welfare transfers) in Puerto Rico would decisively affect the free-

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48 The original Spanish reads as follows:

El Estatuto tiene carácter colonial. La "Ley de Relaciones Federales con Puerto Rico" no corresponde con la situación jurídica actual entre Puerto Rico y los Estados Unidos, ni cumple con su presunto propósito de pautar las relaciones entre ambos pueblos. Si la ley hace reflejar la situación jurídica actual es indisponible su revisión total.

50 Id. at 2.
51 Id. at 3. Basically, the same criteria enunciated in U.N. Gen. Assembly Res. 648 (VII) of 1952. See supra at 13.
52 COLEGIO DE ABOGADOS DE PUERTO RICO, COMISIÓN PARA EL ESTUDIO DEL NUEVO PACTO ENTRE PUERTO RICO Y LOS ESTADOS UNIDOS (Nov. 1975).
54 Id. at 6.
55 Id. at 6-7.
determination process. The Bar Association Report recommended, therefore, that the Constituent Assembly's Organizing Committee seek alternatives that would guarantee the free-determination process.

Finally in 1980, the Bar Association made its latest most important pronouncement on the colonial situation of Puerto Rico by expressing that, "the process of free-determination and decolonization must comply with the minimum substantive and procedural requirements which this Colegio has previously submitted, in 1963 and 1977, respectively." Most significantly, this Report, which analyzes — among other important developments since 1977 — U.S. Presidential proclamations and Congressional resolutions on the so called self-determination policy towards Puerto Rico, states:

To tell Puerto Ricans that the United States will accept what [Puerto Ricans request] is not enough in light of our relations with the United States, since none of the requests for reforms proposed by the people of Puerto Rico within the last 27 years have been accepted by the official organs of the United States.

This expression by the Bar Association is significant for two reasons. First, it was "picked up" in influential sectors in both the United States and Puerto Rico. In the United States, Jeffrey M. Puryear, of the Ford Foundation, stated recently:

Because Washington dominates the relationship, it has the major responsibility for taking the next step toward change. This does not mean that the wishes of Puerto Rico should be ignored or that self-determination should be left out. It simply recognizes that Congress ultimately will not give Puerto Rico Icarte blanche to do whatever it wants, and has the power to enforce its wishes. Therefore, it is both misleading and unrealistic to demand that Puerto Rico go through the long and difficult process of reaching a consensus until it knows which of the many options have a chance for approval. The ball is in Washington's court.

In Puerto Rico, Juan M. García Passalacqua, a noted lawyer and journalist, echoed the same idea in a thought-provoking lecture delivered at Harvard University on March 19, 1983, with the suggestive title, Ahora le toca al yanqui ("It's Now the Yankee's Turn"). And most recently, the idea was further expounded and expanded by Berrios Martínez, speaking at the Harvard Law School forum previously mentioned. On that occasion, Berrios Martínez proposed a referendum in which all political parties and ideologies in Puerto Rico would join together to ask the U.S. Congress to define the specifics in each of

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56 Id. at 8.
57 Id.
59 Id. at 50. The original in Spanish reads as follows:

Decirle a los puertorriqueños que los Estados Unidos aceptaran lo que solicitan(sic) resulta insuficiente a la luz de la experiencia de nuestras relaciones con Estados Unidos, ya que ninguna de las solicitudes de reformas propuestas por el pueblo de Puerto Rico en los últimos 27 años han sido aceptadas por los organismos oficiales de los Estados Unidos.
60 Puryear, supra note 4, at 10-11. (The speeches and essays presented at the March 16-18, 1983 Americas Society symposium were scheduled for publication by September 1983, but were not available at the time of this writing.)
61 See supra notes 43 and 45.
the range of options it would be willing to grant as a solution to the status problem of Puerto Rico. Furthermore, he suggested that the U.S. should make a firm commitment to abide by any of the alternatives which the Puerto Rican people could opt for, under the Congressional definition of such options.

The 1980 Report of the Puerto Rico Bar Association is significant, secondly, because of its context within more recent developments in the international arena. The uncommon uncertainty of Commonwealth status has been underscored by the positions expressed by important international organizations and associations. The U.N. Decolonization Committee assumed jurisdiction over the matter of Puerto Rico in the early 1970's, under G.A. Resolution 1514 (XV) regarding the implementation of the declaration on the right of colonies to independence and self-determination. Since 1978, the Committee has reaffirmed "the inalienable right of the people of Puerto Rico to self-determination and independence in accordance with General Assembly Resolution 1514 (XV)." Furthermore, the 1981 Resolution of the Decolonization Committee — and a similar one passed in 1982 — recommended for the first time since Puerto Rico was removed from the list of nonself-governing territories in 1953 that the issue be again debated in the General Assembly. Although these proposals were defeated in the General Assembly, long-standing allies of the U.S. have either voted in favor or abstained, implying that voting patterns may change in the future.

Other important political associations have also expressed their support for Puerto Rican independence. At the 1978 Congress of the Socialist International in Vancouver, B.C., Canada, the Latin American political parties in attendance signed what has come to be known as the "Vancouver Declaration." In 1979, a similar declaration arose out of a meeting held in Oaxaca, Mexico, by the same parties who subscribed the Vancouver Declaration, and others who had not attended the Canada meeting. The Oaxaca Declaration went further than the Vancouver Declaration in that it not only expressed support for Puerto Rican independence, but offered to translate that support into economic aid to help the transition of Puerto Rico's economy from one of dependence, "a economía de pueblo libre" to one of a "free nation."

From these meetings COPPPAL was born. This association includes some of the most important political parties of Latin America: Mexico's ruling PRI, Venezuela's A.D., Colombia's Liberal Party, APRA of Peru, the Dominican Republic's PRD, Jamaica's PNP, and Costa Rica's PLN. Again, COPPPAL has repeatedly expressed its

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63 E.g., Argentina, Mexico, and Dominican Republic.
64 Declaration of Latin American Parties Attending the Socialist International Congress in Vancouver, B.C., Canada (November 1978). (This information was obtained from the Puerto Rican Independence Party, San Juan, Puerto Rico.)
65 Declaration of Oaxaca, October 10, 1979. (This information was obtained from the Puerto Rican Independence Party, San Juan, Puerto Rico.)
66 Id.
67 Conferencia Permanente de Partidos Políticos de América Latina (Permanent Conference of Latin American Political Parties).
68 Partido Revolucionario Institucional, presently in power.
69 Acción Democratica, frequently in power.
70 Alianza Popular Revolucionaria Americana, the most important party in Perú.
71 Partido Revolucionario Dominicano, presently in power.
72 People's National Party, recently in power.
73 Partido de Liberación Nacional, presently in power.
support for Puerto Rican independence, and its opposition to annexation, and indeed to continuing colonialism under any guise.\textsuperscript{74}

The uncommon uncertainty of Commonwealth status therefore stems from its challenge from \textit{within}, not just by pro-statehood and pro-independence forces; but significantly from influential establishment groups such as the Puerto Rico Bar Association. The challenge from \textit{without} comes not just from traditional U.S. adversaries in the international political sphere, but from an important body of the most important international institution: the Decolonization Committee of the United Nations Organization. International political associations like COPPPAL further make it clear that even traditional allies of the U.S. are pressuring for decolonization within their hemisphere.

The most notable action by an international political association came in April of 1983, when the Socialist International Congress\textsuperscript{75} in Albufeira, Portugal, unanimously admitted the Puerto Rican Independence Party as a full-fledged member, and adopted a unanimous resolution supporting Puerto Rican independence.\textsuperscript{76}

Finally, symposia such as those held by the \textit{American Society} in New York in March 1983, by Harvard Law School’s student organizations,\textsuperscript{77} as well as the proposed study currently under way by the well established \textit{World Peace Foundation},\textsuperscript{78} point towards an attempt to raise U.S. policy-makers' awareness of the potential repercussions of leaving the Puerto Rican question uncommonly uncertain much longer.

\textbf{C. Anatomy of a Failure}

The “Showcase” model of “Operation Bootstrap” and “Commonwealth” status was born genetically defective. For it was based on the assumption that world configuration would not change, and that Puerto Rico could always depend economically and politically on an all-powerful United States. The economic failure has been most succinctly summarized by Puryear as follows:

The success of Operation Bootstrap has always depended on the combination of federal and local tax exemptions, privileged access to the U.S. market, and cheap, good quality labor. The formula worked until the mid-1960s, when the Kennedy Round of tariff reductions began to cut into Puerto Rico’s comparative advantage, federal minimum wage laws were gradually applied to the island, and federal environmental standards began to raise local business expenses. The run-up in petroleum prices in the early ’70s and the world recession in the ’80s aggravated Puerto Rico’s existing economic difficulties. The Reagan Administration’s 1981 tax bill, by lowering income taxes and amending [IRC section] 936 corporate benefits, decreased the island’s attraction to mainland capital. Now the Caribbean Basin Initiative, by enlarging the

\textsuperscript{74} The most recent COPPPAL declaration regarding Puerto Rico dates from the October 1982 meeting held in La Paz, Bolivia.

\textsuperscript{75} The Socialist International includes over 60 socialist and social-democratic parties from around the world, many of them currently in power, as in France, Spain, Portugal and Sweden. Furthermore, most are traditional allies of the U.S., such as the British and Israeli Labor Parties.


\textsuperscript{77} \textit{See}, \textit{The New York Times}, April 27, at D-22.

number of countries with duty-free access to the U.S. market and tax exemp-
tions, would further weaken Puerto Rico's comparative advantage.79

In other words, the world which gave birth to the "Showcase" model in the years following the Second World War changed. It changed economically in the 1960s with the economic recovery of Western Europe and Japan. It changed politically with the accommoda-
tion and incorporation of newly-independent nations into new institutional ar-
rangements which have outlawed colonialism in the international legal sphere. It changed again in the 1970s with the economic integration and political association patterns of developed countries in Western Europe and the developing countries of Africa, the Pacific and the Caribbean. The latter changes, part of the third "wave" of the post-war era, frame the context in which the Lomé Conventions must be understood and the Caribbean Basin Initiative compared. For we live in an era of a world "balance" made uneasy by those industrialized countries caught in the psychological alienation of a cold war mentality which most of the world has transcended. The driving force now is toward the creation of a new international economic order.

This new international economic order is a necessity. The countries which prior to World War II had achieved industrial adulthood now show the growing signs of the wisdom that comes with age. The post-war "infant" nations have now become of age and are demanding their rightful share in the world. Yet, throughout these post-war develop-
ments, Puerto Rico follows an uncertain course. Commonwealth status has failed to spread its sails to modern winds that could steer it safely from a sea of dependence to today's port of independence. And the U.S., to rephrase slightly from an old 1960s song, "continues to continue to pretend that life will never change, and flowers never bend with the rainfall."80

III. INTERNATIONAL LEGAL PRECEDENTS FOR POST-INDEPENDENCE INTERDEPENDENCE

A. The New Theater: The World Is But the Stage

In the new stage of diverging and frequently conflicting international actors and directors, U.S. policy towards Latin America has often been erratic, frequently arrogant, and mostly neglectful. A Mexican friend once commented to me that every catchphrase developed by U.S. policy makers for their policies toward Latin America contained a dichotomy which rang with worn sadness in Latin American ears. The "Good Neighbor Policy" of the 1930s viewed, in his appreciation, Latin American nations as the "good," and the U.S. as the "neighbor." The "Alliance for Progress," he suggested, truly intended Latin Americans to be the "allies," while reserving "progress" for the U.S. The healthy skepticism which my friend's observations convey could lead one to the observation, based on the preceding analysis, that the "Commonwealth of Puerto Rico" was meant to leave the "common" to Puerto Ricans and direct the "wealth" to the United States.

Yet, as far as Puerto Rico's relationship with the U.S. is concerned, this skeptical view is not completely accurate. For the wealth extracted by U.S. tax-exempt private interests has failed to be repatriated, leaving U.S. taxpayers to foot the bill of a Puerto Rican economy increasingly on the dole. In addition, the current political climate in Puerto Rico has achieved anything but a common objective regarding the Island's political destiny.

79 Puryear, supra note 4, at 12.
80 Paul Simon and Art Garfunkel, Flowers Never Bend With the Rainfall.
It is clear that the present arrangement between the U.S. and Puerto Rico cannot hold its pose much longer. And while it is difficult to visualize how annexation as a State of the Union could alter Puerto Rico's economic stagnation in spite of a sizeable Congressional delegation,\textsuperscript{81} it is simple to see that statehood would increase the economic burden on the U.S. taxpayer to keep a dole economy artificially afloat.

The problem is further complicated from an international political perspective. In my experience, I have never met any Puerto Rican living on the Island (all U.S. citizens) who has argued for the status solution of her/his preference for any reason other than the belief that such preference is in the best interests of Puerto Rico: hardly a pledge of allegiance to the United States! Puerto Rico shares with other Latin American nations more than common language, culture and historical origins. It shares a nationalist sense of identity which, because of the economic constraints of the present colonial relationship, has been erroneously channeled into a prostatehood movement which, after 85 years of U.S. domination, still has to show the possibility of becoming a lasting majority.

Besides the internal problems which the annexation of Puerto Rico as the 51st State might imply for the U.S.,\textsuperscript{82} the repercussions in the third stage of post-war institution-building could have more adverse effects. The historical fears and skepticism of Latin America towards the U.S. would be incremented far more than the present hegemonic, myopic vision would surmise.

Writing about this third wave of international institution-building, Bergsten\textsuperscript{83} has noted that, "The basic issue of international relationships for the foreseeable future is the tension between the imperatives of international interdependence and the quest to retain adequate degrees of national autonomy."\textsuperscript{84} As Hirsch\textsuperscript{85} has pointed out:

The changes that have taken place in the structure of the international system, and notably the decline of the dominance of the leading economic power, have in an important dimension weakened the organizational basis. . . . The United States is not going to get its old dominance back because that would be convenient for the working of international institutions. International economic relationships, therefore, are now likely to require more explicit organization, more political negotiation, and perhaps more disruptive uncertainties than the liberal trading arrangements of the past. That is inconvenient; it cannot be said on any objective basis to be inferior. The inconvenience is likely to be especially great as long as no agreed new order exists to replace the old broken one.\textsuperscript{86}

And as has been further argued by Bergsten:

History has shown that effective international institutions can defuse conflicts among nations and promote positive-sum outcomes, and that such conflicts

\textsuperscript{81} As a State of the Union, Puerto Rico would have a larger Congressional representation and a larger piece of the Congressional budget than 25 of the 50 states. At the same time, its contribution to the federal treasury would be well beneath that of the poorest state.

\textsuperscript{82} Berrios Martínez has phrased the problem as follows:

If the Congress should decide to accept Puerto Rico as a state, the United States will be faced with a combination of the Quebec and Northern Ireland syndromes that will become an open sore for your nation into the foreseeable future, and beyond.

Paper read at conference sponsored by the Americas Society (March 18, 1983), at 6.

\textsuperscript{83} Bergsten, supra note 7.

\textsuperscript{84} Id. at 363.

\textsuperscript{85} Hirsch, supra note 13.

\textsuperscript{86} Id. at 530.
are not only possible but probable in the absence of such institutions. International interdependence is expanding rapidly in a whole range of issue-areas. So is its antithesis, nationalist opposition to international approaches. Hence a high priority must be attached to the further evolution of international institutional arrangements. 87

Thus, Puerto Rican independence as a first step is not only in the interests of Puerto Rico. Puerto Rican independence is also in harmony with economic and political interests of the United States. The historical absence of a decolonizing policy on the part of the U.S. has further confused Puerto Ricans' seemingly acquiescent attitude towards colonialism. The nationalist roots are not dead even among statehood advocates. 88 A clearly enunciated U.S. commitment to decolonize Puerto Rico, guaranteeing an economically smooth and viable transition to independence, would undoubtedly expose the softness of annexationist sentiment. Furthermore, the wiser policy would expose the deep roots of nationalism that are alive in Puerto Rico; and in a constructive fashion, it would accomplish for the independence movement what destructive political persecution in the 1950s and anti-independence propaganda thereafter did for pro-statehood organizations.

What would such a U.S. policy look like? What would have to be its basic features? Imagination and good will are the only limits; but in the following section the reality of existing arrangements between "mother" countries and former colonies are examined as a useful guide.

B. The Lomé Conventions: A Play of Post-Independence Relations

1. Pre-Lomé Developments: The Historical Dress Rehearsals

The idea of international "free" trade has been around for as long as industrial development in liberal capitalism. The sovereign power of nations to impose protective tariffs, however, has also been around for at least as long. While the economic history of advanced capitalist societies has underscored the periodic prevalence of protectionism versus free-trade in these societies prior to the Second World War, the post-war era elevated free-trade to the pedestal of a ruling principle among developed nations, at least in theory.

The advent to nationhood of former Western European colonies after World War II has resulted in a qualitative change in the application of the free-trade principle. Although the 1947 General Agreement on Tariffs and Trade (GATT) seemed to reaffirm the principle of free-trade, along with its primary goal of reducing tariffs and other barriers to trade, and along with the elimination of protectionist treatment of goods in international commerce, a reverse mechanism of waivers to the general principle was incorporated from the time of its inception. 90

The Treaty of Rome (1957), which established the European Common Market (EEC), seemed to further reaffirm the free-trade principle by institutionalizing it in the context of the original six European nation-states. Since by that time many of the original six had divested — or were in the process of divesting — themselves of colonial pos-

87 Bergsten, supra note 7, at 372.
88 See supra at 18-20.
89 See supra note 41.
sessions, the Treaty of Rome included provisions regarding their economic relations with such overseas countries or territories (also known as "Associated states and territories"). The central provisions established that these countries or territories would apply to the Common Market countries and to each other the same treatment as had been accorded to the European state to which it was peculiarly related. Furthermore, each Common Market country would apply toward each overseas country or territory with which it had a peculiar relationship the same treatment which the Treaty of Rome established for itself with regard to each of the other EEC nations. In the development of post-war North-South economic relations, the principle of reverse preferences — that in return for tariff-free access to European markets, overseas nations or territories would afford EEC countries equal treatment — was thus conceived as a direct outgrowth of free-trade notions.

The Treaty of Rome also institutionalized a notion which is significant in the context of North-South relations. It provided that all members of the Common Market would contribute to aid required by such overseas countries and territories. The Treaty also contained a provision for the eventual establishment of a "Development Fund." This is significant, for it foreshadowed the open recognition of existing inequalities and the inevitability of some sort of arrangement whereby industrialized nations would contribute to the economic development of less developed nations in a unique way. The Treaty of Rome provisions would be in effect for five years, beginning in 1958. As I. V. Gruhn explains:

During the course of these five years most of the Associated states and territories had become independent. With the exception of Guinea all [of them] asked that their EEC association be continued. Hence, a new agreement was concluded at Yaoundé in the Cameroun Republic in July 1963, and subsequently renewed at Yaoundé for a second five-year period in July of 1969.

Other special forms of association with Common Market countries were signed by English-speaking African nations which, for reasons that are beyond the scope of this work, had not formed part of the Yaoundé I or Yaoundé II Conventions. The most important of these was the Arusha Agreement (signed in Arusha, Tanzania, in 1969) between Kenya, Tanzania, and Uganda, with the EEC. The Arusha Agreement ran parallel to Yaoundé II, until January 31, 1975.

The principle of peculiar forms of North-South economic development treaties was thus well established by the time the first series of agreements were concluded at Lomé in 1975. As Gruhn points out, however, the European assumption prior to Lomé, "appears to have been that some form of enlarged (in terms of European and African membership) Yaoundé Convention would ensue, or if so desired, a looser Arusha-type agreement — or perhaps merely a set of trade agreements with the Community..." The European attitude, furthermore, was based on the assumption that their role would be limited to presenting options to the African nations from which the latter would simply choose. By 1973, however, African nations under the leadership of Nigeria made clear that such was

91 Id. at 606-636.
93 Id. at 244.
94 Id. at 249.
not to be the course of negotiations. A repeat performance of Yaoundé therefore would not be acceptable. This forced the EEC to drop its multiple-choice approach, and the stage was set, at the time of the third phase of international institution-building, for the negotiations which gave rise to the first Lomé Convention (Lomé I).

2. Lomé I: The Curtain Rises

A significant aspect of the pre-Lomé negotiations (which began in Lagos, Nigeria, in July 1973) was the degree of political unity achieved by African nations for the first time, vis-à-vis European powers. Wenike Briggs, Nigeria's Federal Trade Commissioner and spokesperson for the group, made it clear that African states intended to negotiate jointly.

A second significant aspect in this Third World unification development for participation in the formulation and execution of international economic policy was that Caribbean and Pacific states contributed further to the strength of joint Third World negotiations. So, for the first time, a unified group of industrialized, developed nations was facing a more-or-less unified group of less developed countries from Africa, the Caribbean and the Pacific (ACP states). The Caribbeans, according to Gruhn, "contributed greatly to the negotiations by taking the political offensive at crucial moments while at the same time bringing technical know-how and expertise to lower level technical bargaining sessions."

Thirdly, it is important to point out the "genuinely more understanding, sympathetic attitude regarding the needs, concerns, and demands of the ACP states" which the European side showed in the face of ACP unity. The 55 European and ACP nations involved in the accomplishment of Lomé I made up nearly half of United Nations membership, purporting to affect a population of about 510 million people. For these reasons:

The developing association of former European colonies with the European Common Market as manifested in the Lomé Convention, provides a useful case for a study of the capacity of small/weak states as formulators and executors of international policy in the contemporary international system.

3. Lomé I and Lomé II: The Plot Thickens

These three significant aspects would have sufficed to establish an important precedent in international political and economic relations, as the curtain rose over Lomé. But Lomé I pointed in the direction of substantial changes in the quality of international law developments which had preceded it. While the Yaoundé Conventions gestated the principle of reverse preferences conceived in the second wave of international institution-building of the Treaty of Rome and the EEC, the creature born at Lomé was of a surprising new breed. And, as with any new-born creature, despite its initial frailty, there was no going back into the womb.

The main provisions of the 1975 Lomé Convention, which Lomé II (1980) reaffirmed, were (a) free access without reciprocity to the European market for goods exported from the ACP countries; (b) a stabilization fund (STABEX) which would compensate ACP countries in the event of reductions in the receipts from the exports of their principal, mostly non-mineral, basic products, and a similar mechanism under Lomé

95 Id. at 254.
96 Id.
97 Id. at 243.
II (SYSMIN) to deal with minerals not covered by the Lomé I mechanism; (c) financial aid to ACP countries; (d) the idea of industrial and technological cooperation to reduce the ACP states' disadvantage in this area; (e) presumably joint institutions to supervise and help in the implementation of the agreements; and (f) an agreement in the form of a separate protocol, called Protocol No. 3, which provides for EEC yearly purchase of a fixed sugar quota at a fixed minimum price.\textsuperscript{98}

As Minta has pointed out:

Underlying the Convention is a recognition of the weakness of ACP economies in terms of their excessive dependence on unstable commodity earnings and their pressing need for industrial development, and a consequent commitment to the economic development and social progress of the ACP states.

Hence, one of Lomé's main objectives has been expressed as the attempt to establish a new model for relations between developed and developing states.\textsuperscript{100} Minta has pointed out, however, that:

\ldots the significance of the market-access arrangements tends to be over-emphasized: first because most ACP exports to the EC fall under the duty-free category even without the Convention; second, because the competitive advantages offered by the available range of preferences appear to be more theoretical than real, since they do not seem to have produced any significant changes in the volume and pattern of trade — as was the case for most products under the preceding Yaoundé arrangements. \ldots; and third, in the area of the highest aspirations — that of trade diversification and structural economic transformation — any appreciable success may lead to countervailing restrictions if the interests of Community producers are threatened thereby.\textsuperscript{101}

After analyzing the moderate accomplishments of Lomé I, Katharina Focke, the official rapporteur on behalf of the ACP-EEC joint Committee, seems to agree that the principle of one-way free-trade consecrated by Lomé I, "shows generous intentions on the part of the Community, although the gesture is more spectacular than effective in reality."\textsuperscript{102}

Focke further points out, "that even though the Conventions of Lomé are exemplary in many ways, they provide in the final analysis only a fraction of what is really needed. And a drop in the ocean, however exemplary, never had any effect on that ocean."\textsuperscript{103} While this is true, many such exemplary drops may nevertheless alter the ocean's environmental characteristics. And undoubtedly:

By clearly and deliberately recognizing an imbalance of obligations between EEC and ACP countries, a recognition of pre-existing inequalities was brought into the Lomé Convention. \ldots It also seems likely that the principle of non-reciprocity will for some time to come constitute a precedent for other North-South trade agreements.\textsuperscript{104}

\textsuperscript{98} Id. at 248-249.
\textsuperscript{99} Minta, supra note 3, at 1.
\textsuperscript{100} 19 OFFICIAL COMMUNITIES No. L.25 (JAN. 30, 1976), QUOTED IN MINTA, supra note 3.
\textsuperscript{101} Minta, supra note 3, at 244.
\textsuperscript{102} FOCKE, FROM LOMÉ 1 TOWARDS LOMÉ 2 (TEXTS OF THE REPORT AND RESOLUTION ADOPTED BY THE ACP-EEC CONSULTATIVE ASSEMBLY) 11 (Sept. 26, 1980).
\textsuperscript{103} Id. at 67.
\textsuperscript{104} Gruhn, supra note 92, at 255.
4. After Lomé: A Theater-in-the-Round

To think that Lomé represents an isolated series of events in "Old World" affairs, totally disconnected from the realities of our hemisphere, is to miss the point. It is not just the fact that there are "New World" nations from this hemisphere involved in this attempt at rearranging North-South relations (the Carribean component of the ACP states); but as Hirsch has pointed out:

The diffusion of economic power, and inability of any single country to impose its preferred global system, have brought a need for more specific means to bind countries to an international order, of whatever kind.105

He then suggests "preferential terms of access for developing countries"106 as one of the means to bind countries to a new international order. This method, of which the principle of non-reciprocity is a clear example, he views as among "the most promising such instruments," and one which "would also embody a distributional element, but one that is widely considered appropriate in its own right."107 This means, of course, that the attempt to restructure international economic-institutional arrangements must have a wider application, lest the Lomé Conventions prove to be a great idea whose only flaw is that it remains mostly an idea. As Focke recognizes:

In fact the Community will only be able to pursue a coherent and viable development aid policy if its special contractual relations with certain countries, including the ACP countries, are placed in the context of a world-wide system of economic relations between North and South.108

For as Gruhn states:

The industrial states' concern with resources has brought home their dependence on some Less Developed Countries, in order to sustain their own industrial and economic well-being. It was self-interest rather than charity or naivete which produced the innovative aspects of the Lomé Convention.109

This should lead to the realization that there is more to the talk of a New International Economic Order than mere rhetoric. The disparities in today's world's economic indicators, such as the divergent growth of per capita income in developed and less developed nations, imply more than the recognition of industrialized countries' interdependence with less developed countries. These disparities also go a long way towards addressing the moral imperatives of the distributional element which a NEIO involves. Thus:

... while much of the third world argumentation on these disparities are couched in terms of "bridging the gap;" or "catching up" with the developed world, or a transfer or redistribution of wealth — giving rise to the prejudicial view in certain quarters that LDCs only want to reap the benefits of other peoples' hard work and productivity — in reality the thrust of LDC argument is not so much in terms of the desirability of securing a share in world economic wealth proportionate to their population, through gratuitous trans-

105 Hirsch, supra note 13, at 530.
106 Id. at 530-531.
107 Id. at 531.
108 Focke, supra note 102, at 68.
109 Gruhn, supra note 92, at 260.
fers of other peoples' wealth, as in terms of a desire to secure equitable
returns from the resources produced by themselves.110

The world today is therefore like a theater-in-the-round, ripe for a global perform­
ance such as that which has begun with the Lome Conventions. While in the Western
Hemisphere the Caribbean Basin Initiative announced by President Reagan's administra­
tion contains some worthwhile aspects, the rhetoric of the Reagan Administration, if at all
representative of its underlying mentality, fiercely misses the mark and is headed for
failure. The consequences of such failure could be far more serious than the feared
situation it is designed to prevent. In his address before a joint session of the U.S.
Congress on April 27, 1983, President Reagan declared:

The countries of Central America are smaller than the nations that prompted
President Truman's message [before another joint session of Congress in
1947]. But the political and strategic stakes are the same. Will our response —
economic, social, military — be as appropriate and successful as Mr. Truman's
bold solutions to the problems of postwar Europe?111

If such an approach to Western Hemispheric problems is the guiding light of the
Reagan Administration’s policies, then, indeed, the obvious changes in international
institutional arrangements have been forgotten. Did not a GATT begin to develop in the
same year in which President Truman’s quoted address to the U.S. Congress took place? Did
not a Treaty of Rome lay the bases in 1957 for Yaoundé I and II, and did not
Yaoundé lay the bases for the developments of Lome? What must be recalled is that:

... the Lome Convention indicates that power does not of necessity come out
of the barrel of a gun or in the form of economic blackmail, but that it can
come from a careful orchestration of leadership and skill applied within the
context of a multilateral mechanism and focused on issue areas ripe for an
incremental systemic alteration.112

It is in this context that the Lome precedents in the North-South relations can help us
focus on U.S.-Latin American relations. Since within the framework of the Western
Hemisphere, the Caribbean is aptly recognized as of strategic importance to the U.S., the
case of Puerto Rico, a Caribbean nation and one of the last remaining colonies in the
world, is ripe for systemic alteration and should not be overlooked much longer.

IV. A Glimpse at The “New World”

To most North Americans from the United States, the Caribbean is a region of gently
swaying palm trees, tropical breezes and crystal-blue waters with white sandy beaches. It is
a place to think of for a relaxing vacation of exciting, adventurous nights in the casually
elegant decor of a tropical Hilton while mingling with the friendly natives.

And yet, the Caribbean is as varied as the number of languages spoken in its
neighboring regions — from Dutch in Aruba, to French in Haiti, to English in Jamaica, to
the prevalent Spanish almost everywhere else. It is a region of varying political systems:
from Cuba’s socialist system, to Haiti’s feudal-like autocracy; from democratically tradi-

110 Minta, supra note 3, at 15-16. (Footnote omitted. “LDC” stands, of course, for Less Developed
Country.)


112 Gruhn, supra note 92, at 262.
tional Costa Rica, to experimentally pluralist Nicaragua; from independent sovereign republics of varying sizes like Mexico and Grenada, to colonial Puerto Rico. Economically, the region also displays a wide array of infrastructures. Economic production varies from petroleum to citrics, to sugar, to manufacturing, to heavy industry. In every country the contrast between rich and poor are mirrors of the regional contrast with the rich "neighbor" to the north.

Varied as the region is, it shares a common problem; the theoretical juridical equality of sovereignty (except in Puerto Rico, most notably), and the reality of inequality in economic development with the North. The tension which this problem poses has been aptly summarized by Yakemtchouk:113

In particular, the overriding importance of economic inequality of rich and poor states, and hence, the affirmation of the principle of non-reciprocity . . . poses the problem of . . . harmonizing the legal principle of sovereign equality of states, which is a basic principle of the international public order. Reclaiming the postulate of self-determination, decolonization developed into the extreme fragmentation of state-sovereignties, based not on some form of sub-ordination, but on the equal sovereignty of states, and as a consequence, it would be necessary to find new formulas to reconcile this contradiction between the economic realm and the juridical . . . It is through this legally egalitarian international order that the essentially unequal economic power distribution stands out.114

The question is, then, whether in the search for new international institutional arrangements in this third phase of post-war economic development115 based on the principle of non-reciprocity, the problem of economic inequality can be solved through any means other than the juridical principle of sovereign equality among nations. To say “No” highlights the contradiction between national autonomy and international economic relations between North and South. But to say “Yes” does not eliminate the contradiction either. For to overemphasize any one developing nation’s economic interdependence with a developed one is to turn the clock of history back to a justification of colonialism. And to overemphasize any developed nation’s economic self-sufficiency is to ignore the obvious changes in the configuration of international economic reality.

Hirsch has written that:

Economic interdependence that outruns too far the extent of common political control, can be an element of international friction rather than harmony. Keeping a little apart can at times be the best way of keeping together.116

113 See, R. Yakemtchouk, supra note 5.

114 Id. at 175-176. The original in French follows:

En particulier, la mise en avant de l’inégalité économique des Etats riches et des pays pauvres, et partant, l’affirmation du principe de la non-reciprocité . . ., pose le problème de concordance avec le principe juridique de l’égalité souveraine des Etats, qui est un principe de base de l’ordre public international. Se réclamant du postulat de l’autodétermination, la décolonisation déboucha sur la fragmentation extrême des souverainetés étatiques, fondées non pas sur une quelconque subordination, mais sur l’égalité souveraine des Etats, et dès lors, il faudrait trouver des formules nouvelles, pour concilier cette contradiction entre l’économique et le juridique . . . C’est à travers cet ordre international juridiquement égalitaire que se profile la distribution essentielle-ment inégalitaire du pouvoir économique.

115 See supra at 7. Also see, Bergsten, supra note 9.

116 Hirsch, supra note 13, at 531.
The United States, by its history of interventionism in Latin America throughout this century, has not heeded this sound advice. While the Caribbean Basin Initiative (hereinafter CBI) might provide a good starting-point for the correction of this historical course, the essential aspects of this timid gesture are imbued with a myopic cold-war mentality that prevents it from achieving loftier, as well as more realistic goals. The U.S. continues to act as if the North-South debate over a new international economic order were an either/or proposition between East and West, with Soviet socialism at one end and U.S. Capitalism at the other. Of particular relevance to Latin America, and the Caribbean specifically, is Minta’s observation that:

... the ideological dimension is sometimes presented in pejorative terms, as a degeneration towards socialism on the part of the less-developed countries. But it cannot be validly asserted that the less-developed countries constitute a socialist bloc; as a matter of fact most LDC governments happily accept the capitalist framework, and their disillusionment is not so much with capitalism as with their meager rewards within the international capitalist system.118

The salient characteristics of the CBI, which are presently discussed, point out basic impediments to the promotion of economic regional development, and examine its potentially beneficial aspects. It is necessary to look at the role of Puerto Rico as an integral part of the Caribbean in the context of the CBI, and in light of the international legal precedents discussed in the previous chapter. For, as Hirsch has stated:

The changes now in train in the international economy are far from new; they are counter-international in part; they are political as well as economic; and they are anything but orderly. They are happening nonetheless.119

A. The CBI — A Cosmetic Boycott to Interdependence

On February 24, 1982, President Reagan spoke before the Organization of American States. He delivered a special message to Congress the following March 17. In both instances, Mr. Reagan outlined what he termed a plan for the Economic Revitalization of the Caribbean Basin Region.120 On December 17, 1982, nine months after the President had submitted his plan to Congress, the Majority Leader of the House of Representatives is reported to have stated that, “The history of our relations with Latin America has been a history mottled by recurrent broken promises and benign neglect, raising hopes that were then dashed.”121 The next day the House of Representatives passed the bill in question 260-142,122 but it died a few days later when the Senate adjourned on December 23 without taking up the measure.123 But it was foreseeable that this would not be the end of the plan that has come to be known as the Caribbean Basin Initiative (CBI).

Some of the features of the CBI were probably alive in policy-making corridors long

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118 Minta, supra note 3, at 34.
119 Hirsch, supra note 13, at 531.
120 President’s Message to Congress Transmitting the Proposed Caribbean Basin Economic Recovery Act, 18 WEEKLY COMP. PRESS DOC. 323 (Mar. 22, 1982) [hereinafter cited as President’s Message].
121 Murray, Caribbean Trade Plan Dies in the Senate, 40 CONG. Q. WEEKLY REP. 3095, 3096 (1982).
122 Id.
123 Id. at 3095.
before the Reagan Administration took office in January of 1981. And, not surprisingly, on April 27, 1983, in his speech to a joint session of Congress, Mr. Reagan announced that the CBI had been re-introduced in the House of Representatives.\textsuperscript{124} The Caribbean Basin Economic Recovery Act came into being as part of P.L. 98-67.\textsuperscript{125}

The three main features of the CBI as originally announced by the President were: (1) tax benefits for U.S. companies investing in the Caribbean region covered by the CBI; (2) an emergency economic assistance appropriation of $350 million for fiscal year 1982; and (3) an offer of one-way free trade, which Mr. Reagan labelled the “centerpiece” of the CBI,\textsuperscript{126} to which the final version refers as “duty-free trade.”\textsuperscript{127} The first of these was never seriously considered by the Congress, and the second was the only one actually approved by the House in 1982. The third feature, the “centerpiece,” is most relevant to this essay as exemplifying the principle of non-reciprocity established at the Lomé Conventions of 1975 and 1980. Although all three features are present in the Lomé context, it is the “duty-free trade” concept which survived the legislative process in the 1983 Caribbean Basin Economic Recovery Act that is of central importance for the purposes of this work.

Officially, Latin American response was less than enthusiastic from the beginning. It is probably safe to assume that no new birth of enthusiasm is likely to follow the 1983 CBI, since it is essentially a repetition of its predecessor. Speaking to the student-run Sociedad Interamericana of Harvard Law School on April 13, 1983, the Chief of Staff of the Secretary General of the Organization of American States, Dr. José Luis Restrepo suggested that the tax incentive measures for investment in the region would not allow each country to freely direct the application of foreign investment to its economy. The economic assistance aspect he classified as “too little and too politically motivated.” Nevertheless, he characterized the offer of one-way free trade as “extremely positive,” although he added that, in his opinion, the offer should be extended to Latin America as a whole.

This restrained response to the first CBI proposal from diplomatic circles should serve as an indicator to U.S. policymakers. In other circles, the reaction was outright cynical:

\ldots in the first place, the plan expresses Washington’s priority of maintaining this region within its sphere of influence for principally strategic-military reasons and only secondarily for the direct or indirect economic benefits which it might obtain from these countries.\ldots \textsuperscript{128}

In the midst of a deepening political conflict in Central America, little attention has been paid to the 1983 CBI. Like its predecessor, however, the erected CBI is strikingly different from the approach taken by the Lomé Convention with regard to North-South economic relations. The CBI is a unilateral piece of Congressional legislation to be

\textsuperscript{124} The New York Times, \emph{supra} note 111.

\textsuperscript{125} [1983-1984] 2 CONG. INDEX (CCH) 35.031 (Sept 15, 1983).

\textsuperscript{126} President’s Message, \emph{supra} note 119, at 324.


\textsuperscript{128} \textit{El futuro de la Cuenca del Caribe según la administracion Reagan}, 1 INFORME Feb.-June 1982, at 10-11 [hereinafter cited as \textit{El Futuro}]. The original in Spanish follows:

\ldots en primer lugar, el plan expresa la prioridad central de Washington de mantener a esta región dentro de su esfera de influencia por razones principalmente estratégico-militares y sólo secundariamente por los beneficios económicos directos o indirectos que pueda obtener de estos países.\ldots
offered by the Executive to certain Caribbean nations on a take-it-or-leave-it basis. The Lomé Conventions were achieved through a negotiation process between two camps. While it is true that "The ACP states do not constitute a single legal entity, in spite of their bloc appearance," it is no less true that ACP states were able to articulate a unified negotiating stance vis-à-vis the EEC because of similar national interests and a negotiating history dating back to the Treaty of Rome and Yaoundé I, in 1957 and 1963, respectively. The CBI, in contrast, provides for multiple bilateral agreements between the U.S. and individual Caribbean nations. This is an arrangement quite different in form, substance and results from what the wisdom of Rome, Yaoundé and Lomé precedents would dictate. Mr. Reagan's own words regarding the tax credit provisions of the CBI's first round in Congress underscore this important difference:

A country would qualify for the benefit for a period of five years by entering into a bilateral executive agreement with the U.S. to exchange information for tax administration purposes. The key words here are "bilateral" and "executive." As the Report of the House Ways and Means Committee further indicated then:

Title I of [the House bill] contains six sections to provide the authorities necessary for the President to establish a one-way, free-trade area with the countries of the Caribbean Basin.

The principal provisions of Title I can be summarized as follows:

* * *

Section 101 provides the basic authority for the President to establish one-way, duty-free treatment on imports of eligible articles from Caribbean Basin beneficiary countries.

The final House version contained similar wording:

The President may proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of this subtitle.

The final version of the CBI herein analysed, however, does not contain the tax credit provisions mentioned earlier even though one-way free trade and tax credit provisions go hand-in-hand. As Focke observed regarding the Lomé provisions of a similar nature:

The rule of free access is meaningless to countries which, at the present stage, because of their productive structures, have practically nothing to export to the Community. This rule is therefore only of interest to prospective investors.

Given the fact that "about 80 percent of Caribbean exports currently enter the United States duty-free if petroleum is excluded;" given the fact that most potential beneficiaries are not oil exporters or producers; and given the fact that discretionary

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129 Minta, supra note 3, at 75.
130 President's Message, supra note 119, at 325.
131 H.R. REP. No. 958, 97th Cong., 2d Sess. 3 (1982) [hereinafter cited as REPORT].
133 Focke, supra note 10, at 14.
134 REPORT, supra note 131.
power to designate beneficiary countries has been placed in the hands of the Executive; what Dr. Restrepo said of the economic assistance aspect of the CBI is certainly true of the final version of the 1983 CBI, as well: it is too politically motivated. These reasons, combined with the existing crises in the basic production systems of potential beneficiary countries, underscore the basic correctness of the contention that the CBI:

... has scarce possibilities of success, since it ignores one fundamental aspect, among others; subject to the orbit of United States influence, the nation-state in Central America and the Caribbean countries finds itself (sic) each day further curtailed in possibilities of carrying out a viable project of national development that contemplates society as a whole. This won't be feasible without a deep transformation in the political and economic structure on which the state is based that will allow [each state] to join a regional scheme of integration, the only alternative of economic viability.

It is thus clear that the CBI drives a wedge against regional economic integration, thus decreasing the likelihood of a true Caribbean interdependence.

B. The CBI—Its Redeeming Value

With the principle of non-reciprocity a firmly established precedent in international economic relations between North and South, Mr. Reagan's "centerpiece" one-way free-trade offer has to be regarded as a positive gesture. The U.S., however, must be willing to do more than dip its toe in the turbulent currents of this third phase of international institution-building. A higher priority must be assigned to new evolving international institutional arrangements.

No one seriously contends that the U.S. does not have economic and security concerns in the Caribbean. What is lacking, however, is a more nearly realistic appraisal of the role which the international legal principle of sovereign equality plays in this stage of international institution building. The principle of sovereign equality is rooted in history and philosophy, in human experience, aspirations, and culture. A better approach towards North-South relations would require that the U.S. understand the existence of nation-states as a tool for economic development and the reduction of economic inequality. As Bergstein has pointed out:

135 It should be noted, regarding the economic aid provisions, that President Reagan intended that $120 million of the requested $350 million should go to El Salvador (a country which does not even have a shore line on the Caribbean). See, President's Message, supra note 119, at 325.

136 El Futuro, supra note 127, at 11. The original in Spanish follows:

... tiene escasas posibilidades de éxito, puesto que ignora, entre otros, un aspecto fundamental: sujeto a la órbita de influencia de Estados Unidos, el Estado-nación en Centroamérica y los países caribeños se encuentra (sic) cada día más imposibilitado para realizar un proyecto viable de desarrollo nacional que contemple a la sociedad en su conjunto. Esto no será factible sin una transformación profunda de la estructura política y económica en que se sustenta el Estado y que le permita articularse a un esquema regional de integración, única alternativa de viabilidad económica.

137 The Reagan Administration's overt support of forces trying to overthrow the government of Nicaragua further weakens any possibility of regional peace and development. This results, not only from the open hostility towards Nicaragua, but also because of the Reagan Administration's disregard of the Contadora nations' attempts at regional problem solving. Whatever good faith Congress' inclusion of Nicaragua in the list of "beneficiary countries" might have had has been rendered meaningless by the militarization policies of an Executive who enjoys basic discretionary powers to designate beneficiaries under the terms of the Caribbean Basin Economic Recovery Act. See, Act of August 5, 1983, supra note 126, at 384-385.
. . . It is impossible to keep separate the major international economic, and even security issues. A return to the earlier postwar situation, in which each was handled largely within its functionally narrow framework, appears most unlikely. . . . But excessive linkage makes issues harder to manage technically and so politicized that progress becomes much more difficult. And weaker countries will inevitably seek to link, to maximize their more limited bargaining leverage. Here a major requirement for any new systemic custodians is to suppress their own temptations to link in the interest of achieving substantive progress.138

The best way for the United States to safeguard its security interests in the Central American (Caribbean) region is not to drive a wedge into Central American economic linkages. Rather than the divide-and-conquer approach implicit in "bilateral executive" agreements, an integrate-and-benefit approach would be in order.

It should be recalled that the energy crisis of the early 1970s had deeply affected the EEC members at the time of Lomé I. Moreover, the ACP states had oil. (Nigeria was at the time the world's 8th largest oil producer.) Several African nations were uranium producers — a fact not likely to have slipped from European attention in the quest for alternative sources of energy. It is evident that, "From the European side there was more than altruism and enlightenment at stake."139

Thus, for the Europeans a special relationship with ACP today in areas which foster the development and economic survival of ACP states may well have equally imperative payoffs for the EEC at a future time. . . .140

At present, the worst recession since the Depression of the 1930s should still be fresh in U.S. policymakers' minds, as well as the honest awareness that the Carter administration was not its cause, nor Reagan's the remedy. As Robert B. Reich has pointed out:

When all industrialized countries were crippled by a worldwide recession in 1981 and 1982, America [meaning the U.S.] was among the hardest hit, suffering slower economic growth and higher unemployment than France, Japan, or West Germany and higher inflation than Japan or West Germany. America's standard of living has stayed high in absolute terms, in large part because its stock of wealth is still immense. But that lead is eroding quickly.141

In spite of the previously noted fact that approximately 80% of Caribbean non-petroleum products already enter the U.S. duty-free, petty arguments, politically inspired, were brandished in Congress against the only moderately worthwhile feature of the CBI from the beginning.142 It is time that U.S. policymakers recognize that labor-in-

138 Hirsch, supra note 13, at 366.
139 Gruhn, supra note 92, at 259.
140 Id.
142 See, e.g., Report, supra note 130, Additional Views of The Hon. Richard T. Shulze, 36-38, at 36, regarding the mushroom industry as "an extremely import-sensitive enterprise. Being chiefly labor intensive, it has been victimized by a flood of foreign canned mushrooms which are produced by cheap labor and are often subsidized by foreign governments in one fashion or another." Representative Shulze in fact offered amendments to exclude mushrooms from duty-free access under the CBI, which were defeated:

He added:

Let there be no doubt as to the reality of that threat. The Dominican Republic, Costa Rica, Guatemala and Haiti all currently grow mushrooms . . . and Italian and Korean
tensive, relatively unskilled production in the U.S. is expensive and counter-economic. Importing such articles from other countries who can produce them more cheaply is not just in the economic interest of exporters in a non-reciprocal arrangement, but also in the economic interests of the U.S. Reich has noted that:

What began in the 1960s as a gradual shift became by the late 1970s a major structural change in the world economy. Assembly operations are being established in developing countries at a rapid clip, and America's manufacturing base is eroding precipitously.143

Such realization, of course, requires a shift in economic strategy within the United States. Reich says that, "Too many of us have too much of a stake in the old patterns of organization to acknowledge comfortably the magnitude of the shift that must be undertaken."144 He then adds:

America's industrial base must change radically. If American prosperity is to be truly restored, a substantial fraction of capital and labor must shift toward flexible-system production. But the organization of high volume, standardized production permits change in only one dimension; toward greater scale and a larger volume of the same standardized products.145

It must be recognized that:

Goods are being made wherever they can be made the cheapest, regardless of national boundaries. And the most efficient places for such mass production of standardized commodities are coming to be third world countries. Over a period of only fifteen years many of the world's developing countries have begun to specialize in high-volume production, featuring long runs of standardized products. Their production costs are lower than America's both because their workers are content with lower real wages and because some of them have favored access to cheap materials.146

What has to occur is "... the growing recognition that is pays to cultivate the attitude and institutions consistent with the growing reality of genuine economic interdependence on this globe."147 This means getting away from the ideological strait jacket of a cold-war mentality, and understanding that there is no security in the absence of Caribbean development; that there is no economic development in the absence of true economic Caribbean interdependence; and that there is no true economic interdependence in the absence of new international institutional arrangements. In short, the road out of eco-

businesses have investigated establishing mushroom operations in the Caribbean. The U.S. International Trade Commission has confirmed the feasibility of growing mushrooms in a semi-tropical climate such as exists in the region designated under the CBI.

Id. 36-37.

143 R. REICH, supra note 140, at 127. See also Alexander, A Fresh Challenge to Reagonomics, TIME May 2, 1983, at 60:

[Economist Robert] Reich would replace capricious protectionist measures with an explicit industrial policy aimed at retraining unemployed workers for new jobs and channeling investment into technologically advanced products that would enable U.S. companies to keep pace in the growth race.

144 R. REICH, supra note 140, at 138.

145 Id., at 139.

146 Id., at 125.

147 Gruhn, supra note 92, at 259-260.
nomic inequality is precisely through the flexibility which juridical sovereign equality alone is able to provide.

C. Puerto Rico: The Caribbean Counterpoint

In his March 17, 1982, message to Congress on the Economic Revitalization of the Caribbean Region, the President of the United States stated:

The crisis facing most of the Basin countries is real and acute. Deteriorating trade opportunities, worldwide recession, mounting debt burdens, growing unemployment and deep-seated structural problems are having a catastrophic impact throughout the region. This economic disaster is consuming our neighbors' money reserves and credit, forcing thousands of people to emigrate, and shaking even the most established democracies. This is not a crisis we can afford to ignore.

In this context, the Commonwealth of Puerto Rico's economic and political uncommon uncertainty stands out as a sore reminder of Latin American skepticism of U.S. policies towards the South. Although Puerto Rico has the infrastructure which could be the cornerstone of its economic development under freer conditions to act internationally, it finds itself in the anomalous position of having neither economic equality vis-à-vis Northern developed countries, nor juridical sovereign equality with anybody. While recognizing that the originally proposed CBI would have to take into account Puerto Rico's long-standing "special relationship" with the United States, the remedial provisions incorporated into the CBI appear to be ad hoc afterthoughts, rather than part of a comprehensive plan to orchestrate Puerto Rico's integration into a progressive Caribbean policy. None of the considerations given to Puerto Rico under CBI as originally conceived or as finally enacted allow for major structural changes that will improve the Island's economy. At best, things will remain systemically as they are: unintegrated with the Caribbean, and economically dependent on the U.S.

But things are not economically good as they are. They are not getting any better. The CBI, by allowing juridically sovereign Caribbean countries non-reciprocal, duty-free access to the U.S. market could make things much worse for Puerto Rico, unless the straitjacket of colonialism were lifted from its shoulders to allow the greater flexibility which sovereign equality allows. Independence is the only tool which could facilitate Puerto Rico's search for adequately tailored economic development policies.

1. Puerto Rico Within the Context of the U.S. Economy

The Reagan Administration's announced "New Federalism" is consistent with the economic measures already adopted in the U.S. in the last few years. This economic

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148 See, President's Message, supra note 120.
149 Id.
150 Id., at 324.
151 See, e.g., President Reagan's statements to the effect that, "taxes on all imported rum will be transferred to Puerto Rico and the Virgin Islands"; his statement that the Accelerated Cost Recovery System (ACRS) and the Investment Tax Credit (ITC) would be extended to U.S. companies in Puerto Rico; and his idea of furthering agricultural development by making use of the tropical agricultural research facility at Mayaguez, Puerto Rico. Id., at 326. Nothing new came out of the House Ways and Means Committee, either. See, REPORT supra note 131.
152 See generally Ch. II, supra.
program, the implementation of which would be spread out over a number of years, intends for the States to take charge of many current welfare programs, such as food stamps. At the same time, the federal government would reduce its participation and the consequent tax burden on individual States. The underlying assumption is that those states desiring to continue or to expand existing welfare programs would have to foot the bill with little or no federal subsidy. As a consequence, some of the measures adopted in the U.S. as incentives for the private sector of the economy have made Puerto Rico less attractive as a place for investment. 153

It does not seem likely that the end of the Reagan Administration — were that to happen in 1984 — would result in the restoration of the Johnson-era federal welfare activism. In spite of the lack of consensus to support specific "Reaganomic" measures, the emerging consensus among Republicans and Democrats alike seems to be that the "Great Society" experiment of the Johnson years will not work. And the general philosophical premise of the "New Federalism" whereby the States will continue to assume greater fiscal responsibilities seems to form part of that emerging consensus among the leading Democratic presidential hopes.

Even without the "New Federalism," the dependency model of "Commonwealth" was bound to fail. As pointed out in Chapter II of this work, Puerto Ricans' incomes have been increasingly dependent on federal transfers and government indebtedness, rather than on growth in production or equitable wealth distribution. Sooner or later, credit was bound to end or to be severely limited. And it was further delusory to suppose that U.S. taxpayers will continue indefinitely to subsidize an ever-increasing welfare bill to keep Puerto Rico's economy artificially afloat.

The New Federalism requires that the structural flaws in Puerto Rico's economic development model be faced. And the CBI's main features, particularly its positive aspect of one-way free trade, requires that the structural flaws in the Island's political status be confronted. Puerto Ricans have been conditioned through Commonwealth to believe that independence necessarily implies economic isolation and severance of ties with, and presumably loss of access to, the U.S. market. Even under the least positive implementation of the CBI, Caribbean republics will have practically the same access to that market without the Constitutional constraints inherent to Puerto Rico's status. Puerto Rico's access to the U.S. market has heretofore been based on the obsolescent model of reciprocity. The CBI provides Caribbean republics free access to the U.S. market without reciprocity. The CBI and the evolving international institutional arrangements which form part of its background since their inception at the Lomé Conventions have dealt a mortal blow to the present colonial relationship between Puerto Rico and the U.S., and placed in evidence its structural incapacity as a model for economic development.

Puerto Rico's annexation as a State of the Union — in spite of its consequent increased representation in the U.S. Congress — has been deemed by serious scholars in Puerto Rico as a practical impossibility, and an utter undesirability. 154 Statehood could not effect any structural changes, for statehood is the culmination of the dependence model: the colony with Congressional representation. The "evolution" of the Commonwealth model towards greater political and economic autonomy, internally and internationally,

153 Tax cuts to individuals and corporations, and the ACRS are some examples. Although the latter would be extended to Puerto Rico through the CBI, its existence in the U.S. does not create any additional incentives for Puerto Rico.

154 See Serrano Geyls & Gorrín Peralta, Puerto Rico y la estadidad REVISTA DEL COL. ABOG. DE P.R. 5, 5-21 (1979) [REVISTA]; 41 REVISTA 1, 1-28 (1980); 42 REVISTA 1, 1-100 (1981).
raises serious constitutional issues which act as constraints against a sufficiently agile model.\textsuperscript{155} Furthermore, in order for it to work, the ultimate product of this increased autonomy would so resemble independence that there would be no point in not calling it that. For in order to deal with the situation presented by the CBI and New Federalism trends, certain minimum economic powers are indispensable for Puerto Rico. Such powers are necessary for Puerto Rico to increase productivity and thereby decrease its dependence on federal transfers and indebtedness. At the same time, increased productivity makes no sense unless it carries with it a better distribution model, which of course, implies the creation of jobs to reduce unemployment. In order to increase productivity, new enterprises are necessary in the industrial, agricultural and service sectors of the economy. This, of course, requires skilled and unskilled labor, investment capital, and available markets.

On January 25, 1982, the Puerto Rican Independence Party made public what it termed an “integral” plan to deal with the total breakdown of the dependency model which the New Federalism and the CBI foreshadow for Puerto Rico.\textsuperscript{156} This plan contained several interrelated points that could serve as the basis for a new economic development model. The plan emphasizes an economic policy geared towards production for Puerto Rico’s internal market in durable consumer goods and in foodstuffs, while at the same time stimulating savings and foreign investment for production in areas not covered by local capital. This import substitution policy would be complemented by policies promoting technological adequacy to create jobs, and controls over immigration proportionate to Puerto Rico’s population density. It addresses the problem of shipping laws and their economic effects, and the adequate linkages in the economic sectors, together with integral planning for additional linkages with other foreign economies.

\textsuperscript{155} Raul Serrano Geyls, former Justice of the Supreme Court of Puerto Rico has stated that such autonomy as called for to meet the minimum decolonization requirements of international law is incompatible with the U.S. political and constitutional system. Of this “free association” concept embodied in international law (not to be confused with the Spanish “Free Associated State” used to designate the present “Commonwealth” status), Serrano Geyls wrote:

Present North American leaders cannot ignore that the basic principles of true “free association” are dangerously close to the postures assumed by leaders in the South [of the U.S.] in the years subsequent to the Civil War, and particularly to the idea of “nullification” of federal powers which John Calhoun and others fervently defended in support of each state’s sovereignty . . . . And neither would any member of Congress be willing to tell her/his constituents that a group of citizens [in Puerto Rico] will be granted the power to veto federal laws and opt out of the “association” whenever they wish, powers which the citizens of the other 50 states do not have, nor ever expect to have.

The Spanish original reads as follows:

Los líderes norteamericanos del presente no pueden desconocer que los principios básicos de la verdadera “libre asociación” están muy peligrosamente cerca de las posturas de los líderes sureños en los años posteriores a la Guerra Civil y particularmente a la idea de “nulificación” de los poderes federales que en apoyo de la soberanía de cada estado John Calhoun y otros defendieran adorosamente ... Y tampoco estaría dispuesto ningún miembro del Congreso a decirle a sus electores que se va a conceder a un grupo de ciudadanos la facultad de vetar las leyes federales y de salirse de la “asociación” cuando así lo deseen, facultades que no tienen ni nunca esperan tener los ciudadanos de los 50 estados.

\textsuperscript{156} Partido Independentista Puertorriqueño, Plan de Reconstrucción Nacional: del Modelo de Crecimiento Dependiente al Modelo de Crecimiento Autostendio e Interdependencia Equilibrada (1982).
Finally, it proposes the use of federal funds in the nature of block-grants, consistent with both the New Federalism's reduction of federal transfers, and Puerto Rico's economic development requirements, to promote new mixed-capital ventures.\(^{157}\) In a post-independence context, these block-grants would be consonant with the precedent established by the Lomé Conventions' financial aid component. The financial aid or block-grants would begin at current levels (for a number of years to be negotiated) and be gradually reduced thereafter as the Puerto Rican economy became self-sustaining. Continued access to the U.S. market would be consistent with CBI trends and Caribbean nations' current international economic relations.

Any program for decolonization which would follow these general guidelines would ensure a smooth and viable transition towards Puerto Rican juridical sovereign equality.

2. The Bridge Over Troubled Waters

The implementation of a program such as this requires a clear U.S. commitment to pursue a decolonization policy. It would place Puerto Rico on the road to economic self-sustenance, making independence — juridical sovereign equality — a viable option.

Not only would independence be a viable option for the continued economic development of Puerto Rico, but a viable option for other Caribbean republics to work with the United States towards economic interdependence in a way which could rationally confront, in the words of President Reagan, the "economic, political and security challenges in the Caribbean Basin," which are indeed "formidable."\(^ {158}\) For, as stated earlier, Puerto Rico has one of the most developed infrastructures of the Third World countries, particularly of the Caribbean region. The multiplicity of production systems in the Caribbean would make Puerto Rico's contribution to regional integration not only plausible, but rational and desirable.\(^ {159}\) The inextricable historical linkages of Puerto Rico with the U.S. could thus continue on a different level — a level which would promote economic well-being and political good faith, consistent with present world configuration. New international institutional arrangements would inevitably develop. In such circumstances, a more attuned CBI, one which would take into account the achievements of Lomé and other international legal and economic precedents, could be orchestrated. What Gillian White has observed of the advantages of institutional arrangements developed in this wave of post-war institution-building in a Lomé context, would be equally applicable to U.S. economic interests in the region:

Lawyers who may be asked to advise firms investing in these countries or tendering for contracts have the advantage of a well-constructed and apparently clear and workable set of provisions. Maybe there are some helpful precedents here for future trading and cooperation arrangements between other groups of countries in the rich North and the poor South.\(^ {160}\)

Perhaps the time has come to stop the rhetorical idealizing which casts Puerto Rico in

\(^{157}\) Id., at 14-18.

\(^{158}\) See, President's Message, supra note 119.

\(^{159}\) Puerto Rico's well-educated and easily trainable work force make it a fertile ground for diverse economic productivity that would complement that of other Caribbean nations. On Puerto Rico's capacity for high technology productivity (technological adequacy, of course, being more flexibly and efficiently handled through juridical sovereignty), see Curwood, Puerto Rico, a High-Technology Haven, in Boston Sunday Globe, Nov. 20, 1983, at A1.

\(^{160}\) White, The Lomé Convention — A Lawyer's View, 1 EUROPEAN L. REV. 197, 212 (1976).
an historically irrelevant context as a bridge between two cultures. Eighty-five years of colonialism have not erased Puerto Rico's cultural character as a Latin American — particularly Caribbean — nation. And no one has made a strong case for the need to bridge these cultures. No one even talks about the gaps between the U.S. and French, German, or Italian cultures. Modern interdependence, however, makes the need to bridge the economic gap which separates the U.S. and the Caribbean imperative. Economic bridges are undoubtedly necessary between the U.S. and Western Europe. But the economic bridges toward the Caribbean are urgently required. For, at this stage of international institution-building, the economic waters, south, towards the Caribbean, may be far more turbulent than the Atlantic Ocean.

V. Conclusion

At the beginning of this monograph, I stated that my purpose was to attempt an exercise in post-independence advocacy. Puerto Rico's colonial status has proved politically and economically obsolete. The history of international institution-building in Europe since the Second World War — particularly the Lomé Conventions — has provided the world with the tools with which to deal more wisely and less painfully with post-colonial, North-South relations. While the Caribbean Basin Initiative contains serious flaws which, if uncorrected, will lead it towards self-defeat, it provides a small step in the right direction. More than a minimal awareness is necessary, however, to rescue the initiative from the cold-war economic games that bear little relevance to the real problems of the region. The colonial status of Puerto Rico is a constant reminder of that cold-war ideology. Puerto Rico's decolonization and reinstatement into the community of Latin American nations is an essential first step towards Caribbean regional integration. Furthermore, decolonization of this Caribbean island will reduce the dissonance between economic inequality and juridical sovereign equality in the international arena. The economic benefits accruing from international integration in an atmosphere of healthy interdependence between the Caribbean and the U.S. will be quantifiable and quite considerable. But, as Bergsten has pointed out, other less tangible benefits will arise from a new set of international norms in the region. These "less tangible effects of international institutional arrangements are probably more important."161 He continues:

The very existence of such cooperative structures, more than the specific rules themselves, inspires confidence in both private sectors and government circles around the world that economic progress will not be disrupted by conflict among nations. International agreements strengthen the hand of outward-looking forces within each government. And they promote transnational coalitions among these forces, which often prove importantly reinforcing in pursuing internationalist activities.162

The task will not be easy. Some existing conflicts in the region may be insurmountable, but they need not be generalized. From a juridical level of equality and from the cultural vantage points that will recognize and respect individual dignity and national integrity, the peoples of our hemisphere are awaiting a signal for trust. The decolonization of Puerto Rico is an essential first step in ushering into our hemisphere, and into the Caribbean in particular, the spirit of Lomé. And in the game of post-independence advocacy, good will is the limit.

161 Bergsten, supra note 7, at 362.
162 Id.