

**RESPONSE OF PARAGUAY TO QUESTION POSED
AT CONCLUSION OF PARAGUAY'S REBUTTAL SUBMISSION**

In *United States v. Calderon-Medina*, 591 F.2d 529 (9th Cir. 1979), which involved two consolidated cases, a federal trial court had dismissed indictments for illegal re-entry following deportation. Such re-entry is a federal crime pursuant to 8 U.S.C. § 1326. The courts had dismissed the indictments on the ground that in the underlying deportations, immigration officials had not complied with a federal regulation that (1) provided that "[e]very detained alien shall be notified that he may communicate with the consular or diplomatic officers of the country of his nationality," and (2) was intended to "ensure compliance" in immigration proceedings with the United States' obligations under the Vienna Convention. 591 F.2d at 530 (quoting 8 C.F.R. § 242.2(e) (1978)); *id.* at 530 n.6. The Court of Appeals held that a deportation could be denied effect as a predicate for the crime of illegal entry following deportation "only if the violation prejudiced interests of the alien which were protected by the regulation." *Id.* at 531. Applying that standard, the Court held that the consular notification regulation protected interests of the aliens, but remanded for a determination of prejudice.

There is no published subsequent decision in the case of Mr. Calderon-Medina. In *United States v. Rangel-Gonzalez*, 617 F.2d 529 (9th Cir. 1980), the companion case returned to the Court of Appeals after defendant had been convicted of the offense charged, illegal re-entry after deportation. The Court first held that the trial court had clearly erred by finding that the failure to notify the Mexican consul had not affected the outcome of the deportation proceeding. It then reversed the conviction, holding that "the indictment should have been dismissed." 617 F.2d at 529.

In the posture of *Rangel-Gonzalez*, unlike here, the consular notification violation in the underlying deportation proceedings would have tainted any subsequent indictment for illegal re-entry after deportation in the same manner as it tainted the original indictment. Accordingly, Paraguay presumes that there were no further proceedings on those charges. There is, in any event, no subsequent published decision in *Rangel-Gonzalez*, so Paraguay also cannot determine whether the United States initiated new deportation proceedings, which would be the proceedings analogous to the state trial in this case.