



WORLD LAW BULLETIN

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Campaign Funding: *United Kingdom*

Embryo Research: *France, United Kingdom*

Publishing Predicted Election Results: *Israel*

Tobacco Advertising: *The Netherlands*

Special focus this month:

UPDATES FROM THE **EUROPEAN UNION** concerning:

Credit Card Fraud

Genetically Modified Organisms

Identity Number

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WLB, No. 2001.03

Taiwan–Financial holding company law

The WORLD LAW

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AFRICA

ANGOLA--Parliament Passes Amnesty Law

The Angolan National Assembly overwhelmingly passed an amnesty law proposed by President Jose Eduardo dos Santos on November 29, 2000, granting amnesty to all combatants who lay down their arms. According to the Law, amnesty will be granted to all individuals who have committed crimes against humanity in armed conflict if they renounce war and to perpetrators of petty crimes. In honor of Angola's 25th anniversary of independence, President dos Santos submitted the amnesty bill to legally guarantee clemency and to offer more opportunities to Angolans of good faith to come forward and support national reconstruction. After independence was won from Portugal in 1975, Angola became embroiled in conflict between the government and several armed rebel groups, the largest being UNITA, led by Jonas Savimbi. (*Angola News Index*, Jan. 24, 2001, via <http://www.angola.org/news/NewsDetail.cfm?NID=2308>.)

Since the law was enacted, thousands of rebels have surrendered to authorities. Press reports indicate that at least 600 rebels surrendered in central Huambo province, and over 17,000 people from Jonas Savimbi's control areas gave up their arms in Benguela province. (*Id.*, Feb. 3 & 7, 2001.) (Sandra Sawicki, 7-9819)

AMERICAS

MEXICO--Constitutional Reform Proposed

On February 5, 2001, President Vicente Fox Quesada signaled his desire for a full review of the Political Constitution in a speech before federal congressmen and state governors. The speech was

given at the National Palace on the 84th anniversary of the Constitution's becoming law. He urged all politicians and public representatives to debate the national charter "respectfully, constructively, and responsibly." He added that it was time for a profound reform of the State to parallel the political transition of the country. The election of Fox in July 2000 unseated the Institutional Revolutionary Party (PRI) that had occupied the presidency for 71 years.

Specific changes to the Constitution urged by the President include: fuller rights for Mexico's ten million indigenous people; recognition of plebiscites on issues of national significance; mechanisms to combat election fraud; constitutional ratification of international human rights legislation signed by Mexico; examination of the powers of the president; permission for Congress to approve Cabinet nominations; greater rights for the states of the Federation; and inclusion of an impeachment clause. Changes in the roles of the chief executive and national legislators would "counter the concentration of power and banish impunity," according to Fox. The President emphasized that he did not want to modify any of the basic tenets of the Constitution, such as separation of church and State. (*The News*, Mexico City, Feb. 6, 2001, via <http://unam.netgate.net/novedades/nna20602.htm>.) (Sandra Sawicki, 7-9819)

MEXICO--Ratification of International Treaty Encouraged

On January 31, 2001, the Mexican government was urged to ratify the Convention on Mutual Assistance in Criminal Matters by the Inter-American Drug Abuse Control Commission, a component of the Organization of American States. A task force of the Commission reported that the treaty, which covers extradition, would greatly

enhance Mexico's ability to wage a vigorous war against drug trafficking. Mexican officials consider the Convention a duplication of existing agreements. The Commission also recommended to Mexico that it set up a database or registry to compile information on individuals accused and convicted of crimes related to illegal drugs. (*The News*, Mexico City, Feb. 2, 2001, via <http://unam.netgate.net/novedades/npri.htm>.) (Sandra Sawicki, 7-9819)

VENEZUELA--Educational Measure

Venezuela enacted a Decree on October 4, 2000, that aims to provide free quality education and end corruption in public and private school management (Decree No. 1011). The Decree regulates all aspects of the profession of teaching: instruction, planning, research, experimental education, supervision, and administration. It sets forth the rights and duties of teachers and educational personnel and establishes a hierarchy with clear requirements for ascending through the ranks of the profession. The hierarchy includes a category known as "national itinerant supervisors" who can perform their duties in educational institutions throughout Venezuela. (*Gaceta Oficial*, Extraordinary Edition, Oct. 31, 2000.)

Promotions for teachers will be accomplished through a system combining merit, preparation of original writings in the field, and competitive examinations. Successful completion of an examination is also required to enter the profession.

The Decree creates a National Commission of Stability with regional committees to handle the matter of job security for teachers. Teachers may request leave from their duties for a variety of reasons. They have a right to occupational training to improve their skills and credentials. A system of discipline is also contained in the Decree, to be enforced for teacher misconduct (for example, when teachers inflict physical punishment upon students, when they abandon their positions without leave, or when they demonstrate negligence).

On February 7, 2001, thousands of Venezuelans,

including President Hugo Chavez Frias, Minister of Education, Culture and Sports Hector Navarro Diaz, and other government ministers, demonstrated peacefully in downtown Caracas in favor of Decree No. 1011. Demonstrators expressed support for raising teachers' salaries. (*Vheadline.com*, *Venezuela*, Feb. 7, 2001, via <http://www.vheadline.com/0102/9947.htm>.)

[GLIN] (Sandra Sawicki, 7-9819)

VENEZUELA--Social Security Reform Prepared

After six months of deliberation, the Presidential Committee for Social Security Reform presented a new Social Security Law to President Chavez on February 23, 2001. The draft law must be studied by the president, the Council of Ministers, the attorney general, and the National Assembly before it is passed. The spokesman for the Presidential Committee, Oscar Feo Isturiz, predicted that the framework of the law could be passed in six months after consultation, while subsections, concerning health, pensions, employment, labor development, and occupational hazards, could be passed by the end of the year.

Feo Isturiz stated that the subject of pensions will be a difficult issue because it involves many economic interests; he admitted that the subject produced divergent opinions and standoffs within the Presidential Committee itself. For this reason, two proposals on pensions were sent to the President. One approach is based on the pension system not being subject to market conditions, while the second attaches pensions to individual participation in capital markets. Another difficult issue will be the fate of the National Social Security Institute. (*Vheadlines.com*, *Venezuela*, Feb. 15, 2001, via <http://www.vheadline.com/0101/10005.htm>.) (Sandra Sawicki, 7-9819)

ASIA

CHINA--Social Security Contributions

A new regulation issued by the Ministry of

Finance requires state-owned enterprises (SOEs) to contribute to the government fund for social security. The regulation calls for the enterprises to contribute ten percent of the initial listing proceeds when an SOE goes public, either on domestic or overseas stock markets. Any secondary financing is not subject to the regulation.

The regulation has been seen as a mechanism for passing to the stock holders the obligation of the enterprises to their employees for social security benefits; it is a step in the privatization process. In parallel moves, the government is taking other steps to reform social programs. Earlier this year employers and employees were required to raise their contributions to the medical plan, although benefits remained the same. (*South China Morning Post*, Jan. 29, 2001; CND-Global, Jan. 31, 2001.) (Constance A. Johnson, 7-9829)

CHINA–Trust Company Measures

On January 12, 2001, the People's Bank of China (PBOC) promulgated the Measures for Administration of Trust and Investment Companies. The Bank announced that it would carry out plans "to maintain, shut down, merge or change the business nature" of such companies in China, drastically reducing their number from 239 to 40 (<http://www.chinaonline.com/topstories/010118/1/C01011714.asp>). The move is designed to heighten supervision of the companies' operational practices and help solve the problems in China's troubled trust industry. Many international trust and investment companies have had to be restructured or closed because they were unable to repay foreign debt, and it has taken months for agreement to be reached with foreign creditors on repayment plans. The closure of the Guangdong International Trust and Investment Corporation (GITIC) in October 1998 marked the beginning of a major rectification of the trust industry, which has had several restructurings over the years and caused foreign lenders to launch "a punishing credit squeeze" on Chinese companies (*South China Morning Post*, Aug. 11, 2000, p. 4, & Oct. 27, 1998, p. 4, via FBIS, Aug. 11, 2000, & Oct. 27, 1998). GITIC's bankruptcy, declared in January 1999, was the

"largest corporate failure in mainland history" (*South China Morning Post*, Oct. 23, 1999, at 1, via FBIS, Oct. 23, 1999). A trust law has been in the making for several years but has yet to be enacted.

The Measures cover the establishment, changes and closure, business scope, operating rules, supervision, and self-regulation of trust and investment companies and the standardization of their original businesses. Trust and investment companies are defined as financial institutions mainly engaged in the trust business and incorporated in accordance with the Company Law of the People's Republic of China and the Measures. "Trust" is defined as "conduct whereby a trustor entrusts a trustee with his property rights on the basis of his confidence in the trustee and the trustee manages or disposes of the assets in its own name in accordance with the wishes of the trustor for the benefit of the beneficiary or for specified purposes." (*Id.*). All trust and investment companies must be licensed by the PBOC. They may operate in capital trust business; trust business in movables, immovables, and other property; legal trust funds; and intermediate businesses. Trust investment companies are prohibited by the procedures from engaging in savings businesses. They may not issue bonds, borrow capital from overseas, or attract deposits under the guise of operating fund trusts or other services.

Existing trust and investment companies will be rectified under related regulations. The ones that remain will be required to re-register with the PBOC. (Xinhua, Jan. 19, 2001, via FBIS, Jan. 19, 2001.) (W. Zeldin, 7-9832)

TAIWAN–Financial Holding Company Law

The Legislative Yuan is currently deliberating a draft financial holding company law. Adoption of the draft law, following the passage of a Financial Institutions Merger Act and the establishment of asset management companies in January, would be the last of three major steps aimed at consolidating the financial sector in Taiwan, paving the way for universal banking. Consolidation under the new

Law, in the view of analysts, “will ideally create three to five dominant financial firms with 60 to 70 percent of the market.” (Tsering Namgyal, “Taiwan: New Law To Help Restructure Banking System,” *The Taipei Times*, Feb. 6, 2001, via FBIS, Feb. 6, 2001.) The law will also help make the activities of financial institutions more transparent and streamline the cross-shareholding among business groups that is confusing to investors. Three types of financial holding companies would be established—banking, insurance, and securities companies. Although Taiwan has about 21 financial conglomerates that are permitted to own stakes in other financial companies, they are fettered by numerous restrictions that prevent them from owning a bigger share of financial institutions in a broader cross-section of sectors such as insurance and investment banking.

Under the draft law, any business can establish a financial holding company provided that it holds more than 25 percent of the shares in a bank or more than 50 percent of the shares in an insurance company or securities company. The law mimics the Gramm-Leach Bliley Act of the United States in providing for assistance to financial holding companies to consolidate their subsidiaries if ownership exceeds 90 percent. The U.S. Act, adopted last year, paves the way for universal banking in the United States, following the repeal of the U.S. Glass-Steagall Act of 1933, which kept banking and brokerage services separate.

The draft financial holding company law has several tax incentives to encourage domestic financial groups to become financial holding companies. These include waiver of the securities transaction tax and business income tax, among others.

The draft law restricts cross-shareholdings within one financial group. No subsidiary will be permitted to hold shares in the parent financial holding company, no sister company within a group can hold shares of another sister company, and no voting rights are allowed between subsidiaries. The draft law also requires a firewall mechanism between the holding company and its subsidiaries, between subsidiaries and their clients, and between subsidiaries themselves. (Stanley Chou, “Taiwan Completes Draft

Holding Company Law,” *Taipei Times*, Dec. 27, 2000, via FBIS, Dec. 27, 2000; Namgyal, *id.*) (W. Zeldin, 7-9832)

EUROPE

DENMARK—Taxes on Holding Company Dividends Proposed

A new Danish tax bill proposed on November 10, 2000, would impose a 25 percent withholding tax on dividends paid to some foreign residents. It would apply to those living in non-EU countries that have not concluded tax treaties with Denmark. This change in the current tax regime would have an impact on the popularity of Denmark as a location for investment holding companies.

At present, Denmark does not tax dividends from a foreign subsidiary to a Danish holding company, if they are received during a 12-month period in which the holding company has 25 percent or more of the subsidiary’s shares and the subsidiary itself does not do business that would result in taxation as a controlled foreign corporation. Furthermore, there is now no withholding on dividends paid by a holding company, no matter where it has its residence. In some circumstances, the profits on sales of shares of a subsidiary that have been held for at least three years are not taxed.

The proposal now being considered would withhold tax on outbound dividends. It is designed to handle payments to companies in tax haven locations such as Bermuda, the Cayman Islands, and the Bahamas. The bill is in part a response to the March 2000 report of the EU Council of Economic Finance Ministers’ Primarolo group, which listed the existing tax structure of Denmark among harmful tax practices. (*Canadian Tax Highlights*, Jan. 23, 2001, at 1.) In July 2000, a spokesman for the National Customs and Excise Administration announced that tax authorities would monitor holding companies registered in Denmark, to check for abuse of the system and money laundering. Ole Bjoern, Chairman of the National Assessment Council, stated that while the existing tax rules were

fine, "I am concerned that this system could attract black money, money from the drugs trade and so on...There should therefore be some form of surveillance of these companies." (AFX European Focus, July 3, 2000, via LEXIS/NEXIS, Europe Library.)

(Constance A. Johnson, 7-9829)

ESTONIA--Work Week Shortened

The Estonian Parliament passed a new Employment Law that limits the number of hours employees can legally be forced to work. The Law sets a national standard work day of eight hours, and the standard work week is now 40 hours. The Law also prohibits employees from holding several jobs and restricts all employees to a maximum work week of 48 hours, overtime included. Executives, clerics, and the self-employed are exempt from these restrictions. Employers are allowed to expect their employees to work up to 200 hours of overtime in a given calendar year. (Radio Free Europe/Radio Liberty Newline, V. 5, No. 29, Part 2, Feb. 12, 2001.)

(Peter Roudik, 7-9861)

FRANCE--Embryo Research

On January 31, 2001, the National Advisory Committee on Human Rights rendered an opinion opposing part of the legislation drafted by the Government on embryo research (see WLB Feb. 2001). Although the Committee favors research on supernumerary embryos created for infertility treatment and donated for research by the couples concerned, it opposes the creation of embryos by somatic cell nuclear transfer (commonly referred to as "therapeutic cloning") for research. The draft bill would authorize creation of such embryos for research on stem cell therapy only.

The Committee agrees with the recommendations of the European Group on Ethics, a body that advises the European Commission, Parliament, and the Council of Ministers on how the ethical values of European society can be taken into consideration in the scientific and technological development promoted by community policies. In its opinion on "ethical aspects of human stem cell research and use" the European

Group warns against trivializing the use of embryos and considers that "at present the creation of embryos by somatic cell nuclear transfer for research on stem cell therapy would be premature, since there is a wide field of research to be carried out with alternative sources of human stem cells (from spare embryos, foetal tissues and adult stem cells)." (*Le Monde*, Feb. 4 & 5, 2001 at 8; [http://www.europa.eu.int/comm.](http://www.europa.eu.int/comm.secretariat_general/sgc/ethics/en/opinion15pdf)

[secretariat_general/sgc/ethics/en/opinion15pdf](http://www.europa.eu.int/comm.secretariat_general/sgc/ethics/en/opinion15pdf).) (Nicole Atwill, 7-2832)

FRANCE--Family Names

On February 8, 2001, after a first reading, the National Assembly adopted a draft bill allowing women to pass their family names on to their children. The bill, if approved by the Senate, would allow children to be given either their mother's or their fathers's family name, or both. In the current system, based on custom, only men's family names can be passed on to their children except in special cases.

The bill's sponsor, Socialist Gerard Gouzes, said that the bill was drafted to take into account the principle of equality between the sexes and the changes in the family structure. It would also help prevent the shrinking of the stock of available names from generation to generation, as names disappear when there are no male children in a family.

The bill would allow children born before the law comes into effect to request that their names include both their father's and mother's family names. The Senate must now vote on the reform, which thus far has met little opposition. (*Le Monde*, Feb 10, 2001, at 6.)

(Nicole Atwill, 7-2832)

GEORGIA--New Military Doctrine

President Shevardnadze signed into law the National Military Doctrine adopted by the Government of the Republic. It is aimed at reforming the Georgian army in accordance with the recommendations of NATO. The strategic goal of the national armed forces is stated to be the

protection of the national interest and territorial integrity of Georgia; no claims are made on other states' territories. The Doctrine states that the Georgian army will not participate in military operations outside the Republic of Georgia, except as part of a peacekeeping force. It further states that there is no immediate threat of the invasion of Georgia by any foreign state, and internal ethnic conflicts and acts of terrorism are determined to be the greatest danger to the national security. To build an army that can react efficiently to the threat of violence from domestic sources, compact rapid deployment forces will be created. The navy and the border guard will be combined, and the naval duty of protection of the sea frontiers will be entrusted to the coastal frontier guard. An efficient anti-aircraft defense system will be the basis of the air force. Combat aviation will be brought under the command of the ground forces. It is stipulated that foreign military bases on Georgian territory will be closed within the next three years. Manpower is to be reduced to 20,000 by the summer of 2001, and to 15,000 by 2005 under the Doctrine. ("Georgia Reorganizes Its Armed Forces," *Moscow News*, Feb. 14, 2001, via: www.moscownews.ru.) (Peter Roudik, 7-9861)

GERMANY--Prosecution of the Holocaust Lie Spread Via the Internet

In a decision of December 12, 2000, the German Federal Court of Justice ruled that German courts have jurisdiction to convict those who propagate the "Holocaust lie" by means of the Internet, even if the perpetrators act abroad and it is not proven whether the offending Internet sites were accessed in Germany (Docket No. 1 StR 184/00). The Court held that such conduct endangers the peace in Germany and constitutes the offense of criminal incitement to violence or of propagation of the "Holocaust lie."

The accused was a German-born Australian citizen. He had emigrated to Australia in 1954, when he was ten years old. From 1992 on, he wrote various articles on the "Holocaust lie" in which he stated the opinion that the Germans did not use gas chambers to kill Jews in the concentration camp in Auschwitz or in other places and that the Jews misrepresented the

number of Jews that were killed in Nazi Germany. Between 1997 and 1999, the perpetrator published such articles on the Internet, in websites maintained by an Australian group that shared the opinions of the accused. There was no evidence that the accused induced or encouraged residents of Germany to read those websites. However, in addition to publishing through websites, the accused had written a letter to a German judge and distributed copies of this letter to various persons in Germany. In this letter, the accused protested his conviction by the German judge for slander against a Holocaust survivor and reiterated his beliefs about the Holocaust lie.

The trial court ruled that the conduct of the accused constituted the offense of disturbing the peace by attacking the human dignity of others by insulting, or maliciously degrading, or defaming them (Strafgesetzbuch [Criminal Code], reenacted Nov. 13, 1998, *Bundesgesetzblatt I* at 3322, §130, ¶1, No. 2). However, the trial court ruled that it had jurisdiction only over the letters sent to Germany by the accused. According to the court, the German provisions on criminal jurisdiction did not provide a statutory basis for conviction for publishing the information on the websites operated from Australia.

The Federal Court of Justice reversed and remanded the ruling. The Court held that the broadcasting of the Holocaust lie also constituted the offenses of arousing hatred against parts of the population (Criminal Code §130, ¶20, No. 1) and of broadcasting the Holocaust lie (Criminal Code, §130, ¶3). The latter offense was enacted in 1994 and specifically made the propagation of the Holocaust lie a criminal offense. The court also held that Germany has criminal jurisdiction over the offending websites and that this was based not only on the effects that the Internet sites could have in Germany, but also on a special obligation of vigilance under international law that Germany has in respect of offenses glorifying genocide. (E. Palmer, 7-9860)

ITALY--Child Support

After a divorce, if the parent who is bound to pay child support is incapable of meeting the obligation, the responsibility falls on the closest relatives. This is the substance of a recent decision of the sixth Chamber of the Italian Court of Cassation (Supreme Court) in a separation case of a couple from Brindisi, in southern Italy. The decision, however, cannot be construed as an easy way out for negligent parents. For the father in the case, in fact, the one month sentence for breach of his child support obligations was confirmed.

In this case, the District Court of Brindisi had ruled that the father would pay child support in the amount of five hundred thousand *lire* per month. Having ascertained, however, that he was not well-off, the court had transferred his support obligation to the grandparents. The Appeals Court, on the other hand, considering that the father in question had never contributed even a minimal sum of money to the support of his only child (assigned to the custody of her mother) convicted him for his violation of family support obligations, arguing that his behavior, rather than proving he was destitute, demonstrated that he was simply escaping his legal obligations.

The High Court, upholding the Appeals Court decision, added that it is not objectively possible that the defendant was not in the position, at least sporadically and in modest amounts, to contribute to his child's support. (<http://www.repubblica.it>, Feb. 16, 2001.)
(Giovanni Salvo, 7-9856)

ITALY--New Legislation Related to Military Service

Legislation just approved by the Italian Parliament, but not yet published in the *Official Gazette*, has created a national civilian service to contribute to the defense of the fatherland--defined by the Constitution as a sacred duty of all citizens--as an alternative to military service. Once compulsory military service is entirely phased out (*See WLB*, Nov. 2000), the new civilian service will be on a voluntary basis as well.

The Law establishes the general principles that govern the new service and empowers the executive to issue implementing legislation through legislative

decrees. It provides criteria to determine which individuals qualify for the service, its duration in connection with the various areas of deployment, and the legal and economic status of the participants. The service will be open to male and female citizens between 18 and 26 years of age, selected on the basis of objective and non-discriminatory criteria, who may be assigned to programs in Italy or to those abroad, organized by the European Union or by other international organizations.

Until an ad hoc agency already created by 1999 legislation is set up, the service will be run by the existing National Office for Civilian Service using the resources of a National Fund composed of appropriations allocated by the national budget and local government institutions, as well as contributions from public and private institutions and from private individuals. The resources of this fund will be absorbed by the National Fund for Social Policies once the first of the implementing decrees to be issued by the executive enters into force.

It should be noted regarding military service that with Law No. 2 of 2001, published on January 18, 2001, Italy eliminated the option to call conscripts under the age of 18 to military service, which previously could be exercised by the Minister of Defense. In spite of the UN Convention on the rights of children, signed at New York in 1989 and implemented in 1991, Italy was among 49 other countries in the world that had preserved that option. The UN Convention sets 18 as the minimum age for access to hazardous occupations. From now on, this principle will also be applicable to Italian military service. (<http://www.repubblica.it>, Feb. 14, 2001; *Official Gazette of Italy*, Jan. 18, 2001.)
(Giovanni Salvo, 7-9856)

THE NETHERLANDS--Prohibition on Tobacco Advertising

From statistics of the Ministry of Health, it appears that in the Netherlands an increasing number of young people are addicted to cigarettes. At least 52 percent of all 18 year-olds, 40 percent of

15 year-olds, and 8 percent of 12 year-olds claim to regularly smoke cigarettes. As a result of this and due to the fact that the European Court of Justice voided a European Directive that would have restricted the advertising of tobacco products, the Dutch Minister of Health has introduced a proposal to almost completely ban the advertising of tobacco products. Under this proposal, which was approved by the Government, advertising will be permitted only in tobacco shops and near the counters where cigarettes are sold in supermarkets. As a transition measure, newspapers, magazines, and the sponsors of car racing will be given a reprieve until July 31, 2002. Violators of the prohibitions may be fined up to approximately \$400,000. The aim of the proposed legislation is to completely ban the image of cigarettes from places where youth gather and from the street scene. (*De Telegraaf*, <http://krant.telegraaf.nl/>, Feb. 1, 2001.)

(Karel Wennink, 7-9864)

RUSSIAN FEDERATION--Governors' Terms Extended

On February 13, 2001, amendments to the Law on General Principles of Legislative and Executive Government in the Regions were signed into law by President Putin of Russia. The original Law limited a governor to two consecutive terms. The amendments open the possibility for 69 heads (governors) of the 89 Russian constituent components (states) to seek a third or fourth term in office. The original Law defined a governor's first term as the one that started after October 16, 1999, when the Law came into effect. All regional leaders who were serving their first or second terms in office on October 16, 1999, can now consider those terms as their "zero terms" and run for office twice more. Because various regions have different terms of office for their leaders, this gives some regional leaders the potential to remain in office until 2013. The legislation had the support of the Presidential Administration and is seen as the President's concession to the regional elite. (*Moscow Times*, Feb. 14, 2001, <http://www.moscowtimes.ru/archive/stories>.)

(Peter Roudik, 7-9861)

SLOVAKIA--Money Laundering Law

The Money Laundering Law of October 5, 2000 (No. 367, *Collection of Laws*), entered into force on January 1, 2001. It seeks to prevent dealings in property of any kind that originate from criminal activity in the Slovak Republic or abroad. Both physical and legal persons (obligated persons), like banks (including foreign banks), insurance companies, stock exchanges, casinos, lotteries, money changers, realtors, postal services, auditors, tax advisers, etc., are subject to the Law. They must be alert to unusual commercial transactions that may result in money laundering and obtain full identification of a physical or legal person making any transaction exceeding 100 thousand Crowns at once or in installments, within 12 consecutive months (1 dollar equals about 48 Crowns). They have to prepare their own plans for combating money laundering, keep all records of transactions and identification of clients for 10 years, and refuse to carry out any unusual commercial transaction or delay it for 24 hours and immediately inform the financial police. Neither they nor their employees may disclose such information, except to the police and the courts. Unauthorized disclosure is punishable by a fine of up to 100 thousand Crowns. The financial police supervise compliance with the provisions of the Law, keep all information confidential, have access to all documents held by the obligated persons, and may impose fines of up to two million Crowns for breaches of the Law by the obligated persons.

(George E. Glos, 7-9849)

UNITED KINGDOM--Asylum Applications Increase Despite New Law

Britain has become the top destination of asylum seekers in Europe, accounting for approximately 20% of asylum applications in the European Union. Official figures for 2000 showed that 76,000 applications were made, 7% higher than in 1999. With the addition of family members to the total, 97,000 persons entered the country seeking asylum.

The increase occurred despite measures adopted in the Immigration and Asylum Act 1999 (ch. 33)

that are intended to deter economic migrants. These include the introduction of a support system in which cash benefits for asylum seekers are replaced by vouchers and the dispersal of refugees throughout the country.

One reason for the increase is attributed to Britain's policy of granting the status to those who claim asylum, even if they come from countries not considered to be repressive, such as the Czech Republic, Poland, and Romania, where gypsies claim they are persecuted by other citizens or ethnic groups but not the state. Some countries only recognize as refugees those who face persecution from the state.

Late last year, the House of Lords, the highest court in the United Kingdom, declined to deport a Somali and an Algerian to safe third countries where they had first arrived because, according to the court, the German and French authorities would probably send them home. The Somali had fled to Germany because her clan was being persecuted by an armed group that had overthrown the government. The Algerian, who had traveled through France, claimed asylum on grounds that Islamic fundamentalists had threatened to kill him and his family. (*R. v. Secretary of State for the Home Department, Ex Parte Adan; id. Ex Parte Aitseguer* [2000] UKHL 67 (Dec. 19, 2000) (www.bailii.org); Philip Johnston, "Britain Is Top of Asylum League," *Daily Telegraph*, Jan. 26, 2001.) (Kersi B. Shroff, 7-7850)

UNITED KINGDOM--New Political Funding Law

Comprehensive new legislation placing restrictions on the funding of political parties came into force on February 16, 2001. The law requires parties to publicly disclose donations of more than £5,000 (about US\$727), bans foreign donations, and limits the amount that can be spent by each party at an election to about £15 million (\$21.8 million), based on the number of seats contested, at a maximum of £30,000 (\$43,600) per seat. In the last election, the two major parties spent over £25 million each. Parties are also banned from accepting anonymous donations, thus eliminating blind trusts. The new law will be

enforced by a recently created six-member independent Electoral Commission.

Just prior to the legislation coming into force, large gifts made to both major parties were disclosed apparently only after pressure was applied by the media. Three individual gifts of £2million each were made to the Labor Party, while another donor pledged £5 million to the Conservatives. In the resulting furor, calls were again made for State funding of political parties and for placing a cap on individual donations. The recent legislation was enacted in partial response to recommendations made in 1999 by a committee chaired by a former judge. However, the Government rejected the committee's proposal for income tax relief on donations made to political parties.

Regulations issued under the law exempt political parties in Northern Ireland from registering the source of donations they receive. The regulations have a four-year life span and, in keeping with the Good Friday peace agreement, also allow Northern Ireland parties to accept foreign donations from the Republic of Ireland and elsewhere. An amendment by the opposition Conservative Party to abolish the exemptions granted to the Northern Ireland parties was defeated .

A new general election is forecast for early May 2001. Under the Septennial Act 1715, as amended, the maximum duration for a Parliament is set at five years. The current Parliament will cease to exist at midnight on May 6, 2002. (Political Parties, Elections and Referendum Act 2000, ch.41; the Political Parties, Elections and Referendums Act 2000 (Commencement No. 1 and Transitional Provisions) Order 2001, S.I. 2001, No. 222; *The Funding of Political Parties in the United Kingdom* (Neill Committee), Cm. 4413 (1999); "Political Funding Law in Force," BBC News, Feb. 16, 2001). (Kersi B. Shroff, 7-7850)

UNITED KINGDOM--Parliament Authorizes Changes in Regulations on Embryo Research

Despite a joint appeal issued by religious leaders in Britain, the House of Lords voted by a majority of 120 members to endorse regulations governing medical research to allow the cloning of human embryos for research purposes. The regulations authorize research licenses to be issued for purposes of :

- (a) increasing knowledge about the development of embryos;
- (b) increasing knowledge about serious disease; or
- (c) enabling any such knowledge to be applied in developing treatments for serious disease.

The new regulations came into force on January 31, 2001, and are stated to allow scientists to clone embryos up to 14 days old, the first research licenses for which are expected to be granted in the fall. A science spokesman for the Liberal Democrat party, who earlier introduced the proposal in the House of Commons, noted that the regulations will allow “carefully regulated research on stem cells using early embryos to proceed in the search for cures for some terrible diseases.” In opposition, members made an impassioned plea to delay the regulations pending consideration by a select committee. A Member who introduced an amendment to put the research on hold said, “When the minister told the House of Commons a pre-14-day-old embryo had the power to facilitate cures to mankind’s human misery, it simply underlined to me that, even at this early stage of development, we are not dealing with something inconsequential. [This is] at the heart of our humanity.” A committee in the House of Lords is being set up to consider the issues, but the Government is not bound to accept its views.

The regulations are expected to put Britain’s biotechnology industry one step ahead of its more mature American rival. Increased investment in the industry is thought to give Britain a head start in the race to develop the revolutionary technology of stem-cell research, which scientists claim could provide cures for diseases such as Parkinson’s. Opponents argue, however, that therapeutic cloning is open to abuse, because if the technology is perfected it could lead to reproductive cloning. In order to allay the fears of opponents, the government has promised to introduce urgent legislation to ban cloning for reproduction of humans. (Human Fertilisation and

Embryology (Research Purposes) Regulations 2001, S.I. 2001, No. 188; “Peers Back New Rules To Allow Cloning of Embryos,” *The Independent*, Jan. 23, 2001; “Gene Ruling Gives UK an Edge,” *Sunday Business*, Jan. 28, 2001). (Kersi B. Shroff, 7-7850)

NEAR EAST

ISRAEL--Prohibition on Publishing Predicted Election Results Before Closing of Polls

On February 2, 2001, the eve of the prime ministerial election, Mishael Chesin, Chairman of the Central Election Committee, accepted a petition by Israel’s two largest parties to prohibit the publishing of a prediction of the results during the day of the election.

Maariv, one of Israel’s largest media companies, planned to publish the predicted results based on data collected via Internet chat and telephone polls. The publication was to be on a large roadside electronic billboard and on the Internet six hours before the end of the voting period, the time when the TV stations planned to publish their own predicted results. Official election results are published only eight days following the elections.

In the decision, the Chairman concluded that an Internet poll does not provide a true statistical evaluation. The anonymity of the participants prevents the possibility of concluding who they represent. Moreover, publication of the results of such a poll may interfere with the proper course of the election process by influencing the voters’ behavior.

The Chairman found such publication to be contrary to the principles of confidentiality and equality in the election and in violation of Election (Modes of Propaganda) Law, 5719-1959, as amended. The publishing of election results on the Internet and on a roadside electronic billboard was found to be a means of propaganda, because it can influence the decision making of a reasonable voter.

Although the law refers specifically to election propaganda on television and radio, the Chairman extended the law's applicability to electronic billboards and to the Internet as well. The decision also held publishing of predicted election results to be in violation of the Knesset and Prime Minister Election Law (Consolidated Version) 5729-1969, which specifically prohibits interruption of the orderly process of an election. (Ysrael Achat Party Group v. Maariv Internet and Likud Party Group, via <http://www.nsc.co.il/showArticles.asp?subjectId=5&DocId=173&PageNumber=&GOBackxTimes+> .)
(Ruth Levush, 7-9847)

SOUTH PACIFIC

AUSTRALIA—Prescription Drugs

Controversy over the recent appointment of a drug industry lobbyist to the powerful committee that recommends prescription drugs for inclusion in Australia's subsidized pharmaceuticals program has highlighted tensions between multinational drug firms and the administrators of the Pharmaceuticals Benefits Scheme. The National Health Act 1953 and the National Health (Pharmaceuticals Benefits) Regulations 1960 mandate the Pharmaceuticals Benefits Scheme (PBS), under which the federal government subsidizes purchase of prescription drugs from a list of drugs selected by an expert committee of pharmacists, health economists, and consumer representatives. In the fiscal year ending June 30, 2000, the government spent A\$3.187 billion (about US\$1.67 billion), on the Scheme, covering 83% of the total cost of the drugs. As of February 1, 2001, the maximum cost of a prescription to most citizens was A\$21.90 (US\$11.45), while the elderly and recipients of various welfare benefits paid the concessionary rate of A\$3.50. Physicians may prescribe drugs not subsidized under the PBS, for which patients or their private insurance plans, should they have one, will pay the full market price. There is thus pressure on physicians to limit drug selection to those 550 subsidized by the PBS, and an incentive for drug producers to have their products selected for the list of subsidized drugs.

Formally the Minister of Health decides which drugs to subsidize, but in practice the Minister usually follows the recommendations of the Pharmaceutical Benefits Advisory Committee. This 12-member Committee, appointed by the Minister, makes cost-benefit recommendations to maximize public benefit while restraining government expenditure. Each year it selects some new drugs for inclusion on the list and rejects others. Thus, as of February 1, 2001, the long-acting contraceptive implant Implanon was included in the list, while a hormonal IUD called Mirena was not selected, meaning that women choosing it would have to pay over A\$400 for the device. In 2000, the Committee recommended that Viagra not be subsidized, and the drug's manufacturer responded by bringing a suit in Federal Court.

As demonstrated by the Viagra suit, the Committee's decisions, which have a direct impact on the profits of drug manufacturers, have become increasingly well-publicized and contentious. In December 2000, the government amended the regulations governing appointments to the Committee, describing the changes as permitting appointments to be made from a broader pool of candidates. In January 2001, it dismissed several members whose terms had two years to run. On February 1, 2001, it appointed the former head of the lobbying group, the Australian Pharmaceutical Manufacturer's Association, an action that prompted the mass resignation of all but two of the remaining Committee members. They condemned the appointment as involving a massive conflict of interest and threatening the objectivity and confidentiality necessary for the Committee's task. The Minister of Health responded that he found it "entirely appropriate for a person with previous industry experience to be a member of the Committee." (*Sydney Morning Herald*, Feb. 2, 3, 9, 10, and 20, 2001, at <http://www.smh.com.au/>; Commonwealth Consolidated Regulations, National Health (Pharmaceutical Benefits) Regulations 1960, as amended through Dec. 20, 2000, Statutory Rules No. 369, 2000, at <http://www.austlii.edu.au/>; National Health Act 1953, Section 100B, 101, at http://www.austlii.edu.au/au/legis/cth/consol_act/nha1953/; "Pharmaceutical Advisory Body

Appointed” Media Release, Ministry of Health and Aged Care, Feb. 1, 2001, at <http://www.health.gov.au/mediare/year2001.> (D. DeGlopper 7-9831)

INTERNATIONAL LAW & ORGANIZATIONS

ANGOLA/RUSSIA, SOUTH KOREA--Treaties Signed

Angola has entered into significant bilateral agreements with two more industrialized nations, Russia and South Korea. Russia’s Deputy Prime Minister Ilya Klebanov signed a memorandum on defense during an official two-day visit to Luanda, on December 4-6, 2000. Under the agreement, Russia will provide technical assistance and training to Angola’s armed forces. Angolan troops will be trained at Russian military institutions, and Russia will send specialists to Angola to help maintain military equipment purchased from Russia.

Angola and Russia also agreed to cooperate in the areas of oil exploration, diamond mining, and fishing. In the economic field, Angola will allow Russia to expand its capital investments in the country’s diamond industry. Deputy Prime Minister Klebanov praised Angola’s new system to control diamond smuggling and stated that increased Russian investment in mining will strengthen bilateral relations. Angola exports about US\$1 billion worth of rough diamonds yearly. (*Angola News Index*, Jan. 24, 2001, via <http://www.angola.org/news/NewsDetail.cfm?NID=2324>)

On February 1, 2001, the governments of Angola and South Korea signed an agreement to hold consultations to reinforce economic, scientific, and technical cooperation. The pact was agreed to during a visit of Angolan President dos Santos to Seoul. Delegations from both nations praised recent developments in bilateral cooperation between businessmen of the two countries in the fields of industry, construction, energy, mines, and fishing. A joint Angola/South Korea Commission will be formed to encourage and promote active business partnerships, and a treaty on training and protection of investments will be concluded as soon as possible.

The Angolans pledged to create a favorable environment to allow South Korean participation in mining activities, including offshore oil exploration. (*Id.*, Feb. 1, 2001, via [http://www.angola.org/news/NewsDetail.cfm?NID=2424.](http://www.angola.org/news/NewsDetail.cfm?NID=2424)) (Sandra Sawicki, 7-9819)

BURMA/PEOPLE’S REPUBLIC OF CHINA--Agreement on Border Trade in Illegal Drugs

Burma and the People’s Republic of China on January 21, 2001, signed a Memorandum of Understanding on joint efforts in drug control. While full details of the agreement have not yet been made available, it is described as including provisions against illicit trade of precursor chemicals, stimulants and heroin along the 2,192 kilometer border between the two countries. The First Secretary of the Chinese Embassy in the Burmese capital of Rangoon is reported to have said that the joint efforts will improve communication and information exchange between Burma and the PRC and would give greater authority to enforcement agencies dealing with drug-related crimes.

The United Nations International Drug Control Program office in Rangoon has hailed the agreement as a positive step towards tackling the drug problem in Burma’s far northeast, its representative adding that there was also a need for cross-border cooperation on the production and consumption of Amphetamine Type Stimulants, or ATS.

From 1993 to 1996, Burma and the PRC cooperated on a trial drug control plan for the town of Mongyang in the Shan State of Burma, using US\$7.7 million of UN aid money, and in 1993, both countries participated in a sub-regional drug control program, under the auspices of the United Nations, with Thailand, Laos, Cambodia, and Vietnam. (TV Myanmar, Jan. 21, 2001, as translated in FBIS, Jan. 21, 2001, and *The Myanmar Times*, Jan. 29, 2001, at 3, via FBIS, Feb. 7, 2001) (Mya Saw Shin, 7-9827)

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RECENT DEVELOPMENTS IN THE EUROPEAN UNION
by Theresa Papademetriou, Senior Legal Specialist, Western Law Division*

New Legislation for Genetically Modified Organisms (GMOs)¹

Recently, three years after an initial proposal was submitted by the European Commission to amend Directive 90/220/EEC on the deliberate release of genetically modified organisms into the environment, a new Directive was approved. The revised version, *inter alia*, introduces mandatory consultation with the public for experimental and commercial releases, mandatory labeling and traceability in all stages of marketing, and mandatory monitoring of long-term effects. Other aspects include provision that the renewal of an initial authorization for a release of GMOs must be limited to a ten-year period, mandatory consultation of the Scientific Committee, mandatory monitoring after GMOs are placed on the market, the establishment of public registers for GMOs released in the trial period, and notification of the competent authorities as to locations of GMOs once they are placed on the market.

The European Commission intends to prepare additional legislative measures to complement the Directive and address issues such as consumer safety concerns, environmental concerns, and providing legal certainty for those involved in the process of authorization of such products.

Proposal To Issue an Identity Number for Every Citizen in Europe²

The European Commission is studying the highly controversial issue of whether or not to introduce an identity number for every citizen in Europe, a system akin to use of the social security number in the United States. By adoption of the new system, the Commission hopes to facilitate movement of workers from one Member State to another, since insurance contributions and benefits would then more easily be transferred to the workers in a new place of employment. In order to allay fears that this proposal is intended to grant more authority and power to the EU, officials emphasized that the Member States will retain the authority to regulate insurance contributions and social benefits. The issue will be discussed at the next intergovernmental conference in Sweden.

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¹ [Http://europa.eu.in/rapid/cgi/rapcgi.ksh?p_action.gettxt=gt&doc=MEMO/01/42/0/RAPID&lg=EN](http://europa.eu.in/rapid/cgi/rapcgi.ksh?p_action.gettxt=gt&doc=MEMO/01/42/0/RAPID&lg=EN).

² *EU Plans To Issue 'Identity Number' for Every Citizen*, THE INDEPENDENT, Feb. 5, 2001.

Proposal to Create an “.eu” Registry³

Recently, the European Commission, based on Article 156 of the Treaty on Trans-European Networks, proposed the creation of a registry to use the Internet top level domain “.eu.” The Commission anticipates that the “.eu” domain could generate the registration of more names on the Internet and enhance Internet use and e-commerce in Europe. The Registry would adopt technical specifications for its operation, as well as deal with other issues such as second level domains and how they should be used, for instance “.press.eu,” “.media.eu,” or “.lex.eu.”

Action Plan To Fight Credit Card Fraud and Counterfeiting⁴

The European Commission, acknowledging that fraud and counterfeiting of credit cards and other non-cash payments have become a serious problem in the European Union, recently publicized an Action Plan that will run until the year 2003. The Action Plan focuses on five areas: technological improvements; improved information exchange; better educational materials and cooperation; specific measures on fraud prevention; and increased cooperation with non-EU countries. The Plan recommends a number of preventive measures which, according to the Commission, must be applied at a global level in order to be effective:

- introduction of a single phone number throughout the European Union so that consumers can give immediate notification of the loss or theft of a card;
- establishment of a website on fraud containing practical information and links to all pertinent organizations;
- drafting and publication of guidelines on conditions for exchange of information on fraud prevention; and
- introduction of specific initiatives designed to improve security of payment products.

New Directive on Reorganization and Termination of Insurance Undertakings⁵

Prior to the adoption of this Directive, if an insurance company with branches in more than one Member State failed and its assets were distributed among the creditors, the authorities in each Member State opened separate insolvency proceedings. This situation led to numerous problems involving conflicts of jurisdiction. The newly adopted Directive addresses the problem. In particular, it establishes a single bankruptcy proceeding that is initiated in the Member State where the multi-branch insurance company has a registered office. Moreover, bankruptcy proceedings are governed by the law of the Member State where the company has the registered office.

³ [Http://europa.eu.int/rapid/cgi/rapcgi.ksh?p_action.gettxt=gt&doc=IP/00/1444/0/RAPID&lg=EN](http://europa.eu.int/rapid/cgi/rapcgi.ksh?p_action.gettxt=gt&doc=IP/00/1444/0/RAPID&lg=EN).

⁴ [Http://europa.eu.int/rapid/cgi/rapcgi.ksh?p_action.gettx=gt&doc=IP/01/231/0/RAPID&lg=EN](http://europa.eu.int/rapid/cgi/rapcgi.ksh?p_action.gettx=gt&doc=IP/01/231/0/RAPID&lg=EN).

⁵ [Http://europa.eu.int/rapid/cgi/rapcgi.ksh?_action.gettxt=gt&doc=IP/01/216/0/RAPID&lg=EN](http://europa.eu.int/rapid/cgi/rapcgi.ksh?_action.gettxt=gt&doc=IP/01/216/0/RAPID&lg=EN).

Reduction of “Red Tape” in Shipping⁶

The European Commission came up with a proposal for a Directive that calls for simplification of reporting formalities by ships in ports of the European Union. The impetus that led to this proposal was the diverse rules in the Member States of the Union that result in different formats for the documents required when ships entered or departed from ports. The Commission basically proposes a single set of documents to be presented by ships, irrespective of flag. The benefits for the entire maritime community are anticipated to be tremendous.

Adoption of a Green Paper by the Commission on Integrated Product Policy⁷

On February 8, 2001, the European Commission adopted a Green Paper on Integrated Product Policy. The primary objective of the Green Paper is to stimulate a debate on the environmental performance of a wide range of products during their life cycle and to promote the development of a market for “greener products,” that is, those that are more environmentally friendly. The Integrated Product Policy aims at the following three areas in order to achieve its goal: a) stimulation of consumer demand for greener products; b) creation of business leadership in order to increase the supply of green products; and c) use of the price mechanism to develop markets for greener products.

Proposal for a Directive on Training of Professional Drivers⁸

The European Commission adopted a proposal for a directive dealing with obligatory training for professional drivers who transport either passengers or goods by road. Until now, only drivers under the age of 21 who drove vehicles over 7.5 tons used for goods were required to undergo training. The proposed Directive introduces compulsory training for all new professional drivers of vehicles for carrying goods or passengers and training at regular periods for all professional drivers. The main highlights of the Directive include:

- mandatory basic training of 210 hours for all new drivers, with a requirement of 420 hours for younger drivers wanting to operate certain vehicles;
- mandatory continuing training of 35 hours every five years; and
- use of community codes on the driving license.

Agreement Between the European Union and China on Pharmaceuticals⁹

⁶ [Http://europa.eu.int/rapid/cgi/rapcgi.ksh?_action.gettxt=gt&doc=IP/01/178/0/RAPID&lg=EN](http://europa.eu.int/rapid/cgi/rapcgi.ksh?_action.gettxt=gt&doc=IP/01/178/0/RAPID&lg=EN).

⁷ [Http://europa.eu.int/rapid/cgi/rapcgi.ksh?p_action.gettxt=gt&doc=IP/01/180/0/RAPID&lg=EN](http://europa.eu.int/rapid/cgi/rapcgi.ksh?p_action.gettxt=gt&doc=IP/01/180/0/RAPID&lg=EN).

⁸ [Http://europa.eu.int/rapid/cgi/rapcgi.ksh?p_action.gettxt=gt&doc=IP/01/162/0/RAPID&lg=EN](http://europa.eu.int/rapid/cgi/rapcgi.ksh?p_action.gettxt=gt&doc=IP/01/162/0/RAPID&lg=EN).

⁹ [Http://europa.eu.int/rapid/cgi/rapcgi.ksh?p_action.gettxt=gt&doc=IP/01/163/0/RAPID&lg=EN](http://europa.eu.int/rapid/cgi/rapcgi.ksh?p_action.gettxt=gt&doc=IP/01/163/0/RAPID&lg=EN).

In 1994, the European Union and China reached an agreement that granted administrative protection to EU producers of pharmaceuticals and agrochemicals within China. Under this system of administrative protection, which was introduced in China in the 1980s, pharmaceutical products patented in other countries enjoyed marketing exclusivity in China. China, however did not grant administrative protection to producers of such products from Austria, Finland, and Sweden, since at the time of the signing of the Agreement, these countries were not members of the European Union. The new agreement brings an end to the long-standing dispute over this gap in protection.

Bibliographic Note:

"Partnerships Across Borders: A Global Forum on Access to Justice, April 6-8, 2000"
published in: 24 FORDHAM INTERNATIONAL LAW JOURNAL (2000).

Articles included:

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