



WORLD LAW BULLETIN

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The WORLD LAW

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AFRICA

ANGOLA--Draft Law on Cultural Property

On June 18, 2001, a draft law on cultural property was submitted to the public for discussion and suggestions or amendments before its approval by the National Assembly. The draft is designed to defend cultural property through a system of classification, protection, and incentives to public and private entities that deal with material and non-material cultural treasures. The first article of the draft, one of the fundamental principles, defines Angolan cultural property as any item that, by recognized value, can be considered of relevant interest to the identity of Angolan culture throughout time.

The draft law establishes the right of all citizens to preserve, defend, and valorize cultural treasures. The State and its public institutions are obligated to promote and valorize the cultural patrimony of Angola. The legal protection of these treasures will be the duty of the government through the Ministry of Education and Culture. The government is also empowered to carry out educational programs to promote public interest and respect for cultural property and to encourage the creation of national and local authorities in the field. Violations of the provisions of the draft law will be punished according to appropriate criminal law. (*Angola News Index*, June 18, 2001, via <http://www.angola.org/news/NewsDetail.cfm?NID=3834>)
(Sandra Sawicki, 7-9819)

AMERICAS

CANADA--Government Seeks To Determine the Value of Water

Debate over one of the most sensitive subjects in Canadian politics--water exports--was

recently rekindled by the Federal Government's soliciting bids for a commercial contract to put a dollar value on Canadian fresh water. Critics contend that this indicates that the Federal Government is backing off on its recent opposition to bulk exports of Canadian water. That opposition seemed firm when the Government introduced a bill to ban exports on water from the Great Lakes Basin several years ago, but that initiative lapsed when the last general election was called. More recently, the Government has established a committee to conduct televised hearings into "freshwater security" this fall. ("Ottawa Denies Backstroke on Water Exports," http://www.cbc.ca/cgi-bin/templates/view.cgi?/news/2001/05/31/water__010531)

The Federal Government and the governments of most of the provinces have signed an accord to agree not to export fresh water. However, the Government of one signatory--Newfoundland--is now seriously considering the possibility. Advocates claim that unharvested water from that province simply runs off into the ocean. Opponents of the plan fear that once water from one province is exported, it will become a "good" under the North American Free Trade Agreement. This could result in U.S. firms having a right to bid on water supplies throughout the country. One U.S. firm has already brought an action for being denied the chance to purchase Canadian water in bulk. However, NAFTA does not generally guarantee foreign access to Canadian water as it is a resource that can be protected through conservation laws. (Cynthia Baumann, "Water Wars: Canada's Upstream Battle To Ban Bulk Water Export," 10 *Minnesota Journal of Global Trade*, 109 (2001).)

The water issue has received widespread coverage in Canada since the Province of Ontario granted a permit for the export of Great Lakes water to Asia in supertankers three years ago. That permit was soon withdrawn and no

Canadian fresh water has yet been exported in bulk. Water has also been in the news due to contamination in the local water supplies in Ontario and Saskatchewan that has resulted in widespread sickness and a number of deaths.

Canada is estimated to have approximately 20 percent of the world's fresh water. The United States is estimated to have slightly less than half that amount. The Great Lakes alone have over one fifth of the world's fresh water. (Stephen Clarke, 7-7121)

COLOMBIA--Bigamy No Longer a Crime

The Attorney General of Colombia, Alfonso Gomez Mendez, announced on June 11, 2000, that bigamy is no longer considered a crime under the new Criminal Code that enters into force on July 24, 2001 (WLB.2000.10, Oct. 2000). He stated that since 1936 there have been only two or three registered cases of double marital unions in Colombia. However, he said, under law, bigamy remains a cause for divorce.

Opinions were expressed by others that opposed the dropping of bigamy from the Criminal Code. Carlos Franque, an attorney specializing in family law, stated that in Colombia "there are men and women who have two spouses without having had ceremonies, but they are married socially speaking. Before the Constitution, to sanction bigamy by law and not to sanction bigamy by fact is to undo the right of equality." A psychologist and coordinator of a women's defense group, Florence Thomas, predicted that there will be more infidelity. "In this country, the new standard will favor men...." Bishop Hector Gutierrez, a member of the Colombian Episcopal Conference, said he felt that even though de facto bigamy is extensive in society, the new law will open the doors to promiscuity. (*CNNenEspanol*, June 11, 2001, via <http://www.cnnenespanol.com/2001/latin/06/11/bigamo.reut/index.html>) (Sandra Sawicki, 7-9819)

COLOMBIA--Controversial Bill on Military Powers

On June 14, 2001, the Congress of Colombia approved a disputed bill that authorizes the military to carry out detentions, raids, and judicial proceedings in war zones that representatives of the Attorney General's Office cannot enter. These powers were requested by the armed forces to help in their struggle to curtail conflicts between leftist guerillas and ultra-right paramilitary groups in an internal war that has resulted in 40,000 deaths in ten years, most of them civilian. "This is a special, temporary, and necessary power. The Attorney General's Office will be playing a fundamental part in its development," according to Minister of Defense Gustavo Bell. The legislation awaits the signature of President Andres Pastrana.

The Army, Air Force, and Navy have lacked the powers to detain people, carry out raids, gather evidence, and recover bodies. They can only perform these activities when accompanied by officers of the Attorney General's Office. The intensity of the internal conflict and security problems, however, have prevented justice officials from entering these far-flung regions controlled by the leftist and paramilitary groups.

A group of lawmakers and advocates of human rights opposed the approval of the bill, which they have named the War Law, on the grounds that it violates the Constitution and will contribute to expanding human rights violations by segments of the military forces. The Colombian armed forces have been accused by such groups as Amnesty International and Human Rights Watch of having one of the worst records of human rights violations in the Western Hemisphere. In addition, the Colombian Commission of Jurists has spoken out against the bill. (*CNNenEspanol*, June 15, 2001, via <http://www.cnnenespanol.com/2001/latin/06/15/colombia.ejercito.reut/index.html>) (Sandra Sawicki, 7-9819)

GUATEMALA--Constitutional Guarantees Suspended

The President of Guatemala, Alfonso Portillo, declared a state of emergency on June 18, 2001, following a jailbreak from the Escuintla maximum security prison of 78 prisoners, who apparently were aided in their plan by prison guards. Eleven of the prisoners were captured soon afterward. The state of emergency included the suspension for thirty days of four articles of the Guatemalan Constitution guaranteeing freedom of action (art. 5) and freedom of movement (art. 26) and outlining the requirements for legal detention (art. 6) and interrogation of prisoners and detainees (art. 9). The Congress of Guatemala has the right to review the actions of the President and can suspend or affirm the state of emergency. (*CNNenEspañol*, June 19, 2001, via <http://www.cnnenespanol.com/2001/latin/06/19/guatemala.ap/index.html>) (Sandra Sawicki, 7-9819)3a

GUATEMALA--Genocide Suit Filed Against Leader

On June 6, 2001, representatives of eleven Mayan Indian communities nearly wiped out 20 years ago filed a suit against the current head of Congress, Efraín Ríos Montt, accusing him of genocide. The lawsuit charges Ríos Montt of presiding over a harsh policy of racial extermination as the nation's dictator in the 1980s. The suit initiates a process that community members hope will bring to justice those who were in power when 200,000 people, most of them Indians, were massacred during the country's 36-year civil war. The Guatemalan justice system allows civil parties such as the eleven communities to file suit to force a criminal investigation. They become a party to any eventual prosecution of the accused. If convicted, Ríos Montt could face up to 30 years in prison. The communities and the Center for Human Rights Legal Action, one of Guatemala's preeminent rights groups, hope

to pattern the Ríos Montt suit after other successfully prosecuted genocide cases, such as those involving war crimes in the Balkans. (*The Los Angeles Times*, June 6, 2001, via <http://www.latimes.com/news/nation/20010606/t000047185.html>)

Six days after the filing of the suit, judges ordered separate investigations into the activities of Ríos Montt and his presidential predecessor, Romeo Lucas García, in response to criminal complaints. The two rulings signify the first time Guatemalan courts have agreed to investigate former dictators for atrocities during the civil war. (*The Miami Herald*, June 14, 2001, via <http://cgi.herald.com/cgiibi.content/news/americas/digdocs/014618.htm>) Three months ago, the Supreme Court of Justice voted to withdraw immunity from Ríos Montt. (*BBCMundo, America Latina*, June 14, 2001 via http://news.bbc.co.uk/hi/spanish/latin_america/newsid_1387000/1387795.stm) (Sandra Sawicki, 7-9819)

MEXICO--Congress Reviewing Criminal Codes

The Chamber of Deputies is analyzing an initiative to reform the Criminal and Criminal Procedure Codes. The president of the Justice and Human Rights Committee of the lower house of the legislature and co-author of the reform bill, José Elías Romero Apis, said recently that a total change in criminal law is being sought that will give authorities greater powers to investigate crimes, will create more equal procedures, and will result in societal protection from violence and crime. The reform was presented because the methods of prevention, investigation, and punishment that were once useful are now obsolete. The present Federal Criminal Code was enacted in August 1931 and the Federal Code of Criminal Procedure in 1940. Romero Apis said that both codes had been amended before but it had been like "patching plaster," to respond to the moment.

The bill establishes a new type of murder: homicide for mercenary reasons. This crime, committed by paid assassins, has proliferated in Mexico together with organized crime, especially in narcotics trafficking. The document also rejects the reduction of the criminal age below 18 years, life imprisonment, and the death penalty. Maximum prison terms will be 40 years, and in exceptional cases, 60 years. It establishes the obligation of the State to indemnify anyone who has been unjustly imprisoned. The initiative recognizes recently approved reforms concerning forced disappearance of people. It considers causing contagious diseases to be a type of special-qualified injury and defines qualified robbery as robbery committed with physical or moral violence against others.

Another change contained in the new rules concerns court proceedings. The judge must be present, along with the victim, the victim's legal representative, and the prosecutor. The accused and the defense attorney will sit at a separate table. Protected witnesses will no longer enjoy extralegal benefits, such as reductions of prison sentences or pardons for crimes. The accused will have to remain under the supervision of the court and will be prevented from staying in a home or hotel. The bill establishes punishment for judges, public defenders, agents, and police who release or execute illegal orders to apprehend or detain people, order detention and imprisonment illegally, retract the imprisonment or freedom of a detainee, illegally grant freedom, or deny and impede justice. There will be a new penalty of five years imprisonment for public servants who arrest a delinquent in the act of committing a crime or take custody of a detainee who do not immediately place that person at the disposal of the Public Ministry. The same punishment will be meted out to authorities from the Public Ministry who do not place a detainee at the disposition of a judge within 48 hours, or within 96 hours in the case of a perpetrator connected to organized crime.

Official sources state that Mexico has the capacity to investigate only eight percent of reported crimes, with the possibility of success in only half of those cases. Ninety-six percent of criminal cases are not solved. (*El Universal*, Mexico City, June 18, 2001, via http://www.el-universal.com.mx/pls/impresion_imprimir?id_nota=6377&tabla=primera) (Sandra Sawicki, 7-9819)

MEXICO--Status of Indian Rights Bill

The Indian Rights bill, approved by the Mexican Congress on April 28, 2001 (see WLB 2001.06), has been approved by the state congresses of Queretaro, Campeche, Guanajuato, Veracruz, Puebla, Colima, Durango, and Aguascalientes. The congress of the state of Michoacan will take a vote on the bill that grants new autonomy and protections to Mexico's 10 million indigenous people late in June.

The congresses of Oaxaca and Zacatecas were the first to reject the constitutional reforms on Indian rights and culture. The legislators of Oaxaca felt that the reforms "contained errors, deficiencies and misrepresentations of a technical legal nature," while the lawmakers in Zacatecas believed that the bill puts restraints on guarantees for the Indians. The two legislatures coincided in their positions that the reforms approved by the national congress did not contribute to peace in Chiapas, the southernmost state of Mexico where armed conflicts between Indians and the government began in 1994, and did not contain the exigencies embodied in the San Andres Accords of 1996 to achieve peace. (*El Universal*, Mexico City, June 6, 2001, via http://www.eo-universal.com/noticia.html?id_nota=6107&tabla=primera) (Sandra Sawicki, 7-9819)

ASIA

CHINA–Crackdown on Falun Gong

It has been reported that the two-year old prosecution of the religious movement Falun Gong has been intensified recently. A new legal directive that allows courts wider leeway in prosecuting members of the movement has been issued by judicial authorities. Prosecutors can charge members of the movement with subversion or separatist acts if those members produce or distribute advocacy information on the movement. The directive covers prosecution for organizing and encouraging other followers in committing suicides or other self-inflicted injuries. This new directive follows a well-publicized case from January 2001 in which five individuals set themselves on fire in Beijing's Tiananmen Square. There has been a dispute over whether the people involved were actually members of the group. (*China News Digest*, June 15, 2001.)

The crackdown could have an impact on U.S.-China relations. Last month the Beijing Higher People's Court turned down the appeal of a Falun Gong member who holds a U.S. green card. Teng Chunyan, who is married to an American citizen and lives in New York, had been sentenced to three years in prison for spying and providing state intelligence to foreigners. The charges had resulted from her actions in escorting a group of foreign journalists to a village to interview members of Falun Gong who were being detained. On a second visit to the area, she is reported to have given a digital camera to someone to take pictures of those being held. Even though Teng is not a U.S. citizen, her release has been requested by American authorities. (*South China Morning Post*, May 14, 2001, via FBIS, May 14, 2001.)

China banned the movement as an "evil cult" two years ago and continues to view its treatment of the followers as appropriate. In a

report on human rights issued by the Information Office of the State Council in April 2001, improvements in the quality of life for the average citizen are described. In the same paragraph with statements on the control of gang-related crimes and crimes involving guns and explosives, the report cites the punishment of a "handful of criminals who caused deaths or gathered people to upset the public order by organizing and using the Falun Gong cult." (*China Issues White Paper on Human Rights*, Xinhua, Apr. 9, 2001, via LEXIS/NEXIS, Asiapc library.)
(Constance A. Johnson, 7-9829)

CHINA–New GM Regulations

On May 23, 2001, new regulations went into effect on genetically modified (GM) agricultural products. They will "strengthen control over research and development, production, processing and trading of GM plants, animals and microbes," according to the Xinhua News agency. Management methods of the Agriculture Ministry and Science Ministry that have guided the treatment of GM products since 1986 are upgraded by the new regulations.

The regulations prescribe that joint ventures and foreign-owned companies must obtain government approval in order to do research on or test genetically altered products. Individuals and work units will also need approval to engage in experiments on producing, processing, importing, and exporting transgenic plants, animals, and microbes. Research institutions are required by the regulations to have adequate facilities to ensure safe research related to transgenic technology. Official permits are needed to sell modified seeds, seedlings, or animals. Imports of GM products that lack proper documentation can be rejected or destroyed by the government. The Agricultural Administration Department of the State Council will be in charge of supervising transgenic technology, according to the regulations. (AP Online, June 6, 2001, & Asiainfo Daily China

News, June 11, 2001, both via LEXIS/NEXIS.).

The new guidelines outline licensing and labeling requirements for the production and sale of GM materials, just as the former regulations did, but with three major differences. First, the new provisions require that all data used to determine product safety be generated in China; the old ones accepted data from abroad. Second, the new regulations set forth only four grades of product safety, from “safe” to “minimal risk” and finally “unsafe,” based on the potential harm they might cause to humans, animals, plants, microbes, and the environment. The old guidelines had a system of more detailed risk description. Third, the waiting period for obtaining a product license has been extended from 90 days to 270. (“China Issues New Regulations on Genetically Modified Products,” Kyodo, June 7, 2001, via FBIS.)

(W. Zeldin, 7-9832)

Hong Kong–Emission Standards

On June 1, 2001, the Hong Kong government gazetted amended Air Pollution Control Regulations to more stringently control vehicle emissions for certain types of motor vehicles. The overall aim of the amendments is to reduce newly registered vehicles’ emissions.

Under the amended regulations, vehicles that weigh more than 3.5 tons and are first registered on or after October 1, 2001, must comply with Euro III emission or equivalent standards adopted in the United States or Japan. Certain classes of vehicles that weigh 3.5 tons or less and are first registered on or after January 1, 2002, will also be subject to the Euro III standards. However, newly registered diesel light buses weighing between 3.5 and 4 tons would still be subject to current Euro II emission standards, pending an upcoming decision on a proposal to replace such buses with alternative fuel vehicles. Petrol

vehicles that weigh 3.5 tons or less and are first registered on or after January 1, 2002, are required to install an on-board diagnostic system.

The government also published amendments to the Air Pollution Control (Vehicle Design Standards) (Emission) Regulations on June 1. The changes formalize the current practice of not registering new diesel taxis from August 1, 2001, and add emission standards for liquefied petroleum gas taxis to the Regulations. (Xinhua, June 1, 2001, via FBIS.)

(W. Zeldin, 7-9832)

TAIWAN–Guidelines for Financial Institution Mergers

The Ministry of Finance has drafted guidelines, to be applied to the provisions of the Financial Institutions Merger Law (adopted on Nov. 24, 2000), on mergers involving foreign and local financial institutions. Under the new guidelines, “national treatment” will be accorded to foreign financial institutions that merge with or purchase domestic financial institutions. This means that the foreign entities will be subject to the same regulatory requirements and adjustment periods for merged institutions and receive the same kind of tax incentives as local financial bodies. The Ministry will look at “simplified application procedures” for the foreign financial institutions, but the latter must still observe the rules governing the establishment of subsidiaries or branches of foreign financial institutions once the merger or takeover has taken place. Foreign financial institutions must assign an agent to Taiwan to handle litigation or non-litigation matters before the merger/takeover is launched. Once the merger/takeover occurs, the foreign financial institutions must apply for a business license from regulators before beginning operation, and the operations will not thereafter be allowed to exceed the nature of the business originally intended. (*Taipei Times*, June 21, 2001, via FBIS.)

(W. Zeldin, 7-9832)

EUROPE

CZECH REPUBLIC--Czech Television

The Law of January 23, 2001, on Czech Television introduced broad changes in the administration of public television in the country (No. 39, *Collection of Laws*, amending Law No. 483/1991). Czech Television has a legal personality and administers its own property with the stated purpose of serving the public. Under the new Law, it will operate two channels, reaching the entire territory of the Republic. Its chief operating organ now is the Television Board, composed of 15 members elected by the House of Representatives from candidates proposed by cultural, social, educational, and any other concerned organizations. They must be persons of full capacity, never convicted of an intentional offense, who permanently reside in the Republic. The new legislation specifies that their term of office is six years, with one-third replaced every two years to ensure continuity; they may be re-elected. Membership on the Board has always been considered incompatible with any public office or function in any political parties or other organizations that could compromise impartiality. Now Board members and their relatives are restricted from employment by Czech Television.

The new Law requires the Board to submit an annual report of its activities to the House of Representatives by March 31 of the following year, and an annual report on the financial situation by August 31. The Law creates a Supervisory Board, composed of five members. They are elected by the Television Board for a term of two years and may be re-elected for another consecutive term. The Supervisory Board supervises the economic operations of Czech Television, ensuring that the property and resources of the organization are used

properly. It submits a written report to the Television Board every three months.

(George Glos, 7-9849)

ESTONIA--Environment Convention Joined

On June 1, 2001, Estonia signed the European Convention on Protection of the Environment through Criminal Law. The Convention is aimed at improving the protection of the environment in Europe by using criminal law. It also seeks to harmonize national legislation in this field. This new legal instrument, which was initiated by the Council of Europe, obliges Contracting States to introduce specific provisions into their criminal laws or to modify existing provisions in this field. It establishes as criminal offenses a number of acts committed intentionally or through negligence if they cause or are likely to cause lasting damage to the quality of the air, soil, water, animals, or plants, or result in the death or serious injury of any person. The Convention defines the concept of criminal liability of individuals and legal entities, specifies the measures to be adopted by States to enable them to confiscate property and to define the powers available to the authorities, and provides for international co-operation. (Ministry of Foreign Affairs of Estonia. Press release, June 7, 2001, <http://www.vm.ee/eng/review/2001/review22.htm>)

(Peter Roudik, 7-9861)

FRANCE--Anti-Sect Law

On June 12, 2001, the National Assembly adopted "Law No. 2001-504 on Reinforcing the Prevention and the Deterrence of Sectarian Movements Infringing Human Rights and Fundamental Liberties." The Law allows judges from the *Tribunal de grande instance* (court of general jurisdiction) to dissolve legal entities that pursue activities the goal or the result of which is to create or exploit their members' psychological or physical state of dependency when such

entities or their leaders have been the subject of final convictions on charges such as endangering lives, endangering the physical or psychological integrity of a person, infringing upon the liberty or the dignity of the person, endangering minors, the illegal practice of medicine or of pharmacy, false advertising, or consumer fraud. The request for dissolution is made by the Prosecutor's office, either *ex officio* or at the request of any interested party. Also prohibited is distribution to minors, by any means, of messages promoting such legal entities. Associations officially acknowledged as serving public purposes and having the goal of defending individuals or individual liberties may be civil parties in cases against those entities or individuals. The association must have been regularly formed at least five years before the occurrence of the facts.

Any individual who participates in the continuance or resumption, overtly or covertly, of a legal entity dissolved under these provisions may be sentenced to a prison term of three years and a fine of 300,000 *francs* (about US\$45,000). This penalty may be increased to five years and 500,000 *francs* (about US\$67,000) when the dissolution is pronounced for a repeat offense.

In addition, the Law establishes the criminal liability of legal entities in relation to certain offenses which before could only be committed by an individual. These offenses include illegal practice of medicine, consumer fraud, willful infringement on the life of a person, torture and barbarous acts, violence against a person, threats, sexual assault, hindering assistance to or failure to render aid, incitement to suicide, infringement of the respect due to the dead, and neglect of family.

Finally, the Law creates a new criminal offense "fraudulently abusing [another's] state of ignorance or weakness." It is punishable by

three years in prison and a maximum fine of 2,500,000 *francs* (about US\$335,000). The penalty is increased to five years in prison and to a maximum fine of 5,000,000 *francs* (about US\$675,000) when the perpetrator is the leader of a group which pursues activities the goal or the result of which is to create, maintain, or exploit its members' psychological or physical state of dependency. (*Journal Officiel*, June 13, 2001, at 9337.)
(Nicole Atwill, 7-2832)

ITALY—Contraception

Dr. Umberto Veronesi, the Italian Minister of Health just ousted in the recent general elections, declared in a newspaper interview that given the availability of a pharmacologic method for the interruption of pregnancy, namely, the use of the RU486 pill, he finds no reason to reject the use of this pill as an option. The former Minister believes that common sense would suggest adoption of that method, since it is certainly less traumatic than a surgical procedure, adding, however, that the pill must be prescribed according to the procedures of the Italian abortion law. The use of RU486, if authorized in Italy, may increase the number of abortions, the Minister acknowledged, but he pointed out that physicians prescribing it would be alerted to their responsibility to stay within the parameters of the law.

The reactions of the medical profession to Dr. Veronesi's interview were positive. The president of the professional association of gynecologists declared that while the goal of the association's members is to prevent abortions and to reach an optimum level of contraception, the importance of using a less traumatic method of intervention such as RU486 in dealing with unwanted pregnancies should be encouraged.

Quite different comments came from political circles, where the new right wing majority in

Parliament expressed strong disagreement with the former minister's view. RU486, it was pointed out, could not get approved under a government supported by a different majority in Parliament, and certainly is not going to be approved by the new right-wing government.

The Catholic Church fiercely opposes introduction of RU486, on moral rather than medical grounds. Meanwhile, the Italian Association of Catholic Pharmacists has reaffirmed the right to conscientious objection to distribution of the abortion pill. (*La Repubblica*, May 29, 2001, and June 7, 2001.) (Giovanni Salvo, 7-9856)

LITHUANIA--Law on Genetically Modified Products

The Lithuanian Parliament (the *Saeimas*) passed the Law on Genetically Modified Products, which regulates the terms for the use, sale, and purchase of products of genetic engineering and ways of determining their effect on the environment and human health. According to the Law, a genetically modified organism is an organism other than a human being whose genetic content is altered so that it acquires characteristics it would never have under regular reproductive conditions. A substance comprised of such organisms and presented to the market is described as a genetically modified substance.

The Law stipulates that the public has a right to be involved in the decision-making process and receive information about genetically modified products and their introduction in the local market. The Law provides for the financial responsibility of physical and legal entities for harm caused by their activities involving the use of genetically modified products.

A comprehensive database of genetically modified products will be created, and the Law specifies measures creating public access to the information. The Environment Protection Ministry and the Ministries of Health Care and Agriculture are responsible for implementation of the Law, reporting about such products, assessment of the risks to the environment, and issuance of permits for using genetically modified products.

The Law will enter into force on December 31, 2002. (Baltic News Service Socio-Political Wire, June 13, 2001, <http://www.securities.co.uk>) (Peter Roudik, 7-9861)

THE NETHERLANDS--Use of Hand-Held Phones While Driving To Be Prohibited

In 1999 and 2000, two extensive information campaigns were aimed at educating the public about the dangers of talking with a hand-held cellular phone while driving and encouraging hands-free calling. The positive effect of the campaign was overshadowed by the explosive growth of the use of cellular phones. Due to an increase in the number of fatalities related to driving while using a hand-held phone, the Minister of Traffic has announced a plan to amend the law so that such use will be prohibited while driving a motor vehicle or a moped. The amendment is expected to become effective by the end of 2001. (Letter of Minister of Traffic to the Chairman of the Second Chamber, May 17, 2001.) (Karel Wennink, 7-9864).

THE NETHERLANDS--Virtual Child Pornography To Be Punishable

The Minister of Justice has submitted a bill to Parliament amending legislation on sexual offenses and making virtual child pornography punishable by law. Virtual child pornography is

child pornography for which children have not actually been physically abused, but where pictures have been changed using digital methods. Under current criminal law provisions, physical involvement of a child is required in order for child pornography to be punishable. The objective of the legislation on sexual offenses remains the protection of children from sexual abuse, but in order to effectively combat child pornography, especially on the Internet, it will be possible in the future to protect children against the use of photographs of them that suggest sexual abuse. The penalty will be a maximum prison term of four years; however, if the crime is carried out professionally or habitually, the maximum term will be six years of imprisonment. (*De Telegraaf*, May 30, 2001.) (Karel Wennink, 7-9864)

RUSSIAN FEDERATION—Law Restricting Smoking

On June 21, 2001, a bill restricting smoking that places numerous limitations on the production, sale, advertising, and use of cigarettes was passed into law by the deputies of the Russian State Duma.

Russia's tobacco trade is substantial, with the average Russian smoking five cigarettes a day. Many companies from abroad, such as Philip Morris, JT International, and BAT, have invested heavily in the Russian tobacco market in the past two years, in order to supply the 285 billion cigarettes consumed nationwide per year.

The "Law on Smoking Restriction" limits the tar and nicotine content of cigarettes to 14 mg and 1.2 mg, respectively, for filtered cigarettes and 16 mg and 1.3 mg for filterless cigarettes. Cigarettes containing amounts of tar or nicotine in excess of these limits are banned from production, import, and wholesale or retail

trade. Manufacturers must obtain licenses to trade in cigarettes and must place labels on cigarette packs containing information regarding harmful substances.

The new Law forbids smoking in public places. Outlawed areas include work places, public transportation, enclosed sports centers, health care centers, cultural and educational institutions, administrative buildings, and airplanes when flights are under three hours. A further restriction bans the sale of cigarettes to minors.

While it does not ban all tobacco advertising, such as the ubiquitous billboard advertisements, the new Law does restrict the use of advertising to promote tobacco. A clause banning all tobacco advertising passed the law's second reading in February but was discarded before the deputies passed the legislation. The Law bans advertising on Russian radio and television and states that tobacco advertisements are subject "to the laws on restricting advertising in the Russian Federation." The media may no longer show "public and political figures smoking" and may not present characters "in new television, cinema, and theater productions" smoking. The Law requires that the Health, Education, and Culture Ministries "warn regularly of the dangers of tobacco in the media."

Sponsors of the bill are disappointed by the rejection of an all-out advertising ban, while the advertising industry derogatorily refers to the bill as "just populist." (*RIA Oreanda*, June 21, 2001, via <http://www.isiemergingmarkets.com>.) (Ann Eiselein (Legal Intern), 7-9861)

RUSSIAN FEDERATION--State of Emergency Law

The Russian President signed a law that gives him the power to declare a state of emergency.

Under the new Law, the President can declare a state of emergency if there is a threat to the security of the country's population and constitutional system and in the event of man-made or natural catastrophes. A presidential decree is needed to launch the state of emergency, but the decree needs the approval of the Federation Council, the upper chamber of the Parliament, which must meet within 72 hours. A state of emergency can be declared for 30 days over the whole country or for 60 days in a particular region. The President has the right to decree the extension of the state of emergency after its term expires. Civil rights can be limited, including the imposition of a curfew, cancellation of all mass events--such as demonstrations and strikes--and extension of the time limits for police custody. Although, the Duma, the lower house of the legislature, cannot be dissolved during a state of emergency, elections and referenda are banned. If a state of emergency is declared, freedom of speech and of the press can be restricted and the activities of political parties and associations can be suspended. The work of hazardous enterprises can also be suspended. Other possible steps include restrictions on transactions involving commodities and finances. Food and basic necessities would then be sold or distributed under a special procedure. A special procedure for the sale and distribution of alcoholic beverages during a state of emergency will be introduced.

Russia has not had a formal state of emergency since 1993, when Yeltsin dissolved the Parliament, accusing the legislators of trying to mount a coup. (*Sobranie Zakonodatelstva Rossiiskoi Federatsii* [Collection of Legislation of the Russian Federation, Russian official gazette] June 8, 2001, No. 23, Item 1731.) (Peter Roudik, 7-9861)

UKRAINE--Election Reform Power Struggle

The *Verkhovna Rada* (parliament) of Ukraine adopted a new election law on June 7, 2001, which seeks to give more power to political parties by providing that only 115 deputies of the 450-member Rada would be elected in single-mandate constituencies. The remaining seats would be filled by voters' choosing from lists fielded by the parties. Currently, half the deputies (225) are elected via single-mandate voting.

President Kuchma is opposed to the bill and vows to veto it, as he did an attempt by the Rada to pass a bill in February giving political parties the right to field all the candidates. In May, the Rada failed to override that veto. (AP as cited in <http://www.thepost.kiev.ua/displaypr.php?arid=8873>) (Natalie Gawdiak, 7-9838)

UKRAINE--Presidential Decree on "State Secretaries" Decried

On May 29, 2001, President Kuchma issued a decree on "Additional Measures to Implement Administrative Reform in Ukraine." The effect of this decree represents a major power shift from the Cabinet ministers to the President.

Under the new decree, so-called new positions called "state secretaries" will be instituted. They have as much power as the ministers and will control each ministry's budget and the organizing of the ministry's regional departments. Under the decree, the Prime Minister nominates the state secretaries, one for the government and one for each separate ministry, but they are appointed and fired by the President. Ukraine's newest prime minister, Anatoliy Kinakh, is widely seen as a Kuchma loyalist. (See photo caption). The rationale given for this decree is the desire to provide "stability," since the state secretaries would serve for the same term as the President

and would not change with the rise and fall of each new government. There has been much editorial criticism of the Decree.

The controversial decree has been challenged by various political parties and others in Ukraine. The Socialist and Reforms-Congress parties have appealed to the Constitutional Court to nullify it, and the Communists urged the President himself to repeal it. While other observers see the creation of such positions as antithetical to democratic governance, First Deputy Speaker Viktor Medvedchuk, in a declaration reminiscent of a C a t c h - 2 2 s i t u a t i o n , maintains that the Constitutional Court does not have jurisdiction to rule on the decree's validity because the law on the Cabinet of Ministers has not yet been signed by the President. ("Parties Slam Latest Decree," O. Kryzhanovska, *Kyiv Post* online, archive, <http://www.thepost.kiev.ua>). One positive aspect of the current controversy is the fact that such harsh criticism as cited here has made its way into the public media and is witness, to a degree, of the freedom of the press in the country.



Anatoly Kinakh, new Prime Minister of Ukraine: "One nice thing about being a 'yes man,' learning your lines is no problem." "The Road to Autocracy," Opinion, *Kyiv Post*, www.thepost.kiev.ua/displaypr.php?arid=8845.

on the Cabinet of Ministers has not yet been signed by the President. ("Parties Slam Latest Decree," O. Kryzhanovska, *Kyiv Post* online, archive, <http://www.thepost.kiev.ua>). One positive aspect of the current controversy is the fact that such harsh criticism as cited here has made its way into the public media and is witness, to a degree, of the freedom of the press in the country. (Natalie Gawdiak, 7-9838)

UNITED KINGDOM--Legislative Agenda of New Parliament

The main priorities of the reelected Labor Government in the new session of Parliament will be "reform in education, health, crime and welfare." Among the 25 Government bills to be introduced are:

- an Education Bill to promote diversity and higher standards, new opportunities for school sponsorship, more options for dealing with failing schools, and greater freedom for successful head teachers;
- a bill to grant greater powers to investigate money laundering and to establish a Criminal Assets Recovery Agency for the recovery of the proceeds of crime and drug trafficking;
- in tackling other crime, a reform of the criminal courts system based on a greatly anticipated report of a review. The long-standing rule against double jeopardy is to be eliminated in cases relating to murder. Other measures include granting UK courts jurisdiction over corruption offenses committed abroad and handing tougher sentences for persistent juvenile offenders;
- a Bill to create a single regulator for the media and communications industries and to reform broadcasting and communications regulations;
- to introduce the second phase of the reform of the House of Lords, the upper chamber of Parliament;
- a bill to promote an increase in the representation of women in public life;
- legislation to provide transparency to the system of export controls;

- reform of the system of land registration to promote electronic transactions;
- measures to encourage enterprise, strengthen competition laws, and promote safeguards for consumers. Those guilty of price-fixing could face prison sentences, a move that mirrors US anti-trust laws;
- legislation to fulfil the United Kingdom's international obligations arising from the Kyoto Protocol;
- a Welfare Reform Bill to help more people find reemployment. Other legislation will introduce new tax credits and establish a pension credit for pensioners; and
- a bill to reform adoption law to make children's interests paramount and tackle inter-country adoption.

(Queen's Speech on the Opening of Parliament, June 20, 2001; <http://www.ePolitix.com>, June 20, 2001)

(Kersi B. Shroff, 7-7850)

UNITED KINGDOM--Parliamentary Oaths

The Sinn Fein candidates who won four out of Northern Ireland's 18 constituencies, two of them in 1997, are again unlikely to sit and vote in the House of Commons because of their objection to the parliamentary oath. In the last Parliament, the Speaker ruled that there is no "associate status" for MPs and refused to allow Sinn Fein members to sit in the Commons without swearing allegiance.

Under the Parliamentary Oaths Act 1866, swearing the oath is a legal requirement. The oath calls for those taking it to swear the pledge set out in the Promissory Oaths Act 1868, "I swear by almighty God that I will be faithful

and bear true allegiance to Her Majesty Queen Elizabeth, her heirs and successors according to law. So help me God." An affirmation is allowed by the Oaths Act 1888, "I do solemnly, sincerely, and truly declare and affirm that I shall be faithful and bear true allegiance to Her Majesty Queen Elizabeth, her heirs and successors according to law."

After the 1997 election, Martin McGuinness, one of Sinn Fein's election victors, lost a claim in the European Court of Human Rights that the ruling by the Speaker was discriminatory. (Richard Parsons, *The Problem with Oaths*, <http://www.epolitix.com>, June 15, 2001.) (Kersi B. Shroff, 7-7850)

NEAR EAST

ISRAEL--Reform of the Government and Election System

Among newly elected Prime Minister Ariel Sharon's first actions on taking office was signing the Basic Law: The Government (Bill 5759-1998, *Hatsaot Hok* (Bills) Issue No. 275, at 72, Nov. 2, 1998). This law had passed in a 72-37 vote, with three abstentions. Parties across the political divide voted to return in the next election to the system of voting only for one's party of choice. Since 1996, voters have cast a separate ballot for Prime Minister. (N. Gilbert, "Direct-Elections System Nixed," *The Jerusalem Post*, Mar. 8, 2001, via LEXIS/NEXIS.) Three prime ministers were elected directly, in accordance with this system: Binyamin Netanyahu, Ehud Barak, and Ariel Sharon. Neither of the first two was able to complete a full term. The system of direct election for Prime Minister has been blamed for the fragmentation of Israel's parliament and severe political instability in recent years, since voters have been able to split their tickets and

vote heavily for small parties. Direct election is said to have caused a huge loss in *Knesset* (Parliament) seats for the Labor and Likud parties, while the religious parties increased in strength and new immigrant parties entered the political stage.

The bill passed into law on March 7, 2001. Among the main changes it institutes are the repeal of direct election of the Prime Minister and the assignment of selecting a Prime Minister by the President to a consenting *Knesset* Member, usually the head of the largest party or a party with the best chances to form a coalition government. The restoration to the *Knesset* factions of the authority to choose a prime minister, according to the people's will expressed in general elections, and consequent negotiations between the factions is expected to stabilize the government, which under either system relies on parliamentary support. Another important change introduced by the law is the requirement that 61 *Knesset* Members declare support for an alternative candidate in order to topple a government in a no-confidence motion. The Prime Minister himself may dissolve the *Knesset* in consultation with the President. Another significant change in the new Law is the repeal of the ceiling on the number of ministers. As a result, instead of the 18 ministers allowed by the 1992 Law, Mr. Sharon's government includes 28 ministerial positions. This is the largest government in the history of the state, and although it may result in a huge increase in expenses, it may lend more solid support to the Prime Minister from members of the coalition government.

Therefore, although the restoration of the one-ballot election passed by the *Knesset* on March 7 is expected to be implemented in the next parliamentary elections in 2003, the effect of the new Law is already evident. Passage of the law improves Mr. Sharon's prospects of

staying in power until the end of the *Knesset* term in 2003, since his small coalition partners will be cautious not to topple the government for fear they will disappear in a new election.

It has been suggested that the changes discussed above guarantee more political stability, even with the present composition of the *Knesset*. "If the religious parties or the extreme right threatens Ariel Sharon, he can easily replace them with some of the parties that are now outside his coalition. On the other hand, if Sharon tilts too much to the right, there can be a Center-Left-secular coalition of 62 [of the 120 *Knesset* Members] that can present a successful no-confidence motion with an alternative prime minister, such as Shimon Peres." (D. Bloch, "Good Riddance," *The Jerusalem Post*, Mar. 11, 2001, via LEXIS/NEXIS). (Ruth Levush, 7-9847)

SOUTH PACIFIC

AUSTRALIA --Campaign Finance Loopholes

The Australian Federal Parliament's Joint Standing Committee on Electoral Matters is holding an inquiry on electoral funding and disclosure of contributions. The Committee is considering recommendations for amendments to the Commonwealth Electoral Act 1918, as amended through 1997. In August 2000, the Australian Electoral Commission made a submission to the Committee that listed recommendations it made after the 1998 federal election and subsequent suggestions for modifying disclosure by broadcasters and publishers as well as organizers of fund-raising events. Recent press activity has highlighted loopholes in the existing law and brought the issue of campaign finance reform to the forefront of political discussion, to the extent that both the Prime Minister and the leader of the opposition

have committed themselves to supporting further (although rather different) modifications of the existing law.

Among the suggested amendments are prohibiting contributions from foreign donors, increasing the penalties for failure to disclose contributions, and giving the Australian Electoral Commission authority to review the continuing eligibility of registered political parties (which receive public funding for electoral expenses) and to de-register parties that fail to provide the documentation required. The Commission has also proposed closing the so-called "Markson Sparks Loophole," named for private fundraiser Max Markson who has organized fundraising events for the Australian Labor Party and written a single check for over one million Australian dollars (about US\$520,000) with himself listed as the only donor. This conceals the identities of all those who contributed through Mr. Markson. A similar practice is known as the Greenfields Loophole whereby a private foundation, which is not required to disclose the source of its funds, guarantees the debt of a political party, and so pays it off. The Greenfields Foundation paid off the A\$4.6 million debt of the New South Wales Liberal Party in this manner. A major Sydney accounting firm has recently admitted to contributing A\$437,000 to the New South Wales Liberal Party through its Millennium Forum but not disclosing the contributions, which it categorized as a marketing expense.

Since the early 1980s, campaign finance has periodically become an issue in Australian politics, and it appears to be returning in time for the expected December 2001 federal election. (Electoral Funding and Disclosure Inquiry, Joint Standing Committee on Electoral Matters, Parliament of Australia, at

<http://www.aph.gov.au/house/committee/em/f&d/index.htm>; Submission to the Joint Standing Committee on Electoral Matters, Australian Electoral Commission, Oct. 17, 2000, at <http://www.aec.gov.au/committee/jscem.htm>; "Howard and His Team Rented by the Hour," *Sydney Morning Herald*, June 13, 2001; "Editorial: The Donations Game" *Sydney Morning Herald*, June 13, 2001, at <http://www.smh.com.au> (D. DeGlopper, 7-9831)

INTERNATIONAL LAW & ORGANIZATIONS

CENTRAL AMERICA/MEXICO--Regional Pact Signed

On June 15, 2001, the tiny nation of El Salvador received the presidents of Mexico, Belize, Guatemala, Honduras, Nicaragua, Costa Rica and Panama, who agreed to create a strategic alliance to strengthen the development of the region and enhance the potential of the 135 million inhabitants of the area. (*El Universal*, Mexico City, June 15, 2001, via http://www.el-universal.com.mx/pls/impren.version_imprimir?id_nota=3923&tabla=notas)

The regional pact is known as the Puebla-Panama Plan (PPP) because it stretches from the Mexican state of Puebla southward to the Isthmus of Panama. The Plan is the initiative of Mexican President Vicente Fox Quesada and encompasses agreements on emigration, energy, communications, transportation, and the environment. The Inter-American Development Bank was represented at the Summit and has agreed to fund 16 projects that were discussed. The assembled chiefs of state also discussed the human rights of emigrants who pass through Mexico with intentions of crossing into the

United States through its southern border. (*BBC Mundo, America Latina*, June 15, 2001, via http://www.bbc.co.uk/hi/spanish/latin_america/newsid_1389000/1389344.stm)
(Sandra Sawicki, 7-9819)

CHILE/GERMANY--Construction of Naval Ships

The government of Chile signed an agreement with Germany on May 21, 2001, for the construction of a group of frigates for the Chilean Navy that will represent an investment of \$1.6 billion. The Chilean Navy has been involved since 1998 in a project called "Trident" that aims to modernize its fleet of warships. The agreement was signed by the president of Chile, Ricardo Lagos, and his German counterpart, Rudolph Shering, in Santiago. Construction of the first frigate will begin in 2002, and it is planned that four will be in service by 2009. Four remaining ships will be put in service during the second decade of the 21st century. (*CNNenEspanol*, May 21, 2001, via <http://www.cnnenespanol.com/2001/latin/05/21/chile.armada.reut/index.html>)
(Sandra Sawicki, 7-9819)

GREECE/UNITED STATES--Technical Agreement

After two years of negotiations between Greece and the United States, the two parties signed a Comprehensive Technical Agreement (CTA) on June 13, 2001, with the objective of strengthening their defense relationship and establishing the foundation for further defense partnership in the 21st century. The Agreement deals with the status of US forces in Greece, which has been the subject of a number of prior bilateral agreements supplementary to the NATO Status of Forces Agreement (SOFA), as well as with the status of Greek forces in the US on official duty. (Greek Embassy, Press Office, June 2001).
(Theresa Papademetriou, 7-9857)

H A G U E C O N V E N T I O N O N INTERNATIONAL CHILD ABDUCTIONS--Children Thwart Their Return to New Zealand

Three young children, a 14-year-old girl and her two younger brothers, successfully resisted attempts by officials of the United Kingdom's Court of Appeal to return them to their father in New Zealand by turning their house into a fortress and arming themselves with cricket bats and a kitchen knife. The children, born in New Zealand, were ordered to be returned there under the provisions of the Hague Convention on International Child Abduction.

The Court of Appeal's tipstiffs, enforcement officials with the power of arrest, were unable to persuade the children to leave the house after the two boys locked themselves in a bathroom and their sister refused to get out of bed. The officials left without the children and the President of the High Court, Family Division, Dame Elizabeth Butler-Sloss, admitted that the courts were powerless to enforce the Convention. "We are now in a position we have never come across before. The order has become impossible to implement," she stated.

The three children later declared that the courts should have paid more attention to what they wanted. "This is supposed to be one of the oldest justice systems in the world. English justice has let us down," the 13-year-old brother said. (Dominic Kennedy, "How Boys Beat Law To Be With Mother," *The Times*, May 28, 2001. For a study of the enforcement of the Convention in 25 countries see *A Report to the Committee on Foreign Relations, United States Senate, by The Law Library Of Congress*, Committee Print, S. Prt. 106-76 (Oct. 2000).)
(Kersi B. Shroff, 7-7850)

ORGANIZATION OF AMERICAN STATES--Democratic Charter Stalled

At the annual meeting of the Organization of American States, held in San Jose, Costa Rica, during the first week of June, delegates failed to enact a US-backed provision that would allow the OAS to oust a member nation that experiences a coup or any other suspension of democracy. Known as the Democratic Charter, the proposed agreement would have given the 34-member inter-American organization the power to suspend a country that violates democracy through coups, election fraud, human rights violations, and other similar situations. In the midst of complaints that the OAS rushed the proposal and debate, the charter will be taken up for a vote in October.

The OAS was mandated by the region's heads of state to develop a new rule at the Summit of the Americas meeting in Quebec City in April 2001. Approval was expected during the San Jose meeting, where the national delegations consisted of foreign ministers and OAS ambassadors, but when objections arose, the OAS decided instead to review the proposal and enact it at a special meeting in the fall.

Agreement exists on the need for the charter, but there are divergent viewpoints on its details. A group of non-governmental organizations present emphasized that the charter's language was too open to interpretation. Venezuela, the most vigorous opponent of the initiative, argued that the new charter would empower the regional organization to intervene in internal governmental crises and thus overstep its role. The major proponent of the charter is Peru, backed enthusiastically by the United States. The US Ambassador to the OAS, Luis J. Lauredo, expressed confidence that the Democratic Charter would be approved. Peru's OAS ambassador, stated that the

proposal would benefit from the delay. (*The Miami Herald*, June 7, 2001, via <http://cgi.herald.com/cgi-b.content/news/americas/digdocs/110298.htm>) (Sandra Sawicki, 7-9819)

SHANGHAI COOPERATION ORGANIZATION--Cooperation Against Terrorism

Leaders of China, Russia, Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan met in Shanghai in June 2001 to form a new cooperative body, the Shanghai Cooperation Organization (SCO). The organization evolved from the "Shanghai Five," a group that had included all the countries except Uzbekistan and that had been meeting for five years to discuss regional cooperation and border issues.

At the Shanghai meeting, the presidents of the six nations signed a joint statement forming the group. Two major documents were signed, the Declaration on the Establishment of the Shanghai Co-operation Organization and the Shanghai Convention on Combating Terrorism, Separatism, and Extremism. In addition, Interim Rules of Procedure for the Council of Coordinators of the Member States of the SCO were completed. (*China Daily*, June 15, 2001, via LEXIS/NEXIS, Asiapc library.)

The heads of states agreed that the foreign and defense ministers of the SCO member countries will hold annual meetings to strengthen and expand their cooperation. A major concern is security and stability in central Asia, with a focus on opposing terrorism. A proposed anti-terrorism center to be located in Bishkek, the capital of Kyrgyzstan, would permit greater coordination of efforts against terrorists. (*SCO Benefits Regional Peace and Security*, *Xinhua*, June 15, 2001, via LEXIS/NEXIS, Asiapc library.) Members of the group hold that violent separatist movements, particularly those led by militant Islamic groups, are serious threats to stability; the countries

argue that these movements are supported by the Taliban of Afghanistan and by groups in Pakistan. (*Shanghai Summit Issues Press Communique*, Xinhua, June 15, 2001, via LEXIS/NEXIS, Asiapc library; China News Digest Global Edition, June 15, 2001, <http://www.cnd.org/Global/01/06/16/010616-1.html>)

Trade and economic cooperation between the SCO states will be expanded in the years to come. According to President Nazarbayev of Kazakhstan, once border issues are resolved, the six countries should turn their attention to economic issues. A summit of the SCO nations will be held in Kazakhstan this fall to focus on long-term economic and trade relations. (*SCO Nations To Upgrade Economic Cooperation: Kazakh President*, Xinhua, June 15, 2001, via LEXIS/NEXIS, Asiapc library.)

In addition, the group signed a statement in support of the 1972 Anti-Ballistic Missile Treaty. (China News Digest Global Edition, June 16, 2001, <http://www.cnd.org/Global/01/06/16/010616-0.html>)
(Constance A. Johnson, 7-9829)

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Home Office. Home Office Police Research Group Briefing Notice. COST BENEFIT ANALYSIS OF TRAFFIC LIGHT AND SPEED CAMERAS. Police Series Paper 20. London: Home Office Police Policy Directorate Research Group, 1996. 58 pp.

The number of police forces using speed and traffic light cameras has increased steadily in recent years. In 1994, it was estimated that more than half of all police forces were using cameras, and by March 1996, in ten police forces, there were 102 cameras servicing more than 700 sites. This analysis, commissioned by the Home Office in conjunction with the Traffic Committee of the Association of Chief Police Officers, is a detailed cost benefit analysis of traffic light and speed cameras. The report also contains recommendations on agency consultation, siting of devices, ratio of cameras to houses, signs, publicity, operations, and specific enforcement techniques as points for action. The study was conducted between November 1995 and March 1996. The average fixed cost per traffic light was £9,200.00 and recurring costs were £5,600.00 per year for each site. Eighty-five percent of the fixed costs were met by the local authorities; police met 67%, and magistrates 25%, of recurrent costs. During the six months of the study, traffic light prosecutions increased; the average prosecution cost was £.46. The average cost for a speed camera per site was £12,500 and the recurring costs were £8,500 per year, with local authorities, police, and the magistrates' courts covering the costs. For the areas studied, accidents fell sharply at speed camera sites and traffic light sites. Average speed was reduced by 4.2 miles per hour per site.

House of Commons. Defense Committee. DRAFT EXPORT CONTROL AND NON-PROLIFERATION BILL. Seventh Report. Session 2001-01. HC 445. London: The Stationery Office, May 1, 2001. 48 pp.

This latest quadripartite committee report recommends a review of export control regulations. Many of these regulations have been in place since they were introduced as emergency legislation in 1939. The draft bill would address the issues of weapons of mass destruction (WMD), WMD technology, brokering, trafficking, electronic communications, end-use and licensed production overseas. These are issues that could not have been addressed at the beginning of World War II. The report also recognizes, as have previous reports, the increased openness and accountability in arms licensing of the current Parliament.

House of Lords. The Select Committee on the European Union. Reducing air traffic delays in Europe. Session 2001-01. HL Paper 79. London: The Stationery Office, May 8, 2001. 151 pp.

This report details the European Commission's Single Sky Initiative findings on how air traffic management (ATM) might be improved, with particular emphasis on civil-military coordination. Air traffic congestion in Europe is the leading cause of air traffic delays and reduced capacity in the region and is attributed to inefficient air traffic management, mandatory accommodation of the military, and increased demand for civilian flights and services. The situation is worse in countries such as France, where a segregated military airspace runs through a heavily-used corridor. ATM problems are difficult to solve because of a lack of consistency in procedures for civil and military cooperation in European states and of the sovereignty issues inherent in anything affecting the military. Single Sky offers the opportunity to provide strong regulations and legislation for EU member states. The European Organization for the Safety of Air Navigation, the Belgian-based organization that is the single greatest

center of expertise on European air traffic management, has been given the responsibility of developing a program of initiatives designed to update and harmonize European ATM systems.

THE WORLD TRADE ORGANIZATION: SELECTED RECENT DEVELOPMENTS

Lumber Dispute Ruling¹

On June 29, 2001, a panel report was issued on the Canadian complaint that the United States was breaking international trade rules in its measures affecting the lumber industry. The dispute was originally raised by Canada last year, in response to a U.S. statement of administrative action on Canada. Canada bans exports of raw logs, which the U.S. claims is a hidden Canadian government subsidy to the Canadian lumber industry, since it results in a glut of lumber in the Canadian domestic market. The U.S. has never used the administrative action provision against Canada, but Canada had raised the issue with the WTO to prevent future use. The panel report will be circulated to the Members of the WTO for comment in the next 60 days.

Mexican Corn Syrup Report²

A panel report was issued on June 22, 2001, stating that Mexico has failed to implement previous panel recommendations on the anti-dumping investigation of high-fructose corn syrup from the United States. The original panel report had been issued in January of 2000 and stated that while Mexico's initiation of the anti-dumping investigation was consistent with the provisions of the Anti-Dumping Agreement, the imposition of definitive anti-dumping measures on imports of the products was inconsistent with other provisions of the Agreement.³

Intellectual Property and Access to Medication⁴

A WTO special discussion, involving presentations from more than 40 nations on Intellectual Property and Access to Medicines, was held on June 20, 2001, and chaired by Ambassador Boniface Chidyausiku of Zimbabwe. At the conclusion the Ambassador stated, "I think I can safely say that all members are determined to ensure that the TRIPS Agreement is part of the solution and not part of the problem of meeting the public health crises in poor countries. That includes the HIV/AIDS crisis in my own continent of Africa, but HIV/AIDS is by no means the only problem." The TRIPS Council is planning additional discussions on the subject.

¹ Text of report at: http://www.wto.org/english/tratop_e/dispu_e/distab_e.htm#ds194; see also "WTO Rules for U.S. on Lumber Issue," AP, June 29, 2001, http://dailynews.yahoo.com/h/ap/20010629/bs/wto_lumber_disputer_2.html

² http://www.wto.org/english/news_e/news_e.htm#med

³ See WLB2000.02.

⁴ http://www.wto.org/english/news_e/pres01_e/pr233_e.htm

RECENT DEVELOPMENTS IN THE EUROPEAN UNION

by Theresa Papademetriou, Senior Legal Specialist, Western Law Division*

Proposal for a Directive on Insider Trading and Market Abuse¹

The European Commission has intensified its efforts to establish common rules against market abuse in all Member States and to improve investor confidence in this field. It recently proposed a draft Directive that replaces the outdated existing Insider Trading Directive (89/592/EEC). The proposal requires that Member States prohibit any natural or legal person who is in possession of inside information from taking advantage of that information for himself or for the benefit of a third party, from disclosing that inside information to any third party, and from recommending or procuring a third party to acquire or dispose of financial instruments related to that information. It also obliges the Member States to ensure that the public receives inside information promptly from issuers of financial instruments. The Directive does not apply to trading in a company's own shares in "buy back" programs, nor to transactions for monetary, exchange-rate, or public debt-management policy by a Member State, a national central bank, or any other body. Member States are also required to designate a single administrative authority with supervisory and investigatory powers to ensure the application of the Directive.

Prohibition on Tobacco Advertising²

Eight months after the European Court of Justice annulled a Directive that prohibited tobacco advertising on the grounds that it had exceeded its legal basis and after taking under consideration that judgment and the Advocate General's opinion, the European Commission came up with another proposal for a Directive on tobacco advertising and sponsorship. The draft Directive bans advertising of tobacco products on the radio and the Internet, thus complementing an existing 1989 Directive that prohibits tobacco advertising on television. The draft Directive also prohibits sponsorship of cross-border events that involve tobacco promotion. Under its provisions, tobacco companies may continue to sponsor local or national events. However, the Directive also bans the free distribution of tobacco products in the context of sponsorship events.

This Directive complements the Directive on Tobacco Products that was recently approved by the European Parliament and that calls for strict anti-smoking measures. The Directorate-General on Health and Consumer Protection of the European Commission announced its intention to prepare additional measures, such as a Council Recommendation also dealing with tobacco issues. The Recommendation would advocate health warnings on automatic vending machines, non-operation of such machines if minors attempt to make purchases, and monitoring of tobacco products.

Revision of the Generalized Scheme of Tariff Preferences (GSP)³

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¹ [Http://europa.eu.int/index_en.htm](http://europa.eu.int/index_en.htm)

² [Http://europa.eu.int/comm/dgs/health_consumer/library/press/press144_en.html](http://europa.eu.int/comm/dgs/health_consumer/library/press/press144_en.html)

³ [Http://europa.eu.int/comm/trade/mit/devel/ngsp_reg.htm](http://europa.eu.int/comm/trade/mit/devel/ngsp_reg.htm)

On June 12, 2001, the European Commission adopted a proposal for a new regulation that calls for amending the Generalized Scheme of Tariff Preferences for the period of 2002-2004. The proposal includes the recent "Everything But Arms" initiative in favor of the least developed countries, which the EU has followed since March 1, 2001. In general, the proposal aims to simplify the rules, make the system user-friendly, and harmonize the procedures on the various arrangements. Products will be classified into only two groups, sensitive and non-sensitive. Non-sensitive products will maintain their duty-free status.

Regulation of Pig Farming⁴

While animal activists and the press in the United States have recently been questioning the manner in which pigs are raised for consumption, particularly the use and the size of stalls, on June 15, 2001, the European Parliament went ahead and approved a proposal submitted by the European Commission on amending the rules on pig farming. The new proposal increases the size of the stalls where the animals are raised and includes a ban on keeping pregnant sows in individual stalls. Tethering is prohibited in all Members States as of 2006. The proposal also contains a prohibition on all imported pork from countries that do not have standards in place that are similar to those in the European Union. Such a ban may have trade implications for the United States and other countries that have different rules on pig farming.

European Parliament Supports Control on Breast Implants⁵

The European Parliament has adopted a resolution that calls for two new measures: a) a prohibition against silicone breast implants for women below the age of 18; and b) the establishment of national registers of all breast implants. Moreover, the resolution supports the Commission's idea of issuing guidelines in order to ensure that implants meet the highest standards of safety and quality. The European Parliament recommended that the guidelines also ensure that all patients have free access to all pertinent information and that any advertising of breast implants include health warnings.

European Parliament Approves New Rules on Animal Feed⁶

The European Parliament endorsed the Commission's proposals calling for stricter rules on animal feed and on processing and recycling animal remains. The Commission in its proposal prohibits the use of material from dead or sick animals as animal feed. Only healthy animals intended and approved for human consumption can be used as feed. The proposal still needs to be approved by the Council of the European Union.

⁴ [Http://www.europarl.org.uk/index.htm](http://www.europarl.org.uk/index.htm)

⁵ *Id.*

⁶ *Id.*