



WORLD LAW BULLETIN

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Some highlights of this month's issue:

Anti-Terrorism-Australia, China, Czech Republic, Japan,
United Kingdom

Immigration-Canada, United Kingdom

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The WORLD LAW

BULLETIN: a monthly awareness service prepared by the Staff of the Law Library of Congress.

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AFRICA

ANGOLA--Need for Domestic Violence Law

On December 5, 2001, Emilia Fernandez, a women's rights advocate, spoke of the need in Angola for a law on domestic violence, which is on the rise in the country. She made her recommendation during a 16-day program in Luanda that studied gender violence. Fernandez pledged that her organization, Women Network-Angola, would conduct a study on violence against women to analyze the various aspects of positive law, as opposed to customary law. The results of the study are meant to contribute to the drafting of a law on violence. The Provincial Director of the Ministry of Women and Family Affairs, Alzira Caldeira, opened the program, which mainly discussed the 1979 Convention adopted by the United Nations to eliminate all forms of discrimination against women. (*Angola News Index*, Dec. 5, 2001, via <http://www.angola.org/news/NewsDetail.cfm?NID=6164>) (Sandra Sawicki, 7-9819)

AMERICAS

CANADA--Immigration Reforms

Canada recently amended its immigration rules to reform the manner in which skilled workers will be allowed to become permanent residents, beginning in June of 2002. At present, skilled workers generally are required to have job offers for employment in fields that have been determined to have labor shortages. The new system will not require the applicant to be seeking employment in designated fields, but it does place new emphasis on education and language skills. In addition to requiring a knowledge of French or English, immigration officials will award points to applicants who have work experience and advanced degrees. The Government contends that by seeking immigrants with more than bachelors' degrees, Canada will be admitting a brighter class of skilled workers.

One of the most controversial aspects of the reforms is the fact that they will apply to applications that have already been filed, but not assessed, as of June 2002. Approximately 500,000 applicants are now waiting for interviews. Immigration lawyers contend that this is unfair to persons who have paid the application fee (Can\$500, about US\$318). The Government contends that the fact that the rules were about to be changed was well known when the outstanding applications were filed. The Government also contends that it is not trying to reduce the percentage of independent immigrants who are admitted as skilled workers. That group currently outnumbers family-sponsored immigrants by approximately 60 to 40 percent. The Minister of Immigration has indicated that the current objective is to achieve immigration levels of approximately one percent of the population per year, or about 300,000. ("Caplan Defends 'Best, Brightest' Immigration Rules," *Toronto Star*, Dec. 20, 2001.) (Stephen Clarke, 7-7121)

CHILE--Ban on Discrimination Based on AIDS

The Chilean government promulgated a law on December 4, 2001, that prohibits discrimination against people with AIDS. President Ricardo Lagos signed the law, which affects thousands of victims of the disease. Statistics show that around 4,000 Chileans have declared that they are ill with the disease, although experts believe that the actual figure is nearly double that number. Between 1978 and 2000, 2,705 people died from the disease. President Lagos stated that beginning on the date of the law's promulgation,

physical examinations will be voluntary and confidential. The law's enactment complements a new campaign on Chilean public television that promotes safe sex. (*CNNenEspanol.com*, Dec. 4, 2001, via <http://www.cnnenespanol.com/2001/salud/12/04/ley.sida.ap/index.html>) (Sandra Sawicki, 7-9819)

MEXICO--Access to Information Bill

The chief executive of the Mexican government, Vicente Fox Quesada, proposed a Federal Law on Transparency and Access to Information and sent the bill to Congress for consideration on November 30, 2001. (*El Universal*, Mexico City, Dec. 4, 2001, via http://www.eluniversal.com.mx/pls/impreso.version_imprimir?id_nota=36759&tabla=notas). The movement for more open information is supported by editors, educators, and civic action groups who hope for the passage of a U.S.-style freedom of information act. "Lack of access to information fuels corruption and actually makes us have a lower quality of life," according to Ernesto Villanueva, a communications professor at the Ibero-American University who is part of the movement for a freedom of information law. Proponents of a law wish to open to everyone information that has traditionally been guarded by those officials in the upper echelons of power who, they charge, manipulate data. They say that officials in all three branches of government are guilty of withholding information. (*Los Angeles Times*, Mar. 22, 2001, via <http://www.latimes.com/news/nation/20010322/t00002493.html>).

Communications specialists say that submission of the bill is a positive step, but they feel that there are certain inadequacies in the proposed law. The proposed Commission on Guarantees of Information does not have the capacity to enforce the provisions of the law in autonomous public interest organizations or private firms that carry out activities and programs with public funds. Another deficiency is that sanctions on public servants who do not supply information or who make bad use of information are not defined. The proposed law also leaves the decisions on what information becomes classified or reserved and what other data may be released to minor authorities instead of higher officials, a feature that the experts feel detracts from the overall effectiveness of the initiative. (*El Universal*, *supra*.) (Sandra Sawicki, 7-9819)

MEXICO--Education for Handicapped Children

On December 11, 2001, the Chamber of Deputies approved reforms to the General Law on Education that would allow regular schools to accept handicapped children who have been evaluated medically and psychologically; schools that discriminate against these types of students would be penalized. The reform adds a clause to article 75 of the General Law on Education that was sent to the Senate of the Republic for its approval. The action by the Chamber represented a success for interest groups and non-governmental organizations who support the rights of the handicapped and who mobilized forces to gain acceptance of the measure. The reasoning behind the reforms was that the majority of handicapped students may be integrated in regular school facilities and those who cannot may enroll in special education schools. (*El Diario de Chihuahua, Diario Digital*, Dec. 12, 2001, via <http://www.diar.io.com.mx/pais/nota3.html>) (Sandra Sawicki, 7-9819)

VENEZUELA--Businessmen Oppose Series of Laws

Venezuelan business leaders said on December 13, 2001, that they will ask the Supreme Court of Justice to annul 49 laws that have been approved by President Hugo Chavez Frias under special powers that

were extended to him in November 2000 by the National Assembly of Venezuela (*See* WLB, April 2001). The laws cover a variety of economic and land issues. Pedro Carmona, the president of the country's most important business association, Fedecamaras, said the trade group will also present in "the coming days" a bill before the National Assembly to repeal the laws he described as "confiscatory," a threat to private property, illegal, and unconstitutional.

The business group is most alarmed about a new Organic Law on Petroleum (*see* next item) and a law that will distribute vacant lands among poor rural people. On December 10, 2001, Fedecamaras and labor unions organized a general strike, the first such stoppage joining business and labor, that paralyzed the nation. Carmona stated that his trade group is open to dialogue with both the legislative and judicial branches of government, and it is an encouraging sign that the Land Law will be discussed in the National Assembly in mid-December. (*CNNenEspanol.com*, Dec. 13, 2001, via <http://www.cnnenespanol.com/2001/america.13/empresarios.venezuela.reut/index.html>) (Sandra Sawicki, 7-9819)

VENEZUELA --New Organic Law on Petroleum

On November 13, 2001, President Chavez signed a new Organic Law on Petroleum that governs the exploration, exploitation, refining, industrialization, transportation, storage, marketing, and conservation of petroleum, as well as processes related to refined products and all work entailed in these activities. The Law does not apply to gas products. All petroleum deposits that exist in the national territory, whatever their nature, including those found at the bottom of the territorial sea, on the continental shelf, in the exclusive economic zone and within the national borders, belong to the Republic and are in the public domain. The Law contains provisions that apply to State and mixed private/public corporations. (*Gaceta Oficial*, Nov. 13, 2001, available through *El Universal*, Caracas, via <http://www.eluniversal.com/gacetaoficial/2001/11/13/167.html>.)

In the Exposition of Motives preceding the new Law, the President equates national security with the preservation of petroleum resources in Venezuela. He adds that legislation on petroleum follows only the Constitution in national importance, because it is the basis of the country's economy and society. In an effort to reduce instability and uncertainty in the petroleum market, the Law establishes a minimum royalty of 30% with an income tax rate of 50%. The President can reduce the royalty to 20% when he is assured that deposits in the Orinoco Petroleum Belt are not exploited economically through the use of this rate. The rate of royalty will stabilize needed income to support economic plans and programs. It is the State's option to receive royalties in cash or in petroleum, whose value will be calculated according to the market. (*Id.*) (Sandra Sawicki, 7-9819)

ASIA

CAMBODIA–First Trademark Law

On December 6, 2001, Cambodia's first trademark law was passed by the National Assembly. Its enactment is designed to increase investor confidence and demonstrate Cambodia's commitment to enacting legislation needed to join the World Trade Organization. The government has said that 45 additional laws are in the legislative plan for the next three years.

Although the country has not had a trademark law, more than 1,500 trademarks have been registered with the Ministry of Commerce since the early 1990s. The new law imposes a fine of US\$250-\$5,000 or a prison sentence of one to five years for violators of a company or individual trademark. (*Cambodia Daily*, Dec. 7, 2001, as reported in *Xinhua*, Dec. 7, 2001, via LEXIS/NEXIS, Asiapc library.) (Constance A. Johnson, 7-9829)

CHINA–Anti-Terrorism Provisions To Be Considered By Legislature

China's legislature will be considering amending the Criminal Code to deal more harshly with criminal behavior related to terrorism. The draft amendment, which would be the third amendment of the Code, was tabled at the December 24, 2001, session of the Standing Committee of the National People's Congress. It will make even joking about putting anthrax powder in a letter punishable by up to five years in prison. The same punishment is applied to those who deploy materials that are falsely represented to be explosives, poisons, or items that are radioactive or organically infectious. More severe punishments, including in serious cases the death penalty, will be applied to those who actually spread such materials. Under the current Criminal Law, three to ten years of imprisonment is the sentence for organizing, directing, or participating in terrorist activities; the amendment will specify a term of ten years to life imprisonment for the organizers and three to ten years, or simple detention, for other participants. The draft states that those who sponsor terrorism will be sentenced to five or more years in prison, and their property will be confiscated. (China News Digest, Dec. 17, 2001; *Xinhua*, Dec. 24, 2001, via LEXIS/NEXIS.) (Constance A. Johnson, 7-9829)

CHINA–Financial Institution Closings

On November 23, 2001, the State Council promulgated the Regulations on Closing Financial Institutions. Under the Regulations, any financial organization whose illegal or poor business performance poses a serious threat to the order of the financial market or the public interest will be shut down. The People's Bank of China (PBC), which is in charge of implementing the Regulations, will set up a special team to handle clearance of the affairs of closed commercial banks; the PBC or a relevant local people's government organization entrusted by the PRC will handle affairs related to the closing of non-banking financial institutions. PBC officials found derelict in their duties of approval and supervision of financial organizations will be punishable according to the relevant laws and regulations. (*Xinhua*, Dec. 4, 2001, via FBIS.)

In the past, because regulators had to strike a balance between the need to dissolve insolvent firms and the threat to social stability, few failed financial institutions went bankrupt; the majority were taken over by larger or stronger institutions. The Regulations are deemed to be much needed, according to analysts, because neither the Commercial Bank Law nor the Bankruptcy Law is considered adequate to deal with the problem, and the new provisions may also "mark a major step in preventing the country from sliding into the kind of financial quagmires that have plagued Japan for years." (*China Daily*, Nov. 23, 2001, via FBIS.) (W. Zeldin, 7-9832)

JAPAN–Amendment of Law on Self-Defense Forces

On December 7, 2001, the Japanese Diet passed an amendment to the 1992 law on Self-Defense Forces (SDF). The bill of amendment expands the scope of SDF participation in U.N. peacekeeping operations, lifting a ban on SDF engagement in activities such as disarming local forces, patrolling

demilitarized zones, inspecting weapons transport, monitoring cease fires, and collecting and disposing of abandoned weapons. Restrictions on the use of weapons by SDF troops in conducting peacekeeping missions have also been eased; for example, SDF troops may now use weapons to protect weapons stores. Prior Diet approval is still required for the dispatch of SDF troops on peacekeeping missions under the law. Passage of the bill will permit SDF participation in U.N. efforts to rebuild Afghanistan. (Tokyo *Kyodo*, Dec. 7, 2001, via FBIS.)
(W. Zeldin, 7-9832)

KOREA, SOUTH–Constitutional Court Ruling

In a 6-3 majority vote, the Constitutional Court of the Republic of Korea ruled on November 29, 2001, that the current Overseas Ethnic Koreans Act was unconstitutional. However, the Court decided in favor of the Act's retention until 2003. The Act contains a clause that defines Overseas Ethnic Koreans as those who emigrated after the founding of the ROK government in May 1948 or their descendants. The Court decision stated that this clause is in violation of the principle of equal protection, because "the Act grants several privileges, including easier entry, exit and employment, to the 'Overseas Ethnic Koreans' as defined by the Act, while it excludes those who emigrated to foreign countries before May 1948 from its scope of application. This is clearly unconstitutional and discriminatory." (Seoul *Yonhap*, Nov. 29, 2001, via FBIS.)

The Decision explains that most of the excluded persons left Korea to escape Japanese oppression or fight Japanese imperialism and opines that they and their descendants "actually deserve more privileges than, if not the same as, those who are currently covered by the Act." The number of persons covered by the Act is estimated to be 3.1 million, most of whom live in the United States or Japan; the number of those excluded from coverage is estimated at 2.5 million, most of whom live in China or Russia. (*Id.*)
(W. Zeldin, 7-9832)

TAIWAN–Draft Bill on Internet Cafés

On December 5, 2001, the Executive Yuan (Cabinet) approved a draft statute on Internet cafés, banning them from being located within 50 meters (165 feet) of elementary, junior, senior high, and vocational schools. This requirement is less strict than the 200-meter distance imposed under an administrative order of the Taipei City government. Under the bill, which is subject to approval by the Legislative Yuan, students under 15 years of age are forbidden from entering or staying in Internet cafés during school hours and between 10 p. m. and 8 a. m. Persons under 18 years old must be accompanied by an adult when visiting the cafés between 10 p.m. and 8 a.m. or have an approval document issued by a school. They must also present an identification card and be registered.

The Internet café owners who break the statute's restrictions will be subject to a fine of between NT\$50,000 (US\$1,441) and NT\$250,000 (US\$7,203). They will be fined from NT\$500,000 (US\$14,406) to NT\$2.5 million (US\$72,030) if they operate without registering with the government. The statute forbids the café owners from installing software enabling them to default switch all terminals to stop displaying material related to gambling or pornography should law enforcement officers enter the premises. The owners are also to advise customers not to view questionable material. There is a one-year grace period for the café owners to comply with the statute once it takes effect. (*ChinaOnline*, Dec. 10, 2001, via NEXIS; Taipei *Central News Agency*, Dec. 5, 2001, via FBIS.)
(W. Zeldin, 7-9832)

TAIWAN--Title Change on Passports

On December 15, 2001, it was reported that the government has decided to use the name “Taiwan” on the cover of the passports it issues, together with “Republic of China.” In the past, the word “Taiwan” appeared only inside the passports. It has been reported that the Ministry of Foreign Affairs has announced that the change will facilitate easy identification of the passport by foreign officials. The final design should be available by the end of 2002.

The change has been the subject of much debate and interest, on both sides of the Taiwan Straits. Those who favor the independence of Taiwan (rather than subscribing to the view of the People’s Republic of China (PRC) that Taiwan is part of China) see the passport revision as a step toward the eventual establishment of a Republic of Taiwan; those who favor future unification with the mainland argue that the change is unconstitutional, amounting to a change in the name of the Republic of China. (*China News Digest*, Dec. 17, 2001.) Wang Zaixi, the Deputy Directory of the Central Office for Taiwan of the PRC, has said that moves to use the word Taiwan on the passports issued by the Taiwan regime are “extremely dangerous.” (*Xinhua*, June 27, 2001, via FBIS.) (Constance A. Johnson, 7-9829)

UZBEKISTAN--Presidential Term Extended

The *Oliy Majlis*, the Uzbek legislature, adopted a decision that extends the presidential term in office from five years to seven. Relevant amendments to the existing legislation are prepared and will have been adopted by the end of 2001. President Islam Karimov was re-elected for a five-year term in 2000. (*BBC Worldwide Monitoring*, Dec. 6, 2001, at <http://site.securities.com>) (Peter Roudik, 7-9861)

EUROPE

BULGARIA--Bank Deposits Protection

The Law on Bank Deposits Guarantee entered into force in December 2001. According to the Law, deposits in the amount of 10,000 *leva* (about US\$4,600) will be guaranteed in case of bankruptcy. Deposits related to money laundering schemes are excluded from the protection from bankruptcy if the depositor has been sentenced for the crime of money laundering. Under the Law, banks are obliged to pay an annual premium of 0.5 percent of their deposit base for the previous year to a State fund for protection of deposits. (*BTA Daily News*, Dec. 6, 2001, provided by the Bulgarian Telegraph Agency at: www.securities.com) (Peter Roudik, 7-9861)

CZECH REPUBLIC--Law on Airlines’ Guarantee Against Damage Caused by Terrorism

Airlines that are licensed in the Republic are guaranteed against liability for loss of life, injury to health, or damage to property suffered by third persons and caused by war or terrorist actions under a new Law enacted October 26, 2001 (effective Nov. 20, 2001, Law No. 409/2001, *Collection of Laws*). Such loss or damage must have arisen in connection with the conduct of civil aviation. The guarantee applies to damage against which the airline is not insured that is in excess of the limit of payment stipulated in the insurance policy made by the airline with the insurer. The guarantee extends the coverage to US\$500 million

for a single event, without regard to the number of third persons suffering damage. Third persons are understood to be persons and property affected by events similar to those of the September 11, 2001, terrorist airplane attacks on the United States. They are not persons transported by the airline under a contract of transport, airline employees, or airline contractors. The guarantee is intended as additional insurance for airlines against the risks of war and terrorism.

(George E. Glos, 7-9849)

RUSSIAN FEDERATION--New Administrative Offenses Code

After the adoption of 125 amendments suggested by the President of Russia and 12 months of work by a conciliatory commission, one of the last remaining Soviet Codes was replaced with a new code, the Code on Administrative Offenses of the Russian Federation adopted by the Russian legislature. The Code broadens the list of criminal offenses considered to entail administrative responsibilities, including, for instance, violations of currency regulations and violations of laws on banks and banking. The sanction of 15 days' arrest is now excluded from the Code, and the application of the norms of the Convention on Human Rights is expanded. The notions of the guilt of a legal entity and of an individual have been redefined, and the term "administrative reprimand" is replaced with "administrative punishment."

Among the Code's new provisions are the introduction of punishment for being outside one's primary residence without a State identification document and a prohibition against forcible towing of private vehicles. The main sanction for an administrative offense is a fine. The procedure for calculating administrative fines has been altered and will be determined on the basis of the minimum monthly labor wage, which is currently US\$10. The smallest fine is one-tenth of the minimum wage. A limit has been set on the administrative fine for legal entities. Given that the minimum wage is constantly changing, it is expected that fines will grow. Constituent components of the Russian Federation have the right to fix administrative responsibility within the framework envisaged by the Code. The Code will enter into force as of July 1, 2002. (*ITA-TASS*, via FBIS, Document ID: CEP20011220000283.)

(Peter Roudik, 7-9861)

UKRAINE–Firearms Allowed for Journalists

Since December 7, 2001, Ukrainian journalists have been allowed to possess and use certain firearms. A special instruction has been issued by the Ministry of Internal Affairs (the police) that recognizes the danger associated with this profession in Ukraine, where violence against journalists is frequent and murders of those in the media who have investigated high-profile crimes have been the focus of public attention. The Instruction provides for a simplified procedure for journalists to buy, possess, and use weapons with rubber bullets and shotguns, which previously only the police could use. The Ukrainian Justice Ministry has already confirmed that the Instruction does not contradict the current legislation. To obtain a license, a journalist has to provide a letter from his employer and a medical certificate and take a special course on using firearms.

(*Segodnya*, Kyiv, Dec. 5, 2001, at <http://site.securities.com>)

(Peter Roudik, 7-9861)

UKRAINE–Mandatory Political Debates

A bill was passed with 263 votes on December 13, 2001, by the Ukrainian legislature calling for mandatory televised debates in the upcoming parliamentary elections scheduled for March 31, 2002. Both

ends of the political spectrum have supported the idea, which would require all registered parties, blocs, and candidates to participate on pain of being excluded from the race. The bill's opponents include President Kuchma, others in the executive branch, and the oligarchs who run some of the broadcast outlets that would be required to reschedule their prime time hours to accommodate the candidates' debates. Some centrist politicians also object on constitutional grounds. To override a presidential veto, 300 votes would be needed. (1:6 *RCC Political Review*, Dec. 27, 2001.)
(Natalie Gawdiak, 7-9838)

UNITED KINGDOM–New Program for Skilled Migrants

A points-based system to attract migrants with exceptional skills, abilities, or experience is to be introduced on January 28, 2002. Applicants will be awarded points for educational qualifications, work experience, past earnings and achievement in a chosen field. A person holding a Ph.D. will gain 25 points, those with a master's degree 25 points, and graduates 15 points. A minimum score of 75 points will be required. Points will be adjusted to accommodate differing pay scales around the world. A salary of £250,000 (about \$362,000) in the United States will gain 50 points, the same score as a person earning £90,000 in Nigeria.

The new system, to be run for an initial period of 12 months, differs from the current work permit scheme which requires an employer to obtain a permit for a prospective employee from overseas. Successful applicants will initially be allowed to stay in the country for 12 months, after which, on proof of employment, they will be granted a further three years' residence. After four years, a highly skilled migrant will be able to apply for permanent residence. Since the 1970s, immigration into Britain has been restricted to relatives of persons already settled in the country, asylum seekers, or those individuals who have money to invest or a particular job to take up. (Immigration & Nationality Directorate, *Highly Skilled People Given Opportunity To Move to the UK*, Press Release 327/2001; Philip Johnston, "Britain Opens Door to Foreign Professionals," *Daily Telegraph*, Dec. 14, 2001.)
(Kersi Shroff, 7-7850)

UNITED KINGDOM--New Anti-Terrorism Law in Effect

Several portions of a quickly enacted law to fight terrorist networks came into force on December 14, 2001. Among many other measures, the new law allows foreign-born terrorist suspects to be detained without trial. It also allows a derogation by the United Kingdom from the European Convention on Human Rights. The police are authorized to hold non-UK citizens without trial when deportation is not possible. The suspects can be held for six months, after which their cases will be reviewed by a special immigration tribunal. Portions of the hearing are to be held in secrecy. On December 19, police and immigration officers raided several locations in the country and up to twelve persons were detained under the new Act.

A leading civil liberties group has pledged to challenge the legislation in the courts. The Director of Liberty stated, "We pride ourselves on traditions of fairness and justice. By locking people up without clear evidence or access to a proper trial, the Government is violating these traditions. If we have real evidence that these people are guilty of the very serious crimes alleged, then they should be charged and put on trial. Imprisoning people without trial remains utterly unjust." (Anti-terrorism, Crime and Security Act 2001, ch. 24; "Terror Suspects Arrested under New Laws," *The Times*, Dec. 19, 2001.)
(Kersi B. Shroff, 7-7850)

NEAR EAST

ARMENIA--Code On Mineral Resources

The Armenian President signed into law a new Code on Mineral Resources of the Republic of Armenia. The Code repeals a similar document of 1992, in which some provisions were not clear and were in conflict with other current legislation because it had been adopted when the basis for the market economy was just being laid in Armenia. The new Code establishes the order in which mineral resources are to be developed, extracted, and used and the relations between the State and users of such resources. The newly approved legislation on mining concessions is included in the Code. This part of the legislation defines the legal relations involved in the right to exploit mines. The Code is considered by experts in the field as designed to create favorable conditions for attracting foreign investment. (ARMINFO [Armenian Agency of Rating and Marketing Information] News Wire at http://www.arminfo.am/index_ru.html) (Peter Roudik, 7-9861)

SOUTH PACIFIC

AUSTRALIA--Cabinet Approves New Anti-Terrorist Laws

On December 18, 2001, Australia's federal Cabinet approved a set of measures to strengthen the country's counter-terrorism capabilities. Terrorism offenses will be added to the Criminal Code and will include such ancillary acts as aiding, abetting, conspiracy, and incitement. Funding of terrorism will be made an offense under the Criminal Code. All terrorism-related offenses will carry a maximum penalty of 25 years' imprisonment. The Australian Security Intelligence Organization (ASIO), Australia's domestic intelligence body, will be granted additional powers to question people who may have information about terrorism, even though they may not themselves be involved in terrorist activity. ASIO will also be able to detain people for up to 48 hours, with those detained not permitted legal representation. Attorney-General Daryl Williams said that this last power was intended to be used only in very serious cases, e. g., to prevent a terrorist attack. The legislation amending various existing laws, including those on financial reporting and the interception of telecommunications, will be introduced into Parliament when it meets in February 2002. ("Upgrading Australia's Counter-Terrorism Capabilities," News Release, Office of the Attorney-General, Dec. 18, 2001, at <http://law.gov.au/aghome/agnews/2001newsag/1080a-01.htm>) (D. DeGlopper, 7-9831)

AUSTRALIA--New Privacy Law

On December 21, 2001, the Privacy Amendment (Private Sector) Act 2000 went into effect. It gives consumers the right to see such documents as medical records, credit histories, bank records, and tenancy databases. Consumers can choose to opt out of such direct marketing practices as unsolicited telephone calls or mail. Companies will not be allowed to pass on personal information to third parties without the consent of the individual concerned. Web sites will be required to inform Internet users if they deposit "cookies" on their personal computers.

The law applies to all private health providers and to businesses with an annual turnover of over A\$3 million (about US\$1.5 million). Enforcement will be in the hands of the federal Privacy Commissioner. Implementation of the law was delayed for a year to give businesses time to prepare for the new

requirements. (Privacy Amendment (Private Sector) Act 2000, No. 155, at <http://scaleplus.law.gov.au/html/comact/10/6269/0/CM000020.htm>; *Sydney Morning Herald*, Dec. 19, 2001, at <http://www.smh.com.au/news/>)
(D. DeGlopper, 7-9831)

INTERNATIONAL LAW & ORGANIZATIONS

BURMA/CHINA–Agreements Signed

On December 12, 2001, China and Myanmar (formerly Burma), concluded six bilateral agreements. They cover economic cooperation, technical cooperation, investment promotion, border security, fisheries, and environmental issues. The signing was part of Chinese President Jiang Zemin’s first official visit to the country. (*China News Digest*, Dec. 13, 2001.)
(Constance A. Johnson, 7-9829)

CHINA/JAPAN/MONGOLIA/RUSSIA--Disaster Relief Protocol

Representatives of the governments of China, Japan, Mongolia, and Russia signed a protocol on November 14, 2001, concerning disaster relief. An agreement was reached on effectively using all resources “to render international humanitarian aid at a request of countries suffering from a disaster” as well as on exchanging information and sharing experience to prevent and eliminate the aftermath of emergencies. The leader of the Russian delegation called the meeting that led to the protocol a “unique” event, noting that it served “to consolidate the efforts of a number of countries, map out common approaches, and establish a common legal-norm basis in the work to prevent emergencies.” (Moscow *ITAR-TASS*, Nov. 14, 2001, via FBIS.)
(W. Zeldin, 7-9832)

CHINA/SOUTH KOREA–Extradition Treaty

On December 29, 2001, the Standing Committee of the National People’s Congress of the People’s Republic of China ratified a treaty of extradition with the Republic of Korea. The treaty was signed by the parties on October 18, 2001, in Seoul. (*Xinhua*, Dec. 29, 2001, via FBIS.)
(W. Zeldin, 7-9832)

EUROPEAN UNION--Legal Action Against United Kingdom for ‘Lax’ Regulation of Lloyd’s of London

After a confidential investigation lasting two years, the European Commission has taken a formal step demanding evidence from the United Kingdom Government concerning its compliance with European Union laws in auditing the books of Lloyd’s of London. The legal process may eventually end up in the European Court of Justice.

Many “Names” (investors) in Lloyd’s, including American citizens, have been challenging the insurance syndicate in order to recoup some of the £15 billion (about US\$22.7 billion) in claims for liabilities

between 1988 and 1992. The investors argue that Lloyd's knew that the claims arising from asbestos litigation in the 1980s would be far higher than was originally expected and that this knowledge was kept from new investors. Some of the investors also claim that the British Department of Trade did not adequately oversee Lloyd's and allowed it to continue trading even though auditors could not guarantee its solvency. If the European Court rules that Britain failed to ensure that Lloyd's maintain enough reserve to cover liabilities, the Government will be forced to pay compensation. The investors estimate that total compensation could be £8 billion. (Ambrose Evans-Pritchard, "Europe Puts Britain in Dock over Lloyd's," *Daily Telegraph*, Dec. 20, 2001; Katherine Griffiths, "Lloyd's Names May Sue for £8bn Compensation," *The Independent*, Dec. 21, 2001.) (Kersi Shroff, 7-7850)

MEKONG RIVER NATIONS–Regional Cooperation

At the 10th Ministerial Conference on GMS (Greater Mekong Subregion) Economic Cooperation, held on November 29, 2001, ministers of Cambodia, China, Laos, Burma (Myanmar), Thailand, and Vietnam, all of which border the Mekong River, adopted a 10-year strategy to strengthen regional cooperation. By means of the strategy, the GMS countries seek to facilitate cross-border trade, tourism, investment, and other forms of economic cooperation and develop human resources and skills. Their respective national institutions will be strengthened to coordinate implementation of the program. The strategy includes a detailed action plan for the next three years, involving 10 flagship projects that require more than US\$900 million in investment financing as well as US\$30 million in technical assistance. The Asian Development Bank, which initiated the GMS Economic Cooperation Program in 1992, will help the Program mobilize resources.

Cambodia, Laos, Thailand, and Vietnam also signed a landmark cross-border agreement at the ministerial conference in order to facilitate the flow of people and goods. The agreement "simplifies and harmonizes legislation, regulations, and procedures relating to cross-border transport to facilitate rapid joint inspection." (*Xinhua*, Nov. 29, 2001, via FBIS.) (W. Zeldin, 7-9832)

UNITED NATIONS--Maritime Tribunal Declines To Suspend British Nuclear Waste Plant Expansion

The International Tribunal for the Law of the Sea in Hamburg has declined an application by Ireland seeking to suspend British plans to start reprocessing mixed plutonium and uranium oxide (MOX) at the nuclear waste facility in Sellafield on the Cumbrian coast opposite Ireland. Ireland had argued that the operation will contribute to the pollution of the Irish Sea and that the operation posed potential risks in the transportation of radioactive material to and from the plant. It sought an order for the suspension of the plans until an international arbitration tribunal was established to resolve the dispute. In its ruling, the Tribunal did not think that "the urgency of the situation" required the prescription sought by Ireland.

The Tribunal went on to order that the two countries cooperate and enter into consultations to exchange further information with regard to the possible consequences and to monitor risks or the effects of the operation of the MOX plant for the Irish Sea. The Prime Minister of Ireland has called for the entire Sellafield plant to be closed as being a "surviving dinosaur of a defunct military-industrial complex." The Norwegian Government is also reported to be considering legal action, and other campaigners believe that

pollution from the plant causes the above average cancer rates in some parts of Ireland. (MOX Plant Case (Ireland v. United Kingdom), Provisional Measures, Case No. 10, www.itlos.org; “UN Court Rejects Sellafield Challenge,” *BBC News*, Dec. 3, 2001.)
(Kersi Shroff, 7-7850)

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Terrorism: Foreign Legal Framework

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RECENT DEVELOPMENTS IN THE EUROPEAN UNION

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

Laeken European Council¹

The European Council, which convened in Laeken, Belgium, on December 14 and 15, 2001, discussed a number of significant topics, including the future of the Union and its enlargement, the single currency issue, the crisis in Afghanistan, and the fight against terrorism. After considering the general economic situation of the EU and the means to strengthen the Union in the areas of freedom, security, and justice, it adopted three declarations on: a) the future of the European Union; b) Common European Security and Defense; and c) the situation in the Middle East. With regard to the future of the European Union, the Council appraised the history of the Union from the time it came into being in the early 1950s as an economic community to its current status as a leading power along with the United States and Japan. In examining its role, the Council stressed that currently the Union is at a crossroads and faces twin challenges, from within its borders and from beyond them. The Council emphasized that the institutions of the Union must come closer to the citizens, by being more transparent, less bureaucratic, and more efficient. At the same time, the Council held, the Union has met the demands of its citizens for a stronger EU role in administration of justice, coordination of security, action against cross-border crime, improvement of employment opportunities, and combating poverty. In addition, it has adopted a common approach on environmental issues. In considering the question of adopting a Constitution for European citizens to be created by simplifying and reorganizing the existing treaties, the Council decided to convene a Convention to deliberate the future of the Union.

Regarding the issue of a common European security and defense policy, the Council acknowledged the progress that has been made on capability objectives. It pointed out that the latter have been strengthened through consultations and cooperation between NATO and the Union. The Council stressed that military and civilian capabilities must be developed in a balanced manner, in order to effectively manage any crisis.

On the Middle East, the Council called for an end to the violence and adherence to United Nations Resolutions 242 and 338, which reaffirm and recognize Israel's right to live in peace and security within its internationally recognized borders and which call for an end to the Occupation of Palestinian territories and for the establishment of a viable, independent, and democratic Palestinian State.

EURO: A Single Currency²

The *euro*, the currency that has been adopted by 12 European Union Members (Austria, Belgium, France, Finland, Germany, Greece, Ireland, Italy, Luxemburg, the Netherlands, Portugal, and Spain) was put into circulation as the common currency on January 1, 2002. Its symbol, which resembles an "E" but

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¹ [Http://europa.eu.int/rapid/start/cgi/gtxt=gt&doc=DOC/01/18/0/RAPID&lg=EN](http://europa.eu.int/rapid/start/cgi/gtxt=gt&doc=DOC/01/18/0/RAPID&lg=EN)

² [Http://europa.eu.int/euro/quest/](http://europa.eu.int/euro/quest/)

has two horizontal parallel lines across it, not only represents the initial letter of the word “Europe,” but also was inspired by the Greek letter ϵ (epsilon), since Greece was the cradle of western civilization. It is also as the initial letter of the word “Europe.” The two horizontal lines signify stability. The *euro* will be divided into seven notes and eight *euro* coins. One side of the coins will carry national symbols that each Member has chosen and the other side will carry a map of the European Union.

Copyright Dispute Between the European Union and the United States³

On December 19, 2001, the European Union and the United States reached a temporary agreement on a music copyright dispute. The dispute is based on the fact that small commercial establishments in the United States, such as shops, restaurant and bars, play music of European composers without paying the required royalties. The WTO dispute procedure a year ago decided in favor of the European Union. The EU Trade Commissioner and the US Trade Representative agreed that the United States will financially support projects and activities to benefit European composers. The obligation of the United States to amend its legislation in order to comply with the WTO obligations remains in effect.

Commission Communication on Cybercrime⁴

Following the conclusions of the European Council at Feira, which adopted a comprehensive plan on security and the fight against cybercrime, the European Commission recently organized a Forum on this topic. It took place in Brussels on November 27, 2001, with participants from all interested parties, such as privacy protection authorities, civil liberties organizations, and service providers. The Commission presented for discussion a Communication on “Creating a Safer Information Society by Improving Information Infrastructures and Combating Computer-related Crimes.” The Document addressed a variety of issues, including encryption, retention of traffic data, anonymous use, evidentiary validity of computer data, and other matters.

New Regulation on Community Designs⁵

This Regulation introduces a Community system for the protection of designs by following a simple procedure to register designs with the European Union’s Office for Harmonization in the Internal Market located in Alicante, Spain. The Office will be operational in 2003. Registration of designs under the national law of the Member States will also remain in effect. There are two distinct kinds of design protection directly applicable in the Member States: “Registered Community Design” and “Unregistered Community Design.” Holders of a Registered Community Design will be granted exclusive rights to use the design and to prohibit any other party from using it within the European Union for a period of 25 years. Holders of an Unregistered Community Design will be protected for a period of three years and only against intentional copying.

³ [Http://europa.eu.int/rapid/](http://europa.eu.int/rapid/)

⁴ *Id.*

⁵ *Id.*

SELECTED RECENT LAW REVIEW ARTICLES OF INTEREST

Greene, Adam. *The World after Dolly: international regulation of human cloning*. 33 GEO. WASH. INTL. L. REV. 341 (2001).

Recent cloning developments have allowed the replication of a human cell. This development is viewed in parts of the medical, religious, and ethics communities as a potential human rights violation, due to the implications for human dignity. The author argues for the development of a global treaty and regulatory structure, advocating the active involvement of the United States. While the U.S. has not passed human cloning legislation, California, Louisiana, Michigan, and Rhode Island have decided that it should be prohibited at the state level. In addition, 30 similar bills await enactment at the state level.

Schuck, Peter H. *Immigration at the turn of the new century*. 33 CASE W. RES. J. INTL. L. 1 (2001).

Immigration shapes economies, demographics, and policies and is a major determinant of the U.S. economic policy. Immigrants make up about 40% of the population growth in the U.S. The factors influencing the migration of people from all over the world to North America (particularly to the U.S., but also to Canada, to a lesser extent) have expanded to include the globalization of work and trade opportunities and the attraction of more stable and tolerant nation-states. In the author's view, the U.S. has maintained a receptiveness to immigrants that remains distinctive in the world, despite the challenges of the growth in population, illegal immigrants, criminal aliens, and the Immigration and Naturalization Service's dearth of fiscal and staffing resources to remedy the problems.