



# WORLD LAW BULLETIN

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Some highlights of this month's issue:

Adoption by Homosexuals Rejected-France  
Legalization of Medical Marijuana-The Netherlands  
Stem Cell Research Legislation-Australia  
Technology Export Controls-Taiwan

ANNOUNCING A NEW FOREIGN LAW BRIEF--  
Compensation for Victims of Terrorist Actions: Israel as a Case Study  
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## AFRICA

### ANGOLA--Cease-Fire Signed

On April 4, 2002, the Angolan government and the National Union for the Total Independence of Angola (known by its Portuguese acronym UNITA) signed an agreement to end 27 years of warfare in Angola, the longest conflict on the African continent. It is believed that the war caused around 800,000 deaths, displaced four million people, and left the country economically devastated and plagued with anti-personnel land mines. The signing took place in the Parliament building and was attended by President Jose Eduardo dos Santos, UNITA leader Paulo Lukamba, and legislators, diplomats, soldiers, and other interested parties.

United Nations officials praised the agreement as a forward step for Africa, where other war-torn countries are searching for peace. Under the cease-fire, the two warring parties will aim to eradicate the UNITA rebels. UNITA agrees to demobilize its 50,000 soldiers and armed supporters and surrender all its weapons. The government agrees to provide food and shelter for the rebels and up to 300,000 of their relatives for one year and to integrate 5,000 rebels into the military and 40 into the national police. (*BBC Mundo.com*, Apr. 4, 2002, via [http://news.bbc.co.uk/hi/spanish/news/newsid\\_1910000/1910486.html](http://news.bbc.co.uk/hi/spanish/news/newsid_1910000/1910486.html); *New York Times on the Web*, Apr. 5, 2002, via <http://nytimes.com/2002/africa/05ANGO.html?pagewanted=print>)

(Sandra Sawicki, 7-9819)

## AMERICAS

### GUATEMALA--Tax Controversy

During the first week of April, the Guatemalan government publicly accused five fast-food chains of evading taxes and warned that it could shut them down. The companies involved were: McDonalds, Wendys, Burger King, and two regional firms, Pollo Campero and Patsy. Mario Rivera, President of the Legislative Committee on Public Finances, stated that Congress would coordinate actions with the Superintendency of Tax Administration (in Spanish abbreviated SAT) to recover the amounts not collected in taxes. Rene Perez, SAT president, asserted that the businesses had not declared the value-added tax and that Guatemala will proceed to apply its tax laws. The announcement came on the same day that Congress passed a law that allows the publication of the names of companies and persons that defraud the tax system. (*CNNenEspañol.com*, Apr. 4, 2002, via <http://www.cnnenespanol.com/2002/econ/04/04comida.rapida.ap/index.html>)

(Sandra Sawicki, 7-9819)

### HONDURAS--Case Settled for AIDS Victim

A court in Honduras ordered the government to pay US\$800,000 to a woman who contracted the AIDS virus from a blood transfusion given in a public hospital. Maria Juarez, 31, was infected with the virus in March 1998, when she rushed to the hospital with abdominal pains. This is the first time in Honduras that an AIDS victim has received such a large settlement. It is estimated that 30,000 Hondurans have died from the disease since 1985. (*BBC Mundo.com*, Apr. 2, 2002, via <http://news.bbc.co.uk/hi/>)

latin\_america/newsid\_1907000/1907373.html)  
 (Sandra Sawicki, 7-9819)

### **MEXICO--Five-Year Health Plan**

Following in the tradition of previous governments, the administration of President Vicente Fox Quesada approved a decree on September 18, 2001, that launches a five-year program to give impetus to government actions in an important sector of the nation; this particular decree concerns the National Health Program for 2001 to 2006 (*Diario Oficial*, Sept. 21, 2001). The main thrust of the program will be to democratize healthcare to achieve a universal system for all Mexicans. The Decree states that the protection of health is not a product, an object of charity, or a privilege, but a social right. Diseases that will receive special attention are addictions to tobacco, alcohol, and drugs; obesity; tuberculosis; dengue fever; cervical and uterine cancer; cholera; rabies; diabetes; cardiovascular disease; mental illnesses; and HIV/AIDS. The new decree also covers environmental health; occupational health and safety; reduction of health risks to the poor; violent traffic accidents; family planning; medical training and quality of health care; professional certification; and increasing investments in health services, medical research, and health infrastructure.

[GLIN]  
 (Sandra Sawicki, 7-9819)

### **MEXICO--Labor Law Reforms**

The Mexican government has introduced a bill to reform the Federal Labor Law that so far has met with opposition from legislators of several national political parties and from union leaders. Labor Secretary Carlos Abascal Carranza said that nothing about the labor reform is set in concrete, and it is open to discussion between labor and business representatives, with the federal government hoping to serve as a coordinator of the negotiations. He clarified the goal of the bill as an effort to reach a consensus of all parties involved by their participation in a “working table” to make final proposals to the federal executive.

Areas of labor law that will be discussed by the working group include the right to strike, lengthening or reorganizing the work day, fixing salaries according to business productivity, and fighting union corruption. The Labor Secretary stated that the topic of compensation for unjustified layoffs is off the table for discussion because there is no mechanism such as unemployment insurance to substitute for this compensation. The ultimate goal of federal labor law reform, he said, is to make the legislation less rigid. (“Legislators, Union Leaders Reject Proposed Labor Reform,” *El Universal*, Mexico City, Apr. 18, 2002, via FBIS.)

(Sandra Sawicki, 7-9819)

## **ASIA**

### **BANGLADESH--Death Penalty for Acid Throwers**

In an effort to control and punish acid throwers, the Government of Bangladesh enacted a law to impose the death penalty for that crime, which is usually perpetrated by rejected boyfriends to disfigure the faces of the rejecting women. The new Act follows the Acid Control Bill, 2002, passed on March 13, 2002, for the control of import, production, transportation, sale, and use of acid in the country. The enactment of the law followed a rally in the capital seeking strict action against perpetrators of such acts. According to Bangladesh media reports, acid attacks have been on the rise and most of the culprits go unpunished, though not undetected. The victims, however, are harassed and intimidated for attempting to file complaints

and cases. According to a report published by the Acid Survivors' Foundation, it is stated that there were 338 cases of acid attacks in the country last year, 50 percent higher than the previous year.

In addition to making acid attacks punishable by death, the Law provides for the establishment of special courts to prosecute suspected offenders within 90 days of framing the charge. The previous law provided the punishment of life imprisonment as the maximum penalty for acid attacks which, it is alleged, was not implemented effectively. (*The Hindu*, Mar. 14, 2002, <http://www.hinduonnet.com/thehindu/holnus/03142204.htm>)  
(Krishan Nehra, 7-7103)

### **CHINA–Civil Case Evidence Reforms**

On April 1, 2002, the Provisions of the Supreme People's Court Concerning Evidence in Civil Cases went into effect. The Provisions break new ground by shifting the burden of proof in some civil cases onto the defendant. For example, if a hospital is sued for malpractice, it must provide evidence to show that the treatment was appropriate and did not harm the patient's health. In the past, the burden of proof in many civil cases lay with the plaintiff, who might not be able to afford the time or money to collect the requisite evidence against powerful defendants such as State-owned enterprises. Another significant feature of the Provisions is that secretly recorded audio-visual material may now be used as evidence if it is lawfully obtained and does not violate the rights of the defendant. A 1995 Supreme People's Court ruling had held that evidence recorded without the defendant's consent was inadmissible in court.

The ruling apparently is aimed at protecting victims of medical malpractice, in particular, as well as victims of patent violations, faulty goods, pollution, and pet attacks. It may also figure in bigamy or adultery cases by allowing spouses to present secretly recorded proof of their partner's infidelity and win compensation. (*Business Recorder*, Apr. 3, 2002, via NEXIS, News Library; Zhang Xia, *Rule to Defend Patients' Rights*, via <http://www1.chinadaily.com.cn/cndy/2002-03-29/63191.htm>) In a related development, it may be noted that on February 20, 2002, the State Council adopted the Regulations on the Handling of Medical Malpractice, which were promulgated on April 14 and enter into force on September 1, replacing 1987 provisions on the subject (*Xinhua*, Apr. 14, 2002, via FBIS).  
(W. Zeldin, 7-9832)

### **CHINA–Cloning, Gene Laws Being Drafted**

Legislators of the National People's Congress (NPC) are working on formulating laws on human cloning, gene resources, and biosafety. Separate laws will be prepared on these issues, rather than one comprehensive code; priority will be given to drafting laws protecting gene resources. There has been concern in China that foreign researchers may be collecting blood samples in China for study in outside facilities and that some foreign medical projects may subject Chinese citizens to health risks. Attention will therefore also be given to medical ethics issues. While some cities have created committees to deal with ethics questions in universities, research institutions, and hospitals, there is no overall regulation of these bodies and they generally do not have legal authority.

Zhu Lilan, a legislator from the NPC, recently stated at a meeting of biologists and legal scholars that law makers are "facing a lot of difficulties during current legislative work. For example, in trying to strike a balance between ethical considerations and pioneering scientific research and in respecting current

international standards while taking into account the country's needs." She went on to stress that although the work is complex, it is urgent, since ethical decisions in this area affect people's lives. ("Expert Panel Prepares Gene Law," *China News Digest*, Apr. 23, 2001.) (Constance A. Johnson, 7-9829)

### **INDIA--Dual Citizenship**

In 2001, the Union Government of India appointed a high-level committee to report on the feasibility of granting dual citizenship to persons of Indian origin (PIOs) residing in Europe, Canada, the United States, the United Kingdom, Australia, New Zealand, and Singapore. The committee, which was headed by the noted jurist, Dr. L.M. Singhvi, formerly the High Commissioner for India in the U.K., recently submitted its report. In accordance with commitments made during the election process, after receiving the 900-page report, the Union Government is now planning to grant dual citizenship to the above-mentioned Indians. Prime Minister Vajpayee has stated that he is in favor of dual citizenship, but not dual loyalty. Indians with dual citizenship will not be entitled to exercise the right of franchise nor contest an election under the election laws of India.

In stating that the Government has resolved the problem of dual citizenship of Indians in the above-mentioned countries, the report pointed out that the United States Government accepts but does not wholly approve of dual citizenship. One of the grounds for loss of U.S. citizenship is to become a citizen of a foreign country, which provision of the Immigration and Nationality Act of the U.S. will only be applicable if foreign citizenship is acquired with the intention of relinquishing U.S. citizenship. The U.S. Supreme Court, in re: *Vance v. Terrazas* (44 US 252 (1980)), observed that a person could not be deprived of U.S. citizenship without clear evidence that the person intended through his/her voluntary act of taking another country's citizenship to relinquish the U.S. citizenship. Under the present Indian law, however, if an Indian citizen takes up the citizenship of another country, his or her Indian citizenship is automatically voided. Apparently, the Government is eager to implement the proposal soon by changing this law, since it is not likely to involve any amendment of the Constitution of India. (*The Hindustan Times*, Jan. 9, 2002, <http://www.hindustantimes.com/nonfram/090102/detNAT15.asp>) (Krishan Nehra, 7-7103)

### **JAPAN--Emergency Legislation**

On April 17, 2002, the Japanese Cabinet submitted a package of three military emergency bills to the Parliament for deliberation. They include a bill governing Japan's response to foreign military attacks, an amendment to the Self-Defense Forces law that might expand the SDF's military activities, and a bill to amend the law establishing the Japan National Security Council. Work on the emergency legislation began as early as 1977, but successive administrations have heretofore not placed it on the legislative agenda.

Highlights of the bills are as follows: 1) enhancement of the powers of the Prime Minister, giving him the right to "direct" heads of local governments, designated public institutions, and transport, utility, and communications firms; 2) freeing of SDF activities from Japanese laws on traffic and land use, and in general further lifting restrictions on the scope of SDF military actions in comparison with three-year old legislation on emergencies in "areas surrounding Japan"; 3) extension of the scope of an "emergency" beyond a military attack, to situations where such attacks are "threatened" or "anticipated" (according to *China Daily*, this might give the government the excuse to take war-time actions in a wide variety of

situations); 4) punishment of civilians who refuse to obey government orders, e.g., to supply food and fuel to the military during emergencies. Restrictions on the people's constitutional freedoms and rights during an emergency would be "minimized," but what would constitute minimum restrictions is not specified. Japanese critics contend that this stipulation infringes on human rights. (*China Daily*, Apr. 19, 2002, via FBIS; *The Japan Times*, Apr. 22, 2002, via NEXIS, News Library, 90days File.) (W. Zeldin, 7-9832)

### **JAPAN–Intellectual Property Forum**

On April 16, 2002, the Ministry of Economy, Trade and Industry (METI) set up a government-private sector forum to protect Japanese firms' intellectual property rights from piracy in China and other parts of Asia. Matsushita Electric Industrial Co. Chairman, Yoichi Morishita, will chair the forum in which the Japan Automobile Manufacturers Association and 55 other industry groups as well as 79 companies are to take part. The group will look into damage to Japanese companies from piracy and copying of products, consult with the companies affected, ask relevant governments to crack down on piracy, and hold seminars for companies in East Asia to raise awareness of intellectual property rights. METI also deems it necessary, because of the rapid expansion of broadband networks that facilitate copying of software content, to establish as part of the forum a group exclusively dedicated to software piracy.

In a related development, on April 10, 2002, the Japanese government convened the second meeting of an advisory panel on national intellectual property strategy, which is slated on May 22 to compile an outline of action programs up to fiscal year 2005. ("METI To Set Up Intellectual Property Forum," *Kyodo*, Apr. 10, 2002; "METI To Set Up Business Group To Deal with Copyright Piracy," *Kyodo*, Apr. 15, 2002, both via FBIS.) (W. Zeldin, 7-9832)

### **KOREA, SOUTH–Immigration Law**

The Immigration Law of the Republic of Korea (ROK) has recently been amended to allow long-term foreign residents in the ROK to apply for "denizenship," legally sanctioned residency which, according to Ministry of Justice officials, would accord them certain legal rights comparable to those enjoyed by Korean citizens.

An appended presidential decree provides that those who have spent five years or more in Korea as an F-2 resident alien are eligible to apply for denizenship status. F-2 visas are granted to spouses of Korean nationals, denizens, government-recognized refugees, and investors in the country who have moved to the ROK. They must be renewed every five years. As of February 2002, the number of F-2 resident aliens who had spent five or more years in Korea totaled 21,620; the majority are Chinese or Taiwanese. The number of resident foreigners married to Koreans is almost 27,000, the great majority of whom are female. (Seoul *Yonhap*, Apr. 9, 2002, via FBIS.) (W. Zeldin, 7-9832)

### **TAIWAN–Draft Law on National Secrets**

On March 27, 2002, the Executive Yuan (Cabinet) approved a draft National Secrets Protection Law. It classifies state secrets into different grades and sets forth the conditions under which they can be

revealed. The draft law provides that persons convicted of leaking state secrets will face a sentence of from three to ten years' imprisonment. Persons who illegally flee Taiwan with national secrets will be imprisoned for up to two years or will incur a fine of up to NT\$200,000 (US\$5,714). Comprehensive protection is to be accorded to the sources and channels of national secrets and limitations are imposed on persons entitled to have access to the secrets. The law was drafted in the wake of a series of events related to national security and freedom of the press that have recently rocked Taiwan. (*Central News Agency*, Mar. 27, 2002, via FBIS.)

(W. Zeldin, 7-9832)

### **TAIWAN–Technology Export Controls To Be Drafted**

The Government Information Office announced on April 6, 2002, that the National Science Council's Institute for Information Industry (III) will be drafting a new law to prevent the outflow of high technology, including innovations developed by private enterprise as well as technical know-how created with government financial assistance. Such high technology will be subject to export controls that will be stricter than standard international practice in the fields of technical interchange. Criminal penalties including fines will be imposed on individuals and companies that break the rules. The III did state, however, that difficulties might arise from tight restrictions being placed on the use of privately developed technology, as company managers would view the technology as private property. Some officials therefore are considering a commercial intelligence law based on a United States model that would provide a mechanism for private enterprises to protect know-how through the government. In addition, the National Science Council will soon release measures to regulate the entry of Taiwan technology into mainland China. (*Taiwan Economic News*, Apr. 8, 2002, via FBIS.)

(Constance A. Johnson, 7-9829)

## **EUROPE**

### **BELGIUM--Lawyers from Other EU States**

The Law of November 22, 2001, to Facilitate the Establishment in Belgium of Lawyers from Other States of the European Union modified articles 428-477*nonies* of the Judiciary Code dealing with the bar (*Moniteur Belge*, Dec. 20, 2001). A lawyer practicing in another state of the European Union may, at his or her request, be entered on a list of European Union lawyers practicing in Belgium. The lawyer has to join the bar of the locale of his or her office in Belgium, either in the Dutch- or the French-speaking area, and has to use that language. The person must supply the bar with all information on home bar admission and standing. If the legal system of the home state is different from that of Belgium's, the lawyer has to pass an examination in Belgian law. When admitted, the lawyer must indicate in all writings his or her home state and title, in the language of that state. All professional activities as a Belgian lawyer may be undertaken; however, in appearances in court, the person must act together with a Belgian lawyer.

After three years of practice in Belgian law, including the law of the European Union, the lawyer may be entered on the list of members of the Belgian bar. As long as he or she is on the list of European Union lawyers, membership in the bar of the home country must be maintained. The lawyer is subject to all rules of the Belgian bar and must have the proper malpractice insurance. If a lawyer is disciplined, the decision taken is communicated to the home bar. If the license to practice in the home state is temporarily



suspended or if the lawyer is disbarred, he or she cannot practice in Belgium. A professional corporation of lawyers of a state of the European Union may also be admitted to practice in Belgium under the same rules, but it will not be admitted if a member of the group who holds part or all of its capital is not a lawyer. (George E. Glos, 7-9849)

### **BULGARIA--Access to Personal Files Restricted**

The Bulgarian Parliament repealed the 1992 Act on Access to the Files of the Former State Security and the Former Intelligence Directorate of the General Staff. Information contained in personal files at the former State Security Ministry was determined to be classified information and provisions of the Act, which regulated citizens' access to their files kept by the State security authorities and the mechanisms for checks on public figures, are included in the new Classified Information Act (*see also* WLB item below).

The decision to repeal the Act automatically disbanded the parliamentary commission in charge of the files and ends political speculation that information at the commission's disposal was used for political purposes. However, this move makes Bulgaria the only candidate member of NATO and the European Union that does not allow access to the files of the former communist security services. The parliamentary decision has raised questions about whether Bulgaria can provide firm legal guarantees that the national interest will not be made dependent on the former secret services and their collaborators. (*ISI Bulgaria*, Apr. 16, 2002, at [www.site.securities.com](http://www.site.securities.com)) (Peter Roudik, 7-9861)

### **BULGARIA--Classified Information Act**

Adoption of the Classified Information Act by the Bulgarian legislature is considered a key element of Bulgaria's NATO membership bid. The Act introduces an additional level of information confidentiality required under NATO standards--the classification of documents as super-secret. The right to propose classification of some documents as super-secret belongs to the defense and interior ministers and the heads of special services. The State Commission on Information Security, appointed by the Prime Minister, will be able to further limit access to documents already classified as top secret and could even deny clearance to the President, the Prime Minister, and the Speaker of Parliament.

Despite the fact that this additional level of confidentiality will restrict access of the executive branch and the legislature to certain kinds of classified information, it was created for cases over which better protection is required for the type of documentary information concerned or by the requirements for such confidentiality stemming from international treaties signed by Bulgaria. The Act will allow even documents and international agreements that have not been ratified by Parliament to be made classified (*Dnevnik* [Bulgarian parliamentary daily], Apr. 18, 2002; [www.dnevnik.bg](http://www.dnevnik.bg)) (Peter Roudik, 7-9861)

### **FRANCE--Adoption of Children by Homosexuals Rejected**

The European Court of Human Rights ruled on February 26, 2002, that France did not violate the European Convention on Human Rights by rejecting an adoption request by Philippe Frette, a Paris teacher, on the grounds that he was a homosexual. Mr. Frette had argued that France's position violated his rights

of non-discrimination and the respect of the privacy of his personal and family life under the Convention. The Court, in a 4-3 decision, cited divisions within the scientific community about “the possible consequences of children being brought up by one or more homosexual parents.” In addition, it noted the “wide difference of opinion both within and between individual countries.” As a result, the Court concluded that “a broad margin of appreciation had to be left to the authorities of each state, which were... better placed than an international court to evaluate local need and conditions.” Mr. Frette has three months to appeal the decision to the upper chamber. (*Affaire Frette c. France*, <http://hudoc.echr.coe.int/hudoc>) (Nicolel Atwill, 7-2832)

### **FRANCE--Tobacco Tax**

The European Court of Justice ruled on February 27, 2002, that the French system of taxation, which imposes a heavier rate of tax for light-tobacco cigarettes, mainly imported, than the one applied to dark-tobacco cigarettes, which are almost exclusively domestically produced, violates Community law. The law prohibits a Member State from taxing goods from another Member State more heavily than those with the same characteristics produced domestically. Moreover, a Member State cannot, by way of its tax system, protect its domestic production to the detriment of that of other Member States. The French government must close the tax gap or run the risk of fines. ([Http://europa.eu.int/rapid](http://europa.eu.int/rapid)) (Nicole Atwill, 7-2832)

### **GEORGIA--Government Investment Agency Created**

The Parliament approved the proposal of the Ministry of Economics, Industry, and Trade on the creation of a National Investment Agency and allocated US\$11 million for the agency’s use. The Parliamentary Decree states that the Agency will select investment projects through competition. Among other tasks of the agency are export promotions, selection of import substitute products, and introduction of new technology. According to the Decree, the State will be a guarantor of all investment projects initiated through the Agency. The Agency is being set up as a legal entity that will be controlled by the Ministry of Economics. The Director of the Agency and its Supervisory Council will be appointed by the Georgian President. (*Sarke Information Agency*, Apr. 18, 2002; [www.site.securities.com](http://www.site.securities.com).) (Peter Roudik, 7-9861)

### **LATVIA--European Court of Human Rights on Election Law Reform**

The European Court of Human Rights awarded a Latvian citizen 9,000 *euros* (a little over US\$8,000) in damages and costs over her disqualification as an election candidate in 1998 on the grounds of inadequate knowledge of the State language. The ruling, which specialists consider contradictory, is used by both sides in the debate over whether to drop language requirements in the country’s election law for the sake of the security NATO membership offers.

Under the current election law, a person wishing to run for public office who has graduated from a Latvian high school must take an exam to prove top-level Latvian language competence. The plaintiff was a Latvian national and had a valid language certificate when her name was submitted as a candidate in the parliamentary elections. The following week, she was visited at her workplace by an official from the state

language center, who questioned, among other things, why she was standing as a candidate for her particular political party, which campaigns for Russian's rights. The official returned the following day, accompanied by witnesses, and asked the plaintiff to write an essay in Latvian. Because the plaintiff did not expect such an examination and because of the presence of the witnesses, she refused to write the essay. The official then drew up a report to the effect that the applicant did not have an adequate command of Latvian, and the Central Electoral Commission struck the candidate's name from the list of candidates. The court's decision upheld Latvia's right to determine that its own State language be used in the Parliament, but stated that applicants' treatment "could not be considered proportionate to the legitimate goal." Earlier this year, NATO Secretary General G. Robertson set amending the language law as a precondition for Latvia's joining the alliance. However, the court's decision does not state that the law should be changed, merely that there was a specific problem in this case. The court said that there was no chance for the candidate to appeal the examiner's decision. However, since the case first surfaced, an appeal process has been put in place for the handling of similar situations. The Parliament is currently debating an amendment to the Constitution aimed at strengthening the status of Latvian as the language of the Parliament before dropping the language requirement in the election law. (*The Baltic Times*, Apr. 18, 2002; [www.site.securities.com](http://www.site.securities.com)) (Peter Roudik, 7-9861)

#### **THE NETHERLANDS--Legalizing Medical Marijuana**

A large majority of the Second Chamber of Parliament supports a proposal of the Minister of Health to legalize the growing of cannabis for medicinal purposes. The Minister wants to make it possible for people who suffer from diseases such as multiple sclerosis, AIDS, or cancer to be able to obtain, with a prescription from a physician, hashish or marijuana at a pharmacy. In order to make this legal, the Opium Law will be amended. A special Bureau of the Ministry of Health will have a monopoly on the growing of cannabis, which will then become a new legal export product of the Netherlands. According to the Minister, Belgium and Canada have shown interest in importing this product for medicinal use. (*De Telegraaf*, Apr. 8, 2002.) (Karel Wennink, 7-9864)

#### **RUSSIAN FEDERATION--Control over the Names of Mass Media Outlets**

According to amendments to the Federal Law on Mass Media, which entered into force on April 5, 2002, the Ministry for the Press will not register media outlets with similar names; however, a definition of similarity is not provided. The use of the words "Russia" and "Russian Federation" in the titles of mass media will be permitted only with a Government order. The Law bans using registered titles and other proper names without the permission of the owner, using the names of international organizations in which Russia is a member, and using the names of public associations and political parties without their consent. The use of obscene language in the names of newspapers, magazines, television, and radio programs is also not permitted.

The Law does not have retroactive effect on media outlets that were already registered at the time when the Law was passed; however, the Law provides for a total re-registration of all existing media outlets before the end of 2003. Russian commentators contend that the Law provides the Government a convenient opportunity to close discordant media under the pretext of their having an "incorrect name," because thousands of media sources with the same or similar names will not be able to survive the re-registration.

(*Rossiiskaia Gazeta* [official newspaper of the RF Government] Apr. 5, 2002, via: [www.rg.ru](http://www.rg.ru).)  
(Peter Roudik, 7-9861)

### **RUSSIAN FEDERATION--Mandatory Vehicular Insurance**

In order to guarantee compensation for damage incurred in traffic accidents to all the victims, mandatory liability insurance for owners of motor vehicles has been introduced by a law signed by President Putin of Russia. According to the law, owners of transport vehicles are obliged to insure their civil liability in case of damage to the health or property of other individuals. In the case of a traffic accident, the compensation to the victim will be paid by an insurance company. If the person guilty of the traffic accident is not known or is not insured, or if an insurance company is insolvent, the victims are entitled to compensation from the fund of the professional association of insurers.

The Law establishes maximum insurance coverage in an amount equal to US\$14,000. It is specified that the compensation for damage to life or health may reach \$8,000, and the compensation for damage to property will not exceed \$6,000. Disabled individuals who received their transport vehicles from government social agencies will receive compensation of 50% of the insurance premium paid by them under a policy of obligatory insurance from the federal budget assignments for social assistance. (*Rossiiskaia Gazeta* [official newspaper of the RF Government] Apr. 12, 2002, via: [www.rg.ru](http://www.rg.ru))  
(Peter Roudik, 7-9861)

## **SOUTH PACIFIC**

### **AUSTRALIA--Agreement on Stem Cell Research**

An April 5, 2002, meeting of the Council of Australian Governments, which consists of the Prime Minister and the Premiers or Chief Ministers of the country's six States and two Territories, reached agreement on the content of legislation to regulate research on human embryos and the use of embryonic stem cells for therapeutic cloning of human tissue. The Commonwealth (federal) government will introduce legislation on the subject in June 2002, and the States and Territories, which under Australia's Constitution have primary responsibility for the regulation of medicine, will in turn enact consistent legislation. A September 2001 review by the federal Parliament of the system governing stem cell research described the existing system as "confused, inconsistent and ad-hoc," and called for a uniform national approach based on new Commonwealth and State legislation.

Highlights of the April agreement include a ban on human cloning and creation of a uniform national regulatory system for research involving existing embryos that were created for assisted reproduction and would otherwise be destroyed. The regulatory system for use of embryos that would otherwise be destroyed is to be reviewed after three years. Research using embryos created after April 5, 2002, will be prohibited for 12 months, pending reports by a newly established Ethics Committee and the National Health and Medical Research Council. (Prime Minister, Media Releases, Council of Australian Governments - Communique (Apr. 6, 2002) at [http://www.pm.gov.au/news/media\\_releases.html](http://www.pm.gov.au/news/media_releases.html); *Sydney Morning Herald*, Apr. 6, 2002, at <http://www.smh.com.au>)  
(D. DeGlopper, 7-9831)

### **AUSTRALIA--Tobacco Company Fined for Document Destruction**

On April 11, 2002, a jury of the Supreme Court of the State of Victoria made legal history by awarding a smoker who is terminally ill with lung cancer A\$710,000 (US\$376,000) in damages due her from British American Tobacco, an international tobacco firm. This is the first time that a smoker has successfully sued a tobacco company in an Australian court. The judge in the case had already determined that the company was liable, in large part because its policy of destroying documents had made it impossible for the plaintiff to discover evidence necessary for a fair trial. The case has international implications because the judge determined that under its “document retention policy,” the company engaged in a worldwide program of document destruction or retention of documents only in foreign repositories beyond the reach of the discovery process. The United States Justice Department is reported to have asked the plaintiff’s law firm for evidence of the shredding. The destruction apparently was done with the advice of legal counsel from some of Melbourne’s major law firms. The law firms and their individual solicitors now face four separate inquiries in what has been called “Australia’s Enron.” If they are found to have played an active role in the destruction of evidence, they may face contempt of court proceedings and individual solicitors could be barred from practicing. (*McCabe v British American Tobacco*, VSC 73 (22 March 2002), at <http://www.austlii.edu.au/au/cases/vic/VSC/2002/73.html>; *The Australian*, Apr. 12 & 13, 2002, at <http://www.theaustralian.news.com.au>; *The New York Times*, Apr. 17, 2002, at A8.) (D. DeGlopper, 7-9831)

## **INTERNATIONAL LAW & ORGANIZATIONS**

### **AUSTRALIA/EAST TIMOR--Maritime Boundaries and Oilfields**

As the former Portuguese colony of East Timor prepares for formal independence on May 20, 2002, the conclusion of a treaty with Australia over the division of royalties from oil and gas fields in the Timor Sea, where the boundary between the two countries is undetermined, is a high priority. Revenue from the fields will be a major component of the budget of generally impoverished and economically undeveloped East Timor. A July 5, 2001, agreement gave 90 percent of the revenues from the joint production area of the Greater Sunrise gas field to East Timor, but most of the field lies outside that area, in territory claimed by Australia. Acting on the advice of British and Australian specialists in international law, East Timor had been negotiating its maritime boundary with Australia under the auspices of the International Court of Justice in the Hague. On March 25, 2002, Australia announced it would no longer accept compulsory dispute resolution under the United Nations Convention on the Law of the Sea and the jurisdiction of the International Court of Justice and made a declaration excluding the setting of maritime boundaries from compulsory dispute resolution. East Timor’s Chief Minister described this as “an unfriendly act” and said his country would not compromise on maritime boundaries. ((Australian) Minister for Foreign Affairs, Joint Media Release, “Changes to International Dispute Resolution,” Mar. 25, 2002, at <http://www.foreignminister.gov.au/news.co.au>, Apr. 12, 2002, at <http://www.news.com.au>) (D. DeGlopper, 7-9831)

### **CANADA/MEXICO--Energy Cooperation Agreement**

On April 12, 2002, in Ottawa, Canada, representatives of the Canadian and Mexican governments signed an accord to cooperate on energy issues. The agreement identifies several areas of possible cooperation including energy markets, regulation, energy efficiency, renewable energy, and research and development. Canadian Natural Resources Minister Herb Dhaliwal predicted that his government would seek opportunities in Mexico in such areas as transportation and downstream operations for natural gas and petroleum. Mexico is Canada's largest trading partner in Latin America and the country's fourth-largest export market. ("Canada, Mexico Sign Energy Cooperation Agreement," *The Toronto Star*, Apr. 12, 2002, via FBIS.)

(Sandra Sawicki, 7-9819)

### **CHINA/MIDDLE EAST--Agreements & Communiqués**

On April 14, 2002, China and Libya issued a communique on improving cooperation and signed several cooperation agreements. Among them was an agreement to open Libya's oil sector to Chinese firms, offering them "wide-ranging prospects" in the fields of exploration, development, and marketing. ("AFP: Jiang Zemin, Qadhafi Ink Deal To Open Libyan Oil Sector to PRC Firms," Hong Kong *AFP*, Apr. 14, 2002, via FBIS.)

On April 20, 2002, China and Iran signed six agreements, covering: investment in Iran's oil, gas, and petrochemicals sector; avoidance of double taxation, a memorandum of understanding on telecommunications and information technology cooperation; a shipping accord; educational and scientific cooperation; and the establishment of a joint council on commerce. The agreements were signed during Chinese President Jiang Zemin's visit to Iran, only the second by a Chinese head of state since 1979 and Jiang's first. (Tehran *IRNA*, Apr. 20, 2002, via FBIS.)

Also on April 20, Premier Zhu Rongji and his Egyptian counterpart Prime Minister Atef Ebeid attended a ceremony on the signing of three cooperation agreements between their respective countries. The agreements cover technological and economic cooperation, a memorandum of understanding on livestock breeding, and the establishment in Cairo of a model school for Chinese language instruction. (*BBC Monitoring International Reports*, Apr. 20, 2002, via NEXIS, News Library.)

(W. Zeldin, 7-9832)

### **COLOMBIA/INDIA--Ties in Technology**

The Colombian and Indian governments signed a memorandum of understanding in the areas of information technology, telecommunications, software development, and formalized business alliances. The signing took place in Bogota, Colombia on April 3, 2002. Colombia is interested in entering into cooperation agreements with India, whose software exports have risen from \$50 million in 1991 to \$6 billion in 2002. India will be sending technicians to advise Colombia about online government capabilities, and will be offering scholarships to Colombians to study information technology. Universities will be selected in the two countries for promoting exchanges of professionals and organizing fora and symposiums on computer technology. Joint task forces dealing with information technology research, design, development, market testing, and e-commerce will meet twice a year, alternating meeting sites in Colombia and India.

(“Colombia, India Sign Computer Technology Agreement,” *El Colombiano*, Medellin, Apr. 3, 2002, via FBIS.)

(Sandra Sawicki, 7-9819)

#### **INDIA/NEPAL--Promotion of Trade & Anti-Terrorism**

India and Nepal agreed last month to strengthen cooperation in dealing with the threat posed by terrorism at the conclusion of talks between the visiting Nepalese Prime Minister Sher Bahadur Deuba and his counterpart Atal Behari Vajpae in New Delhi. The two leaders are stated to have had wide-ranging discussions on various subjects, including trade, terrorism, and border security. They also signed an agreement for cooperation in science and technology.

Following the terrorist attacks in the United States last September, the two countries resolved that they would not allow their respective territories to be used for such activities. The leaders also reiterated opposition to the use of violence in the pursuit of political or ideological objectives. In addition, they decided to focus on a “forward-looking and constructive” agenda to meet the challenges of the 21<sup>st</sup> century. However, the Nepalese expressed reservations about the anti-dumping duties imposed by India on acrylic yarn and the steps taken on sales taxes by the Indian state governments of Bengal and Uttar Pradesh. (*Xinhua*, Mar. 21 & 23, 2002, via FBIS.)

(Krishan Nehra, 7-7103)

#### **PARAGUAY/PERU--Commercial & Tourism Pact**

On April 10, 2002, the governments of Paraguay and Peru agreed to cooperate in commerce and tourism during a four-day official visit in Asuncion, Paraguay, of Peruvian First Vice-President Raul Diez Canseco. Peru hopes to strengthen the fishing and poultry industries by exporting shellfish and baby chicks to Paraguay. It also hopes to double in four years the number of tourists it receives by establishing “tourism circuits” in other Latin American nations. The Peruvian delegation established such a circuit linking Ciudad del Este, on the Paraguayan/Brazilian border and Cuzco, the location of many pre-Colombian Inca ruins, in southern Peru. In addition, the countries agreed to increase commercial air traffic and establish more direct air routes. (*CNNenEspanol.com*, Apr. 10, 2002, via <http://www.cnnenespanol.com/2002/destinos/04/10/paraguay.peru.reut/index.html>)

(Sandra Sawicki, 7-9819)

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## **LAW LIBRARY RESEARCH REPORTS**

*(for copies of these and other LL products, call the Office of the Law Librarian, 7-LAWS)* One of the ways in which the Law Library serves Congress is by providing in-depth analyses of how other societies handle some of the same legal issues faced in this country. Some recently prepared studies are:

**Terrorism: Foreign Legal Responses**

**Cell Phone Use in Foreign Nations**

**Hague Convention Countries–Applicable Law and Institutional Framework**

(<http://travel.state.gov/abduct.html>)

**Internet Content**

**Cloning**

**Public Health Emergency Legislation in Other Nations**

## **FOREIGN LAW BRIEFS –current titles**

*Compensation For Victims of Terrorist Actions: Israel as a Case Study*, by Ruth Levush, May 2002. No. LL-FLB2002.01

*The Netherlands: Same Sex Couples–Registered Partnership, Marriage and Adoption*, by Karel Wennink Oct. 2001. No. LL-FLB2001.04

*The New Russian Code of Criminal Procedure*, by Peter Roudik, Sept. 2001. No. LL-FLB 2001.03

*Japan: Recent Legal Developments in Health Care*, by Sayuri Umeda, July 2001. LL-FLB 2001.02

*Capital Punishment in Foreign and International Law*, by Constance Johnson, June 2001. LL-FLB 2001.01

### Recent Publications from Great Britain Obtainable from the Law Library

House of Commons. ANNUAL REPORT OF THE FIREARMS CONSULTATIVE COMMITTEE. HC 501. London, Mar. 19, 2002. 99 pp.

Handgun ownership has been outlawed in the United Kingdom since 1997. Despite the ban, crimes involving handguns have risen significantly and, to date, there are approximately 850,000 illegally possessed handguns in Britain alone. Additionally, there is a provision that allows those with a firearms certificate to legally own a handgun or rifle. The requirements for eligibility include membership in a gun club, references, and proof that the weapon is kept under lock and key. The report recommends focused concentration on the substantive issues that might affect the manner in which firearms are controlled in the future. These include guidance to the police, shooting disciplines, administration of firearms acts, and research.

----- . COLLECTION OF FINES AND OTHER FINANCIAL PENALTIES IN THE CRIMINAL JUSTICE SYSTEM. HC 672. London, Mar. 15, 2002. 34 pp.

The report documents the difficulties faced in collecting financial penalties. Financial penalties are the most common punishment imposed on offenders by Crown and magistrates courts. These penalties account for 70% of all sentences and include compensation to victims, court costs, and fines. Few penalties are paid on the date of imposition and less than a third are paid without the need for enforcement action. Collection is generally affected by the offenders' limited financial means or the offender's outright refusal to pay the imposed fine. To achieve an effective and efficiently managed courts' service, the report recommends the reduction of committees to a number that is coterminous with the number of police authorities and criminal justice areas in England and Wales.

----- . HUMAN RIGHTS ANNUAL REPORT 2001. HC 589. London, Feb. 28, 2002. 77 pp.

This is the fifth report of session 2001-2002 and was written before the terrorist attacks on September 11, 2001. It contains information on countries and issues that give rise to significant human rights concerns, detailing areas where the Government's opinions and actions have and have not met with success. Geographical areas that remain a concern include Botswana, China, the Middle East and Zimbabwe. Global issues that remain a concern include extra-judicial killings, forced marriages, and mercenaries. The report recommends the continued exploration of ways to bring the strongest pressure to bear on all parties to end human rights violations.

----- . ROYAL COMMISSION REPORT ON ENVIRONMENTAL PLANNING. Cm. 5459. London, Mar. 2002. 235 pp.

This report responds to the widespread view that the town and country planning system is in need of reform. It focuses on development of control and regulatory dimensions of the system, the neglect of other essential dimensions, and planning for the future. Recommendations include clearer

policies and objectives for the environment, statutory recognition of the central role of town and country planning in protecting and enhancing the environment, and further steps to engage a wider range of persons in decisions regarding setting and achieving goals.

## RECENT DEVELOPMENTS IN THE EUROPEAN UNION

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

### Draft Framework Decision on Attacks Against Information Systems<sup>1</sup>

The objective of this proposal, introduced on April 19, 2002, is to ensure that the Member States adopt minimum rules in criminal law pertaining to serious attacks against information systems. The term “information systems” is used broadly to include “stand alone” personal computers, personal digital organizers, mobile telephones, intranets, extranets and networks, servers, and other Internet infrastructure. By December 31, 2003, Member States must take all necessary measures to criminalize the following offenses:

- **Illegal access to information systems (hacking).** The elements of the offense are that: a) it is aimed against any party of an information system that is subject to specific protection measures; and b) it is intended to cause damage to a natural or legal person or to result in economic benefit for the perpetrator.
- **Illegal interference with information systems.** This offense covers intentional conduct, without a right to engage in the following actions: a) serious hindering or interruption of the functioning of an information system by transmitting, damaging, deleting, or altering computer data; and b) deletion, alteration, or suppression of computer data with the intent to cause damage to a natural or legal person.

The proposal also obliges the Member States to criminalize the intentional instigation or aiding or abetting of offenses against information systems as well as attempts to commit any of the offenses mentioned above. Member States are also required to ensure that the above offenses are punished by effective, proportionate, and dissuasive penalties.

Another important aspect of the proposal is that it criminalizes actions against information systems committed by legal persons and holds them liable for committing such acts.

### Aftermath of Enron Collapse in the European Union<sup>2</sup>

The collapse of the Enron corporation in the United States had a major impact on the European Union. The European Commission, in its recently published paper “A First Response to Enron-Related

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<sup>1</sup> COM(2002)173 final (4/19/2002).

<sup>2</sup> [Http://www.europa.eu.int/comm](http://www.europa.eu.int/comm)

Policy Issues,” presents the measures that must be taken at the EU level in order to prevent such an event from occurring in Europe. The paper highlights a number of EU initiatives in the following areas: financial reporting, statutory audit, corporate governance, transparency, and the regulation of financial analysts and credit rating agencies. In regard to financial reporting, the Commission emphasizes the significance of the proposed EU Regulation on International Accounting Standards. In the field of statutory audit, the Commission plans to issue a recommendation on auditor independence. As for corporate governance, the Commission broadened the mandate of the High-Level Group of Company Law Experts to include assessment of the responsibility of management in preparing financial information, management remuneration, and other issues. In regard to transparency, the Commission announced its plan to invite the Committee of European Securities Regulators to study the report on supervisory issues pertinent to derivative trading. Finally, concerning the regulation of financial analysts and rating agencies, the Commission intends to take measures against false or misleading signals given by financial analysts.

### **Increased Regulatory Cooperation Between the United States and the European Union<sup>3</sup>**

On April 12, 2002, the European Commission and United States’ commerce and trade authorities announced the drafting of guidelines to promote better mutual access during the preparation of regulations. The guidelines were welcomed by both sides as an important measure in enabling “regulators to better discharge their public responsibility for health, safety, the environment and consumer protection...[and] trade in goods and [to] minimize trade frictions.”<sup>4</sup>

### **Draft Directive on Sexual Harassment at Work<sup>5</sup>**

A new Directive that will enter into force in 2005 introduces significant provisions on sex discrimination, sexual harassment, maternity and paternity leave, and company equality plans. The Directive defines the term “sexual harassment” for the first time--as “any form of unwanted verbal, non-verbal or physical conduct of a sexual nature that occurs with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.” The Directive requires Member States to provide for compensation for the victims of sexual harassment without establishing an upper limit. It also requires employers to take “preventive measures against all forms of discrimination, especially sexual harassment.” Member States must also establish agencies with the mandate to promote equal opportunity.

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<sup>3</sup> [Http://www.europa.eu.int](http://www.europa.eu.int)

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

**Initiation of Antitrust Proceedings Against Leading Auction Houses<sup>6</sup>**

The European Commission forwarded a “Statement of Objections” to the two auction houses Christie’s and Sotheby’s claiming, based on evidence, that they are in breach of EU competition rules by having agreed to fix commission fees and other trading terms. The Statement of Objections is part of the procedure under article 81 of the EU Treaty that prohibits cartels and other similar business practices. The two houses must respond to the Commission’s claims within six weeks.

**Communication on Soil Protection<sup>7</sup>**

The European Commission has just published its first communication addressing soil erosion, soil quality, and other issues. The Communication, entitled “Towards a Thematic Strategy for Soil Protection,” outlines the measures that need to be taken to protect the soil in the future, such as full implementation of environmental legislation on water and air pollution, good farming practices, and use of agri-environmental measures beneficial to the soil. The Communication also sets forth proposals for the formulation of Directives on heavy metals, on mining waste and the creation of a document on the best available techniques for the management of mining waste, and on compost and other bio-waste designed to control contamination.

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*