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Some highlights of this month's issue:

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Stem cell law-Australia

Special Supplement:

VENEZUELA: LEGAL DEVELOPMENTS DURING NATIONAL WORK STOPPAGE

Full listing of topics follows

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Corporate secrets
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Experimental treatment
Firearms registry, protocol
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Libel
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SPECIAL SUPPLEMENT:

VENEZUELA: LEGAL DEVELOPMENTS DURING NATIONAL WORK STOPPAGE

EDITORIAL NOTE: The items presented in the World Law Bulletin have been selected for their special significance to the U.S. Congress, either as they relate to a particular or general legislative interest, or as they may have a bearing on issues affecting the U. S. and its interaction with other nations. Selections should in no way be interpreted as an indication of support or preference for any legal or political stance.

AMERICAS

BRAZIL--Internet Crimes

According to a recent study by a British consulting firm, Brazil has become the largest exporter of Internet crimes, including alteration of web page content, identity theft, credit card fraud, violations of intellectual property, and the invasion of sites for political protests. The consulting firm, named mi2g, serves large banks and insurance companies by monitoring the actions of hackers on worldwide computer networks. The study said the absence of legislation to combat digital crimes is one of the main reasons why Brazil is coming to be regarded as a kind of “criminal state” in the virtual world. This may lead to pressure on Brazil to adopt more rigorous measures against such offenses.

Authorities in Brazil who are versed in the topic say that new laws are needed that will lead to convictions of cyber criminals and that a specialized police force empowered to deal with them is also necessary. Youssef Abou Chahin, the chief of a unit of the Sao Paulo Civil Police that works on electronic crimes, has called outright for new legislation. He commented that the Internet has been in Brazil since the 1990s, while the Criminal Code dates back to 1941, when cyber crimes did not exist. Rodrigo Canellas Dias, a prosecutor who specializes in Internet crimes and who participates in a special task force combating organized crime in Sao Paulo, indicated that there are 11 draft bills on information technology currently stalled in Congress. No specific legislation has been approved. (“Study Reveals that Brazil is World Leader in Internet Crimes,” *A Folha de Sao Paulo*, Internet version, Nov. 20, 2002, via FBIS.) (Sandra Sawicki, 7-9819)

CANADA--“Astronomical” Overruns in Firearms Registry Costs

In 1995, Canada enacted a Firearms Act to strengthen the country’s already tight gun control laws by requiring virtually all purchasers of firearms to be licensed and virtually all firearms to be registered (1995 S.C. ch. 39). The new system has been phased in and now requires previously unregistered rifles and shotguns to have been registered by the end of 2002. Despite the Government’s decision to waive registration fees, it is estimated that nearly one-third of the persons subject to the law have failed to comply with its provisions. As if this situation were not troublesome enough for the Government, the Auditor-General has released a report, described as “scathing” by the National Post, in which the Government is accused of keeping Parliament in the dark about what she termed “astronomical costs overruns.” The Auditor-General noted that while the original estimates were that the project would cost Can\$2 million, she believed that they would actually exceed Can\$1 billion by 2004. The Auditor-General added that this figure did not even take into account expenditures incurred by departments she had not reviewed.

The Auditor-General’s report on the firearms registry costs has been the subject of sharp exchanges both within and outside of the House of Commons. Members of opposition parties and even some members of the Liberal Party have called on the Government to either suspend or terminate the registration process. Former Ministers of Justice and members of the Government have countered that Parliament was advised of at least a large portion of the cost overruns and that the system is needed to protect Canadians from escalating gun violence. However, it has also been reported that despite the expenditures, the registry contains so many errors that the Royal Canadian Mounted Police are concerned that they will be blamed for future failures. These reports may well lead to a separate inquiry into functioning of the system adopted.

In defending the new program, the current Minister of Justice contended that the law has prevented almost 30,000 ineligible persons from obtaining firearms. A former Minister of Justice claimed that costs were driven up by opponents of the new law who attempted to block its provisions from coming into effect. However, other observers feel that the efforts of those opponents could hardly be entirely responsible for the situation described by the Auditor-General as “appalling.” (“Massive Overruns at Firearms Registry,” *National Post*, Dec. 6, 2002, via <http://www.nationalpost.com/search/site/story.asp?id=>

F507C792-5F49-4EE2-8524-96E9A731 277C)
(Stephen Clarke, 7-7121)

COLOMBIA--Law Allows President To Negotiate with Various Armed Groups

On December 12, 2002, the Chamber of Representatives approved an extension of the Public Order Law (Law No. 418, 1997) that eliminates the requirement for armed groups to have political status in order to engage in peace negotiations with the Chief Executive. Approval by the Senate had already taken place. The measure gives President Alvaro Uribe Velez strong backing from the Congress to engage in the peace process with insurgent groups. The extension of the Law, with amendments introduced by the Executive branch and approved by Congress, broadens the range of participants for dialogue and negotiation and is seen as an instrument to expedite the attainment of peace. A former peace advisor, Carlos Eduardo Jaramillo, stated that the extension of Law No. 418 gives legal legitimacy to future negotiations to resolve Colombia's armed conflicts and that the Law is pragmatic in dropping political status as a condition to negotiations. ("Law's Renewal Empowers Uribe to Negotiate with Colombian Armed Groups," *El Espectador*, Internet version, Bogota, Dec. 15, 2002, via FBIS.) (Sandra Sawicki, 7-9819)

COLOMBIA--New Investigatory Powers for Prosecutor General, Army

On December 11, 2002, the full Senate approved the restructuring of various powers of the Office of Prosecutor General, allowing the top law enforcement official to have discretionary authority to initiate or dismiss investigations of all kinds of crimes. The Office was also authorized to do breaking-and-entering and searches, as well as interceptions without obtaining judicial warrants in advance. It granted authority to the Army judicial police to take an active role in civilian investigations through evidence collection, removal of corpses, telephone and other interceptions, and breaking-and-entering and search actions.

Prosecutor General Luis Camilo Osorio campaigned vigorously to gain special powers for the Office but must await regulation of these powers by a law to be enacted by July 20, 2004. The Law that was passed changes the way investigations are conducted in Colombia, from an inquisitorial system to a purely prosecutorial one. Functions that had been in the hands of prosecutors, such as issuing preventive arrest warrants, issuing indictments, and dismissing investigations, will be in the hands of judges who will issue rulings with the assistance of juries. The Criminal Procedure Code and other provisions will have to be modified before the new system can take effect on January 1, 2005. ("Colombian Office of Prosecutor General Vested with New 'Sweeping' Powers," *El Tiempo*, Internet version, Bogota, Dec. 12, 2002, via FBIS, and "Colombian Prosecutor General Discusses Reforms to His Office,..." *El Espectador*, Internet version, Bogota, Dec. 15, 2002, via FBIS.) (Sandra Sawicki, 7-9819)

MEXICO--Protection Provided by NAFTA Invoked

The Secretariat of the Economy announced on December 16, 2002, that it will close the Mexican border to American trucks in coming days as a countermeasure to discriminatory requirements imposed by the United States on Mexican cargo vehicles. The Secretariat claimed protection of article 2019 of the North American Free Trade Agreement. This was done in response to a November 11 request from the Secretariat of Communications and Transportation to stop all transportation benefits to United States' trucks in the same way that they had consistently blocked access to Mexican trucks.

Chapter XX of NAFTA, Dispute Settlement Mechanism, grants the Mexican government the legal tools to counter the rationales (such as lack of safety measures on Mexican trucks) that the United States has used since 1995 to prevent Mexican trucks from crossing the border. According to the Agreement's

wording, free access of trucks in the United States should have been established on December 18, 1995. The Mexican government still considers discriminatory three requirements that Mexican truckers must meet that are not required of Canadian truck owners. First, Mexican transportation companies are subjected to an audit before they can get provisional authorization. Second, Mexican trucks must go through a second audit in order to receive permanent authorization. Third, only Mexicans must also renew commercial vehicle safety alliance stickers every 90 days during the provisional authorization period. In addition, even after permanent authorization has been granted, Mexicans must continue to renew the stickers for another three years.

Mexico must present its intentions in writing to the United States and its section at the NAFTA Secretariat in Washington. The NAFTA Commission (formed by the Mexican, Canadian, and United States' commerce ministers) will name a group of experts who will determine if Mexico's suspension of benefits to the United States is excessive. The experts will then present a report 60 days after the election of the last member of the group or at any other time agreed upon by the parties. ("Mexico To Close Border to US Trucks," *Reforma*, Internet version, Mexico City, Dec. 16, 2002, via FBIS.) (Sandra Sawicki, 7-9819)

ASIA

CHINA– Court Provisions on Anti-Dumping, Anti-Subsidy Cases

On November 21, 2002, the Supreme People's Court (SPC) issued two separate sets of provisions on the handling of anti-dumping and anti-subsidy cases by China's courts, in conformity with World Trade Organization regulations. The new rules make it clear for the first time that it is the responsibility of the people's courts to carry out judicial review of anti-dumping and anti-subsidy administrative actions taken by State Council departments. According to SPC Vice President Li Guoguang, "The two sets of judicial interpretations...will have a significant, far-reaching effect on the people's courts in shouldering the judicial review duty provided for in WTO rules and the legal texts on the country's WTO accession" and "in protecting the legitimate rights and interests of organizations and individuals involved in antidumping and countervailing investigation procedures" ("PRC Judiciary Issues 'Judicial Interpretations' on Antidumping, Countervailing Judicial Review," *Xinhua*, Dec. 3, 2002, via FBIS, Dec. 13, 2002).

As of January 1, 2003, individuals or enterprises engaged in business in China may appeal to the courts if they disagree with the final decisions made on anti-dumping and anti-subsidy cases by the relevant organs of the State Council. The courts, in turn, must accept and investigate the appeals. The provisions set forth the conditions for appeal, the jurisdiction of the courts, where the burden of proof lies, who may litigate, and the types of decisions that will be rendered. ("China Issues Rules on Anti-Dumping, Anti-Subsidy Cases in Line With WTO Rules" *Xinhua*, Dec. 3, 2002, via FBIS.) (W. Zeldin, 7-9832)

CHINA–New Law on Environmental Impact Assessment

On October 28, 2002, China promulgated a law on environmental impact assessment requirements that applies to all construction projects in the country, whether entirely domestic in financing or involving foreign investment. It will come into force September 9, 2003. The stated purposes of the law are to insure that construction does not cause an adverse impact on the environment and to enhance coordinated development of "the economy, society, and environment."

The law requires that environmental impact assessments be included in all construction plans and calls for the establishment of a database and assessment index system, to be set up by the environmental

protection administration under the State Council. Assessments are to be conducted by relevant departments of the State Council and by local governments at or above the municipal level. The reports on development plans are to include analyses, forecasts, and assessments of the possible environmental impact; measures to prevent or mitigate the adverse impact; and a conclusion. Reports on construction projects include a profile of the proposed project; an analysis of the current environment of the site; assessment of the possible impacts on the environment; protection measures proposed; analysis of the profits and losses associated with the environmental impact; recommendations for implementing monitoring of the impact; and a conclusion. Those projects begun without proper assessments or in contradiction to requested changes will be shut down, and in some cases fines of up to 200,000 *yuan* (about US\$24,192) may be imposed. Continued construction without approved environmental impact assessments may result in administrative sanctions against those involved or, in some cases, criminal liability. (Text in translation, Hong Kong Isinlaw, Oct. 28, 2002, via FBIS, Dec. 4, 2002.)

(Constance A. Johnson, 7-9829)

INDONESIA– Regional Implementation of Islamic Law

Under Indonesia's Regional Autonomy Law (Law No.22/1999), authorities in a number of localities have begun implementing Islamic law, known as *Syariah*. The rules imposed vary depending on regional and city regulations and are in some cases enforced by civil militias. Some rules are matters of dress; for example, in Maros District of South Sulawesi, under a regulation adopted October 21, 2002, male civil servants are required to wear traditional caps and collarless shirts called *koko* shirts, every Friday, while women must wear *jilbabs* (head scarves) every day. This region of Indonesia has had Islamic law in force in one form or another at various times for decades, but at present *Syariah* courts do not exist. In order to keep track of violations of the rules, a militia of 10,000 members has been established. The militia has been accused of excesses. ("Paramilitary Force To Enforce Islamic Law in South Sulawesi," *Jakarta Tempo*, Dec. 10, 2002, via FBIS, Dec. 13, 2002.)

In Madura, East Java, the enforcement of *Syariah* has been reported as having little effect; calls to prayer have been ignored by government workers despite a circular sent to all government offices and schools by the district chief asking that the Islamic dress code be followed and that daily prayers be said jointly. The ban on the sale of alcoholic beverages, imposed under District Regulation No. 18 of 2001, is, however, being enforced locally. ("Introduction of Islamic Law in Madura District Has Little Impact," *Jakarta Tempo*, Dec. 10, 2002, via FBIS, Dec. 13, 2002.)

(Constance A. Johnson, 7-9829)

JAPAN–Protection of Confidential Corporate Information

The Ministry of Economy, Trade and Industry will reportedly submit a bill to the January session of Japan's Parliament to revise the Unfair Competition Law by imposing criminal charges on the leaking of confidential business information. The move is aimed at enhancing the competitiveness of Japanese industries in the international market. The revision provides that persons who illegally obtain access to confidential data or leak the information to give rival firms an advantage will be subject to a prison term of up to three years or a fine of up to three million yen (about US\$25,314). ("Japan To Toughen Penalty Against Corporate Data Leaks," *Jiji Press Ticker Service*, Dec. 20, 2002, via LEXIS/NEXIS, News Library.)

(W. Zeldin, 7-9832)

KOREA, SOUTH–Rehabilitation for Human Trafficking Victims

It has been reported that in January 2003, the Republic of Korea's Ministry of Gender Equality

will initiate a package of programs designed to help both Korean and foreign women who are victims of human trafficking in forced prostitution. As of mid-January, the women may seek sanctuary in free shelters funded by the government, in order to help them to rehabilitate themselves and prepare to lead normal lives. A Ministry spokesperson said that it is the first time that the government has budgeted the establishment of shelters for foreign female residents and that other forms of assistance, such as solving problems of delayed payment or visa status, will also be given. The Ministry will select two civic organizations through public bidding to run the shelters for the non-Korean women, with a budget of 100 million *won* (US\$83,000). Two other shelters will be established for Korean women, with a 194 million *won* (US\$162,000) budget. On December 23, 2002, the Ministry also signed an agreement with the Korea Legal Aid Corporation to provide legal aid to the victims, at government cost. In an effort to stem the growing sex trade in women from the Philippines, Russia, and Vietnam trafficked into Korea ostensibly to work as entertainers but then detained by their employers, the Justice Ministry announced on December 12 that it would enforce stricter visa regulations. (“Gov’t To Rehabilitate Women Sex Workers,” *Korea Times*, Dec. 26, 2002, via LEXIS/NEXIS, News Library.)

(W. Zeldin, 7-9832)

SINGAPORE—Arms and Explosives Act Amended in Fight Against Terrorism

In order to restrict access by terrorists to unmarked plastic explosives and fulfill Singapore’s commitments in acceding to the Convention on the Marking of Plastic Explosives for the Purpose of Detection, the Parliament approved amendments to the Arms and Explosives Act on October 31, 2002. The Convention aims to protect civil aviation by providing that plastic explosives must be marked by including a detection-enhancing substance. Signatories must ban the manufacture and impose strict controls over the movement of explosives that lack a detection agent.

The amended Act makes it an offense in Singapore to manufacture, possess, transfer, import, or export unmarked explosives, and a fine of up to SGD10,000 (US\$6,000) and a prison term of three years may be imposed on offenders. Explosives used for research and development, testing, training, or forensic science activities are excepted. The revised law also extends the power to conduct searches and issue search warrants to the Commander of the Airport Police and the Commander of the Police Coast Guard, empowering them to search any vessel or aircraft in or about to leave a Singapore port or airport on suspicion of having illegal arms or explosives aboard. In addition, the amendments enhance the existing fines for a variety of offenses—e.g., the unauthorized manufacture, possession, or import of guns, explosives, and poisonous substances—by three to ten times. These fines had apparently remained unchanged for more than 30 years. (“Anti-Terror Boost,” *Straits Times*, Nov. 1, 2002, and “Singapore Passes Law Restricting Access to Explosives,” *Agence France Presse*, Oct. 31, 2002, both via LEXIS/NEXIS, News Library.)

(W. Zeldin, 7-9832)

TAIWAN—Campaign Contributions

The Executive Yüan, Taiwan’s Cabinet, approved a draft law on campaign contributions on December 18, 2002. The Statute would regulate only “hard money” donations, though the possibility of regulating “soft” money in the future has not been ruled out. Minister without Portfolio Yeh Jiunn-rong, who reviewed the draft, said that although only donations designed directly for election campaigns have been included so far, soft money donations to political parties not tied to specific campaigns might someday be regulated “if we can overcome certain technical problems.”

The bill is intended to make political party finances more transparent to the public, and thus is being described by the Executive Yüan as a step forward in the development of democracy. The bill bans

the acceptance of campaign funding from state-owned enterprises, institutions that have investment or procurement contracts with the government, companies that have operated at a loss for a long time, non-profit or charity-oriented social organizations, and people or organizations from China, Hong Kong, or Macao. Acceptance of money from China, Hong Kong, or Macao would be punishable by a sentence of up to five years in prison. There would be an annual limit on individual contributions of NT\$200,000 (about US\$5,700) to political parties or NT\$40,000 to a single candidate. Companies will be similarly limited in the amounts they can donate: NT\$4 million (about US\$114,600) to political parties and NT\$800,000 to a candidate. Anonymous donations are limited to NT\$2,000 and may not constitute more than 10% of the funding of a political party, group, or candidate. Greater amounts donated anonymously must be used for charitable purposes within two years or given to the government. The draft will next go to the legislature; the Cabinet hopes it will be adopted in the current legislative session. (*Taipei Times*, Internet Version, Dec. 19, 2002, via FBIS, Dec. 19, 2002.)

(Constance A. Johnson, 7-9829)

TAIWAN–Proposed Amendments to Broadcast and Television Law

A bill to amend the Broadcast and Television Law passed its first reading in the Legislative Yüan on December 11, 2002. The proposed amendment would prohibit the government, political parties, and political party officials from operating and investing in local broadcast media. It prescribes that the government would have to release or sell its broadcast media shares six months after the amendment becomes law and that political parties would have to sell such shares within three years of the amendment's adoption. Political party officials who operate broadcast media as station directors, supervisors, or managers would be required to either resign their political posts or leave their media positions within six months of the law's revision.

How to remove political influence from broadcast media has created controversy in Taiwan for some time. At present the government holds 24.36% of Taiwan Television shares and 36.25% of China Television System (CTS) shares. The Kuomintang owns 35.59% of CTS, while Democratic Progressive Party Central Standing Committee members chair the boards of Formosa TV and Global TV. Of two government-owned terrestrial TV stations, one will become public and the other will be privatized, according to an agreement for reform reached between the Legislative Yüan's education, info-tech, and judiciary committees and the Government Information Office. ("CNA: Bill Passed To 'Keep TV, Radio Stations from Political Influence,'" *Central News Agency*, Dec. 11, 2002, "Taiwan Moves To End Political Involvement in Broadcast Media," *Taipei Times*, Internet version, Dec. 12, 2002, both via FBIS.) (W. Zeldin, 7-9832)

VIETNAM–Draft Decision on Internet Management

It was reported in late December 2002 that a draft decision on Internet management—the first official document in Vietnam concerning online services—has recently been submitted to the Ministry of Post and Telecommunications. The aim of the proposed regulation is to facilitate domain name registration in the country. Since the Vietnam Internet Network Information Center (VNNIC) offered incentives for online services in July, the number of enterprises registering an online name has reportedly doubled to about 150 per month. Highlights of the draft decision are as follows:

- Enterprises and agencies with servers located abroad may register their online name in Vietnam. According to a deputy director of the VNNIC, this will permit foreign-invested firms and representative offices operating in the country to use their head office servers instead of having to fund the building and development of their own website requiring a server in Vietnam. Thus, while the government

would maintain control over website content, the enterprises could link their Vietnam websites to servers abroad.

- The naming process will be eased. Organizations may choose their own domain names, but agreement from the relevant agencies will be required for “sensitive names,” such as names of cities or well-known individuals. At present, organizations are required by the VNNIC to explain their domain name in detail.

- The registration time will be shortened from 10 days to 3.

- The first system of domain name registration in Vietnamese will be instituted throughout the country, in order to avoid domain name disputes. (“New Draft To Relax Domain Name Laws,” *The Vietnam Investment Review*, Dec. 23, 2002, via LEXIS/NEXIS, News Library.) (W. Zeldin, 7-9832)

EUROPE

ESTONIA--European Parliament Election Law

Under the recently adopted European Parliament Election Law, Estonia will elect six deputies to the European Parliament in the summer of 2004. Under the new Law, the right to vote and to run for a seat in the European Parliament if one is over 21 years of age belongs to Estonian citizens and citizens of European Union member countries permanently residing in Estonia. Political parties registered for participation in national elections and individual candidates may run in the elections. A party list may contain a maximum of 12 names, and members of parties are banned from running on the list of another party. In order to limit the number of individual candidates, the Law requires the submission of a deposit of five times the minimum monthly labor wages per candidate presented for registration. The President, members of Parliament and government, military personnel, the chairman of the Bank of Estonia, persons appointed by the Parliament, and leaders and members of municipalities and local authorities cannot be members of the European Parliament. (*BNS Daily News Service*, Dec. 18, 2002.) (Peter Roudik, 7-9861)

ESTONIA--Municipal Police Allowed

On December 16, 2002, the Estonian Parliament adopted a decision on the creation of municipal police that breaks the monopoly of national authorities on regulating police-related issues and gives local municipalities the right to grant the status of “municipal police” to an institution or an official. According to the amendment to the Local Municipalities Act, the municipal police is a local institution and an officer is an official of a parish or town council whose main task is to guarantee public order and monitor the implementation of regulations adopted by the parish or town council. Municipal police will be financed from local municipality budgets and municipal police officials may carry guns. Municipal police officers will not carry out proceedings in criminal cases. They must have uniforms that clearly differ from the state police uniforms. Reportedly the main reasons behind introducing the new force are national budget difficulties and the high workload of state police. (*ETA (Estonian News Agency) News Release*, Dec. 17, 2002.) (Peter Roudik, 7-9861)

THE NETHERLANDS-ID Requirement

The Minister of Justice has drafted a proposal of law under which anyone over the age of 12 will have the duty to carry proof of identification, ready to show the police on demand. Under the proposal, the police will have the authority to request identification for the sake of all their regular police tasks, such as the detection of criminal acts, the maintenance of public order, or the provision of assistance. In addition, the persons in charge of maintaining administrative supervision will be accorded the same authority, in order to improve enforcement of the laws. Any person who refuses or is not able to provide proper identification may be penalized with a maximum prison term of 2 months or a fine. Under present law, a person may be asked for identification only if suspected of a crime. (Ministry of Justice, Press Release, Dec. 13, 2002, at <http://www.justitie.nl>)

(Karel Wennink, 7-9864)

RUSSIAN FEDERATION--Language Law

The Federal Law on Languages of Peoples of the Russian Federation was amended December 12, 2002. According to the new regulation, alphabets of the official language of the country and official languages of the republics and territories within the Russian Federation are to be based on the Cyrillic alphabet. The use of other graphic symbols for this purpose is forbidden. The amendment restricts the rights of the constituent components of the Russian Federation in the field of language application. According to the regulation, the graphic basis of languages used in written form as state languages of Russia's constituent components are to be brought into conformity with the Cyrillic alphabet. The authors of the regulation stated that the amendment does not affect the constitutional right of peoples to use their native languages and the right of regions to establish their own state languages. (*Economic News* (Russian daily), No. 277, Dec. 15, 2002.)

(Peter Roudik, 7-9861)

SWITZERLAND–Unemployment Insurance

In a referendum of November 22/23, 2002, the Swiss people approved a Reform Act to the Unemployment Insurance Act that was adopted by the Swiss Parliament in June 2001 (“Änderung, Bundesgesetz über die obligatorische Arbeitslosenversicherung und die Insolvenzentschädigung,” June 12, 2001, *Bundesblatt* at 2342). It is expected that the Swiss Cabinet will make the Act effective in July 2003 (*Associated Press-Worldstream* – German, Nov. 24, 2002, LEXIS/NEXIS, NEWS Library).

The Reform Act reduces the maximum time during which unemployment benefits may be received from 500 work days (two years) to 400 workdays (one and a half years). This reduction, however, is only applicable to able-bodied workers below the age of 55. Disabled workers, older workers, and workers who have suffered a work-related injury continue to be eligible for the 500-day duration of benefits. In addition, the Reform Act increases the threshold for the entitlement to receive unemployment compensation from six months to twelve months. This is the length of time that a person must be employed and contributing to the mandatory social insurance scheme before being entitled to receive benefits. On the other hand, the lowering of the benefit level provided in the Act allows for a decrease in the contribution rate from what was formerly 3% of wages. Other changes effected through the Reform Act facilitate compatibility between the Swiss unemployment insurance scheme and schemes of the member countries of the European Union and implementation of a new scheme of financing that foresees governmental contributions by the Federation and the cantons and aims at reducing unemployment during recessions through anti-cyclical governmental incentives. (Botschaft, Feb. 28, 2001, *Bundesblatt* at 2245.)

(E. Palmer, 7-9860)

UKRAINE--Money Laundering Law

The Law on the Prevention and Countering of Legalization of Income Obtained by Criminal Means [Money-Laundering] was promulgated December 4, 2002, by President Kuchma of Ukraine. According to the Law, the main bodies of fiscal control are the national Bank of Ukraine, the State Commission on Securities, the stock market, and a specially authorized body of the Executive branch that handles financial services market regulation. All transactions involving amounts exceeding US\$56,000 in non-cash operations and US\$18,500 in cash operations will be subject to monitoring. The authorities will have the right to monitor transfers of funds to an anonymous account abroad, the sale and purchase of traveler's checks or other such payment instruments for cash, transfers of cash to other countries on condition that the money will be given to the recipient in cash, and the opening of bank accounts in which funds are deposited for a third party. (*ITAR-TASS Weekly News*, Dec. 7, 2002.) (Peter Roudik, 7-9861)

UNITED KINGDOM--Armed Police on Flights

Security in airports in the United Kingdom has been rigorous since the explosion of Pan Am flight 103 over Lockerbie, Scotland, in 1988. After the explosion, it became mandatory for all passengers, flight crews, baggage, and cargo to be screened before being permitted on board commercial aircraft. While the security is considered to be tight, it is kept under permanent review. The September 11th attacks in the United States resulted in heightened airport security and increased scrutiny of existing procedures. The Secretary of State for Transport has stated that security enhancements include searches of passengers and staff as well as their baggage on the ground and the installation of intrusion-resistant flight deck doors on UK aircraft.

One additional measure recommended in the review process was an increase in the element of deterrence. The Secretary of State for Transport announced on December 19, 2002, that a capability had been developed to place covert and specially trained armed police aboard civil aircraft to deter potential terrorists. The announcement has been met with concern in the aviation industry, with British airlines and the UK Airline Pilots Association wanting more emphasis to be placed on ground security. Some aviation security experts believe that the introduction of the armed police is a "tacit acceptance on behalf of the government that the other security measures at airports are not up to standard." (Press Release: "Department for Transport, Armed Police Aboard Aircraft: Darling Announces New Aviation Security Measure" (DfT-109), News Release 2002/0364, Dec. 19, 2002; Patrick Barkham, "Armed Sky Marshals Ready To Protect British Aircraft," *The Times* (London), Dec. 20, 2002 at <http://www.timesonline.co.uk/printFriendly/0,,1-3-519451,00.html>; "Armed Air Marshals for UK Flights," Dec. 19, 2002, at http://news.bbc.co.uk/1/hi/uk_politics/2590309) (Clare Feikert, 7-5262)

UNITED KINGDOM--Experimental Treatment for vCJD in Humans Approved By Court

A recent judgment granted two families the right to consent on their two children's behalf to have experimental treatment performed on them. Both children are dying from probable Variant Creutzfeldt Jakob Disease (vCJD). VCJD is a fatal neurodegenerative disorder which has been linked to bovine spongiform encephalopathy (BSE), also known as "mad cow disease" and is believed to be transmitted to humans by eating beef from cows infected with BSE. The High Court judgment is considered a landmark ruling, setting a precedent for experimental treatment to be performed on people with terminal illnesses. Justice Bulter-Sloss, president of the Family Division of the High Court, ruled that she did not want to inhibit medical

progress and considered that “where there is no alternative treatment available and the disease is progressive and fatal, it seems to be reasonable to consider experimental treatment with unknown benefits and risks, but without significant risks of increased suffering...where there is some chance to benefit the patient.”

While the judgment declares that the treatment itself is lawful and the families have a surgeon willing to conduct it, the courts cannot compel any National Health Service (NHS) Hospital Trust to have the treatment performed in any of its hospitals. In order for treatment to be undertaken in an NHS hospital, the Clinical Procedures Policy must be followed. The policy requires that an application be made to the Clinical Governance Committee and the Drugs and Therapeutic Committee. The two committees then consider whether to accept the patients for treatment. In a move the Judge said would be “an unbelievably cruel blow” to the families, the hospital where they were hoping to have the treatment performed did not accept the children as patients. The Department of Health is currently helping the families search for a hospital willing to have the treatment performed on its premises. (Simms v. An NHS Trust [2002] All ER 263; “Teenagers get CJD Drug Go-Ahead,” Dec. 17, 2002, at <http://news.bbc.co.uk/1/hi/health/2563127.stm>; Jeremy Laurance, “CJD Case Teenagers Win Right to Unsafe Treatment,” *The Independent* (London), Dec. 18 2002, at <http://news.independent.co.uk/uk/health/story.jsp?story=362588>; “Children Allowed ‘Last Chance’ vCJD Injection,” *The Times* (London), Dec. 18, 2002, at <http://www.timesonline.co.uk/printFriendly/0,,1-2-517526,00.html>)
(Clare Feikert, 7-5262)

NEAR EAST

KAZAKHSTAN--New Rules for International Adoptions

New regulations for the adoption of Kazakh orphans were adopted by the Kazakh Government on November 20, 2002. The new regulations distribute the responsibility among Kazakhstan’s state bodies involved in the adoption of orphans by foreign citizens. These state bodies are the Ministry of Education and Science, the Justice Ministry, the Migration Police, and the Consular Department of the Ministry of Foreign Affairs. The new regulations have combined the rules of all government agencies dealing with the adoption of Kazakh children by foreigners, providing for the centralized registration of orphans and prospective parents and introducing a judicial procedure for adoptions. Participation of prospective parents in the adoption trial is required, and the establishment of personal relations between the orphan and the prospective parents before the submission of the adoption request is mandatory. The Ministry of Foreign Affairs will monitor the living conditions, state of health, and education of the adopted children abroad. More than 2,000 Kazakh children were adopted by foreigners during the last four years. Most of them are living in the United States. (*Kazakhstan Today* (daily newspaper), No. 213, Nov. 22, 2002.)
(Peter Roudik, 7-9861)

MOLDOVA--Dual Citizenship Introduced

Newly adopted amendments to the Moldovan Constitution lifted the ban on dual citizenship in the country. Under the amendments, the acquisition of foreign citizenship does not entail automatic loss of Moldovan citizenship, and individuals who possess citizenship of Moldova and another country have the right to decide what status to use in relation to the Moldovan state. The right to keep Moldovan citizenship upon acquisition of foreign citizenship applies to citizens of Moldova only and does not liberalize the procedure for acquisition of Moldovan citizenship by citizens of other states. The measure was introduced by the ruling Communist Party in order to satisfy claims of hundreds thousands of Moldovans who have acquired the citizenship of foreign states-- in particular Israel, Romania, Russia, and Ukraine--during the last decade.

(*ITAR-TASS Weekly News*, Dec. 11, 2002.)
(Peter Roudik, 7-9861)

UZBEKISTAN--Law on Military Duty

The Law on Universal Military Duty entered into force in Uzbekistan. The Law provides for a 1.7-fold increase in monetary allowances for servicemen and introduces a new term of military service; as of January 1, 2003, length of service will be decreased from the current 18 months to 12. Persons with college or university degrees will serve nine months. The basic features of the military service and its legal framework were not changed by the new Law. Uzbek President Islam Karimov stated that the new Law creates a legal basis for building a new professional army. (*ITAR-TASS Weekly News*, Dec. 12, 2002.)
(Peter Roudik, 7-9861)

SOUTH PACIFIC

AUSTRALIA--Libel Suits for Internet Content

In a landmark ruling that reverberated far beyond Australia's coast, the Australian High Court ruled unanimously that Internet publishers could be sued for defamation in Australia for articles posted in other countries. A Melbourne businessman wished to sue Dow Jones, the owner of the United States business publication *Barron's*, in Melbourne for allegedly defamatory statements about him in an October 2000 article. Although the magazine article was published in the United States, the Internet version was available and could be downloaded in Melbourne, which was where Mr. Gutnik claimed the damage to his reputation occurred. Dow Jones argued that the case should be heard in New Jersey rather than Victoria, the Australian state where Melbourne is located. Victoria's libel laws are regarded as much stricter than those of New Jersey. The High Court found that the Internet should be treated no differently than other broadcasters and that material is published where it is downloaded from the Internet, not where it is posted to it. Although the case has no immediate bearing outside Australia, it appears likely to be followed in other Commonwealth countries with similar legal systems. The case was closely followed by many major international media companies. ("Media Firms Review Net Rules," Dec. 10, 2002, at <http://www.news.com.au/>; *Dow Jones & Company Inc. v. Gutnik* [2002] HCA 56 (Dec. 10, 2002) at <http://www.austlii.edu.au>)
(D. DeGlopper, 7-9831)

AUSTRALIA--Stem Cell Law Passed

After unusually protracted and emotional debate, on December 10, 2002, Australia's Federal Parliament passed the Research Involving Human Embryos Bill. State and Territory governments will now introduce complementary legislation, establishing a consistent national regulatory system. A separate and less controversial bill to prohibit human cloning was also passed. The law is intended to regulate the use of excess human embryos resulting from application of assisted reproduction technology (ART). It establishes an Embryo Research Licensing Committee under the existing National Health and Medical Research Council. The new Committee will control the use of embryos created before April 5, 2002, which are the only embryos that may be used. The unlicensed use of an ART embryo will be a criminal offense, punishable by up to five years' imprisonment. The Committee will be empowered to monitor all research involving excess embryos and may withdraw a license, thus stopping the research, if it finds the conditions of the license have not been met. The National Health and Medical Research Council is to make an independent review of the operation of the new law after two years and report its findings to the Council of Australian Governments, the joint

Federal-State body which decided in April 2002 on the legislative approach to be followed by both levels of government to regulate stem cell research. (*Australian Broadcasting Corporation*, Dec. 6, 2002, at <http://www.abc.net.au/>; *The Australian*, Dec. 5, 2002, at <http://www.theaustralian.news.com.au>)
(D. DeGlopper, 7-9831)

INTERNATIONAL LAW AND ORGANIZATIONS

ARGENTINA/BRAZIL--Control of Border Airspace

On December 9, 2002, the Defense Ministers of Argentina and Brazil signed an exchange of information agreement for cooperation on controlling border airspace and took an important step in relations based on mutual trust. The detection of irregular flights (those that do not have an identified flight plan) is one of the priorities for both nations. Irregular flights are often involved in illegal acts, such as drug trafficking and smuggling. This cooperation accord was signed after the completion of a joint exercise between the Argentine and Brazilian air forces. (“Brazil To Cooperate with Argentina in Controlling Airspace Along Border,” *La Nacion*, Buenos Aires, Dec. 10, 2002, via FBIS.)
(Sandra Sawicki, 7-9819)

CHILE/UNITED STATES--Free Trade Agreement Signed

Ricardo Lagos, President of Chile, announced on December 11, 2002, that his country has signed a free trade treaty with the United States after 11 years of negotiation. The successful completion of the treaty was accomplished despite obstacles involving short-term Chilean capital, access to agro-industrial products, and intellectual property rights (see WLB, Dec. 2002). The treaty will begin to take effect in 2004. Soledad Alvear, the Chilean Ambassador in Washington, stated that the treaty improves the conditions for Chilean products to enter the US market and contains clear and permanent rules that will govern commerce of products, goods, and services. (*BBCMundo.com*, Dec. 11, 2002, via http://news.bbc.co.uk/hi/spanish/business/newsid_2567000/2567003.stml)
(Sandra Sawicki, 7-9819)

CHINA/UNITED NATIONS--Firearms Protocol Signed

On December 9, 2002, the People’s Republic of China became the 46th country to sign the Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, Supplementing the United Nations Convention Against Transnational Organized Crime. The Firearms Protocol was open for signature in May 2001. (“FM Spokesman on China’s Signing UN Firearms Protocol,” *Xinhua*, Dec. 10, 2002, and “China Vows Cooperation on Arms Control After Signing Protocol,” *Agency France Press*, Dec. 10, 2002, both via LEXIS/NEXIS, News Library.)
(W. Zeldin, 7-9832)

COLOMBIA/PANAMA--Accord on Border Security

Alvaro Uribe, President of Colombia, and Mireya Moscoso, President of Panama, signed a treaty on December 18, 2002, to intensify security along their border that is frequently used by Colombian guerrilla and paramilitary groups for weapons and drug trafficking. President Uribe wants to increase military

spending for border security by \$1 billion and double the number of soldiers and police stationed there; President Moscoso announced that her government would not impose restrictions on Colombians who want to enter Panama and would not require visas for Colombian citizens. (*CNNenEspañol.com*, Dec. 18, 2002, via <http://www.cnnenespanol.com/2002/americas/12/18/colombia.panama.reut/index/html>) (Sandra Sawicki, 7-9819)

CUBA/IRAN--Talks on Bilateral Relations

Ministerial level discussions are taking place or will take place in Tehran and Havana to strengthen bilateral relations between the two nations. Iranian Ambassador to Cuba Ahmad Edrisiyan met with Cuban Minister of Light Industries Jesus Prez Atun in December to discuss the Cuban desire to import Iranian textiles and clothing. A Cuban delegation is expected to be sent to Iran to further explore this topic and assess requirements for commercial ties. Iran will extend a banking credit to Cuba to enable the purchase of these goods. The broadening of commercial relations follows bilateral cooperation efforts already taking place in the areas of science and shipping. (“Cuba Seeks Expansion of Bilateral Ties with Iran,” *IRNA*, Tehran, Dec. 16, 2002, via FBIS.) (Sandra Sawicki, 7-9819)

EU/HKSAR–Return of Illegal Immigrants Agreement

The European Union (EU) and the Hong Kong Special Administrative Region (HKSAR) signed an agreement on November 27, 2002, on the readmission of persons residing without authorization in each other’s territory. The agreement was reached in the aftermath of a March 2001 EU decision to grant visa-free access to HKSAR passport holders and negotiations concluded at the end of 2001; it was initialed on November 22, 2001. According to the Xinhua News Agency, the agreement will enable both sides “to ensure, on a reciprocal basis, the rapid and effective identification and return of persons illegally entering or remaining in their respective territories.” It is reportedly the first agreement of its kind to be signed between the EU and a third country or region. (“Xinhua: EU and HKSAR Sign Readmission Agreement,” *Xinhua*, Nov. 27, 2002, via FBIS.) (W. Zeldin, 7-9832)

RUSSIA/VENEZUELA --Money-Laundering Agreement Signed; Other Accords Planned

Russia and Venezuela signed bilateral agreements in December that will facilitate the fight against money laundering and drug trafficking, according to Venezuela Deputy Foreign Minister Arevalo Mendez Romero. He added that both nations are working on agreements to encourage investments and avoid double taxation. An inter-governmental commission scheduled to open in March 2003 will help improve economic cooperation between the countries. The session participants are planning to sign nine other documents to expand bilateral ties. (“Russia, Venezuela Agree To Develop Ties To Combat Money-Laundering, Drugs Crimes,” *ITAR-TASS*, Moscow, Dec. 19, 2002, via FBIS.) (Sandra Sawicki, 7-9819)

WESTERN HEMISPHERE–Treaty on Arms Acquisition Takes Effect

The Inter-American Convention on Transparency in Conventional Arms Acquisition entered into force on November 21, 2002, and was hailed by the Committee on Hemispheric Security of the Organization of American States as a great demonstration of the commitment of the Western Hemisphere states. The treaty

was adopted during the OAS General Assembly in Guatemala City in June 1999, and has thus far been ratified by Canada, Ecuador, El Salvador, Guatemala, Paraguay, Peru, and Uruguay. The objective of the treaty is to contribute more fully to regional openness in conventional weapons acquisitions by sharing information on these acquisitions, in order to foster confidence among the states of the Americas. The states party to this convention undertake to share on an annual basis information on their imports and exports of conventional weapons for the previous year. The list of conventional weapons includes tanks, bullet-proof combat vehicles, high-caliber artillery systems, combat aircraft, attack helicopters, warships, missiles, and missile launchers. (*Organization of American States*, Nov. 26, 2002, via <http://www.oas.org>) (Sandra Sawicki, 7-9819)

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Recent Publications from Great Britain Obtainable from the Law Library

House of Commons. COMMUNITY LEGAL SERVICE: THE INTRODUCTION OF CONTRACTING. HC 89. London. Nov. 2002. 35 pp.

The Legal Services Commission is responsible for administering civil legal aid in England and Wales. The aim of the Commission is to encourage uncomplicated access to quality-assured legal services that provide information, advice, and representation mainly, though not exclusively, to disadvantaged citizens. In 1996, the Committee for Public Accounts had expressed concern about the growth of expenditure in civil legal aid and the growing number of applicants with complex legal affairs typically associated with expensive litigation; the Committee recommended the contracting out of funded services that consisted of "controlled" or "licensed" work (1995-1996, HC 314). The report notes that since the implementation of the new contracting arrangements, the overall expenditure on civil legal aid has decreased, even though the demands for services, especially in the areas of immigration and asylum, have increased.

----- Committee on Standards in Public Life. STANDARDS OF CONDUCT IN THE HOUSE OF COMMONS. Cm 5663. London. Nov. 2002. 82 pp.

This committee report is a review of the first and sixth reports of the Nolan Committee on Standards in Public Life, in which the Commons set up new machinery to consider matters relating to standards of conduct for all holders of public office. The previous reports focused on the funding of political parties, the regulation of special advisors to Ministers, the rules regarding registration and declaration of interests, and advocacy. The report details the progress that has been made in establishing and enforcing high standards of conduct and concludes that one or two serious cases of misconduct can lead to a disproportionate loss of public confidence in the House of Commons as an institution. The report also contains the Committee's concerns that the recommendations set forth ensure fairness to Members against whom allegations are made, while ensuring that the system of regulation not only boosts public confidence in the House of Commons but also maintains the confidence of the House in itself.

----- Foreign Affairs Committee. GIBRALTAR. HC 973. London. Nov. 2002. 130 pp.

This report rejects the Government's policy on the future of Gibraltar. Calling the Foreign Office's failure to confirm to Parliament its recommendations regarding joint sovereignty a "serious breach in accountability," the report sides with the Gibraltarian government in its decision to boycott all talks on the future of the peninsula. It calls for the government to carry out its promise to enfranchise the Gibraltarian electorate in time for the 2004 European parliamentary elections.

----- Home Affairs Committee. THE CONDUCT OF INVESTIGATIONS INTO PAST CASES OF ABUSE IN CHILDREN'S HOMES. HC 836-I. London. Oct. 2002. 213 pp.

Since 1997, 34 of the 43 police forces in England and Wales have been involved in investigations into allegations of child abuse in children's homes and other institutions. All of the allegations relate to historical abuse, said to have occurred from several years to several decades ago. The majority of these cases have resulted in miscarriages of justice arising from over-enthusiastic pursuits of allegations, with cases either being discontinued by the Crown Prosecution Service or dismissed by the courts. The report cites the police practice of "trawling" as the main reason for the discontinuances and dismissals. In any investigation of past institutional abuse, the police will contact the persons named in the complaint. Trawling refers to the process when the police go one step further and contact potential witnesses who have not been named or even mentioned who were resident at the institution under investigation during the period when the abuse was alleged to have happened. The report attempts to address the rules that should cover these investigations to insure that miscarriages of justice do not occur in the future.

----- THE OFFICE OF SCIENCE AND TECHNOLOGY: SCRUTINY REPORT 2002. HC 860. London. Oct. 2002. 52 pp.

This report focuses on the expenditures, administration, and policies of the Office of Science and Technology (OST) and its associated public bodies. The report includes an examination of OST's commitment to improving the overall international ranking of the UK's science and engineering base, as measured by international measures of quality, cost-effectiveness, and relevance; increasing the level of exploitation of technological knowledge derived from the science and engineering base; and raising the overall innovation performance of the UK economy.

VENEZUELA: Legal Developments During National Work Stoppage*

A three-week-old national strike called by the opponents of President Hugo Chavez Frias has brought much of the Venezuelan economy to a standstill and has captured international headlines. A broad coalition of business, including the petroleum industry, and labor is attempting to bring about the resignation of the President or his acceptance of early elections. The Venezuelan Maritime Law Association has proclaimed the president's actions of sending armed forces to take over oil tankers anchored in Lake Maracaibo in support of the strike to be disproportionate and contrary to the principles and standards of the rule of national and international law. The group maintains that the seizure of the tankers by troops endangers the lives of the crew and residents of the areas surrounding the Lake.¹

On December 17, 2002, the Prosecutor General's Office (PGO) issued a statement demanding that all authorities at the national, state, and municipal levels, State institutions, political and social organizations, and private citizens obey judicial rulings and actions by the PGO according to the Constitution and national laws. The PGO reiterated its Constitutional powers to initiate and direct criminal investigations, guarantee the rights of Venezuelans, and establish the criminal, administrative, labor, and military liabilities of public officials.² A joint decree was issued on December 18 by the Secretariats of Defense, Production and Trade; Agriculture and Land; Health and Social Development; Infrastructure and Energy; and Mines that authorizes the commandeering of private means of transportation to ensure the supply of fuel and food. The regulation is also valid for real estate and goods and chattels devoted to the supply, transport, and delivery of food on waterways.³

On December 18 and 19, the Supreme Court of Justice issued rulings in regard to public order and the legality of the strike. In the first decision, the Constitutional Chamber of the Court ordered that President Chavez surrender control of the Caracas police force and return it to the mayor of the city. Chavez had ordered the military to take control of police stations in the capital city on November 16 during a long labor dispute. The Court pointed out that the leadership of the metropolitan police is unequivocally the domain of the metropolitan mayor, and ordered city and national authorities to transfer the department from the military to the mayor within 15 days.⁴ The following day the Supreme Court declared the

* By Sandra Sawicki, Senior Legal Research Analyst, Law Library, 7-9819.

¹ *Maritime Law Association Criticizes Chavez' Actions with Tanker Vessels*, EL UNIVERSAL, Internet version, Caracas, Dec. 17, 2002, via Foreign Broadcast Information Service (FBIS).

² *Prosecutor General Confirms All Authorities Must Observe Judicial Rulings*, EL OBSERVADOR, Caracas, Dec. 17, 2002, via FBIS.

³ *Decree Authorizes Seizure of Private Property to Deliver Fuel, Food*, GLOBOVISION TELEVISION, Caracas, Dec. 18, 2002, via FBIS.

⁴ *TSJ Rules Against Government Intervention of Metropolitan Police*, UNION RADIO, Caracas, Dec. 18, 2002, via FBIS, and *Chavez Loses Control of City Police*, THE WASHINGTON POST, Dec. 19, 2002, at A19.

stoppage at the national oil company, Petroleos de Venezuela, S.A. (PDVSA), to be illegal and ordered the oil workers and executives to return to work. They subsequently said they would not comply and have claimed a constitutional right to close the company because the government is unjust. On January 2, 2003, PDVSA employees met in a general assembly in Caracas and decided to continue the work stoppage in the national oil industry. They insisted on the need for an electoral solution to the Venezuelan crisis and announced a march to be held in the downtown area on January 3.⁵ The Court's decision was based on a suit recently filed by the PDVSA director of production who claimed that the strike was threatening national security.⁶

The Secretary General of the Organization of American States, Cesar Gaviria, has been in Venezuela since the early days of the national strike, attempting to bring the government and the opposition to an agreement on the structure and operation of future government, in order to end the crisis. On January 3, 2003, he announced that the parties have agreed regarding the separation of powers and the presumption of the legality of the decisions of the public powers. Both parties agree that an important principle of democracy in Venezuela is separation of powers, that the powers' decisions are legal, and that they must accept the sentences of the Supreme Court of Justice. Gaviria stated that his drive to bring the parties to an agreement for a consultative referendum conducted by the National Electoral Council, however, has had no positive results.⁷

⁵ *PDVSA Workers Decide To Remain on Strike*, UNION RADIO, Caracas, Jan. 2, 2003, via FBIS.

⁶ *Venezuelan Court Says Strike Illegal*, THE WASHINGTON POST, Dec. 20, 2002, at A48.

⁷ *Gaviria Reports No Progress on Issue of Consultative Referendum*, UNION RADIO, Caracas, Jan. 3, 2003, via FBIS.

