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April 2003

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National ID Cards - Italy, Taiwan

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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.

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AMERICAS

BRAZIL– Minimum Wage Raise

The President of Brazil, Luiz Inacio Lula da Silva, has increased the monthly minimum wage by 20 percent. As of April 1, 2003, the rate is 240 *reales*, or approximately US\$71, and the President promised to try to double that figure by the end of his presidential period. The increase has not fully satisfied the unions, however; it means a net rise of only 1.85 percent because of prices increasing by up to 17.82 percent in the last 12 months. President Lula explained that although this increase may not be as high as he would have liked, the amount was agreed upon with the Congress and approved by the budgetary officials. A major problem, however, is that the Brazilian Constitution provides that no retirement benefit can be lower than the minimum wage. With this legal linkage of pension benefits and minimum wage, the possibility of further increases in the minimum wage is slight, given the extremely high social security deficit. Therefore it appears that the only means by which President Lula can further increase the minimum wage is to carry out long awaited social security reform that would allow for an increase of the wage with no link to the social security floor. (*O Globo*, Apr. 1 & 2, 2003.) (Graciela Rodriguez-Ferrand, 7-9818)

CANADA– Gun Registry Costs Mount

Parliament has voted to give another US\$40 million to Canada's national firearms registration program. This program was originally projected to cost US\$1.5 million, but it is now estimated that it will result in a cost of at least US\$650 million by 2005. Although a number of Liberal MPs were reportedly opposed to the measure, virtually all of them supported the Government after the Prime Minister announced that the vote would be considered a vote of confidence, the defeat of which would have resulted in the calling of an election. Liberals voting against the measure would have also risked being excluded from the party caucus. ("59 Million More for Firearm Registry," *Globe and Mail*, Mar. 26, 2003, via <http://www.globeandmail.ca/servlet/story/rtgam.20030326.wgun0326/BNStory/National>) (Stephen Clarke, 7-7121)

CANADA– Federal Government To Begin Funding Day Care

The Federal Government has signed a deal with the provinces to begin partial funding for provincial day-care programs. The original commitment is \$600 million. Although Ontario had wanted a freer hand in financially supporting in-home care, Canada's largest province accepted a limitation that restricts the spending of the new federal funds to regulated programs. ("Ottawa Pledges Cash for National Care," *CBC News*, Mar. 13, 2003, <http://www.cbc.ca/stories/2003/03/13/daycare030313>) (Stephen Clarke, 7-7121)

CANADA (Quebec)– Sovereignty Goal Eased

Quebec's Parti Quebecois Premier has called an election for April 14, 2003. Although the PQ remains committed to achieving sovereignty, a new plan calls for participation in a "confederal union with Canada." This is a softer approach than earlier PQ Governments took on the issue of independence for the province and is consistent with the Premier's announcement that even if his party is reelected by a substantial margin, he would hold a third referendum on sovereignty only if victory for the separatists was to become highly likely. ("Jacques Parizeau endosse la position de Bernard Landry sur la souveraineté," *Presse canadienne*, Mar. 27, 2003, at <http://cf.news.yahoo.com/030327/1/9658.html>)

(Stephen Clarke, 7-7121)

COSTA RICA– New Law on Radio and Television

Costa Rica promulgated a new Law on the National Cultural Radio and Television System on March 4, 2003 (the equivalent of public television in the United States). The Law regulates the public services provided by the National Radio and Cultural Television (SINART, S.A), its legal status, and its communications operations. It also covers the principles in force governing the system; structure and organization; budget and financial sources; accountability proceedings; general director's responsibilities; and the labor situation of the employees since SINART's conversion to a stock company. The Law repeals the previous law, which dated from 1978. (*Diario Oficial*, Mar. 4, 2003).

(Norma C. Gutierrez, 7-4314)

EL SALVADOR– Banking Law

El Salvador promulgated a Legislative Decree extensively amending the statute on banks, enacted by the Legislative Decree of September 2, 1999 (*Diario Oficial*, Sept. 30, 1999). The Decree covers treasury shares; beginning of operations; investments by banks; increase of social capital; reserves; automated services; payment system and electronic transactions; and term for liquidation. It supersedes Title IV concerning regularization, restructuring, intervention and liquidation; suspension of operations; annulment of the authorization to operate; limitation and prohibitions in the assumption of risks; and treatment of counterfeit bills. (*Diario Oficial*, Sept. 25, 2002.)

(Norma C. Gutierrez, 7-4314)

ASIA

CHINA–Government Structural Reform

On March 10, 2003, the National People's Congress adopted an institutional reform plan for the State Council. The changes are part of a longer range 15-year government reform program designed to trim government power and improve its transparency and efficiency. The recently approved plan abolished the Ministry of Foreign Trade and Economic Cooperation and the State Economic and Trade Commission and created a new Ministry of Commerce. A State Assets Management Commission and a China Banking Regulatory Commission have also been newly established. The new reforms are said to involve not only government departments but also Chinese Communist Party units, in order to eliminate duplication of administrative functions between the two systems. ("Full Text of State Council Institutional Reform Plan Adopted at NPC Session," *Xinhua*, as translated in FBIS, Mar. 10, 2003; "China Daily: State Council's Institutional Reform Plan Part of 15-Year Program," *China Daily*, Internet version, Mar. 11, 2003, via FBIS.) (W. Zeldin, 7-9832)

CHINA– Provisions on Taiwan Businesses

New, temporary provisions on Taiwan-funded business associations in China were issued on March 20, 2003, by the Ministry of Civil Affairs and the Taiwan Affairs Office of the State Council. They are designed to guarantee the legal rights and interests of Taiwanese businesses in the mainland market and thereby stimulate cross-Straits economic relations. The provisions will become effective April 20, 2003, and cover the nature, purpose, business scope, approval procedure, activities, and source and use of funds of Taiwan business associations. Such associations have been established in Beijing since 1990; there are

now 69 entities doing business in 22 provinces, autonomous regions, or major cities. (*Xinhua*, Mar. 20, 2003, via LEXIS/NEXIS.)
(Constance A. Johnson, 7-9829)

INDIA--Freedom of Information

On January 6, 2003, the President of India assented to the Freedom of Information Act, No. 5 of 2003, enacted by the Parliament. The Act provides for the freedom of every citizen to secure access to information under the control of public authorities, consistent with the public interest, in order to promote openness, transparency, and accountability in administration and in related matters. However, nothing in the Act will apply to the intelligence and security organizations, specified in the Schedule as organizations established by the Government, or to any information furnished by them to the Government.
(Krishan Nehra, 7-7103)

INDIA– Money Laundering

The Prevention of Money-Laundering Act, 2002, No. 15 of 2003, was enacted by the Parliament and assented to by the President on January 17, 2003. The Act provides for confiscation of property derived from, or involved in, money laundering and related matters. Where there is a reasonable belief based on materials presented to the authorities, that a person is guilty of an offense under the Act, the Director may order the person's arrest. The offense of money laundering is punishable by a term of imprisonment that may range from three years to seven years, in addition to a fine and forfeiture of property.
(Krishan Nehra, 7-7103)

JAPAN–Strict Diesel Exhaust Regulations

On March 23, 2003, Japan's Environment Ministry issued new regulations on exhaust emissions from diesel-powered vehicles to be sold from the fall of 2005 onward. The regulations, said to set stricter standards than those being implemented in Europe and the United States, drastically reduce permissible emissions of particulate matter (a suspected carcinogen) and nitrogen oxides (a cause of respiratory organ problems). They cut by 85 percent—from 0.18 grams per kilowatt hour (GPKH) to 0.027—the current standard for particulate matter emissions permitted for large trucks and buses weighing over 3.5 tons. Nitrogen oxide emissions are cut by 41 percent, from 3.38 GPKH to 2. For small and medium-size trucks, buses, and passenger cars, the standards are reduced by 75 percent for particulate matter and by 50 percent for nitrogen oxides, depending on the vehicle size. ("Japan Introduces New Diesel Exhaust Regulations," *Xinhua*, Mar. 25, 2003, via LEXIS/NEXIS.)
(W. Zeldin, 7-9832)

PAKISTAN– Islamabad Local Government

On November 11, 2002, the President of Pakistan promulgated the Islamabad Capital Territory Local Government Ordinance, which provides for the establishment of local governments in the Islamabad Capital Territory (Act No. 107, 2002, *The Gazette of Pakistan Extraordinary*, Nov. 11, 2002). The Ordinance became effective at once and was issued in exercise of the powers of the President under the Proclamation of Emergency of October 14, 1999, and the Provisional Constitution Order No. 1 of 1999. The local governments established under the Ordinance will function within the Federal Government framework and adhere to all applicable laws. In performance of its functions, the local governments are

not to impede or prejudice the exercise of the executive authority of the Federal Government.
(Krishan Nehra, 7-7103)

TAIWAN–Controls on Machine Tool Exports to “Rogue States”

The Board of Foreign Trade has formulated a “Machine Tools Export Administrative Procedure” to strictly control export of Taiwan-produced machine tools, in response to a request from the United States to monitor and control Taiwan firms that are allegedly exporting machine tools to Iraq. Machine tools bound for Iran, North Korea, and Libya, the other three nations labeled “rogue states” by the United States, will also be included under the controlled category. Exporters will have to apply for an export license to export the goods. To prevent trans-shipment of machine tools to the four states via a third country, tools bound for other countries, including Malaysia and Indonesia but not countries that are party to the Wassenaar Arrangement (on export controls of military and dual-use goods) and the Nuclear Nonproliferation Treaty, would be subject to control. However, Taiwan’s major machine tool exporters have put pressure on the government to narrow the scope of products (reportedly as many as 74) that will be placed under the stricter monitoring mechanism. (“Taiwan Imposes Control on Export of Machine Tools to Countries Including Iraq,” Taipei *Tzu-Yu Shih-Pao*, Internet version, Mar. 8, 2003, as translated in FBIS, Mar. 10, 2003; “Machine Tool Makers Seek Narrower Export Restrictions,” *Taiwan Economic News*, Mar. 19, 2003, via LEXIS/NEXIS).
(W. Zeldin, 7-9832)

TAIWAN– Fingerprint Registry for ID Cards Resisted

The Taiwan Association for Human Rights held a protest at the Ministry of the Interior on March 14, 2003, to express their dissatisfaction with a proposal to have all citizens submit fingerprints to a national database. The group argued that the plan would infringe on civil rights. The controversy about this plan has held up the implementation of a new system of national ID cards, designed to prevent forgeries. The plan was originally put forth as an amendment of the Household Registration Law in 1997. That amendment would have required all citizens over the age of 14 to submit prints of all ten fingers at the time they received their new ID cards. In January 2003, the Ministry announced a modified plan in which each person would submit the print of a single finger, to be used for identification purposes only, not for law enforcement investigations. Three previous versions of the plan have been proposed by the Ministry’s Civil Affairs Department, but they were abandoned due in part to opposition and in part to high estimated costs. (*Taipei Times*, Mar. 15, 2003, <http://www.taipetimes.com>; *Taiwan News.com*, Jan. 22, 2003, <http://www.etaiwannews.com>.)
(Constance A. Johnson, 7-9829)

THAILAND– Protest at US Embassy Over Thai Draft Law on Geographical Marks

On March 18, 2003, some 100 rice farmers gathered in front of the US Embassy in Bangkok to protest what they saw as outside interference in the Thai legislative process. They were concerned about the draft Geographic Indications Protection Bill. The bill was passed by the Thai Senate in November 2002 and is now to be considered by the House. The proposed law is supposed to protect products unique to certain geographic areas, similar to the French protection of the term “Champagne.” The farmers’ concern is the exclusion of the term “jasmine rice” and certain other Thai agricultural product names from protection; the draft labels them generic terms. Thai-originated services including Thai boxing and Thai traditional massage would also be left out. The fear is that foreign producers could cut into the market for things considered uniquely Thai in nature. (*Bangkok Post*, Mar. 19 & 20, 2003, via LEXIS/NEXIS.) There has already been a dispute over the use by American growers of the name “jasmati rice,” with Thai

growers arguing it will mislead consumers into thinking they are getting the Thai product. (Thailand Law Forum, <http://www.thailawforum.com/news.html>, visited Mar. 21, 2003.)

(Constance A. Johnson, 7-9829)

VIETNAM–Foreign Investment Limit Eased

Prime Ministerial Decision No. 36, issued on March 11, 2003, raises the stake of total registered capital that foreign investors can hold in Vietnamese firms from 20 percent to up to 30 percent. The range of companies in which foreigners may buy shares or provide a capital contribution in the form of machinery, equipment, or technology has also been expanded. Any personal income derived from foreign shares is tax exempt, and shareholders may join Vietnamese firms' boards of management if they reside in Vietnam. The Decision also sets forth the rates and forms of stake purchase or capital contribution by foreign investors and defines their rights and duties. If foreign-owned shares exceed 30 percent, they are to be regulated under the 1987 Law of Foreign Investment. ("Larger Foreign Stakes in Domestic Firms Approved," *The Vietnam Investment Review*, Mar. 17, 2003; "Vietnam Issues Regulations on Foreigners' Capital Contribution," *Asia Pulse*, Mar. 13, 2003, both via LEXIS/NEXIS.)

(W. Zeldin, 7-9832)

VIETNAM–Money Laundering

The Central Bank of Vietnam is reportedly drafting an anti-money laundering decree. It will define what constitutes money laundering and abetting activities and will set forth the responsibilities of State administrative agencies. It will also prescribe punishments. The draft will be sent to the Government after officials take part in a money laundering seminar in the United States to be held in April 2003 by the International Monetary Fund. ("Vietnam To Issue New Money Laundering Regulations," *World Markets Analysis*, Mar. 13, 2003, via LEXIS/NEXIS.)

(W. Zeldin, 7-9832)

EUROPE

BELARUS--National Population Database and ID System Created

The President of the Republic of Belarus has ordered the creation of a single State register of population within the framework of the government-run national information program "Electronic Belarus." The database will include information on all physical and legal persons registered in Belarus, including passport information, and information on each individual's civil status provided by the local offices of the State bureau of civil registry. The decree states that the database will be created in order to provide the Government with information on labor resources, population migration, social structure, and employment. This information will be contained on an electronic card issued to all citizens, possession of which will be mandatory and which can be checked by police at the discretion of authorities. The Project is to be implemented before the end of 2005. (*BELTA*, Belarus Telegraph Agency, Mar. 7, 2003.)

(Peter Roudik, 7-9861)

BULGARIA– Money Laundering Prevention Measures

The Parliament of Bulgaria reestablished a legal provision requiring importers of foreign capital for property purchases to prove the origin of the funds. This provision had been abolished last year as part

of an effort to encourage entrepreneurship. The reintroduced measure will apply only to individuals, leaving enterprises unaffected. Lawyers and other intermediaries involved in deals with estates will be obliged to provide information to the Bureau for Financial Investigation for all deals that are paid for in cash and exceed BGN30,000 (about US\$16,300). However, they will not report on or identify their clients or collect documents when they act as consultants in the legal defense of their clients. The amendments in the law were coordinated with the legislation of Slovenia and Hungary, which specifically emphasize that professional secrets should not be used as an excuse to hide information. (*Bulgarian Economic Forum*, Mar. 20, 2003.)

(Peter Roudik, 7-9861)

CZECH REPUBLIC– Accession to the European Union

A Constitutional law effective March 1, 2003, provides for a referendum to make a decision on the entry of the Czech Republic into the European Union (Constitutional Law of Nov. 12, 2002, No. 515, *Collection of Laws*). Citizens of age 18 and above will be asked whether they agree that the Republic should become a Member State of the Union. The referendum will be called by the President of the Republic within 30 days of the signing of the Accession Treaty and will be held within 30 to 60 days of the announcement. If a majority of voters approve accession, that vote would constitute ratification of the Accession Treaty. If the voters turn down accession, a new referendum could be called at the request of the government or of two-fifths of the deputies or senators two years after the first referendum. The first referendum is expected to be held in June 2003, and if accession is approved, the Republic could become a Union member by May 1, 2004. (Czech News Agency, Feb. 19, 2003.)

(George E. Glos, 7-9849)

ESTONIA--Constitutional Amendment

On March 19, 2003, Estonian President Arnold Ruutel promulgated an amendment to the Constitution on extending the credentials of local self-governments from three to four years. The first paragraph of Article 156 of the Constitution now says that local self-government councils are elected in free elections for a term of four years. The elections are general, uniform, and direct, and voting is secret. The longer term of office will apply to councils elected in the fall of 2005. Subsequent local elections will be held every four years. On Estonia's accession to the European Union, Europarlament elections and--should there be a transition to direct election of the president--presidential elections will be added to the schedule. Local councils are elected for a term of four years in most European countries. Only Albania, Malta, and Lithuania have councils with credentials for three years. (*BNS Baltic News Service*, Mar. 12, 2003.)

(Peter Roudik, 7-9861)

ESTONIA--New Procedures for Handling Illegal Immigrants

On February 26, 2003, the Law on Illegal Immigrants entered into force in Estonia. The Law introduces the obligation of illegal aliens to leave the country and a prohibition on their entry simplifies and speeds up the deportation procedure in Estonia. Under the Law, police or border guard authorities may expel a person staying illegally in Estonia within two days of detention, without an administrative court's decision. Previously, the procedure was delayed because the authorities were obliged to obtain a court warrant for expulsion. The administrative court's permission for the alien's expulsion is not necessary if an illegal alien has been in Estonia for at least one week. If an illegal alien cannot be expelled

within five days, he or she will be placed in a deportation center until the judgment of the administrative court is rendered. An alien to whom Estonian authorities deny a residence permit or whose permit they refuse to extend will be issued an order to leave along with the negative ruling. A person expelled from Estonia is automatically banned from entering the country for 10 years. A permanent entry ban may also be imposed. The most common cases of illegal stays in Estonia are those of foreigners staying on after their visa expires or overstaying the prescribed term of visa-free stay. (*Estonian Review Online*, Mar. 18, 2003.)

(Peter Roudik, 7-9861)

FRANCE– Air France Privatization

The National Assembly, on March 18, 2003, after a first reading, approved a government sponsored bill towards the privatization of Air France. The State, which currently owns 54.4 percent of the airline, would reduce its stake by 35 percent, with Air France's employees being allowed to acquire up to 15 percent of the shares put on sale. The draft bill also provides guarantees for the company's employees to maintain their current protection for two more years while a new company workers' agreement is negotiated. Socialist and Communist deputies voted against the bill. The privatization is strongly opposed by labor unions, which fear that it will lead to job cuts. The bill has been sent to the Senate. (<http://www.assemblee-nationale.fr>)

(Nicole Atwill, 7-2832)

FRANCE– European Arrest Warrant

Members of both houses of the French Parliament convened in Versailles and overwhelmingly (826 to 49) approved the European arrest warrant. It will replace the extradition procedure in the European Union. A paragraph addressing the warrant will be added to article 88-2 of the 1958 Constitution. This article deals with the transfer of competence necessary for the establishment of the European Economic and Monetary Union. The European arrest warrant will enter into force on January 1, 2004. (<http://fr.news.yahoo.com/030317/85/33mx9.html>) (See also LL2003-14504 report on the European Arrest Warrant and WLB2003-03, "Extradition Bill" in "Recent Publications from Great Britain Obtainable from the Law Library.)

(Nicole Atwill, 7-2832)

FRANCE– Review of Bio-Ethical Laws, Cloning

On January 29, 2003, after a first reading, the French Senate adopted a draft bill updating the three "bio-ethical laws" passed in 1994. Two of them concern the human body, and the third one concerns the computerization of health nominative data. The bill explicitly prohibits reproductive cloning and makes it a crime "against humanity and the human species" punishable by imprisonment for up to 30 years and a fine of 7.5 million *euros*. The ban was approved unanimously. The draft bill does not lift the ban on therapeutic cloning. Violation of such a ban would be punishable by imprisonment for up to seven years and a fine of 100,000 *euros*. In addition to cloning, the bill updates other provisions, including those on organ donation, genetic identification, prenatal diagnosis, and medically assisted procreation.

The draft bill has been sent to the National Assembly for debate and vote. It will be returned to the Senate for further discussion on any changes adopted by the National Assembly. It is not expected to become law until the end of June 2003. (<http://www.senat.fr/leg/tas02-063.html>) (See also LL2003-14394

multinational report on human cloning.)
(Nicole Atwill, 7-2832)

GERMANY– Cloning

In February 2003, the German legislature passed a resolution in favor of an international ban on reproductive and therapeutic cloning (*Deutscher Bundestag, Plenarprotokoll 15/28*). Germany had enacted a Stem Cell Act in June 2002 (*Bundesgesetzblatt 2002 I at 2277*). The Act purports to supplement the Embryo Protection Act of 1990, which categorically prohibits human cloning (*Bundesgesetzblatt 1990 I at 2746*). The Stem Cell Act generally prohibits stem cell importation, use, and production. However, the Act allows for certain exceptions by permitting research with stem cells that were imported to Germany before January 2002 and that had been harvested from embryos that were the byproduct of an *in vitro* fertilization. The Act reflects the tension in Germany between research needs and bio-ethical concerns. (See also LL2003-14394 multinational report on human cloning.)
(E. Palmer, 7-9860)

IRELAND– Sex Offender Register Grows

The Irish sex offender's register was established in September 2001 and includes the names of convicted offenders who have moved to the country from other jurisdictions. The register is growing four times as fast as its UK equivalent, with 20 names added to the list every month. The Irish Society for the Prevention of Cruelty to Children (ISPCC) has voiced their concern regarding the increase. Under Irish law, names can be disclosed only on a "need to know" basis, when there is a risk of crime or an immediate danger to the public. The UK's register, which has been in existence since 1997, contains about 15,500 names. (*The Irish News Limited*, Mar. 13, 2003.)
(Karla Walker, 7-4332)

IRELAND– US Troops Permitted To Wear Their Uniforms

On January 13, 2003, US troops were given permission to wear their uniforms in public while in Ireland and to carry weapons. This permission was given after media reports exposed the presence of uniformed US soldiers and the possession of weapons by such troops at Shannon Airport. Previously, the government had maintained that no foreign troops in Ireland were carrying weapons and that no foreign uniforms were being worn outside of transit areas. (*The Irish News Limited*, Mar. 2, 2003; Defence Act of 1954, §317.)
(Karla Walker, 7-4332)

ITALY– Developments on Divorce

The Italian Chamber of Deputies has started discussion on amendments to the divorce law to shorten from three years to one year the time required to file for divorce from the date separation is declared. There is agreement between political forces supporting the executive and the opposition on approving this legislation. Some of the groups within the government coalition, however, oppose any changes, seeing the current system as preferable for protection of the family. The Catholic Church, which strongly opposed divorce when it was first introduced in Italy in 1974, is also opposed to the present amendments. (<http://www.La Repubblica.it>, Mar. 25, 2003.)

(Giovanni Salvo, 7-9856)

ITALY– Prohibition of Cloning

The Italian Minister of Health, in December 2002, confirmed previously issued regulations prohibiting cloning until June 30, 2003. This move appeared to be dictated by the fact that although Italy ratified the 1997 Oviedo Convention and the additional Protocol of 1998, No. 168, on the prohibition of cloning of human beings, implementing legislation has not yet been approved. Considering that further prohibition of experimental research on animal cloning may impair the progress of medical research, the Minister lifted that prohibition. (*Gazzetta Ufficiale Della Repubblica Italiana*, No. 301, Dec. 30, 2002; see also LL2003-14394 multinational report on human cloning.)

(Giovanni Salvo, 7-9856)

LATVIA– Tax on Dividends Repealed

The Latvian Parliament adopted an amendment to the Personal Income Tax Law that repeals the 10 percent personal income tax on dividends. In order to meet the requirement of the European Commission to coordinate application of taxes for residents of Latvia and the European Union, the amendment repeals personal income tax on dividends received by EU nationals as well. The Finance Ministry is not able to predict the extent of the budget losses that will result from this amendment, especially given the fact that as of next year corporate income tax will be reduced to 15 percent while personal income tax will remain at 25 percent. The tax rate difference will allow companies to decide to pay a part of revenue as dividends, for which a 15 percent corporate income tax is paid, instead of wages on which the 25 percent income tax is levied. (BNS Baltic News Service, Mar. 5, 2003)

(Peter Roudik, 7-9861)

MALTA–Referendum Points to EU Membership

Malta has recently held a referendum in which 53 percent of the electorate voted in favor of joining the European Union. There has been a strong campaign against joining the EU headed by the leader of the opposition Labour party, who claimed victory for his side despite the “Yes” vote. Two days after the referendum, the Prime Minister announced that a general election would be held on April 12. The outcome of the election could either strengthen the position of Malta entering into the EU or potentially overturn it. (“Jubilant Scenes as Malta Says ‘Yes’ - Election Expected to be Announced Today,” *Times of Malta*, Mar. 10, 2003; “Sant Claims Victory for ‘Partnership’ Option,” *Times of Malta*, Mar. 10, 2003; “Police Act To Separate Rival Revellers,” *Times of Malta*, Mar. 10, 2003.)

(Clare Feikert 7-5262).

MOLDOVA– Law on Local Government

The Law on Local Public Government was promulgated by the President of Moldova on March 18, 2003. The Law establishes and regulates the organization and operation of public government institutions in administrative units. Local councils are the public government institutions that implement local autonomy in towns and villages and heads of administration exercise executive power. Local councils of all levels and heads of administration will be elected in accordance with the Election Code. The Law will enter into force on the date of the next general local elections, scheduled for May 25, 2003, except for provisions concerning administrative unit reform and procedures connected with conducting the general local elections in 2003. Those provisions came into force on the day of publication of the Law. (*Monitorul*

Official [Moldovan official gazette], Mar. 20, 2003, at www.moldlex.md
(Peter Roudik, 7-9861)

THE NETHERLANDS– Business Community To Pay for Copying

As of February 1, 2003, the business community has been required to start paying to make copies of works that are protected by copyright. This involves, for example, the copying of articles from a journal or daily or weekly newspaper, small sections of a book, or other items included in these publications, such as drawings or photographs. The obligation to pay does not apply to copying letters, internal memoranda, reports, or accounts. The obligation to pay already existed for the government, libraries, educational institutions, and other organizations active in the public interest. The tariffs that already applied to these organizations, *euro* 0.045 per page copied, will now also apply to the business world. The total number of photocopies made within an organization annually has to be reported to the Repro Rights Foundation. The percentage of copies made for which payment is required will be determined in consultation with the Foundation. In order to limit the administrative burden for small organizations and companies, the duty to report does not apply when less than 50,000 copies are made annually, even though a charge may apply. (Ministry of Justice, *Press Release*, Jan. 21, 2003, at <http://www.ministerievanjustitie.nl>)
(Karel Wennink, 7-9864)

THE NETHERLANDS– Medical Marijuana

An amendment of the Opium Law will permit seriously ill patients in the Netherlands to request a prescription to legally obtain cannabis from their physician or pharmacist. Many such patients and others believe that cannabis mitigates severe pain and suffering. The new provisions are effective as of March 17, 2003. The cannabis will meet the same legal requirements as other medicines. A national agency under the Ministry of Health, the Office of Medicinal Cannabis, has been designated as the responsible agency authorized to allow the cultivation of cannabis for medicinal purposes by holders of a license for production of a product of pharmaceutical quality. The agency has the exclusive right to import, export, wholesale, and stock cannabis, cannabis resin, and their preparations. It further controls the quality of the cannabis and organizes its distribution. The designation of such an agency is an international obligation that results from the Single Convention on Narcotic Drugs. (Ministry of Health, Welfare and Sport, *Press Release*, Mar. 17, 2003, at www.minvws.nl)
(Karel Wennink, 7-9864)

RUSSIA--Changes in Sentencing Rules

Russian parliamentarians approved a package of more than 50 amendments to the current Criminal Code, which significantly reduce penalties for minor crimes and decrease the number of acts that are considered criminal. For example, carrying knives as weapons and deception of consumers will be completely decriminalized. The package provides for extended punishment by fines; confiscation of property as a punishment is completely removed from the Criminal Code. It is estimated that after implementation of the amendments the prison population of Russia will immediately decrease by a third, because the provisions that reduce penalties have retrospective power and can be applied to sentences handed down earlier. However, on March 7, 2003, the State Duma decreed an increase in punishments for violations of intellectual property rights. Under the legislation, illegal use of intellectual property could result in fines of 200-400 times the monthly minimum wage or jail terms of up to two years.

(<http://www.duma.ru>, visited Mar. 20, 2003.)
(Peter Roudik, 7-9861)

RUSSIA– New Minority Shareholders’ Rights

An amendment to the Federal Law on Joint Stock Companies adopted by the Russian legislature on March 13, 2003, establishes a new procedure for electing boards of directors in joint stock companies. According to the amendment, minority shareholders with 20 percent or more of a company's voting shares could select at least one representative to its board. (*Parlamentaskaia Gazeta* [Parliamentarian Daily], Mar. 18, 2003.)
(Peter Roudik, 7-9861)

SCOTLAND– Ethics Reporting Expanded

Councils and devolved public bodies in Scotland are now required to have a register of interests for councillors or members of public bodies. Councillors or members are required to register any interests that have or appear to have an influence on their public role. A position of standards officer was created to have responsibility over the register of interests. Members of the Scottish Parliament are already required to register certain interests. The interests subject to registration may be expanded if a new Member’s Interests Bill passes through the Scottish Parliament. (Ethical Standards in Public Life etc. (Scotland) Act 2000, §7; Ethical Standards in Public Life etc. (Scotland) Act 2000 (Register of Interests) Regulations 2003 (SSI 2003/135); “Replacing the Member’s Interests Order: Draft Committee Bill,” *SP Paper* 821.)
(Clare Feikert 7-5262)

SLOVAK REPUBLIC– Accession to the European Union

The President of the Slovak Republic called a referendum to decide on accession to the European Union (Feb. 17, 2003, No. 49 *Collection of Laws*). The Referendum will be held on Friday, May 16, and Saturday, May 17, 2003. Citizens age 18 and older are entitled to vote on whether the Republic should become a member of the European Union.
(George E. Glos, 7-9849)

UKRAINE– Anti-Chemical Warfare Vote

By a vote of 253 to 121 on March 20, 2003, the Verkhovna Rada (parliament) approved a request by President Leonid Kuchma to send to Kuwait Ukraine’s 19th Army Battalion that specializes in neutralizing weapons of chemical warfare. The troops’ deployment on this mission could cost up to US\$1million a month, but the United States has indicated it is ready to “help fund” it. While US Ambassador to Ukraine Carlos Pascual has called the development a positive one for US-Ukrainian relations, there were mixed feelings in the Rada, where parties such as Our Ukraine split on the issue and anti-war protesters demonstrated outside the Rada building. Later on the same day, the legislators in fact adopted a resolution calling for an immediate halt of the US-British military action and for the immediate withdrawal of foreign troops” from Iraq. (*AP World-General News*, Kyiv, Mar. 20, 2003, via Ukraine Report 2003, No. 17, article # 1).

(Natalie Gawdiak, 7-9838)

UKRAINE--New Civil and Commercial Codes Still Incomplete

Ukraine has totally revised its 1963 Civil Code and has established its long awaited Commercial Code. President Kuchma vetoed earlier versions of the Codes and offered new amendments. The Rada incorporated most of the amendments and, after heated debate, passed the new versions in January of this year. The President signed these new Codes into law on March 6; their effective date is January 1, 2004. According to one observer, both Codes make definite improvements in Ukraine's investment climate, but many definitions still need to be explicitly spelled out to avoid legal contradictions and loopholes. This means that between now and next January, new legislation will be needed to fill in lacunae. (Report by the Bleyzer Foundation in Kyiv, Ukraine, of Mar. 6, 2003.)

(Natalie Gawdiak, 7-9838)

UNITED KINGDOM--IVF Blunder

In a "unique and unfortunate case," the wrong man's sperm was mistakenly used in *in vitro* fertilization treatment (IVF). The mix-up only became apparent after mixed-race twins were born to a white couple. While it was established that the twins should stay with the biological mother and her husband, the biological father, whose wife was undergoing fertility treatment in the same clinic as the mother of the twins, has been named as the legal father of the twins. (Leeds Teaching Hospital NHS Trust v A and Others, [2003] All ER 374 (QB); "Biological Father 'Wins' in IVF Mix-Up Case," *The Independent*, Feb. 27, 2003.)

(Clare Feikert, 7-5262)

UNITED KINGDOM– Royal Mail Faces Monopoly Complaint

The United Kingdom's Office of Fair Trading has received a complaint from postal regulator Postcomm that the Post Office is abusing its dominant market position. The complaint alleges that the Post Office requires business customers to sign contracts that permit changes to letter delivery terms on short notice without consultation. The complaint requires the Office of Fair Trading to make a decision whether to investigate within 90 days. The Post Office was opened to limited competition earlier this year and is currently facing losses of approximately £1 million per day. (See LL Report 2002-11903 (updated) on the Legal Aspects of Postal Services; "Third Super-Complaint Looks at Mail Consolidation," *Office of Fair Trading*, via <http://www.offt.gov.uk/News/Press+releases/2003/index.htm>)

(Clare Feikert, 7-5262)

NEAR EAST

ISRAEL– Representation of Environmental Groups

A November 2002 law establishes the goal of adding representatives of public pro-environment groups in committees established by law, in order to provide emphasis in such committees on consideration of protection and maintenance of a proper quality of the environment. The law specifically lists the

following organizations as qualifying for representation on the committees: Adam Teva Vadin (Man, Nature and Law), the Society for Protection of Nature, and Haim Usviva (Life and Environment). Representation applies to committees on the prevention of marine and river pollution (including from land sources), planning and construction, water supply quality, prevention of torts (civil suits), etc. The law authorizes the Minister of the Environment, with the consent of the Knesset (Parliament) committee for the environment, to change the list of public bodies that qualify for representation. (Nov. 13, 2002, *Sefer Ha-Hukim*, No. 3168 (5762-2002), also available on line at <http://www.knesset.gov.il>) (Ruth Levush 7-9847)

SOUTH PACIFIC

AUSTRALIA– Definition of Indigenous Community

A High Court decision of December 12, 2002, has highlighted issues of definition of indigenous communities, issues which arise in many countries besides Australia. The court ruled 5-2 that the Yorta Yorta people, who filed a claim for recognition of native title rights over 1800 square kilometers of public land in 1994, had not proved continuous use of the land by an indigenous community under traditional law and custom since 1788. The claim was brought under the Native Title Act 1993 and the Native Title Amendment Act 1998. The court held that the ancestors of those bringing the suit had ceased to have a connection with the land or to form a coherent community by the late nineteenth century and that their title had therefore been extinguished. A lawyer for the Yorta Yorta said that the decision created a nearly impossible burden of proof for native title claims, at least in the areas of Australia where European settlement goes back more than a century. In a lecture at the University of Newcastle Law School on March 17, 2003, a distinguished Aboriginal Australian barrister, Noel Pearson, who was part of the indigenous negotiating team during the drafting of the Native Title Act in 1993, argued that the High Court was misinterpreting the Act. He said the Court had decided the Yorta Yorta “were not sufficiently Aboriginal to get one square meter of what was left over after the whites had taken all that they wanted.” Under the High Court’s interpretation, indigenous groups would “have to prove that they meet white Australia’s cultural and legal prejudices about what constitutes ‘real aborigines.’” (Members of the Yorta Yorta Aboriginal Community v Victoria [2002] HCA 58 (Dec 12, 2002) at http://www.austlii.edu.au/au/cases/high_ct/2002/58.html; *Sydney Morning Herald*, March 18, 2003 at <http://www.smh.com.au/>.) (D. DeGlopper, 7-9831)

INTERNATIONAL LAW AND ORGANIZATIONS

AUSTRALIA/EAST TIMOR--Treaty Ratification and Offshore Oil Fields

On March 6, 2003, Australia’s Parliament passed laws ratifying the Timor Sea Treaty with East Timor. Ratification had been delayed since the treaty was signed in Dili on May 20, 2002, the day East Timor celebrated its independence. The delay was reportedly a tactic in negotiations over sharing the revenue from potentially very productive oil and natural gas fields lying in an area of the Timor Sea, where the maritime boundary between Australia and East Timor is undetermined. Ratification of the treaty and an associated revenue-sharing agreement on two gas fields, which was signed in Dili on March 6, 2003,

will permit development of the fields and sale of liquefied natural gas to Japanese companies. In a heated debate in the Australian Parliament, Prime Minister John Howard denied accusations that his government had intimidated and bullied the Timorese Prime Minister Alkatiri into accepting terms that are very advantageous to Australia. (*\$50 Billion Timor Sea Projects To Go Ahead*, Media Release, Minister for Foreign Affairs, Government of Australia, Mar. 5 2003, at http://www.foreignminister.gov.au/releases/2003/fa019a_03.htm; *Sydney Morning Herald*, Mar. 7, 2003, at <http://www.smh.com.au/>) (D. DeGlopper, 7-9831)

BRAZIL/UNITED STATES– Technological Safeguard Accord Reevaluated

It was reported that a committee of Brazilian ministers met on March 13, 2003, to review the Technological Safeguard Agreement between Brazil and the United States that would allow the US to use the Alcantara Launching Center, located only two degrees from the equator and considered a perfect site for launching large satellites. The ministers want to remove the agreement from a list of subjects to be discussed in Congress. Waldir Pires, a federal inspector and former supervisor of the committee that analyzed the accord in the Chamber of Deputies in 2002, told the Brazilian press that the deal violates the Brazilian Constitution, is disadvantageous for Brazil, and excludes Brazil from the group of nations that have mastered satellite launching technology. Pires said that the agreement would open the door for the United States to assume control over that region of Brazil and will deny Brazil the opportunity of exploring space. Several other countries (Russia, China, France, and Ukraine) have expressed interest in using the Alcantara Base and have offered Brazil the right to profit from the technological advances that they have achieved, including the construction of rockets and satellites. (“Ministers To Reevaluate Alcantara Technological Agreement with US,” *Jornal do Brasil*, Mar. 10, 2003, via FBIS.) (Sandra Sawicki, 7-9819)

ORGANIZATION OF AMERICAN STATES/COLOMBIA– Land Mine Agreement

On March 5, 2003, Colombia and the Organization of American States (OAS) signed an agreement to jointly combat the increase in the number of anti-personnel land mines placed throughout Colombia. The government of Colombia estimates that there are mines in 30 of the country’s 32 departments. The cooperative and technical assistance accord will allocate nearly half a million dollars for prevention and training programs and assistance to land mine victims. The agreement will be in effect for two years. At the signing, President Alvaro Uribe also stressed Colombia’s commitment to the war on terrorism. (“Colombian Government, OAS Join Efforts Against Land Mines,” *El Pais*, Mar. 6, 2003, via FBIS.) (Sandra Sawicki, 7-9819)

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Recent Publications from the United Kingdom Obtainable from the Law Library

House of Commons. Committee of Public Accounts. DEALING WITH POLLUTION FROM SHIPS. H.C. 119. London: The Stationery Office, Jan. 2003. 36 pp.

The Committee found that the Department for Transport should bring forward legislation to enable pollution offenses to be prosecuted on the same terms, regardless of where those offenses occur within the UK Pollution Control Zone. Existing legislation limits the Agency's ability to prosecute pollution offenses in the Thames, the Solent, the Bristol Channel, and other major estuaries around the UK and provides statutory defenses against prosecution even where an incident arises through negligence.

_____. _____. TOBACCO SMUGGLING. H.C. 143. London: The Stationery Office, Dec. 2002. 75 pp.

The Committee found that smuggling of cigarettes is costing £2.8 billion a year in lost revenue (£3.5 billion if handrolled tobacco is included). Even if Customs meets its target for 2004– 2005 of limiting cigarette smuggling to 18% of the market, there will still be a loss of VAT and duty of almost £2 billion annually. To reduce it further at tolerable cost will continue to require the full cooperation of UK cigarette manufacturers in the supply of information and in applying export policies that discourage smuggling.

_____. Culture, Media and Sport Committee. A LONDON OLYMPIC BID FOR 2012. H.C. 268. London: The Stationery Office, Jan. 2003. 141 pp.

2012 is deemed to be London's only chance to host the Olympic and Paralympic Games. The report advises that the Government must assure itself, before its decision to bid to host the games, that it fully understands the extent of what it is committing itself, London, and the country as a whole to spend and deliver.

_____. Environment, Food and Rural Affairs Committee. ANNUAL REPORT OF THE COMMITTEE 2002. H.C. 269. London: The Stationery Office, Jan. 2003. 109 pp.

The report details the work of the Committee, its associated public bodies, and their respective functions, along with analysis and recommendations on work and research completed in the past year. Topics include reports on the impact of foot and mouth disease, sustainable waste management, and the proposed new Covent Garden Market.

_____. Health Committee. THE WORK OF THE HEALTH COMMITTEE, 2002. H.C. 261. London: The Stationery Office, Jan. 2003. 10 pp.

This report details the Committee's inquiry into issues surrounding the role of the private sector in the National Health Service, funding arrangements for major programs within the Department of Health, and the investigation of delayed discharges (i.e., delays in discharging patients from hospitals) (see H.C. 617, July 2002, *Delayed Discharges*).

RECENT DEVELOPMENTS IN THE EUROPEAN UNION

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

Treaty of Nice²

On February 1, 2003, the EU reached another landmark as the Treaty of Nice entered into force. Ireland was the last Member to ratify the Treaty by referendum. The Treaty aims to effectively prepare EU institutions to deal with an enlarged Union through a number of significant changes to the institutions. The amendments will be effective in 2004, to coincide with the enlargement. The new European Parliament, which will be elected in June 2004, will be increased in size to a total of 732 members from the current 700. The November 2004 European Commission will have 25 Members, to reflect the increase in the number of States. The President of the Commission will have more authority in certain matters and the judicial system will be reformed for more efficient and expeditious handling of case work.

The Treaty also foresees some changes related to the weighting of votes within the Council of Ministers. As of November 1, 2004, a qualified majority will be obtained if: a) the decision receives at least a specified number of votes, the qualified majority threshold; and b) the decision is approved by a majority vote of the Member States. Under the majority vote system, a Member State has the right to confirm whether or not the majority vote represents at least 62% of the population. As far as decision-making within the Council of Ministers, certain areas that had required unanimity now are under qualified majority rule.

Another important highlight of the Treaty is the new procedure to ascertain infringement of human rights by a Member State. The first step in the procedure is for the Council, the Commission, and the Parliament, acting at the initiative of one-third of the Member States, to declare that a clear threat exists that a Member State is engaging in violations of human rights. The second step is for the European Council to declare that a Member has indeed reached that state. The Council is authorized to impose penalties, such as deprivation of the right to vote in the Council.

Financing of European Political Parties³

On February 19, 2003, the Commission issued a proposal for a Regulation concerning the charter and financing of European political parties. The proposal establishes minimum standards for parties to operate at the European level. The charter of a European political party must include the objectives of the party and the organs responsible for political and financial management. Registration of qualified political parties will be handled by the European Parliament. Eligible parties are those that are present in

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

³ *Id.*

at least three Member States and that have participated in elections of the European parliament or have made a formal statement to that effect.

The Commission emphasized transparency rules for the financing of political parties. Parties would receive public funding, since this is the practice in some Member States and gives parties some independence from private donations. A European party that receives financing is obliged to publish its revenues and expenses and its assets and liabilities annually. It is also required to disclose its donors and the amount of donations received. The Commission recommended an appropriation for party financing of 8.4 million *euro*, to be administered by the European Parliament. From this amount, 85% should be given to those parties that have elected members in the European Parliament. The remaining 15 percent must be distributed equally among the other parties that meet the eligibility criteria.

Commission Receives Authorization To Negotiate with the US on Security Controls⁴

On March 18, 2003, the Commission received the mandate of the Council of Ministers to conduct negotiations with the US on customs controls of goods transported in containers. This issue was raised by US Customs authorities and is known as the Container Security Initiative (CSI). It came up in connection with the events of September 11, 2001, and increased terrorist threats in the US. Several EU Member States have signed declarations of principle with the US Customs office. The Commission holds that a common approach at the EU level would be a more effective way to handle this issue. The Commission is cooperating with the US to improve security on transportation of containerized goods and at the same time facilitate international trade.

The Commission Supports Advanced Security Research at the EU Level⁵

The European Commission has recently intensified its efforts to enhance research on security issues. This is partly because the EU is behind the US in this area and also because the objective of the European security and defense policy is to empower the Union to play a more significant international role in the area of crisis and conflict prevention. The budget of the EU States for research and development in the defense field is five times lower than that of the US (10 billion *euro* versus 54 billion *euro* in the US). The starting point in this campaign was the publication of a Green Paper on European Space Policy in January 2003, in which the Commission addresses the security aspects. On March 11, 2003, the Commission followed with a Communication on a European defense equipment policy that focuses on identifying EU needs in the area of research and global security. A report presented in July 2002, entitled "The Strategic Aerospace Review for the 21st Century (STAR 21)," which was prepared by Commissioners, industry representatives, and the Council's High Representative for Common Foreign and Security Policy, recommends that the EU develop a European-based satellite-based defense and security capacity.

⁴ *Id.*

⁵ *Id.*

Draft Directive To Increase Investor Protection and Transparency⁶

On March 26, 2003, the Commission proposed a Directive laying down minimum transparency standards for information that must be provided by companies whose securities are admitted to trading. The Directive aims to modernize the existing rules on information requirements, which were established 20 years ago, and to take into account the introduction of International Accounting Standards. It requires all securities issuers to divulge to the public: a) an audited annual financial report and a management report within three months at the end of each financial year; and b) a half-yearly summary of the financial report as well as an update of the last annual management report. Moreover, share issuers would have to publish a less comprehensive quarterly financial information report for the first and third quarter of a financial year.

The draft Directive also requires the following non-periodic information: a) rapid and better disclosure of information about the material interest of important shareholders and b) disclosure of information to holders of shares and debt securities by securities issuers to facilitate participation in general meetings.

Draft Regulation on Maximum Residue Levels (MRSs) of Pesticides in Products of Plant and Animal Origin⁷

The proposal, which once adopted will replace four existing Directives on this topic, will harmonize EU rules on MRS after a transitional period and remove barriers to trade created by the different national rules. The European Food Safety Authority (EFSA), which was established last year, and the Commission will establish the acceptable levels after conducting a risk assessment on the safety of each MRS. Member States are responsible for forwarding to the EFSA detailed information on their national diets and their agricultural practices.

⁶ *Id.*

⁷ COM(2003) 117 final (Brussels, 3/14/2003).