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# WORLD LAW BULLETIN

## December 2003

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Citizens Protection Act	–	<a href="#">Japan</a>
Migrant Smuggling	–	<a href="#">UN Protocol</a>
National Identity Card	–	<a href="#">UK</a>
Religious Freedom	–	<a href="#">Turkmenistan</a>
SARS	–	<a href="#">Canada, Japan</a>
Terrorism	–	<a href="#">Egypt, EU, India</a>
Tobacco Regulation	–	<a href="#">Belgium, Netherlands</a>

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## **WORLD LAW BULLETIN**

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## WORLD LAW BULLETIN

### Table of Contents

#### AFRICA

South Africa ..... Communal Land Rights Bill

#### AMERICAS

Canada ..... Paying for SARS  
 Canada ..... Privacy Commissioner in Contempt  
 Mexico ..... International Trade  
 Mexico ..... First Indian Political Party

#### ASIA

Bangladesh ..... Contempt of Court Notices  
 Cambodia ..... Copyright Law Enforcement Efforts  
 China ..... New Copyright Regulations  
 India ..... Ceiling Raised on Campaign Expenditures  
 India ..... Prevention of Terrorism Act  
 India ..... Tea Not Classed a Foodstuff  
 India ..... Validity of Pension Scheme Upheld  
 Japan ..... Disease Prevention Law Amended  
 Japan ..... Draft Outline of Citizens Protection Act  
 Pakistan ..... Muslim Family Laws Ordinance  
 Pakistan ..... Quashing Sentence of the Former PM  
 Pakistan ..... Validity of Muslim Marriages  
 Taiwan ..... Legal Online Music Service  
 Taiwan ..... Plan To Improve Corporate Governance  
 Turkmenistan ..... Law on Religion

#### EUROPE

Austria ..... Aerial Cable Ways  
 Austria ..... Asylum  
 Belgium ..... Tobacco Advertising Prohibited  
 Bosnia & Herzegovina ..... New Property Relations  
 Cyprus ..... International Treaties Evidence Law  
 France ..... Fight Against Anti-Semitism  
 France ..... Tax Credits on Rental Property  
 Italy ..... Immigration  
 Italy ..... Proposed Legislation on Drugs  
 Lithuania ..... Law Against Discrimination  
 Netherlands ..... Camera Surveillance  
 Netherlands ..... Smoking Ban Extended  
 Russian Fed. .... Ban on Kissing  
 Russian Fed. .... Law on Protection in Foreign Trade  
 Ukraine ..... Election and Dismissal of Judges  
 U.K. .... Breach of Official Secrets Act  
 U.K. .... Introduction of a National Identity Card  
 U.K. .... New Treatment for BSE Planned  
 U.K. .... Troubled Royal Mail Announces Profit  
 U.K. .... Wildlife Watchdog Replaced

#### NEAR EAST

Egypt ..... Anti-Terrorism Statement  
 Egypt ..... Regulating Cabinet Members  
 Israel ..... Decision on Freedom of Expression

#### SOUTH PACIFIC

Australia ..... Legal Status of Political Parties  
 Australia ..... Redefining Employees As Contractors

#### INTERNATIONAL LAW

Cambodia/Laos/Burma/Thailand  
 ..... Pagan Declaration  
 Commonwealth .. Judicial Appeals to Privy Council  
 Israel/Palestinian Authority ..... Supply of Electricity  
 United Nations ..... Smuggling Migrants  
 United States/China ..... Labor Law Agreement  
 United States/Mexico ..... Bi-National Commission  
 United States/Mexico ..... Immigration Reform

#### EUROPEAN UNION

Communication on Illegal Drugs in the EU  
 Energy Liberalization Package  
 Management of Operational Cooperation at Borders  
 European Evidence Warrant  
 Initiatives on Terrorism and Immigration  
 Political Parties and Funding at the EU Level  
 Third Country Nationals:  
     Entry, Stay and Movement Within the Schengen Area

#### ORGANIZATION OF AMERICAN STATES

Pact on Regional Security

## AFRICA

### SOUTH AFRICA – Communal Land Rights Bill

The South African Cabinet approved the Communal Land Rights Bill (CLRB) for submission to Parliament on October 8, 2003. The bill is at the center of a controversy over land reform in South Africa. Under the bill, traditional councils, created by the Traditional Leadership and Governance Framework Bill, will assume powers over land administration and ownership. According to the Cabinet, the bill was “aimed at facilitating secure land tenure rights in communally held land within the framework of the constitution.” The bill is said to “confer tenure security or ownership to over a third of South Africans living in the former homelands [semi-autonomous black territories that had been established by the former apartheid government].”

In an advertisement placed in a national daily newspaper by concerned NGOs, the public was urged to reject the CLRB. It was argued that the bill will deprive rural communities of any control over communal land in favor of unelected rural chiefs (who are mostly male) and will provide the Minister of Land Affairs unlimited discretion and extended powers. (*South Africa: Strong Opposition to New Communal Land Rights Bill*, UN Office for the Coordination of Humanitarian Affairs, Nov. 13, 2003, at <http://www.irinnews.org/>.) (Ruth Levush, 7-9847)

## AMERICAS

### CANADA – Paying for SARS

It is estimated that last year’s SARS outbreak in the Toronto area cost the Province of Ontario over US\$700 million in health-related costs. Canadian legislation does not provide for automatic federal assistance in such cases, even though hospitals and health insurance programs are operated and maintained by the provinces. If the outbreak had been classified as a disaster by the federal government, Ontario could have been eligible for compensation as high as 90 percent of its costs. SARS was not classified as a disaster, but Ottawa has now agreed to reimburse the province approximately US\$240 million. (“Ontario to get \$330 Million [CAN\$] from Ottawa in SARS Compensation,” Canadian Press, Nov. 18, 2003). This amount will partially pay for, among other expenses, the Isolation Allowance. Under a program established by the province in June 2003, individuals who were ill, quarantined, or caring for an ill person could apply for an allowance of up to approximately US \$4,500. The Ministry of Municipal Affairs administers the program.

([http://www.mah.gov.on.ca/userfiles/HTML/nts\\_1\\_12481.html](http://www.mah.gov.on.ca/userfiles/HTML/nts_1_12481.html).) As many as 30,000 persons in Ontario are believed to have been quarantined. The Ministry of Health is administering a separate program for health care workers. These programs were created after expanded rights to seek unemployment compensation were granted in the SARS Assistance and Recovery Strategy Act (2003 O.S. ch. 1). (Stephen F. Clarke, 7-7121)

### CANADA – Privacy Commissioner in Contempt of Parliament

Canada’s Privacy Commissioner is appointed by Parliament to investigate complaints by individuals that the Government has misused information pertaining to them that is protected by the Privacy Act (R.S.C. ch. P-21 (1985), as amended). In June 2003, the occupier of that office resigned

following the release of an extremely critical report on his activities by the Auditor General. A parliamentary committee subsequently found that the former Privacy Commissioner had altered documents and misrepresented his expense claims. On November 6, 2003, the House of Commons voted unanimously to issue the first citation against an officer of Parliament in Canadian history. Under its penal powers, the House of Commons could have committed the former Privacy Commissioner to jail until the current session is prorogued. However, the M.P.s decided instead to accept a letter of apology. A fine was not an option as it appears that the practice of imposing fines is considered to be “in desuetude and now extinct.” (Maingot, *Parliamentary Privilege in Canada* 207 (1997).) (Stephen F. Clarke, 7-7103)

### **MEXICO – International Trade**

In November 2003 during the opening of the Mexico-Denmark Business Forum, Mexican Economic Secretary Fernando Canales Clariond confirmed that Mexico is going to completely suspend negotiating new free trade agreements (FTAs) with a dozen other nations, such as Singapore, Peru and Argentina. The Government feels that Mexico has already entered into enough FTAs during this stage of the country’s development and that its industrial sector has no extra capacity to produce for export. From 1992 to the present, Mexico has signed 11 FTAs with 32 nations, and it is expected to sign another FTA with Uruguay sometime this month. Mexico will instead start promoting foreign and domestic investments.

Secretary Canales Clariond added that Mexico’s last negotiation of a multilateral trade agreement will be the Free Trade Agreement of the Americas, and its last bilateral trade agreement will be with Japan. In this regard, on November 5, 2003, during a deputy minister-level meeting in Los Angeles, Mexico and Japan agreed to resume the FTA negotiations as early as November 26 in Mexico City. Previous attempts to reach an FTA with Japan have failed mainly due to friction over tariff reductions on several agricultural products. On November 19, 2003, Mexican President Vicente Fox said that five agricultural products were “getting in the way for finalizing this agreement.” According to Mexico’s Economic Ministry, these products are: oranges and orange juice, pineapple juice, pork, beef, and chicken. Other, less controversial issues both parties are expected to address include government procurement, services trade, and investment.

President Fox added that Mexico has joined other countries to convince rich nations to forgo protectionist policies in agriculture and accept imported products. These efforts are being carried out within the framework of the World Trade Organization. (Héctor Rendón, “Suspende México Negociaciones Preliminares de TLC’s con 12 países,” *El Economista*, Nov. 13, 2003, <http://www.economista.com.mx>; “Mexico Set To Resume FTA Talks Next Wed.,” Tokyo Kyodo World Service in English, Nov. 20, 2003, FBIS, <http://portal.rccb.osis.gov>; & “Mexico’s Fox: No Trade Deal Unless Japan Opens Its Markets,” Panama City ACANEFÉ in English, Nov. 19, 2003, FBIS, *id.*). (Norma Gutiérrez, 7-4314)

### **MEXICO – First Indian Political Party**

The first indigenous political party, known as Party of Popular Unity, was duly registered and authorized to participate in local elections in the state of Oaxaca in 2004. This southern state is among the ones with the highest proportion of Indian population in the country. The President of the Elections Board, Francisco Martinez Sanchez, referred to the ruling as an unprecedented development in Mexico. Mr. Martinez added that the party’s creation is the “fruit of 23 years of struggle.” (First Indian Political

Party Formed, *El Universal*, Nov. 12, 2003, <http://eluniversal.com.mx>.)  
(Norma Gutiérrez, 7-4314).

## ASIA

### BANGLADESH – Contempt of Court Notices

In describing the conduct of a District and Sessions Judge, Mohammad Firoz Alam of Feni, as “outrageous and contumacious,” the Supreme Court of Bangladesh Bench charged him with contempt of court. Judge Alam tendered an unconditional apology for his misconduct, but the court turned it down and asked him to come back with a written repentance.

Earlier, another High Court bench had issued a contempt of court notice to the Inspector General of Police, Shahudul Haque, for his contemptuous clarification in a contempt case against five police sergeants. When the Advocate General appeared on behalf of the petitioners, the court dismissed him as being “not empowered.”  
(*The Daily Star*, Nov. 13, 2003, <http://www.thedailystar.net/2003/11/13/d3111301088.htm>.)  
(Krishan Nehra, 7-7103)

### CAMBODIA – Copyright Law Enforcement Efforts

On November 4, 2003, the Cambodian Ministry of Culture announced a plan to enhance enforcement of the new Copyright Law by forming a “copyright collective management team,” comprised of artists, writers, and producers, to find copyright violators and bring them to court. The team will also seek to export Cambodian cultural products by taking advantage of the country’s increased market access through the World Trade Organization (WTO). Cambodia was approved for membership in the WTO on September 11, 2003 (see 10 W.L.B. 2003). The new Copyright Law was adopted by the National Assembly on January 21, 2003, as part of the requirements for Cambodia’s accession to the WTO. (“Efforts To Enforce Cambodia’s Copyright Law Reported,” *Agence Kampuchea Presse*, Nov. 5, 2003, via FBIS; “Cambodia Passes Copyright Law,” *Xinhua*, Jan. 22, 2003, LEXIS, Asiapc Library, Xinhua file.)  
(Wendy Zeldin, 7-9832)

### CHINA – New Copyright Regulations

Four new copyright regulations are reportedly to be instituted by the National Copyright Administration (NCA) of the People’s Republic of China. The regulations cover protection of folk literature and network information distribution rights and control payments for radio and television broadcasting and for group management of copyrights for certain types of artwork. The NCA will also increase enforcement of copyright laws by having regional intellectual property management departments join with local public security (police) offices, industry and commerce officials and customs and cultural units in cracking down on pirating. (“PRC Instituting New Rules To Improve Copyright Laws,” *China Daily* Internet version, Nov. 13, 2003, via FBIS.)  
(Wendy Zeldin, 7-9832)

**INDIA – Ceiling Raised on Campaign Expenditures**

On the eve of elections due to occur in several states on December 1, 2003, the Union Cabinet, in consultation with the Election Commission of India and with its concurrence, on October 21, 2003, decided to raise the ceiling of expenditure that may be incurred by the candidates in both the parliamentary and state elections. The move became necessary because the price index had jumped since the last revision was made in 1998. The ceiling was raised from 1.5 to 2.5 million Indian rupees (about US\$50,000) for parliamentary seats and from 0.6 to one million Indian rupees (about US\$20,000) for state assembly seats. (*The Tribune*, Oct. 22, 2003, <http://www.tribuneindia.com/2003/20031022/main1.htm>.)

(Krishan Nehra, 7-7103)

**INDIA – Prevention of Terrorism Act**

In an effort to dilute the rigors of the Prevention of Terrorism Act (POTA), the Government of India, under increasing pressure from its coalition partners, promulgated an ordinance to amend the law. The ordinance confers powers on the Central and State review committees to make decisions binding on the Central and State Governments and on the police officers investigating cases. The committees will scrutinize the complaints of POTA victims, and if they conclude that the law was misused or abused, the committees can direct the release of the victims. Where there is a conflict between the decisions of the Central and the State Committees, the decision of the Central review committee will prevail. (*The Hindu*, Oct. 23, 2003, <http://www.hindu.com/2003/10/28/stories/2003102808990100.htm>.)

(Krishan Nehra, 7-7103)

**INDIA – Tea Not Classed a Foodstuff**

The Supreme Court of India set aside a 26-year old order of the State Government of Madras, which had been upheld by the state High Court, classifying tea as a foodstuff under the Essential Commodities Act, 1952. The Court observed that tea could not be included in the category of “foodstuff” since it is “a mere stimulant.” Disagreeing with the view of the High Court, the Supreme Court stated that “it is a wrong assumption to say that many a poor man in the country take a cup of tea more as a food.” <http://www.scjudgments.com/guest/news/viewnewsdetail.asp?NewsID=FAE8301B52BE>, Nov. 13, 2003.)

(Krishan Nehra, 7-7103)

**INDIA – Validity of Pension Scheme Upheld**

The Supreme Court of India, on November 11, 2003, upheld the validity of the 1996 Government of India pension scheme for public and private employees, under which the Government transferred 8.33 percent of the Basic and Dearness Allowance contribution of the employees to the central fund for the payment of their pensions. The Supreme Court ordered a large number of petitions on the subject that had been filed in different state High Courts to be transferred to its own jurisdiction. The petitions challenged the validity of the scheme on the grounds that it arbitrarily withheld the money due the employees. (*The Hindu*, Nov. 12, 2003, <http://www.hindu.com/2003/11/12/stories/2003111208140100.htm>.)

(Krishan Nehra, 7-7103)

**JAPAN – Disease Prevention Law Amended**

Partially in order to prepare for the recurrence of Severe Acute Respiratory Syndrome (SARS), the Infectious Disease Prevention Law (Law No. 114 of 1998) and the Quarantine Law (Law No. 201 of 1951) were amended effective November 5, 2003 (Law No. 145 of 2003). These revisions strengthen the authority of the government in its response to contagious diseases. SARS and smallpox were added to the list of category. The health reporting requirements for travelers who enter Japan from abroad were strengthened with criminal sanctions. (Ministry of Foreign Affairs, Overseas Safety Information, Nov. 6, 2003, <http://www.pubanzen.mofa.go.jp/info/info.asp?num=2003C427>.) (Sayuri Umeda, 7-0075)

**JAPAN – Draft Outline of Citizens Protection Act**

On November 21, 2003, the Japanese Government released the draft outline of a bill stipulating how the central and local governments should protect the public in the event of a foreign attack on Japan. The outline has five main topics: evacuation, rescue, response to war damage, restoration of a stable national life, and repair of damages. The outline strengthens governors' powers, e.g., to issue evacuation orders to residents and orders for forcible expropriation of private land and buildings for use as shelters. In the event of attacks with nuclear, biological, or chemical weapons, the outline authorizes the national Government to deal with the situation. The draft bill is related to the three war-contingency laws enacted in June 2003 that define the Government's response to a foreign attack or the threat of one, chiefly pertaining to the role of the Self-Defense Forces. The Government intends to submit the bill to the Diet in March 2004. ("Bill Outline Defines Duties in Event of Military Attack," *Japan Times*, Nov. 17, 2003, <http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20031117a2.htm>; *Kokumin hogo hosei seibi honbu dai 2 kai kaigi* (The Second Meeting of the Citizens' Protection Act Preparation Headquarters), <http://www.kantei.go.jp/jp/singi/hogohousei/dai2/2gijisidai.html>.) (Sayuri Umeda, 7-0075)

**PAKISTAN – Muslim Family Laws Ordinance Challenged**

The Federal Shariat Court has initiated petitions against the 1961 Muslim Family Laws Ordinance, specifically as to the validity of sections 4-7. Section 4 provides for a share of the property of grandparents to be given to their orphaned grandchildren and section 5 establishes that a *nikah* (marriage) must be registered by the Union Council to be legally valid. Section 6 requires a man to obtain permission from the Arbitration Council to contract a second marriage, which implies that he must have good grounds for doing so. Under section 7, a divorcing husband must give notice of the divorce to the Union Council and supply a copy thereof to the former wife, whereupon the Council will try to reconcile the parties. The challenge to the Ordinance is based largely on the grounds that the provisions are not in consonance with Koranic law.

([http://www.mwluca.org/news/news\\_pakistan.html](http://www.mwluca.org/news/news_pakistan.html).)

(Krishan Nehra, 7-7103)

**PAKISTAN – Quashing of Sentence of the Former Prime Minister**

On November 5, 2003, a police tribunal in Geneva quashed the suspended sentences of six months given by a Swiss investigating magistrate to former Prime Minister Benazir Bhutto and her husband Asif Ali Zardari. The investigator, after seven years of work, had given a finding on allegations made by Islamabad on bribery and corruption charges against the defendants. The tribunal will now send

a copy of its decision to set aside that finding to the Swiss Attorney General, who will decide whether or not to hear the case. (*Hindustan Times*, Nov. 5, 2003, [http://www.hindustantimes.com/news/5983\\_447851\\_0043.htm](http://www.hindustantimes.com/news/5983_447851_0043.htm).) (Krishan Nehra, 7-7103)

### **PAKISTAN – Validity of Muslim Marriages**

The Supreme Court of Pakistan began hearing a spate of appeals against the judgments of the Lahore High Court involving a common question of law. In its judgments, the Lahore High Court (LHC) held that the marriage of a Muslim woman solemnized without the consent of her guardian would be invalid. Asthma Jehangir, formerly chairperson of the Pakistan Human Rights Commission, appearing both as a respondent and as counsel, alleged that due to the delay in the decision on the appeals against the LHC decision, over 250 couples were facing hardships and most of them were languishing in jail. (*The Dawn*, Oct. 30, 2003, <http://www.dawn.com/2003/10/30/top9.htm>.) (Krishan Nehra, 7-7103)

### **TAIWAN – Legal Online Music Service**

Beginning in December 2003, iBiz Entertainment Technology Corporation, an online music distributor based in Taipei, will launch an Internet music downloading service. iBiz, which will provide access to music and video titles from a library of over 500,000 songs, will charge consumers NT\$10 to \$30 (about US\$0.30 to 0.88) per song, a 30-40 percent discount from an album's market price. iBiz is Taiwan's first legal online music provider. Steven Yang, iBiz chairman, believes that "the legitimate download service will revive the music industry, which is wracked by music piracy." He stated that the service was three years in the making and that negotiations with record companies took over a year. ("Taiwan Launches Legal Online Music Service," *Taipei Times*, Nov. 11, 2003, via FBIS.) (Wendy Zeldin, 7-9832)

### **TAIWAN – Plan To Improve Corporate Governance**

On November 12, 2003, the Cabinet approved the "Policy Program and Action Plan to Strengthen Corporate Governance" in Taiwan's business sector. The Policy Program and Action Plan encompasses 24 measures to be taken in several broad areas. The measures include, among others, improvement of internal corporate control systems, in part by increasing the authority and independence of internal auditors and the methods of selection of directors and supervisors; the establishment of a system of independent directors; enhancement of transparency and openness of information; and improvement of the soundness of enterprise accounting systems (in part through revision of the accounting law). ("Taiwan Cabinet Approves Plan To Improve Corporate Governance," *Taiwan News*, Nov. 13, 2003, via FBIS.) (Wendy Zeldin, 7-9832)

### **TURKMENISTAN – Law on Religion**

Turkmenistan's new Law on Religious Freedom and Religious Organizations entered into force on November 14, 2003. The Law specifically declares all unregistered religious activity illegal, while a new amendment to the Criminal Code prescribes penalties of up to a year of corrective labor or a fine in the amount of 30 times the average monthly wages for breaking the Law. Previously, unregistered religious activities such as holding religious services or privately conducting religious instruction have been punished under the Code of Administrative Offenses and were not considered to be crimes. With

adoption of this legislation, Turkmenistan joins Uzbekistan and Belarus, two other former Soviet republics where unregistered religious activity is banned.

According to the Law, only Sunni Muslim communities and the Russian Orthodox Church are recognized as traditional religions and may be registered. The incorporation of the registration provision into law automatically outlaws activities of such minority religious groups as Baptists, Pentecostals, Shia Muslims, and Jews, all of which are active in Turkmenistan. The Law lays out the procedure for registration of a religious community, including the major requirement that the religious group have no less than 500 believers who reside in the same administrative district. In order to secure government control over religious groups, the Law provides for the appointment of the clergy by the State Council for Religious Affairs, which has the status of a Cabinet agency. The adoption of the Law on Religious Freedom coincides with the passage of the Law on Non-Governmental Organizations, which, citing the need to address security concerns, provides for administrative oversight of nongovernmental civic activities by the President of Turkmenistan. (*Radio Free Europe/Radio Liberty*, Nov. 14, 2003.) (Peter Roudik, 7-9861)

## EUROPE

### AUSTRIA – Aerial Cable Ways

A new Act on Aerial Cable Ways was promulgated on November 21, 2003 (*Bundesgesetzblatt I* No. 103/2003). The Act applies to gondolas, chair lifts, surface lifts and similar devices, and it provides detailed safety requirements, many of which transpose European Community Directive 2000/9EC (*Official Journal of the European Communities* L 106/21) into Austrian law. Prior to the Act, aerial cable ways were governed by legislation on railroads. The regime of the new Act shifts most of the regulatory power over aerial cable ways to the governments of the nine Austrian states, while leaving the power to issue construction permits with the Federal Ministry of Transportation. It can be expected that the Act will be further implemented through regulations and technical standards. (Edith Palmer, 7-9860)

### AUSTRIA – Asylum

A major reform of the Austrian Asylum Act was promulgated November 21, 2003 (*Bundesgesetzblatt I* No. 101/2003, amending *Bundesgesetzblatt I* No. 76/1997). The reform is designed to streamline asylum procedures and reduce the number of economic refugees who claim asylum. The newly enacted measures include the creation of a summary proceeding to grant or deny asylum within 72 hours and the possibility of deporting rejected asylum petitioners under certain circumstances before appeals have been adjudged. Austria feels the need for more stringent procedures on asylum because of the high number of asylum petitioners who seek refuge in the country (*Frankfurter Allgemeine Zeitung*, Oct. 24, 2003, at 5). The reform act is scheduled to become effective January 1, 2004. (Edith Palmer, 7-9860)

### BELGIUM – Tobacco Advertising Prohibited

The Law of August 26, 2003, Prohibiting Tobacco Advertising and Creating a Fund To Promote the Struggle Against Smoking and Tobacco Smoke (*Moniteur Belge*, Sept. 26, 2003, <http://moniteur.be/>.) prohibited tobacco advertising and sponsorship of events by tobacco companies in Belgium. The prohibition does not apply to advertising in foreign publications unless it is intended to advertise tobacco products in Belgium. It also does not apply to the reporting of events taking place abroad that

accidentally displays tobacco advertising. The same Law created a fund within the general budget for the campaign against smoking and tobacco smoke. The money will be used to promote cooperation against smoking between the federal government and the French, Flemish, and German communities and Belgian regions.

(George E. Glos, 7-9849)

### **BOSNIA AND HERZEGOVINA – New Property Relations**

On November 7, 2003, the Parliament of Bosnia and Herzegovina adopted amendments to the Law on Refugees and Displaced Persons proposed by the leading Party of Democratic Progress. The Law establishes that former Croatian refugees in Bosnia and Herzegovina who swapped their property with persons who moved from this state to Croatia will lose their rights to the property they obtained in Bosnia and Herzegovina. The Law also states that the Government of Bosnia and Herzegovina will not represent the former refugees' interests in Croatia in regard to return of the property they formerly possessed in Croatia, since it had already been registered as belonging to those people with whom they made the trades. Those who swapped their possessions during the period from 1994 to 1999 and who filed a request for return of the swapped property, will, however, obtain the right to get their property back if they can prove that they exchanged their property under extortion. (*TANYUG* [Yugoslav State information agency], Nov. 4, 2003, <http://site.securities.com>.)

(Peter Roudik, 7-9861)

### **CYPRUS – International Treaties Evidence Law**

The Law on International Treaties as Evidence, adopted in July 2002, provides that in certain instances non-published international treaties may be used as evidence in courts. This rule applies to the following types of treaty documents: a) those which have not been ratified by law but are binding for Cyprus; b) reservations made to international treaties that do not form part of the treaty document; c) notifications regarding the ratification of treaties made by other states; and d) notifications of reservations made by other States to international treaties. (*European Current Law*, Sept. 2003, at 145.)

(Theresa Papademetriou, 7-9857)

### **FRANCE – Fight Against Anti-Semitism**

On November 17, 2003, President Jacques Chirac summoned an emergency Cabinet meeting following a weekend arson attack that caused serious damage to a Jewish school in the Paris suburbs. The Cabinet approved several measures in addition to steps that had been taken earlier to fight the sharp rise in the number of anti-Semitic acts since October 2000, the onset of the second Intifada. For example, Parliament passed a law in February 2003 mandating tougher penalties for racist, anti-Semitic, and xenophobic offenses. (See 2 W.L.B. 2003.)

The new measures include “precise instructions” to the police to increase protection of Jewish religious and educational sites, accelerated trials and harsher penalties for those connected to anti-Semitic acts, and civic courses in public schools to educate children on respecting others. In addition, the Prime Minister will chair an inter-ministerial Committee on the Fight Against Anti-Semitism, which is scheduled to meet monthly. The Government will also earmark approximately \$8 billion for urban renewal of areas with heavy Muslim populations. (<http://www.elysee.fr>.)

(Nicole Atwill, 7-2832)

**FRANCE – Tax Credit on Rental Property Investment**

A special rental property investment tax regime aimed at encouraging real estate investors and property owners to make housing available to low and medium-level income earners has been recently improved. This regime also appeals to investors who want to prepare for retirement. The tax relief became effective for qualifying properties and property owners in January 1999 and was known as the Besson depreciation, after the Minister who sponsored the bill. Law 2003-590 on Urbanism and Habitat, of July 2, 2003, referred to as the Robien law after the present Minister in charge of equipment, transport, habitat, and tourism, provides additional advantages.

The Robien law applies to new residential properties purchased on or after April 3, 2003. The preferential tax treatment is conditioned upon renting the property for a nine-year minimum period, and the rent must not exceed a certain amount (revised annually), based on the location of the property. France has been divided into three zones for this specific purpose.

The taxpayer may depreciate 8 percent of the total purchase price per year during the first five years and 2.5 percent per year for the following four years. At the end of the nine-year period, the depreciation may be renewed for an additional six years (two periods of three years each). In addition, the tax payer may deduct from the rental income 6 percent of the gross rent and expenses relating to the acquisition and management of the property, such as loan interests, property tax, and insurance. The depreciation and the deductions are generally greater than the amount of rent received, therefore leading to a loss. The limit on the deduction of losses incurred in relation to the property investment (other than interest payments) is 10,700 *euro* (about US\$12,500). Losses are deducted from the total income of the taxpayer. Above this ceiling, the remaining losses may be reported during the ten following years. (Law 2003-590 of July 2, 2003, *Journal Officiel*, July 3, 2003 at 11176.) (Nicole Atwill, 7-2832)

**ITALY – Immigration**

In a sudden move that caught all the political party leaders off guard, Italian Deputy Prime Minister Fini declared in October 2003 that it was time to consider giving foreign immigrants residing in Italy the right to vote in administrative elections. Though reactions coming from most political forces were positive, the Northern League, a member of the government coalition that supports a very restrictive immigration policy, responded to the proposal with a heavy barrage of criticism. Most groups considered Mr. Fini's ideas reasonable, underlining the importance of involving people who work and pay taxes in the country in the life and public administration of the place where they live. The Northern League, however, saw the proposal as capable of breaking the government coalition, as constitutionally illegitimate in nature, and as a possible cause for the fall of the Executive and the call for general elections.

Mr. Fini's party immediately drafted a bill recognizing the right of foreign residents to vote and to be elected in administrative elections. This provision, which applies to foreigners other than those coming from member States of the European Union, is subject to certain conditions. To participate, foreigners must be 18 or older, legally and permanently resident for at least six years, hold a residence permit for reasons that allow for an unlimited number of renewals, prove that they have an income sufficient to support themselves and their families, and be free from prosecution for major crimes. Sponsors of this legislation stress the effective participation of these immigrants in the social fabric of the host country. The bill was not signed by any of the ministers of Mr. Fini's party. Consequently it is not

considered a Government bill and does not need the approval of the Council of Ministers, where it would have met intransigent opposition by the Northern League. ([http://www.repubblica.it/.](http://www.repubblica.it/)) (Giovanni Salvo, 7-9856)

### **ITALY – Proposed Legislation on Drugs**

In April 2003, Italian Deputy Prime Minister Fini announced at a meeting of the UN Committee For The War On Drugs, held in Vienna, that Italian law would become less tolerant of personal use of illegal drugs. Since then Mr. Fini returned to the issue, and in September 2003 he stated that a bill would be introduced in Parliament with the goal of approving legislation before the end of the year.

On November 13, 2003, the Council of Ministers, after discussing the issue, approved the bill for submission to Parliament. Proposed changes include the elimination of the minimum daily dose permissible under existing legislation, which makes it, in Mr. Fini's opinion, almost impossible for the police to distinguish between smuggling and personal use. The existing distinction between hard and soft drugs would be also abolished. Personal use of illegal drugs will be punished, penal sanctions for violations will be increased, and additional administrative sanctions may be inflicted.

Criticism of this initiative has not ceased. In April of this year the former Minister of Health commented that this is the program of an Executive that confronts all of the most dramatic social problems with a police mentality; in November some political commentators described the Executive's proposal as worthy of a totalitarian state. In the meantime, the opposition coalition in Parliament has introduced its own proposal centered on depenalization for consumption of drugs and on alternative measures instead of penal sanctions. ([http://www.repubblica.it/.](http://www.repubblica.it/)) (Giovanni Salvo, 7-9856)

### **LITHUANIA – Law Against Discrimination**

Lithuania's Parliament adopted a Law on Equal Opportunities that prohibits any direct or indirect discrimination on the basis of age, sexual orientation, disability, race, religion, or beliefs. The Law does not allow the listing of requirements for employment or academic opportunities that grant preference to persons on these grounds. A newly created institution of Inspector of Equality Between Women and Men will be in charge of implementation of the Law. In case of discrimination or harassment, an individual has the right to address the Inspector and request the resolution of the problem. The Law defines harassment as unacceptable behavior violating human dignity or creating humiliating conditions with respect to the age, sexual orientation, disability, race, religion, or beliefs of an individual. (*BNS Baltic News Service*, Nov. 17, 2003, at , <http://site.securities.com.>) (Peter Roudik, 7-9861)

### **THE NETHERLANDS – Camera Surveillance**

The Upper House of Parliament has approved a Bill that would limit the use of secret camera surveillance. Surveillance or security cameras will only be permitted if their use has been explicitly announced. For example, under certain circumstances shopkeepers may use hidden cameras in their stores if they suspect employees are involved in allegedly illegal actions , however the employees have to be clearly informed in advance about the possible use of cameras. Violations of the rules may be punishable with a maximum prison term of two months or a maximum fine of 5000 *euro* (about US\$5,990). The Bill will come into force on January 1, 2004. (Ministry of Justice, *Press Release*, May 2, 2003, <http://www.ministerievanjustitie.nl.>)

(Karel Wennink, 7-9864)

### **THE NETHERLANDS – Smoking Ban Extended**

Under a new tobacco law effective on January 1, 2004, employees are guaranteed the right to a smoke-free environment. Since this also includes people who work in bars and restaurants, owners of these establishments have been given respite from the rule, so that the effectiveness of special ventilation systems installed to allow their customers continue to smoke in certain areas can be investigated. In the meantime, many companies, anticipating the smoking ban, have installed special smoking cabins with strong ventilation systems, so that their employees do not waste working time going outside to smoke. (NIEUWS-NED@LISTSERV.RNW.NL, Nov. 19, 2003.)

(Karel Wennink, 7-9864)

### **RUSSIAN FEDERATION – Ban on Kissing**

The Moscow city government issued a regulation introducing a ban on kissing on the streets, in shops, in movie theaters, and on means of public transportation. The regulation, which will enter into force on January 1, 2004, states that spitting and kissing in public places will be recognized as misdemeanors punished under the Code of Administrative Violations with a fine in an amount equivalent to three to five times the minimum monthly wage or with detention and public work for a period of up to two weeks. The Regulation specifies that the amount of the fine will depend on the relations between the people committing the violations, with lighter punishments for married couples. The City Department of Education, which initiated the adoption of this regulation, announced that this measure is aimed at raising the level of public morality. (*Moscow Times*, Nov. 10, 2003, <http://www.themoscowtimes.com/>.)

(Peter Roudik, 7-9861)

### **RUSSIAN FEDERATION – Law on Protection in Foreign Trade**

The Russian legislature adopted the Federal Law on Protective Antidumping and Compensatory Measures Against Imports of Goods to Russia on November 18, 2003. The Law sets out the procedure for introducing protective measures. It stipulates that the introduction of protective measures or their cancellation is to be preceded by an investigation, to find out whether rising imports of a given item either damages or is potentially harmful to the related sector of the Russian economy. Under the Law, the Russian government should appoint a federal body to carry out such investigations and to summarize the findings in a report presented to the government. The government is then to consider the report and make its decision on whether or not to introduce the proposed protective measure or cancel the existing measure within 14 days. (<http://www.duma.gov.ru> [official web site of the Russian legislature], Nov. 18, 2003.)

(Peter Roudik, 7-9861)

### **UKRAINE – Election and Dismissal of Judges**

Under a proposal from the President of Ukraine, the legislature adopted the Law on the Procedure for Election and Dismissal from the Post of Professional Judge aimed at the implementation of the constitutional provision establishing that judges are to be elected by Parliament for life tenure within the procedure established by law. According to the newly established procedure, a judge who was appointed to a five-year term by the President may be appointed in perpetuity by the Parliament at the end of the term.

The Parliament also was given the right to dismiss judges who hold their positions permanently. The Law envisages that the Chief Justice of the Supreme Court, the Chairman of the High Specialized Court, and members of the Supreme Judicial Council, an administrative body in charge of court system management, are endowed with the right to approach the Parliament with respect to the issues of electing and dismissing judges. Judges can be dismissed by the raising of the issue before the Supreme Judicial Council by a qualified commission of judges, by the Supreme Qualification Commission of Judges, by a member of the Supreme Judicial Council, by the General Prosecutor, or by the responsible committee of Parliament. The recommendation of the Supreme Judicial Council on the dismissal of a judge is to be considered by the responsible committee of Parliament and then at a Parliament's plenary session. (*Ukrainian News Service*, Nov. 12, 2003, <http://site.securities.com>.) (Peter Roudik, 7-9861)

#### **UNITED KINGDOM – Breach of Official Secrets Act**

A former employee of the British Government Communication Headquarters has been charged with breaching the Official Secrets Act (OSA) after being dismissed when a top secret memo from the U.S. National Security Agency was allegedly disclosed to the press. The OSA prohibits any current or former member of the Security Services from disclosing information received during their employment without lawful authority. The former employee has been reported as stating that the alleged disclosure was justified to expose “serious illegality and wrong doing on the part of the U.S. Government [and to] prevent wide-scale death and casualties among ordinary Iraqi people and U.K. forces.” Liberty, a non-profit human rights organization, is acting for the employee and claims that the case is likely to put the legality of the Iraqi war on trial. (“Ex-GCHQ Woman Charged Over Leak, Nov. 13, 2003, <http://news.bbc.co.uk/1/hi/uk/3268113.stm>; “Liberty Takes Up Case of GCHQ Woman,” Nov. 12, 2003, <http://www.liberty-human-rights.org.uk/press/press-releases-2003/liberty-takes-case-of-gchq-histleblower.shtml>.) (Clare Feikert 7-5262)

#### **UNITED KINGDOM – Introduction of a National Identity Card**

The government has announced that a national identity card will be phased into the United Kingdom over a number of years. The Labour government, particularly the Home Secretary David Blunkett, has been a strong proponent of a national identity card for a number of years, claiming that it will help to tackle the problems of illegal immigration and illegal workers, protect citizens from identity theft, disrupt criminal organizations and terrorists who use multiple identities, and prevent the abuse of public services. While past attempts to introduce such a card have been prevented by a lack of public support and concerns over a “big brother” state, the government has announced that a recent public consultation showed strong support for the idea. The card will contain basic personal information, a digital photograph, and biometric information that will allow facial, iris and fingerprint recognition. (Home Office, “Identity Cards, The Next Steps,” Cm. 6020; Home Office, David Blunkett, “National ID Card Scheme to be Introduced,” Nov. 11, 2003, [http://www.homeoffice.gov.uk/n\\_story.asp?item\\_id=675](http://www.homeoffice.gov.uk/n_story.asp?item_id=675).) (Clare Feikert, 7-5262)

#### **UNITED KINGDOM – New Treatment for BSE Planned**

Earlier in 2003, a ruling from the High Court allowed an individual with variant Creutzfeldt Jakob's Disease (vCJD), which is believed to be passed on to humans through eating meat from cows with the disease Bovine Spongiform Encephalopathy (BSE), to receive experimental treatment in an

effort to slow down the disease's progression. The drug, pentosan polysulphate, which was injected into the individual's brain, currently appears to be safe and may have improved the individual's condition. As a result, the Department of Health has now established plans to allow a small number of National Health Service hospitals to offer this experimental treatment as part of a clinical trial to patients with vCJD, in an effort to collect safety and efficacy data on the use of the drug and help delay deterioration caused by the disease and possibly extend patients lives. ("Plans to Treat Human Form of BSE," <http://news.bbc.co.uk/1/hi/health/3276537.stm>.)

(Clare Feikert, 7-5262)

#### **UNITED KINGDOM – Troubled Royal Mail Announces Profit**

Royal Mail has announced it has made a pre-tax £3 million (about US\$5.2 million) profit for the first time in five years. Since the postal services were privatized, Royal Mail has struggled to make a profit, facing severe criticism, substantial financial losses, and unofficial strikes. Its profits are credited to a one penny rise in the price of stamps which boosted revenue by £90 million (about US\$154.7 million). It is currently undergoing a major restructuring effort in which thousands of jobs are being removed. The profit does not take into account the costs of recent wildcat strikes, which are estimated to be £40million (about US \$68.8million). ("Royal Mail Announces £3million Profit,"

<http://news.bbc.co.uk/1/hi/business/3266069.stm>.)

(Clare Feikert, 7-5262)

#### **UNITED KINGDOM – Wildlife Watchdog Replaced**

The British government has announced its intention to integrate English Nature, an independent agency responsible for wildlife conservation, with two other environmental government bodies to create a new, larger agency responsible for improving the environment. This move was recommended after the 2001 foot and mouth disease epidemic spurred a review of how the Department for Environmental, Food and Rural Affairs (Defra) delivers services to rural areas. The recommendation to integrate the three bodies stems from a desire to simplify the delivery of Defra's rural policies and services. Some reports accuse the government of aiming to replace English Nature with a body that is not as independent, stemming from English Nature's public opposition to genetically modified crops. (Christopher Haskins, "Rural Delivery Review: A Report on the Delivery of Government Policies in Rural England," Department for Environment, Food and Rural Affairs, Oct. 2003, [http://www.defra.gov.uk/rural/pdfs/ruraldelivery/haskins\\_full\\_report.pdf](http://www.defra.gov.uk/rural/pdfs/ruraldelivery/haskins_full_report.pdf); Michael McCarthy, "English Nature is Axed After Campaign Against GM Crop Production," *The Independent* (London), Nov. 12, 2003.)

(Clare Feikert, 7-5262)

### **NEAR EAST**

#### **EGYPT – Regulating Cabinet Members**

A member of the Egyptian Parliament has sponsored the passage of legislation to allow for suing Cabinet Members. The Egyptian Government, however, has not yet taken a position on this legislation. (*Asharq Al-Awsat Newspaper*, Nov. 21, 2003.)

(Issam M. Saliba, 7-9840)

**EGYPT – Spokesman for Famous Islamic University Issues Anti-Terrorism Statement**

A representative for Al-Azhar University, Dr. Mahmoud Embaby, issued a declaration condemning the latest terrorist attacks in Saudi Arabia, which led to the loss of innocent lives. He stressed that terrorism is evil and is a plague that afflicts Muslims and non-Muslims alike. Al-Azhar, located in Cairo, is the oldest Islamic academic institution, renowned throughout the Muslim world for its authoritative religious teachings. (*Ashaq Al-Awsat Newspaper*, Nov. 18, 2003.) (Issam M. Saliba, 7-9840)

**ISRAEL – Decision on Freedom of Expression**

The High Court of Justice voided a decision of the Commission for Review of Films to prohibit the screening of a film that documents the fierce fighting in the Jenin refugee camp in April 2002 from a Palestinian viewpoint. The fighting resulted in the death of 23 Israel Defense Force (IDF) soldiers and 52 Palestinians and in serious property damage. Screening of the film had been blocked by the Commission under a 1927 British Mandate Ordinance. The Commission found that the film was a “false display of events under the disguise of a documentary truth which may mislead the public, a propaganda film displaying a one-sided view of the side with which the State of Israel is in a state of war...bordering incitement which creates delegitimation of the actual existence of the State of Israel...” Meanwhile, another film, designed to contradict the content of the controversial film and stress the viewpoint of the IDF fighters and of family members of the deceased was made and screened on Israeli TV.

In voiding the decision to block the screening, the Court held that the Commission’s decision violated the rights of the movie director and the people to whom he gives a voice. The Court further held that freedom of expression is one of the basic principles of the democratic system of Israel. The scope of its protection, however, is not absolute. An expression does not cease to be protected based merely on its false, offensive, crude or ear splitting nature. The Court recognized that the film severely offended public feelings and particularly those of IDF soldiers and the families of those who died. In spite of this recognition, the Court held that the screening of the film should not be blocked.

The decision was met by deep anger from the families of soldiers who died in the battle in Jenin. In a press conference, they rejected the decision which they view as permitting the broadcast of\_ “a Palestinian propaganda movie,” used as a weapon in a time of war to shock and hurt the public. After consideration of the arguments made by the families of the dead soldiers, the Commission and the Attorney General announced that a request for a special additional hearing would be submitted shortly. According to the Attorney General, the Court decision raises legal questions that merit review by an extended bench of the Supreme Court, particularly in light of the feelings of the families of the IDF soldiers who fought in Jenin and of the public, in a time of war. (H.C. 316/03 *Muhamad Bachri et al. V. The Committee for Review of Films, Ministry of Science, Culture & Sport and 30 family members of fallen soldiers*, <http://www.court.gov.il>; Y. Yoaz, “High Court: Freedom of Expression Does Not Contain Truth or Lie,” Nov. 12, 2003, <http://www.haaretz.co.il>; and “The Attorney General Will Request an Additional Hearing in “Jenin Jenin,” *id.*, Nov. 17, 2003.) (Ruth Levush, 7-9847)

## SOUTH PACIFIC

### AUSTRALIA – Legal Status of Political Parties

On November 7, 2003, the Queensland Court of Appeal reversed the criminal convictions of two political figures, leaders of a new party called One Nation, for electoral fraud and dishonestly receiving State funding for electoral expenses. (See 9 W.L.B. 2003.) The case has highlighted ambiguities and inconsistencies in the legal definition of political parties throughout Australia. The question of what it means to be a “member” of a political party was at issue in both an earlier (1999) civil conviction for fraudulently registering a political party and the now-reversed 2003 criminal conviction. Queensland State law required any political party registered to receive public funding to have either one elected member of the State Parliament or at least 500 members. In the Queensland cases, the 1999 civil conviction for electoral fraud and order to repay the A\$500,000 (about US\$362,000) the State government awarded for electoral expenses still stands, although the criminal convictions for the same actions have been overturned. The courts’ reasoning hinges on the different standards for conviction in civil and criminal cases. For the civil case, the evidence that One Nation did not in fact have at least 500 registered “members” had only to be true on the balance of probability. For the criminal case, the evidence had to be true beyond reasonable doubt, and the Court of Appeal held that this test had not been met.

Australian commentary notes that although Commonwealth (federal) legislation prescribes the internal organization and operations of corporations, trade unions, and charities, political parties, which receive public funding for electoral expenses, have existed in a legal limbo. Until the 1980s, Australian courts did not recognize political parties as legal entities, regarding them as no more than voluntary and contingent associations of individuals. The 1980s introduction of public funding for elections and laws requiring disclosure of political contributions and spending on electoral campaigns brought the first procedures for registration of parties. The Commonwealth Electoral Act and comparable State laws set no definition of “membership” and no requirements for maintaining membership rosters. The result of the Queensland cases is that without further legislation or more judicial decisions, the legal definition of a political party remains moot. (R v Hanson; R v Ettridge [2003] QCA 488, <http://www.austlii.edu.au/au/cases/qld/QCA/2003/488.html>; Australian Broadcasting Corporation, “Hanson Case Reveals Glaring Faults in Political Laws,” *Public Record*, Nov. 12, 2003, <http://www.abc.net.au/public/s986456.html>.) (Donald DeGlopper, 7-9831)

### AUSTRALIA – Redefining Employees As Contractors

On November 13, 2003, a full bench of Australia’s Federal Court ruled that a Canberra cleaning company that had terminated workers and then re-engaged them as “individual contractors” had violated laws governing unfair dismissals. The Court ruled that a cleaner who had been re-engaged as an individual contractor in August 2001 but continued to do the same work, wearing the same uniform, using the same company truck, and being paid by the cleaning company, was still to be considered an employee, and the company was subject to the same obligations attached to the original employment contract. The Liquor, Hospitality, and Miscellaneous Workers Union declared that the ruling would help to stop the practice of cutting benefits and wages by unilaterally forcing workers to sign on as individual contractors. (*Sydney Morning Herald*, Nov. 12, 2003, <http://www.smh.com.au/>; Damevski v Giudice [2003] FCAFC 252, <http://www.austlii.edu.au/au/cases/cth/FCAFC/2003/252.html>.) (Donald DeGlopper, 7-9831)

## INTERNATIONAL LAW

### CAMBODIA/LAOS/BURMA/THAILAND – Pagan Declaration

The Prime Ministers of the Kingdom of Cambodia, the Lao People's Democratic Republic, the Union of Myanmar (Burma), and the Kingdom of Thailand signed and issued the Pagan [Bagan] Declaration on November 12, 2003, as a result of their summit meeting on Economic Cooperation Strategy (ECS). The main objectives of the ECS as outlined in the Declaration are to increase competitiveness and generate economic growth in the border regions, facilitate relocation of agricultural and manufacturing industries to areas with a comparative advantage, create employment opportunities and reduce income disparity among the four countries, and enhance peace, stability and shared prosperity.

Under the ECS, Thailand is to provide grants and loans to its three neighbor countries and the Thai private sector is being encouraged to invest in them. Tariffs on many products have been lifted, customs procedures are to be simplified, and one visa is to be issued for tourists visiting the four countries. According to Thai Prime Minister Thaksin Shinawatra, the ECS is based on a "four nations, one economy concept." ("Burmese, Thai, Lao, Cambodian Prime Ministers Sign 'Pagan Declaration,'" *The New Light of Myanmar*, Nov. 13, 2003, at 16, 9, and "Thailand: Four Nations Ink Pagan Declaration To Increase Competitiveness, Growth," *Bangkok Post*, Nov. 13, 2003, both via FBIS.) (Wendy Zeldin, 7-9832)

### COMMONWEALTH – Judicial Appeals to Privy Council in London

In 1833, the Government of Great Britain created the Judicial Committee of the Privy Council for the primary purpose of hearing appeals from the highest courts in the colonies. Upon attaining independence, the former colonies were given the option of retaining the Privy Council as their court of last resort. All of the former Dominions and many large countries took advantage of this opportunity, and the result was that the Privy Council was truly the high court for the emerging British Commonwealth of Nations. In recent years, however, a number of Commonwealth countries have eliminated appeals to the Privy Council, and with New Zealand's recent decision to establish its own highest court in the form of a Supreme Court, ([see](#) 11 W.L.B. 2003, at 17), the list of remaining participating independent jurisdictions has been reduced to the Bahamas, Mauritius, Brunei, and a handful of Caribbean countries that are in the process of creating a Caribbean Court of Appeal. The Government of the United Kingdom is now considering a proposal that would reduce the Privy Council's role within the Commonwealth even further. In a consultation paper on "Constitutional Reform: A Supreme Court for the United Kingdom," the Department for Constitutional Affairs has proposed the transfer of the Privy Council's current jurisdiction to consider questions involving the legal competence of the devolved administrations in Scotland, Wales, and Northern Ireland to a Supreme Court. (<http://www.dca.gov.uk/consult/supremecourt>.) If this were to be done, the Privy Council's declining overseas workload would only be supplemented by cases from the Crown Dependencies of Jersey, Guernsey, and the Isle of Man. (Stephen F. Clarke, 7-7121)

### ISRAEL/PALESTINIAN AUTHORITY – Supply of Electricity

Israel's Ministry of Infrastructure and the Palestinian Ministry of Energy signed an agreement detailing principles for cooperation in the area of electricity. The agreement was followed by an additional agreement between the Palestinian Ministry, representing Palestinian distribution companies,

and the Israeli energy company. This is the first economic agreement signed between Israel and the Palestinian Authority since the start of the Intifada (violent uprising). The European Union made a commitment to provide financial support for implementation of the agreement. In accordance with the agreement, the Israeli electric company will enter into a long-range commercial agreement with Palestinian distribution companies. The parties will reach additional agreements on calculation of service fees, method of payment, new energies, natural gas, and oil refining. Additional joint projects will be financed by the European Union.

The Agreement calls for the establishment of a joint office that will coordinate energy cooperation and employ experts from Israel, the Palestinian Authority, and the European Union. The new office will examine, among other things, the possibility of establishing a private power station under Israeli-Palestinian ownership. (“The Cooperation with the Palestinians in the Area of Electricity is Expanding,” Nov. 17, 2003, <http://www.ynet.co.il>.) (Ruth Levush, 7-9847)

#### **UNITED NATIONS – Protocol Against Smuggling Migrants**

The United Nations Information Service in Vienna, Austria announced on November 4, 2003, that the protocol against the smuggling of migrants will become effective on January 28, 2004. It comes into force following ratification by a 40<sup>th</sup> country, Azerbaijan. This protocol, which covers smuggling by land, sea, or air, will supplement the Convention Against Transnational Organized Crime.

Participant countries must incorporate provisions of the smuggling protocol into domestic law and must prosecute offenders and work for international cooperation. Migrant smuggling is defined as the illegal entry of a person into a state of which they are not a citizen or resident, for financial or material benefit. Albania, Argentina, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Botswana, Bulgaria, Burkina Faso, Canada, Costa Rica, Croatia, Cyprus, Ecuador, France, the Gambia, Jamaica, Kyrgyzstan, Laos, Latvia, Lithuania, Mali, Malta, Mauritius, Mexico, Monaco, Namibia, New Zealand, Nigeria, Norway, Peru, Philippines, Poland, Romania, Senegal, Serbia and Montenegro, Spain, Tajikistan, Tunisia and Turkey have ratified the protocol. (UN News Centre, Nov. 4, 2003, <http://www.un.org/apps/news/story.asp?NewsID=8771&Cr=organized&Cr1=crime>.) (Constance A. Johnson, 7-9829)

#### **UNITED STATES/CHINA – Labor Law Agreement**

On November 4, 2003, China and the United States signed an agreement on a cooperative labor law project. The two nations will cooperate in labor legislation and law education, industry relations, and legal aid. The agreement between the Chinese Ministry of Labor and Social Security and the U.S. Department of Labor was the first technical cooperation project arranged by the two agencies under a broader agreement signed on April 10, 2003. (*Xinhua*, Nov. 18, 2003, via FBIS.) (Constance A. Johnson, 7-9829)

#### **UNITED STATES/MEXICO – Bi-National Commission**

Secretary of State Colin L. Powell and Mexican Secretary of Foreign Affairs Luis Ernesto Derbez hosted the 20<sup>th</sup> meeting of United States—Mexico Bi-national Commission (BNC) on November 12, 2003, in Washington D.C.

Cabinet officials and agency chiefs from both nations met in working groups on specific topics. This year's BNC included 14 groups: Foreign Policy; Migration and Consular Affairs; Homeland Security and Border Cooperation; Law Enforcement and Counter-narcotics; Trade and Economics; Energy, Labor; Science and Technology; Education; Environment; Natural Resources; Health; Housing; and Transportation.

The BNC reviewed activities and announced a number of new initiatives. Secretary of Homeland Security Tom Ridge and Mexican Secretary of Interior Santiago Creel discussed establishing a secure hotline to give them the ability to pass time-sensitive information about security issues. Attorneys General John Ashcroft and Rafael Macedo reviewed their respective agencies' ever-increasing levels of cooperation and mutual confidence across the broad spectrum of law enforcement and counter-narcotics efforts. The United States and Mexico governments reiterated their commitment to work together to advance the migration issue. (<http://www.state.gov/r/pa/prs/ps/2003/26075.htm>.) (Gustavo E. Guerra, 7-7104)

### **UNITED STATES/MEXICO – President Fox Pushes Immigration Reform**

Mexican President Vicente Fox recently concluded a visit to Arizona, New Mexico, and Texas designed to stir debate over immigration and kick-start long-stalled talks with the Bush administration on the issue.

In private meetings with Arizona's Governor Janet Napolitano, Arizona lawmakers, and mayors, Fox said he is seeking an expanded U.S. program for Mexican guest workers and legal status for the more than 3.5 million undocumented Mexican migrants who live and work in the United States. Arizona's legislature recently approved a declaration supporting a future guest-worker program for Mexican migrants. (<http://www.presidencia.gob.mx/?Orden=Leer&Tipo=Pe&Art=6740>.) (Gustavo E. Guerra, 7-7104)

## **EUROPEAN UNION**

### **Communication on Illegal Drugs in the European Union**

While Member States are primarily responsible for curtailing the use of illegal drugs within their respective territories, the European Commission also continues its efforts to assist Members in combating illegal drugs. Following its adoption of the Action Plan on Drugs for 2000-2004, the Commission's more recent measure involves the drafting of a Communication on Coordination on Drugs in the EU. The Commission envisages three levels of coordination: among Member States; within and among the EU's institutions, notably the Commission, Council and Parliament; and at the EU level, between Members and the three institutions supported by the European Police Office (Europol). Other highlights of the Communication include an analysis of the significance of coordination, a review of existing coordination practices, and a presentation of alternatives for consideration. (<http://europa.eu.int/>.) (Theresa Papademetriou, 7-9857)

### **Energy Liberalization Package**

A regulation and two directives that were adopted recently are part of the Commission's efforts to speed up the liberalization of the gas and electricity markets in the EU. Regulation 1228/2003 on conditions for access to the network for cross-border exchanges in electricity, contains rules governing

the cross-border trade in electricity and principles pertaining to tariffs. It also provides for compensation payments to transmission system operators that host cross-border flows of electricity on their networks. The Regulation gives the European Commission the right to request information from undertakings concerned and to impose penalties if such information is not provided. Council Directive 2003/55 and Directive 2003/54 contain common rules for the internal markets in natural gas and electricity respectively. Both of them repeal prior existing directives. (*European Current Law*, Aug. 2003, at 14.) (Theresa Papademetriou, 7-9857)

### **Management of Operational Cooperation at Borders**

A draft regulation proposes that a new European agency be established to oversee the management of operational cooperation at the external borders of the European Union. The Agency will replace the existing External Borders Practitioners Common Unit and will also assume additional responsibilities, including preparing guidelines for training border guards, and reviewing best practices followed by Members on the acquisition of travel documents. It will also undertake the responsibility of removing third country nationals from the Members States, which previously was handled by national authorities responsible for supervising the external borders. (<http://europa.eu.int>.) (Theresa Papademetriou, 7-9857)

### **European Evidence Warrant**

The principle of mutual recognition of judicial decisions has long been established in the EU as a key element of judicial cooperation among Member States. On November 14, 2003, the European Commission took an additional step in this area by introducing the concept of a European Evidence Warrant. This is basically an order for evidence, including objects, documents or data, issued by a judicial authority in a Member State which would be recognized and enforced by the judicial authority in another Member State. Currently, the issue of securing evidence is governed by a number of international and EU legal instruments. The European Commissioner for Justice and Home Affairs, who has jurisdiction on these matters, stated “that our proposal will provide faster and clearer procedures when national investigators or prosecutors seek certain types of evidence from another Member State. At the same time it provides the necessary safeguards for suspects and defendants in criminal proceedings.” (<http://europa.eu.int/rapid>.) (Theresa Papademetriou, 7-9857)

### **European Regulators Group for Electricity and Gas**

The Commission recently established an advisory group composed of independent national regulatory authorities to assist the Commission in achieving full liberalization of the gas and electricity markets in the EU. The Commission’s target is to enable all commercial customers and all consumers to select their own suppliers for gas and electricity by July 1, 2004 and July 1, 2007, respectively. One of the tasks of the European Regulators Group will be to ensure the correct and timely implementation of the new directives mentioned above. (<http://europa.eu.int/rapid>.) (Theresa Papademetriou, 7-9857)

### **Initiatives on Terrorism and Immigration**

At the end of October, the interior ministers from France, Germany, Great Britain, Italy and Spain met for two days in western France to coordinate their strategies against terrorism and illegal immigration. Three initiatives were discussed. First, the ministers agreed to establish a list of “safe countries” recognized as stable and respectful of human rights, whose citizens would be precluded from filing refugee applications. Fearing long discussions at the level of the European Commission, the “G5,”

as the group has become known, have decided to go ahead and prepare a mandatory minimum list that governments could later amend.

Second, the French Ministry of Interior has been asked to prepare a proposal regarding the minimal amount of resources required from foreigners looking to enter the area covered by the Schengen agreement with short-term visas. The aim is to harmonize this financial criteria. The ministry will take into account minimum wages and the standard of living in each country to determine the amount.

Finally, Spain must draft a directive proposal making it mandatory for airlines companies to share with national authorities certain information on passengers. The idea behind this proposal is to allow the border police to learn the names of passengers who did not use their return tickets and are suspected of having illegally extended their stay. The German minister proposed that information including name, date and place of birth, passport number, and point of entry into the Schengen area would also be made available to the authorities in charge of the fight against terrorism.

In addition to these three initiatives, the ministers have also agreed in principle to store information, such as digital fingerprints and face scans, in a microchip attached to visas for countries that are part of the Schengen area. This would allow the immigration services to verify that the holder of a travel document is effectively its owner. Later, when the technology becomes available, other information, such as an iris scan, would be added. The "G5" have also decided to launch a reform of Europol, the collective police of the European Union, to make it more operational and efficient and to share information on networks smuggling illegal immigrants from China, Eastern Europe, and Africa. (*Le Monde*, Oct. 22, 2003, at 2.)  
(Nicole Atwill, 7-2832)

### **Political Parties and Funding at the EU Level**

A regulation establishing rules on political parties and conditions for funding at the EU level was adopted on November 15, 2003. Political parties at the EU level are defined as those that during the most recent European election have received at least 3 percent of the vote in each of at least one-quarter of the Member States. Another fundamental criterion is that political parties must espouse the principles of democracy, rule of law, and liberty. (OJ L 297/1, Nov. 15, 2003.)  
(Theresa Papademetriou, 7-9857)

### **Third Country Nationals: Entry, Stay and Movement Within the Schengen Area**

The Schengen rules allow third country nationals who legally enter the territory of 12 of the Member States, excluding Ireland and United Kingdom, to remain for a maximum period of three months following their entry. Moreover, the national competent authorities are required to place a stamp in the travel document indicating the date and the border post of entry. When the same individuals leave the Schengen area, the authorities in some Members comply with this requirement, but others do not. The reasons for doing so vary. Some Members exclude from stamping certain nationalities because the country of origin is considered of low risk for illegal immigration, while others do so in order to avoid long lines at the external borders. The recently introduced draft regulation is designed to ensure that Member States apply the rules and place a stamp indicating the entry and exit of third country nationals. (<http://europa.eu.int>.)  
(Theresa Papademetriou, 7-9857)

## ORGANIZATION OF AMERICAN STATES

### **Pact on Regional Security**

On October 28, 2003, in Mexico City, the member states of the OAS signed a Declaration on Security in the Americas that defines strategies and collaborative measures to confront new threats to the region. According to the ministers who attended the conference, these threats include the proliferation of weapons of mass destruction, terrorism, organized crime, the arms trade, narcotics trafficking, and money laundering. They also noted that natural disasters, the AIDS epidemic, and poverty pose dangers for regional safety. The Secretary General of the OAS, Cesar Gaviria, commented that the Declaration acknowledges that the region must deal with these destabilizing forces collectively, because they have a transnational character. The participants of the two-day conference agreed that efforts at the local level are insufficient. (“La OEA Firma Pacto de Seguridad,” *BBC Mundo.com*, Oct. 29, 2003, [http://news.bbc.co.uk/1/hi/spanish/latin\\_america/newsid\\_3222000/3222811.stm](http://news.bbc.co.uk/1/hi/spanish/latin_america/newsid_3222000/3222811.stm).)  
(Sandra Sawicki, 7-9819)