



WORLD LAW BULLETIN

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Some highlights of this month's issue:

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Monitoring Intelligence Agencies-Australia, Taiwan
Non-Judicial Arrests Outlawed-Russia

European Union news:

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Temporary Workers

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AMERICAS

BRAZIL--Legal Network To Support Trade Negotiations

On March 4, 2002, Minister of Development Sergio Amaral met in Sao Paulo with representatives of four law firms specializing in foreign trade legislation in order to discuss the legal paths that will be followed by the various bilateral and multilateral negotiations in which Brazil and Mercosur, a trade bloc uniting the nations of the Southern Cone of South America, are involved. Prior to the meeting, he said that Brazil is putting together the biggest network possible for monitoring negotiations not only for the Free Trade Agreement of the Americas (FTAA), but also for the European Union (EU)-Mercosur bilateral agreements. A basic source for the discussions will be a study produced by Brazilian academicians and economists of the competitiveness of twelve Brazilian industrial sectors compared to their counterparts around the world, especially in the FTAA and the EU. (“Brazil: Amaral Sets Up Legal Support Network for Multilateral Trade Negotiations,” *O Estado de Sao Paulo*, Mar. 4, 2002, via FBIS.) (Sandra Sawicki, 7-9819)

MEXICO--Tuna Embargo Controversy

The president of Mexico’s National Chamber of Fishing and Aquaculture Industries, Carlos Hussong Gonzalez, asserted on February 25, 2002, that the United States has until September to lift the tuna embargo on Mexico, or it will withdraw from bi-national talks and file a complaint against the United States in international fora under international law. He pointed out that during seventeen of the last twenty years, the export of Mexican tuna has been embargoed for one reason or another. Hussong Gonzalez stated that on more than three occasions Mexico has won lawsuits regarding the issue, but the United States has always appealed. There is currently an appeal pending of the most recent embargo lawsuit decision. Past appeals have centered around non-compliance with labeling requirements under U.S. law and harm to dolphins by Mexican fishing fleets. (“Mexico: Fishing Industrialists Set Deadlines for US To Lift Tuna Embargo,” *Reforma*, Mexico City, Feb. 25, 2002, via FBIS.) (Sandra Sawicki, 7-9819)

MEXICO--U.S. Businessmen Urge Reforms

Members of the Global Business Policy Council (GBPC) of the United States met privately with President Vicente Fox Quesada in the Presidential Palace on March 19, 2002. They proposed that the Mexican government respond to insecurity among foreign investors by reforming labor, education, financial, and energy laws, and establishing policies that will strengthen the national currency to make it a “super peso.” The GBPC delegation urged the Mexican chief executive to aggressively promote incentives for foreign investors that could lead to a doubling of the amount of investments from abroad. The business group stressed that the energy sector is especially attractive to investors around the world. (*El Universal*, Mexico City, Mar. 20, 2002, via http://www.el-universal.com.mx/pls/impresso/version_imprimir?id_notas=82209&tabla=nacion) (Sandra Sawicki, 7-9819)

ASIA**CHINA–Biosafety Protocol Regulations**

Ratification is expected later this year for the Cartagena Protocol on Biosafety to the Convention on Biological Diversity; China signed it August 8, 2000. The Protocol is designed to cut the adverse impact of modern biotechnologies on ecological diversity, the environment, and public health. China's ratification is seen as a step toward further regulating the country's development and implementation of modern biotechnology, according to Wang Dehui, Director-General of the Department of Nature and Ecology Conservation under the State Environmental Protection Administration. Under the Protocol, before live modified organisms enter the country, a risk assessment of adverse effects on the local environment must be undertaken; only 13 of the 50 ratifications needed before the Protocol becomes effective have taken place to date. (*China Daily* Internet version, Mar. 5, 2002, <http://www1.chinadaily.com.cn/news/cb/2002-03-05/59414.html>)

In addition to ratifying the Protocol, in May 2001 China drew up the "Regulations for Controlling the Safety of Genetically-Modified Living Things" and three other sets of procedures for implementing these regulations, which were due to become effective March 20, 2002. (*Xinhua*, Mar. 12, 2002.) (Constance A. Johnson, 7-9829)

CHINA–Foreign Investment Guidelines

On February 11, 2002, Premier Zhu Rongji signed the Provisions on Guiding the Direction of Foreign Investment, effective on April 1, replacing temporary rules. Under the Provisions, the State Development Planning Commission, the State Economic and Trade Commission, and the Ministry of Foreign Trade and Economic Cooperation, along with related departments of the State Council, are responsible for working out a Catalog for the Guidance of Foreign Investment in Industries and a Catalog of Priority Industries for Foreign Investment in Central and Western Regions. The Provisions divide foreign-invested projects into four categories: encouraged, permitted, restricted, and prohibited. There are 262 encouraged projects in the new Industries Catalog, versus 186 in the old one, and the number of restricted projects has been reduced from 112 to 75.

Some of the new areas of "encouraged" investment in the Industries Catalog include automobile parts manufacture, construction and management of port facilities, and multimedia data transmission equipment manufacture. Investment in China's western regions is also encouraged. New restricted types of projects include development of entire lots of land, large-scale tourism, automatic data transmission systems, cultural and entertainment parks, medical associations, and so on. For the first time, certain urban administrative projects in which foreign investment was prohibited, e.g, telecommunications, gas, heating, water supply, and sewage disposal, have been opened up for investment. In addition, the requirement regarding the ratio between Chinese and foreign shares has apparently been made less stringent. The Catalog also contains appendices indicating for various sectors certain aspects of investment such as the stake ratio, the type of venture allowed, and the timetable for opening up in accordance with the commitments China made to enter the World Trade Organization. (*China Legal Change*, No. 4, 2002, database subscriber brief; *Asiainfo Daily China News*, Mar. 15, 2002, and "China-Full Text of Regs on Guiding Foreign Investment," *ChinaOnline*, Mar. 1, 2002, both via LEXIS/NEXIS; *China Daily*, Mar. 12, 2002, via FBIS, Mar. 13, 2002; *Zhongguo Xinwen She*, Mar. 12, 2002, as translated in FBIS.) (W. Zeldin, 7-9832)

HONG KONG–Securities, Futures Bill

After ten years of debate, the Hong Kong legislature passed a landmark securities bill on March 13, 2002. The Securities and Futures Ordinance consolidates and modernizes 10 ordinances on the securities and futures markets written over the last 25 years. Hong Kong’s Securities and Futures Commission (SFC) Chairman Andrew Sheng stated that “our aim is to produce a clear, user-friendly and modern law” to encourage market development, provide greater investor protection, and strengthen Hong Kong’s competitive edge (HK’s SFC Welcomes Passage of Securities and Futures Ordinance, *Asia Pulse*, Mar. 14, 2002, via LEXIS/NEXIS). Enactment of the Ordinance awaits passage of 39 items of subsidiary legislation outlining the Ordinance’s detailed operation, a process that will take several months.

Some key features of the Ordinance, aimed at enhancing the quality of the markets and lowering participants’ compliance costs, include:

- a new streamlined single licensing regime;
- new proportionate disciplinary sanctions to combat misconduct;
- new measures to protect investors’ interests, e.g., an express private right of civil action for losses caused by market misconduct such as insider dealing, stock market manipulation, or issuance of false or misleading public statements about securities;
- a new and comprehensive compensation scheme for investors; and
- a tighter regime for disclosure of interests in listed companies, in conformity with international standards, e.g., a 5% initial disclosure threshold for major shareholders (down from 10%) and a notification period of 3 business days (versus the previous 5-day period).

Stephen Ip, Secretary for Financial Services, said that inclusion of the right of civil action was aimed at preventing trouble similar to that caused to U.S. investors by the corporate governance practices of Enron Corporation. Mr. Ip noted that as a result of such a right, findings of the Market Misconduct Tribunal and criminal convictions could be admitted as evidence in a court hearing on the private action, thereby helping investors to establish their claims without having to prove anew the existence of market misconduct. (*Id.*; “Securities Bill Passes After 10-Year Debate, Critics Harbour Fears Over Landmark Law,” *South China Morning Post*, Mar. 14, 2002, via LEXIS/NEXIS; “HKSAR Govt Urges Corporate Governance Reform,” *Xinhua*, Mar. 19, 2002, via FBIS.) (W. Zeldin, 7-9832)

TAIWAN–Intellectual Property Rights Protection

On March 12, 2002, the Ministry of Justice (MOJ) of the Republic of China (on Taiwan) announced that it has stepped up prosecution of intellectual property piracy and IPR violations, in an effort to make major strides by the end of March in order to avoid being placed on the U.S. annual “special 301 watch list.” Data of the International Planning and Research Corporation of the Taiwan’s Business Software Alliance (BSA) indicates that in the year 2000 some 53 percent of Taiwan firms used pirated software, 16 percentage points above the international average.

According to an MOJ official, the Cabinet has drafted a plan to combat intellectual property piracy and called 2002 an “IPR protection action year.” On March 14, the MOJ, the Ministry of Economic Affairs, and the BSA launched the “2002 Business Against Piracy Campaign” to crack down on IPR infringements by encouraging employees, through offers of cash awards, to report on their companies if they

use pirated software. Persons willing to sign an accusation against a firm will receive NT\$2,002 (about US\$57). If the information leads to issuance of a subpoena to the company by a judge, NT\$20,000 (about US\$571) will be awarded, and as much as NT\$1 million (about US\$28,544) might be given to those willing to serve as witnesses. Companies were warned that they have until May 1 to stop unlawful activities. During the 45-day grace period, the MOJ and the BSA will hold free seminars on the legalities and management of IPR protection. There will also be anti-piracy television commercials. (*Central News Agency*, Mar. 19, 2002, via FBIS; *Taipei Times*, Mar. 15, 2002, via FBIS.) (W. Zeldin, 7-9832)

TAIWAN–Proposal To Tap Security Agents' Phones

In a proposal that raises constitutional issues, the Director of the National Security Bureau, Tsai Chao-ming, called for the legalization of taps on phones in the Bureau. The request, made to the legislature on March 13, 2002, during a report on the operation of intelligence agencies, would require an amendment of the telecommunications laws. It has been criticized by some in the legislature as embodying a potential violation of the privacy rights of the intelligence agents, as protected under the Republic of China Constitution. Tsai argued that intelligence officers have been targets of enemy spying and monitoring their phone conversations is a necessary security step. His proposal came about a week after the impeachment of two former directors of the National Security Bureau by the Control Yuan, the highest watchdog body in Taiwan, for failure to prevent an officer from embezzling NT\$192.2 million (about US\$5.5 million) and fleeing the country. (*China Post*, Mar. 14, 2002.) (Constance A. Johnson, 7-9829)

VIETNAM–Communist Party Resolution on Private Economy

During the Fifth Plenary Session of the Central Committee of the Communist Party of Vietnam (CPV), held from February 18 to March 2, 2002, a resolution was adopted on encouraging the development of the country's private economy. Four other resolutions--on developing the collective economy, accelerating agricultural and rural industrialization and modernization (2001-2010), improving the quality of political activities at the local level, and ideological and theoretical work--were also adopted. The General Secretary of the CPV Central Committee, Nong Duc Manh, stated that the resolutions are a significant step forward in the party's policies for developing a multi-sector economy, creating a legal environment, and making material and moral preparations for all economic sectors to take part in production and business. (*Xinhua*, Mar. 2, 2002, via FBIS.) (W. Zeldin, 7-9832)

EUROPE

THE NETHERLANDS--Use of Hand-Held Phones While Driving Prohibited

Starting March 30, 2002, the use of a hand-held phone while driving a motor vehicle will be prohibited. Use of hands-free mobile phone systems will still be permitted, however.

The prohibition applies to all situations in which a phone is held while driving, such as the sending of messages or the looking up of an address or telephone number. Using a phone when stopped in a traffic jam holding it between one's head and shoulder is also prohibited. A minimum fine of 138 *Euro* and a

maximum fine of 2 months in jail or a fine of 2,000 *Euro* may be imposed (1 *Euro* is approximately \$.87). (*De Telgraaf*, Mar. 5, 2002.)
(Karel Wennink, 7-9864).

GREECE--Ratification of the Nice Treaty of the European Union

On March 21, 2002, the Greek Parliament in plenum ratified the Nice Treaty, which *inter alia* provides for enlargement of the European Union from the current 15 Members to 27 Members. Two hundred fifty-three Members from the ruling PASOK party and the opposition New Democracy party voted affirmatively, while members belonging to the Coalition of the Left voted present. During the debate, the right-wing New Democracy party expressed serious concerns on the issue of the European army and Greece's lack of participation in the drafting of the "Istanbul text," which was prepared by Great Britain and the United States. The Prime Minister argued that what New Democracy views as a problem was merely an issue between the European Union and NATO, that Greece supports the EU's common foreign and security policy, and that Greece holds clear views on the issue of a European Army. The Communist Party was totally against ratification of the Treaty, because in the Party's view it protects big countries at the expense of smaller and weaker Members. (Press Office of the Embassy of Greece in Washington: <http://www.greekembassy.org/press>)
(Theresa Papademetriou, 7-9857)

RUSSIAN FEDERATION--Arrests Without Judicial Approval Outlawed

The Constitutional Court of the Russian Federation ruled that several articles of the Russian Criminal Procedure Code allowing prosecutors in certain cases to authorize detention of suspected criminals for more than 48 hours were unconstitutional and therefore could not be applied. According to the Constitutional Court ruling, arrest, detention, and keeping a suspect in custody will be allowed only by an order of a court of law. No one may be detained for more than 48 hours without an order from a judge. To bring the criminal procedure legislation into conformity with the Constitution, the Court has invalidated a number of the Code's provisions allowing for prolonged detention. In its ruling, the Constitutional Court specified that all other similar provisions of legal acts allowing detention for a period exceeding 48 hours pending court sentencing, as well as arrest, taking into custody, and keeping in custody without an order of a court of law, must be invalidated in accordance with established procedure. The Constitutional Court instructed the Russian legislature to review and amend all related laws and supporting legislation. (*Rossiiskaia Gazeta* [official newspaper of the Russian Government], Mar. 14, 2002, via <http://www.gazeta.ru>)
(Peter Roudik, 7-9861)

RUSSIAN FEDERATION--Farm Land Sale Allowed

For the first time since the Bolsheviks seized power in 1917, the Government of the Russian Federation has issued a Decree on Agricultural Land Turnover, which legalizes agricultural land sales. At present one-fourth of Russian land is classified as agricultural and about half is arable.

The Decree allows the sale and purchase of land. Foreign individuals are allowed to lease but not own land near national borders. So-called land parcels, which are technically owned by some 12 million peasants but used by former collective farms, are also not available for foreign purchase. Under the Decree, such parcels must be dedicated to agricultural purposes if they are sold on the secondary market. Provincial authorities will have some authority over these land turnover issues, including the priority right to purchase

land and to determine the maximum amount of land that can belong to one individual if his share exceeds 35% of all agricultural land in the province. The Decree will remain in force while the legislature continues to debate the law on this subject. (*Rossiiskaia Gazeta*, Mar. 15, 2002, via <http://www.rg.ru>) (Peter Roudik, 7-9861)

SLOVAKIA--Partial Repeal of Inheritance Tax

A Slovak law of April 6, 2001, repealed the tax on property inherited by a relative in the direct line of kinship or a spouse (No. 151, *Collection of Laws*). Inheritance tax is thus repealed with respect to both ascendants and descendants of the testator, testatrix, or intestate and his or her spouse. All inheritances are covered, including both movable and immovable property. This move followed that of the Czech Republic, where inheritance tax on property inherited in the direct line and between spouses was repealed in 1998 (Law of June 18, 1998, No. 169, *Collection of Laws*). (George E. Glos, 7-9849)

UNITED KINGDOM--Appeal Court Rejects Censorship of Political Speech

Prolife, a registered political party opposed to abortion, euthanasia, destructive embryo research and human cloning, produced a broadcast for the General Election in June 2001 showing images of real life abortion techniques. Terrestrial broadcasters declined to screen the broadcast on the grounds that it was an offense against good taste and decency or that it was likely to be offensive to the public under section 6(1)(a) of the Broadcasting Act 1990. On being denied judicial review, Prolife appealed.

In allowing the appeal, a three-judge panel of the Court of Appeal (Civil Division) held that considerations of good taste and decency did not constitute a legal justification for not showing the broadcast under article 10(2) of the European Convention on Human Rights, incorporated into domestic law under the Human Rights Act 1998. According to the Court, while the law as to prior restraint on grounds of taste and decency was sufficiently clear, election broadcasts were a special case because of the importance of freedom of speech, especially in the political context, and their transmission should be refused only in the most clear and obvious case. Prolife was entitled to show the broadcast as there was nothing gratuitous, sensational, or untrue in it, although the images were graphic and disturbing. The Court held that the broadcasters were wrong to censor political speech in an election broadcast on account of taste or decency, as this was not a case of sensationalism or dishonesty. ® (*Prolife Alliance*) v *BBC*, Westlaw Reports; *Daily Telegraph*, Mar. 22, 2002.) (Kersi B. Shroff, 7-7850)

UNITED KINGDOM--Court Grants Right To Die “Peacefully and with Dignity”

The English High Court has allowed a 43-year-old woman the right to have her life support machine turned off and stated that doctors do not have the right to refuse the request. The judge, Dame Elizabeth Butler Sloss, President of the Family Division, ruled that the applicant should be allowed to die “peacefully and with dignity,” and stated, “one must allow for those as severely disabled as Miss B, for some of whom life in that condition may be worse than death.” The judgment was given by video link because the judge was outside London and the patient in her hospital bed. Miss B had specifically asked the Court that she not be made to switch off the system herself, because she did not want her loved ones to think that she had committed suicide. (*B v. An NHS Hospital Trust*, [2002] EWHC 429 (FAM); “Paralysed Woman Given Right

To Die,” *BBC News*, Mar. 22, 2002.)
(Kersi B. Shroff, 7-7850)

SOUTH PACIFIC

AUSTRALIA--Monitoring Intelligence Agencies

A series of incidents involving Australian intelligence agencies' monitoring the communications and speech of Australian citizens has focused public attention on the system meant to prevent such activities. After questions were raised in Parliament about the Defense Signals Directorate (DSD), the Australian counterpart to the U.S. National Security Agency, intercepting telephone calls between the captain of a Norwegian vessel that had rescued boat people headed for Australia and Australian citizens, the Inspector-General of Intelligence Services launched an investigation. The DSD had been prohibited from intercepting the communications of Australians within Australia, but Parliamentary inquiries revealed that new regulations were issued by the Minister of Defense on October 29, 2001, which apparently permit greatly expanded interception of domestic communications. DSD officials have refused to make the new regulations public, on the grounds that they are classified documents. It was also revealed that staff of the Ministry of Defense's Special Investigative Unit and the Australian Federal Police asked the Australian Security Intelligence Organization (ASIO) to bug the offices of a Member of Parliament who had released leaked documents detailing Australian military intelligence's knowledge of the Indonesian Army's planned suppression of pro-independence activities in East Timor. ASIO refused the request on the grounds that its mandate was to investigate espionage.

Opposition Members of Parliament denounced the proposed bugging as a breach of Parliamentary Privilege and linked it to the proposals for increased powers for intelligence agencies. The Inspector-General of Intelligence and Security Act 1986 establishes the office of the Inspector-General, who investigates complaints and provides annual reports to Parliament. The Act was intended to provide assurance to the Parliament and citizens that intelligence agencies act within the law and under the ultimate authority of Parliament. The recent events have brought the effectiveness of this system into question. (“About IGIS,” <http://www.igis.gov.au/about.htm>; *Sydney Morning Herald*, Mar. 7, 2002, at <http://www.smh.com.au>; *id.*, Mar. 18, 2002.)
(D. DeGlopper, 7-9831)

INTERNATIONAL LAW & ORGANIZATIONS

AUSTRALIA/UK-- Pension Dispute

One consequence of mass migration and resettlement between developed countries has been problems with entitlement to such benefits as old-age pensions and social security benefits. In March 2001, Australia terminated the Australian/UK Social Security Agreement, which governed eligibility for and payment of pensions to natives of each country resident in the other. Australia has been annoyed at the failure of the British government to index the pensions it pays to the 220,000 British pensioners residing in Australia. Britain indexes pensions only for residents of countries with which it has a reciprocal agreement, including the European Union and the United States but excluding 48 of the 54 Commonwealth countries.

British pensioners in those countries have their payments frozen at the rate applicable when they first became eligible or when they arrived in their new country .

In February 2002, Peter Slipper, an Australian Member of Parliament, called on his government to take legal action on behalf of the pensioners who were, he said , “being duded by the Blair Government .” He claimed such “blatant discrimination” cost the Australian economy A\$450 million a year. He asserted that asking the Australian government to support a test case in the High Court in London was the only option left. According to the BBC, Australia’s Department of Family and Community Services plans to make a representation in a human rights case brought by a South African pensioner, “because of its possible implications for British pensioners resident in Australia.” (http://www.dfat.gov.au/geo/united_kingdom_brief.html; http://www.chogm.au.nz.org/Australian_Quotes.html; *BBC News Online*, Mar. 15, 2002, at <http://www.news.bbc.co.uk/>)
(D. DeGlopper, 7-9831)

BRAZIL/CHILE–Trade Accord Signed

On March 20, 2002, the Presidents of Brazil and Chile, Fernando Henrique Cardoso and Ricardo Lagos, respectively, signed an agreement to reduce import duties on agricultural products and on the automotive and chemical industries. The two-year-long negotiations over the treaty are part of the Economic Complementation Agreement No. 35, under which Chile joins the Mercosur trading union of five South American countries. The governments of Argentina, Paraguay, and Uruguay, member countries, will have to endorse the Brazilian-Chilean pact.

One of the key points in the agreement stipulates that the bilateral market in the automotive sector will be free in 2006. Concessions have been established regarding Chile’s quotas for importation of automobiles and light commercial vehicles from Brazil. In the first year the treaty is in effect, Brazil will be able to sell 40,000 units to Chile without any imposition of duty. This quota will be increased each year, until in 2005 it will be possible to export 60,000 units to the Chilean market. According to projections, Brazilian exports to Chile will increase by \$460 million each year, while Chile will increase its sales to Brazil by \$130 million. (*Sao Paulo Gazeta Mercantil*, Mar. 19, 2002 , via FBIS .)
(Sandra Sawicki, 7-9819)

COLOMBIA/EUROPEAN UNION--Program for Peace

The Colombian government and the European Union (EU) signed an agreement on February 25, 2002, that will finance the “Middle Magdalena Peace Lab” program. The agreement, which involves a joint investment by Europe and Colombia of 81.7 billion *pesos* or 42.2 million *euros*, was signed by Colombian Foreign Minister Guillermo Fernandez de Soto and Spanish Ambassador Yago Pico de Coana, current EU chairman. The Ambassador said that this program offers a tangible mechanism by means of which the EU can support Colombia in its struggle to overcome internal conflict.

The concept of the Peace Lab arose from the observation that there existed a widespread need for citizen participation in the pursuit of peace. The EU seeks to promote places for citizens to live together peacefully by fortifying local public institutions and supporting members of civil society who demonstrate a clear commitment to human development. The Peace Lab will develop these ideals in thirteen cities and towns in the central area of the department of Magdalena. (“Colombia, EU Sign Agreement To Fund

‘Middle Magdalena Peace Lab’ Program,” *Office of the President of Colombia*, Government website, Bogota, Feb. 25, 2002, via FBIS.)

(Sandra Sawicki, 7-9819)

ORGANIZATION OF AMERICAN STATES--Indigenous People’s Rights

A meeting of experts from the Americas was held at the Washington headquarters of the Organization of American States from March 11 to 15, 2002, to prepare a proposed American Declaration on the Rights of Indigenous People. Representatives of indigenous communities from the Americas were at the meeting. Work sessions were conducted on the following subjects: cultural development; organizational and political rights; social, economic, and property rights; and human rights. OAS Assistant Secretary General Luigi Einaudi commented in his welcome to the delegates that the regional organization has been conscious of promoting Indian rights since 1930, when the governments of the American states at the Eighth International Conference in Lima undertook to comprehensively raise the standard of living of the Hemisphere’s indigenous groups. This concern resulted in the creation of the Inter-American Indian Institute at the First Indian Congress held in Mexico. An inter-American indigenous rights declaration would usher in better relations between governments and indigenous communities, he said. (*Organization of American States*, Feb. 20, 2002, and Mar. 11, 2002, via <http://www.oas.org>)

(Sandra Sawicki, 7-9819)

ORGANIZATION OF AMERICAN STATES--Justice Ministers Meet

The Hemisphere’s justice ministers and attorneys general opened their fourth meeting on March 10, 2002, in Port-of-Spain, Trinidad. Prominent in the opening remarks by OAS Secretary General Cesar Gaviria and Prime Minister of Trinidad and Tobago Patrick Manning were comments about the threats of international terrorism, as seen in the attacks of September 11, and pervasive corruption to democratic states, respectively. Key issues discussed by the justice ministers and top law enforcement officials were mutual legal assistance, cyber crime, alternative dispute resolution mechanisms, and model laws. (*Organization of American States*, Mar. 11, 2002, via <http://www.oas.org>)

(Sandra Sawicki, 7-9819)

TAIWAN/UNITED STATES–Reciprocal Legal Assistance

On March 27, 2002, the Mutual Legal Assistance Agreement on Criminal Matters was signed by the Republic of China (on Taiwan) and the United States. A consensus guaranteeing the treaty’s signature had been reached in August 2001 after a series of intensive discussions. Taiwan and the United States do not have an extradition treaty. The Agreement’s signing means that the two sides will exchange judicial information and collaborate on tracking down fugitives, so that at least 10 criminal suspects wanted by Taipei and believed to be at large in the United States may now be brought to justice. Taiwan Ministry of Justice officials stated that the cooperation agreement serves as a model for possible similar agreements between Taiwan and other countries and will also help bolster Taiwan’s efforts to assist in US-initiated anti-terrorism drives. (Hong Kong *AFP*, Mar. 28, 2002; Taipei *Central News Agency*, Mar. 22, 2002, both via FBIS.)

A key purpose of the Agreement, according to news reports, is to promote Taiwan-US cooperation against drug trafficking. Anti-narcotics activities to be conducted by the two parties include cooperative

projects on the identification and analysis of drug sources, the sanctioning of undercover drug investigations, the legalization of controlled drug distribution, and the establishment of cargo containers in which X-ray inspections can be carried out. (*Central News Agency*, Mar. 19, 2002; *Taiwan News*, Mar. 20, 2002, both via FBIS.)

(W. Zeldin, 7-9832)

UNITED NATIONS--Optional Protocol on the Involvement of Children in Armed Conflict

On February 12, 2002, the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, which was adopted by the General Assembly on May 25, 2000, entered into force. The Protocol requires States Parties to take any measures necessary to ensure that:

- persons who have not attained the age of 18 years are not compulsorily conscripted into the armed forces;
- persons below the age of 18 years do not participate in hostilities;
- the age of voluntary recruitment is raised;
- in case of voluntary recruitment below the age of 18 years, additional safeguards, such as requirement of the informed consent of parents and full disclosure of duties involved in military service, are provided;
- armed groups distinct from the armed forces must not recruit or use in hostilities anyone younger than the age of 18; and
- the provisions of the Protocol are effectively implemented. (Office of the High Commissioner for Human Rights, <http://www.unhcr.ch/html/menu2/6/protocolchild.htm>.)

(Theresa Papademetriou, 7-9857)

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Oct. 2001. No. LL-FLB2001.04

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

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

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

Recent Publications from Great Britain Obtainable from the Law Library

House of Commons. PROCEEDS OF CRIME BILL. HL Bill 57. London: The Stationery Office, Feb. 28, 2002. 128 pp.

This bill updates, reforms, and consolidates the criminal law in the United Kingdom with regard to money laundering and sets forth new provisions for drug confiscation throughout England and Wales, with separate provisions for Scotland and Northern Ireland. It provides for the recovery of property obtained through unlawful conduct and for the forfeiture of such cash in proceedings before a magistrate's court, sheriff, or justice of the peace. The bill also creates an Assets Recovery Agency that will exercise the functions of Inland Revenue in relation to income, gains, and profits arising from or accruing as a result of criminal conduct.

House of Lords. Parliamentary Resources Unit. TO CALL ATTENTION TO TRAFFICKING IN HUMAN BEINGS, ESPECIALLY CHILDREN. London: The Stationery Office, Mar. 13, 2002. 33 pp.

Trafficking in human beings is a large growth area for organized crime. Hundreds of women are trafficked into and within the United Kingdom each year. The scale of traffic in children is difficult to assess, as few statistics are collated. However, there are fears that an increasing number of children are being brought into the UK and exploited in the sex industry. This brief recommends providing special funding, support, and assistance to victims of trafficking; giving priority to the introduction of legislation that will make the trafficking of human beings, as it is defined in the United Nations protocol, a criminal offense; the issuance of new mandatory sentencing guidelines for those convicted of the sexual exploitation of children or adults; and the removal of the UK's reservation to the 1989 UN Convention on the Rights of the Child, which excludes children subject to immigration control from the protection offered by the Convention.

----- Select Committee. STEM CELL RESEARCH. HL83. London: The Stationery Office, Feb. 13, 2002. 60 pp.

This Select Committee report reviews issues that arose from the Human Fertilization (Research Purposes) Regulations 2001. The Regulations extended the purposes for which research on human embryos could be undertaken under license from the Human Fertilization and Embryology Authority (HFEA). The Report recommends that the Government initiate a further review of scientific developments, particularly of the progress of adult stem cell research, therapies, and stem cell banks, to determine whether research on human embryos is still necessary. The Report further recommends that the HFEA ensure that the implications arising from the "immortality" of stem cell lines are fully covered in obtaining informed consent from donors giving embryos for the potential establishment of cell lines for research.

Ministry of Defense. COMBAT IDENTIFICATION. London: The Stationery Office, Mar. 7, 2002. HC 661. 33 pp.

Combat identification is the means by which military units distinguish friend from foe during operations; it enables them to improve combat effectiveness and minimize the risk of fratricide, the

accidental destruction of friendly or allied forces. The report examines and documents combat identification within the context of the changing nature of modern warfare and the structures that the Ministry of Defense has put in place to deliver a capability for combat identification since the Strategic Review of 1998. The report concludes that the changing nature and the complexities of warfare mean that while there are no simple solutions, the Ministry has created structures that are now beginning to facilitate the delivery of a more sophisticated structure for a combat identification strategy and capability.

The Women and Equity Unit. *A REVIEW OF WOMEN'S EQUITY EMPLOYMENT AND PAY*. London, 2002. 190 pp.

This report examines the gender pay gap that affects women at all levels of pay. In the United Kingdom, women make up 47% of the workforce, but only 33% of managers are female. A significant factor in this gap is the concentration of women in poorly paid, part-time employment. Women are more likely to be working in positions that are part-time and often in jobs that are only available for a limited number of hours per week, such as day care, respite care, and clerical positions. The report includes a wide range of recommendations to address the disparity, including the encouragement of voluntary employment and pay reviews by private and public sector organizations, covering all aspects of women's employment, as well as Government review of their progress, with a view to considering the need for legislation to cover organizations that do not put in place monitoring systems.

RECENT DEVELOPMENTS IN THE EUROPEAN UNION

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

Establishment of “Eurojust” for Combating Serious Crime¹

A new European Union body, “Eurojust,” was established recently based on a decision of the Council of the European Union. Eurojust enjoys legal personality; it is composed of two nationals of each Member State. Its overall objectives are to improve coordination between the competent authorities of the Member States in the area of investigations and prosecutions and to facilitate international legal assistance. Eurojust will perform its duties either through one or more of the national members or as a College consisting of all national members, each one having one vote. In general, Eurojust’s competence includes any type of crime over which Europol has jurisdiction, and in particular it covers:

- computer crime;
- fraud and corruption and any other criminal offense that infringes on the financial interests of the Community;
- money laundering;
- environmental crimes; and
- participation in a criminal organization.

If there is a need to process personal data during the exercise of its duties, Eurojust must ensure a level of protection for personal data equivalent to that currently afforded under the Council of Europe Convention of 1981 on the processing of personal data.

Temporary Measures Against Steel Imports²

On March 27, 2002, the European Commission adopted a Regulation calling for safeguard measures against imports of certain steel products. This is in response to the March 2002 U.S. action to impose restrictive measures worldwide on steel imports. That action was viewed by the European Union as protectionism, in conflict with World Trade Organization (WTO) rules. A number of Member States expressed their concern to the Commission that the U.S. action has already resulted in substantial increases in certain steel products in the European Union, which could eventually lead to permanent closure of affected production facilities.

The Regulation applies to 15 steel products that are subject to U.S. tariffs. According to the Commission, the Regulation is in compliance with the WTO agreement, which allows provisional measures to be taken in order to prevent or remedy serious damage to a Member’s industry, under certain circumstances, such as for imports. Based on imports of the previous year, the Regulation allows an amount

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¹ OJ L 63 /1 (3.6.2002).

² [Http://europa.eu.int/comm/trade/goods/steel/pr_270302.htm](http://europa.eu.int/comm/trade/goods/steel/pr_270302.htm)

of imports that will not be subject to tariffs. For imports beyond that level, tariffs will apply, ranging from 14.9 percent to a maximum of 26 percent. The Regulation will be in effect for six months. During this period, the Commission will evaluate the situation.

European Company Statute³

A Regulation providing for the establishment of a European Company Statute and a Directive dealing with worker involvement in the decisions of European companies were adopted at the end of 2001. Based on the Regulation, companies that are engaged in business in a number of Member States will be able to establish a single company. The resulting company will be subject only to the EU rules, rather than to the national systems of the Member States. A European company, which will carry the name “Societas Europaea” or SE, can be established either a) as a holding company; b) as a joint subsidiary; c) by merging companies that are located in at least two Member States; or d) through conversion of an existing company that operates under the national law of a Member State.

On the other hand, the Directive calls for negotiations on the issue of worker involvement with employers and the committee representing all employees of the companies involved in the creation of a European Company. The Directive also contains a number of principles that govern this issue which only apply if the parties fail to come to an agreement.

New Regulation on “.EU” Internet Domain Name⁴

The adoption of this Regulation will enable EU Internet users to have European domain names and e-mail addresses. The European Commission was instrumental in introducing the “.eu” domain in an effort to increase the use of the Internet in Europe and augment electronic commerce. The Regulation provides a number of safeguards to prevent cybersquatting. It also provides an extra-judicial procedure for the settlement of disputes about domain names.

Taxation of Non-EU Companies Selling Products Through the Internet to EU Customers⁵

The European Commission has come up with a proposal for a Directive that calls for the imposition of value-added tax (VAT) for non-EU companies on downloaded software, music, videos, and similar products for a period of three years. Non-EU companies whose web sales exceed 100,000 *Euro* per year will be subject to this tax. The tax will be applied in the first European country in which a company does business. The VAT rate will depend on the rate in the country of delivery.

³ L294/1, L294/22 (Nov. 10, 2001).

⁴ [Http://europa.eu.int/rapid/start/cgi/gtext.gst&doc=IP/02/468/0/RAPID&lg=EN](http://europa.eu.int/rapid/start/cgi/gtext.gst&doc=IP/02/468/0/RAPID&lg=EN)

⁵ [Http://www.theregister.co.uk/content/arc/hive/23397.htm](http://www.theregister.co.uk/content/arc/hive/23397.htm)

Draft Directive Imposing New Noise Limits⁶

The European Parliament gave its approval to a Directive that is designed to control and limit noise in factories and other establishments that generate noise. The new acceptable level of noise is 85 decibels without earplugs and 87 decibels with the use of earplugs. The music and entertainment industry is exempt from this rule for a period of five years after the Directive enters into force. The Parliament requested that the European Commission study the issue in connection with the entertainment industry and come up with recommendations to reduce the level of noise in entertainment-related venues. The next step in the legislative process is the review by the Council of the European Union.

Liberalization of Postal Services⁷

National postal monopolies must be open to more competition. This is the basic objective of the draft Directive submitted by the European Commission at the urging of the March 2001 European Council in Stockholm, which called for EU rules subjecting postal services to more competition. Under the existing rules, letters weighing more than 350 grams are open to competition. The proposed Directive lowers the threshold. Thus, letters that weigh more than 100 grams will be open to competition as of next year, and as of 2006, competition will be extended to letters that weigh more than 50 grams.

National postal services will be allowed to maintain services related to clearance, sorting, transport, and delivery of domestic and incoming overseas mail under the following price and weight limits: as of January 1, 2003, the weight limit will be 100 grams, and as of January 1, 2006, it will be 50 grams. As of January 1, 2003, the weight limits will not apply, according to the draft, “if the price is equal to or more than three times the public tariff for an item of correspondence in the first weight step of the fastest category, and, as from 1 January 2006, if the price is equal to, or more than two and a half times this tariff.”

Draft Directive on Working Conditions for Temporary Workers⁸

The Proposal establishes minimum requirements governing the employment of temporary workers. It will have an effect on the temporary agency sector, since it governs contracts of employment or employment relationships between a temporary agency, i.e., the employer, and the worker, who is protected under national employment law. The basic principle embodied in the Proposal is that of non-discrimination, which must be applied to temporary workers while taking into consideration other factors such as seniority, qualifications, and skills. It also provides that such workers must be informed of any vacant positions in the place of employment and have access to the same opportunities as any other worker in order to find permanent employment.

⁶ [Http://www.europarl.org.uk](http://www.europarl.org.uk)

⁷ *Id.*

⁸ COM(2002) 149 final (Brussels, Mar. 20, 2002).

Draft Regulation on Additives for Use in Animal Nutrition⁹

Pursuant to this Regulation, only additives that are safe for humans, animals, and the environment and do not mislead the user or impair certain important features of animal products will be authorized. Additives, either used or processed, can be put into the market only with authorization under the provisions of the Regulation. The Regulation maintains the existing positive list-- that is, only the additives listed in a register are allowed to be marketed--and also includes labeling rules. Additives that are either genetically modified or produced from a genetically modified organism are governed by the existing Community rules on genetically modified food and feed and subsequently must be subjected to the authorization procedure. The Regulation also orders the recall of certain antibiotic feed additives due to a number of concerns voiced by the scientific community.

Follow-up to the Multi-Annual Community Action Plan on Promoting Safe Use of the Internet¹⁰

The current Safer Internet Action Plan covers the period from January 1, 1999, to December 31, 2002. At the end of the two-year period that ended on December 31, 2001, the Commission was required to evaluate the effectiveness of the Action Plan thus far and make recommendations. The Commission has now proposed that the Plan continue for an additional two years.

⁹ COM (2002) 153 final (Brussels, Mar. 22, 2002).

¹⁰ COM (2002) 152 final (Brussels, Mar. 22, 2002).