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WORLD LAW BULLETIN

May 2003

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Embryonic Stem Cells (EU REPORT)

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

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WLB 2003.05, May 2003

AFRICA

LIBYA–Possible Opening Up to Foreign Investment

During a recent conference on the economy held in an academic setting in Libya, Libyan leader Moammar al-Kaddafi called on Libyans not to rely on the country's oil for future revenues, since it is a commodity that can be exhausted. The participants concluded the meeting by issuing several recommendations calling for encouragement of foreign investment and stressing the need to revise and enact the laws necessary for implementation of the recommendations. (*Asharq Al-Awsat* (London), May 2, 2003.)

(Issam M. Saliba, 7-9840)

SOUTH AFRICA–Copyright in Sound Recordings

The Copyright Amendment Act, 2002 amends the 1978 principal Act. The principal Act had provided that copyright in sound recordings vests in the holder the exclusive right to make records, to let, offer, or publicize a reproduction of a sound recording, or to broadcast or to communicate it to the public. The Amendment Act further regulates royalties. It provides that in the absence of an agreement and without payment of a royalty no person may broadcast, transmit, or play a sound recording. The owner of the copyright who receives payment of a royalty should share it with any performer whose performance is featured on the sound recording. The performer's share of the royalty may be determined by an agreement between the performer and the owner of copyright, by the Copyright Tribunal, or by arbitration. The Act went into force on June 18, 2002. (<http://www.gov.za/gazette/acts/2002/a9-02.pdf>)

(Ruth Levush, 7-9847)

AMERICAS

CANADA–SARS-Related Measures

Both the Federal and the Ontario provincial governments have recently responded to the outbreak of SARS that has already killed over 20 persons in the Toronto area. The latest measure is the announcement by the provincial government that it is creating an aid package worth approximately US\$82.5 million for businesses hurt by the crisis ("Ontario Opens Legislature With SARS Aid Package," Reuters, Apr. 30, 2003). This announcement followed a joint decision by Ottawa, Ontario, and the City of Toronto to spend a specially appropriated US\$20 million to boost tourism to Canada's largest city.

On the Federal level, while aid to businesses has been rejected for the time being, special unemployment insurance rules have been adopted for victims of SARS. These rules waive the usual waiting period and extend benefits to part-time and contract employees. New rules for persons boarding international flights have also been adopted, including the requirement to fill out health questionnaires and, if deemed necessary, to be interviewed by health officials. ("Canada Outlines New Screening Measures for SARS," Reuters, Apr. 30, 2003.)

(Stephen Clarke, 7-7121)

MEXICO--Federal Firearms and Explosives Law

The National Defense Committee of the Chamber of Deputies passed with a majority of votes several amendments to the Federal Firearms and Explosives Law. The amendments will allow private

individuals to possess, but not carry, up to two firearms for personal defense, as long as the weapons are registered with the Secretariat of National Defense. The amendments also grant amnesty to those who have been convicted of carrying firearms (including arms whose use is restricted to the Army, such as .38 special revolvers and Magnus 357 and 9 mm pistols), as long as they have no prior convictions, have not committed a crime using a firearm, and have lived an “honest life.” (*La Crónica*, Baja California State daily, Apr. 16, 2003, <http://www.cronica.com.mx/>) (Norma C. Gutiérrez, 7-4314).

ASIA

CHINA–Anti-SARS Measures

The virus now known as Severe Acute Respiratory Syndrome (SARS) is believed to have originated in China’s Guangdong Province in November 2002, and thus far China has witnessed the greatest number of cases of the disease (3,303 as of April 29, 2003) (*Xinhua*, Apr. 29, 2003, via FBIS). It was only on April 18, 2003, however, that top Chinese Communist Party leaders declared a nationwide war against SARS, ordered officials to stop covering up the extent of its spread, and called for timely and accurate reporting. (*The New York Times*, Apr. 14, 2003).

The newly instated Minister of Health, Madame Wu Yi, who is also a Vice Premier of the State Council, reported to the National People’s Congress on April 25, 2003, that several specific measures have been taken to enhance prevention and control of SARS. They include, among others, the following. SARS is to be included in the list of statutory epidemic diseases and to be controlled in accordance with the Law on the Prevention and Control of Contagious Diseases. The system of reporting on the epidemic is to be strictly enforced, brooking no delay, concealment, or omissions. Monitoring and prevention efforts are to be implemented in key locations and key transport links (e.g., quarantine and safety precautions are being strengthened in aircraft, ships, trains, public modes of transport, and entry ports). Close attention will be paid to the protection of medical personnel, through tightened control over infection inside hospitals and provision of effective protective apparatus. Strict precautions will be taken to prevent the spread of SARS to the countryside. Medical assistance will also be provided to all foreigners working in embassies, consulates, businesses, and the media in China. (“PRC Vice Premier Wu Yi Reports to NPC Eight Measures To Prevent, Monitor SARS,” *Xinhua*, Apr. 25, 2003, as translated in FBIS.). Several ministries have also issued a spate of circulars in connection with various aspects of SARS prevention and control and related matters. (W. Zeldin, 7-9832)

HONG KONG–Quarantine Imposed on Those Exposed to SARS

In the hope of containing the outbreak of the flu-like illness SARS in Hong Kong, the government has imposed a number of public health measures, including quarantines. On April 10, 2003, it was announced by the Secretary for Health, Welfare and Food that all household contacts of patients confirmed with SARS will be confined for a period of 10 days. The Secretary said that the purpose is to facilitate early detection of the disease and thus to reduce the risk of further spread of SARS into the community. This step was announced at the same time that relevant data indicated the rate of household contacts acquiring infection is estimated below five percent, even without precautions, and thus, according to the Secretary, the public risk is not very high. Those quarantined will be given the choice of staying home or moving to holiday camps. Medical assistance will be provided by the government in either case, and the Social Welfare Department announced that it will provide support to people who are confined to their

homes, including delivering meals and daily necessities and establishing an emotional support hotline. Financial assistance will be provided under the Emergency Financial Assistance Scheme for Prevention of the Spreading of Severe Acute Respiratory Syndrome. (*Xinhua*, Apr. 10, 2003, via FBIS.) Previous steps include the March 27th activation of the Quarantine and Prevention of Disease Ordinance, requiring people who had close contacts with SARS patients to report for check-ups at designated clinics, the closing of schools to protect children from contracting the disease, and the evacuation of residents of a SARS-affected housing complex. (*Xinhua*, Apr. 8, 2003, via FBIS.)
(Constance A. Johnson, 7-9829)

INDONESIA–SARS Epidemic Declared

On April 3, 2003, the Health Minister issued a decree on the Severe Acute Respiratory Syndrome, also called SARS (Ministerial Decree No. 424/2003). The Decree was done on the basis of the Epidemic Law (Law No. 4/1984). Under this Decree, SARS is considered a national epidemic. The 1984 Law outlines punishments for those who obstruct efforts to contain epidemics. That Law gives the Health Minister the right to determine when a disease has the status of an epidemic and authorizes measures to fight the disease, including the right to investigate cases, quarantine patients, make stipulations on the treatment of corpses, and distribute information to the public on avoidance of infection. Now that SARS has been declared an epidemic, provisions on required reporting of suspected cases and penalties for obstructing public health measures come into force. If done intentionally, obstruction can be punished with one year in prison and/or a fine of up to Rp 1 million (about US\$115), while unintentional obstruction can be punished with half that amount of prison time and/or half the fine. (*Jakarta Post*, Internet version, Apr. 4, 2003, via FBIS.)
(Constance A. Johnson)

JAPAN–Child’s Right To Know Genetic Parents May Be Granted

The Japan Society of Obstetrics and Gynecology has set guidelines for obstetrics and gynecology physicians that prohibit the donation of eggs and sperm except for sperm from males who have had no family relations with the prospective parents for a long time. However, as reproductive technology is becoming more advanced, the need for legislation has been recognized. In October 1998, the then Ministry of Health and Welfare (currently the Ministry of Health, Labor and Welfare) set up an Advisory Committee for the preparation of legislation concerning reproductive medical treatment. The Ministry plans to submit a bill to the Diet in 2004. On April 10, 2003, the Committee finalized its report on this matter. The report recommended that a child born through egg or sperm donation has a right to know his/her genetic parents after he/she reaches the age of fifteen. Surrogate motherhood will be prohibited. Eggs or sperm cannot be donated from sisters and brothers of prospective parents. Since the Diet has not yet discussed the matter, it will take some time before the legislation is enacted. (*Kobe Shimbun*, Feb. 25, 2003, www.kobe-np.co.jp; *Asahi Shimbun*, Apr. 10, 2003, via www.asahi.com; Ministry of Health, Labor & Welfare, at <http://www.mhlw.go.jp/shingi/kousei.html#k-seisyoku>)
(Sayuri Umeda,7-0075)

KOREA, SOUTH–Sex Offenders’ ID May Be Made More Public

The Commission on Youth Protection announced on April 9, 2003, that it was planning to publicize high-risk sexual offenders’ photos and full address. At present some offenders’ names but only regional, not specific, addresses are made public, based on the Juvenile Sex Protection Act. However, there are

strong opponents even of this system. In July 2002, the Seoul Administrative Court requested the Constitutional Court to adjudicate the constitutionality of the law. (*Digital Chosunilbo*, Japanese ed., Apr. 9, 2003; *JoongAng Daily*, Apr. 10, 2003.) (Sayuri Umeda, 7-0075)

SINGAPORE–SARS Relief Package

On April 17, 2003, the Singapore government announced a relief package of SG\$230 million (about US\$130 million) to deal with the impact of SARS (severe acute respiratory syndrome). The package is designed to give immediate aid to the most adversely hit sectors: tourism and transport. Measures to bring relief to tourism-related industries include, among others, additional property tax rebates for commercial properties, higher property tax rebates for gazetted tourist hotels, a 50 percent reduction in the foreign worker levy for unskilled workers employed by them, a 100 percent rebate of their TV license fees, and loan programs for small and medium-sized tourism-related enterprises. Relief measures for transport-related industries include measures to benefit the aviation industry, a 50 percent reduction in cruise ships' port dues, diesel tax rebates for taxis, waiver of taxi operator license fees, and road tax rebates, among others. As of May 1, 2003, there were 201 probable or confirmed cases and 24 deaths from SARS in Singapore, placing it third highest in a ranking of countries afflicted by the disease. ("Singapore Unveils SARS Relief Package," *Xinhua*, Apr. 17, 2003, via LEXIS/NEXIS; "AFP Cites WHO: Breakdown of SARS Cases, Deaths Worldwide," Hong Kong *AFP*, May 1, 2003, via FBIS.) (W. Zeldin, 7-9832)

TAIWAN–Anti-SARS Bill Passed

On May 2, 2003, the legislature approved a special bill—the "Temporary Regulations on SARS Prevention and Relief"—designed to give Taiwan authorities more powers and funds to combat SARS. The Cabinet will be permitted to raise NT\$43 billion of the total \$50 billion (US\$1.43 billion) price tag through the sale of government bonds, but a rift remains among lawmakers over where the remaining NT\$7 billion will come from. The new Regulations empower the government to commandeer private property for the purpose of SARS prevention; separate bills will be drafted to stipulate how the government will provide compensation for such acquisitions. The government will provide living subsidies or additional financial assistance to persons whose livelihood has been affected by quarantine measures, as well as compensation to those who fall ill or die as a result of carrying out measures to prevent or cure SARS. Special relief or relief loans will be given to businesses hurt by SARS; their affected workers will also be eligible for assistance. The new regulations prescribe that SARS carriers who refuse to follow health authorities' instructions and as a result transmit the disease to others will be subject to a prison term of up to three years and a fine of up to NT\$500,000 (about US\$14,314). The Regulations date back to March 1, 2003, and expire on December 31, 2004.

The Cabinet also expanded and upgraded the status of the SARS response task force. The team is led by the Premier and consists of seven divisions headed by Cabinet members. As of May 1, there were 89 confirmed or probable cases of SARS in Taiwan and 3 persons had died. ("Taiwan LY Passes SARS Prevention, Relief Fund Bill," Taipei *The China Post*, May 3, 2003; "CNA: Executive Yuan Comes Up With Anti-SARS Bill," Taipei *Central News Agency*, Apr. 28, 2003; "AFP Cites WHO: Breakdown of SARS Cases, Deaths Worldwide," Hong Kong *AFP*, May 1, 2003; all via FBIS.) (W. Zeldin, 7-9832)

TAIWAN–Draft Law on Intelligence Services

The Executive Yuan (Cabinet) approved a draft National Intelligence Services Act on March 5, 2003. It is designed to institutionalize intelligence operations and protect the rights and interests of those involved in intelligence work, as well as safeguard national security. A Cabinet spokesman indicated that the draft was created in response to leaks of classified information made by a former National Security Bureau employee. Under the bill, agents found disclosing national secrets, compromising intelligence sources, or revealing the identity of fellow agents, would face a prison term of one to seven years if convicted. If such actions cause the death or capture of others, a sentence of three to ten years might be imposed. The draft prescribes that intelligence agents are to remain politically neutral and are not allowed to assume positions in political parties. In gathering intelligence, they would be permitted to use electronic devices, satellites, video cameras, and bugging devices. The bill also states that intelligence agencies could establish front organizations or forge identification for agents if necessary (“Taiwan Cabinet Approves Draft Law on Intelligence Services,” *Taipei Times*, Mar. 6, 2003, via FBIS.)

(W. Zeldin, 7-9832)

EUROPE

BELGIUM–Law To Strengthen Legislation Against Racism

Belgium enacted a Law to Strengthen Legislation Against Racism on January 20, 2003 (*Moniteur Belge*, Feb. 12, 2003). The legislation implements the Law of July 30, 1981, on the Repression of Some Acts of Racism and Xenophobia as amended by the Law of April 12, 1994. These laws repress all discrimination, exclusion, restriction, or preference to destroy, compromise, or limit the enjoyment or exercise of human rights and fundamental liberties in political, economic, social, and cultural activities, and in social life in general on the ground of race, color, ancestry, national origin, or nationality. The 2003 Law also deals with discrimination against groups or communities and their members.

In addition, the Law amends the Law of February 15, 1993, Creating a Center of Equal Opportunity in the Struggle Against Racism by instructing the Center to protect the fundamental rights of foreigners. It also amends the Law on the Police of May 13, 1999, insofar as the above-mentioned Center is to survey the actions of the police and lodge complaints with the Inspector General of the Police of any discriminatory action undertaken by them.

(George E. Glos, 7-9849)

BULGARIA–New Law on Foreigners

A newly adopted Law on Foreigners establishes the Ministry of Interior as the major institution in charge of control over migrants and foreign visitors in Bulgaria. The Law requires the Interior Ministry to keep a register of all foreigners who have settled in the country for a period of more than three months. With court authorization, Bulgarian citizens will have the right to receive information from this register about individuals. The Ministry will also keep a record of all entry visas issued to foreign nationals. The Law states that foreigners must register their address with the authorities within 48 hours of their arrival in Bulgaria. The Interior Ministry will inform the Foreign Ministry about any entry bans imposed on foreigners and about any offenses that Bulgarian citizens have committed abroad. The police will set up temporary housing for aliens who are to be expelled or extradited from Bulgaria under this Law. The

procedure for the cancellation of visas is also prescribed by the Law. (*Bulgarian News Network*, Apr. 9 & Apr. 14, 2003.)

(Peter Roudik, 7-9861)

BULGARIA–New Procedures for Security Service Licensing

A new Private Security Services Law was passed by the Bulgarian Parliament on April 11, 2003. According to the Law, private security services, which among the country's population of 8 million employ about 130,000 people in 1,332 registered private security companies, are to be regulated under written contracts. The contracts can include protection of property, events, and individuals, and of their associated rights and legal interests. The Law states that licenses for private security guards working on the territory of the entire nation or in more than one administrative region will be issued by the Director of the Bulgarian National Police. The heads of regional police departments will be in charge of licensing security guards in their respective regions. The Law stipulates the requirements for persons providing such services and requires the listing of private security agents in a special register with the National Police Service, in order to prevent individuals with criminal records from becoming bodyguards. A council on cooperation on private security issues with the National Police will also be created. (*BTA* [Bulgarian Telegraph Agency] *Daily News*, Apr. 14, 2003.)

(Peter Roudik, 7-9861)

ESTONIA--Law on Gender Equality

On April 16, 2003, a law designed to foster the equality of women and men as a basic human right was adopted by the Estonian legislature. The law contains provisions banning direct and indirect discrimination on the basis of gender and obligates public agencies and government bodies, educational and scientific institutions, and employers to take actions to promote gender equality in economic, social, educational, cultural, and other spheres of society. The law does not apply to churches or to family relations and private life. The law does not treat as discriminatory special protection of women in connection with pregnancy and giving birth, conscription of men only, and admission of women only or men only to a nonprofit organization if it arises from the organization's statute. The enforcement of the law will be supervised by the Ministry for Social Affairs in cooperation with the Legal Chancellor of Estonia. The law provides for the creation of a Gender Equality Council of 15 members at the Ministry for Social Affairs, as an advisory body. (*BNS Daily News*, Apr. 17, 2003, via www.site.securities.uk.co)

(Peter Roudik, 7-9861)

FRANCE–Nationwide Campaign Against Cancer

Fulfilling an election pledge to make the fight against cancer a centerpiece of his second term, President Chirac launched a five-year 500 million *euro* (about US\$549 million) campaign against cancer on March 24, 2003. A national crackdown on smoking is one of the top priorities of the campaign. Chirac promised that the existing legislation, which bans cigarette advertising and smoking in many public areas and makes mandatory the provision of non-smoking areas in cafes and restaurants, will be more rigorously enforced. The Senate also recently banned the sale of tobacco to youths under the age of 16. This draft law will go next to the National Assembly. In addition, the policy of increasing tobacco duty in order to raise money for the health system will be continued during Chirac's five-year mandate.

The President's anti-cancer program includes 70 concrete measures, such as extending screening

for breast and colon cancer, increasing the number of scanners in hospitals by 20 percent, and launching a recruitment drive for cancer specialists and radiologists. A national cancer institute will also be created. Cancer is the main cause of death for persons under the age of 65 in France, with about 150,000 deaths a year. (<http://www.sante.gouv.fr/htm/dossiers/cancer/plan.htm>)
(Nicole Atwill, 7-2832)

FRANCE–Reform of Asylum Law

On April 15, 2003, the Council of Ministers unveiled a draft law reforming asylum. The current law, dating back to July 1952, has procedures for admitting refugees that have resulted in long delays, sometimes up to two years, to process an application. The Government hopes to reduce the processing time to two months once the new law is adopted by Parliament. The reform takes into account European law either in force or currently being finalized on this matter. According to the government, asylum requests tripled in France in the three-year period from 1998 to 2001. In 2001, 48,000 persons applied for refugee status and 31,000 requested territorial asylum.

The reform abandons the jurisprudence of the Conseil d'Etat (France's highest administrative authority) requiring proof of persecution that has been carried out by authorities in the State of origin. It introduces the concepts of "internal asylum" and "safe country of origin" that are already in place in some other EU Member States. Territorial asylum, which may be granted by the Ministry of Interior when a request for asylum is not incompatible with the interests of France, will be replaced by subsidiary protection, an internationally recognized protection regime covering persons not falling within the scope of the Geneva Convention on refugees but who nevertheless are in need of international protection. (<http://www.elysee.fr>, file: "les communiqués du Conseil des Ministres.")
(Nicole Atwill, 7-2832)

GERMANY--Copyright

On April 11, 2003, the German Federal Diet passed a bill that purports to adapt German copyright law to the requirements of the digital age (Deutscher Bundestag, Drucksache 15/38). The bill, which should be enacted into law shortly, is a compromise between the interests of Internet users on the one hand and publishers and authors on the other. It allows the unauthorized distribution of parts of a work or of individual articles in a collected work on the Intranets of educational institutions. This form of distribution, however, is not allowed for textbooks, and motion pictures may not be distributed in this manner for two years after production. Unauthorized distribution of copyrighted material on the Internet remains prohibited.
(Edith Palmer, 7-9860)

GERMANY--Social Health Insurance

The Federal Social Court upheld a statutory burden-sharing scheme among the social health insurers (Decision of Jan. 24. 2003, docket number B 12 KR 19/01 R). In Germany, 85 percent of the population is insured in the statutory health insurance system, which consists of close to one thousand insurance carriers, and the insured may choose to obtain coverage from any of them. Title 5, section 266 of the Social Code (*Bundesgesetzblatt* 1988 I at 2477, as amended) provides that social health insurers who operate under difficult financial conditions may obtain financial assistance from the insurers that operate under more favorable conditions. This scheme was challenged as being contrary to the principles of sound business

competition. The Court upheld this mandatory redistribution of funds as being permissible under the social purposes of the legislation. The Court indicated, however, that some law reform might be desirable. (Edith Palmer, 7-9860)

ITALY–Drug Penalties

Italian law is going to become less tolerant of personal use of illegal drugs, according to a statement made by an Italian Cabinet member at the recent meeting in Vienna of the UN committee for the war on drugs. The new approach of the Executive includes the elimination of the distinction between hard and soft drugs, more serious administrative and penal sanctions for violations, and the introduction of a not yet clearly defined “maximum tolerable dose” to be determined according to scientific criteria. The announcement was met with harsh criticism. Former Ministry of Health Rosy Bindi commented that this is the program of an Executive that confronts all of the most dramatic social problems with a police mentality. (*La Repubblica*, Apr. 17, 2003.) (Giovanni Salvo, 7-9856)

THE NETHERLANDS–Criminal Proceeds

As the result of an evaluation of existing legislation on the confiscation of criminal proceeds, a proposal for a new law on the subject was accepted by the Lower House of Parliament. It was subsequently submitted to the Upper House for consideration. In the new legislation, during an investigation into the criminal assets of a suspect, the Public Prosecution Office will be given the authority to temporarily take possession (by garnishment) of goods being held by a third party, thereby allowing for the forfeiture of criminal assets being “hidden” in a bogus arrangement by a third party. It will also become possible to take possession of the equivalent value of goods if these goods are being held by a third party in order to complicate their recovery so as to allow their subsequent sale by the persons concerned. (Ministry of Justice, *Press Release*, Apr. 3, 2003, at <http://www.ministerievanjustitie.nl>) (Karel Wennink, 7-9864)

RUSSIA–Chechnya Constitution Adopted

The new Chechnya Constitution proposed by the Russian administration was approved by the Chechen people with a 96% majority in a referendum aimed at the creation of a basis for a new Chechen state. The Constitution provides for the creation of Chechen power institutions in the form of a presidential republic. Unlike all other Russian constituent components, the Constitution declares Chechnya’s sovereignty and creates Chechen citizenship, in addition to citizenship of the Russian Federation, which is presently extended to the entire population of Chechnya. The adopted Constitution also states that “sacred Chechens’ customs and traditions” are safeguarded. New presidential elections in Chechnya are expected at the end of 2003. (*Nezavisimaya Gazeta*, Apr. 5, 2003.) (Peter Roudik, 7-9861)

SERBIA--More Civilian Control Over Military

On April 14, 2003, amendments to the Law on Cooperation with the International Criminal Tribunal for the Former Yugoslavia were adopted by the legislature. The amendments provide for extradition of all ICTY indictees; the earlier version of the Law had enabled the extradition of only those who had been indicted before April 2002, when the Law was adopted. Amendments provide for the creation of a new civilian body that will monitor the most important aspects of cooperation with the Tribunal in the Hague.

The existing military committee for cooperation with the ICTY will be abolished. As an extra measure aimed at the expansion of civilian control over the military, the command of military security services will be transferred from the Yugoslav Army General Staff to the new union's Defense Ministry, an institution headed by a civilian political appointee and established with the purpose of replacing Serbia and Montenegro's Supreme Defense Council, the body currently in charge of the army. (*Transitions Online*, Apr. 23, 2003, via www.eastview.com)
(Peter Roudik, 7-9861)

UNITED KINGDOM–Government Considers Making SARS a Notifiable Disease

The United Kingdom's government recently considered and rejected making the infectious disease SARS a notifiable disease. If this were to occur, doctors would have the authority to detain and quarantine individuals suspected of having SARS as well as destroy any infected clothing. The government is continuing to follow a 'wait and see' policy on the basis that it does not want bureaucracy to prevent rapid reporting of the disease. Instead of making SARS a notifiable disease, it may instead send observers to countries with high incidences of SARS to ensure that flight passenger screening procedures are carried out satisfactorily. ("Doctors May Get New Legal Powers In War Against SARS," *The Times*, Apr. 28, 2003, "Flights Could Be Screened for SARS," available online at <http://news.bbc.co.uk/1/hi/health/2983043.stm>)
(Clare Feikert, 7-5262)

UNITED KINGDOM–Failed Afghan Asylum Seekers Forcibly Removed

For the first time in 8 years, the Government is forcibly removing failed Afghan asylum seekers from Britain. Removal of asylum seekers to Afghanistan was halted in 1995 due to instability in the country. Despite protests from refugee groups, the Government claims that the country is safe to return to since the fall of the Taliban regime. The Government has established a voluntary assisted-return package in which single people can receive £600 and families up to £2,500 to return to Afghanistan. It was initially estimated that participants in the scheme would number approximately 1,000 people; however, reports indicate that so far only 39 people have used it. ("Protests Against Forced Afghan Deportations," *The Times*, Apr. 28, 2003.)
(Clare Feikert 7-5262)

NEAR EAST

ARMENIA--New Criminal Code Adopted

The new Criminal Code of the Republic of Armenia was adopted by the legislature and will enter into force in June 2003, together with the Sixth Protocol of the European Convention on Human Rights recently ratified by Armenia. According to these documents, capital punishment will be abolished and life sentences will be substituted. However, adoption of these documents will not cancel the death penalty in Armenia completely, because the new provisions will not be retroactive and will not apply to those who committed murder, carried out terrorist acts, or raped minors before the new Code entered into force. This reservation was put in place largely in order to apply the death penalty to those who carried out a terrorist attack on the Armenian legislature in 1999. (*ARKA News Agency*, Apr. 22, 2003, www.arka.am)
(Peter Roudik, 7-9861)

ISRAEL--IDF Not Authorized To Block Foreign News Broadcasts During Missile Attack

On April 7, 2003, the High Court of Justice accepted two citizens' petitions against a procedure that had been adopted by Israel's Defense Force (IDF) Press officer, that in case of a missile attack against Israel during the war in Iraq, following activation of the warning sirens, the IDF would dominate all TV channels for 15 minutes. Petitioners argued that this would result in grave harm to freedom of expression and freedom of information. Respondents argued that full control over Israel's airwaves is essential in order to guarantee that information on a state of emergency would reach all citizens. In addition, they argued that there are alternative information sources for cable and satellite, such as Internet sites, private satellite dishes, and foreign news radio broadcasts. Cable and satellite companies, which were requested by the Court to find technological solutions that would enable continuation of foreign news simultaneously with IDF's broadcasts, have argued that the only available solution is to allow a divided screen.

The Court, by a two-to-one majority, held that until it becomes possible to enable the broadcasting of foreign news channels and written text directing viewers to emergency broadcasts, IDF is not authorized to block any of the cable and satellite channels. The Court will issue the reasoning for its decision at a later time. (H.C. [High Court] 2753/03, 2791/03 Kirsh & Neeman v. IDF Chief of Staff *et al.*, available via <http://www.court.il>; A. Baliant, "The State: 'Yes News' Will Also Broadcast During Missile Attack" & "H.C.: IDF Will Not Block Broadcasts During Missile Attack," <http://www.haaretz.co.il>) (Ruth Levush, 7-9847)

ISRAEL--Special Health Directives for SARS Prevention

The Minister of Health made a declaration in accordance with the Public Health Ordinance that SARS is an epidemic disease posing a serious risk to public health. This declaration provides the basis for resorting to extraordinary powers for prevention of the spread of the disease. Following the declaration, the Minister added SARS to a list of diseases that require individual notification and possible quarantine for patients and suspected carriers of the disease for public protection. Special procedures for hospitals and health care providers dealing with patients suspected of being infected have been issued. In addition, special forms are distributed to all airline passengers before landing in Israel. They include information about the disease and about a regional health center for future contact, as well as a questionnaire for personal information to be used in the event that the need to contact the individual arises. Special courses on SARS will be offered for professional health care providers.

A new regulation prohibiting the entry into Israel of foreign nationals from China and Vietnam went into force on April 24, 2003. The regions included on the prohibited list are Hanoi, Beijing, Shanghai, Guangdong, Sichuan, Hunan, Guangxi, and Hong Kong. (See special information on SARS at the Ministry of Health website, <http://www.health.gov.il>; U. Yablonka and U. Binder, "From Today: Vietnamese and Chinese Are Prohibited From Entering Israel," *Maariv Online*, <http://www.maariv.co.il> Apr. 24, 2003.) (Ruth Levush, 7-9847)

QATAR--New Constitution

On April 29, 2003, a Qatari Constitution was approved in a referendum by 96.6 percent of some 68,987 voters. It is the country's first constitution since Qatar gained independence in 1971. Among a population of 650,000, there are only about 150,000 Qatari nationals, with 71,406 eligible to vote. The new charter guarantees freedom of expression, religion, assembly, and association. It provides for a 45-member

Parliament, with two-thirds of the members to be elected and the remaining third to be appointed by the Emir. Parliamentary elections reportedly are likely to be held in 2004. (Rawya Rageh, “Qatar Hails Newly Endorsed Constitution as a ‘Beginning of Era,’” *Associated Press*, Apr. 30, 2003; Faisal Baatout, “Qataris Say ‘Yes’ to Constitution Leading to Limited Democracy,” *Agence France Presse*, Apr. 30, 2003, both via LEXIS/NEXIS.)
(W. Zeldin, 7-9832)

SOUTH PACIFIC

AUSTRALIA--Bill To Limit Powers of Human Rights Commission

On March 27, 2003, Australia’s government introduced the Australian Human Rights Commission Bill 2003 in the federal Parliament. According to the Attorney-General, the bill will enhance the protections guaranteed to citizens under various Commonwealth (federal) anti-discrimination laws. Provisions of the bill include changing the name of the existing Human Rights and Equal Opportunity Commission to the Australian Human Rights Commission, redefining the responsibilities of the three Human Rights Commissioners, and adding new complaints commissioners, attorneys who would serve on a part-time basis and be directly appointed by the Attorney General. The bill would also repeal the Commission’s current right to independently intervene in federal court cases, as an *amicus curiae* (friend of the court). If the bill became law, such court interventions would require the prior approval of the Attorney-General. The current President of the Commission, whose term ends in May, has promised to “fight to the death” the attempt to limit the Commission’s influence with the courts. (Australian Human Rights Commission Bill, Attorney-General’s Media Release, Mar. 27, 2003, at <http://www.attorneygeneralHome.nsf/HeadingPages/Display/Media+Releases?>; *Sydney Morning Herald*, Apr. 19, 2003, at <http://www.smh.com.au/>)
(D. DeGlopper, 7-9831)

AUSTRALIA--New Quarantine Powers for SARS

On April 8, 2003, Australia’s Governor-General issued the Quarantine Amendment Proclamation 2003 (No. 1), adding severe acute respiratory syndrome to the list of quarantinable diseases. SARS is listed along with smallpox, yellow fever, bubonic plague, and the ebola virus as a disease, whose suspected presence permits federal quarantine officers to exercise sweeping powers. Under the Quarantine Act 1908, entire areas can be closed off with the permission of quarantine or police officers necessary to enter or leave the area. The crew and passengers of aircraft can be isolated if there is a suspected case of SARS among them. Criminal penalties, including imprisonment, may be imposed on those who disregard the orders of quarantine officers. (Commonwealth of Australia, Attorney-General’s Department, Quarantine Amendment Proclamation 2003 (No. 1), at <http://frli.law.gov.au/>; *The Age*, Apr. 5, 2003, at <http://www.theage.com.au/>)
(D. DeGlopper, 7-9831)

NAURU--Halt to Money Laundering and Passport Sales

The remote Pacific island of Nauru is the world’s smallest independent republic. With an estimated 10,000 citizens, it enjoys all the rights of any sovereign nation, including membership in the United Nations and the Commonwealth and the right to issue passports. In recent years, it has also acquired a reputation

for money laundering through nominal banks and for sales of its passports, at negotiable prices ranging from US\$15,000 to \$30,000. On March 27, 2003, Radio Australia reported that Nauru's Parliament had passed legislation abolishing the offshore banks, many of which were alleged to be owned by Russian criminal gangs. Additional anti-money-laundering legislation demanded by the OECD Financial Action Task Force was also passed. The Australian press has reported that the United States has pressured Nauru to halt the passport sales, which took the nominal form of citizenship granted to those who made capital investments in Nauru. Unidentified sources are quoted as claiming that at least 6 suspected terrorists arrested in Southeast Asia were carrying Nauruan passports. (Radio Australia, Mar. 27, 2003, via FBIS; *The Australian*, Apr. 5, April 16, 2003, at <http://www.theaustralian.news.com.au>) (D. DeGlopper, 7-9831)

INTERNATIONAL LAW AND ORGANIZATIONS

ASEAN–Communique on SARS

On April 26, 2003, members of the Association of Southeast Asian Nations (ASEAN) + 3 (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam, and key partners China, Japan, and South Korea) issued a communique pledging cooperation and coordination in fighting SARS. The communique requires the 13 nations to impose stringent pre-departure screening at airports and sea ports. The countries will make it mandatory for all travelers to fill in health declaration forms and institute rules for in-flight management of suspected SARS cases on board and aircraft disinfection. The communique calls upon each government to provide adequate resources to their respective health ministries and to establish a contact office for routine exchange of information and a hotline to facilitate communication among the member/partner states. ASEAN may also consider establishing a regional center for disease control. (“Xinhua ‘Roundup’: ASEAN Countries Joint Efforts To Combat SARS,” *Xinhua*, Apr. 28, 2003; “Asian Health Ministers Agree to SARS Fighting Steps” & “Full Text of Statement of ASEAN, China Leaders After SARS Talks,” *Kyodo*, Apr. 26 & Apr. 29, 2003, respectively; all via FBIS.) (W. Zeldin, 7-9832)

MALAYSIA/PHILIPPINES–Steps Against Terrorism and Cross-Border Crime

On April 23, 2003, during a four-day meeting on enhancing security cooperation, Malaysia and the Philippines agreed to establish a hot line between security officials, in order to improve the effectiveness of their efforts to combat terrorism and cross-border crime. According to First Admiral Noor Aziz Yunan, director of the Malaysian maritime enforcement coordinating center, the hot line would enable the officials to respond quickly because they would have a point of reference for whom to contact. Of concern is the border area between the eastern Malaysian state of Sabah (on Borneo island) and the southern Philippines. The border's porous nature has reportedly made it rife with arms trafficking, piracy, and the illegal entry of Filipinos into Malaysia. (“AFP: Malaysia, Philippines Agree To Fight ‘Terrorism,’ Cross-Border Crime,” Hong Kong *AFP*, Apr. 23, 2003, via FBIS.) (W. Zeldin, 7-9832)

MEXICO/NAFTA–Proposal for Eliminating Process of Lifting Tariffs on Corn, Beans

Mexico will propose to the United States and Canada the “immediate elimination” of the tariff

reduction process for white corn and beans established under the North American Free Trade Agreement (NAFTA). Victor Suarez from the agricultural organization “The Country Can Bear No More” stated in the Mexican daily *El Universal* that “[i]t is about not committing to the current tariff reduction process that NAFTA has established until 2010,” which creates a setback for Mexico every year. He further stated that they are trying to replace the current liberalization mechanism with a permanent one by which Mexico can decide when, how much, and how to import, in other words, to substitute “managed grains import.” He called the current liberalization mechanism a “death penalty” for the producers of these grains because the competition with the other NAFTA partners is unequal.

Confirming this information, Santiago Creel, Secretary of Interior, stated that the Mexican Government is going to ask the United States and Canada for special handling of these two agricultural products. He added that the farmers themselves are going to set the preferential conditions. This proposal is part of the national agreement reached recently between the farmers and the Mexican federal government to benefit Mexican agriculture. (*El Universal*, Mexico City daily; <http://www.el-universal.com.mx>) (Norma C. Gutiérrez, 7-4314)

CUMULATIVE CONTENTS–AVAILABLE UPON REQUEST:

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Recent Publications from Great Britain Obtainable from the Law Library

House of Commons. International Development Committee. *THE HUMANITARIAN CRISIS IN SOUTHERN AFRICA*. H.C. 116-I. London: The Stationery Office, Mar. 2003. 104 pp.

The report finds that the sources of human vulnerability in Southern Africa are deep and widespread poverty, HIV/AIDS, poor governance, and inappropriate policies. A major international effort has been made to respond to the crisis. With the aim of preventing unnecessary suffering and deaths while fostering sustainable development in the region, short-term humanitarian responses, such as the provision of food, water, and financial aid must now be integrated into longer-term development projects, such as educational and agricultural development.

----- Low Pay Commission. *THE NATIONAL MINIMUM WAGE*. Cm. 5768. London: The Stationery Office, Mar. 2003. 276 pp.

According to the Low Pay Commission, the national minimum wage has brought benefits to over one million low-paid workers. It has done so without any significant adverse impact on businesses or employment. The Commission supports raising the minimum wage with a series of increases over a number of years, gradually expanding the number of people benefitting.

----- Science and Technology Committee. *TOWARDS A NON-CARBON FUEL ECONOMY: RESEARCH, DEVELOPMENT AND DEMONSTRATION*. H.C.55-I. London: The Stationery Office, Mar. 2003. 89 pp.

This report sought to establish the role of research, development, and demonstration (RD&D) in moving the United Kingdom towards a non-carbon fuel future. Assessing the expenditure by public funding bodies revealed that the sums invested in public RD&D were not applied in a focused manner and are insufficient in helping the UK meet its target of identifying and developing the technologies that support alternative fuel sources. The report finds that the private sector is unwilling to develop these technologies.

RECENT DEVELOPMENTS IN THE EUROPEAN UNION

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

Signing of the Treaty of Accession¹

The Treaty of Accession of ten new members was signed in Athens, Greece, on April 16, 2003. Bulgaria and Romania are scheduled to join the EU in 2007, provided that they continue the process of harmonizing their legislation with that of the EU and in general comply with the admission criteria. The EU will decide in the fall of 2004 whether accession negotiations can be initiated with Turkey.

Human Embryonic Stem Cells²

On April 7, 2003, the European Commission published a report on human embryonic stem cells that analyzes the scientific, legal, economic, and social issues involved. Based on this report, which will be used in an inter-institutional seminar, the Commission will adopt guidelines at a later stage. The report reviews the characteristics of human stem cells and the classification and potential applications of human stem cell research. It also examines the varying current legal positions of the 25 Member States. At the EU level, the stem cell research issue gave rise to a heated debate at the time of the adoption of the Sixth Framework Program. It was agreed that any research involving embryonic stem cells will not receive funding until the adoption of implementing provisions, which should be ready by the end of 2003. Projects that involve banked or isolated human stem cells in cultures will continue to receive funds under the Sixth Program.

Genetically Modified Organisms³

In exercising its duties related to implementation of EU legislation, the European Commission forwarded formal requests to Austria, Belgium, Germany, Greece, Finland, France, Ireland, Italy, the Netherlands, Portugal, and Spain to adopt and notify the Commission of domestic legislation implementing the Directive on genetically modified organisms. The implementation deadline of the new Directive was October 17, 2002. This Directive introduced a more effective authorization procedure and several other requirements, including the following: environmental risk assessment, labeling and traceability at all stages of production, obligatory monitoring of possible long-term effects on the environment after the GMOs introduction in the market; communication of information to the public, and limitation of the length of authorization to ten years.

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¹ [Http://europa.eu.int/rapid](http://europa.eu.int/rapid)

² *Id.*

³ *Id.*

European Security and Defense Architecture⁴

On April 10, 2003, the European Parliament adopted a resolution in the area of European security and defense. The Parliament expresses its regret over the disagreements among the Members on the current foreign policy issues and proposes the development of a Security Strategy of the EU, following the US example of establishing a National Security Strategy. The EU Security Strategy would include its overall strategic plan to make the world more secure, define the Union's values in the area of conflict prevention and crisis management, and eventually result in strengthening EU-US cooperation. In regard to military operations, the Parliament's view was to have a force as of 2004 composed of 5,000 men in a permanent state of readiness to assist in humanitarian and rescue operations. In 2009, the force could be able to carry out operations on its own. Parliament also stressed that NATO is the strong bond between the EU and the United States and suggested the inclusion of a "solidarity clause" in the future treaty under which Member States will be able to mobilize all military and civilian components to combat terrorism.

Possible Application of Antitrust Rules to Maritime Transport⁵

Under Community rules established in 1986, agreements or consultations between liner shipping companies were exempt from competition rules. The European Commission, through its Consultation Paper, is now soliciting comments from governments and industries involved in maritime shipping concerning the application of antitrust rules to the maritime sector. The Commission intends to confirm whether the reasons for granting immunity in 1986 are still valid in today's market economy.

⁴ [Http://www2.europarl.eu.int](http://www2.europarl.eu.int)

⁵ *Id.*