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Au pairs
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Constitutional system
Criminal procedure
Drug trafficking agreement
Education
Equal opportunities
Fishery law
Free economic zone
Freedom of information
Foreign enterprises
Gun control
Internet regulations
Jury system
Language law
Length of judicial proceedings
Marriage law
Maternity leave for spouses
Oil assistance agreement
Outsourcing suspended
Personnel law
Political parties
Presidential impeachment & recall
Sexual tourism
Voter registration
Work permits
Yahoo case

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- **European Union Developments**

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WLB, No. 2000.12

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Table of Contents

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AMERICAS

GUATEMALA--Educational Measures Favor Indian Children

On November 16, 2000, the Ministry of Education issued two Executive Decrees that end some forms of discrimination against Indian children in Guatemalan classrooms. One statute prohibits public schools from excluding children for wearing traditional Indian clothing, while a second permits teachers who speak Spanish and one of the nation's 23 Indian languages to offer bilingual classes until the third grade. More than 60% of Guatemala's population is of Mayan descent.

Assistant Education Minister Demetrio Cojti, author of the measures, stated, "Teachers that speak the maternal languages of the children in rural schools will be allowed to educate the youngest children. This will create discrimination-free environments and bilingual learning at the most important ages." He added that the new legal instruments will legitimize the efforts of many teachers who informally give instructions in indigenous languages. Human rights groups in Guatemala commented that the educational measures represented the first official steps toward eliminating discrimination in public schools.

The legal breakthrough comes only a year after Guatemalan voters rejected a complex package of constitutional reforms that would have recognized all Indian groups in the nation and would have established changes in the educational systems. According to human rights activists, blame for the defeat by voters rested with voter confusion and low turnout in the Indian communities. Conservative voters were also thought to have disapproved of the reforms because, it was argued, they would have given Mayan groups unfair advantages. Assistant Minister Cojti stated that he believes the political climate in Guatemala now appears ready for laws supporting the rights of Indian groups. (*The San Francisco Examiner,* Nov. 16, 2000, via http://eXaminer.com/ap_i/AP_Guatemala_Indian_Education.html.)

(Sandra Sawicki, 7-9819)

HONDURAS--Equal Opportunities for Women

President Carlos Roberto Flores Facusse signed a comprehensive statute on April 28, 2000, that guarantees equal opportunities for women, especially in the areas of family, health, education, culture, mass media, the environment, labor, social security, credit, land ownership, housing, and decision-making in government and other sectors (Decree No. 34-2000). The Law on Equal Opportunities for Women declares in article 1 that all men and women are born free and equal under the law in Honduras. It provides that the State must apply the principle of equality between men and women in its public policies and in the execution and coordination of its programs and projects. The Law also establishes that society must include the issue of gender in all social dialogue and promote organizations that work for, with, and by women (*La Gaceta,* May 22, 2000.)

In the area of family, the Law recognizes the defacto union of persons legally capable of contracting marriage and adoption as a legal means of building a family. Through formal and informal educational programs, the State will promote the redistribution of family responsibilities to result in a division of labor to achieve equal opportunities. The State is required to help prevent, combat, and eradicate domestic violence.

Equal opportunity in the fields of health and the environment means that the State must focus on women's health issues overall, not just on those connected with reproduction. Gender issues must be incorporated in educational programs that instruct on sexually transmitted diseases. Women have the right to decide on the number of children they will have and the spacing of their children. The Secretariat of Health must take measures to prevent teenage pregnancies. Pregnant women prisoners must be given special treatment and provided with appropriate facilities. Women should be encouraged to participate in projects that conserve the environment, and their experience and vision in the management and conservation of

natural resources must be included in educational programs at the national and municipal levels.

The educational, cultural, and communications sectors offer women further opportunities. The State must encourage non-sexist perspectives in the educational systems of Honduras. It must eliminate textbooks that stereotype women, in addition to promoting the participation of women in intellectual, technical, and scientific fields through access to education and apprenticeships. Pregnant students will be assured of continuity in their study programs. The State must guarantee the participation and initiative of women in cultural development, with respect to their diversity, values, and experiences. The mass media must eliminate use of discriminatory and pejorative images of women and devote time and space to report on their rights, duties, and accomplishments.

Equal opportunity in the fields of labor and social security requires that the principles of equal pay for equal work and equal labor conditions be adopted by the Secretariat of Labor. The Honduran Institute of Social Security must broaden its policies to benefit rural and urban women. Employers are prohibited from requiring a pregnancy test prior to hiring. Women who are HIV-positive or suffering from AIDS have the right to job stability. Employers are not allowed to announce job openings that have gender, age, religious, or civil status requirements, except when the special circumstances of a position require them. In such cases, special previous authorization from the Labor Inspector's Office is mandated. Rights are extended to women who are sexually harassed by their employers. Credit, training, marketing services, and technological applications will be extended to women artisans, agricultural workers, and small business owners. The State must promote equal opportunities for women in public administration.

In the fields of land ownership, housing, and credit, women have equal rights to decent housing. The State must develop and carry out programs for low-cost housing based on flexible requirements for access. Preference will be given to women heads of households for housing loans by banks and, under the Law of Agrarian Reform, to rural women seeking to own land. Women may participate in home design and construction and in the administration and maintenance of buildings. The State must repeal laws or regulations that limit women's ability to rent or own property.

The Law also guarantees equal opportunities for women in decision-making and participation in political institutions. The State, through the National Elections Court, must assure that the internal structures of political parties are non-discriminatory. Leadership training programs must be developed to open various types of organizations to women. The State must incorporate women's organizations among the entities it consults in matters before it. The Law establishes that women must make up at least 30% of the directors of political parties, deputies to the National Congress, delegates to the Central American Parliament, and mayors and vice-mayors, until equal numbers of men and women participate in these bodies. It encourages women to seek high-level positions in the private sector.

Authorities or individuals who violate the provisions of the Law will be fined.
[GLIN] (Sandra Sawicki, 7-9819)

HONDURAS--New Criminal Procedure Code

New rules in the field of criminal procedure were signed by President Flores Facusse on December 30, 1999 (Decree No. 9-99-E). They will enter into force on February 20, 2002, and replace the 1984 Code of Criminal Procedure. The new, more expansive Code emphasizes that no one can be convicted of a crime or subjected to punishment except by an unconditional sentence imposed by a competent court, after a public trial or hearing, carried out along the principles established in the Constitution, international treaties signed by Honduras, and the Code of

Criminal Procedure. It also affirms that all persons charged with crimes are innocent until proven guilty and must be treated with respect. Those charged with crimes and their defense counsel have the right to present probative evidence at their disposal in any stage of the criminal proceedings, including the preliminary investigation. (*La Gaceta*, May 20, 2000.)

The new Code extends rights to victims of crimes. A victim has the right to become a private accuser or complainant who can intervene in all parts of the proceedings and who may seek assistance from the Public Ministry if economically deprived, and the right to be informed of the outcome of the proceedings upon request, even if he has not intervened. The victim is entitled to be heard before each resolution that extinguishes or suspends the criminal sentence, to participate in public hearings according to the rules of the Code, and to object before the superior of the prosecutor on the case over methods of presenting evidence. The victim will be informed of his rights at the time an accusation is made before the Public Ministry or when the complaint is before the competent judge of first instance.

The new Code of Criminal Procedure establishes rules and guidelines that govern a system of oral trial proceedings, differing from the written trial proceedings set forth by the former Code. It is expected that oral proceedings will help strengthen the operations of the criminal justice system and enhance the confidence of citizens in it. Under the new Code, evidence will be presented to the trial judge in a public hearing. Despite the generally public nature of the proceedings, there are instances when proceedings may be held in private: when the life or physical integrity of any member of the sentencing court is in danger, when official secrets are involved, or when a witness is younger than 18 years of age. Declarations of the accused, witness and expert testimony, and other portions of a trial must be oral, and services by interpreters must be provided when required. The prosecution and defense will have opportunities to present witnesses and exhibits in public hearings and to address the court in closing arguments.

The new Code also discusses the jurisdiction and competence of judges and courts, reasons for recusal of judges and magistrates, the role and objectivity of the Public Ministry, victims acting as private prosecutors, the rights of the accused, and the capacity of defense counsel. The Code establishes rules that apply to custody (which can last one year), bail, evidence and proof, expert witnesses, and other witnesses. It defines all stages of criminal investigations, ordinary criminal proceedings, and contents of appeals. Special criminal proceedings--abbreviated proceedings, proceedings for private crimes, procedures that apply to high officers of the State implicated in criminal activity, and preliminary hearings for probable cause to bring criminal charges against judges and magistrates--are also set forth in the Code.
[GLIN] (Sandra Sawicki, 7-9819)

HONDURAS--Rules on Gun Control

The Honduran government enacted legislation on gun control for the first time in its history on June 19, 2000 (Decree No. 30-2000). The Law To Control Firearms, Munitions, Explosives, and Similar Devices regulates the marketing, ownership, carrying, modification, use, repair and discharging of firearms, munitions, accessories, and similar devices. It also covers the importation, exportation, storage, removal from storage, and transportation of explosives. (*La Gaceta*, July 29, 2000.)

According to the Law, which will enter into force on January 1, 2001, revolvers, semi-automatic pistols, mechanical action and semi-automatic rifles, and mechanical action and semi-automatic shotguns (of certain specified calibers) all may be used for defensive and sporting purposes. Firearms that are not allowed include automatic, high precision guns, with or without silencers, whose use is reserved for the armed

forces and police and regulated by special statutes; homemade weapons that launch projectiles, cause fires or contain substances that cause paralysis, tearing, or vomiting; projectiles that blind, explode, or fragment, whose use is prohibited under international conventions signed by Honduras; infrared, laser, and high precision telescopic weapons that are not used for hunting; and weapons containing chemical or natural poisonous substances. The Law also specifies the kinds of explosives covered by its provisions.

The Law creates a National Gun Registry, to be organized and supervised by the Secretariat of Security, that will contain ballistic information on all weapons before their sale by gun shops and data on their subsequent sale. Permits to carry guns cannot be issued unless the buyer is registered and pays the registration fee. A maximum of five guns may be registered by any one individual, except for collectors, who must obtain special licenses. Transfer of guns from one person to another must be reported to the Registry within three days of the transaction. The Secretariat may deny, suspend, or cancel permits at its discretion when activities by gun owners endanger the safety of other people, damage facilities, or disrupt tranquility and public order.

A potential gun owner is required to supply certain personal and firearm information when applying for a permit and must have passed a shooting test. Deputies in the National Congress, judges, magistrates, prosecutors, diplomats and other officials with immunity under the Constitution are not required to have a license to carry a gun, but their weapons must be registered, and they must have passed a shooting test. Permits are not transferable, are valid for four years, and are renewable. Persons who enter Honduras in transit cannot carry or acquire guns. Hunters must register with the Secretariat of Security; tourists who enter the country to hunt are required to apply for temporary permits.

The manufacture and importation of commercial explosives requires a permit, whose application procedures are detailed by the new Law. Geological, mining, construction, and demolition companies may import commercial explosives directly with prior permission of and payment of fees to the Secretariat of Security. For the transit or export of items controlled by the Law, applications must be presented to the national defense and security secretariats and indicate the destination and description of the firearms or explosives. Anyone permitted to buy or sell commercial explosives must have liability insurance and submit a detailed report of activities to the Secretariat of National Defense during the first five days of each month.

Violations of the Law are punishable under the Criminal Code and result in fines according to the gravity of the crime and the economic status of the offender, suspension of licenses from six months to two years, or cancellation of licenses. Repeated violations will carry harsher fines. The Law also sets forth the fees established for registration of weapons, importation of explosives, permits to carry guns, permit renewals, and the production of rockets and fireworks.
[GLIN] (Sandra Sawicki, 7-9819)

ASIA

CHINA–Draft Marriage Law

China's National People's Congress (NPC) Standing Committee is reviewing amendments to the Marriage Law of 1980. A discussion of the draft was held on October 27, 2000, at a panel debate attended by Li Peng, the Committee's Chairman.

The increase in the number of extra-marital affairs and bigamy and domestic violence cases in recent years has focused attention on the question of adding more stringent provisions to the Law. Although pleased in general with the draft, lawmakers stated that stronger measures were

needed to deal with those who have "concubines" and those who abuse their spouses, children, or elderly relatives.

The concern over extra-marital affairs is due to reports that the new wealth generated by China's liberalized economy has resulted in an upswing in the traditional practice of having a concubine. One indicator of this phenomenon is that of those arrested for economic crimes in Guangdong Province of southeastern China, adjacent to Hong Kong, 95% had at least one concubine (data from Hou Zongbin, Chairman of the NPC Committee for Internal and Judicial Affairs, *Draft Amendments to China's Marriage Law Presented to NPC Standing Committee*, Xinhua, Oct. 27, 2000, via FBIS, Oct. 27, 2000). The existing Law considers only those who are married but living with another person "in the name of husband and wife" to be bigamists. Those with concubines or having illicit, long-term affairs may not treat the non-marital relationships as the same as a husband and wife relationship. "We need…to tighten up this legal loophole," stated Hu Kangsheng, Deputy-Director of the Standing Committee and one of the authors of the current draft. The amendment will be designed "to enshrine the statutory principle of privilege of women and children in the existing marriage law." In addition, there will be a system for the side that is at fault in a divorce to pay compensation (*id.*). The draft also includes elaboration of the Law on the question of divorce itself, listing seven indicators of the end of mutual affection, one of the grounds for divorce in current law. These include living separately for two or more years, bigamy or extra-marital affairs, addiction to gambling or drugs, and abuse or lack of proper care of family members.

Other key points of the draft law are:

• stipulations on investigation and prosecution of the crime of bigamy, as well as provision for the victim to file a lawsuit;
• a ban on domestic violence and a statement that victims may seek help from the police;
• deletion from the Marriage Law of leprosy as a disease that is a barrier to marriage, since leprosy has been almost eliminated from China and is now treatable;
• provision that grandchildren have an obligation to support their grandparents if those grandparents' own children have died or are incapable of providing support; and
• detailed regulations on family property. (See also *Draft Amendments to China's Marriage Law Presented to NPC Standing Committee*, Xinhua, Oct. 23, 2000, via FBIS, Oct. 23, 2000; *Li Peng Joins NPC Group Discussion on Marriage Law Amendments*, Xinhua Oct. 27, 2000, via FBIS, Oct. 27, 2000.)
(Constance A. Johnson, 7-9829)

CHINA–Fishery Law

On October 31, 2000, the National People's Congress adopted a Decision to amend the Fishery Law, effective December 1, 2000. The Law was originally adopted on January 20, 1986.

The amendment "seeks to have China's fishery resources managed to international standards" (Hu Qihua, *China Daily*, Internet Version, Oct. 25, 2000, via FBIS, Oct. 25, 2000). Some highlights of the revised Law are as follows.

• Fisheries management should stress protection of the marine environment and use scientific methods to define breeding densities.

• No poisonous or harmful bait or feed should be used in breeding or production.

•A quota system is introduced to ensure an adequate supply of fish for the nation.

• Management of fishing harbors should be strengthened by government above the county level.

• A general stipulation is added to the effect that the State will implement a licensing system for

fishing businesses.

• The provisions on legal liability have been doubled in number from six to twelve and specific amounts of fines have been set forth. (*Id.*; http://lawbook.com.cn/law/2000/0010yyfxg.htm.)
(W. Zeldin, 7-9832)

CHINA–Foreign Enterprise Laws Amended

On October 31, 2000, the Standing Committee of the National People's Congress (NPC) passed amendments to the 1986 Law on Foreign-Funded Enterprises, covering wholly-owned foreign companies, and the 1988 Law on Chinese-Foreign Cooperative Enterprises, covering contractual joint ventures. The changes in both laws came into force on the day of promulgation (texts in Xinhua, Nov. 2, 2000, via FBIS, Nov. 2, 2000, and China Online, Nov. 13, 2000, via LEXIS/NEXIS, Asiapc library, respectively). A similar reform of the 1979 law on equity joint ventures is planned for next year.

The amendments are considered to be one step in reforming the legal regime for foreign investment and trade, in support of China's bid to join the World Trade Organization. Clauses in the existing laws on wholly or partially foreign-owned businesses that stated that the enterprises must maintain their own balance of payments in foreign currencies and that priority should be given to Chinese sources for any needed raw materials, fuels, accessories, and parts were deleted. The old requirement that foreign enterprises be "conducive to the development of China's national economy and use advanced technology and equipment or export all or most of their products" has been changed to state that while the businesses must be conducive to China's economy, the establishment of companies that make products for export or use advanced technology is merely encouraged.

This reform "indicates that China is serious about carrying out the commitment it has made on its WTO accession," according to Chen Guangyi, chairman of the NPC Financial and Economic Committee. Steve Chan, president of Coca-Cola (China) Co., Ltd., concurred, stating that the changes show "China's improvement in its market mechanism…" (*NPC Drafts Legislation Easing Restrictions on Foreign Investors*, Xinhua, Oct. 31, 2000, via FBIS, Oct. 31, 2000.) (See also *PRC Trade Minister Explains Draft Amendments to Foreign Enterprise Laws*, & *Premier Zhu Rongji Signs Bills to Revise Foreign-Funded Enterprise Laws for WTO*, both in Xinhua, Oct. 23, 2000, via FBIS, Oct. 23, 2000.)
(Constance A. Johnson, 7-9829)

CHINA–Internet Regulations

On November 7, 2000, two sets of provisions regarding the Internet were issued in China. The Ministry of Information Industry (MII) issued the Provisions on the Administration of Internet Electronic Announcement Services (i.e., the Broadcast Bulletin System, or BBS) (hereinafter BBS Provisions), and the MII and the Information Office of the State Council jointly issued the Interim Provisions on the Management of Publishing News on the Internet (hereinafter News Management Provisions).

The BBS Provisions state that all BBS users will be responsible for the information they release and that violators will be punished according to the Provisions. Businessmen must submit applications for running BBS businesses to the MII or to provincial-level telecommunications administration departments. No one can release BBS information that contravenes the Constitution, endangers State security, reveals State secrets, or sabotages unity among ethnic groups or that spreads heretical ideas, pornography, violence or information banned by extant laws or regulations. BBS owners are required to delete immediately any banned information they discover in their news releases.

The News Management Provisions set forth the terms websites should observe and the penalties that can be incurred for violation of those terms. The State Council Information Office will be in charge of the administration of news websites. (*Id.*) Internet sites run by media organizations at the central and provincial levels of government may publish news only after obtaining Information Office approval. Other media organizations are not permitted to set up independent news sites, but they may set up news pages on the government-approved sites provided they obtain approval to do so.

Commercial portal sites run by non-news organizations must obtain permission to carry news; having secured it, they may only publish news provided by officially approved news organizations. They may not carry news items based on their own interviews or other sources. Cooperative agreements must be signed by commercial websites wishing to carry news and the authorized news outlets; a copy of the agreements must be filed with the Information Office. Other commercial sites run by non-news organizations are prohibited from carrying news of any kind. The Provisions state that China-based websites must obtain separate approval in order to link to overseas news websites or to carry news from such websites. Websites that already disseminate news must comply with the new Provisions in 60 days. (Http://www.chinonline.com/topstories/001106/1/C00110618.asp; Xinhua, Nov. 6, 2000, via FBIS online, Nov. 6, 2000.)
(W. Zeldin, 7-9832)

CHINA–Jury System Regulations Drafted

Regulations on improving the jury system, drafted by the Supreme People's Court (SPC), were presented to the Eighteenth Session of the Standing Committee of the Ninth National People's Congress on October 23, 2000. They have not yet been adopted by the Standing Committee.

Provision for juries (people's assessors, as in civil law systems) was included in the 1954 Constitution, but according to SPC President Xiao Yang, the system set forth was "poor and not very specific" (Xinhua, Oct. 23, 2000, via FBIS, Oct, 23, 2000). The current 1982 Constitution does not have a provision on the jury system. The Organic Law of the People's Courts (adopted on July 1, 1979, and revised in 1983) does have certain provisions on people's assessors.

Under the draft regulations, jurors are to be selected through procedures of appointment by the standing committee of the local people's congresses. Eligible appointees include Chinese citizens with at least a senior high school diploma who have some knowledge of law, who have been recommended by their work unit and approved by the local court. The draft states that it is necessary to have jurors in initial criminal trials, in civil cases that involve personal rights, and in civil, administrative, intellectual property rights and initial maritime trials that have "considerable social impact" (*Id.*). In handling cases, judges and jurors form a collegiate bench. Litigants may also request that the court form such a bench for the handling of their lawsuits. The draft regulations provide that jurors may present complaints to the president of the court if they discover illegal court proceedings or judicial wrongdoing. They themselves are also liable for legal consequences if they break the law. (*Id.)*
(W. Zeldin, 7-9832)

CHINA–Language Law

The Standing Committee of the National People's Congress (NPC) adopted China's first National Common Language Law on October 31, 2000; it will come into force on January 1, 2001. It had been recommended by a subgroup of the Committee on October 23, after two revisions.

The Law names *putonghua* (a term for the commonly spoken Mandarin Chinese) and standardized written characters as the national

common language. It outlines State policy towards language, citizens' rights to learn and use the national common language, responsibilities of government bodies in connection with the national language, and specific rules for language use in set situations. Included are principles of usage in some situations of the traditional, complex forms of Chinese written characters; for the most part, use of the simplified forms that have been standard on the Chinese mainland for decades will continue.

The Law is not designed to control personal use of the language, but rather the expressions, wording, and writing involved in government operations, mass communication, and on public occasions. Expressions and writing styles for government agencies, schools, radio and television stations, the public services sector, publications, advertisements, packaging and directions for commodities, names of enterprises, IT products, films, public facilities, and signboards are to be standardized.

Although Mandarin is considered the common language, China has over 50 distinct ethnic groups and 73 languages, more than 50 of which are presently in use. The new Law gives these languages equal status and does not restrict their use and development. Local dialects of Chinese will also continue to be used, and the Law specifies which special situations call for the use of these dialects, such as productions of local operas and some local television programs.

Hou Xiaojuan, Deputy Division Chief of Education under the NPC Education, Science, Culture, and Health Committee, has said that the principle of persuasion and education should be used in popularizing and standardizing the common language. Under the Law, those who violate language rules should be ordered to make a correction within a set period of time, and if no correction is made, in some cases warnings and fines may be imposed. (Xinhua, Oct. 23, 2000, translated in FBIS, Oct. 23, 2000; China Internet Information Center, Nov. 2, 2000, via FBIS, Nov. 3, 2000.)
(Constance A. Johnson, 7-9829)

KAZAKHSTAN--Work Permits

In October 2000, the Kazakhstan Labor Ministry's Agency for Investment issued a Governmental Resolution on Foreign Labor that expanded the year 2000 foreign labor quotas, loosening current restrictions on issuing and/or renewing work permits. According to the Resolution, the foreign labor quota, the percentage of foreign employees out of the total number of employees in Kazakhstan as set by the State Agency on Statistics, will be increased to 0.25% and will permit employment of 15,250 foreigners. However, the Labor Ministry will take unspecified steps to keep foreign workers with low-level skills from working in Kazakhstan. Heads of the representative offices and branches of foreign companies are exempt from the need for any kind of work permits. The Resolution provides for more active involvement of local administrations in the quota-setting process and requires the drafting of a law on foreign labor in 2001.

Specialists complain that the work permit regime remains arbitrary and capricious. Among the most problematic issues is that the threshold level triggering a requirement to obtain a work permit is confusing. Under present rules, anyone who does any work at all must obtain a work permit. It affects even those specialists who may come in just for one day of work a year. In such cases, the person would count against the quota just as much as someone who is stationed in the country and works all year long. Another problem is the length of time required for issuance of the permit and for overcoming related bureaucratic obstacles. Because it takes about a month to obtain the work authorization, it is unrealistic to bring in a specialist on short notice if there is an urgent situation. (Kazakhstan Notes, BISNIS Electronic Bulletin, U.S. Department of Commerce, Nov. 14, 2000.)

(Peter Roudik, 7-9861)

MONGOLIA–Free Economic Zone

On November 3, 2000, Mongolia's parliament, the State Great *Hural*, voted to create a free economic zone in the city of Dzamin Uud, on the border with China. The plan was proposed by the government to promote prosperity in the city, which is in an area suffering from desertification.

The zone will be established under a 1995 law concerning the establishment of such regions. That law stated that in authorizing the zones, priority should be given to cooperation with Asia-Pacific countries. China is Mongolia's largest trading partner and the country providing the most foreign investment. The new zone will be set up in 2001. (Xinhua, Nov. 3, 2000, via FBIS, Nov. 3, 2000.) (Constance A. Johnson, 7-9829)

TAIWAN–Presidential Impeachment & Recall

On November 7, 2000, the Legislative Yüan, which is controlled by the opposition, passed amendments to the Law Governing Legislators' Exercise of Power (adopted on Jan. 25, 1999). As one report stated, the move "was seen as a gauge of the opposition's ability to remove President Chen Shui-bian from office over his administration's decision to scrap construction of a controversial nuclear power plant." (Tokyo, *Kyodo*, Nov. 7, 2000, via FBIS, Nov. 7, 2000). On October 27, 2000, Premier Chang Chun-hsiung announced that Cabinet decision, whereupon the Kuomintang, the People First Party, and the New Party united "in an unprecedented fashion" against it. They said the decision was illegal because the budget for the power plant had already been passed by the legislature, a position that some legal experts dispute. The Taiwan Law Society, for example, contends that the budget proposals adopted differ from legal bills; that is, the administration has the right not to execute the budget for the plant and such an action would not be unconstitutional (Myra Lu, "Opposition Reacts Strongly to Plant Decision, *Taipei Journal*, Nov. 3, 2000, at 1-2).

The Constitution (Additional Articles, as revised on Apr. 25, 2000, art. 4, item 5) prescribes that impeachment of the president or vice-president by the Legislative Yüan will be initiated upon the proposal of more than one-half of all its members and passed by more than two-thirds of them, whereupon it will be submitted to the National Assembly, a largely ceremonial organ that jointly fills the role of a parliament together with the Legislative Yüan. (In late April 2000, the National Assembly voted on constitutional amendments to downgrade itself into an ad hoc body of 300 delegates chosen by the political parties on a proportional basis. *See* WLB2000.05.) The National Assembly is to be chosen within three months of the official submission of the impeachment if the Legislative Yüan launches impeachment proceedings. In regard to recall of a president or vice-president, the Constitution prescribes that a recall will be initiated by a proposal undertaken by one-fourth of all the legislators. If two-thirds of the legislators agree to the proposal, it is presented for a popular vote. If more than half of the ballots cast by voters are in favor of the recall, the motion is passed. (51:6 *Fa-ling yüeh-k'an* (The Law Monthly) 52-53 (June 1, 2000)).

Under the revised Law Governing Legislators' Exercise of Power, a presidential recall vote is to be held by name, rather than by secret ballot as prescribed under the old Law. Once one-fourth of the lawmakers sign a petition for a recall, all standing committees in the legislature must review the motion within 15 days. It is then put before the floor for a vote by the whole legislature. If two-thirds of the legislators support the motion, Taiwan's voters will decide whether to dismiss the president and elect a new one. (Taipei Central News Agency, Nov. 7, 2000, via FBIS, Nov. 7, 2000.) The total process of recall of the president, from the recall motion to a popular vote, would

take about six months (*Taipei Times*, Nov. 18, 2000, via FBIS, Nov. 20, 2000).

It may be noted that under the current Presidential and Vice-Presidential Election and Recall Law (adopted on Mar. 31, 1947, as revised on Aug. 9, 1995), a proposal to recall the president or vice-president must be put forward by one-fourth of the National Assembly delegates; passage requires a two-thirds majority. Within 10 days after announcement of the proposal's adoption, the Assembly will submit the bill, along with the reasons for the recall and the recalled person's response, to the Central Election Commission, which will arrange for a popular vote to be taken within certain prescribed time limits. More than half of the voters must vote for the recall in order for it to be approved and a new election conducted. (*Tsui hsin liu fa ch'üan shu* (Most Recent Compendium of the Six Codes) 17 (1999)). However, the relevant provisions on recall in this law have not yet been revised to conform with the amendments made to the Constitution in April 2000 (*Taipei Times, id.*).

As of mid-November, more than 140 of the 220 seated lawmakers (by law, there should be 225) had endorsed the impeachment bill, a number close to the two-thirds majority required (Beijing, China National Radio Taiwan Service, Nov. 18, 2000, as translated in FBIS, Nov. 19, 2000). In the meantime, on November 7, 2000, the Legislative Yüan voted to request the Control Yüan to impeach Premier Chang Chun-hsiung for "contempt of law and dereliction of duty" for halting construction of the nuclear power plant; on November 8, the Cabinet decided to request a constitutional interpretation from the Council of Grand Justices of the legality of scrapping the project (Taipei Central News Agency, Nov. 7, 2000, via FBIS, Nov. 7, 2000; http://www.thenews.com.tw/taiwan/ 200011/ 08/16730700.html, respectively.)
(W. Zeldin, 7-9832)

TURKMENISTAN--New Personnel Law

Angry at a number of leaders of local municipalities for failing to meet State quotas for cotton harvesting, President Saparmurat Niyazov of Turkmenistan transferred them to work for the next three years as chairmen of agricultural cooperatives and issued a decree on managers. The decree became law immediately upon approval by the People's Council (the Parliament), of which President Niyazov is the chairman.

According to the new law, the appointment of an individual to an executive or managerial position in the State or private sector at the local or national level will depend on the presence of leaders among the person's relatives. Genealogical research going back three generations is a main condition for consideration of one's candidacy, and only those who had "dignified forefathers of high morals, experienced in managing masses of people" have a chance to secure the job. Mandatory genealogical checks of the candidate's wife are also prescribed by the law. Decisions on ancestors' experience will be made by a special commission chaired by the President. (RFE/RL Newsline, v. 4, No. 225, Pt. 1.)
(Peter Roudik, 7-9861)

EUROPE

FRANCE–Court Ruling Against Yahoo

On November 20, 2000, a Paris judge ordered Yahoo Inc., to keep French citizens from seeing its American-based websites that auction Nazi-related items even though the computers, content, and company are physically located in the United States. Yahoo's French subsidiary, complying with an earlier court ruling, does not post Nazi items.

The judge's ruling, based on French anti-racist laws barring the sale or exhibition of objects that incite racial hatred, gives Yahoo three months to bar French nationals from accessing its U.S. sites. If Yahoo does not comply, it will be fined 100,000

French *francs* (US$13,000) for each day it exceeds the deadline.

The case began earlier this year with a suit by the Paris-based International League against Racism and Anti-Semitism(LICRA) and the Union of French Jewish Students (UEJF). A third French anti-racist group, the Movement Against Racism and for Friendship Among Nations (MRAP), joined the action at a later stage. The judge confirmed a ruling that he first issued on May 22, 2000. He had stayed his decision pending testimony from three computer experts on whether the ruling was technically viable. The panel of experts concluded that 90% of French users could be blocked from accessing the offending sites.

During the trial, lawyers from Yahoo argued that blocking the site from French citizens would be technically impossible and would make it potentially liable to be sued for breaching the U.S. constitutional right to freedom of speech. Yahoo is expected to either appeal to a higher French court or to ask a U.S. court to refuse to endorse the judgment, on the ground that the French court has no power to impose sanctions on the US site of a US company. (Http://fr.news.yahoo.com, Nov. 20, 2000.)
(Nicole Atwill, 7-2832)

FRANCE–"Sexual Tourism" Trial in France

The Paris *Cour d'assises* sentenced Amnon Chemouil, a French man, to a 7-year prison term for raping a 12-year old girl during a 1994 vacation in Thailand. He is the first French citizen to be tried by a court in France for a rape committed overseas. The prosecutor had asked for a ten-year prison sentence. The court also awarded 50,000 French *francs* (approximately US$7000) to the victim and one symbolic *franc* to four associations for the protection of children, which were civil parties in the trial.

The principle that French criminal law is applicable to any felony committed by a French national outside the territory of the Republic is not new, and the handling of this case is more tied to the actual realization by the public and the authorities of the gravity of this type of offense than to the reinforcement of the legislation. However, there was some reinforcement in 1998. Law No. 98-468 of June 17, 1998 provides that when sexual assaults are committed abroad against a minor by a French national or by a person habitually residing in France, French criminal law applies even though the conduct is not punishable by the legislation of the country where it has been committed, the victim did not file a complaint, and there was no official denunciation by the country officials. (*Le Monde*, Oct. 21 & 23, 2000, via Lexis/Nexis.)
(Nicole Atwill, 7-2832)

ITALY–Excessive Length of Judicial Proceedings

On October 12, 2000, a decision of the fourth chamber of the European Court of Human Rights, in Strasbourg, found that Italy had violated article 6(1) of the European Convention on Human Rights, which establishes that everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial court established by law. Noting the existence of various precedents, the Court pointed out the accumulated violations of the principle in Italy and held that such an accumulation of violations constitutes an aggravating circumstance.

The case involving the inheritance of a nobleman from Cosenza, in southern Italy, was initiated before the District Court of that city in 1947 and ended, the European Court noted, about 51 years and 9 months later, in May of 1999. The Italian government, however, objected, claiming that the period of time to be taken into consideration by the European Court runs from August 1, 1973, when Italian citizens acquired the right to petition the Court of Strasbourg individually. According to this calculation, the

length of the judicial proceedings was reduced to only 25 years and 9 months.

In consideration of the exceptional length of the proceedings, the European Court granted the plaintiff the full requested amount of 150 million *lire* for moral damages, an additional 30 million *lire* as compensation for the expenses of attending court proceedings in Strasbourg, and 5.262 million *lire* for expenses incurred for proceedings in the Italian courts (www.LaRepubblica.it.)
(Giovanni Salvo, 7-9856)

MOLDOVA--New Constitutional System

The Constitutional Court of Moldova confirmed the legality of the amendment to the Constitution that was almost unanimously approved by Moldova's 101-members of Parliament in July 2000. The amendment transforms the country into a parliamentary republic, and on December 1, 2000, the next President of the Republic is to be elected by the legislature, instead of by popular vote. That makes Moldova the only former Soviet state where the President is not elected by popular vote. Candidates to the office of President will be registered with the Parliamentary Committee on Constitutional Issues upon submission of 20,000 signatures supporting their registration. Candidates may be any person age 40 or older, with a good command of the official language. The President will be elected by secret ballot. To be elected, the candidate needs to secure three-fifths of the deputies' votes. If after a second round none of the candidates has received the necessary number of votes, a repeat election will be announced. If even the repeat election fails to elect the head of state, the Parliament will be dissolved and the incumbent President will set the date for an early Parliamentary election.

A President may be dismissed by two-thirds of the deputies' votes. After the office of the President becomes vacant, the Parliament must elect a new head of state within two months. If the President is not able to take office within 60 days of election, the Parliament announces a new election. Until the new President's election, Presidential functions will be performed by the Chairman of the Parliament or the Prime Minister. As stated in the Parliament's resolution, the change in the mode of election will simplify the leadership system and spare Moldova from the burden of extremely exhausting and costly election campaigns. However, as of November 20, 2000, five days before the end of the prescribed registration period, no one was registered as a candidate.

The Parliament also voted to increase the government's power and enable it to rule by issuing emergency decrees that have the power of law and enter into force immediately, without waiting for Parliament's blessing; this power was traditionally considered to be the prerogative of Moldova's President. Although the incumbent President of Moldova, whose mandate runs out on January 15, 2001, lamented these amendments, saying that the new procedures are likely to plunge the country into chaos and could hamper efforts to settle existing ethnic conflicts, he did not exercise his veto right, which could have been easily overridden by a two-thirds majority in the legislature. He threatened to call a referendum asking citizens if they want the country to become a parliamentary republic, but the Parliament overturned the possibility of referendum on issues of legislation, saying that the Constitution names the Parliament as the only authority competent to influence legislation. The same argument was applied to the right to adopt laws that revise the Constitution; that right will rest exclusively with the Parliament. Only constitutional laws concerning the "sovereignty, independence and territorial integrity" of the state would be subject to referendum. (*Monitorul Oficial Al Republicii Moldova* [Moldovan Official Gazette], v. VII, No. 184, Item 3273.)
(Peter Roudik, 7-9861)

THE NETHERLANDS--Guidelines for Au Pairs

The Ministry of Justice has drawn up regulations for host families of *au pairs* in the Netherlands. *Au pairs* can no longer be used as cleaning women or full-time baby sitters. Starting in August 2000, the host family and the *au pair* were required to sign a so-called "declaration of awareness" in which mutual rights and obligations are laid down. Such declarations must provide that the *au pair* is not allowed to spend more than 20 hours per week doing childcare and domestic work. The requested domestic work may not be too taxing. The Ministry states that *au pairs* reside in the host family's residence on the basis of equality. For that reason, they may not be required to do more domestic work than the other members of the family are performing. Furthermore, the foreign *au pairs* are entitled to two days off per week. On November 3, 2000, the Under Secretary of Justice proposed that, in order to be in compliance with some other European countries, the working hours per week be increased to 30 hours. (NRC-Handelsblad, Aug. 5 and Nov. 4, 2000.)
(Karel Wennink, 7-9864)

THE NETHERLANDS--Ombudsman for Children

The Minister of Justice has commissioned a study to assess ways of combining various functions to strengthen the position of young people in a single institution to be known as the Child Ombudsman. The function of this Ombudsman would be to give solicited and unsolicited advice on legislation and policy that affect minors and rulings on complaints and to implement the United Nations Convention on the Rights of the Child and monitor its observance. Various authorities already exist for the first two functions, but no specific institution exists for implementing the U.N. Convention and monitoring its observance. The aim of the study is to produce proposals by the middle of 2001 for the establishment of the Office of the Child Ombudsman. Since the new institution is intended for children, their views will also be taken into account in the study. (Press Release, Ministry of Justice, Nov. 15, 2000, http://www.minjust.nl/c-actual/persber/ pb0658.htm.)
(Karel Wennink,7-9864)

RUSSIAN FEDERATION--Law on Political Parties Proposed

On November 16, 2000, the State Duma (lower chamber of the Parliament) of the Russian Federation conducted hearings and approved the draft Law on Political Parties submitted to the Duma by President Putin of Russia. When this bill is passed, the number of political parties represented in the Russian Parliament will be significantly reduced. The bill provides for toughening of the requirements for registering a political party, and thus far fewer political movements would be entitled to participate in elections. According to the proposed registration criteria, each party would be required to have at least ten thousand registered members, establish local branches in no less than half of Russia's 89 provinces, and employ about 150 to 200 staffers in each branch.

The President's proposal calls for changing the procedure for nominating party candidates for parliamentary seats. Lists of parties' candidates would have to be approved by party conferences attended by no less than 150 party delegates. As stated in the explanations attached to the proposal, this measure would act as insurance against attempts to pay for being nominated. A number of the draft's provisions stipulate acts aimed at making political parties' finances transparent. Each party is required to submit an annual balance sheet; parties failing to do so will be disbanded. The President proposed State financing of those parties that receive at least 7% of popular vote during the parliamentary elections. Specialists estimate that the chances of this bill being adopted into law are very high and suggest that it could occur in the beginning of 2001. (K. Koutsillo, "Kremlin Wants To Scrap Small Parties," http://www.gazeta.ru, Nov. 17, 2000.)
(Peter Roudik, 7-9861)

SLOVAK REPUBLIC--Freedom of Information Act

A Law on the Freedom of Information was enacted on May 17, 2000 (No. 211, *Collection of Laws)*. It requires the offices of State and local administration to publish information concerning their functions and activities, including the Office of the President of the Republic, the Government, and the Parliament. The information is to appear not only in print, but also on the office's website on the Internet. All government offices are also to disclose how they manage public funds. Any physical or legal person may request further information from these offices, and the request must be filled within 10 days or declined on the grounds of State secrecy, banking secrecy, or tax secrecy. A refusal can be appealed within 15 days to the superior administrative office and then to the court. The information is provided in writing, by telephone, electronically, or by permitting the examination and copying of documents in the respective office of administration.
(George Glos, 7-9849)

UKRAINE--Presidential Impeachment Proposed in Missing Journalist Case

In an open session of the *Verkhovna Rada* (parliament), the former VR Chair and leader of the Socialist Party of Ukraine, Oleksander Moroz, announced that audio tapes had been given to him by an officer of Ukraine's Special Services on which President Leonid Kuchma is purportedly heard discussing plans related to the disappearance of opposition journalist Heorhiy Gongadze (see WLB, 2000.10) (http://proua.com). Gongadze's beheaded body, mutilated with chemicals, was found in woods outside a small town in the Kyivan region in mid-November. The body was reportedly placed in a local morgue and then confiscated by police a week late (http://www.wolkskrant.nl/nieuws/internationaal/355028270.html,hereafter "nieuws.")

Moroz stated that while the voices are not very clear on the tape, there is enough material there to give evidence that "the President concerned himself with this problem, gave assignments, and oversaw their implementation" (http://proua.com). Moroz also maintained that the conversations, which were carried out with Ukrainian Minister of Interior Yuri Kravchenko and the leader of the President's administration Volodymyr Lytwyn, took place over two months before Gongadze's disappearance. The tapes were given to Moroz on condition that they be made public and that the officer receive protection. The officer, according to Moroz, was ready to testify in court. Moroz stated that his party should have the tapes analyzed by specialists abroad, and if verified, an appropriate action, e.g., "an impeachment procedure," should be started.
Copies of the tapes were posted on the Internet (http://www.brama.com/news/press/001128.gongadze.html). Gongadze apparently knew he was being followed and filed a complaint with a police chief, named Opanasenko, who was second in command of the Kyiv police. Opanasenko began an investigation, a fact noted on the tapes followed by an order in the same tape to have Opanasenko fired. Opanasenko was indeed fired, and shortly thereafter Gongadze was reported missing (*see* nieuws, for tape excerpts in English). President Kuchma's press service stated that Moroz's accusations are groundless slander, and that this case will be brought to court (http://www.rferl.org/newsline/3-cee.html).

On December l, the parliamentary Commission on Organized Crime and Corruption appealed to the Organization for Security and Cooperation in Europe to examine the tapes. (M. Melnik, ITAR-TASS, News Wire, via Data Times, 20001201).
(Natalie Gawdiak, 7-9838)

NEAR EAST

ISRAEL–Sick Leave To Accompany Spouse During Childbirth

Regulations signed by the Minister of Labor and Welfare provide employed husbands with the right to use sick leave for absence from work to accompany their wives during labor. Labor is defined as the time from the start of contractions until twenty-four hours after the delivery. Sick leave may also be used by a worker accompanying his spouse to a treatment or tests related to a high-risk pregnancy or if the wife is disabled and requires assistance. A worker requesting leave in accordance with the above is required to sign a declaration and attach a confirmation from the doctor treating his wife.

The wide application of the regulations was objected to by the Association of Industrialists , as well as by representatives of the Ministry of the Treasury and of the employers. (R. Sinai, "Oved Sheyelave et bat-zugo leleida Zakai leyom hofesh," [An Employee Who Accompanies His Wife For Delivery Is Entitled to a Day of Leave], *Haaretz*, http://www.haaretz.co.il/ daily/txt/ n157726.asp.)
(Ruth Levush, 7-9847)

SOUTH PACIFIC

AUSTRALIA–Government IT Outsourcing Suspended

Australia's government has suspended its efforts to contract out information technology services after a report by the independent Auditor-General found the project over-budget, behind schedule, and unlikely to achieve the promised savings of A$1 billion over five years. In 1997 the Minister of Finance announced a "Whole-of-Government Information Technology Infrastructure Consolidation and Outsourcing Initiative." The goal of what was proudly described as the largest outsourcing project in any country was to reduce costs by shifting responsibility for government departments' IT work to private contractors. In anticipation of major savings, the budgets of several major government departments were reduced. The Auditor-General's report, released in September, found that costs were three times the original estimates and the multinational contractors were two years behind their contracted date for delivery of IT services. Rather than A$1 billion in savings, the Auditor found savings of around A$30 million. The report also revealed that under an initially unpublicized arrangement, A$17 million had been paid to a United States law firm for its services as an "outsourcing consultant."

Responding to adverse publicity and opposition from senior civil servants, staff unions and such usually non-political bodies as the Commonwealth Scientific and Industrial Research Organization (CSIRO) (Australia's counterpart to the NSF), the National Library of Australia, and the Australian Securities and Investment Commission, the Minister of Finance announced on November 7 that the Initiative would be suspended for a review. Parliamentary critics, apart from describing the project as "a shonk" that funneled money to large multinational firms rather than to small Australian IT companies, noted that the initial problems had been borne by education and social service agencies, but that the next stage would involve scientific, defense and intelligence agencies. ("Audit Exposes the Flaws in IT Outsourcing," *The Canberra Times*, Sept. 16, 2000, http://www.canberratimes.com.au/; Australian National Audit Office, "Implementation of Whole-of-Government Information Technology and Infrastructure Consolidation and Outsourcing Initiative," Report No. 9, Sept. 6, 2000, http://www.anao.gov.au; "Fahey Puts Brakes on IT Outsource Scheme," *The Australian*, Nov. 8, 2000, http://www.theaustralian.com.au/; "National Library Sought Indemnity Over IT Plan," *Sydney Morning Herald*, Nov. 13, 2000, http://www.smh.com.au/)
(D. DeGlopper, 7-9831)

AUSTRALIA–Votes for Cats?

A cat was registered to vote in 1990, and provided the subject for extensive discussion at a November 15, 2000, hearing of the Australian Parliament's Joint Standing Committee on Electoral Matters. The Committee was holding an inquiry into the integrity of the electoral roll, responding to claims that fraudulent registration and multiple voting was easy, common, and had decided several close elections for Parliamentary seats. It was alleged that the true identity of the voter called Curacao F. Catt was discovered only when a letter from the office of the local Member of Parliament was returned because there was no person of that name at the address.

Under the Commonwealth Electoral Act 1918 (§§ 81-122), the federal government's Australian Electoral Commission (AEC) maintains a single, continually updated register of all qualified voters, which is used for federal, state, and local elections. Under section 101 of the Electoral Act, enrollment and voting are compulsory, and Australian citizens must register to vote when they reach the age of 18. To register, the citizen completes and signs a brief form, available at all post offices, has it witnessed and signed by someone already registered to vote, and mails it to the appropriate office. Once registered, changes of address and movement from the electoral roll of one district to another can be done by mail, with no requirement for further witnesses. The registered voter who was the owner of Curacao F. Catt had witnessed and signed Catt's application. The AEC referred the matter to the federal police, but no charges were brought against the owner.

In its submission to the Committee, the AEC, responding to assertions that "it is easier to file a fraudulent electoral enrollment than to hire a video," noted that assertions of large-scale electoral fraud had been made after every federal election since the early 1980s and had never been substantiated. Neither the AEC nor the Federal Court of Disputed Returns, which is a special-purpose court that handles election disputes, had found any evidence for what the AEC Commissioner called "wildly exaggerated allegations of fraudulent conduct." Australia has no national identity card or citizen registry system, and the AEC has reported to the Joint Standing Committee on Electoral Matters that efforts to demand complete proof of the identity of all voters would greatly increase the costs of administering the voter registration system. The AEC suggested that amendments to the Electoral Act increase penalties for fraud and permit upgrading of computer systems to help cross-check registration data. (Parliament of Australia, Joint Standing Committee on Electoral Matters, Media Release, Nov. 14, 2000, http://www.aph.gov.au.house/committee/em/elecroll/index.htm; Australian Electoral Commission, Submission to the Joint Standing Committee on Electoral Matters Inquiry into the Integrity of the Electoral Roll, http://www.aec.gov.au/committee/submissions.htm; "How a Cat Called Catt Got a Vote" *Sydney Morning Herald*, Nov. 16, 2000, http://www.smh.com.au.)
(D. DeGlopper, 7-9831)

LAW AND ORGANIZATIONS--INTERNATIONAL AND REGIONAL

AUSTRALIA/INDONESIA–Legal Cooperation

On October 25, 2000, Australia and Indonesia signed a Memorandum of Understanding on Legal Cooperation. It provides for cooperation in the development of legal institutions and legal skills in the drafting of laws and legal codes, the development of legal policy, including criminal justice policies, good governance, human rights and many fields of commercial law. The Office of the Attorney-General in Canberra, which, along with Indonesia's Department of Justice and Human Rights, will be responsible for operation of the Memorandum, noted that Indonesians comprise the second largest group of foreign students (after

Malaysians) in Australian law schools. Indonesia thus joins a small set of Asian nations--Burma, China, Laos, Vietnam--with which Australia has agreements for training in law and human rights. (Office of the Attorney-General, "Legal Cooperation Agreement Signed with Indonesia", Oct. 25, 2000, http://law.gov.au/aghome/agnews/; "Memorandum of Understanding Between the Government of Australia and the Government of the Republic of Indonesia on Legal Cooperation" http://law.gov.au/aghome/ legalpol/oil/ilc/ englishmou.htm)
(D. DeGlopper, 7-9831)

CHINA/LAOS, CAMBODIA–Joint Statements on Cooperation

On November 12, 2000, China and Laos signed a bilateral cooperation statement; it was issued in Vientiane, the capitol of Laos, by Chinese Vice Premier Qian Qichen and Laotian Deputy Prime Minister Somsavat Lengsavat.

The 13 clauses of the document primarily stress the strengthening of cooperation between the two countries in a number of areas: interaction between party and government departments; exchanges between the foreign ministries; cultural, education, health, and sports exchanges; interaction between the militaries; public security and judicial administration, particularly in the context of a joint effort against smuggling, drug trafficking, and illegal border crossings; maintenance of the mutual border; and economic and trade matters. The statement elaborates on the last category, enumerating intentions to strengthen coordination in trade and technological cooperation, including the improvement of relevant legislation to regulate economic behavior. There will be measures to broaden border trade, to improve cooperation in agriculture and forestry, and to mutually promote tourism.

In addition, the statement has provisions that go beyond the bilateral relationship. It specifies that the two countries will strengthen quadrilateral economic cooperation (China, Laos, Burma, and Thailand), as well as cooperation in the entire Mekong subregion (also including Cambodia and Vietnam). China affirmed its respect for the independence and integrity of Laos, while Laos reiterated its support for the one-China policy. The two countries stated their intention to work together in multilateral forums and to oppose any attempt to establish a "unipolar" world order. Finally, they agreed that the "principle of universality of human rights ought to be put in the context of the national conditions of each country, including its historical background and cultural heritage." (Full text available in Xinhua, Nov. 12, 2000, via FBIS, Nov. 12, 2000.)

Vice Premier Qian then traveled to the Cambodian capital, Phnom Penh, and on November 13, 2000, with Deputy Prime Minister Sar Kheng, issued a joint statement on bilateral cooperation. It covers many of the same topics included in the Sino-Laotian agreement: interaction between government, party, and military offices; strengthened diplomatic consultation mechanisms; expansion of economic and trade relations, including the future establishment of a joint economic and trade commission; cooperation in agriculture, industry, and tourism; cultural, educational, public health, and sports exchanges, and joint efforts to crack down on cross-border organized crime. Cambodia reaffirmed its support of the one-China policy, and China stated its respect for the independence and territorial integrity of Cambodia. The two countries stated their support for the United Nations and for the principle that "no country should be allowed to interfere in the internal affairs of any other sovereign state on whatever excuse." (Full text available in Xinhua, Nov. 13, 2000, via FBIS, Nov. 13, 2000.)
(Constance A. Johnson, 7-9829)

CUBA/VENEZUELA--Oil Assistance Agreement

On October 30, 2000, at the end of a five-day tour of Venezuela, Cuban President Fidel Castro Ruiz signed a five-year oil assistance pact with Venezuelan President Hugo Chavez Frias. The agreement allows Cuba to buy half of its imported oil (53,000 barrels a day) from Venezuela with cash, with up to one-quarter of the remainder under preferential financing terms, depending on the price of a barrel, according to Venezuelan Energy Minister Ali Rodriguez. At current crude oil prices, the agreement is worth at least $500 million annually.

Cuba will also receive additional oil under a barter system through which Cuban doctors will treat Venezuelan medical patients. It will also supply Venezuela with medical equipment, assist in the production of medicine, and provide experts in agriculture, tourism, sports, computer technology, and scientific research. Under the pact, Cuba will have 15 years to pay, with a two-year grace period and a 2% interest rate. (*The Miami Herald*, Oct. 31, 2000, via http://www.herald.com/content/today /docs/071828.htm; *The San Francisco Examiner*, Oct. 30, 2000, via http://eXaminer.com/ap_1/AP_ Venezuela_Castro.html; and *The Washington Post*, Oct. 31, 2000, at A16.)
(Sandra Sawicki, 7-9819)

MEXICO/SINGAPORE--Commercial Relations

Before his term of office ended on December 1, 2000, Mexican President Ernesto Zedillo Ponce de Leon signed a declaration on free trade with representatives of the city-state of Singapore during a three-day visit there in November. Zedillo met with Prime Minister Goh Chok Tong, Senior Minister Lee Kuan Yew, and President S. R. Nathan. It is expected that a formal bilateral agreement on free trade between the two governments will be forthcoming

Prime Minister Goh stated that commercial ties with Mexico will allow inhabitants of Singapore to learn efficient manufacturing methods to be utilized in the production of goods intended for the United States market. Mexico has already signed free trade agreements with 27 nations. The November declaration signifies the first special trade relationship between Mexico and an Asian country. (*CNNenEspanol*, Nov. 12 and 13, 2000, via http://cnnenespanol.com/2000/latin/MEX/11/12/ singapore/index.html, and http://cnnenespanol. com/2000/latin/MEX/11/13/singapore/index.html.)
(Sandra Sawicki, 7-9819)

SINGAPORE /UNITED STATES--Agreement on Cooperation Against Drug Trafficking

On November 3, 2000, the Minister for Foreign Affairs of Singapore, S. Jayakumar, and the U.S. Ambassador to Singapore, Mr. Steven J. Green, signed a mutual legal assistance treaty, the first such treaty entered into by Singapore. The Singapore Parliament passed the Mutual Assistance in Criminal Matters Act earlier this year, setting out the legal basis for Singapore to enter into mutual legal assistance treaties.

The treaty provides a framework for the two countries to cooperate in the fight against drug trafficking. It aims to strengthen the relationship between the law enforcement agencies of the two countries and to increase their ability to assist each other.

Under the treaty, the law enforcement authorities of Singapore and the U.S. will provide assistance to each other in investigations, prosecutions, and related proceedings concerning drug trafficking and drug money laundering offenses. Various forms of assistance will be available, including the taking of testimony from witnesses, release of documents and records, location and identification of persons or evidence, service of documents, execution of requests for search and seizure, and the freezing and forfeiture of proceeds from drug trafficking. (News release issued by the Ministry of Law, Government of

Singapore, Nov. 3, 2000, received via listserv from MITA_News@mita.gov.sg.)
(Mya Saw Shin, 7-9827)

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- Legitimation in Vietnam (LLST-2)

THE WORLD TRADE ORGANIZATION: RECENT DEVELOPMENTS

by Giovanni Salvo, Senior Legal Specialist, Directorate of Legal Research*

DISPUTE SETTLEMENT[1]

Implementation Status of Adopted Reports

The United States and Korea, parties in a dispute concerning anti-dumping duty on random access memory semiconductors of one megabyte or more, notified the Dispute Settlement Body (DSB) on October 20, 2000, of a mutually satisfactory solution to the matter. The solution involves the revocation of the anti-dumping order at issue, as the result of a five-year review by the United States Department of Commerce.[2]

Pursuant to a request by Malaysia alleging failure by the United States to comply with the recommendations and rulings of the DSB in a dispute over import prohibition of shrimp and shrimp products,[3] on October 23, 2000, the DSB referred the matter to the original panel, according to provisions of the Dispute Settlement Understanding. Canada, China, Ecuador, Hong Kong, India, Japan, Mexico, and Thailand reserved third-party rights.

On October 23, 2000, the DSB, granting a request made by the United States, referred the matter of Mexico's final determination on the anti-dumping investigation of high fructose corn syrup to the original panel.[4] The European Communities and Mauritius reserved third-party rights. The parties announced that mutually agreeable procedures related to this matter are being discussed.

The EC requested on October 23, 2000, that the reasonable period of time for implementation of the recommendations of the DSB in the dispute concerning section 110(5) of the US Copyright Act be determined by arbitration. The United States had proposed a time period of 15 months for implementation.

On October 23, 2000, the United States announced its intention to implement the DSB's rulings and recommendations regarding the dispute on the Anti-Dumping Act of 1916, and the US also stated that it would consult with the EC and Japan on a reasonable period of time for implementation.[5]

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1 Http://www.wto.org/wto/dispute/bulletin.htm.

2 *See* WLB WTO Update, WLB00.11, Nov. 2000, at 22.

3 *Id.*

4 *Id.*

5 *Id,* at 23.

Canada assured implementation of the DSB's rulings in the dispute concerning the term of patent protection and announced consultation with the United States over the implementation period.[6]

Panel Reports Appealed

On October 23, 2000, Canada appealed the panel decision in the dispute with the EC over French legislation affecting asbestos and asbestos products.[7]

Thailand appealed the panel decision issued in the dispute over anti-dumping duties on angles, shapes, and sections of iron or non-alloy steel H-beams from Poland.[8]

Active Panels

The DSB established a panel on October 23, 2000, pursuant to a request by Korea regarding safeguard measures imposed by the United States on imports of circular welded carbon quality line pipe from Korea. Canada, EC, Japan, and Mexico reserved third-party rights.[9]

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[6] *Id.*

[7] *Id.*

[8] *Id.*

[9] *Id.* at 24.

RECENT DEVELOPMENTS IN THE EUROPEAN UNION

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

Foreign Sales Corporation Dispute (FSC) between the EU and the US[1]

The income tax exemption granted to US exporters under the foreign sales corporation scheme has been the cause of a dispute between the European Union and the United States since it was introduced in 1984. The European Union has repeatedly requested consultations with the United States and voiced its concerns on the legality of the income tax exemption. The EU claims that the exemption amounts to an export subsidy, which is prohibited under WTO rules. The financial stakes involved are substantial. The subsidy, which is estimated to be worth more than $4 billion annually, benefits all kinds of US companies and products to the detriment of EU companies.

In early 2000, the WTO appellate body held that the income tax exemption is in conflict with the WTO Agreements on Subsidies and Agriculture and called on the United States to withdraw the subsidy by October 1, 2000. In response to this ruling, the US and the EU agreed that any new legislation to replace the old regime must be reviewed by a WTO panel, and the EU reserved the right to request suspension of concessions by November 17, 2000. Meanwhile, the US requested an extension of the October deadline to November 1, 2000, which the WTO granted. A new bill replacing the old law was signed by President Clinton on November 16th.

On November 17th, the EU requested that the WTO impose trade sanctions against the United States in the amount of approximately $4 billion, which is equivalent to the subsidy granted to US exporters under the FSC scheme. Pursuant to the agreement with the US, the EU also requested that the WTO review the compatibility of the new legislation with WTO rules.

Opinion of the European Group on Ethics of Human Stem Cell Research[2]

The European Group on Ethics in Science and New Technologies (EGE), which is an advisory body to the European Commission, the European Parliament, and the Council of Ministers, recently presented its views on human stem cell research in Paris, France, which currently holds the EU presidency. The

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1 Http://europa.eu.int/comm/trade/miti/dispute/fsc_sum.htm.

2 Http://europa.eu.int/rapid/cgi/rapcgi.ksh?p_action.gettxt=gt&doc=IP/00/1293/0/RAPID&lg=EN.

Opinion, titled "Ethical Aspects of Human Stem Cell Research and Use," espouses a cautious approach to the "potential long-term consequences of stem cell research and use for individuals and society." It contains the ethical principles that the EU institutions must follow, such as respect for human dignity, consent of those involved, and justice and proportionality between the methods applied in research and the goals pursued. The Group, while it acknowledges the significance of research on human stem cells, suggests slow steps in this area. In particular, it "considers that, at present, the creation of embryos by somatic cell nuclear transfer (therapeutic cloning) for research on stem cell therapy would be premature, since there is a wide field of research to be carried out with alternative sources of human stem cells: from spare embryos, foetal tissues and adult stem cells."

The Opinion includes the following recommendations:

- allocation of a special Community budget for research, especially on adult stem cells;
- dissemination of results throughout the European Community; and
- carrying out of an ethical assessment of research on stem cells funded by the EU at the initial stage.

It remains within the domain of each Member State to adopt legislation regulating this topic.

Imposition of Countervailing Measures by the US on European Steel Producers[3]

On November 13, 2000, the European Union requested WTO consultations with the United States over the continuation of imposition of countervailing duties by the United States on EU Steel producers. Initially, the US imposed these duties because of subsidies granted to European State steel entities prior to their being privatized. Last May, the WTO Appellate Body found in the British steel case that the privatization of a State-owned firm at fair market value eliminates prior subsidies. Since then, the European Commission has been discussing the issue with US authorities in order to solve any outstanding differences and thus avoid using the WTO dispute settlement mechanism. However, since there have been no encouraging results from the negotiations, the Commission, fully supported by the Member States, decided to go a step further and ask for WTO consultations.

[3] Http://europa.eu.int/rapid/cgi/rapcgi.ksh?p_action.gettxt = gt&doc = IP/001291/0/RAPID&lg = EN.

AUSTRIA: ANONYMOUS SAVINGS ACCOUNTS ABOLISHED

by Edith Palmer, Senior Legal Specialist, Legal Research Directorate*

In response to pressure by the European Union and the Financial Action Task force on Money Laundering (FATF), Austria enacted legislation on June 30, 2000,[1] that is bringing an end to the centuries-old Austrian tradition of anonymous savings passbooks. The new legislation began to be phased in during November 2000, and all privileges of anonymity will have to be lifted by July 2002.

Until the new legislation became effective, an anonymous savings account could be opened at any depository institution by any individual or legally recognized entity simply by asking for a bearer passbook account and by specifying a code word as a means of identifying the bearer as legitimized to make deposits and withdrawals. If the original deposit was less than 200,000 Austrian Schilling [AS] (US$12,335), no proof of identity was needed when the account was opened. Withdrawals or additional deposits could be made by any bearer of the passbook upon disclosure of the code word.[2]

According to statistics of the Austrian National Bank, an estimated 24 million anonymous passbooks existed in Austria in the summer of 2000, and the total deposited in these accounts amounted to approximately AS1650 million (US$100 million). Some 20 million of the accounts had a balance of less than AS100,000 (US$6,670). However, about 3.2 million accounts had balances up to the legal limit of AS500,000 (US$30,835), and 367,577 savings accounts were owned by non-residents.[3]

The European Union and the FATF were concerned that the Austrian anonymous accounts could be used by criminals for money laundering purposes. They viewed the Austrian practice as a major loophole in the Austrian money laundering legislation and as a violation of the internationally agreed upon framework to combat money laundering.[4]

The Austrian government, however, was reluctant to relinquish the anonymous accounts, because they were very popular and more than 62% of all Austrians have one or more passbooks. Until 1993, their main advantage may have been the avoidance of Austrian taxes. From 1993 on, however, a withholding tax

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1 Änderung des Bankwesengesetzes, June30, 2000, BUNDESGESETZBLATT [BGBl., official law gazette for Austria] I no. 33/2000.

2 Bankwesengesetz [BWG], BGBl. No. 1993/532, §§31 and 32, as amended, and as in effect until June 30, 2000.

3 *Österreich nimmt. Abschied vom anonymen Sparbuch,* FRANKFURTER ALLGEMEINE ZEITUNG 34 (Oct. 31, 2000).

4 *Banking: Austria Avoids Suspension from FATF,* EUROPEAN REPORT No. 2510 (June 21, 2000, LEXISNEXIS, NEWS Library).

eliminated the possibility of income tax evasion, and the wealth tax was abolished.[5] Psychologically, the anonymous accounts gave their holders a feeling of liberty. In the Austrian view, the majority of the accounts serve no more sinister purpose than to allow elderly Austrians to avoid the gift tax when giving money to children or younger relatives. However, Austria gave up the fight for the anonymous passbooks when FATF threatened to suspend Austria's membership and bring suit with the Court of the European Union.[6]

The new legislation is being implemented in two phases. As of November 1, 2000, new savings accounts can be opened only after the bank has identified the customer through an identification card (passport or driver's license). New accounts can no longer be listed in the name of an individual other than that of the account-opening customer. If the account is held in a designation other than a personal name, then a code word must be chosen to access the account. Deposits into or transfers to accounts that are still anonymous can be made only if the account owner is properly identified and the account ceases to be anonymous. If the balance in an account exceeds AS200,000 (US$12,335), only the identified owner may withdraw funds.

The withdrawal of funds from existing savings accounts that are still anonymous will remain permissible until June 30, 2002. After that date, withdrawals will require identification, and anonymity will also have to be lifted before any agreements are made to change interest rates or maturity arrangements. In addition, at that time the Austrian money laundering authorities will have to be notified of any accounts in which more than AS200,000 are deposited, and any disposition of such accounts will be subject to a seven-day waiting period to allow for money laundering investigations. Until June 30, 2002, current anonymous passbook holders may avoid the gift tax when giving away funds from these accounts.

The new law did not bring any changes in income tax legislation. Austrian passbook savings continue to be taxed through a 20% withholding tax that had been initiated in 1993. It is not clear yet to what extent the elimination of anonymity will lead to tax proceedings against passbook owners who failed to report their interest as income before 1992. There was talk of an amnesty law for such behavior, but none has yet been enacted.[7]

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[5] Endbesteuerungsgesetz, BGBl. No. 1993/11.

[6] M. Leidig, *Banks Come Clean on Secret Accounts,* SUNDAY BUSINESS at 21 (Oct. 29, 2000), via LEXIS/NEXIS, NEWS Library.

[7] A. Schnauder, *Anonymität: Abschied nun auch von Steuer- Amnestie*, PRESSE-ONLINE ARCHIV, http://www.diepresse.at.

The new legislation does not abolish Austrian bank secrecy, which is constitutionally enshrined in Austrian law[8] and protects the customer against any disclosures by the financial institution except for the narrowly interpreted exceptions authorized by law. Under this system, bank secrecy will be lifted only for purposes such as Austrian criminal investigations and Austrian tax investigations. To what extent foreign requests for mutual assistance are granted depends on the governing extradition treaties in conjunction with Austrian mutual assistance[9] and on banking law. Under this system, probable cause that a crime has been committed and a pre-trial investigation are generally required to lift Austrian bank secrecy.

[8] BWG, §38 has the rank of a constitutional provision, thus requiring a two-thirds majority in the National Council (representative chamber of the Austrian legislature) for any change.

[9] Auslieferungs- und Rechtshilfegesetz, Dec. 4, 1979, BGBl. no. 1979/529, as amended.