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**Extradition to the U.S. Denied: Canada**

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*Russia and the Newly Independent States: Different Approaches to the Dual Citizenship Issue*

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***The WORLD LAW***

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## **AFRICA**

### **ANGOLA--Peace Fund Created**

On February 23, 2001, the Council of Ministers approved a Decree that institutionalizes a Fund for Peace and National Reconciliation and establishes the standards for its application. The Fund was created to help society absorb thousands of civilians and ex-military members who have surrendered to government authorities since the new Amnesty Law was enacted in November 2000 (See WLB 2001.03). The Fund is available to all ex-military members and their descendants, widows of combatants, politicians and others who want to contribute to peace, national reconciliation, stability and development in Angola. Four representatives of the government and two military leaders will comprise a commission to manage the Fund and supervise the process of social reintegration. The Fund will provide beneficiaries with housing, support for professional training, subsidies for business ventures, free medical care, and other assistance. (*Angola News Index*, Feb. 24 and Mar. 8, 2001, via <http://www.angola.org/news/NewsDetails.cfm?NI D= 2552>, and <http://www.angola.org/news/NewsDetails.cfm?NI D= 2677>) (Sandra Sawicki, 79819)

## **AMERICAS**

### **CANADA--Supreme Court Rules Against Extradition**

Two years after it first heard arguments in the case, the Supreme Court of Canada recently ruled that two Canadian citizens cannot be extradited to the State of Washington unless the Minister of Justice is first assured that they will not face the death penalty. The two individuals sought by the State of Washington are accused of committing a brutal triple murder in 1994. The victims were the parents and one disabled sister of one of the accused. The Minister of Justice had ordered their extradition, but that action was blocked in the courts.

The Supreme Court's decision in *U.S. v. Burns* was far broader than most legal experts had expected. In

holding that the extradition order would have deprived the two accused individuals of their rights to liberty and security of the person because their lives would be at risk, the Supreme Court seems to have indicated that any attempt to bring back the death penalty in Canada would be declared unconstitutional. Canada abolished the death penalty in 1974, but the party that is now the Official Opposition has called for its reinstatement.

One reason that legal experts had expected a narrower decision is that the Supreme Court of Canada had approved the extradition of two convicted serial killers in 1991. However, rather than restricting its consideration to the issue of whether the Government could extradite not only foreigners, but also Canadian citizens, the Supreme Court launched into a broad attack on the death penalty. Considerable attention was given to recent disclosures of wrongful or allegedly wrongful convictions for murder in Canada and the United States. Also cited was what was termed the "death row phenomenon." This, according to the unanimous court, is the "psychological trauma to death row inhabitants, *many* of whom may ultimately be shown to be innocent" (emphasis added). The Court even stated that "*many* of those who regard its horrors as self-conflicted concede that it is a relevant consideration" (emphasis added). However, while there are 30 entries under "authors cited," none was prepared by a proponent of capital punishment.

The Supreme Court did not rule that the Government can never extradite an individual without first receiving assurances that the accused will not face the death penalty. Instead, it left the door slightly open by holding that such assurances are constitutionally required in all but exceptional cases. The Supreme Court then concluded that entering a family home and using a baseball bat to fatally bludgeon three people, two of whom were elderly and one of whom was disabled, in order to collect on a life insurance policy did not qualify as an exceptional case. (*U.S. v. Burns*, 2001 S.C.C. 7, Feb. 15, 2001.) (Stephen Clarke, 7-7121)

## **MEXICO--Environmental Regulations**

Before the year 2000 ended, the Mexican government enacted two new regulations under the General Law of Ecological Equilibrium and Environmental Protection that had been promulgated on December 23, 1987.

On November 22, 2000, then President Ernesto Zedillo Ponce de Leon signed a Regulation on Environmental Audits that authorizes exhaustive examinations of equipment and procedures used by companies to determine if they cause contamination of or risks to the environment. It also requires the auditors to propose preventive and corrective measures if needed to conform with current environmental statutes in force in Mexico and with foreign and international standards. (*Diario Oficial*, Nov. 29, 2000.)

The environmental audits will be voluntary. Any party interested in undergoing an environmental audit must write to the Federal Attorney General's Office of Environmental Protection and supply certain required information. Once an audit has been performed, the responsible auditor will release a report that will contain preventive methods to minimize environmental damage, corrective steps, an evaluation of environmental impact, recommendations for training or administrative changes, technical opinions on treatment of wastes, and a plan of action to achieve certification as a "clean industry."

The new Regulation provides for the role of environmental auditors, the process of accreditation they must undergo, their obligations, and their specialties (for example, auditor in contaminated water, auditor in soil or subsoil contamination, and auditor in natural resources, among several categories). If during an environmental audit an imminent danger to environmental equilibrium is detected, the federal environmental protection office will determine the measures that the audited company must take immediately to prevent harm or damage. Any person may complain to the federal environmental protection authority about acts of commission or omission that violate this Regulation.

On November 22, 2000, President Zedillo also approved a Regulation Governing Protected Nature Areas.

It provides for the establishment, administration, management, and uses of these conservation zones. It creates a public National Registry of Protected Nature Areas that will be maintained by the Secretariat of the Environment, Natural Resources, and Fishing. Previous authorization by the Secretariat will be required for collecting samples of wildlife, monitoring species, forestry use, rendering services for tourism, commercial filming or photography, or mineral use and exploration. Supervision of national marine parks will be carried out by the environmental secretariat in coordination with the Secretariat of the Navy. (*Diario Oficial*, Nov. 30, 2000.)

[GLIN] (Sandra Sawicki, 7-9819)

## **VENEZUELA--President Granted Additional Powers**

The National Assembly of Venezuela granted unprecedented powers to President Hugo Chavez Frias on November 7, 2000, when it passed a law enabling him to decree new statutes affecting a range of economic sectors (Law No. 4). The provisions of the law serve as a blueprint for presidential initiatives that will be forthcoming during Chavez' term of office. (*Gaceta Oficial*, Nov. 13, 2000.)

In the financial sector, the president will be allowed to issue decrees to bolster agriculture and small and medium-sized industry, create new banking mechanisms, and reorganize the Superintendency of Banks. He will be able to transform the Venezuelan Investment Fund operated by the Bank of Economic and Social Development that will now act as a financial agent of the State and revitalize the Bank of Foreign Commerce.

Legal treatment of the issues of land ownership and use of land will fall within the President's new powers. New legislation on simplification of procedures and standards for economic cooperatives, protection and strengthening of fishing

communities, and unification and clarification of petroleum legislation will be forthcoming. The National Assembly extended to the president the right to decree exploitation taxes and royalties, in order to guarantee greater tax control and more revenues for the State. National, state, and municipal entities concerned with gas and electricity will be harmonized, and tourism activities will come under greater regulation.

In the transportation sector, the president will be allowed to issue decrees concerning growth and economic support for civil aviation, railroads, and maritime activities. He is empowered to issue decrees that will regulate all activities related to land transportation on public or private thoroughfares.

In the fields of citizen security and administration of justice, the president was given the power to create a Law to Coordinate Citizen Security, that will depend on coordination of the national police and regulation of other agencies involved in criminal investigation. He will also be allowed to create a Law on a National System of Civil Defense.

Promotion of science and technology and all their applications and the organization and operations of the State, including government bidding and contracting, will now fall under the powers of the president for development of pertinent legal instruments.

[GLIN] (Sandra Sawicki, 7-9819)

### **VENEZUELA-Telecommunications Law and Regulations**

The Venezuelan government has enacted an Organic Law of Telecommunications and three related Regulations. On June 12, 2000, the National Legislative Commission released the telecommunications law in order to guarantee the human right to communicate and to carry out economic activities in telecommunications. Excluded from the scope of the Law are the content of transmissions and communications by different telecommunications media, which are governed by constitutional provisions and other laws and regulations.

The general objectives of the Law include defense of users' rights and interests, encouragement of competition among operators of services, promotion of research and development in the sector, and fostering of mechanisms for regional integration. The Law also covers, among others, the rendering of telecommunications services, establishment and use of networks, public administration in the sector, creation of a research and development fund, prices and tariffs, and penalties for violations. (*Gaceta Oficial*, June 12, 2000.)

The three related regulations were issued by President Chavez on November 24, 2000. The Regulation on Interconnection establishes standards to be applied to the interconnected relationships between operators of public telecommunications networks who render services and operators with the National Telecommunications Commission. It sets forth the requirements for the general, economic, and technical information that must be contained in contracts to render services and procedures to establish and revise interconnection contracts. The resolution of conflicts is also treated by the Regulation. (*Gaceta Oficial*, Nov. 24, 2000.)

The Regulation on Administrative Partnerships and Concessions for Use and Exploitation of the Radio Spectrum develops the general procedures under which the Ministry of Infrastructure or the National Telecommunications Commission will award administrative partnerships for the establishment of telecommunications networks and rendering of services and concessions. Several provisions also apply to amateur and citizens' band radio and community service television. The requirements for procedures of public offerings by the telecommunications commission related to the awarding of concessions for band frequencies are set forth. (*Id.*)

The Regulation on Opening Basic Telephone Services establishes the model, requirements, conditions, limitations, and general provisions for opening telephone services, to achieve wide access, free competition, transparency, equal opportunities

among established and new operators, quality and varied services, and protection of consumers. It applies to local, national long distance, and international phone services. (*Id.*)

[GLIN] (Sandra Sawicki, 7-9819)

## ASIA

### CHINA–JV Law Amendments

The National People's Congress (NPC) adopted a decision to amend the Law on Sino-Foreign Equity Joint Ventures on March 15, 2001. The Decision was promulgated and went into force that same day. The joint venture law was originally adopted in July 1979 and was previously revised in April 1990. (Xinhua, Mar. 20, 2001, as translated in FBIS, Mar 20, 2001.) On October 31, 2000, the NPC Standing Committee passed similar amendments to the 1986 Law on Foreign-Funded Enterprises and the 1988 Law on Chinese-Foreign Cooperative Enterprises (*see* WLB 2000.12, p. 6).

The amendment adds wording on labor protection and insurance, a new provision on arbitration of disputes involving joint ventures, and a new article on the organization of trade unions in joint ventures. It does away with provisions that required joint ventures to file their production and operation plans to relevant authorities and to procure materials from within the PRC whenever possible. With deletion of a provision that gave the power of amendment of the Law to the plenary session of the NPC, the power of future revision is transferred to the Standing Committee. According to one NPC deputy, this will make amendment easier and faster. (Xinhua, Mar. 15, 2001, via FBIS, Mar. 15, 2001.) (W. Zeldin, 7-9832)

### CHINA–Internet Commerce Monitoring for Tax Purposes

As part of China's initiative to fight cybercrime, along with the adoption by the national legislature of a Decision on Safeguarding Internet Security (Dec. 28, 2000, *see* WLB2001.02), there is a plan to develop a system to monitor all Internet activities. The

technology would be analogous to the data recording "black box" used on airplanes. (Hong Kong I-Mail, Mar. 20, 2001, via China News Digest, Mar. 23, 2001.) One of the planned usages is to track commercial transactions conducted on the Internet for the purpose of taxation. The head of the State Administration of Taxation, Jin Renqing, stressed the need for a revenue collection tool and said that the system could prevent tax evasion (*China Economic Review*, Mar. 12, 2001, via Lexis/Nexis, Asiapc library.)

Concern has been raised that the system could be used beyond the stated function of collecting evidence against those suspected of crimes, to curb the free flow of information and invade personal privacy. The system would be used by the "Internet police force" of about 1,000 officers, built in the last few years, that now works to combat e-mail crimes, child pornography, cyber-terrorism, and fraud. (China News Digest, *op. cit.*) (Constance A. Johnson, 7-9829)

### MONGOLIA–Constitutional Court Crisis

The Constitutional Court, known as the *Tsets*, was unable to meet in Grand Bench session in March. That session requires the presence of seven to nine members; at the time there were only six members. The Supreme Court had proposed two additional members, but they were turned down by the Parliament.

The Constitutional Court itself is in conflict with the Parliament over a proposed seven-point revision of the Constitution that the Court rejected. The Chairman of the Court, Galdangiin Sovd, stated that under the existing Constitution, the *Tsets* decision should be a final one. Some in the Parliament feel that the Court should be supervised by the legislature, while others argue that such supervision would be a throwback to Soviet-style government. Sovd stated, "Having worked as the first chairman of the Constitutional Court, I knew the procedure of law making. People from different social strata, political forces, herders, monks, and sportsmen, as well as international experts, participated in drafting the Constitution. What I would like to say is that the

legal statehood exists on [a] strong and stable Constitution.” (Mongolian E-Mail Daily News, Mar. 12, 2001, via FBIS, Mar. 13, 2001.) (Constance A. Johnson, 7-9829)

### **TAIWAN--Draft Human Rights Law**

The Ministry of Justice is drafting a law on human rights in 16 chapters and 76 articles. It is expected that the bill, which was formulated to fulfill President Chen Shui-pien’s post election pledges to incorporate certain international human rights documents into the domestic legal system, will be sent to the legislature by May 20, 2001. Since 1971, when the People’s Republic of China replaced the Republic of China (ROC) in the United Nations, the treaties signed by the ROC (on Taiwan) “have been shelved at the Ministry of Foreign Affairs,” carry no legal weight, and “are hardly ever applied in court judgements” (*Taipei Times*, Mar. 12, 2001, via FBIS, Mar. 13, 2001).

The bill covers protection for civil, political, social, economic, and educational rights, as well as protection for special groups such as women, children, the elderly, and Taiwan’s aborigines. It also has specific protections for workers’ rights and military servicemen’s rights. The human rights basic law will take precedence over other domestic legislation in legal application. (*Id.*) (W. Zeldin, 7-9832)

### **VIETNAM--Law on Oil**

Vietnam has recently enacted a new regulation on petroleum. Decree 48/2000-ND-CP of September 12, 2000, was issued to provide detailed guidelines for the implementation of the Law on Petroleum, which was passed by the National Assembly of the Socialist Republic of Vietnam on July 6, 1993, and amended by the Law on Petroleum of June 9, 2000 (hereinafter referred to as Law on Petroleum).

The new Decree has 74 articles divided into nine chapters. It governs all activities relating to the exploration, field development, and production operations of petroleum and other related activities, such as treatment, storage, and transportation of

petroleum. According to the Decree, state and private enterprises, foreign-invested enterprises, foreign organizations and individuals, and overseas Vietnamese are allowed to explore for and produce petroleum on the basis of petroleum contracts with Vietnam Oil and Gas Corporation. This is a State enterprise that is also allowed to explore for petroleum and operate oil production operations in Vietnam in compliance with the Law on Petroleum.

The Decree further defines standards and requirements to be applied in the production of oil, e.g., forms and conditions required in petroleum contracts, and in the protection of the environment, safety measures, and conservation of natural resources of the country. It has provisions on the rights and obligations of organizations and individuals dealing with petroleum, as well as provisions on the tax and finance issues affecting the production of petroleum. (Phuong-Khanh Nguyen, 7-9828)

## **EUROPE**

### **FRANCE--Prosecution of Qadhafi**

On March 13, 2001, the *Cour de Cassation* (the highest judicial court in France) ruled that Libyan leader Muammar Qadhafi cannot be prosecuted in connection with the bombing of a French DC-10 airliner over Niger in 1989 (see WLB 99.10 & 2000.11). The court held that it was against international custom to try a serving head of state in the absence of specific international provisions to the contrary, no matter how serious the crime was. It ordered the investigation closed.

The attorney for the families of the victims stated that the court ruling was part of “the most archaic and reactionary jurisprudence in international law.” He also said that the families of the victims would file a complaint before the European Court of Human Rights to show that they were denied access to justice in order to protect a head of state whose regime practices terrorism. (Http://fr.news.yahoo.com, Mar. 13, 2001.) (Nicole Atwill, 7-2832)

## **ITALY-Adoption**

After being on the books for many years, Law No. 184/1983, the Italian law governing adoption of minors, has been revised in order to make it even more centered around the interest of the minors, to increase their level of participation in the adoption process, and to set the tone for the phasing-out of orphanages by the year 2007. It is hoped that these institutions will be rendered obsolete by the increased number of adoptions that the revised law is designed to encourage and by the placement of the remaining children in so-called family-type houses, rather than in public or private institutions.

In spite of lively debate in Parliament and throughout the country, the opinion of those who hoped to open access to adoption to unmarried couples and single persons did not prevail. This seems to be the reason behind the only abstention in the vote on the new text of the Law which was otherwise unanimously adopted by the Special Senate Committee on children. The title of Law No. 184 is now “the right of the minor to his own family,” rather than “discipline of adoption and of custody of minors,” to underline the new approach.

Under the new provisions, the difference in age between the minor and the adopting parents is changed from 40 to 45 years as the upper limit. Even these limits, however, may be derogated by the Juvenile Court when it ascertains that: a) serious and unavoidable damage will be caused to the minor if the adoption does not take place; b) only one of the adopting parents exceeds the age limit, by no more than 10 years; c) the family already has a natural or adopted child; or d) a brother or a sister of the adoptee has already been adopted by the same family.

Couples that have been married for at least three years uninterruptedly in the last three years before an adoption is undertaken are qualified adopters. However, the Law opens a window for unmarried couples when it states that this prerequisite of stability of the couple’s relationship may be considered by the proceedings court to have been met if the court

ascertains that there is stability and duration in a relationship before marriage.

Following the outline of Law No. 184, all aspects of the adoption process leading to pre-adoptive entrustment and subsequently to adoption are regulated in detail. The Law establishes the right of minors to active participation in the process. It prohibits the separation of brothers and sisters when they all meet the conditions for adoption and protects the privacy of information pertaining to the adoptee, but provides for the disclosure of information in cases of medical or clinical needs of the minor. The child’s right to be informed of his or her condition and origin is clearly stated. Once adopted children have reached the age of 25, they are entitled to access any information pertaining to their origin and biological parents.

Two years from the date the new provisions enter into force and every three years thereafter, the Minister of Justice and the Minister for Social Solidarity, in cooperation with the National Conference of Regions and Provinces, will report to Parliament on the implementation of the Law. To further facilitate implementation, a database will be set up at the Ministry of Justice no later than 180 days from the Law’s entry into force, to collect all the pertinent information on adoptable minors and couples aspiring to national or international adoption. ([Http://www.parlamento.it](http://www.parlamento.it)) (Giovanni Salvo, 7-9856)

## **ITALY--Protective Measures Against Domestic Violence**

According to the World Health Organization, at least one out of five women suffers physical or sexual abuse by a man during her lifetime, and abusers are found, most commonly, within the family, or among known individuals such as neighbors, coworkers, and schoolmates. (*La Repubblica*, Apr. 3, 1998). In Italy, as in many other countries, provisions of the Penal Code and of more modern ad hoc legislation deal with physical and sexual violence against women and children. However, in order to add a new system of preventive protection for these subjects at risk, the



Italian Parliament introduced measures to deal with domestic violence through a law approved on March 7, 2001. Both the government coalition and the opposition unanimously support this legislation as “a strong signal of civility” aimed at the protection of the physical and moral integrity of spouses and children, who are often victims of abuses that are never reported. (*La Repubblica*, Mar. 7, 2001.)

The novelty of this legislation, which amends the Code of Penal Procedure as well as the Civil Code and the Code of Civil Procedure by inserting in them new pertinent provisions, consists of offering a third option—separation—in addition to the penal approach and the civil approach.

Under the new provisions, which apply to both married and unmarried couples, the offending partner may be ordered by a judge to leave the family house for an established period of time as a protective measure and to return only if authorized by the judge. In addition, the judge may order offenders not to approach places usually frequented by their victims, such as the residence of their family of origin, the residences of close relatives, and work premises.

When deemed necessary, the judge has the authority to impose payment of a support allowance in favor of the other partner; legitimate, natural, and adoptive minor children; as well as non-self-sufficient children who have come of age. The judge also has the option of ordering the offender’s employer to pay the amount corresponding to the allowance directly to the subjects entitled to it. It is worth noting that under the provisions inserted in the Civil Code, the existence of a serious situation of family tension, as evaluated by the judge, may be sufficient to impose the new protective measures.

The Law grants the judge wide authority in the handling of domestic violence cases and empowers him or her to order an assessment of personal and family income and financial assets, with the assistance of the financial police when appropriate, to request the intervention of social services and a center for family mediation, or to order the intervention of the police. The Law imposes penal sanctions for violation of the protective orders and

provides for appeal against the decisions of the judge. It further establishes that its provisions may also apply to members of the family other than the couple themselves.

([Http://www.parlamento.it](http://www.parlamento.it))  
(Giovanni Salvo, 7-9856)

### **LITHUANIA--New Law on the Central Bank**

A new law adopted by the Lithuanian Parliament, the *Seimas*, on March 9, 2001, brings the national bank’s policies closer in line with the European Central Bank as Lithuania aspires to join the European Union. The Law provides the Central Bank more independence in shaping its monetary policy, the focus of which is changed to keeping inflation in control rather than keeping the *lita* (national currency unit) stable against the dollar. Furthermore, relations between the Central Bank and the Government are clarified. Following the European Union’s requirements, the Law states, “When implementing the goals set by this law and carrying out its functions...the Bank of Lithuania is independent from state institutions and enterprises of the Lithuanian Republic, as well as other companies, enterprises, or organizations.” With the view that after EU membership the country will eventually adopt the *euro*, the Law changes the *lita*’s peg from the dollar to the *euro*; however, the date and procedures for re-pegging the currency are to be announced in July 2001. The most likely date for the switch over is in the beginning of 2002. (*Intercon Daily Report*, Mar. 13, 2001, at [http:// www.securities.co.uk.](http://www.securities.co.uk))  
(Peter Roudik, 7-9861)

### **THE NETHERLANDS--Internet Consultation on Copyright Law**

With the arrival of new media and the Internet, copyright law is under pressure. Makers, performers, and producers of creative material, such as books, movies, computer programs, animation, music, and paintings, face constant violations of their rights and have to be protected against the illegal use of their creative material. The application of copyright laws in the digital world (internet, cd-rom, dvd) raises many

complicated and important legal questions. In the first part of this year, the European Union is expected to adopt a Directive on copyright and the electronic highway that will contain important new rules. The Netherlands will have to transform these rules into national law. The Department of Justice is going to make this new legislation with the assistance of the Internet, a so-called consultative approach.

Via a website, anyone can participate in the discussion about the new copyright rules. The website will contain information on applicable national and international regulations and about the policy conducted by the Government to date. The reactions of interest groups will also be placed on the site, so that everyone can assess the different issues that are at stake. Based on this discussion, a proposal of law will be formulated. This proposal will be presented to the "Internet community" before it is presented to the Council of Ministers. As soon as the first phase of the consultation process is finished, the draft law will be placed on the site. The site will be arranged so that anyone can give an opinion. Subsequently, a proposal of law will be made to be heard in the Council of Ministers, and after advice is received from the Council of State, it will go to Parliament for approval. (Press Release, Ministry of Justice, Mar. 8, 2001, <http://www.minjus.nl/auteurswet/persber/index.htm>) (Karel Wennink, 7-9864)

### **RUSSIAN FEDERATION--Cloning Registration**

The Government of the Russian Federation issued a regulation introducing state registration of all cloned organisms. Clones that do not exert now and will not exert in the future any adverse influence upon the environment will be registered. In order to determine the biological safety of the cell, plant, or animal, a special analysis will be conducted by scientists. The registration certificate will be issued only if the cloned organism is considered safe. Certificates are issued for a period of five years and can be extended for the same term. However, the registration may be repealed if a negative impact on

the environment is discovered. (*Sobranie Zakonodatelstva Rossiiskoi Federatsii* [Russian official gazette] No. 7, 2001, Item 469.) (Peter Roudik, 7-9861)

### **RUSSIAN FEDERATION--Merger of Regions Permitted**

The State *Duma* (lower house of the legislature) adopted a law making it possible for any of the 89 constituent components of the Russian Federation to merge with another component. The law fills the existing gap in Russian legislation in spelling out the procedure for changing the number of components, a right that is guaranteed by the Russian Constitution. Under the law, any merger would be voluntary and would have to be approved by residents of the regions by means of referendum. Only then can the President of Russia ask the State *Duma* to consider a change in the regional administrative structure, which would have to be approved by both houses of Parliament with a two-thirds majority. It is expected that the complicated procedure for carrying out mergers offers a guarantee that there will be no forced integration. The new law is aimed at the resolution of conflicts in several regions where there are autonomous districts, which are counted among the 89 constituent components and are at the same time equal to the region and a part of it. (*The Moscow Times*, Feb. 28, 2001, at <http://www.themoscowtimes.ru>) (Peter Roudik, 7-9861)

### **SWITZERLAND--Reproductive medicine**

A Federal Act on Human Reproductive Medicine entered into force on January 1, 2001 (*Bundesblatt* 1998 5714). The Act purports to protect human dignity and the family and to forestall the abusive application of genetic technology. This Swiss law is reputed to be the most restrictive in Europe in terms of prohibiting embryo research.

Reproductive technologies such as artificial insemination and in vitro fertilization are governed by the guiding principle of the welfare of the child. The couples seeking such procedures must be counseled and informed of the potential risks of the procedure, as well as of its legal and financial aspects. In addition, they must be suitable parents in terms of age, marital relationship, and personal circumstances.

Sperm donors must be chosen according to health criteria, and the sperm cells of one donor may not be used more often than for the creation of eight children. Sperm donors may not receive any compensation. They are, however, protected by law from paternity suits. Sperm can be donated only to married couples and sperm, gametes, and eggs may not be used after the death of the person from whom they originate. The donation of embryos and eggs as well as surrogate motherhood are prohibited.

In vitro fertilization is permitted solely for the purpose of inducing pregnancy. In each treatment cycle, only three embryos may be created to avoid the creation of unused embryos. The storage of embryos is prohibited, as is the genetic testing of embryos prior to implantation. The abusive creation of embryos and their development beyond the point at which they can be implanted are prohibited. Also prohibited are cloning and genetic alterations of sperm and embryos.

The Act foresees implementation through two regulations that are still being drafted. One of these will provide for an extensive licensing and monitoring system to ensure compliance with the restrictions of the Act. The other regulation will create an ethics commission to monitor scientific developments and give advice to the Swiss medical profession.  
(Edith Palmer, 7-9860)

### **UNITED KINGDOM--House of Lords Report Advocates Use of Cannabis-based Medicines**

The House of Lords Select Committee on Science and Technology has again produced a report urging the government to change the law to allow doctors to legally prescribe cannabis derivatives as soon as they are scientifically approved. A similar finding by the Committee in 1998 was rejected by the government.

The Committee recently published a ten-page report on the progress made in producing a legitimate medicine from cannabis. The Medical Research Council has commissioned two trials to establish the principle that pain can be relieved by cannabis-derived medicine. Further, a pharmaceutical concern is embarking on large-scale trials of cannabis-derived treatments. The report notes that the government previously had a closed mind on the issue, but its attitude had lately become more encouraging to the development. The debate on the legalization of cannabis should maintain a clear distinction between therapeutic and non-therapeutic use, and the minister concerned shares the view of the Committee that, were the law relaxed on therapeutic use, the government's hand in suppressing illegal, recreational use would be strengthened, the Report stated.

In another development relating to cannabis, the Home Office has announced plans to remove the "stigma" attached to the thousands of offenders who have been given police cautions for possession of cannabis. Under the proposal, the offenders may no longer be required to declare the offense to prospective employers. The requirement is seen as an anomaly that could affect a person for life, while convictions following a trial could become spent after a period of rehabilitation. Under the plan, cautions given by the police for cannabis possession would be immediately treated as expunged. A legislative change is to be introduced sometime in 2001.  
(House of Lords, Select Committee on Science

and Technology, Second Report, *Therapeutic Uses of Cannabis*, Mar. 14, 2001; Sarah Boseley, "Lords Urge Legal Use of Cannabis," *The Guardian*, Mar. 22, 2001; *Straw Relaxes Law on Cannabis Possession*, <http://www.ananova.com>, Feb. 8, 2001)  
(Kersi B. Shroff, 7-7850)

### **UNITED KINGDOM--Regulator Faults British Banks' Handling of Nigerian Funds**

A three-month investigation by the Financial Services Authority (FSA) focusing on anti-money laundering controls of 23 banks holding accounts linked to General Sami Abacha, the former President of Nigeria, has found that 15 of the banks had "significant control weaknesses." Without naming the banks, the FSA has ordered seven of them to rectify the problems discovered during the investigation, with a strict deadline for compliance.

The investigation identified 42 personal and corporate accounts linked to Abacha family members and close associates. The total turnover of the accounts amounted to \$1.3 billion between 1996 and 2000. According to the FSA, although the turnover does not represent the proceeds of crime, approximately 98% of it went to through the 15 banks that had the following deficiencies:

- inadequate oversight by senior management over the accounts opening process by "high risk" customers;
- weaknesses in verification of the identity of beneficial owners of companies;
- over reliance on introductions by existing customers;
- inadequate understanding of the source of the customers' wealth;
- failure to follow guidelines on reporting suspicious transactions; and
- weaknesses in record retention and retrieval.

The FSA has established a Task Force to implement the remedial action to be undertaken by the seven banks. Law enforcement authorities responsible for money laundering laws are also being consulted, and the FSA is participating with

key international regulators in developing guidelines for handling accounts of high profile political figures.

The FSA, a recently enhanced supra regulatory authority over the British financial sector, is due to obtain statutory authority over money laundering, presently residing with other authorities, when the Financial Services and Markets Act 2000 comes into force later this year. Under the Banking Act 1987, the FSA cannot identify the individual banks concerned. However, under the 2000 Act it will be able to publicize the outcome of disciplinary proceedings.

The Nigerian Government has sought help from Britain in recovering some of the \$1.3 billion. The Home Office, however, has refused to order the freezing of the accounts until Nigeria supplies information concerning criminal proceedings in Nigeria against the son of the former President. ("FSA Publishes Results of Money Laundering Investigation," FSA/PN/029/2001, Mar. 8, 2001 <http://www.fsa.gov.uk>; "City Banks 'Handled Dictator's Fortune'," *Financial Times*, Mar. 9, 2001). (Kersi B. Shroff, 7-7850)

### **NEAR EAST**

#### **ISRAEL--Free Education for Sick Children**

The Knesset (Israel's Parliament) passed a law on January 1, 2001, providing for free education for sick children. The law states that the Minister of Education, in consultation with the Knesset Committee for Education and Culture, will develop a program for the provision of education to children hospitalized or staying at home for a period exceeding 21 days on doctor's advice and to children with chronic diseases. The program will be based on the needs of the children, their physical restrictions, and their educational program prior to their illness.

The education will be provided either at home, with the parents' consent, or in the hospital if (s)he is hospitalized. Hospital administrators are

under an obligation to enable the construction and operation of an educational system, including the allocation of a suitable location in the hospital, for this purpose. (Free Education for Sick Children, 5761-2001,

[http://www.knesset.gov.il/logical/law/1773/1773\\_1.html](http://www.knesset.gov.il/logical/law/1773/1773_1.html))

(Ruth Levush, 7-9847)

## **SOUTH PACIFIC**

### **AUSTRALIA--Charity, Church, and State**

The government of Australia is currently conducting an inquiry into definitions of charity and not-for-profit organizations in existing law and administrative practice. The inquiry is relevant to on-going discussions of church-state relations. The Inquiry Committee, operating from offices in the Department of the Treasury, is charged with examining the common law definitions of a charity, a public benevolent institution, and a religious organization, and considering their applicability in the current social and economic environment. The terms of reference of the inquiry note that the concepts of charity, religious organization, and community service organization are used in legislation and regulations to determine tax-exempt status and the tax-deductibility of donations from individuals and corporations. The terms of reference also speak of a range of activities and purposes, and use the terms "core activities" and "secondary purposes." They give "lobbying on behalf of disadvantaged client groups" as an example of an activity that would not, in isolation, be defined as charitable, religious, or community service.

In recent years the federal government has begun to contract with religious charities to provide various welfare benefits, and the new arrangements have raised questions of government oversight of such charities and of the extent to which charities accepting government funding are acting "as an arm of government." On May 1, 1998, the government closed down the Commonwealth Employment Service, which attempted to match the unemployed

with jobs and to counsel unemployed workers.

It was replaced by the Job Network, an array of over 200 organizations that bid for government contracts and were expected to provide better service to the unemployed at less cost to the government. Many of the groups winning contracts were religious charities, whose use of volunteer and religious personnel permitted lower salary costs and lower bids. In the December 1999 award of contracts, four religious bodies, the Salvation Army, the Catholic Centacare, Mission Australia, and Wesley Uniting Employment, won contracts worth over A\$700 million (about US\$350 million) and joined such bodies as the St. Vincent de Paul Society as major recipients of government funds.

In the initial stage of the contracts, some Members of Parliament and the judiciary questioned the propriety and indeed the legality of religious charities advertising for staff to work on the government contracts and making demonstrated membership in their or some other Christian church a condition of employment. More recently, spokesmen for religious groups have spoken out against what they see as attempts to define them only as service providers and agents of the government. In November 2000, Mr. Pat O'Flynn, President of the St. Vincent de Paul Society, said that his Society was not "an arm of government" and engaged in a public debate with the Minister of Employment over the Society's qualifications for issuing a report on the structure and causes of poverty. More recently, representatives of various non-governmental organizations concerned with welfare matters have expressed concern that the Inquiry might lead to legislation that could be used to deny tax-exempt status to charities that engage in advocacy or criticize government policy. (Commonwealth of Australia, Charities Definition Inquiry, <http://www.cdi.gov.au>; "Aust. Welfare Group St. Vinnies Defends Stance in Welfare Debate," Australian Associated Press, Nov. 13, 2000, via LEXIS/NEXIS; "Charities To Be Seen But Not Heard?" *Sydney Morning Herald*, Feb. 26, 2001, <http://www.smh.com.au>) (D. DeGlopper, 7-9831)

## **AUSTRALIA--Parliamentary Call To Consolidate Environmental Laws**

Parliament's Standing Committee on Environment has published a lengthy report calling for an integrated approach, including new federal and state legislation, to the threat of severe environmental degradation of the country's interior river systems. Land-clearing and excessive irrigation have led to high water tables, increased salinity, soil acidification, declining food production, threats to agricultural export earnings, and increased costs to local governments for road and other infrastructure repairs. Some interior creeks draining into the Murray-Darling river system are now twice as salty as seawater, and 60% of the city of Wagga Wagga is at risk from the high saline water table, which undermines building foundations and roads, invades the public water supply, and kills all vegetation. The stretch of highway between Wagga and Gundagai, which is also the main highway linking Sydney and Melbourne, requires immediate and expensive repair.

The Committee's report identifies reversing this accelerating environmental degradation as Australia's "most pressing policy issue," and concludes with a list of 26 recommendations for government action. The causes of the problem have been understood for many years, but effective action has been hampered, according to Chapter Three of the Report, "Improved Administration," by divided and unclear authority, reluctance of governments at all levels to assume the burden of paying to repair the damage already done, and tendencies toward cost-shifting and failure to accept responsibility by all the various actors in the system. Recommendation 2 is that the government fund a study by the Australian Law Reform Commission to examine options for a national body of law to deal with ecologically sustainable use of land, through consolidating Commonwealth (federal) laws, consolidating state and territory laws, and integrating laws at all levels into a consistent body. The Law Reform Commission will be asked to examine the feasibility of enacting a single piece of legislation to apply to all aspects of ecologically sustainable use of rivers and lands.

All the recommendations, including that for an environmental levy to be imposed for at least 25 years, reflect a broad bipartisan consensus that is not found on most other issues before the Parliament. A range of recent reports by scientific and conservation bodies, such as the Australian Conservation Council's *State of the Environment 2000*, highlight the necessity of government action to ensure a sustainable agriculture on a continent that already has rather more desert than most of the population requires and where agricultural practices imported from far more humid lands promote further desertification. (Parliament of Australia, House of Representatives, Standing Committee on Environment, Recreation and the Arts, *Co-Ordinating Catchment Management -Inquiry into Catchment Management* (Feb. 2001), at <http://www.aph.gov.au/house/committee/enviro/cminq/cmirtpt/contents/htm>

"Land Clearing and Salinity Greatest Threat to Country," *The Sydney Morning Herald*, Feb. 23, 2001, <http://www.smh.com>) (D. DeGlopper, 7-9831)

## **INTERNATIONAL LAW & ORGANIZATIONS**

### **CHINA/UNITED NATIONS--Rights Convention Ratified**

On February 28, 2001, the Standing Committee of the National People's Congress approved the International Covenant on Economic, Social and Cultural Rights. China signed the Covenant in 1997; it was adopted by the United Nations on December 26, 1996. A Standing Committee statement issued after the ratification says that "the Chinese Government will assume the obligations prescribed in Item 1(a) of Article Eight of the convention in line with the relevant provisions of China's Constitution, Trade Union Law and Labour Law." However, China also stated reservations in regard to that Item, which addresses the right to establish free trade unions.

Implementation of the article must be in line with China's laws, under which only the government-backed All China Federation of Trade Unions is recognized as a national workers' body. (Hong Kong, AFP, Mar. 1, 2001, via FBIS, Mar. 1, 2001.) The Chinese statement also declares that the signing of the Convention by Taiwan in 1967 in the name of China is "illegal and ineffective." ("PRC NPC Standing Committee Ratifies Covenant on Economic, Social and Cultural Rights," Xinhua, Feb. 27, 2001.)

The ratification followed by one day the issuance of a response to the United States State Department Country Reports on Human Rights, which contained an extensive discussion of the violations in China. The Chinese response was critical of human rights conditions in the U.S. This is the second time China has issued a counterattack after the release of the annual U.S. report, taking the U.S. to task for commenting on problems in other countries without discussing abuses at home and including statements on what China called arbitrary interference in the human rights issues of other countries. (CND-Global, Mar. 2, 2001.) (W. Zeldin, 7-9832, & C. Johnson, 7-9829)

### **COUNCIL OF EUROPE--Protocol Against Cloning of Human Beings Entered Into Force**

The additional Protocol to the Convention on Human Rights and Dignity of the Human Being with Regard to the Application of Biology and Medicine, on the Prohibition of Cloning of Human Beings, which was opened to signature on January 12, 1998, entered into force on March 1, 2001, after the required five States, including four Member States, expressed their wish to be bound by the Protocol.

While cloning of cells and tissue is a technique that is considered very important in biomedicine and does not seem to infringe upon ethics, the Protocol considers cloning of human beings as violating human dignity and posing a real threat to the individual. The scope of this Protocol is precisely the prohibition of cloning of human beings, that is, the creation of "a human being genetically identical to another human being, whether living or dead."

"Human being" is not defined in the Protocol, but is left to domestic legislation for definition. The Protocol does define the term "genetically identical" as a human being who shares with another "the same nuclear gene set." The Protocol does not allow any derogations from its provisions. (Protocol available at, <http://conventions.coe.int/treaty/en/Reports/Html/168htm>) (Theresa Papademetriou, 7-9857)

### **TAIWAN/UNITED STATES--Customs Accord**

On March 7, 2001, the Executive Yuan of the Republic of China (on Taiwan) ratified a customs cooperation agreement with the United States. Representatives of the two sides signed the accord on January 19, 2001, and it went into effect the same day. Under its terms, customs authorities in Taiwan and the U.S. will enhance cooperation and mutual assistance to ensure lawful collection of taxes, speed up customs clearance, crack down on smuggling, and strengthen professional information exchange. The agreement can become void if either side gives three months' notice of its intention to nullify it. (Taipei Central News Agency, Mar. 7, 2001, via FBIS, Mar. 7, 2001.) (W. Zeldin, 7-9832)

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Better Regulation Task Force. *REGULATING CYBERSPACE: BETTER REGULATION FOR E-COMMERCE*. London:

Cabinet Office Publications & Publicity Team, Dec. 2000. 31 pp.

The goal of the task force was to examine whether there were any regulatory barriers preventing businesses and consumers in the United Kingdom from participating fully in e-commerce. The report compares the existing framework of regulations to a set of principles of good regulation and makes recommendations that stress making access to information about the regulatory structure easier, consulting businesses, delivering government services electronically, and protecting consumer rights.

Coleman, Stephen, *ed.* *ELECTIONS IN THE AGE OF THE INTERNET: LESSONS FROM THE UNITED STATES*. London: Hansard Society, undated. 46 pp.

This report is by an independent body with the stated goal of promoting more effective parliamentary democracy. The document has two purposes, to examine ways in which the Internet was effectively used in the 2000 election in the United States and to outline the lessons of that election for the upcoming general elections in the United Kingdom. It examines how the Internet was used by campaign offices as well as its impact on election reporting. Although there are fewer Internet users in the U.K. than in the U.S. at present, the study notes, their high rates of participation in elections make the Internet important to candidates in both countries.

Comptroller & Auditor General. *INLAND REVENUE PETROLEUM REVENUE TAX*. London: National Audit Office. HC 5. Session 2000-2001. Dec. 14, 2000. 50 pp.

The oil and gas industry predicts that the United Kingdom reserves of the two resources will sustain production until after the year 2010, making a substantial contribution to the economy. Petroleum revenue tax has produced almost £42 billion since 1975; this report examines how the Oil Taxation Office manages the risks related to this taxation, particularly the risk of underestimating the volume of production. It concludes that the Office has managed the risks well, that cooperation with the Department of Trade and Industry's Metering Inspectorate should be developed, and that the existing clear reporting lines from the Oil Taxation Office to the senior management of Inland Revenue should be further improved.

Comptroller & Auditor General. *TACKLING OBESITY IN ENGLAND*. London: National Audit Office. HC 220. Session 2000-2001. Feb. 15, 2001. 66 pp.

Prepared for the House of Commons, this report discusses the problem of increasing obesity in England. Whereas in 1980, 8% of women and 6% of men were considered obese, by 1998 the figures were 21% of women and 17% of men. The report points out that obesity contributes to the onset of disease and to premature death and has a financial impact on the country through the cost of

treatment provided by the National Health Service and through the loss of productivity. The report considers the impact of obesity and makes recommendations for public health efforts to stop the trend towards increased obesity through improvements in diet and promotion of physical activity.

Davey, Edward, MP. MAKING MPS WORK FOR OUR MONEY: REFORMING PARLIAMENT'S ROLE IN BUDGET

SCRUTINY. London: Centre for Reform, Dec. 2000. Paper No. 19. 48 pp.

Written by an MP, this paper is an examination of the role of the House of Commons in relation to the Government in the budget process. It includes a list of ten proposals: 1) creation of an office of the taxpayer, to provide independent advice to Parliament on tax and spending proposals, to be headed by a "Taxpayer's Investigator General"; 2) revision of the budget process in parliament; 3) introduction of a budget information bill that would ensure that Members had sufficient data; 4) establishment of the responsibility of the Accounting Standards Board for setting accounting standards in the public sector and eventual use of EU and OECD standards; 5) introduction of independent audits by the National Audit Office; 6) subjection of all expenditures to the new audit process; 7) strengthening of the Public Accounts Committee; 8) systematic audits of progress on recommendations by the National Audit Office and the Public Accounts Committee; 9) reform of the finance bill process, separating technical tax items from political and revenue issues and requiring a cost analysis of tax bills; and 10) creation of a new Lords Select Committee for Tax Simplification that would review all parliamentary Acts and EU Directives on taxation, in order to recommend simplifications.

Home Office. CRIMINAL JUSTICE SYSTEM ANNUAL REPORT 1999-2000. Feb. 2001. 31 pp.

This annual report for the criminal justice system as a whole in England and Wales describes accomplishments since the publication of the first Strategic and Business Plan for the Criminal Justice System in March 1999. It states that good progress has been made in establishing crime reduction programs, getting extra resources to the police for recruitment of new officers, speeding up the progress of cases in the court, setting race equality employment targets for the police, prisons, and probation services, setting up a Legal Services Commission for criminal defense, and establishing reviews of the criminal courts and the sentencing framework.

House of Commons. THE BSE INQUIRY: VOLUME 1-FINDINGS AND CONCLUSIONS. London: The Stationery Office, Oct. 2000. 887-1. 308 pp. Minister of Agriculture, Fisheries, and Food. THE INTERIM RESPONSE TO THE REPORT OF THE BSE INQUIRY. London: The Stationery Office, Feb. 2001. Cm. 5049. 102 pp.

The first item is the initial volume of a 16-volume inquiry into the history of the emergence and identification of BSE (Bovine Spongiform Encephalopathy) and the human form, vCJD, in the United Kingdom, and the actions taken in response to the information. Among other findings, the report concludes that BSE has been linked to fatal disease in humans, causing more than 80 deaths in the U.K., that the livestock industry has been severely impacted, that the epidemic developed as a consequence of intensive farming practices, and that some government officials did not adequately identify the risk to the public.

The second item is the Government's response to the BSE report. It is divided into chapters on the report itself, on the current state of the epidemic in the U.K., on the care packages provided for victims of vCJD, on the Government's approach to obtaining scientific advice, on the commitment of the Food Standards Agency to putting information in the public domain, on the management and communication of risk, on openness in government in general, on the legislative framework for dealing with hazards like BSE, and on issues on which input is sought.

House of Commons. Foreign Affairs Committee. HUMAN RIGHTS ANNUAL REPORT 2000. London: House of Commons, 2001. HC79. 28 pp.

This document is a report of oral evidence from the Foreign and Commonwealth Office taken following the release of the July 2000 Human Rights Annual Report. For the Report itself and this document, a theme-based structure, rather than a country-by-country consideration, has been used. The Committee has, however, recommended inclusion of information by country in future annual human rights reports, covering all countries where there are significant grounds for concern about human rights. Other recommendations include future inclusion in the Report of a breakdown of expenditures through key human rights funds; explanations of the Government's policies and actions, including such things as suspension of trade agreements when based on human rights violations; and consideration of the issues of forced marriage, slavery, and bonded labor in the Indian sub-continent, and citizenship education. In addition, the Committee recommends that the Government ensure that the International Criminal Court Bill become law and that it take steps to show opposition to the death penalty use in the United States.

House of Commons. Home Affairs Committee. DRUGS AND THE LAW: GOVERNMENT RESPONSE TO THE POLICE FOUNDATION'S INDEPENDENT INQUIRY INTO THE MISUSE OF DRUGS ACT 1971. London: The Stationery Office, Feb. 2001. 20 pp.

This report is a response by the Home Office to the March 2000 report *Drugs and the Law*, produced by the independent Police Foundation, chaired by Dame Ruth Runciman. That report had stated that eliminating drug use was not a practical goal and that public policy should be aimed at controlling and limiting the demand for and supply of illegal drugs to minimize the damage caused by their use. It also called for a reclassification of drug offenses, so that simple possession of cannabis would no longer make a person subject to arrest and imprisonment, but merely to warnings and fines. In addition, the Foundation recommended that the cultivation of a small number of plants for personal use be treated separately from the criminal offense of production of cannabis and that supply and possession for medical purposes be legal. The Government in its response rejected these proposals, among 37 recommendations it rejected, while accepting 24 recommendations and referring 20 others for further study. An analysis of the response by the Parliamentary Resources Unit is also available.

House of Lords. Select Committee on Science and Technology. COMPLEMENTARY AND ALTERNATIVE MEDICINE. HL Paper 123. London: The Stationery Office, Nov. 2000. 140 pp.

The increasing, widespread use of complementary and alternative medicine in the developed world raises significant issues of public health, including how such medicine is regulated to protect the public, whether evidence on safety and effectiveness is available, and what kind of training is provided to practitioners. This report evaluates a large number of complementary and alternative medicine approaches and divides them into three categories: those for which there is some scientific evidence of their usefulness and a structure of treatment and training for practitioners (includes

acupuncture, chiropractic, and osteopathy ; for herbal medicines and homeopathy there is only anecdotal evidence); those for which there is no evidence of effectiveness, but since they are used as an adjunct rather than to replace conventional medicine, are of less concern (includes Alexander technique, aroma therapy, flower remedies, massage, counseling to reduce stress, hypnotherapy, meditation, reflexology, shiatzu, healing– including laying on of hands, nutritional medicine, and yoga); and those that offer diagnosis and treatment but for which there is almost no scientific evidence of effectiveness (methods stressing “natural healing forces,” “mind-body-spirit interaction,” Chinese herbal medicines, Eastern medicine stressing “wholeness and balance,” naturopathy involving diet, herbs, and sunlight, and traditional Chinese medicine combining herbs, acupuncture, massage, and exercise). The report is harsh on the last group, stating that the techniques cannot be supported.

Millwood-Hargrave, Andrea. DELETE EXPLETIVES? London: Advertising Standards Authority, British Broadcasting Corporation, Broadcasting Standards Commission, & Independent Television Commission, Dec. 2000. 60 pp.

This report describes a study designed to test people’s attitudes to swearing and offensive language and determine if context affected those attitudes—looking at views on language use in everyday life, in television programs, and in advertising. The overwhelming majority felt that the current practice of avoiding “strong” language in advertising was appropriate, even for ads aired later than 9 p.m. For programming, most felt that prior to 9 p.m., such language should be avoided in broadcasts since children might be exposed to the usage.

Secretary of State for Health & Home Secretary. REFORMING THE MENTAL HEALTH ACT—PART I: THE NEW LEGAL FRAMEWORK. Cm. 5016-I. London: The Stationery Office, Dec. 2000. 62 pp.

The Government has plans for new mental health legislation to improve the quality and consistency of health and social care for those with mental health problems and also to provide a new structure for the application of compulsory powers of detention for assessment and treatment for the small number who pose a serious threat to the safety of others. This part of the report describes the new legislation that is planned, discussing the extra investment in services and the need to establish new standards of treatment. A separate report will discuss the specific arrangements for high-risk patients.

Secretary of State for International Development. ELIMINATING WORLD POVERTY: MAKING GLOBALISATION WORK FOR THE POOR. Cm. 5006. London: Stationery Office, Dec. 2000. 107 pp.

This white paper on international development analyzes the nature of globalization and states U.K. policy commitments to make the changed economy work for the poorest of the world’s people. The Government will work on a broad range of issues, including health, education, trade barrier reduction, and giving developing countries a greater voice in economic decisions.

Secretary of State for Trade and Industry. WORK & PARENTS: COMPETITIVENESS AND CHOICE, A GREEN PAPER. Cm. 5005. London: The Stationery Office, Dec. 2000. 84 pp.



Recognizing that working parents face a difficult daily routine, juggling work and family life, this paper outlines existing supports for parents at the time of a child's birth and in general in the workplace and seeks input from the public on which kinds of changes would benefit families and businesses alike.

## **THE WORLD TRADE ORGANIZATION: RECENT DEVELOPMENTS**

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

### **DISPUTE SETTLEMENT<sup>1</sup>**

#### *Implementation Status of Adopted Reports*

Due to a persistent disagreement on whether Brazil has complied with the August 20, 1999, and August 4, 2000, rulings and recommendations of the Dispute Settlement Board (DSB) in the dispute with Canada over export financing programs for aircraft, Canada requested that the DSB refer the matter to the original panel, according to the provisions of the Dispute Settlement Understanding (DSU). On February 16, 2001, Canada's request was granted. The European Communities (EC) reserved third-party rights.<sup>2</sup>

In disputes initiated by the United States and New Zealand concerning Canadian measures affecting the importation of milk and the exportation of dairy products,<sup>3</sup> the parties involved had reached an agreement over the implementation period for Canada and had subsequently extended the period for implementation to January 31, 2001. On February 16, 2001, however, the United States and New Zealand requested that the DSB refer the matter of implementation to the original panel, according to DSU provisions. They also requested authorization to suspend the application to Canada of tariff concessions and related obligations under GATT 1994, each covering trade in the amount of US\$35 million on an annual basis.

In the dispute between the United States and the EC over section 110(5) of the U.S. Copyright Act, at the request of the EC, the arbitrator, whose award was circulated on January 15, 2001, determined that the reasonable period of time for the United States to implement the recommendations and rulings of the DSB is twelve months from the date of adoption of the panel report.<sup>4</sup>

#### *Appellate and Panel Reports Adopted*

The DSB adopted reports issued in disputes over the following matters:

- import measures imposed by the United States on certain products from the European Communities—report adopted January 19, 2001;
- anti-dumping measures adopted by the United States on stainless steel plate in coils and stainless steel sheet and strip metal from Korea—report adopted February 1, 2001;

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<sup>1</sup> [Http://www.wto.org/wto/dispute/bulletin.htm](http://www.wto.org/wto/dispute/bulletin.htm)

<sup>2</sup> See WLB WTO Update, WLB01.01, Jan. 2001, at 17.

<sup>3</sup> See WLB WTO Update, WLB00.01, Jan. 2000, at 19.

<sup>4</sup> See WLB WTO Update, WLB00.09, Sept. 2000, at 22.

- measures taken by Argentina concerning the export of bovine hides and the import of finished leather, against the European Communities—report adopted February 16, 2001.

### *Panel Report Appealed*

On January 31, 2001, the United States appealed the decision issued by the panel in the dispute concerning United States safeguard measures on imports of fresh, chilled, or frozen lamb from New Zealand and of lamb meat from Australia. The panel examined the complaints jointly.<sup>5</sup>

### *Active Panel*

A panel was established by the DSB on February 1, 2001, to examine the complaint by the United States against Brazil over measures affecting patent protection.<sup>6</sup> Cuba, the Dominican Republic, Honduras, India, and Japan reserved third-party rights.

### *Pending Consultations*

The following complaints were recently filed by:

- Argentina--over a provisional safeguard measure on imports of mixed edible oils adopted by the Chilean authorities on January 11, 2001;
- the EC--against the United States, concerning U.S. anti-dumping duties on imports of seamless line and pressure pipe from Italy;
- Brazil--concerning provisions of the U.S. Patent Code, in particular those of Chapter 18(38)--“Patent Rights in Inventions Made with Federal Assistance”;
- The United States--over European Communities tariff-rate quota on corn gluten feed;
- Brazil--against Canada, over export credit and loan guarantees for regional aircraft; and
- Canada--concerning section 129(c)(1) of the US Uruguay Round Agreements Act.

In the disputes between the United States and Belgium on the administration of Belgian measures establishing customs duties for rice, and between Chile and Argentina on the Chilean price band system and safeguard measures relating to certain agricultural products, the DSB deferred the establishment of panels previously requested by the United States and by Argentina, respectively.

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<sup>5</sup> See WLB WTO Update, WLB01.02, Feb. 2001, at 16.

<sup>6</sup> *Id.*

## **RECENT DEVELOPMENTS IN THE EUROPEAN UNION**

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

### **Aiming at a Single Energy Market by 2005<sup>1</sup>**

Across the Atlantic from the United States, where the state of California is currently experiencing a tremendous energy crisis, the European Union is working towards creating an effective, secure, and competitive energy market for the benefit of consumers by fully liberalizing the gas and electricity markets by the year 2005. On March 13, 2001, the European Commission came up with a number of proposals designed to stimulate fair competition in the energy market and to create a single gas and electricity market. According to Loyola de Palacio, Vice President of Energy and Transport, these measures “constitute a decisive step towards providing the people of Europe with the most advanced and integrated electricity and gas system, offering the best guarantees of security of supply and consumer protection; they will bring real benefits in terms of competition, prices and competitiveness.”

The proposals aim to achieve the following three goals:

1. Full liberalization of the gas and electricity markets for all consumers throughout the European Union. All existing directives will be amended according to the following timetable:

2003: freedom of all non-domestic customers to select their own electricity supplier;

2004: freedom of all non-domestic customers to choose their own gas supplier;

2005: all consumers, without exception, should be able to choose their gas and electricity suppliers.

In order to achieve this goal, the Commission suggests the following key measures: a) management of gas and electricity transmission grids will be legally separate and independent from production and sales activities; b) network access tariffs will be established and will have to be published and approved by national regulators before they become effective; and c) each Member State will have its own regulator. Regulators will enjoy a status independent of government. In general, they will be responsible for ensuring non-discriminatory access to competition and establishing tariffs and conditions for access to the gas and electricity transmission grids.

2. Best guarantees to EU consumers in the gas and electricity markets.

The Commission's strategy is to ensure two major guarantees to EU consumers: a) security of supply and affordability of energy supply and b) a universal right to energy. In regard to the first guarantee, Member States and the Commission will be required to constantly monitor the balance between supply and demand. Moreover, should it be necessary, Members will have to resort to public tenders for the creation of new electricity and gas production capacity. In regard to the universal right to energy, the proposals will require Member States to take action to: a) guarantee a secure supply for all citizens; b) protect special

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<sup>1</sup> [http://europa.eu.int/rapid/cgi/rapcgi.ksh?p\\_action.gettxt=gt&doc=IP/01/356/0/RAPID&lg=EN](http://europa.eu.int/rapid/cgi/rapcgi.ksh?p_action.gettxt=gt&doc=IP/01/356/0/RAPID&lg=EN)

segments of the population, such as the elderly and the disabled; and c) safeguard the rights of consumers by ensuring transparency on prices, affordable and clear procedures to handle consumer complaints and by making certain that contracts on energy supply are governed by strict rules.

### 3. Consolidation of 15 open national markets into a truly single European gas and electricity market.

In order to achieve the ultimate goal of one truly internal market, the Commission proposed the following measures:

- adoption of a regulation on cross-border tariffs;
- development of a European infrastructure plan for electricity and gas; and
- negotiation of reciprocal electricity agreements with EU neighbors.

### **European Union and United Nations Agreement Signed<sup>2</sup>**

On March 15, 2001, the European Union and the United Nations signed an agreement on the Third United Nations Conference on the Least Developed Countries. The Conference, which will take place from May 14-20, 2001, will be hosted by the European Union in Brussels. Both parties expressed their commitment to cooperate and make the conference a success for these countries. The European Union has already committed itself to open its markets fully, with the exception of trade in firearms, to the least developed countries and has prepared an Action Plan to fight the spread of transmissible diseases. The EU also has special Partnership Agreements, which include preferential treatment, with 40 of the 49 LDC's that comprise the African-Caribbean-Pacific Group (ACP countries).

### **Draft Directive on Third-Country Nationals<sup>3</sup>**

Immigration issues concerning third-country nationals are high on the European Commission's agenda. Currently, third-country nationals who hold a legal residence permit may move freely within the Schengen area for a maximum of three months, to work or study in another Member State. In order to facilitate their integration, the Commission has come up with two legislative measures. The first was a Directive on family reunification, which is under discussion by the Council. The second measure, which was recently proposed, is a draft directive on the status of third-country nationals who are long-term residents. The Directive applies to economic migrants and recognized refugees but not to asylum applicants, temporary workers, and others. Third-country nationals may apply for long-term status in the Member State where they reside legally if they meet the following criteria: a) residence for an uninterrupted period of five years; b) possession of minimum level of resources; and c) not being a danger to public order or domestic security. Those meeting the legal requirements will be issued ten-year residence permits that will be renewed automatically upon expiration.

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<sup>2</sup> [Http://europa.eu.int/rapid/cgi/rapcgi.ksh?p\\_action.gettxt=gt&doc=IP/01/369/0/RAPID&lg=EN](http://europa.eu.int/rapid/cgi/rapcgi.ksh?p_action.gettxt=gt&doc=IP/01/369/0/RAPID&lg=EN)

<sup>3</sup> [Http://europa.eu.int/rapid/cgi/rapcgi.ksh?p\\_action.gettxt=gt&doc=IP/01/375/0/RAPID&lg=EN](http://europa.eu.int/rapid/cgi/rapcgi.ksh?p_action.gettxt=gt&doc=IP/01/375/0/RAPID&lg=EN)

### **Accession Partnership with Turkey<sup>4</sup>**

On March 8, 2001, the European Union adopted an Accession Partnership with Turkey. Turkey was designated as one of the candidate countries by the Helsinki European Council in December 1999. The Accession Partnership aims to establish the priority areas in which Turkey must make substantial commitments. Specifically, Turkey must undertake a number of reforms in order to meet the political and economic criteria established at the 1993 Copenhagen Council. The Copenhagen political criteria include constitutional guarantees, abolition of the death penalty, human rights, protection of minority rights, democratic governance, the rule of law, and a stable market economy. In the economic field, the Accession Partnership will encourage Turkey to restructure its economy. The next step on the path to full membership is the adoption by Turkey of the National Program for the Adoption of the Acquis Communautaire (NPAA), that is, the existing body of Community law.

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<sup>4</sup> [http://europa.eu.int/rapid/cgi/rapcgi/ksh.?p\\_action.gettxt=gt&doc=IP/01/332/0/RAPID&lg=EN](http://europa.eu.int/rapid/cgi/rapcgi/ksh.?p_action.gettxt=gt&doc=IP/01/332/0/RAPID&lg=EN)

**RUSSIA AND THE NEWLY INDEPENDENT STATES: DIFFERENT  
APPROACHES TO THE DUAL CITIZENSHIP ISSUE**  
by Peter Roudik, Legal Specialist, Eastern Law Division\*

*The recognition of dual citizenship is an important feature of Russian legislation that takes into account international practice and the fact that millions of Russians are living outside of Russia. Analysis of this complicated legal, social, and political institution may help to define different approaches to the issue of dual citizenship, which is considered by some to be a source of conflict and a serious threat to the traditional values of society and by others to be a desirable means of providing expatriate citizens the opportunity to pursue a potentially more comfortable life abroad.*

The issue of dual citizenship, which traditionally becomes acute when a multinational empire breaks down, is a growing reality for contemporary Russia and other former Soviet republics. The possibility of obtaining dual citizenship was introduced in Russia by the Law on Citizenship of the Russian Federation in 1991,<sup>1</sup> but since then dual citizenship has been strongly criticized by lawyers and state officials because the hope of Russian authorities that other CIS countries would follow Russia's lead has not been realized. None of those countries has simplified the procedure for obtaining passports for foreign citizens, and none has permitted the granting of dual citizenship to the same degree as Moscow. The change in attitude towards dual citizenship on the part of Russian authorities is exemplified by a recent comment made by the Chairman of the Commission on Citizenship Issues under the President of the Russian Federation. He declared that "the State is not interested in active use of the opportunity by Russian citizens to obtain the citizenship of another state. The existence of this institution was impossible before because of the need to monitor political views and behavior of the citizens; now it is undesirable because of the goal of achieving political stability."<sup>2</sup>

### **Legal Basis of Dual Citizenship**

In the former Union of Soviet Socialist Republics (USSR), dual citizenship was not recognized, and the current Russian Constitution does not provide for an unconditional right to dual citizenship. The major principle of Russian citizenship policy is that Russian citizens are not generally permitted to be citizens of another state. The Government of the Russian Federation alone decides whether its citizens can possess the citizenship of another State. Article 3.2 of the Citizenship Law states that a citizen of the Russian Federation may, upon application, be permitted to simultaneously hold citizenship of another State if it is a State that has an appropriate treaty with the Russian Federation. This article stipulates three requirements that are mandatory for obtaining dual citizenship. They are:

- application by a citizen to Russian authorities;

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<sup>1</sup> VEDOMOSTI SIEZDA NARODNIH DEPUTATOV [former official gazette, Ved.], No. 6, 1992, Item 243.

<sup>2</sup> O.E. Kutafin, *Dvoinoe Grazhdanstvo - ne Dvoinoe Dno* [Dual Citizenship Is Not a Double Bottom], ROSSIISKIE VESTI, Nov. 15, 2000.

- permission of specially authorized government authorities; and
- reception of citizenship of only those countries with which Russia has a treaty that provides for the possibility of dual citizenship and that resolves other related questions, such as fulfillment of military duty and payment of taxes.

The provision requires gaining government permission on a case-by-case basis to obtain a second citizenship or to keep it if it was obtained without the participation of Russian authorities. If a second citizenship was acquired without prior approval, the person shall inform the authorized governmental bodies and receive their approval to hold the citizenship of the foreign State. The recognition of dual citizenship is based on the fact of its establishment, e.g., relocation to a foreign state and acceptance of its citizenship. Russian authorities explain the requirement of having an appropriate bilateral treaty as being motivated by two necessities: to protect Russian national interests in the territory of that State and to simplify the search for an individual and submission of claims in cases when the person's obligations toward Russia are not fulfilled. In order to avoid the double burden put on the State by dual citizenship, the Russian Federation specifies the fulfillment of civic duties by those who hold dual citizenship. The Constitution and the Citizenship Law emphasize that citizens of Russia who also have another citizenship may not on that basis be limited in rights, exempt from performing duties, or freed from the obligations that flow from Russian citizenship. Those who obtained dual citizenship without official permission from Russian authorities are considered to be exclusively Russian citizens, and no rights based on foreign citizenship will be implemented in Russia.

According to the Russian Constitution, constituent republics comprising the Russian Federation are considered to be full-fledged States with the right to grant their own citizenship. In 1998, Tatarstan was one of the first republics within the Russian Federation to adopt a State citizenship law. This law states that dual citizenship is mandatory for residents of the Republic. Dual citizenship includes citizenship of Tatarstan and of the Russian Federation. Initially, Tatar lawmakers proposed giving Tatarstan citizens the right to renounce Russian citizenship, but the provision was strongly opposed by the federal authorities, and after intervention by Council of Europe experts, it was removed from the text of the law. Later, other constituent republics adopted similar legislation.

### **International Agreements on Dual Citizenship**

Concerning the recognition of Russian citizenship in foreign countries, in 1993 the Russian Federation and the State of Israel signed the Treaty on Mutual Recognition of Dual Citizenship. According to the Treaty, Russians emigrating to Israel can retain their Russian citizenship unless they officially renounce it, even though they may obtain Israeli citizenship shortly after arrival in the country. At present, Israel is the only state outside the CIS permitting its own citizens to hold Russian citizenship.<sup>3</sup> On July 27, 1999, Russia and Poland signed an inter-governmental protocol canceling a 1965 convention on prevention of double citizenship in the Soviet Union and the People's Republic of Poland. Under the new rules, Russians living in Poland and Poles living in Russia are eligible for double naturalization; however, the protocol does not provide for full recognition of dual citizenship of citizens of the contracting states.<sup>4</sup>

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<sup>3</sup> SOBRANIE ZAKONODATELSTVA ROSSIISKOI FEDERATSII [Russian official gazette, SZ RF] 1994, No. 9, Item 1020.

<sup>4</sup> SZ RF, 2000, No. 14, Item 1515.



The issue of dual citizenship is mixed with the principle of residency, which is the basis for resolution of such problems as payment of taxes, military service, or prosecution of criminals. The ratification of almost 20 bilateral agreements on avoidance of double taxation was postponed in the Russian State Duma because the parliamentarians were concerned about the problem of taxation of persons having dual citizenship and demanded that a rule on taxation of such persons be introduced into the agreements.<sup>5</sup>

Among the former Soviet states, Russia has signed treaties on dual citizenship only with Turkmenistan, where roughly 50,000 Russian-speaking citizens live, and Tajikistan, where less than a quarter of the original 280,000 Russian-speaking population remains today.<sup>6</sup> The leadership elites in the CIS countries and in the Baltics are very suspicious of the institution of dual citizenship, seeing in it a threat to their own new statehood insofar as it serves as an avenue of political pressure on Russia's part. Among the population and certain representatives of the bureaucracy in these States, it is commonly suspected, furthermore, that dual citizens are behind various types of illegal dealings—for example, obtaining double pensions, double pay, or other double benefits, a phenomenon that may not necessarily occur in world practice and cannot occur in Russia if only because of the country's serious economic difficulties.<sup>7</sup> Persons who hold dual citizenship are also suspected of attempts to avoid fulfillment of their civic duties, such as military service or payment of taxes, even though there are elaborate mechanisms for the resolution of these problems.

After the introduction of the visa regime between Russia and Georgia, Georgia was forced to take radical steps on behalf of its half million citizens who are currently living and working in Russia to provide financial support to their relatives in Georgia. According to President Shevardnadze of Georgia, in connection with the introduction of the visa regime, Tbilisi is now discussing the question of dual citizenship. Dual citizenship is prohibited by the Constitution of Georgia, and it is expected that a proposal from authorities to change the Fundamental Law will be strongly opposed by those who consider that multinational Georgia would then be doomed not just to political and economic Russification, but also to Azerbaijanization, Armenianization, and so forth.<sup>8</sup>

### **The Russian Diaspora and the Issue of Dual Citizenship**

According to the Russian Government, the problem of dual citizenship is especially important to the 25 to 35 million ethnic Russians living in the former Soviet republics, even though Russian citizenship means tense relations for them with the authorities and little hope for Russian support in extreme situations. The Russian Law on Citizenship allows these Russians to acquire Russian citizenship by way of registration if, as of February 6, 1992 (the date of entry into force of the Law), they permanently resided in the territory

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<sup>5</sup> *Duma Debate Over Double Taxation*, SEGODNYA, Jan. 18, 1997. FBIS Document ID: FTS19970118001011.

<sup>6</sup> BIULLETEN MEZHDUNARODNIKH DOGOVOROV [Bulletin of International Treaties, official gazette for international agreements concluded by the Russian Federation], 1996, No. 6.

<sup>7</sup> *Citizenship Law Implementation Problems*, NEZAVISIMAIA GAZETA (Moscow), Feb. 28, 1996. FBIS Document ID: FTS19960228000014.

<sup>8</sup> M. Vignansky, *Georgias' Reaction to Visa Regime With Russia Reported*, SEGODNYA, Dec. 6, 2000. FBIS Document ID: CEP20001206000232.

of the Russian Federation or in other republics directly a part of the former USSR as of September 1, 1991, and if by December 31, 2000, they expressed their desire to acquire citizenship.<sup>9</sup>

At present, the selection of Russian citizenship by ethnic Russians usually means relocation to the Russian Federation because of the enormous difficulties such persons encounter even in the countries that do not have discriminatory citizenship legislation. In a number of newly independent states, certain rights are denied to non-citizens. They are prohibited from working in particular professional fields, their right to property is subject to numerous complications, and some travel restrictions exist in regard to those who are permanent residents.<sup>10</sup> The conclusion of agreements on dual citizenship with the newly independent states might be a solution for Russian-speaking minorities in the former Soviet republics; however, the laws of the majority of these states (e.g. Azerbaijan, the Baltic states, Kyrgyzstan, Moldova) directly prohibit dual citizenship. Thus, any treaty concluded on the issue would most likely be an agreement on prevention of dual citizenship. At present, Russia is negotiating the conclusion of agreements on dual citizenship with Georgia and Uzbekistan. Turkmenistan and Tajikistan, as noted above, are the two exceptions that have concluded agreements with Russia and recognize dual citizenship. Discussions on dual citizenship are traditionally included in the agenda of all summits of the CIS heads of states and heads of governments. Ongoing negotiations give the Russian Government a certain degree of control over the issue and allow a simulation of the resolution of the problem through continuing discussion of the applicability of dual citizenship to Russian legal, political, and social conditions, without actual implementation of this institution.<sup>11</sup>

Despite the fact that Russia claims that its approach to the dual citizenship issue reflects Russia's interest in a just resolution of the problems of Russians living abroad and preservation of historically established connections, other former Soviet countries consider Russian attempts to introduce dual citizenship to be an effort to increase Russian political pressure and renew imperialistic expansion.<sup>12</sup> The Russian authorities' practice of issuing Russian passports to those ethnic Russians living in the Baltic states who are accused of having committed war crimes in these countries during World War II appears to some to be evidence confirming the imperialist trend. Because under national laws, accused war criminals who hold dual citizenship will be stripped of that country's citizenship, Russia uses this method to enable former Communist activists to avoid prosecution.

### **Dual Citizenship in the Commonwealth of Independent States**

Since 1996, the Russian Presidential Commission on Citizenship Issues has promoted the concept of dual citizenship as a means to solve the problem of the non-native populations within CIS countries and associate CIS members. It is hoped that dual citizenship might be a way of guaranteeing for non-native citizens all rights granted to the citizens of the CIS in their place of permanent residency, as well as the right to travel to the native country without visas and customs duties, the right to maintain contacts with relatives living abroad, and eligibility for free medical care and education during sojourns in the native place. Dual

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<sup>9</sup> *Supra* note 1, art. 18.E.

<sup>10</sup> U.S. Department of State, *Country Report on Human Rights Practices-2000*, at <http://www.state.gov/g/drl/rls/hrrpt/2000>

<sup>11</sup> M.A. Kozhanova, *Ob Administrativnih Zakonah Rossii* [On Russian Administrative Laws], in: PROBLEMY TEORII PRAVA [Problems of Legal Theory] 194 (Moscow, 2000).

<sup>12</sup> Zh. Zayonchkovskaya, *MIGRATSIONNIE SVIAZI ROSSII* [Migration Connections of Russia] 23 (Moscow, 1994).

citizenship would make employment, entrepreneurship, and possession of property in the country of origin easier for natives who have moved to another State. They would also have the right to move back to the native State at any time, thereby affording them more freedom of choice and better social protection. The proposal to introduce dual citizenship in the CIS is even more significant at present because, since March 1, 2001, according to new amendments to the Russian Citizenship Law, individuals who have only Soviet passports and who have arrived in the Russian Federation from former Soviet republics are to be considered stateless and must seek residence permits and undergo naturalization procedures.<sup>13</sup>

The proposal for dual citizenship in the CIS, which, according to its authors, takes into account international experience and current realities,<sup>14</sup> was sent to the foreign ministries of the former Soviet states. Treaties with Turkmenistan and Tajikistan were used as examples of successful resolutions of the problem. The proposal suggested that a gradual approach be taken and that bilateral agreements on the legal status of Russian citizens permanently residing in the territory of another state and of citizens of that state permanently residing in the territory of Russia be concluded if countries were still not ready to recognize dual citizenship and conclude a treaty to that effect.

Some of the former Soviet republics and Russia have concluded agreements on protection of rights of compatriots. For example, on January 20, 1995, Russia and Kazakhstan agreed on a simplified procedure for acquisition of citizenship by citizens of the Republic of Kazakhstan arriving in Russia for permanent residency and Russian citizens arriving in Kazakhstan for the same purpose. Simultaneously, Kazakhstan and Russia signed the Treaty on the Legal Status of Citizens of the Republic of Kazakhstan and the Russian Federation Permanently Residing in the Territory of the Other Contracting Party.<sup>15</sup> Even though these treaties simplify relocation from one country to the other for purposes of permanent residency, they do not solve all the problems of those Russians who have decided to live permanently outside of Russia. The understanding of the necessity of the creation of a unified legal space, including the standardization of citizen's rights, is reflected in the Integration Treaty, which was signed by the Presidents of Belarus, Kazakhstan, Kyrgyzstan, and Russia in 1998.<sup>16</sup>

### **Union Citizenship for the Russia-Belarus Union**

In 1997, the Union of Belarus and Russia was established. The Charter of the Belarus and Russia Union of May 23, 1997, provides for Union citizenship. Every citizen of the Russian Federation and every citizen of the Republic of Belarus is simultaneously a citizen of the Union (art. 2).<sup>17</sup> Union citizenship does not substitute for national citizenship and is not the equivalent of dual citizenship, but is aimed at equalizing the legal status of citizens of all member countries. Russian and Belarus citizenship is not incorporated into Union citizenship. Dual citizenship is prohibited under the laws of the Republic of Belarus. According to the Union Charter, a citizen of either country is simultaneously a subject of the relationships that develop

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<sup>13</sup> ROSSIISKAIA GAZETA [Official newspaper of the Russian Government], Jan. 23, 2001.

<sup>14</sup> A. Militaev, *Vopros o Dvoimom Grazhdanstve Reashaetsa* [The Dual Citizenship Problem Is To Be Solved], NEZAVISIMAIA GAZETA, Mar. 30, 1996.

<sup>15</sup> ROSSIISKAIA GAZETA, Dec. 18, 1996.

<sup>16</sup> SZ RF, 1998, No. 50, Item 4863.

<sup>17</sup> ROSSIISKAIA GAZETA, May 24, 1997.

within the established Union. Each member country of the Union provides the citizens of the other member with protection equal to that to which its own citizens are entitled.

Russian politicians see the introduction of Union citizenship as a prerequisite for the gradual transfer to single citizenship, which will help to avoid the strange situation whereby citizens of one of the member states are considered to be foreigners in the territory of another member state.<sup>18</sup> Union citizenship will not diminish rights that are already granted to the holders of national citizenships and does not release them from the fulfillment of their duties. Citizens of the Union acquire the following additional rights and duties related to Union citizenship:

- the right to move freely within the territory of the Union and to select a place of permanent residency in the Republic of Belarus or the Russian Federation in accordance with the rules established by these states in regard to particular localities;
- the right to protection by diplomatic or consular institutions of the member state equal to that of the citizens of this state when in the territory of a third state where there is no representation of the state where an individual is a citizen;
- the right to participate in the affairs of the Union; and
- the right to own, use, and dispose of property in the territory of another member state on equal footing with the citizens of that state.

According to the Charter, citizens of the Union can vote and be elected to the local self-government of either state, regardless of permanent residency or citizenship. However, they may not vote or be elected to the central state power bodies of the state or of the Union if such bodies are outside of the electoral district where they registered their permanent residency. This restriction violates the right of the citizen to participate in the Union's affairs and makes the implementation of political rights of Union citizens inconsistent.

Recently, leaders of Armenia and Moldova declared their intention to extend Union citizenship to their countries as the first step toward joining the Union.

### **Dual Citizenship and State Service**

Since Russian legislators have yet to resolve the issue of dual citizenship, the question of how to regulate the access of people with dual citizenship to professional activity in the state agencies of the Russian Federation is also unresolved. There is no mechanism for official recognition of a Russian citizen's second citizenship. Consequently, there are no obstacles to occupying any state positions, including the position of the President, for a person who holds the citizenship of another state. The Law on Election of the Russian Federation President requires the contenders to disclose any dual citizenship, as well as some other information, in order to be registered by the Central Electoral Commission as the candidate. The Law does not preclude a person who holds dual citizenship from running for President of Russia.<sup>19</sup> This legal gap became obvious just recently when a citizen of the Russian Federation who is simultaneously a citizen of the State of Israel occupied the position of Deputy Secretary of the RF Security Council, a position founded to directly guarantee the execution of the powers of the head of the Russian state. The new draft of the Law on the Security Council, which was introduced in the State Duma on February 5, 2001, specifies, among other requirements, that permanent members of the

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<sup>18</sup> DUMSKII VESTNIK [Bulletin of the State Duma Hearings], 1997, No. 5.

<sup>19</sup> SZ RF, 2000, No. 1, Item 11.

National Security Council, the most powerful advisory body to the Russian President, cannot have dual citizenship.

Following numerous recent spy scandals in Russia and the growing trend to extend state control over Russian citizens, parliamentary deputies said that “dual citizenship is a channel for pumping information out of Russia,” and proposed new legislation that will limit access to the nation’s secrets and state positions for persons with dual citizenship and introduce punishment for the illegal acquisition of dual citizenship. There have been instances in which Russians have become nationals of countries with which Russia has no dual citizenship agreement.<sup>20</sup>

### **Administrative Resolution of the Problem**

The issue of dual citizenship affects a large proportion of the CIS population regardless of their nationality. Because of serious difficulties in obtaining employment and residence in Russia, ethnic Russians abroad are leaning toward obtaining citizenship of the countries where they permanently live, rather than dual citizenship, which is not appreciated in their new countries. Simultaneously, dual citizenship attracts native people of less developed foreign countries because of the possibility of immigrating to Russia where living conditions are relatively better. Intensive legislative activity on regulating the migration<sup>21</sup> shows that Russian authorities understand the importance of the situation of uncontrolled migration.

Under these circumstances, the introduction of dual citizenship is viewed as a tool to strengthen connections between Russia and ethnic Russians living abroad and stabilize their legal status in the countries where they reside. This problem became an item in Russian foreign policy because of discrimination against ethnic Russians in the newly independent states of the former Soviet Union,<sup>22</sup> which was followed by a wave of migration of ethnic Russians into Russia. Since 1990, the Russian population in Tajikistan has decreased four-fold, and in Kyrgyzstan, Russian emigration increased from 2,200 people in 1989 to almost 180,000 last year, with an increase of over 50% from 1999 to 2000 alone. Some 25,000 more Russians have submitted emigration requests to the Russian embassy but have not yet left Kyrgyzstan. Half a million Russians, most of them qualified professionals, are believed to have left Kyrgyzstan since 1992.<sup>23</sup> Simultaneously, Russian officials claim that dual citizenship can be the solution to legal problems for ten million people native to other former Soviet republics currently residing in Russia.<sup>24</sup>

Prominent Russian public figures actively insist on the creation of a special institution in charge of implementing the policy toward Russian compatriots living abroad. It is suggested that the body should have the status of a state committee or a federal agency. In order to involve Russian compatriots in more

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<sup>20</sup> Russian Nationalist Calls For Secrets To Be Guarded More Carefully, Moscow Interfax, Nov. 17, 2000. FBIS Document ID: CEP20001117000338.

<sup>21</sup> See Decree of the RF President on Federal Migration Service of the Russian Federation of June 14, 1992; the RF Government Regulation on Issues of Federal Migration Policy of Mar. 1, 1993; Decree of the RF President on Measures of Immigration Control, Decree of the RF President on Foreign Employees in the Russian Federation of Dec. 16, 1993; The RF Government Resolution on Regulating the Entry and Stay on Russian Territory of Foreign Citizens and Stateless Persons of Mar. 29, 1994. ROSSIISKAIA GAZETA, Oct. 1, Mar. 20, 1992; Dec. 30, 1993; Apr. 9, 1994.

<sup>22</sup> Concept of the Foreign Policy of the Russian Federation. ROSSIISKAIA GAZETA, Jul. 11, 2000.

<sup>23</sup> Radio Free Europe/Radio Liberty Newline, Vol. 5, No. 42, Mar. 1, 2001.

<sup>24</sup> S. Panarin. *Russkie v Blizhnem Zarubezhye* [Russians in the Near Abroad], ROSSIISKAIA GAZETA, Feb. 19, 1999.

active participation in Russian social, political, and economic life, it has been proposed that all Russian citizens living abroad be combined into a unified electoral district with representation in the Russian legislature and that a Council of the Compatriots be created at the Russian Federation State Duma. In February 2001, in a report to the State Council, an advisory body to the President of Russia consisting of the Governors, the Mayor of Moscow strongly criticized the authorities for their policy, which provides neither support for nor cooperation with the compatriots. In the fiscal year 2000, the federal budget allotted only 2.5 rubles (\$0.08) for each of the 20 million ethnic Russians living in the former Soviet republics. In response to the public demand, on February 24, 2001, the President of Russia issued a Decree ordering establishment of foreign representation offices of the Russian Federal Ministry of National and Migrational Policy in Armenia, Kyrgyzstan, Latvia, Tajikistan, and Turkmenistan.<sup>25</sup> These offices will protect Russian interests in the sphere of migration, notably the rights of migrants and will assist in the implementation of international treaties on migration to which Russia is a party.

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<sup>25</sup> ROSSIISKAIA GAZETA, Feb. 28, 2001.