



# WORLD LAW BULLETIN

August 2003

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The Netherlands**  
**EU MEMBERSHIP– Cyprus, Czech Republic**  
**IRRESPONSIBLE DRIVING – France**  
**PROSTITUTION REFORM– New Zealand**  
**RIGHT TO HEALTH PROTECTION– Mexico**

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## AFRICA

### **NIGERIA– Corrupt Practices Act**

The Corrupt Practices and Other Related Offences Act, 2000 prohibits and prescribes punishment for corrupt practices and other related offenses in Nigeria. The Act has established an independent commission to investigate and prosecute graft and other incidents of corrupt practices. It also contains provisions on the trial of such individuals. Provision has also been made to secure immunity for anyone who supplies information to the commission concerning matters covered by the Act. (87:64 *Federal Republic of Nigeria Official Gazette* A63-A97 (Sept. 5, 2000), recently received in the Law Library of Congress collection).

(Charles Mwalimu, 7-0637)

## AMERICAS

### **COLOMBIA– Anti-Terrorism Bill**

The administration of President Alvaro Uribe is seeking approval of an Antiterrorist Statute to permit the interception of telecommunications and the making of arrests without a warrant. It would empower the government to order household searches and the Prosecutor General's Office to give the powers of the judicial police to public security forces. The administration also hopes that a Law for the Integration of Demobilized Military Groups into Civilian Life and a Conditional Freedom Law to grant illegal groups a legal benefit known as provisional sentence suspension will be passed by the Congress. ("Colombia Government Presents New Bills, Constitutional Reforms to Congress," *El Tiempo*, July 20, 2003, via FBIS)

(Sandra Sawicki, 79-819)

### **COLOMBIA– Reforms Before New Term of Congress**

On July 20, 2003, President Alvaro Uribe opened a new legislative term. Among others, he proposed to introduce a constitutional provision to criminalize the cultivation, transport, and consumption of narcotics; abolish the ombudsman's office; merge departments and municipalities under a system of regionalization; and reduce the age for congressional candidates to 22. On the economic side, the President proposed such measures as a budgetary supplement to allow for the holding of a referendum; tax reform; pension reform; modification of the Organic Statute of the Budget; a Capital Market Law to increase transparency involving stock certificates and to permit more investment firms to gain access to the finance system; and a bill on administrative contracting to end corruption and provide transparency.

The President also proposed many judicial and defense-related changes. Under court reforms, the High Court of the Judiciary would be abolished and the scope of writs of protection would be broadened. Both the Criminal and Criminal Procedure Codes would be amended to raise maximum and minimum penalties for all crimes and to expedite cases under the new system of charges whereby the prosecutors are responsible for filing charges and the judges for issuing sentences. A reform of the Penitentiary Code would strengthen the functions of sentencing judges and allow permits for prisoners (e.g., for conditional freedom and outside benefits) to be handled orally. ("Colombia Government Presents New Bills, Constitutional Reforms to Congress," *El Tiempo*, July 20, 2003, via FBIS.)

(Sandra Sawicki, 79-819)

### **MEXICO--Constitutional Right to Health Protection**

Extensive provisions were added to the General Health Law and others were amended by a Decree of May 14, 2003. The changes aim to guarantee the constitutional right to health protection. Under the new Article 77 *bis*, “all Mexicans have the right to be included in the Social Protection System for Health.” Other provisions state that families and individuals who are not covered by any of the institutions of social security and/or are not enrolled in any other health insurance program will be enrolled in the Social Protection System for Health of their domicile.

Beneficiaries of the Social Protection System for Health have the right to receive, without any discrimination, the essential medicaments and medical devices necessary for the diagnosis and treatment of diseases in the health units of the public administration, federal and local, within the framework of the state systems of social protection for health. Fifteen additional beneficiaries’ rights are listed, including the right to receive comprehensive health services, to have equal access to care, and to be treated with respect and in conformity with the required standards of quality. From the day of enforcement of the Decree, 14.3% of families in need of health protection will be enrolled; it is the aim to reach 100% enrollment by the year 2010. (*Diario Oficial*, May 15, 2003.)  
(Norma C. Gutiérrez, 7-4314)

### **MEXICO--Supreme Court Decision on Extradition Case**

The Supreme Court of Mexico upheld Spain’s request for extradition of former Argentine navy captain, Ricardo Miguel Cavallo, dismissing his appeal. In late August 2000 Cavallo was captured in Mexico pursuant to a Spanish arrest warrant charging him *inter alia* with torture, terrorism, and genocide committed during Argentina’s military dictatorship in the years 1976-1983. On appeal Cavallo had challenged the constitutionality of the 1987 extradition treaty and its protocol between Mexico and Spain, on several grounds, *inter alia*, that it violated the guarantees of equality, security and protection of the law under the Mexican Constitution. Cavallo also claimed that the acts of which he was accused were political crimes or military crimes, and that as a former member of the military he was immune from prosecution by virtue of Argentina’s 1987 amnesty law.

The Supreme Court of Mexico disagreed, finding that the extradition treaty and its protocol were duly ratified and did not violate any provision of the Constitution. The Court found that pursuant to the extradition treaty, Mexico was under an obligation to extradite Cavallo and lacked the power to judge the competence of Spain’s criminal courts to try and sentence him; the only condition that Mexico could impose prior to extradition was that the Spanish courts afford the accused due process. The Court held that Cavallo’s actions did not constitute political crimes and that acts of genocide were clearly prohibited under the Federal Criminal Code; that the crimes for which he was accused could not be classified as military crimes because they were not subject to military law; and that the amnesty law was not applicable to the crimes subject to the extradition request. The Court granted Cavallo’s extradition on the grounds of terrorism and genocide, but not on the grounds of torture, since the statute of limitations for prosecuting crimes of torture had passed. On June 28, 2003 Cavallo was extradited to Spain. (“Decision on the Extradition of Ricardo Miguel Cavallo (June 10, 2003),” <http://www.asil.org/ilib/ilib0612.htm#j02>)  
(Gustavo E. Guerra, 7-7104)

## ASIA

### CHINA– Court Decision Strengthens Trade Unions

The Supreme People’s Court issued an interpretation of the Trade Union Law on June 25, 2003, for implementation on July 9, 2003, that significantly extends the independence of trade unions in the country (Chinese text available at [http://www.law-lib.com/law/law\\_view.asp?id=78406](http://www.law-lib.com/law/law_view.asp?id=78406)). The Court has established that trade unions can be recognized as legal entities and thus civil courts can adjudicate disputes between the unions and enterprises. Furthermore, employees can no longer be fired for belonging to a union or for being active in one; the employment contracts for those employees who hold union offices must be of the same term length as their terms of service. The interpretation will strengthen the ability of unions to represent workers, even though it has been argued that since most unions are financed by the businesses in which they operate, the unions are caught between the needs of the workers they represent and the enterprises. Moreover, Fu Hualing, a law professor at the University of Hong Kong, points out that union independence is still very limited and that for the most part the organizations focus on welfare activities. (“Trade Unions Emboldened by Revision of Law,” *South China Morning Post*, July 12, 2003, via FBIS.)

(Constance A. Johnson, 7-9829)

### CHINA– Does China Have a President?

Today, in English newspapers everywhere, Hu Jintao and Jiang Zemin are referred to as President and former President of China, respectively. In fact, according to China’s Constitution, the title of this post of chief of state is *zhuxi*, “chairman,” and not *zongtong*, “president” (See the 1982 Constitution of the People’s Republic of China, Ch. 3, sect. 2, available at <http://english.peopledaily.com.cn/constitution/constitution.html>). More than a decade ago, however, persons who held this post, such as Yang Shangkun, Li Xiannian, and Liu Shaoqi, were all referred to in English newspapers as Chairman. The shift of the translation from “chairman” to “president” probably was designed to give a better image of the Chinese regime to the Western world.

(Tao-tai Hsia, 7-9825)

### CHINA– Guangdong Provision Against Eating Wildlife

On July 25, 2003, the Guangdong Province legislature passed the “Provincial Patriotic Public Health Campaign Work Regulations” after heated debate over the range, intent, and feasibility of enforcing a clause on wildlife consumption. The clause states that people “should” give up their habit of eating wild animals and “should not” eat unquarantined wild animals that easily spread epidemics or other legally protected wildlife. Banning wildlife consumption altogether was deemed too absolute to be enforceable and not in accord with laws that encourage wild animal breeding. The emphasis of the Regulations, according to a legislative official, is to encourage people to adopt better habits; therefore the concrete scope and types of animals that can or cannot be eaten were not included.

The original draft version of the Regulations did not contain a clause on eating wildlife; it was inserted after the outbreak of Severe Acute Respiratory Syndrome (SARS) in Guangdong. The province’s wildlife cuisine has been criticized by animal welfare activists and medical experts since the SARS virus was traced to wild animals. Revision of the national 1988 Wildlife Conservation Law is on the agenda of the National People’s Congress and inclusion in it of a ban on eating wild animals is also being considered.

(“Xinhua: Guangdong Passes Regulations on Wildlife Consumption After Fierce Debate,” *Xinhua*, July 25, 2003; “China: NPC Official Urges Prohibition on Eating Wildlife To Protect People’s Health,” *China Daily*, Internet version, July 28, 2003, both via FBIS.)  
(W. Zeldin, 7-9832)

#### **INDIA– NHRC Petitions for New Trial in Controversial Case**

In an extraordinary move, on July 31, 2003, the National Human Rights Commission (NHRC) of India filed a Special Leave Petition with the Supreme Court seeking a new trial in the Best Bakery case, in which 14 people of the minority Muslim community were burnt to death and a fast-track district court acquitted the 21 Hindu defendants. The petitioner also requested that the trial be ordered held outside the State of Gujarat where the incident took place.

The district court proceeding was the first trial stemming from three months of rioting in Gujarat in which more than 1,000 people, mostly Muslims, were killed. The riots had been triggered by Muslims’ setting on fire a train carrying Hindu nationalists and pilgrims in late February 2002; the bakery torching occurred two days later. (*The Hindu*, July 31, 2003; *Associated Press Worldstream*, July 31, 2003, and *The Press Trust of India*, July 31, 2003, both via LEXIS/NEXIS, Asiapc Library, Allasi File.)  
(Krishan Nehra, 7-7103)

#### **JAPAN– Child Care Promotion Law**

In Japan, the fertility rate (the average number of children a woman has during her lifetime) has continued to decline in recent years and it is said that the population will start to decrease by 2007. The government wants to reverse the decline in birthrate and is trying to encourage Japanese people to have more children. To this end, the Next Generation Child Care Support Measures Promotion Law was enacted on July 16, 2003 (Law No. 120 of 2003). Based on this law, the Ministry of Health, Labor, and Welfare will issue guidelines for action plans to be established by local governments and major employers. The Law obliges local governments and firms with more than 300 employees to make their own child care action programs, in which they must clearly present the measures to be adopted and the goals to be achieved. Child care services and incentives to encourage marriage and pregnancy, among other measures, are to be considered. The plans will be worked out during fiscal year 2004 and put into effect in 2005. The Diet is also discussing a related bill, the Basic Law on Measures Against Society With Fewer Children. (Ministry of Health, Labor and Welfare website, <http://www.mhlw.go.jp/shingi/2003/04/s0425-5.html>; “Will Child Care Law Realize Its Purpose,” *Daily Yomiuri*, July 22, 2003, at <http://www.yomiuri.co.jp/newse/20030722wo32.htm>)  
(Sayuri Umeda, 7-0075)

#### **PAKISTAN– Questioning of Presidential Order on Constitutional Amendments**

The Bar Associations and the Bar Council of Pakistan have for months been questioning the validity of the Legal Framework Order, 2002 issued by President Pervez Musharraf. The Order introduced a number of constitutional amendments without legislative approval. The organizations’ representatives have called upon the Parliament to consider the Order merely as a proposal for consideration on amending the Constitution. On July 26, 2003, the Bar Council held an “All Pakistan Lawyers Convention on the Legal Framework Order,” to discuss the Order, the independence of the judiciary, and other issues. (*The Dawn*, Jan. 28 & Feb. 2, 2003; “BAR– PBC To Hold All Pakistan Lawyers Convention on 26 at Quetta,” *The*

*Pakistan Newswire*, July 24, 2003, via LEXIS/NEXIS, News Library, Curnws File.)  
(Krishan Nehra, 7-7103)

#### **SINGAPORE– Government Hiring of Homosexuals**

The Singapore Government announced on July 4, 2003, that it had begun to hire homosexuals for certain posts. Despite a flourishing gay and lesbian community, homosexual acts remain illegal in the country because of opposition to decriminalization from the Muslim community and the general populace; the government has never recognized any organization for homosexuals; and books and films with homosexual themes are banned.

Under the low-key policy shift, homosexuals would be required to declare their sexual orientation when applying for a government position; in the past, if it were known that a potential employee was gay, he or she would not be hired. The Government is reportedly relaxing its repressive policy as part of a broader effort to attract foreign professionals and keep talented Singaporeans in Singapore and to foster the kind of lifestyles found in entrepreneurially dynamic cities. (“Singapore’s Government Hiring Gays, But Homosexual Acts Still Illegal: Goh,” *Agence France Presse*, July 4, 2003; “Quietly, Singapore Lifts Its Ban on Hiring Gays,” *International Herald Tribune*, July 7, 2003, both via LEXIS/NEXIS, Asiapc Library Allasi File.)  
(W. Zeldin, 7-9832)

#### **SINGAPORE– Jail Terms for Jaywalking**

As of July 14, 2003, it is an offense in Singapore for pedestrians to walk across bus parking areas at interchanges and terminals. Those who violate the prescription, which was recently introduced into the Road Traffic Act, can be fined up to SG\$500 (about US\$285). They may also be charged in court and face a maximum fine of SG\$1,000 (about US\$570) and/or a three-month prison term. Repeat offenders may be liable to a maximum SG\$2,000 fine (about US\$1140) and/or six months’ imprisonment.

The measure was adopted because of the numerous accidents involving jaywalkers– 38 during the past three years, of which four were fatal. The Land Transport Authority has trained and empowered employees selected by bus operators to enforce the new rules. (Land Transport Authority, *Jaywalking at Bus Interchanges and Terminals* (Press Release), [http://app.internet.gov.sg/scripts/lta/corp\\_press\\_content.asp?start=790](http://app.internet.gov.sg/scripts/lta/corp_press_content.asp?start=790))  
(W. Zeldin, 7-9832)

#### **TAIWAN– Draft Lobbying Statute**

On July 23, 2003, the Executive Yüan (Cabinet) approved a draft lobbying bill. The bill defines lobbying practices and stipulates that lobbying should be conducted in an open and transparent process. It lists the targets of lobbyists, who include government officials and policy makers such as the President, Vice President, and Cabinet ministers, among others. The bill bans lobbying by citizens of the People’s Republic of China, Hong Kong, and Macau and also prohibits foreign governments, organizations, or individuals from attempting to influence Taiwan government policies on matters of national defense, foreign relations, or mainland Chinese affairs. For other matters, foreign lobbyists must commission local counterparts.

Public officials who leave their posts cannot lobby on behalf of the government agencies where they worked for the past five years until three years have elapsed. Nor can they commission others to conduct such lobbying. Elected officials and their relatives are prohibited from lobbying on behalf of any enterprise in which they have a stake of 10 percent or more and from commissioning others to do so. The bill is one of 5 “sunshine” bills to be combined into a package and made a priority for the next session of the legislature. (“CNA: Cabinet Passes Draft Statute on Lobbying,” *Central News Agency*, July 23, 2003, via FBIS; Taiwan Cabinet Approves Lobbying Draft Law, *Taiwan News*, July 24, 2003, via FBIS.) (W. Zeldin, 7-9832)

#### **TAIWAN– Plan To Tighten Privacy Laws**

It was announced on July 1, 2003, that the Ministry of Justice is working on changing a major privacy statute– the Law for the Protection of Computer-Managed Personal Information– to better protect citizens against invasion of privacy by businesses that buy and sell information. One proposed measure is to remove the word “computer-managed” so that the law would cover all kinds of personal information, not just that which is managed, processed, stored, or distributed by computer, as is now the case. Current legislation allows victims to file a privacy invasion suit against an individual or a company only if there is evidence that the individual or company leaked classified personal information to a third party without their authorization. However, according to a Ministry spokesman, “it is almost impossible” to determine who sold the information to a third party, let alone provide the necessary evidence.

Another proposed measure is to cancel the prerogative enjoyed by personnel in eight professions to collect information for business purposes. The professional areas include private detective agencies, banks, hospitals, schools, telecom and Internet service providers, insurance companies, stock exchange companies, and the media. (“Ministry Looks To Protect Privacy, *Taipei Times*, July 2, 2003, at <http://www.taipeitimes.com/News/taiwan/archives/2003/07/02/2003057687>) (W. Zeldin, 7-9832)

#### **VIETNAM– National Assembly Adopts New Laws**

Three new laws approved by the National Assembly in recent months and their enforcement dates were announced by the President in July 2003. The Law on National Assembly Supervisory Activities, approved in May and effective from August 1, 2003, gives the National Assembly more power (see WLB 2003.06). The Law on Statistics, with 42 clauses in eight chapters, has provisions for both organizations and individuals supplying information for statistics and those using the data and performing statistical work for the state. Statistics must be made public in a timely manner, and activities hindering the collection of statistics or publicizing false information are forbidden. This Law is effective as of January 1, 2004. The Amendment Law on the State Bank, in force from August 1, 2003, permits the trading of long-term valuable papers, as a step in the development of the financial market. Rules on temporary lending by the Bank to the state budget have been clarified; such loans must now be repaid in the same financial year. (“Vietnamese President Announces Three New Laws Today,” *Global News Wire*, July 11, 2003, via LEXIS/NEXIS, Asiapc Library, Allasi File.) (Constance A. Johnson, 7-9829)



## EUROPE

### **BULGARIA– Law on Presidents’ Pensions**

The Law on Presidents’ Pensions entered into force on July 1, 2003. It provides for various privileges for former Bulgarian presidents. The amount of pension is determined as the equivalent of 60% of the current president’s salary. In addition, former presidents will have the right to use an office space of up to 200 square meters located in the capital or in a town of their choice and to have body guards and specialized transportation provided by the National Security Service. The Law also provides for a budget allocation to maintain the office and a one-time payment for office equipment. Ex-presidents will lose these rights if they are convicted of a crime or elected President, Vice-President, or a member of Parliament or appointed as a Constitutional Court judge. (*The Sofia Echo* (a Bulgarian daily paper), June 30, 2003.) (Peter Roudik, 7-9861)

### **CYPRUS– Ratification of EU Accession Treaty**

On July 14, 2003, pursuant to constitutional procedures, the Cyprus House of Representatives ratified the country’s treaty of accession to the European Union. By contrast the additional nine countries require a referendum in order for accession to be approved. The House called the day a historic one and expressed its wish that the island’s accession to the EU may act as a “catalyst to a solution to the Cyprus issue.” (Cyprus Embassy, July 15, 2003, at <http://www.cyprusembassy.net/>) (Theresa Papademetriou, 7-9857)

### **CYPRUS– UN Peacekeeping Force**

The UN Secretary General recommended that the Security Council extend its mandate for the UN Peacekeeping Force in Cyprus (UNFICYP) for an additional six months, until December 15, 2003. The chief reason for the presence of UNFICYP in Cyprus since the 1974 invasion of the country and occupation by Turkish forces of the northern third of the island is to maintain the cease-fire between the Greek Cypriot and Turkish Cypriot sides. The Secretary General noted that the lifting of restrictions of movement that were initiated in April 2003 by the Turkish Cypriot side “is not a substitute for a comprehensive settlement.” He also expressed his regret that no progress has been made in the plan he has proposed to achieve peace between the two communities. (Cyprus Embassy, June 11, 2003, at <http://www.cyprusembassy.net/>) (Theresa Papademetriou, 7-9857)

### **CZECH REPUBLIC– Referendum on Entering the EU**

The Czech referendum on entering the European Union, held on June 13 and 14, 2003, was approved by over 52% of the 8¼million registered voters, with “yes” votes numbering about 3½ million (about 77%) and “no” votes a little over a million (almost 23%) (“Announcement of the President of the Czech Republic of July 9, 2003,” No. 206, *Collection of Laws*). The Law of November 14, 2002, on the Referendum Concerning the Entry of the Czech Republic into the European Union (No. 515, *Collection of Laws*) did not specify the minimum attendance required for the referendum’s validity and a handful of persons voting could therefore have decided the issue. The government’s narrow majority (101 to 99) in the 200-member House of Deputies had intentionally left this omission in the Law in order to prevent rejection of the referendum through nonattendance. Of the total number of registered voters, only about

42% voted “yes.” The government led the campaign for a “yes” vote and spent at least 200 million Crowns (about US\$7.1 million) on it.

Twenty-eight complaints against the referendum and how it was conducted were brought to the Constitutional Court by individuals and political parties. They claimed breach by the government of article 6 of the Constitution, which requires all political decisions to be supported by a majority of citizens, and of article 1 of the Charter of Fundamental Rights and Liberties, which guarantees equality of treatment to citizens. It was argued that the government discriminated against those who voted “no” by campaigning for a “yes” vote and using monies paid by all citizens in taxes for that purpose. The Constitutional Court, staffed by government appointees, rejected all the complaints as unfounded. (*LidovéNoviny*, July 8, 2003, at <http://www.lidovsky.cz/tisk.phtml?id=184898>) (George E. Glos, 7-9849)

### **FRANCE–Debate on Islamic Head Scarves**

In the past two months, almost all French politicians, including President Chirac, have become involved in a debate over France’s secular republican tradition and, more specifically, over whether wearing Islamic head scarves in public schools or in government jobs would threaten that tradition. Prominent politicians have called for a law banning the wearing of head scarves in public schools. As a result, President Chirac decided to appoint a special commission on secularism, the *Commission de réflexion sur la laïcité*, to examine how France should regulate the external manifestations of the many religions practiced on its territory without undermining the principles in the 1905 Law on Separation of Church and State. The President pointed out that secularism was a “duty and not only a right.” The Commission is scheduled to report to the President by the end of this year. It will have to decide whether additional legislation is required.

In the meantime, the administrative court in Lyons ruled that Nadjat ben Abdallah, a civil servant, committed “a particularly serious offense” in wearing an Islamic head scarf on her government job considering her grade (category A civil servant, the highest category) and “may face disciplinary action.” The court added that her action encroached upon the principle of separation of church and state and the principle of neutrality of civil servants. The plaintiff, a labor inspector for the Ministry of Transportation, was initially suspended for 15 days for wearing a head scarf at work. She has received a new suspension for one year. She intends to appeal the court decision. (<http://www.elysee.fr>; *Le Monde*, July 14 & 15, 2003, LEXIS/NEXIS, World Library, Monde File.) (Nicole Atwill, 7-2832)

### **FRANCE– Law Against Irresponsible Driving**

The French Parliament recently adopted Law 2003-495 on Reinforcing the Battle Against Road Violence. The Law aims to decrease road accidents (France has the worst record in Europe) by punishing irresponsible driving, called “road delinquency” by the Interior Minister, with tougher criminal sentences. Under the Law, the maximum punishment for harming or killing someone as a result of negligent or imprudent driving is five years’ imprisonment and a 75,000 *euro* (US\$85,095) fine. The penalty is doubled to 10 years and a 150,000 *euro* fine if two of the following aggravating circumstances apply: driving under the influence of alcohol or drugs, driving without a license, traveling at more than 50 Kmph above the speed limit, or leaving the scene of an accident. The penalty for repeat offenses is 20 years. Judges may sentence offenders to community service, to take place if possible in establishments where traffic accident victims are cared for.

Driving licenses will now be issued for 10-year renewable periods instead of for life. First-time applicants will require a medical certificate to receive a license, which will be valid for a three-year probationary period. Drivers over the age of 75 will have to undergo a medical examination every two years to test their vision and attention span. The Law also provides that new vehicles sold on French territory must be equipped with a speed regulator. A provision adopted by the National Assembly creating a new criminal offense to punish drivers who cause an involuntary interruption of pregnancy as a result of a road accident was removed by the Senate. A separate bill on this topic is expected to be presented again before both bodies. (<http://www.assemblee-nationale.fr/>)  
(Nicole Atwill, 7-2832)

### **GERMANY– Troop Deployment**

On March 25, 2003, the Federal Supreme Court rejected a petition for injunctive relief that would have stopped Germany from deploying troops to serve on AWACS surveillance flights over Turkey that were carried out by NATO in February and March of 2003, before and during the Iraq war (Docket No. 2 BVQ 18/03). The petition had been brought by the Free Democratic Party (FDP), one of the current opposition parties in the Federal Diet, on the grounds that permission for the troop deployment should have been sought beforehand from the Federal legislature. The Court refused injunctive relief on the grounds that the executive branch of government does not need parliamentary consent for routine NATO missions. However, the Court seemed to indicate that a full decision on the merits of this case would still be desirable to clarify the extent to which the legislature should be involved in troop deployments in wartime.  
(Edith Palmer, 7-9860)

### **GREECE– Commission Rules Against Greece on GMOs**

Due to Greece's failure to adopt within the prescribed deadline of October 17, 2002, the EU Directive 2001/18/EC on the deliberate release of GMOs into the environment, the European Commission decided to refer the matter to the European Court of Justice. Greece and 11 other Member States, have been repeatedly admonished by the Commission to meet their obligations under EU rules. (Greek Embassy, Press Office, July 16, 2003, <http://www.greekembassy.org/pressoffice>; <http://europa.eu.int/>)  
(Theresa Papademetriou, 7-9857)

### **GREECE– Liberalization of the Postal Service**

In transposing into national law EU rules calling for deregulation of postal services in the Member States, the Government of Greece announced that it submitted a bill on the subject to the Greek Parliament on July 16, 2003. Pursuant to the bill, deregulation will be effective in 2009. ("Greece To Adopt EU Law on Postal Service Deregulation," Greek Embassy, Press Office, July 16, 2003, <http://www.greekembassy.org/pressoffice>)  
(Theresa Papademetriou, 7-9857)

### **ITALY– Immunity for High Officials**

The Italian Parliament approved a law on June 20, 2003, granting the five highest-ranking officials of the Republic– the President, the Prime Minister, the two Speakers of the Chambers, and the Chief Justice of the Constitutional Court– immunity from criminal prosecution during their tenure in office.

From the date the law entered into force, all criminal proceedings against those officials must be suspended, irrespective of the nature of the crime and of the time it was committed, even if preceding the date of their assumption of office.

The law is seen by many as an escape for the Prime Minister from prosecution before the District Court of Milan. The law's constitutional legitimacy is expected to be challenged before the Italian Constitutional Court by the office of the Public Prosecutor of Milan. (*Official Gazette of Italy*, No. 142, June 21, 2003.)

(Giovanni Salvo, 7-9856)

#### **MALTA– Illegal Immigrants**

In the wake of the escape of 74 illegal immigrants in one week, the Maltese government has announced the site for the construction of another detention center. The government has also stated that it intends to shorten the detention period for illegal immigrants by strengthening the Commissioner for Refugees through the recruitment of new staff. Despite the strain of having to accommodate illegal immigrants at police headquarters, where they are considered by the Minister for Justice and Home Affairs to be a “time bomb” for police, the Maltese government is continuing its “serious detention policy” for illegal immigrants. (Fiona Galea Debono, “New Site Identified for Detention Centre,” and “20 Immigrants Escape from Ta’Kandja,” both in *The Times* (Malta), July 29, 2003.)

(Clare Feikert 7-5262)

#### **MOLDOVA– SARS Prevention**

In order to prevent a possible epidemic outbreak, a permanent anti-epidemic commission was created under the President of the Moldovan Republic. The duty of the commission is to coordinate the activities of central government agencies responsible for the implementation of health care and crisis management policies and local governing institutions. The commission includes representatives of the veterinary and agriculture services, in order to prevent epidemics caused by animals and plants. Because of the remaining Severe Acute Respiratory Syndrome (SARS) threat, under the commission's recommendations, health care institutions, trading outlets, transportation facilities, and other public places have been provided with protective apparatus and disinfectants. Special wards and medicines were made ready in all hospitals for possible SARS patients, and it was ordered that a SARS diagnostic center be created. (*ITAR-TASS Weekly News*, June 19, 2003.)

(Peter Roudik, 7-9861)

#### **THE NETHERLANDS– Proposed Measures on Terrorism**

In addition to the existing statutory provisions, the Dutch Government is seeking to develop some new measures to fight terrorism. One such measure would be the amendment of article 205 of the Criminal Code, whereby the recruitment of fighters for the Islamic armed struggle, or jihad, would become a punishable criminal offense. The maximum penalty for this type of offense will be increased from one year to four years' imprisonment. It will be possible to ban terrorist groups that appear on so-called freeze lists by including such a ban in the Civil Code. The basic requirement for a terrorist group to be banned will be that the entity is mentioned on the freeze list. The Minister of Justice has announced these steps in a document entitled “Terrorism and the Protection of Society,” which he submitted to the Lower House on June 26, 2003. (Ministry of Justice, *Press Release*, June 26, 2003, at <http://www.ministerievanjustitie.nl>)

(Karel Wennink, 7-9864)

### **POLAND– Artist Sentenced for Offending Religious Feelings**

On July 18, 2003, a Gdansk court found artist Dorota Nieznalska guilty of having offended religious feelings by exhibiting a work entitled “Passion,” part of which constituted a photograph of male genitalia placed on a cross. The court imposed a punishment of six months’ restriction of liberty pursuant to article 196 of the Polish Criminal Code (Law of June 6, 1997, *Dziennik Ustaw* (Polish official gazette), No. 88, item 553 (1997), as amended), which states: “Whoever offends the religious feelings of other persons by outraging in public an object of religious worship or a place dedicated to the public celebration of religious rites, shall be subject to a fine, the penalty of restriction of liberty or the penalty of imprisonment for up to 2 years.” The court also imposed “unpaid and supervised community work for 20 hours per month” pursuant to article 34 of the Code. In the Polish criminal justice system, as a rule the losing party bears the costs of a lawsuit. Accordingly, the court awarded costs against the defendant. The artist will appeal the case.

The verdict was strongly criticized by Polish intellectuals and university professors, who signed a petition stating: “In this unprecedented decision of the Gdansk court we see an attempt at legal institutionalization of censorship, an attempt against freedom of speech, and violation of democratic rules.... Where the court becomes an inquisition, civil society ends.” The verdict also caused serious repercussions in Brussels. The main spokesman of the European Commission, Fin Reijo Kempinen, said that freedom of expression is one of the basic values of the European Union and promised to acquaint himself with the case. The Commission will examine whether the European standards of freedom of expression were properly included in the EU Treaty with Poland. (*Donosy*, e-journal from Poland, No. 3549 of July 25, 2003, [donosy@fuw.edu.pl](mailto:donosy@fuw.edu.pl))  
(Bozena Sarnecka-Crouch, 7-9851)

### **RUSSIA--Sanitary Requirements for Computer Work**

The Government of Russia approved new hygienic and sanitary rules for work involving computers and copy machines. According to the rules, the size of each office with a computer terminal cannot be less than 60 square yards for regular PCs and 45 square yards for computers with LCD monitors. The distance between two workstations is to be no less than 2 yards, and pregnant and nursing women are not allowed to work with computers more than three hours per day. Placing computer terminals in basements or in rooms without windows is prohibited. Floors and furniture in computer work rooms is to be made from materials that allow daily wet cleaning and easy disinfection.

It is prohibited to place copy machines in basements and to employ persons under 18 years of age, pregnant and nursing women, or persons with disabilities as copy machine operators. The machines must be located no less than one meter from the wall in a well ventilated place. The new rules are obligatory for all organizations where computers and copy equipment are used, regardless of the form of property of the organization. (*Rossiiskaia Gazeta*, (Russian government daily), June 27, 2003.)  
(Peter Roudik, 7-9861)

**UNITED KINGDOM– HM Customs and Excise Powers Reviewed**

An independent review into the practices of HM Customs and Excise (HMCE) was set up in November 2002 as a result of the collapse of a number of cases prosecuted by HMCE. The series of cases prompting the review are known as the “London Bond Cases.” These cases collapsed after HMCE did not offer, and failed to disclose, any evidence while prosecuting them. The estimated costs to the government in terms of lost duty and prosecution costs number hundreds of millions of pounds. The review was conducted by a High Court Judge who has recommended that the powers of HMCE to prosecute cases be transferred to a new authority. The government is due to respond to the recommendations in the fall. (Hon. Mr. Justice Butterfield, *Review of the Criminal Investigations and Prosecutions Conducted by HM Customs and Excise*, July 2003, [http://www.hm-treasury.gov.uk/newsroom\\_and\\_speeches/speeches/statement/butterfield03\\_report\\_index.cfm](http://www.hm-treasury.gov.uk/newsroom_and_speeches/speeches/statement/butterfield03_report_index.cfm)) (Clare Feikert 7-5262)

**UNITED KINGDOM– Proposals To Prevent Illegal Immigrants from Working**

In a recently issued consultation paper outlining changes to stem the problem of illegal workers in the United Kingdom, the government announced for the first time that the number of illegal immigrants in the country could “run into several hundreds of thousands.” The ease with which work can be found and the widespread availability of forged documents are cited as two major reasons for this problem. The secondary legislation proposed by the consultation paper would require that employers check two types of specific documentation prior to hiring an individual. (Immigration (Restrictions on Employment) Order 2003 (Draft), in Home Office, *Prevention of Illegal Working*, July 2003, at [http://www.ind.homeoffice.gov.uk/filestore/prevention\\_of\\_illegal\\_working\\_consultation.pdf](http://www.ind.homeoffice.gov.uk/filestore/prevention_of_illegal_working_consultation.pdf)) (Clare Feikert, 7-5262)

**NEAR EAST****ISRAEL– Authorization for Trade with Iraq**

The Minister of Finance, Binyamin Netanyahu, recently signed a general authorization for trade with Iraq in accordance with the Trade with the Enemy Ordinance, 1939. Prior to the grant of authorization, Iraq was included in the list of enemy countries with which trade was prohibited. The authorization will apply for a period of one year. Accordingly, trade with Iraq– including financial and other commercial contacts, particularly the supply and transport of merchandise as well as payment or transfer of funds– is now permitted. (“From Now on It Is Official: Trade with Iraq Is Allowed,” July 21, 2003, via <http://www.ynet.co.il>) (Ruth Levush, 7-9847)

**SAUDI ARABIA– Approval of Gulf States Report on Fighting Extremism**

The Consultative Council of Saudi Arabia has approved the report issued by the Foreign Affairs Committee of the Gulf States Cooperation Council regarding a unified security strategy on how to fight “extremism accompanied by violence.” The secretary general of the Council said that the purpose of the report is to fight extremism in all its forms– religious, social, and political, since extremism in turn leads

to terrorism. (*Asharq Al-Awsat*, July 23, 2003.)  
(Issam Saliba, 7-9840)

## SOUTH PACIFIC

### **AUSTRALIA– Medical Malpractice Case**

On July 16, 2003, Australia’s High Court ruled that a doctor who had failed to complete a sterilization procedure had been negligent, and was responsible for the costs of raising the unanticipated child to the age of 18. The decision, condemned by doctors’ groups which warned it could encourage additional litigation and raise general medical costs, comes in the midst of an ongoing dispute over steeply rising costs for medical malpractice insurance. Increasing numbers of Australian doctors are ceasing to practice, especially in obstetrics, and explaining this as the result of increases in insurance premiums. In October 2002 the Prime Minister announced a package of subsidies to physicians, assistance to medical insurers, and proposed changes to legislation, but this does not appear to have resolved the larger issue. (*Cattanach v Melchior* [2003] HCA 38 (July 16, 2003), at [http://www.austlii.edu.au/au/cases/cth/high\\_ct/](http://www.austlii.edu.au/au/cases/cth/high_ct/); Medical Indemnity Home Page, at <http://www.health.gov.au/medicalindemnity>)  
(D. DeGlopper, 7-9831)

### **AUSTRALIA– New Internal Security Law**

On June 26, 2003, Australia’s Federal Parliament passed the Australian Security Intelligence Organization Legislation (Terrorism) Amendment Bill 2002. The law, the last and most controversial of a series of Acts intended to counter terrorism, increases the powers of Australia’s domestic intelligence organization (ASIO) to hold and question persons it suspects may have information on terrorist activities. The Australian Security Intelligence Organization may now obtain a warrant from the Attorney-General to detain and interrogate any person age 16 and above. They may be held for seven days and questioned for three eight-hour periods. They may consult a lawyer, but the lawyer must have a security clearance. Multiple successive warrants may be issued for the same person, as long as the Director-General of ASIO has new information not known when the previous warrant was issued. The law was opposed in the Senate on the grounds that its provisions on what might amount to indefinite and secret detention of citizens who are suspected of no crime constituted an unjustified infringement of civil liberties and that the possibilities for abuse of power were great. (“ASIO Given New Anti-Terrorism Powers,” *Australian Broadcasting Corporation*, June 26 2003, at <http://www.abc.net.au/news/>; *Sydney Morning Herald*, June 26, 2003, at <http://www.smh.com.au/>)  
(D. DeGlopper, 7-9831)

### **NEW ZEALAND– Prostitution Reform Bill**

On June 25, 2003, New Zealand’s House of Representatives approved the Prostitution Reform Bill by a vote of 60-59 (47<sup>th</sup> Parl. No. 66-2). As a result, prostitution, brothel-keeping, and living off the profits of prostitution are no longer criminal offenses in that country, and prostitutes are now covered by the Health and Safety in Employment Act, 1992 (1992 *N.Z. Stat.* No. 96).

In place of the abolished offenses, the Prostitution Reform Act creates a number of more specific

offenses designed to regulate commercial sex. One offense that is punishable with up to seven years of imprisonment is contracting with a person under the age of 18. Another section of the Act prohibits persons from abusing power in an occupation or relationship or using blackmail to induce a person to engage in prostitution. In the interests of public health, the Act also requires persons who provide or receive sexual services to use protection and to “take all other reasonable steps to minimize the risk of...sexually transmitted infections.” Territorial authorities in New Zealand’s localities are authorized to pass bylaws prohibiting advertising that would unreasonably cause offense to the community generally. In order to attract support for the bill, its sponsor included a provision that requires the new law to be reviewed between three and five years after its enactment. (<http://www.clerk.parliament.govt.nz/content/1340/933Prostitution.pdf>)  
(Stephen Clarke, 7-7121)

## **INTERNATIONAL LAW AND ORGANIZATIONS**

### **CHINA/CUBA– Travel MOU**

The China National Tourism Administration (CNTA) has granted “Approved Destination Status” to Cuba, the first nation in the Western Hemisphere to be granted that status from the Chinese government. The Cuban Tourism Vice Minister and the CNTA signed a memorandum of understanding on July 23, 2003, making it possible for organized Chinese tour groups to visit the Caribbean country. (“PRC, Cuba Sign MOU: Allows Chinese Travel Groups To Visit Cuba,” *Xinhua*, July 23, 2003, via FBIS; “Cuba Gains ‘Approved Destination Status’ for PRC Tourists,” Panama City *ACAN-EFE*, July 25, 2003, as translated in FBIS.)  
(W. Zeldin, 7-9832)

### **CHINA/ZIMBABWE– Technological Cooperation Agreement Signed**

On July 14, 2003, China and Zimbabwe signed an agreement to assist Zimbabwe in economic and technical development. The pact, signed by the visiting Assistant Chinese Minister of Foreign Affairs and the Zimbabwean Minister of Foreign Affairs in Harare, is worth the equivalent of US\$4.5 million. The provisions include arrangements to maintain discussions between technical personnel of the two nations. (*Xinhua*, July 14, 2003, via FBIS.)  
(Constance A. Johnson, 7-9829)

### **GREECE/EU– Constitution and Christianity**

The Holy Synod, the highest ecclesiastical body of the Autocephalous Greek Orthodox Church, has launched a campaign, which might be put to a referendum in the Member States, to include explicit reference to Christianity in the future EU Constitution. This idea has been rejected by other groups. The Holy Synod announced its intent to institute several measures to promote it, however, and to evaluate the option of pursuing legal means to secure its adoption. (“Church of Greece Presses for Reference to Christianity in Euro-Constitution,” Greek Embassy, Press Office, July 1, 2003, <http://www.greekembassy.org/pressoffice>)  
(Theresa Papademetriou, 7-9857)



**LITHUANIA/RUSSIA--Agreement on Kaliningrad Transit**

A bilateral technical agreement that regulates procedures for issuing facilitated Kaliningrad transit documents to Russia's nationals who travel by train was signed by Foreign Ministers of Lithuania and Russia and entered into force on July 1, 2003. The issuance of the agreement was foreseen by the EU resolution that obliges Lithuania to introduce a tightened passport regime for Russian transit passengers traveling through Lithuania's territory to the Russian enclave Kaliningrad, in order to ensure that such does not hinder Lithuania's accession to the Schengen visa-free zone.

According to the agreement, the transit document will be given automatically to those who make reservations for train tickets to Kaliningrad. Information about the passengers will be given by the Russian railroad administration to the Lithuanian embassy in Moscow two days before the travel. The embassy will assist newly established mobile consular groups on the transit trains. The agreement states that the consular officers will have diplomatic immunity and will be guarded by Russian police officers. Those Lithuanian citizens who entered Kaliningrad province before July 1, 2003, will be able to stay there without visas during the month of July. A similar agreement has been reached concerning Russia's nationals. (Baltic News Service, *BNS Daily News*, June 26, 2003.) (Peter Roudik, 7-9861)

**PENTALATERAL COOPERATION ON DRUG CONTROL– Chiang Rai Declaration**

Ministers in charge of drug control in China, India, Laos, Myanmar (Burma), and Thailand agreed on July 24, 2003, in Chiang Rai, Thailand, at the two-day Ministerial Meeting of the Pentalateral Cooperation on Drug Control, to give priority to controlling the drug crisis in the region, especially because of an "alarming increase" in the production of illegal amphetamines. The Chiang Rai Declaration signed by the participants commits them to strengthen cooperation in intercepting the illicit production and distribution of banned substances, in particular amphetamine-type stimulants, and in controlling the import of precursor and essential chemicals used to make them.

The five countries will establish an expert forum and a workshop to prevent diversion of the chemicals, hold discussions on ways to jointly combat transnational crime, and place three main precursor chemicals (ephedrine, pseudo-ephedrine, and acetic anhydride) on their priority control lists. Ephedrine and pseudo-ephedrine can be used in methamphetamine production, e.g., of "speed" and "ice," reportedly made in huge quantities in Myanmar and trafficked abroad; acetic anhydride is a precursor chemical for heroin production. ("Xinhua: PRC, India, Laos, Burma, Thailand To Cooperate on Drug Control," *Xinhua*, July 24, 2003; "Meeting of Nations Agree on Need for Stricter Controls of Precursor Chemicals," *Bangkok Post*, July 25, 2003; "AFP: Five Asian Nations Agree To Increase Cooperation To Control Drug Trade," Hong Kong *AFP*, July 24, 2003, all via FBIS.) (W. Zeldin, 7-9832)

**UNITED NATIONS– Guidelines on GMOs**

Codex Alimentarius, a joint committee of the UN Food and Agricultural Organization (FAO) and the World Health Organization (WHO), recently published guidelines on genetically modified organisms (GMOs). The guidelines recommend *inter alia* that risk assessments be carried out prior to placing a genetically modified product on the market in order to ensure traceability in case of a health problem and

its safety for consumers. The guidelines, though not binding, will further fuel the debate between the European Union and the United States on this controversial issue, not only because of the parties' opposing views but also because the guidelines are more in line with the EU's position. The latter imposes strict standards regarding market placement, traceability, and labeling of GMOs. The US has thus far approved the circulation of more than 50 genetically modified products, compared to 18 approved by the EU. (www.codexalimentarius.net)  
(Theresa Papademetriou, 7-9857)

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**Recent Publications from Great Britain Obtainable from the Law Library**

Department of Health. OUR INHERITANCE, OUR FUTURE– REALISING THE POTENTIAL OF GENETICS IN THE NHS. Cm. 5797. London: June 2003. 94 pp.

This white paper discusses the Government commitment to tap the potential offered by genetics to improve health and healthcare. Over the next three years, the Government plans to invest £50 million in developing genetics knowledge and skill within the National Health Service.

Home Department. SAFETY AND JUSTICE: THE GOVERNMENT'S PROPOSALS ON DOMESTIC VIOLENCE. Cm. 5847. London: June 2003. 71 pp.

This consultation paper outlines the nature and prevalence of domestic violence in the UK. It presents proposals to help prevent domestic violence, improve support and protection for victims, and prosecute perpetrators.

House of Commons. Culture, Health Committee. PROVISION OF MATERNITY SERVICES. H.C. 464-I. London: June 2003. 91 pp.

This report focuses on the maternity services presently available to women throughout the UK and the variation among them. The main issues of concern are data collection from maternity units, rates of caesarean section births, the staffing structure of maternity care teams, and the amount of training received by health care professionals who advise pregnant women and new mothers.

House of Lords. Joint Committee on Human Rights. THE UN CONVENTION ON THE RIGHTS OF THE CHILD. H.L. 117. London: June 2003. 166 pp.

This report supports the implementation of the UN Convention on the Rights of the Child in the UK. Currently, the Convention binds the UK in international law but has not been incorporated into UK law. The report also supports the UN recommendations that the UK relax its resistance to the Convention in the areas of nationality and immigration and raise the age of criminal responsibility from age 10 (in England, Wales and Northern Ireland and age 8 in Scotland) to age 12.

Royal Commission on Environmental Pollution. CHEMICALS IN PRODUCTS– SAFEGUARDING THE ENVIRONMENTAL AND HUMAN HEALTH. Cm. 5827. London: June 2003. 291 pp.

This report examines scientific understanding of how synthetic chemicals affect humans and the environment. It also details public concern regarding the level of scientific uncertainty associated with the impact of such chemicals on the environment and human health.

**RECENT DEVELOPMENTS IN THE EUROPEAN UNION**  
**by Theresa Papademetriou, Senior Legal Specialist, Western Law Division**

**Approval of the Draft Constitutional Treaty<sup>1</sup>**

The final draft treaty establishing a Constitution for Europe was adopted by consensus on June 13 and July 10, 2003. The first part of the Draft contains nine titles, dealing with the objectives, institutions, powers, and budgetary issues of the European Union (EU). The EU acquires a legal personality in the draft document; previously only the European Community enjoyed one. The Draft spells out the areas in which the EU has exclusive competence to establish competition rules, such as monetary and commercial policy and customs, and the areas of shared competence with the Members, such as the internal market, agriculture, energy, the environment, consumer protection, and others. The second part of the Draft incorporates the Charter of Fundamental Rights proclaimed by the Treaty of Nice in 2000. The Draft also includes three protocols as annexes, on: 1) the role of the national parliaments; 2) the application of two key principles of the EU legal system, i.e., proportionality and subsidiarity; and 3) the representation of citizens in the European Parliament and the weighting of votes in the Council of the EU.

**Future European Center for Disease Prevention and Control (ECDPC)<sup>2</sup>**

On July 23, as part of its efforts to fight communicable diseases, including a possible bioterrorism attack in the Community, the Commission proposed the establishment of a European Center for Disease Prevention and Control (ECDPC). The ECDPC will gradually assume the two fundamental components of the EU Communicable Disease Network, that is, the Surveillance of Communicable Diseases System and the Early Warning and Response System. With regard to the former, the ECDPC will harmonize surveillance methodologies and facilitate the comparability and compatibility of all data forwarded by Member States. With regard to the latter, the ECDPC will take over control of technical operations. The Member States and the Commission will retain the responsibility of taking action on alerts. The ECDPC will also coordinate the tasks of other alert systems at the Community level, such as that operated by the European Food Safety Authority, and cooperate with the World Health Organization.

**Joint EU-US Statement on Transatlantic Aviation Negotiations<sup>3</sup>**

During the EU-US Summit held recently in Washington, D.C., the two partners issued a statement affirming their commitment to commence negotiations on liberalization of the air space market. The European Commission has already secured the mandate to act as the EU representative in international affairs and negotiator of agreements based on a decision of the Council of the EU made in early June 2003.

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<sup>1</sup> [Http://europa.eu.int](http://europa.eu.int)

<sup>2</sup> [Http://europa.eu.int/rapid](http://europa.eu.int/rapid)

<sup>3</sup> *Supra* note 1.

**Industry Voices Concerns About Proposed Regulation on Chemicals<sup>4</sup>**

During the eight-week period of internet consultation with chemical companies that was opened by the European Commission in May 2003 following the publication of a proposed regulation on chemicals, the industry presented its concerns about and objections to the Commission's proposed legal requirements for chemicals. The draft regulation replaces numerous scattered pieces of legislation with one major legal instrument that calls for a single system covering registration, evaluation and authorization of chemicals (REACH). The new system imposes a dual burden on companies that produce, use, or import chemicals to evaluate any risks involved and to take any steps required to control them. Until now, the burden of proof that a chemical was dangerous fell to the public authorities, whereas now it lies with the company that places the chemical in question on the market. The regulation proposes stricter control of dangerous chemicals such as carcinogens, mutagens, and reproductive toxicants. Each use of these substances must be approved only for specific purposes, provided that a risk assessment has been made.

The largest chemical companies' main concern is that the new system will be very costly and cumbersome to implement. As might be expected, environmental and consumer groups support such measures.

**Draft Directive on Unfair Commercial Practices<sup>5</sup>**

The Commission recently proposed a Directive on Unfair Commercial Practices intended to strengthen consumer rights and facilitate trade among its Members through harmonization of various national laws. EU consumers basically will have the same level of protection against a seller irrespective of whether the purchase was made at a local store or over the web, while legitimate companies will be able to reach consumers with greater ease.

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<sup>4</sup> *Id.*

<sup>5</sup> *Supra* note 1.