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AMERICAS

COLOMBIA—New Procedure for Disbursing Public Funds

Procedures and guidelines for the administration and disbursement of public resources or funds and the collection, management, and investment of revenues in order to fulfill the goals of the State have been established (Law No. 610, Aug. 15, 2000). The procedures apply to both public servants and private sector employees. Actions of commission or omission on their part during the performance of their duties that cause damage to State assets or are considered fraudulent will be covered by a new procedure called “fiscal responsibility,” designed to determine and establish misconduct by employees. Employees subjected to this proceeding are guaranteed due process of law under articles 29 and 209 of the Political Constitution and the provisions of the Code of Administrative Litigation. Charges are to be brought by the comptroller’s office where the wrongdoing is alleged to have taken place, on its own initiative or in response to a complaint or charge advanced by an oversight institution, an individual, or a citizens’ organization. (*Diario Oficial*, Aug. 18, 2000.)

The new Law states that correct behavior involving public funds is characterized by legality, efficiency, economic soundness, effectiveness, equity, impartiality, morality, and transparency. The goal of fiscal responsibility proceedings is to monetarily compensate the respective State agency or entity for the damages caused by the fraudulent or injurious behavior. Each case processed will take into account the governing principles of public administration and sound fiscal management.

Damage to the public assets of the State is defined as deterioration, diminishment, prejudice, detriment, loss, illegal use or lessening of public goods and resources through uneconomical,

inefficient, inequitable, and inopportune fiscal management that generally affects the commitments and essential goals of the State, particularly in the operational and organizational activities of the government or the programs and projects that are overseen by comptrollers. The warrant initiating a fiscal responsibility proceeding must be issued within five years of the time of the offense, and the procedure must be concluded within five years. Employees of the comptroller’s office carrying out investigative activities or inquiries for gathering evidence are given the authority of judicial police, and their responsibilities in these endeavors are clearly stipulated.

The statute sets forth the requirements for evidence in fiscal responsibility cases, and covers other matters such as impediments, challenges, causes and declaration of nullity, requirements for warrants, judgments, enforcement of judgments, and appeals. It provides that the Comptroller General’s Office of Colombia must produce a newsletter three times a year that publishes the names of people or firms who have been held fiscally responsible and whether or not they have made recompense.

[GLIN] (Sandra Sawicki, 7-9819)

ASIA

CHINA—AIDS Prevention Legislation Proposed

The Ministry of Health has begun drafting a new regulation on HIV/AIDS prevention programs. With an estimated 500,000 people now HIV positive in China, the Ministry has been concerned about limiting the spread of the disease. At a symposium on prevention strategies and related legislation organized by the State Council, officials advocated tough regulations, but a number of the proposals have been controversial, slowing the drafting process.

One of the ideas that generated controversy was to amend the Criminal Code to include punishment for those who intentionally infect others with HIV. They would be considered guilty of willful and malicious injury. At present, the Code punishes prostitutes and their customers who engage in sexual activity knowing that they have a venereal disease with up to five years in prison, criminal detention, or surveillance, in addition to a fine (art. 360, Criminal Code of 1997, <http://www.qis.net/chinalaw>). In addition, the Code specifies that violation of border and quarantine regulations that cause the spread of disease or raise the “serious danger” of spreading disease is punishable with up to three years of imprisonment, detention, and/or a fine (art. 332, *id.*). However, carrying HIV/AIDS has not been considered to be the same as having a venereal disease (*China Daily*, Oct. 6, 2000, via FBIS, Oct. 6, 2000). The proposal would change that and by defining the intentional exposure of another to HIV as malicious injury would make it possible to convict members of the general public, not just those involved in prostitution. The possible punishment for malicious injury is three years of imprisonment, criminal detention, or surveillance. However, if serious injury has been caused, the term of imprisonment is three to ten years, and if the injury is fatal or seriously deforming, the sentence can be ten years to life or the death penalty (art. 234, Criminal Code, *supra*).

Another proposal being debated is the provision of condoms and sex education for those involved in any way in prostitution or for university students. Chen Baozhen, director of the infectious disease prevention office in the Ministry, has said that the public is not ready to accept such measures. He has also pointed out the difficulty of determining intent for the purposes of prosecution under the proposed legislation. (*China Daily*, *supra*) (Constance A. Johnson, 7-9829)

CHINA—Death Penalty for Smuggling Offenses

On October 8, 2000, a judicial interpretation

issued by the Supreme People’s Court on smuggling offenses became effective (Interpretation No. 30, Sept. 20, 2000). It was the first detailed definition of which smuggling offenses are subject to the death penalty and was handed down just as courts in Fujian province were considering the cases of the first 100 of about 500 defendants in the country’s largest smuggling case. It has been alleged that goods worth 50 billion *yuan* were smuggled and that senior military and police officers were involved.

The Criminal Code (art. 151, 1997, <http://www.qis.net/chinalaw>) specifies that in extraordinarily serious smuggling cases, the punishment may be life imprisonment or the death penalty. The Code does not, however, establish guidelines for what constitutes an extraordinarily serious case. The new document gives judges quantitative standards for smuggling cases. Capital punishment will be applicable to smuggling offenses involving two or more guns, 100 or more bullets, fake currency with a face value of at least 200,000 *yuan* (about US\$24,000), or endangered animals or by-products with the same value. When gangs have been formed to smuggle in large quantities, their members would also face the death penalty, as would offenders who use “special vehicles,” primarily military or police vehicles. Leaders of work units that engage in smuggling would be subject to imprisonment for at least ten years if the amount of goods involved represent a loss of 2.5 million *yuan* (about US\$302,000) or more in customs duties. (*Fazhi ribao* [Legal Daily] Oct. 9, 2000, http://www.legaldaily.com.cn/gb/content/2000-10/09/content_6368.htm; *Hong Kong iMail*, Oct. 9, 2000, via FBIS Oct. 9, 2000)

Smuggling has become a widespread crime with serious economic consequences. The Chinese photographic film company that makes Lucky brand has been hurt by extensive smuggling that brings down the cost of the imported brands Kodak and Fuji, for example. The State Anti-smuggling and Comprehensive Management

Office has recently stated that in 1999, 21,000 cases were handled that involved the smuggling of goods worth more than 12.7 billion *yuan* (about US\$1.5 billion); the figures are lower this year but it is not clear whether that reflects a lower crime rate or more success on the part of smugglers in avoiding arrest. (Kyodo, Oct. 15, 2000 via FBIS, Oct. 15, 2000.)
(Constance A. Johnson, 7-9829)

CHINA—Foreigners’ Religious Activities

On September 26, 2000, the State Administration of Religious Affairs issued the Rules for the Implementation of the Provisions on the Administration of Religious Activities of Aliens within the Territory of the People’s Republic of China. The regulations on which the Rules are based, the Provisions on Managing Foreign Nationals’ Religious Activities Within the Boundaries of the People’s Republic of China, were promulgated on January 31, 1994.

Under the new Rules, foreigners may participate in religious activities at Buddhist monasteries, Taoist temples, mosques, and churches lawfully registered within Chinese territory and, with the consent of Chinese religious bodies, they may invite Chinese religious personnel to conduct religious ceremonies or rites. “Chinese religious personnel” are those recognized and recorded as such by lawfully registered religious bodies. Government approval, not just that of church bodies, must be obtained before a foreigner (whether religious personnel or those with other status) can preach in official religious venues in China. Preaching must be conducted only at “lawfully registered sites.” Foreigners entering China may carry religious articles if they are to be used in religious cultural and academic exchanges in accordance with the relevant programs and agreements of such exchanges. Prohibited religious printed matter, audio-visual products, and other

items include those that exceed rational personal use and are not for the above-named purpose of religious exchange and those whose contents are “detrimental to Chinese national security and the public interest of Chinese society.”

The Rules prescribe that foreigners in China are prohibited from various missionary activities, including, among others: appointing religious personnel or enlisting religious followers among Chinese citizens; producing or selling religious books and journals, religious audio-visual or electronic products, or other religious articles; distributing religious propaganda; and “other missionary activities.” They may also not “establish religious organizations, institute religious offices, set up sites for religious activities, run religious institutions or hold religious classes in any name or form” within Chinese territory. (“PRC Details Rules on Administration of Religious Activities of Aliens in China,” Xinhua, Sept. 26, 2000, via FBIS, Sept. 26, 2000; “PRC: Full Text on Rules of Religious Activities of Aliens Within China,” Xinhua, *id.*)

According to a church worker in Hong Kong, where the new Rules may also apply, they remove many ambiguities in existing regulations and give the central Government greater powers to police religious activity: “There used to be some room for us to manoeuvre but the new rules have removed those grey areas” (Daniel Kwan, “Hong Kong Organizations Concerned Over PRC Proselytizing Restrictions,” *South China Morning Post*, Sept. 28, 2000, via FBIS, Sept. 28, 2000.) If strictly enforced, the Rules may have a major impact on religious exchanges between Hong Kong and the mainland, because Hong Kong has been “a key base” for the dispatch of missionaries to China by foreign church groups as well as a “major source of donations” for mainland churches and religious groups (*Id.*). The new rules are reportedly aimed at curbing increasing underground religious activities that authorities perceive as being fostered chiefly by foreign preachers and as posing a threat to Chinese

Communist Party rule (Vivien Pik-kwan Chan, "China Issues Measure To Restrict Foreign Missionaries," *South China Morning Post*, Sept. 27, 2000, via FBIS, Sept. 27, 2000). (W. Zeldin, 7-9832)

CHINA-Insider Trading

New regulations were issued by the Chinese Communist Party Committee of the Chinese Securities Regulatory Commission (CSRC) to prevent conflicts of interest involving the spouses and children of the leading securities regulators. (Party policy and directives still take precedence over laws in China.) They forbid relatives of CSRC officials at the departmental level and above from holding positions in audit or law firms employed by companies regulated by the CSRC. All staff members of the securities regulatory system and their spouses and children are prohibited from buying and selling stocks. The relatives may not be partners or senior managers of non State-owned securities, futures, or fund-management companies; run investment-consulting, asset-appraisal, or credit-appraisal firms in the securities or futures field or hold posts in non State-owned firms of these types; or have positions in solely foreign-funded enterprises and Chinese-foreign joint ventures engaged in securities, futures, and fund management businesses. Persons in violation of the rules must rectify their behavior within a prescribed period. Either the spouse or children must cease their activities in conflict with the public interest, or the leading official must vacate his/her post. (ChinaOnline, Sept. 21, 2000, via LEXIS/NEXIS, News Library.)

The purpose of the rules is to reduce insider trading and make China's stock market more in line with international standards. Experts reportedly question the effectiveness of the new measures, given the lack of financial transparency in Chinese companies. However, the rules are expected to be popular with a Chinese public that is weary of high-level corruption and that perceives

top officialdom or their relatives as using their influence in the stock market to grab hold of State assets. ("China Issues Security Regulations Aimed at Curbing Corruption," CND-Global Listserv, Sept. 27, 2000.) (W. Zeldin, 7-9832)

CHINA-Internet Management Measures

The State Council issued the Administrative Measures for Internet Information Services on September 20, 2000, effective September 25, 2000, which can be viewed as a subset of broad regulations on the telecommunications industry (see also "China-Telecommunications" entry below).

The Measures divide Internet Information Service (IIS) providers into two broad categories, commercial and non-commercial. Both types of providers are subject to government regulation: licensing through a provincial-level IIS agency or from the Ministry of Information Industry (MII) under the State Council for commercial IIS, and, for non-commercial IIS, registration by reporting their services at the relevant government authority. Providers whose services relate to news, publishing, education, medical and health care, or pharmaceuticals and medical equipment must first obtain approval from the relevant government agency before applying for the IIS license or registration.

Commercial IIS providers that apply to set up a joint venture or partnership with a foreign business must have the prior approval of the MII. The percentage of foreign investment must be in accordance "with the provisions prescribed in the relevant laws and administrative regulations." Under the new Telecommunications Regulations, State-owned equity in basic telecommunications services must be at least 51%; there is no provision on value-added services. China has agreed to let foreigners own 49% of Internet companies after it joins the World Trade Organization, and 50% two years later ("China

Issues Limits on Internet,” AP Online, Oct. 3, 2000, LEXIS/NEXIS, News Library).

The Measures prohibit IIS providers from producing, reproducing, releasing, or disseminating information that, among others: threatens national security, divulges State secrets, subverts the government, or undermines national unification; instigates ethnic hatred or discrimination; undermines State religious policy or advocates cults or feudal superstitions; spreads rumors or disturbs social order or stability; disseminates pornography or promotes gambling or violence or incites crime; insults or slanders people; or is otherwise prohibited by law or administrative regulations.

IIS providers are to maintain records of the information that has been posted on their Websites and information about the users for 60 days and submit them, on demand, to the regulatory authorities. There are harsh penalties for violation of the Measures’ requirements, including, when grave, revocation of licenses, mandatory closure, criminal liability, and fines of up to one million *renminbi* (about US\$121,000). (AP Online, *id.*; “China: Rules on Internet Information Services,” Xinhua, Oct. 1, 2000, as translated in BBC Monitoring World Media, Oct. 5, 2000, via LEXIS/NEXIS, News Library). (W. Zeldin, 7-9832)

CHINA–Telecommunications Regulations

On September 20, 2000, the State Council adopted the Regulations of the People’s Republic of China on Telecommunications. They were promulgated and became effective on September 25, 2000, and stipulate that any party who engages in telecommunications or telecom-related activities in China must abide by their provisions. The new Regulations are the first of their kind issued by the State Council, and, according to Huang Chengqing, a senior official with the Telecom Administration Bureau under the Ministry of Information Industry, are “the prelude for the Telecommunications Law,

which is due to be released soon” (*China Daily*, Oct. 11, 2000, via FBIS, Oct. 11, 2000).

“Telecommunications” refers to any wire or wireless electromagnetic system or photoelectric system used to deliver, transmit, or receive oral, written, data, pictorial and any other form of information activity. According to the Regulations, a licensing system is to be implemented for the telecommunications industry in line with the different categories of telecom businesses. Telecom businesses are divided into “basic telecommunications services” and “value-added telecommunications services,” and an appendix to the regulations sets forth the various services falling into each of these two categories. State-owned equity or shareholding in a basic telecommunications service must be at least 51%; no requirement is specified for the value-added businesses. A chapter on telecommunications security has provisions for control of the types of content that may be created, reproduced, issued or transmitted by telecom networks and activities that may be harmful to network or information security. (*China Daily (Business Weekly Supplement)*, Oct. 15, 2000, via FBIS, Oct. 15, 2000; Xinhua, Sept. 30, 2000, via FBIS, Sept. 30, 2000.)

Although they clarify many vague definitions, Huang says, the Regulations do not clarify the role foreign companies will play in the telecommunications industry. The Regulations stipulate that specific measures on the investment in and operation of telecom services in China by foreign organizations or individuals will be separately formulated by the State Council. Huang expects such measures to be released by the end of the year. (W. Zeldin, 7-9832)

HONG KONG–Money Laundering Bill

On October 20, 2000, the Hong Kong Government gazetted the Drug Trafficking and Organized and Serious Crimes Ordinance, a bill

designed to strengthen anti-money laundering laws in the Hong Kong Special Administrative Region. The bill is scheduled to be introduced into the Legislative Council in November. It contains proposed amendments to the Drug Trafficking Recovery of Proceeds Ordinance and the Organized and Serious Crimes Ordinance (Chs. 405 and 455, respectively, *Laws of Hong Kong*; see also www.justice.gov.hk.)

If the bill is passed, it would raise the maximum term of imprisonment from 14 years to 20 for the crime of dealing with property believed to be proceeds of drug-trafficking or organized crime. Dealing with property that a person had reasonable grounds to suspect was someone else's criminal proceeds would also become an offense. The Secretary for Justice would be given the power to apply for a restraining order after a suspect had been arrested and released on bail, so that his property could not be dissipated or concealed during the investigation. However, the bill would also have the requirement that the court be satisfied that there was reasonable cause to believe that charges would be brought against the suspect. (Hong Kong RTHK Radio 3, Oct. 20, 2000.) (W. Zeldin, 7-9832)

HONG KONG—Proposal on Juvenile Offenders

A Hong Kong government official announced on October 5, 2000, that a bill would soon be introduced to deal with young criminal offenders. The Rehabilitation Center Bill will provide community-based measures, including a short-term residential rehabilitation program. The program is designed for those aged 14 to 21 whose offenses were relatively minor, such as shoplifting and minor assaults. The program would not enroll those offenders with a long list of prior convictions or whose offenses call for more than a short-term custodial sentence. The aim of the rehabilitation program, in addition to deterrence, is to correct delinquent values and behavior and develop respect for the law and appropriate social skills.

The new program will fill the gap in options now available, for cases in which probation is not viewed as an effective tool to improve behavior but a longer term of detention in one of the existing Training Centers is not justified by the nature of the offense. (Xinhua, Oct. 5, 2000, via FBIS, Oct. 5, 2000.) (Constance A. Johnson, 7-9829)

JAPAN—Ban on Legal Services Advertisements Lifted

The restrictions set forth in the Code of Ethics issued by the Japan Federation of Bar Associations in 1945 (and revised in 1987) were repealed at a special meeting of the Federation in March 2000, effective October 1, 2000. The 1945 code was basically modeled after the American Bar Association's Canon of Professional Ethics. The lifting of the restrictions not only enables lawyers to advertise their services on television and radio commercials and to post them inside trains, on the Internet, and in newspaper inserts, but also gives the general public easier access to legal services.

Prior to the revision, lawyers were banned from giving out any information other than name, address, credentials, and area of speciality when they listed their services in telephone books or in newspapers. The rationale behind the restriction was that the quality of legal services would be compromised by lawyers actively seeking to attract clients. Now lawyers can list their areas of speciality and the fees permitted under Federation guidelines and can state, with the consent of the parties involved, where they are serving as legal advisers as well as the kinds of cases for which they have rendered services.

However, even under the revised Code, the following activities are still banned: citation of the ratio of cases won, making comparisons with other lawyers, and solicitation by in-person visits or by telephone. Any violation of this ban will incur disciplinary action by the Federation. While

relaxing the advertisement regulations, the Federation has warned against the provision of legal services to any business that would degrade the integrity of lawyers, such as credit companies and debt consolidation agencies. (Kyodo News Service, Sept. 29, 2000, via LEXIS/NEXIS, Curnws Library.)

(Sung Yoon Cho, 7-9826)

KOREA, SOUTH—Support for Private Non-Profit Organizations

The Act on Support for Private Non-Profit Organizations became effective on April 13, 2000, as Law No. 6118 (*Kwanbo*, Jan. 12, 2000, at 30-32). The new law is intended to encourage the voluntary activities of private non-profit organizations and support their growth into sound organizations, thereby promoting their public interest activities and making a contribution to the development of democratic society. When any private non-profit organization satisfying certain requirements is in need of support under this Act and applies for registration, the competent Minister, mayor, or provincial governor must grant the registration. These officials are required to financially support registered non-profit organizations by defraying their expenses.

[GLIN] (Sung Yoon Cho, 7-9826)

TAIWAN—Financial Holding Companies

Under a draft law prepared by the Ministry of Finance, subsidiary companies will be prohibited from owning stock in their parent financial companies. The draft, completed September 28, 2000, will be submitted to the Executive Yuan and then to the Legislative Yuan sometime next year.

The Financial Holding Company Law, in its present form, outlines three types of such companies:

- bank holding companies, which can engage in both insurance and securities business if they hold more than 25% of a bank's shares;

- insurance holding companies, which must have more than 50% of the shares of an insurance company before engaging in securities business; and

- securities holding companies, with holdings of more than 50% of a securities company, which may not run banking or securities businesses.

According to Wang Yaw-shing, the Director General of the Bureau of Monetary Affairs of the Ministry of Finance, the draft law specifically regulates cross-shareholding. There will be strict fire walls between the financial holding company and its subsidiaries' financial and business relationships. He also stated that to minimize the cost of establishing a financial holding company, tax incentives may be provided. However, the Ministry would have to approve all such establishments, following a thorough review of the qualifications of the major shareholders and managers of the proposed company. Wang stated that the law "could also assist the regulators in supervising...business on an integrated basis." ("Merger Rules to be Eased," *Taipei Times*, Sept. 30, 2000, <http://www.taipetimes.com/news/2000/09/20/story/0000055514>.)

(Constance A. Johnson, 7-9829)

TAIWAN—Local Government Law Amendment Proposed

On October 18, 2000, the Cabinet approved a draft bill that would amend the Law on Local Government Systems (effective Jan. 25, 1999, Chinese text available in *Tsui hsin liu fa ch'üan shu* [Most Recent Complete Book of the Six Codes] 145-157 (Taipei, 1999)). The proposed change would effect how local governments are classified; the status of "special municipality" would be given to cities or counties with just 1 million or more residents, instead of the current standard of 1.25 million. The current special municipalities are Taipei and Kaohsiung, but the change would make it likely that both Taichung

and Chiayi could be so classified. Special municipalities are under the direct administration of the central government. There are also municipalities considered “provincial level” that are equivalent to counties in legal status. These provincial-level cities had been administered by the Taiwan Provincial government until its role was drastically cut in recent years. The lowest status of town, based on size, is given to those administered by the counties. The draft law would change the method of selecting heads of towns under county government administration to an appointed, rather than an elected system, beginning in 2002.

The proposal is controversial in part because of the way central tax revenues are distributed. The current two special municipalities receive 43% of the Tax Redistribution Fund, while the other counties and cities get 39%. In addition, the chief executives of special municipalities are considered to have a higher status, more independence of operation, and a greater role in central policy making than their equivalents in other cities. Thus, while the cities that may be upgraded are pleased by the proposed amendment, leaders in surrounding counties are not. Critics have called for an overall reform in administrative districting. (Central News Agency, Oct. 18, 2000, via FBIS, Oct. 18, 2000; “Editorial: When Size Does Matter,” *Taipei Times* online, Oct. 20, 2000, <http://www.taipeitimes.com>.)

(Constance A. Johnson, 7-9829)

TAIWAN–Ocean Pollution

The legislature of the Republic of China (on Taiwan) passed an ocean pollution prevention law on October 13, 2000. Highlights of the law are as follows.

- Without an official permit, no person or group may dump any materials into the ocean or in areas set aside for seashore nature preservation and ecological protection.

- Ship owners must install pollution prevention equipment and port management authorities can ban a ship from operating if it is deemed a potential pollution hazard.

- The government agencies concerned should map out standard operating procedures for protecting the ocean environment, periodically publicize the results of their surveillance of ocean pollution prevention, and, when necessary, restrict the operation of ships in endangered waters.

- Punishments for serious pollution of ocean waters are imprisonment for one to ten years and a possible fine of NT\$20 to 100 million. (Taipei Central News Agency, Oct. 13, 2000, via FBIS, Oct. 13, 2000.)
(W. Zeldin, 7-9832)

EUROPE

CZECH REPUBLIC--Copyright Law

A new Copyright Law was enacted on April 7, 2000, and enters into force on December 1, 2000 (No. 121, *Collection of Laws*). Since the Czech Republic is a party to the Berne Convention as revised and the Universal Copyright Convention as revised, the provisions of the Law reflect this affiliation. The innovation consists in the duration of the copyright protection, which is for the author’s life and 70 years after his death, whereas under the prior Law it was only for an additional 50 years after the author’s death. The Law applies from its entry into force, but is not retroactive.

Under the Law, copyright protects original works of authorship. Copyrightable works include literary works, musical works, dramatic works, pantomimes and choreographic works, pictorial,

graphic, and sculptural works, motion pictures and other audiovisual works, sound recordings, and architectural works. The categories are viewed broadly. For example, computer programs and most compilations may be registered as literary works, and maps and architectural plans may be registered as pictorial, graphic, or sculptural works. Copyright protection does not extend to laws, official documents and their drafts, public registers, parliamentary publications, products of traditional folk culture when the author is unknown and the work is not anonymous or pseudonymous, political speeches, and pronouncements in official dealings. The author has an exclusive personal and proprietary interest in the work and may grant another the right of its use by a licensing contract. The Law also deals with the rights of performing artists like actors, singers, musicians, dancers, conductors, producers, etc., and with those of database operators. Breaches of the law are actionable in court.

(George E. Glos 7-9849)

FRANCE--Possible Prosecution of Kadhafi

The Indicting Chamber of the Paris Appeals Court held, on October 20, 2000, that Mouammar Kadhafi could face prosecution in France over the bombing of a French DC10 airplane that killed 170 people in 1989 (see WLB99.10). The court affirmed a decision of investigating judge Jean Louis Bruguière, who had agreed to investigate a complaint for “complicity in voluntary manslaughter” against the Libyan leader on October 6, 1999. The prosecutor’s office had appealed the judge’s decision, invoking the “legal custom” that protects a head of state from prosecution except for crimes against humanity.

The Indicting Chamber found that the judge could proceed with his investigation “because immunity does not apply to acts such as terrorism.” The court’s decision was communicated to the press by Francis Szpiner, one of the attorneys for the victims’ association SOS-ATTENTATS. The

judge now has the authority to issue an international warrant of arrest against Colonel Kadhafi. However, the prosecutor’s office is expected to appeal the ruling before the *Cour de Cassation* (France’s highest judicial court). (*Le Monde*, Oct. 20, 2000, <http://www.lemonde.fr>.) (Nicole Atwill, 7-2832)

GEORGIA--Ban on Casinos

Using his right of legislative initiative, President of Georgia Eduard Shevardnadze proposed new legislation aimed at outlawing the gambling industry and related businesses in the country. The President explained this move by stating two reasons for its necessity. First, casinos in Georgia have become the major venue for money laundering and tax evasion and, second, the state is not able to control the taxation of the casinos, which successfully hide their revenues. The Parliament strongly supported the bill and approved it in two preliminary readings. The final vote and adoption of the law is expected at the end of October. During the parliamentary deliberation, some legislators suggested nationalizing casinos in Georgia, but this idea was discarded by the President as an immoral proposal. (*Rossiiskaia Gazeta*, Oct. 3, 2000, at 3.) (Peter Roudik, 79861)

ITALY--Constitutional Amendment

On October 18, 2000, the Italian Parliament finally approved a law that amends two articles of the Italian Constitution and recognizes the right of Italian citizens abroad to vote in the election of the Italian Parliament. The new law establishes that citizens abroad, about three million in total, will elect 18 members of Parliament, 12 in the Chamber of Deputies and 6 in the Senate. The members so elected, however, will not be added to the 630 Deputies and to the 315 Senators to be elected according to the Constitution; instead, their seats will be created by subtracting the corresponding number of seats from the quota of members elected through the

proportional system. The single-member/majority system districts will remain untouched.

The new law, approved with 406 votes in favor and 49 against, did not progress through Parliament easily. While the very first bill on the subject dates back to 1955, the debate only became serious in the early 1990s. In 1993, a proposal introduced in the Chamber of Deputies failed for lack of the necessary quorum. The Berlusconi government did not reintroduce the bill, and other proposals lapsed at the end of the legislative session in 1996. Work restarted in 1997, but without success, and in a 1998 vote, the quorum was missed again.

The next step will be for the Italian Parliament to approve an ordinary law to implement the constitutional provision, without which Italians abroad will not be able to vote. Although the matter is being considered by the Parliamentary Committee on Constitutional Affairs of the Senate, it remains to be seen whether Italians abroad will be allowed to exercise their rights in the general elections next spring.
(Giovanni Salvo, 7-9856)

ITALY--Mandatory Military Service Ended

The Italian Senate has given final approval by a wide majority of votes to a law that abolishes mandatory military service in Italy. In line with many other countries, Italy will have a professional army of women and men, recruited on a voluntary basis.

With the approval of this law, which breaks with a tradition that had lasted about two centuries, the last age group to undergo conscription will be the young men born by December 31, 1985. The system will be entirely phased out in about seven years.

The law just approved by the Senate will progressively reduce the number of soldiers in military service from the present 270,000 to about 190,000. With the introduction of voluntary

service, soldiers will be paid a salary and will be retained in service for a period of one to five years. Recourse to mandatory military service may be required in case of war, or if the country is involved in a major international crisis and the professional army would not be adequate in number. Within six months, the government is expected to issue implementing legislation.
(<http://www.Repubblica.it>, Oct. 24, 2000.)
(Giovanni Salvo, 7-9856)

THE NETHERLANDS--E-Mail Protection

The Minister of the Interior has sent a proposal to the Lower House of Parliament to amend the Constitution to include modern ways of communication such as fax and e-mail under the constitutionally protected right to privacy of correspondence. The proposed amendment was called extreme but essential in order to guarantee that everyone has the right to communicate confidentially. The Minister is following the advice of a State Commission that advised the Government to reformulate the principle of inviolability of the privacy of correspondence, telephone, and telegraph in this time of the Internet, e-mail, and fax. The Commission stated that communication should always be confidential, irrespective of what medium is used, and the wording should be confidential, irrespective of the technique that is being used. This will mean that in practice third parties will have access to e-mail only after having obtained the permission of a judge. In cases in which national security might be violated, the Minister of the Interior would have to give permission to violate the privacy of correspondence. (NRC-Handelsblad, Oct. 18, 2000, <http://www.nrc.nl/W2/Nieuws>.)
(Karel Wennink, 7-9864)

THE NETHERLANDS--Firearms

On October 10, 2000, the Upper House of Parliament approved a bill introduced by the Minister of Justice to raise the maximum sentence for illegal possession of firearms to four

years of imprisonment. The sentence for illegal dealing in firearms will be raised from four years of imprisonment to eight. The increase in the maximum sentences was due to the heightened threat posed in recent years by the illegal possession of firearms, which has caused serious incidents that constituted a violation of the legal order.

Prior to the entry into effect of the bill, the Minister of Justice announced a nationwide campaign for the surrender of firearms to be held from November 1-12, 2000. During this campaign, people may surrender weapons illegally in their possession without the risk of being prosecuted. (Press Release, Ministry of Justice, Oct. 10, 2000, <http://www.minjust.nl/c-actual/persber/pb0664.htm>.) (Karel Wennink, 7-9864)

RUSSIAN FEDERATION--Court Rules Internet Eavesdropping Unlawful

In August 2000, the Russian Ministry of Justice registered a Communications Ministry Order "On the Principles of Implementation of Technical Means for Ensuring Operative Activities in Telephone, Mobile and Wireless Networks" (No. 2339) as a supplement to the "Federal Law On Operative Activity." The Order is a part of new legislation on law enforcement structures that permits the Federal Security Service (FSB, the former KGB) to eavesdrop on telephone conversations, pager messages, and personal communication across the Internet without notifying operator-companies and without obtaining permission from the judicial authorities.

According to Russian criminal procedure, investigators must notify the court within 24 hours of beginning the surveillance; the court then has 24 hours to adopt a decision. This procedure allowed the investigators to eavesdrop on any citizen for two days without any warrant or court decision. In line with the Order, all communication service providers were obliged to purchase and install the

eavesdropping equipment at their own expense. The operator-companies had to take measures to prevent anyone from exposing the techniques used by the authorities. All related information was classified as confidential, and only a limited number of specialists might work with the equipment. This document was never published.

On September 25, 2000, the Russian Supreme Court evaluated the legality of the Order and ruled that eavesdropping on personal communication could be allowed only under a court decision or with a warrant issued by a prosecutor. The clause in the Order obliging telecom operators to install eavesdropping equipment at their own expense was found to be unlawful. The equipment should be installed at the state's expense. (<http://www.supcourt.ru>, the official web site of the Russian Supreme Court.) (Peter Roudik, 7-9861)

RUSSIAN FEDERATION--New Rules for Elections of Governors

New electoral legislation adopted in Tatarstan, the most independent component of the Russian Federation, makes it possible for the President of Tatarstan, Mintimer Shaimiyev, to retain his post for one more term. He is currently serving his second term, which according to federal legislation would be his final term.

Under Russian federal law, regional leaders are barred from running for a third term in office. In an attempt to eradicate all legal discrepancies between federal and regional laws and to enforce Moscow's power over the regions, President Putin recently stressed the principle of federal law whereby regional leaders are limited to two successive terms in office.

In a show of resistance to federal domination, on September 23, 2000, Tatarstan's legislative body, the State Council, announced that presidential elections would be rescheduled for

December 2000, instead of March 2001. Observers believe the aim of the resolution is to help the President of Tatarstan, but the regions' legislators claim the presidential elections have been moved forward so that the gap between the parliamentary and the presidential elections will not exceed a year.

In line with a recent agreement between Moscow and Tatarstan, by January 1, 2001, all the Republic's laws must be revised to coincide with the federal constitution and federal laws. Work on revising the regional acts is currently underway, and the State Council of Tatarstan approved about two hundred amendments to the Law on Presidential Elections for the Republic, including the elimination of a number of clauses inconsistent with the federal Constitution. In particular, presidential candidates will no longer be required to have been resident in the Republic for a minimum of 10 years, and the minimum age for presidential candidates has been decreased from 35 to 30. However, local legislators resolved to keep the language knowledge requirement, which requires that presidential candidates be competent in the Republic's two official languages--Russian and Tatar. Apparently, that clause will remain in effect until the Constitutional Court of Russia rules otherwise.

As a part of amendments to the Republic Constitution two years ago, Tatarstan's regional parliamentarians abolished the clause stipulating that the Tatar president can serve a maximum of two consecutive terms. Tatar authorities have until January 1, 2001, to comply with Moscow's insistence that the restriction be restored, so there is enough time to have Shaimiyev, the only contender for the presidency, re-elected for a third term. After the election, the Tatar legislators will have at least seven days left to reintroduce the restriction as stipulated in the agreement between Moscow and Tatarstan. Because Russian federal laws are not retroactive, it is unlikely that anyone will contest the legitimacy of Shaimiyev's reelection. (<http://www.gazeta.ru>, visited Sept.

27, 2000.)
(Peter Roudik, 7-9861)

RUSSIAN FEDERATION--Registration Requirement Ruled Unconstitutional

In September 2000, the Moscow City Court ruled unconstitutional two decrees issued by the Mayor of Moscow that stipulated the compulsory re-registration of all non-residents in Moscow and allowed Moscow city police to expel those who failed to register with the municipal authorities.

In 1997, the Constitutional Court of the Russian Federation ruled that the Moscow authorities' registration policy was unconstitutional on the grounds that it violated citizens' constitutional rights to travel and settle freely. However, the Mayor refused to lift the regulations. The registration regime for non-residents, that is, those who do not have a permanent address in the Russian capital, was revised and toughened after several terrorist attacks. All non-residents temporarily residing in Moscow were required to re-register within a three-day period or face expulsion from Moscow.

The registration procedure was challenged by human rights activists in the Constitutional Court, which forwarded the suit to the Moscow City Court for consideration. In April 2000, the Prosecutor General's Office filed a similar suit. The Moscow City Court combined the two suits and on May 24th of this year the City Court examined the suit and ruled in favor of the Moscow authorities. In July, the Supreme Court examined the appeal filed by the plaintiffs and abolished the ruling of the Moscow City Court. The suit was then passed back to the Moscow City Court for review by another judge. Meanwhile, the prosecution decided to revoke the claim. Despite the prosecutors' withdrawal from the litigation, the court hearings proceeded, and the judge ruled the Mayor's decrees invalid and unconstitutional. In line with the court's ruling, compulsory re-registration of all non-residents

living in Moscow is invalid, as is the deportation of those who failed to register within the three-day period.

However, human rights activists believe the Moscow City Court's ruling is unlikely to put an end to the arbitrariness of the police and city officials; the activists are preparing to file new suits against the registration regime itself. (*Moscow Times*, Sept. 26, 2000, <http://www.securities.com>.) (Peter Roudik, 7-9861)

SOUTH PACIFIC

AUSTRALIA--Native Title to Land

On October 3, 2000, a Federal Court in Cairns issued a consent determination that the Wik people hold native title to 6,000 of the 30,000 square kilometers they claim in northern Queensland's Cape York Peninsula. Further negotiations with those who hold pastoral or mining leases or who operate commercial fisheries will be necessary to settle the status of native title claims over the remaining territory.

In 1996, the Wik people entered Australian legal history when the High Court ruled in a landmark case that the grant of pastoral leases did not extinguish native title to land occupied by aboriginal Australians at the time of European settlement (*The Wik Peoples v. The State of Queensland* 187 CLR 1 (1996)). The recent decision is a direct consequence of the High Court case and represents the conclusion of several years of negotiation (*Wik Peoples v. State of Queensland* FCA 1443 (2000)).

Australia's federal Attorney General hailed the decision and urged all parties concerned with native title claims to avoid the expenses of litigation by resolving such claims through mutual agreement, as encouraged by the 1998 amendments to the Native Title Act 1993. The

judge in the current case criticized the slow pace of negotiations and said that he would order a trial date if the parties could not reach agreement within the next six to twelve months. (http://www.austlii.edu.au/au/cases/cth/federal_ct/2000/1443.html; "Wik People--Native Title Determination" News Release, Commonwealth Attorney-General, Oct. 3, 2000, http://law.gov.au/aghome/agnews/2000newsag/823_00.htm; "Wik People Win Part Native Title Claim," *The Australian*, Oct. 4, 2000.) (D. DeGlopper, 7-9831)

LAW AND ORGANIZATIONS--INTERNATIONAL AND REGIONAL

CHINA/PAKISTAN--Legal Assistance Agreement

On October 13, 2000, a memorandum of understanding on legal assistance was concluded between China and Pakistan. It was signed by Aziz A. Munshi, Minister for Law, Justice and Human Rights from Pakistan, and Han Zhubin, Procurator General of China, in a ceremony in the Great Hall of the People in Beijing.

Under the agreement, the two countries are committed to rendering each other legal assistance. Bilateral cooperation will be increased in academic studies and professional training, and texts of laws and other legal information will be exchanged. (*Karachi Dawn* (Internet version), Oct. 15 2000, via FBIS, Oct. 15, 2000.) (Constance A. Johnson, 7-9829)

TAIWAN--Fishery Convention Membership

The Republic of China (on Taiwan) (ROC), after three years of effort, will reportedly be admitted to the Convention on Conservation and Management of Highly Migratory Fish Stock in the Central and Western Pacific Ocean. A multilateral conference of the organization adopted a decision on September 4, 2000, to make Taiwan a member

of the Convention's executive commission when it takes effect "in the near future." An agreement on Taiwan's participation has already been signed, and Taiwan will join as a "fishing entity" with the name of "Chinese Taipei."

The ROC, as a fishing entity in the executive commission, will enjoy almost the same rights and obligations as the contracting parties of the convention. In the view of Hu Hsing-hua, director of the Fishery Administration under the ROC's Council of Agriculture, "the arrangement has set a new model for the ROC to take part in functional government-to-government international organizations," and may have a positive influence on Taiwan's bids to join other similar international bodies.

Some 28 countries and territories participated in the negotiations for the signing of the Convention. Taiwan's participation in the process represented the first time since the ROC was expelled from the United Nations in 1971 that it had been able to sit on a par with mainland China in negotiations over an international convention. Most of the restrictions on Taiwan's rights in the organization that were proposed by the People's Republic were shot down in debate. Only four restrictions remain. The ROC does not have the right to join in the selection of a venue for the Convention's headquarters, to run for the chairmanship and vice chairmanship of the executive commission, to take part in the appointment of the commission's executive director, or to participate in voting for the admission of any new member.

The ROC is reported to be one of the six largest fishing countries in the open seas. Its huge clout in the deep-sea fishing industry is viewed by some observers as the major reason for its success in participating in all six rounds of the negotiations held to form the organization, breaking the PRC's diplomatic embargo. (Taipei Central News Agency, Sept. 28, 2000, via FBIS, Sept. 28, 2000.) (W. Zeldin, 7-9832)

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Cabinet Office. TACKLING DRUGS TO BUILD A BETTER BRITAIN, UNITED KINGDOM ANTI-DRUG COORDINATOR'S SECOND NATIONAL PLAN, 2000/2001. 2000.

This report discusses the implementation of Britain's 10-year strategy for dealing with drug use. The current report focuses on the changes and strategies that are to be implemented during 2000-2001. The discussion includes how the drug strategy interacts with plans of other nations as well as the plans of the devolved powers of the United Kingdom.

Home Office. SETTING BOUNDARIES, REFORMING THE LAW ON SEX OFFENCES. July 2000.

This report is a review of the current status of the law on sexual offenses. It contains recommendations to change and enhance the law so as to provide more protection for those most vulnerable, especially children. The aim of the report is to make the law on sexual offenses fair and non-discriminatory.

House of Commons, Culture, Media, and Sport Committee. CULTURAL PROPERTY: RETURN AND ILLICIT TRADE. HC 371-I, 1999-2000 (July 2000).

This report is concerned with the trade in works of art and other cultural objects, both licit and illicit, and the protection of the world's cultural heritage. The Committee focuses on the importance of understanding the provenance of cultural property for the understanding of those who are involved in its trade and transfer. The report recommends measures for battling the effects of the illicit trade of cultural property.

Marsden, Keith. TOWARDS "A TREATY OF COMMERCE," EUROLAND AND NAFTA COMPARED. Centre for Policy Studies. July 2000.

This paper, written by an economics consultant to numerous UN agencies, discusses the future of Britain's economy. The author poses the question of whether Britain should continue to argue for an end to an "ever closer union" and explore the possibility of joining NAFTA, or renegotiate the terms of their EU membership. The author, based on economic data compiled since NAFTA's inception in 1992, finds that the more flexible NAFTA is a better fit for Britain than "Euroland."

REPORT OF THE TASK FORCE ON POTENTIALLY HAZARDOUS NEAR EARTH OBJECTS. Sept. 2000.

This report deals with the possibility of comets and asteroids coming in contact with the Earth. It mentions the problems in our current understanding of Near Earth Objects and the dangers they may cause. The report makes recommendations on how Britain and other countries of the world should take steps to achieve a better understanding and awareness of Near Earth Objects.