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Special Attachment:

LEGAL RESPONSES TO TERRORISM: A BRITISH EXAMPLE

Government as the "Insurer of Last Resort"

PLUS: UPDATE FROM THE EUROPEAN UNION

Note: Forthcoming Updated Study

Terrorism: the Foreign Legal Framework

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The WORLD LAW

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AMERICAS

ARGENTINA–Electronic Mail Privacy

On September 17, 2001, the Executive submitted draft legislation on the protection of the privacy of electronic mail; the draft is currently pending legislative approval. The proposed legislation will extend the criminal sanctions now applicable to the violation of postal mail to electronic mail, amending articles 153 and 155 of the Criminal Code. The violation of electronic mail will be punished with imprisonment for six months to fifteen years and a fine of US\$1,500-90,000. The novelty introduced by this draft legislation is that it assigns the ownership of the e-mail address to the employer and not the employee when dealing with a work-assigned e-mail address. Therefore, the employer is entitled to access and control any information coming in and out of employees' electronic mail with a work-related electronic address. (*Informe VIP*, <http://www.informevip.com.ar/1170901.htm>) (Graciela Irene Rodriguez-Ferrand, 7-9818)

MEXICO–Debate on Independent Political Candidates

During a public session on October 25, 2001, the seven judges who comprise the Electoral Court, an entity of the judicial branch of the Mexican government and the highest electoral authority of the nation, urged the National Congress to allow independent candidates to be registered to run for public office to end the “monopoly of political parties in the presentation of candidates for popular elections.” The judges stated there is a “political vacuum” created by the monopoly of candidates by political parties. Presiding Judge Fernando Ojesto Martinez noted that “after today the topic of independent candidates is on the national political agenda because it is not only relevant but historic.” The unprecedented public discussion took place after a complaint was lodged by Manuel Guillen Monzon, who was denied registration as an independent candidate for a post in the state government of Michoacan by the Electoral Institute of that state. If the national legislature takes up the

question of independent candidates, it will have to consider take into consideration the provisions of the Federal Code of Electoral Institutions and Procedures and pertinent articles of the Constitution. (*El Diario de Chihuahua, Diario Digital*, Oct. 26, 2001, via <http://www.diario.com.mx/pais/nota5.html>) (Sandra Sawicki, 7-9819)

ASIA

CHINA–Legislative Developments

On October 27, 2001, the Standing Committee of the Ninth National People's Congress adopted several significant decisions on a variety of topics.

Intellectual property: amendments to the Copyright Law and the Trademark Law

International relations: ratification of the Sino-Russian Good-Neighbor and Friendly Cooperation Treaty

Labor: amendments to the Trade Union Law (*see* WLB entry below)

- adoption of a Law on Prevention of Occupational Diseases
- ratification of the Labor Administration Convention
- ratification of the Convention on Safety, Public Health in the Construction Industry

Maritime: adoption of the Law on the Use and Management of Sea Areas

Terrorism: ratification of accession to the International Convention for the Suppression of Terrorist Bombings (with a reservation re art. 20, clause 1)

- ratification of the Shanghai Treaty on Fighting Terrorism, Separatism, and Extremism

(“24th Meeting of Ninth NPC Ends, Li Peng Speaks,” *Xinhua*, Oct. 27, 2001, as translated in FBIS.)

(W. Zeldin, 7-9832)

CHINA–Trade Union Law Revised

China's National People's Congress Standing Committee has adopted a major revision of the Trade Union Law as a part of a package of labor-related legislation (*see* WLB article above). The new Law redefines the duties of trade unions and strengthens their role. New provisions will apply to the establishment of unions and state that the only basic activity of a trade union is to safeguard the legitimate rights and interests of workers. The Standing Committee held the first discussion on the draft revisions in August of this year and agreed to the Law's adoption after some further corrections at a meeting on October 24. (*Xinhua* Oct. 24 & 27, 2001, translated in FBIS.)

One key issue is the right to strike; China has signed the United Nations Covenant on Economic, Social, and Cultural Rights, which states that workers do have the right to strike. The exact language of the revised law on this issue will be an important indicator of the status of workers' rights in the country (*Ming Pao*, Oct. 1, 2001, via FBIS).

(Constance A. Johnson, 7-9829)

KOREA, SOUTH–Immigration Law

The Ministry of Justice (MOJ) of the Republic of Korea (ROK) will strengthen punishments for violations of the Immigration Control Law. Those who violate the Law for purposes of personal profit will be sentenced to up to seven years' imprisonment or a maximum fine of W50 million (US\$38,595). Illegal aliens will be subject to up to five years of imprisonment and a fine of up to W30 million (US\$23,157). At present, the penalty for both types of violators is the same: a prison term of up to three years or a fine of W10 million (US\$7,719).

The planned amendments to the Law have apparently been enacted in the wake of the

September 11th terrorist attacks in the United States. Other related measures planned by the MOJ include the opening of a hotline with China's public security authorities to establish a cooperative system for cracking down on illegal entry into both countries and enhancing mutual assistance in detection of illegal entrants; immediate entry into force of the ROK-China extradition treaty (signed in October 2000); and creation of a committee to prepare measures to prevent illegal entry by sea. To expedite the ROK-China cooperative system against illegal entry, the MOJ has also ordered prosecutors' offices nation-wide to launch an unlimited special investigation into criminal activity related to illegal entrants, brokers in fake passports, and persons who facilitate violation of the Immigration Control Law. (Seoul *Choson Ilbo*, Oct. 11, 2001, via FBIS.)
(W. Zeldin, 7-9832)

NEPAL--Abortions

The National Parliament of Nepal approved a bill that legalizes abortion under certain circumstances. The legislation would overturn the complete ban on abortions that has been in place thus far.

The bill's provision on abortion enables a woman to abort a pregnancy of up to 12 weeks with the consent of her husband. Where pregnancy resulted from rape or incest, it may be terminated by a woman in the first 18 weeks. Otherwise, with the woman's consent, pregnancy may be terminated at any time if it poses a danger to the physical or mental health of the mother or if medical reports show that the fetus is damaged and thus the pregnancy may lead to the birth of a disabled baby.

In order to discourage the discriminatory practice of determining the sex of the child before birth with preference shown to male

babies over females, provisions specify punishment of up to six months imprisonment for anyone engaged in prenatal gender testing (be it the doctor or the pregnant woman). If the intention was to abort the child after determining the sex, the defendant could be punished with an additional year of imprisonment. (Xinhua, Oct. 10, 2001, via FBIS, Oct. 12, 2001.) (Krishan Nehra, 7-7103)

NEPAL--Land Reform

The Nepalese House of Representatives passed the Land Amendment Bill on October 12, 2001. Nepal is an agrarian country and the objective of the legislation is to improve agricultural productivity by redistributing the land held by some landlords that exceeds the ceiling fixed by law held to landless farmers. The bill divides the country into three regions and places a different ceiling on ownership of land for families in each region.

In the southern Terai plain region, each family would be limited to the ownership of 7.5 hectares; in the hilly region in the northern Nepal, to 1.6 hectares; and in the Kathmandu valley, to 0.8 hectares. Reportedly more than 80 percent of Nepal's population is agrarian and an overwhelming number of people are poor, without title to the land they cultivate. (Xinhua, Oct. 13, 2001, via FBIS Oct. 13, 2001.) (Krishan Nehra, 7-7103)

TAIWAN--Mainland Work Permit Extension

The Mainland Affairs Council, the body in Taiwan that manages the growing contacts with the People's Republic of China, has approved an extension of the work permits for mainland Chinese professionals in Taiwan. The rule change, which is awaiting Cabinet-level approval, would increase the length of time on the work permits from three years to six.

The new rule would apply to 18 industries, including aviation, biotechnology, information

technology, semi-conductors, and telecommunications. (*China News Digest*, Oct. 30, 2001, via <http://www.cnd.org/global/01/10/20/011030-1.html>) (Constance A. Johnson)

TAIWAN--Military Criminal Code

The Legislative Yuan of the Republic of China (on Taiwan) (ROC) adopted a "sweeping overhaul" of the military criminal code on September 27, 2001. Originally adopted on September 25, 1929, the Criminal Law of the Armed Forces has not undergone a major revision for decades. Only in 1991 did the Ministry of Defense begin to seriously consider amending the Law.

The revised Law narrows the scope of the death penalty. It can now be applied only to military personnel who resist the command to fight enemies, who falsify military orders or information, or who thwart the ROC's military undertakings. Moreover, in times of peace, servicemen found guilty of committing a crime will not face stiffer punishment than their civilian counterparts. According to lawmaker Hsieh Chita, who spearheaded the reform package, "though not perfect, the revised military criminal code provides much more human treatment for offenders." By way of example, she stated that, aside from provision of clemency, military deserters have six days to turn themselves in. (*Taipei Times*, Sept. 28, 2001, via FBIS.) (W. Zeldin, 7-9832)

EUROPE

BULGARIA--New Privatization Procedure

All 1,700 state-run companies in Bulgaria, except for the only nuclear power plant, will be put up for sale now that a new Bulgarian Privatization Act has been adopted by the Parliament. The Act provides that only tender

offers and competitive bids may be used as privatization methods; negotiations with potential buyers are not envisaged. Exceptions are made for large-scale monopolies with complex structures where social commitments, in addition to the price offered, are to be a factor in the sale. The previously existing preference extended to managers and employee associations as potential buyers is abolished. Shares held by employees of the companies have become void. Privatization and the post-privatization control of the companies will be overseen by two separate government agencies. (*Standart Daily*, Oct. 1, 2001.) (Peter Roudik, 7-9861)

CYPRUS--Protection of Witnesses

In July 2001, Cyprus adopted a law that provides for special security measures for court witnesses who are in need of assistance, such as those under 18 years old, the mentally handicapped, and victims of family violence, human trafficking, or sexual exploitation. Security measures ordered by the court include closed-door trials, placement of a special screen in front of the witness, or deposition through the use of video recording. Other measures aim to protect not only the victim, but also his or her immediate family and include the use of guards, secret transport to another place, either within or outside the country, and change of the identity of the witness and his/her family. (*Official Gazette of the Republic of Cyprus*, No. 3512, July 6, 2001.) (Theresa Papademetriou, 7-9857)

CYPRUS--Ratification of the Montreal Protocol

In April 2001, Cyprus ratified the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, as adjusted and amended. The ratification law designated the Minister of Agriculture, Natural Resources, and Environment as the Authority responsible for the implementation of the Protocol. (*Official Gazette of the Republic of Cyprus*, No. 3488, Apr. 12,

2001). (Theresa Papademetriou, 7-9857)

ESTONIA--Digitalization of Government Documents

According to a Resolution of the Estonian Justice Ministry, beginning on October 1, 2001, all government agencies must circulate their draft documents and bills digitally. The “eJustice” system of electronic passage of texts of regulations and amendments introduces digital coordination and handling of bills between government institutions and establishes legal requirements for electronic handling of documents.

Under the new system, a digital copy of each act must be posted on the eJustice Web page on the day the document leaves for the coordination round to other agencies. All bills in the preparation stage are gathered on a single Web site, which saves both paper and time. However, because the government has failed to implement means to enable digital signatures, full compliance with the law from the early stages of implementation of the system will not be possible. (*Baltic News Service*, Oct. 3, 2001.) (Peter Roudik, 7-9861)

FRANCE--Criminal Prosecution of the President

On October 10, 2001, the *Cour de cassation* (France’s highest judicial court), clarifying the 1958 Constitution, held that the President of the Republic was immune from criminal prosecution and could not be called as a witness while in office (in cases that concern him). The court agreed with President Chirac’s argument that as the head of state directly elected by the people and as guardian of the State’s “continuity,” the president could not be subject to common prosecution under the law. The court further ruled that a president could be tried only by the parliamentary High Court and only on the

grounds of high treason. Legal action, however, could be pursued against a president once his mandate is over.

This ruling, which confirmed a 1999 finding by the Constitutional Council, puts an end to attempts by several investigating judges to interview President Chirac in three separate inquiries. He has come under scrutiny in an alleged employment scandal in which some Paris city hall employees were found to have actually been working for Mr. Chirac's party, the RPR. In addition, a videotape confession of a since-deceased official from the RPR has directly implicated the President in a huge undercover kickback system based on contracts for Paris public housing stock, with the payments going to the RPR when Mr. Chirac was the mayor of Paris. More recently, evidence was uncovered showing that before he was elected President in 1995, Mr. Chirac paid for several luxury foreign trips for himself, his family, and friends with banknotes whose origins are unclear. He has denied all the allegations and refused to appear before any of the investigating judges. (*Le Monde*, Oct. 11, 2001.) (Nicole Atwill, 7-2832)

GREECE--Recent Amendment of the 1975 Constitution

The Constitution of Greece was amended for a second time in April 2001. New provisions were added covering civil and social rights, such as the right to one's health and genetic identity and the right to information, with exceptions only for national security, crime fighting, or protection of rights and interests of the State. Another amendment allows alternatives to mandatory military service for conscientious objectors. Other new provisions include a recognition of the right of political parties to public financing for their campaign and operational expenditures, a statutory campaign expenditures ceiling, and the establishment of a special judicial body to review campaign expenditures. Additional provisions

deal with functions of the Parliament and the judiciary. (*Gazette of the Hellenic Republic*, part A, No. 84, Apr. 17, 2001.) (Theresa Papademetriou, 7-9857)

RUSSIA--Corporate Governance Code

Russia's Federal Securities Commission presented a Corporate Governance Code to investors; it is aimed at bringing local business up to global standards. Although the Code is not legally binding, it creates general rules for market participants. The Code describes in detail the principles of corporate conduct, sets rules for shareholder meetings, and defines the functions of a company board and executive bodies. It also describes procedures for corporate information disclosure, payment of dividends, and settlement of corporate conflicts. The Federal Securities Commission plans to monitor violations of the Code and publicize them. The Code will enter into force in November 2001, immediately after the Government's approval. It is expected that the Government will put major ideas included in the document into law, especially in the areas of disclosure of information requirements and fees and sanctions for any violations. (*Reuters*, Oct. 18, 2001.) (Peter Roudik, 7-9861)

UKRAINE--Parliamentary Developments

Prime Minister Kinakh has requested that the Verkhovna Rada (Parliament) "relieve him of his legislative duties." Despite the Constitution's prohibition against Members of the Rada simultaneously holding another government position, Mr. Kinakh, who was appointed Prime Minister on May 29, 2001, previously had not attempted to divest himself of his position in the Rada. When queried on this matter, he replied that he had not wanted to distract the Rada's "attention from passing a bill on the Cabinet of Ministers." Ten other government officials are the subject of a lawsuit brought by Rada Chairman Ivan Pliushch in the Kyiv City Court for the same offense of not giving up their seats in parliament.

Another development affecting the Rada is the signing on October 8 of a formal accord establishing the election bloc "Our Ukraine," at the initiative of reformist Viktor Yushenko (former Prime Minister preceding the incumbent Anatoliy Kinakh). Our Ukraine now consists of five Western-oriented political parties: the National Rukh of Ukraine, the Ukrainian National Rukh, Reforms and Order Party, Liberal Party and the Christian Popular Union, all regarded as Western-oriented parties. The next parliamentary election will take place in March 2002. (RFE/RL Newline, via *The Ukrainian Weekly*, Oct. 14, 2001).
(Natalie Gawdiak, 7-9838)

SOUTH PACIFIC

AUSTRALIA--Intelligence Services Law

On October 29, 2001, Australia's Intelligence Services Act 2001, No. 152, went into force. The Act provides a legislative basis for Australia's foreign intelligence service--the Australian Secret Intelligence Service (ASIS)--and the Defence Signals Directorate (DSD), the Australian equivalents of the CIA and NSA. The Act is intended to provide a clear line of ministerial authority over the ASIS, define the rights, duties and limits on the activities of ASIS staff, and to establish a joint Parliamentary committee to oversee both ASIS and the domestic intelligence agency, the Australian Security Intelligence Organization (ASIO). (<http://scaleplus.law.gov.au/html/>; Parliament of Australia, Parliamentary Library, Bills Digest No. 11, 2001-02, at <http://www.aph.gov.au/library/pubs/bd/200102bd011.htm>)
(D. DeGlopper, 7-9831)

AUSTRALIA--Patent for the Wheel

In a world first, Australia's Patent Office has issued a patent for a "circular transportation facilitation device," more commonly known as the wheel (Innovation Patent No. 2001100012). It was

granted to Mr. John Keogh, a freelance patent attorney from Melbourne, who wished to demonstrate the flaws in the newly introduced Innovation Patent System, which went into operation on May 24, 2001, and replaced the Petty Patent System. The Innovation Patent system was intended to provide local industry with a relatively cheap patent right that is quick and easy to obtain. Mr. Keogh contends that such rights, which can be obtained without employing a patent attorney or being reviewed by the Patent Office, should not be called patents and that the Patent Office does no more than rubber stamp any application submitted. ("Melbourne Man Patents the Wheel," *The Age*, July 2, 2001 at <http://www.theage.com.au>; "About the Innovation Patent," *IP Australia*, at <http://www.ipaustralia.gov.au/patents/>)
(D. DeGlopper, 7-9831)

INTERNATIONAL LAW & ORGANIZATIONS

INDIA /UNITED STATES--Treaty Combating Terrorism

India and the United States signed a bilateral treaty on mutual legal assistance in criminal matters, for law enforcement and for cooperation in counter-terrorism between the two countries. The purpose is to enhance their common objective of law enforcement by putting in place a regularized channel for obtaining law enforcement assistance from each other.

The treaty sets broad guidelines for more extensive cooperation on the extradition and indictment of criminals. Thus, it will improve implementation of the bilateral extradition treaty of July 1999. The treaty further includes the two countries' sharing of intelligence on global terrorist networks and enhancement of procedural mechanisms involving the investigation, prosecution, prevention and suppression of serious crimes. (*The Hindu*, Oct. 17, 2001, <http://www.hinduonnet.com>)
(Krishan Nehra, 7-7103)

JAPAN/UNITED NATIONS–Terrorism Convention Signed

On October 30, 2001, the Japanese Ambassador to the United Nations signed the International Convention for the Suppression of the Financing of Terrorism on behalf of his government. The Convention was adopted by the U.N. General Assembly in December 1999 and has been ratified by four countries (UK, Botswana, Sri Lanka, and Uzbekistan). Another 18 ratifications are needed in order for the Convention to enter into force. Japan is the 68th signatory to the treaty and the last of the G-8 countries to sign. Signature of the document paves the way for the Diet's deliberation next year of the relevant bills needed for its ratification.

Under the Convention, each member state must take appropriate measures in accordance with domestic legislation to freeze funds used or allocated for the purpose of committing crimes such as hijacking, the taking of hostages, and terrorist bombings, which are deemed extraditable. States parties must make such crimes punishable, prosecute or extradite the alleged offenders, and exchange information requisite for related criminal proceedings. (*Kyodo*, Oct. 30, 2001, via FBIS.) (W. Zeldin, 7-9832)

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Holocaust Assets ([http://www.house.gov/
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Terrorism (*now being updated*)

Women—Their Status & Rights (LL96-4)

FOREIGN LAW BRIEFS

The New Russian Code of Criminal Procedure, by Peter Roudik, Sept. 2001. No. LL-FLB 2001.03

Japan: Recent Legal Developments in Health Care, by Sayuri Umeda, July 2001. LL-FLB 2001.02

Capital Punishment in Foreign and International Law, by Constance Johnson, June 2001. LL-FLB 2001.01

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Recent Publications from Great Britain Obtainable from the Law Library

Coleman, Stephen, *ed.* 2001: *A CYBERSPACE ODYSSEY—THE INTERNET IN THE UK ELECTION*. London: The Hansard Society, undated. 59 pp.

With the Internet playing a greater role in society, politicians are availing themselves of the ever-expanding medium. In the recent general election, political candidates only used the Web as an additional campaign tool and did not make use of its abilities to be personal and interactive. The report suggests that the next election will see “E-politics” playing a larger role in determining the election’s outcome. Although E-politics is mainly used as a forum to market candidates and hotly contested or controversial issues, “E-democracy focuses on connecting citizens, particularly those in the 18 to 25 year old range, to their representatives and the policy-making process in hopes of developing constituencies that are more politically connected, active and aware.”

Parliamentary Resources Unit. *TERRORISM*. Brief prepared for emergency debate in both Houses of Parliament. Sept. 14, 2001.

The events in the United States on September 11, 2001, when hijacked jets were crashed into the towers of the World Trade Center, the Pentagon, and a field near the town of Shanksville, Pennsylvania, are chronicled, as are subsequent statements from President Bush and from the British Prime Minister, the Crown, the Conservative and Liberal parties, and the Archbishop of Canterbury.

The report describes the background of domestic and international terrorism and provides a list of known terrorist organizations. It details warnings and suggestions given to the US, using the UK and other countries’ strict domestic and international air transportation regulations as a comparison to the more relaxed regulations for domestic flights in the US that were in place until September 11. It also looks into the possibility of the UK being used as a base for overseas terrorism, outlines precautionary security measures that are being taken in Britain, and makes additional recommendations for further precautions, specifically in air travel.

Secretary of State for Environment, Food and Rural Affairs. Response to the report of the BSE Inquiry. Cm. 5263. London: the Stationery Office, Sept. 2001. 114 pp.

An interim report on BSE was published in February 2001, followed by a consultative report published in May. The current report covers the Government’s interim responses to the Bovine Spongiform Encephalopathy (BSE, otherwise known as “Mad Cow Disease”) Report, and it chronicles the origin of the UK epidemic, the rate of contagion, and present and future governmental action. The report also details the care and compensation of farms and families affected by BSE as well as vCJD, the human variant of BSE thought to be brought on by exposure to cattle suffering from BSE. The report recommends the development of local governing bodies that cover the enforcement of regulations in areas that have implications for human and animal health and greater and more open communication with citizens, as well as Government and civilian scientists and veterinarians. The report details additional findings and recommends and addresses their implementation.

Society for the Protection of Unborn Children. AFFIRMING A PRO-LIFE CULTURE IN NORTHERN IRELAND. Newtownabbey, N. Ireland: SPUC Northern Ireland, Sept. 2001. 61 pp.

The report focuses on the issue of the human rights needs of the unborn. It describes the development and progression of a human embryo to birth and how the various methods of terminating pregnancies and types of birth control devices are a fatal threat to a viable being. The report argues that while pro-choice and pro-abortion are often not the same thing, they are inexorably linked together, creating the myth that abortion is the only choice and that to be pro-choice, one must be pro-abortion. While the abortion rate in Northern Ireland is rising from 6.5 per hundred live births in 1978 to 7.0 in 2000, it is still lower than in the Republic of Ireland, where rates for the same years went from 7.1 to 11.7, and England and Wales, where the rates have risen from 18.8 to 29 respectively. The majority of these abortions were performed before 13 weeks of gestation, with the rest being carried out between 13 and 19 weeks of gestation. The report cites support for its human rights position from several UK politicians and the European Commission of Human Rights, and it includes a draft clause for the addition of *in utero* human beings to the definition of human life in the Northern Ireland Bill of Rights.

THE TOBIN TAX: STANDARD NOTE. House of Commons Library, last updated Sept. 21, 2001.

Named after the American economist who initially proposed it, the Tobin tax calls for a tax on all currency transactions in an effort to discourage short-term currency speculation. Proponents of the tax's implementation say that currency fluctuations, largely caused by greedy speculators, play a large part in the market's extreme movements, causing rumor and panic that could imperil a country's otherwise solid economic foundation and fundamentals. Close to \$2 trillion per day is traded and the majority of this trading is speculative activity. The deregulation of financial and foreign exchange markets is having volatile effects, the long-term damage of which includes massive unemployment and increased interest rates. The Tobin tax, its supporters believe, would deter such speculation and create a calmer economic atmosphere, in addition to raising billions of dollars in revenue. Opponents of the plan say that the tax could result in the rise and development of Tobin tax havens, with speculators finding ways around payment. The implementation of the tax could also cause a reduction in the volume of speculation, causing already weaker markets to collapse and massively increasing unemployment in urban areas. Opponents further argue that the tax is virtually impossible to collect. It also places an unfair burden on smaller, developing countries, as it would require all countries to be financially aligned in the same manner, without regard to a specific country's economic or financial status. European countries are currently split on the issue, with most citing the various impracticalities of implementation and others taking a "wait and see" stance.

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

Proposal for a Regulation on Freezing Terrorists' Funds¹

On October 2, 2001, the European Commission introduced a draft Regulation that provides for the freezing of funds held by terrorist organizations. The Regulation permits the Member States to move quickly to freeze funds that are held by terrorist groups and by individuals who are suspected of providing funds to such groups. The draft Regulation contains in an annex a preliminary list of organizations and individuals. The list will be expanded in the future as new names arise.

Emergency Measures for Air Transport²

In addition to the adoption of common security rules on civil aviation, in the aftermath of the September 11th events the European Commission considered a number of measures, in its October 10th communication that would assist the air industry, including favorable consideration of state aid granted to airlines, coordination agreements designed to maintain regular service on less frequently traveled routes, and schedules arranged during off-peak periods of the day. Agreements between airlines will be examined on a case-by-case basis, pursuant to the EU anti-trust rules. The Commission considered the adoption of rules to harmonize the amounts and conditions of insurance required for the issuance of operating licenses and the possibility of establishing a "mutual fund" for risks in the airport industry.

Money Laundering³

A new Directive on money laundering was voted on by the European Parliament. The proposal broadens the scope of existing Directive 91/308/EEC and obliges the Member States to combat laundering of the proceeds of all serious crime, not just the proceeds of drug offenses. In addition, it is not limited to the financial sector, but applies to a number of non-economic activities and professions, such as those of accountants and auditors, real estate agents, lawyers, notaries, and auctioneers, among others.

EU and US Sign Environmental Agreement⁴

On October 28, 2001, an implementation agreement providing for scientific cooperation in the area of environmental research was signed by the European Union and the United States. The specific fields of cooperation include climate change, marine science, earthquake risk and hazard reduction, arctic research and research on environmental biology.

* LL.B. University of Athens Law School, LL.M. George Washington University, International and Comparative Law.

¹ [Http://europa.eu.int/common/external_relations/cfs/new/ip01_1349.htm](http://europa.eu.int/common/external_relations/cfs/new/ip01_1349.htm)

² [Http://europa.eu.int/rapid/start/cgi/rapcgi.ksh?p_action.gettxt=gt&doc=IP/01/1397/0/RAPID&lg=EN](http://europa.eu.int/rapid/start/cgi/rapcgi.ksh?p_action.gettxt=gt&doc=IP/01/1397/0/RAPID&lg=EN)

³ [Http://europa.eu.int/rapid/start/cgi/rapcgi.ksh?p_action.gettxt=gt&doc=IP/01/1441/0/RAPID&lg=EN](http://europa.eu.int/rapid/start/cgi/rapcgi.ksh?p_action.gettxt=gt&doc=IP/01/1441/0/RAPID&lg=EN)

⁴ [Http://www.eurunion.org/news/press/2001/2001078.htm](http://www.eurunion.org/news/press/2001/2001078.htm)

Commission Supports Single Tax Base for Companies⁵

Since 15 different tax systems exist in the European Union, the Commission supports the eventual adoption of a consolidated corporate tax base for the EU-wide activities of companies. Such a system would permit companies with cross-border and international activities within the EU to compute their income pursuant to an established set of rules. The Commission suggested two possible ways to accomplish this, either through: a) home state taxation, under which a group of companies would compute the taxable income for their EU activities in accordance with the rules of the home state; or b) a common consolidated tax base, under which a group of companies would compute the taxable income pursuant to a new common tax code applicable throughout the EU.

⁵ [Http://europa.eu.int/rapid/start/cg...txt=gt&doc=IP/01/1468/0/RAPID&lg=EN](http://europa.eu.int/rapid/start/cg...txt=gt&doc=IP/01/1468/0/RAPID&lg=EN)

LEGAL RESPONSES TO TERRORISM: A BRITISH EXAMPLE*

Government as the “Insurer of Last Resort”

The American insurance industry is reportedly seeking to obtain federal support in providing cover for damages resulting from future terrorist attacks. The industry’s proposals are stated to be modeled on a British government program to reinsure terrorism risks after commercial insurers withdrew coverage of losses arising from continued terrorist bombing incidents in the United Kingdom. The following is a brief description of the British program.

In November 1992, following a bombing by the Irish Republican Army of the City of London, the Association of British Insurers (ABI) issued a model clause for excluding terrorism from industrial and commercial risks. It stated that this exclusion had been forced upon the UK market by leading global insurers as a result of continued terrorist bombing incidents. The inevitable result of the reinsurers removing their terrorism coverage was the exclusion of coverage by primary insurers.

The reinsurers’ main concern was that terrorism is a political issue and that normal risk management and loss control measures are largely ineffective against a major terrorist attack. Furthermore, the ABI argued that the risk was being created by the Government in the form of public policy, and as such the general public should bear responsibility.

In December 1992, the Government announced that it was willing to act as reinsurer of last resort behind a pool of insurers to the full value at risk. The pool of insurers was named Pool Re. Terrorism coverage (except for the first £100,000 (about US\$145,500), which would be borne by the insurers) was excluded from policies and graded in amount by reference to zones in the UK. Those premiums would be paid into a pool administered by a reinsurer established by the Government, Pool Reinsurance Company Ltd. (Pool Re).

The Reinsurance (Acts of Terrorism) Act 1993 was enacted and an agreement between the Government and Pool Re was completed in July 1993. As reinsurer, the Government is liable for the amount of any claim above the resources available to the Pool. Section 2 of the Act provides:

Reinsurance arrangements to which this Act applies.

2. —(1) This Act applies to arrangements under which the Secretary of State, with the consent of the Treasury, undertakes to any extent the liability of reinsuring risks against—

* Prepared by Kersi B. Shroff, Chief, Western Law Division, 7-7850, and Jonathan Bracken, Law Library Visiting Scholar. For full reports on terrorism-related legislation in the UK and several other foreign countries, call the Law Library at 7-LAWS and request *Terrorism: Foreign Legal Responses*, or copies of individual country reports contained therein. Abstracts of the reports were attached to WLB 2001.10.

WORLD LAW BULLETIN SPECIAL ATTACHMENT

(a) loss of or damage to property in Great Britain resulting from or consequential upon acts of terrorism; and

(b) any loss which is consequential on loss or damage falling within paragraph (a) above; and to the extent that the arrangements relate to events occurring before as well as after an agreement of reinsurance comes into being, the reference in section 1(1) above to the obligations of the Secretary of State shall be construed accordingly.

(2) In this section "acts of terrorism" means acts of persons acting on behalf of, or in connection with, any organisation which carries out activities directed towards the overthrowing or influencing, by force or violence, of Her Majesty's government in the United Kingdom or any other government de jure or de facto.

(3) In subsection (2) above "organisation" includes any association or combination of persons.

The Secretary of State for Trade and Industry also agreed to act as guarantor for a credit facility obtained by Pool Re from a group of banks to ensure the financing of the arrangements. Pool Re covers loss of or damage to property in Great Britain resulting from or consequential upon acts of terrorism. It has not paid out any claims since 1996, but it is likely to be exposed to claims arising from a car bombing in west London earlier this year. Although at the start the arrangement was intended to be temporary and the Government was to withdraw from it as soon as adequate sources of commercial reinsurance became available, to this day the program of the Government as insurer of last resort remains in place.²

² The Reinsurance (Acts of Terrorism) Act 1993, ch. 18 ; "Washington Wary of Taking Up Role as 'Reinsurer of Last Resort'," *Financial Times*, Oct. 11, 2001.