



Bulletin of Legal Developments

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European Countries

FRANCE

Freedom of speech - Internet websites:

The Tribunal de Grande Instance in Paris has confirmed an earlier ruling, made in May 2000, that the Internet service provider Yahoo had contravened French law by operating Internet auctions of Nazi memorabilia. French law prohibits the sale or exhibition of material with racist connotations.

Yahoo's French site does not offer Nazi memorabilia in its auctions but French users can connect to its US parent site where such auctions take place. Yahoo has been given three months in which to stop such auctions being accessible from France. If Yahoo does not comply it will face fines of Ff 100,000 per day.

US courts are unlikely to enforce this ruling because of the constitutional right to free speech. Yahoo may appeal to a higher French court or request a US court to intervene on the grounds that a French court has no power to impose sanctions on the US website of a US company.

BBC, *News: World: Europe*, 21.11.00.

GERMANY

Criminal procedure rules - fight against organised crime:

Following the end of the Cold War and reunification, the reform of criminal law and criminal procedure rules has been dramatic. The basic reason was the increasing criminality (the first major criminal law reform was because of the terrorist organization RAF in the 1970s).

Under the guise of developments related to the reunification of the German states and in order to fight organised crime, the criminal procedure rules (StPO) have been

revised twice since 1990: firstly by the Gesetz zur Bekämpfung des illegalen Rauchgifthandels und anderer Erscheinungsformen der Organisierten Kriminalität (OrgKG), (BGB1.I 1302) of 15.7.92 and secondly by a law of 4.5.98, (BGB1.I 845). The most important issue of these reforms is that the police force is now required to perform crime-prevention duties whereas, before the reforms, police had repressive duties, according to police-law regulations and took action after a mandate from the district attorney's office.

Following on from the most recent reform of 1998, the German Ministry of Justice is preparing a new reform to take place in March 2001. The reform will affect important elements of the criminal procedure rules, such as the research procedure, use of repressive means, the collection of proofs and the role of the court in this procedure.

Further information can be found on the official site of the German Ministry of Justice:

www.bmj.gv.at/projekte/laufend.html
#StPO

GREECE

Transition to the euro:

By Greek law 2842/2000 the euro will replace the drachma as the official currency of Greece from 1.1.01. Nevertheless, drachma coins will retain their status as the legal currency of Greece until 28.02.02. References to set interest rates of the Bank of Greece, which can be found in contracts etc., will be replaced by references to corresponding interest rates of the European Central Bank.

The banks operating in Greece publish and issue daily exchange reports of foreign currencies, in order to facilitate them in their transactions with their clients. The Bank of Greece publishes reports with the prices of the euro in relation to foreign currency based on the corresponding reports of the European Central Bank. Furthermore, it issues a daily report of the currency rates, which is transmitted to all banks and their branches. The Bank of Greece supervises and monitors the operation of domestic and foreign credit institutions which operate in Greece in relation to matters, which are dealt with by

Law 2842/2000. It also sets the terms of purchase and sale of gold and gold coins.

From 1.1.01, all suppliers will be obliged to write down clearly both prices in transactions with their consumers. Companies, wishing to enter the Greek stock exchange or who are already listed, will be obliged to present, both in drachmas and in euro, all the financial statements, which they submit or notify to the stock exchange authorities and the Capital Market Commission.

Greece, *Law No.2842/2000*.

United Kingdom

ENGLAND AND WALES

Foreign law - recognition - when in breach of international law:

The Court of Appeal has held that it is entitled to decline to recognise foreign legislation that was in breach of established principles of international law. The case concerned Iraqi legislation, passed during the occupation of Kuwait, in 1990, permitting Iraq to transfer the aircraft of the Kuwait Airways Corporation to the Iraqi Airways Company. The Kuwaiti Airways Corporation had sought the delivery up of the aircraft and damages or payment of the value of the aircraft.

The Court of Appeal held that Iraq had not been the *de jure* or *de facto* government of Kuwait at the material time, that the English courts were entitled to decline to recognise the Iraqi legislation transferring the assets and that the legislation was extra-territorial in scope and it would be contrary to public policy to recognise legislation in breach of clearly established principles of international law.

Kuwait Airways Corporation v. Iraqi Airways Company, Court of Appeal, 10.11.00.

Times, 21.11.00.

Conflict of laws - quantum of damage:

The Queen's Bench Division of the High Court has held that where a tort is committed in another jurisdiction, the quantification of damages was a matter of procedure to be determined in accordance with the law of the forum country, where the issues relating to liability were

determined. In this case the defendant driver had collided with a lorry in Spain and the claimant passenger had sustained severe injuries. Both parties normally lived in the UK.

There was no difference between Spanish and English law concerning determination of liability but the two legal systems had different methods of assessing quantum and the claimant would receive a much lower award in the Spanish courts than in English courts. Under the Private International Law (Miscellaneous Provisions) Act 1995, the applicable law is normally the law of the country in which the tort occurred although where there are significant factors connecting the tort with another country, including factors relating to the parties, that rule may be displaced.

In this case, both parties were English and the major heads of the claimant's damages arose in England. The factors connecting the tort to England were overwhelming and it was more appropriate that damages were assessed under English law.

Edmunds v. Simmonds, QBD, 4.10.00.
Times, 21.11.00.

The Commonwealth

FIJI

Reinstatement of government:

The High Court of Fiji has ruled that the government of the deposed Prime Minister, Mahendra Chaudhry, should be reinstated and that the interim government, set up by the military, in May 2000, following the coup, is unconstitutional. The Court ordered the President to summon an immediate sitting of parliament so that the legitimate government could return to power.

The interim government has stated that it would "set aside" this ruling pending an appeal.

BBC, *News: World: Asia-Pacific*, 15.11.00.

INDIA

Criminal procedure - arrests - consultation paper:

The Law Commission of India has published a consultation paper on the law relating to arrests. The consultation paper

discusses measures to improve liberty and human rights through amendments to be made to the Code of Criminal Procedure and the Indian Penal Code restricting the powers of the police. The paper has been published on the Internet at:

www.nic.in/lawcom

Responses may be made during the three months following the publication of the report.

Government of India, Press Information Bureau, 13.11.00.

Electoral law - candidates - criminal background:

The Delhi High Court has ruled that the Election Commission should inform voters of the criminal background of candidates and parties standing for election to Parliament and the State Legislatures. The Election Commission should provide the following information:

- Whether the candidate is accused of any offence(s) punishable by imprisonment and if so, the details should be given;
- Assets of the candidate and his dependent family;
- Facts concerning the candidate's competence, capacity and suitability including educational qualifications;
- Other information deemed relevant by the Election Commission.

The judgment and its implications are now under consideration by the Government and the Election Commission.

Association for Democratic Reform v. Union of India and others. 2.11.00.

Government of India, Press Information Bureau, 21.11.00.

NEW ZEALAND

Constitution - report - Pacific peoples:

The Ministry of Justice has prepared the Pacific Island Peoples' Constitution Report in conjunction with the Ministry of Pacific Island Affairs. The report is a constitutional enquiry covering:

- An analysis of the ways in which the rights and obligations of New Zealand citizenship are relevant to the citizens and communities with Pacific island roots;

- Formal constitutional links with New Zealand of specific Pacific islands;
- Proposals for how the New Zealand Government might approach policy making for communities with Pacific island links within constraints of New Zealand and international law.

The report concludes that New Zealand has a special relationship with Pacific people which does not constitute a legal obligation but forms part of the Government's responsibility to act reasonably and appropriately towards those it governs. The special relationship manifests itself in a need to protect and foster Pacific cultures and identities and work to provide the same socio-economic opportunities to Pacific people as to non-Pacific people.

The report states that New Zealand has a responsibility to minority groups under international law through Art.27 of the International Covenant of Civil and Political Rights, incorporated in domestic law in the New Zealand Bill of Rights s.20. It notes that international legal norms are moving in favour of a positive duty on States to create conditions favourable to the manifestation of minority cultural identities. The report concludes that the Government must work to involve Pacific people in decision making, particularly in relation to decisions about themselves.

New Zealand, Ministry of Justice, *Pacific Peoples' Constitutional Report*, September 2000.

Human rights protection - re-evaluation:

The Ministerial re-evaluation of human rights protections in New Zealand has been completed. The re-evaluation looked at the Human Rights Act 1993, the current system of independent human rights enforcement agencies and the mechanisms for ensuring that international human rights obligations are integrated into legislation and practice. The re-evaluation also considered whether a National Plan of Action for the Promotion and Protection of Human Rights, as recommended by the UN World Conference on Human Rights, would be beneficial.

The re-evaluation recommended specific institutional changes, with a redesigned

national human rights institution combining the work of the Human Rights Commission and Race Relations Office and focusing on strategic community leadership and education work. Other organisations with specific human rights remits might be more closely linked to this institution in the future. The re-evaluation recommends that, until a revision of the Bill of Rights has taken place, only limited legislative changes should be made in order to ensure compliance with relevant international human rights standards and in order to promote the educational and advisory work of the Human Rights Commission.

The re-evaluation found support for an appropriately prepared National Plan of Action for human rights. It also recommended that international human rights obligations should be taken into account at an early stage in government policy-making.

New Zealand, Ministry of Justice, *Re-evaluation of the Human Rights Protections in New Zealand, Executive Summary*, October 2000.

NEW ZEALAND/ SINGAPORE Economic partnership - bilateral agreement:

The Prime Ministers of New Zealand and Singapore have signed the New Zealand/Singapore Closer Economic Partnership Agreement, eliminating tariffs on goods traded between the two countries. The Agreement is expected to come into effect on 1.1.01.

Government of New Zealand, *Press Release*, 14.11.00.

ZAMBIA

Child labour - restrictions:

The Government of Zambia has passed an order banning the employment of children in manual labour activities such as mining. Employers found guilty of flouting the order will face severe sanctions.

Times of Zambia, 21.11.00, via:

<http://allafrica.com>

The Americas

PERU

Dismissal of president - moral unfitness:

The Congress of Peru has dismissed President Alberto Fujimori, on grounds, permitted in Peru's constitution, of moral incapacity to govern. The dismissal followed Fujimori's own resignation which the Congress had refused to accept. Members of Congress voted to dismiss Fujimori by 62 to nine votes with nine abstentions.

Times, 22.11.00.

Asia and the Pacific

BURMA

Forced labour - measures by ILO:

The Governing Body of the International Labour Organisation, at its 279th session, has instituted a series of measures against the Government of Myanmar (Burma) for its failure to comply with the ILO Forced Labour Convention (Convention No.29 of 1930). This is the first occasion that the ILO has imposed measures against a State. The decision stems from charges in a 1998 report by an international commission of inquiry which found that the civilian population was used by the military as a pool of unpaid forced labour.

In June 2000 the International Labour Conference adopted a resolution compelling the Burmese Government to comply with the ILO treaty which had been ratified by Burma in 1995. The resolution would take effect at the end of November 2000 unless the ILO's Governing Body was satisfied that Burma had responded to the recommendations in the Commission's report. In October 2000 an ILO team visited Burma and reported back to the Governing Body that the Burmese authorities had not stopped imposing forced labour on the civilian population.

The ILO has recommended that government employers and workers ensure that their relations with Burma do not perpetuate or extend the system of forced labour and the Directorate-General will ask international organisations to stop any activity they are engaged in with Burma

that could have the effect of directly or indirectly assisting the practice of forced or compulsory labour there.

ILO, *Press Release ILO/00/44*, 17.11.00;

UN, *Latest UN News*, 17.11.00.

CHINA

Human rights - agreement with UN:

The UN High Commissioner for Human Rights, Mary Robinson, has signed a memorandum of understanding with officials of the Chinese government creating new opportunities for UN assistance in the field of human rights. There will be a programme focusing on the administration of justice, human rights education, the right to development and economic, social and cultural rights.

Under the memorandum the UN will help China with the development of a programme of human rights education. Human rights workshops will be organised for government officials, judges, prosecutors, lawyers, police and prison officials. The UN will also provide expert advice to help facilitate China's ratification of international human rights treaties.

UN, *Latest UN News*, 20.11.00.

HONG KONG SAR

Stalking - Law Reform Commission report:

The Law Reform Commission of Hong Kong released the Stalking Report on 30.10.00. The report recommends that a new criminal offence of harassment of another should be established. The report noted that stalking is a problem in Hong Kong and that existing laws are inadequate to deal with it. It recommends that a person who pursues a course of conduct which amounts to harassment of another, and which he knows or ought to know amounts to harassment of the other, should be guilty of an offence.

The Commission recommended that the harassment complained of should be serious enough to cause the victim alarm or distress and that it should be a good defence if:

- a) The conduct was pursued for the purpose of preventing or detecting crime;

- b) The conduct was pursued under lawful authority; or
- c) The pursuit was reasonable in the particular circumstances.

The Commission also recommended that the courts should take into account the right of privacy, the right to freedom of expression and the right of peaceful assembly under the International Covenant on Civil and Political Rights when deciding whether the action taken was reasonable in the particular circumstances.

A person convicted of harassment could be liable to up to two years' imprisonment if he knew that his pursuit amounted to harassment of the victim. If he did not have actual knowledge but the court found that he ought to have known that his actions amounted to harassment he could be liable to up to one year's imprisonment. The Commission recommended that a sentencing court could make an order prohibiting the accused from any action that caused alarm or distress to the victim. Infringement of this order would make the accused liable to 12 months' imprisonment.

The Commission also recommended that civil remedies be available and that harassers should be liable in tort to their victims. The Courts should have the power to attach a power of arrest to an injunction and police officers should be permitted to arrest, without warrant, any person reasonably suspected to be in breach of such an injunction.

Law Reform Commission of Hong Kong, *What's New*, 30.10.00.

MONGOLIA/RUSSIA

Military and trade agreement:

Mongolia and Russia have signed a military and trade pact, agreeing not to attack each other or sign any international agreement harmful to the other. The agreement also commits both sides to maintaining Mongolia's status as a nuclear weapons-free zone.

BBC, *News: World: Asia-Pacific*, 14.11.00.

European Union

COMMISSION OF THE EUROPEAN COMMUNITIES

Financial services - Commission calls for quantum leap towards rapid implementation of Action Plan:

The European Commission has called for a "quantum leap" towards rapid implementation of the Financial Services Action Plan (FSAP) of 1999, so as to ensure that the 2005 deadline set by Heads of State and Government at the Lisbon European Council will be reached and that financial markets therefore contribute fully to economic growth and job creation. The FSAP lists a series of measures necessary to create a single wholesale market for financial services, open and secure retail markets, state-of-the-art prudential rules and wider conditions for an optimal single financial market across the EU.

In its latest FSAP Progress Report, the Commission has suggested a set of critical priorities for the coming six months for the Commission, the EU's Council of Ministers and the European Parliament. The Report also suggests possible benchmarks for indicating trends and developments in market integration.

The priorities include, *inter alia*, a Communication on the Upgrading of the Investment Services Directive, a proposal for a Directive on Market Manipulation, a proposal for a Directive on Cross-Border Use of Collateral, a proposal for a Directive on Prudential Rules for Financial Conglomerates, a Directive on Distance Marketing of Financial Services and a proposal for the creation of a Securities Committee.

The July 2000 ECOFIN asked the Commission to chart a critical path to speed adoption of these priority measures. The Commission has therefore developed a detailed procedural timetable that must be followed if the deadlines are to be met. Finally, the Commission has reported on the general progress of implementation of the FSAP. Although the progress could be characterised as satisfactory, further efforts have to be made by Member States.

For more information and for the previous reports on the FSAP, see http://www.europa.eu.int/comm/internal_market/en/finances/actionplan/index.htm

Enlargement - guidelines for internal operation:

The Commission has adopted a communication on the internal organisation and operation of the college. The Commission proposes amending the Treaty to strengthen the powers of political guidance and organisation conferred on the President. It also outlines possible adjustments to the internal operation of the college.

The tasks performed by the Commission have changed considerably since the start of the European integration process. The Commission now must manage the community budget and programmes as well as applying Community law and formulating European policies. A new organisational structure must respect the principle of collective responsibility, whereby all Members of the Commission are considered equal in the decision making process and are collectively accountable for decisions.

The Commission proposes to the Intergovernmental Conference that:

- The Commission President's power to allocate or not allocate portfolios and departments to Commission Members should be significantly increased;
- The President should be able to appoint Vice-Presidents from the Commission Members with responsibility for co-ordinating and overseeing the work of the Commission in specific fields. Currently, the number of Vice-Presidents is restricted to two;
- The political undertaking given by the present Members of the Commission to resign if requested by the President should be formalised in the Treaty. The President could then request the resignation of a Member whose conduct conflicted with the political guidelines laid down by the President;
- The President should be given a casting vote in Commission discussions;

- The Commission should be permitted to empower one or more Members to take decisions on behalf of the Commission in specific fields and this possibility should be expressly written into the Treaty.

The Commission has also listed some avenues to be explored, not requiring amendment of the Treaties, for adapting the Commission's internal working arrangements.

EC, *Press Release IP/00/1346*, 22.11.00.

COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES

President of Court - re-election:

Gil Carlos Rodriguez Iglesias has been re-elected as President of the Court of Justice until 6.10.03.

ECJ Press and Information Division, *Press Release No.74/00*, 10./10.00.

Judicial review - principles - competition cases:

On 13.7.94, the Commission imposed fines totalling 131,750,000 ecus on 19 producers of cartonboard on the ground that they had infringed Community competition law. They had infringed Community competition law by participating in an agreement and concerted practice. These mechanisms resulted in simultaneous and uniform price increases, in maintenance of market shares at constant levels, and in concerted measures to control supply to the Community market.

Subsequently, several of the undertakings fined by the Commission brought actions to contest that Decision before the Court of First Instance. The Court of First Instance delivered its judgments on 14 May 1998 and reduced the total amount of fines to 120,330,000 ecus. Against that decision, 13 undertakings launched appeals before the Court of Justice of the European Communities seeking annulment or reduction of the fines as fixed by the Court of First Instance.

In its judgments on the appeals, the Court of Justice pointed out that the Court of First Instance has jurisdiction in two respects to review Commission decisions imposing fines on undertakings for infringement of the competition rules. It

reviews the legality of, and in particular the statement of reasons for those decisions. The Court of First Instance also has jurisdiction to assess the appropriateness of the amount of the fines.

With regard, more specifically, to review of compliance with the duty to state reasons, the Court of Justice explained that in that context the Commission does not have to indicate in its Decision the figures relating to the method of calculating the fines, even if that may serve to render the administrative act more transparent and facilitate the exercise by the Court of First Instance of its review of the legality of the Decision.

“Cartonboard” cases, C-248/98P, C-279/98P, C-280/98P, C-282/98P, C-283/98P, C-286/98P, C-291/98P, C-294/98P, C-297/98P and C-298/98P, ECJ, 16.11.00.

ECJ, Press Release No.84/00, 16.11.00.

EUROPEAN PARLIAMENT

Charter of Fundamental Rights:

The European Parliament has voted in favour of a resolution approving the draft Charter of Fundamental Rights, which will be presented at the Nice Summit. The Parliament took the view that the Convention established to draw up the Charter has fulfilled its mandate. Members will discuss the question of its legal status at the second November session.

European Parliament, *Daily Notebook*, 14.11.00.

International

EUROPEAN COURT OF HUMAN RIGHTS

Admissibility - homicide convictions - former GDR officials:

The Grand Chamber of the European Court of Human Rights has declared admissible the applications in the cases of Kessler, Streletz, K.-H.W. and Krenz against Germany (*see also BLD 20/00*). Three of the applicants were senior officials of the former GDR, the fourth was a soldier of the former GDR army. Following the reunification of Germany, the applicants were convicted of offences of incitement to commit intentional homicide or intentional homicide in

relation to the shooting of people trying to flee the GDR.

Streletz, Kessler, K.-H.W. and Krenz v. Germany.

ECHR, Press Release no. 81, 10.11.00.

Right of property (Prot. No.1 Art. No.1) - confiscation - former Greek royal family:

The Court has found that there was a violation of Art.1 of Protocol No.1 of the European Convention on Human Rights (right of property). The case was brought by the former King of Greece, his sister and his aunt against Greece. The complaints arose from Law No.2215/94 Art.2, by which the Greek State became the owner of the applicants' moveable and immovable property. No provision was made in this law for compensation.

On 25.6.97 the Special Supreme Court of Greece held that Law No.2215/94 was constitutional. Consequently, the applicants could not seek any further judicial protection of their property rights in Greece. An application was lodged with the European Commission of Human Rights on 21.10.94. This was found partly admissible. On 21.10.99, the Commission adopted a report stating that there had been a violation of Art.1 of Protocol No.1 and that it was not necessary to examine whether there had been a violation of Art.14 of the Convention (prohibition of discrimination) taken together with Art.1 of Protocol No.1 (*see BLD 22/99*).

The European Court of Human Rights held that the contested properties were owned by the applicants as private persons rather than in their capacity as members of the royal family so that the properties constituted a “possession” under Art.1 of Protocol No.1. The lack of compensation for the deprivation of the property upset the balance between the protection of property and the requirements of public interest and violated Art.1 of Protocol No.1.

As a violation had been found concerning the applicants' right to the peaceful enjoyment of their possessions, the Court did not consider it necessary to examine the applicants' allegations of a breach of Art.14 (prohibition of discrimination) taken together with Art.1 of Protocol No.1.

The question of just satisfaction (Art.41) was not yet ready for decision. The Court reserved this question and fixed the subsequent procedure taking into account any agreement which might be reached between the Government of Greece and the applicants.

The Former King of Greece and others v. Greece, 23.11.00.

ECHR, *Press Release No.838*, 23.11.00.

INTERNATIONAL LABOUR ORGANIZATION

Child labour - entry into force of Convention:

The Worst Forms of Child Labour Convention (ILO Convention No.182) has come into force automatically, 12 months after the date of the second ratification on 19.11.99. The Convention defines the worst forms of child labour as slavery, debt bondage, prostitution, pornography, forced recruitment of children for use in armed conflict, use of children in drug trafficking and other illicit activities, and all other work harmful or hazardous to the health, safety or morals of girls and boys under the age of 18.

The Convention was adopted unanimously by the International Labour Conference on 17.6.99 and received its second ratification on 19.11.99. At the end of October 2000, 102 ILO Member States had ratified the Convention. Under the *ILO Declaration on Fundamental Principles and Rights at Work*, adopted in 1998, Member States which have not ratified the Convention will be required, for the first time in 2001, to report on their situation with regard to respect for the principle of the abolition of the worst forms of child labour, and the efforts they have made to achieve this. These States will be able to request technical assistance from the ILO.

ILO, *Press Release ILO/00/43*, 22.11.00.

INTERNATIONAL MARITIME ORGANIZATION

Oil pollution disasters - compensation limits:

The Legal Committee of the IMO has adopted amendments to the 1992 Protocol of the International Convention on Civil

Liability for Oil Pollution Damage (CLC Convention) and to the 1992 Protocol of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (IOPC Fund). The amendments raise, by 50 per cent, the limits of compensation payable to victims of pollution by oil from oil tankers. They are expected to enter into force on 1.11.03, unless objections from one quarter of the contracting States are received.

Under the CLC Convention the shipowner is strictly liable for damage suffered as a result of a pollution incident. The amendments raise the limits payable to approximately US\$115 million for a ship over 140,000 gross tonnage. The IOPC Fund amendments raise the maximum amount of compensation from the IOPC Fund for a single incident to approximately US\$260 million.

If an accident at sea results in pollution damage exceeding the compensation available under the Civil Liability Convention, the Fund (made up from contributions from oil importers) can pay an additional amount. This spreads the burden of compensation between the ship owner and cargo interests. The adoption of the increased limits follows two major incidents: the *Nakhodka* in 1997 off Japan and the *Erika* off France in 1999.

IMO, *Briefing 24 2000*, 7.11.00.

Seafarers - abandonment, personal injury and death - draft guidelines:

A Joint International Maritime Organization (IMO)/International Labour Organization (ILO) Working Group has developed draft resolutions and guidelines concerning abandonment, personal injury and death of seafarers. The Joint Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers has developed the draft text of two resolutions and associated guidelines, one relating to abandonment and the other to death and injury. The resolutions and guidelines will be finalised at a meeting from 30.4.01 – 4.5.01 before presentation to the ILO and IMO governing bodies for final adoption and approval.

The proposed draft resolution on provision of financial security in cases of abandonment of seafarers states that abandonment is a serious problem requiring urgent attention. Payment and remuneration and provision for repatriation should form part of the seafarer's contractual or statutory rights and are not affected by any failure or inability of the ship owner to perform his obligations. Where a ship owner fails to perform his obligations flag States or labour-supplying States may be called upon to intervene. The proposed draft guidelines suggest that flag States should require ship owners to have effective financial security to cover their contractual obligation. The guidelines recognised that issues involved in abandonment included repatriation, support for crew members while stranded, payment of remuneration and immigration status while stranded.

The proposed draft resolution on contractual claims for personal injury or death of seafarers recognises that there is a need to recommend minimum international standards and notes that if ship owners do not have adequate insurance or other financial security that seafarers may not receive adequate or prompt compensation. The guidelines are designed as an interim measure to establish a framework to encourage ship owners to ensure that seafarers receive adequate compensation. They include definitions for contractual claims and effective insurance, the responsibilities of ship owners to arrange adequate insurance and a model receipt and release form to be signed on receipt of adequate compensation.

IMO, *IMO Briefing 23 2000*, 6.11.00.

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Establishment of trust - assistance to parties to disputes:

The UN General Assembly has requested, in Resolution 55/7, the UN Secretary-General to establish and administer a Trust Fund to assist parties in the settlement of disputes through the Tribunal. The Fund would provide assistance in appropriate cases. A panel of independent experts would review applications made by States

Parties and make recommendations to the UN Secretary-General on the amount of financial assistance to be given. Financial contributions to the Trust Fund are requested from States, international organisations, non-governmental organisations and natural and juridical persons.

ITLOS, *Press Release No.39*, 14.11.00.

UNITED NATIONS

Organised crime - human trafficking - smuggling of migrants - legal instruments:

The UN General Assembly has adopted three legal instruments combating organised crime, human trafficking and the smuggling of migrants. The instruments are the UN Convention against Transnational Organised Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and air. The instruments were annexed to a resolution urging all States and regional organisations to sign and ratify the Convention and its protocols, which was adopted by the Assembly without a vote.

The Convention aims to promote co-operation to prevent and combat transnational organised crime more effectively by means of shutting down international criminal organisations, eliminating "safe havens", protecting witnesses and blocking money laundering. It will come into effect when ratified by 40 States. A third draft protocol dealing with the illicit manufacturing of and trafficking in firearms has not yet been finalised.

UN, *Latest UN News*, 16.11.00.

Peace operations - measures:

The Security Council has adopted a seven-part document outlining measures to improve UN peace operations. The recommendations for improving UN peace operations were put forward by an independent panel of experts earlier in 2000. The document is annexed to a resolution, unanimously adopted by the Security Council, and contains measures for giving UN peacekeeping operations clear, credible and achievable mandates.

The Security Council requires regular briefings on key military factors relating to peacekeeping missions, including the chain of command, force structures and risk assessment. The Security Council also requests briefings on the humanitarian situation in countries where there are UN peace operations. The Security Council has also agreed to strengthen the system of consultations with countries contributing troops to UN missions.

The document repeats the Security Council's commitment to ensure that the tasks it entrusts to peacekeeping operations are "appropriate to the situation on the ground, including such factors as the prospects for success, the potential need to protect civilians and the possibility that some parties may seek to undermine peace through violence". Rules of engagement must clearly set out the circumstances in which force can be used. The Secretary-General is requested to prepare a comprehensive operational doctrine for the military component of UN peacekeeping operations.

The Security Council has urged the Secretary-General to consult with potential and current troop-contributing countries on how best to achieve the objective on rapid deployment of personnel. The Security Council also emphasised that addressing the root causes of conflict is the greatest deterrent. This will be achieved by reducing poverty and developing economic growth. It reaffirmed the role of women in the prevention and resolution of conflicts and in peace building. The Security Council also emphasised the need for more effective co-ordination of disarmament, demobilisation and reintegration programmes, and for adequate funding for such programmes.

UN, *Latest UN News*, 13.11.00.

WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION

Conservation - tuna stocks - signatories:

The Pacific Fisheries Convention, concluded on 4.9.00, provides a mechanism for effective protection of tuna stocks, ensuring that the Pacific tuna fisheries are not adversely affected by

unsustainable fishing practices. It also includes provisions for maintaining the biodiversity of the Pacific Ocean, bringing together coastal states with tuna resources within their EEZs and distant water fishing nations under a single management regime.

Eleven members of the South Pacific Forum have signed the agreement. The Preparatory Conference of the Convention will be held in 2001.

New Zealand Government Executive,
Press Release, 30.10.00.

WORLD COMMISSION ON DAMS

Framework for decision making:

The independent World Commission on Dams has published its report: *Dams and Development: a new Framework for Decision-Making*. The report concludes that dams have made a significant contribution to human development but frequently with an unacceptable social and environmental cost. It recommends a new framework for decision-making including a "rights and risk" approach recognising all legitimate parties in negotiating development options.

The UN Environment Programme has welcomed the report and is working in partnership with the World Commission on Dams.

UN, *Latest UN News*, 17.11.00.

