



INTERNATIONAL LAW QUARTERLY

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New Congress Will Study a Broad Range of International Trade Legislation

by **Gilbert Lee Sandler**

The 98th Congress which convened in Washington, D.C. at the beginning of January 1983 will confront a broad range of critical issues affecting international trade. Three statutory components of our federal international trade program will expire during the new Congress and must be considered for renewal: the Export Administration Act, Export-Import Bank authorization and the program for duty free treatment under the Generalized System of Preferences. Mounting protectionist pressures have created a strong interest in legislation designed to inhibit imports and to promote exports. The Congressional activity can be expected to focus on at least three areas: the administration apparatus governing trade, trade promotion and protection of domestic industries.

The Administration Apparatus Concerning Trade

The Export Administration Act expires on September 30, 1983 and must be reauthorized this year by the Congress. The Act is a basis for export licensing and for most export restrictions, whether for reasons of national security, foreign policy or to preserve scarce resources.

The debate over renewal of the act is expected to focus on problems experienced by exporters in determining whether or not products require licensing and on the substantial delays in obtaining decisions on license applications. The complex and time-consuming system governing export licensing has been publicly criticized as an overly broad, unnecessary burden to trade in United States-produced products. A streamlined system, limiting the range of products which must be

licensed, and easing the processes for obtaining certain project (or repetitive) licenses may be adopted in place of the existing system.

The Export-Import Bank authorizing legislation expires September 30, 1983 and must be extended by the new Congress. While the Reagan administration attempted to reduce bank funds last year, it is expected to propose establishment of a substantial new "war chest" designed to compete with foreign industries which are highly subsidized by foreign governments.

The Congress will also re-examine the federal bureaucratic system which regulates international trade. At least four pieces of legislation will call for redesigning the Federal bureaucracy.

First, Senator Jake Garn (B-Utah) will reintroduce legislation calling for a new "Office of Strategic Trade" (OST). As proposed by Garn, the OST would be an independent federal agency whose director is to be appointed by the President with confirmation by the U.S. Senate. The director would serve a four year term. The OST would replace the Department of Commerce as the agency administering the export control regulations under the "Office of Strategic Trade Act."

Garn believes that the current export control system falls short of the commercial, strategic and foreign policy needs of the United States. There is a contradiction, Garn believes, *because the U.S. Department of Commerce is assigned to promote exports and control exports as well.

A control system managed by OST would rely on the cooperation of other agencies at certain times under Garn's bill. The Department of State would be consulted on foreign policy controls and the Departments of Commerce and Agriculture on short supply controls. The Department of Defense would have the right, under Garn's bill, to review any application for an export license subject to national security controls.

Fines for willful violation under the Garn bill would be increased to a maximum of \$250,000

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in the case of an individual and \$1 million otherwise. The present maximum is \$100,000. The "Office of Strategic Trade Act" would establish a maximum civil penalty of \$100,000 per violation of the national security controls.

Second, the Senate Government Affairs Committee will review legislation (S. 121) introduced by Sen. Roth which would reorganize the U.S. agencies dealing with exports. For example, a committee consisting of the Secretaries of Agriculture, Commerce, Labor, State and Treasury would coordinate policymaking for international trade. The present Office of the United States Trade Representative would be terminated and its authorities transferred to the Department of Trade to be established.

Third, Sen. Sam Nunn (D-GA) plans to introduce legislation which would give the U.S. Customs Service responsibility for enforcement of the Export Administration Act but would leave responsibility for issuing licenses with Commerce. The bill, proposed after extensive testimony before the Senate Permanent Subcommittee on Investigations, revealed that the Department of Commerce lacks sufficient law enforcement capabilities to enforce the EAA controls.

Under the Nunn bill, Customs would be granted authority to make warrantless arrests, searches and seizures of outbound cargo and persons. Possession and attempted possession of restricted goods with intent to export them unlawfully would be treated as criminal offenses within the Export Administration Act. Under the Arms Administration Act, export privileges would be automatically denied to firms whose owners violate the espionage statute or any other law in an attempt to transfer illegally military or dual use technology.

Nunn's Subcommittee concluded that the U.S. government should improve its intelligence so that it can learn precisely what goods the Soviet Union wants and needs. The U.S. could then reduce the number of items subject to controls and more effectively prevent the Soviets from obtaining those items they most desire.

Fourth, Rep. Beverly B. Byron (D-MD) is expected to introduce a bill which will create an agency within the Department of Defense to coordinate the review of proposed exports for foreign policy and national security

reasons. A National Security Control Agency (NSCA) would be established according to the proposed "Strategic Trade Act" which would be responsible for evaluating the criteria and establishing policy for articles restricted for exportation by the Commodity Control List, Munitions Control List and foreign policy controls.

Trade Promotion

The Reagan administration has announced it will work hard for enactment of the Caribbean Basin Initiative. The CBI includes duty free treatment for most products exported to the United States from Caribbean Basin countries. However, a broad range of domestic industries are expected to mount strong efforts for exemption of their products from the duty-free provisions. While the original administration bill excluded only textiles and wearing apparel, strong lobbying efforts sought exceptions for sugar, footwear, handbags and other leather articles.

The existing statutory provisions for duty free treatment of products from developing countries ("Generalized System of Preferences") will expire on January 3, 1985. In anticipation of that event, the administration is expected to introduce legislation extending the GSP, with new limitations on the eligible countries and products.

It is also expected that the Domestic International Sales Corporation (DISC) will also be considered for revision by the Congress. Criticism of the DISC by our foreign trading partners, primarily the European Economic Community, has led to the introduction of legislation (S.28) designed to conform DISC to the General Agreement of

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Tariff and Trade. Under the proposal, the DISC might be directed more toward removal of export disincentives rather than toward subsidizing U.S. exports by favorable tax treatments.

Protectionism vs. Free Trade

The debate over the introduction of protectionist and reciprocal trade legislation is very likely going to dominate the first session of the 98th Congress.

The ill-fated "domestic content" bill of the 97th Congress has been reintroduced to the 98th Congress (HR1234, Energy and Commerce Committee). Specifically, the bill requires that automobile manufacturers which sell more than 100,000 vehicles in the U.S. be required, within three years, to include a percentage of U.S. parts or labor in the manufacture of automobiles. The legislation includes all manufacturers, domestic and foreign.

Manufacturers who sell less than 100,000 vehicles in the U.S. would not be required to meet local content guidelines. Auto makers with sales over 900,000 vehicles would be required to sell cars which are composed of 90 percent domestic content. Auto makers who sell between 100,000 and 900,000 units would

be required to meet domestic content standards on a graduated basis. For example, if a manufacturer sold 300,000 automobiles in the U.S. in 1983, 30 percent of total sales would have to be of domestic content if the full provisions of the bill had been implemented.

Sen. John Danforth (H-MO) has introduced legislation to promote free trade and halt current protectionist sentiments (S.144 Finance Committee). The Danforth bill intends to encourage US exporters by protecting international markets.

The major provisions of this bill are: an annual report to Congress of major foreign barriers to US exporters, including the economic effect of such barriers and the benefits which may be derived by eliminating such barriers; imposition of duty and other restrictions currently available if foreign barriers are not removed through legislation or through enforcement of GATT (General Agreement of Tariff and Trade); or the Congress could consider other legislation to retaliate against foreign barriers if such barriers cannot be removed by these processes; lastly, the legislation provides for major negotiations to achieve international agreements which encourage fair trade in services, investment flows and high technology.

Three Year Master Plan

At the Executive Council's meeting held at the Midyear Meeting of The Florida Bar on January 28, 1983, in Miami, the council adopted the Section's three year CLE master plan. Each Section is required to provide a master plan to the CLE Committee of The Florida Bar. In essence, the three year plan is a projection of the Section's CLE programs for the three fiscal years beginning with the conclusion of the current year. The Section's seminar topics for each year are as follows:

1983/84

OCT/NOV '83

Select Aspects of Litigation with Foreign Persons, Entities and Governments

FEB/MAR '84

Counseling the Inbound Foreign Enterprise

JUNE '84

Legislative Update

1984/85

OCT/NOV '84

Counseling the U.S. Businessman in International Transactions

FEB/MAR '85

International Estate Planning

JUNE '85

Legislative Update

1985/86

OCT/NOV '85

International Taxation - Co-Sponsor

FEB/MAR '86

Immigration Law - Co-Sponsor

Any member of The Section who would like to participate in the organization or presentation of any of the foregoing seminars should contact Kenneth F. Claussen, Chairman of the Section's Education Committee. (305) 373-7571.

Brazil Stock Exchange

by Lawrence S. Evans

On the evening of January 11, 1983, Brazil's National Monetary Council adopted new regulations governing the application of foreign capital investment in the Brazilian stock exchanges. These new regulations come in the form of an amendment to Decree-Law #1401 of May 7, 1975 which initially opened the door, however restrictively, to the investment of foreign capital in Brazil's stock markets.

Very basically, the new regulations permit foreign interests to purchase the shares of companies traded on the Brazilian stock exchanges and to hold those shares for a minimum period of 90 days. Following that 90 day period, the investor may sell the stock with the profits thereon being subject to a flat capital gains tax of 15 percent.

Prior to this new regulation, Brazil had once been one of the most restrictive countries in the world with respect to foreign capital investment in its local stock markets. Since 1975, when Decree-Law 1401/75 was adopted, only US\$60 million were invested in Brazil's stock exchanges. None of that money belonged to United States investors. Brazil's current desire to attract foreign currency has led to the adoption of this new regulation.

Decree-Law 1401, prior to its amendment on January 11, 1983, provided various tax benefits to investment companies for administering the capital of individuals or entities resident or domiciled outside Brazil for investment in diversified securities portfolios and for managing jointly owned funds. The Decree-Law provided for the exemption or reduction on income tax levied either on the investment company itself or on its shareholders resident or domiciled outside Brazil.

Under the Decree-Law, it was necessary for foreign capital to remain in Brazil for a minimum period of two years. The Decree-Law also reduced the normal capital gains tax rate from 25 percent to 15 percent. That 15 percent tax rate is further reduced if the investment is maintained in Brazil for more than six years as follows:

Residence Period	Rate
Over six and up to seven years	12 percent
Over seven and up to eight years	10 percent
Over eight years	8 percent

Unfortunately, the Decree-Law also provided for a supplementary income tax on amounts of cash dividends, bonuses or capital gains if, on the occasion of their remittance abroad, they exceeded in any fiscal year, 12 percent of the amount of the initial investment in foreign currency registered in the name of the shareholder, as set forth in the following rate schedule:

Amounts over 12 percent and up to 15 percent	40 percent
Amounts over 15 percent and up to 25 percent	50 percent
Amounts over 25 percent	60 percent

This supplementary income tax was not applicable to investments maintained in the country for periods exceeding eight years.

The January 11 regulation eliminated the supplementary income tax on capital gains by providing that all investments, which must remain in the stock market for a minimum period of 90 days, will be subject to a flat capital gains rate of 15 percent. That tax rate is very competitive insofar as the majority of developing countries levy an equivalent tax at the rate of 20 percent. Further, investments in the Brazilian stock market have a great advantage over other types of foreign capital investments in Brazil which are subject to upwardly sliding tax rates on the remittance of profits beginning at 25 percent and going up to 60 percent, depending on the percentage of profits remitted in relation to the amount of registered investment.

The provisions of the new regulation may provide foreign investors in Brazil, particularly those with subsidiaries in that country which require capital from time to time, a new form of short-term investment vehicle unrestricted by the minimum eight year loan term requirements and the supplementary taxes applicable to the remittance of profits.

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International Law Section Vigorously Opposes the Elimination of U.S. Customs Headquarters in Florida

In early November, the International Law Section of The Florida Bar, learned that the U.S. Customs Service was embarked on an internal investigation to determine the effect of eliminating the Miami Customs Region and placing this entire South Atlantic Seaboard under the control of the regional office in New Orleans, Louisiana. Since such a move would severely threaten the coordination of Customs' activities, such as law enforcement and trade facilitation in Florida, the Section's Council unanimously passed a resolution opposing this action.

In conjunction with the wide range of business and community leaders, the Section expressed its displeasure over this proposed action to Florida's Congressional delegation. The Congressional response to our position was overwhelmingly positive. Most importantly, Senator Chiles managed to attach an amendment to an Appropriations Bill which passed the recent Lame Duck session of the U.S. Congress which would prohibit the closing of or reduction in the responsibilities of the Miami Customs Region through October 1, 1983. While this legislation certainly forestalls plans which may lead to the elimination of the Miami Customs Region, it is clear that this situation must be monitored closely to insure that Florida's premier position in international

trade is neither compromised nor lessened by the closing of federal facilities in our State.

On the merits, the proposed shift in responsibility is unwarranted. The current New Orleans Customs Region oversees only the Customs Districts in New Orleans and Mobile, Alabama. The Miami Regional Headquarters administers all Customs districts in Puerto Rico, American Virgin Islands, Florida, Georgia, North Carolina, South Carolina, Virginia and the District of Columbia. Strategically and geographically, consolidating regional functions in the New Orleans office simply does not make any sense.

The International Law Section of The Florida Bar along with several other community and business organizations will continue to actively oppose any proposed shift in Customs responsibilities. These organizations include the Florida Exporters and Importers Association; Florida Customs Brokers and Forwarders Association; the Coral Gables Chamber of Commerce; the Metro-Dade Aviation Department; the Port of Miami; the Port Everglades Authority; the Greater Miami Chamber of Commerce; the Miami Free Zone; the Florida Council of International Development; the Florida Bankers Association and others.

Customs Bonded Warehouse Rules Changed

A major amendment to the U.S. Customs Service regulations governing bonded warehouses¹ took effect on December 1, 1982. The new regulations² replace the on-site supervision by Customs of the movement of cargo in and out of bonded warehouses with an "audit-inspection" system under which warehouse proprietors assume many functions previously exercised by Customs Service warehouse officers.

In place of on-site supervision, Customs will now conduct periodic inventories, spot checks, and audits. It also requires each warehouse proprietor to submit an annual report summarizing all of its transactions during the calendar year.

This change applies only to the control of merchandise within bonded warehouses. It does not affect warehouse-related transactions outside warehouses, such as duty-free stores and the supervision of exportations.

Liquidated Damages

The new regulations require warehouse proprietors to maintain the detailed records on the status of merchandise in the warehouse previously kept by an on-site Customs warehouse officer. This increases the warehouse proprietor's liabilities as well as his responsibilities. Under the revised regulations, he is liable for liquidated damages of \$100 for

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RULES CHANGED, cont'd.

each recordkeeping violation, assessable against his warehouse bond.

The application of this provision for liquidated damages will need to be resolved for warehouse proprietors in Florida. In its "Conversion Training Program" booklet, the Southeast Region (Miami) stated that it views \$100 as a minimum amount for liquidated damages. It will consider mitigation only in "unusual situations."

This position appears contrary to that taken by the Customs Service in its rulemaking. Responding to a request for statement in the new bond forms that assessments of liquidated damages are subject to mitigation, Customs stated in the preamble to the new rules that the Customs Regulations clearly provide for mitigation of claims assessed against a bond, so that there was no need for the inclusion of such a provision.

Recordkeeping Requirements

The warehouse proprietor is now required to maintain accounting and inventory records listing all merchandise entered, manipulated, manufactured or removed from the bonded warehouse, identified by bond lot number. The standard for maintaining these records is that of "a prudent businessman in the same kind of business." The records must be kept in sufficient detail to permit effective and efficient determination by Customs of the proprietor's compliance with Customs regulations

and the accuracy of the required annual submission.

The warehouse proprietor must now maintain an up-to-date permit file folder for each warehouse entry. It must be maintained to show that the merchandise was deposited in, or removed from, the warehouse under proper permit. This folder must contain all permits of receipt, damage or shortage, manipulation, specific and blanket withdrawals, and partial releases on supplementary withdrawals.

After the final withdrawal of merchandise relating to a specific warehouse entry, general order or seizure, the warehouse proprietor must file the folder with Customs within ten (10) business days after final withdrawal.

Several of the Customs Service's Regional Offices have produced booklets describing how a permit file folder must be maintained. It is recommended that each warehouse proprietor obtain a copy of any such materials that his region has prepared.

Annual Submission

Each bonded warehouse proprietor is required to submit annually a Form 300 ("Bonded Warehouse Proprietor's Submission") for each facility, based on its year-end inventory. It must record and describe each entry included in that year's beginning and ending inventories, as well as all entries opened and closed during the year.

FOOTNOTES:

¹19 C.F.R. Parts 10,18,19,22,24,113,125,127,132,142 and 144.

²47 Fed. Reg. 49355 et seq., November 1, 1982, T.D. 82-204.

International Banking

The Florida Department of Banking and Finance has approved a rule change in the State banking code which will permit State-chartered foreign bank agency offices to open branches throughout the State.

The new law, which became effective December 20, 1982 provides that "a qualified international banking corporation may establish separately licensed international banking agencies as provided in Rule 3C-15.09(1), F.A.C." The new statute should have a significant effect on the foreign bank agency offices which have located in Miami by permitting such agencies to establish branches throughout the State of Florida.

Foreign bank agency offices may conduct the same types of business as a full-service commercial bank but may not receive deposits from U.S. citizens. There are 27 State-chartered foreign bank agency offices operating in Miami, and four additional agencies received regulatory approval to operate but have yet to do so. There are three Federally-chartered agency offices operating in Miami, with one approved and unopened, and three with applications pending. There are no foreign bank agency offices located in Florida outside of Dade County.

The Florida Department of Banking and Finance regulations provide that Florida-

chartered agencies may have the same powers as granted to Federally-chartered agency offices as stipulated in the Federal International Banking Act of 1978. The Federal regulations have always allowed a nationally-chartered agency to conduct business from an unlimited number of offices within its home county in a particular state. The Florida regulations, however, restricted a state-chartered agency to operate from no more than two locations within the same county. The Federal regulations were recently amended to permit branches of agencies throughout one state, and the Florida Department of Banking and Finance amended its regulations so that state-chartered agency offices operate under the same powers.

THE FULL TEXT OF RULE 3C-15.09 IS AS FOLLOWS:

3C-15.09 Applications

(1) Application for Authority to Establish an Agency shall be filed on form DBF-C-20. A nonrefundable filing fee of \$5,000 made payable to the Department of Banking and Finance shall accompany the application.

(2) Application for Authority to Establish a Representative Office shall be filed on Form DBF-C-20. A nonrefundable filing fee of \$1,000 made payable to the Department of Banking and Finance shall accompany the application.

(3) Application for Renewal of Annual License to operate an International Banking Office in the State of Florida shall be filed on Form DBF-C-21. An annual license renewal fee of \$500 for an Agency/\$100 for a Representative Office shall accompany the application.

(4) Copies of Form DBF-C-20 and Form DBF-C-21 may be obtained from the Director, Division of Banking, Suite 1301, The Capitol, Tallahassee, Florida 32301.

Specific Authority 655.012(3), 663.06(6), 663.13, F.S. Law Implemented 12.053(1)(b), 663.04, 663.05, 663.06, 663.10, 663.12, F.S. History - New 7-21-81. Amended 12-20-82.

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-London, England-
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Florida as a Center for International Arbitration

by Grace M. Gonzalez

As Florida emerges as a recognized center of international trade and business, it is perhaps time that attention be directed to its potential for also becoming a center for international arbitration. Florida's year-round beautiful weather would certainly add to its attraction as a desirable location. However, present English arbitration law and the expertise of English professional arbitrators have made England a favored place for arbitration.

English law was not always well suited for international arbitration, however. It was the pressure from foreign users of English arbitration and the English's fear of losing the international arbitration business and income to another country, which led to the replacement of the Arbitration Act of 1950 with the Arbitration Act of 1979.

Under the Arbitration Act of 1950, Arbitral awards were subjected to two forms of judicial review: by motion to set aside the award for error on its face, and by appeal in the form of a special case.

English courts had jurisdiction to set aside an arbitral award if it appeared on its face that the arbitrator had made an erroneous conclusion of fact or law. As the Court could only quash an erroneous arbitral award, the parties had to recommence the entire arbitral process. Consequently, English arbitrators avoided stating the reasons for their award.

Under the special case procedure, the arbitrator would state his award or any part thereof, and any questions of law arising in the course of the reference to arbitration, and would submit this to the High Court. An award 'in the form of a special case contained the arbitrators' findings of facts up to the point of the reference, a statement of the questions of law which the Court must decide, and alternative awards which would take effect depending on how the Court answered the questions. Although it is within the discretion of the arbitrator to state his award in the form of a special case, and in the Court's discretion to order him to do so, it had become the practice for an arbitrator to adopt the special case procedure upon the application of one of the parties to the arbitration.

Furthermore, English law, for public policy reasons, prohibited the parties from contract-

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FLORIDA AS CENTER, cont'd.

ing away their entrenched statutory right to judicial review.

The special case procedure was susceptible to abuse by parties invoking it as a delay tactic. The case stated procedure was criticized as thwarting the principal object of arbitration, namely the expeditious and final settlement of disputes. Another problem was that parties to modern commercial transactions, such as loan agreements and development contracts, frequently included sovereign states or their agencies. Understandably, governments objected to submitting to the jurisdiction of a foreign national court.

English arbitration, because of its entrenched right to judicial review, had become costly, time-consuming, and unsuitable for agreements involving a foreign governmental party.

The Arbitration Act of 1979 abolished the procedure for quashing an award for error on its face, and the special case procedure, and replaces them with a limited appeal to the High Court on questions of law. Appeals from the High Court to the Court of Appeals are also limited. Section 3 of the 1979 Act is a significant innovation, providing for the first time that parties to foreign arbitrations may exclude by written agreement the jurisdiction of the High Court altogether. Parties to domestic arbitration may agree to exclude the High Courts jurisdiction only after the arbitration has begun. The purpose for this distinction is to protect the small trader and consumer, who may be in a weaker bargaining position, from being bullied into giving up their right to judicial review.

The Florida Arbitration Code, Chapter 682, Florida Statutes, contains various sections providing for judicial intervention and review. Section 682.03 provides that before the Court will compel arbitration pursuant to an agreement, it must be satisfied that no substantial issue exists as to the making of the agreement or the provision. If the Court finds a substantial issue is raised, a summary hearing is to be held. Thus, the courts may become involved even before arbitration begins.

Section 682.13(i) permits the Court to vacate an award for five different reasons. Included among the grounds for vacating an award are: misconduct by any of the arbitrators prejudicing the rights of any party; that the arbitrators have exceeded their powers; that the

arbitrators refused to postpone the hearing upon sufficient cause being shown therefor, or refused to hear evidence material to the controversy; or that there was no agreement or provision for arbitration subject to this law, unless this issue was pre-determined according to Section 682.03 or waived by failure to object timely.

The review powers conferred upon the courts by Section 682.13 are very broad, and could necessitate the court's plunging into a factual reconstruction of the arbitral process. Section 682.13(e), providing for the vacating of an award if there was no agreement or provision subject to this law, reiterates part of Section 682.03(1)

Section 682.14 empowers the Court to modify, correct, or vacate an award if (a) there is an evident miscalculation of figures or an evident mistake in the description of any person, thing or property referred to in the award; (b) the arbitrators have awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision. . . ; (c) the award is imperfect as a matter of form, not affecting the merits of the controversy.

Section 682.20 permits an appeal to be taken from essentially every order of the lower court. An appeal can be taken from (a) an order denying an application to compel arbitration (682.03); (b) an order granting an application to stay arbitration (682.03(2)-(4)); (c) an order confirming or denying confirmation of an award; (d) an order modifying or correcting an award; (e) an order vacating an award without directing a rehearing; and (f) a judgement or decree entered pursuant to the provisions of this law.

Such a broad right of initial judicial review and appeal appears to frustrate the very purpose of arbitration as defined in 4 Fla.Jur.2n2: "Its object is to expedite and facilitate the settlement of disputes, thus avoiding the formalities, delay, expense, and vexation of ordinary litigation.

Another legal problem which would have to be overcome involves the application of foreign law. Section 682.02(1) which provides that arbitration agreements are valid and enforceable in Florida contains a partial disclaimer: ". . . provided that this act shall not apply to any such agreement or provision to arbitrate in which it is stipulated that this law shall not apply or to any arbitration or award thereunder." This provision has been'

interpreted by Florida courts to mean that only agreements governed by Florida law are enforceable in Florida. In *Knight v. H.S. Equities, Inc.*, 280 So.2d 456 (Fla. 4th D.C.A. 1973), the Court would not enforce an agreement to arbitrate where the agreement provided that the laws of the State of New York would govern the agreement and its enforcement. The Court stated at 459: "Where it is stipulated that an agreement to arbitrate and its enforcement are governed by the laws of another state, such agreement does not comply with Chapter 682 and is not specifically enforceable in this state." In *Merrill Lynch v. Melamed*, 405 So.2d 790 (Fla. 4th D.C.A. 1981), this interpretation of Section 682.02(1) was affirmed, but an exception was enunciated for arbitration agreements subject to the Federal Arbitration Act because of the Supremacy Clause of the U.S. Constitution. In the *Merrill Lynch* case, the contract, which involved interstate commerce within the meaning of the Federal Arbitration Act, contained a clause incorporating the laws of New York. The Court held that Florida courts must enforce arbitration agreements which are valid under Federal law, even though they are not enforceable under Florida law.

Many commercial loan agreements and development contracts of a supranational nature contain one provision specifying the

applicable law to govern the contract and a separate provision providing for arbitration. The applicable law is usually different from the law of the forum, where the arbitration is to take place. Present Florida law would prevent arbitration of such agreements from taking place in Florida.

The first question which must be answered is whether attracting the international arbitration business is a desirable objective for Florida. If so, the Florida arbitration law needs to be adapted to the needs of international arbitration, including governmental parties to arbitration agreements. A more restricted right to judicial review, and the right to exclude the jurisdiction of the courts altogether in the case of foreign arbitration would help to conform Florida law to the needs of foreign users of arbitration.

In determining whether attracting international arbitration would be a positive goal, it might be useful to consider the Lord Chancellor's comments in his opening speech to the House of Lords on December 12, 1978: "Efficient arbitration arrangements are important to the United Kingdom for the protection of its own traders, as a valuable source of income and foreign exchange, and as a part of the range of legal, financial and trading services offered here, and particularly by the city of London."

INTERNATIONAL LAW 1983 Calendar of Events

Date	Place	Event	Sponsor/Contact
March and April	St. Petersburg Miami	Export Seminar	Fl. Dept. of Commerce (904) 488-6124
March 3-4 and April 7-8	San Francisco New York City	Rep. of Business Execs and Corps in Fed. Grand Jury Investigations	ABA National Institutes (312) 567-4675
March 4 and March 26	Coronado, CA New York City	When Can You Take It With You- Trade Secret and Non-Competition Clauses in Employment Agreements	ABA National Institutes (312) 567-4675
March 4-5		Journalists' and Editors' Conference on the Caribbean	FIU -Latin American & Caribbean Center - Woodrow Wilson Intl Center
March 12 and May 21	San Francisco	Taking depositions	ABA National Institutes (312) 567-4675

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CALENDAR, cont'd.

March 23	TBA	Luncheon-Ambassador Muniz - Argentina	International Center (305) 667-3621
March 27-30	Jacksonville	Intn'l Trade Conference	Jacksonville Intn'l Trade Association (904) 353-0300
April 7-9	San Francisco	Antitrust Liability	ABA National Institutes (312) 567-4675
April 7-9	Washington, D.C.	Going International: International Trade for the Nonspecialist	ALI - ABA
April 10-14	Miami Beach	Communications Expo '83	FL Dept. of Commerce (305) 446-8106
April 27-28	Boston	Developments in Investment Services	ABA National Institutes (312) 567-4675
April 29-30	Miami	International Taxation Seminar	Fla. Institute of Cert. Public Accts. Deborah Ginn Tallahassee (904) 222-5286
April 29 - May 8	London, England	Int'l Law Section The Florida Bar Legal Education Program	
May	Santo Domingo San Juan, PR	Florida-Dominican Republic Puerto Rico Trade Commission	FL Dept. of Commerce (305) 446-8106
May	Tampa	Florida Intl Agri-business Trade Show	FL Dept. of Commerce (305) 446-8106
May and	W. Palm Beach Lake City	Export Seminar	FL Dept. of Commerce (904) 488-6124
May 5-6 and May 19-20	San Francisco Houston	Bankruptcies, Workouts and Real Estate-A Practical Perspective	ABA National Institutes (312) 567-4675
May 5-6	Los Angeles	High Technology Contracting Opportunity and Challenges	ABA National Institutes (312) 567-4675
May 5-6	New York City	Products Litigation Issues-Practical Engineering Discovery and Punitive Damages	ABA National Institutes (312) 567-4675
May 9-10	Washington, D.C.	Fourth National Institute on Elements of Utility Rate Proceedings	ABA National Institutes (312) 567-4675
May 15-18	Toronto Canada	Plst-Ex '83 Plastics Industry Show	FL Dept. of Commerce (305) 446-8106
May 26-28	Washington, D.C.	Second National Institute on Aviation and Space Law	ABA National Institutes (312) 567-4675
May 26 - June 5	Paris	Air Show	FL Dept. of Commerce (904) 488-6124
June and August	Puerto Rico	Florida-Dominican Republic	FL Dept. of Commerce (305) 446-8106
June	Ft. Meyers Homestead	Export Seminar	FL Dept. of Commerce (904) 488-6124
June 1-2	Orlando	Conf. on World Trade	FL Dept. of Commerce (305) 446-8106
June 19-25	Bogota and Cali, Colombia	Florida-Colombia Trade Mission	FL Dept. of Commerce (305) 446-8106

New Legislative Proposals

A wide range of bills were already introduced into the new Congress at the time this issue of the ***International Law Quarterly*** went to press. The following list was prepared by the law firm of Sandler & Travis, P.A. of Miami, Florida, and, while it does not attempt to be exhaustive of all bills of interest to the international practitioner, it includes a wide range of issues which may be of interest to Florida practitioners.

Bills Filed in the U.S. House of Representatives

HR25 - Amend immigration laws to clarify status of individuals who have been granted asylum (ANNUNZIO, Judiciary)

HR40 - Authorize president to prescribe regulations for protecting arms information from the risk of indiscriminate export (BENNETT, Foreign Affairs)

HR41 - Insure that a country receiving foreign assistance cooperate with the U.S. in its efforts to reduce the flow of illicit drugs from such a country (BENNETT, Foreign Affairs)

HR53 - Establish additional criminal penalties applicable to persons who pilot aircraft in connection with drug smuggling operations (BENNETT, Public Works)

HR60 - Provide for ownership of any abandoned historic shipwreck located, in whole or in part, on the Outer Continental Shelf or on lands beneath navigable waters within the boundaries of a state (BENNETT, Interior, Merchant Marine)

HR74 - Authorize economic relief and rehabilitation assistance to Ireland (BIAGGI, Foreign Affairs)

HR88 - Limit the authority of USDA to make deductions from proceeds of sale of milk marketed commercially by producers in certain insular areas (CORRADA, Agriculture)

HR89 - Permit the transportation of passengers between Puerto Rico and other US ports by foreign-flag vessels when US flag service is not available (CORRADA, Merchant Marines)

HR97 - Limit Social Security benefits in case of individuals who are not citizens or nationals of the US or who are residing abroad (DUNCAN, Ways & Means)

HR 152 - Set a four-year limitation on federal agency actions for enforcement of any law or regulation (HANSEN of Idaho, Govt. Ops)

HR191 - Exempt certain charter boats in the US

Virgin Islands from customs entry requirements (HOLT, Ways & Means)

HR198 - Amend title II, Social Security Act, to provide generally that benefits thereunder may be paid to aliens only after they have been lawfully admitted to the US for permanent residence, and to impose further restrictions on the right of any alien in a foreign country to receive such benefits (LENT, Ways & Means)

HK219 - Amend tax code to double the investment tax credit for American-made automobiles and certain light duty trucks and to provide that the investment tax credit shall not be recaptured with respect to such vehicles by reason of any disposition, etc., after the second year of use (MOOREHEAD, Ways & Means)

HR 222 - Require USDA to establish a program to offset agricultural export subsidies imposed by foreign countries by subsidizing the exportation of agricultural commodities in the US and produces of such commodities (MARTIN of IL, Agriculture, Foreign Affairs)

HR241 - Provide that Social Security benefits may be paid to aliens only after they have been lawfully admitted into the US for permanent residence and impose further restrictions on the right of any alien in a foreign country to receive such benefits (PARRIS, Ways & Means)

HR300 - Establish a National Foreign Investment Control Common to prohibit or restrict foreign ownership control or management control of certain domestic industries or resources vital to the economic security and national defense of US (ROE, Energy & Commerce)

HR307 - Provide for a Council of Oil Importing Nations (ROE, Foreign Affairs)

HR308 - Directing the president to take certain actions with respect to any country which engages in certain hostile actions against property of the US or US officers or employees assigned to duty abroad (ROE, Foreign Affairs)

HR374 - Create within the Commodity Credit Corp a National Grain Board, to provide the highest possible prices in foreign markets for American agricultural producers, to provide price and supply stability in domestic markets (ROE, Agriculture, Foreign Affairs)

HR381 - Amend Export Admin. Act to improve the administration of export controls by assigning to the Secretary of DOD the primary responsibility for identifying the type of technologies and goods which shall be controlled for national security purposes, by providing for a comprehensive and continuing review of export controls with a view to strengthening controls over exports of critical technologies and goods which will not significantly

continued . . .

LEGISLATIVE PROPOSALS, cont'd.

adversely affect the national security of the US; and by providing for congressional oversight of such exports (ROE, Foreign Affairs; Armed Services)

HR394 - Impose quotas on the importation of East German montan wax during 1983-85 (SHUMWAY, Ways & Means)

HR399 - Amend US Grain Standards Act for the purpose of expanding foreign trade by improving and maintaining the quality of grain shipped from an export elevator at an export location (SMITH of Iowa, Agriculture)

HR400 - Amend Commodity Exchange Act to require public disclosure of certain information relating to sales of commodities for export (SMITH of Iowa, Agriculture)

HR418 - Remove certain trade restrictions with respect to Cuba (WEISS, Foreign Affairs)

HR419 - Amend International Claims Settlement Act - relating to claims of nationals of the US against East Germany, to permit the determination of claims of persons who were aliens lawfully admitted for permanent residence in the US as of the date of loss and by September 4,1974, citizens of the US (WEISS, Foreign Affairs)

HR455 - Provide that US foreign policy actions should not harm domestic agriculture (WHITTEN, Agriculture; Foreign Affairs)

HR600 - Provide for monitoring of foreign investment in US (KASTENMEIER, Energy & Commerce; Govt. Ops; Foreign Affairs)

HR601 - Encourage Soviet and Eastern European studies (HAMILTON, Foreign Affairs; Educ. & Labor)

HR617 - Provide a procedure for determining the eligibility of foreign citizens for the issuance of mineral leases on federal lands (HUNTER, Interior)

HR620 - Provide assistance to areas of economic dislocation in the US resulting from drastic currency fluctuations in contiguous countries (KAZEN, Small Business)

HR657 - Exempt bicycle component parts which are not re-exported from the exemption from the customs laws otherwise available to merchandise in foreign trade zones (PERKINS, Ways & Means)

HR684 - Place limits on milk protein products that may be imported into the US (SOLOMON, Ways & Means)

HR717 - Provide that certain property held in foreign-trade zones shall be exempt from state and local ad valorem taxation (WRIGHT, Ways & Means)

HR772 - Prohibit any individual who has diplomatic immunity from criminal jurisdiction of the US from possessing a handgun without the

approval of the Secretary of State (BROOMFIELD, Foreign Affairs)

HR783 - Extend investment tax credit and accelerated cost recovery system to certain property used in Puerto Rico or other possessions (CORRADA, Ways & Means)

HR801- Promote increase ocean transportation of bulk commodities in the foreign commerce of the US in US flag ships, to strengthen the defense industrial base (GAYDOS, Merchant Marine)

HR805 - Restrictions on the right of any alien to receive Social Security benefits (GAYDOS, Ways & Means)

HR822 - Prohibit production and stockpiling of chemical weapons in US and USSR (KASTENMEIER, Armed Services)

HR855 - Terminate US involvement in UN (McDONALD, Foreign Affairs)

HR909 - Freeze natural gas prices (VOLKMER, Energy & Commerce)

HR913 - Make alien crewmen serving on board a fishing vessel having the home port or operating base in the US, nonmigrant aliens while they are temporarily in Guam, the Northern Mariana Islands or American Samoa (WON PAT, Judiciary)

HR914 - Waive the visa requirements for aliens visiting Guam for not more than 15 days (WON PAT, Judiciary)

HR925 - Improve worker training under Trade Act of 1974 (PEASE, Ways & Means)

HR942 - Restrict persons who are not yet citizens of the US from acquiring more than 35 percent of the nonvoting securities or more than 5 percent of the voting securities of any issuer whose securities are registered under the Securities Exchange Act of 1934 (GAYDOS, Energy & Commerce)

HR950 - Provide that Social Security benefits may be paid to aliens only after they have been lawfully admitted to the US for permanent residence and impose further restrictions on the right of any alien in a foreign country to receive such benefits (DAUB, Ways & Means)

HR959 - Provide that aliens who die while serving with the US Armed Forces during certain periods of hostilities may be considered to have been citizens of the US at the time of death (DONNELLY, Judiciary)

HR966 - Provide for congressional initiation of actions to respond to unfair foreign trade practices (FIEDLER, Ways & Means)

HR972 - Provide certain individuals living abroad an exclusion for income from sources within foreign countries (FRENZEL, Ways & Means)

HR981 - Provide more equitable taxation of foreign source income (FRENZEL, Ways & Means)

HR989 - Specialty Steel Fair Trade Act of 1983

(LUNDINE, Ways & Means)

HR1020 - Prohibit export of nuclear material to South Africa (RANGEL, Foreign Affairs)

HR1052 - Authorize negotiations directed toward opening foreign markets to US exports of high-technology products (SHANNON, Foreign Affairs; Ways & Means)

HR1083 - Require that US govt oppose furnishing assistance by International Monetary Fund to any country that practices apartheid (DIXON, Banking)

HR1139 - Permit carrying passengers between ports and places in US by foreign vessels if their voyages do not directly compete with those of US-flag vessels (HUNTER, Merchant Marine)

HR1146 - Amend US tariff schedules to provide rates of duty on imported roses consistent with those maintained by European Economic Community on imports of roses from US and other nations (PANETTA, Ways & Means)

HR1171 - Provide activities to develop and expand export markets for US agricultural commodities (BREAUX, Agriculture; Foreign Affairs)

HR1195 - Increase temporarily duty on certain wool from Argentina or Uruguay (LOEFFLER, Ways & Means)

HR1197 - Amend Export Administration Act to extend provisions relating to export of domestically produced crude oil (McKINNEY, Foreign Affairs)

HR1202 - Redesignate Commerce Dept. as Trade & Commerce Dept. (MRAZEK, Govt. Ops)

HR1217 - Provide relief from honey imports by increasing duty thereon (SHELBY, Ways & Means)

HR1221 - To promote additional export sales of agricultural commodities, through an export credit revolving fund, in at least direct proportion to acreage reduction efforts (SMITH of NEB, Agriculture; Foreign Affairs)

HR1226 - Reduce temporarily duty on certain disposable surgical drapes and sterile gowns (WHITTEN, Ways & Means)

HR1228 - Relating to total allowable levels of foreign fishing permitted in US fishery conservation zone (YOUNG of AK, Merchant Marine)

HR1234 - Establish domestic content requirements for motor vehicles sold or distributed in interstate commerce in US (OTTINGER, Energy & Commerce; Ways & Means with instructions)

HR1240 - Require president to take certain actions to obtain relief from non-tariff trade barriers imposed by foreign countries against agricultural goods produced in US (BEREUTER, Ways & Means)

HR1241 - Extend and make permanent certain temporary laws relating to freight forwarders (BIAGGI, Merchant Marine)

HR1242 - Increase ocean transportation of bulk commodities in foreign commerce of US in US-flag ships and strengthen defense industrial base (BOGGS, Merchant Marine)

HR1260 - Prohibit US financial assistance and exports of agricultural commodities and high technology, to Soviet bloc countries; require US to oppose assistance by World Bank and International Monetary Fund to communist bloc countries; and require approval and justification for extensions of credit by banks to communist bloc countries until agreement exists between US and Soviet bloc countries on stabilizing nuclear and conventional arms (LONG of MD, Banking; Foreign Affairs)

HR1269 - Provide access to trade remedies to small businesses and to certain agricultural sectors (SNOWE, Ways & Means)

HR1272 - Amend Social Security Act to limit old-age survivors and disability insurance benefits with respect to individuals who reside abroad and are not US citizens or nationals (WHITEHURST, Ways & Means)

HR1291 - Provide for time in which to appeal to Court of Appeals for the Fed. Circuit from a determination of ITC (FRANK, Judiciary)

HR1307 - Require owners of vessels engaged in foreign commerce using US ports to establish and maintain financial responsibility for claims arising from furnishing of maritime services to those vessels (WYDEN, Merchant Marine)

HR1318 - Restrict imports of copper and related materials (DAVIS, Ways & Means)

HR1319 - Restrict imports of iron ore and steel mill products (DAVIS, Ways & Means)

HR1344 - Provide competitive financing in international trade (LUNDINE, Banking)

HR1352 - Impose sanctions on countries that expropriate real property of US persons (PARRIS, Foreign Affairs)

HRes21 - Sense of House that extended voluntary departure status should be granted to El Salvadorans in US whose safety would be endangered if they were returned to El Salvador (WEISS, Judiciary)

HRes25 - Expressing opposition of the House to an imposition of an import fee on crude oil and refined products (CONTE, Ways & Means)

HRes36 - Sense of House that president should not impose import fees on crude oil and refined products (ADDABBO, Ways & Means)

HJRes2 - Calling for a mutual and verifiable freeze on and reductions in nuclear weapons (MARKEY, Foreign Affairs)

HJRes3 - Prevent nuclear testing (BEDELL, Foreign Affairs)

HJRes4 - Calling for mutual and verifiable

continued . . .

LEGISLATIVE PROPOSALS, cont'd.

reductions in nuclear arsenals and expressing the full support of Congress for the two ongoing arms reduction negotiations in Geneva between the US and the USSR (BROOMFIELD, Foreign Affairs)

HJRes34 - Calling for a mutual and verifiable freeze on and reduction in nuclear weapons (NEAL, Foreign Affairs)

HJRes50 - Renounce the first use of all nuclear weapons and to conclude treaties with all nations renouncing the first use of nuclear weapons (WEISS, Foreign Affairs)

HJRes87 - Call for comprehensive treaty banning space-based weapons (KASTENMEIER, Foreign Affairs)

HJRes88 - Constitutional amend relative to force and effect of treaties (McDONALD, Foreign Affairs)

HConRes12 - Sense of Congress that US should seek to negotiate an agreement with Japan whereby that nation would pay an annual security tax to the US govt equal to 2 percent of Japan's annual GNP to more equitably compensate the US for expenditures related to carrying out the provisions of the US/Japanese Treaty of Mutual Cooperation and Security (NEAL, Foreign Affairs)

HConRes30 - Requesting report from SEC on acquisition of US firms by foreign nationals (GAYDOS, Energy & Commerce; Foreign Affairs)

HConRes31 - Sense of Congress with respect to ongoing investigations of foreign trade practices involving steel mill products (LONG of MD, Ways & Means)

HConRes32 - Sense of Congress that US break diplomatic relations with Afghanistan (McDONALD, Foreign Affairs)

HConRes33 - Prohibiting use of fed funds for foreign travel by Members unless specifically authorized by recorded vote (PAUL, H Admin)

Bills Filed in the U.S. Senate

S14 - Provide authority for activities to develop and expand markets for US agricultural commodities (COCHRAN, Agriculture)

S18 - Improve farm commodity prices and change agricultural export policy (DOLE, Finance)

S21 - Redesignate Commerce Dept. as Dept. of Trade and Commerce and consolidate international trade functions (MOYNIHAN, Governmental Affairs)

S28 - Avoid the double taxation of foreign source export income (BOREN, Finance)

S37 - Reduce duty on certain disposable surgical drapes and sterile gowns (COCHRAN, Finance)

S47 - Improve international ocean transportation system (GORTON, Commerce)

S50 - Provide access to trade remedies to small businesses (COHEN, Finance)

S77 - Expand export sales of agricultural commodities (MATTINGLY, Agriculture)

S78 - Amend SSI rulings for aliens (MATTINGLY, Finance)

S116 - Require president to take certain actions regarding import relief on foreign agricultural products (PRESSLER, Finance)

S121 - Establish a Dept. of Trade (ROTH, Governmental Affairs)

S132 - Prohibit the purchase of Iranian and Libyan oil to fill Strategic Petroleum Reserve (SASSER, Energy)

S144 - Insure continued expansion of reciprocal market opportunities in trade (DANFORTH, Finance)

S186 - Require that imports of fresh ginger root meet all requirements imposed on domestic fresh ginger root (INOUE, Agriculture)

S188 - Require that certain US mail be carried on vessels of US registry (INOUE, Commerce)

S190 - Direct Secretary of Labor to identify and address unique needs of immigrants in US (INOUE, Human Resources)

S191 - Direct Secretary of Education to identify and address unique needs of immigrants in US (INOUE, Human Resources)

S205 - Provide for jurisdiction over common carriers by water engaging in foreign commerce to and from US utilizing ports in nations contiguous to US (INOUE, Commerce)

S206 - Increase role of Secretary of Transportation in administering section 901 of Merchant Marine Act (INOUE, Commerce)

S208 - Prohibit transportation of hazardous waste for purposes of disposal abroad (INOUE, Commerce)

S221 - Temporarily suspend duty on certain menthol feedstocks (THURMOND, Finance)

S230 - Establish equal duty rates for cordage products (HEINZ, Finance)

S370 - Imported Liquefied Natural Gas Policy Act of 1983 (PERCY, Energy)

S397 - Amend Export Administration Act (HEINZ)

S398 - Promote export sales of agricultural commodities (ABDNOR, Agriculture)

S404 - Permit importing leopard skins (ZORINSKY, Finance)

S407 - Improve enforcement of export administration laws (NUNN, Banking)

S409 - Limit FOIA to US citizens and certain others (NUNN, Judiciary)

S414 - Amend and clarify Foreign Corrupt Practices (HEINZ, Banking)

S418 - Provide industry access to courts in antidumping cases (SPECTER, Judiciary)

S428 - Provide for study and development of economically strategic technologies (TSONGAS, Commerce)

S434 - Unify and improve strategic effectiveness of export regulations (GARN, Banking)

S447 - Modify certain El Salvador certification requirements (HELMS, Foreign Relations)

S453 - Amend tariff schedule regarding apple and pear juice (WARNER, Finance)

SJRes2 - Calling for mutual and verifiable freeze and reduction in nuclear weapons (KENNEDY, Foreign Relations)

SJRes12 - Relative to arms control negotiations (KASSEBAUM, Foreign Relations)

SJRes30 - Promote extension of the Japanese Auto Restraint Agreement (HART, Finance)

SRes52 - Fees on imported and domestic oil (CHAFEE, Finance)

SConRes3 - Relating to foreign currency deposits (HELMS, Banking)

Section sponsors course at Midyear Meeting

The Section sponsored a course entitled "Law of Export Trade" at The Florida Bar's Midyear Meeting held in Miami, January 26 through the 29th. The morning session was devoted to a review of the Export Trading Company Act (ETC) enacted last December. Calman J. **Cohen**, Vice President of the Emergency Committee for American Trade, a trade association consisting of the C.E.O.'s of the Fortune 500 Companies, which supports and monitors international trade and foreign commerce matters in Washington, provided an overview of the statutory framework of the Act. In addition to his analysis of the four titles of the ETC, Mr. Cohen, through his direct participation in the legislative process of the ETC, provided a review of the legislative history of the Act and the roles played by the various governmental and private sector interest which were involved in the enactment of the ETC.

Patricia **A. Sherman**, Counsel and Manager for International Trade Policy Development of the General Electric Company, provided an overall review of the global marketplace and the manner in which an ETC could provide one-stop shops for businesses which wished to participate in export trade. She also reviewed the operations of General Electric's ETC, which was established in the summer of 1982. Finally, she discussed the possible structure for an ETC, those being a large manufacturer lead company, a bank lead company, a combination of a bank/large manufacturer company, a bank combined with a current export services company, a combination of small manufacturers and finally, a

combination of companies providing services solely to exporters.

Mary Belle Feltenstein, Vice President/Counsel for the First National Bank of Boston, addressed her bank's perspective of the ETC. After providing an overview of the current position of the large U.S. bank's international loan portfolios, she suggested ETCs would not be attractive in the current world financial market because of banks' needs to employ their capital in other areas. When questioned whether regional banks would find an ETC attractive, she stated such banks could be interested in participating in joint ventures with existing service companies or possibly with a group of small manufacturers serving one geographical area.

The final speaker on the ETC was **Professor Alan Swan** of the University of Miami School of Law. Professor Swan provided an indepth analysis of the antitrust provisions of the Act as they relate to the operation of an ETC in the United States. He emphasized that until the Justice Department provides its interpretation of the antitrust provisions of the ETC, practitioners will be engaging in a hazardous course in dealing with any antitrust issues which may arise with the operation of an ETC.

The afternoon portion of the program provided an overview of the taxation of earnings from export activities, governmental financing programs available to the private sector, the legal structure and operation of letter of credits, and finally, governmental restrictions on the export of goods and materials from the United States.

MEMORANDUM

To: International Law Section

From: Stephen N. Zack, Chairman

Re: Annual International Lawyer Exchange Program

Arrangements for the 1983 International Lawyer Exchange Program in London, England, are now complete. The program will offer continuing legal education credit and will include optional tour packages.

There will be a Tampa and Miami departure on Friday, April 29, 1983. Upon our Saturday morning arrival, we will be transferred to the Piccadilly Hotel. The Piccadilly is a traditional hotel that was renovated in 1981 and is a very beautiful and individual establishment with just 290 rooms. A few minutes' stroll will bring you to many of the city's most famous landmarks-Trafalgar Square, the Royal Academy, Regent Street, Carnaby Street, Soho, Mayfair, the National Gallery, Bond Street and Buckingham Palace. All the major cinemas and theatres are a taxi ride or five minutes walk and the transport connections, both local and national, seem to have been designed with the Piccadilly Hotel as your hub. The elegant bedrooms are larger than you might expect and furnished in a modern style that promotes instant relaxation. All rooms have private bathroom, color T.V., radio and telephone.

Highlighting the trip will be a seminar on international banking with a focus on the Lloyd's of London Insurance Exchange. On Tuesday and Wednesday afternoons there will be a tour of Lloyds of London which will include an explanation of the operation of Lloyds market and the security behind a Lloyds' policy.

This annual International Lawyers' Exchange should be invaluable to Florida lawyers who must increase their awareness of Great Britain's legal system as trade between Florida and the United Kingdom increases. The trip to England is particularly timely, since it offers an opportunity to see the Lloyds exchange in operation. This will increase the understanding among Florida lawyers of the new insurance exchange of the Americas and should present some business opportunities with the new exchange.

The price of the program described within is \$1,199 per person double occupancy. This price includes air fare from Tampa or Miami to London and return, double occupancy for eight nights at the Piccadilly Hotel, full English breakfast daily, airport transfers, portorage assistance and an orientation session. A Thursday evening reception and a Friday luncheon are included in the program. An escort will be available to provide shopping information by being on call while in England, provide optional sightseeing information in the way of tours and individual excursions, assist in securing dining reservations and suggestions and assist in any other manner possible both in and out of the meetings. Grant's Travel Service, Inc., will also assist you in booking excursion trips after the London Program.

Because space is limited and in order to protect against airfare increase, we urge you to send in your application and payment **NO LATER THAN APRIL 7, 1983**. All checks should be made payable to Grant's Travel Service, Inc.

ACTIVITIES SCHEDULE:

Friday, April 29,1983

Depart **TAMPA 4:45 p.m.** on Pan Am 584 - Arrive London/Heathrow Saturday, April 30,1983, at 7:40 a.m.

Depart **MIAMI 6:30 p.m.** on Pan Am 584 - Arrive London/Heathrow Saturday, April 30, 1983, at 7:40 a.m.

Saturday, April 30,1983

P.M. Optional Tours Available for Selection

Sunday, May 1,1983

Advanced Registration and Arrangements Meeting

Monday, May 2,1983

PROGRAM MODERATOR: Dr. John M. Dyer, Chairman and Director of International Finance and Marketing, University of Miami, Attorney at Law, Coral Gables, Florida

8:00 - 8:30 a.m.

8:30 - 9:00 a.m.

REGISTRATION

WELCOME

Stephen N. Zack, Chairman, International Law Section

Thomas G. Travis, Chairman-elect, International Law Section

9:00 - 9:50 a.m.

POLITICAL BRIEFING

Richard M. McCormack, Counselor for Political Affairs, U.S. Embassy, London

9:50 - 10:00 a.m.

COFFEE

10:00 - 11:00 a.m.

ECONOMIC BRIEFING - U.S. EMBASSY

11:00 - 12:00 noon

IMMIGRATION REQUIREMENTS FOR THE FOREIGN

INVESTOR

12:00 noon

PANEL DISCUSSION

Tuesday, May 3,1983

8:00 - 8:30 a.m.

8:30 - 9:30 a.m.

COFFEE AND OPENING COMMENTS

ENGLISH LEGAL SYSTEM - A HISTORICAL OVERVIEW

A. C. Ayres NORTON, ROSE, BOTTERELL & ROCHE, London

9:30 - 9:45 a.m.

COFFEE

9:45 - 10:45 a.m.

U.K. COMPANY LAW

10:30 - 11:30 a.m.

A. D. Hewat ALLEN & OVERY, London

ACQUISITIONS AND ANTITRUST

Francis G. Sandison FRESHFIELDS, London

11:30 - 12:30 p.m.

LITIGATION BEFORE U.K. COURTS

3:30 p.m.

A tour (limited to 30 participants) of Lloyd's of London will be conducted. The tour will include an explanation of the operation of Lloyd's market and security behind a Lloyd's policy.

Wednesday, May 4,1983

8:00 - 9:30 a.m.

8:30 - 9:30 a.m.

9:30 - 9:45 a.m.

9:45 - 10:45 a.m.

COFFEE AND OPENING COMMENTS

INTERNATIONAL BANKING IN THE U.K.

COFFEE

INVESTMENT BY U.K. RESIDENTS IN NORTH AMERICAN REAL ESTATE

10:45 - 11:45 a.m.

A. D. Hewat ALLEN & OVERY, London

INSURANCE LAW - PROFESSIONAL INDEMNITY

Paul D. Nicholas REYNOLDS PORTER CHAMBERLAIN, London

11:45 - 12:30 p.m.

PANEL DISCUSSION

3:30 p.m.

(The tour of Lloyd's of London will be conducted again for those who did not participate in Tuesday's tour.)

continued...

Thursday, May 5, 1983

8:00 - 8:30 a.m.
8:30 - 9:30 a.m.

COFFEE AND OPENING COMMENTS
THE U.K. AS A TAX HAVEN FOR COMPANY HEADQUARTERS
AND REGISTRATION

Charles G. Lubar MORGAN, LEWIS & BOCKIUS, London
COFFEE

9:30 - 9:45 a.m.
9:45 - 10:45 a.m.
10:45 - 11:45 a.m.

U.K. AS A TAX HAVEN FOR INDIVIDUALS
U.K. OFFSHORE TAXATION

E. Michael Garston REYNOLDS PORTER CHAMBERLAIN,
London

11:45 - 12:30 p.m.
2:30 p.m.

FOREIGN ACQUISITIONS OF U.K. COMPANIES

A tour will be conducted of the Royal Courts of Justice, Lincoln's Inn
and the Temple.

Friday, May 6, 1983

8:00 - 8:30 a.m.
8:30 - 9:30 a.m.

COFFEE AND OPENING COMMENTS
EUROPEAN ECONOMIC COMMUNITY

Dr. Richard H. Sterzinger BOESBECK, BARZ & PARTNER,
Frankfurt, Germany

9:30 - 9:45 a.m.
9:45 - 10:45 a.m.

COFFEE

LITIGATION BEFORE U.K. TRIBUNALS AND DISPUTE
SETTLEMENT

10:45 - 11:45 a.m.

INTERNATIONAL ECONOMIC OUTLOOK - A BRITISH
PERSPECTIVE

Christopher Johnson, Group Economic Adviser, Lloyds Bank,
London

11:30 - 12:00 noon
12:30 p.m.

CONCLUDING PANEL

LUNCHEON WITH GUEST SPEAKER

Saturday, May 7, 1983

10:00 a.m.

INTERNATIONAL LAW SECTION BUSINESS MEETING

Sunday, May 8, 1983

Leave London
Arrive Miami
Leave Miami
Arrive Tampa

10:30 a.m. Pan Am 99
3:10 p.m.
4:30 p.m.
5:25 p.m.

NOTE: A DETAILED PROGRAM WILL BE MAILED SHORTLY AFTER REGISTRATION

Miami Merchants Claim Florida's Sales Tax Exemption is Unfair

A small but well organized group of Miami merchants are claiming that the Florida Department of Revenue's application of the foreign and interstate sales tax exemption may be unconstitutional. Section 212.06(5) (a) of the Florida Statutes, as amended (Fla. Stat. §212.06(5)(a)) exempts tangible personal property imported, produced, or manufactured in Florida for foreign or interstate export from Florida sales tax provided that the seller delivers the

merchandise to a licensed exporter, common carrier, or mails the merchandise by U.S. mail to the destination. To implement the statute, the Department of Revenue (DOR) has promulgated regulations, F.C.A. §124-1.64, requiring a dock or warehouse receipt and a bill of lading to substantiate exportation.

We have learned from a local association of merchants contesting the application of this statute and regulation, that the export documentation requirements are being

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REGISTRATION FORM
INTERNATIONAL LAWYER EXCHANGE PROGRAM
APRIL 29 - MAY 8, 1983
LONDON, ENGLAND

Send Reservations to:
(No later than April 7)

Lynda Grant Killingsworth
Grant's Travel Service, Inc.
166 Northeast 96th Street
Miami Shores, Florida 33138
(305) 751-1844

Please make reservations for the person(s) named below to join in the 1983 International Lawyer Exchange Program. I (we) have enclosed a check for \$ _____ (\$1,199 per person) made payable to Grant's Travel Service, Inc.

NAME

PASSPORT NO.

STREET

EXPIRATION DATE

CITY

(Area Code) Home Phone

Office Phone

Accompanying Family Members:

NAME

PASSPORT NO.

EXPIRATION DATE

_____ I desire single room occupancy for which I am willing to pay a supplemental charge.

_____ I desire a suite for which I am willing to pay a supplemental charge.

_____ Nonsmoking airplane seat preferred.

_____ Smoking airplane seat preferred.

CANCELLATION PENALTIES:

LAND: No refund within 14 days \$100 per person within one month

AIR: 10% of airfare after ticketing

THE FLORIDA BAR
TALLAHASSEE, FL. 32301-8226

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TALLAHASSEE, FLORIDA

Permit No. 43

EXEMPTION UNFAIR, cont'd.

waived for interstate as opposed to foreign sales. This inequitable application of the exemption may violate Article I of the Constitution of the United States (Import/Export Clause), the Fourteenth Amendment, and possibly the Florida Constitution. This DOR practice has already had a devastating effect on Florida merchants. Many of these merchants are being forced to personally pay the sales tax incurred as a result of foreign sales where the required proof of

exportation is not available. Under Florida law merchants are liable for and required to pay all taxes not qualifying for exemption.

This problem has already been discussed with the Florida legislature and the Department of Revenue. As of yet, no solution to this problem has been found.

***Submitted by
Andrew M. Parish***