BRIEFLY NOTED*
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+Cite as 51 ILM 623 (2012)+

Resolutions, Declarations, and Other Documents

1. Enduring Strategic Partnership Agreement Between the United States of America and the Islamic Republic of Afghanistan (May 2, 2012)
<http://www.whitehouse.gov/sites/default/files/2012.06.01u.s.-afghanistanspasignedtext.pdfhttp:/www.whitehouse.gov/sites/default/files/2012.06.01u.s.-afghanistanspasignedtext.pdf>

The United States and Afghanistan have signed a strategic partnership agreement meant to define each side's commitments after the U.S. military drawdown from Afghanistan in 2014. The parties stressed their shared commitment to develop a stable and independent Afghan state, governed by Afghanistan's Constitution and shared democratic values, including respect for fundamental rights and freedoms. They also agreed to ''strengthen long-term strategic cooperation in areas of mutual interest, including: advancing peace, security, and reconciliation; strengthening state institutions; supporting Afghanistan's long-term economic and social development; and encouraging regional cooperation.'' The United States also agreed to designate Afghanistan a ''Major Non-NATO Ally'' to provide a long-term framework for security and defense cooperation.

According to the accompanying White House Fact Sheet, the agreement ''is a legally binding executive agreement, undertaken between two sovereign nations.'' With respect to continuing U.S. presence in Afghanistan after 2014, the Fact Sheet notes that ''President Obama has been clear: we do not seek permanent military bases in Afghanistan. Instead, the Strategic Partnership Agreement commits Afghanistan to provide U.S. personnel access to and use of Afghan facilities through 2014 and beyond,'' with ''the possibility of U.S. forces in Afghanistan after 2014, for the purposes of training Afghan Forces and targeting the remnants of al-Qaeda, and commits the United States and Afghanistan to initiate negotiations on a Bilateral Security Agreement to supersede our current Status of Forces Agreement.''

2. Chicago Summit Declaration on Afghanistan (May 21, 2012)
<http://www.nato.int/cps/en/natolive/official_texts_87595.htm?mode=pressrelease>

U.S. President Obama recently signed an Executive Order establishing an Interagency Trade At this year's NATO Summit in Chicago, nations contributing to the NATO-led International Security Assistance Force in Afghanistan (''ISAF'') and the Government of Afghanistan issued the Chicago Summit Declaration on the future of Afghanistan, including the ''irreversible'' transition strategy that began in July 2011.

All parties expressed their commitment to a ''sovereign, secure and democratic Afghanistan'' and reinforced their agreement to end the ISAF's mission by the end of 2014. The parties also reaffirmed their ''close partnership'' with Afghanistan, which ''will continue beyond the end of the transition period.'' Afghanistan also confirmed its commitment to ''a democratic society, based on the rule of law and good governance.''

The parties noted two upcoming meetings that will be crucial in ''securing the future commitment of key regional and international partners'': the Kabul Ministerial Conference on the Istanbul Process and the Tokyo Conference.

3. Istanbul Declaration on Safety and Health at Work (Sept. 11, 2011)
<http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/meetingdocument/wcms_163671.pdf>

Last year, thirty-three ministers of labor, meeting in Istanbul, Turkey on the occasion of the Summit of the Ministers of Labour for a Preventative Culture, declared that rights of workers to a safe and healthy working environment should be recognized as a fundamental human right. The Istanbul Declaration also noted that the ''building and promotion of a sustainable national preventative safety and health culture should be ensured through a system of defined rights, responsibilities and duties where the highest priority is accorded to the principle of prevention and where governments, employers and workers are actively involved in

* As a service to our readers we include, when available, an internet address to these documents or to their sources. Web addresses change frequently, but are correct as of the date of ILM's publication.

https://doi.org/10.5305/intelegamate.51.3.0623 Published online by Cambridge University Press

securing a safe and healthy working environment at all levels.''

According to an ILO press release, the Istanbul Declaration ''builds on the commitments of the Seoul Declaration signed in 2008, which is considered a blueprint for a comprehensive safety and health culture worldwide.''

4. Codex Alimentarius Commission New Regulations on Melamine, Seafood, Melons, Dried Figs, and Food Labeling (July 4, 2012)
<http://www.codexalimentarius.org/download/report/772/cac35_01e.pdf>

The Codex Alimentarius Commission, established by the UN Food and Agriculture Organization and the World Health Organization (''WHO'') to develop and promote harmonized international food standards, guidelines, and codes of practice to protect the health of consumers around the world, has agreed on several new regulations, including the maximum level of melamine in liquid milk formula for babies and new food safety standards on seafood, melons, dried figs, and mandatory nutrition labeling.

According to the WHO press release, the Codex Alimentarius Commission meeting, which took place from July 2-7, 2012, was attended by 600 delegates representing 184 countries and the European Union.

JUDICIAL AND SIMILAR PROCEEDINGS

1. Prosecutor v. Mladic, Decision on Urgent Defence Motion of 14 May 2012 and Reasons for Decision on Two Defence Requests for Adjournment of the Start of Trial of 3 May 2012 (ICTY May 24, 2012)
<http://www.icty.org/x/cases/mladic/tdec/en/120524.pdf>

The Trial Chamber I of the International Criminal Tribunal for the former Yugoslavia has partially granted the third adjournment request filed by the defense in the trial against former Serb general Ratko Mladic, who is currently standing trial for war crimes committed in Bosnia. The Trial Chamber abruptly adjourned the hearing two weeks ago after concluding that a large number of documents were not timely shared with the defense. After agreeing that the defense needed more time to prepare its case given the additional documents submitted by the prosecution, the Trial Chamber postponed the trial until June 25, 2012. The Trial Chamber rejected the defense's request to postpone the trial for six months, finding the one-month postponement ''the appropriate remedy.''

2. Herrmann v. Germany (Eur. Ct. H.R. June 26, 2012)
<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-111698>

The Grand Chamber of the European Court of Human Rights ruled in *Herrmann v. Germany* that Germany's hunting law, which requires that landowners tolerate hunting on their lands even if they ethically object to hunting, violated the applicant's rights under Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights.

The applicant complained that the Federal Hunting Law in Germany violates his rights under the European Convention on Human Rights. The Federal Hunting Law provides, *inter alia*, that landowners who own lands smaller than seventy-five hectares automatically belong to the hunting association and are thus required to tolerate hunting on their lands even though they are morally opposed to hunting. Specifically, the applicant argued that the obligation to tolerate the exercise of hunting rights on his premises violated his right to the peaceful enjoyment of his possessions under Article 1 of Protocol No. 1.

Before filing an application with the European Court of Human Rights, the applicant unsuccessfully tried to terminate his membership with the hunting association in domestic courts. The case reached Germany's Federal Constitutional Court, which ''refused to admit a constitutional complaint,'' noting that the compulsory membership was an appropriate and necessary means to achieve several legitimate aims, including the preservation of a healthy and varied wildlife. The applicant then filed an application with the European Court, arguing that Germany violated his Convention rights by failing, *inter alia*, to strike a fair balance between his interest in enjoying the use of his property and the alleged general interest in the practice of hunting.

The Section Chamber agreed with the applicant that the obligation to allow hunting on his land interfered with his right to the peaceful enjoyment of his property but concluded that this interference was justified under the second paragraph of Article 1 of Protocol No. 1 to the Convention, because the legislation was aimed ''at maintaining varied and healthy game populations at a level compatible with care of the land and with cultural conditions, and at avoiding game damage.''

The Grand Chamber, following its previous case law dealing with hunting legislation in France and Luxembourg, concluded that the German legislation imposed a disproportionate burden on landowners. And while the Court emphasized that it was not bound to follow its previous case law, especially as ''the Court must have regard to the changing conditions in Contracting States and respond, for example, to any evolving convergence as to the standards to be achieved,'' it concluded that since the judgments against France and Luxembourg, ''various contracting states have amended their respective legislation or modified their case-law in order to comply with the principles set out in these judgments.'' As a result, the Court ''cannot but reaffirm the principles set out in the *Chassagnou* and *Schneider* judgments, notably that imposing on a landowner opposed to the hunt on ethical grounds the obligation to tolerate hunting on his or her property is liable to upset the fair balance between protection of the right of property and the requirements of the general interest and to impose on the person concerned a disproportionate burden incompatible with Article 1 of Protocol No. 1.''

3. Railroad Development Corp. (RDC) v. Guatemala (ICSID June 29, 2012)
<http://icsid.worldbank.org/ICSID/FrontServlet?requestType=CasesRH&actionVal=viewCase&reqFrom=Home&caseId=C116>

Railroad Development Corp. (RDC) v. Guatemala, a Dominican Republic-Central America-United States Free Trade Agreement (''CAFTA'') arbitration before the International Centre for Settlement of Investment Disputes (''ICSID''), is the first CAFTA claim to reach the merits stage. The ICSID tribunal ordered Guatemala to pay the investor almost twelve million dollars in damages in a dispute between RDC and the Guatemalan government over RDC's operation of Guatemala's railway system.

In 2007, RDC, a privately-owned U.S. railway investment and management company, filed a request for arbitration against Guatemala under CAFTA on its own behalf and on behalf of Compañía Desarrolladora Ferroviaria, S.A., a Guatemalan company that does business as Ferrovías Guatemala (''FVG'') and is majority-owned and controlled by RDC. RDC requested the ICSID tribunal to find 1) that the *lesivo* declaration (''a measure adopted by the executive branch where the government agrees to declare [a] . . . contract *lesivo* because it causes harm to the State, and instructs and authorizes the Attorney General to take measures to cease its obligatory character'') and Guatemala's subsequent conduct constituted an indirect expropriation in violation of CAFTA Article 10.7.1; 2) that Guatemala violated the minimum standard of treatment of CAFTA Article 10.5 by failing to provide, in accordance with customary international law, fair and equitable treatment and full protection and security to RDC's investments; and 3) that Guatemala violated the national treatment standard of CAFTA Article 10.3. RDC also requested the tribunal to order Guatemala to pay RDC $64,035,859 in damages, plus costs and attorneys' fees incurred in prosecuting its CAFTA claims.

The facts of the case are as follows. In 1997, RDC won a government bid to operate Guatemala's rails for fifty years. The dispute commenced when Guatemala's executive branch declared RDC's contract to be *lesivo* because, *inter alia*, RDC failed to deliver the promised rehabilitation of Guatemala's railway system. RDC claimed that the *lesivo*declaration harmed its investment in violations of Article 10.3 (national treatment), Article 10.5 (minimum standard of treatment), and Article 10.7 (expropriation) of CAFTA.

The ICSID tribunal found that Guatemala breached the minimum standard of treatment under Article 10.5 of CAFTA as its conduct was ''arbitrary, grossly unfair, [and] unjust,'' and it ordered that Guatemala pay RDC damages for losses incurred as a result of the breach. The tribunal also ruled that once the award is paid, RDC should forfeit and renounce all its rights under the contracts and transfer to Guatemala RDC's shares in FVG.

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