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This *WTO Case Review* is the fifth in an annual series on the substantive international trade adjudications rendered by the World Trade Organization's (WTO) Appellate Body. Each *Review* explains and comments on the Appellate Body reports adopted by the Dispute Settlement Body during the preceding calendar year, excluding decisions on compliance with recommendations contained in previously adopted reports.

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<b>REFORMING RETIREMENT SYSTEMS: WHY THE FRENCH HAVE SUCCEEDED WHEN AMERICANS HAVE NOT</b>	
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As life expectancy increases and the baby boom generation reaches retirement age, retirement systems throughout the Western world are facing serious financing difficulties. This Article analyzes why one country, France, was able to enact a major reform of its retirement system in 2003 in order to address the system's financing difficulties while the American retirement system had remained unchanged since 1983. The Article begins by briefly describing the French retirement



system and the changes wrought by the 2003 reform. It then analyzes why the French government succeeded in reforming its system in 2003. It attributes the success to three factors: (1) public education; (2) consultation with trade union federations; and (3) political commitment. The Article then applies these factors to explain why the American Social Security system has been so resistant to reform.

LOS “JONKEADOS” AND THE NAALC: THE  
AUTOTRIM/CUSTOMTRIM CASE AND ITS IMPLICATIONS FOR  
SUBMISSIONS UNDER THE NAFTA LABOR SIDE AGREEMENT

*Monica Schurtman*

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This Article developed from the author’s work on the Autotrim/Customtrim Case, the first submission under the North American Agreement on Labor Cooperation (“NAALC,” the “Accord” or the “NAFTA Labor Side Agreement”) to focus exclusively on governmental failure to enforce occupational health and safety laws in maquiladora factories in Mexico. The Article analyzes how the Autotrim/Customtrim Case evolved, but then stalled even though the NAALC’s National Administrative Office (“NAO”) found the petitioners’ complaints credible, and petitioners proposed concrete remedies for violations. Current political constraints and a strong emphasis on state sovereignty in labor matters will likely preclude imminent, substantive revision of the NAALC text. The Article therefore proposes changes in the NAALC’s implementation that would make the submission process more effective. Under the existing Accord, workers and other stakeholders can and must be systematically included in all phases of the process to achieve meaningful improvements in enforcement of labor laws; the Article makes recommendations for accomplishing this goal. Finally, drawing on international human rights models, the Article undertakes to demonstrate the potential value of continuing to file NAALC complaints, despite the Accord’s significant flaws. Here, the Article emphasizes the importance of documentation and reporting, cross-border organizing, and norm and institution-building, and draws comparisons with other international rights initiatives. The Article concludes that the NAALC submission process, as currently implemented, and as illustrated by the Autotrim/Customtrim case, is an ineffective response to non-enforcement of labor laws in the NAFTA countries. Notwithstanding its possible long-range benefits, the failure of

the submission process, more than ten years after its adoption, to improve compliance with existing law in a significant, concrete, and transparent manner, is discouraging, and should prompt serious reconsideration not only of the NAFTA and the NAALC, but also of other free trade agreements under negotiation.

## NOTES

### BEACHFRONT PROPERTY IN ARIZONA?: LOOSENING RESTRICTIONS ON FOREIGN ACQUISITION OF MEXICAN REAL ESTATE AND THE IMPLICATIONS FOR ARIZONA INVESTORS

*Michael Boreale*

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Arizona investors are ideally situated to take advantage of the modern, less-restrictive Mexican real estate regulations. If Mexico ultimately allows foreigners to own coastal real estate for residential purposes, Arizona might have the next best thing to beachfront property. As it stands, the current state of loosened real property regulations provide investors, especially those from Arizona, with attractive leisure options as well as lucrative business opportunities that can also be beneficial for Mexico's people and economy. This note reviews and analyzes these recent changes to Mexican real estate law, as well as provides an overview of the procedure through which foreigners can acquire Mexican real estate. Additionally, this note will examine the current legal relationships, constitutional intricacies, and business transactions between Arizona real estate investors and Mexico, as well as the possible effect of future loosened regulations.

ASSESSING THE BUSH ADMINISTRATION'S DETENTION POLICY FOR TALIBAN AND AL-QAEDA COMBATANTS AT GUANTÁNAMO BAY IN LIGHT OF DEVELOPING UNITED STATES CASE LAW AND INTERNATIONAL HUMANITARIAN LAW, INCLUDING THE GENEVA CONVENTIONS

*Rui Wang*

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The United States military base in Guantánamo Bay, Cuba has been home to Al-Qaeda and Taliban prisoners, captured mostly in Afghanistan, since early 2002. Captured soldiers who are suspected members of Al-Qaeda have been labeled by the Bush Administration as “unlawful combatants,” and are offered fewer rights than traditional prisoners of war (POWs) under the Third Geneva Convention.



