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### WTO CASE REVIEW

*Raj Bhala and David Gantz* 1

In the six and a half years since the World Trade Organization was created, the WTO's Appellate Body has become perhaps the most effective, and certainly the most prolific, international adjudicatory body. It has issued numerous "reports" (decisions) applying and interpreting various provisions of the general Agreement on Tariffs and Trade 1994 and other WTO agreements. While the Appellate Body's jurisprudence is highly significant, insofar as the authors are aware, no comprehensive, critical, summaries of the reports are currently being made available. This Article seeks to begin a process of satisfying the need for such analysis by reviewing the eight Appellate Body Disputes during the year 2000. Hopefully, such reviews will appear on an annual basis in the *Journal*, to provide over time a useful and reliable record of the jurisprudence of the Appellate Body.

### ARTICLES

#### INDONESIA'S ODYSSEY: A NATION'S LONG, PERILOUS JOURNEY TO THE RULE OF LAW AND DEMOCRACY

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This Article is an analysis of the critical role of the rule of law in resolving the economic, social, and political crisis in Indonesia. Reform of the Indonesian legal system and reducing corruption are essential to the future development of Indonesia. The actions of President Wahid, the Indonesian Parliament, the judiciary, and the military are examined. The Article also discusses the impact of the current crisis on governmental and private institutions, the people and environment of Indonesia and the implications for the Asian region.

OPENING CIVIL MARRIAGE TO SAME-GENDER COUPLES: A  
NETHERLANDS-UNITED STATES COMPARISON

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This Article discusses and compares the contrasting legal developments in the United States and the Netherlands concerning the right of same-gender couples to marry. It does so by discussing the case law and the current legislative activity, first in the Netherlands and then in the United States, dealing with the right of same-gender couples to marry. The next section analyzes and compares the Dutch and the United States legal histories concerning opening civil marriage to same-gender couples. This section examines how the differences in the two countries' legal systems, as well as the social status of homosexuals and the legal status of nonmarital cohabitation, have influenced the contrasting routes these two countries have taken toward opening marriages to same-gender couples.

NOTES

THE CHEMICAL WEAPONS CONVENTION: WITH EVERY STEP  
FORWARD, WE TAKE TWO STEPS BACK

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Chemical weapons hold massive destructive power that the International Community does not effectively protect against. Chemical weapons have long been used throughout history as a particularly cost effective and deadly means of warfare. The Chemical Weapons Convention was developed to combat the problems associated with chemical warfare. This Note discusses the Chemical Weapons Convention's inadequacy as a viable solution to the problem of chemical weapons, and also discusses why the Chemical Weapons Convention should be seen as a means for maintaining the status quo and not as an end to the use or existence of chemical weapons.

CONFLICTING MARKS: EMBRACING THE CONSEQUENCES  
OF THE EUROPEAN COMMUNITY AND ITS UNITARY  
TRADEMARK REGIME

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A purely doctrinal approach to the study of the Community Trademark would ignore many of the most powerful forces at play in this developing branch of Community jurisprudence. Thus, this Note evaluates the Community Trademark through an

interdisciplinary approach -- focusing on such factors as social and political influences, the member states' shared and unique histories, and independent economic factors -- to help highlight many of the benefits and conflicts that would otherwise be disregarded by a purely doctrinal analysis of the Community Trademark. Furthermore, this Note attempts to reconcile the European Community's use of trademarks (a seemingly protectionist legal device) for the purpose of developing a Community Market free from protectionist measures.

#### NATURE V. NURTURE: EVOLUTION, PATH DEPENDENCE AND CORPORATE GOVERNANCE

*Craig LaChance*

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Recent corporate law scholarship has generated a tremendous amount of debate about corporate governance structure. This Note examines the two principle sides in this debate. The first side, referred to in this Note as the Berle and Means paradigm, argues that economics determines corporate structure. As a result, large, technological economies should eventually evolve a governance structure similar to United States corporations, that is, with strong managers and weak shareholders. The other side of the debate, referred to as the path dependent paradigm, holds that corporate structures are dependent on the historical and cultural setting in which they emerged. Thus, given that each country has its own unique culture and history, it is unlikely that corporate structure will ever converge. The corporate law and history of the United States and Japan are compared as a means of illustrating this debate, and recent events affecting corporate structure in each country are considered. This Note concludes by arguing that neither side of the debate is completely correct. Contrary to what the path dependent paradigm argues, there is recent convergence in international corporate structure. However, contrary to the Berle and Means paradigm, this convergence is not strictly toward the United States model. The best way to account for these recent changes is through a combination of these two paradigms.

