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This edition provides an update of recent and interesting international legal developments affecting Australia and distinctive contributions made by Australia to contemporary international legal issues during July 2009.

Cultural Property Protection – Repatriation of Aboriginal Artefacts

The British Museum has agreed to reopen discussions concerning the possible repatriation of two Aboriginal bark paintings. The artworks, insured for a value of more than \$1 million, show traditional hunting scenes and were estimated to have been created during the mid-1800s. Members of the Dja Dja Wurrung tribe have sought the return of these items to their traditional owners following their loan to the Victoria Museum in 2004. Court proceedings resulted in the return of these works to the British Museum. These events follow the recent repatriation of human remains also belonging to the Dja Dja Wurung tribe. The Natural History Museum in London continues to hold certain Aboriginal remains.

(Source: *Sydney Morning Herald*, Talks Lift Hope Aboriginal Artefacts will be Released, 23 July 2009, 11).

Humanitarian Intervention – The Responsibility to Protect Doctrine

The United Nations Secretary-General Ban Ki-Moon has recently pledged to implement a new framework to prevent the occurrence of genocide, war crimes and ethnic cleansing. The proposed principals are based on work undertaken by former Australian Foreign Minister Gareth Evans, currently head of the International Crisis Group. The principles are based on the notion that every State has a responsibility to protect its population and that the international community has a responsibility to help States to fulfil this obligation. By this means the concept of the responsibility to protect seeks to prevent mass atrocities. The Foreign Minister Mr Stephen Smith has announced a \$A4.5 million package to support work on the principles including extra funding for the Asia-Pacific Centre for the Responsibility to Protect. However, any suggestion of UN intervention to protect a national population against atrocities remains controversial, particularly from the perspective of newly-independent and former colonial States. Although consideration is being given to early intervention, military action is considered to be a measure of last resort and only undertaken in a manner and for purposes consistent with the UN Charter.

(Source: *Sydney Morning Herald*, Foreign Policy Fillip in UN Move to Stop Genocide, 23 July 2009).

World Heritage Listing – Gas Mining Proposal

Pangea Resources, a mineral resources corporation, has applied to the New South Wales government for a licence to prospect for methane gas under the Blue Mountains World Heritage area. The NSW Minister for Mineral Resources indicated that the proposal was currently being considered but that legislation prohibiting mining within national parks would also be adhered to. Environmental non-governmental organisations have sought federal intervention. The corporation has indicated that recent technological advances concerning coal-seam gas extraction meant that gas extraction may have almost no impact upon the surface. However, the Blue Mountains Conservation Society has expressed concern that gas prospecting would be a precursor to ultimately mining a World Heritage-listed area.

(Source: *Sydney Morning Herald*, World Heritage Gas Hunt May Be On, 23 July 2009, 3).

Persistent Organic Pollutants – Endosulfan

A pesticide known as endosulfan continues to be used in Australia notwithstanding its prohibition in more than 60 States as a toxic chemical. While one of its largest producers, Bayer, has indicated that it intended to withdraw from the Australian market, a joint venture between the Australian agrichemical corporation Nufarm and the Schroff Group in Mumbai remains the largest producer of endosulfan in India. India, Australia and the United States are among a minority of States which continue to permit the use of this product. The Federal Minister for Agriculture, Mr Tony Burke, has indicated that he was satisfied with advice from the Australian Pesticides and Veterinary Medicines Authority that the chemical was safe for restricted use given extensive regulations concerning its use. However, the New South Wales Greens party indicated that the Authority had overlooked international trends tending to phase-out its use. While the Authority had indicated that there were no human health concerns related to the use of this pesticide within Australia, several overseas studies have linked this pesticide to birth and developmental abnormalities. In 2006 compensation was paid to Indian families who had lost relatives through exposure to the chemical. A representative of the International POPs (Persistent Organic Pollutant) Elimination Network expressed the opinion that the Authority had been effectively captured by industry interests. In October 2009, the Stockholm Convention on Persistent Organic Pollutants, to which Australia is a signatory, will consider whether to impose a prohibition on the use of endosulfan.

(Source: *Sydney Morning Herald*, Pesticide 'Safe', Says Industry-Funded Body, 18-19 July 2009, 11).

Outer Space – Australia's Technological Capability

A recent editorial noted that, notwithstanding the development of several treaties, including the 1967 Outer Space Treaty, international law regulating the use of outer space remained relatively underdeveloped, particularly in light of technological advances. One consequence is that important legal issues are left unaddressed. Access to outer space has recently been identified as a priority by Australian defence forces, particularly the Department of Defence in a recent White Paper. The White Paper noted Australia's strategic capability and concluded that any advantage depended on Australia's ability to access space, gain the benefits of its systems and protect itself from foreign exploitation through space-based capabilities. The White Paper also noted that Australia remained dependent upon States such as the United States for its space capability. The editorial suggested that Australia's national space policy has become so fragmented as to be almost indiscernible. A report from the Senate Standing Committee on Economics dated November 2008 concluded that Australia's involvement in space science and the space industry had drifted and the sense of purpose lost. Although Australia benefitted from a comprehensive network of communications satellites, Australia remained entirely reliant upon satellites which were operated and controlled offshore. It was also suggested that Australia's failure to invest in space technology has caused it to fall well behind in the 'space race' notwithstanding recent attempts to carve a niche for itself as a technical player. The editorial concluded by recalling the cornerstones of the international law of outer space – namely, peaceful uses, shared benefits and protecting the space environment for the benefit of future generations as essential prerequisites to future developments.

(Source: Steven Freeland and Donna Lawler, One Small Step for Man, A Giant Leap for Lawyers, Editorial, *Sydney Morning Herald*, 20 July 2009).

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