

lion issues and initial review of Reasonable and Prudent Alternatives for management of the 2002 Gulf of Alaska and Bering Sea/Aleutian Islands groundfish fisheries. Final action will be taken at the Council's October 3-8, 2001 meeting in Seattle, Washington.

Newly-appointed Council members will also be sworn in at the meeting and the Council will elect a Chair and Vice-chair for the next year.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

#### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen at 907-271-2809 at least 7 working days prior to the meeting date.

Dated: August 10, 2001.

**Richard W. Surdi,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 01-20919 Filed 8-17-01; 8:45 am]

BILLING CODE 3510-22-S

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Commission On Ocean Policy Inaugural Public Meeting

**AGENCY:** National Ocean Service, National Oceanic and Atmospheric Administration, DOC, on behalf of Council on Environmental Quality and the Commission on Ocean Policy.

**ACTION:** Notice of Inaugural Public Meeting.

**SUMMARY:** On behalf of the recently appointed Commission on Ocean Policy, the National Oceanic and Atmospheric Administration, U.S. Department of Commerce, is hereby announcing the Commission's first public meeting. The first meeting will be on Monday and Tuesday, September 17 and 18, 2001. The meeting will begin at 10 a.m. on September 17, and conclude at 5 p.m. The Commission will

reconvene at 9 a.m. on September 18 and meet until 5p.m. The meeting will be held in the U.S. Department of Commerce auditorium, Herbert C. Hoover Building, 14th Street and Constitution Ave., NW., Washington, DC.

The Commission on Ocean Policy is holding this public meeting pursuant to requirements under the Oceans Act of 2000 (Public Law 106-256, Section 3(e)(1)(E)). This is the first meeting of the Commission on Ocean Policy. The agenda will include welcoming remarks, an overview of the Oceans Act, discussion of the Commission's responsibilities, and organizing the efforts of the Commission. Further information is available at the following preliminary Web site, <http://oceancommission.gov>, which will be available on or before Friday, September 7, 2001.

The National Oceanic and Atmospheric Administration, U.S. Department of Commerce, is providing this notice at the request of the Council on Environmental Quality and under legislation providing FY1998 appropriations for NOAA, H.R. 2267 (Public Law 105-119), and the accompanying conference report (105-405). The report specifies that funding has been appropriated to NOAA's National Ocean Service "to provide support for the Commission on Ocean Policy, a commission which will examine both Federal and non-Federal ocean and coastal activities, and report to the Congress and the President."

**FOR FURTHER INFORMATION CONTACT:** Glen Boledovich, National Oceanic and Atmospheric Administration, 1305 East-West Highway, SSMC 4, Room 13313, Silver Spring, MD 20910, 301-713-3070 ext. 193, [Glenn.Boledovich@noaa.gov](mailto:Glenn.Boledovich@noaa.gov).

**Jamison S. Hawkins,**

*Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.*

[FR Doc. 01-20877 Filed 8-17-01; 8:45 am]

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## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

[Docket No. 010731195-1195-01]

RIN 0651-AB25

#### Notice of Hearing and Request for Comments on Draft Convention on Jurisdiction and Foreign Judgments in Civil and Commercial Matters

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Notice of Hearing and Request for Comments.

**SUMMARY:** The Hague Conference on Private International Law is negotiating a Convention designed to create common jurisdiction rules for international civil and commercial cases and to provide for international recognition and enforcement of judgments issued under these rules. The United States Patent and Trademark Office (USPTO) is seeking views of the public on recent developments on this effort. Interested members of the public are invited to testify at a hearing to be held September 11, 2001, and to present written comments on any of the topics outlined in the supplementary information section of this notice or otherwise related to the proposed Convention.

**DATES:** A public hearing will be held on September 11, 2001, starting at 9:30 a.m. and ending no later than 5:00 p.m. Those wishing to testify must request an opportunity to do so no later than August 31, 2001. Speakers may provide a written copy of their testimony for inclusion in the record. Written comments should be submitted on or before October 19, 2001.

**ADDRESSES:** The September 11 hearing will be held in the Patent Theater located on the Second Floor of Crystal Park 2, 2121 Crystal Drive, Arlington, Virginia. Persons interested in testifying should send their request to Director of the United States Patent and Trademark Office, Box 4, United States Patent and Trademark Office, Washington, DC 20231, marked to the attention of Angie Reilly. Requests may also be submitted by facsimile transmission to (703) 305-8885 or by electronic mail through the Internet to [angie.reilly@uspto.gov](mailto:angie.reilly@uspto.gov).

Persons interested in submitting written comments should send their comments to Director of the United States Patent and Trademark Office, Box 4, United States Patent and Trademark Office, Washington, DC 20231, marked to the attention of Velica Steadman. Comments may also be submitted by facsimile transmission to (703) 305-8885 or by electronic mail through the Internet to [velica.steadman@uspto.gov](mailto:velica.steadman@uspto.gov). All comments will be maintained for public inspection in Room 902 of Crystal Park 2, 2121 Crystal Drive, Arlington, Virginia. Written comments in electronic form will be made available via the USPTO's World Wide Web site at <http://www.uspto.gov>.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Lucas by telephone at (703) 305-9300, by facsimile at (703) 305-

8885; by electronic mail at [jennifer.lucas@uspto.gov](mailto:jennifer.lucas@uspto.gov); or by mail marked to the attention of Jennifer Lucas, Attorney-Advisor, addressed to Director of the United States Patent and Trademark Office, Box 4, Washington, DC 20231.

#### SUPPLEMENTARY INFORMATION

##### Background

The Hague Conference on Private International Law is negotiating a Convention on jurisdiction and the recognition and enforcement of foreign judgments in civil and commercial matters. The proposed Convention on Jurisdiction and Foreign Judgments in Civil and Commercial Matters would create jurisdictional rules governing international lawsuits and provide for recognition and enforcement of judgments by the courts of Contracting States. Contracting States would be required to recognize and enforce judgments covered by the Convention if the jurisdiction in the court rendering the judgment was founded on one of the bases of jurisdiction required by the Convention. In addition, some existing domestic bases of jurisdiction would be prohibited by the Convention for cases covered thereby.

The negotiations began in 1992, based on a proposal made by the United States. The impetus behind the request was to gain recognition and enforcement of U.S. judgments in other countries. While U.S. Federal courts generally will recognize and enforce judgments from other countries under state law (see *Hilton v. Guyot*, 159 U.S. 113 (1895)), U.S. judgments do not always receive the same treatment abroad. In October 1999, the Hague Conference published a draft Convention that was to be finalized at a Diplomatic Conference scheduled for October 2000, but in May 2000 that Diplomatic Conference was postponed to give member countries more time to discuss unsettled issues.

Two particular topics that the Hague Conference has singled out for further discussion are intellectual property and electronic commerce. Recognizing the importance of concerns that had been raised about the impact of the Convention on these matters, in 1999 the Conference agreed to hold informal meetings of international experts to examine the relevant issues in those categories. Two meetings of experts on electronic commerce were held to discuss the effect that electronic commerce might have on traditional jurisdictional rules. In addition, a meeting of intellectual property experts was held in February 2001 in Geneva, Switzerland.

On October 17, 2000, the USPTO published a Request for Comments seeking views on the impact that the October 1999 draft of the proposed Convention would have on intellectual property-related litigation (65 FR 61306 (2000)). The responses to the Request for Comments are available at the USPTO's Web site at <http://www.uspto.gov>.

The responses indicated that, while uniform rules on jurisdiction and enforcement of judgments might be welcome in the abstract, the problems with the jurisdictional provisions in the October 1999 draft outweighed any benefits that the enforcement provisions would offer. One of the primary flaws asserted about the October 1999 draft was that international developments such as the advent of the Internet and e-commerce have called into question some of the jurisdictional rules that serve as the basis for the proposed Convention.

After postponing the October 2000 Diplomatic Conference, the Hague Conference scheduled a two-part Diplomatic Conference, with meetings to be held in June 2001 and early 2002.

The first session was held June 6–22, 2001, in The Hague, Netherlands. The goal of the Diplomatic Conference was to draft a new, consensus-based text to replace the October 1999 draft. The result was a long compilation text that captures consensus where it exists, and presents proposals, variants, and options on issues where there was no consensus. The text also is heavily footnoted to illuminate additional points. This text is lengthy and makes it clear that there are a considerable number of large and small issues, including those involving intellectual property, on which Members are not in agreement and on which much work is still necessary. The text of the proposed Convention and other documents relating to the proposal are available via the Hague Conference's Web site at <http://www.hcch.net/e/workprog/jdgm.html>.

At the end of the Diplomatic Conference, the delegates were unable to decide how to move the negotiations forward. They agreed to reconvene, probably in late January 2002, to decide the scope of future negotiations—whether to continue the full project, refocus or scale it back in some way, or suspend it—and the schedule for any future negotiations based on the decision made.

##### Brief Summary of Draft Convention

As it stands, the draft Convention would create three categories of jurisdiction for cases covered by the Convention: (1) Required bases for

jurisdiction, or, as they are referred to by the Hague Conference, the “white list”; (2) prohibited bases for jurisdiction, or the “black list”; and (3) everything else not covered by the white or black lists, or the “gray list.” The draft Convention would, with some exceptions, apply whenever any one party to litigation is not habitually resident in the country where the litigation is brought (see Article 2 of the draft).

The “white list” sets out jurisdictional rules for specific types of actions, such as contract and tort actions or disputes filed in the court of the defendant's “habitual residence.” If a court exercises jurisdiction in accordance with the rules set out in the white list, courts in other Contracting States must recognize and enforce the resulting judgment, with limited exceptions.

Another example of a white list ground of jurisdiction is found in proposed Article 12, which would create exclusive jurisdiction over specified patent and trademark disputes. The draft presents two options for how to treat patents, trademarks, and potentially other types of industrial property. The main difference between the two is the fact that the first option provides for exclusive jurisdiction over patent and trademark infringement actions while the second option does not.

The first option creates exclusive jurisdiction for disputes over the grant, registration, validity, abandonment, revocation, or infringement of a patent or trademark in the country of registration or, for unregistered marks, the country in which the rights arose. The second option would create exclusive jurisdiction for disputes over the grant, registration, validity, abandonment, or revocation of a patent or trademark; however, it would allow courts referred to in any of the other white list provisions also to exercise jurisdiction over patent or trademark infringement actions.

Three additional provisions in Article 12 related to patent or trademark disputes are in brackets with footnotes for further consideration. First, the draft provides for an exception to exclusive jurisdiction for incidental questions, which are defined as when “the court is not requested to give a judgment on that matter, even if a ruling on it is a necessary step in the reasoning that leads to the judgment.” For example, in some court proceedings, such as a breach of contract or a legal malpractice proceeding, the grant, registration, validity, abandonment, revocation or infringement of a patent or mark might

arise as an incidental question to the main complaint. Proposed Article 12(6) would allow a court that otherwise would have no jurisdiction over an industrial property question to decide that question as a factual determination in the underlying case. Such a ruling would have no binding effect in subsequent proceedings regarding the subject patent or trademark, even between the same parties.

Second, it has been suggested in proposed Article 12(7) that other intellectual property rights, such as plant breeders rights and industrial designs but excluding copyrights or neighboring rights, be covered. Finally, as seen in proposed Article 12(8), the draft questions whether the term "court" should include a Patent Office or similar agency for the purpose of recognizing their judgments.

Proceedings related to copyrights could fall under any of the white list grounds of jurisdiction. For instance, copyright infringement proceedings could be covered by the jurisdiction rules for tort actions found in Article 10. Article 10 provides for jurisdiction either in the State in which the act or omission occurred, or the State in which the injury arose so long as the injury in that State was reasonably foreseeable. A proposal, however, was made at the Diplomatic Conference that would have included copyright infringement in the exclusive jurisdiction provision. That issue is still open for discussion.

Proposed Article 13 consists of two alternatives that would create a white list ground of jurisdiction for provisional and protective measure orders under enumerated circumstances. It has been proposed, however, that provisional and protective measures either be excluded from the scope of the proposal (Article 1) or be included in the gray area (Article 17).

Other areas of particular interest to intellectual property holders and users are proposed provisions that would create white list jurisdiction for choice of court clauses in contracts (Article 4), contracts (Article 6), consumer contracts (Article 7) and employment contracts (Article 8).

The "black list," currently Article 18, defines grounds of jurisdiction that are prohibited in Contracting States for cases covered by the Convention. Article 18(1) would place a general limitation on the exercise of jurisdiction based on the absence of a "substantial connection between that State and the dispute." Article 18(2)(e) is of particular interest to U.S. litigants. It states that jurisdiction cannot be based solely on the fact that a defendant carries on commercial or other activities in that

State, except where the dispute is directly related to those activities. This provision would prohibit the exercise of general "doing business" jurisdiction as currently recognized under U.S. law. Article 18(2) also would prohibit the exercise of "tag" jurisdiction in a court based on service upon the defendant in the State.

Everything that does not fall under either of these categories is included in the "gray area" as defined in Article 17. Countries can continue to act as they normally do under their respective national laws; however, judgments resulting from actions covered by this provision would not get the benefits of recognition and enforcement under the Convention.

The second half of the Convention provides rules governing the recognition and enforcement of judgments based on a ground of jurisdiction provided for in the white list (Articles 3-16). This includes provisions on topics such as dismissal in favor of a previously filed action in another court (known as "lis pendens") (Article 21), forum non conveniens (Article 22), types of judgments to be recognized or enforced (Article 25), grounds for refusal of recognition (Article 28), and damages (Article 33).

#### Issues for Public Comment

The USPTO wants to assess support for or opposition to the effort to negotiate a convention on jurisdiction and enforcement of judgments and to obtain comments and suggestions on the proposed Convention as it relates to intellectual property. Interested members of the public are invited to present oral or written comments on any issues they believe to be relevant to protection of intellectual property or any aspect of the proposed Convention as it relates to intellectual property. The USPTO reserves the right to limit the number of oral comments presented if necessary due to time constraints at the hearing, but will accept and consider all written comments submitted. Comments also are welcome on the following specific issues:

1. What are your experiences in having judgments involving intellectual property from one jurisdiction recognized in a foreign court? Have you had different experiences in having those judgments recognized in U.S. courts? In your response, please identify whether you generally represent intellectual property owners, licensees, users, or others.

2. Are uniform rules for international enforcement of judgments desirable?

3. Would the elimination of "tag" or general "doing business" jurisdiction

have any impact on intellectual property owners' ability to protect their rights either domestically or internationally?

4. What effect, if any, could this Convention have on an owner's ability to enforce its intellectual property rights for uses over the Internet?

5. Is exclusive white list jurisdiction needed for infringement actions involving patents, trademarks, and/or copyrights?

6. Should non-exclusive white list jurisdiction apply, per proposed Article 12(6), to matters that otherwise would be covered by Article 12 when they arise as incidental questions in proceedings that do not have as their object the grant, registration, abandonment, revocation or infringement of a patent or trademark?

7. If you responded yes to Question 6, should the court's decision regarding the incidental question have preclusive effect in a court of other Contracting States? What about courts in the same Contracting State?

8. What other registered intellectual property, if any, should be subject to the exclusive jurisdiction provisions?

9. What other unregistered intellectual property, if any, should be subject to the exclusive jurisdiction provisions?

10. How should other intellectual property or related actions, such as passing off, unfair competition, cybersquatting and dilution complaints, be treated under the Convention?

11. Should provisional and protective measures be covered by the Convention, specifically excluded from the Convention, or left to current national law?

12. Does the draft Convention affect in any way the substantive law that applies to an activity of any party with respect to intellectual property?

13. How will the draft Convention provisions affect traditional contractual freedom for parties to enter into agreements that typically designate choice of forum and law?

14. Should jurisdiction over actions involving intellectual property be included within the scope of the Convention? If no, please explain which types of intellectual property should be excluded and why.

15. Please identify any other potential concerns or advantages raised by the draft Convention and ways it might be modified to achieve an identified objective.

In your response, please include the following: (1) Clearly identify the matter being addressed; (2) Provide examples, where appropriate, of the matter being addressed; (3) Identify any relevant legal

authorities applicable to the matter being addressed; and (4) Provide suggestions regarding how the matter should be addressed by the United States.

Dated: August 14, 2001.

**Nicholas P. Godici,**

*Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.*

[FR Doc. 01-20916 Filed 8-17-01; 8:45 am]

**BILLING CODE 3510-16-P**

## DEPARTMENT OF EDUCATION

### Notice of Proposed Information Collection Requests

**AGENCY:** Department of Education.

**SUMMARY:** The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before October 19, 2001.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will

this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: August 14, 2001.

**John Tressler,**

*Leader, Regulatory Information Management, Office of the Chief Information Officer.*

### Office of Elementary and Secondary Education

*Type of Review:* Reinstatement.

*Title:* Consolidated State Performance Report and State Self-Review.

*Frequency:* Annually.

*Affected Public:* State, Local, or Tribal Gov't, SEAs or LEAs.

*Reporting and Recordkeeping Hour Burden:*

*Responses:* 52.

*Burden Hours:* 134,768.

*Abstract:* This information collection package contains two related parts: The Consolidated State Performance Report (CSPR) and the State Self-Review (SSR). The Elementary and Secondary Education Act (ESEA), in general, and its provision for submission of consolidated plans, in particular (see section 14301 of the ESEA), emphasize the importance of cross-program coordination and integration of federal programs into educational activities carried out with State and local funds. States would use both instruments for reporting on activities that occur during the 2000-2001 school year and, if the ESEA, when reauthorized, does not become effective for the 2001-2002 school year, for that year as well. The proposed CSPR requests most of the same information as in 1999-2000, with a few modifications to cover new programs and new emphases. The proposed SSR deletes several questions from the previous version and has no new information requests. When the ESEA is reauthorized, the Department intends to work actively with the public to revise the content of these documents and develop an integrated information collection system that responds to the new law, uses new technologies, and better reflects how federal programs help to promote State and local reform efforts.

Requests for copies of the proposed information collection request may be accessed from <http://edicsweb.ed.gov>, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional

Office Building 3, Washington, DC 20202-4651. Requests may also be electronically mailed to the internet address OCIO\_IMG\_Issues@ed.gov or faxed to 202-708-9346.

Please specify the complete title of the information collection when making your request. (540) 776-7742 or via her internet address Kathy.Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. 01-20863 Filed 8-17-01; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF ENERGY

[Docket No. EA-247 and EA-248]

### Application To Export Electric Energy; AES NewEnergy, Inc.

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Notice of Application.

**SUMMARY:** Under two separate applications, AES NewEnergy, Inc. (AES NewEnergy) has applied for authority to transmit electric energy from the United States to Mexico and from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

**DATES:** Comments, protests or requests to intervene must be submitted on or before September 19, 2001.

**ADDRESSES:** Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Import/Export (FE-27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585-0350 (FAX 202-287-5736).

**FOR FURTHER INFORMATION CONTACT:** Steven Mintz (Program Office) 202-586-9506 or Michael Skinker (Program Attorney) 202-586-6667.

**SUPPLEMENTARY INFORMATION:** Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. § 824a(e)).

On July 13, 2001, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received two separate applications from AES NewEnergy for authorization to transmit electric energy from the United States to Mexico and from the United States to Canada. AES NewEnergy, a Delaware corporation and wholly-subsiary of the AES Corporation, a public utility holding company, is a power marketer that does not own or control any electric generation or transmission facilities nor