WASHINGTON WEEKLY

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Is Oil Well?

While it is too soon to know if last Thursday was the beginning of a turnaround for Kerry, it seems prudent to rethink the differences between the two candidates on important topics. As we posited in our September 30 First Call note, "Debatable Implications," a favorable performance by Senator Kerry in the first presidential debate might cause investors to give a little more thought to what his presidency might mean for markets (for the first time in two months). Most overnight polls reflected a 7- to 15-point margin of preference for Kerry's performance. While it is too soon to know if last Thursday was the beginning of a turnaround for Kerry, it seems prudent to rethink differences between the two candidates on important topics. Oil and energy policy are on plenty minds of late.

U.S. relations with top oil-producing countries have been tricky for decades. Many of the countries in and around the Middle East balance a volatile mix of factors, including cash needs for developing economies, internal domestic political strife, and outright opposition to recent and long-standing U.S. geopolitical policies. None of the influences can be separated when gauging longer-run implications of U.S. relations with oil countries such as Saudi Arabia, Kuwait, Iran, and Iraq.

Development of successful, forward-looking U.S. energy policy will necessarily involve a range of stakeholders who possess varying degrees of political and economic power; some exercise both forms of muscle.

U.S. energy policy and the price of crude oil are related challenges near the top of the list for the next president and the 109th Congress regardless of who has reason to celebrate the outcome of the election next month. As such, development of successful, forward-looking U.S. energy policy will necessarily involve a range of stakeholders who possess varying degrees of political and economic power; some exercise both forms of muscle. A major challenge to federal lawmakers will be to accommodate bottom-line preferences of many players while pushing the entire process to achieve long-overdue changes to the way in which America fuels its economy.

Also in This Issue

Cap Calls

Congress compromised on a short-term transportation extension but renewed efforts to pass a FSC/ETI bill this week.

Health Care: The D.C. Pulse

In an otherwise quiet week, Michael Moore has reportedly begun work on his next film project, *Sicko*, which will take on the health care industry. Moore has been observed filming in the Philadelphia area.

GPR Weekly

Sharp differences on Iraq policy were clear during the first presidential debate, while sharp fighting in Iraq gave us another bloody week on the ground.

Political Calendar

October will be dominated by presidential politics.

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Capital Calls

ISSUE	RECENT DEVELOPMENTS	OUR CALL	EFFECT
Financial Services GSEs	 Fannie Mae agrees with OFHEO on specific steps and timetable to address exam findings related to accounting, internal controls, and capital, including meeting a 30% capital surplus target within nine months Capital Markets Subcommittee Chairman Richard Baker (R-LA) will hold hearing October 6 on OFHEO report, with OFHEO director and Fannie Mae CEO and CFO testifying; Baker urges thorough review of management by Fannie Mae board OFHEO classifies Fannie Mae as adequately capitalized, as of June 30, 2004, subject to review and possible revision; it will classify on monthly, rather than quarterly, basis, beginning with September 30, 2004, capital position 	Call: Oversight shift to single GSE regulator remains unlikely in 2004, although increasingly likely in 2005 Catalyst: Exams of Fannie Mae by OFHEO and SEC find additional problems; HUD imposes higher affordable housing goals; Treasury broadens role in GSE debt issuance Risks: Regulatory powers, especially receivership process, capital requirements, approval of new business, and affordable housing mandates, remain contentious issues, although support for new regulator grows	Volatility: Medium Impact: Political risk overhang, particularly on regulatory front, with ongoing OFHEO exam of Fannie Mae and resolution of current OFHEO findings; rulemaking on corporate governance, affordable housing goals, and possibly, liquidating conservatorship
Transportation TEA-21 Reauthorization	House leaders passed an eightmonth extension, as the full six-year authorization has stalled House leaders have pledged to pass the TEA bill before year-end	Call: Short-term extension, but no reauthorization Timing: 4Q04 Catalyst: Agreement with Senate Democrats Risks: President pushes for and receives agreement on his six-year \$299B request	Volatility: Low Impact: Positive for highway and transit sector, energy, and aggregate concrete
Fiscal Policy FSC/ETI Repeal	Repatriation of earnings and a provision to crack down on the tax treatment of leasing transactions (a negative for utilities) were not included in the "rump" FSC/ETI draft discussion bill introduced by House Ways and Means Chairman Bill Thomas (R-CA) Thomas hopes to complete work by October 6, leading to House and Senate votes on October 7 and 8, respectively Controversial issues such as tobacco regulation remain unaddressed	Call: Congress unlikely to enact legislation that satisfies U.S. exporters, U.S. multinationals, and the European Union Timing: 4Q04 Catalyst: Conference agreement Risks: Congress enacts legislation, but fails to satisfy WTO rules	Volatility: Low Impact: Sectors most heavily targeted by sanctions, which began March 1, are precious stones and jewelry; machinery and mechanical appliances; wood and paper articles; leather articles; and toys, games, and sports equipment
Tort Reform Asbestos	Minority Leader Bill Frist (R-TN) rejected Minority Leader Tom Daschle's (D-SD) \$140B asbestos litigation reform proposal, citing concerns about existing claims and startup funds/structure Activity is likely to focus on company-specific settlements through year-end, as stakeholders and affected companies evaluate the prospects for legislation in 2005	Call: Legislation is very unlikely to be enacted ths year Catalyst: Agreement on existing cases, smokers, and size of fund	Volatility: Low Impact: Lack of a federal fix maintains irrational system and legal exposure for affected companies

Source: Lehman Brothers

Oil prices finally crossed the \$50/bbl threshold last week, while the Bush administration broke with its long-standing policy on tapping the Strategic Petroleum Reserve (SPR) by "lending" at least 1.8 million barrels, citing the severe supply disruptions caused by Hurricane Ivan. Release of SPR oil, long called for by Congressional Democrats and even some Republicans, did little to affect crude oil prices, however.

A president maintains considerable discretion over energy and environmental issues through the FERC, EPA, and Department of Energy.

Despite headline risks and perceptions to the contrary, these recent developments highlight that presidents have few options to lower crude oil or gas prices in the short term. Release of SPR and fuel blend waivers may have generated excitement over the last six months but have done little to bring down prices.

In the long term, however, the energy sector is perhaps most susceptible to the results of geopolitical events. A president maintains considerable discretion over energy and environmental issues through the FERC, EPA, and Department of Energy, and, in our view, a victory by Senator Kerry could have a substantial long-term impact on a number of sectors. Utilities remains the most exposed and vulnerable energy sector to a Kerry victory. Lehman Brothers' global strategist, lan Scott, reiterated his underweight view of utilities on September 27.

Slippery Slope: Senator Kerry's Campaign Positions and Senate Record

Sector	Position	Outlook
Utilities and Emissions	Supports a four-pollutant bill to reduce emissions of C02, N0x, S02, and hard mercury cap	Negative
	Seeks a rollback of Bush's NSR reforms, potentially new NSR lawsuits	
	Would make EPA more aggressive in regulating utilities	
Oil and Drilling	Supports drilling in already approved areas, but not off Georges Bank, Florida, California, or Continental Shelf	Negative (Headlines)
	Supports suspension of SPR, although does not commit to selling of SPR reserves	
	Would likely reverse cheap lease/sale of public lands, close off wilderness protection areas	
Coal	Wants to invest \$10 billion for clean coal in the next 10 years	Mixed
	Opposes mountaintop mining; wants to restore BLM authority over mining approvals; supports stricter emission standards	
Automotive	Has dropped CAFÉ standards from campaign Web site	Mixed
	His record indicates he could revisit this position	
Natural Gas	Supports LNG broadly, particularly ship-based regasification for liquefied natural gas	Positive
	Pushes for incentives for drilling in Gulf of Mexico; supports pipeline from Alaska	
Renewables/ Alternatives	Supports standard of at least 5 billion gallons of renewable fuel by 2012, 20% Renewable Portfolio Standard by 2020	Positive
	Calls for \$10 billion in the 10 next years for incentives to U.S. automakers to produce renewable fuel vehicles	

Source: Lehman Brothers

LEHMAN BROTHERS
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With final rules pending on CAIR standards for sulfur dioxide and nitrogen oxide, as well as mercury rules, which will go final in 2005, Kerry could substantively tighten standards if he were elected president.

Vital, but Controversial, Businesses

Although state regulations matter most, utilities are acutely sensitive to which party wins the presidency, as administrations retain much discretion on environmental enforcement. This is particularly evident on pending emissions standards and the New Source Review (NSR). With final rules pending on Clean Air Institute Rule (CAIR) standards for sulfur dioxide and nitrogen oxide, as well as mercury rules, which will go final in 2005, Kerry could substantively tighten standards if he were elected president.

The EPA and Utility Emissions: Handle with Care, but Handle

Emission	EPA Control	
Mercury	New rule due March 15, 2005. The Bush administration wants a cap and trade, while Kerry has pushed for a hard cap with no trade.	
Carbon Dioxide	No EPA rule expected; Senator Kerry wants regulation of carbon dioxide.	
Sulfur dioxide	CAIR sets up a cap and trade program similar to Clear Skies. The rule is due to go final late this year or early 2005; it affects 29 states in the East. It would cap SO2 at 2.7 million tons by 2015. The Bush administration said it will either go final at the end of this year or early next year—if Bush loses the election, expect it to go final before he leaves office.	
Nitrogen oxide	CAIR would cap NOx at 1.3 million tons by 2015.	

Source: Lehman Brothers

Kerry claims that the Bush administration held back lawsuits against utility companies that did not comply with NSR policies.

NSR issues remain one of the easiest contrasts between a Bush and a Kerry White House. The Bush administration changed the NSR policy to require upgrades in utility plants to be required only if the upgrade is 20% of the entire cost of the facility; otherwise, the environmental requirements are not applicable. Kerry claims that the Bush administration held back lawsuits against utility companies that did not comply with the NSR policies. A recent EPA report highlighted 14 NSR cases that were recommended for litigation to the Department of Justice (DOJ) but were not followed through. These include utilities in northwest Indiana, New York, and North Dakota.

Another eight companies have been investigated for NSR violations, including plants in western Pennsylvania. As President, Kerry likely would be more inclined to instruct the DOJ to file the NSR suits against these companies.

Clean Air Act reforms through Congress remain likely issues to be addressed in 2005. In addition to EPA and NSR rules, Clean Air Act reforms through Congress remain likely issues to be addressed in 2005. Bush tried to push his Clear Skies proposal, which found little favor in Congress, while Senators Kerry and Edwards cosponsored a more aggressive bill from Senator Jim Jeffords (I-VT). The compromise appears to be in the Carper/Gregg/Chaffee bill, which would include regulation of carbon dioxide. However, Clean Air Act reforms will depend more on the outcome of the Congressional races than on Kerry's prerogatives at this stage.

Clean Air Act Reforms: Templates for 2005?

	Clean Power Act S. 366 Jeffords (Cosponsored by Kerry and Edwards)	Clear Skies Act S. 485 Inhofe H.R. 999 Barton	Clear Air Planning Act S. 843 Carper/Gregg/Chaffee	
Nitrogen oxide (NOx) cap	Limit emissions to 1.51 million tons by 2009	Limit emissions to 2.1 million tons by 2010, 1.7 million tons by 2018	Limit emissions to 1.87 million tons by 2009, 1.7 million tons by 2013	
Sulfur dioxide (SO2) cap	Limit emissions to 0.28 million tons in western region (Western Regional Air Partnership plus California, Montana, and Washington) and 1.98 million tons in eastern region by 2009	Limit emissions to 4.5 million tons by 2010, 3 million tons by 2018	Limit emissions to 4.5 million tons by 2009, 3.5 million tons by 2013, 2.25 million tons by 2016	
Carbon dioxide (CO2) cap	Limit emissions to 2.05 billion tons by 2009 (roughly 1990 levels) plus flexibility measures	Does not include CO2 program, though Bush administration advocates a voluntary program aimed at reducing greenhouse gas intensity	Limit emissions to 2.6 billion tons by 2009 (roughly 2005 levels) plus flexibility measures, 2.3 billion tons by 2013 (roughly 2001 levels) plus flexibility measures	
Mercury cap	Limit emissions to 5 tons (90%) by 2009	Limit emissions to 26 tons (29%) in 2010, 15 tons (70%) in 2018	Limit emissions to 24 tons by 2009, 10 tons in 2013	
Emissions trading	Allowed for NOx, SO2, CO2; no mercury emission trading	Allowed for NOx, SO2 and mercury	Allowed for NOx, SO2, CO2, and, in a limited way, for mercury	

Source: Lehman Brothers, Environment and Energy

Until the United States reduces its dependence on foreign oil without precipitating adverse macroeconomic consequences, geopolitics in Africa, southwest Asia, and the Middle East will be as important as any foreign policy consideration. These international considerations are only somewhat under control by Washington; therefore, federal lawmakers would benefit the country by working with private companies, environmental organizations, state regulators, and federal agencies to implement new, better policies designed to mitigate America's vulnerability to geopolitical decisions made by people and groups interested in harming the national weal. Conservation, safe access to untapped proven reserves in nonhostile areas, and a keener focus on renewable and alternative sources of energy will play roles in this beneficial outcome. Lastly, U.S. policy in oil-rich nations must show strategic sensitivity to the potential power that new leadership might exercise.

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Health Care: The D.C. Pulse

Sector **Recent Developments** Brand Oxygen Therapy Pharma CMS officials last week said that existing state caps on oxygen therapy reimbursement effectively limit the Office of Inspector General (OIG)-recommended cuts of 15% for stationary and 11% for portable oxygen to a preliminary determination of Generics 11.3% and 7%, respectively. We are told by CMS officials that this downward revision is not from a new methodology nor is it **Biotech** a bow to Congressional pressure (as some reports have erroneously indicated), suggesting that the preliminary numbers are **Med-Tech** likely to hold up as the Centers for Medicare & Medicaid Services (CMS) moves toward a final decision in the next two to four weeks Defibrilators CMS announced its proposed coverage decision for SCD-HeFT, which included all class II and III non-ischemics and added back the narrow Quantron Resonance System (QRS) patients from MADIT II. As expected, CMS restricted coverage to patients with an ejection fraction (EF) below 30%. All in, Lehman Brothers medical supplies and devices senior analyst, Bob Hopkins, believes that this decision will add 63,360 patients to the annual incidence pool and 515,890 patients to the prevalence pool, which is more than initially expected.* • Norvir, Xalatan The General Accountability Office (GAO) will review the pricing of Abbott's Norvir and Pfizer's Xalatan, in light of the National Institutes of Health's (NIH) refusal not to invoke march-in rights under the Bayh-Dole Act from increases in the price of the drugs. In our view, the NIH review was definitive and a sound reading of Bayh-Dole, although the GAO report is likely to add headline risk to the price increases. The Institute of Medicine (IOM) released results of a two-year study of the obesity epidemic, where national health expenditures have been estimated at \$129B. The study suggests that schools introduce nutritional standards and ensure exercise, while state and local governments could provide education infrastructure, and food and beverage companies could develop voluntary guidelines regarding advertising to children. The IOM report found that food and beverage companies pay between \$10 billion and \$12 billion to directly advertise to kids. Reimportation News and Notes Representative Henry Waxman (D-CA) last week called reimportation a "phony" issue that he would not support. Instead, Waxman discussed broader concerns about drug pricing that will remain long after excitement over drug reimportation fades. The reimportation debate has largely subsided this year, while President Bush's strength in the polls has eliminated the notion that he might act administratively to encourage reimportation before the presidential election. The biggest development of the week was the row over Pfizer's vice president, Dr. Peter Rost, who publicly stated his support of reimportation. In response, the company wrote Congress, "Dr. Rost has no qualifications to speak on importation, no responsibilities in this area at Pfizer, no knowledge of the information and analysis Pfizer has provided to the government on this issue, and no substantive grasp of how importation may impact the safety of this nation's drug supply." Meanwhile, Pfizer lawyers reportedly questioned Dr. Rost in what he described as an "inquisition." **Facilities** • Health Savings Accounts (HSAs) Reports last week indicated that Wal-Mart and GM are looking at HSAs as a cost-containment tool. In our view, the growth of Managed HSAs is largely dependent on the results of the presidential election. President Bush would likely aggressively push for tax Care credits to encourage use of HSAs, while Senator Kerry would likely oppose them, which could easily translate into restrictions **PBMs** on their development. • Pharmacy Benefit Manager (PBM) Transparency Governor Arnold Schwarzenegger (R-CA) vetoed a far-reaching PBM transparency bill that could have seriously undermined PBMs' abilities to hold down costs. The PBM industry was notably joined in its opposition to the bill by the Federal Trade Commission (FTC), which is conducting its own investigation of PBMs' mail order practices. "This bill may make it more difficult for some purchasers to compare prices of PBM services, and they may mistakenly choose a higher-priced option as a result," said Luke Froeb, director of the FTC's Bureau of Economics. • PBM-Mail Order Conflicts A bipartisan group of senators, including Maria Cantwell (D-WA), sent a letter to the FTC inquiring about progress on its study of mail order prescriptions and suggesting that the Commission initiate a second round of information requests from PBMs, leading to completion of the study by June 2005. If the FTC were to collect additional information, the senators would like the FTC to request the following (all similar to the FTC's original mandate from Congress): ▶ contracts that identify the full scope of incentives and the extent to which discounts are passed on; claims data to compare spending of different baskets of drugs; ▶ information from independent mail order pharmacies to compare with PBM mail order pharmacies; and different payment rates for health plans depending on the distribution channel. Election • Heinz Kerry on Health Care Watch During a speech in Colorado focusing on health care, Teresa Heinz Kerry told supporters, "We've got to wake up. If we don't have a healthy country and healthy children and educated children and safe streets and hope for the future, there is no reason for anyone to fight for us."

*For additional information, see Bob Hopkins' September 29 First Call note, "SCD-HeFT Good Enough and Could Get Better." Source: Lehman Brothers

GPR Weekly

Issue	The Week Just Past	Our Call
Iraq Iran should be on notice: Efforts to try to remake Iraq in Iran's image will be aggressively put down. — Donald Rumsfeld, U.S. Defense Secretary	Attacks: Large-scale terror efforts of varied nature in several locations throughout Iraq highlighted yet another week of increased insurgent activity; Security Operations Consulting-Security Management Group released a report documenting 2,300 insurgent attacks in the past 30 days, including a suicide bombing, car bombs in Tel Afar and Baghdad, rockets launched at logistical troop support outposts, and the capture of 10 hostages last week alone Troop Training: Conflicting reports from the Bush administration and the Pentagon on the number of trained Iraqi security forces (soldiers, police officers, security personnel) have very different implications for stability and sovereignty timelines in Iraq; the Bush administration noted that 125,000 Iraqi's will be trained by year-end, with 100,000 currently trained; the Pentagon estimates completion of training for 135,000 Iraqi security forces by June 1, 2006, with 53,000 currently trained Regional Politics: The capture of an alleged Iranian spy inside Iraq, coupled with the potential threat of nuclear proliferation capabilities spurred U.S. Defense Secretary to assert, "Iran should be on notice: Efforts to try to remake Iraq in Iran's image will be aggressively put down."	Short-Term Catalyst Although predicted by U.S. policymakers, continued increases in insurgent activity (especially shock tactics) make it decidedly more difficult to highlight positive developments in Iraq Long-Term Call Expedited training of Iraqi Security Forces facilitates partial U.S. pullback, curbs regional conflicts, but fails to significantly diminish the insurgent base
Terrorism Such a solution should be possible by finding a balance — Abdul Minty, head of the South African Council for the Nonproliferation of WMD on finding a solution of compromise with Iran	Iran: South Africa, a member of the board of governors of the IAEA, announced that it would help Iran resolve questions over its nuclear program after a meeting between the head of the South African Council for the Nonproliferation of Weapons of Mass Destruction and President Thabo Mbeki and Hassan Rouhani, Iran's secretary of national security; this collaboration, if successful, will not affect Iran's nuclear proliferation risk; for his part, President Bush noted, "No, we've made it clear, our position is that they won't have a nuclear weapon." Russia: Entrenched battle between Russian forces and Chechen rebels led to the deaths of at least 20 rebel militants, as Russian President Vladimir Putin moves forward in his effort to achieve security through consolidation of power; Russian security forces vowed to locate rebel leader Aslan Maskhadov (who admitted to the Beslan School attack) within week	Short-Term Catalyst Any investigation by South Africa that does not' indicate the building/existence of nuclear weapons in Iran will be ignored by the United States and its allies Long-Term Call Candid rebukes of E.U. and IAEA nonproliferation agreements, if left unchecked, strengthen Iran's hand in the Middle East and the world
Oil [Price volatility] underscores the need to reduce vulnerability both through concerted measures to restrain the growth of oil demand and through investment in capacity expansion in oil-producing countries. — Excerpt from the IMF's biannual World Economic Outlook, September 2004	Crude Talk: An array of long-term fundamental problems—an underinvested/underdeveloped oil supply infrastructure, production levels with little room for growth, spare capacity worries, and geopolitical tensions in Iran, Iraq, Saudi Arabia, Russia, and Venezuela—outweighs a positive supply report and short-term positives in Nigeria that led to temporary softening in light sweet crude trading on NYMEX, after reaching historical nominal highs above \$50 per barrel	Short-Term Catalyst Negative news regarding oil has much larger downside risk than positive news has an upside premium Long-Term Call Failure to effectively secure global oil infrastructure from geopolitical risks leaves headline risks on the upside
Other Developments If it wants to maintain peace and live safely, Japan should not become an appendage of the war strategy of American imperialism. — Excerpt from article in Rodong Sinmun, a popular North Korean newspaper	North Korea: Reports from Japanese and South Korean intelligence of unusual movement of vehicles and personnel around North Korean missile bases prompted North Korean newspaper Rodong Sinmun to report that Japan would be in a "nuclear sea of fire" should it meddle in the issue or lend support to America Afghanistan: The Human Rights Watchgroup issued forewarning that presidential elections in Afghanistan on October 9 may only serve to increase "warlordism" and "factional dominance"; Afghan President Hamid Karzai is expected to beat 17 challengers for a five-year term at the helm of the country's nascent democracy	Militant opposition to Afghanistan's nascent democracy portends a bloody week in the region; President Hamid Karzai beats out challengers.

Source: Lehman Brothers

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Political Calendar, October 2004

Monday	Tuesday	Wednesday	Thursday	Friday
				Fiscal 2005 begins FTC Commissioner delivers speech, "Presenting Your Case to the FTC and DOJ—The Keys to Success," at the ABA Antitrust Section 2004 Antitrust Masters Course 3-5 Africa Partnership Forum, Washington, D.C.
4 3-4 4th Annual Conference, Oil & Gas Pipelines in the Middle East, Hilton International Hotel, Abu Dhabi, UAE 4-6 First Asia/Pacific Women, Girls and HIV/AIDS Best Practices Conference, Islamabad, Pakistan 4-6 Africa Partnerships Forum, the New Partnership for Africa's Development NEPAD and the Organisation for Economic Co-operation and Development, Washington, D.C.	Vice presidential debate at Case Western University, Cleveland, Ohio 5-6 Middle East Institute Annual Conference, Washington, D.C. 5-14 World Telecommunications Standardization Assembly (WTSA), Florianopolis, Brazil	SEC Open Commission Meeting 6-7 Asia Pacific Economic Cooperation (APEC) Small and Medium Enterprises (SME) Ministerial Meeting, Santiago, Chile	7	Congress's target adjournment date Second presidential debate at Washington University, St. Louis, Missouri OECD statistics news release, "Standard Unemployment Rates and Composite Leading Indicators" 9 Australia prime minister elections Afghanistan presidential elections
11-13 World Knowledge Forum, exploring the challenges of a knowledge-based society, organized by <i>Maeil Business Newspaper</i> , with the participation of the OECD Secretary-General, Seoul, Korea	12 Columbus Day 12-13 Informal meeting of NATO Defense Ministers, Brussels, Belgium	Third Presidential debate at Arizona State University, Tempe, Arizona Federal Housing Finance Board meeting 13-15 ASEAN Regional Forum (ARF) Seminar on cyberterrorism, Seoul, Korea	FCC Open Commission Meeting Washington Breakfast Series, "Keeping Schools Safe," presented by Richard Yelland, organized by the OECD Washington Centre, Washington, D.C.	15 First day of Ramadan
Second World Water Monitoring Day 18-19 International Parliamentarians' Conference on the Implementation of the International Conference on Population and Development (ICPD) Program of Action, Strasbourg, France	19	27	21	22 23 Kosovo parliamentary elections 24 United Nations Day

Source: Lehman Brothers

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