



WORLD LAW BULLETIN

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Respectfully submitted,

Walter Gary Sharp, Sr.

WALTER GARY SHARP, SR.
Director of Legal Research



Directorate of Legal Research for
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AFRICA

SWAZILAND – Companies Bill 2004

On August 13, 2004, the Kingdom of Swaziland issued a Companies Bill (No. 7 of 2004, SWAZILAND GOVERNMENT GAZETTE EXTRAORDINARY, Aug. 13, 2004, at S1-236). The bill initiates new measures and provisions for the constitution, incorporation, registration, management, administration, and dissolution of corporations and other associations. The bill includes provisions regulating both profit and non-profit corporations. These are distinct from partnerships regulated by separate laws. The bill distinguishes between a private and a public company and incorporation of “associations not for gain,” better known in the United States as non-profit organizations. It also contains provisions on foreign companies and limited and unlimited corporations. Other provisions include capacity, articles of incorporation, registration, and “members rights.” The bill does not include much reference to shareholders, as these matters are defined in the secondary documents of incorporation, though power to acquire shares is regulated.

(Charles Mwalimu, 7-0637, cmwa@loc.gov)

TANZANIA – Merchant Shipping Act 2004

On March 26, 2004, the Government of Tanzania enacted the Merchant Shipping Act, No. 3 of 2004, which repealed the Merchant Shipping Act of 1967 as well as the Inland Waters Transport Ordinance (UNITED REPUBLIC OF TANZANIA (ACTS) SUPPLEMENT, Mar. 26, 2004, at 229-402). The new law provides for the registration and licensing of ships and regulates proprietary interests in ships, as well as the terms of engagement of merchant mariners. It also includes provisions for the prevention of collisions at sea, safety of navigation and of life at sea, regulation of load lines, the carriage of bulk and dangerous cargo, unsafe ships, inland waterways, passenger ships, wrecks and salvage, the liability of ship owners and operators, and investigations into maritime casualties. The Act also contains provisions on prevention of pollution and protection of the marine environment. The Act is a very detailed piece of legislation, consolidating other laws relating to shipping.

(Charles Mwalimu, 7-0637, cmwa@loc.gov)

EAST ASIA & PACIFIC

AUSTRALIA – National Guidelines To Protect Infrastructure from Terrorism

On February 11, 2005, Australia’s Attorney-General, Philip Ruddock, issued the *National Guidelines for Protecting Critical Infrastructure from Terrorism*. These were developed by the National Counter Terrorism Committee and suggest actions that owners of critical infrastructure should consider, in consultation with law enforcement agencies, to protect their assets. The Attorney-General notes that national security is a shared responsibility involving all levels of government and the private sector and that the guidelines will assist in risk assessment and security planning. (Australian Attorney-General’s Department, *Media Release 019/2005*, Feb. 11, 2005, at http://152.91.15.12/agd/WWW/MinisterRuddockHome.nsf/Page/Media_Releases_2005_First_Quarter_11_February_2005_-_National_guidelines_to_protect_critical_infrastructure_from_terrorism_-0192005.)

(Donald R. DeGlopper, 7-9831, ddeg@loc.gov)



AUSTRALIA – New Water Efficiency Standards

The Commonwealth (federal) Water Efficiency Labelling and Standards Act 2005, which went into force on February 18, 2005, is intended to significantly reduce household water consumption. It mandates water efficiency labels for all showerheads, washing machines, dishwashers, and toilets and for some types of taps. It bans the sale of toilets that use more than five and a half liters of water per flush. The government's Department of the Environment and Heritage notes that households are the second biggest users of fresh water after agriculture and that water use, which averages 350 liters per person each day, has grown dramatically in the past twenty years. Most major cities in Australia are currently restricting water use, and shortfalls are expected to become more serious. More water-efficient appliances and flow control devices are expected to reduce domestic water use by at least five percent by the year 2021, with concomitant reductions in energy bills. The Act establishes the office of the national water efficiency regulator, who will oversee registration and enforcement of the standards, which may be extended to a further range of products or devices. (Water Efficiency Labelling and Standards Act 2005, No. 4, 2005, at <http://scaleplus.law.gov.au/html/comact/12/6918/top.htm>; Department of Environment and Heritage, *Water Efficiency Labelling and Standards (WELS) Scheme Facts and Figures*, at <http://www.deh.gov.au/water/urban/facts.html>.) (Donald R. DeGlopper, 7-9831, ddeg@loc.gov)

BURMA – Biosafety Law To Be Drafted

The government of Burma is implementing an eighteen-month-long project to develop a biosafety framework. The plan will involve the cooperation of ten different ministries, led by the Ministry of Agriculture and Irrigation, and the drafting of a law on biosafety and maintenance of biodiversity. The purpose is to protect the people and the environment of the country from potentially negative consequences of biotechnology, with an emphasis on safe agricultural and industrial production practices. The law will regulate the flow into Burma of commodities related to genetically modified organisms (GMOs). The project manager, Dr. Cho Cho Tun, has said that paying attention to biosafety is increasingly necessary as the public becomes more concerned about GMOs. She further stated that genetically modified crops are important as a means to ensure that agricultural production matches the world's growing population, but that the benefits must be balanced with possible impacts on human health and the environment.

The various government agencies are now being surveyed to determine how biotechnology may be applied and what skills government staff members already possess in this field. The project has received US\$180,000 of funding assistance from the United Nations Environment Program. (*Government Team Drafting Bio-Safety Law*, MYANMAR TIMES, Feb. 7, 2005, Foreign Broadcast Information Service.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

CHINA – Legislative Developments

At its meeting scheduled to begin on February 25, 2005, the Standing Committee of the National People's Congress (NPC) of the People's Republic of China will discuss a draft amendment to the Company Law, a draft fifth amendment to the Criminal Law, a bill on management of expert testimony, and a bill on renewable energy.



The session will also make preparations for the upcoming third plenary meeting of the Tenth NPC. The State Council will submit motions to the NPC on approving the Convention for the Unification of Certain Rules Relating to International Carriage by Air and a convention on the Shanghai Cooperation Organization. It will also submit a work report on creating a counter-emergency plan and a report on the status of China's production safety. (*NPC Standing Committee To Deliberate Amendment Draft of Corporation Law*, PEOPLE'S DAILY ONLINE, Feb. 19, 2005, at http://english.peopledaily.com.cn/200502/19/eng20050219_173997.html.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

CHINA – Money Laundering

Deputy-Governor Li Ruogu of the People's Bank of China (BOC) stated on February 16, 2005, that the BOC will enhance its efforts to curb money laundering and that the central government plans to become a full member of the international Financial Action Task Force (FATF) on Money Laundering by the summer of 2005. The PRC is at present an observer at the FATF, having been granted that status in late 2004.

The National People's Congress has established a task force to draft a new anti-money laundering law with harsher punishments, a prerequisite for joining the FATF. Li noted that the China has already amended the criminal law and drafted new laws to toughen punishment of money laundering and terrorist financing, e.g., stipulations on basic obligations such as customer due diligence, record keeping, and suspicious transaction reporting within financial institutions). The country has also taken other steps to counter money laundering, such as cooperating in investigations and exchange of intelligence with anti-money laundering organizations of other countries. It has signed the UN Convention Against Transnational Organized Crimes and the UN Convention Against Corruption and is a member of the Europe-Asian Group Against Money Laundering and Terrorism Financing. (Eddie Luk, *Money Laundering Faces Tougher Curbs*, CHINA DAILY, Feb. 17, 2005, at http://www.chinadaily.com.cn/english/doc/2005-02/17/content_417051.htm; Jane Moir, *China Cracks Down on Dirty Money: Mainland Moves Against Laundering of Illicit Cash in Bid To Join Global Task Force*, SOUTH CHINA MORNING POST, Feb. 17, 2005, and *China Looking To Join International Anti-Money-Laundering Organization*, BBC MONITORING INTERNATIONAL REPORTS, Feb. 16, 2005, both via LEXIS/NEXIS, News Library, 90days File.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

CHINA – Reiteration of Government Position on Human Cloning

In the wake of the passage by the United Nations Legal Committee on February 18, 2005, of a declaration banning all forms of cloning that are contrary to human dignity (*see* item below in the International Law and Organizations section), the People's Republic of China (PRC), one of thirty-five countries that opposed the declaration, reiterated its stance on human cloning. Wang Hongguang, President of the China National Center for Biotechnology Development, indicated that the PRC will maintain its opposition to human reproductive cloning, but will continue to permit closely monitored embryo stem cell research for therapeutic purposes.

Mr. Su Wei, a member of the PRC's delegation to the United Nations, expressed the view that "the wording of the declaration was vague and the banning of all forms of human cloning contrary to



human dignity may be misunderstood as covering therapeutic cloning.” Seventy-one countries, including the United States, supported the declaration. The Legal Committee has reportedly been discussing the human cloning issue since 2001. (Qin Yuding, *Medical Research on Stem Cells To Continue*, CHINA DAILY, Feb. 21, 2005, at http://www.chinadaily.com.cn/english/doc/200502/21/content_417844.htm.)

(Wendy Zeldin, 7-9832, wzeld@loc.gov)

HONG KONG – Money Laundering

Hong Kong is planning to revise its relevant legislation to comply with the latest international anti-money laundering and anti-terrorist financing standards set by the Financial Action Task Force (FATF) on Money Laundering, so as not to risk being assessed by that body as non-compliant. Hong Kong has been a FATF member since 1990. The FATF adopted and issued the most recent version of its “Forty Recommendations” and “Special Recommendation IX” in June 2003 and October 2004, respectively, and launched a third round of “mutual evaluation” of members in early 2005 to ensure member compliance with the standards.

The Hong Kong legislation will cover six additional categories of non-financial businesses and professions designated as “gatekeepers” against money-laundering activities. The six “gatekeeper” categories include casinos, real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, and accountants. Members of these groups, along with financial institutions, will be required to comply with basic obligations of customer due diligence (verification of customers’ identities), record keeping, and reporting of suspicious transactions. Government statistics indicate that in 2004 the number of suspicious transactions cases recorded was 14,029, in comparison with 11,678 the previous year.

The government has also proposed the introduction of a disclosure system (not a mandatory declaration system, as in the United States) whereby visitors to Hong Kong will be required to make a truthful disclosure to immigration authorities of the amount of cash they are carrying into the territory and the source of the money. If the cash exceeds HK\$150,000 (about US\$19,000), the name of the traveler and the amount will be recorded. If they have a reasonable doubt, law enforcement personnel will be empowered to question travelers carrying cash under that amount. (*HK To Revise Laws on Anti-Money Laundering*, CHINA DAILY, Feb. 16, 2005, at http://www.chinadaily.com.cn/english/doc/2005-02/16/content_416811.htm; Eddie Luk, *Law To Require Professionals To Guard Against Money Laundering*, CHINA DAILY, Feb. 16, 2005, at http://www.chinadaily.com.cn/english/doc/2005-02/16/content_416811.htm.)

(Wendy Zeldin, 7-9832, wzeld@loc.gov)

JAPAN – Entertainer Visa Restricted

The Ministry of Justice (MOJ) amended the Ordinance Establishing Standards Under Article 7, Paragraph 1, Item 2 of the Immigration Control and Refugee Recognition Act (MOJ Ordinance No. 16 of 1990) on February 15, 2005. The amendment became effective on March 15, 2005. The qualifications for entertainers who are permitted to stay in Japan were tightened. Entertainer certificates issued by foreign countries and foreign local governments are no longer valid proof of status.



The amendment aims to tighten controls on human trafficking. Many Filipino women who have come to Japan with entertainer's visas have worked as bar hostesses and ended up in the sex industry. (MOJ, Zairyō shikaku "kōgyō" ni kakaru jōriku kyōka kijun no kaisei ni tsuite (Regarding Amendment of the Standards for Entry Permission Under 'Entertainer' [Status]), Feb. 15, 2005, at <http://www.moj.go.jp/PRESS/050215-1.html>.) (Sayuri Umeda, 7-0075, sume@loc.gov)

JAPAN – Turkish Kurds Who Claimed Refugee Status Deported

Two Kurds were deported to Turkey on January 18, 2005. Japan made the decision to send them back after determining that the two did not face persecution in Turkey. The two Kurds admitted in Japanese courts that they had lied on their applications for refugee status when they stated that they were persecuted in Turkey. The office of the UN High Commissioner for Refugees (UNHCR) claimed that the deportation was contrary to Japan's obligations under international law. However, the Justice Ministry argued that the UNHCR's mandated refugee designation is given to people who may not be defined as refugees under the UN convention, but who are in need of humanitarian support. (Letter from Masaharu Miura, Director of Immigration Control, to the Representative of UNHCR Japan, Jan. 25, 2005, at <http://www.moj.go.jp/NYUKAN/nyukan34-01.pdf>.) (Sayuri Umeda, 7-0075, sume@loc.gov)

KOREA, SOUTH – Family Registry System Ruled Unconstitutional

The Constitutional Court ruled on February 3, 2005, that the regulation defining the current family registry system (or family headship system, called *Hojuje*) is unconstitutional, saying it violates the right to equality. The ruling is expected to hasten ongoing attempts in the National Assembly to scrap and replace the controversial family registry system. The Court also decided that the current law should be maintained until a new law is passed in the National Assembly, in order to avoid confusion.

The ruling came four years after the case was brought to the Court by the Seoul Western District Court in a review of the Civil Act, article 781, which defines and regulates the head of family system. Under the influence of the traditional Chinese family system, Korea has had the *Ho* (family) system for over a thousand years. The *Hoju*, or head of the family, controls family members. This reinforces the vertical order within a family. The aim of this system has varied under different rulers, but basically the *Ho* was the primary entity for the state's determination of tax obligations, military service, and social position. While in the old Confucian society, the *Ho* was very important for indicating social position, during the Japanese occupation of Korea it was strengthened as a means to control people.

The system has long been criticized as a violation of the principle of equality established under the Constitution, because it was illegal for a woman to head a family with only a few exceptions. If an infant boy loses his father, he succeeds as the family head, instead of his surviving mother. Even if custody is granted to a mother after divorce, her child is still considered part of her ex-husband's family registry by law. If the bill to abolish the *Hoju* system passes the Assembly, it would most likely be replaced by a system that keeps separate records of birth, death, marriage, and adoption for an individual member of a family.



The current adoption system, called the "half-adoption" system, will also be changed. At present, when a child's parents divorce and the mother remarries, the child can be the legal child of the stepfather by adoption, but cannot have the stepfather's family name. In Korea, such a child who has a different family name from his family members experiences stressful situations in society. In the proposed revision, the adoptive parents can give the father's family name to the adopted child. (Supreme Court, Case No. 2001 Hunga 9 Deung, at http://www.ccourt.go.kr/ccourt_hinformation/month_read.asp.)

(Ming Jeong Suh & Sayuri Umeda, 7-0075, sume@loc.gov)

TAIWAN – Amendment to Firearms Statute

On January 26, 2005, the Statute For Controlling Firearms, Ammunition, and Weapons was amended. The amendments include revision of the definition of firearms (article 4), an increase in the penalties for possession, transfer, lease, or lending of the various types of firearms (article 8), repeal of the article on punishment of government employees or public officials for malicious prosecution (article 17), pardoning of certain penalties (prescribed under article 20, paragraphs 1 & 2 of the law) in the case of aboriginal people and fishermen who surrender their firearms to the authorities within the prescribed time limit (article 20), and the addition of provisions on the management of simulated guns (article 20-1). (GAZETTE OF THE OFFICE OF THE PRESIDENT, Jan. 26, 2005, available at <http://www.glin.gov>.)

(Wendy Zeldin, 7-9832, wzeld@loc.gov)

TAIWAN – Online Piracy

On January 12, 2005, at a closed-door meeting, Taiwan officials outlined the government's "Implementation Plan for Internet Infringement Inspection" for a delegation of representatives of the Recording Industry Association of America and the International Federation of the Phonographic Industry (IFPI). IFPI is still negotiating with the government on details of the plan. According to IFPI preliminary estimates for 2004, Taiwan's physical piracy rate exceeded thirty percent, in comparison with a forty-two percent rate in 2003. IFPI attributes the drop to a combination of improved intellectual property law enforcement and the onset of replacement of physical piracy with illegal online copying.

Under the plan, the Economics Ministry will cooperate with the Education Ministry in clamping down on on-campus downloading and file-swapping. IFPI maintains that the campus, as a locus for these activities, is a primary location for Internet piracy. A high-speed Internet network with free access for students throughout Taiwan is operated by the Education Ministry; now the Ministry has the technical capability to monitor the network and to track and trace suspicious or abnormal activity. The Economics Ministry plans to train selected police officers, with teams operational by March, to carry out raids on homes, campuses, and businesses in 2005.

Eleven member companies of IFPI Taiwan have filed a copyright infringement suit against a leading Taiwanese peer-to-peer service, Kuro. The suit was filed in December in Taipei District Court and seeks damages of NT400 million (about US\$12.9 million). IFPI Taiwan member companies are also preparing a civil suit against another Taipei-based P2P service, EZpeer. Both services charge a monthly user fee of NT99 (about US\$3) for their software and access to their networks. Their websites feature such content as lyrics and photographs of artists that are not licensed by the relevant rights



holders. (Tim Culpan, *Taiwan Acts To Curb Online Piracy*, BILLBOARD, Feb. 5, 2005, LEXIS/NEXIS, News Library, 90days File.)
(Wendy Zeldin, 7-9832, wzeld@loc.gov)

VIETNAM – Instruction on Protestantism

The Prime Minister of Vietnam, Phan Van Khai, recently issued instructions to government ministries, services, and provincial and municipal People's Committees on affairs connected to the Protestant religion. The instruction orders officials to "fully realize the Party's lines and the State's legislation" concerning religion, while encouraging Protestants in the country to become more deeply involved in local economic, cultural, and social development, national construction, and defense. In addition, government agencies should encourage all Protestant clergymen and followers to live a good religious and secular life, while ensuring freedom of religious belief and practice is observed. The Vietnamese Protestant Churches of the northern and southern region are to be guided to conduct their activities in line with the law. The Protestant General Council of Vietnam will be permitted to identify which "Protestant cults and organizations" have been purely religious in nature and thus have met legal requirements. (*Hanoi VNA-Internet Version*, Feb. 5, 2005, Foreign Broadcast Information Service.)

Vietnam has long been criticized by international human rights organizations for denying freedom of religion and freedom of speech about religion to its citizens. Father Nguyen Van Ly, a Catholic priest who had been imprisoned for advocating freedom of religion, was recently released from detention, together with several others considered by human rights groups to be prisoners of conscience. (Amnesty International USA, *Amnesty International Hails Expected Release of Elderly Vietnamese Prisoners of Conscience*, Jan. 31, 2005, <http://www.amnestyusa.org/countries/vietnam/document.do?id=F656A3564FEAE77785256F9A0061D03D>.)
(Constance A. Johnson, 7-9829, cojo@loc.gov)

EUROPE

ARMENIA – Smoking Ban and Other Controls on Tobacco

On March 2, 2005, the Law on Restrictions on Sale and Use of Tobacco Products entered into force. The Law establishes maximum limits of nicotine, tar, and other harmful ingredient content and prohibits production, import, and sale of tobacco products that exceed these limits. The Law also prohibits sale of tobacco products at and nearby medical, educational, and child-care institutions and sports establishments. Smoking is prohibited in health care and cultural institutions and on public transportation. Restaurants and other food establishments are obliged to create separate smoking sections. Printed warnings about health hazards placed on tobacco packages will be enlarged as of 2008.

The Ministry of Health Protection is to be the executive agency responsible for the implementation of the Law. According to the World Health Organization, Armenia has the highest percentage of smokers among all former Soviet republics. (ARMINFO – AGENCY OF RATING AND MARKETING INFORMATION NEWS WIRE, Mar. 1 2005, <http://www.arminfo.am/nwes-issue1012.htm>.)
(Peter Roudik, 7-9861, prou@loc.gov)



DENMARK – Ban on Unhealthy Food Ads Proposed

Denmark's Consumer Council is demanding a ban on the marketing of unhealthy food products to children under sixteen. The reason for the proposal is the increasing obesity among children, mainly caused by eating too much sugar. Three out of four children eat too much sugar, and obesity has increased by one thousand percent over the last fifty years in Denmark. Statistics from a recent Gallup poll show that food advertisements on Sunday mornings have quadrupled since 1988, and 535 out of 3,100 food advertisements are directed at children. (*Possible Danish Ban on Unhealthy Food Ads*, DENMARK.DK (Denmark's official government website), Feb. 4, 2005, available at <http://www.denmark.dk/>.)

(Linda Forslund, 7-9856, lifo@loc.gov)

ENGLAND AND WALES – Muslim Girl Wins Right to Wear Religious Clothing to School

A Muslim girl excluded from school for wearing traditional Muslim clothing instead of the standard school uniform has received a judgment in her favor in the Court of Appeal. The court ruled that the school had unlawfully excluded her and denied her a number of her basic rights, including the right to manifest her religion and the right to an appropriate and suitable education. (*R (Shabina Begum) v Head Teacher and Governors of Denbigh High School*, [2004] EWCA Civ 199 (CA); Stephen Howard & Mike Taylor, *Muslim Girl Wins Appeal Over School Clothing*, INDEPENDENT (London) Mar. 2, 2005 at <http://news.independent.co.uk/uk/legal/story.jsp?story=616040>, last visited Mar. 13, 2005.)

(Clare Feikert, 7-5262, cfei@loc.gov)

FRANCE – Council of Europe Conventions on Corruption

On February 11, 2005, the French Parliament authorized the ratification of both the Civil Law Convention on Corruption and the Criminal Law Convention on Corruption. The two Conventions were opened for signature in Strasbourg in 1999 and signed by France on November 26, 1999, and September 9, 1999, respectively.

The Civil Law Convention on Corruption seeks to combat corruption by means of civil law measures. It requires the Contracting Parties to provide in their domestic law “for effective remedies for persons who have suffered damage as a result of acts of corruption, to enable them to defend their rights and interests, including the possibility of obtaining compensation for damage.”

The Criminal Law Convention on Corruption aims at coordinating the criminalization of many types of corrupt practices. It provides for improving international cooperation in the prosecution of corruption offenses. It covers the following forms of corrupt behavior: (1) active and passive bribery of domestic and foreign public officials; (2) active and passive bribery of national and foreign parliamentarians and of members of international parliamentary assemblies; (3) active and passive bribery in the private sector; (4) active and passive bribery of international civil servants; (5) active and passive bribery of domestic, foreign, and international judges and officials of international courts; (6) active and passive trading in influence; (7) money laundering of proceeds from corruption offenses and accounting offenses connected with corruption offenses. (Laws 2005-103 & 2005-104, Feb. 11, 2005, JOURNAL OFFICIEL, available at <http://www.legifrance.gouv.fr/>.)

(Nicole Atwill, 7-2832, natw@loc.gov)



FRANCE – Disability Legislation Reform

On February 11, 2005, Parliament adopted Law 2005-102 on Promoting Equal Rights and Opportunities, Participation, and Citizenship for Disabled Persons. This reform was one of the priorities set by President Jacques Chirac in July 2002 for his five-year second term of office. Here are some of the highlights of the law:

- Disabled persons who cannot work will be guaranteed monthly financial assistance in the amount of 728 *euros*, which is eighty percent of the monthly minimum wage. For those who can work, the rules allowing them to combine their earnings with the adult disability allowance have been improved, so as to promote part time employment.
- A right to compensation for disability is recognized based on national solidarity. Individual benefits will provide the necessary assistance for disabled persons. The benefits will be assessed for each individual by a multi-disciplinary team. These benefits may take the form of assistance from people, technical help, or help from animals (e.g., guide dogs).
- Protection against employment discrimination is reinforced. Financial penalties levied on employers who fail to meet their obligations have been increased.
- Within the next ten years, public transportation, and any other place accessible to the public must be adapted to be accessible to all.
- All disabled children must be registered in the school of their district of residence unless attending such a school would be detrimental to their health. This provision is aimed at better inclusion of these children in society.

(JOURNAL OFFICIEL, available at <http://www.legifrance.gouv.fr/>.)

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GERMANY – Depreciation for Software

A ruling of the Tax Administration of the City State of Bremen has caused concern in the German business community (Verwaltungsvorschrift Bremen, Senator für Finanzen, Sept. 13, 2004, no. S 2172, JURIS ONLINE/VV-STEUER). According to the ruling, newly installed software systems may be depreciated only according to the straight-line method, in equal annual amounts over a period of ten years. This rule, which currently exists only in Bremen, interprets the depreciation rules of the Income Tax Code (Einkommensteuergesetz, Oct. 10, 2002, BUNDESGESETZBLATT I at 4210, §§ 4, 6, & 7), which is a federal law that is administered by the state authorities. The software industry and the business community at large are concerned that the ten-year period is too long and will discourage investment. (FRANKFURTER ALLGEMEINE ZEITUNG, Jan. 19, 2005, at 11.)

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GERMANY – Tuition for Higher Education

A decision of the Federal Constitutional Court of January 26, 2005, has made it possible for the German states to charge tuition to students at colleges and universities (docket number 2 BvF 1/03). In the decision, the Court invalidated recently enacted federal provisions that prevented the German states from imposing tuition (Sechstes Änderungsgesetz, Aug. 8, 2002, BUNDESGESETZBLATT I at 3138, arts. 1 numbers 1 & 2, amending Hochschulrahmengesetz, Jan. 19, 1999, BUNDESGESETZBLATT I at 18, §§



18 & 19). The Court held that in matters of higher education, the legislative power of the states extended only to basic framework concepts (Federal Constitution, arts. 70, 72, & 75), thus leaving the decision on tuition to the states. In the last three decades, higher education at state universities has been provided essentially free of charge, and there has been a long-standing debate on whether tuition would improve the quality of instruction or whether it would make it harder for disadvantaged students to obtain a college or university education.

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ICELAND – Bobby Fischer Granted Icelandic Citizenship

On Monday March 21, 2005, The Icelandic Parliament voted to adopt new legislation granting U.S. chess player Bobby Fischer Icelandic citizenship. Only last month the Parliament had voted against granting Fischer citizenship and instead offered him a special foreign passport and residence permit. The Japanese authorities, who are detaining Fischer, did not release him at that time. Fischer is awaiting deportation to the United States for playing a chess match in Yugoslavia in 1992 and thereby violating economic sanctions. Fischer's connection to Iceland stems from 1972, when he won the world championship in chess in Reykjavik. Since July 2004, he has been held in custody in Japan for allegedly having tried to leave the country on a revoked U.S. passport. (*Iceland Offer For Fugitive Fischer*, CNN.COM, Mar. 21, 2005, available at <http://www.cnn.com/> (last visited Mar. 21, 2005); *No Get Out of Jail Free Card for Fischer*, ICELAND REVIEW ONLINE, Feb. 18, 2005, available at <http://www.icelandreview.com/>.)

(Linda Forslund, 7-9856, lifo@loc.gov)

LATVIA – New Law on Energy Market Liberalization

On March 1, 2005, the new Law on the Electric Power Market was adopted by the legislature. The speedy adoption of this Law in just two readings instead of the required three was initiated by the Government in order to meet European Union requirements regarding liberalization of the energy market. The Law provides for free choice of electric power suppliers by users and requires separation of the operations of producers, transmitters, and distributors of electric power. Along with the new Law, the Law on the Electricity Market and the Energy Law were amended. These amendments require the establishment of subsidiaries of the present single national power supplier company and sever its transmission and distribution branches, in order to create new companies as required by the EU standards. The purpose of the new Law is to have individual consumers choose their electricity suppliers as of 2007. Consumer advocates argue that this move may lead to regional differentiation in prices. (*BNS Baltic News Service*, Mar. 1, 2005, at <http://www.securities.com/>.)

(Peter Roudik, 7-9861, prou@loc.gov)

LATVIA – New Smoking Restrictions

On February 28, 2005, the Health Ministry of the Republic of Latvia issued a regulation aimed at further restriction of smoking and amendment of the Law on the Use, Sale, and Advertisement of Tobacco Products approved by the legislature on February 15, 2005. The new regulation, which will remain in force before further amendments to the law are approved by the Parliament, provides for a complete ban on tobacco advertisement in printed media. In regard to retail sales, the regulation prohibits the sale of tobacco in the vicinity of schools and at cash registers in supermarkets.



Other new provisions place restrictions on smoking in restaurants and recreational facilities. The regulation states that no less than fifty percent of the total area of the establishment must be a no-smoking zone. The newly introduced requirement of a separate ventilation system in the smoking area will enter into force in July 2006. With the purpose of decreasing exposure to second-hand smoke for staff in food-serving establishments, the regulation states that as of 2008, smoking will be permitted only in separately enclosed areas meant solely for smoking. If deadlines are not met, smoking will be completely prohibited on the premises. A complete ban on smoking is introduced in work places and within ten yards of entrances to public and municipal institutions. The regulation empowers local governments to ban or restrict smoking in parks, on beaches, and in other public areas. State and municipal police will enforce these rules. (BAL TIC BUSINESS NEWS, Mar. 1, 2005, http://www.balticbusinessnews.com/mod/onl_news.pl.)

(Peter Roudik, 7-9861, prou@loc.gov)

LITHUANIA – Acquittal of Former President Overturned

On February 28, 2005, the Court of Appeals of the Republic of Lithuania, the nation's second highest court, annulled an earlier ruling of the Vilnius District Court acquitting the impeached Lithuanian President Rolandas Paksas and found him guilty of disclosing state secrets. The Court of Appeals ruled that the acquittal had been handed down because the district court did not link separate parts of the evidence. The higher court concluded that Paksas committed a criminal act, but it terminated the criminal action and did not impose a penalty. The Court indicated that the actions of the dismissed President no longer cause any danger, since he is now out of public service.

The case was brought before the Court of Appeals at the request of the Prosecutor General, who asked the Court of Appeals to overrule the previous acquittal; he felt that the conclusion of the lower court did not reflect the circumstances of the case. In October 2004, the Vilnius District Court had concluded that it possessed no strong evidence that it was Mr. Paksas who warned his Russian business associate that the National Security Service was bugging his telephone line. The allegation of disclosure of a state secret had been the major accusation in the impeachment case against Paksas; both the accusation and the impeachment had been supported by the Lithuanian Constitutional Court. The legislature and the Constitutional Court subsequently prevented Mr. Paksas from participating in new presidential elections. (ELTA – LITHUANIA NEWS AGENCY, Mar. 1, 2005, at <http://www.securities.com/>.)

(Peter Roudik, 7-9861, prou@loc.gov)

LITHUANIA – Punishment for Customers of Sex Services

On February 23, 2005, the Seimas, the Lithuanian parliament, adopted amendments to the nation's Code of Administrative Violations that will allow police to impose fines on both prostitutes and their clients. Customers of sex services will be fined in the amount of *Litas* 400 (about US\$150). In case of a repeated arrest for the same crime, the fine will be increased to *Litas* 750 (US\$250) or an individual can be detained for a period of up to thirty days. Even though prostitution is prohibited in Lithuania, before the adoption of these amendments penalties could be applied only to the prostitutes,



not their customers. Another amendment provides for exempting the victims of human trafficking from administrative responsibility. However, this exemption does not apply to people who were involved in prostitution domestically. (BALTIC BUSINESS NEWS SERVICE, Feb. 23, 2004, http://www.balticbusinessnews.com/mon/onl_news.pl.)
(Peter Roudik, 7-9861, prou@loc.gov)

RUSSIAN FEDERATION – Tougher Punishment for Drunk Driving

Following recently adopted amendments to the Russian Code of Administrative Violations, which provide for more severe punishment for driving under the influence, the State Duma (legislature) on February 24, 2005, passed supplemental legislation aimed at the implementation of the anti-drunk driving laws. Under Russian law, the prosecution of a driver for driving under the influence is allowed only when medical examination of the driver, including a breathalyzer test, was conducted. Under previous Russian law, an individual could refuse to undergo this test. In such cases, he could be fined by police on the spot in an amount not exceeding the equivalent of US\$100. Under the new law, which is scheduled to enter into force March 25, 2005, the fine will be excluded from the list of punishments, and even though a person cannot be forced to be tested, the drivers' licenses of those who refuse to undergo a test will be suspended for a period of from eighteen to twenty-four months. Simultaneously, the fine for driving without a license or with a suspended license was increased fourfold, up to the equivalent of US\$500. (ROSBUSINESSCONSULTING, Feb. 24, 2005, at <http://www.rbk.ru/rbcfreenews.shtml>.)
(Peter Roudik, 7-9861, prou@loc.gov)

SPAIN – New Regulation of the Law on Aliens

On February 7, 2005, a new Regulation of the Law on Aliens went into effect in Spain. It will normalize the situation of thousands of undocumented workers, many of whom emigrated from Latin America. The Spanish government estimates that of the three million immigrants who live in the country, about 800,000 are without proper documents. The Secretary of Immigration and Emigration, Consuelo Rumi, warned that the government will be very strict with foreigners who remain in Spain with an illegal status as well as with employers who hire them. She said that there will be a deadline for employers to work out the status of their employees, after which a fine of 60,000 euros (about US\$79,500) per worker will be imposed. Immigrants will have to demonstrate that they have been in Spain since August 2004. They will also have to have a labor contract for a minimum of six months and be free of criminal charges in their backgrounds. (*Spain: New Law for the Undocumented*, BBC MUNDO.COM, Feb. 7, 2005, at http://news.bbc.co.uk/go/pr/fr/hi/spanish/international/newsid_4242000/4242353.stm.)
(Sandra Sawicki, 7-9819, sasa@loc.gov)

SWEDEN – Hate Speech Verdict Reversed

A Swedish Court of Appeals (Göta Hovrätt) overturned a verdict by the District Court of Kalmar, which had found pastor Åke Green guilty of violating Sweden's hate speech laws. In a sermon, Pastor Green had called homosexuality a cancerous tumor and compared it to pedophilia. The District Court sentenced Green to thirty days in prison for his remarks, making him the first person in Sweden convicted of agitating against homosexuals under the hate speech law and the first preacher to be convicted for hate speech during a sermon.



The Court of Appeals reversed the verdict and states in its decision that even though Green's sermon is remarkable and can be questioned, it is not punishable. One member of the Court had a dissenting view and wished to uphold the District Court's ruling. The prosecutor is planning to appeal the case to the Supreme Court, basing the appeal on the law and the fact that Green was not only preaching to his congregation; he had also invited the media and distributed his sermon to the press. (Johansson, Lars, and Ekmark, Malin, *Pastor Åke Green friad*, DAGENS NYHETER, Feb. 11, 2005, available at <http://www.dn.se/>; Richburg, Keith B, *Swedish Hate-Speech Verdict Reversed*, WASHINGTON POST, Feb 12, 2005.)
(Linda Forslund, 7-9856, lifo@loc.gov)

SWEDEN – Same Sex Marriage

The Swedish Government, together with the Left Party and the Green Party, has appointed an investigator to inquire into whether a couple of the same sex should be allowed to get married. The investigator has been asked to present all reasons for and against allowing same-sex marriages. At this time only a man and a woman can get married in Sweden; couples of the same sex can enter into a form of civil union called partnerships. The investigator must therefore reach a conclusion as to the form same-sex marriages should take and whether religious communities should keep the right to marry couples marriages or if all marriages should be entered into as civil unions. If the investigator finds that couples of the same sex should be able to get married, the Registered Partnership Act of 1994 must be annulled. (Ministry of Justice, *Äktenskap eller partnerskap för homosexuella?*, Press Release Jan. 27, 2005, available at <http://www.regeringen.se/>.)
(Linda Forslund, 7-9856, lifo@loc.gov)

TURKMENISTAN – Health Care Reform

On March 1, 2003, President Saparmurat Niyazov of Turkmenistan, in a televised address to the nation, announced his decision to continue the reform of the public health care system. In Turkmenistan, presidential announcements become part of the law. The reform started last year when payment for all medical services (except emergency care, immunization, and child delivery) was introduced, 15,000 middle level health care professionals were fired and soldiers substituted for them, and the remaining physicians were allowed to work only if they passed an exam on knowledge of the spiritual book *Rukhnama*, written by the President.

The new Presidential initiatives provide for the closure of all hospitals in this country of five million, slightly larger than California, except for those located in the capital city of Ashgabat. The President justified his decision by the fact that all qualified medical personnel are concentrated in Ashgabat. He stated that diagnostic centers, to be created in regional centers, will be empowered with the right to decide who needs medical care and will issue permits to applicants for medical treatment in Ashgabat. Turkmen citizens will be admitted to hospitals on the basis of their income. Even though all medical establishments are state property, two types of hospitals will be created – those that are free of charge and those with the right to bill patients. Individuals with incomes of more than US\$15 per month are not allowed to apply for free medical help.

Other presidential initiatives implemented since the beginning of 2005 are the closure of all libraries in the country and the opening for agricultural use of state parks and natural preserves



established in previous years. (*Turkmenbashi Fights Medicine (editorial)*, JAZETA.RU, Mar. 1, 2005, at http://www.gazeta.ru/2005/03/01/kz_m149782.shtml.)
(Peter Roudik, 7-9861, prou@loc.gov)

UKRAINE – Privileges of Former President Cancelled

On February 23, 2005, the Prime Minister of Ukraine cancelled the November 26, 2004, resolution of the previous Government that had provided privileges to ex-President Leonid Kuchma, because the resolution exceeded Government powers. This cancelled resolution guaranteed the former President a lifetime pension in the amount of his presidential salary, free lifetime usage of a state residence for all members of his family, two limousines, security guards, a staff consisting of two assistants and one advisor, and immunity from criminal prosecution for actions committed during his term of office. Ukraine does not at present have a law regulating presidential privileges; all questions related to the support of a President who had left office were regulated by a 1992 parliamentary resolution. The 1992 resolution provided for more modest benefits, and the cancelled resolution was not in line with this earlier document. Because the cancellation of the former Kuchma government resolution does not settle the issue, the Ministry of Justice addressed the Verkhovna Rada (legislature) with an urgent request to pass a bill on the President of Ukraine that will include a separate provision strictly regulating privileges accorded to ex-Presidents. (UKRAINIAN NEWS AGENCY, Feb. 27, 2005, at <http://www.interfax.kiev.ua/eng/>.)
(Peter Roudik, 7-9861, prou@loc.gov)

UKRAINE – Simplification of Real Estate Closings

On February 21, 2005, the Ministry of Justice amended the Instruction on the Procedure of Notary's Actions and issued a statement on application of the Mortgage Law. The Instruction has permitted public notaries to simultaneously register agreements on real estate sales and purchases and mortgage agreements. Previously it was impossible to conclude such agreements jointly, as the Instruction originally adopted in March 2004 did not provide for such transactions and obliged notaries to demand an extract from the registry of ownership at the Technical Inventory Bureau when concluding a mortgage agreement. The preparation of such an extract takes about two weeks, during which time the loan remains unsecured and a ban on the sale of the property can be imposed as a result of a court dispute. That delay created risks for banks; these risks are now eliminated. (*Ukrainian News – Political Week*, ISI EMERGING MARKETS, Feb. 27, 2005, at <http://www.securities.com>.)
(Peter Roudik, 7-9861, prou@loc.gov)

UNITED KINGDOM – Anti-Terrorism Law Enacted

In response to a highly critical judgment from the House of Lords, the highest court in the United Kingdom, which declared the detention provisions of the Anti-terrorism, Crime and Security Act unlawful, and the provisions' imminent expiration, a new Act was passed. The detention provisions of the Anti-Terrorism, Crime and Security Act 2001 provided for the indefinite detention without charge or trial of foreign nationals who cannot be deported and who have been certified by the Secretary of State as suspected international terrorists. The controversial new Prevention of Terrorism Act 2005 allows the Secretary of State to issue "control orders" to protect members of the public from the risk of terrorism in which stringent bail-like conditions are imposed on individuals reasonably suspected of engaging in terrorist activities. Critics of the legislation say that it essentially provides for



the house arrest and total isolation of the individuals subject to the orders. (Prevention of Terrorism Act 2005, c. 2; *Terror Law Row Explained*, BBC NEWS, Mar. 12, 2005, at http://news.bbc.co.uk/1/hi/uk_politics/4288407.stm, last visited Mar. 14, 2005.) (Clare Feikert, 7-5262, cfei@loc.gov)

NEAR EAST

BAHRAIN – Parliament Critical of the Government

The first Deputy Speaker threatened to submit his resignation along with other members of the Bahraini Parliament, blaming the government for what he called the deterioration of affairs in the Bahraini streets and accusing it of trying to control the legislature. He argued for the enactment of a new law on political parties to replace the Law of Association, which he described as no longer compatible with the democratic practices realized thus far in Bahrain. He also argued for the enactment of a new, more balanced voting law compatible with international standards. (*Parliament Critical of the Government*, ASHARQ AL-AWSAT newspaper, Internet edition, Feb. 17, 2005, <http://www.asharqalawast.com>.)

(Issam Michael Saliba, 7-9840, isal@loc.gov)

IRAN – Army Colonel Sentenced for Religious Conversion

Colonel Hamid Pourmand, forty-seven, who joined the Iranian Army some twenty years ago and had been converted to Christianity before joining the army, received a maximum of three years in jail, following a trial at a Revolutionary Court in Tehran. He was charged for failing to inform the army of his conversion from Islam to Christianity. While apostasy is not considered a crime under the Islamic Criminal Law of Iran, being a Moslem is a legal requirement for employment in the Armed Forces. Colonel Pourmand's attorney provided documents to the court showing that his superiors knew of his conversion to Christianity. One document from Pourmand's commander excused him from observing the fasting month of Ramazan. The Revolutionary Court, however, found him guilty of giving false testimony and producing falsified documents. At the time of his arrest in September 2004, he was serving as an Assembly of God pastor and attending a meeting of evangelical Christians in Karaj, a city close to Tehran. Pourmand will be discharged from the military and lose his benefits, including pension and housing. His attorney stated at the end of the trial that he will appeal the court order. (*Christian Sentenced to Three Years in Prison*, IRAN TIMES, Feb. 25, 2005, at 1 & 10.)

(Gholam Vafai, 7-9845, gvaf@loc.gov)

IRAN – Court Upholds Payment of Unprecedented Blood Money by the Government

A court of general jurisdiction in Tehran upheld an appeals court decision ruling that the Ministry of Health and the Blood Transfusion Organization (BTO) did have to pay the amount of fourteen billion *Tomans* (about US\$16 million) as *dia* (blood money) to 974 hemophiliac patients. The complaint was initiated by the people who used the blood products, which were produced domestically and offered by the Ministry and the BTO and which later proved to be infected, causing the users to contract AIDS, hepatitis, and liver cancer. The number of users who lost their lives before the trial was 137. Of the survivors, fifty of them are "counting down to their last breaths" as they are suffering from liver cancer and AIDS. The full implementation of the ruling requires that the special committees



of the House of Representatives approve special allocations for payment of the blood money as ordered by the court. (*Court Decision Was Upheld* [in Persian], HAMSHAHRI, Mar. 10, 2005, at 1 & 2, available at <http://www.hamshahri.org/hamnews/1383/831220/news/ejtem.htm>.) (Gholam Vafai, 7-9847, gvaf@loc.gov)

ISRAEL – Anti-Terror Financing Law Approved

In December 2004, the Knesset (Israel's Parliament) passed the Prohibition of Terrorist Financing Law, 5765-2005. Explanatory notes of the bill state that the objective of the 2004 law is to accommodate the newly accepted international approach of the global war on terrorism, as manifested by the International Convention for the Suppression of the Financing of Terrorism, signed and ratified by the State of Israel, and United Nations Security Council Resolution 1373 of September 28, 2001, calling for international cooperation in the war against terrorism.

The law defines terrorist financing, including the use of property in order to promote or finance a terrorist action as well as the provision of compensation for the performance of such actions. The law further imposes an obligation on any person who has a reasonable suspicion that an action he was requested to take regarding his property during the course of his business or fulfillment of his job is designed for furthering terrorist action to report it to the police. The law authorizes the confiscation of the property involved in the offense. (Prohibition on Terror Financing Law, 5765-2005; law and explanatory notes of the bill available at <http://www.knesset.gov.il/>.) (Ruth Levush, 7-9847, rlev@loc.gov)

ISRAEL – Provision of Security by IDF Soldiers at Prisons Authority

On February 9, 2005, the Knesset passed the Defense Service (Temporary Order) (Detailing Israeli Defense Forces Soldiers to the Prison Authority Service) 5765-2005. The law authorizes the Minister of Defense, with the consent of the Minister of Internal Security, to order qualified soldiers between the ages of eighteen and twenty-nine to be detailed to serve in Prison Authority units tasked with securing prisons used exclusively for security prisoners. The law permits a soldier who has been informed of such a detail to express his objection to it to the officer who informed him of the assignment or to another authorized officer. The law further regulates the authorities and duties of soldiers who have been detailed to the Prison Authority. (Defense Service (Temporary Order) (Detailing Israeli Defense Forces Soldiers to the Prison Authority Service) 5765-2005, available at <http://www.knesset.gov.il/>.) (Ruth Levush, 7-9847, rlev@loc.gov)

KUWAIT – Women's Political Rights Issue Raised in Parliament

Ten members of the Kuwaiti Parliament recently requested that article 35 of Election Law Number 35 of 1962, which deprives women of the right to vote or be elected, be referred to the Constitutional Court. They noted that the Government had, in its statement of October 1999 to the Parliament, declared this article unconstitutional, but it had not taken any action since then to bring this matter before the court for a decision. (*Women's Political Rights Issue Raised in Parliament*, ASHARQ AL-AWSAT newspaper, Internet edition, Feb. 17, 2005, <http://www.asharqalawast.com>.) (Issam Michael Saliba, 7-9840, isal@loc.gov)



SOUTH ASIA

INDIA – Election Commission Reprimands RJD Party

On the eve of elections to the Bihar State Assembly in February 2005, the Union Railways Minister Laloo Prasad, who is also president of the Rashtriya Janata Dal (RJD) party, the current ruling party in the State, admitted distributing cash money to the electorate. Upon a complaint to the Election Commission of India (ECI) lodged by the opposition, contending that the distribution of cash to the electorate just before the beginning of the polls constitutes a violation of the Model Code of Conduct for which the RJD and its nominees should be punished, the ECI issued a notice to the party president to show cause as to why action should not be taken against them for violation of the Model Election Code of Conduct.

Upon appearing before the ECI, the party president admitted guilt but assured the Commission that his actions would never be repeated in the future. After hearing the testimony of the parties, the ECI let off the RJD with a stern warning, while stating that Laloo Prasad and his party would attract “exemplary action” if the code were violated by it or its agents again. In its order, the ECI stated that “the whole nation’s conscience felt disturbed on seeing, in the print and electronic media, Laloo Prasad openly holding a wad of currency notes in his hands and distributing them to several women, which he himself admits.” (*EC Lets Off Laloo with Warning*, THE TRIBUNE, Jan. 18, 2005, at <http://www.tribuneindia.com/2005/20050118/main4.htm>.)
(Kirshan Nehra, 7-7103, kneh@loc.gov)

INDIA – Reservation of Legislative Seats for Lower Castes

In order to guarantee a minimum number of legislative seats for members of the lower castes or *Dalits* (referred to in law as “backward classes”), which include Scheduled Castes and Scheduled Tribes, the Constitution of India, under article 332, has made special provisions for reservation of seats for them in state assemblies. A higher caste woman, claiming that she was born of a higher caste woman married to a lower caste man, sought to contest election to the Andhra Pradesh Assembly from a seat reserved for the *Dalits*. Upon rejection of her nomination papers, she first challenged in the High Court the order of rejection of her nomination and later filed an appeal against the dismissal order of the High Court in the Supreme Court of India.

The Supreme Court had difficulty accepting the position that a non-tribal person who marries a tribal person could lay claim to contest a seat reserved for Scheduled Tribes. “To permit a non-tribal under the cover of marriage to contest such a seat would tend to defeat the very object of such reservation,” the Court ruled. While recognizing that upon marriage to a man of a particular caste in India’s caste system a woman becomes a member of the family of the husband, the Court stated that it is the community that must grant her the right to represent them in the legislature. The Court, taking note of politicians’ strategies to get elected, stated that “we wish to express our dismay at the extent to which a person could go to sustain her seat in the legislature. The appellant branded her five siblings and herself as illegitimate and her mother a concubine.” (*Caste Woman’s Marriage to Dalit No Ticket for Poll Quota*, THE TRIBUNE, Feb. 1, 2005, at <http://www.tribuneindia.com/2005/20050201/main3.htm>.)
(Krishan Nehra, 7-7103, kneh@loc.gov)



WESTERN HEMISPHERE

BRAZIL – Forest Reserves in Nun’s Honor

On February 17, 2005, Brazilian President Inacio Lula da Silva issued decrees ordering the creation of two vast nature reserves to honor a recently slain American nun who championed environmental protection of the Amazon jungle. The decrees establish a reserve of 8.2 million acres and a national park of 1.1 million acres in the state of Para where sections of the Amazon rain forest are located. The seventy-three-year-old nun, Dorothy Stang, originally from Dayton, Ohio, was gunned down in a dispute with a powerful rancher. The decrees were issued after more than sixty groups sent a letter to the President requesting action to stop “violence and impunity associated with illegal occupation of lands and deforestation.” Stang was a naturalized Brazilian. Authorities estimate that as much as twenty percent of the world’s largest rain forest has been destroyed by encroaching logging companies and wealthy landowners. (*Brazil Creates Forest Reserves After Nun’s Slaying*, LOS ANGELES TIMES, Feb. 18, 2005, <http://www.latimes.com/news/nationworld/world/la-nun18feb,18,1,4753374.story?coll=la-headlines-world>.)

(Sandra Sawicki, 7-9819, sasa@loc.gov)

CANADA – Hate Crimes

Canada’s national Criminal Code prohibits the willful promotion of hatred against an identifiable group (R.S.C. ch. C-46 (1985), as amended). A small group of citizens was recently charged with committing this crime by holding anti-gypsy signs outside of a motel where a group of refugees from the Czech Republic were being housed. The government contended that the signs targeted “Roma” people, but only introduced evidence that the signs referred to “gypsies.” The charges were dismissed after a forty-seven-day trial, but the government appealed. The matter finally reached the Supreme Court of Canada. In its ruling, the Supreme Court held that the charge was sufficient and that the accused should be retried. The Supreme Court noted the difference between the terms “Roma” and “gypsy,” but felt that carrying signs targeting gypsies could be interpreted as willfully promoting hatred of the Roma. (*R. v. Krykowski*, 2005 S.C.C. 7.)

(Stephen Clarke, 7-7121, scla@loc.gov)

CANADA – Two Provinces Would Prohibit Hockey Replacements

In the 1980s and 1990s, both Major League Baseball and the National Football League hired replacement players while their unions were on strike. Now that the National Hockey League (NHL) has become the first major sport league to lose an entire season to a work stoppage following its lockout of its players, there has been some speculation that it might try to at least begin the 2005-2006 season with its own replacement players. One problem for the league is that in Canada labor law is a provincial matter, and two of Canada’s six NHL teams are located in provinces that generally prohibit the hiring of replacement workers. Those teams are the Montreal Canadians and the Vancouver Canucks. In British Columbia, the Labour Relations Code prohibits employers from using the services of paid or unpaid replacement workers during a lawful strike or lockout (R.S.B.C. ch. 113, s. 6(3)(e) (1996)). Quebec’s law is equally strong, but in order for it to apply, the Players’ Association might have to first be certified (Quebec Labour Code, R.S.Q. § 109.1 (1964), as amended). Violations of the provincial laws prohibiting the hiring of replacement workers would be considered to be an unfair labor practice that could form the basis of a civil suit for damages.



Ontario also had legislation prohibiting the hiring of replacement workers prior to 1995. However, with the repeal of that law by the former Progressive Conservative Government, the Toronto Maple Leafs and the Ottawa Senators could legally use replacement players. The same is true of Alberta's two teams, the Edmonton Oilers and the Calgary Flames.
(Stephen Clarke, 7-7121, scl@loc.gov)

CHILE – Drug Trafficking

On February 16, 2005, Law 20000 was enacted to penalize micro-trafficking in illegal drugs (that is, trafficking in small amounts). The Law includes specific sanctions for the consumption of such drugs by minors, as well as by members of law enforcement bodies, the border patrol (*Gendarmeria*), and military personnel in general. It also increases penalties for trafficking and related offenses and assigns additional powers to the police, the courts, and the Attorney General (*Ministerio Publico*). The Law provides for special procedural rules to govern informants and a witness protection system. Extradition for drug trafficking is allowed both to and from a foreign country, even without reciprocity.
(Law 20000, Feb. 2, 2005, *Diario Oficial*, Feb. 16, 2005.)
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COLOMBIA – Legislators Begin Debate on Demobilized Combatants

On February 15, 2005, the Congress of Colombia began debating various bills that would seek “truth, justice, and reparation” in dealing with demobilized combatants of paramilitary groups, especially the principal paramilitary group, known in Spanish as *Autodefensas Unidas de Colombia*, or AUC. It is estimated that in the last two years, nearly 4,000 AUC members have laid down their arms. The need for a legal prescription to deal with former combatants was recently expressed by a Colombian legal affairs analyst, Mauricio Romero, who noted that because there was no intervention by government attorneys in the cases involving demobilized groups, it is possible that people who may have committed crimes against humanity and participated in massacres are free.

A bill sponsored by the current administration would regulate the investigation, processing, and sanctioning of members of armed groups who decide to demobilize and opt for national reconciliation. President Alvaro Uribe recently predicted that by the end of the current year, approximately 13,000 AUC members will be demobilized. For the purposes of peace, he commented, they must not be treated with impunity. (*Laws Against Impunity Debated*, BBC MUNDO.COM, Feb. 15, 2005, at http://news.bbc.co.uk/go/pr/fr/-/hi/spanish/latin_america/newsid_4268000/4268937.stm.)
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CUBA – Smoking Banned in Public Places

Cuba, known around the world for its cigars, promulgated a law on February 7, 2005, that prohibits smoking in restaurants, cafeterias, theaters, cinemas, offices, and work sites and also drastically limits commerce in tobacco. The Cuban law (Ministerial Resolution no. 335/04) prohibits the sale of cigarettes and cigars to minors of sixteen years of age and no longer allows the sale of tobacco within one hundred meters of educational establishments. Anyone who prepares, serves, or sells food or is involved in food services will no longer be permitted to smoke during working hours. The aim of the law is to reduce health hazards for nonsmokers. While many Cuban smokers are distraught over the new bans, many others support the rights of nonsmokers and have gone on record as



favoring the new statute. (*Cuba Prohibits Smoking in Public Places*, BBC MUNDO.COM, Feb. 7, 2005, at http://news.bbc.co.uk/go/pr/fr/-/hi/spanish/latin_america/newsid_4242000/4242149.stm.) (Sandra Sawicki, 7-9819, sasa@loc.gov)

MEXICO – Biosecurity of GMOs

On February 15, 2005, the Senate approved the Law on Biosecurity of Genetically Modified Organisms, which has as its objective the regulation of the use, release, commercialization, importation, and exportation of genetically modified products. Moreover, the statute creates the Inter-Secretarial Commission on Biosecurity of Genetically Modified Organisms (Cibogem) and establishes measures to promote scientific and technological research in biosecurity and biotechnology. The bill, which had been sent to the Senate by the Chamber of Deputies, was approved with eighty-seven votes in favor, sixteen against (from the Mexican Green Ecologist Party or PVEM and the Party of the Democratic Revolution or PRD), and six abstentions. Among the most controversial provisions in the debate on the bill was article 101 mandating companies to inform the public of any genetically modified organism content on the labels of food products. (Lilia Saul Rodríguez, *Aprueban la Ley de Bioseguridad*, EL UNIVERSAL, Feb. 16, 2005, <http://www.eluniversal.com>.) (Norma C. Gutiérrez, 7-4314, ngut@loc.gov)

MEXICO – Foreign Voting Rights

The Chamber of Deputies approved amendments to the Federal Code of Electoral Institutions and Procedures that will permit Mexicans living abroad, specifically in the United States, to vote in Mexican elections. If the amendments are approved by the Senate, they will allow approximately four million Mexicans who live in the United States to vote in the presidential elections in 2006 and will later make it possible for the six million Mexicans living abroad elsewhere to exercise that privilege. The amendments were approved with 391 votes in favor, five against, and twenty-two abstentions.

The bill granted the Federal Electoral Institute the prerogative to determine the electoral roll, to install the polling stations, to enter into agreements with foreign authorities, and to register voters, but the registrations will be performed only in Mexico. Three senators from the Institutional Revolutionary Party (PRI), the National Action Party (PAN), and the Party of the Democratic Revolution (PRD) stated that Senate approval would not be automatic because the senators have to review the detailed procedures in the bill and its legality. However, any adjustment to the bill must be made before the end of the current session on April 30, 2005. (Sergio Jimenez et al., *Los Diputados Aprueban Voto en el Extranjero*, EL UNIVERSAL, Feb. 23, 2005; Jorge Herrera, *La Aprobación No Será Automática, Preven Senadores*, EL UNIVERSAL, Feb. 24, 2005, at <http://www.eluniversal.com>.) (Norma C. Gutiérrez, 7-4314, ngut@loc.gov)

MEXICO – Security Measures for Consular ID Cards

The Mexican daily *El Universal* reported on February 14, 2005, that in less than a month Mexico's more than forty consulates in the United States will have a biometric security system to register the High Security Consular ID Card (MACS). The system is going to register the fingerprints, photograph, and signature of a particular Mexican national in the database of each consulate where they are registered. The information in this database will be shared by all the Mexican consulates and by the Secretariat of Foreign Relations. This database will be cross-checked with other databases, such as the



one of the Federal Electoral Institute. The information contained in the database will be under the exclusive control of the Mexican government and consulates, which will help local, state, or federal American authorities to verify the identity of a particular individual, but they will not have direct access to the information. At present at least five consulates have already initiated this procedure of registration, which is part of the second phase of the Integral System of Consular Administration. (Natalia Gómez Quintero, *Refuerzan la Seguridad en la Matrícula*, EL UNIVERSAL, Feb. 14, 2005, at <http://www.eluniversal.com>.)
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MEXICO – Supreme Court Rejects One of Four Arguments in Genocide Case

The Mexican Supreme Court ruled that the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, which Mexico ratified in 2002, cannot be applied, in Mexico, to crimes that were committed before the Convention entered into force for Mexico. The Mexican Constitution prohibits retroactive applications of the laws to the detriment of any person. The Court thus rejected one of the four arguments of law in the appeal of a case to bring genocide charges against former President Luis Echeverría and ten former officers of his administration for the June 10, 1971, slaying of student protestors. Last year, a district court judge denied the issuance of arrest warrants, because according to the court, the statute of limitations had run out. The Special Prosecutor on this case, known as El Halconazo, appealed the lower court's ruling, arguing that Mexico was bound by the Convention provisions of non-applicability of statutory limitations in genocide crimes. The Supreme Court still has to rule on the remaining three arguments of the appeal. (Carlos Avilés, *Frena Corte Proceso a Acusados de Genocidio & Desechan Argumento Contra LEA*, EL UNIVERSAL, Feb. 24, 2005, <http://www.eluniversal.com.mx>; see also 8 W.L.B 2004 and 11 W.L.B. 2004).
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INTERNATIONAL LAW AND ORGANIZATIONS

CHINA/EU – Discussion of New Strategic Partnership

Amid persistent calls from some key Member States, including Germany, France, and the United Kingdom, to lift the arms embargo imposed against China immediately after the 1989 government crackdown on pro-democracy activists in Tiananmen Square, the EU Trade Commissioner's visit to China on February 23-26, 2005, focused on the need to create a new strategic partnership between the EU and China on a wide range of political and economic issues. Currently, Europe is China's largest trading partner, and China is the second largest trading partner of Europe. During the last EU-China summit, which took place in December 2004, leaders from both sides assessed the likelihood of establishing a new framework agreement. (Press Release IP/05/205, *EU-China: EU Trade Commissioner to Visit China 23-26 February*, Brussels, Feb. 23, 2005 <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/05/205&format=HTML&aged=0&language=EN&guiLanguage=en>.)
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CYPRUS/EU – Facilitation of Trade Along the Green Line

On April 29, 2004, Regulation 866/2004 defined the terms under which European Union law will apply to the so-called Green Line in Cyprus, that is, the line that divides the areas in which the Government of Cyprus exercises effective control and the areas where it does not. The European Commission had proposed a number of amendments to this Regulation in order to facilitate the movement of goods and persons across the Green Line. The Council of the EU adopted these amendments on February 17, 2005. The major highlights of the amended Regulation include the following: any obstacles to the trade of agricultural products will be removed, travelers will be able to carry with them goods worth up to a total value of 135 *euro*, and a simplified procedure for crossing the border with animal products will be applied. (Press Release: IP/05/197, Green Line Regulation, *Commission Welcomes Adoption of Measures that Further Facilitate Trade Across the Green Line in Cyprus*, at <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/05/197&format=HTML&aged=0&language=EN&guiLanguage=en>.)

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GREECE/EU – Recommendations on Reducing Excessive Deficit

In July 2004, the Council of the European Union recommended that Greece take action to reduce its excessive budget deficit. In the absence of any measures by Greece to remedy the situation, the European Commission, in accordance with article 104(9) of the EU Treaty, recommended that the EU Finance Ministers give notice to Greece and extend the deadline for bringing the deficit to a level below the 3.0% reference value until the end of 2006. Based on the recommendations, Greece is requested to implement its 2005 budget with fiscal discipline. For 2006, the Greek government must implement certain actions in order to reduce the deficit by at least 0.6% of GDP. The Greek government has also been advised to pay particular attention to factors other than net borrowing for the debt ratio to be reduced and to improve the cyclically adjusted balance by at least 0.5% of GDP per year, once the excessive deficit has been successfully reduced. Greece must submit a report explaining the measures that it intends to put in place by the deadline of March 21, 2005. (Press Release: IP/05/153, *Commission Recommends Further Steps Under the Excessive Deficit Procedure for Greece*, Brussels, Feb. 9, 2005, at <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/05/153&format=HTML&aged=0&language=EN&guiLanguage=en>.)

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NICARAGUA/HONDURAS – Opening of Common Border and Customs Integration

On February 15, 2005, Nicaraguan President Enrique Bolaños and Honduran President Ricardo Maduro signed a bilateral agreement to eliminate migratory and customs controls between the two countries. Henceforth, tourists and freight carriers will only pass through one joint customs office at the common border known as El Guasaule. Following the signing of the agreement, both Presidents opened the common border at a special ceremony at the border crossing point. (Amparo Aguilera, *Centroamérica Despeja Fronteras*, LA PRENSA, Feb. 16, 2005, at <http://laprensa.com.ni>.)

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UNITED NATIONS – Declaration Against Human Cloning

On February 21, 2005, the United Nations Legal Committee approved an international declaration recommending a ban on human cloning. It was approved by the General Assembly on March 8, 2005, with a vote of eighty-four in favor of the declaration, thirty-four against, and thirty-seven abstentions. The United Nations Declaration on Human Cloning asks all nations to adopt prohibitions on all forms of human cloning as incompatible with human dignity. The Legal Committee also called for the adoption of measures to protect human life in the application of life sciences and to ban the application of genetic engineering techniques that are contrary to human dignity. The participants generally had agreed on the desirability of a ban on human reproductive cloning, but nations debated the question of whether there should be a total ban or whether therapeutic applications should be approved. Belgium, which had supported permitting therapeutic applications, stated it would not be bound by a declaration that was so narrowly approved. Singapore argued that the debate had been dominated by those desiring a broad ban, while other states, such as Costa Rica, praised the vote as an advance in ethics. (*UN Committee Approves International Declaration Against Human Cloning*, UN NEWS SERVICE, Feb. 21, 2005, & *General Assembly Approves Declaration Banning All Forms of Cloning*, UN NEWS SERVICE, Mar. 8, 2005, both via email from news8@list.un.org.) (Constance A. Johnson, 7-9829, cojo@loc.gov)



RECENT DEVELOPMENTS IN THE EUROPEAN UNION

Prepared by Theresa Papademetriou, Senior Foreign Law Specialist, Western Law Division

Legislation on Combating Organized Crime

Organized crime is pervasive in Europe, ranging from illicit trafficking in drugs, piracy, counterfeiting, and illegal trade in arms and ammunition to trafficking in human beings, particularly women and children. Recently, the European Commission took a more aggressive stand towards organized crime through the introduction of a new proposal for a Framework Decision regulating organized crime. The proposal would repeal a prior joint action on this issue that lacked binding force. The proposal takes under consideration two existing important legislative measures: the EU Framework Decision of 2002 on Combating Terrorism and the 2000 United Nations Convention Against Transnational Organized Crime. It defines offenses broadly enough to cover not only acts committed by persons participating in a criminal organization, but also other acts, including providing material assistance to and recruiting new members for the organization. The proposal also sets minimum standards for criminal penalties. Thus, it provides that the act of directing an organization must be punished with at least ten years' imprisonment, while for other offenses the punishment must be at least five years. Under the proposal, the offenses covered by the Framework Decision will be prosecuted irrespective of initiation of a complaint by the victim(s). (*Press Release: Commission Adopts a Proposal for a Framework Decision on Combating Organized Crime*, Brussels, Jan. 27, 2005 at <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/05/207&format=HTML&aged=&language=en&guiLanguage=en>.)

Improved Rights of Passengers

In mid-February, the rights of all passengers, including the elderly and those with reduced mobility, who use all forms of transportation were greatly improved by three events. First, the European Commission adopted a plan of action to strengthen the rights of all passengers, including those using maritime and international coach transport. Second, it adopted two draft regulations on air transport: The first grants to people with reduced mobility the same access rights to transportation as any other passengers. Thus, no one may be refused the right to make a reservation or to board a plane because of disability or age. The other regulation ensures that all passengers have the right to be informed of the identity of their carrier and to information about the safety records of carriers. Third, certain rights for air passengers that had already been accorded entered into force on February 17, 2005. (*Press Release IP/05/182, Transport with a Human Face: New Rights for Passengers* (Brussels, Feb. 16, 2005, at <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/05/182&format=HTML&aged=0&language=EN&guiLanguage=en>.)

Implementation of the European Arrest Warrant

An evaluation report prepared by the European Commission indicates that the European Arrest Warrant, which was intended to replace extradition procedures among EU Members, is functioning in all Member States except Italy. Since the implementation of use of the Warrant, two important things have occurred: 1) the principle of non-extradition of nationals has become obsolete among EU Members. Most Members still require that the sentence be carried out in their territory; and 2) the average time to surrender a person who is either suspected or convicted of an offense has been reduced dramatically, from nine months to forty-five days. The Commission intends to introduce amendments,



if needed, upon further implementation of use of the Warrant. (Press Release: *The Commission Regards the Implementation of the European Arrest Warrant as a Success*, IP/05/207, Brussels, Feb. 23, 2005, at <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/05/207&format=HTML&aged=0&language=en&guiLanguage=en>.)

Commitment by Manufacturers of Plastic Products

A number of key players in the making of plastic items, including Cargill Dow (USA), Novamont (Italy), and Rodenburg Biopolymers (Netherlands), voluntarily agreed to start using environmentally friendly polymers in their products, thus ensuring their biodegradability. This initiative, which was encouraged and welcomed by the European Commission, will result in the following benefits: a) encouraging the development and use of new polymers, thus supporting innovative competitiveness; b) improving soil and water quality through high-quality compost; c) creating additional sources for farmers; and d) opening up new ways for waste management and recycling. (Press Release: IP/05/170, *Environmentally Friendly Plastic: Commission Welcomes Voluntary Commitment*, at <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/05/170&format=HTML&aged=0&language=EN&guiLanguage=en>.)

EU Constitution Update

On February 20, 2005, Spain ratified the EU Constitution by referendum. Seventy-seven percent of the voting public voted “yes,” while seventeen percent voted “no.” The total number of EU Member States that have ratified the Constitution thus far is four: Hungary, Lithuania, Slovenia, and Spain. In Italy, the Chamber of Deputies approved the draft ratification law on January 25, 2005, and the text is pending before the Senate. Most of the Members will ratify the Constitution through parliamentary procedure; the rest, including the Czech Republic, Denmark, France, Poland, and Portugal, will hold referenda. (The Future of the European Union; Debate, *available at* http://europa.eu.int/constitution/futurum/ratification_en.htm.)



**ISRAEL:
NEW DEVELOPMENTS REGARDING THE BARRIER IN THE WEST BANK**

Prepared by Ruth Levush, Senior Foreign Law Specialist, Eastern Law Division

The conflict surrounding the construction of the West Bank barrier seems to reflect the multiplicity of opposing positions and views of the parties and of the international community on the core issues of the Arab-Israeli conflict.

In 2002, Israel began the construction of a barrier along the West Bank region in what it proclaimed was an effort to protect the lives of its citizens from the terrorism perpetrated by Palestinian suicide bombers and other terrorists since September 2000. The construction of the barrier in various areas of the West Bank, among other measures, is viewed by Israel as having contributed to the recent drastic reductions in loss of life and injuries incurred through terrorist actions.

Palestinians strongly objected to the construction of the barrier, arguing that it negatively impacts their quality of life and that its real objective was in fact Israeli annexation of West Bank land that they view as part of their future State. On October 21, 2003, the UN General Assembly adopted a resolution that demanded that Israel stop construction and reverse the building of the barrier. After determining in its October 21, 2003, resolution that construction of the barrier was in violation of international law, the General Assembly proceeded to request the International Court of Justice (ICJ) to issue an advisory opinion regarding the consequences arising from the construction.

The ICJ issued its opinion on July 9, 2004. The majority opinion held that Israel was in breach of international humanitarian and human rights law and that repeated deadly terrorist attacks against Israel and Israelis originating from the West Bank do not create a right for Israel to self-defense. The ICJ majority opinion further ruled that the exercise of a right to self-defense does not apply against non-state perpetrators of terrorism. The ICJ held that Israel had not established grounds for the necessity of constructing the barrier.

The ICJ American judge, Judge Thomas Buergenthal, dissented, holding that the Court did not have before it the requisite factual basis for its “sweeping findings.” Judge Buergenthal further opined that the ICJ determination that a right to self-defense cannot be ascertained against non-state actors is “wrong.” He contended that military necessity and security needs, given the repeated deadly terrorist attacks on Israel and its people, can preclude wrongfulness if it is shown that the measures taken are proportional. According to Judge Buergenthal, the ICJ passed its judgment without examining any facts regarding the nature and scope of the deadly terrorist attacks to which Israel is exposed or the factual situation regarding specific segments of the wall, their defensive purpose, and related topographical considerations.

On July 20, 2004, shortly after the ICJ rendered its advisory opinion, the UN General Assembly passed a resolution demanding that Israel abide by the ICJ ruling to dismantle the barrier. The resolution passed by a vote of 150 to 6 (including the United States), with 10 abstentions.

The Israeli High Court of Justice made a different legal evaluation of the construction project. In its leading decision regarding the *Beit surik* case, rendered nine days before the ICJ rendered its opinion, the Court recognized the conflicting rights of both the Palestinian petitioners and the Israeli military. The Court held that international humanitarian law applied to the West Bank, but that the



military commander had a right to order the construction of a barrier in the area under belligerent occupation based on military considerations. The Court applied the rule of proportionality, balancing the harm caused by the construction against the military benefit it provides. Based on an evaluation of the specific evidence submitted by the petitioners, the Court accepted most petitions after determining that the harm alleged in these cases was not proportional to the benefit and could be minimized by a selection of alternative construction routes.

In an expressed effort to comply with the Court's requirement for balancing humanitarian considerations and security considerations, the Israeli Ministry of Defense prepared a revised map of the path of the barrier. The new map and guidelines were published on February 20, 2005. The approved plan calls for locating large portions of the barrier immediately adjacent to the 1949 General Armistice Line (popularly known as the "green line") and for the construction of local barriers around several settlements. The new path was generally approved by the Attorney General, except for the three enclaves of *Areil*, *Maale Adomim*, and *Gush Etsion*, located deep in the West Bank. The new plan also calls for the building of walls along Route 45 (northeast of Jerusalem) and Route 60 (from Jerusalem to *Gush Etsion*), thereby eliminating the former plan of encircling of Palestinian villages.

On February 23, 2005, the Israeli government officially expressed its reaction to the ICJ's ruling, regarding it as biased and non-binding. The government position was detailed in a brief requested by the Israeli High Court of Justice in response to separate petitions against construction of sections of the barrier near the Palestinian villages of *Shoqba* and *Budrus*. Attorneys for the State argued that the ICJ had based its decision on facts submitted by the UN Secretary-General which, they argued, were incomplete, general, inaccurate, and imbalanced. They further maintained that the ICJ had considered the legality of construction of the barrier in its entirety, rather than of each separate segment. The ICJ had therefore branded the entire project illegal on the basis of inaccurate facts regarding a small part of it. The State added that the ICJ had also not considered the changes that took place in the barrier's route following the Israeli High Court's landmark decision in the *Beit Surik* case.

In response to the petitions regarding *Shuqba* and *Budrus*, the State maintained that the barrier was a temporary security measure that had proved its efficiency by reducing the number of deaths by eighty-four percent and the number of injured by ninety-two percent since its construction. The State further maintained that the route proposed by the government met the criteria established by the High Court in the *Beit Surik* case. The State Attorney further stated that the final route of the barrier would include only eight percent of the West Bank and that the barrier was merely a temporary measure.

The petitions regarding *Shuqba* and *Burdus* are among several petitions submitted to the High Court involving other segments of the barrier. The Court has been reviewing the legality of the construction of the barrier in various places, based on the criteria it established in the *Beit Surik* case. For example, on February 3, 2005, the Court rejected a petition to change the route of the barrier in *Beit Lechem*; on February 23, 2005, however, it ordered the government to halt construction in the region of *Kfar Safa*, following complaints from local villagers. A decision in the *Shuqba* and *Burdus* case is expected shortly.

For a comprehensive review of the issue and legal resource citations, see *Israel's Construction of a Barrier in the West Bank: Legal Ramifications*, updated Report for Congress (LL File No. 2005-01685), now available from the Directorate of Legal Research by email at wsharp@loc.gov.

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