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Respectfully submitted,

Walter Gary Sharp, Sr.

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AFRICA

CAMEROON – Alleged Homosexuals Detained

Seventeen people, fifteen men and two women, have been detained for more than a month on allegations of homosexuality. They have been held at a police station in Yaonde, the capital of Cameroon. (*Seventeen Homosexuals Face Charges in Cameroon*, AFRONEWS, July 25, 2005, <http://www.afrol.com/articles/16834>.) They were arrested at a bar frequented by homosexuals. The seventeen were in court on July 26, 2005. They will face up to five years in prison if found guilty of homosexual activities. The police in Cameroon have recently cracked down on homosexuality, which is prohibited under the criminal laws of Cameroon. The Cameroon Penal Code criminalizes sexual contact with members of the same sex, whether male or female. The minimum penalty is six months in prison, but the maximum term, five years, is the likely sentence for the seventeen arrested in July. (Charles Mwalimu, 7-0637, cmwa@loc.gov)

GUINEA-BISSAU – Ex-Dictator Wins Presidential Election

The Guinea-Bissau electoral commission recently announced that former military ruler Joao Bernardo Vieira has won the run-off presidential election. EU observers declared the poll to be free and fair.

Vieira came to power in a coup in 1980 and ruled for over eighteen years until being overthrown in 1999 by the armed forces. He returned to Guinea-Bissau in April 2005, after six years of exile in Portugal. He ran as an independent candidate, campaigning among the country's young and unemployed. He received training in guerilla warfare in China and was a guerrilla commander in Guinea-Bissau's campaign for independence from Portugal. (*Country Profile: Guinea-Bissau*, BBC ONLINE, July 28, 20065, at http://news.bbc.co.uk/1/hi/world/africa/country_profiles/1043287.stm.) (Gustavo E. Guerra, 7-7104, ggue@loc.gov)

MADAGASCAR – Ratification of U.N. Convention Against Torture

On June 9, 2005, the National Assembly of Madagascar authorized the ratification of the U.N. Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. Madagascar only signed the 1984 Convention in 2001. According to the Minister of Justice, this ratification shows Madagascar's will to respect human rights. Substantial financing will be allocated to cover all the expenses to be incurred in connection with the implementation of the Convention. (Official website of the Malagasy National Assembly, at <http://www.assembleenationale.mg/fr/news.php?id=343> (last visited Aug. 12, 2005).) (Nicole Atwill, 7-2832, natw@loc.gov)

MAURITIUS – Protection of the Elderly

On May 7, 2005, Mauritius enacted the Protection of Elderly Persons Act (No. 16, 2005). The Law provides legal and administrative frameworks for greater protection of and assistance to the elderly in the country. Section 3 of the Law creates the Elderly Network, designed to ensure, promote, and sustain the physical, social, and economic protection of elderly persons. The Network advises the responsible minister on appropriate policies promoting the welfare of the elderly. The Law has also



established a Monitoring Committee, a national administrative and supervisory entity of various Elderly Persons Protection Units scattered throughout the country.

The Units are administrative bodies at the local level, and they organize public awareness and sensitization campaigns on the rights of the elderly, receive complaints from the elderly, apply to the courts for protection orders, and assist in making arrangements for admission of elderly persons to residential care homes. At the regional level, an Elderly Watch promotes the welfare of elderly persons, provides support to families, prevents abuse of the elderly, and also reports any abuses to law enforcement officials. (LEGAL SUPPLEMENT TO THE GOVERNMENT GAZETTE OF MAURITIUS, No. 44, May 7, 2005, at 315-327.)

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

EAST ASIA & PACIFIC

AUSTRALIA – Federal Control of Uranium Mines

On August 4, 2005, Australia's Commonwealth (Federal) government announced that it had taken over responsibility for approving all new uranium mines in the Northern Territory from the Territory government. In the interests of "bringing certainty to the uranium industry in the Northern Territory," federal Resources Minister Ian Macfarlane said that the government had no option but to act to end the "chaos and confusion" that followed the Territory government's refusal to approve new mines. Under a previous agreement with the Commonwealth, the Territory government had been responsible for regulating and approving mines, but ultimate control remained in the hands of the Commonwealth. Northern Territory Chief Minister Claire Martin denounced the Commonwealth move as "as big a political try-on as you'll ever see," while Member of Parliament Warren Snowdon, whose electorate includes the sites of proposed nuclear waste dumps, said that the Commonwealth had "fired the first shot in the dismembering of self-government in the NT."

Federal Minister Macfarlane said the government would approve mines anywhere in the Territory as long as they had the approval of indigenous landowners and met environmental standards. On August 10, 2005, Australian Foreign Minister Alexander Downer announced that formal negotiations on a nuclear cooperation deal with China were beginning. Australia has about twenty-eight percent of the world's uranium reserves and the price of uranium has trebled in the past two years. Stock prices of Australian uranium mining companies have increased by as much as fifty-five percent in one week. (*Australia Set to Cash in on Uranium*, THE AGE (Melbourne), Aug. 5, 2005, available at <http://theage.com.au>; *Howard Seized NT Uranium & Uranium Exports to China on the Table*, THE AUSTRALIAN, Aug. 10 & 17, 2005, respectively, available at <http://www.theaustralian.news.com.au/>.) (Donald R. DeGlopper, 7-9831, ddeg@loc.gov)

AUSTRALIA – Rape and Indigenous Law

A sexual assault case in Australia's Northern Territory has generated calls for changes in the treatment of indigenous law by the territory's courts. Early in August 2005, the Northern Territory Supreme Court heard a case in which a fifty-five-year-old aboriginal man from a remote community was convicted of aggravated assault and sex with a child. Under traditional customs, the fourteen-year-old girl had been betrothed to the man at the age of four. In response to rumors that she might have



had a sexual relationship with a young man, the elder struck her with a boomerang and forced her to have sex. The Court sentenced him to one month in jail for the attack. The Chief Justice said it was a difficult decision, because the man genuinely believed his actions were permitted under traditional law, and he had a great deal of sympathy for the difficulties the offender had in moving between traditional culture and Territory law.

Indigenous academic Boni Robertson, who headed a 1998 inquiry into violence in indigenous communities in Queensland, said on August 18, 2005, that the decision was “a disgrace” and “no deterrent whatever” to indigenous men who thought they could violate women. Linda Burney, the first aboriginal woman to be elected to the New South Wales Parliament, said that aboriginal law needed to change and respect fundamental human rights principles. On August 19, 2005, the Northern Territory Director of Public Prosecutions announced his plans to appeal the sentence, while the Territory’s Chief Justice said that remote indigenous communities needed to be informed about Northern Territory law and, if necessary, to reconcile their law with the Territory’s law. (Australian Broadcasting Corporation, *DPP to Appeal Traditional Elder’s Child Sex Sentence*, ABC ONLINE, Aug. 19, 2005, [http://www.abc.net.au/news/.](http://www.abc.net.au/news/))

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

CHINA – Arrests for Alleged Spying

Chinese authorities formally acknowledged on August 5, 2005, that they had charged Ching Cheong, chief correspondent for China for Singapore’s *Straits Times* newspaper, with espionage. The official Chinese news agency Xinhua said that Ching had received several million dollars for spying for Taiwan’s National Security Bureau since early 2000; had established “a number of channels of espionage” in mainland China and Hong Kong between that time and March 2005 under the instructions of Taiwan intelligence; and had used the millions to buy political, economic, and military information. Ching, a Hong Kong permanent resident, had been arrested in Guangzhou on April 22, 2005, but it was not until late May that the Ministry of Foreign Affairs announced that he was being held on charges of espionage. He had reportedly been attempting to obtain recordings and transcripts of secret interviews given by the late Chinese Communist Party leader, former Prime Minister Zhao Ziyang, who had been under house arrest since 1989. (Chris Yeung, *A Body Blow to Progress*, SOUTH CHINA MORNING POST, Aug. 15, 2005, & Norma Connolly, *Newspaper Correspondent Ching Cheong: A Five-Minute Primer on an Issue Making Headlines*, SOUTH CHINA MORNING POST, Aug. 14, 2005, LEXIS/NEXIS, News Library, 90days File; AFP: *China Charges HK Journalist with Spying for Taiwan*, AFP, Aug. 5, 2005, Foreign Broadcast Information Service online subscription database.)

Under China’s Criminal Law, persons convicted of spying, even if the offense is relatively minor, face from three to ten years of fixed-term imprisonment; if the offense is not minor, conviction will entail at least ten years or life imprisonment. If a crime endangering national security is “especially serious,” the death penalty may be imposed. (WEI LUO, *THE 1997 CRIMINAL CODE OF THE PEOPLE’S REPUBLIC OF CHINA: WITH ENGLISH TRANSLATION AND INTRODUCTION* 112-113 (1998).) There is speculation that even if Ching is convicted, he might be released on medical parole or deported to Hong Kong, particularly in view of the fact that Singapore’s Prime Minister Lee Hsien Loong is to visit China in October. (Gary Cheung, *Glimmer of Hope for Ching Cheong: Singaporean Leader’s Visit to Beijing May Prompt Early Release for the Journalist Accused of Spying for Taiwan*, SOUTH CHINA MORNING POST, Aug. 22, 2005, LEXIS/NEXIS, News Library, 90days File.)



In a similar but separate case, Xie Chunren, an American business executive who was born in China, was detained on May 31, 2005, upon arriving in Sichuan Province. He was placed under residential surveillance in a state security-run “guesthouse” in Chengdu, the capital city of Sichuan, under suspicion of conducting espionage for Taiwan. As Chinese law expert Jerome Cohen has observed, if Mr. Xie were held under regular criminal detention, the authorities would have thirty-seven days to decide whether to issue a formal warrant that might lead to prosecution. By detaining him under the ostensibly milder residential surveillance, they can keep him in custody for six months. (Chris Buckley, *China Has Arrested American on Suspicion of Spying for Taiwan*, THE NEW YORK TIMES, Aug. 19, 2005, at 10, & *US Businessman Arrested in China for Spying*, AFX INTERNATIONAL FOCUS, Aug. 19, 2005, LEXIS/NEXIS, News Library, 90days File.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

CHINA – Lending to Small Enterprises

On July 28, 2005, the China Banking Regulatory Commission issued a long-awaited Directive on Banks Carrying Out the Business of Lending to Small Enterprises, to encourage Chinese banks to lend to small enterprises and to promote product innovations and improvements in risk control. Until now, it has been difficult for small enterprises to obtain loans; less than thirty percent of their financing needs are met, even though such enterprises reportedly contribute about sixty percent of China’s gross domestic product and sixty percent of exports and employ seventy-five percent of the workforce. Under the Directive, “small enterprises” are defined as small-scale enterprises (*xiaoxing qiye*) and individual proprietorships (*geti jingying hu*) of all types of ownership and organizational form. The standards for demarcating small-scale enterprises are based on provisions of other relevant regulations.

The liberalization of interest rates in October 2004 apparently made issuance of the Directive more practicable, in view of the risks involved in lending to small enterprises. While industry analysts stated that the new guidelines will enhance government support for the development of small- and medium-sized enterprises, a financial expert with the Chinese Academy of Social Sciences contends “its impact is likely to be limited,” since banks that are willing to conduct such business are already doing so. More important, in his view, is for the banks to establish a risk-based pricing system now that the interest-rate ceiling has been removed. (*Lending to Small Enterprises Encouraged*, 27 ISINOLAW WEEKLY (July 25-31, 2005), received from webmaster@isinolaw.com; *China Daily: Banks to Loan More to Small Companies*, CHINA DAILY, July 22, 2005, Foreign Broadcast Information Service online subscription database; *Yinhang Kaizhan Xiao Qiye Daikuan Yewu Zhidao Yijian* [Directive on Banks Carrying Out the Business of Lending to Small Enterprises], July 28, 2005, WWW.LAW-LIB.COM, http://www.law-lib.com/law/law_view.asp?id=95799.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

CHINA – Measures Support Exchange Rate Reform

China’s currency, the *yuan*, had been tied to the United States’ dollar at a set rate of about 8.27 to 1 for many years, until the Chinese Government appreciated the value of its currency on July 21, 2005. On August 10, 2005, the People’s Bank of China (PBC) announced that the value of the *yuan* would be determined in reference to a basket of currencies consisting of the dollar, the *euro*, the Japanese *yen*, and the *won* of the Republic of Korea (South Korea). The *yuan* has begun to fluctuate slightly against the dollar, moving a small amount up and down in value in the first few weeks.



On August 8, 2005, the PBC issued the Notice on Relevant Issues Concerning Accelerating Development of the Foreign Exchange Market. It permits a broader range of institutions to participate in the inter-bank foreign exchange market. Non-financial enterprises may enter into the market if their cross-border foreign exchange income and expenditures in the previous year exceeded US\$2.5 billion or if the total value of goods they exported and imported was more than US\$2 billion. Financial institutions other than banks, such as insurance companies, securities companies, trust companies, and fund management companies, may also enter the foreign exchange market, as long as they have enough registered capital and satisfy some other criteria.

The State Administration of Foreign Exchange also took related steps, raising the limits on both the size of foreign currency accounts of domestic institutions and the amount of foreign currency an individual may acquire for his or her own use. Experts have warned that Chinese banks and enterprises will face more risk following the exchange reform and suggested that changes be made in financial management, product development, and marketing to meet the challenge. (*China Deepening Reform of RMB Exchange Rate*, ISINOLAW, Aug. 16, 2005, subscription service, at <http://www.isinolaw.com>; *China Significantly Deregulated Foreign Exchange Market*, ISINOLAW WEEKLY (Aug. 8-14, 2005), received from webmaster@isinolaw.com.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

CHINA – Personal Income Tax Law Being Amended

The National People's Congress Standing Committee (NPCSC) of the People's Republic of China (PRC) began deliberations on two draft amendments to the Law on Personal Income Tax on August 23, 2005. Experts view the revision as an attempt to narrow the widening gap between the PRC's rich and poor. At present, the country's Gini Coefficient (a measurement of income equality accepted around the world) is at 0.447; a Gini above 0.4 is considered to indicate an excessively broad gap. Finance Minister Jin Renqing told NPCSC members that the main reasons for amending the Law were rising incomes and higher living costs, noting that between 1993 and 2003 the consumer price index in China rose by sixty percent.

One of the amendments would raise the threshold for monthly tax collection from 800 *yuan* (about US\$99) to 1,500 *yuan* (about US\$185). If adopted, this new threshold would become standard throughout the country; at present, local governments impose different minimum taxable income levels. The other amendment would require those in high-income brackets to file their own tax returns (instead of having their employers handle it) and impose fines on violators. Statistics indicate that in 2004, the country's 300 million wage earners contributed sixty-five percent of the 170 billion *yuan* (US\$21 billion) of the PRC's personal income tax revenue, even though twenty percent of the population possesses eighty percent of the wealth. As one PRC tax expert noted, "the rich always have had more than one income source and more opportunities to evade taxes," in contrast to the wage earners, who typically only have one income source and whose taxes are often withheld in advance by their employer. (*China Revises Law on Personal Income Tax*, CHINA VIEW, Aug. 24, 2005, http://news.xinhuanet.com/english/2005-08/24/content_3394381.htm; *PRC Tax Amendments to Ease Burden on Low Earners, Catch Dodgers*, SOUTH CHINA MORNING POST, Aug. 24, 2005, & *China to Amend Income Tax Law to Ease Tax Burden on Poor*, THE STRAITS TIMES (Internet Version), Aug. 24, 2005, Foreign Broadcast Information Service online subscription database.) (Wendy Zeldin, 7-9832, wzel@loc.gov)



CHINA – White Paper on Gender Equality

On August 24, 2005, the Information Office of China's State Council (Cabinet) issued a white paper on "Gender Equality and Women's Development in China," to commemorate the tenth anniversary of the Fourth U.N. World Conference on women. The document has nine main sections, covering state mechanisms to promote gender equality and women's development; the status of women in relation to the economy, poverty elimination, participation in decision-making and management, education, health, marriage and the family, and the environment; and legal guarantees of women's rights and interests. The white paper states that China now has a complete set of laws and regulations to protect women's rights and promote gender equality, having enacted and revised in the last decade the Marriage Law, the Population and Family Planning Law, the Law on Rural Land Contracting, and the Law on Protection of Rights and Interests of Women and having promulgated and implemented more than 100 related rules and regulations. Moreover, as of the end of 2004, twenty-two provincial-level administrative units had formulated policies, rules, and measures against domestic violence. The document notes that women's role in the management of state and social affairs has been strengthened: e.g., the National People's Congress Standing Committee has three vice chairwomen and the State Council has a female vice premier and a female state councilor. (*China Issues White Paper on Gender Equality*, CHINA VIEW, Aug. 24, 2005, http://news.xinhuanet.com/english/2005-08/24/content_3395419.htm; *Gender Equality and Women's Development in China*, CHINA VIEW, Aug. 24, 2005, http://news.xinhuanet.com/english/2005-08/24/content_3396107.htm.)

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

HONG KONG – Homosexual Age of Consent

It was reported on August 24, 2005, that the High Court of Hong Kong ruled in favor of a twenty-year-old homosexual man who claimed that the law discriminated against gay men because it prohibits homosexual sex until the age of twenty-one, in contrast to age sixteen for heterosexuals. The court agreed that the existing law was inconsistent with the Basic Law of the Hong Kong Special Administrative Region and the Bill of Rights. The government plans to review the court's decision and continue to consider the views of various sectors of the Hong Kong community. (*Hong Kong Man Wins Court Victory over Homosexual Age of Consent*, RTHK RADIO 3 (Internet version), Aug. 24, 2005, Foreign Broadcast Information Service online subscription database.)

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

INDONESIA – Government and Rebels Sign Accord

On August 15, 2005, Indonesian Justice and Human Rights Minister Hamid Awaluddin and exiled rebel leader Malik Mahmud signed a peace accord in Helsinki, Finland. The pact is designed to end the three-decades-old armed conflict in the Indonesian province of Aceh that has taken the lives of about 15,000 people. Former Finnish president Martti Ahtisaari mediated seven months of talks leading up to the agreement.

The Free Aceh Movement, or GAM, has agreed to disarm, to demobilize its 3,000 troops, and to renounce its demands for full independence. In return, GAM members will be given amnesty, the creation of political parties in the province will be permitted, and non-local security forces will



withdraw by the end of the year. Political prisoners will be released. Peace monitors from the European Union and the Association of South East Asian Nations (ASEAN) will track the disarmament process, scheduled to start on September 15. (*Aceh Treaty to End Thirty-Year War*, THE ADVERTISER (Helsinki), Aug. 16, 2005; *Australia “Cautiously Optimistic” over Aceh Peace*, AGENCE FRANCE PRESSE, Aug. 16, 2005; both from LEXIS/NEXIS, Asiapc Library, Curnws File; *Aceh Accord Explained*, ABC ASIA PACIFIC NEWS IN FOCUS (Australia), Aug. 16, 2005, <http://abcasiapacific.com/news/infocus/s1438843.htm>.)

(Constance A. Johnson, 7-9829, cojo@loc.gov)

JAPAN – DNA Database for Criminal Investigation

Beginning in September 2005, the National Police Agency will add to a database DNA pattern information on suspects and bodies who have not been identified. The Agency has started to build up a DNA pattern database from information taken from materials left behind at crime scenes since December 2004. (*Keisatsuchō: Yōgisha no DNAgata dēta bēsu, raigetsu tsuitachi kara un’yō* [National Police Agency: Suspects’ DNA Pattern Database, Maintained from the 1st Day of Next Month], MAINICHI SHINBUN, Aug. 18, 2005, available at http://www.mainichi-msn.co.jp/shakai/wadai/news/20050818_dde041040075000c.html.)

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JAPAN – Smaller Class Size Postponed

There have been efforts to reduce the number of pupils per class in elementary and middle schools in Japan. Currently, forty is the maximum number per class under the Law Concerning Standards of Class Formation and Number of Teachers in Public Schools for Mandatory Education (art. 3, ¶ 2, Law No. 116, 1958, as amended). The Ministry of Education had planned to reduce the number of pupils to thirty-five per class from April 2006. However, the budget could not support the plan. Since local governments also have made efforts to institute smaller classes, some schools have already reduced class size to between thirty and thirty-five pupils. (*Shōninzū gakkū miokuri* [Small Classes Postponed], YOMIURI SHINBUN, July 31, 2005, available at <http://www.yomiuri.co.jp/politics/news/20050730i201.htm>.)

(Sayuri Umeda, 7-0075, sume@loc.gov)

KOREA, SOUTH – First Authorized Embryonic Stem Cell Research

For the first time since the enactment of the Act on Bioethics and Safety in 2004, the Ministry of Health and Welfare has authorized a research project on human embryonic stem cells. The Ministry made a final decision to authorize Maria (Mary) Biotechnology Institute (MBI) to conduct the project, “Development of Technology to Make Bio-Organs,” according to the deliberations of the National Bioethics Review Committee. Twenty-seven research institutes currently have filed applications to be authorized to conduct research on human embryos.

The research centers on making a human embryonic stem cell from frozen embryos and dividing and developing it to produce different types of cells, in order to find out if it can be used as a cure for diseases such as Parkinson’s disease or Alzheimer’s disease. Unlike the research done by Woo-Seok Hwang, which used somatic cell nucleus-transfer embryos, MBI will use frozen embryos.



Since in this case frozen embryos that at present cannot produce a cloned human being are used, some of the ethical concerns that might arise in other cases are not at issue. (*Pae'a yeõn gu jõng bu chõt sũng in* [First Authorized Embryonic Stem Cell Research], CHOSUN ILBO, July 31, 2005, at <http://www.chosun.com/economy/news/200507/200507310324.html>.) (Jung Hwa Lee & Sayuri Umeda, 7-0075, sume@loc.gov)

KOREA, SOUTH – Punishment for Taking Custody of a Missing Child Without Reporting It

Any individual or social welfare organization that takes custody of a missing child (or a child who voluntarily left his/her home) and that, without justification, does not report the action to the local police or government will be punished with up to five years of imprisonment or a fine of up to thirty million *won* (about US\$30,000) if the child is either under fourteen years of age, mentally retarded, or ill.

The Act to Protect and Support Missing Children, which will be in effect from December 2005, defines finding missing children as an important duty of the government and, therefore, grants government officials and police officers the authority to investigate a residence of an individual or a social welfare organization to find missing children. Refusing access or interference in the investigation can be punished with up to two years of imprisonment or a fine of up to ten million *won* (about US\$10,000). (*Sil chong õrin'i sin'go õpsi poho hamyõn chõbõl* [Punished If Take Custody of Missing Children Without Reporting], CHOSUN ILBO, Aug. 1, 2005, at <http://www.chosun.com/national/news/200508/200508010411.html>.) (Jung Hwa Lee & Sayuri Umeda, 7-0075, sume@loc.gov)

TAIWAN – Companies to Implement EU Environmental Regulations

Taiwan's Ministry of Economic Affairs (MOEA) announced on August 9, 2005, that, in order to improve the island's competitiveness, the Ministry will send experts to help domestic small- and medium-sized companies (SMEs) conform with the European Union's environment-friendly regulations. The latter include, most notably, the Directive on Waste Electrical and Electronic Equipment (WEEE) and the Directive on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (RoHS). These guidelines require companies to supply non-hazardous and energy-saving equipment that can be recycled. (A summary of the Directives is available in UK Department of Trade and Industry, *EC Directive on Waste Electrical and Electronic Equipment (WEEE) and EC Directive on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (RoHS)*, http://www.dti.gov.uk/sustainability/weee/#Summary_of_the_WEEE_and_RoHS_Directives (last visited Aug. 23, 2005); see also "Recent Developments in the European Union," below.)

An MOEA survey indicates that thirty-seven percent of Taiwanese manufacturers are not in compliance with the WEEE Directive and thirteen percent fail to comply with the RoHS Directive. The MOEA's Small and Medium Enterprise Administration will not only send experts to the SMEs to show them how to improve conformance but will also hold seminars to help them upgrade their competitiveness. (*MOEA to Help Taiwan Cos Implement EU's Environmental Regulations*, YAHOO! SINGAPORE FINANCE: ONLINE CURRENCY TRADING, Aug. 10, 2005, <http://sg.biz.yahoo.com/050810/16/3u41z.html>.) (Wendy Zeldin, 7-9832, wzel@loc.gov)



TAIWAN – Foundation Calls for Law to End Corporal Punishment

The Humanistic Education Foundation of Taiwan is calling for legislation to ban physical punishment of children. The Secretary-General of the organization, Hsiao Yi-min, stated that the foundation is going to campaign for the end of corporal punishment, beginning with schools. The law would later be amended to extend the ban to other institutions and to families. The goal is to make Taiwan a place in which no children are ever punished physically.

The Foundation released a report on August 6, 2005, that stated that more than half the students in primary and junior high schools in Taiwan experienced some form of corporal punishment in 2004. The organization is recommending that legislators use Sweden as a model in banning physical punishment. (*Foundation Wants Taiwan to Be Free from Corporal Punishment*, CENTRAL NEWS AGENCY, Aug. 7, 2005, LEXIS/NEXIS, Asiapc Library, Curnws File.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

VIETNAM – Final Stage of WTO Talks

Vietnam has completed ten multilateral rounds of World Trade Organization (WTO) negotiations, concluded talks with twenty bilateral partners, and is now entering the final stage of the process of formally joining the WTO, according to deputy trade minister Luong Van Tu. Mr. Tu is head of the Vietnamese Government's delegation to the negotiations. He stated on August 22, 2005, at a two-day seminar on the challenges facing Vietnam in its regional integration strategy, that the mid-September round of multilateral talks will be "very important and decisive" for Vietnam. Mr. Tu noted that the early conclusion of talks with the European Union had had a positive impact on Vietnam's negotiation process, and he did not foresee any major obstacles in the talks with remaining partners. Negotiations with the United States and Australia, he said, were "going smoothly." (*Vietnam Enters Final Stage of WTO Talks Next Month*, THANH NIEN DAILY, Aug. 23, 2005, <http://www2.thanhniennews.com/politics/?catid=1&newsid=8706>.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

EUROPE

BELARUS – Tobacco Control Extended

On August 17, 2005, the Government of Belarus adopted a plan for implementation of the World Health Organization (WHO) Framework Convention on Tobacco Control, joined by Belarus on June 14, 2005. The plan is aimed at coordinating the work of the Health Ministry, Tax Ministry, Trade Ministry, Information Ministry, State Customs Committee, and state-owned food holding company Belarus Food Industries in addressing and reducing the use of tobacco. The adoption of this plan demonstrates Belarus' commitment to implement provisions of this first public health treaty, which recognized the tobacco epidemic as a global concern with serious consequences for public health and is designed to promote multilateral cooperation and national actions to reduce the growth and spread of tobacco use among all 190 WHO Member States. According to the implementation plan, Belarus will adopt legislative, executive, and administrative measures providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, and other indoor public places. Measures to



control and regulate the composition of and emissions from tobacco products are also foreseen. A special set of rules specifies tobacco packaging and labeling, stating that each packet will carry a health warning that cannot be less than thirty percent of the principal display area. A comprehensive ban on tobacco advertisement will gradually be introduced during the next five years. A domestic agency on tobacco control will be established and financed by the government. (*Belarus to Implement WHO's Framework Convention on Tobacco Control*, PRIME-TASS BELARUS NEWSWIRE, Aug. 17, 2005, http://site.securities.com/doc.html?pc=RU&doc_id=85737328&query=law&hlc=ru.) (Peter Roudik, 7-9861, prou@loc.gov)

FRANCE – Re-Use of Public Sector Information

Decree 2005-650 of June 6, 2005, implements Directive 2003/98/EC of November 17, 2003, on the Re-Use of Public Sector Information. Public bodies collect, produce, reproduce, and disseminate documents to fulfill their public tasks. Use of these documents by third parties constitutes re-use.

The Decree provides that re-use of public sector information is conditioned upon guaranteeing its non-alteration and the acknowledgement of the source and date of last upgrade. The Decree further prohibits exclusive agreements between the public sector bodies holding the documents and third parties, unless such agreements are necessary to the exercise of a public service mission. The public sector may charge a fee for the re-use of the information. To set the fee, the public body may take into account the costs of collecting, producing, and disseminating documents, together with a reasonable return on investment. A license must be granted when a fee is charged.

The re-use of public information containing personal data is subject to the Law of January 6, 1978, on Data Processing and Liberties, which contains several provisions aimed at protecting individuals' privacy. The Decree also creates an independent commission to see that the re-use of public sector information resources conforms to the Decree provisions. (Decree 2005-650, June 6, 2005, JOURNAL OFFICIEL, June 7, 2005, at 10022.) (Nicole Atwill, 7-2832, natw@loc.gov)

GEORGIA – Tax Amnesty

On August 1, 2005, the period for legalization of shadow incomes expired in Georgia. In accordance with the Law on Amnesty and Undeclared Tax Revenues and the Legalization of Property, passed in December 2004, from May 1 to August 1, 2005, Georgian citizens eligible for tax amnesty could register their property or transfer monetary deposits to local commercial banks and legalize their incomes without paying a penalty or taxes. Because the amounts legalized through this financial amnesty were insignificant, on August 8, 2005, the government extended the amnesty period until December 31, 2006. However, during this period the legalization of property and monetary resources has to be conducted at tax authority offices, and eligible individuals are subject to a one percent tax on the value of the amounts or property declared. Legal entities are exempt from this tax and released from all old tax debts. It appears that tax agencies will register the data and issue certificates on legalization of assets upon being presented with the declaration and the receipt for the payment of the one percent tax. Independent analysts doubt the efficacy of this measure, because financial structures are not considered trustworthy in Georgia. (*Financial Amnesty in Georgia*, NEW EUROPE, Aug 22, 2005, http://site.securities.com/doc.html?pc=RU&doc_id=85943856&query=law&hlc=ru.) (Peter Roudik, 7-9861, prou@loc.gov)



GERMANY – Limits on Acoustic Surveillance

In a decision of August 9, 2005, the German Supreme Court held that a recording of the soliloquy of a patient in a hospital bed could not be used as evidence in a criminal proceeding, because this form of acoustic surveillance violates the highly personal core of privacy of the overheard individual (docket number 1 StR 140/05). A convicted murderer who in his hospital bed had said to himself, “I should have shot him in the head,” had brought the case.

In this decision, the Supreme Court follows a landmark decision of March 3, 2004, of the Federal Constitutional Court (docket number 1 BvR 2378/98) that invalidated the then effective version of section 100 c of the Code of Criminal Procedure (Strafprozessordnung, repromulgated Apr. 7, 1987, BUNDESGESETZBLATT (BGBl) I at 1074, as amended through Gesetz, May 4 1998, BGBl I at 845). The provision had introduced the acoustic surveillance of the dwellings of suspects, after more than a decade of intense controversy on the subject. The Federal Constitutional Court held that certain core areas of privacy must be respected when the suspect is being overheard in his home. In keeping with these instructions, the legislature has since then amended section 100 c of the Code of Criminal Procedure that is currently in effect in a version that was enacted on June 24, 2005 (BGBl, I at 1841). (Edith Palmer, 7-9860, epal@loc.gov)

GERMANY – Preventive Telecommunications Surveillance by State Police Unconstitutional

In a decision of July 27, 2005 (docket number 1 BvR 668/04), the Federal Constitutional Court struck down a provision of the Police Act of the state of Lower Saxony that permitted telecommunications surveillance for the purpose of preventing crimes (Gesetz über die öffentliche Sicherheit und Ordnung, Feb. 20, 1998, NIEDERSÄCHSISCHES GESETZ- UND VERORDNUNGSBLATT (Nds GV) 101, as last amended by Gesetz, Sept. 16, 2004, § 33 a, ¶ 1, nos. 2 and 3). The provision had authorized the state police to monitor and record communications of individuals about whom facts were known indicating that they would commit serious crimes. This authorization also extended to the contacts of the prospective criminals.

The Court held that the wording was too vague and thereby violated the constitutional guarantee of the privacy of telecommunications and the mail (Basic Law, May 23, 1949, BUNDESGESETZBLATT 1, as amended, art. 10). Moreover, the Court held that the provision infringed on the exclusive powers of the Federation to legislate on criminal procedure (Basic Law, art. 74 ¶ 1, no. 1), because the recorded communications could later be used for pretrial investigations. (Edith Palmer, 7-9860, epal@loc.gov)

ITALY – Judge Rules Wearing Burqa Legal

On August 15, 2005, a judge in the northern Italian city of Treviso dismissed charges brought against a Bangladeshi woman who was arrested on September 23, 2004, for wearing a burqa in public. She had been charged with violation of article five of Act 152/1975, a law passed to increase penalties for robbery or other crimes by people who concealed their faces with motorcycle helmets or masks. Although the new counter-terrorism package passed by Italy’s Parliament on July 31, 2005, as Act 155/2005 increased the penalties for concealing one’s face, the Treviso judge ruled that wearing a



garment such as a burqa was no offense unless the wearer refused to show their face at the request of the police. (*Wearing a Burqa Is No Crime*, LA REPUBBLICA (Rome), Aug. 15, 2005, & *Italy Includes Headscarf Ban in Anti-Terror Decree*, ROME RAI TRE Television Network, July 29, 2005, as translated by Foreign Broadcast Information Service online subscription database.)
(Donald R. DeGlopper, 7-9831, ddeg@loc.gov)

MOLDOVA – Death Penalty Moratorium

On August 17, 2005, the Government of Moldova approved a regulation aimed at implementing recently adopted constitutional amendments, which provide for the abolition of the death penalty but are not yet in force. Article 24 of the Moldovan Constitution, which guaranteed the right to life and physical and mental integrity, allowed the imposition of capital punishment if it was foreseen by law and based on a court sentence. The Criminal Procedure Code of Moldova does not include the death penalty in the list of prescribed punishments. The death penalty has not been applied during the fourteen years since Moldova declared its independence. The amendment explicitly prohibits the death penalty and brings the Constitution into accord with existing practice and into compliance with the protocols of international conventions on human rights ratified by Moldova. Because formal amendment of the Constitution is a lengthy process, the government introduced a moratorium on national legislation on capital punishment and the imposition of the death penalty, even in exceptional cases. (*Moldovan Government Initiates Ban on Death Penalty*, BBC MONITORING, Aug. 18, 2005, http://site.securities.com/doc.html?pc=MD&doc_id=85863696&query=law&h;c=en.)
(Peter Roudik, 7-9861, prou@loc.gov)

NETHERLANDS – Poultry Ordered Indoors

A temporary regulation, which took effect on August 22, 2005, will require Dutch poultry farmers to keep their fowl indoors until the end of 2005. The Netherlands Agriculture Minister Cees Vreeland promulgated the regulation to reduce the risks of infecting domestic birds with avian influenza, which may be spread by migratory birds and their droppings. Further consultations with owners of pet poultry and organic free-range fowl were planned. (*Poultry to Be Kept Indoors from 22 August*, Government of the Netherlands Internet site, Aug. 22, 2005, <http://www.government.nl/index.jsp>.)
(Donald R. DeGlopper, 7-9831, ddeg@loc.gov)

NORWAY – Protocol on Abolition of Death Penalty Ratified

On August 16, 2005, Norway ratified Protocol No. 13 to the European Human Rights Convention, on the abolition of the death penalty. The new protocol establishes an absolute ban on capital punishment. The existing protocol had allowed for the use of the death penalty for crimes committed in war or under the threat of war. Norway abolished the death penalty in all circumstances in 1979. The ratification of Protocol No. 13 means that the European Court of Human Rights in Strasbourg, France, can make binding decisions in cases where Norway is accused of violating the protocol. (Ministry of Foreign Affairs, *Norway Ratifies Protocol on the Abolition of the Death Penalty*, Press Release No 130/05, Aug. 16, 2005, available at <http://www.odin.dep.no/ud/english/news/news/032001-070376/dok-bn.html>.)
(Linda Forslund, 7-9856, lifo@loc.gov)



SCOTLAND – Proposed Change in Sex Offenders Law

An individual who had been released on bail in Scotland to await a trial on charges of sexually molesting three young girls allegedly abducted and killed an eleven-year-old boy the day before he was due in court. The long delay in the bail process meant that the police were unaware of the individual's past conduct during the investigation of the boy's abduction. Scottish Ministers have stated that this case will result in an investigation of the use of bail for suspects charged with serious offenses against children and that public safety needs to be carefully weighed against individual rights when bail decisions are made. (Paul Kelbie, *Law over Sex Offenders to Change After Suspect Kills Boy While on Bail*, INDEPENDENT (London), Aug. 31, 2005, at <http://news.independent.co.uk/uk/legal/article309204.ece>.)

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

SWEDEN – New Abortion Legislation Proposed

The National Federation of Social Democratic Women (hereinafter *S-kvinnor*) is demanding that the Swedish law on abortion be amended to enable women from countries where abortion is illegal to come to Sweden to have abortions. Under the current legislation, only women who are Swedish citizens, have residence in Sweden, or are seeking asylum in Sweden have the right to have an abortion in Sweden. *S-kvinnor* argues that the current legislation differentiates inconsistently between abortion-care and other medical care for foreign citizens. According to *S-kvinnor*, an abortion must be likened to emergency care and offered to foreign citizens in the same manner as other care would be offered to them. Many European countries have strict abortion laws and women therefore travel to other countries to have the procedure. Currently doctors in Jönköping, Sweden, are being investigated for having performed abortions on women who were not eligible under the abortion law.

The Swedish Government is due to revise the abortion law and will be proposing new legislation in December 2005. *S-kvinnor* is demanding a quick amendment to guarantee all women, irrespective of the laws in their home countries and where they live, the right to an abortion in Sweden. (Henrik Brors, *S-kvinnor Kräver att Abortlagen Ändras*, DAGENS NYHETER, Aug. 22, 2005, available at <http://www.dn.se/DNet/jsp/polopoly.jsp?d=1042&a=452861&previousRenderType=6>.)

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

UKRAINE – Computer Spam Prohibited

On August 9, 2005, the Government of Ukraine approved new rules for provision and receipt of telecommunications services. The document was adopted to implement the Law on Telecommunications and to determine the common responsibility of Internet users. The rules prohibit ordering and organizing spam mailings and impose restrictions on companies employing this method of advertising.

The resolution defines spam as electronic messages not ordered by users and that are widespread or do not contain the authentic, complete name and postal or e-mail address of the entity that sent the messages or ordered them sent, or messages that the users cannot stop receiving upon request. Additionally, the rules ban the use of another person's network identifiers, counterfeit



identifiers, or non-existent identifiers. Activities aimed at disrupting the work of any Internet component or hindering the work of other Internet users or of the normal functioning of an operator's or provider's equipment are also outlawed. Violators of the rules will be taken to court and held administratively liable. (*Kabinet Ministriv Zachinue Ohranichennia do Spamu*, UKRAINIAN NEWS – TELECOM WEEK, Aug. 21, 2005, <http://www.ukranews.com/cgi-bin/openarticle.pl?lang=ukr&id=655634&lenta=po>.)

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

UNITED KINGDOM – Terrorism Law Proposals Respond to London Bombings

In response to the London bombings that occurred in July 2005, Prime Minister Tony Blair issued a press statement that outlined a series of legislative and administrative measures to tackle extremism. The measures include:

- Memoranda of understanding with a number of countries whose human rights records currently make it legally impossible for suspected international terrorists to be deported to them;
- New criteria for the deportation and exclusion of individuals from the United Kingdom to cover those who foment, glorify, justify, or advocate terrorism or serious criminal activity, provoke others to commit acts of terrorism or serious crime, advocate the use of violence to further particular beliefs; and “foster hatred which may lead to intra-community violence in the United Kingdom”;
- Expansion of British anti-terrorism legislation to include a new offense of condoning or glorifying terrorism;
- Permitting *in-camera* pre-trial procedure, based on the French inquisitorial system, to be overseen by special judges who possess security clearances, which will, in turn, permit the longer detention of terrorist suspects and the use of sensitive information and telephone-tap evidence, currently cited as a problem in the failure to prosecute individuals who were previously indefinitely detained;
- A new power to close places of worship that are used as centers for fomenting extremism.

These new measures have met with criticism for being too vague and will be debated in an early recall of Parliament in September. (Tony Blair, *Statement*, Aug. 5, 2005; 20 July 2005, Parl. Deb. (HC) 1255.)

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

NEAR EAST

IRAQ – Petition to Preserve Rights of Christians in New Constitution

About thirty thousand Iraqis have signed a petition requesting the safeguarding of Christian communities' rights in the Iraqi permanent constitution, which is in the process of being drafted. The signature-collecting campaign has been conducted by the organization Maan, whose president, Ibtisam Korkis, expressed the fear that the new constitution may not include the safeguarding of the rights of



Christians, who have been living in the country for about two thousand years along with the Arabs, Kurds, and others of various religions and denominations. Korkis summarized the Christians' demands for the newspaper *Al Sharq al Awsat*. (AL SHARQ AL AWSAT, Internet edition, Aug. 18, 2005, <http://www.asharqalawsat.com/>.) (Issam Saliba, 79840, isal@loc.gov)

ISRAEL – Foreign Vessels Under Israeli Control

On July 27, 2005, the Knesset (Israel's Parliament) passed the Navigation Law (Foreign Vessels Under Israeli Control), 5765-2005. The Law imposes a registration requirement on any foreign vessel under the control of an Israeli citizen, resident, or corporation incorporated in Israel. Control by a corporation is defined as having a voting right in the general corporate meeting; a right to appoint directors, a CEO or similar officers; a right to share in corporate profits; or a right to a share in corporate assets after payment of debts during dissolution.

According to the explanatory notes on the bill, equating the status of foreign vessels under Israeli control with that of vessels registered in Israel is designed, among other purposes, to prevent registration in foreign registries by business entities in Israel in order to avoid the legal obligation to employ an Israeli crew on board. (Navigation Law (Foreign Vessels Under Israeli Control) 5765-2005 & Navigation Law (Foreign Vessels Under Israeli Control) Bill, 5765-2004, Knesset website, <http://www.knesset.gov.il> (last visited Aug. 15, 2005).) (Ruth Levush, 7-9847, rlev@loc.gov)

ISRAEL – Rejection of Petition to Postpone Disengagement from Gaza

In December 2003, the Prime Minister announced his plan for the disengagement of the State of Israel from the Gaza Strip. The plan was accompanied by an exchange of letters between Israel's Prime Minister and the President of the United States. On June 6, 2004, the government approved the plan. The Knesset (Israel's parliament) passed the Law for Implementation of the Disengagement Plan, 5765-2005 on February 16, 2005. Among other matters, the Law regulates the removal of Israelis and their assets from the area. It authorizes the Prime Minister and the Minister of Defense to determine the areas and the date of the evacuation. The Law further regulates compensation for those evicted. It assigns the task of implementing the evacuation orders to the IDF (Israel's Defense Forces), the police, the General Security Force, and the prison authorities. Based on authorization under the Law, the Prime Minister and the Minister of Defense set August 15, 2005, as the date for evacuation of all Israeli settlements in the Gaza Strip.

On August 11, 2005, the Supreme Court, sitting as a High Court of Justice, rejected a request to delay the above date in order to work towards an agreed solution without the use of the army and security forces against Israeli citizens residing in the Gaza Strip. The Court determined that in issuing the evacuation orders, the Prime Minister and the Minister of Defense acted within their powers and exercised proper discretion. The Court had already recognized in an earlier case that decisions on implementation of the plan were based on foreign affairs and national defense considerations that cannot be adjudicated by the Court, based on the principle of separation of powers. In addition, three private bills proposing to delay the evacuation were debated in the Knesset and rejected. The Court further rejected petitioners' claims regarding the use of security forces for implementation of the plan. The Court held that the law, jurisdiction, and administration of the State of Israel do not apply in the Gaza



Strip and that the authority of the military commander to guarantee public order and security in the region applies to anybody who is present in an area subject to belligerent occupation, including Israelis. (H.C. 6996/05 Dr. Dalin et al. v. the Prime Minister et al., Court Authority website, at <http://www.court.gov.il> (last visited Aug. 11, 2005).) (Ruth Levush, 7-9847, rlev@loc.gov)

LEBANON – Constitutional Council Preserves Its Jurisdiction

On August 6, 2005, the Constitutional Council of Lebanon issued Decision Number 1, concerning the petition of annulment of Law Number 679, dated July 19, 2005, which provided for the postponement of the cases pending before the Council until the Council Members whose terms expired have been replaced. The Decision preserved the jurisdiction of the Constitutional Council to proceed with cases and declared the Law null and void for violating the provisions of the Constitution and the constitutional principles established therein. (AL-SAFIR, Internet edition, Aug. 8, 2005, <http://www.assafir.com/iso/today/front/summary.html>.) (Issam Saliba, 79840, isal@loc.gov)

SAUDI ARABIA – Royal Decrees to Promote the Economy

The new Custodian of the Two Holy Mosques, King Abdullah Ibn Abdul-Aziz, is showing determination to pursue economic reform in Saudi Arabia. King Abdullah's smooth appointment reassured markets and boosted the prospects of reform in Saudi Arabia. One of the first decisions taken after his designation is a Royal Decree amending article IV of the law on the organization of the Supreme Economic Council, allowing the new King to keep his leadership of the Council, which primarily is responsible for coordinating economic policies and speeding up the economic reform process. Saudi Arabia is now enjoying an unprecedented boom, principally because of high oil prices, which has resulted in an unprecedented budget surplus and economic growth, to the benefit of the Saudi citizens.

On August 21, 2005, King Abdullah issued another Royal Decree aimed at improving the living conditions of Saudis by raising public sector salaries by fifteen percent. The Royal Decree further ordered the distribution of almost twenty-two billion dollars for housing, health, and education projects, as well as an increase in the capital of development funds. The remaining amount from the budget surplus of 2005 will be set aside for repaying public debt (estimated at about US\$160 billion), which is likely to be further reduced with this year's budget surplus if record high oil prices continue through the year's end. (AIN-AL-YAQEEN, Aug. 19, 2005, article 1, at <http://www.ain-al-yaqeen.com/issues/20050819/feat1en.htm>; AL-RIYAD, Aug. 23, 2005, at <http://www.alriyadh.com/2005/08/23/article89457.html>.) (Dr. Abdullah F. Ansary, 7-6303, aans@loc.gov)

SOUTH ASIA

INDIA – Dual Citizenship for Indians Abroad

On June 16, 2005, the Union Cabinet of the Government of India gave its approval for amendment of the Citizenship Act, 1955, to enable all persons of Indian origin who migrated to foreign countries after January 26, 1950 (the date when the Constitution of India entered into effect), and



became citizens there to acquire in addition overseas citizenship of India. The amendment will enable Indians in foreign countries to acquire overseas citizenship “as long their home countries allow dual citizenship in some form or the other.” Those persons and their descendants who migrated to Pakistan and Bangladesh after January 26, 1950, however, are an exception to the amendment and are excluded from enjoying the benefit of dual citizenship under it. Simultaneously, the Cabinet approved an amendment to the Allocation of Business Rules so as to allow the Ministry of Overseas Indian Affairs to issue notifications under section 7(B) (1) of the Citizenship Act for the issuance of smart cards to registered Overseas Citizens of India. (*NRI's Dual Citizenship Dream Is Now a Reality*, THE TIMES OF INDIA, June 16, 2005, <http://timesofindia.indiantimes.com/articleshow/1143960.cms>.) (Krishan Nehra, 7-7103, kneh@loc.gov)

INDIA – Railway Minister and Sixty-Nine Others Charged in Fodder Fraud Case

A Special Central Bureau of Investigation Court set forth charges against the Railway Minister, Laloo Prasad, in a fodder fraud case relating to fraudulent withdrawal of 370 million Indian rupees from the government of Chaibasa treasury in 1996. Prasad was the Chief Minister of the Bihar State when the fraud surfaced; upon issuance of a warrant for his arrest, he resigned that post. Besides Prasad, charges were also brought against the previous Chief Minister, Jagannath Mishra, and sixty-eight other persons under various criminal provisions, including sections 420 (cheating) and 120B (criminal conspiracy) of the Indian Penal Code, 1860, and section 13(b) of the Prevention of Corruption Act, 1988. Prasad, Mishra, and the sixty-eight others were present in the court when Judge Uma Shankar Prasad Sinha read the charges to them. Prasad and Mishra have pleaded “not guilty.”

The prosecution confiscated twenty truckloads of documents in the case. (*Laloo Charge-Sheeted, 69 Others Also Charged in Fodder Scam*, THE TRIBUNE, Apr. 26, 2005, <http://www.tribuneindia.com/2005/20050426/main1.htm>.) (Krishan Nehra, 7-7103, kneh@loc.gov)

WESTERN HEMISPHERE

BRAZIL – Referendum on Firearms Ban

On December 22, 2003, the Brazilian Congress passed Law 10826, known as the “Statute on Disarmament.” The Statute makes it illegal for most civilians to carry firearms, and its passage ends a five-year stalemate between those in the Congress who were for and those against gun control. The new law, which is considered an historic act, sets a national referendum to vote on an outright ban on gun sales for civilians to be held in October 2005. The referendum is required under article 35, which expressly forbids the sale of firearms and ammunition throughout the country, except for those agents who are authorized by law to carry arms. This provision means, in practice the end of the Brazilian arms industry, which is the second largest in the Americas and the sixth largest in the world. Because of the drastic impact this provision has on the Brazilian arms industry, it may not become effective until it is approved by a peoples’ referendum, scheduled for October 23, 2005. Civil society groups are already mobilized and campaigning in favor and against the prohibition of arms sales in Brazil. (DESARMAMENTO, Aug. 24, 2005 at http://www.seando.gov.br/comunica/desarmamento/entenda_oque.asp.) (Graciela Rodriguez-Ferrand, 7-9818, grod@loc.gov)



CANADA – Medical Devices for Developing Countries

In 2004, Canada enacted the Patent Act and the Food and Drug Act (The Jean Chretien Pledge to Africa Act) (2204 S.C. c. 23). The purpose of this statute was to allow manufacturers of generic drugs to obtain compulsory licenses from patent holders to produce medicines to combat certain diseases, such as AIDS, in Africa. This development followed the August 30, 2003, General Council Decision of the World Trade Organization, waiving certain provisions of the Agreement on Trade-Related Intellectual Property Rights. In May of 2005, Canada issued two sets of regulations respecting Food and Drugs (SoR/2005-141) and Medical Devices (SOR/2005-142). The former regulation has received so much attention that the applicability of the law to medical devices has often been overlooked. The medical devices regulations are similar to those on food and drugs in that they give the Commissioner of Patents authority to grant compulsory licenses. Applications are submitted to the Minister of Health. Medical devices produced under a compulsory license for export must be labeled with the letters “XLC” and the following words, “For export under the General Council Decision. Not for sale in Canada.” The Jean Chretien Pledge to Africa Act came into force in May 2005. (SOR2005/0046.)

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

CANADA – New Quarantine Act

In the aftermath of the 2003 Severe Acute Respiratory Syndrome (SARS) outbreak in the Toronto region and with rising international fears of a possible avian flu pandemic, Canada has created a new Quarantine Act. The major difference between this law and its predecessor is that it concentrates on health problems associated with air travel rather than travel by sea. For example, the new law gives health authorities the power to divert aircraft if they believe that passengers may pose a health risk. Health authorities are also empowered to establish detention facilities anywhere in the country and to issue exclusion orders for travelers coming from countries or regions known to be suffering from outbreaks of infectious diseases. The new Quarantine Act places obligations on airlines to report illnesses experienced by passengers and contains rules for the inspection of imported body parts. Rules respecting the quarantining of ships have been retained. One protection extended to passengers is a new requirement that administrators have health care training. The previous law gave greater powers to untrained border officials. (2005 S.C., c. 20.)

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

CHILE – Constitutional Reform

On August 18, 2005, the full Congress of Chile approved major amendments to the 1980 Constitution, culminating a national debate that had lasted fifteen years, since the return to democracy and the end of the military government of General August Pinochet. The aim of the revision is to strengthen political stability by creating a constitution that enjoys universal support. One of the amendments shortens the presidential term to four years from six, starting in 2006, while maintaining the prohibition on consecutive re-election. As of that year, presidential and congressional elections will coincide. Other amendments reduce the power of the presidency by limiting its capacity to determine the congressional agenda and increase the power of the Chamber of Deputies to monitor government performance.



A major change in the political structure of the country is the reform's ending of the residual involvement of the armed forces in Chilean politics. Changes affecting the military were perhaps crucial to this effort. The amendments alter the powers and composition of the National Security Council (*Cosena*) and eliminate all unelected senators beginning in March 2006. The non-elected senators include the "senators for life" (former presidents who served for at least six years) and the nine "institutional senators," among whom at present are four senior retired officers representing the army, navy, air force, and police. The amendments also empower the President to replace the top commanders of these four security services. The Executive is only required to inform the Senate beforehand of the reasons behind the changes and then state them in a decree.

While trimming the powers of the President, the new constitution increases the authority of the *Tribunal Constitucional* (the Constitutional Tribunal, TC). It also modifies the way TC members are selected. Three will now be nominated by the President, two by the Senate, two by the Chamber of Deputies with the consent of the Senate, and three by the Supreme Court through a secret poll. TC members must be lawyers. Their tenure of office will be nine years on a rotating basis, so that some members will be replaced every three years. (Law 20050 of August 18, 2005, DIARIO OFICIAL, Aug. 26, 2005.)

(Graciela Rodriguez-Ferrand, 7-9818, grod@loc.gov)

MEXICO – Judge Refuses to Arrest Former President for Genocide

On July 26, 2005, a Mexican judge refused to issue an arrest warrant for Luis Echeverria, Mexican president from 1970 to 1976, who is accused of ordering the killings of several student protesters. The attack took place on June 10, 1971, in Mexico City. Victims who survived the attack and the families of those who were killed are expected to take the issue before international rights tribunals. (Official Website of the Mexico Justice Department, at <http://www.pgr.gob.mx/homepage.htm> (last visited on July 27, 2005).)

(Gustavo E. Guerra, 7-7104, ggue@loc.gov)

MEXICO – New Tariffs on U.S. Products as Compensation for Byrd Amendment

An Executive Decree promulgated by President Vicente Fox on August 12, 2005, imposes US\$20.9 million in tariffs on a variety of U.S. products because the United States has failed to repeal the Continued Dumping and Subsidy Offset Act of 2000, also known as the CDSOA or "Byrd Amendment." The Byrd Amendment redistributes antidumping and countervailing duties to the U.S.-affected domestic producers that successfully brought the trade cases in the first place. On January 27, 2003, the Appellate Body of the World Trade Organization (WTO) ruled that the Byrd Amendment was inconsistent with the WTO Antidumping Agreement, because the offset payments constitute a remedy in addition to the imposition of an anti-dumping or anti-subsidy duty.

The new Mexican tariffs are designed to compensate for the financial damage that the Byrd Amendment caused Mexico in 2004. Among the tariff lines and products affected by the new tariffs are:

- tariff line 1704.10.01, which includes chewing gum and candy, a 9% tariff;



- tariff line 1901.90.05, which includes prepared milk products with a milk solid content of at least 50% by weight, a 30% tariff;
- tariff line 2204.10.01, which includes sparkling wine, a 20% tariff; and
- tariff line 2204.21.01, which includes certain types of wines with alcohol content in excess of 14%; tariff line 2204.21.02, which includes red, rose, and white wines with alcohol content of up to 14%; and tariff line 2204.21.04, which includes champagne and other wines that contain carbonation; all a 20% tariff.

The Decree mandates its entry into force on the day following its official publication in *Diario Oficial de la Federación* (D.O.) (Mexico's official gazette), that is, on August 18, 2005. It is to remain in force for twelve months, but the tariff lines will revert to their original levels when the Secretary of Economics issues a notice published in the D.O. that the United States has complied with the decision that the WTO issued in relation to the Byrd Amendment. (*Decreto por el que se modifica temporamente el artículo 1 del Decreto por el que se establece la Tasa Aplicable durante 2003, del Impuesto General de Importación, para las mercancías originarias de América del Norte, publicado el 12-31-02, por lo que respecta a las mercancías originarias de EE.UU.*, DIARIO OFICIAL, Aug. 17, 2005, at 62; *México Announces \$20 million in Byrd Retaliation Against U.S. Exports*, INSIDE U.S. TRADE, Aug. 19, 2005, at 13-14, <http://www.INSIDETrade.com>.) (Norma C. Gutiérrez, 7-4314, ngut@loc.gov)

MEXICO – President Fox Announces Pension Plan for Impoverished Elderly

On August 12, 2005, Mexican President Vicente Fox announced that the 2006 budget bill that he is going to send to Congress will include a pension plan for the low-income, impoverished elderly. In announcing the plan, he explained that currently seventy-five percent of the population over sixty years old – eight million people throughout the country – does not have a retirement plan. He added that it would be necessary to create fiscal policies to support the plan in a healthy and transparent manner. (*Proyecto Fox Pensiones Para Ancianos Pobres*, EL UNIVERSAL, Aug. 12, 2005, <http://www.el-universal.com.mx>.) (Norma C. Gutiérrez, 7-4314, ngut@loc.gov)

INTERNATIONAL LAW AND ORGANIZATIONS

CENTRAL AMERICA/UNITED STATES – DR-CAFTA to Go into Effect January 1, 2006

Guatemala, El Salvador, and Honduras, the countries that have already ratified the United States, Central America, and the Dominican Republic Free Trade Agreement, known as DR-CAFTA, in a meeting with the United States in Antigua, Guatemala, on August 12, 2005, agreed that DR-CAFTA will go into effect on January 1, 2006. The four countries will so notify the Organization of American States at the end of September, which will allow for the required ninety-day period between notification and the day on which the agreement enters into force for the countries that have ratified it. (*Tres Países Piden a EE.UU. que TLC rija el 1o.de Enero*, LA NACIÓN, Aug. 16, 2005, <http://www.nacion.com>.) (Norma C. Gutiérrez, 7-4314, ngut@loc.gov)



CHINA /EU – Galileo Project Contracts Signed

The European Union signed three contracts with a group of Chinese companies on July 28, 2005, to develop commercial applications of the EU's planned Galileo satellite navigation system, which is a rival of the Global Positioning System of the United States. China is the first non-European country to take part in the application projects. While China's current involvement is limited to civilian satellite technology, analysts believe that in the future China may use the technology for military purposes. The three contracts cover a Fishery Application System, Special Ionospheric Studies, and Location-Based Services Standardization.

The contracts were signed on behalf of the Galileo Joint Undertaking, comprised of representatives from the European Commission and the European Space Agency, by China Galileo Industries Ltd. (CGI), a state-owned company formed by China Aerospace Science and Industry Corporation, China Electronics Technology Group Corporation, China Satcom Guomai Communication, and the Chinese Academy of Space Technology. China Galileo Industries was established in December 2004 and is the EU's general primary contractor for China's Galileo-related projects. The Chinese signatories were the National Remote Sensing Centre of China (which is responsible for implementing the Galileo Programme in China) and the Ministry of Science. China joined the Galileo program in October 2003, when it signed the Galileo Programme Cooperation Agreement on Civil Global Satellite Navigation after agreeing to invest €200 million (now US\$242 million) in Galileo. (*China Inks 3 More Galileo Contracts*, BUSINESS DAILY UPDATE, July 29, 2005; *China Signs Galileo Satellite Pacts with EU*, SINOCAST, Aug. 1, 2005; Victoria Knight, *EU Signs Galileo Satellite Pacts with China*, ASSOCIATED PRESS FINANCIAL WIRE, July 29, 2005, LEXIS/NEXIS, News Library, Curnws File.)
(Wendy Zeldin, 7-9832, wzeld@loc.gov)

CHINA/UNITED NATIONS – Human Rights

It was reported on August 22, 2005, that the Special Rapporteur of the Commission on Human Rights on torture and other cruel, inhuman, or degrading treatment or punishment is scheduled to visit the People's Republic of China, at the invitation of the government, from November 21 to December 2, 2005. Mr. Manfred Nowak, who was appointed Special Rapporteur on December 1, 2004, will visit detention centers and meet with, among others, government officials and representatives of civil society in Beijing, Jinan, Urumqi, Yining, and Lhasa. He will submit a written report on his mission to the sixty-second session of the Commission on Human Rights in 2006. (*Special Rapporteur on Torture to Visit China*, United Nations Press Release, Aug. 22, 2005, <http://www.uhchr.org/english> (last visited Aug. 22, 2005).)
(Wendy Zeldin, 7-9832, wzeld@loc.gov)

CYPRUS/UNITED STATES – Ship Boarding Agreement

On July 25, 2005, Cyprus signed a Proliferation Security Initiative (PSI) agreement with the United States. PSI agreements are designed to fight the proliferation of weapons of mass destruction through the establishment of cooperative partnerships worldwide. The Cyprus-U.S. agreement covers



maritime transfers of proliferation-related shipments. Cyprus is the first European Union Member State to sign an agreement on this issue with the United States. Pursuant to the terms of the agreement, Cyprus must establish points of contact and procedures to facilitate requests to board and search any of its vessels that are suspected of carrying prohibited materials in international waters. (*US-Cyprus Sign PSI Cooperation Agreement*, EMBASSY NEWS, July 26, 2005, available at <http://www.cyprusembassy.net/home/index.php?module=article&id=2799>.)
(Theresa Papademetriou, 7-9857, tpap@loc.gov)

ISLAMIC LAW – Fatwa Against Terrorism

On July 28, 2005, the Fiqh Council of North America (FCNA), an association of Islamic legal scholars that interprets Islamic law and decides judicial issues for the Muslim community, issued a *fatwa* (an advisory opinion by a qualified scholar on a point of law) against terrorism and extremism, asserting that Islam condemns terrorism, religious radicalism, and the use of violence. The *fatwa* states in part

Islam strictly condemns religious extremism and the use of violence against innocent lives. There is no justification in Islam for extremism or terrorism. Targeting civilians' life and property through suicide bombings or any other method of attack is haram – or forbidden - and those who commit these barbaric acts are criminals, not 'martyrs' ... In the light of the teachings of the Qur'an and Sunnah we clearly and strongly state: 1. All acts of terrorism targeting civilians are haram (forbidden) in Islam. 2. It is haram for a Muslim to cooperate with any individual or group that is involved in any act of terrorism or violence. 3. It is the civic and religious duty of Muslims to cooperate with law enforcement authorities to protect the lives of all civilians. We issue this fatwa following the guidance of our scripture, the Qur'an, and the teachings of our Prophet Muhammad - peace be upon him ...

The *fatwa* does not represent a new position on terrorism. The American Muslim community has always denounced terrorism and extremism. However, this *fatwa* is the most far-reaching ruling of its kind in the United States. It goes beyond just denouncing terrorism to institute the issuance of edicts against terrorism and terrorist groups, and it is a major step towards preventing the misuse of *fatwa* as a tool for terrorism.

The dissemination of the *fatwa* was sponsored by the Council on American Islamic Relations (CAIR) and the Islamic Society of North America and endorsed by more than 120 U.S. Muslim groups, leaders, and institutions. Such unity within Islamic society in the United States sends a strong message for all Muslims and to future generations that terrorism is rejected outright in Islam and in Muslim society. (*CAIR backs Fatwa Against Terror*, CAIR News Releases, July 28, 2005, at <http://www.cair-net.org/default.asp?Page=articleView&id=1675&theType=NR>; *Fiqh Council of North America Issues Fatwa Against Terror*, Islamic Society of North America (ISNA) Press Releases & Announcements, July 28, 2005, at http://www.isna.net/index.php?id=35&backPID=1&tt_news=286.)
(Dr. Abdullah F. Ansary, 7-6303, aans@loc.gov)

NAFTA – Extraordinary Challenge Dismissed in Softwood Lumber Dispute

On August 10, 2004, the Extraordinary Challenge Committee (ECC) dismissed the appeals by the United States against several decisions holding that the International Trade Commission (ITC) had not shown substantial evidence that imports of certain Canadian softwood lumber posed a threat of material injury to United States producers. This decision was hailed in Canada as a final victory in the longstanding trade dispute, but has not yet resulted in the United States agreeing to drop all



antidumping and countervailing duties or in agreeing to return more than US\$4 billion in duties that have been collected since a previous agreement was terminated by Canada. Canadian officials are reportedly considering the possibility of imposing retaliatory duties on a range of American products.

The United States case rested on five major arguments. One contention was that the ECC had refused to allow the ITC to reopen the record to allow it to present further evidence. Another contention was that the panels had failed to properly apply a substantial evidence standard. The United States also argued that one panelist should have been dismissed on account of an appearance of impropriety arising out of his representation of another client in a different case that allegedly involved a pertinent issue. In rejecting the arguments presented by the United States, the ECC relied on the rule that the onus was on the United States to prove previous errors and that the ECC was not to substitute its opinions for the findings of the panels.

The dismissal of the ECC challenge was a major disappointment to the lumber industry in the United States, represented by the Coalition of Fair Lumber Imports. Only a few years ago, NAFTA and WTO panels had sided with the United States in agreeing that Canadian practices in leasing land to lumber companies at less than fair market value were a subsidy. The subsequent decisions that these subsidies did not pose a threat of material injury places the United States lumber industry in the position of having to wait until it suffers the demonstrable injury it fears will occur before it can again seek relief. (NAFTA Secretariat, *ECC-2004-1904-01USA: Certain Softwood Lumber Products from Canada*, Aug. 10, 2005, http://www.nafta-sec-alena.org/DefaultSite/index_e.aspx?DetailID=796; Allan Dowd, *Canada Mulls Duties on U.S. Goods in Softwood Row*, REUTERS, Aug. 23, 2005, Yahoo! Canada News website, http://news.yahoo.com/s/nm/20050823/wl_canada_nm/canada_timber_canada_usa_c_col;_ylt=Ao7kqx8ky3fmPQ01MZuecN909L4F;_ylu=X3oDMTBiMW04NW9mBHNIYwMIJVRPUCUJ.) (Stephen F. Clarke, 7-7121, scla@loc.gov)

THAILAND/UNITED STATES – Free Trade Agreement in Negotiations

Thailand and the United States have initiated a fourth round of negotiations over a proposed free trade agreement (FTA). If completed as proposed, it will be the most comprehensive FTA ever concluded by Thailand, and it is expected to have a broad impact on the Thai economy and on Thai business law.

The twenty-three-chapter draft FTA includes provisions on textiles and apparel, financial services, labor, telecommunications, and agriculture. Some non-governmental groups in Thailand have raised concerns about the impact of such an agreement on domestic industries. Since the proposal is so ambitious in scope, it may require new laws or amendments to existing laws and regulations in Thailand, particularly in the areas of intellectual property rights protection, labor regulation, and environmental law. Other concerns have been raised about customs regulations and the Thai Trade Competition Act of 1999. In addition, the United States is seeking to retain privileges currently granted under the existing bilateral Treaty of Amity and Economic Relations. For most of its FTAs, Thailand has not revised existing legislation, preferring to set up procedures to accommodate foreign investors under the FTA itself, and so the possible changes for this FTA would be a departure in policy for Thailand. (*Thai-US FTA to Have Far-Reaching Impact*, FINANCIAL TIMES INFORMATION, Aug. 11, 2005, LEXIS/NEXIS, Asiapc Library, Curnws File.) (Constance A. Johnson, 7-9829, cojo@loc.gov)



UNITED NATIONS – Progress on Disabilities Treaty

A United Nations panel working on an international treaty on the rights of persons with disabilities has finished its sixth session and announced agreement on some draft articles. The Ad Hoc Committee on a Comprehensive and Integral Convention to Promote and Protect the Rights and Dignity of Persons with Disabilities began the session at the United Nations in New York on August 1, 2005. Topics such as education, children's disabilities, accessibility, and personal mobility have been discussed, along with the rights to health and rehabilitation, the right to work and an adequate standard of living, and the right to participate in politics, public life, and cultural, recreational, and sporting activities. Four hundred representatives of civic groups participated actively in the meetings.

The underlying philosophy of the draft, which contains about twenty-five articles, is to strengthen the rights of people with disabilities and establish a code for implementation of those rights. According to the Chairman of the Committee, Don MacKay of New Zealand, there is a need to move away from policies that segregate persons with disabilities. He stated:

People with disabilities actually perform, live and contribute much better if they are included in the community – be it by way of inclusive education, inclusive health, participation in political life, or measures to improve accessibility.

(Key Articles in Draft Disability Treaty Approved at UN Meeting, UN NEWS SERVICE, Aug. 12, 2005, from UNNews@UN.org.)

(Constance A. Johnson, 7-9829, cojo@loc.gov)

UNITED NATIONS COMPENSATION COMMISSION – Awards for Environmental and Public Health Damage

In 1991, U.N. Security Council Resolution 687 held that due to its unlawful invasion and occupation of Kuwait, Iraq was responsible under international law for direct losses; damage, including environmental damage; depletion of natural resources; or injury to foreign governments, nationals, or corporations. Subsequently, the United Nations established the U.N. Compensation Commission (UNCC), a fact-finding, quasi-judicial organization with the mandate to evaluate claims for compensation for losses incurred during the Gulf War and to award damages. Based on previous monitoring and assessment reports, the UNCC has already awarded compensation for various types of damage caused by Iraq's wartime activities. On June 30, 2005, the UNCC issued its fifth and final report, thus completing the final phase of its duties. The UNCC found that Iran, Jordan, Kuwait, and Saudi Arabia had suffered damage to various natural resources, crops and livestock, water resources, and public health.

Among the key issues discussed by the UNCC were whether pure environmental damage could be compensable and whether a temporary loss of use of natural resources until reinstatement through natural means or human intervention could also be compensated. The Commission held that pure environmental damage could be compensated based on Resolution 687. However, the crucial issue that faced the Commission was how to determine the amount of compensation. The Commission made awards that were quantified pursuant to the costs of various compensatory projects. It also awarded



US\$25 billion for damage to public health to the four countries plus Syria. For instance, it awarded damages in response to Kuwait's claim of expenses incurred for treating its citizens for post-traumatic stress disorder and injuries from mines. It also held that governments could be compensated for the costs of monitoring public health and conducting medical evaluations to investigate and eliminate increased public health risks. (Cymie Payne, *Commission Awards Compensation for Environmental and Public Health Damage from 1990-1991 Gulf War*, ASIL INSIGHT, email communication from ASIL.Insights@mail.loc.gov, received Aug. 10, 2005.) (Theresa Papademetriou, 7-9857, tpap@loc.gov)

VIETNAM/LAOS/CAMBODIA – Drug Control Communiqué

The fifth trilateral meeting on drug control cooperation among Laos, Cambodia, and Vietnam issued a joint communiqué on August 23, 2005. Among other subjects, the communiqué mentions the successful implementation by Laos of its program strategy, “Balanced Approach Towards Opium Elimination in Laos,” through the declaration of eleven northern provinces as free of opium cultivation. Cambodia's progress in drug control activities included ratification of the three international drug control conventions, amendment of existing drug control legislation to emphasize more severe punishments, and completion of Cambodia's first drug control master plan, 2006-2010. The Cambodian side also stated that it had successfully eliminated cannabis cultivation from the country. Vietnam's agencies from the central to the provincial level implemented drug control measures under the guidance of the National Committee on AIDS, Drugs and Prostitution Control, focusing on eight schemes of implementation set forth in the National Action Plan on Drug Control for the period 2001-2005.

The communiqué further states that the national authority and some localities in each country have been able, thanks to the implementation of cooperative agreements and arrangements between the three countries and the U.N. Office on Drug and Crime (UNODC), to establish Border Liaison Offices in drug “hot-spots” along the Vietnam-Cambodia and Vietnam-Laos borders, creating a mechanism to exchange information among the authorities of the three countries. The meeting stressed the need to strengthen collaboration at all levels (central, provincial, district, and border crossing) as well as to trilaterally exchange information and experience related to drug trafficking across borders, psychotropic substances, and precursor chemicals. The sixth trilateral meeting is to be hosted by Vietnam in 2006.

The East Asian sub-region of Cambodia, China, Laos, Myanmar, Thailand, and Vietnam contains the “Golden Triangle,” one of the largest opium and heroin producing areas in the world. The governments of all these countries have signed a Memorandum of Understanding on Drug Control with UNDOC and undertaken sub-regional responses to the problems of drug production, trafficking, and abuse. (*Vietnam, Laos, Cambodia Issue Joint Communiqué on Drug Control 23 Aug*, Hanoi VNA (Internet version), Aug. 23, 2005, Foreign Broadcast Information Service online subscription database; UNDOC, *Development of Law Enforcement Cross Border Cooperation in East Asia*, AD/RAS/99/D91, July 1999, <http://www.unodc.un.or.th/law/D91/ad-ras-99-d91.htm>.) (Wendy Zeldin, 7-9832, wzel@loc.gov)



RECENT DEVELOPMENTS IN THE EUROPEAN UNION

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

Millions Allocated for New Anti-Terrorism Security Research

The July 2005 terrorist attacks on the transportation system in London gave the impetus for the European Commission to initiate funding for thirteen projects chosen under the “Preparatory Action for Security Research” program. The projects are intended to improve and strengthen the security of EU citizens. There are eight technology projects and five supporting activities that will receive funding of close to fifteen million euros. Among the research projects envisioned is the development of an anti-terrorist security system to detect terrorist threats against transportation systems. Other projects include improving the surveillance of European harbors and coastlines, of ground infrastructure, of aircraft, of information networks, and against possible attacks by Man Portable Air Defense Systems (MANPADS). (*Fight Against Terrorism: 15 Million Euro for New Security Research*, Aug. 2, 2005, Press Release, IP/05/1031, available at <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/05/1031&format=HTML&aged=0&language=EN&guiLanguage=en>.)

Plan to Charge Airlines Pollution Fee

In September 2005, the European Commission plans to unveil a new proposal to require airlines to pay a fee for the carbon dioxide released in the environment as a result of the burning of fuel. This is part of the EU’s strategy to meet its international obligations arising from the Kyoto Protocol, which entered into effect on January 1, 2005. According to the spokeswoman for the EU Environment Directorate, the EU’s “goal is for airlines to take responsibility for their CO2 emissions.” It appears that the proposal will include non-EU airlines. The United States, not a signatory to the Kyoto Protocol, is against imposing fines on airlines. It also claims that the EU has no authority to enforce such a rule on airlines other than those originating in Europe. (Daniel Michaels, *E.U. Eyes Airplane-Pollution Fee*, THE WALL STREET JOURNAL, reprinted in THE WASHINGTON POST, Aug. 11, 2005, at D6.)

Take-Back Requirement for Electrical and Electronic Waste

Green Peace International has recently reported that toxic waste released from computers and other electronic devices that are discarded in the United States and taken apart in India and China poses a serious environmental hazard. The report states that high levels of toxic metals were found in seventy samples gathered from soil and water sources, as well as river sediment and industrial waste in New Delhi and China. (*Technology Briefing, Groups Say Electronic Waste Underestimated*, THE WASHINGTON POST, Aug. 18, 2005, at D5.)

In the European Union, until recently, electrical and electronic waste, such as small and large household appliances, telecommunications equipment, and lighting materials, was placed in landfills, incinerated, or recovered without any pre-treatment. Hence, such waste was a major source of pollution. Two EU Directives that entered into force on February 13, 2003, with a deadline for transposition into domestic law of August 13, 2004, deal with environmental problems created by electric and electronic waste. The first Directive aims to prevent the generation of waste and to promote reuse, recycling, and other forms of recovery. The second is designed to substitute less hazardous materials for lead, mercury, cadmium, and other pollutants, in order to facilitate recovery



efforts. In 2005, the Member States have to create and maintain registers of producers of electrical and electronic equipment and to provide the Commission with data on the quantity of such products put in the market, compared with how many of such products have been collected, recovered, or reused.

By August 13, 2005, Member States were required to establish collection systems. In practice, collection has a two-fold meaning: a) at the time of the purchase of a new piece of electrical or electronic equipment, consumers will be able to give back their old electrical and electronic equipment on a one for one basis; and b) consumers must be able to drop off old equipment at collection points and distributors will return it free of charge to the manufacturers. Manufacturers of electrical and electronic equipment are responsible for their financing of collection, treatment, recovery, and environmentally friendly disposal. Past the August 13, 2005, deadline, upon marketing new products, manufacturers must provide a financial guarantee ensuring coverage of the collection costs. (*Questions and Answers on EU Policies on Electric and Electronic Waste*, Memo/05/248, Aug. 11, 2005.)

Control of Waste Generated by Packaging

August 18, 2005, was the deadline for the EU Member States to transpose into domestic law Directive 2004/12/EC on packaging and packaging waste made from paper, metals, glass, plastic and wood. The purpose of this Directive is to reduce the adverse effects on the environment caused by the placing in landfills and incineration of packaging waste. It establishes higher targets than those established under the previous Directive. For instance, it doubles the target amount of packaging to be recycled and increases the amount to be recovered. The new targets must be met between 2008 and 2015, depending on the Member State. The Directive also permits implementation of certain provisions by voluntary agreement, as long as the targets rates are met. (*Packaging Waste: Higher Recycling and Recovery Targets Due to Be Implemented in EU Member States*, Press Release, IP/05/1057, Aug. 18, 2005, available at <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/05/1057&format=HTML&aged=0&language=EN&guiLanguage=en>.)

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