



WORLD LAW BULLETIN

February 2006

2 W.L.B. 2006

HIGHLIGHTS:

Chemical Weapons Act
Congestion Taxes in Stockholm
Controversial Family Law Passed
Court to Review Past Execution
 Ruling on Dissidents
Draft Law on Immigration
Election of Members of Congress
Firearms and Ammunition Law
Internet Users Now Need Identification
Internet Security Provisions
New Constitution
One-Child Policy to Be Continued
Prison for Vilifying Catholicism

[Lesotho](#)
[Sweden](#)
[Malaysia](#)

[South Korea](#)
[France](#)
[Italy](#)
[Saudi Arabia](#)
[Brazil](#)
[China](#)
[Congo \(DRC\)](#)
[China](#)
[Italy](#)

Charles Mwalimu
Linda Forslund
Constance A. Johnson

Seung Eun Lee, Sayuri Umeda
Nicole Atwill
Dario Ferreira
Abdullah F. Ansary
Eduardo Soares
Wendy Zeldin
Karla Walker
Rui Wei
Donald DeGlopper

SPECIAL ATTACHMENT:

[Recent Developments in the European Union](#)

Theresa Papademetriou

[AFRICA](#) | [EAST ASIA & PACIFIC](#) | [EUROPE](#) | [NEAR EAST](#) | [SOUTH ASIA](#) | [WESTERN HEMISPHERE](#)
[INTERNATIONAL LAW & ORGANIZATIONS](#) | [SPECIAL ATTACHMENTS](#)

Message from the Director of Legal Research

The Directorate of Legal Research of the Law Library of Congress is a unique academy of expertise dedicated to providing world-class international, comparative, and foreign law research and reference services to the United States Congress. During fiscal year 2005, our faculty of 20 foreign law specialists and 5 research analysts consulted over 37,000 sources and conducted in excess of 48,000 electronic searches as they prepared 2,039 reports – some 5,900 pages of legal analyses and reference assistance that covered over 160 jurisdictions. *We are proud to serve as an extension of your staff.*

The WORLD LAW BULLETIN is the Directorate's monthly flagship publication that provides the U.S. Congress over 1,000 updates on foreign law developments annually. Updates are chosen for their special significance to the U.S. Congress as they relate to legislative interests or foreign policy and should not be interpreted as an indication of support or preference for any legal or political stance. Selections may contain hyperlinks to websites that are not part of the loc.gov domain provided to cite authority for our source of information and as a convenience for the reader. Some of these online references, however, may be to subscription services not generally available to others, and some of the hyperlinks in the electronic version of the WORLD LAW BULLETIN may not function, depending upon your browser version or the mechanics of the website. The Law Library does not endorse or guarantee the accuracy of those external websites or the material contained therein. Selections are edited by two of our research analysts, Constance Axinn Johnson and Wendy Zeldin. This and past issues are available online at: www.loc.gov/law/congress. This issue may be cited as: 2 W.L.B. 2006.

The Law Library of Congress maintains the world's largest collection of legal materials and provides international, comparative, and foreign law research for the U.S. Congress. We invite you to visit the Law Library website at www.loc.gov/law, which details all of our services and provides access to the Global Legal Information Network (GLIN), a cooperative international database of official texts of laws, regulations, and other complementary legal sources of many foreign jurisdictions.

If you would like to submit a request for our services or if you have any questions concerning the services available at the Law Library of Congress; the Global Legal Information Network; or international, comparative or foreign law, please feel free to contact me by phone at (202) 707-9148, by FAX at (202) 315-3654, or by email at WSharp@loc.gov.

Respectfully submitted,

Walter Gary Sharp, Sr.

WALTER GARY SHARP, SR.
Director of Legal Research



Directorate of Legal Research for
International, Comparative, and Foreign Law

THE LAW LIBRARY OF CONGRESS

NEAR EAST

Bahrain Law Criminalizing Certain Uses of
“Blue Tooth”
Iraq European Union Hosts Iraqi Jurists
Israel Illegal Influence on Politicians
Israel Protection of the Public from Sex
Offenders
Saudi Arabia Firearms and Ammunition Law
Saudi Arabia Women Win Trade Organization
Election

SOUTH ASIA

Bangladesh Free Cell Phone Call Ban to Protect
Morals
Bangladesh New Anti-Terror Law
Bhutan Evidence Act
Bhutan First Consultation Meeting on Draft
Constitution
India Anti-Piracy Agreement to Be Signed,
Ratified
India Overseas Citizenship Program
India Prevention of Insult to National Honor
India Religion-Based Reservation in Educational
Institutions Quashed
India State Cannot Withdraw Prosecution Under
Central Law
Sri Lanka Circular on Bird Flu

WESTERN HEMISPHERE

Bolivia Presidential Elections
Brazil Constitutional Amendment Proposes
Reduction of Parliamentary Recess
Brazil ... Further Acceptance of Concept Similar to
Stare Decisis
Brazil Internet Users Now Need Identification
Brazil New Law Regulates International
Convention on Biological Weapons
Canada Election Day Reporting
Canada New Inquiry into Air India Bombing
Canada Prime Minister Proposes Abolishing the
“Notwithstanding” Clause
Chile Presidential Election

Mexico New Pension Plans
Mexico Supreme Court Rules Mills’
Expropriation Unconstitutional
Nicaragua Proposal for Referendum on
Constitutional Reform
Peru Former President Banned from Running in
Presidential Elections

INTERNATIONAL LAW & ORGANIZATIONS

ACAC Aviation Safety Measures
Arab League Interim Pan-Arab Parliament
Australia/East Timor Treaty on Offshore Oil
Revenue
CAFTA-DR Agreement to Standardize
Phytosanitary Regulations
Cambodia/Thailand/Vietnam Oil Spill Pact
Cameroon/Nigeria Border Demarcation
Progressing
Cuba/Bolivia . Agreement on Literacy, Vision Care
DPU Regional Disaster Relief Center
GCC Unified Trade Policy
India/United States ... Agreement on Product Safety
ICJ/Nepal Media Crackdown Illegal
NATO Expanded Role in Afghanistan
Netherlands/Belgium Joint Action on
Immigration Abuse
Portugal/European Commission Request to Stop
Discrimination Against Foreign Banks
Spain/China Jurisdiction over Genocide in Tibet
UNESCO/GBC Agreement to Fight HIV/AIDS
UNESCO Global Child Labor/Education
Task Force
U.N. ICTR Provincial Leader Placed on Trial
Venezuela/United States New Drug Trafficking
Agreement
WTO Canada Appeals Softwood Lumber Ruling
WTO Compulsory Licensing of Medicine in
Health Crises

**SPECIAL ATTACHMENT:
Recent Developments in the European Union**

[AFRICA](#) | [EAST ASIA & PACIFIC](#) | [EUROPE](#) | [NEAR EAST](#) | [SOUTH ASIA](#) | [WESTERN HEMISPHERE](#)
[INTERNATIONAL LAW & ORGANIZATIONS](#) | [SPECIAL ATTACHMENTS](#)



**Directorate of Legal Research for
International, Comparative, and Foreign Law**

THE LAW LIBRARY OF CONGRESS

AFRICA

BURUNDI – Criminal Suspects Paraded

On December 15, 2005, authorities of the new Burundian Government paraded more than 2,000 criminal suspects in three areas deemed to be the principal zones of rebel activity. Most of those arrested are accused of being members of the FNL (National Liberation Forces). In the capital, for example, some 200 alleged offenders were shown to the public. While Deputy Commissioner-General of the Burundi Police Deo Suzuguye explained the government action, head of state Pierre Nkurunziza, along with the National Assembly deputy speaker, the interior minister, and other leaders, circled around the prisoners. Suzuguye admitted, however, that none of those arrested had been tried in court, and he did not deny the possibility that some were innocent. Iteka, Burundi's foremost human rights league, "condemned a display which flouts the presumption of innocence recognized by the law." Its leader Jean-Marie Kavumbagu stated that "the people were subjected to public ridicule and this is unacceptable." (*Burundi: Human Rights League Condemns Parade of Suspected Criminals*, RADIO FRANCE, Dec. 16, 2005, FBIS No. EUP20051216950003.)
(Wendy Zeldin, 7-9832, wzeld@loc.gov)

CONGO (Democratic Republic of) – New Constitution

Official results indicate that voters in overwhelming numbers have approved the new Constitution of the Democratic Republic of Congo (DRC) put to a referendum in December 2005. It is expected to lead to general elections in the DRC. The results, released on January 18, 2006, by the Independent Electoral Commission, show that 84.31% voted for the new constitution and 15.69% were against. The results reflect the public's rejection of an appeal by veteran politician Etienne Tshisekedi for a boycott of the process. However, after polls showed strong voter approval for the document, Tshisekedi announced an end to his boycott. The new constitution is crucial to securing peace in a country that has suffered two major wars in recent years, one from 1996 to 1997 and another from 1998 to 2002, which drew in the armies of six African nations.

A transitional government that includes former rebel leaders has ruled the country since 2002, headed by President Joseph Kabila. While urging voters in December to accept the new constitution, President Kabila had warned that a rejection would be "catastrophic" for the country's peace process. The elections hinge on the acceptance of a new constitution that would determine the new governance structures and the sharing of power and resources, factors that underlie the conflicts in the DRC. This will be the first time that most Congolese aged eighteen to forty-five years will be choosing their leaders through the ballot process, as these are the country's first democratic elections since independence from Belgium in 1960. The vote was also crucial to President Kabila, because the new constitution lowers the minimum age for presidential candidates from thirty-five to thirty years, allowing the thirty-four-year-old Kabila to vie for the presidency. (*After Yes Victory, DR Congo Ready to Chart New Future*, THE NATION, Jan. 20, 2006, at <http://allafrica.com/stories/200601190869.html>.)
(Karla Walker, 74332, kdwa@loc.gov)

EQUATORIAL GUINEA – Presidential Decree Bans Sale of Liquor, Fuel in Homes

In December 2005, Equatorial Guinea's President Obiang Nguema Mbasogo issued Decree No. 177/2005, which bans throughout the country the sale of alcoholic beverages in homes adjacent to bars and of fuel and lubricants outside the authorized filling stations. President Mbasogo cited a string of cases of wild parties thrown in private residences where alcohol consumption was rampant, negatively



affecting tourism and public order, as one of the main reasons for the issuance of this Decree. Mr. Mbasogo also stated that several accidents and fires in private homes, caused by fuel acquired outside the authorized filling stations, led him to ban selling such fuel. (*Presidential Decree Bans Sale of Liquor, Fuel in Homes*, MALABO RADIO NACIONAL DE GUINEA ECUATORIAL, Dec. 16, 2005, FBIS No. AFP20051222611007.)

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

KENYA – Constitution Drafting Controversy

President Emilio Mwai Kibaki announced on January 10, 2006, that the review of the Kenyan Constitution would start from scratch. The statement that the review would begin again angered numerous political, professional, and religious groups in Kenya, many of whom felt that the previous draft, rejected by a majority vote in November 2005, could be the basis for a revised text. The Catholic Church, the Council of Imams, and the Preachers of Kenya all criticized the President's statement. The Episcopal leader, Bishop Cornelius Korir, said that specialists should now handle the revision process and that there was no need to waste more money. "The Draft Constitution that was rejected by [a] majority of Kenyans was not that bad, only some contentious issues need to be deliberated upon and this should be done by experts," he argued. Sheikh Khalifa Mohammad of the Council of Imams agreed that the cost of further reviews was a concern, stating that the government had already spent considerably on the review. The Association of Professional Societies in East Africa and the Institute of Education in Democracy attacked the large amounts (equivalent to about US\$749,000) paid to members of the Constitution of Kenya Review Commission at a time when children are starving.

The process of creating a new constitution for Kenya has already taken more than ten years, along with an estimated KES10 billion (about US\$138.7 million). (*Outrage over Plan to Start Review Afresh*, EAST AFRICAN STANDARD, Jan. 12, 2006, <http://allafrica.com/stories/200601120234.html>.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

KENYA – Legal Education Reforms

A January 18, 2006, report to Kenya's Justice and Constitutional Affairs Minister, Martha Karua, stresses the need to harmonize the laws governing the training of lawyers. It singles out the Education Act, the Advocates Act, the Centre for Legal Education Act, the Universities Act, and the Law Society of Kenya Act as requiring amendment. The report, prepared by the Solicitor-General, the Director of Legal Affairs, and a number of deans and professors from law schools, also proposes revamping and strengthening the Advocates Complaints Commission and the Law Society of Kenya Disciplinary Committee. It described the process of admission to the Roll of Advocates as too slow and frustrating and called for the review and possible amendment of the provisions of the Advocates Act that prohibit newly qualified advocates from engaging in private practice for the first two years after admission to the Roll. (*Review Procedures on Training, Team Recommends*, THE NATION, Jan. 19, 2006, <http://allafrica.com/stories/printable/200601190277.html>.)

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



LESOTHO – Chemical Weapons Act

On June 9, 2005, Lesotho published the Chemical Weapons Act No. 5 of 2005 (SUPPLEMENT TO THE LESOTHO GOVERNMENT GAZETTE EXTRAORDINARY 583-794 (June 9, 2005)). This legislation is the enabling law required in Lesotho to make the Convention on the Prohibition of the Development, Production, Stock Piling, and Use of Chemical Weapons and Their Destruction, signed at Paris on January 13, 1993, domestic law. Under article VII of the Convention, Lesotho, as any State Party, is required to designate a department or organ of the government in its security establishment to be the National Authority of Lesotho on Defense with respect to chemical weapons. Section 4 of the Lesotho Chemical Weapons Act 2005 stipulates that no one is permitted to develop, produce, acquire, stockpile, or retain chemical weapons for any purpose or transfer the same directly or indirectly. Similarly, no one in Lesotho is permitted to use chemical weapons or engage in military preparations to use chemical weapons. The people of Lesotho are also prohibited from assisting, encouraging, or in any way inducing anyone to engage in or engaging themselves in any activity prohibited to a State Party by the Convention. Chemical weapons also cannot be used to control riots or other disturbances in Lesotho. (Charles Mwalimu, 7-0637, cmwa@loc.gov)

MAURITANIA – Government Steps to Fight Corruption

On January 1, 2006, Mauritanian government employees received pay increases of thirty to fifty percent. The increase is part of a plan to cut down on corruption in the civil service. In addition, the thirty-percent tax on salaries will be cut in half, and both civil service and military pensions will rise by fifteen percent. The new measures were proposed shortly after the International Monetary Fund announced Mauritania's exclusion from a list of the twenty countries that qualified for complete debt relief under the Highly Indebted Poor Countries initiative (HIPC). The government hopes these measures will make it possible for the country to be included in the HIPC program.

The tax cut in particular was welcomed by labor leaders, including trade union official Mohamed Salem, but he expressed concern that the benefits to workers could be lost to inflation, as oil-investment money has recently come into the country. Salem argued for further government controls on the economy, saying that if "this cut is accompanied by a stabilization of the price of basic goods, these measures will go a long way to helping workers and maintaining social stability." (*Junta Announces Anti-Corruption Pay Hikes for Civil Servants*, ALLAFRICA.COM, Dec. 28, 2005, <http://allafrica.com/stories/200512290213.html>.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

MOZAMBIQUE – Journalist's Murderer Sent to Prison

It was reported on January 20, 2006, that the man convicted of murdering Mozambican journalist Carlos Cardoso is to serve thirty years in prison. Cardoso was murdered in 2000 while investigating a US\$14 million fraud related to bank privatization. A retrial in Maputo upheld the 2003 conviction of Anibal "Anibalzinho" dos Santos Junior, who planned the killing. An appeals court allowed a retrial because the first trial was conducted in absentia after dos Santos fled Mozambique. Evidence in the first trial raised questions about the alleged role of Nyimpine Chissano, son of the then Mozambican President Joaquim Chissano, in ordering the killing. He has denied any involvement. (*Mozambique Murderer Sent to Jail*, BBC online, at <http://news.bbc.co.uk/2/hi/africa/4631508.stm> (last visited Jan. 20, 2006).) (Gustavo E. Guerra, 7-7104, ggue@loc.gov)



NAMIBIA – Atomic Energy and Radiation

On April 24, 2005, Namibia's President signed into law the Atomic Energy and Radiation Protection Act, 2005. The Act provides for protection of the environment and of people against the harmful effects of radiation by controlling and regulating the production, processing, handling, use, holding, storage, transport, and disposal of radiation sources and radioactive materials and by controlling and regulating prescribed non-ionizing radiation sources. The Act establishes an Atomic Energy Board and provides for its composition and functions. It also establishes a National Radiation Protection Authority, amends the Hazardous Substance Ordinance, 1974, and provides for related matters. (Atomic Energy and Radiation Protection Act, 2005, GOVERNMENT GAZETTE OF THE REPUBLIC OF NAMIBIA, No. 3429 (May 16, 2005).)

(Ruth Levush, 7-9847, rlev@loc.gov)

NAMIBIA – National Arts Fund

On April 19, 2005, the President of Namibia signed the National Arts Fund of Namibia Act, 2005, which provides for the establishment of the National Arts Fund. The fund's purpose is to promote and develop the arts in Namibia. The Act provides for the fund's revenues and its specific objects. It establishes a council for the control and management of the fund. The Act regulates the powers and functions of the council, the council's constitution, and related matters. (National Arts Fund of Namibia Act, 2005, GOVERNMENT GAZETTE OF THE REPUBLIC OF NAMIBIA, No. 3424 (May 11, 2005).)

(Ruth Levush, 7-9847, rlev@loc.gov)

NIGERIA – Bill Banning Same-Sex Unions

On January 17, 2006, the Federal Government of Nigeria proposed a law on the prohibition of a relationship between persons of the same sex, celebration of marriage by them, and other related matters. The bill provides a five-year prison term for offenders and for persons who aid and abet them. Movements promoting gay rights and public displays of affection would also be prohibited. State high courts and federal high courts would have jurisdiction over cases of violation of the law. Nigeria's Anglican Church is reportedly spearheading global opposition to same-sex marriage and gay priests' ordination in Western countries, and the Nigerian Government is said to be concerned about the influence on Nigeria of the legal recognition of same-sex unions in countries such as nearby South Africa. Gay rights activists condemned the bill as an "utter breach of human rights." (Josephine Lohor, *FG Bans Same Sex Marriage*, ONLINENIGERIA DAILY NEWS, Jan. 18, 2006, <http://nm.onlinenigeria.com/templates/?a=6730&z=0>; NIGERIA: *Government Proposes Law to Ban Same-Sex Marriage*, IRINNEWS.ORG, Jan. 20, 2006, http://www.irinnews.org/report.asp?ReportID=51252&SelectRegion=West_Africa&SelectCountry=NIGERIA.)

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

NIGERIA – Energy Law

On August 8, 2005, Nigeria published the Electric Sector Reform Act, No. 6 of 2005, (SUPPLEMENT TO THE FEDERAL REPUBLIC OF NIGERIA OFFICIAL GAZETTE A77-A130 (Aug. 8, 2005)). The Law contains the authority to form energy corporations to take over the functions of the former government-controlled corporation for energy in Nigeria, the National Electric Power Authority. The



new law ensures competition in providing services and energy to various parts of Nigeria especially with respect to electricity. However, the government still retains regulatory control of the industry. The Nigeria Electricity Regulatory Commission will be the administrative body.

The Law contains provisions on licensing, generation, transmission, distribution, and supply of electricity, in addition to provisions on enforcement of performance standards, consumer protection and other consumer rights and obligations, and determination of rates. Other provisions cover acquisition of land for energy source exploration, establishment of a general rural electrification fund to meet the costs of the energy needs of Nigerian rural areas, and offenses for violation of the Law's provisions. Creation of a rural electrification system is a very important feature of the Law. As part of this system, a Rural Electrification Agency has been established that will be responsible for electricity distribution to Nigerian rural areas. The Agency has a statutorily required formal Rural Electrification Strategy Plan. The Agency is required by law to abide by this Plan in carrying out all its duties and functions. (Charles Mwalimu, 7-06371, cmwa@loc.gov)

NIGERIA – Revenue Allocation and Local Government Laws

On August 9, 2005, Nigeria published the Monitoring of Revenue Allocation to Local Government Act, No. 9 of 2005 (SUPPLEMENT TO THE FEDERAL REPUBLIC OF NIGERIA OFFICIAL GAZETTE A163-A169 (Aug. 9, 2005)). This piece of legislation is especially relevant to the distribution of oil revenue in Nigeria.

The Act stipulates that each state government is to establish a statutory body known as the State Joint Local Government Account Allocation Committee. The Committee comprises state officials who deal with revenue and resource allocation and also with matters of local government. The Committee members include: a commissioner or any person responsible for matters of local government in the state to serve as Committee Chairman; a Commissioner of Revenue Mobilization, Allocation, and Fiscal Commission as prescribed under the Revenue Mobilization Allocation and Fiscal Commission Act, 1989 as amended (14 L. FED. NIG. Ch. R7, R7-1-R7-8 (2004)); all the chairpersons of local government councils in the state; the state accountant general; a representative of the State Revenue Board; and a permanent secretary of the state ministry charged with responsibility over local governments. The Committee is to ensure that allocations of revenue made to a state's local government councils from the Federation Account and from that particular state are promptly paid to the State Joint Local Government Account and similarly promptly distributed to areas of local authority or councils as required by the Constitution of Nigeria, 1999 (3 L. FED. NIG. C23, 23-1-C23-477 (2004)) as well as by legislation regulating allocation of revenue in the federation, such as the Revenue Mobilization, Allocation, and Fiscal Commission Act. (Charles Mwalimu, 7-0637, cmwa@loc.gov)

SÃO TOMÉ AND PRÍNCIPE – Foreign Minister Resigns over Diversion of Foreign Aid

The Foreign Minister of São Tomé and Príncipe has resigned after coming under widespread criticism for spending nearly US\$500,000 of aid from Morocco without reference to other members of the government. Ovideo Pequeno, a close ally of President Fradique de Menezes, announced his “irreversible” decision to resign on January 16, 2006. He told reporters that the controversy surrounding his actions had led to “a climate of breakdown” in relations between Menezes and the government. Defense Minister Oscar Barbosa was subsequently named acting Foreign Minister until



parliamentary elections in March, which are expected to result in the formation of a new government. He, too, is a close associate of the president. (*Foreign Minister Resigns over Diversion of Foreign Aid*, IRINNEWS.ORG, Jan. 18, 2006, at <http://www.irinnews.org/report.asp?ReportID=51197&SelectRegion=West Africa&SelectCountry=SAO TOME AND PRINCIPE>.) (Gustavo E. Guerra, 7-7104, ggue@loc.gov)

SENEGAL – Broadcasting Law Controversy

On December 21, 2005, Senegal's National Assembly passed a bill on broadcasting (Law No. 38/2005). It will now go to the President of Senegal for signature. The organization Reporters Without Borders has called the bill "poorly drafted, ambiguous, unfair and repressive" and has called for President Abdoulaye Wade to reject it.

If put into effect, the law would create a nine-member National Council for the Regulation of Broadcasting whose members would be chosen by the President. The bill calls for the Council members to be representatives of human rights movements, women's groups, the elderly, and other constituencies. Only one member would be a broadcasting professional. The Council would be able to impose punishments, including fines of up to 10 million CFA francs (about US\$18,400) or temporary closure of facilities. According to the bill, the goal of the Council will be to ensure that media content:

adheres to the rules of professional ethics and conduct, including respect for the institutions of the republic, private life, and the honour and integrity of the individual; and respect for national unity, territorial integrity and the republic's secular nature.

Although there is an appeal process against the Council's rulings, sanctions would be imposed while the process runs its course, and the concern is that the law would have a chilling effect on reporting of controversial issues such as corruption, nepotism, and the separatist movement in Casamance, an ethnically distinct region in southwestern Senegal. (*President Urged to Reject Broadcasting Law Passed by Parliament*, ALLAFRICA.COM, Jan. 3, 2006, <http://allafrica.com/stories/200601040231.html>; *Casamance (Senegal)*, DEMOCRATIC FORCES MOVEMENT OF CASAMANCE, <http://www.crwflags.com/fotw/flags/sn%7Dmfdc.html> (last visited Jan. 11, 2006).) (Constance A. Johnson, 7-9829, cojo@loc.gov)

SEYCHELLES – New Pension Fund Act

On August 19, 2005, Seychelles published the Seychelles Pension Fund Act No. 8 2005 (SUPPLEMENT TO SEYCHELLES OFFICIAL GAZETTE 99-129 (Aug. 19, 2005)). This Law repealed prior applicable legislation contained in the Seychelles Pension Scheme Act (Chapter 220, LAWS OF SEYCHELLES) and the National Provident Fund Act (Chapter 140, LAWS OF SEYCHELLES). Section 3 of this new law establishes the Seychelles Pension Fund, which provides for the financial security of the Fund members and their surviving spouses and children, as long as they pay their contributions into the Fund. The Fund works in a similar fashion to the social security programs of the U.S. Government and is modeled along the lines of the U.S. Government Thrift Savings Plan as well.

The Fund is administered by a Board of Trustees that includes a Board Chairman, a representative of the Ministry of Finance, and not more than ten other persons who represent employees, employers, and private sector employees. A Chief Executive Officer administers the Fund. This person collects contributions, manages payments of pensions and other retirement benefits, supervises investment of the money of the Fund, and accounts for all moneys paid and invested. Every



citizen of Seychelles is by law a member and contributes to this Fund. A system is also statutorily proscribed as to when contributions are due and payable, how contributions are deducted from wages, how non- and late payments are regulated, and how the security of contributions is maintained.

(Charles Mwalimu, 7-06371, cmwa@loc.gov)

SIERRA LEONE – Political Party Leader Arrested

Charles Francis Margai, leader of the People's Movement for Democratic Change (PMDC), a breakaway group from the ruling Sierra Leone People's Party (SLPP), was arrested on December 7, 2005, on charges of conspiracy, incitement to rebellion, and various public order offenses. More specifically, Margai has been charged with eleven counts stemming from a campaign rally in which the motorcade of Vice President Solomon Berewa, the chosen successor of incumbent President Ahmed Tejan Kabbah, was reportedly blocked by a crowd of Margai supporters. Members of the government have accused Margai of attempted assassination.

Margai denies the allegation and called the crowd's action "spontaneous." He broke with the SLPP in early October, after being snubbed as its candidate for president in elections scheduled for 2007. Margai has been unable to register the PMDC with the Political Parties Commission. The legal-political controversy is taking place in the context of the "delicate peace" maintained in Sierra Leone since the conclusion of the 1991-2002 war and as the world's largest United Nations peacekeeping mission is handing over facilities and materials to national authorities and pulling out the remaining 1,300 soldiers. (*Sierra Leone: Police Arrest Leader of Breakaway Political Party for Conspiracy*, UN INTEGRATED REGIONAL INFORMATION NETWORK, Dec. 9, 2005, FBIS No. AFP20051209606005.)

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

SWAZILAND – New Constitution

The Government of Swaziland will begin a publicity campaign for the new constitution, which was to become effective in late January 2006. The Constitution was drafted under the direction of the country's absolute monarch, King Mswati III, and the process excluded representatives of human rights, legal, labor, and pro-democracy groups. On one hand, the new constitution overturns old Swazi customs to promote equality for women; on the other, it maintains the absolute powers of the king. Legal commentators are not sure if its text can be interpreted to permit the legal existence of political parties. Government representatives claimed that "the rule of law crisis" is over, referring to the king's refusal to accept previous legal rulings that limited his powers. (*Swaziland: Year in Review 2005 – Constitution Tests Opposition's Staying Power*, IRINNEWS.ORG, Jan. 19, 2006, <http://www.irinnews.org/print.asp?ReportID=51054>.)

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



EAST ASIA & PACIFIC

AUSTRALIA – Flag Burner Jailed

A twenty-four-year old Australian citizen has been sentenced to three months in jail for burning an Australian flag. During the course of racially motivated rioting in Sydney on December 11, 2005, Hadi Khawaja, who was part of a crowd of about 150 people, set fire to a flag that a teenaged accomplice had torn from a flagpole on the grounds of a Returned Servicemen's League (the Australian analogue to the American Legion) clubhouse. He pleaded guilty to charges of malicious damage and entering enclosed lands with the intent to commit an indictable offense. The court was informed that Khawaja, who had arrived from Lebanon at the age of six, had previously been before the courts on drug and larceny charges. In sentencing him, the magistrate said that although Khawaja had not committed any violent act or participated in a riot, burning the flag was an act "of great significance" and, in the context of what was going on at the time, warranted a more severe penalty than a fine. (*I Should Have Thought First: Flag Burner Sentenced to Jail*, SYDNEY MORNING HERALD, Jan. 13, 2006, <http://www.smh.com.au/>.)

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

BURMA – Enforcement of Basic Rights Discussed

On January 10, 2006, Burma's Deputy Ministry for Information, U Thein Sein, made a presentation at a National Convention that had been meeting since December 5, 2005, to draft a constitution. The Deputy Minister stated that harming a person's fundamental rights as outlined in the constitution would be a violation of criminal law. He called for there to be an authoritative body to ensure that affected citizens receive protection and to remedy any deprivation of rights when criminal law is not sufficient. In addition, he pointed out that in many nations the Supreme Court is given the power to issue writs to handle such cases. This power, he stated, should be given to the Supreme Court of the Union and should not be suspended except when required for public safety in times of war, invasion, rebellion, or other grave emergency. He listed the following types of writs that the Court should have the power to issue: *habeas corpus*, *mandamus*, prohibition, *quo warranto*, and *certiorari*.

The United States has denounced the Convention, calling it "neither a credible political process leading toward a more representative government nor a means for the genuine national reconciliation the people of Burma deserve" and criticizing it as including only delegates selected by the current regime and excluding both opposition and ethnic minority groups. (*National Convention Clarifies Violation of Criminal Law*, THE NEW LIGHT OF MYANMAR, Jan. 11, 2006, FBIS No. SEP 20060111035007; Press Statement of Adam Ereli, U.S. Department of State, Burma—National Convention Reconvenes Dec. 5, 2005), <http://www.state.gov/r/pa/prs/ps/2005/57642.htm>.)

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

CHINA – Animal Husbandry Law Adopted

The National People's Congress (NPC) Standing Committee of the People's Republic of China adopted the Law on Animal Husbandry on December 29, 2005, to become effective on July 1, 2005. The Law is one of several new enactments designed to help fight avian flu (*see* 12 W.L.B. 2005). The Law's eight chapters cover protection of livestock genetic resources, breed selection and operations



management, breeding, exchange and transport, product quality and safety protection, and legal responsibility.

The Law proscribes the use of feed, feed additives, and medicines that do not conform to legal and technical standards and also prohibits the use as animal feed of restaurant slops that have not been treated at high temperatures. Government departments are to guide the animal husbandry business in improving breeding and transportation conditions. In 2004, animal husbandry reportedly accounted for almost thirty-four percent of China's total agricultural output value. (*PRC Adopts Law on Animal Husbandry to Ensure 'Sound' Livestock Breeding*, XINHUA, Dec. 29, 2005, FBIS No. CPP20051229130935; National People's Congress, *Zhonghua Renmin Gongheguo xu mu fa [Law of the People's Republic of China on Animal Husbandry]*, <http://law.npc.gov.cn:87/home/begin1.cbs> (last visited Jan. 11, 2006).)

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

CHINA – Draft Passport Law

China's first draft law on passports was submitted to the National People's Congress Standing Committee on December 24, 2005. The aim of the legislation is to standardize passport application, issuance, and management procedures. The draft law also sets forth punishments for passport-related crimes such as forging passports and profiting from the purchase of passports. Cao Kangtai, Director of the Legislative Affairs Office of the State Council (Cabinet), stated that the legislation should be in conformity with international anti-fraud and anti-terrorist practices. (*China Drafts Passport Law to Standardize Passport Application*, XINHUA, Dec. 24, 2005, FBIS No. CPP20051224057036.)

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

CHINA – Censorship by Chinese Communist Party

As of January 25, 2006, the Propaganda Department of the Chinese Communist Party (CCP) Central Committee ordered the suspension of publication, for purposes of "rectification," of *Freezing Point (Bingdian)*, the weekly supplement of the CCP newspaper *China Youth Daily (Zhongguo Qingnian Bao)*. *Freezing Point* had become known for articles that tested the limits of CCP propaganda controls. Less than a month before, on December 28, 2005, the authorities removed Chief Editor Yang Bin and two other top editors from their posts at *Beijing News (Xinjing Bao)*, another publication that has challenged the CCP line. (Geoffrey A. Fowler & Juying Qin, *Editors at Beijing News Protest Efforts to Tone Down Coverage*, THE WALL STREET JOURNAL, Dec. 31, 2005, at A3; *China Decides Not to Punish Reporters for Staging Walk-Out: Sources*, KYODO WORLD SERVICE, Jan. 14, 2006, FBIS No. JPP20060114062003.)

The *Freezing Point* and *Beijing News* incidents are but the latest in a recent string of CCP actions to censor the press that began in 2004. Various means have been used to impose control; e.g., shutting down publications, removing editors and even placing them in custody, halting deliveries to subscribers, or stopping publication because of alleged financial mismanagement. In addition, a number of reporters have been placed under detention and even sentenced to prison terms; for example, Shi Tao, a reporter with Hunan's *Contemporary Business News*, was sentenced to ten years in prison for divulging "top secret level state secrets." (*SCMP: Controls Spell Bad News for Mainland Chinese Media*, SOUTH CHINA MORNING POST, Jan. 26, 2006, FBIS No. CPP20060126517014; Frank Ching,



Big Brother Mentality, SOUTH CHINA MORNING POST, Jan. 11, 2006, FBIS No. CPP200601111517016; James T. Areddy, *Shi Tao: Press Group Says Yahoo Aided China in Jailing Reporter*, THE WALL STREET JOURNAL, Sept. 7, 2005, <http://www.mindfully.org/Technology/2005/Yahoo-China-Shi-Tao7sep05.htm>.)
(Wendy Zeldin, 7-9832, wzeld@loc.gov)

CHINA – Internet Security Provisions

On December 13, 2005, China's Ministry of Public Security (MPS) issued the Provisions on Technological Measures for Safeguarding Internet Security, to take effect on March 1, 2006. The MPS has stated that their aim is to prevent the spread of computer viruses, harmful junk e-mail, and organized online pornography. However, they also appear to tighten government control of Internet Service Providers (ISPs) and of work units that have links with and use the Internet. The Provisions stipulate that the ISPs and the work units are responsible for safeguarding Internet security, and the police are to supervise and inspect their implementation of the protection measures in accordance with law. The Provisions call for standardization of Internet-based technologies, including those that monitor computer systems and record information such as log-on time and the websites browsed.

Policing of the Internet in China is not new. 1994 regulations issued by the State Council gave the MPS overall responsibility for that function; 1997 Measures made ISPs and other enterprises that access the Internet responsible for regularly reporting to and assisting the police in investigating violations of laws and regulations. As of January 2, 2006, two cartoon figures, Jingjing and Chacha, representing a policeman and policewoman (the word *jingcha* means police) officially appeared on websites of Shenzhen City in Guangdong Province. Shenzhen Internet security officials acknowledged that the cartoons' main function is to intimidate web users. (*Rules Issued to Ensure Internet Safety*, CHINA DAILY, Dec. 31, 2006, http://www.chinadaily.com.cn/english/doc/2005-12/31/content_508396.htm, *Provisions on Technological Measures for Safeguarding Internet Security*, LAW BRIDGE, Dec. 13, 2006, <http://www.law-bridge.net/LAW/20061/1812433085383.shtml>; Katherine Mangu-Ward, *Caught in the Web*, THE WEEKLY STANDARD, Dec. 19, 2002, <http://www.theweeklystandard.com/Content/Public/Articles/000/000/002/040yffaq.asp>; Amnesty International, PEOPLE'S REPUBLIC OF CHINA: STATE CONTROL OF THE INTERNET IN CHINA (Nov. 26, 2002), <http://web.amnesty.org/library/print/ENGASA170072002>, Hong Yan, "Jingjing" and "Chacha" Go on Duty Today, and via the Internet May Interact with Net Friends, BEIJING YOUTH DAILY, Jan. 2, 2006, <http://www.e-gov.org.cn/Article/news003/2006-01-02/15229.html>.)
(Wendy Zeldin, 7-9832, wzeld@loc.gov)

CHINA – Legislative Interpretations of Criminal Law

On December 29, 2005, the National People's Congress Standing Committee (NPCSC) adopted two legislative interpretations, which it rarely issues, of provisions of the Criminal Law. The "Interpretation of the NPCSC on Applying the Relevant Provisions on Cultural Relics of the Criminal Law of the PRC to Ancient Amniote Fossils and Ancient Human Fossils with Scientific Value" extends to the fossils the application of the relevant Criminal Law provisions on cultural relics (cf. articles 324-329; illegal excavation and robbery of such fossils are penalized under article 328). The "Interpretation on Relevant Provisions of the Criminal Law of the PRC on Other Invoices Concerning Export Tax Rebate and Deduction" makes the clarification that "other invoices that can be used for export tax rebates or to offset tax payments" refers to vouchers for collection or payment of funds or vouchers for



tax payment used to rebate export tax or offset tax payments, but not to special value-added tax invoices. (Text of NPCSC interpretation on fossils (in Chinese), http://www.lawbook.com.cn/law/law_view.asp?id=125278; Text of NPCSC interpretation on invoices (in Chinese), http://www.lawbook.com.cn/law/law_view.asp?id=125277.)
(Wendy Zeldin, 7-9832, wzeld@loc.gov)

CHINA – One-Child Policy to Be Continued

At a recent national conference, Zhang Weiqing, the Minister of the State Commission of Population and Family Planning China, said that China would adhere to its family planning policy and endeavor to stabilize the low birth rate during the eleventh Five-Year Plan period (2006-2010). Zhang also said that the current family planning policy has been widely accepted because it is in line with China's situation of population growth. (*China to Maintain One-Child Policy in Coming Years: Minister*, PEOPLE'S DAILY, Jan. 10, 2006, at <http://english.people.com.cn/200601/10/eng20060110234237.html>.)
(Rui Wei, 7-9864, rwei@loc.gov)

CHINA – Prosecutorial Organ Issues Guidelines on Handling Certain Crimes

On January 11, 2006, the Supreme People's Procuratorate (SPP) issued a set of Guiding Opinions on policies that must be adopted in punishing crimes of "disrupting the order" of the socialist market economy and of "dereliction of duty." The Opinions state that in handling the latter, priority should be given to those cases that evoke an intense public reaction, the close attention of the Chinese Communist Party (CCP) and the government, or exposure in the news media or that have a "negative impact" on society. The Opinions state that in cases where actual damage has already occurred, at the time the case is filed it should also be reported to the CCP committee and the government authorities concerned for adoption of "requisite measures" to reduce the extent of the harm and the losses incurred. (*Cha ban po huai shi chang jing ji zhi xu mai zhi fan zui (Investigation and Handling of Crimes of Disrupting the Market Economy Order and Dereliction of Duty)*, LEGAL DAILY, Jan. 12, 2006, http://www.legaldaily.com.cn/misc/2006-01/12/content_250955.htm.)

In addition, the *Beijing News* reported on January 2, 2006, that the SPP has established an online blacklist of persons convicted of bribing officials. Included on it are "individuals and organizations convicted of bribery or bribery-related crimes since 1997 in the sectors of construction, finance, education, health and government procurement." The public reportedly can search the list, upon application in writing to a procuratorate. (*China Sets Up Blacklist of Bribers to Fight Corruption*, AFP, Jan. 2, 2006, FBIS No. CPP20060102074010; *Quan guo xing hui fan zui hei ming dan lian wang (Nationwide Bribery Crimes Blacklist Online)*, THE BEIJING NEWS, Jan. 2, 2006, <http://news.thebeijingnews.com/china/2006/0102/013@151985.htm>.)
(Wendy Zeldin, 7-9832, wzeld@loc.gov)

HONG KONG – Court Drops Charges Against Protesters

A Hong Kong court, on January 11, 2006, dropped charges against eleven out of fourteen anti-globalization protesters, including a Taiwanese student, who were arrested during violent clashes at the World Trade Organization meeting in Hong Kong on December 17, 2005. Prosecutors said the eleven – eight South Koreans, one Japanese, one from mainland China, and the Taiwanese – were free to leave Hong Kong because there was not sufficient evidence to proceed with charges. The other three



protesters, who are Korean, will have to stand trial, but the charge against one of them was changed to unauthorized assembly, a lesser offense. The trial date was set for March 1. If these three protesters are found guilty, they could be sentenced to up to three years' imprisonment. (*HK Court Drops Charges Against Young Protester*, THE CHINA POST, Jan 12, 2006, at <http://www.chinapost.com.tw/taiwan/detail.asp?ID=75174&GRP=B>)
(Rui Wei, 7-9864, rwei@loc.gov)

HONG KONG – ISPs Must Give Information on Illegal Uploaders

The Hong Kong High Court, on January 26, 2006, ordered that four Internet service providers (ISPs) provide information on twenty-two persons suspected of illegally uploading music to the web. Multinationals Universal, Sony BMG, Warner Music, and four other record companies had requested that the four ISPs (Citinets, HGC Broadband, I-Cable, and PCCW) reveal the suspects' genuine names and home addresses. A November 2005 investigation showed that the twenty-two had illegally uploaded more than a thousand songs to the Internet for others to download. Some of the songs, another probe revealed, have not yet been released. The International Federation of the Phonographic Industry (Hong Kong Group) viewed the court order "as a recognition of the industry's hard work in maintaining copyrights." (*HK Court Urges ISPs to Give Information of People Uploading Songs*, XINHUA, Jan. 26, 2006, FBIS No. CPP20060126053031.)
(Wendy Zeldin, 7-9832, wzeld@loc.gov)

INDONESIA – Draft Autonomy Law for Aceh

According to a report of January 24, 2006, the Indonesian Government has drafted a law on autonomy for Aceh Province, where a peace agreement was recently implemented with separatist rebels, following thirty years of bloody conflict. The draft law, which under the agreement should become effective at the end of March 2006, grants a great deal of independence to the region. It is expected to be controversial when it is debated in the parliament, where concern is likely to be raised over the fate of revenues from oil and gas deposits and the proposal to allow political parties, banned elsewhere in the country. Should the law be approved, the government expects elections in the province by July 2006. (*Indonesian Government Finishes Drafting Aceh Autonomy Law*, AFP, Jan. 24, 2006, FBIS No. PP20060124078005.)
(Constance A. Johnson, 7-9829, cojo@loc.gov)

JAPAN – Failure of Deregulation

When a massive earthquake hit near Osaka in 1995, many people died because of collapsed buildings. The Japanese Government understood that the municipal government that was in charge of examination of the blueprints of the buildings could not detect all the building defects from the blueprints. The Building Standards Law was therefore amended in 1998. Under the amendment, private firms that are licensed by the national government can review blueprints for potential safety problems.

Since late 2005, reports of apartment buildings and hotels that do not have the strength to withstand earthquakes have become national news. In a series of cases, an architect falsified calculations of strength of the basic structure of buildings, allegedly at the instruction of the construction companies. Also, private firms, which were supposed to review these calculations, did not



really examine them. Japan is looking for a better system to ensure the safety of buildings. (*Urame ni deta Hanshin daishinsai no kyōkun [Teaching of Hanshin Earthquake Had an Opposite Result]*, YOMIURI SHINBUN, Jan. 16, 2006 (on file with author).)
(Sayuri Umeda, 7-0075, sume@loc.gov)

JAPAN – Supreme Court Ends Seventeen-Year Criminal Justice Process

Tsutomu Miyazaki's appeal to Japan's Supreme Court was rejected and the Court confirmed the sentence of capital punishment rendered by the lower courts. During 1988 and 1989, Miyazaki kidnapped five girls who were between four and seven years old. Four girls were killed, and while he was abusing the fifth girl, he was captured. The reason for the long delay in the judicial process is that Miyazaki's mental competence at the time of the crimes had been questioned. (*Nagai saiban ga teiki shita omoi kadai [Serious Problem Raised by Long Process]*, YOMIURI SHINBUN, Jan. 18, 2005 (on file with author).)
(Sayuri Umeda, 7-0075, sume@loc.gov)

KOREA, SOUTH – Court to Review Past Execution Ruling on Dissidents

Acknowledging the judiciary's misconduct in trials under the past authoritarian regimes, the Seoul Central District Court decided on December 27, 2005, to review a 1974 treason case that resulted in eight executions. This case started with the arrest of some 180 dissidents and students who were accused of conspiring to topple the rule of the Korean President at the time, Park Chung-hee. The eight executed were among twenty-three convicted persons who the government said were members of the People's Revolution Party, a party the government claimed was controlled by North Korea. The executions became an international issue because the eight were hanged less than eighteen hours after the Supreme Court upheld their death sentences in April 1975.

As for the new trial, the court said that the convictions of the eight dead and the dozens of others involved in the case were based on confessions obtained under torture. The review of the case is not unexpected, as the National Intelligence Service had stated earlier in December that the case was fabricated by the Park Chung-hee regime with the aim of cracking down on democracy movements launched by dissidents and student activists. (*Court to Review Past Execution Ruling on Dissidents*, THE KOREA TIMES, Dec. 27, 2005, at <http://times.hankooki.com/lpage/200512/kt2005122717154610160.htm>.)
(Seung Eun Lee & Sayuri Umeda, 7-0075, sume@loc.gov)

MALAYSIA – Controversial Family Law Passed

The Islamic Family Law (Federal Territories) (Amendment) Bill 2005 has been quite controversial in the Malaysian Senate. Objections were raised to the proposal to allow a man about to marry another wife to claim part of his present wife's assets or to apply for their matrimonial home to be sold and the proceeds divided. In addition, there are sections that may make it easier for men to practice polygamy, as the standard would be changed from permitting additional marriages when "just and necessary" to "just or necessary." Some senators have also opposed provisions that could force a wife to choose either maintenance or division of joint property upon a husband's polygamous marriage and other sections that allow a husband to stop his wife from disposing of her property. The amended law allows husbands another option in divorcing their wives, giving them the right to a *fasakh* divorce (general right



to claim divorce), which used to be the prerogative of the wife, in addition to the existing right of husbands to divorce by pronouncing the *talaq*.

A group of sixteen women senators met with a government representative on December 21, 2005, to discuss their concerns about the amendments and were told the Cabinet would review the legislation with those issues in mind. The Senate voted to approve the bill the next day. The Women, Family, and Community Development Minister said that the law was intended to standardize Islamic family law in the states and that it would be reviewed to ensure that it was fair to both men and women. (*Malaysian Cabinet Pledges to Look into Concerns over Amended Islamic Family Law*, NEW STRAITS TIMES, Dec. 23, 2005, FBIS No. SEP20051223031001; *Malaysian Government to Enforce New Islamic Family Bill Approved by Senate*, BERNAMA, Dec. 23, 2005, FBIS No. SEP20051223031003.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

TAIWAN – Alternative Minimum Tax

Taiwan's Statute for Alternative Minimum Tax (ALT), promulgated on December 28, 2005, is aimed at guaranteeing fair taxation, ensuring tax collection, and establishing a basic contribution to state finances through the imposition of business and personal income tax. The Statute's five chapters include general provisions, assessment of ALT on operating income, assessment of ALT on personal income, penalties, and supplementary provisions. With the exception of article 15, the penalty provision, the Statute entered into effect on January 1, 2006. Article 15 stipulates fines for failure to declare, underreporting, and failure to calculate and report ALT under the Statute's provisions and will enter into force on January 1, 2007. (ZONG-TONG FU GONG-BAO [GAZETTE OF THE OFFICE OF THE PRESIDENT] 57 (Dec. 28, 2005), Global Legal Information Network, GLIN ID 173531.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

TAIWAN – Freedom of Information Law

The President of the Republic of China (on Taiwan) promulgated the Freedom of Government Information Law on December 28, 2005, effective the same day. The six chapters cover general provisions, automatic disclosure of government information, application for provision of such information, restrictions on disclosure, remedies, and supplementary provisions.

“Government information” is defined as information created or obtained within the scope of the powers and functions of government organs and existing in media such as written documents, pictures, photographs, magnetic plates, magnetic tapes, optical disks, microfilm, integrated circuit chips, or in any other record that can be understood through being read, looked at, or listened to or through technological or auxiliary means. Circumstances in which information is to be restricted or exempt from being made publicly accessible include, for example: when state secrets or other matters should be kept secret by law; when information concerning an investigation or a trial might jeopardize a criminal defendant's right to a fair trial or endanger other persons' rights; or where making industrial secrets public would harm the rights, competitive position, or other legitimate interests of the individual, legal person, or group concerned. However, such restrictions will not apply when the need to protect the public interest or the life, person, or health of people is concerned, or where the approval of the relevant parties has been obtained. (ZONG-TONG FU GONG-BAO [GAZETTE OF THE OFFICE OF THE PRESIDENT] 6 (Dec. 12, 2005), Global Legal Information Network, GLIN ID 173514.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)



TAIWAN – Income Tax Measure Passes First Hearing

An amendment to the Income Tax Law that would eliminate the income tax exemption for soldiers and schoolteachers passed its first hearing in Taiwan's Legislative Yuan on January 9, 2006. Salaries earned by military personnel and teachers at the kindergarten, elementary, and junior-high school levels have been exempted from taxation since 1955. Lin Chuan, the Finance Minister, said military personnel and teachers might have to begin filing taxes in 2008 if the amendment becomes law. (*Income Tax Measure Passes First Reading in Legislative Yuan*, TAIWAN HEADLINES, Jan 10, 2006, at <http://english.www.gov.tw/TaiwanHeadlines/index.jsp?catid=8&recordid=90381>.) (Rui Wei, 7-9864, rwei@loc.gov)

TAIWAN – New ID Cards

On January 19, 2006, new identification cards were officially issued in Taiwan. The new cards, which must be picked up in person at a local household registration office, bear on the front a photograph of the cardholder and the person's name, ID number, gender, and date of birth, as well as the card's date of issuance. The back has an anti-forgery bar code, the name of the cardholder's parents and spouse, and the cardholder's birthplace, address, and military service information. Aborigines may have their ancestral names included on the card. All words are printed horizontally rather than vertically. Old ID cards had only six forgery-proof features; the new ones have twenty-one. (*Issue of New ID Cards Begins*, TAIWANHEADLINES, Jan. 19, 2006, <http://english.www.gov.tw/TaiwanHeadlines/index.jsp?catid=10&recordid=89790> (last visited Jan. 20, 2006).)

It was reported on January 6, 2006, that the Ministry of the Interior would loosen regulations on ID card photographs. Persons whose ears are not naturally very visible no longer need to resort to awkward methods to make them more visible in order to meet legal requirements. However, hiding the ears altogether will not be permitted; those with long hair may only have one-third of their ears covered. In addition, on January 5, the Ministry issued a statement indicating that people may now show their teeth in ID card photographs if they so choose. (*Ministry of the Interior Clears 'Earless' Exterior for IDs*, TAIPEI TIMES, Jan. 6, 2006, <http://www.taipeitimes.com/News/front/archives/2006/01/06/2003287618>.)

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

TAIWAN – Regulations on Hazardous Substances' Inspection

On January 5, 2006, Taiwan's Bureau of Standards, Metrology and Inspection (BSMI) under the Ministry of Economic Affairs announced new regulations on designated laboratories for inspecting and testing hazardous substances. They were adopted to conform to the Restrictions on Hazardous Substances (RoHS) and Waste Electrical and Electronic Equipment (WEEE) Directives of the European Union, scheduled to enter into force on July 1, 2006. The Directives mandate that electrical and electronic equipment containing lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls, and polybrominated diphenyl ether be banned from export to EU member states.

A BSMI official noted that the Directives would have a great impact on Taiwan as a major manufacturer of electrical and electronic equipment. To cope with their implementation, BSMI-approved public labs will be granted certificates to inspect for hazardous substances, at the request of domestic manufacturers, the equipment as well as parts and components bound for the EU. If their



products are found to be free of the substances, the manufacturers will receive inspection reports bearing the BSMI emblem, enabling them to export the goods to EU member states. (*Taiwan Enacts New Rules on Hazardous Substances Inspection*, YAHOO!Singapore-Finance, <http://sg.biz.yahoo.com/060105/16/3xopo.html> (last visited Jan. 6, 2006); Directive 2002/95/EC of the European Parliament and of the Council on 27 January 2003 on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment, 2003 O.J. (L 37) 19, http://europa.eu.int/eurlex/pri/en/oj/dat/2003/l_037/l_03720030213en00190023.pdf; Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on Waste Electrical and Electronic Equipment (WEEE), 2003 O.J. (L 37) 24, http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/l_037/l_03720030213en00240038.pdf.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

VANUATU – Reintroduction of Registration of Religions

It was reported on January 23, 2006, that Vanuatu plans to reintroduce registration of all religious denominations. Religious Affairs Minister George Wells stated that there is concern that many of the country's new churches have been hiding behind freedom of worship granted under Vanuatu's Constitution to "build their own personal empires." Registration is to be carried out in close collaboration with the Vanuatu Council of Churches. As part of the registration process, church leaders "are expected to come with their constitutions and explain how their church offerings and tithes will benefit their congregation." Mainline churches are exempt from the process. Wells stated that the small, newly established churches are the ones whose dealings have been reported to be questionable by church members and persons who have donated land to build churches. Such dealings include church leaders using the community-provided church space in order to form a trust with all properties under their own names and even setting up business ventures.

Announcement of the measure comes one month after a hotly debated controversy over the denial of entry into Port Vila, Vanuatu's capital, of Reverend Sun Myung Moon. However, Minister Wells denied that the reintroduction of registration of religions is a move aimed at weakening Reverend Moon's influence. (*Vanuatu Tightens Laws on New Religious Bodies*, PACNEWS, Jan. 23, 2006, LEXIS/NEXIS, News Library, 90days File; *Vanuatu to Reintroduce Registration of Religions*, RADIO NEW ZEALAND, Jan. 23, 2006, FBIS No. SEP20060123950011.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

VIETNAM – Draft Securities Law

It was reported on January 11, 2005, that the Ministry of Finance (MOF) of the Socialist Republic of Vietnam had submitted to the government a draft law on securities. The chief purposes of the law, according to the MOF, are to meet market requirements on the one hand and, on the other, to overcome shortcomings of Decree 144/2003/ND-CP on securities and the securities market by creating a comprehensive legal framework for securities market activities. The MOF stated that, in particular, the Decree does not regulate issuance of shares by state-owned equity enterprises, foreign-invested enterprises converted into joint stock companies, or credit institutions; it does not regulate securities transactions in the over-the-counter market; and it fails to fully cover violations of lawful securities trading and market activities and the principles and competence for handling them. (*Draft Law on Securities Submitted to Government*, DAILY NEWS FROM VIETNAM, Jan. 11, 2006, <http://asemconnect.vietnam.gov.vn/detail.aspx?id=7301>.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)



EUROPE

AUSTRIA – Public Sector Information

On November 18, 2005, Austria enacted a Federal Act on the Re-Use of Information (BUNDESGESETZBLATT No.135/2005) that transposes the European Directive on the Reuse of Public Sector Information of November 17, 2003 (Directive 2003/98/EC, OFFICIAL JOURNAL OF THE EUROPEAN ECONOMIC COMMUNITIES (L 345) 90) into Austrian law for data belonging to the Austrian Federal Government. In addition, the Austrian states are in the process of enacting similar laws for their administrative data. (R. Knyrim, *EU-Recht: Verwaltungsdaten, bitte warten*, DIE PRESSE, July 4, 2005, at <http://www.diepresse.at>.)

The Austrian Federal Act provides a framework of terms under which commercial entities and other seekers of information may obtain data generated by the Austrian Federal Government or by public institutions that are funded or supervised by the Austrian governmental units. A fee structure for released data is being designed that must live up to criteria of transparency and non-discrimination. Exempt from the Act are data protected by privacy laws, national security interests, or intellectual property regimes. Exclusive permits for the use of information may not be granted, and disputes are to be settled by a newly constituted mediation panel.
(Edith Palmer, 7-9860, epal@loc.gov)

BELGIUM – New Anti-Terrorism Law

On December 23, 2005, the Belgian Senate approved new legislation to combat terrorism and organized crime. The law had been adopted earlier by the Chamber of Representatives and became effective on January 1, 2006. The text, sponsored by the socialist Justice Minister Laurette Onkelinx, was strongly opposed by journalists, lawyers, judges, and the Belgian League of Human Rights, who denounced its lack of precision and balance. The law is aimed at improving anti-terrorism investigations and provides for special investigating measures authorized only against terrorism and organized crimes.

The law creates specialized anti-terrorist judges who are allowed to exercise their powers throughout the kingdom. Confidential files on certain suspects may be established. The law provides for the use of informers and the infiltration of groups by the police. The police will act under the supervision of judges when using these special investigating powers. Onkelinx strongly defended the law, stating, “[i]t is not a question of choice, but a necessity in the face of organizations using incredibly violent methods.” (Jean-Pierre Stroobants, *La nouvelle loi belge renforce les “méthodes de recherche,”* LE MONDE, Dec. 25 & 26, 2005, at 7.)
(Nicole Atwill, 7-2832, natw@loc.gov)

CZECH REPUBLIC – Anti-Discrimination Law Rejected

On January 26, 2006, the Czech Senate rejected a draft anti-discrimination law, even though the enactment of anti-discrimination legislation in the member states is required by the European Union. It was reported that the Civic Democrats (ODS) in particular opposed the law, chiefly because it would create “unwanted positive discrimination” and has “very vague, often general formulations,” according to ODS Senator Jaroslav Kubera. Kubera also criticized the law for its impracticality in attempting to describe all possible cases of discrimination. In his view, this would be bound to result in amendments,



because other cases of discrimination not foreseen by the law would invariably arise. However, a non-affiliated member of the Czech Parliament, Zdenek Barta, who is on the Senate's Committee for Human Rights, stated that if the rejection of the draft law is not overturned by the members of parliament, the Czech Republic will face a complaint before the European Court of Justice. (*Czech Senate Rejects Antidiscrimination Law*, CZECH RADIO, Jan. 26, 2006, FBIS No. EUP20060126950012.)

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

FINLAND – Period of Limitations Amended for Sexual Crimes

From January 2006, sexual exploitation of a minor and aggravated sexual exploitation, as well as rape, aggravated rape, and sexual coercion, will become barred by statute in Finland from pursuit of criminal liability at the earliest when the victim turns twenty-eight years of age. If after the victim has turned twenty-eight and the general period of limitation has not run out, the offender can still be prosecuted for the crime. In practice, however, this stipulation is only applicable to aggravated rape and aggravated sexual exploitation of a minor, for which the statute of limitations is twenty years; for rape, sexual coercion, and sexual exploitation of a minor the period is ten years. The law has been amended to ensure that sexual crimes that were perpetrated a long time ago and that may not have been known until the period of limitation ran out can still be prosecuted. (Ministry of Justice, *Grova Sexualbrott Mot Barn Blir Preskriberade Tidigast När Offret Fyllt 28 År* (Dec. 22, 2005), available at <http://www.om.fi/tulostus/33289.htm>.)

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

FRANCE – 2006 Finance Law

The 2006 Finance Law of December 30, 2005, reduces the number of income tax brackets for individuals' taxed income from seven to five and the top income tax rate from 48.09 to 40 percent. It abolishes, however, the 20 percent special exemption on salaries and pensions that applied to a certain portion of a taxpayer's annual salary or pension. These new rates will apply to income tax payable in 2007 on 2006 income. Dividends paid by domestic or foreign companies will become taxable on 60 percent of their amount, as opposed to 50 percent. The 2006 Finance Law also introduces a ceiling on direct taxes paid to the state (personal income tax and wealth tax) and to the local government (residence tax and real estate taxes paid on a personal residence). These direct taxes are capped at 60 percent of the taxpayer's income.

As far as corporations are concerned, the 2006 Finance Law, among other measures, reforms the minimum corporate tax, provides for more generous research-and-development tax credits, and caps in 2007 the local business tax at 3.5 percent of added value realized by a corporation. Some companies currently are paying a local business tax exceeding 10 percent of their added value. (2006 Finance Law: Law 2005-1719, Dec. 30, 2005, French Government official website, at <http://www.legifrance.gouv.fr> (last visited Jan. 10, 2006).)

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



FRANCE – Draft Law on Immigration

On January 12, 2006, Interior Minister Nicolas Sarkozy outlined some of his main objectives for 2006. One of them is the reform of immigration law. A new draft law on immigration to be submitted to the Council of Ministers in February 2006 will contain the following main measures: (1) a target number of migrants based on France's capacity to absorb them; (2) the facilitation of entry of needed qualified workers, students, researchers, and university professors; (3) a reform of family reunification measures aimed at allowing migrants to truly integrate (through procedures, lodging, and resources adapted to the family unit); (4) the signature by immigrants of an "integration contract" that will become a mandatory condition for residing in France; and (5) measures to avoid the use of marriage for illegal immigration.

Sarkozy also wants to increase the number of illegal immigrants escorted back to the border. He stated that 10,000 persons were escorted back to the border in 2002; there were 20,000 in 2005. He has set an objective of 25,000 for 2006. He believes the progressive implementation of the biometric visas should make possible the attainment of this goal. (Vœux à la presse de Nicolas Sarkozy [Greetings to the Press from Interior Minister Nicolas Sarkozy] (Jan. 12, 2006), http://www.interieur.gouv.fr/rubriques/c/c1_le_ministre/c13_discours/2006_01_12_voeux_presse.) (Nicole Atwill, 7-2832, natw@loc.gov)

FRANCE – Protection of Journalists' Sources

On January 12, 2006, during his traditional New Year's greetings to the press, the French Justice Minister stated "the right of journalists to protect their sources will be written into the Law of July 29, 1881, on the Freedom of the Press." He added "it will be possible to infringe upon it only in exceptional cases and when the nature of the offense and its particular seriousness justify it." In addition, he stated:

[T]he specific rules applicable to searches carried out in a press company will be extended to the homes of journalists. It will be possible to call upon the *juge des libertés et de la détention* [freedom and detention judge] to intervene if the journalist considers that the seizures carried out infringe on the protection of sources in a disproportionate manner.

The right of journalists to protect their sources is currently addressed in article 109 of the Code of Criminal Procedure, which provides that "[a]ny journalist, heard as a witness regarding information gathered while practicing his professional activity, is free not to reveal its origin." (Vœux à la presse de Pascal Clément [Greetings to the Press from Justice Minister Pascal Clément] (Jan. 11. 2006), [http://www.justice.gouv.fr/discours/d110106.htm.](http://www.justice.gouv.fr/discours/d110106.htm)) (Nicole Atwill, 7-2832, natw@loc.gov)

GEORGIA – Military Expansion Law

On January 5, 2006, Georgian President Mikheil Saakashvili signed into law legislation that introduces major changes to the national military system. The law raises the maximum strength of the national armed forces to 32,000, up from its current force of 29,000 people. According to the new law, the total number of army troops and border guards is to be set at a maximum of 26,000 and 6,000, respectively. The law reinstates previously passed norms regarding recruitment and conscription and provides for a deferral of military service for full-time university students. The length of a contract for military service is defined as twenty-five years. The conscription of private soldiers for one-year terms is also preserved. The law allows those who object to military service to buy an exemption from military duty. Upon payment of a fixed amount of money, an individual may postpone or shorten the



term of his obligatory military service or completely escape it. The government will determine the amount of the buyout. (*Georgian President Signs Law Expanding Military*, RADIO FREE EUROPE/RADIO LIBERTY DAILY NEWSLINE, Jan. 6, 2006, at <http://www.rferl.org/>.) (Peter Roudik, 7-9861, prou@loc.gov)

GERMANY – Adoption

In a decision of November 29, 2005 (docket number 1 BvR 1444/01), a three-judge panel of the German Federal Constitutional Court reversed and remanded a lower court decision that had approved the adoption by the stepfather of a child born out of wedlock, without having granted the father of the child a hearing. The Court held that in doing so, the lower court had violated the father's constitutional rights of equality and his constitutionally guaranteed parental rights (art. 3 ¶1 & art. 6 ¶ 2, the German Constitution, May 23, 1949, BUNDESGESETZBLATT 1). In the case at hand, the father had not been involved in the child's upbringing for years, and the lower courts felt justified in replacing the father's consent to the adoption with judicial consent. The Federal Constitutional Court held that the lower court's action discriminated against the father, who had never been married to the mother, by granting him fewer rights than a father would have had who had been divorced from the mother. The Court instructed the lower court to weigh and balance the interests of the father with the best interests of the child in the remanded proceeding.

(Edith Palmer, 7-9860, epal@loc.gov)

ITALY – Control of Fiscal Evasion

The Italian Government has raised Decree Law No. 203, with amendments, of September 30, 2005, to the status of law, as Law No. 248 of December 2, 2005. The new Law stipulates measures to control fiscal evasion and sets forth emergency provisions in regard to tax and financial matters. The Law stipulates the participation of municipalities in the control of tax evasion and adopts norms to simplify procedures for the entry of records in the registry of companies and in the repository of economic and administrative information. It adds measures to reinforce the powers and enhance the operation of the Collection Agency, Customs, and the *Guardia di finanza* (Finance Watch). It also stipulates the manner in which after January 1, 2006, the results of assessments of tax declarations will be communicated and includes a provision on handling reports containing false or deceitful information.

Other sections of the Law are devoted to collection reform and to *Giustizia Tributaria* (Tax Fairness); added value of companies' duration of real estate leasing contracts; nondeductibility of losses on untaxed dividends; insurance banks; and privatization of regional entities and companies. Title IV deals with social security and health, including compensation to companies granting the *trattamento di fine rapporto* (final report allowance) as a complementary pension aid; improvement of the employment rate; and approval of financial program instruments in the health sector. The same chapter also covers effectiveness of public administration; intervention in matters of economic and social development programs; and control of the budgets of the state and of non-territorial public entities. In addition, it includes provisions on redemption of material assets instrumental in the exercise of some regulated activities; rationalization and improvement of the effectiveness of air traffic control; intervention in favor of the safety of airport facilities and operations; competitiveness of the airport system; development of airport infrastructure; airport security; and royalties on fuels. There are also provisions on control of illegal gambling. (GAZZETTA UFFICIALE, No. 281 (Dec. 2, 2005).) (Dario Ferreira, 7-9817, dfer@loc.gov)



ITALY – Criminal Code Amendment

The Italian Government approved a law amending the Criminal Code in matters of general extenuating circumstances, relapses, decisions on comparison of circumstances of punishable offenses by recidivists, usury, and prescription of punishment (Law No. 251, Dec. 5, 2005). The Law authorizes judges to take into consideration other circumstances when, in their judgment, those different circumstances may justify reduction of the penalty (art. 62-bis). It prohibits extenuating circumstances from prevailing over aggravating circumstances or over any other circumstance for which the Law establishes punishment of a different kind or determines the extent of punishment independently from that common to the crime (art. 69, 4). The Law establishes that persons who, after being sentenced for a non-voluntary offense, perpetrate another such offense can be subject to an increase in punishment of a third of the penalty to be imposed for the new offense; in some specific cases, the penalty can be increased by up to half of the punishment (art. 99). The Law also amends Law No. 354 of July 26, 1975, and the Decree of the President of the Republic No. 309 of October 9, 1990, adding provisions on concession of awards for good behavior permitted to recidivists (art. 30-quarter and art. 94-bis, respectively). (GAZZETTA UFFICIALE, No. 285 (Dec. 7, 2005).) (Dario Ferreira, 7-9817, dfer@loc.gov)

ITALY – Election of Members of Congress

The Italian Government enacted a law on election of members of the Chamber of Deputies and members of the Senate (Law No. 270, Dec. 21, 2005, amended Decree of the President No. 361, Mar. 30, 1957 & Legislative Decree No. 533, Dec. 30, 1993). The Law reminds Italians that the vote is a civic duty and a right of all citizens, whose free exercise must be guaranteed and promoted by the Republic (art. 4). Furthermore, it states that organized political parties or groups are allowed to unite in a coalition and submit a list of their own candidates (art. 14-bis) and determines the voting requirements and procedures (arts. 18-bis, 31, 58, 83 and 84). The Law also determines the specific requirements for submission of the list of candidates for the Senate and identifies the functions of the Regional Electoral Office. (GAZZETTA UFFICIALE, No. 303 (Dec. 30, 2005).) (Dario Ferreira, 7-8717, dfer@loc.gov)

ITALY – Imprisonment for Vilifying Catholicism

On January 12, 2006, a judge in L'Aquila, Italy, sentenced Adel Smith, President of the Union of Italian Muslims, to eight months in prison for vilification of religion. On November 23, 2004, Smith threw a crucifix out of the window of the hospital ward where his mother was being treated. (*Adel Smith Sentenced to Eight Months for Vilification*, LA STAMPA, Jan. 13, 2006, FBIS No. EUP20060113058007.) (Donald R. DeGlopper, 7-9831, ddeg@loc.gov)

KAZAKHSTAN – Anti-Trafficking Legislation Adopted

On January 17, 2005, the Law on Counteracting Human Trafficking was passed by the Senate (legislature) of the Republic of Kazakhstan. The Law introduces changes to the Criminal Code and Code of Administrative Violations, elaborating stricter measures for border transfer and issuance of travel permits to women under twenty-seven years of age. According to the Law, women traveling to the countries included on a list of potentially dangerous trafficking destinations alone or in groups



consisting of females under that age will have to establish the purpose of the trip and submit evidence of their return to Kazakhstan. New rules for parental notification regarding teenagers' travel abroad are also introduced. The Law imposes criminal punishment of up to five years of imprisonment for organizing human trafficking operations or for assisting in the transfer of individuals through the state border of Kazakhstan with the purpose of sexual exploitation. Administrative punishment is prescribed for government officials whose professional negligence leads to the act of trafficking. (*Senate Approves the Law on Counteractions to Human Trafficking*, KZ-TODAY, Jan. 18, 2006, <http://www.securities.com>.)

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

KAZAKHSTAN – Courts with Jurors Established

On January 16, 2006, President Nursultan Nazarbaev of Kazakhstan enacted the Law on Juries, which brings the institution of juries into the national judicial system. Initially, the Law, which will enter into force as of July 1, 2006, will limit the use of juries in criminal cases considered by district courts of first instance. The use of jurors in judicial proceedings is not mandatory; it is up to the accused person to decide whether to be tried traditionally, by a professional judge, or by a jury. If there are several defendants and they disagree on the form of trial, the case will be divided for trial according to the requests of the accused individuals. The Law determines the status of jury members as participants in the juridical process and makes them procedurally equal to the judge. Provisions aimed at guaranteeing the independence of jurors are included in the Law. The Law provides that local government bodies are obligated to prepare lists of jurors and establish local systems for jury selection. It further stipulates relevant amendments to the nation's Labor Code providing for jury duty to be counted as regular full-time employment for the purpose of preserving the jurors' salaries. Necessary amendments to the Criminal Code and Code of Criminal Procedure were also adopted. (*President Signs Law on Introduction of Juries in Kazakhstan*, MEDIA MONITORING REPORT, Jan. 17, 2006, <http://www.securities.com>.)

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

MALTA – 2005 Laws Digitized and Published on CD

For the third year running, covering 2005, the Maltese Department of Information has published the *Laws of Malta* in a digitized format on a CD that is available for MTL12 (about US\$34). The laws were previously published in a printed format and cost MTL30 (about US\$85). This change in format of publishing the laws has not only decreased the costs, but also reduced by two months the time it takes to make the official annual version of the published laws available to the public. The Department of Information has stated that it anticipates completely ceasing the publication of the annual laws in printed format. (Press Release, Department of Information, Last Year's Acts of Parliament, Legal Notices and Bye-Laws on CD (Jan, 4, 2006), http://www.gov.mt/frame.asp?l=2&url=http://www.doi.gov.mt/en/press_releases/calendar.asp.)

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



NORWAY – Penalties Increased for Domestic Violence

The Norwegian Government has increased the prescribed penalty scale for violence in close relationships such as families. According to the revised article in the Penal Code (amendment of art. 219, Dec. 21, 2005), a person who threatens, forces, limits the ability to move of, uses violence against, or otherwise grossly or repeatedly assaults a family member can be sentenced to three years in prison, or six years if the crime is aggravated. Before the revision, the penalty was two years in prison, and article 219 was used in conjunction with other articles in the Penal Code that regulate offenses against the person. The revised article 219 is designed to be applied alone, in occurrences of violence in families. (Press Release No 92 –2005, Ministry of Justice and Police, Skjerpet Straff for Familievold (Dec. 21, 2005), available at <http://www.odin.no/jd/norsk/aktuelt/pressesenter/pressem/012101-070387/dok-bn.html>.)

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

RUSSIAN FEDERATION – Hate Crimes on the Rise

On January 11, 2006, a man attacked people in the Moscow central synagogue with a hunting knife, stabbing and severely wounding eight worshipers, including an Israeli and a U.S. citizen. This attack reflects the growing trend of perpetration of hate crimes in Russia, which, based on recent statistics, usually go unpunished. Every year about 300 crimes are committed involving ethnic, religious, or racial enmity. In 2004 (the latest data available), criminal investigation was initiated in seventy cases, and only in ten of these were the accused suspects indicted. Three of them were eventually prosecuted and punished by the court. Similar statistics are adduced for murders stemming from xenophobia and racial hatred. Twenty such killings were registered in 2003 and forty-four in 2005. These are just the officially registered hate crimes, not counting other hate crimes registered simply as street or domestic violence, acts of hooliganism, or infliction of bodily injury. Courts usually classify skinhead attacks as hooliganism, not racially motivated crime.

Most of those who commit hate crimes are recognized as mentally incompetent, apparently because law enforcement authorities prefer to show these crimes as separate acts of crazy individuals rather than be accused of not taking measures against the growing extremist threat. (Mark Deutch, *Boninia v Sinagoge [Rampage in Synagogue]* NOSKOVSHII KOMSOMOLET, Jan. 14, 2006.) Among the most notorious recent hate crimes in Russia to incite public opinion are the stabbing of the child-care director at the Moscow Jewish Community Center in 1999; the beating of the Chairman of the Federation of Jewish Organizations of the former Soviet Union in 2000; an explosion that resulted in severe injury to a woman who attempted to dismantle an anti-Semitic placard along a highway in Moscow in 2002; and an explosion near the Jewish Center in Moscow in 2004, which wounded one passer-by. Investigation of all these cases was stopped because the police were not able to find the perpetrators.

Russian President Vladimir Putin has had to publicly acknowledge the existence of this problem. He expressed shame over a rise in anti-Semitism in Russia during a commemoration ceremony at Auschwitz in January 2005, but in response to his remarks, the leadership of the Russian State Duma (legislature) and about 500 other prominent members of Russian society signed a letter to the Prosecutor-General's Office demanding the investigation of activities of Jews in Russia. According to political observers, this letter has to a great extent incited anti-Semitic sentiments in society. It was followed by the murders of foreign students and other dark-skinned people and those perceived to be



Jewish-looking in several Russian cities. Several Jewish restaurants, bookstores, and synagogues were destroyed and about 200 Jewish graveyards were desecrated nationwide. In November 2005, about 3,000 young nationalists marched through central Moscow under xenophobic banners. Xenophobic rhetoric flows freely in the Russian media, raising the specter of more attacks, and extremist literature is sold widely across the country.

The propaganda of extremism and fascism is conducted openly, and no one has yet been held accountable, although according to the Criminal Code, the propaganda of exclusiveness, supremacy, or the inferiority of citizens spread by reason of the propagator's attitude towards religion, nationality, or racial affiliation, committed publicly or with the use of mass media, is a crime punishable by a stiff fine or imprisonment for a term of up to three years (under art. 282). The legislative response to this situation has consisted of adopting amendments to the Russian Criminal Code. Enacted in July 2005, these amendments diminished the severity of this crime and transferred the provisions of article 282, "incitement of ethnic, religious, or racial enmity," into the category of minor crimes. This move decreased the punishment for this crime by half and shortened the statute of limitations to a third of what it had been. According to newly passed amendments, the maximum punishment for hate crimes in Russia will be no more than two years of various forms of deprivation of freedom.

Among other legal developments, the country's human rights ombudsman, Vladimir Lukin, called on the government to establish a program to teach tolerance, according to a statement on his website. On January 18, 2006, in response to the bloody rampage in the synagogue, the head of the Moscow police department promised in the next two months to finish the installation of alarm systems and round-the-clock police posts with a rapid-reaction force at their disposal at all 630 places of worship, although religious organizations will be obliged to pay for these services. (Peter Roudik, 7-9861, prou@loc.gov)

RUSSIAN FEDERATION – Restrictions on NGOs

On January 10, 2005, President Vladimir Putin of Russia promulgated a law that restricts activities of noncommercial organizations in Russia. Specifically, the law imposes a partial ban on activities of foreign nongovernmental organizations (NGOs) and introduces strict government control over Russian individuals and organizations receiving financing from abroad in any form. Certain provisions of the law appear to be in contradiction of Russian constitutional provisions and international obligations. The stipulated purpose of the law as stated in its explanatory note is to combat money laundering and terrorism. However, some regulations introduced by the law appear to be too intrusive on the independent governance of *bona fide* organizations, and the powers of supervisory authorities appear to be too extensive.

The law amends four existing legislative acts – the Civil Code and federal laws on closed administrative territorial units, NGOs, and public associations. In general, the adopted amendments affect the status, financing, registration, and activities of the NGOs. Under the new law, foreign organizations and Russian organizations having a foreign noncommercial organization or a foreign individual among the founders are prohibited from working in so-called "closed administrative territorial units." Russian organizations having foreign financing are also outlawed in such territories. The new law introduces a total ban on activities of foreign organizations if they do not have a properly registered branch or representative in the Russian Federation. Neither foreigners nor Russian citizens residing outside Russian territory can be members of Russian NGOs.



Instead of the current registration procedure, which simply requires notification of state authorities of the NGO's existence, a more complex authorization system will be implemented. The law establishes a new procedure providing for the scrutiny of a list of documents prior to a decision to issue the state registration. Although the simpler notification procedure is reserved for foreign NGOs, their registration will be transferred from the Ministry of Foreign Affairs to the specially created Federal Registration Service (FRS). Foreign NGOs that do not have the status of a Russian legal entity may continue their work with their current status; however, within six months after the law enters into force, they must submit a notification to the FRS to avoid their work in Russia becoming illegal. The law obligates foreign NGOs to inform authorized government institutions of the amount of financial resources received, their intended distribution, and their purpose, as well as of the actual amounts spent. Foreign NGOs must submit to the FRS documentary evidence of the spending of the received funds by Russian physical and juridical persons and provide a list of all Russian recipients of foreign funds. The law will enter into force after the expiration of a ninety-day period from the date of its first official publication. (ROSSIISKAIA GAZETA (Jan. 17, 2006), at <http://www.rg.ru>.) (Peter Roudik, 7-9861, prou@loc.gov)

SWEDEN – Congestion Taxes in Stockholm

On January 3, 2006, the trial use of a congestion tax was introduced in Sweden's capital, Stockholm. The congestion tax will be levied until July 31, 2006. The purpose of the tax is, among other things, to reduce the amount of traffic, increase accessibility in the city, improve the environment, and in general improve the public transportation situation.

According to the city of Stockholm, morning traffic on January 9, 2006, had decreased by 25% compared with weekdays last fall (Monday – Thursday, September 1 – December 16). On September 17, 2006, a referendum will be held, in connection with the parliamentary elections, on whether to keep the congestion tax (*Trängselskatt*, Jan. 3, 2006, Ministry of Finance website, <http://www.regeringen.se/sb/d/3485/a/40251>; Press Release, Morgontrafiken Minskade med ca 25 Procent Över Avgiftssnittet och Kötiderna Minskade Kraftigt, STOCKHOLMS STAD (Jan. 9, 2006), available at http://www.stockholm.se/templates/template_121.asp.) (Linda Forslund, 7-9856, lifo@loc.gov)

SWEDEN – New Act on Genetic Integrity Proposed

On January 12, 2006, the Swedish Government presented a bill to parliament proposing a law on genetic integrity. The new law is intended to replace several other laws, such as the Act on Insemination (1984), the Act Concerning the Use of Certain Genetic Technology in Medical Screening (1991), the Act Concerning Measures for Purposes or [sic] Research or Treatment Involving Fertilized Human Ova (1991), and an act from 1988 on fertilization in-vitro. The commercialization of human-biological materials may also be regulated in the new law.

The bill proposes that no one will be allowed to demand that a person submit to genetic testing or reveal genetic information about himself as a condition for a contract, without it being regulated by law. Furthermore in regard to contracts, inquiries about and use of genetic information will not be allowed. For insurance companies, inquiries into and the use of genetic information will be allowed for personal insurance when the policies are for very large amounts.



Research to develop methods to create genetic effects that may be inherited would be allowed under the new law. Experiments for the purpose of research or treatment and treatment methods that lead to genetic changes that can be inherited in humans would continue to be prohibited, however. (Ministry of Health and Social Affairs, *Genetisk Integritet m.m.* (Summary of Government Bill 2005/06:64), Jan. 18, 2006, available at <http://www.regeringen.se/sb/d/108/a/56393>.) (Linda Forslund, 7-9856, lifo@loc.gov)

SWITZERLAND – Insurance Law

With the enactment on December 17, 2005, of a new Insurance Supervision Act (AMTLICHE SAMMLUNG DES BUNDESRECHTS (AS) 5269 (2005)) and the reform of the existing Insurance Contract Act (AS 5245 (2005), amending Insurance Contract Act, Apr. 2, 1908, SYSTEMATISCHE SAMMLUNG DES BUNDESRECHTS No. 221.229.1), Switzerland modernized its insurance laws. Both Swiss acts became effective on January 1, 2006. The new Insurance Supervision Act consolidates matters relating to the prudential supervision of private insurance companies that were formerly scattered over five laws (Botschaft, June 10, 2003, BUNDESBLATT 3789). In addition, the reform aims at improving the competitiveness of Swiss insurers by modeling Swiss insurance supervision after the laws of the member states of the European Union that transposed the EU insurance directives (K. HOPT & E. WYMEERSCH, EUROPEAN COMPANY AND FINANCIAL LAWS 749-1100 (2004).)

Among these European-inspired Swiss innovations is the replacement of a permit requirement for new insurance products with a supervisory regime to guard against abusive products (based on the concepts of the Third Non-life Insurance Directive, Council Directive 92/49/EEC, June 18, 1982, OFFICIAL JOURNAL OF THE EUROPEAN ECONOMIC COMMUNITIES (L 228)). The reforms in the Swiss Insurance Contract Law, in turn, increase consumer protection by requiring more transparency, to compensate for the deregulation of insurance products. An innovation in the Swiss Insurance Supervision Act that anticipates future European requirements is the introduction of a new solvency test that captures the ideas underlying Solvency II, the EU's project on improving solvency requirements for private insurance companies that is still being discussed. (*Financial Services: New Banking and Insurance Measures*, EUROPEAN REPORT, No. 30229 (Jan. 18, 2006), LEXIS/NEXIS, News Library, 90days File.)

(Edith Palmer, 7-9860, epal@loc.gov)

TURKEY – Purchase of Property by Foreigners

On December 28, 2005, the Turkish Parliament passed a law permitting citizens of other countries to acquire land in Turkey. Foreigners will be permitted to buy up to 2.5 hectares; if the Cabinet approves, the area can be increased to thirty hectares. The Cabinet will have the authority to ensure that no more than .0005 percent of the land surface in any one province is foreign owned. This purchase right is extended to individuals; foreign associations, cooperatives, foundations, societies, and groups will not be allowed to acquire land. In addition, there will be limited zones that are not to be purchased by foreign citizens, including military areas, private security areas, and strategic regions. (*Turkish Parliament Approves Law on Purchase of Property by Foreigners*, NTV ONLINE, Dec. 29, 2005, FBIS No. GMP20051229612004.)

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



UNITED KINGDOM – Government Accused of Participation in Extraordinary Renditions

A leaked memo was reported in the British press in January 2006, renewing allegations that the British Government has been involved in extraordinary rendition. Extraordinary rendition involves the sending of prisoners captured by British forces in Iraq and Afghanistan to interrogation centers in other countries that use interrogation methods typically illegal in the United Kingdom and United States. Government ministers are accused of hindering investigations into the use of flights carrying these prisoners into the United Kingdom and over its airspace. In December 2005, the Foreign Secretary publicly denied that the United States had requested the use of British airspace to transport these prisoners, yet in the leaked memo, dated five days prior to the denial, the Foreign Office stated it was unable to undertake the necessary research to ascertain any figures. (Oliver Duff, *Leaked Memo Reveals Torture Flights Cover-up*, INDEPENDENT, JAN. 9, 2006, <http://news.independent.co.uk/uk/politics/article339654.ece>; Alan Cowell, *British Role in U.S. Policy on Detainees Raises Storm*, THE NEW YORK TIMES, Jan. 20, 2006, at <https://www.nytimes.com/2006/01/20/international/europe/20rendition.html?pagewanted=print>.) (Clare Feikert, 7-5262, cfei@loc.gov)

UNITED KINGDOM – Individual Prosecuted for Terrorist Crimes

The controversial and outspoken Abu Hamza al-Masri, a radical extremist Muslim cleric whom the United States has accused of recruiting Al ‘Qaeda terrorists, is currently standing trial at the Old Bailey in London for a number of offenses relating to terrorism. The charges against him include nine charges of soliciting murder; four charges of “threatening, abusive or insulting words or behaviour with the intention of stirring up racial hatred;” and possessing the *Encyclopedia of Afghani Jihad*, which contains information “of a kind likely to be useful to a person committing or preparing an act of terrorism.” The prosecution recently told the court that Hamza al-Masri preached “intolerance hatred and bigotry.” The Government of the United Kingdom has continually sought to deport Hamza al-Masri and strip him of his British citizenship, with little luck thus far. (*Hamza Urged Followers to Murder*, BBC NEWS, Jan. 11, 2006, http://news.bbc.co.uk/2/hi/uk_news/4602054.stm.) (Clare Feikert, 7-5262, cfei@loc.gov)

UNITED KINGDOM – No Parental Right to Know for Abortions

The British High Court ruled on January 23, 2006, that parents do not have a right to be notified when girls under the age of sixteen have, or receive advice on, an abortion. The court expressed concerns that establishing a duty to inform parents may lead a girl seeking advice into a decision she later regrets or to resorting to “unofficial abortionists.” The government has stated that confidentiality in such circumstances is a cornerstone of its policy to reduce conception among teenagers and improve sexual health. (*Mother Loses “Right to Know” Case*, BBC NEWS, Jan. 23, 2006, http://news.bbc.co.uk/2/hi/uk_news/england/manchester/4636666.stm; R (on the application of Axon) v Secretary of State for Health BLD 2401060185; [2006] EWCA 37 (Admin).) (Clare Feikert, 7-5262, cfei@loc.gov)



NEAR EAST

BAHRAIN – Law Criminalizing Certain Uses of "Blue Tooth"

On January 1, 2006, the Bahraini Parliament approved the first law of its kind in the Gulf region, criminalizing the misuse of "blue tooth" technology in cellular telephones, such as the transmission of obscene pictures. The law also applies to the misuse of other modern communication media, such as instant messaging and unsolicited e-mails. The law imposes a penalty of up to three months of imprisonment and a fine of up to 100 dinars (about US\$266). (ASHARQ AL-AWSAT, Jan. 4, 2006, at <http://www.asharqalawsat.com/>.)

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

IRAQ – European Union Hosts Iraqi Jurists

The *Asharq al-Awsat* newspaper has learned that the Iraqi Judicial Council is in the process of sending a number of judges and public prosecutors to Belgium, Denmark, Germany, and Holland to enhance their professional and administrative capabilities. A source within the Council emphasized that this would allow Iraqi judges to become aware of the latest legal techniques used in the investigative process and the administration of courts in these countries. (ASHARQ AL-AWSAT, Dec. 27, 2005, at <http://www.asharqalawsat.com/>.)

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

ISRAEL – Illegal Influence on Politicians

On December 21, 2005, the Knesset (Israel's Parliament) passed an amendment to the Penal Law, 5737-1977. The amendment imposes three years of imprisonment on a person who enjoys a significant influence on the election of a candidate for the role of prime minister, a minister or a deputy minister, a member of the Knesset, or head of a local authority and who receives money or an equivalent, a service, or another benefit in order to make a candidate carry out an action related to his or her job. The receipt of such benefits in order to make the candidate act in a discriminatory way is subject to the same penalty as bribery, currently seven years of imprisonment. (Amendment, § 295, Penal Law, 5737-1977, Knesset website, <http://www.knesset.gov> (last visited Feb. 2, 2006).)

(Ruth Levush, 7-9847, rlev@loc.gov)

ISRAEL – Protection of the Public from Sex Offenders

On December 21, 2005, the Knesset (Israel's Parliament) passed the Protection of the Public from Sex Offenders Law, 5766-2005. The law states that its objective is to protect the public from repeated sex offenders by evaluations of their dangerousness at different stages of the legal process and a program for supervision and follow-up.

The law authorizes the Minister of Health and the Minister of Welfare to appoint "danger evaluators" who will conduct evaluations after getting information from a list of relevant bodies including courts, psychiatric committees for grant of leave or release from hospitalization, supervision units, etc. "Danger evaluators" must be psychiatrists, psychologists, social workers, or clinical criminologists. The law further authorizes the Minister of Internal Security to appoint units to



supervise sex offenders, recommend courts of supervision conditions, and obtain up-to-date information on sex offenders and maintain contact with them. The law also authorizes the maintenance of a registry of sex offenders to be used by the police, military police, “danger evaluators,” and supervising officers. (The Protection of the Public from Sex Offenders Law, 5766-2005, Knesset website, <http://www.knesset.gov/> (last visited Feb. 2, 2006).) (Ruth Levush, 7-9847, rlev@loc.gov)

SAUDI ARABIA – Firearms and Ammunition Law

The Saudi Minister of the Interior issued a follow-up order extending the period for obtaining licenses and registration certificates for citizens’ personal firearms to April 17, 2006. Last year, the Saudi Council of Ministers approved a new Firearms and Ammunitions Law (Order No. M/45, June 2, 2005), which will come into effect on April 17, 2006. Article 3 of the new Law provides that only authorized Saudis may import firearms into Saudi Arabia. Article 4 prohibits non-governmental entities from manufacturing military weapons, firearms, training weapons, or ammunition without authorization from the Ministry of the Interior. In addition, article 4 calls upon any person who has inherited any kind of firearms, spare parts, or ammunition to notify the Saudi authorities within three months of ownership. Article 7 of the Law obligates anyone who has lost a personal firearm or damaged it to notify the authorities within a month. Article 8 specifies the places and times at which carrying firearms is prohibited. (DAR AL HAYAT, Jan. 4, 2006, at http://www.daralhayat.com/arab_news/gulf_news/01-2006/Article-20060104-94e0fd09-c0a8-10ed-0025-b64d48492cfa/story.html.) (Dr. Abdullah F. Ansary, 7-6303, aans@loc.gov)

SAUDI ARABIA - Women Win Trade Organization Election

For the first time in the history of Saudi Arabia, two businesswomen recently won seats in the election for the Jeddah Chamber of Commerce and Industry. The Chamber consists of eighteen members, six of whom are appointed by the authorities. The Chamber had at first refused to accept the candidacy of women, but relented after the intervention of the Minister of Commerce, Hashem Abdullah al-Yamani (see 10 W.L.B. 2005). (ANNAHAR, Jan. 12, 2006, at <http://www.annahar.com/>.) (Issam M. Saliba, 7-9840, isal@loc.gov)

SOUTH ASIA

BANGLADESH – Free Cell Phone Call Ban to Protect Morals

On January 15, 2006, Bangladesh’s Telecommunications Regulatory Commission ordered all five of the country’s cell phone networks to immediately cease offering free calls after midnight. The Commission’s order came in response to scores of complaints from parents that their children were using cell phone calls to form romantic attachments and were losing sleep. The purpose of the order was to protect the morals of young people. A representative of one of the telephone companies was quoted as saying that if the government wishes to stop young people from meeting one another, it should shut down fast-food restaurants and universities as well. (*Bangladesh to Curb ‘Vulgar’ Calls*, BBC NEWS (DHAKA), Jan. 15, 2006, http://news.bbc.co.uk/go/pr/fr/-/hi/south_asia/4614640.stm.) (Donald R. DeGlopper, 7-9831, ddeg@loc.gov)



BANGLADESH – New Anti-Terror Law

The Government of Bangladesh has decided to enact a new anti-terror law to reduce the recent terrorist activities in Bangladesh. According to the Law and Parliamentary Affairs Minister, Dr. Moudud Ahmed, this new law would prescribe the death sentence for those convicted of terrorist activities in the country. This law would also establish special tribunals to speed up the trials. The Minister mentioned that the legislation would cover everyone, from those who "encourage, motivate, and provide training and money to those who are involved in the terrorist acts." (*Bangladesh Plans New Anti-Terror Law After Deadly Bombings*, NEWS FROM RUSSIA, Dec. 21, 2005, at <http://newsfromrussia.com/world/2005/12/21/70225.html>.)

Currently, Bangladesh has six laws dealing with terrorism: the Explosives Act 1884, the Explosive Substances Act 1908, the Arms Act 1878, the Special Powers Act 1974, the Law and Order Infringing Offences (Speedy Trial) Act 2002, and the Speedy Trial Tribunal Act 2002. If the new law is enacted, it will be the seventh law in the country dealing with terrorism. (For information on other actions taken against terrorism in Bangladesh, see 1 W.L.B. 2006.) (Shameema Rahman, 7-3812, srah@loc.gov)

BHUTAN – Evidence Act

It was reported on December 11, 2005, that Bhutan's National Assembly passed the Evidence Act of Bhutan, 2005. According to commentators, "The Act would be crucial in the country's process of change into a democratised system." While Bhutan has general evidence laws, more areas of evidence need to be incorporated, Chief Justice Lyonpo Sonam Tobgye stated. Evidence is defined under the Act as "all types of proof presented and permitted by the court of law at a legal proceeding," and includes testimonials, documents, electronic records, and other physical evidence relevant to the matters under inquiry. Other provisions cover such subjects as the presentation of evidence in court, types of evidence, questioning of witnesses, and criminal confessions. (*Evidence Bill Comes into Place*, KUENSEL ONLINE, Dec. 11, 2005, <http://www.kuenselonline.com/modules.php?name=News&file=article&sid=6296>.)

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

BHUTAN – First Consultation Meeting on Draft Constitution

On December 24, 2005, the Crown Prince of Bhutan presided over the kingdom's first consultation meeting on a draft constitution that aims to change the political system from an absolute monarchy to a parliamentary democracy. At the meeting with representatives of citizens from the district of Lhuentse, during which discussions were held on all thirty-four articles of the draft constitution, the crown prince explained that to ensure free and fair elections, an interim government would be introduced. He noted that the size of the armed forces would be reduced and a 2,000-strong traditional-style militia would be established.

The draft constitution prescribes the form of government as a democratic, constitutional monarchy. It states that the monarch, who is the head of state, must step down at age sixty-five and hand the throne over to the crown prince or crown princess, provided the royal heir has come of age. Succession is denied, however, to an otherwise legitimate successor not married to a natural-born Bhutanese citizen. The draft constitution provides for a parliament consisting of the monarch, a new National Council, and the National Assembly. Political parties, which as such do not currently exist in



Bhutan, are also covered under the draft document; there is a separate article on “the opposition party.” A Public Election Fund is to provide campaign financing. (*Bhutanese Crown Prince Addresses Meeting on New Constitution*, THIMPU KUESEL, Dec. 30, 2005, FBIS No. SAP20051230950003; S. Chandrasekharan, *BHUTAN: Draft Constitution Unveiled: Update 45*, SOUTH ASIA ANALYSIS GROUP, Note No. 258, Apr. 8, 2005, <http://www.saag.org/\notes\note258.html>. *The Constitution of the Kingdom of Bhutan: Draft of Tsa Thrim Chchenmo as on 18th August 2005*, <http://www.constitution.bt/draft constitution 2nd en.pdf> (Wendy Zeldin, 7-9832, wzeld@loc.gov)

INDIA – Anti-Piracy Agreement to Be Signed, Ratified

On January 6, 2005, the Cabinet of the Government of India gave its approval to signing and ratifying the Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia (ReCAAP). It also approved the designation of the coast guard as the “focal point” under the Agreement for purposes of communication with an Information Sharing Centre (ISC). The Agreement has been signed by sixteen nations and ratified by three (Laos, Japan, and Singapore). Concluded in Tokyo in November 2004, it is the first regional agreement of its kind. Establishment of and cooperation through the ISC, to be located in Singapore (the depositary country of the Agreement) are key features of the ReCAAP. In addition to facilitating communication and information exchange among the member countries, the ISC also aims to improve the quality of statistics and reports on regional piracy and armed robbery against ships. Capacity building is another important component of the Agreement. In addition, it covers extradition for offenses covered under its provisions and the extension of mutual legal assistance between the signatory states. (*Indian Cabinet Approves Ratification of Regional Anti-Piracy Accord*, PTI NEWS AGENCY, Jan. 6, 2005, FBIS No. SAP20060106950019; MFA Press Statement, Singapore Ministry of Foreign Affairs, Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia (Apr. 28, 2005), http://app.mfa.gov.sg/pr/read_content.asp?View,4237; *India to Ratify Pact on Combatting [sic] Piracy and Robbery on Asian Ships*, HINDUSTAN TIMES, Jan. 6, 2006, LEXIS/NEXIS, News Library, 90days File; Ministry of Foreign Affairs of Japan, ReCAAP text, http://www.mofa.go.jp/mofaj/gaiko/kaiyo/pdfs/kyotei_s.pdf.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

INDIA – Overseas Citizenship Program

India’s government has been attempting to strengthen ties with the twenty-five million Indians who live abroad, many of whom command wealth and skills. At the fourth annual meeting of non-resident Indians, held in Hyderabad in early January 2006, Indian Prime Minister Manmohan Singh announced the Overseas Citizenship of India program. This plan grants life-long multiple-entry visas to India and exempts holders of the OCI card from the requirement that they register with the local police for any stay in India. The program provides for a form of dual citizenship, although those who have become citizens of other countries will not be permitted to vote in Indian elections. The Prime Minister presented the first OCI cards to two Indian Americans and announced plans to grant voting rights to overseas Indian workers and professionals, launch a non-resident Indian insurance scheme, modernize the process of emigration, and improve the means for remitting funds to family members in India. (*India Reaches Out to Its Diaspora*, ASIA TIMES ONLINE, Jan. 11, 2006, <http://www.atimes.com/atimes/South Asia/ HA11Df01.htm>.) (Donald R. DeGlopper, 7-9831, ddeg@loc.gov)



INDIA – Prevention of Insults to National Honor

The Parliament of India approved two bills on December 12, 2005, titled Prevention of Insults to National Honour (Amendment) Bill, 2005, and the State Emblem of India (Prohibition of Improper Use) Bill, 2005. The latter sets forth punishments for insulting national emblems by using them on clothes worn below the waist and on undergarments. The former bans burning, crushing, or distorting symbols of national honor. The bills would also prevent embroidery of national emblems on such things as pillow covers and handkerchiefs. However, the new laws would enable sportspersons representing the country to be able to freely display the national emblem and colors on their uniforms without fear of prosecution. In moving the bills through the parliament, Home Minister Shivraj Patil stated that the measures were in response to suggestions in this regard by a large number of people in the country. The bills facilitate wearing of the national colors and emblem on caps, shirts, or coats, provided the emblem would not be displayed on the back or below the waist. (*Parliament Nod for National Honour Bill*, THE HINDU, Dec. 13, 2005, <http://www.hindu.com/2005/12/13/stories/2005121309220101.htm>.)

(Krishan Nehra, 7-7103, kneh@loc.gov)

INDIA – Religion-Based Set-Asides in Educational Institutions Quashed

Following the quashing by the state High Court of an Andhra Pradesh state ordinance reserving five percent of seats in the state educational institutions and government jobs for Muslims, the state government filed an appeal in the Supreme Court of India and requested an injunction to stay the operation of the High Court judgment. The Supreme Court denied the request while ordering maintenance of the *status quo* on admissions and employment already provided. The Andhra Pradesh government had passed the ordinance to set-aside these seats for Muslims after receiving a report from the Commission for Backward Classes. The report stated that the Muslims constitute a socially and educationally backward class in the state. The Government also was of the view that the Muslims do not have an appropriate share in government jobs and educational institutions. The Supreme Court ordered that the matter be referred for a hearing by a constitutional bench. (*Apex Court Refers Muslim 'Reservation' Issue to Constitutional Bench*, DOORDARSHAN DD-1 NATIONAL TELEVISION, Jan. 5, 2006, FBIS No. SAP20060105013001.)

(Krishan Nehra, 7-7103, kneh@loc.gov)

INDIA – State Cannot Withdraw Prosecution Under Central Law

The Supreme Court of India has ruled that a state government has no power to withdraw cases of terrorism under the Prevention of Terrorism Act, 2002 (POTA) without prior consent of the central government. The petition challenged the withdrawal of POTA cases by the Uttar Pradesh government that involved a member of the state legislative assembly, his father, and his relative. In reply to the petition impugning the order of withdrawal by the state government, the respondent state contended that the defendants did not belong to any banned terrorist organization nor did they engage in any anti-national activity. Therefore, they could be prosecuted only under the normal criminal laws. The Court observed that the POTA was central legislation. Thus, a withdrawal of the prosecution under it could be made only with the consent of the central government, as provided under the provisions of section 321(1) of the Code of Criminal Procedure. (*Centre's Consent Must for Withdrawal of POTA Cases, Rules Supreme Court*, THE HINDU, Dec. 19, 2005, <http://hinduonnet.com/thehindu/2003/12/19/stories/2003121905601100.htm>.)

(Krishan Nehra, 7-7103, kneh@loc.gov)



SRI LANKA – Circular on Bird Flu

As part of a preparedness program, Sri Lanka's Health Ministry issued a circular to all hospitals and to authorities at all points of entry into the country concerning steps to take if the avian flu virus is detected. The circular is part of a national plan drawn up with assistance from the World Health Organization to combat the disease should it enter the nation. In addition, the Health Ministry has stockpiled drugs sufficient to treat 1,000 patients, in case the bird flu does threaten public health. (*Sri Lanka Ready to Face Any Bird Flu Outbreak – Health Ministry*, COLOMBOPAGE, Jan. 11, 2006, <http://www.colombopage.com/archive/January11123538JV.html>.)
(Constance A. Johnson, 7-9829, cojo@loc.gov)

WESTERN HEMISPHERE

BOLIVIA – Presidential Elections

On January 22, 2006, Evo Morales was sworn in as Bolivia's first indigenous president, pledging to end "500 years" of injustice against his people since the Spanish conquistadores colonized the region. Bolivia remains South America's poorest country. Morales, an outspoken advocate for Bolivia's coca farmers, won presidential elections in December 2005. He described himself as the candidate "most disdained and discriminated against." His announced policies, which include a promise to relax restrictions on growing coca, the raw material for cocaine, could make him a thorn in the side of the United States, which has bankrolled the fight against drugs in the country. Morales defends the traditional uses of the coca leaf among the indigenous population.

Mr. Morales has also pledged to increase state control over the natural gas industry, but says he will not expropriate the property of energy firms in keeping the benefits of the nation's resources for the people. The forty-six-year-old former llama herder and coca leaf farmer said the free-market model did not work in Bolivia and that the privatization of basic services and natural resources should be reversed. (*Bolivia Empodera un Presidente para Todos*, DIARIO LA RAZON, Jan. 23, 2006, http://www.la-razon.com/versiones/20060123_005430/nota_249_240740.htm.)
(Graciela Rodriguez-Ferrand, 7-9818, grod@loc.gov)

BRAZIL – Constitutional Amendment Proposes Reduction of Parliamentary Recess

On January 18, 2006, the Brazilian Chamber of Deputies approved a constitutional amendment proposal reducing the current ninety-day parliamentary recess to fifty-five days. Pursuant to article 57 of the Brazilian Constitution, parliamentary sessions run from February 15 through June 30 and from August 1 through December 15. According to the proposal, sessions would run from February 2 through July 17 and from August 1 through December 22. The amendment is still pending a vote in a second session of the Chamber of Deputies, after which it will be passed for discussion and vote to the Federal Senate. If approved, according to the President of the Chamber of Deputies, Mr. Aldo Rebelo, Brazil, which is among the oldest democratic regimes, will be the country with the shortest parliamentary recess in the world. (Isabel Braga e Maria Lima, *Velocidade Máxima*, O GLOBO, Jan. 19, 2006, available at <http://oglobo.globo.com/jornal/pais/189997941.asp>.)
(Eduardo Soares, 7-3525, esoa@loc.gov)



BRAZIL – Further Acceptance of Concept Similar to *Stare Decisis*

A bill passed in January 2006 and awaiting presidential approval in Brazil will impact the nature of the judicial system. Brazil is a civil law country, which means that judges in the Brazilian judicial system do not make the law. The role of the judges is limited to the interpretation and application of the enacted statutes and regulations. Judicial decisions of the Federal Supreme Court (jurisprudence) are not binding on the lower courts, unless issued by an absolute majority. Hence, the common law doctrine of *stare decisis*, in which the precedent decisions are to be followed by the courts, did not apply to the Brazilian legal system until recently. In 2004, the Brazilian Congress amended the Federal Constitution and established that the final decisions issued by an absolute majority of the members of the Federal Supreme Court will have a binding legal effect (*Súmulas Vinculantes*) vis-à-vis the entire judiciary, as well as the public administration at the federal, state, and municipal levels. In practice, the *Súmula Vinculante* somewhat resembles the common law principle of *stare decisis*, as it was designed to bring uniformity to the Brazilian legal system.

In an effort to reduce bureaucracy and expedite the judgment of repetitive cases, another adaptation of the common law principle of *stare decisis* can be observed in the Brazilian legal system through Project (Proposal) of Law No. 101/2005, issued by the Chamber of Deputies and approved on January 18, 2006, by the Commission of Constitution and Justice of the Brazilian Congress and the plenary of the Federal Senate. It now awaits presidential sanction. The proposal regulates the judgment of repetitive lawsuits by allowing a judge, when faced with a lawsuit identical to a previous one that he concluded to be moot or groundless, to reproduce the same basis of reasoning, without the need to summon the plaintiff. (Fernando Teixeira, *Lei Contra Ação Repetitiva Vai à Sanção Presidencial*, VALOR ONLINE, Jan. 19, 2006, at <http://www.valoronline.com.br/veconomico/?show=index&mat=3494176&edicao=1270&caderno=197&news=1&cod=465c569a&s=1>.) (Eduardo Soares, 7-3525, esoa@loc.gov)

BRAZIL – Internet Users Now Need Identification

In an effort to fight cyber crimes, which were favored by the anonymity offered in cyber cafes, on January 11, 2006, the State of São Paulo issued the first Brazilian law demanding a detailed identification of all Internet users at these establishments, to include full name, date and place of birth, full address, phone number, and identity card number. The establishments are also required to register the log-in and log-out times and the piece of equipment used by the registered customer.

The new law will come into force thirty days after its publication, and stores that do not comply with the new requirements are susceptible to fines, license suspension, and closure. Commercial establishments are required to keep the records for five years; in order to protect the client's privacy, the information can only be released by means of a court order. In the case of minors (persons under eighteen years old), the affiliation and the name of the school attended and the times of classes are also required. The law also forbids the sale or consumption of alcohol and tobacco on the premises of cyber cafes, as well as the utilization of games or the promotion of contests that involve prizes in cash. (*Portal do Governo do Estado de São Paulo*, <http://www.legislacao.sp.gov.br/legislacao/index.htm> (last visited Jan. 18, 2006).) (Eduardo Soares, 7-3525, esoa@loc.gov)



BRAZIL – New Law Regulates International Convention on Biological Weapons

On December 27, 2005, Brazil enacted a law establishing administrative and criminal sanctions in the event of activities forbidden by the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (Law No. 11,254). The Convention was executed in Washington, London, and Moscow on April 10, 1972, and later promulgated in Brazil on April 1, 1976 (Decree No. 77,374).

Under the Convention, Brazil and each State Party assumed the responsibility to never develop, produce, stockpile, or otherwise acquire or retain microbial or other biological agents or toxins, whatever their origin or method of production, of types and in quantities that do not justify prophylactic, protective, or other peaceful purposes; the prohibition is extended to weapons, equipment, or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict. In addition, Brazil pledged neither to transfer to any recipient whatsoever, directly or indirectly, nor in any way assist, encourage, or induce any state, group of states, or international organizations to manufacture or otherwise acquire any of the agents, toxins, weapons, equipment, or means of delivery specified in the Convention. Pursuant to the new law, no one is to practice any activity forbidden by the Convention; contribute to its practice, in Brazil or overseas; or omit information from or refuse to provide information to a special inter-ministerial commission created in 1996 to monitor compliance with the Convention (through Decree No. 2,074, Nov. 14, 1996).

The law criminalizes the use of chemical weapons or the practice in Brazil of any activity that involves the research, production, stockpiling, acquisition, transfer, import, or export of chemical weapons or chemical substances encompassed by the Convention. It is also a crime under the Convention to contribute, directly or indirectly, by action or omission, to the use of chemical weapons, in Brazil or abroad, or to engage in the practice of the mentioned activities. The practice of these acts is punishable with one to ten years of imprisonment. (Portal da Presidência da República, Legislação, at <https://www.planalto.gov.br/> (last visited Jan. 18, 2006).) (Eduardo Soares, 7-3525, esoa@loc.gov)

CANADA – Election Day Reporting

Canada's Elections Act prohibits the transmitting of results from one electoral district to another electoral district in which the polls are still open (Canada Elections Act, 2000 S.C. c.9, s. 329). Under the rule, it is an offense to post results from eastern Canada on the Internet before the polls close in western Canada. The Supreme Court has agreed to hear an appeal of a conviction under the blackout provisions of the Elections Act brought by a citizen who contends that it violates the right of free speech guaranteed by the Canadian Charter of Rights and Freedoms. However, this case is not scheduled to be heard before the end of 2006. In the meantime, Elections Canada, a non-partisan agency established by the Canadian Parliament that is responsible for conducting federal elections, has warned Canadians that the early broadcasting of election results is still an offense in Canada. (Elections Canada, *Reminders for Media on Election Day*, Jan. 16, 2006, <http://www.elections.ca/content.asp?section=med&document=jan1606&dir=pre&lang=e&textonly=false>.) One problem that Elections Canada has had in enforcing this law in the past is that the posting of results on web sites in the United States is outside the territorial jurisdiction of Elections Canada. (Stephen F. Clarke, 7-7121, scl@loc.gov)



CANADA – New Inquiry into Air India Bombing

The most deadly terrorist attack in Canadian history was the bombing of an Air India flight in 1985. The airplane was traveling from Toronto to London before it exploded off the coast of Ireland and killed 329 people. Canadian security personnel later determined that a bomb had been planted aboard. Sikh extremists living in Canada were accused of committing mass murder, but the two Sikhs believed to have been primarily responsible were acquitted after a lengthy trial in March 2005. The government has responded to the calls of relatives for an explanation of what happened to the plane and why the prosecution failed to prove its case by appointing a former Premier of Ontario, Bob Rae, to conduct an inquiry. The first question Rae will reportedly consider is whether the assessment of Sikh terrorism was adequate in light of the information available in 1985. (*Ottawa Asks Rae to Head Air Canada Inquiry*, CBCNews, Nov. 23, 2005, <http://www.cbc.ca/story/canada/national/2005/11/23/rae-india051123.html>.)

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

CANADA – The “Notwithstanding Clause”

One of the major differences between Canada’s Charter of Rights and Freedoms and the United States’ Bill of Rights is that the former contains a clause that allows Parliament to pass legislation “notwithstanding” the fact that it would otherwise be unconstitutional. (Part I of the Constitution Act, 1982, being Schedule B to the Canada Act, ch. 11 (U.K.), s. 33.) This rule, which also applies to the provinces, is subject to a requirement that declarations must be renewed every five years.

While the “notwithstanding clause” has never been invoked by the federal government, the former Prime Minister indicated that, if he was reelected, he would seek to have Parliament enact legislation to abolish the right of Parliament to effectively overturn judicial decisions on Charter rights issues through appropriate legislation. This action would not have limited provincial powers, but experts question whether Parliament could unilaterally amend the Constitution without the consent of the provinces. Even within the former Prime Minister’s Liberal Party, there is considerable support for the “notwithstanding clause.” Many see the clause as a safety valve that preserves the principle of parliamentary supremacy. This is also the position of the new Prime Minister, Stephen Harper.

Opponents of the new leader have feared that he might use the notwithstanding clause to end same-sex marriage, which is now allowed in Canada, having been found to be a Charter right. The new Prime Minister could try to enact legislation that would prohibit same-sex marriages “notwithstanding” the Charter. Nevertheless, Prime Minister Harper has promised not to do that. He would, however, allow a “free vote” in the House of Commons on legislation that, if approved, would essentially send the issue back to the courts for further review. (*Liberal MPs, Experts Pan Martin’s Promise to Repeal Notwithstanding Clause*, CANADIAN PRESS, Jan. 10, 2006, http://news.yahoo.com/s/cpress/20060111/ca_pr_on_na/fedelxn_liberals_constitution_2; Rondi Adamson, *Even If Harper Was Ultra Right-Wing, He’s Not in a Position to Do Much About It*, TORONTO STAR, Feb. 5, 2006, at A16.)

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



CHILE – Presidential Election

On January 8, 2006, Chile elected its first woman president, Michelle Bachelet. Under the government of outgoing socialist President Ricardo Lagos, she had served first as Health and then as Defense Minister. Bachelet is a socialist and single mother of three. This is particularly relevant in a society like Chile, which has been portrayed as conservative, dominated by men and the Roman Catholic Church. Bachelet promised to work on the country's major problems: the growing gap between rich and poor, rising crime and unemployment, and health and pension system reform. According to a Chilean political analyst, Patricio Navia, Chile has the economic resources to implement those reforms mainly due to the high world prices for copper, one of the country's major exports. (*Michelle Bachelet: Historica Primera Presidenta de Chile*, Jan. 16, 2006, at <http://diario.elmercurio.com/2006/01/16/portada/index.htm>.)

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

MEXICO – New Pension Plans

President Vicente Fox announced that starting in March of 2006 (retroactive to January), more than a million adults from the poorer communities of Mexico who are over seventy years of age and registered in the "Opportunities Program" would receive 500 pesos (\$US 47.43 dollars) every two months. He explained that the system will eventually cover more than five million householders who have no pension or other social security protection and who are not enrolled either in the Mexican Institute of Social Security program or in the program of the Institute of Social Security and Services of State Workers. In addition, Fox announced the creation of a retirement savings plan to be operated by the federal government for members of the Opportunities Program who are thirty to sixty-nine years old. They would be able to invest in the pension plan and the government would contribute one peso for each peso they invest. (Notimex, *Ayuda a Viejitos, sin Fin Partidista: Presidente*, EL ECONOMISTA, Jan. 17, 2006, <http://www.economista.com.mx>.)

(Norma C. Gutiérrez, 7-4314, ngut@loc.gov)

MEXICO – Supreme Court Rules Sugar Mills' Expropriation Unconstitutional

Mexico's Supreme Court of Justices, sitting *en banc*, held unconstitutional the decree promulgated by President Vicente Fox on September 3, 2001, expropriating sugar mills and ordered the government to return ten mills to their previous owners. With only one dissenting opinion, the Court held that the federal executive did not prove within the requisite time period the damage to the public interest required to justify the expropriation. At the time of the expropriation, the federal government argued that the mills were heavily in debt, that they were not paying the monies owed the sugar cane producers, and that they were economically unfeasible. The Court did not agree. It ruled that the debts of the mills did not put the sugar supply of the country at risk, because for more than a decade there has been an overproduction of sugar. Therefore, the expropriation was not necessary and did not generate a collective benefit. Furthermore, the Court stated that the government violated the mill owners' constitutional right to be heard because they were not consulted prior to the expropriation. (Carlos Avilés, *Corte Anula Expropiación de Ingenios Azucareros*, EL UNIVERSAL, Jan. 17, 2006, <http://www.eluniversal.com.mx/nacion/134198.html>.)

(Norma C. Gutiérrez, 7-4314, ngut@loc.gov)



NICARAGUA – Proposal for Referendum on Constitutional Reform

On January 18, 2006, President Enrique Bolaños of Nicaragua announced that he would send a bill to the National Assembly proposing to hold a referendum on the validity of the constitutional reforms approved in 2005 but not yet entered into force. He will propose that the referendum be held together with the national elections on November 5, 2006. The Sandinista National Liberation Front (FSLN) rejected the President's proposal, warning that the bill will violate a prior political agreement with the FSLN and trigger a new political crisis. Under that agreement, Bolaños ratified the constitutional amendments approved by the legislature, but their implementation is to be delayed until after Bolaños leaves office in 2007. Meanwhile, Eduardo Gómez, current President of the National Assembly, promised to submit the bill to the floor of the National Assembly when it is sent there by Bolaños and expressed doubt that the FSLN warning regarding the bill would create a political crisis. The United States Ambassador to Nicaragua stated that the Bolaños proposal is a good idea and makes sense. (Luis Felipe Palacios, *Bolaños Propone Someter Reformas a un Referendo*, LA PRENSA, Jan. 19, 2006, <http://www.laprensa.com.ni>.)
(Norma C. Gutiérrez, 7-4314, ngut@loc.gov)

PERU – Former President Banned from Running in Presidential Election

According to the National Election Agency of Peru, former President Alberto Fujimori is not eligible to stand in the April 9, 2006, presidential poll. The election officials reiterated a ruling by the Congress stipulating that he was ineligible for public office until 2011. Fujimori is under arrest in Chile awaiting an extradition hearing after he tried to return to Peru to run for election. His daughter entered his application. Fujimori's supporters say he intends to appeal against the ruling, on the grounds that the ban on his candidacy is unconstitutional.

The electoral agency confirmed that twenty-four other candidates had entered successful applications for April's election, the highest number of candidates in a Peruvian presidential race in more than two decades. The candidates include conservative Lourdes Flores, former President Alan García, and Ollanta Humala, a former army officer who led a failed coup in 2000 against Fujimori and who has risen quickly in the polls in recent months.

Fujimori was arrested in Chile on November 7, 2005, as he returned from self-imposed exile in Japan, hoping to launch his presidential bid. He now faces possible extradition to Peru on charges of human rights abuses and corruption related to his time in office in the 1990s. He fled to Japan in 2000 after his government was mired in a corruption scandal, but denies any wrongdoing and says the charges are politically motivated. (*Fujimori Cannot Run in Peru Poll*, BBC NEWS, Jan. 10, 2006, <http://news.bbc.co.uk/go/pr/fr/-/2/hi/americas/4599806.stm>.)
(Graciela Rodriguez-Ferrand, 7-9818, grod@loc.gov)



INTERNATIONAL LAW AND ORGANIZATIONS

AFRICAN CIVIL AVIATION COMMISSION – Aviation Safety Measures

On January 17, 2006, the African Civil Aviation Commission (ACAC), a special agency of the African Union, announced plans to publicize airlines that fail to follow its recommendations for air safety. Commission President Tshepo Peege promised to “name and shame” airlines operating what he called “flying coffins,” noting that, “[y]ou don’t want to fly out as a passenger and come back as cargo.” Africa accounts for only four percent of global air traffic but twenty-seven percent of all air crashes. (*African Blitz on ‘Flying Coffins’*, BBC NEWS, Jan. 17, 2006, <http://news.bbc.co.uk/go/pr/fr/-/hi/africa/4619866.stm>.)

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

ARAB LEAGUE – Interim Pan Arab Parliament

The Secretary General of the Arab League, Amr Moussa, led the opening session of the interim Pan Arab Parliament in Cairo, proclaiming that the event was evidence that democratic development in the Arab world had been launched. Among the participants in this session were Egyptian President Hosni Mubarak and representatives of the Algerian and Syrian Presidents. (AL JAZEERA, Dec. 27, 2005, at <http://www.aljazeera.net>.)

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

AUSTRALIA/EAST TIMOR – Treaty on Offshore Oil Revenue

On January 12, 2006, Australia and East Timor signed a treaty to share the revenues from offshore oil and gas fields in the Timor Sea on a fifty-fifty basis. Negotiations on the maritime boundary between the two nations have been put on hold for fifty years. The agreement makes it possible for development of the Great Sunrise gas field, which has been stalled since December 2004, to proceed. East Timor, which is one of the world’s most impoverished nations, should gain an estimated eighteen to nineteen billion U.S. dollars in revenue. (*Australia, E Timor Sign Resource Treaty*, AUSTRALIAN BROADCASTING CORPORATION, ABC ONLINE, Jan. 12, 2006, <http://www.abc.net.au/news/newsitems/200601/s1546600.htm>.)

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

CAFTA-DR – Agreement to Standardize Phytosanitary Regulations

On January 22, 2006, the presidents of Central American countries, meeting at the San Salvador, El Salvador, International Airport to discuss issues of mutual concern, agreed to standardize their phytosanitary regulations to facilitate implementation of the United States-Central American and the Dominican Republic Free Trade Agreement (CAFTA-DR). There appear to be two different interpretations of the term “standardization” among the parties to the Agreement.

According to President Oscar Berger of Guatemala, it means “to hear the U.S. proposals, to harmonize them with the Central American ones, and to reach an understanding.” On the other hand, for the United States, the term means that the phytosanitary regulations of the region conform as closely as possible to the American regulations. This discussion, as well as discussions on the meaning of



“agricultural quotas” and “respect for intellectual property,” has delayed the Agreement’s entry into force. (Karina Granados et al., *C.A. Atiende Petición de Washington Para CAFTA*, LA PRENSA GRÁFICA, Jan. 23, 2006, <http://www.laprensagrafica.com>.) (Norma C. Gutiérrez, 7-4314, ngut@loc.gov)

CAMBODIA/THAILAND/VIETNAM – Oil Spill Pact

On January 12, 2006, at the fifth meeting of the Gulf of Thailand Working Group, Cambodia, Thailand, and Vietnam signed a document on a framework for cooperation in countering oil spills in the Gulf of Thailand. The reported purpose of the oil spill contingency plan is to improve the capacity of the individual signatory countries as well as the Gulf of Thailand region in preventing and responding to oil slicks. The focus of the plan is on information sharing, conducting research, training personnel, outlining projects, and carrying out a joint response when oil spill incidents occur. (*Cambodia, Viet Nam, Thailand Cooperate in Oil Spill Response Plan*, VIET NAM NEWS AGENCY, Jan. 12, 2006, http://www.vnagency.com.vn/NewsA.asp?LANGUAGE_ID=2&CATEGORY_ID=30&NEWS_ID=182504.)

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

CUBA/BOLIVIA – Agreement on Literacy and Vision Care

In December 2005, Cuban President Fidel Castro and Evo Morales, then President-elect of Bolivia, announced a thirty-month plan to erase illiteracy in the South American nation. The two leaders did not spell out the details of the literacy plan. In addition, Cuba agreed to offer free eye operations to up to 50,000 needy Bolivians with vision problems, as well as 5,000 full scholarships for young Bolivians to study medicine on the island. Castro was the first head of state Morales visited as he started reaching out to other leaders in the region even before taking office on January 22, 2006. (*Acuerdo de Cooperación Cuba-Bolivia* (Cuba-Bolivia Cooperation Agreement), official website of the Cuba Ministry of Foreign Affairs, at <http://www.cubaminrex.cu/Actualidad/2005/Acuerdo%20de%20Cooperaci%F3n.htm> (last visited Jan. 20, 2006); *Morales, Castro Chummy During First Meeting*, CNN.COM, Dec. 31, 2005, at <http://www.cnn.com/2005/WORLD/americas/12/31/castro.morales.ap/index.html>.)

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

DEMOCRATIC PACIFIC UNION – Regional Disaster Relief Center

The Pacific Center for Disaster Reduction (PCDR) was launched in Taipei, Taiwan, on December 26, 2005, the first anniversary of the South Asian tsunami. Members of the Democratic Pacific Union (DPU), which was inaugurated in August 2005, will jointly operate the new organization. The Center will receive technical assistance from Taiwan’s National Applied Research Laboratories. According to the *Taipei Times*, the PCDR’s mandate is “to consolidate and coordinate efforts for promoting sustainable development in the Pacific Rim region” and its first priority is “to facilitate technology transfer and collaboration on disaster reduction and sustainable development among the DPU’s 28 members.” (Chiu Yu-Tzu, *Regional Disaster Relief Center Opens in Taipei*, TAIPEI TIMES, Dec. 27, 2005, <http://www.taipeitimes.com/News/taiwan/archives/2005/12/27/2003286204>; Democratic Pacific Union website, <http://www.dpataiwan.org.tw/>.)

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



CAMEROON/NIGERIA – Border Demarcation Progressing

On December 27, 2005, the U.N. Office in West Africa announced that a portion of the border between Cameroon and Nigeria had been demarcated. The 260-kilometer segment, beginning at Lake Chad and going to the south, was established in response to a 2002 ruling by the International Court of Justice and is a part of the process designed to settle boundary disputes between the two nations. Experts from Cameroon, Nigeria, and the United Nations did the work. The entire land border is 1,600 kilometers in length, and the maritime boundary extends into the Gulf of Guinea. Rights to the oil in the region and the status of the local population are at issue. (*Partial Nigeria-Cameroon Border Demarcation Bodes Well for Full Resolution – UN*, UNNEWS, Dec. 27, 2005, from [UNNews @un.org](http://unnews.un.org).) (Constance A. Johnson, 7-9829, cojo@loc.gov)

GULF COOPERATION COUNCIL – Unified Trade Policy

On December 19, 2005, the Gulf Cooperation Council (GCC) leaders concluded their twenty-sixth Supreme Council summit in Abu Dhabi, United Arab Emirates. The leaders took a strategic and historic step towards the creation of an economic union by approving a unified trade policy for the first time since the establishment of the Council. The unified trade policy is a logical development of the GCC's Unified Economic Agreement that was signed in November 1981 and ratified in 1982. A committee will be established in 2006 to set unified trade policy mechanisms, including a common export policy and a market access policy that will be binding by December 2007. This landmark decision is expected to unify the GCC countries' foreign trade policies by giving them the ability to bargain in the international economic arena as one economic bloc for better trade gains and concessions while protecting their domestic economies. The Council also adopted an internal trade policy that will facilitate the opening of the individual member country markets for GCC nationals, human capital, goods, and services and that is likely to enhance the competitiveness of Gulf countries' products. In addition, the Council extended the interim period of the GCC Customs Union to the end of 2007 to allow the establishment of a more effective regime. However, the Council also approved exemptions of more than fifty products from customs tariffs. (*King Fahd Summit Calls for WMD-Free Middle East*, AL-RYADH, Dec. 20, 2005, at <http://www.alriyadh.com/2005/12/20/article116569.html>; Haseeb Haider, *GCC Single Market by 2007*, KHALEEJ TIMES, Dec. 19, 2005, at http://www.khaleejtimes.com/DisplayArticle.asp?xfile=data/business/2005/December/business_December408.xml§ion=business.) (Dr. Abdullah F. Ansary, 7-6303, aans@loc.gov)

INDIA/UNITED STATES – Agreement on Product Safety

On January 13, 2006, India and the United States signed an agreement to ensure the safety of mutually traded consumer products and to provide the basis for cooperative endeavors to enhance the quality as well as the safety of those products. The agreement follows the rapidly growing volume of trade in consumer products between the two countries. The Memorandum of Understanding calls for development of training programs and exchange of experts on consumer safety issues to promote the interests of consumers on a continuous basis. The six-member delegation from India held meetings with the Chairman and senior officials of the Commodities Futures Trading Commission, the Federal Trade Commission, and private senior trade representatives. (*India, US to Ensure Safety of Traded Products*, THE REDIFF.COM, Jan. 17, 2006, <http://www.rediff.com/money/2006/jan/13india.htm>.) (Krishan Nehra, 7-7103, kneh@loc.gov)



INTERNATIONAL COMMISSION OF JURISTS – Nepal Media Crackdown Illegal

In a report entitled “Power to Silence” issued on December 14, 2005, the International Commission of Jurists (ICJ) stated that the crackdown on media in Nepal through a government ordinance is illegal and violates the country’s international human rights obligations and Constitution. The ordinance was issued in October 2005. Security forces have apparently relied on the ordinance to raid radio stations, seize radio transmission equipment, enforce restrictions on news broadcasts, and detain and harass journalists. According to the report, “many of the vague and ill-defined provisions open the door to arbitrary and abusive application of the law.” On the other hand, the report applauded two Nepal Supreme Court orders that instruct the government not to enforce aspects of the ordinance. (*AFP: International Commission of Jurists Says Nepal’s Crackdown on Media Illegal*, AFP, Dec. 14, 2005, FBIS No. JPP20051214063001; ICJ, *Power to Silence: Nepal’s New Media Ordinance* (Dec. 2005), http://www.icj.org/IMG/pdf/ICJ_Report_Ordinance.pdf.)

Nepal’s media crackdown has also been criticized by the organization Reporters Without Borders, which issued a statement on January 9, 2006, on the harassment of the press by security forces. At least six journalists have been detained, attacked, or threatened since the first of the year. In one recent case, police interrogated Benupraj Bhattarai on January 8, 2006, on the subject of his sources for a report on a student demonstration against the king. Bhattarai is a correspondent for the daily paper *Kantipur*, published in the district of eastern Nepal in which the protest occurred. Other reporters for the same newspaper were allegedly detained and mistreated by police three days earlier, and employees of *Kantipur TV* were stopped in the process of reporting on a court case, held, and beaten on January 2, 2006, under accusations that they were spies for Maoist groups. (Reporters Without Borders, *Nepal: Six Journalists Already Arrested or Threatened Since the Start of the Year*, ASIA PRESS RELEASES, Jan. 9, 2006, http://www.rsf.org/article.php3?id_article=16133.) (Constance A. Johnson, 7-9829, cojo@loc.gov; Wendy Zeldin, 7-9832, wzel@loc.gov)

NORTH ATLANTIC TREATY ORGANIZATION – Expanded Role in Afghanistan

On December 8, 2005, the North Atlantic Treaty Organization (NATO) foreign ministers met at NATO Headquarters in Brussels and endorsed a revised operational plan for the NATO-led International Security Assistance Force (ISAF) in Afghanistan, to extend ISAF operations to six southern Afghan provinces. To accomplish this mission, NATO countries made commitments to deploy an additional 6,000 personnel, thus raising the ISAF force to a total of 15,000. (*NATO to Head South in Afghanistan*, NATO UPDATE, Dec. 8, 2005, at <http://www.nato.int/docu/update>.) The ISAF mandate in Afghanistan is based on the Bonn Agreement (Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions, Dec. 6, 2001, at <http://www.afghangovernment.com>) of the participants in the U.N. talks on Afghanistan. U.N. Security Resolutions 1386, 1413, and 1444 reaffirmed the Agreement. (U.N. Doc. S/Res/1386 (Dec. 20, 2001), U.N. Doc. S/Res/1413 (May 23, 2002), & U.N. Doc.S/Res/1444 (Nov. 27, 2002), at <http://www.un.org/documents/scres.htm>.) The primary role of ISAF is to help the Afghan people and its government re-establish a stable government. (Edith Palmer, 7-9860, epal@loc.gov)



NETHERLANDS/BELGIUM – Joint Action on Immigration Abuse

On January 16, 2006, the Dutch Minister for Alien Affairs and the Belgian Minister for Interior Affairs agreed on joint action to close what has been called “the Belgian shortcut” for immigration to the Netherlands. The Netherlands has more restrictive rules on family reunification than does Belgium, allowing only spouses and children under the age of eighteen to join migrants from non-European Union countries. In addition, the Netherlands charges high fees for residence permits and travel documents. Belgium accepts adult children, grandparents, and grandchildren of migrants and has less stringent immigration criteria. In recent years, several thousand migrants to the Netherlands have temporarily moved to Belgium in order to bring their relatives in, subsequently moving back to the Netherlands along with their kin who now count as legal residents of another EU country. This is referred to as “the Belgian sneak route.” The two nations have agreed to track down persons claiming fraudulent addresses and to make more careful checks before issuing residence permits. (*Belgian Minister Agrees to Jointly Take Action Against Belgian Route*, HANDELSBLAD, Jan. 16, 2006, FBIS No. EUP20060117024006.)
(Donald R. DeGlopper, 7-9831, ddeg@loc.gov)

PORTUGAL/EUROPEAN COMMISSION – Request to Stop Discriminating Against Foreign Banks

Portugal has been formally requested by the European Commission to review its legislation on taxation of foreign banks. The request refers to different tax treatments granted to domestic banks to the detriment of foreign ones, a direct result of the restrictions imposed by the Portuguese legislation on the free movement of capital.

The request was based on articles 56 and 226 of the European Community Treaty. Article 56 states that all restrictions on capital movement among Member States and between Member States and third countries are prohibited. Article 226 establishes that when the European Commission considers that a Member State has failed to fulfill an obligation under the Treaty, the Commission will deliver a reasoned opinion on the matter after giving the state concerned an opportunity to submit its observations.

Portugal has two months to comply with the reasoned opinion. In the event of non-compliance, the Commission may refer the matter to the European Court of Justice. (European Commission Press Release, Commission Requests Portugal to End Discriminatory Taxation of Foreign Banks (Jan. 16, 2006), *at* <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/06/42&format=HTML&aged=0&language=EN&guiLanguage=en>.)
(Eduardo Soares, 7-3525, esoa@loc.gov)

SPAIN/CHINA – Jurisdiction over Genocide in Tibet

Spain’s National High Court has announced that it has jurisdiction to investigate the treatment of Tibetans by the Chinese government during the 1980s and 1990s, to determine whether it is a case of genocide. The Constitutional Court had previously established Spanish jurisdiction for crimes against humanity such as genocide, even if none of the victims are Spanish. The recent ruling was handed down by Section Four of the Criminal Chamber of the National High Court. The Court accepted an



appeal filed by the Tibet Support Committee against a September 2005 decision of a lower court. That earlier decision had turned down the suit filed by the Committee against seven Chinese leaders, including former President Jiang Zemin. (*Spanish Court Insists It Can Try Chinese Leaders over Tibet*, EFE, Jan. 10, 2006, FBIS No. EUP20060110950054.)
(Constance A. Johnson, 7-9829, cojo@loc.gov)

UNESCO/GLOBAL BUSINESS COALITION – Agreement to Fight HIV/AIDS

On January 16, 2005, the head of the United Nations Educational, Scientific, and Cultural Organization (UNESCO) and the President of the Global Business Coalition on HIV/AIDS (GBC) signed an agreement to fight HIV/AIDS. The accord, signed in Paris and valid for the period from 2006 to 2010, is intended to promote preventive education and encourage partnerships with business.

The GBC, an alliance of 200 international companies with a total of over fifty-four million employees, was founded in 1997, to encourage businesses to commit themselves to the fight against the pandemic. It helps companies develop policies on the subject that suit their specific needs and benefit their employees and communities. The organization, headed by former United States U.N. Ambassador Richard Holbrooke, implements projects in the field, organizes meetings to share experiences, designs toolkits for businesses, improves data collection on the impact of AIDS on the workplace, and represents companies dealing with U.N. agencies. UNESCO's anti-AIDS work is largely devoted to education through its EDUCAIDS initiative. It is designed to increase awareness and knowledge so as to modify risky behavior and thereby reduce the spread of the disease. (*UN Cultural Agency and Global Business Group Sign Pact to Fight AIDS*, UN NEWS SERVICES, Jan. 16, 2006, <http://www.un.org/apps/news/story.asp?NewsID=17168&Cr=HIV&Cr1=AIDS#>.)
(Constance A. Johnson, 7-9829, cojo@loc.gov)

UNESCO – Global Child Labor/Education Task Force

On November 28, 2005, in Beijing, China, ministers and senior officials of governments and international organizations participating in the third roundtable of the United Nations Educational, Scientific and Cultural Organization (UNESCO) Fifth High Level Group Meeting on Education unanimously agreed to launch a new global task force to deal with the issue of child labor in international efforts to promote universal education. The task force will be based in Beijing and work “on the basis of different partnerships” rather than being a new organization, according to Peter Smith, Assistant Director General of UNESCO. Smith stated that the task force would first collect better data on the child labor situation in various countries. A 2002 International Labor Organization survey indicated that 246 million children five to seventeen years of age were engaged in child labor in the year 2000; 8.4 million of them were in illicit activities such as forced and bonded labor, armed conflict, prostitution, and pornography. Another key objective is enhanced cooperation between ministries of education and labor as well as agencies and organizational partners, through dissemination of good practices. (*Global Child Labor Task Force Agreed*, XINHUA, Nov. 29, 2005, http://service.china.org.cn/link/wcm/Show_Text?info_id=150271&p_qry=child%20and%20labor; *Global Task Force on Child Labor Launched in Beijing*, CHINA DAILY, Nov. 29, 2005, http://service.china.org.cn/link/wcm/Show_Text?info_id=150214&p_qry=child%20and%20labor.)
(Wendy Zeldin, 7-9832, wzeld@loc.gov)



UNITED NATIONS INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA – Provincial Leader Placed on Trial

On January 9, 2005, the International Criminal Tribunal for Rwanda (ICTR) began the trial of former Rwandan official Francois Karera, who is accused of committing genocide and crimes against humanity. Karera, who was regional administrator of Kigali-Rural, the province surrounding the Rwandan capital Kigali, was arrested in October 2001 and has pleaded not guilty.

According to the prosecutor, Hassan Bubacar Jallow, Karera was a leader in massacres of Tutsi civilians in Kigali-Rural Province and in Kigali. More specifically, he is charged with the killing of hundreds of Tutsis who had sought refuge in a church in a town south of Kigali in April 1994. He allegedly led a convoy of buses of extremist Hutu militia and other armed men to the church and joined in their attack against the refugees. (*Trial of Ex-Rwandan Provincial Leader Opens at UN Court*, RADIO RWANDA, Jan. 10, 2006, FBIS No. AFP20060110950004; *Prosecutor v. Francois Karera*, DAILY JOURNAL OF JUDICIAL PROCEEDINGS OF THE ICTR, Jan. 10, 2006, <http://65.18.216.88/ENGLISH/dailyjournal/index.htm>; ICTR, Status of Cases Awaiting Trial No. 8, KARERA Francois (ICTR-01-74-I) (last visited Jan. 11, 2005).) (Wendy Zeldin, 7-9832, wzel@loc.gov; Constance A. Johnson, 7-9829, cojo@loc.gov)

VENEZUELA/UNITED STATES – New Drug Trafficking Agreement

In 2005, Venezuelan President Hugo Chavez ordered the U.S. Drug Enforcement Administration (DEA) to cease all its operations in Venezuela. All official relations between Venezuelan and U.S. anti-narcotics agents were stalled. However, after tough negotiations between Venezuelan and U.S. diplomats, a new anti-drug agreement is ready to be signed by the end of January 2006, which will reinstate a working relationship in the fight against drugs.

This new agreement will not give the United States the same far-reaching powers it enjoyed under past accords. The new international instrument is based only on the exchange of information, cooperation, and technological support. Arrests, searches, and seizures, as well as all anti-drug operations in general, will be carried out exclusively by Venezuelan forces. The Venezuelan Government will adopt measures to eradicate the drug culture and to combat money laundering, drug trafficking, and the violence that such crimes generate in society. (*Gobierno anuncia pronta firma de convenio antidrogas con EEUU*, DIARIO EL UNIVERSAL, Jan. 24, 2006, http://www.eluniversal.com/2006/01/24/pol_ava_24A66_0315.shtml.) (Graciela Rodriguez-Ferrand, 7-9818, grod@loc.gov)

WORLD TRADE ORGANIZATION – Canada Appeals Softwood Lumber Ruling

In the ongoing softwood lumber dispute between the United States and Canada, Canada has appealed the World Trade Organization (WTO) finding that the United States did not violate international trade rules by imposing countervailing and antidumping duties on softwood lumber from Canada. The United States had successfully argued that Canada unfairly subsidizes lumber exports by charging less than fair market rates for logging on Crown lands. Canada has denied this claim, despite several North American Free Trade Agreement (NAFTA) panel and WTO decisions in favor of the United States. (*Canada Appeals WTO Ruling in Softwood Case vs. US*, REUTERS, Jan. 13, 2006,



http://news.yahoo.com/s/nm/20060113/wl_canada_nm/canada_trade_softwood_canada_col; ylt=Aq0jg9fzmxGsSKnW7f.K2GV09L4F; ylu=X3oDMTBiMW04NW9mBHNIYwMIJVRPUCU1.)

While decisions on softwood lumber have favored the United States on the issue of subsidization, NAFTA decisions have favored Canada on the issue of whether imports threaten material injury to the U.S. lumber industry. On November 22, 2005, the U.S. Commerce Department announced that it would comply with the latest panel decision by dropping its countervailing duties. This has led the Coalition for Fair Lumber Imports to contest the legality of the NAFTA's provisions for resolving disputes through the use of bilateral panels. The Coalition has argued that this deprives the U.S. industry of its rights to due process and judicial review in the United States under the U. S. Constitution. The Government will defend the legality of NAFTA dispute resolution provisions. (*US Lumber Files Court Papers in NAFTA Challenge*, REUTERS, Jan. 17, 2006, http://news.yahoo.com/s/nm/20060117/wl_canada_nm/canada_trade_lumber_usa_col; ylt=AuvWL2jsTvITt2KkFIJjW1p09L4F; ylu=X3oDMTBiMW04NW9mBHNIYwMIJVRPUCU1.)

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

WORLD TRADE ORGANIZATION – Compulsory Licensing of Medicine in Health Crises

The World Trade Organization (WTO) Trade-Related Aspects of Intellectual Property Rights (TRIPS) Council and the General Council reached a decision to amend the WTO TRIPS Agreement on December 6, 2005. The amendment will allow developing countries with no or insufficient pharmaceutical manufacturing capacity to access alternative supplies of medicines in the event of a public health crisis. This amendment permanently implements the waiver of TRIPS article 31(f) and (h). The amendment includes safeguards to ensure that export compulsory licensing is used as originally intended for public health purposes, and not to achieve industrial or commercial goals. (*TRIPS Amendment Permanently Resolves Export Compulsory License Issue*, IFPMA, Dec. 6, 2005, at <http://www.ifpma.org/News/NewsReleaseDetail.aspx?nID=3951.>)

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



RECENT DEVELOPMENTS IN THE EUROPEAN UNION

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

Directive on Avian Influenza

On December 20, 2005, the European Union adopted a new Directive on Community Measures for the Control of Avian Influenza. The Directive repeals a 1992 directive regulating the spread of the disease. The Directive establishes minimum standards that EU Members must follow in order to curb the spread of the disease to poultry, captive birds, and mammals. Members are free to adopt more stringent measures, if they so wish. The Directive lays out certain preventive measures regarding the surveillance and early detection of avian influenza, the minimum control measures in the event of an outbreak, and other subsidiary measures to avoid the spread of the disease to other species. Another aim of the Directive is to establish reserves of vaccine against avian influenza in the Community and in the Member States, to be used in emergency situations. (Council Directive 2005/94/EC, Dec. 20, 2005, 2005, OJ L 10/6.)

Presidency of the Council of the European Union

On January 1, 2006, the Austrian Government assumed the presidency of the Council of the European Union, which is a rotated office, for six months. Finland will take over the post on July 1, 2006. The tasks of the presidency are to organize and chair all meetings of the European Council and all the working groups and preparatory committees. It will also represent the Council in meetings with the European Commission and the European Parliament and will represent the EU in international organizations. (*What Is the Presidency*, available at http://www.eu2006.at/en/The_Council_Presidency/What_is_the_Presidency/index.html (last visited Jan. 24, 2006).)

New Strategy on Legal Migration

On December 21, 2005, the European Commission presented a strategic plan entitled “Policy Plan on Legal Migration.” The Plan contains a number of initiatives to be introduced by the Commission during the period 2006-2009. Specifically, the Plan addresses four fields of action: 1) a legislative measure to establish rules on entry and residence of third-country nationals; 2) policies to facilitate and promote exchange of information among the Member States on legal migration; 3) policies to assist in the integration of third-country nationals within the national territories; and 4) measures to control international migration through cooperation with the countries of origin. (Press Release, IP/05/1664, Economic Migration in the EU – Commission Presents a Roadmap on Legal Migration (Dec. 21, 2005), available at <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/05/1664&format=HTML&aged=0&language=EN&guiLanguage=en>.)

EU and China Sign Memorandum of Understanding on Product Safety

In response to consumer concerns over defective products being imported into Europe from China, the EU expressed its concerns to the Chinese authorities. On January 16, 2006, the EU and China signed in Beijing a memorandum of understanding to diminish the number of defective and dangerous products that are exported to European markets. Another objective of the memorandum is to



facilitate cooperation and communication between the responsible European and Chinese authorities on issues related to food safety and sanitary and phytosanitary matters. (Press Release, IP/06/46, Commissioner Kyprianou Signs Product Safety Memorandum with China, Brussels (Jan. 16, 2006), available at <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/06/46&format=HTML&aged=0&language=EN&guiLanguage=en>.)

Court Validates Air Passenger's Rights

A 2004 EU regulation spells out the responsibilities of air carriers when flights are cancelled. When such an event occurs, air carriers must provide passengers with a choice of reimbursement of the cost of the ticket or rerouting to the final destination. Passengers are also entitled to receive meals and hotel accommodations in some instances. Air carriers bear no responsibility only in special circumstances, such as if they notify passengers two weeks prior to cancellation of a scheduled flight. If a flight is simply delayed for less than five hours, air passengers are entitled to free meals, free telephone access, etc.

The International Air Transport Association (IATA) filed a suit before the High Court of Justice of England and Wales claiming, *inter alia*, that the pertinent provisions of the regulation related to compensation of air passengers are inconsistent with the 1999 Montreal Convention for the Unification of Certain Rules for International Carriage by Air and thus have no validity. The High Court sent the case to the European Court of Justice for a preliminary ruling. On January 10, 2006, the Court of Justice decided that the scope of the Montreal Convention is different from the regulation, and therefore the regulation is not in conflict with Convention rules. The Convention contains provisions under which passengers, on an individual basis, may bring actions for compensation if flights are delayed. On the other hand, the regulation prescribes “standardized and immediate compensatory procedures” that have an immediate effect on passengers. (Press Release No 1/06, CJE/06/1, The Regulation on Compensation and Assistance to Air Passengers Is Valid (Jan. 10, 2006), available at <http://europa.eu.int/rapid/pressReleasesAction.do?reference=CJE/06/1&format=HTML&aged=0&language=EN&guiLanguage=en>.)

Animal Feed and Antibiotics

Antibiotics have been widely used as growth promoters in animal feed. However, the view that such a use creates new microorganisms that are resistant to antibiotics is gaining ground. For years, the European Commission had held a skeptical and cautious attitude towards the practice, due to its possible adverse effects on human and animal health. The Commission has already banned the addition of human medical antibiotics to animal feed. The new Feeds Additives Regulation completes the prohibition of the use of antibiotics as growth promoters. Consequently, as of January 1, 2006, the following four substances will be eliminated from the register of permitted feed additives: a) monensin sodium, used to fatten cattle; b) salinomycin sodium, to fatten piglets and pigs; c) avilamycin, used for piglets, pigs, chickens, and turkeys; and d) flavophospholipol, for rabbits, chickens, turkeys, pigs, and cattle. (Press Release, IP/05/1687, Ban on Antibiotics as Growth Promoters in Animal Feed Enters Into Effect (Dec. 22, 2005), available at <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/05/1687&format=HTML&aged=0&language=EN&guiLanguage=en>.)



New Rules on Organic Food

On December 21, 2005, the European Commission put forward a proposal for a new regulation on organic products. The draft regulation establishes explicit rules on production and labeling of organic products that will facilitate consumer recognition of such products. Producers of organic food will have a choice as to whether or not to use the EU organic logo. A food product may be labeled as organic if at least 95% of the final product is organic. If a food product contains genetically modified organisms (GMOs), it cannot carry the organic label. An exception is those products containing up to 0.9% of a GMO through accidental contamination. Organic products produced in other countries may be imported into the European Community if they meet EU standards or carry equivalent guarantees from the country of production. (Press Release, IP/05/1679, Organic Food: New Regulation will Improve Clarity for Consumers and Farmers (Dec. 21, 2005), *available at* <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/05/1679&format=HTML&aged=0&language=EN&guiLanguage=en>.)

* * * * *

