The Law Library of Congress

WORLD LAW BULLETIN

August 2008

8 W.L.B. 2008

Law Library of Congress
James Madison Memorial Building; 101 Independence Avenue, SE; Rm. LM 240; Washington, DC 20540
Reception: (202) 707-5065 – FAX: 1 (866) 550-0442
http://www.loc.gov/law/congress

Message from the Law Librarian

The Law Library of Congress is a unique center of expertise dedicated to providing world-class foreign, comparative, and international law research and reference services to the United States Congress. During fiscal year 2006, our faculty of 20 foreign law specialists and 3 research analysts prepared reports that covered over 160 jurisdictions.

The WORLD LAW BULLETIN, co-edited by Senior Legal Research Analysts Constance Axinn Johnson and Wendy Zeldin, is the Law Library'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. This and past issues are available online at: www.loc.gov/law/congress. This issue may be cited as: 8 W.L.B. 2008.

The Law Library of Congress maintains the world's largest collection of legal materials and provides foreign, comparative, and international law research for the U.S. Congress. We invite you to visit the Law Library's Congress-only website at http://www.loc.gov/law/congress, 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 foreign, comparative, or international law, please feel free to contact us by telephone (7-2700), fax (1 866-550-0442), or email (law@loc.gov).

The Law Library of Congress

TOPICS COVERED:

ANIMALS
Switzerland: Animal Protection Act Revised
ATTORNEYS & JUDGES
China: New Measures on Law Firms and the Practice of Law
China: Newly Revised Lawyers' Law Comes into Effect
Lebanon: Judges Seek Prosecution of Critics
New Zealand: New Profession of Conveyancing Practitioner Established
BANKING
Sri Lanka: Corporate Governance Rules for Banks Upheld
BUDGET
Indonesia: Budget Unconstitutional But Allowed to Stand
COMMUNICATIONS AND ELECTRONIC INFORMATION
Egypt: Debate over New Media Law
Russia: Prison Sentence for Blog Comment
Sweden: Surveillance Act
CONSTITUTIONAL LAW
France: Constitutional Reform
Kenya: Constitutional Bills
Taiwan: Civic Organizations Act Ruled Unconstitutional
United States: Court Rules Presidential Advisors Lack Absolute Immunity in Congressional Investigations
United States: University Sexual Harassment Policy Declared Unconstitutionally Overbroad
CONSUMER PROTECTION
Brazil: New Law Establishes Minimum Font Size in Adhesion Contracts
Korea, South: Beef Origin Labeling Rule
Vietnam: Product Quality Law
COURTS
Bangladesh: Contempt of Court Ordinance 2008 is Declared Unconstitutional
Saudi Arabia: Creation of New Appellate Courts
CRIMINAL LAW
England & Wales: Homicide Law Amendments Considered
Israel: Crime Victims' Rights
Liberia: Robbery, Terrorism to Be Non-Bailable Offenses
United Kingdom: British Hacker to Be Extradited to United States
DISABILITY
China: Ratification of Convention on Rights of Disabled
DISCRIMINATION
Israel: Registration of Both Parents Names on Official Documents
DRIVERS
Brazil: Harsh Punishment for Driving While Intoxicated
ELECTIONS AND POLITICS
Georgia: No State Funding for Parties Not Working in Parliament
Guinea-Bissau: Parliament Dissolved by Decree
Kenya: Police Said to Have Caused Nearly Half of Deaths in Election Violence
ENVIRONMENT
China: Expansion of Monitoring Role of Ministry of Environmental Protection
World Ports: Declaration on Climate Change
EUROPEAN UNION
See special attachment
FREEDOM OF SPEECH
Australia: Anti-Annoyance Laws Struck Out on a Technicality Not Freedom of Speech Grounds
GOVERNMENT EMPLOYEES
Japan: Public Service Reform
GOVERNMENT ETHICS
Nigeria: Expert Claims "Cancerous Corruption" Reason for Problems in Power Sector

Turks and Caicos Islands: Inquiry into Corruption Urged by British Committee
United Kingdom: Serious Fraud Office Not Unlawful in Halting Corruption Inquiry
HEALTH & SAFETY
Canada: Tobacco Companies to Pay Record Fines
Germany: Smoking Bans Found Unconstitutional
HUMAN RIGHTS
Mali: Rights Groups Discuss Slavery, Advocate New Law
Spain: Tibetan Group Expands Genocide Suit Against China
IMMIGRATION
France: Denial of Citizenship for Failure to Assimilate to French Culture
Mercosur: No Passport Needed for South Americans in Transit in the Region
INSURANCE
Iran: Automobile Insurers to Pay Equal Damages to Men, Women
INTELLECTUAL PROPERTY
Taiwan: Intellectual Property Court Launched
INTERNATIONAL LAW
China/Algeria: Judicial Assistance and Extradition Treaties Ratified
INVESTMENTS
Kyrgyzstan: No Parliamentary Involvement in Privatization
LABOR
Taiwan: Speech Therapist Law
Vietnam: Foreign Recruitment Firms May Operate
LIBRARIES
United States/Vatican City: Law Library of Congress Acquisition of Exceptional Book
MILITARY BASES
Ukraine: Removal of Foreign Navy Bases
MINING AND MINERAL RESOURCES
Vietnam: New Mineral Exports Law
NATIONAL SECURITY
Sri Lanka: Temporary Security Zones Established
NATIVE PEOPLES
Australia: Court Recognizes Indigenous Rights over Intertidal Zone
PRISONS
Austria: Privatization of Prison Services
PROPERTY
Zimbabwe/SADC: White Farmers Request Government Be Held in Contempt
PUBLIC ADMINISTRATION
China: Cadres to Undergo Law Exam for Administrative Posts
REFUGEES AND ASYLUM
TAXATION
Argentina: Vice-President Casts Tie-Breaking Vote Against Farm Tax Proposed by President
TERRORISM
Germany: Convictions of Kurdish Iraqis on Terrorism Charges
Indonesia: Constitutional Court Considers Delay of Execution
Israel: Charitable Organizations Tied to Hamas Declared Unlawful
TRAFFICKING IN PERSONS
Israel: Precedent Decision on Rights to Pay and Compensation for Trafficking Victim
TRANSPORTATION
China: Special Security Checks at Certain Airports
Estonia: No Trucks on Highways in Rush Hour
WAR
Afghanistan: Senate Wants Foreign Forces' Presence Legalized

Special Attachment:

LEGAL DEVELOPMENTS IN THE EU
Foreigners Married to EU Citizens Are Entitled to Freedom of Movement and Residence
Update on Visa-Waiver Non-Reciprocity with Third Countries

"Green" Products Encouraged
Public Consultation on Anti-Trust Regulation
Extension of Trade Preferences for Developing Countries
Update on Common Immigration and Asylum Policy
Prohibition on Cruelty to Seals
Updated List of Banned Airline Carriers

COUNTRIES & INTERNATIONAL ORGANIZATIONS COVERED:

Afghanistan
Algeria
Argentina
Australia
Austria
Brazil
Canada
China
Denmark
Egypt
England and Wales
Estonia
European Court of Human Rights
European Union
Finland
France
Georgia
Germany
Guinea-Bissau
Hong Kong
Indonesia
International Association of Ports and Harbours
Iran
Israel
Japan
Kenya
Korea, South
Kyrgyzstan
Lebanon
Liberia
Mali
Mercosur
Mexico
New Zealand
Nigeria
Norway
Russian Federation
South African Development Community
Saudi Arabia
Spain
Sri Lanka
Sweden
Switzerland
Taiwan
Turks and Caicos Islands
Ukraine
United Kingdom
Vietnam
World Ports
Zimbabwe

ANIMALS

SWITZERLAND – Animal Protection Act Revised

On July 8, 2008, Switzerland promulgated a revised version of its Animal Protection Act and a new Animal Protection Regulation (*Tierschutzgesetz, Amtliche Sammlung des Bundesrechts* (AS) 2965 (2008) & *Tierschutzverordnung*, AS 2985 (2008), bothon the Federal Authorities of the Swiss Confederation official website, http://www.admin.ch/ch/d/as/2008/index0_27.html (last visited July 31, 2008)). The new Act and its Regulation impose stringent standards for any kind of human interactions with vertebrate animals. These are based on the philosophies of respecting the dignity of the animal, avoiding any unnecessary pain and suffering, and ensuring species-appropriate conditions for all animals. The keeping of chickens in cages was already prohibited in 1981, yet the new law introduces further restrictions for livestock, pets, and wild animals kept in zoos and circuses. The social nature of many animals is also taken into consideration under the legislation. Birds, canaries in particular, may not be kept alone in cages. Guinea pigs must have a companion of their own species. Horses, cows, sheep, and goats must be kept so that they can at least see, hear, and smell animals of their own kind. The tethering of livestock and horses has been prohibited almost completely, and these animals also must be allowed to graze for a significant part of the year. Ritual slaughter is prohibited in Switzerland and ritually slaughtered meat may be imported only to satisfy the needs of the Jewish and Muslim communities residing in Switzerland. Animals that are being transported through Switzerland must be given the space allotted to them by Swiss law. Dogs and their owners must have 15 hours of training. The Swiss Veterinary Office (*Bundesamt für Veterinärwesen*, http://www.bvet.admin.ch/org/ index.html?lang=de (last visited July 31, 2008)) advises the population on how to treat their animals well and how to live up to the new requirements.
(Edith Palmer, 7-9860, epal@loc.gov)

ATTORNEYS & JUDGES

CHINA – New Measures on Law Firms and the Practice of Law

On July 18, 2008, China's Ministry of Justice issued the Measures on the Management of Law Firms, in 55 articles, and the Measures on the Management of the Legal Profession, in 52 articles. Chapters of the former cover General Provisions, Conditions for the formation/incorporation of law firms, licensing procedures for the formation/incorporation of law firms, changes or termination of law firms, provisions on practice and management of law firms, supervision and management by judicial administrative organs, and supplementary provisions. The latter comprise general provisions, conditions for the legal profession, licensing procedures of the legal profession, the scope of conduct of the legal profession, supervision and management by judicial administrative organs, and supplementary provisions.

Both sets of measures were formulated on the basis of the Law on Lawyers (as amended effective June 1, 2008; *see* item below) and related laws and regulations. The measures on law firms elaborate on the contents of the articles of association, the contents of partnership

agreements, the requirements for general partnerships and limited liability partnerships, and the supervisory duties of judicial administrative organs at various levels. To establish a general partnership requires at least 300,000 yuan (about US$43,800); a limited liability partnership, at least 10 million (about US$1.46 million). There is also a provision on conflict of interest, specifying that in accepting business, a law firm should examine whether any conflict of interest exists; firms cannot violate provisions against accepting business that conflicts with the interests of the firm's practice and its clients. The law firm measures stipulate that provisions on malpractice insurance are to be separately formulated. (Lüshi shiwusuo guanli banfa [Measures on the Management of Law Firms], July 18, 2008, *available at* http://www.law-lib.com/law/law_view.asp?id=261125.)

According to the measures on the legal profession, in addition to satisfying such requirements as upholding China's Constitution and passing the national judicial examination, in order to hold concurrent posts a practicing attorney must have engaged in legal research education and legal research work and be approved by his or her work unit. The measures also specify conditions in which a license to practice law will be retracted and cancelled. There are seven categories of activities included in the scope of legal practice, e.g., accepting authorization to serve as a legal advisor to natural persons, legal persons, or other organizations; accepting authorization to serve as agents for parties in civil and administrative cases and participating in litigation on their behalf; accepting authorization of suspects in criminal cases to provide legal consultation and act as their agent in appeals and bringing of charges, and so on. (Lüshi zhiye guanli banfa [Measures on the Management of the Legal Profession], July 18, 2008, *available at* http://www.law-lib.com/law/law_view.asp?id=261126.)
(Wendy Zeldin, 7-9832, wzel@loc.gov)

CHINA – Newly Revised Lawyers' Law Comes into Effect

The Standing Committee of the National People's Congress of China approved an amendment to the Law on Lawyers on October 28, 2007; it took effect on June 1, 2008. (Text of the law is available in Chinese on the Central Government official website, http://www.gov.cn/flfg/2007-10/28/content_788495.htm (last visited Aug. 4, 2008).) The revised law is expected to make it easier for Chinese lawyers to meet with their clients and obtain access to the prosecution's evidence in criminal cases. (*China Amends Law to Make Life Easier for Lawyers,* XINHUANET (Chinese government-authorized news agency), Oct. 28, 2007, *available at* http://news.xinhuanet.com/english/2007-10/28/content_6966548.htm.)

However, it was reported that in practice, lawyers are still facing great difficulties in meeting with their clients in criminal cases. The reason is that the provision of the new Lawyers' Law on meeting with criminal suspects and defendants is inconsistent with the Law on Criminal Procedure, and the legislature has not yet clarified the inconsistency. The Law on Criminal Procedure has not been amended since 1996. Therefore, law enforcement authorities in many areas still refuse to implement the new Lawyers' Law to allow the lawyers to meet with their clients in custody without "pre-approval or arrangements." (*New Lawyers' Law Took Effect; Lawyers Believe Criminal Procedure Law Must Be Amended to Radically Cure the Difficulty of Meeting* [in Chinese], JCRB.COM [the Supreme People's Procuratorate-affiliated website], July 21, 2008, *available at* http://news.jcrb.com/xwjj/200807/t20080721_39218.html.) In an effort to

compromise the conflicts between the two laws, the authorities of the city of Beijing collectively issued Provisions on Lawyers' Rights in Interviewing Detained Criminal Suspects or Defendants (for Trial Implementation) on June 2, 2008. (Beijing liu jia danwei chutai cuoshi, huanjie lüshi "huijian nan" wenti, XINHUANET, June 10, 2008, *available at* http://news.xinhuanet.com/legal/2008-06/10/content_8336289.htm.)
(Laney Zhang, 7-6303, lzha@loc.gov)

LEBANON – Judges Seek Prosecution of Critics

On July 14, 2008, the Lebanese Supreme Judicial Council issued a stern statement, probably unprecedented in the history of the Lebanese judiciary, against the criticism directed against the judges by members of parliament, media reporters, and attorneys. The Council asked the General Prosecutor to take the necessary actions against those responsible as he deems appropriate. (*Lebanon: The Supreme Judicial Council Requests Prosecution of Parliamentarians, the Media, and Attorneys Who Criticize the Council,* ASHARQ ALAWSAT, July 15, 2008, *available at* http://www.aawsat.com/details.asp?section=4&issueno=10822&article=478874&feature=.)
(Issam Saliba, 7-9840, isal@loc.gov)

NEW ZEALAND – New Profession of Conveyancing Practitioner Established

The Lawyers and Conveyances Act 2006 came into force on August 1, 2008, and, among other things, established the profession of conveyancing practitioner and the New Zealand Society of Conveyancers (to control and regulate the profession of conveyancing practitioners). The New Zealand Law Society will continue to regulate the legal profession. (Lawyers and Conveyancers Act 2006.)
(Lisa J. White, 7-4987, liwh@loc.gov)

BANKING

SRI LANKA – Corporate Governance Rules for Banks Upheld

It was reported in July 2008 that Sri Lanka's Supreme Court upheld a mandatory code of corporate governance established by the Central Bank for licensed, commercial banks in the country. The guidelines cover age limits, length of service limits, and the number of different directorships an individual may hold. The Central Bank had been challenged in a case filed by Lalith Kotelawala, who was both the Chairman of Ceylinco Consolidated and Director of the Seylan Bank. Under the Central Bank rules, individuals cannot continue as directors of commercial banks if they have held that post more than nine years, are over 70 years old, and are directors of more than 20 companies. (*Sri Lanka Supreme Courts Supports Central Bank's Decision on Corporate Governance*, COLOMBO PAGE, July 14, 2008, *available at* http://www.colombopage.com/archive_08/July14171805SL.html.)
(Constance A. Johnson, 7-9829, cojo@loc.gov)

BUDGET

INDONESIA – Budget Unconstitutional But Allowed to Stand

Media sources recently reported that the Constitutional Court of Indonesia has declared the 2008 national budget unconstitutional, but it will be allowed to stand. The plaintiffs (the Association of Indonesian Teachers (PGRI) and other education activists) sought to have the budget declared void as it violates the Constitution by failing to allocate 20 percent for education spending. However, the Constitutional Court (as it has done on three prior occasions) permitted the budget to stand to avoid fiscal disorder. (*Court Allows 'Flawed' Budget to Stand*, THE JAKARTA POST, Aug. 14, 2008, *available at* http://www.thejakartapost.com/news/2008/08/14/court-allows-039flawed039-budget-stand.html.)
(Lisa J. White, 7-4987, liwh@loc.gov)

COMMUNICATIONS AND ELECTRONIC INFORMATION

EGYPT – Debate over New Media Law

It was recently reported that the Egyptian government is considering submitting to the parliament a new media law regulating radio and television broadcasting, under which it would be prohibited to transmit material that adversely affects "social peace, national unity, and public morals and order." Legal experts have described the proposal as an attack on individual liberties aimed at silencing freedom of speech and prohibiting criticism of the government. (*Debate in Egypt About a Proposed New Law Regulating Audio and Video Broadcasting,* ASHARQ ALAWSAT, July 12, 2008, *available at* http://www.aawsat.com/details.asp?section=4&issueno=10819&article=478449&feature.)
(Issam Saliba, 7-9840, isal@loc.gov)

RUSSIAN FEDERATION – Prison Sentence for Blog Comment

On July 7, 2008, a city court in the Russian northwest region sentenced an individual to one year of imprisonment for inciting hatred after he criticized the police in his online comments left on the blog of a local journalist under his online nickname. The defendant acknowledged his authorship but pleaded not guilty. The court ruled that the act constituted the crime of incitement to strife in public because of the unlimited number of possible readers of the comment. The court thereby established a precedent in recognizing the Internet as a media outlet, allowing punishment of those Internet users who, in the opinion of the law enforcement authorities, use the Internet for expressing extremist views. The ruling is viewed as a Russian government attempt to restrict speech on the Internet. (*A Blogger Sentenced for a Comment in LiveJournal*, NEWSRU.COM, July 7, 2008, *available at* http://www.newsru.com/russia/07jul2008/terya_jun_srok_print.html.)
(Peter Roudik, 7-9861, prou@loc.gov)

SWEDEN – Surveillance Act

Sweden's new Surveillance Act, passed by the Parliament on June 18, 2008 (*see* 7 W.L.B. 2008), and slated to go into force on January 1, 2009, has met with fierce protest from the public and the media. Swedish officials have thus far rejected demands to refashion the law, even though some members of the government itself have also condemned it.

The Act's opponents allege that it violates civil rights because, under its provisions, the National Defense Radio Establishment has the authority to monitor all cross-border telecommunications and e-mail traffic. The protests were kindled by Swedish bloggers – within two weeks of the Act's passage, 6.6 million e-mails of protest were reportedly sent to the government via a popular webpage – in a "blog quake" that quickly "inspired Internet-organized demonstrations throughout the country." (*Analysis: Swedish Government Pressured on Surveillance Act,* Open Source Center Analysis [combining information from a variety of Swedish and other cited sources], July 18, 2008, Open Source Center No. FEA20080721733113.) Major Swedish business leaders, especially in the Internet and communications technology (ICT) field, and foreign officials have also voiced concern over the

law's provisions. TeliaSonera, Sweden's leading telecommunications company, moved a number of its servers to Finland before the law's adoption, and eight major ICT company directors "warned that the law could 'jeopardize' Sweden's reputation as a leading ICT hub in Northern Europe." (*Id.*) Russia, 80 percent of whose ICT traffic is routed through Sweden, accused its neighbor of planning to steal Russians' commercial and personal data; Finland, 90 percent of whose incoming ICT traffic is via Sweden, expressed a similar concern. Denmark, whose parliament and Security Intelligence Service will be affected by the Act, plans to discuss the problematic measures with Swedish counterparts; Norway has ordered a study of how the Act might impact that country's national interest.

There is a requirement in the new law for the government to put forward "proposals for changes" to its provisions in the fall. However, some members of the coalition government have announced "that they no longer support the law, thus potentially enabling a majority in parliament to pass a motion to scrap it entirely." (*Id.*) In addition, the Swedish human rights group Centrum för rättvisa (Center for Justice) has lodged a complaint against the Act with the European Court of Human Rights (ECHR). (*European Court Requested to Review Swedish 'Big Brother' Snooping Law,* Centrum för rättvisa website, July 14, 2008, *available at* http://www.centrumforrattvisa.se/index.php/publisher/articleview/frmArticleID/23/.) The ECHR reportedly ruled against the United Kingdom government earlier in July in a similar case. (Open Source Center Analysis, *supra.*)
(Wendy Zeldin, 7-9832, wzel@loc.gov)

CONSTITUTIONAL LAW

FRANCE – Constitutional Reform

On July 21, 2008, both houses of the French Parliament met in a special joint session to approve major changes to the Constitution. The constitutional reform had been one of the major electoral campaign promises of President Nicolas Sarkozy. Some of the key points of the reform are outlined below.

The President of the Republic may only serve two consecutive five-year terms. He may address the joint houses of Parliament, a privilege he did not have before. The President's right to pardon is limited to individual cases and he is no longer the President of the High Council of the Judiciary, an independent constitutional body that plays a central role as guarantor of judges' independence in recommending promotions and appointments and as a disciplinary council. Individuals now have the right to directly complain to the High Council about either judicial dysfunctions or individual judges. Previously, only the Minister of Justice or the presidents of the appellate courts could do so. A law will be drafted to set forth the implementing conditions of this new right.

The reform gives more power to Parliament. Parliament may set half of its agenda instead of having the government decide the entire agenda. The President must inform Parliament of the deployment of troops overseas, and parliamentary approval is required for any deployment of over four months. Parliamentary commissions may veto some major presidential appointments, such as the appointment of the President of the Constitutional Council or the President of the High Council of Audiovisual Matters. A majority of three-fifths of the competent commission is required for the veto. A referendum is necessary to approve a new European Union member. However, this requirement may be waived by "the vote on a motion adopted in identical language by each house by a majority vote of three-fifths."

Another key point of the reform concerns the Constitutional Council. A party to a trial who considers that a law or one of its provisions applicable to his/her case infringes the rights and liberties set forth in the Constitution may refer the law or provision to the Constitutional Council through the *Cour de Cassation* (France's highest judicial court) or the *Conseil d'Etat* (France's highest administrative court). In France, the review of the constitutionality of laws is solely entrusted to a Constitutional Council. The Council expresses an opinion on the constitutionality of a law before its promulgation. Until this reform, it was mandatory to refer to the Constitutional Council all laws relating to the institutions and the rules of procedures of both parliamentary assemblies, while ordinary laws could only be submitted to the Council by the President of the Republic, the Prime Minister, the President of the National Assembly, or the President of the Senate, or, more commonly, by 60 deputies or senators. Additional legislation will be drafted to implement this right.

Finally, the Constitutional Law creates a "citizens' rights defender" who will replace the current "mediator" and whose role is reinforced. Any citizen or legal entity that feels wronged by any public service will be able to bring a claim before the "defender." (Loi Constitutionnelle

No. 2008-724 of July 23, 2008, on Modernizing the Institutions of the Vth Republic, J.O. July 24, 2008, 11890.)
(Nicole Atwill, 7-2832, natw@loc.gov)

KENYA – Constitutional Bills

On July 29, 2008, the Constitution amendment bill and the Constitution review bill were formally introduced in the Kenyan Parliament by the Minister of Justice, Martha Karua. The former "seeks to amend section 47A of the constitution to allow for the overhaul of the current constitution" and calls for the use of a referendum to ratify a new constitution, while the latter "provides the coordinated approach in which the process will be undertaken." (Nelly Moraa, *Constitution Bills Presented in Parliament,* Kenya Broadcasting Corporation, July 29, 2008, *available at* http://www.kbc.co.ke/story.asp?ID=51546.) The bills successfully passed the first reading and have been referred to the relevant committees for examination. The two bills are a result of deliberations of the Truth, Justice, and Reconciliation Commission, which was formed by an agreement reached on March 4, 2008, to address the issues that had given rise to violence after the disputed December 2007 presidential elections. The parties to the process had agreed that enactment of a new constitution would be part of the reconciliation process. (*Id.*; The Kenya National Dialogue and Reconciliation, Agreements and Decisions [reverse chronological, hyperlinked list], http://www.dialoguekenya.org/agreements.aspx (last visited July 30, 2008).)
(Wendy Zeldin, 7-9832, wzel@loc.gov)

TAIWAN – Civic Organizations Act Ruled Unconstitutional

Taiwan's Constitutional Court issued Interpretation No. 644 on June 20, 2008, declaring articles 2 and 53 of the Civic Organizations Act (also translated as the Civil Associations Act or Private Organizations Law, promulgated Feb. 10, 1942; last amended on Dec. 11, 2002) to be unconstitutional. According to the Grand Justices, the articles limit the rights of freedom of speech and assembly set forth in the Constitution by prohibiting civic groups from advocating Communism or separatism. Therefore, they ruled, from the date of issuance of the Interpretation, those provisions have no effect. Thus, people on Taiwan can now freely form a Communist Party or advocate Taiwan independence from mainland China. (Judicial Interpretation No. 644 (in Chinese) (June 20, 2008), Justices of the Constitutional Court website, *available at* http://www.judicial.gov.tw/constitutionalcourt/p03_01.asp?expno=644; Jen-min t'uan-t'i fa, Laws and Regulations Database of the Republic of China, http://law.moj.gov.tw/Scripts/newsdetail.asp?no=1D0050091 (last visited July 30, 2008).)

The Interpretation may be deemed a legal milestone in the development of Taiwan's constitutional rights. Nevertheless, a Kuomintang (Nationalist Party, or KMT) editorial argues that the Interpretation actually "lags behind current realities," given that pro-Taiwan independence parties already exist, that the main opposition Democratic Progressive Party has a "Taiwan Independence Party Charter," and that the Criminal Law had been amended in 1992 to do away with criminalization of Taiwan independence ideology and speech. As for advocacy of communism, it points out, there are left-wing social movements in Taiwan, linked to mainland China, whose members "occasionally drive sound trucks displaying PRC flags and broadcasting leftist slogans. No one seems terribly concerned." Nor does the Interpretation establish new

civil rights, the editorial contends, but "merely acknowledges the existing political reality," because "Taiwan's politics have already gone beyond the issue of whether one may advocate Taiwan Independence or Communism. Instead, the issue is how to cope with Taiwan Independence and Communism, given a framework of democracy." (Editorial, *Constitutional Interpretation 644: Will There Be a "Chinese Reunification Party" on Kinmen?*, UNITED DAILY NEWS, June 23, 2008, *available at* http://www.kmtnews.net/client/eng/NewsArtical.php?REFDOCID=00auksmdjadl1o9d&TYPIDJump=00aire4d9ydh2d8u.)

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

UNITED STATES – Court Rules Presidential Advisors Lack Absolute Immunity in Congressional Investigations

On July 31, 2008, District Judge John D. Bates of the U.S. District Court for the District of Columbia ruled that presidential advisors may not ignore congressional subpoenas by invoking absolute executive immunity.

In 2007, the Committee on the Judiciary of the House of Representatives initiated an investigation into the forced resignations in 2006 of several United States Attorneys. The committee sought testimony by and documents from former White House Counsel Harriet Miers and White House Chief of Staff Joshua Bolten. Invoking executive privilege, Miers and Bolten declined to fully cooperate with the committee. The committee issued subpoenas, to which Miers and Bolten declined to respond. The House of Representatives held Miers and Bolten in contempt of Congress, and filed suit seeking an order of declaratory and injunctive relief enforcing the subpoenas.

The court rejected arguments by Miers and Bolten that the case should be dismissed, finding (1) that the House of Representatives had standing to sue, in light of its interests in the information sought from the witnesses and in vindicating its institutional prerogative to compel compliance with subpoenas; (2) that the U.S. Constitution provided authority for the House of Representatives to seek, and the court to issue, declaratory relief enforcing its subpoenas; and (3) that the court's exercise of equitable discretion was warranted under the circumstances of this case.

With respect to Miers' and Bolten's claim that senior presidential advisors enjoy absolute executive immunity from compelled testimony before Congress or production of documents, the court found that the claim was "entirely unsupported by case law." The court ruled that granting the Executive Branch absolute immunity would effectively allow it to determine when it responded to Congressional inquiries. The court emphasized that "the Executive cannot be the judge of its own privilege," and "the judiciary remains the ultimate arbiter of an executive privilege claim, since it is the duty of the courts to declare what the law is." The court ruled that Miers is legally required to testify in response to the subpoena, but may invoke executive privilege in response to specific questions as appropriate. The court ordered Miers and Bolten to produce all non-privileged documents requested in the subpoenas and to provide the committee a specific description of any documents withheld on the basis of executive privilege.

(Committee on the Judiciary, U.S. House of Representatives v. Miers (D.C. Cir. July 31, 2008), a*vailable at* https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2008cv0409-49).
(Luis Acosta, laco@loc.gov, 202-707-5080)

UNITED STATES – University Sexual Harassment Policy Declared Unconstitutionally Overbroad

On August 4, 2008, the U.S. Court of Appeals for the Third Circuit ruled that an anti-sexual harassment provision of a university's Student Code of Conduct violated the rights of students to free speech under the First Amendment of the U.S. Constitution.

The case concerned a provision in Student Code of Conduct of Temple University, a public institution in Pennsylvania. The policy prohibited, among other things:

> expressive, visual, or physical conduct of a sexual or gender-motivated nature [with] the purpose or effect of unreasonably interfering with an individual's work, educational performance, or status; or . . . creating an intimidating, hostile, or offensive environment.

A graduate student in Temple's History Department sued the university, claiming that the policy violated his free speech rights under the First Amendment by inhibiting him from expressing his opinions on issues he believed were implicated by the policy, such as women in military combat. Although Temple revised its policy in January 2007, in March 2007, the U.S. District Court for the Eastern District of Pennsylvania issued an order declaring the pre-January 2007 policy unconstitutional and enjoining the university from enforcing it.

Temple appealed, arguing that the January 2007 policy revision rendered the controversy moot, and in the alternative that the former policy was constitutional. The Third Circuit first ruled that the controversy was not rendered moot by Temple's revision of the policy, stating that because Temple continued to defend the prior policy's constitutionality, absent an injunction there would be no assurance that Temple would not reinstate its pre-January 2007 policy. On the merits, the court said that under Supreme Court precedent, a public educational institution cannot prohibit speech absent a tenable threat that such speech will actually, materially disrupt the school's educational activities, and found that the policy's focus on a speaker's motivation to be contrary to this requirement. The court found that the policy's use of the terms "hostile, "offensive," and "gender-motivated" were sufficiently broad and subjective to cover any gender-related speech that someone found offensive, including political and religious speech at the core of First Amendment protection. Finding the policy's language facially unconstitutional, the Third Circuit affirmed the district court's injunction. (DeJohn v. Temple University (3rd Cir. August 4, 2008), a*vailable at* http://www.ca3.uscourts.gov/opinarch/072220p.pdf).
(Luis Acosta, 7-5080, laco@loc.gov)

CONSUMER PROTECTION

BRAZIL – New Law Establishes Minimum Font Size in Adhesion Contracts

On June 19, 2008, the Commission on Constitution, Justice and Citizenship of the Brazilian Chamber of Deputies approved the proposal for a law that compels companies to write adhesion contracts on fonts no smaller than size 12. The justification for the measure is that it is a means to facilitate consumers' reading and comprehension of such contracts. The law will now be forwarded to the President of Brazil for his approval. (*Câmara Define Tamanho Mínimo de Letras em Contrato*, JURID, June 20, 2008, *available at* http://www.jurid.com.br/new/jengine.exe/cpag?p=jornaldetalhejornal&ID=49520&Id_Cliente=16569#null.)
(Eduardo Soares, 7-3525, esoa@loc.gov)

KOREA, SOUTH – Beef Origin-Labeling Rule

The relaxation of controls on importation of U.S. beef caused violent protests in Seoul in May and June 2008. In order to inform consumers of the origin of food at restaurants, South Korea amended the Agricultural Products Quality Control Law on May 23, 2008. A part of the amended Law became effective on July 8, 2008. Now, restaurants must use labels indicating where the beef they use comes from. Similar rules for pork and chicken are to take effect in December. (*Beikokusan Gyuniku: gensanchi hyoji ni himei ageru inshokuten [U.S. Beef: Restaurants' Scream over Labeling of Origin]*, CHOSUNILBO, July 11, 2008, http://www.chosunonline.com/article/20080711000061.)
(Sayuri Umeda, 7-0075, sumeda@loc.gov)

VIETNAM – Product Quality Law

As of July 2, 2008, a new Law on Quality of Products and Goods is in force in Vietnam. Among 13 prohibitions to protect consumers from inferior merchandise, the Law bans the import or export of goods of unsubstantiated origin, the donation of foods and pharmaceuticals of low quality or whose expiration date has passed, and failure to provide transparent information regarding "goods deemed unsafe for humans, animals, plants, property and the environment." (Law on Quality of Products and Goods, *New Law to Bring Accountability,* VIETNAM LAW & LEGAL FORUM, July 3, 2008, *available at* http://news.vnanet.vn/vietnamlaw/Reports.asp?CATEGORY_ID=1&SUBCATEGORY_ID=6&NEWS_ID=2822.) The Law provides that consumers who bring suit are responsible for any associated pre-trial costs of taking samples, testing products, and appraising products' quality. Consumers will only be compensated for such costs if they win their cases. (*Id.*)
(Wendy Zeldin, 7-9832, wzel@loc.go)

COURTS

BANGLADESH - Contempt of Court Ordinance 2008 is Declared Unconstitutional

On July 24, 2008, the High Court of Bangladesh declared that the Contempt of Court Ordinance 2008 violated the Constitution of Bangladesh.

The Contempt of Court Ordinance 2008 replaced a prior law, the Contempt of Court Law 1926, and altered existing law on courts' contempt power. (See *Global Legal Monitor*, March 2008, at 16.) A writ was filed by two Supreme Court lawyers challenging the validity of the law.

The High Court ruled: (1) the Contempt of Court Ordinance 2008 is ultra vires of the Constitution and contrary to the separation of the Judiciary; (2) the Judiciary, not the Caretaker Government, has the authority to determine what offences will constitute contempt of court; (3) under the Constitution, the Caretaker Government has no authority to enact any law which is related to election or emergency issues; (4) the new ordinance was intended to protect government officials from contempt of court charges; and (5) the new ordinance encouraged government officials to engage in acts in contempt of court. The High Court ruling reinstated the 1926 Act.

On July 28, Supreme Court of Bangladesh upheld the High Court determination that the Contempt of Court Ordinance 2008 was illegal and unconstitutional. (*SC Upholds Contempt Verdict*, The Daily Star, July 29, 2008, a*vailable at* http://www.epaper.thedailystar.net/story.php?nid=47976)
(Shameema Rahman, 7-5080, srah@loc.gov)

SAUDI ARABIA – Creation of New Appellate Courts

It was reported on July 12, 2008, that the Administrative Committee of the *Diwan al-Mazalim*, a special high court independent of the regular Islamic court system in Saudi Arabia, decided to transform the Inspection Committee of the court into an appellate chamber for Riyadh Province, in addition to creating similar chambers in the provinces of Mecca, Asir, and Eastern Province in compliance with Royal Decree number 78/m of September 30, 2007. (*Saudi Arabia Contemplates Merging Banking and Financing Judicial Committees with the General Judicial System*, ASHARQ ALAWSAT, July 12, 2008, *available at* http://www.aawsat.com/details.asp?section=43&issueno=10819&article=478376&feature=.)
(Issam Saliba, 7-9840, isal@loc.gov)

CRIMINAL LAW

ENGLAND AND WALES – Homicide Law Amendments Considered

A government consultation paper issued in July 2008 is soliciting opinions on a possible amendment to the homicide laws of England and Wales. The paper proposes abolishing the existing partial defense of provocation, which enables individuals to avoid the mandatory life sentence that attaches to a murder conviction by getting a lesser conviction of manslaughter and is typically used by those who kill in anger in circumstances such as discovering that their spouse has been unfaithful. Two new partial defenses will be introduced: "killing in response to a fear of serious violence; and in exceptional circumstances only, killing in response to words and conduct which caused the defendant to have a justifiable sense of being seriously wronged." The government argues that the reform will rebalance the law, which is currently "too generous to those who kill out of anger and too hard on those who kill out of fear of serious violence." (Ministry of Justice et al., *Murder, Manslaughter and Infanticide: Proposals for Reform of the Law*, Consultation Paper CP19/08, July 2008, *available at* http://www.justice.gov.uk/docs/murder-manslaughter-infanticide-consultation.pdf; Ministry of Justice, *Anger No Longer an Excuse for Murder*, July 29, 2008, *available at* http://www.justice.gov.uk/news/newsrelease290708a.htm.)
(Clare Feikert, 7-5262, cfei@loc.gov)

ISRAEL – Crime Victims' Rights

On June 30, 2008, the Knesset (Israel's parliament) passed an amendment to the Crime Victims' Rights Act, 5761-2001. The amendment establishes the right of victims of sexual offenses or of serious violence to be informed of the details of a plea bargain with the defendant prior to its approval by the prosecution. In addition, victims of such offenses will be entitled to express their views regarding the proposed plea bargain, either orally or in writing, to the district attorney or to a senior official at the district prosecutors' office. The amendment provides that during a court hearing regarding an indictment for a sexual offense or an offense of serious violence in which the prosecutor presents a plea bargain, the court will ascertain whether the victim's rights were respected in accordance with the provisions of this amendment. (Crime Victims' Rights, 5761-2001, SEFER HAHUKIM [Official Gazette] 183 (5761-2001); Crime Victims' Rights (Amendment No. 5) Act, 5768-2008, the Knesset website, http://www.knesset.gov.il (last visited July 21, 2008).)
(Ruth Levush, 7-9847, rlev@loc.gov)

LIBERIA – Robbery, Terrorism to Be Non-Bailable Offenses

On July 15, 2008, Liberia's Senate passed an act that makes armed robbery a non-bailable crime. The House of Representatives had previously passed the act. The version approved by the Senate also makes terrorism and hijacking non-bailable offenses. The act specifies that those convicted of any of these crimes would be sentenced to imprisonment for at least 15 years. If murder is also committed in the course of any of these acts, the sentence is either the death penalty or life imprisonment without the possibility of parole. Liberia has signed

an international convention against capital punishment, but according to Senator Isaac Nyenaboe, it is not binding because it has not been ratified.

The Liberian government has recently launched an anti-crime operation called "Operation Disrupt and Dismantle," following frequent reports of armed attacks on citizens in and around Monrovia. (*Liberia: Senate Approves Act to Make Robbery, Terrorism Non-Bailable Offence,* STAR RADIO (Monrovia), July 15, 2008, Open Source Center No. AFP20080716566003; *Liberia: Armed Robbery Sparks Concern,* THE INQUIRER (Monrovia), July 15, 2008, *available at* http://allafrica.com/stories/200807150960.html.)
(Constance A. Johnson, 7-9829, cojo@loc.gov)

UNITED KINGDOM – British Hacker to Be Extradited to United States

A British computer systems administrator, Gary McKinnon, who hacked into 97 U.S. military computer systems, has lost a six-year battle against extradition in the House of Lords. U.S. prosecutors have described McKinnon's actions as "the biggest military hack of all time." McKinnon's lawyers claimed that, as the alleged crime was committed on British soil, he should be tried in the British courts and that U.S. prosecutors' plea bargaining attempts amounted to threats. They also expressed concern that the United States is seeking extradition merely to make an example of McKinnon. McKinnon claims that he was merely testing the U.S. military security network to find evidence of the existence of UFOs. The House of Lords rejected these arguments. If convicted in the United States, McKinnon faces up to 70 years of imprisonment. (McKinnon v Government of The United States of America et al., [2008] UKHL 59, http://www.publications.parliament.uk/pa/ld200708/ldjudgmt/jd080730/mckinn-1.htm & Jerome Taylor, *Hacker Looses Extradition Appeal*, THE INDEPENDENT (London), July 31, 2008, *available at* http://www.independent.co.uk/news/uk/home-news/hacker-loses-extradition-fight-881386.html.)
(Clare Feikert, 7-5262, cfei@loc.gov)

DISABILITY

CHINA – Ratification of Convention on Rights of the Disabled

On June 26, 2008, the Standing Committee of the National People's Congress ratified China's accession to the Convention on the Rights of Persons with Disabilities (CRPD), making China the 33rd country to do so. China became a signatory to the CRPD on March 30, 2007, when it first opened for signature and ratification. The CRPD was adopted by the U.N. General Assembly on December 13, 2006, and entered into force on May 3, 2008. China has not yet signed the CRPD's Optional Protocol. (Convention on the Rights of Persons with Disabilities, United Nations website, http://www.un.org/disabilities/convention/signature.shtml (last visited July 30, 2008.); *China Ratified Convention on the Rights of Persons with Disabilities*, China Disabled Persons' Federation Website, June 27, 2008, *available at* http://www.cdpf.org.cn/english/events/content/2008-06/27/content_30020318.htm.)

When ratifying the Convention, China declared that the application of the Convention provisions on "liberty of movement" and "nationality" to the Hong Kong Special Administrative Region (Hong Kong SAR) will not change the legal force of laws of the Hong Kong SAR on immigration control and application for nationality. (Quanguo Renmin Daibiao Dahui Changwu Weiyuanhui guanyu pizhun "Canji Ren Quanli Gongyue" de jueding, XINHUANET (Chinese government-authorized news agency), June 26, 2008, *available at* http://news.xinhuanet.com/newscenter/2008-06/26/content_8445732.htm (in Chinese).)
(Wendy Zeldin, 7-9832, wzel@loc.gov; Laney Zhang, 7-6303, lzha@loc.gov)

DISCRIMINATION

ISRAEL – Registration of Both Parents' Names on Formal Documents

On July 7, 2008, the Knesset (Israel's parliament) passed an amendment to the Women's Equal Rights Law, 5711-1951. Accordingly, anyone who requires a person to state on a form or in any other document the parent's name should require the statement of both parents' names, to the extent that they are known to that person. Explanatory notes for the bill note that currently when a person is required to fill in forms for either public or private institutions, (s)he is often required to fill in only the father's name. The amendment is designed to promote the cultural and social process of advancing equality between the sexes by requiring the additional registration of the mother's name on such documents. (Women's Equal Rights Law, 5711-1951, 5 LAWS OF THE STATE OF ISRAEL 171 (5711-1950/51); Women's Equal Rights Law and Bill (Amendment No. 8) 5768-2008, the Knesset website, http://www.knesset.gov.il (last visited July 21, 20008).)
(Ruth Levush, 7-9847, rlev@loc.gov)

DRIVERS

BRAZIL – Harsh Punishment for Driving While Intoxicated

On June 19, 2008, Brazil promulgated Decree No. 6,488, which regulates two provisions of the Brazilian Code of Traffic (*Código de Trânsito Brasileiro*). According to the decree, a driver can only drink one beer without breaking the law; depending on the concentration of alcohol in the driver's blood, he may be subjected to the payment of a fine, loss of his driver's license, and even jail time. With the new law, Brazil joins a select group of countries that have enacted harsh legislation to punish driving a vehicle under the influence of alcohol. (*Nova "Lei Seca": Uma das Mais Rigorosas do Mundo,* JURID, June 25, 2008, *available at* http://www.jurid.com.br/new/jengine.exe/cpag?p=jornaldetalhejornal&ID=49685#null.)
(Eduardo Soares, 7-3525, esoa@loc.gov)

ELECTIONS AND POLITICS

GEORGIA – No State Funding for Parties Not Working in Parliament

On July 15, 2008, the Parliament of the Republic of Georgia passed amendments to the nation's Law on Political Parties, which change provisions regarding the financing of political organizations provided by the state depending on the election results. According to the existing legislation, political parties are eligible to receive state financing in the amount of up to US$360,000 if they receive more than four percent of the popular vote during parliamentary elections or more than three percent in local elections. Because several opposition parties did not recognize the results of parliamentary elections held on May 21, 2008, they boycotted the legislature and refused to send their delegates to the Parliament, despite the fact that a number of seats has been allocated to them. The newly added amendment to the Law states that a party will lose state financing if it does not register its parliamentary faction properly. However, those parties that won more than three percent of the votes in the local elections of 2006 will remain on the government payroll regardless of their boycott of the legislature. (*Six Opposition Parties Denied State Funding*, LEGAL NEWS, July 15, 2008, http://www.legislationline.org.)
(Peter Roudik, 7-9861, prou@loc.gov)

GUINEA-BISSAU – Parliament Dissolved by Decree

On August 5, 2008, Guinea-Bissau's President, Joao Bernardo Vieira, issued a presidential decree announcing the dissolution of the parliament. The decree followed the withdrawal from the government of the African Party for the Independence of Guinea-Bissau and Cape Verde. It was one of the three major political parties in the coalition government formed in 2007; the purpose of the coalition was to attempt to bring stability to the nation following years of internal strife, including a 1998 civil war and coups in 1999 and 2003. Vieira described the decree as having been issued after a consensus decision.

Under the West African country's constitution, once parliament is dissolved, the government falls and the president is expected to appoint a caretaker government. Elections are

to be held within 90 days. Elections had been scheduled for November 16, 2008, which is just beyond that time period. (*Guinea-Bissau President Vieira Dissolves Parliament, Gives No Reasons*, AFP (World Service), Aug. 5, 2008, Open Source Center No. AFP20080805532003; *Further on President Vieira Dissolved Parliament, Gives No Reason,* AFP (World Service), Aug. 5, 2008, Open Source Center No. AFP20080805532005; U.S. Department of State, *Background Note: Guinea-Bissau*, July 2008, *available at* http://www.state.gov/r/pa/ei/bgn/5454.htm.)
(Constance A. Johnson, 7-9829, cojo@loc.gov)

KENYA – Police Said to Have Caused Nearly Half of Deaths in Post–Election Violence

It was reported on July 10, 2008, that the Independent Medical Legal Unit, a human rights organization, told the Kenyan Commission of Inquiry that the Kenyan police is responsible for nearly half of the over 1,000 deaths in the violence that occurred after the December 27, 2007, hotly contested and disputed presidential election. The Commission of Inquiry is an investigatory committee formed as part of the power sharing agreement reached between the Kenyan government and the opposition party, the Orange Democratic Party (ODM), to "investigate the cause of violence and the role of state security agents." Testifying before the Commission, Joan Nyanuki, program manager of the rights organization, explained that the Unit conducted 80 random country wide post-mortems and found that 43 percent of the deaths were caused by bullets. The Unit maintained that "almost all the police were armed with guns but few, if any, protesters were seen with them." (Tom Odula, *Kenyan Police Blamed for Post Election Deaths*, AP, July 10, 2008, *available at* http://news.findlaw.com/ap_stories/i/1105/07-10-2008/20080710083505_04.html.)
(Hanibal M. Goitom, 7-9117, hgoi@loc.gov)

ENVIRONMENT

CHINA – Expansion of Monitoring Role of Ministry of Environmental Protection

Chinese officials announced on July 10, 2008, that the Ministry of Environmental Protection will establish two departments and hire an additional 50 employees to supervise and monitor environmental quality and better enforce anti-pollution measures. The expansion represents a 20 percent increase in the total number of Ministry employees. "The move is expected to pave the way for a system to cap and trade in emissions, such as sulfur dioxide (SO2) pollution from industries, …" and "signifies the ministry's added emphasis on controlling emissions nationwide and is [in] line with the country's target to cut 10 percent of major pollutants by 2010," according to a Ministry spokesman. (Li Jing, *Environment Ministry Adds 2 Departments,* CHINA DAILY ONLINE, July 11, 2008, Open Source Center No. CPP20080711968007.) Although China has many laws and regulations on the environment and official statistics indicate that the country has 2,900 environmental inspection agencies with 53,000 employees, "enforcement, especially at local levels, needs to be strengthened," public policy expert Mao Shoulong, of People's University, stated. (*Id.*)
(Wendy Zeldin, 7-9832, wzel@loc.gov)

WORLD PORTS – Declaration on Climate Change

On July 11, 2008, at the conclusion of the three-day C40 World Ports Climate Conference, held in Rotterdam and organized by the Rotterdam Climate Initiative and the Port of Rotterdam, officials from 55 world ports signed the World Ports Climate Declaration. The two-page Declaration is to serve as a guide for action to combat global climate change by reducing greenhouse emissions and to improve air quality. It is the first concrete move of its kind taken by ports world-wide. The C40 is self-described "a group of the world's largest cities committed to tackling climate change," including not only the core 40 (among which are five U.S. cities) but a number of affiliated cities (of which six are U.S. cities) as well. (*C40 Cities: An Introduction,* http://www.c40cities.org/ (last visited July 17, 2008).)

The Declaration sets forth initiatives to reduce carbon dioxide emissions: 1) in ocean-going shipping, by such means as supporting the development of "clean shipping" (through fuel/engine/ship design), shore-supplied electricity, and speed reductions; 2) from port operations and development, e.g., through co-siting and sharing of utilities; and 3) in hinterland transport, e.g., through the use of "efficient and innovative logistics" to reduce the need for such transport. Other initiatives are on the promotion of renewable energy and on dealing with the CO_2 footprint of ports by quantifying, managing, and reducing it through creating carbon inventories and emission reduction targets. The International Association of Ports and Harbours (IAPH) will take the lead in post-conference implementation efforts.

The IAPH Port Environment Committee, in consultation with regional port organizations and individual ports already involved in the process, will lead the effort to provide ports with a mechanism for developing measures to combat climate change. (The World Ports Climate Declaration and Endorsement Ceremony, http://wpccrotterdam.com/usr-data/general/

Declaration.pdf (last visited July 17, 2008).) The managing director of the Europe office of IAPH, Fer van de Laar, stated in an interview with the DAILY REPORT FOR EXECUTIVES of the Bureau of National Affairs (BNA), Inc., that creating transparency is part of their objective and "[w]e have agreed with the ports that each are going to report to us ... [and we are] still developing that mechanism," with more specific guidelines to be worked out by IAPH in the fall. (Lisa Nuch Venbrux, *Officials from 55 Ports Around the World Agree to Reduce Greenhouse Gas Emissions*, 137 DAILY REPORT FOR EXECUTIVES A-7 (July 17, 2008), received from BNA Highlights bhighlig@bna.com.) The port of Rotterdam has already experimented with CO_2 reduction initiatives, according to the BNA article, "including a 'carbon capturing' project to inject carbon dioxide into empty oil fields in the North Sea" to achieve a 50 percent reduction of the emissions in the Rotterdam region by 2030. (*Id.*)
(Wendy Zeldin, 7-9832, wzel@loc.gov)

FREEDOM OF SPEECH

AUSTRALIA – Anti-Annoyance Laws Struck Out on Technicality Not Freedom of Speech Grounds

On July 15, 2008, the Federal Court of Australia struck down anti-annoyance regulations implemented prior to World Youth Day to prevent protestors from annoying participants. However, the Federal Court struck down the regulations on a technicality and not on the basis of freedom of speech. Further, the Court made a costs order limiting costs recoverable to one-third (rather than the traditional award of full costs). (Evans v State of New South Wales [2008] FCAFC 130 (July 15, 2008); George Williams & Nicola McGarrity, *A Victory Only Until the Next Time*, SYDNEY MORNING HERALD, July 16, 2008, *available at* http://www.smh.com.au/news/opinion/a-victory--for-now/2008/07/15/1215887626477.html.)
(Lisa J. White, 7-4987, liwh@loc.gov)

GOVERNMENT EMPLOYEES

JAPAN – Public Service Reform

Japan's parliament enacted a Public Servant System Reform Law on June 13, 2008 (Law No. 68 of 2008). Under the Law, the Cabinet will handle management of the personnel affairs of senior ministry and agency officials. A personnel bureau will be set up under the Cabinet Secretariat and will be responsible for making a list of candidates for such posts. Personnel affairs will be decided by each minister, following consultations with the Prime Minister and the chief Cabinet secretary. The hiring system will have more options for recruitment, i.e., use of a separate entrance exam for graduate-degree holders and for the hiring of managers. The Law also provides that labor conditions are to be improved. (Kokka kōmuin seido kaikaku kihon hōan [Basic Law on National Public Servant System Reform], Dai 169 kai kokkai gian no ichiran [A Table of bills of No. 169 Diet Session], http://www.shugiin.go.jp/itdb_gian.nsf/html/gian/kaiji169.htm (last visited July 21, 2008).)
(Sayuri Umeda, 7-0075, sumeda@loc.gov)

GOVERNMENT ETHICS

NIGERIA – Expert Claims "Cancerous Corruption" Reason for Problems in Power Sector

It was reported on July 21, 2008, that Comrade Femi Aborishade, Director of the Centre for Labor Studies, criticized the Nigerian federal government for not addressing "the real reason previous monies thrown into the power sector produced no result" as it prepares to access $5.3 billion from the excess crude oil account jointly operated with state governments to invest in the power sector. Speaking at the opening session of a two-day conference on "Nigeria's Quest for Democracy: The Way Forward," Aborishade identified the reason as "cancerous corruption" and criticized the claim of zero tolerance for corruption made by President Umaru Yar'Aduala's administration as "a mere smokescreen." To support his charge, Aborishade pointed to the fact that Nigerians live on less than 900 megawatts, although the country has installed a system with the capacity to generate 6,000 megawatts, and that Nigeria is the only oil-producing country that relies on imported oil. Aborishade stated, "the challenge before Nigerians is to continue to accept the rot or reject it," and he called on Nigerians to protest. (*Expert Urges Government to Curb Corruption in Power Sector,* NIGERIAN TRIBUNE, July 21, 2008, Open Source Center No. AFP20080721567009.)
(Hanibal M. Goitom, 7-9117, hgoi@loc.gov)

TURKS AND CAICOS ISLANDS – Inquiry into Corruption Urged by British Committee

The Turks and Caicos Islands are an Overseas Territory of the United Kingdom that is generally self-governing, but still dependent upon the United Kingdom in matters relating to defense and the conduct of foreign affairs. (*TCI Mall -Turks and Caicos Islands Community Information - GOVERNMENT,* Jan. 2007, *available at* http://www.tcimall.tc/government/index.htm.) The islands are located south of the Bahamas, and have a population estimated in 2008 to be approximately 22,000 persons. (U.S. Central Intelligence Agency, *Turks and Caicos*

Islands, THE WORLD FACTBOOK, https://www.cia.gov/library/publications/the-world-factbook/print/tk.html (last visited Aug. 1, 2008).)

The UK House of Commons Foreign Affairs Committee has received an increasing number of complaints about corruption in the Turks and Caicos Islands since Michael Misick was elected premier there in 2003. In response to these complaints, the committee sent a delegation to investigate the situation. The delegation found that there was widespread fear in the islands about possible repercussions for cooperating with it. The committee recently responded to the delegation's findings by releasing a report that calls on the British government to establish a commission of inquiry and to guarantee full protection for all witnesses who testify before it. The committee criticized the Foreign Office and the British-appointed Governor for failing to address the claims of widespread corruption. The report also noted that Premier Misick is under investigation by U. S. authorities for allegedly raping a U.S. citizen. (United Kingdom, Foreign Affairs Committee, OVERSEAS TERRITORIES: SEVENTH REPORT OF SESSION 1007-08 157 (June 18, 2008), *available at* http://www.publications.parliament.uk/pa/cm200708/cmselect/cmfaff/147/147i.pdf.)
(Stephen Clarke, 7-7121, scla@loc.gov)

UNITED KINGDOM – Serious Fraud Office Not Unlawful in Halting Corruption Inquiry

In response to a judicial review case against the Serious Fraud Office (SFO), the House of Lords of the United Kingdom recently ruled that the SFO did not act unlawfully when discontinuing a criminal investigation into corruption. The corruption inquiry involved an arms deal in the 1980s between Saudi Arabia and the private company BAE Systems and was halted in late 2006 after the Serious Fraud Office received threats from the Saudi Arabian government "to withhold cooperation on critical issues of anti-terrorism." The Director of the SFO made the decision that "the public interest in saving British lives from the threat of terrorism outweighed the public interest in pursuing BAE to conviction." The House of Lords ruled that this decision was one that the Director was lawfully entitled to make and that it was only made once "he was convinced that the threat of withdrawal of Saudi security co-operation was real and that the consequences would be an equally real risk to 'British lives on British streets.'" (R (On The Application of Corner House Research and Others) v Director of The Serious Fraud Office [2008] UKHL 60, *available at* http://www.publications.parliament.uk/pa/ld200708/ldjudgmt/jd080730/corner-1.htm & PA [sic], *Fraud Office Wins Appeal over BAE Saudi Arms Deal*, THE INDEPENDENT (London), July 30, 2008, *available at* http://www.independent.co.uk/news/uk/home-news/fraud-office-wins-appeal-over-bae-saudi-arms-deal-880665.html.)
(Clare Feikert, 7-5262, cfei@loc.gov)

HEALTH & SAFETY

CANADA – Tobacco Companies to Pay Record Fines

Two of Canada's largest tobacco companies were ordered on July 30, 2008, to pay approximately Can$1.15 billion (about US$1.126 billion) in criminal and civil penalties after pleading guilty to conspiring to avoid customs charges on cigarettes manufactured by them in Canada, exported to the United States, and then smuggled back into the country by third parties. The charges involved action taken by the companies between 1989 and 1994. Prior to 1989, the excise tax on cigarettes had been raised to discourage smoking and earn greater revenues for the federal and provincial governments. The excise tax was not imposed on exported cigarettes as Canada had never been a significant exporter of tobacco products. This situation allowed the tobacco companies to sell large quantities of cigarettes to persons in the United States knowing, according to the indictment, that they were mostly being smuggled back into Canada and sold on the black market. Much of the smuggling occurred on several Indian reservations that span the border with the United States. The practice became so widespread that the government was forced to roll back the excise tax until 1999. Since being raised again, cigarettes have cost more than twice as much in Canada as they do in the United States. This has encouraged some smuggling of American cigarettes into Canada and led to more Canadians going to Indian reserves to purchase tobacco products free of excise taxes. However, Canada's tobacco companies have not been knowingly exporting cigarettes to smugglers in the way they allegedly did between 1989 and 1994.

The fines of Can$200 million (approximately US$195 million) and Can$100 million (approximately US$997,000) are the largest in Canadian legal history. The rest of the amount the companies agreed to pay is in civil damages for the lost revenues. While the government has indicated that it is very satisfied with the settlement of the case that it spent eight years investigating, some anti-tobacco groups have expressed disappointment that no executives were held to be personally liable and given criminal sentences. (*Big Tobacco to Pay $1.15 Billion over Contraband Tobacco,* THE CANADIAN PRESS, July 31, 2008, *available at* http://canadianpress.google.com/article/ALeqM5iJmyiuA9juqeOlbmiBTFkZEbbQWg.)
(Stephen F. Clarke, 7-7121, scla@loc.gov)

GERMANY – Smoking Bans Found Unconstitutional

On July 30, 2008, the Federal Constitutional Court held that the smoking bans for pubs and restaurants of the German states of Baden-Württemberg and Berlin were unconstitutional (Bundesverfassungsgericht decision, Docket No. 1 BvR 3262/07, *available at* the Federal Constitutional Court official Website, http://www.bundesverfassungsgericht.de/entscheidungen/rs200807301bvr326207.html (last visited July 30, 2008)). The Court held that these bans interfered with the constitutional guarantee of occupational liberty of the innkeepers. The laws of the two states had attempted to balance the anti-smoking interest of public health with the economic interests of innkeepers by requiring them to ban smoking in all but one of the rooms where food and drink is served to the public, while permitting them to have a separate room where guests could eat and drink while

smoking. Under these provisions, small pubs that consist only of one room could not allow smoking, and the Court found that this discriminated against the owners of such establishments. The Court required the states to enact new laws by December 31, 2009. Until then, the existing laws remain in effect, albeit amended by a Court-mandated provision that allows the owners of small pubs to permit smoking in their establishments if persons below the age of 18 are not admitted, no food is being served, and the pub is clearly designated as a place where smoking is allowed.
(Edith Palmer, 7-9860, epal@loc.gov)

HUMAN RIGHTS

MALI – Rights Groups Discuss Slavery, Advocate New Law

The Malian human rights group Ternedt has recently stated that although it is generally believed to have been abolished, slavery still exists in the country. The group's president, Mohammed Ag Akeratane, has said, "[t]he government believes slavery ended with independence, when many of the people who had been living as slaves in the colonial period were freed, but I would estimate there are still several thousand people living in slavery or slavery-like conditions in modern Mali." Slavery is said to continue in northern Mali, in the regions near the towns of Gao and Menaka (746 and 932 miles, respectively, from the capital city, Bamako) and to largely consist of relations between the Berber-descended Touareg people and the indigenous Bella people. In one case, Iddar Ag Ogazide, a Bella who later escaped to Gao, reported working as a slave for a Touareg family for 35 years without pay and without an opportunity to go to school; the family had purchased his great-grandmother and inherited her descendants.

Mali has not enacted any legislation explicitly outlawing slavery, although the country's constitution states that all people are equal, but Mali has signed the major international conventions banning slavery, including the U.N. International Declaration on Human Rights. Because officially slavery was never criminalized in Mali, it is difficult to seek legal redress for it. In addition to working to change attitudes on the subject, Ternedt is attempting to seek compensation through the courts for several former slaves. According to Romana Cacchioli of Anti-Slavery International, a London-based human rights organization, the difficulty in obtaining justice in such cases points out the need for an anti-slavery law. (*Mali: Thousands Still Live in Slavery in North,* UN INTEGRATED REGIONAL NETWORKS, July 14, 2008, *available at* http://allafrica.com/stories/200807150572.html.)
(Constance A. Johnson, 7-9829, cojo@loc.gov)

SPAIN – Tibetan Group Expands Genocide Suit Against China

Spain's Tibet Support Committee (*Comité de Apoyo al Tibet*) announced on July 9, 2008, that it would file an extension on July 10 to a lawsuit in Spain's highest criminal court – admitted on January 10, 2006, and heard since June of that year – which accuses seven Chinese leaders, including former president Jiang Zemin and former premier Li Peng, of torture, crimes against humanity, and genocide allegedly conducted in Tibet in the 1980s. The extension is aimed at five political and military leaders, including Zhang Qingli, current Secretary of the Chinese

Communist Party (CCP) in the Tibet Autonomous Region; Wang Lequan**,** active member of the Politburo of the CCP Central Committee; Li Dezhu, Minister in Charge of the State Nationalities Affairs Commission; General Tong Guishan, Commander of the People's Liberation Army in Lhasa, the capital of Tibet; and General Zhang Guihua, political commissar of the Chengdu military command. (*AFP: Tibetan Group to Expand Genocide Suit Against China*, AFP (Hong Kong), July 9, 2008, Open Source Center No. CPP20080709968291; *Auto de admisión a trámite de la querella por genocidio en el Caso Tibet*, Equipo Nizkor website, Jan. 10, 2006 [text of court document on the admissibility of the Tibet genocide case], *available at* http://www.derechos.org/nizkor/espana/doc/tibet.html.)

According to press reports, the extension involves:

1) a denunciation of "the new wave of oppression" in Tibet that began on March 10, 2008, proving "that acts of genocide continue to be committed against the Tibetan people" and reportedly entailing the deaths of 203 persons, more than a thousand injured, and 5,972 arrested (*Tenzin Sangmo Tibet Support Group in Spain to File an Extension of Their Lawsuit Against Chinese Authorities for Recent Crimes*, PHAYUL, July 9, 2008, *available at* http://www.phayul.com/news/article.aspx?id=21902&article=Tibet+Support+Group+in+Spain+to+file+an+extension+of+their+lawsuit+against+Chinese+authorities+for+recent+crimes);
2) a description of "how military repression is being carried out amidst the greatest censorship in China and Tibet, with the result that a large number of crimes still remain pending inclusion." The Committee has asked the judge to agree to send a Rogatory Commission to the U.N. Human Rights Commission and to the European Parliament, "to set up an impartial and international investigative commission to visit Tibet in order to confirm and clarify the extent of the international crimes denounced in said extension" (an initiative already requested by jurists and human rights groups) (*Id.*);
3) a denunciation of "China's manipulation of the global war against terrorism in its attempt to justify and cover up crimes against humanity committed against the Tibetan people," a strategy begun in 2003 (*Id.*); and
4) a denunciation of "the continued systematic practice of torture, confirmed by the Special Rapporteur of the United Nations, … and the assassinations in the Himalayan frontier posts used by Tibetan refugees when fleeing into exile" (*Id.*).

(*See also* for background information COMITE DE APOYO AL TIBET, *CAT Appeals Tibetan Lawsuit in Spain*, Students for a Free Tibet Website, Sept. 12, 2005, *available at* http://www.studentsforafreetibet.org/article.php?id=695.)
(Wendy Zeldin, 7-9832, wzel@loc.gov)

IMMIGRATION

FRANCE – Denial of Citizenship for Failure to Assimilate to French Culture

On June 27, 2008, the Council of State (France's highest administrative court) upheld a government decree denying French nationality to a Muslim woman married to a French national, on the grounds that she failed to assimilate to French culture because she practices a radical form of Islam incompatible with French values. The appellant has been wearing a burka covering her entire body except her eyes.

The Council held that "whereas, the results on file show that although Mrs. A. has a good knowledge of the French language, she has, however, adopted a radical practice of her religion incompatible with the essential values of French culture, notably with the principle of equality of the sexes; therefore, she does not meet the assimilation condition set forth in article 21-4 of the Civil Code … . Whereas, the decree does not have as an object or an effect infringing upon her freedom of religion, it does not violate the constitutional principle of freedom of religion or article 9 of the European Convention on Human Rights and Fundamental Freedoms." (Conseil d'Etat decision of June 27, 2008, No. 286798, Legifrance database, *available at* http://www.legifrance.gouv.fr (File: Jurisprudence/Administrative).)
(Nicole Atwill, 7-2832, natw@loc.gov)

MERCOSUR – No Passport Needed for South Americans in Transit in the Region

On June 30, 2008, the Common Market Council (*Conselho do Mercado Común*) of Mercosur (*Mercado Común del Sur, or the Southern Common Market)* issued Decision No. 18/08 recommending that the State Members sign the Agreement on Travel Documents of State Members of Mercosur and Associated States. According to article 1 of the Agreement, the signatories recognize the validity of personal identification documents of each State Member and of Associated States as defined in the Annex of the Agreement for the purpose of transit of their respective nationals or regular residents in each other's countries. In practice, nationals of Argentina, Brazil, Paraguay, Uruguay (Mercosur State Members), Bolivia, Chile, Colombia, Ecuador, Peru and Venezuela (Mercosur Associated States) traveling in South America will not need to use a passport. (*Trânsito Sem Passaporte na América do Sul*, OGLOBO (O)NLINE, June 30, 2008, *available at* http://oglobo.globo.com/economia/mat/2008/06/30/transito_sem_passaporte_na_america_do_sul-547036481.asp.)
(Eduardo Soares, 7-3525, esoa@loc.gov)

INSURANCE

IRAN – Automobile Insurers to Pay Equal Damages to Men, Women

The Expediency Council of Iran gave final approval to the Compulsory Automobile Insurance Law in May 2008. The Law prescribes that third parties – men and women, Muslim and non-Muslim – will receive equal compensation for property damage and equal *diyeh* (compensation paid for unintentional injury or death under Islamic law).

The Law also provides that men and women are to pay the same amount for insurance premiums. (*Iran: Car Insurers to Pay Equal Damages to Men, Women*, ORUMIYEH VISION OF THE ISLAMIC REPUBLIC OF IRAN, WEST AZARBAYJAN PROVINCIAL TV [State-run provincial television, in Persian], May 27, 2008, Open Source Center No. IAP20080528950078.)
(G.H. Vafai, 7-9845. gvaf@loc.gov)

INTELLECTUAL PROPERTY

TAIWAN – Intellectual Property Court Launched

On July 1, 2008, Taiwan formally established the Intellectual Property Court, which is governed under the Intellectual Property Court Organization Act and the Intellectual Property Case Adjudication Act, both of which were promulgated on March 28, 2007. The Court will comprise a Chief Justice and seven judges, as well as nine technical investigators, a chief clerk, clerk, and legal assistants, for a total of 67 staff members. Seminars were held to explain the new intellectual property litigation system and explanatory material in the form of brochures such as "Questions and Answers on the New Intellectual Property Litigation System" and "Question and Answers on the Intellectual Property Case Hearing Act" were reportedly provided to judges, prosecutors, institutions, and the public for reference.

Because the new Court will involve civil, criminal, and administrative litigation and many new standards, when preparations were being made for its establishment, its overseer, the Judicial Yuan, the highest judicial organ in Taiwan, examined certain legal issues that might arise in the intellectual property trials, e.g., jurisdictional disputes between the Intellectual Property Court and the regular courts. Although the new Court has technical investigators, they are limited in number, and so the Court may, modeling itself on the intellectual property courts of Japan and Korea, "establish a professional consultant committee, build up an expert adviser regiment, and to train the relevant legal knowledge, for the convenience of the consultation of science and technology issues." The Court may also in future pursue resolution of cases outside of litigation through a mediation mechanism, to accelerate parties' rights being realized and ease the Court's caseload. (*The Intellectual Property Court Will Be Formally Established on July 1, Intellectual Property Law Heads into a New Milestone*, Judicial Yuan official website, June 12, 2008, *available at* http://jirs.judicial.gov.tw/GNNWS/engcontent.asp?id=20376&MuchInfo=1; for the texts of the Intellectual Property Court Organization Act and the Intellectual Property

Case Adjudication Act in English translation, *see* the Judicial Yuan official website, http://jirs.judicial.gov.tw/eng/Default.asp (last visited July 30, 2008); *see also* 5 W.L.B. 2007.)
(Wendy Zeldin, 7-9832, wzel@loc.gov)

INTERNATIONAL LAW AND ORGANIZATIONS

CHINA/ALGERIA – Judicial Assistance and Extradition Treaties Ratified

On June 26, 2008, the Standing Committee of the 11th National People's Congress of China (China's top legislative body) decided at its third session to ratify the Treaty on Judicial Assistance in Criminal Matters between the People's Republic of China and the Democratic People's Republic of Algeria. The Treaty was signed in Beijing by Li Zhaoxing, then Minister of Foreign Affairs, on behalf of the People's Republic of China, on November 6, 2006. (*Quanguo Renmin Daibiao Dahui Changwu Weiyuanhui guanyu pizhun "Zhonghua Renmin Gongheguo he A-er-ji-li-ya Minzhu Renmin Gongheguo guanyu xingshi sifa xiezhu de tiaoyue" de jueding*, XINHUANET, June 26, 2008, *available at* http://news.xinhuanet.com/newscenter/2008-06/26/content_8445594.htm (in Chinese).) Also at this meeting, the Treaty on Extradition between China and Algeria was ratified. (*Shouquan fabu: Quanguo Renmin Daibiao Dahui Changwu Weiyuanhui guanyu pizhun "Zhonghua Renmin Gongheguo he A-er-ji-li-ya Minzhu Gongheguo yindu tiaoyue" de jueding*, XINHUANET, June 26, 2008, *available at* http://news.xinhuanet.com/newscenter/2008-06/26/content_8445581.htm (in Chinese).)
(Laney Zhang, 7-6303, lzha@loc.gov)

INVESTMENTS

KYRGYZSTAN – No Parliamentary Involvement in Privatization

On July 17, 2008, the President of Kyrgyzstan signed a new law that will allow the government to decide on most privatizations without waiting for parliamentary approval. The law allows the government to define privatization priorities, although the privatization of enterprises in such strategically important fields as electric power distribution, telecommunications, and natural resources supply will require parliamentary consideration. A full list of companies to be privatized in the period 2008-2012 has been drafted by the State Property Committee and approved as a supplement to the law. It is expected that the implementation of this law will speed up the privatization process and attract more foreign buyers for state-owned Kyrgyz property. (*New Law Leaves Field Clear for Privatization Agenda*, BNE MEDIA LTD, July 21, 2008, *available at* Emerging Markets database, www.securities.com.)
(Peter Roudik, 7-9861, prou@loc.gov)

LABOR

TAIWAN – Speech Therapist Law

On July 2, 2008, Taiwan issued a Speech Therapists Law; it was published in the GAZETTE OF THE OFFICE OF THE PRESIDENT on the same day. Its 61 articles are divided into six chapters covering the practice of speech therapy, business operations for therapists, professional associations, and penalties for transgressions, such as calling oneself a speech therapist without proper credentials. Fines may range from 10,000 to 150,000 *yuan* [about US$330-5,000], depending on the offense, and in some cases professional licenses may be suspended. (6809 GAZETTE OF THE OFFICE OF THE PRESIDENT (July 2, 2008), *available at* http://content.glin.gov/summary/206706.)
(Constance A. Johnson, 7-9829, cojo@loc.gov)

VIETNAM – Foreign Recruitment Firms May Operate

Decree 71/2008/ND-CP (June 5, 2008) amended Decree 19/2005/ND-CP (February 28, 2005) regarding conditions and procedures for the establishment and operation of recruitment organizations in Vietnam. Decree 19 establishes that recruitment organizations must be licensed by the provincial Department of Labour, War Invalids and Social Affairs. In amending Decree 19, Decree 71 provides that the recruitment organizations are "enterprises established in accordance with the 2005 Law on Enterprises and relevant regulations" covering foreign-invested enterprises established after July 1, 2006, or those established prior to but re-registered since July 1, 2006. Thus, foreign investors may now apply for a license to conduct recruitment activities. (Allens Arthur Robinson, *Foreign Recruitment Firms – Finally OK*, VIETNAM LEGAL UPDATE 3-4 (July 2008), *available at* http://www.vietnamlaws.com/vietnam_legal_update.aspx?year=2008.)
(Lisa J. White, 7-4987, liwh@loc.gov)

LIBRARIES

UNITED STATES/VATICAN CITY – Law Library of Congress Acquisition of Exceptional Book

The Law Library of Congress has added "Processus Contra Templarios" (Trial against the Knights of the Temple) to its rare materials collection.

The Vatican Secret Archives published the work in collaboration with the Scrinium publishing house – which publishes Vatican Archives' material – in an unedited and exclusive edition of the integral acts of the Trial against the Knights of the Temple. The work helps to clarify the events that led Pope Clement V to absolve the Templars from the charge of heresy, brought against them in the early 1300s. The Pope suspended the Order without dissolving it, and later, in 1308, reintegrated the high Templar dignitaries, and with them the entire Order, in the communion and the sacraments of the Holy Church. (*Processus Contra Templarios (Trial against the Knights of*

the Temple), Scrinium, http://www.scrinium.org/scrinium/Opere.php?idProgetto=3&idOpera=20&idLingua=1 (last visited Aug. 21, 2008).)

Available in a limited edition of 799 copies, it is an exact reproduction of the original parchments preserved at the Vatican Secret Archives, prepared under the care of the officials of the Pontifical Archives.
(Dario C. Ferreira, 7-9817, dfer@loc.gov)

MILITARY BASES

UKRAINE – Removal of Foreign Navy Bases

On June 26, 2008, the President of Ukraine issued a decree ordering the government to perform all the necessary legal work and draft a bill on the closing of foreign navy bases in Ukraine. The draft legislation was submitted to the legislature on July 22, 2008. The bill provides for ending the effect of international agreements on the temporary stay of the Russian Black Sea Fleet in Ukraine by 2017; according to present legislation, the temporary stay will expire on May 28, 2017. It also prohibits any extension of such a treaty between Russia and Ukraine. According to the bill, all naval facilities in the Crimea will be transferred to Ukrainian jurisdiction. (*Ukraine's Government Drafts Bill on Withdrawal of Russian Navy from Ukraine,* UKRINFORM NEWS AGENCY, July 22, 2008, Emerging Markets database, *available at* http://www.securities.com.)

For the time being and because of the participation of the Russian Black sea fleet stationed in the Crimea due to the Russian conflict with Georgia, Ukraine has proposed concluding a special agreement with Russia that will define the procedures of readmission of the Russian fleet participating in military conflicts to Ukrainian waters. (*Ukraine Ready for Talks with Russia about Return of Russian Black Sea Ships to Crimea,* UKRAINIAN NEWS AGENCY, Aug. 11, 2008, *available at* http://www.ukranews.com/eng/article/141696.html.)
(Peter Roudik, 7-9861, prou@loc.gov)

MINING AND MINERAL RESOURCES

VIETNAM – New Mineral Export Law

Vietnam has issued a new mining circular that establishes what minerals may be exported. Circular 08/2008/TT-BTC (June 18, 2008) (Circular 08) repeals Circular 02/2006/TT-BCN (Apr. 14, 2006) and stipulates that minerals mined in Vietnam may be exported only when they are from mines and mining locations other than those specified in Circular 08, and provided that the minerals have been processed to the quality standards specified in Circular 08. (Allens Arthur Robinson, *Mining Depths*, VIETNAM LEGAL UPDATE 4-5 (July 2008), *available at* http://www.vietnamlaws.com/vietnam_legal_update.aspx?year=2008.)
(Lisa J. White, 7-4987, liwh@loc.gov)

NATIONAL SECURITY

SRI LANKA – Security Zones Established

The Ministry of Defense of Sri Lanka announced that parts of the country's capital city, Colombo, would be designated "high security zones" during the 15th summit meeting of the South Asian Association for Regional Cooperation, scheduled to run for eight days beginning July 27, 2008, in Colombo. Civilian movement within the zones was prohibited. The government also planned to create a public holiday for July 25-30. (*Sri Lanka Government Controls Pubic Movement Due to SAARC*, COLOMBO PAGE, July 14, 2008, *available at* http://www.colombopage.com/archive_08/July14172457JV.html.) It was also announced that the zones may in part become permanent, and shanty housing in the downtown area close to high security offices and military camps will be demolished. An eviction notice was issued giving residents seven days to move out of their homes. (*Government Plans to Evict People to Expand the High Security Zone in Sri Lanka Capital*, COLOMBO PAGE, July 14, 2008, *available at* http://www.colombopage.com/archive_08/July14171045SL.html.)
(Constance A. Johnson, 7-9829, cojo@loc.gov)

NATIVE PEOPLES

AUSTRALIA – Court Recognizes Indigenous Rights over Intertidal Zone

On July 30, 2008, the High Court of Australia dismissed an appeal by the Northern Territory Government and upheld the earlier decision of the Full Federal Court in a case that recognizes the Yolngu people's exclusive possession over the intertidal zone along 80 percent of the Northern Territory coastline. (Northern Territory of Australia v Arnhem Land Aboriginal Land Trust [2008] HCA 29 (30 July 2008).)
(Lisa J. White, 7-4987, liwh@loc.gov)

PRISONS

AUSTRIA – Privatization of Prison Services

On July 3, 2008, Austria enacted a Prison Services Agency Act (Justizbetreuungsagentur-Gesetz, BUNDESGESETZBLATT I No. 101/2008) that established a commercially registered, non-profit organization to provide service personnel to care for prison inmates, in particular psychiatric, medical, educational, and social personnel. The new company is to act as contractor by providing qualified personnel to the prisons and these will be paid by the contractor but supervised by the prison officials. This is a new development for Austria, where until now prison services were provided by civil servants. The law was motivated by economic considerations, and savings are expected, particularly in the care of mentally deranged prisoners (*Sonderanstalt fuer geistig abnorme Rechtsbrecher,* DIE PRESSE, Apr. 14, 2008, LEXIS, News Library, Zeitng File).
(Edith Palmer, 7-9860, epal@loc.gov)

PUBLIC ADMINISTRATION

CHINA – Cadres to Undergo Law Exam for Administrative Posts

A senior Chinese official with the State Council's Legislative Affairs Office, Zhao Zhenhua, stated on July 10, 2008, that potential government employees, especially at the city and county levels, will be required to take an examination to demonstrate a better grasp of the legal system, in order to improve the country's administration by law. According to Zhao, "[g]overnment employees are expected to carry out statutory governmental functions, so they must be familiar with the relevant restrictions, regulations and procedures … ." He added that the requirement has "especially enhanced the threshold for law enforcement staff." Government officials must not only know the overarching administrative laws, such as the Administrative Litigation Law and the Administrative Punishment Law, but also will be required to take exams in their specialized fields.

Although the State Council issued a guideline in 2004 aimed at achieving a government ruled by law within a decade, "the goal of administrating according to law in China will be a long-term and complicated one because of a variety of difficulties arising from the management mentality cultivated by decades of operating under a planned economy," Zhao stated. Moreover, he pointed out, "[r]esearch has suggested the strength of administration according to law diminishes from the level of central government to provincial, municipal and county governments," and "[s]ome grassroots law enforcement staff are of low quality, and they are barbarous and violent in their work, sometimes creating difficulties for common people and disturbing the public." (Xie Chuanjiao, *Cadres to Be Gauged by Grasp of Law*, CHINA DAILY ONLINE, July 11, 2008, *available at* http://www.chinadaily.com.cn/china/2008-07/11/content_6836092.htm.)
(Wendy Zeldin, 7-9832, wzel@loc.gov)

PROPERTY

ZIMBABWE/SADC TRIBUNAL – White Farmers Request Government Be Held in Contempt

On July 17, 2008, 78 white Zimbabwean farmers requested that the Tribunal of the South African Development Community hold the Zimbabwean government in contempt for violating a December order of the Tribunal that the Zimbabwean government freeze land expropriation pending the outcome of a lawsuit challenging the legality of Zimbabwe's eviction laws. The farmers argued that ruling party militants broke the moratorium when they attacked three of the farmers who are challenging the eviction laws, and they asked the Tribunal to refer the contempt issue to a regional summit in South Africa to be held in August. Zimbabwean government attorneys walked out of the hearing in protest of the request. The land reform program, which is said to have forced many white commercial farmers from prime farming land, was launched in 2000.

The ten-person Tribunal of the South African Development Community is based in Namibia and hears legal appeals from citizens of the regional block's 14 member states. (Rodrick Mukumbira, *White Farmers Want Zimbabwe Government Held in Contempt*, AP, July 17, 2008, *available at* http://news.findlaw.com/ap_stories/i/1105/07-17-2008/20080717172004_12.html.) The Zimbabwe case, originally filed by a white farmer in October 2007, is the Tribunal's first complaint. (*Farmer Fights Land Grab*, SADC NEWS, Oct. 6, 2007, *available at* http://www.aict-ctia.org/courts_subreg/sadc/sadc_news.html.)
(Hanibal M. Goitom, 7-9117, hgoi@loc.gov)

TAXATION

ARGENTINA – Vice-President Casts Tie-Breaking Vote Against Farm Tax Proposed by President

On July 17, 2008, the Vice President of Argentina, Julio Cobos, cast a tie-breaking vote in the Senate when he voted against the controversial farm tax proposed by President Cristina Fernandez de Kirchner. Mrs. Kirchner had increased taxes by a ministerial resolution in March 2008, which gave rise to protests throughout the country, in rural areas and urban centers. In June, under pressure from the agricultural sector and with her approval ratings plummeting, she submitted the farm tax bill to Congress, where her coalition holds a majority, to obtain public support. Grain farmers have argued that higher export taxes would make it hard for them to stay competitive, while lower local prices leave them little to reinvest in production to meet rising demand.

However, the President insisted the taxes were needed to keep farm goods cheap at home. The government reportedly thought that sending the tax measure to Congress would pose a low risk because the coalition in power holds a majority in both legislative houses. The lower house did back the tax package by a narrow margin, but the Senate, in a surprise move, voted 37-36 against the proposal, stunning a political system accustomed to rule-by-decree from Fernandez and her predecessor and husband, Nestor Kirchner. Fernandez's own vice president, Julio Cobos, cast the tie-breaking vote in a legislative session that saw major defections from her ruling coalition. "In a presidential system, this comes about as close to a vote of no-confidence as I've ever seen," said Peter Hakim, president of the Inter-American Dialogue, a Washington-based think tank focused on Latin American relations. (Gustavo Ybarra, *Tras una dramática sesión, el vicepresidente Cobos desempató la votación al rechazar el proyecto oficial de retenciones*, DIARIO CLARIN, July 17, 2008, *available at* http://www.lanacion.com.ar/nota.asp?nota_id=1030952.)
(Graciela Rodriguez-Ferrand, 7-9818, grod@loc.gov)

TERRORISM

GERMANY – Convictions of Kurdish Iraqis on Terrorism Charges

On July 15, 2008, the Higher Regional Court of Stuttgart convicted three Iraqis of Kurdish ethnicity of membership in a foreign terrorist organization and sentenced them to between seven and ten years of imprisonment. (Decision of Oberlandesgericht Stuttgart, Docket No. 5- 2St-E 2/05, summarized in Press Release, Oberlandesgericht Stuttgart, In der Strafsache gegen Ata A., Mazen S. und Rafik M. wurden die Angeklagten wegen der Mitgliedschaft in einer ausländischen terroristischen Vereinigung zu Haftstrafen verurteilt (July 15, 2008), *available at* http://www.olg-stuttgart.de/servlet/PB/menu/1222014/index.html?ROOT=1182029.) The Court found that the defendants had been members of the terrorist organization Ansar al Islam and that they had been plotting to assassinate the form Iraqi Prime Minister Ayad Allawi during his visit in Germany in December 2004. The defendants thereby had committed the offense of being members of a foreign terrorist organization according to section 129 b of the German Criminal Code (Strafgesetzbuch, Nov. 13, 1998, BUNDESGESETZBLATT I at 3322, as amended by Gesetz, Aug. 22, 2002, BUNDESGESETZBLATT I at 3390). This provision was introduced in the aftermath of September 11, 2001, and it aimed at closing a formerly existing loophole that had made it difficult to prosecute members of foreign terrorist organizations. The July 15 decision of the Stuttgart Court is the second decision in which defendants were convicted through the use of the new criminal provision.
(Edith Palmer, 7-9860, epal@loc.gov)

INDONESIA – Constitutional Court Considers Delay of Execution

Media sources reported on August 15, 2008, that Indonesia's Constitutional Court will consider an application by the convicted "Bali bombers" to delay their executions until the hearing of their appeal for execution by beheading rather than firing squad. (*Indonesian Court to Consider Execution Delay*, RADIO AUSTRALIA, Aug. 15, 2008, *available at* http://www.radioaustralia.net.au/news/stories/200808/s2335684.htm?tab=latest.)
(Lisa J. White, 7-4987, liwh@loc.gov)

ISRAEL – Charitable Organizations Tied to Hamas Declared Unlawful

On May 26, 2008, the Defense Minister issued a declaration specifying numerous organizations tied to the "Union of Good ("The Charity Coalition," translated by author, R.L.), an arm of the Hamas, as unlawful associations. Such a declaration may result in criminal liability of their members and in confiscation of the associations' property. The declaration of thirty-six bodies operating abroad and responsible for raising large amounts of funds for Hamas activities in the West Bank and Gaza is the most comprehensive such declaration ever issued by Israel.

The "Union of Good" is the global head organization of charitable organizations operating in several countries for the purpose of financial support for Hamas activities in the West Bank and Gaza and for the operation of the Hamas government in Gaza. The Union itself

had been outlawed by the Minister of Defense in 2002 for its massive support of Hamas. According to Israeli media, the Union is composed of dozens of extremist Islamic charities around the world, including South African, Jordanian, Saudi, British, French, and other European organizations and is headed by sheikh AlQardaui, a central figure in the International "Moslem Brotherhood" movement who has authorized suicide bombings and the killing of Israeli citizens, while calling for a Jihad against Israel. (Declaration of Unlawful Association based on the Defense (Emergency) Regulations, 1945, The Ministry of Justice website, *available at* http://www.justice.gov.il/NR/rdonlyres/72A5F772-1ED4-44CC-92BB-56CFF5FA78CC/10701/designations2752008.pdf (last visited July 14, 2008); *see* also IDAN YOSEF, *36 Funds Declared Supporters of Terrorism*, NEWS FIRST CLASS, July 7, 2008, *available at* http://www.nfc.co.il/ArticlePrintVersion.aspx?docId=167086&subjectID=1; and Efrat Vaiss, *Israel Versus the Hamas "Global Charity Funds,"* YNET ONLINE, http://www.ynet.co.il/articles/0,7340,L-3565026,00.html (last visited July 7, 2008)).
(Ruth Levush, 7-9847, rlev@loc.gov)

TRAFFICKING IN PERSONS

ISRAEL – Precedent Decision on Rights to Pay and Compensation for Trafficking Victims

On July 8, 2008, the National Labor Court rendered a precedent decision recognizing its jurisdiction to hear petitions of victims of women trafficking. The Court further recognized that victims are entitled to a return of the full amounts received by their employers for their engagement in prostitution and to compensation for late payments, for pain and suffering, and for violation of their constitutional rights and harm to their human dignity. In the case at hand, the appellants forced the respondent, a Moldovan citizen, to engage in prostitution in their massage parlor. The Court held that the relationship between the appellant and the respondent can be defined as an unlawful forced employment contract. The unlawfulness of the contract, in itself, will not shelter criminals such as the appellants and will not exempt them from fulfillment of their obligations under labor law.

The respondent in this case did not volunteer to work as a prostitute. She, however, fulfilled her obligations under the contract even if unwillingly, while the appellants committed serious crimes against her and benefited from the unlawful contract. The Court held that under these circumstances it would be unjust to void the contract. Instead, the Court used its discretion to recognize the contract as valid and force the appellants to fulfill their obligations under it. The Court stated, "[i]n this way, it is hoped, the use of human trafficking victims will be minimized, and the offenders could not benefit from unlawful and immoral activity." (Labor Appeal 000480/05 000611/05 Ben Ami et al. v. Anonymous, the National Labor Court, the State of Israel: the Judicial Authority, http://info1.court.gov.il/Prod03/ManamHTML5.nsf/13D21024FDFC9A9C42257482005691C5/$FILE/282CFF244CE5ED1A4225748200436ECA.html?OpenElement (last visited July 14, 2008).)
(Ruth Levush, 7-9847, rlev@loc.gov)

TRANSPORTATION

CHINA – Special Security Checks at Certain Airports

On July 7, 2008, the Civil Aviation Administration of China (CAAC) issued the Notice on the Implementation of Special Security Check Measures in Certain Airports. The airports include, among others, Beijing Capital International Airport, Shanghai Hongqiao and Pudong airports, Hohhot Airport, and airports in the Xinjiang Uygur Autonomous Region and the Tibet Autonomous Region. The security checks will be conducted at terminal entrances. Passengers who illegally bring explosives or inflammable or explosive items into the airports, the Notice states, will be subject to severe punishment in accordance with relevant laws and regulations; the passengers themselves will be responsible for any resultant consequences such as missed flights. The Notice entered into effect on July 20, 2008. (Implementation of Special Security Check Measures in Certain Airports, CAAC website, July 7, 2008, *available at* http://www.caac.gov.cn/C1/200807/t20080707_17030.html.)
(Wendy Zeldin, 7-9832, wzel@loc.gov)

ESTONIA – No Trucks on Highways in Rush Hour

On July 17, 2008, the legislature of Estonia adopted amendments to the nation's Code of Traffic Regulations prohibiting the driving of large trucks on major intercity highways between 3 and 8 p.m. The amendment was passed because of traffic jams and the increased number of road accidents between cars and trucks when cars attempted to bypass several heavy trucks that were closely following each other. A special provision prohibits more than two trucks to drive in line. A similar provision was in force during the 1990s, but was repealed in response to the demands of the truck drivers' union. (*Estonia Reinvokes Restrictions on Heavy Transport*, BALTIC BUSINESS NEWS, July 21, 2008, Emerging Markets database, *available at* http://www.securities.com.)
(Peter Roudik, 7-9861, prou@loc.gov)

WAR

AFGHANISTAN – Senate Wants Foreign Forces' Presence Legalized

In its session of August 12, 2008, the upper house of Afghanistan's Parliament adopted a draft law legalizing the presence of foreign forces in the country. Senators debated the bombing of Afghanistan by foreign forces and the killing of civilians in such air strikes, while complaining about a lack of implementation by the government of the Senate's draft laws in the past few years. The Senators contend that unless the presence of foreign forces is legalized in the country, the bombardment and killing of civilians by foreign forces will continue.

It was significant that senators representing both the Dari-language tribes (primarily Shiites) and the Pashto-language tribes (primarily Sunni) spoke at the session and concurred in their views. Senator Solaiman Yari said (in Dari), "[t]hey [foreign forces] have done this action

[killing of civilians] and it cannot be tolerated. We fought the former Soviet forces and the extremism of the Taleban. We neither want extremism nor aggression or killing." Senator Afzal Ahmadzai (speaking in Pashto), queried, "[t]he people who liberated the country and lost 2.5 million of their population have been totally removed from the scene. Will those people with American, French, Italian, and English nationalities [senior Afghan officials with dual nationality], be ministers for Afghanistan or for the countries that brought them here?" Senate Secretary Aminoddin Mozafari added (in Dari), "[i]f our draft law is not accepted again, we, as people's representatives, will tell the nation what is going on in the country." According to Senator Mirbat Khan Mangal (in Pashto) "[w]e should decide to summon foreign commanders to the sessions in the future and to exchange views with them and give our suggestions to them. Our problems cannot be solved by summoning government officials."

It was decided at the session that in addition to approving a draft law legalizing the presence of foreign forces in Afghanistan, a letter should also be sent to the U.N. Security Council. (*Afghan Senate Approves Bill to Put Foreign Forces' Presence on Legal Footing*, TOLU TELEVISION (Kabul), Aug. 12, 2008, Open Source Center No. IAP20008081395063.)
(G.H.Vafai, 7-9845, gvaf@loc.gov)

SPECIAL ATTACHMENT:
LEGAL DEVELOPMENTS IN THE EUROPEAN UNION

by Theresa Papademetriou, Senior Foreign Law Specialist
7-9857, tpap@loc.gov

Foreigners Married to EU Citizens Are Entitled to Freedom of Movement and Residence

Directive 2004/38/EC grants the right of citizens of the European Union and their family members to move and reside freely within the territory of the Member States as workers or students, if they have health insurance and financial means to sustain themselves. Ireland transposed the Directive restrictively, requiring that a citizen of a third country who is a family member of an EU citizen has the right to join that citizen only if he/she has previously been lawfully residing in another EU Member State.

In a recent case that came before the European Court of Justice (ECJ), four third-country nationals had requested asylum in Ireland and were refused. When they married EU citizens who were residents of Ireland and applied for a residence card after their marriages, their requests were denied by the Minister of Justice because of lack of prior lawful residence in another EU Member nation. Subsequently, they challenged the compatibility of the Irish legislation before the High Court in Ireland. The latter asked the ECJ whether such a requirement is compatible with the Directive and whether the circumstances of the marriage and the manner in which a third-country spouse of a Union citizen entered the Member State in question have any impact on the application of the Directive.

The ECJ held that: a) family members of a Union citizen are not required to have previously resided in a Member State in order to enjoy the freedom of movement and residence accorded by the Directive, and b) "a non-Community spouse of a Union citizen who accompanies or joins that citizen can benefit from the directive, irrespective of when and where their marriage took place and of how that spouse entered the host Member State." (Press Release, No. 57/98, Court of Justice of the European Community, Judgment of the Court of Justice in Case C-127/08 *Metock and Others v. Minister of Justice , Equality and Law Reform,* (July 25, 2008), *available at* http://curia.europa.eu/en/actu/communiques/cp08/aff/cp080057en.pdf.)

The effect of the ECJ's decision was soon felt in Denmark, an EU Member with strict immigration laws. Several couples, encouraged by the recent decision, asked the Danish Minister for Integration to reevaluate their previously rejected applications to settle together in Denmark. Many couples whose applications for residence have been denied in Denmark are reported to have moved to Sweden. The Ombudsman of Denmark also announced recently the beginning of an investigation of whether the Immigration Service had provided correct information to persons inquiring on the status of foreign spouses in Demark. As a result of the ECJ's ruling and because of requests made by concerned individuals, the Danish Minister of Immigration, Birth Ronn Hornbech, announced that his ministry would reevaluate the entire body of immigration legislation in Denmark. (*Danish Immigration Law Under Fire After EU Court Ruling*, EU OBSERVER, July 29, 2008, *available at* http://euobserver.com/9/25667/?rk=1).

Update on Visa-Waiver Non-Reciprocity with Third Countries

Currently, under the U.S. Visa Waiver Program (VWP) , citizens from 15 Member States of the European Union can travel to the United States for a short stay without a visa. U.S. citizens can visit for a short stay any EU Member nation without a visa. The VWP had been amended in August 2007. Based on the new provisions, the United States had prepared a draft Memorandum of Understanding (MOU) that formed the basis of negotiating the security provisions of the reformed VWP with individual EU Member States, and a number of EU countries then signed MOU's with the United States. However, the European Commission subsequently argued that those EU Members infringed on issues that fall under the Union's competence, and the Member States could not negotiate on their own on visa issues. Subsequently, on April 18, 2008, the EU Members authorized the European Commission to begin negotiations on a visa agreement with the United States covering those issues that fall within the European Community's competence. The EU is committed to ensuring that all its Members are treated equally in regard to visa access, based on the principle of reciprocity. Ireland and the United Kingdom will not be affected because they are not part of the EU's common visa policy. (Press Release No. 32/08, Delegation of the European Commission to the USA, European Commission Authorized to Open Negotiation with the US on Conditions for Access to the US Visa Waiver Program (Apr. 18, 2008), *available at* http://www.eurunion.org/eu/index2.php?option=com_content&task=view&id=1730&pop.)

On July 23, 2008, the European Commission adopted the fourth report on third countries' maintenance of visa requirements. The report indicates that Israel, Malaysia, and Paraguay have adopted full visa reciprocity and that during the last six months, Canada lifted the visa requirement for six EU Members and Brazil began negotiations with the EU on a visa-waiver agreement. The Commission noted that there was no progress in achieving visa reciprocity with Japan, Panama, Singapore, and the United States. During the June 2008 EU-U.S. summit, the United States gave its promise to allow more EU Members into its VWP. The Commission stated that as of January 1, 2009, it will impose retaliatory measures, such as requiring a visa for U.S. nationals who hold diplomatic and official passports. The move represents the first time that the Commission intends to put in place concrete measures to retaliate against the slow progress of the U.S. in granting unrestricted access for all EU citizens. (Press Release IP/08/11089, European Commission, European Commission Adopts Its Fourth Report on Visa Waiver Non-Reciprocity with Third Countries (July 23, 2008), *available at* http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1189&format=HTML&aged=0&language=EN&guiLanguage=en.)

"Green" Products Encouraged

Since the early 1990s, the Environment-Directorate of the European Commission has intensified its efforts to encourage and assist consumers to buy environmentally friendly products, through the Eco-label program. The program includes a logo that is awarded to products and services that meet certain eco-friendly minimum requirements, thereby facilitating consumers' choices. Prior to July 2008, manufacturers of 26 products had been covered voluntarily under this program. On July 16, 2008, the European Commission proposed that the program be extended to include 40-50 product groups, including beverages and food, by 2015.

(European Commission, *Eco-Design of Energy-Using Products: Framework Directive for Setting Eco-Design Requirements for Energy Using Products,* http://ec.europa.eu/enterprise/eco_design/index_en.htm (last visited July 16, 2008).

In addition, the European Commission proposed the extension of the application of Directive 2005/32/EC on the eco-design of products using energy (Eco-Design Directive) to products that do not use energy directly, such as water-saving shower heads or taps. Once adopted, such products will have to meet the minimum environmental standards established by the Eco-Design Directive. (*EU to Encourage "Green Consumption" with New Eco-Labeling,* EU OBSERVER, July 17, 2008, *available at* http://euobserver.com/9/26500/?rk=1.)

Public Consultation on Anti-Trust Regulation

European Union Regulation 1/2003, which reformed the outdated European Community antitrust rules, requires that the European Commission prepare an evaluation report on the functioning of the antitrust provisions by May 1, 2009. Because of this obligation, the European Commission has initiated the process of public consultation about Regulation 1/2003's provisions on the Commission's enforcement powers, contained in the competition rules, and its other significant innovations. The deadline for comments by stakeholders is September 30, 2008.

Regulation 1/2003, which repealed the outdated, previous Regulation 17/1962, was designed to enforce competition rules more effectively and efficiently and reduce bureaucratic practices. As to the significant innovations the Regulation brought about, it:

a) Authorized national competition authorities and courts to apply Commission competition rules to cases about anti-competitive effects on trade between Member States;
b) Eliminated the requirement to notify the Commission of business agreements, thus making it easier for companies and allowing the Commission to focus its resources on important violations of antitrust rules;
c) Set up close cooperation between national authorities and the Commission within the European Competition Network (ECN); and
d) Increased the investigation powers of the Commission to deal more efficiently with infringements of competition rules.

(Press Release, IP/08/1293, Anti-Trust Commission, Antitrust: Commission Launches Public Consultation on Keystone Antitrust Regulation (July 24, 2008), *available at* http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1203&format=HTML&aged=0&language=EN&guiLanguage=en.)

Extension of Trade Preferences for Developing Countries

The Generalized System of Preferences (GSP) was first established in 1968 by the United Nations Conference on Trade and Development (UNCTAD). It is an independent trade arrangement under which industrialized nations grant trade preferences to developing countries. The then European Community was the first to implement the GSP system in 1971. Under the

agreement, the EU grants products imported from GSP countries either duty-free access or reduced tariffs. In 2007, developing countries exported 57 billion *euro* (about US$89.5 billion)-worth of goods under the GSP, while the EU experienced a duty loss of 2.5 billion *euro*. The EU can suspend preferences, in a process called "graduation," in instances where the product of a particular developing country is competitive in the EU market.

On July 23, 2008 it was announced that the Council of the European Union had adopted a new Regulation that extends the GSP from January 1, 2009, to December 31, 2011. The Regulation also retains the "Everything but Arms initiative," which provides for most favorable treatment for the least developed countries. (Press Release IP/08/1192, Europa RAPID, European Union Agrees to Maintain Trade Preferences for Developing Countries (July 23, 2008), *available at* http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1192.)

Update on Common Immigration and Asylum Policy

On June 17, 2008, the European Commission adopted a migration package containing two documents: a Communication on "A Common Immigration Policy for Europe: Principles, Actions and Tools"; and a Policy Plan on "Asylum – An Integrated Approach to Protection Across the EU." The Communication summarizes the view of the European Commission on how to advance towards a common immigration policy and urges the European Council to lend its support to ten common principles. These principles are grouped under the following three headings:

- Prosperity and Immigration: 1) clear rules and a level playing field; 2) matching skills and needs; 3) integration as the key to successful immigration.
- Solidarity and Immigration: 4) transparency, cooperation, and trust; 5) effective use of available means; 6) partnership with third countries; and
- Security and Immigration: 7) visa policy designed to serve the interests of the European Union; 8) integrated border management; 9) augmentation of the fight against illegal immigration and zero tolerance for trafficking in human beings; and 10) sustainable and effective return policies.

The second document, the Policy Plan on Asylum, contains a number of measures the Commission intends to propose to complete the second part of the Common European Asylum System (CEAS). The first phase of the CEAS focused on adopting legislation that established common minimum standard for the reception conditions for asylum seekers, procedures on asylum, the requirements for recognition as a person under international protection, and rules to determine the Member State responsible for a given asylum application. The second part of the CEAS will focus on amending existing legislation to improve the definition of EU standards for protection. It also proposes the establishment of a European Support Office on Asylum, tasked with coordinating practical cooperation issues. (Press Release IP 08/948, Europa RAPID, Taking Forward the Common Immigration and Asylum Policy for Europe (June 17, 2008), *available at* http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/948&format=HTML&aged=0&language=EN&guiLanguage=en.)

Prohibition on Cruelty to Seals

On July 23, 2008, the European Commission proposed a regulation that provides that all seal products obtained by inhumane methods are prohibited from entering the European Union market or being produced within the Union. The regulation aims to alleviate the conditions under which seals are killed and skinned during hunts, so that the animals suffer as little as possible. It also provides that trade in seal products will be allowed in the future only when products are accompanied by a label and a certificate stating that the product originates from a country that adheres to strict animal welfare conditions. The Environment Commissioner, Stavros Dimas, stated "[s]eal products coming from countries that practice cruel hunting methods must not be allowed to enter the EU." The proposal exempts from the ban hunting by indigenous people, such as the Inuit in Canada. This exemption raised serious concerns from the International Fund for Animal Welfare, which warned, "the exception for indigenous hunting was a dangerous loophole." (*Brussels Proposes Ban on Seal Cruelty,* EU OBSERVER, July 23, 2008, *available at*http://euobserver.com/19/26530.)

Updated List of Banned Airline Carriers

On July 24, 2008, the European Commission updated the list of airline carriers that are prohibited from flying to the European Union because of safety violations. The Commission is assisted in the drafting of this list by the Air Safety Committee, which is composed of representatives of all 27 EU Member States. The list includes the following carriers: all airlines from Equatorial Guinea, Indonesia, the Kyrgyz Republic, Liberia, Sierra Leone, Swaziland, the Republic of the Congo, and Gabon, except Gabon Airlines and Afrijet. The list also includes eight individual carriers' operations. The Commission removed from the list the Iranian Mahan Airlines, because of its efforts to comply with air safety standards. (Press Release IP/08/1205, Europa RAPID, Blacklist of Banned Airlines: European Commission Adopts an Updated List (July 24, 2008), *available at* http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1205&format=HTML&aged=0&language=EN&guiLanguage=el.)

****