



# WORLD LAW BULLETIN

April 2006

4 W.L.B. 2006

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Respectfully submitted,

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Director of Legal Research



**Directorate of Legal Research for**  
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## AFRICA

### ANGOLA – Cabindan Separatists Pin Hopes on International Law

A group of pro-separatist Cabindan organizations is threatening to file charges against Angola at the International Criminal Court for alleged human rights abuses in the oil-rich enclave. Cabinda, a sliver of land located between Congo and the Democratic Republic of Congo, is internationally recognized as part of Angola, but since independence in 1975, Angola's control has been resisted by the Front for the Liberation of Cabinda (FLEC). Cabinda produces sixty percent of Angola's oil. "Cabinda will soon be filing a referral and request for investigation of Angolan war crimes, genocide, and crimes against humanity with the Prosecutor of the International Criminal Court," the so-called Republic of Cabinda Press Agency stated. (*ANGOLA: Cabindan Separatists Pin Hopes on International Law*, IRINNEWS.ORG, Mar. 6, 2006, [http://www.irinnews.org/report.asp?ReportID=52038&SelectRegion=Southern Africa&SelectCountry=ANGOLA](http://www.irinnews.org/report.asp?ReportID=52038&SelectRegion=Southern%20Africa&SelectCountry=ANGOLA).) (Gustavo E. Guerra, 7-7104, ggue@loc.gov)

### ANGOLA – Police Respect for Human Rights

On February 27, 2006, Amnesty International launched a project in Luanda, Angola, called "Human Rights for the Police," aimed at promoting respect for citizens' rights by the National Police of Angola. According to the President of Amnesty International in Angola, Gaspar Cosme, the main target of the project is to implement a police service that respects human rights. He was further quoted as saying that the project will enable the development of a police force that is conscious of human rights through the discussion and promotion of human rights within the National Police.

The project is financed by the European Commission and will last one year. It encompasses six out of the eighteen Angolan provinces and is especially directed to public order agents. The program will consist mostly of conferences and lectures coupled with the distribution of books and other materials related to human rights. (*Angola: Amnistia Internacional Promove Respeito por Direitos Humanos na Polícia*, AFRICANIDADE, Feb. 27, 2006, available at [http://www.africanidade.com/?lop=n\\_artigo&op=cfdc208495d565ef66e7dff9f98764da&id=79cc30c73507cfc25d20fe7f7bcfd91b](http://www.africanidade.com/?lop=n_artigo&op=cfdc208495d565ef66e7dff9f98764da&id=79cc30c73507cfc25d20fe7f7bcfd91b).) (Eduardo Soares, 7-3525, esoa@loc.gov)

### ANGOLA – Tax Workers' Account

Angola's Finance Minister, José Pedro de Morais, has issued an executive decree creating a Tax Workers Account (CTI) (*State Gazette*, Series 1, No. 19, Feb. 10, 2006). The decree is aimed at the administrative and financial management of revenues attributed to the National Tax Administration. The revenues include taxes and fees collected from payments associated with roads, traffic inspection, birth certificates, and taxpayer cards. CTI regulations appended to the decree specify that seventy percent of the income will be reserved for quarterly distribution to the tax workers, proportionate to an individual's salary "combined with factors related to effectiveness, assiduity and productivity." Twenty-five percent of the revenue will be used to overcome a current lack of materials in tax offices; the remaining five percent will be used for social matters such as commemorative ceremonies. (*Finance Minister Creates Tax Workers Account*, ANGOLA PRESS, Mar. 5, 2005, <http://www.angolapress-angop.ao/noticia-e.asp?ID=422270>.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)



### **BOTSWANA – Gender Policy Planned**

On March 8, 2006, International Women’s Day, Botswana’s Minister of Labour and Home Affairs, Moeng Pheto, announced that the government is forming a National Gender Policy. It will be designed to bring a gender perspective and analysis into all aspects of planning, policy, and legislative development and address inequalities between men and women. The Minister stressed the need for greater participation by women in positions of power and in decision-making processes at all levels of society and added that such participation is based on constitutional and legal guarantees. (*Gender Policy on Cards*, DAILY NEWS ONLINE, Mar. 8, 2006, [http://www.gov.bw/cgi-bin/news.cgi?d=20060308&i=Gender\\_policy\\_on\\_cards](http://www.gov.bw/cgi-bin/news.cgi?d=20060308&i=Gender_policy_on_cards).)

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

### **CAMEROON – Journalist Sentenced for Allegations of Homosexuality**

On March 3, 2006, a Cameroon court in the capital city of Yaoundé sentenced Jean-Pierre Amougou Belinga, publisher of the weekly *L’Anecdote*, to a four-month prison term and payment of a fine of CFA1,000,000 (about US\$1,840) for defamation, after his newspaper published the names of prominent alleged gays and lesbians. The court also ordered Belinga to publish the verdict in *L’Anecdote* and twenty-five other local and international media or pay another fine. The prosecution welcomed the verdict, stating, “[t]his type of unprofessional journalism is condemned in Cameroon and other countries.” Belinga may appeal. In January 2006, *L’Anecdote* and two other papers, *Nouvelle d’Afrique* and *La Meteo*, had joined in publishing the names of nearly 100 prominent men and women – including Cabinet ministers, a former prime minister, and a Catholic bishop, among other figures – they identified as gay and lesbian. The former Prime Minister, Peter Mafany Musonge, sued Belinga and the publisher of *Nouvelle d’Afrique*; that trial is ongoing.

The allegations of homosexuality in high places by *L’Anecdote* and other newspapers became the center of a national debate in conservative Cameroon and even gave rise to anti-gay demonstrations. The Belinga case also drew thousands to the streets outside the courthouse during the three-week hearing. Homosexuality, forbidden under Cameroon law, is punishable by up to five years’ imprisonment or fines of up to CFA200,000 (about US\$370). (*Journalist Sentenced over Gay Allegations: Case Has Inspired Protests in Nation That Bans Homosexuality*, CNN.COM, Mar. 3, 2006, <http://www.cnn.com/2006/WORLD/africa/03/03/cameroon.journalist.ap/index.html>.)

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

### **GHANA – Monthly Law Reports Launched**

It was reported on March 8, 2006, that the Chief Justice of Ghana, His Lordship Justice George Kingsley Acquah, has launched the *Ghana Monthly Law Reports*. The Chief Justice had previously deplored the delays associated with the annual *Ghana Law Reports*; he expressed the hope that the new publication will be delivered promptly. The compilation of judicial judgments will serve as a guide to lawyers and, according to the Deputy-Editor-in-Chief, it should be just as fast and regular as the delivery of justice. (*Ghana Monthly Law Reports Launched*, GHANA NEWS TODAY, Mar. 8, 2006, <http://www.ghananewstoday.com/portal/index.php?option=content&task=view&id=3407&Itemid=37>.)

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



### **KENYA – Law to Regulate Housing Market**

Kenya's Housing Minister Soita Shitanda has announced that the final draft of the Housing Bill 2006 will be ready to be presented to parliament by the end of March 2006. Since independence, Kenya has not had a comprehensive Housing Act, and the resulting legal vacuum has contributed to the proliferation of informal settlements and the increasingly poor standards of construction. The bill calls for establishment of a Housing Authority, which will develop and enforce construction and estate management standards. To expand access to financing for housing, the Authority will promote the acceptance of other forms of security than land and tangible property for mortgage financing. The Authority will also work with the Central Bank of Kenya to authorize lower cash ratio margins for mortgage finance institutions and building societies than those prescribed for commercial banks. (*Govt to Enact Law to Regulate Housing Market*, THE EAST AFRICAN, Mar. 21, 2006, <http://allafrica.com/stories/printable/200603210700.html>.) (Donald R. DeGlopper, 7-9831, ddeg@loc.gov)

### **MOZAMBIQUE – The Right to Be Taught in Mother Tongue**

On March 7, 2006, during the International Conference on Bilingual Education in Maputo, Mozambique, the Minister of Education and Culture, Aires Aly, announced that the government is planning to use native languages in the educational system in parallel to Portuguese as a means to improve children's education. In 2003, bilingual education was introduced as part of a curriculum reform made to change the old colonial rule that established that education in state schools had to be provided exclusively in the Portuguese language. However, according to the Movement for Education for All (MEPT), only twenty-nine out of 8,000 primary schools are using the bilingual programs.

The Mozambican minister was quoted as saying that he hoped that the conference would deepen the debates involving the right to a relevant education, the promotion of self-esteem, and identity and cultural awareness of the Mozambican people. He further observed that after independence, for many reasons, Portuguese was adopted as the official language, but it soon became clear that mother tongues must be included in the education system, stimulating the effort to defend children's right to be taught in their mother tongue. (*Conference on Bilingual Education*, AGENCIA DE INFORMACAO DE MOCAMBIQUE, Mar. 7, 2006, available at <http://allafrica.com/stories/200603070411.html>; *Governo Quer Utilizar Línguas Nativas no Ensino, a Par do Português*, NOTÍCIAS LUSÓFONAS, Mar. 9, 2006, available at <http://www.noticiaslusofonas.com/view.php?load=arcview&article=13575&catogory=Mocambique>.) (Eduardo Soares, 7-3525, esoa@loc.gov)

### **NIGER – Steps to Counter Bird Flu**

On February 28, 2006, following confirmation that the H5N1 avian influenza virus was found in domesticated ducks in the country, Niger's government announced a cull of all poultry in the region hit by the disease. Following an emergency Cabinet meeting, it was announced that after the systematic culling of poultry, all birds suspected of having the virus would be destroyed by incineration and buried, along with any objects that may have been in contact with them. Farmers and householders would be compensated at the level of CFA1,000 (about US\$1.80) per destroyed bird.



Niger was the second of several African countries to have confirmed the presence of the bird flu. Neighboring Nigeria had already detected the virus in birds in several states, including some bordering Niger. Niger has therefore already banned the import of domesticated birds from regions affected by the flu. The government said it has ordered a supply of medication and organized committees at the regional and local levels to increase surveillance for the disease. A publicity campaign has been undertaken, with the participation of hunting associations and Islamic preachers and schools, to warn people not to touch wild birds. (*Nigeria Reports Bird Flu in Two More States*, Reuters, Feb. 27, 2008, <http://today.reuters.com/News/CrisesArticle.aspx?storyId=L27368663>; Abdoulaye Massalatchi, *Niger Orders Poultry Cull After Flu Shock*, IOL, Mar. 1, 2006, [http://www.iol.co.za/index.php?set\\_id=1&click\\_id=86&art\\_id=qw1141183802368B216-jump.](http://www.iol.co.za/index.php?set_id=1&click_id=86&art_id=qw1141183802368B216-jump.)) (Constance A. Johnson, 7-9829, cojo@loc.gov)

### **RWANDA – Appeals Court Confirms Ex-Minister's Acquittal**

On February 8, 2006, the Appeals Chamber of the UN International Criminal Tribunal for Rwanda (ICTR) confirmed a lower court's decision to acquit a former Rwandan transport minister and a former provincial governor of genocide, a decision the Rwandan government received with reservations. On February 25, 2004, the lower ICTR court ordered the acquittal of former Transport Minister Andre Ntagerura, who was arrested in Cameroon in 1996, and of Governor Emmanuel Bagambiki, who was arrested in Togo in June 1998. However, the court convicted Samuel Imanishimwe, a former paramilitary commander in the province, and sentenced him to twenty-seven years of imprisonment. The three had been jointly tried. In confirming the lower court's decision, the Appeals Chamber, presided over by Judge Fausto Pocar of Italy, said its panel of three judges had unanimously agreed to the acquittal of Ntagerura and Bagambiki. The indictments against Ntagerura, Bagambiki, and Imanishimwe charged them with genocide, crimes against humanity, and serious violations of Geneva Conventions in connection with the massacres and other crimes committed in Rwanda's Cyangugu Province in 1994.

Earlier, during the appeals hearing, the prosecution had claimed the lower court's decision to acquit was in error because the defendants had participated in the 1994 genocide, and it asked the court to order a retrial. The senior attorney for the prosecution, James Steward, told the court that when acquitting the two, the chamber did not take into consideration seven witnesses who had testified in the trial and who were accomplices of the defendants. The lower court acquitted Ntagerura, noting that the prosecutor had not proved beyond reasonable doubt any of the allegations in the indictment. It also ruled that there was no credible evidence that Ntagerura expressed public support for the killings or that he acted as supervisor in Cyangugu Prefecture in 1994. It also found that the prosecutor failed to prove the allegations supporting the crime of genocide against Bagambiki. (*Appeals Court Confirms Ex-Minister's Acquittal*, IRINNEWS, Feb. 8, 2006, [http://www.irinnews.org/report.asp?ReportID=51600&SelectRegion=East\\_Africa,%20Great\\_Lakes&SelectCountry=RWANDA.](http://www.irinnews.org/report.asp?ReportID=51600&SelectRegion=East_Africa,%20Great_Lakes&SelectCountry=RWANDA.)) (Karla Walker, 74332, kdwa@loc.gov)

### **RWANDA – Local Government Elections**

Local government elections were held on in Rwanda on February 13, February 20, February 24, and March 2, 2006, for 21,500 officials to head the nation's lowest administrative units and for district mayors. Four million, one hundred thousand Rwandans registered for the elections. Those elected at the cell level will form an electoral college from which leaders of the sector, the next higher administrative unit, will be chosen. The elections came as Rwanda redrew its provincial maps to reflect



compass points, as part of the government's policy to decentralize power. The North, South, East, and West provinces, and Kigali, the capital, replaced twelve others abolished in January of this year. Rwanda's previously centralized political system has been deemed responsible for assisting officials previously in power to carry out the 1994 genocide in which up to 937,000 Tutsis and politically moderate Hutus were killed. Government officials said the reduction of the number of provinces would weaken ethnic distinctions by merging the old states into multi-ethnic areas. (*Local Government Polls Begin*, IRINnews, Feb. 6, 2006, <http://www.irinnews.org/print.asp?ReportID=51547>; AFRICAN ELECTIONS DATABASE, [http://african\\_elections.tripod.com/calendar.html](http://african_elections.tripod.com/calendar.html) - March 2006 (last visited Apr. 11, 2006).)

(Karla Walker, 74332, kdwa@loc.gov)

### **SIERRA LEONE – National Power Authority Amendment Act Approved**

On March 9, 2006, Sierra Leone's Parliament approved the National Power Authority (NAP) Amendment Act 2005. The Act amends the National Power Authority Act 1982 and is expected to have come into effect by March 31, 2005. The Chairman of the Legislative Committee, Hon. Edward Mohamed Turay of the opposition All Peoples Congress (APC), pushed the bill forward in parliament. Prior to its approval, the bill was recalled twice, facing resistance from parliamentarians. Section 2, subsection 1, of the NAP provides that any private company registered under the laws of Sierra Leone may undertake the special purposes of development, finance, or construction of the Bumbuna Hydro Electric Project. (*Parliament Approves NAP Amendment Act*, CONCORD TIMES, Mar. 10, 2006, <http://allafrica.com/stories/200603100561.html>.)

(Karla Walker, 74332, kdwa@loc.gov)

### **SUDAN – UN Expert Says Activists Targeted**

On March 8, 2006, United Nations human rights expert Sima Samar, speaking in Khartoum, reported that Sudan's intelligence offices continue to target activists. She said that "fundamental freedoms of expression and association continue to be curtailed by the National Intelligence Security Service (NISS) and Military Intelligence" despite the continuation of the peace process. Those targeted include human rights defenders, students, political opposition parties, internally displaced people, and tribal leaders. They have been subject to arbitrary arrest and detention. While held, the detainees may be tortured and experience other ill treatment, in addition to being denied pre-trial and fair-trial guarantees. (*Sudan's Intelligence Apparatus Targets Activists – Independent UN Rights Expert*, UNNEWS, Mar. 8, 2006, from [UNNewsA@un.org](mailto:UNNewsA@un.org).) The concerns expressed by Samar were echoed by Jemera Rone, Sudan researcher for Human Rights Watch, who said, "Khartoum has failed to reform the security agencies and the law on political parties. Promises to open up the political arena have not been kept." (*Southern Sudan: Khartoum Reneges on Promises*, HUMAN RIGHTS NEWS, Mar. 8, 2006, <http://hrw.org/english/docs/2006/03/08/sudan12773.htm>.)

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

### **TANZANIA – Ban on Deforestation**

On March 20, 2006, President Jakaya Kikwete of Tanzania banned tree felling and harvesting of timber in reserved forest areas in a move aimed at halting rapid environmental degradation, including the melting of ice on Mount Kilimanjaro. Kikwete told a rally in the northern town of Arusha that deforestation in the mountains has completely ruined the environment, and he stressed the necessity of banning destruction of forests to save and preserve the environment. Kikwete also blamed environmental destruction as the partial cause of drought in Tanzania and other East African nations,



where millions of people are now at risk of famine and in need of relief food. In 2005, scientists warned that Mount Kilimanjaro's legendary crown of snow and glaciers is melting and would likely disappear completely by 2020, triggering major disruptions to ecosystems on the dry African plains that spread out below. The forests on Kilimanjaro's lower slopes absorb moisture from the cloud hovering near the peak and in turn nourish flora and fauna below. In 2001, U.S. researchers warned that the loss of snows on the 19,330-foot peak, which have existed for about 11,700 years, could have disastrous effects on the Tanzanian economy. (*Tanzanian President Bans Deforestation to Save Kilimanjaro*, Mar. 21, 2006, [http://www.terraily.com/reports/Tanzanian\\_President\\_Bans\\_Deforestation\\_To\\_Save\\_Kilimanjaro.html](http://www.terraily.com/reports/Tanzanian_President_Bans_Deforestation_To_Save_Kilimanjaro.html).)  
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#### **TANZANIA – Zanzibaris Must Carry Identity Cards**

Zanzibar's Minister of Local Administration and the Security Forces has announced that from April 1, 2006, all adult Zanzibaris must carry identification cards. Those who refuse to register for the card may be liable to be punished with one year in prison, a fine of US\$100, or both. The Minister said that the purpose of requiring the IDs is security and to help Zanzibaris travel easily within the East African region. (*Zanzibaris Must Carry Identity Cards by 1 April*, IRINNEWS, Mar. 1, 2006, <http://www.irinnews.org/print.asp?ReportID=51959>.)  
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#### **ZIMBABWE – Controversial Mining Law Revision Proposed**

The Government of Zimbabwe recently put forward an unexpected, controversial proposal for an arbitrary takeover of the country's mines. Under the ownership structure proposed by the revision, the Government would acquire fifty-one percent equity of foreign-owned mining companies that produce platinum and diamonds. Twenty-five percent of it would be expropriated without payment, while the remainder would be purchased over five years. Government and indigenous companies would also take fifty-one percent share of gold and emerald mines. In the case of other minerals, Zimbabwean companies would obtain half of the shareholdings. The transfers would span seven years, with twenty percent taken over within two years, forty percent by five years, and the fifty percent target met in seven years. Government or local ownership of new mines would be required from the start. Affected companies and other stakeholders immediately voiced opposition to the proposal.

According to analysts, the proposed mining legislation would inflict “irreparable damage” on the mining sector, which has already been negatively affected by Zimbabwe's current economic crisis. The decision would also likely heighten Zimbabwe's political risk, especially in view of what have been described as “unrelenting land invasions” by state authorities and other property rights' violations. Under the seventeenth amendment of the Constitution of Zimbabwe (passed on August 30, 2005), courts were stripped of jurisdiction on land seizures and nationalization of acquired land was made legal, a move that already highlighted the country's sovereign risk as an investment destination. (*Zimbabwe's Mining Proposal Amounts to Sabotage*, BUSINESS DAY, Mar. 8, 2006, *Mugabe's Totalitarian Dream Goes Global*, THE ZIMBABWEAN PUNDIT, Aug. 31, 2005, <http://zimpundit.blogspot.com/2005/08/mugabes-totalitarian-dream-goes-global.html><http://allafrica.com/stories/200603080179.html>.)  
(Wendy Zeldin, 7-9832, wzeld@loc.gov)



## EAST ASIA & PACIFIC

### AUSTRALIA – International Jurists Concerned by Terrorism Laws

A panel of international jurists has expressed concerns about Australia's counter-terrorism laws. The International Commission of Jurists' Eminent Jurists Panel on Terrorism, Counter-Terrorism, and Human Rights held two days of hearings in Sydney, March 14 and 15, 2006. The Panel, headed by South Africa's Justice Arthur Chaskalson, who served as South Africa's Chief Justice and first President of the Constitutional Court, plans to conduct a global inquiry into counter-terrorism laws, policies, and practices. After the hearings in many countries are completed, the Panel will describe its findings in a global report. Spokeswoman Hina Jilani says the Panel has serious concerns about the powers of Australian intelligence organizations to detain persons who are not suspects and to limit their rights to legal representation. (International Commission of Jurists, Australian Section, *Eminent Jurists Panel on Terrorism, Counter-Terrorism and Human Rights – Sydney Hearings 14-15 March 2006*, <http://www.icj-aust.org.au/?no=35>; Australian Broadcasting Corporation, *Terrorism Laws Concern International Jurists*, ABC NEWS ONLINE, Mar. 17, 2006, <http://www.abc.net.au/news/newsitems/200603/s1594841.htm>.)

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### CHINA – Emphasis on Open Hearings for Death Sentence Appeals

In late February 2006, Chief Justice Xiao Yang of China's Supreme People's Court (SPC) announced that as of July 1, 2006, all death penalty appeals must be heard in open court. Although China's criminal procedure law already provides for public hearings, the provision has not been well enforced. Xiao's announcement is based on a notice that was issued by the SPC to provincial-level higher people's courts on December 7, 2005, ordering them to hold open sessions for hearing appeals in death-penalty cases concerning "major factual or evidential controversies" from January 1, 2006, and in all death penalty cases from July 1.

Under the People's Republic of China's criminal procedure law, intermediate people's courts are courts of first instance for cases that might entail the death penalty; higher people's courts are the courts of second (and final) instance on appeal. The law also prescribes a review process by the SPC for every death sentence. That power was partially relinquished by the SPC to higher people's courts in the early 1980s, but the SPC is now reassuming it, despite resistance from the lower courts and the SPC's own understaffing. Some experts believe that making death-penalty-appeal hearings public might help better regulate the procedural process for cases that could result in execution. China reportedly executes more people than any other country, with an estimated 5,000 to 12,000 executions a year, according to human rights groups; the actual number is a state secret. (*SCMP: Guilty Until Proven Innocent?* SOUTH CHINA MORNING POST, Mar. 15, 2006, Open Source Center No. CPP20060315515032; *Appeals on Death Penalty in Open Court*, CHINA DAILY, Dec. 9, 2005, at 1, [http://www.chinadaily.com.cn/english/doc/2005-12/09/content\\_501752.htm](http://www.chinadaily.com.cn/english/doc/2005-12/09/content_501752.htm); *Death Penalty Cases Must Be Heard in Open Courts: Official*, WWW.NPC.GOV.CN, Feb. 26, 2006, [http://www.npc.gov.cn/zgrdw/english/news/news\\_Detail.jsp?id=220101&articleId=345281](http://www.npc.gov.cn/zgrdw/english/news/news_Detail.jsp?id=220101&articleId=345281); Lindsay Beck, *Execution Appeals to Be Held in Public*, THE STANDARD, Feb. 28, 2006, [http://www.thestandard.com.hk/news\\_detail.asp?pp\\_cat=5&art\\_id=12990&sid=6845256&con\\_type=1](http://www.thestandard.com.hk/news_detail.asp?pp_cat=5&art_id=12990&sid=6845256&con_type=1).)

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### CHINA – Foreigners to Be Deported for Breaking Law

The Law on Penalties for Offenses against Public Order (POPO) became effective on March 1, 2006. The POPO lists 238 different offenses and also provides guidelines on penalties for foreigners who violate the law. “The Ministry of Public Security will be granted more authority in disciplining offenders, including deporting foreigners who break the law,” said Ke Liangdong, Director of the Legal Affairs Office of the Ministry. Newly listed offenses in the POPO include extreme cases of undermining social order under the cover of religion, living off the profits of prostitution, and buying sex. The POPO was promulgated because of the dramatic rise in the number of foreigners in China and significant changes in Chinese society. “It is possible for foreigners to be deported for any wrongful act named in the law,” said Ke, adding that there is some flexibility and the circumstances of the incident will be taken into account. (*Foreigners Who Break the Law to Be Deported*, PEOPLE’S DAILY, Mar 1, 2006, at [http://english.people.com.cn/200603/01/eng20060301\\_246904.html](http://english.people.com.cn/200603/01/eng20060301_246904.html); see also 10 W.L.B. 2005 (the Law was adopted Aug. 28, 2005).)

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### CHINA – NYT Researcher Zhao Released; Dissident Ren Imprisoned

Apparently in a goodwill gesture preceding the visit of China’s President Hu Jintao to the United States, Chinese authorities released from detention Zhao Yan, a researcher for *The New York Times* (NYT), after the Beijing intermediate court responsible for the case dropped the charges against him. Zhao was reportedly detained on September 17, 2004, soon after the paper reported that Jiang Zemin, former PRC President, would resign from his top military post as Chairman of the Chinese Communist Party Central Military Commission at a high-level meeting. At the time, Jiang’s plan to retire was a state secret. Zhao’s formal arrest occurred on October 20, 2004, on charges of “divulging state secrets,” which can incur the death penalty. In June 2005, the authorities filed a new charge of fraud against Zhao, enabling them to continue his detention without trial. The charges against Zhao reportedly did not refer to any specific acts, but the suspicion was that they were linked to his work at the NYT’s Beijing bureau and in particular the article about Jiang.

Among other high-profile dissidents whose release from prison this year is also viewed as part of the pre-Hu visit show of goodwill are Tibetan nun Phuntsog Nyidrol, imprisoned for fifteen years, and Tong Shidong, the oldest member of the banned China Democracy Party to be incarcerated. Nevertheless, the authorities have been intensifying a crackdown on journalists and cyber-dissidents, with news of their being charged or imprisoned “almost a weekly occurrence, and citizens who publicly air anti-government views are being frequently detained for arrested.” It was reported on March 17, 2006, for example, that dissident Ren Zhiyuan had been imprisoned for “subverting state sovereignty,” based on an essay he posted on the Internet. (*More on Lawyer Says China to Release New York Times Researcher ‘Within Days,’* AFP (Hong Kong), Mar. 17, 2006, Open Source Center No. CPP20060317054012.)

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### CHINA – New Provisions on Acts Violating Environmental Protection Laws

On February 20, 2006, China’s Ministry of Supervision and the State Environmental Protection Administration jointly promulgated the Interim Provisions on Punishment of Acts Violating Environmental Protection Laws and Discipline. Among other stipulations, the Provisions state that the directly responsible persons in charge or other directly liable persons will be punished if state



administrative organs or their functionaries fail to report any major incident involving environmental protection or ecological damage; make a false report; or fail to take the necessary lawful measures or postpone or shift responsibility for adopting measures, resulting in the expansion of the incident or delay in its handling (art. 8(3)). Punishments include a warning, a demerit for the record, a major demerit for the record, and, depending on the severity of the circumstances, demotion or dismissal or expulsion from office. This particular provision is especially relevant in light of recent major industrial accidents in China that have seriously damaged the environment, such as the toxic spill into the Songhua River in November 2005 that threatened the safety of the drinking water in the region (*see China: Toxic Spill Cover-Up*, 1 W.L.B. 2006). (*Administrative Supervision Employed to Strengthen Environmental Protection*, 6 ISINOLAW WEEKLY (Feb. 20-26, 2006), from [webmaster@isionlaw.com](mailto:webmaster@isionlaw.com); *Huanjing baohu weifa weiji xingwei chufen zhanxing guiding [Interim Provisions on Punishment of Acts Violating Laws and Disciplines [sic] on Environmental Protection]*, translated in <http://www.isinolaw.com> (by subscription) (last visited Mar. 16, 2006).) (Wendy Zeldin, 7-9832, [wzel@loc.gov](mailto:wzel@loc.gov))

### CHINA – New Regulation Against Junk Email

On February 21, 2006, the Ministry of Information Industry of China (MII) announced that it was launching a crackdown against junk e-mail. On the same day a new regulation on strengthening the administration of e-mail servers was released, and a center was opened to handle complaints from the public regarding junk e-mail. The regulation states that the IP addresses of servers should be registered and unsolicited email, including advertisements, are illegal unless they carry a title of "advertisement" or "AD" in the e-mail and the senders have obtained the consent of the receivers.

Xi Guohua, Vice Minister of MII, said that MII would improve administration over the information network, including the Internet, mobile communications, and the telecom network. (*China Launches Crackdown on Junk E-Mail*, XINHUA NET, Feb 21, 2006, [http://news.xinhuanet.com/english/2006-02/21/content\\_4209016.htm](http://news.xinhuanet.com/english/2006-02/21/content_4209016.htm).) (Rui Wei, 7-9864, [rwei@loc.gov](mailto:rwei@loc.gov))

### CHINA – New Regulation on Tours to Taiwan

Chen Yunlin, director of the Taiwan Work Office of the Central Committee of the Communist Party of China, said on February 22, 2006, that the National Tourism Administration and some other departments are drafting a regulation on Chinese mainland residents' travel to Taiwan; the regulation will be released soon.

The drafting has been underway since the ban on mainland residents' tours to Taiwan was removed on May 3, 2005. When meeting with representatives of Taiwan's Kuomintang (KMT or Nationalist Party), headed by KMT legislative leader Tseng Yung-Chuan, Chen said the regulation is another important step in promoting mainland citizen's tours of Taiwan. (*Regulation on Chinese Mainland Residents' Tour to Taiwan to Be Released: Official*, PEOPLE'S DAILY, Feb. 22, 2006, [http://english.people.com.cn/200602/22/eng20060222\\_244967.html](http://english.people.com.cn/200602/22/eng20060222_244967.html).) (Rui Wei, 7-9864, [rwei@loc.gov](mailto:rwei@loc.gov))



## HONG KONG – Amended Anti-Piracy Laws to Be Tabled

The Government of the Hong Kong Special Administrative Region recently proposed amendments to the current laws against piracy that would make photocopying of newspapers, magazines, and books in large quantities a criminal offense. Vendors would have to obtain permission before renting out films, and technology designed to circumvent copyright laws would be banned. The amendments will reportedly be tabled in the Legislative Council at the end of March 2006. According to Joseph Wong, Secretary for Commerce, Industry and Technology, the main purpose of the bill is to enhance copyright owners' protection, but at the same time address the reasonable interests of users, in particular those in the education sector. (*Hong Kong Proposes Tough New Anti-Piracy Laws*, RTHK RADIO 3, Mar. 16, 2006, OSC No. CPP20060316950001.)

It may also be noted that on January 26, 2006, the Hong Kong Excise & Customs Department, the Motion Picture Association (MPA), and six other industry representatives announced the renewal of the Anti-Piracy Reward Scheme (launched in 1998). An MPA press release states that the scheme is “designed to encourage individuals to support law enforcement efforts in stamping out copyright piracy” by providing “significant cash rewards to people who provide information that leads to the arrest of copyright infringers involved in the production, distribution and/or sale of pirated optical discs.” The MPA, headquartered in Encino, California, “supports and operates a number of anti-piracy reward schemes in the Asia-Pacific region,” according to the announcement. (Press Release, MPA, MPA Supports Renewed Government Anti-Piracy Efforts in Hong Kong (Jan. 26, 2006), [http://www.mpaa.org/press\\_releases/2006\\_01\\_26\\_hk.pdf](http://www.mpaa.org/press_releases/2006_01_26_hk.pdf).) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

## HONG KONG – Political Refugee Scores a First in Asylum-Seeking Process

In reportedly the first case of its kind in Hong Kong, a political refugee and former torture victim brought an unprecedented judicial review before the High Court for what the plaintiff described as inadequate government provision during the asylum-seeking process. On February 28, 2006, the plaintiff, who is from Cameroon, reached a compromise with the Social Welfare Department (SWD) under which he will be provided with food and shelter while he seeks protection as an asylum seeker or claimant under the U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. When the plaintiff arrived in Hong Kong in 2003 and sought assistance from the SWD, he was only given two five-kilo bags of rice and several cans of food, without any accommodation or place to cook the food or even a can opener. He filed the judicial review against the SWD on December 23, 2005. Under the official ruling on the case, High Court Judge Anselmo Reyes adjourned it without an assigned date to return, which allows both sides the right to appeal if any unforeseen issues arise.

According to the plaintiff's lawyer, Philip Dykes, while the agreement reached is reasonable, there “are at least 200 other torture victims seeking claims in Hong Kong, none of whom have been dealt with properly.” Mark Daly, a human rights lawyer who is handling some of the other cases filed in court, stated “[t]his case was exceptional because it was the first one to take the Social Welfare Department to court.” The true test of the government's willingness to provide adequately for asylum seekers, he noted, will come in rulings on future cases. Because some of the torture cases take two years or more, Daly posited, “[t]he issue is what is the person supposed to do? Starve on the street while the government interviews him to assess if he will face torture back home?” (*Political Refugee Scores a First in Hong Kong*, THE STANDARD, Mar. 1, 2006, CPP20060301515029.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)



## INDONESIA – Porn Bill Controversy

The Members of the Indonesian House of Representatives have been visiting various regions of the country to assess public opinion on a draft anti-pornography bill. The Chairman of the special committee formed in September 2005 to work on the bill, Balkan Kaplale, has stated that the bill is needed and that the recent natural disasters that have hit the country were “a warning from God.” He has described the bill as part of an effort to “strengthen the moral fiber of the nation.” Others, particularly groups from Bali and Papua, have stated that eroticism and sensuality are part of their culture, and they therefore object to the bill as currently drafted. Some protestors have threatened to seek independence from Indonesia if the proposal is not revised. Reactions to the draft in part reflect the religious differences between predominantly Hindu Bali and the majority-Moslem regions of the nation.

The bill, which contains eleven chapters and ninety-three articles, was first created in 1999, and it was put aside until pressure from Muslim-based political factions revived it last year. Among its provisions are regulations on public dress and restrictions on nudity in the media and in art. If it becomes law as currently written, artists could be held criminally responsible for nude works, and women could be prosecuted for indecency for having bare shoulders in public. The penalties would include imprisonment or fines of up to two billion rupees (about US\$217,500). (*Cleric, Legislator Say Porn Bill Needs More Consultation & Details Still Fuzzy on Changes to Porn Bill*, JAKARTA POST, Mar. 7, 2006, Open Source Center No. SEP20060307014004.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

## JAPAN – Local Voters Reject U.S. Navy Relocation Plan

The realignment plan for U.S. military forces in Japan is a part of the U.S. global military transformation plan. Currently there are 3,500 troops, including 3,000 U.S. Marines, and fifty-three aircraft at Iwakuni Marine Corps Air Station in Yamaguchi Prefecture. In a plebiscite in Iwakuni City on March 12, 2006, eighty-nine percent of voters were against the part of the realignment plan that affects them. Under the plan, fifty-seven U.S. Navy planes and 1,600 personnel will be moved from Atsugi Base in Kanagawa Prefecture to Iwakuni. The referendum, however, has no legally binding status. Prime Minister Junichirō Koizumi said his government would not change the U.S. military realignment plan despite the plebiscite result. The government is working toward finalizing the plan by the end of March 2006. (*Koizumi syusyō Iwakuni iten keikaku no henkō kangaenai: jūmin tōhyō kekka* [Prime Minister Koizumi would not change the U.S. troop realignment plan after the majority rejection in the referendum], MAINICHI NEWSPAPER, Mar. 13, 2006 (on file with authors).) (Akiko Nishikawa & Sayuri Umeda, 7-0075, sume@loc.gov)

## JAPAN – Lower House Approves 79.69 Trillion Yen Budget

Japan’s House of Representatives, on March 2, 2006, approved a 79.69 trillion yen (about US\$683.5 billion) draft budget for fiscal year 2006 that would cut outlays to reflect government efforts at fiscal reform. The plan falls below 80 trillion yen for the first time in eight years to tackle the country’s public debt of 542 trillion yen. The House of Representatives is superior to the House of Councillors when the Diet approves the budget. (*06 nendo yosan an futsuka yū ni syūin tsūka yosan-i de shitsugi* [House of Representatives approves draft budget for Fiscal Year 2006 on March 2], ASAHI NEWSPAPER, Mar. 2, 2006, (on file with authors).) (Akiko Nishikawa & Sayuri Umeda, 7-0075, sume@loc.gov)



**KOREA, SOUTH – Ruling on Online Defamation**

The Supreme Court of the Republic of Korea, on February 20, 2006, ruled that re-posting and distributing groundless abusive comments about others on the Internet constitutes slander. The Court found in favor of four executives of a start-up company in their suit against a minor shareholder for distributing slanderous information about them on the web. Upholding a lower court decision, it ordered the defendant to pay W5.5 million (US\$5,500) in compensation. (*Court in Landmark Ruling on Online Defamation*, DIGITAL CHOSUN ILBO, Feb. 20, 2006, <http://english.chosun.com/w21data/html/news/200602/200602200035.html>.)  
(Sayuri Umeda, 7-0075, sume@loc.gov)

**KOREA, SOUTH – Severe Punishment for Sex Offenders**

The recent rape and murder of an eleven-year-old girl by a man with a history of sexually abusing minors has added momentum to the South Korean Government's initiative for new and severe punishment of sexual offenders. The Government and the ruling Uri Party decided to establish a DNA database of perpetrators of sexual violence. They will also work to introduce a law that allows personal information about sex offenders to be made public to a greater extent than currently permitted and that restricts their employment. They also discussed some measures to improve conditions during investigations and trials for children and women who are victims of sexual abuse. Victims who are children will be entitled to have a public defender and to provide their testimony on video. (*Gov't Launches Major Crackdown on Sex Offenders*, DIGITAL CHOSUN ILBO, Feb. 24, 2006, <http://english.chosun.com/w21data/html/news/200602/200602240032.html>.)  
(Sayuri Umeda, 7-0075, sume@loc.gov)

**NEW ZEALAND – Bill to Implement the Optional Protocol on Torture**

On March 15, 2006, the Government of New Zealand introduced a bill (Bill 26-1, 48<sup>th</sup> Parl. 1<sup>st</sup> Sess.) to amend the country's Crimes of Torture Act. (41 R.S.N.Z. 361). The purpose of this bill is to implement the provisions of the Optional Protocol to the Convention Against Torture and Other Forms of Inhumane or Degrading Torture or Punishment. New Zealand was a major proponent of the Optional Protocol, which calls for regular visits to correctional facilities by teams of inspectors composed of international and national representatives. Within New Zealand, the Police Complaints Authority has primary jurisdiction for investigating allegations of abuse. The country's Ombudsman also has authority to investigate complaints about the infliction of torture. The bill would allow representatives of the United Nations Commission on Human Rights to investigate complaints. In enacting the Optional Protocol, New Zealand hopes to encourage other governments to follow suit and thereby reduce torture in countries where it is more widely practiced.  
(Stephen Clarke, 7-7121, scla@loc.gov)

**PHILIPPINES – State of National Emergency**

On February 24, 2006, Philippines President Gloria Macapagal Arroyo declared a state of emergency after security forces thwarted what they said was a plot to overthrow her. She said the military had quashed a coup plot by some military officers and their men. Brigadier General Danila Lim, head of the elite scout rangers, was arrested in connection with the alleged plot; Marine Colonel Ariel Queribin was being sought. Queribin later turned up on Philippine TV saying he knew nothing of a coup plot and was not on the run.



Coup rumors have circulated in the Philippines in recent weeks amid widespread calls for Arroyo to resign over questions about the legitimacy of her 2004 re-election. During the vote count, Arroyo was tape-recorded talking to a senior election official, which opposition leaders say is evidence she manipulated the outcome. The President has denied any wrongdoing, and the Philippines' Congress threw out impeachment charges against her in September 2005, after her allies in the House of Representatives used a technicality to block the complaints. Nevertheless, calls for her to resign have continued. (President Gloria Macapagal-Arroyo, Proclamation No. 1017 Declaring a State of National Emergency, Office of the President, Republic of the Philippines (Feb. 24, 2006), <http://www.op.gov.ph/news.asp?newsid=14515>; *State of Emergency in Philippines*, CNN.COM, <http://www.cnn.com/2006/WORLD/asiapcf/02/24/philippines.arroyo/index.html> (last visited Mar. 20, 2006).)

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### TAIWAN – Administrative Decree on Counter Espionage

The February 22, 2006, issue of Taiwan's *Gazette of the Office of the President* published several administrative decrees involving national security and intelligence work. Among them are the Working Measures for Intelligence Agencies to Counter Espionage, issued on May 23, 2005. The Measures, according to a National Security Bureau (NSB) official, are the prototype of a counterespionage law, and in the absence of such a law, despite their low-level status as an administrative decree, they provide the intelligence agencies with a legal foundation to rely on while surveillance of suspected targets is being conducted.

Under the Measures, intelligence agencies including the NSB can conduct surveillance and monitoring of government intelligence personnel and of those who assist them, who show signs of being absorbed and used by the People's Republic of China (PRC). If the agencies obtain information that suspected targets show signs of selling internal secrets, meeting with PRC spies, handing over information, or engaging in unusual monetary transactions, they can arrest the suspects and conduct an investigation through techniques that include lie detection. The NSB can authorize various intelligence agencies to engage in counterespionage to persuade suspected PRC agents to defect and work for Taiwan. If such persons produce concrete results as double agents, the NSB can file a report and appeal to military and judicial authorities to exempt or suspend them from prosecution or mitigate punishment or even exempt them from it. (*Taiwan: Draft NSB Law to Allow Reducing Sentences of Double Agent Spies*, TZU-YU SHIH-PAO, Mar. 2, 2006, Open Source Center No. CPP20060302310001; Office of the President, Republic of China, 6676 GAZETTE OF THE OFFICE OF THE PRESIDENT (Feb. 22, 2006), <http://www.president.gov.tw/php-bin/dore2+/list.php4?section=6&path=../prez.>)

(Wendy Zeldin, 7-9832, [wzel@loc.gov](mailto:wzel@loc.gov))

### TAIWAN – Airport Media Restrictions

The Taiwan Government recently announced a plan to cancel, as of March 1, 2006, the permanent press cards with which journalists can enter controlled areas at Chiang Kai-shek International Airport. According to Interior Minister Lee Yi-yang, the purpose of the decision is to maintain airport order and safety, to prevent the unnecessary exposure of government officials' secret visits abroad and of foreign political figures' unannounced visits to Taiwan, and to keep the press from disturbing passengers. Under the new plan, reporters must apply for a press pass in advance, on a case-by-case basis, before they can enter controlled areas at the airport. Hu Ya-ping, Deputy Director



of the Aviation Police Office (APO) under the National Police Administration, stated that while in principle specific controlled areas will not be open to reporters, he supports news coverage on certain conditions, e.g., on matters such as government leaders' open travel abroad, charter flight services between Taiwan and mainland China, and airport quarantine measures.

Journalists stationed at the airport have strongly protested the new policy on grounds that it will restrict freedom of the press. The airport press club reportedly issued a statement to the effect that the Government should not invalidate airport reporters' permanent press cards unless their news coverage will impair national security and expressed the hope that the APO would make a list of matters that cannot be covered. (*CNA: Experts Try to Balance Airport Safety with Press Freedom*, CENTRAL NEWS AGENCY, Feb. 25, 2006, Open Source Center No. 20060225968033.)  
(Wendy Zeldin, 7-9832, wzeld@loc.gov)

### **TAIWAN – Cabinet Reform Under Consideration**

According to a press release issued on February 26, 2006, Taiwan Premier Su Tseng-chang has instructed the Cabinet-level Research, Development, and Evaluation Commission (RDEC) to push through the current legislative session a landmark revision of the Organic Law of the Executive Yuan (Cabinet). The Premier has listed the revised Law as a “top priority” bill for enactment during the ongoing session. The revision would cut the number of ministerial-level units, trim the working staff of the central government, and seek to better utilize the overall resources of the government, thereby improving Taiwan's national competitiveness. At present the Cabinet has thirty-six ministries and councils, with about 230,000 employees as of 2004. In the last legislative session, legislators had reached consensus to establish fifteen ministries and six councils.

The amendment has reportedly been discussed for almost two decades. In November 2005, it was made subject to a standard four-month negotiation period because the various political parties were unable to agree on the final details of the amendment. It remains unclear whether their differences can be resolved before the expiration of the negotiation period in March 2006. (*China Post: Gov't Pushes for Enactment of Organizational Reform Bill*, THE CHINA POST, Feb. 27, 2006, Open Source Center No. CPP20060227968007; *Taiwan News: Uncertainty Looms over Overhaul of Executive Branch of Government*, TAIWAN NEWS, Feb. 27, 2006, Open Source Center No. CPP20060227968027.)  
(Wendy Zeldin, 7-9832, wzeld@loc.gov)

### **TAIWAN – Company Law Amended**

Taiwan's Company Law was amended on February 3, 2006, to address issues involving company reorganization. The amendments specify that: 1) the provisions on the process of publishing new stock shares will not apply to a company's reorganization (art. 267); 2) where there are several reorganization supervisors, the supervision and execution of the reorganization will be approved by a majority vote of the supervisors (art. 289); 3) the provisions of article 30 on prohibitions against certain persons serving as company executive will be applicable to the company's reorganization manager (art. 290); 4) after approval of the reorganization by a court decree, the company will post the decree on the company bulletin board (art. 292). In addition, the amendment deletes provisions stating that the company's reorganization plan will be approved by more than two thirds of the total number of votes at meetings of each group of interested parties (art. 302) and adds a provision on the circumstances under which the court may, on request or at the court's discretion, terminate the company's reorganization



plan (art. 306). (ZONG-TONG FU GONG-BAO [THE GAZETTE OF THE OFFICE OF THE PRESIDENT], No. 6674 (Feb. 3, 2006), Global Legal Information Network, GLIN ID 174388, <http://www.glin.gov/view.do?documentID=174388&summaryLang=en&fromSearch=true>.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

### TAIWAN – Expanded Use of Juries Planned

A senior official confirmed on March 6, 2006, that Taiwan's Judicial Yuan plans to gradually implement a new system allowing the public to participate in trials for some cases and to render verdicts. It is believed that this change will bolster the confidence of the public in the judicial system and enhance the transparency and democratization of the judicial process

Only major criminal cases will be jointly tried by jurors and judges. The Judicial Yuan will study the implementation of jury systems in other countries and draft a law on the subject after discussions with experts and representatives from the public. (*Citizens May Serve as Jurors in Court Trials*, THE CHINA POST, Mar 7, 2006, <http://www.chinapost.com.tw/taiwan/detail.asp?ID=78172 &GRP=B>.) (Rui Wei, 7-9864, rwei@loc.gov)

### TAIWAN – Fines for Bird Feeding

The Department of Environmental Protection of the Taipei, Taiwan, city government announced on March 14, 2006, that the public should avoid feeding pigeons and other wild birds in Taipei's parks and other open spaces or risk fines of up to NT\$6,000 (US\$185). According to the officials, March and April are high-risk periods for the spread of avian influenza, and so close contact with wild birds should be avoided. Persons who feed pigeons and other wild birds in the city's parks, plazas, and other open spaces will be given a warning for the first offense; if they continue to feed the birds, they face being fined. The officials indicated that although Taiwan is free of bird flu, the threat of a pandemic still exists. They stated that they had increased patrols in the parks and plazas since February 16 and issued six warnings. (*Taiwan Quick Take: Bird Feeders Face Fines*, TAIPEI TIMES, Mar. 15, 2006, at 3, <http://www.taipeitimes.com/News/taiwan/archives/2006/03/15/2003297395>.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

## EUROPE

### AUSTRIA – Arbitration

On January 13, 2006, Austria enacted an Arbitration Reform Act (BUNDESGESETZBLATT I 7/2006) that modernizes Austrian arbitration law. The Act applies to all arbitrations located in Austria, including international arbitrations. The Act streamlines proceedings by granting access to the ordinary courts at the beginning of an arbitration proceeding to settle disputes over the arbitral tribunal's jurisdiction and by limiting the period for challenging an award to three months from the time of its issuance. Judicial review of an arbitral award is provided only for a limited list of grounds that include disputes on jurisdiction, violations of Austrian public policy, fraudulent conduct on the part of the arbitrators or the parties, and matters that cannot be settled by arbitration. According to the Act, arbitration is not permissible for disputes on domestic relations and on dwellings governed by Austrian laws on rent control and subsidized housing. The Act will become effective on July 1, 2006. (Edith Palmer, 7-9860, epal@loc.gov)



### **CZECH REPUBLIC – Biometric Data on Passports**

On March 14, 2006, the Czech Chamber of Deputies passed a law incorporating biometric elements in travel documents. The Chamber version included modifications to the bill introduced by the Senate, and so the next step is review by the President, Vaclav Klaus. If the law comes into force, digital photos will be used beginning in September 2006, and digital fingerprints will be introduced in May 2008. The goal is to increase safety standards for passports. Current documents that lack the biometric features will remain valid for their original time period. (*Czech Parliament Passes Law Introducing Biometric Data into Passports*, CZECH HAPPENINGS, Mar. 14, 2006, Open Source Center No. EUP20060316081008.)

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### **CZECH REPUBLIC – Law on Registered Partnerships**

On March 15, 2006, the Czech Chamber of Deputies, the lower house of the parliament, passed a law on registered partnerships. The bill allows partnership unions to be listed on citizens' identity cards and has provisions on establishment and dissolution of such unions. It ensures that, like traditionally married couples, the partners have the right to medical information about each other and to inherit property. Should the bill become law, the partners would have the mutual obligation to pay maintenance and would be allowed to raise children together. The bill does not permit homosexual couples to adopt.

Gay and lesbian organizations in the country welcomed the bill. Slavomir Goga of the Gay and Lesbian League said, "I cannot express how terribly happy I am after so many years, after such an effort. ... I'd like to thank all the deputies who raised their hands for it irrespective of party affiliation." (*Czech Gays Happy After Parliament Passes Law on Registered Partnership*, CTK, Mar. 15, 2006, Open Source Center No. EUP20060315950108.)

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### **DENMARK – Amendments to Criminal Code Proposed to Fight Terrorism**

Following several terrorist attacks around the world in 2005, the Danish Government requested that the Danish Standing Committee on the Criminal Code consider what legal changes needed to be implemented in order to ratify the Council of Europe Convention on the Prevention of Terrorism and the United Nations International Convention for the Suppression of Acts of Nuclear Terrorism. Furthermore, the Danish Minister of Justice asked that the Committee consider whether the Criminal Code's anti-terror regulations, together with other criminal legislation, provided enough protection against terrorism.

In its report presented in March 2006, the Committee proposes that new rules be adopted into the Criminal Code criminalizing the recruitment and training of others to commit a terrorist act. Such a crime would be punishable by imprisonment of six to ten years and, under certain especially serious circumstances, up to sixteen years. The Committee also proposed that it would become a criminal offense to allow oneself to be recruited or trained to commit a terrorist crime, punishable by up to six years in prison.

New rules have also been proposed by the Committee on the possession and use of nuclear materials with the intent to hurt other people or to seriously damage other people's property and the



environment. (Press Release, Ministry of Justice, Strafbart at Hverve eller Oplære til Terror (Mar. 9, 2006), available at <http://www.jm.dk/wimpdoc.asp?page=document&objno=75030>.)  
(Linda Forslund, 7-9856, lifo@loc.gov)

### ENGLAND AND WALES – Parents Win Right-to-Life Case for Baby Son

In a landmark case before the High Court of Justice in England and Wales, a judge has ruled that a baby with an incurable and degenerative muscle-wasting disease should be kept alive on a ventilator in accordance with the wishes of his parents. Doctors in this case have said that the baby has an “intolerable life” as he is unable to move, breath, or even swallow on his own and must undergo several painful procedures each day. The judge noted,

It is indeed a helpless and sad life but that life does in my view include within it benefits. It is impossible to put a mathematical or any other value on the benefits, but they are precious and real and they are the benefits M was destined to gain from his life ... I do not think that the perceived advantage of a “good death” can yet tip the scales so that the benefits of survival and life itself are outweighed.

(Maxine Frith, *Disabled Baby Must Be Kept Alive, Judge Rules*, INDEPENDENT, Mar. 16, 2006, at 12.)  
(Clare Feikert, 7-5262, cfei@loc.gov)

### FINLAND – Patent Law Treaty Joined

On March 6, 2006, Finland joined the Patent Law Treaty. The Treaty, which is administered by the World Intellectual Property Organization, entered into force in April 2005. To date, thirteen countries (including Finland) have joined the Treaty. The purpose of the Patent Law Treaty is to harmonize procedures for patent applications. The Finnish Patents Act and Patents Decree have been amended as a result of Finland joining the Treaty. (Press Release 037/2006, Ministry of Trade and Industry, Finland Joins Patent Law Treaty Today, 6 March 2006 (Mar. 6, 2006), available at <http://www.valtioneuvosto.fi/ajankohtaista/tiedotteet/tiedote/en.jsp?oid=150187>.)  
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### FRANCE – Decree on Stem Cell Lines from Human Embryos

The Bio-Ethics Law of August 2004 prohibits research on human embryos. However, it provides that, as an exception to the general rule and for an experimental period of five years, “research may be authorized on embryos and stem cells when such research may result in major therapeutic benefits and on the condition that there is no other alternative method of research available and having comparable effectiveness.” The Law further states that a decree would set forth the constraints of such research. Eighteen months later, the decree has finally been published. It enables French scientists to work on stem cell lines derived domestically from unused embryos from in vitro fertilization and on stem cell lines from abroad created under the same conditions. During the next five years, starting from the date of publication of the decree, researchers can use embryos from consenting couples undergoing in vitro fertilization if the couples do not plan to use them or if the embryos have been diagnosed with a disease or malformation. The Agence de la Biomédecine will issue the authorizations. This agency intends to limit the number of authorizations each year to better control the process and avoid any abuses. (Press Release, Ministère de la Santé, Publication du décret relatif à la recherche sur l’embryon humain et les cellules souches embryonnaires (Feb. 7, 2006), [http://www.sante.gouv.fr/htm/actu/31\\_060207c.htm](http://www.sante.gouv.fr/htm/actu/31_060207c.htm).)

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### FRANCE – First Employment Contract

On March 9, 2006, the French Parliament adopted, as part of a broader law on equal opportunity, the “First Employment Contract” (*contrat de première embauche*, CPE). The CPE is a new work contract for individuals under twenty-six years of age, with a two-year trial period. During that period, employers could terminate the contract at will. The aim of the government was to tackle high-rate unemployment among youths, hoping to encourage companies to hire them by making it easier to fire them. The law was not promulgated, however, as its constitutionality was challenged before the Constitutional Council, a body entrusted with expressing an opinion on the constitutionality of laws before they come into effect.

Adoption of the law resulted in nationwide demonstrations by students and trade unions, who called on the government to withdraw the CPE provision. Unions estimated that 1.5 million persons took part in the demonstrations, while the Ministry of Interior claimed that the overall turnout was just over 500,000. In the end, the government backed down from promulgating the law. (National Assembly, *Projet de loi pour l'égalité des chances*, <http://www.assemblee-nationale.fr/12/ta/ta0548.asp> (last visited Mar. 21, 2006); *CPE: les syndicats appellent à une journée d'action avec des arrêts de travail le 28 mars*, LE MONDE, Mar. 20, 2006, <http://www.lemonde.fr/> (archives).) (Nicole Atwill, 7-2832, natw@loc.gov)

### FRANCE – Homosexual Parents May Extend Parental Rights to Partners

On February 24, 2006, the first civil chamber of the *Cour de Cassation* (France's highest judicial court) authorized two homosexual women to jointly exercise parental rights over the two girls, aged six and three, of one of the partners. After living together for ten years, the two women had legalized their union in 1999 by signing a Civil Solidarity Pact (PACS) registered at the competent court (France does not authorize homosexual marriage). One of the partners had given birth to two daughters through artificial insemination, and only the birth mother had parental rights.

The birth mother who had parental rights sought an authorization from the lower court to share parental rights with her partner. The lower court denied the request, but the appeals court ruled in her favor, stating that the absence of a legal father left the girl at risk in case of incapacitation of the birth mother. The General Prosecutor appealed the decision. The *Cour de Cassation* agreed with the appeals court and found that “the Civil Code is not opposed to a mother, as sole holder of the parental authority, delegating all or part of the duties to the woman with whom she lives in a stable and continuous union, when circumstances required it and when such measure conforms to the best interest of the child.” (Anne Chemin, *La Cour de Cassation autorise, pour la première fois, l'homoparentalité*, LE MONDE, Feb. 26 & 27 2006, at 9.) (Nicole Atwill, 7-2832, natw@loc.gov)

### FRANCE – Report on the Fight Against Racism, Anti-Semitism, and Xenophobia

On March 21, 2006, the International Day for the Elimination of Racial Discrimination, the National Consultative Commission on Human Rights submitted to the Prime Minister of France its 2005 Report on the Fight against Racism, Anti-Semitism, and Xenophobia. The report noted that racist or anti-Semitic violence and threats were down from 1,574 acts in 2004 to 974, a decrease of thirty-eight percent. Anti-Semitic acts saw the greatest decrease, down by forty-eight percent.



However, these figures mask an evolution in overall sensitivity to racist issues that the Commission finds alarming, as they also show that one respondent out of three consider himself/herself at least somewhat racist, an eight percent increase. In addition, only thirty-two percent said they would report racist behavior to the police, as opposed to fifty percent the previous year. The Commission contends that there is a “lifting of a taboo” against racist inclinations and a growing indifference to “racist manifestations.” Fifty-six percent of French people estimate that there are too many foreigners in France, an eighteen percent increase. Sixty-three percent consider Muslims a group apart, while the feeling that “the French Muslims are as French as others” clearly declined (sixty-six percent, a drop of eleven points).

While the Commission praises the overall police response to racist violence and threats, it also concludes that more could be done to combat and prosecute racism. (Leatitia Van Eeckhout, *En 2005, les opinions racistes ont gagné du terrain en France*, LE MONDE, Mar. 21, 2003, <http://lemonde.fr/archives/>.)

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### FRANCE – White Paper on Domestic Security and Terrorism

On March 7, 2006, Prime Minister Dominique de Villepin approved a White Paper on domestic security and terrorism aimed at analyzing the terrorist threat to France and Western countries and the responses available in case of an attack. The *Documentation Française*, a government documentation center, will publish the paper in the coming weeks. The paper states that France has always been among the potential targets of global terrorism and lists the charges usually leveled at France:

a past portrayed as particularly grave (from the Crusades to colonization); the military presence in Muslim lands (for example, in Djibouti), explicit support for “apostate” regimes, in particular in the Maghreb; the explicit secular nature of the republican state; the intention to organize Islam according to a national model (with the establishment in 2003 of the French Council of the Muslim Faith); the determination of the judiciary and intelligence services to neutralize terrorists and their accomplices in advance.

Two additional factors are a March 15, 2004 law prohibits conspicuous religious symbols in public schools and the French military presence in Afghanistan. The paper addresses, in strong terms, the Iraqi war and also concerns over the role that Muslims who left France to fight in Iraq could play upon their return to France in the training of young Muslims.

The White Paper defines seven scenarios to test the current anti-terrorist measures. It recommends the improvement of the *Vigipirate* plan (anti-terrorist security plan) and Orsec plans (rescue plans). It proposes improving the fight against the spread of extremist ideas, as it concludes that the current law is inadequate. The offense of “encouragement and defense of terrorist acts” is at present punishable by a five-year term of imprisonment and a €45,000 fine (about US\$54,900) under the 1881 amended Law on the Press. One proposal is to include this offense in the Penal Code, which would make it possible to drop the condition that the offense be related to something that has been published, and extend its scope to proselytism having the aim or effect of causing violent acts.

The White Paper also proposes the establishment of a specific legal regime to respond to terrorist crisis situations, in addition to the current three regimes: emergency powers, state of siege, and article 16 of the Constitution. It also recommends modifying the 1991 law governing the secrecy of electronic communications in order to enable the targeting not only of telephone numbers but also of individuals,



with every means of communication potentially available. Finally, it suggests amending the provisions covering conditions of life in prison contained in the Penal Code to combat Islamic proselytism in prisons. (Piotr Smolar, *La France se dote d'une doctrine antiterroriste*, LE MONDE, Mar. 7, 2006, <http://www.lemonde.fr/> (archives).)

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### **GERMANY – Language Requirement for Naturalization**

On October 20, 2005, the Federal Administrative Court ruled on the naturalization of two aliens (Docket No. 5 C 8.05 and 5 C 17.05) whose naturalization had been denied by the administrative agencies and the lower courts on the grounds that the petitioners did not live up to the statutory requirement of having a sufficient command of the German language (Citizenship Act, July 22, 1913, REICHSGESETZBLATT 538, as last amended by Gesetz, July 30, 2004, BUNDESGESETZBLATT I at 1950, § 11, number 1). One petitioner could speak and read German, but could not write in German. In his case, the Court reversed the lower court's ruling, thus allowing for the petitioner's naturalization on the grounds that his ability to read German was sufficient to ensure that he would be able to interact with authorities and to transact business matters, albeit with the help of someone who would write for him, since he was deemed capable of reviewing what was written in his name. The other petitioner spoke German but could neither read nor write German; in fact, he was illiterate. In the case of this petitioner, the Court upheld the lower court's denial of naturalization.

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### **GREECE – Reform of Intelligence Service**

Recently, the Greek Government submitted a bill to the Parliament in an effort to reform the Kratike Yperisia Pleroforion (Intelligence Service), because of various allegations of misconduct. This is the Government's second attempt to proceed with an overhaul of the Intelligence Service. The National Defense Ministry criticized a bill submitted almost a year ago over issues of control during wartime, and eventually the bill was withdrawn.

Under the current proposal, the scope of responsibilities of the Intelligence Service will be broadened significantly. It will assume responsibility for the security of communications and the prevention of and fight against criminal acts in cyberspace. It will be authorized to collect intelligence regarding international crime and terrorism, under the watchful eye of a parliamentary committee. Its personnel will be authorized to bear arms and to conduct undercover work with false identities, without diplomatic cover. The bill also protects the confidentiality of its personnel, with violations punished with sentences of at least six months and fines of up to one million *euros* (about US\$1.2 million). Personnel will be able to testify in trials after obtaining authorization from the Minister of Public Order. (*Greek Weekly on Plans to Restructure Local Intelligence Service*, O KOSMOS TOU EPENDHITI, Jan. 6, 2006, Open Source Center No. GMP20060109011002.)

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### **IRELAND – Competition Law Removes Ban on Sales of Groceries Below Wholesale Price**

The Irish Government signed into law a piece of legislation that removes a prohibition on selling groceries below their wholesale price. Under the previous laws, which were in existence for eighteen years, grocery suppliers could set minimum required prices. The Irish Minister of Enterprise, Trade and Employment stated that the prohibition kept price levels of groceries at an artificially high level and acted



against consumer interests. Critics say that the new law is difficult to police, with enforcement possible only once the damage has occurred. (Competition (Amendment) Bill (No. 29 of 2005); Una McCaffrey, *State Ends Ban on Below Cost Selling of Groceries*, IRISH TIMES, Mar. 20, 2006, at 3.) (Clare Feikert, 7-5262, cfei@loc.gov)

### **ITALY – Amendment to Code of Penal Procedure**

The Italian Government approved amendments to the Code of Penal Procedure that make judgments on release from a criminal charge (*sentenze di proscioglimento*) non-appealable (Law No. 46, Feb. 20, 2006). The law supersedes article 593 of the Code – cases of appeal – to state that either the prosecutor or the accused can appeal a judgment on release from a criminal charge if there is decisive new evidence. However, there is no appeal of any judgment in which the only penalty was in the form of a fine. Article 428 specifies who can challenge the judgment of dismissal of a penal action (*sentenza di non luogo a procedere*) by recourse to the Court of Cassation. Article 533 states that the judge pronounces sentence (*sentenza di condanna*) if the accused is guilty of the crime for which he is charged beyond any reasonable doubt. (GAZZETTA UFFICIALE, No. 46, Feb. 20, 2006.) (Dario Ferreira, 7-9817, dfer@loc.gov)

### **ITALY – Fight Against Sexual Exploitation of Children**

The Italian Government approved provisions against the sexual exploitation of children and child pornography via the Internet (Law No. 30, Feb. 6, 2006) by amending the following articles of the Criminal Code. Article 600-bis punishes sexual acts performed with a child between the ages of fourteen and eighteen in exchange for money or other economic profit. Article 600-ter imposes prison terms on persons who use children under the age of eighteen for pornographic exhibitions, produce pornographic material, or lead minors under the age of eighteen to participate in pornographic exhibitions; the punishment also applies to persons who offer or give others pornographic material, even if it is free of charge. Article 600-quater punishes the possession of pornographic material and virtual pornography. Article 600-septies establishes that persons convicted or penalized for one of the crimes mentioned above are permanently prohibited from performing any assignment in schools of any kind or level, as well as from engaging in any function or service in public or private institutions or structures attended mainly by minors.

In addition, the law states that tourism organizers of collective or individual travel in foreign countries are under the obligation to warn customers that the Italian law sanctions with imprisonment crimes related to child prostitution and pornography, even if perpetrated abroad. The law creates the National Center to Fight Child Pornography on the Internet to collect all information, including that gathered by agencies of foreign police and private and public bodies involved in the fight against child pornography, related to sites providing material on sexual exploitation of minors through the Internet. It also establishes, within the jurisdiction of the Presidency of the Council of Ministers' Department of Equal Opportunity, the Monitoring Center to Fight Pedophilia and Child Pornography to collect and monitor data and information related to the activities performed by all public offices in order to prevent and suppress pedophilia. Other provisions concern the obligation of providers of information services through electronic communications networks, the use of technical devices to hinder access to sites that broadcast child pornography, and financial measures to fight the sale of child pornography. (GAZZETTA UFFICIALE No. 38, Feb. 15, 2006.) (Dario Ferreira, 7-9817, dfer@loc.gov)



### ITALY – Sudden Infant Death Syndrome

The Italian Government approved a law on autopsy (*riscontro diagnostico*) for victims of sudden infant death syndrome (SIDS) and for cases of unexpected death of a fetus (Law No. 31, Feb. 2, 2006). The law states that infants who die unexpectedly within the first year of life without apparent cause and fetuses that fail to survive without apparent cause after the twenty-fifth week of gestation must be promptly subjected, with the consent of both parents, to an autopsy performed in an authorized center. The law also requires that, in order to have a complete diagnosis and for scientific purposes, specialists, using international protocols, collect, accurately register, and examine information on the pregnancy, the development of the fetus, and the delivery and, in the case of SIDS, information on the environmental and family situation in which the death occurred.

The authorized centers are to send the results of the autopsies to the first chair of the Institute of Pathological Anatomy of the University of Milan; the University will create a national data bank and send the collected data to the competent region, to the doctors in attendance, and to the parents of the victims. The national and regional health authorities are responsible for the promotion of a campaign of sensitization and prevention and for research programs. The Ministry of Health will develop the guidelines for the prevention of SIDS. Programs of continuing training in medicine will include education on SIDS for all the specialists in the sector. (GAZZETTA UFFICIALE, No. 34, Feb. 10, 2006.) (Dario Ferreira, 7-9817, dfer@loc.gov)

### ITALY – Voluntary Interruption of Pregnancy with RU 486

By virtue of the Ministerial Writ of September 21, 2005 (GAZZETTA UFFICIALE, No. 222, Sept. 23, 2005), medical trials with mifepristone, also known as RU 486, that lead to abortions and to enlistment of new patients have been suspended. An exception is made for the treatment of patients who were admitted to the hospital after they were administered the first dose of mifepristone. If a second set of pills does not cause a woman to lose her pregnancy after twenty-four hours have elapsed from her admission to the hospital, a physician must provide a detailed description of the measures that were adopted.

All patients and medical personnel must be informed of the warnings adopted by the U.S. Food and Drug Administration concerning such pills and of the inducement of abortion after a first dose of RU 486 has been administered. The Writ is intended to protect the health of women and establish procedures regarding the voluntary interruption of pregnancy. It is reported that as a result of a medical trial conducted by the St. Ann Hospital in Turin, a woman had a partial miscarriage at home, followed by a hemorrhage.

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### LATVIA – Bill Outlawing Purchase of Sexual Services

On March 23, 2006, a bill was sent to committee in the Latvian Parliament to amend the Criminal Code. Introduced by the ruling First Party of Latvia (LPP), which has a Christian orientation, the bill proposes that those purchasing sexual services be punished with fines equal to twenty-five times the minimum monthly wage, at present 2,250 *lats* (about US\$3,900). Speaking in support of the bill, MP Inese Slesere of the LPP said that prostitution had a special status in Latvia, being neither prohibited nor legalized, and she argued that the current law, which places all liability on the prostitutes, is unfair to these women, most of whom were forced into the business. Latvia would be following the examples of Finland and Sweden if it adopted the proposed punishment for the sex



workers' customers. The law would apply to tourists as well as Latvian citizens. (*LLP Introduces Bill to Latvian Parliament Outlawing Purchase of Sexual Services*, BNS, Mar. 23, 2006, Open Source Center No. EUP200603232052001.)  
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### **LATVIA – Names of KGB Agents Disclosed**

On March 9, 2006, the Juridical Committee of the Seimas (Parliament) decided to open the so-called KGB archive and publish the list of volunteer assistants to the USSR's KGB in Latvia. The list consists of 4,500 names and allegedly includes many famous national politicians and public figures. The decision prohibits publishing any comments and/or explanations regarding the list. According to the reports provided by the National Center for Documenting the Consequences of Totalitarianism, the organization which possesses the remaining former KGB documents, there are only 140 full personal files dated to the immediate pre- and post-World War II period designated for permanent preservation. The rest were transferred to Russia in the late 1980s, during the Latvian secession from the Soviet Union.

The remaining documents are registration cards, which contain incomplete information, do not identify the essence of the listed persons' relations with the KGB, and do not bear the signature of the registered individual. The existence of such a registration card does not always serve as proof of collaboration with the secret police. Taking into account that in addition to its political function during the Soviet period, the KGB was responsible for fighting organized crime, terrorism, and smuggling and for preservation of state secrets, there is the fear that some people will be wrongfully accused and collective responsibility will be introduced. It is expected that publication of this list on the eve of parliamentary elections will lead to numerous lawsuits. (N. Sorokina, *V Latvii Otkryvayut Arhivy KGB [KGB Archives Will Be Open in Latvia]*, ROSSIISKAIA GAZETA, No. 48, Mar. 10, 2006, <http://www.rg.ru/>.)  
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### **LITHUANIA – Mandatory Registration of All Gamblers**

On March 20, 2006, the Parliament of Lithuania adopted amendments to the nation's Gambling Law that provide for mandatory registration of all casino visitors. This measure was introduced with the purpose of ensuring the taxation of all winnings. The previous legislation required casino operators to register only those individuals who were successful, winning amounts equal to €1,000 (about US\$1,200) or more, or those who bought chips worth that amount.

This procedure had many loopholes and did not guarantee the necessary tax collection. The new Law will enter into force as of June 1, 2006; however, it is believed that its implementation will not improve tax collection, because customers will go to neighboring countries, which have no regulation of the kind, to gamble. (*Lithuania: Law Requires the Registration of All Gamblers*, BNS BALTIC NEWS, Mar. 20, 2006, <http://www.securities.com/>.)  
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### NETHERLANDS – Examinations for Immigrant Applicants

A new law effective March 15, 2006, requires all would-be migrants eighteen years of age and above and those coming to The Netherlands to marry a legal resident to take a 100-question “social integration examination.” Applicants must pass the examination before they are allowed to come to The Netherlands. Because many applicants, particularly young women from Morocco arriving for arranged marriages, are illiterate, they may take the examination after watching a one-and-a-half hour film.

The principal of a Rotterdam high school that serves a predominately poor and immigrant neighborhood is quoted as saying that most of his students would probably fail the test. The test also requires some facility in the Dutch language. A criminal lawyer is quoted as saying that denying entry to those not proficient in the language is contrary to United Nations and European Union human rights conventions. He also points out that much university teaching is actually done in English and that no one requires that foreign managers of multinational companies be able to speak Dutch. (*Illiterates from Rif Do Not Know About VOC Ships*, HANDELSBLAD, Mar. 15, 2006, Open Source Center, No. EUP2006316024004.)

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### NETHERLANDS – Money Laundering Estimates

The Netherlands’ tax laws are very favorable to foreign-owned holding companies, which can reduce their tax costs if they make their headquarters in the country. A February 24, 2006, study by the Utrecht School of Economics argues that the same legal structure that promotes foreign investment also serves to promote money laundering. The report estimates that between eighteen and twenty-five billion *euros* (about US\$20.9 to 30.5 billion) are laundered in The Netherlands every year. This amounts to four to five percent of the country’s GDP. Most of the money is estimated to come from the United States, but the report points out that the amount of money coming from The Netherlands Antilles is about the same as the development aid provided by the Dutch Government. (*Growth Generated by Criminal Money*, HANDELSBLAD, Feb. 27, 2006, Open Source Center No. EUP20060228024002.)

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### NORWAY – Action Plan to Implement UN Resolution on Women, Peace, and Security

In order to implement the United Nations Security Council Resolution 1325 on Women, Peace, and Security, the Norwegian Government has adopted an action plan that was launched on March 8, 2006. The Government wishes to increase the participation of women in military and civilian peace operations, mediation, and peace building. The Government also intends to further protect women’s human rights in conflict areas. (Press Release No 35/06, Ministry of Foreign Affairs, Government Intensifies Efforts to Increase Women’s Participation in Efforts to Promote Peace and Security (Mar. 9, 2006), available at <http://www.odin.no/ud/english/news/news/032171-070738/dok-bn.html>.)

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## POLAND – Abortion Ban Challenged

A Polish woman challenged the Polish ban on abortion before the European Court of Human Rights on February 7, 2006. (*Woman Sues Polish Government over Abortion Law*, THE JAMAICA OBSERVER, Feb. 08, 2006, <http://www.ziplaw.com/znews/2006/02/000355.html>). She is challenging the denial of an abortion under Poland's law banning abortion (Law of Aug. 30, 1996, Dz. U. 1996, nr. 139, poz. 646). When Alicja Tysiac was pregnant for the third time, several ophthalmologists warned her that her eyesight would be seriously impaired if she carried her pregnancy to term. In spite of that, she was refused an abortion certificate and a gynecologist did not permit the termination of her pregnancy. After the delivery in November of 2000, she suffered a retinal hemorrhage, and physicians diagnosed her as significantly disabled. A Polish district prosecutor abandoned a case against the doctor on the grounds that there was no connection between the gynecologist's decision and the complainant's deterioration of eyesight. (Paulina Nowosielska, *Sad nad Polska aborcja: Pierwsza Polka broni swych praw przed Trybunalem w Strasburgu*, PRZEGLAD, <http://www.przeglad-tygodnik.pl/index.php?site=kraj&name=2776> (last visited Mar. 20, 2006); *Alicja Tysiac Against the Polish Government in the European Court of Human Rights*, ASTRA, Feb. 7, 2006, <http://www.astra.org.pl/print.php?what=news&id=18>; *Written Comments by Center for Reproductive Rights Pursuant to Rule 44, § 2 and § 4 of the Rules of the Court 21 September 2005*, CENTER FOR REPRODUCTIVE RIGHTS, [http://www.crlp.org/pdf/crt\\_092105\\_POLANDamicibrief1.pdf](http://www.crlp.org/pdf/crt_092105_POLANDamicibrief1.pdf) (last visited Mar. 20, 2006). (Grazyna Kolondra, Visiting Scholar in Residence, 7-4988, gkol@loc.gov)

## POLAND – British-Iranian Citizen to Be Extradited to the United States

A British-Iranian citizen who sold Berkut 360 aircraft technology from the United States to Britain and re-exported it to Iran in violation of the embargo imposed on trade with Iran was detained in Warsaw in February 2006, as a result of an operation carried out with the U.S. intelligence services. After an international arrest warrant was issued against Ali Asghar Manzarpour in February 2006, a Warsaw regional court ruled that the extradition of the detainee is allowable. Manzarpour's defense mentioned that the court's decision would be appealed once the reasoning for the ruling is published. (*Sad Ekstradycja Iranczyka do USA dopuszczalna*, POLSKIE RADIO WROCLAW, Feb. 2, 2006, <http://www.prw.pl/index.jsp?art=53718>; *Polish Court Says Extradition of British Iranian Citizen to USA Admissible*, WARSAW PAP, Feb. 2, 2006, Open Source Center No. EUP20060202950103). (Grazyna Kolondra, Visiting Scholar in Residence, 7-4988, gkol@loc.gov)

## POLAND – Police Surveillance Regulations Declared Unconstitutional

The Polish Constitutional Tribunal ruled recently that the provisions of the Police Act of April 6, 1990 (Dz. U. 1990, nr. 30, poz. 179), regarding wiretapping, tracking, and monitoring of correspondence and packages without court approval, are unconstitutional (Dz. U. 2005, nr. 250, poz. 2116). The regulation allowing wiretaps with the consent of the sender or the receiver of the information was also held to be unconstitutional, since the parties might be manipulated or personally interested in the outcome of the investigation. Similarly, gathering of data on citizens for "detection and identification purposes" was declared to be unconstitutional, and the court directed that any information gathered by the police without court consent must be destroyed. A new Police Act is to be drafted. (*Polish Court Rules Several Polish Surveillance Regulations Unconstitutional*, GAZETA WYBORCZA, Dec. 13, 2005, Open Source Center, No. 20051214021005). (Grazyna Kolondra, Visiting Scholar in Residence, 7-4988, gkol@loc.gov)



**PORTUGAL – End of Barriers to European Union Workers**

The Secretary for European Affairs announced that as of May 1, 2006, Portugal would lift all barriers affecting the free circulation of workers coming from the eight new State Members of the European Union – the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia. The Secretary explained that the decision was based on a report prepared by the European Commission indicating that there was no negative impact on countries that adopted the same policy, while an increase in unemployment was observed in the countries that refused to allow access.

According to an Adhesion Treaty signed on April 16, 2003, the State Members have until April 30, 2006, to decide whether or not national barriers to the free circulation of EU workers will be lifted. The free circulation of people is one of the fundamental freedoms contemplated in the laws of the European Community, which guarantee to EU citizens the right to live and work in other member states. (*Fim de Barreiras à Entrada de Trabalhadores da União Europeia*, NOTÍCIAS LUSÓFONAS, Mar. 3, 2006, available at <http://www.noticiaslusofonas.com/view.php?load=arcview&article=13452&category=Portugal>.)

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**RUSSIAN FEDERATION – New Anti-Terrorism Law**

On March 3, 2006, Russian President Vladimir Putin signed the new Law on Countering Terrorism, which had been unanimously adopted by the legislature. The Law defines the legal regime of a counter-terrorist operation and establishes legal grounds for participation of armed forces in anti-terrorist operations. The Law allows the use of armed force against terrorists outside of Russian territory for air strikes and ground operations. A presidential order is required to initiate such an attack. Among other powers acquired by the armed forces in fighting terrorists under this Law is the right to shut down passenger water- and aircraft if they have been taken over by terrorists. Personal responsibility for the conduct of an anti-terrorist operation is placed on the regional head of the Federal Security Service, the former KGB. Regarding negotiations with terrorists, the Law states, “terrorists’ political demands shall not be discussed and announced.”

All restrictions on surveillance, tapping telephone conversations, and review of personal mail will be lifted in the zone of an operation for its duration, which is not defined. Resettlement of population in the operation’s zone is allowed, and the security service can use private residences and private means of transportation and communication. Because after previous terrorist attacks courts were bombarded with compensation claims from the victims, under the new Law terrorists themselves are obligated to compensate victims, and provisions allowing the confiscation of terrorists’ property will be reinstated in the Criminal Code of Russia. Observers are of the opinion that this Law is focused on killing the terrorists and does not mention that the main goal of any antiterrorist operation is to save human lives. (PARLAMENTSKAIA GAZETA (official publication) No. 32, Mar. 10, 2006, at 1.)

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**RUSSIAN FEDERATION – Prosecution Says Tsar Was Not a Victim of Political Repression**

On February 22, 2006, the Prosecutor General of the Russian Federation issued a statement denying the request of relatives of the last Russian Tsar, Nicholas II, to recognize the Tsar and his family members killed by the Bolsheviks in 1918 as victims of political repression. The Prosecutor’s office concluded that the investigation conducted did not reveal any documentary evidence of official



judicial or non-judicial decisions proving that the Tsar, Tsarina, and their three children were executed for political reasons. In the Prosecutor's opinion, even though the killings could have some underlying political reasons, the Tsar's family was the victim of a premeditated murder, because no formal charges were brought against the Tsar, and he was not officially accused of committing political crimes. Being a victim of a regular crime does not give him the right to political rehabilitation.

This decision does not take into account that the decision on the Tsar's execution was adopted and ordered by the Ural Soviet, then the regional legislative assembly, and then approved and considered politically correct by the highest Russian Government authority, the Central Executive Committee, on August 18, 1918. Observers believe that the decision to deny the rehabilitation was politically motivated and issued because of the Russian Government's fear of creating a precedent that would involve it in legal disputes with the remaining living relatives of Tsar Nicholas II. However, even in the case of a positive decision, the petitioners would not be entitled to any material rights, because, according to the Russian Law on Rehabilitation of Victims of Political Repressions currently in force, only rehabilitated individuals and their direct heirs are entitled to compensation and return of confiscated property. A similar decision was passed on March 6, 2006, in regard to more than 4,000 imprisoned Polish officers killed in 1940, in Katyn forest, by Russian police. The Prosecutor General explained this decision by referring to the absence of a formal court sentence in accordance with the Russian Criminal Code and characterized the mass execution as exceeding official powers by Russian military officials responsible for the care of the Polish contingent. According to legal analysts, both decisions demonstrate that Russia is not ready to become responsible for its past. (A. Zaitsev, *Stalin Prevysil Polnomochiia* [*Stalin Exceeded His Powers*], GAZETA.RU, Mar. 6, 2006, [http://www.gazeta.ru/2006/03/06/0a\\_191171.shtml](http://www.gazeta.ru/2006/03/06/0a_191171.shtml).) (Peter Roudik, 7-9861, prou@loc.gov)

#### **SWEDEN – Two Bills Propose Use of Coercive Measures to Combat Serious Crime**

Two government bills were presented to the Swedish Parliament on March 16, 2006, proposing the use of coercive measures to combat serious crimes. The Swedish Government has proposed that bugging be introduced in a time-limited law as a coercive measure to investigate very serious crimes. The new law, which would be effective until June 30, 2009, would allow the police to use bugging to investigate crimes that carry a minimum sentence of four years in prison. Such crimes include terrorist crimes, murder, and manslaughter, among others. Electronic surveillance could also be used to investigate crimes involving narcotics. The Government is also proposing that the police be allowed to use certain coercive measures as early as possible to prevent serious crimes. Currently these measures may only be used to investigate crimes that have already been committed. The coercive measures the police would be able to use include secret wiretapping, secret tele-surveillance, secret camera surveillance, and the surveillance of a suspect's mail. Examples of crimes that would fall under these new rules are terrorist crimes and crimes against national security, as well as murder and kidnapping if committed with the intent to influence representatives of public institutions such as judges and prosecutors.

Both of the proposed laws require that a court give permission for the police to use the coercive measures. A permit may only be given for one month at a time and only if it is of special importance for a criminal investigation or to prevent a very serious crime. (Press Release, Ministry of Justice, Kampen Mot Allvarlig Brottslighet Intensifieras (Mar. 16, 2006), available at <http://www.regeringen.se/sb/d/6437/a/60114>.)

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### SWITZERLAND – Genetically Modified Crops Banned

On November 27, 2005, the Swiss people approved a referendum that bans genetically modified crops and livestock for the next five years (Bundesbeschluss, AMTLICHE SAMMLUNG DES BUNDESRECHTS 2006 at 89). The referendum was introduced by a coalition of environmental groups, consumer protection organizations, and farmers, and it was accepted in all the Swiss cantons with an overall majority of 55.7% of the vote. The measure amends the transitional provisions of the Swiss Constitution of 1999 (Bundesverfassung, Apr. 18, 1999, SYSTEMATISCHE SAMMLUNG DES BUNDESRECHTS 1999 at 2556, as amended, art. 197 no. 7) and implements article 120 of the Constitution that contains a mandate for the protection of human beings and the environment from abusive applications of genetic engineering. In its article 104, the Swiss Constitution guarantees governmental assistance to Swiss agriculture to ensure a domestic supply of foodstuffs and to preserve national resources, the rural scenery, and a decentralized inhabitation of the country. (Edith Palmer, 7-9860, epal@loc.gov)

### TURKEY – Supreme Court Ruling on Honor Killings

Turkey's Supreme Court upheld the sentences given to three men convicted of an "honor killing" of a teenaged girl and man. In doing so the Court dismissed the argument that there was sufficient provocation in the case to constitute "instigation" and that therefore milder sentences were appropriate.

The case originated in a small town in southeastern Turkey. A fifteen-year-old girl who had been living with one man ran off with another. She was pursued by the first man and by her own relatives, who killed both the girl and her new companion. The three men were found guilty by a local court and sentenced to imprisonment. While the prosecutor had raised the issue of instigation, the Supreme Court reportedly said that the issue in the murder case was "not instigation but the inclination to sustain an evil custom which is impossible to prevent legally ...." (*Supreme Court Rules No Mitigation from Penalty Imposed on Convict in Honor Killing*, ANKARA ANATOLIA, Mar. 24, 2006, Open Source Center No. GMP20060324612005.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

### UKRAINE – More Investigative Authority for Legislature

On March 15, 2006, the Rada, Ukraine's legislature, passed a law that regulates the creation and activities of temporary investigative and special parliamentary commissions. The creation and operation of three types of commissions is foreseen: special interim investigative commissions to investigate cases of impeachment of the President of Ukraine; interim investigative commissions to investigate issues of public interest; and interim special commissions on preparation and preliminary consideration of issues involving parliamentary actions, including legislative drafting. The law stipulates the authority of special prosecutors and special investigators involved in investigation of impeachment charges, and defines the procedural rights of the parliamentary investigative commissions.

These rights include the right to request and receive necessary information from the central government and local self-government bodies; summon and interview individuals; enter enterprises and institutions and obtain their documentation without obstruction; and involve officials of the Security Service of Ukraine, the police, the tax police, and other law enforcement agencies in the investigation. The law states that all political factions in the parliament will have representation in these commissions proportional to their strength in the Rada. The law gives the parliament several choices of how to use a



commission's report. It can be sent to the Prosecutor General, the Prime Minister, or the President of Ukraine or be published in the press. (Oleksandr Sukov, *Rada Adopts Law on Parliamentary Commissions*, UKRAINIAN NEWS AGENCY, Mar. 19, 2006, <http://www.securities.com>.) (Peter Roudik, 7-9861, prou@loc.gov)

#### **UZBEKISTAN – Nationals Prohibited from Cooperation with Foreign Media**

On March 7, 2006, the rules regulating professional activities of foreign media correspondents in Uzbekistan entered into force. They replaced similar rules issued in 1998 with the same title. However, the newly passed rules are more vague and expand the list of journalists' actions that in the government's opinion may be considered a violation of Uzbek legislation and entail a ban on a foreign media outlet's work in the country. According to the rules, all foreign media and their foreign and domestic personnel must undergo special government accreditation. Accredited correspondents are prohibited from calling for a change in the existing political and constitutional system and are not allowed to interfere in the internal affairs of Uzbekistan, insult the honor and dignity of Uzbek citizens or their historic heritage, or interfere in the personal lives of Uzbek nationals. The rules do not define what might constitute such unwanted interference. Regulating interactions between foreign correspondents and Uzbek citizens, the new rules prohibit unauthorized professional contacts between correspondents and Uzbek individuals and ban locals from working for foreign media that have no formal accreditation in Uzbekistan. The Uzbek authorities recently terminated the accreditation of the BBC, RFE/RL, and Internews Agency. (*Uzbekistan: New Media Resolution Tightens the Screws*, THE TIMES OF CENTRAL ASIA, Mar. 15, 2006, Eastview subscription database.) (Peter Roudik, 7-9861, prou@loc.gov)

#### **VATICAN CITY – Copyright Extended to Papal Writings**

All the writings of Pope Benedict XVI, including homilies and speeches, have become subject to copyright protection by virtue of the Decree of May 31, 2005, of the Secretary of State, Cardinal Angelo Sodano, Entrusting the Exercise and Custody of all Deeds and Documents of the Supreme Pontiff and the Holy See to the Vatican Publishing House (The Holy See official website, May 31, 2005, [http://www.vatican.va/roman\\_curia/secretariat\\_state/2005/documents/rc\\_seg-st\\_20050531\\_decre-to-lev\\_en.html](http://www.vatican.va/roman_curia/secretariat_state/2005/documents/rc_seg-st_20050531_decre-to-lev_en.html)). On January 23, 2006, the Vatican publishing house made it clear that it will enforce the Decree of the Secretary of State. (Cindy Wooden, *Vatican Says It Will Protect Pope's Writings, Enforce Copyright*, CATHOLIC NEWS SERVICE, Jan. 23, 2006 <http://www.catholicnews.com/data/stories/cns/0600390.htm>). The edict is retroactive to the past fifty years. The official Vatican publishing house, the Libreria Editrice Vaticana, will administer rights to any documents written by Popes John Paul II, John Paul I, Paul VI and John XXIII. The Vatican wants to ensure the integrity of original texts that are attributed to the Pope and protect itself against any acts of plagiarism for profit. According to the Catholic News Service, newspapers, magazines, and bishops' conferences can still publish papal writings without having to pay royalties, as long as the Pope's words are not changed and a copyright notice is included. Publishers who reprint papal texts will be required to pay between three and five percent of the cover price to the Vatican. Legal actions will be brought against those who infringe the copyrights. (Associated Press, *Pope Turns Over Copyrights from All His Books to Vatican Publishing House*, LAS VEGAS SUN, June 1, 2005, <http://www.lasvegassun.com/sunbin/stories/nevada/2005/jun/01/060110047.html>; Nicole Winfield, *Pope Turns Over Copyrights from His Books*, ABC NEWS INTERNATIONAL, June 1, 2005, <http://abcnews.go.com/International/wireStory?id=811562&CMP=OTCRSSFeeds0312>.)

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## VATICAN CITY – Policies on Status of Women

The Vatican Information Service (VIS) of the Holy See Press Office released a communication dated March 3, 2006, on the participation of the Holy See Delegation in the fiftieth session of the Commission on the Status of Women of the Economic and Social Council of the United Nations (ECOSOC). This session, held in New York City, considered, among other things, themes from the twenty-third special session of the General Assembly, entitled “Women 2000: Gender Equality, Development and Peace for the Twenty-First Century.” The purpose of the Commission is to submit recommendations to the ECOSOC on ways to advance women’s rights and to establish balance and fairness in social and political structures.

The delegation emphasized the reality of the danger of human trafficking, which “has a particularly negative impact on women” and stressed the fact that “in armed conflicts, women and girls are also victims of systematic rape for political purposes.” The delegation issued a strong condemnation of the sexual violence frequently affecting women and girls and stressed the need to pass laws that can effectively protect them. The condemnation drew attention to “the widespread culture which encourages the systematic exploitation of sexuality and corrupts even very young girls into letting their bodies be used for profit in a world-wide three billion dollar industry.” (VIS Press Release, Intervention by the Holy See on the Occasion of the 50<sup>th</sup> Session of the Commission on the Status of Women of the ECOSOC: Address of the Holy See Delegation (Mar. 3, 2006), [http://212.77.1.245/news\\_services/press/vis/englinde.php - start.](http://212.77.1.245/news_services/press/vis/englinde.php-start)) (Dario Ferreira, 7-9817, dfer@loc.gov)

## NEAR EAST

### BAHRAIN – Committee for Application of Shari’ah Considered

The Government of Bahrain is studying a suggestion to establish a Supreme Consulting Committee for the Application of Shari’ah Rules in the State. The Bahraini Council of Ministers, on March 13, 2006, referred the proposed law to the Ministers Committee for Legal Affairs for more study. The Al-Asala parliamentary party initially submitted the proposal, in the hope that such a Committee would gradually Islamize society in educational, informational, and judicial fields. Al-Asala President Adel Al-Moawada asserted that the Bahraini laws do not conflict with Shari’ah because the Constitution clearly states that the Islamic Shari’ah is the principal source of legislation. Al-Moawada also stated that the Committee would be composed of Sunni and Shi’ah scholars to insure the application of the general principles of Shari’ah. (*Bahrain: A Movement Towards the Formation of a Committee for the Application of Shari’ah*, AL-WATAN NEWSPAPER, Mar. 13, 2006, <http://www.alwatan.com.sa/daily/2006-03-13/politics/politics04.htm>; *The Council of Ministers Approves the Establishment of a Committee for the Application of Shari’ah*, GULF NEWS, Mar. 13, 2006, [http://www.akhbaralkhaleej.com/arc\\_Articles.asp?Article=158056&Sn=BNEW&IssueID=10216.](http://www.akhbaralkhaleej.com/arc_Articles.asp?Article=158056&Sn=BNEW&IssueID=10216)) (Dr. Abdullah F. Ansary, 7-6303, aans@loc.gov)



**BAHRAIN – Shiite Religious Leaders Threaten Civil Disobedience**

The Shiite religious leadership in Bahrain increased its opposition to the proposed personal status law referred by the government to the parliament for approval and warned of civil disobedience. On the eve of March 15, 2006, three of the foremost Shiite religious scholars convened a popular meeting attended by thousands of citizens, where they vehemently attacked the government action on the matter. (*Shiite Religious Leaders Threaten Civil Disobedience*, ASHARQ AL-AWSAT, Mar. 17, 2006, <http://www.asharqalawsat.com/>.)  
(Issam Saliba, 7-9840, isal@loc.gov)

**EGYPT – Coptic Pope Rejects Court's Decision**

Pope Shenoudah III, head of the Egyptian Church, categorically rejected compliance with a recent court decision requiring the Orthodox Coptic Church to permit divorced members to remarry. The Pope said in response to a question that "no power on earth or any one can impose on the Church something that contradicts the teachings of the Gospel or the conscience of the Church." In justifying its decision, the Administrative Court in Cairo stated that the Egyptian Constitution recognized the right of every citizen to form a family and that the right to marry is among the personal rights of the individual. (*Coptic Pope Rejects Court's Decision*, ASHARQ AL-AWSAT, Mar. 17, 2006, <http://www.asharqalawsat.com/>.)  
(Issam Saliba, 7-9840, isal@loc.gov)

**IRAN – Drug-Addicted Civil Servants to Be Given Thirty Lashes**

Civil servants who are drug addicts were warned by Iran's Public Prosecution Office (general and revolutionary) that should they continue their use of narcotic drugs while in the service of government they will be punished with thirty lashes, in addition to a fine of one to five million *rials* (about US\$110 to \$550) and permanent suspension from the government service. Those found in possession of opium or its derivatives will be sentenced to six months of suspension from government service, in addition to the punishment for addiction and for possession of the narcotic discovered. (*Drug Addict Civil Servant to Be Punished by Thirty Lashes*, IRAN TIMES INTERNATIONAL, Feb. 17, 2006, at 1 & 5.)  
(G. H. Vafai, 7-9845, gvaf@loc.gov)

**IRAN – Number Incarcerated Increases Tenfold Since Revolution**

The most recent statistics indicate that the number of persons in jail has dramatically increased since the Islamic Revolution in Iran in 1979. There were 13,000 persons in jail in 1978, just before the Islamic Revolution occurred. The size of the prison population has risen to 130,000, according to the recent statistics announced by Mr. Yassafi, Head of the Prisons of the Islamic Republic of Iran. The population in Iran has doubled during this period.

Yassafi's announcement was made in support of a bill aimed at reducing the number of crimes that require incarceration. That bill is being debated in the legislature. The bill introduces drastic reforms in classification of crimes, handling of drug addicts, and avoiding of prison sentences in cases involving failure to perform financial responsibilities. Yassafi stressed that drug addicts should not be



sent to prison; they should instead be sent to special camps. The bill provides for rehabilitation camp rather than prison for crimes punished with up to six months in jail. (*Number of People in Prison Jumped Tenfold During Post-Revolution*, IRAN TIMES INTERNATIONAL, Mar. 3, 2006. at 6.)  
(G. H. Vafai, 79845, gvaf@loc.gov)

### **IRAN – Retirees to Receive Greater Benefits**

In order to enhance the social status of retirees in Iran, the Council of Ministers approved a series of regulations providing that the retirees (sixty years of age and older) be called “the pioneers.” Retirement funds are required to issue special identity cards for retirees and members of their families under their guardianship. Civilian and armed forces retirees will enjoy the following privileges:

- Free membership in all the state libraries;
- Half-price membership in sports clubs operated by the state;
- Half-price tickets for all national championship events for themselves and members of their families;
- Banking facilities, including low-interest-rate loans, provided by saving banks;
- A special Haj pilgrimage quota;
- Dental and hearing care paid for through arrangements made by the Ministry of Social Security and Welfare. The Ministry also must provide for special discount rates for group health coverage for retirees.

(OFFICIAL GAZETTE OF THE ISLAMIC REPUBLIC OF IRAN, Nov. 2005, at 4-5.)  
(G. H. Vafai, 79845, gvaf@loc.gov)

### **ISRAEL – Agreements in Financial Assets**

On March 1, 2006, Israel’s Knesset (Parliament) passed the Agreements in Financial Assets Law, 5766-2006. The Law states that its objective is to establish the legal and business certainty needed to guarantee the proper activity of the financial market in Israel and enable activity in the international financial arena in transactions that are acceptable there. The Law regulates the validity of provisions for early termination due to non-payment, the legality and classification of transactions, and interim calculations, among other subjects. (Agreements in Financial Assets Law, 5766-2006, Knesset website, <http://www.knesset.gov.il/> (last visited Mar. 28, 2006).)  
(Ruth Levush, 7-9847, rlev@loc.gov)

### **ISRAEL – Class Actions Law**

On March 1, 2006, the Knesset (Israel’s Parliament) passed the Class Actions Law, 5766-2006, providing uniform rules for filing class action cases. While voiding most arrangements that were previously available, the Law broadens the scope of areas that can be the subject of class actions to include environmental, labor, consumer, banking, and insurance law. The Law enables the filing of a suit against an agency for the return of money collected unlawfully, but limits the ability to approve such a suit as a class action. The Law also authorizes certain public bodies and organizations to file class actions, and further establishes a fund for financing class actions in matters of social and public importance and a register of class actions that will be accessible on the Internet to the public. (Class Actions Law, 5766-2006, Knesset website, <http://www.knesset.gov.il/> (last visited Mar. 28, 2006).)  
(Ruth Levush, 7-9847, rlev@loc.gov)



**JORDAN – Arrest of Reporters**

The prosecutor of the Jordanian State Security Court issued a decision for the arrest of a number of reporters for fourteen days to investigate charges that they verbally attacked high government officials. This action came at a time when the Jordanian Government is in the process of amending the Press Law in regard to the imprisonment of reporters who publish materials contrary to law. The State Security Court has previously issued judgments of imprisonment of several politicians and reporters accused of having verbally attacked high officials. (*Arrest of Press Reporters*, ASHARQ AL-AWSAT, Mar. 16, 2006, <http://www.asharqalawsat.com/>.) (Issam Saliba, 7-9840, isal@loc.gov)

**KUWAIT – New Press and Publications Law**

On March 6, 2006, the Kuwaiti National Assembly unanimously passed the new Press and Publications Law. The new Law replaces the existing Press and Publications Law of 1961 and will come into force within six months. It strips the government of the right to shut down a newspaper or suspend its license without a court order. However, during an investigation, a court may suspend a newspaper's publication for up to two weeks. In addition, the new Law opens the door for licensing of new dailies, allowing the establishment of new newspapers in the state for the first time since a ban was imposed in the mid-1970s on issuing licenses for new newspapers. Many citizens have reportedly already applied for daily newspaper licenses. Under the new Law, prison terms have been commuted to heavy fines for all offenses committed by journalists except those related to religion, such as insulting God or the Prophet Muhammad, his wives, or his companions. However, in coordination with the Penal Code, the Law imposes a sentence of several years' imprisonment if a journalist calls for the overthrow of the ruling family or the government through the use of force or any other unlawful means. The Law imposes heavy fines for criticizing the Emir and prohibits the publication of government-classified information or any materials abusive to the State Constitution or its judges or harmful to Kuwait's foreign relations.

Kuwaiti journalists and members of the National Assembly view the new Law as a major step towards independence of the press, freedom of expression, and political reforms. (Salem Al-Wawan et al., *Press Law Approved Unanimously*, AL-SEYASSAH, Mar. 7, 2006, <http://www.alseyassah.com/alseyassah/PDF/06/March/07/01.pdf>; *Today's Opinion: Kuwaiti Victory for Freedoms*, AL-RAIE AL-A'AM, Mar. 7, 2006, <http://www.alraialaam.com/07-03-2006/ie5/homepage.htm>; Omar Hasan, *Kuwait Gets More Liberal Press Law*, MIDDLE EAST ONLINE, Mar. 6, 2006, <http://www.middle-east-online.com/english/kuwait/?id=15913>; *Kuwait Passes New Press Law*, THE MEDIA LINE, Mar. 7, 2006, [http://themedialine.org/news/news\\_detail.asp?NewsID=12970](http://themedialine.org/news/news_detail.asp?NewsID=12970).) (Dr. Abdullah F. Ansary, 7-6303, aans@loc.gov)

**SAUDI ARABIA – Measure to Prevent Forgery in Government Documents**

The Saudi Council of Ministers issued a resolution obligating the Ministry of Finance Government Printing Press to print certificates, deeds, and other documents vital to national security, in order to prevent forgery. The resolution also obligates all government agencies to use specially treated paper and marks when issuing documents that are normally subject to forgery. (Mshari Al-Turki, *Governmental Printing Presses Are Obligated to Print the Deeds and Documents to Curb Forgery*, AL-WATAN NEWSPAPER, Mar. 16, 2006, <http://www.alwatan.com.sa/daily/2006-03-16/local/local24.htm>.) (Dr. Abdullah F. Ansary, 7-6303, aans@loc.gov)



**SAUDI ARABIA – Non-Saudi Residents to Be Allowed to Invest in Stocks**

The Saudi Minister of Finance, Dr. Ibrahim Al-Assaf, announced plans to open the Saudi stock market to non-Saudi-resident investors, following King Abdullah Ibn Abdul-Aziz Al-Saud's recommendation of this step during the Saudi Supreme Economic Council meeting held on March 14, 2006. The proposal was reportedly well received by both Saudis and expatriates, and Saudi shares rose by almost the maximum allowed five percent in reaction to the recommendation. (*Stock Market Continues Its Surge Backed by the King's Recommendations*, AL-RIYADH NEWSPAPER, Mar. 17, 2006, <http://www.alriyadh.com/2006/03/17/article138836.html>; *Saudi Stock Market Bounces Back After King Intervenes*, ASHARQ AL-AWSAT, Mar. 16, 2006, <http://aawsat.com/english/news.asp?section=6&id=4151>.)

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**UNITED ARAB EMIRATES – Women in the Judicial Branch**

For the first time in the nation's history, female citizens of the United Arab Emirates' (UAE) have graduated from a public prosecutors' program to serve as public prosecutors and judges. At the eleventh graduation ceremony for newly graduated public prosecutors, Salem Kebaish, the UAE Attorney General, encouraged the women to well represent their gender in the most recent experiment of allowing women to be in the judicial system, to distinguish themselves as special, and to set an example for the future for female graduates to work in the Judicial Branch. Kebaish emphasized the UAE's efforts to include female participants in all positions, including the judicial branch. (Khalid Al-Badri, *Women in the Judicial Branch for the First Time*, AL-ITTIHAD NEWSPAPER, Mar. 12, 2006, <http://www.alittihad.co.ae/details.asp?a=1&channel=2&journal=2/27/2006&id=52663>.)

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**SOUTH ASIA****AFGHANISTAN – NGOs Law**

A law has been enacted to regulate the activities of the non-governmental organizations (domestic and foreign) in Afghanistan. The law regulates the establishment, administration, registration, activities, domestic control, dissolution, and liquidation of the properties of non-governmental organizations.

The organizations are subject to the provisions of the constitution and other relevant laws and regulations. The Ministry of Economy will be responsible for the registration and supervision of the activities of such organizations. The organizations must be non-profit and non-political in nature. A foreign organization for the purposes of this law is a non-governmental body organized under the laws of a foreign country that accepts the provisions of this law. A non-profit organization cannot spend its revenues for any purpose except as provided in its charter, nor spend such revenues for the benefit of persons who were directly or indirectly involved in the establishment of the organization. Its revenues must be exclusively used for the promotion of its objectives. Transparency and accountability must be carried out all through the activities of such organizations.



The organizations cannot participate in political activities or campaigns, nor can they purchase or sell weapons or be involved in military training; terrorism or promotion of terrorism; or the cultivation, sale, or purchase of narcotics. Such organizations may not engage in activities inconsistent with national or religious interests, nor can they engage in religious promotional activities. They cannot engage in business activities, including export or import. (OFFICIAL GAZETTE OF THE ISLAMIC REPUBLIC OF AFGHANISTAN, No. 876, July 2005, at 1-47.)  
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### **BANGLADESH – Censorship of Films Act**

The Bangladesh Parliament has passed the Censorship of Films (Amendment) Act of 2006, which can subject any convicted “pornographic” filmmaker to imprisonment for three years. The bill was introduced by Information and Broadcasting Minister Shamsul Islam and was passed by the Legislative Assembly in January 2006. The Act states itself to be against obscenity and vulgarity and not aimed at curbing freedom of expression in any form. It provides a three-year term of imprisonment for any filmmaker whose production is adjudged by censorship officials as pornographic. According to Minister Islam, the new law would protect the local cinema industry from the influence of pornographic film videos smuggled into the country from abroad. He also mentioned that some dishonest producers, distributors, and cinema hall owners were showing uncensored and obscene films that could lead to the moral degeneration of society, particularly the younger generation.

The Act prescribes that projection of films or display of posters and advertisements without censorship certificates would be punishable with one to three years of imprisonment and a penalty of Taka 10,000 (about US\$146). (*Strict Enforcement of New Law on Film Censorship*, THE BANGLADESH OBSERVER, Mar. 8, 2006, <http://www.bangladeshobserveronline.com/new/2006/03/08/front.htm>.)  
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### **INDIA – Anti-Trafficking Plans**

It was reported on February 17, 2006, that India’s Women and Child Development Ministry is planning the establishment of a central agency, modeled after the Narcotics Control Bureau, to coordinate all activities aimed at preventing and combating trafficking of women and children. In a special proposal on the subject, the Ministry stated that it would initiate a move to amend the Immoral Traffic (Prevention) Act, 1986. The proposed change would make the law more stringent for traffickers, brothel keepers, pimps, and customers and more humane for the victims. It would define a child as anyone below the age of eighteen, remove sections that make soliciting punishable, and empower a magistrate to remove a commercial sex worker from an area’s borders. As yet, however, there is no fixed deadline for presenting the proposed amendment of the Act to the Indian Parliament.

The Ministry is also planning the major step of identifying both victims and perpetrators of the crime by means of a South Asian Association for Regional Cooperation (SAARC) Convention. Incidences of trafficking in women and children have reportedly increased “alarmingly” across the eastern belt of India, which shares borders with Bangladesh and Nepal (which are also SAARC members). (*India to Set Up Federal Nodal Agency to Combat Trafficking in Women, Children*, THE PIONEER, Feb. 17, 2006, Open Source Center No. SAP20060217378011.)  
(Wendy Zeldin, 7-9832, wzeld@loc.gov)



## INDIA – Commercialization of Residential Areas

On February 16, 2006, the Supreme Court of India issued a directive to the Municipal Corporation of Delhi (MCD) to stop the menace of illegal conversion and commercialization of residential premises. Noting that big markets housing showrooms of prominent companies have mushroomed in a number of residential localities, the Court directed the MCD, within ten days, to publish in a newspaper the list of residential premises used for commercial purposes. On the basis of the information supplied by the MCD, the Court identified 229 roads in twelve zones where such illegal activity is rampant.

The Court also directed the owners of such residential premises to stop the misuse within thirty days of the publication of the list of major violators; otherwise the MCD will seal the buildings. Within the same time period, the owners must also file affidavits before the MCD Commissioner stating that they have taken corrective action. Violators who tamper with the seals will be subject to punishment.

The MDC must file a report with the Court of actions taken within two weeks. After that, the question of the accountability of the officials will be considered. The bench required the MCD to file a monthly status report of its actions and urged it to feel at liberty to approach the Court for further directions. (*SC Directives Against Commercialisation of Residential Areas*, THE HINDU, Feb. 16, 2006, <http://www.hindu.com/thehindu/holnus/00020062161701.htm>.)  
(Krishan Nehra, 7-7103, kneh@loc.gov)

## INDIA – Costs Limit Freedom of Information

India's freedom of information law went into effect in October 2005. It was meant to allow citizens to obtain information from government offices and to limit corruption and inefficiency in local government offices. The costs of providing information, however, are limiting application of the law. When a poor farmer in the central Indian state of Chhattisgarh asked for information on purchases of rice fields in his area, he was given a bill for 182,000 rupees (about US\$4,100). Most of the cost was for photocopying 90,000 copies of official documents. Most information held by government offices takes the form of entries in files and ledgers; very little is available in digital form. To provide information, the files and ledgers must be opened and the documents photocopied. Chhattisgarh Chief Minister Raman Singh is quoted as stating that the law needs to be reviewed and changed and that he will be writing to the federal government about the prohibitive costs of supplying information. (*Indians Find Information Too Costly*, BBC NEWS, Mar. 13, 2006, [http://news.bbc.co.uk/go/pr/fr/-/2/hi/south\\_asia/4739306.stm](http://news.bbc.co.uk/go/pr/fr/-/2/hi/south_asia/4739306.stm).)  
(Donald R. DeGlopper, 7-9831, ddeg@loc.gov)

## INDIA – Human Rights Body to Make Surprise Visit to Jails, Asylums

With a view to removing inhuman conditions inside jails and asylums, the Government of India has proposed empowering the Indian Human Rights Commission to make unannounced visits to them. Thus far, the law allows the Commission to make such visits only after it informs the concerned state government, and this has led to complaints that it gives state officials time to stage-manage the conditions inside and coach inmates on how to respond to questions from the visiting teams.



The Protection of Human Rights (Amendment) Bill, 2005, now under scrutiny of the parliamentary committee on home affairs, will provide quick help for victims of violations of rights and prompt action against violators. After the parliamentary approval of the bill, victims will be eligible for “interim relief,” even before the completion of the inquiry, while the Commission recommends proceedings against the violating official.

The new law would entitle not only a retired Chief Justice to head the Commission, but any judge who has been on the bench of the apical court or a judge of a High Court who has been on the bench for five previous years. In the future, the Commission will have three, instead of the current five, members. (*India Plans to Empower Human Rights Body for “Surprise Visits” to Jails, Asylum*, THE TELEGRAPH, Feb. 14, 2006, Open Source Center No. SAP20060214378007.) (Krishan Nehra, 7-7103, kneh@loc.gov)

### **INDIA – Law on Removal of Judges**

The Chairman of India’s Law Commission, retired Justice M. Janannadha Rao, after a comprehensive study, and submitted a report on the Ministry of Law’s proposal for dealing with the removal of the judges of the Supreme Court and High Courts. His report suggests changes in the draft Judges’ Inquiry Bill, 2005. The bill, originally intended to make judges of the Supreme Court and the high courts accountable for their actions, envisaged a procedure for investigation and proof of misbehavior or incapacity, for presentation of an address in parliament, and for related matters. The Ministry sent the bill for comment to the former Chief Justice of India, Justice R.C. Lahoti. After the bill was received with his comments, it was referred to the Law Commission.

The Commission has proposed substantial changes to the bill, but because of the stipulation that the contents of the report not be disclosed until they are placed before the parliament, the proposed changes were not made available to the public. However, the bill is likely to be introduced in the next budget session of the parliament. The new law would seek to repeal the Judges (Inquiry) Act, 1968 that regulates the procedure for the investigation and proof of misbehavior or incapacity of a judge and for the presentation of an address to the parliament. In its original form, the bill also provided for setting up a National Judicial Council, comprised of the Chief Justice of India, the two most senior judges of the Supreme Court, and two Chief Justices of the State High Courts nominated by the Chief Justice. The bill requires a complainant to make an affidavit before investigation by the Council and the judge in order to be given an opportunity to explain his conduct. The Council’s findings and recommendations would then be presented to the President of India. (*Law Commission Submits Report on Judges’ Inquiry Bill*, THE HINDU, Feb. 1, 2006, <http://www.hindu.com/2006/02/01/stories/2006020115770900.htm>.) (Krishan Nehra, 7-7103, kneh@loc.gov)

### **INDIA – Tenants May Be Evicted by One Co-Owner**

In a major blow to tenants’ rights, on March 1, 2006, the Supreme Court of India ruled that a suit for eviction against a tenant is maintainable in law even if only one of the co-owners has sued for eviction on grounds of the need for the rented premises for his personal bona fide use for starting a new business. It is not necessary for the co-owner to show before initiating the eviction proceedings that he had taken an option or obtained the consent of other co-owners.



Such consent may be relevant only if the other co-owner had objected to the initiation of eviction proceedings of the rented property. Thus, if one co-owner could establish that he needed the rented premises for starting his own business, he would not be required to show that he had the experience of running a business. Except in cases where a license is required as a prerequisite for a trade, there is no statute that places such a precondition on a co-owner. (*Co-Owners' Consent Not Needed for Eviction*, THE TRIBUNE, Mar. 1, 2006, <http://www.tribuneindia.com/2006/20060302/main8.htm>.)  
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### NEPAL – Royal Corruption Commission Dissolved

On February 13, 2006, the Supreme Court of Nepal ordered the dissolution of the Royal Commission for Corruption Control (RCCC), a six-member anti-graft body that was formed on February 17, 2005, soon after King Gyanendra assumed power. In a unanimous decision, the five-justice special bench held that the RCCC contravened the spirit of the 1990 Constitution of Nepal: “[t]he king has no authority to form such a commission under Article 127 of the constitution.”

At the same time, the Court ordered that all the actions and decisions taken by the RCCC be invalidated. On July 26, 2005, in a decision on alleged contract-award irregularities, the RCCC had meted out a two-year prison term and fine of NPR90 million (US\$1.29 million) to both former Prime Minister Sher Bahadur Deuba and former Minister Prakash Man Singh. Prison terms and fines were also imposed on dozens of other former government officials and some political leaders. With the Supreme Court’s ruling, it is deemed likely that those persons under RCCC detention on corruption charges will be released. (*Further on Xinhua: Nepal Court Orders Dissolution of King’s Anti-Graft Body*, XINHUA, Feb. 13, 2006, Open Source Center No. CPP20060213042040.)  
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### PAKISTAN – Government Proposes International Convention Banning Blasphemy

Pakistan’s President Pervez Musharaff has been quoted by an Islamabad television station as telling a conference of army commanders that at Pakistan’s initiative, in December 2005 the United Nations General Assembly adopted a resolution calling on the international community to combat defamation of all religions and to combat the tendency toward Islamophobia. Furthermore, Musharaff is quoted, “we shall ask for international legislation banning blasphemy against all prophets and term it as [a] cognizable and criminal offense.” (*Musharaff: Pakistan to “Ask for International Legislation Banning Blasphemy*,” PTV WORLD, Feb. 28, 2006, Open Source Center No. SAP20060228033005.)  
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### SRI LANKA – Amendments to Flora and Fauna Act

On March 21, 2006, the Sri Lankan Government announced preparations to amend the Flora and Fauna Act to meet contemporary needs. The draft bill has been sent to the Attorney General’s Department for consultation. The Act is being amended to address the deepening threat to the country’s wildlife by the undertakings of unscrupulous persons and businesses. According to the Government, currently the punishments imposed for serious crimes such as killing an elephant are minimal compared to modern ethical standards. Under the proposed amendments, heavy fines and



imprisonment will be imposed on offenders who commit serious crimes, and the accused will remain imprisoned until their trials are over. (*Sri Lanka Government to Amend Flora and Fauna Act*, COLOMBO PAGE, Mar. 22, 2006, <http://www.colombopage.com/archive/March22124941SL.html>.) (Karla Walker, 74332, kdwa@loc.gov)

### **SRI LANKA – Fishing Restrictions Disputed**

Sri Lanka's Government recently relaxed restrictions on fishing in the northern and eastern portions of the country. Now those fishing in the western region, in Colombo and Negombo districts, have requested a similar easing of regulations. The number of fishing boats has increased since the devastating December 2004 tsunami, as people received small vessels as post-storm aid. The industry has therefore become more competitive, according to M. Vijendran, chairman of the All Ceylon Fisher Folk Trade Union. The restrictions in question include a "no fishing" zone established for security purposes more than a decade ago and extended several times. The zone includes forty square nautical miles around Colombo harbor. In order to reach legal fishing grounds, fishermen leaving on the north side of the harbor have to travel around the zone, using a lot of extra fuel. There have been numerous arrests for illegally entering the security zone to harvest lobsters, crabs, and shrimp.

A second part of the current controversy concerns an agreement signed by the Sri Lanka Land Reclamation and Development Board with the Holland Boskalis International Company to remove tons of sand, which also had an impact on the fishing community. Following a protest campaign, a decision granted fishermen compensation for the loss of income from this project. (*Western Province Fisherfolk Request Relaxation of Restrictions*, COLOMBO PAGE, Mar. 14, 2006, <http://www.colombopage.com/archive/March14123647SL.html>.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

### **SRI LANKA – New Wage Policy**

The Deputy Minister of Finance and Planning of Sri Lanka, Ranjith Siyambalapitiya, said that a new policy on wages would be part of the 2007 budget proposal. Speaking on March 8, 2006, about the need for a national wages policy to eliminate inequities, he said that anomalies that had been introduced under Circular No. 1 of 2006 would be corrected. Talks are being held with trade union representatives to discuss the proposals. The plans also involve consulting the opinions of public employees. (*Sri Lanka Plans New National Wages Policy*, COLOMBO PAGE, Mar. 8, 2006, <http://www.colombopage.com/archive/March8121726RA.html>.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

## **WESTERN HEMISPHERE**

### **ARGENTINA – Terrorism Financing**

On March 9, 2006, a senior U.S. Treasury official urged Argentine officials to work on passing a law criminalizing the financing of terrorism, a move that would bring the country into greater compliance with international standards. Argentina, along with other Latin American countries, has to date failed to pass legislation that criminalizes financing terrorism, despite having signed treaties that call for such reforms.



According to the U.S. Assistant Secretary for Terrorism Financing, Patrick O'Brien, Argentina needs to improve the legal framework applicable to terrorism financing, especially because there is still evidence of alleged terrorism financing activities in the triple frontier area where the borders of Argentina, Brazil, and Paraguay meet. The sticking points arise from limitations within Argentina's existing legal framework for money laundering, which falls short of standards urged by the Financial Action Task Force (FATF) and has not been updated since 2000. The FATF has urged Argentina, for example, to scrap clauses within the existing law that exempt financial institutions from having to report suspicious transactions to the country's Financial Intelligence Unit when those transactions occur within families and associate relationships. (*US Official Urges Argentina to Pass Anti-Terror Financing Law*, DOW JONES COMMODITIES SERVICE, Mar. 9, 2006.) (Graciela Rodriguez-Ferrand, 7-9818, grod@loc.gov)

### **BOLIVIA – Ex-Leaders Face Charges**

Bolivia's Attorney General, Pedro Gareca, is seeking to put three former presidents on trial for alleged irregularities in contracts with foreign oil companies. Carlos Mesa, Gonzalo Sanchez de Lozada, and Jorge Quiroga are accused of making deals that violated the constitution. This means Bolivia's last four presidents could all face prosecution, given the request by the Attorney General for permission to try Eduardo Rodriguez, the interim president who served before the December 2005 election. Rodriguez is accused of submission to a foreign power in a case relating to the decommissioning of Bolivian missiles in the United States. The allegations against the four former presidents have been presented to the Supreme Court. It must decide whether to pass them on to Congress, which in turn must authorize any trial. The ruling MAS party holds a majority in Congress. The backing of two-thirds of all deputies and senators is required for a trial. Opposition parties linked to two of the presidents have dismissed the move as politically motivated. After looking at deals reached with foreign oil firms between 1993 and 2003, the Attorney General said that he had found illegalities in:

- Thirty-nine contracts signed by Gonzalo Sanchez de Lozada, who governed from 1993 to 1997 and 2002 to 2003;
- Four contracts agreed by Jorge Quiroga, who served in 2002;
- One deal signed by Carlos Mesa, who governed between 2003 and 2005.

Sanchez de Lozada – who now lives in the United States – has also been formally charged with genocide in the deaths of sixty people killed during a wave of social unrest. The allegations against Rodriguez – interim president from 2005 to 2006 – relate to the destruction in the United States last year of some thirty missiles owned by Bolivia. (*Bolivia Ex-Leaders Face Charges*, BBC NEWS, Mar. 17, 2006, <http://news.bbc.co.uk/2/hi/americas/4816646.stm>.) (Graciela Rodriguez-Ferrand, 7-9818, grod@loc.gov)

### **BRAZIL – Chat-Room Conversation Not Protected by Law**

The Superior Tribunal of Justice (STJ) of Brazil confirmed a lower federal court decision determining that chat-room conversations are not subject to the constitutional right to communication privacy, deeming the virtual environment open to free access and designed for informal conversations. The case at hand started when Interpol intercepted a child pornography conversation in a chat room and used it to build a case against the chatterers. The plaintiff was then prosecuted for exchanging pornographic pictures of children, a crime punishable with up to six years in prison under the Child and Adolescent Statute.



After having his computers confiscated by the police, the plaintiff filed a lawsuit with the federal court alleging a violation of his constitutional rights in the form of illegal constraint and abuse in the performance of the search warrant. The court denied the request and the plaintiff then appealed to the STJ by filing a habeas corpus request asking for the dismissal of the police indictment and alleging a violation of his constitutional right to communication privacy. In its decision, the STJ confirmed the federal court decision that authorized the search warrant, considering it valid and necessary in order to investigate the alleged crime. (*Conversa em Sala de Bate-Papo Não É Protegida por Sigilo, Confirma STJ*, O GLOBO, Feb. 24, 2006, available at <http://oglobo.globo.com/online/pais/mat/2006/02/24/191966438.asp>.)

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### **BRAZIL – Federal Supreme Court Has New President**

On March 15, 2006, Justice Ellen Gracie Northfleet was elected to preside over the Brazilian Federal Supreme Court for the next two years. This is the first time in the Court's history that a woman will be at the helm of the highest court in Brazil. Justice Northfleet was the vice-president and will substitute for Justice Nelson Jobim, who retired at the end of March 2006. In 2000, she was the first woman nominated as Justice of the Supreme Court. Before her nomination, she was a judge of the Federal Court of Appeals (*Tribunal Regional Federal da 4a Região*) from 1989 to 2000, and prior to serving on the federal bench, she was a federal prosecutor (*Ministério Público Federal*) from 1973 to 1989. Justice Northfleet is a licensed constitutional law professor at the *Universidade do Vale do Rio dos Sinos*, recipient of a Fulbright Scholarship (Hubert H. Humphrey Fellowship Program) at American University, Washington College of Law (1991-1992), member of the Board of the Global Legal Information Network (GLIN), and a former visiting scholar in the Law Library of Congress (1992). (Demétrio Weber, *Ellen Gracie é a Primeira Mulher a Presidir o Supremo Tribunal Federal (STF)*, O GLOBO, Mar. 16, 2006, available at <http://oglobo.globo.com/online/pais/mat/2006/03/16/192288962.asp>; Supremo Tribunal Federal, *Curriculum Vitae Ministra Ellen Gracie Northfleet*, available at <http://www.stf.gov.br/institucional/galeria/curEllen.asp>.)

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### **BRAZIL – National Plan for Water Resources**

On January 30, 2006, the Brazilian National Council for Water Resources approved a national plan, covering the years until 2020, for the rational use of water in Brazil. The plan complies with the proposals of the United Nations world summit on sustainable development that occurred in Johannesburg, South Africa, in 2002. The summit determined, *inter alia*, that the participating countries should prepare plans of action to make it possible, by the year 2015, for the number of people with no access to drinkable water and basic sanitation to be reduced fifty percent. Brazil contains twelve percent of the world's fresh water and is the first Latin American country to approve such a plan. It was based on a hydrographic division of the country, which was considered necessary for the preparation of analyses, definition of goals, and determination of investment and environmental education plans. The sustainable use of water in agriculture, the electricity sector, sanitation, and by the populace is also included in the plan. (Press Release, Ministério do Meio Ambiente, Presidente e Ministra do Meio Ambiente Lançam Plano de Águas no Brasil (Mar. 2, 2006), available at <http://www.mma.gov.br/ascom/ultimas/index.cfm?id=2298>.)

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**BRAZIL – New State Law Against Piracy**

On February 21, 2006, the State of São Paulo enacted a new law that will cancel the business licenses of stores that sell counterfeit products or products illegally admitted into the country (Law No. 12,279). The author of the proposal for the new law, State Deputy Orlando Morando, celebrated its enactment and was quoted as saying that those who trade, acquire, stock, or expose counterfeit products or contraband will be punished.

According to the National Council Against Piracy (*Conselho Nacional de Combate a Pirataria*), an agency of the Ministry of Justice, Brazil annually loses R\$84 billion (about US\$40 billion) in taxes and two million jobs due to counterfeit products and contraband. (*São Paulo Sanciona Lei de Combate à Pirataria*, JURID, Mar. 2, 2006, available at <https://secure.jurid.com.br/new/jengine.exe/cpag?p=jornaldetalhejornal&ID=20537>.)

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**BRAZIL – Public Forest Exploitation Legalized**

On March 2, 2006, President Luiz Inacio Lula da Silva sanctioned a new law that allows private companies to exploit public forests (Law No. 11,284). In an unusual situation, the federal government, non-governmental organizations, and representatives of environmental groups supported the new law, which is being considered one of the most important regulations enacted in the last decade.

Pursuant to the new law, the exploitation may occur in federal, state, or municipal lands, as long as rigid standards are observed in order to avoid deforestation and environmental destruction. President Lula observed that the law creates the Brazilian Forest Service, which will allow managed use of the forest and inhibit predatory logging. According to the Minister of Environment, Marina Silva, the law will enable illegal loggers to start acting within the law and become forest producers. The Biodiversity and Forests Secretary under the Environment Ministry, João Paulo Capobianco, explained that sixty percent of the Brazilian forests are located in public lands, and the absence of effective legislation rendered the protection of the forests impossible. With the new law, he stated, this scenario will change.

Concessions to exploit the forests will be granted through a bidding process that is limited to Brazilian companies. The winning bidder will be entitled to sign a forty-year contract to log trees and must present a sustainable development plan for the area. No conveyance of title will occur, and with the demarcation of the public forests, private claims on them will become impossible. (Marluza Mattos, *Nova Lei Permite a Exploração de Florestas Públicas*, Mar. 2, 2006, Ministério do Meio Ambiente, available at <http://www.mma.gov.br/ascom/ultimas/index.cfm?id=2299>.)

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**CANADA – Decision of Ethics Commissioner**

Following the election of his minority Conservative Government in January 2006, Prime Minister Stephen Harper offered the Cabinet position of Minister of International Trade and Minister for the Pacific Gateway and the Vancouver-Whistler Olympics to a Member of Parliament who had been elected as a Liberal candidate before crossing over to the Conservative Party. The defection of this Minister from his party was not unprecedented. The formerly governing Liberals were saved from defeat on a motion of



no confidence by the defection of a Conservative MP in 2005. Nevertheless, the defection of David Emerson has been loudly protested in his electoral district and led to three opposition MPs lodging a complaint with the ethics commissioner for the House of Parliament. The complaint alleged that Emerson was induced to switch party allegiance by the higher pay and greater privileges of a Cabinet minister. The Prime Minister initially indicated he would not cooperate in an investigation, but eventually provided both written and oral responses. The ethics commissioner ruled that there was no evidence of any impropriety in the appointment. The ethics commissioner accepted Emerson's explanation that he had accepted his new position to better serve his constituents. (*Emerson Floor-Crossing Broke No Rules but Needs Public Debate: Ethics Report*, YAHOO! CANADA, Mar. 20, 2006, [http://news.yahoo.com/s/cpress/20060320/ca\\_pr\\_on\\_na/harper\\_ethics](http://news.yahoo.com/s/cpress/20060320/ca_pr_on_na/harper_ethics).)  
(Stephen Clarke, 7-7121, scla@loc.gov)

### **CANADA – Parliamentary Mix-Up**

Shortly before the dissolution of the Canadian Parliament and the calling of the January 2006 election, which brought a minority Conservative Government to power, Parliament enacted An Act to Amend the Excise Tax Act (Elimination of Excise Tax on Jewellery). While Parliament's intention would appear to be clear from the title of this Act, a major mistake was made in its drafting. Instead of eliminating the tax on jewelry, the new law effectively nudged up the excise tax on clocks sold for more than Can\$50 (about US\$43) from eight to ten percent (2005 S.C. c. 55). While this amendment did eliminate the luxury tax on watches, it did not generally address jewelry. Jewelers throughout Canada were outraged when they learned of this parliamentary mix-up. However, Revenue Canada subsequently gave them some relief by announcing that it would implement an earlier budgetary measure to reduce the excise tax on jewelry by two percent a year, until it is completely eliminated in 2009. In the Canadian system, approved budgetary measures can be implemented by Revenue Canada without specific statutory changes being approved by Parliament.

Canada is reported to be the only industrialized nation and the only diamond-producing nation to have a luxury tax on jewelry. The Canadian Jewelers Association claims that diamonds mined and sold legally within Canada cost more than they do anywhere else in the world and that the excise tax has led to tax evasion rates of up to fifty percent. (Lea Smaldon, *Jewellery Luxury Tax Cut*, RED DEER EXPRESS, Dec. 21, 2005, at 25.) It is not yet clear whether Parliament will, if it decides to allow the phase-out to go forward, at least fix its error in effectively raising the excise tax on clocks.  
(Stephen Clarke, 7-7121, scla@loc.gov)

### **GUATEMALA – New Measures Against Organized Crime**

Carlos Vielmann, Minister of Interior, recently stated that the Government of Guatemala would intensify its fight against organized crime. To this effect, he announced implementation of new measures such as the establishment of a new unit of the Anti-Drug Analysis and Information Service (SAIA); the establishment of a new, special team that will provide surveillance at customs posts to fight smuggling; and the intensification of joint efforts of the Ministry of Interior and the Public Prosecutor's Office. He added that operations would be carried out to destroy drug crops and disarm the population armed by the drug dealers.

Vielman said that his office would need more support to fight organized crime. The United States has placed Guatemala on the list of countries to which it is going to provide support in their fight against the drug traffic. Carmen Aida Ibarra of the Myrna Mack Foundation (a human rights organization founded in 1993 memory of Myrna Mack, an anthropologist murdered in Guatemala in



1990) believes that there is going to be an explosion of violence from organized crime in retaliation against the new measures. (Lorena Seijo, *Gobierno Teme Repunte Delictivo*, PRENSA LIBRE, Mar. 10, 2006, <http://www.prensalibre.com>.)

(Norma C. Gutiérrez, 7-4314, [ngut@loc.gov](mailto:ngut@loc.gov))

### **MEXICO – Attorney General Acknowledges Corruption**

Mexico's Attorney General, Daniel Cabeza de Vaca, while appearing before the Joint Commissions on Justice and Human Rights and Public Security and Health of the Chamber of Deputies, acknowledged that his office faces "a grave problem of corruption," and lacks enough means to combat the retail sale of drugs. For this reason, he called on the federal deputies [members of Congress] to approve the legal reform needed, so that the state and municipal authorities obtain authorization to deal with this crime.

The Attorney General stated that according to statistics on crime compiled by the Office of the Attorney General of the Republic (PGR), the crime rate of possession of drugs increased from 12,501 cases in 1997 to 29,131 in 2005, while cases of sales of stupefying drugs rose from 474 to 4,280. In regard to the institutional capacity available to address the business of the illegal sale of narcotics, Cabeza de Vaca stated that only 192 of the Public Prosecutor's Office's 485 agents, assigned to thirty-two field offices, are allocated to handle this crime. With respect to the agents of the Federal Agency of Investigation, he said that of the 1,150 agents assigned to field offices, 622 are assigned to cases of illegal narcotics sales. "If you give us 20,000 more police officers and 20,000 more public prosecutors, we would not be asking for this integrated effort," he stated in response to questioning by deputies who doubted that a combined effort alone would make for an effective fight against the illegal sale of narcotics.

Congressman Jorge Uscanga Escobar told Cabeza de Vaca at the hearing that it is not enough to grant authority to the states and municipalities to arrest the narcotics dealers; they must also be given technical and economic resources to perform their task. Cabeza de Vaca also admitted that the PGR has more than 2,000 federal agents originally from the defunct Federal Judicial Police, who are "without training," and who have filed legal actions so that they can continue to work in the PGR. That is why, he added, "there are going to be significant purges in the Federal Agency of Investigation [a section of the PGR]."

During the hearing, Cabeza de Vaca told the deputies on more than one occasion that the function of the PGR in prosecuting the retail sales of drugs can no longer be postponed. He added that the suppression of this crime must be accompanied by programs of rehabilitation to reduce the problem of public safety, which can be seen as an issue that affects the national security. (Gustavo Castillo, *Grave Corrupción en la PGR: Cabeza de Vaca*, LA JORNADA, Mar. 1, 2006, <http://www.jornada.unam.mx>.) (Norma C. Gutiérrez, 7-4314, [ngut@loc.gov](mailto:ngut@loc.gov))

### **MEXICO -- New Office to Prosecute Crimes Against Women**

Mexico's Department of Justice (*Procuraduría General de la República*, or PGR) recently created a new office to investigate and prosecute crimes against women. The new office will replace the special prosecutor's office created in 2004 to investigate the murders of women in the city of Ciudad Juárez. The duties of the new office will be expanded to include all thirty-one states and the Federal District. The PGR pushed for the expansion of the office as part of a campaign at the national



level to combat violence against women. “[The murders in Juarez] were just one example of a phenomenon that occurs across the country,” said the PGR. (*ACUERDO A/003/06 del Procurador General de la República, por el que se crea la Fiscalía Especial para la atención de delitos relacionados con actos de violencia contra las mujeres en el país* (Order A/003/06 Issued by México’s Attorney General, *Creating an Office for the Prosecution of Crimes Against Women in Mexico*), DIARIO OFICIAL DE LA FEDERACIÓN (Federal Official Gazette, D.O.), Feb. 16, 2006, Mexico House of Representatives website, <http://www.camaradediputados.gob.mx/leyinfo/regla/n255.doc>; *Federal Government Creates New Office to Investigate, Prosecute Crimes Against Women*, 17:9 SOURCEMEX, ECONOMIC NEWS AND ANALYSIS ON MEXICO (Mar. 1, 2006).) (Gustavo E. Guerra, 7-7104, [ggue@loc.gov](mailto:ggue@loc.gov))

### **MEXICO – Seeking New Foreign Trade Agreements**

Despite the fact that the administration of President Vicente Fox gave assurances in 2003 that Mexico would no longer sign more free trade agreements (FTA), the federal government is currently negotiating several minor trade agreements. These smaller trade agreements, called “Economic Association Agreements” (ACEs), allow the reduction of tariffs for items in a specific industry. In contrast, free trade agreements demand tariff-lifting and preferential market access on a greater scale. The Head of International Commercial Negotiations of the Secretariat of Economy, Luz María de la Mora, considers that the ACEs allow Mexico to remain competitive. Currently, Mexico is seeking ACEs with South Korea and the enlarging of previous ACEs with Peru and Argentina. (*Intenta México Nuevos Acuerdos*, REFORMA, Mar. 6, 2006, <http://www.reforma.com>.) (Norma C. Gutiérrez, 7-4314, [ngut@loc.gov](mailto:ngut@loc.gov))

### **NICARAGUA – Intellectual Property Laws Approved**

The National Assembly of Nicaragua approved two of five bills on intellectual property on March 16, 2006. These are the Copyright Law and the Law on the Protection of Satellite Dish Signals. It is expected that the remaining statutes will be approved soon. These statutes were approved with the support of the Sandinist National Liberation Front, the Christian Path, and Blue and White Parties, and the National Liberal Alliance-Conservative Party. The Constitutionalist Liberal Party abandoned participation in the full session, because the amnesty bill favoring (convicted) former President Arnoldo Alemán, which they wanted to be approved as a condition for their vote, was not discussed. These two approved laws and the remaining three bills on intellectual property are needed for the implementation of the United States-Central America Free Trade Agreement (CAFTA). (Luis Núñez Salmerón, *Aprueban Dos Leyes del Paquete del CAFTA-DR*, Mar. 16, 2006; Luis Felipe Palacios, *Chantaje PLC Atrasa CAFTA*, Mar. 15, 2006, both in LA PRENSA, <http://www.laprensa.com.ni>.) (Norma C. Gutiérrez, 7-4314, [ngut@loc.gov](mailto:ngut@loc.gov))



## INTERNATIONAL LAW AND ORGANIZATIONS

### AUSTRALIA/NEW ZEALAND – Progress Toward Economic Unification

At their annual meeting in Melbourne on February 22, 2006, Australian Treasurer Peter Costello and his New Zealand counterpart, Michael Cullen, announced progress toward creating a single economic market. They signed a bilateral treaty on Mutual Recognition of Securities Offerings and a revised Memorandum of Understanding on Business Law Coordination. Further steps were taken toward establishing a common set of accounting and financial reporting standards. Both governments have agreed to legislative amendments to improve information sharing by their banking regulators. These changes reflect the existing high degree of commercial interdependence of the Australian and New Zealand banking sectors and will promote the development of a single economic market and greater trans-Tasman regulatory coordination. (Joint Media Statement, Commonwealth Treasurer, Peter Costello, Ministers Announce Key Achievements in the Trans-Tasman Single Economic Market Agenda (Feb. 22, 2006), <http://www.treasurer.gov.au/tsr/content/pressreleases/2006/006.asp?pf=1>.) (Donald R. DeGlopper, 7-9831, ddeg@loc.gov)

### BOTSWANA/UNITED NATIONS – Committee Urges Government to Negotiate with San

The United Nations Committee on the Elimination of Racial Discrimination has urged the Government of Botswana to reopen negotiations with the San community. The San (previously referred to as Bushmen) are contesting their relocation from the Central Kalahari Game Reserve. The Government of Botswana removed the San from the Reserve, saying that it had decided to set the territory aside for wildlife and tourism development. The San, who had resided in the area for many generations, initiated a legal challenge to the Government of Botswana in April 2002. Rights groups have claimed that they were forcibly removed from their ancestral lands to make way for diamond exploration. (*UN Body Urges Govt to Reopen Talks with the San*, IRINNEWS, Mar. 22, 2006, <http://www.irinnews.org/print.asp?ReportID=52207>.) (Donald R. DeGlopper, 7-9831, ddeg@loc.gov)

### BOTSWANA/UNITED STATES – MOU

Botswana and the United States have signed a Memorandum of Understanding to support the diversification of Botswana's exports. The United States has supported various projects in the African nation for a long time under a Botswana Trust Fund account; the new memorandum assigns the remaining funds, equivalent to about US\$824,450, to assistance with export projects, in addition to technical assistance activities in areas such as trade policy, private sector participation in trade policy debates, and development of a tropical forest conservation fund.

Botswana's Minister of Finance and Development Planning, Baledzi Gaolathe, said that the cattle sector of the economy, which has had difficulties recently, would also benefit from the Fund. Stress will be placed on aiding communal farmers. The current plan covers the next thirty months and will be managed by the USAID office for southern Africa, located in Botswana's capital city, Gaborone. (*Botswana, U.S. Sign P4.4 Million Accord*, DAILY NEWS ONLINE, Mar. 13, 2006, [http://www.gov.bw/cgi-bin/news.cgi?d=20060313&i=Botswana\\_US\\_sign\\_P44m\\_accord](http://www.gov.bw/cgi-bin/news.cgi?d=20060313&i=Botswana_US_sign_P44m_accord).) (Constance A. Johnson, 7-9829, cojo@loc.gov)



## CAMBODIA/UNITED NATIONS – Agreements on Khmer Rouge Trial Administration

On March 14, 2006, Cambodia and the United Nations signed agreements on the Extraordinary Chambers established to bring Khmer Rouge leaders to justice for the mass killings of the 1970s. The two documents cover the administrative set-up and operations of the court. One is devoted to the facilities, including utilities and services provided by the Cambodian Government to the physical premises of the Chambers; the second covers safety and security arrangements.

These agreements supplement the 2003 agreement between Cambodia and the U.N. that provides for a Trial Chamber of three Cambodian and two international judges, in addition to a Supreme Court Chamber of four Cambodian and three international judges. The five international judges are to be appointed by the Supreme Council of the Magistracy of Cambodia. In early March 2006, U.N. Secretary-General Kofi Annan submitted a list of names of possible judges to Cambodia's Prime Minister, to be sent on to the Council.

The trials are to cover those responsible for major crimes under international law from April 17, 1975, until January 6, 1979. The budget for the planned three-year process is about US\$56.3 million, of which the U.N. is providing US\$43 million and the balance is coming from Cambodia. (*UN and Cambodia Sign Key Agreements Ahead of Khmer Rouge Trials*, UNNEWS, Mar. 14, 2006, from [UNNews@un.org](mailto:UNNews@un.org).)

(Constance A. Johnson, 7-9829, [cojo@loc.gov](mailto:cojo@loc.gov))

## CARTAGENA PROTOCOL ON BIOSAFETY – Third Meeting on GMOs

The Cartagena Protocol on Biosafety, which is a supplementary agreement to the 1992 Convention on Biological Biodiversity, is the only international agreement regulating the cross-border transportation of genetically modified organisms (GMOs). On March 17, 2006, the third meeting of the 132 Parties to the Cartagena Protocol was concluded in Brazil. The participants reached consensus on establishing detailed documentation requirements for genetically modified organisms in international trade. Last-minute disagreements between Mexico and Brazil over the issue of trade implications of the documentation requirements were resolved through the efforts of the Brazilian Government. The participants reached additional decisions on issues such as risk assessment for GMOs, biosafety capacity-building measures in developing countries, and other matters. (Press Release, IP/06/335, Governments Adopt International Rules on Trade in GMOs (Mar. 20, 2006), *available at* <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/06/335&format=HTML&aged=0&language=EN&guiLanguage=en>.)

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## CHINA/PAKISTAN – Agreements Inked

On February 20, 2006, after Chinese President Hu Jintao and visiting Pakistani President Pervez Musharraf held talks, China and Pakistan signed thirteen bilateral agreements on a wide range of topics. The agreements and memoranda of understanding cover deepening and expanding economic and trade cooperation, provision of a \$300 million soft term loan, and cooperation in defense, energy, food, and agriculture sectors. They also include upgrading and widening of the Karakoram highway, assistance in seismology and meteorological studies, cooperation in health and family planning, vocational training, pesticides management, fisheries cooperation, and utilization of preferential buyer's



credit. Among other remarks, President Hu stated that he hoped to expedite negotiations to establish the China-Pakistan free trade area as soon as possible and to cooperate further on security and launch a joint crackdown on the “three forces” – terrorism, separatism, and extremism – plaguing both countries. (*China, Pakistan Ink Comprehensive Deals*, CHINA VIEW, Feb. 20, 2006, [http://news.xinhuanet.com/english/2006-02/20/content\\_4205450.htm](http://news.xinhuanet.com/english/2006-02/20/content_4205450.htm); *Selection List: Pakistan Press Islam 21 Feb 06*, ISLAM IN URDU (Karachi), Feb. 21, 2006, at 1-8, Open Source Center No. SAP20060221005001.)  
(Wendy Zeldin, 7-9832, wzeld@loc.gov)

#### COMMUNITY OF DEMOCRATS – New Members

At a meeting of the Community of Democrats, which concluded in Bamako, Mali, on March 3, 2006, six new countries – Cape Verde, El Salvador, Italy, Mongolia, Morocco, and the Philippines – joined the international body. The coalition of 127 countries, founded in 1999, is dedicated to strengthening democratic institutions and values at the national, regional, and world levels. The Bamako meeting focused on the proposed creation of a U.N. Human Rights Council, the revitalization of the Community’s Convening Group’s work, and the creation of an Executive Secretariat (for non-governmental processes) and a permanent Secretariat for the Community. The Convening Group, comprising the ten pioneer members of the Community (including the United States), handles the coordination and management of the coalition’s activities; it currently has no Secretariat. Mali assumed the presidency of the Community in April 2005, for a two-year term. (*Six Countries Join Community of Democrats*, ANGOLAPRESS, Mar. 6, 2006, <http://www.angolapress-angop.ao/noticia-e.asp?ID=422362>.)  
(Wendy Zeldin, 7-9832, wzeld@loc.gov)

#### CÔTE D’IVOIRE/FRANCE – Extradition of Alleged Murderer

The President of Côte d’Ivoire, Laurent Gbagbo, signed a decree on March 3, 2006, authorizing the extradition to France of a French citizen for whom the French authorities have issued a warrant of arrest for murder. Fofana Youssaf is suspected to be the leader of a gang that abducted and tortured to death in a Paris suburb a French Jew, Ilan Halimi. President Gbagbo’s decree is reportedly based on a “cooperation agreement” between the Côte d’Ivoire and France and was issued after a ruling handed down on March 2, 2006, by the city of Abidjan’s court of appeals. Youssouf had reportedly escaped to the Ivorian city from France on February 15 and was arrested by the police a week later. (*Gbagbo Authorises Extradition of Wanted French Citizen*, ANGOLAPRESS, Mar. 6, 2006, <http://www.angolapress-angop.ao/noticia-e.asp?ID=422366>.)  
(Wendy Zeldin, 7-9832, wzeld@loc.gov)

#### EASTERN AFRICA POLICE CHIEFS COOPERATION ORGANIZATION – Extradition of Convicted Criminals and Fugitives in Horn of Africa

On February 28, 2006, Ethiopia signed an extradition accord with the Eastern Africa Police Chiefs Cooperation Organization (EAPCCO). The agreement facilitates the extradition of convicted criminals and fugitives in the Horn of Africa. The agreement would reportedly enable the parties to jointly control criminals and fugitives, as well as fight terrorism. The extradition accord follows the meeting of internal affairs ministers from across East Africa and the Horn region in Seychelles on September 14, 2005, at which three agreements were signed on extradition of criminals, the fight against terrorism, and the fight against the drug trade.



EAPCCO was founded in Kampala in February 1998. Its constitution was signed in Khartoum, Sudan, on June 20, 2000, and came into force on August 21, 2002. It recognizes the Interpol Sub-Regional Bureau in Nairobi as its secretariat. EAPCCO member countries include Burundi, Djibouti, Ethiopia, Eritrea, Kenya, Rwanda, Seychelles, Sudan, Tanzania, and Uganda. (*Ethiopia Signs Extradition Accord with Eastern Africa Countries*, SUDAN TRIBUNE, Mar. 14, 2006, available at [http://www.sudantribune.com/article.php3?id\\_article=14299](http://www.sudantribune.com/article.php3?id_article=14299); *Establishment of Interpol Sub-Regional Bureau for Eastern Africa*, INTERPOL, Mar. 14, 2006, available at <http://www.interpol.int/Public/Region/Africa/SRBeasternAfrica.asp>; *East Africa, Horn Unite to Fight Organised [sic] Crime*, AFROL NEWS, Mar. 14, 2006, available at <http://www.afrol.com/articles/13953>.)  
(Ruth Levush, 7-9847, rlev@loc.gov)

#### **EQUATORIAL GUINEA/GABON – Annan Reopens Talks on Territorial Dispute**

The presidents of Gabon and Equatorial Guinea have agreed to work out an accord on a dispute over three small islands in oil-rich waters off their coasts. On February 27, 2006, U.N. Secretary General Kofi Annan initiated talks in Geneva between Gabon's Omar Bongo and Equatorial Guinea's Teodoro Obiang Nguema Mbasogo. "They showed incredible flexibility, good will and determination to press ahead and resolve this issue in the next few months and definitely before the end of the year," Annan told reporters after the meeting. While Gabon and Equatorial Guinea agreed in 2004 on joint oil exploration in their offshore waters, issues over control of their maritime boundaries were left unresolved. The dispute centers on Mbanie, Cocotier, and Conga islands in Corisco Bay, between the coasts of Gabon and Equatorial Guinea. The countries had appealed in 2003 for U.N. help to resolve the dispute, which stems from differing interpretations of maps of the area dating from 1900. In 2004, the two sides agreed on joint oil exploration and agreed to formal talks to settle the territorial dispute once and for all, but no progress was made in the talks until the meeting initiated by Annan. (Annan Reopens Talks on Territorial Dispute, IRINNEWS.ORG, Feb. 28, 2006, [http://www.irinnews.org/report.asp?ReportID=51946&SelectRegion=West\\_Africa&SelectCountry=EQUATORIAL GUINEA-GABON](http://www.irinnews.org/report.asp?ReportID=51946&SelectRegion=West_Africa&SelectCountry=EQUATORIAL_GUINEA-GABON).)

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

#### **EUROPEAN COURT OF HUMAN RIGHTS – British Woman Loses Right to Frozen Embryos**

In a last stand before the European Court of Human Rights, a British woman, who had several eggs removed prior to treatment for cancer inseminated with the semen of her then fiancé and frozen, has lost her final court bid to prevent their destruction. The law in the United Kingdom governing the use of frozen embryos requires the consent of both parties until the point the embryos are implanted back into the female. The couple split up prior to the implantation of the embryos, and the woman's fiancé would not consent to their implantation, claiming that he no longer wished to have the financial or emotional burden of having a child with his former fiancée. The woman claimed that the requirement that the consent of her former fiancé be required to implant the embryos violates her right to family life under the European Convention on Human Rights. The European Court on Human Rights rejected this claim and stated that the Human Fertilisation and Embryology Act 1990 "included a 'clear and principled' rule, which was explained to those embarking on IVF treatment and which was clearly set out on the forms they both signed." (Press Association, *Frozen Embryos Woman Loses Last Legal Battle*, INDEPENDENT, Mar. 20, 2006, available at <http://news.independent.co.uk/uk/legal/article349770.ece>.)

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



### MAURITANIA/SENEGAL – Joint Communiqué

Senegal and Mauritania issued a joint communiqué on March 7, 2006, stating their intention to strengthen cooperation in a number of fields. Senegal's President, Abdoulaye Wade, and Mauritania's leader, Ely Ould Mohamed Vall, signed the document in Dakar. The two neighboring West African nations already have a Joint Committee of Cooperation and representatives of each country are scheduled to meet in April in Noakchott, Mauritania, with an agenda including fishery, transportation, and personnel exchanges. In addition, the two leaders stressed the importance of the construction of a trans-Saharan road to link Senegal, Mauritania, and Morocco; the need for the international community to aid the New Partnership for Africa's Development; G8 and their support of the African Union's work to eliminate conflicts on the continent. They called on other African countries to work for peace, security, and integration. (*Senegal, Mauritania Pledge to Strengthen Cooperation*, XINHUA.NET, Mar. 7, 2006, [http://news.xinhuanet.com/english/2006-03/08/content\\_4274044.htm](http://news.xinhuanet.com/english/2006-03/08/content_4274044.htm).) (Constance A. Johnson, 7-9829, cojo@loc.gov)

### MEXICO/UNITED STATES – Border Security Agreement

The governments of Mexico and the United States signed an agreement to increase vigilance at the United States-Mexico border on March 3, 2006. The agreement, which was signed by the Mexican Secretary of Interior, Carlos Abascal, and U.S. Secretary of Homeland Security, Michael Chertoff, consists of an action plan to perform joint patrols, exchange information, and coordinate among the federal agencies of the two countries. The agreement does not include a mechanism for the migration of Mexicans to the United States. The action plan includes protocols to permit operations in the regions of Arizona-Sonora and Laredo-Nuevo Laredo, with the objective of preventing incidents of violence and unauthorized border crossing by government personnel, and to crack down on terrorists and drug dealers. (*Suscriben Plan México y EU Para la Frontera*, REFORMA, Mar. 4, 2006, <http://www.reforma.com>.) (Norma C. Gutiérrez, 7-4314, ngut@loc.gov)

### MOZAMBIQUE/INDIA – MOU on Military Cooperation

The Ministers of Defense of India and Mozambique, during the visit of the Mozambican Minister, Tabias Dai, to India, signed a memorandum of understanding on military cooperation. The MOU was signed on March 6, 2006, and covers, *inter alia*, improvement in the coastal patrol of Mozambique, supply of equipment and military services, and transfer of experience and technology on the assembly and repair of land vehicles, aircraft, and boats.

After sixteen years of civil war and the loss of military support from the former Eastern European bloc, Mozambique is now reorganizing its army. The cooperation agreement between the two countries extends to the rehabilitation of the military infrastructure as well. (*Moçambique: Governo Assina Acordo de Cooperação Militar com Índia*, AFRICANIDADE, Mar. 7, 2006, available at [http://www.africanidade.com/?lop=n\\_artigo&op=cfcd208495d565ef66e7dff9f98764da&id=549406198764950208345d143aa67c7d](http://www.africanidade.com/?lop=n_artigo&op=cfcd208495d565ef66e7dff9f98764da&id=549406198764950208345d143aa67c7d).) (Eduardo Soares, 7-3525, esoa@loc.gov)



### NAFTA/MEXICO – Corn Provisions Should Not Be Renegotiated

The Secretary of Agriculture of Mexico, Francisco Mayorga, stated that the Federal Government and businessmen of Mexico consider it not prudent to renegotiate the North American Free Trade Agreement (NAFTA) to hinder the free importation of corn into Mexico in 2008 as scheduled. He said that in such negotiations, the United States would request the exclusion from the Agreement of Mexican corn and other agricultural products whose import is a sensitive issue to American producers, and Mexico would, down the road, lose foreign currency and employment. Currently, the national production of corn in Mexico is not sufficient to cover the domestic demand, and Mexico has to import from the United States twenty percent of its consumption. It is foreseen that there will be more American corn than Mexican corn in Mexico by 2008. Presidential candidate Andrés Manuel López Obrador has stated that if he wins the national elections, he will renegotiate this aspect of NAFTA. Similar opinions were expressed by two notable entrepreneurs, Jaime Yesaki, President of the National Agricultural Council, and Enrique Tron, director of the National Chamber of Industrialized Corn. (*Es Inconveniente Renegociar Maíz*, EL NORTE, Mar. 6, 2006, <http://www.elnorte.com>.) (Norma C. Gutiérrez, 7-4314, [ngut@loc.gov](mailto:ngut@loc.gov))

### NATO – Cooperation with New Zealand

On February 3, 2006, New Zealand Defense Minister Phil Goff and NATO Secretary General Jaap de Hoop Scheffer signed an agreement on the exchange of classified information. The agreement will allow New Zealand and NATO to cooperate more effectively in peacekeeping operations and in responding to crises. In a speech at the Munich Security Conference of February 4, 2006, the NATO Secretary General declared that the forging of improved alliances with countries that share the values of the NATO countries is an important item on the political agenda for 2006. (*NATO and New Zealand to Enhance Cooperation*, NATO website, Feb. 4, 2006, <http://www.nato.int>.) (Edith Palmer, 7-9860, [epal@loc.gov](mailto:epal@loc.gov))

### SOUTHERN AFRICA DEVELOPMENT COMMUNITY – Protocol on Extradition and Mutual Legal Assistance in Criminal Matters

In February 2006, Angola's National Assembly ratified the Southern Africa Development Community (SADC) Protocol on Extradition and Mutual Legal Assistance in Criminal Matters. Other signatories of the Protocol include Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe. The Protocol will enter into force after ratification by two-thirds of SADC Member States. The Protocol contains proposals on fighting organized crime, reducing evasion of penal and disciplinary actions, and "transparent handling of cases of extradition of citizens from SADC member states." (*Parliament Approves SADC Extradition Protocol*, ANGOLAPRESS, Mar. 15, 2006, <http://www.angolapress-angop.ao/noticia-e.asp?ID=424242>; The Department of Justice and Constitutional Development, Republic of South Africa, *Extradition and Mutual Legal Assistance Treaties*, THE DOJ&CD, <http://www.doj.gov.za/2004dojsite/docs/emlatreaties.htm> ("as on 14 October 2004", last visited Mar. 15, 2006).) (Ruth Levush, 7-9847, [rlev@loc.gov](mailto:rlev@loc.gov))



**UNITED KINGDOM/UNITED STATES – Amendment Proposed to Extradition Treaty**

The United States and the United Kingdom signed a bilateral Extradition Treaty in 2003 that updated extradition practices between the two countries. The Treaty brings the United States approximately in line with current practices between the U.K. and Member States of the Council of Europe. In addition to the new practices under the Treaty, the U.K. passed an Order in Council removing the requirement for the United States to show a prima facie case when applying for an individual's extradition. This situation has caused much controversy and ill feeling in the U.K., as the United States has not yet applied a reciprocal provision to U.K. extradition requests, and, more controversially still, failed to ratify the U.S.-U.K. Treaty while obtaining the advantages of procedures contained in the Extradition Act 2003. The Conservative Party claimed, "the treaty was sold as being necessary to deal with terrorism and serious crime, but is being used to require extradition of offenders with a minimal connection with the US." As such, the Conservative Party has proposed an amendment to the Treaty in the Police and Justice Bill that would

restrict extradition to the US under the Extradition Act to terrorism cases until such time as full reciprocity is granted by the US ... [and] place safeguards to ensure that extradition will not happen if the alleged crime was one which could be tried here under domestic jurisdictions and there is no clear causal link with the US.

(Extradition Treaty Between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America, 2003, Cm. 5821; Police and Justice Bill 2005-6, H.C. Bill 119; Extradition Act 2003 (Designation of Part 2 Territories) Order 2003, SI 2003/3334, art. 3; Christopher Hope & Russell Hotten, *MP's Hit Out at "One-Sided" Treaty with America*, TELEGRAPH, Mar. 7, 2006, available at <http://www.telegraph.co.uk/money/main.jhtml?xml=/money/2006/03/07/cnterbil07.xml&menuId=242&sSheet=/portal/2006/03/07/ixportal.html>.)  
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## RECENT DEVELOPMENTS IN THE EUROPEAN UNION

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

### Proposal to Protect Freight Transport Against Terrorism

On February 26, 2006, the European Commission adopted a proposal designed to increase protection against terrorist attacks for freight transport. The proposal promotes security on inland transportation of goods by trucks, trains, and barges. Commercial operators who meet the minimum European Union standards for safety will receive a “secure operator” status from national authorities for three years, which can be renewed. Among other things, this privileged status will ensure that such operators will enjoy fast-track treatment at security points within the EU and also at the external borders. The Vice-President responsible for transport stated “the new rules will make the European Union the first trading bloc in the world to add a full security dimension to all forms of freight transport. These rules will help prevent terrorist attacks in the EU.” (Press Release, IP/06/242, European Commission Proposes Increased Protection of Freight Transport Against Terrorism (Feb. 28, 2006), available at <http://www.europa.eu.int/rapid/pressReleasesAction.do?reference=IP/06/242&format=HTML&aged=0&language=EN&guiLanguage=en>.)

### European Union Publishes Blacklist of Banned Airlines

In 2005, the creation of a blacklist of airlines that fail to meet international standards on safety was often discussed by the European Commission. Finally, on March 22, 2006, the European Union made public a list of airlines that are prohibited from operating in EU territory, mainly due to the use of old, obsolete, and badly maintained aircraft. Specifically, the list, which was prepared on the basis of recommendations by the twenty-five EU Members, includes ninety-three air carriers that are completely banned and three that face operational restrictions.

Approximately fifty of the airlines come from the Democratic Republic of Congo, fourteen from Sierra Leone, and seven from Swaziland. Passengers have the right to be informed if the airline they intend to use is on the blacklist. They also have the right to be compensated if the airline was later added to the blacklist. The list will be reviewed by the European Aviation Safety Agency every three months. (*EU Unveils Air Safety Blacklist*, BBC NEWS, Mar. 22, 2006, available at <http://news.bbc.co.uk/1/hi/world/europe/4832648.stm>.)

### Exchange of Police Information and Data Protection

At the EU level, because of increased terrorist threats, a number of proposals are pending that call for enhanced access to personal data among law enforcement officials. One of these proposals is a framework decision on the exchange of information under the principle of availability. This principle means personal information that is available to law enforcement authorities in one Member State must be made available to equivalent authorities in other Member States. Because such an exchange raises privacy concerns and possible violations of EU personal data protection rules, the European Data Protection Supervisor (EDPS), whose role is to protect citizens’ rights to personal data, issued an opinion. EDPS accepted that the principle of availability could be justified; however it endorsed a cautious and gradual approach to accessing and sharing personal data. For instance, the EDPS suggested sharing one type of data, rather than six, as suggested by the Commission, as well as



advocating indirect access and a hit/no-hit system, which offers more controlled access to data. (Press Release, EDPS/06/2, The Availability Principle: EDPS Wants the Exchange of Police Information to Be Introduced More Cautiously (Mar. 1, 2006), available at <http://www.europa.eu.int/rapid/pressReleasesAction.do?reference=EDPS/06/2&format=HTML&aged=0&language=EN&guiLanguage=en>.)

### **Alternatives to Testing Drugs, Chemicals on Animals**

The Scientific Advisory Committee of the European Center for the Validation of Alternative Methods (ECVAM) – an advisory body with the Joint Research Center of the European Commission whose role is to reduce methods of animal testing on cosmetics, drugs and chemicals – approved six new alternative testing methods for drugs and chemicals. The new methods are based on cell cultures rather than on animals. International studies have indicated that testing on cells provides more accurate predictions than testing on animals.

Consequently, such methods are beneficial to humans, because they contribute to an increased level of safety for patients, and to animals, since they reduce the number of animals used for testing. Any tests that are authorized by the ECVAM must be approved by the Scientific Advisory Committee, composed of representatives of the twenty-five EU Members, academics, and NGOs concerned with animal rights, before they can be used in laboratories in the European Union. (Press Release, IP/06/347, European Union Approves New Alternatives to Animal Testing of Drugs and Chemicals (Mar. 21, 2006), available at <http://www.europa.eu.int/rapid/pressReleasesAction.do?reference=IP/06/347&format=HTML&aged=0&language=EN&guiLanguage=en>.)

### **EU, Russia Sign Space Cooperation Agreement**

The EU-Russia Partnership and Cooperation Agreement, which was signed at the Moscow Summit in May 2005, laid down the foundation for increased cooperation on space issues. On March 10, 2006, the Director General of the European Space Agency and the Vice President of the European Commission signed a joint statement on improving bilateral cooperation with Russia in space activities, such as satellite navigation, earth observation, and access to space; space exploration; and the use of the International Space Station (ISS).

The Vice President commented that such an agreement “will have a very positive impact on the development of the European Space Program. Working together, using existing synergies will make our space policy more effective and will bring considerable benefits for the citizens of the EU.” (Press Release, IP/06/297, Space Policy: EU and Russia Join Forces and Sign Cooperation Agreement (Mar. 10, 2006), available at <http://www.europa.eu.int/rapid/pressReleasesAction.do?reference=IP/06/297&format=HTML&aged=0&language=EN&guiLanguage=en>.)

### **Financial Support to the Turkish Cypriot Community**

In April 2004, the European Council adopted conclusions on the Cyprus issue and called for measures to improve the economically stagnated area in the northern part of Cyprus, which is under Turkish occupation. The first measure to be adopted at that time was the so-called Green Line Regulation, which aimed to facilitate trade and other links between the southern part of Cyprus, where the Government of Cyprus exercises effective control, and the northern part of the island. On February 27, 2006, the Council adopted a second measure, also a regulation, which provides for financial



support to the Turkish Cypriot community in the northern part of Cyprus in order to facilitate and improve its economic development. The regulation calls for 139 million *euros* to be made available to the Turkish Cypriot community during 2006. (Press Release, c/06/60, EU Financial Support for the Turkish Cypriot Community (Feb. 27, 2006), *available at* <http://www.europa.eu.int/rapid/pressReleasesAction.do?reference=PRES/06/60&format=HTML&aged=0&language=EN&guiLanguage=en>.)

### **EU, Japan Sign Agreement on Peaceful Uses of Nuclear Energy**

Initial discussions between the European Union and Japan on an agreement related to peaceful uses of nuclear energy began during an EU/Japan Summit in 1998. The initiative was endorsed in the EU-Japan Action Plan adopted in December 2001. On February 27, 2006, the discussions between the two partners culminated in the signing of a Cooperation Agreement on the Peaceful Uses of Nuclear Energy. The agreement aims to establish the basis for the development of nuclear trade between the two parties and also to facilitate cooperation in the area of safeguards. The EU and Japan will cooperate by ensuring compliance with international norms on non-proliferation, safeguards, safety, and the physical protection of nuclear material. The duration of the agreement is thirty years. (Press Release, IP/06/236, EU and Japan Agree on Cooperation in the Peaceful Uses of Nuclear Energy (Feb. 27, 2006), *available at* <http://www.europa.eu.int/rapid/pressReleasesAction.do?reference=IP/06/236&format=HTML&aged=0&language=EN&guiLanguage=en>.)



**SPAIN: PROPOSED LAW ON GENDER EQUALITY**

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*The Spanish Government has proposed new gender equality legislation. The measures are intended to supplement existing legislation. Among other provisions, companies would be required to include negotiations on gender equality in the collective bargaining process.*

In February 2006, the Spanish Government submitted proposed gender equality legislation that includes provisions on fighting discrimination, allowing positive action measures in collective agreements, encouraging reconciliation of work and family life, promoting equality plans, and fostering good practices.<sup>1</sup> The draft legislation was previously referred to employers' organizations and labor unions for comments and input (*Ley de Garantía de la Igualdad entre Hombres y Mujeres*). The goal of the law, which includes a measure to implement recent EU equality legislation, is to introduce gender equality in all spheres of social life. It aims to eliminate all direct or indirect discrimination between women and men, guaranteeing and fostering equal opportunities in political, economic, social, and cultural life.

The measures proposed by the Government are designed to foster equal treatment for men and women, defined in the text as "the absence of any gender discrimination, whether direct or indirect, and in particular with regard to maternity, family burdens and the marital or family situation." The provisions in the measures that include the protection of motherhood are seen as a mechanism for achieving equal opportunity, so that any unfavorable treatment of women related to pregnancy or childbirth will be considered as direct gender discrimination. With regard to pay, the draft states that to put an end to the pay gap between men and women – approximately thirty percent according to the National Statistics Institute (Instituto Nacional de Estadística) – the principle of equal pay should be fully applied in the public and private sectors. Sexual harassment is also considered to be gender discrimination.

The draft states that positive action measures may be established in collective bargaining agreements to favor women's access to employment and to apply the principles of equal treatment and non-discrimination in working conditions. These measures include programs of integration in employment aimed mainly at women, as well as quotas for women. The draft also mentions positive action measures that favor the access of women to all occupations, with the possibility of establishing exclusions, quotas, and preferences in the conditions of recruitment, so that, between candidates who are equally suited to the job, preference will be given to the sex that is least represented in the occupational group or category. This type of measure may also be applied to occupational classification and training.

One of the proposed measures is that any act resulting from gender discrimination will be null and void and will be subject to dissuasive compensation proportional to the damage suffered. In court cases in which there is well-founded evidence of discrimination, the burden of proof will lie with the defendant rather than the plaintiff. Companies with more than 250 workers will be obliged to negotiate an equality plan in the framework of a collective bargaining agreement. Employers had previously expressed opposition to these plans, which could be why the Government has not made them compulsory in all new agreements. If no agreement is reached on these plans in the bargaining process, companies

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<sup>1</sup> Proposición de Ley 622/000023, De medidas para mejorar la conciliación de la vida laboral, familiar y personal. Senado, B.O.C.G. Serie III A Núm. 36(a), Nov. 25, 2005, <http://www.senado.es/legis8/actividad/index.html>.



will not be forced to establish them. However, the Government has expressed a commitment to support the plans by providing advice to companies, particularly small and medium-sized ones.

Paternity leave will be increased from the two days laid down in the Workers' Statute (*Estatuto de los Trabajadores*) to ten days. The draft bill also calls for equality in the home by prohibiting discrimination against those who do housework, which should be shared. Reconciliation of work and family life is established as an individual right. To make this effective, the Government proposes to introduce flexible working hours, so that workers can adapt their working time to their personal circumstances. Unpaid leave will also allow workers to deal with special circumstances, such as a sick child. Similarly, the right to shorter working hours to look after children, which is currently applicable to parents of children up to the age of six, could be extended to parents of older children. The minimum period of leave of absence for this purpose, currently a year, could also be reduced, so that parents who cannot afford to take a whole year off will be able to enjoy leave of absence for a shorter period.

In order to make the new law effective in the work environment, the Government plans to introduce sanctions for companies that practice discrimination and a range of incentives for good practices. A "mark of excellence in equality," modeled after the mark of excellence currently used for ecology-friendly foodstuffs, will be created for companies that meet the requirements. Public institutions will also provide subsidies for drawing up and introducing equality plans. The measures will be introduced slowly, and four years after passage of the law, the Government proposes to bring together the trade unions and employers' associations to assess the state of collective bargaining on equality. At that time, based on the results of the assessment, a decision will be made on whether to make equality plans compulsory in companies with more than 250 workers.

The trade unions have expressed their support for measures that favor gender equality in the work environment and expressed the view that collective bargaining will play an important role in introducing them. Employers, on the other hand, are against measures of this type, which they consider to be too interventionist. For example, many employers and employers' representatives have criticized a "code of good governance for companies" (*Código de Buen Gobierno de las Empresas*) that the National Securities Market Commission put forward for debate in January 2006, which includes proposals for greater gender parity on boards of directors.

Gender equality in the labor market and reconciliation of work and family life have been dealt with in Spanish legislation on several occasions in recent years. The Government's current proposal is aimed at making progress in this area through collective bargaining and establishing a "mark of excellence" that identifies companies with good practices. However, it is likely that the collective bargaining measures will be effective only in companies with a strong trade union presence, which are often those that have a relatively low female presence in the workforce. The proposed mark of excellence in gender equality fits in with a current tendency to foster the social responsibility of companies with regard to environmental pollution and the practices of Spanish companies in other countries. Through their choice of brands, the public can favor companies that they consider to be socially responsible. However, this type of consumer action has been minimal thus far in Spain, and if this tendency continues, more compulsory measures may have to be considered in order to ensure gender equality.<sup>2</sup>

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<sup>2</sup> Pablo Meseguer Gancedo, *Government Proposes New Gender Equality Legislation*, EUROPEAN INDUSTRIAL RELATIONS OBSERVATORY ON-LINE, Feb. 2006, <http://www.eiro.eurofound.ie/2006/02/feature/es0602106f.html>.

