



WORLD LAW BULLETIN

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AFRICA

ANGOLA – Parliament Approves Accord to Set Up Fishery Products Organization

On April 17, 2006, the Angolan Parliament approved a multinational accord of thirteen African nations that sets up the Intergovernmental Organization for Marketing Information and Co-operation Services for Fishery Products in Africa (INFOPECHE). This organization will favor technical and economic cooperation among its members and balance the availability of fishery products exported within the continent and beyond. Additionally, INFOPECHE is designed to assist in the research on new products, the promotion of less consumed species, and training in the techniques of the trade for the staffs of administrations and institutions in the fisheries industries. (*Parliament Approves Accord to Set Up Fishery Products Organisation*, ANGOLA PRESS, Apr. 22, 2006, <http://www.angolapress-angop.ao/noticia-e.asp?ID=433192>.)

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

BURUNDI – U.N. Mission on Reconciliation

A high-level United Nations mission arrived in Burundi on March 26, 2006, to work on establishing a truth and reconciliation commission and a special tribunal for human rights abuses, to cover cases from the country's twelve-year civil war. Under Secretary-General for Legal Affairs Nicolas Michel discussed the importance of their efforts:

Peace thirsts for truth and reconciliation. Durable peace thirsts for justice as well. We are particularly encouraged in our mission by the fact that the country authorities give a high priority to reconciliation and to the end of impunity as essential elements for consolidating a durable peace.

The delegation, which includes members of the U.N. Legal Department, the Office of the High Commissioner for Human Rights, the Department of Peacekeeping Operations, and the Department of Political Affairs, met with Burundi's Vice-President and the Ministers of Justice and National Solidarity, in addition to members of the U.N. staff stationed in Burundi. (*Top UN Legal Expert Begins Talks in Burundi on Justice and Reconciliation*, UNNEWS, Mar. 28, 2006, from UNNews@un.org.)

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

CAMEROON – Restrictions on Media Being Considered

A bill that aims to facilitate restriction of the media has been tabled in the Cameroon National Assembly. The measures were reportedly prompted by what the government views as excesses in the press coverage carried out by some media organs. Some observers fear that the measures being proposed by the government will compromise the breakthroughs that were made in the December 1990 law relating to freedom of social communication. (*Selection List: Cameroon Press*, LA NOUVELLE EXPRESSION, Apr. 6, 2006, at 5, Open Source Center No. AFP20060407602001.)

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

KENYA – Debate over Sexual Offenses Bill

At a workshop held on April 24, 2006, Kenyan Members of Parliament expressed concern that the bill they are currently considering on sexual offenses has provisions that conflict with traditional culture. In particular, they raised concerns about regulation of circumcision and the privileges of marriage and argued that the bill would impose national rule over local community power. One legislator expressed the fear that vague language in the bill could lead to the outlawing of male circumcision, a



practice in the Bukusu communities. Arguing for the bill, however, the Chairman of the Legal Affairs Committee, Paul Muite, said that it was not designed to outlaw circumcision in communities where it is accepted. "It is not going to conflict with culture," he said, adding that the key phrase in the provision is "being forced." He went on to cite an example of a member of another group, living among the Bukusus, undergoing circumcision involuntarily, as a case that would be unacceptable under the proposed legislation.

Other issues raised include the marriage age and the status of marital rape. Opposition leader Uhuru Kenyatta stated that Kenya needed to "resolve the existing clash between modernity and cultural practices" over rape. (*Kenyan MPs Say Sexual Offences Bill "Conflicts with Culture,"* THE STANDARD, Apr. 25, 2006, Open Source Center No. AFP20060425950028.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

KENYA – Smoking in Public Places Banned

Kenya's Government has drafted a new law, the Tobacco Bill 2006, to ban smoking in public places. The Head of the Health Ministry's Office on International Relations has urged members of parliament to support the bill to control smoking-related deaths. A gazette notice is expected to be published in time for World No Tobacco Day on May 31. The ban will apply to restaurants, offices, public transport, and parks. The bill also includes a ban on tobacco advertising, a provision that cigarettes be sold only to adults, and a provision that cigarettes be sold only in packs. The last provision presumably is intended to deal with the practice, common in many less-developed countries, of retailing cigarettes one by one. The Health Ministry has proposed increasing taxes on cigarettes by thirty-three percent. (*Smoking to Be Snuffed Out in Public Places,* THE NATION, Apr. 14, 2006, <http://allafrica.com/stories/printable/200604130950.html>.) (Donald R. DeGlopper, 7-9831, ddeg@loc.gov)

MALAWI – Proposed Changes to the Constitution

President Bingu wa Mutharika has proposed a revision of the constitutional provision that forbids Malawi's Members of Parliament from changing political parties. Mutharika, who argued that it contradicted freedom of association, which is also guaranteed in the country's constitution, proposed revising section 65 of the document. "The review of the constitution should assess the rights of individuals to belong to an association of their choice, and not to be forced to belong to a political party," he remarked at a recently concluded conference to examine the issue.

More than twenty members of the opposition, some of whom hold portfolios in the coalition Cabinet, resigned from their parties to join Mutharika's Democratic Progressive Party (DPP) and now face the threat of losing their seats in Parliament. Last year Mutharika took the matter to court, which called for a judicial review of the situation.

The United Democratic Front (UDF) said it was opposed to the removal of section 65 and warned that such a move would create a "dictatorship in the country" and cause instability in political parties. "The MPs are elected on a party ticket and they cannot just dump the party and join another party which did not help put them in their positions," said UDF spokesman Sam Mpasu. Other opposition groups, including the Malawi Congress Party (MCP), have criticized Mutharika for his call to allow floor crossing, saying it was undemocratic. "Section 65 should not be removed, because MPs are voted into office by the people, and if they want to move to another party they should get the mandate of the people," maintained Nicholas Dausi, an MCP spokesman.



The review also sparked a debate on whether the President should have the power to remove the First Vice-President. Mutharika's government is in litigation over the removal of First Vice-President Cassim Chilumpha. Mutharika maintains that Chilumpha, a senior UDF leader, resigned from his position; the former Vice-President, however, claims he was fired, which is unlawful. According to the constitution, the two top leaders can only be removed from office by an impeachment process in parliament. Janet Banda, Chief Law Reform Officer of Malawi's Law Commission, has come out in support of expanding presidential power to include removing a deputy. "It is also argued that it is not fair that the president should be saddled with a vice-president with whom he or she cannot work."

All suggestions will be tabled at a second constitutional review, which is expected to take place in September, before a final document is drawn up and presented to parliament for approval. (*MALAWI: Constitution Changes Could Strengthen Mutharika*, IRINNEWS.ORG, Apr. 26, 2006, [http://www.irinnews.org/report.asp?ReportID=52739&SelectRegion=Southern Africa](http://www.irinnews.org/report.asp?ReportID=52739&SelectRegion=Southern%20Africa).) (Karla Walker, 7-4332, kdwa@loc.gov)

NIGERIA – Constitutional Amendment Bill Changed Again

It was reported on April 20, 2006, that Nigeria's constitution amendment bill, which had contained ambiguous language regarding extension of governors' tenure beyond two terms, was again altered to allow governors to seek a third term in office. Section 176 of the bill had made no provision for a third term for governors when it was presented to the Nigerian Senate on April 11 and the House of Representatives on April 12, apparently angering several governors who supported the change. In section 130, by contrast, which stipulates the qualifications for the President, the right to seek a third term was clearly spelled out. The ambiguity in section 176 was variously ascribed by different National Assembly (NA) sources to mistakes made by a subcommittee during compilation of the bill or to deliberate actions. Section 176 (5)(b) of the bill as circulated read:

Where a candidate or candidates from a senatorial district has or have been elected to the office at any three previous elections under this Constitution, no candidate from that district shall be eligible to run for the office of the governor until the rotation among the other Senatorial Districts has been completed.

There was not only division among governors regarding support for the bill, but also some reports that they were being pressured to trade inclusion of language on a third term of office for removal of the immunity clause that shields them from criminal prosecution. On May 2, 2006, the House voted to include a third term for governors in the constitution amendment bill, but no date was set for debate on the bill. (Emmanuel Aziken Abuja, *Nigeria: 3d Term: Draft Bill Altered Afresh*, VANGUARD (Lagos), Apr. 20, 2006, <http://allafrica.com/stories/200604200154.html>; *Program Summary: Lagos Silver Bird Television English 1900 GMT 02 May 06*, Open Source Center No. AFP 20060503619005.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

SOMALIA – Pirates Threaten Legal Action Against Foreign Fishing Boat

In what might be regarded as a novel challenge to customary international law, Somali pirates holding a South Korean fishing vessel and its crew that they captured on April 6, 2006, announced that the crew would be put on trial and charged with illegal fishing in Somali waters. International law has for several centuries regarded pirates as outlaws. In addition, Somalia has had no functioning central government, laws, or courts since 1991. The commander of the pirates, who operate out of the central Somalian town of Harardheere, announced that he had appointed a committee of local fishermen and traditional elders to try the crew of the foreign ship, who come from China, Indonesia, Malaysia, South



Korea, and Vietnam. (*Somali Pirates Vow to Institute Legal Actions Against Korean Vessel, Crew*, SHABEELLE MEDIA NETWORK, Apr. 8, 2006, Open Source Center No. AFP20060409950023.) (Donald R. DeGlopper, 7-9831, ddeg@loc.gov)

SOUTH AFRICA – Regulation of Electricity

The Portfolio Committee on Minerals and Energy of the South African Parliament conducted public hearings on the Electricity Regulation Bill 29 of 2005 in April 2006. The bill's objective is to establish a national regulatory framework for the electricity supply industry. It establishes the National Energy Regulator as the custodian and the enforcer of this framework of regulations. The bill proposes to regulate the licensing and registration of the generation, transmission, distribution, trading, and import and export of electricity.

Concerns were raised as to the role of local governments, the Minister of Minerals and Energy, and the Electricity Regulator. Some stakeholders were of the opinion that the Minister was granted powers that should be allocated to the Regulator and vice versa. (*This Week in Parliament (4/11/2005)*, Parliament Watch, POLICY AND LAW ONLINE NEWS, <http://www.polity.org.za/pol/opinion/judith/> (last visited Apr. 19, 2006).) (Ruth Levush, 7-9847, rlev@loc.gov)

SOUTH AFRICA – Rights of Senior Citizens

A revised version of the Older Person's Bill 68 of 2003 was recently submitted to the South African Parliament's Portfolio Committee on Social Development. This bill seeks to improve the conditions of older persons by establishing a framework to empower and protect them. The objective of the bill is to promote the human dignity, well being, safety, and security of the elderly. (*This Week in Parliament (4/11/2005)*, Parliament Watch, POLICY AND LAW ONLINE NEWS, <http://www.polity.org.za/pol/opinion/judith/> (last visited Apr. 12, 2006).) (Ruth Levush, 7-9847, rlev@loc.gov)

SWAZILAND – Anti-Corruption Bill Debate Delayed

The second reading of the Prevention of Corruption Bill tabled by the Minister of Justice and Constitutional Affairs, Prince David, scheduled for April 6, 2006, had to be delayed because the number of Members of Parliament who turned out for the reading in Swaziland's House of Representatives did not form a quorum. There was no official explanation for the absence of the MPs, because even the Speaker, S'gayoyo Magongo, reportedly did not know why it had occurred. The Prince had told the House that the bill was aimed at halting rampant corruption in the kingdom. He stated that among other provisions, it would require all politicians and public officeholders to declare their assets within six months of taking office. (*Highlights: Daily News Digest for Botswana, Swaziland and Zambia*, THE SWAZI OBSERVER, Apr 7, 2006, Open Source Center No. AFP20060407516002.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

UGANDA – Bill Extends Right to Join a Union

Uganda's Parliament passed the Labour Unions Bill 2005 on March 29, 2006, which permits workers to join or form labor organizations. If signed by President Yoweri Museveni, the new law will replace the Trade Unions Act of 1973, adopted under former President Idi Amin. The 1973 legislation had barred some workers from creating unions.



The proposed law has provisions on establishment of, membership in, and administration of labor unions. In addition, it prohibits employers from interfering in the right of their workers to form associations, making it an offense to obstruct the exercise of that right. In initial discussions of the bill, some Members of Parliament had proposed permitting unions to be registered only after they reach a minimum size of 300 members. The Social Services Committee of the legislature consulted with the several government ministers concerned and decided to remove the size requirement. (*Bill Gives Workers More Freedom*, DAILY MONITOR, Mar. 30, 2006, <http://www.monitor.co.ug/news/news03304.php>.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

UGANDA – LRA Leaders Not Entitled to Amnesty

On April 21, 2006, Uganda's Ministry of Internal Affairs reported that following an amendment of a law that offers clemency to surrendering insurgents, leaders of the Ugandan rebel group Lord's Resistance Army (LRA) are no longer entitled to amnesty from prosecution. Many LRA leaders that have been indicted by the International Criminal Court (ICC) have been excluded from the new version of the amnesty law passed by parliament. Other rebel fighters who gave up their arms will continue to enjoy amnesty, the ministry said, adding that the government was focused on resuming peace talks with the LRA.

The LRA has waged a two-decade-long violent campaign against both the government and civilians in northern Uganda. The group is known for its brutality against villagers in the region, where thousands have been killed and close to two million displaced from their homes. While the ICC has indicted five top LRA leaders for crimes against humanity, none have been arrested.

Human rights activist James Otto said that changing the amnesty law had taken northern Uganda "back to square one." He said the amendment had not taken into consideration the concerns of communities in northern Uganda. "The people here have always advocated for an all-inclusive amnesty law and not a selective one. This has been done to the detriment of the children still in [rebel] captivity," he said. (*UGANDA: LRA Leaders Not Entitled to Amnesty*, REUTERS, Apr. 22, 2006, <http://www.alertnet.org/thenews/newsdesk/IRIN/605a4ed7c8ca55026903613688bda1fb.htm>.) (Karla Walker, 74332, kdwa@loc.gov)

UGANDA – NGO Registration Law

On April 7, 2006, the Ugandan Parliament passed the Non-Governmental Organizations (NGOs) Registration Amendment Bill 2001. It requires all NGOs and Pentecostal churches to register with the Internal Affairs Ministry. Work licenses will be issued for the organizations, initially covering just one year. At the end of the first license period, NGOs will be eligible for a license for two years; after that the renewal will be for five years. The organizations will be monitored every five years to be sure that their activities still match the goals they gave upon registration. If they fail to conform to their stated objectives, NGOs may lose their licenses. The version of the bill that passed the legislature is a revision of the original proposal, which would have required annual renewal applications. The board that considers applications will have fifteen members; two of them are to be security personnel and three will come from the public. (*Ugandan Parliament Passes NGO Registration Law*, THE MONITOR, Apr. 12, 2006, Open Source Center No. 20060412950003.) (Constance A. Johnson, 7-9829, cojo@loc.gov)



UGANDA – Refugees Cannot Own Land

On April 8, 2006, Uganda's Government clarified the issue of refugees and land ownership. The Assistant Commissioner for Refugees denied a newspaper story claiming that the recently passed Refugee Bill meant that refugees would be given free land and encouraged to settle in Uganda. He explained that the government's policy was that refugees could use, but not own, land. They were allowed to use government land or land controlled by local communities in order to become self-sufficient while in refuge, but the government was not encouraging them to stay in Uganda. (*Refugees Should Not Own Land – Ministry*, NEW VISION, Apr. 8, 2006, <http://allafrica.com/stories/printable/200604100350.html>.) (Donald R. DeGlopper, 7-9831, ddeg@loc.gov)

ZAMBIA – Bill Compels President To Consult with Law Society on Appointment of State Counsel

On April 6, 2006, the Zambian Parliament was informed that the Legal Practitioners Amendment Bill would compel the President to confer the status of State Counsel (SC) on lawyers in consultation with the Law Association of Zambia. Unlike the current situation, in which conferral of such status is the preserve of the President alone, Justice Minister and Attorney-General George Kunda told the House that the bill, which passed the second reading, would also accord the Solicitor-General the automatic status of SC. Mr Kunda stated that the bill, once amended, would accord the Solicitor-General the status of third highest rank in the government hierarchy, which has heretofore never been the case. (*Highlights: Daily News Digest for Botswana, Swaziland and Zambia*, TIMES OF ZAMBIA: Apr. 6, 2006, Open Source Center No. AFP20060406516005.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

ZAMBIA – Call for Government to Sign ICC Privileges, Immunities Pact

On April 7, 2006, Abraham Mwansa, interim coordinator for the Zambia Coalition for the International Court, urged the Zambian Government to sign the Agreement on the Privileges and Immunities of the International Criminal Court (ICC). Mwansa made his remarks in an interview held before the convening of a national workshop on the ICC. Because Zambia is located in a region prone to conflict, he stated, it needs legislation on crimes against humanity and genocide. In his view, "there was a likelihood that not only perpetrators of crime against humanity would decide to come to Zambia but also victims, hence the need to have implementing legislation that would spell out the necessity to cooperate with the ICC."

Signing the privileges and immunities agreement would enable Zambia to cooperate with the ICC; Mwansa stated that while Zambia had ratified the Rome Convention establishing the ICC on November 13, 2002, it has not yet adopted the necessary implementing legislation. The Zambia Coalition for the International Court is a group of non-governmental organizations that includes, among other organizations, the Law Association of Zambia, the Human Rights Commission, Transparency International Zambia, and the Non Governmental Organisations Coordinating Council. (Speedwell Mupuchi, *Zambia Should Sign Privileges and Immunities Pact – Mwansa*, THE POST (Lusaka), Apr. 7, 2006, http://www.postzambia.com/post-read_article.php?articleId=8630; *Agreement on the Privileges and Immunities of the International Criminal Court*, ICC-ASP/1/3, adopted Sept. 3-10, 2002, http://www.icc-cpi.int/library/about/officialjournal/Agreement_on_Priv_and_Imm_120704-EN.pdf.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)



ZAMBIA – Election Reforms

On March 22, 2006, the Zambian government rejected a call by opposition parties and civic groups to withdraw a new electoral bill. The government maintains that its principle aim in creating the bill was to make the voting process more accountable and transparent and not to accommodate constitutional issues. Earlier in the week, opposition and faith-based organizations dismissed the proposed legislation, calling it "cosmetic" and "aimed at hoodwinking the Zambian people that the forthcoming elections will be held under a new electoral law." The opposition's main objection to the Electoral Bill is that it gives the president powers that are in direct conflict with the mission and responsibilities of the electoral commission. Under the proposed bill, the president is empowered to set the election date, and there is no requirement that all future presidents be elected with more than fifty-one percent of the vote. Under current law, the candidate who receives the majority of votes becomes president.

The government maintained that calls for the inclusion of a fifty-one percent threshold for a winning presidential candidate, among other concerns, were constitutional matters that could not be addressed during the current sitting of parliament and would be addressed after the elections. It further argues that the recommendations made by the Electoral Reform Technical Committee to ensure that the upcoming polls were free and fair have been taken into account under the proposed bill. The bill provides for the use of transparent ballot boxes and committees to deal with disputes.

Throughout 2005, activists and opposition parties held demonstrations demanding the amendment of the constitution and electoral laws before this year's elections, arguing that too much power in has been placed in the hands of the president. Additionally, they argue that the "first past the post" system allowed the election of a head of state on the smallest of margins. A regularly cited example was President Levy Mwanawasa, who won the 2001 election with approximately twenty-eight percent of the total vote in a ballot deemed unfair by the Atlanta Georgia-based Carter Centre, the EU, and local poll monitors. (*ZAMBIA: Govt Rejects Call for Withdrawal of Election Law*, IRIN, May 1, 2006, <http://www.irinnews.org/print.asp?ReportID=52403>.)
(Karla Walker, 74332, kdwa@loc.gov)

ZIMBABWE – Anti-Terrorism Bill

A bill entitled the Suppression of Foreign and International Terrorism Bill (2006), addressing terrorism and mercenary activities not currently covered by existing Zimbabwean law, was proposed by the government on March 26, 2006. If enacted, the legislation would make it an offense to undergo training for foreign or international terrorism, to recruit others to undergo such training, or to possess weapons that could be used for terrorism. The highest level of punishment would be life imprisonment. In addition, the bill proposes criminalizing the act of knowingly harboring or concealing a foreign or international terrorist or failing to report such persons within seventy-two hours of knowing their location in Zimbabwe. These offenses would be punished with fines, ten years in prison, or both. Fines and/or prison terms of five years would be imposed on those who fail to disclose the presence of a terrorist when questioned by an official.

A fine, imprisonment of up to five years, or both could be imposed for collecting or supplying information for terrorist purposes. The same punishment could be given for knowingly materially assisting foreign or international terrorists or giving such assistance after realizing that there is a reasonable possibility that the assistance would be used by a terrorist organization.



The draft law proposes that the Minister of Home Affairs be empowered, after consulting with the Minister of Foreign Affairs, to issue a notice designating any organization a foreign or international terrorist organization. Only the Minister of Home Affairs could revoke the label. The bill has been seen as the government's response to events that occurred earlier in March 2006, when opposition members and police officers were detained and charged with stocking arms and plotting to assassinate President Robert Mugabe. The suspects were accused of working with a foreign-based organization called the Zimbabwe Freedom Movement. (*Zimbabwe Introduces Anti-Terrorism Bill*, THE HERALD, Mar. 27, 2006, Open Source Center No. FEA20060329021439; *Zimbabwe Publishes Proposed Anti-Terrorism Law*, REUTERS, Mar. 27, 2006, <http://www.alertnet.org/thenews/newsdesk/L27621378.htm>.) (Karla Walker, 7-4332, kdwa@loc.gov, and Constance A. Johnson, 7-9829, cojo@loc.gov)

EAST ASIA & PACIFIC

AUSTRALIA – Dead Parrot Threat Kills Wind Farm

On April 6, 2006, Australia's Federal Environmental Minister, Senator Ian Campbell, invoked extraordinary federal powers to halt development of a A\$220 million (about US\$162.58 million) wind farm project in the State of Victoria. The reason for the decision was the possibility, according to a government-commissioned report, that the project might lead to the death of one orange-bellied parrot each year, through collisions with the huge wind turbine vanes. There are believed to be no more than 200 orange-bellied parrots surviving in Australia, and the bird is in danger of becoming extinct within fifty years. The Victorian State Government had approved the project more than a year before, after six weeks of hearings on environmental effects. The Victorian Planning Minister accused the Federal Environmental Minister of acting to appease the oil and gas industries and to win support for the current Member of Parliament from that district. There had been some local opposition to the wind farm, and the parliamentary district is regarded as marginal. The Premier of Victoria claimed that Senator Campbell had pledged to stop the project during the 2004 general election campaign and that he was more interested in protecting his party's parliamentary seat than in protecting parrots. He subsequently wrote to the Prime Minister claiming that the Environment Minister's decision appeared not to reflect the scientific advice presented to his Department. On April 19, Australian newspapers published reports that the state government's estimates were that the wind farm might cause the death of one parrot in every 1,000 years. Senator Campbell said that he was determined to protect the orange-bellied parrot because it was "a unique Australian bird." (*Threat to Parrots Kills Wind Farm Plan*, THE AUSTRALIAN, Apr. 6, 2006, <http://www.theaustralian.news.com.au/>; *Govt Continues Mulling Legal Action over Wind Farm Rejection*, ABC NEWS, Apr. 18, 2006, <http://www.abc.net.au/>; *1-in-1000 Risk to Rare Parrot*, THE AUSTRALIAN, Apr. 19, 2006, <http://www.theaustralian.com.au/>.) (Donald R. DeGlopper, 7-9831, ddeg@loc.gov)

CHINA – 4,769 Suggestions on Labor Contract Law Draft

China's legislature announced on March 27, 2006, that by 9 a.m. of that day it had received 4,769 suggestions on the labor contract law draft since its solicitation of the opinions of the general public on March 20. It will be China's first law governing labor contracts.

The draft law was reviewed by the legislature in December 2005. It covers the establishment, revocation, revision, and termination of labor contracts. The suggestions were collected mostly via the Internet. A variety of issues were raised in the comments, such as the view that the term of labor contracts was shortened solely to avoid buying long-term insurance. An official from the legislature said that public opinions on the labor contract law draft would be accepted until April 20. (*China's*



Legislature Receives 4,769 Suggestions on Draft Labor Contract Law, PEOPLE'S DAILY, Mar 28, 2006, http://english.people.com.cn/200603/28/eng20060328_253882.html.)

(Rui Geissler, 7-9864, rgei@loc.gov)

CHINA – Alleged Harvesting of Prisoner Organs

On April 19, 2006, a week after a Chinese official denied the practice, the British Transplantation Society (BTS), comprising top British transplant surgeons, issued a statement accusing China of harvesting without due consent the organs of thousands of executed prisoners every year and then selling those organs to the highest bidder. Professor Stephen Wigmore, chairman of the BTS ethics committee, has stated that the speed with which donors and patients are matched in China, “sometimes as little as a week,” implied that there is selection of prisoners before execution. The BTS press release also stated “[t]his process of organ procurement and the subsequent transplants are known to involve payment of money and may implicate transplant centres, patients, and the authorities and judiciary responsible for the prisoners.” BTS condemned the practice and called it a breach of human rights. “The weight of evidence has accumulated to a point over the last few months where it's really incontrovertible in our opinion,” Wigmore said. “We feel that it's the right time to take a stance against this practice.”

Chinese officials deny the allegations. Ministry of Health spokesman Mao Qun'an had stated on April 10, 2006, that organs from executed prisoners were sometimes but rarely used, and only with prior permission of the prisoner or his relatives and the approval of the appropriate authorities. Still, he admitted, “supervision [over the process] is scant.” In March 2006, China issued interim regulations that will make the sale of body parts illegal and require donors' written permission (*see* 3 WLB 2006). Critics contend, however, that the practice is lucrative and its discontinuance will depend on how well the new rules are implemented. The rules fail to address certain key issues, moreover, such as the organs' source, the definition of brain death, and corruption. (Jill McGivering, *China 'Selling Prisoners' Organs*, BBC NEWS, Apr. 19, 2006, <http://news.bbc.co.uk/2/hi/asia-pacific/4921116.stm>; Press Release, The British Transplantation Society Criticizes the Alleged Use of Organs Without Consent of Prisoners Executed in the Peoples [sic] Republic of China, British Transplantation Society (Apr. 19, 2006), http://www.bts.org.uk/Forms/press_release_BTS.doc.; *Prisoners' Organs Not Used Without Consent*, CHINA DAILY, Apr. 11, 2006, <http://www.china.org.cn/english/2006/Apr/165147>.)

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

CHINA – Anti-Money Laundering Legislation Drafted

China is speeding up anti-money laundering legislation, Xiang Junbo, Vice-Governor of the People's Bank of China (PBOC) stated at a work conference in March 2006. To this end, the PBOC is soliciting public opinion on three draft regulations, covering the banking, securities and futures, and insurance sectors, which list fifty-nine kinds of dealings as “suspicious transactions” that must be reported to the relevant government agencies. For example, daily cash transactions by individuals that exceed 50,000 yuan (about US\$6,300) or US\$10,000 in foreign currency would be considered a “large sum transactions” that banks must report. The draft measures also state that financial institutions should not provide financial services to customers whose bona fides are not established.

China has taken various steps to counter money laundering in recent years. For example, in 2004, it set up an anti-money laundering monitoring analysis center to collect, analyze, and supply information on money laundering activities in the country. In 2005, the country joined the international Financial Action Task Force on Anti-Money Laundering as an observer. China is also planning to place money laundering of foreign exchange and local currency under a single administrative rubric. (*China Works on Anti-Money Laundering Laws*, CHINA DAILY, Apr. 14, 2006, <http://www.china.org.cn/english/govern>



[ment/165559.htm](#); *Apparent Text of Draft “Anti-Money-Laundering Regulations” for Comments Issued*, JINRONG SHIBAO, Apr. 12, 2006, Open Source Center No. CPP20060426335001.)
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CHINA – Ban on Commercial Use of Human Eggs

A circular issued by China’s Ministry of Health on April 7, 2006, tightens control of the commercial use of assisted reproductive technology (ART). The circular prohibits commercial donation and supply of human eggs, bans unauthorized institutions from using egg donation technology, and restricts egg donors to women whose eggs are collected in the course of their receiving ART. In addition, sperm banks will be more closely regulated, with a restriction on the use of a donor’s sperm to no more than five women for purposes of in vitro fertilization and embryo transfer (IVF-ET) and no more than eight women for artificial insemination; a ban on the supply of sperm to unauthorized institutions; and the requirement that sperm banks record detailed information on the use of the sperm specimens. Reportedly, sixty-four institutions were authorized to offer ART-related services as of March 31, 2006, and seven institutions have established sperm banks. Those institutions that have begun an ART business must cease operations until they have obtained government approval, and their health technicians must attend training programs to obtain qualifications certificates. Two other related circulars issued on April 7 are on a list of approved ART institutions and human sperm banks and on training standards. (*Commercial Use of Human Eggs Banned*, XINHUA, Apr. 9, 2006, <http://www.china.org.cn/english/2006/Apr/165023.htm>; Ministry of Health website, http://www.moh.gov.cn/news/menu_index.aspx?title=&group=gzdt&ifShowSubClass=1&CurrentPage=2&tp_class=&keywords.)
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CHINA – Deputies Send 6,511 Suggestions to Government

China’s Government has begun responding to the 6,511 suggestions made by deputies during the fourth session of the Tenth National People’s Congress (NPC) in March 2006. Wang Wanbin, the Deputy Secretary-General of the NPC Standing Committee, said the number of the suggestions had risen by 627, or 10.66 percent, from last year. “We sent 6147 suggestions to 174 departments for responses and 292 suggestions for reference, while 72 suggestions were shelved as they were too vague and general,” said Wang. The government departments were instructed to respond to the suggestions by September 14, 2006. (*China’s Civil Servants Respond to Lawmakers’ Suggestions*, PEOPLE’S DAILY, Apr. 3, 2006, http://english.people.com.cn/200604/03/eng20060403_255584.html.)
(Rui Geissler, 7-9864, rgei@loc.gov)

CHINA – New Criminal Tribunals Start Work

Three new criminal tribunals under China’s Supreme People’s Court that were established to review death penalty cases from provincial courts began work on April 1, 2006. The members of the three tribunals were selected from the regional courts through a series of rigorous examinations and were trained in Beijing for one month.

At first they will only review the cases and issue non-binding opinions. “They do not yet formally have the right to review and make final decisions on death sentence cases,” said Chen Guangzhong, a consultant to the Supreme People’s Court. He declined to say when the three tribunals would formally gain the power of making final decisions. (*Supreme Court to Review All Death Penalty Cases*, XINHUA NEWS, Apr. 3, 2006, http://news.xinhuanet.com/english/2006-04/03/content_4378612.htm; see also 11 W.L.B. 2005.)
(Rui Geissler, 7-9864, rgei@loc.gov)



CHINA – Prohibition on Foreign News Footage

China's State Administration of Radio, Film and Television (SARFT) issued a notice on April 10, 2006, banning domestic television stations from using international news material from foreign news services or channels and reminding the stations to use only news reports provided by the state-run China Central Television and China Radio International. The use of non-approved video is also prohibited, even if accompanied by voice-over scripts provided by the official Xinhua News Agency. The notice stated that some overseas news services and media had recently "used a variety of methods to sell international news material to domestic stations and the reports have a clear political intention." Many local television stations have reportedly been using footage and copy supplied directly by foreign news services and satellite broadcasters to be better able to compete with the demand for timely and diverse news coverage.

A week before the notice appeared, new restrictions were placed on foreign magazines for the China market. Censors stated that only those on science and technology could develop Chinese versions, provided it was done with local partners. (*SCMP: PRC Media Watchdog Prohibits Use of International News Material*, SOUTH CHINA MORNING POST, Apr. 13, 2006, Open Source Center No. CPP20060413515020; *China Clamps Down on TV News*, THE CHINA POST, Apr. 14, 2006, <http://www.chinapost.com.tw/asiapacific/detail.asp?GRP=C&id=80385>; *China Curbs Foreign News Footage*, BBC NEWS, Apr. 13, 2006, <http://news.bbc.co.uk/2/hi/asia-pacific/4906616.stm>.) *China Censors Focus in on Television Dramas, News*, SAN DIEGO UNION TRIBUNE, Apr. 11, 2006, <http://www.signonsandiego.com/news/world/20060411-0439-china-media.html>.)

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INDONESIA – IP Treaties Ratified

It was announced on April 25, 2006, that Indonesia had ratified a number of treaties on intellectual property: the Berne Convention, the Patent Cooperation Treaty, the Paris Convention for Protection of Industrial Property, the Trademark Law Treaty, the WIPO Copyright Treaty, and the WIPO Performances and Phonograms Treaty. The purpose is to bring Indonesia's legal regime into harmony with international intellectual property standards. Indonesia has already been working on initiatives related to the WTO Agreement on Trade-Related Aspects of International Property Rights, ratified in 1994. Legislation has been adopted on copyright, industrial design, plant varieties, patents, printed circuit designs, trade secrets, and trademarks. (*Indonesia Ratifies International Conventions on Intellectual Property*, JAKARTA REPUBLIKA, Apr. 25, 2006, Open Source Center No. SEP 20060426117002.)

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JAPAN – Immigration Law Amendment to Fingerprint and Photograph Foreigners

The Lower House of the Diet (parliament) passed a bill to require fingerprinting and photographing of foreigners when they arrive in Japan. The amendment of the Immigration Control and Refugee Recognition Law was proposed as a measure to prevent terrorism. According to the bill, foreigners entering Japan would be obliged to provide fingerprints, photographs, and their personal details. Collected personal identification information would be electronically registered and collated with a blacklist of data of past deportees and internationally wanted criminals. Foreigners under the age of sixteen, diplomats and those invited by the government, and special permanent residents, such as ethnic Koreans, will be exempt from the requirements. (*Nyūkan hō kaisei an kon kokkai seiritsu e [House of Representatives approved a bill to fingerprint, photograph foreigners]*, SANKEI SHINBUN, Mar. 23, 2006, <http://www.sankei.co.jp/news/060330/sei031.htm> (on file with author).)

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JAPAN – Supreme Court Lifts Bar on Letters by Inmates

On March 23, 2006, the Supreme Court of Japan decided that prison inmates should in principle be free to write letters to whomever they want. While serving an eighteen-year term for arson, the appellant, a former inmate, sent a letter to a lawmaker calling for better treatment in prisons. He also tried to send a letter to the *Asahi Shinbun*, a major newspaper company, to ask for news coverage of his request. The prison chief did not allow the letter to be sent to the newspaper company, citing the Prison Law, which stipulates that letters to people other than relatives could be sent “only when there is a special need.” The Supreme Court said such a restriction should be applied only in exceptional cases where there is a high risk of disrupting order and discipline, the prisoner's rehabilitation, or the inmate's time in custody. The Supreme Court ordered the state to pay compensation of 10,000 *yen* (about US\$83), although it rejected the plea of unconstitutional. (*Moto jukeisya: tegami sashidashi hukyoka wa ihō saikōsai de gyakuten syōso* [Supreme Court Lifts Bar on Letters by Inmates], MAINICHI SHINBUN, Mar. 23, 2006, <http://www.mainichi-msn.co.jp/today/news/20060324k0000m040112000c.html> (on file with author).)

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KOREA, SOUTH – Gay Soldiers’ Rights

Korea is likely to revise or repeal military laws that stipulate punishment and discharge of gay soldiers. Currently, soldiers who engage in homosexual acts face imprisonment of up to one year under the military penal code. The National Human Rights Commission recommended the amendment in January 2006. (*Military to End Punishment of Gay Soldiers*, DIGITAL CHOSUN ILBO, Apr. 4, 2006, <http://english.chosun.com/w21data/html/news/200604/200604040033.html>.)

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KOREA, SOUTH – Hyundai Scandal

Prosecutors in Korea are investigating the Hyundai Automotive Group. Allegedly, Hyundai tried to write off 55 billion *won* (about US\$55 million) out of 200 billion *won* in debts owed by insolvent Kia affiliates when it took them over. Hyundai also allegedly used an intermediary to bribe officials at the Korea Development Bank (KDB) and financial regulators with two billion *won*. The KDB was then given 20 billion *won* in public funds to make up for writing off the debt. (*Probe Reveals Urgent Need for Reform at Hyundai*, DIGITAL CHOSUN ILBO, Apr. 16, 2006, <http://english.chosun.com/w21data/html/news/200604/200604160009.html>.)

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MACAO – Anti-Money Laundering Law

Macao's Legislative Assembly approved a bill on the prevention and repression of money laundering on March 23, 2006. The bill, in twelve articles, lists businesses and professions that are obligated to fight money laundering (including credit institutions, financial agencies, currency exchanges, and casinos) and imposes a prison term of from two to eight years on persons convicted on charges of money laundering. In 2005, United States authorities alleged that a bank based in Macao was involved in a money-laundering case, and the international publicity that resulted apparently put pressure on the Government of the Macao Special Administrative Region to evince stronger determination to combat money-laundering crimes. (*Macao Nods Anti-Money Laundering Law*, XINHUA, Mar. 24, 2006, <http://www.china.org.cn/english/China/163231.htm>; text of the law in Chinese and Portuguese, <http://images.io.gov.mo/bo/i/2006/14/lei-2-2006.pdf>.)

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MACAO – Anti-Terrorism Law

A law on the prevention and suppression of terrorism took effect in Macao on April 11, 2006. Approved by the Legislative Assembly in March, the law imposes prison sentences of one to twenty years for “terror-related crimes.” For example, persons convicted of heading a terrorist group face prison terms of twelve to twenty years and those convicted of planning to establish a terrorist group will be subject to one to eight years of imprisonment. The law also covers crimes of terrorist financing. (*Xinhua: Anti-Terror Law Takes Effect in Macau*, XINHUA, Apr.11, 2006, Open Source Center No. CPP20060411078037; text of the law in Chinese and Portuguese, <http://images.io.gov.mo/bo/i/2006/15/lei-3-2006.pdf>.)

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MALAYSIA – Protection of Intellectual Property

On April 20, 2006, Malaysia’s Minister of Domestic Trade and Consumer Affairs, Shafie Apdal, announced that in May the country will sign a number of intellectual property treaties designed to protect inventions and original research. In addition, he said that Malaysia is committed to fighting piracy and that by 2007, Malaysia expects to set up a special court for piracy cases and amend laws to enable prosecution of owners of stores in which pirated materials are sold.

Malaysia and the United States agreed in March 2006 to begin talks on a free trade agreement. Such an agreement is likely to require stricter control of intellectual property rights infringement in Malaysia. Despite efforts by authorities to control piracy, illegally copied discs are available in many Malaysian shopping districts. U.S. Ambassador Christopher LaFleur, referring to the upcoming trade negotiations, said:

IPR protection is going to be a big component in those discussions. Both sides want to benefit from an increasingly free and open exchange of intellectual property, and the basis for that has to be confidence that, for both of us, our intellectual property is going to be protected.

(*Malaysia Shores Up Anti-Piracy Efforts Ahead of US Trade Deal*, AFP, Apr. 20, 2006, Open Source Center No. JPP20060420067001.)

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PHILIPPINES – Anti -Terror Legislation Passes Congress

On April 5, 2006, a proposed anti-terrorism law cleared the lower chamber of the Philippines Congress. The legislation defines acts of terrorism and gives security officials powers to arrest suspects without court warrants and to hold them for several days without charge.

However, legislators removed a provision calling for capital punishment for acts of terrorism, said House of Representatives member Edcel Lagman, one of the sponsors of the law. The Philippines has no specific law on terrorism, and members of Muslim militant groups linked to bomb attacks have in the past been allowed to post bail. The Philippines Senate now has to pass its counterpart version of the bill. (Public Relations and Information Department, Philippines House of Representatives, *House Passes Anti-Terrorism Bill on 3rd and Final Reading*, Apr. 5, 2006 <http://www.congress.gov.ph/press/details.php?pressid=1200>; *Anti-Terror Legislation Passes Philippine Congress*, Hong Kong AFP, Apr. 5, 2006, Open Source Center No. JPP20060405062021.)

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PHILIPPINES – President Arroyo to Commute Death Sentences

On April 15, 2006, Philippines President Gloria Macapagal-Arroyo announced that she would commute death sentences to life imprisonment. The announcement could result in about 1,200 convicts in the Philippines (including some Al Qaeda-linked militants) having their sentences commuted. In a press release apparently intended to appease Catholic Church leaders, Mrs. Arroyo said the death sentence would be commuted to life in prison but did not say whether she would move to legally abolish the death penalty.

The President, who has been dealing with vote-rigging and corruption allegations, has recently tried to woo the support of influential Catholic bishops, who have lamented the crisis under her rule and criticized her policies. No execution has taken place since 2000 in the predominantly Roman Catholic nation, where capital punishment has been opposed by the conservative Catholic Church but advocated by victims of heinous crimes and terrorist attacks. At least eleven Islamic militants of Abu Sayyaf, a small al-Qaeda-linked group blamed for deadly bombings and kidnappings in the Philippines, are on death row. (Gloria Macapagal-Arroyo, President of the Philippines, President Gloria Macapagal-Arroyo's 2006 Easter Message, Office of the President website, Republic of the Philippines, Apr. 15, 2006, <http://www.op.gov.ph/speeches.asp?iid=801&iyear=2006&imonth=4>; *Al Qaeda Militants "Saved" for Easter*, YAHOO NEWS, <http://uk.news.yahoo.com/16042006/140/al-qaeda-militants-saved-easter.html> (last visited Apr. 24, 2006).)

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PHILIPPINES – Supreme Court Upholds ID System to Identify Criminals, Terrorists

On April 19, 2006, the Philippines Supreme Court upheld the constitutionality of Executive Order 420 (EO 420), issued by President Arroyo in 2005, requiring all government agencies and government-owned and controlled corporations to streamline and merge their respective identification systems into one ID system. Opponents of EO 420, mostly left-leaning groups, filed petitions with the Supreme Court, arguing that the ID system the Order establishes is a national one that infringes on individuals' right to privacy and that only Congress has the power to establish such a system. In its decision, however, the High Court held that EO 420 does not infringe on the right to privacy and that Mrs. Arroyo did not usurp legislative power.

The Supreme Court stated that EO 420 applies only to government agencies that already maintain ID systems and issue ID cards pursuant to their regular functions under existing laws. The court also noted that the EO limited the information to be collected to fourteen specific items: name, home address, sex, picture, signature, date of birth, place of birth, marital status, name of parents, height, weight, two index finger prints and two thumb marks, any prominent distinguishing features like moles, and tax identification number. "These limited and specific data are the usual data required for personal identification by government entities, and even by the private sector. Anyone who applies for or renews a driver's license provides to the (Land Transportation Office) all these 14 specific data," the court said.

Philippine National Police Deputy Director General Avelino Razon said that once a national ID system is fully implemented, "terrorists would lose their anonymity." He said that suspected foreign terrorists entering the country are now harder to detect, especially members of the al-Qaeda-linked Jemaah Islamiyah, which operates in Southeast Asia, as they share similar physical features with Filipinos. (*Manila Plans to Expand Scope of ID System to Identify Criminals, Terrorists*, THE PHILIPPINE STAR (Internet version), Apr. 21, 2006, Open Source Center No. SEP20060421019004.)

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TAIWAN – Compulsory Recycling of Mobile Phones and CDs

Taiwan's Environmental Protection Administration (EPA) announced on April 13, 2006, that as of April 17, recycling of mobile telephones and compact discs (CDs) would be enforced. The agency stated that as of that date the phones and CDs must be handed to garbage collectors; if found among ordinary household waste brought out for collection, first-time violators would be given a warning. Repeat offenders, however, will be subject to a fine of between NT\$1,200 and NT\$6,000 (about US\$38-\$139).

According to EPA officials, mobile phones and CDs have a recycling value. They are considered general waste, to be handled in accordance with article 5, section 6, of the Waste Disposal Act. In related news, a Taiwan research laboratory announced on April 13 that it had developed improved technology that could retrieve junkyard raw material worth up to NT\$700 million per year. The head of the laboratory stated that if the approximately one billion CDs used in Taiwan every year, most of which eventually wind up in junkyards, were recycled, the market value of the extracted polymer composite would be between NT\$500 and NT\$700 million (roughly US\$15.7-\$22 million). (*CD and Phone Recycling to Be Enforced Next Week*, TAIPEI TIMES, Apr. 14, 2006, at 2, <http://www.taipeitimes.com/News/taiwan/archives/2006/04/14/2003302608>.)

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TAIWAN – Heavy Fines on Employers Hiring Illegal Foreign Workers

The Cabinet-level Council of Labor Affairs (CLA) promulgated a new regulation regarding illegal workers in Taiwan, which became effective on April 20, 2006. Local enterprises or individuals hiring foreigners illegally staying in Taiwan will be subject to heavy fines of up to NT\$750,000 (about US\$23,400) in accordance with the new regulation. CLA statistics showed that as of the end of March 2006, there were a total of 23,574 illegal foreign workers in Taiwan. (*Heavy Fines for Hiring Illegal Aliens to Start April 20*, THE CHINA POST, Apr. 13, 2006, <http://www.chinapost.com.tw/taiwan/detail.asp?ID=80373&GRP=B>.)

(Rui Geissler, 7-9864, rgei@loc.gov)

TAIWAN – Presidential Power to Be Strengthened

In an attempt to reorganize Taiwan's command structure in wartime, Taiwan legislators plan to empower the President, rather than the Minister of National Defense, to launch the first and second strikes in a war. Under the proposed amendment to the National Defense Act, the definition of "first strike" means that the Republic of China (ROC) launches a war, while "second strike" signifies that the country is countering an invasion.

According to the constitution and the National Defense Act, the President is the supreme commander of the army, navy, and air force of the ROC and Commander-in-Chief of the ROC Armed Forces. The legislators believe that the President can declare war, but that does not mean he would have the power to give a specific command on how the first strike would be launched. That power currently resides with the Minister of National Defense. The lawmakers believe that the President should have the power to decide whether and when to go on the offensive, because he is the Commander-in-Chief. (*Presidential Power During Wartime May Be Expanded*, TAIWAN HEADLINES, Apr. 18, 2006, <http://english.www.gov.tw/TaiwanHeadlines/index.jsp?categid=8&recordid=93614>.)

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TAIWAN – Sensitive Exports Hard to Control

Taiwan's Bureau of Foreign Trade (BOFT) issued a press release on April 13, 2006, on an investigation it has conducted since last year on Taiwanese exporters of high-precision machine tools, to determine if any had violated BOFT Regulations Governing Export and Import of Strategic High Tech Commodities. The investigation has also sought to determine whether Taiwan manufacturers have the capability to produce machine tools sophisticated enough to make weapons components. BOFT acknowledges that there were difficulties in determining whether Taiwan exporters of sensitive goods had transferred technology to China that could be used for military purposes. Director Peter Ho of the Import/Export Division indicated that BOFT "most likely 'would not know' if certain strategic high-tech commodities had been acquired by dangerous end users after leaving Taiwan," even though exporters must have the proper certification and BOFT conducts due diligence on importers and end users listed by the exporter.

On April 12, SANKEI SHINBUN, a Japanese-language daily, alleged that mainland China has used the sophisticated Taiwan tools to service its ballistic missiles targeting Taiwan and its attack helicopters. However, according to Ho, "the machine tools most capable of fabricating weapons-grade parts were those outfitted with Computer Numerical Control (CNC) devices – technology that significantly enhances the precision of the tools," which Taiwan imports mainly from Japan. On the other hand, if the newspaper report is accurate, Ho speculated, the Chinese military might have acquired Taiwan machine tools exported to mainland China after being equipped with imported CNC technology. (Max Hirsch, *Sensitive Exports Hard to Control, Bureau of Foreign Trade Admits*, TAIPEI TIMES, Apr. 18, 2006, at 2, <http://www.taipeitimes.com/News/taiwan/archives/2006/04/18/2003303275>; Press Release, BOFT, BOFT Strengthens Investigation of the Circumstances of Export to Mainland China of Taiwan-Manufactured High-Precision Machine Tools (Apr. 13, 2006), http://ekm92.trade.gov.tw/BOFT/web/report_detail.jsp?data_base_id=DB009&category_id=CAT525&report_id=107741.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

TAIWAN – Tougher Punishment for Drug Crimes Pushed

Lawmakers in Taiwan have asked the Ministry of Justice (MOJ) to consider tightening punishments for drug offenders. At a hearing of the Judicial Committee of the Legislative Yuan held on April 10, 2006, two Democratic Progressive Party legislators contended that drugs such as ketamine and FM2 are easily accessible in Taiwan and that the government should revise the law to better control them. Vice Justice Minister Lee Chin-yung, who delivered a report to the Committee, agreed that the drugs are "a loophole in the law that should be closed as soon as possible," even though he stated that the two substances are "less likely to be addictive" and at present use of them carries no criminal liability. The legislators also asked the MOJ to consider an increased punishment for drug trafficking, and a doctor at the hearing urged the government to list PMMA, a new form of the drug ecstasy that has apparently made inroads into Taiwan, as a dangerous drug to ensure its stricter regulation. (*Legislators Push for Tougher Punishment for Drug Offenders*, TAIPEI TIMES, Apr. 11, 2006, at 2, <http://www.taipeitimes.com/News/taiwan/archives/2006/04/11/2003302090>.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

VIETNAM – Foreign Banks

The Government of the Socialist Republic of Vietnam issued Decree 22, on the organization and operation of foreign-owned banks, in February 2006; it entered into force on March 24. Vietnam is obligated to open its banking sector to competition under the U.S.-Vietnam Bilateral Trade Agreement and agreements with the WTO; which it is about to join. Updating earlier rules, the Decree provides for a



new regulatory framework under which foreign banks may operate in Vietnam in three forms: 1) a foreign bank branch (FBB) (reportedly the most common form of foreign bank presence in the country); 2) a joint venture bank (JVB) (without special permission, the foreign bank partner(s) may not contribute more than fifty percent of the charter capital); and 3) a hundred percent foreign-owned bank (FOB).

The Decree specifies that foreign banks must satisfy minimum standards before the State Bank of Vietnam will issue a license for conducting banking operations in Vietnam. Among other requirements, a foreign bank must have total assets in the year preceding the license application of at least US\$20 billion for an FBB or US\$10 billion for a JVB or FOB. Minimum charter capital requirements are not specified in the Decree or in the Law on Credit Institutions. The maximum duration of licenses is now extended to ninety-nine years for all three types of banking operations. Instead of listing all the operations that foreign banks are permitted to undertake, the new Decree has a general section on the subject that allows foreign banks to undertake all normal business activities of banks in accordance with the Law on Credit Institutions. This reform is seen as helping to create a level playing field with the domestic banks. The Decree also newly allows FBBs to operate ATM networks, in accordance with State Bank regulations (as yet to be issued). (*New Decree Liberalises Rules on Foreign Banks*, VIETNAM NEWS, Apr. 5, 2006, <http://vietnamnews.vnanet.vn/showarticle.php?num=01TAW050406>.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

EUROPE

AUSTRIA – Genetic Engineering

On November 18, 2005, Austria reformed its Act on Genetic Engineering (BUNDESGESETZBLATT I No. 127/2005). The reform focuses on chapter IV of the Act, dealing with human genetic analysis and therapy, an area of genetics in which the member states of the European Union still have freedom to legislate (G. Aigner & Helmut Schwamberger, *Entwurf eines Bundesgesetzes*, RECHT DER MEDIZIN 91 (2005)). The Austrian Reform Act redefines the medical purposes for human genetic analyses by differentiating between (1) analyses to diagnose or treat an existing illness that are based on data about concrete somatic changes in the number, structure, sequence, or chemical modification of chromosomes, genes, or DNA sequences, (2) analyses to diagnose an existing illness that is based on a germ-line mutation, (3) analyses to diagnose the predisposition for a genetically caused illness for which therapies exist, and (4) analyses for the predisposition for a genetically caused illness for which therapies do not exist. The procedures, safeguards and privacy restraints differ among these categories of testing, all of which require the informed consent of the patient.

The Reform Act also provides additional safeguards against discriminatory genetic testing by employers and insurers. Not only does the law prohibit them from requesting genetic testing or accepting or using the results of such testing, but it also prohibits them from collecting bodily substances that could be used for genetic analyses. (Edith Palmer, 7-9860, epal@loc.gov).

AZERBAIJAN – Government Creates Population Database

On April 17, 2006, the Azerbaijani legislature, Malii Majlis, adopted a Law on the Governmental Population List, which provides for the establishment of a unified information system that contains information on the entire nation's population. The newly created government database will have the following personal information for each person: name, surname, gender, marital status, date of birth, information about close relatives, criminal and military records, employment history, and address of



permanent residence. Three categories of people will be included in the database – citizens of the Azerbaijan Republic, foreigners living in Azerbaijan on a continuing basis, and stateless persons residing in Azerbaijan. Individuals will be provided with identification numbers related to their birth dates. The collected information will be managed by the National Statistics Bureau, which can make this information available to government institutions, local self-government bodies, and individual citizens upon request. The Law makes the National Statistics Bureau responsible for protection of the information. (S.Bagirova, *Novosti iz Parlamenta [News from the Parliament]* AZERBAIJANSKIE IZVESTIJA, Apr. 21, 2006, <http://www.azerizv.az/article.php?id=642&print=1>.) (Peter Roudik, 7-9861, prou@loc.gov)

BELGIUM – Legalization of Adoption by Same-Sex Couples

On April 20, 2006, the Belgian Senate narrowly approved, by a vote of thirty-four to thirty-three with two abstentions, a draft law legalizing adoption of children by same-sex couples. In December 2005, the Chamber of Representatives had voted seventy-seven to sixty-two in favor of giving same-sex couples adoption rights. The adopted text allows homosexual couples to adopt children from anywhere in the world. Belgium legalized same-sex marriage in 2003. Belgium became the sixth European country to allow same sex-couples to adopt after Denmark (1999), The Netherlands (2001), Sweden (2003), Spain (2005), and the United-Kingdom (2005). (Rafaële Rivais, *En Belgique, les homosexuels pourront adopter*, LE MONDE, Apr. 21, 2006, <http://.lemonde.fr> (archives).) (Nicole Atwill, 7-2832, natw@loc.gov)

BULGARIA – Ban on Old Taxicabs

On April 14, 2006, the Constitutional Court of Bulgaria upheld a government regulation that some believe was passed in support of the interests of leasing companies. It requires that cars newly registered as taxis be no more than five years old and that currently operating cars be in service no longer than ten years. Under this regulation, the overall length of service for a taxicab is ten years. The regulation, which is aimed at improving transportation and environmental safety, enters into force immediately. Traffic police are assigned the duty to check taxicabs and secure their removal from the road in case of violations. (*Constitutional Court Approves Law Banning Old Cabs*, ALL DATA PROCESSING LTD, Apr. 14, 2006, <http://www.securities.com/>.) (Peter Roudik, 7-9861, prou@loc.gov)

DENMARK – No Prosecution of Newspaper That Published Drawings of the Prophet Muhammed

On September 30, 2005, the Danish daily newspaper JYLLANDS-POSTEN published the article *The Face of Muhammed* that included twelve drawings. A number of complaints were filed with the police, alleging that the publication violated provisions of the Danish Criminal Code. On March 15, 2006, the Director of Public Prosecutions (DPP) issued his final decision not to institute criminal proceedings. Two provisions of the Danish Criminal Code were relevant: section 140 and section 266b. Both provisions are to be interpreted narrowly out of regard for freedom of expression.

Section 140 provides that any person who, in public, mocks or scorns the religious doctrines or acts of worship of any lawfully existing religious community in Denmark will be liable to imprisonment for any term not exceeding four months. The provision is rarely applied; only three prosecutions have been brought since 1930. Initially, the DPP found that the religious writings of Islam do not contain a general and absolute prohibition against drawing the Prophet Muhammed. One of the drawings (drawing 2), however, depicted a grim-looking man with a turban in the shape of a bomb. The DPP found that:



this depiction may with good reason be understood as an affront and insult to the Prophet who is an ideal for believing Muslims. However, such a depiction is not an expression of mockery or ridicule, and hardly scorn within the meaning of section 140 of the Danish Criminal Code. The concept scorn covers contempt and debasement, which in the usual meaning would not comprise situations depicting a figure as shown in drawing 2, regardless of how it is illustratively to be understood or interpreted.

Section 266b(1) of the Danish Criminal Code provides that any person who, publicly or with the intention of wider dissemination, makes a statement or imparts other information by which a group of people are threatened, scorned, or degraded on account of their race, color, national or ethnic origin, religion, or sexual inclination will be liable to a fine or to imprisonment for any term not exceeding two years. The DPP found that:

the drawings that must be assumed to be pictures of Muhammed depict a religious figure, and none of them can be considered to be meant to refer to Muslims in general. Furthermore, there is no basis for assuming that the intention of drawing 2 was to depict Muslims in general as perpetrators of violence or even as terrorists.

In the aftermath of the DPP decision, the complainants are considering a civil suit against JYLLANDS-POSTEN and a complaint to the European Court of Human Rights. (Andreas Laursen, Guest Contributor. Prosecutor with the Special International Crimes Office, Copenhagen, Denmark. This summary has been compiled in his private capacity and cannot be attributed to the Danish Public Prosecution Service.)

ENGLAND & WALES – Attorney General to Review Lenient Sentence for Pedophile

In what the media has regarded as a lapse of community supervision and lack of judgment in sentencing, the Crown Court in Lewes, England, has sentenced to an indefinite term of imprisonment a pedophile who repeatedly raped a young girl. Under the ruling, the pedophile, who was on the sex offenders' register after having downloaded child pornography and was under the supervision of the probation service, is required to serve a minimum of five years and seven months. The Attorney General is reviewing the minimum sentence and has twenty-eight days to send the case to the Court of Appeal, which can increase the minimum sentence. (*Child Rapist Jail Term Reviewed*, BBC NEWS, Apr. 26, 2006, http://news.bbc.co.uk/1/hi/england/southern_counties/4934338.stm; Steve Bloomfield, *Attorney General to Review 'Lenient' Child Rape Sentence*, TELEGRAPH, Apr. 26, 2006, at 8.) (Clare Feikert, 7-5262, cfei@loc.gov)

ESTONIA – New Restrictions on Teenage Smoking

On April 18, 2006, amendments to the Code of Administrative Violations of Law entered into force. They introduce a total ban on possession of tobacco or alcohol by minors. A special provision emphasizes the application of this rule to foreigners less than eighteen years of age. The inclusion of this norm was necessary because the law in neighboring Finland forbids stores from selling alcohol and tobacco products to minors, but minors are not punished for consumption of these products. The amendment equates consumption and possession and punishes violators with a fine in the amount of EEK600 (about US\$45). The law also allows police to issue warnings instead of fines. Another act included in the list of punishable violations is purchasing alcohol or tobacco on behalf of an underage person. (*Police to Impose Fines on Smoking Adolescents*, BALTIC BUSINESS NEWS, Apr. 20, 2006, <http://www.securities.com/>.) (Peter Roudik, 7-9861, prou@loc.gov)



FINLAND – Class Action Lawsuits Introduced

A memorandum from a working group on class action lawsuits was presented to the Minister of Justice of Finland in early March 2006. The memorandum proposes that class actions be introduced in consumer disputes affecting large groups of parties and in disputes regarding extensive environmental damage. The reasons for introducing class action lawsuits in these areas are that they represent claims involving large groups of people who due to the costs or lack of information and knowledge do not take these matters to court. Class actions could also have a preventive effect and thereby enhance legal compliance. In order to ensure that no one brings a class action suit against another person to harm that person, a public authority will always represent the plaintiff and class in class action lawsuits. (*Class Action Proposed for Consumer Protection and Environmental Damage Issues*, Mar. 9, 2006, Finland Ministry of Justice website, <http://www.om.fi/35312.htm>.)

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

FRANCE – Asylum Requests

A recent report prepared by the French Office for the Protection of Refugees and Stateless Persons (OFPRA) shows that the number of asylum requests filed decreased for the second consecutive year, while the number of requests denied by OFPRA and the Refugees Appeals Board increased by forty percent in 2005. There were 59,221 asylum seekers who applied to live in France in 2005, a 9.7 percent decrease from the previous year. In addition, the number of new cases filed in January and February 2006 was down thirty-three percent compared with the same period in 2005. Despite these figures, France remained the top destination for asylum seekers in 2005. The report also shows that there was an important increase in the number of asylum requests filed by Haitian nationals (+61.5%) who wanted to settle in Guadeloupe, one of France's overseas territories.

This trend is the result of several measures, including a reform of asylum law in 2003 and 2004 to conform to European directives and the establishment of a list of twelve countries of safe origin (Benin, Bosnia-Herzegovina, Croatia, Cape Verde, Georgia, Ghana, India, Mali, Ile Maurice, Mongolia, Senegal, and Ukraine). Applications from those countries are reviewed within fifteen days at most and have dropped by eighty percent. An extended list of safe countries is in preparation.

In response to these figures, human rights groups have denounced “the negative image of the asylum requester presented by the French government as a burden one must get rid of.” (*Baisse des demandes d’asile en France en 2005 et explosion du nombre des déboutés*, LE MONDE, Apr. 12, 2006, <http://www.lemonde.fr> (archives); OFPRA 2005 report, http://www.ofpra.gouv.fr/documents/OFPRA_Rapport_2005.pdf.)

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FRANCE – Oil-for-Food Judicial Investigation

Charles Pasqua, a former Interior Minister of France who was a central figure in French politics in the 1980s and is now a senator, has been put under judicial investigation for influence trafficking and corrupting foreign officials in the United Nations oil-for-food program for Iraq. According to the police file, 10.7 million barrels of oil were allocated to Pasqua in 1999 within the framework of three contracts.

Twelve persons, including two former high-ranking French diplomats, are currently under judicial investigation being conducted by Judge Philippe Courroye, who has been investigating the oil-for-food program for over three years. Recently he has been put in charge of a new investigation aimed at forty French companies suspected of having paid commissions to Saddam Hussein's regime in return for



lucrative contracts as part of the oil-for-food program. (Gérard Davet, *Affaire “Pétrole contre nourriture”*: Charles Pasqua est mis en examen, LE MONDE, Apr. 7, 2006 (archives).)
(Nicole Atwill, 7-2832, natw@loc.gov)

FRANCE – Supreme Court Upholds Legality of Copy Protection System on DVD

On February 28, 2006, the Cour de Cassation, France’s highest judicial court, quashing a judgment of the Paris Court of Appeals, ruled that “private copying right is only a legal exception to authors’ rights and not an absolute users’ right” and, therefore, the use of technological protection measures inhibiting the making of copies of a DVD for private purposes is not illegal under French law. The case was originally brought by UFC Que Choisir, a consumer rights association, on behalf of a consumer who wanted to make a copy of a DVD (David Lynch’s *Mulholland Drive*) for a relative. The association claimed that a copy protection system on a DVD violated provisions of the Intellectual Property Code limiting authors’ rights regarding reproductions strictly made for the copier’s private use.

The Court interpreted the provisions on point contained in the Intellectual Property Code in light of the Berne Convention for the Protection of Literary and Artistic Works and of the EU Directive 2001/29/EC of May 22, 2001, on the Harmonization of Certain Aspects of Copyright and Related Rights in the Information Society, that has not been yet transposed into French law. The Court cited in particular article 9.2 of the Convention, providing that reproduction may be authorized as long as “such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interest of the authors.” (Cour de Cassation, Case 05-15824, <http://www.legifrance.gouv.fr/WAspad/Visu?cid=142371&indice=1&table=CASS&ligneDeb=1>.)
(Nicole Atwill, 7-2832, natw@loc.gov)

GERMANY – Freedom of Information

On September 5, 2005, Germany enacted the Act Regulating Access to Information of the Federation that bears the short title of Freedom of Information Act (BUNDESGESETZBLATT (official law gazette of the Federal Republic of Germany) I at 2722). The Act allows anyone to ask for access to official sources of information belonging to one of the agencies of the Federal Government and is a major break from the German tradition that granted the public the right to be informed from published sources but left it to the discretion of the government to decide what information was to be revealed (B. SCHMIDT-BLEIBTREU & F. KLEIN, KOMMENTAR ZUM GRUNDGESETZ 223 (Neuwied, 1999)).

The Act became effective on January 1, 2006, and the federal agencies have been struggling since then with the interpretation of its exceptions, as a major German newspaper recently reported (*Informationsfreiheitsgesetz oder so ähnlich*, FRANKFURTER ALLGEMEINE ZEITUNG, Apr. 3, 2006, at 4). Access to original government documents can be denied for a variety of reasons, including security, international relations, integrity of monitoring systems, the deliberation process of agencies, and the expectation of confidentiality of third parties. To protect the privacy of individuals, names may be blocked out instead of denying the release of the document.
(Edith Palmer, 7-9860, epal@loc.gov)

GREECE – Reform of Code on Civil Servants

In March 2006, the Minister of Interior and Public Administration submitted a bill to the Greek Parliament on revision of the Code on Civil Servants. The bill abolishes various archaic provisions and introduces new measures to reduce bureaucracy. Some of the highlights of the bill include: abolition of an age limit for hiring in the government; a requirement for high-ranking officials to declare “sources of



wealth”; extension of the statute of limitations for civil servants’ liability from the existing two-year period to a five-year period; expansion of the rights of civil servants with disabilities; introduction of objective criteria for promotions, including education, superior performance, and language skills; and introduction of administrative reprimands for expressions of an inappropriate attitude towards citizens and for refusal to carry out one’s duties. (*Revision of the Code on Civil Servants*, NEWS AGENCY BULLETIN, Mar. 24, 2006, available at <http://www.greekembassy.org/press>.) (Theresa Papademetriou, 7-9857, tpap@loc.gov)

GREECE – Tax Incentives for Renewable Energy Source Systems

Recently, in an effort to minimize Greece’s dependency on oil, the Greek Government announced its intention to provide tax incentives to consumers who use renewable energy sources around the country. Among the fiscal measures suggested, the Government is considering the option of offering consumers a discount of up to twenty percent on expenses to install electricity production systems such as small wind-power or photovoltaic systems. Another option is a discount of €700 (US\$850) for the replacement of heating- oil boilers with natural gas systems. (*Power from Renewable Energy Sources*, NEWS AGENCY BULLETIN, Apr. 12, 2006, <http://www.greekembassy.org/press>.) (Theresa Papademetriou, 7-9857, tpap@loc.gov)

IRELAND – Department of Justice Official Caught Selling Visa Tickets

A member of the staff of Ireland’s Department of Justice was caught selling tickets that granted those who purchased them access that day to the visa renewal office. The Immigration Office within the Department of Justice limits processing to 200 visa extensions and re-entry permits a day and issues tickets to individuals who queue up each morning at the office. The staff member has resigned and is now facing criminal charges. (Conor Lally, *Justice Official Faces Charges After Selling Visa Queue Tickets*, THE IRISH TIMES, May 1, 2006, <http://www.ireland.com/newspaper/front/2006/0501/3269266599HM1TICKETS.html>.) (Clare Feikert, 7-5262, cfei@loc.gov)

ITALY – Legal Protection of Persons with Disabilities

The Italian Government approved Law No. 67 of March 1, 2006, on measures for the legal protection of persons with disabilities who are victims of discrimination. The Law promotes the complete fulfillment of the principle of equal treatment and of equal opportunity for persons with disabilities to guarantee them the full enjoyment of their civil, political, economic, and social rights. Provisions of Legislative Decree No. 216 of July 9, 2003, on equal treatment in matters of occupation and working conditions (access to work and work) remain in force.

This Law distinguishes between direct and indirect discrimination. There is direct discrimination when, due to reasons related to disability, the person is treated less favorably than another person without disability in a similar situation. There is indirect discrimination when a provision, a criterion, a practice, an act, an agreement, or a behavior that is neutral in appearance puts the person with a disability in a position of disadvantage compared with other persons. Also considered discrimination is annoying or unwanted behavior that violates the dignity and freedom of the person with a disability or that creates an environment of intimidation, humiliation, and hostility toward him/her.

Concerning legal protection, to prove the existence of discriminatory behavior against him, a petitioner with a disability can state in court elements of fact in serious and precise terms that the judge will evaluate pursuant to article 2729 of the Civil Code. Besides granting damage compensation, the



judge can, if requested, order the cessation of the discriminatory behavior, conduct, or act, if it still exists, and adopt any other suitable provision to remove the effects of the discrimination. Associations and entities identified by a decree of the Minister for Equal Opportunity can intervene in trials for damages suffered by persons with disabilities and can annul acts damaging the interests of those persons. (GAZZETTA UFFICIALE, No. 54, Mar. 6, 2006, <http://www.parlamento.it/parlam/leggi/060671.htm>.) (Dario Ferreira, 7-9817, dfer@loc.gov)

ITALY – Quotas on Permits for Immigrant Workers

The daily *La Stampa* of Turin reported on March 8, 2006, that the Italian Government has approved quotas on permits for immigrant workers. A work permit application kit was included in the *Decreto Flussì* in the OFFICIAL GAZETTE. One and a half million kits were distributed, but only 170,000 immigrant workers will be able to enter Italy. The memorandum that applies the decree on immigrant workers divides up the quota region by region. This quota is allocated to foreign nationals from outside the European Union who are resident (at least in theory) abroad. For the first time, Filipinos have 2,950 places reserved for them.

Of the allocated slots for different types of employment, 78,500 people are to be hired for purposes of non-seasonal subordinate jobs. Of these, 45,000 will be assigned to be home helpers or assistants for the elderly and disabled; 2,500 will work in the fishing sector; 1,000 will be in managerial or highly qualified staff positions; 2,000 will be residence permits converted for the purposes of study into permits for subordinate jobs; and 2,000 will be for people who have completed specific training programs in their country of origin.

In addition, 10,000 entry permits are assigned to the construction work sector, 14,000 to other productive sectors, and 50,000 to seasonal employment. Five hundred entry permits are assigned to descendants of Italian nationals resident in Argentina, Uruguay, and Venezuela, and 6,500 of the 170,000 total immigrants will be held back for the formation of two reserves of workers at the central level, for major public works, and for special projects. (Maria Teresa Martinengo, *Immigrati, solo 170 mila potranno entrare in Italia*, LA STAMPA, Mar. 8, 2006, http://www.lastampa.it/search/albicerca/ng_articolo.asp?IDarticolo.)

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ITALY – Prohibition of GMOs

After Italy's Constitutional Court threw out a measure on the coexistence of traditional and genetically modified crops, on March 31, 2006, the Minister of Agricultural Policies reaffirmed the prohibition on introducing "biotech crops." He explained that Legislative Decree 212/2001 on seeds prohibits the cultivation of genetically modified organisms (GMOs) until Italy's Regions pass legislation suitable for ensuring the coexistence of traditional and genetically modified crops and agree among themselves on how to handle crops sown near the borders of Regions. Anyone planting seeds of GMOs is liable to imprisonment for six months to three years, or to a fine of €50,000 (about US\$62,144). The National Association for Development of Biotechnologies immediately described his statement as "legally ineffective, politically arrogant and unacceptable," being based on "an absolutely fanciful reading of the verdict of the Constitutional Court, because the judges reaffirmed the validity of GMO crops." The contending parties in Italy were awaiting the results of a European Union conference on biotechnology. (*GMOs, Alemanno Confirms Blocking with a Circular*, IL SOLE-24 ORE, Apr. 1, 2006, Open Source Center No. EUP20060401058004.)

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



ITALY – Re-Employment of Workers over Fifty

The Italian Government recently raised Decree Law No. 68, with amendments, of March 6, 2006, to the status of Law (as Law No. 127, Mar. 24, 2006). The Law adopts urgent measures for the re-employment of workers older than age fifty and extends the support contracts for such workers.

To guarantee the employment of adult workers who become fifty years old before December 31, 2006, the Ministry of Labor and Social Policies, in cooperation with the technical agency Italia Lavoro, is promoting an Experimental Program for Revenue Support for the re-employment of 3,000 workers, based on agreements signed before March 31, 2006, between the Ministry of Labor and Social Policies, organizations comparatively more representative of workers, and companies other than those where the persons were working before.

Those agreements identify workers who, after the termination of a work relationship, are included in the Program of re-employment and specify the manner of participation in the Program itself. The Minister of Labor and Social Policies was to approve the plan of allocation of workers to the interested companies before April 15, 2006. The Ministry of Labor and Social Policies will grant to interested workers an extension of the contracts for the next phase of the Experimental Program for Revenue Support. (GAZZETTA UFFICIALE, No. 74, Mar. 29, 2006, <http://www.parlamento.it/parlam/legg/061271.htm>.)

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LIECHTENSTEIN – Constitutional Guarantees

On November 27, 2006, Liechtenstein amended its Constitution on the basis of a parliamentary act that was approved by a popular referendum (Verfassungsgesetz, Nov. 27, 2007, LIECHTENSTEINISCHES LANDESGESETZBLATT (LGBI, official law gazette of the Principality of Liechtenstein) 2005 no. 267, amending Verfassung, Oct. 5, 1921, LGBI 1921 no. 15). The amendment augmented the Constitution by a new article 27(a) that guarantees human dignity and prohibits inhuman or degrading treatment or punishment and a new article 27(b) that guarantees the right to life of every human being and banishes the death penalty. The purpose of the amendment was not to abolish the death penalty – that had been accomplished formally in 1990 by Liechtenstein's accession to the 6th Protocol of the European Human Rights Convention (LGBI 1990 no. 79). Instead, this latest constitutional amendment was a parliamentary counter-proposal to a plebiscite for a constitutional amendment that would have banned all abortions by guaranteeing the inviolability of human life from conception to death. The constitutional amendment proposed by the plebiscite would have jeopardized medically indicated abortions. The parliamentary counter-proposal, on the other hand, allows for more flexibility in issues relating to abortion, organ transplants, and assisted suicide. (*Vaduzer Landtag gegen Initiative "Für das Leben,"* NEUE ZÜRCHER ZEITUNG 14 (Sept. 22, 2005), LEXIS, News Library, Zeitng File.)

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MALTA – Open Government, Freedom of Information Issues

The Maltese Government has been criticized by the media for failing to implement a viable Freedom of Information Act, remaining one of three of the twenty-one member states of the European Union not to have such a piece of legislation in force. Another attempt to make the Government more transparent, by protecting civil servants from victimization and other repercussions if they expose corruption or other wrongdoing, has been in various draft forms since February 2004 in the form of a Whistleblower Act, but has not yet been at the forefront of the Government's legislative agenda. The Prime Minister recently stated that such a piece of legislation was "not indispensable" despite calls from



numerous government workers and responses to a White Paper that no effective mechanisms exist to provide protection to workers who expose corruption. (Karl Schembri, *Whistleblower Act 'Not Indispensable' Says Tonio Borg*, MALTA TODAY, Apr. 30, 2006, <http://www.maltatoday.com.mt/2006/04/30/t5.html>.)

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

NETHERLANDS – Free Entry for Workers from New EU Members

The Government of The Netherlands has decided that after January 1, 2007, people from Poland and seven other new European Union member states (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Slovenia, and Slovakia) will be free to work in The Netherlands and will receive the same pay and benefits as Dutch workers. The Dutch Cabinet expects that in 2007, some 53,000 to 63,000 such workers will arrive, with most doing seasonal work. To prepare for them, the law providing for labor inspectors to check that employers are paying the minimum wage will be amended to permit more frequent inspections. Where wages are below the statutory minimum, employees and trade unions will be able to take the employers to court to win the lawful wage. The minimum wage will be expressed as an hourly wage, and to do this an amendment to the current law is being prepared. The Tax Administration and the Labor Inspectorate will work together to deal with the problem of illegal hiring and will check whether foreign workers are fraudulently claiming to be self-employed so that they can work for less than the minimum wage. Until December 31, 2006, persons from the new EU member states will only be able to work in The Netherlands if they have a work permit. (*Borders Open for Eastern European Workers*, GOVERNMENT.NL, Apr. 4, 2006, <http://www.government.nl/index.jsp>.)

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

NORWAY – Inclusion of EU Emissions Trading Directive in EEA

The Norwegian Government has decided to link its domestic emissions trading scheme with the European Union's through the inclusion of the EU Emissions Trading Directive in the European Economic Agreement (EEA), of which Norway is a Member State. For the Directive to be included in the EEA, Iceland and Liechtenstein will have to give their approval. If the EU Directive is incorporated in the EEA, it would mean that the offshore oil and gas sectors, as well as pulp and paper businesses, will be included in the trading scheme from 2008, in addition to those sectors already in the scheme covering the period 2005-2007. (Press Release, Ministry of the Environment, The Norwegian Government Accepts to Include the EU Emissions Trading Directive in the EEA Agreement (Mar. 24, 2006), <http://www.odin.no/md/english/news/news/022001-070218/dok-bn.html>.)

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ROMANIA – Dracula's Castle Returned to Habsburgs

The Government of Romania announced on April 6, 2006, that it would return Bran Castle, popularly known as Dracula's Castle, to Dominic von Habsburg, a New York architect and nephew of Romania's last king. The context for the restoration of title to the castle is Romania's efforts to resolve long-standing issues of property restitution. Von Habsburg claimed the castle after Romania last year made it easier for those whose property had been confiscated under Communist rule to reclaim titles. The Government is establishing a fund that will be used to reimburse people whose properties cannot be returned, either because they have been destroyed or because they are now being used as public buildings. Von Habsburg expressed a warm sentimental attachment to the castle, where he spent his childhood. Originally built by the Teutonic Knights in 1212, the castle was in the fifteenth century controlled by Prince Vlad Tepes of Wallachia, known as Vlad the Impaler and regarded as the inspiration for Dracula. (*Property Restitution: Romania Brings Dracula Castle Saga to Close*, FINANCIAL TIMES, Apr. 7, 2006, at 2.)

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



SERBIA AND MONTENEGRO – New Law on Religious Organizations

On April 20, 2006, the National Assembly of Serbia and Montenegro adopted the Law on Churches and Religious Communities. The aim of the Law is to define the registration procedure, regulate church autonomy, and ensure freedom of belief to individuals and the collective rights of religious communities. The Law prohibits religious discrimination and provides for separation of churches and religious communities from the state. All existing religious communities are considered to be equal under the Law and receive legal entity status. The Law grants clergy and church officials freedom and independence to conduct their religious functions. Members of the clergy are allowed to participate in all spheres of public life, including political engagements. Conduct of religious services in public places is also allowed. The Law exempts religious organizations from paying taxes and guarantees immunity from prosecution to clergy for not reporting criminal information obtained through confessions. (*Serbian Law on Churches Causes Controversy*, BBC MONITORING, Apr. 20, 2006, <http://www.securities.com/>.)

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

SPAIN – Twenty-Nine Indicted for Madrid Train Bombings

On April 11, 2006, Judge Juan del Olmo of the Audiencia Nacional of Spain indicted twenty-nine out of 116 suspects detained in connection with the 2004 Madrid train bombings. According to the indictment, which totals 1,460 pages, five suspects are charged with conspiracy in the deaths of 191 people and with attempted murder of 1,755 people who were wounded in the March 11, 2004, coordinated blasts on morning rush-hour commuter trains. The suspects include Jamal Zougam, a thirty-two-year-old Moroccan, who is accused of being one of the ringleaders of one of three groups that converged to carry out the attacks. Zougam is accused of membership in a terrorist group as well as murder and attempted murder. Youssef Belhadj, Hassam El Haski, and Rabei Osman Sayed Ahmed all face similar charges. The fifth person indicted, Abdelmajid Bouchar, is accused of murder and attempted murder, but not membership in a terror group.

In addition to those accused of being directly connected to the killings, nine of the twenty-nine suspects are Spaniards who are accused of trafficking in explosives, collaborating with a terrorist group, and being "necessary accomplices" in the murders and attempted murders of the train bombing victims. Seven key suspects in the case blew themselves up three weeks after the train bombings, as police closed in on their hideout in the Madrid southern suburb of Leganes. These seven individuals were crucial, according to the indictment, in the entire chain of events in the bombings.

The indictment also concluded that the national intelligence services warned then-Prime Minister Jose Maria Aznar in October 2003 that security needed to be tightened in the face of Islamic terror threats in Spain. It also concluded that the train bombings were an al Qaeda-inspired attack intended to bring about the withdrawal of some 1,300 Spanish troops from Iraq. The indictment may be appealed. No trial is expected for months or possibly up to a year.

Zapatero's Socialist government was elected just three days after the attack, in a major upset that ousted the ruling conservatives. While initial speculation fell on Basque separatists (ETA), the investigation into who was behind the Madrid train bombings has focused primarily on Islamic terrorists. The indictment rules out any participation of ETA in the attack.

Many of the 116 suspects facing preliminary charges are Moroccans. Of this total, twenty-four remained in prison in Spain while one other suspect, an Egyptian, was in jail in Italy before the indictments. (*El juez Del Olmo procesa a 29 de los 116 imputados por los atentados del 11-M*, ELMUNDO.ES, Apr. 11, 2006, <http://www.elmundo.es/elmundo/2006/04/11/espana/1144743618.html>.) (Graciela Rodriguez-Ferrand, 7-9818, grod@loc.gov)



SWEDEN – New Law Proposed to Protect Women

It was reported on April 24, 2006, that the Swedish Minister for Public Health and Social Services is planning to present a proposal for a new law that would impose on communes the obligation to offer better support for battered women through the introduction of women's shelters in every commune. Today the support for battered women varies throughout the country, according to a commission to study the situation that was appointed by the Ministry of Health and Social Affairs last fall. The new law would make it mandatory for every commune to offer women's shelters. The commission's report is due in the summer of 2006, with a law proposal due to be presented in the fall of 2006. (*Ny lag ska tvinga fram kvinnoskydd*, SVENSKA DAGBLADET, Apr. 24, 2006, http://www.svd.se/dynamiskt/inrikes/did_12454048.asp.)

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

SWITZERLAND – New Acts on Aliens, Asylum

On December 16, 2005, Switzerland promulgated an Act on Aliens (AMTLICHE SAMMLUNG (AS) 2005 7365 (2005)) and an Act on Asylum (AS 7425 (2005)). Both Acts have been challenged by a petition of referendum seekers and, in compliance with the Swiss legislative process (Bundesverfassung, Apr. 18, 1999, SYSTEMATISCHE SAMMLUNG DES BUNDESRECHTS (SR) 101, art 141), these Acts will be submitted to a popular referendum within the next few months to give the Swiss people an opportunity to accept or reject them. (*Gegen schärfere Auslands politik*, TAGES-ANZEIGER, Apr. 7, 2006, at 2, LEXIS/NEXIS, News Library, Zeitng File.

Both Acts aim to stem the tide of illegal immigration by improved enforcement methods that include the prompt removal of illegal entrants at the border. The Act on Aliens, however, has a dual purpose of encouraging the integration of long-term residents while preventing illegal immigration through increased penalties, cooperation among agencies, and coercive measures, if needed (Botschaft, BUNDEBLATT 37090 (2002)). The penalties for human trafficking have been increased from a maximum prison sentence of three years (Niederlassungs- und Aufenthaltsgesetz, SR 142.20, art. 23) to a maximum of five years in a penitentiary.

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

UKRAINE – Provincial Legislators Stripped of Inviolability

On April 10, 2006, President Viktor Yushchenko of Ukraine signed the Law on Amendments to the Law of Ukraine on the Status of Local Council Members, adopted by the Parliament on April 4, 2006. This was the last law passed by the outgoing legislature before resigning following the national parliamentary elections, which coincided with nationwide elections of provincial legislative assemblies and local councils.

The Law provides for canceling a provision on immunity from criminal prosecution of all elected officials that had been introduced in September 2005. Under the new Law, a criminal case against a provincial (state) or local councilman can be initiated by the Prosecutor General of Ukraine, his deputy, or the prosecutor of the province where the councilman was elected. Previously, a council's consent was required. This measure led to criminalization of state and local councils, because notorious criminals have tried to become elected in order to be protected from prosecution by the electoral mandate. In 2005, 1,026 elected officials were accused of committing serious crimes; however, the councils rejected eighty-six percent of prosecutorial requests. Under the amended Law, prosecutors who bring charges against council members must inform that person's council on the next business day. Preliminary detention of local council members must be approved by a court. This measure does not apply to members of the



national legislature, because their parliamentary immunity is guaranteed by the Constitution and adoption of a constitutional amendment would be required to change it. (Law No. 3590-IV on Amendments to the Law of Ukraine on the Status of Local Council Members, <http://www.rada.gov.ua/> (official website of the Ukrainian legislature) (last visited Apr. 20, 2006).)
(Peter Roudik, 7-9861, prou@loc.gov)

UNITED KINGDOM – New Offense of Glorifying Terrorism

One of the offenses under the British Government's controversial twelve-point anti-terrorism plan that was introduced in a press release after the July 2005 London bombing came into force in April 2006. The offense of glorifying terrorism, contained in the Terrorism Act 2006, applies to anyone who glorifies or justifies terrorism in the United Kingdom or, for British nationals, wherever the prohibited acts occur. The Government's alleged intent is to prevent people from encouraging terrorism and "preaching hate" in the U.K., but its plan has been subject to widespread criticism, from sources ranging from politicians of all parties to academics, who contend that it excessively curtails freedom of speech and has the potential to be misinterpreted and misused. This element of the Government's extensive anti-terrorism legislation was the subject of a bitter battle between the House of Lords and House of Commons, having been repeatedly amended between the two Houses until it was finally passed. (Terrorism Act 2006, c. 11, Part I; Press Association, *New Anti-Terror Laws Come into Force*, THE INDEPENDENT, Apr. 13, 2006, <http://news.independent.co.uk/uk/legal/article357519.ece>.)
(Clare Feikert, 7-5262, cfei@loc.gov)

NEAR EAST

ALGERIA – Law Against Promoting Religion Other Than Islam

On March 30, 2006, the Algerian Parliament enacted a law forbidding the promotion of any religion other than Islam, in apparent response to a movement to spread Christianity. The law provides punishments of from two to five years' imprisonment and a fine of €5,000-10,000 (about US\$6,368-12,736) for anyone who encourages or forces a Muslim to convert to another religion. The same penalties apply to anyone who produces, retains or distributes pamphlets, recordings or other means intended to weaken commitment to Islam. (*Law Against Promoting Religion Other Than Islam*, AL-JAZEERA, Mar. 30, 2006, at <http://www.aljazeera.net>.)
(Issam Saliba, 7-9840, isal@loc.gov)

BAHRAIN – Parliament Seeks Al-Azhar Input

On April 12, 2006, the Foreign Affairs Committee of the Bahraini Parliament sought outside sources to resolve a controversial proposal by the Salafi block of legislators seeking to amend the penalty for theft from imprisonment to hand cutting. The Committee Chairman, Ahmed Bahzad, clarified that the Committee agreed to communicate with Al-Azhar University scholars in Cairo (Al-Azhar is a highly respected center of Islamic learning) and other Islamic scholars on this issue. (*Parliament Seeks Al-Azhar Input*, AL-SHARQ AL-AWSAT, Apr. 13, 2006, <http://www.asharqalawsat.com/>.)
(Issam Saliba, 7-9840, isal@loc.gov)

IRAN – Prior Authorization Needed for Food Product Ads

The Council of Ministers of the Islamic Republic of Iran, in February 2006, approved the following regulations upon the recommendation of the Ministry of Hygiene and Medical Training and Treatment:



- 1- All promotional advertisements on foodstuffs to be broadcast on the state-run television network must receive prior approval of a special board on which representatives of the Ministry of Hygiene, Medical Training, and Treatment are present. The board has to follow the directives of the High Health Council and approve a minimum of five applications a day.
- 2- In order to reduce the amount of unhealthy substances used in foodstuffs and beverages, all state agencies and organizations have to avoid serving carbonated drinks in their restaurants and during meetings. Instead, they must use non-gaseous drinks such as yogurt, fruit juice, or other fruit beverages containing no gas or salt. (OFFICIAL GAZETTE, No. 17789, Feb. 26, 2006, at 25.)

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

IRAN – Temporary Visas to Be Issued at Airports

The Council of Ministers, as authorized by article 138 of the Constitution of the Islamic Republic of Iran of December 1979, approved the following provisions:

1. The Ministry of Foreign Affairs must establish officers in certain airports, listed in the provisions, and assign them the duty of issuing fifteen-day visas to foreign tourists, businessmen, and those seeking medical assistance in Iran, as well as to experts who do not carry an Iranian visa. The Foreign Office representatives must coordinate with other agencies in the performance of their duties.
2. The Ministry of Foreign Affairs, in cooperation with the Intelligence Ministry, must create the necessary Internet facilities.
3. Representatives of the Intelligence Ministry assigned to these airports must respond to queries addressed to them by the officers of the Ministry of Foreign Affairs in the shortest possible time (not later than one hour following the receipt of the request). The Cultural Heritage and Tourist Organization must provide facilities for the temporary lodging and repatriation of foreign citizens whose temporary visit to Iran has been denied.
4. Tourist, pilgrimage, business, and medical visas will be issued to foreign citizens, except for those from countries jointly agreed upon and announced by the Ministries of Foreign Affairs and Intelligence.
5. The Ministries of Foreign Affairs and Intelligence must provide similar facilities for other ports of arrival and exit in the country. The Ministry of Transportation and Roads must organize and prepare the necessary offices and facilities for the Ministries of Foreign Affairs and Intelligence to start performing their duties and issuing the fifteen-day visas.
6. These temporary visas may be extended for another two weeks by the police.

(OFFICIAL GAZETTE, Feb. 2006, at 22.)

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

ISRAEL – Entitlement to Compensation for Reservists and Their Families

In December 2005, the Knesset (Israel's Parliament) passed the Payment of Stipends to Reservists and Their Families (Amendment No. 2), 5766-2005. The Amendment extends entitlement to a financial grant in the event of death, previously available only to heirs of a deceased reservist, to family members, including a spouse, parent, child (including a step-child), and adopted child, as well as any other person regarding whom special reasons were found to justify the entitlement. (Payments of Stipends to Reservists and Their Families (Amendment No. 2), 5766-2005, the Knesset website. <http://www.knesset.gov.il/> (last visited Apr. 18, 2006).)

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



ISRAEL – Penalties for “Trojan Horse” Defendants

On March 27, 2006, the Tel-Aviv District Court approved a plea bargain in the case of Ruth and Michael Haefrati. Based on the couple’s admission, they were convicted on a list of offenses including illegal penetration of computer data and the creation and transfer of a computer virus by distributing illegal software to investigation companies in Israel. At the time of they committed the offenses, the Haefratris were the owners and managers of a company registered in Israel, the United Kingdom, and the United States. The offenses were committed when they resided in the U.K. and in Germany. The court sentenced Ruth Haefrati to four years’ imprisonment and her husband to two years’ imprisonment and imposed an additional fine of one million U.S. dollars to be distributed among their victims. (CrimC (TA) 40061/06 State of Israel v. Ruth and Michael Haefrati, Haim Ravia Law Offices website, http://www.law.co.il/computer-law/trojan_verdict_efrati.pdf.)

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

MOROCCO – First Woman President of Human Rights Organization

At the conclusion of its sixth convention on April 3, 2006, held in the Moroccan capital, the Moroccan Human Rights Organization elected a woman to be its president for the first time since its founding in 1988. As expected, Amina bou Ayyash was elected to the presidency without competition, receiving 104 votes from among the 117 cast. (*First Woman President of Human Rights Organization*, AL-SHARQ AL-AWSAT, Apr. 3, 2006, <http://www.asharqalawsat.com/>.)

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

QATAR – First Parliamentary Election

The State of Qatar has officially announced a parliamentary election for the first time in its history. The election will be held at the beginning of 2007. The Foreign Minister, Sheikh Hamad Bin Jasem Al Thani, explained that the new election law divides the country into thirty districts, demarcated on a geographic basis to cover all the regions but also taking into consideration traditional familial and tribal distinctions. (*First Parliamentary Election*, AL-SHARQ AL-AWSAT, Apr. 3, 2006, <http://www.asharqalawsat.com/>.)

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



SAUDI ARABIA – Crude Oil Prices Revised

On April 10, 2006, the Saudi Council of Ministers revised bench prices for a number of types of crude oil at between 4.90 and 6.30 *halalas* per liter (approximately US1.31 to 1.68 cents) for customers in all distribution centers. The Council approved the following prices per liter for various crude oil types:

Type	Price in S.A. Halalas	Price in U.S. Cents
Heavy Crude Oil	6.30	1.68
180 Centistokes Fuel Oil	6.00	1.6
380 Centistokes Fuel Oil	4.90	1.31

The newly revised bench prices are based on a decision taken by the Saudi Supreme Economic Council. The Council of Ministers decided that these prices would be reviewed every five years. However, these prices will last for ten years for any consumer who has a long-term contract with Saudi Aramco. The Council also ordered that any future establishment of desalination and electricity power generation plants established in coastal areas must use either fuel oil or heavy crude oil. (*Approval of Supreme Economic Council Decision on Crude Oils Prices*, AL-RIYADH NEWSPAPER, Apr. 11, 2006, <http://www.alriyadh.com/2006/04/11/article145667.html>; *Crude Oil Prices Are Revised*, MENAFN.COM, Apr. 11, 2006, http://www.menafn.com/qn_news_story_s.asp?StoryId=1093108948.)
(Dr. Abdullah F. Ansary, 7-6303, aans@loc.gov)

SAUDI ARABIA – Plans to Create a National Security Court

On April 1, 2006, the Interior Minister of Saudi Arabia, Prince Nayef bin Abdul Aziz, said that the Kingdom will soon begin to try people who have been arrested under anti-terrorism charges. He revealed that the Ministry of Justice is working on establishing a National Security Court to try suspected terrorists. The Minister of the Interior further said that the new special court would be independent and impartial and based on fair trial principles, in accordance with *Shari'ah* (Islamic law). (*Saudi Plans to Put on Trial Militants Involved in Terror Attacks*, KHALEEJ TIMES ONLINE, Apr. 1, 2006, http://www.khaleejtimes.com/DisplayArticle.asp?xfile=data/middleeast/2006/April/middleeast_April15.xml§ion=middleeast; Jameel al-Thiyabi, *State Security Court to Try Terrorist Suspects Soon*, AL-HAYAT NEWSPAPER, Apr. 1, 2006, http://www.alhayat.com/arab_news/gulf_news/03-2006/Item-2006_0331-51e394a1-c0a8-10ed-0105-0034f7b7d7cd/story.html.)
(Dr. Abdullah F. Ansary, 7-6303, aans@loc.gov)

SOUTH ASIA

BANGLADESH – Contempt of Court Act 2006

The Government of Bangladesh is in the process of passing a law on contempt of court. The new law is designed to amend the Public Servants (Dismissal on Conviction) Ordinance of 1985 and the Contempt of Court Act of 1926. The Contempt of Court Act of 2006 has been cleared by the Cabinet and is awaiting approval of the Parliament. The Government took this step when the Supreme Court of



Bangladesh issued a contempt rule against four high government officials “for not complying with its 12-point directive on separation of the judiciary from the executive.” (Zahurul Alam, *Bangladesh Supreme Court Issues Contempt Rule on Senior Civil Servants’ Voice of America*, NEWS VOA.COM, Apr. 3, 2006, <http://www.voanews.com/bangla/2006-04-03-voa2.cfm>.)

Under the new law, a civil servant will lose his or her government employment if a fine is imposed in the amount of Taka10,000 (about US\$145) or more. However, the maximum penalty for contempt of court under this new law is six months of imprisonment or a fine of Taka5,000 (about US\$72), or both. (Julfikar A. Manik, *Contempt Law Aims to Protect Top Officials*, DAILY STAR, Apr. 19, 2006, <http://www.thedailystar.net/2006/04/19/d6041901033.htm>.)
(Shameema Rahman, 7-3812, srah@loc.gov)

INDIA – Alleged Violation of Model Election Code

Taking exception to the reported statement of the Prime Minister offering a financial package on the eve of elections during his electioneering campaign in the State of Assam, the Election Commission of India served notice of a violation of the model code of conduct that bars offering any inducement to the electorate by any candidate or party to influence them to vote for a particular party. Upon reviewing the response of the government, the Deputy Chairman of the Commission informed the public that the Commission was satisfied that the speech of the Prime Minister “did not contain any specific announcement of a financial package.”

However, the Commission was still examining the reply of the Cabinet Secretary on the reported statements made by Human Resources Minister, Arjun Singh, announcing the reservation of twenty-seven percent of places for Other Backward Communities in central educational institutions such as the Indian Institute of Technology (IIT) and the Indian Institute of Management (IIM). Taking a serious view of the matter, the Commission served the Minister notice of the alleged violation and received a response from the Cabinet Secretary, who denied the stated infraction of the code of conduct.

The Commission informed the media that it would react further only after it has examined the Cabinet Secretary’s response. The Commission was also examining another complaint of the Bhartiya Janata Party alleging issuance by the Government of the State of Haryana of advertisements containing pictures of the Chairperson of the United Progressive Party, Sonia Gandhi.

On the issue of holding “offices of profit” while being elected members of parliament or a state assembly, the Commission stated it had received from the President of India references pertaining to thirty-five Members of Parliament and seventy-eight members of state legislative assemblies. The Commission is reviewing these references before sending a response to the constitutional authority as to the appropriateness legality of the dual office holding. (*No Poll Code Violation by Prime Minister, Says Election Commission*, THE HINDU, Apr. 11, 2006, <http://www.hindu.com/2006/04/11/stories/2006041105091200.htm>.)

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

INDIA – Call for Laws on Dowry Fraud

Lawyers in India have called for stricter laws to deal with the problem of non-resident Indian males coming back to India, marrying local women, and then disappearing with the dowry. Most marriages in India include a dowry, paid to the groom by the family of the bride. There are estimates that in the state of Punjab alone, over 15,000 brides have been defrauded by grooms returning from the United Kingdom, Canada, or the United States. The families, out-of-pocket and responsible for maintaining a



legally married woman who has been abandoned, sometimes with a child, are unable to trace the absconding husbands. Suggested remedies include extradition treaties, registration of incoming men so that they can be traced, and more information on legal remedies available in the grooms' countries of residence. (*Call for Tough Laws on Dowry Fraud*, BBC NEWS, Mar. 31, 2006, http://news.bbc.co.uk/go/pr/fr/-/2/hi/south_asia/4837122.stm.)

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

INDIA – Court Opening 173-Year-Old Pending Case

A case that was first filed 173 years ago (in 1833) was reopened by a local court in the city of Kolkata (Calcutta) in West Bengal, India. The case concerns the ownership of thousands of acres of land, historic buildings, and temples spread across the city.

In the late nineteenth century, the British Governor General, Robert Clive, ordered that the property stay in the custody of the Ruler, Naba Krishna Deb, a Bengali royal of the Sovabazar court, subject to his payment of a tax of one Indian rupee every day. After the death of the Indian royal and his son, the property was divided among the successors.

In 1855, local judges appointed a British lawyer to oversee the property. However, in 1862, the control of the property passed to a “temple committee” comprised of members of the Sovabazar family, British officials, and leading citizens. The committee deposited 10,000 Indian rupees (now worth US\$225,000) in the care of the court. The interest earned from the deposited funds was used to maintain the buildings and to ensure that the temples were kept in a fit state for worshippers.

The money has now been used up and Alok Krishna Deb, a descendant of the family, has sent clerks searching for long neglected documents, pursuant to petitioning the court to allow the sale of a portion of the property. Otherwise, Deb conducts, to continue to conduct offerings in the temple and maintain the estate will be difficult. The case is likely to come up for hearing shortly. (*Kolkata Court Reopens Property Case After 173 Years*, THE HINDUSTAN TIMES, Mar. 30, 2006, http://www.hindustantimes.com/news/181_1662751,0008.htm.)

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

NEPAL – Amendment of Anti-Terrorism Ordinance

On March 26, 2006, royal approval was given for amendment of Nepal's Terrorist and Disruptive Activities (Control and Punishment) Ordinance, which was promulgated in October 2005. The amendment added provisions stating that even an act of an accomplice of Maoists would be deemed a “crime related to terrorism and disruption” and making dissemination of Maoist-related information punishable. Accomplices were defined as persons who remained in contact with and helped the Maoists. Those who supplied information to and disseminated information for the Maoists would be treated as accomplices, according to the revised Ordinance. Individuals convicted of disseminating terrorists' information would be subject to one to three years of imprisonment, a fine of 10,000-50,000 rupees (about US\$145-\$727), or both. However, it was reported on May 3, 2006, that the Nepalese Government had removed the “terrorist” label placed on Maoists, as part of its moves taken to reciprocate the Maoists' announcement of a three-month long ceasefire.

In addition, the amended Ordinance broadened the definition of crimes related to terrorism and disruption. These now also include seizing property, depriving people of use of their property, abductions, and supporting the Maoists knowingly or unknowingly by extending economic or material support and shelter. Despite requests from domestic and international human rights organizations, none



of the harsh provisions of the Ordinance deemed by these groups to contravene human rights were amended. (*Nepal Government Amends Anti-Terrorism Ordinance*, EKANTIPUR.COM, Apr. 3, 2006, Open Source Center No. SAP20060404950006; *Govt Announces Truce, Withdraws Red Corner Notice, Terrorist Tag on Maoists, Annuls Municipal Elections*, EKANTIPUR.COM, May 3, 2006, <http://ekantipur.com/>.)

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

NEPAL – Terrorist Suspects May Be Subject to One -Year Detention

The Supreme Court of Nepal upheld on March 24, 2006, a controversial provision in the Terrorist and Disruptive Activities (Control and Punishment) Ordinance, 2005, allowing security forces to detain a person suspected of engaging in terrorist activities for a period of one year. Dismissing a writ petition that questioned the constitutionality of the provision on the grounds that it was a violation of the detainee's human rights, the court observed: "[T]he provision is in tune with the constitution as even the Public Security Act promulgated by parliament entertains preventive detentions by the authorities." However, the provision has been widely criticized by national and international human rights organizations on the grounds that it is not in conformance with national and international human rights instruments.

Previously, the Supreme Court also sanctioned the government's decision labeling Maoists as "terrorists" and banning rebel activities. Quashing a writ petition challenging the decision, the full bench of the court observed that the petitioner could not produce sufficient evidence to substantiate that the Communist Party of Nepal (CPN), whose membership comprises Maoists, was a constitutionally recognized political party. (*Nepal Supreme Court Endorses Controversial Anti-Terror Law*, EKANTIPUR.COM, Mar. 24, 2006, Open Source Center No. SAP20060324950010.) (Krishan Nehra, 7-7103, kneh@loc.gov)

PAKISTAN – Beard Restrictions Enforced by Air Force

A squadron leader in Pakistan's Air Force was forced to retire early for refusing to trim his beard. Responding to complaints by some Members of Parliament that he was the victim of a policy of secularism, Parliamentary Secretary for Defense Tanveer Hussain Syed denied that the former officer was penalized for his Islamic devotion. He explained that oxygen masks could malfunction if worn over too much facial hair and that there was no ban on any Air Force personnel wearing a beard, "but there has to be a limit on the length of a beard." Air Commodore Sarfraz Ahmed Khan told the press that anyone not following regulations has to face the legal outcome. (*Long Beard Clips Pilot's Career*, BBC NEWS, Apr. 11, 2006, http://news.bbc.co.uk/go/pr/fr/-/2/hi/south_asia/4901414.stm.)

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

PAKISTAN – Prosecution of "Blasphemous" Cartoonist

On a petition filed by Maulvi Iqbal Haider, Chairman of the Awami Himayat Tehreek political party, with the Supreme Court of Pakistan, on April 10, 2006, the Court ordered prosecution of a case against a cartoonist and all concerned foreign newspapers, publishers, and local government officials, on charges of blasphemy. The defendants include the Chairman of the Pakistan Telecommunication Authority (PTA), accused of criminal negligence in failing to block websites from showing the allegedly blasphemous cartoons in Pakistan under section 295-C of the Pakistan Penal Code (on blasphemous cartoons). The offense of blasphemy under the Penal Code carries the sentence of death upon conviction.



In making the order, the Chief Justice observed, “it is our religious duty to express sentiments against the blasphemous publication. The registration of the case would dissuade people from blaspheming in the future.” In compliance with the court order, the case will be registered in the city of Karachi. (*Pakistan’s Supreme Court Orders Registration of Case Against Cartoon Publishers*, LAHORE DAILY TIMES, Apr. 18, 2006, Open Source Center No. SAP20060418081004.) (Krishan Nehra, 7-7103, kneh@loc.gov)

SRI LANKA – Amnesty for Some Deserters

There are currently 70,000 people in Sri Lanka who have deserted the security forces. Their insecure legal status has led to social problems, including an increase in criminal activities. The army has recently announced that it will open an eleven-day window for amnesty for those who left service before January 2003. If they report to the authorities at a temple next to the Panagoda Army Base in Bodhirajaramay April 18-28, 2006, and return all military property, the desertion charges will be legally dismissed. Those who do not take advantage of this amnesty program will be liable to arrest and trial. (*Amnesty for Sri Lanka Army Deserters*, COLOMBO PAGE, Mar. 30, 2006, <http://www.colombo.page.com/archive/March30141937SL.html>.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

WESTERN HEMISPHERE

BRAZIL – Fight Against Violence Reaches State of Rio de Janeiro

The Governor of Rio de Janeiro sanctioned, effective May 15, 2006, a law that authorizes the executive branch of the state government to create the obligation for compulsory notification of the police in cases involving violence against children and adolescents, when these persons use health services, public or private, in the state (Law No. 4,725). The new law is similar to legislation enacted on January 24, 2006, by the State of São Paulo, which promulgated a law compelling public and private health services to notify the police authorities of cases involving violence against children and adolescents (Law No. 12,238).

As in the São Paulo legislation, the Rio de Janeiro law characterizes as violence the action or omission of an action by an agent that results in death, bodily injury, or physical, sexual, or psychological suffering to children and adolescents, and it specifies that the notification must be done in a proper form by a competent professional and in a confidential manner, preventing consultation and extraction of copies or information by third parties. (*Portal do Governo do Estado do Rio de Janeiro*, <http://www.alerj.rj.gov.br/processo2.htm> (last visited Mar. 24, 2006).) (Eduardo Soares, 7-3525, esoa@loc.gov)

BRAZIL – Internet Crimes Handbook

The Brazilian Internet Committee Administration, the Federal Prosecutor’s Office, and the Brazilian Association of Internet Companies (ABRANET) are creating a handbook to help judges, prosecutors, and justices deepen their knowledge of Internet crimes. Racism and pedophilia are two very common and very new cyber-crimes cited by ABRANET President, Antonio Tavares, as examples that justify the creation of the handbook. In his opinion, although the judiciary is very active and willing to prosecute and repress these types of crimes, most of the time they ask the Internet providers the wrong questions. The goal is not to legislate, or to re-write the constitution, he says, but to create a set of tools that will enable the judiciary to make an informed decision when presented with Internet crimes.



The first step will be the publication of a textbook on virtual security, explaining how to make an Internet investigation. The Brazilian Internet Committee Administration and the Federal Prosecutor's Office will print the book, which will then be distributed for free to the people in the judiciary involved in Internet security issues. (*Juízes e Promotores Terão Manual de Crimes na Internet*, JURID, Apr. 4, 2006, https://secure.jurid.com.br/new/jengine.exe/cpag?p=jornaldetalhejornal&ID=21_648&Id_Cliente=16569-null.)

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BRAZIL – New Passport

Sixteen new security items have been incorporated into the new Brazilian passport that will be issued in the first half of 2006. The new ordinary passport is blue, as opposed to the current green, and will have security items that will make its forgery practically impossible. The changes were made in accordance with the security rules established by the International Civil Aviation Organization, an agency linked to the United Nations, in response to increasing international pressure.

The next phase in the modernization of the Brazilian passport, anticipated to occur during the year 2007, will be the issuance of the other five new types of passports: green for official use; red for diplomatic use; maroon, called “laissez-passer,” for citizens of countries that do not maintain diplomatic relations with Brazil; yellow for asylees and displaced persons; and “celestial blue” for emergency use. According to the Federal Police, the Brazilian passport is one of the most sought after passports in the criminal world due to Brazil's great racial diversity, and the new security items will put an end to forgeries and other frauds while providing Brazilian citizens residing or traveling abroad with greater peace of mind.

The new passport project is not limited to the issuance of new booklets. It also includes the installation of a complete control system at all ports, airports, and borders, which will enable the mechanical reading of the new passports during inspections involving the international traffic of persons. (*Azul, Nove Passaporte Será Mais Seguro*, JURID, Apr. 4, 2006, https://secure.jurid.com.br/new/jengine.exe/cpag?p=jornaldetalhejornal&ID=21655&Id_Cliente=16569-null; *Portal do Departament de Policia Federal*, <http://www.dpf.gov.br/> (last visited Apr. 19, 2006).)

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BRAZIL – Overthrowing Prejudice Against Same Sex Couple Adoption

On April 5, 2006, the Justice Tribunal of the State of Rio Grande do Sul, located in the southern part of Brazil, unanimously confirmed a lower civil court decision that granted a lesbian couple the right to adopt a child. The couple has lived together since 1998, and one of them obtained permission to adopt two biological brothers. Later, her partner filed a request to adopt the two brothers as well. The lower court granted the adoption to the partner, but the Public Ministry's Office appealed the decision.

Justice Luiz Felipe Brasil Santos, in the decision confirming the lower court's ruling, stated “it was time to abandon the prejudice and hypocritical attitudes devoid of scientific basis” and that it was time to adopt a firm posture in defense of the “absolute priority,” which is constitutionally guaranteed, of the rights of children and adolescents. The Justice quoted several studies performed in different countries that did not detect any problems related to the adoption of children by homosexual couples. What really matters, in the Justice's opinion, is the quality of the bond and the affection that permeates the family that the adopted children are to join and that links them to their caretakers. (*TJRS Confirma Adoção de Crianças Por Casal de Homossexuais*, JURID, Apr. 6, 2006, https://secure.jurid.com.br/new/jengine.exe/cpag?p=jornaldetalhejornal&ID=21779&Id_Cliente=16569-null.)

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BRAZIL – Pharmacies Are Not Supermarkets

Concerned about the increasing similarity between pharmacies and supermarkets that sell everything, including medicine, the São Paulo Regional Pharmacy Council (CRF) issued on April 4, 2006, on its web page, a long list of products that cannot be sold at pharmacies because they are not health related. The list includes, *inter alia*, batteries, photographic film, tea, flip-flops, ice cream, coconut water, liquors, and even construction material.

CRF is responsible for the enforcement of the discipline and ethics of the pharmaceutical profession. Although it is aware of the convenience to the customer of being able to find a wide range of goods in a pharmacy, CRF maintains that these products do not add any value in the area of health. According to CRF's President, Raquel Rizzi Grecchi, band-aids, cotton swabs, and adhesive tape are fine, but beach chairs, insecticides, and sunglasses are completely out of the scope of the business. In her opinion, pharmacies serve the population much like a medical office does, with the difference that pharmacies sell medicines and "this is serious," she adds.

Federal Law No. 5,991 determines that pharmacies and drugstores can only sell medicine, but Ms. Grecchi is positive that the vast majority of them do not comply with the law. She hopes to be able to count on the support of the population to enforce the law. (Jorge Henrique Cordeiro, *Lista Pretende Tirar de Farmácias Produtos 'Exóticos' Como Pilhas e Chinelos*, GLOBO ONLINE, Apr. 4, 2006, <http://oglobo.globo.com/online/sp/plantao/2006/04/03/246684870.asp>.) (Eduardo Soares, 7-3525, esoa@loc.gov)

BRAZIL – Transsexual Legally Authorized to Change Name

A Brazilian male transsexual was authorized to alter his birth registration from male to male transsexual and his gender identification from male to female, after undergoing sex-change surgery. The decision was issued on April 5, 2006, by the Justice Tribunal of Rio Grande do Sul on an appeal filed by a twenty-three year-old male who had had his request denied by the lower civil court. In that request, he had asked the lower court for a rectification of his civil registration, maintaining that he had been using a female name since the age of sixteen and that due to the discrepancy between the name he uses and his civil status record, he was subjected to many constraints; therefore he sought an annotation in his registration that he was a transsexual. The lower court denied the request and he appealed.

On appeal, the Justice Tribunal granted his request. In its decision, Justice Maria Berenice Dias observed that there is confusion in transsexuals between the anatomical gender and the psychological one, because a transsexual believes that he is born in a body that does not correspond to the gender he expresses socially, spiritually, emotionally, and sexually. She further stated that the appellant had participated since the age of seventeen in a program held by the Clinics Hospital designed to help people with disturbances of gender identity as well as in the treatment required by the Federal Council of Medicine before he could have the sex-change surgery.

The question now is whether the transsexual can get married, as the Brazilian Civil Code states that marriage must be between a man and a woman. (*Autorizada Alteração de Nome a Transsexual*, JURID, Apr. 7, 2006, https://secure.jurid.com.br/new/jengine.exe/cpag?p=jornaldetalhejornal&ID=21783&Id_Cliente=16569.) (Eduardo Soares, 7-3525, esoa@loc.gov)



BRAZIL – Women in Charge in the Judiciary

After being elected on March 15, 2006, as the first female president of the Brazilian Federal Supreme Court, Justice Ellen Gracie Northfleet has now been appointed by the Senate Commission of Constitution, Justice, and Citizenship to preside over the National Council of Justice (CNJ), which was created in June of 2005 as part of the judiciary reform. CNJ is responsible for administrative and financial control of the judiciary and the supervision of judges.

For the first time in its history, moreover, the largest Brazilian federal tribunal will be presided over by a woman as well. Federal Justice Assusete Dumont Reis Magalhães was elected on March 16, 2006, from among the twenty-seven members of the Federal Regional Tribunal of the First Region, which has five women as members, to preside over that court, which encompasses thirteen states and the Federal District and covers more than eighty percent of the Brazilian territory. (*CCJ do Senado Aprova Ellen Gracie para Presidir o Conselho Nacional de Justiça*, O GLOBO, Mar. 22, 2006, <http://oglobo.globo.com/online/pais/plantao/2006/03/22/193669376.asp>; *Maior TRF do País Será Presidido Por Uma Mulher*, Apr. 26, 2006, <https://secure.jurid.com.br/new/jengine.exe/cpag?p=jornaldetalhejornal&ID=22078#null>.)

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CANADA – Crime Legislation

Although the only major bill that Canada's new Conservative Government has introduced in the House of Commons since being elected in January is the Federal Accountability Act (39th Parl. Bill C-2), bills to amend Canada's Criminal Code, R.S.C. c. C-46 (1985), as amended, are being prepared. Prime Minister Stephen Harper has indicated that separate bills will be introduced to create certain mandatory prison sentences for violent offenses, abolish house arrest, and raise the legal age of consent from fourteen to sixteen. Polls indicate that these proposals enjoy the support of most Canadians, but heretofore the opposition parties that hold the majority of the seats in the House of Commons have resisted them. By separating the proposals into separate bills, the Prime Minister hopes to increase their chances of passage. If one of these bills were to be defeated, the Prime Minister could call a new election, and none of the opposition parties appear eager to enter a new campaign explaining why they opposed the Government's plans to reform the Criminal Code. The Criminal Code applies throughout Canada and is comprehensive. Canada's provinces do not have their own separate criminal laws. Thus, the Government's proposals would apply to all sentences, preventative detentions for violent offenses, and sex crimes. (Rochelle Squires, *Tories to Get Tough on Crime: Three Conservative Laws Will Tackle Violence, Drugs, and Sex-Related Offenses*, CALGARY SUN, Apr. 20, 2006, at 7.)

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CANADA – Government Accountability

Since being sworn into office in February 2006, Prime Minister Stephen Harper has made the task of making the government more accountable the first priority of his new Conservative Government. On April 11, a bill to create a conflict of interest act, a parliamentary oversight office, and a new office for public prosecutions was introduced in the House of Commons. This lengthy document, which is entitled the Federal Accountability Act, consists of 317 sections. Among other matters addressed are the financing of political parties, bans on secret donations, government appointments, procurement, protection for whistleblowers, truth in budgeting, auditing, and public prosecutions. The financing provisions would generally limit individual campaign contributions to candidates and parties to Can\$1000.



Tighter regulation of lobbying is also a major goal of the proposed legislation. Amendments to the Lobbyists Registration Act, R.S.C. c. 44 (4th Supp. 1988), would prohibit ministers, ministerial staffers, and other senior public office holders from lobbying Parliament or government agencies on behalf of a client for a period of five years from the time they left office. Other types of lobbying activities would be restricted for one or two years for former officeholders. The Conflict of Interest Act would also generally prohibit lobbyists from charging contingency fees for their services. At the present time, lobbying is only regulated with a statutory registration requirement and a non-statutory Conflict of Interest and Post-Employment Code adopted by the former Liberal government. The bill to create the Federal Accountability Act is Bill C-2, 39th Parl. 1st Sess. (LEGISINFO, Apr. 3, 2006, <http://www.parl.gc.ca/legisinfo/index.asp?Lang=E&Chamber=N&StartList=A&EndList=Z&Session=14&Type=0&Scope=I&query=4649&List=toc-1>.)

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CANADA – Health Insurance Reforms Considered

Long waiting lines for certain medical services have led many Canadians to consider alternatives to the similar government-operated health insurance programs that operate in each province and are partially funded by the federal government. At present, doctors who submit bills to these programs are not allowed to see patients who are willing to pay for services. Physicians must either participate in or opt out of the provincial plans. The Government of Alberta recently considered a “Third Way Plan” that would have allowed physicians to bill patients for services they were willing to pay for in order to obtain health care more quickly, as well as allowing patients to buy extra insurance to “jump the queue.” The government of Canada’s oil-rich province has, however, reportedly decided not to include these two contentious proposals in the plan it intends to unveil in the fall. Public opposition was cited as the reason for the shelving of the proposals respecting separate and extra-billing. (*Alberta Backtracks on Plan to Let Doctors Work in Private and Public Systems*, CANADIAN PRESS, Apr. 20, 2006, <http://ca.news.yahoo.com/s/20042006/2/national-alberta-backtracks-plan-doctors-work-private-public-systems.html>.)

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COLOMBIA – Debate about Coca Plants and Sovereignty

According to Colombian law, indigenous groups can grow coca plants on their farms for personal use. However, since January 2006, the Nasa indigenous community has been producing a soft drink called Coca-Sek from coca leaves and selling it locally in the town of Inza and in the neighboring community of Popayan, where it is bottled. By the end of the year, the Nasa hope to market the drink nationwide, targeting consumers who drink other soft drinks. The latest product represents only the most recent attempt of the Nasa to capitalize on an abundant resource; for six years they have been selling coca-flavored cookies, teas, and wines at vendors’ stalls and in health food stores. The movement to produce legitimate products from the coca leaf is being led by the Calderas reservation, one of six Nasa communities situated around Inza. The community pays US\$15 for each thirty-pound bag of coca leaves. Enough syrup is made from each bag to manufacture 300 bottles of Coca-Sek.

The current development has reopened a national debate over the limits of sovereignty allowed for native peoples in Colombia and other countries. The Nasa claim a sovereign right to produce and market the drink and other coca products, even though the law permitting its use limits the community to using the coca for traditional, not commercial, purposes. An official with the drug enforcement agency in Colombia stated that the government’s concern was that the coca leaves meant for the manufacture of the soft drink would be diverted to drug traffickers, and he further stated that clarification of the law is needed. The Colombian Government attempted to shut down the bottling plant in February and confiscate all the bottles. However, they stepped back when the Nasa appealed to the National Council of



Indigenous Tribes for a permit to continue. Another official with the state Health Department went on record as saying the drink needs proper testing and labeling in order to be marketed. (Chris Kraul, *Beverage Creates a Buzz*, LOS ANGELES TIMES, Apr. 12, 2006, <http://www.latimes.com/news/nationworld/world/la-fg-coccola12apr12,1,1813423.story?coll=la-headlines-world>.)

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COSTA RICA – New Law on Popular Initiatives

On March 9, 2006, the Government of Costa Rica issued a new Law on Popular Initiatives that contains the requirements and procedures for draft laws or partial constitutional amendments to be presented to the Legislative Assembly by any citizen or citizen group. The statute allows a new form of political participation by civil society. Draft laws must be advanced during ordinary sessions of the Legislative Assembly and signed by at least five percent of the citizens registered to vote. The initiatives will not be allowed when draft laws concern the budget, taxes, audits, loan approvals, contracts, or acts of an administrative nature. The Supreme Tribunal of Elections is empowered to verify the legitimacy of the citizens' signatures within a term of thirty days. If signatures do not reach the required minimum, the Tribunal will give the parties responsible for the initiative ninety days to comply with the provisions of the Law. Once the draft law is returned to the Legislative Assembly, it may be voted upon within a maximum term of two years, except in cases where a constitutional reform is involved, in which case the process must comply with article 195 of the Political Constitution of Costa Rica. The Office of Popular Initiatives of the Legislative Assembly will provide free technical support for the preparation of draft laws to any citizens interested in exercising this new right. (*Ley 8491, Ley de Iniciativa Popular*, LA GACETA, Apr. 3, 2006, at 2.)

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VENEZUELA – Withdrawal from Andean Community of Nations

Venezuela is withdrawing from the South American trade bloc integrated by Bolivia, Colombia, Ecuador, and Peru and known as the Andean Community of Nations, because, in its view, recent trade deals between Peru, Colombia, and the United States have killed off the community. President Chavez has vowed to create economic and political unity in South America without the help of the United States.

Chavez has maintained a war of words with Washington and argued that free trade deals are unfair to developing nations. Venezuela, however, is on track to become a full member of Mercosur, another South American trade bloc, formed by Argentina, Brazil, Paraguay, and Uruguay, whose member governments are mostly left wing. (*Venezuela Quits Andean Trade Bloc*, BBC NEWS, Apr. 20, 2006, <http://news.bbc.co.uk/2/hi/business/4925056.stm>.)

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INTERNATIONAL LAW AND ORGANIZATIONS

ANGOLA/CHINA – Oil Deal Criticized for Lack of Transparency

The announcement earlier this month that Angola has overtaken Saudi Arabia as China's premier supplier of crude oil has underlined the deepening ties between the two red-hot economies. China is the second largest consumer of Angolan oil after the United States, and under the terms of a US\$3 billion oil-backed loan made by China's state-owned Eximbank, the country will remain a long-term importer of Angolan crude.



Eximbank's \$3 billion loan was criticized by the International Monetary Fund (IMF) and non-governmental organization Global Witness as lacking transparency. Nicholas Shaxson, Africa fellow of the UK-based think-tank Chatham House explained: "Chinese lending ... has allowed Angola's government to manage on its own without IMF backing. Angola has used its huge economic potential to secure a number of oil-backed bilateral credit agreements with foreign governments – which further weaken the IMF's leverage." Chinese loans have allowed Angola to forego IMF lending that would subject government finance to greater scrutiny.

Angola is sub-Saharan Africa's second largest oil producer, after Nigeria, pumping 1.3 million barrels a day (b/d) – a figure the government expects to rise to 2 million b/d by 2008. Record oil prices are ensuring double-digit growth, and the country is in the middle of a reconstruction boom after a ruinous twenty-seven-year civil war ended in 2002. China has a significant stake in the Angolan economy. Angola exported 456,000 barrels a day during both January and February this year, accounting for fifteen percent of China's total oil import and outstripping both Saudi Arabia and Iraq, according to figures from Switzerland-based energy analysts Petromix. (*China Entrenches Position in Angola's Booming Economy*, IRINNEWS.ORG, Apr. 17, 2006, http://www.irinnews.org/report.asp?ReportID=52814&SelectRegion=Southern_Africa&SelectCountry=ANGOLA.) (Gustavo E. Guerra, 7-7104, ggue@loc.gov)

AUSTRALIA/CHINA/TAIWAN – Uranium Sales

On April 3, 2006, in Canberra, Australian Prime Minister John Howard and his Chinese counterpart, Premier Wen Jiabao, signed a Nuclear Safeguards Agreement that will make it possible for Australia to export uranium to China. Both parties are members of the International Atomic Energy Agency (IAEA) and agreed to cooperate in the peaceful uses of atomic energy. Under the terms of the Agreement, China will not enrich uranium to greater than twenty percent (U-235) or reprocess nuclear material. Australia is looking for its export earnings from uranium to increase fivefold in the next ten years, as it supplies about one-third of China's needs for fuel for its planned expansion of nuclear power plants. Current Australian exports of uranium oxide (yellowcake) earned A\$489 million (about US\$361 million) in 2004-2005, about half the earnings from cheese exports, but this sum is expected to rise to about A\$2.3 billion (about US\$1.7 billion) within the next ten years.

It was also reported that in the past year two Australian mining companies have signed contracts for the delivery of uranium to Taiwan, also for nuclear power plants. Taiwan is not a signatory to the Nuclear Non-Proliferation Treaty, and in the past Australia had refused to sell uranium to Taiwan. The uranium will be transferred through the United States, because Australia has, according to the Federal Resources Minister, Ian Macfarlane, "no avenues to sell uranium directly to Taiwan." In 2002, a little-noted exchange of notes between Australia and the United States provided for the re-transfer of Australian uranium through the United States. The Taiwan sales may serve as a precedent for Australian sales of much greater quantities of uranium to India, which has not signed the Nuclear Non-Proliferation Treaty. (*Uranium Exports to Rise Fivefold*, THE AUSTRALIAN, Apr. 4, 2006, <http://www.theaustralian.com.au/>; *Now Taiwan Is Buying Our Uranium*, SYDNEY MORNING HERALD, Apr. 4, 2006, <http://www.smh.com.au/>.) (Donald R. DeGlopper, 7-9831, ddeg@loc.gov)

CHAD/UNITED NATIONS – Forced Conscription Condemned

On March 31, 2006, the United Nations High Commissioner for Refugees (UNHCR) released a statement of concern about the practice of forced conscription of Sudanese refugees in Chad. It said in part:



UNHCR strongly condemns the forced recruitment of Sudanese refugees from Darfur by various armed groups in some of our camps in eastern Chad, breaching the civilian character of asylum and of our camps. ... We call upon all parties involved to put an end to these activities in our camps.

The statement was based on investigation by the UNHCR and testimony from refugees that showed that the conscription involved perhaps as many as several hundred men and boys, most of whom were between the ages of fifteen and thirty-five, but some were younger. Although some joined the military groups voluntarily, most of those from Treguine, Breidjing, and Farchana were forcibly recruited, particularly over the weekend of March 17-19, 2006, at a time when relatively few of the relief workers were present in the camps. The recruits were reportedly taken to training bases across the border in Sudan. The Government of Chad has promised to increase the number of security forces around the refugee camps to try to prevent the entry of armed persons. At present, over 200,000 refugees from the Darfur region of Sudan are living in twelve camps located along the border in Chad and run by the UNHCR. (*UN Agency Condemns Forced Recruitment of Sudanese Refugees in Chad*, ALLAFRICA.COM, Mar. 21, 2006, <http://allafrica.com/stories/200603310077.html>.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

CHINA/YEMEN – Strategic Development Projects

On April 9, 2006, China and Yemen signed agreements to carry out strategic projects in Yemen, at a total cost of about US\$1.5 billion. President Ali Abdallah Salih stated “China has supported Yemen since revolution without any conditions,” unlike Western countries, which, despite Yemen’s excellent relations with them, “offer their assistances [sic] on conditions.” The projects will involve energy and road projects and also construction of technical and vocational training centers. (*China, Yemen Seal Deal on Strategic Development*, SANAA SABA, Apr. 9, 2006, Open Source Center No. GMP20050410710043.) (Wendy Zeldin, 7-9832, wzel@loc.gov)

CITES – Restrictions on Caviar Exports

The Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the 169-member Geneva-based body administered by the U.N. Environment Programme, announced on April 12, 2006, that only Iran will be permitted to export Caspian Sea caviar this year. CITES stated that it would continue its general freeze on exports by the other four nations that share the Caspian Sea – Azerbaijan, Kazakhstan, Russia, Turkmenistan – because they had failed to provide to CITES satisfactory quota proposals needed to ensure the endangered wild sturgeons’ survival. CITES annually asks caviar-producing countries for a quota for the following year’s catch. It first imposed trade controls on caviar in 1998, following a depletion of sturgeon stocks after the dismantling of the Soviet Union.

Iran had originally sought a quota of 50,805 kilograms, but CITES approved only exports of up to 44,370 kilograms of eggs produced the Persian sturgeon (one of five species fished for Iran’s caviar industry). According to a CITES official, the Persian sturgeon is the only species in the Caspian Sea, reportedly the source of ninety-percent of the world’s caviar, that “isn’t doing too badly.” (*Hold the Caviar: UN-Backed Body Bans Export of Most Endangered Sturgeon*, UN NEWS CENTRE, Apr. 17, 2006, <http://www.un.org/apps/news/story.asp?NewsID=18156&Cr=caviar&Cr1>; *Caviar Put on Ice*, ICHTHYOLOGY IN THE NEWS, Jan. 4, 2006, <http://www.flmnh.ufl.edu/fish/InNews/ice2006.html>; Notice to the Wildlife Import/Export Community, Apr. 21, 2006, <http://www.fws.gov/le/PubBulletins/PBCaviarAndSturgeon.htm>; *UN Body Thaws Caviar Trade Freeze for Iran*, YAHOO!NEWS, Apr. 12, 2006, http://news.yahoo.com/s/afp/20060412/wl_mideast_afp/environmenttradefishcaviaranimalsiran_060412134209.)

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DOMINICA/SWITZERLAND – ICJ Case

On April 26, 2006, Dominica brought a case against Switzerland to the International Court of Justice (ICJ) alleging violations related to a diplomatic envoy to the United Nations office in Geneva. The ICJ is the main judicial organ of the U.N. Switzerland has stated that it may withdraw the accreditation of Dominican Roman Lakschin, arguing that he is really a businessman, not a diplomat. Lakschin has been accredited to the U.N. from Dominica since 1996. Dominica argues that the accreditation is to the U.N., not to Switzerland, and that Switzerland would be violating the Vienna Convention on Diplomatic Relations (1861), the Headquarters Agreement between Switzerland and the United Nations (1946), the Agreement on Privileges and Immunities of the United Nations between Switzerland and the United Nations (1946), and the Convention on Privileges and Immunities of the United Nations (1946) if his accreditation is cancelled.

In addition, Dominica has said that Switzerland should not “control a small State like Dominica which has a population of merely some 70,000 people and thus is severely restrained in the selection of foreign envoys.” (*Dominica Brings Case Against Switzerland to International Court of Justice*, UN NEWS, Apr. 26, 2006, UNNews@un.org; ICJ Press Release 2006/16, *Dominica Brings a Case against Switzerland to the Court in a Dispute Concerning Alleged Violations of the Vienna Convention on Diplomatic Relations and Other International Instruments and Rules with Respect to a Diplomatic Envoy of Dominica to the United Nations in Geneva* (Apr. 26, 2006), http://www.icj-cij.org/icjwww/ipresscom/ipress2006/ipresscom_2006-16_20060426.htm.)
(Constance A. Johnson, 7-9829, cojo@loc.gov)

FINLAND/EUROPEAN UNION – Finland to Promote Increased Transparency During Its Presidency

On July 1, 2006, Finland takes over the Presidency of the European Union until December 31, 2006. One of Finland’s objectives while holding the Presidency will be to increase transparency of the proceedings of the Council (the main decisionmaking institution of the EU). To achieve this goal, Finland wishes to promote easy access to documents, ensure efficient communication, and enhance transparency of the decisionmaking process. In this vein, one of Finland’s goals is to develop a regulation on public access to documents and promote the publication of a Commission Discussion Paper on revisions of the regulation regarding public access to the European Parliament, Council, and Commission. Finland further proposes that Council sessions on issues of importance to the citizens and other key issues be open to the public. (*Transparency of European Union Decision-Making to Increase During Finland’s Presidency*, Mar. 31, 2006, Finland Ministry of Justice website, <http://www.om.fi/35478.htm>.)
(Linda Forslund, 7-9856, lifo@loc.gov)

GULF COOPERATION COUNCIL – Currency Council Approved

At the conclusion of the fortieth meeting of the Governors of Central Banks and Monetary Cooperation of the Gulf Cooperation Council (GCC) States, held in Kuwait, the Governors approved the creation of a GCC Currency Council in preparation of launching a joint GCC Central Bank. The Currency Council will later be converted into a Central GCC Bank, which is a requirement for the introduction of a new unified GCC currency. A committee that has been formed for the purpose will determine the design, name, and denomination of the new GCC currency. (*GCC Currency Council Approved*, AL-WATAN NEWSPAPER, Apr. 6, 2006, <http://www.alwatan.com.sa/daily/2006-04-06/economy/economy05.htm>.)
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GULF COOPERATION COUNCIL – Health Specialties Council Approved

The Gulf Cooperation Council (GCC) Health Ministers' Council agreed on establishing a GCC Health Specialties Council. The Council aims to unify and develop health professionals' performance in different health specialty fields in the GCC States and to evaluate the health establishments and endorse training programs based on international criteria. The Council also will create a unified program for accrediting continuing health education programs, encouraging health-related research and writing of scientific articles, and publishing specialized magazines or periodicals in the health field. In addition, the Council will provide consultation services to member states for preparation and development of a health specialty workforce. (*GCC Health Specialties Council Approved*, AL-RIYADH NEWSPAPER, Mar. 25, 2006, <http://www.alriyadh.com/2006/03/25/section.inter.html>.)

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HONG KONG/CHINA – Enforcement of Judgments

On April 12, 2006, it was announced that the Hong Kong Special Administrative Region (HKSAR) and mainland China are about to sign a long-awaited arrangement on reciprocal recognition and enforcement of judgments in commercial cases. According to HKSAR Secretary for Justice Wong Yan-lung, in a discussion with Chief Justice Xiao Yang of China's Supreme People's Court "[w]e confirmed some details today and an agreement has been largely reached. ... We hope to sign an agreement within this year after going through some procedures in Hong Kong." Reportedly, the arrangement will apply only to commercial judgments and cases in which the parties have agreed not to appeal or if the time limit for appeal has passed, and mutual enforcement will apply only if all parties to the litigation agree on a jurisdiction in which to resolve the dispute. The two sides have also agreed on a list of about a hundred mainland courts whose judgments in such cases would be enforceable in Hong Kong. These include some basic level people's courts that have experience in trying commercial cases involving parties from Hong Kong and foreign countries as well as higher-level people's courts.

While the arrangement is expected to strengthen Hong Kong's status as an international center for legal services, some Hong Kong lawyers have reservations about it. Their concern lies with the quality of mainland judgments, the process through which they are reached, and potential difficulty in carrying out HKSAR court rulings on the mainland. (*SCMP: Mainland, HK Close to Pact on Court Judgments*, SOUTH CHINA MORNING POST, Apr. 13, 2006, Open Source Center No. CPP20060413515007.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

HONG KONG/GUANGDONG PROVINCE – Agreement on Food Safety

The Hong Kong Special Administrative Region (HKSAR) and neighboring Guangdong Province signed a framework agreement on exchanges and cooperation in food safety, following the first working meeting on the issue held in Guangzhou on April 11, 2006. To foster exchange of food safety information, a Centre for Food Safety will be established mid-2006. Some of the key aspects of the agreement are: enhanced information exchange on significant food safety policies, regulations, and standards, as well as food safety incidents that involve both sides; designated points of liaison for each side; the holding of regular working meetings; and the right by either side to convene an urgent high-level meeting in the event of significant or major food safety incidents. (*HK, Guangdong Sign Food Safety Deal*, NEWS.GOV.HK, Apr. 11, 2006, <http://news.gov.hk/en/category/healthandcommunity/060411/html/060411en05003.htm>.)

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INDIA/NEPAL – Transit Treaty Renewed

India and Nepal have renewed a transit treaty that allows Nepal, a landlocked nation, to export goods through a port in India. The agreement is a recurring one, set up to be reviewed every seven years, and the renewal this time follows consideration of the provisions by a group of officials from the two countries. The designated port facilities are in the city of Kolkata, in eastern India. The agreement also specifies fifteen possible transit routes for shipments between Nepal and Kolkata. (*India Renews Transit Treaty with Nepal*, THE DAILY STAR, Apr. 1, 2006, <http://www.thedailystar.net/2006/04/01/d60401013725.htm>; *India, Nepal to Review Transit Treaty Soon*, KURAKANI.TK, Jan. 3, 2006, <http://www.kurakani.tk/Article856.phtml>.)
(Constance A. Johnson, 7-9829, cojo@loc.gov)

NICARAGUA/VENEZUELA – Sandinista-Chavez Oil Agreement

A petroleum agreement was signed by Dionisio Marengo, the Sandinista Mayor of Managua, the Nicaraguan capital, and the state-owned Venezuelan oil company, Petróleos de Venezuela del Caribe (a subsidiary of Petróleos de Venezuela – PDVSA), in Caracas, Venezuela, on April 25, 2006. Marengo was acting on behalf of the Sandinista-controlled Municipal Association of Nicaragua – AMUNIC. Nicaragua has 153 municipalities; 87 of them are controlled by the Sandinista leader, Daniel Ortega.

The agreement establishes that crude oil will be sold to AMUNIC for delayed payment of up to forty percent of the cost at the time of purchase of the oil for a period of up to twenty-five years, with a two-year grace period and then with an interest rate of one percent. Sixty percent of the oil will be paid for over a ninety-day period.

President Enrique Bolaños characterized the deal as a violation of Nicaraguan election law because it is a “[foreign] election gift” to the Sandinista Party. A pre-election campaign is currently underway in Nicaragua; the official national election campaign period will start in August. The Electoral Law prohibits foreign financing of the campaign. In addition, according to National Assembly Deputy Miguel López Baldizón, the oil agreement violates several articles of the Nicaraguan Constitution and the General Act of Public Debt.

Eduardo Montealegre, the presidential candidate of the coalition made up of the Nicaraguan Liberal Alliance and the Conservative Party (ALN-PC), called for an investigation of the oil deal as well as of the agreement by which Venezuela would donate fertilizer to AMUNIC. (Ludwin Loáisiga López, *Bolaños: Chávez Viola Ley Electoral*. LA PRENSA, May 1, 2006, <http://www.laprensa.com.ni>; Ludwin Loáisiga López, *Petroalcaldes están Violando la Constitución*, LA PRENSA, Apr. 29, 2006, <http://www.laprensa.com.ni/>.)
(Norma C. Gutiérrez, 7-4314, ngut@loc.gov)

PORTUGAL/EU – Demand to Give Up Telecom Golden Shares

On April 4, 2006, Portugal was officially asked by the European Commission (EC) to give up its golden shares in the former state monopoly telecommunications company, Portugal Telecom. According to EC authorities, the Portuguese Government violates European Union laws by retaining the shares, because they give the Government the right to a decisive vote in the firm and restrict non-government participation in the management or control of the company, discouraging investment from other EU Member States and making the free movement of capital more difficult.

If within two months of receiving the EC reasoned opinion no action is taken by the Portuguese



Government, the case may be taken to the European Court of Justice, the EC announced in a press release. Portugal said that it would fight the demand, that such shares are not a “Portuguese peculiarity” and have been used by other European countries in the past, and that Portugal will make use of all legal measures available to protect its interests. (*Portugal to Oppose EU over Maintaining Control of Telecom, Other Companies*, Open Source Center No. EUP20060404102011, Apr. 5, 2006; *Portugal Ordered to Abandon Special Rights*, KERALANEXT.COM, Apr. 6, 2006, <http://www.keralanext.com/news/index.asp?id=637926>.)

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TAIWAN/PHILIPPINES – Police Accord

On April 18, 2006, at a meeting between senior Taiwan and Philippine police officers, an agreement was reached to strengthen cooperation in fighting crime. A spokesman for Taiwan’s National Police Agency stated that this would include a crackdown on cross-border trafficking in drugs and human beings, especially since international drug traffickers have increasingly used the Philippines as a trading center in Southeast Asia. In 2005, the two sides had carried out a successful joint operation involving a raid on an amphetamines factory in the Philippines. (*Taiwan, Philippines to Strengthen Police Cooperation*, YAHOO! FINANCE, <http://sg.biz.yahoo.com/060420/4069j.html> (last visited Apr. 20, 2006).) (Wendy Zeldin, 7-9832, wzel@loc.gov)

UNITED NATIONS – Oral Traditions Treaty in Force

A United Nations treaty on protection of the cultural heritage held in oral traditions came into force in April 2006, three months after being ratified by the thirtieth nation. It covers languages, performing arts, social practices, rituals, craftsmanship, and knowledge of nature. Under the treaty, national inventories will be created listing cultural traditions to be protected. In addition, there will be an Intergovernmental Committee of experts from the nations that are parties to the treaty and two international lists, one an overall compilation of the intangible heritage of the world and the other indicating which traditions within that heritage are most in need of preservation.

The U.N. Educational, Scientific, and Cultural Organization (UNESCO) adopted the Convention in 2003; to date forty-seven nations have ratified it. In the future there will be a fund created to further the aims of the Convention. UNESCO Director-General Koichiro Matsuura, speaking about the need for international efforts to safeguard traditional knowledge, said:

Contemporary lifestyles and the process of globalization are undermining considerably the living cultures inherited through tradition. ... By offering them adequate means for their preservation, this instrument fills a legal loophole.

(*UN Treaty to Protect Oral Traditions Enters into Force*, UN NEWS CENTRE, <http://www.un.org/apps/news/story.asp?NewsID=18197&Cr=UNESCO&Cr1> (last visited Apr. 24, 2006).)

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RECENT DEVELOPMENTS IN THE EUROPEAN UNION

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Single Market for EU Defense Industry

On April 3, 2006, the European Commission began a public consultation regarding the future creation of a “European Defense Equipment Market” (EDEM). Defense-related products are currently restricted from moving freely within the Community, due to diverse national administrative procedures in the Member States. The consultation aims to generate discussion as to a possible legislative instrument to adopt to remove obstacles to trade within the EU, while at the same time ensuring protection of national security in view of possible re-exportation of defense equipment to third countries. (Press Release IP/06/419, European Commission, Creating a Single Market for EU Defense Industry: Commission Opens Consultation (Apr. 3, 2006), <http://www.europa.eu.int/rapid/pressReleasesAction.do?reference=IP/06/419&format=HTML&aged=0&language=EN&guiLanguage=en>.)

Language Feud over Presidency Websites

Following a complaint to the EU Ombudsman instituted by a German Association dedicated to defending the German language, the Ombudsman issued a draft recommendation, which held that the Council should reconsider its view on the languages available on the EU Presidency websites. The association argued that the websites’ availability only in two languages, English and French, constitutes a case of bad administration. The Council claimed that the websites of the Presidency are beyond its control, because it is the EU Member State that holds the Presidency that is mainly responsible for selecting the language of its websites. The Ombudsman stated that since the Presidency is clearly part of the Council, the Presidency’s websites are within the reach of Community law. Consequently, by failing to consider the arguments in the complaint, the Council has mishandled the case. The Ombudsman concluded that the Council should properly review the complaint and send a detailed opinion by June 30, 2006. (Press Release EO/06/6, European Commission, Ombudsman: Council Should Reconsider Language Regime for Presidency Websites (Mar. 30, 2006), <http://www.europa.eu.int/rapid/pressReleasesAction.do?reference=EO/06/6&format=HTML&aged=0&language=EN&guiLanguage=en>.)

National Implementation of State Aid Rules

On April 7, 2006, the European Commission published a study on how EU Members enforce EU rules on state aid at the national level. The study addressed the question of the role of the national courts in protecting companies against the granting of illegal aid to their competitors and how EU Members implement the Commission’s recovery decisions.

The study confirms that national courts are instrumental in enforcing EU state aid rules. Germany, Italy, and France have the largest number of state aid judgments. The study also suggests that the implementation of the Commission’s recovery decisions by the Member States has shown some improvement; there is still, however, room for more progress in this area. (Press Release IP/06/477, European Commission, State Aid: Commission Publishes Study on National Enforcement of State Aid Rules (Apr. 7, 2006), <http://www.europa.eu.int/rapid/pressReleasesAction.do?reference=IP/06/477&format=HTML&aged=0&language=EN&guiLanguage=en>.)



Quick Authorization for Emergency Medicines

The European Commission recently approved an expedited procedure for emergency medicines. The motives behind this measure is twofold: a) to be able to respond to emergencies, such as bioterrorist attacks or an influenza pandemic, and b) to ensure that new treatments for those who suffer from life-threatening conditions reach patients faster. Under the existing EU rules, usually there is a ten-year period between when new medicines are discovered to the time they are marketed. (Press Release IP/06/463, European Commission, Commission Allows Early Authorization for Emergency Medicines (Apr. 6, 2006), <http://www.europa.eu.int/rapid/pressReleasesAction.do?reference=IP/06/498&format=HTML&aged=0&language=EN&guiLanguage=en>.)

Closer Ties Between EU and Greenland

On April 5, 2006, the European Commission adopted a communication that proposes a number of measures on establishing a comprehensive partnership with Greenland. Currently, Greenland has the same status as that applicable to the Overseas Countries and Territories associated with the Community. The communication proposes the adoption of a joint declaration by the EU, Denmark, and Greenland to extend their cooperation in areas other than fisheries, including mineral resources, energy, culture, and education. (Press Release IP/06/457, European Commission, Proposal for a New Comprehensive Partnership between the EU and Greenland (Apr. 5, 2006), <http://www.europa.eu.int/rapid/pressReleasesAction.do?reference=IP/06/457&format=HTML&aged=0&language=EN&guiLanguage=en>.)

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