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AFRICA

BURUNDI – Expert Calls for Human Rights Changes

Speaking before the United Nations General Assembly's Third Committee, which is devoted to social, humanitarian, and cultural issues, Akich Okola, an independent expert on the status of human rights in Burundi, warned that internal conflict could result from the government's human rights violations and the dysfunctional justice system. Okola praised the government for some of its steps toward improved human rights, including integrated human rights mechanisms; efforts to train officials, including state security agents, on respecting human rights; offering free primary education; and extending free health care to children and expectant mothers. He argued, however, that the ineffective justice system and overcrowded jails pose serious problems and that respect for freedom of expression is under attack.

Last summer there was a coup attempt in Burundi; Okola is urging the government to bring the accused conspirators to trial in a timely manner. He also urged tolerance towards the media and the establishment of a Truth and Reconciliation Commission.

In response to Okola's charges, a Burundi representative said that the government is committed to improving the human rights situation in the nation, as well as to national reconciliation and the resolution of questions of expropriation and of officials acting with impunity. (*Independent Human Rights Expert Appeals for Tolerance in Burundi*, UN News, Nov. 4, 2006, UNNews@un.org.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

CHAD – Emergency Rule Instituted, Media Restrictions Restored

At a meeting on November 13, 2006, Chad's Cabinet endorsed a draft decree instituting a state of emergency in several regions. The decree had been prepared by the Ministry of Territorial Administration in response to clashes in Ouaddai, Salamat, and Wadi Fira, but was also extended to several other parts of the country. The meeting was a special session, chaired by the President of the Republic, Idriss Deby Itno. The government views the current unrest as part of a strategy implemented by the government of neighboring Sudan to destabilize Chad.

In order to improve security in the affected regions, two ministers resident, with full powers and resources, will be appointed. In addition, the Cabinet decided to restore pre-publication censorship for privately published newspapers and to ban private radio stations from reporting on anything likely to harm public order, national unity, territorial integrity, and respect for the institutions of the Republic. The explanation given for the need to impose these controls on the media is that previous warnings from the government and the Higher Communication Council have been ignored and that some media have distributed misinformation and promoted armed rebellion. (*Cabinet Announces Emergency Rule, Media Censorship After Communal Violence*, RADIODIFFUSION NATIONALE TCHADIENNE, Nov. 13, 2006, Open Source Center No. AFP20061113648002.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

CONGO (Democratic Republic of) – Judicial Independence

On October 10, 2006, the Democratic Republic of the Congo adopted Constitutional Law 06/020, on the status of judges. The Law is designed to establish the independence of the judiciary from the legislature. It consists of ninety-two articles divided into six titles, covering among other topics the recruitment, promotion, and ranking of judges; the rights and duties of judges; resignation options;



disciplinary measures that may be applied to judges; and pensions and other aspects of retirement plans, such as the use of honorific titles. (Loi Organique No. 06/020 portant Statut des Magistrats, Oct. 10, 2006, available in the Global Legal Information Network, GLIN ID 185808, <http://www.glin.gov>.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

GHANA – Disability Law

On June 23, 2006, the Parliament of Ghana passed the Persons with Disability Law, although at least as of September 2006, it apparently had not yet received the assent of the President. Drafted thirteen years ago, the Law includes provisions to protect the disabled from discrimination; to guarantee them free medical care, free public transportation, and access to public transportation; and to require special access ramps and rails for all public places. Given that in Ghana “physical disability is often seen as a punishment for one’s sins or the sins of ancestors,” the Law has been described as “a giant step forward” for the country. However, because of the large expenditures that may have to be made to implement the Law, it is to be applied only gradually, over a transitional ten-year period. (*GHANA: A Victory for the Disabled After 13-Year Struggle*, IRINNEWS.ORG, Aug. 7, 2006, http://www.irinnews.org/report.asp?ReportID=55018&SelectRegion=West_Africa&SelectCountry=Ghana; Dr. Kojo Busia, *Ghana’s APRM: Processes and Preliminary Outcomes*, 2 APRM MONITOR (Sept. 2006), <http://www.pacweb.org/e/images/stories/documents/aprm%20update%20for%20ghana.pdf>.)

In early November 2006, law lecturer Dr. Kwadwo Appiagyei-Atua, of the University of Ghana, delivered a speech in which he characterized the new law as having “missing puzzles” and called for its amendment. Appiagyei-Atua noted that the Law does not contain an equality or non-discrimination provision, an omission made even more significant because the Constitution of Ghana does not mention disability in its non-discrimination clause. He also pointed out that the Law fails to include provisions addressing the gender dimension of discrimination against disabled women. In addition, payment of compensation is not covered under the new legislation’s provision on non-compliance. Appiagyei-Atua urged the government to expedite action on at least two bills that were before Parliament – the domestic violence bill and the right to information bill – whose passage into law, he contended, “will be a big boost to a smooth implementation of the Disability Act.” (Ebenezer Hanson, *Law Lecturer Identifies Loopholes in Disability Law and Calls for Amendments*, PUBLIC AGENDA (Accra), Nov. 3, 2006, <http://allafrica.com>.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

KENYA – Fast-Tracking of Bill to Protect Refugees

The Government of Kenya is reportedly fast-tracking enactment of a bill on refugees. At a workshop on the bill held on November 5, 2006, Immigration and Registration of Persons Minister Gedion Konchellah was quoted as stating that the bill, which has been pending for fifteen years, promotes the protection of refugee women and children and “also seeks to address the conduct, registration, and security of refugees wishing to relocate to other countries for permanent settlement.” The bill reportedly also has a provision that would empower the Minister, on the ground of national security, to disqualify a person seeking refugee status. (Philip Mwakio, *State to Fast-Track Refugee Law*, THE EAST AFRICAN STANDARD (Nairobi), Nov. 6, 2006, <http://allafrica.com>.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

KENYA – Public Procurement

On November 6, 2006, Kenyan Treasury officials confirmed to the Parliament’s Committee on Finance, Planning and Trade that rules necessary to make the Public Procurement and Disposal Act, 2005



operational are now ready for issuance. The rules are reportedly “‘urgently’ needed to seal loopholes in government procurement procedures that have long been suspected of oiling the wheels of corruption.” (Owino Opondo, *New Rules to Guide Contracts*, THE NATION (Nairobi), Nov. 7, 2006, <http://allafrica.com>.)

The 2005 Act, approved by President Mwai Kibaki in December of that year, seeks to advance transparent tendering beyond the provisions of the Procurement Rules 2000 under section 5A of the Exchequer and Audit Act. It adopts such measures as making it mandatory for international companies that have won government tenders to sub-contract to local firms, giving preference to local bidders if a project is fully government-funded, and giving preference in public tenders to contractors that offer goods manufactured, mined, or grown in Kenya. It is illegal under the Act to vary contracts and buy goods or services from the same supplier without tendering anew. Other provisions aim to speed up the tendering process. (*Id.*)

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

KENYA – Sport Hunting Still Banned

In a November 8, 2006, announcement, Kenya’s Government has ruled out the possibility of lifting the current ban on sport hunting. The Vice President, Moody Awori, referred to the unique diversity of animal species in the country, stating,

We have a responsibility to look after wildlife for the benefit of Kenyans and the whole world. There should be no sport hunting or artificial culling of the animals. Instead, we should allow nature to regulate the numbers to ensure the numbers are well-balanced with the environment and guard against climate change

Awori spoke at the offices of the Kenya Wildlife Services, while accepting aid in the form of a monetary donation and specialized equipment for tracking animals from the International Fund for Animal Welfare. He argued that wildlife had been hurt by both climate change and the illegal trade in bush meat and said that therefore the sport-hunting ban should remain in place. (*Kenya: Sport Hunting Ban to Continue*, THE NATION (Nairobi), Nov. 9, 2006, available at <http://allafrica.com/stories/200611090029.html>; see also 3 W.L.B. 2006.)

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

MOZAMBIQUE – Press Law Review

On November 3, 2006, the Mozambican Office of Information, the National Union of Journalists, the Institute of Social Communication for Southern Africa, and the Association of Newspaper Companies of Mozambique launched a public debate on a project to revise the 1991 press law, with a view to expanding the law to allow for regulation of new means of social communication, and on the current statute on journalists.

The current press law provides for the growth and multiplication of social communication agencies, but it is restricted to the printed press. The future press law will introduce new elements, namely, the creation of a professional identification card for journalists, the conclusion of contracts between journalists and the employer, and the implementation of a work- and travel-related accident insurance plan.

The proposed new press law is scheduled for review during 2007 by the Council of Ministers. The draft law will also redefine the role of the Superior Council of Social Communication and cover new



means of communication, specifically the Internet. (*Arrancou Debate da Anteproposta de Revisão Lei de Imprensa*, NOTÍCIAS LUSÓFONAS, Nov. 4, 2006, available at <http://www.noticiaslusofonas.com/view.php?load=arcview&article=16112&catogory=Moçambique>.) (Eduardo Soares, 7-3525, esoa@loc.gov)

NIGERIA – Bill Giving Executive Branch Legislative Power Rejected

On November 21, 2006, Nigeria's Senate rejected a bill designed to give the executive branch of the government the right to review the nation's laws. The bill, introduced in the Senate in 2004 and passed through its second reading in October before the rejection in November, had been entitled "A Bill for An Act to Provide for the Periodic Review of the Laws of the Federation of Nigeria and for Matters Connected Therewith." It had been opposed by Senator Oserheinmen Osunbor, head of the Committee on the Judiciary, who argued that the bill gave the executive powers that encroached on the constitutionally established authority of the National Assembly. The Committee report on the bill was adopted unanimously. (*Nigeria: Senate Rejects Bill Giving Executive Arm of Government Law-Making Powers*, VANGUARD, Nov. 22, 2006, Open Source Center No. AFP20061122638023.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

ZIMBABWE – Domestic Violence Legislation

On November 7, 2006, the House of Assembly of Zimbabwe (the lower chamber of the parliament) approved a domestic violence bill. The bill has been transmitted to the Senate for consideration. In a society in which problems in domestic relationships are deemed a private matter, the bill seeks, among other objectives, to provide mechanisms of protection and relief for victims of domestic violence.

The controversial article 3 of the bill, on the scope and definition of domestic violence, which had stirred heated debate inside and outside the parliament, was amended to include the terms "forced virginity testing" and "genital mutilation" as constituting domestic violence, while the terms "jealousy" and "unreasonable denial of conjugal rights" were deleted from the definition. The legislation bans certain cultural practices now seen as dysfunctional, such as pledging of women and girls to appease avenging spirits, forced marriage, forced wife inheritance, and intimacy between fathers-in-law and newly married daughters-in-law. The draft law was clarified to stipulate that emotional, verbal, psychological, and economic abuse will not be considered an offense, but will be subject to counseling, with community courts having jurisdiction over such cases. (*Women Legislators Ululate as House Passes Domestic Bill*, THE HERALD (Harare), Nov. 8, 2006, <http://allafrica.com>.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

ZIMBABWE – Interception of Communications Bill

Zimbabwe's Minister of Justice, Legal and Parliamentary Affairs, Patrick Chinamasa, reported on November 7, 2006, to the country's House of Assembly that the text of the interception of communications bill had been replaced with a consolidated text. The aim of the legislation, according to Chinamasa, is "to provide for the interception and monitoring of certain communications in the course of their transmission through the telecommunications or postal service." (*State Resubmits Interception Bill*, THE HERALD (Harare), Nov. 8, 2006, <http://allafrica.com>.)

Under the original bill, a monitoring center, controlled and operated by the center's designated technical experts, was to be established as the only organ through which authorized interceptions could be effected. Officials authorized to apply for interceptions under the bill included the Chief of Defense



Intelligence, the Director-General of the Department of National Security, the Police Commissioner, and the Zimbabwe Revenue Authority Commissioner-General. Some stakeholders in the postal and telecommunications sector, however, called for the bill to strike a better balance between the interests of the State and protection of privacy; others contended that the original bill's provisions contravened constitutional guarantees of freedom of expression.

The government had withdrawn the interception of communications bill after the Parliamentary Legal Committee (PLC) raised strong objections to certain provisions and undertook drafting a new version of the bill that took into account the PLC's concerns. Aside from objecting to the provision on establishing the monitoring agency, the PLC had also criticized the language in another provision that stated, "in the case of urgency or the existence of exceptional circumstances, an oral application [for an interception] may be made." Some of the other objectionable provisions allowed courts to use information intercepted unlawfully in prosecutions and stipulated that aggrieved persons could appeal to the same minister who issued the warrant for interception of their communication. (*Zimbabwe: Govt Withdraws Snooping Bill*, ZIMBABWE INDEPENDENT, Nov. 3, 2006, <http://allafrica.com>; *Interception of Communications Bill, 2006* (H.B. 4, 2006), KUBATANA.NET, May 26, 2006, http://www.kubatana.net/html/archive/legisl/060526icb.asp?sector=LEGISL&range_start=1.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

EAST ASIA & PACIFIC

AUSTRALIA – Industrial Relations Case Sees Increase in Commonwealth Powers

The High Court dismissed a challenge by the Australian states and some trade unions to the validity of the federal government's new industrial relations laws (known as WorkChoices). The challengers claimed the laws were unconstitutional as they were established under the corporation's power rather than the conciliation and arbitration power. Under Australian law, federal legislation will preempt state legislation and thus this decision provides for the centralization of industrial relations power within the federal government, meaning that federal law will govern the bulk of industrial relations. (*State of New South Wales v Commonwealth of Australia*; *State of Western Australia v Commonwealth of Australia*; *State of South Australia v Commonwealth of Australia*; *State of Queensland v Commonwealth of Australia*; *State of Victoria v Commonwealth of Australia*; *Australian Workers' Union & Another v Commonwealth of Australia*; *Unions NSW & Others v Commonwealth of Australia*; High Court of Australia, [2006] HCA 52 (14 November 2006).) (Lisa White, 7-4987, lwhi@loc.gov)

AUSTRALIA – Spy Agency Charges Own Officer

A former officer of the Australian Security Intelligence Organisation, Australia's domestic intelligence agency, has been charged with leaking classified intelligence information regarding a warning sent to the Australian Government of bomb attacks in Indonesia in the months before the 2002 Bali bomb (which resulted in the deaths of eighty-eight Australians). The former officer is being charged under §18(2) of the Australian Security Intelligence Organisation Act 1979 (Cth). If convicted under this section, the former officer may face a sentence of two years' imprisonment. (*Ex-Spy Charged for Leaks to Paper*, THE AUSTRALIAN, Nov. 14, 2006, at 3.) (Lisa White, 7-4987, lwhi@loc.gov)



CHINA – Draft Anti-Corruption Law

According to Wang Minggao, an expert with China's national-level group on "Research on China's Major Countermeasures to Punish and Prevent Corruption," the group has made a preliminary draft of an anti-corruption law. In a news report on the group's activities issued in July 2006, Wang is quoted as stating that such a law would cover five main aspects: establishment of a credit security number for every citizen; imposition of civil punishment on corrupt officials who flee abroad; abolition of the death penalty for criminals convicted of corruption; establishment of a system of criminal trials in absentia; and strengthening of international cooperation in the fight against corruption. According to the news item, "[o]n average, \$10 billion of embezzled funds have been sent overseas every year since 1990, and the number is still rising." (*Summary: PRC Research Group Considers New Anti-Corruption Law (6 Jul 06)*, 27 LIAOWANG DONGFANG ZHOUKAN [Oriental Outlook] 35-37 (July 6, 2006), Open Source Center No. CPP20060802710011.)

Those who favor passage of an anti-corruption law argue that legal provisions are needed to provide personnel who handle anti-corruption cases with the power to adopt special inspection measures and special investigation measures. The former would include, for example, making inquiries of financial units about relevant funds, consulting the work unit and individuals concerned about relevant documents and materials, and investigating or examining the scene of the crime. The special investigative measures could include giving investigators powers of warrant-less search, forcible search, inspection of duplicate bank accounts, requisitioning the personnel concerned to produce criminal evidence, and requisitioning suspects to declare their assets and also explain the source of the assets. Special investigative measures would also encompass allowing officials of a certain grade, under special circumstances, to carry out warrant-less arrests of criminal suspects, restrict the transfer of assets of persons suspected of crimes, carry out sealing or freezing of bank accounts or assets, attach stolen money or bribes, and other powers. (Yu Jintao, *Guojia ji keti zu gouxiang fan fubai fa [National-Level Research Group Considers Anti-Corruption Law]*, LIAOWANG DONGFANG ZHOUKAN [Oriental Outlook] 35-37 (July 6, 2006) (in Chinese), attachment to *id.*) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

CHINA – Foreign Banks

On November 15, 2006, the State Council of the People's Republic of China (PRC) issued the Regulations on the Management of Foreign-Funded Banks, landmark provisions that will allow foreign banks to offer a full range of services to domestic customers. The Regulations enter into effect on December 11, 2006. Their release is part of the PRC's commitment, upon its 2001 entry into the World Trade Organization, to liberalize the banking sector.

The new Regulations lift restrictions on *renminbi* and foreign-currency transactions of foreign funded banks that have been registered and locally incorporated in China before December 11. In addition, they prescribe equal supervision standards for the overseas banks, in order to encourage them to register in China. In order to offer the full range of *renminbi* services to local clients, the foreign-funded and joint venture banks must locally incorporate with a registered capital of Rmb1 billion (about US\$127 million) and operating capital of Rmb100 million (about US\$13 million) for each branch (article 8). Chinese branches of foreign banks that do not have a local subsidiary can only accept individual deposits of at least Rmb1 million, which will reportedly exclude them from most retail business. However, the operating capital requirement for such branches is only Rmb200 million, "far less than the Rmb500m executives had been led to expect by draft rules." By the end of 2005, although over seventy foreign banks from twenty countries had established 238 operating branches in China, they accounted for only



slightly more than half a percent of local-currency loans. (*China Paves Way for Foreign Banks to Offer More Services*, FINANCIAL TIMES, Nov. 16, 2006, at 1.)

For the time being, according to Song Dahan, Deputy Director of the Legislative Affairs Office of the State Council, the PRC will continue to give preferential tax treatment to locally incorporated foreign-funded banks. (*Overseas Banks Welcome New Rules for China's Banking Sector*, XINHUA, Nov. 17, 2006, Open Source Center No. CPP20061117968136; *China Still Gives Tax Preferential Treatment to Foreign-Funded Banks*, CHINA ECONOMIC NET, Nov. 16, 2006, http://en.ce.cn/Business/Macro-economic/200611/16/t20061116_9453849.shtml; *China Issues Rules on Foreign-Funded Banks* [with text of the law in English translation], RENMIN RIBAO, Nov. 17, 2006, Open Source Center No. 20061117701001.)

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CHINA – Punishments for Scientific Misconduct

China's Ministry of Science and Technology (MOST) published trial measures on scientific misconduct on November 7, 2006. They were approved by the Ministry on September 14, 2006, and enter into effect on January 1, 2007. According to Mei Yonghong, Director of the MOST Policy and Regulation Department, it is the first time that a unified regulation on the subject has been issued. Part of the impetus for the measures is a number of high-profile scandals in the scientific community, involving academic fraud and plagiarism, which occurred in China in the spring of 2006.

Under the (Trial) Measures for Disposition of Improper Conduct of Scientific Research in the Implementation of the State Science and Technology Plan, acts of falsifying resumes, plagiarizing others' work, fabricating scientific data, and violating provisions on human and animal research may incur punishment ranging from warning, suspension of research projects, and confiscation of project funding to expulsion from research organizations. According to Mei, the most severe punishment will be disqualification from state science projects for life. Persons who hide or destroy evidence, interfere in or obstruct investigative work, attack or retaliate against investigators, or simultaneously engage in multiple improper activities will be subject to the more severe forms of punishment, such as being reported to other related departments and being ordered to repay the grant money. Those who do not accept the punishment decision have a right of appeal.

The Office of Building of Trustworthiness of Scientific Research is established under the Measures to oversee the handling of improper scientific research activities. According to Mei, it will set up a scientific research ethics committee upon consultation with the Ministry of Education, the National Natural Science Foundation of China, the Chinese Academy of Sciences, the Chinese Academy of Engineering, the China Association for Science and Technology. (*China Issues Trial Regulation on Scientific Misconduct*, XINHUA, Nov. 10, 2006, Open Source Center No. CPP20061110968118; MOST, *Kexue Jishu Bu ling di 11 hao <Guojia Ke Ji Jihua shishi zhong ke yan buduan xingwei chuli ban fa (shixing)> (MOST Decree No. 11 <(Trial) Measures for Disposition of Improper Conduct of Scientific Research in the Implementation of the State Science and Technology Plan>)*, http://www.most.gov.cn/kjbgz/200611/t20061109_37931.htm (last visited Nov. 20, 2006).)

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CHINA – Reporting Requirement for High-Income Earners

China's State Administration of Taxation (SAT) issued measures on November 8, 2006, stipulating that employees who earn more than Rmb120,000 (about US\$15,000) a year must file an individual income declaration with the tax authorities. The regulation also covers foreigners. It provides



that anyone working in China who meets any one of the following criteria – making the above-mentioned annual income, having income from more than one organization, obtaining income from overseas, having an employer who does not deduct tax, fitting certain other criteria defined by the State Council (Cabinet) – must report their income to the tax authorities. Yearly income does not include contributions to insurance, medical insurance, unemployment insurance, or a housing accumulation fund paid by companies or individuals. The reporting requirement for those who earn Rmb120,000 or more is apparently retroactive to January 1, 2006, whereas that for persons who meet any of the other three criteria referred to above enters into effect on January 1, 2007. Employers will continue to deduct high-income-earners' taxes at the source.

Failure to report the previous year's income by the March 31 deadline is punishable by a fine ranging from Rmb2,000 to Rmb10,000 (about US\$255-1275). Those who file a false report may incur a fine of up to Rmb50,000 (about US\$6380). However, in the view of Professor An Tifu of the Financial Institute of People's University, the tax authorities still do not have effective measures to compel high-income earners to declare all their income and need to improve the system to close the loopholes. (*China's High Earners to Report Income*, XINHUA, Nov. 9, 2006, http://news.xinhuanet.com/english/2006-11/09/content_5310143.htm; *Guojia Shuiwu Zongju guanyu yin fa <Geren suode shui zixing na shui shenbao banfa> de tongzhi (shi xing)* [Circular of the State Administration of Taxation Concerning Printing and Issuance of the <Measures on Voluntary Declaration of Payment of Individual Income Tax (for Trial Implementation)>], Nov. 6, 2006, LAW-LIB.COM, http://www.lawbook.com.cn/law/law_view1.asp?id=178572.)

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JAPAN – Government Support for In-House Childcare Facilities in Smaller Businesses

To support women who continue working after childbirth, the Japanese Government has decided to provide low-interest-rate loans for small and medium-size businesses that establish in-house child-care facilities. (*Seifu, chūshō kigyō no takujisho o shien* [Government, Supports Childcare Facilities of Small and Middle-Size Businesses], YOMIURI NEWSPAPER, Nov. 4, 2006 (on file with author).)

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

JAPAN – Juvenile Law Amendment Bill

As more, younger juveniles in Japan commit serious crimes such as murder, popular opinion? has come to see the need for enhancement of the current Law on Juveniles. A proposed bill to amend the Law on Juveniles allows the police to conduct compulsory investigation (with which people are required to cooperate) of crimes committed by juveniles under fourteen years old. Juveniles of that age may also be sent to a reformatory school under the bill's provisions. (*Shōnen hō tō no ichibu o kaisei suru hōritsu an* [Bill to Amend Juvenile Law], Cabinet Bill No. 44 of 164th Diet Session, available at http://www.shugiin.go.jp/itdb_gian.nsf/html/gian/honbun/houan/g16405044.htm.)

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

KOREA, SOUTH – Domestic Violence Law Amended

The Republic of Korea's amended Special Act for the Punishment and Prevention of Domestic Violence and Victim Protection Act (Law No. 5487 of December 31, 1997) and its enforcement order and enforcement regulation entered into effect on October 29, 2006. At the request of the victim, the government will pay the medical fees of a victim of domestic violence whose injuries have been caused by the acts of violence. The amended Act also provides that a domestic violence victim or the victim's child can go to a public school in a district outside the victim's residential area, without the aggressor



parent's consent. (Press Release, Ministry of Gender Equality and Family (Oct. 25, 2006), <http://www.mogef.go.kr/dev/board/board.jsp?menuID=kd0201&id=kd0201&cate=&key=&search=&order=&desc=asc&syear=&smoonth=&sdate=&eyear=&emonth=&edate=&deptcode=&menuID=kd0201&pg=1&mode=view&idx=238157.>)

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KOREA, SOUTH – Intellectual Property Rights' Infringement Still Serious

The number of recognized intellectual property rights cases has not decreased in the Republic of Korea even though the government has tried to protect those rights. The number of cases was: 41,814 in 2000; 37,061 in 2001; 42,132 in 2002; 40,249 in 2003; 56,218 in 2004; 48,395 in 2005; and 36,907 in the first seven months of 2006. In the 2006 Global Software Piracy Report published by the Business Software Alliance, Korea's piracy rate is forty-six percent, the eighth worst rate among twenty-eight Organization for Economic Co-operation and Development (OECD) member countries. (*Kankoku wa ima mo chizaikai shingaikoku* [Korea Still a Country Infringing Intellectual Property Rights], CHOSUN NEWSPAPER, Oct. 30, 2006, http://japanese.chosun.com/site/data/html_dir/2006/10/30/20061030000046.html.)

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

NEW ZEALAND – Ratification of Optional Protocol Against Torture

New Zealand passed legislation preventing torture and ill treatment, thus enabling New Zealand to ratify the Optional Protocol to the U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. (Crimes of Torture Amendment Bill 2006 (No. 26-1) (NZ) Explanatory Memorandum, available at <http://www.knowledge-basket.co.nz/gpprint/docs/bills/20060261.txt>.)

(Lisa White, 7-4987, lwhi@loc.gov)

NEW ZEALAND – Seasonal Work Permit for Pacific Workers

New Zealand has introduced a seasonal work policy to permit Pacific Island rural unskilled and semi-skilled workers to work in New Zealand. The Seasonal Work Permit (SWP) Pilot permits foreign workers currently in New Zealand to work within New Zealand horticulture and viticulture industries in times of high demand. It is a pilot policy that will run until September 30, 2007. (*Immigration New Zealand*, New Zealand Government Web site, <http://www.immigration.govt.nz/migrant/stream/work/worktemporarily/seasonalworkpermitpilotpolicy.htm> (last visited Nov. 27, 2006).)

(Lisa White, 7-4987, lwhi@loc.gov)

TAIWAN – Appeal Rejected in Obscenity Case

On October 26, 2006, Taiwan's Council of Grand Justices, which interprets the Constitution and unifies the interpretation of laws and ordinances, ruled against an appeal by the defendant in an obscenity case. The defendant, bookstore owner Lai Cheng-che, had asked the court to deny the constitutionality of Criminal Code provisions prescribing punishment for persons who distribute, sell, or display "indecent writings, drawings or other pornographic works," after being sentenced to fifty days of forced labor (commutable to a fine) for importing homosexual-related publications from Hong Kong and selling them in Taiwan. Article 235 of the Code prescribes imprisonment for less than a year and a fine of up to NT\$3,000 (about US\$92) for such offenses. Pleading not guilty, Lai had argued that his buying and selling of obscene publications was protected under constitutional guarantees of freedom of speech and the press.



The Council disagreed with Lai's argument, stating that such publications "can be defined by objective standards, as they can stimulate or satisfy a prurient interest, generate among common people a feeling of shame or distaste, thereby offending their sense of morality, and undermine societal cultural ethics." It further commented that in order to distinguish obscene publications from "legitimate art, medical or educational publications," it is necessary to "examine the features and aims of the publications at issue as a whole, and adapt them to the contemporary common values of society." The Council noted that freedom of the press is part of the foundation of constitutional democracy and that publications are an important medium for expression of thoughts in writing, for reflection of public opinion, for strengthening of democracy, and for nurturing of cultural, moral, economic development. For these reasons, it claimed, publications receive protection under article 11 of the Constitution, on freedom of speech, teaching, writing, and publication. However, the Council added, a person enjoying freedom of the press "must be self-disciplined, undertake the associated social responsibility and refrain from abusing his freedom" because of the vast influence that widely disseminated publications may exert on society. Therefore, it held, anyone whose publications "lower moral values and customs, [and] jeopardize social harmony and public order" may be subject to the state's legal sanctions as reflected in article 235. (*Court Rejects Appeal in Obscenity Case*, TAIWAN HEADLINES, Oct. 27, 2006, <http://english.www.gov.tw/TaiwanHeadlines/index.jsp?catid=178&recordid=101103>; Government Information Office, Republic of China (Taiwan), Constitution of the Republic of China, <http://www.gio.gov.tw/info/news/constitution.htm#sec2> (last visited Nov. 27, 2006).) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

TAIWAN – Political Discussions by Soldiers to Be Forbidden

According to TUNG-SEN HSIN-WEN-PAO, Taiwan's Ministry of National Defense (MND) is planning to amend relevant laws to prohibit the discussion of political matters by soldiers. The soldiers would be banned from voicing their political opinions on Web sites and from attending political meetings. The proposed measure is reportedly the result of pressure exerted on the MND by lawmakers of the "pan-green" camp (an informal alliance of the ruling Democratic Progressive Party, the Taiwan Solidarity Union, and the Taiwan Independence Party). (Li Teng-wen & Liang Wei-hsun, *Ministry of National Defense [MND] Plans to Amend Law, Forbid Discussion of Political Affairs [...]*, ETODAY (in Chinese), Nov. 9, 2006, <http://www.ettoday.com/2006/11/09/301-2014024.htm>, excerpted in *Highlights: ETtoday, P'ing-kuo Jih-pao 9 Nov06*, Open Source Center No. CPP20061109100002.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

TAIWAN – Presidential Recall Motion Fails

On November 3, 2006, Taiwan's Legislative Yuan voted to approve holding a debate on November 24 on the recall of embattled President Chen Shui-bian, whose second and final term ends in May 2008. Chen's ruling Democratic Progressive Party (DPP) did not take part in the vote and on November 9 gave him its support, after he delivered a speech refuting prosecutorial allegations that he, his wife Wu Shu-chen, and three senior aides had embezzled \$450,000 from a special fund used for the promotion of Taiwan diplomacy abroad. Chen has asserted his own and his wife's innocence, maintaining that any bookkeeping irregularities are due to "confusing and often conflicting regulations regarding the fund's management." (Annie Huang, *Date for Debate Recall Set in Taiwan*, ASSOCIATED PRESS, Nov. 9, 2006, <http://news.findlaw.com>.) The opposition had mounted recall votes against Chen in June and October 2006 in connection with other corruption scandals, but had fallen short of the two-thirds majority of the 218-member legislature required for the motion to be put to a popular referendum for final approval.



As had been expected, the November 24 recall motion failed to pass, garnering only 118 affirmative votes of the 131 legislators present, all cast by “pan-blue alliance” (the Kuomintang or Nationalist Party and the People First Party, 111 votes in favor, cast by their 112 members, with 1 absent) and Non-Partisan Solidarity Union legislators (6 of whose 8 members attended and supported the move). Maverick legislator Li Ao also voted for the motion. All DPP lawmakers boycotted the vote; all twelve legislators of its “pan-green alliance” partner, the Taiwan Solidarity Union, cast invalid votes. (*Another Recall Motion Defeated*, THE CHINA POST, Nov. 28, 2006, <http://www.chinapost.com.tw/archive/detail.asp?cat=1&id=96229>.)
(Wendy Zeldin, 7-9832, wzeld@loc.gov)

TAIWAN – Upgraded Immigration Authority to Open

As of January 2, 2007, Taiwan’s “long-awaited” Immigration Administration is scheduled to be operational, according to Minister of the Interior Lee Yi-yang. The legislative authority for the agency, the Organic Act for the Ministry of Interior Immigration Administration, was promulgated late last year, on November 30, 2005 (*see* 1 W.L.B. 2006). The agency will have four divisions, two special operation squads, and four support units and will be staffed by over 2,000 full-time personnel. Immigration procedures are expected to be streamlined with the inauguration of the upgraded agency, because it will not only subsume the entry and exit bureau but also take on some of the responsibilities currently handled by other agencies.

Lee stated that in addition to integrating exit/entry matters, immigration inspections, interviews, and shelter and repatriation of overstayers, the upgraded Immigration Administration will give priority to creation of a biometric identification data bank, to permit automated identity verification, faster inspections, and enhanced border protection and security. (Max Hirsch, *Immigration Authority to Open in January*, Lee Says, TAIPEI TIMES, Nov. 24, 2006, at 3, available at <http://www.taipeitimes.com/News/taiwan/archives/2006/11/24/2003337652>; *Upgraded Immigration Administration to Be Inaugurated Jan. 2, 2007*, CNA [Central News Agency], Nov. 23, 2006, available at <http://english.www.gov.tw/TaiwanHeadlines/index.jsp?recordid=27110&action=CNA>.)
(Wendy Zeldin, 7-9832, wzeld@loc.gov)

EUROPE

AUSTRIA – Law to Combat Tax Evasion

On June 26, 2006, Austria promulgated the Act to Combat Tax Evasion (Betrugssbekämpfungsgesetz 2006, *Bundesgesetzblatt* 2006 I no. 99). The Act aims at improving the efficiency of the tax and customs authorities in detecting fraudulent activities. For this purpose, many organizational measures were introduced. Among these was the transfer of functions relating to the monitoring of illegal alien workers to the fiscal authorities. In addition, new reporting requirements were introduced for members and managers of a partnership. They now must submit electronic returns according to prescribed form requirements to ensure the compatibility of their statements. New bookkeeping requirements have also been introduced to facilitate tax audits.
(Edith Palmer, 7-9860, epal@loc.gov)



CYPRUS – Unlawful Transactions Involving Property Owned by Greek Cypriots

Since 1974, following the invasion and occupation of the country by Turkey, the Republic of Cyprus has been divided into two regions. Currently, approximately forty-six percent of its territory is occupied by Turkish Cypriots who have either moved from the southern, Greek Cypriot area or settled there from Turkey.

A new law adopted by the Greek government of the Republic of Cyprus introduces stiff sentences to persons who engage in illegal transactions concerning property located in the northern part of Cyprus that was previously owned by Greek Cypriots. Specifically, anyone who purchases, sells, resides in, or builds on such property will be sentenced to prison for a maximum of seven years. The new law will be tested soon before the Cypriot courts, since a Russian couple was charged with unlawful purchase of a house located in the north. It is anticipated that the measure will have significant implications, especially for Turkish Cypriots who live in the northern area. (*Cyprus: New Law Sentences Residents of Houses Formerly Owned by Greeks in North*, NICOSIA BRTK, Nov. 21, 2006, Open Source Center No. GMP20061122734002.)

(Theresa Papademetriou, 7-9857, tpap@loc.gov)

ENGLAND AND WALES – Imprisoned Drug Addicts Receive Compensation for Forcible Detoxification

Six drug addicts in England have succeeded in their attempts to obtain an award of compensation from the government after being denied access to a heroin substitute when they were imprisoned. The claimants asserted that being forcibly detoxified without access to methadone while imprisoned constituted assault and breached their fundamental human rights. The Home Office settled out of court to “minimise costs to the taxpayer.” There are reports that up to 200 other prisoners subjected to the same treatment may file claims with the government. (Nigel Morris, “Cold Turkey” Prisoner Wins Payouts, INDEPENDENT (London), Nov. 14, 2006, <http://news.independent.co.uk/uk/legal/article1981699.ece>.)

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

FRANCE – Ban on Smoking in Public Places

On November 15, 2006, the French Government issued a decree banning smoking in public places from February 2007. Restaurants, bars and cafes, nightclubs, and casinos were given a reprieve until January 1, 2008. Smoking areas, however, can be established in any public building with some exceptions, such as schools, universities, and hospitals. Minors under sixteen cannot have access to these smoking areas.

Smoking in a prohibited area is punishable by a maximum fine of €450 (approximately US\$550). The individual responsible for the building incurs a maximum fine of €750 (approximately US\$915) for allowing the smoker to break the law. (Décret No 2006-1386 du 15 novembre 2006 fixant les conditions d’application de l’interdiction de fumer dans les lieux affectés à un usage collectif, LEGIFRANCE, <http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=SANX0609703D> (last visited Nov. 21, 2006).)

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

FRANCE – Law on Authors’ Rights and Related Rights in the Information Society

Law 2006-961 of August 1, 2006, on Authors’ Rights and Related Rights in the Information Society entered into force on August 3, 2006. The highly technical Law primarily transposes the



provisions of Directive 2001/29/EC of the European Parliament and of the Council of May 22, 2001, on the Harmonization of Certain Aspects of Copyright and Related Rights in the Information Society.

Among other provisions, the Law expands the number of exceptions to the author's reproduction right. It introduces an exemption for education; allows temporary acts of reproduction that are transient or incidental and "an integral part of a technological process for the sole purpose of enabling use to be made of a protected work or other subject matter, and having no independent economic significance"; and authorizes specialized facilities for people with a disability to freely reproduce and represent works in order for the handicapped to gain greater access to protected works. These exceptions, however, must "not conflict with the normal exploitation of the work or subject matter or unreasonably prejudice the legitimate interests of the author."

The Law also provides legal protection against the damaging of effective technical protection measures. It states, however, that technical protection measures "must not impede the effective implementation of interoperability while respecting copyright. Companies providing technical protection measures share information essential to interoperability within the conditions defined by the Law." It also creates an Authority for the Regulation of Technical Protection Measures to handle requests for access to these measures.

The remaining provisions of the Law deal with issues related to copyright. Title II of the Law specifies the copyright regime over works produced by government (state and local) employees. Title III covers provisions applicable to companies collecting money on behalf of copyright holders. It creates, among other measures, some tax credits for record companies. Title IV modifies the procedure for "legal deposit." Finally, Title V deals with the *droit de suite*, the right of resale of works of art and with remuneration of the author. (Loi relative au droit d'auteur et aux droits voisins dans la société de l'information, LEGIFRANCE, <http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=MCCX0300082L> (last visited Nov. 21, 2006).) (Nicole Atwill, 7-2832, natw@loc.gov)

FRANCE – New Law on the Validity of Marriages to Prevent Immigration Fraud

On November 14, 2006, the French Parliament adopted Law 2006-1376 on the Verification of the Validity of Marriages. It is aimed at preventing forced marriages and sham marriages for immigration purposes. The Law requires that the civil status officer verify the identity of the future spouses, and it provides for a hearing if the officer has doubts about their free will in entering the marriage or about the purpose of their marriage. Minors may be heard at these hearings in the absence of their parents.

The Law puts an emphasis on the verification of marriages celebrated abroad between a French citizen and a foreign national. When the local foreign authorities perform a marriage, it must be preceded by the issuance of a certificate of capacity to marry established by the competent French consulate after a hearing with the future spouses. The hearing need not take place if the consulate already has all the necessary information to exclude the risk of a forced marriage or a sham marriage.

During one of the readings of the draft version of the Law, the Minister of Justice stated that approximately 50,000 out of the 275,000 marriages celebrated in France in 2005 were between a French national and a foreign national; in addition there were 45,000 such marriages performed abroad. (Loi No. 2006-1376 du 14 novembre 2006 relative au contrôle de la validité des mariages, LEGIFRANCE, Nov. 15, 2006, <http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=JUSX0500302L>.) (Nicole Atwill, 7-2832, natw@loc.gov)



GERMANY – Anti-Terror Deployments Extended

On November 10, 2006, the Federal Diet, the representative chamber of the bicameral federal legislature, voted to extend German participation in the U.S.-led Operation Enduring Freedom in Afghanistan by one year (*Deutscher Bundestag, Vorläufiges Plenarprotokoll*, Nov. 10, 2006, <http://www.bundestag.de>). The measure passed with a seventy-seven percent majority and allows for the deployment of 1,800 military personnel, although a lesser number has actually been serving, and most of them have been involved in naval operations off the Horn of Africa.

On September 28, 2006, the Federal Diet renewed its commitment to the NATO-led International Security Assistance Force (ISAF) by extending the German deployment of 3,000 military personnel for another year. However, the Federal Diet refused NATO's request to allow the use of German soldiers in the southern part of Afghanistan, where most of the fighting is taking place. This position reaffirms Germany's position of considering the ISAF to be a reconstruction force and not a combat force. (*Deutscher Bundestag, Plenarprotokoll 16/52.*) (Edith Palmer, 7-9860, epal@loc.gov)

GERMANY – September 11 Terrorist Convicted

On November 16, 2006, the German Federal Court of Justice convicted Mounir Motassadeq of being an accessory to 264 murders. (Docket No. 3 StR 139/06, <http://juris.bundesgerichtshof.de>.) Motassadeq was a close friend of Mohammed Atta and other hijackers of September 11, 2001. On February 19, 2003, the Higher Regional Court of Hamburg convicted him of being an accessory to 3066 counts of murder and for being a member of a terrorist organization. On appeal, the Federal Court of Justice reversed and remanded the conviction on March 4, 2004, on the grounds that the trial court's evaluation of the evidence did not prove involvement in the September 11 plot. At a second trial, the Hamburg Court convicted Motassadeq merely of being a member of a terrorist organization and sentenced him to seven years in prison. The Federal Prosecutor appealed this decision and the Federal Court of Justice held in its November 16 decision that Motassadeq was guilty of being an accessory to 246 counts of murder, this being the combined number of passengers and crew on the flight hijacked by Mohammed Atta. The Court found that his knowledge of the hijacking was proven, but not his knowledge of the plans for crashing the aircraft into a building. The case was remanded for sentencing. (Edith Palmer, 7-9860, epal@loc.gov)

GREECE – Building of a Mosque in Athens

In Greece, the Ministry of Education is responsible for handling and issuing the necessary permits to build a religious site as required by law. For a number of reasons, including a lack of agreement among Muslims residing in Attica as to the proper place to build a mosque, the Muslim community lacked a suitable place of worship.

Currently, a draft law to remedy this situation is pending before the Greek Parliament. It provides for the creation of a non-profit legal entity entitled the Committee for Administering the Establishment of a Mosque. The purpose of this Committee is the supervision and administration of a mosque to be built in Athens with funds provided by the Greek Government. The Ministry of National Education and Religion will appoint an imam who will be paid by public funds.

The impetus of the pending law was the recent large influx of Muslims into Greece as well as the lack of a mosque in the area of Attica to satisfy the religious needs of the established Muslim community. The measure is perceived as an extremely positive step to ameliorate tension between Muslims living in



Greece and the Greek Government. (*Draft Law on Establishing a Legal Entity Titled ‘Committee of Overseeing the Establishment of a Mosque*, Oct. 2, 2006, Web site of the Parliament of Greece, available at <http://www.parliament.gr/ergasies/nomodetails.asp?lawid=476.>)
(Theresa Papademetriou, 7-9857, tpap@loc.gov)

LITHUANIA – New Alcohol Sale Restrictions

On November 9, 2006, the Law on Alcohol Control was adopted by the Lithuanian legislature. In an attempt to fight drinking among minors, the Law prohibits the sale of all alcoholic beverages on September 1, the nation’s official first day of school. The nation-wide ban includes shops, restaurants, bars, cafes, and clubs. Legislators explained the necessity to mandate at least one day a year without the sale of alcohol because about fifteen percent of Lithuanian minors have problems with underage drinking, and Lithuania has one of the highest alcohol consumption rates among European Union member countries. However, opponents of the legislation state that its adoption means public recognition of the fact that proper implementation of laws prohibiting sale of alcoholic beverages to minors cannot be enforced. (Arturas Racas, *Lawmakers Ban Sale of Alcohol on First Day of School*, THE BALTIC TIMES, Nov. 15, 2006, <http://www.securities.com.>)
(Peter Roudik, 7-9861, prou@loc.gov)

KYRGYZSTAN – New Constitution Adopted

On November 9, 2006, amendments to the Kyrgyzstan Constitution were adopted. These amendments change the existing constitutional form of government from presidential rule to a mixed presidential-parliamentary system. The system is characterized by popular election of the president; extended presidential powers; and the accountability of the government, headed by a prime minister, to parliament. The constitutional amendments also increase the role of political parties. Half of the parliamentarians will be elected on a proportional system; the winning party will form a government.

The role of the President under the new Constitution will be to formulate domestic and foreign policy and arbitrate between the branches of government. Among other substantial amendments are the introduction of courts with jurors; a ban on administrative detentions and the imposition of judicial control over police arrests; and the establishment of a National Justice Council, a judicial self-governing body charged with the right to appoint judges. In addition, the amendments confirm the official status of the Russian language and provide for the possibility of dual citizenship. The latter is an important issue for the country because fifteen percent of its population lives abroad. (*Kyrgyz Pundit Highlights Key Constitutional Changes*, BBC MONITORING, Nov. 19, 2006, <http://www.securities.com.>)
(Peter Roudik, 7-9861, prou@loc.gov)

MALTA – EU Hunting Laws Not Enforced

Malta is facing increasing pressure from the European Parliament to effectively enforce its bird hunting laws, which form part of European Union law on the protection of wild birds. Malta has traditionally caught and trapped a number of species of wild birds and claims that this practice is due to its unique bio-geographical area. The European Parliament obtained an internal police memorandum that instructed police responsible for enforcing the laws on hunting to “temporarily refrain from pressing charges against hunters caught breaking certain provisions of the law.” The EU Parliament claims that the situation is intolerable and that it will “step up pressure over this intolerable state of affairs.” (Ivan Camilleri, *EP Committee Shoots Down Police Hunting Memo*, TIMES OF MALTA (Malta) Nov. 22, 2006, <http://www.timesofmalta.com/core/article.php?id=243887.>)
(Clare Feikert, 7-5262, cfei@loc.gov)



NETHERLANDS – Journalists Detained

On November 27, 2006, a judge in The Netherlands ordered that two journalists who had been called as witnesses in a trial be detained for a minimum of two days in a prison in the suburbs of The Hague for failing to reveal their sources of information. They worked for DE TELEGRAAF, the Dutch newspaper with the largest circulation in the country.

The case was a trial of a former Dutch intelligence service agent charged with leaking information. The journalists had written an article about Mink Kok, reputed to be a major drug dealer, using information apparently received from the former agent. They refused to tell the court how they had obtained the information. The decision to jail the writers is being appealed by the newspaper and by The Netherlands Association of Journalists, which called the judge's move "disproportionate." (*Dutch Judge Orders Two Journalists Detained for Refusing To Reveal Source*, AFP, Nov. 27, 2006, Open Source Center No. EUP2006112816500.)
(Constance A. Johnson, 7-9829, cojo@loc.gov)

RUSSIAN FEDERATION – Law on Economic Sanctions

On November 13, 2006, the State Duma (legislature) of the Russian Federation adopted the newly introduced Law on Special Economic Measures in an International Emergency Situation. The main purpose of the Law is to give the President of Russia the right to introduce economic sanctions against other countries. The Law was passed three weeks after President Vladimir Putin requested that the Duma provide legal background for economic sanctions established in regard to the Republic of Georgia.

The Law states that based on recommendations from the legislature or the Cabinet, the President may introduce special economic measures against particular countries. Sanctions can be introduced as a form of punishment for unfriendly actions of government officials, juridical persons, and individuals residing in the territory of the given country if their actions create an "international emergency situation." The latter is defined as "a combination of circumstances creating a threat to the health, rights, and freedoms of individuals and the security of the state." The Law foresees eight types of sanctions. They include placement of restrictions on or elimination of existing economic, technical, and military cooperation programs; prohibition of mutual financial operations; change of export and import tariffs; restrictions on the use of Russian ports and air space, restrictions on tourist activities, and a ban on the targeted country's scientists' participation in international scientific programs. All sanctions can be introduced by the President and parliamentary approval is not required. (*State Duma Gave Putin the Right to Punish Foreign States Economically*, NEWSRU.COM: (in Russian), Nov. 13, 2006, <http://www.securities.com>.)
(Peter Roudik, 7-9861, prou@loc.gov)

RUSSIAN FEDERATION – Police Involvement in Internet Regulation

On October 31, 2006, the Ministry of Internal Affairs (police) of the Russian Federation issued new rules aimed at preventing the distribution of terrorist and extremist information on-line and simplifying the procedure to locate publishers of such information. Under these rules, the Ministry's cyber-crime-fighting unit has the right to block the operations of illegal Internet sites and halt the operations of Internet providers, who are prohibited from concluding anonymous service contracts. The registration of all site owners under their real names and addresses, similar to business registration, is introduced as a mandatory requirement for opening a Web site.



The rules also require that a service contract between Internet provider and Web-site owner include a provision obligating the provider to break the contract immediately and stop hosting the Web site upon receipt of a request to do so from the law enforcement authorities. Similar amendments to relevant legislation were introduced in the State Duma; however, before the amendments are passed, these rules will remain in force. (Mikhail Falaleev, *Nurgaliev Pochistit Internet*, ROSSIISKAIA GAZETA, Nov. 1, 2006, at 12.)

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

SWITZERLAND – Federal Criminal Court

On November 21, 2006, Switzerland promulgated a series of regulations of the Federal Criminal Court (*Bundesstrafgericht*) that the Court had issued on June 20, 2006. These included a general procedural regulation (Reglement für das Bundesstrafgericht, *Amtliche Sammlung des Bundesrechts* (AS) 4459 (2006)) that provides the framework for the self-administration of the Court. In addition, the Court issued a regulation on information rights and admittance of the press (Reglement über die Grundsätze der Information und die Akkreditierung für die Gerichtsberichterstattung am Bundesstrafgericht, AS 4473 (2006)). This regulation aims at balancing the rights of the public to be informed with the privacy rights of parties and witnesses. The decisions of the Court will be published electronically, and reporters will be admitted to trial hearings after being accredited, either for a particular trial or as a permanent court reporter. The latter form of accreditation is reserved for reporters of media that are published or aired in Switzerland or have their corporate seat in Switzerland. Moreover, in order to retain accredited status, reporters must abide by the principles of fair reporting of the Swiss press and they must avoid prejudicial reporting or embarrassing presentations.

The Federal Criminal Court was created in 2004 (Bundesgesetz über das Bundesstrafgericht, Oct. 4, 2002, AS 2133 (2003)) and its seat is in the city of Bellinzona. It has jurisdiction over certain serious crimes that are tried by federal courts, including offenses relating to treason, corruption, and terrorism. Before 2004, these offenses were tried before the Federal Court (*Bundesgericht*), the Swiss court of last resort.

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UKRAINE – Transparency of Business Transactions

On November 16, 2006, the Verkhovna Rada (legislature) adopted a number of amendments to major Ukrainian laws aimed at increased transparency of business transactions. Amendments to the Law on the Judiciary provide for the creation of a national registry of all court rulings and claims. Under this provision, as of July 1, 2007, in addition to court rulings, publication of which is already required by law, all courts must publish on their Web sites the full texts of claims submitted to the given court in a commercial dispute.

Amendments to the Law on Mass Media obligate news agencies and electronic publications to disclose the names of their founders and owners, information about distribution of the statutory fund, and a list of shareholders who own over twenty-five percent of the company's stock. This information must be reported in order to ensure extension of the organization's broadcast license. TV and radio organizations with over thirty-five percent of foreign investment or companies founded or owned by nonresidents are prohibited from operating in Ukraine. New rules on the publication of annual reports have also been adopted. (*Rada Approves Cabinet Proposals*, UKRAINIAN NEWS ON-LINE, Nov. 16, 2006, <http://www.securities.com>.)

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UNITED KINGDOM – New Citizenship Rights for Commonwealth Citizens in the Armed Forces

The Government of the United Kingdom has announced that the immigration rules will be changed to permit Commonwealth citizens who are members of the Armed Forces to apply for British citizenship, even if they have never been stationed in the UK during their tour of duty. Ordinarily, to obtain British citizenship applicants must have been legally and continuously resident in the UK for five years, or three years if married to a British citizen, before an application for citizenship can be made. The main change in this scheme for Commonwealth citizens serving in the British Armed Forces is that time spent serving in the British Armed Forces anywhere in the world will count towards the residency requirement. The additional requirements to become a British citizen – the individual must be of sound mind; be able to communicate effectively in English, Welsh, or Gaelic; and be of good character – will still apply. (Press Release, Home Office, New Citizenship Rights for Members of the Commonwealth Serving in the British Armed Forces (Nov. 22, 2006), <http://www.gnn.gov.uk/Content/Detail.asp?ReleaseID=244546&NewsAreaID=2>.)
(Clare Feikert, 7-5262, cfei@loc.gov)

NEAR EAST**EGYPT – Minister of Culture Investigated for Considering the Veil a Sign of Backwardness**

In a heated session in which the Minister of Culture, Farouq Hosni, was absent, the Parliament of Egypt referred his recent statements concerning the wearing of the veil by Muslim women to its Committees on Culture, Media, Tourism, Religious and Social Affairs, and Human Rights for investigation. A number of the members of the majority party in Parliament criticized the Minister, who is under attack from religious groups for expressing his criticism of the wearing of the veil by women. (*Minister of Culture Investigated for Considering the Veil a Sign of Backwardness*, AL-SHARQ AL-AWSAT, Nov. 21, 2006, <http://www.asharqalawsat.com/>.)
(Issam Saliba, 79840, isal@loc.gov)

IRAN – Adoption Law Under Review

To avoid the use of the term “adoption,” which is not permissible in Islam and therefore is not allowed in Iran as an Islamic country, lawmakers had passed in 1975 the Law on Protection of Children with No Guardian. That Law is now being reviewed.

The 1975 Law contains provisions that make it compatible with adoption, but these entail some conditions that must be met by the parties before an adoption can take place. According to article 6 of the Law, a child to be adopted must meet the following conditions:

- 1- The child must be under twelve years of age.
- 2- The child’s father, grandfather, and mother are not known to be alive; or, the child is entrusted to a public orphanage and none of the above-mentioned guardians have visited to see how the child is doing in the public institution.
- 3- The persons applying to adopt must not be younger than thirty years of age; must have been married continuously for five years, and must have no children. Additionally, the spouses requesting the adoption of a child must be healthy and financially qualified and have no criminal record.



- 4- A report by the director of the orphanage in Tehran indicates that eighty-five percent of the children in the institution fail to meet the stringent conditions for adoption. It further states that the institution is facing a rapidly growing number of young charges.

A special committee set up in the Ministry of Justice has completed an exhaustive review of the existing Law, with an emphasis on removing the hurdles and recommending amendments to simplify the adoption process. The committee's draft law is ready for submission to the Islamic House. (*Eight-five Percent of the Children Are Not Qualified for Adoption*, HAMSHAHRI, July 25, 2006, at 3, available at <http://www.hamshahri.org/hamnews/1385/850503/news/ejtem.htm> (last visited July 25, 2006).) (Gholam H. Vafai, 7-9845, gvaf@loc.gov)

IRAN – House to Debate Draft Bill to Fingerprint Americans

The Islamic House of Representatives of Iran approved debate on a bill requiring fingerprinting of American nationals entering Iran. Supporters of the bill consider it a retaliatory measure, as the bill states that the fingerprinting of American citizens will stop as soon as the United States stops fingerprinting Iranian nationals. Those opposed to the bill believe that it will prevent the expansion of relations between the two countries. The move to debate the draft bill received 197 votes in favor, four votes against, and one abstention. The bill must first be approved by the House and then ratified by the Council of Guardians. If the bill is approved, the Iranian Government will have to provide facilities at ports of entry that will enable immediate access to data on Americans wishing to enter Iran and to prevent the entrance of those considered “undesirable and harmful for the security of the country.” (*House Approves the “Single Urgency Draft Bill to Fingerprint Americans,”* IRAN TIMES INTERNATIONAL, Oct. 13, 2006, at 2.)

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

IRAQ – Criminal Tribunal Defends Decision to Execute Saddam Hussein

The Supreme Iraqi Criminal Tribunal, which tried the "al-Dujail" case, has defended its decision to execute the former Iraqi President, Saddam Hussein, and two of his aides. The Tribunal defense came in response to a report issued by the International Human Rights Watch Organization in which it condemned the imposition of the death penalty and pointed out what it considered to be a number of mistakes in the conduct of the trial. (*The Supreme Iraqi Criminal Tribunal Defends Its Decision to Execute Saddam Hussein*, AL-SHARQ AL-AWSAT, Nov. 21, 2006, <http://www.asharqalawsat.com/>.)

(Issam Saliba, 79840, isal@loc.gov)

ISRAEL – Amendment of Entry into Israel Law

On November 8, 2006, the Knesset (Israel's Parliament) passed the Entry into Israel Law (Amendment No. 16), 5767-2006. The amendment authorizes a judge of a circuit court to issue a decree authorizing the entry of an inspector or a policeman into a place of residence if there is a reasonable basis to suspect the presence of a person illegally staying in Israel in that place. Such authorization may also be granted to an inspector or a policeman who suspects there is a person whose stay in Israel requires a permit, when entry into the person's residence is refused. (Entry into Israel Law (Amendment No. 16) 5767-2006, as well as the bill and explanatory notes, Knesset Web site, <http://www.knesset.gov.il> (last visited Nov. 20, 2006).)

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



ISRAEL – Prohibition of Human Trafficking

On October 18, 2006, the Knesset passed the Prohibition on Human Trafficking (Legislative Amendments) Law, 5767-2006. The Law applies Israeli jurisdiction to an Israeli citizen who committed one of several specified acts outside of Israel even if the act qualifies as an offense only in Israel but not in the foreign country. Such acts include polygamy, commission of sex offenses against minors, kidnapping outside of Israeli borders for purposes of prostitution, forced labor, as well as human trafficking for use of human organs, giving birth to a child for purposes of transference to another adult, prostitution, coercion to participate in indecent publication or performance, and commission of sex offenses.

According to the bill's explanatory notes, the Law was designed to address the phenomenon of human trafficking that has developed in Israel during the last fifteen years, particularly centering on importing women from such countries as the former Soviet Union republics (CIS) for employment as prostitutes in Israel. The Law is also designed to address human trafficking for other objectives, such as slavery, removal of organs and removal of newborns from their biological mothers. The law is expected to improve the tools available to law enforcement agencies and enable Israel to better implement the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime. (Prohibition on Human Trafficking (Legislative Amendments) Law, 5767-2006 and the Penal Law (Amendment No. 91) (Prohibition on Human Trafficking), 5766-2006, bill and explanatory notes, Knesset Web site, www.knesset.gov.il (last visited Nov. 20, 2006); Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, Office of the United Nations Commissioner on Human Rights Web site, <http://www.ohchr.org/english/law/protocoltraffic.htm> (last visited Nov. 20, 2006).) (Ruth Levush, 7-9847, rlev@loc.gov)

UNITED ARAB EMIRATES – Establishment of First Labor Tribunal

On November 7, 2006, the United Arab Emirates announced a number of new initiatives aimed at preventing the exploitation of foreign laborers by local companies and institutions. Among these initiatives approved by the Prime Minister, Sheikh Mohammed bin Rashed Al Maktoum, are the establishment of a tribunal for labor disputes and the restriction of working hours for domestic laborers. This is the first such initiative for domestic servants in the Gulf region. (*Establishment of the First Labor Tribunal*, AL-SHARQ AL-AWSAT, Nov. 8, 2006, <http://www.asharqalawsat.com/>.) (Issam Saliba, 7-9840, isal@loc.gov)

YEMEN – Release of "Al-Qaeda Man" Slated for December

The Appellate Court in Sana'a, Yemen, recently affirmed the judgment issued against Mohammed Hamdi, described as the "al-Qaeda man" in Yemen, which convicted and sentenced him to thirty-seven months of imprisonment. Observers considered the judgment lenient in view of the seriousness of the crimes of which he had been accused. The convicted man is expected to be released in December 2006, since he has been in prison since his arrest in November 2003. (*Release of the "Al-Qaeda Man" Next Month*, AL-SHARQ AL-AWSAT, Nov. 21, 2006, <http://www.asharqalawsat.com/>.) (Issam Saliba, 7-9840, isal@loc.gov)



SOUTH ASIA

INDIA – Accountability of Judges Bill

A bill aimed at ensuring the accountability of judges of the Supreme Court and the State High Courts is to be introduced in the next session of the Indian Parliament. The Judges (Inquiry) Bill provides for setting up a National Judicial Council (NJC) to probe complaints of misconduct by a judge.

The proposed law would establish a procedure under which any person may make a complaint against any judge, except the Chief Justice of India (CJI), to the NJC. The NJC will comprise the CJI, the two most senior judges of the Supreme Court, and two senior-most Chief Justices of the High Court nominated by the CJI. After enactment, the new law would require a judge against whom a complaint is made not to attend court until such time as an inquiry against him is completed. If found guilty, the judge would be asked to resign, failing which he would be removed.

The new law would make it easier to take action against a judge found guilty of impeachable offenses and it would replace the present complex, long drawn-out process of impeachment enshrined in the Constitution. (*Bill on Judges' Accountability in Parliament Soon: National Judicial Council in the Offing*, THE TRIBUNE, Oct. 23, 2006, <http://www.tribuneindia.com/2006/20061023/main1.htm>.) (Krishan Nehra, 7-7103, kneh@loc.gov)

INDIA – Petition to Stop Circulation of Muslim Women Voter Lists

On a special leave petition (SLP) against the judgment of the Madras High Court upholding the right of the Election Commission (EC) to circulate electoral rolls of Muslim women voters bearing their photographs, the Supreme Court of India issued a notice to the EC against its decision to release the voter lists. The petitioner in the case contended that the decision to circulate the list with Muslim women's photographs is an infringement of the religious rights of Muslims guaranteed by the Constitution of India.

The High Court had dismissed the petition, observing that the wearing of a veil by Muslim women was not part of Islam. Assailing the order, the petitioner stated that he was not challenging the election process but rather the powers of the EC to interfere with religious affairs in violation of article 25 of the Constitution. The circulation of the photographs, according to the petitioner, contravened Islamic custom and the preaching of the Koran and was liable to offend the sensibilities of the Muslim community. Therefore, the petition sought to quash the order of the Madras High Court. (*Supreme Court Notice to EC on Electoral Rolls*, THE HINDU, Oct. 27, 2006, <http://www.hindu.com/2006/10/27/stories/2006102702781400.htm>.) (Krishan Nehra, 7-7103, kneh@loc.gov)

INDIA – Prevention of Judicial Adjudication on Ninth Schedule Laws

On August 30, 2006, the Chief Justice of the Supreme Court of India referred to a special nine-judge bench for consideration of the legislature's power to enact a law and then save it, under article 31B of the Constitution, from being challenged in courts by placing it in the Ninth Schedule of the Constitution. Any such placement requires amendment of the Ninth Schedule.

In an earlier verdict in the Mandal Commission case, the Supreme Court placed a ceiling of fifty percent on government quotas for backward classes in public employment and admission to educational institutions. A number of petitions in recent years were filed in the apex court questioning the parliamentary power of placing laws in the Ninth Schedule from being impugned. The latest example



was the State of Tamil Nadu's raising the quota for backward classes from fifty percent to sixty-nine percent on the ground that these classes constituted eighty-eight percent of the state population, and the state parliament's following this action by including the law on the quota in the Ninth Schedule. The action of the parliament now has been challenged on the ground that it violated articles 14 (right to equality), 19 (right to freedom of speech) and 31 (acquisition of properties) of the Indian Constitution. (*Nine-Judge Bench to Examine Tamil Nadu Reservation Act*, THE HINDU, Aug. 31, 2006, <http://www.hindu.com/2006/08/31/stories/2006083103871300.htm>.) (Krishan Nehra, 7-7103, kneh@loc.gov)

INDIA – Protection of Women from Domestic Violence Act 2005

The Protection of Women from Domestic Violence Act of 2005 was signed into law in January 2006, but became effective on October 26, 2006. Under this law, marital rape may be an offense. Previously, a husband could not be prosecuted for raping his wife, unless she was under fifteen years old. The new law entitles the victim of domestic abuse to the abuser's property and salary. The abuser may also be liable for medical and legal expenses in domestic violence cases.

The Act also provides that a wife is to be protected from violence at the hands of her husband. It has provisions on the appointment of protection officers and private service-providers to help abused women obtain medical and legal aid and a safe place to stay. If the charge of domestic violence is proven, the abusive husband may be imprisoned and subjected to a fine of up to Rs 20,000 (about US\$447).

According to chapter III, section 4, of the Act, a charge regarding an act or acts of domestic violence does not necessarily have to be lodged by the aggrieved party. It can be lodged by any person who has reason to believe that such an act has been or is being committed. This means that neighbors, social workers, and relatives, for example, can all take action on behalf of the victim. (*Abused Indian Women Get Protection Under New Law*, DAILY TIMES, Oct. 28, 2006, available at http://www.dailytimes.com.pk/default.asp?page=2006%5C10%5C28%5Cstory_28-10-2006_pg4_22.) (Shameema Rahman, 7-3812, srah@loc.gov)

NEPAL – New Citizenship Law

On November 26, 2006, Nepal's legislature, the House of Representatives, passed the citizenship bill, and Speaker of the House Subash Nemwang authenticated it, thereby making it a law. The legislation states that anyone born before mid-April 1990 who has lived in Nepal since that time is eligible to acquire Nepalese citizenship. The cut-off date was part of an agreement reached by the government and the Communist Party of Nepal on November 8, 2006, to resolve the citizenship issue. At present, 4.2 million out of 26 million native-born Nepalese, in all three regions of the country (Himalayan, Hill, and Terai), reportedly lack citizenship certificates. However, the problem is described as being particularly acute in the Terai region, where almost ninety percent of the Terai people have had no proof of citizenship.

Among other provisions, the Nepal Citizenship Act 2006 stipulates that any person born of parents who are citizens of Nepal will be a Nepali citizen on the basis of descent (*jus sanguinis*), and that any minor found in Nepal, the whereabouts of whose parents is unknown, will be considered a citizen of Nepal on the basis of descent until the parents' whereabouts become known. Foreign women married to Nepalese citizens can acquire Nepali citizenship on the basis of naturalization, upon initiating the process of relinquishing the foreign citizenship. (*House of Representatives Passes Nepal's Citizenship Bill*, XINHUA, Nov. 26, 2006, Open Source Center No. CPP20061126968068; *Nepal Citizenship Act 2006 Approved in Nepali Parliament*, PEOPLE'S DAILY ONLINE, Sept. 22, 2006, <http://english.people.com.cn/>)



200609/22/eng20060922_305359.html; *Nepal to Issue Citizenship Certificates*, OHMYNEWS, Sept. 8, 2006, http://english.ohmynews.com/articleview/article_view.asp?at_code=358435&no=316016&rel_no=1; Nepal Citizenship Act, 1964 [as amended through Apr. 30, 1992] http://www.nrn.org.np/nrna/pdf/citizenship_act.pdf (last visited Nov. 30, 2006); *see also* 10 W.L.B. 2006.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

NEPAL – Peace Agreement & Arms Accord Between Government, Maoists

The Government of Nepal and the Communist Party of Nepal-Maoist signed a comprehensive peace accord on November 21, 2006, formally bringing to an end the ten-year-long insurgency launched by the Maoists. More than 13,000 people are estimated to have died as a result of the “people’s war.” King Gyanendra accepted the pact on the following day, November 22. With the signing of the peace treaty, the Maoists will be able to join mainstream politics and take part in an interim government that will supervise elections to a Constituent Assembly. The Assembly will prepare a new Constitution and deliberate the fate of the monarchy. (Nepal Government, *Maoists Sign Peace Accord*, HIMALAYAN TIMES, Nov. 21, 2006, Open Source Center No. FEA20061122031995; *Nepalis Take to Streets to Celebrate Peace Deal*, TAIPEI TIMES, Nov. 24, 2006, at 5, <http://www.taipeitimes.com/News/world/archives/2006/11/24/2003337666>.)

The ten-part “Comprehensive Peace Agreement” includes sections on preliminary provisions; definitions; political-economic-social transformation and conflict management; management of the army and arms; the cease-fire; the end of conflict; human rights; dispute settlement and implementation mechanisms; implementation and follow-up; and miscellaneous provisions. Both sides agreed, as part of the cease-fire, to constitute a National Peace and Rehabilitation Commission as well as a high-level truth and reconciliation commission. (*‘Full Text’ of Nepal Peace Agreement*, EKANTIPUR.COM, Nov. 22, 2006, Open Source Center No. SAP20061122950026.)

In addition, in conformity with the peace treaty, as well as the “12-point agreement, eight-point consensus, 25-point code of conduct, and five-point letter sent to [the] United Nations and [the] decision taken by summit meeting held on Nov. 8,” the two sides signed an arms accord on November 28 (*Id.*). The twelve-page disarmament agreement mandates the U.N. to commence monitoring rebel weapons and troops. (*Further on Nepal Government, Maoists Sign Crucial Arms Accord*, AFP, Nov. 28, 2006, Open Source Center No. 20061128067035.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

PAKISTAN – Islamic Morality Law Enacted

On November 13, 2006, the North-West Frontier Province assembly in Pakistan passed a controversial *Hasba* (moral laws) bill to establish what critics described as a Taliban-style department under a powerful cleric entrusted with the task of enforcing Islamic morality. In 2005, the Supreme Court of Pakistan declared an earlier bill on the same subject, after being challenged, as unconstitutional.

The new bill provides for the appointment of an anti-vice ombudsman enjoying sweeping powers to protect Islamic values and “forbid persons, agencies and authorities working under the administrative control of the government to act against Shariah.” While the protesting opposition lawmakers, wearing black armbands, described the bill as “*maulvi*’s (Islamic cleric) martial law,” the Law and Parliamentary Affairs Minister stated that the government “never wanted Talibanisation, neither in the past nor now or in future.” The leader of the opposition in the assembly questioned the need to pass a bill that had already been found repugnant to the existing laws by the Supreme Court. (*NWFP Adopts Islamic Morality Bill:*



Opposition Calls It 'Maulvi's Martial Law,' THE DAWN, Nov. 14, 2006, <http://www.dawn.com/2006/11/14/top1.htm>.)

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

PAKISTAN – Rape Law Amended

The Protection of Women (Criminal Laws Amendment) Bill, 2006 was presented before the National Assembly of Pakistan in November 2006 and passed on December 1, 2006. Despite nationwide protests by conservative Muslims, President Pervez Musharraf signed the amendment bill into law to make it easier to prosecute sexual assault cases; in a nationally televised broadcast, the federal Minister for Parliamentary Affairs stated that the amendment of the law is meant “to safeguard the rights of women.”

The new law amends the country's controversial rape statutes, the Hudood Ordinances of 1979, which included a set of provisions that criminalized adultery, extramarital sex, and rape. The Hudood Ordinances were enacted to make Pakistan legislation conform to Islamic (Sharia) law provisions. Human rights activists had long condemned Pakistan's old rape law, which, they contended, instead of protecting, punished, victims of rape and provided safeguards for the attackers. Following the gang-rape of Mukhtar Mai, who was assaulted by fourteen men in 2002 after a tribal council had ordered her rape as punishment for her thirteen-year-old brother's alleged affair with a woman of a higher caste, international pressure for change in the law had intensified. However, Senator Khurshid Ahmed, an opposition leader of a six-party coalition of Islamic groups known as Mutahida Majlis-e-Amal, or United Action Forum, condemned the amendment bill as “an attempt to promote an alien culture and secularism in Pakistan.” (*Pakistan Leader Signs Amended Rape Law*, THE NETSTER NEWS, Dec. 1, 2006, <http://news.netster.com/story.asp?id=D8LO23200>.)

Under the previous relevant provisions of the Ordinances, engaging in an extra-marital relationship is a religious offense and is subject to evidentiary standards and punishment different from those applicable to secular offenses. The old laws required a woman with a rape claim to produce four pious male witnesses to establish her case. If she failed to provide such witnesses, she could be charged with adultery and punished with death by stoning. Under the new law, the four-witness rule does not apply, and a judge can choose whether cases involving rape and adultery should be tried in a criminal court in accordance with the Pakistan Penal Code, 1860. (THE NETSTER NEWS, *id.*; Bruce Loudon, *Pakistan Rape Law Passes Despite Militant Protests*, THE AUSTRALIAN, Dec. 4 2006, <http://www.theaustralian.news.com.au/story/0,20867,20865954-2703,00.html>; see also 9 W.L.B. 2006.) (Krishan Nehra, 7-7103, kneh@loc.gov & Shameema Rahman, 7-3812, srah@loc.gov)

WESTERN HEMISPHERE

ARGENTINA – Iran and Hezbollah Charged in Bombing

In October 2006, the Iranian Government and Lebanese Hezbollah were formally charged by a federal judge in Argentina with the 1994 bombing of a Jewish center in Buenos Aires. Argentine prosecutors are calling for the arrest of former Iranian President Hashemi Rafsanjani and seven others. Chief prosecutor Alberto Nisman accused the Iranian authorities of directing Hezbollah to carry out the attack. Hezbollah and Iran both deny that they were involved in the blast, which killed 85 and wounded 300. The bombing on July 18, 1994, reduced the seven-story Jewish-Argentine Mutual Association (AMIA) community center in Buenos Aires to rubble. Nobody has ever been convicted of the attack, but the current government has said it is determined to secure justice.



The case has been marked over the years by rumors of cover-ups and accusations of incompetence, and there has been little advancement in securing hard evidence. Minor figures, including a policeman who sold the van used in the attack, have been named, but none have been convicted. Iran has repeatedly and vehemently denied any involvement in the attack.

In November 2005, an Argentine prosecutor said a member of Hezbollah was behind the attack and had been identified in a joint operation by Argentine intelligence and the FBI, but Hezbollah said that the man, Ibrahim Hussein Berro, had died in southern Lebanon while fighting Israel. The 1992 bombing of the Israeli embassy in Buenos Aires, which killed twenty-nine people, also remains unsolved.

The Supreme Court, which has been in charge of the case since the attack, is considering a decision, to be issued next month, declaring the attack a crime against humanity and therefore not subject to any statute of limitations. This is very important, because in March 2007, fifteen years after the bombing, the investigation might be closed upon the petition of the suspect. (*Iran Charged over Argentina Bomb*, BBC NEWS, Oct. 25, 2006, <http://news.bbc.co.uk/go/pr/fr/-/2/hi/americas/6085768.stm>; *O cierra la causa de la embajada de Israel La Corte seguirá la investigación*, DIARIO LA NACION, Nov. 29, 2006, <http://www.lanacion.com.ar/863074>.)
(Graciela Rodriguez-Ferrand, 7-9818, grod@loc.gov)

BOLIVIA – Constitutional Changes and Land Redistribution

On November 22, 2006, opposition Senators in Bolivia threatened to boycott the Senate in protest against plans to redistribute land and rewrite the Constitution. President Evo Morales hopes to redistribute up to twenty million hectares and to amend the Constitution, but has only a slight majority in the assembly to do so. His party recently passed a motion allowing it to rewrite the document alone, with only a two-thirds vote required at the final stage, followed by a referendum. This will sideline the opposition. If a compromise is not reached soon, larger and more serious protests are likely. The demand for a new constitution is a result of popular pressure, initially voiced by the nation's long-excluded indigenous peoples and incorporated into the agendas of four consecutive administrations.

In May 2006, the Morales government launched its land reform program, a key campaign promise, and began land redistribution in Bolivia, a country with one of the most unequal land distribution systems in South America. Inequitable land tenure has been a persistent problem, and there is consensus within the country on the need for agrarian reform. In the past, the lack of clear government enforcement of land reform legislation has sometimes led violent confrontations. To address these mounting problems, the Morales administration has enacted legislation that effectively implements the 1996 Agrarian Reform Law, rather than launching a new initiative. The principal objective of the government was to expropriate currently unproductive land, which performs no social or economic function, and give it to those without land. (*Bolivia Land Reform Protests Grow*, BBC NEWS, Nov. 22, 2006, <http://news.bbc.co.uk/go/pr/fr/-/2/hi/americas/6172322.stm>.)
(Graciela Rodriguez-Ferrand, 7-9818, grod@loc.gov)

BRAZIL – Proposal to End Nepotism in Government

The President of the Commission to Fight Nepotism of the Federal Council of the Brazilian Bar Association, Vladimir Rossi Lourenço, declared that the Brazilian Bar will fight in Congress for the approval, this year, of a constitutional amendment to end nepotism in all three branches of government. The proposed amendment has already been approved by the Commission on the Constitution and the Justices of the Chamber of Deputies and is ready for a vote in full plenary session.



Lourenço said that only with the approval of such an amendment would the end of nepotism be constitutionally guaranteed in the executive, the legislature and the judiciary at all levels of government, namely, the federal government, states, and municipalities. Lourenço further observed that in the judiciary, the National Council of Justice has already regulated the end of nepotism and that in some Brazilian municipalities some municipal chambers are approving laws ending nepotism. (*OAB Quer Acabar com Nepotismo nos Três Poderes*, JURID, Nov. 7, 2006, available at <https://secure.jurid.com.br/new/jengine.exe/cpag?p=jornaldetalhejornal&ID=29130#null>.) (Eduardo Soares, 7-3525, esoa@loc.gov)

BRAZIL – Register of Photo Lab Customers to Fight Pedophilia

In an effort to fight pedophilia, the Legislative Assembly of the Rio de Janeiro State, Brazil, approved a proposed law making it mandatory for photographic laboratories to register all their customers. The proposed law requires that the photo labs register the customers' full names, addresses, phone numbers, ID numbers, and CPF (a document that Brazilian citizens use as identification for tax purposes) numbers. Additionally, the law establishes that in cases of suspicious material, the police must be informed.

The Legislative Assembly also approved a proposed law that compels the government to create computer centers throughout Rio de Janeiro State to enable people to have free access to the Internet. Both laws await the governor's sanction to come into effect. (*Lojas de Fotos Poderão Ter Que Identificar Clientes*, O GLOBO, Oct. 25, 2006, available at <http://www.experimenteoglobo.com.br/flip/index.php?playerType=single&idEdicao=b485fc2a63f857fcacb42f4b9efa9cbf&idCaderno=079b98c2e7a7f9c25838d6ec271d2aa7&page2go=22&ran=z13w5GzQ3KA8P1ABQlotfCFbf3JhqN1pmmWVC2lcmlFav4TUn1>.) (Eduardo Soares, 7-3525, esoa@loc.gov)

CANADA – Committee Recommends Extension of Preventative Detention

Shortly after the events of September 11, 2001, the Government of Canada enacted its Anti-Terrorism Act (2001 S.C., c. 41). Two of the most controversial provisions of this law are that it allows for preventative arrests and for investigative hearings for material witnesses in terrorism cases. These provisions are due to expire at the end of December 2006 unless they are renewed.

Prior to its ouster at the beginning of 2006, ministers in the former Liberal government appeared before parliamentary committees to argue for the extension of the extraordinary powers. After the election, a new committee was formed with a Conservative Party chairman. This committee released an interim report on October 24, 2006, in which it recommended that preventative detention and investigative hearings should be renewed for another five years, even though neither power has ever been used. The majority report, which was supported by the Liberals, did recommend a change to the clause respecting investigative hearings to clarify that they are "only available when there is reason to believe there is imminent peril that a terrorist offense will be committed." (Tonda McCharles, *Extend Terror Laws: MPs: Tories Liberals Unite in Call to Give Controversial Measures Five More Years*, TORONTO STAR, Oct. 24, 2006, at A5.)

The Bloc Quebecois and the New Democratic Party issued a minority report in which they argued that the preventative arrest power should be abolished. The Members from these parties took the position that Canadian law already gives the police adequate investigative powers. They also stated that cases like that of Mahar Arar, who was deported from the United States to Syria on the basis of apparently erroneous information furnished by the Royal Canadian Mounted Police (*see* 11 W.L.B. 2006), show that



the preventative arrest powers could be used to unfairly brand a person as a terrorist in the absence of substantial supporting evidence.

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

CANADA – Definition of Terrorism Struck Down in Part

In its 2001 Anti-Terrorism Act, the Government of Canada defined a “terrorist activity” as an act committed “in whole or in part for a political, religious, or ideological purpose, object, or cause” and

in whole or in part with the intention of intimidating the public or a segment of the public, with regard to its security, including its economic security, or compelling a person, a government or a domestic or an international organization to refrain from doing any act, whether the public or the person, government or organization is inside or outside Canada. (2001 S.C. c. c. 41, ss. 4, 126(3).

The definition was further qualified by addition of language to the effect that the act must cause death or serious bodily harm, serious risk to health or safety, substantial property damage, or cause “serious interference with or serious disruption of an essential service, facility, or system.”

In 2005, Mohammed Momim Khawaja was charged with seven terrorist offenses. Included in the charges were allegations that the accused had attempted to make a detonator to set off bombs in Canada and the United Kingdom and had had explosives in his possession for the purpose of carrying out a public attack. Prior to trial, the accused filed for a declaration that the definition of a terrorist activity was unconstitutional and overly broad and vague. The judge of the Ontario Superior Court of Justice found that the definition was not overly broad or vague, but that the portion that requires a showing of a “political, religious, or ideological purpose” contravened the Canadian Charter of Rights guarantees respecting freedom of conscience and religion and freedom of thought, belief, opinion, and expression. (Canadian Charter of Rights and Freedoms, being Part B to the Canada Act, 1982, c. 11 (U.K.), s. 2.) In reaching his decision, the judge consulted foreign laws and found that while the United Kingdom and other Commonwealth countries had similar provisions in their anti-terrorism legislation, as for example in the Terrorism Act, 2000 (c. 11 (U.K.)), the anti-terrorism legislation in the United States, France, Germany, Italy, Austria, and The Netherlands “contains no definitional element of motive resembling that in the Canadian statute.” (R. v. Klawaja, 2006 O.J. No. 4245.) The judge then considered domestic Canadian law and found that motive has never been a constituent element of Canadian offenses.

Having found that the first part of the definition of a terrorist activity offends the Charter and that the government had not demonstrated that it was reasonable in a free and democratic society, the judge considered whether the definition could be severed. He found that the second part of the definition could stand on its own and that the accused could be tried for a terrorist offense without any reference to his religious motives. Thus, the accused was ordered to stand trial on amended charges. The decision of the Ontario Superior Court of Justice may be appealed. From the government’s point of view, being free of the onus of proving motive may make prosecutions of terrorists easier. However, other courts could find that without the reference to motive, the definition of a terrorist activity is too broad and could encompass such activities as disruptive behavior by unruly groups.

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

CANADA – New Biometric Technology for Airports

In its continuing efforts to boost airport security, Canada’s Minister of Transport and Infrastructure has announced that the Canadian Aviation Security Regulations will be amended to require Canada’s twenty-nine international airports to be equipped with machines to read new Restricted Area



Identity Cards that contain biometric information. Better security for areas restricted to airport personnel, flight crews, refuelers, caterers, and other persons needing access to aircraft was one of the first goals of the government in the aftermath of September 11, 2001. Since then, Transport Canada and the Canadian Aviation Security Authority have been working to develop an enhanced identity card system. The new cards will contain either fingerprints or images of a holder's iris. The new machines will read this biometric information and not allow persons who do not have a functioning card access to a restricted area. The new system is expected to be in place by the end of 2006 and is expected to be used by approximately 120,000 aviation workers. (Press Release, Transport Canada, Canada's New Government Proposes to Boost Airport Security with Biometric Technology (Nov. 10, 2006), <http://www.tc.gc.ca/mediaroom/releases/nat/2006/06-h137e.htm>.) (Stephen Clarke, 7-7121, scl@loc.gov)

CANADA – Private Sector May Be Involved in New Border Crossing

Several years ago it was said that more international trade flows between Detroit, Michigan, and Windsor, Ontario, than between the United States and Japan. (Melanie Brooks, *The Day the Border Became a Wall: Once Relaxed and Routine, Crossing Between Windsor and Detroit is Now Tense, Time-Consuming and Costly*, OTTAWA CITIZEN, Sept. 9, 2002, at A1). Much of this traffic is in automobiles and automotive parts. However, trade in a myriad of other products has made this particular crossing the busiest in North America. At present, Detroit and Windsor are linked by a bridge and tunnel. A new bridge that is being constructed is expected to open in 2013.

The Canadian Minister of Transport and Infrastructure has announced that his government is considering the possibility of allowing the private sector to help design, build, finance, and operate the new crossing under federal supervision. Investors would be able to charge fees for certain services and conveniences. If this idea is implemented, it would mark the first time Canada has allowed private sector investment in a border crossing facility. Private sector investment has been allowed in roads north of Toronto to reduce traffic on the heavily congested Highway 401. (*Ottawa to Consider Allowing Private Sector to Play Role in Windsor Border Crossing*, YAHOO CANADA NEWS, Nov. 20, 2006, http://ca.news.yahoo.com/s/capress/061120/national/border_crossing_p3.) (Stephen Clarke, 7-7121, scl@loc.gov)

MEXICO – Final Resolution on Antidumping Duties on U.S. Apples

The Secretariat of the Economy issued and published in *Diario Oficial de la Federación*, Mexico's federal official gazette, the final resolution on the antidumping investigation conducted on the importation from the United States of apples of the varieties known as Red Delicious and Golden Delicious, imported under the tariff category 0808.10.01. A communiqué issued by the Secretariat stated that by virtue of the investigations made, it had imposed definitive compensatory duties on the importation of such agricultural products. It added that the investigation was done in compliance with a court ruling issued on October 28, 2003, regarding an *amparo* petition trial filed by Northwest Fruit Exporters. The Secretariat determined that according to the evidence submitted by the parties, during the period from January to June 1996, the importation of the U.S. apples caused harm to the national production of similar varieties of apples. The same result was found in another analysis covering the period 1994 to 2005. According to this second investigation, around 95.6% of the investigated importations of apples from the United States were effected under conditions of price discrimination. The final antidumping duty imposed is 46.58 percent, on the basis of the antidumping resolution published in the official gazette on August 12, 2002. (*Aranceles para Manzanas de EU*, EL UNIVERSAL, Nov. 3, 2006,



<http://www.eluniversal.com.mx>; DIARIO OFICIAL DE LA FEDERACIÓN, Nov. 2, 2006, at 25-43, <http://www.dof.gob.mx/pop.php>.)

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MEXICO – Legislative Committee Approves Bill to Criminalize Terrorism Funding

The Committee on Public Finances of the Chamber of Deputies of Mexico approved a bill that would empower the Secretariat of the Treasury and Public Credit, as well as the Attorney General's Office and financial authorities, to trace transactions and operations related to funding, covering up, or threatening terrorist activities. The bill creates the concept of "international terrorism" and characterizes terrorist funding as a felony punishable with up to forty years of imprisonment.

The bill, which was already unanimously approved by the Senate, would amend the Federal Penal Code and eight statutes, among them the Act Against Organized Crime, the Credit Institutions Act, the Securities Market Act, the Act on Systems of Savings for Retirement, the Act on Investment Institutions, and the Act on Savings and Popular Credit. The bill, which still faces a plenary vote of the Chamber of Deputies, is in compliance with twelve international covenants on terrorism signed by Mexico. (Ciro Perez & Roberto Garduño, *Penas de 40 Años por Financiar el Terrorismo*, LA JORNADA, Nov. 9, 2006, <http://www.jornada.unam.mx>.)

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INTERNATIONAL LAW AND ORGANIZATIONS

ANGOLA/PORTUGAL – Central Libraries Sign Protocol of Cooperation

On November 15, 2006, the Director of the Portuguese National Library, Jorge Couto, and the Director of the Angolan National Library, Maria José Ramos, signed a protocol of cooperation between the two central libraries. The agreement is characterized by Ramos as representing the consolidation of relations between the two institutions in the defense of common interests at the level of specialized international organizations. She further observed that this protocol would reinforce the administrative and technical capacity of the two libraries, as well as the development of training and automation of their services and the establishment of standard parameters for bibliographies. (*Angola and Portugal Sign Agreement on Libraries*, ALLAFRICA.COM, Nov. 15, 2006, available at <http://allafrica.com/stories/200611150705.html>.)

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CHINA/PAKISTAN – FTA and Other Agreements Signed

On November 24, 2006, the Ministers of Commerce of the People's Republic of China and the Islamic Republic of Pakistan signed a landmark free trade agreement, with the prospect of tripling their two countries' bilateral trade to US\$15 billion within five years. In addition, the Ministers inked an agreement to cooperate on the development of airborne early warning radar planes and signed accords on energy and the economy. In regard to the latter, in what is reportedly the first accord of its kind for China, it agreed to a five-year Sino-Pakistani economic and trade development program. The two sides also agreed to establish a joint investment company. (*China and Pakistan Sign FTA*, TAIPEI TIMES, Nov. 25, 2006, at 1, available at <http://www.taipetimes.com/News/world/archives/2006/11/25/2003337812>; *Chinese President's Visit to Further Co-Op with Pakistan*, GOV.CN (the Chinese Government's official Web portal), Nov. 22, 2006, http://www.gov.cn/misc/2006-11/22/content_450160.htm.)

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EAST AFRICAN COMMUNITY – Planned Amendment of Treaty

On October 3, 2006, the First East African Legislative Assembly (EALA) of the East African Community (EAC), comprising member states Kenya, Tanzania, and Uganda, adjourned sine die. The Assembly convened its first session on November 29, 2001, and will be dissolved on November 29, 2006. During the last Assembly session, a motion was tabled to review the EAC Treaty for amendment, in order to strengthen various EAC structures, including the Executive, the Assembly, and the Court of Justice, which are currently all ad hoc. The motion for review of the Treaty, which has been in force for seven years, was passed by acclamation. One major organ that would be affected by the proposed amendment of the Treaty is the Council of Ministers. According to according to Ugandan delegate Lydia Wanyoto, the Council “must be independent” and have a “proper rightful legal status.” (Charles Kazooba & Henry Lule, *EAC Treaty Amendment Starts*, THE NEW TIMES (Kigali), Nov. 6, 2006, <http://allafrica.com>.)

Assemblyman Wandera Ogalo remarked, “[t]he Treaty is the major impediment to the political and economic integration process because it is structured in such a way as to make it difficult for partner states to cede sovereignty.” EALA members would like to recast the relevant Treaty chapters to do away with coordination and sectoral committees and instead reflect the traditional governance structures of the executive, judiciary, and legislature; to fund the community through taxation rather than equal contributions by member states; to provide legislation through Assembly acts rather than protocols; and to expand the jurisdiction of the East African Court of Justice and establish a regional Judicial Service Commission. Ogalo, citing two instances in which a lack of commitment by the member states threatened the EAC’s existence, further noted that the member states should be bound by the commitments they make, as the Treaty’s preamble makes clear, but the Treaty does not provide for measures to address the failure by partners to abide by their commitments. (*Id.*; Press Release, EAC Information and Public Relations Office, EA Assembly Adjourns Sine Die (Oct. 3, 2006), http://www.eac.int/news_2006_10_EALA_adjourns_sine_die.htm; *EAC Treaty*, <http://www.eac.int/treaty.htm#Treaty%20Establishing%20the%20East%20African%20Community> (last visited Nov. 14, 2006).)

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HONDURAS/MEXICO – Bilateral Agreement to Improve Treatment of Immigrants

Authorities of the governments of Honduras and Mexico signed an agreement to improve the treatment of undocumented Honduran nationals when they are arrested in Mexico. Under this agreement, a Honduran undocumented alien who is arrested in Mexico will not only have the right to due process, but his removal from Mexican territory will also be considered a repatriation rather than an expulsion under Mexican law. Furthermore, no sanctions will be imposed on the illegal alien that would place any restriction on obtaining regularization or legal reentry into Mexico. (*Indocumentados Hondureños Recibirán Mejor Trato en México*, DIARIO TIEMPO, Nov. 22, 2006, <http://www.tiempo.hn>.)

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IBERO-AMERICAN SUMMIT 2006 – Pledges to Fight Terrorism

On November 5, 2006, during the Sixteenth Ibero-American Summit in Montevideo, Uruguay, high-ranking government officials from several Latin American countries issued a statement condemning terrorism. In the statement, attendees at the summit pledge to fight all forms of terrorism with strict observance of international law, to prevent and eliminate terrorism financing, and to deny refuge to terrorists. The main aim of the Ibero-American summits is to bring the Spanish-speaking world together to tackle common problems. (Comunicado Especial de Apoyo a la Lucha contra el Terrorismo [Special



Statement in Support of the Fight against Terrorism] (Nov. 5, 2006), http://www.xvicumbre.org.uy/pdf/xvi_terrorismo.pdf.)

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MEXICO/UNITED STATES – Increased Cooperation in Pandemic Influenza Preparedness along Border

On November 14, 2006, the United States and México announced the signing of an agreement to boost cooperation on pandemic influenza preparedness among the six Mexican states and four U.S. states that share an international boundary. Meeting in Hermosillo, Sonora, México, U.S. Health and Human Services Assistant Secretary for Public Health Emergency Preparedness, Craig Vanderwagen, and the Mexican Director-General of Epidemiology of the Mexican Federal Secretariat of Health, Pablo Kuri, signed a joint declaration to strengthen the commitment of the two nations to coordinate preparedness efforts, domestic and international disease surveillance activities, and response planning in the event of an outbreak of pandemic influenza.

"An influenza pandemic knows no political or geographic boundaries and responding to a potential outbreak will demand the cooperation of all nations, especially those that share common borders like México and the United States," Assistant Secretary Vanderwagen said. "This agreement reflects the strong relationship between our nation and México and is a critical step in protecting our citizens."

The agreement was finalized during the fourteenth meeting of the United States-México Border Health Commission, established in July 2000 to provide international leadership to enhance health and the quality of life among residents along both sides of the United States-México border. The Commission's purpose is to raise awareness about public health issues in the region and the health and medical challenges faced by border populations; to help create the necessary venues and partnerships to mobilize the actions needed to improve the health status of those border-area residents; and to serve as a reliable information portal about border-health issues. (Press Release, Department of Health and Human Services, U.S. and Mexico Pledge Increased Cooperation in Pandemic Influenza Preparedness Along Border (Nov. 14, 2006) <http://www.hhs.gov/news/press/2006pres/20061114.html>.)

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SOUTHERN AFRICA DEVELOPMENT COMMUNITY – Zambezi Water Conference

Eight nations with an interest in the Zambezi River basin signed a pact for the sustainable and equitable use of the river's resources more than ten years ago. Angola, Botswana, Malawi, Namibia, Mozambique, Tanzania, Zambia, and Zimbabwe all have an interest in riparian rights in the region, but only four – Angola, Botswana, Mozambique, and Namibia – have ratified the agreement. All the nations except Zambia participated in a conference on the subject, held in Namibia on November 22 and 23, 2006. Since seventy percent of Zambia is in the Zambezi basin, that country is arguing that it needs greater access to the river's resources than some of the other stakeholder nations who may be less dependent on the river. All the participants are interested in conserving and protecting water resources and using them in a sustainable manner. According to Leonissah Munjoma, a spokesperson for the Zambezi Action Plan Project, despite the growing interest in having broader participation by civil society in order to ensure good planning for water resources, few measures are in place to facilitate effective participation of stakeholders in river basin management. The November conference was one step toward that goal. (*SADC Spotlight Zambezi Water* [sic], EAST AFRICAN BUSINESS WEEK, Nov. 13, 2006, available at <http://allafrica.com/stories/printable/200611130811.html>.)



Several of the countries in the basin are creating national water management plans, and two of them. Malawi and Zambia, have integrating plans for Zambezi water management into their broader national development frameworks. However, observers argue that until the multinational agreement is ratified and implemented, full use of the hydropower potential of the river will not be developed. (Thessa Bos, *States against the Zambesi Current*, IPS (Cape Town), Nov. 27, 2006, <http://ipsnews.net/news.asp?idnews=35619>.)

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UNITED NATIONS/PANAMA – Seat on Security Council

After forty-eight rounds of voting, the drawn-out contest in the General Assembly for the rotating Latin American seat on the United Nations Security Council came to an end on November 7, 2006, with Venezuela and Guatemala dropping their competing bids in favor of a compromise candidate, Panama.

The three-week tug-of-war between Guatemala and Venezuela over the seat, currently occupied by Argentina, ended with polite applause when Assembly President, Sheikha Haya Rashed Al Khalifa of Bahrain, read out the final tally: Panama had received 164 votes in the 192-member world body, more than the two-thirds majority needed to join the Council on January 1, 2007 (?); Venezuela obtained eleven votes; Guatemala four votes; and Barbados one vote.

Sheikha Haya told the Assembly that she had received a letter dated November 3, 2006, from the Chairman of the Group of Latin American and Caribbean States (GRULAC) informing her that senior Guatemalan and Venezuelan officials had decided to withdraw their country's respective candidacies in favor of Panama, which was subsequently endorsed by the thirty-four-member regional Group. (Press Release, U.N. General Assembly, "Tug-Of-War" Between Guatemala and Venezuela for Security Council Seat Loosens; Panama Steps In, Receives General Assembly Majority After 48 Secret Ballots (Nov. 17, 2006), <http://www.un.org/News/Press/docs/2006/ga10528.doc.htm>.) (Gustavo Guerra, 7-7104, ggue@loc.gov)

WTO – Vietnam's Membership Approved

On November 7, 2006, the General Council of the World Trade Organization (WTO) approved a membership agreement with Vietnam. If that country ratifies the accord, it will become the 150th member of the WTO. This decision is the result of eleven years of preparatory work; the initial working party to negotiate with Vietnam, established in January 1995, had met fourteen times by the end of October 2006.

Speaking about the domestic economic reform program, known as *doi moi*, that led the country to WTO membership, Vietnam's Trade Minister Truong Dinh Tuyen said

It is these reforms that ensure Vietnam's constant economic growth, forming a firm foundation for the accession as a whole. ... On the other hand, WTO membership also helps Vietnam refine its reform process, creating opportunities for trade expansion, which is an important tool for economic growth. ... WTO accession poses major challenges to Vietnam's economy. However, we do believe that with cooperation extended by the members, Vietnam will make the most of opportunities, successfully handling challenges, ensuring fast and sustainable growth, pro-actively playing its part for the development of the multilateral trading system.

Citing Vietnam's economic growth rate of over eight percent and increase in exports of over twenty percent, WTO Director-General Pascal Lamy said that the country has "shown how anchoring domestic reforms in the WTO can yield dramatic results." (Press Release, World Trade Organization,



General Council Approves Viet Nam's Membership (Nov. 2006), http://www.wto.org/english/news_e/pr455_e.htm.)

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RECENT DEVELOPMENTS IN THE EUROPEAN UNION

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Customs Dispute Settlement

In 2004, the United States filed a complaint with the World Trade Organization (WTO) claiming that the European Union's "system of customs administration did not ensure uniform administration by the customs authorities of the twenty-five Member States." The United States also argued that review of administrative matters by the customs authorities of the Member States did not ensure "prompt review and correction of administrative action." Thus, the United States implied that the EU had to establish a central customs agency and a central customs court. On June 16, 2006, the WTO issued an initial report, which rejected the United States arguments and found only some minor violations by the EU of GATT rules. The United States appealed and the WTO issued a second report, which concurred with the first report on the claims made by the United States and reversed two of the findings of violations stated in the first report.

On November 14, 2006, the appellate body of the WTO issued a report stating that WTO Members have the right to organize their customs systems the way they think is best, as long as such regimes meet WTO standards. With regard to the European Community system of customs, the WTO endorsed it and held that it meets WTO standards. (*Customs: WTO Rejects U S Claims and Confirms the Regime for EU Customs Administrations Meets High Standards*, TRADE ISSUES, Nov. 14, 2006, available at http://ec.europa.eu/trade/issues/respectrules/dispute/pr141106_en.htm.)

EU Consular Offices Abroad

Catastrophic events around the globe, such as tsunamis, floods, and hurricanes have an effect not only on the local population, but also on EU citizens who happen to be in the affected places. Currently, all twenty-five EU Member States have consular representations only in three countries, China, Russia, and the United States. On November 22, 2006, the European Commission, cognizant of the need to protect EU citizens, prepared a green paper on diplomatic and consular protection of the Union's citizens in third countries. The draft paper calls for establishing offices designed to provide assistance to citizens abroad, ranging from help with lost or stolen passports to financial aid and including repatriation. The offices would be located either in the embassies of Member States or where the Commission has representations.

The green paper also sets forth a proposal on including in all national passports a label containing the text of article 20 of the Nice Treaty stating that EU citizens have the right to diplomatic and consular missions. The paper is expected to generate heated discussions, since several Members, including the United Kingdom, do not look favorably on the idea of establishing diplomatic and consular missions. Moreover, the proposal is reminiscent of similar provisions in the recently proposed EU Constitution that was voted down. (*Commission to Propose EU Consular Offices Abroad*, EUOBSERVER, Nov. 22, 2006, available at <http://euobserver.com/9/22927/?rk=1>.)

Prohibition of Cat and Dog Fur Trade

Due to evidence that trade in cat and dog fur occurs within the EU, even though there are no official data on it, and in response to overwhelming demand by consumers across the EU who have



criticized the practice, the European Commission recently drafted legislation to prohibit such trade. In addition, the proposed legislation will prohibit the marketing, import, and export of cat and dog fur. Fifteen EU Members – Austria, Belgium, Cyprus, Denmark, France, Germany, Greece, Italy, Latvia, Luxembourg, the Netherlands, Poland, Slovenia, Spain and the United Kingdom – have already adopted legislation to that effect. The EU consumer commissioner, Marcos Kyprianou, stated that the legislation will be adopted shortly, after being endorsed by the Parliament and the Council of the European Union. (*EU Proposes to Ban Cat and Dog Fur Trade*, EUOBSERVER, Nov. 11, 2006, available at <http://euobserver.com/9/22911/?rk=1>.)

Negotiations between EU and Iraq for a Trade and Cooperation Agreement

Since 2003, the European Commission has contributed €720 million (about US\$945 million) in order to assist Iraq in its reconstruction efforts. On November 20, 2006, the European Commission and Iraq started negotiations for an agreement on cooperation and trade. Through this move, the EU aims to pave the way for Iraq's involvement in the international community and the EU and to stimulate on-going reforms efforts in the country. The agreement is designed to improve the trade arrangements between Iraq and the EU on a variety of issues, including trade in goods, services, investment, intellectual and industrial rights and public procurement. (Press Release IP/06/1585, European Commission, EU and Iraq Launch Negotiations for a Trade and Cooperation Agreement, (Nov. 20, 2006), available at <http://www.europa.eu/rapid/pressReleasesAction.do?reference=IP/06/1585&format=HTML&aged=0&language=EN&guiLanguage=en>.)

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