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TOPICS COVERED:

Capital Punishment	Health Law and Regulation
Civil Status	Human Rights
Communications and Electronic Information	Immigration and Nationality Law
Constitutional Law	Intellectual Property
Consumer Protection	International Relations
Criminal Law and Procedure	Justice
Disasters	Legislative Power
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Elections and Politics	Property
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Family Law	Terrorism
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Government Employees	Transportation
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COUNTRIES AND INTERNATIONAL ORGANIZATIONS COVERED:

Australia	Korea, South
Austria	Kyrgyzstan
Bangladesh	Lebanon
Belgium	Liberia
Brazil	Mexico
CAFTA	New Zealand
Cambodia	Pakistan
Canada	Philippines
Central America	Poland
China	Russian Federation
Congo (Kinshasa)	Saudi Arabia
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ECHR	Special Court for Sierra Leone/UK
England and Wales	Switzerland
Ethiopia	Taiwan
European Union	Tonga
Germany	Uganda
Hungary	Ukraine
India	United Kingdom
Israel	United Nations
Ivory Coast	United States
Japan	Vietnam

CAPITAL PUNISHMENT

KYRGYZSTAN – Death Penalty Replaced by Life Imprisonment

On June 28, 2007, the President of Kyrgyzstan signed a law on amendments to a series of the nation's legislative acts, abolishing the death penalty and substituting life imprisonment. The law was passed in order to implement a constitutional provision that prohibits capital punishment and to bring Kyrgyz legislation in accordance with the country's obligations due to its participation in European and international organizations. The death penalty has not been used in Kyrgyzstan since 1998, when a moratorium was introduced. During this period, about 70 people sentenced to death died while being imprisoned due to harsh prison conditions. (*Kyrgyzstan Substituted Death Penalty with Life Imprisonment*, KAZAKHSTAN TODAY, June 28, 2007, <http://www.legislationline.org> (last visited July 20, 2007).) (Peter Roudik, 7-9861, prou@loc.gov)

CIVIL STATUS

BELGIUM – Law on Transsexuality

On May 10, 2007, the Belgian Parliament adopted a Law on Transsexuality containing the right for a transsexual to modify his/her gender and first name on his/her birth certificate. The Law provides, “[a]ny Belgian citizen or foreigner registered in the population register who has the intimate, constant, and irreversible conviction to belong to the sex opposite to the one mentioned on his/her birth certificate, whose body has been adapted accordingly in every way that is possible and medically justified, may declare this conviction to the civil status officer.”

To obtain the modification of the birth certificate, an individual needs to provide to the civil status officer a declaration drafted by the psychiatrist and surgeon handling the gender change. The declaration must state that the individual has the conviction referred to above, has undergone gender surgery reassignment, and cannot conceive children in accordance with his/her previous gender. (Loi relative à la transsexualité, MONITEUR BELGE [the Belgian official gazette] (July 11, 2007), No. 2007009570, available at <http://www.ejustice.just.fgov.be/cgi/welcome.pl>.) (Nicole Atwill, 7-2832, natw@loc.gov)

COMMUNICATIONS AND ELECTRONIC INFORMATION

AUSTRIA – Domain Grabbing

On March 20, 2007, the Austrian Supreme Court, on appeal, decided a case on domain grabbing (Docket No. 17 Ob 2/07d, official Web site of the Austrian Supreme Court, <http://www.ris.bka.gv.at/> (last visited July 20, 2007)). The Court held that the German defendant had committed domain grabbing by registering a domain name that included the trademark of an Austrian company, with the intent of extracting ransom from the plaintiff, and that this constituted a violation of section 1 of the Austrian Act Against Unfair Competition (BUNDESGESETZBLATT no. 448/1984). The Court found that the Austrian courts had jurisdiction

on the basis of article 5, paragraph 3, of the European Council Regulation (EC) No. 44/2001 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters (OFFICIAL JOURNAL OF THE EUROPEAN COMMUNITIES 2001(L12)), which grants jurisdiction for torts committed in another member state, if the effects occurred in the place where the action was brought.

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

CONGO (Kinshasa) – Journalist Sentenced for Defaming Company

According to a press release of July 18, 2007, a reporter with a weekly newspaper based in Kinshasa, LE SOFT INTERNATIONAL, was sentenced in absentia to six months in prison and a fine of 20,000 Congolese francs (about US\$40) in May of this year. In addition, the newspaper and the reporter, Pold Kalombo, were ordered to pay damages equal to US\$150,000.

Kalombo's crime was writing an article that criticized the Société Congolaise des Industries de Raffinage (SOCIR), a petroleum refinery. The article, which was considered to be defamation of the company, described the partnership between SOCIR and X-Oil established in 2002. Kalombo was only informed of the court action on July 5, 2007, when he received a copy of both the indictment and the decision. He has thus far remained out of jail, and his lawyers have opposed the ruling as a violation of his right to an open and fair trial. (*Journalist Sentenced in Absentia to Six Months' Prison and Heavy Fine for Defaming Oil Company*, ALL AFRICA.COM, July 18, 2007, available at <http://allafrica.com/stories/200707181321.html>.)

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

UNITED STATES – Law on Government Surveillance Amended

On August 5, President Bush signed into law a statute amending the Foreign Intelligence Surveillance Act (FISA), which establishes requirements that the government must meet when conducting surveillance of the communications pertaining to suspected espionage or terrorism against the United States. The amendment provides that the government need not meet FISA's requirements with respect to any "surveillance directed at a person reasonably believed to be located outside the United States." It further provides that the Director of National Intelligence and the Attorney General may authorize for periods up to one year the acquisition of foreign intelligence information concerning persons reasonably believed to be outside the United States if they certify that certain detailed requirements are met and submit to the FISA court an explanation of how the surveillance was determined to be lawful. The amendment will sunset in six months, during which time Congress will work on a more permanent law addressing the government's surveillance activities. ([Protect America Act of 2007](#), Public Law No. 110-55, 121 Stat. 552 (2007).

(Luis Acosta, 7-9131, laco@loc.gov)

CONSTITUTIONAL LAW

EUROPEAN UNION – Debate on Draft Constitution

On July 24, 2007, the Intergovernmental Conference (IGC) to revise the 2004 draft constitution opened in Brussels. The Portuguese government, which holds the current EU Presidency, intends to finalize the negotiations by October 2007. The new version is based on a detailed outline that was agreed upon in June 2007. It is 277 pages long and has already triggered much criticism. Supporters and critics alike point out the many similarities between the two versions. Valery Giscard D'Estaing, the chairman of the European Convention that drafted the first version, has called the current changes merely "cosmetic." Also central to the current discussions is the ratification process for the new text. There is no consensus on this matter. Some argue that the constitution should be ratified through the national parliaments rather than referenda, since the members of the national parliaments represent EU citizens and therefore their vote is equally important. (*Just Like the Constitution, Say Friends and Foes of New EU Treaty*, EU OBSERVER, July 24, 2007, available at <http://euobserver.com/9/24524/?rk=1>.)

A number of EU Members, including the United Kingdom and Ireland, have reserved the right to opt out of the Charter of Fundamental Rights, which contains a set of economic, social, and civil rights for EU citizens. This announcement has angered the trade unions in both countries. (*London and Dublin Under Pressure over EU Rights Opt-Out*, EU OBSERVER, July 5, 2007, available at <http://euobserver.com/9/24427/?rk=1>.)

Initially, Poland opposed the voting system in which voting rights would be according to population size. However, recently Poland assured the Portuguese government that it will not revisit the issue. Other EU Members have expressed concerns over the European Parliament's gaining power to supervise the Commission's daily operations in implementing EU law. (*Portugal Kicks Off Formal EU Treaty Talks*, EU OBSERVER, July 23, 2007, available at <http://euobserver.com/9/24517/?rk=1>.)
(Theresa Papademetriou, 7-9857, tpap@loc.gov)

UGANDA – Constitutional Court Petitioned to Abolish Bride Price

A women's rights advocacy group, the Mifumi Project, and ten individuals have petitioned the Constitutional Court of Uganda to do away with the bride price. The petitioners argue that this customary marriage practice of several tribes in Uganda is unconstitutional. The petition states, "[d]emanding bride price from prospective sons-in-law as a condition precedent to a valid customary marriage contravenes Article 31 (3) of the Constitution," which stipulates the free consent of the man and woman as a requirement for marriage. The petitioners are also challenging the practice of asking the woman's parents to refund the bride price if the marriage fails, arguing that it constitutes degrading treatment contrary to article 24 of the Constitution guaranteeing that all persons be treated with dignity. "This custom and practice," the petition states, "leads to men treating their wives as near possessions from whom maximum obedience is extracted thereby perpetuating inequality between the two contrary to Article 21 (1) (2) of the

Constitution that provides for equality before the law.” Furthermore, the petitioners argue, it contravenes international human rights conventions and treaties to which Uganda is signatory.

According to Felicity Atuki Turner, Mifumi Project Director, bride price is a major factor in fuelling domestic violence and abuse of women’s rights. She stated that many women are forced to remain in abusive relationships because their parents cannot refund the bride price. “Bride price has become a tool of oppression, corpses of women are sometimes denied burial unless bride price is paid and men are jailed and their property confiscated in case of failure to pay it,” she declared in her affidavit supporting the petition. The petitioners are seeking to have the Court declare the custom null and void and to award them the costs of the petition. (Lominda Afedraru, *Uganda: Women Petition Court over Bride Price*, THE MONITOR (Kampala), July 16, 2007, available at <http://allafrica.com/stories/200707161160.html>.)

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

UNITED STATES – Student Suspension Held Not to Violate Free Speech Right

On June 25, the U.S. Supreme Court ruled that a high school student had no First Amendment free speech right to display a banner at a school event that appeared to promote illegal drug use. On January 24, 2002, the Olympic Torch Relay was scheduled to pass in front of respondent Joseph Frederick’s school in Juneau, Alaska, while school was in session. Petitioner Deborah Morse, the school’s principal, decided to permit staff and students to participate in the Torch Relay as an approved social event. When the Torch Relay passed by, Frederick and others unfurled a 14-foot long banner displaying a phrase, “Bong Hits 4 Jesus,” which Morse interpreted as an endorsement of illegal drug use. Morse ordered the students to put away the banner, but Frederick did not comply. Morse confiscated the banner and suspended Frederick from school for ten days. Frederick sued, alleging his First Amendment free speech rights had been violated. The trial court sided with the school, but the U.S. Court of Appeals for the Ninth Circuit reversed, stating that the school had punished Frederick without finding that the banner created a “risk of substantial disruption.”

The Supreme Court reversed, finding that the banner appeared to promote illegal drug use, and was not political speech entitled to more constitutional protection. Looking to case precedent, the Court stated that schools may regulate categories of speech that in other contexts enjoy First Amendment protection. The Court found that the special characteristics of the school environment, and the governmental interest in stopping student drug abuse, allow schools to regulate speech that appears to encourage illegal drug use. (*Morse v. Frederick*, No. 06-278 (June 25, 2007).)

(Gary Robinson, 7-3802, grob@loc.gov)

CONSUMER PROTECTION

HUNGARY – Free Access to Corporate Information

On July 12, 2007, the Ministry of Justice and Law Enforcement of Hungary ordered that as of September 2007, it will begin free online publication of company data, abolishing the existing requirements for registration, authorization, and fee payment for those who want to obtain information on legal entities registered in the country. At present, materials collected by

the Ministry and available to the public include information about potentially alarming circumstances, such as repossession. This kind of information will be expanded, to cover information on debts, other monetary obligations, fines imposed on a firm, and ongoing merger negotiations. Positive information, such as references, Better Business Bureau reports, and proofs that a company does not have any debt will also be included. All Hungarian companies will be required to submit their annual reports in electronic form, so that they can be made available online for free public dissemination. (*Hungarian Company Data Soon Available Online for Free*, EUCLID INFOTECH NEWS, July 12, 2007, available at http://site.securities.com/docs.html?pc=LV&pub_id=TENDERITNEWS&sv=EMIS.) (Peter Roudik, 7-9861, prou@loc.gov)

CRIMINAL LAW AND PROCEDURE

AUSTRALIA – Regulation for Transfer of U.S. Military Commission Prisoners

Australia has introduced legislation to provide for the transfer of prisoners sentenced by U.S. military commissions from the United States to Australia. Thus, a person sentenced by a U.S. military commission may be transferred to Australia for completion of the sentence. The regulations give effect to the following arrangements agreed between the United States and Australia:

1. Australian nationals charged with an offense before a U.S. military commission must be informed of the substance of the repatriation arrangement;
2. Any application prisoner must be allowed to apply for the transfer from the United States to Australia (an actual transfer may only be requested by either the Australian or U.S. Government on application from a prisoner);
3. Requests and any replies (including denials) must be in writing;
4. A request must be accompanied by specified supporting documents;
5. A transfer may be permitted where the prisoner has been sentenced in a final judgment to imprisonment and the prisoner and both the U.S. and Australian Governments consent to the transfer; and
6. Either government may deny a request.

Once transferred, the enforcement of a prisoner's sentence by the U.S. Government is suspended, and the relevant Australian authorities are responsible for the enforcement of the sentence – i.e., the prisoner is to be imprisoned in Australian facilities and the serving of the sentence is then subject to Australian laws. While Australia is bound to respect and maintain the legal nature and duration of the sentence, if the sentence is incompatible with Australian law or if required by Australian law, the sentence may be adapted. Either Australia or the United States may grant an amnesty or commutation of the sentence; however, only the United States may decide on any application for review or pardon. These regulations were implemented to permit the repatriation of Australian national David Hicks from Guantanamo Bay, Cuba, to Australia. (International Transfer of Prisoners (Military Commission of the United States of America) Regulations 2007 (Cth).)

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

CANADA – Judge Rules Border Guards Must Obtain Search Warrants

In Canada, most federal crimes are tried in provincial courts. Thus, an individual who was discovered to have had cocaine hidden in a secret compartment in his truck when he attempted to cross the border between the State of Washington and the Province of British Columbia was charged and tried in a court of that province. At trial, the accused's lawyer argued that the evidence against him should be excluded on the grounds that it had been obtained in violation of the rights guaranteed by sections 8 and 9 of the Canadian Charter of Rights and Freedoms. (Part I of the Constitution Act, being Sched. B to the Canada Act, 1982, c. 11.)

In what has been described as a “stunning decision,” the provincial court judge ruled that the man had been arbitrarily detained, denied access to legal counsel from the outset, and subjected to an unlawful search and seizure because the border officials had not obtained a search warrant. (Media Awareness Project, *Myopic Ruling Hurts Canada's Border Security*, STARPHOENIX (Saskatchewan), July 21, 2007, at 12, available at <http://www.mapinc.org/drugnews/v07/n880/a12.html>.) The provincial court judge held that the border is not a “Charter free zone” even if Canada's Immigration and Refugee Protection Act authorized the officers to conduct the search without a warrant (2001 S.C. c. 27, as amended).

The Canada Border Services Agency has appealed the case and it could eventually be heard by the Supreme Court of Canada. Critics of the decision argue that the ruling would have the effect of either tying up border traffic or causing border officials to simply wave persons through to prevent the crippling effect that long border waits would have on the Canadian economy. The Canada Border Services Agency argues that persons crossing the border do not have the same expectation of privacy or protection from searches and seizures as persons within the country. (R. v. Sekhon, 200 B.C.P.C. 0224, July 13, 2007, available at http://www.provincialcourt.bc.ca/judgments/pc/2007/02/p07_0224.htm.) (Stephen Clarke, 7-7121, scla@loc.gov)

CANADA – Supreme Court Ruling on Foreign Searches and Seizures

The Supreme Court of Canada recently reviewed a case in which the accused had argued that evidence of his illegal money laundering activities should be excluded because it was obtained without a valid warrant as is required by the section of the Canadian Charter of Rights and Freedoms that guarantees a person's security against unreasonable searches and seizures. (Constitution Act, 1982, being Sched. B, s. 8 to the Canada Act 1982, c. 11 (U.K.)). The evidence had been obtained by Royal Canadian Mounted Police Officers under the supervision of a senior police official in the Turks and Caicos Islands. The Turks and Caicos Islands are an overseas foreign territory of the United Kingdom that have their own criminal and anti-money laundering laws. The Supreme Court ruled that the Charter does not generally apply to foreign searches and seizures and that, instead, Canadian courts should look to see whether foreign evidence was obtained in accordance with the laws of the foreign jurisdiction. In the case at hand, the Court was satisfied that the searches were conducted in a manner consistent with Turks and Caicos law and that the admission of the evidence had not violated the right of the accused to a fair trial. However, the Court recognized that there are basic standards that are commonly accepted by free and democratic societies and that those standards must be met in order for

foreign evidence to be admissible in Canada. (R. v. Hape, 2007 S.C.C. 26, <http://scc.lexum.umontreal.ca/en/2007/2007scc26/2007scc26.html>.) (Stephen Clarke, 7-7121, scla@loc.gov)

INDIA – Adoption of New System to Classify Offenses

India has decided to change the 150-year old system of classification of offenses under the Indian Penal Code, 1860, by adopting the American model of federal and general crimes. The Consultative Committee of the Ministry of Home Affairs (MHA) on Criminal Justice has already reached consensus on adoption of the new model. In the new system, which the MHA proposes to discuss with the state governments, the Central Bureau of Investigation (CBI), *suo moto*, would be able to investigate crimes that would be called “federal crimes.” Crimes like terrorism and the smuggling of arms and ammunition affecting national security would then be included on the federal list of crimes in which the CBI has acquired expertise.

Normally, all crimes are investigated by state investigative agencies in concurrence with state governments. However, in cases with inter-state ramifications concerning national security, states may seek the help of the Central Government, explained an official of the MHA. Under another proposed amendment, it would be possible for the CBI to take over investigation of such crimes where states are found incapable of handling the matter themselves. (*India Plans Federal Crimes Concept to Tackle Offenses Affecting National Security*, THE ASIAN AGE (New Delhi), July 18, 2007, Open Source Center No. SAP20070718378008.) (Krishan Nehra, 7-7103, kneh@loc.gov)

ISRAEL – Statute of Limitations for Sexual Assault or Abuse

On July 10, 2007, the Knesset (Israel’s parliament) passed an amendment extending the statute of limitations for lawsuits filed by victims who were minors when subjected to sexual assault or abuse by a family member or custodian and by victims who were subjected to a sexual assault between the ages of 18 and 21 by persons exploiting a relationship of trust, dependency, care, or authority or by a family member. Accordingly, the statute of limitations in these cases commences when the victim reaches 28 years of age. The statute of limitations also was further extended for suits filed by victims in cases in which an indictment was lodged against the perpetrator. (Statute of Limitations (Amendment No. 4) 5767-2007 and bill, the Knesset Web site, <http://www.knesset.gov.il> (last visited July 18, 2007).) (Ruth Levush, 7-9847, rlev@loc.gov)

SAUDI ARABIA – Saudi Authorities Rehabilitate Former Guantanamo Detainees

The Ministry of the Interior has established a rehabilitation program for the Saudi detainees released from Guantanamo. The program includes teaching the former detainees that the Holy Koran requires them, before acting on what they believe to be a religious duty, to consult with Muslim scholars who have deep knowledge of the *sharia’a*. Dr. Abd al-Rahman al-Muhrej, an appointee of the Ministry assigned to rehabilitating those returning from Guantanamo, was quoted in AL-SHARQ AL-AWSAT as stating that he found that the returnees’ readiness not to commit the same mistakes they committed in the past was evident. (*Saudi*

Authorities Rehabilitate Former Guantanamo Detainees, AL-SHARQ AL-AWSAT, July, 19, 2007, available at <http://www.asharqalawsat.com/>.)
(Issam Saliba, 7-9840, isal@loc.gov)

DISASTERS

VIETNAM – Warning System

Under Decision No. 78/2007/QD-TTg of May 29, 2007, of the Prime Minister of the Socialist Republic of Vietnam, promulgating the Regulation on Preventing and Combating Earthquakes and Tsunamis, warnings of earthquakes and tsunamis are to be issued more quickly. The Decision calls for coastal areas vulnerable to tsunamis to increase planting and protection of coastal protection forest and to build and upgrade sea dikes to withstand typhoons and thereby mitigate the effects of tsunamis. According to the Decision, earthquake reports and tsunami warnings must be broadcast over the Voice of Vietnam Radio (VOV) and Vietnam Television (VT), internal ministerial information systems, and other mass media. Warning messages may also be delivered via telecommunications networks. VOV and VT must immediately interrupt programming to broadcast a report of an earthquake or a tsunami warning from the Institute of Geophysics. Local-level administrative and communications units, tsunami alert stations, and “all organizations and individuals” must use all existing communications equipment to transmit the report or warning to people in areas likely to be affected in order to facilitate timely evacuation. People’s committees (of the Vietnamese Communist Party) at all levels are to notify the local populace, organize evacuations, and devise measures to ensure local security and order. (*Decision No. 78/2007/QD-TTg of May 29, 2007*, VIETNAM LAW & LEGAL FORUM, June 22, 2007, available at http://news.vnnet.vn/vietnamlaw/reports.asp?CATEGORY_ID=3&SUBCATEGORY_ID=8&PageNo=5.)
(Wendy Zeldin, 7-9832, wzel@loc.gov)

EDUCATION

UNITED STATES – Supreme Court Finds School Integration Plans Unconstitutional

On June 28, 2007, the Supreme Court ruled that two voluntary school integration plans violated the Equal Protection Clause of the 14th Amendment of the United States Constitution. The opinion concerned school districts in Seattle, Washington, and Louisville, Kentucky, that had voluntarily adopted integration plans that assigned some students to schools based on their racial classification in order to foster diversity. A majority of five justices found the two plans’ use of binary racial classifications in assigning individual students to particular schools to be unconstitutional. A plurality of four justices maintained that any use of racial classification solely to achieve racial integration is unconstitutional. However, the controlling opinion of Justice Kennedy, which concurred in the judgment, stated that it is permissible to consider schools’ racial makeup and adopt general policies to encourage a diverse student body, as long as individual students are not treated differently based solely on race. Justice Kennedy stated it was permissible to seek integration by race-conscious measures such as strategic site selection of new schools, attendance policies that recognize neighborhood demographics, allocation of resources

for special programs, and targeted recruiting of students and faculty. (*Parents Involved in Community Schools v. Seattle School District No. 1*, No. 05-908 (June 28, 2007), *available at* <http://www.supremecourtus.gov/opinions/06pdf/05-908.pdf>.) (Luis Acosta, 7-9131, laco@loc.gov)

ELECTIONS AND POLITICS

KOREA, SOUTH – Expatriates' Right to Vote

Although the Constitutional Court of the Republic of Korea had ruled to the contrary in 1999, it decided on June 28, 2007, that Korean expatriates and overseas students have the right to vote. The Court ruled that laws denying voting rights to overseas Korean nationals are incompatible with the Constitution. Twenty-nine non-resident Korean nationals had filed a lawsuit seeking the right to vote. The Constitutional Court stated that the clauses will remain in effect until December 31, 2008, and asked the National Assembly to revise them by then. If the National Assembly fails to do so, the clauses in question will lapse on January 1, 2009. (*Constitutional Court Affirms Expats' Right to Vote*, CHOSUNILBO, June 29, 2007, *available at* <http://english.chosun.com/w21data/html/news/200706/200706290007.html>.) (Sayuri Umeda, 7-0075, sume@loc.gov)

LEBANON – State Council Rejects Challenge to Special Elections

On July 18, 2007, the State Council, the highest administrative tribunal in Lebanon, ruled that it does not have the jurisdiction to decide on the legality of a decree calling for a special election to fill the seats of two assassinated members of parliament. The controversy is centered on whether the Council of Ministers has the authority to issue such a decree without the approval of the President of the Republic. The Council ruled that the jurisdiction of the matter belongs to the Constitutional Court. (*State Council Rejects Challenge to Special Elections*, AN-NAHAR, July 19, 2007, *available at* <http://www.annahar.com/content.php?priority=1&table=main&type=main&day=Thu>.) (Issam Saliba, 7-9840, isal@loc.gov)

TAIWAN – Election Polls Apart

On July 6, 2007, Taiwan's Central Election Commission (CEC) announced that in 2008 the legislative and presidential elections will continue to be held separately. A suggestion had been made that the two be combined to save resources, but it was not possible to reach cross-party consensus on the issue. The CEC decided in June that the legislative elections will be held on January 12 and the presidential election on March 22. In the past, legislative elections have been held in December. The CEC also decided to print the insignia of each political party in color on the party ballots to help voters identify them, but the ballots for individual candidates, legislative or presidential, are to remain black-and-white.

The legislative polls will be the first in which the new "single-member constituency, two-vote system" will be used. Under it, one vote is cast for a candidate and another for a political party, with the number of the ballots a party receives determining how many at-large seats it will

have. (Loa Iok-sin & Shih Hsiu-chuan, *Next Year's Polls to Be Held Apart*, TAIPEI TIMES, July 7, 2007, at 1, available at <http://www.taipeitimes.com/News/front/archives/2007/07/07/2003368426>.)

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

ENERGY

BRAZIL – International Conference on Biofuels Planned for 2008

Brazil will soon call for an international conference on biofuels to take place in Rio de Janeiro in July 2008. The announcement was made on July 5, 2007, in Brussels, Belgium, by Brazilian President, Luiz Inácio Lula da Silva, during an international conference on biofuels called by the European Commission to launch debate on the development of an international market for the production, utilization, and trade of biofuels. Lula was quoted as saying that he hopes that the Rio Conference sets an important historical milestone that will place biofuels at the center of our response to the biggest challenge of the twenty-first century. (*Lula Anuncia Conferência Internacional Sobre Biocombustível*, LUSA, July 5, 2007, available at <http://www.agencialusa.com.br/index.php?iden=9143>.)

(Eduardo Soares, 7-3525, esoa@loc.gov)

INDIA - U.S.-India Civil Nuclear Agreement Supported by Indian Prime Minister

The United States and India completed negotiations on a bilateral agreement on peaceful nuclear cooperation. This agreement will govern civil nuclear trade between the two countries and open the door for American and Indian firms to participate in each other's civil nuclear energy sector.

The agreement provides for cooperation in research and development, nuclear safety, and commercial trade in nuclear reactors, technology, and fuel. The agreement provides for India to establish a new national facility under the International Atomic Energy Agency for reprocessing safeguarded nuclear material.

The agreement commits both countries to global nonproliferation efforts, and preserves the rights of both countries to terminate cooperation and request the return of transferred items under appropriate circumstances.

In response to domestic critics to this treaty, Indian Prime Minister Manmohan Singh stated that the civil nuclear deal with the United States will not be renegotiated. A spokeswoman for Singh's Congress party said she was confident that the Prime Minister would be able to convince the opposing parties that the steps were taken in the best interest of the nation. ([Indian PM Stands Firm For Key Nuclear Deal With US](#), Channel News Asia (August 9, 2007).)

(Shameema Rahman, 7-3812, srah@loc.gov)

FAMILY LAW

AUSTRALIA – South Australia Grants New Legal Rights to Same-Sex Couples

South Australia has introduced new laws to grant same-sex couples who have lived together for three years or more the same rights as heterosexual de facto couples in the area of property ownership and inheritance (next of kin arrangements). The Statutes Amendment (Domestic Partners) Act 2006 is effective from June 1, 2007. This legislation will more fully align South Australia's laws with those of other Australian states and territories where same-sex couples are accorded similar legal status to heterosexual couples. (Statutes Amendment (Domestic Partners) Act 2006 (SA).) (Lisa White, 7-4987, liwh@loc.gov)

CHINA – Planned Birth Action Plan

On May 24, 2007, China's National Population and Family Planning Commission (NPFPC) issued a circular setting forth an action plan to rectify unlawful births in urban areas. The plan is designed to help stabilize the birthrate by mobilizing party members, cadres, and other public figures to be the first in carrying out family planning. The plan was issued in conformity with the 2006 "Decision on Comprehensively Intensifying Population and Family Planning Work and Making a Unified Plan to Resolve Population-Related Questions" of the Chinese Communist Party (CCP) Central Committee and the State Council.

The major tasks of the plan are to: 1) devise and enhance social restraint measures to be used against public figures, party members, and cadres who violate family planning policy and to improve regulations for handling such violations through CCP discipline and administrative discipline; 2) investigate violations involving such acts as the approval of the birth of a second child, the birth of a second child, and births to the unmarried; 3) publicize unlawful birth cases and how they are handled; and 4) organize propaganda activities and television talk shows featuring noted personages who observe family planning regulations and discipline.

The plan is to be carried out in three stages. From June through September 2007, the focus is on propaganda and mobilization, together with an incentive-based informer system to be established by making available such means as telephones and mailboxes for submitting reports. The second stage, from October 2007 through June 2008, is investigation and handling of instances of unlawful actions involving births of a second child. The third and final stage, from July through October 2008, is assessment and summation. By the end of August 2008, provincial-level population and family planning committees are to submit their 2007-2008 reports on the rectification of unlawful births in urban areas to a body set up under the NPFPC, which will investigate and assess the work done by the localities. (NPFPC, *China: Action Plan to Rectify Unlawful Births in Urban Areas*, June 11, 2007, Open Source Center No. CPP20070614442004; Guojia Renkou Ji Sheng Wei guanyu yin fa chengzhen weifa shengyu zhuanxiang zhili xingdong fang'an de tongzhi [Notice Issued by the National Population and Family Planning Commission on Printing and Distributing an Action Plan for Especially Rectifying Unlawful Births in Urban Areas], CHINAPOP Web site, June 11, 2007, *available at* http://www.chinapop.gov.cn/zwgk/wjgb/t20070611_105401734.html.) (Wendy Zeldin, 7-9832, wzel@loc.gov)

GAMBLING

UKRAINE – Internet Gambling Prohibited

On July 17, 2007, the Prime Minister of Ukraine signed a regulation that outlaws electronic and Internet casinos in Ukraine, as a way to prevent money laundering and eliminate uncontrolled money transfers. The State Financial Monitoring Committee and the Ministry of Finance are drafting a law that would provide for a legislative ban on electronic gambling. Prohibition of such operations was proposed to Ukraine by the Financial Actions Task Force (FATF) as a measure aimed at making the country's financial transactions transparent. The regulation orders domestic Internet providers to close Web sites with online casinos before September 1, 2007, and prohibits all national banks and other financial institutions registered in Ukraine from transferring money to accounts associated with electronic gambling. (*Ukraine Bans Virtual Casinos*, UKRAINIAN NEWS AGENCY, July 18, 2007, available at http://site.securities.com/docs.html?pc=UA&pub_id=UBN_ENGLISH_D&sv=EMIS.)

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

GOVERNMENT EMPLOYEES

BRAZIL – Government Efficiency

In an effort to make the government more efficient, on July 12, 2007, Brazilian President Luiz Inácio Lula da Silva sent Congress the proposal for a complementary law creating a state private law foundation, a legal entity with powers of private initiative that will be implemented in some sectors of the government. According to the proposed law, the foundation will have to fulfill pre-determined performance goals related to public services. If the goals are not achieved due to an employee's inefficiency, the employee will not have tenure and can be discharged according to the rules established in the Consolidated Labor Laws.

The areas of the federal government that may be affected by the proposed law are health, social assistance, culture, sports, science and technology, the environment, complementary social welfare services, social communication, and tourism. (*Governo Envia ao Congresso Projeto que Muda Gestão e Prevê Contratação pela CLT*, O GLOBO (O)NLINE, July, 13, 2007, available at <http://oglobo.globo.com/pais/mat/2007/07/12/296750170.asp>.)

(Eduardo Soares, 7-3525, esoa@loc.gov)

KOREA, SOUTH – Pledge of Allegiance

The Republic of Korea may be the only country besides the United States that has a pledge of allegiance to the national flag. Based on the recommendations of an advisory committee it organized, the government amended the National Flag Law Enforcement Decree on July 21, 2007. There have been constant disputes as to whether the contents of the pledge reflect too much nationalism or militarism. The new pledge of allegiance is: “[i]n front of proud Taegeukgi [the Korean flag], I pledge allegiance to the Republic of Korea [“to devote my body and soul” - deleted] and to the eternal honor of the Republic of Korea embracing freedom and justice [replaced with “our motherland and race”]. (Bae Ji-sook, *Pledge to National Flag to Be*

Revised, KOREA TIMES, May 30, 2007, available at http://www.koreatimes.co.kr/www/news/nation/2007/05/117_3836.html.)

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

GOVERNMENT ETHICS

BANGLADESH -- High Court Ruling on Arrest of Former Bangladesh Prime Minister

The former Bangladesh Prime Minister and president of the Awami League political party, Sheikh Hasina, was arrested at her residence on July 16, 2007 and was produced before a metropolitan court in Dhaka, which sent her to jail after rejecting her bail petition. Hasina was arrested in a case involving the alleged extortion of \$440,000 filed by businessman Azam J. Chowdhury. She has been detained in the newly built “Deputy Speaker House,” declared a detention facility by the authorities. Hasina has denied all charges against her.

On July 30, 2007 a High Court bench granted bail to Hasina and stayed the Anti-Corruption Commission's notice seeking her wealth statement. The court ordered the caretaker government not to bring the trial under the Emergency Power Rules of 2007 and to reply within four weeks why its approval of the case being brought under the emergency rules should not be declared illegal.

On August 9th the government attorney filed separate appeal petitions with the Supreme Court against the High Court orders. (Staff Correspondent, [Govt. Appeals Against HC Orders on Hasina's Bail, ACC Notice](#), The Daily Star (August 10, 2007).) (Shameema Rahman, 7-3812, srah@loc.gov)

BRAZIL – Ethics Code for Magistrates

In light of recent scandals involving members of the judiciary, the Brazilian National Council of Justice (*Conselho Nacional de Justiça - CNJ*), an organ of the judiciary that is in charge of controlling its administrative and financial activities and overseeing the fulfillment of judges’ functional duties, decided to create an ethics code for magistrates. According to the CNJ, a code of ethics is pertinent because the legislation from 1979 (*Lei Orgânica da Magistratura Nacional*) that regulates magistrates only has general rules of conduct for them.

The proposed code was published on CNJ’s Web site for public consultation and submitted to legal entities and the civil society for comments. Now the suggestions received as a result of this process are being incorporated into the draft document. (*Um Código de Ética para Juízes*, O ESTADO DE SÃO PAULO, July 10, 2007, available at <http://txt.estado.com.br/editorias/2007/07/10/edi-1.93.5.20070710.3.1.xml>.)

(Eduardo Soares, 7-3525, esoa@loc.gov)

CHINA – Judicial Interpretation on Anti-Bribery

On Sunday, July 8, 2007, China’s top judicial officials issued a judicial interpretation aimed at cracking down on “new types of corruption in the market economy.” In the Supreme

People's Court (SPC) and the Supreme People's Procuratorate (SPP) Opinion on Several Issues of Application of Law in Bribery Cases, the definition of bribery was broadened to include arrangements where government officials do not receive the bribe in person, but through family members; people with close relationships with the official, such as mistresses; and third parties sharing common interests with the official.

The Opinion regulates bribery in the form of:

- transactions whereby governmental employees assist a bribing party to gain interests by buying or selling government employees automobiles or houses at prices markedly more favorable than reasonable market rates;
- acquisition of corporate stocks without monetary payment or investment;
- establishment of joint ownership in companies or investments whereby government employees assist a bribing party to gain interests;
- receipt of paybacks from stock market investments, stock options, or other types of investments entrusted to a bribing party, who in return acquires interests due to the government employee's position in the government;
- income gathered from illegal gambling, whereby the bribing party gains interests from government employees for providing interests in return;
- obtaining of employment for family members in return for furnishing the bribing party with conveniences or interests whereby the family members receive salaries without actually working.

In addition, the Opinion states that after receiving a bribe, if an official returns it in a timely manner or turns it over to the government, he may avoid blame. (SPC and SPC Opinion on Several Issues of Application of Law in Bribery Cases (in Chinese), SPC official Web site, <http://www.court.gov.cn/lawdata/explain/criminal/200707090002.htm> (last visited July 20, 2007); *China Closes Law Loopholes to Better Combat Official Corruption*, XINHUANET, July 8, 2007, available at http://news.xinhuanet.com/english/2007-07/08/content_6346640.htm.)

The issuance of the Opinion is considered to be a part of a campaign against corrupt public officials currently in operation by the Chinese government. On July 10, 2007, China executed the former director of the State Food and Drug Administration, Zheng Xiaoyu, who was convicted of taking US\$850,000 in bribes. (*Former SFDA Chief Executed for Corruption*, CHINA DAILY, July 10, 2007, available at http://www.chinadaily.com.cn/china/2007-07/10/content_5424937.htm; see also 7 W.L.B. 2007, at 12-13) (Laney Zhang, 7-6303, lzha@loc.gov)

GERMANY – Parliamentary Ethics

On July 4, 2004, the Federal Constitutional Court of Germany dismissed a complaint against a reform of the ethics rules of the German Diet, the representative chamber of the bicameral federal legislature. (Docket No. BvE 1/06, official Web site of the Federal Constitutional Court, available at http://www.bverfg.de/entscheidungen/es20070703_2bve000207.html (last visited July 18, 2007).) The complaint had been brought by several representatives of the Federal Diet who objected to the enactment of section 44a of the Act on

Representatives (26. Gesetz zur Änderung des Abgeordnetengesetzes, Aug. 22, 2005, BUNDESGESETZBLATT I at 2482). This provision requires representatives of the Federal Diet to make legislative work their primary occupation even though they still may engage in other occupations. The same provision also requires disclosure of occupational income to the public, albeit merely by indicating one of three brackets into which the income falls.

The complainants argued that the provision, by making legislative work the primary occupation of a representative, will make the office become limited to career politicians and interferes with the liberty of the representative. They further contended that the public disclosure of income requirement violates a representative's privacy. The Court held that the complexity of today's legislative work requires full-time representatives and that the public had a right to know from what sources and in what amounts representatives receive earned income. (Edith Palmer, 7-9860, epal@loc.gov)

PAKISTAN – Election Commission Unable to Stop President's Violations of Impartiality

Political parties in Pakistan have complained for several years about violations by President Pervez Musharraf of the principles of impartiality of his office and of his constitutional oath of office as Army Chief under article 244 of the 1973 Constitution, which requires him to avoid political activities. He has been addressing public rallies and presiding over meetings of the ruling Pakistan Muslim League (PML), sometimes even in uniform. In the past, the Election Commission kept a discreet silence about these activities. However, when the President addressed public meetings to justify his dismissal of the Chief Justice of Pakistan, the retired Chief Election Commissioner (CEC) of Pakistan, Justice Qazi Farooq, observed to journalists that "President Musharraf addressing public meetings is not an appropriate thing. I have already stated this."

The CEC's statement is considered to be too late to be effective, because the President has almost exhausted his schedule of rallies and recently told a meeting of PML Members of Parliament that they would be on their own when the election schedule is announced and a caretaker government takes office. (*Pak CEC: Musharraf's Rallies Improper*, THE TRIBUNE, July 2, 2007, available at <http://www.tribuneindia.com/2007/20070702/main8.htm>.) (Krishan Nehra, 7-7103, kneh@loc.gov)

GOVERNMENT ORGANIZATIONS

RUSSIAN FEDERATION – New Law Enforcement Agency

On July 4, 2007, the Criminal Procedural Code of the Russian Federation and the Federal Law on Prosecution were amended by provisions transferring the exclusive right to bring criminal charges against and order detention of judges, federal law enforcement officials, legislators, auditors of the federal Accounting Chamber, and former Presidents of Russia from the Prosecutor General to the head of the newly created Investigation Committee. The Committee, which structurally is a part of the General Prosecutor's office, was established in May 2007 as an independent agency designed to conduct independent, preliminary investigations of crimes and to secure the procedural independence of investigators. The head of the

Committee, who is formally the Associate Prosecutor General, is appointed by the President of Russia. General oversight will be conducted by the Prosecutor General's office; however, the previously required prosecutorial approval to initiate criminal investigations is no longer required. (Amendments to the Criminal Procedural Code of the Russian Federation, ROSSIISKAIA GAZETA [official gazette] No. 4410, July 11, 2007, *available at* <http://www.rg.ru/sujet/3026.html>.)
(Peter Roudik, 7-9861, prou@loc.gov)

HEALTH LAW & REGULATION

CHINA – New Pharmaceutical Approval Procedures

On July 10, 2007, the same day the former head of China's State Food and Drug Administration (SFDA), Zheng Xiaoyu, was sentenced after being convicted of taking bribes in exchange for approving registration of counterfeit drugs, the SFDA published newly revised approval procedures, which are designed to tighten the approval procedure for new medicines (*Former Head of China's Drug Watchdog Executed*, XINHUA, July 10, 2007, *available at* http://news.xinhuanet.com/english/2007-07/10/content_6353536.htm). The revised Pharmaceutical Registration Administrative Rules will be in effect from October 1, 2007. (For the Chinese-language text of the Rules, *see* the SFDA Web site, <http://www.sda.gov.cn/cmsweb/webportal/W53384/A64021989.html> (last visited July 20, 2007).) The current Rules came into effect on May 1, 2005, and were signed by Zheng.

Stricter investigative measures are set forth under the revised Rules, such as intensified examinations of the place of production and testing samples and strengthened review of the application documentation. Drugs already in the market may be subject to reexamination. Transparency of the process of approval is emphasized, as well as the responsibility for wrongdoing in approving new medicines.

In addition, China reportedly will tighten quality control of pharmaceutical firms. The SFDA has revoked the production licenses of five drug manufacturers since July 2006. (*China Tightens Quality Control of Pharmaceutical Firms*, XINHUA, July 6, 2007, *available at* http://news.xinhuanet.com/english/2007-07/06/content_6339754.htm.)
(Laney Zhang, 7-6303, lzha@loc.gov)

EUROPEAN UNION – Green Paper on Bio-Preparedness

On July 11, 2007, the European Commission adopted a Green Paper on bio-preparedness. The document contains various policy options and is intended: 1) to launch a debate with regard to biological dangers and 2) to improve the capacity of those in charge (including national authorities, the military, bio-industry, and other stakeholders) to respond efficiently and promptly. The Commission has invited those interested to send responses by October 1, 2007. (EUROPA, *Bio-Preparedness Green Paper Adopted by the Commission*, HEALTH AND CONSUMER VOICE (July 2007), *available at* http://ec.europa.eu/dgs/health_consumer/dyna/consumervoice/create_cv.cfm?cv_id=344.)
(Theresa Papademetriou, 7-9857, tpap@loc.gov)

UNITED STATES – Court Holds Terminal Patients Have No Right to Experimental Drugs

On August 7, the U.S. Circuit Court for the District of Columbia Circuit ruled that terminally ill patients have no constitutional right of access to experimental drugs that have passed limited safety trials but have not been proven safe and effective.

The Food, Drug, and Cosmetic Act generally prohibits access to new drugs until they have been approved by the Food and Drug Administration (“FDA”). The FDA has programs in place that provide early access to promising experimental drugs, but the appellants argued that these programs were not adequate to the needs of its terminally ill members. The appellants first petitioned the FDA, and then brought suit in the U.S. District Court for the District of Columbia, arguing a fundamental right under the Due Process Clause of the Constitution guarantees access to “investigational medications” by terminally ill patients. The District Court held that no such right existed. A divided panel of the U.S. Court of Appeals for the District of Columbia Circuit overturned the District Court’s ruling, but the court granted an en banc rehearing and reversed the panel’s judgment.

The D.C. Circuit found that access to experimental drugs is not a “fundamental” right, that is, one “deeply rooted in this Nation’s history and tradition.” As a result, the appropriate test for determining whether the statutory and regulatory scheme for such drugs is constitutional is the “rational basis” test. Under this test, the court found that there is both a legitimate state interest in protecting patients from drugs of unproven safety and efficacy, and that the means chosen by Congress and the FDA for drug approval has a rational relationship to this state interest. The court opined that in areas where scientific and medical issues are unsettled and part of a continuing debate, the democratic branches of government are more suited to examination of the issues and determination of policy than the judicial branch. ([Abigail Alliance for Better Access to Developmental Drugs, et al. v. Eschenbach](#), No. 04-5350 (D.C. Cir., August 7, 2007).) (Gary Robinson, 7-3802 , grob@loc.gov)

HUMAN RIGHTS

EUROPEAN COURT OF HUMAN RIGHTS/ POLAND – Judgment in Gay Protest Case

On May 3, 2007, the European Court of Human Rights, located in Strassbourg, issued a judgment against the Polish government’s decision to prohibit a rally of gay protesters, ruling that the decision was illegal. The organizers of the rally, which took place in 2005 despite the government’s ban, had requested permission to hold a tolerance march in May and a rally in June of 2005. However, the Mayor of Warsaw refused to grant permission on the grounds, *inter alia*, that the organizers failed to supply a “traffic organization plan.”

The Court ruled that Poland violated several key human rights, including the right of assembly and the general principle of non-discrimination. It argued that the government’s stance was discriminatory because it did not request a traffic organization plan from previous rally organizers and that, without official permission, people were discouraged from participating in the rally, because “no official protection could be ensured by the authorities against potentially hostile demonstrators.”

A week prior to the Court's judgment, Members of the Parliament of the Council of Europe had adopted a resolution urging that a fact-finding parliamentary committee be sent to Poland to examine allegations of homophobia and discriminatory activities against homosexuals in that country. (*Poland's Ban of Gay Parade Ruled Illegal*, EU OBSERVER, May 4, 2007, available at <http://euobserver.com/9/23995/?rk=1>.) (Theresa Papademetriou, 7-9857, tpap@loc.gov)

UGANDA – Pastoralists Petition Parliament

On July 17, 2007, a group of Balaalo pastoralists petitioned the Ugandan Parliament, asking that they not be resettled from their land. In addition, the group requested the establishment of a commission of inquiry into the recent fighting between ethnic groups in the Buliisa region. The petition documents were given to parliamentary Speaker Edward Ssekandi. The Government of Uganda currently plans to resettle the Balaalo people in Kiboga District, as a temporary measure to end clashes between that group and the Bagungu group. Members of the Balaalo group have purchased land in Buliisa in the last few years, a move that has angered some of the Bagungu. "I think that the only language these people will hear is if the Bagungu rise, slaughter their cows and forcefully chase them away," said one Bagungu spokesman, while on the other side, Balaalo leader Grace Bwororoza stated of the plan to move her group, "[w]e have never asked the government to give us land. We are not landless. Our land is in Buliisa and we are ready to die for it." (*Uganda: Balaalo Reject Kiboga*, THE MONITOR (Kampala), July 10, 2007, available at <http://allafrica.com/stories/200707091685.html>.)

Some group members have claimed that the legislators have been instrumental in increasing hatred between ethnic groups. A court has recently blocked the planned relocation until the petitions are reviewed. Ssekandi assured the Balaalo group that the legislature would work professionally. He went on to state, "[m]y appeal is for you to handle the matter calmly and follow the law and all will be settled." (Mercy Nalugo, *Balaalo Petition Parliament*, THE DAILY MONITOR, July 18, 2007, available at <http://www.monitor.co.ug/news/news07185.php>.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

IMMIGRATION AND NATIONALITY LAW

BANGLADESH – U.S. Government Deports Fugitive Convict

On June 16, 2007, A.K.M. Mohiuddin Ahmed, convicted in absentia for participating in the assassination of Bangladesh's first Prime Minister, Sheikh Mujibur Rahman, was deported to Bangladesh from the United States. Ahmed, a former military officer, and eleven other persons were convicted in 1998 for participating in the assassination of Rahman on August 15, 1975, during a military coup. Rahman, along with most of his family and a number of aides, was killed at his Dhaka residence by military personnel. The killers were not brought to trial until Rahman's daughter, Sheikh Hasina, became Prime Minister in 1996. On November 8, 1998, a Dhaka district and sessions judge sentenced to death 15 out of the 19 accused assassins. On April 30, 2001, Justice Mohammad Fazlul Karim of the High Court Division pronounced the final verdict, confirming the death sentence for 12 of the convicts, including Ahmed.

Ahmed had entered the United States in 1996 on a visitor's visa and applied for permanent residence through an asylum petition, but an immigration judge ordered his deportation in 2002, and in February 2007 a U.S. district court judge denied his review petition. On May 3, 2007, a private bill for the relief of Ahmed was introduced in the U.S. House of Representatives. The bill was referred to the Committee on the Judiciary where it died without any further legislative action.

After Ahmed failed to obtain permanent residence, the U.S. Government deported him on June 16, 2007. According to the legal advisor to the Bangladesh Government, Ahmed will have the opportunity to appeal his conviction to the Supreme Court of Bangladesh. (Nazrul Islam, *Mujib's Assassinator Extradited from US; Sent to Dhaka Jail*, DAILYINDIA.COM, June 18, 2007, available at <http://www.dailyindia.com/show/150313.php/Mujibs-assassinator-extradited-from-US;-sent-to-Dhaka-jail->.) (Shameema Rahman, 7-3812, srah@loc.gov)

NEW ZEALAND – Changes to Skilled Migrant Criteria

New Zealand has amended its immigration regime in relation to its Skilled Migrant category of visas. The amendments include:

- Increase in bonus points awarded for skilled employment, a recognized qualification, and work experience in an identified future growth area;
- Introduction of bonus points for a post-graduate New Zealand qualification (Masters or Doctorate);
- Reduction in necessary years of New Zealand work experience to claim the applicable bonus points;
- Increase in the bonus points awarded for a principal applicant's partner's recognized qualification and skilled employment in New Zealand;
- Restructuring of how bonus points are awarded for study in New Zealand;
- Removal of bonus points for skilled employment, a recognized qualification, and work experience in an identified cluster of industries and regions;
- Review of the list of recognized qualifications; and
- An amended definition of skilled employment.

(Press Release, Hon. David Cunliffe, Skilled Migrant Category Fine-Tuned to Deliver More (June 6, 2007), available at <http://www.beehive.govt.nz/ViewDocument.aspx?DocumentID=29629>.)

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

TONGA – Parliament Passes Bill Permitting Dual Citizenship

The Nationality Amendment Act 2007 (to amend the Nationality Act (CAP. 59), has passed the Tongan Parliament and is awaiting royal assent. These amendments will permit Tongans to have dual citizenship. Thus, children born overseas to a Tongan mother or father may be Tongan citizens and thousands of Tongans who lost Tongan citizenship when they became foreign nationals will be able to reclaim their Tongan citizenship. (Nationality

(Amendment) Act 2007; unofficial text is available from the Legislation of Tonga Web site, <http://legislation.to/cms/new-acts/2007/index.html> (last visited Aug. 8, 2007).

Media reports on the Act have indicated that Tongans who had forfeited lands to reside overseas will have to reapply for permission to have the lost land returned to them. (*Dual Citizenships Finally Becomes Law*, TONGAN BROADCASTING CORPORATION, June 12, 2007, available at <http://www.tonga-broadcasting.com/>.)
(Lisa White, 7-4987, liwh@loc.gov)

UNITED STATES – Spouses, Partners Denied Automatic Asylum for Reproductive Rights Oppression

On July 16, the U.S. Circuit Court for the Second Circuit overturned a decision by the U.S. Board of Immigration Appeals (BIA) interpreting Section 601(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The BIA had ruled that “an individual whose spouse has been forced to abort a pregnancy, undergone involuntary sterilization, or been persecuted under a coercive population control program could automatically qualify for asylum as a ‘refugee.’” The appellants, Chinese nationals, argued that the same standard should apply to unmarried partners of oppressed individuals. The court disagreed, and ruled that by the plain text of the statute, even spouses were not granted automatic refugee status.

The court stated that the statute was clear that its protections only extended to an individual subjected to involuntary abortion or sterilization procedures, or who had shown proof of persecution. The court noted that under other statutes, the spouse of someone qualifying for refugee asylum status would be entitled to derivative asylum status; thus the question of whether spouses or unmarried partners could benefit under the IIRIRA only arose if the person in question was applying for asylum in the absence of their spouse. The court found that the BIA’s interpretation of the IIRIRA would have the perverse result of encouraging men to leave their wives behind and seek asylum on the basis of their wives’ oppression, which was not the intent of Congress, as evidenced by the statute’s explicit limit on the IIRIRA’s protections to the individual directly affected. (*Lin v. U.S. Dept. of Justice*, No. 02-4611-ag (2nd Cir. July 16, 2007).)

(Gary Robinson, 7-3802, grob@loc.gov)

INTELLECTUAL PROPERTY

INDIA - Chennai High Court Ruling Against Drug Patent Protection

On August 6, 2007, the High Court in Chennai, India dismissed a legal challenge to India's 2005 Patent Law in a case filed by the Swiss pharmaceutical company Novartis. Novartis took the Indian government to court over the 2005 Patent Law after a patent application was denied. See *Global Legal Monitor*, March 2007, at 38-39. Novartis claimed that India's Patents Act did not meet rules set down by the World Trade Organization and was in violation of the Indian Constitution. The High Court rejected Novartis’ claim that it should be given the right to patent life-saving drugs and prevent their generic production in India. Indian companies can now continue to manufacture and sell generic versions of medicines produced before 1995 at a

fraction of the price in Western countries. The only caveat is that domestic companies need to use a different manufacturing process from that of the original invention. (Arun Kumar, [Novartis ruling should bring changes in Indian laws: USIBC](#), New Kerala.com (August 8, 2007).) (Shameema Rahman, 7-3812, srah@loc.gov)

IVORY COAST – Plans to Stem Counterfeiting

At an official ceremony held on June 24, 2007, in anticipation of World Anti-Counterfeiting Day on June 25, the Minister for Industry and for the Promotion of the Private Sector, Mrs. Amah Marie Tehoua, condemned the increasing rate of counterfeiting in Ivory Coast, stating that counterfeiters and swindlers, by violating intellectual property rights (IPR), hamper the country's economic development. In order to combat this trend, Tehoua plans to create an Ivorian board for intellectual property, foresees a fund for the promotion of inventions and other creations, and is preparing a draft bill on IPR protection at national borders.

Economy and Finance Minister Charles Diby Koffi pointed out that the means used to fight counterfeiting in Ivory Coast, especially legal and organizational ones, are still limited. Noting that counterfeiting is an attack against the country's economy, he characterized the situation as "alarming" and stated that counterfeiting affects not only the textile sector but also the pharmaceutical and food products sectors and the fiscal income, because it opens the way for fiscal evasion. Koffi called for greater synergy among the private sector, the administrative authorities, and the general public "by creating the means to fight this evil." To that end, in 2006 his Ministry had donated equipment worth about FCFA1 billion (about US\$2.08 million) to the customs services. (Cisse Cheik Ely, *200,000 Jobs Lost Every Year*, NORD-SUD QUOTIDIEN, June 25, 2007, at 7, Open Source Center No. AFP20070625638017.) (Wendy Zeldin, 7-9832, wzel@loc.gov)

JAPAN – No Camcorders in Movie Theaters

Japan enacted a law in May 2007 that makes it a criminal offense to videotape a new film in a theater. Under the Law Concerning Prevention of Unauthorized Photographing of Cinematographic Works (Law No. 65 of 2007), recording a new movie in a movie theater cannot be regarded as copying for private use. Under the Copyright Law, copying for private use can be an exception of acts of copyright infringement. A person who records a new movie in a movie theater will be subject to criminal punishment of up to five years in prison or a fine of five million yen (US\$42,000) from September 2007. (Dai 166 kokkai gian no ichiran [List of bills submitted to no. 166 Diet session], House of Representatives Web site, http://www.shugiin.go.jp/index.nsf/html/index_gian.htm (last visited July 20, 2007).) (Sayuri Umeda, 7-0075, sume@loc.gov)

INTERNATIONAL RELATIONS

CENTRAL AMERICA/MEXICO – Agreement on Regional Security Plan

The presidents and heads of government of Mexico, Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica, Panama, and Belize agreed to promote a joint regional security plan to

combat organized crime, drug trafficking, gang activities, and terrorism. The agreement was announced at the end of a ninth regional summit, held in San Pedro, Belize, on June 30, 2007. The plan is going to be presented to U.S. President George W. Bush, who has already expressed interest in providing funds for its implementation. (Bernardo Valiente, *Países C.A. Adoptan Plan Regional de Seguridad*, LA NACIÓN, June 30, 2007, available at <http://archive.laprensa.com.sv/20070630/nacion/814093.asp>.) (Norma C. Gutiérrez, 7-4314, ngut@loc.gov)

JUSTICE

AUSTRALIA – DNA-Sharing Agreement Signed

The Commonwealth of Australia and several states and territories have signed an agreement to provide exchanges of DNA information. DNA profiles from state and territory databases will be incorporated into a national database managed by CrimTrac. Queensland, the Australian Capital Territory, Western Australia, South Australia, the Northern Territory, and Tasmania have signed the agreement, while New South Wales and Victoria have publicly committed themselves to signing as soon as necessary legislative changes have been made. (Press Release, David Johnston, Minister for Customs and Justice, National DNA Sharing Arrangement Signed (June 28, 2007), available at <http://www.ministerjusticeandcustoms.gov.au/www/agd/mjc.nsf/page/rwp5dca4168177a8669ca257307008198e3>.) (Lisa White, 7-4987, liwh@loc.gov)

BRAZIL – Federal Supreme Court and IRS Sign Agreement

On June 26, 2007, the President of the Brazilian Federal Supreme Court, Ellen Gracie Northfleet, and the Secretary for the Brazilian Internal Revenue Service, Jorge Rachid, signed an agreement that will allow judges to have online access to the IRS's database, enabling them to verify information regarding identification, location, and properties owned by people who are in debt due to a court decision or judicial procedure. In the past, requests for information made by the judiciary took almost 90 days to be received by a judge and involved close to one hundred IRS personnel. Now, after filling out an online request, the judge will only have to wait a few minutes to receive the information. (Press Release, Conselho Nacional de Justiça, Convênio permite acesso online de juízes a informações da Receita Federal (June 25, 2007), available at http://www.cnj.gov.br/index.php?option=com_content&task=view&id=3088&Itemid=1; Press Release, Conselho Nacional de Justiça, Assinado Convênio que Agiliza Acesso do Judiciário a Informações do Fisco (June 26, 2007), available at http://www.cnj.gov.br/index.php?option=com_content&task=view&id=3096&Itemid=167.) (Eduardo Soares, 7-3525, esoa@loc.gov)

ETHIOPIA – Life Sentence for Opposition Leaders

On July 16, 2007, the Federal High Court of Ethiopia sentenced 35 opposition members, including five in absentia, to life in prison. The three-judge panel rejected a prosecution request that the defendants be executed on charges of trying to overthrow the government, treason, and inciting violence. Another eight defendants, including two journalists, were ordered to serve

terms ranging from 18 months to 18 years. Among the thirty-eight defendants present at the sentencing were the entire leadership of the Coalition and Unity for Democracy (CUD) Party and several of the capital Addis Ababa's elected MPs and city councilors, including the mayor-elect. The CUD leaders were also barred from voting or standing for election. The judges ordered three publishing companies to close and fined them between US\$1,700 and US\$13,600 each. (*Life in Jail for Ethiopia Leaders*, BBC NEWS, July 16, 2007, available at <http://news.bbc.co.uk/go/pr/fr/-/2/hi/africa/6900368.stm>; *Ethiopian Court Sentences 35 to Life Imprisonment, 8 Others to Lower Sentences*, INTERNATIONAL HERALD TRIBUNE, July 16, 2007, available at <http://www.ihf.com/articles/ap/2007/07/16/africa/AF-GEN-Ethiopia-Opposition.php>.)

The defendants reportedly refused to recognize the court's authority, contending that the trial was political. It was unclear whether they would appeal to the Supreme Court; they are said to have signed a document that could pave the way for a presidential pardon and their release. (*Id.*) The convictions, handed down in June, were based on charges relating to violent protests over 2005 elections that the opposition contends were rigged. Almost 200 people died as a result of the clashes between protesters and security forces, and most of the dead were protesters killed by security forces. An Ethiopian judge who conducted an independent inquiry concluded that the police had used excessive force and even accused them of carrying out a massacre. He later fled the country, stating that he had been pressured to change his findings and had received death threats. (*Ethiopian Opposition Leaders Escape Death Sentences*, THE DAILY MAIL, July 16, 2007, available at http://www.dailymail.co.uk/pages/live/articles/news/worldnews.html?in_article_id=468770&in_page_id=1811; *Life in Jail for Ethiopia Leaders*, *id.*) (Wendy Zeldin, 7-9832, wzel@loc.gov)

ISRAEL – Limitations on Tenure of High-Level Court Officials

On July 9, 2007, the Knesset (Israel's parliament) passed an amendment to the Courts Law (Consolidated Version) 5744-1984. Among other provisions, the amendment limits the tenure of the President and Deputy President of the Supreme Court, district courts, and circuit courts to seven years from the date of appointment without the possibility of extension. Additionally, the amendment prohibits the appointment to the office of President or Deputy President of the Supreme Court of judges who are over 67 years old. The mandatory retirement age for judges is 70.

Explanatory notes on the amendment cite as the reasons for the limitations on tenure the need "to increase independence in the appointing authority and to enable the injection of fresh talent in the higher positions." Some, however, view the amendment as designed to weaken the judicial system at a time of internal political conflict among the three branches of government. (The Courts (Amendment No. 45) Law 5767-2007 and bill, Knesset Web site, <http://www.knesset.gov.il> (last visited July 18, 2007); *First Friedman's Reform Gets Under Way: The Knesset Approved Restricting the Tenure of the President of the Supreme Court*, HAARETZ ONLINE, <http://www.haaretz.co.il/hasite/spages/880045.html?more=1> (last visited July 18, 2007).) (Ruth Levush, 7-9847, rlev@loc.gov)

LEGISLATIVE POWER

UNITED KINGDOM – Member of Parliament Suspended over Iraq Scandal

George Galloway, a controversial Member of Parliament (MP) in the United Kingdom, was recently suspended from the House of Commons following an inquiry into the operation of his charity in Iraq, the Mariam Appeal. The MP's controversial actions previously brought him to testify before the United States Senate in May 2006 concerning allegations that he had received oil allocations from the regime of Saddam Hussein.

Following an inquiry into the operation of Mariam Appeal by a House of Commons committee, Galloway has been suspended for 18 sitting days of Parliament as a result of his conduct during the inquiry. Specifically, it was found:

Mr. Galloway's conduct aimed at concealing the true source of Iraqi funding of the Mariam Appeal, his conduct towards [those] involved in this inquiry, his unwillingness to cooperate fully with the Commissioner, and his calling into question of the Commissioner's and our own integrity have in our view damaged the reputation of the House.

The suspension was confirmed in a dramatic fashion, with Galloway being ejected from the House of Commons due to his failure to abide by the orders of the Speaker of the House; an additional five-day suspension was thereupon added to the initial 18 days. The period of suspension will commence at the beginning of the next sitting of the House of Commons in October 2007. (HOUSE OF COMMONS, COMMITTEE ON STANDARDS AND PRIVILEGES, SIXTH REPORT: THE CONDUCT OF MR. GEORGE GALLOWAY, 2006-7, HC 909-I (July 17, 2007), available at <http://www.publications.parliament.uk/pa/cm200607/cmselect/cmstnprv/909/909i.pdf>; July 27 2007, Parl. Deb., H.C. (5th ser.) (2007) 610-638, <http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070723/debindx/70723-x.htm>.) (Clare Feikert, 7-5262, cfei@loc.gov)

NATIONAL SECURITY

CHINA – Civil Nuclear Security Regulation

On July 11, 2007, China issued a new regulation on the supervision and management of civil nuclear security facilities, which specifies standards and licensing procedures for these facilities. The regulation will come into effect on the first day of next year. (Minyong He Anquan Shebei Jiandu Guanli Tiaoli [Regulation on the Supervision and Management of Civil Nuclear Security Facilities], promulgated by the State Council (Cabinet), available at the central government official Web site, http://www.gov.cn/zwgg/2007-07/19/content_690167.htm (last visited July 20, 2007).)

The regulation will help guarantee the security operations of civil nuclear facilities, prevent nuclear accidents, ensure the health of people working for nuclear plants, and protect the environment, according to the State Council. (*China Issues Regulation on Civil Nuclear Security*

Facilities, PEOPLE'S DAILY ONLINE, July 21, 2007, available at <http://english.people.com.cn/90001/90776/6220975.html>.)

The regulation requires the state nuclear supervision authority to investigate imported civil nuclear security facilities for security purposes before the facilities are investigated as imported goods. It also emphasizes the legal responsibilities of government officials in their management and supervision of such facilities.

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ENGLAND AND WALES – Police Given Real Time Access to Traffic Camera Data

The London Metropolitan Police have been granted access to view real-time data provided by 1,500 cameras operated by Traffic for London to enforce the congestion charge – a fee imposed on drivers to enter certain areas of central London. The camera system already utilizes Automatic Number Plate Recognition technology, which links cars with detailed information about the owners. This new move exempts the Metropolitan Police from the provisions of the Data Protection Act 1998, which required the police to apply for access to the data on a case-by-case basis. The Home Secretary claims that the new exemption is as a result of the “vehicle-borne terrorist threat to London.” (*Met Given Real Time C-Charge Data*, BBC NEWS, July 17, 2007, http://newsvote.bbc.co.uk/mpapps/pagetools/print/news.bbc.co.uk/2/hi/uk_news/politics/6902543.stm.)

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RUSSIAN FEDERATION – Corporate Military Units

On July 4, 2007, the State Duma (legislature) of the Russian Federation, citing the existing terrorist threat, amended the federal Procurement Act and Law on Weapons, allowing the nation's natural monopolies and largest corporations, Gazprom and Transneft, to establish their own military units with the purpose of defending and protecting their companies' industrial and transportation infrastructures. According to the amendments, companies included in these holdings are allowed to acquire weapons and other military and paramilitary equipment to protect objects used for the exploration, development, and transportation of oil and natural gas produced under state contracts. Obtaining licenses issued by local police authorities is the only requirement for the creation of these corporate armies. These units will be financed by the companies. The amendments exempt the protective services of these two companies from the jurisdiction of the Law on Private Detective and Protection Services and expand the scope of weapons the officers of these companies' military units are permitted to use. It is expected that in the near future similar military units will be allowed for some other companies, including the National Savings Bank, national Electric Power Company, and the national railroad. (Information Channel of the Russian State Duma, <http://www.akdi.ru/gd/NEW07/374.htm> (last visited July 20, 2007).)

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PROPERTY

VIETNAM – Foreigner Property Ownership

Under a new regulation pending approval from the Ministry of Construction, foreigners and foreign institutions in Hanoi and Ho Chi Minh City (the former Saigon) would be allowed to buy property in Vietnam. Those eligible include foreign investors and “individuals who have contributed significantly to Vietnam’s development and have been formally recognized by the President, the Government or the Vietnam Fatherland Front President for their efforts”; cultural experts, academics, and scientists working in Vietnam; spouses of Vietnamese citizens residing in Vietnam; and foreign-invested businesses or organizations in Vietnam. (*Foreigners to Own Property Under New Law*, ASEMCONNECT, July 17, 2007, available at <http:// asemconnectvietnam.gov.vn/NewsDetail.aspx?hoinhap=1&type=1&subId=50&Newsid=8682>.) Overseas Vietnamese have reportedly been permitted to buy property in the country for the last six years.

The regulation stipulates that foreigners and foreign companies seeking to buy property in Vietnam, in addition to having documents proving their eligibility, must have been resident in Vietnam for at least one uninterrupted year. If approved, the regulation would first be applied for a three- to five-year trial period in the two cities. Because many foreigners working in Vietnam for the long term have met with legal obstacles barring them from owning property outright, they have heretofore bought it indirectly through Vietnamese partners.

A Ministry of Construction official, Nguyen Manh Khoi, was quoted as saying, however, that if the proposal is approved, only about 20 percent of some 81,000 foreigners living in Vietnam would qualify for property ownership under its provisions. The conditions for ownership it imposes could be discouraging, because foreigners must sell or transfer their real estate to another party upon leaving the country. In addition, the regulation’s procedures for acquiring ownership and the means the authorities can use to control the movement of foreigners to other cities or provinces, as well as their final departure from Vietnam, remain unclear. (*Id.*) (Wendy Zeldin, 7-9832, wzel@loc.gov)

SECRECY

SWITZERLAND – Classified Information

On July 4, 2007, the Federal Cabinet issued the Regulation on the Protection of Federal Information (AMTLICHE SAMMLUNG DES BUNDESRECHTS 3401 (2007)) that provides a new and comprehensive scheme for the protection of both military and civilian classified information. Formerly, the secrecy of civilian and military information was governed by separate enactments, but it is expected that a uniform system of classification will provide better protection against global terrorism and its threat to internal and external security (SDA BASISDIENST DEUTSCH, June 8, 2007, LEXIS/NEXIS, News Library, Zeitng File). Protection-worthy information is classified into the three categories of secret, confidential, and internal. Documents are classified as “secret” if their unauthorized knowledge would pose a very serious threat to internal and/or external security. The designation “confidential” protects against lesser threats and also against

interference with governmental decision-making processes and foreign relations. The classification “internal” aims at protecting other instances of official secrecy in both the military and civilian realm as well as protecting business secrets.

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TERRORISM

AUSTRALIA – Terrorism Charges

A man has been charged in Australia with a terrorism-related offense in relation to his support of the Liberation Tigers of Tamil Eelam (LTTE) in Sri Lanka. The man was charged with intentionally being a member of a terrorist organization and intentionally providing support or resources to a terrorist organization under the Criminal Code Act 1995 (Cth) §§ 102.3, 102.6. (Press Release, Australian Federal Police, Sydney Man Charged with Terrorism Offences (July 10, 2007), available at http://www.afp.gov.au/media_releases/national/2007/sydney_man_charged_with_terrorism_offences.)

In a separate case, an Indian doctor working in Australia has been charged with providing support to a terrorist organization (§ 102.7(2) Criminal Code Act 1995 (Cth)) and has had his work visa revoked on character grounds. Dr. Mohamed Haneef is accused of lending an SIM card to alleged perpetrators of terrorist incidents in the United Kingdom on June 29-30, 2007. Haneef has been granted bail in relation to the charge of supporting a terrorist organization; however, the revocation of his work visa means he may be kept in immigration detention. (Press Release, Australian Federal Police, Southport Man to Face Terrorist Support Charge (July 14, 2007), available at http://www.afp.gov.au/media_releases/national/2007/southport_man_to_face_terrorist_support_charge; Phillip Coorey & Joel Gibson, *Haneef Detained after Bail Win*, SYDNEY MORNING HERALD, July 16, 2007, available at <http://www.smh.com.au/news/national/haneef-detained-after-bail-win/2007/07/16/1184438190629.html>.)

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CHINA – Anti-Terrorism Measures

On June 11, 2007, with immediate effect, the People’s Bank of China (PBC) issued the Measures for the Administration of Financial Institutions’ Reporting of Questionable Transactions Suspected of Involving Financing for Terrorist Purposes. The Measures have been described as an extension of China’s Anti-Money Laundering Law, which entered into force on January 1, 2007 (Xin Zhiming, *New Measures to Fight Terror-Financing*, CHINADAILY, June 12, 2007, available at http://www.chinadaily.com.cn/china/2007-06/12/content_891900.htm.) In June 2007, China was accepted as a full member of the Financial Action Task Force, the global anti-money laundering organization. (Chairman’s Summary of the FATF Plenary in Paris 27-29 June 2007 (June 29, 2007), available at <http://www.fatf-gafi.org/dataoecd/13/31/38877832.pdf>.)

Under the new Measures, a bank’s head office or its designee are required to report to the PBC’s China Anti-Money Laundering Monitoring and Analysis Center within ten workdays any transaction suspected of being related to terrorist activities. Four types of activities are considered to be terrorist financing under the Measures: 1) raising, possession, or use of capital

or other assets by terrorist organizations or terrorists; 2) using capital or other assets to assist terrorist organizations, terrorists, terrorism, or terrorist criminal activities; 3) possessing, using, or raising funds or other assets for terrorism or terrorist criminal activities; and 4) possessing, using, or raising funds or other assets for terrorist organizations or terrorist elements.

According to the PBC Web site, reports related to terrorist organizations and activists listed by the United Nations Security Council and by Chinese organizations are to be made regardless of the amount of money or value of assets involved. A provision of the Measures also makes the broad statement that where there is suspicion of “any client, fund, transaction, or potential transaction” being involved in terrorism or of any person conducting financial activities for terrorist purposes, a report should be submitted “irrespective of whether the amount of funds or the value of the property involved is huge” (article 8). (Xin Zhiming, *id*; *Measures for the Administration of Financial Institutions’ Report of Transactions Suspicious of Financing for Terrorist Purposes*, Invest in China Web site, June 11, 2007, available at http://www.fdi.gov.cn/pub/FDI_EN/Laws/law_en_info.jsp?docid=79879.)

It may also be noted that a China is in the process of reviewing a draft anti-terrorism law. Zhao Bingzhi, President of the Criminal Law Research Committee of the China Law Society, who is participating in drafting the law, when speaking before the Workshop on the Global Legal Framework Against Terrorism on May 30, 2007, did not give a timeframe for its completion, but it may be part of the legislature’s new five-year plan to begin in 2008. (*Experts: Anti-Terrorism Law on Cards*, CHINADAILY, May 31, 2007, available at http://www.chinadaily.com.cn/china/2007-05/31/content_883861.htm.) (Wendy Zeldin, 7-9832, wzel@loc.gov)

EUROPEAN UNION – Annulment of Freezing of Assets of Two Terror List Members

On July 11, 2007, the European Union Court of First Instance (CFI), located in Luxembourg, overturned a decision of the Member States to freeze the assets of Philippine rebel leader Jose Maria Sison and the S-Asqa foundation, established in the Netherlands. Both names were included in the EU terror list, the first in 2002 and the second in June 2003. The terror list was established following the terrorist attacks against the United States on September 11, 2001.

The CFI ruled that the EU Members had infringed upon the rights of both parties by not disclosing to them the reasons their assets had been frozen and by failing to grant them sufficient judicial guarantees. The CFI did not decide as to whether the two should be totally removed from the list.

This decision is in line with similar previous decisions issued by the CFI. In December 2006, in the case of People’s Mujahadeen Organization of Iran, an Iranian opposition group, the CFI held that the EU Member’s decision to freeze the assets of that group violated the rights of the group. Following that decision, EU Members were forced to examine their decisions more carefully and to ensure that they provide full reasoning for their decisions to those affected. (*EU Court Annuls Assets Freeze for Two Terror List Members*, EU OBSERVER, July 11, 2007, available at <http://www.euobserver.com/9/24463/?rk=1>.) (Theresa Papademetriou, 7-9857, tpap@loc.gov)

MEXICO – Anti-Terrorism Decree Promulgated

Mexico recently promulgated a decree that significantly reforms anti-terrorism legislation. The decree affects two federal codes and several federal statutes. It adds to the Federal Penal Code a chapter on “international terrorism,” which imposes a punishment of up to 40 years of imprisonment, plus fines, upon anyone who, using toxic substances, chemicals, biological or similar weapons, radioactive material, explosives, or firearms, among other violent means, commits acts of terrorism or attempts of such acts against persons and property of a foreign state or international organization. The purpose of those acts is defined as being to attempt the undermining of that foreign state or international organization’s authority or to put pressure on them to make a particular decision. The decree makes the funding of terrorism a crime and prohibits the contribution and collection of economic funds or resources of any kind to commit international terrorist acts or to support terrorist persons or terrorist organizations that operate abroad. The decree forbids any conspiracy that is made within Mexican territory to commit terrorist acts, even though the commission of the terrorist acts may take effect or have taken effect abroad. Moreover, the decree outlaws concealing the identity of a terrorist or the fact that a terrorist is engaged in any of the above prohibited conduct.

In another chapter, on “terrorism in general,” the decree forbids and penalizes the commission within the national territory of all the above acts of terrorism, attempts of such acts against national security, and putting pressure on the Mexican authorities to make a particular decision. The decree forbids and penalizes the contribution and collection of funds or resources with the knowledge that they will be used to support persons or organizations that operate or commit terrorist acts in the national territory.

The decree includes all the above-listed conduct on the list of prohibited conduct in the Federal Law against Organized Crime. The decree also amends several financial statutes, imposing upon the appropriate authorities the duty to establish measures and procedures to prevent and detect acts, omissions of acts, and operations that can favor, help, or facilitate in any manner the commission of terrorist acts.

Lastly, the decree amends a provision of the Federal Code of Criminal Procedure granting power to the Attorney General of the Republic to track bank accounts and tax records. (Decree of June 26, 2007, DIARIO OFICIAL DE LA FEDERACIÓN, June 28, 2007, *available at* <http://www.dof.gob.mx/index.php?fecha=28/6/2007&mes=5&ano=2007> (first item under the section “Secretaría de Gobernación”).) (Norma C. Gutiérrez, 7-4314, ngut@loc.gov)

MEXICO – Mexico City Creates Special Anti-Terrorism Force

The Attorney General of Mexico announced the creation of a Special Reaction and Interception Unit (GERI) whose members have elite training and are specialized in high risk tasks such as rescues of kidnapping victims and anti-terrorist operations. The first 50 members of this unit were trained in Israel, Germany, and Venezuela. Its creation was achieved by restructuring the former GERI. The members of the new unit no longer perform operations for the protection of public officials, but just their specialized operative tasks. (*Presenta PGJDF a*

Nuevo Grupo Especial de Reacción e Intervención, LA JORNADA, June 30, 2007, available at <http://www.jornada.unam.mx/ultimas/2007/06/29/presenta-pgjd-f-a-nuevo-grupo-especial-de-reaccion-e-intervencion>.)

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PHILIPPINES – Anti-Terror Law Goes into Force in Face of Protests

A controversial anti-terrorism law, signed in March 2007, entered into force in the Philippines on July 15, 2007. It has been opposed by local Roman Catholic bishops, politicians, and activists across the country. A petition urging the Philippines Supreme Court to review the Act is expected to be filed soon, and rights groups are asking the government to suspend the enforcement of the new law until the high court rules or amendments are approved by the Philippines' Congress. Filipino presidential spokesperson Ignacio Bunye recently dismissed opposition to the law, indicating that the legislation had already undergone "exhaustive debates" in the legislature and that delaying its implementation could "embolden terrorists."

The Human Security Act 2007 allows 72-hour detentions of suspects without charge and authorizes wiretapping and seizure of assets. Critics of the legislation argue that it could be used by the government of President Gloria Arroyo to persecute political dissenters under the cover of anti-terror operations. (Bernard Hibbitts, *Philippines Anti-Terror Law Goes into Force in Face of Protests*, JURIST, July 15, 2007, available at <http://jurist.law.pitt.edu/paperchase/2007/07/philippines-anti-terror-law-goes-into.php>.)

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TRADE AND COMMERCE

BELGIUM – Unfair Commercial Practices

On June 5, 2007, the Belgian Parliament adopted a Law amending the existing Law of July 14, 1991, on Commercial Practices, Consumer Information and Protection. The new Law implements Directive 2005/29/EC of the European Parliament and of the Council of May 11, 2005, on Unfair Commercial Practices. The deadline for the transposition was June 12, 2007. The main objective of the Directive is to enhance consumer protection. It clarifies consumers' rights and harmonizes rules on business-to-consumer commercial practices within the European Union. It introduces a general prohibition of unfair trade practices and contains a list of misleading and aggressive commercial practices that are considered unfair in all circumstances and must be prohibited in every Member State.

Although the 1991 Law prohibited many of the acts covered in the Directive, the prohibitions were not as detailed as those required by the Directive. The new legislation includes new definitions of the following terms: consumer, product, advertisement, comparative advertisement, commercial practices, undue influence, and code of conduct. It also extensively lists and describes practices considered either misleading or aggressive. (MONITEUR BELGE [Belgian Official Gazette] (June 21, 2007), No. 2007011259, available at <http://www.ejustice.just.fgov.be/cgi/welcome.pl>.)

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BRAZIL/EUROPEAN UNION – Strategic Partnership

On July 4, 2007, the European Union invited Brazil to become its strategic partner and improve cooperation between the biggest economies of South America and Europe in the areas of trade, renewable energy, and the fight against poverty. The invitation was made by Portugal during the first meeting of its EU presidency, which began on July 1, 2007. Brazilian President Luis Inácio Lula da Silva commented that the potential for trade growth is immense, while Portuguese Prime-Minister José Sócrates said that improvement in the relationship with Brazil would give coherence to the external affairs of the EU, which now includes the main developing countries – Brazil, Russia, India, and China – as special partners. (*Brasil é Convidado a ser Parceiro Estratégico da União Européia*, O GLOBO (O)NLINE, July 4, 2007, available at <http://oglobo.globo.com/economia/mat/2007/07/04/296630740.asp>.) (Eduardo Soares, 7-3525, esoas@loc.gov)

CHINA – New Proposals for Draft Anti-Monopoly Law

On June 25, 2007, the Standing Committee of the National People's Congress of the People's Republic of China (NPC) read the draft Anti-Monopoly Law for the second time. Since the first draft was read by the NPC, six new proposals have been added:

1. The central government shall formulate and implement regulations to strengthen and improve macroeconomic control and to effect a unified, open, competitive, and orderly market system;
2. Operators can legally combine and merge through fair competition and voluntary association to expand the scale of operations and improve their market competitiveness;
3. Operators in dominant market positions may not abuse their position to exclude or restrict competition;
4. State-owned companies with national franchises are to be scrutinized in regard to their pricing;
5. Industry associations should strengthen self-regulation to guide the operators to compete legally and to maintain the market competition order; and
6. Foreign mergers and acquisitions may not endanger national security.

The sixth provision places national security checks on acquisitions of domestic corporations. The third reading of the draft law is included in the NPC 2007 Legislation Plan, therefore it may occur within this year. (*NPC 2007 Legislation Plan Comes Out*, Feb. 27, 2007, available at http://news.xinhuanet.com/legal/2007-02/27/content_5779685.htm.) (Laney Zhang, 7-6303, lzha@loc.gov)

COSTA RICA/CAFTA – Supreme Court of Justice Supports Legality of CAFTA

The constitutional chamber of the Supreme Court of Justice of Costa Rica recently upheld the legality of the U.S.-Central America and the Dominican Republic Free Trade Agreement (CAFTA). The Court held that the Agreement does not violate the Constitution. Moreover, the Court reactivated the call for a national referendum in which Costa Rican citizens will vote on whether or not to approve the Agreement. The referendum has been scheduled for

October 7, 2007. (Carlos A. Villalobos, *Sala IV Resuelve que la TLC es Constitucional*, LA NACIÓN, July 4, 2007, available at http://www.nacion.com/ln_ee/2007/julio/04/pais1155599.html.)

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UNITED STATES – Foreign Investment Review Process Amended

On July 26, President Bush signed into law a statute to reform the process for review of foreign investments involving security concerns. The legislation responds to a controversy that arose in 2006 surrounding a proposed purchase of American shipping ports to a company owned by the Government of Dubai, United Arab Emirates. The legislation amends the law governing the Committee on Foreign Investment in the United States (CFIUS), an interagency committee of the Executive Branch that conducts reviews of investment transactions by foreign governments that could affect the national security or certain critical infrastructure of the U.S. The new law places increased requirements on CFIUS to review investment transactions by companies owned by foreign governments, enhances Congressional oversight of CFIUS by increasing Congressional reporting requirements, mandates higher levels of approval of transactions within the various agencies comprising the CFIUS, authorizes CFIUS to enter into agreements with parties to a covered transaction to mitigate any threat to national security, and authorizes the President to suspend or prohibit any covered transaction determined to threaten or impair national security. ([Foreign Investment and National Security Act of 2007](#), Public Law No. 110-49, 121 Stat. 246).

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TRANSPORTATION

BANGLADESH - Bangladesh and Myanmar Sign Treaty on Building Highway

Bangladesh and Myanmar signed an agreement to establish a direct road link between the two countries to boost trade and tourism. The agreement was signed on behalf of the respective governments on July 27, 2007 in Dhaka, Bangladesh. The negotiation between the two countries took four years to come to a conclusion. The road will connect Bangladesh to the Asian Highway network, which was planned according to an inter-governmental agreement endorsed in Shanghai, China, in April 2004 by the 26 member countries of the United Nations Economic and Social Commission for Asia and the Pacific. Under the agreement, Bangladesh will construct a 16-mile road including 14 miles inside Myanmar in the first phase. The total length of the proposed road stretching from Taungbro to Kyauktaw in Myanmar via Ramu and Guandhum to Cox's Bazar in Bangladesh is 95 miles. The construction will be finished in two phases at an estimated cost of \$136 million. (Siddique Islam, [Bangladesh, Burma Sign Direct Road Link Deal](#), AHN (All Headline News), July 28, 2007)

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WAR

GERMANY – Ruling on Troop Deployment in Afghanistan

On July 3, 2007, Germany's Federal Constitutional Court dismissed a case against German military intervention in Afghanistan. (Docket No. 2 BvE 2/07, official Web site of the Federal Constitutional Court, http://www.bverfg.de/entscheidungen/es20070703_2bve000207.html (last visited July 18, 2007).) The case had been brought by the parliamentary faction of the new political party *Die Linke* (the Left) in March 2007, after the German Parliament had expanded its consent to German participation in the mission of the International Security Assistance Force (ISAF) in Afghanistan by allowing for the deployment of German reconnaissance aircraft.

The constitutional complaint asserted that the operations in Afghanistan were outside the scope of the North Atlantic Treaty Association (NATO) and that the German government was infringing on the legislative power over treaties by participating in a development of NATO that required a new agreement among its members. The Court held that the NATO mission in Afghanistan served to secure the North Atlantic Pact area and was not a departure from the recognized peace-keeping goals of NATO. (Edith Palmer, 7-9860, epal@loc.gov)

UNITED NATIONS – Rubber Bullet Moratorium

On July 13, 2007, the United Nations announced that it had imposed a moratorium on the use of rubber bullets by U.N. peacekeepers pending a review of the practice, after two deaths linked to the bullets occurred in Kosovo in February during a demonstration. According to Nick Birnback, of the U.N. Department of Peacekeeping Operations (DPKO), the temporary suspension was in effect in six DPKO missions (in Kosovo, East Timor, Haiti, Liberia, the Ivory Coast, and the Democratic Republic of Congo) equipped with the bullets. The review of policies and procedures is designed “to make sure there’s not a systemic problem” with the bullets’ use. Birnback further stated, “[u]ntil such time as we can determine that all our peacekeepers in missions where we have this type of technology ... are properly trained on that equipment and that the equipment is up to international norms and standards, we put a moratorium on its use.”

In the week prior to the announcement, Kosovo U.N. Police Commissioner Richard Monk announced that he had imposed a ban on the carriage and use of rubber bullets by international police in the province, which is run by the United Nations. According to the results of a U.N. investigation of the deaths released in April, Romanian police with the U.N. mission in Kosovo were responsible for the “unnecessary and avoidable” deaths by firing the bullets. (*Ban on Rubber Bullets for Peacekeepers*, THE AUSTRALIAN, July 13, 2007, available at <http://www.theaustralian.news.com.au/story/0,20867,22066915-1702,00.html>.) (Wendy Zeldin, 7-9832, wzel@loc.gov)

WAR CRIMES

CAMBODIA – Documents Filed in Khmer Rouge Trials

On July 18, 2007, prosecutors in the trials of Khmer Rouge leaders submitted initial documents on a range of crimes. The United Nations-backed proceedings cover mass killings and other atrocities committed in Cambodia in the late 1970s.

The Extraordinary Chambers in the Courts of Cambodia consist of both national and international judges. The prosecutors' first submission to the Court contained statements of facts in 25 separate incidents and identified persons suspected of responsibility for murder; torture; forcible transfer; unlawful detention; forced labor; and persecution based on religion, politics, and ethnicity. The investigating judges have been formally asked to look into those specific actions and suspects. More than 1,000 documents totaling over 14,000 pages were presented, including documents from more than 350 witnesses and information on more than 40 undisturbed mass graves from the time period at issue, April 1975 to January 1979. (*Prosecutors Submit Introductory Statements for UN-Backed Khmer Rouge Trials*, UNNEWS, July 18, 2007, from unnews@un.org.)
(Constance A. Johnson, 7-9829, cojo@loc.gov)

LIBERIA – Bill on Seizure of Former President's Assets

It was reported on July 12, 2007, that a controversial bill that would enable the Liberian government to seize the assets of former President Charles Taylor as well as those of his relatives and associates has been passed on to the parliament for discussion. According to the BBC, the government hopes to secure legislative power "to seek the assistance of other nations in tracking, freezing and confiscating the funds, properties and assets" of Taylor and others concerned.

Taylor has been indicted on 11 charges of war crimes, crimes against humanity, and violations of international humanitarian law for his alleged role in backing rebels in the civil war in neighboring Sierra Leone during his 1997-2003 tenure in office. His overseas assets were seized by a United Nations order in 2004, following accusations that he was fuelling regional conflict. Taylor is currently on trial in The Hague on the war crimes charges. In the view of Liberian MP Blamo Nelson, however, the bill is unfair because Taylor has not been convicted of any crimes in Liberia. (*Liberia "to Seize Taylor Assets,"* BBC NEWS, July 12, 2007, available at <http://news.bbc.co.uk/2/hi/africa/6896396.stm>.) (For more information on the handling of Taylor's trial and a recent imprisonment agreement, see the item [Special Court for Sierra Leone/United Kingdom](#) in this issue.)
(Wendy Zeldin, 7-9832, wzel@loc.gov)

SPECIAL COURT FOR SIERRA LEONE – Three Warlords Sentenced

On July 19, 2007, the Special Court for Sierra Leone (SCSL), a United Nations-backed tribunal, sentenced three men to jail terms of 45 to 50 years for murder, rape, and enlisting child soldiers. The SCSL prosecutors had asked for even longer sentences, of 50 to 60 years. These sentences were the first issued by the Court, which is charged with bringing to justice the main

perpetrators of war crimes in the country from 1991 to 2001. This was also the first time an international war crimes court has sentenced anyone for putting children to work as soldiers.

The three men, all of whom had pled not guilty, had been supported in part by former Liberian President Charles Taylor (*see* related article in this issue), who allegedly received diamonds from Sierra Leone in exchange for his assistance. They will serve their sentences in Sweden and Austria. Approximately 120,000 people died in the ten-year conflict, and thousands were mutilated, losing arms, legs, ears, or noses. (*Sierra Leone: War Crimes Court Sentences Three Warlords to Lengthy Jail Terms*, AFP, July 19, 2007, Open Source Center No. AFP20070719.)

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

SPECIAL COURT FOR SIERRA LEONE/UNITED KINGDOM – Imprisonment Deal

The Special Court for Sierra Leone (SCSL), a United Nations-backed tribunal, and the United Kingdom have reached an agreement that provides for the imprisonment of former Liberian President Charles Taylor in the UK should he be convicted by the SCSL on war crimes charges. The agreement was signed on behalf of the SCSL by the Acting Registrar, Herman von Hebel, and on behalf of the UK by the Minister for Africa at the British Foreign and Commonwealth Office, Mark Malloch Brown. Brown has also served as U.N. Deputy Secretary-General. The Court has similar agreements with Sweden and Austria.

Taylor's trial began in June 2007; he is charged with 11 counts of war crimes, crimes against humanity, and other serious violations of international humanitarian law. He is alleged to have had a key role in the long civil war in Sierra Leone, a country that borders Liberia, where the violations included mass murder, mutilation, rape, sexual slavery, and use of children as soldiers. The trial, which is being held in The Hague, will include testimony from 139 key prosecution witnesses and is expected to last through 2008, with a judgment to be issued in mid-2009.

The SCSL was established by agreement between Sierra Leone and the U.N. in 2002; its mandate is to try those who bear greatest responsibility for the atrocities, war crimes, and crimes against humanity committed in Sierra Leone after November 30, 1996. (*United Kingdom Signs Sentencing Deal with UN-Backed Tribunal in Sierra Leone*, UNNEWS, July 13, 2007, from UNNews@un.org.) (For more information on a bill to seize Taylor's assets, see the article on [Liberia](#) in this issue.)

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