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Abortions

UNITED STATES – New Jersey Supreme Court Rejects Abortion Patient’s Informed Consent Claim

On September 12, the Supreme Court of New Jersey ruled that a doctor does not have a duty to tell a patient that an embryo is “an existing living human being” prior to performing an abortion.

The case arose in 1996 when Rosa Acuna, a twenty-nine year old woman, consulted her gynecologist, Dr. Sheldon Turkish, complaining of abdominal pains. Dr. Turkish informed her she was six to eight weeks pregnant. Acuna decided to have an abortion, and signed a termination of pregnancy consent form, which described the risks and complications of an abortion. Afterwards, Acuna concluded that the abortion procedure killed a “human being.” She filed a malpractice complaint against Dr. Turkish alleging that she lacked informed consent, arguing that, had Dr. Turkish told her that the embryo was “a complete, separate, and unique human being,” she would not have consented to the abortion procedure. Dr. Turkish prevailed on summary judgment before the trial court, but an intermediate appellate court reversed, ruling that summary judgment was not warranted because a reasonable patient might not consider the information Dr. Turkish provided to be sufficient to make an informed decision.

The New Jersey Supreme Court reversed the appellate court, ruling that there is no common law duty requiring a physician to inform a pregnant patient that an embryo is an existing, living human being. The court noted that there is no consensus in the medical community or society supporting Acuna’s position that an embryo is a complete, separate, unique and irreplaceable human being or that terminating an early pregnancy involves the actual killing of an existing human being. Because no such consensus exists, the court ruled, there is no legal duty for a doctor to say that. The court concluded Dr. Turkish was entitled to judgment as a matter of law. (*Acuna v. Turkish*, No. A-15-06 (N.J. Sept. 12, 2007), *available at* <http://www.judiciary.state.nj.us/opinions/supreme/A-15-06%20Acuna%20v.%20Turkish.pdf>.)
(Luis Acosta)



Accounting

SWITZERLAND – Auditing Reforms

On September 1, 2007, the Act on the Licensing and Supervision of Auditors (Audit Supervision Act, Revisionsaufsichtsgesetz, Dec. 16, 2005, AMTLICHE SAMMLUNG DES BUNDESRECHTS (AS) 3971) became effective (Verordnung, Aug. 22, 2007, AS 3969). The Act creates a federal supervisory agency for auditing that must re-license all auditors and auditing companies. The license of an auditing company must be renewed every five years, although individual licenses are granted indefinitely. The supervisory agency also is entrusted with the supervision of company audits and the granting of mutual assistance to foreign courts and agencies.

The Audit Supervision Act is part of the Swiss compliance with the U.S. Sarbanes-Oxley Act (SOx, Public Company and Accounting Reform Act of 2002, Pub. L. No. 107-204, 116 STATUTES AT LARGE 745 (codified as amendments in scattered sections of titles 15 and 18 U.S.C.)). Other components of the Swiss response to SOx are substantive provisions on corporate accounting and related measures (*Botschaft zur Änderung des Obligationenrechts*, June 23, 2004, BUNDESBLETT (BBl) 3696; Entwurf Obligationenrecht, BBl 2004, 4117). These are expected to become effective in January 2008 (E. Matter, *Revisionsaufsichtsbehörde nimmt die Arbeit auf*, NEUE ZUERCHER ZEITUNG, Aug. 23, 2007, at 23, available at LEXIS, News Library, ZEITUNG File). All these auditing reforms are expected to improve corporate governance in Switzerland and also to allow Swiss firms to continue to do business in the United States (*Neue Aufsicht für Firmenrevisoren*, TAGES-ANZEIGER, Aug. 23, 2007, at 2, available at LEXISNews Library, ZEITUNG File).
(Edith Palmer)



AIDS

KOREA, SOUTH – People with AIDS to Be Considered Disabled

On September 19, 2007, the city of Seoul announced its intent to ask the Ministry of Health and Welfare and the National Assembly in November to revise the disability law. After gathering advice from medical experts and considering the results of a survey, Seoul concluded that it is better to designate people with AIDS as disabled, in order to expand their medical and welfare benefits. Many people with AIDS quit their jobs because of health conditions, become isolated from their families, and eventually fall into the lowest income bracket. (*Seoul to Expand Benefits for AIDS Patients*, CHOSUNILBO, Sept. 20, 2007, available at <http://english.chosun.com/w21data/html/news/200709/200709200019.html>.)

(Sayuri Umeda)



Animal Diseases

CHINA – Law on Animal Epidemic Prevention Amended

On August 30, 2007, effective January 1, 2008, the Standing Committee of China's National People's Congress (NPCSC) amended the Law on Prevention of Animal Epidemics. Compared to the previous Law, the revised version has three new chapters, on reporting, circulation, and promulgation of animal epidemic information; on medical diagnosis and treatment of animals; and on safeguards, expanding the total number of provisions to 85 from the previous 57. Among other key changes, the revised Law elaborates on the compulsory immunization system – providing that immunized animals must have a file, be labeled, and be traceable, and including pets in the system as well – and strengthens animal epidemic monitoring and early warning systems.

The amended Law prohibits individuals from arbitrarily issuing information about animal epidemics. It provides for a strict reporting system, whereby work units and individuals engaged in such activities as animal epidemic monitoring, testing, quarantine, research, and treatment, or raising, slaughtering, and marketing animals, etc., upon discovering epidemic contamination or suspecting it, should immediately report it and also adopt control measures. The Law also provides for an intergovernmental and military notification system regarding the handling of an epidemic. Furthermore, in situations where both humans and animals are contaminated, local-level veterinary medicine departments and health departments are to notify each other, and the State Council veterinary medicine department, in accordance with China's treaty and agreement obligations, should notify international organizations or trade partners concerned. The revised Law expands on a provision that forbids concealing, falsifying, or hindering reporting of information, by also prohibiting delayed reporting of and failure to report such information as well as incitement of others to conceal, falsely report, or delay reporting the information.

The amended Law provides for compensation to be paid by the government in cases where, for purposes of animal epidemic prevention and control, there is compulsory slaughter of animals or destruction of animal products and related goods or where animals die as a result of compulsory immunization. Various provisions imposing punishments for violations of the Law have also been amended and several new provisions added. (*Shouquan fabu: Zhonghua Renmin Gongheguo Dongwu Fang Yi fa [Authorized issuance: Animal Epidemic Disease Prevention Law of the People's Republic of China]*, XINHUA, Aug. 30, 2007; *Jie du xiugai hou de Dongwu Fang Yi fa [Explanatory reading of the revised Animal Epidemic Prevention Law]*, NPCSC Web site, Aug. 31, 2007.)

As the official government news organ Xinhua pointed out, “[a]s the world's largest producer of poultry, livestock and aquatic products, China has much to lose from outbreaks of animal diseases. It is estimated that animal diseases cost China 40 billion yuan annually” (about US\$5.3 billion). (*China Amends Law to Boost Compulsory Animal Vaccination*, XINHUA, Aug. 30, 2007, available at http://www.chinadaily.com.cn/china/2007-08/30/content_6069276.htm.) (Wendy Zeldin)



Banking

LATVIA – Changes in Mortgage Lending Procedure

On September 17, 2007, previously passed amendments to the Laws on Credit Institutions and on Consumer Rights Protection entered into force as a part of the Latvian government's anti-inflation plan. According to these amendments, commercial banks and providers of lending services may issue credit only on the basis of the applicant's official income. Individual savings are not taken into account during the mortgage application process. In order to slow down real estate speculation, the new legislation does not allow banks to consider mortgaged property in evaluating the credit-worthiness of mortgage applicants. New laws make the issuance of mortgage loans subject to government control by the nation's Housing Authority, and requirements for mortgage insurance are strengthened. Although the new legislation is not retroactive, it affects those who have made commitments to purchase real estate but have not yet secured loans. (*Impact of Changes in Mortgage Policy in Latvia*, BALTIC BUSINESS NEWS, Sept. 17, 2007.)

(Peter Roudik)



Boundaries

BENIN/NIGER – Handover of Disputed Islands Completed

On August 10, 2007, in a formal ceremony, Minister of Defense Issifou Kogui N'Douro of Benin took possession, on behalf of the government, of islands accorded to Benin pursuant to the resolution of the Benin-Niger border conflict in the catchment area of the River Niger. The disputed islands lie in a 150-kilometer stretch where the river forms the two countries' border, in northeastern Benin. Kogui N'Douro and the Minister of Urban Development and Social Housing, Francois Noudegbessi, presided over the activities. The handover of the islands was in conformity with a July 12, 2005, ruling of the International Court of Justice (ICJ) in The Hague on the resolution of the dispute.

Under the four-to-one majority ICJ decision, Niger was awarded most (16) of the 25 disputed islands, including the largest, Lete, described as being at the heart of the dispute that had resulted in sporadic border conflict. Each side had claimed ownership of the islands since the two nations gained independence from France in 1960. The judgment also delineated the Benin-Niger boundaries in the River Niger and the River Mekrou. Although Benin lost Lete, it reportedly increased its surface area in the River Mekrou catchment area as a result of the ruling. (*Benin Takes Possession of Two Islands from Niger Following Hague Ruling*, LE MATINAL, Aug. 13, 2007, Open Source Center No. AFP20070813950076; *BENIN-NIGER: International Court Rules That Main Disputed Island Belongs to Niger Not Benin*, IRIN [Integrated Regional Information Networks], July 12, 2005, available at <http://www.irinnews.org/report.aspx?reportid=55426>.)

(Wendy Zeldin)



Capital Punishment

CONGO (Democratic Republic of) – Death Penalty for Murder of Journalist

Four men convicted of murdering a journalist in the Democratic Republic of the Congo in June 2007 were given death sentences. The journalist, Serge Maheshe, had worked for a popular U.N.-sponsored radio station and was killed when about to enter a U.N.-marked vehicle. Two of the men were sentenced by a military tribunal as assassins, and the others were convicted of sponsoring and organizing the crime.

The U.N. peacekeeping mission in the country voiced concern about the convictions, stating that the tribunal had not based its decisions on the evidence, which included an autopsy report and the testimony of ballistic experts. While expressing support for the judicial independence of the Congo, the statement from the U.N. mission stressed the need to be sure that defendants received a fair trial and said:

In fact, the tribunal noted that the confessions of the two principal accused contained contradictions and that certain allegations made by them cannot be corroborated. ... The tribunal itself underlined that doubts remained. .. [A sentence of capital punishment must be based on] clear and convincing evidence that does not leave room for any other interpretation of the facts.

The convicted men have launched an appeal, and the U.N. mission has stated that it will provide technical and logistical assistance to legal authorities to make sure the proceedings respect fair trial guarantees. (*Death Penalty Given in Journalist Murder Case Alarms UN Mission in Dr Congo*, UNNEWS, Aug. 31, 2007.)
(Constance A. Johnson)

GABON – Vote to End Death Penalty

In September 2007, the Council of Ministers of Gabon voted to end capital punishment in the country. There has been a moratorium on executions in the nation for more than 20 years. The decision was hailed by the United Nations High Commissioner for Human Rights (UNHCHR), Louise Arbour, who urged the legislature of Gabon to quickly put the ban into the criminal law and also encouraged the country to become a party to the Second Optional Protocol to the International Covenant on Civil and Political Rights. That Protocol states, “[e]ach State Party shall take all necessary measures to abolish the death penalty within its jurisdiction” (art.1, 2, adopted Dec. 15, 1989, Web site of the UNHCHR). In a statement from Geneva, Arbour said that the decision in Gabon “reinforces the growing movement towards the abolition of the death penalty worldwide.” (*Gabon’s Abolition of Death Penalty Welcomed by UN Human Rights Chief*, UNNEWS, Sept. 21, 2007.)
(Constance A. Johnson)



Charitable Institutions

EUROPEAN UNION – Proposal for a Statute for Philanthropic Foundations

Within the European Union there are approximately 80,000 foundations, 25,000 of which have combined assets of €174 billion (about US\$245 billion, as of Sept. 24, 2007). It is estimated that they grow at a rate of 15 percent annually. The proliferation of philanthropic foundations across EU countries has prompted a proposal to adopt a statute regulating the legal, financial, and administrative issues related to the establishment, structure, and operation of such organizations. The European Commission is working on this proposal and also contemplates the possibility of using the foundations to raise additional monies for innovation and research. (*Philanthropic Foundations Push for EU Statute*, EUOBSERVER (last visited Sept. 24, 2007).) (Theresa Papademetriou)



Children

EAST AFRICA – Collaboration in Media Coverage of Children’s Issues

Women’s media associations of the four East African countries of Ethiopia, Kenya, Tanzania, and Uganda have launched a collective Child Sexual Abuse and Exploitation (CSAE) project to develop a common media code of conduct aimed at reducing “unfriendly” coverage of children issues in their respective countries. The project also seeks to raise awareness of CSAE among children, families, and communities. The media associations had findings indicating that some media outlets publish stories and pictures exposing minors who were sexually abused or exploited. A statement on the new project issued by the Tanzania Media Women’s Association (Tamwa) noted: “while reporting, some media pay very little attention to perpetrators due to lack of awareness. According to Article 17 of the UNCRC [United Nations Convention on the Rights of the Child], the role of the media, among other things, is to protect the child and disseminate information which is of social and cultural benefit to the child.” (*Eastern Africa Women Media to Collaborate in Coverage of Children Issues*, THE GUARDIAN (Dar es Salaam), Sept. 7, 2007, Open Source Center No. FP20070907950008.)

The CSAE project takes as a starting point article 3(1) of the UNCRC, which states, “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.” Kenya, Tanzania, and Uganda have signed and ratified the UNCRC and Ethiopia has acceded to it. (Convention on the Rights of the Child, New York, Nov. 20, 1989, <http://www.ohchr.org/english/law/crc.htm> (last visited Sept. 10, 2007).)

According to the Tamwa statement, key contents of the code would include an explanatory section, definitions of “child” and of sexual abuse and exploitation, and ethical guidelines for the media on how to report child sexual abuse cases. In developing the code, the regional media women’s associations will gather input from editors, media and government institutions, and non-government organizations that work with children. The statement added that children are to be consulted in the process of developing the code and their views incorporated before it is adopted. The project also will involve related activities, such as a workshop for editors, training sessions for journalists, and production of radio spots. The CSAE project is funded by the Oak Foundation, a group of charitable and philanthropic organizations established in various countries to address global social and environmental issues of concern. (*Eastern Africa Women Media to Collaborate in Coverage of Children Issues*, *supra*; *Child Abuse Programme Grants (2006)*, Oak Foundation Web site, <http://www.oakfnd.org/activities/2006/childabuseeastafrika.php> (last visited Sept. 10, 2007).)

(Wendy Zeldin)



Communications and Electronic Information

BRAZIL – São Paulo to Prohibit Cell Phone Use in Classrooms

In August 2007, the Legislative Assembly of the State of São Paulo, Brazil, approved a proposed law designed to prohibit the use of cell phones in classrooms by students in public and private schools. To become enforceable, the proposed law must be signed by Governor José Serra. However, the opinions of educators, parents, and students regarding the new law are highly divided. Some argue that the law will not resolve the problem, while others defend the idea that the matter should be internally resolved by school administrations. (*Lei Poderá Proibir Uso de Celular na Sala de Aula em São Paulo*, O GLOBO ONLINE, Aug. 31, 2007.)
(Eduardo Soares)

ENGLAND AND WALES – National DNA Database Suggested

A senior judge has caused an outcry among civil libertarians in England and Wales by suggesting that a national DNA database should be implemented, to include the DNA of all residents and visitors to the United Kingdom. A DNA database currently exists in England and Wales that holds information taken from crime scenes and from samples taken from people in police custody. The collection and storage of this information is currently subject to the provisions of the Police and Criminal Evidence Act 1984 and is at present under review. (Home Office, *DNA Database: A Valuable Tool for Police*, Sept. 6, 2007, available at <http://www.homeoffice.gov.uk/about-us/news/dna-database-update>.)
(Clare Feikert)



Constitutional Law

EUROPEAN PARLIAMENT – Distribution of Seats

The distribution of seats among the 27 countries of the European Union was at the top of the agenda at the first meeting of the European Parliament following the summer recess, held on September 3, 2007. Two of the Parliament Members, a French conservative and a Romanian socialist, presented their report to the Parliament's constitutional affairs committee concerning the composition of the 785 Members. The report bases the seat distribution on the principle of "degressive proportionality," which the two Members presenting the report deemed an "ideal solution." Accordingly, the distribution is based on the following three basic rules:

- The total number of Members should be reduced to 750;
- The maximum number of representatives in a single national delegation would be reduced from 99 to 96 seats; and
- The minimum number of representatives from a Member State would increase from five to six.

Under these parameters, small states like Malta with five representatives would obtain extra members, while Germany, which currently has 99 members, would lose three. It remains to be seen whether the constitutional affairs committee will endorse the recommendations. (*Tough Debate on MEP Seats Kick Off*, EUOBSERVER, Sept. 4, 2007.)
(Theresa Papademetriou)

FIJI – Re-Imposition of Emergency Rule

Fiji has imposed Public Emergency Regulations in response to the active presence of former Prime Minister Laisenia Qarase. It is three months since the last state of emergency was lifted. (Press Release, Statement by PM Bainimarama on the Public Emergency Regulation (Sept. 7, 2007), available at http://www.fiji.gov.fj/publish/page_9993.shtml; *Emergency Rule Declared in Fiji*, BBC NEWS, Sept. 7, 2007, available at <http://news.bbc.co.uk/1/hi/world/asia-pacific/6981381.stm>.)
(Lisa White)

KYRGYZSTAN – Constitutional Court Cancels the Constitution

On September 14, 2007, the Constitutional Court of the Republic of Kyrgyzstan ruled that the present Constitution of the country, adopted by the Parliament in 2006, was passed with violations of national legislation and will not be in effect. The previous Constitution, which was approved by public referendum in 2003 and abrogated by the 2006 Constitution, will be in force, according to the Court ruling.

The Court decision was passed in response to opposition legislators, who argued that in November 2006 the Parliament had exceeded its authority by adopting a new Law on



Parliamentary Procedures and illegally granting itself the right to pass constitutional amendments. After that, the Constitution of Kyrgyzstan was changed twice, first by using the new authority of parliamentarians and members of the Cabinet to change the nation's political system into a parliamentary republic. Later, in December 2006, following pressure from pro-presidential forces, the Constitution was changed again to strengthen the power of the President. Because the Constitution was amended in violation of the constitutional provisions then in force, the Court ordered temporary reestablishment of the 2003 constitutional provisions while a new constitutional reform is conducted. (*Constitutional Court of Kyrgyzstan Repealed the Present Constitution*, NEWSRU.COM, Sept. 14, 2007.)
(Peter Roudik)

MYANMAR (BURMA) – Draft Constitution Finalized

Delegates to a national convention on drafting a new constitution for Myanmar (Burma) finalized their work on August 31, 2007, and endorsed a draft document in preparation for concluding the 15-year process the following week. The draft constitution must be approved by referendum. The delegates, who number over a thousand, were appointed by Myanmar's military regime; it is unclear who the final drafters will be. The former 1974 Constitution was suspended in September 1988, and the country has been without a constitution ever since.

The National Convention was launched in 1992 and first convened in January 1993. The drafting process halted in 1996, when the main opposition party, the National League for Democracy (NLD) walked out; it resumed in 2004 with delegates hand-picked by the ruling military authority and no NLD members. Anyone deemed to have criticized the process was punishable on conviction, under a special law, with a prison term of up to 20 years.

Many Western observers as well as members of the NLD have called the National Convention a “sham.” The draft charter is the first step in the ruling military junta's “road map to democracy,” with six more steps to lead to the referendum and to elections. However, the document ensures that the military, which has essentially ruled the country since 1962, will remain dominant. According to a report in THE NEW YORK TIMES, the charter stipulates: “the military will control major ministries, hold large blocks of unelected seats in all legislative bodies and have the right to declare a state of emergency and seize power at any time.” The charter also tightly limits the rights of political parties; constrains the provisions on human rights and political activities on the basis of concern over “national security”; and seeks to restrict opposition in the requirements it sets for holding political office, requirements that would appear to be “tailored specifically to bar Daw Aung San Suu Kyi and members of her opposition party,” the NLD (Seth Mydans, *Myanmar Constitution Guidelines Ensure Military Power*, THE NEW YORK TIMES, Sept. 3, 2007). (*Deutsche Presse-Agentur: Delegates Wrap Myanmar's Constitution Drafting Process*, BURMANET NEWS, Aug. 31, 2007, available at <http://www.burmanet.org/news/2007/08/31/deutsche-presse-agentur-delegates-wrap-myanmars-constitution-drafting-process/>; *Mizzima News: Burma Concludes 14-Year-Old National Convention*, BURMANET NEWS, Aug. 31, 2007, available at <http://www.burmanet.org/news/2007/08/31/mizzima-news-burma-concludes-14-year-old-national-convention/>; *Chronol-*



ogy of the National Convention, Human Rights Watch Web site, http://hrw.org/english/docs/2007/07/18/burma16412_txt.htm (last visited Sept. 7, 2007).
(Wendy Zeldin)



Consumer Protection

AUSTRALIA – National Ban on Children’s Toys with Lead

The Australian government has announced a national ban on children’s toys that contain unacceptable levels of lead. The declaration of unsafe goods in accordance with the Trade Practices Act 1974 (Cth) §65(c)(5) makes it an offense (effective immediately) to supply toys that have lead above the Australian Standard (i.e., 90 parts per million as per AS/NZS ISO 8124.3:2003 “Safety of Toys, Part 3: Migration of Certain Elements” (Consumer Protection Notice No. 13 of 2007, S181 COMMONWEALTH OF AUSTRALIA GAZETTE (Sept. 19, 2007) [Special Gazette issue]), available at [http://www.ag.gov.au/portal/govgazonline.nsf/2A4FF74A4EB7E819CA25735B0006972A/\\$file/S181.pdf](http://www.ag.gov.au/portal/govgazonline.nsf/2A4FF74A4EB7E819CA25735B0006972A/$file/S181.pdf).)

(Lisa White)

CHINA – Toy and Food Recall Provisions

On August 27, 2007, China’s General Administration of Quality Supervision, Inspection, and Quarantine (GAQSIQ) promulgated a number of measures related to product safety and quality. These include: the Provisions for the Management of the Recall of Children’s Toys (Toy Recall Provisions); the Provisions for the Management of the Recall of Food Products (Food Products Recall Provisions); Provisions on the Management of Food Labels; the Measures for the Management of Inspection, Quarantine, and Supervision of Exported Aquatic Animals; Measures for the Management of Inspection and Appraisal of the Quantity and Weight of Imported and Exported Commodities; and the Provisions on the Management of Cosmetics Labels.

The Toy Recall Provisions cover management of information on defects and recalls; investigation of defects and risk assessment; implementation of recalls (with sub-sections on voluntary and mandatory recalls); and legal liability. The landmark sets of provisions on recall of children’s toys and foods each have their own definition of “recall.” In the case of toys, it refers to actions taken by manufacturers or sellers, according to stipulated procedures and requirements, to effectively prevent and eliminate harm that might be caused by the defects in defective children’s toys, by such means as supplements to or revisions of the directions to consumers, returns, exchanges, or repairs. “Children’s toys” refer to processed and marketed goods designed or intended for children up to the age of 14 to play with, but excluding those that the manufacturer clearly indicates are not for child’s play. “Defect” is defined as an unreasonable danger, due to such aspects as the design, manufacture, or instructions, existing in a certain batch, model, or type of children’s toy, ubiquitous and identical, which endangers children’s health and safety. (Ertong huanju zhaohui guanli guiding, *WWW.GOV.CN*, Sept. 3, 2007.)

The Food Products Recall Provisions include chapters on investigation and assessment of harm to food product safety; implementation of recalls of food products (with sub-sections on voluntary recalls, mandatory recalls, and assessment and supervision of recalls); and legal



liability. Under the Provisions, a recall is defined as timely action by food product manufacturers in accordance with stipulated procedures to eliminate or reduce harm to food product safety, by such means as exchanges, returns, and supplements to or revisions of instructions to consumers, that is taken in regard to a certain batch or type of unsafe food product caused by its manufacture. “Unsafe food products” refer to food products for which there is evidence that they have already caused or could cause harm to human health. The Provisions set forth three levels of recall based on the severity of the harm or potential harm arising from the contamination, disease, or threat to human health, with level one being the highest threat level. (Shipin zhaohui guanli guiding, GAQSIQ Web site, Aug. 27, 2007.)

In the meantime, on September 11, 2007, officials of the GAQSIQ and the U.S. Consumer Product Safety Commission (CPSC) signed a joint agreement on banning lead paint on Chinese products destined for the U.S. market and on enforcing other U.S. consumer laws. The agreement does not cover lead-tainted children’s jewelry – which, according to Scott Wolfson, a CPSC spokesman, accounts for the largest percentage of toy recalls “and often contains far more dangerous levels of lead compared to painted toys” – but it does apply to lighters, fireworks, and electronic goods. (Joseph S. Enoch, *U.S.-China Agreement Aims to Ban Lead Paint*, CONSUMERAFFAIRS.COM, Sept. 11, 2007, available at http://www.consumeraffairs.com/news04/2007/09/toy_safety.html.)
(Wendy Zeldin)



Criminal Procedure

IRAQ – Iraqi Prosecution of Blackwater

Al-Jazeera Television reported on its Web site recently that the Iraqi Government confirms that it has the legal authority to prosecute the Blackwater Security contractor under Iraqi law and before Iraqi courts for the killing of more than ten un-armed Iraqi civilians on September 17, 2007. Judge Abd al-Sattar Ghaffar, spokesman for the Supreme Judicial Council, declared that Blackwater is subject to Iraqi law and Iraqi courts are responsible for prosecuting the company because the crime was committed in Iraqi territory. (*Iraqi Prosecution of Blackwater*, AL-JAZEERA NETWORK, Sept. 18, 2007.)

(Issam Saliba)



Discrimination

EUROPEAN UNION – Increase in Incidents of Racism and Violence

In August 2007, the European Union's Fundamental Rights Agency (FRA) published its first report; the agency had been established in Vienna and had begun its operations in March 2007. The document, entitled *Racism and Xenophobia in the Member States of the EU*, presents the current situation in the Member States regarding discrimination and racism. Since 2000, the EU has adopted legislation requiring EU Members to implement equal treatment among people, irrespective of racial identity, ethnic origin, sexual orientation, or disability. Since then, all Members have incorporated this fundamental principle into domestic legislation.

As the FRA report indicates, discrimination and unequal access to resources are still widespread, especially among migrants and the Roma ethnic group, who face inequality in housing and limited access to educational opportunities. Racist crimes and violence in general were on the rise in 2006 in Denmark, Germany, France, Ireland, Poland, Slovakia, Finland, and the United Kingdom. On the other hand, a few States, including Austria, the Czech Republic, and Sweden, experienced fewer racist incidents. Several Members had sent insufficient data for a meaningful analysis, whereas others, such as Cyprus, Greece, Italy, Portugal, and Spain, did not provide any information. (*Racist Crime on the Up in Eight EU States*, EUOBSERVER, Aug. 27, 2007.)

(Theresa Papademetriou)



Education

ARMENIA – Education Rights Extended

On September 13, 2007, the members of the Armenian legislature adopted amendments to the nation's Law on Education and Law on Higher and Post-University Education. The amendments are designed to bring Armenian legislation in line with the principles declared in the country's Constitution and prepare domestic legislation as grounds for joining the Bologna Declaration on the European Space for Higher Education, a binding commitment to an action program to converge national education systems in accordance with European Union standards.

The newly adopted version of the Law on Education guarantees every individual, not just citizens, as in the previous version, the right to an education in Armenia. This means that everyone living in Armenia, regardless of citizenship status, can have equal access to education. Following the requirements of the Bologna Declaration, the new Law on Higher and Post-University Education provides for reform of the current five-year-long university education system into a two-stage undergraduate and graduate system. The legislation addresses the issue of educating students from the Armenian diaspora, giving them the same rights to study at Armenian institutions of higher learning as students from inside Armenia. Special measures to support students from socially unprotected groups, incentives for better studies for those with better academic records, and deferrals of students from military conscription are also provided by the amendments. (Armenia-Parliament-Law-Education, ARMINFO NEWS WIRE, Sept. 13, 2007, available at http://site.securities.com/doc.html?pc=AM&doc_id=149501463&auto=1&query=law%3.)

(Peter Roudik)



Elections and Politics

CANADA – Elections Canada to Allow Veiled Women to Vote

On September 6, 2007, Elections Canada issued a press release indicating that it would allow veiled women to vote at future elections if they are able to produce government-issued photo identification cards and another approved photo ID, or if they show a government-issued ID and have another registered person vouch for them in a sworn statement. (Press Release, Elections Canada, Elections Canada Reiterates the Statutory Requirements Regarding the Identification of Electors Wearing Face Coverings (Sept. 6, 2007), *available at* <http://www.elections.ca/content.asp?section=med&document=sep0607c&dir=pre&lang=e&textonly=false>.)

Elections Canada's decision was based upon its reading of new provisions included in an act passed in June 2007 to prevent voter fraud (An Act to Amend the Elections Act, 2007 S.C. c. 21, s. 21). However, this independent agency's decision has been widely criticized by Members of Parliament from all of the represented parties, who contend that the purpose of requiring photo IDs was so that they could be compared to the person presenting them. The Prime Minister has been particularly critical of the decision, stating that it clearly defies Parliament's intention in amending the Elections Act. Prime Minister Stephen Harper has suggested that if Elections Canada does not change what he views as a political interpretation of the law, his government will introduce amendments that will specifically require all voters to show their faces when presenting their identification cards. Muslim groups contend that Muslim women do lift their veils, at least for female officials, when this is required, and that the issue of veiled women voting should not have become a major political story. Nevertheless, the dispute between the Prime Minister and Elections Canada has received considerable media attention in Canada. (Bruce Cheadle, *Harper Rips Elections Canada over Veil Ruling, Threatens Parliamentary Action*, CANADIAN NEWS, Sept. 9, 2007, *available at* http://ca.news.yahoo.com/s/capress/070909/national/harper_veils.) While much of the attention has been on Parliament's reaction, some commentators have also criticized Parliament for not writing a clearer amendment to the new law. (Greg Weston, *Lifting the Veil on Voting*, DAILY MINER AND NEWS (Kenora, Ontario), Sept. 14, 2007, at A4.) (Stephen Clarke)

PAKISTAN – Musharraf Faces Legal Challenges to Bid for Re-Election

On August 29, 2007, the Supreme Court of Pakistan admitted, despite government opposition on grounds of *mala fide*, yet another petition challenging General Pervez Musharraf's continuance as army chief and bid to run for a second five-year term as President while still in uniform. The petition, which was filed by Jamaat-e-Islami and Muttahida Majlis-e-Amal (MMA) leader Qazi Hussain Ahmed, had been rejected on technical grounds in July 2007; its admission comes after the re-instatement of the Chief Justice of Pakistan in late July. (*See also* 9 W.L.B. 2007.)



The petition states that General Musharraf's term as army chief ended in 2001 and that he became ineligible to continue in that office upon attaining the age of 60 in August 2003. It states that the MMA had supported General Musharraf's extended term as army chief in return for his pledge that he would step down from the office at the end of 2004. However, they argue, he broke the promise.

The Supreme Court also decided that on September 17, 2007, a bench of its seven members would begin hearing the petition of the Pakistan Lawyers Forum (PLF), which it had earlier admitted, and the MMA petition, both of which challenge the President's holding dual offices. The Court rejected the plea of the Attorney-General of Pakistan to delay the hearing on the grounds that the hearing might disrupt the process of presidential and general elections. It cited article 44(1) of the Constitution, which provides that the President, regardless of the expiration of his term (on November 15, 2007), will continue in office until his successor assumes the post. (Nirupama Subramanian, *Supreme Court Admits Plea Against Musharraf*, THE HINDU, Aug. 30, 2007, <http://www.hindu.com/2007/08/30/stories/2007083056391600.htm>; Nasir Iqbal, *SC Admits Petition Against Dual Posts*, THE DAWN, Sept. 7, 2007, available at <http://www.dawn.com/2007/09/07/top3.htm>.)

(Krishan Nehra)

TAIWAN – Election and Recall Law Amended

Article 55 of Taiwan's President and Vice President Election and Recall Law was amended on August 8, 2007, to change the method for selecting monitors in polling and ballot-counting stations. One key change is that each ticket of candidates will now recommend one person, to be screened and appointed by the "election commission" [no longer "the centrally-administered municipality or the county (city)" election commission], to be the monitors for each polling station. Formerly, the number of inspectors was to be appointed based on "the average number of persons needed." As before, this recommendation right will be exercised only by the political party in the case of candidates who have been put forward by that political party, and if two or more political parties jointly put forward the same candidates, they are counted as one party, with the political party listed first on the slate in charge of handling the recommendation arrangements. Language in the article that referred to recommendees being assigned by the candidate or the political party to polling and ballot-counting stations has been removed. (President and Vice President Election and Recall Law, 6756 THE GAZETTE OF THE OFFICE OF THE PRESIDENT 21-22 (Aug. 8, 2007), available at <http://content.glin.gov/summary/195525>; Presidential and Vice Presidential Election and Recall Law, Aug. 9, 1995 (as amended on Oct. 29, 2003), available at <http://law.moj.gov.tw/Eng/Fnews/FnewsContent.asp?msgid=94&msgType=en&keyword=election%26recall>.)

(Wendy Zeldin)

UNITED STATES – Washington Law Prohibiting Political Campaign Lies Struck Down

On October 4, the Supreme Court of the State of Washington struck down as unconstitutional a Washington state law which prohibited a person from sponsoring, with actual



malice, “[p]olitical advertising or an electioneering communication that contains a false statement of material fact about a candidate for public office.”

In 2002, Marilou Rickert challenged the incumbent, Tim Sheldon, in an election for state senator. In the course of the campaign, Rickert circulated a brochure claiming that Sheldon “voted to close a facility for the developmentally challenged in his district.” In fact, the facility was not for the developmentally challenged, and in any event Sheldon had never voted to close it. Sheldon filed a complaint with Washington’s Public Disclosure Commission, which ultimately ruled for him and imposed a \$1,000 fine upon Rickert for violating Washington’s law against maliciously making false assertions of fact about a candidate.

After several layers of appeal the matter came before the Washington Supreme Court, which struck down the law as unconstitutional on the grounds that it violated the First Amendment. The court stated that, particularly in the area of political elections, “the best remedy for false or unpleasant speech is more speech, not less speech” and that there was a “fundamental First Amendment principle forbidding censorship or coerced silence in the context of political debate.” (Rickert v. State of Washington, No. 77769-1 (Wash. October 4, 2007) available at <http://www.courts.wa.gov/opinions/pdf/777691.opn.pdf>.)
(Gary Robinson)



Emergencies

CHINA – Emergency Response Law

On August 30, 2007, China's National People's Congress Standing Committee (NPCSC) adopted the Emergency Response Law in seven chapters and 70 articles, which will become effective on November 1, 2007. The Law defines emergencies as natural disasters, man-made disasters, public health crises, and social safety crises that occur suddenly, that create or could create serious social harm, and for which it is necessary to adopt emergency management measures in response. The Law stipulates that the State Council (Cabinet) and the local governments at the county level and above are the leading agencies for emergency response work and that they are to formulate contingency plans. In particular, coal mine and construction site work units and work units that produce, manage, store and transport, and use hazardous materials such as combustibles and explosives, hazardous chemicals, and radioactive goods are to formulate specific contingency plans and also arrange for risk assessments of production and management sites and of buildings, structures, and the overall environs where there are dangerous goods, as well as adopt timely measures to prevent emergencies from occurring.

The Law establishes a four-level early warning system, with red to indicate the highest level of hazard, and orange, yellow, and blue indicating successively lower levels, in accordance with the degree of urgency, developing situation, and potential degree of harm of the event. The Law lists ten measures, one or several of which the authorities may adopt to deal with a disaster or public health crisis. These include, for example, organizing rescue and relief operations and harshly punishing speculation and hoarding. The authorities are to provide unified, accurate, and timely information on developments in the situation and on the emergency response work. Work units and individuals are banned from fabricating or spreading false information about these matters.

The Law provides that directly responsible government officials will be given administrative punishment for various malpractices, including, for example, reporting information about an emergency late, falsely, or deceptively or failing to report it. A work unit may be ordered to stop production, have its permit or license suspended or revoked, and also be fined from 50,000 to 200,000 yuan (about US\$6,700-26,700), for such actions as not adopting stipulated preventive measures or timely eliminating potential risks of an emergency. Work units or individuals who cause or aggravate an emergency and harm persons or property may be subject to civil responsibility. Criminal liability may also be pursued where violation of the Law's provisions constitute a crime.

The Law stipulates that when especially grave emergencies occur that pose a serious threat to the safety of life and property, state security, public security, environmental safety, or social order, and the Law's provisions and other related legal norms cannot control or reduce the harm, the NPCSC or the State Council may decide to declare a state of emergency, in accordance with the Constitution and related laws. (*Shouquan fabu: Zhonghua Renmin Gongheguo Tu Fa Shijian Yingdui Fa* [Authorized issuance: Emergency Response Law of the People's Republic of



China], XINHUANET, Aug. 30, 2007; *China Adopts Emergency Response Law*, XINHUA, Aug. 30, 2007, available at http://www.chinadaily.com.cn/china/2007-08/30/content_6069177.htm.)
(Wendy Zeldin)



Energy

NIGERIA – Reforms in Oil and Gas Sector

Nigeria's Federal Executive Council (Cabinet) (FEC) effected sweeping changes in the country's oil and gas sector on August 29, 2007, by scrapping the Ministry of Energy (MOE) and splitting the Nigerian National Petroleum Corporation into five agencies and a company. It also organized a committee, the National Energy Council (NEC), to implement the emergency National Oil and Gas Policy for a period of up to six months. The President is head of the NEC and the Vice President is Vice Chairman. Among other members, there are the Ministers of State for Energy (Petroleum, Gas and Power); Ministers of Finance and National Planning; the Attorney-General and Minister of Justice; and the National Security Adviser. The new structure is described as "fundamentally different from what exists," allowing "operational autonomy" and "removal of bureaucratic bottlenecks," and as being "based on the need to create a vibrant industry where the public agencies will be more efficient, effective, and cost-conscious." (*Nigeria: Federal Government Scraps [sic] Reforms in Country's Oil, Gas Sector*, THE GUARDIAN (Lagos), Aug. 30, 2007, Open Source Center No. AFP20070830636003.)

Under the new arrangement, the National Petroleum Directorate (NPD) will replace the MOE and be in charge of initiating and formulating policy for and developing the oil and gas sector. The NNPC will become the National Oil Company (NOC). An autonomous entity, the Petroleum Inspectorate Commission (PIC), will replace the MOE's former Department of Petroleum Resources, and the Petroleum Product Distribution Authority (PPDA) will replace the current Pipeline Product Marketing Company. In addition, the reform creates the new National Oil and Gas Assets Holding Company. The Minister of Petroleum Resources will coordinate the activities of the new entities. He will also sign, on the government's behalf, performance contracts between the government and the NOC; update the FEC on oil and gas sector developments and advise it on policy issues; and represent Nigeria at the Organisation of Petroleum Exporting Countries (OPEC) meetings and other international fora.

Under the restructuring, refineries will be privatized and fuel importers may import petroleum products and compete with the refineries in conformity with technical regulations and Nigeria's specifications. In regard to distribution, there will be an "open access" policy for the operation of newly separate pipeline and storage entities. The PPDA is to keep prices of oil products under review, to ensure healthy competition and post-deregulation price controls, and it will set benchmarks for downstream gas prices. In order to stimulate the gas sector, the NEC plans to liberalize gas pricing to enable "adequate returns" on investment and to divide the Nigerian Gas Company into autonomous gas transmission and gas distribution/marketing companies. The PIC, with "adequate" funding and manned by professionals, will set industry standards and regulations and ensure adherence to environmental guidelines of the Federal Ministry of Environment. The NOC is to have a board of directors empowered to make commercial decisions for the company. The National Petroleum Research Centre will be in charge of national and international research and development and "serve as the major repository for all technical data on the nation's oil and gas industry." (*Id.*)
(Wendy Zeldin)



Environment

CANADA – Government Sued for Not Meeting Kyoto Targets

In June 2007, Canada's Parliament passed the Kyoto Protocol Implementation Act (2007 S.C. c. 30). This law had been proposed by a member of the opposition and was passed without the support of the ruling Conservative Party in Canada's minority government. The Kyoto Protocol Implementation Act required the government to adopt a plan within 60 days that would reduce the emission of greenhouse gases to six percent below 1990 levels by the year 2012.

The Conservatives argued that because the previous Liberal government had failed to initiate such a reduction, requiring the Conservative government to take the necessary steps by 2012 would result in tremendous disruption to the Canadian economy. The government also opposed the bill because, while it required the government to meet Canada's Kyoto targets, it did not state how this could be done. Nevertheless, the government did respond by agreeing to some amendments to its proposed Clean Air Act (Bill C-30, 39th Parl. 1st Sess., <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=2413797&Language=e&Mode=1/> (last visited Sept. 20, 2007) and by releasing a plan contained in a paper outlining "A Climate Change Plan for the Purposes of the Kyoto Protocol Implementation Act, 2007" (*A Climate Change Plan for the Purposes of the Kyoto Protocol Implementation Act – 2007*, ENVIRONMENT CANADA (2007), http://www.ec.gc.ca/doc/ed-es/p_123/CC_Plan_2007_e.pdf (last visited Sept. 20, 2007)). However, the proposed Clean Air Act died when Parliament was prorogued on September 14, 2007, and the changes proposed in the Climate Change Plan will not result in Canada meeting its 2012 deadline, but those changes would still provide for very substantial reductions of greenhouse gasses by 2025.

Several environmental groups have now sued the Federal Government for failing to comply with the Kyoto Protocol Implementation Act (*Feds Face Lawsuit over Kyoto Targets*, SUDBURY STAR, Sept. 20, 2007, at A8, available at <http://www.cbc.ca/canada/story/2007/09/20/kyoto-lawsuit.html#skip300x250>). One piece of encouraging news for the government is that it has been reported that one of the opposition parties that supported the Kyoto Protocol Implementation Act now favors a more stringent environmental plan over strict adherence to the Kyoto targets. (Jennifer Ditchburn, *Government Faces Lawsuit over Failure to Meet Kyoto Targets*, CANADIAN PRESS, Sept. 19, 2007, available at http://ca.news.yahoo.com/s/capress/070919/national/tories_environment_lawsuit.) (Stephen Clarke)

TAIWAN – Agro-Pesticides Law Amended

Taiwan's Agro-Pesticides Management Law was extensively amended on July 18, 2007. Among other changes, the revised Law distinguishes matters to be handled by the central competent authority from those to be handled by municipal and county (city) authorities. It redefines some prior terminology and defines the term "prohibited agro-pesticides" to refer to agro-pesticides whose manufacture, processing, packaging, import, export, sale, or use the



central government authority has declared to be prohibited. Agro-pesticide application and registration procedures are revamped under the amended Law and agro-pesticides may be subject to subsequent appraisal of their safety and effects. Those agro-pesticides being used exclusively for experimental research, educational demonstration purposes, urgent prevention and control, and export after reprocessing may not be sold or shifted to another purpose, except in cases where an agro-pesticide being exclusively used for urgent prevention and control is sold in the domestic market.

The revised Law specifies that the raw agro-pesticide substances can be sold to agro-pesticide manufacturers only. It amends the provisions on management of the sale and purchase of deadly poisonous agro-pesticides; stipulates that agro-pesticide users must use centrally approved agro-pesticides, and provides for local registration of enterprises that spray agro-pesticides. Although the Law will not apply to agro-pesticides publicized by the central authority as not controlled, their labeling, publicity, or advertisements must not be falsified or exaggerated, according to the amendment. New powers are given to the competent authority to periodically appraise agro-pesticide manufacturers and sellers. Penalty provisions have been revised and new penalties have been added for violations of the Law. (Amendment to the Agro-Pesticides Management Law, 6753 THE GAZETTE OF THE OFFICE OF THE PRESIDENT 24-37 (Aug. 8, 2007), available at <http://content.glin.gov/summary/194775>.)
(Wendy Zeldin)



Family

RUSSIA – Teenagers Banned from Nightclubs

On September 4, 2007, the State Duma, the lower house of the Russian legislature, passed amendments to the Code of Administrative Violations and to the Federal Law on Basic Guarantees of Children’s Rights to prohibit youths under 18 years of age from attending nightclubs and bars. This ban extends to wineries, beer halls, and other types of alcohol tasting venues. Minors are also not allowed to be present on premises “aimed at selling goods and services that exploit interest in sex.” The amendments restrict the ability of underage children to attend public events or be present in public spaces at night. According to the amendments, between 11 p.m. and 6 a.m. teenagers can be present at food or entertainment establishments only while accompanied by their parents or guardians. Lists of specific places closed to teenagers will be prepared by local and municipal bodies. Establishments that allow the entry of teenagers in violation of these provisions could be shut down for up to 30 days and fined. Parents of children caught alone at night in pubs will, according to the document, be warned or fined in an amount equal to US\$150. (*Duma Wants to Prohibit Teenagers to Walk at Night and Patronize Bars*, NEWSRU.COM, Sept. 4, 2007.)
(Peter Roudik)



Freedom of Information

EUROPEAN UNION – Transparency and Access to Documents

The European Union's policy of granting access to documents requested by non-governmental organizations and citizens was established as a legal requirement in 2001. A regulation calls for transparency of documents held by the European institutions. The regulation allows the institutions to withhold information based on security considerations. In case of refusal, concerned parties have the right to bring an action before the Court of First Instance (CFI). In 2003, the Association de la Presse Internationale, located in Brussels, requested that the Commission give it access to the written submissions made by the Commission to the CFI and the European Court of Justice in a number of legal actions involving the Commission and various enterprises. The Commission refused access to its pleadings. On September 12, 2007, the CFI partially upheld the appeal filed by the association. It stated that in two of four cases, the Commission "committed an error of assessment by refusing access" to documents and that those decisions must be annulled. However, in the third and fourth cases, the CFI held that the Commission was justified in denying access due to the sensitive nature of the cases. The CFI specifically stated that the Commission is not required to provide access to a pleading prior to the oral hearing, but it must do so after the hearing, unless withholding the information is justified on the grounds that such a disclosure would undermine its position before the court. (*Brussels Journalists Unhappy with "Routine Secrecy,"* EUOBSERVER, Sept. 12, 2007.)
(Theresa Papademetriou)



Freedom of the Press

BANGLADESH – Cartoonist Detained Under the Emergency Rules

Arifur Rahman, a cartoonist, was arrested and ordered to be jailed for a month after publication of a cartoon deemed insulting to Muslims. The cartoon was published in a newspaper called “Prothom Alo.” The newspaper apologized for publishing the cartoon and withdrew the supplement in which it appeared. The cartoonist was arrested without any charges under the emergency laws of Bangladesh. Under Bangladesh emergency laws, a person can be arrested and detained without charges if national security is deemed threatened. The Bangladesh Home Ministry stated that the cartoon could lead to religious violence in Bangladesh, where Islam is the state religion. (BANGLADESH: Editors Urge Ulema to Consider Prothom Alo's Apology, AsiaMedia, Sept. 21, 2007, available at <http://www.asiamedia.ucla.edu/article.asp?parentid=78375>.) (Shameema Rahman)

NEPAL – Working Journalists Act

Under a new bill on the media, the Working Journalists Act, passed unanimously by the Nepali interim parliament on August 8, 2007, and aimed at protecting the rights and well-being of journalists, media houses may not keep more than 15 percent of employees on a contract basis, and those employees will also be entitled to provident fund support and other benefits given to permanent journalists. The employers are also obliged under the bill to cover expenses incurred by journalists due to accidents or the loss or destruction of media equipment. The bill calls for the establishment of a 13-member committee, to be headed by a government-appointed media expert, to examine salary-related issues of journalists. In addition, it stipulates that media houses must spend a minimum of one percent of their annual income on capacity-building activities related to the journalists. (*Nepal Amends Working Journalists Act*, XINHUA, Aug. 9, 2007, Open Source Center No. CPP20070809968040.) (Wendy Zeldin)



Government Ethics

CHINA – Anti-Corruption Bureau

The Chinese Minister of Supervision, Ma Wen, announced on September 13, 2007, the establishment of a National Bureau of Corruption Prevention (NBCP), which she will also concurrently head and which will report directly to the State Council (Cabinet). In the making for over four years, the NBCP was formally approved on May 31, 2007. (*Guojia Yufang Fubai Ju wei Guowuyuan zhi shu jigou, Ma Wen tan gongzuo zhong dian*, XINHUA, Sept. 13, 2007.) The NBCP was founded in conformity with China's obligations as a party to the United Nations Convention Against Corruption, which China signed on December 10, 2003, and ratified on October 27, 2005. (United Nations Convention Against Corruption, U.N. Office on Drugs and Crime Web site, http://www.unodc.org/pdf/crime/convention_corruption/signing/Convention-e.pdf (last visited Sept. 24, 2007).)

According to NBCP deputy head Qu Wanxiang, the new body does not have the power to look into individual cases of corruption, but will promote the “transparency of government information at various levels, ... the way ‘to prevent corruption at its root.’” (*National Corruption Prevention Bureau Established*, XINHUA, Sept. 13, 2007, available at <http://www.china.org.cn/english/government/224301.htm>.) Qu stated that the NBCP will assess new policies to address loopholes in regulations that might lead to corruption and will promote information-sharing among the Bureau, prosecutors, police, courts, and banks. It will also collect and analyze information from various sectors – Qu mentioned in particular the banking, land use, medicine, and telecommunications sectors – and share it with other departments. Other NBCP tasks include inspection of corruption prevention work; development of standards of clean conduct for officials; running of pilot projects; guidance of anti-corruption efforts in companies and other types of organizations; and engagement in international cooperative activities to prevent corruption. (*Id.*) The Chinese Communist Party's Central Discipline Inspection Commission (CDIC) and the Ministry of Supervision (MOS), along with members of the National People's Congress, are conducting research on a proposed Law on Clean and Honest Government, but a draft law has not yet been submitted to the NPC. (*New Corruption Prevention Bureau Approved*, CHINA.ORG.CN, Mar. 13, 2007, available at <http://www.china.org.cn/english/news/202807.htm>; see also *China – Draft Anti-Corruption Law*, 12 W.L.B. 2006.) [Note: The CDIC and the MOS, and their counterparts at the local level, are essentially “one office with two shingles”; thus, Ma Wen is a deputy secretary of the CDIC.] (Wendy Zeldin)

TAIWAN – Lobbying Law

The Lobbying Law of the Republic of China on Taiwan (ROC) was promulgated by President Chen Shuibian on August 8, 2007, and will take effect one year after promulgation. “Lobbying” is defined in the Law as acts that directly express to lobbied parties or their appointed persons, by oral or written means, views aimed at influencing the lobbied party or the lobbied party's institution in the formation, formulation, passage, amendment, or abolition of laws and regulations, policies, or bills. “Lobbyists” include natural persons, legal persons,



officially approved or recorded civic organizations, and groups formed for a specific purpose and having persons to represent them (those representatives may not exceed ten in number), as well as natural persons or profit-making legal persons commissioned to conduct lobbying. “Lobbied parties” include the President and Vice President, parliamentarians at all levels, directors and deputy-directors of government offices at various levels, and certain retired civil servants. The Ministry of the Interior is the competent authority for lobbying-related matters.

The Law also provides for banned targets of lobbying activities, for the qualification requirements of lobbyists, and for acts to which the Law does not apply. It stipulates that foreign governments, legal persons, and organizations must commission ROC lobbyists to engage in lobbying and precludes such entities, as well as foreign natural persons, from lobbying in regard to matters related to national defense, foreign affairs and Mainland affairs involving national security, or state secrets. Persons, legal persons, organizations, or other institutions from the China mainland, Hong Kong, or Macau are prohibited from lobbying in person or commissioning other lobbyists to do so. The Law prohibits lobbyists from using force, intimidation, or “other unjustifiable means” in lobbying, as well as from offering, promising, or giving bribes or “other improper benefits” to the lobbied party.

Directors and deputy-directors of government offices as stipulated under Law (with the exception of parliamentarians at various levels), within three years of leaving their posts may not, on their own behalf or representing legal persons or groups to which they belong, lobby the agency where they had been employed for five years before leaving office, nor may they commission other lobbyists to do so. Parliamentarians at various levels are prohibited from lobbying for enterprises that they themselves or related parties [these are defined under the Law] run or in which their total invested shares exceed ten percent, nor may they commission other lobbyists to do so. Other provisions of the Law cover matters such as registration and reporting requirements, penalty provisions, and the enactment of implementing regulations. (Lobbying Law, 6756 THE GAZETTE OF THE OFFICE OF THE PRESIDENT 2-9 (Aug. 8, 2007), *available at* <http://content.glin.gov/summary/195524>.)
(Wendy Zeldin)

UNITED STATES – New Law Affecting Lobbying and Legislative Transparency

On September 14, President Bush signed into law the Honest Leadership and Open Government Act of 2007. The act establishes new Congressional ethics and lobbying requirements, and provides for greater transparency in certain legislative activities.

The law creates a criminal prohibition on members of Congress seeking to influence private sector employment decisions on a partisan basis in exchange for political favors. The law codifies rules barring lobbyists from giving gifts to members of Congress and their staffs, including meals and tickets to entertainment and sporting events, and restricts organizations from providing travel to Congress members and staff. It provides civil and criminal penalties for violations. It makes more stringent the disclosure requirements on lobbyist contributions to candidates and government officials. The new law requires political parties, campaign



committees, and political action committees to report their receipt of contributions “bundled” by persons known to be lobbyists (that is, contributions from multiple persons transmitted through a single lobbyist, or direct contributions from many persons solicited by a single lobbyist). It also provides that lawmakers can lose their Congressional pension if they are convicted of specified criminal acts such as bribery while in office.

The law also amends Senate rules in order to improve legislative transparency. In order to remedy the unnoticed placement of new legislative language in conference committee reports, the law requires conference reports to be made publicly available 48 hours prior to a vote unless a supermajority of the Senate waives this requirement. The law requires Senators placing a hold on legislation to publish a notice in the Congressional Record, thus ending the practice of anonymous holds. The law requires committees to make the record of hearings public (in audio, video, or transcript form) within 21 business days after a hearing. In an effort to target “earmarks,” the law amends Senate rules to require publication on the Internet of any “Congressionally directed spending item, limited tax benefit, or limited tariff benefit,” as well as identification of their sponsors, 48 hours before a Senate vote. The new law also affects rules governing the employment of Senators and their staff after leaving Congress.

The new law also prohibits candidates for Federal office from receiving reduced rates for flying on corporate aircraft, and prohibits candidates for the House from flying on any private aircraft (except their own).

The law assigns various effective dates for these provisions. (Honest Leadership and Open Government Act of 2007, Public Law No. 110-81, 121 Stat. 735, *available at* http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_public_laws&docid=f:publ081.110.pdf.)
(Luis Acosta)



Health

BELGIUM – No-Fault Medical Liability Compensation System

A May 15, 2007, Law on the Compensation of Medical Errors, which adopts a no-fault medical liability compensation system, was published on July 6, 2007, in the *MONITEUR BELGE*, Belgium's official gazette. The Law will take effect on January 1, 2008. The aim of the Law is to compensate, under certain conditions, patients that are victims of medical errors, without requiring them to prove the liability of doctors, nursing staff, pharmacists, dentists, or any other medical professions referred to in the Law.

Injuries resulting from medical treatment from the absence of a treatment that a patient would have expected based on the current state of science, and/or from infections contracted during treatment will be compensated. The victims will be compensated through a fund, the *Fonds des accidents soins de santé*, placed under the direct authority of the Health Ministry. The rules regarding compensation amounts have not yet been determined. They will be issued at a later date via a Royal regulation. Both economic and non-economic damages will be compensated. All care providers will be required to have insurance.

The Law further requires that injured patients file a claim addressed to the fund within five years of the date of their knowledge of the injury or from the date they reasonably should have known of the injury. The fund then transfers the claim to the care-provider insurance, which will make a compensation offer. The fund will either approve the offer or make a counter offer. In the case of disagreement between the fund and the insurance companies, three arbitrators will be appointed, as provided for by a Law on the Settlement of Disputes Arising from the Application of the Law of May 15, 2007, on the Compensation of Medical Errors, also published on July 6, 2007. (Loi du 15 mai 2007 relative à l'indemnisation des dommages résultant de soins de santé & Loi du 15 mai 2007 concernant le règlement des différends dans le cadre de la loi du 15 mai 2007 relative à l'indemnisation des dommages résultant de soins de santé, *MONITEUR BELGE*, July 6, 2007, at 37151 & 37163.)
(Nicole Atwill)

PAKISTAN – Ban on Organ Trade

A ban on Pakistan's thriving trade in human kidneys took effect on September 3, 2007, when President Pervez Musharraf gave his assent to the Transplantation of Human and Tissues Ordinance 2007. The Ordinance provides for stringent punishment of persons engaged in dealing in the organs and their unauthorized removal. It narrows opportunities for unrelated organ donations, bans organ donations to foreigners, and provides for treatment of post-operative care of indigent patients. It also provides for designated transplant institutions and mandates the establishment of evaluation committees at the institutions for evaluating transplant cases. In addition, it legalizes cadaver organ donation and emphasizes the requirement of informed consent.



The long-awaited ban came in the wake of a public outcry that forced the government to rethink its strategy and quell doubts that it was being influenced by the lobby that patronizes the organ trade in the country. (Baqir Sajjad Syed, *Organs Trade Ordinance Issued*, THE DAWN, Sept. 3, 2007, available at <http://www.dawn.com/2007/09/04/top7.htm>.)
(Krishan Nehra)

TAIWAN – Communicable Disease Prevention and Control Law Amended

Taiwan's Communicable Disease Prevention and Control Law was amended on July 18, 2007, and became effective the same day. The amendments include revision of the types of communicable diseases listed in the Law; new provisions on international cooperation and exchange in regard to communicable diseases on the part of central competent authority, and revised provisions on the functions and duties shared by each central responsible authority. The Law also now stipulates that government agencies, civic groups, enterprises, and individuals cannot reject the right of persons afflicted with a communicable disease to education, employment, subsistence, or residence or subject them to other unfair treatment, except on grounds of the necessity of epidemic prevention and control. It further provides that the central competent authority may set up a medical net for epidemic prevention and control, divide the state into a number of regions for this purpose, and designate medical institutions to establish isolation wards. Those designated institutions instructed to admit and treat patients cannot reject, evade, or obstruct their responsibility in this regard. Moreover, during the period of establishment of a Center of a Central Epidemic Command, the commander in chief may, based on the needs of disease prevention, instruct the central competent authority to flexibly adjust relevant statutory measures.

Under the revised Law, samples acquired from a patient may be processed and studied, based on the needs of epidemic prevention. Medical institutions or local competent authorities are to disinfect corpses infected with communicable diseases, or suspected of being so, and take other necessary relevant measures; the deceased's family members and funeral service operators are prohibited from rejecting, evading, or obstructing these measures.

There are revised provisions governing vaccination and other relevant measures that may be adopted by the competent authorities vis a vis persons crossing the border or that may be taken by the central competent authority, in consultation with other relevant authorities, to prevent communicable diseases from spreading across the border. The penalty provisions of the Law have also been amended. (Amendment to the Communicable Diseases Prevention and Control Law, 6753 THE GAZETTE OF THE OFFICE OF THE PRESIDENT 2-24 (Aug. 8, 2007), available at <http://content.glin.gov/summary/194774>.)
(Wendy Zeldin)

UNITED KINGDOM – Human-Animal Hybrid Embryos Approved for Research

The United Kingdom's regulator of human embryos – the Human Fertilisation and Embryology Authority (HFEA) – has approved in principle the creation and use of human-



animal hybrid embryos for the purposes of research. Scientists wishing to create or use such embryos must still apply to the HFEA for a license to conduct their research. There have thus far been two applications to create such embryos. The applications must demonstrate to the HFEA that the project is necessary and desirable and meet the current standards required for any embryo research. A decision on these applications is expected in November 2007. (Press Release, Human Fertilisation and Embryology Authority, HFEA Statement on Its Decision Regarding Hybrid Embryos (Sept. 2007), available at <http://www.hfea.gov.uk/en/1581.html>; Human Fertilisation and Embryology Authority, *Hybrids and Chimeras, a Consultation on the Ethical and Social Implications of Creating Human/Animal Embryos in Research*, Apr. 2007, available at http://www.hfea.gov.uk/docs/HFEA_Final.pdf.) (Clare Feikert)

WORLD HEALTH ORGANIZATION – African Region Declaration on Traditional Medicine

On August 31, 2007, the Ministers of Health of the World Health Organization (WHO) African Region, meeting in Brazzaville, Congo, for the 57th Session of the WHO Regional Committee for Africa, adopted a Declaration on Traditional Medicine. The meeting coincided with the fifth African Traditional Medicine Day, whose theme was “Traditional Medicines Research and Development in the WHO African Region.” The Declaration recalls the Alma-Ata Declaration on Primary Health Care, recognizing the role of traditional medicine in health care, and notes that despite positive developments in some countries of the region, there remains a weak link between traditional medicine research, health services, and policy making. The Ministers therefore made five commitments:

1. To intensify our efforts to translate the regional strategy into realistic national policies and plans on traditional medicine including appropriate legislation;
2. To develop mechanisms for institutionalizing the positive aspects of traditional medicine into health systems and improve collaboration between conventional and traditional health practitioners;
3. To intensify our efforts to produce inventories of effective practices as well as evidence of the safety, efficacy and quality of traditional medicines and undertake relevant research;
4. To actively promote, in collaboration with all other partners, the conservation of medicinal plants, the development of local production of traditional medicines and the protection of intellectual property rights and traditional medical knowledge; and
5. To foster strong subregional, regional and international collaboration in information exchange as well as mobilize and allocate adequate resources for traditional medicine activities.

The session also adopted five resolutions, including strategy documents on food safety and diabetes prevention and control; resolutions aimed at controlling river blindness and the resurgence of cholera; and a resolution on implementation of the WHO 2008-2009 Program



Budget in the region. (Press Release, WHO/AFRO, WHO Regional Committee Ends, Adopts Five Resolutions and a Declaration on Traditional Medicine (Aug. 31, 2007), *available at* <http://www.afro.who.int/press/2007/rc/pr20070831.html>.)

(Wendy Zeldin,)



Human Rights

CHILE/PERU – Alberto Fujimori’s Extradition

On September 21, 2007, the Supreme Court of Chile ruled that former Peruvian President Alberto Fujimori will be extradited to Peru for corruption and human rights violations. The ruling is final and may not be appealed. Fujimori arrived in Chile in November 2005, after five years of living in exile in Japan following his flight from Peru when his government fell in a corruption scandal. Fujimori holds both Peruvian and Japanese nationality.

The Supreme Court granted the extradition on two human rights violations, the 1993 death-squad killing of nine students and one professor at La Cantuta University and the 1991 killings of 15 people at Barrios Altos, a working-class neighborhood of Lima. Extradition is also granted for five corruption charges, including alleged payoffs to members of Congress to support government projects and illegal tapping of telephone calls during Fujimori’s presidency, from 1990 to 2000. The extradition was thus granted for seven of the original 13 charges filed against Fujimori by Peru. Fujimori contended that the charges were made only for political reasons.

Under the Chile-Peru extradition treaty, Chile may take up to three months to actually send Fujimori back to Peru. Considering his status as former head of state, he will have to be imprisoned in a separate penitentiary section of a regular prison pending his trial, which might take years.

This decision reverses an earlier ruling by a lower court that decided that Peru had not substantiated the case with sufficient evidence to back up the charges. (*La Justicia Chilena Aprueba la Extradición de Alberto Fujimori al Perú*, DIARIO EL COMERCIO, Sept. 21, 2007.) (Graciela Rodriguez-Ferrand)

PAKISTAN – Habeas Corpus Petitions of Missing Persons by Human Rights Commission

On September 4, 2007, the Pakistan Supreme Court constituted a bench of seven judges, including the Chief Justice of Pakistan, to hear habeas corpus petitions for a large number of persons missing for a long time after having been taken away by the police. At the hearing, a petition of the Human Rights Commission of Pakistan on behalf of forty-eight individuals was presented. The Court unequivocally ordered the government to release all such missing persons, convinced that they were in the custody of intelligence agencies and refusing to accept Ministry of Defense and Ministry of Interior denials to the contrary.

The Court’s stance was bolstered by the fact that as a result of an order it had issued at the previous hearing, three persons, Hafiz Abdul Basit, Hafiz Tahir and Aleem Nasir, the latter a German national, were released by the intelligence agencies. In asking the Attorney-General to help produce or release the disappeared persons, the Chief Justice observed, “if you want institutions to survive then let the missing people be released” and added “[t]his is the limit, we cannot shut our eyes and cannot repeat the old exercise of going into individual cases through



hearing after hearing.” The bench also gave indications that it would hand down guidelines to discourage such acts in the future and expressed concern over “why those involved in offences were not being tried and why the innocent were still being kept in custody” – some of them since 2004. (*Apex Court Orders Release of the Missing*, THE DAWN, Sept. 5, 2007, <http://www.dawn.com/2007/09/05/top5.htm>.)

The Attorney-General assured the Court that he would look into the matter. After the Court adjourned the hearing to September 21, 2007, a woman petitioner broke down, crying for the release of her husband, missing since 2005. The Chief Justice tried to offer comfort by assuring her that whatever is being done by the Court was for her good. (*Id.*)
(Krishan Nehra)



Immigration and Nationality

CZECH REPUBLIC – Court Decision in Asylum Case

The Czech Supreme Administrative Court (NSS) decided against a Czech government agency and a lower court ruling as it considered its first case related to breach of asylum procedure. A man from Afghanistan, who had been a math and physics professor, was briefly imprisoned and then expelled from Afghanistan for spreading non-Islamic ideas, including scientific information about outer space, the earth, and the sun. Later, a warrant was issued in Afghanistan for his arrest. He entered the Czech Republic in 1998 and applied for asylum there in 2001. His asylum request was turned down by the Interior Ministry, following an attempt on his part to leave the country for Germany using someone else's passport. At that time, the Ministry stopped all procedures related to his asylum request. A lower court upheld the order to return the man to Afghanistan.

The NSS, however, stated that since he was under threat of the death penalty in Afghanistan, the Ministry should have granted him an “obstacle to leave country” status and allowed him to remain in the Czech Republic, even if he did not qualify for asylum. The Ministry had breached the Geneva Convention on refugee rights, according to the NSS. Noting that the man faced the death penalty in his home country, the judges argued that the domestic administrative agency and courts could not ignore the international convention. (*Czech Court Supports Afghan Who Breached Asylum Conditions*, CTK (Prague), Sept. 21, 2007, Open Source Center Document No. EUP20070921950023.) The 1951 Convention Relating to the Status of Refugees prohibits the return of someone to a place where there is a danger of loss of life or freedom due to his race, religion, nationality, membership in a particular social group, or political opinions (art. 33; text available from the Web site of the United Nations High Commissioner for Refugees, <http://www.unhcr.org/cgi-bin/txis/vtx/protect/pendoc.pdf?tbl=PROTECTION&id=3b66c2aa10> (last visited Sept. 21, 2007)).
(Constance A. Johnson)

EUROPEAN UNION – Introduction of “Blue Card” for Skilled Immigrants

On September 13, 2007, the European Commissioner for Justice and Home Affairs, Franco Frattini, announced the intention to introduce two new proposals to assist immigrants coming to the European Union, especially skilled ones, who are in great demand. The first proposal deals with the concept of a new immigration card, the “blue card” (from the EU's blue flag), which will be discussed during a meeting of the EU justice ministers in October. The second proposal relates to improving the rights of legal immigrants, especially those rights related to their social security status and working conditions.

The impetus behind the introduction of the blue card, which resembles the American green card, is to attract skilled migrants to the EU Member States. Overall, at present only five percent of the migrants to Europe are skilled. By comparison, in the United States, 55 percent of the legal immigrants are skilled. Under the proposed blue-card plan, skilled workers would be



permitted to stay in a Member State to work for a period of two years and then they could move to another Member State to work for an additional period. It is anticipated that this plan, if adopted, would expedite the acquisition of long-term residence status.

It is expected that the blue card proposal will be high on the agenda of the upcoming EU-Africa summit in December 2007. Frattini commented that the EU will try to avoid the “brain drain” phenomenon of a high number of skilled immigrants leaving their own countries to seek a better future in the EU. For this reason, he announced that the proposal will include ethical recruitment standards. (*EU to Propose “Blue Card” for Skilled Immigrants*, EUOBSERVER, Sept. 14, 2007.)

(Theresa Papademetriou)

ISRAEL – Annulment of Nationality upon Exit to an Enemy State

On September 16, 2007, the Israeli Supreme Court, sitting as a High Court of Justice, rejected a petition by the Israel Law Center (a non-profit organization) to declare that the citizenship of three Arab Members of the Knesset (Israel’s parliament), who had left Israel for an unauthorized visit to Syria, was annulled based on the Nationality Law, 5712-1952, as amended. Section 11(a) of the Law provides that an Israeli citizen who leaves Israel illegally for a hostile country is deemed to have renounced his Israeli citizenship with effect from the date of his leaving Israel.

The Court held that even if the three Members’ visit to Syria would qualify as illegal and not be covered by their parliamentary immunity, the petition must be rejected. The Court ruled that leaving Israel for a visit to a hostile country merely creates “a presumption of annulment” that requires an additional authorization by the Minister of the Interior, rather than an automatic annulment. Considering that the objective of the legislation is to guard state security, the Court stated, it is hard to envisage a situation in which citizenship will automatically expire without a review of the extent of actual or potential harm the visit to a hostile state caused to state security. Interpretation of the Law in a way that would result in automatic annulment of citizenship without a review process, the Court further ruled, prevents an evaluation of the action and of whether there were more suitable proportional alternatives available other than annulment. (H.C. 2934/07 Israel Law Center v. Chairman of the Knesset, the State of Israel, the Judicial Authority (last visited Sept. 20, 2007).)

(Ruth Levush)

SAUDI ARABIA – Facilitating the Grant of Business Visas

In meetings held on September 17, 2007, the Council of Ministers of Saudi Arabia reviewed the procedures related to granting visas to foreign businessmen visiting the country and approved the issuance of special visas for them and for similar persons that will be valid for 12 months and multiple entries. These visas are granted by the Saudi consulates abroad without the need for an invitation issued by a Saudi company or a letter of identification from chambers of commerce. (*Facilitating the Grant of Business Visas*, AL-RIYADH NEWSPAPER, Sept. 18, 2007.)

(Issam Saliba)



International Relations

MEXICO/UNITED STATES – Postal Agencies Reach Agreement on Mail Services

The Mexican Postal Service (SEPOMEX) recently reached an agreement with the U.S. Postal Service (USPS) aimed at improving mail services between Mexico and the United States. Key components of the agreement include:

- USPS and SEPOMEX will form a joint task force to improve customs clearance procedures.
- USPS and SEPOMEX will establish a Joint Service Improvement and Business Development Team to develop projects on international express mail service, airmail parcels, and package services.
- SEPOMEX will assist USPS in developing and exploring business opportunities and improving cross-border services.
- USPS agreed to support SEPOMEX in order to transform its management processes and structure.
- USPS will support SEPOMEX in developing a postal inspection group in order to enhance security procedures for all mail products.
- (Press Release No. 07-063, U.S. Postal Service, U.S. and Mexican Postal Agencies Sign Agreement to Improve Cross-Border Mail Services (Aug. 14, 2007), available at <http://www.usps.com/communications/newsroom/welcome.htm>.)

(Gustavo Guerra)

UNITED NATIONS – Annual Treaty Campaign

The United Nations' annual treaty-signing campaign focused on accords that promote peace, development, and human rights. The annual campaign to encourage the signing of international agreements, in its ninth year, ran from September 25-27 and October 1-2, 2007. Forty-seven countries took a total of 79 treaty actions during this period. In addition to the announced main themes, this year's 43 highlighted treaties cover terrorism, organized crime, corruption, environmental issues, the law of the sea, disarmament, and international trade. The Convention on the Rights of Persons with Disabilities and its Optional Protocol, as well as the International Convention for the Protection of All Persons from Enforced Disappearances, both of which have recently been adopted by the international body, attracted a great deal of attention. Maldives, signing on October 2, was the 117th nation to sign the pact on disabilities, one of 15 nations to do so during the treaty campaign. The agreement has only been ratified by seven nations, however; 20 more ratifications are needed before it comes into effect. (*Peace, Development and Human Rights the Focus of Annual UN Treaty Event*, UN NEWS, Sept. 18, 2007; *Nearly 50 Countries Take Treaty Actions at Annual Event*, UN NEWS, Oct. 2, 2007.)

(Constance A. Johnson)



UNITED STATES – Court Rules Against Families of Activists Killed in Gaza

On September 17, the U.S. Court of Appeals for the Ninth Circuit upheld the dismissal of a lawsuit brought against Caterpillar, Inc. by the families of activists killed or injured when the Israeli Defense Forces (“IDF”) used bulldozers to demolish a number of homes in the Palestinian Territories.

In 2003, American activist Rachel Corrie was killed, and several Palestinian activists were killed or injured, when the IDF bulldozed a number of homes in Gaza using equipment manufactured by Caterpillar. The families of the activists brought suit against Caterpillar, alleging that Caterpillar sold the machines to the IDF despite knowing that the IDF would use them “to further its home destruction policy in the Palestinian Territories; a policy plaintiffs contend violates international law.” The trial court dismissed the suit on the grounds that since the suit raised a political question, the matter was outside the jurisdiction of the court.

On appeal a panel of the U.S. Court of Appeals for the Ninth Circuit affirmed the lower court’s decision, ruling that since the U.S. government paid for the bulldozers and approved their sale to the IDF, there were issues of foreign policy involved, and the Constitution allocated foreign policy decisions to the executive and legislative branches. In the words of the court, “[w]e cannot intrude into our government’s decision to grant military assistance to Israel, even indirectly by deciding this challenge to a defense contractor’s sales.” (*Corrie v. Caterpillar Inc.*, No. 05-36210 (September 17, 2007), available at [http://www.ca9.uscourts.gov/ca9/newopinions.nsf/6DFD4322CA06B5FA88257359005660A6/\\$file/0536210.pdf?openelement](http://www.ca9.uscourts.gov/ca9/newopinions.nsf/6DFD4322CA06B5FA88257359005660A6/$file/0536210.pdf?openelement).)
(Gary Robinson)



Justice

GERMANY – Honor Killing

On August 28, 2007, Germany's Federal Court of Justice (*Bundesgerichtshof*) reversed the acquittal of two brothers of an ethnically Turkish family who allegedly had been involved in the honor killing of their sister, Hatun Sürücü (Docket No. 5 StR 31/07, Bundesgerichtshof official Web site (last visited Sept. 13, 2007)). In April 2006, the trial court, the Regional Court of Berlin (Landesgericht Berlin), had convicted the two suspects' 18-year-old brother of murdering his sister and had sentenced him to nine years' imprisonment (Docket No. (518) 1 Kap Js 285) in accordance with German juvenile delinquency laws (Jugendgerichtsgesetz, repromulgated Dec. 11, 1972, BUNDESGESETZBLATT I at 3427, as amended, §18). The trial court acquitted the older brothers for lack of evidence of their participation in the crime. The Federal Court of Justice reversed and remanded because of errors of law made in the trial court's evaluation of the evidence, among them, the lack of consideration of the fact that the hearsay evidence of a key witness had been corroborated by statements of the accused. The trial court was ordered to re-examine whether one older brother had supplied the murder weapon and whether the other older brother had stood guard during the murder.

The Sürücü case had caused a public outcry in Germany, where honor killings of young Turkish women who lead Western lifestyles occur with some frequency and where it has been observed as a pattern that such killings are carried out after a family council, with younger brothers often chosen to execute the killings because of the lower penalty that they will receive under juvenile delinquency laws. (R. Müller, *Freisprüche im Ehrenmordfall Sürücü aufgehoben*, FRANKFURTER ALLGEMEINE ZEITUNG, Aug. 29, 2007, at 4.) (Edith Palmer)

KOREA, SOUTH – Lenient Sentence for Owner of Conglomerate

On September 6, 2007, the Seoul High Court (a court of appeals) gave Hyundai Motor chairman Chung Mong-koo a suspended three-year prison term for embezzlement of company funds and breach of trust. Chung was sentenced to imprisonment at the trial of first instance, but he has been free on bail.

Originally, at the District Court, prosecutors, who have been taking a hard line on corruption in South Korea, sought a six-year jail term. The judge of that Court decided on a more lenient sentence, saying the lesser sentence was justified because of Chung's "big contributions to the development of the country's economy" and noting his involvement in charity to atone for his actions. The appellate court further reduced the sentence. The High Court explained the reason for suspending the prison term, citing "the risk to the Korean economy from putting [Chung] in jail was too great." Watchdog groups criticized the judgment for being in keeping with a bad tradition of giving lenient sentences only to rich defendants. The High Court judge made a statement in which he acknowledged that criticism. Chung was also ordered to donate W840 billion (US\$1=W939) to society and conduct volunteer activities like



lecturing and writing on corporate governance. (Unjin Shin, *Hyundai ji kaicho e no ishoku no hanketsu* [Different sentence for Chairman of Hyundai Motors], CHOSUNILBO, Sept. 7, 2007, *Hyundai Motor Chairman Gets 3 Years for Embezzlement*, THE ASSOCIATED PRESS, Feb. 5, 2007, available at <http://www.cbc.ca/money/story/2007/02/05/aphyundaichairman.html>.)
(Sayuri Umeda)

KUWAIT – Release of Member of Parliament Who Refused to Post Bail

On September 20, 2007, the Chief Prosecutor in Kuwait ordered the release of Member of Parliament Khudeir al-Anzi, who refused to post bail in connection with the charge of disparaging the judicial authority. The charge stemmed from statements he made to the press accusing the secret security services (*Mabahith*) and the Office of the Prosecutor of manipulating an investigation of a Jordanian citizen to favor the company where the man works. Al-Anzi, who belongs to the Muslim Brotherhood, refused to post the 500 dinars' bail (about US\$1500) set for his release after attending an investigative session conducted by the Office of the Prosecutor. (*Release of Member of Parliament Who Refuses to Post Bail*, AL-SHARQ AL-AWSAT, Sept. 21, 2007.)
(Issam Saliba)



Native Peoples

UNITED NATIONS – Declaration on Rights of Indigenous Peoples

On September 13, 2007, the General Assembly of the United Nations adopted the Declaration on the Rights of Indigenous Peoples, with a vote of 143 Members in favor, 11 abstaining, and 4 against. The four nations that opposed the non-binding declaration were Australia, Canada, New Zealand, and the United States. The text was welcomed by Secretary-General Ban Ki-moon and High Commissioner for Human Rights Louise Arbour, as well as by the President of the General Assembly, Sheikha Haya Rashed Al Khalifa, who said:

[B]y adopting the Declaration, we are also taking another major step forward towards the promotion and protection of human rights and fundamental freedoms for all. ... [E]ven with this progress, indigenous peoples still face marginalization, extreme poverty and other human rights violations. They are often dragged into conflicts and land disputes that threaten their way of life and very survival; and, suffer from a lack of access to health care and education.

The text of the Declaration was developed over more than 20 years of discussion and established both individual and collective rights for the estimated 370 million indigenous people living in 70 nations throughout the world. The provisions discuss, among other rights, rights to culture, identity, language, employment, and health. A main thrust of the Declaration is that indigenous peoples have the right to maintain their own institutions and traditions. Discrimination is prohibited by the Declaration, which seeks to promote the full participation of indigenous people in matters of concern to them and to pursue their own courses of economic and social development. In discussing the importance of the document, however, the U.N. Permanent Forum on Indigenous Issues stressed that it creates no new rights and does not place indigenous peoples in a special category. (United Nations Adopts Declaration on Rights of Indigenous Peoples, UNNews, Sept. 13, 2007.)
(Constance A. Johnson)



Natural Resources

THE GAMBIA – Fisheries Bill

On September 4, 2007, the National Assembly of The Gambia amended the 103-page Fisheries Bill 2007, which will supersede the Fisheries Act 1991. The main purpose of the legislation is to “adequately address current practices, issues and trends in the sector and be in consonance with the principles enshrined in the Food and Agriculture Organisation and the UN Code of Conduct for Responsible Fisheries.” It is also based on the government’s fisheries policy that conforms to goals set forth in its Poverty Reduction Strategy Paper. (Alhagie Jobe, *As Fisheries Bill Gets Amended D500,000 for Illegal Fish Export*, THE DAILY OBSERVER (Banjul), Sept. 6, 2007, available at <http://allafrica.com/stories/200709060799.html>.)

Under the bill, the Secretary of State has the power to prohibit or restrict the export from The Gambia of any prescribed fish species by notification in the official gazette. This includes any type or size of fish or fishery product deemed by the Secretary to require such prohibition or restriction in order to protect the domestic market’s fish supply or to be “in the interest of sustainable development and proper conservation and management of a fishery product.” (*Id.*) Illegal exporters will be subject to a minimum fine of D500,000 (about US\$25,700); those who fail to pay the fine will face a term of up to 10 years in prison. Only fish and fishery products that have been processed in a fish-processing facility licensed in accordance with the Fishery Act’s provisions, that meet the importing country’s standards, and that have a health certificate and permit for export will be permitted to be exported, according to the bill. (*Id.*) (Wendy Zeldin)



Public Administration

BRAZIL – Less Bureaucracy in Rio de Janeiro

Sérgio Cabral, the Governor of the State of Rio de Janeiro, Brazil, is planning to implement a program that will enable members of the local population to have access to federal, state, and municipal public services in one, unified physical space. The idea was inspired by a similar program, nicknamed “SaveTime” (*PoupaTempo*), already adopted in the State of São Paulo. Under the program, local citizenry will be able to obtain on the same day ID cards, police documents, a labor card, and a driver’s license, as well as to register and obtain the necessary license to operate a business enterprise. (*Rio Ganha Programa Inspirado no Poupatempo de São Paulo*, O DIA ONLINE, Aug, 24, 2007.)

(Eduardo Soares)



Religion

CHINA – New Measures Asserting Government Control over Religion Take Effect

On September 1, 2007, two sets of measures issued by China's State Administration for Religious Affairs (SARA) became effective: the Measures on Management of the Reincarnation of "Living Buddhas" in Tibetan Buddhism (Order No. 5, adopted on July 13 and issued on July 18, 2007 (Reincarnation Measures) and the Measures on the Establishment of Religious Educational Institutions (Order No. 6, adopted on Dec. 25, 2006, and issued on Aug. 1, 2007) (Institution Measures). According to an assessment of the Reincarnation Measures made by the U.S. Congressional Executive Commission on China (CECC),

if fully implemented [they] could transform Tibetan Buddhism as it exists in China into a less substantial, more completely state-managed institution, and further isolate Tibetan Buddhist communities from their counterparts outside China. ... [They] would empower the Chinese Communist Party and government to gradually reshape Tibetan Buddhism by controlling one of the religion's most unique and important features—lineages of teachers that Tibetan Buddhists believe are reincarnations and that can span centuries. (*New Legal Measures Assert Unprecedented Control over Tibetan Buddhist Reincarnation*, CECC Web site, <http://www.cecc.gov/pages/virtualAcad/index.phpd?showsingle=98716>) (last visited Sept. 24, 2007).)

The Reincarnation Measures state in article 2 that reincarnates [*tulkus* (spelled *sprul sku* in Tibetan; referred to as *huofo*, living Buddhas, in Chinese), revered Tibetan Buddhist teachers and spiritual leaders who wield political and religious power in Tibet, the foremost of whom is the Dalai Lama, currently in his 14th reincarnation] must uphold state unity and the solidarity of ethnic minorities and that the selection process of reincarnates is not to be subject to "the interference by and domination of any organization or individual." This can be viewed as referring to the Dalai Lama and other exiled Tibetan Buddhist religious teachers. Application and approval procedures for reincarnates in the Measures provide for approval of teachers by the provincial-level governments, the SARA, or the State Council, depending on how influential the teacher is considered to be (art. 5). Applicants may be disqualified not only on the grounds that they cannot be reincarnates according to Tibetan Buddhist religious doctrine, but also if a government at the level of a districted municipality or higher issues a decree banning reincarnations. Persons who have contravened the Reincarnation Measures and handled arrangements relating to reincarnates without authorization will be subject to administrative punishment and, if the act constitutes a crime, to criminal liability (art. 11). The CECC report further points out that the Reincarnation Measures "substantially [expand] the geographical reach of government oversight of reincarnation because [they] will be effective throughout China, not just in the Tibet Autonomous Region ..." (*Id.*). (Zang chuan fo jiao huo fo zhuanshi guanli banfa, Central People's Government of the People's Republic of China Web site, Aug. 2, 2007; Richard Spencer, *China Demands Veto on Tibet's Living Buddhas*, TELEGRAPH.CO.UK, Aug. 5,



2007, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2007/08/04/wtibet104.xml>;
Pamela Logan, *Tulkus in Tibet*, 3:1 HARVARD ASIA QUARTERLY (Winter 2004).

The Institution Measures, reportedly the first of their kind, have chapters on general provisions, conditions, and standards for founding religious educational institutions; examination and approval procedures; penalty provisions; and supplementary provisions. Religious educational institutions may only be run by state religious groups [e.g., the state-controlled Buddhist Association, Islamic Association, and Patriotic Catholic Association] or provincial-level religious groups, not by any other organizations or individuals; they are to be supervised, examined, and led, “according to law,” by government religious affairs’ departments. Within the same provincial-level administrative region in which religious educational institutions have already been established, in general no further approvals will be given for the establishment of new institutions of the same type. To found a religious educational institution, applicants must submit, among other materials, a statement on the source of students who meet the training criteria. Establishment of a religious educational institution without approval is punishable, in accordance with article 43 of the Regulations on Religious Affairs with banning of the institution, confiscation of its illegal gains, and disposition of the illegal structures. (Zongjiao yuan xiao sheli banfa, SARA Web site (last visited Sept. 24, 2007); *China Daily: More Schools to Soon Open Doors to Students of Diverse Religions*, CHINA DAILY, Aug. 30, 2007, Open Source Center No. CPP20070830968019; Zongjiao shiwu tiaoli, SARA Web site (last visited Sept. 24, 2007); *Regulations on Religious Affairs*, AMITY NEWS SERVICE, <http://www.amitynewsservice.org/page.php?page=1289> (last visited Sept. 27, 2007).)

(Wendy Zeldin)



Taxation

AUSTRIA – Inheritance and Gift Tax

On June 7, 2007, the Austrian Constitutional Court [*Verfassungsgerichtshof*] invalidated the Austrian gift tax and demanded its abolition by August 1, 2008 (docket no. G 23/07, Austrian Constitutional Court official Web site (last visited Sept. 25, 2007)). On the same date, the Austrian inheritance tax will also become inapplicable on the basis of a decision of the Austrian Constitutional Court of March 7, 2007 (docket no. 54/06, *id.*). The reasons for the two decisions were the same. In both cases, the Court held that several existing provisions on the valuation of real estate for inheritance and gift tax purposes (as contained in Erbschafts- und Schenkungssteuergesetz, June 30, 1955, BUNDESGESETZBLATT no. 1955/141, as amended) violate the constitutional guarantee of equality before the law by applying values for various categories of real property as established by the Valuation Act of 1955 (Bewertungsgesetz, July 13, 1955, BUNDESGESETZBLATT no. 1955/148) and by multiplying them by three. The Court held that this fictitious increase in value bears no resemblance to reality and thereby violates the constitutional guarantee of equality (Bundes-Verfassungsgesetz, BUNDESGESETZBLATT no. 1930/1, art. 7, para. 1).

The legislature has reacted differently to the two decisions. Whereas there seems to be much political consensus for abolishing the inheritance tax altogether, the elimination of the gift tax is not contemplated without enacting provisions that would forestall the shifting of assets to titular owners for tax avoidance purposes. (E. Marschner, *Ende der Schenkungssteuer*, 46 FINANZ JOURNAL 249 (2007).) (Edith Palmer)

GERMANY – Business Tax Reform

On August 14, 2007, Germany's legislature enacted the Business Tax Reform Act (Unternehmensteuerreformgesetz 2008, BUNDESGESETZBLATT 2007 I 1912), most of which will become effective for tax years ending in 2008. The purpose of the Act is to reduce the effective rate of taxation for all German businesses, be they corporations, partnerships, or individual proprietorships, in order to attract foreign investment and induce domestic firms to keep their business operations at home. (M. Ortmann-Babel, *Unternehmensteuerreform 2008 in Deutschland*, 46 FINANZ-JOURNAL 266 (2007).) However, the Act pursues at the same time the purpose of preserving revenue, to be accomplished through some rules that increase various tax burdens (*DGB und Wirtschaft kritisieren Unternehmensteuerreform*, DDP BASISDIENST (May 25, 2007), available at LEXIS, News Library, ZEITUNG File).

Among the measures that decrease tax liability for all enterprises is a reduction of the trade tax rate from 5 percent to 3.5 percent; however, this tax is multiplied by 400 percent in most municipalities. Beneficial for corporations is the reduction of the corporate tax rate from 25 percent to 15 percent. This leads to an effective corporate income tax rate of 29.9 percent that is composed of the trade tax, corporation tax, and the solidarity surtax for developing former



East Germany. One of the reforms beneficial to individual proprietorships is the partial deferral of taxation for retained gains.

Among the measures that increase the tax burden are a cap on the deductibility of interest, the taxability of long-term capital gains for non-business assets, and stricter transfer-pricing rules, including rules that call for the taxation in Germany of profits earned abroad through the transfer of German know-how and other assets.

(Edith Palmer)

RUSSIA – Foster Families Taxed as Commercial Enterprises

On August 30, 2007, the Ministry of Finance of the Russian Federation issued a resolution that recognizes foster families as commercial enterprises and instructed the Federal Tax Service to withdraw social security tax from foster parents who receive federal subsidies for raising children. According to the resolution, taking children into foster care is a form of business, and the agreement concluded between the foster family and state guardianship authorities regarding the transfer of a child into foster care should be considered as one of the forms of contract for paid services. Unlike the adoption procedure, taking a child into a foster family is a temporary measure, which continues until a child reaches 18 years of age. Despite the fact that a child is transferred into the foster family, the state remains responsible for caring for the child who, until the age of 18, receives federal food and clothing that are subsidies paid to the foster parents. Depending on the child's age, the subsidies vary in amount between the equivalent of US\$260-280. This money, which, according to the Ministry of Finance resolution, is a payment to the foster parents for providing care to the child, will be recognized as taxable business income. The institution of the foster family was introduced for the first time in Russia in 1996, and there is no legal act that defines monetary relations between the state and the foster family and within the family. (*Ministry of Finance Considers Foster Families as a Form of Business*, NEWSRU.COM, Aug. 30, 2007.)

(Peter Roudik)



Terrorism

CZECH REPUBLIC – Extradition to United States of Swedish Terror Suspect

On September 25, 2007, it was reported in Czech online news sources and confirmed by the ministry spokeswoman that Justice Minister Jiri Pospisil has decided to extradite Ousama Kassir to the United States. In so doing, Pospisil confirmed the July 17, 2007, decision of the Prague High Court upholding a verdict issued in April by the Prague City Court to the effect that Kassir's extradition is admissible.

Kassir, a Swede of Lebanese origin, has been charged in the United States with conspiracy to provide material support to terrorists, an offense punishable with a term of life imprisonment. He has been in Czech custody since December 2005, when he was detained at the airport, on the basis of an international arrest warrant, during a stopover of his flight from Stockholm to Beirut. U.S. authorities contend that Kassir, along with other conspirators, allegedly attempted to establish a terrorist training camp in Oregon in the late 1990s, from which jihadists would then proceed to Afghanistan. To finance their activities, the group allegedly planned to rob trucks and kill their drivers. Kassir is also alleged to have operated Web sites containing advice on how to produce bombs and poisonous substances for "mudjahedins." Kassir denies the accusations and his lawyer has argued that international agreements on the basis of which Kassir is extraditable do not apply to these accusations. (*Czech Justice Minister Decides To Extradite Swedish Terror Suspect to US*, CZECH HAPPENINGS, Sept. 25, 2007, Open Source Center No. EUP20070925035005.)
(Wendy Zeldin)

ISLAMIC LAW – Muslims in Europe Condemn al-Qaeda

Religious and intellectual Muslim leaders in Europe condemned the call issued by one of the al-Qaeda groups to kill a cartoonist in Sweden for offending the prophet of Islam. The leaders denounced the statement issued by the head of al-Qaeda in Iraq, known as Abou Umar al-Baghdadi, in which he promised rewards of US\$100,000 and US\$50,000 dollars, respectively, to anyone who kills the cartoonist and the editor of the newspaper that published the offending cartoons. The Muslim leaders reiterated that such statements contradict the teachings of Islam requiring respect for "treaties and agreements" and protection of "life and honor." (*Muslims in Europe Condemn al-Qaeda*, AL-SHARQ AL-AWSAT, Sept. 18, 2007.)
(Issam Saliba)

JAPAN – Extension of Anti-Terrorism Special Measures Law

The Government of Japan wants to extend the expiration date of the Anti-Terrorism Special Measures Law, under which the Maritime Self-Defense Forces refuel vessels of the United States, Australia, Pakistan, and other countries. The Law was enacted in 2001 after the September 11th terrorist attack in the United States. When it was enacted, the Law had an expiration date of two years after its effective date. The Law has been extended year by year since then. Since the opposition party, which is against the Maritime Self-Defense Forces'



refueling mission, obtained majority status in the upper house of the Diet (Japan's parliament) in July 2007, it has become difficult for the Government to extend the mission by extending the applicable period of the Law. The ruling party may let the Law expire and submit a new bill to soften the attitude of the upper house towards the refueling legislation. (*Kyuyu katsudo keizoku e shin hoan teishutsu mo* [New bill may be submitted in order to continue refueling], YOMIURI NEWSPAPER, Sept. 21, 2007.)
(Sayuri Umeda)

KENYA – Government Criticized for Terrorist Suspect Extraditions

The Kenyan Parliamentary Committee on Administration of Justice and Legal Affairs recently charged that the government has violated the Constitution by handing over suspected terrorists arrested in Kenya to other countries for punishment. Committee Chairman Paul Muite, speaking to a reporter with the DAILY NATION newspaper on August 26, 2007, criticized the police for transferring the suspects to penal institutions abroad. His remarks were made with reference to prior reports by the Muslim Human Rights Forum that 18 Kenyans arrested since 2006 were being held in Ethiopia, Somali, and Guantanamo Bay, Cuba. Muslim human rights activists have threatened to hold demonstrations to pressure the Kenyan government to have the suspects released. Muite stated, “[t]he suspects should be tried and convicted in ... our local courts. It's unconstitutional for police to abduct suspects and hand them over to foreign nations.” (*Kenya: Government Taken to Task over Extradition of Terror Suspects*, DAILY NATION (Nairobi), Aug. 27, 2007, Open Source Center No. AFP20070827950021.)
(Wendy Zeldin)



Trade and Commerce

BRAZIL – Rio Prohibits Sale of Alcoholic Beverages in Convenience Stores

On September 10, 2007, Cesar Maia, the Mayor of the City of Rio de Janeiro, Brazil, issued Decree No. 28,375 prohibiting the sale of alcoholic beverages in convenience stores located in gas stations. According to the Decree, the need for the issuance of such a law was based on a report made by the Ministry of Health that verified an increase in the number of deaths from car accidents involving drunk drivers, in which convenience stores had been a central gathering place for young people to meet and have easy access to alcohol. Non-compliance with the Decree by a convenience store will subject the owner to immediate cancellation of his or her license to operate the business. The Decree enters into force on October 1, 2007. (*Decreto Proíbe Venda de Bebidas Alcoólicas em Postos de Gasolina*, A PREFEITURA, Sept 11, 2007.)
(Eduardo Soares)

EUROPEAN COURT OF FIRST INSTANCE – Commission Decision Against Microsoft Upheld

Following a five-year-long investigation, in 2004 the European Commission reached the conclusion that Microsoft had violated European Union antitrust rules by abusing its dominant position in the computer software field. In particular, the Commission held that Microsoft had refused to provide its rival companies with “interoperability” information and also made the availability of its “Windows” personal computer operating system conditional on the simultaneous acquisition of the Windows Media Player software. The initial fines imposed by the Commission amounted to US\$635 million. Since Microsoft did not comply with the 2004 decision, it was later ordered to pay daily fines of close to €280.5 million (about US\$199 million, as of Sept. 24, 2007) in a six-month period.

In June 2004, Microsoft appealed the Commission’s decision before the European Court of First Instance (CFI) and asked that the Commission’s decision be annulled, arguing that the Commission acted unlawfully when it ordered the giant company to divulge its source code. It had also sought to suspend the Commission’s decision by claiming immediate irreparable damage. The Court rejected this argument.

On September 17, 2007, the CFI passed judgment, upholding the Commission’s decision and finding Microsoft guilty of abuse of its dominant position. It rejected only a minor section of the Commission’s decision related to the setting up of an independent monitoring trustee to watch over Microsoft’s activities due to the lack of legal basis for such a trustee. Microsoft must pay 80 percent of the legal costs incurred by the Commission. The Commission also has to assume a specified part of Microsoft’s expenses.

The President of the European Commission, Jose Manuel Barroso, stated that the judgment “confirms the objectivity and the credibility of the Commission’s competition policy.”



Microsoft's legal counsel stated that they would study the CFI's ruling carefully before making a decision to appeal. Should Microsoft decide to appeal, it has a two-month period to file its case before the European Court of Justice, which is the court of last resort. (*Microsoft Case Sets Precedent, Says Brussels*, EUOBSERVER, Sept. 17, 2007; *Microsoft Loses Anti-Trust Appeal*, BBC NEWS, Sept. 17, 2007.)

(Theresa Papademetriou)

EUROPEAN UNION – No Metric Conversions for United Kingdom and Ireland

The European Commission's long-standing efforts to convince authorities in the United Kingdom and in Ireland to convert to the metric system were finally thwarted and the Commission decided to abandon its plan. The conversion became the last straw for the citizens of both countries, who felt that the Commission was interfering unnecessarily in their every day lives. Moreover, a ten-week public consultation, conducted in the beginning of 2007, indicated not only the negative feelings of individuals but also that having two different systems did not create obstacles to trade among the 27 Member States. Consequently, British and Irish residents can continue to indicate weight in pounds and ounces, together with metric measurements. In addition, in Britain, road signs will continue to be written in miles; Ireland changed to kilometers in January 2005. (*EU Abandons Metric Conversion for UK and Ireland*, EUOBSERVER, Sept. 11, 2007.)

(Theresa Papademetriou)

NEW ZEALAND/INDONESIA --Trade and Investment Framework Signed

New Zealand and Indonesia have signed a Trade and Investment Framework (TIF) for the purposes of further building the trade and economic relationship between the two countries. (Hon. Phil Goff, Minister for Trade, *New Zealand and Indonesia Sign Trade and Investment Framework*, Aug. 28, 2007, available at <http://www.beehive.govt.nz/Print/PrintDocument.aspx?DocumentID=30457>.)

(Lisa White)



Transportation

TAIWAN – Civil Aviation Law Amended

The Civil Aviation Law of the Republic of China (ROC) on Taiwan was amended on July 18, 2007. Among other measures, the amendments redefine the terms used in the Law; provide for aviation activities involving private aircraft; specify that imported aviation goods as well as equipment and components may not be sold or used without being certified or approved by the Civil Aeronautics Administration; revise the requirements for filing applications for and registering as ROC aircraft; and stipulate the circumstances under which the partial or entire operation of an aeronautical products enterprise will be suspended.

The Law further now mandates that firearms, knives, or other objects stipulated under the Statute on Firearms, Ammunition, and Knives that might create concern about aviation safety may not be brought on board aircraft, with the exception of firearms for special missions approved by the Aviation Police Bureau and consented to by aircraft users. Other aircraft safety measures are also newly set forth in the Law.

In addition, the revised Law eases restrictions on foreign investment in civil aviation, air cargo brokerage, and terminal ground service enterprises; specifies that a foreign civil aviation enterprise without a subsidiary in the ROC may only operate in the ROC by commissioning a local agent to handle passenger or cargo transport; and adds and revises penalties for various violations of the Law. (Amendment to the Civil Aviation Law, 6753 THE GAZETTE OF THE OFFICE OF THE PRESIDENT 37-73 (Aug. 8, 2007), *available at* <http://content.glin.gov/summary/194776>.)
(Wendy Zeldin)



War Crimes

CAMBODIA – Senior Khmer Rouge Leader Charged

On September 19, 2007, the Extraordinary Chambers in the Courts of Cambodia announced that a high-ranking leader of the former Khmer Rouge regime has been charged with crimes against humanity and war crimes. Nuon Chea, called “Brother Number Two” to reflect his high status in the government that ruled Cambodia from April 1975 to January 1979, was brought before the co-investigating judges of the United Nations-supported tribunal following the execution of an arrest warrant. On September 21, the tribunal released a statement discussing in more detail the charges against him. The document alleges that he “planned, instigated, ordered, directed or otherwise aided and abetted in the commission” of numerous crimes against humanity. These include murder, torture, imprisonment, persecution, extermination, deportation, forcible transfer, and enslavement, as well as breaches of the 1949 Geneva Convention Relative to the Treatment of Prisoners of War. (*UN-Backed Tribunal in Cambodia Details Charges Against Ex-Khmer Rouge Leader*, UN NEWS, Sept. 24, 2007; Geneva Convention Relative to the Treatment of Prisoners of War, effective Oct. 21, 1950, Web site of the United Nations High Commissioner for Human Rights, available at <http://www.unhchr.ch/html/menu3/b/91.htm>.) Nuon Chea will be held in provisional detention facilities for one year because the tribunal considers him a threat to witnesses and a flight risk.

The tribunal was established under a 2003 agreement between the United Nations and Cambodia and has a mixture of Cambodian and foreign personnel, including staff members and judges. The Khmer Rouge were reportedly responsible for the deaths of more than a million Cambodians. (*Cambodia: UN-Backed Tribunal Charges Senior Khmer Rouge Figure*, UN NEWS, Sept. 19, 2007; *Special Tribunal for Cambodia*, GLOBAL POLICY FORUM, Sept. 19, 2007, available at <http://www.globalpolicy.org/intljustice/camindx.htm>.)
(Constance A. Johnson)



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