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Attorneys and Judges

CAMBODIA – Call for Judicial Reform

On August 23, 2006, thirty-five non-governmental organizations (NGOs) in Cambodia jointly called on the government to reform the country's judicial system. Their combined statement cited the lack of an independent judiciary as a key issue. The government has been drafting a law to regulate NGOs, but the statement argued that an anti-corruption law and a law on the structure and functions of the Supreme Council of Magistracy should be given priority. Some NGOs have expressed concern that even though they are now essentially regulated by the need to meet donor requirements, the new law would result in the closure of some of the organizations. On the other side, government spokesman and Minister of Information Khieu Kanharith has argued that different workers are drafting various statutes and that the NGO law has not been pushed ahead of other legislation. Cambodia has about 2,000 NGOs; among those signing the statement were the Center for Social Development, the Cambodian Defenders Project, the Community Legal Education Center, the Cambodian Women's Crisis Center, and the Committee for Free and Fair Elections. (Pin Sisovann, *Thirty Five Cambodian NGOs Urge Government to Give Priority to Judicial Reform*, THE CAMBODIA DAILY, Aug. 23, 2006, Open Source Center No. SEP20060823021011.)

(Constance A. Johnson)

KOREA, SOUTH – Disciplining Judges

After a former high court judge was arrested on the charge of bribery, the Supreme Court of the Republic of Korea released various measures on August 16, 2006, to improve judicial transparency. For example, reappointment evaluation will be strengthened. Korean judges can be reappointed every ten years. (*Saikosai chokan saibankan no fusei koi de shazai [Chief Justice of the Supreme Court apologized about improper conduct of a judge]*, CHOSUN NEWSPAPER, Aug. 17, 2006.)

(Sayuri Umeda)

MALDIVES – Independent Judiciary in 2007

Following a vote in the Special Majlis (parliament), the members of the Parliament of the Maldives voted across party lines to establish a judiciary that will be free from the authority or influence of the executive. Under the present Constitution of the Maldives, drafted by the current President Gayoom in the 1990s, the President is the head of the judiciary with the power to overturn court rulings and to appoint the Chief Justice and members of the Judicial Services Commission. According to some parliamentarians, this has enabled the President to systematically crush political opposition.

The Special Majlis, on July 30, 2006, voted that, under the new Constitution scheduled to take effect on June 30, 2007, the head of state will no longer have power over the judiciary. The new Constitution provides for the Chief Justice to be the head of the Supreme Court. Under it



there will be a High Court and a lower court. Although the head of state will nominate the Chief Justice, Parliament will vote to approve of the nomination. Parliament will also be able to dismiss the Chief Justice.

After the vote on the basic concept of the new constitutional arrangement, the drafting committee on the judicial system will meet to thrash out details for presentation to the entire Special Majlis to vote on adoption of the new judicial system. The reform-minded drafting committee may take some months to complete its report. ([*Special Majlis Votes for Independent Supreme Court*](#), MINIVAN NEWS, July 31, 2006.)
(Krishan Nehra)



Budget

KENYA – Bill to Amend Constitutional Officers Remuneration Act

A recently proposed amendment to Kenya's Constitutional Officers Remuneration Act (CORA) would facilitate implementation of a new salary structure for constitutional office holders. Under the proposed amendment, which is part of the Statute Law (Miscellaneous Amendments) Bill 2006, the officers would receive salary arrears that will cost millions of shillings. The amendment would affect subsection 2(1) of chapter 423, which states that salaries to be paid to the specified constitutional office holders will, as of July 1, 2001, be at the annual salary scales specified in relation to those offices. Debate on the bill began in July 2006 and is scheduled to resume when Parliament reconvenes in October.

The offices listed in the Schedule to the CORA include the Attorney General, the Chief Justice, judge of the Court of Appeal, High Court judge, Controller and Auditor General, Chairman of the Public Service Commission (PSC), the PSC deputy chairman, member of the PSC, the Chairman of the Electoral Commission of Kenya (ECK), vice-chairman of ECK, and member of ECK. The Attorney General and Chief Justice, for example, the highest ranked constitutional office holders, have a salary scale between Sh300,105 (about US\$4,142) and Sh531,650 (about US\$7,338). Under the proposed amendment, no additional expenditure of public funds will be occasioned by the bill's enactment; therefore, the taxpayer would bear the cost of the payment of arrears. One Member of Parliament, contending that the proposal is a "scheme to rob taxpayers," had already urged that it be expunged from the bill. (Francis Openda, [New Bill Could Cost Taxpayers Millions](#), THE STANDARD, Aug. 8, 2006.) (Wendy Zeldin)



Communications and Electronic Information

BANGLADESH – Bill to Regulate Cable TV

The Bangladeshi Parliament is in the process of adopting the Cable Television Network Operating Bill, 2006. According to the Information Minister Abdus Salam Pintu, the bill might be adopted by the Parliament before the ruling Bangladesh Nationalist Party (BNP) ends its five-year term in October 2006. Under the bill, Bangladesh's Government would be able to impose restrictions on cable operators, distributors, and service providers to prevent them from (?) functioning without obtaining a license. According to the Information Minister, there was no law to regulate the cable channels in the country and a number of cable operators were taking advantage of this situation by showing obscene programs on some satellite channels. The Parliament has already passed the Censorship of Films Act 2006, which subjects any "pornographic" filmmaker to imprisonment for three years. (*See* 4 W.L.B. 2006.)

The Cable Television Network Operating Bill, 2006 includes provisions on issuance of licenses to distributors for three years and to service providers for one year. Operators would be required to transmit only government-approved programs. According to the Information Minister, if the channels broadcast any program against Bangladesh's image, independence, and sovereignty, or against the spirit of the 1971 war of independence against Pakistan, the government would be able to shut them down. ([Bangladesh to Bring Tough Cable TV Law](#), ZEENEWS.COM, Aug. 5, 2006.)
(Shameema Rahman)

IRAN – Video Games Foundation

"Video games play a leading role in development of education and culture," states the introduction to the constitution of Iran's National Foundation of Video Games, approved by the Supreme Revolutionary Cultural Council in June 2006. In its first article, the document states that the foundation will function under the supervision of the Ministry of Culture and Islamic Guidance. The Foundation is a non-profit, non-governmental, and independent organization, and its objectives are:

supporting, supervising, developing, exporting, importing, preparing, and distributing a variety of video and computer games. The Foundation will prepare policies with regard to computer video games and present them to the Supreme Revolutionary Cultural Council. It will prepare policies to counter destructive games. It will set standards for importing and exporting and monitoring the quality and quantity of video games. The Foundation will introduce Islamic and Iranian values and promote international cooperation with an emphasis on Islamic countries.



The Minister of Culture will act as head of the board of trustees of the Foundation. The government will be the principal source of the Foundation's income. (OFFICIAL GAZETTE OF THE ISLAMIC REPUBLIC OF IRAN, No. 17865, June 22, 2006, at 3-5.)
(G. H. Vafai)

RUSSIAN FEDERATION – Electronic Transparency of the Judiciary

According to a statement issued by the Supreme Court of the Russian Federation, as of January 1, 2007, all judicial rulings and other decisions, including procedural ones, made by Russian judges will be digitalized and saved in electronic format in the nationwide federal automated system "Judiciary," which was specifically developed for this purpose. With the goals of ensuring transparency, providing a common information space for all Russian courts, guaranteeing timely and unrestricted access to court papers to all interested parties and avoiding unauthorized changes to them, electronic copying of all judicial documents will be done automatically and will cover all 2,622 Russian courts of general jurisdiction.

However, the degree of openness of the system has not been determined and it is not clear who will have access to it and which documents will be available for review. Proponents of the full publication of all court decisions emphasize the anti-corruption potential of this action. They have met strong opposition from privacy defenders. The Bill on Securing Rights of Individuals and Organizations to Judicial Information was introduced in the legislature in March 2006. The bill provides for complete publication of all court rulings except those made during closed hearings. The State Duma has not yet considered the bill. (Leonid Nikitinsky, *Elektronnyi Sud*, ROSSIISKAIA GAZETA, No. 167, Aug. 2, 2006, at 6.)
(Peter Roudik)

UNITED STATES – Creation of Searchable Federal Spending Database Authorized

On September 26, legislation authorizing the creation of a Web-searchable database of federal expenditures was signed into law. The legislation is intended to increase transparency and accountability of federal government expenditures. The database will include a wide variety of federal financial transactions, including contracts, loans, purchase orders, and grants. The legislation requires the Office of Management and Budget to create a Web-searchable database of all federal awards, with various exceptions for small entities and small award amounts, by January 1, 2008. The database will not include awards to individuals, such as Social Security checks or salaries of federal employees, or classified information. The information available will include the name and location of the entity receiving each award, the amount of the award, its purpose, the name of the funding agency, and other information. The database will include data for fiscal year 2007 onward. This database will be available to the public free of charge via a Web search interface. Additional information, such as subgrant and subcontractor information and credit card transactions, will be added over time. ([*Federal Funding Accountability and Transparency Act of 2006*](#), Public Law No. 109-282, 120 Stat. 1186 (2006).)
(Gary Robinson)



UNITED STATES – Government Settles "Pretexting" Charges

On October 5, the U.S. Federal Trade Commission announced it had entered into a settlement with a Virginia-based Internet company, Integrity Security & Investigation Services, that advertised and sold consumers' phone records and credit card records to third parties. The settlement enjoins the company from obtaining information through the practice of "pretexting," i.e., "impersonating any person or entity, directly or by implication . . . in order to obtain consumer personal information." The settlement requires the company to relinquish \$2,700, the entire amount of ill-gotten gains it earned from selling phone records and credit card transaction reports. (FTC v. Integrity Security & Investigation Services, Case No. 2:06-CV-241-RGD-JEB (E.D. Va.), [FTC Press Release](#); [Stipulated Final Order](#).)
(Luis Acosta)

VIETNAM – State Secrets in Communications Sector

On August 9, 2006, under Decision No. 182/2006/QD-TTg issued by the Prime Minister of the Socialist Republic of Vietnam (SRV), state secrets that are classified as top secrets in the postal, telecommunications, and information technology sector include information, documents, schemes, strategies, planning, and plans on development of postal, telecommunications, and information technology in the service of security, defense, and national works of great importance as well as mobilization plans in response to war or a state of emergency. The list also includes information and documents on high-ranking negotiations and contacts in this sector conducted between the SRV and foreign countries or international organizations that the two parties agree not to publicize. The Decision replaces Decision No. 620/TTg of December 28, 1993. ([Decision No. 182/2006/QD-TTg](#), VIETNAM LAW & LEGAL FORUM, Aug. 24, 2006.)
(Wendy Zeldin)



Consumer Protection

SENEGAL – Campaign Against Fuel Fraud

Senegal has launched a program to combat fraud in the petroleum products industry. The purposes of the initiative, begun in early August 2006, are to protect consumers from fraud, encourage competition, and bring revenue to the government. The program will be run by a specialized private control agency and the Finance Ministry, with the expectation that the Ministry of Energy and Trade, the Customs, Tax, and Excise Agency, the National Committee on Hydrocarbons, the African Refinery Company and other oil product distributing companies, and professional organizations will participate. The problems in the past have included the diversion of fuel products from their proper destination and adulteration of those products, resulting in both unfair competition and environmental harm. (*Senegal Launches Fight Against Fuel Fraud*, PANAPRESS, Aug. 8, 2006.)
(Constance A. Johnson)



Criminal Law

CANADA – Minister Proposes Curb on Preliminary Hearings

In an effort to reduce backlogs in criminal cases, Canada's Minister of Justice has proposed reducing or eliminating preliminary hearings. Such hearings are usually held to determine whether there is enough evidence to put the accused on trial, but they can be waived by provincial attorneys general in certain types of cases. For example, most major drug trials are held without a preliminary hearing. Defense lawyers are generally opposed to the Minister's proposal. The chairman of the criminal law section of the Canadian Bar Association has contended that there is no evidence that the scrapping of preliminary hearings would save court time. Greg DelBigio's position is that preliminary hearings often lead to plea bargains or guilty verdicts. The Minister of Justice's position is that disclosure requirements have largely made the preliminary hearing process outdated.

Canada has a fairly unique criminal justice system. Criminal law is a federal matter that is largely governed by a Criminal Code enacted by Parliament (R.S.C. ch. C-46 (1985), as amended). However, provincial attorneys general enforce the Criminal Code through provincial trial courts. Decisions of the provincial courts may be appealed to the Supreme Court of Canada. While the provinces do not have criminal law powers, they can pass "quasi-criminal" laws to enforce laws otherwise within their jurisdiction. Highway traffic laws are an example of laws within the competence of the provinces. ([Courts Should Consider Scaling Back or Scrapping Preliminary Hearings: Toews](#), YAHOO CANADA NEWS, Aug. 21, 2006.) (Stephen Clarke)

CHINA – Legislature Reviews Draft Laws on New Anti-Drugs Law

During its legislative session from August 22 to 27, 2006, China's National People's Congress Standing Committee (NPCSC) reviewed drafts of a new anti-narcotics law. The aim of the anti-narcotics law is to reduce drug-related crime and the growing number of drug users in China. Police officials reportedly announced in June 2006 that armed drug-smuggling gangs had been formed and are trying to establish a sophisticated network for selling drugs such as heroin and "ice." However, the draft law would ban physical punishment and verbal humiliation of drug addicts in drug rehabilitation centers. It also mandates support for opium replacement planting abroad. (*China Drafts Anti-Drug Law to Support Opium Replacement Planting Abroad*, XINHUA, Aug. 25, 2006, Open Source Center No. CPP20060825062034; *PRC Drug Control Bill to Ban Physical Punishment, Humiliation of Drug Addicts*, XINHUA, Aug. 24, 2006, Open Source Center No. CPP20060824150054.) (Wendy Zeldin)

CHINA – Legislature Reviews Draft Laws on New Money Laundering Law

During its legislative session from August 22 to 27, 2006, China's National People's Congress Standing Committee (NPCSC) reviewed drafts of an anti-money-laundering law. According to CHINA DAILY, China's official English-language newspaper, the new anti-money



laundering law “is expected to plug the legal loopholes in anti-money laundering with clearer definitions of such activities and penalties” and to help build an efficient regulatory structure to detect, monitor and prevent money laundering.” In addition, three anti-money laundering regulations focusing on the banking, securities and futures, and insurance sectors are reportedly to be released in the second half of 2006. (*China: NPC’s Draft Anti-Money Laundering [sic] Expected to Plug Legal Loopholes*, CHINA DAILY, Aug. 25, 2006, Open Source Center No. CPP20060825062022.)

(Wendy Zeldin)

CONGO (Democratic Republic of) – Penal Code Amended

On July 20, 2006, Congo amended articles of its Penal Code related to rape and put into the Code new public mischief offenses (Law No. 06/018, modifying Decree No. 30 of 1940). The changes are designed to include the rules of international humanitarian law relative to sex offenses, particularly considering the needs of those who are vulnerable. ([JOURNAL OFFICIEL DE LA RÉPUBLIQUE DÉMOCRATIQUE DU CONGO](#) (Aug. 1, 2006), Global Legal Information Network, GLIN ID 182501.)

(Constance A. Johnson)

COUNCIL OF EUROPE – Recommendation on Assistance to Crime Victims

On June 14, 2006, the Committee of Ministers of the Council of Europe published Recommendation Rec(2006)8 on Assistance to Crime Victims. The Recommendation is addressed to the Member States of the Council of Europe and serves as a tool to guide countries in adopting or implementing national legislation. It defines a victim as “a natural person who has suffered harm, including physical or mental injury, emotional suffering or economic loss, caused by acts or omissions that are in violation of the criminal law of a member state.” The term also encompasses the immediate family or dependants of the direct victim. One of the basic principles that Member States are encouraged to apply is the recognition and respect for the human rights of victims, especially the rights to security, dignity, privacy, and family life.

Under the Recommendation, the Member States are encouraged to adopt the following: a) measures to alleviate the negative effects of the crime for victims and to provide rehabilitation support; b) measures to safeguard victims from secondary victimization; c) measures to provide or promote services exclusively for the benefit and support of victims and to encourage non-governmental organizations to follow suit; d) measures to encourage the establishment and maintenance of specialized centers for the victims of crimes such as sexual or domestic violence; e) measures to establish free national telephone help lines for victims; f) measures to ensure that victims have access to information related to their case and necessary for the effective and prompt exercise of their rights; and g) measures to provide state compensation to victims of serious, intentional, violent crimes, including sexual violence, and to immediate family and descendants of victims who have died as a result of such crimes. (American Society of International Law, [Council of Europe, Committee of Ministers: Recommendation Rec\(2006\)8 of the Committee of Ministers to the Member States on Assistance to Crime Victims](#), INTERNATIONAL LAW IN BRIEF, Aug. 17, 2006.)

(Theresa Papademetriou)



EUROPEAN UNION – Five-Year Action Plan in the Field of Criminal Justice

On August 8, 2006, the European Commission adopted a Communication on “Developing a Comprehensive and Coherent EU Strategy to Measure Crime and Criminal Justice.” The Communication describes a five-year plan on building statistics on crime and criminal justice, to be collected by the Member States, which will provide a tool for prioritizing actions to fight crime and for assessing implementation measures. The Commission also intends to establish a committee of experts to support the implementation of the action plan. Eurostat, the statistical office of the European Union, is expected to release the first statistics at the end of 2006. (Press Release, IP/06/1089, European Commission, [The Commission Puts Forward a 5 Year Action Plan and Sets Up an Expert Group to Remedy the Lack of EU Statistics on Crime and Criminal Justice](#) (Aug. 8, 2006).)

(Theresa Papademetriou)

FIJI – Soldiers Guilty of Mutiny

Members of Fiji’s army have been found guilty of mutiny by a court martial and have been sentenced to from three to six years of imprisonment. The soldiers were members of the Counter Revolutionary Warfare Unit (not disbanded) and were charged in relation to staging a mutiny at the Queen Elizabeth Barracks on November 2, 2000. (*Mutineers Go to Jail*, FIJILIVE, Aug. 11, 2006.)

(Lisa White)

ISRAEL – Use of Information from Money Laundering Data Bank

On July 31, 2006, the Knesset (Israel’s Parliament) approved regulations that would allow the use of information from the databank established under money laundering legislation for the investigation of other criminal and security offenses by the Police and the Security Service Agency (SSA, formerly GSS). As a result, even in cases where it would be difficult to prove money laundering offenses, it would be possible to use the data collected by the Money Laundering Authority for prosecution of offenses related to tax, stock, or antitrust law violations.

The regulations were approved following a fierce debate; the Bar Association especially objected to the additional use of the data and warned against misuse of the data in a way that would violate individual rights. As a compromise, the regulations require a series of conditions, including authorizations from high-level officials in the Police and the SSA, a closed list of government agencies that can receive the information, and a requirement that information would be released only if there is reason to assume that it would actually further the investigation of the additional offense. (Zvi Lavie & Hadas Magen, *The Knesset Approved Usage of the Data of the Authority for the War on Money Laundering to Investigate Additional Criminal Offenses*, GLOBES ONLINE.)

(Ruth Levush)



JORDAN – Reduced Sentences for Two Members of Jordanian Parliament

On August 17, 2006, the AL-SHARQ AL-AWSAT newspaper reported that the High Court (Cassation Court) in Jordan had revoked the verdict issued against two members of the Jordanian Parliament related to their visit of condolence visit to the family of Musab al-Zarqawi, following his death at the hands of the American forces in Iraq. The Court decided to reduce the sentences to one year and one month for each, instead of two years for the first member and one and a half years for the second. (Jordan: Reducing the Sentences of Two of the Members of Parliament Who Expressed Condolences for Zarqawi,, AL-SHARQ AL-AWSAT, Aug. 17, 2006.) (Issam Saliba)

LIECHTENSTEIN – Juvenile Delinquency

On March 17, 2006, Liechtenstein enacted an extensive reform of its Juvenile Court Act (Gesetz, LIECHTENSTEINISCHES LANDESGESETZBLATT no. 101, amending Jugendgerichtsgesetz, May 20, 1987, LIECHTENSTEINISCHES LANDESGESETZBLATT no.. 39). The Reform Act will become effective on January 1, 2007. It allows prosecutors and juvenile courts to treat juvenile offenders benignly while deterring them from future delinquency.

The Act defines juveniles as persons between the ages of fourteen and eighteen, and limits the applicability of juvenile court proceedings to defendants who are tried before they are twenty years old. Minors below the age of fourteen are not punishable. Juveniles are not punishable if they were unable to understand the wrongness of their conduct, and juveniles below the age of sixteen who committed a misdemeanor are not punishable unless there is a special public interest, such as that of preventing them from the commission of repeat offenses. In addition, prosecutors may refrain from bringing a case to trial if the offense was punishable with no more than five years' imprisonment or a fine. To the extent that punishment is indicated, the punishment frames of the Liechtenstein Criminal Code are significantly reduced, and probation is to be employed whenever possible.

(Edith Palmer)

MEXICO/GUATEMALA – Military Assistance to Fight Organized Crime

Meeting in Guatemala City on August 24 and 25, 2006, the commanders of military units operating along the border of Mexico and Guatemala agreed to exchange intelligence information and to jointly plan strategic operations and coordinated actions to fight criminal activities by organized crime, such as illegal trafficking in arms and drugs and human smuggling. According to Hugo Say Mutz, Guatemalan Commander of the First Military Brigade, there has been increased activity by organized crime in the “blind” border areas between Mexico and Guatemala. (Francisco González Arrecis, *Guatemala y México en Plan Anticrimen*, PRENSA LIBRE, Aug. 25, 2006.)

(Norma C. Gutiérrez)



PAKISTAN – Female Prisoners Beneficiaries of Repealed Law

Overall, about 1,600 female prisoners, jailed throughout Pakistan since 1979 on charges of adultery, will benefit directly from the new President's Ordinance that was issued in July 2006. The Ordinance states that all offenses alleged to have been committed by women, except murder and terrorism, are bailable. The law also eliminated an anti-woman clause in the 1979 Hudood laws against extra-marital sex based on Islamic law. Following the enactment of the Ordinance, the process for the release of the women went into immediate effect, with preparation of bail documents for the prisoners.

The prisoners were detained without trial for minor offenses and domestic disputes. The revoked clause forbade those arrested and charged under the law from being granted bail. According to newspaper accounts, the elimination of the relevant clause in the Hudood laws, originally promulgated by the then President Zia-ul Haq as part of his campaign to introduce Islamic jurisprudence and eventually make Pakistan *Nizam-e-Mustafa*, or a country ruled by God, has rescued the women from "enormous social evils and family nightmares."

Human rights organizations, whose efforts led to the issuance of the Ordinance, demand the total repeal of the infamous Hudood laws, stating that the amendment and the release of the women prisoners were superficial and insufficient measures. The Chairperson of the Pakistan Human Rights Commission has threatened to go to the Supreme Court if the government fails to repeal the law completely. ([Musharraf Repeals Extra-Marital Sex Law](#), THE TIMES OF INDIA, July 9, 2006; [Process For Release of Women Begins](#), THE DAWN, July 9, 2006; [Demand for Repeal of Hudood Laws Grows](#), THE HINDU, Aug. 1, 2006.)
(Krishan Nehra)

TAIWAN – Child Welfare Group Urges Tougher Laws to Halt Baby-Selling

The Child Welfare League Foundation has advocated toughening laws to prevent selling babies, noting that at least 362 children have been sold in the past decade. The foundation called for strengthening punishments for violators of the Medical Treatment Law and "putting the children's welfare first." The foundation analyzed news reports regarding baby-selling cases from 1996 to 2006 and came to the conclusion that the police had solved only fourteen major cases. The foundation said that 91.9 percent of the cases it reviewed occurred in Taipei and warned that the anonymity and popularity of the Internet might make it a new channel for selling children. ([Child Welfare Group Urges Tougher Laws to Halt Baby-Selling](#), TAIPEI TIMES, Aug. 7, 2006.)
(Rui Geissler and Xiaomeng Zhang)

UGANDA – Bill to Legalize Prostitution

It was reported on August 2, 2006, that Uganda's Parliament would debate a draft bill seeking to legalize prostitution. "Various parties approached the committee on social welfare to legalize prostitution, we are pursuing the same to legalize it ...," Rebecca Kadaga, Deputy Speaker, stated on July 31, 2006. The previous (Seventh) Parliament had rejected pleas to



legalize prostitution on grounds of lack of a quorum to draft the bill. Kadaga also contended that legalization of prostitution would enhance HIV/AIDS awareness and improve access to anti-retroviral drugs and to community-based services. However, some committee sources critical of the move reportedly indicated that persons lobbying for official recognition of prostitution were hoping to achieve its legalization ahead of the Commonwealth Heads of State General Meeting (CHOGM), when many foreigners will visit Uganda. (Jumah Ssenyonga, [Ugandan Parliament to Debate Prostitution](#), THE NEW TIMES (Rwanda), Aug. 2, 2006.)
(Wendy Zeldin)



Elections and Politics

CANADA – Parliament Trails U.S. Congress 164 to 4

In the Parliamentary system of government that Canada inherited from the United Kingdom, the Prime Minister is the head of both the executive and legislative branches of government. Instead of enacting very specific laws designed to place limits on and give directions to governmental departments, Parliament has most often given those departments broader authority to make administrative decisions than is found in the United States. As the leading author on Canadian Constitutional law has expressed it: “the Canadian system of responsible government... leads to a concentration of power in the hands of the Prime Minister that has no counterpart in [a] presidential system.” (Peter Hogg, CONSTITUTIONAL LAW OF CANADA 9.3(c) (2005).)

In November 2005, Parliament was dissolved, and a general election was held in January 2006. The Conservative Party ousted the Liberal government and the 39th Parliament met in April. Yet, despite the fact that the present government has taken a new direction on many issues, it has only enacted four public statutes to date. By contrast, the United States Congress passed 164 public laws during a similar time frame ([Dec. 1, 2005 through Aug. 17, 2006](#); source: Thomas website, Public Laws listing.) The four laws that the current Parliament has enacted deal with the budget, appropriations, elections, and agriculture. While the House of Commons has passed several bills that have not yet been approved by the Senate, the fact remains that the current Parliament has only enacted four laws in the ten months since its predecessor was dissolved. This number is admittedly far below the thirty to fifty-five statutes Canada usually enacts in a year, but it demonstrates that Canada is governed far more through administrative decisions and far less through legislation than is true in the United States.

(Stephen Clarke and Jeanine Cali)

GHANA – Ministry of Chieftaincy and Cultural Affairs

Ghana recently established a Ministry of Chieftaincy and Cultural Affairs to preserve the institution of chieftaincy in the country. The Ministry will reportedly seek to cooperate with chiefs but not interfere in their affairs and will serve as a link between the National House of Chiefs (NHC) and the government. The President of Ghana, J.A. Kufuor, in explaining the reasons for setting up the new Ministry at a meeting with members of the Standing Committee of the NHC held on August 21, 2006, expressed concern about the increasing number of chieftaincy disputes in the country and his hope that the Ministry would help resolve them.

The NHC, among other functions, advises on matters relating to or affecting chieftaincy and handles the study, interpretation, and codification of customary law ([1996 Constitution of the Republic of Ghana](#), art. 272). Its President, Odenho Gyapong Ababio, said to President Kufuor that although the Constitution of Ghana bars chiefs from active involvement in partisan politics, the NHC “will not hesitate to comment on any matter of national interest.” Ababio also expressed gratitude to the government for setting aside funds for the construction of a Chief’s



College, with the aim of giving chiefs training in modern global developments and technologies. (*President Explains Chieftaincy Ministry*, GHANAIAN TIMES, Aug. 21, 2006, available at Ghana Review International database.)
(Wendy Zeldin)

MERCOSUR – Brazilian Presidency

On July 21, 2006, during the closing of the thirtieth Mercosur Summit Meeting that occurred in the city of Córdoba, Argentina, Brazil's President, Luis Inácio Lula da Silva, assumed, for the next six months, the temporary presidency of Mercosur. During the ceremony, Lula was quoted as saying that he is intent upon making Mercosur a stronger, more prominent, and more active bloc.

Lula defended the use of local currency instead of the dollar in business transactions within the bloc and justified the measure by saying that use of the dollar involves an additional and very bureaucratic exchange operation. The ideal scenario would be for the transactions to be conducted in the currency of one of the member states, he said.

The summit was marked by the participation of representatives from Cuba and Venezuela. Presidents Fidel Castro from Cuba and Hugo Chávez from Venezuela both attended. (Janaína Figueiredo e Eliane Oliveira, *Lula, ao Lado de Chávez e Fidel, Defende Comércio em Moeda Local no Mercosul*, GLOBO ONLINE.)
(Eduardo Soares)

MEXICO – Court Names Winner in Disputed Election

Felipe Calderon became president-elect of Mexico on September 5, 2006, two months after a disputed election, when the nation's top electoral court voted unanimously to reject allegations of fraud and certify his narrow victory. His leftist rival, Andres Manuel Lopez Obrador, had said he would not recognize the ruling.

Lopez Obrador and his supporters claimed that fraud, illicit government spending, and "dirty tricks" swayed the election in favor of Calderon, a member of President Fox's National Action Party. The court found no evidence of systematic fraud, although it threw out some polling place results for mathematical errors, irregularities, and other problems that trimmed Calderon's 240,000-vote advantage to 233,831 votes out of 41.6 million cast. The tribunal's decision was final and cannot be appealed.

Lopez Obrador challenged the election results on many grounds. One of his arguments was that an advertising campaign comparing him to Venezuelan President Hugo Chavez illegally affected the elections. The court said, however, that while the ads had a strong impact, it was not enough to change the result. It also pointed out that Lopez Obrador had used attack ads against Calderon. In addition, the court said there was "no logical connection" to Lopez Obrador's claim that television ads by pro-Calderon businesses had subliminal messages in favor of Calderon. It



also rejected claims that the popular soap opera "La Fea Mas Bella," or "The Prettiest Ugly Girl," had indirectly supported Calderon, and said there was no evidence electoral authorities were biased against Lopez Obrador. (Press Release 081/2006, Aprueba Sala Superior del TEPJF, Dictamen Relativo al Computo Final de la Eleccion Presidencial, Declaracion de Validez del Proceso Electoral y de Presidente Electo, Electoral Tribunal of the Judicial Branch of the Federation, (Sept. 5, 2006); *Judge: Election Imperfect, Calderon to Lead Mexico*, CNN.COM, Sept. 5, 2006.)
(Gustavo Guerra)

NEPAL – Amendment of Military Act Tabled

On August 17, 2006, the Government of Nepal submitted to the House of Representatives a bill to amend the current Military Act. Deemed by the press a major development in democratizing the Nepali Army, the legislation proposes that the army, which has been loyal to the monarchy, be placed totally under civilian control; that the 1959 Military Act that brought the army under royal command be scrapped; that authority be given to the Government to relieve the Chief of Army Staff at any time; and that the Public Service Commission be involved in the army recruitment process. The bill also states: “[t]he government shall establish and manage the NA for maintaining [the] independence, sovereignty, geographical integrity and national unity of Nepal.”

In addition, the bill puts forward fundamental changes in the structure of the Security Council, which heretofore has consisted of the Prime Minister, the Defense Minister, and the Chief of Army Staff. The proposed new structure would include the Prime Minister as head and the Ministers of Defense, Home, Finance, and Foreign Affairs as members. (*Much-Awaited New Military Act Presented at House*, EKANTIPUR.COM, Aug. 17, 2006.)
(Wendy Zeldin)

NEPAL – Female Heirs Also May Ascend to the Throne

Nepal made a historic change in the law that allowed only a male heir the right to be the King of Nepal. On July 31, 2006, the Nepalese Cabinet amended the law relating to the heir to the throne; it now states that the royal couple’s first child – be it a boy or girl – will succeed to become the king or queen of Nepal. Furthermore, the Prime Minister will head a special committee for making decisions on accession to the throne in the future.

The present King Gyanendra, whose ancestors founded the Kingdom of Nepal in 1968 by conquering numerous small kingdoms in the area, ascended to the throne in 2001, upon the assassination of the former king by his own son. In the year 2000, King Gyanendra assumed direct rule of the country in the face of a Maoist rebellion. However, he had to terminate his fourteen months of direct royal rule in April 2006, when Nepal’s political parties, including the Maoists, united to demand restoration of democracy in the kingdom. Now, the new government, a coalition of all political parties, engaged in drawing up a new Constitution of Nepal, has



stripped the monarchy of its powers. ([Nepal Okays Female Heirs to Throne](#), THE DAWN, Aug. 1, 2006.)
(Krishan Nehra)

PHILIPPINES – President Arroyo Beats Impeachment Attempt

In a widely anticipated victory, Philippine President Gloria Macapagal Arroyo has overcome an attempt by political opponents to unseat her. After a marathon overnight session of debate, lawmakers in the lower house of the Philippine Congress voted 173 to 32 on August 24, 2006, to quash the impeachment complaint, which accused Arroyo of election fraud, corruption, and human rights abuses. Arroyo, due to serve until 2010, survived a previous bid to remove her in 2005. Thirteen opposition lawmakers did not show up for the ballot and seven others defected to vote in favor of junking the impeachment complaint. A total of thirty members were missing from the vote. (Noel Albano & D. Tubianosa, [House Trashes Impeachment](#), Congress of the Philippines Web site, Aug. 24, 2006; [President Arroyo Beats Impeachment Bid](#), CNN.COM, Aug. 24, 2006.)
(Gustavo Guerra)

TAIWAN – Statute on Retired Presidents, Vice Presidents Amended

On July 19, 2006, amendments to Taiwan's Statute on Preferential Treatment for Retired Presidents and Vice Presidents were issued. The revisions affect the nature of preferential treatment for both types of officials as well as the circumstances under which such treatment will be suspended. The revised law also now specifies that the preferential treatment it prescribes will not apply to presidents or vice presidents who have been deposed as a result of recall, impeachment, or conviction of a crime. The amended articles take effect on January 1, 2007. ([6698 ZONGTONG FU GONGBAO](#) [THE GAZETTE OF THE OFFICE OF THE PRESIDENT] 2-4 (July 19, 2006), Global Legal Information Network, GLIN ID 181161.)

It may also be noted that the Cabinet announced on August 23, 2006, that it would suspend by the end of the month a range of benefits for retired premiers, including free utilities, provision of a chauffeur and subsidized gasoline, and free telephone service. Cabinet spokesman Cheng Wen-tsang stated at a press conference on the decision, "[w]e eventually decided to do this because there is no law to justify their preferential treatment." Although the Cabinet had not been bound by law to extend such treatment to former premiers, "it was an established practice to take care of them upon request," according to Cheng, and upon the official's death the benefits ceased. The Cabinet move reportedly occurred in the midst of public concern created over the benefits when former Premier Hau Pei-tsun's recent decision to give up his Cabinet-employed driver was widely reported in the local press. (Jimmy Chuang & Shih Hsiu-chuan, *Former Premiers to Forfeit Benefits*, TAIPEI TIMES, Aug. 24, 2006.)
(Wendy Zeldin)



Employment Law

ISRAEL – Protection of Workers in Times of Emergency

On July 31, 2006, the Knesset (Parliament) passed the Protection of Workers in Times of Emergency Law, 5766-2006. The Law prohibits an employer from dismissing a worker who either was absent or failed to perform work because of an order given at the time of a military attack or special homeland security situation. An employer is also prohibited from firing a worker who was absent from work to supervise his child's education when the educational institution the child attends is closed during a time of emergency. The Law protects the tenure of workers who are absent from work for the above reasons. It also regulates the pay due to workers during the period when northern Israel was under attack from Hizbollah rockets and the workers were prevented from working. (Protection of Workers in Times of Emergency Law, 5766-2006, bill, and explanatory notes, *available at* the Knesset Web site.)

(Ruth Levush)

JAPAN – Disciplining Public Servants

The Japanese National Personnel Authority (NPA) will issue guidelines on discipline of public servants in September 2006. The NPA has recognized that the various government agencies have not been consistent in how they discipline their employees. (*Kokka kōmuin no kōkaku menshoku kijun o meiki* [*Clarify standards of causes of demotion and firing*], YOMIURI NEWSPAPER, Aug. 16, 2006 (on file with author).)

(Sayuri Umeda)



Environmental Law

BOTSWANA/NORWAY – Air Pollution Accord

Under an agreement signed by Botswana and Norway, there will be technology transfer and capacity building efforts to enhance air pollution monitoring and surveillance in Botswana. The pact involves training for staff members at Botswana's National Environment Laboratory, covering chemical analysis, air dispersion modeling, and data management. According to Environment, Wildlife, and Tourism Minister Kitso Mokaila, the government has agreed to acquire equipment for the lab that will be worth P28.1 million (about US\$ 4.8 million). The lab has been used since 2003 for assessments of water, air, and soil samples from endangered areas such as polluted rivers. ([Botswana, Norway Sign Accord](#), DAILY NEWS ONLINE, Aug. 23, 2006.)
(Constance A. Johnson)

CASPIAN SEA – First International Convention

On August 12, 2006, the Caspian Sea Convention entered into force. The Convention, which was signed by Azerbaijan, Iran, Kazakhstan, Russia, and Turkmenistan, is the first that is legally binding on any subject adopted by the five shoreline states. It was signed in Teheran in November 2003. This document mirrors existing agreements regarding the Mediterranean and Baltic Seas and aims to stop pollution, protect wildlife, monitor the environment, and work out joint responses to any emergencies. However, it does not regulate the issues of financing joint actions and does not impose sanctions for violation of Convention provisions. The Convention emphasizes three areas for attention – protection of Caspian sturgeon, which suffer from over-fishing, dams that block access to spawning, and pollution; decrease of the pollution levels from toxic and radioactive wastes, run-off sewage, and leaks from oil extraction and refining; and unexplainable changes in sea levels, perhaps linked to earthquakes or sediment shifts. (*Caviar, Oil Targeted by Caspian Protection Plan*, REUTERS, Aug. 14, 2006.)
(Peter Roudik)

NEW ZEALAND – New Methods to Promote Environmental Compliance

In accordance with the New Zealand Ministry for the Environment's air quality standards, Auckland's environmental council is advertising breaches of pollution limits within the public notices section of a major daily newspaper. (Anne Beston, [Bad Air Days Advertised for All to See](#), NEW ZEALAND HERALD, July 27, 2006.)
(Lisa White)



Family Law

BRAZIL – Domestic Violence

On August 8, 2006, Brazil's President, Luiz Inácio Lula da Silva, sanctioned a new law (Law No. 11,340) that triples the punishment applicable to domestic violence crimes and increases the mechanisms to protect the victims. The new law amends the Penal Code to permit the arrest of the aggressor during or soon after the commission in flagrante of a domestic violence crime or, in cases where it was not possible to catch the act in flagrante, the issuance of a preventive arrest order against the attacker to avoid future violence. The punishment for such offenses has been increased from one to three years in prison; payment of a fine as an alternative form of punishment has been extinguished. To protect the victim, usually a woman, the law now obligates the aggressor to leave the house, extends state protection to the woman's children, grants the woman the right to retrieve her belongings, and gives the woman the right to cancel any power of attorney accorded by the woman to her assaulter. (*Agência Brasil, Marido que Bate na Mulher Pode Ficar Três Anos Detido*, GLOBO ONLINE.)
(Eduardo Soares)

COOK ISLANDS – Same-Sex Marriage Outlawed

The Cook Islands' Justice Minister, Tangata Vavia, has introduced in the country's parliament the Marriage Amendment Bill, designed to outlaw homosexual marriages and requiring that persons whose gender has been changed by surgery or medical treatment be deemed the sex of their birth. (*Cooks Measure Would Outlaw Same Sex Marriage*, PACIFIC ISLAND REPORT, July 21, 2006.)
(Lisa White)



Gender Equality

BENIN – Ban on Sexual Harassment

On July 17, 2006, Benin's National Assembly passed the nation's first comprehensive legislation on sexual harassment. The bill, which passed by a vote of 63 to 1, is designed to protect girls and women in schools, workplaces, and homes. While about fifty percent of girls enroll in primary school, a majority of them drop out by the time they reach secondary school; only about a quarter of women over the age of fifteen in Benin are literate. Lyn Neylon, a specialist with the Women's Rights Initiative program of the U.S. Agency for International Development, attributes the high female drop-out rate in part to sexual harassment of girls by teachers, a problem that has continued even after the 2003 adoption of a policy on the issue by the Ministry of Education. Neylon argues that the new law will have broad benefits. "By punishing sexual harassment and allowing women to stay in the workplace without being sexually harassed, Benin is improving the chances for the country to develop economically." ([Benin Bans Harassment](#), WOMEN'S ENEWS, July 29, 2006; [Gender Violence Rife in Beninese Schools](#), INTERACTION, Mar. 14, 2005.)

(Constance A. Johnson)

KENYA – Call for Reforms to Address Gender Inequality

The Chairman of the Kenya Law Reform Commission (KLRC), Kathurima M'Inoti, stated recently at a public forum on gender and economic growth, held in Nairobi, that legal provisions that discriminate against women should be reviewed to empower women and address gender inequality. Some of the laws being or to be reviewed include the Law of Succession Act, the Companies Act, and other business-related laws. It was also necessary, he stated, to enact a new law on matrimonial property. According to Kathurima, "legal obstacles, retrogressive customary practices that deny women ownership of property and the crippling poverty in rural areas, where the majority of women live" had all hampered women's empowerment. Human rights activist Swami Agnivesh, a guest speaker at the forum, called on the government to ensure women one-third of the representation in Parliament and for the adoption of stringent measures to rein in rising cases of sexual abuse against women and children. (Alexander Ndegwa, [Commission Calls for Review of Property Law](#), THE STANDARD, July 31, 2006.)

(Wendy Zeldin)

SOUTHERN AFRICAN DEVELOPMENT COMMUNITY – Renewed Call for Increased Representation of Women in Government

At the annual summit of the Southern African Development Community (SADC), which ended on August 18, 2006, the ruler of Lesotho called for acceleration of the process of increasing representation of women at all levels of government in SADC's fourteen Member States. SADC had set a deadline of 2005 for having women occupy thirty percent of the decision-making posts, on the basis of the Platform of Action of the Fourth World Conference on Women held in Beijing in 1995. Although not all the SADC Member States achieved that goal, the 2005 SADC summit had set a new goal of fifty-percent representation, and a communiqué



issued at the end of the 2006 summit reaffirmed that commitment. (Moyiga Nduru, [Development-Southern Africa: More Women, Please](#), INTER PRESS SERVICE NEWS AGENCY, Aug. 19, 2006.)

A two-day meeting of SADC Council of Ministers that preceded the two-day summit of the member heads of state discussed attainment of the Regional Indicative Strategic Plan goals of a free market by 2008, a Customs Union by 2010, a Common Market by 2015 and a Monetary Union by 2016. The Council was also to consider, among other issues, the HIV and AIDS pandemic, food security, and the regional response to avian influenza. (Media Release, SADC, Meeting of SADC Senior Officials [sic] Preparations for the 2006 SADC Ordinary Summit of the Heads of State and Government (Aug. 10, 2006).)

SADC was established on August 17, 1992, and its Member States are Angola, Botswana, the Democratic Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, United Republic of Tanzania, Zambia and Zimbabwe. ([SADC Profile](#).)
(Wendy Zeldin)

SWEDEN – Commission to Study Discrimination in Advertisements

The Swedish Government decided on July 27, 2006, to appoint a commission to study gender-discriminating advertisements in Sweden. There is a broad consensus that these types of advertisements, with stereotypical and insulting pictures, are problematic and that they counteract society's efforts to promote equality. The commission will make proposals on how to formulate legislation against such advertisements and illustrate the advantages and disadvantages of such legislation. It will also consider other ways that organizations in the business world could deal with gender discrimination. In preparing its proposals, the commission is to consider the anti-discrimination laws of the other Nordic countries. The commission's report will be presented no later than December 31, 2007. (Press Release, Ministry of Industry, Employment, and Communications, Utredning om Könssdiskriminerande Reklam (July 27, 2006).)
(Linda Forslund)

YEMEN – Commitment to Elect Women

The Yemeni President, Ali Abdullah Saleh, expressed his commitment to work towards insuring that fifteen percent of the candidates for the local election, scheduled to take place at the same time as the presidential election, be women. He also ordered the withdrawal of the candidacy of members of his party in districts where women had presented their candidacies. (Sana'a: Abdullah Saleh Orders the Withdrawal of His Party's Candidates from Districts in Which Women Candidates Are Present, AL-SHARQ AL-AWSAT, Aug. 21, 2006.)
(Issam Saliba)



Health Law & Regulation

AUSTRALIA – Pharmaceutical Companies Reject Scrutiny of Largess to Doctors

Medicines Australia – an industry body representing pharmaceutical companies – has rejected an order from the Australian Competition and Consumer Commission (ACCC) to publicly reveal details of hospitality provided to doctors as part of ‘educational meetings’ with doctors. Currently pharmaceutical companies self regulate marketing of prescription medications via the Medicines Australia Code of Conduct. Under Part 6.2 of the Code of Conduct, hospitality is supposed to be secondary to the educational aspect of meetings, and when the meeting is provided by the pharmaceutical company, the hospitality should be “simple and modest,” with no entertainment. (Press Release, Medicines Australia, [Medicines Australia Committed to Code of Conduct – Will Appeal the Condition Imposed by the ACC](#) (Aug. 16, 2006).)

(Lisa White)

EUROPEAN UNION – Mandatory Use of Daytime Lights

The EU intends to make compulsory the use of daytime lights by drivers. According to a European Commission report, the use of day lights could reduce traffic fatalities in the European Community by three to five per cent, which is equivalent to 1,200 to 2,000 deaths. Fourteen out of twenty-five EU Member States already have such laws in their domestic legislation. Sweden was the first country to introduce mandatory daytime lights use in 1967, when it changed from driving on the left to driving on the right side of roadways. Other Scandinavian countries soon followed Sweden’s example. (*Drivers in the EU May Have to Use Daytime Lights*, EUOBSERVER, Aug. 11, 2006.)

(Theresa Papademetriou)

HONG KONG – High Court Permits Doctors to Advertise

The High Court of Hong Kong has found that the Medical Council’s code of practice is contrary to the Basic Law, as it prevented effective dissemination of information to the public. (*Dr. Kwok-Hay Kwong v The Medical Council of Hong Kong*, HCAL 46/2006 (Aug. 11, 2006).)

(Lisa White)

IRAN – Medical Consent

Iranian courts have refused to accept letters of consent commonly prepared by physicians and signed by patients before medical procedures that waive the doctor’s medical liability. As recommended by the judiciary, the new forms must be prepared according to articles 59 and 60 of the Islamic Penal Code of February 1997, which provide:

Article 59: The following practices are not considered crimes: ...2) Any kind of legitimate medical or surgical procedure performed with the consent of the



persons or their legal representative and in full observance of technical and scientific standards and relevant government regulations. No consent is required when there is a need to treat on an emergency basis.

Article 60: When the physician has acquired a letter of consent from the patient or his guardian before the procedure, he shall not be liable for any bodily injury, financial loss, or loss of limbs. In cases of emergency, when obtaining a letter of consent is not possible, the physician shall not be held liable.

(*Medical Profession Liability* (in Persian), HAMSHAHRI NEWSPAPER, Aug. 21, 2006, at 2.)
(G. H. Vafai)

KAZAKHSTAN – New Fruit Labeling Rules

On July 31, 2006, the Minister of Health Protection of Kazakhstan issued a binding resolution that obligates all sellers of all produce in the republic to place a sticker with sanitary, hygienic, and health care information on each piece of fruit or vegetable intended for sale. The National Sanitary Control Service initiated the action because of a rapid increase in stomach infections nationwide. All produce sellers must purchase the stickers, which, depending on the kind of produce, will contain the following information or instructions “must be washed,” “contains no nitrates,” “certification number XXX” – or other basic sanitary rules and recommendations. The resolution also allows local medical authorities to issue stickers with information about different local diseases. (*Kazhdomu Fruktu – Etiketku* (in Russian), REGNUM INFORMATION AGENCY, July 31, 2006.)

(Peter Roudik)



Human Rights

MALDIVES – Enforcement of Human Rights Commission Requests

On July 25, 2006, the opposition Maldivian Democratic Party's proposal to amend the Human Rights Commission (HRC) bill won approval of the People's Majlis (parliament), by a vote of twenty-six to eight. If this proposal becomes law, government officials and police officers who fail to carry out orders of the HRC would face three months' house arrest and removal from their jobs if they did not comply with an HRC request for information.

The radical decision by the Majlis follows complaints from the HRC that officials, especially police officers, are impeding the Commission's work. According to the HRC complaint, police officers often refuse to provide witness statements. They also delay handing on requests or come up with questionable excuses as to why the information cannot be divulged. Although the law empowers the Commission to gather information necessary to investigate human rights abuses, there has been no punishment prescribed for officials who fail to comply with the order, thus rendering the HRC ineffective. The new amendment is expected to help enforce the HRC's power. The amendment awaits the President's ratification to become effective. ([Government Officials Face House Arrest for Failing to Comply with HRC](#), MINIVAN NEWS, Aug. 3, 2006.)

(Krishan Nehra)

MYANMAR (BURMA) – Resumption of Red Cross Prison Visits Rejected

The International Red Cross reported on August 24, 2006, that it had not received permission from Myanmar, during a meeting held between the Myanmar representative of the International Committee of the Red Cross (ICRC) and the country's ruling generals, to resume visits to Myanmar's prisons and labor camps. In late 2005, the junta suspended the visits, which began in 1999, without giving any reasons. At that same time, the generals had imposed more stringent conditions on nongovernmental organizations' (NGOs) visits; they insisted that staff members of government-affiliated agencies accompany the NGO representatives. The ICRC had refused to accept this demand, viewing it as compromising its independence. Relatives of the prisoners contend that prison conditions have worsened after the suspension of the visits, especially for prisoners of conscience, who number about 1,100. Before the suspension, the ICRC reportedly managed to make 453 prison visits. ([Myanmar Rejects Resumption of Red Cross Jail Visits](#), THE CHINA POST, Aug. 25, 2006.)

(Wendy Zeldin)

NETHERLANDS/RWANDA – Genocide Suspect to Be Tried by Dutch

On August 10, 2006, Joseph Mahambara, a migrant from Rwanda, was arrested by police in The Netherlands and charged with war crimes and torture for his actions during the 1994 genocide in his home country. He will be tried in The Netherlands and faces a maximum penalty of life imprisonment. Speaking on Radio Rwanda, the Prosecutor-General of Rwanda, Martin



Ngoga, said the suspect had been part of the extremist Hutu militias known as the Interehamwe and was on the list of ninety-three most-wanted suspected perpetrators of the genocide. Ngoga approved of the Dutch effort to bring Mahambara to justice, saying that Rwanda believes that the case will be handled professionally in The Netherlands. (*Dutch Can Try Genocide Suspect – Rwanda*, RADIO RWANDA, Aug. 11, 2006, Open Source Center No. AFP20060811950035.)

(Constance A. Johnson)

UNITED NATIONS – Convention on Rights of Persons with Disabilities

Delegates meeting at the headquarters of the United Nations in New York have agreed on a final draft of a new treaty to protect the estimated 650 million people worldwide who suffer from disabilities. The negotiation process, which took five years, was completed on August 24, 2006. UN General Assembly President Jan Eliasson said that the participants in the process were giving the world “the message that we want to have a life with dignity for all and that all human beings are all equal.” Don MacKay, New Zealand’s UN Ambassador and the chair of the final sessions on the new treaty, said “It’s a good convention and it will make a difference for millions of people.” The convention prohibits discrimination against persons with disabilities and covers civil rights, access to justice, the right to education, health services, and access to transportation. The document will now be sent to the General Assembly for consideration and adoption before being opened for signatures and ratifications. ([*At UN, Delegates Finalize New Treaty Protecting Rights of Persons with Disabilities*](#), UN News Center, Aug. 27, 2007.)

(Constance A. Johnson)



Immigration and Nationality Law

KAZAKHSTAN – Legislation on Illegal Guest Workers

On August 1, 2006, the Government of Kazakhstan initiated a program aimed at legalizing illegal migrants. The program will continue until the end of 2006. According to specially adopted legislation, all migrants who legally crossed the Kazakhstan border within the sixty-day period before the program started, i.e., after May 31, 2006, are eligible to apply for guest worker status. After legalization, all migrants will be registered and allowed to stay and work in Kazakhstan for a three-year period. Illegal workers must report to the immigration police and submit their application, a copy of the labor contract, photographs, and the migration cards they received at the border check points when they entered the country. In five days they will receive a new migrant's card, which will serve as their principal identification document while in Kazakhstan. Migrants and their current employers will receive amnesty for previously committed violations of immigration legislation. After the program ends, the police intend to increase control over the black labor market. Migrants who have not been registered as guest workers will be fined and deported. It is expected that about 100,000 out of 300,000 illegal migrants presently in Kazakhstan will be registered under this program. (*Kazakhstan Nachinaet Legalizatsiyu Trudovyh Migrantov* (in Russian), REGNUM INFORMATION AGENCY, July 31, 2006.)

(Peter Roudik)

SWITZERLAND – Immigration Database

The Immigration Database Act became effective on May 29, 2006 (AMTLICHE SAMMLUNG DES BUNDESRECHTS 1931 (2006)). The Act was originally adopted on June 20, 2003, but a three-year period was set aside to allow the population to subject it to a referendum. The Act was not challenged by a referendum, however, and therefore became effective when the referendum period had lapsed.

The Act modernizes various pre-existing separate data systems for immigrants and refugees and places them under one rubric. It also embodies privacy protection principles by specifying the types of data to be collected and their statutory uses (Botschaft, July 23, 2002, BUNDESBLATT 4695 (2002)). The database contains personal data of aliens who seek visas or claim asylum in Switzerland and Liechtenstein and data on the interaction of these aliens with federal and cantonal authorities. Race and ethnicity are among the collected data and racial profiling is technically feasible. Electronic access to the database is granted to the federal and cantonal authorities that deal with immigration, labor permits, border crossings, and national and international assistance in criminal and police matters. Although the new system is expected to enhance the enforcement of immigration laws, it is guided by the principle of proportionality and is deemed to be in conformity with the European Union Directive on the Processing of Personal Data (Directive 95/46/EC of the European Parliament and the Council, Oct. 24, 1995, OFFICIAL JOURNAL OF THE EUROPEAN COMMUNITIES L 281).

(Edith Palmer)



TAIWAN – New Legislative Proposal to Protect Foreign Workers

The Council of Labor Affairs announced that a protection mechanism has been launched to prevent employers from unreasonably laying off foreign workers. The announcement is an official response to Taiwan's relegation to the "Tier 2 Watch List" in the U.S. Department of State's recent HUMAN TRAFFICKING REPORT.

The report, issued in June 2006, placed Taiwan on the Watch List for its failure to address problems concerning forced labor and sexual servitude among contract workers and brides. According to Tsai Meng-liang, the head of the Foreign Labor Department of the Council of Labor Affairs, the new mechanism will require employers to seek official confirmation of whether any complaint has been lodged against them before terminating a work contract with a foreign employee. ([*Plans to Protect Workers Ready*](#), TAIPEI TIMES, Aug. 9, 2006.)
(Rui Geissler and Xiaomeng Zhang)



Intellectual Property

SWEDEN – Investigator Appointed to Assess Copyright and the Internet

An investigator has been appointed by the Swedish Government to report on the development of copyright issues with respect to the Internet and propose solutions. The investigator will especially consider measures to stimulate legal alternatives to access music and movies on the Internet. The investigator will consider measures that meet consumer demands for user-friendly services that do not limit the consumer to certain specific products and services, while taking into consideration innovation, growth, and technical neutrality. Furthermore, the investigator will evaluate the current legislation on copyright and consider whether any changes need to be made. The investigator's considerations and proposals must promote the above-mentioned aim of making legal alternatives available to access materials on the Internet and ensure that the creators, artists, and others who own rights to the materials are paid for their use. The investigator's work results and conclusions will be presented no later than May 1, 2007. (Memorandum Ju2006/6767/P, Ministry of Justice, Uppdrag Angående Upphovsrätten på Internet (Aug. 18, 2006).)

(Linda Forslund)

TAIWAN – FPFVW Warns Against Cell Phone Movie Recording

On August 24, 2006, the Foundation for the Protection of Film and Video Works (FPFVW) in Taiwan (a local U.S. Motion Picture Association operation) issued a warning to moviegoers not to use camcorder cellular phones to record films in theaters, pointing out that the act is in violation of the Copyright Law and grounds for prosecution. Two instances of theater staff reporting such use of camcorder cell phones to the FPFVW and the police the week before apparently prompted the FPFVW's move. Six similar cases have been reported since 2003, FVWP statistics indicate; the sentences for perpetrators ranged from fifty-nine days for use of a camera phone to three months' imprisonment for using a digital camcorder.

FPFVW Chief Executive Officer Yang Tai-shun (Spencer Yang) noted that the Foundation had distributed information in movie theaters to inform the public of the illegality of using the advanced technology to record movies in theaters. It would continue to sue violators as a warning to the public, Yang stated, even though the cell phone-recorded movies probably have no commercial value. He pointed out that a single electronic memory card now has sufficient memory to record a full-length movie, resulting in "rampant piracy, which may hurt the movie industry." To encourage theater staff and patrons to report acts of piracy, Yang stated, a reward of NT\$10,000 (about US\$304) would be given to anyone who reports cases of illegal movie recording that are successfully prosecuted. ([Public Warned About Recording Films in Theaters](#), TAIPEI TIMES, Aug. 25, 2006.)

(Wendy Zeldin)



International Relations

ISRAEL – Legal Declaration of War

Three petitions were submitted to Israel's High Court of Justice regarding the constitutionality of the government decision to engage in military operations in Lebanon following Hizbollah's July 12, 2006, attack within Israel's territory that resulted in the death of eight Israel Defense Force soldiers and the kidnapping of two. The petitions question the procedural propriety of this decision and the economic implications of the omission to properly declare war. According to section 40 of the Basic Law: The Government:

(a) The state may only begin a war pursuant to a Government decision. (b) Nothing in the provisions of this section will prevent the adoption of military actions necessary for the defence [sic] of the state and public security. (c) Notification of a Government decision to begin a war under the provision of subsection (a) will be submitted to the Knesset Foreign Affairs and Security Committee as soon as possible; the Prime Minister also will give notice to the Knesset plenum as soon as possible; notification regarding military actions as stated in subsection (b) will be given to the Knesset Foreign Affairs and Security Committee as soon as possible.

The Court recognized that the Law does not define the term "war" and that the interpretation of the term has implications in the international sphere. Under international law, it noted, a formal declaration of war is not a precondition to the existence of a state of war or an armed conflict and is not required for application of the rules of international law regarding the conduct of war. The Court concluded that Israeli law does not require such a nexus either. The security situation may in fact lead the public to view the situation as one of a war, the Court held, but from a legal point of view the military activity in Lebanon, in spite of the possibility of being considered a state of war for the purpose of various other laws, does not constitute a cause for a declaration of war for the purpose of implementation of section 40.

The Court clarified that in the circumstances surrounding the current conflict, the government was authorized to determine that the military activity it had decided to engage in did not rise to a "beginning of a war," but rather was a military activity for self-defense in response to aggression. The Court added that even though the government had determined that the Israel Defense Force activity in Lebanon was subject to section 40(b) of the Basic Law, in fact it followed all the procedures that are required under section 40(a) for a situation of "war." Moreover, the omission of reliance on section 40(a) has no impact on the economic and humanitarian assistance and compensation that will be provided to residents of northern Israel. (H.C. 6204 Dr. Yosi Beillin et al. v. The State of Israel, et al., The State of Israel Judicial Authority Web site; Basic Law: The Government, the Knesset Web site.)
(Ruth Levush)



MERCOSUR – Parliament Approved

In June 2006, the parliamentary commission of Mercosur approved the constitutive protocol of the Parliament of Mercosur. Designed to be the consulting body of the bloc, the Parliament will issue reports on drafts for bloc regulations as well as recommend the adoption of rules that favor the integration of the bloc.

Brazilian Federal Deputy, Dr. Rosinha, was quoted as saying that the Parliament will not have legislative functions and will not supersede the national congresses of the member states. According to Dr. Rosinha, the Parliament will give the legitimacy that the bloc is lacking due to the absence of citizen participation in the decision making process. The Parliament will be used to address the expectations and concerns of the many different sectors of civil society of the bloc's member states and as the communication channel between the population and the decision makers responsible for the bloc's integration, said Dr. Rosinha.

During its inaugural phase, the Mercosur Parliament will have eighteen representatives from each member state, currently Argentina, Brazil, Paraguay, and Uruguay. Until the year 2010, the representatives will be appointed by the parliaments of each member nation. After that, the population of each country will directly elect them. The idea is to have the first general election in 2014, when the citizens of all the member countries will be able to vote for their representatives at the same time. (Press Release, Agência Câmara de Notícias, Comissão Aprova o Parlamento do Mercosul (June 6, 2006).)
(Eduardo Soares)

PAPUA NEW GUINEA/UNITED STATES – Lawsuit Reinstated

The U.S. Ninth Circuit Court has reinstated a lawsuit against Rio Tinto PLC by the residents of Bougainville, Papua New Guinea, under the Alien Tort Claims Act, 28 U.S.C. § 1350. *Sarei v. Rio Tinto PLC* (221 F. Supp. 2d 1116 (C.D. Cal. 2002)) had previously been dismissed on the grounds that it involved political questions and presented a risk to relations between Papua New Guinea and the United States. The case was reinstated on the basis that the plaintiff's claims could be tried in the United States and that the district court erred in dismissing some of them.
(Lisa White)

UNITED NATIONS – Plans for an International Arms Trade Treaty

On July 24, 2006, at the Geneva Conference on Disarmament, seven countries devised a proposal to begin negotiations, under the auspices of the United Nations, on a treaty establishing international rules concerning the global trade in conventional weapons. The countries involved in this initiative included Argentina, Australia, Costa Rica, Finland, Japan, Kenya, and United Kingdom. As the British statement concerning the agreement said, it would be “a legally binding instrument establishing common international standards for the import, export and transfer of conventional arms through an international Arms Trade Treaty.” In October 2006, the proposal will be formally submitted to the U.N.'s First Committee, which is in charge of



disarmament and international security. (*Seven Nations Start Push from UN Arms Trade Treaty*, REUTERS, July 24, 2006.)
(Theresa Papademetriou)

UNITED NATIONS SECURITY COUNCIL – Resolution on Israel and Lebanon

On August 11, 2006, the United Nations Security Council (UNSC), at its 5511th meeting, adopted Resolution 1701 (2006). The preamble of the Resolution recognizes “Hizbollah’s attack on Israel on 12 July 2006” as the starting point of the escalation of hostilities in Lebanon and in Israel. It calls for “the unconditional release of the abducted Israeli soldiers,” kidnapped by Hizbollah from Israeli territory, while “encouraging the efforts aimed at urgently settling the issue of the Lebanese prisoners detained in Israel.” The preamble further calls for the implementation of previous UNSC resolutions, including Resolution 1559, and welcomes the extension of the Government of Lebanon’s authority over its territory.

The operative paragraphs of the Resolution:

- Call for full cessation of Hizbollah attacks and all Israeli offensive military operations;
- Call for the Government of Lebanon and a robust force of up to 15,000 troops from the U.N. (U.N. Interim Force in Lebanon, or UNIFIL), enhanced in “equipment, mandate, and scope of operations,” to be deployed in southern Lebanon, parallel to the Israeli withdrawal of its forces from that area;
- Call for the international community to immediately provide financial and humanitarian assistance to the Lebanese people “under the authority of the Government of Lebanon”;
- Call for “the establishment between the Blue Line and the Litani river of an area free of armed personnel, assets and weapons other than those of the Government of Lebanon and of UNIFIL ...deployed in this area”;
- Require the disarmament of all armed groups in Lebanon;
- Prohibit any foreign forces from operating in Lebanon without the consent of its government;
- Establish an embargo on the sale or supply of all arms and related materials, as well as on training or assistance related to their provision, manufacture, maintenance, or use, except by the Lebanese Government or by UNIFIL;
- Call for Israel to provide to the United Nations all remaining maps of landmines in Lebanon that are in Israel’s possession.

It was reported that U.S. Secretary of State Condoleezza Rice opined that the U.N. force expected to deploy in south Lebanon would not be tasked with forcibly disarming Hizbollah. UNIFIL, however, will help to enforce an arms embargo and prevent Hizbollah's rearmament. Contrary to UNSC Resolution 1701, which determines that the area south of the Litani River will be free of arms, aside from those held by Lebanese soldiers and UNIFIL troops, the Lebanese Cabinet was reported as having reached a decision that Hizbollah will not disarm in southern



Lebanon, but its members will refrain from carrying weapons in public. The agreement was reached following deliberations with Hizbollah representatives. (S/RES/1701 (2006), United Nations Website; [Security Council SC/8808 5511th Meeting](#); *Rice: No Expectation UN Force Is Going to Physically Disarm Hezbollah in South Lebanon*, HAARETZ.COM.)
(Ruth Levush)

UNITED STATES/MEXICO – Governors to Enlarge Border Security Commission

The governors of the border states of Mexico and the United States, meeting for two days in Austin, Texas, for the twenty-fourth annual Conference of Border Governors, on August 24 and 25, agreed to enlarge the Border Security Commission (Comisión de Seguridad Fronteriza) in order to include on it personnel of the U.S. Department of Homeland Security and to share intelligence information to achieve better coordination in their fight against crime in the border region. The American governors, Janet Napolitano of Arizona, Arnold Schwarzenegger of California, Bill Richardson of New Mexico, and Rick Perry of Texas, meeting with their Mexican colleagues, Humberto Moreira Valdés of Coahuila, Eugenio Hernandez Flores of Tamaulipas, Natividad González Parás of Nuevo León, José Reyes Baeza of Chihuahua, Eugenio Elorduy of Baja California, and Eduardo Bours of Sonora, issued a joint statement at the conclusion of the Conference, agreeing to renew their efforts to eradicate criminal activity at the border and, to the extent possible, to share information on terrorism, gangs, fugitives, smuggling, and drug trafficking. In addition, they established that there was a need to create mechanisms of cooperation in matters of security, border crossings, water, energy, economic development, science and technology, health, environment, wildlife, agriculture and tourism. (Juán Cedillo, *Ampliarán Comisión de Seguridad Fronteriza*, EL UNIVERSAL.)
(Norma C. Gutiérrez)



Property Law

CHINA – Legislature Reviews Draft Laws on New Property Law

During its legislative session from August 22 to 27, 2006, China's National People's Congress Standing Committee (NPCSC) reviewed drafts of a new property law. It will be the fifth reading for the draft property law, after it was released for a forty-day period beginning on July 10, 2005, for solicitation of public opinions on its content. Typically, a law is adopted by the NPCSC after three readings. However, additional review was necessary, according to an NPCSC official, "because the property law relates to every aspect of people's lives and attaches great importance to the protection of state assets and private assets, as well as social stability" After the fifth reading, the official stated, the draft will be adopted in a plenary session of the National People's Congress (that is, next March). Among the controversial issues being debated in connection with the draft law are whether the right of rural land contract management can be mortgaged, whether the right to use of land for housing can be transferred, and aspects of land requisition. (Open Source Center No. CPP20060816412006, *supra*; *Xinhua Report on Draft Property Rights Law*, XINHUA, Aug. 23, 2006, translated in Open Source Center No. CPP20060823909005.).

(Wendy Zeldin)

CHINA – Regulations Add Transparency to Land Transactions

A set of governmental measures to expose illegal land acquisitions took effect in China on August 1, 2006. The new regulations, released by the Ministry of Land and Resources (MLR), stipulate that all land for the use of business, tourism, recreation, commerce, and other profitable purposes should be transferred through public nation-wide bidding and auctions.

The MLR's statistics indicate that the government transferred 163,000 hectares of land nationwide in 2005, but only thirty-five percent of the transfer was handled through bidding and auctions. The MLR considered this an achievement because it represented an increase of 14.5 percent over such transfers carried out in 2002. However, scholars criticized the MLR for its slow process in strengthening the regulations. ([Law Adds Transparency to Land Transaction](#), PEOPLE'S DAILY, Aug. 1, 2006.)

(Xiaomeng Zhang and Rui Geissler)

CHINA – Resettlement Regulations

On August 13, 2006, China's State Council (Cabinet) issued its Opinions on Perfecting Subsidy Policies for Relocated Residents in the Later Stages of Large and Medium-Sized Reservoir Projects. The government will increase electricity rates, by 0.62 cents per kilowatt-hour, to compensate the twenty-two million persons displaced by construction of dams and reservoirs. The displaced will receive 600 yuan (about US\$75) a year for twenty years, with payment of the subsidies by the central government reportedly amounting to more than thirteen billion yuan a year (roughly US\$1.6 billion). Under the plan, personal accounts into which the subsidy is directly transferred will be established for all relocated persons. In addition, the



central government will raise funds through other means to improve infrastructure in the areas resettled and offer technical and occupational training programs for the relocated residents to help them seek employment in cities. ([Gov't to Subsidize 22 Mln Reservoir Immigrants](#), XINHUA, Aug. 14, 2006.)

The Opinions are viewed as an improvement over the former provisions on resettlement issued in 1991. There are specific stipulations in the new provisions to protect the interests of the displaced, e.g., to guarantee that their living standard be kept at at least the same level as what it had been. There is also more protection of their rights; any relocated person may lodge a complaint with the relevant authorities and file a lawsuit against officials or government institutions they view as having infringed upon their rights and interests. In addition, the rate of compensation is sixteen times the average output value that the acquisitioned land produced in the previous three years, as opposed to only three times as much stipulated in the previous regulations. Another new provision stipulates that programs on residents' migration and resettlement may be devised only after the opinions of the persons to be displaced and the residents of the resettlement areas have been solicited, and, if necessary, hearings should be held. (*China Daily 'Opinion': New Resettlement Regulations Show More Respect to Residents*, CHINA DAILY, Aug. 15, 2006, Open Source Center No. CPP20060815151013.)
(Wendy Zeldin)



Religion

NIGERIA – Bill on Religious Liberty

It was reported on August 21, 2006, that the Christian Lawyers Fellowship of Nigeria (CLASFON), in conjunction with Afri Foundation, would sponsor a bill on religious tolerance to submit to the National Assembly for enactment into law. Jonathan Kish Adamu, the President of CLASFON, stated at a press conference that the Nigerian Government had not properly respected rights to individual freedom of thought, conscience, and religion stipulated by the Constitution of Nigeria. “In Nigeria,” he stated, “the protection of individual rights to freedom of religion has been exercise[d] in the breach and the constitutional guarantees to freedom of religion have been violated using the very instrument of state that is meant to protect this right.” Adamu added, “[t]he violation of this right has also extended to other rights such as the rights to freedom from discrimination and the right to own immovable property.” In his view, the problem had been exacerbated with the introduction in some northern Nigerian states of an enhanced *Sharia* legal system. Since the early 1980s, he averred, that area “has been a hotbed of ethno-religious conflict and intolerance,” and religious freedoms in certain Muslim-dominated areas were constantly under threat of being violated. In turn, because of the conflict, Adamu noted, in the southern states there have been reprisal attacks against Muslims and members of other minority religions, who are treated “as if they do not exist by the public institutions that should offer them protection.”

Adamu stated that to remedy these ills Nigeria needs a law that will not only restate protections but provide sanctions for violators and remedies for victims and guidance for the various institutions involved with the administration of justice. To create awareness and encourage the participation of civil society in the process leading up enactment of such a law, CLASFON and the Afri Foundation, with support from the Open Society Initiative for West Africa (OSIWA), planned to hold a series of seminars throughout the country, with input from the seminars to be used in the final draft of the bill to be presented to the National Assembly. (Juliana Taiwa, [CLASFON to Sponsor Religious Liberty Bill](#), THIS DAY, Aug. 21, 2006.) (Wendy Zeldin)

UNITED STATES – Public Library Ban on Worship in Meeting Rooms Upheld

On September 20, a federal appeals court ruled that under the First Amendment of the U.S. Constitution, government libraries may refuse to allow religious groups to hold worship services in public meeting rooms.

In 2004, Faith Center Church Evangelistic Ministries was denied permission to use a public meeting room in the Contra Costa County Library for worship services. The church sued the county in the U.S. District Court for the Northern District of California, seeking a court order that would force the county to grant the church access. In May 2005, the court found that the church was likely to succeed on the merits of its claim, and issued a preliminary injunction against the county.



The county appealed the preliminary injunction to the U.S. Court of Appeals for the Ninth Circuit. The U.S. Department of Justice, on behalf of the United States, filed a brief with the Ninth Circuit in support of the church.

The Ninth Circuit overturned the district court's ruling. It stated that under prevailing First Amendment case law, courts must balance a religious organization's right to access a government building that is open to other groups against the government's interest in preserving its property for its intended uses. The court found that while the church's activities did constitute protected speech under the First Amendment, the Constitution does not guarantee that all forms of protected speech may be heard on government property. It ruled that the meeting room of the library fell under the category of a "limited public forum," and as such, the county's exclusion of worship services was a reasonable limitation on the use of the meeting room, given the purpose of the facility. The court held that such a limitation was not viewpoint discrimination, but rather a limitation on the type of activities permitted. However, the court ruled that activities that expressed a religious viewpoint, but were not inherently religious services, should be allowed. The appellate court thus remanded the case back to the district court so the injunction could be modified accordingly. ([*Faith Center Church Evangelistic Ministries v. Glover*](#), No. 05-16132 (9th Cir. Sept. 20, 2006).)
(Gary Robinson)

UZBEKISTAN – New Law Restricts Christian Faith

On July 28, 2006, the Department on Religious Issues under the Uzbek Government issued regulations aimed at the implementation of newly passed amendments to the nation's criminal and administrative legislation, under which proselytizing is recognized as a crime. According to the Regulations, it is prohibited to conduct a Christian religious service, worship, or study the Bible outside of government-designated premises. In the case of violations, both the priest and the member of the Church who committed the act will be fined in an amount of from US\$2,000 to US\$6,000. Repeat violators are subject to three to eight years of imprisonment.

A criminal case can be initiated if an individual possesses two copies of the Bible or other religious literature. The first copy is considered to be a personal one; however, keeping a second copy is considered possession with the purpose of distribution. The discovery of religious books in a motor vehicle is grounds for confiscation of the vehicle; in such cases, the vehicle is deemed to be a means of distribution. Each individual may bring only one copy of religious literature in the Russian language into Uzbekistan and it must be submitted for review by a special government service. However, there is a ban on religious materials in native languages of the people of Central Asia. The Uzbek Government claims that these measures are justified because of the war against terrorism. (*Novye Zakony Ogranichivayut Hristian v Pravakh* (in Russian), Credo Internet portal, Aug. 2, 2006.)
(Peter Roudik)



Taxation

BANGLADESH/UNITED STATES - Income Tax Treaty Entered Into Force

On August 8, 2006, the Treasury Department announced that the U.S. and Bangladesh governments exchanged instruments of ratification for the U.S.-Bangladesh income tax convention on August 7, 2006. This exchange of instruments brings the tax treaty into force.

The two countries' governments signed the tax treaty in Dhaka, Bangladesh on September 27, 2004. The United States Senate gave advice and consent to ratification of the treaty on March 31, 2006 (see *Global Legal Monitor*, May 2006, at 24).

The principal purpose of this treaty is to reduce or eliminate double taxation of income earned by residents of either country from sources within the other country and to prevent avoidance or evasion of the taxes of the two countries. The treaty is expected to promote close economic cooperation between the two countries and will eliminate possible barriers to trade and investment caused by overlapping taxing jurisdictions of the two countries.

The treaty will be effective for taxable periods beginning on or after January 1, 2007. The provisions of the treaty relating to withholding taxes will be effective for amounts paid or credited on or after October 1, 2006. (Department of Treasury, [Treasury Announces Entry into Force of U.S.-Bangladesh Income Tax Treaty](#), August 8, 2006.)
(Shameema A. Rahman)

GERMANY – Tax Increases

On July 19, 2006, the German legislature enacted a Tax Reform Act (BUNDESGESETZBLATT I at 1402) and on June 29 it enacted a Budget Support Act (BUNDESGESETZBLATT I at 1402). . These two Acts brought increases in the individual income tax, the corporate income tax, and the turnover tax (W. Tausch & J. Plenker, *Steuerliche Änderungen*, 59 DER BETRIEB 1512 (2006)). These measures include an increase in the individual income tax rate for high-income earners. Prior to the reform, the highest tax rate within the linear-progressive tax tariff was forty-two percent. Beginning with the tax year 2007, this rate will be forty-five percent for taxpayers with an annual gross income of €250,001 (about US\$322,000) who are filing singly; this threshold is doubled for taxpayers filing jointly. In addition, various deductions are now curtailed. Among these are stricter rules for deducting the cost of office space in the taxpayer's home and a reduction of tax-exempt savings from the former €1,370 per year for single taxpayers (double the amount for spouses) to €750 for single taxpayers and €1,500 for spouses. The turnover tax for non-privileged transactions was increased from sixteen percent to nineteen percent.
(Edith Palmer)



Terrorism

AUSTRALIA – Terrorism Conviction Overturned

Jack Thomas, convicted in Australia on charges of receiving funds from a terrorist organization and carrying a falsified passport, has had his conviction quashed by the Victorian Supreme Court of Appeal. The basis for the decision was that evidence obtained during an interview with Australian Federal Police in Pakistan was inadmissible due to Thomas having lacked legal representation and having agreed to the interview after threats from foreign security agencies. ([Lodhi Lawyer Welcomes Thomas Appeal](#), AUSTRALIAN BROADCAST CORPORATION, Aug. 18, 2006.)

(Lisa White)

BAHAMAS/UNITED STATES – Container Security Initiative

The U.S. Customs and Border Protection Agency and the Government of the Bahamas have signed an agreement that will allow all cargo destined for the United States to be pre-screened for terrorists and terrorist weapons at the Port of Freeport. This agreement is part of the U.S. Container Security Initiative (CSI). Under CSI, officers from both Customs and Border Protection and Immigration and Customs Enforcement are stationed at key seaports abroad to work with local officials in identifying high-risk shipments. There are now forty-four ports in North America, Europe, Asia, Africa, and the Middle East that are implementing or are beginning to implement CSI.

Freeport is the closest major Bahamian port to the United States. The capital city of Nassau is located much further away, in the southeast portion of the island archipelago. The Bahamas has been an independent country since 1973, but has largely preserved the legal system it derived from the United Kingdom. (News Release, U.S. Customs and Border Protection, [Bahamas to Implement Container Security Initiative](#) (Aug. 4, 2006).)

(Stephen F. Clarke)

CHINA/PAKISTAN – Anti-Terrorist Agreement

The National People's Congress Standing Committee of the People's Republic of China (PRC) approved a cooperative agreement with the Islamic Republic of Pakistan on "cracking down on terrorism, splittism, and extremism" on August 27, 2006. Foreign Minister Li Zhaoxing had signed the agreement in Islamabad on behalf of the PRC Government on April 5, 2005. (Quanguo Renmin Daibiao Dahui Changwu Weiyuanhui guanyu pizhun 'Zhonghua Renmin Gongheguo Zhengfu he Bajisitan Yisilan Gongheguo Zhengfu guanyu daji kongbu zhuyi, fenlie zhuyi he jiduan zhuyi de hezuo xieding' de jue ding (Decision of the Standing Committee of the National People's Congress on approving the 'Agreement of the Government of the PRC and the Government of the Islamic Republic of Pakistan on cracking down on terrorism, splittism and extremism'), LAW-LIB.COM, Aug. 27, 2006.)

(Wendy Zeldin)



EUROPEAN UNION – Increased Security Measures

In the aftermath of an alleged terrorist plot to attack airlines bound for the United States, on August 16, 2006, the justice ministers of the European Union gathered in London during a mini-summit, to discuss a new set of anti-terrorist measures. During the summit, the EU Justice Commissioner announced his intention to bring forward concrete measures on liquid explosives. Other proposed measures include the blocking of “websites that incite to commit terrorist actions,” increased profiling, and increased exchange of data and information related to passengers. He also suggested the idea of training Imams to incorporate European values in their teachings. The EU transport ministers held their own meeting and discussed the tightening of hand luggage checks in airports and more advanced passenger profiling. (*EU Set to Tighten Security Measures Across the Bloc*, EUOBSERVER, Aug. 17, 2006.)
(Theresa Papademetriou)

EUROPEAN UNION – Expenses Related to Maritime and Aviation Security Measures

Since September 11, 2001, and in light of recent terrorist threats across Europe, security has been and remains a key priority of the European Union. The EU has adopted several legislative measures on aviation and maritime security. The European Commission, at the request of the Parliament and the European Council, drafted a report on the costs involved in security measures in these two sectors. Some highlights of the report are as follows.

In the aviation field, security charges for intra-community flights represent between one percent and two percent of the average airfare. The document notes that there are two basic modes of financing: centralized and decentralized. Under the centralized system, the government assumes the burden of financing security measures. In the decentralized system, the airport authorities undertake to cover expenses related to security. In both systems, the report notes, the added expenses are passed on to the consumer through taxes or airline security charges.

In the maritime sector, the EU has close to 1,200 seaports, 4,000 port facilities, and 9,000 ships under the flags of its Member States. Any costs accrued are essentially borne by the port authorities and operators of the individual Member States themselves. The report concludes that more transparency is required in regard to the additional taxes and charges imposed on ships for security purposes.

Finally, in the Commission’s view, when a government provides funding for anti-terrorist activities in transport, such an action does not constitute state aid, because it emanates from the exercise of powers connected with public authority. Otherwise, it holds, public funding would be incompatible with EU competition rules. (Press Release, IP/06/1086, European Commission, [Financing of Aviation and Maritime Security Measures: The Commission Takes Stock](#), (Aug. 3, 2006).)
(Theresa Papademetriou)



UNITED STATES – Military Commissions Act

On September 29, the U.S. Congress passed an act providing for the establishment of military commissions to try certain detainees held by the United States. President Bush is expected to sign the act into law. The statute is partly a response to the Supreme Court's decision in June 2006 in the case of *Hamdan v. Rumsfeld* (see *Global Legal Monitor*, June/July 2006, at 28-29). The act authorizes the trial of "alien unlawful enemy combatants" by military tribunals. The act permits the Secretary of Defense, in consultation with the Attorney General, to establish procedures for such military commissions that do not meet the standards of the Uniform Code of Military Justice, as long as certain specified minimum standards are met. The Act allows statements elicited through coercive methods falling short of torture to be admitted against such "alien unlawful enemy combatants" under certain conditions. The Act allows the use of classified information against an accused "alien unlawful enemy combatant" without disclosing the evidence to them under certain circumstances. The Act provides for certain appellate rights for such detainees, but eliminates the jurisdiction of federal courts over habeas corpus cases brought on their behalf. The Act provides that no person may invoke the Geneva Conventions as a source of rights in a military commission or a U.S. court. The Act provides that it shall apply retroactively to pending cases. ([Military Commissions Act of 2006](#), S. 3930, 109th Cong. (2006). (Luis Acosta)



Trade and Commerce

ASEAN – Acceleration of Single Market Timetable

On August 22, 2006, at a trade meeting of the Association of Southeast Asian Nations (ASEAN), trade ministers of the ten Member States agreed to an accelerated timetable for turning the Southeast Asian region into a European Union-style economic community by 2015. The previous target date had been 2020 for the creation of a single market, the ASEAN Economic Community (AEC), permitting the free flow of goods, services, and investment (but not a single currency). Thailand, Singapore, and Malaysia reportedly urged the move to ensure the competitiveness of the region with China and India, which have been drawing foreign investment away from it. The trade ministers will formally present the new timetable to their respective government leaders, who are expected to endorse it at their summit meeting in the Philippines at the end of 2006.

Malaysia's Minister for Trade and Industry, Rafidah Aziz, stated that Malaysia would draft a document on the measures ASEAN must take to meet the target date. Malaysian Prime Minister Abdullah Ahmad Badawi pointed out, that ASEAN Member States must "harmonize their domestic trade laws if the bloc wants to fuse its economies into one market by 2015," and "[c]ertain changes in national legislation might become necessary to enable regional initiatives to succeed." Harmonization may be made more difficult by the wide economic gap between ASEAN's six more developed countries (Brunei, Indonesia, Malaysia, the Philippines, Singapore, and Thailand) and its less developed, newer members (Cambodia, Laos, Myanmar, and Vietnam). ([ASEAN Agrees to Accelerate Single Market Plans in 5 Years](#), THE CHINA POST, Aug. 23, 2006.)
(Wendy Zeldin)

AUSTRIA – Commercial Law Reform

On October 25, 2005, Austria adopted a major reform of its Commercial Code that will become effective on January 1, 2007 (BUNDESGESETZBLATT I no. 2005/120). The Reform Act renames the Commercial Code, which now bears the title "Enterprise Code." The new Act applies the law of merchants not only to merchants in the traditional sense but also to any entity that engages in economic endeavors. Included in the scope of the law are non-profit organizations, partnerships and related company forms, medical and legal practitioners, and farmers. Depending on their scope, these enterprises are subject to various duties of registration and publication. The Enterprise Code also regulates the accounting procedures that must be followed and contains legal provisions on transactions among merchants and between merchants and consumers.
(Edith Palmer)

CANADA – Government to Present Bill on Softwood Lumber

On July 1, 2006, Canada and the United States unveiled an agreement to end their longstanding softwood lumber dispute. Under this agreement, Canada would receive back about



US\$4 billion of the five billion in countervailing and antidumping duties that the United States has received in recent years. In return, Canada would agree to a system of sliding duties that it would collect on excesses in certain amounts of exports and to a system of managed market access. In announcing the agreement, the Canadian Government stated that it would introduce implementing legislation in the fall only if a substantial majority of lumber producers agreed to the deal. Industry was given until August 21, 2006, to signal its acceptance. On that date, the Canadian Ambassador to Washington appeared before a parliamentary committee to defend the agreement as containing the best terms Canada would be able to obtain from the U.S. negotiators. On August 22, the Government announced that a “clear majority” of producers had agreed to accept the deal, even if many of them did so reluctantly. The Government did not give precise numbers respecting the percentage of affirmative respondents, but did announce that it would go ahead and present a bill implementing the agreement in September.

Since Canada’s Conservative government is a minority government, it may need opposition support to enact implementing legislation. The Prime Minister hopes to gain the support of the Bloc Quebecois. The Bloc supports independence for Quebec, but also represents Quebec interests in the House of Commons. Quebec producers are reportedly among the strongest supporters of the agreement in Canada. Some members of the Liberal Party may also support the agreement or decide to not vote on the measure.

The Prime Minister has already announced that the vote on the implementing legislation will be a vote of confidence. If the Government loses that vote, the Prime Minister will be obliged to call a general election after being in office for less than ten months. (*Defeat of Softwood Legislation Would Trigger Election: Harper*, BARRIE EXAMINER, Aug. 23, 2006, at A9; Marcel Gingras, [*Tories Want Bloc to Support Softwood Agreement or Tell Quebecers Why it Won’t*](#), CANADIAN PRESS, Aug. 23, 2006.)
(Stephen F. Clarke)

CHINA – Corporate Bankruptcy Law Adopted

The Standing Committee of China’s National People’s Congress passed a much-awaited law on corporate bankruptcy on August 27, 2006, in twelve chapters and 136 articles, after twelve years of debate. The Law will not enter into force until June 1, 2007, however. The current regulations on bankruptcy in China were issued on a trial basis in 1986 and cover only state-owned enterprises (SOEs), whereas the new Law will apply to all enterprises, foreign companies registered in China, and financial institutions.

The Law sets forth a bankruptcy restructuring system that provides for liquidators and includes rules on preventing cheating during the bankruptcy process. Financial supervisory institutions can apply to the people’s court for reorganization or bankruptcy of financial institutions, including commercial banks, insurance firms, and securities companies. One sticking point that had hindered passage of the law in the last two years was whether laid-off workers or creditors should be first to recover funds owed them by a bankrupt enterprise. The Law effects a compromise, by which creditors are paid first with credit guarantees and non-credit



guarantee assets can be liquidated to pay for wages, health care, and other benefits owed to the workers. There is an exception, however, for SOEs that declare bankruptcy before June 2007. Under a State Council stipulation, they can close down with the aid of government bailouts and could pay the laid-off workers first. (*Beijing Passes Corporate Bankruptcy Law*, THE STRAITS TIMES, Aug. 28, 2006, Open Source Center No. 20060828094002; *Xinhua 'China Focus': China's Top Legislature Adopts Corporate Bankruptcy Law*, XINHUA, Aug. 27, 2006, Open Source Center No. CPP20060827057035; *Zhonghua Renmin Gongheguo Qiye Pochan Fa* (Enterprise Bankruptcy Law of the People's Republic of China), LAW-LIB.COM, Aug. 27, 2006.) (Wendy Zeldin)

CHINA – Foreign Investment Limited in Real Estate Market

On July 24, 2006, China released proposed rules to limit foreign investment in the real estate market amid quickening efforts to cool off the surging economy. Under the new rules, foreigners would face “restrictions on residential property purchases.” Developers would be required to invest more of their own money in projects to reduce heavy borrowing. A report released in June 2006 by Dow Jones Newswires said that the rules would limit foreigners to buying homes only for their own use, and government approvals would be required to sell or transfer property.

The Chinese Government previously disclosed that the number of new construction projects jumped by 22.2 percent in the first six months of 2006, fueling a 11.3 percent rise in economic growth in the second quarter of 2006, the highest rate in the last decade. ([China to Limit Real Estate Investment](#), CHINA DAILY, July 24, 2006.) (Rui Geissler)

CHINA – Partnership Law Amended

On August 27, 2006, the Standing Committee of the National People's Congress of the People's Republic of China (PRC) adopted revisions to the Partnership Enterprise Law. As a result of the amendments, legal persons may now participate in partnership enterprises; thus, limited liability companies and companies limited by shares will be able to make investments through partnerships. The Law also now specifies that the State Council is the authority that stipulates the relevant regulations in accordance with which foreign enterprises or individuals are to establish and run general partnerships in the PRC. ([Listed Firms Allowed to Participate in Partnership Enterprises](#), CHINA LAW EXPRESS, Aug. 28, 2006; *China's Top Legislature Votes to Adopt Revised Partnership Law for Foreign Firms* XINHUA, Aug. 27, 2006, Open Source Center No. CPP20060827057030; *Zhonghua Renmin Gongheguo Hehuo Qiye Fa* (2006 nian) (Partnership Enterprise Law of the PRC (Year 2006)), LAW-LIB.COM, Aug. 27, 2006.) (Wendy Zeldin)

EUROPEAN UNION – Ban of Unauthorized Genetically Modified Rice

In response to a recent announcement by U.S. authorities that an unauthorized genetically modified organism (GMO) was found in rice sold in the U.S. market, on August 23, 2006, the



European Commission adopted an urgent decision regarding the matter. The decision requires any imports of rice produced in the United States to carry certification that they are free of the unauthorized genetically modified rice LL Rice 601 prior to being exported to the EU. The measure is in line with EU legislation in force on GMOs that prohibits any GMO from entering the EU market unless it has been authorized on the basis of a scientific assessment. The decision has immediate effect and will be renewed every six months. Member States are expected to carry out controls on rice already in the market to ensure that it is not contaminated. (Press Release, IP/06/1120, European Commission, [Commission Requires Certification of US Rice Exports to Stop Unauthorised GMO Entering the EU](#), (Aug. 23, 2006).)

(Theresa Papademetriou)

FIJI – Traditional Fishing Rights Protected

A bill confirming traditional ownership of fishing rights (*qoliqoli*) has been tabled in the Fijian Parliament. Currently *qoliqoli* areas are owned by the state. The *Qoliqoli* Bill is facing opposition from some hoteliers who have threatened court action to prevent the passage of the bill into law, in an effort to protect capital investments that rely on unlimited use of foreshores around their properties. Clause 20(1) of the bill provides that the Native Land Trust Board may approve commercial operation use of a *qoliqoli*, provided that the commercial operator has consulted with the *qoliqoli* owners. ([Minister Warns “Extremist” Hoteliers](#), FIJILIVE, Aug. 11, 2006.)

(Lisa White)

FINLAND – Amendments Proposed to Real Estate Acts

The Finnish Government is proposing amendments to the Act on Real Estate Investment Funds and the Investment Funds Act. The proposed amendments are intended to promote joint investment in real estate. The proposed bills include, for example, new provisions on limited partnerships whose shares, offered for sale to the public, constitute securities as referred to in the Securities Market Act. The current Act on Real Estate Investment Funds would still apply to public limited companies looking to jointly invest in real estate. Other amendments of a technical nature have been proposed as well, among them a proposal that supervision of various matters that involve petitions to the government be transferred to the Financial Supervision Authority. The aim of the bills is to increase investment options. The President of the Republic was due to present the bills to Parliament on August 18, 2006. (Press Release 83/2006, Ministry of Finance, [Act on Real Estate Investment Funds and Investment Funds Updated](#) (Aug. 17, 2006).)

(Linda Forslund)

IRAN – Ministry Promotes Foreign Travel

Iran’s Council of Ministers approved a provision entitling Iranian students studying in foreign countries to a special fifty percent airfare discount twice a year, when traveling abroad. The travel fare discount must be approved by an Iranian embassy or the Ministry of Foreign



Affairs. If the students are married, the discount applies to members of their families. (OFFICIAL GAZETTE OF THE ISLAMIC REPUBLIC OF IRAN, No. 17855, May 2006, at 3.)
(G. H. Vafai)

JAPAN – Professional Baseball Players’ Publicity Rights

In Japan, baseball teams, not individual players, have given permission for the use of players’ photos and names to makers of game software and cards. The uniform contract between teams and players has a provision stating that photos of a player that were taken under the team’s direction can be used by the team for the purpose of advertisement, and the player cannot object to the use. The Tokyo District Court confirmed in August 2006 that the use of the photos in game software and cards is for the purpose of advertisement under the provision. Players have appealed the decision to the high court. (*Puro yakyū senshu no shōzō shiyō kyodaku ken wa kyuūdan gawa ni [Baseball teams can permit uses of players photos]*, ASAHI NEWSPAPER, Aug. 1, 2006 (on file with author).)

(Sayuri Umeda)

MEXICO/EL SALVADOR – Commercial Arbitral Tribunal Ruling

René Salazar, head of the Administration of Commercial Treaties of El Salvador, announced an international commercial arbitration ruling against the restrictions Mexico had imposed on pharmaceutical companies from El Salvador selling their products in Mexico. According to the ruling, Mexico cannot oblige the pharmaceutical companies of El Salvador to be domiciled in Mexico in order to sell their products in the Mexican market, because this restriction violates the free trade agreement between Mexico, El Salvador, Guatemala, and Honduras, in force since 2001. (Irma Cantizzano, [El Salvador Gana Litigio Comercial a México](#), EL DIARIO DE HOY, Aug. 21, 2006.)

(Norma C. Gutiérrez)

SWEDEN – New Market Practices Act Proposed

A Swedish Government commission was given the task in 2005 of proposing legislation in order to implement the European Directive concerning unfair business-to-consumer commercial practices in the internal market (Directive 2005/29/EC). The commission has now proposed the enactment of a new Market Practices Act to replace the current one. The scope of the new law would be broader than the current legislation and would not only be applicable to marketing, but would also focus on measures taken after the purchase of products and services. For example, the new Act would regulate instances where a merchant has given false or misleading information with regard to the right to complain when there is a fault in the purchased product.

The commission also proposes that the new law be applicable between merchants, not only between businesses and consumers, thus going further than the European Directive, which only regulates business-to-consumer relationships. The law would contain a prohibition against aggressive business methods and the commission proposes that an appendix to the law contain a



list of business methods that are always prohibited. If a business contravened the law, it could be prohibited from taking certain actions or face a fine, and it might have to reveal certain information. If the measure were taken intentionally or by neglect, the business could be ordered to pay a special fee (*marknadsstörningsavgift*). The proposed act would contain two general provisions, one stating that marketing and business measures must constitute good marketing practices and a second stipulating that businesses must divulge information of special importance to the consumer. The commission proposes that the new law enter into force on December 12, 2007. (Press Release, Ministry of Agriculture, Food, and Consumer Affairs, Ny Marknadsföringslag Föreslås (Aug. 10, 2006).)

(Linda Forslund)

UNITED STATES – U.S.-Oman Free Trade Agreement Approved by Congress

On September 26, the United States-Oman Free Trade Agreement Implementation Act was signed into law. The Act provides congressional approval of the Free Trade Agreement (FTA) signed by the United States and Oman on January 19, 2006, and provides authority to executive agencies to implement the FTA. This is the fifth such agreement entered into thus far by the United States and countries within the proposed Middle East Free Trade Area (joining Israel, Jordan, Morocco and Bahrain). The FTA provides that Oman and the U.S. will provide each other duty-free access for exports of almost all consumer and industrial goods (with certain exceptions for textiles, apparel, and agricultural products, tariffs on which will be phased out over time). The FTA also includes provisions for opening markets for services, investments, and communications, while protecting intellectual property rights. The FTA includes some commitments on labor standards and environmental protection, provides for transparency in laws and regulations governing trade, and establishes dispute resolution mechanisms for matters covered in the agreement. ([United States-Oman Free Trade Agreement Implementation Act](#), Public Law No. 109-283, 120 Stat. 1191 (2006); [United States-Oman Free Trade Agreement](#).)

(Luis Acosta)

VIETNAM – Foreign Direct Investment

The Government of the Socialist Republic of Vietnam (SRV) issued Decree No. 78/2006/ND-CP on August 9, 2006, specifying the conditions for foreign direct investment; the sectors in which FDI is banned, restricted, or encouraged; the competent agencies and the procedures for the issuance and adjustment of investment; and provisions on state management of FDI. The Decree stipulates that to engage in FDI, investors in Vietnam must have an investment project; meet their financial obligations to the SRV state; observe the relevant legal provisions on state capital management and use; and obtain an investment license from the Ministry of Planning and Investment. The Prime Minister decides on approval of investment projects in the fields of banking, insurance, finance, credit, the press, broadcasting, television, and telecommunications that use state capital of VND150 billion (roughly US\$9.7 million) or more or non-state capital of VND300 billion or more. Investment projects in other fields, which use state capital of VND300 billion or more or non-state capital of VND 600 billion or more, also require the approval of the Prime Minister.



Projects that had been granted an FDI license or permit before the effective date of the Decree but have not been re-registered under the Investment Law may continue operations but must comply with the provisions of the new Decree. The Decree replaces Decree No. 22/1999/ND-CP of April 14, 1999; the SRV Law on Foreign Direct Investment was adopted on November 12, 1996. ([Decree No. 78/2006/ND-CP](#), VIETNAM LAW & LEGAL FORUM, Aug. 24, 2006; [PM Released Regulations on FDI in Vietnam](#), ASEM CONNECT, Aug. 14, 2006.)
(Wendy Zeldin)

VIETNAM – Foreign Representative Offices and Branches

On July 25, 2006, the Vietnamese Government promulgated Decree 72/2006/ND-CP on the opening of representative offices and branches of foreign-invested businesses in Vietnam. Such companies will be eligible to open a representative office if they have conducted business in Vietnam for at least a year since their establishment or since their legal business registration in the home country. A foreign-invested company will be permitted to open a branch in Vietnam if it has conducted business in the SRV for at least five years since its establishment or since its home-country legal business registration. In general, the license of a representative office or branch is good for five years. The Decree entered into effect in mid-August. ([New Regulations on Opening Representative Offices of FDI in Vietnam](#), ASEM CONNECT, Aug. 2, 2006; [Decree No. 72/2006/ND-CP of July 25, 2006: Detailing the Commercial Law Regarding Vietnam-Based Representative Offices and Branches of Foreign Traders](#), VIETNAM LAW & LEGAL FORUM, Aug. 24, 2006.)
(Wendy Zeldin)

VIETNAM – Wild Plant and Animal Import/Export

The Government of the Socialist Republic of Vietnam (SRV) issued Decree No. 82/2006/ND-CP on August 10, 2006, on the import and export of wild plants and animals. The Decree applies to SRV state agencies, organizations, households and individuals, foreign organizations and individuals, and overseas Vietnamese who are engaged in the import, export, re-export, import by sea, transit, breeding, raising, and artificial transplantation of rare and precious wild animal and plant species within SRV territory. The Decree governs all specimens of wild animal and plant species defined in Appendices I, II, and III of CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora, which entered into force on July 1, 1975) as well as those defined under SRV law. ([Decree No. 82/2006/ND-CP](#), VIETNAM LAW & LEGAL FORUM, Aug. 24, 2006; [Convention on International Trade in Endangered Species of Wild Fauna and Flora Web site](#).)
(Wendy Zeldin)



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