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Gabon	Portugal	
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Attorneys and Judges

UKRAINE – New Law on Notary Service

On October 7, 2006, the Verkhovna Rada (legislature) adopted the Law on the Office of Notary. The Law, which consists of more than thirty sections, defines the notary's office in Ukraine as a "system of agencies and persons who maintain within the existing legislative framework out-of-court protection of civil cases and of the legal interests of legal entities and individuals, territorial communities, and the state by conducting notarial actions." Notaries are recognized as independent professionals authorized by the state to verify the rights of individuals and entities and facts of judicial importance and conduct other actions related to legal verification. The Law establishes guidelines for reforming the notary system through the elimination of differences between public and private notaries and defines the status of notaries as public officers and professionals in law. New procedures for the education of notaries and their certification for provision of services are outlined. The Law emphasizes that notarial activity is not entrepreneurial activity and is not to be aimed at profit making. (Oksana Torop, *New Law on Notary Service*, UKRAINIAN NEWS - POLITICAL WEEK, Oct. 15, 2006.) (Peter Roudik)



Communications and Electronic Information

CHINA – Communist Party Launches Law and Order Website

On October 19, 2006, it was announced that the Chinese Communist Party (CCP) launched a new Web site, www.chinapeace.org.cn, to serve as a portal for news, policy overviews, and case studies in the field of law and order. The CCP Central Political-Legal Committee, Central Social Order Comprehensive Management Committee (CSOCCM), and Xinhua News Agency are joint sponsors of the site. According to Gu Xiulian, Vice-Director of the CSOCCM, “the web is a platform we must seize to get the message across as it can serve as a bridge connecting with the masses.” However, in the view of one media analyst, Zhan Jiang, of the China Youth University for Political Science, the initiative may not succeed in being effective “because it can hardly stop itself from lecturing the public. And as a result, it’s still some way from what the public really wants.”

The authorities stated that the aim of the site is to promote social order and stability. It is part of an aggressive, broader ideological drive to create a “harmonious socialist society.” As part of that drive, in January 2006 another major Web site was formally launched to serve as gateway to the central government. Since that time, however, the authorities have also been cracking down on dissent and shutting down “hundreds of liberal websites and online forums.” (Raymond Li, *Communist Party Puts Its Message on the Web*, SOUTH CHINA MORNING POST (Hong Kong), Oct. 20, 2006, Open Source Center No. CPP20061020715015; *Zhongguo ping'an wang 19 ri zai Renmin Dahui Tang juxing kaitong yishi* [Opening Ceremonies for the China Peace Network Held at the Great Hall of the People on the 19th], China Peace Web site, Oct. 19, 2006.)

(Wendy Zeldin)

FRANCE – Law Criminalizing Denial of Armenian Genocide

On October 12, 2006, the French National Assembly adopted a draft law criminalizing the denial of the Armenian genocide that took place in 1915 at the hands of Ottoman Turks. Only 129 of the 577 deputies in the Assembly were present; 106 of them voted in favor of the draft, which was sponsored by the Socialist Party.

After approval by the Senate and promulgation by the President of the Republic, denial of the genocide would be punished either by a one-year prison term or by a €45,000 fine (about US\$56,000) or by both of these penalties. France officially recognized the Armenian genocide of 1915 in Law 2001-70 of January 29, 2001. (National Assembly, Proposition de loi tendant à réprimer la contestation de l'existence du génocide arménien, Oct. 12, 2006.)

(Nicole Atwill)



GABON – Ministers May Not Own Audiovisual Media

Gabon's state-owned Libreville RTVG1 Television released a government communiqué, effective on October 12, 2006, which states that members of government and heads of other high-level Gabon institutions may no longer own or support newspapers. The communiqué reportedly refers to sections of the country's communication law that deny "any rights to any civil servant to own or manage print or audiovisual media." (*Government Says Ministers Not to Own, Support Print, Audiovisual Media*, LIBREVILLE RTVG1 TELEVISION (in French), in *Highlights: Gabon News Digest*, Oct. 12, 2006, Open Source Center No. AFP20061017648003.) (Wendy Zeldin)

JAPAN – Journalist Source Privilege Granted

The Supreme Court of Japan decided on October 3, 2006, that news reporters could refuse to disclose their sources in civil litigation unless there are special circumstances in the case that mandate the disclosure. This is Japan's first Supreme Court judgment on the issue.

Japanese media broadcast news that a Japanese subsidiary of a U.S. firm had evaded taxes by overstating its fees and that managers of the U.S. firm had used the money saved by the tax evasion. The U.S. firm sued the U.S. Government in the United States, claiming that an IRS officer leaked the information to a Japanese tax officer, even though the IRS officer could have expected the Japanese officer to release the information to Japanese media. The U.S. district court requested a Japanese court to take the testimony of news reporters in the case. The reporters refused to reveal the source of their information. (59 MINSHŪ (S. Ct., 3rd petit bench Oct. 3, 2006).) (Sayuri Umeda)

UNITED STATES – Internet Users Not Liable for Republishing Defamatory Statements

On November 20, the California Supreme Court ruled that a federal statute immunizes from liability individuals who, in the course of distributing information using the Internet through newsgroups, discussion lists, and blogs, republish defamatory statements originating from others.

The ruling arose out of defendant Ilena Rosenthal's posting on two Web-based newsgroups of an article written by another person that alleged defamed the plaintiffs, two doctors. Rosenthal declined to remove the posting after the plaintiffs notified her they thought it was defamatory. When the doctors sued both the original author and Rosenthal, Rosenthal argued that section 230(c) of a 1996 federal law, the Communications Decency Act, which states that "[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider," immunized her from liability for posting another person's article on the Web. The trial court agreed with Rosenthal's argument, but the intermediate appellate court reversed the trial court on this issue, ruling that Rosenthal could be held liable as a "distributor" of the allegedly defamatory material irrespective of the immunity for providers and users in section 230(c). The California Supreme



Court overturned that opinion, ruling that Rosenthal, as a "user" of the Internet who merely republished someone else's defamatory material, was completely immune from liability pursuant to section 230(c). ([Barrett v. Rosenthal](#), No. S122953 (Cal. Nov. 20, 2006).)
(Luis Acosta)

ZAMBIA – Groups to Push for Media Reforms

According to a statement issued in late October 2006, two Zambian media organizations, the Press Freedom Committee of the Post and the Press Association of Zambia, plan to “engage the Government and members of Parliament on the need to expeditiously enact laws that would create a general enabling environment for the growth of the media industry in Zambia.” As part of their efforts to revitalize advocacy for media law reforms, the two groups will place special emphasis on re-introducing a freedom of information bill to Parliament. (*Highlights: Daily News Digest for Botswana, Swaziland and Zambia 23 Oct 06*, OSC REPORT, Oct. 23, 2006, Open Source Center No. AFP20061023516008.)
(Wendy Zeldin)



Criminal Law

ANGOLA – Penal Code from 1886 to Be Revised

The Angolan Penal Code, dating from 1886, will undergo a complete revision in order to adapt to the new reality of the country, said the Vice Minister of Justice, Guilhermina Prata, during a ceremony to present the project on drafting a new penal code. According to Prata, the project will result in many innovations and will introduce a different penal framework that will include punishments divided into three categories: principal, accessory, and substitute. Other changes will be the possibility of bringing criminal charges against minors and provisions criminalizing money laundering, pedophilia, and trafficking in persons. (*Código Penal, Datado de 1886, Vai Sofrer Reforma Profunda*, NOTÍCIAS LUSÓFONAS, Sept. 29, 2006.) (Eduardo Soares)

AUSTRALIA/CHINA/MALAYSIA – Mutual Assistance Treaties

The Australian Federal Joint Standing Committee on Treaties has supported the signing of treaties on mutual legal assistance in criminal matters between Australia and China and Australia and Malaysia. Therefore Australia may now ratify the treaties creating a formal process for Australia and China and Australia and Malaysia to assist each other in criminal investigations, prosecutions, and proceedings.

Australia does not have nor does it support the use of the death penalty, and therefore both treaties contain provisions to safeguard against use of mutual assistance requests in instances of the imposition of the death penalty. ([Joint Standing Committee on Treaties](#), Report 79 and Report 80, tabled in Federal Parliament on Oct. 19, 2006.) (Lisa White)

CHINA – Anti-Money Laundering Law Adopted

On October 31, 2006, the Standing Committee of the National People's Congress adopted the Anti-Money Laundering Law of the People's Republic of China. It is the first law of its kind designed to regulate the efforts of financial institutions to prevent and detect money laundering. The Law broadens the definition of money laundering to include corruption and bribe taking, violation of financial management order, and financial fraud, in addition to illegal gain from drug trafficking, organized crime, terrorist crime, or smuggling identified in current regulations on the subject. The definition parallels that set forth in the June 2006 amendment to the Criminal Law, which added as sources of laundered funds those derived from corruption and financial crimes.

Financial and certain other institutions will be required under the new Law to maintain customer and transaction records and report large and suspect transactions. The Law authorizes the People's Bank of China (PBOC) and its branch offices to oversee financial institutions' compliance with the responsibility to check and report the suspect transactions; at present, PBOC headquarters alone supervises the prevention efforts. One of the lengthiest articles in the Law deals with financial institutions' obligation to establish a client identity check system. Among



other stipulations, it provides that if the authorities have any doubts about the truth, validity, or completeness of a client's identification materials, they should recheck the identity. Among the provisions on legal responsibility, it is stipulated that employees who allowed illegal transfers may be given administrative punishment by PBOC officers or face fines of from 500,000 to 5 million yuan (about US\$63,540 to \$635,405) for acts that lead to money laundering, such as failure to check clients' identities, submit reports on large transactions, or report suspicious transfers.

In conformity with the United Nations Convention Against Corruption, the Law provides for increased coordination with other countries to fight global money laundering and exchange information with anti-money laundering organizations abroad. (*Law Widens Definition of Money Laundering*, CHINA DAILY, Nov. 1, 2006, Open Source Center No. CPP20061101054012; Jane Cai, *New Law to Target Money Laundering*, SOUTH CHINA MORNING POST, Nov. 1, 2006, Open Source Center No. CPP20061101721008; *Zhonghua Renmin Gongheguo fan xi qian fa (quan wen) [Anti-Money Laundering Law of the People's Republic of China (Complete Text)]*, SINA, Oct. 31, 2006.)
(Wendy Zeldin)

EL SALVADOR – President's Measures to Fight Crime

The government of President Antonio Saca of El Salvador made public a bill indicating his government's resolve to fight organized crime. The bill classifies seventeen crimes as organized crime and creates special courts to hear cases of organized crime as well as crimes of homicide, kidnapping, and extortion, which are currently heard in regular criminal courts. In addition, President Saca announced that 4,000 additional police officers would be patrolling the streets. The presidents of the other branches of the government expressed their support for this initiative. (Bernardo Valiente et al., *Saca Ofrece Nueva Fórmula Anticrimen*, LA PRENSA, Oct. 31, 2006.)
(Norma C. Gutiérrez)

JAPAN – Criminal Summary Judgment

Based on the 2004 amendment of the Criminal Procedure Code (Law No. 62 of 2004), a criminal summary judgment system was introduced in Japan on October 2, 2006. When a defendant admits to the crimes as charged, has no record of committing similar crimes, and agrees to the application of the procedure, a trial will be held within fourteen days from the indictment and a judge will render a judgment at the end of the trial on that same day. Japan does not have a plea bargaining system. (*Sokketsu saiban seido sutāto [Summary judgment system starts]*, YOMIURI NEWSPAPER, Oct. 3, 2006 (on file with author).)
(Sayuri Umeda)

LIBERIA/UNITED NATIONS – Assistance for Prosecution

A dozen United Nations' prosecutorial consultants from the Liberia Mission will serve as state prosecutors in Liberia, to expand that country's capacity to prosecute crimes, including rape



and armed robbery. The project is designed in part to help reform and rebuild the capacity of legal and judicial institutions in Liberia, to ensure the rule of law. Tiawan Gongloe, the Solicitor General of Liberia, praised the U.N. contribution during a recent workshop on courtroom practice and procedure, jointly organized by the Justice Ministry and the U.N. Mission. (*Liberia: UN Contributes Personnel to Help Prosecute Court Cases*, UN NEWS, Oct. 28, 2006.)

(Constance A. Johnson)

SOLOMON ISLANDS – Immigration Minister Charged with Lying

The Solomon Islands Immigration Minister, Peter Shanel, has been granted bail in relation to three charges: perverting justice, misleading a police officer, and misleading a public officer by falsifying an order. These charges are based on the Minister's actions in relation to Australian lawyer Julian Moti's entering the Solomon Islands without a passport.

Previously Moti had sought diplomatic protection from the Solomon Island's High Commission in Papua New Guinea after Australia had cancelled his passport and sought his extradition on child-sex charges. However Moti fled Papua New Guinea and went to the Solomon Islands. The Minister's bail conditions include surrendering his passport and reporting to police twice a week. ([*Minister Accused of Lying over Moti*](#), THE AGE, Oct. 18, 2006.)

(Lisa White)

UNITED KINGDOM – Changes in UK-U.S. Extradition Laws Blocked

The House of Commons in the United Kingdom has blocked attempts by the House of Lords to stop "fast track" extraditions to the United States. Currently, the United States is not required to produce prima facie evidence in order for extradition to occur. Critics of the law have asserted that this situation is anomalous as the United States has yet to provide the United Kingdom with a reciprocal provision. The critics have attempted to remove the United States from the list of "fast track" extradition partners. ([*MPs Overturn Extradition Change*](#), BBC NEWS, Oct. 24, 2006.)

(Clare Feikert)

UNITED NATIONS – Cooperation to Combat Crime

A United Nations anti-terrorism official has urged all 193 member countries to become parties to and implement the Conventions on Organized Crime and on Corruption as soon as possible. Citing the fact that networks of those involved in drug trafficking, organized crime, and terrorism were exploiting the globalization trend and endangering both the sovereignty and security of nations, the Chief of the Terrorism Prevention Branch of the U.N. Office on Drugs and Crime (UNODC), Jean-Paul Laborde, said that greater cooperation is needed. He further said that these crimes are transnational in nature and a great challenge to international peace and security. Laborde said that his office could provide legal and technical assistance to governments in connection with the conventions. He praised regional efforts undertaken by the UNODC in the Gulf States, Central Asia, West and Central Africa, and East Asia as steps toward



an integrated approach to the problem. (*UN Anti-Terrorism Official Calls for More Global Cooperation to Tackle Transnational Crime*, UNNEWS, Oct. 5, 2006.)
(Constance A. Johnson)

UNITED STATES – Federal Crime Created for Acts Harming Animal Industries

On November 27, the Animal Enterprise Enforcement Act was signed into law. The legislation is intended to protect businesses or other enterprises that use or sell animals or animal products for food, agriculture, research testing or entertainment uses. The act expands existing criminal laws to specifically address the use of violence or threats against "animal enterprise organizations" and those that do business with them. It establishes new federal criminal provisions for intentionally damaging the property of a person or entity having a connection to, relationship with, or transactions with an animal enterprise, or intentionally threatening death or serious bodily injury to a person with a relationship to an animal enterprise. The Act also revises and increases monetary and criminal penalties for crimes relating to animal enterprises. The law states that expressive conduct protected by the First Amendment of the U.S. Constitution is not prohibited. ([Animal Enterprise Terrorism Act](#), Public Law No. 109-374, 120 Stat. 2652 (2006).)
(Luis Acosta)



Education

KOREA, SOUTH – Teacher Evaluation System

The Ministry of Education and Human Resources Development of the Republic of Korea announced its intention to submit a bill to the National Assembly to establish a teacher evaluation system. Teachers at 500 schools will be subject to the evaluation system in 2007. The system, which would allow students and parents to take part in evaluations, has been operating on a trial basis at sixty-seven elementary, middle, and high schools since November 2005. (Park Chung-a, [*Teacher Evaluation System to Be Expanded*](#), KOREA TIMES, Oct. 20, 2006.)

(Sayuri Umeda)



Elections and Politics

ESTONIA – Ban on Party Membership for Civil Servants

On October 11, 2006, the Political Parties Act of Estonia, which contained a provisional ban on political party membership until 2008 for civil servants and law enforcement personnel, was amended with a provision making this prohibition permanent. According to the amendment, all judges, prosecutors, police officers, officials of security institutions, state auditors, and the Chancellor of Justice and employees of his office are prohibited from joining a political party, in order to prevent the politicization of law enforcement agencies. The ban on political activities of military personnel will remain unchanged because it is prohibited by the nation's Constitution. (*Estonia: Ban on Party Membership for Civil Servants Not to Be Lifted*, BALTIC NEWS SERVICE (BNS) Daily News, Oct. 11, 2006.)
(Peter Roudik)

ESTONIA – Local Voting Rights for Foreigners

On October 11, 2006, Estonian lawmakers amended the Voting Act to permit resident aliens who are not citizens of the country to participate in local elections. The legislation eliminates the requirement that a person who resides legally in Estonia without being a citizen of this state or the European Union must have lived for a minimum of five years in the territory of a local government in order to be eligible to vote in local elections. However, residence qualifications for aliens to be eligible to vote in local polls will remain. It is hoped that this move will help to integrate legal aliens into Estonian society. The decision affects almost 200,000 individuals permanently and legally residing in Estonia, a Baltic country of 1.3 million people. (*Aliens' Participation in Elections in Estonia Eased*, BNS DAILY NEWS, Oct. 11, 2006.)
(Peter Roudik)



Employment Law

BANGLADESH – Child Labor

In Bangladesh, millions of children are forced into the labor market because of poverty and the lack of enforcement of child labor laws. According to a recent report, about eighteen percent of children between age five and seventeen are wage earners in Bangladesh.

Under Bangladeshi law, elementary school education is free and compulsory. In addition, Bangladesh has a number of laws and ordinances to protect and improve the status of children. For example, the Factories Act of 1965 prohibits the employment of children below the age of fourteen in any factory, and the Employment of Children Act, 1938 (as amended in 1974) also prohibits employment in factories of children under fourteen years' old. Other laws include the Shops and Establishments Act 1965, the Children's Act 1974, and the Children's Rules, 1976.

As a result of the recent international attention paid to the child labor situation in the country, both the government and the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) have made renewed efforts to encourage manufacturers to abide by the law prohibiting the employment of children under the age of fourteen. Following governmental and industry warnings, approximately seventy-five percent of all child workers in the garment industry were dismissed. (BUREAU OF INTERNATIONAL LABOR AFFAIRS, U.S. DEPARTMENT OF LABOR, [Bangladesh](#); BY THE SWEAT AND TOIL OF CHILDREN: COUNTRY REPORTS (Oct. 19, 2006).) (Shameema Rahman)

CANADA – Compassionate Care Benefits Extended

The Canadian federal government has extended workers' entitlement to six weeks of Compassionate Care Benefits for eligible workers who take a leave of absence to care for a loved one who is at significant risk of death within twenty-six weeks. Formerly, the program was only available to persons caring for a spouse, common-law partner, child, or parent. The new Employment Insurance Regulations extend the class of persons a worker can care for and still collect Compassionate Care Benefits to include siblings, grandparents, grandchildren, spouses and common-law partners of children, aunts, uncles, nephews, nieces, foster parents and children, wards, guardians, and persons whom the worker considers to be close relatives even if they do not fit into one of the above categories. (Employment Insurance Regulations, SOR/2006-135.) A physician must certify the significant risk of death. Eligible relationships can be attested to by claimants, but can be contested by unemployment insurance officials to prevent fraud. (Stephen Clarke)

CHINA – Occupational Safety and Health Convention Ratified

On October 31, 2006, the Standing Committee of the National People's Congress (SCNPC) of the People's Republic of China adopted a decision to ratify the 1981 Convention



Concerning Occupational Safety and Health and the Working Environment. At the same time, it announced that before the PRC Government issued a separate notification, the Convention would not be applicable in the Hong Kong Special Administrative Region. (*Shi jie Quanguo Ren Da Chang Weihui di er-shi-si ci huiyi bi mu [The Twenty-Fourth Session of the Tenth SC-NPC Adjourns]*, National People's Congress Web site, Oct. 31, 2006; *Quanguo Renmin Daibiao Dahui Changwu Weiyuanhui guanyu pizhun 1981 nian <Zhiye anquan he weisheng ji gongzuo huanjing gongyue> de jueding [Decision of the SC-NPC on Ratifying the 1981 <Convention Concerning Occupational Safety and Health and the Working Environment>]*, XINHUANET, Oct. 31, 2006; [C155 Occupational Safety and Health Convention](#), 1981, ILOLEX (Database of International Labour Standards).)
(Wendy Zeldin)

CHINA/SOUTH AFRICA – Labor MOU Extended

On October 9, 2006, China and South Africa signed an extension to the Memorandum of Understanding (MOU) on labor-related matters they had agreed upon in 2002. The MOU emphasizes job creation strategies, human resources development, and cooperation in the International Labor Organization, according to South African Labor Minister Membathisi Mdladlana. China's Vice Minister of Labor and Social Security, Zhang Xiaojian, noted that the MOU meant enhanced cooperation between the two countries; in particular, China had much experience to offer South Africa in the area of job creation, because, he stated, China had succeeded in creating ten million jobs a year for the last four years. Mdladlana agreed, pointing out that South Africa had only managed to create 500,000 jobs a year, which would not enable the country to meet its goal of halving unemployment by 2014. ([China, South Africa Sign Labor Agreement](#), Oct. 10, 2006, AFRICAST.)
(Wendy Zeldin)



Energy

CANADA – New Nuclear Security Regulations

Shortly after the terrorist attack against the United States of September 11, 2001, the Canadian Government issued security orders to such high-risk facilities as nuclear power plants, nuclear energy research institutions, and nuclear test establishments. These orders required the covered facilities to enhance security screening, augment identification checks, increase personal and vehicle searches, provide protection against vehicle penetration, and implement supervisory awareness programs. The orders also required certain facilities to provide an on-site armed response force. Since the orders were made under emergency powers, they were not meant to be permanent.

However, the government has now issued permanent nuclear safety regulations that expand upon the original 2001 orders. For example, the new regulations require licensees to prepare design-basis threat analyses and threat and risk analyses. Licensees are also required to identify and protect vital areas and to have an uninterrupted power source. The Canadian Nuclear Safety Commission contends that the new regulations incorporate the latest international security practices. (Regulations Amending the Nuclear Security Regulations, S.O.R./2006-191.) (Stephen Clarke)

NEPAL – Draft Petroleum Products Law

On October 20, 2006, Nepal's Cabinet adopted a draft Petroleum Products Dealings Act-2063 (2006) to present to the House of Representatives for approval. The legislation would end Nepal Oil Corporation's (NOC) monopoly over petroleum products in the country and allow private companies to compete in the sector. It would also introduce pricing based on demand and supply in the international market and on domestic competition, rather than on government controls. At present NOC monopolizes the import of petroleum products and has control over private dealers who handle sales and distribution. The Indian Oil Corporation is the sole supplier of the products. Under the bill, companies would be allowed to import from India or any third country.

According to Hridayesh Tripathi, Minister for Industry, Commerce, and Supply, as quoted in the HIMALAYAN TIMES, Nepal has heretofore had no laws on petroleum dealings, and the proposed law "will serve to regulate the import, internal supply, process[ing], price determination and quality of the imports in addition to giving it a definitive legal format." The government previously had also announced plans to offer subsidies to private companies willing to engage in the petroleum business. (*Nepal to Allow Private Sectors [sic] to Enter Petroleum Dealings*, XINHUA, Oct. 22, 2006, Open Source Center No. CPP20061022057006.) (Wendy Zeldin)



Environmental Law

TAIWAN – Draft Law on Greenhouse Gases

Taiwan's Executive Yuan (Cabinet) approved a draft Greenhouse Gas Reduction Act on September 20, 2006. Taiwan is reportedly the third country, after Japan and Switzerland, to formulate such a law, even though it is not a signatory to the Kyoto Protocol, which aims to regulate the worldwide emission of greenhouse gases (GHG) (gases that trap heat in the atmosphere, such as carbon dioxide, methane, nitrous oxide, and fluorinated gases).

The bill sets forth only a framework for reductions; it does not specify emissions quotas or an implementation timetable. It imposes quota restrictions on Taiwan companies' CO₂ emissions, but permits trading in CO₂-emission quotas and allows companies that have achieved emissions reduction before the implementation of the quotas to credit the reduction to their accounts for trading or for use in new investment projects. Emissions controls would be imposed after mechanisms are established to check GHG emissions and systems are set up for registering and verifying CO₂ emissions, allocating emissions quotas, and trading quotas. Under the quota system, ceilings would be set for CO₂ emissions per unit of output in every industry category and every enterprise would be allocated an emissions quota. The bill provides that Taiwan's Environmental Protection Administration will set Taiwan's overall CO₂ emissions quota, while the regulatory agencies for individual industries will set the quotas for each industry. ([New Law to Cut Greenhouse Gases in Taiwan](#), TAIWAN HEADLINES, Oct. 30, 2006; U.S. Environmental Protection Agency, [Greenhouse Gas Emissions](#).)
(Wendy Zeldin)



Gender Equality

MEXICO – General Law on Gender Equality

On July 27, 2006, Mexican President Vicente Fox signed a decree that enacted the General Law for Equality Between Women and Men, whose purpose is to regulate and guarantee gender equality and to set guidelines and establish institutional mechanisms for the nation to achieve this goal in the public and private sectors and to “empower women.” The salient principles supporting the Law are: equality, nondiscrimination, equity, and the rights contained in the Constitution of Mexico. The statute is aimed at every man and woman in the Mexican territory who has suffered disadvantages because of their sex, regardless of age, civil status, profession, culture, ethnic or national origin, social condition, health, religion, opinions, or legal capacity. Violations of the principles and programs contained in the Law’s provisions will be punished under the Federal Law of Responsibilities of Public Servants and applicable state laws.

Title II of the statute defines the distribution of powers among the federal, state, Federal District, and municipal levels of government in regard to gender equality issues. Title III describes the National Policy in Matters of Equality and the instruments of this Policy, for example, the National System for Equality Between Women and Men and the National Program to achieve it, both of which are assigned to the executive branch of the federal government to apply. The National Commission of Human Rights is placed in charge of follow-up measures, evaluation, and monitoring of the Policy and may receive complaints, make recommendations, and present special reports on the subjects covered by the Law.

Specific goals of the National Program for gender equality include use of funds for promoting job equality, development of public policies with sensitivity to gender in economic matters, encouragement of leaders of both sexes, revision of the tax systems to reduce factors that relegate people to certain types of work based on sex, reinforcement of financial actions to help the advancement of women, and design of policies and programs to reduce poverty with respect to gender, among others. A specific objective of the Policy will be to eliminate stereotypes that encourage discrimination and violence against women and actions to achieve this objective are set forth. (DIARIO OFICIAL DE LA FEDERACIÓN, Aug. 2, 2006, at 2-9.)
(Sandra A. Sawicki)



Government Organization

BURMA (MYANMAR) – National Convention to Draft Constitution

On October 10, 2006, the National Convention, charged with the task of drafting a constitution for the nation, resumed sessions in Burma's capital city. Initial sessions had been held in December 2005 and January 2006. Much of the discussion has focused on the functions of various state bodies, including the Union Legislative Assembly, as well as the future role of political parties and eventual elections. The Convention consists of 1,075 delegates and meets behind closed doors. (*Burma: Convention Defines Legislative Function of Union Legislative Assembly*, NEW LIGHT OF MYANMAR, Oct. 12, 2006, Open Source Center No. SEP20061012035011.)

The military rulers of the country describe the National Convention as the first of seven steps on a "road map" to democracy. However, opposition leader Aung San Suu Kyi's National League for Democracy is boycotting the talks in protest of her continued house arrest. (*Burma Lashes Out at US as New Round of Constitutional Talks Opens*, AFP, Oct. 10, 2006, Open Source Center No. JPP20061010063012.) Prime Minister General Soe Win, speaking on October 9, said that the purpose of reform is modernization, and one goal is to make the civil service more efficient. He went on to say,

Now administration is the main link of political, economic and social affairs. The form must be right to ensure effective administration and the methods must also be in conformity with the times. That is why restructuring is being made.

(*Burma: Prime Minister Addresses Reasons for Restructuring Administration*, NEW LIGHT OF MYANMAR, Oct. 12, 2006, Open Source Center No. SEP20061012035014.)
(Constance A. Johnson)

CANADA – Ontario Wants Compensation for Indian Occupation

Since February 2006 members of the Six Nations and the supporters of this Iroquois Confederacy, composed of the Seneca, Cayuga, Onondaga, Oneida, and Mohawk people, have been occupying a construction site near Caledonia, Ontario. The protesters claim that the housing project being built there is on native land that was wrongly taken from them by the Canadian Government. Under Canada's Constitution, jurisdiction over Indian affairs is assigned to the federal government. (Constitution Act, 1867, R.S.C. No. 5, s. 91(24) (Appendix 1985).) However, Crown land in the provinces, including Crown land that has been set aside by the federal government for native reservations, belongs to the provinces. Thus, it was the provincial government of Ontario that sold the land in question for development and it has been the provincial government that has borne the costs of policing the dispute. It has been estimated that the provincial government has spent "at least Can\$25 million on the occupation" in an effort to guard neighboring schools and separate the aboriginal occupiers and protesters incensed by their



actions in stopping construction and blocking roads. (Chinta Puxley, [Ottawa Must Compensate Province for Cost of Aboriginal Occupation: McGuinty](#), CANADIAN PRESS, Oct. 20, 2006.)

The Premier of Ontario has now called on the federal government to compensate the province. Negotiating land claims settlements is a federal responsibility, and the Premier contends that the province should not have to bear the cost of the failure of negotiations. The occupiers have indicated that they would rather deal directly with the federal government and would prefer that the Royal Canadian Mounted Police, instead of the Ontario Provincial Police, do the policing. However, the federal government has not answered the Premier's request for assistance. Within the province, the Conservative opposition has claimed that the provincial authorities have allowed the occupation to go on for too long and that provincial law should be enforced. (*Id.*)

(Stephen Clarke)

GERMANY – Subsidies for Berlin Denied

On October 19, 2006, the Federal Constitutional Court of Germany rejected a petition from the city of Berlin that would have forced the federal government to give additional aid to Berlin, on the grounds of its fiscal emergency situation (docket no. 2 BvF 3/03). The Court held that Berlin's problems were largely of its own making and did not as yet amount to an emergency situation. The Court also exhorted Berlin to solve its problems through stringent budgetary measures.

Berlin receives some constitutionally guaranteed federal assistance for its functions as a capital city (Grundgesetz, May 23, 1948, BUNDESGESETZBLATT 1 as amended, §22). In addition, Berlin receives about one-third of its €17 billion annual income as transfer payments from more affluent German states (H. Wefing, *Kapitale ohne Freibrief*, FRANKFURTER ALLGEMEINE ZEITUNG, Oct. 26, 2006, at 1). Nevertheless, the city finds itself hard-pressed to service its €60 billion (about US\$77 billion) debt that is the result not only of its declining industrial base and the merger of East and West Berlin in 1990, but allegedly also of mismanagement and banking scandals. (*Id.*) Among the Court's suggestions for an improved financial situation was the sale of real property by the city.

(Edith Palmer)

INDIA – President's Clemency Powers Subject to Judicial Review

On October 11, 2006, the Supreme Court of India ruled that the powers of pardon, clemency, reprieve, or remission of sentence to a convict exercised by the President of India or the Governor of a State on the recommendation of the government are executive acts and are subject to judicial review. In a stern warning to the central and state executive governments, the Court reminded them of their constitutional responsibility in the matter of recommending convicts' clemency petitions for political, religious, and caste considerations. Such a trend is fraught with dangerous consequences, the Court said.



The Court set aside an order by the former Andhra Pradesh Governor and current Union Minister for Power, Sushil Kumar Shinde, remitting a sentence of ten years' imprisonment awarded to a Congress Party leader, Gouru Vendata Reddy, in a case of murder. The recommendation was based on the consideration that the convict, being a good leader of the party, had a bright future in the party. The bench observed:

[T]he power of executive clemency is not only for the benefit of the convict but while exercising such a power the President or the Governor has to keep in mind the effect of his decision on the family of the victims, the society as a whole and the precedent it sets for the future.

It further stated that the power of clemency, though a matter of discretion, is nevertheless subject to certain standards and it certainly is not a matter of privilege. ([Power of Pardon Subject to Judicial Review](#), THE HINDU, Oct. 12, 2006.)
(Krishan Nehra)

INDIA – Supreme Court Direction to State High Courts

On October 16, 2006, the Supreme Court of India came down heavily against the practice of High Court judges interfering with the functions of the subordinate courts during the course of inspection, by directing them to pass orders concerning bail and other matters. The Supreme Court observed that the High Court's power of superintendence over subordinate courts, under article 227 of the Constitution, could be observed *suo moto* because the power as such is both administrative and judicial in nature. However, such power must only be exercised within the limits of the High Courts' authority, without interfering in the judicial functions of lower courts.

In a further observation critical of the practice of the High Courts, the Supreme Court stated: "the power of superintendence ... does not imply that the High Court can intervene in the judicial functions of the lower judiciary." The independence of the subordinate courts is as important as the independence of the superior courts, it declared. The Supreme Court added that independence of the judiciary is a part of the basic structure of the Constitution, which postulated independence from the executive and judiciary alike. The matter came up before the Supreme Court in an appeal from a judgment of the Punjab High Court. ([Supreme Court Fiat to High Courts](#), THE HINDU, Oct. 16, 2006.)
(Krishan Nehra)

ISRAEL – Bill to Change the Government System

On October 17, 2006, the Knesset (Israel's parliament) ministerial committee for legislative matters approved by a five-to-four vote a private member's bill to establish a presidential system in Israel. The bill, submitted by Knesset Member Avigdor Liberman, is designed to reestablish direct election of the Prime Minister (PM) and recognize the PM, rather than the whole government, as the executive branch. The bill further calls for eliminating the institution of the presidency as it currently exists. Under Israeli law, the PM and not the



President is the head of the executive branch of government. Currently, the President serves a mostly ceremonial role as head of state.

The committee approved the bill, subject to government approval. This condition will delay further hearings and subject the bill to an extensive review by the legislative department in the Ministry of Justice. The review is expected to result in a comprehensive bill to change the government system in Israel. (Yuval Yoaz & Mazal Mualem, *Labor (Party) Appealed Liberman's Bill and the Hearings on Its Entry into the Government Were Postponed*, HAARETZ.) (Ruth Levush)

MEXICO – Bills Against Congressional Influence Peddling

In an effort to stop congressional influence peddling, Mexico's Party of the Democratic Revolution (PRD) submitted a reform proposal in the Chamber of Deputies to prevent legislators from undertaking a commercial business or legal practice while in government service and from endorsing a third party to do so in their name. Currently, legislators are forbidden to hold other paid federal or state jobs or commissions. In the meantime, Senator Héctor Pérez Plazola of the National Action Party (PAN) submitted a bill on regulating internal affairs that, among other measures, would impose sanctions against legislators who engage in influence peddling. The sanctions included in the 210-provision bill range from public admonition or a simple reprimand to temporary suspension of civic and political rights and privileges and loss of senatorial position. (*Proponen Sancionar el Tráfico de Influencias*, REFORMA, Oct. 25, 2006.) (Norma C. Gutiérrez)

MEXICO – Broad Progressive Front's Bill to Transform the Country

The Mexican daily newspaper LA JORNADA reported on October 25, 2006, that the Broad Progressive Front FAP (a coalition of three political parties, the Party of the Democratic Revolution – PRD, the Labor Party – PT, and the Convergence Party) would present a bill for the “transformation of the country,” with the aim of raising the living standards of the people and combating social polarization. Jesús Ortega, a leader of the PRD, stated that the bill would encompass the electoral campaign proposals of Andrés Manuel Lopez Obrador, who narrowly lost the recent election for President of Mexico to Felipe Calderón.

According to Ortega, FAP's legislative agenda includes initiatives to guarantee the autonomy of the Federal Electoral Institute, a “profound reform” of the judiciary designed to ensure that the President would no longer be able to nominate the Supreme Court justices or to substitute the members of the Federal Electoral Tribunal. In the energy sector, FAP's legislative agenda includes measures and policies to prevent the privatization of oil and electricity, which are strategic sectors for the national sovereignty. On social issues, FAP plans to submit a reform that guarantees free education at all levels, a universal pension for the elderly, and the adoption of measures to fight poverty and the concentration of wealth. (Elizabeth Velasco C., *Presenta Hoy el FAP Plan para Transformar el País*, LA JORNADA, Oct. 25, 2006.) (Norma C. Gutiérrez)



NEPAL – Civilian Control of Army Tightened

Nepal's interim Parliament unanimously passed a law on September 22, 2006, that imposes tighter civilian control over the army. Civilian courts, instead of military courts, will from now on hear accusations against members of the army involving charges such as corruption, rape, and murder. Earlier in the year, the Parliament had stripped King Gyanendra of control over the army, once fiercely loyal to the royal family, after street protests forced him to end the direct rule he had imposed for fourteen months. The name of the army was also changed, with the removal of the word "royal," to become simply the Nepal Army. The new law also prescribes that army recruitment will be conducted through public examinations rather than by the army. (*Nepal Parliament Passes New Law Imposing Tighter Civilian Control over Army*, AFP (Hong Kong), Sept. 22, 2006, Open Source Center No. JPP20060922063024.) (Wendy Zeldin)

SRI LANKA – Court Invalidates Merger of Provinces

Sri Lanka's Supreme Court ruled on October 16, 2006, that the merger of two provinces in the country was unconstitutional, invalid, and illegal. The decision, reached by a five-bench panel chaired by Chief Justice Sarath N. Silva, was the result of petitions filed by the People's Liberation Front (a Marxist party) and Jathika Hela Urumaya (a party of Buddhist monks).

The Northern and Eastern Provinces of Sri Lanka had been merged under the Indo-Sri Lanka Peace Accord of 1987, but that agreement was made on the condition that a referendum on the merger would be held before the two provinces were permanently combined. In the nineteen years since the agreement, the referendum has been continually postponed. ([*Sri Lanka Supreme Court Rules Against Merger of North and East*](#), COLOMBOPAGE, Oct. 16, 2006.) (Constance A. Johnson)



Health Law & Regulation

HONG KONG – Smoking Ban Comes into Force

The Smoking (Public Health) (Amendment) Bill 2005 was passed into law in the Legislative Council on October 19, 2006. This legislation bans smoking in public areas from 2007 (although some classes of establishments with entry restricted to those over the age of eighteen have until 2009 to comply). Public recreational areas will have designated smoking places, although some public recreational areas such as public pools and beaches would be completely non-smoking. In addition, from 2008 tobacco companies will be banned from using terms such as “mild” and “light.” (Hong Kong Government Press Release, [New Anti-Smoking Law Passed](#) (Oct. 19, 2006).)

(Lisa White)

NEW ZEALAND – Amendment of Drinking Age

The New Zealand Parliament’s Law and Order Committee has approved legislation seeking to raise from eighteen to twenty the age at which liquor may be purchased. The legislation will now be the subject of a conscience vote in the New Zealand Parliament.

This amendment is part of a bill called the Sale of Liquor (Youth Alcohol Harm Reduction) Amendment Bill that was originally directed at the age at which liquor may be purchased and at restrictions on advertising of liquor, two distinct issues. The Law and Order Committee divided the original bill to create two separate bills, namely, the Sale of Liquor (Youth Alcohol Harm Reduction: Purchase Age) Amendment Bill and the Sale of Liquor (Youth Alcohol Harm Reduction: Television Broadcasting Promotion) Amendment Bill. The first current bill will address the minimum legal purchase age and the supply of liquor to minors. The second addresses restrictions on the advertising of liquor, including banning liquor advertisements until later in the evening (currently such advertisements are permitted after 8:30 p.m.).

A recommendation by the Law and Order Committee means that the bills will be returned to Parliament for a second reading and subject to a conscience vote (i.e., voting does not have to be along party lines). Subsequent to the second reading, the bills will need to pass a third reading before becoming law. (Sale of Liquor (Youth Alcohol Harm Reduction: Purchase Age) Amendment Bill & Sale of Liquor (Youth Alcohol Harm Reduction: Television Broadcasting Promotion) Amendment Bill, both available with commentary from the Law and Order Committee.)

(Lisa White)

PORTUGAL – Parliament Approves National Referendum on Abortion

On October 19, 2006, the Portuguese Parliament approved a national referendum on the legalization of abortion. Portugal has a predominately Roman Catholic population and has one



of the most restrictive abortion laws in Europe. Before a date for the referendum can be set, both the Constitutional Court and the President of Portugal need to approve it.

The referendum will decide whether or not it will be legal for a woman to have an abortion up to the tenth week of pregnancy. The current law only allows a woman to have an abortion in the first twelve weeks of pregnancy and only if the pregnancy involves rape, fetus malformation, or risk to the mother's health.

A 1998 referendum on the same issue was declared void due to the low turnout. The current legislation determines that for a referendum to be valid, more than fifty percent of the country's registered voters need to cast ballots. (*Portugal Lawmakers OK Abortion Vote*, LOS ANGELES TIMES, Oct 19, 2006.)
(Eduardo Soares)

TAIWAN – Amendment Affecting Abortion Rules Proposed

On October 18, 2006, the Executive Yuan (Cabinet) of Taiwan approved an amendment to the Eugenics and Health Care Act that would require women seeking an abortion to go through a three-day "reconsideration period" after consulting with a doctor, and that the doctor must offer counseling services to such women. A married woman would also be required to inform her spouse of her intention to have an abortion, unless the spouse has a mental disorder, is missing, or is dead. In addition, before the procedure could be legally performed, women who decide to undergo the procedure would have to sign a declaration stating that they want it. Persons who violate the provisions of the amendment would be subject to fines ranging from NT\$30,000 to NT\$150,000 (about US\$900 – \$4,500). The bill also changes the name of the Eugenics and Health Care Act to the Birth and Health Care Act. (Jimmy Chuang, [Cabinet Proposes New Abortion Rules, Backed with Fines](#), TAIPEI TIMES, Oct. 19, 2006; June Tsai, [Proposed Changes to Abortion Legislation Stir Uproar Among Women's Rights Groups](#), 23:42 TAIWAN JOURNAL (Oct. 27, 2006).)

The proposed amendment, and especially the stipulation requiring the three-day waiting period after the clinical consultation, has reportedly created a stir among women's rights groups in Taiwan. A statement issued by Taiwan Women's Link, for example, is quoted as saying that this stipulation "would not only deprive women of their right to their own bodies, but it would not even accomplish the government's goal of reducing the number of abortions in Taiwan." It was also reported that three members of the government's Commission on Women's Rights Promotion resigned in protest after the Executive Yuan approved the bill. (Tsai, *id.*)
(Wendy Zeldin)



Human Rights

CAMEROON/U.N. – Anti-Gay Laws, Detentions Condemned

The United Nations Working Group on Arbitrary Detention ruled on October 11, 2006, that the detention of eleven men in Cameroon due to their presumed sexual orientation was an arbitrary deprivation of liberty and a violation of their human rights. In addition, the U.N. body recommended that Cameroon take steps, perhaps including revision of the law, to avoid a repeat situation. The men had been arrested at a bar in the capital city, Yaoundé, that was known to be favored by homosexuals, and nine of them were found guilty in June 2006 of sodomy, an offense under the Penal Code of Cameroon. They were sentenced to ten months in jail.

The United Nations decision was in response to a complaint lodged by the International Gay and Lesbian Human Rights Commission and the International Commission of Jurists (ICJ). The ruling held that sodomy laws are inconsistent with obligations to protect the right of non-discrimination under the International Covenant on Civil and Political Rights. Philip Dayle, Legal Officer of the ICJ, stated of the decision, “[t]he opinion reinforces the fact that laws which criminalize and discriminate based on sexual orientation are contrary to international human rights law.” (*UN Condemns Anti-Gay Laws of Cameroon*, AFROL NEWS, Oct. 11, 2006; [United Nations Group Finds Detention of Men in Cameroon on the Basis of Sexual Orientation to Be a Violation of Human Rights](#), INTERNATIONAL GAY AND LESBIAN HUMAN RIGHTS COMMISSION, Oct. 11, 2006.)

(Constance A. Johnson)

CANADA – Report on Case of Person Deported to Syria by the United States

The Commission of Inquiry into the Actions of Canadian Officials in Relation to Mahar Arar recently released the findings of its investigation of this deportation case. Arar, a naturalized Canadian citizen, was detained by U.S. immigration officials while returning to Canada in 2002 and was deported to his native Syria. After reportedly confessing to terrorist activities under torture, Arar was allowed to return to Canada. His case has attracted widespread attention in Canada over the past four years.

The Commission made a number of findings in its lengthy report. First, it found that there was no evidence that Arar had committed any offenses or that his activities constitute a threat to the security of Canada. Second, the Commission found that there was no evidence that Canadian officials had encouraged their counterparts in the United States to deport him to Syria. Third, the Commission found that the Royal Canadian Mounted Police had provided U.S. authorities with information about Arar that was inaccurate and portrayed him in an unfair fashion. The Commission did not find that the Canadian Security Intelligence Service had participated in information sharing. ([Commission of Inquiry into the Actions of Canadian Officials in Relation to Mahar Arar](#), Report (2006).)



The United States declined to participate in the Commission of Inquiry. Subsequent to the release of the Commission's report, Canada's Minister of Foreign Affairs filed a formal protest with the U.S. Secretary of State, contending that U.S. authorities had not given Canadian authorities complete information about the situation. The Canadian Prime Minister has also asked for assurances that incidents like the Mahar deportation will not occur again. ([‘Come Clean’ on Arar, Harper Asks U.S.](#), CBC NEWS, Oct. 6, 2006.) U.S. officials have consistently contended that they acted in accordance with U.S. law and that Arar was deported because his name appeared on lists of persons thought to pose a security risk.
(Stephen Clarke)

CONGO (Republic of) – Illegal Detentions Alleged

According to a new report by *L'Observatoire congolais des droits de l'homme [Congolesse Observer of Human Rights]*, a human rights organization in the Republic of Congo (RC), several military personnel and civilians are being held illegally for prolonged periods, often under inhumane conditions, and should be released. The report states that some thirteen army officers and warrant officers were arrested in February 2005 for the alleged theft of weapons from a military camp south of Brazzaville, the capital. Roger Bouka-Owoko, Executive Director of the human rights group, declared: “[w]e do not know the real reason for their arrest because they were never questioned. There was no proper procedure.” Among the detainees are three exiled officers from the Democratic Republic of Congo (DRC), held without trial in the RC's military intelligence headquarters since March 2004. According to the report, these officers were arrested for political reasons, after disturbances occurred in Kinshasa in 2004. The report has been sent to government officials and to the parliament, as well as to the Federation of Human Rights League and U.N. agencies.

However, Alphonse Dinard Mobangat-Mokondzi, the public prosecutor of the Brazzaville court (*Tribunal de grande instance*), stated that the human rights group's accusations “are done in bad faith” and that the alleged political prisoners were instead persons who had sought to disturb the peace. In the cases of the officers and non-commissioned officers accused of arms theft, Mobangat-Mokondzi indicated that in regard to police custody, “the deadline for preventive detention can be prolonged as long as is necessary.” The file had been sent to the Supreme Court for review, he stated, because the alleged arms smuggling involved officers of the law. (*Congo-Brazzaville: Human Rights Report on Illegal Detentions*, U.N. INTEGRATED REGIONAL INFORMATION NETWORKS (IRIN), Oct. 10, 2006.)
(Wendy Zeldin)

EGYPT – Charges Lodged Against Law Professor

Yousef al-Badri, a member of the Supreme Council for Islamic Affairs in Egypt, has brought charges before the Public Prosecutor against Dr. Souad Saleh, professor of law and former Dean of the College of Islamic and Arabic Studies at Azhar University. He accused her of defaming veiled women and slandering them by declaring on television that she feels disgusted whenever she sees a veiled woman. (*Yousef al Badri, an Islamic Preacher, Initiates Legal Proceedings Against an Islamic Woman Jurist*, AL-SHARQ AL-AWSAT, Oct. 17, 2006.)
(Issam Saliba)



EUROPEAN COURT OF HUMAN RIGHTS – Belgium Condemned for Deporting Five-Year-Old

On October 12, 2006, the European Court of Human Rights unanimously found that Belgium violated articles 3 (prohibition of inhuman and degrading treatment), 4 and 5 (right to liberty and security), and 8 (right to respect for private family life) of the European Convention on Human Rights when it detained Tabitha, a five-year-old Congolese girl, for almost two months and then deported her to Congo, where no members of her family were present to meet her on arrival.

After obtaining refugee status in Canada, Tabitha's mother asked her brother, who was living in The Netherlands, to collect her daughter from the Democratic Republic of Congo and to look after her until the girl was able to join her in Canada. On August 18, 2002, upon their arrival at the Brussels airport, the child, who did not have the proper documentation, was placed in a detention center that was initially intended for adults, while her uncle, a Dutch national, returned to The Netherlands. An attorney was appointed to represent her.

On August 27, 2002, the Belgian Aliens Office declared inadmissible an application for asylum lodged on her behalf. The Commissioner-General for Refugees and Stateless Persons upheld this decision on September 25, 2002. She was deported to the Democratic Republic of Congo on October 17, 2002, although the day before the Committals Chamber of the Brussels Court of First Instance had ruled that her detention was incompatible with the Convention on the Rights of the Child and had ordered her immediate release. In addition, the High Commissioner for Refugees had intervened in her favor. She was finally reunited with her mother at the end of October 2002, following the intervention of the Belgian and Canadian Prime Ministers.

The judges found that “the conditions of detention had caused Tabitha considerable distress and that her detention demonstrated a lack of humanity to a degree that amounted to inhuman treatment.” The court awarded the applicants €35,000 (about US\$45,000) in compensation and €14,036 (about US\$18,000) for costs and expenses. Attorneys are planning to use the court ruling to obtain the release of about fifty children who are currently residing – most of them with their families – in one of the detention centers. (Press Release, Registrar of the European Court of Human Rights, Chamber Judgment Mubilanzila Mayeka and Kaniki Mitunga v. Belgium (Oct. 12, 2006); Jean-Pierre Stroobants, *La Belgique condamnée pour le traitement inhumain d'une enfant congolaise*, LE MONDE, Oct. 18, 2006, at 8.)
(Nicole Atwill)

UNITED STATES – Paper Currency Held to Violate Rights of the Blind

A federal district court on November 28 ruled that the United States “Treasury Department’s failure to design, produce and issue paper currency that is readily distinguishable to blind and visually impaired individuals” violated federal law.



American Council of the Blind and other plaintiffs filed a lawsuit in the U.S. District Court for the District of Columbia, alleging that the Treasury Department's failure to design and issue paper currency which is readily distinguishable to blind and visually impaired people violates Section 504 of the Rehabilitation Act, [29 USC 794](#). The plaintiffs sought a declaratory judgment to that effect and an order mandating the creation and implementation of a corrective action plan. Both sides moved for summary judgment.

In his opinion, District Judge James Robertson noted that of the 180 countries in the world which issue paper currency, only the United States prints bills that are identical in size and color in all their denominations; in fact many other countries include tactile features on their bills in addition to having varying sizes and colors to assist the visually impaired. Under case law precedent, Judge Robertson determined that the legal test to be applied was (1) whether blind and visually impaired plaintiffs have "meaningful access" to U.S. currency, and (2) if not, whether the acts necessary to achieve meaningful access would impose an "undue burden" on the government.

Judge Robertson found that blind and visually impaired people do not have meaningful access to U.S. currency, and that modifications to U.S. currency to address its deficiencies would add less than 5% to the annual budget of the Bureau of Engraving and Printing, which was not an undue burden on the government. As a result he denied the Treasury Department's motion and granted the plaintiffs' motion for declaratory judgment. Judge Robertson did not grant the injunctions sought by the plaintiffs, however, writing that he felt he had neither the expertise nor the power "to choose among the feasible alternatives, approve any specific design change, or otherwise to dictate to the Secretary of the Treasury how he can come into compliance with the law." Instead, he directed that a status conference be set for the purpose of discussing a remedy. ([American Council of the Blind v. Paulson](#), Civil Action No. 2002-00864 (D.D.C. 2006).)
(Gary Robinson)

VIETNAM – Trial of Dissidents, Including U.S. Citizens

Vietnam's Ho Chi Minh City people's court was scheduled on November 10, 2006, to hold a one-day trial on terrorism charges of seven political dissidents, three of whom are U.S. citizens. The activists, who have been held in detention for over a year without being charged, allegedly attempted to smuggle radio transmitters into Vietnam from Cambodia in an effort to jam the state-run radio with pro-democracy messages. Vietnamese authorities claim that the seven were working with exiled dissident Nguyen Huu Chanh, who founded the Government of Free Vietnam, an anti-communist group headquartered in Garden Grove, California, in 1995 whose members include leading officials of the former Government of South Vietnam.

There is some expectation that Vietnam will expel the three Americans, who include a prominent Florida Republican, Thuong Nguyen "Cuc" Foshee, to avoid potential embarrassment during the APEC summit, which Vietnam is hosting, and to ensure a positive vote in the U.S. Senate on legislation granting Vietnam permanent normal trade relations (PNTR). Senator Mel Martinez (R-FL) has threatened to place the legislation on hold unless Foshee is released.



Vietnam reportedly has also pledged to the United States Government that it will amend its criminal procedure law and discontinue the practice of detaining people without bringing charges against them. (*Vietnam, U.S. Expected to Trade Prisoner of PNTR Passage*, 24:44 INSIDE U.S. TRADE (Nov. 3, 2006), & *Vietnam to Try US Citizens on Terror Charges Friday*, AFP, Nov. 6, 2006, both via LEXIS/NEXIS, News Library, 90days File.)
(Wendy Zeldin)



Immigration and Nationality Law

FRANCE/SENEGAL – Immigration Agreement

On September 23, 2006, France and Senegal signed an agreement designed to jointly manage migration between the two countries. Since July 2006, France has been implementing a new immigration policy designed to attract the most qualified workers. Senegalese officials have strongly criticized this “selected immigration policy,” fearing that it would result in a brain drain and, more specifically, in the departure of physicians to France.

Under the terms of the agreement, Senegal “will accept and organize” the repatriation of its nationals who unlawfully immigrated to France. The two countries will work together on patrolling Senegal’s coastal borders. In return, France agreed to facilitate the issuance of visas to Senegalese students, academics, businessmen, and artists. It also promised €2.5 million (about US\$3.2 million) in financial aid for micro-projects.

At the signing ceremony, M. Sarkozy, the current Interior Minister, declared “[n]either Europe nor France can receive all those who dreamed of Eldorado. A general opening of the borders would result in no time in the destabilization of European societies and the coming to power of xenophobic parties. No one wishes that.” (Phillippe Bernard, *M. Sarkozy signe à Dakar un accord sur l’immigration ‘concertée,’* LE MONDE, Sept. 26, 2006, at 8.)
(Nicole Atwill)

IRAQ – Former Minister Seeks Asylum at U.S. Embassy

It was reported on October 11, 2006, that Ayham al-Sameraii, former Minister of Electricity in the Iraqi Government headed by Iad Alawi, requested asylum at the U.S. Embassy in the capital, Baghdad, after being convicted and sentenced to two years of imprisonment for corruption. (*Former Minister Seeks Asylum at U.S. Embassy,* AL-JAZEERA, Oct. 11, 2006.)
(Issam Saliba)

ISRAEL – Grants to Persons Who Assisted in Response to Chernobyl Disaster

On October 18, 2006, the Knesset (parliament) Committee for Immigration, Absorption, and Diaspora approved for the first reading a bill that would provide for a yearly grant to persons who assisted in responding to the Chernobyl nuclear accident that took place in Ukraine twenty years ago. The bill also grants awards to persons who lost a spouse in the disaster. Israel absorbed a large number of immigrants from the CIS (Commonwealth of Independent States, former Soviet Republics), including Ukraine, during the 1990s. (*The Knesset Committee for Immigration, Absorption and Diaspora Approved Grants to Persons Who Assisted in the Response to the Chernobyl Disaster,* YNET UPDATES [Yediot Aharonot newspaper].)
(Ruth Levush)



ROMANIA – Status of Foreigners Changed

On October 18, 2006, amendments to legislation on the status of foreign individuals were adopted by the Romanian legislature. The amendments improve the position of foreign citizens married to Romanians, because, according to these changes, officially married foreigners will not be expelled from the country, even if they no longer meet the requirements for a legal stay in Romania. The new law specifies that the only exclusion from this rule will be marriages of convenience. The decision as to whether a marriage is one of convenience or not will be made by an official of the Authority for Foreigners upon an interview with the persons involved, to determine whether the “spouses meet the commitments undertaken under marriage.”

The amended law also provides for a new expedited procedure to remove an individual from the country and gives the Authority for Foreigners the right to initiate and enforce the removal proceedings. The law transfers the jurisdiction over deportation cases from the prosecutor’s office to the Bucharest City Court of Appeals. Another amendment included in the law is the decision to increase to up to €1 million (about US\$1.3 million) the amount of money required for a foreign citizen to open a corporation in Romania. In addition, the number of new positions a foreign employer must create in order for that employer to receive long-term residence rights is increased to fifteen. In regard to ordinary visitors, the amount of the maintenance means that they must prove that they have at their disposal upon entry into Romania was dropped to €50 per day (about US\$63), but no less than a total of €500. (*Modifications to Foreigners’ Regime*, CASA DE EDITURA NINE O’CLOCK [a Romanian daily economic newspaper], Oct. 19, 2006.)
(Peter Roudik)



International Relations

EQUATORIAL GUINEA/GREAT BRITAIN – British Court Dismisses Civil Claim Brought by Equatorial Guinea’s President

On October 23, 2006, a British Court of Appeal dismissed an appeal against a High Court judge's order in which he struck out an action brought by the President of Equatorial Guinea, Teodoro Obiang, against a group of businessmen who allegedly financed a conspiracy to overthrow Obiang. The alleged coup plot, in March 2004, was led by Simon Mann, an “Old Etonian” who was a close friend of Mark Thatcher, former British Prime Minister Margaret Thatcher's son. Thatcher was not directly involved in the original proceedings, but had the damages suit gone ahead, the likelihood is that he would have been joined in the action.

The judges ruled that such a claim could not be pursued in a British court. Dismissing the appeal, the appeal court judges said Equatorial Guinea's claim was not an ordinary claim for damages but an attempt to enforce its rights as a government through the English civil courts and that such a claim could not be pursued through the English courts. Obiang had launched civil proceedings in England against Mann, two of his companies, British businessman Greg Wales, Lebanese millionaire Ely Calil, and Severo Moto, the self-proclaimed president of a so-called Equatorial Guinea government-in-exile in Spain.

In September 2004, Mann, 53, was jailed for seven years after being convicted in Zimbabwe of illegally trying to buy weapons. This was reduced on appeal to four years. Officials in Equatorial Guinea want to extradite Mann and may intensify their efforts after their legal defeat in London. In January 2005, Thatcher pleaded guilty in Cape Town, South Africa, to helping bankroll the attempted coup. (*Thatcher Son Won't Face Coup Damages*, THE AUSTRALIAN, Oct. 25, 2006.)
(Gustavo Guerra)

EUROPEAN UNION - Agreement Between Biggest EU Members to Combat Terrorism and Illegal Immigration

On October 27, 2006, the Ministers of Interior of France, Germany, Italy, Poland, Spain, and the United Kingdom, a group of countries known as the G6, agreed on the following measures:

- a) eliminating tax fraud that could be used for terrorism purposes;
- b) combating human trafficking;
- c) communicating more information about potential terrorist threats; and
- d) opening a dialogue with African countries on reducing illegal immigration.

The G6, which represent three quarters of the EU population and which was established as a group in 2003 by France and the U.K., also agreed to increase cooperation on explosives and on research on new technologies to facilitate the tracing of explosives, especially liquid ones. The results of the meeting will be presented as a document to EU Interior and Justice Ministers



on December 9-10, 2006. ([EU Six Agree to Fight Terrorism and Illegal Immigration](#), EUOBSERVER, Oct. 10, 2006.)
(Theresa Papademetriou)

EUROPEAN UNION - Future Negotiations on Status of EU Constitution

Negotiations on the content on the EU Constitution have been on hold since the two unfavorable referenda taken on it in France and The Netherlands in 2005. Fifteen EU Members have already ratified the Constitution.

Meanwhile, a “wise” group has been established, with the Italian Interior Minister as the chair, to coordinate re-negotiations of the document. The European Commission’s stance is that certain “core issues” are not negotiable, however. This is also reflected in a statement issued by Communications Commissioner Margot Wallstrom on October 18, 2006, that “the Commission would not like to depart too much from the constitutional treaty ... and that the departure point should be keeping the core of the constitution.” Commissioner Wallstrom is part of the wise group. ([Brussels to Defend ‘Core’ of EU Constitution in Treaty Talks](#), EUOBSERVER, Oct. 19, 2006.)
(Theresa Papademetriou)

EUROPEAN UNION - Schengen Participation by the New Central and Eastern Europe EU Members

Initially, the new EU Members from Central and Eastern Europe were expected to join the Schengen area and their citizens were to be allowed to travel to Western Europe without any travel checks as of October 2007. The Commission has now announced a new target date, the summer or fall of 2009, citing technical difficulties. The affected Members, including the Czech Republic, Hungary, Poland, and Slovakia, expressed their disappointment and resentment and argued that the reasons for the delay are mainly political. A diplomat from the Czech Republic accused the Commission of “reflecting the political situation and views of some of the old member states,” and added that the new members are viewed as second-class citizens. The Commission rejected the allegations as baseless. (*‘Second Class’ EU States to Fight Passport-Free Travel Delays*, EUOBSERVER.COM, Sept. 29, 2006.)
(Theresa Papademetriou)

UNITED NATIONS – General Assembly Resolution on Treaty on Illicit Trade in Guns

Globally the volume of trade in guns and light weapons is close to 1.1 trillion dollars in value, according to the International Peace Research Institute located in Stockholm, Sweden. The United States accounts for forty-eight percent of total military spending on such weapons worldwide. On October 26, 2006, the first committee of the U.N. General Assembly adopted a resolution to create a group of experts to evaluate the scope of an international treaty to eliminate the illicit trade in guns and other light weapons. The group is expected to report back to the committee by the end of 2008. The resolution was sponsored by Argentina, Australia, Costa Rica, Finland, Japan, Kenya, and Great Britain. One hundred and thirty-nine nations voted in



favor of the resolution and twenty-four abstained, including China, India, Pakistan, and Russia. The United States was the only country that opposed the resolution. (Haider Rizvi, [U.N. Passes Arms Trade Treaty over U.S. Opposition](#), INTER PRESS SERVICE NEWS AGENCY, Oct. 26, 2006.) (Theresa Papademetriou)



Property Law

CHINA – Draft Property Law Tabled Anew

China's controversial draft property law, first submitted to the Standing Committee of the National People's Congress (NPC) in 2002, was again submitted to the legislative body on October 27, 2006, after a rare fifth reading. It is a sweeping bill, aimed at protecting both public and private ownership. After being withdrawn from the full session of the NPC in March 2006, reportedly due to concern that it might undermine the legal foundation of China's socialist system, it was revised in August to keep state ownership in place as the heart of the system, playing the dominant role in the economy, while other various forms of ownership develop side by side with it. Once the lawmakers reached ideological consensus on the draft, they reportedly turned their attention to specific issues such as rural housing transfers, coverage of rivers and oceans, and the ownership of parking spaces. They collected more than 15,000 suggestions from the general public regarding the provisions of the draft law. The full NPC may vote on the draft law at its next session in March 2007. ([Draft Property Law Tabled for 6th Reading](#), CHINA DAILY, Oct. 20, 2006.)

(Wendy Zeldin)

RUSSIAN FEDERATION – No Return of WWII Artwork

On September 26, 2006, the Culture Ministry of the Russian Federation issued a statement commenting on the 1997 Federal Law on Valuable Items Displaced in World War II. According to the statement, everything taken out of Germany and other countries during the war and shortly afterward is viewed as legal compensation for the cultural losses the Soviet Union suffered from the Nazis. The statement says that the restitution took place when cultural artifacts that had been transported from Soviet museums in the war years to Germany were returned immediately after 1945. The statement establishes that only this "compensatory restitution," which means compensating Russia for valuables lost to Germany with German cultural items equal in value, is a possible issue for discussion and consideration.

Eight countries – Austria, Belgium, Hungary, Germany, Greece, Luxembourg, The Netherlands, and Ukraine – have requested the return of displaced artifacts. The Soviet Army removed from the occupied territories about one million pieces of art, 255,000 archival documents, and 4.5 million rare books. Most of these items remain part of Russia's federal property and are inaccessible to foreign experts. Similarly, the statement reiterates the government position that property nationalized after the 1917 Bolshevik revolution will not be restituted. (*Russia, Germany Continue Discussion of WWII Artwork Compensation*, RUSSIAN INFORMATION AGENCY (RIA-NOVOSTI), Sept. 26, 2006.)

(Peter Roudik)

UKRAINE – Towing of Cars Is Unconstitutional

On October 11, 2006, the Appellate City Court in the Ukrainian capital city of Kyiv upheld the decision of the district court to ban towing of cars parked illegally by private or



municipal towing services. The court ruled that no existing legislative act establishes towing as a form of punishment for illegal parking. A fine is the only form of punishment prescribed by law for minor offenses and violations. Moreover, the court said, removal of a car is a violation of personal property rights; only the car owner may authorize the car's removal. The ruling allows towing of illegally parked cars only in cases of emergency when a parked car prevents unrestricted access for firefighting equipment. In such cases, towing will be conducted at no cost to the car owner. Ukraine is the fifth East European country after the Baltic States and Russia to prohibit towing of illegally parked cars. (Natalia Ivanchuk, *Court Bans Towing of Cars Parked in Wrong Places*, UKRAINIAN NEWS - POLITICAL WEEK, Oct. 15, 2006.) (Peter Roudik)

ZIMBABWE – Land Reform Compensation Delayed

In the last six years, over 4,000 white, commercial farmers have had their land expropriated by the Government of Zimbabwe. The land reform was authorized by an amendment of the Constitution adopted in 2000 that permitted the Government to take the land, with the stipulation that the owners be compensated for improvements they had made to the property. No time frame was given for the compensation. The rationale was stated in article 16A, section 1(a), to be that “under colonial domination the people of Zimbabwe were unjustifiably dispossessed of their land and other resources without compensation.” (Constitution as amended by Act 5, Apr. 20, 2000.) To date, only about 200 of the landowners have received compensation, but Zimbabwe has stated that all of the farmers will be paid by 2010.

The Ministry of Land, Land Reform, and Resettlement had advertised for former owners to come and receive compensation from the Ministry, but response was so strong that the budgeted amount, equivalent to about US\$3 million, was exhausted, according to a recent statement by Ngoni Masoka, Permanent Secretary of the Ministry. Other difficulties involve administering the program without adequate inventories and determining the value of the improvements made to farmlands before expropriation. Speaking on behalf of the former owners, Reson Gasela of the organization Movement for Democratic Change stated, “[b]ecause the acquisition of the farms was done in a hurried manner, and without any planning, there was no valuation of the farms before the commercial farmers were booted out.” (*Govt Says All Land Reform Affected Will Get Money by 2010*, U.N. INTEGRATED REGIONAL INFORMATION NETWORKS (IRIN), Oct. 25, 2006.) (Constance A. Johnson)



Religion

INDIA – Court Convicts Father-in-Law Despite Opposition of Muslim NGOs

A District and Sessions judge of the city of Muzaffarnagar in the State of Uttar Pradesh in India held Ali Mohammed guilty of raping his son's wife, Imrana, in a case that gained nationwide attention after a Muslim seminary ruled that, after being raped, Imrana should treat her father-in-law as her new husband and the previous husband as her son. She was also advised by the seminary to desist from cohabiting with her former husband, and the seminary declared her former marriage null and void.

Defying the seminary, Imrana pressed the charge of rape against her father-in-law in the criminal court and continued to live with her former husband. The seminary later denied it had issued the above-mentioned fatwas. On October 19, 2006, the Sessions Judge held the father-in-law guilty of rape. The convicted rapist Ali Mohammed has been in judicial custody since June 16, 2005, three days after he committed the rape. ([*Imrania's Father-in-Law Held Guilty*](#), THE TIMES OF INDIA, Oct. 19, 2006.)
(Krishan Nehra)

SPAIN – New Accord on Financing Catholic Church

On September 22, 2006, the Spanish Government announced a new accord with the Roman Catholic Church on how the Church will be financed. Under the agreement, the state will no longer give money directly to the Church. Previously, the government had provided an annual contribution to the Church separate from voluntary donations from individual taxpayers. In announcing the agreement, Deputy Prime Minister Maria Teresa Fernandez de la Vega said that the percentage contribution individual taxpayers are permitted to choose to donate to the Church in their yearly tax declarations would, in turn, be increased from 0.52 percent to 0.7 percent.

From now on, the Church in Spain will have to pay value-added tax on any sale or purchase of goods and property, a measure the European Union had required. The Church will also have to present a yearly report to the government on how it spends money it received from taxpayers.

The Socialist government of Prime Minister Jose Luis Rodriguez Zapatero has clashed with the Church since Rodriguez Zapatero took office in April 2004, principally by introducing legislation facilitating divorce on demand and same-sex marriages. It also scrapped plans to make religion an obligatory subject in schools.

Once a bastion of Roman Catholicism, Spain has become a predominantly lay society, particularly since the end of the Church-backed dictatorship of General Francisco Franco in 1975. The Spanish Government separated formally from the Church under the 1978 Constitution, but it has nevertheless continued to finance the institution since 1979 under an



agreement with the Vatican that allowed taxpayers to contribute 0.52 percent of their income taxes if they chose. Since 1989, however, these individual contributions have not matched Church spending, and the government has made up the difference with an annual lump-sum payment. The government last year said payments from tax contributions covered less than seventy percent of the Church's budget. (*El Gobierno Acuerda con la iglesia un nuevo modelo de financiación*, EL MUNDO, Sept. 22, 2006.)
(Graciela Rodriguez-Ferrand)

UNITED KINGDOM – Muslim Veil Controversy

A Muslim teaching assistant who was suspended from a school in the north of England after refusing to remove her veil has won an award of approximately US\$2,000 in compensation from an Employment Tribunal for injury to feelings, but failed in her claim for discrimination on religious grounds and harassment. The teaching assistant, who was responsible for bilingual ethnic minority achievement curriculum support, has stated that she will take her claim to the European Court of Human Rights and has refused an offer by the school that she may resume employment provided that she does not wear her veil. The claims of the teaching assistant have caused controversy throughout the United Kingdom, with high-level politicians asserting that women wearing veils should remove them prior to visiting constituency offices. (Ian Herbert, *Teaching Assistant “Victimised” for Wearing Veil*, *Tribunal Rules*, THE INDEPENDENT (London) Oct. 20, 2006.)
(Clare Feikert)

VATICAN CITY – Views on Somatic Stem Cell Research

Participants in a congress promoted by the Pontifical Academy for Life and the International Federation of Catholic Doctors' Association, who were gathered to focus on the subject of “Stem Cells, What Future for Therapy?,” met with Pope Benedict XVI in his summer residence of Castel Gandolfo. The Pope started by remarking that the research into somatic stem cells has all the ingredients for approval and encouragement when scientific knowledge is joined by the most advanced technology in the field of biology and when it follows “the ethic that postulates respect for human beings at every stage of their existence.” If all those conditions are met, he said, there are many possibilities for the cure of illnesses resulting in “the degeneration of tissues with consequent risks of invalidism and death for those affected.” (Press Release, Vatican Information Services, *Stem Cells, What Future for Therapy?* (Sept. 16, 2006).)
(Dario Ferreira)



Research and Technology

EUROPEAN UNION - WTO Panel Report on Biotechnology Dispute

On August 7, 2003, the United States, Canada, and Argentina, as exporters of food and feed products containing genetically modified organisms (GMOs), filed complaints with the WTO against the moratorium imposed by the EU on approving new GMOs during the years 1998-2003 and also against national bans on certain GMOs imposed by a number of EU Members. In early 2006, the WTO panel set up to examine the dispute issued an interim report in which it agreed with the applicants' allegations about the moratorium and held that the EU, because it was slow in approving new GMOs, was in violation of article 8 and Annex C of the WTO Agreement on Sanitary and Phytosanitary Measures (SPS). It also held that the national bans were illegal, because the EU Members did not perform risk assessments as required by the SPS.

The panel issued its final report on September 29, 2006. The interim and the final reports concur on all major issues. Neither addressed the issue of the legality of EU legislation on GMOs under WTO rules. The European Commission claimed the issue of a moratorium was moot, because even if there had been a moratorium in the critical period, it ceased to exist after the establishment of the panel in 2003. However, the panel rejected the EU argument and held that, based on prior jurisprudence, it had the authority to decide on the issue, even if the measure in question had since been discontinued.

Although the interim report did not adopt recommendations, the final report does. The panel accepted the complainants' requests and held that the EC should ensure that the general moratorium, "if, and to the extent that" it still exists, be in conformity with pertinent WTO legal obligations. (Sungjoon Cho, *The WTO Panel on the EC-Biotech Dispute Releases Its Final Report*, ASIL INSIGHTS, Oct. 26, 2006.)
(Theresa Papademetriou)



Taxation

TAIWAN – Energy Taxes

It was reported on October 19, 2006, that Taiwan's Executive Yuan has given preliminary approval to a draft Statute for Energy Tax. The draft law stipulates that the tax on oil products will increase annually over a ten-year period and that coal and natural gas will also be subject to energy tax, losing their current tax-free status. The oil product taxes will be converted from a commodity tax to the energy tax, but the tax will increase at NT\$1 per liter (about US\$0.03) annually for gasoline; NT\$0.8 for diesel oil (about US\$0.024); NT\$0.05 for fuel oil (about US\$0.0015); and NT\$0.1 for aviation fuel oil (about US\$0.003). The energy tax on coal will be NT\$0.04 per kilo (about US\$0.001), to increase annually by NT\$0.04 over a ten-year period; that for natural gas will be NT\$0.07 per cubic meter (about US\$0.0021), to increase by that same amount annually over the ten-year period. The energy tax on liquefied petroleum gas (LPG) will stay at NT\$0.69 (about US\$0.02) for the first seven years, similar to the extant commodity tax on LPG. Charges on automobile and motorcycle fuel will initially remain at the current level. They may only be removed after the government income from the energy tax has reached a certain level.

According to the draft statute, energy products used as raw materials and biological fuel additives for bio-gasoline or diesel oil will be exempt from the energy tax, as will coal that is used for steel production and liquefied petroleum gas for petrochemical production. Commodity taxes on electrical appliances, beverages, flat glass, and rubber tires will be scrapped once the energy tax is levied. The bill allows a two-year grace period for the statute's implementation. (*Energy Taxes to Increase Annually over 10-Year Period*, TAIWAN ECONOMIC NEWS, Oct. 19, 2006, Open Source Center No. CPP20061019968045.)
(Wendy Zeldin)

VENEZUELA – Country Ranks Third Among Best Tax Collectors in South America

According to the SENIAT (Venezuelan National Integrated Customs and Tax Administration Service), the so-called Zero Fiscal Evasion Plan that has been implemented since 2003 has borne fruit, as Venezuela has jumped from the fifteenth to the third position among the countries with the best tax collection in the region. At the top of the list are Chile and Brazil, where the varieties of taxes are more than double the nine types of impost levied in Venezuela and tax rates are higher.

Venezuela has removed the bank debit tax, the tax on business assets, and the tax on matches and cut by two percentage points the value-added tax rate (VAT). This is the reason why the government believes that rather than third, Venezuela should be ranked first in tax collection, because in Chile and Brazil the VAT is higher, and they levy types of taxes that Venezuela does not.



Reinforcing surveillance and legal requirements has been essential in combating tax evasion. For FY2007, the SENIAT is planning to impose more stringent surveillance on companies, target “large assets” for review, and fight against piracy, counterfeiting, and fuel smuggling.

Also for FY2007, the VAT contribution to the national budget has been cut from 54 percent to 47.2 percent and the income tax contribution is expected to increase from 27 percent to 38.4 percent. No new taxes or rates will be changed during 2007, except for the tax on gambling. (Tercer Peldaño En Recaudación Fiscal, El Universal, Oct. 26, 2006.)
(Graciela Rodriguez-Ferrand)



Terrorism

ENGLAND AND WALES – Jailed Muslim Cleric Appeals Sentence

Muslim Cleric Abu Hamza, who was imprisoned in February 2006 for soliciting murder, inciting racial hatred, and possessing a terrorist encyclopedia, has appealed his sentence in England and Wales. He claims that the media attention given to his case denied him a fair trial and that aspects of his prosecution were politically motivated. Hamza is also battling extradition proceedings to the United States, where authorities allege that he established a terrorist training camp. ([Radical Preacher Launches Appeal](#), BBC NEWS, Oct. 30, 2006.)
(Clare Feikert)

EUROPEAN UNION - New Agreement with the United States on PNR Data

The European Union repudiated the 2004 agreement with the United States on the processing and transfer of Passenger Name Record (PNR) data by air carriers flying to the U.S., following a judgment of the European Court of Justice issued on May 30, 2006. The judgment annulled the agreement on the grounds that the decisions adopted by the EU Council and the European Commission approving the agreement fell outside their competence.

On October 6, 2006, the EU and the United States finalized an interim agreement that would still permit the transfer of PNR data in the reservation systems of air carriers to the U.S. administration. Meanwhile, the U.S. administration may have electronic access to PNR data from reservation/departure control systems; at a later stage, airlines in the EU will send the required data to the United States. For its part, the EU will ensure that airlines that operate flights to or from the United States process the data in their reservation systems as required by the U.S. administration. The agreement, whose chief aim is to prevent and combat terrorism and international crime, will expire on July 31, 2007, unless extended by the consent of both parties. (Press Release No. 86/06, Delegation of the European Commission to the USA, [EU and US Reach Agreement on the Continued Use of Passenger Name Record \(PNR\) Data](#) (Oct. 6, 2006).)
(Theresa Papademetriou)

EUROPEAN UNION - Research Funding to Strengthen Security Against Terrorism

Due to heightened security threats across the European Union, the European Commission recently took steps to include the topic “security research” in the latest EU Research Framework Program. From the Program’s average annual budget of €200 million (about US\$256 million), funds will be provided for fifteen security research projects, including protection of supplies of drinking water against bio-chemical terrorism, improving standards for border security, and finding new solutions to thwart money laundering. Moreover, due to terrorist attacks on the transport systems in several EU Member States, the Research Framework Program will also fund research projects to facilitate the detection of explosives and liquids at airports. (Press Release No. 89/06, Delegation of the European Commission to the USA, [EU Boosts Funding for Research to Protect Citizens from Terrorist Attacks](#) (Oct. 16, 2006).)
(Theresa Papademetriou)



JORDAN – Members of al-Taefa al-Mansoura Sentenced

On August 18, 2006, the Jordanian National Security Court sentenced members of the al-Taefa al-Mansoura organization to between two and ten years of imprisonment for planning to attack Americans and Jews in Jordan. Ahmed Shabaneh, the leader of group, and two of the members tried in absentia received sentences of ten years and five others were given between two and seven years. (*Members of 'al-Taefa al-Mansoura' Sentenced*, AL-SHARQ AL-AWSAT, Oct. 19, 2006.)
(Issam Saliba)

PAKISTAN – Terrorist Leader Released

On October 17, 2006, Pakistan's Lahore High Court declared illegal the detention of Hafiz Saeed, the founder of the banned terrorist organization, Lashkar-e-Taiba (also known as "LeT") and head of the Jamaat-ud-daw (JuD). The court ordered him released forthwith.

The court criticized the grounds of Saeed's detention, which included raising funds for the war victims in Palestine and Lebanon and the threat these activities allegedly posed to relations with "neighbouring countries." The second ground, in the court's view, amounted to saying that foreign pressure could influence decisions of the judiciary in Pakistan. The court further observed that the Provincial Government of Punjab had violated provisions of the Constitution and the Maintenance of Public Order Act under which Hafiz Saeed was detained. According to the observation of the court, it was necessary that the arrestee be informed of specific charges, which the government failed to do. Because Saeed was arrested within two hours of a previous release on August 28, 2006, the court inquired with which of Pakistan's four neighboring countries he had jeopardized relations. ([*Court Orders Hafiz Saeed's Release*](#), THE HINDU, Oct. 18, 2006.)
(Krishan Nehra)

UNITED STATES – Executive Order on Terrorism Financing Ruled Unconstitutional

On November 27, a federal judge in the U.S. District Court for the Central District of California ruled that aspects of an Executive Order issued following 9/11 that designated certain organizations as "specially designated global terrorists" (SDGTs) and provided for the freezing of their assets violated the United States Constitution.

The opinion concerned Executive Order 13224, signed by President Bush on September 23, 2001, which designated certain organizations as SDGTs; delegated authority to the Secretary of Treasury to designate other SDGTs for various activities, including associating with other SDGTs; and provided for the freezing of SDGT assets. The Humanitarian Law Project, which provides humanitarian support to organizations that have been designated as SDGTs, challenged the constitutionality of the Executive Order.

The District Court, while rejecting some of the plaintiffs' claims, found two aspects of the Executive Order unconstitutional. The District Court ruled that authority retained in the



Executive Order by the President (apart from that authority delegated to the Secretary of Treasury) to designate organizations as SDGTs, without any criteria for such designation or any provision for challenging such a designation, is unconstitutional due to vagueness. The District Court also ruled that the Executive Order's prohibition on being "otherwise associated with" an SDGT to be both unconstitutionally vague, as well as overbroad with respect to the First Amendment's protection of freedom of association. ([Humanitarian Law Project v. United States Department of Treasury](#), No. CV 05-8047 (C.D. Cal., November 27, 2006); [Executive Order 13224](#), 66 Fed. Reg. 49079 (Sept. 25, 2001).)
(Luis Acosta)



Trade and Commerce

BULGARIA – Government Cancels Tobacco Price Controls

On September 29, 2006, the Government of Bulgaria issued new rules for the price registration of local and imported tobacco products, trade in tobacco products, and trade control. After the adoption of these rules, the Tobacco and Tobacco Products Act was amended and the state's power to approve prices has been cancelled. Although price registration and the placement of duty stamps on tobacco products remain mandatory for the sale of tobacco products, producers and retailers are free to establish and register their prices. The state registration of prices becomes an automatic function of government control. (*Government Cancels Cigarette Price Registration*, BULGARIAN TELEGRAPH AGENCY, Oct. 16, 2006.) (Peter Roudik)

COSTA RICA – President Reaffirms Importance of CAFTA

LA PRENSA LIBRE reported on October 26, 2006, that, according to President Oscar Arias of Costa Rica, public rallies, strikes in the public sector, and other forms of pressure will not achieve the removal of his government's Central American Free Trade Agreement (CAFTA) bill from the legislative agenda. President Arias, accompanied by some of his Cabinet ministers, stressed the position of his government that the demand by trade unions and other social sectors for removal of the bill cannot be met because CAFTA is indispensable for the socio-economic development of the country. He also stated that his government's support for CAFTA should not come as a surprise or give rise to social conflict because Costa Ricans had learned of his views on the subject during the presidential campaign. (Karina Alpizar Corella, *ARIAS REAFIRMA QUE EL TLC VA*, LA PRENSA LIBRE, Oct. 26, 2006.) (Norma C. Gutiérrez)

KENYA – Oil Reserve Concessions Protested

THE EAST AFRICAN (Nairobi) reported on October 10, 2006, that two major European oil exploration companies – Compania Espanola de Petrolas (CEPSA) of Spain and Lundin International of Sweden – had lodged a protest with the Kenyan Government for being denied access to the country's oil reserves in favor of concessions given to China. Describing Kenya as “the latest frontier in the ferocious global battle between Europe and China for oil resources,” the EAST AFRICAN noted that “[I]n an unprecedented act of generosity” in April 2006, Kenya's Government gave the state-owned China National Offshore Oil Company Ltd (CNOOC) exclusive rights over six out of eleven available blocks, including two hotly contested ones. CNOOC alone reportedly controls twenty-eight percent of Kenya's total exploration acreage, an indication of its dominance. China is said to have entered the top rank of foreign direct investors in Africa in 2005, when CNOOC purchased a stake in Nigeria's OML Block 130. China also appears to be turning to Africa as its preferred source of oil imports.

CEPSA was the first contender to apply for the two prized blocks and until 2005 was considered the frontrunner in the race for them. However, the application seems to have been set



aside after high government officials visited China in 2005 and signed a Memorandum of Understanding on cooperation in various sectors, including the oil industry. On April 29, 2006, acting Energy Minister Henry Obwocha signed over the rights to the six blocks to the Chinese. According to oil industry experts, the CNOOC terms were “far inferior” to what the two European companies had offered. Apparently, only one complete production-sharing agreement was agreed upon; the other contracts were one-year-study agreements giving CNOOC exclusive access to the five blocks with the option to relinquish them at the end of that period. Under the offer made by CEPSA, the company would have embarked directly on drilling exploration wells, as opposed to the arrangement with CNOOC in which “most of the acreage is being hoarded for studies.” (*Kenya: Country Gifts Six Key Oil Blocks to China*, THE EAST AFRICAN, Oct. 10, 2006.)

(Wendy Zeldin)

PANAMA – Canal Upgrade Plan Approved in Referendum

On October 22, 2006, Panamanian voters overwhelmingly approved the largest modernization plan in the ninety-two-year history of the Panama Canal, backing a multibillion-dollar expansion that will allow the world's largest ships to pass through the shortcut between the Atlantic and Pacific oceans. Thousands of supporters cast ballots endorsing the US\$5 billion overhaul, which would allow the canal to handle modern container ships, cruise ships, and tankers that are too large for its current 110-foot-wide locks. The plan is to build two sets of new locks between Panama's Atlantic and Pacific coasts by 2015. The Panama Canal Authority, the autonomous government agency that runs the canal, says the project will double the capacity of a waterway on pace to generate about \$1.4 billion in revenue this year. The expansion will be paid for with higher tolls and is projected to produce more than \$6 billion in annual revenue by 2025.

President Martin Torrijos, a supporter of expansion, called the referendum “probably the most important decision of this generation.” Critics contend that the expansion will benefit the canal's customers more than Panamanians and say they fear it will stoke corruption and uncontrolled debt if costs balloon.

The United States owned and operated the canal from 1914 to 1999. Torrijos's father, General Omar Torrijos, who was then the country's leader, signed a treaty in 1977 with President Jimmy Carter to give control of the waterway to Panama, a decision that also was approved by Panamanians in a referendum. (Press Release, Web site of the President of Panama, *La patria se ha hecho más grande afirma presidente Torrijos* [President Torrijos: Panama Will Greatly Benefit from the Canal Upgrade] (Oct. 22, 2006); [Canal Upgrade Plan Approved, Voters in Panama Favor \\$5 Billion Expansion by Wide Margin](#), THE WASHINGTON POST, Oct. 23, 2006.) (Gustavo Guerra)



War

UNITED KINGDOM – Coroner’s Report on Death of British TV Reporter in Iraq

The death in 2003 of a British television reporter covering events in Iraq, who was reportedly killed by a bullet in the head, shot by U.S. forces after he lay injured on the ground, has recently been recorded as an unlawful killing by the U.K. coroner responsible for reporting on the incident. The coroner stated that had the events occurred in England or Wales, they would constitute unlawful homicide. He is planning to take his findings to the Director of Public Prosecutions and the Attorney General, to determine whether the individuals responsible for the killings should be prosecuted. The coroner was highly critical of the U.S. Marine Corps, which repeatedly refused his request to provide oral evidence and, instead, provided written statements that were described by the coroner as “self serving” and were rejected. An investigation of the death conducted by the U.S. Department of Defense ended in 2003 and found that the U.S. forces had appropriately followed the rules of engagement. (Michael Horsnell, *Newsman Unlawfully Killed by US Troops, Says Coroner*, THE TIMES (London) Oct. 14, 2006, at 35; Audrey Gillan, *Family Seeks Justice for Killing of ITN Correspondent*, THE GUARDIAN (London), Oct. 14, 2006, at 6.)

(Clare Feikert)



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