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Featured Topics:

Attorneys and Judges | Communications and Electronic Information | Election/Campaign Law
Employment Law | Environmental Law | Family Law | Foreign Trade and Trade Regulation
Health Law & Regulation | Human Rights | Immigration and Nationality Law
International Relations | Terrorism

Countries and International Organizations covered in this issue:

Afghanistan
Angola
Asean
Australia
Austria
Bangladesh
Belgium
Botswana
Brazil
Brunei
Burma
Cambodia
Cameroon
Canada
Cartagena Protocol on Biosafety
Central African Republic
Chile
China
Costa Rica
England and Wales
Estonia
European Court of Human Rights
European Union
Finland
France
Germany
Hong Kong
India
Iran
Israel
Italy
Japan
Jordan
Korea, South
Kuwait
Latvia
Liberia
Lithuania
Mexico
Netherlands
New Zealand
Nicaragua
Niger
Norway
Pakistan
Poland
Portugal
Russian Federation
Rwanda
Saudi Arabia
Singapore
Sudan
Switzerland
Taiwan
Tajikistan
Tanzania
Thailand
Turkey
United Kingdom
United Nations
United States
Uzbekistan
Vatican City
Yemen

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GLOBAL LEGAL MONITOR
Table of Contents

Tracking Legal Developments From Around the World

Attorneys and Judges

CANADA – Supreme Court Nominees to Face Parliament

In Canada, judges are appointed to the Supreme Court by the Governor General acting on the advice of the Prime Minister. Parliamentary approval is not required and, traditionally, the nominations were highly secretive. (Supreme Court Act, R.S.C. c. S-26, s. 4 (1985).) This situation began to change under the recently defeated Liberal Government. The former Minister of Justice created a process in which the input of the bar and other groups was solicited, appointed committees considered potential nominees, and the Minister of Justice appeared before Parliament to explain why a nominee was chosen.

The new Prime Minister of Canada, Stephen Harper, has announced that his Conservative Government will take this process one step further by having nominees appear before a parliamentary committee to answer questions. This committee will not have the power to defeat a nomination, but critics have contended that Harper's initiative would result in the "Americanization" of the Supreme Court nomination process. The Prime Minister has indicated that the appointed committee will have the responsibility of determining which topics should be pursued in their questioning and that he hoped it would not "degenerate into partisanship." (Sean Gordon, *MPs to Vet Selection of Judge to Top Court,* TORONTO STAR, Feb. 21, 2006, at A1.)
(Stephen Clarke)

IRAN – More Female Judges

Before the Islamic Revolution in Iran, there were a large number of female judges who tried cases just as the male judges did. But after the Islamic Revolution, the female judges were dismissed and it was argued that Islamic jurisprudence does not allow a woman to become a judge and issue a ruling after a trial. In February 1992, an amendment to the Law on the Formation of Special Civil Courts allowed special civil courts with jurisdiction in divorce cases to employ qualified female judges (if necessary) as advisors. Employment of female judges in the special civil courts, however, was not a requirement, and the judge of the court could use the advisory service of a female judge if he found it necessary.

An amendment to the Law in January 2006 made it a requirement to have a female judge present in the family courts. According to the amendment, female judges must express their opinion along with the opinion of the male judge. In case of a disagreement, the opinion of the female judge must be included in the court decision. The new Law provides that there must be a female judge in the appeals court, which is composed of three judges. (HAMSHAHRI DAILY NEWSPAPER, Jan. 30, 2006, at 5.)
(G.H. Vafai)

Communications and Electronic Information

ANGOLA – New Press Law

On February 3, 2006, the Angolan Parliament approved a new Press Law, putting an end to the state monopoly on television broadcasting and changing the legal environment for journalists. The Law replaces legislation that had been in force for the past fifteen years. One of its most important features is that it opens television broadcasting to the private sector, ending the current state monopoly as well as the state monopoly on agency news. The new Law establishes principles of prohibition of censorship, freedom of the press, and access to information sources. It defines the National Council of Social Communication as the competent agency in charge of ensuring the independence, objectivity, and pluralism of information in Angola.

The new Law eliminates a provision that existed in the previous legislation that had prevented journalists from defending themselves in court when accused of defamation by the President of the Republic. With reference to journalists' liabilities, the new legislation stipulates the application of penal law to situations in which journalists violate the law in the exercise of their profession and favors the application of monetary penalties in lieu of jail time. (*Nova Lei de Imprensa Aprovada com Votos do MPLA e da Oposição*, NOTÍCIAS LUSÓFONAS, Feb. 3, 2006.)
(Eduardo Soares)

BANGLADESH – Censorship of Films Act

The Bangladesh Parliament has passed the Censorship of Films (Amendment) Act of 2006, which can subject any convicted "pornographic" filmmaker to imprisonment for three years. The bill was introduced by Information and Broadcasting Minister Shamsul Islam and was passed by the Legislative Assembly in January 2006. The Act states itself to be against obscenity and vulgarity and not aimed at curbing freedom of expression in any form. It provides a three-year term of imprisonment for any filmmaker whose production is adjudged by censorship officials as pornographic. According to Minister Islam, the new law would protect the local cinema industry from the influence of pornographic film videos smuggled into the country from abroad. He also mentioned that some dishonest producers, distributors, and cinema hall owners were showing uncensored and obscene films that could lead to the moral degeneration of society, particularly the younger generation.

The Act prescribes that projection of films or display of posters and advertisements without censorship certificates would be punishable with one to three years of imprisonment and a penalty of Taka 10,000 (about US$146). (*Strict Enforcement of New Law on Film Censorship*, THE BANGLADESH OBSERVER, Mar. 8, 2006.)
(Shameema Rahman)

BRAZIL – Chat-Room Conversation Not Protected by Law

The Superior Tribunal of Justice (STJ) of Brazil confirmed a lower federal court decision determining that chat-room conversations are not subject to the constitutional right to communication privacy, deeming the virtual environment open to free access and designed for informal conversations. The case at hand started when Interpol intercepted a child pornography conversation in a chat room and used it to build a case against the chatterers. The plaintiff was then prosecuted for exchanging pornographic pictures of children, a crime punishable with up to six years in prison under the Child and Adolescent Statute.

After having his computers confiscated by the police, the plaintiff filed a lawsuit with the federal court alleging a violation of his constitutional rights in the form of illegal constraint and abuse in the performance of the search warrant. The court denied the request and the plaintiff then appealed to the STJ by filing a habeas corpus request asking for the dismissal of the police indictment and alleging a violation of his constitutional right to communication privacy. In its decision, the STJ confirmed the federal court decision that authorized the search warrant, considering it valid and necessary in order to investigate the alleged crime. (*Conversa em Sala de Bate-Papo Não É Protegida por Sigilo, Confirma STJ,* O GLOBO, Feb. 24, 2006.)
(Eduardo Soares)

EUROPEAN UNION - Data Retention Directive

Personal data, that is, data necessary to identify someone as a particular person, play an important role in the prevention, investigation, detection, and prosecution of terrorism and other serious crimes. While the United States has opted for data preservation, the European Union recently adopted a data retention system. Data preservation means that law enforcement authorities have the right to request that electronic service providers keep particular data on a particular person or persons. The data retention system, in contrast, is applied to all users of electronic resources. On February 21, 2006, the Council of the European Union approved the Directive on Data Retention. The European Parliament had raised serious concerns about privacy issues but finally gave its approval, following pressure by the Council, on December 5, 2005. The Directive obliges Member States to adopt legislation requiring providers of publicly available electronic communications services to universally retain personal data. The data to be retained are those necessary to identify the location of mobile communication equipment and the source, destination, time, and duration of a communication, as well as the type of communication. Data generated through mobile and fixed telephony are to be retained for up to two years by the Member States and those generated through the use of the Internet are to be kept for six months. According to the European Commission, the Directive balances the interests of all stakeholders involved, that is, the needs of law enforcement, the fundamental rights of citizens, and the interests of the electronic communications sector. (European Commission, *Proposal for a Directive of the Parliament and of the Council on the Retention of Data Processed in Connection with the Provision of Public Electronic Communication Services and Amending Directive,* 2002/58/EC COM (2005) 438 final.)
(Theresa Papademetriou)

ITALY – Fight Against Sexual Exploitation of Children

The Italian Government approved provisions against the sexual exploitation of children and child pornography via the Internet (Law No. 30, Feb. 6, 2006) by amending the following articles of the Criminal Code. Article 600-bis punishes sexual acts performed with a child between the ages of fourteen and eighteen in exchange for money or other economic profit. Article 600-ter imposes prison terms on persons who use children under the age of eighteen for pornographic exhibitions, produce pornographic material, or lead minors under the age of eighteen to participate in pornographic exhibitions; the punishment also applies to persons who offer or give others pornographic material, even if it is free of charge. Article 600-quater punishes the possession of pornographic material and virtual pornography. Article 600-septies establishes that persons convicted or penalized for one of the crimes mentioned above are permanently prohibited from performing any assignment in schools of any kind or level, as well as from engaging in any function or service in public or private institutions or structures attended mainly by minors.

In addition, the law states that tourism organizers of collective or individual travel in foreign countries are under the obligation to warn customers that the Italian law sanctions with imprisonment crimes related to child prostitution and pornography, even if perpetrated abroad. The law creates the National Center to Fight Child Pornography on the Internet to collect all information, including that gathered by agencies of foreign police and private and public bodies involved in the fight against child pornography, related to sites providing material on sexual exploitation of minors through the Internet. It also establishes, within the jurisdiction of the Presidency of the Council of Ministers' Department of Equal Opportunity, the Monitoring Center to Fight Pedophilia and Child Pornography to collect and monitor data and information related to the activities performed by all public offices in order to prevent and suppress pedophilia. Other provisions concern the obligation of providers of information services through electronic communications networks, the use of technical devices to hinder access to sites that broadcast child pornography, and financial measures to fight the sale of child pornography. (GAZZETTA UFFICIALE No. 38, Feb. 15, 2006.)
(Dario Ferreira)

KOREA, SOUTH – Ruling on Online Defamation

The Supreme Court of the Republic of Korea, on February 20, 2006, ruled that re-posting and distributing groundless abusive comments about others on the Internet constitutes slander. The Court found in favor of four executives of a start-up company in their suit against a minor shareholder for distributing slanderous information about them on the web. Upholding a lower court decision, it ordered the defendant to pay W5.5 million (US$5,500) in compensation. (*Court in Landmark Ruling on Online Defamation*, DIGITAL CHOSUN ILBO, Feb. 20, 2006.)
(Sayuri Umeda)

KUWAIT – New Press and Publications Law

On March 6, 2006, the Kuwaiti National Assembly unanimously passed the new Press and Publications Law. The new Law replaces the existing Press and Publications Law of 1961 and will come into force within six months. It strips the government of the right to shut down a newspaper or suspend its license without a court order. However, during an investigation, a court may suspend a newspaper's publication for up to two weeks. In addition, the new Law opens the door for licensing of new dailies, allowing the establishment of new newspapers in the state for the first time since a ban was imposed in the mid-1970s on issuing licenses for new newspapers. Many citizens have reportedly already applied for daily newspaper licenses. Under the new Law, prison terms have been commuted to heavy fines for all offenses committed by journalists except those related to religion, such as insulting God or the Prophet Muhammad, his wives, or his companions. However, in coordination with the Penal Code, the Law imposes a sentence of several years' imprisonment if a journalist calls for the overthrow of the ruling family or the government through the use of force or any other unlawful means. The Law imposes heavy fines for criticizing the Emir and prohibits the publication of government-classified information or any materials abusive to the State Constitution or its judges or harmful to Kuwait's foreign relations.

Kuwaiti journalists and members of the National Assembly view the new Law as a major step towards independence of the press, freedom of expression, and political reforms. (Salem Al-Wawan et al., *Press Law Approved Unanimously*, AL-SEYASSAH, Mar. 7, 2006; *Today's Opinion: Kuwaiti Victory for Freedoms*, AL-RAIE AL-A'AM, Mar. 7, 2006; Omar Hasan, *Kuwait Gets More Liberal Press Law*, MIDDLE EAST ONLINE, Mar. 6, 2006; *Kuwait Passes New Press Law*, THE MEDIA LINE, Mar. 7, 2006.)
(Dr. Abdullah F. Ansary)

LATVIA – Names of KGB Agents Disclosed

On March 9, 2006, the Juridical Committee of the Seimas (Parliament) decided to open the so-called KGB archive and publish the list of volunteer assistants to the USSR's KGB in Latvia. The list consists of 4,500 names and allegedly includes many famous national politicians and public figures. The decision prohibits publishing any comments and/or explanations regarding the list. According to the reports provided by the National Center for Documenting the Consequences of Totalitarianism, the organization which possesses the remaining former KGB documents, there are only 140 full personal files dated to the immediate pre- and post-World War II period designated for permanent preservation. The rest were transferred to Russia in the late 1980s, during the Latvian secession from the Soviet Union.

The remaining documents are registration cards, which contain incomplete information, do not identify the essence of the listed persons' relations with the KGB, and do not bear the signature of the registered individual. The existence of such a registration card does not always serve as proof of collaboration with the secret police. Taking into account that in addition to its political function during the Soviet period, the KGB was responsible for fighting organized crime, terrorism, and smuggling and for preservation of state secrets, there is the fear that some

people will be wrongfully accused and collective responsibility will be introduced. It is expected that publication of this list on the eve of parliamentary elections will lead to numerous lawsuits. (N. Sorokina, *V Latvii Otkryvayut Arhivy KGB* [*KGB Archives Will Be Open in Latvia*], ROSSIISKAIA GAZETA, No. 48, Mar. 10, 2006.)
(Peter Roudik)

NICARAGUA – Intellectual Property Laws Approved

The National Assembly of Nicaragua approved two of five bills on intellectual property on March 16, 2006. These are the Copyright Law and the Law on the Protection of Satellite Dish Signals. It is expected that the remaining statutes will be approved soon. These statutes were approved with the support of the Sandinist National Liberation Front, the Christian Path, and Blue and White Parties, and the National Liberal Alliance-Conservative Party. The Constitutionalist Liberal Party abandoned participation in the full session, because the amnesty bill favoring (convicted) former President Arnoldo Alemán, which they wanted to be approved as a condition for their vote, was not discussed. These two approved laws and the remaining three bills on intellectual property are needed for the implementation of the United States-Central America Free Trade Agreement (CAFTA). (Luis Núñez Salmerón, *Aprueban Dos Leyes del Paquete del CAFTA-DR*, Mar. 16, 2006; Luis Felipe Palacios, *Chantaje PLC Atrasa CAFTA*, Mar. 15, 2006, both in LA PRENSA.)
(Norma C. Gutiérrez)

UNITED KINGDOM – Member of Parliament Wins Libel Damages Appeal

A controversial British Member of Parliament, George Galloway, has won an appeal that grants him damages that were awarded to him in a successful libel case against the newspaper *The Daily Telegraph.* *The Daily Telegraph* accused Galloway, a vociferous opponent of the sanctions against Iraq and the war in Iraq, of receiving money from the Saddam Hussein regime related to the ”oil for food” program. The court had rejected the newspaper’s defense of privilege in this case, stating that it had adopted and embellished allegations in the documents concerned and then published its own conclusions. (*Galloway Wins Libel Award Battle*, BBC NEWS, Jan. 25, 2006; Caroline Davis, *UK Daily Telegraph Loses Galloway Oil-for-Food Libel Damages Appeal*, DAILY TELEGRAPH, Jan. 26, 2006.)
(Claire Feikert)

VATICAN CITY – Copyright Extended to Papal Writings

All the writings of Pope Benedict XVI, including homilies and speeches, have become subject to copyright protection by virtue of the Decree of May 31, 2005, of the Secretary of State, Cardinal Angelo Sodano, Entrusting the Exercise and Custody of all Deeds and Documents of the Supreme Pontiff and the Holy See to the Vatican Publishing House (The Holy See official Web site, May 31, 2005.) On January 23, 2006, the Vatican publishing house made it clear that it will enforce the Decree of the Secretary of State. (Cindy Wooden, *Vatican Says It Will Protect Pope’s Writings, Enforce Copyright*, CATHOLIC NEWS SERVICE, Jan. 23, 2006). The edict is retroactive to the past fifty years. The official Vatican publishing house, the Libreria

Editrice Vaticana, will administer rights to any documents written by Popes John Paul II, John Paul I, Paul VI and John XXIII. The Vatican wants to ensure the integrity of original texts that are attributed to the Pope and protect itself against any acts of plagiarism for profit. According to the Catholic News Service, newspapers, magazines, and bishops' conferences can still publish papal writings without having to pay royalties, as long as the Pope's words are not changed and a copyright notice is included. Publishers who reprint papal texts will be required to pay between three and five percent of the cover price to the Vatican. Legal actions will be brought against those who infringe the copyrights. (Associated Press, *Pope Turns Over Copyrights from All His Books to Vatican Publishing House,* LAS VEGAS SUN, June 1, 2005; Nicole Winfield, *Pope Turns Over Copyrights from His Books*, ABC NEWS INTERNATIONAL, June 1, 2005.)
(Grazyna Kolondra, Visiting Scholar in Residence)

Elections/Campaign Law

COSTA RICA – New Law on Popular Initiative

On March 9, 2006, a new Law on Popular Initiative was issued that contains the requirements and procedures for draft laws or partial Constitutional amendments to be presented to the Legislative Assembly by any citizen or citizen group. The statute allows a new form of political participation by civil society. The draft laws must be advanced during ordinary sessions of the Legislative Assembly and signed by at least five percent of the citizens registered to vote. The initiatives will not be allowed when draft laws concern the budget, taxes, audits, loan approvals, contracts, or acts of an administrative nature. The Supreme Tribunal of Elections is empowered to verify the legitimacy of signatures within a term of thirty days. If signatures do not reach the required minimum, the Tribunal will give the parties responsible for the initiative ninety days to comply with the provisions of the Law. Once the draft law is returned to the Legislative Assembly, it may be voted upon within a maximum term of two years, except in cases where a Constitutional reform is involved, in which case the process must comply with article 195 of the Political Constitution of Costa Rica. Free technical support for the preparation of draft laws will be provided by the Office of Popular Initiative of the Legislative Assembly to any citizens interested in exercising this new right. (*Ley 8491, Ley de Iniciativa Popular,* LA GACETA, April 3, 2006.)
(Sandra Sawicki)

JAPAN – Top Court Dismisses Appeal over '04 Election

On January 19, 2006, the Supreme Court of Japan rejected appeals filed by a lawyers' group seeking to invalidate the results in several constituencies in the July 2004 Upper House election. The lawyers claimed that the proportional representation system, in which voters choose by name from party lists or vote for the parties, is unconstitutional because the seat distribution does not reflect voters' choices. The Supreme Court followed its own decision of January 2004, which concluded that the Diet had discretion in adopting the electoral system. Ninety-six seats among 242 seats of the House of Councillors are filled on the basis of a proportional representation system, by which seats are distributed to preferred party members according to the proportion of the vote received by the party. The remaining 146 are chosen according to the electoral district system, whereby one person is elected from each district. (*'04 nen san'in sen mukō soshō: hikousoku meiboshiki, saikōsai "gouken" [Top Court Dismissed Appeal over '04 Election*], MAINICHI SHINBUN, Jan. 19, 2006.)
(Akiko Nishikawa & Sayuri Umeda)

Employment Law

FRANCE – First Employment Contract

On March 9, 2006, the French Parliament adopted, as part of a broader law on equal opportunity, the "First Employment Contract" (*contrat de première embauche*, CPE). The CPE is a new work contract for individuals under twenty-six years of age, with a two-year trial period. During that period, employers could terminate the contract at will. The aim of the government was to tackle high-rate unemployment among youths, hoping to encourage companies to hire them by making it easier to fire them. The law was not promulgated, however, as its constitutionality was challenged before the Constitutional Council, a body entrusted with expressing an opinion on the constitutionality of laws before they come into effect.

Adoption of the law resulted in nationwide demonstrations by students and trade unions, who called on the government to withdraw the CPE provision. Unions estimated that 1.5 million persons took part in the demonstrations, while the Ministry of Interior claimed that the overall turnout was just over 500,000. In the end, the government backed down from promulgating the law. (National Assembly, *Projet de loi pour l'égalité des chances; CPE: les syndicats appellent à une journée d'action avec des arrêts de travail le 28 mars*, LE MONDE, Mar. 20, 2006.)
(Nicole Atwill)

PORTUGAL – End of Barriers to European Union Workers

The Secretary for European Affairs announced that as of May 1, 2006, Portugal would lift all barriers affecting the free circulation of workers coming from the eight new State Members of the European Union – the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia. The Secretary explained that the decision was based on a report prepared by the European Commission indicating that there was no negative impact on countries that adopted the same policy, while an increase in unemployment was observed in the countries that refused to allow access.

According to an Adhesion Treaty signed on April 16, 2003, the State Members have until April 30, 2006, to decide whether or not national barriers to the free circulation of EU workers will be lifted. The free circulation of people is one of the fundamental freedoms contemplated in the laws of the European Community, which guarantee to EU citizens the right to live and work in other member states. (*Fim de Barreiras à Entrada de Trabalhadores da União Européia,* NOTÍCIAS LUSÓFONAS, Mar. 3, 2006.)
(Eduardo Soares)

Environmental Law

BRAZIL – National Plan for Water Resources

On January 30, 2006, the Brazilian National Council for Water Resources approved a national plan, covering the years until 2020, for the rational use of water in Brazil. The plan complies with the proposals of the United Nations world summit on sustainable development that occurred in Johannesburg, South Africa, in 2002. The summit determined, *inter alia,* that the participating countries should prepare plans of action to make it possible, by the year 2015, for the number of people with no access to drinkable water and basic sanitation to be reduced fifty percent. Brazil contains twelve percent of the world's fresh water and is the first Latin American country to approve such a plan. It was based on a hydrographic division of the country, which was considered necessary for the preparation of analyses, definition of goals, and determination of investment and environmental education plans. The sustainable use of water in agriculture, the electricity sector, sanitation, and by the populace is also included in the plan. (Press Release, Ministério do Meio Ambiente, *Presidente e Ministra do Meio Ambiente Lançam Plano de Águas bo Brasil*, Mar. 2, 2006.)
(Eduardo Soares)

BRAZIL – Public Forest Exploitation Legalized

On March 2, 2006, President Luiz Inacio Lula da Silva sanctioned a new law that allows private companies to exploit public forests (Law No. 11,284). In an unusual situation, the federal government, non-governmental organizations, and representatives of environmental groups supported the new law, which is being considered one of the most important regulations enacted in the last decade.

Pursuant to the new law, the exploitation may occur in federal, state, or municipal lands, as long as rigid standards are observed in order to avoid deforestation and environmental destruction. President Lula observed that the law creates the Brazilian Forest Service, which will allow managed use of the forest and inhibit predatory logging. According to the Minister of Environment, Marina Silva, the law will enable illegal loggers to start acting within the law and become forest producers. The Biodiversity and Forests Secretary under the Environment Ministry, João Paulo Capobianco, explained that sixty percent of the Brazilian forests are located in public lands, and the absence of effective legislation rendered the protection of the forests impossible. With the new law, he stated, this scenario will change.

Concessions to exploit the forests will be granted through a bidding process that is limited to Brazilian companies. The winning bidder will be entitled to sign a forty-year contract to log trees and must present a sustainable development plan for the area. No conveyance of title will occur, and with the demarcation of the public forests, private claims on them will become impossible. (Marluza Mattos, *Nova Lei Permite a Exploração de Florestas Públicas,* Mar. 2, 2006, Ministério do Meio Ambiente.)
(Eduardo Soares)

CHILE - Ozone Depletion Law

A Chilean law promulgated on February 4, 2006 and published on March 23, 2006 provides for the control and regulation of substances depleting the ozone layer, and of products requiring the use of such substances. The law adopts measures aimed at the prevention, protection and evaluation of the effects resulting from the damage to the ozone layer due to exposure to ultraviolet radiation, and approves sanctions applicable to violators.

The law is intended to protect human health and ecosystems affected by ultraviolet radiation, and to bring Chile into compliance with a convention Chile has signed and ratified, the Montreal Protocol on Substances that Deplete the Ozone Layer.

The law establishes publication requirements aimed at generating timely information for persons exposed to risk, and prevention measures intended to promote safe conduct to avoid such exposure.

The law defines the substances and products to be controlled, and specifies the systems of control and sanctions in case of violations. (*Ley Num. 20.096, Establece Mecanismos de Control Aplicables a las Sustancias Agotadoras de la Capa de Ozono.*)
(Dario Ferreira)

JAPAN – Asbestos Relief Law

The Japanese Diet passed the Asbestos Relief Law and related bills on February 3, 2006, to compensate sufferers of asbestos-related illnesses. The Asbestos Relief Law stipulates that the government will cover out-of-pocket medical expenses and rehabilitation costs for people suffering from asbestos-linked diseases, such as mesothelioma, as well as consolation money for bereaved families. The new Law is intended to provide financial assistance for people who had worked at or lived near asbestos plants, but who were not covered by Workers' Accident Compensation Insurance. Four related laws were also revised to ensure strengthened control of asbestos. (*Ishiwata shinpō ga seiritsu, nendonai shikō e* [Asbestos Relief Law Enacted], ASAHI.COM, Feb. 3, 2006.)
(Akiko Nishikawa & Sayuri Umeda)

KOREA, SOUTH – Damages Awarded for Agent Orange

On January 26, 2006, the Seoul Appeals Court ordered the U.S. multinational chemical companies Monsanto and Dow Chemical to pay US$62 million in compensation to about 6,800 South Koreans. More than 20,000 South Korean veterans and the surviving family members of soldiers who had suffered from aftereffects of exposure to Agent Orange during the Vietnum War had filed the lawsuit in Korea. The two companies involved have assets in Korea. (*Korea in Landmark Ruling Against Agent Orange Makers*, ENGLISH.CHOSUN.COM, Jan. 27, 2006.)
(Sayuri Umeda)

TANZANIA – Ban on Deforestation

On March 20, 2006, President Jakaya Kikwete of Tanzania banned tree felling and harvesting of timber in reserved forest areas in a move aimed at halting rapid environmental degradation, including the melting of ice on Mount Kilimanjaro. Kikwete told a rally in the northern town of Arusha that deforestation in the mountains has completely ruined the environment, and he stressed the necessity of banning destruction of forests to save and preserve the environment. Kikwete also blamed environmental destruction as the partial cause of drought in Tanzania and other East African nations, where millions of people are now at risk of famine and in need of relief food. In 2005, scientists warned that Mount Kilimanjaro's legendary crown of snow and glaciers is melting and would likely disappear completely by 2020, triggering major disruptions to ecosystems on the dry African plains that spread out below. The forests on Kilimanjaro's lower slopes absorb moisture from the cloud hovering near the peak and in turn nourish flora and fauna below. In 2001, U.S. researchers warned that the loss of snows on the 19,330-foot peak, which have existed for about 11,700 years, could have disastrous effects on the Tanzanian economy. (*Tanzanian President Bans Deforestation to Save Kilimanjaro*, AGENCE FRANCE-PRESSE, Mar. 21, 2006.)
(Karla Walker)

Family Law

ESTONIA – Ban on Gay Marriages Consistent with Constitution

On February 2, 2006, the Legal Chancellor of Estonia, an independent government official whose opinion on conformity of proposed legislation with the nation's Constitution is obligatory for all branches and institutions of government, issued a statement regarding the recently proposed amendments to the Family Law of Estonia, which would permit formal same-sex marriages and reform family property relations based on legal recognition of cohabitation. Concerning the Government's refusal to recognize civil unions, he stated: "cohabitation is a relationship between two free persons who do not want to register marriage. If the state steps in and starts regulating it, it will be using coercion against free people." He also stated that not allowing same-sex couples to enter family relationships recognized in law and protected by the state is not discrimination in the constitutional sense. He said that neither the Estonian Constitution nor international and European Union legal norms that serve as the basis for Estonia's legal system provide any right for homosexual couples to demand regulation of same-sex partnerships.

Family and marriage have been placed under special protection in the Estonian Constitution as a basis for the preservation of the nation and its growth. Cognizance is taken therein that marriage is a sustainable unit made up of a man and a woman who can have common progeny and thus ensure preservation of the society. According to the Legal Chancellor's statement, the fact that people of the same sex lack this capacity is the kind of difference that provides reasonable grounds for different treatment of same-sex and different-sex couples. He said that although the EU has taken steps to fight against discrimination based on sexual orientation and the European Parliament has adopted declarations against bans on same-sex marriages, these documents are not binding on the member states in regulating their family law. Following the Legal Chancellor's statement, the Estonian Ministry of Justice announced that it would not consider any amendments to family law until 2008. (*Legal Chancellor Allar Joks Has Said, Estonia's Not Permitting Same-Sex Unions*, BALTIC NEWS SERVICE, Feb. 2, 2006.)
(Peter Roudik)

FRANCE – Homosexual Parents May Extend Parental Rights to Partners

On February 24, 2006, the first civil chamber of the *Cour de Cassation* (France's highest judicial court) authorized two homosexual women to jointly exercise parental rights over the two girls, aged six and three, of one of the partners. After living together for ten years, the two women had legalized their union in 1999 by signing a Civil Solidarity Pact (PACS) registered at the competent court (France does not authorize homosexual marriage). One of the partners had given birth to two daughters through artificial insemination, and only the birth mother had parental rights.

The birth mother who had parental rights sought an authorization from the lower court to share parental rights with her partner. The lower court denied the request, but the appeals court

ruled in her favor, stating that the absence of a legal father left the girl at risk in case of incapacitation of the birth mother. The General Prosecutor appealed the decision. The *Cour de Cassation* agreed with the appeals court and found that "the Civil Code is not opposed to a mother, as sole holder of the parental authority, delegating all or part of the duties to the woman with whom she lives in a stable and continuous union, when circumstances required it and when such measure conforms to the best interest of the child." (Anne Chemin, *La Cour de Cassation autorise, pour la première fois, l'homoparentalité,* LE MONDE, Feb. 26 & 27 2006, at 9.)
(Nicole Atwill)

INDIA – Compulsory Registration of Marriages

On February 14, 2006, the Supreme Court of India, in a landmark judgment, directed the Union of India and the states to issue within three months regulations for enforcement of compulsory registration of marriages, regardless of the religion of the parties involved. The regulations must be published within a month, inviting public opinion concerning them.

The ruling came as a major relief to women fighting for maintenance after the dissolution of marriage. The Court observed that the rules relating to registration must clearly set forth the legal implications of failure to register a marriage and of fraudulent declarations made by any couple or any party concerned. In framing the rules, the central and state governments must make provision in the law itself for appointing nodal officers for registration of a marriage. Before issuing the verdict, the Court took into consideration views of the National Commission for Women (NCW) that supported a compulsory registration provision. The Court found that, in cases relating to matrimonial disputes, absent a requirement for mandatory registration of marriages, the laws tended to give advantage to husbands who deny the marriage. *(Marriages Must Be Registered: SC Directive to Centre, States,* THE TRIBUNE (INDIA), Feb. 15, 2006.)
(Krishan Nehra)

Foreign Trade and Trade Regulation

AFGHANISTAN/IRAN/TAJIKISTAN – Energy Agreement

On February 21, 2006, in Dushanbe, Tajikistan, the energy ministers of Afghanistan, Iran, and Tajikistan signed an agreement on cooperation in energy. One main focus of the cooperative efforts is the construction of a high voltage electric power line from Tajikistan to Iran through the territory of Afghanistan. Electric power for the line will be generated at a hydropower plant now under construction on the Vakhsh River in Tajikistan. The Iranian investment is projected to be about US$180 million, while Tajikistan will put up about US$40 million. Some of the imported electric power produced will be directed to Afghanistan. Tajik President Emomali Rakhmonov welcomed the agreement as a new stage of relations with Iran. (*Tajikistan, Afghanistan, Iran Sign Energy Agreement,* ITAR-TASS, Feb. 21, 2006.)
(Constance A. Johnson)

AUSTRALIA/NEW ZEALAND – Progress Toward Economic Unification

At their annual meeting in Melbourne on February 22, 2006, Australian Treasurer Peter Costello and his New Zealand counterpart, Michael Cullen, announced progress toward creating a single economic market. They signed a bilateral treaty on Mutual Recognition of Securities Offerings and a revised Memorandum of Understanding on Business Law Coordination. Further steps were taken toward establishing a common set of accounting and financial reporting standards. Both governments have agreed to legislative amendments to improve information sharing by their banking regulators. These changes reflect the existing high degree of commercial interdependence of the Australian and New Zealand banking sectors and will promote the development of a single economic market and greater trans-Tasman regulatory coordination. (Joint Media Statement, Commonwealth Treasurer, Peter Costello, Ministers Announce Key Achievements in the Trans-Tasman Single Economic Market Agenda, Feb. 22, 2006.)
(Donald R. DeGlopper)

AUSTRIA – Arbitration

On January 13, 2006, Austria enacted an Arbitration Reform Act (BUNDESGESETZBLATT I 7/2006) that modernizes Austrian arbitration law. The Act applies to all arbitrations located in Austria, including international arbitrations. The Act streamlines proceedings by granting access to the ordinary courts at the beginning of an arbitration proceeding to settle disputes over the arbitral tribunal's jurisdiction and by limiting the period for challenging an award to three months from the time of its issuance. Judicial review of an arbitral award is provided only for a limited list of grounds that include disputes on jurisdiction, violations of Austrian public policy, fraudulent conduct on the part of the arbitrators or the parties, and matters that cannot be settled by arbitration. According to the Act, arbitration is not permissible for disputes on domestic relations and on dwellings governed by Austrian laws on rent control and subsidized housing. The Act will become effective on July 1, 2006.
(Edith Palmer)

BOTSWANA/UNITED STATES – Memorandum of Understanding on Trade

Botswana and the United States have signed a Memorandum of Understanding to support the diversification of Botswana's exports. The United States has supported various projects in the African nation for a long time under a Botswana Trust Fund account; the new memorandum assigns the remaining funds, equivalent to about US$824,450, to assistance with export projects, in addition to technical assistance activities in areas such as trade policy, private sector participation in trade policy debates, and development of a tropical forest conservation fund.

Botswana's Minister of Finance and Development Planning, Baledzi Gaolathe, said that the cattle sector of the economy, which has had difficulties recently, would also benefit from the Fund. Stress will be placed on aiding communal farmers. The current plan covers the next thirty months and will be managed by the USAID office for southern Africa, located in Botswana's capital city, Gaborone. (*Botswana, U.S. Sign P4.4 Million Accord,* DAILY NEWS ONLINE, Mar. 13, 2006.)
(Constance A. Johnson)

CHINA – Approval Procedures Simplified for Foreign-Invested Companies

As of March 1, 2006, foreign-invested companies in China will no longer need to go through the Ministry of Commerce (MOC) for approval. According to a notice issued by the MOC on December 9, 2005, local commercial authorities will be responsible for approving the applications of proposed foreign-invested commercial enterprises (FICEs). The notice states that such companies include wholesale enterprises selling ordinary goods and small- and medium-sized retail enterprises. The new procedure will not apply, however, to FICEs engaged in a restricted industry or in the distribution of strategic raw materials or to those that will be established by means of merger and acquisition where the foreign enterprise and its domestic target are controlled by the same individual or the same management. The local commercial authorities (i.e., the provincial-level commercial authority or the administrative committees of economic and technology development zones) will also be in charge of approving larger-scale retail FICEs. The more direct approval procedure is viewed as likely to shorten the current lengthy process, which on average reportedly can take two to three months, but practices may differ depending on the locality. (*China Simplifies Approval Procedures to Foreign–Invested Companies*, XINHUA, Feb. 5, 2006; *Simplified Approval Procedures for a Foreign-Invested Commercial Enterprise*, 3 CHINA ALERT: TAX AND REGULATORY DEVELOPMENTS (KPMG), Jan. 2006.)
(Wendy Zeldin)

CHINA – New Bank Controls, E-Banking

The Bank of China (BOC) announced on February 6, 2006, that it would tighten internal controls to guarantee the security of bank assets and prevent more graft in the wake of former heads of one of its local branches being charged by a U.S. grand jury on January 31, 2006, with fifteen counts of money laundering, racketeering, and fraud. BOC spokesman Wang Zhaowen stated that the BOC would also "co-operate with international law enforcement departments to

punish the criminals, [and] recover any missing cash as much as possible." (*Fraud Charges Prompt Bank of China to Improve Internal Controls*, CHINA DAILY, Feb. 7, 2006.) On February 7, 2006, the China Banking Regulatory Commission (CBRC) issued Guidelines on E-Banking Security Evaluation. "Security evaluation" is defined as security testing and review and appraisal of the capability of e-banking controls in terms of security strategy, internal control system, risk management, systematic security, and client protection carried out by financial institutions in the course of conducting e-banking business. Evaluations are to be done at least once every two years by any financial institution that engages in the e-banking business. The assessment institution may be either an external agency or an internal department of the financial institution. Both the Guidelines and the CBRC's Administrative Measures Governing E-Banking Business, promulgated on January 26, 2006, entered into force on March 1, 2006. (*CBRC Guides E-Bank Safety Assessment*, 4 ISINOLAW WEEKLY, Feb. 6-12, 2006; CBRC, *The CBRC Promulgated Rules to Standardize E-Banking Business and Relevant Security Evaluation*, Feb. 6, 2006.)
(Wendy Zeldin)

CHINA/SAUDI ARABIA – Energy Agreement

On January 23, 2006, China and Saudi Arabia signed a memorandum of understanding on expansion of energy cooperation. The agreement on "cooperation in oil, natural gas and minerals" was signed between Saudi Oil Minister Ali al-Nuaimi and Ma Kai, head of China's State Development and Reform Commission. Saudi Foreign Minister Prince Saud al-Faisal stated that the agreement does not specify projects but sets the framework for that kind of investment, "which will have to come from the companies." He noted that there are "very extensive contacts between Saudi and Chinese (companies)" and that agreements might be worked out in the future.

According to energy analysts, this is the first agreement between the two governments on overall cooperation in the field of energy. Previously, deals were signed in specific areas such as construction of oil refineries and drilling. China is the world's second largest oil consumer; Saudi Arabia, the largest oil exporter. Saudi Arabia is a key supplier of China's fuel. In 2005, the country reportedly imported more than twenty million tons of oil from Saudi Arabia, about fourteen percent of its total oil imports. (Shai Oster, *China Will Strike an Energy Deal with the Saudis*, THE WALL STREET JOURNAL, Jan. 23, 2006, at A3; *China and Saudi Arabia Sign Bilateral Energy Agreement*, CHINA DAILY, Jan. 23, 2006.)
(Wendy Zeldin)

EUROPEAN UNION - WTO Sides with EU on U.S. Illegal Tax Subsidies

On February 13, 2006, the World Trade Organization Appellate Body issued a ruling against U.S. federal tax subsidies for exporters. Such tax subsidies have been declared illegal in the past by two WTO Appellate Body reports and two WTO compliance panels. In 2003, the WTO granted authorization to the EU to impose trade sanctions at the level of US$4 billion through the increase of customs duties on certain products. In January 2005, an EU regulation suspended sanctions as of early 2005, when the EU requested that a compliance panel examine

the adoption of the American Jobs Creation Act. That panel found that this Act was also in breach of WTO rules. The 2005 regulation provided for the reintroduction of customs duties at the fourteen-percent rate two months after a final WTO ruling that the U.S. Act is in violation of EU rules. (Press Release, IP/06/158, WTO Condemns US Tax Subsidies; EU Calls on US to End Illegal Tax Breaks for Boeing, Others, Feb. 13, 2006.)
(Theresa Papademetriou)

NEW ZEALAND/CHILE/SINGAPORE/BRUNEI – Trans-Pacific Trade Agreement

New Zealand, Chile, Singapore, and Brunei have reached agreement on a Trans-Pacific Strategic Economic Partnership. This agreement, commonly referred to as the "P4 agreement," expands the free trade arrangement that already exists between New Zealand and Singapore and is expected to result in duty-free status for eighty-nine percent of New Zealand's exports to Chile and ninety-two percent of its exports to Brunei. (*Government Moves to Meet Requirements of Trans-Pacific Free-Trade Deal,* NEW ZEALAND PRESS ASSOCIATION, Feb. 21, 2006.) To meet its new commitments, the New Zealand Government introduced a bill on February 21, 2006, to create a Tariff (Trans-Pacific Strategic Economic Partnership) Amendment Act (47th Parl. Bill. 20-1). New Zealand has had a free trade agreement with Australia; the Closer Economic Relations pact, since 1990.
(Stephen Clarke)

FINLAND – Patent Law Treaty Joined

On March 6, 2006, Finland joined the Patent Law Treaty. The Treaty, which is administered by the World Intellectual Property Organization, entered into force in April 2005. To date, thirteen countries (including Finland) have joined the Treaty. The purpose of the Patent Law Treaty is to harmonize procedures for patent applications. The Finnish Patents Act and Patents Decree have been amended as a result of Finland joining the Treaty. (Press Release 037/2006, *Ministry of Trade and Industry, Finland Joins Patent Law Treaty Today,* Mar. 6, 2006.)
(Linda Forslund)

POLAND – British-Iranian Citizen to Be Extradited to the United States

A British-Iranian citizen who sold Berkut 360 aircraft technology from the United States to Britain and re-exported it to Iran in violation of the embargo imposed on trade with Iran was detained in Warsaw in February 2006, as a result of an operation carried out with the U.S. intelligence services. After an international arrest warrant was issued against Ali Asghar Manzarpour in February 2006, a Warsaw regional court ruled that the extradition of the detainee is allowable. Manzarpur's defense mentioned that the court's decision would be appealed once the reasoning for the ruling is published. (*Sad Ekstradycja Iranczyka do USA dopuszczalna*, POLSKIE RADIO WROCLAW, Feb. 2, 2006; *Polish Court Says Extradition of British Iranian Citizen to USA Admissible*, WARSAW PAP, Feb. 2, 2006.)
(Grazyna Kolondra, Visiting Scholar in Residence)

SAUDI ARABIA – GCC Unified Industrial Law Passed

On February 13, 2006, the Saudi al-Shura (Consultative) Council passed the Gulf Cooperation Council (GCC) Unified Industrial Law. The thirty-three-article legislation is aimed at increasing the volume of investment in the industrial sector of the country's gross domestic product (GDP). The Law will encourage the creation of business enterprises among GCC investors and the exploitation of local natural resources such as oil-related industries. The Law prescribes under article 16 that priority in securing privileges and exemptions will be accorded to industrial projects that produce export or local consumption commodities that replace or compete with foreign commodities. By virtue of articles 17 and 18, several exemptions and privileges may be granted to industrial projects, such as partial or total exemption from customs tariffs, partial or total exemption from all taxes, and exemption of project imports from export taxes and fees. (*Privileges and Exemptions for Environment Protection and GCC Industrial Integration Projects,* OKAZ DAILY, Feb. 13, 2006.)
(Dr. Abdullah F. Ansary)

SAUDI ARABIA – Non-Saudi Residents to Be Allowed to Invest in Stocks

The Saudi Minister of Finance, Dr. Ibrahim Al-Assaf, announced plans to open the Saudi stock market to non-Saudi-resident investors, following King Abdullah Ibn Abdul-Aziz Al-Saud's recommendation of this step during the Saudi Supreme Economic Council meeting held on March 14, 2006. The proposal was reportedly well received by both Saudis and expatriates, and Saudi shares rose by almost the maximum allowed five percent in reaction to the recommendation. (*Stock Market Continues Its Surge Backed by the King's Recommendations*, AL-RIYADH NEWSPAPER, Mar. 17, 2006; *Saudi Stock Market Bounces Back After King Intervenes*, ASHARQ AL-AWSAT, Mar. 16, 2006.)
(Dr. Abdullah F. Ansary)

SWITZERLAND – Genetically Modified Crops Banned

On November 27, 2005, the Swiss people approved a referendum that bans genetically modified crops and livestock for the next five years (Bundesbeschluss, AMTLICHE SAMMLUNG DES BUNDESRECHTS 2006 at 89). The referendum was introduced by a coalition of environmental groups, consumer protection organizations, and farmers, and it was accepted in all the Swiss cantons with an overall majority of 55.7% of the vote. The measure amends the transitional provisions of the Swiss Constitution of 1999 (Bundesverfassung, Apr. 18, 1999, SYSTEMATISCHE SAMMLUNG DES BUNDESRECHTS 1999 at 2556, as amended, art. 197 no. 7) and implements article 120 of the Constitution that contains a mandate for the protection of human beings and the environment from abusive applications of genetic engineering. In its article 104, the Swiss Constitution guarantees governmental assistance to Swiss agriculture to ensure a domestic supply of foodstuffs and to preserve national resources, the rural scenery, and a decentralized inhabitation of the country.
(Edith Palmer)

UNITED STATES/BANGLADESH - Double-Taxation Treaty

As part of an effort to develop closer economic cooperation between Bangladesh and the United States, a treaty between the two countries on the avoidance of double taxation is now at the final stage of ratification. The *Convention Between the Government of the United States of America and the Government of Bangladesh for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income* was signed in Dhaka on September 26, 2004. President George W. Bush forwarded the treaty to the U.S. Senate for its advice and consent on October 27, 2005. On March 31, 2006, the Senate consented to ratification of the treaty. The treaty now awaits the signature of ratification of President Bush.

An analysis of the treaty by the U.S. Congress Joint Committee on Taxation explains that the treaty's principal purposes are to reduce or eliminate double taxation of income earned by residents of either country from sources within the other country, and to prevent avoidance or evasion of the taxes of the two countries. More generally, the treaty is intended to promote economic cooperation and to eliminate possible barriers to trade and investment caused by overlapping taxing jurisdictions of the two countries. The treaty seeks to achieve these goals by limiting, in specified situations, the right of one country to tax income derived from its territory by residents of the other country. In situations in which one country retains the right under the treaty to tax income derived by residents of the other country, the treaty generally provides relief from potential double taxation through the allowance of a tax credit for certain foreign taxes paid to the other country.

Bangladesh previously has entered into similar agreements for the withdrawal of double taxation to boost bilateral trade with 23 countries, and is planning to sign agreements with 13 additional countries in the near future. (*Convention Between the Government of the United States of America and the Government of Bangladesh for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income*, S. Treaty Doc. No. 109-5 (2006); *Joint Committee on Taxation, Explanation of the Proposed Income Tax Treaty Between the United States and the People's Republic of Bangladesh*, JCX-4-06 (2006).)
(Shameema Rahman)

Health Law & Regulation

CARTAGENA PROTOCOL ON BIOSAFETY – Third Meeting on GMOs

The Cartagena Protocol on Biosafety, which is a supplementary agreement to the 1992 Convention on Biological Biodiversity, is the only international agreement regulating the cross-border transportation of genetically modified organisms (GMOs). On March 17, 2006, the third meeting of the 132 Parties to the Cartagena Protocol was concluded in Brazil. The participants reached consensus on establishing detailed documentation requirements for genetically modified organisms in international trade. Last-minute disagreements between Mexico and Brazil over the issue of trade implications of the documentation requirements were resolved through the efforts of the Brazilian Government. The participants reached additional decisions on issues such as risk assessment for GMOs, biosafety capacity-building measures in developing countries, and other matters. (European Commission Press Release, IP/06/335, *Governments Adopt International Rules on Trade in GMOs,* Mar. 20, 2006.)
(Theresa Papademetriou)

CHINA – AIDS Regulations

China's State Council adopted the Regulations on the Prevention and Treatment of AIDS on January 29, 2006, effective on March 1, 2006. The Regulations ban discrimination against those infected with AIDS or their families and make it illegal to reveal the identity of infected persons or their family members. They mandate regional authorities to provide free testing and treatment to AIDS sufferers; rural patients and poor urban patients are to receive free anti-HIV/AIDS drugs. The Regulations call for free consultation and treatment to be made available to pregnant women with AIDS so as to prevent the spread of infection from mother to child and for children orphaned by AIDS to receive free schooling. Operators of public entertainment venues are required by the new rules to offer condoms or install condom vending machines. The Regulations stipulate that any official who causes AIDS to spread will be punished. An article in *China Daily* describes the Regulations as "the most comprehensive since China promulgated its first government policy guidelines" on the subject, in 1987, their significance lying in the fact "that they endorse and legalize some practices that have been advocated by experts as being desperately urgent but opposed vehemently by puritanical critics." However, in the view of AIDS activist Hu Jia, the Regulations "did not go far beyond grouping existing regulations under a single heading," and the problem is not a lack of laws but their implementation by local governments. (*Pragmatic Regulation Helps Control AIDS*, CHINA Daily, Feb. 14, 2006; *China Bans Discrimination Against AIDS Sufferers*, REUTERS, Feb. 12, 2006.)
(Wendy Zeldin)

ENGLAND AND WALES – Parents Win Right-to-Life Case for Baby Son

In a landmark case before the High Court of Justice in England and Wales, a judge has ruled that a baby with an incurable and degenerative muscle-wasting disease should be kept alive on a ventilator in accordance with the wishes of his parents. Doctors in this case have said that

the baby has an "intolerable life" as he is unable to move, breath, or even swallow on his own and must undergo several painful procedures each day. The judge noted,

> It is indeed a helpless and sad life but that life does in my view include within it benefits. It is impossible to put a mathematical or any other value on the benefits, but they are precious and real and they are the benefits M was destined to gain from his life … I do not think that the perceived advantage of a "good death" can yet tip the scales so that the benefits of survival and life itself are outweighed.

(Maxine Frith, Disabled Baby Must Be Kept Alive, Judge Rules, *INDEPENDENT, Mar. 16, 2006, at 12.)*
(Clare Feikert)

FRANCE – Decree on Stem Cell Lines from Human Embryos

The Bio-Ethics Law of August 2004 prohibits research on human embryos. However, it provides that, as an exception to the general rule and for an experimental period of five years, "research may be authorized on embryos and stem cells when such research may result in major therapeutic benefits and on the condition that there is no other alternative method of research available and having comparable effectiveness." The Law further states that a decree would set forth the constraints of such research. Eighteen months later, the decree has finally been published. It enables French scientists to work on stem cell lines derived domestically from unused embryos from in vitro fertilization and on stem cell lines from abroad created under the same conditions. During the next five years, starting from the date of publication of the decree, researchers can use embryos from consenting couples undergoing in vitro fertilization if the couples do not plan to use them or if the embryos have been diagnosed with a disease or malformation. The Agence de la Biomédecine will issue the authorizations. This agency intends to limit the number of authorizations each year to better control the process and avoid any abuses. (Press Release, Ministère de la Santé, *Publication du décret relatif à la recherche sur l'embryon humain et les cellules souches embryonnaires*, Feb. 7, 2006.)
(Nicole Atwill)

HONG KONG – Household Poultry Ban

On February 13, 2006, a ban on backyard poultry keeping took effect in Hong Kong, removing the exemption allowing households to keep up to twenty poultry. The aim of the ban is to protect public health and lower the risk of an avian flu outbreak. Compensation will apparently not be available to those who surrender their birds. Offenders against the ban will face a fine of HK$50,000 to HK$100,000 (US$6,443 to $12,885). Persons who wish to raise up to twenty racing pigeons must now apply for a license to do so.

In other moves, the government has strengthened patrols at checkpoints to curb poultry smuggling. In addition, Hong Kong and the bordering city of Shenzhen have agreed that if any farm close to the border has an H5N1 virus outbreak, chickens within a five-kilometer radius of that farm, even if they are across the border, will be killed to prevent the spread of avian flu.

(*Xinhua: Hong Kong's Household Poultry Ban to Take Effect on 13 Feb*, XINHUA, Feb. 7, 2005; *Shenzhen, SAR Agree on Poultry Culling in Bird Flu Outbreak*, CHINA DAILY, Feb. 7, 2006.)
(Wendy Zeldin)

ITALY – Voluntary Interruption of Pregnancy with RU 486

By virtue of the Ministerial Writ of September 21, 2005 (GAZZETTA UFFICIALE, No. 222, Sept. 23, 2005), medical trials with mifepristone, also known as RU 486, that lead to abortions and to enlistment of new patients have been suspended. An exception is made for the treatment of patients who were admitted to the hospital after they were administered the first dose of mifepristone. If a second set of pills does not cause a woman to lose her pregnancy after twenty-four hours have elapsed from her admission to the hospital, a physician must provide a detailed description of the measures that were adopted.

All patients and medical personnel must be informed of the warnings adopted by the U.S. Food and Drug Administration concerning such pills and of the inducement of abortion after a first dose of RU 486 has been administered. The Writ is intended to protect the health of women and establish procedures regarding the voluntary interruption of pregnancy. It is reported that as a result of a medical trial conducted by the St. Ann Hospital in Turin, a woman had a partial miscarriage at home, followed by a hemorrhage.
(Grazyna Kolondra, Visiting Scholar in Residence)

MEXICO – Ban on Imports of Beef Residues

For a second consecutive year, American cattle owners will not be able to sell their beef residues, such as tripe, bone marrow, brain, lymph nodes, and even ground meat, to Mexico. The Mexican Secretariats of Agriculture and Health refused to allow the entrance of these American products, which have been banned since 2003 due to the cases of mad cow disease that occurred in the United States and Canada. On January 31, 2006, the Mexican Government opened the country's borders to imports of beef with bone in, as long as the meat was from animals that are under thirty months of age, and the Americans were hoping that this permission would allow the imports of residues as well.

Rocío Alatorre, an officer of the Secretariat of Health, explained that all animal parts that are connected with the brain are banned; that ground meat is banned because it is difficult to track; and that, on the other hand, with respect to livestock that are less than thirty months, it is possible to learn what they ate, where they grew up, and what kind of contacts they had. He recommended that the restriction be maintained for five or six years. (*Cierra México Puerta a Desechos de Carne,* REFORMA, Feb. 7, 2006.)
(Norma C. Gutiérrez)

NETHERLANDS – Poultry Under Cover

In response to the apparent spread of bird flu among wild swans in Germany, the Dutch Minister of Agriculture has ordered all poultry keepers to screen off their birds as of February

20, 2006. The goal is to prevent domestic birds from coming into contact with wild ones by screening off their coops and runs. Unlike earlier orders, this one does not distinguish between high-risk and low-risk areas. The Dutch Government has also banned poultry markets and shows as well as exhibitions of poultry, carrier pigeons, and exotic birds, except for those taking place under a roof. (Netherlands Government Information Service, *Poultry to Be Screened Off in the Netherlands*, Feb. 15 2006.)
(Donald R. DeGlopper)

NIGER – Steps to Counter Bird Flu

On February 28, 2006, following confirmation that the H5N1 avian influenza virus was found in domesticated ducks in the country, Niger's government announced a cull of all poultry in the region hit by the disease. Following an emergency Cabinet meeting, it was announced that after the systematic culling of poultry, all birds suspected of having the virus would be destroyed by incineration and buried, along with any objects that may have been in contact with them. Farmers and householders would be compensated at the level of CFA1,000 (about US$1.80) per destroyed bird.

Niger was the second of several African countries to have confirmed the presence of the bird flu. Neighboring Nigeria had already detected the virus in birds in several states, including some bordering Niger. Niger has therefore already banned the import of domesticated birds from regions affected by the flu. The government said it has ordered a supply of medication and organized committees at the regional and local levels to increase surveillance for the disease. A publicity campaign has been undertaken, with the participation of hunting associations and Islamic preachers and schools, to warn people not to touch wild birds. (*Nigeria Reports Bird Flu in Two More States,* Reuters, Feb. 27, 2006; Abdoulaye Massalatchi*, Niger Orders Poultry Cull After Flu Shock,* IOL, Mar. 1, 2006.)
(Constance A. Johnson)

UNITED STATES – Massachusetts Health Insurance Coverage Legislation

The Commonwealth of Massachusetts recently enacted legislation mandating universal access to health insurance for all state residents. The legislation requires that everyone who can afford health insurance obtain it, and provides public funds to cover uninsured low-income populations. The legislation includes a variety of provisions intended to ensure the widest possible coverage, while creating viable funding mechanisms.

- As of July 1, 2007, all residents of the Commonwealth must obtain health insurance, or face a penalty.
- The Commonwealth will subsidize health insurance for low-income persons, financed partly by redirecting some of the public funds currently spent reimbursing hospitals for care provided to the uninsured.
- A new state agency, the Commonwealth Health Insurance Connector (the Connector), will be created to assist individuals and small businesses in locating health insurance

policies of high value and good quality, establish mechanisms to ensure the portability of insurance as persons move between employers, and enable more than one employer to contribute to a single employee's health insurance premium.

- A subsidized insurance program called the Commonwealth Care Health Insurance Program will be created, with premiums on a sliding scale based on income, available to individuals who earn less than 300% of the federal poverty level but who are ineligible for the existing MassHealth program, which will cover persons earning less than 100% of the poverty level.
- Young adults will be allowed to stay on their parents' insurance plans for two years past the loss of their dependent status or until they turn 25 (whichever occurs first). The Connector will establish lower-cost, specially designed health insurance products for persons aged 19 to 26.
- The Commonwealth will provide funding for community-based outreach programs to reach people who are eligible for Medicaid but not yet enrolled.
- Companies with 11 or more employees that do not provide or contribute to health insurance to their employees will be required to pay a "Fair Share Contribution," estimated to be approximately $295 per year, to be calculated to reflect a portion of the cost paid by the state for free care used by workers whose employers do not provide insurance. *(An Act Providing Access to Affordable, Quality, Accountable Health Care*, 2006 Mass. Acts Ch. 58.)

(Luis Acosta)

UNITED STATES – International Assistance on Water, Sanitation

On December 1, 2005, the *Senator Paul Simon Water for the Poor Act of 2005*, authorizing foreign assistance to promote increased access to safe water and sanitation for vulnerable populations in developing countries, became law.

The legislation makes access to safe water and sanitation for developing countries a specific policy objective of United States foreign assistance programs. The goal of the legislation is to achieve a reduction of one-half, by the year 2015, from the baseline year 1990, the proportion of people who are unable to reach or afford safe drinking water and who are without access to basic sanitation.

The law's findings note that "[w]ater-related diseases are a human tragedy, killing up to five million people annually, preventing millions of people from leading healthy lives, and undermining development efforts." The findings also state that "[e]very $1 invested in safe water and sanitation would yield an economic return of between $3 and $34, depending on the region."

The act authorizes the President to furnish assistance for programs in developing countries to provide affordable and equitable access to safe water and sanitation. It directs the Secretary of State to develop a strategy to provide affordable and equitable access to safe water and sanitation in developing countries. The Secretary of State and the Administrator of the

United States Agency for International Development are charged with monitoring the implementation of assistance to ensure that it is reaching its intended targets and meeting its intended purposes. (*Senator Paul Simon Water for the Poor Act of 2005*, Public Law No. 109-121 (2005).)
(Luis Acosta)

Human Rights

BELGIUM – Ban on Cluster Bombs

On February 16, 2006, the Belgian House of Representatives passed by a large majority a law prohibiting the manufacture, trade, storage, and use of cluster bombs. Belgium is the first country in the world to adopt such a law. The Senate had already approved the law in July 2005. The text of the law, however, makes it possible for some exceptions to be authorized. The parliament's objective was not to jeopardize jobs in the armaments industry in Wallonia, one of the French-speaking regions of the country. Companies in this area will be able to continue their research and to develop cluster bombs that can self-destruct. (Jean Pierre Stroobants, *La Belgique devient le premier pays au monde à interdire les bombes à fragmentation*, LE MONDE, Feb.18, 2006.)
(Nicole Atwill)

BRAZIL – Nine-Year Basic Education

Brazil now has a nine-year mandatory basic education period, starting when a child reaches six years of age. The new law (Law No. 11,274), promulgated on February 6, 2006, incorporates the pre-school period into the fundamental education curriculum. In the past, every seven-year-old child was enrolled directly in the first grade, imposing a great disadvantage especially on poor children, as they had skipped pre-school and their ability to follow classes was seriously impaired when compared to those who attended pre-school.

The Brazilian President was quoted as saying that the extension of the basic education period will grant equal opportunity to all Brazilian children and benefit millions of poor children by giving them the right to prepare themselves for basic education. According to the Minister of Education, Fernando Haddad, in addition to better preparing the children, this measure may help diminish their rate of failure in the school system. Schools will have until the year 2010 to adapt to the new legislation. Pursuant to the last school census, however, close to twenty percent of the Brazilian municipalities already have a nine-year basic education system in place. (*Ampliação do Ensino Fundamental Alfabetiza Mais Crianças e Diminui Repetências, Diz MEC,* O GLOBO, Feb. 6, 2006.)
(Eduardo Soares)

CAMBODIA/UNITED NATIONS – Khmer Rouge Trial Administration

On March 14, 2006, Cambodia and the United Nations signed agreements on the Extraordinary Chambers established to bring Khmer Rouge leaders to justice for the mass killings of the 1970s. The two documents cover the administrative set-up and operations of the court. One is devoted to the facilities, including utilities and services provided by the Cambodian Government to the physical premises of the Chambers; the second covers safety and security arrangements.

These agreements supplement the 2003 agreement between Cambodia and the U.N. that provides for a Trial Chamber of three Cambodian and two international judges, in addition to a Supreme Court Chamber of four Cambodian and three international judges. The five international judges are to be appointed by the Supreme Council of the Magistracy of Cambodia. In early March 2006, U.N. Secretary-General Kofi Annan submitted a list of names of possible judges to Cambodia's Prime Minister, to be sent on to the Council.

The trials are to cover those responsible for major crimes under international law from April 17, 1975, until January 6, 1979. The budget for the planned three-year process is about US$56.3 million, of which the U.N. is providing US$43 million and the balance is coming from Cambodia. (*UN and Cambodia Sign Key Agreements Ahead of Khmer Rouge Trials,* UNNEWS, Mar. 14, 2006.)
(Constance A. Johnson)

CAMEROON – Journalist Sentenced for Allegations of Homosexuality

On March 3, 2006, a Cameroon court in the capital city of Yaoundé sentenced Jean-Pierre Amougou Belinga, publisher of the weekly *L'Anecdote,* to a four-month prison term and payment of a fine of CFA1,000,000 (about US$1,840) for defamation, after his newspaper published the names of prominent alleged gays and lesbians. The court also ordered Belinga to publish the verdict in *L'Anecdote* and twenty-five other local and international media or pay another fine. The prosecution welcomed the verdict, stating, "[t]his type of unprofessional journalism is condemned in Cameroon and other countries." Belinga may appeal. In January 2006, *L'Anecdote* and two other papers, *Nouvelle d'Afrique* and *La Meteo*, had joined in publishing the names of nearly 100 prominent men and women – including Cabinet ministers, a former prime minister, and a Catholic bishop, among other figures – they identified as gay and lesbian. The former Prime Minister, Peter Mafany Musonge, sued Belinga and the publisher of *Nouvelle d'Afrique*; that trial is ongoing.

The allegations of homosexuality in high places by *L'Anecdote* and other newspapers became the center of a national debate in conservative Cameroon and even gave rise to anti-gay demonstrations. The Belinga case also drew thousands to the streets outside the courthouse during the three-week hearing. Homosexuality, forbidden under Cameroon law, is punishable by up to five years' imprisonment or fines of up to CFA200,000 (about US$370). (*Journalist Sentenced over Gay Allegations: Case Has Inspired Protests in Nation That Bans Homosexuality,* CNN.COM, Mar. 3, 2006.)
(Wendy Zeldin)

EUROPEAN COURT OF HUMAN RIGHTS – British Woman Loses Right to Frozen Embryos

In a last stand before the European Court of Human Rights, a British woman, who had several eggs removed prior to treatment for cancer inseminated with the semen of her then fiancé and frozen, has lost her final court bid to prevent their destruction. The law in the United

Kingdom governing the use of frozen embryos requires the consent of both parties until the point the embryos are implanted back into the female. The couple split up prior to the implantation of the embryos, and the woman's fiancé would not consent to their implantation, claiming that he no longer wished to have the financial or emotional burden of having a child with his former fiancée. The woman claimed that the requirement that the consent of her former fiancé be required to implant the embryos violates her right to family life under the European Convention on Human Rights. The European Court on Human Rights rejected this claim and stated that the Human Fertilisation and Embryology Act 1990 "included a 'clear and principled' rule, which was explained to those embarking on IVF treatment and which was clearly set out on the forms they both signed." (Press Association**,** Frozen Embryos Woman Loses Last Legal Battle, INDEPENDENT, Mar. 20, 2006.)
(Clare Feikert)

EUROPEAN UNION - Declaration by the Austrian Presidency on the Death Penalty Moratorium in New Jersey

On January 25, 2006, Austria, which holds the presidency of the Council of the European Union, issued a declaration welcoming the decision of the New Jersey legislature to establish a moratorium on executions in the state. It reiterated its staunch support of a total ban on the death penalty and reaffirmed its goal of working towards universal abolition of the death penalty. In addition, a number of other countries, including the acceding countries, Bulgaria and Romania, and the candidate countries, Turkey, Croatia, and the Former Yugoslav Republic of Macedonia, supported the declaration. (European Union Press Release, PESC/06/16, *Declaration by the Presidency on Behalf of the European Union on Death Penalty Moratorium in New Jersey*, Jan. 25, 2006.)
(Theresa Papademetriou)

GERMANY – Constitutional Court Rules on Shooting Down Hijacked Planes

On February 15, 2006, the German Federal Constitutional Court decided that passenger planes must not be shot down, even in an extreme emergency when hijacked by suicidal attackers. The judges stated that the authorization in the Air Security Law was unconstitutional and incompatible with the fundamental right to life. The Law had permitted the Defense Minister to order that a hijacked civilian aircraft that is to be used as a weapon be shot down. The court decision was based on the constitutional obligation to guarantee human dignity and to prevent a situation in which "the use of armed force affects persons on board the aircraft who are not participants in the crime." (*German Constitutional Court Prohibits Shooting Down of Hijacked Passenger Planes,* BERLIN DPP, Feb. 15, 2006; *German Court Annuls Law Letting Hijacked Planes Be Shot Down*, BLOOMBERG.COM, Feb. 15, 2006.)
(Constance A. Johnson)

GERMANY – Suspended Sentence for Showing Disrespect to the Koran

On February 23, 2006, a German businessman was found guilty of disrupting public order by a court in Luedinghausen, in western Germany, for printing the words "Koran, the Holy

Qur-An" on toilet paper. The court issued a one-year, suspended sentence. The man admitted that in July 2005 he printed the paper and sent it, together with a leaflet stating that the Koran was a "recipe book for terrorists," to fifteen mosques in the cities of Duisburg, Hamburg, and Dortmund, as well as to television stations and news magazines. The defendant made a statement saying that he felt the action was within free speech rights and that he supported a group making artistic statements against Islamic extremism. The prosecution argued that the action "posed a risk, under the cover of free speech, to peaceful coexistence" of different cultures. (*German Businessman Given Suspended Sentence for Printing "Koran" on Toilet Paper*, AFP, Feb. 23, 2006.)
(Constance A. Johnson)

ISRAEL – Rejection of Petition to Cancel Extradition

On February 13, 2006, the Supreme Court of Israel, sitting as a High Court of Justice, rejected a petition by the Israel Law Center against the Minister of Justice and Zeev Rozenstein to cancel the Minister's declaration of Rozenstein as extraditable to the United States. According to the petitioner, Rozenstein's extradition subjects him to the danger of serious bodily harm, because Jewish prisoners in U.S. jails face abuse by both wardens and other prisoners. The petition claims to focus on protecting any Jew from extradition to the United States. The petitioner argues it has standing as an association dealing with human rights.

While rejecting the petition, the Court held that Rozenstein had had the opportunity to raise his arguments against his extradition. His claims were evaluated and rejected. He also refrained from appealing the Minister's decision to extradite him. Regarding the petitioner's objective not to extradite any Jew to the United States, the Court held that such a sweeping decision might transform Israel into a shelter for Jewish offenders that the United States wants to extradite and that the decision would harm Israel's relationship with the United States. In addition, the Court will block extradition only if there is specific, reliable, and outstanding evidence indicating that the extradition will result in delivering a requested person to murderers who have no intention of conducting a proper judicial process. The circumstances of this case do not indicate such a suspicion. (*Israel Law Center v. Minister of Justice and Zeev Rozenstein*, H.C. 1175/06.)
(Ruth Levush)

ITALY – Measures on Female Genital Mutilation

In fulfillment of articles 2, 3, and 32 of the Italian Constitution and of the provisions of the Declaration and Platform for Action adopted in Beijing, China, on September 15, 1995, at the Fourth World Conference of the United Nations on Women, the Italian Government approved measures to prevent, prohibit, and punish the practice of female genital mutilation as a violation of the basic rights to integrity of the person and to the health of women and (female) children. (Law No. 7 of Jan. 9, 2006.) Coordination of activities developed by the pertinent ministries to prevent the practice of female genital mutilation and provide assistance to its victims is entrusted to the *Dipartimento per le Pari Opportunita* (Department of Equal Opportunity) of the Presidency of the Council of Ministers. Its task is to acquire data and information at the national

and international level on actions taken to repress the practice and on strategies of prohibition developed by other states.

The Minister of Equal Opportunity, in agreement with other Ministers, develops appropriate information campaigns for immigrants from countries where mutilations are performed and on the promotion of initiatives for the immigrants' social and cultural integration, with particular attention to the basic rights of the person, especially of women and (female) children. He also promotes suitable programs of *aggiornamento* (updating) for schoolteachers to spread knowledge of women's and (female) children's rights and programs at health facilities and social services to monitor already identified local cases.

The Law adds two new articles to the Criminal Code: article 583-bis on the practice of mutilation of female genital organs and 583-ter on additional penalties. The former imposes a penalty of four to twelve years in prison for commission of the crime. A penalty is also imposed for other kinds of injury inflicted on the female genital organs resulting in corporal or mental illness; the punishment is increased if the incident involves a minor or if it is done for profit. These provisions apply to acts perpetrated abroad by Italian citizens or by foreigners residing in Italy or on Italian citizens or foreigners residing in Italy. According to article 583-ter, punishment imposed on active health professionals for the crimes foreseen in article 583-bis will include the additional penalty of deprivation of the practice of their profession for three to ten years.

In coordination with interested governments, the Ministry of Foreign Relations is including in its programs of cooperation for development in countries where female genital mutilation is still performed local-level projects of education and information directed at discouraging the practice. The programs also include the creation of centers against violence, to become capable of sheltering not only women who want to escape the practice, but also women who want to protect their daughters from it. Finally, the Law states that if an entity or its organizational unit is commonly used for the sole or primary purpose of consenting to or assisting in the perpetration of the crime of mutilation, it will be banned from carrying out those activities. (GAZZETTA UFFICIALE, No. 14, Jan. 18, 2006.)
(Dario Ferreira)

ITALY – State Council Rules for Crucifix in Public School

The Council of State of Italy has ruled to uphold the decision of the Regional Administrative Council of Veneto that displaying the crucifix in a public school did not violate the principles of impartiality and secularity of the state. The case, brought by a Finnish woman whose two children were pupils at a school in Padua, had previously gone to the Constitutional Court, which did not rule on it because the regulations of 1924 and 1928 that included the crucifix among school furnishings no longer had any legal validity. The Council stated that the

crucifix could continue to be displayed in schoolrooms because it is a symbol that "is non-discriminatory from the religious standpoint." (*The Crucifix Remains in the Schoolroom – It Expresses Civic Values*, LA STAMPA, Feb. 16, 2006.)
(Donald R. DeGlopper)

JORDAN – Arrest of Reporters

The prosecutor of the Jordanian State Security Court issued a decision for the arrest of a number of reporters for fourteen days to investigate charges that they verbally attacked high government officials. This action came at a time when the Jordanian Government is in the process of amending the Press Law in regard to the imprisonment of reporters who publish materials contrary to law. The State Security Court has previously issued judgments of imprisonment of several politicians and reporters accused of having verbally attacked high officials. (*Arrest of Press Reporters*, ASHARQ AL-AWSAT, Mar. 16, 2006.)
(Issam Saliba)

LIBERIA – Truth Commission

President Ellen Johnson Sirleaf, who took over the Liberian Government in January 2006 from a postwar transitional government, inaugurated a truth commission on February 20, 2006, to investigate crimes and human rights abuses committed in the war-battered country over the last quarter century. The seven-member Truth and Reconciliation Commission has a mandate to investigate crimes committed from 1979 until 2003, when the years of civil war ended. President Sirleaf said that Liberians must be courageous enough "to face up to the past and revile as an affront to all civilized people the despicable acts our people endured during the past 14 years of our civil conflict."

The Commission is modeled on South Africa's truth commission, which was established in 1995 and investigated political crimes committed by all sides during decades of white, minority rule. The Commission will not have the power to try cases. The Liberian Government has committed US$350,000 to the Commission, along with US$500,000 pledged by the United Nations. (*Liberia Inaugurates Truth Commission,* THE GUARDIAN (LONDON), Feb. 21, 2006.)
(Karla Walker)

MEXICO -- New Office to Prosecute Crimes Against Women

Mexico's Department of Justice (*Procuraduria General de la Republica*, or PGR) recently created a new office to investigate and prosecute crimes against women. The new office will replace the special prosecutor's office created in 2004 to investigate the murders of women in the city of Ciudad Juarez. The duties of the new office will be expanded to include all thirty-one states and the Federal District. The PGR pushed for the expansion of the office as part of a campaign at the national level to combat violence against women. "[The murders in Juarez] were just one example of a phenomenon that occurs across the country," said the PGR. (*ACUERDO A/003/06 del Procurador General de la República, por el que se crea la Fiscalía Especial para la atención de delitos relacionados con actos de violencia contra las mujeres en el*

país (*Order A/003/06 Issued by México's Attorney General, Creating an Office for the Prosecution of Crimes Against Women in Mexico*), DIARIO OFICIAL DE LA FEDERACIÓN (Federal Official Gazette, D.O.), Feb. 16, 2006; *Federal Government Creates New Office to Investigate, Prosecute Crimes Against Women*, 17:9 SOURCEMEX, ECONOMIC NEWS AND ANALYSIS ON MEXICO, Mar. 1, 2006.)
(Gustavo E. Guerra)

NORWAY – Action Plan to Implement UN Resolution on Women, Peace, and Security

In order to implement the United Nations Security Council Resolution 1325 on Women, Peace, and Security, the Norwegian Government has adopted an action plan that was launched on March 8, 2006. The Government wishes to increase the participation of women in military and civilian peace operations, mediation, and peace building. The Government also intends to further protect women's human rights in conflict areas. (Press Release No 35/06, Ministry of Foreign Affairs, *Government Intensifies Efforts to Increase Women's Participation in Efforts to Promote Peace and Security* (Mar. 9, 2006.)
(Linda Forslund)

POLAND – Police Surveillance Regulations Declared Unconstitutional

The Polish Constitutional Tribunal ruled recently that the provisions of the Police Act of April 6, 1990 (Dz. U. 1990, nr. 30, poz. 179), regarding wiretapping, tracking, and monitoring of correspondence and packages without court approval, are unconstitutional (Dz. U. 2005, nr. 250, poz. 2116). The regulation allowing wiretaps with the consent of the sender or the receiver of the information was also held to be unconstitutional, since the parties might be manipulated or personally interested in the outcome of the investigation. Similarly, gathering of data on citizens for "detection and identification purposes" was declared to be unconstitutional, and the court directed that any information gathered by the police without court consent must be destroyed. A new Police Act is to be drafted. (*Polish Court Rules Several Polish Surveillance Regulations Unconstitutional*, GAZETA WYBORCZA, Dec. 13, 2005.)
(Grazyna Kolondra, Visiting Scholar in Residence)

RWANDA – Appeals Court Confirms Ex-Minister's Acquittal

On February 8, 2006, the Appeals Chamber of the UN International Criminal Tribunal for Rwanda (ICTR) confirmed a lower court's decision to acquit a former Rwandan transport minister and a former provincial governor of genocide, a decision the Rwandan government received with reservations. On February 25, 2004, the lower ICTR court ordered the acquittal of former Transport Minister Andre Ntagerura, who was arrested in Cameroon in 1996, and of Governor Emmanuel Bagambiki, who was arrested in Togo in June 1998. However, the court convicted Samuel Imanishimwe, a former paramilitary commander in the province, and sentenced him to twenty-seven years of imprisonment. The three had been jointly tried. In confirming the lower court's decision, the Appeals Chamber, presided over by Judge Fausto Pocar of Italy, said its panel of three judges had unanimously agreed to the acquittal of Ntagerura and Bagambiki. The indictments against Ntagerura, Bagambiki, and Imanishimwe charged them

with genocide, crimes against humanity, and serious violations of Geneva Conventions in connection with the massacres and other crimes committed in Rwanda's Cyangugu Province in 1994.

Earlier, during the appeals hearing, the prosecution had claimed the lower court's decision to acquit was in error because the defendants had participated in the 1994 genocide, and it asked the court to order a retrial. The senior attorney for the prosecution, James Steward, told the court that when acquitting the two, the chamber did not take into consideration seven witnesses who had testified in the trial and who were accomplices of the defendants. The lower court acquitted Ntagerura, noting that the prosecutor had not proved beyond reasonable doubt any of the allegations in the indictment. It also ruled that there was no credible evidence that Ntagerura expressed public support for the killings or that he acted as supervisor in Cyangugu Prefecture in 1994. It also found that the prosecutor failed to prove the allegations supporting the crime of genocide against Bagambiki. (*Appeals Court Confirms Ex-Minister's Acquittal*, IRINNEWS, Feb. 8, 2006.)
(Karla Walker)

TURKEY – Supreme Court Ruling on Honor Killings

Turkey's Supreme Court upheld the sentences given to three men convicted of an "honor killing" of a teenaged girl and man. In doing so the Court dismissed the argument that there was sufficient provocation in the case to constitute "instigation" and that therefore milder sentences were appropriate.

The case originated in a small town in southeastern Turkey. A fifteen-year-old girl who had been living with one man ran off with another. She was pursued by the first man and by her own relatives, who killed both the girl and her new companion. The three men were found guilty by a local court and sentenced to imprisonment. While the prosecutor had raised the issue of instigation, the Supreme Court reportedly said that the issue in the murder case was "not instigation but the inclination to sustain an evil custom which is impossible to prevent legally...." (*Supreme Court Rules No Mitigation from Penalty Imposed on Convict in Honor Killing*, ANKARA ANATOLIA, Mar. 24, 2006.)
(Constance A. Johnson)

UNITED STATES – Free Speech and Association

The United States Supreme Court recently released a decision upholding a law, known as the Solomon Amendment, which denies federal funding to an academic institution if any part of the institution fails to provide military recruiters the same access provided other recruiters. In *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.*, the Court ruled that the Solomon Amendment does not violate the rights of free speech and association of law schools that wished to protest the military's discrimination against homosexuals by excluding military recruiters from law school facilities.

The Forum for Academic and Institutional Rights, an association of law schools with policies prohibiting employers that discriminate from recruiting on their campuses, sued to enjoin the Solomon Amendment, arguing that by requiring its members to allow military recruiters onto their campuses or lose their parent institutions' federal funding, the law violated their First Amendment rights of free speech and association as developed under prior Supreme Court rulings.

In the unanimous opinion, rendered March 6, 2006, the Court ruled that the Solomon Amendment does not unconstitutionally restrict the law schools' free speech rights, because the law schools remain free to express their opposition to the military's discrimination and at the same time allow equal access to military recruiters. The Court ruled that the Solomon Amendment does not regulate expressive conduct protected by the First Amendment, because the law schools' desire to exclude military recruiting from the law school campuses is not inherently expressive by itself, but is only expressive when accompanied by speech. The Court further ruled that the Solomon Amendment does not restrict law schools' First Amendment associational interests, because recruiters merely gain access to campus for recruiting purposes, while students and faculty remain free to associate and voice their disapproval of the military's discrimination policies. (*Rumsfeld v. Forum for Academic and Institutional Rights, Inc*, U.S. Supreme Court, Docket No. 04-1152 (Mar. 6, 2006).)
(Debora Keysor)

UNITED STATES - Freedom Of Religion

The Supreme Court of the United States recently decided that the Religious Freedom Restoration Act (RFRA) permits a religious organization to have restricted access for sacramental purposes to a hallucinogenic tea covered by the Controlled Substances Act (CSA).

In *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, the Supreme Court ruled that in circumstances where strict enforcement of the CSA would substantially burden a group's sincere exercise of religion, RFRA requires the government, in opposing a request for a preliminary injunction allowing restricted access to a drug for sacramental purposes, to demonstrate that denial of such restricted access would further a compelling government interest and is the least restrictive means to achieve this interest.

RFRA prohibits the government from taking an action that substantially burdens the exercise of religion unless it is the least restrictive means of furthering a compelling government interest. O Centro Espirita Beneficente Uniao do Vegetal (UDV) is a religious sect that employs in its religious practices a sacramental tea, *hoasca*, which contains a hallucinogen listed as a Schedule I controlled substance under the CSA. Threatened with prosecution for importing this tea from Mexico, UDV filed suit in the U.S. District Court for New Mexico seeking declaratory and injunctive relief under RFRA.

At the preliminary injunction hearing, the Attorney General acknowledged that enforcement of the CSA against UDV would substantially burden the sect's sincere exercise of

religion. However, it argued that it had three compelling government interests that under RFRA warranted strict enforcement: the need to protect the health of UDV members, the need to prevent diversion of the *hoasca* tea to recreational users, and the need to comply with a treaty, the 1971 United Nations Convention on Psychotropic Substances.

The District Court concluded the evidence on the health risks and diversion were equally balanced between the government and UDV, and ruled that the 1971 treaty did not apply to this substance. Finding the government failed to meet its burden under RFRA, it entered a preliminary injunction prohibiting the government from enforcing the CSA against UDV, subject to the sect's compliance with certain conditions relating to health considerations and preventing diversion of the drug to recreational users. The U.S. Court of Appeals for the Tenth Circuit affirmed the preliminary injunction. The Supreme Court agreed to hear the case.

The Supreme Court upheld the preliminary injunction. It first ruled that as a procedural matter, RFRA requires the government to show that restricting religious practice would serve a compelling governmental interest not only at trial, but also at the preliminary injunction stage.

Next, the Court rejected the government's argument that the CSA's ban on drugs listed on Schedule I precludes any consideration of individual exceptions such as those sought by UDV under RFRA. It ruled that RFRA, which explicitly mandates consideration of exceptions to rules of general applicability, requires the government to meet the compelling interest test as to the particular burden on the exercise of religion at issue.

With respect to the UN Convention on Psychotropic Substances, the Court disagreed with the District Court's finding that the treaty does not cover *hoasca* tea. However, because the Attorney General failed to submit any evidence on the international consequences of granting an exemption to CSA enforcement, the Court ruled that the government failed to meet its burden on this point.

Accordingly, the Court affirmed the grant of the preliminary injunction, and remanded the case for further proceedings, including a trial on whether UDV is entitled to permanent relief. (*Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, U.S. Supreme Court, Docket No. 04-1084 (February 21, 2006).)
(Luis Acosta)

UZBEKISTAN – Nationals Prohibited from Cooperation with Foreign Media

On March 7, 2006, the rules regulating professional activities of foreign media correspondents in Uzbekistan entered into force. They replaced similar rules issued in 1998 with the same title. However, the newly passed rules are more vague and expand the list of journalists' actions that in the government's opinion may be considered a violation of Uzbek legislation and entail a ban on a foreign media outlet's work in the country. According to the rules, all foreign media and their foreign and domestic personnel must undergo special

government accreditation. Accredited correspondents are prohibited from calling for a change in the existing political and constitutional system and are not allowed to interfere in the internal affairs of Uzbekistan, insult the honor and dignity of Uzbek citizens or their historic heritage, or interfere in the personal lives of Uzbek nationals. The rules do not define what might constitute such unwanted interference. Regulating interactions between foreign correspondents and Uzbek citizens, the new rules prohibit unauthorized professional contacts between correspondents and Uzbek individuals and ban locals from working for foreign media that have no formal accreditation in Uzbekistan. The Uzbek authorities recently terminated the accreditation of the BBC, RFE/RL, and Internews Agency. (*Uzbekistan: New Media Resolution Tightens the Screws*, THE TIMES OF CENTRAL ASIA, Mar. 15, 2006.)
(Peter Roudik)

Immigration and Nationality Law

CENTRAL AFRICAN REPUBLIC/SUDAN/UNITED NATIONS – Return of Refugees

On February 1, 2006, the Central African Republic, Sudan, and the United Nations signed an agreement to assist in the return of 16,000 refugees to Sudan. The United Nations High Commissioner for Refugees promised to monitor the voluntary repatriation of Sudanese who fled their home country during the twenty-three years of warfare that resulted in about two million deaths. In January 2005, a peace agreement was signed, but many refugees have remained in the Central African Republic as their home areas are lacking basic services and infrastructure, such as schools, hospitals, water supply, and roads. Sudan's State Minister of Interior Aleu Ayieny Aleu, who signed the agreement for his country, promised that the refugees would be permitted to return home in peace. Sudan and Kenya signed a similar repatriation deal in January 2006.

The 2005 peace accord stated that the southern region of the country would be given a great deal of autonomy and that a referendum would be held in six years on the subject of secession. The 10,000 United Nations peacekeeping troops assigned to oversee the agreement have already reported violations. (*Central Africa, Sudan Sign Refugee Return Deal,* REUTERS, Feb. 1, 2006.)
(Constance A. Johnson)

EUROPEAN UNION - Community Code on Border Control of Persons

Recently, the Council of the European Union adopted a regulation establishing a Community Code regarding border control of persons crossing the external borders of the EU. The regulation establishes conditions for entry and refusal of entry for third-country nationals and provides for the establishment of a European Agency for the Management of Operational Cooperation at the External Borders. It also identifies the various aspects of the external border related to land, air, and water and calls for checks on certain groups of persons, such as diplomats, aircraft pilots, seamen, and cross-border workers. (*Justice Council Agrees [to] Border Control Rules*, EURACTIV.COM, Feb. 22, 2006.)
(Theresa Papademetriou)

EUROPEAN UNION - Inclusion of Ethnic Minorities in Europe

The European Commission, in a 2005 policy communication, highlighted the need to improve social inclusion of ethnic minorities living in Europe. The violence in France that erupted in 2005 served as a reminder of the social inequalities and exclusion that ethnic minorities face in employment, education, housing, and other areas. The Commission called for the establishment of a high-level group of experts to analyze and evaluate the problem of social exclusion. The group had its first meeting on February 13, 2006. (Press Release, IP/06/149, Expert Group to Promote Inclusion of Ethnic Minorities in the European Union, Feb. 13, 2006.)
(Theresa Papademetriou)

GERMANY – Language Requirement for Naturalization

On October 20, 2005, the Federal Administrative Court ruled on the naturalization of two aliens (Docket No. 5 C 8.05 and 5 C 17.05) whose naturalization had been denied by the administrative agencies and the lower courts on the grounds that the petitioners did not live up to the statutory requirement of having a sufficient command of the German language (Citizenship Act, July 22, 1913, REICHSGESETZBLATT 538, as last amended by Gesetz, July 30, 2004, BUNDESGESETZBLATT I at 1950, § 11, number 1). One petitioner could speak and read German, but could not write in German. In his case, the Court reversed the lower court's ruling, thus allowing for the petitioner's naturalization on the grounds that his ability to read German was sufficient to ensure that he would be able to interact with authorities and to transact business matters, albeit with the help of someone who would write for him, since he was deemed capable of reviewing what was written in his name. The other petitioner spoke German but could neither read nor write German; in fact, he was illiterate. In the case of this petitioner, the Court upheld the lower court's denial of naturalization.
(Edith Palmer)

NETHERLANDS – Examinations for Immigrant Applicants

A new law effective March 15, 2006, requires all would-be migrants eighteen years of age and above and those coming to The Netherlands to marry a legal resident to take a 100-question "social integration examination." Applicants must pass the examination before they are allowed to come to The Netherlands. Because many applicants, particularly young women from Morocco arriving for arranged marriages, are illiterate, they may take the examination after watching a one-and-a-half hour film.

The principal of a Rotterdam high school that serves a predominately poor and immigrant neighborhood is quoted as saying that most of his students would probably fail the test. The test also requires some facility in the Dutch language. A criminal lawyer is quoted as saying that denying entry to those not proficient in the language is contrary to United Nations and European Union human rights conventions. He also points out that much university teaching is actually done in English and that no one requires that foreign managers of multinational companies be able to speak Dutch. (*Illiterates from Rif Do Not Know About VOC Ships*, HANDELSBLAD, Mar. 15, 2006.)
(Donald R. DeGlopper)

PORTUGAL – New Nationality Law Benefits Third Generation

On February 16, 2006, the Assembly of the Republic approved a new Nationality Law granting Portuguese citizens' grandchildren born abroad the right to file for Portuguese citizenship. The new law changes an old rule that extended the right only to second generation (sons and daughters) emigrants. It also enables immigrants' children born in Portugal to qualify for naturalization, provided that one of the parents has been a legal permanent resident in the country for five years.

Prime Minister José Sócrates praised the approval of the new law while Mr. Rui Marques, High Commissioner for Immigration and Ethnic Minorities, was quoted as saying that the increase in the number of immigrants will be beneficial to Portugal as these constitute only four percent of the national population, as opposed to an eight percent average in other European countries. (Ana Patrícia Dias/B.C.M., *Nova Lei – Parlamento Aprovou Ontem Legislação. Nacionalidade até a Terceira Geração,* CORREIO DA MANHÃ, Feb. 17, 2006.)
(Eduardo Soares)

International Relations

CHINA/PAKISTAN – Agreements Inked

On February 20, 2006, after Chinese President Hu Jintao and visiting Pakistani President Pervez Musharraf held talks, China and Pakistan signed thirteen bilateral agreements on a wide range of topics. The agreements and memoranda of understanding cover deepening and expanding economic and trade cooperation, provision of a $300 million soft term loan, and cooperation in defense, energy, food, and agriculture sectors. They also include upgrading and widening of the Karakoram highway, assistance in seismology and meteorological studies, cooperation in health and family planning, vocational training, pesticides management, fisheries cooperation, and utilization of preferential buyer's credit. Among other remarks, President Hu stated that he hoped to expedite negotiations to establish the China-Pakistan free trade area as soon as possible and to cooperate further on security and launch a joint crackdown on the "three forces" – terrorism, separatism, and extremism – plaguing both countries. (*China, Pakistan Ink Comprehensive Deals,* CHINA VIEW, Feb. 20, 2006.)
(Wendy Zeldin)

MEXICO/UNITED STATES – Border Security Agreement

The governments of Mexico and the United States signed an agreement to increase vigilance at the United States-Mexico border on March 3, 2006. The agreement, which was signed by the Mexican Secretary of Interior, Carlos Abascal, and U.S. Secretary of Homeland Security, Michael Chertoff, consists of an action plan to perform joint patrols, exchange information, and coordinate among the federal agencies of the two countries. The agreement does not include a mechanism for the migration of Mexicans to the United States. The action plan includes protocols to permit operations in the regions of Arizona-Sonora and Laredo-Nuevo Laredo, with the objective of preventing incidents of violence and unauthorized border crossing by government personnel, and to crack down on terrorists and drug dealers. (*Suscriben Plan México y EU Para la Frontera*, REFORMA, Mar. 4, 2006.)
(Norma C. Gutiérrez)

RUSSIAN FEDERATION – Return of Cultural Property

On February 7, 2006, Russian President Vladimir Putin signed a federal law on the return of the Sarospatak Library, a unique collection of fifteenth-century Hungarian books transferred by the Soviet Occupation Administration from Hungary after the end of World War II. This law implements provisions of a more general Act on Cultural Treasures Transferred to the USSR as a Result of World War II. The new law overruled the decision of the expert council at the Russian Ministry of Culture, which qualified 134 volumes from this collection as "cultural treasures having unique character and historical and scientific importance" and did not recommend their return to original owners because of the books' value.

In adopting the law, the Russian legislature emphasized that the return can occur because these books were the property of a religious organization, were used only for religious purposes,

and did not serve the interests of militarism or Nazism. Hungary has been requesting these books since 2002, when their location in a rural Nizhnii Novgorod library was disclosed. The Hungarian side made electronic copies of all the books, which were given to the Russian library. It appears that this decision was made because of the upcoming visit by President Putin to Hungary. Specialists believe that this law and the reasons behind its adoption can be used as a precedent for return of the highly disputed Shneerson collection to the United States. (*Russia to Return Valuable Books to Hungary,* ITAR-TASS NEWSLINE, Feb. 8, 2006.)
(Peter Roudik)

TAIWAN – National Unification Council Ceases Functioning

On February 27, 2006, at the conclusion of a National Security Conference, Taiwan President Chen Shui-bian announced that the National Unification Council (NUC) will cease to function and that the Guidelines for National Unification (GNU) will cease to apply. The NUC, established in 1990, served as an advisory body to the President on relations with mainland China; the GNU were drawn up by the NUC in 1991 on the basis of a phased approach towards reunification with the Mainland. Other parts of the organizational framework for cross-Taiwan Strait ties include the Mainland Affairs Council and the Straits Exchange Foundation.

In his directive announcing this decision, the President made a seven-point proclamation on Taiwan's national security. He indicated, among other points, that "Taiwan has no intention to change the status quo," that cessation of the NUC and the GNU will not lead to any change of the status quo, that the two sides of the Taiwan Strait must actively seek to create mechanisms for interaction through government-to-government dialogue, that Taiwan people "have the right and obligation to joint international communities," and that Taiwan will "actively strengthen and upgrade its self-defense determination and capabilities" to ensure national security. (*President Chen's Concluding Remarks at National Security Conference*, Feb. 27, 2006, Taiwan Government Information Office Web site; TAIWAN 2005 YEARBOOK 90-91, Nov. 2005.)
(Wendy Zeldin)

TAIWAN/ISRAEL – Science, Technology Agreement

On January 24, 2006, Teng Sheng-sheng, Taiwan's representative to Tel Aviv, and Ruth Kahanoff, chief of the Israel Economic and Cultural Office in Taipei, signed an agreement on scientific and technological cooperation on behalf of their governments. The accord aims to promote mutual scientific and technological development through exchange of personnel, technology transfer, and exchange of information in seminars. Taiwan's National Science Council's International Programs Division Director stated that mutual benefit could be derived because Taiwan places more emphasis on the production and manufacturing of high technology while Israel focuses on research and development. (*Taiwan to Boost Sci-Tec Cooperation with Israel*, TAIWAN HEADLINES, Jan. 24, 2006; *China Watches as Ties Grow Between Taiwan, Israel*, TAIPEI TIMES, Feb. 20, 2006, at 1.)
(Wendy Zeldin)

UNITED STATES - Iran Nonproliferation Amendments Act

The United States Congress recently enacted the *Iran Nonproliferation Amendments Act of 2005*, which modifies a prior law designed to prevent Iran from developing nuclear weapons.

The statute, signed into law by President Bush on November 22, 2005, amends a prior law, the *Iran Nonproliferation Act of 2000*, which contained various provisions intended to prevent Iran from developing a nuclear weapons capability. Without the 2005 amendments, the 2000 act would have restricted cooperation between the U.S. and Russia and Russian companies on activities relating to the International Space Station (ISS), because it required the President to certify that Russia had ended its cooperation with Iran relating to nuclear technology as a condition for continued ISS activities. The 2005 amendments create an exemption in the 2000 act permitting the National Aeronautics and Space Administration to continue its relationships with the Russian government and Russian companies that work on the ISS.

The law also amends the 2000 act to make it applicable to Syria, and broadens the 2000 act to cover acquisitions from, as well as transfers to, Iran and Syria. (*Iran Nonproliferation Amendments Act of 2005*, Public Law No. 109-112.)
(Luis Acosta)

Terrorism

ASEAN/BURMA/THAILAND – Treaty to Fight Crime, Terrorism Signed

On January 17, 2006, Burma (Myanmar) and Thailand signed the Association of Southeast Asian Nations' Treaty on Mutual Assistance in Criminal Matters. They were the last of the ten ASEAN member nations to do so. The other eight members had inked the treaty in November 2004. The permanent secretariat of the treaty is in the Malaysia Attorney General's Department, which maintains an online database containing guidelines on the legal procedures of each ASEAN member. At present only Malaysia, Singapore, and Vietnam have ratified the treaty to take effect between their respective countries: Malaysia and Singapore on June 1, 2005, and Singapore and Vietnam and Malaysia and Vietnam on October 25, 2005. The other seven ASEAN Member states have indicated that they will ratify the treaty before the end of 2006. (*Article Views ASEAN's Decision to Combat Regional Crimes*, BERITA HARIAN (Kuala Lumpur), Jan. 20, 2006; *Burma, Thailand Sign Regional Treaty in Malaysia to Fight Crime, Terrorism,* AFP, Jan. 17, 2006.)
(Wendy Zeldin)

CHINA/UNITED NATIONS – Convention on Financing Terrorism Ratified

On February 28, 2006, the twentieth session of the Standing Committee of the Tenth National People's Congress ratified the International Convention for the Suppression of the Financing of Terrorism. The Chinese Government signed the Convention on November 13, 2001. The document was adopted by the U.N. General Assembly on December 9, 1999, and went into effect on April 10, 2002. As of mid-August 2005, 138 countries had reportedly signed the Convention. (*China's Lawmakers to Discuss UN Convention Against Terrorism Financing*, CHINA VIEW, Feb. 17, 2006; Text of the International Convention for the Suppression of the Financing of Terrorism, *China's Parliament Ratifies UN Convention Against Terrorism Financing*, XINHUA, Feb. 28, 2006.)
(Wendy Zeldin)

LITHUANIA – Financial Sanctions Against Terrorists

On February 1, 2006, the Government of Lithuania approved the so-called Terrorist Watch List, which includes nineteen individuals and twenty-one legal persons, groups, and organizations residing within the European Union and related to terrorist activities. According to the government resolution, the rights of EU natural and legal persons to own and use funds and other property, including interest from accounts in financial institutions, may be restricted upon such persons' inclusion in the Terrorist Watch List. Their accounts will be frozen, and domestic and foreign financial institutions and insurance companies operating in Lithuania will not be allowed to provide financial services to individuals and companies placed on the List. However, individuals included in the List will be allowed to receive payments for goods and services provided to them in order to satisfy basic needs, such as food, medicine, health care services, and rent. Those willing to use the exemption will have to address the Financial Crime Investigation Service, and the Foreign Affairs Ministry will have to give its consent in each specific case.

(*Lithuania to Impose Financial Sanctions to Terror Suspects*, BALTIC NEWS SERVICE, Feb. 2, 2006.)
(Peter Roudik)

RUSSIAN FEDERATION – New Anti-Terrorism Institution

On February 16, 2006, President Vladimir Putin issued a decree ordering the creation of a National Anti-Terrorist Committee, a new government agency aimed at improving state management in the field of fighting terrorism. The Director of the Federal Security Service (the former KGB) was appointed to head the Committee. The Committee will include the Deputy Chief of Staff of the Russian President, members of the government, the Foreign Intelligence Director, the Chief of Staff of the Armed Forces, and the National Security Advisor.

According to the Decree, anti-terrorist commissions will be created in all eighty-seven constituent components of the Russian Federation. Their goal is to coordinate activities of regional and local governments and self-government authorities in order to prevent terrorist attacks and minimize or eliminate their consequences. The National Anti-Terrorist Committee and regional commissions will establish operational commands to conduct counter-terrorist operations. The Decree provides for the creation of a 300-person service unit within the Federal Security Service and subordinates all military, emergency, and law enforcement personnel involved in counter-terrorist operations to the Federal Security Service. (ROSSIISKAIA GAZETA, Feb. 17, 2006.)
(Peter Roudik)

RUSSIAN FEDERATION – New Anti-Terrorism Law

On March 3, 2006, Russian President Vladimir Putin signed the new Law on Countering Terrorism, which had been unanimously adopted by the legislature. The Law defines the legal regime of a counter-terrorist operation and establishes legal grounds for participation of armed forces in anti-terrorist operations. The Law allows the use of armed force against terrorists outside of Russian territory for air strikes and ground operations. A presidential order is required to initiate such an attack. Among other powers acquired by the armed forces in fighting terrorists under this Law is the right to shut down passenger water- and aircraft if they have been taken over by terrorists. Personal responsibility for the conduct of an anti-terrorist operation is placed on the regional head of the Federal Security Service, the former KGB. Regarding negotiations with terrorists, the Law states, "terrorists' political demands shall not be discussed and announced."

All restrictions on surveillance, tapping telephone conversations, and review of personal mail will be lifted in the zone of an operation for its duration, which is not defined. Resettlement of population in the operation's zone is allowed, and the security service can use private residences and private means of transportation and communication. Because after previous terrorist attacks courts were bombarded with compensation claims from the victims, under the new Law terrorists themselves are obligated to compensate victims, and provisions allowing the

confiscation of terrorists' property will be reinstated in the Criminal Code of Russia. Observers are of the opinion that this Law is focused on killing the terrorists and does not mention that the main goal of any antiterrorist operation is to save human lives. (PARLAMENTSKAIA GAZETA No. 32, Mar. 10, 2006, at 1.)
(Peter Roudik)

UNITED KINGDOM – Abu Hamza al-Masri Convicted of Soliciting Murder, Incitement to Racial Hatred

The controversial and outspoken Abu Hamza al-Masri, a radical, extremist Muslim cleric whom the United States has accused of recruiting al Qaeda terrorists and is seeking to extradite for terrorism-related matters, has been convicted in the United Kingdom of soliciting murder and incitement to racial hatred. Hamza al-Masri had fifteen charges brought against him, was found guilty of eleven of these charges, and was sentenced to seven years of imprisonment. The charges against him included nine charges of soliciting murder; four charges of "threatening, abusive or insulting words or behaviour with the intention of stirring up racial hatred;" and one charge of possessing the *Encyclopedia of Afghani Jihad*, which contains information "of a kind likely to be useful to a person committing or preparing an act of terrorism." The prosecution recently told the court that Hamza al-Masri preached "intolerance, bigotry and hatred."

The Government of the United Kingdom has continually sought to deport Hamza al-Masri and remove his British citizenship, with little luck so far. Hamza al-Masri will be eligible for extradition to the United States once he has completed his sentence in the United Kingdom. (*Abu Hamza Jailed for Seven Years*, BBC NEWS, Feb. 7, 2006; *Hamza Urged Followers to Murder*, BBC NEWS, Jan. 11, 2006.)
(Clare Feikert)

YEMEN – Monetary Reward for Capture of Escapees

Yemen has announced a monetary reward of five million Yemeni *riyals* (about US$25,000) for information leading to the recapture of individuals identified as al Qaeda members who escaped from the political security prison in Sana'a. The reward is applicable to each of the escapees. The security forces have conducted a rigorous campaign in all the districts of the country, distributing photos and full information about the escapees. (*Yemen Offers Monetary Reward for Capture of Escapees* [summary title], ASHARQ ALAWSAT, Feb. 15, 2006.)
(Issam Saliba)

Index