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Banking

TAIWAN – National Financial Holding Company Planned

Taiwan Premier Chang Chun-hsiung announced on August 15, 2007, a plan to establish by the end of the year a national-level financial holding company. The goal of “Taiwan Financial Holding” (TFH) is to enhance the financial sector’s overall competitiveness and meet the challenges posed by international financial holding groups. The new institution will comprise three state-owned financial institutions: the Bank of Taiwan, the Land Bank of Taiwan, and the Export-Import Bank of the Republic of China. Chang stated that, once established, TFH is expected to take up over ten percent of Taiwan’s market share and rank 18th in asset value in Asia and 89th world-wide.

The merger of the three component institutions of TFH is to occur in three phases, to be completed within three years of the TFH’s establishment. Deputy Minister of Finance Liu Teng-cheng estimated that TFH’s asset value would reach US\$158.8 billion. He stated that the Ministry would encourage other financial institutions in which the government has a dominant stake “to merge with other institutions or sell their government-owned stock to private investors at home and abroad.” (*Government to Set Up National Financial Holding Company by Year-End*, TAIWAN NEWS, Aug. 15, 2007; Ye Yi-ju, *Jhen han dan! Guonei jin kong jiang jiasu kuoda* [*Shock Bomb! Domestic Financial Holding Company Will Hasten Expansion [of Shares]*], UNITED DAILY NEWS, Aug. 15, 2007.)
(Wendy Zeldin)



Border Security

MEXICO/UNITED STATES – Bilateral Strategic Customs Plan

On August 13, 2007, the U.S. Immigration and Customs Enforcement Assistant Secretary Julie L. Myers, U.S. Customs and Border Protection Commissioner Ralph Basham, and Mexican Customs Administrator General Juan José Bravo signed a bilateral strategic customs plan to combat terrorism, contraband, narcotics, organized crime, cash transactions, and customs fraud, and to advance trade logistics between their two countries. Basham stated that the plan will help to prevent terrorist acts in a more effective way. Mexico's Public Finance and Credit Secretary, Agustín Carstens, pointed out that the plan also seeks to implement joint efforts to improve personnel training and increase customs employees' level of competitiveness.

The plan provides for the creation of four bi-national, technical working groups: 1) the Capacity Building and Support Working Group; 2) the Border Management, Customs Procedures, and Information Technology Working Group; 3) the Customs Security Working Group; and 4) the Customs Enforcement Working Group. These working groups will be responsible for developing and implementing specific initiatives, programs, and mechanisms associated with particular strategic goals as indicated in the plan. (José Manuel Arteaga, *Plan Aduanero México-EU*, EL UNIVERSAL, Aug. 14, 2007; [Plan Estratégico Aduanero Bilateral](#), Aug. 13, 2007.)
(Norma C. Gutiérrez)



Capital Punishment

CHINA – New Death-Penalty Case Guidelines for Prosecutors

On August 6, 2007, the Public Prosecution Department of China's Supreme People's Procuratorate (SPP) issued the Rules of People's Procuratorates on the Work of Handling Death Sentence Cases of Second Instance (for Trial Implementation). Described as the first document of its kind ever issued by the SPP, the Rules are aimed at streamlining and standardizing the handling by procurators (public prosecutors) of death penalty cases and address extant problems such as the examination of evidence.

The Rules require all procurators to keep a detailed record of the entire appeals process for cases of persons sentenced to death. That record is to include not only the acceptance and handling of the case but the court hearings and verdicts. In addition, there are six content areas procurators should concentrate on examining, including: whether the verdict of the first instance was based on sufficient evidence; whether the law was properly applied; whether the crime is so grave that the perpetrator merits immediate execution; what differences exist between a prosecutorial protest or appeal and a first-instance judgment and whether the grounds of the prosecutorial protest or appeal are correct and replete; whether new facts or new evidence that might influence the conviction and sentencing were presented in the prosecutorial protest or appeal or appeared after the trial of first instance; and whether any illegal practices were used in the investigation, prosecution, and first trial.

The Rules state that any evidence or confession obtained by illegal means (e.g., forcibly or through threats) will be invalid in court and they require procurators to examine evidence and confessions to ensure they are not collected by such means. A death sentence appeal must be handled concurrently by at least two procurators, according to the Rules. If a case involves serious corruption, a matter of societal concern, strong public sentiment, a higher-level procuratorate should provide guidance. (Lin Shiyu, *Renmin Jianchayuan banli si xing di-er shen anjian gongzuo guicheng shixing*, PROCURATORIAL DAILY NEWS, Aug. 7, 2007; Zhu Zhe, *Legal Body Confirms New Guidelines*, CHINA DAILY, Aug. 9, 2007, Open Source Center No. CPP20070809968065.)

(Wendy Zeldin)

UNITED STATES – Tennessee Supreme Court Upholds Death Penalty For Defendant With Adult Mental Retardation

On August 16, the Tennessee Supreme Court, in an interlocutory appeal, overturned a ruling by the trial court that defendant Danny Strode could not be sentenced to the death penalty due to evidence of mental retardation that did not become manifest until after Strode reached 18 years of age.

The Tennessee statutory scheme for capital punishment states that a defendant suffering from mental retardation cannot be sentenced to death, but that the “mental retardation must have



been manifested during the developmental period, or by eighteen (18) years of age.” Evidence at trial indicated Strode’s mental retardation after age 18, and possibly before. The Tennessee Supreme Court found that the evidence did not support a finding of mental retardation before age 18. The court then had to determine whether the phrase “developmental period” in the statute referred to an age range greater than the first 18 years of life. Examining the legislative history of the statute, the law of other jurisdictions, and definitions of mental retardation used by the American Association on Mental Retardation and the American Psychiatric Association, the court held that the statute would not excuse a defendant from the death penalty if there was no evidence of mental retardation before age 18. The case was remanded to the trial court for further proceedings consistent with the Tennessee Supreme Court’s ruling. ([Tennessee v. Strode](#), No. M2005-00906-SC-R11-DD (August 16, 2007).)

(Gary Robinson)



Children

AUSTRALIA – Senate Reports on “National Emergency” Legislation for Welfare of Indigenous Children

The Australian Senate Standing Committee on Legal and Constitutional Affairs has released its report on the legislative package initiated by the Australian government in response to the Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, *Ampe Akelyernemane Meke Mekarle* “Little Children are Sacred.”

The bills referred to the committee for inquiry were:

- Northern Territory National Emergency Response Bill 2007 (Cth);
- Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007 (Cth);
- Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Bill 2007 (Cth);
- Appropriation (Northern Territory National Emergency Response) Bill (No. 1) 2007-2008 (Cth); and
- Appropriation (Northern Territory National Emergency Response) Bill (No. 2) 2007-2008 (Cth).

The committee recommended, among other things, that the operation of the measures to be implemented by the legislation be continuously monitored and publicly reported, that a culturally appropriate public information campaign (including explanatory material) be initiated, and that the Australian government closely examine the need for additional drug and alcohol rehabilitation services in the Northern Territory and, if necessary, provide additional funding support to those services. Finally, the committee recommended that the Senate pass the bills. (Standing Committee on Legal and Constitutional Affairs, SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (WELFARE PAYMENT REFORM) BILL 2007 AND FOUR RELATED BILLS CONCERNING THE NORTHERN TERRITORY NATIONAL EMERGENCY RESPONSE, Aug. 2007, Commonwealth of Australia.)

(Lisa White)



Civil Disobedience

BANGLADESH – Curfew Imposed After Violent Protests

The caretaker government of Bangladesh imposed a curfew on August 22, following student protests against the government. The student-led demonstrations resulted in private and public property destruction, injuries and death. The demonstrators demanded removal of a military post from the Dhaka University campus and an end to the emergency laws. Students from several other universities joined the protests and within three days they spread throughout the country. To control the situation, the Government of Bangladesh imposed a curfew in Dhaka and six other major cities for an indefinite period.

Police reportedly have initiated cases against thousands of students across the country. Several students have been arrested, as well as two Dhaka University professors. The government has ordered a judicial inquiry into the Dhaka University incident. Universities and colleges in the major cities in Bangladesh have been closed. ([Bangladesh Eases Curfew after Violence Subsides](#), DAILY TIMES, August 25, 2007.)
(Shameema Rahman)



Communications and Electronic Information

GERMANY – Cyber Crime

On August 7, 2007, Germany revised its provisions on cyber crime (41. Strafrechtsänderungsgesetz, BUNDESGESETZBLATT I at 1786) in order to comply with obligations incurred through the Council of Europe Convention on Cyber Crime (Nov. 23, 2001) (Council of Europe official Web site; 41 INTERNATIONAL LEGAL MATERIALS 282 (2002)) and the European Union's Council Framework Decision 2005/222/JHA of February 24, 2005, on attacks against information systems ([OFFICIAL JOURNAL OF THE EUROPEAN UNION \(L 69\) 67 \(2005\)](#), European Union official Web site).

Among the new German measures is a criminal provision against hacking (§202b, Criminal Code), entitled “interception of data,” which criminalizes hacking even if it is done without the overriding of security features, and a new criminal provision against attempts to facilitate hacking that criminalizes the finding out of passwords or the creation of spyware (§202c, Criminal Code). The provisions on computer sabotage have also been worded more broadly. Under the new provisions, there is no longer any doubt that “phishing” is a criminal offense. (A. Popp, *Zur Umsetzung der “Convention on Cybercrime,” in Deutschland und Österreich*, MEDIEN UND RECHT 84 (2007).)
(Edith Palmer)

KOREA, SOUTH – Sales Talk in TV Broadcasting Regulated

On August 1, 2007, South Korea's Broadcasting Committee issued a new regulation on TV broadcasting sales talk. Advertisers on TV are prohibited from using the phrases “have a rush of orders,” “this time only,” and “soon will be sold out” without a basis in fact. Violators of the regulation will be ordered to apologize to viewers. (Kang-su Youm, *Teleshoppingu de “chumon satto” ga kinku ni [“Have a rush of orders” Prohibited in Teleshopping]*, CHOSUN ILBO, July 31, 2007.)
(Sayuri Umeda)

MALAYSIA – Bloggers May Be Subject to Anti-Terror Laws

Media reports state that the Malaysian government has warned that it may use anti-terror laws to prevent bloggers (persons who post comments on the Internet through Web logs, or “blogs”) from insulting the monarch or Islam. Under the anti-terror laws, suspects may be detained indefinitely, without being charged or put on trial. ([Malaysia Cracks Down on Bloggers](#), BBC WORLD NEWS, July 25, 2007.)
(Lisa White)

SWITZERLAND – Eavesdropping

On August 13, 2007, the Swiss Federal Court reversed the conviction of a woman who had listened to a fight between two co-workers on her office telephone, after one of the



participants in the fight had dialed the convicted woman's number on her cell phone, unbeknownst to the other participant in the fight (Swiss Federal Court official Web site. The lower court had convicted the listener of "eavesdropping on a private conversation by means of a listening device, without having obtained the consent of all the participants in the conversation," an offense which, according to article 179(a) of the Swiss Criminal Code, is punishable with a fine or up to three years' imprisonment. In this case, the penalty imposed by the lower court was a fine of 1,000 Swiss francs (about US\$83). The Federal Court held that the deed described in article 179(a) consists of two elements: one of these is the listening to a private conversation without the consent of those conversing, and the other is the deliberate activation of a technical device to make the conversation audible or to download it. The Federal Court found that in this case, the listener did not activate a technical device with the intent of hearing the conversation. (Edith Palmer)

THAILAND – New Computer-Related Offenses Legislation

Thailand has introduced new legislation covering computer-related offenses. The Computer Related Offenses Act B.E 2550 comes into force 30 days from June 18, 2007. Offenses listed in the new Act include: unlawfully accessing a computer or disclosing access prevention measures; unlawfully accessing computer data or eavesdropping on another person's data; unlawfully damaging, destroying, or tampering with another person's computer data; unlawfully disrupting the operation of another person's computer; and sending spam mail. (Computer Related Offenses Act B.E. 2550, 124 GOVERNMENT GAZETTE Part 27 A, June 18, 2007; unofficial English translation available at Tilleke & Gibbins law firm Web site.) (Lisa White)

UNITED STATES – USA PATRIOT Act "National Security Letter" Nondisclosure Provision Held Unconstitutional

On September 6, a U.S. District Judge in New York held unconstitutional provisions in the reauthorized USA PATRIOT Act permitting the Federal Bureau of Investigation to bar disclosure of "national security letters" that require businesses such as Internet service providers to provide information to the government about their customers. Judge Victor Marrero of the U.S. District Court for the Southern District of New York ruled that the provisions violate the First Amendment of the U.S. Constitution because they permit the FBI to impose an impermissible prior restraint on constitutionally protected speech.

The provisions at issue are part of the USA PATRIOT Improvement and Reauthorization Act, which became law in 2006. They permit the FBI to demand information without a warrant on the customers of covered businesses and service providers (including libraries). The reauthorization statute attempted to cure constitutional objections to related provisions in the original USA PATRIOT Act by requiring the FBI, before imposing a nondisclosure requirement, to certify that disclosure may harm national security or interfere with a pending investigation, and by providing limited rights to judicial review.



The court ruled that these revisions failed to cure the constitutional defects. The court held that allowing the FBI to impose a nondisclosure requirement on the recipient of a national security letter violated Supreme Court precedent on governmental prior restraint on speech. Under that precedent, when the government imposes a prior restraint on speech, the government must bear the burden of initiating judicial review and justifying the suppression of speech. The national security letter provisions place both the burden of initiating judicial review, and of proving that the speech should not be suppressed, on the recipient of the letter rather than the government, and therefore violate the First Amendment, the court ruled.

The court observed that the FBI could constitutionally issue national security letters with nondisclosure orders if it adopted the practice of either notifying the recipients within a brief period of time that the nondisclosure order is no longer in effect, or justifying to a court the need for a continued period of nondisclosure.

The court stayed its order for 90 days to give the government the opportunity to either appeal the decision or otherwise pursue an alternative course of action. ([Doe v. Gonzales](#), No. 04 Civ. 2614 (S.D.N.Y., Sept. 6, 2007).)
(Luis Acosta)



Constitutional Law

FIJI – Great Council of Chiefs Resurrected with New Membership

The Interim Minister for Fijian Affairs, Ratu Epeli Ganilau, an official within the Interim Government of Fiji, has issued a press release indicating that the Interim Government will revive the Great Council of Chiefs as an institution but not reinstate former members of the Council. All members of the Great Council of Chiefs were terminated when the Council was suspended in early 2007. (Press Release, Fiji Government, [Statement by Minister for Fijian Affairs Ratu Epeli Ganilau - Restoration of GCC Regulation 1993](#) (Aug. 8, 2007).)

(Lisa White)

HONG KONG – Green Paper on Constitutional Reform

The Hong Kong Special Administrative Region (HKSAR) government has published a Green Paper on Constitutional Development. The purpose of the Green Paper is to move towards universal suffrage in accordance with the Basic Law, by consulting with the public on the model and processes to elect the Chief Executive and form the Legislative Council. (HKSAR Government, [GREEN PAPER ON CONSTITUTIONAL DEVELOPMENT](#) (July 2007).)

(Lisa White)

THAILAND – New Constitution Approved

Thailand's proposed new Constitution was approved by 70 percent of the voters on August 19, 2007; about 60 percent of those eligible to vote went to the polls. The new document will replace the 1997 Constitution and states in its preamble that it is a "new charter to guide the ship of state into the future." This new charter was drafted following the military coup of September 2006 that brought current Interim Prime Minister Surayud Chulanont to power. He had urged voters to take part in the referendum, saying that voting was a way for the people to assert their rights and participate in determining the country's future. The new Constitution has been criticized by supporters of deposed former Prime Minister Thaksin Shinawatra; they argue that too much power has been given under it to the administrative bureaucracy and the military. A thousand red balloons were released in Bangkok by the Democratic Alliance against Dictatorship the evening before the referendum. The group was advocating rejection of the new document.

One key provision of the new Constitution is that prime ministers will be subject to a two-term limit and will be easier to impeach than they were under the previous charter. The next legislative elections are expected in December 2007, and they will take place under the new constitutional provisions. The number of seats in the House of Representatives will be reduced from 500 to 400. Of those slots, 320 will be filled by direct election and 80 by appointment from party lists. No members of the Senate will be directly elected; instead, the 150 Senators will be appointed by provisional committees composed of bureaucrats and judicial officials. (English translation of the text available at *Thailand: Newspaper Website Carries Translated Text of 2007 Draft Constitution*, THE NATION (Bangkok), Sept. 6, 2007, Open Source Center No.



SEP20070906042021; [Thailand Voters Approve New Constitution](#), JURIST NEWSBURST, Aug. 19, 2007; [Thailand Voters Approve New Constitution](#), UPI, Aug. 19, 2007.)
(Constance A. Johnson)

VENEZUELA – Constitutional Reform

On August 15, 2007, Venezuelan President Hugo Chavez presented a proposal to amend the National Constitution, which was last amended in 1999. The reform would, among other changes, eliminate current limits on the President's re-election and extend presidential terms. The presidential terms would be extended from six years to seven, with the possibility of the president being re-elected immediately for another term. Chavez also proposed ending the autonomy of Venezuela's central bank, which would give him access to the bank reserves, create new types of property that would be managed by cooperatives and establish a popular militia that would form part of the military.

Critics fear that Chavez is paving the way to remain as president for decades to come, like Cuban President Fidel Castro. Concern is growing that a Cuba-style communism in Venezuela is a step closer with this constitutional change.

Chavez, who was first elected in 1998 and re-elected to a new six-year term in December 2006, insists, however, that civil liberties will be respected. Chavez contends that during his tenure democracy has flourished and that he has always been elected through democratic elections. In 1999, shortly after Chavez was first elected, he promoted the most recent constitutional amendment, in order to end a capitalist system and install a socialist one. His political party controls the National Assembly, which is expected to approve the reform within months. The final action would require approval in a national referendum. (*Modificaciones Propuestas a la Constitución Despiertan Debate Nacional*, EL UNIVERSAL, Aug. 15, 2007.)
(Graciela Rodriguez-Ferrand)



Consumer Protection

NORTH AMERICAN FREE TRADE AGREEMENT – Unsafe Products Discussed

At the recent North American Leaders' Summit in Montebello, Quebec, unsafe imports were at the top of the agenda. The leaders of Canada, the United States, and Mexico vowed to block the import of unsafe food and other products in the wake of numerous reports of unsafe Chinese products entering the North American market in recent months. Of particular concern were children's toys. The three leaders pledged to "identify and stop unsafe food and products before they enter their countries." Steps that were discussed to achieve this end included new inspections before goods are shipped and tougher certification standards. Many of these standards are established by professional societies of engineers. Another possible step to protect consumers would be to increase penalties on importers and retailers for knowingly selling unsafe foreign products. (Bruce Campion-Smith, *Unsafe Imports Top Agenda*, THE RECORD (Kitchener-Waterloo, Ontario), Aug. 22, 2007, at A3.)
(Stephen Clarke)



Courts

CHINA – Top Court Issues First Annual Plan for Judicial Interpretations

On August 15, 2007, China's Supreme People's Court (SPC) adopted the 2007 Annual Plan for Judicial Interpretations, the first time the SPC had made a uniform plan of this kind. An SPC spokesperson expressed the view that the plan's advent symbolized a new, more standardized stage in the SPC's work of formulating judicial interpretations. The 2007 Plan covers interpretations of the Property Law and the Bankruptcy Law and related issues as well as of provisions on criminal evidence, provisions on civil execution work, and questions of retrial of civil cases. According to the Provisions of the SPC on Judicial Interpretation Work in force on April 1, 2007, the SPC should formulate a uniform plan every year before it makes judicial interpretations and implement it after it has been discussed and adopted by the SPC's Adjudication Committee (a body of about ten judges, including the court president, vice presidents, and division heads, convened to review controversial or important cases).

The SPC received more than 50 suggestions on laws and regulations meriting judicial interpretation, among which ten recommendations were put forward by state organs, social groups, and individual citizens. Two of these suggestions were chosen for inclusion in the 2007 Plan: judicial interpretations on how a contract sealed only with a fingerprint should be held by law and on whether or not village committee members who have been unlawfully recalled, suspended, or warned can file an administrative lawsuit. (Chen Yonghui, *Zuigao Fayuan shouci tongyi zhiding sifa jieshi lixiang jihua*, Aug. 15, 2007; Frank K. Upham, [Song fa xiexiang: Zhongguo jiceng sifazhidu yanjiu \(Book Review\)](#), YALE LAW JOURNAL (May 1, 2005) (reviewing ZHU SULI, SONG FA XIAXIANG: ZHONGGUO JICENG SIFAZHIDU YANJIU [SENDING LAW TO THE COUNTRYSIDE: RESEARCH ON CHINA'S BASIC-LEVEL JUDICIAL SYSTEM] (Beijing, 2000).) (Wendy Zeldin)



Criminal Law

CAMBODIA – New Penal Code

On August 10, 2007, the King of Cambodia signed into law a new Penal Code, thereby “clos[ing] the pages of the provisional UNTAC [UN Transitional Authority in Cambodia] penal code” (*Cambodian PM Launches New Penal Code, Asks Journalists to Refrain from Cursing*, KAOH SANTEPHEAP DAILY, Aug. 14, 2007, Open Source Center No. SEP20070815045002.) One new feature of the Code is that the defamation offense has been removed.

Under the former 1992 UNTAC law, defamation was punishable with a prison term and payment of damages. The Royal Government of Cambodia has reportedly decided instead to provide professional training to journalists “so that they will write thoughtfully” and be subject only to civil action if they make defamatory comments. In commenting on the removal of the offense, Prime Minister Hun Sen made an appeal to journalists, because they would no longer be imprisoned for it, “to refrain from resorting to cursing” and to accept the professional press training if their “curses” were “too vile,” adding, “if they expressed their views, they should also be responsible.” (*Id.*)
(Wendy Zeldin)

ENGLAND AND WALES – Government Loses Initial Fight for Indeterminate Sentences

The High Court of Justice of England and Wales has ruled that the British government’s method of detaining violent and sex offenders until they are deemed safe to release, through “indeterminate detention” with recommended minimum sentences, is “arbitrary, unreasonable and unlawful.” The Court found that two prisoners held under this system did not have access to adequate programs that would assist the parole board in assessing whether the prisoners were safe to release after they had served their recommended minimum sentence. The judges ruled that the lack of any

current and effective assessment of the danger [the prisoner] does or does not pose [means] his detention cannot in reason be justified. It is therefore unlawful [and the Justice Secretary] has acted unlawfully by failing to provide for measures to enable prisoners serving [indefinite] sentences to demonstrate to the Parole Board, by the end of their minimum term, that it is no longer necessary for the protection of the public for them to be confined.

Given the wide ranging implications of the ruling, the government has been granted a stay pending an urgent application for appeal. ([Prisons Lacking Parole Facilities Ruled Unlawful](#), THE INDEPENDENT (London), July 31, 2007; Nigel Morris, [Indefinite Sentences “Unlawful,” Court Rules](#), THE INDEPENDENT (London), Aug. 1, 2007.)
(Clare Feikert)



FRANCE – Law on Repeat Offenders Tightened

Law 2007-1198 of August 10, 2007, on Reinforcing the Fight Against Minor and Adult Repeat Offenders provides for automatic minimum sentences for repeat offenders higher than the minimum penalties already set forth for each offense. The courts, however, are still able to sentence a repeat offender to a lesser sentence than the automatic minimum sentence where the circumstances of the offense, the character of the offender, or the rehabilitation guarantees made by the offender justify it. The latter are guarantees that the offender gives to show that he will be able to be part of society again. The Law also stipulates that minors who are age 16 and older may be treated as adults if they have repeated one of the gravest offenses listed in the Law or where the circumstances of the offense and the offender's character justify it. (Loi 2007-1198 du 10 août 2007 renforçant la lutte contre la récidive des majeurs et des mineurs, JOURNAL OFFICIEL 13466 (Aug. 11, 2007).)

(Nicole Atwill)



Elections and Politics

AUSTRIA – Voting Age

On June 29, 2007, Austria lowered the voting age from 18 to 16 and the age of eligibility to stand for elections from 19 to 18. This was accomplished by amending various articles of the Federal Constitution that relate to elections (Bundes-Verfassungsgesetz, BUNDESGESETZBLATT [BGBl] No. 1/1030, as amended by Änderung des Bundes-Verfassungsgesetzes, BGBl No. 27/2007) and by amending the federal voting acts for elections of parliament, presidential elections, European Union elections, and several forms of referenda (Wahlrechtsänderungsgesetz 2007, BGBl No. 28/2007). This reform of voting law also introduced absentee ballots for Austrians residing in Austria. Formerly, only Austrians residing abroad could use absentee ballots.

(Edith Palmer)

BANGLADESH - Bangladesh President's Term in Office Continues

The five-year term of Bangladesh's President Iajuddin Ahmed, who was elected by the Parliament in 2002, would have ended on September 5, 2007. However, Parliament was dissolved in October 2006, and new elections were postponed. The Bangladesh Constitution provides that members of Parliament must form an electoral college to choose a new president. Following article 50(1) of the Constitution, President Iajuddin will continue to hold office until a newly-elected president is appointed by a new Parliament.

Under the Constitution, the president's duties are mostly ceremonial. Typically, an interim administration, headed by a former chief justice, would assume authority from an outgoing elected government in order to conduct new elections. However, the former chief justice, K.M. Hasan, declined to take the position allowing for President Ahmed to remain in office. In January 2007, President Ahmed handed power to a military-backed interim government and the new elections were postponed. The Bangladesh Election Commission has announced that new elections will be held after a new voter list is completed, which is expected by the end of 2008. ([Bangladesh President's Term Will Continue Until Successor Chosen, Government Says](#), INTERNATIONAL HERALD TRIBUNE, September 5, 2007.)

(Shameema Rahman)

EGYPT – Twenty Brotherhood Members Arrested

On August 17, 2007, Egyptian police broke into a meeting of the Brotherhood organization and arrested 20 senior members, including Essam al-Erian, chief of the political department, a member of the organization has said. Most of the members arrested are from Cairo but some are from distant provinces. The Brotherhood organization, whose members hold one fifth of the seats in the Egyptian Parliament, is banned and not legally recognized. ([Twenty Brotherhood Members Arrested](#), AL JAZEERA, Aug. 17, 2007.)

(Issam Saliba)



INDIA – Supreme Court Warns Election Commission on Overstepping Mandate

The Supreme Court of India warned the Election Commission (EC) not to overstep its powers in the future when it notifies reserved constituencies of a state. The Court stated that the EC panel must confine itself to the mandate of the Constitution. The EC admitted its mistake.

Under article 332(3) of the law relating to delimitation of constituencies, the number of seats for parliamentary or state assembly seats to be reserved for Scheduled Castes (SC) and Scheduled Tribes (ST) must be fixed in proportion to their population in the given state. In the State of Uttarkhand in 2001 general elections, the EC, in view of the ST's constituting 2.1% of the total population, issued a notification mistakenly reserving three seats for them in a state assembly of 70 seats, instead of two.

In its response to the Court's warning, the EC, despite acknowledging its mistake, justified its decision on the ground that it was based on special requirements of development of tribal areas. It also stated that there was a strong demand for increased representation of tribal people.

Lambasting the EC for taking unto itself powers that it was not entrusted with, the apex court said: "it should be made clear that the mandate of Article 332 (3) should always be kept in mind. The article mandates that the reservation must be made in proportion to the population of the SCs and STs in the state." (S. S. Negi, [Don't Cross the Line, SC Tells Poll Panel](#), THE TRIBUNE, Aug. 14, 2007.)
(Krishan Nehra)

JORDAN – King Dissolves Parliament

King Abdullah bin al-Hussein of Jordan issued two decrees recently, one dissolving the parliament as of August 20, 2007, and the second ordering an early election for parliamentary seats. The King's decision settled an open crisis between the government and the Islamist movement that had flared for the last month. Reliable sources indicate that the election would be held before the end of November 2007. The Council of Ministers is responsible, under the Constitution, for setting the date for the election. The Islamist movement, which boycotted the last municipal elections at the end of July, has not declared a position regarding the parliamentary election. (*King Dissolves Parliament*, AL-NAHAR, Aug. 20, 2007.)
(Issam Saliba)

NEPAL – Constituent Assembly Elections Court Bill

Nepal's interim parliament passed the Constituent Assembly Elections Court Bill 2064 on August 16, 2007. It was the final bill pending passage in connection with the Constituent Assembly polls. Among other stipulations, the bill provides for the establishment of a court to examine and investigate contentious issues during the polls. The court, headed by a Supreme Court justice and having two members nominated by the Judicial Council, will also have the authority to invalidate the elections if any irregularities are found during the polling process.



The Constituent Assembly Court's verdict in a case is final, the bill stipulates. ([Parliament Passes CA Polls Court Bill](#), EKANTIPUR.COM, Aug. 17, 2007.)
(Wendy Zeldin)

PAKISTAN – Former PM in Exile Petitions SC for Permission to Return

Former Prime Minister of Pakistan Nawaz Sharif and his brother, Shahbaz Sharif, the former Chief Minister of Punjab, filed petitions in the Supreme Court of Pakistan for permission to be allowed to return to their country to participate in the upcoming general election. The bench, comprising Chief Justice Iftikhar Muhammad Chaudhry and Justice M. Javed Buttar, took up the petitions on August 9, 2007, when the Court noticed that its earlier order of May 11, 2004, allowing the relief sought by Shahbaz Sharif, still held. Therefore, it issued a notice to Attorney-General Malik Mohammad Qayyum and the Advocates-General of the four provinces to answer the issues in the petitions on August 16, 2007.

Counsel for the petitioners stated that his clients are citizens of Pakistan and that they were coming back for a lawful purpose, to participate in the election. Fakhruddin G. Ebrahim, Senior Advocate representing the petitioners, also stated that when Shahbaz Sharif tried to return to Pakistan in 2004 he was forcibly flown back to Saudi Arabia in a special aircraft.

Citing article 190 of Pakistan's Constitution, which binds the executive authorities to come to the aid of the Supreme Court in implementing its orders, the Chief Justice inquired as to "the person who was not implementing the Court's judgment," harshly condemning the failure to do so, and further inquired if the petitioner had taken action against non-compliance with the court order. Counsel responded that although his client had approached the Lahore High Court, the petition had still not been listed for a hearing. (Nasir Iqbal, [Sharifs' Plea: SC Serves Notices on Officials](#), THE DAWN, Aug. 10, 2007.)
(Krishan Nehra)



Employment

CANADA/MEXICO – Agreement to Create Working Group on Labor Mobility

In 2004, the governments of Canada and Mexico created the Canada-Mexico Partnership to enhance opportunities for economic development through a number of working groups. At the Montebello summit held in Quebec at the end of August 2007, Canadian Prime Minister Stephen Harper and Mexican President Felipe Calderon agreed to create two more working groups, on the environment and on labor mobility. The latter was of particular concern to both parties. Canada's unemployment rate is at a record 30-year low and there are labor shortages in many areas of the country and in many sectors of the economy. Mexico has urged Canada to expand its Seasonal Agricultural Workers Program (SAWP) for Mexican workers and to allow other temporary workers to take available jobs in Canada. Under the SAWP program, the participating countries select workers who are then put on a list of persons Canadian agricultural producers can employ. The country supplying the seasonal workers is responsible on the one hand for monitoring their return and on the other has rights to send inspectors to visit them in Canada to ensure that their working conditions are safe and healthy.

However, the Declaration Between the Government of Canada and the Government of the United Mexican States with Respect to the Creation of a Working Group on Labor Mobility is not limited to agricultural workers. The Working Group is charged with the responsibility of improving the parties' understanding of each other's laws, policies, programs, and procedures relating to all types of temporary workers. As part of this process, the Working Group will study the issue of skills certification to make it easier for Mexican workers to have their credentials recognized in Canada. Within Canada, most professions are governed by provincial legislation or bodies. Thus, the Government of Canada will have to work with its provinces to secure uniform national cooperation in this international initiative. The Working Group will also study the possibility of expanding Canada's Temporary Foreign Worker Program. This is a pilot project for occupations requiring a low level of foreign training.

The Declaration is a statement of intent that is not designed to create legally binding obligations. Nevertheless, it is seen as an important step forward in the development of the Canada-Mexico Partnership. (*Canada, Mexico Issue Declaration of Intent to Create Labor Mobility Work Group*, Ministry of Foreign Affairs and International Trade (Ottawa) Web site, Aug. 22, 2007, Open Source Center No. LAP20070822068003.)
(Stephen F. Clarke)

FRANCE – New Law on Work, Employment, and Spending Power

Law 2007-1223 of August 21, 2007, on Work, Employment and Spending Power entered into force on August 23, 2007, after its publication in the JOURNAL OFFICIEL, France's official gazette. The Law is a first step in fulfilling President Nicolas Sarkozy's pledges to give a boost to the economy and increase spending power. The Law includes the following main measures:



- Overtime hours: starting October 1, 2007, overtime hours worked by private or public sector employees (including managers and part-time workers) will be exempt from income tax. In addition, employees and employers will pay lower social security contributions on overtime hours.
- Tax break for student workers: students under the age of 25 who work while studying are exempt from income tax for earnings up to three times the minimum monthly wage.
- Tax relief for homeowners: homeowners can claim a tax credit of 20% of the amount of the annual mortgage interest, capped at €3,750 (about US\$5,058) for a single person and at €7,500 for a couple plus €500 (about US\$674) per dependent child. These amounts are doubled for disabled persons.
- Inheritance rights: inheritance tax has been abolished on assets bequeathed to surviving spouses or civil partners. The tax exemption for children has been tripled to €150,000 (about US\$202,324 per child).
- Direct tax ceiling: the direct tax ceiling (including income tax, wealth tax, land and property taxes, and some social security contributions) has been lowered to 50% from 60%.
- Tax relief on investments in small- and medium-sized companies: investors can offset 75% of amounts invested in small- and medium-sized companies up to a maximum of €50,000 against their liability to wealth tax. The same rule applies to donations to organizations that are deemed to provide a public benefit.

(Loi N° 2007-1223 du 21 août 2007 en faveur du travail, de l'emploi et du pouvoir d'achat, JOURNAL OFFICIEL 13945 (Aug. 22, 2007).)
(Nicole Atwill)



Energy

MEXICO/UNITED STATES/CANADA – Agreement on Energy Security and the Environment

On July 23, 2007, the energy secretaries for Canada, Mexico, and the United States reached an agreement aimed at enhancing North American energy security and environmental protection and announced concrete actions on energy science and technology, energy efficiency, deployment of clean energy technologies, and other cooperative projects. The North American energy ministers met in Canada, where Gary Lunn, Canada's Minister of Natural Resources, hosted his counterparts Georgina Kessel, Secretary of Energy for Mexico, and U.S. Secretary of Energy Samuel W. Bodman.

The ministers endorsed a trilateral agreement on energy science and technology – a framework created to foster innovation and to share and build capacity in the three countries. The ministers also committed to further align energy-efficiency standards on certain consumer products, indicating that recent collaborative efforts resulted in the harmonization of energy performance standards for refrigerators, air conditioners, and large electric motors.

In addition, they agreed to strengthen trilateral cooperation regarding motor vehicle fuel efficiency and “standby power” consumption and identified seven additional energy-using products as potential candidates for harmonization. As for “standby power” – the electricity utilized by products such as televisions, computers, and other equipment when not in use – the ministers committed to support a trilateral workshop that will take place in Mexico City in September to explore joint approaches on this topic.

The ministers stated that they will continue working together in order to identify specific ways to increase cooperation on research and development and to reduce barriers to the deployment of new technologies in several areas, including clean coal, biofuels, hydrogen, gas hydrates, carbon capture and storage, and electricity transmission. To support these efforts, the three countries will exchange technical and scientific personnel to work on joint projects and studies. (Press Release, Secretary of Energy, Boletín 013.2007 (July 23, 2007).)
(Gustavo Guerra)



Environment

BRAZIL – End of Plastic Bag Use in Rio

The government of the State of Rio de Janeiro in Brazil has proposed a law to the Legislative Assembly that would prohibit the free distribution of plastic bags to consumers and make mandatory the gradual replacement of the currently used plastic bags by bags made of plastic products fabricated of biodegradable material. The draft law is designed to avoid the degradation of the environment, the occurrence of floods, and the killing of fish and to reduce the annual expenses of the state agency responsible for the protection of rivers, channels, and lagoons (*SERLA – Fundação Superintendência Estadual de Rios e Lagoas*).

Rogério Mani, President of the Brazilian Association of the Industry of Flexible Plastic Packaging (*Associação Brasileira da Indústria de Embalagens Plásticas Flexíveis*), was quoted as saying that many laws like this have been proposed by many cities and states, but they rarely become law. (*Governo Estadual Quer Proibir Consumo de Sacolas Plásticas*, O GLOBO (O)NLINE, July 25, 2007.)
(Eduardo Soares)

JAPAN – Eco-Tourism Promotion Law

To promote tourism, support the local tourism industry, protect nature, and give tourists environmental education, Japan enacted the Eco-Tourism Promotion Law on June 25, 2007. Municipal governments may have eco-tourism plans and implement measures to promote eco-tourism and to protect resources for eco-tourism. The national government is to promote the eco-tourism encouraged by the qualified municipal governments. (*Eko tsūrizumu suishin hō* [Eco-Tourism Promotion Law], Ministry of Environment Web site.)
(Sayuri Umeda)

UNITED STATES – Court Orders U.S. Government to Assess Global Climate Change

On August 21, a U.S. District Judge ordered the Federal Government to comply with a statute that requires it to periodically prepare a National Global Change Research Plan and a scientific assessment of global climate change.

The Global Change Research Act of 1990 (GCRA) requires the Federal Government to submit to Congress at least once every three years a research plan containing recommendations, goals and priorities for Federal global climate change research. The GCRA also requires the Government to submit a scientific assessment of global climate change at least every four years. The last research plan was issued July 2003, and the last scientific assessment was submitted in November 2000.

Several environmental groups sued in the U.S. District Court for the Northern District of California for injunctive relief to compel named Federal officials and agencies to comply with



the GCRA. The defendants moved to dismiss the case, arguing that the plaintiffs lacked the necessary personalized injury to give them standing to bring this action, and on the merits moved for summary judgment, arguing the court should defer to their views on the manner in which they produce the research plan and scientific assessment. The court found that the plaintiffs had standing resulting from their “procedural injury” in not being granted an opportunity to comment on the research plan and the scientific assessment, and from their “informational injury” resulting from the agencies’ failure to disseminate the reports. On the merits, the court rejected the agencies’ argument that their views on how to comply with the GCRA’s requirements were entitled to deference, noting that the law’s deadlines for compliance were unambiguous and left no room for agency interpretation. The court ruled that injunctive relief was warranted. It ordered the defendants to publish a summary of a revised research plan in the Federal Register no later than March 1, 2008, and, following a period for public comment, to submit a revised research plan to Congress no later than 90 days thereafter. It ordered the defendants to produce a scientific assessment by May 31, 2008. ([*Center for Biological Diversity v. Brennan*](#), No. C 06-7062 (N.D. Cal. August 21, 2007).)
(Luis Acosta)



Export Controls

ISRAEL – Defense Export Supervision

On July 17, 2007, the Knesset (Israel's parliament) passed the Defense Export Supervision Law, 5767-2007. The Law is designed to regulate state supervision of the export of defense equipment and know-how and of the provision of defense services for reasons of national security, foreign relations, international obligations, and other essential state interests. According to U.S. officials, the new Law and its stringent provisions are:

aimed, in large part, to assuage U.S. concerns about laxities and loopholes that precipitated a crisis of confidence between the two governments over suspected transfers to China and other end-users potentially hostile to U.S. security interests. In addition to traditional defense exports, the Law covers dual-use items as well as intellectual property and other intangible, so-called deemed exports that Washington claimed were insufficiently covered under prior regulations and statutes.

(Barbara Opall-Rome, [Israel Passes New Export Control Law](#), DEFENSENEWS.COM.)

Among other provisions, the Law requires Israel's Ministry of Defense (MoD) to maintain a frequently updated registry of certified exporters, including brokers who reside in Israel but trade in non-Israeli-origin items or services. The Law also grants oversight responsibility to Israel's Foreign Ministry, whose representatives are to work in full partnership with the MoD on all stages of the export licensing review process. The Law authorizes Israel's new Export Control Division to impose heavy fines and other penalties on exporters suspected of violating provisions of the new code, including those pertaining to sales to countries under U.N. embargo. (*Id.*; Defense Export Supervision Law, 5767-2007, the Knesset Web site.)
(Ruth Levush)



Family

BRAZIL – No More Judicial Separation

On August 2, 2007, the Commission of Constitution and Justice of the Brazilian Chamber of Deputies approved a proposal made by Federal Deputy Sérgio Carneiro for a constitutional amendment that would eliminate the need for the two separate acts to end a marriage, a judicial separation and the divorce. According to the proposal, marriage would be directly dissolved by a divorce. Under current legislation, a divorce is only possible after a couple has been judicially separated for one year or separated de facto for more than two years. If approved by the Chamber of Deputies, the proposal will be voted on by the Federal Senate. (Isabel Braga, *CCJ Aprova Fim da Separação Judicial na Lei*, O GLOBO (O)NLINE, Aug. 8, 2007.) (Eduardo Soares)



Freedom of Information

NEPAL – Freedom of Information Bill

On July 18, 2007, Nepal's interim parliament passed a bill on the right to information. Under it, a citizen is entitled to obtain within 15 days any type of information from a particular government office, public office, or corporation. Government employees who destroy information, refuse to furnish it, or provide false information will be subject to a fine. The new legislation also mandates the establishment of a National Information Committee to secure people's right to information. (*Nepal Parliament Passes 'Right to Information' Bill*, EKANTIPUR.COM, July 18, 2007, Open Source Center No. SAP20070718950018.)

(Wendy Zeldin)



Freedom of the Press

GUINEA – Defamation Conviction for Journalists

On August 13, 2007, a court in Kaloum, Guinea, imposed heavy fines and six-month suspended prison sentences on Thiernodjo Diallo, managing editor of the weekly LA VÉRITÉ, and Aziz Camara, managing editor of the weekly LIBÉRATION, on charges of libeling former public works and transport minister Bahna Sidibé in articles published in March and April 2007. The newspapers claimed that Sidibé had embezzled about GNF one billion francs (about US\$261,000) in public funds. The court fined both newspapers GNF50 million (about US\$13,000), ordered them to pay 1 million francs for court costs, and ruled that they pay for publication of the verdict in three other privately-owned weeklies.

In the view of Reporters Without Borders (RWB), an international non-profit organization that defends imprisoned journalists, gives impoverished journalists financial support, and conducts research on abuses of press freedom,

[t]hese sentences could not only end up silencing these newspapers and their editors, they are also contrary to international press freedom standards. ... By persisting in having defamation cases tried as crimes, Guinea is exposing itself to the condemnation of press freedom activists. To modernise the country properly, the government must reform its legislation so that the courts can issue appropriate decisions and not be suspected of bias.

(Press Release, RWB, [*Heavy Fines and Suspended Prison Sentences for Two Newspaper Editors for Libelling Former Minister*](#) (Aug. 16, 2007).) The defendants have appealed against the verdict on the grounds that the court was pressured to rule against them. A Guinean journalist reportedly told RWB “these are the severest sentences to be imposed on privately-owned news media since the introduction of a multi-party political system in 1993.” (*Id.*) (Wendy Zeldin)

KENYA – Media Bill Sent Back to Parliament

The media in Kenya were said to have won a major victory on August 22, 2007, when President Emilio Mwai Kibaki rejected a clause in a bill on the media that would have forced editors to reveal their confidential sources in courts of law. Journalists from a number of media organizations had held protest marches in Nairobi and Nakuru urging the President to reject the bill.

The President described the provision as “offensive and a threat to democracy” and returned the bill to Parliament for deletion of the clause. It read: “[w]hen a story includes unnamed parties who are not disclosed and the same becomes the subject of a legal tussle as to who is meant, then the editor shall be obligated to disclose the identity of the party or parties referred to.” Kibaki was quoted as saying that the clause was “ambiguous and likely to cause



problems in its interpretation” because the term ‘unnamed parties’ was not “qualified or restricted.” He stated: “The meaning ... can be construed to include subjects of a story as well as sources of information. This could act as a great inhibition of Press [sic] freedom and undermine the democratic strides we have made as a nation.” (Patrick Nzioka, *Kenyan Leader Refuses to Assent to Media Bill*, DAILY NATION (Nairobi), Aug. 23, 2007, Open Source Center No. AFP20070824950005.)

Under Section 46(3) and (4) of the Kenyan Constitution, the President has the power to refuse giving his assent to a bill. The legislators can either delete the clause or reject the President’s proposed change if 65 percent (145 Members) vote against it. The standing orders of Parliament do not permit opening debate on a matter that has been concluded, and so the MPs can only address the specific clause concerned and not any other part of the bill. It seems, moreover, that other controversial parts of the bill, such as the authority it gives to the Internal Security Minister to seize broadcasting stations in emergency situations, remain in place (*see* 8 W.L.B. 2007).

(Wendy Zeldin)

SRI LANKA – Court Extends Restraints on Newspapers

On August 15, 2007, the district judge in Sri Lanka’s capital city of Colombo, Sisira Ratnayake, extended an order enjoining the Standard Newspapers Company and its agents or employees from establishing a head office of the Mahajana wing of the Sri Lanka Freedom Party and from conducting any political activity on the premises of the newspaper company. In addition, the district court ordered that any objections or responses to the decision be filed on October 16, 2007. (*Enjoining Order on Standard Newspapers Extended*, DAILY NEWS, Aug. 16, 2007.)

The non-governmental group Human Rights Watch has criticized the Sri Lankan authorities, denouncing the use of anti-terrorism legislation to shut down critical media. The Standard Newspaper Company’s spokesman and financial director, Dushantha Basnayake, was arrested on February 27, 2007, under the Prevention of Terrorism Act, which allows security forces to detain individuals for up to 12 months. Basnavake has been held without charge since his arrest. In addition, company assets were frozen in March 2007, and the two newspapers owned by the company ceased publication within weeks. ([Sri Lanka: Antiterrorism Laws Used to Muzzle the Press](#), HUMAN RIGHTS WATCH, Apr. 12, 2007.)

(Constance A. Johnson)



Government Employees

BRAZIL – Rio de Janeiro Approves Quota System for Public Service Jobs

On August 15, 2007, the Legislative Assembly of the State of Rio de Janeiro in Brazil approved on the first vote a proposed law that creates a system of quotas for entry into the state public service system. The system reserves 45 percent of the positions available in the Schools of Military Police and Firefighters to students coming from public schools, handicapped persons, members of ethnic minority groups, and the children of police, penitentiary guards, and firefighters killed in the line of duty.

In contrast to a university quota system that reserves places for minorities but after graduation the quota student must enter the market place and compete with other professionals to secure a position, the state quota system guarantees to the beneficiary of the system a public service position. The proposed law has yet to be voted on a second time and is the target of heavy criticism. (*Alerj Aprova em Primeira Votação Cotas para PM e Corpo de Bombeiros*, O GLOBO (O)NLINE, Aug. 15, 2007.)
(Eduardo Soares)



Government Ethics

BANGLADESH – Former Prime Minister Khaleda Zia Arrested

On September 3, 2007, police arrested former Prime Minister Khaleda Zia and her son, Arafat Rahman Coco, on charges of corruption and misuse of power. Zia and Arafat were taken to police custody from their home in Dhaka hours after a case was filed by an anti-corruption official against them. Zia's five-year term as Prime Minister ended in October 2006. She has been accused of misusing her power while in office by awarding contracts to a company without following standard procedure. Her son Coco allegedly influenced his mother to approve the deal.

Currently, Zia and Sheikh Hasina, who have rotated as prime ministers over the last 15 years, are both behind bars. If convicted, they are likely to be barred from participating in the next election. ([Khaleda Arrested for Graft](#), THE TELEGRAPH (Calcutta), September 3, 2007.) (Shameema Rahman)



Government Organization

MALDIVES – Presidential System of Government

On August 19, 2007, the President of Maldives, Maumoon Abdul Gayoom, Asia's longest serving ruler, won a landslide victory in a referendum to decide the island's form of government. The choice was between the parliamentary type, a British model, and the American model of a presidential system.

Gayoom's political party, the Dhivehi Rayyithunge Party (DPP), had campaigned for adopting the presidential system; the opposition, the Maldivian Democratic Party (MDP), was in favor of the parliamentary model. Out of an electorate of 193,000, just over 150,000 Maldivians voted. The DPP won the referendum with 62 percent of the ballots.

Critics say, however, that Gayoom has been stalling on the introduction of a raft of democratic reforms that he pledged to undertake in late 2004 to revamp the power structure in the face of harsh criticism of the government's human rights record. ([Maldives President Wins Landmark Referendum](#), THE DAWN, Aug. 20, 2007.)
(Krishan Nehra)



Health

ENGLAND AND WALES – Animal Rights in Medical Experimentations

In what can be considered a minor victory for both the Home Office and an animal rights group, a British judge has ruled that an “adverse effect” on an animal that occurs during a regulated procedure for animal research does not cover the death of the animal and thus such deaths are not a factor when granting a license for such a procedure. The judge ruled that the adverse effect is the pain and suffering that the animal may experience before death, and under the Animals (Scientific Procedures) Act 1986, this adverse effect must be balanced against the benefit likely to be obtained from the research. In the same judgment, it was held that the government was “failing in its duty to ensure that animal suffering was kept to a minimum in British laboratories” by acting unlawfully in licensing invasive brain experiments on animals on the basis that only moderate suffering would occur. Guidelines require that any procedure that “may lead to a major departure from the animal’s usual state of health and wellbeing” must be categorized as “substantial.” ([Regina \(British Union for the Abolition of Vivisection\) v Secretary of State for the Home Department TLR 2007](#),; Animals (Scientific Procedures) Act 1986, c. 14; Mike Taylor, [Victory for Animal Rights Group Against Testing](#), THE INDEPENDENT (London), July 28, 2007.)
(Clare Feikert)

ISRAEL – Umbilical Cord Blood

On July 25, 2007, the Knesset (Israel’s parliament) passed the Umbilical Cord Blood Law, 5767-2007. The Law regulates the collection and handling of such blood. It requires a special license for the establishment and operation of any umbilical cord blood (UCB) bank to be provided by the general manager of the Ministry of Health or his designee. The Law authorizes that official to avoid the grant of a license based on considerations such as the perceived lack of need for an additional bank in view of population needs, the projected expenses of operating a UCB bank, and their impact on national and public health expenses.

The Law further regulates the preservation of UCB not donated for public or health research needs. Such preservation may be authorized if the UCB is intended for implantation of stem cells in a particular patient whose identity is known at the time the UCB was collected, if an expert doctor determined that treatment of the patient requires such implantation, and if the newborn whose UCB was collected at birth is first of kin to the patient. The Law also regulates partial public funding allotted for the handling of a limited number of UCB portions. (Umbilical Cord Blood Law, 5767-2007 and 2005 bill, the Knesset Web site.)
(Ruth Levush)

RUSSIAN FEDERATION – Narcotics Law Amended to Permit Reprocessing

According to the Moscow-based publication *MEDITSINSKAYA GAZETA*, in July 2007 the State Duma (parliament) of the Russian Federation amended legislation including the Law on Narcotic and Psychotropic Substances. Under the revisions, the reprocessing of illegal narcotics into



medication will be permitted and specialized state enterprises will be allowed to create analytical samples of narcotic and/or psychotropic substances for use in scientific research. The reform also changes rules on certification of laboratories devoted to chemical toxicology, to permit them to work with narcotics. (*Russian Law Allows Reprocessing of Seized Narcotics into Medications*, 50 MEDITSINSKAYA GAZETA (July 11, 2007), Open Source Center No. CEP20070824346001.)
(Constance A. Johnson)

SWAZILAND – New Health Policy

During the week of August 6, 2007, the Government of Swaziland unveiled a new National Health Policy, the absence of which, in the view of Health Minister Njabulo Mabuza, can be blamed for Swaziland's failure to curb the spread of HIV/AIDS and for the deterioration of the country's health services. In setting the end of September as the deadline for delivery of computers, additional staff, and facilities, Prime Minister Themba Dlamini surprised government critics, who have complained of the government's lack of urgency in the face of the national health emergency. The media, in a steady stream of stories, have depicted

understaffed and disintegrating clinics and hospitals, where patients lie on the floor, terminal patients are discharged into the care of their families without receiving treatment, endless queues of patients await drugs that are in short supply or nonexistent, and demoralised nurses fail to cope with exploding case loads brought on by worsening poverty and an expanding AIDS epidemic.

([*New Health Policy Gets Mixed Response*](#), UN INTEGRATED REGIONAL INFORMATION NETWORK, Aug. 15, 2007.) The new document defines the policy towards patients in human rights terms: “[i]n the provision of health services, all professionals shall observe and protect the basic rights of clients as provided by the Bill of Rights in the Constitution” (*id.*). However, acknowledging limitations in service delivery, it sets 2015 as the target for significantly improved healthcare in Swaziland. Under the new policy, the World Health Organization's Essential Drugs List is established as the benchmark for all dispensers of drugs in the country.
(Wendy Zeldin)

TAIWAN – Proposal to Lower Legal Blood Alcohol Level

Taiwan's Ministry of Transportation and Communications recently approved a proposal by the National Police Agency (NPA) to lower the legal blood-alcohol level from the current 0.25 milligrams to 0.15 milligrams (reportedly equivalent to two beers or 100 c.c. of red wine). The new level will be enforced once the Road Traffic Safety Rules are revised in September 2007.

The NPA proposal also raises the punishment for drunk driving from NT\$30,000-\$60,000 (about US\$909-\$1,818) to NT\$30,000-\$90,000, adds a penalty of an NT\$90,000 fine and revocation of the driver's license for drunk drivers who refuse an inspection and flee the



scene, and imposes a one-month suspension of the driver's license for persons convicted of a second drunk-driving offense. The main impetus for the NPA proposal was an increased number of deaths caused by drunk driving. (*New Law Lowers Legal Blood Alcohol Level to 0.15 Milligrams*, THE CHINA POST, Aug. 13, 2007.)
(Wendy Zeldin)



Human Rights

ASEAN – Human Rights Commission Provision in First Charter

On July 30, 2007, foreign ministers attending the annual meeting of the Association of Southeast Asian Nations (ASEAN), in Manila, agreed to include a provision on the establishment of a regional human rights commission in the draft of ASEAN's first-ever charter. The ten-member group overcame "fierce resistance" from Burma to reach consensus on the issue. According to Singapore's Foreign Minister, George Yeo, details of the provision have yet to be settled, but the foreign ministers hope to have them worked out by November, when ASEAN leaders will meet to ratify the charter. (Jim Gomez, [Associated Press: ASEAN Agrees on Human Rights Commission](#), BurmaNet News, July 30, 2007.)

Adoption of the charter is viewed as a significant milestone in making ASEAN "a more rules-based organization similar to the European Union"; it would confer on ASEAN a legal identity for purposes of international negotiations and transactions. The draft document incorporates a ten-year-old treaty banning nuclear weapons in Southeast Asia and calls for the promotion of free trade and economic integration, among other provisions. (Nancy-Amelia Collins, [ASEAN Charter to Include Human Rights Commission](#), VOANEWS.COM, July 30, 2007.) (Wendy Zeldin)

MAURITANIA – Anti-Slavery Law Passed

The Parliament of Mauritania has passed a law criminalizing slavery. Under the legislation, a sanction of ten years of imprisonment will be applied to slave owners. In addition, lesser penalties will apply to officials who ignore the practice. The law was announced on August 9, 2007, by Messaoud Ould Boulkheir, a descendant of freed slaves who is now speaker of the National Assembly. The bill had been approved in draft form by the Council of Ministers in June (see 7 W.L.B. 2007).

Human rights groups have estimated that hundreds of thousands of Mauritians are enslaved, despite a 1981 government decree instituting a ban. The majority of the slaves are at work either herding camels or goats or in the food service industry in Noukchott, the capital city. The president of the advocacy group SOS Slave said of the new law, "[t]his move is a good thing. It is the expression of a new political will. Slavery is a horror which has developed because of impunity. If we develop a zero tolerance, that would be a good thing. One law is not enough to eradicate it." ([Mauritania's Parliament Passes Law Banning Slavery](#), Reuters, Aug. 9, 2007.)

(Constance A. Johnson)

NIGERIA/UNITED STATES – Chevron Nigeria Ltd. to Stand Trial

In a series of rulings issued on August 15, 2007, a United States District Court judge in San Francisco held that Chevron Nigeria Ltd. (CNL) was directly involved in the alleged murder of villagers in the Niger Delta region, in two separate incidents in 1998 and 1999, by having



acted in concert with security forces of the Nigerian government. The lawsuit was filed eight years ago by nine Nigerian plaintiffs who claimed that the incidents resulted in abuses ranging from torture to wrongful death. It has been alleged that Chevron committed a crime by paying Nigerian military and police forces to shoot and torture protesters opposed to the company's activities in the Niger Delta. Judge Susan Illston reportedly "found evidence that CNL ... personnel were directly involved in the attacks; CNL transported the GSF [Nigerian government security forces], CNL paid the GSF; and CNL knew that GSF were prone to use excessive force." (Constance Ikoiku, [Chevron to Face Trial in US over Nigeria Killings](#), THIS DAY, (Lagos), Aug. 16, 2007.)

In the view of the Litigation Co-ordinator for EarthRights International, Rick Herz, "the court's ruling reaffirmed that corporations who are complicit in human rights abuses can be held accountable, regardless of where those abuses occur." The trial of the case, *Bowoto v. Chevron Corp.*, No 99-2506, is expected to occur within the year. (*Id.*)
(Wendy Zeldin)



Immigration

NEPAL – Non-Resident Nepali Bill

Nepal's interim parliament passed a bill on August 12, 2007, on non-resident Nepalis (NRN). Although the NRN Association hailed the bill's passage, it stated in a press release issued on August 16 that some of the provisions "could not embrace the complete spirit of the NRN." In particular, the organization stated that it did not understand why there is a provision requiring residence in a foreign country for at least two years before an individual would be granted NRN status. The Association has consistently stressed that individuals should be granted NRN status if they reside for at least six months in a foreign country. The Association also objected to a provision in the bill that excludes Nepali students residing in foreign countries to pursue their studies from being granted NRN status. In addition, the Association urged the government to clarify several of the bill's provisions before it is enacted. ([NRN Hails NRN Bill, Points Out Slips in Provisions](#), EKANTIPUR.COM, Aug. 16, 2007.)
(Wendy Zeldin)



International Relations

JAPAN/KOREA, NORTH – Taxation of General Association of (North) Korean Residents

The Tokyo District Court affirmed on July 20, 2007, the Tokyo Metropolitan Government decision that the land and building owned by the General Association of (North) Korean Residents are subject to fixed-asset tax. To be exempted from the tax, the property needs to be regarded as being used by a consular office or for the public, among other factors. Although the court admitted that the Association's power to issue North Korean passports plays a consular office function, in other respects the Association does not have any basis to claim it is regarded as a consular office. Nor has the building been available for public use. The Association claimed: "[i]t is an outrageous act quite contrary to international law and international practice for the Abe government and judicial authorities to negate and suppress the activities of Chongryon [the Association]...." The North Korean Central News Agency supported this view by calling the judgment "unjust." (*Chōsen sōren honbu e no to no kazei wa "tekihō" [Metropolitan government's taxation on the General Association headquarters was "legal"]*, ASAHI NEWSPAPER, July 20, 2007; [Tokyo District Court's Unjust Decision Protested](#), KOREAN CENTRAL NEWS AGENCY OF DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA, July 23, 2007.)

(Sayuri Umeda)

UNITED NATIONS/CENTRAL AFRICA – Rule of Law Training Planned for Chad, Central African Republic

Following an assessment mission to the area, United Nations Secretary General Ban Ki-moon has recently sent a report to the Security Council, proposing plans for a U.N. project in eastern Chad and northeastern Central African Republic (CAR), two troubled regions. The plan would include a European Union military force and a U.N. police and civilian training initiative.

Both Chad and the CAR have been affected by population displacement due to fighting between rebel and government forces. In February 2007, Ban had proposed a U.N. military force, but the leaders in Chad rejected the proposal. The new plan, under which the European Union would have a military presence to protect civilians and provide humanitarian assistance, has been approved in principle by Idriss Déby, Chad's president. The EU forces would be in the region for a minimum of 12 months. The U.N. would provide civilian personnel to train Chadian police, who are charged with maintaining order in refugee camps. The training would cover civil affairs, human rights, and the rule of law; the U.N. personnel would have a headquarters in Chad's capital, N'Djamena.

Ban has said that the humanitarian situation in the two countries has not improved in recent months. The estimate is that 400,000 refugees and internally displaced persons are in need of assistance, and 700,000 local residents are also affected by the crisis. ([Central Africa: Ban Ki-Moon Alters Plans for UN Presence in Chad, Central African Republic](#), UN NEWS SERVICE, Aug. 16, 2007.) In a further complication of the situation, according to the U.N. High



Commissioner for Refugees, about 30,000 Chadians have fled from violence in their country and become refugees in western Sudan. ([Sudan: Give Chadian Arrivals Refugee Status, Govt Urged](#), UN NEWS SERVICE, Aug. 9, 2007.)
(Constance A. Johnson)



Justice

BRAZIL – President to Nominate Seventh Supreme Court Justice

Brazilian President Luiz Inácio Lula da Silva will have the opportunity to nominate a justice of the Federal Supreme Court for the seventh time, due to the retirement of Justice Sepúlveda Pertence. It will be the first time in Brazil's history that a president will have had that kind of opportunity and means that Lula will be the first president to have appointed two-thirds of the members of the highest court in Brazil. (Miriam Leitão, *Pertence Sai do STF. Lula Nomeará Sétimo Ministro*, O GLOBO (ONLINE), Aug. 16, 2007.) (Eduardo Soares)

CANADA – Chief Justice Decries High Legal Costs

Canada's Chief Justice recently spoke out on the rising costs of legal services in Canada and reportedly called access to justice a "basic right." ([Canada Chief Justice Decries High Costs of Access to Justice](#), JURIST, Aug. 12, 2007.) However, the Supreme Court of Canada ruled in May 2007 that there is no absolute constitutional right to legal services in Canada. The case that led to this finding by the Court centered on the plaintiff's allegation that British Columbia's seven percent tax on legal fees is unconstitutional because it makes hiring a lawyer prohibitively expensive for some low-income people. British Columbia is the only province that taxes legal fees. This tax was actually introduced to help pay for certain legal aid programs, but the money collected goes into the general revenue fund.

The Court found that the Canadian Constitution does not guarantee a right to counsel in proceedings dealing with civil rights or obligations before a court or tribunal. The Court noted that section 10(b) of the Canadian Charter of Rights and Freedoms is limited to guaranteeing persons a right to retain and instruct counsel upon being arrested on criminal charges. (Part I of the Constitution Act, 1982, being Sched. B to the Canada Act 1982, c. 11 (U.K.)) This limitation argued in favor of the government's position that Parliament did not intend to guarantee access to justice in all cases. However, the Supreme Court noted that there may be circumstances in which legal aid must be provided in even non-criminal cases. These types of cases would have to be identified on an individual basis. As a result, British Columbia's special tax on legal fees was upheld. ([British Columbia \(Attorney General\) v. Christie, 2007 S.C.C. 21.](#)) (Stephen F. Clarke)

CHINA – New Judicial Authentication Procedures

On August 7, 2007, China's Ministry of Justice issued the General Principles on Expert Testimony Procedures, which govern the collection of evidence. They take effect on October 1 and replace provisional rules that had been issued on August 31, 2001. The five chapters cover general provisions, entrustment and acceptance of expert testimony, implementation, provision of forensic documentation, and supplementary provisions. For the first time, there is a provision stating that during the authentication process, authentication organs and authenticators must preserve State and commercial secrets and matters of individual privacy. Without the entrustor's



consent, moreover, information related to matters for authentication may not be provided to individuals or organizations, unless otherwise provided by law.

Article 24 of the new rules is of particular interest. In regard to expert testimony in matters involving women, it states that a female judicial authenticator must be present to collect evidence if a gynecological examination is necessary; if a female authenticator is not available, other female judicial officials must be present. The article further states that where a physical examination of a minor is needed for the authentication process, the guardian must be notified and be present. In cases of psychiatric assessments or autopsies conducted by authenticators, the relatives or guardians of the parties involved must be present. In addition, the article provides that if material evidence must be collected at the scene, at least two official authenticators should be present and they must notify the entrustor to witness the evidence-gathering. The new rules also extend the time period allowed for authentication from 15 work days to 30. (*Sifa jianding chengxu tongze* [General Principles of Judicial Authentication Procedures], Central People's Government of the People's Republic of China Web site; Xie Chuanjiao, [Rules Tightened on Court Evidence](#), CHINA DAILY, Aug. 15, 2007.)

(Wendy Zeldin)

CHINA – Xinjiang to Receive Judicial Assistance

On August 12, 2007, China's Supreme People's Court (SPC) inaugurated its judicial assistance program for the overburdened courts of Xinjiang Uighur Autonomous Region, whose 154 courts and 4,552 judges reportedly heard more than a million cases from 2003 through the first half of 2007. At a forum held by the SPC to mark the occasion, SPC Vice President Jiang Xingchang pointed out that supporting the building of the Xinjiang courts is a practical move to implement the Chinese Communist Party Central Committee's major policies and strategic plan (*PRC Supreme Court Leader on Assisting Xinjiang's Judicial Work*, SPC, Aug. 14, 2007, Open Source Center No. CPP20070816507001). Rozi Ismail, President of the Xinjiang High People's Court, commented, "[c]ourts in Xinjiang shoulder heavier burdens in cases concerning threats to national security. From 2003, the region's courts have received around 150 such cases a year." He added that the courts' personnel and facilities had not been able to meet the demand for handling cases and that operating funds to cover facilities and staff were inadequate. ([Supreme People's Court Launches Judicial Assistance Program for Xinjiang](#), PEOPLE'S DAILY ONLINE, Aug. 14, 2007.)

Under the SPC's assistance program, judges from other provinces will be sent to Xinjiang, and judicial staff from the Xinjiang courts will go to other provinces for training. The Xinjiang courts will also receive more funding and judicial facilities "to improve local courts' capacity and maintain sustainable economic and social development." (*Id.*) The central government's concern for stability in Xinjiang is not new, nor are its crackdown on the Uighurs in that province and alleged use of the war on terror to justify repression of their rights. (See, for example, [New Report Shows 'War on Terror' a Cover for Fresh Repression of Uighurs in North-West China](#), Amnesty International UK Web site, July 7, 2004.)

(Wendy Zeldin)



IRAQ – International Arrest Warrant against Saddam Hussein’s Daughter

On August 17, 2007, Interpol issued an arrest warrant against Raghad, the daughter of Saddam Hussein, who is reportedly residing in Jordan. According to the Director of the Iraqi Ministry of Interior, Lieutenant-General Abdel-Karim Khalaf, the warrant is based on a court order issued by the Iraqi Central Criminal Court charging Raghad with financing terrorist operations in Iraq. ([International Arrest Warrant Against Saddam Hussein’s Daughter](#), KUWAIT NEWS AGENCY (KUNA), Aug. 17, 2007.)
(Issam Saliba)

LEBANON/NETHERLANDS – Hariri Special Tribunal

It was reported on August 17, 2007, that the Netherlands has agreed to host the special international tribunal established to prosecute those involved in the assassination of Rafiq al-Hariri, former Prime Minister of Lebanon. A United Nations spokeswoman said that the Secretary-General has received a letter from the Dutch Prime Minister “informing him that the government of the Netherlands is favourably disposed to hosting Special Tribunal for Lebanon.” Rafiq al-Hariri and 22 others died in a huge explosion in Beirut in 2005. ([Netherlands to Host the Hariri Special Tribunal](#), AL JAZEERA, Aug. 17, 2007.)
(Issam Saliba)

PAKISTAN – Judiciary Makes History

For the first time in the country’s judicial history, the Supreme Court of Pakistan voided the military ruler’s order of reference and suspension of the Chief Justice by restoring him to the seat of top adjudicator on July 20, 2007. The annulment of the order was a majority 10-3 decision, and clearly held that the order to suspend the Chief Justice, or even send him on forced leave, and the appointment of an Acting Chief Justice were illegal. More specifically, the Court held Presidential Order No. 27 of 1970, under which President Pervez Musharraf made reference against the Chief Justice, to be ultra vires the Constitution, and the subsequent order of March 15 sending the Chief Justice on compulsory leave to be without lawful authority.

Following the announcement of the decision, the courtroom burst into thunderous applause. The Court decided against the government on all the issues in the order and ruled: “[t]he petitioner CJP shall be deemed to be holding the said office and shall always be deemed to have been so holding the same.” Conspicuously absent at the time of the pronouncement of the decision were the legal counsel to the President of Pakistan, the Attorney General of Pakistan, and the government’s lead counsel, Malik Mohammad Qayyum.

Describing the verdict as an outcome of the “historic struggle” of the lawyers of the two sides, the Supreme Court Bar Council President, Munir A. Malik, stated: “[t]oday we have seen the birth of a new Supreme Court that has shown great vision and courage to lay the foundations of an independent judiciary.” Former Chief Justice Saeed-uz-Zaman Siddiqui was of the view that the public campaign against the presidential reference order helped the judiciary in thinking independently without succumbing to government pressure. ([Judiciary Turns the Corner: SC](#)



[*Voids Presidential Reference Against CJ, First Verdict Against a Military Ruler*](#), THE DAWN,
July 21, 2007.)
(Krishan Nehra)



Military Law

UNITED KINGDOM – Armed Forces Compensation Scheme Under Review

The Ministry of Defence of the United Kingdom has announced that the scheme that provides compensation for members of the British Armed Forces who are injured, suffer ill health, or die due to service is under review. This review comes in the wake of a soldier being awarded £152,150 (approximately US\$300,000) for injuries sustained in Iraq. Under the current rules, the award is based on the seriousness of the injuries, and claims may be made for only three of them. In the abovementioned case, the soldier suffered from 37 different injuries, ranging from the loss of both of his legs, head injuries, and a ruptured spleen to a broken jaw and shattered ribs. (The Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, SI 2005/439; MINISTRY OF DEFENCE, MMP/125, [ARMED FORCES COMPENSATION SCHEME: YOUR COMPENSATION SCHEME EXPLAINED \(2005\)](#); Michael Evans, [Soldier's Mother in Legal Battle over "Insulting" Compensation for His Wounds](#), THE TIMES (London), Aug. 29, 2007.)
(Clare Feikert)



National Security

BURUNDI – New Security Measures

In August 2007, following an increase in crimes on the roads, the army of Burundi introduced new security measures in the region around the capital, Bujumbura. In describing the need for improved security, Adolphe Manirakiza, a spokesman for the army said, “[t]hese last days, we have seen a multiplication of ambushes against vehicles by non-identified armed groups on all the axis roads that lead to Bujumbura. There is a renewal of banditry.” Within a week there had been six such incidents around the city and two in the southeastern part of the country. Manirakiza added that a group of Belgian tourists were attacked on August 12. The ambushes consist of heavily armed groups stopping vehicles, throwing people out of them, and robbing them. The new measures include a ban on use of some roads leading out of Bujumbura at night. The army is advising residents of the capital to go home early, so that “enemies of peace” can be found, according to Manirakiza. No overall curfew has been imposed. ([New Security Measures in Burundi](#), THE NEW VISION, Aug. 16, 2007.)

(Constance A. Johnson)



Sports

AUSTRIA – Anti-Doping Law

On June 29, 2007, Austria promulgated the Federal Act Against Doping (BUNDESGESETZBLATT I No. 30/2007). The new law introduces a comprehensive federal program to prevent the doping of athletes and institutes a federal agency to monitor compliance with the law and to educate athletes and their coaches, attendants, and physicians. The new agency will be in charge of frequent and rigorous testing. The law also covers animals that participate in competitive sports. The main sanctions for contraventions are the forfeiture of subsidies and the exclusion of athletes and their attendants from competitive sports. Austria saw a need to make its anti-doping laws more rigorous because its Nordic ski team was involved in a doping scandal at the Winter Olympics of 2006 in Turin, Italy. (*Sport, Kurze Meldungen*, FRANKFURTER ALLGEMEINE ZEITUNG, June 8, 2007, at 35.) (Edith Palmer)



Taxation

NEW ZEALAND – New Tax Laws to Attract Venture Capital

In a bid to better attract venture capital, New Zealand has proposed changes to its tax law. The Limited Partnerships Bill will allow limited partnerships to avoid being taxed at the partnership level, allowing individual partners to be taxed individually in proportion to their share of the partnership income. ([Limited Partnerships Bill](#) [Explanatory Note] New Zealand Inland Revenue Department Web site.)

(Lisa White)



Terrorism

TRINIDAD AND TOBAGO – Judge Orders Extradition in Bomb Plot

A judge in Trinidad and Tobago has ordered the extradition to the United States of three men who have been indicted on charges of conspiring to cause death, serious bodily injury, and extensive destruction by planning to bomb a pipeline that leads to JFK Airport in New York. Extradition to the United States is governed by the Extradition (United States of America) Order (1996 Trin. And Tob. S.I., No. 44, as amended by 2000 Trin. And Tob. S.I. No. 58), which was enacted under the authority of the Extradition (Commonwealth and Foreign Territories) Act (1985 Trin. And Tob. Laws, No. 36, as amended). Attorneys for the three suspects, two of whom are from Guyana and one of whom is from Trinidad, argued that the law did not allow for the extradition of persons on conspiracy charges. However, the judge dismissed this argument without comment, and in a reported interview, an official in Trinidad's Attorney General's office stated that the U.S. document was convincing and sufficient to warrant the extradition. The three suspects in Trinidad and Tobago have contended that they were entrapped by a U.S. government informant into making statements that were taped by U.S. authorities. The three men were arrested in June 2007 when U.S. authorities announced that they were part of a violent Islamic cell. A fourth member of the group was arrested in New York and his lawyer has asked for a psychological evaluation. Authorities believe the suspects intended to seek the assistance of a radical Islamic group in Iran before launching their attack at the airport. The three men in Trinidad and Tobago can appeal their extradition orders to the country's High Court. This process is expected to take approximately six weeks. (Andrew O. Selsky, [Trinidad Judge Orders 3 Extradited in Alleged JFK Plot](#), AMNY.COM, Aug. 6, 2007.) (Stephen F. Clarke)



Trade and Commerce

CHINA – Anti-Monopoly Law

On August 30, 2007, the top legislative body of the People's Republic of China, the Standing Committee of the National People's Congress (NPC Standing Committee) passed the Anti-Monopoly Law, which will come into effect on August 1, 2008. (*Shouquan fabu: Zhonghua Renmin Gongheguo Fan Longduan fa*, XINHUANET, Aug. 30, 2007, (an authorized publication, in Chinese).) In accordance with this Law, an Anti-Monopoly Committee is to be established under the State Council (China's Cabinet) to “organize, harmonize, and direct” anti-monopoly affairs. The enforcement of the Anti-Monopoly Law, however, is in the hands of the State Council's Anti-Monopoly Enforcement Authority, which may also authorize corresponding government agencies at the provincial level to enforce anti-monopoly measures (arts. 9 & 10).

The “monopolistic conduct” regulated by the Law include: monopoly agreements made between undertakings; abuse of a dominant market position by undertakings; and concentration conducted by undertakings that may have the effect of eliminating or restricting competition (art. 3). The Law offers state protection of state-controlled industries “relied upon by the national economy and national security” and industries “implementing exclusive operation and sales in accordance with the law.” It requires those industries to “operate in accordance with the law, with good faith and self-discipline, accepting public supervision and not harming the interests of the consumer from a controlling or exclusive dealing position” (art. 7).

Foreign acquisitions of domestic enterprises may be subject to a national security check, in addition to anti-monopoly checks stipulated by the Law, when a national security issue is involved (art. 31). ([China Adopts Anti-Monopoly Law](#), XINHUANET, Aug. 30, 2007.)

One chapter in the eight-chapter Law is on limiting the government agencies and organizations with administrative powers over public affairs from abusing those powers to restrict competition. Three articles in this chapter prohibit local governments to restrict free trade in their jurisdiction of commodities from other regions, attendance of out-of-region operators in bidding for local projects, and investment or establishment of branches by out-of-region operators (arts. 33-35).

(Laney Zhang)



Transportation

FRANCE – Law on Social Dialogue, Public Service in Ground Mass Transportation

Law 2007-1224 of August 21, 2007, on Social Dialogue and Continuity of Public Service in Ground Mass Transportation aims at more efficiently forecasting conflicts in ground transportation through social dialogue and guaranteeing, in case of strikes, a minimum level of service that can be both known in advance by the population and a good response to their priority needs. The constitutionality of the Law was challenged before the Constitutional Council by the socialist members of Parliament, but the Council found that the Law does not affect the exercise of the right to strike.

The Law also stipulates that employees must declare, 48 hours in advance, their intention to take part in a strike. Within eight days of the strike, a secret ballot may be held to decide to continue or to abandon the strike. The non-payment of wages during a strike is clearly reaffirmed in the Law. (Loi 2007-1224 du 21 août 2007 sur le dialogue social et la continuité du service public dans les transports terrestres réguliers de voyageurs, JOURNAL OFFICIEL 13956 (Aug. 21, 2007).)
(Nicole Atwill)

MEXICO – New Aviation Scheme to Protect National Industry

The Federal Government of Mexico announced a protectionist scheme for the country's aviation industry, under which it will not "open the skies" until the industry grows strong in Mexico, operates in the black, and has cash flow that will allow investments to improve competitiveness. This was explained by Luis Téllez, the head of the Secretariat of Communications and Transport (SCT), during the commemoration of the 49th anniversary of the founding of the Labor Union of Aviation Pilots (ASPAN). Secretary Téllez stated that this policy will remain in place for the entire six years of the current presidential term. He anticipated that "without doubt there will be pressure [from the United States], but we are a sovereign nation that makes its own decisions." (Aida Ulloa, *Descarta México "Cielos Abiertos*, EL UNIVERSAL, Aug. 4, 2007.)

As part of the commitments agreed to in the Security and Prosperity Partnership of North America (ASPAN), Mexico, Canada, and the United States must have a compatible regulatory system for air transportation to facilitate the "open skies" policy. Téllez commented at the ASPAN ceremony that "because the United States opened its skies with the European Union, [it] asked us whether we would follow suit and received a categorical answer ["no,"] and I assured them that they would continue to receive it for the next six years, during which time we have to strengthen the industry." (*Id.*) The governmental decision not to comply with the "open skies" policy will preclude foreign airlines from flying freely in the national territory. The SCT Secretary stated that he has had conversations with the U.S. Government, including with his counterpart Mary Peters, the U.S. Transportation Secretary, on the open skies issue.



Dennis Anthony Lazarus, ASPA Secretary General, warned that if the federal government decides to open the skies under the current circumstances, “our air space will no longer be Mexican and thousands of jobs will be lost.” Téllez stated that domestic airlines are having difficult times, particularly the principal trunk airlines Mexicana and Aeroméxico, and that it is time for the airlines to take measures that will allow them to make their operations more efficient. He underlined the need to improve Mexico’s airport installations to comply with contracts with concessionary airport companies, and to find solutions to the congested air traffic in the Federal District. He stated, “[w]e have to insure the safety of 36 million passengers [and] the efficiency [with which] 300 metric tons of cargo are transported. [The number of] passengers is growing at a rate of 11% annually and the [amount of] cargo increases at a rate of between 5 and 7 % annually.” (*Id.*)

Lazarus noted that in general there is an adverse aviation environment: “there is a system of aggressive inequality in national and international competition.” He further remarked that the trunk carriers confront a fare war due to the diversification of their business, with low-cost airlines entering the market and bringing in some resources, but not enough. He went on to say:

[Trunk carriers] continue to be incapable of stopping the financial deterioration. Both of them [Aeroméxico and Mexicana] reported significant losses in the first semester of 2007, [and] this situation is not going to be overcome as long as there is no growth in investment to tackle markets that are neglected because of lack of equipment, weak commercial policies, and a total disaster in [the carriers’] operational units.

Lazarus added that there is unfair competition; the fare war has escalated because, for example, new carriers who want to acquire market share sell tickets for one peso and later increase the price. Lastly, he explained that another problem in the sector is the increase in oil prices and a resultant hike in the cost of jet fuel. (*Id.*)
(Norma C. Gutiérrez)



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