CHRONICLE

CHRONICLE OF EVENTS AND INCIDENTS RELATING TO ASIA WITH RELEVANCE TO INTERNATIONAL LAW

July 2000 – June 2002

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TABLE OF HEADINGS

Afghan War	Espionage
Aliens: protection	Foreign investment
Asia-Pacific Economic Co-operation forum (APEC)	Hand-over for penal purposes
Asian Development Bank	Insurgents
Association of South East Asian Nations (ASEAN)	International and municipal law
Asylum	International crimes and their adjudication
Borders, border disputes and border incidents	International economic and trade relations
Central Asia	International humanitarian law
Civil War	Inter-state relations: general aspects
Cultural matters	(Non-) Intervention
Democracy	Japan's military role
Diplomatic and consular functions	Jurisdiction
Diplomatic and consular immunity and inviolability	Korean War
Diplomatic and consular relations	Labour
Disarmament and arms control	Military alliance
Discrimination	Military cooperation
Dissidents	Missile technology
Divided states: China	Monetary matters
Divided states: Korea	Nuclear energy matters
Embargo	Oil and gas
Environmental pollution and protection	Organization of the Islamic Conference
	Piracy
	Refugees

* Of the Editorial Board. For the considerations underlying the Chronicle, *see* the "Editorial Introduction" in 1 Asian YIL (1991) 265.

Regional security

Rivers

Sanctions

Self-determination

Special territories within a state:

Kashmir

State liability

Straits

Terrorism

United Nations

World Bank

World War II

World Trade Organization

AFGHAN WAR

See also: International humanitarian law; Inter-state relations etc.: Afghanistan-US

Succession of government

When it became clear that the US and its allies would start military operations in Afghanistan which eventually would topple the Taleban government, representatives of the UN, the US, Afghans in exile and reigning warlords began building alliances and laying the groundwork for a successor government. [The factual, Taleban, government had been recognized by no more than three states, among which Pakistan, while other states had maintained recognition of the predominantly United Front ("Northern Alliance") government under president Rabbani, which also held the Afghan seat in the UN. *See* 7 Asian YIL 402 *et seq.*] Although Pakistan was no longer allied to the Taleban rule in Afghanistan, it remained anxious to ensure that the non-Pashtun "Northern Alliance" would not replace the Taleban. Pakistan and the US agreed to aim at the creation of a broad-based Afghan government that could include moderate elements of the Taleban movement.

The issue was also the object of discussion between the US and the UN and there had been some UN-sponsored forums in Geneva to discuss the shape of a future government in Afghanistan. (IHT 16-10, 17-10-01) Efforts to build a political alternative to the Taleban government remained, however, in disarray for some time, due to inter-Afghan as well as international differences in interest.

The following "processes" could be distinguished: (1) the so-called "Rome process", centering on an elevated role for the former king and backed by the US but opposed by Iran; (2) a process based in Cyprus, including anti-monarchist Afghans who emphasized Islamic interests; (3) an initiative organized by exiled Pashtuns in Peshawar (Pakistan) and backed by Pakistan; (4) a "working group" of the US, Italy, Iran and Germany, meeting at Geneva; (5) the "Afghan Support Group" comprising mostly European and Western-leaning states; (6) the "Six Plus Two" group of the six states bordering Afghanistan plus the US and Russia. India, on its part, was interested in cooperative links between the United Front ("Northern Alliance") and the ex-king, so as to prevent any residual Taleban role. (IHT 02-11-01)

US initiatives aimed at the forming of a "coalition of the willing" to prepare the ground for an interim government formed the centrepiece of the UN Security Council debates on 12 November 2001 and those among ministers of the "Six plus Two" countries. A declaration issued after this meeting endorsed efforts by the UN envoy

for Afghanistan “to facilitate efforts by Afghan groups committed to a free and peaceful Afghanistan to establish a broad-based Afghan administration on an urgent basis”. [Afghanistan had become a rough-knit patchwork of fiefdoms and localities under the sway of warlords or provincial chiefs.] The ministers backed a political solution providing for a “broad-based, multi-ethnic, politically balanced, freely chosen” government that would be at “peace with its neighbours”. (IHT 13-11-01)

Kabul was seized by the “Northern Alliance” on 13 November 2001, a fact which alarmed Pakistan because it feared that a hostile regime would take power. It therefore strongly urged that, *inter alia*, an international force composed of Muslim troops be sent to maintain order and establish a demilitarized zone. (IHT 15-11-01) The next day the UN Security Council adopted resolution 1378 in which it, *inter alia*, “[e]xpress[ed] its strong support for the efforts of the Afghan people to establish a new and transitional administration leading to the formation of a government ...” and “[e]ncourage[d] Member States to support efforts to ensure the safety and security of Afghanistan no longer under Taleban control ...”.

As part of the endeavours to form a new government the UN sponsored talks focused on planning Afghanistan’s post-Taleban future. These talks started on 27 November 2001 in Bonn, Germany, and were attended by four of the Afghan factions: the “Northern Alliance”; the faction loyal to the former king; the “Peshawar group”, based in Pakistan, and the “Cyprus group”, close to Iran. The talks aimed at producing a transitional executive administration of 15 to 20 people and a temporary council, the Supreme National Council. Under the UN plan, these temporary institutions would function for a few months, when an emergency *loya jirga* or “great council” would meet to name a provisional administration and council which would serve for some two years and write a new constitution. Then, a new *loya jirga* would meet to ratify the constitution and new elections would be held.

The Afghan factions finally signed their agreement on 5 December 2001 (*Agreement on provisional arrangements in Afghanistan pending the re-establishment of permanent government institutions*, see UN doc.S/2001/1154), creating an “Interim Authority” dominated by members of the Northern Alliance yet led by Hamid Karzai, a Pashtun leader whose name had already been mentioned quite early in the process.

While regional and ethnic factions were asserting control over vast areas of Afghanistan, the newly appointed prime minister warned the US to never again “walk away from Afghanistan”, promising that his country would be “a good friend and trusted friend and an ally” in the US-led fight against terrorism.

The UN plan also provided for a multinational security force (as distinct from the existing US-led forces in Afghanistan) to be deployed especially in and around Kabul, and to help train an all-Afghan police and army. The setting up of the force was construed as resulting from a request for assistance from the Afghan authorities who would formally have responsibility for law and order. The idea of such an internationally composed force was initially rejected though later accepted by the Northern Alliance provided it operated under the UN. The US was opposed to the idea as being premature.

On 20 December 2001 the UN Security Council adopted resolution 1386, acting under Chapter VII of the UN Charter, authorizing (for six months) the deployment

of a (British-led) *International Security Assistance Force* (ISAF) “to assist the Afghan Interim Authority in the maintenance of security in Kabul and its surrounding areas”. Because of the extent of the existing needs the new government soon attempted to have the limited territorial competence of ISAF expanded, but this was refused by the US which instead preferred the build-up of a new Afghan army. In view of the long time needed to build an army it was expected that the US forces would have to remain in the country for several years. The US side also said the military campaign would continue and the US military would stay for as long as it would take to rid the country of Al Qaeda and achieve political stability even if the Afghan government were to ask for a halt.

The commission set up by the government to lay down rules for the organization of the projected *loya jirga*, to be convened from 10 to 16 June 2002 and which would choose a new government for the next 18 months, completed its preparations in late March 2002 and the former king, Mohammed Zahir Shah, arrived back in the country on 18 April 2002 after a 29-year exile. Belonging to the Durrani dynasty, his 40-year reign had ended in 1973 when he was overthrown by a cousin, Mohammed Daud.

The *loya jirga* convened on 11 June 2002 and overwhelmingly expressed itself in favour of the sitting interim government leader Hamid Karzai to become transitional head of state and government for the next 18 months until national elections were to be held. This was in conformity with existing expectations, not only because of his strong backing from the former king and his solidified ties with several powerful former leaders of the Northern Alliance, but especially because of the enormous influence of American backing and the latter’s money and military clout as the ultimate source of power. (IHT 21-11, 27-11, 01/02-12, 04-12, 05-12, 06-12, 11-12, 21-12, 27-12, 29/30-12-01, 31-12-01 / 01/01-02, 18-01, 26/27-01, 28-01, 15-03, 01-04, 02-04, 09-04, 19-04, 27-05, 12-06, 14-06-02)

The course of the war

The main war operations were announced by the US president and started with heavy air assaults on military targets and suspected terrorist camps across Afghanistan on 7 October 2001. (IHT 08-10-01) Besides, the US also notified the UN Security Council that counter-terrorism attacks might be extended “beyond Afghanistan”. (IHT 09-10-01)

After over a week of persistent bombings there were increasing signs of international restiveness resulting in criticisms from Saudi Arabia, Pakistan, Indonesia, and Iran, and also signs of doubt and impatience over the breadth and duration of the attacks. The Indonesian president urged adherence to international norms and said “No one group or state should make its own rules in the use of force and then attack others”. (IHT 16-10-01) The war also started stoking tensions among the Southeast Asian population, and polarizing and radicalizing Muslims in the region. (IHT 31-10-01)

It turned out to be impossible to complete the military campaign within a short time. (IHT 29-10-01) The first US combat forces appeared on the ground in late October 2001 supporting anti-Taleban forces in northern Afghanistan. Meanwhile, it was reported that Pakistani volunteers entered Afghanistan to come to the assistance

of the Taliban, and that Pakistan was increasingly being pushed into the uncomfortable position of supporting the US-led war and confronting ever stronger domestic challenges. (IHT 31-10, 03/04-11, 05-11-01)

In March 2002 the president of Pakistan said that the war was over when the “legitimate government” had returned to Kabul, but the US, on the contrary, was hesitant to declare the conflict ended and vowed to wage an open-ended “war on terrorism”. It was said that, as a “last resort”, US forces might cross the border into Pakistan in moving against Qaeda and Taliban sanctuaries, but would do so only with the approval of Pakistan. These speculations gave rise to unambiguous warnings by leaders from the Pakistani tribal areas concerned which share a 720-kilometre border with Afghanistan.

(IHT 15-03, 18-03, 22-03-02)

ALIENS: PROTECTION

Kidnappings in the Philippines

In April and July 2000 Philippine rebel groups had kidnapped hostages from, *inter alia*, a Malaysian diving resort and had brought them to their hide-out on Jolo Island in the Philippines. Among them were nationals of foreign countries whose governments pressed the Philippines to end the crisis quickly but without force, so as not to threaten the hostages’ safety. Meanwhile, the Philippine government divulged that foreign agencies and governments were paying huge amounts to obtain their respective citizens’ freedom.

After the release of some of the hostages in July, nine others were to be freed in mid-August in a deal financed by Libya. Libyan sources said the amounts paid would go towards development projects in the Philippines. [Libya had acted as a mediator between Muslim rebels and the Philippine government, and had contributed to development work in the past. (See, *inter alia*, Asian YIL Vol.4:451, Vol.5:426, Vol.6:390) The intended release was not, however, carried out exactly as planned, but left a number of hostages still in the rebels’ hands.

After new kidnappings took place in September 2000, the Philippine authorities considered tougher steps (see Asian YIL Vol 5:426, Vol.6:390). The Philippine vice-president called for a US-led multinational blockade of the southern Philippine Sea to thwart any further rebel attempts to seize hostages from tourist resorts in neighbouring countries and spirit them to their jungle hide-outs in Philippine territory. However, the president played down the possibility of military intervention.

When the Philippine government finally started military operations against the rebels on 16 September, the French president issued a statement expressing his disapproval, adding that he held the Philippines responsible for the two remaining French hostages. Malaysia also expressed its concern about the remaining Malaysian hostages, but said it was a Philippine prerogative to mount a military rescue.

As to the fact that the French and the only remaining US hostage had in fact voluntarily sought the company of the *Abu Sayyaf* rebels, the US Defense Secretary said that how the American hostage had ended up in *Abu Sayyaf* custody was “quite

irrelevant” and that “he should be released, immediately and safely”. The man was freed when Philippine forces raided a rebel hide-out. (IHT 14-07, 18-07, 24-07, 09-08, 17-08, 24-08, 29-08, 11-09, 14-09, 16/17-09, 18-09-00, 13-04-01)

Murder of UN workers in Indonesian province of West Timor

An armed mob on 6 September 2000 killed three unarmed UN workers in Atambua, West Timor; the local office of the UNHCR was then demolished and looted. The Indonesian president blamed supporters of a militia leader and promised to send troops to reassert control in the territory. The UN Secretary General condemned the incident and underlined the dangers facing unarmed humanitarian UN workers in conflict or post-conflict situations. The UN High Commissioner of Refugees called it the worst security incident ever involving the agency. The remaining UNHCR employees were evacuated to East Timor, and the High Commissioner said they would not return until their security was assured. (IHT 07-09-00)

The UN Security Council convened and on 8 September 2000 adopted resolution 1319 (2000), *inter alia* “insist[ing] that ... Indonesia take immediate ... steps, in fulfilment of its responsibilities, to disarm and disband the militia” blamed for killing the UN workers. It welcomed the intention of the president of Indonesia to conduct a full-scale investigation and to take firm measures against those found guilty.

The Security Council also considered sending an ambassadorial mission to investigate violence in East and West Timor, but Indonesia suggested a postponement of the visit, proposing that a number of Jakarta-based ambassadors instead visit West Timor. It promised to act quickly to resolve the militia violence. The US said that failure to do so could threaten economic aid, while Indonesia urged the lifting of a US military embargo (*see supra* at 352) depriving the Indonesian military of the equipment it needs to control the militia. (IHT 14-09, 19-09, 21-09-00)

ASIA-PACIFIC ECONOMIC COOPERATION FORUM (APEC)

Annual meeting 2000

The annual summit meeting was held at Bandar Seri Bagawan, Brunei, in November 2000.

It was said that APEC seemed to have begun backing away from liberalization in favour of less controversial “business facilitation”, dealing with areas such as customs administration, technical regulation and standards (nevertheless, over the previous 12 years the unweighted tariff rates of the members had fallen from an average of 15 to eight per cent).

Meanwhile, a new development seemed to emerge among some of the member states, in the form of bilateral free trade agreements. Japan and Singapore planned to conclude such an agreement by the end of 2001; similar agreements were planned between Singapore and New Zealand, the US, Australia and Chile. Japan and South Korea had also agreed to explore the possibility of such an agreement, while South Korea was also considering similar agreements with countries outside Asia. (IHT 13-11, 22-12-00)

Acting on a South Korean proposal the meeting agreed to grant North Korea the right to participate in APEC working groups. The organization had had a moratorium on new members until 2007. (IHT 17-11-00)

Summit meeting 2001

In preparing its 2001 summit meeting at Shanghai on 20-21 October there were plans to devote the meeting to the commitment to fighting terrorism and the US had prepared a draft declaration on terrorism. At the same time there were signs of concern about the increasing focus on terrorism instead of on economic issues; there were even suggestions that controls to prevent terrorism flew in the face of the APEC efforts to promote free trade and investment. (IHT 15-10, 16-10-01)

APEC's initiative for trade liberalization had slowed down considerably since the East Asian financial crisis in 1997/1998. Members had failed to specify complete timetables for eliminating trade barriers and trade-distorting measures by 2010 and 2020, despite pledging to do so at Bogor, Indonesia, in 1994 (*see* 5 Asian YIL 391). As a result some member states had decided to conclude their own bilateral or sub-regional free trade agreements (*see supra*). (IHT 19-10-01)

The meeting produced an "APEC Leaders Statement on Counter-Terrorism" The statement included a condemnation of the attacks on the US, classifying terrorist acts in all forms as threats to the peace, prosperity and security of all people, faiths and nations. In the "Statement" the leaders committed themselves to preventing and suppressing terrorist acts "in accordance with the Charter of the United Nations and other international law", pledged to implement UN Security Council resolutions 1368 and 1373 (on terrorism) "faithfully and immediately", called for increased cooperation to bring perpetrators to justice, and called for early signing and ratification of the basic universal anti-terrorist conventions. The statement failed to include a definition of "terrorism". (www.apecsec.org)

ASIAN DEVELOPMENT BANK

Membership for North Korea

North Korea applied for membership of the Bank in late August 2000, with South Korean support. However, the US and Japan ruled out even observer status for North Korea unless the latter addressed concerns about its sponsoring terrorism. The issue was referred to the Bank's shareholders. (IHT 2/3-09-00)

ASSOCIATION OF SOUTH EAST ASIAN NATIONS (ASEAN)

Composition of ASEAN Regional Forum

The Regional Forum (*see* Asian YIL Vol.4:505, Vol.5:484) meeting held in July 2000 was the first one in which North Korea participated. Until then it had shunned an invitation to join. (IHT 27-07-00)

ASEAN + 3

The grouping consisting of the ASEAN member states together with the North-east Asian countries China, Japan and South Korea held their first formal meeting of foreign ministers on 26 July 2000. This was followed by the ASEAN Fourth Informal Summit of November 2000 which agreed to study the idea of turning the existing informal summit meeting known as the "ASEAN plus Three" (*see* 8 Asian YIL 256) into a formal East Asia summit meeting. The heads of state of the grouping had already held a ground-breaking summit meeting before, in Manila in November 1999, on the fringes of the ASEAN Third Informal Summit (*see* 9 Asian YIL 386-387). (IHT 25-07, 25/26-11-00)

In October 2001 the deputy prime minister of Thailand, who was then the incoming WTO director-general, recalled the ongoing efforts towards having the three Northeast Asian countries join the ASEAN low-tariff bloc in 2010 (*see* 9 Asian YIL 386), which would have the effect of integrating those large economies more closely with the developing countries in the region. The pursuit was confirmed at the ASEAN Seventh Summit at Bandar Seri Begawan on 5 November 2001. (IHT 19-10, 06-11-01)

The ASEAN Fourth Informal Summit meeting in November 2000 at Singapore supported a proposal by China to set up an expert group for the study of how economic cooperation and free trade relations between ASEAN and China could be deepened.

Some industrialized countries, including the US, were reported to have voiced concern that regional free-trade agreements, which are proliferating in Asia, might undermine moves to begin another global round of liberalization under the WTO (*see*: World Trade Organization); on the other hand, there was a Chinese warning against double standards, evidently referring to the North American Free Trade Agreement (NAFTA). (IHT 24-11-00)

The ASEAN countries and China reached agreement on 6 November 2001 for the creation of a free trade area (ASEAN-China FTA) within ten years. (IHT 07-11-01)

ASEAN Free Trade Area

The annual foreign ministers meeting in July 2000 agreed on a statement announcing that rules were being worked out enabling countries "experiencing real difficulties" in meeting their commitments under the AFTA agreement temporarily to withdraw sensitive sectors from the free-trade agreement. In May 2000 the economic ministers had already agreed to consider a request from Malaysia to delay by at least two years, until January 2005, the opening of its automotive industry. It was understood that Malaysia wanted to protect its national car industry against competition from, especially, Thailand which had become a regional centre for car manufacturers from outside the region.

In October 2000 the economic ministers agreed on an additional protocol under which the country asking for a delay was to agree on compensation for the affected members. If no agreement was reached, the affected states would have the right to retaliate by withdrawing some of their own goods from the free-trade regime.

AFTA, with maximum five per cent tariffs, became effective for the six original ASEAN members on 1 January 2002. (IHT 26-07, 7/8-10-00, 03-01-02)

ASEAN – EU

Relations between ASEAN and the European Union were troubled in the past few years because of the EU sanctions against Myanmar, an ASEAN member since 1997. The EU had boycotted ministerial meetings with ASEAN since Myanmar had become an ASEAN member. However, it appeared in 2000 that the EU countries were following a modified policy by easing their pressure on Myanmar and muting their criticism of the military rulers of Myanmar. Myanmar would thus no longer be banned from taking part in ASEAN-EU cooperation. It was alleged that the EU flexibility stemmed from its concern about losing investment opportunities in Asia.

The new flexibility led to the decision to have the next, thirteenth, ASEAN-EU ministerial meeting (11-12 December 2000) at Vientiane, Laos, instead of in Europe as scheduled, in order to avoid the European ban on the entry of Myanmar officials. Meanwhile, ASEAN told the European Union that it would abandon high-level talks with the EU if the latter continued to press for the exclusion of Myanmar on human rights grounds. (IHT 01-08, 29-11, 11-12-00)

ASEAN involvement in Myanmar labour conditions

(See also: Sanctions)

ASEAN decided to send a team of experts to Myanmar to achieve the compliance of Myanmar with ILO labour standards. This was in fact ASEAN's first serious involvement in Myanmar domestic affairs, despite the ASEAN principle of not interfering in the internal affairs of its members. (IHT 01-08-00)

Seventh Summit Meeting, November 2001

The meeting which was held at Bandar Seri Begawan, Brunei, dealt, among other things, with the pursuit of an enlarged East Asia trade bloc (*see supra*), the conflict in Afghanistan (*see infra*), the plans for a railway link and other mega-infrastructure projects and programs on the combat of regional epidemics. (IHT 06-11-01)

ASEAN Declaration on Joint Action to Counter Terrorism

The Declaration adopted at the Seventh Summit meeting, besides *condemning* the 11 September attacks on the US, *extending* sympathy and condolences, *viewing* terrorism “in all its forms and manifestations, committed wherever, whenever and by whomever” as a “profound threat to international peace and security”, and *rejecting* attempts to link terrorism with religion or race, also contained the commitment to prevent and suppress terrorist acts “in accordance with the Charter of the United Nations and other international law” and the assurance that the counter-terrorism measures taken should be “in line with specific circumstances in the region and in each member country”. (www.aseansec.org)

ASYLUM

See: Diplomatic and consular immunity and inviolability

BORDERS, BORDER DISPUTES AND BORDER INCIDENTS

Bangladesh – Myanmar

A dispute had arisen between the two countries over Myanmar efforts to build a dam near the south-eastern border of Bangladesh. The dam was to be built on the Naaf River at Totardia, 100 kilometres south-east of Cox's Bazaar. If built, the dam might flood or cause erosion in Bangladesh and damage shrimp cultivation projects. Both countries sent troop reinforcements to the border region after talks failed to resolve the dispute.

In 1967 the border forces of the two countries fought a brief battle over a similar Myanmar attempt at building a dam. (IHT 08-01-01)

Bangladesh – India

There were clashes between Bangladeshi and Indian border troops, fighting over a patch of land along the northern Kurigram-Dhuburi frontier near the north-east corner of Bangladesh and the Indian state of Assam. This followed a weekend incident in which Bangladesh seized a frontier post from India. (IHT 19-04, 20-04-01) India later invited Bangladesh for talks to resolve their border dispute (IHT 02-05-01)

Myanmar – Thailand

There were clashes in February 2001 between Thai and Myanmar soldiers near the Thai northern border at the border crossing between Mae Sai in Thailand and Tachilek in Myanmar. According to Thai sources the incident was the result of an attack by Myanmar soldiers and their allies from the so-called Wa State Army against ethnic rebels in the area. (IHT 14-02-01)

CENTRAL ASIA

See also: Insurgents

United States presence

When the air war in Afghanistan started to wane (*see:* Afghan War) there were indications that the US was preparing a long-term military presence in Central Asia that could last for years. Among other factors, an air base was built in Kyrgyzstan that would be a "transportation hub" to house up to 3,000 soldiers and to accommodate warplanes and support aircraft. Furthermore, bases in Uzbekistan and Pakistan were improved in many respects.

It was said that a significant US military presence was needed around Afghanistan since the interim government did not seem intent on rooting out the remnants of Al Qaida and Taleban forces. On the other hand it was recognized that a too large or

too long-term US military presence could alarm Russia and China, and anger the Afghans. (IHT 10-01-02)

CIVIL WAR

See also: Insurgents

Afghanistan

(See also: Cultural matters)

Taleban control

A series of military victories in late September 2000 resulted in Taleban control over more than 95 per cent of the country, "about as close as any party has ever gotten in ruling that deeply divided country". (IHT 04-10-00)

China-Taleban relations

In November 2000 a delegation from the China Institute of Contemporary International Relations visited Kabul and Kandahar. It was later reported in September 2001 that China and the Taleban regime in Afghanistan had signed a memorandum of understanding for economic and technical cooperation. (IHT 13-09-01)

CULTURAL MATTERS

Demolition of Buddhist statues

The Taleban rulers in Afghanistan in late February 2001 ordered the destruction of all statues being worshipped, including the two giant Buddha statues at Bamiyan, west of Kabul. Statues were considered not to conform to Islamic prohibitions against depicting the human form in pictures or statues. (IHT 27-02-01) Responding to international condemnation the Taleban leader said, "All we are breaking are stones." The demolition started in early March 2001. (IHT 27-02, 28-02, 3/4-03-01)

DEMOCRACY

Iranian speech in the UN General Assembly

In his speech before the UN General Assembly the president of Iran referred to the issue of democracy, saying that no form of democracy was unique and that the demands of a few power-holders should not supersede the interests of humanity. He also said: "No particular form of democracy can be prescribed as the only and final version." (IHT 07-09-00)

DIPLOMATIC AND CONSULAR FUNCTIONS

Consular access to detainees

The Taliban authorities in Afghanistan had detained 24 aid workers on 5 August 2001 on charges of promoting Christianity and proselytizing. Among them were German, US and Australian citizens. According to the Afghan (Taliban) deputy ambassador to Pakistan, the German-based *Shelter Now International* organization had been warned before to refrain from such activities.

The foreign countries concerned had sought permission for consular access to the detainees. On 9 August the Afghan authorities said that diplomats from the countries concerned would be granted visas and allowed to meet their detained nationals, but this was later denied by the foreign minister. (IHT 09-08, 10-08, 13-08-01)

DIPLOMATIC AND CONSULAR IMMUNITY AND INVIOABILITY

Immunity of Chairman of the National People's Congress of China from service of court summons

The Chairman of the Chinese NPC, a former prime minister, was served a court summons at a New York hotel when on a visit to the US in late August 2000. The summons was handed by a process server to an employee of the US State Department who was guarding the Chinese official. The State Department said it was not in a position to accept such a document on behalf of a foreign official, but a judge had ruled earlier that a (US) federal employee guarding such an official could accept the summons, given the difficulty of reaching the foreign official himself. China later blamed the US for not properly protecting the Chinese visitor from the summons. (IHT 2/3-09, 04-09-00)

Refuge in foreign consulates

Since March 2002 there has been an increasing number of cases of North Koreans attempting to gain political asylum in foreign, such as US, Japanese, Canadian and Spanish, embassies and consulates in China, often organized by people with links to South Korea's Christian community and their aid organizations.

In a case in the northern Chinese city of Shenyang, where on 8 May 2002 such refugees were caught and detained by Chinese police while already on the premises of the Japanese consulate, the Japanese diplomatic mission lodged a protest with the Chinese foreign ministry, claiming that the Chinese police had entered the Japanese compound to carry out the arrest. The Japanese foreign minister spoke of "a clear violation of international law" and demanded the release of the asylum seekers and a formal apology. China refused, saying that its police guards had been acting to protect Japanese diplomats from "unidentified persons" and had received permission from consulate staff to seize the persons concerned. Efforts to have the persons expelled to a third country were successful when China on 22 May 2002 released the refugees and sent them to South Korea, doing so via Manila to avoid angering North Korea.

There was a hardening of the Chinese attitude when North Koreans began breaking into South Korean consulates. This culminated in a demand to South Korea on 28 May 2002 to hand over some North Koreans who had broken into the South Korean consulate in Beijing. The foreign ministry spokesman was quoted as saying: "We believe that according to international and Chinese laws, foreign embassies have no right to grant asylum to citizens of a third country." On 13 June 2002 this position was confirmed when the government announced that it had sent notes to all diplomatic missions in Beijing, reiterating its demand that North Koreans must be handed over.

On the same day an incident occurred when South Korean diplomatic staff tried to prevent Chinese police from arresting a North Korean man who, according to the South Korean side, had been dragged by guards assigned by the host state out of the consulate building and taken to a guard-house outside the consulate. It was reported that in their efforts the police who had then arrived had punched, kicked and shoved the diplomats out of the way when the latter tried to prevent the arrest of the man. The South Korean embassy issued a formal protest and called the incident a violation of international law. The Chinese side rejected both protest and accusation, emphasizing that the persons who had entered the consulate and dragged out the North Korean were private security guards and not police officers, hence there was no breach of the Vienna Convention. On the other hand the South Korean diplomats were accused of having tried to prevent the police from taking the man away and thus of having acted in a way incompatible with their diplomatic status and with international law.

A sudden reversal of the Chinese policy took place when China decided on 23 June 2002 to allow 26 North Korean refugees to leave the country for South Korea, *via* third countries. Meanwhile, it was said that the decision might risk starting a flood of refugees. Reference was being made to the Hungarian example, when the Hungarian government decided in 1989 to allow East German refugees to go to the West. [China was said to have a treaty with North Korea that commits it to returning any North Korean who illegally enters China.](IHT 09-05, 11/12-05, 29-05, 14-06, 15/16-06, 24-06-02)

DIPLOMATIC AND CONSULAR RELATIONS

See also: Inter-state relations etc: North Korea – EU, North Korea – Myanmar and Thailand

Afghanistan – Pakistan

In November 2001 the Taleban government of Afghanistan was represented by an embassy in Pakistan, with consulates in Karachi, Quetta and Peshawar. Pakistan was the only country left at that time that recognized the Taleban as the government of Afghanistan.

In view of the US attacks on Afghanistan the Afghan embassy had been the scene of frequent news conferences at which the US attacks were strongly denounced. In early November 2001 the Pakistani government asked the ambassador to stop holding such briefings, reminding him that foreign embassies were not permitted to make

public statements “against a third country”. (IHT 08-11-01) On 8 November 2001 Pakistan ordered the Taleban government to close its consulate in the city of Karachi. (IHT 09-11-01)

Reacting to the seizure of Kabul by the “Northern Alliance” the Pakistani foreign minister affirmed Pakistan was no longer doing business with the Taleban (“We don’t have relations, we don’t conduct business between the government of Pakistan and whatever is left of the Taleban government”) but would permit its embassy to remain open for the time being. (IHT 20-11-01)

On 22 November 2001 Pakistan, bowing to US pressure and the changed “situation on the ground”, finally ordered the Taleban to close the embassy and announced the expulsion of Taleban diplomats. (IHT 23-11-01)

Iran – United Kingdom

Iran had turned down the UK’s choice of an ambassador to Tehran, against which Britain retaliated by downgrading the status of the Iranian ambassador in London. Iranian newspapers wrote that the British ambassadorial candidate was a Jew and attached to the British intelligence service, but these allegations were denied by Britain. The spokesman of the Iranian foreign ministry expressed surprise at the British reaction and reminded the UK that whether or not to accept a proposed person as ambassador is the natural right of the host country.

The two states had re-started the exchange of ambassadors in July 1999 after a decade-long break since Ayatollah Khomeini issued a *fatwa* in 1989 urging people to kill the British author Salman Rushdie because of the allegedly blasphemous character of his book “The Satanic Verses”. Formal relations were restored in 1998 when the *fatwa* was lifted (*see* 8 Asian YIL 261). (IHT 09/10-02-02)

Japan – North Korea

(*See*: Inter-state relations etc.)

North Korea

The Philippines established diplomatic relations with North Korea on 12 July 2000. *Canada* stated on 26 July 2000 that it would recognize the Democratic People’s Republic of Korea. Discussions would then be started on the establishment of diplomatic relations, possibly by the end of the year. *New Zealand*, too, had started discussions with North Korea on relations that would probably lead to full diplomatic relations in 2000. As part of the same effort to end its isolation, North Korea reached agreement with *Cambodia* on an exchange of trade missions. North Korea also established official relations with *Italy*, *Australia* and *Kuwait* in 2000. In October 2000 *the UK* as well as *Germany* announced that they would soon establish diplomatic relations with North Korea. The relations with *the UK* commenced in December 2000. (IHT 27-07, 20-10, 13-12-00) According to North Korean sources North Korea and *the Netherlands* had agreed on the establishment of diplomatic relations on 15 January 2001. (IHT 17-01-01)

DISARMAMENT AND ARMS CONTROL

See also: Regional security

Chinese response to US withdrawal from ABM Treaty

Taking the changes in the world as the basis for their argument, the US on 12 December 2001 announced its withdrawal from the 1972 US-Soviet Anti-Ballistic Missile Treaty. The US president said to have come to the conclusion that the treaty “hinders our government’s ways to protect our people from future terrorist or rogue state missile attacks”. (IHT 14-12-01)

China reacted critically, but the reaction was muted. It expressed concern that the move could precipitate a new arms race. The US said that the US withdrew from the treaty to develop a missile defence system primarily to defend itself against “rogue” states and emphasized that China was not an intended target. The Chinese foreign ministry issued a statement re-stating its worries, stressing “the importance of safeguarding international military control and the disarmament system and the stability of global strategy in the current circumstances”. (IHT 18-12-01)

(NON-)DISCRIMINATION

Espionage trial of Iranian Jews

The trial of ten Iranian Jews convicted of spying for Israel in Iran attracted international attention, with countries such as the US and France as well as human rights organizations and Jewish groups urging Iran to ensure that the trial was fair. US and Israeli officials were reported to have vehemently denied that any of the Jews were involved in intelligence-gathering for any government. The Iranian president said that the government would not interfere in the case. He also said: “If instead of these Jews they were Christians, would the world still react as it does today?” On 21 September 2000 an appeals court reduced the sentences handed down by the court below. The verdict apparently disappointed the US as falling short of what US officials said they had been led to believe would occur and allegedly reneging on a behind-the-scenes diplomatic pledge. European and US officials were reported to have said that the Iranian foreign minister had “promised more” in private discussions. On his part the latter said that in his conversations on the matter he had “underscored the separation of powers in the Islamic Republic”. (IHT 08-09, 22-09, 23/24-09, 25-09-00) A further appeal was rejected in early February 2001. (IHT 08-02-01)

DISSIDENTS

Myanmar: Aung San Suu Kyi

The opposition leader had held a nine-day roadside protest outside the city of Yangon after being stopped by the authorities when en route to a meeting with members of her party. (When Aung San Suu Kyi was freed from house arrest in 1995, she was forbidden to travel beyond Yangon.) The Myanmar government on

3 September 2000 forced her to return home, tightening restrictions on her movements and those of other leading members of her party, but on 14 September allowed diplomats to see her and practically lifted the home-confinement orders. (IHT 05-09, 15-09-00)

It was reported by the UN in January 2001 that thanks to UN mediation the military government and the opposition leader had begun reconciliation talks in October 2000 and planned later to start substantive discussions on national reconciliation. (IHT 10-01, 23-01-01) By way of gesture of support of the talks between the government and the opposition, Japan approved an aid package which was the largest since the crack-down of 1988. (IHT 26-04-01)

Aung San Suu Kyi was officially released from house arrest on 6 May 2002. (IHT 07-05-02)

DIVIDED STATES: CHINA

Appeal for cross-Strait talks

The new Taiwanese president on 31 July 2000 appealed to the Chinese government to reopen negotiations. He argued that dialogue could lead to exchanges, which in turn could lead to consensus. However, he brushed aside the Chinese government's demand that Taiwan first acknowledge a single China, of which Taiwan is part. Instead, he referred to "the spirit of 1992" (*see* 3 Asian YIL 366; 491), the negotiations in which the two sides agreed to disagree about the meaning of "one China". (IHT 01-08-00)

Direct Taiwan – mainland links

With Taiwanese permission Taiwanese ships for the first time in 51 years made a legal voyage from Taiwan to mainland China on 2 January 2001. This signalled the beginning of the so-called "three small links": direct trade, postal and transportation links between a number of tiny outlying islands under Taiwanese control and the mainland. The Chinese government called for such links for the whole of Taiwan. (IHT 03-01, 04-01-01)

Taiwanese request for weapons

According to signals from Taiwan the government might ask the US to buy guided missile destroyers equipped with the "Aegis" radar system to counter China's recently purchased Russian-made destroyers. It would be the most significant weapons transfer by the US to Taiwan since the sale of 150 fighter aircraft in 1992 (*see* 3 Asian YIL 346). (IHT 09-01-01) The Taiwanese request was met with a Chinese warning to the US that the supply of these advanced armaments would have grave consequences. (IHT 07-03-01) The Chinese foreign ministry cited the violation of Chinese sovereignty, threat to Chinese state security, aggravation of tension in the Taiwan Strait and disruption in Sino-US relations. (IHT 14-03-01) A key Chinese concern appeared to be that in an upgraded version the system would give the ships the first ballistic missile defence capability and would encourage the Taiwanese in their wish to declare

independence from China. On the other hand it was said by the US side that Chinese missile deployments might determine the US sale of anti-missile systems to Taiwan opposed by China. The argument was that “there will be a point at which that missile build-up will threaten the sufficient defence of Taiwan and which it is the US policy to maintain”. (IHT 16-03-01) The Aegis system had great political significance because of its association with American plans for a regional missile defence system. It would be able to detect and track more than 100 missiles, aircraft or surface vessels at a time. (IHT 21/22-04-01)

In its objections to US arms supplies to Taiwan, China was singling out three items as particularly objectionable: the Aegis system, submarines, which the US had never yet sold to Taiwan, and the Patriot anti-missile system. (IHT 02-04-01)

Remarkably, there were also reports about divisions among Taiwan government and armed forces circles on the expediency of the purchase of, especially, the Aegis-system because of the potential cost in terms of money and relations among China, the US and Taiwan. (IHT 21/22-04-01)

Finally, the US decided in April 2001 on a \$5 billion arms package which did not include the weaponry to which China had objected most strongly: the Aegis system, but for the first time did include offensive weapons: diesel submarines, which, however, the US no longer manufactures and had not operated since 1990.

Besides, the US president said, on the following day, 25 April 2001, that if China attacked Taiwan, the US would “do whatever it took to help Taiwan defend itself”. This appeared to represent a clear step beyond the decades-old US policy, under the (US) Taiwan Relations Act (*see* 2 Asian YIL 302), of assuring Taiwan that the US would provide Taiwan needed weaponry, without explicitly going beyond that pledge. The long-term balancing act between on the one hand offering weapons support to Taiwan to deter any Chinese attack, while on the other leaving the eventual US response vague to discourage independence-minded Taiwanese politicians, is known as “strategic ambiguity”, allegedly crucial to regional stability. (IHT 25-04, 26-04-01)

Proposal for Taiwan UN seat

El Salvador, Senegal, the Dominican Republic, Gambia, Burkina Faso, Nicaragua, Chad, Tuvalu, Palau, and Belize submitted a proposal for Taiwan to join the UN. Similar proposals had been submitted in the past nine years, but consistently failed to be included in the UN General Assembly’s agenda. (IHT 10-08-01)

Taiwanese direct investments in China

The Taiwan authorities on 7 November 2001 lifted long-standing restrictions on direct investment in the Chinese mainland, a milestone in the economic relationship between the two territories. The decision included the abolition of a \$50-million limit on individual investments and automatic approval for investments of less than \$20 million. The new rules would enable Taiwanese companies to invest directly in China, rather than through third countries. (IHT 08-11-01)

Change in Chinese policy

On 24 January 2002 the Chinese deputy vice-premier issued a statement which implied a softening of China's policy toward Taiwan. He said China would welcome members of Taiwan's majority party visiting the mainland, and called for renewed dialogue and stronger economic ties across the Taiwan Strait. In early February China dropped its precondition of recognition of the "one-China" principle before the opening of direct shipping, trade and mail links (the "three links") without government involvement. (IHT 25-01, 06-02-02)

US policy toward Taiwan

According to US officials and analysts, as reported in early May 2002, the US government was embracing a closer political and military relationship with Taiwan than had any previous US government in decades, as a way of endorsing democracy on the island and deterring a Chinese military threat across the Taiwan Strait.

Whereas in the past the US had maintained "strategic ambiguity" towards Taiwan (*see supra*), a stance meant to discourage Taiwan from declaring independence while keeping China guessing about how the US would respond to a Chinese offensive, the current US president once said that the US would do "whatever it took" (*see supra*) to help Taiwan defend itself. (IHT 02-05-02)

DIVIDED STATES – KOREA

See also: Inter-state relations: North Korea – US; Nuclear energy matters

Four-party talks

The sixth round of the four-party talks between North and South Korea, China and the US in Geneva, August 1999 (9 Asian YIL 392), ended with the US and South Korea resisting North Korean efforts to put the issue of US troops on the agenda. It was reported that since that time there has been reluctance from the side of North Korea to have another round of talks. (IHT 09-11-00)

Family reunions

North and South Korea on 30 June 2000 agreed on the first reunions in fifteen years (in 1985) of relatives divided by the Korean War. The breakthrough in the talks came two weeks after the South Korean president returned from his three-day meeting with the North Korean leader (*see* 9 Asian YIL 393).

North Korea dropped its demand that South Korea return more than 50 former political prisoners held there for many years as spies before the first exchange of family members on 15 August, the national day for the celebration of Korean liberation from Japanese rule. It was reported that South Korea promised to let the prisoners go to North Korea in early September if they wished. (IHT 1/2-07-00)

After a second reunion in December 2000 a third one was agreed in late January 2001, to take place in February. (IHT 30-01-01) However, no further reunions took place.

Other agreements

Talks between the two Koreas in late July 2000 in Seoul succeeded in reaching a series of agreements by way of implementation of the joint declaration of 15 June 2000. Among the agreements reached were those on the establishment of liaison offices, the resumption of railway services, and access to South Korea for North Korea passport holders residing in Japan. However, the parties agreed neither on a military hot line nor on talks about reducing tensions engendered by the huge number of troops facing each other on either side of the cease-fire line. Discussion was also avoided on the issue of guarantees for South Korean investments in North Korea and on double taxation issues.

The parties agreed to continue, in late August 2000, the dialogue “in accordance with the spirit of the South-North joint declaration”. On 1 September 2000 they reached agreement on dialogue between military officials to ease military tensions. The joint statement read: “The South and North will exert efforts to ease tension and guarantee peace. In this regard consultations will be held for military authorities of both sides to open a dialogue as soon as possible.” (IHT 31-07, 01-08, 01-09, 2/3-09-00) In January 2001 the two sides agreed to resume talks on reuniting families (*see supra*) and on economic matters. These would be the first full-scale talks after those following the summit meeting in 2000. (IHT 23-01-01) On 8 February 2001 a 41-point agreement was reached on arrangements to reconnect a cross-border railroad and on a military hotline. The rail-link agreement included an arrangement on mine-clearing. (IHT 09-02-01)

Unfortunately, the two governments did not talk with each other in the following months and it was said in mid-2001 that the “sunshine policy” was foundering in the shadow of the US’s tougher approach to North Korea and the sullen response from North Korea, which was unwilling to move ahead with South Korea unless such a move would result in better ties with the US. (IHT 15-08-01)

There were indications of a North Korean proposal in early September 2001 for a resumption of the talks, and a brief meeting took place on 16 September. (IHT 03-09, 17-09-01) Meanwhile, various projects were said to have bogged down because of North Korean lack of funds. (IHT 08-10-01) After a last ministerial meeting in November 2001 the talks stalled, until North Korea and South Korea announced on 25 March 2002 that they would resume their dialogue. (IHT 26-03-02)

Reduced South Korean – US military exercise

In line with the growing improvement and the conciliatory mood in relations between the two Koreas the annual military exercises were reduced in scale. (IHT 22-08-00)

EMBARGO

See also: Sanctions

US arms embargo against Indonesia

(See also: Military cooperation)

The US enacted an arms embargo against Indonesia, together with a suspension of military training assistance (*see* 9 Asian YIL 407), after the violence in connection with the East Timorese conflict (*see* 9 Asian YIL 413). It was said that the Indonesian military relied on US logistics support for 70 per cent of its modern equipment. (IHT 05-07-00)

US embargo on Israeli export of dual-use technology to China

Under a Sino-Israeli transaction the Israel Aircraft Industries would supply a *Phalcon* early warning radar system to China. However, the US government expressed its concern that China could use the radar system against US forces in the Taiwan Strait, and the US House of Representatives Appropriation Committee called on Israel to terminate the process. There were even references to a possible cut in US aid to Israel if it did not comply. On 12 July 2000 Israel cancelled the deal. (IHT 1/2-07, 13-07-00)

It was reported in November 2000 that Russia appeared ready to sell its own weaker version of the system to China. The system would allow the air force using it to coordinate scores of fighters and bombers, increase the accuracy of its missiles and provide the ability to see over the horizon. (IHT 20-11-00)

Renunciation of US-Russian agreement on arms sales to Iran

Russia informed the US on 3 November 2000 that it planned to withdraw from the (secret) US-Russian agreement of 1995 in which it pledged not to sell conventional weapons to Iran. This was affirmed in a joint Iranian-Russian announcement on 28 December 2000. (IHT 23-11, 29-12-00) On 12 March 2001 the Russian government announced that it would resume the sale of conventional weapons, which was criticized by the US. (IHT 15-03, 16-03-01)

ENVIRONMENTAL POLLUTION AND PROTECTION

Whaling

Japan decided to broaden its whale hunting to more categories of whales in July 2000. These categories were protected under US law, and consequently the US announced it would ban Japan from future access to fishing in US waters and threatened economic sanctions if Japan did not curtail its expanded hunting of whales. On the other hand, Japan warned it would file a complaint with the WTO if the US took action. (IHT 14-09-00)

The International Whaling Commission on 23 May 2002 voted down a Japanese proposal which would pave the way for lifting a 1986 moratorium on commercial whale hunts. The proposal would have set up a framework for a commercial whaling management program. Of the Commission's 45 voting members, 16 backed the proposal, 25 voted against and three abstained. (IHT 24-05-02)

Other Japanese efforts were its (failed) attempts to re-admit Iceland, a country that had refused to stop commercial whaling. Meanwhile, the pro-whaling bloc, including Japan and Norway, was enlarged by the inclusion of West African and Caribbean countries (environmental NGOs accused the Fisheries Agency of Japan of vote buying). (IHT 27-05-02)

Caspian Sea sturgeon

The states parties to the Convention on International Trade in Endangered Species in their meeting in June 2001 banned the fishing of sturgeon from most of the Caspian Sea and its rivers as of 2002, hitting chiefly Russia, Kazakhstan, Turkmenistan, and Azerbaijan. It left Iran with a monopoly on legal caviar since two thirds of Iran's catch were of a species that spent its entire life along the Iranian coastline. (IHT 22-06-01)

Japanese initial disavowal and later ratification of Kyoto Protocol

In mid-2001 the Japanese prime minister told the US president that Japan would not implement the 1997 Kyoto Protocol without US participation. Nevertheless, Japan ratified the Protocol on 4 June 2002, a few days after the 15 member states of the European Union had done so. Japan is the fourth-largest emitter of carbon dioxide, after the US, the EU and Russia. [The Kyoto Protocol was the first multilateral treaty requiring industrial countries to reduce emissions of gases linked to global warming. The position of the EU was that it would pursue ratification and enactment even without the US; the latter had announced its opposition in March 2001 because the required reductions could harm the US economy. The US on 19 July 2001 affirmed its decision not to ratify the Kyoto Protocol. Despite US abstention the protocol would, under its complicated requirements, take effect if it were to be ratified by the EU, Russia, Japan, and either Canada or Poland.] (IHT 02-07-01, 05-06-02)

ESPIONAGE

Bugging of Chinese aircraft

According to newspaper reports Chinese intelligence officers had found spying devices hidden in a US-built aircraft that was bought by China in June 2000 and refitted in the US to become a presidential aircraft. It appeared that both governments wanted to play down the incident and to resolve it quietly. (IHT 21-01-02)

FOREIGN INVESTMENT

Iran

The Iranian parliament for the first time passed legislation authorizing and protecting foreign investment in Iran. Previous law dating from many decades ago prevented foreigners from holding more than 49 per cent of companies, although

full international investment had been allowed within certain constructions in the energy sector. (IHT 24-08-00)

HAND-OVER FOR PENAL PURPOSES

Demand to turn over Osama bin Laden

The UN Security Council, in its resolution 1267(1999) of 15 October 1999, acting under Chapter VII of the UN Charter, *inter alia* “[deplored] the fact that the Taleban continues to provide a safe haven to Usama bin Laden and to allow him ... to operate a network of terrorist training camps from Taleban-controlled territory and to use Afghanistan as a base from which to sponsor international terrorist operations”, and “[demanded] that the Taleban turn over Usama bin Laden without further delay to appropriate authorities in a country where he has been indicted ...”.

On 5 November 2000 a Taleban spokesman was quoted as saying that Afghanistan would not expel the person in question, even if evidence linked him to the 1998 bombings of US embassies in Africa, and that any trial he could face would be in Afghanistan. (IHT 06-11-00)

Pakistan-US practice

In connection with the kidnapping and murder in Pakistan of a US journalist in January 2002, Pakistan agreed in principle to surrender to the US the chief suspect who was a British-born militant Muslim. There was no extradition treaty between the two countries, yet they had worked closely together in the past in the hand-over from Pakistan to the US of several top terrorist suspects.

Since the Afghan war following the September 2001 attacks on the US, Pakistan had handed over scores of Taleban and Al Qaeda fighters who were detained in Pakistan as they fled from Afghanistan. It was said that these handings-over were carried out on the basis of an agreement with the US specifically meant to apply to the Afghan crisis. (IHT 26-02, 27-02-02)

Asian collusion with US “rendition” policies

According to newspaper reports various countries, among which Asian ones, had been cooperating with US policies for the past several years and increasingly after the September 2001 attacks on the US, in the hand-over of criminal suspects from one country to another while bypassing national as well as international rules on the matter. Such “renditions” were preferred in order to prevent legal complications and publicity. They sometimes took place to countries other than the US, in order to avoid the application in the US of interrogation tactics which are illegal in the US and, generally, to prevent anti-US reactions.

Among the reported cases was that of Mohammed Saad Iqbal Madni, said to be in possession of an Egyptian and a Pakistani passport, who went to Indonesia from Pakistan in November 2001. In January 2002 the USCIA was said to have informed the Indonesian intelligence agency that Iqbal was an Al Qaeda suspect and to have urged Indonesia to apprehend him. This was followed by an Egyptian request

for his hand-over (“Egypt just provided the formalities”), allegedly on charges of terrorism. He was then, allegedly at US request, detained by the Indonesian authorities, expelled because of visa violations, and hustled aboard a US-registered plane and flown to Egypt.

Another reported example was that of a Yemeni, who was wanted (by the US) in connection with the attack on the US destroyer *Cole* in Yemen in October 2000. He was detained in Pakistan and there surrendered to US authorities who flew him to Jordan. (IHT 12-03-02)

HUMAN RIGHTS

See: International and municipal law

INSURGENTS

See also: Protection of foreign nationals

Sri Lankan civil war

The Sri Lankan government on 3 August 2000 proposed a new constitution that would give greater political autonomy to the minority Tamil population, in order to help end the 17-year war. But the main Tamil insurgent group rejected the proposed constitution on grounds that nothing short of an independent state would satisfy them. On its part, the main opposition party voted against it, believing that the measure would give the Tamils too much power and could lead to a division of the country, making its passage in Parliament improbable. (IHT 04-08-00)

In November 2000 the separatist Tamil Tiger rebels announced that the group was ready for unconditional peace talks with the government, calling on the government to end its economic blockade and to de-escalate the war. The peace overture came in response to mediation efforts by Norway which had acted to “facilitate” talks since 2000. Although the prime minister said that the government planned to carry on the war “until the enemy is totally eliminated”, the rebels nevertheless declared a unilateral, month-long cease-fire on 21 December 2000. They voiced the hope that the government would reciprocate and that the peace talks of 1995 that broke down after eight months, could be resumed. (*see* 6 Asian YIL 391-392). The cease-fire was extended several times. The government did not reciprocate and began a new offensive instead, although operations were slowed down and several attempts were made, with the help of Norway, to bring the parties to the negotiating table. (IHT 28-11, 22-12, 23/24-12-00, 13-04-01) In April 2001 the rebels announced they would not further extend the unilateral cease-fire which was scheduled to expire, but would continue to support Norwegian attempts to broker peace. (IHT 24-04-01) The rebels’ period of relative quiescence ended on 24 July 2001 by an attack on the country’s main airport. (IHT 07-08-01)

After the Tamil Tigers said for the first time that they would consider settling for less than a separate state, the rebels and the newly elected government, on the proposal of Norwegian mediators, agreed in principle on 21 February 2002 to a long-

term cease-fire, preparing the ground for peace talks. Mistrust between the Tamil Tigers and the large Muslim minority in the east of the country could, as an additional factor, derail progress toward a settlement. (IHT 26-12-01, 22-02, 10-04-02)

Philippine Muslim insurgents

(See also: Military cooperation: Philippines – US)

The 1996 peace agreement between the government and the MNLF (see 7 Asian YIL 429) and the election of the MNLF leader Nur Misuari as governor of the newly constituted Autonomous Region of Muslim Mindanao had not brought the hoped-for peace. The surrender of arms promised in the peace agreement was not implemented; there was an increased standing of the *Moro Islamic Liberation Front* (MILF) and the *Abu Sayyaf* grouping (named after its founder, Abdul Rasul Abu Sayyaf) which engaged in kidnapping and hostage-taking. All this resulted in increased military operations and a sceptical appraisal of the merits of a cease-fire. (IHT 5/6-08-00) In February 2001 the president declared a suspension of military operations against the Muslim separatist rebels in an effort to revive the stalled peace talks. However, there would be no withdrawal of government forces from guerrilla bases seized by the government troops in 2000, and the idea of a separate Islamic state was ruled out. (IHT 21-02-01) In March 2001 the MILF accepted the offer. (IHT 15-03-01) Negotiations were held in Malaysia with the assistance of the Malaysian government and a cease-fire agreement was signed in Malaysia on 7 August 2001, building on a preliminary accord reached in Libya in June. The cease-fire was to be monitored by the members of the Organization of the Islamic Conference. Parallel to this agreement another document reunifying the MILF with the MNLF was agreed upon and signed on the same day. (The two factions broke apart in 1978.) (IHT 04/05-08, 08-08-01)

Indonesian province of Aceh

Police had fired on people trying to reach a pro-independence rally in the provincial capital in November 2000, resulting in a refusal by the rebels to attend any further peace talks (see 9 Asian YIL 394) until the escalation of violence against civilians had stopped. (IHT 13-11, 23-11 -00) However, on 8 January 2001 the parties agreed to extend by one month the “moratorium on violence” or “humanitarian pause” that was agreed in May 2000 and due to expire on 10 January 2001. (IHT 11-01-01)

Indonesian province of Irian Jaya

The Indonesian government in early December 2000 abandoned its policy of trying to persuade the separatist groups (see 9 Asian YIL 394) to accept a regime of liberal autonomy, and ordered a severe crackdown. [The outermost eastern province has a population of 2 million and dozens of indigenous tribes. The island is of great economic importance, being the location of among the world’s largest copper and gold mines, which are operated by a US company.] (IHT 04-12-00)

Nepal

In 1994 the election commission barred the Communist alliance, once the third-largest party in Parliament, from taking part in the parliamentary elections. The following year the Communist Party of Nepal (Maoist) was formed; in 1996 it issued forty demands, including radical land reform and the abolition of the monarchy. When they did not get their way, they declared war against the state and an armed insurgency started.

Just days after the Maoist insurgents began their most fierce offensive since 1996 they said in spring 2001 they were prepared to enter into talks with the government. (IHT 09-04, 02-05-01) However, after the palace massacre on 1 June 2001 they again stepped up their attacks. The government and rebels eventually announced a cease-fire on 23 July 2001. (IHT 24-07-01)

In the wake of a guerrilla attack on 25 November 2001 in which tens of police officers were killed, the King declared a state of emergency. (IHT 27-11-01) The rebels staged their deadliest assault ever on 17 February 2002 after which the state of emergency was extended. (IHT 18-02, 22-02, 25-04-02)

Central Asia

(See also: Inter-state relations etc.: Shanghai Cooperation Organization)

There were regular attacks into Kyrgyzstan and Uzbekistan by Islamic insurgents, operating from Tajikistan and Afghanistan and known as the *Islamic Movement of Uzbekistan*, and allegedly financed from Afghanistan. Their alleged goal was said to be carving an Islamic state in the Fergana Valley, which stretches across parts of Uzbekistan, Kyrgyzstan and Tajikistan, and the overthrow of the Uzbek government. Russian military units took part in anti-terrorist exercises and border patrols in Kyrgyzstan and Tajikistan. (IHT 04-05-01)

INTERNATIONAL AND MUNICIPAL LAW

See also: International crimes and their adjudication

Chinese interpretation of treaty obligation

China ratified the International Covenant on Economic, Social and Cultural Rights on 28 February 2001, but accompanied it by issuing a statement to the effect that it would assume the obligations prescribed in Article 8 item 1(a) [on freedom in the field of trade unions] in line with relevant provisions of the Chinese constitution, trade union law and labour law. (IHT 01-03-01)

INTERNATIONAL CRIMES AND THEIR ADJUDICATION

Cambodian tribunal for trial of Khmer Rouge leaders

The Cambodian National Assembly on 2 January 2001 approved the creation of a tribunal for the trial of Khmer Rouge leaders on charges relating to the mass killings during their regime. The tribunal was to be structured according to a formula

agreed by the UN (*see* 9 Asian YIL 396). The Assembly specified that only “those persons who are most responsible” could be brought before the tribunal. The Senate approved the bill on 15 January; the Constitutional Council did so on 12 February. After a revision in late February, necessary because of a number of inconsistencies in the draft, the law was signed by the King on 10 August 2001.

Before the tribunal could actually convene, an agreement on the details was to be concluded between Cambodia and the UN, ensuring that the tribunal would adhere to minimum international standards. (IHT 03-01, 16-01, 13-02, 24/25-02, 17-07, 11/12-08-01)

On 8 February 2002, however, the UN pulled out of the preparatory work, mainly because the Cambodian government insisted that Cambodian law should take precedence over the projected agreement. The UN legal counsel said that it had been the UN’s consistent position that the tribunal cannot be bound by a national law. On the other hand, the Cambodian prime minister was reported to have said: “If I don’t follow Cambodian law, the National Assembly will vote to remove me. So I have to follow Cambodian law.” (IHT 09/10-02-02)

UN indictments for East Timor crimes

A special panel for serious crimes set up under the UN Transitional Administration for East Timor (UNTAET) issued the first indictments on 11 December 2000 in connection with the violence that broke out after the popular vote for independence from Indonesia. Under these indictments ten members of a pro-Indonesia militia group and one Indonesian army officer were charged with crimes against humanity that occurred in and around the town of Los Palos. Two months later another indictment was issued concerning five persons for crimes against humanity by murder, rape, torture, unlawful deprivation of liberty, inhumane and degrading treatment, and persecution.

Earlier in the year the UN and Indonesia, represented by its attorney-general, had signed an agreement to cooperate on investigative matters, but UN prosecutors were reported to have encountered difficulties in gathering evidence from Indonesian citizens. (IHT 12-12-00, 07-02-01)

Another four (pro-Jakarta) East Timorese militiamen were indicted for crimes against humanity in August 2001. (IHT 10-08-01)

Indonesian trials for crimes in East Timor

Indonesia on 14 March 2002 convened its first trials of senior officials accused of crimes against humanity in East Timor committed in 1999. (*See* State practice, *supra* at 180) Indonesia hoped the proceedings would satisfy demands for an international war crimes tribunal along the lines of the former Yugoslavia and Rwanda tribunals. It also hoped that they would lead the US to overturn a ban on military assistance (*see infra* at 382).

Eighteen persons would be tried although the Indonesian Commission on Human Rights had found 15 other officials implicated. Many people expected most of the suspects to receive relatively light sentences out of concern that stiff penalties could

prompt a backlash from the military, which contended that its actions were justified in order to prevent the country from splitting apart. (IHT 14-03-02)

INTERNATIONAL ECONOMIC AND TRADE RELATIONS

See also: Asia Pacific Economic Cooperation; Association of South East Asian Nations; World Trade Organization

Vietnam – US trade agreement

After nearly four years of negotiations, Vietnam and the US in July 2000 reached agreement on the issue of unfettered commerce between the two countries, for the first time since the Vietnam War and after having restored full diplomatic ties in 1995. The US Congress gave its approval in September-October 2001, the Vietnamese National Assembly in November. The agreement extended “permanent normal trade relations” status (PNTR, formerly referred to as Most-Favoured Nation status: MFN) to Vietnam and completed the process of Vietnamese-US normalization of relations. (IHT 14-07-00, 10-04, 05-10, 29-11-01)

Asia-Pacific bilateral free-trade agreements

Malaysia renewed its criticism of moves by Asia-Pacific countries towards the conclusion of bilateral free-trade agreements. It informed Singapore that it would oppose attempts to allow Australia and New Zealand entry to the ASEAN Free Trade Agreement (AFTA) through their eventual free-trade arrangements with Singapore. [Singapore has virtually no import tariffs and relatively painlessly concluded a free-trade agreement with New Zealand, while negotiating or planning to negotiate similar agreements with Australia, the US, Japan, Canada, Mexico and the four-member (Switzerland, Norway, Iceland, Liechtenstein) “European Free Trade Association” (EFTA). It was ready to exclude agriculture from a deal with Japan and include measures linking trade to labour and environmental standards in a deal with the US.] (IHT 22-02-01)

Japan, while having long been a staunch multilateralist, started pursuing a parallel policy of negotiating bilateral free-trade agreements. In October 2001 it concluded its first bilateral agreement, with Singapore, and it was said that similar agreements with Mexico, Australia, Canada, Chile, South Korea and Taiwan could be envisaged. Dwindling trade surpluses were mentioned as one of the major causes of the policy change. (IHT 09-11-01)

However, after having concluded the agreement with Singapore Japan did not plan to negotiate any more free trade deals with other countries in the region for the next few years, because of the expected large agricultural imports to Japan as a result of such agreements (even in the case of Singapore where farm products amounted to a tiny 1.8 per cent of annual two-way trade with Japan, the modest goldfish exports were excluded from the tariff cuts. Furthermore, the agreement was not called a free trade agreement but “Economic Agreement for a New Age Partnership”). Even without free trade arrangements, however, Japan was importing over \$9 billion in farm goods from Southeast Asia annually, including about 20 per cent

of the Thai and Vietnamese exports to Japan and ten per cent of the Philippine exports. Japan's food self-sufficiency had gradually declined over the last 30 years to under 40 per cent (compared with more than 90 per cent in the case of the US and Europe). (IHT 16-01-02)

European Union phase-out of trade barriers

The EU decided to phase out trade barriers on everything except military weapons from 48 least-developed countries. The phase-out nature was a compromise, lasting until 2009, for barriers to sensitive products like bananas, rice and sugar. The practical result of the measure would be reflected in increased imports from the poorest countries substituting for those from less poor developing countries. (IHT 01-03-01)

INTERNATIONAL HUMANITARIAN LAW

See also: World War II

No Gun Ri incident (Korean War)

South Korea had long been contending that US soldiers fired into a crowd of unarmed refugees near the village of No Gun Ri in the early days of the Korean War in July 1950. In December 2000 news emerged of a later report from the US Army's inspector general in which the conclusion was drawn that the soldiers had panicked in the midst of a chaotic retreat and had indeed fired into the crowd, believing North Korean troops were posing as refugees. The report also stated that there had been no conclusive evidence about orders to shoot the civilians, but there was difference of opinion on this point. There was also disagreement on the question whether the US should pay compensation to the families of those killed in the shooting. It was the first formal acknowledgement by the US military of its involvement in the massacre.

South Korean and US officials discussed the findings in early December 2000 when preparing a memorandum of "common understanding", but failed to reach agreement on the crucial element of whether the US troops were ordered to fire. (IHT 07-12-00, 04-01-01)

On 11 January 2001 the US president stated in a written statement: "On behalf of the United States of America, I deeply regret that Korean civilians lost their lives at No Gun Ri in late July 1950. ... To those Koreans who lost loved ones at No Gun Ri, I offer my condolences. Many Americans have experienced the anguish of innocent casualties of war." However, the statement fell short of an admission of guilt and there were no apologies, nor any offer of compensation to the relatives of the dead. (IHT 12-01, 13/14-01-01)

Germ warfare in World War II

In 1997 a suit had been filed in the Tokyo District Court by 180 Chinese citizens alleging that crimes against humanity were committed by a medical experimentation unit of the Japanese army ("Unit 731") in northeast China during the Second World War. It was alleged that the unit had tested and developed biological weapons,

spreading bubonic plague, cholera and typhus. The case had dragged on and no decision was expected before the end of 2001.

The Japanese government had denied the jurisdiction of the court and had insisted that it did not know what the army unit in question had done. (IHT 10/11-03-01)

US treatment of prisoners taken in the Afghan War

The US had transferred several prisoners, captured in the course of the war in Afghanistan, out of Afghan territory, such as to US warships at sea. On 10 January 2002 the US started to transfer a group of Al Qaeda and Taleban detainees, termed by US officials as “the worst of the worst”, out of the country to a camp (“Camp X-Ray”) at the US Navy base at Guantanamo Bay, territory under US jurisdiction that was leased from Cuba in 1903.

The captives were initially named “battlefield detainees” and later described by the US as “unlawful combatants”. They were not recognized by the US as prisoners of war, and consequently not accorded a status that would give them per se the legal rights under the Convention Relative to the Treatment of Prisoners of War, among which eventual trial through court-martial or civilian courts, not special military tribunals (this denial of prisoner-of-war status was affirmed in a US presidential decision of 18 January 2002). Nor were they charged with any criminal activity. They were in fact allowed limited rights, including the right to practise their religion, but they were not allowed legal representation during interrogation. Determination as prisoner of war would limit the possibilities of the US military to interrogate the detainees. On the other hand, their classification as “unlawful combatants” would make the Conventional obligation to release them when the military campaign terminates inapplicable. Besides all this the US Secretary of Defense rejected the criticism voiced against this treatment by saying that the detainees were being treated vastly better than they themselves treated anybody else.

The US government based its refusal to accord the status of prisoner of war to the detainees on the nature of their method of warfare, which allegedly did not meet the requirements of the laws of war and the Geneva Convention, such as those about uniforms, military hierarchy and the conduct of operations. (IHT 11-01, 18-01, 28-01-02)

Responding to protests from among its allies the US president decided on 7 February 2002 that the US would grant the protection of the Geneva Convention to detainees who had fought for the Taleban but not to members of the Al Qaeda network. The US spokesman said: “Although the US does not recognize the Taleban as the legitimate Afghan government, the president determined that the Taleban members are covered under the treaty because Afghanistan is a party to the convention. ... Al Qaeda is an international terrorist group and cannot be considered a state party to the Geneva Convention.” But the US held to the view that nevertheless Taleban supporters would still not be considered “prisoners of war”. [It was said that the decision was meant to meet concerns that denying the protection to detainees from Afghanistan could be used as a precedent that would result in mistreatment of captured US soldiers at some future point in the war on terrorism.] (IHT 08-02-02)

The International Red Cross reacted to the decision by saying that it fell short of international law and that people “in a situation of international conflict [i.e. including Taleban and Al Qaeda fighters] are considered to be prisoners of war unless a competent tribunal decides otherwise”. (IHT 09/10-02-02)

It was reported in May 2002 that one of the detainees was transferred from Guantanamo Bay to a prison in Virginia in April 2002 after it was discovered that the person had been born in the US and might be a US citizen. Lawsuits filed on behalf of Guantanamo detainees were frustrated by the fact that US federal courts have no jurisdiction over Guantanamo (Cuban) territory. A 1950 Supreme Court decision denied captured foreign combatants overseas the right to have their case heard in a US federal court. (IHT 15-05-02)

A petition was filed in January 2002 in the US District Court at Los Angeles against the detentions, alleging that the detainees were held in violation of the Geneva Convention and the US Constitution. It wanted, *inter alia*, due-process guarantees. The judge would first have to decide on his/her jurisdiction and on whether the California plaintiffs had legal standing to pursue a case involving prisoners held at a US facility in Cuba. (IHT 22-01-02)

British treatment of prisoners taken in the Afghan War

According to information from British sources dating from 2002 prisoners taken by British forces in Afghanistan were not handed over directly to US authorities, but were turned over to the Afghan government. British officials acknowledged that “under international law every single person arrested would have to be put before a British tribunal”, yet “our forces in the region simply don’t have enough bodies there to do that”; therefore, captives were turned over to the Afghan authorities while notifying the US military commander concerned of this. (IHT 02-05-02)

INTER-STATE RELATIONS: GENERAL ASPECTS

Shanghai Cooperation Organization

(See also: Regional security)

A regional security summit meeting took place in Dushanbe, Tajikistan, in early July 2000, with the participation of China, Russia, Kazakhstan, Kyrgyzstan, and Tajikistan.

The five countries met again in June 2001 in Shanghai, admitted a sixth member, Uzbekistan, and changed the name of the forum into “Shanghai Cooperation Organization”, with a focus on combating Islamic militancy in Central Asia and with the “Islamic Movement of Uzbekistan” as their chief concern. (IHT 15-06-01)

Conference on Interaction and Confidence-Building Measures in Asia

An initiative of the president of Kazakhstan at the General Assembly session of the UN in 1992 led to the founding of the Conference on Interaction and Confidence-Building Measures in Asia (CICA). The Conference aimed at the creation

of a security framework for Asia along the same lines as the Organization for Security and Cooperation in Europe (OSCE). In the course of the following years the foreign ministers of the interested states worked out cornerstone principles, resulting in the signing, in Almaty on 4 September 1999, of a *Declaration on the Principles Guiding Relations* among the CICA states.

The Declaration laid down seven fundamental principles which should govern the relations among the Conference states and would constitute the legal basis of a system of security for Asia.: (1) Sovereign equality and respect for rights inherent in sovereignty; (2) Refraining from the threat or use of force; (3) Territorial integrity of the Member States; (4) Peaceful settlement of disputes; (5) Non-intervention in internal affairs; (6) Economic, social and cultural cooperation, and (7) Human rights and fundamental freedoms.

The membership of the Conference consists of 16 states: Azerbaijan, Afghanistan, China, Egypt, India, Iran, Israel, Kazakhstan, Kyrgyzstan, Mongolia, Pakistan, Palestine National Administration, Russia, Tajikistan, Turkey, and Uzbekistan.

A summit meeting of heads of state took place for the first time in early June 2002 at Almaty. It issued a declaration committing the participating countries to working together to make Asia peaceful and safe from terrorism and other threats. (IHT 04-06, 05-06-02; www.kazakhembus.com/CICA)

Afghanistan – Iran

After the establishment of the Afghan interim government in December 2001 there were reports about meddling from the Iranian side in some provinces through the distribution of money, goods, and even weapons. Nevertheless, the interim Afghan prime minister visited Iran and praised Iran for standing by Afghans in their struggles against Soviet occupation and terrorists, thereby referring to bonds of “a common culture and language” which had “made our friendship eternal”. (IHT 25 –01, 08-02, 26-02-02)

Afghanistan – Pakistan

(See also: Pakistan – US)

After having supported the Islamic resistance that fought and drove the Soviet occupation force from Afghanistan in the 1980s, Pakistan shifted its backing to the Taliban movement which took Kabul in 1996 (see 7 Asian YIL 402). In October 2001, however, Pakistan started taking sides with the US in support of the latter’s campaign against terrorism. In early April 2002 the Pakistani president went to visit Afghanistan, where he pledged brotherly support for the new Afghan government. (IHT 03-04-02)

Afghanistan – US

(See also: Terrorism)

In connection with the attack on the US destroyer *Cole* in Yemen on 12 October 2000 newspaper reports were speculating that the US might take military action against Afghanistan because of suspicions that Osama bin Laden, who had moved his main base to Afghanistan, was involved in the attack. [In 1998 the US launched

cruise missiles against sites in Afghanistan where Osama bin Laden was suspected of operating guerrilla training camps, about two weeks after bombs had exploded at two US embassies in East Africa. Although the Taleban had seized power in 1996, Afghanistan was never put on the US list of terrorist-sponsoring countries, apparently reflecting the US focus on its various other interests rather than on the threat of terrorism.] (IHT 03-11-00, 06-11-01)

The US took a similar attitude when the attacks of 11 September 2001 on New York and Washington took place. It claimed to have evidence linking Osama bin Laden to the attacks, and vowed to strike the group to which the attackers belonged as well as any country that harboured them.

The Taleban denied that Osama bin Laden was behind the New York and Washington plane crashes, and pleaded with the US for restraint. (IHT 14-09-01) It called Osama bin Laden a guest and, consequently, rejected the Pakistani warning to surrender him (*see*: Pakistan – US, *infra* at 377) and took the position that handing him over could be considered only when convincing evidence of his involvement was provided. [This evidence was never provided, allegedly for reasons of intelligence confidentiality. Meanwhile, US officials admitted they had no “smoking gun” showing that Osama bin Laden had personally ordered the attacks nor one that definitively linked him to the attackers. IHT 26-09-01] Eventual evidence would have to be presented to the *Shura*, the supreme organ of the Taleban (or, according to later reports, to the Afghan Supreme Court or to clerics of three Islamic countries) for judgment. Besides, the handing-over would have to be approved by the *Organization of the Islamic Conference*, and if a trial of Osama bin Laden took place outside Afghanistan, at least one of the judges must be a Muslim.

Meanwhile the US rejected a suggestion to urge (but not force) Osama bin Laden to leave Afghanistan voluntarily, and demanded that he, together with other figures living in Afghanistan who were suspected of being members of the alleged network Al Qaeda, must be surrendered to “responsible authorities”. A more or less formal ultimatum along these lines was announced in a US presidential speech on 21 September 2001 that proclaimed a “war on terror”. In this speech it was said: “Either you are with us or you are with the terrorists. ... From this day forward, any nation that continues to harbor or support terrorism will be regarded by the US as a hostile regime.” Specifically, it was said: “The Taleban must act and act immediately. ... They will hand over the terrorists, or they will share in their fate.”

It was reported on 28 September 2001 that US and UK forces had begun operating inside Afghanistan in the first phase of military offensive. (IHT 15/16-09, 18-09, 19-09, 20-09, 21-09, 22/23-09, 29/30-09-01) (*see further*: Afghan War)

In what seemed to be a reversal of policy the US president on 17 April 2002 called for a plan for Afghanistan analogous to the Marshall Plan devised for post-war Germany and for Japan. He described a long-term involvement that would extend beyond the battlefield into infrastructure building and the re-invigoration of the economy. However, he did not say what kinds of resources the US was prepared to devote to the task. (IHT 18-04-02)

China – Afghanistan

(See: Civil War)

China – Japan*Mutual distrust*

The Japanese foreign minister, speaking at the Central Party School in Beijing, warned in late August 2000 of increasing distrust between Japan and China. He cited Chinese reports claiming a revival of Japanese militarism and Japanese suspicions of rising military spending and an expanding missile arsenal in China. (IHT 31-08-00)

Prime ministers' visits

The Chinese prime minister visited Japan in October 2000. It was expected that the visit would soothe the tension that existed during the 1998 visit by the Chinese president (see 8 Asian YIL 274). Though recalling the pain caused by Japanese militarism the prime minister said that the Japanese people had also been victims and should, therefore, not be held responsible. He said that China “highly evaluated” Japan’s economic assistance during the past 20 years.

The prime ministers of both countries agreed to speed up efforts to work out a mutual notification system for maritime activities in waters between the two countries, such as the Chinese maritime research activities in Japan’s 200-mile exclusive economic zone. (IHT 14/15-10-00)

The Japanese prime minister visited China in early October 2001, just as the US had started military operations against Afghanistan. (see: Afghan War) Until shortly before the visit, China had objected to it until the Japanese prime minister had expressed his remorse for past Japanese aggression (see *infra*: Japan – East Asia). The prime minister started his visit with a trip to the Marco Polo Bridge near Beijing and an adjacent museum dedicated to the war against Japan, where he made a public expression of contrition. (IHT 09-10-01)

Japanese visa for former Taiwanese president

The granting of a visa to a former Taiwanese president in April 2001 caused China to launch a protest, saying that the grant “undermined the basis of bilateral relations” as the person in question (who, formally, was going to Japan for a medical check-up) was viewed as an advocate of Taiwan’s independence. The Japanese foreign minister admitted that he was “a very influential person politically” and said: “I think we are about to enter a difficult period in our diplomatic relations with China” although “[w]e will strive to make China understand that our decision was made on the basis of humanitarian concerns” and “[t]his decision will not affect Japan’s stance on Taiwan”. (IHT 21/22-04-01) There was a possibility that the cancellation of a visit to Japan planned by the Chairman of the Chinese National People’s Congress for May 2001 was, at least partially (see *infra*: Japan – East Asia), the result of the visa incident. (IHT 26-04-01)

China – Russia

The Russian president visited China in July 2000 to cement the good relations between the two countries. One year later, in July 2001, the Chinese president visited Russia, culminating in a treaty of friendship and cooperation of 16 July 2001, the first such pact since 1950. The treaty contained 25 articles and would have a validity of twenty years.

It was emphasized that the treaty neither founded a military alliance nor was it aimed at “any third country”. Yet the treaty joined the two countries formally in opposition against US missile defence plans and rejected the kind of humanitarian intervention that NATO undertook in the Balkans in 1999. It said the two countries “stand for strict observance of the generally recognized principles and norms of international law against any actions aimed at forced pressure or at interference, under any pretext, into domestic affairs of sovereign states”. It reflected the deep concerns shared by both countries about a new world order dominated by the US and its European allies. Instead, the two presidents expressed the hope for a “just and rational new international order”.

The border between the two countries had shrunk from 4,500 miles in Soviet times to 2,550 miles as a result of the emergence of the new Central Asian republics. Old enmities had faded and the two countries had forged a tactical partnership to oppose US and European ascendancy. Both countries chafed at NATO’s intervention in the Balkans; both had worked to ease UN sanctions on Iraq, and both sold weapons and nuclear technology to Iran. (IHT 15-01, 07-03, 16-07, 17-07-01)

It was reported in late June 2002 that China was negotiating to buy eight submarines from Russia, being part of a billion-dollar package of weapons that Russia had committed itself to provide to China over the next four or five years. (IHT 25-06-02)

China – US

(See also: Divided states: China (Taiwanese request for weapons), Regional security)

Military cooperation

By way of the latest step in a gradual rekindling of bilateral military ties severed in 1999 after the bombing of the Chinese embassy at Belgrade a US warship entered the harbour of Qingdao on 2 August 2000 for a visit. It followed a visit by the US defense secretary to China in July. (IHT 03-08-00)

Another visit by US warships, this time to Hong Kong, took place in August 2001 and again this was interpreted as a sign of improvement in Sino-US relations after the warplane collision incident of April 2001 (*see infra*). (IHT 21-08-01)

Missile technology export

On US insistence China in November 2000 agreed to adopt municipal export control laws halting the supply of missile technology to other countries. This came instead of accession to the Missile Technology Control Regime (1 Asian YIL 270), for which China was not prepared. It considered the MTCR to amount to a cartel

in which the countries that already have missile capability prevent other countries from acquiring it.

Later (on 1 September 2001) the US imposed sanctions by way of trade restrictions, barring both a major Chinese arms manufacturer from importing US items for dual purposes, and the issuance of licenses for US companies to launch their satellites on Chinese rockets. These sanctions would be lifted only if four conditions were fulfilled, i.e., halting exports of missile technology to Pakistan, refraining from helping other countries develop missiles capable of delivering nuclear weapons, broadening the scope of the 2000 agreement to include pre-November 2000 contracts, and establishing a system of export controls to regulate the transfer of sensitive technology. (IHT 06-10-00, 03-09-01) China accused the US of having acted on erroneous intelligence and the Chinese company in question said its exports to Pakistan consisted of machine tools and parts for civil use only. (IHT 07-09-01)

In late February 2002 it was announced that China would send its top arms control negotiator to the US to continue talks on the above issues. (IHT 27-02-02)

Hainan warplane collision

A Chinese fighter jet and a US surveillance plane collided 50 nautical miles south of Hainan Island above the South China Sea on 1 April 2001, resulting in the crash of the Chinese plane and the US plane being forced to make an emergency landing on Hainan Island. The collision occurred when two Chinese fighter planes intercepted the US aircraft when the latter approached Chinese airspace. Surveillance and reconnaissance flights by US aircraft near Chinese airspace had been taking place since at least the 1970s.

Blaming the US for the incident China launched a protest, while the US, concerned about Chinese access to the military technology in the American aircraft, emphasized its immunity and urged China to “respect the integrity of the aircraft”, while requesting the immediate return of the aircraft and crew. It also requested access to the plane and crew (in Chinese custody) by its diplomats, a request which was granted the next day. The US ambassador to China said that China had no jurisdiction over the US crew and that the plane’s immunity status barred China from boarding, searching, seizing or detaining it without US consent. [In past comparable cases the US had often rejected similar appeals. In 1976 in the case of a Soviet pilot who defected to Japan, US authorities spent nine weeks taking his airplane apart and inspecting it before sending the plane back to the Soviet Union, in packing crates. But some analysts distinguished between an aircraft brought in by defectors and the case of one in distress.] (IHT 02-04, 03-04-01)

The US president and the Secretary of State expressed regret over the presumed death of the pilot of the Chinese aircraft, without, however, issuing a formal apology as demanded by China. It was the US position that it had done nothing wrong and that apparently the Chinese plane had manoeuvred too closely underneath the slower spy plane, while the Chinese side argued that the US plane had violated the rules by turning suddenly and colliding, and by making a landing without permission.

While the US urged that the aircraft and crew be returned immediately, the Chinese authorities wanted time to “complete their investigation”. US circles described

the Chinese attitude to be “intransigent” and “violating norms of decent behaviour”. The case was compared to that of the spy-ship “*Pueblo*” which gathered intelligence off the coast of North Korea in January 1968 and was captured by the North Korean military and never returned, while the crew was held captive for eleven months. (IHT 05-04, 06-04-01)

A solution to the problem was sought in the exchange of letters that would express regrets for the collision, establish an investigatory body, and pave the way for the release of the American crew. It was said that a 1998 Sino-US Military Maritime Consultation Agreement might be used as a forum to reach new procedures to prevent collisions in the future. (IHT 7/8-04, 11-04-01)

On 11 April 2001 China announced it would release the US crew since the US had declared, in a letter from the US ambassador to the Chinese foreign minister, that it was “very sorry” that the entering of Chinese airspace and the landing of the US plane [at Hainan Island] did not have verbal clearance, and for the death of the Chinese pilot. The difference between the Chinese translation of the term “very sorry” by the Americans and the Chinese was significant. The crew members were flown out of China on 12 April 2001.

The two sides subsequently met several times to discuss the other aspects of the case, such as the release of the plane, the causes of the incident, recommendations on the prevention of collisions in the future, and a plan for the return of the US aircraft. From the beginning China had also demanded that the US stop conducting surveillance flights near the Chinese coast, but the US said it would continue since it considered these flights important for security in the region, particularly for Taiwan. In fact, the US resumed surveillance flights in early May. On its part the US side asked China to be less aggressive and more careful when its fighter planes intercept US surveillance planes, citing standard procedures worked out by the US and the Soviet Union during the Cold War. For some time the parties were unable to reach agreement on any of these matters. (IHT 12-04, 13-04, 20-04, 08-05-01)

In the course of the negotiations China allowed a US team to inspect the damaged plane, and the parties were considering US payments to China. (IHT 30-04, 02-05-01) Meanwhile China would not allow the plane to be flown out of the country in case of its return to the US. (IHT 09-05-01) The disassembled parts of the plane were finally packed in a cargo aircraft and flown off Hainan Island on 3 July 2001. (IHT 04-07-01)

The US rejected a Chinese claim of \$1 million for the expenses relating to the 24-day stay of the US crew and the dismantling of the aircraft, while reaffirming its readiness to consider payment of the costs directly associated with the process of returning the aircraft, offering \$34,567, which was considered unacceptable by China “both in its contents and form”. (IHT 09-07, 21/22-07, 11/12-08, 13-08-01)

US meeting with the Dalai Lama

The US president had a “private meeting” with the Dalai Lama on 23 May 2001, the fiftieth anniversary of the 1951 agreement between China and Tibetan leaders that, from the Chinese perspective, marked the liberation of Tibet. In a later statement he offered his strong support to the Dalai Lama and the latter’s efforts to initiate

a dialogue with the Chinese government. China had been demanding that the Dalai Lama should first accept Tibet as being a part of China before launching talks. (IHT 23-05, 24-05-01)

US president's visit

During the US president's visit to China in February 2002 the US and China reached agreement neither on US policy relating to Iraq, nor on Chinese controls of weapons supply to other countries, nor on the lifting of US sanctions barring US companies from launching satellites on Chinese rockets. (IHT 22-02-02)

China – Vatican/Holy See

China attacked the Vatican over the latter's plans to canonize 120 Roman Catholic "martyrs" killed in China between 1648 and 1930. A spokesman asserted that many of these people committed "monstrous crimes against the Chinese people" and were executed for violation of Chinese laws during the invasion of China in the nineteenth century by imperialists and colonialists, especially the invasion by eight European powers in 1900 to suppress the anti-foreign, anti-Christian Boxer movement, or were killed during the Opium War (1839-1842). The canonizations took place on 1 October 2000.

China severed diplomatic relations with the Vatican in 1951 because the Vatican maintained its recognition of the Kuo Min Tang (Nationalist Party) government. It was reported, however, that the Vatican had already signalled its willingness to move its embassy from Taiwan to Beijing in exchange for a resumption of diplomatic relations. (IHT 27-09, 02-10-00)

In a message addressed to a symposium in Rome on Matteo Ricci, the 17th-century Jesuit missionary, the Pope on 24 October 2001 apologized for errors of the colonial past and pleaded for the establishment of diplomatic relations. The Chinese responded by saying it would earnestly study the Pope's plea. The foreign ministry spokesman reiterated the two principles on the matter to which China adhered: first, termination of the Vatican's diplomatic ties with Taiwan and recognition of the People's government at Beijing as the sole government of China; second, a promise not to interfere in China's internal affairs, including under the pretext of religious activities. [Some have referred to the Vietnamese compromise model, under which the Vatican agreed to appoint bishops in consultation with the government.] (IHT 25-10, 26-10-01)

India – Pakistan

See: Special territories within a state: Kashmir

India – Russia

On the occasion of a visit by the Russian president to India in early October 2000 the two countries signed a "Declaration of Strategic Partnership" on 3 October, pledging not to join any military or political blocs and also to avoid treaties or agreements that would infringe on each other's territorial integrity or sovereignty. The two sides would also inform each other of planned foreign policy initiatives and

hold regular political consultations. They were also committed to close cooperation at the UN, to working together for the reduction and eventual elimination of nuclear weapons, and to halting nuclear proliferation. (IHT 04-10-00)

India – US

US missile defence and sanctions

To the surprise of many India said, in May 2001, that the US plans responded to “a strategic and technological inevitability”. On its part India wanted the sanctions of 1998 (*see* 8 Asian YIL 303) lifted and the US to encourage Pakistan to rein in militants in Kashmir. It would also, it was said, eventually like to be able to buy nuclear reactors for civilian use from the US. (IHT 07-05-01)

The US law relating to the sanctions imposed on India in its original version already included a presidential competence to grant a waiver; in October 1999 the president was granted authority to remove all the sanctions imposed in 1998, on the condition that the president determine and certify to the Congress “that the application of the restriction would not be in the national security interests of the US”. Whereas the previous president predicated a complete lifting on Indian signature of the Comprehensive Test Ban Treaty, its agreement not to deploy nuclear weapons and a freeze on fissile material followed by signature of the Fissile Material Cut-Off Treaty, the US attitude changed in 2001 when, in view of the Indian change of attitude (*see supra*), the US government decided to lift most of the sanctions, opening the doors to Indo-US military cooperation and to transfers of military and dual use technology. It was said that this policy shift amounted to a watershed and resulted from an altered appreciation of the Chinese threat to US hegemony in Asia. (IHT 03-09-01) A further lifting of sanctions took place in late September, apparently in appreciation of Indian help in the terrorism crisis resulting from the attacks in the US. (IHT 24-09-01)

Military and political ties

(*See: Terrorism*)

Iran – Europe

The EU foreign ministers on 17 June 2002 gave their agreement in principle to the opening of formal trade and cooperation negotiations with Iran without imposing explicit conditions, such as an improvement of the latter’s human rights record. The EU also emphasized its opposition to extending US sanctions on Iran and Libya for five years. Apart from political and economic reasons, the EU pursuit of improved relations also resulted from the need for cooperation in the field of narcotics trade and for stemming the flow of refugees from the region, environmental issues, and the prevention of the spread of nuclear weapons. (IHT 19-06-02)

Iran – Japan

Japan and Iran reached a landmark agreement on 1 November 2000, giving negotiation rights to Japanese oil companies for appraisal and development of a specific area of the Azadegan oil field which has a potential production of 400,000

barrels of crude oil per day. The Japanese had been cautious in investing in Iran because under the (US) Iran-Libya Sanctions Act the US could impose sanctions on non-US companies that invest in Iran and Libya. (IHT 02-11-00)

Iran – Palestine

In early January 2002 a ship, the “*Karine A*”, which was laden with 50 tons of mortars, rockets, missiles and explosives and that apparently came from Iran heading towards Palestinian territory, was intercepted and seized by the Israelis in the Red Sea. The two parties denied allegations made by US and Israeli intelligence sources according to which a new agreement had been concluded between Iran and the Palestinians involving the supply of weapons and money. (IHT 25-03-02)

Responding to Western accusations that it armed and otherwise supported or even directed the Hezbollah militia in Lebanon, Iran repeated its standing denial by way of its foreign minister who emphasized in April 2002 that “Hezbollah is an independent organization and does not take orders from Iran. It makes decisions based on its own judgments”. As to the legitimacy of *Hezbollah*’s activities he added: “It is Hezbollah’s legitimate right to continue resisting until it liberates the remaining territories under occupation. ... Only through resistance can one ward off aggression by Israeli aggressors.” Iran admitted only providing political and financial backing to the organization. (IHT 17-04-02)

Iran – Russia

Following a Russian decision in November 2000 to restart arms sales to Iran the two countries concluded a military cooperation agreement on 2 October 2001, citing the promotion of the struggle against terrorism.

Russia suspended arms sales to Iran in 1995 under a secret US-Russian agreement in exchange for alternative deals with the US which, however, seemed not to have materialized. (IHT 03-10-01)

Iran – US

Mutual dissatisfaction

On the occasion of his presence in New York for participation in the UN Millennium Summit (September 2000) the Iranian president said in a news conference, *inter alia*, that relations between Iran and the US would improve only if the US apologized for past policies in Iran. In February 2000 the US Secretary of State had admitted that Iranians had reason to resent US intervention in the 1953 coup on behalf of the Shah [and for the overthrow of the government under Mohammed Mossadegh], but she did not apologize.

The US had somewhat relaxed its sanctions against Iran, but insisted that Iran end its support for militant Islamic groups, such as *Hezbollah*, although Iran emphasized that it had halted funding of the group years ago. The US also claimed that Iran had been seeking to develop weapons of mass destruction, in particular long-range missiles. (IHT 08-09-00)

The US explorations of closer ties with Iran were put to an end by the US president's inclusion of Iran in his "axis of evil" (*see infra* at xxx) The efforts also met setbacks by the incident in January 2002 involving the interception of the "Karina A" (*see infra* at 399) and when the US started accusing Iran of supplying arms, money and training to an Afghan militia commander in western Afghanistan (*see supra*: Afghanistan – Iran). (IHT 05-02-02)

Sanctions

Among the variety of US sanctions against Iran (*see* Asian YIL Vol.7:474, Vol.8:304) were those imposed by executive order, some which were mandated as a result of Iran's classification as a supporter of terrorism, and those imposed by the Iran-Libya Sanction Act (intended to level the playing field for US oil companies by extending to foreign companies the bans already imposed on US corporations). The latter act was to expire in August 2001.

In the past the US government had issued a waiver allowing some European investment in the Iranian energy industry, and in 2000 a small gesture was made by lifting a ban on the import of caviar, pistachio nuts and rugs. (IHT 12/13-05-01)

Alleged Iranian involvement in "Khobar Towers" bombing

(*See also*: 9 Asian YIL 401)

An indictment was issued in the US in the case concerning the "Khobar Towers" bombing of a US military housing complex in Saudi Arabia in 1996 which killed a number of US service members. While not naming any members of the Iranian government it was unambiguous about Iranian involvement. The US attorney general said Iranians had "inspired, supported and supervised" the action though admitting that there was insufficient evidence to make a case against any Iranians that would stand up in court. Iran rejected the allegations of involvement. (IHT 22-06, 23/24-06-01)

US attack on Iranian vessel

US speedboats attacked an Iranian-registered Saudi oil tanker in the Gulf on 19 December 2001. The tanker had been on its way to the southwestern Iranian port of Abadan when it came under attack. The Swiss ambassador in Tehran, whose country represented US interests in Iran, told that the US speedboats had mistaken the tanker for an Iraqi vessel smuggling oil. (IHT 20-12-01)

Japan – Africa

The Japanese prime minister in January 2001 visited several African countries, the first visit by a Japanese prime minister to sub-Saharan Africa. He said in South Africa that development support and conflict prevention would be the main features of Japan's support for the continent. Of the annual more than \$10 billion Japanese development aid almost \$1 billion was allocated to Africa, with Kenya, Tanzania and Zambia the biggest recipients. In 1987 Japan overtook the US as South Africa's leading trading partner. (IHT 10-01-01)

Japan – East Asia

Revisionist textbook issue

The government approval of a revisionist junior school history textbook, the *Junior High School Social Studies New History Textbook*, raised continued angry reaction and deep hostility from various East Asian countries, South Korea in particular. According to its critics the book sought to justify and play down Japan's Asian conquests. A group of revisionist Japanese historians had written the book, wanting to reawaken the pride of young people in their nation, but according to the critics the book distorted the truth.

The South Korean government presented thirty-five changes it wanted made in this and other books, and members of the South Korean parliament filed a suit in the Tokyo District Court seeking an injunction to prevent the textbook from being published. North Korea had also harshly condemned the book, and China had cancelled a planned visit by its second-highest leader while also presenting its own list of demanded changes. The Japanese government said that the book did not represent Japan's official view of history and resisted pressure to revise it. (IHT 19/20-05, 07-06, 10-07-01) In retaliation South Korea cancelled military exchanges and the introduction of Japanese cultural imports, and even recalled its ambassador in Japan by way of protest. (IHT 10-04-01) [It was reported that the school districts in Japan were one by one rejecting the use of the disputed history text.] (IHT 10-04, 13-07, 14-08-01)

Prime minister's attitude toward pacifism; visits to Yasukuni shrine

The new Japanese prime minister had made proposals toward breaking with official pacifism and revising the post-war constitution which barred Japan from raising an army. He also repeated an earlier announcement of April 2001 on his intention to visit the Shinto *Yasukuni* shrine in Tokyo, dedicated to Japan's war dead, on 15 August, the anniversary of the official end of World War II, a decision that enraged China and Korea. An especially stern warning, one that could even be considered as implying a lack of respect, to call off the visit was given by the Chinese foreign minister on the sidelines of the annual ASEAN meeting at Hanoi on 25 July 2001. (IHT 21-06, 26-07-01)

The controversial visit to the shrine took place on 13 August 2001. The prime minister made a gesture to the Chinese and Korean warnings by not going on 15 August which is the anniversary of the Japanese surrender in World War II. The visit was seen by the surrounding countries as paying homage to (the Japanese) war criminals. The prime minister sought to offset that appearance by stating that Japan had caused "immeasurable disaster and pain and left a still incurable scar on many people in the region. Japan should never again walk on the path to war. ... I wish, in light of our country's regrettable history, to take this to heart, to express my deepest regret and remorse toward all the victims of war."

[One Japanese prime minister had earlier made an "official" visit to the shrine, in 1985; others had made visits that they described as "private". The present prime minister declined to characterize his visit.]

Despite the Japanese attempts to mitigate its significance, the visit gave rise to renewed angry reactions from Korea and China. The South Korean government said that if the Japanese prime minister were “willing to cultivate genuine friendship and cooperation” with Japan’s neighbours, he should “respect the positions and national sentiments of the countries concerned, based on a correct understanding of history.” The Chinese government said the central question was whether the Japanese side could sincerely regret that aggressive period of history and comprehend “the feelings of the people of the Asian countries that suffered”. (IHT 14-08-01)

After the visit and the reactions from other countries the Japanese prime minister said he wanted to meet those countries’ leaders to try to mend ties, but there was a negative response (*see supra*: China-Japan; *infra*: Japan-South Korea) (IHT 25/26-08-01)

To the indignation of China and Korea the Japanese prime minister paid another visit to the shrine on 21 April 2002. (IHT 22-04-02)

Japan – North Korea

In August 2000 North Korea sent negotiators to Japan for a second round of talks (the first took place in April 2000, *see* 9 Asian YIL 401) aimed at establishing diplomatic relations. It demanded Japanese compensation and an apology for the past Japanese colonization, while Japan demanded information on alleged kidnappings in the past and guarantees that North Korea’s missile program would not constitute a threat to it. The parties continued their negotiations in October 2000.

Early October Japan surprisingly announced a five-fold increase in its rice aid to North Korea, as a gesture to try to spur normalization talks. (IHT 27-07, 29/30-07, 31-07, 22-08, 25-08, 06-10, 18-10, 31-10, 01-11-00) [Negotiations between Japan and North Korea had been stalled for a decade. They began in 1991 but broke down after eight sessions (*see* Asian YIL Vol.2:330, Vol.3:399) and were resumed only in 2000.]

Japan – South Korea

In an attempt to calm down South Korean dissatisfaction with Japanese behaviour (*see supra*: Japan – East Asia) the Japanese prime minister apologized profusely during his visit in mid-October 2001 for former Japanese imperialism. (IHT 16-10-01)

Japan – South Asia

The Japanese prime minister paid a visit to India, Pakistan, and Nepal in August 2000, the first such visit in ten years. (IHT 16-08, 21-08-00)

Japan – US

Relations between the two countries suffered a setback when a collision of a US submarine with a Japanese fishing boat near Hawaii on 9 February 2001 resulted in the sinking of the fishing boat and the death of nine of its passengers. (IHT 12-02, 13-02-01)

Malaysia – Singapore

See: Straits

Myanmar – European Union

At a meeting in Laos in December 2000 between ministers from the EU and ASEAN, Myanmar agreed in principle to allow an EU mission to visit the country, without restrictions on whom the delegation could meet. The visit took place in late January. (IHT 17-01, 23-01-01)

North Korea – European Union

At the suggestion of the South Korean president the European Union despatched their own team of mediators to help invigorate the reconciliation process between North and South Korea and fill the breach left by the US's attitude of non-interest in talks with North Korea (*see infra:* South Korea – US). A delegation led by the Swedish prime minister had meetings in North Korea in early May. This move was accompanied by another step, namely, the establishment of diplomatic relations between the EU and North Korea. (IHT 26-03, 28-03, 31-3/01-04, 03-05, 15-05-01).

North Korea – Myanmar and Thailand

Myanmar remained the only ASEAN member state which refused to (re-)establish diplomatic relations with North Korea. The reason for this was the incident of 9 October 1983 when North Korean agents blew up the Martyrs' Mausoleum in Yangon in a bid to assassinate the visiting South Korean president. Myanmar thereupon severed relations and had not been willing to change its attitude before North Korea had admitted its act of terrorism and had officially apologized.

Thai-North Korean relations were disturbed in 1999 when North Korea sent a hit squad to Thailand to kidnap a defecting diplomat and his family. Diplomatic ties were, however, not severed, even though no official apology was offered. (IHT 27-07-00)

North Korea – Russia

The Russian president paid a visit to North Korea in July 2000, the first Russian leader (including preceding Soviet leaders) ever to do so. The visit marked some reversal in Russia's Korea policy since the Soviet Union made a policy shift in 1990 when the Soviet Union announced that it would enter diplomatic relations with South Korea and would demand hard currency from North Korea in payment for oil and other supplies. The policy shift resulted in a \$3 billion South Korean loan to the Soviet Union. (IHT 20-07-00)

The North Korean leader visited Russia in July-August 2001. The meeting with the Russian president produced a joint declaration in which the two leaders gave expression to their views about various current issues. The declaration stated, *inter alia*, that the North Korean side "reiterated its position that the withdrawal of American troops from South Korea will endure no delay" and that "the Russian side expressed understanding of this position". (IHT 26-07, 07-08-01)

North Korea – US

(See also: Divided states: Korea; Nuclear energy matters)

Meetings

The chairman of the North Korean Supreme People's Assembly who was on his way to attend the UN Millennium Summit in early September 2000 in New York, where he was expected to have sideline talks with the South Korean and US sides, had to undergo a strip search at Frankfurt airport before boarding a US airline flight. In reaction to this incident the North Korean envoy decided to return home. The North Korean foreign ministry referred to the incident as having hurt the dignity of the North Korean people, and the North Korean ambassador to the UN said that "all these facts clearly show that the US is a rogue state." (IHT 06-09, 07-09-00)

In early October 2000 the two sides held talks at the UN on the issue of negotiations aimed at ending a stalemate over North Korea's development and export of missiles, followed by a meeting of the US president and the vice-chairman of the North Korean National Defence Commission on 10 October at Washington.

A joint communique issued after the meeting read, *inter alia*, that the two sides "have decided to take steps to fundamentally improve their bilateral relations in the interests of enhancing peace and security in the Asia-Pacific region", and that "[as] a first step ... neither government would have hostile intent toward the other", confirming "the commitment of both governments to make every effort in the future to build a new relationship free from past enmity". With regard to the specific US concern of North Korean missiles the communique read that North Korea "informed the US that it will not launch long-range missiles of any kind while talks on the missile issue continue".

It was said that by acting as host to the high North Korean official and agreeing on a return visit by the Secretary of State the US was trying to regain the initiative on Korea negotiations that it lost to South Korea as a result of the inter-Korean summit in the summer of 1999. Such a development would also, it was said, fulfil North Korea's ambition of dealing directly and bilaterally with the US. (IHT 04-10, 11-10, 13-10-00) The US Secretary of State went to visit North Korea on 22 October 2000, raising expectations of a subsequent visit by the US president. (23-10-00)

In the last few months of 2000 North Korea offered a complete halt to its exports of missiles and related technology and a freeze to the development of new missiles, but the parties could not resolve the issue of verification, and were not then able to discuss the question whether North Korea would destroy its existing stocks of missiles. (IHT 30/31-12-00/01-01-01)

Further developments

During the first couple of months of 2001 the newly elected US administration ruled out the possibility of resuming the negotiations begun under the previous US administration, pending a policy review, citing problems of verification of agreements on the freeze of the production, testing or export of missiles. This was interpreted as indicating a shift in US policy, although the US president wrote to his South

Korean counterpart that the US would “strongly support the South’s engagement policy on the North”. (IHT 10-05-01)

The US announced on 6 June 2001 that discussions would be resumed with the aim of restricting North Korean missile development, halting its missile exports, tightening inspections of nuclear facilities and easing military tension along the border with South Korea. It was reported that the policy review implied that an accord on the missile issue was no longer sufficient and that improved relations would have to include a comprehensive program on limiting the North Korean military potential. (IHT 08-06, 04-07-01)

The first meeting took place in New York on 13 June 2001. (IHT 15-06-01) The US wanted the negotiations to include the issue of conventional troop deployment before the removal of the 37,000 US troops from South Korea, and verifiability of any missile control agreement. Repeating its earlier position that it would not accept conditions for the resumption of talks, North Korea dismissed the US wish which marked a significant departure from previous US policy that focused almost exclusively on eliminating the threat of nuclear weapons and ending the testing and sale of ballistic missiles. (IHT 19-06, 10-07-01)

During his visit to South Korea in February 2002 the US president assured that, despite his designation of North Korea as part of an “axis of evil”, the US had no intentions of invading or attacking the country. On the contrary: he said he fully supported the sunshine policy of reunification adhered to by the South Korean president (giving rise to the saying that Washington and Seoul were sleeping in the same bed but dreaming very different dreams), (IHT 21-02-02) and during his following visit to China the US president asked the Chinese president to convey to North Korea the US willingness to have talks. From the other side there was an offer in early April 2002 for a resumption of dialogue with the KEDO organization (see 5 Asian YIL 545 et seq. and *infra* at 386) and a further thaw set in, thanks to South Korean efforts, through a North Korean statement of willingness to receive a US envoy. (IHT 22-02, 04-04, 08-04, 11-04, 30-04-02)

Pakistan – US

(See also: China – US)

The US had been pressing Pakistan for months to play a greater role in efforts to dislodge Osama bin Laden from Afghanistan. The US had asked, *inter alia*, for the secret deployment of US special forces in northern Pakistan for the purpose of conducting operations inside Afghanistan to capture him. Having resisted for some time Pakistan agreed to meet a number of demands for cooperation under immense US pressure following the September 2001 attacks on the US. Among other things it consented to opening Pakistani airspace to possible missile attacks and aerial bombardments against Afghanistan. Pakistan would also share intelligence with the US on Osama bin Laden’s operations and would try to tighten the illegal movement of supplies across Pakistan’s borders into Afghanistan. It was later reported that Pakistan also permitted military logistical and technical personnel to operate at Pakistani air bases, naval ports and some other locations. The compliance with the US requests was seen as an effort to prevent retaliatory action against Pakistan and

to restore international credibility since Pakistan was the state that was most instrumental in the Taleban's rise to power (*see* Asian YIL Vol.5:397, Vol.6:350). In fact, the Taleban had been useful to Pakistan, providing an ally on its western flank as balancing a perceived threat from India on its eastern flank. In a speech on 19 September the military ruler of Pakistan explained that he was facing a US ultimatum and that he felt that the country's very survival was at risk.

The issue of a joint US-Pakistani effort to force the Taleban to turn over Osama bin Laden had been discussed for more than a year. In an effort to demonstrate its compliance with UN sanctions against the Taleban (*see infra* at 391) Pakistan had frozen the accounts of the Afghan government in the State Bank of Pakistan as well as accounts being used by religious organizations in Pakistan to help finance the Taleban. It had also urged the Taleban to surrender Osama bin Laden in order to defuse US threats of retaliation. (*see supra*: Afghanistan – US) The message, repeated on 17 September 2001, also contained the prospect that if the surrender took place and if the training camps were closed down, the Taleban would be left to continue in power. On 4 October 2001 Pakistan even acknowledged that the US had produced strong enough evidence to indict Osama bin Laden.

On its part Pakistan was trying to have the existing US sanctions against Pakistan lifted and to obtain US support for international financial aid for Pakistan. The US sanctions against Pakistan and India imposed in 1998 were indeed eased in late September 2001.

During a visit to Pakistan in mid-October 2001 by the US Secretary of State (*see supra*: Afghan War) it was announced that the US planned to provide another \$550 million in economic aid to Pakistan on top of the \$50 million it dispersed shortly after the September attacks on the US, when Pakistan was asked to open its airspace and provide logistic support and basing facilities. Pakistan would also receive nearly \$100 million to help control its borders and cope with an eventual refugee crisis. Besides, however, Pakistan wanted more debt relief than the already approved rescheduling of a \$379 million debt. However, as late as April 2002 the US had been slow to deliver on promises of police assistance, and had not removed duties and quotas on Pakistani textiles. (IHT 14-09, 15/16-09, 17-09, 18-09, 20-09, 26-09, 03-10, 05-10, 12-10, 17-10-01, 02-04-02)

South Korea – Russia

(*See also*: North Korea – Russia)

The Russian president visited South Korea in late February 2001, the first time since 1992. (IHT 27-02-01)

In a joint communiqué the two presidents criticized the US for falling behind in its commitments to reduce the threat from nuclear weapons by failing to ratify relevant treaties. The South Korean president adhered to the Russian view that the 1972 Anti-Ballistic Missile Treaty was incompatible with the idea of a national anti-missile shield and was a "cornerstone of strategic stability". He also identified with the concerns among European powers that the US endeavours for a missile defence system were likely to spark a new round of nuclear competition. However, when pressed by US officials for an explanation the South Korean foreign ministry drew

a careful distinction between endorsement of the 1972 Treaty and any conclusion that South Korea would view a system of missile defence as inevitably violating that Treaty.

The meeting also dealt with the Russian debt of \$1.8 billion and the rehabilitation of a rail line connecting South Korea's ports and industrial centres with the Russia's Far East. (IHT 28-02, 01-03, 02-03-01)

South Korea – US

(*See also:* North Korea – US)

Status of Forces Agreement

Newspaper reports referred to long-standing South Korean irritation at the behaviour of US military in South Korea resulting in the desire to have the 1965 Status of Forces Agreement (SOFA) between the two states revised again (a previous revision took place in 1991). Such revision should abolish discrimination against South Koreans and should give South Korea the same powers as Japan had under the Japan-US SOFA.

Under the latter agreement custody of a US soldier who is indicted for a crime is automatically transferred to the Japanese authorities. Under the Korean SOFA, however, the defendant is not turned over to local authorities until after conviction or the exhaustion of all appeals. In addition, if a Japanese court acquits the US suspect, Japanese prosecutors have the right to appeal, whereas in the Korean case South Korean prosecutors did not have the same right. Conversely, by way of explanation of other differences from the Japanese SOFA, it was said that the US traditionally tried not to agree to deviations in Korean court practice from traditional US constitutional rights, such as the ban on double-jeopardy trials and the right to confront an accuser, neither of which was said to be protected under South Korean law. Similar concessions were indeed made in the Japanese SOFA because at the time the US was desperate to rush troops to Japan to be deployed to fight in the Korean War.

Early August 2000 agreement was reached on increased South Korean jurisdiction. Henceforth custody of US criminal suspects was to be transferred at the time of indictment. (IHT 25-07, 04-08-00)

Handling of the North Korean issue

The South Korean president visited the US in early March 2001 trying to persuade the new US president to give complete support to his "sunshine policy" with North Korea and to ask for US commitment to reconciliation with North Korea. For that purpose he would unqualifiedly endorse the South Korea-US security alliance which was called a comprehensive partnership.

There was a clear contrast between the South Korean approach of the issue of North Korea and that preferred by the then newly installed US government. South Korea was eager to engage North Korea in all respects, whereas the US preferred to keep distance and put pressure. (IHT 3/4-03, 06-03-01)

South Korea – Vietnam

The South Korean defence minister visited Vietnam in December 2000 for the first time since the Vietnam War. In that war South Korea fought alongside the US. (IHT 19-12-00)

(NON-)INTERVENTION

See: Inter-state relations etc.: China – Russia

JAPAN'S MILITARY ROLE

See also: Terrorism: Asian attitudes

Deployment of “Self-Defence Force”

In order to be able to contribute effectively to the US efforts in combating terrorism (*see infra* at 397) the Japanese government called on Parliament to enact a seven-point plan to allow the Japanese “Self-Defence Forces” to provide rearguard support for a US military action beyond “areas surrounding Japan” (*see* 8 Asian YIL 290). The changes proposed would give those forces much greater leeway for a broad range of rearguard roles. (IHT 28-09-01)

The legislation was passed by the Lower Chamber of Parliament on 18 October and by the Upper House on 29 October 2001, permitting the deployment of the Self-Defence Force to provide “logistic support” to US military operations against “terrorism” not necessarily in areas surrounding Japan. This essentially meant an extension of the initial “self-defence” restriction imposed on the Force, allowing the military to take part in war. Significantly the permission was limited to two years only.

On 8 November 2001 the Japanese government announced that it was sending two warships to the Indian Ocean for “information gathering” in support of US military operations in Afghanistan. (IHT 19-10, 09-11-01)

JURISDICTION

See: International humanitarian law: US treatment etc.; Inter-state relations etc.: China – US; State liability

KOREAN WAR

See: International humanitarian law

LABOUR

See: Association of South East Asian Nations; Sanctions

MILITARY ALLIANCE

Asia-Pacific alliances

At the end of 2000 the US had formal security agreements with five states in the Asia-Pacific area: Australia, Japan, South Korea, the Philippines, and Thailand.

The idea of a US-Pacific alliance was discussed in Canberra between Australian and US officials. It related to a US-led security alliance including the US, Australia, Japan and Korea. Such an alliance would resemble an Asian version of NATO and would be directed at containing China. It was said to reflect the Australian desire to keep the US militarily engaged in East Asia and to prompt Japan to play a greater role in maintaining regional security. (Straits Times 01-08-01)

MILITARY COOPERATION

Philippine – US cooperation

(See also: Insurgents; Terrorism)

US training and other cooperation with Philippine troops

The US in September 2000 offered to give counter-terrorism training to Philippine troops. About 200 US elite troops were then already in the Philippines to take part in “joint exercises”, not “in response to the current hostage situation” (see *infra* at 398) The US was considering expanding the schedule of such exercises in the future, since “increased military cooperation between our countries is going to improve the bilateral security of both the Philippines and the US and contribute to regional security”.

The “shoulder-to-shoulder” exercise by more than 600 US soldiers with the Philippine forces formally started late January 2002 (newspaper reports in mid-2002 already mentioned a number of 1,200). There were reports of last-minute negotiations over the so-called “terms of reference”, dealing with, *inter alia*, who should be in command and what limits should be placed on the US forces. The “training” of Philippine forces by US military special forces would be completed in June 2002, yet turned out not even to have started in April when a proposal was discussed on assigning US special forces with Philippino troops at the company level (instead of at the previous, higher, battalion level). (IHT 16/17-09-00, 28-01, 30-01, 01-04, 26-04, 10-06-02)

Subic Bay for rent

More than a decade after the US military bases were handed back to the Philippines (see 2 Asian YIL 345) it was reported that the Philippine government was considering transforming the Subic Bay deepwater port into a naval base for hire and inviting foreign navies, including that of the US, to dock, service and repair warships for a fee. (IHT 13-07-01)

China – US

The relationship between the US and Chinese military goes back to 1979, soon after the formal resumption of diplomatic relations, first focusing on bolstering the Chinese military against the Soviet Union, in exchange for intelligence concerning the Soviet invasion of Afghanistan. It included high-level military visits, port visits, exchanges between defence colleges and other cooperation. The program suffered a series of setbacks, such as the 1989 Tiananmen incident which led to a suspension of the contacts, and the 1999 bombing of the Chinese embassy in Belgrade.

In the period under review mutual visits by high military officers took place, but in early May 2001 the US decided to downgrade its military contacts with China by reviewing them individually. (IHT 01-11, 03-11-00, 04-05-01)

India – US

(*See also*: Terrorism)

As a consequence of the war on terrorism the two countries built closer military ties. By early December 2001 a team of Indian and US military officials was scheduled to begin meeting as the “Defense Policy Group” to discuss ways of cooperating over the coming decades. (IHT 06-11-01) In mid-2002 there were already reports of the US sale of military equipment to India, Indian troops going to the US for exercises in Alaska, and US and Indian ships jointly patrolling the Strait of Malacca. (IHT 11-06-02)

Indonesia – US

Following moves in 2000 (*see* 9 Asian YIL 407) the participation by US warships in a joint exercise with the Indonesian navy in May 2001 sent another signal that the US wanted to restore closer links with the Indonesian armed forces and constituted a departure from the ban on military links imposed by the US in 1999 (*see* 9 Asian YIL 413). (IHT 19/20-05-01)

In late December 2001 the US legislature created a loophole to resume military training with Indonesia by way of setting aside an amount in the Defense Department Appropriations Act for establishing regional counter-terrorism training programs, bypassing the 1991 ban on military education and training for Indonesia retained in the Foreign Operations Appropriations Act. (IHT 27-12-01)

Iran – Russia

(*See*: Inter-state relations: Iran-Russia)

MISSILE TECHNOLOGY

Restrictions on Chinese export of missiles

(*See also*: Inter-state relations etc.: China-US)

After having been suspended for more than a year following the US bombing of the Chinese embassy in Belgrade, the high-level negotiations over missile exports were resumed, since November 1998.

In the US Senate the Thompson-Torricelli bill would require the government to monitor developments and would impose automatic sanctions on companies or states if there was “credible evidence” of certain exports, even though China had not signed the so-called Missile Technology Control Regime (*see* 1 Asian YIL 270; www.mtcr.info). There was the possibility that the government would have to accept the bill in order to win passage through the US Senate of a bill on permanent normal trading relations with China, part of the package of enabling China’s entry into the WTO. (IHT 03-07, 05-07-00)

However, in November 2000 the US government announced a waiver of penalties against China after China had formally pledged on 21 November to end the supply of the suspected missile parts. The “waiver” meant that China would be exempted from sanctions even though the US government had determined that such exports had taken place. The Chinese declaration read: “China has no intention to assist, in any way, any country in the development of ballistic missiles that can be used to deliver nuclear weapons.” There would be a formal system of export controls, including restrictions on “dual use” technology. (IHT 23-11-00)

However, when the US Secretary of State visited China in July 2001 the US formally protested to China about continued exports of missiles and related technology to Pakistan and other countries despite the Chinese pledge. But China said it had “kept to the letter” of its promises. (IHT 28/29-07, 09-08-01)

Iranian medium-range missile

Iran confirmed US reports in late May 2002 that it had conducted a test flight of the “Shahab-3”, a missile with a range of 800 miles and capable of reaching Israel. Such test-flights had, however, already been reported much earlier, in July 2000. (The original version of the Shahab was tested in 1998.) (IHT 17-07-00, 27-05-02)

Iran – Israel

Israel accused Iran on 3 February 2002 of having supplied the *Hezbollah* organization in Lebanon with 8,000 missiles that could hit Israeli cities, and contended that North Korea had supplied Iran with a medium-range missile. Iran denied the Israeli assertion. (IHT 04-02, 06-02-02)

Iran – North Korea

On the occasion of a visit by the president of Iran to Japan the Iranian foreign minister on 31 October 2000 dismissed concerns voiced by Japan that it was developing missiles with technology provided by North Korea. He emphasized that Iran was developing missiles on its own. [Iran began an arms development program during its 1980-1988 war with Iraq to compensate for shortages caused by a US embargo.] (IHT 01-11-00, 27-05-02)

North Korea

(*See also:* Inter-state relations etc.: North Korea – US; Regional security)

A demand by North Korea to receive \$1 billion annually in exchange for the dismantling of North Korea’s missile export program was rejected by the US in July

2000 at three-day talks at Kuala Lumpur. Instead, the US negotiator said that North Korea could expect unspecified “benefits” from what was called the “normalization process”. The US suspected North Korea of being a leading exporter of missile equipment and technology to countries such as Pakistan and Iran. (IHT 13-07-00)

On 19 July 2000 the Russian president divulged a North Korean proposal offering to abandon its missile program if it were provided with rockets to launch satellites into space. North Korea had been insisting that it had no program to develop long-range missiles for military purposes, and that its rockets were intended only to launch satellites and carry out space research. It had in fact halted flight tests as part of an understanding with the US. [North Korea tried to put a satellite in orbit in 1998 by using a three-stage Taepodong-1 missile. More recently it reportedly abandoned work on this missile in favour of a newer Taepodong-2 two-stage missile.] (IHT 20-07-00) The US seemed to reject the idea of making rocket boosters available, but was willing to consider launching satellites for North Korea from outside North Korean territory. (IHT 21-07, 22/23-07-00). The details of the idea constituted the subject of the talks between North Korean and US officials in Kuala Lumpur in early November, but these talks ended with no clear result although they were described as “detailed, constructive and very substantive”. (IHT 29/30-07, 5/6-08, 02-11, 4/5-11, 06-11-00)

On 3 May 2001 North Korea promised to extend its 1999 moratorium on test-firing missiles (*see* 9 Asian YIL 408) until 2003 [the year when the five-year term of the South Korean president Kim Dae Jung would end] (IHT 04-05-01) but said it could not afford to stop selling missiles as “part of trade”. The extension of the moratorium was promised despite the US freeze of talks (*see supra* at 376) which had in fact broken the 1999 understanding that the test moratorium was predicated on continued dialogue. [The 1999 moratorium came after the US promised to ease economic sanctions.] (IHT 05/06-05-01)

During a visit to Russia in July-August 2001 the North Korean leader repeated the above promise, saying in a joint declaration that North Korea’s missile program “does not present a threat to nations respecting North Korea’s sovereignty”. (IHT 06-08-01)

South Korean missile plans

South Korea had expressed its wish to develop missiles within the limits of the Missile Technology Control Regime (MTCR) to which it was not a signatory but by the conditions of which it had promised to abide. Under this Regime the maximum range allowed is 300 kilometres. In the past the US was averse to South Korean proposals concerning missiles with a range beyond 180 kilometres, referring to a US-South Korean agreement of late 1979 under which that range was one of the conditions for US recognition of the government of General Chun Doo Hwan. In the aftermath of the North-South Korean summit meeting of June 2000, however, the US indicated its willingness to endorse the South Korean wishes. A range of 300 kilometres would enable South Korean missiles to reach most of North Korea. The South Korean plans were confirmed in January 2001.

The MTCR had 32 members. Among the non-members were the Middle Eastern countries, India, Pakistan, China, and North Korea. (IHT 13-07, 15/16-07-00, 18-01-01)

MONETARY MATTERS

Currency safety net

The efforts to set up an Asian currency safety net, the so-called “Chiang Mai initiative” (*see* 8 Asian YIL 293-294, 9 Asian YIL 409) were continued on the sidelines of the annual meeting of the Asian Development Bank in May 2001 at Hawaii.

Meanwhile, Japan has set up a system of bilateral agreements consisting of a \$3-billion currency swap facility with Thailand, a \$2-billion agreement with South Korea, and a \$1-billion swap facility with Malaysia, all aimed at supplementing an existing \$1-billion swap fund among ASEAN members and linking the foreign-exchange reserves of the ASEAN countries with those of Japan, China, and South Korea. The Japanese swap agreements were in addition to a \$2.5-billion swap deal with Malaysia and a \$5-billion agreement with South Korea, both part of a \$30-billion “Miyazawa Initiative” (named after the Japanese finance minister of the time). (IHT 11-05-01; FEER 12-07-01)

NUCLEAR ENERGY MATTERS

See also: Inter-state relations: North Korea – US

Iran – Russia

During a visit by the Iranian president to Russia in March 2001 Russia repeated its intention to assist in completing the long-stalled nuclear power plant at Bushehr (*see* 5 Asian YIL 477). It was further reported that Iran would sign up for a second Russian-built nuclear reactor. (IHT 16-03-01)

Myanmar nuclear ambitions

It was reported that Myanmar was negotiating the building of a research nuclear reactor with Russian financial and technical help. The project would be built in accordance with IAEA guidelines and could not easily be transformed to produce nuclear weapons. The agreement in principle was already reached in early 2001.

Myanmar had been member of the IAEA since 1957, had acceded to the non-proliferation treaty in 1992 and had agreed to a protocol allowing inspections in 1995. (IHT 14/15-07-01)

North Korean complex at Kumchangri

It was reported that the second US inspection of the site in May 2000 (*see* 9 Asian YIL 410) confirmed earlier findings that it did not constitute a violation of North Korea’s commitment to freeze its plutonium reprocessing. (IHT 07-08-00)

The 1994 Agreed Framework and the Korean Peninsula Energy Development Organization (KEDO)

It was reported by analysts that the US was “wearying of its role as the major power behind KEDO” and “just wants to stop the project. They are looking for excuses.” In line with these rumours it was reported that the two main (South Korean) contractors were being liquidated. (IHT 09-11-00) From the US side the following problems were raised: (1) The power grid in North Korea was too outdated and too severely damaged to be able to deal with the output of the projected reactors; (2) the unwillingness of North Korea to halt the spread of nuclear weapons which constituted a prerequisite for the US to supply the material and technology needed for the reactors; (3) the possibility for North Korea to extract weapons-grade material from the reactors; (4) the withdrawal by North Korea of half of its workers from the site, demanding a huge increase in their pay beyond the amount agreed upon, and its failure to cooperate on training workers and technicians to man the project, and (5) the tripling of the price over the past five years for the heavy fuel oil the US agreed to provide until the reactors were ready for use. Besides, the US had sought to persuade North and South Korea to build just one reactor instead of two and replace the second with a conventional power plant. There were also reports that the US even wanted to abandon the whole idea of nuclear plants and build conventional plants instead. These considerations led to pronouncements according to which the whole project was “close to being dead” and that implementation was “at a glacial pace”. It was said that under these circumstances the reactors could not go into operation for at least another ten years. (IHT 26-02-01)

Impatient with hints by the new US government that had recently taken office about the need for a policy review with respect to North Korea (*see supra* at xxx), the latter threatened on 22 February 2001 to abrogate the Agreed Framework by way of retaliation: “If the United States does not fulfill the agreed framework, we don’t have to be bound by it any longer.” (IHT 23-02-01)

In early March 2001 the US official who negotiated the Agreed Framework in 1994 also suggested that the agreement should be revised so as to provide conventional rather than nuclear power plants, while South Korea responded with alarm to calls by members of the US Congress and US administration for such a review. (IHT 08-03-01) On 8 March 2001 the US Secretary of State, testifying before the US Senate Foreign Relations Committee, said the US government had reservations about the 1994 agreement and said it might want to “revisit or change” some of its provisions. (IHT 09-03-01) Later in the month a bipartisan group on Korea of the (US) Council on Foreign Relations urged the president to consider such revision, contending that the agreement “deferred the difficult dismantling of North Korea’s nuclear program”. (IHT 27-03-01) On the other side North Korea accused the US of failing to live up to its obligation of completing the reactors by 2003 (*see* 5 Asian YIL 556, Art.III of the Agreed Framework). North Korea asked for compensation for the delays and had threatened to resume work on its frozen reactors unless such compensation was paid, but the US dismissed these requests, denying any binding date for the completion in the agreement. Meanwhile, the IAEA and North Korea

held talks in late May 2001 on verification of Korean compliance with the 1994 agreement. (IHT 25-05, 07-06-01)

In March 2002 the US government for the first time since 1994 refused to certify that North Korea was complying with its commitments under the 1994 accord, but nonetheless decided to continue fulfilling the US obligations under the agreement. It was emphasized that by refusing the certification the US was not accusing North Korea of violating the agreement. (IHT 21-03-02) It was reported in April 2002 that the building of the two promised nuclear power reactors would reach the stage of pouring concrete. (IHT 20/21-04-02)

OIL AND GAS

See also: Inter-state relations etc.: Iran – Japan

East Timor – Australia

After the break of East Timor from Indonesia negotiations between UNTAET on behalf of East Timor and Australia started in 2000 in order to come to new though provisional revenue-sharing rules for the oil and gas fields between northern Australia and East Timor which were determined as a Joint Petroleum Development Area. The aim was an agreement that would give East Timor much greater resources than the 1989 Timor Gap Treaty awarded to Indonesia, and which would generate annual revenue of between \$100 million and \$500 million for the new state. The *Timor Sea Treaty* was finally signed on 20 May 2002, the first day of East Timor independence. It awarded East Timor 90 per cent of the profits of exploitation. Besides the treaty other arrangements were also made regarding the conditions for the exploitation of other oil and gas fields.

East Timor and Australia were, furthermore, to start negotiations over a redrawing of the sea-bed boundaries. Such redrawing in accordance with the principles as contained in the UN Convention on the Law of the Sea would greatly favour East Timor. In view of its interests Australia announced on 25 March 2002 that it would henceforth exclude its disputes on maritime boundaries from the jurisdiction of the International Court of Justice and the International Tribunal for the Law of the Sea. (IHT 21-05-01, 17-05, 21-05-02)

ORGANIZATION OF THE ISLAMIC CONFERENCE

Position on terrorism

At the initial suggestion of Iran the OIC held a one-day conference at Doha, Qatar on 10 October 2001. The meeting produced a policy statement which “rejected the targeting of any Islamic or Arab State under the pretext of fighting terrorism”, but made no criticism of the ongoing bombing campaign. In that spirit the OIC called for future battles against terrorism to be waged under the UN flag, and to be defined narrowly so as to exclude Palestinian and Lebanese fighters. The OIC rejected any linking between terrorism, on the one hand, and the rights of Islamic and Arab people

“to self-determination, self-defence, sovereignty” and “resistance against Israel and foreign occupation”, on the other. There was no determination of what action the member states would take in the event of a US assault on other states (the foreign minister of the host state acknowledged: “We don’t have a strategy”) and the brevity of the meeting was said to have reflected the decision not to take up controversial proposals.

From 1 to 3 April 2002 the OIC held an extraordinary session of foreign ministers at Kuala Lumpur on the topic of terrorism. At this meeting the Malaysian prime minister focused on the importance of defining the concept of terrorism and identifying the identity of terrorists, and the necessity of distinguishing between acts of terrorism and people’s struggle for independence. He objected to the linking of Muslims to terrorism, and called on Muslims everywhere to “condemn terrorism once it is clearly defined”. He also called for examining the causes of terrorism in order to eliminate its motives, foremost among which are poverty, injustice and oppression. The Iranian delegate argued that it was not the responsibility of Muslims to define terrorism, but that the international community should start a process of defining.

The conference produced a declaration, the *Kuala Lumpur Declaration on International Terrorism*, of 3 April 2002, according to which the participants pledged, *inter alia*, to “work towards the early conclusion of a Comprehensive Convention on International Terrorism” and to “work towards an internationally agreed definition of terrorism and terrorist acts, which shall be differentiated from the legitimate struggle and resistance of peoples under colonial or alien domination and foreign occupation for national liberation and self-determination”. [The OIC was founded in response to a 1969 arson attack on Al Aqsa Mosque in Jerusalem, carried out by an Australian tourist.] (IHT 08-10, 11-10-01, 02-04, 03-04-02; www.oic-oci.org; www.nationalreview.com)

PIRACY

Relevance for Asia

According to the International Maritime Bureau (maritime) pirate attacks rose by more than 63 per cent worldwide in the first nine months of 2000, with more than two-thirds occurring in Asian waters, most of which in Indonesian sea-lanes. This was to be seen against the backdrop that 33 per cent of all shipping moved through Southeast Asian waters, with over 600 vessels a day passing the Malacca Straits and the South China Sea.

It was said that many countries in the region seemed to be unwilling to prosecute offenders for acts of piracy committed in international waters and prefer instead to deport them. [As late as 1999 only four Asian states adhered to the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, namely China, India, Japan, and Turkmenistan. Of these India had not yet given its consent to be bound. (*see* Asian YIL Vol.6:256, Vol.8:183). States parties to the Convention are entitled to prosecute persons caught in their territorial waters for acts of piracy committed within another country’s jurisdiction.]

REFUGEES

See also: Diplomatic and consular immunity

Afghan refugees to Pakistan

Pakistan closed its borders to refugees from Afghanistan after two decades of providing shelter. A deluge of new refugees had swelled the number of Afghan refugees in the country to 2.1 million. Pakistani officials said they simply could no longer handle the influx, in terms of money as well as of resources. A secondary reason for the closure was security concerns, following a series of unexplained bombings in Pakistani cities in 2000. Pakistan (as well as Iran) wanted the Afghans to return to their country. It was conceded, however, that it would be difficult to seal the mountainous border between Pakistan and Afghanistan. (IHT 11/12-11-00)

Refugees from Myanmar

Both the Thai and Myanmar governments were of the opinion that the civil war in Myanmar involving the ethnic minorities had ended and that it was safe to repatriate refugees. Although the Thai government accordingly agreed in late July 2001 to send all Myanmar refugees in Thailand back, the UN urged a reconsideration in view of continued fighting between Karen National Union fighters and the Myanmar army. Consequently, the repatriation was temporarily suspended. (FEER 06-09-01)

REGIONAL SECURITY

Asian attitudes toward US plans for anti-missile defence system

During a visit to Italy in early July 2000 the Chinese premier said that the US plan for a "theater missile defence (TMD) system" in East Asia would draw Taiwan into its sphere of protection, which would be an interference in Chinese affairs and a resumption of the US military alliance with Taiwan that was abrogated in the 1970s. On the occasion of a visit by the US Defense Secretary later in the month China repeated its demand that the US drop its plans for an anti-missile defence system, warning that it would link its disarmament policy to the US decisions on the system. It was said this implied that if the US would export technology for a "theater missile-defence system" [to be distinguished from the so-called "*national* missile-defence system" or NMD, meant for the protection of the US national territory] on the island of Taiwan, China would continue to engage in missile-technology sales to Pakistan and possibly other countries. It was said that North Korea on its part also said that it would link a decision to curb its missile exports to whether the US dropped its missile-defence plans.

It was reported that China found spurious the US arguments for its plans according to which the missile defence system would be a way to defend the US and US forces abroad against attack from states such as Iran, Iraq, and North Korea. Conversely, the Chinese argument was that the defensive missiles would cancel out

China's nuclear deterrent consisting of a small force of long-range missiles and compel it to build a stronger strike force.

Because of the missile-defence issue China had also taken steps to block US-backed disarmament proposals. Among other comments it was said that at the UN Disarmament Conference China had upheld talks on a treaty to cut off the production of fissile material and instead wanted the conference to focus on a treaty to limit or control space-based weapons systems.

At a foreign ministers' meeting of the G-8 countries in July 2000 in Japan participants in the meeting warned that a US national missile defence system would not be welcomed by key US allies. They feared a missile proliferation as the 'domino' result of such a system. Instead they urged the preservation of the 1972 Anti-Ballistic Missile Treaty as a "cornerstone of strategic stability". This stand was also taken by the Chinese and Russian presidents during a regional Central Asian summit meeting early July 2000 in Tajikistan (*see supra* at 362). (IHT 07-07, 10-07, 12-07, 14-07-00)

In May 2001 a US envoy was sent to China to try to convince the Chinese that the missile defence project would not be directed against China, but against smaller, worrisome countries, yet leaving open the possibility of protecting Taiwan against a missile attack. (IHT 15-05-01)

Visit of US naval unit to "enhance peace and security within the region"

In light of militia activity in West Timor resulting in the destruction of the UNCHR premises and the killing of, *inter alia*, three UN refugee workers (*see supra* at 338), three US amphibious assault ships and a guided missile cruiser arrived off East Timor on 14 September 2000. The fleet carried 4,000 soldiers and marines. A US Marine Corps statement said the visit was designed to enhance "peace and security within the region". (IHT 16/17-09-00)

RIVERS

Mekong (Lancang) River navigation

The 1995 Agreement on Cooperation for the Sustainable Development of the Mekong River Basin (*see Asian YIL Vol.5:591, Vol.6:446*) had been followed on 20 April 2000 by an agreement between China, Laos, Myanmar and Thailand on commercial navigation. The agreement would open a major shipping route from Simao in the Chinese province of Yunnan to Thailand, via Myanmar and Laos. The work required for such a shipping route would have to deal with falling water levels, shoals and rapids and the Khone Falls in southern Laos. (IHT 31-07-01)

Danav River dam project

India had begun to dam the Danav River at a place just a few hundred metres from the Nepalese border south of Lumbini in order to manage the river's flow, mainly for irrigation purposes. Nepal had asked for the project to be stopped as it allegedly threatened to flood villages in the area including Buddha's birthplace. India

responded early August 2001 by stopping the construction of the river embankment. (IHT 01-08, 02-08-01)

SANCTIONS

See also: Environmental protection; Inter-state relations etc.: China – US, Iran – US

US sanctions

(See also: Inter-state relations etc.: Iran – US)

The start of a new US presidency in January 2001 offered an opportunity for the presentation of the following data on US sanctions with relevance to Asian countries: about 75 countries were subject to US sanctions. The reasons for these sanctions ranged from mislabelling cans of tuna to engaging in egregious human rights violations and narcotics trafficking. Almost half of the 125 unilateral economic sanctions imposed by the US since World War I were started between 1993 and 1998. In contrast, the UN enforced sanctions against fewer than a dozen countries. One of the sets of UN sanctions promoted by the US were those against Afghanistan. (IHT 23-01-01)

In July 2001 the US Congress voted overwhelmingly to extend the 1996 sanctions against Iran and Libya (*see* 7 Asian YIL 474) for another five years. The sanction law gave the president the authority to bar or reduce imports of goods from foreign companies that invest in Iran or Libya. He could also block such companies from selling to the US government or obtaining more than \$10 million a year in American bank loans. The new House of Representatives and Senate bills also amended and tightened the existing law by lowering the maximum allowable investment in Iran from \$40 million to \$20 million. (IHT 27-07-01)

UN Security Council sanctions against Afghanistan

Sanctions were imposed under UN Security Council resolution 1267(1999) (*see supra*: Hand-over for penal purposes). A report of mid-August 2000 by the UN relief office for Afghanistan said that the embargo was having a tangible negative effect on the country and on efforts to help the Afghan people. (IHT 30-08-00)

The Taliban movement vowed on 10 December 2000 to shut down UN offices if the UN would impose more sanctions on Afghanistan. (IHT 11-12-00) Despite UN concerns of the consequences of further sanctions the Council on 19 December adopted resolution 1333 (2000) as proposed by the US and Russia, with China and Malaysia abstaining from a vote. The resolution, which was adopted under Chapter VII of the UN Charter, demanded, *inter alia*, compliance with the previous resolution 1267, especially the turn-over of Osama bin Laden and the closure of “camps where terrorists are trained”. (IHT 20-12-00) The Taliban responded by pulling out of UN-mediated peace talks on ending the civil war and ordering a boycott of products from the US and Russia. (IHT 21-12-00)

ILO sanctions against Myanmar

See also: ASEAN, supra p. 341

The governing body of the International Labour Organisation agreed on 16 November 2000 that countries go ahead with sanctions against Myanmar because of the country's use of forced labour. However, fifty-two out of the fifty-six members opposed the move, and it was reported in June 2001 that not a single country had responded to the call with any concrete action. The reason given for this negative response was that sanctions like a ban on textile exports would as such violate WTO rules. The sanctions would be applied under an article of the ILO constitution that had never been used before in ILO history for that purpose. (IHT 17-11-00, 06-06-01)

SELF-DETERMINATION

East Timor

The territory of East Timor became an independent state on 20 May 2002.

SPECIAL TERRITORIES WITHIN A STATE: KASHMIR

Cease-fires, talks and tensions

The main Islamic guerrilla group in Indian-administered Kashmir, the *Hizbul Mujahidin*, held talks with the Indian government on 3 August 2000, vowing to implement the cease-fire which was unilaterally declared by the group on 24 July 2000. The talks started a day after a wave of shootings left more than hundred people dead. It was the first such meeting since 1989 when militants began their war for independence or for accession to Pakistan. The *Hizbul Mujahidin* consisted largely of local Kashmiri youth and was led by former Kashmiri politicians. When it announced its truce, it was expelled by the umbrella association of guerrilla factions, the *United Jihad Council*.

The group demanded that India began joint talks with Pakistan and the militants over the future of Kashmir which was rejected by India. The rebels then called off the cease-fire on 8 August and the spiral of violence started again. (IHT 25-07, 04-08, 14-08-00)

On 19 November 2000 India surprisingly announced a unilateral cease-fire for the Muslim fasting month of Ramadhan, but this was snubbed by both the militant groups and Pakistan. The *Hizbul Mujahidin* said the cease-fire meant nothing unless it included a pledge to begin talks with both the Kashmiris and Pakistan (India resisted Pakistani participation until it stopped its alleged military support to the guerrillas). (IHT 21-11-00)

Although the cease-fire was holding, the *Hizbul Mujahidin* on 29 November reiterated the group's condition for peace talks: the release of prisoners, the inclusion of Pakistan in negotiations and the withdrawal of Indian soldiers from Kashmir to the pre-1989 level. (IHT 30-11-00) In early December the Pakistani foreign ministry

stated that Pakistan would accept bilateral talks between India and the Kashmiri provided they would lead to three-way negotiations. (IHT 05-12-00)

On 20 December both India and Pakistan announced steps to lessen tensions. India announced an extension of its unilateral cease-fire and Pakistan announced a partial withdrawal of troops along the Line of Control. (IHT 21-12-00) A further one-month extension of the cease-fire was announced in late January 2001 despite a series of sensational attacks by Pakistan-based Islamic militants. As to talks the Indian side said that a resumption of the talks that broke off in 1999 (*see* 8 Asian YIL 277, 308) after a Pakistan-backed incursion into Kashmir still awaited a more "conducive atmosphere". (IHT 24-01-01) A further Indian extension of the cease-fire on 21 February was, however, rejected by the guerrilla groups. (IHT 22-02-01).

On 23 May 2001 India called off its cease-fire and instead invited the Pakistani president for talks, the first such offer since the war over the Himalayan region in 1999 (*see* 9 Asian YIL 417). (IHT 24-05-01) The response was positive and a summit meeting started at Agra, India, on 15 July 2001. (IHT 21-06, 16-07-01) The two-day summit failed to produce agreement on the Kashmir dispute, but the parties agreed to continue the dialogue. (IHT 17-07-01)

Guerrilla violence surged from September 2001; on 1 October a suicide bombing and subsequent fighting occurred at the state legislature building of the Indian part of Kashmir, resulting in growing tensions between the two countries. (IHT 16-10-01)

On 13 December 2001 a group which India believed to be members of a Pakistan-based militant organization carried out a suicide attack on the Indian Parliament building in New Delhi. (IHT 15/16-12-01) India demanded that Pakistan take steps against the organizations while Pakistan denied that it or the organizations were involved. It committed itself to take action against anyone whose involvement could be proven, but even where steps were contemplated it was said that the government had to move cautiously because the organizations enjoyed broad popular support. [When the Kashmiri insurgency entered a violent phase 12 years ago, it was mostly indigenous. Pakistan first gave only political support to the separatists, but it was said that over the years it increasingly provided military support, drawing on the 80,000 fighters whom Pakistan had trained and armed to fight the Soviet Union in Afghanistan. (IHT 28-05-02)]

Signalling its anger over the attack India recalled its High Commissioner in Islamabad, for the first time in 30 years, and suspended bus and train services between the two countries. (IHT 22/23-12-01) Escalating tensions led to the deployment of large military forces along the border and the reciprocal imposition of sanctions, such as a ban of each other's aircraft to use the national airspace and the expulsion of part of each other's diplomatic mission. (IHT 28-12-01) There was even an exchange of mortar fire at the cease-fire line dividing Kashmir. (IHT 29/30-12-01)

In an effort to defuse tension Pakistan on 30 December 2001 arrested the head of one of the organizations accused by India of having carried out the 13 December attack, and on 12 January 2002 the Pakistani president, vowing that Pakistan would not be used as a staging ground for terrorism in the name of the Kashmiri cause, held a speech announcing a broad ban on militant groups among which two that had been accused of fomenting violence against India. Besides, more than 1,500 Islam

activists were arrested. On the other hand, the Pakistani president reiterated his pledge that Pakistan would never give up its support for the “freedom struggle” in Kashmir. For its part India ruled out a troop withdrawal before Pakistan had curbed “cross-border terrorism” and handed over 20 alleged criminals wanted by India. India justified its tough stance as part of the international war against terrorism (*see infra* at 395 et seq.).

On 14 May 2002 another deadly attack took place on the outskirts of the Indian state of Jammu and Kashmir. Pakistan denied involvement but made a conciliatory gesture by arresting the head of the militant groups allegedly involved. The incident seriously added to the existing tensions to such an extent that Pakistani military circles expected an Indian attack across the Line of Control. At the same time, however, they took the position that because Kashmir was a disputed territory, an attack would not be taken as a breach of an international boundary and therefore would fall short of all-out war. Yet the deteriorating situation led to Indian and Pakistani troops’ starting to trade heavy fire across the border in the south of Jammu and Kashmir and the expulsion of the Pakistani ambassador by India..

In the following days, while conducting a series of missile tests after advance notice to India, the president of Pakistan announced that infiltration of Islamic militants into Indian-held Kashmir had stopped and on 6 June 2002 pledged to permanently halt the infiltration of Islamic guerrillas into Indian Kashmir. At the same time, however, it accused India of sponsoring terrorism in Pakistan and demanded a renewal of direct talks with India. On the Indian part the defence minister said that large numbers of Al Qaeda members and Taleban fighters had retreated into Pakistan-controlled Kashmir.

De-escalation of the tension between the two countries set in thanks to US mediation and pressure, which was followed by the lifting of a five-month-old Indian ban on Pakistani commercial aircraft flying over India and the selection of a new ambassador to Pakistan. (IHT 31-12-01/01-01, 14-01, 15-01, 16-01, 02-04, 11/12-05, 15-05, 17-05, 18/19-05, 20-05, 25/26-05, 27-05, 28-05, 29-05, 11-06-02)

STATE LIABILITY

US court verdicts against Iran

A US District Court awarded damages to the estate and family of a person who had been held hostage in Lebanon by a group that the Court classified as having been founded and controlled by the Iranian government and the Iranian Ministry of Information and Security. (IHT 04/05-08-01)

In another case US citizens who were held hostage in Tehran in 1979 had brought a lawsuit before a US federal court against Iran in 2000. Iran did not contest the suit on, the grounds of alleged lack of jurisdiction of the US court, resulting in a default verdict for the plaintiffs in August 2001. The US government subsequently asked the federal judge to throw out the case. (IHT 17-10-01)

STRAITS

Johor Strait Bridge project

In 2001 Malaysia and Singapore agreed in principle to build a new suspension bridge over the strait to replace the existing bridge (causeway) which blocks shipping and bars access to Malaysian ports in Johor state. There were, however, obstacles to the effectuation of the project due to disagreements on other matters such as the price of the Malaysian water supply to Singapore. According to news reports Singapore alleged the existence of an agreement to build the suspension bridge by 2007 while the Malaysian side was said to deny the existence of such agreement.

Consequently Malaysia drafted a plan of its own, consisting of the building of a 1.1 kilometre, steep and sweeping curved bridge segment to replace its half of the existing causeway, including a railway bridge. The bridge would be high enough to allow ships to pass underneath and offer complete access through the strait, enabling ships to bypass Singapore in proceeding to Northeast Asia. It may also cause the return of a great amount of Malaysian cargo to Malaysian ports from being ferried through Singapore ports in order to circumvent the causeway. It might thus create the possibility for Malaysia to develop the port of Tanjung Pelepas at the southwestern tip of Johor state as a cargo and transshipment hub, competing with Singapore.

Land reclamation

Singapore had been carrying out land-reclamation projects since 2001. They would provide 4,900 hectares of land within the limits of its current territorial waters.

Malaysia charged that these activities would narrow the shipping lanes between Singapore Island and Johor state which form the entry to the Malaysian ports of Tanjung Pelepas and Pasir Gudang. Singapore denied this and emphasized that the reclamation work would neither degrade the water quality in the strait, nor change the width or depth of navigation channels, affect the water flow, cause flooding or harm fishing. (FEER 21-02, 18-4-2002)

TERRORISM

See also: Asia Pacific Economic Cooperation; Association of South East Asian Nations; Inter-state relations etc.: Afghanistan – US; Organization of the Islamic Conference; Protection of foreign nationals

Asia and the US “war on terrorism”

(see also: Inter-state relations: Afghanistan-US, Pakistan-US)

On 14 September 2001 the US State Department summoned foreign ambassadors and presented them with a four-point message about terrorism. The ambassadors from various various parts of the world, among which Asian countries, were told that the US expected their countries to arrest terrorists, to prevent terrorists from moving across their borders, to speak out forcefully against the kind of violence unleashed

on 11 September 2001 and to join international efforts to combat terrorism. Avoiding any distinction between politically different categories of states it was said: "We will not rule out the possibility of any country working with the US and the international community in the fight against terrorism." (IHT 17-09-01)

The Taliban regime in *Afghanistan* vowed on 16 September to continue to shelter Osama bin Laden and announced it would declare war on any country that cooperated in an attack against Afghanistan.

Most Asian states, however, expressed sympathy with the US in connection with the "11 September" attacks and announced support in its "war against terrorism".

India welcomed the US decision to use military might against terrorists and the states that harbour them, and eagerly offered military cooperation. It was expected to share intelligence on the location of Afghan and Pakistani training camps, and offered access to Indian military bases for the refuelling of US aircraft. It was said that India would even allow US troops and equipment temporarily to be based on Indian soil, for the first time in the country's history. On the other hand, India asked the US to outlaw the Pakistan-based militant group *Jaish-e-Mohammed*, which was accused of an attack in the Indian state of Jammu and Kashmir on 1 October 2001 (see *supra* at 393), and freeze its assets, as the US had done with other "terrorist organizations" since the 11 September attacks in the US. Although the US froze the assets of *Lashkar-e-Taiba* in December 2001, branding it as "a stateless sponsor of terrorism", it was reported that India became increasingly concerned over US efforts to pamper Pakistan. The growing tensions between India and Pakistan since late 2001 and the first half year of 2002 gave rise to an intriguing question for the US in light of its pursuit of a global campaign against terror: what should it do when two important allies exchange accusations of terrorism?

A *Russian-Central Asian* initiative was unveiled at a meeting at Dushanbe, Tajikistan, of senior officials from India, Iran, Uzbekistan, Tajikistan, Russia, and the Afghan Northern Alliance (which was still recognized by most states as the legitimate Afghan government). The Dushanbe group sought a global alliance to reconcile the warring factions in Afghanistan, a government of national unity through elections and stopping the inflow of arms and close down the training camps.

The cooperation of the US with *Uzbekistan* in conducting joint covert operations against the Taliban and its terrorist allies had in fact existed since well over a year before the September 11 attacks. A detailed agreement was concluded in October 2001, allowing the US to station ground troops and airplanes at an Uzbek air base.

Also *Tajikistan* had granted permission for US warplanes to use its airfields (with Russian blessing), and it was reported in early November 2001 that Tajikistan had also reached tentative agreement with the US on military cooperation that could lead to US air strikes from Tajik territory.

Pakistan on 15 September 2001 pledged its "full support" in the hunt for the perpetrators of the attacks on the US, but carefully avoided any specific commitment to provide bases in Pakistan for ground operations or for direct Pakistani participation in military strikes. Yet the Pakistani president said that his country risked "very grave consequences" if it did not back a US-led campaign and that such policy could "endanger our very existence". On 28 March 2002 US FBI agents in fact joined

Pakistani police in raids against Al Qaeda and Taleban fugitives in northern Pakistan. While the raids were described as a Pakistani operation with US cooperation, they were in fact US-driven with the local authorities informed only hours before. The arrested persons were turned over to the US (*see supra* at 354) (IHT 30/31-03, 02-04-02). In late April 2002 it was even reported (though denied by Pakistani military circles) that covert US military units had been conducting operations within Pakistan and had participated in attacks on suspected Al Qaeda hideouts. But it was reported that Pakistan resisted US pressure to mount large-scale attacks against remaining concentrations of Al Qaeda fighters in western Pakistan. (IHT 26-04, 30-04, 02-05, 13-05, 14-06-02)

The *Japanese* prime minister said that, constrained by its constitution, the country would not be able to join military action alongside the US but he had nevertheless pledged "all possible and necessary cooperation" to the US. In this context it would take action for the amendment of a controversial law of 1999 (*see* 8 Asian YIL 290) in order to enable Japanese logistic support for US military operations beyond "areas surrounding Japan" (*see supra* at 380). The prime minister said that in case of military action, Japanese ships would be sent to help the US gather intelligence, deliver supplies, and provide medical services and humanitarian relief. Among the non-military measures there was a plan to provide emergency economic aid to Pakistan and India as part of efforts to solicit their cooperation.

On 18 September 2001 *China* issued a statement supporting a US war against terrorism and suggesting that such a war would include China's fight against separatism in Taiwan, Tibet and Xinjiang. China held that discussions on combating terrorism must be taken up at the UN Security Council and not unilaterally or within NATO, and that military action in retaliation for the attacks on the US would need concrete evidence, should not hurt civilians and should be conducted within international law. As did many other countries, China hoped to wrest policy changes from the US in exchange for support of a US war against terrorism. Generally Chinese support for a worldwide campaign against terrorism was qualified by its expectation that the UN be consulted.

South Korea said it would back the US response by allowing its own armed forces, airports, seaports and military bases be used if needed. Following the beginning of the US main military operations against Afghanistan (*see: Afghan War*) the South Korean president said that "[t]he actions by the international society led by the US are justified" and condemned terror as "the enemy of all mankind".

North Korea issued a statement on 25 September 2001 calling the attacks on the US "very regretful and tragic", and an editorial by the official press agency said: "It may be a right option ... to make a due contribution to the efforts of the international community to eliminate the root cause of this terrorism."

Thailand reacted more cautiously, probably in view of its Muslim Southeast Asian neighbours. It wanted the terrorism problem to be solved within the framework of the UN and wanted the US to have clear proof of those who perpetrated the attacks before taking any military reprisals.

In *Iran* officials said that any assault on terrorism must include efforts to rein in Israeli attacks on Palestinians. In this it joined a long list of Muslim and Arab

countries which had expressed their willingness to join the campaign against terrorism if the approach was evenhanded. Yet it had issued a strong statement of condemnation following the attacks on New York and Washington and expressed its opposition to the Taleban (*see* Asian YIL Vol.7: 404, Vol.8: 272-273). But Iran's supreme religious leader, while condemning terrorism in general and calling the world struggle against it "a holy war", declared on 26 September 2001 that Iran would not take part in any measure led by the US whom he accused of trying to gain a foothold in Central Asia. He said: "It is wrong to say that those who are not with us are with the terrorists", referring to countries which are US allies but which committed terrorist acts. "No, we are not with you and we are not terrorists." [Iran is listed by the US as an active state sponsor of terrorism because of its support for anti-Israeli groups.]

Meanwhile Iran attempted to rally other countries behind a unified Islamic stance on terrorism and for that purpose called for a meeting of the Organization of the Islamic Conference (*see supra* at 387). The foreign minister did not condemn the military campaign in Afghanistan explicitly but said that it was "unacceptable" as it was open-ended, without clear purpose and causing civilian casualties. Iran prohibited US flights over its airspace which was accepted by the US. Yet Iran agreed on 8 October that it would rescue US military personnel in distress in its territory.

In *Indonesia* the president condemned the attacks in the US, but was pressed to give only limited backing to the US coalition in light of existing strong Muslim militant groups. At the ASEAN summit meeting in early November 2001 Indonesia as well as Malaysia called for a halt to the air assault against Afghanistan.

Malaysia said it would support action "to destroy terrorism, which has become a menace to free and democratic governments" and was willing to rally Islamic countries to take part in an international summit meeting (*see*: Organization of the Islamic Conference) on terrorism. However, the prime minister flatly opposed military action against Afghanistan as it would "only bring disaster to the country without overcoming terrorism".

Early October 2001 *Turkmenistan* was still ambivalent about assisting the US in retaliatory strikes against Afghanistan and said only that its airspace might be used for humanitarian flights.

The president of the *Philippines* said that as the leader of a nation that had fought back against Islamic militants, she was prepared to "go every step of the way" with the US. She offered logistical and intelligence support, and the use of Philippine airspace and the former US military bases, Clark and Subic Bay. Alone among Asian countries the Philippines also offered combat troops, albeit pending parliamentary consent. On the other hand the president said she hoped that the US would help the Philippines fight the *Abu Sayyaf* rebels (*see* 9 Asian YIL 395) which organization was put on a list of "terrorist organizations" by the US (*see supra* at 356). (IHT 17-09, 18-09, 19-09, 20-09, 21-09, 24-09, 25-09, 26-09, 27-09, 03-10, 04-10, 08-10, 09-10, 11-10, 15-10, 17-10, 06-11, 12-11, 22/23-12-01)

The parliament of *Kyrgyzstan* on 6 December 2001 voted in favour of allowing the US-led coalition in Afghanistan to use air bases in Kyrgyzstan for one year. (IHT 07-12-01)

The US “war on terror” and Asia

The US response to the September 2001 attacks had been from the beginning that their campaign against the groups linked to “Al Qaida” and Osama bin Laden is global and may last for years. It was said in this context that among the likely targets of future covert and overt US actions were groups based in the Philippines, Indonesia and Malaysia. During a UN Security Council meeting on the issue of the military action in Afghanistan the US ambassador said that the US, acting in self-defence after the September 11 attacks, may take “further actions with respect to other organizations and other states”. (IHT 11-10-01)

Southeast Asian states, such as the Philippines, Indonesia and Malaysia, made known, however, that while US offers to assist in countering terrorism in the region were helpful, sending in soldiers would not be.

The *Indonesian* foreign ministry spokesman said that sending US troops to Indonesia was out of the question as it would face sovereignty problems.

A *Malaysian* defence official confirmed that “we have training with US forces ... but having American troops on Malaysian soil on a much more permanent basis ... is quite out of the question. It would be inconsistent with our policy.”

When the US president during a meeting with the *Philippine* president offered to send soldiers to help fight the *Abu Sayyaf* rebels, the latter immediately declined. With regard to the US promise to provide training, equipment and maintenance support it was said the Philippine president “firmly believe[d] that the US advisers should not be armed, or their deployment would fall into the gray area that can be classified as foreign troops on Philippine soil” which was prohibited by the constitution. Nevertheless, however, the contemplated 600 US special operations forces concerned would be armed when accompanying the Philippine troops in operations (called “exercises”) and authorized to fire in self-defence (*see supra* at 381). (IHT 14-12-01, 17-01-02)

China and terrorism

In meetings with the US president and the US Secretary of State on 21 September 2001 the Chinese foreign minister referred to unrest in certain regions of China and said that “China is also a victim of terrorist attacks”, pledging support for battling terrorism. Later China estimated that Chinese Muslims had trained in camps run by Osama bin Laden in Afghanistan. (IHT 24-09, 12-11-01)

However, in responding to suicide bombings and other violent acts in Israel and Palestine the Chinese government refused to characterize them as terrorism, instead criticizing both parties for the use of violence and calling for renewed peace talks. Israel expressed displeasure on hearing “the Chinese position regarding what were so obviously acts of terrorism”. (IHT 05-12-01)

US classification of Iran and North Korea as forming part of an “axis of evil”

In his “state of the union” address on 30 January 2002 the US president vowed to turn the US fight against terrorism next against “an axis of evil” among which he counted Iran, Iraq and North Korea, singled out for allegedly seeking “weapons of mass destruction”. Iran said the assertion betrayed a desire for world dominance

and North Korea said it saw in the pronouncements evidence of a “policy of aggression”. (IHT 31-01-02) [North Korea was included on the US Department of State’s list of states that sponsor terrorism from 1988, after North Korean agents blew up a South Korean airliner.]

UNITED NATIONS

UN seat for Taleban

The Taleban, which controlled about 90 per cent of Afghanistan in 2000, followed up its major victory with the demand for the UN seat for Afghanistan. The seat was held by the former government under the presidency of Rabbani which was still recognized as the legitimate government by most states (*see* 8 Asian YIL 260). (IHT 07-09-00)

Japan’s candidacy for permanent Security Council membership

Japan called for an end to the inconclusive debate on whether the Council should be expanded and asked that major states come to concrete agreement on its future shape. It formally recommended an expansion to 24 members and a restriction on the use of the veto. Japan was paying 20 per cent of the UN budget.

Of the 189 UN member states 155 had committed themselves to a larger Council. The issue had been in the hands of a working group for the past seven years. (IHT 18/19-11-00)

Alleged racial biases

A Malaysian diplomat had resigned as chief of staff of the UN Transitional Administration in East Timor (UNTAET), charging that it “had become very much a ‘white’ mission, an Eastern mission with a Western face”. It was reported by a Malaysian newspaper that as a result the Malaysian foreign minister had urged the UN to investigate these claims. (IHT 10-01-02)

WORLD BANK

Rejection of anti-poverty project by wealthy countries’ directors

The World Bank abandoned an anti-poverty project after the directors from several major donor countries, including the US and Japan, rejected the management’s recommendations for it. The plan would include financing of the resettlement of ethnic Han-Chinese in the western Chinese province of Qinghai, an area once dominated by Tibetan nomads. It was said that critics had argued that this would contribute to the “sinification” of the territory and might have reinforced China’s claims to lands which some Tibetans claim is part of their homeland. But those in favour of the project argued that Qinghai was already predominantly Han Chinese.

The case was a test of the power of developing countries to resist pressure from rich countries and private lobbying groups when allocating funds. It also tested the

Bank's internal procedures for approving projects and the power of rich donor countries to determine the interpretation of the applicable rules. (IHT 8/9-07-00)

WORLD WAR II

See also: International humanitarian law

Comfort women and other slave workers file law suit in the US

It was reported that fifteen Asian women from Korea, China, Taiwan, and the Philippines had filed a class-action suit against Japan in a US federal court in September 2000, seeking compensation and an apology for being forced to work as sex slaves in the 1930s and 1940s. (IHT 20-09-00)

Besides, Chinese, Philippine, and Korean men who served as forced labourers for Japanese companies during the war filed lawsuits in California, USA, claiming an apology and compensation from the companies. They sued under a 1999 Californian law allowing victims who had been unable to pursue their claims elsewhere, to file suit in California state courts against those companies concerned that have subsidiaries in the US. The law suit of the Chinese was filed by way of class-action suit by two persons, one who had worked for *Mitsubishi* and one who had worked for *Mitsui*. (IHT 03-10-00)

Compensation settlement

A landmark settlement was reached in Tokyo on 29 November 2000 in the case brought in 1995 by eleven Chinese who were kidnapped and forced to work in Manchuria during World War II. The District Court had thrown out the case on grounds of the expiry of the statute of limitations, but the appellate court urged the defendant to reach a settlement.

Kajima, the largest Japanese general contractor, agreed to establish a 500-million-yen fund to compensate survivors and relatives of those who died at its Hanaoka copper mine during the war. The fund would be administrated by the Chinese Red Cross, which would have discretion over how the money would be disbursed.

The settlement was probably the largest-ever in Japan, where the law often limits the amount of compensation that can be awarded in legal disputes.

It was said that the settlement was extremely significant because other companies which were similarly accused were likely to set up similar funds.

The case was the first one on compensation for a violation of the 1907 Hague Convention. Three other cases on compensation for forced labour had also been settled; it related to persons from Korea which was a Japanese colony at the time. (IHT 30-11-00)

War victims' claims rejected by Japanese court

The Tokyo High (appellate) Court on 6 December 2000 rejected demands from Philippine (former "comfort") women for compensation and an apology. It upheld a lower court ruling that the government had no obligation to pay damages to the 80 women and their relatives. The High Court referred to international law and held

that individuals were not allowed to sue a government for human right abuses. Besides, the statute of limitations had expired. (IHT 07-12-00)

The Tokyo District Court on 26 March 2001 rejected demands from eight women, 16 (former) soldiers and 16 relatives of other persons, members of the South Korean-based Association of Pacific War Victims and Bereaved Families, who were forced into service by the Japanese Army during the Japanese colonization. The plaintiffs had argued that Japan's wartime behaviour should be considered among crimes against humanity. The defendant Japanese state contended that international law did not grant such a claim to individuals and that the matter had been settled by bilateral treaties. (IHT 27-03-01)

Comfort women compensated from private fund

The Japanese Asian Women Fund had paid compensation to 78 Dutch women who were forced into sex slavery by the Japanese military during World War II in Indonesia, then a Dutch colony.

The foundation was funded partly by the Japanese government and partly by donations from Japanese citizens, former soldiers and their families. It had set up compensation projects in Indonesia, Taiwan, South Korea, and the Philippines. (IHT 14/15-07-01)

WORLD TRADE ORGANIZATION

See also: Environmental protection; International economic and trade relations

China's membership

[After a candidate member has reached bilateral agreement with each of the existing members on the tariffs to be applicable in their mutual trade, these commitments and concessions are laid down in one multilateral, comprehensive document which is annexed ("schedule") to the agreement of accession to be concluded between the WTO and the candidate member.]

The US Senate approval of the bill granting China "permanent normal trading status" (*see* 9 Asian YIL 398) essentially removed all US obstacles to China's WTO membership.

Difficulties arose in the final stage of the process of China's candidacy because of conflicts over the formulation of the schedule. China complained that the US and some European countries tried to gain new market concessions not agreed in the preceding bilateral agreements (The US Senate on 19 September 2000 had approved the bill granting China "permanent normal trading status", thus removing all US obstacles to Chinese membership of the WTO) while the other side demanded that China clearly determine the means of implementation of its commitments. (IHT 20-09-00, 11-10-00)

On 9 June 2001 the US and China announced agreement on several issues that had been blocking China's entry into the WTO. (*see* 9 Asian YIL 398) China had insisted that it be allowed to join the WTO as a developing country which would, *inter alia*, include the right to provide farm subsidies equal to ten per cent of its

agricultural output. For developed countries the limit is five per cent. The two sides finally agreed on 8.5 per cent, while China agreed not to provide subsidies that would act as incentives to produce certain crops. (IHT 11-06, 28-06-01)

On 20 June 2001 China reached agreement with the EU on their outstanding differences in connection with China's pursuit of WTO membership. The differences included disagreement about the number of licenses for European insurance companies to operate in China. (IHT 21-06-01)

The WTO working group on China approved the Chinese application on 17 September 2001 followed by approval by the WTO Ministerial Conference on 10 November 2001. The agreement was subject to ratification by China. (IHT 05-09, 17-09, 18-09, 12-11-01)

Taiwan membership

One day after China's entry into the WTO, Taiwan followed under the name "Separate Customs Territory of Taiwan, Jinmen and Matsu", or "Chinese Taipei", the name under which it has been known in other international organizations in which it is holding membership.

Asian attitudes towards the impending 2001 Doha meeting

It was reported that Asian countries were wary of putting on the agenda items that could be considered "extraneous" to trade, such as labour standards and protection of the environment. In face of these controversies *Malaysia* suggested the introduction of a provision allowing countries to "opt out" of contentious issues. *India* insisted that a new negotiation round could be held only after the developed countries met their commitments on implementing matters discussed in previous rounds. (IHT 30-10-01)

The forthcoming WTO meeting at Doha gave rise to various items that emphasized the gap between rich and poor countries, and endangered the outcome of the meeting..

In connection with its concern about the possibility of terrorist attacks with chemical weapons the US had forced the drugs manufacturer Bayer A.G. to sharply reduce the price of its anthrax drug. This emboldened developing countries, such as India and Brazil, to insist on a broad "public health" exception to international patent rules for other drugs. This position was strongly opposed by countries like Switzerland, Canada, Japan, and the US which defended strict preservation of intellectual property protection.

On another matter the special trading rights granted by the US to Pakistan's textile and apparel industry in the context of the cooperation of the two countries in fighting terrorism, lead many countries, among which India and Nigeria, to argue that the liberalization measure should apply to similar industries in all developing countries. (IHT 06-11-01)

In preparing an agenda for the Doha meeting India threatened to block an agreement if it failed to provide expanded access for Indian textile exports to Western markets. The interested developing countries in this respect were led by India,

Pakistan, and Bangladesh, the opponents were mainly the US and Canada. (IHT 14-11-01) An agreement was finally achieved. (IHT 15-11-01)

Doha Round

The Doha Round of global trade talks started in December 2001 and was scheduled to complete in January 2005. At the start the negotiations were directed especially towards the question whether the chair of the “trade negotiations committee” would be held on a rotating basis among the 144 member states (preferred by the developing states) or by the director-general (preferred by the industrialized states). The developing countries were of the opinion that chairmanship by the director-general would put too much power in the WTO headquarters which are, they said, subject to pressure by the big trading powers. (IHT 30-01-02)

Sino-Japanese tariffs dispute

Japan in April 2001 attempted to protect its farmers by imposing temporary tariffs on a host of Chinese goods (spring onions, shiitake mushrooms, rushes used in tatami mats), arguing that the curbs were allowed under WTO rules. China in June retaliated by imposing punitive tariffs on Japanese cars, phones and air conditioners. Japan argued that the Chinese measure violated WTO rules as retaliatory measures were not allowed without first taking the dispute to arbitration.

The two countries met in early July 2001 to try resolve the dispute. This was not successful until early November 2001 when Japan announced that it would for the time being lift the temporary tariffs and continue studying the effects of the low-priced Chinese imports.

The two countries settled the dispute on 21 December 2001 as China agreed to retract its 100 per cent tariffs, and Japan backed down from its threat to extend its import limits for as long as four years. (IHT 20-06, 02-07, 09-11, 22/23-12-01)

US tariffs on foreign steel

The US announced in March 2002 that it would impose tariffs of up to 30 per cent on a range of foreign steel imports to support its struggling domestic steel mills, thereby invoking a WTO “safeguard” rule that allows countries to provide temporary protection to industries hit by surges in imports. The EU considered itself to be the main victim because the US decision focused on the higher end of the steel market where European companies were particularly strong, and because it expected, as a result, an increase from Asia and other regions in steel imports which might be priced out of the US market. It consequently responded by lodging a complaint with the WTO.

China on 15 March 2002 called for talks on the US decision and said it would make its first complaint to the WTO if the negotiations failed (a position shared by *South Korea*); on 24 May China took measures to exclude the import of steel that was diverted from the US as a result of the US tariffs. *Japan* asked the US to be compensated under WTO rules by lowered tariffs on unspecified non-steel imports from Japan, and threatened that it would, otherwise, take retaliatory action. (IHT 07-03, 16/17-03, 29-04, 29-05-02) [The “safeguard” exception is meant to allow a

country to head off a sudden wave of imports without its having to wait for the outcome of a trade-dispute resolution process. This preference for unilateral measures may also exist in the case of retaliatory action against safeguard measures, for the taking of such retaliatory action justification is sought in the above legal limitation of the safeguard right. Accordingly prompt retaliation may be allowed if the imports meant to be limited by the safeguard tariffs have been falling rather than rising.]