

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
INVESTMENT COMMITTEE**

Working Group on Bribery in International Business Transactions

**STEPS TAKEN BY STATE PARTIES TO IMPLEMENT AND ENFORCE THE CONVENTION ON
COMBATING BRIBERY OF FOREIGN PUBLIC OFFICIALS IN INTERNATIONAL BUSINESS
TRANSACTIONS**

This document has been updated on the basis of the contributions provided by Australia, Bulgaria, Czech Republic, Estonia, Japan, Luxembourg (translated from French), Poland, Slovak Republic, Spain, Sweden, Switzerland and United Kingdom.

The following countries were not represented during the discussion of this agenda item at the following plenary meetings of the Working Group:

- October 2007: Bulgaria, Ireland, Iceland and Slovenia*
- December 2007: Belgium, Bulgaria, Estonia and Slovenia*
- March 2008: New Zealand*
- June 2008: Hungary and Iceland*

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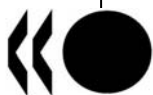


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ARGENTINA

(Information as of 23 March 2007)

Date of deposit of instrument of ratification/acceptance or date of accession

8 February 2001

Implementing legislation

Identification of the law: law 25.188, which introduces art. 258 bis of the Criminal Code penalizing transnational bribery in accordance with the Inter American Convention against Corruption.

Publication in official journal: *Boletín Oficial* 1-11-99. Date of entry into force: 10-11-99.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

Recommendations for remedial action under Phase 1

Law 25.825 (*Boletín Oficial* 11-12-03), modifying the definition of the offence in art. 258 bis following the recommendations of the Working Group during Phase 1.

Countries' international commitments arising from other international instruments

Inter-American Convention Against Corruption (Caracas, Venezuela, 03/29/96) ratified by Argentina on 10/09/97.

Other information

Relevant authorities

Dirección General de Consejería Legal, Ministerio de Relaciones Exteriores, Comercio Internacional y Culto

Oficina Anticorrupción, Ministerio de Justicia, Seguridad y Derechos Humanos
www.anticorruptcion.gov.ar

Relevant Internet links to national implementing legislation

www.anticorruptcion.gov.ar

The Foreign Ministry of Argentina has opened a link on the web site "Argentina Trade Net" (ATNet) (www.argentintradenet.gov.ar) in "Noticias" (News); under the headline "Argentina penaliza el soborno a funcionarios públicos extranjeros" (Argentina criminalizes bribery of foreign public officials). By clicking on it, the user has access on information regarding Article 1 of the OECD Convention and Article 258 bis of the Argentine Penal Code.

Signature/Ratification of other relevant international instruments

United Nations Convention against Corruption (Mérida):

DAF/INV/BR(2008)6/REV2

Signed: 19 December 2003.

Approved: May 2006, law n° 26.097 promulgated 6 June 2006.

Deposit of the instrument of ratification: 28 August 2006.

In force since: 27 September 2006.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/31/50/2078382.pdf>

AUSTRALIA

(Information as of 10 September 2008)

Date of deposit of instrument of ratification/acceptance or date of accession

Australia ratified the Convention on 18 October 1999.

Implementing legislation

Criminal Code Amendment (Bribery of Foreign Public Officials) Act 1999 (Cth) (Division 70 Criminal Code (Cth))

Date of entry into force: 17 December 1999.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

- *Auditor-General Act 1997 (Cth)*
- *Criminal Code Act 1995 (Cth) Chapter 4 and Division 400*
- *Commonwealth Authorities and Companies Act 1997 (Cth)*
- *Corporations Act 2001 (Cth)*
- *Extradition Act 1988 (Cth)*
- *Financial Management and Accountability Act 1997 (Cth)*
- *Income Tax Assessment Act 1997 (Cth)*
- *Mutual Assistance in Business Regulation Act 1996 (Cth)*
- *Mutual Assistance in Criminal Matters Act 1987 (Cth)*
- *Proceeds of Crime Act 2002 (Cth)*
- *Financial Transaction Reports Act 1988 (Cth)*
- *Anti-Money Laundering and Counter-Terrorism Financing Act 2007*
- *International Trade Integrity Act 2007 (Cth)*

Recent developments to Australia's anti-bribery framework

The Australian Transaction Reports and Analysis Centre (AUSTRAC) has updated *Information Circular No. 42: Bribery of Foreign Public Officials* to refer to links between the foreign bribery offence and money laundering offences. The Information Circular now states that bribery may also trigger charges of money laundering under Division 400 of the *Criminal Code Act 1995*. The Information Circular is publicly available and used in training by AUSTRAC. It can be accessed at http://www.austrac.gov.au/files/aic42_bribery_foreign_public_officials.pdf.

The Australian Trade Commission (Austrade) has updated its website to ensure information about the offence of foreign bribery is included in the Legal Issues section, in addition to the Risk Management section, of the website. The Austrade website also provides advice on specific export markets and has confirmed that information about the foreign bribery offence is included in country-specific guide to doing business.

The Australian Taxation Office has amended its website to ensure advice regarding facilitation payments refers to payments of minor value.

On 24 September 2007, Australia passed the *International Trade Integrity Act 2007*. The Act principally was to implement recommendations from the Cole *Inquiry into certain Australian companies in relation to the Iraq Oil-for-Food Programme* but also implemented three recommendations from the Working Group. The Act amended the offence of foreign bribery so that a defence is available only if a benefit offered or paid is permitted or required by the written law governing a foreign public official. The Act also clarified that any other perception that a benefit was required or permitted must be disregarded and that a charge of foreign bribery can be satisfied regardless of the results of an alleged bribe.

Countries' international commitments arising from other international instruments.

Australia signed the UN Convention against Corruption on 9 December 2003. Australia considers that it complies with all of the Convention's mandatory requirements. In accordance with Australia's domestic process for treaty ratification, the Convention was tabled before Parliament on 7 December 2004. The Joint Standing Committee on Treaties conducted a hearing into the ratification of the Convention on 7 March 2005 and issued a report in August 2005. Australia ratified the Convention on 7 December 2005.

Australia is a founding member of the Financial Action Task Force on Anti-Money Laundering and Counter Terrorist Financing (FATF). In December 2003 the Australian Government endorsed the FATF Forty Recommendations on Anti-Money Laundering and the Eight Special Recommendations on Counter-Terrorism Financing.

Australia ratified the UN Convention against Transnational Organized Crime on 27 May 2004.

Australia is an active participant in the Asia Development Bank OECD Anti-Corruption Initiative for Asia and the Pacific and endorsed the Initiative's Action plan in October 2003.

In November 2004 Australia endorsed APEC's Santiago Commitment to Fight Corruption and Ensure Transparency and Course of Action on Fighting Corruption and Ensuring Transparency.

Other information

Relevant authorities

Enforcement: Information about foreign bribery offences should be reported to the Australian Federal Police:
Postal address: GPO Box 401
CANBERRA ACT 2601
AUSTRALIA
Website: www.afp.gov.au

Policy: Attorney-General's Department
Postal address: Robert Garran Offices
National Circuit
BARTON ACT 2600
AUSTRALIA
Website: www.ag.gov.au/foreignbribery

Relevant Internet links to national implementing legislation

www.comlaw.gov.au

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/0/29/2378916.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/5/42/35937659.pdf>

AUSTRIA

(Information as of July 2005)

Date of deposit of instrument of ratification/acceptance or date of accession

The First Chamber of Parliament passed the bill for ratification of the OECD-Convention [federal law gazette (Bundesgesetzblatt; BGBl.) III 176/1999] on 24 March 1999. The ratification process was finalized and the instrument of ratification deposited with the OECD Secretary-General on 20 May 1999.

Implementing legislation

The legislation implementing the OECD-Convention (“Strafrechtsänderungsgesetz 1998”) was published in the Federal Law Gazette on 20 August 1998 (BGBl. I 1998/153). It is in force in Austria since 1 October 1998.

Other relevant laws, regulations or decrees that have an impact on a country’s implementation of the OECD Convention or the Recommendations

Concerning other relevant international instruments, Austria ratified the United Nations Convention against Corruption in November 2005. It signed the Council of Europe Criminal Law Convention on Corruption on 13 October 2000 but has not yet ratified it. On the EU-level, Austria has signed, ratified and implemented (by the above mentioned “Strafrechtsänderungsgesetz 1998”), the (first) protocol to the Convention on the Protection of the Financial Interest (notification of the ratification on 21 May 1999) and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (notification of the ratification on 19 January 2000) whereas it has not yet ratified the Second Protocol to the Convention on the Protection of the Financial Interests.

Other information

Relevant authorities

Relevant authorities, to whom one may report information on a bribery offence, are the police and public prosecution authorities.

Relevant Internet links to national implementing legislation

The relevant internet link to obtain the wording of (any) national legislation (including national legislation to implement the OECD-Convention) is www.ris.bka.gv.at.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation
<http://www.oecd.org/dataoecd/2/45/2380506.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions
<http://www.oecd.org/dataoecd/16/22/36180957.pdf>

BELGIUM

(Information as of 15 June 2004)

Date of deposit of instrument of ratification/acceptance or date of accession

The Convention was signed on 17 December 1997. The Ratification Bill was adopted by the Senate on 20 April 1999 and by the Chamber of Representatives on 29 April 1999. The Ratification Act received royal approval on 9 June 1999. Belgium deposited its ratification instrument with OECD on 27 July 1999.

Implementing legislation

To meet the requirements of the OECD Convention, and more generally to modernise the Criminal Code's provisions on bribery, which dated from 1867 and had not been substantially amended since then, the Belgian Parliament adopted two Acts. The first is the Bribery Prevention Act of 10 February 1999, adopted by Parliament on 4 February 1999 and signed by the King on 10 February 1999, which entered into force on 3 April 1999, following publication in the *Moniteur belge* (Official Gazette) on 23 March 1999. This Act amends in particular the provisions contained in Title IV of the Criminal Code in Articles 246-252 of Chapter IV on "The Bribery of Public Officials". The second Act is that of 4 May 1999, which entered into force on 3 August 1999. This Act establishes the criminal liability of legal persons, henceforth subject to the provisions the Bribery Prevention Act of 10 February 1999.

The main objectives of the amendments to the Criminal Code, as explained by the Minister of Justice in his introductory presentations to the Senate and later to the Chamber of Representatives, are three-fold. The first objective is to cover new offences contained in the OECD Convention and not previously covered by Belgian legislation (bribery of foreign public officials and international civil servants), as well as other offences such as bribery of an applicant for a public function, trading in influence and private corruption. The second objective is to fill some gaps in the field of sanctions, primarily by adapting penalties to current penological trends (higher minimum and maximum penalties for sentences involving deprivation of liberty and for fines), by introducing new administrative sanctions against public works contractors who engage in bribery, and by amending the Income Tax Code to limit the tax deductibility of bribes. The third objective is to broaden the extraterritorial jurisdiction of Belgian courts, in particular as regards bribery involving foreign public officials.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

Concerning other relevant international instruments, Belgium has ratified the Council of Europe Criminal Law Convention on Corruption. The Ratification Bill of 19 February 2004 was published in the *Moniteur belge* on the 10th May 2004 and entered into force ten days later.

Belgium has signed the United Nations Convention against Corruption on 10 December 2003 but not yet ratified. A ratification bill is being prepared right now in the Ministry of Justice. Ratification is expected before the end of the year 2004.

On the EU-level Belgium has signed, ratified and implemented the first and second protocol to the Convention on the Protection of the Financial Interests and the Convention on the fight against corruption involving officials of the European Communities or officials of the Member States of the European Union. Ratification was done in one bill of 17 February 2002, published on the 15 May 2002 and entered into force ten days later.

Some other recent laws and bills that can be of importance to the subject matter:

- Bill of 29 November 2001 modifying article 90ter of the Criminal Procedure Code (this bill included corruption offences in the list of offences for which telecommunication interception is possible in the course of the investigation) (Moniteur belge: 7 February 2003);
- Bill of 8 April 2002 concerning the anonymity of witnesses (MB: 31 May 2002);
- Bill of 7 July 2002 concerning the protection of witnesses (MB: 10 August 2002);
- Bill of 19 December 2002 extending the possibilities of seizure and confiscation (MB: 14 February 2003);
- Bill of 6 January 2003 concerning the special investigation techniques (MB: 12 May 2003);
- Bill of 26 March 2003 creating the Central Office for Seizure and Confiscation (MB: 2 May 2003).

Other information

Relevant authorities

1. Relevant authorities to whom one may report information on a bribery offence, are the local and federal police, the public prosecution authorities and the investigating judges.
2. Central authority for mutual legal assistance:
Ministry of Justice
Boulevard de Waterloo 115
1000 Brussels
BELGIUM
3. Other relevant authorities:
 - Federal Prosecution Service (Rue Quatre Bras, 19, 1000 Brussels)
 - Central Organ for Seizure and Confiscation (Rue Quatre Bras, 19, 1000 Brussels)
 - Anti-Money Laundering Office (Avenue de la Toison d’Or, 55 boîte 1, 1060 Brussels)
 - Central Bureau for the fight against corruption (special federal police Unit) (Rue du Noyer, 211, 1000 Brussels)

Relevant Internet links to national implementing legislation

Ministry of Justice: <http://www.just.fgov.be>
Moniteur belge: <http://www.ejustice.just.fgov.be/cgi/welcome.pl>
Central Organ for Seizure and Confiscation: <http://www.confiscaid.be>
Anti-Money Laundering Office: <http://www.ctif-cfi.be>
Federal Police: <http://www.polfed.be>

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/13/7/2385130.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/59/8/35461651.pdf>

BRAZIL

(Information as of 21 May 2008)

Date of deposit of instruments of ratification/acceptance or date of accession

Signing of the Convention: December 17, 1997.

Ratification of the Convention: June 15, 2000, by Legislative Decree no. 125/2000, published in the Official Federal Gazette ratifying the convention.

Implementing Legislation

- a) **Identification of the law** - Law no 10.467, June 11, 2002, adding Chapter II-A to Section XI of Decree-Law No. 2,848, of December 7, 1940, Penal Code, and a provision to Law No. 9,613, of March 3, 1998, which governs the crimes of money-laundering or hiding of assets, rights and securities; the prevention of the use of the Financial System for the illegal acts provided for in this Law, creates the Council for **Financial Activities Control (COAF)**, and makes other provisions.;
- b) Sanctioning of the implementing legislation: June 10, 2002; and,
- c) Implementing legislation comes into force: June 11, 2002.

Other relevant laws, regulations and decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

Relevant legislation:

- Penal Code, especially Art. 317 (passive corruption); Penal Code, Art. 333 (active corruption);
- Law N° 9.034, May 3, 1995, which adopts provisions concerning the use of operational means for the prevention and repression of activities performed by criminal organizations;
- Law N° 9.613, March 3, 1998, which rules on the crimes of money laundering or hiding assets, rights and securities; the prevention of the use of the Financial System for the illegal acts provided for in this Law, creates the Financial Activities Control Board (COAF), and makes other provisions;
- Decree N° 3.000, March 26, 1999 . Income Tax Regulation;
- Law N° 8.884, June 11, 1994, which adopts provisions concerning prevention and repression of violations against the economic order, guided by the constitutional principles of freedom of initiative, free competition, social function of ownership, consumer protection, and repression of economic power abuse;

- Article 11 of Law N°. 7.492/86, which establishes a sentence of 1 (one) to 5 (five) years in prison and a fine for any person who "maintains or transfers resources or values in parallel to the legal accounting requirements";
- Article 1 of Law N° 4.729/1965 establishes as a crime punishable with 6 (six) months to 2 (two) years in prison the falsification of accounting documents.
- Decree 5.483, of June 30, 2005, which instituted the investigation of assets in the scope of the Federal Executive.
- Bill of Law n° 7710/2007, which proposes alteration of the Article 337 – B of Penal Code, increasing imprisonment from 1 to 8 years to 2 to 12 years.

Other information

Relevant authorities

Attention should be drawn to the articulated and integrated way through which corruption is being tackled in the country today, with the joining of all the state defense agencies in this endeavor.

The Office of the Comptroller General (CGU) acts in all the agencies and entities of the Federal Executive as the central body for internal control and audit, disciplinary action and ombudsman action, having within its structure the Secretariat for Prevention of Corruption and Strategic Information - SPCI.

The Federal Police Department (DPF) is responsible for prevention and repression of criminal offenses, as well as for conducting the pertinent investigations, relying on a modern and functional structure that allows centralized planning, coordination and control and decentralized execution.

The Department of Asset Recovery and International Legal Cooperation - DRCI, of the Ministry of Justice, has the function of identifying threats, defining effective and efficient policies, as well as developing an anti-money laundering culture, aiming at recovering assets sent abroad illegally and products of criminal activities. This Department is also responsible for international cooperation and technical assistance, both in penal and civil matters, being the central authority in the exchange of information and requests for international legal cooperation.

The Council of Control of Financial Activities – COAF, the Brazilian financial intelligence unit, was created in the scope of the Ministry of Finance, with the purpose of disciplining, enforcing administrative penalties, receiving, examining and identifying suspected illegal activity linked to money laundering.

The Brazilian Federal Revenue Secretariat, a specific and unique body linked to the Ministry of Finance, is responsible for the planning, execution, control and evaluation of the federal tax administration activities, as well as the execution of the country's customs policy, including the undertaking of studies on the economic impact of the tax and customs policies in Brazil.

The Prosecutor's Office is a permanent institution, which has functional, administrative and financial autonomy established in the Constitution, being responsible for persecution of offences.

The Legislative also has an important role in the fight against corruption, not only in its law-making function, but mainly through Parliamentary Inquiry Commissions - CPI. The CPIs, with the same investigation powers as the judicial authorities, are instituted by the House of Representatives or by the Federal Senate, with the purpose of investigating a certain fact within an established deadline and its

conclusions are forwarded to the Prosecutor's Office, if appropriate, for it to promote the civil or criminal liability of the offenders.

External control, which is the responsibility of the National Congress, is exercised with the help of the Federal Court of Accounts, whose attributions include, for example, judging the accounts of the managers and other people responsible for public moneys, property and values of the direct and indirect administration, including foundations and societies instituted and maintained by the Federal Public Power, and the accounts of those who have caused loss, misuse or any other irregularity results in loss to the treasury.

The articulation and coordination of the works developed by the above bodies and others were strengthened by the creation of the National Strategy to Combat Corruption and Money Laundering – ENCCLA, in 2003.

Relevant Internet links to national implementing legislation:

<http://www.cgu.gov.br>;

<http://www.camara.gov.br>;

<http://www.senado.gov.br>;

<http://www.mpf.gov.br>;

<http://www.mj.gov.br/drcj>;

<https://www.coaf.fazenda.gov.br>;

<http://www.receita.fazenda.gov.br>;

<http://www.tcu.gov.br>.

Signature/Ratification of other relevant international instruments

- Promulgation of the Inter-American Convention against Corruption (OAS) . Decree no 4.410, October 7, 2002;
- Signature of the United Nations Convention against Corruption (UN), on December 9, 2003, at Mérida, México.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/52/46/33742137.pdf>

Phase 2: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/61/30/39801089.pdf>

BULGARIA

(Information as of 9 September 2008)

Date of deposit of instrument of ratification/acceptance or date of accession

Bulgaria deposited its instrument of ratification on 22 December 1998. The Convention entered into force on 15 February 1999. The text of the Convention (Bulgarian translation) was promulgated in “State Gazette” No 61 of 6 July 1999.

Implementing legislation

On 15 January 1999 the National Assembly adopted a Law amending the Criminal Code (prom. in SG No 7 of 26 January 1999) whereby the active bribery of foreign public officials in international business transactions was criminalised (Art.304, para. 3 of the Criminal Code). The above-mentioned law introduced an autonomous definition of “foreign public official” (Art.93, para. 15 of the Criminal Code).

On 8 June 2000 the National Assembly adopted amendments to the Criminal Code (prom. in SG No 51 of 23 June 2000) whereby promising and offering of a bribe to domestic and foreign public officials (phase 1 OECD Working Group’s recommendation) were established as a criminal offence. By the same law the restriction as to the context in which the active bribery of the foreign public officials occurs, i.e. in international business transactions, was abolished.

On 13 September 2002 the National Assembly adopted amendments to the Criminal Code (published in “State Gazette” No 92 of 27 September 2002) which provided for: including non-material advantages in the scope of definition of a bribe (phase 1 OECD Working Group’s recommendation); it introduced also criminalisation of bribery in the private sector, trading in influence, passive bribery of foreign public officials, bribery of arbitrators and, in some specific cases, bribery of lawyers; enlargement of the scope of the foreign public official definition; restriction of the existing defences concerning the punishment of active bribery (phase 1 OECD Working Group’s recommendation); introducing the fine as additional punishment for bribery; and more severe punishments for bribery of judges, jurors, prosecutors and examining judges.

Other relevant laws, regulations or decrees that have an impact on a country’s implementation of the OECD Convention or the Recommendations

On 21 September 2005 the 40th National Assembly adopted the **Law amending the Law on Administrative Offences and Sanctions** dealing with the introduction of liability of legal persons for criminal offences, including for foreign bribery. The Law provides for a monetary sanction of up to 1 million Levs (approximately EUR 500 000) but not less than the amount of the advantage obtained or that could have been obtained. Confiscation of the proceeds of crime is also envisaged. The sanctions shall be imposed irrespective of the penal responsibility of the physical perpetrator. The Law regulates also the procedure for imposing sanctions on legal persons.

In 2005 the **Law on the Forfeiture to the State of Proceeds of Crime** (civil confiscation) was introduced. This law regulates the terms and procedure for imposition of seizure and forfeiture to the State of any assets derived, whether directly or indirectly, from criminal activity. By this law, the body handling

the procedure is the Multidisciplinary Commission for Establishing of Property Acquired from Criminal Activity (CEPACA), which became operational in October 2006.

Law of the Protection of the Persons Threatened in Connection with Criminal Procedure (promulg. SG 103 of 23 November 2004)

On 24 March 2004 a **new Law on Public Procurement (LPP)** was adopted by the National Assembly. It contained explicit provision excluding from the tendering process persons who have been convicted of a number of offences, including bribery. Under Art.47, paragraph 1 (1) of the LPP a candidate who has been convicted of crimes against the financial, tax and insurance system, of bribery and of economic crimes may not participate in the in the tendering procedure. Where the candidate is foreign individual or foreign legal person he/she/it should meet the requirements of Art.47 in the state of establishment (Art.48, paragraph 1 of the law). The new LPP entered into force on 1 October 2004.

In 2006 changes were introduced to all the legislation concerning the public procurement – the Law on Public Procurement, the Rules Implementing the Law on Public Procurement and the Ordinance for Assigning Small Public Procurement. The changes entered into force as of 01 July 2006. They introduced a number of mechanisms for countering corruption in public procurement.

*The Council of Ministers adopted **Public Sector Internal Audit Standards** with Decree No 165/30.06.2006.*

After the amendments of the Constitution of the Republic of Bulgaria from 2003 the immunity of magistrates from investigation and prosecution was limited to a functional one. On 2 February 2007 the National assembly adopted the Fourth Amendment of the Constitution. One of the main changes was the **removal of the penal inviolability of the magistrates**. Only the immunity, securing the independence and freedom of the magistrates in the execution of their functions and issuing of their decisions, remains in place.

Other information

Relevant authorities

Under Art.205, para 1 of the Criminal Procedure Code (new, prom. SG 86 of 28 October 2005, entered into force on 29 April 2006), information on criminal offences, including on bribery offences, should be reported to the bodies of the pre-trial proceedings, i.e. prosecutors, investigators at the Ministry of Interior, or to other public body.

Central authorities for mutual legal assistance:

Ministry of Justice - in respect of requests for mutual assistance at the stage of the trial. (1, Slavianska Str., 1040 Sofia)

Supreme Cassation Prosecutor's Office - in respect of requests for mutual assistance at the stage of pre-trial proceeding, (2, Vitosha Bulvd., 1040 Sofia)

Other relevant authorities:

The Commission for establishing of property acquired from criminal activity (112 Rakovski Str., 1040 Sofia)

Relevant internet links to national implementing legislation

Ministry of Justice: <http://www.mjeli.government.bg>

Anticorruption Commission: <http://www.anticorruption.government.bg>

All Bulgarian Legislation (free access): <http://www.lex.bg>

Signature/Ratification of other relevant international instruments

- Council of Europe Criminal Law Convention on Corruption: ratified on 7 November 2001.
- Additional Protocol to the Council of Europe Criminal Law Convention on Corruption on 4 February 2004.
- Council of Europe Civil Law Convention on Corruption: ratified on 8 June 2000.
- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime: ratified on 2 June 1993.
- United Nations Convention against Corruption: ratified on 3 August 2006
- United Nations Convention against Transnational Organized Crime: ratified on 12 April 2001
- EU Convention on the Protection of the European Communities' Financial Interests and the Protocols thereto: ratified on 24 January 2007.
- EU Convention on the fight against corruption involving officials of the European Communities or officials of the EU Member States: ratified on 14 February 2007.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/13/53/2385450.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/8/19/2790505.pdf>

Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions

<http://www.oecd.org/dataoecd/35/60/36101867.pdf>

CANADA

(Information as of May 2008)

Date of deposit of instrument of ratification/acceptance or date of accession

Canada ratified the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (the Convention) on 17 December 1998.

Implementing legislation

Canada's implementing legislation, the *Corruption of Foreign Public Officials Act* (CFPOA) received Royal Assent on 10 December 1998 and came into force on 14 February 1999. Subsequent amendments were made to the Act in January 2002 as a consequence of amendments to Canada's *Criminal Code*. These amendments are of a technical nature.

The *Corruption of Foreign Public Officials Act* implements Canada's obligations set out in the Convention. The main offence of bribery of foreign public officials represents an effort to marry the Convention wording and requirements with wording that was found already in the corruption provisions of the *Criminal Code*. The Act calls for an annual report by the Minister of Foreign Affairs, the Minister of International Trade, the Minister of Justice and the Attorney General of Canada on the implementation of the Convention and on the enforcement of the Act.

The offences under the *Corruption of Foreign Public Officials Act* are included in the list of offences under section 183 of the *Criminal Code*. As a result, it is possible for police, through the lawful use of a wiretap and other electronic surveillance, to gather evidence in the bribery of foreign public officials cases, and in the possession and laundering of proceeds from these cases.

The *Corruption of Foreign Public Officials Act* requires the Minister of Foreign Affairs, the Minister of International Trade, and the Minister of Justice to provide information on the enforcement of the Act and the implementation of the Convention in an Annual Report to Parliament.

The Corruption of Foreign Public Officials Act may be found at:

<http://laws.justice.gc.ca/en/showtdm/cs/C-45.2?noCookie>

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

Income Tax Act

A payment that constitutes an offence under the *Corruption of Foreign Public Officials Act* is included in the list of expenses for which a deduction is denied under subsection 67.5(1) of the *Income Tax Act*.

The *Income Tax Act* may be found at: <http://laws.justice.gc.ca/en/i-3.3/text.html>

Criminal Code

The *Criminal Code* includes provisions that codify and modernize the Canadian criminal law in relation to corporate criminal liability. In particular, these provisions:

- a) establish rules for attributing to organizations, including corporations, criminal liability for the acts of their representatives (section 22.2);
- b) set out factors for courts to consider when sentencing an organization (section 718.21); and
- c) provide optional conditions of probation that a court may impose on an organization (section 732.1).

Since 2005, the *Criminal Code* includes an offence, for an employer, of threatening employees in order to prevent them to disclose unlawful conduct, or retaliating against them for doing so (section 425.1).

Provisions against domestic corruption are found in the *Criminal Code*, including sections 119 to 121 (bribery of Canadian officials and frauds on the government), 123 to 125 (municipal corruption and selling or influencing appointments to office), and 426 (secret commissions by an agent).

The *Criminal Code* may be found at: <http://laws.justice.gc.ca/en/c-46/text.html>

Federal Accountability Act

This Act was passed in December 2006. It provides for increased accountability of public servants and further measures to prevent domestic corruption, including: creating new fraud offences for public servants; reinforcing accounting within government departments by making accounting officers and internal audit committees mandatory; appointment of a Public Sector Integrity Officer and creation of a tribunal to deal with disclosure in the public sector; creation of a Procurement Ombudsman to review complaints from government suppliers; a legislated Code of Conduct for federal politicians and senior officials; lowering the limit for political contributions; making more Crown corporations subject to the *Access to Information Act*; and creating a Public Prosecution Service separate from the Department of Justice and providing for public disclosure of instructions given by the Attorney General in a specific case.

The Federal Accountability Act can be found at:

<http://www2.parl.gc.ca/HousePublications/Publication.aspx?Docid=3294507&file=4>

Public Servants Disclosure Protection Act (PSDPA)

The PSDPA provides legislated processes for reporting wrongdoing and strong legislated reprisal protections for employees who make disclosures. Employees can choose to make a disclosure to a senior officer within their own organization, or they can make a disclosure directly to the Public Sector Integrity Commissioner. The Public Sector Integrity Commissioner is a neutral third party, reporting directly to Parliament.

The Public Servants Disclosure Protection Act can be found at:

<http://laws.justice.gc.ca/en/showtdm/cs/P-31.9?noCookie>

Relevant authorities

The Public Prosecution Service of Canada.

The Royal Canadian Mounted Police.

Signature/Ratification of other relevant international instruments

- Inter-American Convention Against Corruption

- Signed: 7 June 1999
- Ratified: 1 June 2000
- United Nations Convention against Transnational Organized Crime
- Signed: 14 December 2000
- Ratified: 13 May 2002
- United Nations Convention against Corruption
- Signed: 21 May 2004
- Ratified: 2 October 2007

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/13/35/2385703.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/20/50/31643002.pdf>

Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions

<http://www.oecd.org/dataoecd/5/6/36984779.pdf>

CHILE

(Information as of 30 June 2004)

Date of deposit of instrument of ratification/acceptance or date of accession

Signature of the Convention: December 17, 1997.

Deposit of instrument of ratification: April 18, 2001.

Implementing legislation

Executive Decree No. 496, published in the Official Gazette on January 30, 2002, date on which the Convention was enacted in Chile.

To comply with the requirements of the Convention as well as to implement Chile's national policy to combat corruption, Law No. 19,829 amended the Chilean Criminal Code by adding article 250 bis A, which penalizes the bribery of a foreign public official in international business transactions, and article 250 bis B, which defines the term "foreign public official". This law also amended the domestic active bribery offence (article 250) to reflect the different sanctions corresponding to the foreign bribery offence. Law No. 19,829 entered into force on October 8, 2002, date on which it was published in the Official Gazette.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or Recommendations

Law No. 19,913, published in the Official Gazette on December 18, 2003, established the Financial Analysis Unit (FAU). It is a decentralized public agency having legal existence and equity on its own, which reports to the President of the Republic through the Ministry of Finance.

The said agency began to operate in our country immediately upon appointment of its Director, Mr. Víctor Andrés Ossa Frugone, by Executive Decree No. 358 from the Ministry of Finance, dated April 16, 2004, and published in the Official Gazette on May 10, 2004.

Mr. Ossa Frugone is a Civil Engineer holding a Master's Degree in Tax Management and having a vast experience in finance, international business and management of banks and both revenue-earning enterprises and public utility corporations.

Currently, this agency is under organization, its staff being appointed. It shall be formed by a director, a head of division and 3 heads of unit. However, the Director is empowered to hire personnel until filling the 15 positions established under the first budget year. Additionally, the Unit may be joined by officials from other public agencies which may be required to discharge its duties.

The Unit is located at the Ministry of Finance, Teatinos 120, sixth floor, Santiago, Chile, where it will temporarily operate until moving to its final premises. The contact telephone is (56-2) 4732000.

Concurrently with the said organization process, the Unit has begun to operate. It should be noted that the duty by several economic actors to inform any suspicious acts, transactions or operations that have come to their knowledge in the discharge of their duties became effective in May, 2004.

In addition, on April 28, 2004, Chile ratified the Inter-American Convention on Mutual Assistance in Criminal Matters, which allows Chilean authorities to provide mutual assistance to States Parties to this Convention in investigations, prosecutions and proceedings that pertain to crimes over which Chile has jurisdiction. Even though most of the States Parties to the Inter-American Convention are not parties to the OECD Convention, some of them are. In this context, Chilean judicial authorities can now provide the Parties to both Conventions with better assistance in legal matters, such as taking of depositions or statements, immobilization and sequestration of property, freezing of assets and assistance in seizure, confiscation or search related matters.

Other information

Relevant authorities

Within the Metropolitan Region (in the case of offences perpetrated up to June 16, 2005) and other regions (in the case of offences perpetrated before the phased entry into force of the criminal procedure reform), the old Criminal Procedure Code continues to apply. Article 83 thereof provides that offences of any kind must be informed to “Carabineros de Chile”, the Chilean Investigations Police and any court having jurisdiction in criminal matters. In any case, information must be forthwith transmitted by said entities to the competent Criminal Court.

In regions where the Criminal Procedure Reform has already been implemented, the new Criminal Procedure Code shall apply. According thereto, offences of any kind must be informed to the Public Prosecutor’s Office, “Carabineros de Chile”, the Chilean Investigations Police and any court having jurisdiction in criminal matters (either criminal “Guarantee Courts” or “Oral Courts”), all of which must forthwith inform the Public Prosecutor’s Office.

The State Defense Council shall act as complainant to safeguard State property and interests under both criminal procedure systems, particularly as regards offences – including bribery – perpetrated by public officials or employees of State and Government agencies, regional governments, municipalities or decentralized agencies or services – both from a functional or territorial point of view - in the performance of their functions.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation
<http://www.oecd.org/dataoecd/52/45/33742154.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions
<http://www.oecd.org/dataoecd/38/10/39540391.pdf>

CZECH REPUBLIC*(Information as of 31 July 2008)****Date of deposit of instrument of ratification/acceptance or date of accession***

The instrument of ratification was deposited with the Secretary-General of the OECD on 21 January 2000. The Convention entered into force internally on 21 March 2000 and was published by the Ministry of Foreign Affairs as No. 25/2000 of the Collection of International Treaties.

(Czech translation of the Convention: <http://mvcr.iol.cz/sbirka/2000/sb013-00m.pdf>)

Implementing legislation

- Act No. 96/1999 Coll., amendment to the Criminal Code (Act No. 140/1961 Coll., Criminal Code, as amended). This amendment introduced a new provision of Section 162a, which includes the definition of a bribe, as developed by the judiciary, and a definition of foreign public official, which implements definitions pursuant to Article 1 paragraph 4 of the Convention. These concepts apply to general bribery offences that are stipulated in Sections 160 – 162 of the Criminal Code. Maximum penalty for aggravated active bribery (Section 161 paragraph 2) was increased from 3 to 5 years of imprisonment. All criminal offences, including corruption offences, are predicate offences for purposes of application of legislation against money laundering.

This amendment entered into force on 9 June 1999.

- Act No. 492/2000 Coll., amendment to the Income Tax Act (Act No. 586/1992 Coll., as amended). This amendment introduced explicit prohibition of tax deductibility of bribes paid to foreign public officials pursuant to Article IV of the Revised Recommendation.

This amendment entered into force on 1 January 2001.

- Auditors Act No. 254/2000 Coll., as amended, introduced a duty of the auditors to immediately, in writing, notify statutory and supervisory boards of the accounting unit of any detected facts, which may fall under corruption offences.

This law entered into force on 1 January 2001.

- Amendment No. 353/2001 Coll. to Act on Accounting explicitly prohibited off-the-book accounts and off-the-book transactions and increased fines for accounting offences.

This amendment entered into force on 1 January 2002.

- Amendment No. 473/2003 Coll. to Act on Accounting (No.561/1991 Coll., as amended), introduced international accounting standards (IAS) for consolidated accounts and also for annual accounts for companies whose securities are publicly traded.

This amendment was entered into force on 1 January 2004.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

As recommended during the Phase 1 Reviews, the Czech Republic enacted legislation explicitly denying the tax deductibility of bribes paid to foreign public officials. At present, the Czech authorities are engaged in the process of drafting a new Criminal Code. The law on criminal liability of legal persons designed to implement part of the obligations stipulated by the Convention has been rejected by the Parliament. Therefore the Czech government is currently reconsidering the options for implementation of relevant obligations.

Pursuant to Phase 2 Recommendations several changes to current legislation were drafted and adopted:

- Criminal Code (no. 140/1961 Coll.) - changes to Criminal Code were drafted as Chamber of Deputies' printout 248 - electoral term 2006-2010 - and adopted and issued as act no. 122/2008 Coll.

“effective regret”

- a sentence was added to Section 163 of the Criminal Code which excludes the defence of “effective regret” from the offence of foreign bribery;

money laundering

- punishment for money laundering was increased up to 10 years of imprisonment and forfeiture;

false accounting

- punishment for the offence of false accounting was increased up to 8 years of imprisonment and the possibility to impose a fine on the perpetrator was introduced;

punishment and definition of officials

- punishment for bribery offences was increased and the definition of foreign public official was modified.

The relevant parts of the Criminal Code read as follows:

Division 3

Bribery

Section 160

Passive Bribery

1. Whoever in connection with procuring affairs in the public interest accepts a bribe or the promise of a bribe shall be sentenced to imprisonment for up to 3 years or to prohibition of activity.
2. Whoever under the circumstances given in paragraph 1 asks for a bribe shall be sentenced to imprisonment for 6 months to 5 years or to prohibition of activity.
3. An offender shall be sentenced to imprisonment for 2 to 8 years or monetary punishment if he commits the act given in paragraph 1 or 2
 - a) with the intent of procuring a substantial benefit for himself or for another person; or
 - b) if he commits such act as a public official.

4. An offender shall be sentenced to imprisonment for 5 to 12 years, if he commits the act given in paragraph 1 or 2
 - a) with the intent of procuring a major benefit for himself or for another person; or
 - b) if he commits such act as a public official with the intent of procuring a substantial benefit for himself or for another person.

Section 161

Active Bribery

1. Whoever in connection with procuring affairs of public interest provides, offers or promises a bribe, shall be sentenced to imprisonment for up to 2 years or to a monetary punishment.
2. A perpetrator shall be sentenced to imprisonment for 1 to 5 years or to a monetary punishment
 - a) if he commits the act given in paragraph 1 with the intent of procuring a substantial benefit for himself or for another person or of inflicting substantial damage or other particularly serious consequences to another person; or
 - b) if he commits the act given in paragraph 1 vis-à-vis a public official.

Section 162

Trading in Influence

1. Whoever requests or accepts a bribe for exerting his influence on the execution of the authority of a public official or for having done so, shall be sentenced to imprisonment for up to 3 years.
2. Whoever shall provide, offer or promise a bribe to another person for the reason given paragraph 1 shall be sentenced to imprisonment for up to 2 (instead of 1) years or a monetary punishment.

Section 162a

Joint Provision

1. A bribe means an unwarranted advantage consisting in direct material enrichment or other advantage received or having to be received by the person bribed or with its consent to another person, and to which there is not entitlement.
2. A public official pursuant to § 160 to 162 means, besides the persons referred to in section 89, par. 9, also any person
 - a) occupying a post in a legislative or judicial authority or the public administration of a foreign country, or
 - b) occupying a post in an international judicial body,
 - c) occupying a post, being employed or hired by an international or supranational organisation, established by countries or other entities of international public law, or in its bodies and institutions, or
 - d) occupying a post in an enterprise, in which Czech Republic or a foreign country has the decisive influence,

if the execution of such a function is connected with authority in procuring the affairs of public interest and the criminal offence was committed in conjunction with such authority.

3. Procurement of affairs in public interest also means maintaining the duty imposed by legal regulations or a contract whose purpose is to ensure that there is no abuse or unjustified advantage of participants in business relations or persons acting on their behalf.

Section 163

Special Provision on Effective Repentance

The punishability of passive bribery (sec. 161) and active bribery (sec. 162) shall disappear if the offender has provided or promised a bribe solely because he/she has been requested to do so and reported the fact voluntarily and without any delays to the prosecutor or police authority; this does not apply if the bribe has been provided or promised in connection with execution of the authority of public official as referred to in sec. 162a par 2 letters a) to c) or letter d), as far as public official occupying a post in an enterprise, in which a foreign country has a decisive influence, is concerned

This amendment entered into force on 1 of July 2008.

Code of Criminal Procedure (no. 141/1961 Coll.)

Chamber of Deputies' printout 360 - electoral term 2006-2010 - issued as act no. 135/2008 Coll. enables to use a police agent when monitoring, investigating and detecting corruption and corrupt activities.

This amendment entered into force on 16 of May 2008.

Administration of Taxes Act (no. 337/1992 Coll.)

- reduction of the duty of confidentiality

Chamber of Deputies' printout 248 - electoral term 2006-2010 - issued as act no. 122/2008 Coll. waives the duty of confidentiality of tax officials in cases of reporting bribery detected during tax audits to law enforcement.

This amendment entered into force on 1 of July 2008.

Other information

Relevant authorities

All criminal offences, including corruption offences, should be reported to the law enforcement authorities (the Police of the Czech Republic or the Public Prosecutor's Offices).

Suspicious of corruption cases in the Police of the Czech Republic should be reported to stiznosti@mvcz.cz.

Suspicious of corruption cases in the Czech judiciary should be reported to korupce@msp.justice.cz.

Relevant Internet links to national implementing legislation (in Czech only)

Collection of Laws (Sbírka zákonů): <http://beta.mvcr.cz/clanek/sbirka-zakonu.aspx>

Chamber of Deputies' printouts and draft legislation (unofficial version but with explanatory reports):
<http://www.psp.cz/sqw/tisky.sqw?stz=1>

Ministry of the Interior - fighting corruption website: <http://www.mvcr.cz/boj-proti-korupci.aspx>

Signature/Ratification of other relevant international instruments

The Czech Republic ratified the Council of Europe Criminal Law Convention on Corruption (8 September 2000) and the Civil Law Convention (24 September 2003).

The second additional protocol to the European Convention on Mutual Assistance in Criminal Matters entered into force on 1 July 2006.

The Convention on Mutual Assistance in Criminal Matters between the Member States of the European union of 29 May 2000 and the Protocol of 16 October 2001 came into force on 12 June 2006.

The United Nations Convention against Corruption has been signed on 22 April 2005.

Since 9 February 2002 the Czech Republic is engaged in GRECO.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation
<http://www.oecd.org/dataoecd/13/40/2385959.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions
<http://www.oecd.org/dataoecd/3/59/37727436.pdf>

DENMARK

(Information as of 10 January 2006)

Date of deposit of instrument of ratification/acceptance or date of accession

The instrument of ratification was deposited with the OECD Secretary General on 5 September 2000.

Implementing legislation

The law implementing the Convention is Act no. 228 of 4 April 2000, which amended the Danish Criminal Code. The law came into force 1 May 2000.

One effect of Act no. 228 of 4 April 2000 was that active bribery of foreign public officials and officials of international organisations (OECD, Council of Europe, EU, NATO, UN, etc.) was made a criminal offence equal to bribery of Danish public officials. Furthermore, passive bribery by foreign public officials and officials of international organisations (OECD, Council of Europe, EU, UN, NATO, etc.) was made a criminal offence on equal terms as those applying to Danish public officials. Moreover, responsibility of legal persons (companies, etc.) was introduced as concerns active bribery in the public and private sectors, including liability for active and passive bribery in the public sector. The provision concerning responsibility of legal persons has later been amended. Criminal responsibility can now be imposed on legal persons for all violations of the Criminal Code.

Under Danish law, both active and passive bribery of persons exercising a public office or function is an offence under sections 122 and 144, respectively. The provisions read as follows:

“Section 122. Any person who unduly grants, promises or offers some other person exercising a Danish, foreign or international public office or function a gift or other privilege in order to induce him to do or fail to do anything in relation to his official duties shall be liable to a fine or imprisonment for any term not exceeding three years.”

Section 144. Any person who, while exercising a Danish, foreign or international public office or function, unduly receives, demands or accepts the promise of a gift or other privilege shall be liable to imprisonment for any term not exceeding six years or, in mitigating circumstances, to a fine.”

The Criminal Code rule on bribery in the private sector is laid down in section 299, no. 2. Pursuant to this rule, active and passive bribery is made a criminal offence collectively. It follows from section 299, no. 2, that any person who, in circumstances other than those covered by section 280 of the Danish Criminal Code, in his capacity as trustee of any property of any other person accepts or claims in breach of his duty the promise of a third party, for the benefit of himself or of others, a gift or any other privilege, as well as any person who grants, promises or offers such an advantage, shall be liable to a fine or to imprisonment for a term not exceeding one year and six months.

The provision has the following wording:

“Section 299. Any person who in circumstances other than those covered by Section 280 of this Act,

(1) [...]

(2) in his capacity as trustee of any property of another person accepts, claims or accepts the promise of a third party, for the benefit of himself or of others, a pecuniary advantage the receipt

of which is concealed from the person whose interests he is protecting, as well as any person who grants, promises or offers such advantage;
shall be liable to a fine or imprisonment for any term not exceeding one year and six months.”

In addition to (purely) private property affairs, this rule will be applicable in cases where property belonging to public authorities is administered by persons falling outside the category of persons covered by section 144 of the Criminal Code.

It is of no significance for the criminal liability whether the person who is granting the bribe is a joint contractor or a third party. It is likewise without any significance whether the person who is to benefit from such bribe is the person who is in charge of the property relationship, or a third party.

The only thing required is that the granting or receipt of the pecuniary or any other advantage is connected with this person's taking care of another person's property.

It is also a criminal offence to receive or grant a bribe in ongoing business relationships even though the receipt or granting of a bribe has not been discussed or implied before entering into prior agreements if – considering the fact that it is a current relationship – it is to be assumed that the receipt or the granting of the bribe commission is made for the purpose of the further development of the business relationship.

Bribery of arbitrators is punishable under section 304a of the Criminal Code. The provision is worded as follows:

“**304a.** (1) Any person who unduly grants, promises or offers a gift or other advantage to any person who acts as an arbitrator in Denmark or abroad in order to induce him to act or refrain from acting in relation to the exercise of such function is liable to a fine or imprisonment for up to one year and six months.

(2) The same penalty applies to any person who, in Denmark or abroad, acts as an arbitrator, and who unduly, in the exercise of such function, receives, demands or accepts the promise of a gift or other advantage.”

Other information

Relevant authorities

Information on bribery offences must be reported to the police or the Public Prosecutor for Serious Economic Crime (SØK) who deals with severe white collar crime, including corruption.

The National Contact Point (NCP) in Denmark is:

Ministry of Justice
Slotsholmsgade 10
1216 Copenhagen K
jm@jm.dk
Phone (+ 45) 33 92 33 40

Relevant Internet links to national implementing legislation

All Danish legislation is publicly available, including on the website www.retsinfo.dk (text only in Danish).

Signature/Ratification of other relevant international instruments

Denmark has signed and/or ratified the following international instruments on combating corruption:

- European Criminal Law Convention on Corruption: Signed 27 January 1999, ratified 2 August 2000.
- European Civil Law Convention on Corruption: Signed 4 November 1999.
- Additional Protocol on the European Criminal Law Convention on Corruption: Signed 15 May 2003, ratified 16 November 2005.
- United Nations Convention against Corruption: Signed 10 December 2003.
- United Nations Convention against Transnational Organized Crime: Signed 12 December 2000, ratified 30 September 2003.
- In addition, Denmark is party to all EU instruments on combating corruption.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation
<http://www.oecd.org/dataoecd/39/57/2018413.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions
<http://www.oecd.org/dataoecd/14/21/36994434.pdf>

ESTONIA*(Information as of 17 September 2008)****Date of deposit of instrument of ratification/acceptance or date of accession***

Participation in the Working Group on Bribery (WGB): June 2004

The instrument of accession was deposited with the OECD Secretary General on 23 November 2004

Entry into force of the Convention: 22 January 2005

Entry into force of implementing legislation: 1 July 2004

Implementing and other relevant legislation

The laws implementing the Convention include:

- Penal Code, in particular the amendments entered into force on 15 March 2007, concerning confiscation, and amendments entered into force on 28 July 2008, concerning the definition of foreign public official, jurisdiction in foreign bribery cases, and responsibility of legal persons;
- Code of Criminal Procedure;
- Income Tax Act.

According to section 298 of the Penal Code, giving or promising a bribe is punishable by 1 to 5 years' imprisonment, or if committed by a legal person, is punishable by a pecuniary punishment. The same act, if committed at least twice, is punishable by 2 to 10 years' imprisonment, or if committed by a legal person, is punishable by a pecuniary punishment or compulsory dissolution.

Bribe has been defined in section 294(1) of the Code. The provision states that an official who consents to a promise of property or other benefits, for the official himself/herself, or for a third person, or who accepts property or other benefits in return for an unlawful act which he or she has committed or which there is reason to believe that he or she will commit, or for an unlawful omission which he or she has committed or which there is reason to believe that he or she will commit and, in so doing, takes advantage of his or her official position shall be punished by 1 to 5 years' imprisonment.

Other relevant laws include:

- Anti-Corruption Act;
- Money Laundering and Terrorist Financing Prevention Act (as adopted in 2007);
- Accounting Act;
- Police Act;
- Security Authorities Act;
- Surveillance Act;

- Witness Protection Act;
- Authorised Public Accountants Act;
- Taxation Act;
- Prosecutor's Office Act;
- Public Procurement Act (as adopted in 2007);
- State Export Guarantees Act;
- Public Service Act.

Other information

Contact and Resources

- The Ministry of Justice – the department of Criminal Policy - is responsible for the overall co-ordination of anti-corruption policy: www.just.ee.
- The Parliamentary Select Committee on the Application of Anti-Corruption Act is the depository of economic interests' declarations: www.riigikogu.ee.
- The Police and Prosecutor's Offices are responsible for investigating and prosecuting corruption crimes. The Security Police is responsible for investigating corruption crimes of higher officials. It is also responsible for the anonymous hotline for reporting cases of corruption.
- Anti-corruption information website (includes hotline): www.korruptsioon.ee.
- Information on bribery offences may be reported also to the police (www.politsei.ee), the Security Police (www.kapo.ee), or the Public Prosecutor's Office.
- Legislative acts are published in the State Gazette (Riigi Teataja): www.riigiteataja.ee.

Unofficial translations have been made accessible by the Estonian Legal Language Centre: www.legaltext.ee.

Signature/Ratification of other relevant international instruments

- Civil Law Convention on Corruption – ratified by the Act RT II 2000, 27, 164;
- Criminal Law Convention on Corruption – ratified by the Act RT II 2001, 28, 140;
- Convention drawn up on the basis of Article K.3 (2) (C) of the Treaty on European Union on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union – acceded by the Act RT II, 39, 145.

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<http://www.oecd.org/dataoecd/38/54/36211984.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/60/57/40953976.pdf>

FINLAND

(Information as of 27 June 2006)

Date of deposit of instrument of ratification/acceptance or date of accession, implementing legislation

Finland has signed OECD Convention of Anti-Bribery 17.12.1997. Finland deposited its instrument of ratification on 10 December 1998. Convention entered into force 15 February 1999.

The necessary implementing legislation was enacted in November 1998 and came into force on 1 January 1999.

Other relevant laws, regulations and decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

Penal Code, especially section 13.

Act on International Legal Assistance in Criminal Matters

Act on Detection and Prevention of Money Laundering (68/1998 and 365/2003)

Act on Credit Institutions (1607/1993)

Act on Taxation of Business Income (1134/2006)

Accounting Act (1336/1997)

State Civil Servant's Act

Security Clearance Act

Finland is a Party to European Convention of Extradition (1957), 1996 Convention of Extradition between EU Member States as well 1995 Convention on a Simplified Extradition Procedure between EU Member States.

Signature/Ratification of other relevant international instruments

Finland has (among others) signed and/or ratified the following international instruments on combating corruption:

- European Council Criminal Law Convention on Corruption, signed 27.1.1999, ratified 3.10.2002, entered into force 1.2.2003;
- European Council Civil Law Convention on Corruption, signed 8.6.2000, ratified 23.10.2001, entered into force 1.11.2003;
- Additional Protocol on the European Council Criminal Law Convention on Corruption;
- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, signed 25.9.1991, ratified 9.3.1994 and entered into force 1.7.1994;
- United Nations Convention against Transnational Organised Crime, signed 12.12.2000, ratified 10.2.2003.

- United Nations Convention against Corruption, signed 10.12.2003; accepted by the Parliament of Finland in June 2006, ratification process on-going, expected time of entering into force is July 2006.

Relevant Internet links to national implementing legislation

The Ministry of Justice

www.om.fi

The Office of the General Prosecutor

www.oikeus.fi/vksv/

The Police

www.poliisi.fi (contains also links to the National Bureau of Investigation and there also the Money Laundering Clearing House)

The Government of Finland

www.valtioneuvosto.fi

The Parliament of Finland

www.eduskunta.fi

Web-based legal resource centre of the Finnish Ministry of Justice is found in

www.finlex.fi

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<http://www.oecd.org/dataoecd/14/20/2386203.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/52/0/2088239.pdf>

Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions

<http://www.oecd.org/dataoecd/50/13/36373405.pdf>

FRANCE

(Information as of March 2008)

Date of deposit of instrument of ratification or acceptance or date of accession

The Act authorising the ratification of the OECD Convention was adopted on 25 May 1999 (Act N° 99-424 of 27 May 1999, *JORF* N° 121 of 28 May 1999, page 7 858). France deposited its instrument of ratification on 31 July 2000.

Implementing legislation

The former framework established by the Corruption Act of 30 June 2000 (*JORF* N° 151 of 1 July 2000, page 9 944) was amended by the Anti-Corruption Act of 13 November 2007 (Anti-Corruption Act N° 2007-1598 of 13 November 2007 published in *JORF* N° 264 of 14 November 2007, page 18 648).

In addition to the existing offences of bribery and trading in influence in domestic law, there are now four offences addressing bribery of foreign public officials:

- passive bribery of a public official of a foreign State or international organisation;
- active bribery of a public official of a foreign State or international organisation;
- passive bribery of foreign or international judicial staff;
- active bribery of foreign or international judicial staff.

These offences do not distinguish between whether the acts were committed inside or outside the European Union or in the course of international business transactions or not.

There are also four offences addressing trading in influence with foreign public officials that are drafted in the same terms as the equivalent offences in domestic law:

- passive trading in influence with an international public official;
- active trading in influence with an international public official;
- passive trading in influence with international judicial staff;
- active trading in influence with international judicial staff.

The Act of November 2007 also created two new offences regarding bribery of a witness in a foreign or international judicial procedure (Article 435-12) and threats against or intimidation of foreign or international judicial staff (Article 435-13) that are counterparts to the domestic offences in this field.

All these offences are applicable to both natural and legal persons.

The Act also introduces a new Article 706-1-3 of the Code of Criminal Procedure that makes all domestic and international offences of bribery and trading in influence subject to surveillance and undercover measures, telephone tapping in the investigation phase and the use of audio and video recording in certain locations or vehicles and the possibility of taking preventive measures that until now have only been used in cases of crime and organised crime.

Other relevant legislative or regulatory provisions concerning the implementation of the OECD Convention or Recommendations

With regard to the implementation of the OECD Convention in the field of money laundering (Article 7):

On 11 February 2004 adoption of Act N° 2004-130 reforming the status of certain judicial and legal professions, legal experts, industrial property consultants and experts in public auctions, which transposes the second anti-money laundering Directive of 4 December 2001. This Act organises the methods of access to these professions, strengthens ethical and disciplinary standards and improves the means available to certain professions to contribute to implementing decisions and thereby to ensuring the effectiveness of the justice system. It broadens the scope for the reporting of suspicious activities to include accountants, auditors, notaries, bailiffs, judicial administrators and legal agents responsible for winding up businesses as well as barristers with a right of audience before the *Conseil d'Etat* and the *Cour de cassation*, lawyers and solicitors appearing before courts of appeal and judicial auctioneers and auction houses.

With regard to the implementation of the Convention in the field of accounting (Article 8)

On 1 August 2003 adoption of the Act on financial security (Act N° 2003-706, *JORF*, N° 177 of 2 August 2003, page 13 220), which contains several provisions intended to strengthen supervision of auditors. It provides, in particular, for the creation of a body responsible for the supervision of the profession, the *Haut Conseil du commissariat aux comptes*, with three quarters of its membership comprised of non-auditors (magistrates and prominent people with appropriate qualifications). It also introduces a series of measures aimed at strengthening the independence of auditors in performing their duties within a company, particularly by guarding against situations of conflict of interest and the danger of collusion between an auditor and the company whose accounts he is responsible for auditing.

Application of the OECD Action Statement on Bribery and Official Supported Export Credit, which requires that, when making an application for credit insurance, the exporter must declare that the contract covered by the guarantee was not secured by actions outlawed by the articles of the Criminal Code introduced by the French law transposing the OECD Convention.

Protection against all discriminatory measures for employees reporting cases of bribery encountered while they are performing their duties (Act of 13 November 2007): Article L. 1161-1 of the Labour Code establishes effective legal protection against any form of disciplinary sanction against employees who, in good faith, disclose or report to their employer or to the judicial or administrative authorities acts of bribery that have come to their attention while performing their duties. Any breach of the employment contract that might result from this and any sanction or measure taken in breach of this provision shall be automatically void.

Other information

Relevant authorities:

- Ministry of Justice

- *Service Central de la Prévention de la Corruption* (Central Department for Corruption Prevention)
- Ministry of Economy, Industry and Employment
- Ministry of Foreign Affairs
- Brigade centrale de lutte contre la corruption (Central Anti-Bribery Brigade)
- TRACFIN

Relevant Internet links to national implementing legislation, for example:

For the implementation of the Criminal Code and the Code of Criminal Procedure, see:

<http://www.legifrance.gouv.fr>

Ratification of other relevant international instruments:

- United Nations Convention against Corruption: signed on 9 December 2003, ratified on 11 July 2005.
- European Convention on Extradition: signed on 13 December 1957, ratified on 10 February 1986.
- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime: signed 5 July 1991, ratified on 25 February 1997.
- EU Convention on the Protection of the European Communities' Financial Interests and its First and Second Protocol: ratified on 27 May 1999.
- EU Convention on the fight against corruption involving officials of the European Communities or officials of the EU Member States: ratified on 27 May 1999.
- United Nations Convention against Transnational Organized Crime: signed on 12 December 2000, ratified on 29 October 2002.

France has volunteered for a pilot programme evaluating the implementation of the UN Convention against Corruption. In this regard, it is currently conducting the evaluation of two countries and is participating in the evaluation of Argentina and Greece.

Signature of other relevant international instruments

- Council of Europe Criminal Law Convention on Corruption: signed on 9 September 1999, ratification authorised by Act N° 2005-104 of 11 February 2005. The instruments of ratification should be deposited soon.
- Council of Europe Civil Law Convention on Corruption: signed on 26 November 1999, ratification authorised by Act N° 2007-1154 of 1 August 2007. The instruments of ratification should be deposited soon.

- Additional Protocol to the Council of Europe Criminal Law Convention on Corruption, signed on 15 May 2003, ratification authorised by Law N° 2007-1154 of 1 August 2007.
- European Union Council Framework Decision of 22 July 2003 on combating corruption in the private sector.

Phase 1 and Phase 2 Monitoring Reports on the Implementation of the Convention

Phase 1 report: <http://www.oecd.org/dataoecd/24/50/2076560.pdf>

Phase 2 report: <http://www.oecd.org/dataoecd/36/36/26242055.pdf>

Phase 2 Follow-up report (since January 2004):
<http://www.oecd.org/dataoecd/36/18/36411181.pdf>

GERMANY

(Information as of 19 April 2004)

Date of deposit of instrument of ratification/acceptance or date of accession

Germany ratified the Convention on 10 November 1998.

Implementing legislation

The implementing legislation contained in the Act on Combating Bribery of Foreign Public Officials in International Business Transactions of 10 September 1998 (Federal Law Gazette [Bundesgesetzblatt] Part II p. 2327, Annex 1) entered into force together with the Convention on 15 February 1999.

The general approach of this Act is to provide for the equal treatment of the offences of bribing domestic and foreign public officials and parliamentarians. Prior to the new legislation, only bribery of domestic public officials and parliamentarians had been punishable. A separate offence has been created for the bribery of foreign Members of Parliament and members of parliamentary assemblies of international organisations.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

Legislation implementing the European anti-corruption instruments, notably the Second Protocol to the Convention for the Protection of the Financial Interest of the European Union as well as the European Joint Action on bribery in the private sector, was adopted by Parliament and came into force on 30 August 2002. The law contains amendments to the Criminal Code, extending the domestic private bribery offence to international bribery, as well as to the Regulatory Offences Act, extending the provisions on sanctioning of legal persons and providing for higher fines.

The adoption of the Second Protocol to the Convention for the Protection of the Financial Interest of the European Union and of the EU Bribery Convention was finalised and published in the Official Gazette in October 2002. The Second Protocol to the Convention for the Protection of the Financial Interest was ratified on 5 March 2003 and the EU Bribery Convention was ratified on 8 October 2003.

Other information

Reporting duties incumbent on authorities

On principle, all public administration staff are subject to the duty to report instances of suspicion of corruption within the administration. The finance authorities are under a statutory duty to report all facts substantiating the suspicion of commission of a criminal offence.

Relevant Internet links to national implementing legislation

Selected Laws in English:

<http://www.iuscomp.org/gla/>

Federal Laws in German:

http://www.gesetze-im-internet.de/bundesrecht/GESAMT_index.html

Texts on Corruption Prevention:

<http://www.bmi.bund.de/downloadde/19573/Download.pdf>

Signature of other international instruments

Germany has signed the Civil and the Criminal Law Convention on Corruption of the Council of Europe, the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/14/1/2386529.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/52/9/2958732.pdf>

Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions

<http://www.oecd.org/dataoecd/8/44/35927070.pdf>

GREECE

(Information as of 14 June 2004)

Date of deposit of instrument of ratification/acceptance or date of accession

The Convention of OECD was ratified in Greece by Law No. **2656 of 1998**, according to article 28-paragraph 1 of the Hellenic Constitution.

Implementing legislation

Law 2656/ 26-11/1-12-1998 “Ratification of the Convention on combating bribery of foreign public officials in international business transactions”,

It was published in 1-12-1998, in Official Government Gazette no A 265/1998, and date of entry into force is the same date.

Other relevant laws, regulations or decrees that have an impact on a country’s implementation of the OECD Convention or the Recommendations

Recommendations for remedial action under Phase I

Law 3021/ 17/19-06-2002 “Restrictions on public procurement contracts regarding persons operating or participating in mass media enterprises”, according to article 14-paragraph 9e of the Hellenic Constitution, published in Official Government Gazette, no A 143/ 2002.

Law 3023/ 21/25-06-2002 “Funding of political parties from the State”, published in Official Government Gazette, no A 146/ 2002.

Countries’ international commitments arising from other international instruments

Law 2802/ 2/3-03-2000 “Ratification of the Convention on combating bribery of European Communities’ or Member States of European Union public officials”, published in Official Government Gazette, no A 47/ 2000.

In this law, among others, it was given a complete definition of “national public official” (article 1-paragraph c, and article 3).

Other information

Relevant authorities

The Supervising-Inspecting Board of Public Administration, established by **Law 2477/** 18-04-1997 “Ombudsman and Supervising-Inspecting Board of Public Administration”, published in Official Government Gazette, no A 59/ 1997.

The General Supervisor of Public Administration, by **Law 3074/** 4-12-2002, published in Official Government Gazette no A 296/2002.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/14/7/2386792.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/51/13/35140946.pdf>

Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions

<http://www.oecd.org/dataoecd/46/61/39509775.pdf>

HUNGARY

(Information as of 12 October 2004)

Date of deposit of instrument of ratification/acceptance or date of accession

Date of deposit of instrument of ratification: 4th of December 1998./ entry into force in Hungary: 15th of February 1999.

Implementing legislation

The foreign bribery offences (sections 258/B-258/E) were inserted into the Criminal Code (i.e. Act no. IV. of 1978) by the Act no. LXXXVII. of 1998. The foreign bribery offences were amended and modified by Act no. CXXI. of 2001 on the Amendment of criminal provisions. This act modified sections 258/B-258/E of the Criminal Code, redefining the foreign bribery offence and profiteering with influence in international relations. The new provisions entered into force on the 1st of March 2002.

The Act on the criminal measures applicable against legal persons entered into force on the 1st of May 2004, as adopted by the Parliament in 2001. This act specifies the legal persons that can be brought under criminal investigation by setting a very broad, sui generis definition.

Other relevant laws, regulations or decrees¹ that have an impact on a country's implementation of the OECD Convention or the Recommendations

As a result of the Phase 1bis report, the Criminal Code was modified in 2003 in order to clarify the meaning of the foreign public official (section 137. point 3). The modification entered into force on the 1st of March 2004.

Other information

Relevant authorities

The General Prosecutor's Office has competence to investigate criminal offences based on the Convention, but any report on allegations can be sent to the Police.

Relevant Internet links to national implementing legislation

www.mkogy.hu (Parliament)

www.1000ev.hu (All Hungarian legislation from the year 1000)

Working Group on Bribery Monitoring Reports

Phase 1: Review of implementation of the Convention and 1997 Recommendation
<http://www.oecd.org/dataoecd/14/54/2386997.pdf>

Phase 1 Bis: Review of implementation of the Convention and 1997 Recommendation
<http://www.oecd.org/dataoecd/32/23/2510372.pdf>

¹ These laws, regulations or decrees should be provided as early as possible in the legislative phase to benefit from any comments of the Group

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions
<http://www.oecd.org/dataoecd/39/34/34918600.pdf>

ICELAND

(Information as of 12 November 2004)

Date of deposit of instrument of ratification/ acceptance or date of accession

The instrument of ratification was deposited with the OECD Secretary General on August 17 1998.

Implementing legislation

Implementing legislation is Act No. 147/1998 amending Section 109, para. 2 of the General Penal Code concerning bribery of foreign public officials, and Act No. 144/1998 on Criminal Responsibility of Legal Persons in Relation to Bribery of Public Officials.

Section 109 of the General Penal Code has since been amended by Act No. 125/2003 implementing the European Criminal Law Convention on Corruption, concerning the description of the offence and adding categories to the definition of foreign public officials.

Following offences are punishable under the General Penal Code:

- Active and passive bribery of public officials (Section 109, para. 1, Section 128, para. 1).
- Active and passive bribery of foreign public officials (Section 109, para. 2, Section 128, para. 2).
- Active and passive trading in influence (Section 109, para. 3 and 4).
- Active and passive bribery in the private sector (Section 264. a).

Furthermore, Act No. 144/1998 on Criminal Responsibility of Legal Persons in Relation to Bribery and Terrorism [the title of the Act changed by Act No. 99/2002] was last amended by Act No. 125/2003, making the laundering of the proceeds of a bribery offence a punishable offence.

Other information

Relevant authorities

The National Commissioner of Police

Economic Crime Unit

The Prosecutor General

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/14/40/2387563.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/12/8/2498248.pdf>

Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions

<http://www.oecd.org/dataoecd/43/7/36682053.pdf>

IRELAND

(Information as of 6 August 2004)

Date of deposit of instrument of ratification/acceptance or date of accession

Ireland deposited the instrument of ratification on 22 September 2003. The Convention came into force on 21 November 2003.

Implementing legislation

The Prevention of Corruption (Amendment) Act, 2001 penalises active and passive corruption involving employees, domestic and foreign public office holders and members of domestic and foreign Parliaments. The Prevention of Corruption (Amendment) Act, 2001 was enacted to enable Ireland to give effect to three Conventions:

- the Convention on Bribery of Foreign Public Officials in International Business Transactions, drawn up under the auspices of the Organisation for Economic Co-operation and Development and adopted at Paris on 21 November 1997; and
- the Convention drawn up on the basis of Article K 3 (2) (c) of the Treaty on European Union on the Fight against Corruption involving officials of the European Communities or Officials of Member States of the European Union, done at Brussels on 26 May 1997; and
- the Criminal Law Convention on Corruption, drawn up under the auspices of the Council of Europe and done at Strasbourg on 27 January 1999.

and to strengthen the law against corruption generally by amending the earlier Prevention of Corruption Acts, 1889 -1995. The Act provides for a presumption of corruption in certain circumstances, including the failure to disclose political donations or in relation to the exercise of certain functions. It penalises corruption in office and establishes the liability of officers of companies, as well as companies themselves, for offences of corruption. It gives Irish courts jurisdiction in cases where any element of the offence occurs in the State or where an Irish office holder or official is involved. It also makes provision for the issue of search warrants. The Act increases the maximum penalties for those convicted of the offence of corruption to an unlimited fine or 10 years' imprisonment or both. The Prevention of Corruption (Amendment) Act, 2001 was signed into law on 9 July 2001. The Act came into force on 26 November 2001 following the signature of the necessary commencement order by the Minister for Justice, Equality and Law Reform.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

Irish law on corruption is set out in the Public Bodies Corrupt Practices Act, 1889 and the Prevention of Corruption Acts of 1906 and 1916. These Acts were subsequently amended by the Ethics in Public Office Act, 1995. In order to address any remaining gaps in Irish legislation which might have precluded Ireland from fully implementing the OECD Convention, further legislation was prepared, namely the Prevention of Corruption (Amendment) Act, 2001 which was signed into law by the President on 9 July 2001. All of these Acts are collectively cited as the Prevention of Corruption Acts, 1889-2001. The 1889 Act, as amended, criminalised the corruption of or by certain national office holders, such as Ministers of Government, as well as public and civil servants. The 1906 Act, as amended, was more widely cast, as it

applied not only to the same categories as its predecessor, but also to the corruption of or by "agents", who were defined as including any person employed by or acting for another. This very wide definition caught not only national office holders and public and civil servants, who were covered in any event, but also applied to employees in the private sector. The 1916 Act applied a rebuttable presumption of corruption to benefits given to or received by persons charged with corruption in relation to public contracts. The Ethics in Public Office Act, 1995 amended certain definitions in the earlier Acts and increased the penalties for offences.

Other information

Relevant authorities

In Ireland, the national police force (An Garda Síochána) is the primary body for investigating criminal cases. For specific types of crime, specialised units operate within the national police force to detect and prevent crimes. As such specialised units, the Garda Bureau of Fraud Investigation established in 1995 deals with all serious fraud and money laundering cases, and the National Bureau of Criminal Investigation established in 1997 investigates serious and organised crime on a national and international basis. Also, the Money Laundering Investigation Unit established in 1995 is responsible for recording, evaluating, analysing and investigating disclosures relating to suspicious financial transactions.

Relevant Internet links to national implementing legislation

The relevant internet link to any legislation including the Prevention of Corruption (Amendment) Act, 2001 is <http://www.irishstatutebook.ie/front.html>

Working Group on Bribery Monitoring Reports

Phase 1: Review of implementation of the Convention and 1997 Recommendation
<http://www.oecd.org/dataoecd/26/39/2495019.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions
<http://www.oecd.org/dataoecd/27/45/38322693.pdf>

ITALY

(Information as of 26 November 2004)

Date of deposit of instrument of ratification/acceptance or date of accession

- a) The Convention was signed by Italy on 21 November 1997.
- b) The instrument of ratification was deposited on 15 December 2000.

Implementing legislation

a) The Convention was ratified and implemented in Italy through Act No. 300 of 29.9.2000, "Ratification and enforcement of the following international instruments drawn up on the basis of Article K 3 of the Treaty on the European Union: the Convention on the Protection of the European Communities' Financial Interests, done in Brussels on 26 August 1995; its First Protocol, done in Dublin on 27 September 1996; the Protocol concerning the Preliminary Interpretation, by the Court of Justice of the European Communities, of said Convention, with attached declaration, done in Brussels on 29 November 1996; the Convention on the Fight against Corruption involving Officials of the European Communities or Officials of Member States of the European Union, done in Brussels on 26 May 1997, and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, done in Paris on 17 December 1997. Delegation to the government to regulate the administrative responsibility of legal persons and of bodies without legal personality." The Act introduced Article 322-bis into the Criminal Code, which in subsection 2 provides for the criminal responsibility of anyone who bribes or attempts to bribe a foreign public official when the offence is committed in order to procure an undue benefit for himself or others in international business transactions. In addition, Act 300/2000 empowered the government to introduce the criminal responsibility of legal persons; Legislative Decree 231/01 then defined this responsibility and extended it so as to include the bribery of foreign public officials.

b) Act No. 300 of 29 September 2000 was published in the Official Journal No. 250 of 25 October 2000; the Act entered into force on 26 October 2000.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or Recommendations

- a) Legislative Decree No. 231 of 8 June 2001 on the Criminal Responsibility of Legal Persons;
- b) Criminal Code;
- c) Code of Criminal Procedure;
- d) Civil Code (Article 2621 et seq. on corporate crimes).

Other information

Relevant authorities

- (i) The Public Prosecutor's offices, which are organised on a territorial basis, to which information and complaints on bribery are referred and which conduct investigations in this field and prosecute cases in the courts;

- (ii) The Judicial Police, which receives information and complaints on bribery and conduct the relevant investigations under the supervision of the Public Prosecutor's office;
- (iii) The High Commissioner for preventing and combating corruption and other unlawful practices within the public administration, established by Act No. 3 of 16 January 2003; the High Commission, although it does not have investigative powers comparable to those of the Judicial Police and the courts, is a body that is responsible for the internal supervision and monitoring of the activities of the public administration, with a special focus on practices of corruption; in this capacity, the High Commissioner has free access to administrative records and databases of the public administration and it can exercise its powers of its own initiative or at the request of administrations; it is required to report to the Prime Minister every six months and to the judicial authorities and Audit Office in the cases specified by law.

Relevant Internet links to national implementing legislation

www.giustizia.it/normeinrete;
www.gazzettaufficiale.it;
www.parlamento.it

Signature/Ratification of other relevant international instruments

- Convention on the Protection of the European Communities' Financial Interests (signed on 26 July 1995, ratified by Act 300/2000)
- First Protocol on the Convention on the Protection of the European Communities' Financial Interests (signed in Dublin on 27 September 1996, ratified by Act 300/2000)
- Convention on the Fight against Corruption involving Officials of the European Communities or Officials of Member States of the European Union (signed on 26 May 1997, ratified by Act 300/2000)
- Convention of the Council of Europe on Corruption (signed on 27 January 1999)
- UN Convention on Transnational Organized Crime (signed on 14 December 2000)
- UN Convention on Corruption (signed in December 2000)

Working Group on Bribery Monitoring Reports

Phase 1: Review of implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/39/61/2019055.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/0/50/33995536.pdf>

Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions

<http://www.oecd.org/dataoecd/30/36/38313133.pdf>

JAPAN

(Information as of 12 September 2008)

Date of deposit of instrument of ratification/acceptance or date of accession

Japan signed the Convention on December 17, 1997, and deposited the instrument of acceptance with the OECD on 13 October 1998.

Implementing legislation

On 18 September 1998, Japan enacted implementing legislation in the form of amendments to the Unfair Competition Prevention Law, which came into force on February 15, 1999.

The purpose of this Law is by providing for measures for the prevention of, and compensation for damages from unfair competition, etc. in order to ensure fair competition among entrepreneurs and the full implementation of international agreements related thereto, and thereby to contribute to the wholesome development of the national economy.

In 2001, Unfair Competition Prevention Law (UCPL) was amended to meet part of the recommendations under Phase 1 by 1) removing the so-called “Main office” exception from “UCPL”, and 2) by broadening the definition of foreign public officials in relation to public enterprises, as well as by enacting a government ordinance.

In January 2005, an amendment to the UCPL came into force to extend nationality jurisdiction under article 3 of the Penal Code to the offence of bribing a foreign public official under the UCPL. Article 3 of the Penal Code does not require dual criminality, so that the briber is punishable even if the conduct is not criminalised in the foreign State where it occurred.

In June 2005, the Diet passed an amendment extending the statute of limitations for natural persons to five years. At the same time, and in order to facilitate the extension, the Diet passed an amendment that increased the sanctions for natural persons convicted of foreign bribery. The fine sanction was increased from a maximum of 3 million yen to 5 million yen, and the maximum sentence of imprisonment was increased from three to five years. In addition, natural persons can now be sentenced to both a fine and imprisonment, whereas previously only one or the other penalty was available. Also increase the statute of limitation in respect of legal persons for the foreign bribery from three to five years.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

Relevant laws

- *Penal Code*
- *Code of Criminal Procedure*
- *Whistleblower Protection Act*
- *Act on Prevention of Transfer of Criminal Proceeds*
- *Financial Instruments and Exchange Act*
- *Companies Act*
- *Income Tax Law*
- *Corporation Tax Law*
- *Law for International Assistance in Investigation and other Related Matters*

- *Law of Extradition*
- *Law for Judicial Legal Assistance to Foreign Courts*

Other information

Relevant authorities

- Ministry of Economy, Trade and Industry
- Ministry of Justice
- Ministry of Foreign Affairs

- Cabinet Office
- Japan Fair Trade Commission
- National Police Agency
- Financial Services Agency
- Ministry of Finance

Relevant Internet links to national implementing legislation, for example

<http://law.e-gov.go.jp/htmldata/H05/H05HO047.html> (Japanese only)

Signature/Ratification of other relevant international instruments

1. December 2000, signature of the United Nations Convention against Transnational Organized Crime.
2. December 2003, signature of the United Nations Convention against Corruption.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/15/21/2387870.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/34/7/34554382.pdf>

Phase 2bis: Second report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/54/23/37018673.pdf>

Phase 2bis: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions

<http://www.oecd.org/dataoecd/49/44/39591489.pdf>

KOREA

(Information as of May 2004)

Date of deposit of instrument of ratification/acceptance or date of accession

The instrument of ratification was deposited with the Secretary General of the OECD on 4 January 1999.

Implementing legislation

- The “Act on Preventing Bribery of Foreign Public Officials in International Business Transaction” (FBPA) was enacted on 28 December 1998 and came into effect at the time of the entry into force of the Convention i.e. on 15 February 1999.
- To implement the Convention, Korean Government enacted the FBPA, which criminalizes the bribery of a foreign public official in international business transactions and contains provisions on the responsibility of legal persons and confiscation.

Other relevant laws, regulations or decrees that have an impact on a country’s implementation of the OECD Convention or the Recommendations

The Financial Transaction Reports Act

- adopted by the National Assembly on 3 September 2001, came into force on 28 November 2001.
- stipulates the establishment of a Financial Intelligence Unit (FIU) and requires financial institutions to report information on suspicious financial transactions to the FIU.

The proceeds of Crime Act

- adopted by the National Assembly on 3 September 2001, came into force on 28 November 2001.
- makes money laundering an offence in relation to bribery of domestic and foreign public officials

The Anti-corruption Act

- adopted by the National Assembly on 28 June 2001, came into force on 25 January 2002.
- creates the “Korea Independent Commission Against Corruption (KICAC)”. This body seeks to improve the legal framework for anti-corruption, to formulate and enforce anti-corruption laws and policies, and respond to whistleblowing.

Other information

Relevant authorities

- Ministry of Justice (www.moj.go.kr)
- Ministry of Economy and Finance (www.mofe.go.kr)
- Ministry of Foreign Affairs and Trade (www.mofat.go.kr)
- National Tax Service (www.ntg.go.kr)
- Korea Independent Commission Against Corruption (www.kicac.go.kr)

Relevant internet links to national implementing legislation

- <http://search.assembly.go.kr:8080/law>

Signature/Ratification of other relevant international instruments

- 13 December 2000, signature of the United Nations Convention Against Transnational Organised Crime.
- 10 December 2003, signature of the United Nations Convention Against Corruption.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/15/6/2388296.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/17/13/33910834.pdf>

Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions

<http://www.oecd.org/dataoecd/34/15/38239546.pdf>

LUXEMBOURG

(Information as of 28 August 2008)

Date of deposit of instrument of ratification/acceptance or date of accession

On 17 December 1997, the Grand Duchy of Luxembourg signed the OECD Convention of 21 November 1997 on bribery of foreign public officials. The Convention was approved by Luxembourg by an Act of 15 January 2001, adopted by the Luxembourg parliament on 14 December 2000, and confirmed and promulgated by the Grand Duke on 15 January 2001. The Act entered into force on 11 February 2001. The Grand Duchy of Luxembourg deposited its instrument of ratification with the OECD on 21 March 2001. The Convention came into force in Luxembourg 60 days after that date.

Implementing legislation

The Act of 15 January 2001 introduces into Luxembourg law, or modifies, the notions of misappropriation, destruction of deeds and securities, embezzlement, taking unlawful interest, and bribery. Amendments were made to the Criminal Code and the Criminal Investigation Code and to the Act of 4 December 1967 on income tax.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

Since then, the following laws and regulations have been adopted:

- Act of 30 March 2001 approving:
 1. the Convention, based on Article K.3 of the European Union Treaty on the **Protection of the Financial Interests of the European Communities**, signed in Brussels on 26 July 1995;
 2. the Protocol, based on article K.3 of the European Union Treaty, to the Convention on the Protection of the Financial Interests of the European Communities, signed in Dublin on 27 September 1996;
 3. the Protocol, based on article K.3 of the European Union Treaty, on the preliminary interpretation by the Court of Justice of the European Communities of the Convention on the Protection of the Financial Interests of the European Communities, signed in Brussels on 29 November 1996 and amending other legal provisions.

In addition to approving these three instruments, the Act amended the Criminal Code so as to make it an offence to engage in any misappropriation of subsidies, indemnities or allocations or in any fraudulent acts or manœuvres designed to reduce illegally an international institution's contribution to the budget.

- Act of 23 May 2005 approving:
 - a) the Convention, based on article K.3 of the European Union Treaty, on the **fight against corruption involving officials of the European Communities or officials of the Member States of the European Union**, signed in Brussels on 26 May 1997;

- b) the second Protocol, based on article K.3 of the European Union Treaty, to the Convention on the Protection of the Financial Interests of the European Communities, signed in Brussels on 19 June 1997;
- c) the Criminal Law Convention on Corruption, signed in Strasbourg on 27 January 1999;
- d) the Additional Protocol to the Criminal Law Convention on Corruption, signed in Strasbourg on 15 May 2003;

and amending and completing certain provisions of the Criminal Code.

This Act transposed into Luxembourg law all the instruments relating to the punishment of corruption under the criminal law adopted by the European Union and the Council of Europe in the years 1997-2003, including the Framework-Decision 2003/568/JAI of the Council of 22 July 2003 on combating corruption in the private sector, by introducing into the Criminal Code Articles 310 and 310-1 which make corruption in the private sector a criminal offence.

- Act of 1 August 2007: 1. approving the **“Merida” Convention of the United Nations Against Corruption**, adopted by the General Assembly of the United Nations in New York on 31 October 2003 and opened for signature in Merida (Mexico) on 9 December 2003; 2. amending Section 12.5 of the Income Tax Act of 4 December 1967, as amended.

This Act approved the Convention in question and set up the Corruption Prevention Committee (« COPRECO ») in Luxembourg. COPRECO is an interministerial body responsible in particular for preparing and proposing to the Government measures to combat corruption and for co-ordinating within the public administration the enforcement of any measures adopted.

- Act of 18 December 2007 approving the **“Palermo” Convention of the United Nations against transnational organized crime**, adopted by the General Assembly of the United Nations in New York, on 15 November 2000.
- Grand-Ducal Regulation of 15 February 2008 determining the **composition and functioning of the Corruption Prevention Committee**.

This Regulation lays down the rules relating to the composition and functioning of the Corruption Prevention Committee, in implementation of the legal provision setting up the Committee, i.e. Section 2 of the Act of 1 August 2007 approving the « Merida » Convention of the United Nations against corruption, adopted by the General Assembly of the United Nations in New York on 31 October 2003.

- Act of 17 July 2008 **transposing Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing**, transposing Directive 2006/70/EC of the Commission of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of “politically exposed persons” and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis, and amending:

1. the Act of 12 November 2004 on combating money laundering and terrorist financing, as amended;
2. the Act of 7 March 1980 on organisation of the judiciary, as amended;
3. the Act of 5 April 1993 on the financial sector, as amended;
4. the Act of 6 December 1991 on the insurance sector, as amended;
5. the Act of 9 December 1976 on organisation of the profession of notary, as amended;
6. the Act of 10 August 1991 on the profession of barrister, as amended;
7. the Act of 28 June 1984 on organisation of the profession of company auditor, as amended;
8. the Act of 10 June 1999 on the organisation of the profession of accountant.

This Act transposes into Luxembourg law the 3rd money laundering Directive (dealing with professional obligations) and introduces in particular a legal definition of the concept of “politically exposed persons”. Inasmuch as the offence of bribery is one of the primary offences of money laundering, this Act helps to reinforce the fight against corruption.

- Act of 17 July 2008 on the **fight against money laundering and terrorist financing**, and amending:
 1. Article 506-1 of the Criminal Code,
 2. the Act of 14 June 2001
 1. approving the Convention of the Council of Europe on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, signed in Strasbourg on 8 November 1990;
 2. amending certain provisions of the Criminal Code;
 3. amending the Act of 17 March 1992;
 1. approving the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, signed in Vienna on 20 December 1988;
 2. amending and completing the Act of 19 February 1973 on the sale of drug substances and the fight against drug addiction;
 3. amending and completing certain provisions of the Criminal Investigation Code.

This Act adapts the criminal offence of money laundering in Luxembourg law to the requirements laid down in the 3rd money laundering Directive in particular.

In addition, on 20 April 2007, the Government brought forward Bill No. 5718, the purpose of which is to introduce into Luxembourg law the **criminal liability of legal persons** by providing for a general system of criminal liability and specific sanctions for legal persons who commit a criminal offence.

Other information

The competent authorities in the fight against corruption are the Grand Duchy police, the public prosecutors and the examining magistrates.

The central authority for mutual legal assistance is the Prosecutor General (Section 2 of the Act of 8 August 2000 on mutual legal assistance).

On 18 July 2008, the Government adopted a plan of action against corruption. The objective of this plan is use « COPRECO » to co-ordinate all the anti-corruption measures existing at national level in order to make them more effective.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation
<http://www.oecd.org/dataoecd/39/40/2019732.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions
<http://www.oecd.org/dataoecd/55/4/32017636.pdf>

Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions
<http://www.oecd.org/dataoecd/22/27/37308306.pdf>

MEXICO

(Information as of 25 September 2008)

Date of deposit of instrument of ratification/acceptance or date of accession

Mexico signed the Anti-Bribery Convention on December 17, 1997 and deposited the instrument of ratification with the OECD Secretary-General on May 27, 1999.

The Convention was approved by the Mexican Senate on April 22, 1999, published in the Federal Official Gazette on May 12, 1999 and entered into force on July 26, 1999.

Implementing legislation

In order to implement the convention, on May 17, 1999 Mexico enacted an amendment to the Federal Penal Code (acronym in Spanish CPF) which came into force on May 18, 1999. Mexico amended the CPF by adding article 222 bis, which established the offence “**bribing foreign public officials**”. The article provides for the application of sanctions to any natural person who commits the offence. Likewise, it provides for the application of sanctions to legal persons when one of its representatives is convicted of bribing a foreign public official on its behalf [i.e., “para la empresa”].

Legislative amendments to article 222 bis of the CPF on bribery of foreign public officials, ensuring the coverage of third party beneficiaries and complying with the foreign public official definition set by the Convention, were submitted by the Executive on December 2003, and approved by Congress on July 2005 and published in the Federal Official Gazette on August 23 of the same year.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

On March 13, 2002, several amendments to the Federal Law on the Administrative Responsibilities of Civil Servants (LFRASP) were approved. These reforms aim to prevent illicit conducts by domestic public officials and provide the Ministry of Public Administration with the necessary legal tools to guarantee a more efficient application of the law. It establishes provisions to verify and examine the evolution of domestic public officials' patrimony.

Regarding the measures to improve detection of bribery cases, on August 2004, the Federal Attorney General created the Special Prosecutor's Office to Combat Corruption in the Federal Attorney General Office (A/106/04), and in decree A/107/04 the Attorney General created the Special Prosecutor's Office to Combat Corruption in the Federal Public Service.

On December 14, 2005 the Federal Congress approved an amendment to Article 117 of the Credit Institutions Law, for the purpose of empowering the Public Prosecutor Office to have access to information related to trust through the National Banking and Securities Commission. The amendment was published in the Federal Official Gazette on December 30 of the same year. The main objective of the amendment was to allow the judicial authorities to request financial institutions, directly or through the National Banking and Securities Commission, for financial information deemed necessary, and to allow the Attorney General Office to request for financial information directly from financial institutions, based on a judicial order.

On July 8, 2005 various amendments and additions to the Laws on Procurement and Public Works were approved by Congress and went into effect, as for instance:

1. The terms of tender are modified in order to prevent companies or individuals from evading disqualification orders by creating new companies or by having partners participate in bids.
2. Participants in a contracting procedure have to make a sworn statement that no natural or legal persons that have been disqualified under the terms of these laws are participating.
3. Bids may not be submitted or contracts signed by natural or legal persons that have used confidential information provided improperly by public officials or their family members by blood or by affinity, or in-laws, or anyone contracted for advisory, consulting or support services, if proved that all or part of the remuneration paid to the service provider is transferred to public officials or to third parties.

Mexico hosted a High Level Political Conference in Mérida, Yucatán held from December 9 to 11, 2003 with the purpose of signing the United Nations Convention against Corruption. Mexico signed the Convention on December 9, 2003 and, on April 29, 2004 was ratified by the Senate.

Mexico ratified the Inter-American Convention against Corruption on May 27, 1997 and deposited its instrument of ratification on June 2, 1997.

Other information

Relevant authorities

- The relevant authority on bribery offences is the Ministry of Public Administration
Secretaría de la Función Pública (SFP)
Unidad de Vinculación para la Transparencia
Insurgentes Sur 1735
Col. Guadalupe Inn / Delegación Álvaro Obregón
C.P. 01020 Mexico, D.F.
Tel: +52.55.2000.30.00
<http://www.funcionpublica.gob.mx>
- The authority responsible for penal processes is the Attorney General Office
Procuraduría General de la República (PGR)
Av. Paseo de la Reforma 211-213
Col. Cuauhtémoc, Delegación Cuauhtémoc
C.P. 06500, Mexico D.F.
<http://www.pgr.gob.mx/>
- The Ministry of Finance
Secretaría de Hacienda y Crédito Público (SHCP)
Palacio Nacional S/N
1° Patio Mariano, 3° Piso
Col. Centro, Delegación Cuauhtémoc
C.P. 06010, Mexico D.F.
<http://www.shcp.gob.mx>

- **The Tax Administration Service**
Servicio de Administración Tributaria (SAT)
Av. Hidalgo 77
Col. Guerrero, C.P: 06300
Mexico D.F.
<http://www.sat.gob.mx>
- **The National Foreign Trade Bank**
Banco de Comercio Exterior (Bancomext)
Blvd. Adolfo Ruíz Cortines 4284
Col. Jardines del Pedregal de San Angel, Del. Coyoacán,
C.P. 04500, Mexico, D.F.
<http://www.bancomext.com>
- **The Ministry of Foreign Affairs**
Secretaría de Relaciones Exteriores (SRE)
Plaza Juárez 20
Col. Centro, Delegación Cuauhtémoc
CP. 06010, Mexico D.F.
<http://www.sre.gob.mx>
- **Financial Intelligence Unit (Unidad de Inteligencia Financiera)**
SHCP
Constituyentes 1001, Edif. C-1, Piso 1
Col. Belén de las Flores
CP 01110, México DF
Tel: +52.55.3688.5160
Fax: +52.55.3688.5160
- **Asset Management Service (Servicio de Administración y Enajenación de Bienes, SAE)**
SHCP
Av. Insurgentes Sur 1931
Col. Guadalupe Inn
CP 01020, México DF
Tel: +52.55.1719.1849
Fax: +52.55.1719.1849
<http://www.sae.gob.mx>
- **Fiscal Attorney's Office of the Federation (Procuraduría Fiscal de la Federación)**
SHCP
Av. Insurgentes Sur 795
Col. Nápoles
CP 03810, México DF
Tel: +52.55.9158.0904/05
Fax: +52.55.9158.0932

Mexico has undertaken several initiatives to increase the awareness of the public and private sectors on the offence of bribery in international business transactions.

Dissemination

- For instance, various ministries and governmental agencies developed specific brochures and e-mail newsletters on corruption. Of particular interest is the initiative taken by the Ministry of Foreign Affairs to disseminate information on the Convention to all its employees in Mexico, embassies and consulates, which in turn disseminated information to all Mexican companies operating in the foreign markets. Similarly, the Tax Administration Service (acronym in Spanish SAT), as an organism of the Ministry of Finance implemented the Bribery Awareness Handbook for Tax Examiners of the OECD, as part of its internal guidelines applicable during fiscal revisions of the taxpayers, with a strict observance of the politics and criteria established by the international organization and is known in Mexico as the “*Tax Examiners Guide for the Detection of National and International Bribery*“ (*Manual del Auditor para la Detección del Cohecho Nacional e Internacional*). On the same line, the Business Coordinating Council (acronym in Spanish CCE), the Confederation of Employers of the Mexican Republic (acronym in Spanish Coparmex), and the Ministry of Public Administration presented jointly on June 2006 the brochure entitled “*Integrity Tools to Strengthen the Competitiveness of Businesses*” <http://www.funcionpublica.gob.mx/ocde/publica/doctos/ocde.pdf>
- The Attorney General’s Office has been conducting an informative and educational campaign since 2003 in order to assure and facilitate that all public officials meet their obligation of reporting all acts of corruption and transnational bribery, and to inform on the specific sanctions that failing to report causes. Likewise, we created a link from the Attorney General’s Office website to the Ministry of Public Administration micro-site on international convention against corruption. The goal is to spread the regulations of those legal instruments.
- During 2007, The Tax Administration Service undertook the following actions:

From June 4th to July 6th, the SAT gave a nation-wide training course on “*Detecting Transnational Bribery in Fiscal Revisions*”, in which a total of 1994 public officials from 66 SAT Local Administrations of Fiscal Auditing (ALAF, its acronym in Spanish) were trained. The course had three main objectives: 1) Showing SAT auditors technical tools contained in the *Auditor’s Manual for Detecting National and Transnational Bribery*, 2) stimulating among SAT public officials the obligation to report this offense, and 3) disseminating the existence of the referred *Manual* as a part of internal guidelines applicable during fiscal revisions of taxpayers.
- In addition, conferences were organised jointly with private sector associations (National Association of Corporate Lawyers, Business Confederation of Mexico) and with Taxpayer’s Representatives. During these lectures, the SAT provided information on the content of the OECD Anti-bribery Convention, underlying the obligation to report any suspicion of transnational bribery.
- To raise awareness of foreign bribery, the SAT undertook a nation-wide dissemination campaign among public officials through different electronic means. Equally, on August 3rd 2007, a massive e-mail message was sent through different data bases to a total of 4,556,689 taxpayers.
- Mexico hosted the Latin American Regional Conference “Commitment and Cooperation in the Fight against Corruption and International Bribery” (29-30 September). This conference was co-organized with the OECD in collaboration with the Inter-American Development Bank (IADB) and the Organisation of American States (OAS) and brought together public servants of different levels of government, business-persons, attorneys, accountants and civil society organizations. The conference aimed to:

- Reaffirm Latin America's commitment to fighting corruption and combating transnational bribery, and to upholding the standards of the OECD, OAS and UN anti-bribery conventions.
- Identify main challenges and opportunities in increasing and improving co-operation, and to foster exchange of information and experiences on mutual legal assistance.
- Contribute to the exchange of experiences for the strengthening of national strategies for the prevention, investigation, prosecution and sanctioning of corruption and transnational bribery, reinstating within the participating countries' national agendas relevant issues, susceptible of being addressed through legal reforms and new public policy instruments.

Mexico, in consultation with the OECD, is preparing for publication in Spanish and English the Conference Proceedings.

- Mexico, in collaboration with Spain, translated into Spanish the OECD publication ***Bribery in public Procurement: Methods, actors and counter-measures***, which was presented during the Latin American Regional Conference.

Institutional Arrangements

- A sub-unit has been established within the Federal Agency of Investigation (AFI) and will specifically deal with cases of bribery of federal and foreign public officials. <http://www.pgr.gob.mx/afi/prof.htm>
- In order to improve the prevention and detection of money laundering offences including those involving the proceeds of foreign bribery, Mexico created a Financial Intelligence Unit (FIU), and improved anti-money laundering measures. <http://www.apartados.hacienda.gob.mx/uif/index.html>
- The Attorney General's Office has created a database of public officials who have been removed or who are under investigation for irregular conduct or illegal acts (RESEPU). The main goal is to count on a system in order to share information, and prevent the alleged corrupt officials to work for the government agencies in charge of prosecuting them.

Reporting

- The General Directorate for Attention to Citizens, an agency of Ministry of Public Administration, has established a Telephone System for Attention to Citizens (SACTEL) with three lines to process calls made within Mexico City, nationwide and calls placed within the United States of America. These lines are open 24 hours a day, 365 days a year (Local: 2000-2000; National: 01800 3862466; US: 01 800 475 2393) and an e-mail address (sactel@funcionpublica.gob.mx) to receive complaints and reports of wrongdoing from citizens and public officials that report cases related to bribery and any other presumed irregularity committed in the public service is also available.
- The Attorney General Office has established new methods for reporting transnational bribery cases through its official web page. Anyone inside Mexico or abroad may report these crimes anonymously by placing a report in a complaint box (spsppc@pgr.gob.mx), or by dialling 0052 53 46 13 03.
- The Attorney General's Office has also established a system called 01800 VISITEL, through which it channels and follows up directly on all complaints and reports of wrongdoing or illegal acts by public officials within the Attorney General's Office. VISITEL is open 24 hours a day, 365

days a year to hear reports and complaints via email (denuncias-vg@pgr.gob.mx), or by telephone (+52 5346 0695).

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation.
<http://www.oecd.org/dataoecd/15/30/2388858.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions.
<http://www.oecd.org/dataoecd/53/31/33746033.pdf>

Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions.
<http://www.oecd.org/dataoecd/39/39/38376307.pdf>

NETHERLANDS

(Information as of 1 October 2006)

Date of deposit of instrument of ratification/acceptance or date of accession

The instrument of ratification was deposited with the Secretary-General of the OECD on 12 January 2001.

Implementing legislation

The law on the revision of the corruption legislation was published in the Official Gazette on 28 December 2000 (Staatsblad 2000 nr. 616) and entered into force on 1 February 2001.

Brief description:

The law provides for several amendments to Dutch legislation in order to meet the obligations under the Convention and other international instruments. The amendments relevant to the obligations under the Convention can be briefly summarised as follows:

- (1) A new article (article 178a) was added to the Penal Code in order to extend the application of the active bribery offences, which previously only applied to domestic public servants, to “persons in the public service of a foreign state or an international law organisation”, “former public servants” “persons anticipated to become a public servant” and “judges of a foreign state or an international organisation”.
- (2) A new article (article 177a) was added to the Penal Code in order to establish the offence of bribing a public servant in order to obtain an act or omission of him/her that is not in breach of his/her official duties. Article 177, which pertains to the bribery of a public servant, applies only where the purpose of the bribe is to obtain an act or omission in breach of official duties.
- (3) The penalty of imprisonment and the fine that apply under article 177 of the Penal Code (i.e. where the bribe is intended to obtain an act or omission in breach of official duties) were increased, for imprisonment from 2 to 4 years and for the fine from category 4 to category 5.
- (4) The offences were expanded to cover the case where a person renders or offers a public servant a “service” (articles 177, 177a and 178 of the Penal Code).
- (5) Article 51a of the Extradition Act was amended in order that the offences under articles 177 and 177a of the Penal Code are considered extraditable offences.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

- (1) In April 2006 the Netherlands enacted legislation to expressly prohibit the tax deductibility of bribes to foreign public officials. The legislation amended all three laws regulating the non-tax deductibility of expenses related to crimes: the Law of Income Tax 2001, the Law on Wage Tax 1964, and the Law on Corporate Tax 1969.
- (2) The Act on Audit Firms entered into force in February 2006. The Act strengthens provisions dealing with auditor independence, and also includes new supervision arrangements, and

provisions for reporting of suspected offences by auditors (either to company management or where necessary, law enforcement authorities).

- (3) Amendments to the statute of limitations entered into force on 1 January 2006. Under the former law, the statute of limitations was suspended with every prosecutor's act of prosecution, known by the defendant. Under the new law the condition of knowledge is no longer required: the statute is suspended with every act of prosecution, whether the defendant has knowledge of the prosecution or not.
- (4) Provisions governing the confiscation of bribes and the proceeds of bribery were amended by Act of Parliament of 8 May 2003, which entered into force on 1 September 2003. The provisions allow for broader possibilities to confiscate property the value of which constitutes the proceeds of foreign bribery.
- (5) The current "Directive on the investigation and prosecution of corruption of officials", adopted on 8 October 2002 is under review and the new Directive will enter into force on 15 February 2007. The Directive indicates the factors that will have to be taken into account in determining whether it is appropriate to prosecute domestic and foreign corruption cases. The directive addresses, among others, the use of facilitation payments/gifts for which no specific monetary value is set.

Other information

Relevant authorities

Dutch National Police Internal Investigation Department (Rijksrecherche; email: info@rijksrecherche.nl, Tel: 31.70.3411100)

Public Prosecutor's Office in Rotterdam (Tel: 31.10.4966816)

Telephone number for anonymous denouncements: 0800-7000

Relevant Internet links to national implementing legislation

<http://www.oecd.org/dataoecd/40/59/2739921.pdf> (Staatsblad 2000, nr. 616)

<http://www.openbaarministerie.nl/beleidsregels/docs/2002a009.htm> (Aanwijzing opsporing en vervolging ambtelijke corruptie)

Signature/Ratification of other relevant international instruments

Ratification:

- The EU Convention on the Protection of the European Communities' Financial Interests (PIF-Convention) and its first and second Protocol
- The EU Convention on the fight against corruption involving officials of the European Communities or officials of the EU Member States
- The EU Council Framework Decision against Corruption in the Private Sector
- The Criminal Law Convention on Corruption of the Council of Europe

- The United Nations Convention against Transnational Organised Crime
- The Protocol to the Criminal Law Convention on Corruption of the Council of Europe
- The United Nations Convention against Corruption, acts of ratification sent to UN secretariat in October 2006.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation
<http://www.oecd.org/dataoecd/39/43/2020264.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions
<http://www.oecd.org/dataoecd/14/49/36993012.pdf>

NEW ZEALAND

(Information as of 1 October 2004)

Date of deposit of instrument of ratification/acceptance or date of accession

The instrument of ratification was deposited with the Secretary-General of the OECD on 25 June 2001.

Implementing legislation

The Crimes (Bribery of Foreign Public Officials) Amendment Act 2001 contained the New Zealand government's legislative response to the Convention. It commenced effect from 3 May 2001. Key features of the legislation include:

- The creation of a new offence of bribing foreign public officials carrying a maximum penalty of up to 7 years imprisonment – this made it an offence, with narrow exceptions to corruptly give, or agree to give a foreign public official with the intent of influencing them in respect of their official capacity in order to obtain or retain business or obtain an improper advantage in business;
- The maximum penalties for existing domestic offences of bribing judicial officers, Members of Parliament or other public officials were increased from 5 to 7 years imprisonment;
- The application of extraterritorial jurisdiction to Convention offences enabling prosecutions to be brought for foreign bribery offences committed outside New Zealand by New Zealand citizens, residents, and body corporates or corporations sole incorporated in New Zealand;
- The creation of a narrow exception to the foreign bribery offence where acts alleged to constitute the offence are committed for the sole or primary purpose of ensuring or expediting the performance of a foreign public official of a routine government action and the value of the benefit is small;
- The term “ routine government action” specifically excludes decisions made by a FPO about whether to award new business; or whether to continue existing business with any particular person or body; or the terms of new business or existing business; or any action that is outside the scope of the ordinary duties of the official;
- An exception to the bribery offence applies where the act alleged to constitute the offence was done outside New Zealand and was not, at the time of its commission, an offence under the laws of the foreign country in which the principal office of the person, organisation, or other body for whom the FPO is employed or otherwise provides services is situated. Unless the person puts the matter in issue there is a statutory presumption that the act was an offence under the laws of the relevant foreign country.

In 2001, New Zealand underwent a review of its implementation of the Convention by the Working Group, led by a panel of expert examiners. The Working Group considered that New Zealand's legislation overall conformed to the requirements of the Convention but noted aspects of it that would require follow up in Phase 2 or further horizontal review. New Zealand is currently scheduled for an examination under Phase 2 monitoring in October 2006.

The Group noted, that the absence of a prohibition of tax deductibility of bribes meant New Zealand had not fully implemented the 1997 Revised Recommendation.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

In 2002, the Government passed the Taxation (Relief, Refunds and Miscellaneous Provisions) Act 2002 that amended section DJ 22 of the Income Tax Act 1994. This amendment prohibits the tax deductibility of bribes paid in the course of business and applies to bribes paid after 17 October 2002. This legislative change addressed the issue noted by the Working Group in the course of its review of New Zealand in 2001.

Other Information

Relevant Authorities

Enforcement

New Zealand Police – Office of the Commissioner, PO Box 3017, Wellington, New Zealand
Telephone: 0064 4 474 9499, Facsimile: 0064 4 498 7400
Website: www.police.govt.nz

Serious Fraud Office – The Director, Duthie Whyte Building, Cnr Mayoral & Wakefield Streets, Auckland, New Zealand
Telephone: 0064 9 303 0121, Facsimile: 0064 9 303 0142
Website: www.sfo.govt.nz

Policy

The Ministry of Justice, Secretary of Justice, PO Box 180, Wellington, New Zealand
Telephone 0064 4 918 8800, Facsimile: 0064 4 918 8820,
Website: www.justice.govt.nz

Links to relevant legislation

- Crimes Act 1961, sections 105C, 105D and 105E
- Mutual Assistance in Criminal Matters Act 1992
- Extradition Act 1999
- Proceeds of Crime Act 1991

This legislation can be accessed on line at www.pco.parliament.govt.nz

Signature/ratification of other relevant international instruments

New Zealand signed the United Nations Convention Against Corruption on 9 December 2003 and intends to ratify that Convention once domestic legislation implementing it is in place. Policy development of these proposals is underway.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/51/62/2088257.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/57/38/37658136.pdf>

NORWAY

(Information as of 18 June 2004)

Date of deposit of instrument of ratification/acceptance or date of accession

The instrument of ratification was deposited 18.12.1998

Implementing legislation

a) *The entry into force of the implementing legislation was 01.01.1999*

Implementation of the Convention into Norwegian Penal Law was done by amending the already existing section 128 of the Penal Code, by adding a paragraph on the active bribery of foreign public servants and servants of public international organisations. After the amendment, section 128 reads:

Any person who by threats or by granting or promising a favour seeks to induce a public servant illegally to perform or omit to perform an official act, or who is accessory thereto, shall be liable to fines or imprisonment for a term not exceeding one year.

The term public servant in the first paragraph also includes foreign public servants and servants of public international organisations

The provision of the previous section, third paragraph, shall apply accordingly.

Section 128 of the Penal Code, is partly repealed after the coming into force of new Penal Code Provisions on 04.04.2003, and now only covers threats.

b) *The implementing legislation, as amended, reads:*

Section 276a

Any person shall be liable to a penalty for corruption who

a) *for himself or other persons, requests or receives an improper advantage or accepts an offer of an improper advantage in connection with a post, office or commission, or*

b) *gives or offers anyone an improper advantage in connection with a post, office or commission.*

By post, office or commission in the first paragraph is also meant a post, office or commission in a foreign country.

The penalty for corruption shall be fines or imprisonment for a term not exceeding three years. Complicity is punishable in the same manner.

Section 276b:

Gross corruption is punishable by imprisonment for a term not exceeding 10 years. Complicity is punishable in the same manner.

In deciding whether the corruption is gross, special regard shall inter alia be paid to whether the act has been committed by or in relation to a public official or any other person in breach of the special confidence placed in him as a consequence of his post, office or commission, whether it has resulted in a considerable economic advantage, whether there was a risk of significant economic or other damage or whether false accounting information has been recorded or false accounting documents or false annual accounts have been prepared.

In addition, Norway has criminalized trading in influence, Penal Code, Section 276c:

Any person shall be liable to a penalty for trading in influence who

a) for himself or other persons, requests or receives an improper advantage or accepts an offer of an improper advantage in return for influencing the performance of a post, office or commission, or

b) gives or offers anyone an improper advantage in return for influencing the performance of a post, office or commission.

By post, office or commission in the first paragraph is also meant a post, office or commission in a foreign country.

The penalty for trading in influence shall be fines or imprisonment for a term not exceeding three years. Complicity is punishable in the same manner.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

The Penal code section 317 covers the offence of money laundering. All criminal offences are regarded as predicate offences.

A new Money Laundering Act is in force from 01.01.2004. The new act implements the revised EU-Directive on Money Laundering.

Other information

Relevant authorities (in particular to whom report information on a bribery offence), including special commissions

ØKOKRIM (national Authority for Investigation and Prosecution of Economic and Environmental Crime) has a specialized anti-corruption team. ØKOKRIM has established a hot-line ("tipstelefon").
<http://okokrim.no>

Ministry of Foreign Affairs

Ministry of Justice

Relevant Internet links to national implementing legislation

<http://www.lovdato.no>

Signature/Ratification of other relevant international instruments

Norway ratified the Council of Europe Criminal Law Convention on Corruption without reservations 02.03.2004. The Convention entered into force 01.07.2004.

Norway signed the Council of Europe Civil Law Convention 04.11.1999.

Norway ratified the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime 16.11.1994.

Norway signed the UN Convention against Corruption (UNCAC) 09.12.2003 and ratified the UNCAC on 29.06.2006.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation
<http://www.oecd.org/dataoecd/15/35/2389183.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions
<http://www.oecd.org/dataoecd/3/28/31568595.pdf>

Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions
<http://www.oecd.org/dataoecd/35/26/38284036.pdf>

POLAND

(Information as of 1 September 2008)

Date of deposit of instrument of ratification / acceptance or date of accession

The ratification bill, which was approved by the two chambers of Parliament in January 2000, received presidential approval on 11 July 2000 and was published in the Journal of Laws of 2001, No 23, item 264.

The instrument of ratification was deposited with the OECD Secretary General on 8 September 2000.

Implementing legislation

Act of 9 September 2000 (Journal of Laws of 2000, No 93, item 1027) which entered into force on 4 February 2001 introduced amendments into the following legal acts:

Act of 6 June 1997 Penal Code (Journal of Laws of 1997, No 88, item 553, with further amendments);

Act of 6 June 1997 Code of Penal Procedure (Journal of Laws of 1997, No 89, item 555, with further amendments);

Act of 16 April 1993 on combating unfair competition (Journal of Laws of 1993, No 47, item 211, with further amendments);

Act of 10 June 1994 on public procurement (Journal of Laws of 2002, No 72, item 664, with further amendments);

Act of 29 August 1997 The Law on Banks (Journal of Laws of 2002, No 72, item 665, with further amendments).

The key elements of the implementing act were: the criminalisation of active and passive bribery of foreign public officials, the administrative responsibility of legal persons (subsequently replaced by the Act on Liability of Collective Entities [...], see below), the provisions facilitating better mutual legal cooperation and the exclusion of companies having been found to bribe from public procurement contracts.

Act of 28 October 2002 on Liability of Collective Entities for Acts Prohibited under Penalty (Journal of Laws of 2002, No 197, item 1661, with further amendments) entered into force on 28 November 2003 and replaced the provisions on administrative responsibility of legal persons introduced by the Act of 9 September 2000 (mentioned above). The Act regulates in a comprehensive manner the liability of collective entities, including liability for acts of active and passive bribery. It introduces a broad definition of collective entities subject to such liability, which comprises legal persons and organisational entities without legal personality. The Act provides for a number of sanctions, beginning with fines and forfeiture of benefits and other, such as ban on promoting or advertising business activities, products or services, ban on using financial support from public funds and aid provided by international organisations, ban on applying for public procurement contracts; ban on pursuing indicated business activities.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

Recommendations for remedial action under Phase 1

According to the Phase 1 Evaluation, the Polish legal system should:

- cover the case where a material benefit (i.e. pecuniary benefit) goes to a third party;
- re-formulate the provisions on legal responsibility of legal persons;
- limit the discretion in deciding on the forfeiture of the bribes (e.g. by issuing guidelines);
- confirm whether taxation of the proceeds of corruption and the deduction of the bribe are possible.

The recommendation concerning responsibility of legal persons was implemented by the above mentioned Act of 28 October 2002. The problem of discretion and third party benefit was solved by relevant amendments to the Penal Code (art. 44 and 45), introduced by the Act of 13 June 2003 (Journal of Laws of 2003, No 111, item 1061). The taxation of the proceeds of corruption and the deduction of bribes are not possible under Polish law (however there is no explicit regulation). As there were no cases of criminal proceedings concerning corruption of foreign public officials reported so far, no observation about the practice of these provisions can be made.

Countries' international commitments arising from other international instruments

Poland is a state party to several international instruments listed below.

Since 20 May 1999 Poland is a Member State of the Group of States against Corruption (GRECO).

Since 1 May 2004 Poland is a Member State of the European Union, which involves – among others – the cooperation with OLAF (European Anti Fraud Office).

Other information

Relevant authorities

All allegedly committed offences should be reported to the Police (contact details are available on the website: www.kgp.gov.pl, including the Police hot line + 48 800 120 226 and contact details to all special Police units for combating corruption within regional headquarters of the Police, <http://www.policja.pl/portal/pol/101/1654/>), the public prosecution authorities (contact details available at: http://www.ms.gov.pl/organizacja/adresy_prok-010908.rtf) or <http://www.cba.gov.pl> to the Central Anticorruption Bureau (contact details available at: <http://www.cba.gov.pl>, tel.: +48 22 330 00 47).

The international cooperation in the field of combating corruption is coordinated by the:

Ministry of Justice
Department of Judicial Assistance and European Law
Al. Ujazdowskie 11
00 - 950 Warszawa
Tel/fax: (+ 48 22) 628-09-49
www.ms.gov.pl

Relevant internet links to national implementing legislation

Acts of Polish law (including laws on preventing corruption) are available on the website of Polish Parliament: www.sejm.gov.pl/prawo/prawo.html ; Journals of Law since 1995 are available also on the website: www.lex.pl .

The anti-corruption strategy of the Polish government adopted on 17 September 2002 is available on the website of the Ministry of the Interior and Administration: http://www.mswia.gov.pl/portal/pl/83/Przeciwdzialanie_korupcji.html

Signature/ratification of other relevant international instruments

Poland has signed and/or ratified the following international instruments on combating corruption:

- United Nations Convention against Corruption (signed on 10 December 2003, ratified on 15 September 2006);
- The Council of Europe Criminal Law Convention on Corruption (signed on 27 January 1999, ratified on 11 December 2002);
- The Council of Europe Civil Law Convention on Corruption (signed on 3 April 2001, ratified on 11 September 2002);
- The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (signed on 5 November 1998, ratified on 20 December 2000);
- European Union Convention on the Fight against Corruption involving Officials of the European Communities or Officials of the EU Member States (ratified on 25 January 2005).

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation
<http://www.oecd.org/dataoecd/39/45/2020928.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions
<http://www.oecd.org/dataoecd/3/54/38030514.pdf>

PORTUGAL

(Information as of 7 June 2005)

Date of deposit of instrument of ratification/acceptance or date of accession

Portugal ratified the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions on 31 March, 2000 and deposited its instrument of ratification on 21 November, 2000.

Implementing legislation

Identification of the law

Law n° 13/2001- Implementing Law; transposes the wording of the Convention into domestic law. Prior to the signing of the Convention, the Portuguese Criminal Code, as well as the Law n° 34/87 of 16 July, already criminalized offences of active and passive bribery of domestic public officials. However it was necessary to create a specific offence in order to criminalize the active bribery of a foreign public official.

The Law n° 13/2001, of 4 July, establishes the offence of active corruption against international business and this implementing legislation also makes necessary amendments regarding money laundering and jurisdiction.

Following the above-mentioned law, in November 2001, the Criminal Code was amended and the crimes of active bribery, of passive bribery for the commission of an unlawful act and of passive bribery for the commission of a lawful act are punished in equal terms, either when the crime is committed by a domestic public official or when it is committed by a foreign public official.

Date of adoption and date of entry into force

04-06-2001.

Other relevant Laws, regulations or decrees that have an impact on a country's implementation of the OCDE Convention or the Recommendations

Law N° 108/2001, 28 November, 11th amendment to the Criminal Code and to Law N° 34/87: this law introduces, among others, some modifications to the legal regime applicable to crimes of corruption and traffic in influence and extending the scope of domestic public officials to include certain foreign public officials.

Law on the organization and functioning of the political parties n° 1/2001, August 14th, modifies the financing regime of the political parties and elections campaigns.

Decree of the President of the Republic n° 58/2001, November 15th, ratifying the Convention on the Fight against Corruption in which officials of the European Communities or of the Member States of the European Union are implied.

Law n° 10/2002, February 11th, improves legal provisions destined to prevent and to punish money laundering as a result of criminal activities.

Law n° 5/2002 establishes measures to fight against organized and economic- finance crime.

Law n° 52/2003, on measures to fight against terrorism.

Signature/ratification of other relevant international documents

Notice n° 60/2002, made public that the Portuguese Government deposited the ratification instrument of the European Council Criminal Convention on Corruption on 7 May, signed in Strasbourg on 30 April 1999.

In December 2003, Portugal signed the *UN Convention against Corruption*.

Portugal has ratified the *UN Convention against Transnational Organized Crime* and deposited the ratification instrument on 10 May 2004.

Other information

Relevant authorities

Information on bribery offences must be reported to the Public Prosecutors Office. They can also be reported to the Criminal Police.

Relevant Internet links to national implementation legislation

www.digesto.pt

www.infocid.pt

www.eusoujurista.pt

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<http://www.oecd.org/dataoecd/51/59/2088284.pdf>

The recently approved *Law N° 11/2004* of March 27 contains the relevant provisions on money laundering and amends the Criminal Code by adding a new article that includes the definition and punishment of the crime, which was already incorporated in a special criminal law. Prior to this amendment, the Decree Law n° 325/95 already contained the definition of the offence as well as the penalties, however this new law adds some predicate offences to the list of predicate offences to money laundering, as well as defines the entire money laundering criminal regime.

Thus, article 368-A of the Criminal Code, which penalises acts of money laundering, enumerates a number of predicate offences including corruption, drug and human beings trafficking and sexual abuse of children or minors.

Any person who, knowing that certain goods and products proceed from criminal offences amounting to qualified procuring, sexual abuse of children and dependant minors, extortion, drug trafficking, firearms trafficking, trafficking in organs or in human tissues, trafficking in protected species, tax fraud, trafficking in influence, corruption or any other offence mentioned in paragraph 1 of Article 1° of Law N° 36/94 of 29 September and all the illicit and typical facts punished with minimum term imprisonment superior to 6 months or maximum term imprisonment of more than 5 years, directly or indirectly converts, transfers, assists in or facilitates any conversion or transfer of all or part of such goods or products in order, either to conceal or dissimulate its illegal origin, or to assist any person involved in committing any such offences to

avoid legal consequences of his or her behaviour, conceals or dissimulates the true nature, origin, whereabouts, layout, movement or ownership of such goods or products or rights pertaining thereto, shall be liable to imprisonment for a term of 2 to 12 years.

Under the Law N°11/2004, certain financial institutions (including banking and non banking institutions) and certain non-financial institutions performing activities linked to gambling or to the trade of goods of high value or immovable property (e.g. casinos, real estate agents) are submitted to a determined number of administrative obligations, such as to identify the person involved in transactions exceeding a certain amount, retain the evidence for identification and report suspected money laundering transactions to the competent judicial authority, among others.

There were similar obligations present in the previous law- n° 36/94 of 29 September, however the new law n° 11/2004 has widened the scope of the entities that are subject to these report and identification obligations and has clarify these obligation.

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/28/24/38320110.pdf>

SLOVAK REPUBLIC

(Information as of 12 September 2008)

Date of deposit of instrument of ratification/acceptance or date of accession

Slovak Republic signed the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions on 17 December 1999 and ratified it on 14 April 1999.

The instrument of ratification was deposited on 24 September 1999.

Convention entered into effect on 23 November 1999.

Implementing legislation

Criminal Code (Act No. 129/1998 Coll.) introduced Article 161b penalising bribery of a foreign public official in international business transactions

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the

OECD Convention or the Recommendations

Criminal Code and Code of Criminal Procedure: On 1 January 2006 the re-codification of the Slovak criminal law, as based on the work of the Commission for Re-codification of Criminal Law, took effect. The Criminal Code (Act No. 300/ 2005 in the wording of latter amendments) together with the Code of Criminal Procedure (Act No 301/ 2005 in the wording of latter amendments) and related laws were adopted by the National Council of the Slovak Republic respectively. Fulfilling international obligations arising from international treaties on fight against corruption and binding for the Slovak Republic, was amongst the aims as set out in preparatory works.

Relevant provisions of the Criminal Code:

- Statute of limitations for the foreign bribery offence: limitation periods vary (from 5 to 20 years) depending on the size of bribe (Section 87 in connection with Section 334)
- Separate definition of foreign public official pursuant to Section 128 paragraph 2
- Separate definition of bribe pursuant to Section 130 paragraph 3 describing bribe as any kind of thing or performance of property or non- property nature to which there is no legal entitlement and thus allowing no exception like e.g. small facilitation payments, as supported also by the recent Slovak Courts' rulings in bribery cases.
- Availability of using an (undercover) "agent" under strict conditions set out in Section 30 in connection with Section 117 (especially paragraph 2) of the Code of Criminal Procedure for the purposes of detection and prosecution of bribery, including bribery of foreign public officials
- General reporting obligation regarding the offence of bribery or suspicion thereof derives from Section 340

Relevant provisions of the Code of Criminal Procedure:

- Availability of using broad range of surveillance techniques as stipulated in Chapter 4 of the first part of the Code of Criminal Procedure, Sections 108- 112
- Provisions on undercover “agent” (see above)

Act On Protection Against Legalisation of Proceeds from Criminal Activity and on Protection against financing terrorism (Act No. 297/ 2008 Coll.). The act entered into effect on 1 September 2008 and contains, inter alia, provisions defining “politically exposed person” in Section 6, “suspicious business transaction” in Section 4 and provisions related thereto as well (e.g. reporting obligation of “obliged persons” as stipulated by Section 17, without prejudice to obligation to report suspicions that a criminal offence was committed to law enforcement authorities pursuant to Criminal Code).

Income Tax Act (Act No. 534/ 2005 Coll. in the wording of latter amendments) expressly denies tax deductibility of bribes in Section 21 paragraph 1 letter c)

Act on Auditors, Auditing and Supervision over Execution of Audit (Act No. 540/ 2007) which entered into effect on 1 January 2008 expressly stipulates in Section 27 paragraph 3 the obligation of auditors to report without undue delay the suspicions of bribery, as based on evidence obtained in the course of carrying out the audit, to law enforcement authorities by the means of written notice sent to them.

Act on Accounting (Act No. 431/ 2002 Coll. in the wording of the latter amendments).

Other information

Relevant authorities

Bureau of the Fight against Corruption of the Presidium of the Police Corps:

Postal Address:

Račianska 45, 812 72 Bratislava, Slovak Republic

Postal Address of head office:

Novosvetská 8, Bratislava, Slovak Republic

Web: <http://www.minv.sk/?kontakty-7>

Office of the Attorney General:

Postal Address: Special Prosecutor’s Office

Štúrova 2

812 85 Bratislava, Slovak Republic

or

Suvorovova ulica

Pezinok 90201, Slovak Republic

Web: <http://www.genpro.gov.sk/index/go.php?id=459>

Relevant Internet links to national implementing legislation

www.minv.sk – Ministry of Interior of the Slovak Republic, Bureau of the Fight against Corruption

www.genpro.gov.sk- Office of the Attorney General

www.justice.gov.sk – Ministry of Justice of the Slovak Republic

Signature/Ratification of other relevant international instruments

Concerning other relevant international documents aimed, inter alia, at fighting corruption the Slovak Republic has signed and ratified the following conventions and protocols:

United Nations

1. The UN Convention Against Corruption was signed on behalf of the Slovak Republic (hereinafter only "was signed") on 9 December 2003 and subsequently ratified by the president (hereinafter only "was ratified") on 25 April 2006. With regard to the Slovak Republic it entered into force (hereinafter only "it entered into force") on 1 July 2006;

Council of Europe

2. The Council of Europe Criminal Law Convention on Corruption was signed on 27 January 1999 and ratified on 25 May 2000. It entered into force on 1 July 2002;
3. The Additional Protocol to the Criminal Law Convention on Corruption was signed on 12 January 2005 and ratified on 6 April 2005. It entered into force on 1 August 2005.
4. The Council of Europe Civil Law Convention on Corruption was signed on 8 June 2000 and ratified on 5 May 2003. It entered into force on 1 November 2003;
5. The Council of Europe Convention on Searching, Detection, Seizure and Confiscation of the Proceeds from Crime was signed on 8 September 1999 and ratified on 12 April 2001. It entered into force on 1 September 2001.

European Union

6. EU Convention on the Fight against Corruption Involving Officials of the European Communities or Officials of Member States of the European Union. The instrument of accession was signed on 25 August 2004 and deposited on 30 September 2004. The convention entered into effect on 28 September 2005.
7. Council Framework Decision 2003/568/JHA of 22 July 2003 on Combating Corruption in the Private Sector]

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<http://www.oecd.org/dataoecd/16/15/2389408.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/28/15/35778308.pdf>

Follow-up Report on the Implementation of the Phase 2 Recommendations (Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Revised Recommendation on Combating Bribery in International Business Transactions)

<http://www.oecd.org/dataoecd/62/38/40027840.pdf>

SLOVENIA

(Information as of 23 April 2008)

Date of deposit of instrument of ratification/acceptance or date of accession

6 September 2001 (The Law on the Ratification of Convention entered into force on 5 November 2001.)

Implementing legislation

Criminalisation of bribery – Criminal Code

Criminal Code of 1994 (Official Gazette RS, no. 70/94; entered into force on 1 January 1995).

Amendments to the Criminal Code of 1999 (Official Gazette RS, no. 23/99; entered into force on 23 April 1999). The definition of the “public official” in Article 126 which relates to Articles 267, 268, 269 (passive and active bribery of public officials and trading in influence) was expanded to encapsulate foreign and international public official.

Amendments to the Criminal Code of 2004 (Official Gazette RS, no. 40/04; entered into force 5 May 2004). Further expanded and clarified the definition of foreign and international public officials and bribery in international business transaction in Article 126; significantly revised incriminations of active and passive bribery and active and passive trading in influence in Articles 267, 268, 269 and 269.a respectively, as well as raised punishments for these offences.

Liability of Legal Persons

Law on the Liability of Legal Persons for Criminal Offences of 1999 (Official Gazette, RS, no. 59/99; entered into force 21 October 1999) and Amendments to the Law on the Liability of Legal Persons for Criminal Offences of 2004 (Official Gazette, RS, no. 50/04; entered into force 21 May 2004). Introduced a comprehensive system of corporate criminal liability, prescribed sanctions and specificities within criminal procedure when prosecuting legal entities. It covers all bribery and corruption-related offences, including bribery of foreign public officials.

Money Laundering

Article 252 of Criminal Code of 1994 with amendments in 1999 and 2004. Slovenia adopted an all-crimes approach to money laundering offences; all bribery and corruption-related offences, including bribery of foreign public officials are predicate offences to the offence of money laundering.

Law on the Prevention of Money Laundering and Terrorism Financing of 2007 (Official Gazette, RS, no. 60/08; entered into force 21 July 2007).

Effectiveness of investigation and prosecution

Amendments to the Criminal Procedure Code of 1999 and 2004. Expanded the powers of the police/prosecution to use special investigative means (interception of telecommunications, electronic surveillance, simulated corruption offences covert access to and monitoring of financial data and transactions, etc.) as well as powers of identification and seizure of proceeds of crime in investigation of all bribery and corruption related offences, including bribery of foreign public officials.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

Law for the Prevention of Corruption of 2004 (Official Gazette, RS, no. 2/04; entered into force 30 February 2004). Adopted a comprehensive, interdisciplinary approach to preventing and controlling of corruption.

The above law has established an independent State Body – the Commission for the prevention of corruption, which reports directly to the Parliament and consist of representatives (elected for the term of six years) of all branches of the Government – judiciary, executive and legislative -- and has analytical, coordinative and advisory-educational tasks. The previous Government's Office for the Prevention of Corruption has been transferred into a permanent secretariat/support unit for the Commission. The Commission is also responsible for the preparation and monitoring of the implementation of the National Anti-Corruption Strategy, the enforcement of Code of Conduct for Public Officials and represents fundamental enforcement body for the provisions relating to the declaration of assets of public officials. Additionally, the Law includes provisions which in comprehensive and uniformed way – for all public officials and functionaries in the all branches of the Government and public companies – regulate amongst others the following topics: declaration of assets of public officials; conflict of interests; integrity plans. The Commission became fully operational on 1 October 2004.

Regarding the above mentioned, the Government has sent during the last quarter of year 2005 a draft Law on Incompatibility of Public Function with Profit-Making Activities to the parliament for adoption. The Law was adopted by the Parliament in February 2006. Implementation of the Incompatibility Law, which replaced a number of provisions of the Prevention of Corruption Law and foresaw dismantling of the Commission for the Prevention of Corruption, was suspended by the Constitutional Court on April 2006. On March 2007, the Constitutional Court issued a decision (cf. Decision U-I_75/06-28) in which it found several provisions, i.e. the monitoring mechanism of the Parliamentary Commission, to be unconstitutional. Further, it ruled out that the provisions of the Prevention of Corruption Act are to continue being implemented until afore mentioned unconstitutional provisions are amended and removed. In this context, the Government has now drafted the Restrictions and Limitations for Public Holders Law, which passed its first reading in Parliament on 29 February 2008 and second reading on 22 April 2008. The draft Restrictions and Limitations Law continues to foresee the abolishment of the Commission for the prevention of Corruption.

National Anti-Corruption Strategy has been adopted by the Parliament in 2004. The Strategy lists 172 long-term legislative, administrative, institutional and practical measures aimed long-term and sustainable reduction of risks for corruption in all spheres of society.

Other information

Relevant authorities

General Prosecutor's Office

Trg OF 13, SI-1000 Ljubljana, Slovenia

tel: +386 (0)1 433-04-54; fax +386 (0)1 431-03-81

www: [www: www.dt-rs.si](http://www.dt-rs.si)

e-mail: dtrs@dt-rs.si

General Police Directorate

Stefanova 2, SI-1000 Ljubljana, Slovenia
tel: 386 (0)1 472-51-11;
www: www.policija.si/en

Commission for the Prevention of Corruption

Tržaška 19a, SI-1000 Ljubljana, Slovenia
tel.: +386 (0)1 478-84-83; fax: +386 (0)1 478-84-72
www: www.kpk-rs.si
e-mail: anti.korupcija@kpk-rs.si

Office for Money Laundering Prevention

Cankarjeva 5, SI-1502 Ljubljana, Slovenia
Tel: +386 (0)1 425 41 89; fax: +386 (0)1 425 20 87
www: www.uppd.gov.si/angl
e-mail: mf.uppd@mf-rs.si

Signature/Ratification of other relevant international instruments

March 2000: ratification of the Council of Europe Criminal Law Convention on Corruption;

April 2003: ratification of the Council of Europe Civil Law Convention on Corruption.

January 2008 ratification of the United Nations Convention against Corruption

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/33/50/34541732.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/14/59/38883195.pdf>

SOUTH AFRICA

(Information as of 25 October 2007)

Date of deposit of instrument of ratification/acceptance or date of accession

The instrument of accession was deposited with the Secretary-General of the OECD on 19 June 2007 and came into force on 19 August 2007.

Implementing legislation

The Prevention and Combating of Corrupt Activities Act, 12 of 2004 gives effect to the OECD Convention on Bribery of Public Officials in International Business Transactions.

Other relevant laws, regulations or decrees that have an impact on our country's implementation of the OECD Convention or the Recommendations

Promotion of Access to Information Act, 2 of 2000

Promotion of Administrative Justice Act, 3 of 2000

The Prevention of Organised Crime Act, 121 of 1998

Financial Intelligence Centre Act, 28 of 2001

International Cooperation in Criminal Matters Act, 75 of 1996

The Criminal Procedure Act, 51 of 1977

The Public Finance Management Act, 1 of 1999 as amended by Act 29 of 1999

Signature/Ratification of other relevant international instruments

South Africa has ratified the following international and regional instruments on preventing and combating corruption:

- United Nation Convention on Transnational Organized Crime: Signed on 14 December 2000, ratified on 20 February 2004.
- United Nations Convention against Corruption: signed on 9 December 2003, ratified on 22 November 2004.
- African Union Convention on Preventing and Combating Corruption: signed on 16 March 2004, ratified on 11 November 2005.

Other information

Relevant authorities

Relevant authorities, to whom one may report information on a bribery offence, are the police and prosecution authorities.

- Department of Justice and Constitutional Development
- National Prosecuting Authority
- South Africa Police Services
- Financial Intelligence Centre

Relevant Internet links to national implementing legislation

The relevant internet link to obtain the wording of (any) national legislation (including national legislation to implement the OECD-Convention) is: www.gov.za

SPAIN

(Information as of 12 September 2008)

Date of deposit of instrument of ratification/acceptance or date of accession

On January 14, 2000, Spain ratified the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, signed on 17 December 1997.

Implementing legislation

Anti-bribery rules were incorporated into Spanish Law by Organic Act 3/2000 of January 11, which amended the Penal Code Organic Act 10/1995 of November 23 on the fight against bribery of foreign public officials in international business transactions (published in Spain's State Official Journal number 10, of January 12).

This Act added Title XIX bis to Book II of the Penal Code, under the heading "corruption offences in international business transactions", and a new article 445 bis which completed the traditional bribery offence set forth by article 423 of the Penal Code.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

- a) Such would be the case of the responsibility of legal persons, established in articles 31 and 129 of the Penal Code, recently amended by Organic Act 15/2003, of November 25.
- b) Mention should also be made to Act 19/2003, of July 4, on the legal treatment of foreign capital movements and economic transactions, as well as certain measures aimed at preventing capital laundering, which amends Act 19/1993, of December 28, concerning specific measures for preventing capital laundering. This Act has been amended by Act 36/2006, of November 29, on measures for preventing tax fraud.
- c) Also related are some Framework Decisions adopted by the European Union within the scope of the third pillar, related to police and judicial cooperation in criminal matters. Especially, the Framework Decision of July 22, 2003 to fight corruption in the private sector (OJ L 192 of 31.07.2003), includes a set of provisions intended to unify the legal and penal framework in the Member States in relation to active and passive corruption in the private sector, by establishing unified penal categories and penalty thresholds, while laying down rules on jurisdiction and setting forth the obligation to regulate the criminal responsibility of legal persons. Classifying these types of behaviours is an innovation in our legal and criminal system, which calls for new amendments to existing penal provisions. A working group has been established in order to study this issue in depth and it is the intention of the Spanish Ministry of Justice to fully respect the transposition deadline. The transposition deadline is July 22, 2005.

Other information

Relevant authorities

- a) The key authority is the Special Prosecutor's Office for Corruption-Related Economic Offences, regulated by the Organic Statute of the Attorney General's Office approved by Act 50/1981 of December 30, and amended by Act 14/2003, of May 26, and by Act 24/2007, of October 6.

On 12 July 2006, Direction 4/2006 of Public Prosecutor General's Office came into force, and redefined the competences of Special Public Prosecutor's Office against Corruption.

Relevant internet links to national implementing legislation

- b) The following are internet sites that provide information on the Spanish national law:

www.igsap.map.es

www.boe.es

www.mjusticia.es

www.fiscal.es

www.sepblac.es

<http://juridicas.com>

Signature/Ratification of other relevant international instruments

Spain ratified the UN Convention against Corruption on 19 June 2006.

The Council of Europe has established a Group of States against Corruption, known as Greco, where Spain plays an active role and which has promoted several Conventions in this area. The most relevant are the Criminal Law Convention on Corruption of January 27, 1999 and the Civil Law Convention on Corruption of November 4, 1999. Spain signed both Conventions on 10 May 2005.

Besides the above-mentioned Framework Decision, the European Union is making additional efforts related to these issues. The fight against corruption within the Community institutions led to the adoption of the Convention of July 26, 1995, to protect the European Communities' financial interests, the Additional Protocol of September 21, 1996, dealing with the corruption of officials, and in particular the Council Act of May 26, 1997 approving the Convention to fight acts of corruption involving officials of the European Community or officials of the Member States of the European Union.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/15/60/2389614.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/28/35/36392481.pdf>

SWEDEN*(Information as of 26 March 2008)****Date of deposit of instrument***

The instrument of ratification was deposited with the OECD Secretary-General on 8 June 1999.

Implementing legislation

The bill with the necessary amendments of Swedish legislation, in order to enable Sweden to ratify and implement the Convention, was passed by Parliament on 25 March 1999 (bill 1998/99:32). The implementing legislation entered into force on 1 July 1999. Relevant text is found in the Penal Code, Chapter 17 Section 7 and Chapter 20 Section 2. The latest change took effect as of 1 July 2004, when a serious bribery crime was introduced, punishable by a maximum sentence of six years imprisonment.

A company can be ordered to pay a corporate fine pursuant to Chapter 36, Section 7 of the Penal Code. Such fines can then be imposed in the span of SEK 5 000 to SEK 10 000 000.

1999:1078 The Accountant Act

1999:1229 Income Tax Law (*Inkomstskattelagen*)

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

- International Legal Assistance in Criminal Matters Act (2000:562).
- Act (2005:500) on Recognition and Execution of European Union Freezing Decisions.1959:254 The Act on Extradition of Offenders to Denmark, Finland, Iceland and Norway (*Lag om utlämning för brott till Danmark, Finland, Island och Norge*).
- Act (2003:1174) on Joint Investigation Teams for Criminal Investigations.
- The Extradition for Criminal Offences Act (1957:668).
- Act (1959:254) on Extradition of Offenders to Denmark, Finland, Iceland and Norway.
- Act (2003:1156) on Surrender from Sweden according to the European Arrest Warrant.

Other information***Relevant authorities***

- Swedish National Economic Crimes Bureau (phone 46 8 762 0000)
- National Anti-Corruption Unit (phone 46 8 762 1000)
- Swedish Competition Authority (responsible for Public Procurement since 1 September 2007) (phone 46 8 700 1600)

- National Tax Agency (phone 46 8 764 8000)
- Division for Criminal Cases and International Judicial Cooperation, Ministry of Justice (phone 46 8 405 4500)

Relevant internet links to national implementing legislation

www.sweden.gov.se/sb/d/3288/a/19568 (legislation in English)

www.sweden.gov.se/centralauthority

Ratification of other relevant international instruments

- Council of Europe's Criminal Law and Civil Law Conventions against Corruption
- The UN Convention against Corruption
- The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism
- The EU Convention on the Protection of the European Communities' financial interests (PIF-Convention) and its first protocol
- The second protocol to the PIF-Convention
- The EU Convention on the fight against corruption involving officials of the European Communities or officials of the EU Member States

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/16/1/2389830.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/20/8/35394676.pdf>

Phase 2: Follow-up Report on the implementation of the Phase 2 Recommendations

<http://www.oecd.org/dataoecd/3/43/39905457.pdf>

Report on on-going or decided cases and MLA

Judicial decisions

Two Swedish consultants have been convicted to one and a half and one year of prison respectively for having bribed officials at the World Bank. The bribed officials handled a trust fund for the purpose of promoting Swedish companies being awarded contracts by the bank. The fund was financed by the Swedish development aid authority, Sida. The Swedish District Court's decision was appealed. The Court of Appeal has confirmed the decision of the District Court.

SWITZERLAND

(Information as of 12 September 2008)

Date of deposit of instrument of ratification/acceptance or date of accession

Deposit of instrument of ratification: 31 May 2000.

Implementing legislation

Swiss Criminal Code of 1937 (*Code Pénal*, CP; Systematic Compendium of Swiss Federal Law / *Recueil Systématique* RS 311.0; http://www.admin.ch/ch/f/rs/c311_0.html):

- Amendment of 22 December 1999 (Book 2, Title 19: Corruption; Articles 322^{ter} - 322^{octies}, including art. 322^{septies}: Bribery of foreign public officials; Official Digest / *Recueil Officiel* RO 2000 1121); entered into force on 1 May 2000.
- Amendment of 21 March 2003 (Book 1, Title 6: Corporate liability; Articles 102 - 102a; RO 2003 3043); entered into force on 1 Octobre 2003.

Other relevant legislation

Swiss Criminal Code:

- Amendment of 22 December 1999 (Book 3, Title 3: Federal jurisdiction and cantonal jurisdiction; Article 337: Federal jurisdiction regarding organised crime, financing of terrorism and economic crime; RO 2001 3071); entered into force on 1 January 2002.
- Amendment of 7 October 2005 (Book 2, Title 19: Corruption; Article 322^{septies}: Addition of passive bribery of foreign public officials; RO 2006 2371); entered into force on 1 July 2006.
- Swiss Federal Act on the prohibition of tax-deductibility of hidden commissions of 22 December 1999 (RO 2000 2147); entered into force on 1 January 2001.

Other information

Relevant authorities

State Secretariat for Economic Affairs (SECO)

International Investments and Multinational Enterprises Unit

Effingerstrasse 1/ CH-3003 Berne

Tel. + 41 (0)31 323 12 75 / Fax + 41 (0)31 325 73 76

AFIN@seco.admin.ch

<http://www.seco.admin.ch/themen/00645/00657/index.html?lang=fr>

Federal Office of Justice (OFJ)

Service for International Criminal Law

Bundesrain 20 / CH - 3003 Berne

Tel. + 41 (0)31 322 41 16 / Fax + 41 (0)31 312 14 07

info@bj.admin.ch

http://www.ejpd.admin.ch/ejpd/fr/home/themen/kriminalitaet/ref_korruption_greco.html

Federal Department of Foreign Affairs (DFA)

Coordination of Sectoral Policies

Bundesgasse 28 / CH – 3003 Berne

Tel. + 41 (0)31 324 99 84 / Fax + 41 (0)31 324 90 72

PA5-finanz-wirtschaft@eda.admin.ch

<http://www.eda.admin.ch/eda/fr/home/topics/finec/intcr/corrupt.html>

Federal Office of Police (fedpol)

Nussbaumstrasse 29 / CH-3003 Berne

Tel. +41 (0)31 323 11 23, Fax +41 (0)31 322 53 04

<http://www.fedpol.admin.ch/fedpol/fr/home.html>

Office of the Attorney General of Switzerland

Taubenstrasse 16, CH-3003 Berne

Tel. +41 (0)31 322 45 79 / fax +41 (0)31 322 45 07

info@ba.admin.ch

<http://www.ba.admin.ch/ba/fr/home.html>

Relevant Internet links to national implementing legislation

Articles 322^{ter} - 322^{octies} CP (“Provisions on corruption”):

http://www.admin.ch/ch/f/rs/311_0/index2.html

Articles 102 - 102a CP (“Provisions on corporate liability”):

http://www.admin.ch/ch/f/rs/311_0/index1.html

Article 337 CP (“Provision on federal jurisdiction regarding organised crime, the financing of terrorism and economic crime”):

http://www.admin.ch/ch/f/rs/311_0/index3.html

Brochure

In 2008, the Swiss State Secretariat for Economic Affairs (SECO), in collaboration with the Federal Office of Justice, the Federal Department of Foreign Affairs, the Swiss Business Federation (economiesuisse) and Transparency International Switzerland, published a second revised edition (first edition 2003) of a booklet aimed at Swiss businesses operating abroad - especially SMEs - and offering

advice on preventing corruption, as well as information on relevant legal provisions and competent authorities.

In English:

<http://www.seco.admin.ch/dokumentation/publikation/00035/00038/01711/index.html?lang=en>

In French:

<http://www.seco.admin.ch/dokumentation/publikation/00035/00038/01711/index.html?lang=fr>

Signature/Ratification of other relevant international instruments

Switzerland has ratified the Council of Europe's Criminal Law Convention on Corruption on 31 March 2006 and has acceded to GRECO on July 1, 2006. The United Nations Convention against Corruption has been signed on 10 December 2003; the procedure towards ratification is under way.

Working Group on Bribery Monitoring Reports

Phase 1: Review of implementation of the Convention and 1997 Recommendation

www.oecd.org/dataoecd/16/47/2390244.pdf

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/43/16/34350161.pdf>

Phase 2: Follow-up Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/7/60/38898790.pdf>

On the occasion of the publication of the Phase 2 Monitoring Report in February 2005, a media conference was held in Berne. In addition to the Report, a press release and several explanatory documents were published on the State Secretariat for Economic Affairs' website.

In French:

<http://www.seco.admin.ch/aktuell/00277/01164/01980/index.html?lang=fr&msg-id=10409>

TURKEY

(Information as of 1 June 2006)

Date of Deposit of Instrument of Ratification

26.07.2000

Implementing Legislation

Identification of the Law

Name: Act on Amendment of Turkish Penal Code

Number: 5377

Description: Act numbered 5377 and dated 29/06/2005, amending the Turkish Penal Code, numbered 5237 came into force on 1 June 2005 which stipulates bribery of foreign public officials in Article 252/5. This new amended provision replaces the previous Act numbered 4782 and dated 02/01/2003.

Adoption and Entry into Force

Date of Adoption: 29.06.2005

Date of Entry into Force: 08.07.2005

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

- “New Turkish Penal Code”
- “Public Procurement Act”
- “The Act on Prevention of Money Laundering”
- “The Act on Civil Servants”
- “The Act on Declaration of Properties, Combating Bribery and Corruption”
- “The Act on the Right to Access to Information”
- “The Act on Combating Organizations Pursuing Illicit Gain”

Other Information

Relevant Authority

Public Prosecutor is the authority to whom report information on bribery offence.

Other Relevant Authorities: Ministry of Justice

Internet Link

<http://www.adalet.gov.tr>

Relevant International Instruments:

- “United Nations Convention against Corruption”: Date of Signature: 10 December 2003. Approval by the Turkish Grand National Assembly: 18.05.2006.
- The United Nations Convention against Transnational Organized Crime”: Approval by the Turkish Grand National Assembly: 30.01.2003.
 - “Council of Europe’s Civil Law Convention”: Approval by the Turkish Grand National Assembly: 17.04.2003.
 - “Council of Europe’s Criminal Law Convention on Corruption”: Approval by the Turkish Grand National Assembly: 14.01.2004.
 - “The Council of Europe’s Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime”: Approval by the Turkish Grand National Assembly: 16.06.2004.

Working Group on Bribery Monitoring Reports

Phase 1: Review of implementation of the Convention and 1997 Recommendation
<http://www.oecd.org/dataoecd/17/6/33967367.pdf>

UNITED KINGDOM

(Information as of 12 September 2008)

Date of deposit of instrument of ratification/acceptance or date of accession

The United Kingdom signed the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (“the OECD Convention”) on December 17 1997, and deposited its instrument of ratification on December 14 1998. The UK’s ratification was extended to the Isle of Man in 2001.

Implementing legislation

The Anti-Terrorism, Crime and Security Act 2001 received the Royal Assent on 14 December 2001. As such, Part 12 of the Act, which came into force on 14 February 2002, amended the scope of the UK law as it relates to bribery, bringing in provisions to strengthen the law on international corruption.

Other relevant laws, regulations or decrees that have an impact on a country’s implementation of the OECD Convention or the Recommendations

The Anti-Terrorism, Crime and Security Act 2001 came into force in 2002. This introduced new provisions to give UK courts jurisdiction over crimes committed entirely abroad by UK nationals and UK companies.

The UK has prosecuted the crime of bribery under the common law (unwritten) for many centuries but the crime of corruption only entered statute law (written) in 1889 when Lord Randolph Churchill MP introduced a Private Members’ Bill which became the Public Bodies Corrupt Practices Act 1889 which outlawed bribery of public officials.

The UK legislated twice more before the Convention came into being through the Prevention of Corruption Acts 1906 and 1916. The 1906 Act makes it a crime to bribe any ‘agent’. An agent is anybody employed by or acting for another, whether in the public or private sector. The 1916 Act changed the law to include a presumption of corruption. Before the Anti-Terrorism, Crime and Security Act 2001 if the substance of the offence was committed in the UK it would be prosecutable.

Most recently Criminal Justice and Immigration Act 2008. Section 59 of this Act extends SFO powers to compel the production of documents at the earlier vetting stage of foreign bribery cases. These new pre-investigation powers will facilitate the sifting of allegations and enable swifter action against well-founded cases. These new powers came into force on 14 July 2008.

Law Reform

In March 2007, the Government commissioned the Law Commission to undertake a fundamental review of the law on bribery as a matter of priority. The Law Commission’s consultation exercise on its

initial proposals closed in March 2008 and the review is expected to report in November 2008. The Government awaits the Law Commission's report and will give careful consideration to its proposals.

The Government announced in May 2008, in its Draft Legislative Programme for 2008/09, that it intends to publish a draft Government Bill on reform of the law on bribery for pre-legislative scrutiny in Parliament.

Other information

Relevant authorities

Department for Business, Enterprise and Regulatory Reform,
1 Victoria Street
London
SW1H 0ET
Tel: 0207 215 6206
Fax: 0207 215 2235

Relevant Internet links to national implementing legislation

<http://www.hmso.gov.uk/acts/acts2001/20010024.htm>

<http://www.hmso.gov.uk/acts/en2001/2001en24.htm>

Signature/Ratification of other relevant international instruments

The United Kingdom has signed the Council of Europe Criminal Law Convention on Corruption and joined GRECO (www.greco.coe.int). The round 1 report was published September 2001 and the compliance report published August 2003. An on-site evaluation mission was completed April 2004. The United Kingdom signed the United Nations Convention Against Corruption (UNCAC) on 9 December 2003 and ratified UNCAC on 14 February 2006. UK Law became fully compliant with the convention when the Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) Order 2005 came into force on the 31 December 2005, and the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 came into effect on 1 January 2006.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation
<http://www.oecd.org/dataoecd/8/24/2754266.pdf>

Phase 1bis: <http://www.oecd.org/dataoecd/12/50/2498215.pdf> Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions.
<http://www.oecd.org/dataoecd/62/32/34599062.pdf>

The site visit by lead examiners and secretariat took place in July 2004. The report was debated at the December 2004 Bribery Working Group meeting and published on 18 March 2005. Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions:

<http://www.oecd.org/dataoecd/43/13/38962457.pdf>

Judicial decisions (and enforcement actions)

Since 14 February 2002, 159 allegations of corruption have been recorded against British citizens or companies. Until July 2005, these were referred to the National Criminal Intelligence Service (NCIS). Since that date the Serious Fraud Office has acted as the 'gateway' in the UK for all such referrals or reports. These referrals are the subject of a preliminary investigation by the SFO or passed on to the appropriate police or prosecution agency.

As of November 2006, a new 10 person unit in the City of London Police, the Overseas Anti-Corruption Unit (OACU), has been providing dedicated support to the SFO on a number of foreign bribery matters. From April 2008, OACU received additional funding to expand through the recruitment of two new officers.

On 22 August 2008 the first UK prosecution of the foreign bribery offence was heard in Southwark Crown Court. A director of a UK-based company pleaded guilty to making corrupt payments to foreign officials and was charged under Section 1 of the Prevention of Corruption Act 1906. Sentencing will be at a later hearing.

UNITED STATES

(Information as of 13 June 2007)

Date of deposit of instrument of ratification/acceptance or date of accession

Deposit of instrument of ratification/acceptance: 8 December 1998

Entry into force of the Convention: 15 February 1999

Entry into force of implementing legislation: 10 November 1998

Implementing legislation

Foreign Corrupt Practices Act of 1977, 15 U.S.C. 78dd-1, et seq., as amended by the International Anti-Bribery and Fair Competition Act of 1998, Pub. L 105-366, signed on 10 November 1998.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

- The Civil Asset Forfeiture Reform Act (CAFRA) of 2000 made it possible to seek civil and criminal forfeiture of the proceeds of foreign bribery.
- The President signed an executive order in March 2002 designating the European Union's organisations and Europol as public international organisations, making bribery of officials from these organisations a violation of the FCPA.
- The U.S. Sentencing Commission promulgated amendments, effective November 2002, making violations of the FCPA and violations of the domestic bribery law subject to the same sentencing guidelines.
- The Sarbanes-Oxley Act of 2002 made violations of foreign bribery laws as predicate offences under the Money Laundering Control Act, 18 U.S.C. § 1956.

Other information

Relevant authorities

U.S. Department of Justice
Criminal Division, Fraud Section
10th & Constitution Ave. NW (Bond 4th floor)
Washington, D.C. 20530
Tel: 202-514-7023
Fax: 202-514-7021

U.S. Securities and Exchange Commission
Enforcement Division
100 F. Street, N.E.
Washington, DC 20549
Tel: 202-551-4500
Fax: 202-772-9279

Relevant Internet links to national implementing legislation, for example

www.usdoj.gov/criminal/fraud/fcpa.html

Signature/Ratification of other relevant international instruments

The United States has also ratified the Inter-American Convention against Corruption, signed the Council of Europe Criminal Law Convention on Corruption and the U.N. Convention, and joined GRECO. The United States Senate voted September 15, 2006 to consent to ratification of the U.N. Convention Against Corruption. The United States became a party to the U.N. Convention on 29 November 2006.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/16/50/2390377.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/52/19/1962084.pdf>

Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions

<http://www.oecd.org/dataoecd/7/35/35109576.pdf>

Judicial decisions (and enforcement actions)

Court decisions, first instance and appeal courts, relevant to the enforcement of the Convention and other relevant legislation should be provided to the Group as soon as possible.

United States v. Christian Sapsizian and Edgar Valverde Acosta (S.D. Florida): On June 8, 2007, in the Southern District of Florida, Christian Sapsizian, a former Alcatel CIT executive, pleaded guilty to one count of conspiracy (Count 1: 18 U.S.C. § 371) and one count of violating the Foreign Corrupt Practices Act (Count 2: 15 U.S.C. § 78dd-1) contained in a superseding indictment, which added co-defendant Edgar Valverde Acosta, returned on March 20, 2007, in connection with a scheme to make corrupt payments to Costa Rican officials to obtain a mobile telephone contract from the state-owned telecommunications authority. As part of the plea agreement, Sapsizian agreed to fine and forfeiture amounts and to cooperate with law enforcement officials in an ongoing investigation. Sentencing is scheduled for December 20, 2007.

Sapsizian was the Deputy Vice President of Latin America for Alcatel CIT, a wholly owned subsidiary of Alcatel, S.A., a global telecommunication services company at the time of the alleged conduct. Sapsizian admitted that from February 2000 through September 2004, he conspired with co-defendant Acosta, a Costa Rican citizen who was Alcatel's senior country officer in Costa Rica, and others to pay more than \$2.5 million in bribes to senior Costa Rican officials in order to obtain a mobile telephone contract on behalf of Alcatel. The payments, funneled through one of Alcatel's Costa Rican consulting firms, were made to a director of Instituto Costarricense de Electricidad (ICE), the state-owned telecommunications authority in Costa Rica, which was responsible for awarding all telecommunications contracts. Sapsizian further admitted that the ICE director was an advisor to a senior government official and the payments were shared with the senior government official. According to Sapsizian, the payments were intended to cause the ICE director and the senior government official to exercise their influence to initiate a bid process which favored Alcatel's technology and to vote to award Alcatel a mobile telephone contract. Alcatel was in fact awarded a \$149 million mobile telephone contract in August 2001.

United States v. William J. Jefferson (E.D. Virginia): On June 4, 2007, in the Eastern District of Virginia, United States Congressman William J. Jefferson was charged in a 16-count indictment with two counts of conspiracy (Counts 1-2: 18 U.S.C. § 371), two counts of solicitation of bribes (Counts 3-4: 18 U.S.C. § 201(b)(2)(A)), six counts of honest services wire fraud (Counts 5-10: 18 U.S.C. §§ 1343 and 1346), one count of violating the Foreign Corrupt Practices Act (FCPA)(Count 11: 15 U.S.C. § 78dd-2(a)), three counts of money laundering (Counts 12-14: 18 U.S.C. § 1957), one count of obstruction of justice (Count 15: 18 U.S.C. § 1512(c)(1)), and one count of violation of the Racketeer Influenced Corrupt Organization Act (RICO)(Count 16: 18 U.S.C. § 1962(c)). The indictment also seeks forfeiture (18 U.S.C. §§ 981, 982, 1963; 28 U.S.C. § 2461).

The indictment alleges that from August 2000 through August 2005, Congressman Jefferson, while serving as an elected member of the U.S. House of Representatives, used his position and his office to corruptly seek, solicit and direct that things of value be paid to Jefferson and his family members in exchange for his performance of official acts to advance the interests of people and businesses who paid him the bribes.

The things of value allegedly sought and received by Jefferson on behalf of his business interests and relatives included hundreds of thousands of dollars worth of bribes in the form of monthly fees or retainers, consulting fees, percentage shares of revenues and profits, flat fees for items sold and stock ownership in the companies seeking his official assistance. The official activities allegedly undertaken by Jefferson included leading official business delegations to Africa, corresponding with U.S. and foreign government officials, and utilizing congressional staff members to promote these businesses and business persons. Business ventures that Jefferson sought to promote included: telecommunications deals in Nigeria, Ghana, and elsewhere; oil concessions in Equatorial Guinea; satellite transmission contracts in Botswana, Equatorial Guinea, and the Republic of Congo; and development of different plants and facilities in Nigeria.

The indictment alleges that Jefferson knowingly conspired with Vernon L. Jackson, a Louisville, Kentucky, businessman, and Brett M. Pfeffer, a former Jefferson congressional staff member, and others as part of the bribery and corruption scheme. Jefferson allegedly discussed and solicited bribes in return for being influenced in the performance of certain official acts, including receiving things of value from iGate, Jackson's company. According to the indictment, Jefferson also corruptly sought bribes from an individual identified in the indictment as a Cooperating Witness (CW) to be paid to family members. The indictment alleges, for example, that Jefferson required 5-7 percent of the CW's newly formed Nigerian company be given to members of his family in exchange for his assistance. Jefferson allegedly made the request of the CW in December 2004, during a meeting in a congressional dining room.

The indictment further alleges that Jefferson violated the Foreign Corrupt Practices Act by allegedly offering, promising and making payments to foreign officials to advance the various business endeavors in which he and his family had a financial interest. Jefferson was allegedly responsible for negotiating, offering and delivering payments of bribes to one official identified in the indictment as “Nigerian Official A.”

United States v. Baker Hughes Services International, Inc. and Baker Hughes Incorporated (S.D. Texas): On April 26, 2007, in the Southern District of Texas, Baker Hughes Services International, Inc. (BHSI), a wholly owned subsidiary of Baker Hughes Incorporated, pleaded guilty to a three-count criminal information, filed under seal on April 11, 2007, charging it with one count of conspiracy (Count 1: 18 U.S.C. § 371), one count of violating the Foreign Corrupt Practices Act (FCPA)(Count 2: 15 U.S.C. § 78dd-2(a)), and one count of aiding and abetting the falsification of books and records (Count 3: 15 U.S.C. §§ 78m(b)(2)(A), 78m(b)(5), and 78ff(a)). Also on April 26, the parent corporation, Baker Hughes Incorporated, entered into a two-year deferred prosecution agreement in connection with a three-count criminal information, filed under seal on April 11, 2007, charging it with one count of conspiracy, one count of violating the FCPA (15 U.S.C. § 78dd-1(a)) and one count of falsification of books and records. Both informations were unsealed on April 26, 2007.

As part of the plea agreement, it was agreed that BHSI would pay a criminal fine of \$11 million, serve a three-year term of organizational probation and adopt a comprehensive anti-bribery compliance program. Under the terms of the deferred prosecution agreement, Baker Hughes has agreed to hire an independent monitor for three years to oversee the creation and maintenance of a robust compliance program and to continue to cooperate completely with the Department in ongoing investigations into corrupt payments by company employees and managers.

In a related matter, Baker Hughes reached a settlement of a complaint filed by the Securities and Exchange Commission under which it agreed to pay \$10 million in civil penalties and more than \$23 million in disgorgement of all profits it earned in connection with the Karachaganak project, including prejudgment interest. The \$44 million in combined fines and penalties is the largest monetary sanction ever imposed in an FCPA case.

As the charging and plea documents reflect, the government of Kazakhstan and Kazakhoil, entered into an agreement with a consortium of four international oil companies for the purpose of developing and operating a giant oil field known as Karachaganak in northwestern Kazakhstan. In February 2000, BHSI submitted a bid, on behalf of Baker Hughes, to perform comprehensive services such as project management, oil drilling, and support services in connection with the Karachaganak project. Kazakhoil wielded considerable influence as Kazakhstan’s national oil company, and the ultimate award of any contract by the consortium of international oil companies depended upon the favorable recommendation of Kazakhoil officials. After BHSI submitted its bid for the Karachaganak project and before the award was announced, Kazakhoil officials demanded that Baker Hughes pay a commission to “Consulting Firm A,” located on the Isle of Man, to act as its agent. Although Consulting Firm A had performed no services to assist Baker Hughes, in September 2000, BHSI agreed to pay a commission equal to 2 percent of the revenue earned on the Karachaganak project, and 3 percent on future projects in Kazakhstan. Baker Hughes was awarded the contract for Karachaganak in October 2000. From May 2001 through November 2003, Baker Hughes paid a total of \$4.1 million in commissions to Consulting Firm A. The payments were made from a BHSI bank account in Houston to an account of Consulting Firm A at a bank in London.

SEC v. Baker Hughes Incorporated and Roy Fearnley, (Case No. H-07-1408 (S.D. Tex.) (EW), filed April 26, 2007, Litigation Release No. 20094). On April 26, 2007, the Commission filed a settled enforcement action charging Baker Hughes Incorporated with violations of the FCPA. Without admitting or denying the charges, Baker Hughes agreed to pay more than \$23 million in disgorgement and

prejudgment interest for its violations and to pay a civil penalty of \$10 million for violating a 2001 Commission cease-and-desist Order prohibiting violations of the books and records and internal controls provisions of the FCPA. In the Matter of Baker Hughes Incorporated, Admin. Proc. No. 3-10572 (September 12, 2001). In the same action, the SEC also charged Roy Fearnley, a former business development manager for Baker Hughes, with violating and aiding and abetting violations of the FCPA. Fearnley has not reached any settlement with the Commission regarding these charges. The SEC's complaint alleges that Baker Hughes paid approximately \$5.2 million to two agents while knowing that some or all of the money was intended to bribe government officials, specifically officials of State-owned companies, in Kazakhstan. The SEC's complaint against Baker Hughes also alleges violations of the books and records and internal controls provisions of the FCPA in Nigeria, Angola, Indonesia, Russia, Uzbekistan and Kazakhstan. In addition to the monetary sanctions, Baker Hughes consented to the entry of a permanent injunction from future violations of certain provisions of the federal securities laws and to retain an independent consultant to review the company's FCPA compliance and procedures.

SEC v. Charles Michael Martin, Case No. 1:07CV0434 (D.D.C.) (filed March 6, 2007), Litigation Release No. 20029: On March 6, 2007, the Commission filed a settled enforcement action charging Charles Michael Martin with violations of the Foreign Corrupt Practices Act ("FCPA"). In its complaint, the Commission alleged that in 2002, Martin authorized and directed an Indonesian consulting firm to pay a bribe of \$50,000 to a senior Indonesian Ministry of Environment official ("the Senior Environment Official"). The complaint alleged that the illegal payment was made to influence the Senior Environment Official to repeal language in a decree that was unfavorable to Monsanto's business in Indonesia. The complaint further alleged that Martin directed a false invoicing scheme to conceal the unlawful activity; Martin approved the false invoices; and Martin took steps to ensure that Monsanto paid the false invoices. Without admitting or denying the charges, Martin consented to the entry of a final judgment permanently enjoining him from violating and/or aiding and abetting violations of the anti-bribery, books and records, and internal controls provisions of the FCPA. Martin also agreed to pay a \$30,000 civil penalty. Based, in part, on these allegations, the Commission previously filed a settled enforcement action and instituted settled administrative proceedings against Monsanto. [SEC v. Monsanto Co., Case No. 1:05CV00014 (D.D.C. January 6, 2005); Monsanto Company, No. 3-11789, Exchange Act Rel. No. 19023 (January 6, 2005)].

In the Matter of The Dow Chemical Company, Admin. Proc. File No. 3-12567. On February 13, 2007, the Commission filed a settled enforcement action against The Dow Chemical Company ("Dow"). Without admitting or denying the Commission's findings the company agreed to cease-and-desist from violating the books and records and internal control provision of the FCPA and to pay a civil penalty of \$325,000. The Commission's order found that a fifth-tier foreign subsidiary of Dow made an estimated \$200,000 in improper payments to Indian government officials from 1996 through 2001. The order found that the Dow subsidiary, DE-Nocil Crop Protection Ltd. ("DE-Nocil"), headquartered in Mumbai, India, manufactured and marketed pesticides and other products primarily for use in the Indian agriculture industry. According to the order, beginning in 1996, DE-Nocil made approximately \$39,700 in improper payments to an official in India's Central Insecticides Board to expedite the registration of three DE-Nocil products. The order also found that from 1996 to 2001, DE-Nocil made \$87,400 in improper payments to state officials in order to distribute and sell its products. The order further states that, in addition to these payments, DE-Nocil also made improper payments to Indian government officials consisting of an estimated \$37,600 for gifts, travel, entertainment and other items; \$19,000 to government business officials; \$11,800 to sales tax officials; \$3,700 to excise tax officials; and \$1,500 to customs officials. In sum, over a six-year period, DE-Nocil distributed an estimated total of \$200,000 in improper payments through federal and state channels. According to the order, none of these payments were accurately reflected in Dow's books and records, and Dow's system of internal accounting controls failed to prevent the payments.

Securities & Exchange Commission v. El Paso Corporation, Civil Action No. 07CV00899 (S.D.N.Y.) On February 7, 2007, the Securities and Exchange Commission filed a settled enforcement action against El Paso Corporation (“El Paso”), a Texas based energy company, alleging that it violated the books and records and internal controls provisions of the Foreign Corrupt Practices Act. Without admitting or denying the allegations in the Commission’s complaint, El Paso consented to the entry of a final judgment permanently enjoining it from future violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Securities Exchange Act of 1934, ordering it to disgorge \$5,482,363 in profits, and to pay a civil penalty of \$2,250,000. The parties agreed that El Paso would satisfy its disgorgement obligation by forfeiting \$5,482,363 pursuant to a non-prosecution agreement with the U.S. Attorney’s Office for the Southern District of New York. The Commission’s complaint alleges that from approximately June 2001 through June 2002, El Paso, and its predecessor in-interest The Coastal Corporation, indirectly made approximately \$5.5 million in illegal surcharge payments to Iraq in connection with its purchases of crude oil from third parties under the U.N. Oil for Food Program. The complaint further alleges that in September 2000, The Coastal Corporation – which merged with an El Paso subsidiary in January 2001 - received its first surcharge demand from a SOMO official. An El Paso consultant and former Coastal official arranged a \$201,877 surcharge payment on the company’s behalf. After receiving notice from SOMO that all oil contracts would include surcharges, El Paso ceased direct purchases from SOMO but continued its purchases through third parties. Beginning in June 2001, El Paso entered into fourteen additional third-party transactions involving fifteen contracts to purchase some 21.4 million barrels of oil. Approximately 25 to 30 cents of every barrel was illegally kicked back to Iraq by third parties. El Paso knew, or was reckless in not knowing, that \$5.5 million in illegal surcharges were made on those contracts, and passed back to El Paso in premiums.

United States v. Vetco Gray Controls, Inc., Vetco Gray Controls, Ltd., Vetco Gray UK Ltd., and Aibel Group Limited (S.D. Texas): On February 6, 2007 three wholly owned subsidiaries of Vetco International, Ltd., a global supplier of products and services for oil drilling production, pleaded guilty and were sentenced for conspiring to violate the FCPA and for violating the anti-bribery provisions of the FCPA in connection with the payment of approximately \$2.1 million in corrupt payments to Nigerian government officials to avoid paying customs duties. From September 2002 to April 2005 these corrupt payments were paid through a major international freight forwarding and customs clearance company to employees of the Nigerian Customs Service. Aibel Group, Ltd., another wholly owned subsidiary of Vetco International, simultaneously entered into a deferred prosecution agreement regarding the same underlying conduct. As part of the plea and deferred prosecution agreements, it was agreed that Vetco Gray Controls Inc., Vetco Gray Controls Ltd., and Vetco Gray UK Ltd. would pay criminal fines of \$6 million, \$8 million, and \$12 million, respectively, for a total of \$26 million. In addition to the criminal fines, the plea agreements and the deferred prosecution agreement require the defendants to hire an independent monitor to oversee the creation and maintenance of a robust compliance program.

Schnitzer Steel Industries Inc.; United States v. SSI International Far East Ltd. (D. Or. 2006): On October 16, 2006, SSI International Far East Ltd. (SSI Korea), a wholly-owned subsidiary of Schnitzer Steel Industries Inc., pled guilty to violating the Foreign Corrupt Practices Act, conspiracy, and wire fraud in connection with more than \$1.8 million in corrupt payments to officers and employees of government-owned customers in China and South Korea to induce them to purchase scrap metal from Schnitzer Steel. SSI Korea was sentenced to pay a \$7.5 million criminal fine. Schnitzer Steel Industries Inc. entered into a three-year deferred prosecution agreement regarding the same underlying activity and agreed to the appointment of a compliance consultant.

In the Matter of Schnitzer Steel Industries, Inc., Admin. Proc. File No. 3-12456. On October 16, 2006, the Commission filed a settled enforcement action against Schnitzer Steel Industries, Inc. (“Schnitzer”). Without admitting or denying the Commission’s findings the company agreed to cease-and-desist from violating the anti-bribery, books and records and internal controls provisions of the FCPA

and pay disgorgement of \$7,725,201. The Commission's order found that Schnitzer, an Oregon-based steel company that sells scrap metal, from at least 1999 through 2004, paid cash kickbacks or made gifts to managers of government-controlled steel mills in China to induce those managers to purchase scrap metal from Schnitzer. Schnitzer made the payments on its own behalf and as a broker for Japanese steel companies. During this period, Schnitzer also paid bribes to managers of private steel mills in China and South Korea, and improperly concealed those payments in its books and records.

United States v. Statoil ASA (S.D.N.Y. 2006): Statoil ASA, a Norwegian corporation listed on the New York Stock Exchange, entered into a three-year deferred prosecution agreement on October 13, 2006; admitted to paying \$5.2 million in bribes to an Iranian official in order to secure oil and gas rights in Iran; agreed to pay a \$10.5 million penalty, with a credit for the approximately \$3 million fine imposed by Okokrim in connection with a proceeding in Norway; and agreed to the appointment of a compliance consultant. Statoil agreed to cooperate fully with the Department of Justice and the SEC in connection with further inquiries.

In the Matter of Statoil, ASA, Admin. Proc. File No. 3-12453. On October 13, 2006, the Commission filed a settled enforcement action against Statoil, ASA ("Statoil"). Without admitting or denying the Commission's findings the company agreed to cease-and-desist from violating the anti-bribery, books and records and internal controls provisions of the FCPA and pay disgorgement of \$10,500,000. The Commission's order found that In June 2002 and January 2003, Statoil paid bribes to an Iranian government official (the "Iranian Official") in order for him to use his influence to: (i) assist Statoil in obtaining a contract to develop three phases of the South Pars oil and gas field in Iran (the "South Pars Project") and (ii) open doors to additional projects in the Iranian oil and gas exploration industry. The Iranian Official was the head of the Iranian Fuel Consumption Optimizing Organization ("IFCOO"), a subsidiary of the National Iranian Oil Company ("NIOC"). Statoil agreed to pay the Iranian Official through a consulting contract (the "Contract") with an intermediary company (the "Consulting Company") organized in the Turks and Caicos Islands and nominally owned by a third party located in London, England. The Contract obligated Statoil to make initial payments of \$200,000 and \$5 million, and ten subsequent annual payments of \$1 million each. In October 2002, Statoil obtained the contract to develop the South Pars Project. Statoil made the initial payments to the Iranian Official, but in June 2003, Statoil suspended payments under the Contract. On September 6, 2003, the Contract was publicly disclosed in the Norwegian press. On September 10, 2003, Statoil terminated the Contract. The next day, the Norwegian authorities announced an investigation into the Contract. During the relevant time period, Statoil employees circumvented Statoil's internal controls and procedures that were in place to prevent illegal payments, and Statoil lacked sufficient internal controls. In addition, by mischaracterizing the payments as legitimate consulting fees, Statoil violated the books and records provisions of the federal securities laws.

United States v. Jim Bob Brown (S.D. Tex. 2006): Jim Bob Brown, a former executive of a subsidiary of Houston-based Willbros Group Inc., pled guilty to violating the FCPA on September 14, 2006. Brown acknowledged that he and another Nigeria-based Willbros executive paid approximately \$1.5 million in cash as part of a conspiracy to make corrupt payments to officials of the Nigerian state-owned oil company to obtain and retain gas pipeline construction business in Nigeria. Brown also admitted that he conspired with Willbros employees to pay at least \$300,000 to officials of the Ecuadorian state-owned oil company to obtain a gas pipeline rehabilitation contract. Brown is cooperating with the ongoing investigation and has not yet been sentenced.

SEC v. Jim Bob Brown, Civil Action No. 06-CV-2919, U.S.D.C./Southern District of Texas (Houston Division). On September 14, 2006, Commission filed a civil action against Jim Bob "J.B." Brown, a former employee of a subsidiary of Willbros Group, Inc., alleging that Brown violated and aided and abetted violations of the anti-bribery provisions of the FCPA, the prohibitions against circumventing internal controls and falsifying records, and the books and records and internal controls provisions of the

Exchange Act. Brown has agreed to settle the charges against him, without admitting or denying the allegations in the Commission's complaint.

The Commission alleges in its complaint that Brown, a former supervisory employee in Willbros's Nigerian and Latin American operations, participated in three separate schemes to bribe foreign officials. First, the complaint alleges that, in February and March 2005, Brown procured \$1 million on behalf of a Willbros affiliate and delivered that money as partial payment of previously-made commitments to Nigerian government officials and to employees of the operator of a joint venture majority owned by an arm of the Nigerian government. He also assisted, according to the complaint, in the payment of an additional \$550,000 that was also used to satisfy the earlier commitments. Second, Brown, in return for the granting to Willbros of a \$3 million contract, knowingly assisted a scheme to pay a \$300,000 bribe to officials of an oil and gas company owned by the government of Ecuador and its subsidiary. Finally, Brown knowingly assisted a long-running scheme in which employees of Willbros affiliates used fabricated invoices to procure cash from the company's administrative headquarters in Houston that was used to, among other things, bribe Nigerian tax and court officials.

The Commission alleges that, through these activities, Brown violated Sections 13(b)(5) and 30A of the Exchange Act and Rule 13b2-1 thereunder. In addition, the complaint alleges that Brown aided and abetted violations of Sections 13(b)(2)(A), 13(b)(2)(B) and 30A of the Exchange Act. Without admitting or denying the allegations in the complaint, Brown consented to the entry of a judgment that permanently enjoins him from future violations of these provisions. Pursuant to the judgment, the Court will determine, at a later date upon motion by the Commission, whether to order Brown to pay a civil penalty and the amount of such penalty.

United States v. Yaw Osei Amoako (D.N.J. 2006): On September 6, 2006, Yaw Osei Amoako pled guilty to conspiring to violate the FCPA and the Travel Act during his employment as a regional manager for Africa by the ITXC Corporation (in 2004, ITXC merged with Teleglobe International Holdings Ltd.). Amoako acknowledged that he paid approximately \$266,000 in bribes in the form of illegal "commissions" to employees of foreign state-owned telecommunications carriers in various African countries. Sentencing is scheduled for December 11, 2006.

SEC v. Yaw Osei Amoako (Civil Action No. 05-4284, GEB, D.N.J.) On September 1, 2005 the Securities and Exchange Commission filed a civil enforcement action in the U.S. District Court for the District of New Jersey against Yaw Osei Amoako, the former Regional Director for Africa of ITXC Corp., alleging that he violated the anti-bribery provisions of the Foreign Corrupt Practices Act of 1997 (FCPA), as amended, which is codified as Section 30A of the Securities Exchange Act of 1934. The Commission's complaint alleges that Amoako bribed a senior official of the government-owned telephone company in Nigeria, known as Nigerian Telecommunications Ltd., in order to obtain a lucrative contract for ITXC. The contract was necessary for ITXC to be able to transmit telephone calls to individuals and businesses in Nigeria. According to the complaint, Amoako paid the Nitel official a total of \$166,541.31 in bribes between November 2002 and May 2004, and ITXC made \$1,136,618 in net profits from the contract. In 2004, ITXC merged with Teleglobe International Holdings Ltd. The Commission seeks to have the Court enjoin Amoako from any future violations of the FCPA, require him to disgorge all ill-gotten gains derived from his misconduct, and order him to pay a civil money penalty. The Commission's investigation is continuing.

SEC v. Steven J. Ott and Roger Michael Young, Civil Action No. 06-4195 (GEB) (D.N.J.). On September 6, 2006, the Commission filed a civil enforcement against two former executives of ITXC Corp. (ITXC). Steven J. Ott, the former Vice President for Global Sales, and Roger Michael Young, the former Managing Director for the Middle East and Africa, were charged with violating the anti-bribery provisions of the Foreign Corrupt Practices Act of 1997 (FCPA), as amended, which is codified as Section

30A of the Securities Exchange Act of 1934 (Exchange Act). The complaint also alleges that Ott and Young caused ITXC to record the bribes as legitimate business expenses on its books and records, which violated Exchange Act Section 13(b)(5) and Exchange Act Rule 13b2-1 and aided and abetted ITXC's violations of Exchange Act Sections 13(b)(2)(A) and 13(b)(2)(B).

ITXC was a publicly-held international telecommunications carrier based in Princeton, New Jersey that sought to do business in Africa. According to the complaint, Ott and Young approved, and in some cases negotiated, bribes that ITXC paid to senior officials of government-owned telephone companies in Nigeria, Rwanda and Senegal, in order to obtain contracts that were necessary for ITXC to be able to transmit telephone calls to individuals and businesses in those countries. The complaint alleges that Ott and Young were responsible for \$267,468.95 in bribes that ITXC paid between August 2001 and May 2004. The complaint further alleges that ITXC made \$11,509,733 in net profits from the contracts. In 2004, ITXC merged with Teleglobe International Holdings Ltd., which was subsequently acquired by Videsh Sanchar Nigam Ltd. in 2006.

The Commission is seeking injunctions, disgorgement of all ill-gotten gains derived from the alleged misconduct (with prejudice interest thereon) and civil penalties against Ott and Young.

United States v. Faheem Mousa Salam (D.D.C. 2006): Faheem Mousa Salam, a former employee of a U.S. government contractor working in Iraq, pled guilty to violations of the FCPA on August 4, 2006. Salam admitted that he offered a senior Iraqi police official approximately \$60,000 in exchange for the official's assistance with facilitating the sale of armored vests and a sophisticated map printer for approximately \$1 million. Salam also acknowledged that he later offered an undercover agent of the Office of the Special Inspector General for Iraq Reconstruction a separate bribe to process the contracts.

SEC v. John Samson, John G. A. Munro, Ian N. Campbell, and John H. Whelan, Civil Action No. 06 CV 01217 (D.D.C.). On July 5, 2006, the Commission filed a settled complaint charging four former employees of subsidiaries of ABB Ltd., with violating the anti-bribery provisions of the FCPA. The Commission's complaint alleges that the four former employees -- John Samson, a former regional sales manager for West Africa, John G. A. Munro, a former senior vice president of operations, Ian N. Campbell, a former vice president of finance, and John H. Whelan, a former vice president of sales -- participated in a scheme by offering, approving, and/or paying bribes to Nigerian government officials in furtherance of ABB's bid to obtain a \$180 million contract to provide equipment for an oil drilling project in Nigeria's offshore Bonga Oil Field. According to the complaint, as a result of the defendants' actions, during the period 1999 through 2001, ABB paid approximately \$1 million in bribes to officials of National Petroleum Investment Management Services ("NAPIMS"), the Nigerian state-owned agency responsible for overseeing oil exploration and production in Nigeria. The Commission alleges that these illicit payments -- which took the form of both cash and gifts -- were intended to induce and reward NAPIMS officials for providing ABB with confidential competitor bid information, and securing favorable consideration of ABB's bid on the Bonga contract, which ultimately was awarded to ABB in early 2001.

The Commission alleges that during the tender process for the Bonga contract in 2000, Samson, the regional sales manager for West Africa, negotiated to pay six NAPIMS officials a total of \$800,000 in bribes. The Commission further alleges that Samson subsequently informed Munro and Campbell of the payments promised to the NAPIMS officials. According to the complaint, at the direction of a senior officer (now deceased) of ABB's Vetco Gray U.S. subsidiary, Munro instructed Campbell and Samson to arrange payment to the NAPIMS officials using a local consultant as a conduit. The complaint alleges that Campbell arranged to funnel \$800,000 in bribes to the consultant under the cover of false invoices for consulting work. The complaint also alleges that Samson personally profited from this bribery scheme by obtaining \$50,000 in kickbacks from one of the NAPIMS officials who received illicit payments.

In addition, the complaint alleges that between 1999 and 2001, Samson arranged for Whelan to provide cash and other gifts -- including lodging and meals -- to NAPIMS officials when they visited the United States. According to the complaint, these payments totaled more than \$176,000.

The Commission's complaint alleges that Samson, Munro, Campbell and Whelan each violated the anti-bribery provisions of the FCPA, codified as Section 30A of the Securities and Exchange Act of 1934 ("Exchange Act"), and the books and records and internal accounting control provisions of Exchange Act Section 13(b)(5) and Rule 13b2-1 thereunder. The complaint further alleges that each defendant aided and abetted ABB's books and records and internal accounting control violations of Exchange Act Sections 13(b)(2)(A) and 13(b)(2)(B). Without admitting or denying the allegations in the complaint, Samson, Munro, Campbell and Whelan consented to the entry of final judgments that (1) permanently enjoin each of them from future violations of these provisions, (2) order each to pay a civil monetary penalty (\$50,000 as to Samson, and \$40,000 each as to Munro, Campbell and Whelan), and (3) orders Samson to pay \$64,675 in disgorgement and prejudgment interest.

United States v. ABB Vetco Gray, Inc. and ABB Vetco Gray (UK) Ltd.; SEC v. ABB Ltd.: In July 2004, two subsidiaries of ABB Ltd., a Swiss company, pleaded guilty to violations of the FCPA in connection with obtaining oil construction projects in Nigeria and agreed to pay a combined fine of \$11,000,000. On the same date, the SEC charged the Swiss parent company with violations of the books and records provisions of the FCPA related to the Nigerian conduct and issues involving payments in other countries, and the parent company agreed to disgorge illicit profits of \$5,900,000.

In the Matter of Oil States International, Inc., Admin. Proc. File No. 3-11789. On April 27, 2006, the Commission instituted settled administrative proceedings against Oil States International, Inc. for violations of the record keeping and internal controls provisions of the FCPA. The Commission Order arises from certain payments made through its Hydraulic Well Control, LLC ("HWC") subsidiary. Oil States, through certain employees of HWC, provided approximately \$348,350 in improper payments to employees of Petr oleos de Venezuela, S.A. ("PDVSA"), an energy company owned by the government of Venezuela. The employees were asked to participate in the scheme by a consultant for HWC, after he was requested to do so by the PDVSA employees. HWC improperly recorded the payments in its accounting books and records as ordinary business expenses, which were consolidated into those of its parent, Oil States.

SEC v. Tyco International Ltd., (Civil Action No. 06 CV 2942 S.D.N.Y.) On April 17, 2006, the Commission filed a settled complaint against Tyco International Ltd and imposing a \$50 million penalty for a range of violations of the federal securities laws including violations of the FCPA for Tyco's operations in Brazil and South Korea. The complaint alleges that Tyco violated the antibribery provisions of the FCPA when employees or agents of its Earth Tech Brasil Ltda. subsidiary made payments to Brazilian officials for the purpose of obtaining or retaining business for Tyco.

United States v. Steven Lynnwood Head (S.D. Cal. 2006): Steven Lynnwood Head, former CEO of Titan Africa, Inc., a subsidiary of the Titan Corporation, pled guilty to a one-count Information charging falsification of the books, records and accounts of Titan Corporation. Further discussion regarding the Titan case appears below under United States v. Titan Corporation. Head will cooperate with the government's ongoing investigation. Sentencing is scheduled for March 2007.

United States v. Richard John Novak (E.D. Wash. 2006): On March 20, 2006, Richard John Novak pled guilty to one count of violating the FCPA and an additional count of wire fraud and mail fraud in connection with corrupt payments to embassy officials of Liberia, the Director of National Commission of Higher Education of Liberia, and the Director General of Higher Education of Liberia for their assistance

in obtaining false accreditation for online universities as part of an online “diploma-mill” scheme. Sentencing is scheduled for December 2006.

United States v. Viktor Kozeny, Frederic Bourke, Jr, and David Pinkerton: On October 6, 2005, a grand jury in New York indicted Viktor Kozeny, Frederic Bourke Jr., and David Pinkerton for allegedly participating in a massive scheme to bribe senior government officials in Azerbaijan to ensure that those officials would privatize the State Oil Company of Azerbaijan (“SOCAR”) and allow Kozeny, Bourke, Pinkerton and others to share in the anticipated profits arising from that privatization. The indictment charges that Kozeny, acting on his own and as an agent of Bourke, Pinkerton and others, made a series of corrupt payments and promises to pay to a senior official of the Government of Azerbaijan, a senior official of SOCAR, and to senior officials of the State Property Committee, the agency responsible for administrating the privatization program. The defendants are also charged with related crimes, including money laundering. Kozeny was arrested in The Bahamas and on September 28, 2006, a Bahamian magistrate approved his extradition to the United States. It is expected that Kozeny will appeal the extradition order. Bourke and Pinkerton voluntarily surrendered to the U.S. Federal Bureau of Investigation and have been arraigned. Three other individuals previously pleaded guilty in connection with their participation in this bribery scheme. Trial has not yet been scheduled.

United States v. DPC (Tianjin) Co. Ltd. (C.D. Cal. 2005): On May 20, 2005, DPC (Tianjin) Co. Ltd., the Chinese subsidiary of Los Angeles-based Diagnostic Products Corporation (DPC) – pled guilty to violating the FCPA in connection with the payment of approximately \$1.6 million in bribes in the form of illegal “commissions” to physicians and laboratory personnel employed by government-owned hospitals in the People’s Republic of China. In addition to pleading guilty, the company, a producer and seller of diagnostic medical equipment, agreed to adopt internal compliance measures, cooperate with ongoing criminal and SEC civil investigations, and appoint an independent compliance expert to audit the company’s compliance program and monitor its implementation of new internal policies and procedures. DPC Tianjin paid a criminal penalty of \$2 million.

In The Matter of Diagnostic Products Corporation, Admin. Proc. File No. 3-11933. On May 19, 2005, the Commission filed a settled enforcement action against Diagnostic Products Corporation (“DPC”). Without admitting or denying the Commission’s findings the company agreed to cease-and-desist from violating the anti-bribery, books and records and internal controls provisions of the FCPA and pay disgorgement of \$2,788,622. The Commission’s order found that in October 1991, DPC established DePu Biotechnological & Medical Products Inc. (“DePu”) in Tianjin, China as a joint venture. Initially, DPC owned 90% of DePu and the joint venture partner was a local Chinese government entity. In 1997, DePu became a wholly-owned subsidiary of DPC. Throughout the relevant period, the financial results of DePu were a component of the consolidated financial statements included in DPC’s filings with the Commission. DePu’s customers are primarily state-owned hospitals in China. From 1991 through 2002, DPC through DePu routinely made improper commission payments totaling approximately \$1.6 million to doctors and laboratory employees who controlled purchasing decisions at these state-owned hospitals. The commissions represented a certain percentage of sales to the hospitals (typically 3% to 10%), and DePu determined the percentages based on the prevailing rate in the customer’s region, the sales amount, and the prior relationship with the customer. In most cases the payments were made in cash and delivered by DePu’s sales employees by mail or wire transfer. During the relevant period, DePu’s then management knew about, approved, and administered the payment of these commissions. Throughout the relevant period, the individuals who received improper payments from DePu were foreign officials within the meaning of the FCPA, and the hospitals were instrumentalities of a foreign government within the meaning of the FCPA. The purpose of the improper payments was to influence these individuals’ official decisions and to induce them to use their influence with the hospitals to assist DPC to obtain or retain business.

United States v. Titan Corp. (S.D.CA. 2005): On March 1, 2005, Titan Corporation, a San Diego-based military intelligence and communications company, pleaded guilty to a three-count Information charging it with violating the anti-bribery and books and records provisions of the FCPA and assisting in the filing of a false tax return. The charges stem from Titan's corrupt payment of more than \$2 million towards the election of Benin's then-incumbent President. That same day, Titan was sentenced to pay a criminal fine of \$13,000,000 and serve three years' probation. Titan was ordered to adopt a strict FCPA compliance program. Titan also agreed to pay \$15.4 million in a parallel civil case filed by the SEC. The combined civil/criminal penalty of \$28 million imposed is the largest FCPA penalty for a public company.

SEC v. The Titan Corporation (Case No. 05-0411 (D.D.C.) (JR), filed March 1, 2005, Litigation Release No. 19107.): On March 1, 2005, the Commission filed a settled enforcement action charging The Titan Corporation ("Titan") with violating the FCPA. Simultaneously with the filing of the Commission's complaint, and without admitting or denying its allegations, Titan consented to the entry of a final judgment permanently enjoining it from future violations of the FCPA and requiring it to pay (i) \$15.479 million in disgorgement and prejudgment interest, and (ii) a \$13 million penalty, which will be deemed satisfied by Titan's payment of criminal fines of that amount in parallel criminal proceedings. The Commission's complaint alleges that, in 2001, at the direction of at least one former senior Titan officer based in the United States, Titan funneled approximately \$2 million, via its agent in Benin, towards the election campaign of Benin's then-incumbent President. The complaint also alleges that some of these funds were used to reimburse Titan's agent for the purchase of T-shirts adorned with the President's picture and instructions to vote for him in the upcoming election. According to the complaint, Titan made these payments to assist the company in its development of a telecommunications project in Benin and to obtain the Benin government's consent to an increase in the percentage of Titan's project management fees for that project.

Micrus Corporation: On February 28, 2005, Micrus Corporation, a privately held company based in Sunnyvale, California, and its Swiss subsidiary Micrus S.A. entered into a two-year deferred prosecution agreement with the Justice Department in which Micrus and its subsidiary admitted paying more than \$105,000 to doctors employed at publicly owned and operated hospitals in the French Republic, the Republic of Turkey, the Kingdom of Spain and the Federal Republic of Germany in return for the hospitals purchase of Micrus' medical devices; agreed to pay \$450,000 in penalties; agreed to implement a rigorous compliance program with a monitor for a period of three years; and agreed to cooperate fully in the investigation by the Department of Justice.

United States v. Monsanto Co. (D.D.C., 2005): On January 6, 2005, Monsanto Company entered into a deferred prosecution agreement with the Justice Department in which it agreed to pay a \$1,000,000 penalty and admit to violations of the FCPA involving a payment to an Indonesian official to induce him (unsuccessfully) to repeal an environmental regulation, and a related false books and records entry. Pursuant to the agreement, the Government will seek the dismissal of the charges in three years provided the company implements a strict compliance program and continues to cooperate with the Government's investigation. Monsanto also agreed to hire an independent compliance monitor to meet its obligations. Related complaints and orders were filed by the SEC.

SEC v. Monsanto Co. (Civil Action No. 1:05CV00014, (D.D.C.) filed January 6, 2005; Litigation Release No. 19023; Admin. Proc. File No. 3-11789.): On January 6, 2005, the Commission filed settled enforcement proceedings charging Monsanto Company with making illicit payments in violation of the FCPA. The Commission charged that in 2002, a senior Monsanto manager, based in the United States, authorized and directed an Indonesian consulting firm to make an illegal payment totaling \$50,000 to a senior Indonesian Ministry of Environment official ("the senior Environment Official"). The bribe was made to influence the senior Environment Official to repeal an unfavorable decree that was likely to have an adverse effect on Monsanto's business. Although the payment was made, the unfavorable decree was

not repealed. Without admitting or denying the Commission's charges, Monsanto consented to pay a \$500,000 civil penalty and consented to the Commission's issuance of its administrative order. In addition, the Commission charged that, from 1997 to 2002, Monsanto inaccurately recorded, or failed to record, in its books and records approximately \$700,000 of illegal or questionable payments made to at least 140 current and former Indonesian government officials and their family members.

SEC v. GE InVision Inc. (formerly known as InVision Technologies, Inc. Civil Action No. C-05-0660 MEJ (U.S.D.C. N.D. Cal.); Litigation Release No. 19078; Admin. Proc. File No. 3-11827.): On January 14, 2005, the Commission filed a settled enforcement action against InVision Technologies, Inc. (InVision) for authorizing improper payments to foreign government officials in violation of the FCPA. Simultaneous with the filing of the Commission's charges InVision agreed, without admitting or denying the charges, to disgorge \$589,000 in profits plus prejudgment interest of approximately \$28,700, and pay a \$500,000 civil penalty. InVision was acquired in December 2004 by the General Electric Company, and now operates under the name GE InVision, Inc.; the conduct charged by the Commission occurred prior to the acquisition. The Commission charged that from at least June 2002 through June 2004, InVision employees, sales agents and distributors pursued transactions to sell explosive detection machines to airports in China, the Philippines and Thailand. According to the Commission, in each of these transactions, InVision was aware of a high probability that its foreign sales agents or distributors made or offered to make improper payments to foreign government officials in order to obtain or retain business for InVision. Despite this, InVision allowed the agents or distributors to proceed on its behalf, in violation of the FCPA.

InVision Technologies Inc.: On December 6, 2004, InVision Technologies, Inc., a U.S. company, entered into a two-year deferred prosecution agreement with the Justice Department in which it admitted to violations of the FCPA in Thailand, China, and the Philippines, agreed to pay \$800,000 in penalties, agreed to implement a rigorous compliance program with a monitor, and agreed to cooperate fully in the ongoing parallel investigations by the Justice Department and the SEC. General Electric Company, which acquired InVision after the criminal conduct, agreed to ensure compliance by InVision of InVision's obligations under its agreement and to effect FCPA compliance programs within GE's new InVision business. GE and InVision conducted an internal investigation of potential FCPA violations discovered in the course of acquisition due diligence and voluntarily disclosed their findings to the Justice Department and the SEC. Related complaints and orders were filed by the SEC.

Securities and Exchange Commission v. Schering-Plough Corporation (D.D.C 2004), On June 16, 2004 a federal court in Washington, D.C. entered a Final Judgment against Schering-Plough, a pharmaceutical company, compelling it to pay a civil penalty in the amount of \$500,000 for violations of the FCPA's books and records and internal controls provisions. Further, as a result of these violations, the Securities and Exchange Commission ordered the company to appoint an independent consultant to review its internal controls. Both the Court's Final Judgment and the Commission's Order were the result of a settlement with the company in which it neither admitted nor denied the allegations. The Commission's complaint alleges that, between February 1999 and March 2002, one of Schering-Plough's foreign subsidiaries, Schering-Plough Poland, made improper payments to a charitable organization called the Chudow Castle Foundation. The Foundation was headed by an individual who was the Director of the Silesian Health Fund during the relevant time. The health fund was a Polish governmental body that, among other things, provided money for the purchase of pharmaceutical products and influenced the purchase of those products by other entities, such as hospitals, through the allocation of health fund resources. According to the complaint, Schering-Plough Poland paid 315,800 zlotys (approximately \$76,000) to the Chudow Castle Foundation to induce the Director to influence the health fund's purchase of Schering-Plough's pharmaceutical products.

United States v. Hans Bodmer (S.D.N.Y. 2003): In 2003, a grand jury in New York returned an indictment charging Hans Bodmer, a Swiss lawyer, with conspiring to violate the FCPA in connection with alleged bribery of senior officials of the Government of Azerbaijan. At the United States' request, Korea extradited Mr. Bodmer to the United States in 2004. In June 2004, the trial court dismissed the FCPA charges based on technical issues relating to extradition. In October 2004, Mr. Bodmer pleaded guilty to money laundering.

United States v. James H. Giffen: In April 2003, a grand jury in New York returned an indictment charging James Giffen, a U.S. citizen, who acts as a counselor to the Government of Kazakhstan on oil transactions, with inter alia, violations of the FCPA, money laundering, and fraud associated with the diversion of fees paid by oil companies and the deposit of funds into Swiss bank accounts held for the benefit of Kazak officials. The trial, which had been scheduled to begin on October 4, 2004, has been postponed to October 2006.

SEC v. Murphy et al. (Civil Action No. H-02-2908 S.D. Texas) On July 30, 2002, the Securities and Exchange Commission filed a civil enforcement action against two former officers of American Rice, Inc., Douglas A. Murphy and David G. Kay, alleging that they authorized bribery payments to Haitian customs officials during 1998 and 1999, in violation of the FCPA. The complaint also alleges that a third individual, Lawrence H. Theriot, a former American Rice consultant, assisted Kay and Murphy. According to the complaint, in advance of certain rice shipments to Haiti between January 1998 and October 1999, Kay directed an American Rice employee to prepare false shipping records that underreported the tonnage of rice on the relevant vessels. Haitian customs officials used the false records to clear the American Rice vessels through customs. After the vessels cleared customs, Kay allegedly directed American Rice employees in Haiti pay cash bribes to certain customs officials. To hide the payments, Kay then directed American Rice's controller in Haiti to improperly record the bribery payments as routine business expenditures. American Rice employees made at least 12 bribery payments totaling approximately \$500,000. In exchange, American Rice illegally avoided approximately \$1.5 million in Haitian import taxes. Without admitting or denying the Commission's charges, Theriot consented to payment of an \$11,000 civil penalty and entry of an order permanently enjoining him from violating the FCPA on December 30, 2004. The Commission's action against Murphy and Kay remains stayed pending completion of the parallel criminal action against them.

United States v. David Kay: In December 2001, a grand jury sitting in Houston, Texas, returned an indictment charging David Kay, an officer of American Rice Inc., with violating the FCPA by allegedly authorizing bribes of Haitian customs officials. In March 2002, the grand jury returned a superseding indictment adding a second defendant, Douglas Murphy, a former officer of American Rice Inc. In April 2002, the district court dismissed the indictment, finding that the conduct alleged did not fall within the FCPA's requirement that the bribes be paid to "assist in obtaining or retaining business." The United States appealed this decision, and, in February 2004, the Court of Appeals for the Fifth Circuit reinstated the indictment. *United States v. Kay*, 359 F.3d 738 (5th Cir. 2004). In July 2004, the United States obtained a second superseding indictment, which added a conspiracy count against both defendants and an obstruction of justice count against Murphy based on his allegedly false testimony to the SEC. On October 6, 2004, Kay and Murphy were convicted on all counts following a two-week jury trial. On June 29, 2005, the Honorable David H. Hittner, U.S. District Court Judge for the Southern District of Texas, sentenced Douglas Murphy and David Kay, two former officers of American Rice, Inc., to prison for violating the Foreign Corrupt Practices Act. Murphy, a resident of Texas, was sentenced to 63 months in prison followed by three years of supervised release. Kay, also a resident of Texas, was sentenced to 37 months in prison followed by two years of supervised release. The defendants were released on bond pending appeal.

United States v. Frerik Plumiers: In April 1998, a grand jury sitting in Trenton, New Jersey, returned an indictment charging Frerik Plumiers, a Dutch national, and David Mead, a U.K. national, both of whom were officers of an American company, Saybolt Inc., with conspiracy and violations of the FCPA and the Travel Act in connection with a bribe allegedly paid to Panamanian officials. Mr. Mead was convicted at trial in October 1998. The United States requested the Netherlands to extradite Mr. Plumiers in March 2000. Despite extended litigation, including a decision of the Dutch Supreme Court authorizing the extradition, the Dutch authorities have not yet ordered Mr. Plumiers' extradition.

Other Enforcement Actions

2 FCPA Opinion Procedure Releases:

a. Opinion Procedure Release No. 06-01 - In October 2006, the Department of Justice issued an Opinion Procedure Release in response to a request from a Delaware Corporation with headquarters in Switzerland declining to take enforcement action if the corporation proceeded with a proposed contribution to the government of an unspecified African country. The company proposed to contribute \$25,000 to the African country's regional Customs department and/or Ministry of Finance as part of a pilot project to improve local enforcement of anticounterfeiting laws. The company represented that it would execute a formal memorandum of understanding with the country, and would establish several procedural safeguards to ensure that the funds would be used as intended.

b. Opinion Procedure Release No. 06-02 - In December 2006, the Department of Justice issued an Opinion Procedure Release in response to a request in response to a request from a subsidiary of a U.S. issuer declining to take enforcement action if the corporation retain a law firm in the foreign country and paid it substantial fees to aid the company in obtaining foreign exchange from a government agency of that country by preparing its foreign exchange applications to that agency and representing the company during the review process. The Department's release under the circumstances was based on the company's representations regarding steps taken in conducting due diligence regarding the law firm; the inclusion in the agreement between the company and the law firm several provisions designed to prevent corruption from occurring; and a number of additional representations.