

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

Working Group on Bribery in International Business Transactions

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

Paris, 15-17 June 2010

This document has been updated on the basis of the contributions provided by Mexico, Switzerland, the United States and the United Kingdom.

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

- March 2009: Hungary and Iceland*
- June 2009: Iceland*
- October 2009: Iceland*
- December 2009: Iceland and Ireland*
- March 2010: Denmark and Iceland*

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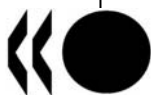


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ARGENTINA

(Information as of 23 March 2007)

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

Argentina ratified the Convention on 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(2010)1/REV1

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 (April 2001)

<http://www.oecd.org/dataoecd/31/50/2078382.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 (June 2008)

<http://www.oecd.org/dataoecd/35/28/40975295.pdf>

AUSTRALIA

(Information as of 12 February 2010)

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

On 4 February 2010, the Australian Parliament passed the Crimes Legislation Amendment (Serious and Organised Crime) Bill (No. 2) 2009, which will increase the financial penalties for bribery offences. For each bribery offence, the new penalty for an individual is imprisonment for up to 10 years and/or a fine of up to 10 000 penalty units (AUD 1.1 million). The new penalty for a body corporate is a fine of up to 100 000 penalty units (AUD 11 million) or three times the value of benefits obtained by the act of bribery, whichever is greater. If the value of benefits obtained from bribery cannot be ascertained, the penalty is a fine of up to 100 000 penalty units or 10% of the annual turnover of the company, whichever is greater. This formula is based on existing penalties for restrictive trade practices and cartel behaviour but allows a higher monetary fine due to the serious criminal nature of bribery and the serious detrimental effects of bribery.

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 (December 1999)
<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 (January 2006)
<http://www.oecd.org/dataoecd/57/42/35937659.pdf>

Phase 2: 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 (August 2008)
<http://oecd.org/dataoecd/37/4/41305864.pdf>

AUSTRIA

(Information as of November 2009)

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

The bill for ratification of the OECD-Convention was published on 24 March 1999 in Federal Law Gazette (Bundesgesetzblatt; BGBl.) III 176/1999. The instrument of ratification was 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) and entered into force 1 October 1998. The legislation was amended by the Act changing the Criminal Law 2008 (“Strafrechtsänderungsgesetz 2008”) published in the Federal Law Gazette Nr. I 109/2007 entered into force 1 January 2008 and by the Act changing die Criminal Law on Corruption 2009 (Korruptionsstrafrechtsänderungsgesetz 2009) published in the Federal Law Gazette Nr. I 98/2009 entered into force 1 September 2009. According to the Act changing the Criminal Law 2008 the Centralised Corruption Prosecution Service competent to investigate and prosecute criminal offences related to corruption all over the country was created which is in place since 1 January 2009. The Act changing the Criminal Law on Corruption 2009 states more sever penalties for active and passive bribery. In particular active and passive bribery is punishable by a punishment of imprisonment from one up to ten years if the amount of the undue advantage is more than 50.000,-- Euro (Sec. 304 par 2 and Sec. 307 par 2 of the Austrian Criminal Code). The Act on Responsibility of Legal Persons published in Federal Law Gazette Nr. I 151/2005 entered into force 1 January 2006.

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

Austria ratified the United Nations Convention against Corruption in November 2005.

The Council of Europe Criminal Law Convention on Corruption was signed 13 October 2000 but has not yet been ratified, whereby currently the ratification is under preparation.

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) and has ratified the Second Protocol to the Convention on the Protection of the Financial Interests. Extradition and mutual legal assistance can be afforded either on the basis of the above-mentioned Conventions, which are in general directly applicable to Austrian authorities upon ratification, or on the basis of the applicable bilateral and multilateral extradition and mla-treaties to which Austria is a party. In lack of a treaty base, extradition and mla can be afforded on the basis of the Austrian Extradition and Mutual Legal Assistance Act (ARHG), provided that the reciprocity requirement is fulfilled..

Other information

Relevant authorities

- Corruption Public Prosecution Service
- Federal Bureau for Internal Affairs
- Any other 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 (December 1999)
<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 (February 2006)
<http://www.oecd.org/dataoecd/16/22/36180957.pdf>

Phase 2: 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 (March 2008)
<http://www.oecd.org/dataoecd/55/57/40656709.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 (October 1999)
<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 (October 2005)
<http://www.oecd.org/dataoecd/59/8/35461651.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 (January 2008)
<http://www.oecd.org/dataoecd/50/2/41369400.pdf>

BRAZIL*(Information as of 4 March 2010)****Date of deposit of instruments of ratification/acceptance or date of accession***

Signing of the Convention: 17 December 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 n^o 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.
- d) Interpretive Declaratory Act 32 – Published by the Federal Internal Revenue Department in order to expressly establish the non tax-deductibility of expenses related to payments or compensation for the commission of offences, or related in any way to such offences, in particular those set forth in Article 1 of the OECD Convention on Combating Bribery of Foreign Public Officials in International Commercial Transactions, for purposes of calculating Income Tax and Social Contribution on Net Profit obligations.
(See www.receita.fazenda.gov.br/Legislacao/AtosInterpretativos/2009/ADIRFB032.htm)

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^o. 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^o 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^o 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.
- Draft Bill 6826/2010 – On 8 February 2010, a Draft Bill establishing the direct liability of legal persons for acts of corruption committed against the National and Foreign Public Administration was submitted to Congress, by the President of the Republic. The Draft Bill 6826/2010 was a joint effort of the Office of the Comptroller General and the Ministry of Justice, along with inputs from other relevant governmental bodies. Beyond fulfilling the recommendation to establish the direct liability of legal persons for bribery of foreign public officials, the proposal fills a gap identified in the Brazilian system regarding the liability of legal persons for illicit acts committed against the National Public Administration in the three branches of government – Executive, Legislative and Judicial – and at every level of the Federation (Union, states, Federal District and municipalities), in particular acts of corruption and fraud in public procurement procedures and contracts executed with the Public Administration. The Bill establishes a comprehensive system to suppress acts of corruption committed by enterprises in Brazil and abroad by providing for administrative and civil mechanisms to establish liability and a uniform system throughout the country, with a view to strengthening the fight against corruption in accordance with the unique features of the Brazilian federal system.
(See www.camara.gov.br/internet/sileg/Prop_Detalhe.asp?id=466400)

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. At the conclusion of its seventh annual meeting of 20 November 2009, the National Strategy to Combat Corruption and Money – ENCCLA formally announced the Brazilian Anticorruption Strategy (Estratégia Brasileira Anticorrupção). The Office of the Comptroller General (Controladoria-Geral da União – CGU), author of the original proposal, will continue to serve as a full member of ENCCLA and to oversee ongoing anticorruption measures throughout 2010 during its transition out of the coordination of the entity.

The ultimate objective of the initiative is to formulate a Brazilian anticorruption policy rooted in the understanding that corruption must be addressed in a comprehensive and in-depth manner. In this light, the purpose of the Strategy is to approach corruption as a risk (not as a legacy), reinforcing the strategic aspect of the effort and putting in place a specific public policy.

However, both the anti-money laundering and anticorruption communities will continue to maintain extensive communications, providing ongoing feedback to their efforts. As a first step in the Brazilian Anticorruption Strategy, the Comptroller's Office will consolidate the initiatives of the Brazilian State in

the area, undertaking to coordinate the related activities, including the collection of inputs from other participants, the development of the proposal and mediation of the respective discussions.

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/drci>;

<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, 7 October 2002;
- Signature of the United Nations Convention against Corruption (UN), on 9 December 2003, at Mérida, México;
- Promulgation of the United Nations Convention against Corruption (UN). Decree no 5.687, 31 January 2006.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation (September 2004)

<http://www.oecd.org/dataoecd/52/46/33742137.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 (December 2007)

<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 (July 1999)

<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 (June 2003)

<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 (February 2006)

<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

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Phase 1: Review of Implementation of the Convention and 1997 Recommendation (July 1999)

<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 (March 2004)

<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 (June 2006)

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

CHILE

(Information as of 2 December 2009)

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

Chile signed the Convention on December 17th, 1997 and deposited its instrument of ratification with the OECD Secretary-General on April 18th, 2001. The Convention entered into force for Chile internationally on June 18th, 2001 pursuant to article 15.2 of the Convention.

Implementing legislation

Executive Decree No. 496, of October 10th 2001, of the Ministry of Foreign Affairs, was published in the Official Gazette on January 30th 2002, date on which the Convention was enacted in Chile.

Law No. 20,341 of April 22nd, 2009 amends the offence of foreign bribery and related sanctions. It has created a new Chapter 9bis dedicated to foreign bribery, repealing articles 250bisA and 250bisB of the Criminal Code. Both articles, which had been added to the Criminal Code by Law No. 19,829 in 2002, as part of the implementing legislation, have been replaced with new articles 251bis and 251ter in Chapter 9bis¹ of the Criminal Code. Law 20.341 completes the offense of bribery of foreign public officials so that now it includes the three verbs required by the Convention: to offer, to promise and to give, thus extending its previous wording which stated: "*he who offers to give...*" It establishes that the foreign bribery offence can apply to bribes composed of non-pecuniary benefits. It increases the sanctions for the offence, in order that they shall be effective, proportionate and dissuasive, which additionally allows Chile to grant the extradition in entire agreement with the Convention. It replaces the concept of "*international business transactions*" by "*international transactions*". It also replaces the term "*public service enterprise*" by "*public enterprise*".

Law 20,371 of August 25th, 2009 amends the Organic Court Code introducing jurisdiction over active bribery of foreign public officials committed abroad by Chilean nationals, or foreigners who habitually reside in Chile.

Law No. 20,393 which introduces criminal responsibility of legal persons for the offenses of bribery of Chilean and foreign public officials, money laundering, and financing of terrorism was published in the Official Gazette on December 2nd, 2009.

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 service with legal status, which relates with the President of the Republic through the Ministry of Finance.

Law No. 20.205, published on September 24th, 2007, regulates the protection of the civil servants who report in good faith to the regular authorities that an act has been committed by a public official, which

¹ Bribery of Chilean officials and bribery of foreign public officials are now in two separate chapters because the former aims to protect public administration and the latter aims to protect international business transactions.

constitutes misconduct to probity. It also establishes sanctions for those who do frivolous or of bad faith reports.

Circular Letter No. 56, dated November 8th, 2007 - published in extract in the Official Gazette of November 16th, 2007 - on "Payments of Bribes or Bribes to Foreign Public Officials in International Business Transactions. Inadmissibility to consider them as Necessary Expenses to produce Income. Article 31 of the Income Tax Law", was published in extract in the Official Gazette of November 16th, 2007 and is available in the web site of the Internal Revenue Service: <http://www.sii.cl/documentos/circulares/2007/circu56.htm> This document which reinforces the explicit nature of the prohibition of the tax deduction of the foreign bribe, is nowadays in force and in full application.

The Ministry of Finance has issued the Executive Decree No. 1,763 of December 26th 2008, published on October 6th, 2009, which amends the Regulations of the Law on Public Procurement and Contracting. Paragraph 31 of the Single Article of the mentioned Executive Decree disables the enrolment in the State Registry of Suppliers to those who have been convicted for domestic bribery and foreign public officials' bribery. The inability will last for a period of 3 years.

Other information

Relevant authorities

Dirección Asuntos Jurídicos Ministerio Relaciones Exteriores

Teatinos 180, piso 16, Santiago, Chile

Tel: 562 8274237 – 562 8274238 – 562 3801402

Fax: 562 3801654

(Central authority in regard to legal assistance {article 9} and extradition requests {article 10})

Unidad Relaciones Internacionales y Cooperación Ministerio de Justicia

Morandé 107, 7º piso, Santiago, Chile

Tel: 562 – 6743286

Fax: 562 6743284

(Central authority in regard to consultations related to jurisdiction {article 43})

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation (August 2004)

<http://www.oecd.org/dataoecd/52/45/33742154.pdf>

Phase I bis: Review of implementation of the Convention and 1997 Recommendation (October 2009)

<http://www.oecd.org/dataoecd/62/32/43902840.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 (October 2007)

<http://www.oecd.org/dataoecd/38/10/39540391.pdf>

Phase 2 Follow-up report on the implementation of the Phase 2 Recommendations on the application of the Convention and the 1997 revised recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions (October 2009)

<http://www.oecd.org/dataoecd/8/12/44130051.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).

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

Suspicions 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 (March 2000)
<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 (October 2006)
<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 (December 2000)
<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 (June 2006)
<http://www.oecd.org/dataoecd/14/21/36994434.pdf>

Phase 2 Follow-up report on the implementation of the Phase 2 Recommendations on the application of the Convention and the 1997 revised recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions (June 2008)
<http://oecd.org/dataoecd/4/56/41073747.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.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation (March 2006)
<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 (June 2008)
<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

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation (July 1999)

<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 (May 2002)

<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 (March 2006)

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

FRANCE

(Information as of 18 September 2009)

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.

Publication on 31 January 2009 of Order No. 2009-104 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, which transposes into domestic law the Third Money Laundering Directive of 26 October 2005. This order was ratified on 12 May 2009 in connection with the so-called Act on the simplification and clarification of the law and the streamlining of procedures. The scope of the anti-money laundering provisions (due diligence obligations vis-à-vis customers, preserving records for at least five years and reporting suspicions to Tracfin, the financial intelligence unit) was extended to domiciliation companies and fiduciary lawyers. In addition, the scope of the obligation to report suspicious transactions, previously limited to certain forms of exceptional crime, was expanded to encompass common crime, including tax fraud. In addition, the legislation has instituted anti-money laundering provisions applicable to all professions subject thereto (except for antique dealers and jewellers). The control authorities designated therein are the professional associations of the legal and judicial professions as well as those of accountants and auditors. Moreover, a national sanctions board will impose disciplinary sanctions in the event of any failure of estate agents, domiciliation companies or casinos to comply with anti-money laundering rules.

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 the Budget, Public Affairs, Civil Service and Reform of the State
- Ministry of European and Foreign Affairs
- *Brigade centrale de lutte contre la corruption [B.C.L.C]* (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.
- Council of Europe Criminal Law Convention on Corruption: signed on 9 September 1999, ratified on 25 April 2008.
- Council of Europe Civil Law Convention on Corruption: signed on 26 November 1999, ratified on 25 April 2008.
- Additional Protocol to the Council of Europe Criminal Law Convention on Corruption: signed on 15 May 2003, ratified on 25 April 2008.

Signature of other relevant international instruments

- 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 Review of Implementation of the Convention and 1997 Recommendation (December 2000)
<http://www.oecd.org/dataoecd/24/50/2076560.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 (January 2004)
<http://www.oecd.org/dataoecd/36/36/26242055.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 (April 2006)
<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 (April 1999)

<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 (July 2003)

<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 (January 2006)

<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 (July 1999)
<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 (April 2005)
<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 (September 2007)
<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: 4 of December 1998. Entry into force in Hungary: 15 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 decrees² 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 (March 2003)
<http://www.oecd.org/dataoecd/14/54/2386997.pdf>

Phase 1 Bis: Review of implementation of the Convention and 1997 Recommendation (February 2004)
<http://www.oecd.org/dataoecd/32/23/2510372.pdf>

² 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 (May 2005)
<http://www.oecd.org/dataoecd/39/34/34918600.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 (June 2007)
<http://www.oecd.org/dataoecd/22/35/39991723.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 17 August 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 (October 1999)
<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 (March 2003)
<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 (May 2006)
<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 (June 2002)
<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 (March 2007)
<http://www.oecd.org/dataoecd/27/45/38322693.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 (December 2008)
<http://www.oecd.org/dataoecd/33/6/41869600.pdf>

ISRAEL

(Information as of 26 February 2010)

Date of deposit of instrument

The instrument of ratification was deposited with the OECD Secretary-General on 11 March 2009.

Implementing legislation

- The amendment to the **Penal Law, 1977** (Article 291A) establishing the criminal offence of bribery of a foreign public official came into force on 21 July 2008.
- An amendment to the **Penal Law, 1977** increasing the maximum sanctions for active bribery, both foreign and domestic came into force on 4 February 2010. The amendment sets the sanctions at the following level:
 1. Maximum prison sentence of seven years;
 2. The applicable fine for the domestic and foreign bribery offences for natural persons is now 1,010,000 ILS. The applicable fine against a legal person now stands at 2,020,000 ILS. Alternatively, the court can now impose a fine of up to four times the benefit obtained by the offence or intended to be obtained by the offence.
- An amendment to the **Penal Law, 1977** (Article 291A) which expands the definition of a "Foreign Country" and stipulates that a foreign country also includes "a political entity that is not a state, including the Palestinian Council", came into force on 25 February, 2010. The amendment also cancels the dual criminality requirement for nationality jurisdiction over the offence of foreign bribery. The amendment modifies Article 15(b) of the **Penal Law** to the effect that nationality jurisdiction for the foreign bribery offence would be applicable even in cases where the offence is committed in a country where the act is not considered an offence according to its law.

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

- Amendment to Article 32 to the Income Tax Ordinance establishing the non-deductibility of payments made "in violation of any law" enacted on 16 November 2009.
- Attorney General's Guideline No. 4.1110 "*Attorney General Guideline – the Prohibition of Bribery of Foreign Public Officials- Article 291A of the Penal Law, 1977*", established to clarify policy in regards to the investigation and prosecution of the foreign bribery offence, issued on 2 November 2009.
- Civil Service Commission Circular, issued on 19 October 2009 - The circular informs public officials of the offence, the Convention and reporting duties on that regard.

Other information

Relevant authorities

- Israel Police

- Office of the State Attorney, Israel Ministry of Justice
- See also Israel's notification on Responsible Authorities under Article 11 to the Convention.

Relevant internet links

www.corruption.justice.gov.il

Ratification of other relevant international instruments

- The United Nations Convention Against Corruption
- The United Nations Convention Against Transnational Organized Crime

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation (March 2009)
<http://www.oecd.org/dataoecd/39/49/42394878.pdf>

Phase 2: Report on the Application of the Convention and the 1997 Recommendation (December 2009)
<http://www.oecd.org/dataoecd/60/10/44253914.pdf>

ITALY

(Information as of 17 November 2008)

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).
- e) Legislative Decree No. 231 of 21 November 2007 (implementation of 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 and 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC), that introduced also the Criminal Responsibility of Legal Persons for money laundering (new art. 25-octies, Leg. Decree No. 231/2001);

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. Decree law 112/2008 and the subsequent Prime Minister Decree of 2 October 2008 provide that the High Commissioner's tasks and functions are transferred to the Ministry for Public Administration and Innovation – Department for Public Administration. The Decree, in its article 3, grants the said department the same degree of autonomy and independence which was granted to the High Commissioner. This specifically technical and operational structure will act as a hub, supporting, supervising and coordinating the works carried out by other public authorities and agencies, such as the Court of accounts; the Italian FIU (Bank of Italy); law enforcement agencies (Carabinieri, Guardia di Finanza, State Police); agency for revenues; universities; relevant ministries. (See: www.innovazionepa.gov.it/ministro/pdf_home/saet_ing.pdf)

Relevant Internet links to national implementing legislation

www.giustizia.it/normeinrete;
www.gazzettaufficiale.it;
www.parlamento.it
www.innovazionepa.gov.it/ministro/pdf_home/saet_ing.pdf

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)

- Second Protocol on the Convention on the protection of the European Communities' financial interests (signed on 19 June 1997, ratified by Act No. 135/2008);
- Convention of the Council of Europe on Corruption (signed on 27 January 1999)
- UN Convention on Transnational Organized Crime (signed on 14 December 2000) ratified by Act No. 146/2006);
- 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 (April 2001)
<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 (November 2004)
<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 (March 2007)
<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 (May 2002)

<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 (March 2005)

<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 (June 2006)

<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 (October 2007)

<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 (July 1999)
<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 (November 2004)
<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 (March 2007)
<http://www.oecd.org/dataoecd/34/15/38239546.pdf>

LUXEMBOURG

(Information as of 8 March 2010)

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:
 1. 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;

2. 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;
3. the Criminal Law Convention on Corruption, signed in Strasbourg on 27 January 1999;
4. 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.

- Act of 4 February 2010 introducing **the responsibility of legal persons** in the Criminal Code, and amending the Criminal Code , the Criminal Procedure Code, and certain other legal provisions.

This Act aims to bring Luxembourg in compliance with the requirements under the OECD Convention of 21 November 1997 on Bribery of Foreign Public Officials in International Business Transactions in general, and with the Phase 2 and Phase 2bis evaluation reports in particular, by picking up the recommendations adopted by the Working Group on Bribery.

- Bill of 25 January 2010 **reinforcing the means to combat bribery** and amending (1) the Labour Code; (2) the general statute applicable to State officials; (3) the amended Act of 24 December 1985 on the general statute applicable to local officials; (4) the Code of Criminal Procedure; and (5) the Criminal Code.

This Bill will enable, once it is passed into law, the effective protection of whistleblowers in the public and private sector, in conformity with the requirements under the OECD Anti-Bribery Convention in general, and the Phase 2 and Phase 2bis evaluation reports in particular.

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 (February 2001)
<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 (June 2004)
<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 (August 2006)
<http://www.oecd.org/dataoecd/22/27/37308306.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 (March 2008)
<http://www.oecd.org/dataoecd/4/21/40322335.pdf>

Phase 2bis: Follow-up Report on the Implementation of the Phase 2bis Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions (October 2009)
<http://www.oecd.org/dataoecd/55/21/44023684.pdf>

MEXICO

(Information as of 27 May 2010)

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

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

The Convention was approved by the Mexican Senate on April 22nd, 1999. It was then published in the Federal Official Journal (DOF for its acronym in Spanish) on May 12th, 1999, and entered into force on July 26th, 1999.

1. Implementing legislation

In order to implement the Convention, Mexico enacted an amendment to the Federal Criminal Code (acronym in Spanish CPF) on May 17th, 1999, which came into force the following day. Mexico amended the CPF by adding Article 222bis, 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 Power in December 2003, and approved by Congress in July, 2005. These amendments were published in the Federal Official Journal on August 23rd of the same year.

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

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

On March 13th, 2002, several amendments to the Federal Law on Administrative Responsibilities of Civil Servants (acronym in Spanish LFRASP) were approved. These reforms aim at preventing illicit conduct by national 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 national public officials' assets.

Regarding the measures to improve the detection of foreign bribery, in 2004, the Federal Attorney-General created the Special Prosecutor’s Office for Combating Corruption in the Federal Attorney-General’s Office (decree A/106/04), to investigate and prosecute corruption offences committed by public officials of this Institution. Furthermore, under decree A/107/04, the Mexico’s Attorney-General established the Special Prosecutor’s Office for Combating Corruption in the Federal Public Service, aimed to investigate and prosecute crimes related to acts of corruption in the federal public service; as well as those related to the bribery of public officials, as set forth in article 222 bis of the Federal Criminal Code.

On December 14th, 2005, the Federal Congress approved an amendment to Article 117 of the Credit Institutions Law with the purpose of empowering the Public Prosecutor's Office to access information related to trusts managed by the National Banking and Securities Commission (acronym in Spanish CNBV). The amendment was published in the Federal Official Journal on December 30th of the same year. The main objective of the amendment was to allow the judicial authorities to request to the financial institutions, directly or through the CNBV, for financial information deemed necessary, and to allow the Attorney-General's Office to request financial information directly from financial institutions, based on a warrant.

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

- a) The terms of tender were modified in order to prevent companies or individuals from evading disqualification warrants by creating new companies or by having partners participate in bids.
- b) 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.
- c) 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.

On December 2003, Mexico hosted a High Level Political Conference in Mérida, Yucatán, with the purpose of signing the United Nations Convention against Corruption. Mexico signed the UN Convention on December 9th, 2003 and the Mexican Senate ratified it on April 29th, 2004.

Legislative amendments regarding witness protection were published in the Federal Official Journal on January 23rd 2009 (Federal Code of Criminal Procedure: Articles 2, fr. V, 3 fr. X, subparagraphs a) and d), 123, 141 A, fr. XVII, Section B, fr. Bis IX, 253 and the Organic Law of the Attorney General's Office: Article 5, frs. IX, X and XI).

Legislative amendments have been made to the Law of Acquisitions, Leasing and Services of the Public Sector. The initiative makes more flexible the process of objections to tenders, calls, meetings and bases for clarification of procedures on public procurement. The amendments were approved by the Senate on April 30th 2009, and they are expected to be published soon.

Reforms were decreed, to add and have exceptions done to the Law of Acquisitions, Leasing and Services of the Public Sector and also to the Law of Public Works and Services related to them, both in order to provide greater flexibility, efficiency and transparency in contracting and procurement undertaken by the State.

In regard to fiscal regulations, the Tax Administration Service (SAT) is currently working on a proposal to include a provision in the Income Tax Law to explicitly disallow the tax deductibility of bribes to foreign public officials. Although these regulations, particularly in articles 31 and 172, disallow deductions of expenses that are not strictly related to the source of the taxpayer's activities, and in articles 32 and 173 enlist the non-deductibility expenses, this initiative aims to comply the 2009 Council Recommendation on Tax Measures of Further Combating Bribery of Foreign Officials in International Business Transactions of the OECD.

It is important to highlight that Mexico signed the accession the Convention on Mutual Administrative Assistance in Tax Matters on May 27, 2010, which will reinforce international cooperation and exchange of information with other tax authorities.

Some of these changes include the electronic publication of calls and the increase (from 20 to 30%) of annual procurement budget that can be exercised by exception to the bid. Similarly, the failure of the tender incorporates the opinion and the reasons for the award; also the only causes for disregarding are clarified and established in the call. Moreover, the new legal provisions prohibit the disposal of offers and the resolution of disagreements for omissions of form, only accepting cases regarding the background.

3. Awareness and training

Mexico has undertaken several initiatives to raise awareness of foreign bribery in international business transactions among the public and private sectors.

- 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 promote information on the Convention to all its employees in Mexico, embassies and consulates, which in turn circulated 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*”.

Currently, the Tax Examiner’s Guide for the Detection of National and International Bribery is being updated, including the 2009 Council Recommendations on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business which recommends the explicitly disallowing of the tax deductibility of bribes to foreign public officials. <http://www.funcionpublica.gob.mx/ocde/publica/doctos/ocde.pdf> (in Spanish)

- 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 microsite on international convention against corruption. The goal is to spread the regulations of those legal instruments. Furthermore, around 3600 posters were distributed at the national level with the legend “The Good Judge Starts at Home” (“El Buen Juez por su Casa Empieza”), referring to corruption complaints against public officers of the Attorney-General’s Office.
- On July 4th-6th, 2007, the Mexican Government through the Tax Administration Service imparted a nation-wide training course on “*Detecting Trans-national 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 Trans-national Bribery, (2) stimulating among SAT public officials the obligation to report this offence, and (3) disseminating the existence of the referred *Manual* as a part of internal guidelines applicable during fiscal revisions of taxpayers.

- In addition, the SAT held lectures in 2007, 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 trans-national bribery.
- To raise awareness of foreign bribery, the SAT undertook a nation-wide campaign in 2007 among public officials through different electronic means. On August 3rd 2007, a massive e-mail message was sent through different data bases to a total of 4,556,689 taxpayers. In December 2008, a new electronic brochure and poster showing information on the International Anti-corruption Conventions of the OECD, UNCAC and OAS were designed, and then disseminated to a total of 5,436,820 taxpayers.
- The Tax Administration Service participated, with two expositors, in the *Seminar on Bribery Awareness for Tax Examiners*, under the framework of the Co-operation Programme with No Members Economies of the OECD in Latin America and the Caribbean, organised by the OECD Committee on Fiscal Affairs and the Multilateral Tax Centre of the Ministry of Finance of México. The seminar was held on October 1-3, 2008 in order to review OECD's work on the non tax deductibility of bribes in international business transactions, bribery techniques, detection methods, examination techniques, sources of information, as well as to exchange experiences in the tax treatment of bribes in Mexico and other countries represented at the seminar, such as: Argentina, Chile, Costa Rica, United States, Guatemala, Jamaica, Morocco, Norway and Panama.
- The Federal Government through the Ministry of Public Administration (acronym in Spanish SFP) and the Attorney's General Office (acronym in Spanish PGR) along with the Central Service for the Prevention of Corruption of France, organised an international seminar on "Combating Corruption in Mexico: legal issues, best practices and international co-operation" on May 26-30, 2008. Mexican and French experts on fighting corruption convened in order to examine Mexico's issues regarding prevention, detection and sanctioning. The seminar also aimed at tightening policy coherence in administrative and legal matters concerning corruption, and organised crime in their diverse variations and methods.
- Mexico hosted the Latin American Regional Conference: "Commitment and Co-operation in the Fight against Corruption and International Bribery". This important regional gathering, sponsored by the Mexican government and the OECD with the participation of the Inter-American Development Bank and the Organisation of American States, took place in Mexico City on 29-30 September 2008. It brought together public servants from different levels of government, as well as businessmen, attorneys, accountants and civil society organisations. The conference was broadcasted live on Internet, and welcomed 800 participants from 22 countries in Latin America, the Caribbean, Europe and Asia. It is possible to download the list of participants following this link <<http://funcionpublica.conferencia-virtual.com/080929>>. The objectives were:
 - a) To reaffirm Latin America's commitment to fighting corruption and combating international bribery, and to upholding the standards of the OECD, OAS and UN anticorruption conventions.

- b) To identify main challenges and opportunities in increasing and improving co-operation, and to foster information exchange and mutual legal assistance.
 - c) To contribute to the exchange of experiences and the strengthening of national strategies for the prevention, investigation, prosecution and sanctioning of corruption and bribery, focusing participating countries' national agendas on relevant issues to be addressed through legal reforms and new public policy instruments.
- The Ministry of Public Administration (SFP) is promoting a new strategy with the private sector to raise awareness and endorse the adoption of self-regulating mechanisms that contributes to the transparency of the relationship between the government and the private actors. In addition, the Ministry has the commitment to develop jointly capabilities in the social and private sectors for their on participation in the fight against corruption. This working strategy with the private sector includes the identification and incorporation in a coordinated way of practices of corporate government and social responsibility that contributes to the existence of rules and appropriate incentives for markets to function effectively.
 - The practices that are promoted are the ones included in the Annex II for the Recommendations of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions which has developed a “Good Practice Guidance” on internal controls, ethics and corporate compliance for preventing and detecting the bribery of foreign public officials.
 - In collaboration with Spain, the Ministry of Public Administration translated the OECD publication *Bribery in public Procurement: Methods, actors and counter-measures* into Spanish language, and the OECD Secretariat presented it during the conference mentioned above. This print-run of 5,000 copies aimed at helping to train public servants in the adoption of the OECD Convention.
 - In the pursuit of training, and encouraging public servants to reflect on transparency, legality and the fight against corruption, SFP drew up a guide known as “Administrative Liability in an Electoral Context: Legality as the Road to Responsibility”. This guide aims at strengthening the culture of legality among public servants, pinpointing their obligation and responsibility of contributing to equity, transparency and legality of elections, in the framework of our government’s strategy known as Cushioned Elections.
 - In 2009 the Tax Administration Service presented *The Mexican experience in raising bribery awareness for tax examiners* in the plenary meeting of the Working Party No. 8 on Tax Avoidance and Evasion of the OECD Committee on Fiscal Affairs in Paris, France and in the meeting of the Advisory Group for Cooperation with non-OECD Economies in Fes, Morocco for representatives of 26 countries from all continents. Also, in September 2009, the institution participated in the “*Seminar on counteracting Bribery and Corruption from a Tax Perspective*” in Moscow, Russia, in order to share its experiences in the fight against corruption and international bribery,
 - The Attorney General's Office through the National Institute of Criminal Sciences (INACIPE for its acronym in Spanish) has given courses, seminars, conferences and workshops and published articles related to combating corruption, as well as the book: *Ley Federal de Responsabilidades Administrativas de los Servidores Públicos. Análisis Dogmático. (Federal Law on Administrative Responsibilities of Public Servants. Dogmatic Analysis)*: Furthermore, the curricula established

for the master and graduate specialty courses offered by INACIPE, includes issues related to combating corruption and bribery as well as the International Anticorruption Conventions.

- Also in the initial training courses for police officers of the Federal Investigation Police and experts offered by the Institute of Training and Professionalization for the Procurement of Federal Justice (ICAP), issues related on fighting corruption and bribery are included.
- During 2009, the Tax Administration Service added a new site on the international anticorruption conventions of the OECD, UN and OAS to its internal webpage (*Intrasat*) in order to increase awareness on the Conventions among public officials. Also, the SAT re-structured its public website in order to facilitate the user's access to the information related to the OECD's Anti-Bribery Convention. The SAT also issued several messages on international anticorruption conventions in its electronic magazine *Comunidad SAT*, which is distributed via email, to around 28,000 public officials. Another message will be published for the commemoration of the International Day Against Corruption.
- Early December 2009, the SAT's national awareness raising campaign was reinforced with the distribution of the new brochures and posters, in all the 66 Local Administrations of Taxpayer's Services, 48 customs and all the Central Offices. Also at the beginning of 2010, leaflets and posters on the International Anticorruption Conventions were distributed in the 9 Regional Offices of the Administration of Evaluation.
- Moreover, the SAT's website is publishing information regarding the 2009 Council Recommendation on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions.
- Within this commemoration the Mexican government launched a national campaign to raise awareness about the commitments derived from the three anticorruption conventions (OECD, UNCAC and OAS). This campaign will involve different public officials, taxpayers, media, academia and private sector organisations.
- On December 9 the Mexican government hosted the conference *Challenges and Perspectives in the Prevention and Combat Against Corruption in Mexico*. This conference also gather representatives from the public, private and social sector in order to identify the main challenges Mexico faces to fully implement the Conventions.
- During the first two months of 2010, the Tax Service Administration (SAT) in order to strengthen the outreach campaign to raise awareness about the foreign bribery and strengthen the culture of complaint among taxpayers and the general public, published a banner on the SAT's website that says: National and International Bribery, Denounce them!. Also Information leaflets were distributed on the international Anticorruption conventions and posters in the 9 Administrations Regional offices Evaluation.

4. Witness protection

- Concerning the need to provide witness protection for investigations of trans-national bribery, the recent constitutional reform as regards security and criminal justice, which was published on June 18th 2008 in the Federal Official Journal, eventually opens the door for a Programme of witness protection with regard to corruption. In spite of the fact that the principal challenge of this reform is organised crime, a Programme could be set up under Article 20, Section V, and Paragraph 20,

of the Constitution. Likewise, the criminal code updates contemplate the widening of witness protection to victims and family, even at the request of trial judges.

- By the decree published in the Federal Official Journal on January 23rd 2009, several dispositions were reformed, revoked and added. Among those dispositions, the protection to victims, witnesses, experts, judges, magistrates, agents of the Attorney General's Office, of the police and other subjects, when their involvement in criminal proceedings require so.

5. Public Procurement

- During the fifth session of the National Security Council the creation of its Technical Committee was approved. This committee, whose rules of operation were published in the Federal Official Journal (acronym in Spanish DOF) on 10 March 2008, promotes and guarantees the transparency in the procurement procedures and contracts in the national security sector
- Among the improvements achieved by this Technical Committee, are as follows: the addition to the registration of 83 suppliers related to the subject as part of measures to integrate the information to streamline and make clear at the procurement process; approval the creation of the electronic remote access system to ensure prompt and safe information to the procurement areas from the catalogue of national security's property.
- The Government of Mexico has also established a programme, called "Preventive Counselling" (in Spanish asesamiento preventivo) in order give advice and guidance to public institutions on procurement procedures of strategic national projects, i.e., National Infrastructure Programme.

On 30 April 2009 the Congress approved the changes to the Laws of Acquisitions, Leasing and Services and Public Sector Public Works and Services Related to them, as well as reforms to the Criminal Code and the Federal Law of Administrative Responsibilities of Public Servants, which were published on 28 May of that year in the Official Gazette. These reforms would facilitate public investment (promoting national economic development) and more flexible and give transparency to the hiring. This is achieved through, among other facilitation tools, new systems of recruitment such as the use of framework contracts and public-private participation in works associated with infrastructure projects.

The "Social Witness Programme" (in Spanish Testigos Sociales) are individuals and civil society organizations, which are appropriate register by the Ministry of Public Administration, and who participate, upon request of the federal public agencies, in the public procurement procedures in order to guarantee their transparency and legality.

- The participation of civil society through the Social Witness Programme allows the monitoring and surveillance (watchdog) of the public procurement procedures more relevant to the federal government. The extensive scope of this programme and its institutionalization process has improved public procurement procedures and enhanced the transparency and credibility of them.

6. Reporting

In order to implement effective anti-corruption policies, coordination between public agencies responsible of preventing, investigating and prosecuting criminal offences is needed. The Ministry of Public Administration contributes with the Federal Attorney-Generals Office and the Judiciary to combat corruption and inhibit the commission of crimes and illicit, by federal public servants, which undermines the confidence of citizens towards public institutions.

In this sense, from September 2008 to July 2009, the Ministry of Public Administration has informed the Federal Attorney-Generals Office -competent authority- of 12 complaints where there were reasonable grounds to believe that offences may have been committed, according to the following typology:

The criminal offences	Incidence
Bribery, article 222 of the Federal Criminal Code.	7
Inappropriate use of functions, article 217 of the Federal Criminal Code.	2
Abuse of functions, article 214 of the Federal Criminal Code.	1
Forgery, article 246 of the Federal Criminal Code.	1
Embezzlement, article 223 of the Federal Criminal Code.	1
Extortion, article 390 article of the Federal Criminal Code.	1

- The Ministry of Public Administration, has established a communication strategy in order to promote, among the citizenship and the public official, the report of cases related to bribery and any other presumed irregularity committed in the public service. The above, through the Contact Centre for Citizens 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 FUNCION (3862466); US: 1 800 475 2393). At the same time reports of wrongdoing might be sent by e-mail (contactociudadano@funcionpublica.gob.mx) or through the web pages of the institutions of the Federal Public Administration.
- The Attorney-General Office has established mechanisms for reporting cases related with corruption offences committed by public officials in the Federal Public Service, included transnational bribery cases, through the PGR website, in the section called “Citizen Complaint” (Denuncia Ciudadana) <http://www.pgr.gob.mx/servicios/mail/plantilla.asp?mail=99>. Through this tool citizens are called to report and complaint via email (denunciaspgr@pgr.gob.mx) or by telephone (Local – Mexico City: 53 46 15 40; National: 01800 0085 400). Also, citizens may post complaints and reports of misconduct or illegal acts by public officials within the Attorney-General’s Office through VISITEL, by email (denuncias-vg@pgr.gob.mx), or by telephone (+52 55 5346 0695 /96) and follow up these cases through the PGR website.
- In order to promote the reporting of national and international bribery among public officials, taxpayers and citizens in general, a *banner* was posted on the SAT website, which reads: “Cohecho Nacional e Internacional ¡Denuncia!” (*National and International Bribery. Report it!*) (www.sat.gob.mx). During 2009 and 2010, the Tax Administration Service has continued its electronic awareness raising campaign to promote the content of the International Anticorruption Conventions of the OECD, UNCAC and the mandatory obligation to report national and foreign bribery.
- The Tax Administration Service (SAT) also has implemented a communication system to report probable acts of corruption carry out by public officials inside the Institution. It is intended to answer rapidly and confidentially. The line number is 01 800 DELITOS (3354867) and the e-mail denuncias@sat.gob.mx

7. Federal Strategy against Corruption

- On December 9th, 2008, and as part of the International Day against Corruption, Mexican President Felipe Calderón presented the National Programme on Accountability, Transparency

and the Fight against Corruption 2008-2012. This Programme is mandatory for all agencies of the Federal Civil Service. Especially noteworthy are the Programme's directives related to recommendations made by international organisations on the matter. Twenty-four lines of work relate respond to the recommendations made by the OECD Working Group on Bribery. Strategy 5.4, which includes six lines of work, mandates to monitor compliance by the Federal Public Administration with international anti-corruption conventions. Moreover, co-ordinating strategies are set between different institutions and government agencies that are in charge of detecting foreign bribery. The Programme also establishes federal strategies to link administrative and penal spheres with the intention of adopting specific criteria to follow-up on administrative measures against public servants, as well as sanctions against enterprises. To know more about the Programme on Accountability, go to <http://www.funcionpublica.gob.mx>

- By the CNPJ/XXI/03/2009 agreement during the XXI Administration of Justice National Conference, the National Strategy for Combating Corruption in the System of Administration of Justice by the Attorney General's Office was approved. This approval pursues to increase awareness of the offence of transnational bribery by ensuring that federal policies and initiatives are canalized to the lower levels of government. It is anticipated that the diffusion, the ways and terms of implementation of the Programme, might be set in the next meeting of the Technical Committee to Combat Corruption and Impunity.
- Upon approval of the National Strategy for Combating Corruption at the Justice Procurement System and with the purpose of instructing the National Group of Inspectors General in the application of a mechanism for verification, evaluation and follow-up of the fulfillment of the National Strategy, the Committee against Impunity and Corruption, established in the framework of the National Conference on Justice Procurement, in June, 2009. The Strategy was elaborated by PGR as a tool for accomplishing the recommendations of the Working Group on Bribery (WGB) of the Organization for Economic Co-Operation and Development (OECD), under the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.
- National Group of Inspectors General's Meeting and Equivalent Organs, took place in July, 2009. Within this framework, participants agreed on the need of defining specific actions concerning preventive measures, corrective measures and sanctions, where citizens are involved in order to contribute in the formulation of complaints, prevention, attention and combat illicit conducts. In this regard, it was also considered to review the Code of Recurrent Criminal Conducts designed by the National Group, aimed at updating or including new illicit conducts, contributing to the accomplishment of the National Strategy and the WGB recommendations.
- This section also highlights the implementation of intelligence to combat corruption, in particular, the "Mystery Shopper Programme" (in Spanish Usuario Simulado). This strategy is used in cases in which they can obtain legal evidence, real and proven the existence of a specific request for money or kind by a federal public servant, who requests a service at any institution of the Federal Government. Derived from this Programme and other measures to prevent corruption, the Ministry of Public Administration has detected criminal offences of the public servants that could lead to crime. The crimes in which this strategy is applicable are those of bribery and extortion covered on CPF.
- From September 2008 to August 2009, the Ministry of Public Administration has carried out 13 operations together with several Internal Oversight Organs (in Spanish Órganos Internos de Control), and the federal police agents and the prosecution service of the Federal Attorney-

Generals Office, ,achieving the arrest in *flagrante delicto* of public servants, which are being subject to administrative and criminal proceedings.

- In order to coordinate, implement and enforce the International Anticorruption Conventions, a Sub-commission was created within the Interministerial Commission Against Corruption. The Ministry of Foreign Affairs, the Attorney Generals Office, the Tax Administration Service and the Ministry for Public Administration are permanent members of this Sub-commission.

8. Institutional Arrangements

- 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.
- The Mexican Government with the deep commitment to continue the efforts on combating corruption, decided to restructure the Ministry of Public Administration. As a result of this arrangement, several areas within the Ministry were created. In particular three important units might be highlighted:
 - The Transparency Policies and International Cooperation Unit (Unidad de Políticas de Transparencia y Cooperación Internacional) - This Unit depends directly from the Minister of Public Administration. It is responsible of the follow up to the Anticorruption Conventions that Mexico has signed. It is also the responsible to operate the National Programme on Accountability, Transparency and the Fight Against Corruption 2008-2012, as well as the formulation of the policies, strategies and criteria to establish the actions that the Government should follow regarding transparency, accountability and citizen participation in order to combat corruption within the Public Administration.
 - The Normativity for Public Procurement Unit (Unidad de Normatividad de Contrataciones Públicas) - This Unit depends from the Undersecretary for Citizen Attention and Normativity. It is in charge of proposing the expedition of norms and rules regarding the planning, execution, and control of public procurement in all the Federal Public Administration. It is also in charge of proposing rules for the management of the Federal Assets, among other duties.
 - Unit of Policy of Public Procurement (Unidad de Política de Contrataciones Públicas) - This Unit also depends from the Undersecretary for Attention to Citizens and Normativity. It is in charge of dictate the policy that the Federal Public Administration should follow regarding public procurement under the principles of efficiency, efficacy economy, transparency, impartiality and honesty. It should promote the efficient and transparent spending of public federal assets. It will work along with the Normativity for Public Procurement Unit, in order to translate the regulation into efficient policies.

For more information regarding the restructure of the Ministry of Public Administration, please refer to the Ministry's website: www.funcionpublica.gob.mx

For the Internal Regulations of the Ministry of Public Administration please refer to the following link:

<http://portal.funcionpublica.gob.mx:8080/wb3/work/sites/SFP/resources/LocalContent/1356/4/RISFP.pdf>

(Information only available in Spanish)

9. Other information

Relevant authorities

The body responsible of coordinating the prevention and enforcement actions of the federal anticorruption strategy is the Interministerial Commission Against Corruption (Comisión Intersecretarial para la Transparencia y el Combate a la Corrupción en la Administración Pública Federal).

www.programanticorruccion.gob.mx

The authority responsible of promoting preventive measures within the Federal Public Administration (Integrity, audit, internal control, appropriate systems of procurement and transparency) is the Ministry of Public Administration

(Secretaría de la Función Pública. Acronym in Spanish SFP)

Unidad de Políticas de Transparencia y Cooperación Internacional

Insurgentes Sur 1735

Col. Guadalupe Inn / Delegación Álvaro Obregón

C.P. 01020 México, D.F.

Tel: +52.55.2000.30.00

<http://www.funcionpublica.gob.mx>

The authority responsible for investigating and prosecuting criminal offences is the Attorney-General's Office

(Procuraduría General de la República. Acronym in Spanish language is PGR)

Av. Paseo de la Reforma 211-213

Col. Cuauhtémoc, Delegación Cuauhtémoc

C.P. 06500, México D.F.

<http://www.pgr.gob.mx/>

The Ministry of Finance

(Secretaría de Hacienda y Crédito Público. Acronym in Spanish language is SHCP)

Palacio Nacional S/N

1° Patio Mariano, 3° Piso

Col. Centro, Delegación Cuauhtémoc

C.P. 06010, México D.F.

<http://www.shcp.gob.mx>

The Tax Administration Service

(Servicio de Administración Tributaria. Acronym in Spanish SAT)

Av. Hidalgo 77

Col. Guerrero, C.P.: 06300

México D.F.
<http://www.sat.gob.mx>

The National Foreign Trade Bank
(Banco de Comercio Exterior. Acronym in Spanish Bancomext)
Blvd. Adolfo Ruíz Cortines 4284
Col. Jardines del Pedregal de San Ángel, Del. Coyoacán,
C.P. 04500, México, D.F.
<http://www.bancomext.com>

The Ministry of Foreign Affairs
(Secretaría de Relaciones Exteriores. Acronym in Spanish SRE)
Plaza Juárez 20
Col. Centro, Delegación Cuauhtémoc
CP. 06010, México D.F.
<http://www.sre.gob.mx>

Financial Intelligence Unit
(Unidad de Inteligencia Financiera. Acronym in Spanish UIF)
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 and Disposition Agency
(Servicio de Administración y Enajenación de Bienes. Acronym in Spanish 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>

Office of the Federal Fiscal Attorney
(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

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation. (February 2000)
<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. (September 2004)

<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 (April 2007)

<http://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 (February 2001)
<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 (June 2006)
<http://www.oecd.org/dataoecd/14/49/36993012.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 (December 2008)
<http://www.oecd.org/dataoecd/61/59/41919004.pdf>

NEW ZEALAND

(Information as of 24 June 2009)

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.

The Act came into force on 3 May 2001 and the provisions relating to offence of foreign bribery are set out in sections 105C, 105D and 105E of the Crimes Act 1961.

Key features of the legislation include:

- An 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;
- 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;
- Limited exceptions to the foreign bribery offence where acts alleged to constitute the offence are:
 - In the form of small facilitation payments, or
 - Carried out in another country where the act 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.

New Zealand is currently reviewing aspects of its implementing legislation in line with recommendations made in the course of the Phase 2 Evaluation.

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 2007
- Extradition Act 1999
- Mutual Assistance in Criminal Matters Act 1992
- State Sector Act 1988
- Public Audit Act 2001

- Proceeds of Crime Act 1991
- Criminal Proceeds (Recovery) Act 2009
- Protected Disclosures Act 2000
- Financial Transactions Reporting Act 1996
- Sentencing Act 2002

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

The enactment of the Criminal Proceeds (Recovery) Act 2009 is a significant enhancement to the laws governing recovery of proceeds of criminal offending and will strengthen New Zealand's ability to provide mutual legal assistance in relation to the offence of foreign bribery. The Act contains provisions amending the 1992 Mutual Assistance in Criminal Matters Act (MACMA) and introduces civil processes for providing assistance to overseas jurisdictions seeking to recover profits received from business deals secured by payments of bribes even if a conviction has not been secured. It enables New Zealand to assist foreign jurisdictions in enforcing civil and criminal restraining and forfeiture orders in New Zealand. The changes are intended to make the procedural requirements relating to the registration of foreign restraining and forfeiture orders more workable, and to minimise the risk of people re-litigating in New Zealand matters on which they have already been heard in a foreign country. The Bill amends the MACMA so that New Zealand can accept requests to enforce foreign civil as well as criminal orders.

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

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.

New Zealand is member of the Financial Action Task Force on Anti-Money Laundering and Counter Terrorist Financing (FATF). The New Zealand Government endorsed the FATF

Forty Recommendations on Anti-Money Laundering and the Nine Special Recommendations on Counter-Terrorism Financing in June 2003.

New Zealand ratified the UN Convention against Transnational Organized Crime in 2002.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation (May 2002)

<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 (October 2006)

<http://www.oecd.org/dataoecd/57/38/37658136.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 (March 2009)

<http://www.oecd.org/dataoecd/7/57/42486288.pdf>

NORWAY

(Information as of 20 May 2009)

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 15.04.2009. The new act implements the third EU Directive on Money Laundering and takes into consideration recommendations made by the FATF.

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.lovddata.no>

Signature/Ratification of other relevant international instruments

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

Norway signed the Council of Europe Civil Law Convention on 04.11.1999 and ratified it on 12.02.2008.

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

Norway signed the UN Convention against Corruption (UNCAC) on 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 (April 1999)
<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 (April 2004)
<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 (March 2007)
<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 (February 2001)
<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 (January 2007)
<http://www.oecd.org/dataoecd/3/54/38030514.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 (October 2009)
<http://www.oecd.org/dataoecd/31/47/44424102.pdf>

PORTUGAL

(Information as of 5 October 2009)

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.

Portugal ratified the *UN Convention against Corruption*, approved by the Parliament's Resolution 47/2007, of 21 September and ratified by the President's Decree no 97/2007, of 21 September.

Law n° 50/2007, of 31 August, establishing a new legal framework concerning criminal liability for corruption in the field of sports (includes corporate criminal liability in this regard);

Law no. 51/2007, of 31st August – Establishing the objectives, priorities and orientations for the criminal policy, for the period 2007-2009, in compliance with Law no 17/2006, of 23rd March, approving the Framework Law on criminal policy.

Law n° 59/2007, of 4 September – amending the Portuguese Penal Code – includes specific provisions on corporate criminal liability, namely for crimes of corruption and extends the criminal record to legal persons; furthermore, the definition of “public official” for the purpose of criminal responsibility for crimes of corruption, as amended, includes all those who intervene in alternative dispute resolution mechanisms (such as arbitrators);

Law no. 60/2007, of 31st December – Legal framework of civil (non contractual) liability of the State and public entities;

Law n° 67/2007, of 31 December – legal framework of civil (non contractual) liability of the State and public entities;

Decree-Law no. 18/2008, of 29th January – Approving the Code of Public Procurement, establishing the procedural and substantive framework for the public contracts with the nature of an administrative contract. This Decree-Law establishes, among other, that entities that have been convicted, by a final decision, of crimes of corruption or money laundering cannot apply in a competition for a public contract;

Law 19/2008, of 21 April, which approves several measures related to the combat against corruption, namely pertaining to *whistleblowers*;

Law 20/2008, of 21 April, which creates a new criminal legal framework for corruption in international trade and private sector, implementing the EU Framework Decision no 2003/568/JHA, of the Council, of 22 July: this law establishes the criminal responsibility framework for crimes of corruption perpetrated in the specific context of international trade and private activity;

Law no. 25/2008, of 5th June – Establishing the preventive and repressive measures for the combat against the laundering of benefits of illicit origin and terrorism financing, transposing into the domestic

legal system Directive 2005/60/EC of the European Parliament and Council, of 26 October 2005, and Directive 2006/70/EC, of the Commission, of 01 August 2006, relating to the prevention of the use of the financial system and of the specially designated activities and professions for purposes of money laundering and terrorism financing;

Law n° 29/2008, of 4 July, amending Law n° 93/99, of 14 July, concerning implementing measures aimed at witness protection in criminal procedure;

Law 31/2008, of 6 August, that approves the institutional organization of the Criminal Police, and in which it is established the National Unit for the Fight against Corruption;

Law no. 49/2008, of 27th August – Approving the organization of the criminal investigations

Law 54/2008, of 4 September, which created the Council for the Prevention of Corruption: an administrative independent entity, with competence, namely to follow the implementation of legal instruments and provide with options on the adoption of legal instruments (internal or international), to elaborate best practices guides and cooperating with international organisms. The Council for the Prevention of Corruption has the duty to present yearly reports to the Parliament on its activities, and present recommendations, as well as intercalary reports.

Law no. 25/2009, of 5th of June – transposes the EU’s Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence;

Law no 38/2009, of 20th July – Establishes the objectives, priorities and orientations for the criminal policy, for the period 2009-2011, in compliance with Law no 17/2006, of 23rd March, approving the Framework Law on criminal policy.

Law no 74/2009, of 12th of August – transposes the EU’s Council Framework Decision 2006/960/JHA on simplifying the exchange of information and intelligence between law enforcement authorities;

Law no 88/2009, of 31st of August – transposes the EU’s Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders;

Law no 93/2009, of the 1st of September – transposes the EU’s Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties.

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

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation (May 2002)
<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 (March 2007)
<http://www.oecd.org/dataoecd/28/24/38320110.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 (October 2009)
<http://www.oecd.org/dataoecd/31/47/44424102.pdf>

SLOVAK REPUBLIC

(Information as of 2 October 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 1997 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. 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 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)

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).

Act on Protection against Legalisation of Proceeds from Criminal Activity and on Protection against Financing of Terrorism (Act No. 297/ 2008 Coll.). (Relevant provisions) The act was adopted by the National Council of the Slovak Republic (by its Resolution No. 931) on 2 July 2008 and entered into force on 1 September 2008. It contains, inter alia, provisions defining “unusual business transaction” in Section 4, “politically exposed person” in Section 6 and provisions related thereto as well (e.g. reporting obligation of “obliged persons” as stipulated by Section 17, without prejudice to the obligation to report suspicions that a criminal offence was committed to law enforcement authorities pursuant to the Criminal Code).

Section 4

Unusual Business Transaction

1. Unusual business transaction for the purpose of this Act shall mean a legal act or other act which indicates that if it is effected it may lead to legalisation or financing of terrorism.
2. Unusual business transaction shall mean, in particular, a business (transaction):
 - a) which, with respect to its complexity, unusually high amount of financial means used or any other nature obviously deviates from the framework or nature of the specific type of business or business of a specific client
 - b) which, with respect to its complexity, unusually high amount of financial means used or any other nature has no obvious economic purpose or has no obvious statutory purpose
 - c) in respect of which client refuses to identify himself or provide data needed for carrying out the care by obliged person pursuant to Sections 10 to 12
 - d) in respect of which client refuses to provide information on anticipated business or tries to provide as little information as possible or provides such information which can be verified by the obliged person only with great difficulties or with considerable costs
 - e) in respect of which client makes a request for its execution based on a project which raises doubts

- f) in respect of which the used financial means of low nominal value are in disproportionately high quantity
- g) with a client in respect of whom it can be anticipated that he is not or cannot be an owner of the necessary financial means, taking into account his occupation, status or any other characteristic
- h) in respect of which the amount of financial means at disposal of a client is manifestly disproportionate to nature or extent of his business conduct or to means declared as belonging to him
- i) in respect of which a substantiated assumption exists that a client or an ultimate user of benefits is a person against whom international sanctions are being enforced pursuant to (provisions of) a specific statute or a person who may be in relationship with a person against whom international sanctions are being enforced pursuant to (provisions of) a specific statute or
- j) in respect of which a substantiated assumption exists that its object is or is going to be a thing or service which may be related to a thing or service against which international sanctions are being enforced pursuant to (provisions of) specific statute

Section 17

Reporting Unusual Business Transaction

1. Obligated person is obliged to report an unusual business transaction or attempt of its execution to financial intelligence unit without undue delay. Obligated person shall report also refusal to execute a requested unusual business transaction pursuant to Section 15 to financial intelligence unit without undue delay.
4. Notification of an unusual business transaction must not contain data of employee who detected an unusual business transaction.
6. Fulfilling the obligation to report an unusual business transaction to financial intelligence unit pursuant to paragraph 1 is not limited by the statutory obligation to observe secrecy pursuant to specific regulations.
7. By reporting an unusual business transaction the obligation to give notice of facts suggesting that criminal act was committed is not affected.

Section 6

Politically Exposed Person

1. Politically Exposed Person for the purpose of this Act shall mean a natural person holding a public office of considerable significance who does not have a permanent residence on the territory of the Slovak Republic during the discharge of her/his office or during the period of one year after termination of discharging of a public office of considerable significance.
2. Public office of considerable significance shall mean:

- a) Head of State, Prime Minister, Deputy Prime Minister, Minister, Head of central authority of public administration, Secretary of State or a similar deputy of Minister
 - b) Member of legislative body
 - c) Judge of the Supreme Court, judge of the Constitutional Court or other judicial body of higher instance, against decisions of which no appeal is admissible, except of specific cases,
 - d) Member of the Court of Auditors or of the Council of the Central Bank
 - e) Ambassador, Chargé d'affaires
 - f) High-ranking member of the Armed Forces
 - g) Member of managing body, supervisory body or controlling authority of state-owned enterprise or company of which the state is a proprietor or
 - h) a person holding other similar office in institutions of the European Union or international organisation
3. Politically exposed person for the purpose of this Act shall mean also a natural person, who is:
- a) a spouse or a person having similar position as a spouse of the person described in paragraph 1
 - b) a child, son-in-law, daughter-in-law of the person described in paragraph 1 or a person having similar position as a son-in-law or daughter-in-law of the person described in paragraph 1 or
 - c) a parent of the person described in paragraph 1
4. Politically exposed person for the purpose of this Act shall mean also a natural person who is known to be an ultimate user of benefits
- a) of a same client or who otherwise controls a same client as the person described in paragraph 1 or a person conducting business together with the person described in paragraph 1 or
 - b) of a client established for the benefit of the person described in paragraph 1

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]

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation (February 2003)

<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 (December 2005)

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

Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Revised Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions (October 2009)

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

SLOVENIA

(Information as of 26 February 2010)

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 2008 (Official Gazette RS, no. 55/08 and 39/09; entered into force on 1 November 2008). Article 99, para. 1, of the Criminal Code defines "domestic public officials" in sub-para. 1, 2, 3 and 4, and "foreign and international public officials" in sub-para. 6, 7 and 8. The definition relates to Articles 261 (Acceptance of Bribes), 261 (Giving Bribes), 263 (Accepting Benefits for Illegal Intermediation) and 264 (Giving of Gifts for Illegal Intervention) of the Criminal Code and includes passive and active bribery and active and passive trading in influence.

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 245 of Criminal Code of 2008. 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, 2004 and 2009, 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.

The 2009 amendments (Official Gazette, RS, no 77/09) in Article 160a defines cooperation during pre-trial procedure especially in a case of organised and economic crime. The public prosecutor may in exercising his/her authority set guidelines for police work, work of the joint investigation teams and work of other competent authorities dealing with tax, customs, financial transactions, securities, competition protection, prevention of money laundering, prevention of corruption, illegal drugs and inspection

supervision by giving directions, expert opinions and proposals for the information gathering and execution of other measures coming within the competence, with a view to detecting a criminal offence and its perpetrator or gathering information necessary for his decision.

The National Bureau of Investigation became operational on 1 January 2010. The Bureau is a specialised criminal investigation unit at the national level for the detection and investigation of serious criminal offences, especially economic and financial crime and corruption and in certain cases organised crime, cybercrime and more difficult forms of conventional crime

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.

The Commission for the Prevention of Corruption in cooperation with the Ministry for Public Administration prepared a draft Integrity and Prevention of Corruption Act that widens powers and mandate of the Commission for the Prevention for Corruption and establishes new areas of responsibility. The draft was adopted by the Government of the Republic of Slovenia on 25 February 2010 and is to be sent to the National Assembly for further procedure and adoption. According to the draft the Commission remains the main authority competent for prevention of corruption. One of the important novelties is an effective protection of whistleblower, registration of lobbying and obligatory inclusion of anticorruption clause in public sector contracts. The draft also regulates new activities regarding the preparation of

Integrity Plan and determines actions to be set for realization of National Anti-Corruption Strategy. If the public officials or other person obliged to act in compliance with the law doesn't act as should the Commission might start the procedure against him/her and according to the facts the Commission might utter a fine against that person.

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.

In August 2009 The Commission for the Prevention of Corruption sent to the National Assembly a proposal regarding guidance of deciding about immunity for public function holders. The National Assembly's competent committee was acquainted with the proposal and concluded that guidance is within the scope of practice regarding immunity deciding in the National Assembly.

Amendments to the Court Act of 2009 (Official Gazette RS, no. 96/09), entered into force on 1 January 2010 constituted a specialized department established at the Regional court of Ljubljana. The department's task would be judging in serious cases regarding organised and economic crime, terrorism, corruption and other similar criminal offences.

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.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

Dunajska cesta 56, 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 (March 2005)

<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 (July 2007)

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

Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Revised Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions (October 2009)

<http://oecd.org/dataoecd/2/59/44001495.pdf>

SOUTH AFRICA

(Information as of 22 May 2009)

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

National Prosecuting Authority Amendment Act, 2008

South African Police Service Amendment Act, 2008

On 27 January 2009 the President of the Republic of South Africa signed the NPA and the SAPS Amendment Bills into Acts. On 20 February 2009, section 13 of the NPA Amendment Act, 2008 and the entire SAPS Amendment Act, 2008 came into effect, which paves away for the establishment of the Directorate for Priority Crimes Investigations. This Unit will replace the Directorate for Special Operations.

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.

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

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

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation (June 2008)
<http://www.oecd.org/dataoecd/51/30/40883135.pdf>

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 (March 2000)

<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 (March 2006)

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

Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Revised Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions (September 2008)

<http://oecd.org/dataoecd/8/38/41590651.pdf>

SWEDEN

(Information as of 20 November 2009)

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

Review of legislation

The Government decided in March 2009 to appoint an Inquiry Chair to review the criminal law regulation of passive and active bribery with the aim of achieving more modern, more efficient and easily accessible regulations with clear criteria for criminal liability. The Chair will in this context consider questions raised in the framework of Sweden's Phase 2 Review. The findings of the review are to be reported by 1 June 2010.

The Government decided in March 2009 to appoint an inquiry Chair to review the criminal law regulation of passive and active bribery with the aim of achieving more modern, more efficient and easily accessible regulations with clear criteria for criminal liability. The Chair will in this context consider questions raised in the framework Sweden's Phase 2 Review. The findings of the review are to be reported by 1 June 2010.

Relevant authorities

- National Anti-Corruption Unit (phone 46 8 762 1000)
- Swedish Economic Crime Authority (46 8 762 0000)
- 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 (October 1999)

<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 (September 2005)

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

Phase 2: Follow-up Report on the implementation of the Phase 2 Recommendations (October 2007)
<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 28 May 2010)

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 October 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/inter/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 was signed on 10 December 2003, and ratified on 24 September 2009.

Working Group on Bribery Monitoring Reports

Phase 1: Review of implementation of the Convention and 1997 Recommendation (February 2000)
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 (February 2005)
<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 (may 2007)
<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 (November 2004)
<http://www.oecd.org/dataoecd/17/6/33967367.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 (December 2007)
<http://oecd.org/dataoecd/13/46/39862163.pdf>

Phase 2bis: (May 2007) <http://oecd.org/dataoecd/2/18/43198860.pdf>

UNITED KINGDOM

(Information as of 28 May 2010)

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 and to the two Channel Islands of Jersey and Guernsey in early 2010.

Implementing legislation

The Anti-Terrorism, Crime and Security Act 2001 received Royal Assent on 14 December 2001. Part 12 of the Act, which came into force on 14 February 2002, expressly extended the jurisdiction of domestic courts to bribery committed abroad by UK nationals or bodies incorporated under UK law, and widened the definition of public bodies to encompass foreign public bodies. Before the Anti-Terrorism, Crime and Security Act 2001 if the substance of the offence was committed in the UK it would be prosecutable.

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

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) with the Public Bodies Corrupt Practices Act 1889, which outlawed bribery of public officials.

The Prevention of Corruption Act 1906 extended bribery into the private sector and introduced the concept of bribing agents acting on behalf of a principal.

The Prevention of Corruption Act 1916 Act widened the definition of ‘public body’ and added a presumption of corruption for all payments made in connection with contracts to Crown employees or government departments.

Section 59 of the Criminal Justice and Immigration Act 2008 extends SFO powers to compel the production of documents at the earlier vetting stage of foreign bribery cases. These new pre-investigation powers facilitate the collecting of relevant evidence at a much earlier stage and therefore enable swifter, more proactive investigatory action against well-founded cases. These new powers came into force in July 2008, and were first used in October 2008.

http://www.opsi.gov.uk/acts/acts2008/ukpga_20080004_en_1

Law Reform

In March 2007, the Government asked the Law Commission to undertake a priority fundamental review of the law on bribery. The Law Commission’s consultation exercise closed in March 2008. The Law Commission issued their report on 20 November 2008.

<http://www.lawcom.gov.uk/bribery.htm>

The Government announced in May 2008 its Draft Legislative Programme for 2008/09. The Leader of the House's summary of the draft Bill coincided with the Queen’s Speech and the Law Commission report.

The draft bill was published on 25 March 2009 and was subject to pre-legislative scrutiny by the UK Parliament. Parliament established a Joint Committee of both Houses of Parliament on 28 April 2009 and began to take evidence in May.

<http://www.justice.gov.uk/publications/bribery-bill.htm>

The Committee's report was published on 28 July.

<http://www.publications.parliament.uk/pa/jt200809/jtselect/jtbribe/115/115i.pdf>

The progress of the Bribery Bill through Parliament can be followed here

<http://services.parliament.uk/bills/2009-10/bribery.html>

The Bribery Act 2010 received royal assent on 8 April 2010 and can be read here

http://www.opsi.gov.uk/acts/acts2010/ukpga_20100023_en_1

Other information

Relevant authorities

Department for Business, Innovation & Skills,
1 Victoria Street
London
SW1H 0ET
Tel: 0207 215 6206
Fax: 0207 215 2235

Relevant Internet links to national implementing legislation

Anti-terrorism, Crime and Security Act 2001

http://www.opsi.gov.uk/acts/acts2001/ukpga_20010024_en_1

Explanatory Notes

http://www.opsi.gov.uk/acts/acts2001/en/ukpgaen_20010024_en_1

Signature/Ratification of other relevant international instruments

The United Kingdom has signed the Council of Europe Criminal Law Convention on Corruption and joined GRECO. The round 1 report was published September 2001 and the compliance report in 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.

http://www.coe.int/t/dg1/Greco/Default_en.asp

<http://www.unodc.org/unodc/en/treaties/CAC/index.html>

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation (December 1999):

<http://www.oecd.org/dataoecd/8/24/2754266.pdf>

Phase 1bis. (March 2003): <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 (March 2005).

<http://www.oecd.org/dataoecd/62/32/34599062.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 July 2007).

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

Phase 2 bis. (October 2008) <http://www.oecd.org/dataoecd/23/20/41515077.pdf>

Judicial decisions (and enforcement actions)

Robert John Dougall

Former DePuy executive Robert John Dougall pleaded guilty after admitting his involvement in making £4.5 million of corrupt payments to medical professionals within the Greek state healthcare system. He was originally sentenced to 12 months imprisonment. Recognising the important public interest issues raised in this case, Mr. Dougall was granted leave to appeal. On appeal the sentence was suspended. The Court of Appeal emphasised that where a defendant entered a guilty plea and provided full co-operation with the authorities investigating a major crime involving fraud or corruption and the level of criminality and mitigation meant that the sentence of imprisonment would be 12 months or less, then “the argument that the sentence should be suspended is very powerful” and that “this result will normally follow”.

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2010/british-executive-jailed-for-part-in-greek-healthcare-corruption.aspx>

Innospec Ltd

In March 2010, Innospec Ltd appeared at Southwark Crown Court and entered a plea of guilty to bribing employees of Pertamina (an Indonesian state owned refinery) and other government officials in Indonesia. The judge indicated he would impose a fine of the sterling equivalent of US\$ 12.7 million.

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2010/innospec-judgment.aspx>

http://www.judiciary.gov.uk/docs/judgments_guidance/sentencing-remarks-thomas-lj-innospec.pdf.

BAE System plc

In February 2010 the SFO announced that it had reached an agreement with BAE Systems that the company will plead guilty in the Crown Court to an offence under section 221 of the Companies Act 1985 of failing to keep reasonably accurate accounting records in relation to its activities in Tanzania. The case is yet to come before the courts, but the company has agreed to pay £30 million comprising a financial order to be determined by a Crown Court judge with the balance paid as an ex gratia payment for the benefit of the people of Tanzania.

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2010/bae-systems-plc.aspx>

Mabey & Johnson

In July 2009, bridge builders Mabey and Johnson entered guilty pleas to charges of corruption and breaching UN sanctions. On 25 September 2009, the company agreed to pay £6.6 million in fines, confiscation and reparation orders. A monitor was appointed for up to three years to ensure future compliance.

<http://www.sfo.gov.uk/our-work/latest/mabey--johnson-ltd-sentencing-.aspx> 4

FSA fines Aon

In January 2009 the Financial Services Authority fined the company £5.25 million for failing to take reasonable care to establish and maintain effective systems and controls to counter the risks of bribery and corruption.

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/004.shtml>

Balfour Beatty plc

In October 2008 the Serious Fraud Office used new Civil Recovery powers against a UK plc to recover property obtained by unlawful conduct. A Consent Order agreed before the High Court established a settlement of £2.25 million plus costs.

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2008/balfour-beatty-plc.aspx>

City of London Police - Guilty plea to bribery sets legal landmark

The first UK prosecution of a foreign bribery offence was heard in August 2008. The Managing Director of a UK-based company was found guilty of making corrupt payments to foreign officials. A Ugandan Government official who received the payment was arrested in London and also convicted.

<http://www.cityoflondon.police.uk/CityPolice/ECD/anticorruptionunit/guiltypleatobribery.htm>

UNITED STATES

(Information as of 28 May 2010)

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

Deposit of instrument of ratification/acceptance: December 8, 1998

Entry into force of the Convention: February 15, 1999

Entry into force of implementing legislation: November 10, 1998

Implementing legislation

Foreign Corrupt Practices Act (FCPA) 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 November 10, 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 organizations and Europol as public international organizations, making bribery of officials from these organizations 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 Building, 4th floor)
Washington, D.C. 20530
Tel: 202-514-7023
Fax: 202-514-7021

U.S. Securities and Exchange Commission (SEC)
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, the Agreement establishing the Group of States against Corruption (GRECO), and has signed the Council of Europe Criminal Law Convention on Corruption. The United States ratified the United Nations Convention Against Corruption on October 30, 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 (Subsequent to the Phase 2 Review)

In *United States v. Kay*, 513 F.3d 432 (5th Cir. 2007),³ *cert. denied*, ___ U.S. ___, 129 S. Ct. 42 (2008), the 5th Circuit ruled that *any* payments to foreign officials that might assist in obtaining or retaining business by lowering the costs of operations can fall within the FCPA, even where such a payment is not directly related to securing a contract. The judges rejected the defendants' argument that to interpret the business nexus requirement that broadly rendered the statute unconstitutionally vague. The court also ruled that in proving the "knowing" element of an FCPA offense, the United States need only prove the defendants understood that their actions were illegal. No specific knowledge about the FCPA or its prohibitions is required. (See Case 73A in Appendix C.) The *Kay* opinion is attached at Appendix D.

In *United States v. Kozeny, et al.*, No. 05-cr-518 (S.D.N.Y. 2005) (Case 50 in Appendix C), the District Court⁴ judge issued a series of rulings on three key issues under the FCPA in the course of the trial and conviction of defendant Frederic Bourke. First, the judge ruled that the "knowing" standard under the FCPA can be met by evidence that the defendant "consciously avoided" or was "willfully blind" to the substantial likelihood that there was bribery. Second, the Court held that for purposes of the affirmative defense of legality under local law, it is not enough that the local law merely relieve the payor of criminal liability; rather, it must affirmatively render the payment legal. Lastly, the trial court rejected the view that economic extortion can be a defense to an FCPA bribery charge, stating that the jury would receive an instruction on extortion only if the defendant laid a sufficient evidentiary foundation of "true extortion," which would involve threats of injury or death, rather than a threat to business interests or business

³ The opinions of circuit courts, which are the first court of appeal in the federal system, are binding only in courts in that circuit. For other courts, they are only persuasive authority.

⁴ The opinions of District Court judges, while persuasive authority, are not binding on any court.

demands. The *Kozeny* opinions are attached at Appendix D. Bourke is currently appealing his conviction and the aforementioned legal rulings.

Opinions Issued by the Department of Justice (Subsequent to the Phase 2 Review)

Opinion Procedure Release No. 10-10: In April 2010, the Department responded to an opinion request regarding whether certain payments to a foreign government official would be appropriate under the FCPA. The requestor, who was contracting with a U.S. government agency to perform work overseas, was obligated to hire and compensate individuals at the direction of a U.S. government agency. One individual so identified, who was hired on the basis of the individual's qualifications, also served as a paid officer for an agency of the foreign country in a position unrelated to the work the individual would perform for the requestor. Based upon all of the facts and circumstances, as represented by the requestor, the Department determined that while the individual was a foreign official within the meaning of the FCPA, and would receive compensation from the requestor through a subcontractor, the individual would not be in a position to influence any official act or decision affecting the requestor. In addition, the requestor is contractually bound to hire and compensate the individual as directed by the U.S. government agency, and the requestor did not play any role in selecting the individual. As such, the payment was not being corruptly made, was not made to obtain or retain business, and was not made to secure an improper advantage. Accordingly, the Department indicated that, based on the facts as presented, it would not take any enforcement action.

Opinion Procedure Release No. 09-01: In August 2009, the Department issued an opinion that donations of medical devices to a government agency, as opposed to individual government officials, through a program open to all medical device manufacturers, fell outside the scope of the FCPA, as the FCPA covers only the offering of things of value to individual government officials, not to a government itself.

Opinion Procedure Release No. 08-01: In January 2008, the Department of Justice issued an Opinion Procedure Release in response to an inquiry from a U.S. public company regarding its intent to acquire a foreign company that managed public services for a foreign municipality. The foreign company was majority owned by an individual determined to be a "foreign official" within the meaning of the FCPA. The U.S. company was concerned that payments to the owner of the foreign company in connection with the purchase might run afoul of the FCPA. The Department determined that, in light of the U.S. company's extensive due diligence, the transparency of the transaction, the undertakings of both the foreign owner and the U.S. company, and the terms of the transaction, it would not take enforcement action.

Opinion Procedure Release No. 08-02: In June 2008, the Department of Justice issued an Opinion Procedure Release in response to an inquiry from a Halliburton Company (Halliburton). Halliburton intended to acquire a business in a foreign jurisdiction where they would not be able to conduct full due diligence in advance of acquisition. The company provided a detailed procedure for conducting staged due diligence quickly after acquisition. The Department determined that, assuming Halliburton completed each of the steps detailed in the submission, including full disclosure to the Department, the Department would not take any enforcement action against Halliburton for the acquisition, any pre-acquisition unlawful conduct by the business being acquired if timely disclosed to the Department, or any post-acquisition conduct by the business being acquired if it is halted and disclosed to the Department in a timely fashion.

Opinion Procedure Release No. 08-03: In July 2008, the Department of Justice issued an Opinion Procedure Release in response to an inquiry from TRACE International (TRACE), a U.S. non-profit membership organization, declining to take enforcement action if TRACE paid a limited stipend to

cover certain travel expenses for Chinese journalists to attend a press conference to be held by TRACE. TRACE represented that the journalists are not typically reimbursed by their employers for such costs; that stipends will be equally available to all journalists regardless of whether they later provided coverage of the conference and regardless of the nature of such coverage; that TRACE has no business pending with any government agency in China; and that it had obtained written assurances from an established international law firm that the payment of the stipends is not contrary to Chinese law.

Opinion Procedure Release No. 07-01: In July 2007, the Department of Justice issued an Opinion Procedure Release in response to a private company in the United States declining to take enforcement action if the company proceeded with sponsoring domestic expenses for a trip by a six-person delegation from an Asian government. The company represented that the purpose of the visit would be to familiarize the delegates with the nature and extent of the company's business operations; that it would not select the delegates; it would pay all costs directly to providers; and it does not currently conduct operations in the foreign country at issue.

Opinion Procedure Release No. 07-02: In September 2007, the Department of Justice issued an Opinion Procedure Release in response to a private insurance company in the United States declining to take enforcement action if the company proceeded with sponsoring domestic expenses for a trip by six officials from an Asian government for an educational program at the company's U.S. headquarters. The company represented that the purpose of the visit would be to familiarize the officials with the operation of a U.S. insurance company; that it would not select the officials who would participate; that it would pay costs directly to providers; and that it has no non-routine business pending before the agency that employs the officials.

Opinion Procedure Release No. 07-03: In December 2007, the Department of Justice issued an Opinion Procedure Release in response to a lawful permanent resident of the United States declining to take enforcement action if the requestor paid up-front expenses to a foreign court-appointed estate administrator. The Department noted that there were two primary reasons for declining enforcement: first, the requestor had represented that the payment would be made to a government entity (the court clerk's office) rather than a foreign official; and second, that the payment in any event is lawful under the written laws and regulations according to an experienced attorney retained by the requestor in the country in question, which would be consistent with the affirmative defense enumerated in the FCPA.

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 anti-counterfeiting 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.

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.

Enforcement Resources

Pursuant to the U.S. Attorney's Manual (USAM) 9-47.110, criminal violations of the Foreign Corrupt Practices Act are prosecuted only by the Fraud Section of the Criminal Division of the Department of Justice. In 2006, the Fraud Section formed a dedicated FCPA Unit within the Fraud Section to handle prosecutions, issue opinion releases, participate in interagency anticorruption policy development, and to engage in public education about the FCPA and OECD Anti-Bribery Convention. The Unit consists of a Deputy Chief, two Assistant Chiefs, and a number of trial attorneys. Since the establishment of the Unit, prosecutions have increased significantly, rising from an average of 4.6 prosecutions per year from 2001-2005 to 18.75 from 2006-2009. Since 2005, the FCPA Unit has prosecuted more cases than were prosecuted in the first 28 years of the FCPA's existence combined.

In May 2008, the Department of Justice Criminal Division announced its International Anticorruption Strategic Implementation Plan, focused on supporting anticorruption efforts around the world as an important component of the Criminal Division's overall mission. The Plan sets forth specific strategic objectives and implementation goals to coordinate the cross-cutting anticorruption efforts of the Office of International Affairs (OIA), the Fraud Section, Public Integrity Section (which handles domestic corruption), and Asset Forfeiture and Money Laundering Section (AFMLS), as well as the Office of Overseas Prosecutorial Development and the International Criminal Investigative Training Program.

The International Corruption Unit (ICU) of the Federal Bureau of Investigation (FBI) was created in 2008 to oversee the increasing number of corruption and fraud investigations emanating overseas, which required extensive international coordination and increased collaboration between FBI Headquarters (FBI-HQ) and other FBI divisions, Legal Attachés, other federal agencies, and host countries. Specifically, the ICU has program oversight for all fraud and corruption matters related to Overseas Contingency Operations (OCO), FCPA, and antitrust matters. Given the investigative and prosecutorial complexities associated with FCPA investigations, and to ensure and promote close coordination between FBI field offices, FBI-HQ, and Fraud Section, in 2008, the FBI created a national FCPA squad located in the FBI's Washington Field Office (WFO). This squad is responsible for investigating and/or providing investigative support for all FBI FCPA related investigations. The squad is staffed with a Supervisory Special Agent, 12 Special Agents, an Investigative Analyst, and an administrative support officer. The ICU also provides annual training in FCPA investigations to law enforcement agents from all over the United States, including agents from other agencies.

On January 13, 2010, the Enforcement Division of the Securities and Exchange Commission announced the creation of a specialized unit that will focus on violations of the FCPA. The FCPA Unit is comprised of approximately 30 attorneys from around the country. A primary mission of this Unit is to enhance the staff's expertise, to coordinate enforcement efforts, and to conduct efficient investigations. The Unit will also conduct more targeted sweeps and sector-wide investigations, alone and with other regulatory counterparts both in the U.S. and abroad. The FCPA Unit also has in-house experts, accountants, and other resources to ensure the SEC remains a very proactive organization in rooting out foreign bribery schemes. The SEC's budget ensures the FCPA unit members obtain adequate training, have state-of-the-art technological capability, and have an adequate travel budget to meet with foreign regulators and to speak with foreign witnesses.

Enforcement Actions

See attached.

**Summaries of Foreign Corrupt Practices Act Enforcement Actions
by the United States
January 1, 1998 – April 30, 2010**

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**Summaries of Foreign Corrupt Practices Act Enforcement Actions
by the United States
January 1, 1998 – April 30, 2010**

1. Alliance One International Inc. (formerly Dimon, Inc.)

Resulting Civil/Administrative Enforcement Action(s):

A. SEC v. Elkin, Myers, Reynolds and Williams (D.D.C., April 28, 2010)

Entities and Individuals:

- Bobby J. Elkin, Jr., Country Manager for Kyrgyzstan, civil complaint filed April 28, 2010.
- Baxter J. Myers, Regional Financial Director, civil complaint filed April 28, 2010.
- Thomas G. Reynolds, Corporate Controller, civil complaint filed April 28, 2010.
- Tommy L. Williams, Senior Vice President of Sales, civil complaint filed April 28, 2010.

Location and Time Period of Misconduct: Kyrgyzstan, 1996-2004; Thailand, 2000-2003

Civil Charges:

- Bribery of foreign officials (all defendants)
- Aiding and abetting Alliance's books and records violations (all defendants)
- Aiding and abetting Alliance's internal controls violations (all defendants)

Summary:

According to the SEC's complaint, during the period 1996 through 2004, Dimon's subsidiary in Kyrgyzstan paid more than \$3 million in bribes to various Kyrgyzstan government officials to purchase Kyrgyz tobacco for resale to Dimon's largest customers. The Commission's complaint alleges that defendant Bobby J. Elkin, Jr., a former country manager for Kyrgyzstan, authorized, directed, and made these bribes in Kyrgyzstan through a bank account held under his name called the Special Account. The Commission's complaint further alleges that defendant Baxter J. Myers, a former Regional Financial Director, authorized all fund transfers from a Dimon subsidiary's bank account to the Special Account and that defendant Thomas G. Reynolds, a former Corporate Controller, formalized the accounting methodology used to record the payments made from the Special Account for purposes of Dimon's internal reporting.

In addition, the Commission's complaint alleges that, from 2000 to 2003, Dimon paid bribes of approximately \$542,590 to government officials of the Thailand Tobacco Monopoly in exchange for obtaining approximately \$9.4 million in sales contracts. Defendant Tommy L. Williams, a former Senior Vice President of Sales, directed the sales of tobacco from Brazil and Malawi to the Thailand Tobacco Monopoly through Dimon's agent in Thailand. He authorized the payment of bribes to government officials of the Thailand Tobacco Monopoly. These bribes were characterized as commissions paid to Dimon's agent in Thailand.

Civil Disposition:

On April 28, 2010, the SEC filed a settled civil action against Elkin, Myers, Reynolds, and Williams requiring that they each are enjoined from future violations. Myers and Reynolds each had to pay a \$40,000 civil penalty. The settlement against Elkin takes into account his cooperation with the Commission's investigation.

2. Daimler AG

Resulting Criminal Enforcement Action(s):

- A. United States v. Daimler AG (D.D.C., March 22, 2010)**
- B. United States v. DaimlerChrysler Automotive Russia SAO (D.D.C., March 22, 2010)**
- C. United States v. Daimler Export and Trade Finance GmbH (D.D.C., March 22, 2010)**
- D. United States v. DaimlerChrysler China Ltd. (D.D.C., March 22, 2010)**

Resulting Civil/Administrative Enforcement Action(s):

- E. SEC v. Daimler AG (D.D.C., March 22, 2010)**

Entities and Individuals:

- Daimler AG, charged March 22, 2010; civil complaint filed March 22, 2010.
- DaimlerChrysler Automotive Russia SAO (DCAR), charged March 22, 2010.
- Daimler Export and Trade Finance GmbH (ETF), charged March 22, 2010.
- DaimlerChrysler China Ltd. (DCCL), charged March 22, 2010.

Location and Time Period of Misconduct: At least 22 countries, 1998-2008.

Criminal Charges:

- Conspiracy:
 - to bribe foreign officials (DCAR, ETF, DCCL)
 - to falsify books and records (Daimler AG)
- Bribery of foreign officials (DCAR, ETF, DCCL)
- Falsification of books and records (Daimler AG)

Civil Charges:

- Bribery of foreign officials (Daimler AG)
- Falsification of books and records (Daimler AG)
- Internal controls violations (Daimler AG)

Summary:

On March 22, 2010, criminal charges were filed in the District of Columbia against Daimler AG, a German corporation, and three of its subsidiaries. On the same date, the SEC filed a settled civil complaint against Daimler AG charging it in relation to alleged violations of the FCPA. According to court documents, Daimler AG, whose shares trade on multiple exchanges in the United States, engaged in a long-standing practice of paying bribes to foreign government officials through a variety of mechanisms, including the use of corporate ledger accounts known as “third-party accounts” or “TPAs,” corporate “cash desks,” offshore bank accounts, deceptive pricing arrangements and third-party intermediaries. In some cases, Daimler AG or its subsidiaries wire transferred these improper payments to U.S. bank accounts or to the foreign bank accounts of U.S. shell companies, in order for these entities to pass on the bribes.

The court documents alleged that Daimler and its subsidiaries made hundreds of improper payments worth tens of millions of dollars to foreign officials in at least 22 countries – including China, Croatia, Egypt, Greece, Hungary, Indonesia, Iraq, Ivory Coast, Latvia, Nigeria, Russia, Serbia and Montenegro, Thailand, Turkey, Turkmenistan, Uzbekistan, Vietnam and others – to assist in securing contracts with government customers for the purchase of Daimler vehicles. In addition, Daimler AG admitted that it agreed to pay kickbacks to the former Iraqi government in connection with contracts to sell vehicles to Iraq under the U.N.’s Oil for Food program. The contracts were valued in the hundreds of

millions of dollars. In all cases, Daimler AG improperly recorded these corrupt payments in its corporate books and records.

Criminal Disposition:

On April 1, 2010, Daimler AG and DCCL entered into deferred prosecution agreements with the Department of Justice. On the same date, DCAR and ETF pled guilty and agreed to pay criminal fines of \$27.26 million and \$29.12 million, respectively. In total, Daimler AG and its subsidiaries agreed to pay \$93.6 million in criminal fines and penalties.

Civil Disposition:

Simultaneous with the criminal settlement, U.S. District Court Judge Richard J. Leon entered a separate judgment against Daimler AG resolving the civil complaint filed by the SEC. This judgment enjoined Daimler from future violations, required Daimler AG to pay \$91.4 million in disgorgement of profits relating to those violations, and required Daimler obtain an independent FCPA compliance monitor for a three-year period.

3. Innospec Inc.

Resulting Criminal Enforcement Action(s):

- A. United States v. Innospec Inc. (D.D.C., March 17, 2010)**
- B. United States v. Ousama Naaman (D.D.C., August 7, 2008)**

Resulting Civil/Administrative Enforcement Action(s):

- C. SEC v. Innospec Inc. (D.D.C., March 18, 2010)**

Entities and Individuals:

- Innospec Inc. (Innospec), charged March 17, 2010; civil complaint filed March 18, 2010.
- Ousama Naaman, Innospec's agent, indicted August 7, 2008.

Criminal Charges:

- Conspiracy:
 - to bribe foreign officials (all defendants)
 - to falsify books and records (all defendants)
 - to commit wire fraud (all defendants)
- Bribery of foreign officials (all defendants)
- Falsification of books and records (Innospec)
- Wire fraud (Innospec)

Civil Charges:

- Bribery of foreign officials
- Falsification of books and records
- Internal controls violations

Location and Time Period of Misconduct: Iraq, 2000-2008; Indonesia, 2000-2005; Cuba, 2001-2004

Summary:

On August 7, 2008, Ousama Naaman, a Canadian/Lebanese dual national, who served as Innospec's agent in the Middle East, was indicted for his alleged participation in an eight-year conspiracy to defraud the United Nations Oil-for-Food Program (OFFP) and to bribe Iraqi government officials in

connection with the sale of a chemical additive used in the refining of leaded fuel. Naaman was charged with one count of conspiracy to commit wire fraud and violate the FCPA and two counts of violating the FCPA. On March 17, 2010, Innospec was charged in a twelve-count criminal information with conspiracy, foreign bribery in violation of the FCPA, foreign bribery related accounting misconduct in violation of the FCPA, and wire fraud. On March 18, 2010, the SEC filed a settled civil complaint against Innospec, charging it with violating the FCPA's anti-bribery, internal controls, and books and records provisions.

According to the court filings, from 2001-2003, acting on behalf of Innospec and its Swiss subsidiary, Alcor, Naaman offered and paid 10% kickbacks to the Iraqi government in exchange for five contracts under the OFFP. In exchange for routing the kickbacks, Naaman received 2% of the contract value, in addition to the 2% commission he was paid for securing the contracts. In turn, Innospec inflated its prices in contracts approved by the OFFP to cover the cost of the kickbacks. In addition, Naaman paid bribes on behalf of Innospec to officials within the Iraqi Ministry of Oil in 2006 to ensure that a competing product manufactured by a different company failed a field test, keeping the competing product out of the Iraqi market. Naaman subsequently provided Innospec with false invoices, on the basis of which Innospec reimbursed him for the bribes to the Iraqi officials.

Criminal Disposition:

Naaman was arrested in Frankfurt, Germany on July 30, 2009. The Department of Justice succeeded in securing Naaman's extradition from the Federal Republic of Germany on April 30, 2010.

On March 18, 2010, Innospec pled guilty before District Judge Ellen Segal Huvelle in the U.S. District Court for the District of Columbia. As part of its plea agreement, Innospec agreed to pay a \$14.1 million criminal fine and to retain an independent compliance monitor for a minimum of three years to oversee the implementation of a robust anti-corruption and export control compliance program. In addition, as part of the plea agreement, Innospec admitted that a subsidiary sold nearly \$20 million in oil soluble fuel additives from 2001 through 2004 to state-owned Cuban power plants, without a license from the Treasury Department's Office of Foreign Assets Control (OFAC), in violation of the Trading with the Enemy Act. In addition, Innospec acknowledged in court documents that it paid approximately \$2.9 million in bribes to officials of the Indonesian government to secure sales.

Civil Disposition:

On the same day as its guilty plea, Innospec settled the civil complaint filed by the SEC by agreeing to disgorge \$60 million, with all but \$11.2 million waived due to the company's financial condition. In the SEC matter, Innospec was enjoined from future violations and ordered to retain an independent FCPA compliance monitor for three years. Innospec also agreed to pay \$2.2 million to resolve outstanding matters with the OFAC

4. BAE Systems plc

Resulting Criminal Enforcement Action(s):

A. United States v. BAE Systems plc (February 4, 2010)

Entities and Individuals:

- BAE Systems plc, charged February 4, 2010.

Criminal Charges:

- Conspiracy:
 - to defraud the United States by impairing and impeding its lawful functions;
 - to make false statements; and
 - to violate the Arms Export Control Act and International Traffic in Arms Regulations.

Location and Time Period of Misconduct: Czech Republic, Hungary, Saudi Arabia, 2000-2002.

Summary:

On February 4, 2010, BAE Systems plc (BAES), a multinational defense contractor with headquarters in the United Kingdom, was charged in a one-count criminal information with conspiracy to defraud the United States by impairing and impeding its lawful functions, to make false statements about its FCPA compliance program, and to violate the Arms Export Control Act (AECA) and International Traffic in Arms Regulations (ITAR). These charges alleged that from 2000 to 2002, BAES represented to various U.S. government agencies, including the Departments of Defense and Justice, that it would create and implement policies and procedures to ensure its compliance with the anti-bribery provisions of the FCPA, as well as similar, foreign laws implementing the Organisation for Economic Co-operation and Development (OECD) Anti-bribery Convention.

In pleading guilty, BAES acknowledged that, despite its representations to the U.S. government to the contrary, BAES knowingly and willfully failed to create sufficient compliance mechanisms to ensure compliance with these legal prohibitions on foreign bribery. More specifically, BAES admitted that it regularly used and encouraged the establishment of shell companies and third party intermediaries to assist in securing sales of defense articles. BAES admitted that, from May 2001 onward, it made a series of substantial payments to these shell companies and third party intermediaries that were not subjected to the degree of scrutiny and review to which BAES told the U.S. government the payments would be subjected, even though BAES was aware there was a high probability that part of some of the payments would be used to ensure that BAES was favored in foreign government decisions regarding the purchase of defense articles. In addition, BAES admitted that, as part of the conspiracy, it knowingly and willfully failed to identify commissions paid to third parties for assistance in soliciting, promoting or otherwise securing sales of defense articles, in violation of the AECA and ITAR.

Criminal Disposition:

On March 1, 2010, BAES pled guilty to the charges filed against it on February 4, 2010. As part of its guilty plea, BAES was sentenced to a criminal fine of \$400,000,000, which was the statutory maximum fine. BAES also agreed to retain an independent compliance monitor for three years and maintain a compliance program that is designed to detect and deter violations of the FCPA, the AECA, ITAR, and similar foreign anti-corruption and export control laws.

5. Bribery of Officials at Telecommunications D'Haiti (Haiti Teleco)

Resulting Criminal Enforcement Action(s):

- A. United States v. Jean Fourcand (S.D. Fla., February 1, 2010)**
- B. United States v. Joel Esquenazi, et al (S.D. Fla., December 4, 2009)**
- C. United States v. Juan Diaz (S.D. Fla., April 22, 2009)**
- D. United States v. Antonio Perez (S.D. Fla., April 22, 2009)**

Entities and Individuals:

- Joel Esquenazi, President, indicted December 4, 2009.
- Carlos Rodriguez, Executive Vice President, indicted December 4, 2009.
- Robert Antoine, Director of International Relations at Haiti Teleco, indicted December 4, 2009.
- Jean Rene Duperval, Director of International Relations at Haiti Teleco, indicted December 4, 2009.
- Antonio Perez, Controller, charged April 22, 2009.
- Juan Diaz, President of Intermediary Company, charged April 22, 2009.
- Jean Fourcand, President of Intermediary Company, charged February 1, 2010.

- Marguerite Grandison, President of Telecom Consulting Services Corp., indicted December 4, 2009.

Criminal Charges:

- Conspiracy:
 - to bribe foreign officials (Perez, Diaz, Esquenazi, Rodriguez, Grandison)
 - to commit money laundering (all defendants except Fourcand)
 - to commit wire fraud (Esquenazi, Rodriguez, Grandison)
- Bribery of foreign officials (Esquenazi, Rodriguez, Grandison)
- Money laundering (Fourcand, Esquenazi, Rodriguez, Duperval, Grandison)

Location and Time Period of Misconduct: Haiti, 1998-2005.

Summary:

On December 4, 2009, two former executives of a Florida-based telecommunications company, the president of a Florida-based intermediary company, and two former Haitian government officials were charged in an indictment for their alleged roles in a foreign bribery, wire fraud, and money laundering scheme that lasted from at least November 2001 through March 2005. Joel Esquenazi, the former president of the telecommunications company; Carlos Rodriguez, the former executive vice-president of the telecommunications company; Marguerite Grandison, the former president of Telecom Consulting Services Corp.; Robert Antoine, a former director of international relations at the Republic of Haiti's state-owned national telecommunications company, Telecommunications D'Haiti (Haiti Teleco); and Jean Rene Duperval, another former director of international relations at Haiti Teleco, were charged in connection with a scheme whereby the telecommunications company paid more than \$800,000 to shell companies, including Grandison's Telecom Consulting Services Corp., to be used for bribes to foreign officials of Haiti Teleco. The purpose of these bribes was to obtain various business advantages from the Haitian officials for the telecommunications company, including issuing preferred telecommunications rates, reducing the number of minutes for which payment was owed, and giving a variety of credits toward owed sums, as well as to defraud the Republic of Haiti of revenue.

Previously, on April 22, 2009, Juan Diaz, the president of J.D. Locator Services Inc., a Florida-based intermediary, and Antonio Perez, the former controller of the Florida-based telecommunications company, were charged in connection with their roles in the alleged foreign bribery scheme. According to court documents, from 1998 to 2003, Diaz and Perez conspired to make "side payments" totaling \$1 million to the Haitian government officials through a shell company belonging to Diaz, all on behalf of the Florida-based telecommunications company.

On February 1, 2010, Jean Fourcand, the president of Fourcand Enterprises, Inc., another intermediary company, was charged in a one-count criminal information with engaging in monetary transactions involving property derived from the scheme to bribe the former Haitian government officials. Specifically, between November 2001 and August 2002, Fourcand received funds originating from this and other U.S. telecommunications companies for the benefit of Robert Antoine. A portion of these funds came in the form of a check from J.D. Locator Services Inc., and a portion of these funds were used to engage in a real estate transaction that benefitted Antoine.

Criminal Disposition:

On May 15, 2009, Juan Diaz and Antonio Perez pleaded guilty in the U.S. District Court for the Southern District of Florida. Sentencing as to Juan Diaz is currently scheduled for May 27, 2010. Sentencing as to Antonio Perez has not yet been rescheduled.

On February 19, 2010, Jean Fourcand, the president of Fourcand Enterprises, Inc., pleaded guilty to the one count criminal information charging him money laundering and agreed to forfeit \$18,500. Sentencing is currently scheduled for May 3, 2010.

On March 12, 2010, Robert Antoine pleaded guilty to conspiracy to commit money laundering, becoming the fourth person to admit responsibility for the scheme. By pleading guilty, Antoine also became the first foreign official ever convicted in the United States on money laundering charges where the specified unlawful activity to which the laundered funds related was a felony violation of the FCPA. Sentencing as to Robert Antoine is currently scheduled for June 1, 2010.

Joel Esquenazi, Carlos Rodriguez, Jean Rene Duperval, and Marguerite Grandison are scheduled to stand trial on July 19, 2010, in the U.S. District Court for the Southern District of Florida.

6. Military and Law Enforcement Products Industry

Resulting Criminal Enforcement Action(s):

A. United States v. Richard T. Bistrong (D.D.C., January 21, 2010)

B. United States v. Amaro Goncalves, et al (D.D.C., December 11, 2009)

Entities and Individuals:

- Richard T. Bistrong, Vice President for International Sales, charged January 21, 2010.
- Daniel Alvarez, President, indicted December 11, 2009; superseding indictment filed April 16, 2010.
- Lee Allen Tolleson, Director of Acquisitions and Logistics, indicted December 11, 2009; superseding indictment filed April 16, 2010.
- Andrew Bigelow, Managing Partner and Director of Government Programs, indicted December 11, 2009; superseding indictment filed April 16, 2010.
- Pankesh Patel, Managing Director, indicted December 11, 2009; superseding indictment filed April 16, 2010.
- John Benson Wier III, President, indicted December 11, 2009; superseding indictment filed April 16, 2010.
- David R. Painter, Chairman, indicted December 11, 2009; superseding indictment filed April 16, 2010.
- Lee M. Wares, Director, indicted December 11, 2009; superseding indictment filed April 16, 2010.
- Jonathan M. Spiller, Owner and President, indicted December 11, 2009; superseding indictment filed April 16, 2010.
- Michael Sacks, Owner and co-CEO, indicted December 11, 2009; superseding indictment filed April 16, 2010.
- Israel (Wayne) Weisler, Owner and co-CEO, indicted December 11, 2009; superseding indictment filed April 16, 2010.
- R. Patrick Caldwell, CEO, indicted December 11, 2009; superseding indictment filed April 16, 2010.
- Stephen Giordanella, CEO, indicted December 11, 2009; superseding indictment filed April 16, 2010.
- John M. Mushriqui, Director of International Development, indicted December 11, 2009; superseding indictment filed April 16, 2010.
- Jeana Mushriqui, General Counsel and U.S. Manager, indicted December 11, 2009; superseding indictment filed April 16, 2010.
- John Gregory (Greg) Godsey, Owner, indicted December 11, 2009; superseding indictment filed April 16, 2010.
- Mark Frederick Morales, Agent, indicted December 11, 2009; superseding indictment filed April 16, 2010.
- Helmie Ashiblie, Vice President and Founder, indicted December 11, 2009; superseding indictment filed April 16, 2010.

- Yochanan (Yochi) Cohen, CEO, indicted December 11, 2009; superseding indictment filed April 16, 2010.
- Haim Geri, President, indicted December 11, 2009; superseding indictment filed April 16, 2010.
- Amaro Goncalves, Vice President of Sales, indicted December 11, 2009; superseding indictment filed April 16, 2010.
- Saul Mishkin, Owner and CEO, indicted December 11, 2009; superseding indictment filed April 16, 2010.
- Ofer Paz, President and CEO, indicted December 11, 2009; superseding indictment filed April 16, 2010.

Criminal Charges:

- Conspiracy:
 - to bribe foreign officials (all defendants)
 - to falsify books and records (Bistrong)
 - to commit money laundering (all defendants)
 - to export a controlled commodity without a license (Bistrong)
- Bribery of foreign officials (all defendants)

Location and Time Period of Misconduct:

- Bistrong: The Netherlands, 2001-2003; United Nations (U.N.), 2001-2006; Iraq, 2003-2004; Nigeria, 2006.
- Goncalves, *et al*: Unidentified African Country, 2009.

Summary:

On January 18, 2010, 22 executives and employees of companies in the military and law enforcement products industry were arrested on charges of conspiracy to violate the FCPA, conspiracy to engage in money laundering, and substantive FCPA violations. The arrest of the 22 individual defendants, who were charged in 16 separate indictments, represented the single largest investigation and prosecution of individuals in the history of DOJ's enforcement of the FCPA, as well as the first large-scale use of undercover law enforcement techniques to uncover FCPA violations. The defendants are alleged to have engaged in a scheme to pay bribes to the minister of defense for a country in Africa. In fact, the scheme was part of an undercover operation, with no actual involvement from any minister of defense. As part of the undercover operation, the defendants allegedly agreed to pay a 20 percent "commission" to a sales agent, who the defendants believed represented the minister of defense for a county in Africa, in order to win a portion of a \$15 million deal to outfit the country's presidential guard. In reality, the "sales agent" was an undercover FBI agent. The defendants were told that half of that "commission" would be paid directly to the minister of defense. The defendants allegedly agreed to create two price quotations in connection with the deals, with one quote representing the true cost of the goods and the second quote representing the true cost, plus the 20 percent "commission." The defendants also allegedly agreed to engage in a small "test" deal to show the minister of defense that he would personally receive the 10 percent bribe.

On April 16, 2010, a superseding indictment was filed in the District of Columbia, consolidating the cases against these 22 defendants and charging them with participation in a single foreign-bribery related conspiracy. The superseding indictment also revealed that the 22 defendants allegedly agreed that the products that they would supply in connection with the "test" deal would be consolidated for shipment to the African country.

In another case, on January 21, 2010, Richard T. Bistrong was charged in a one-count criminal information with conspiracy to violate the anti-bribery and accounting provisions of the FCPA, as well as to export a controlled commodity without having first obtained a license from the United States Department of Commerce, in violation of the International Emergency Economic Powers Act (IEEPA) and the Export Administration Regulations. Bistrong, who was the vice-president of international sales for a Florida-based manufacturer of military, security, and law enforcement products (“the manufacturer”), is alleged to have taken part in a scheme to win contracts for the manufacturer with the United Nations (U.N.), the National Police Service Services Agency of the Netherlands (KLPD), and the Nigerian Independent National Election Commission (INEC) by paying bribes, via intermediaries, to U.N. procurement officials, a City of Rotterdam police office working on procurement matters for the KLPD, and an official with INEC, respectively. Bistrong is also alleged to have, from 2001 through 2006, caused the falsification of the manufacturer’s books and records by using false “net” invoices to conceal nearly \$4.4 million in payments to third-party intermediaries. In addition, Bistrong is alleged to have caused the export, from the United States, of controlled ballistic armor vests and helmets to the Kurdistan Regional Government in Iraq without having obtained a required license from the Commerce Department.

Criminal Disposition: Pending.

7. UTStarcom Inc.

Resulting Criminal Enforcement Action(s):

A. In Re UTStarcom Inc. (December 31, 2009)

Resulting Civil/Administrative Enforcement Action(s):

B. SEC v. UTStarcom, Inc. (N.D. Cal., December 31, 2009)

Entities and Individuals:

- UTStarcom, Inc. (UTSI), non-prosecution agreement announced December, 31, 2009; civil complaint filed December 31, 2009.

Criminal Charges:

- Bribery of foreign officials
- Falsification of books and records

Civil Charges:

- Bribery of foreign officials
- Falsification of books and records
- Internal controls violations

Location and Time Period of Misconduct: China, 2001-2007; Thailand, 2001-2005; Mongolia, 2005.

Summary:

On December 31, 2009, UTStarcom, Inc. (UTSI), a global telecommunications company that designs, manufactures, and sells network equipment and handsets, entered into a non-prosecution agreement with the Department of Justice regarding the improper provision of travel and other things of value to employees at state-owned telecommunications firms in the People’s Republic of China, in violation of the FCPA. On the same date, the SEC filed a settled civil complaint against UTSI in relation to this conduct.

As part of these agreements, UTSI acknowledged responsibility for the actions of its wholly-owned subsidiary, UTStarcom China Co. Ltd. (UTS-China), and its employees and agents, who arranged

and paid for employees of Chinese state-owned telecommunications companies to travel to popular tourist destinations in the United States, including Hawaii, Las Vegas, and New York City. The trips were purportedly for individuals to participate in training at UTSI facilities. In fact, UTSI had no facilities in those locations and conducted no training. UTS-China then falsely recorded these trips as “training” expenses, while the true purpose for providing these trips was to obtain and retain lucrative telecommunications contracts.

The civil complaint filed by the SEC also stated that UTSI had arranged for expensive gifts and all-expense paid trips for officials from government customers in Thailand. In addition, the SEC stated that UTSI made sham payments to a Mongolian consulting company for the purpose of bribing a Mongolian government official to help UTSI obtain a favorable ruling in a license dispute.

Criminal Disposition:

As part of the non-prosecution agreement, UTSI agreed to pay a \$1.5 million fine, adopt rigorous internal controls, and continue cooperating fully with the Department.

Civil Disposition:

Pursuant to its settlement with the SEC, UTSI agreed to pay a \$1.5 million civil penalty and to provide FCPA compliance reports for four years.

8. Ports Engineering Consultants Corporation

Resulting Criminal Enforcement Action(s):

- A. United States v. John W. Warwick (E.D. Va., December 15, 2009)**
- B. United States v. Charles Paul Edward Jumet (E.D. Va., November 10, 2009)**

Entities and Individuals:

- Ports Engineering Consultants Corporation (PECC) (company ceased to operate prior to prosecution)
- Overman Associates (company ceased to operate prior to prosecution)
- Overman de Panama (company ceased to operate prior to prosecution)
- John W. Warwick, President of PECC, Overman Associates and Overman de Panama, indicted December 15, 2009.
- Charles Paul Edward Jumet, Vice President and President of PECC and Vice President of Overman de Panama and Overman Associates, charged November 10, 2009.

Criminal Charges:

- Conspiracy to bribe foreign officials (all defendants)
- Making a false statement (Jumet)

Location and Time Period of Misconduct: Panama, 1997-2003.

Summary:

On November 10, 2009 and December 15, 2009, respectively, Charles Paul Edward Jumet and John W. Warwick were charged in connection with a conspiracy to make corrupt payments to Panamanian government officials in exchange for certain maritime contracts. Jumet was charged in a two-count criminal information with conspiracy to bribe foreign officials in violation of the FCPA and with making a false statement to the FBI. Warwick, the former president of Ports Engineering Consultants Corporation (PECC), was indicted on one-count of conspiracy to authorize and cause corrupt payments to be made to foreign government officials for the purpose of securing business for PECC, in violation of the FCPA.

According to court documents, from 1997 through approximately July 2003, Warwick, Jumet, and others conspired to authorize and cause corrupt payments totaling more than \$200,000 to be made to the former administrator and deputy administrator of the Panama Maritime Ports Authority, as well as to a former, high-ranking elected executive official of the Republic of Panama. These corrupt payments were made so that the Panamanian officials would award contracts to maintain lighthouses and buoys along Panama's waterways to PECC, a company incorporated under the laws of Panama and affiliated with Overman Associates, an engineering firm based in Virginia. In 1997, the Panamanian government awarded PECC a no-bid 20-year concession to perform these duties. As a result of these contracts, PECC earned approximately \$18 million in revenue from 1997 to 2000. In 2000, Panama's Comptroller General Office suspended the contract while it investigated the government's decision to award PECC a contract without soliciting a bid from any other entities. In 2003, the Panamanian government resumed making payments to PECC.

Disposition:

On November 13, 2009, Charles Jumet pleaded guilty in the Eastern District of Virginia. As part of his plea agreement, Jumet agreed to cooperate with the Department of Justice in its ongoing investigation. On April 19, 2010, Jumet was sentenced to 87 months' imprisonment, 3 years' supervised release, and a \$15,000 criminal fine.

On February 10, 2010, Warwick pleaded guilty to the one-count indictment and agreed to forfeit \$331,000. Sentencing is currently scheduled for June 25, 2010.

9. Pride International, Inc.

Resulting Civil/Administrative Enforcement Action(s):

A. SEC v. Bobby Benton (S.D. Tex., December 11, 2009)

Entities and Individuals:

- Bobby Benton, Pride International's Vice President of Western Hemisphere Operations, civil complaint filed December 11, 2009.

Location and Time Period of Misconduct: Venezuela, 2003-2005; Mexico, 2004.

Civil Charges:

- Bribery of foreign officials
- Falsification of books and records
- False statements to accountants
- Aiding and abetting Pride's bribery of foreign officials
- Aiding and abetting Pride's falsification of books and records
- Aiding and abetting Pride's internal controls violations

Summary:

On December 11, 2009, the SEC charged Bobby Benton, the former Vice President of Western Hemisphere Operations for Pride International, Inc. (Pride), in a civil complaint that alleged violations of the anti-bribery, internal controls, and accounting provisions of the FCPA. As Vice President of Western Hemisphere Operations, Benton was responsible for, among other things, ensuring that Pride conducted its Western Hemisphere operations in compliance with the FCPA, that adequate controls were in place to prevent illegal payments, and that the company's books and records were accurate.

The complaint alleges that in December 2004, Benton authorized the bribery of a Mexican customs official in return for favorable treatment regarding customs deficiencies identified during an inspection of a

supply boat. The complaint further alleges that Benton had knowledge of a second bribe paid to a different Mexican customs official that same month. It is also alleged that from approximately 2003 to 2005, a manager of a Pride subsidiary in Venezuela authorized the bribery of an official of Venezuela's state-owned oil company in order to secure extensions of three drilling contracts. Benton, in an effort to conceal these payments, also redacted references to bribery in an action plan responding to an internal audit report and signed two false certifications in connection with audits and reviews of Pride's financial statements, denying any knowledge of bribery.

The SEC's complaint seeks a permanent injunction, a civil penalty, and the disgorgement of ill-gotten gains plus prejudgment interest.

Civil Disposition: Pending.

10. Sugar Land

Resulting Criminal Enforcement Action(s):

A. United States v. John Joseph O'Shea (S.D. Tex., November 16, 2009)

B. United States v. Fernando Maya Basurto (S.D. Tex., June 10, 2009)

Entities and Individuals:

- John Joseph O'Shea, General Manager, indicted November 16, 2009.
- Fernando Maya Basurto, Agent/Intermediary, indicted June 10, 2009.

Criminal Charges:

- Conspiracy:
 - to bribe foreign officials (Basurto, O'Shea)
 - to commit currency transfer structuring (Basurto)
 - to commit international money laundering (Basurto, O'Shea)
 - to falsify records in a federal investigation (Basurto, O'Shea)
- Bribery of foreign officials (O'Shea)
- Money laundering (O'Shea)
- Falsification of records in a federal investigation (O'Shea)
- Currency transaction structuring (Basurto)

Location and Time Period of Misconduct: Mexico, 1997-2004.

Summary:

On November 16, 2009, John Joseph O'Shea, the former General Manager of a Sugar Land, Texas-based business, was charged in an 18-count indictment with conspiracy, bribery of foreign officials in violation of the FCPA, international money laundering, and the falsification of records in a federal investigation. Previously, Fernando Maya Basurto, a principal of a Mexican intermediary and an agent of the Sugar Land-based business, was charged in a four count indictment returned on June 10, 2009 in the Southern District of Texas, with conspiracy and structuring transactions to avoid reporting requirements. Subsequently, on November 23, 2009, a superseding information was filed against Basurto, charging him with conspiracy to bribe foreign officials in violation of the FCPA, to commit international money laundering, and to falsify records in a federal investigation.

These charges stem from a scheme to bribe Mexican government officials to secure contracts with the Comisión Federal de Electricidad (CFE), a Mexican state-owned utility company. According to court documents, while acting as the general manager of a Texas business unit of a U.S. subsidiary of a Swiss corporation, O'Shea arranged and authorized payments to multiple officials at CFE in exchange for

lucrative contracts. According to the indictment, the Texas unit's primary business was to provide products and services to electrical utilities, many of them foreign state-owned utilities, for network management in power generation, transmission, and distribution. The Texas business unit contracted with a Mexican company, of which Basurto was a principal, to serve as its sales representative in Mexico. In exchange, the Mexican company received a percentage of the revenue generated from business with Mexican governmental utilities, including CFE.

In December 1997, CFE awarded the Texas business unit a contract, known as the SITRACEN contract, to significantly upgrade the backbone of Mexico's electrical network system. This contract generated more than \$44 million in revenue for the Texas business unit. Then, in approximately October 2003, CFE awarded the Texas business unit a multi-year contract for the maintenance and upgrading of the SITRACEN contract, referred to as the Evergreen contract. For the Evergreen contract, O'Shea, Basurto, and officials at CFE allegedly agreed that approximately 10 percent of the revenue the Texas business unit received from CFE would be returned to CFE officials as corrupt payments and that one percent of the contract revenue would be received by O'Shea as kickback payments. The Evergreen contract ultimately generated more than \$37 million in revenue for the Texas business unit. O'Shea, Basurto, and others allegedly used false invoices from Mexican companies as a basis to make international wire transfers that purported to be legitimate payments for "technical services" and "maintenance support services," but which were actually corrupt payments. Additional "commission payments" made to Basurto and his family were later transferred to CFE officials. All together, O'Shea allegedly authorized more than \$900,000 in corrupt payments to CFE officials before an internal investigation by the Swiss corporation stopped the transfers.

In addition, according to court documents, O'Shea, Basurto, and others engaged in a cover up after O'Shea was terminated from the Texas business unit, which included fabricating documents that purported to be evidence of a legitimate business relationship between the Texas business unit and the Mexican companies that provided the false invoices.

Criminal Disposition:

On November 16, 2009, Basurto pleaded guilty in the Southern District of Texas. Sentencing as to Basurto has been scheduled for May 17, 2010. O'Shea's trial is pending.

11. AGCO Corporation

Resulting Criminal Enforcement Action(s):

A. United States v. AGCO Limited (D.D.C., September 30, 2009)

Resulting Civil/Administrative Enforcement Action(s):

B. SEC v. AGCO Corporation (D.D.C., September 30, 2009)

Entities and Individuals:

- AGCO Corporation (AGCO Corp.), deferred prosecution agreement filed September 30, 2009; civil complaint filed September 30, 2009.
- AGCO Limited (AGCO Ltd.), charged September 30, 2009.

Criminal Charges:

- Conspiracy:

- to falsify books and records
- to commit wire fraud

Civil Charges:

- Falsification of books and records
- Internal controls violations

Location and Time Period of Misconduct: Iraq, 2000-2003.

Summary:

AGCO Ltd., the wholly owned U.K. subsidiary of AGCO Corp., a U.S. corporation based in Duluth, Georgia, was charged on September 30, 2009 with one count of conspiracy to commit wire fraud and to violate the books and records provisions of the FCPA. These charges stemmed from the Department's investigation into the United Nations (U.N.) Oil-for-Food Program (OFFP). According to court documents, AGCO Corp. admitted that between 2000 and 2003, AGCO Ltd., with the assistance of a Jordanian agent, paid approximately \$553,000 to the former government of Iraq to secure three contracts to sell agricultural equipment and parts by inflating the price of the contracts by 13 to 21 percent before submitting the contracts to the U.N. for approval. The company concealed from the U.N. that the price of the contracts had been inflated and then used the additional funds to pay a kickback to the former Iraqi Ministry of Agriculture.

On September 30, 2009, the SEC filed a civil complaint against AGCO Corporation in the District of Columbia, alleging violations of the internal controls and books and records provisions of the FCPA in relation to the same underlying conduct. According to the complaint, AGCO Corp. and its subsidiaries made approximately \$5.9 million in kickback payments (or "after sale service fees" (ASSFs)) in connection with their contracts to sell humanitarian goods to Iraq. AGCO Corp.'s total gains from contracts in which ASSFs were paid was \$13,907,393.

Criminal Disposition:

On September 30, 2009, AGCO Corp. entered into a deferred prosecution agreement with the Department of Justice. As part of this agreement, AGCO Corp. acknowledged responsibility for the conduct of its subsidiary, AGCO Ltd., and agreed to pay a \$1.6 million criminal fine. The deferred prosecution agreement also required that AGCO Corp. and its subsidiaries, including AGCO Ltd., cooperate fully with the Justice Department's ongoing investigation.

AGCO Corp. also agreed to a disposition resolving an ongoing investigation by the Danish State Prosecutor for Serious Economic Crime, whereby AGCO Corp. agreed to pay approximately \$630,000 in disgorgement of profits. These charges were based on two OFFP contracts executed by AGCO Corp.'s Danish subsidiary, AGCO Denmark A/S.

Civil Disposition:

Contemporaneous with the criminal settlement, the SEC filed a settled action against AGCO Corp. enjoining it from future violations and requiring it to pay \$13.9 million in disgorgement and \$2 million in prejudgment interest, as well as a \$2.4 million civil penalty, in relation to the sixteen OFFP contracts.

12. Faro Technologies Inc.

Resulting Criminal Enforcement Action(s):

A. In Re Faro Technologies Inc. (June 5, 2008)

Resulting Civil/Administrative Enforcement Action(s):

B. SEC v. Oscar H. Meza (D.D.C., August 28, 2009)

C. In the Matter of Faro Technologies, Inc. (June 5, 2008)

Entities and Individuals:

- Faro Technologies Inc., non-prosecution agreement announced June 5, 2008; cease-and-desist order issued June 5, 2008.
- Oscar H. Meza, Director of Asia-Pacific Sales, civil complaint filed August 28, 2009.

Criminal Charges:

- Bribery of foreign officials (all defendants)
- Falsification of books and records (all defendants)

Civil Charges:

- Bribery of foreign officials (Faro and Meza)
- False accounting (Meza)
- False statements to accountants (Meza)
- Internal controls violations (Faro)
- Falsification of books and records (Faro)
- Aiding and abetting Faro's bribery of foreign officials (Meza)
- Aiding and abetting Faro's internal controls violations (Meza)
- Aiding and abetting Faro's falsification of books and records (Meza)

Location and Time Period of Misconduct: China, 2003-2006.

Summary:

On June 5, 2008, Faro Technologies Inc. (Faro), a public company headquartered in Lake Mary, Fla., which develops and markets portable computerized measurement devices and software, entered into a non-prosecution agreement with the Department of Justice in relation to a scheme to make corrupt payments to Chinese government officials in violation of the FCPA. Simultaneously, the SEC commenced administrative proceedings against Faro, seeking to enjoin it from further violations of the FCPA. In a related action, the SEC filed a civil complaint against Oscar H. Meza on August 28, 2009. Meza, a U.S. citizen, had served as the Vice-President for Asia-Pacific Sales and the Director of Asia-Pacific Sales for Faro during the period in question. The Commission charged Meza with violations of the anti-bribery, books and records and internal controls provisions of the FCPA, and with aiding and abetting Faro's violations of the anti-bribery, books and records and internal controls provisions of the FCPA.

According to the statement of facts, Faro began direct sales of its products in China in 2003 through its subsidiary, Faro China, which is based in Shanghai. On several occasions in 2004 and 2005, Meza authorized other Faro employees to make corrupt payments, termed "referral fees" within Faro, directly to employees of state-owned or controlled entities in China to secure business for Faro. Ultimately, Meza authorized a total of \$444,492 in corrupt payments disguised as referral fees, which allowed Faro to secure contracts worth approximately \$4.5 - \$4.9 million in sales and \$1.4 million in net profit. Faro also falsely recorded these improper payments in its books and records, inaccurately describing the bribe payments as referral fees. Also, between May 2003 and February 2006, Faro failed to devise and maintain a system of internal controls with respect to foreign sales activities sufficient to ensure compliance with the FCPA.

The statement of facts also reveals that certain Faro employees decided in 2005 to route the corrupt payments to Chinese government officials through a shell company to "avoid exposure," according to internal emails. As a result, in January 2005, Faro China entered into a bogus services contract with an

intermediary, using it to pay the bribes on behalf of Faro. The intermediary aggregated the bribe payments it paid on behalf of Faro and sent regular invoices to Faro for payment based on its services contract.

Criminal Disposition:

In recognition of Faro's voluntary disclosure and thorough review of the improper payments, its cooperation with the Department's investigation, the company's implementation of, and commitment to implement in the future, enhanced compliance policies and procedures, and the company's agreement to engage an independent corporate monitor, the Department agreed to enter into a two-year non-prosecution agreement with Faro. As part of this agreement, Faro agreed to pay a criminal fine of \$1.1 million.

Civil Disposition:

As part of the SEC's settled administrative enforcement action against Faro, the company agreed to the entry of a cease and desist order and agreed to pay approximately \$1.85 million in disgorgement and prejudgment interest.

In the civil suit filed against Meza by the SEC, the court entered a final judgment order whereby Meza was required to pay a \$30,000 civil penalty, as well as \$26,707 in disgorgement and prejudgment interest.

13. Nature's Sunshine Products Inc.

Resulting Civil/Administrative Enforcement Action(s):

A. SEC v. Nature's Sunshine Products, Inc., et al (D. Utah, July 31, 2009)

Entities and Individuals:

- Nature's Sunshine Products Inc. (NSP), civil complaint filed July 31, 2009.
- Douglas Faggioli, CEO, civil complaint filed July 31, 2009.
- Craig D. Huff, CFO, civil complaint filed July 31, 2009.

Civil Charges:

- Bribery of foreign officials (NSP)
- Fraud in connection with the purchase or sale of securities (NSP)
- Disclosure violations (NSP)
- Internal controls violations (all defendants)
- Falsification of books and records (all defendants)

Location and Time Period of Misconduct: Brazil, 2000-2002.

Summary:

On July 31, 2009, the SEC filed a settled enforcement action against Nature's Sunshine Products Inc. (NSP), a manufacturer of nutritional and personal care products, as well as its Chief Executive Officer Douglas Faggioli and its former Chief Financial Officer Craig D. Huff. This complaint alleged that the defendants violated the antifraud, issuer reporting, books and records, and internal controls provisions of federal securities laws in connection with a series of cash payments to Brazilian government officials in 2000 and 2001. The complaint alleged that, faced with changes to Brazilian regulations which resulted in classifying many of NSP's products as medicines, which would have required NSP to register many of its products for importation and sale, NSP's Brazilian subsidiary made a series of cash payments to customs officials in order to induce them to allow NSP to import unregistered products into that country. NSP's Brazilian subsidiary then purchased false documentation to conceal the nature of the payments, which were later falsely recorded in the books and records of NSP.

The complaint also alleged that Faggioli and Huff, in their capacities as control persons, violated the books and records and internal controls provisions of the FCPA in connection with the Brazilian cash payments. In addition, it is alleged that NSP failed to disclose the payments to Brazilian customs agents in its filings with the SEC.

Civil Disposition:

NSP, Faggioli and Huff, without admitting or denying the allegations in the complaint, consented to the entry of a final judgment that would enjoin each of the defendants from future violations of the above-stated provisions and would order NSP to pay a civil penalty of \$600,000, and Faggioli and Huff to each pay a civil penalty of \$25,000.

14. Helmerich & Payne, Inc.

Resulting Criminal Enforcement Action(s):

A. In Re Helmerich & Payne, Inc. (July 30, 2009)

Resulting Civil/Administrative Enforcement Action(s):

B. In the Matter of Helmerich & Payne, Inc. (July 30, 2009)

Entities and Individuals:

- Helmerich & Payne, Inc. (H&P), non-prosecution agreement announced July 30, 2009; cease-and-desist order issued July 30, 2009.

Criminal Charges:

- Bribery of foreign officials
- Falsification of books and records

Civil Charges:

- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: Venezuela, 2003-2008; Argentina, 2004-2008.

Summary:

On July 30, 2009 Helmerich & Payne (H&P) entered into a non-prosecution agreement with the Department of Justice and the SEC initiated a settled administrative proceeding against H&P. These enforcement actions stemmed from a series of improper payments by H&P to government officials in Argentina and Venezuela in violation of the FCPA. H&P, a Delaware corporation, is headquartered in Tulsa, Oklahoma, and is listed on the New York Stock Exchange. The company provides oil drilling rigs, equipment and personnel on a contract basis, primarily in the United States and South America, with subsidiaries in both Argentina and Venezuela.

The improper payments were made to officials of the Argentine and Venezuelan customs services, both government agencies, made in order to import and export goods that were not within regulations, to import goods that could not lawfully be imported, and to evade higher duties and taxes on the goods. From 2004 through 2008, H&P Argentina paid Argentine customs officials approximately \$166,000, which allowed it to avoid more than an estimated \$186,000 in expenses it would have otherwise incurred if it had properly imported and exported the equipment and materials. In addition, from 2003 through 2008, H&P Venezuela made corrupt payments to Venezuelan customs officials totaling approximately \$19,673, which allowed it to avoid more than an estimated \$134,000 in expenses it would have otherwise incurred if it had properly imported and exported the equipment and materials.

H&P and its subsidiaries then falsely, or at least misleadingly, described these improper payments in H&P's books and records. For instance, the Argentine payments were described as attributable to "additional assessments," "extra costs," or "extraordinary expenses." Similarly, the Venezuelan payments were described as, for instance, "urgent processing," "urgent dispatch," or "customs processing."

Criminal Disposition:

As part of the non-prosecution agreement, H&P acknowledged responsibility for the actions of its subsidiaries, employees and agents who made the improper payments. The agreement required that H&P pay a \$1 million penalty, implement rigorous internal controls, and cooperate fully with the Department.

Civil Disposition:

In a related matter, H&P reached a settlement with the SEC, under which it agreed to pay \$320,604 in disgorgement of profits and \$55,077.22 in pre-judgment interest, and agreed to an entry of a cease-and-desist order.

15. Avery Dennison Corporation

Resulting Civil/Administrative Enforcement Action(s):

- A. SEC v. Avery Dennison Corporation (C.D. Cal., July 28, 2009)**
- B. In the Matter of Avery Dennison Corporation (July 28, 2009)**

Entities and Individuals:

- Avery Dennison Corporation, civil complaint filed July 28, 2009; cease-and-desist order issued July 28, 2009.

Civil Charges:

- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: China, 2002-2005.

Summary:

On July 28, 2009, the SEC filed a settled civil action and a settled administrative order against Avery Dennison Corporation (Avery), a Pasadena, California-based multinational corporation, alleging violations of the FCPA in connection with improper payments and promises of improper payments to foreign officials by Avery's Chinese subsidiary and several entities Avery acquired. The SEC's civil complaint and administrative order charged that, from 2002 through 2005, the Reflectives Division of Avery (China) Co. Ltd. (Avery China) paid or authorized the payments of kickbacks, sightseeing trips, and gifts to Chinese government officials. The amount of illegal payments actually paid amounted to approximately \$30,000.

In one transaction, Avery China secured a sale to a state-owned end user by agreeing to pay a Chinese official a kickback of nearly \$25,000 through a distributor. Avery China realized \$273,313 in profit from this transaction, which it inaccurately booked as a sale to the distributor rather than to the end user. In addition, after Avery acquired a company in June 2007, employees of the acquired company continued their pre-acquisition practice of making illegal petty cash payments to customs or other officials in several foreign countries, resulting in illegal payments of approximately \$51,000. Avery failed to accurately record these payments and gifts in the company's books and records, and failed to implement or maintain a system of internal accounting controls sufficient to detect and prevent such illegal payments or promises of illegal payments.

Civil Disposition:

In the administrative proceeding, the SEC ordered Avery to cease and desist from such violations, and to disgorge \$273,213, together with \$45,257 in prejudgment interest. In the federal civil action, Avery agreed to the entry of a final judgment requiring it to pay a civil penalty in the amount of \$200,000.

16. Control Components, Inc.

Related Criminal Enforcement Action(s):

- A. United States v. Control Components, Inc. (C.D. Cal., July 22, 2009)**

- B. United States v. Stuart Carson, et al (C.D. Cal., April 8, 2009)**
- C. United States v. Richard Morlok (C.D. Cal., January 7, 2009)**
- D. United States v. Mario Covino (C.D. Cal., December 17, 2008)**

Entities and Individuals:

- Control Components Inc. (CCI), charged on July 22, 2009.
- Mario Covino, Director of Worldwide Factory Sales, charged on April 8, 2009.
- Richard Morlok, Finance Director, charged on April 8, 2009.
- Stuart Carson, CEO, indicted on April 8, 2009.
- Hong (Rose) Carson, Director of Sales for China and Taiwan, indicted on April 8, 2009.
- Paul Cosgrove, Director of Worldwide Sales, indicted on April 8, 2009.
- David Edmonds, Vice President of Worldwide Customer Service, indicted on April 8, 2009.
- Flavio Ricotti, Vice-President and Head of Sales for Europe, Africa, and the Middle East, indicted on April 8, 2009.
- Han Yong Kim, President of CCI's Korean office, indicted on April 8, 2009.

Criminal Charges:

- Conspiracy:
 - to bribe foreign officials (all defendants)
 - to commit commercial bribery (all defendants except Covino and Morlok)
- Bribery of foreign officials (all defendants except Morlok and Covino)
- Commercial bribery (Ricotti, Edmonds, and Cosgrove)
- Destruction of Records (Hong Carson)

Location and Time Period of Misconduct: Over 36 countries, including China, Malaysia, South Korea, India, United Arab Emirates, Romania, Brazil, 1998-2007.

Summary:

On July 22, 2009, Control Components Inc. (CCI), a Rancho Santa Margarita, California-based company, was charged in a three count criminal information with violations of the FCPA and the Travel Act, stemming from a decade-long scheme to secure contracts in approximately 36 countries by paying bribes to officials and employees of various foreign state-owned companies as well as foreign and domestic private companies. Previously, two former executives of CCI, Mario Covino and Richard Morlok, were each charged with one count of conspiracy to bribe foreign officials in violation of the FCPA (on December 17, 2008 and January 7, 2009, respectively). On April 9, 2009, a grand jury in the Central District of California returned an indictment against six additional former CCI executives for their alleged roles in this bribery scheme.

According to court documents, from 2003 through 2007, CCI, a manufacturer of service control valves for use in the nuclear, oil and gas, and power generation industries, made approximately 236 corrupt payments to officers and employees of foreign state-owned and private companies in more than 30 countries. Sales from these corrupt payments resulted in net profits to the company of approximately \$46.5 million.

Covino, CCI's former Director of Worldwide Factory Sales, was charged in connection with his role in causing and approving approximately \$1 million in corrupt payments to foreign government officials for the purpose of obtaining business from state-owned enterprises in several countries, including, but not limited to, Brazil, China, India, Korea, Malaysia, and the United Arab Emirates (UAE). The charges against Morlok, CCI's former Finance Director, stemmed from his role in a scheme to pay approximately \$628,000 in bribes to foreign government officials in several countries, including China, Korea, Romania, and Saudi Arabia. As part of his plea agreement, Morlok also admitted that the valve company earned approximately \$3.5 million in profits from the contracts it obtained as a result of these

corrupt payments and that he provided false and misleading information regarding the commission payments to internal and external auditors in 2004.

According to the indictment of Stuart Carson, Hong (Rose) Carson, Paul Cosgrove, David Edmonds, Flavio Ricotti, and Han Yong Kim, these six defendants caused CCI to pay approximately \$4.9 million in bribes, in violation of the FCPA, to officials of foreign state-owned companies and approximately \$1.95 million in bribes, in violation of the Travel Act, to officers and employees of foreign and domestic privately owned companies. The alleged corrupt payments were made to foreign officials at state-owned entities including Jiangsu Nuclear Power Corp. (China), Guohua Electric Power (China), China Petroleum Materials and Equipment Corp., PetroChina, Dongfang Electric Corporation (China), China National Offshore Oil Corporation, Korea Hydro and Nuclear Power, Petronas (Malaysia), and National Petroleum Construction Company (UAE).

Criminal Disposition:

On July 31, 2009, CCI pleaded guilty in the Central District of California. As part of the plea agreement, CCI agreed to pay a criminal fine of \$18.2 million; create, implement and maintain a comprehensive anti-bribery compliance program; retain an independent compliance monitor for a three-year period to review the design and implementation of CCI's anti-bribery compliance program and to make periodic reports to CCI and the Department; serve a three-year term of organizational probation; and continue to cooperate with the Department in its ongoing investigation.

Covino pleaded guilty to the one count criminal information on January 8, 2009, and agreed to cooperate with the Department in its ongoing investigation. Morlok pleaded guilty to the same charge on February 3, 2009. Both Covino and Morlok are scheduled to be sentenced on February 14, 2011.

The trial in United States v. Carson, *et al*, is scheduled to begin on November 2, 2010. Currently, defendants Ricotti and Kim are fugitives.

17. United Industrial Corporation

Resulting Civil/Administrative Enforcement Action(s):

- A. In the Matter of United Industrial Corporation (May 29, 2009)**
- B. SEC v. Thomas Wurzel (D.D.C., May 29, 2009)**

Entities and Individuals:

- United Industrial Corporation, cease-and-desist order issued May 29, 2009.
- ACL Technologies, Inc. (parent was subject to enforcement action).
- Thomas Wurzel, President of ACL Technologies, Inc., civil complaint filed May 29, 2009.

Civil Charges:

- Bribery of foreign officials (all defendants)
- Internal controls violations (all defendants)
- Falsification of books and records (UIC)
- False accounting (Wurzel)
- Aiding and abetting UIC's bribery of foreign officials (Wurzel)
- Aiding and abetting UIC's falsification of books and records (Wurzel)

Location and Time Period of Misconduct: Egypt, 2001-2002.

Summary:

On May 29, 2009, the SEC filed a settled enforcement action in the U.S. District Court for the District of Columbia against Thomas Wurzel, the former President of ACL Technologies, Inc. (ACL), formerly a subsidiary of United Industrial Corporation (UIC), which provided aerospace and defense systems. In a related action, the SEC also instituted, on May 29, 2009, a settled administrative proceeding against UIC.

The Commission's complaint against Wurzel alleged that he authorized illicit payments to an Egyptian-based agent while he knew or consciously disregarded the high probability that the agent would offer, provide, or promise at least a portion of such payments to Egyptian Air Force officials for the purpose of influencing these officials to award business related to a military aircraft depot in Cairo, Egypt to UIC. In relation to this misconduct, the Commission charged Wurzel with violations of the anti-bribery, books and records and internal controls provisions of the FCPA, and with aiding and abetting UIC's violations of the anti-bribery and books and records provisions of the FCPA.

The Commission's complaint alleges that from late 2001 through 2002, Wurzel authorized three forms of illicit payments to the agent: (1) payments to the agent ostensibly for labor subcontracting work; (2) a \$100,000 advance payment to the agent in June 2002 for "equipment and materials;" and (3) a \$50,000 payment to the agent in November 2002 for "marketing services." Furthermore, Wurzel later directed his subordinates to create false invoices to conceal the fact that the \$100,000 "advance payment" in June 2002 was never repaid. As a result, UIC, through ACL, was awarded a contract with gross revenues and net profits of approximately \$5.3 million and \$267,000, respectively.

Civil Disposition:

Without admitting or denying the allegations contained in the complaint, Wurzel consented to the entry of a final judgment permanently enjoining him from future violations of the FCPA and ordering him to pay a \$35,000 civil penalty.

On May 29, 2009, without admitting or denying the SEC's findings, UIC agreed to an SEC order requiring it to cease-and-desist from committing or causing violations or future violations of the anti-

bribery, books and records, and internal controls provisions of the FCPA. In addition, UIC was ordered to pay \$267,571 in disgorgement and \$70,108.42 in prejudgment interest.

18. Novo Nordisk A/S

Resulting Criminal Enforcement Action(s):

A. United States v. Novo Nordisk A/S (D.D.C., May 11, 2009)

Resulting Civil/Administrative Enforcement Action(s):

B. SEC v. Novo Nordisk A/S (D.D.C., May 11, 2009)

Entities and Individuals:

- Novo Nordisk A/S, charged May 11, 2009; civil complaint filed May 11, 2009.

Criminal Charges:

- Conspiracy:
 - to commit wire fraud
 - to falsify books and records

Civil Charges:

- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: Iraq, 2001-2003.

Summary:

On May 11, 2009, Novo Nordisk A/S (Novo), a Danish corporation based in Bagsvaerd, Denmark, was charged in a one-count criminal information with conspiracy to commit wire fraud and to violate the books and records provisions of the FCPA. On the same date, the SEC filed a settled civil complaint against Novo in the U.S. District Court for the District of Columbia.

According to court documents, between 2001 and 2003, a Jordan-based agent acting on behalf of Novo, an international manufacturer of insulin, medicines and other pharmaceutical supplies, made improper payments worth approximately \$1.4 million to the former Iraqi government in order to obtain contracts with the Iraqi Ministry of Health to provide insulin and other medicines as part of the Oil-for-Food Program (OFFP).

Novo engaged its long-time Jordan-based agent to submit bids on Novo's behalf to Kimadia, the Iraqi State Company for the Importation and Distribution of Drugs and Medical Appliances, a state-owned company which was part of the Iraqi Ministry of Health. Two branches of Novo Nordisk – RONE, based in Athens, Greece, and NEO, based in Amman, Jordan – handled the sales to the Iraq and supplied the agent with bid prices for each contract. In late 2000 or early 2001, a Kimadia import manager advised the agent that Kimadia required Novo Nordisk to pay a ten percent kickback in order to obtain a contract under the Program. The Kimadia import manager told the agent that Novo Nordisk should increase its prices by ten percent and pay that amount to Kimadia. By doing so, Novo would recover the secret kickback from the U.N. escrow account when the contract, with the inflated price, was subsequently approved for disbursement and paid by the U.N.

Beginning in 2001 and continuing through 2003, Novo paid these kickbacks, characterized as "after-sales service fees" ("ASSFs"), by inflating the price of contracts by 10 percent before submitting the contracts to the U.N. for approval. Novo also concealed from the U.N. the fact that the price contained a kickback to the former Iraqi government. In addition, on at least two occasions in 2001, Novo paid increased commissions to its agent to pay the kickbacks to Kimadia. The agent's commission was

increased under the guise that the payment was used to cover the agent's increased distribution and marketing costs. All together, Novo paid over \$1.4 million in kickbacks payments on eleven contracts through the agent, and agreed to pay approximately \$1.3 million in ASSFs on two additional contracts. Novo then inaccurately recorded the kickback payments as "commissions" in its books and records.

Criminal Disposition:

On the same date that it was charged, Novo entered into a three-year deferred prosecution agreement with the Department of Justice, whereby it agreed to pay a \$9 million penalty.

Civil Disposition:

On May 11, 2009, Novo entered into a settlement with the SEC, which enjoined it from future violations of the FCPA, and required Novo to pay \$3,025,066 in civil penalties, \$4,321,523 in disgorgement of profits, and \$1,683,556 in pre-judgment interest.

19. Latin Node Inc.

Resulting Criminal Enforcement Action(s):

A. United States v. Latin Node Inc. (S.D. Fla., March 23, 2009)

Entities and Individuals:

- Latin Node Inc., charged March 23, 2009.

Criminal Charges:

- Bribery of foreign officials

Location and Time Period of Misconduct: Honduras, 2004-2007; Yemen, 2005-2006.

Summary:

On March 23, 2009, Latin Node Inc. (Latinode), a privately held Florida corporation, was charged with violating the anti-bribery provisions of the FCPA in connection with improper payment in Honduras and Yemen. According to court documents, Latinode provided wholesale telecommunications services using Internet protocol technology in a number of countries throughout the world, including Honduras and Yemen. From approximately March 2004 through June 2007, Latinode paid or caused to be paid approximately \$1,099,889 in payments to third parties, knowing that some or all of those funds would be passed on as bribes to officials of Hondutel, the Honduran state-owned telecommunications company. These payments were made in exchange for obtaining an interconnection agreement with Hondutel, as well as for reducing the rate per minute under the interconnection agreement. According to court documents, each of these payments was made from Latinode's Miami bank account, and each payment was approved by senior executives of Latinode. The payment recipients included, but were not limited to, a member of the evaluation committee responsible for awarding Hondutel interconnection agreements, the deputy general manager (who later became the general manager) of Hondutel, and a senior attorney for Hondutel.

In addition, from approximately July 2005 through April 2006, court documents show that Latinode made 17 payments totaling approximately \$1,150,654 to a third-party consultant with the knowledge that some or all of the money would be passed on to Yemeni officials in exchange for favorable interconnection rates in Yemen. Each of these payments was also made from Latinode's Miami bank account. Company e-mails indicated that company executives believed that potential recipients of these payments included Yememi government officials.

This conduct was referred to the Department of Justice after Latinode's parent company, eLandia International Inc. (eLandia), discovered these improper payments during due diligence associated with eLandia's acquisition of Latinode.

Criminal Disposition:

On April 7, 2009, Latinode pleaded guilty before U.S. District Judge Paul Courtney Huck in the Southern District of Florida. As part of its plea agreement, Latinode agreed to pay a \$2 million criminal fine during a three-year period.

20.

Kellogg Brown & Root, LLC

Resulting Criminal Enforcement Action(s):

- A. **United States v. Jeffrey Tesler, et al (S.D. Tex., February 17, 2009)**
- B. **United States v. Kellogg Brown & Root, LLC (S.D. Tex., February 6, 2009)**
- C. **United States v. Albert Jackson Stanley (S.D. Tex., August 29, 2008)**

Resulting Civil/Administrative Enforcement Action(s):

- D. **SEC v. Halliburton Company, et al (S.D. Tex., February 6, 2009)**
- E. **SEC v. Albert Jackson Stanley (S.D. Tex., September 3, 2008)**

Entities and Individuals:

- Kellogg Brown & Root LLC, charged February 6, 2009.
- Halliburton Company, civil complaint filed February 6, 2009.
- KBR, Inc., civil complaint filed February 6, 2009.
- Albert “Jack” Stanley, former CEO of KBR, charged September 3, 2008; civil complaint filed September 3, 2008.
- Jeffrey Tesler, agent of KBR, indicted February 19, 2009.
- Wojciech Chodan, Vice President, MW Kellogg Ltd. (KBR subsidiary), indicted February 19, 2009.

Criminal Charges:

- Conspiracy:
 - to bribe foreign officials (all defendants)
 - to commit wire fraud (Stanley)
 - to commit mail fraud (Stanley)
- Bribery of foreign officials (all defendants)
- Falsification of books and records (KBR, Inc. and Halliburton Company)

Civil Charges:

- Bribery of foreign officials (KBR and Stanley)
- Internal controls violations (Halliburton)
- Falsification of books and records (Halliburton)
- False accounting (KBR and Stanley)
- Aiding and abetting Halliburton’s internal controls violations (KBR and Stanley)
- Aiding and abetting Halliburton’s falsification of books and records (KBR and Stanley)

Location and Time Period of Misconduct: Nigeria, 1995-2004

Summary:

On February 6, 2009, the Department of Justice filed a five-count criminal information against Kellogg Brown & Root LLC (KBR LLC), charging it with one count of conspiring to violate the anti-bribery provisions of the FCPA and four counts of violating the FCPA in connection with its participation

in a decade-long scheme to bribe Nigerian government officials. The SEC simultaneously filed a settled civil complaint against KBR, Inc. (KBR) and Halliburton Company (Halliburton), KBR's former parent company, charging them with violations of the anti-bribery, books and records, and internal controls provisions of the FCPA in connection with the conduct of KBR LLC. Previously, on September 3, 2008, Albert "Jack" Stanley, the former CEO of KBR LLC, was charged in the Southern District of Texas in a two-count criminal information with conspiracy to violate the FCPA and conspiracy to commit mail and wire fraud in connection with his alleged role in this bribery scheme.

According to court documents, KBR LLC, a global engineering, construction, and services company based in Houston, Texas, was part of a four-company joint venture that was awarded four engineering, procurement and construction (EPC) contracts by Nigeria LNG Ltd. (NLNG) between 1995 and 2004 to build liquefied natural gas (LNG) facilities on Bonny Island, Nigeria. The government-owned Nigerian National Petroleum Corporation (NNPC) was the largest shareholder of NLNG, owning 49 percent of the company. In exchange for being awarded these EPC contracts, which were valued at more than \$6 billion, KBR and its joint-venture partners and others paid bribes totaled in excess of \$132 million to a range of Nigerian government officials, including officials of the executive branch of the Nigerian government, NNPC officials, and NLNG officials.

The court documents show that, at crucial junctures before the award of the EPC contracts, Stanley and others met with three successive former holders of a top-level office in the executive branch of the Nigerian government to ask the office holder to designate a representative with whom the joint venture should negotiate bribes to Nigerian government officials. Stanley and others negotiated bribe amounts with the office holders' representatives and agreed to hire two agents to pay the bribes. During the course of the bribery scheme, the joint venture paid approximately \$132 million to the first agent, a consulting company incorporated in Gibraltar, and more than \$50 million to the second agent, a global trading company headquartered in Tokyo, Japan, while intending that these agents' fees be used, in part, for bribes to Nigerian government officials.

In connection with this scheme, on February 17, 2009, a federal grand jury in the Southern District of Texas returned an eleven count indictment charging two U.K. Citizens, Jeffrey Tesler and Wojciech Chodan, with one count of conspiracy to violate the FCPA and ten counts of violating the FCPA. As described in the indictment, Tesler was hired in 1995 as an agent of the four-company joint venture and Chodan was a former salesperson and consultant of a U.K. subsidiary of KBR LLC, who participated in the "cultural meetings" during which KBR LLC officials discussed the use of Tesler and other agents to pay these bribes. The indictment also seeks forfeiture of more than \$130 million from the defendants.

Criminal Disposition:

KBR LLC pleaded guilty in Houston, Texas before U.S. District Judge Keith P. Ellison on February 11, 2009. Under the terms of its plea agreement, KBR LLC agreed to pay a \$402 million criminal fine, to retain an independent compliance monitor for a three-year period to review the design and implementation of KBR's compliance program, and to make periodic reports to the Department. KBR LLC also agreed to cooperate with the Department in its ongoing investigations.

On September 3, 2008, Stanley pleaded guilty to the charges contained in the two count information filed against him. While Stanley has not been sentenced, he has agreed, as part of his plea agreement, to a sentence of 84 months' imprisonment and restitution of \$10.8 million.

The United States is presently seeking the extradition of Tesler and Chodan from the U.K.

Civil Disposition:

On February 11, 2009, KBR LLC's parent company, KBR, and its former parent company, Halliburton, settled a related civil complaint with the SEC by jointly agreeing to the entry of an order enjoining them from future violations of the FCPA, to each obtain an independent compliance monitor for three years, and to jointly pay \$177 million in disgorgement of profits

On September 3, 2008, without admitting or denying the allegations in the complaint, Stanley consented to the entry of a final judgment in the SEC's civil case, which permanently enjoins him from

violating the provisions named above. As part of both his criminal and civil settlements, Stanley agreed to cooperate with the Government's ongoing investigation.

21. ITT Corporation

Resulting Civil/Administrative Enforcement Action(s):

- A. SEC v. ITT Corporation (D.D.C., February 11, 2009)**

Entities and Individuals:

- ITT Corporation, civil complaint filed February 11, 2009.
- Nanjing Gould Pumps Ltd. (complaint filed against parent company).

Civil Charges:

- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: China, 2001-2005.

Summary:

On February 11, 2009, the SEC filed a settled civil injunctive action in the U.S. District Court for the District of Columbia against ITT Corporation (ITT), a New York-based, global multi-industry company, alleging violations of the books and records and internal controls provisions of the FCPA. According to the SEC's complaint, ITT's violations of these provisions resulted from payments to Chinese government officials by ITT's wholly owned Chinese subsidiary, Nanjing Goulds Pumps Ltd. ("NGP"). NGP distributes a variety of water pump products that are sold to power plants, building developers, and general contractors throughout China.

From 2001 through 2005, NGP directly through certain employees, or indirectly through third-party agents, made illicit payments to numerous Chinese state-owned entities ("SOEs") to influence the purchase of NGP water pumps for large infrastructure projects in China, which were developed, constructed, and owned by the SOEs. NGP's illicit payments totaled approximately \$200,000, and the customers associated with those illicit payments generated over \$4 million in sales to NGP, from which ITT realized improper profits of more than \$1 million.

In addition, NGP disguised these payments as increased commissions in NGP's books and records. These improper NGP entries were then consolidated and included in ITT's financial statements contained in its filings with the Commission for the company's fiscal years 2001 through 2005.

Civil Disposition:

ITT, without admitting or denying the allegations in the Commission's complaint, consented to the entry of a final judgment permanently enjoining it from future violations. The judgment also ordered the company to pay \$1,041,112 in disgorgement and \$387,538.11 in prejudgment interest and a civil penalty in the amount of \$250,000.

22. Bribery of Thai Tourism Officials

Resulting Criminal Enforcement Action(s):

- A. United States v. Juthamas Siriwan, et al (C.D. Cal., January 28, 2009)**
B. United States v. Gerald Green, et al (C.D. Cal., January 16, 2008)

Entities and Individuals:

- Gerald Green, Owner/Film Executive, indicted January 16, 2008; first superseding indictment filed October 1, 2008; second superseding indictment filed March 11, 2009.
- Patricia Green, Owner/Film Executive, indicted January 16, 2008; first superseding indictment filed October 1, 2008; second superseding indictment filed March 11, 2009.
- Juthamas Siriwan, Governor of the Tourism Authority of Thailand, indicted January 28, 2009.
- Jittisopa Siriwan, daughter of the Governor of the Tourism Authority of Thailand, indicted January 28, 2009.

Criminal Charges:

- Conspiracy:
 - to bribe foreign officials (Green, *et al*)
 - to commit international money laundering (Green, *et al*)
- Bribery of foreign officials (Green, *et al*)
- Money laundering (Green, *et al*)
- International money laundering (all defendants)
- False subscription of a federal tax return (Patricia Green)
- Obstruction of justice (Gerald Green)
- Aiding and abetting (Siriwan, *et al*)

Location and Time Period of Misconduct: Thailand, 2002-2007.

Summary:

On December 18, 2007, Gerald Green and Patricia Green, the owner-operators of Film Festival Management, a Los-Angeles based company, were arrested on a criminal complaint filed on December 7, 2007, which charged them in connection with a scheme to pay bribes to tourism authorities in Thailand. The Greens were subsequently indicted by a federal grand jury in Los Angeles on January 16, 2008, on one count of conspiracy to bribe a foreign public official in violation of the FCPA and six substantive violations of the anti-bribery provisions of the FCPA. The charges against the Greens were expanded pursuant to two superseding indictments, filed on October 1, 2008 and March 11, 2009, respectively, to include charges of conspiracy to commit money laundering, money laundering, obstruction of justice, and false subscription of a U.S. income tax return.

According to court documents, the Greens paid bribes to Juthamas Siriwan, then the governor of the Tourism Authority of Thailand (TAT) in exchange for receiving contracts to manage and operate Thailand's yearly "Bangkok International Film Festival," as well as contracts related to a promotional book on Thailand and the provision of an elite tourism "privilege card" marketed to wealthy foreigners. Ultimately, between 2002 and 2007, the Greens paid approximately \$1.8 million in bribes to Juthamas Siriwan through numerous bank accounts in Singapore, the United Kingdom, and the Isle of Jersey in the name of a friend of the former governor and the former governor's daughter, Jittisopa Siriwan. The contracts received by the Greens resulted in more than \$13.5 million in revenue to businesses they owned.

For their alleged roles in this bribery scheme, Juthamas Siriwan and Jittisopa Siriwan were indicted by a federal grand jury in Los Angeles on January 28, 2009. This indictment charges the former governor and her daughter with one count of conspiracy to commit international money laundering seven counts of transporting funds to promote unlawful activity, namely felony bribery in violation of the FCPA, and one count of aiding and abetting.

Criminal Disposition:

On September 11, 2009, following a 2 ½ week trial, Gerald Green and Patricia Green were each found guilty of conspiracy to violate the FCPA and money laundering laws of the United States, as well as ten counts of violating the FCPA, six counts of international money laundering, one count of money

laundering, and one count of forfeiture. Patricia Green was also found guilty of two counts of falsely subscribing U.S. income tax returns in connection with the scheme. Sentencing is currently scheduled for June 3, 2010, before District Judge George H. Wu in the Central District of California.

The trial of Juthamas and Jittisopa Siriwan is currently pending.

23. Fiat S.p.A.*Resulting Criminal Enforcement Action(s):*

- A. United States v. Iveco S.p.A. (D.D.C., December 22, 2008)**
- B. United States v. CNH Italia S.p.A. (D.D.C., December 22, 2008)**
- C. United States v. CNH France S.A. (D.D.C., December 22, 2008)**

Resulting Civil/Administrative Enforcement Action(s):

- D. SEC v. Fiat S.p.A., et al (D.D.C., December 22, 2008)**

Entities and Individuals:

- Fiat S.p.A., deferred prosecution agreement filed December 22, 2008; civil complaint filed December 22, 2008.
- Iveco S.p.A., charged December 22, 2008.
- CNH Italia S.p.A., charged December 22, 2008.
- CNH France S.A., charged December 22, 2008.
- CNH Global N.V., civil complaint filed December 22, 2008.

Criminal Charges:

- Conspiracy:
 - to falsify books and records (all defendants except CNH France S.A.)
 - to commit wire fraud (all defendants)

Civil Charges:

- Internal controls violations (all defendants)
- Falsification of books and records (all defendants)

Location and Time Period of Misconduct: Iraq, 2000-2003.*Summary:*

On December 22, 2008, three subsidiaries of Fiat S.p.A. (Fiat), an Italian corporation based in Turin, Italy, were charged in the U.S. District Court for the District of Columbia in connection with a scheme to pay bribes to Iraqi government officials in order to win contracts under the U.N. Oil-for-Food Program (OFFP). Two Fiat subsidiaries, Iveco S.p.A. (Iveco) and CNH Italia S.p.A. (CNH Italia), were each charged with one count of conspiracy to commit wire fraud and to violate the books and records provisions of the FCPA. A third subsidiary, CNH France S.A. (CNH France), was charged with one count of conspiracy to commit wire fraud. The SEC simultaneously filed a civil complaint against Fiat and CNH Global N.V., alleging that Fiat and its subsidiaries violated the books and records and internal controls provisions of the FCPA in relation to the same conduct.

These charges stemmed from a series of improper payments made by Fiat to Iraqi government officials in order to obtain contracts with Iraqi ministries to provide industrial pumps, gears, and other equipment. According to court documents, between 2000 and 2002, Iveco, CNH Italia, and CNH France paid a total of approximately \$4.4 million in kickbacks (referred to as “after sales service fees” (ASSFs)) to the Iraqi government by inflating the price of contracts by 10 percent before submitting the contracts to the U.N. for approval, and concealed from the U.N. the fact that the price contained a kickback to the Iraqi government. Iveco and CNH Italia also inaccurately recorded the kickback payments as “commissions” and “service fees” for its agents in its books and records.

Criminal Disposition:

In recognition of Fiat's thorough review of the illicit payments and its implementation of enhanced compliance policies and procedures, and in order to resolve the criminal charges against the three Fiat subsidiaries, Fiat and the Department entered into a three-year deferred prosecution agreement that required Fiat to pay a \$7 million criminal penalty.

Civil Disposition:

Without admitting or denying the allegations in the SEC's complaint, Fiat consented to the entry of a final judgment permanently enjoining Fiat and CNH Global from future violations of the books and records and internal controls provisions of the FCPA. In addition, as part of this judgment, Fiat was ordered to pay \$3.6 million in civil penalties and \$5,309,632 in disgorgement of profits and \$1,899,510 in prejudgment interest.

24. Siemens Aktiengesellschaft (Siemens AG)

Resulting Criminal Enforcement Action(s):

- A. United States v. Siemens Aktiengesellschaft (D.D.C., December 12, 2008)**
- B. United States v. Siemens S.A. (Argentina) (D.D.C., December 12, 2008)**
- C. United States v. Siemens Bangladesh Limited (D.D.C., December 12, 2008)**
- D. United States v. Siemens S.A. (Venezuela) (D.D.C., December 12, 2008)**

Resulting Civil/Administrative Enforcement Action(s):

- E. SEC v. Siemens Aktiengesellschaft (D.D.C., December 12, 2008)**

Entities and Individuals:

- Siemens Aktiengesellschaft, charged December 12, 2008; civil complaint filed December 12, 2008.
- Siemens S.A. - Argentina, charged December 12, 2008.
- Siemens Bangladesh Limited, charged December 12, 2008.
- Siemens S.A. - Venezuela, charged December 12, 2008.

Criminal Charges:

- Conspiracy:
 - to bribe foreign officials (Siemens S.A. - Venezuela and Siemens Bangladesh Limited)
 - to falsify books and records (Siemens S.A. - Argentina)
- Falsification of books and records (Siemens Aktiengesellschaft)

Civil Charges:

- Bribery of foreign officials
- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: Argentina, 1998-2007; Nigeria, 2000-2001; Iraq, 2000-2002; Russia, 2000-2007; Bangladesh, 2001-2006; Venezuela, 2001-2007; Vietnam, 2002 and 2005-2006; Israel, 2002-2005; China, 2002-2007; Mexico, 2004.

Summary:

On December 11, 2008, Siemens Aktiengesellschaft (Siemens AG), a German corporation, and three of its subsidiaries were charged in separate criminal informations filed in the U.S. District Court for the District of Columbia for their roles in a scheme to bribe foreign officials in several countries. Siemens AG was charged with two counts of violating the internal controls and books and records provisions of the

FCPA, while Siemens S.A. - Argentina was charged with conspiracy to violate the books and records provisions. In addition, Siemens Bangladesh Limited (Siemens Bangladesh) and Siemens S.A. – Venezuela (Siemens Venezuela) were each charged with one count of conspiracy to violate the anti-bribery and books and records provisions of the FCPA.

According to court documents filed in these criminal cases, beginning in the mid-1990s, Siemens AG engaged in systematic efforts to falsify its corporate books and records and knowingly failed to implement existing internal controls. As a result of Siemens AG's knowing failures in and circumvention of internal controls, from the time of its listing on the New York Stock Exchange on March 12, 2001, through approximately 2007, Siemens AG made payments totaling approximately \$1.36 billion through various mechanisms. Of this amount, approximately \$554.5 million was paid for unknown purposes, including approximately \$341 million in direct payments to business consultants for unknown purposes. The remaining \$805.5 million of this amount was intended in whole or in part as corrupt payments to foreign officials in Asia, Africa, Europe, the Middle East and the Americas, which were to be paid through various mechanisms, including cash desks and slush funds.

The criminal charges against Siemens AG and its three subsidiaries stem from bribery schemes and related accounting misconduct involving its operations in Iraq, Argentina, Venezuela, and Bangladesh. The details of this misconduct are as follows:

- a) Iraq: From 2000 to 2002, four Siemens AG subsidiaries – Siemens S.A.S. of France, Siemens Sanayi ve Ticaret A.S. of Turkey, Osram Middle East FZE, and Gas Turbine Technologies S.p.A. – each wholly owned by Siemens AG or one of its subsidiaries, were awarded 42 contracts with a combined value of more than \$80 million with the Ministries of Electricity and Oil of the government of the Republic of Iraq under the U.N. Oil-for-Food Program (OFFP). To obtain these contracts, these four Siemens subsidiaries inflated the price of the contracts by approximately 10 percent before submitting them to the U.N. for approval and improperly characterized payments to purported business consultants, part of which were paid as kickbacks to the Iraqi government as “commissions” to business consultants. The books and records of these subsidiaries were subsequently incorporated into the books and records of Siemens AG.
- b) Argentina: From 1998 through 2007, Siemens Argentina made and caused to be made significant payments to various Argentine officials, both directly and indirectly, in exchange for favorable business treatment in connection with a \$1 billion national identity card project. From March 2001 through January 2007, Siemens Argentina paid approximately \$31,263,000 in corrupt payments to various Argentine officials through purported consultants and other conduit entities, and improperly characterized those corrupt payments in its books and records as legitimate payments for “consulting fees” or “legal fees.” Siemens Argentina's books and records were subsequently incorporated into the books and records of Siemens AG.
- c) Venezuela: From 2001 through 2007, Siemens Venezuela made and caused to be made corrupt payments of at least \$18,782,965 to various Venezuelan officials, indirectly through purported business consultants, in exchange for favorable business treatment in connection with two major metropolitan mass transit projects called Metro Valencia and Metro Maracaibo. Some of those payments were made using U.S. bank accounts controlled by the purported business consultants.
- d) Bangladesh: From 2001 through 2006, Siemens Bangladesh caused corrupt payments of at least \$5,319,839 to be made through purported business consultants to various Bangladeshi officials in exchange for favorable treatment during the bidding process on a mobile telephone project. At least one payment to each of these purported consultants was paid from a U.S. bank account.

In a related matter, the SEC filed a settled civil complaint against Siemens AG on December 11, 2008, charging that the company engaged in widespread and systematic violations of the FCPA's anti-bribery, books and records, and internal controls provisions in connection with many of its international operations, including those discussed in the criminal charges. In addition to those bribery schemes named

in the criminal charges, the SEC charged Siemens AG with paying bribes in connection to contracts involving the following: (a) metro trains and signaling devices in China; (b) power plants in Israel; (c) high voltage transmission lines in China; (d) telecommunications projects in Nigeria; (e) medical devices in Vietnam, China, and Russia; (f) traffic control systems in Russia; (g) refineries in Mexico; and, (h) mobile communications systems in Vietnam. All together, the SEC charged that Siemens AG earned more than \$1.1 billion in profits from the transactions involving these illicit payments.

Criminal Disposition:

On December 15, 2008, Siemens AG and its three subsidiaries each pleaded guilty before U.S. District Judge Richard J. Leon in the District of Columbia. Subsequently, the Court imposed fines, as agreed to in the plea agreements, of \$448.5 million on Siemens AG and of \$500,000 each on Siemens Argentina, Siemens Bangladesh, and Siemens Venezuela, for a combined total criminal fine of \$450 million. Under the terms of the plea agreement, Siemens AG agreed to retain an independent compliance monitor for a four-year period to oversee the continued implementation and maintenance of a robust compliance program and to make reports to the company and the Department of Justice.

Civil Disposition:

Also on December 15, 2008, Siemens AG reached a settlement of the related civil complaint filed by the SEC. Without admitting or denying the Commission's allegations, Siemens consented to the entry of a court order permanently enjoining it from future violations of the FCPA. The court also ordered Siemens to pay \$350 million in disgorgement of wrongful profits.

Simultaneous with the settlement of the U.S. enforcement actions, Siemens AG agreed to a disposition resolving an ongoing investigation by the Munich Public Prosecutor's Office of Siemens AG's operating groups other than the Telecommunications group. The charges were based on corporate failure to supervise its officers and employees, and in connection with those charges, Siemens AG agreed to pay €395 million, or approximately \$569 million, including a €250,000 corporate fine and €394.75 million in disgorgement of profits.

Previously, in October 2007, in connection with charges related to corrupt payments to foreign officials by Siemens AG's Telecommunications operating group, the Munich Public Prosecutor's Office announced a settlement with Siemens AG under which Siemens AG agreed to pay €201 million, or approximately \$287 million, including a €1 million fine and €200 in disgorgement of profits.

25. Big-Rigging in the International Market for Marine Hose

Resulting Criminal Enforcement Action(s):

A. United States v. Misao Hioki (S.D. Tex., December 8, 2008)

Entities and Individuals:

- Misao Hioki, General Manager, charged December 8, 2008.

Criminal Charges:

- Conspiracy:
 - to violate the Sherman Antitrust Act
 - to bribe foreign officials

Location and Time Period of Misconduct: Argentina, Brazil, Ecuador, Mexico and Venezuela, 2004-2007.

Summary:

On December 8, 2008, Misao Hioki, the former general manager of his company's Industrial Engineered Products Department (IEP) in Tokyo, Japan, was charged in a two-count criminal information

with one count of conspiracy to violate the Sherman Antitrust Act and one count of conspiracy to violate the anti-bribery provisions of the FCPA. Hioki was charged for his role in a conspiracy to rig bids, fix prices, and allocate market shares of marine hose in the United States and elsewhere and also for his role in a conspiracy to violate the FCPA by making corrupt payments to government officials in Latin America and elsewhere in order to obtain and retain business.

According to court documents, as General Manager of the IEP department, Hioki was responsible for supervising IEP employees in both Japan and in regional subsidiaries, including a U.S. subsidiary, who were responsible for selling the company's products in Latin America. These IEP employees and subsidiaries contracted with local sales agents in many of the Latin American countries, and these sales agents sought to develop relationships with employees of the government-owned enterprises with which the company sought to do business. These sales agents would forward information regarding potential projects to the company's regional subsidiaries, including the U.S. subsidiary, who in turn forwarded the information to IEP employees in Japan. In addition, these local sales agents often negotiated with employees of the government-owned customers in Argentina, Brazil, Ecuador, Mexico, and Venezuela to establish a percentage of the total value of the proposed deal that would be corruptly paid to these foreign officials in order to secure their business. If the company secured the deal, the company, by and through its regional subsidiaries, would then pay a commission to the local sales agent, which included the illicit payment to the foreign official(s).

In furtherance of this scheme, Hioki and others knowingly approved both these deals and the making of corrupt payments and took steps to conceal the improper payments. All together, from January 2004 through 2007, Hioki and others made more than \$1 million in corrupt payments to foreign government officials in Latin America to secure or retain business for IEP.

Disposition:

On December 10, 2008, Hioki became the ninth individual to plead guilty in the marine hose bid-rigging investigation and the first individual to plead guilty in the investigation of the FCPA conspiracy. On the same day, Hioki was sentenced to 24 months' imprisonment and a criminal fine of \$80,000, following the Antitrust Division's established practice of negotiating agreed-to-dispositions.

26. AMAC International

Resulting Criminal Enforcement Action(s):

A. United States v. Shu Quan-Sheng (E.D. Va., November 12, 2008)

Entities and Individuals:

- Shu Quan-Sheng, President of AMAC International, charged November 12, 2008.

Criminal Charges:

- Bribery of foreign officials
- Unlawful export of a defense article

Location and Time Period of Misconduct: China, 2003-2007.

Summary:

On September 24, 2008, Shu Quan-Sheng, a native of China, naturalized U.S. citizen and PhD physicist, was arrested on charges of illegally exporting space launch technical data and services to the People's Republic of China (PRC) and offering bribes to Chinese government officials. Shu, the President, Secretary and Treasurer of AMAC International, a high-tech company located in Newport News, Virginia and with an office in Beijing, China, was subsequently charged on November 12, 2008, in a three-count

information with the unlawful export of a defense article to a foreign person without prior approval in violation of the Arms Export Control Act, as well as bribery of a foreign official in violation of the FCPA.

According to court documents, from 2003 to 2007, Shu provided technical assistance and foreign technology acquisition expertise to several PRC government entities involved in the design, development, engineering, and manufacture of a space launch facility in the southern island province of Hainan, PRC. This facility was designed to house liquid-propelled heavy payload launch vehicles designed to send space stations and satellites into orbit, as well as provide support for manned space flight and future lunar missions.

Prior to the ultimate decision to award a \$4 million project to develop a 600 liter per hour liquid hydrogen tank system in January 2007, Shu allegedly offered illicit payments worth \$189,300 to officials within the PRC's 101st Research Institute, a component of the China Academy of Launch Vehicle Technology, in order to induce those officials to award the contract to a French company he represented, rather than a competitor. This liquefier was to be part of the 101 Institute's comprehensive research, development, and test base for liquid-propelled engines and space vehicle components, and at the time, the liquefier represented the first in as many as five additional projects to be undertaken by AMAC and the French company, all to be used as ground-based support for the launch vehicles at the Hainan launch facility. This successful brokering of this deal earned Shu and AMAC a commission.

As part of this project, Shu also allegedly exported controlled military technical data related to the design and manufacture of a "Standard 100 M3 Liquid Hydrogen (LH) 2 Tank" and illegally provided assistance to the foreign persons in the design, development, assembly, testing or modification of the tank and related components for the foreign launch facility. At no time during this period did Shu have the required licenses or written approvals with respect to brokering, export of defense articles, or proposals to provide defense services to the PRC.

Criminal Disposition:

On November 17, 2008, Shu pleaded guilty to the three count information before District Judge Henry C. Morgan, Jr. in the Eastern District of Virginia, Norfolk Division. On April 7, 2009, Shu was sentenced to 51 months' imprisonment and ordered to forfeit \$386,740.

27. Nexus Technologies, Inc.

Resulting Criminal Enforcement Action(s):

A. United States v. Nam Quoc Nguyen, et al (E.D. Pa., September 4, 2008)

Entities and Individuals:

- Nexus Technologies Inc. (Nexus), indicted September 4, 2008; superseding indictment filed October 29, 2009.
- Nam Nguyen, President of Nexus Technologies Inc., indicted September 4, 2008; superseding indictment filed October 29, 2009.
- Joseph Lukas, joint venture partner of Nexus Technologies Inc., indicted September 4, 2008.
- Kim Nguyen, Vice President of Nexus Technologies Inc., indicted September 4, 2008; superseding indictment filed October 29, 2009.
- An Nguyen, employee of Nexus Technologies Inc., indicted September 4, 2008; superseding indictment filed October 29, 2009.

Criminal Charges:

- Conspiracy (all defendants)
- Bribery of foreign officials (all defendants)
- Commercial bribery (all defendants except Lukas)

- Money laundering (all defendants except Lukas)

Location and Time Period of Misconduct: Vietnam, 1999-2008.

Summary:

On September 4, 2008, Nexus and its employees, Nam Quoc Nguyen, Kim Nguyen, and An Nguyen, and joint venture partner Joseph Lukas, were indicted by a grand jury in Philadelphia, Pennsylvania on charges related to a scheme to pay bribes totaling at least \$250,000 to employees of state-owned enterprises in Vietnam in exchange for favorable treatment for Nexus in the award of procurement contracts. Nexus, a privately owned export company, identified U.S. vendors for contracts opened for bid by the Vietnamese government and other companies operating in Vietnam. The contracts allowed for the purchase of a wide variety of equipment and technology, including underwater mapping equipment, bomb containment equipment, helicopter parts, chemical detectors, satellite communication parts, and air tracking systems. Nam Nguyen negotiated the contracts and bribes with the Vietnamese government agencies and employees. Kim Nguyen, vice president of Nexus, oversaw the U.S. operations and handled company finances. Joseph Lukas and An Nguyen identified and negotiated with U.S. vendors to supply the goods needed to fulfill the contracts. A superseding indictment of Nexus, Nam Nguyen, Kim Nguyen, and An Nguyen, which added charges, was returned by the same grand jury on October 29, 2009, charging one count of conspiracy and nine counts each of violating the FCPA, violating the Travel Act, and money laundering. Kim Nguyen and Joseph Lukas cooperated with the investigation.

Criminal Disposition:

On June 29, 2009, Joseph Lukas pleaded guilty in relation to this conduct. On March 16, 2010, Nexus Technologies Inc., Nam Nguyen, Kim Nguyen, and An Nguyen each pleaded guilty. Nam Nguyen and An Nguyen each pled guilty to one count of conspiracy and one count of violating the FCPA, violating the Travel Act, and money laundering. Kim Nguyen pled guilty to one count of conspiracy, one count of violating the FCPA and money laundering. In pleading guilty, Nexus Technologies Inc. admitted to operating primarily through criminal means and agreed to cease all operations. The defendants are scheduled to be sentenced on July 21, 2010.

28. Con-Way Inc.

Resulting Civil/Administrative Enforcement Action(s):

- A. SEC v. Con-Way Inc. (D.D.C., August 27, 2008)**
- B. In the Matter of Con-Way Inc. (August 27, 2008)**

Entities and Individuals:

- Con-Way, Inc., civil complaint filed August 27, 2008; cease-and-desist order issued August 27, 2008.
- Emery Transnational (civil complaint filed against parent).

Civil Charges:

- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: Philippines, 2000-2003.

Summary:

On August 27, 2008, the SEC settled a civil action in the U.S. District Court for the District of Columbia charging Con-Way Inc. (Con-way), a San Mateo, California international freight transportation

company, with violations of the books and records and internal controls provisions of the FCPA. The complaint alleges that between 2000 and 2003, Emery Transnational, Con-Way's Philippine subsidiary, made approximately \$244,000 in improper payments to foreign officials of the Philippines Bureau of Customs and the Philippine Economic Zone Area. The complaint alleges that these payments were made to induce these foreign officials to violate customs regulations, settle customs disputes, and reduce or not enforce otherwise legitimate fines. The complaint also alleges that the company made approximately \$173,000 in improper payments to foreign officials at fourteen state-owned airlines that conducted business in the Philippines. These payments were made to induce airline officials to improperly reserve space for Emery Transnational on airplanes, to falsely under-weigh shipments, and to improperly consolidate multiple shipments into a single shipment, resulting in lower shipping charges. According to the complaint, none of the improper payments were accurately reflected in Con-way's books and records, and Con-way knowingly failed to implement a system of internal accounting controls concerning Emery Transnational that would both ensure that Emery Transnational complied with the FCPA and require that the payments it made to foreign officials would be accurately reflected on its books and records.

Civil Disposition:

In a settlement agreement with the SEC, Con-Way agreed to cease-and-desist from future violations of the FCPA and to pay \$300,000 in civil penalties.

29. AGA Medical Corporation

Resulting Criminal Enforcement Action(s):

A. United States v. AGA Medical Corporation (D. Minn., June 3, 2008)

Entities and Individuals:

- AGA Medical Corporation, charged June 3, 2008.

Criminal Charges:

- Conspiracy to bribe foreign officials
- Bribery of foreign officials

Location and Time Period of Misconduct: China, 1997-2005.

Summary:

On June 3, 2008, AGA Medical Corporation (AGA), a privately-held medical device manufacturer, incorporated and headquartered in Minnesota, was charged in a two-count criminal information with one count of conspiring to make bribe payments to Chinese officials and one count of violating the FCPA in connection with the authorization of specific corrupt payments to officials in the People's Republic of China (PRC).

According to the criminal information, between 1997 and 2005, AGA, a high-ranking officer of AGA and other AGA employees agreed to make corrupt payments to doctors in China who were employed by government-owned hospitals and caused those payments to be made through AGA's local Chinese distributor. In exchange for these payments, the Chinese doctors directed the government-owned hospitals to purchase AGA's products rather than those of the company's competitors.

The criminal information also alleges that from 2000 through 2002, AGA sought patents on several AGA products from the PRC State Intellectual Property Office. As a part of this effort, AGA and a high-ranking officer of AGA agreed to make payments through their local Chinese distributor to Chinese government officials employed by the State Intellectual Property Office in order to have the patents approved.

Criminal Disposition:

On June 3, 2008, AGA entered into a three-year deferred prosecution agreement with the Department. As part of this agreement, AGA agreed to pay a \$2 million criminal fine and to engage an independent compliance monitor.

30. Willbros Group Inc.*Resulting Criminal Enforcement Action(s):*

- A. United States v. Willbros Group Inc., et al (S.D. Tex., May 14, 2008)**
- B. United States v. James K. Tillery, et al (S.D. Tex., January 17, 2008)**
- C. United States v. Jason Edward Steph (S.D. Tex., July 19, 2007)**
- D. United States v. Jim Bob Brown (S.D. Tex., September 11, 2006)**

Resulting Civil/Administrative Enforcement Action(s):

- E. SEC v. Willbros Group Inc., et al (S.D. Tex., May 14, 2008)**
- F. SEC v. Jim Bob Brown (S.D. Tex., September 14, 2006)**

Entities and Individuals:

- Willbros Group, Inc. (WGI), charged May 14, 2008; civil complaint filed May 14, 2008.
- Willbros International, Inc. (WII), charged May 14, 2008.
- Jim Bob Brown, WII's Managing Director (Nigeria), charged September 11, 2006; civil complaint filed September 14, 2006.
- Jason Edward Steph, WII's General Manager-Onshore in Nigeria, indicted July 19, 2007; civil complaint filed May 14, 2008.
- James K. Tillery, Executive Vice President and President of WII, indicted January 17, 2008.
- Paul G. Novak, Consultant and Intermediary, indicted January 17, 2008.
- Gerald Jansen, WII's Administrator and General Manager-Finance, civil complaint filed May 14, 2008.
- Lloyd Biggers, WII Employee, civil complaint filed May 14, 2008.
- Carlos Galvez, WII Accounting and Administrative Employee, civil complaint filed May 14, 2008.

Criminal Charges:

- Conspiracy:
 - to bribe foreign officials (all defendants)
 - to commit foreign bribery related accounting misconduct (WGI and WII)
 - to commit money laundering (Tillery, Novak, and Steph)
- Bribery of foreign officials (Tillery and Novak)
- International Money Laundering (Steph)

Civil Charges:

- Bribery of foreign officials (Willbros and Steph)
- Fraud in connection with the purchase and sale of securities (Willbros)
- Aiding and abetting Willbros' fraud violations (Galvez)
- Disclosure violations (Willbros)
- Aiding and Abetting Willbros' disclosure violations (Galvez)
- Internal controls violations (Willbros)
- Falsification of books and records (Willbros)
- False accounting violations (Steph, Jansen, Galvez, Biggers)

- Aiding and abetting Willbros' bribery of foreign officials (Steph, Jansen, Biggers)
- Aiding and abetting Willbros' internal controls violations (Steph, Jansen, Galvez, Biggers)
- Aiding and abetting Willbros' falsification of books and records (Steph, Jansen, Galvez, Biggers)

Location and Time Period of Misconduct: Nigeria, 2003-2005; Ecuador, 2004.

Summary:

On May 14, 2008, Willbros Group Inc. (WGI), a publicly-traded company that provides construction, engineering and other services in the oil and gas industry, and Willbros International Inc. (WII), the wholly owned subsidiary through which it conducts international operations, were charged in a six-count criminal information with one count of conspiring to make bribe payments to Nigerian and Ecuadorian officials, two counts of violating the anti-bribery provisions of the FCPA, and three counts of violating the books and records provisions of the FCPA. These charges stemmed from a bribery scheme involving senior officials of WII, which involved the corrupt payment of more than \$6.3 million to Nigerian officials in connection with a gas pipeline construction project and \$300,000 to Ecuadorian officials in connection with a gas pipeline rehabilitation project.

From late 2003 through March 2005, WII employees agreed to make corrupt payments totaling more than \$6.3 million to officials of the Nigerian National Petroleum Corporation (NNPC), the state-owned oil company in Nigeria; NNPC's subsidiary, the National Petroleum Investment Management Services (NAPIMS); a senior official in the executive branch of the Nigerian federal government; officials of a multinational oil company; and a Nigerian political party. These bribes were paid to Nigerian government officials to assist in obtaining and retaining a \$387 million contract for work on a major engineering, procurement and construction gas pipeline project known as the Eastern Gas Gathering System (EGGS). In addition, in 2004, various WII employees paid at least \$300,000 to officials of the Ecuadorian state-owned oil company in order to obtain a gas pipeline rehabilitation contract.

Three former WII employees and one WII agent have been charged criminally for their participation in this bribery scheme:

- 1) Jim Bob Brown, WII's Managing Director (Nigeria and Ecuador), was charged September 11, 2006. Brown was charged in connection with conspiring with other WII executives to pay approximately \$1.5 million in cash to Nigerian officials and \$300,000 to Ecuadorian officials. According to court documents, from 1996 through 2005, Brown also conspired with other WII executives to approve a scheme in which WII's Nigerian operations submitted fictitious invoices for payment by WGI. These funds were used, in part, to make corrupt payments to officials of the Nigerian revenue agencies and courts in order to lower taxes that would have otherwise been assessed, and to influence favorably litigation in Nigeria affecting the business of WGI.
- 2) Jason Edward Steph, WII's General Manager-Onshore in Nigeria, was indicted July 19, 2007. Steph's charges stemmed from his role in causing a series of corrupt payments totaling more than \$6 million to be made to various Nigerian officials in order to assist WII in obtaining and retaining the EGGS deal. According to court documents, in early 2005, as a senior WII executive, Steph authorized and arranged for the payment of \$1.8 million in cash to the Nigerian officials to further the conspiracy.
- 3) James K. Tillery, Executive Vice President and President of WII, was indicted January 17, 2008. Tillery was charged in connection with the payment of more than \$6 million in bribes to Nigerian and Ecuadorian government officials. Tillery was charged with one count of conspiracy to violate the anti-bribery provisions of the FCPA, two counts of violating the anti-bribery provisions of the FCPA, and one count of conspiracy to launder money.
- 4) Paul G. Novak, Consultant and Intermediary, was indicted January 17, 2008. Novak was charged for his role as an intermediary in the payment of more than \$6 million in bribes to Nigerian and Ecuadorian government officials. Novak was charged with one count of conspiracy to violate the anti-bribery provisions of the FCPA, two counts of violating the anti-bribery provisions of the FCPA, and one count of conspiracy to launder money.

In a related matter, on May 14, 2008, the SEC filed a civil complaint against WGI and Steph, as well as three other former WII employees: (1) Gerald Jansen, WII's Administrator and General Manager-Finance; (2) Lloyd Biggers, WII employee; (3) Carlos Galvez, WII accounting and administrative employee. Previously, on September 14, 2006, the SEC filed a settled civil complaint against Jim Bob Brown in the Southern District of Texas. The civil charges brought by the SEC stem from the same general conduct underlying the criminal charges.

Criminal Disposition:

On May 14, 2008, WGI (and WII) entered into a deferred prosecution agreement with the Department of Justice. As part of the agreement with the Department, WGI agreed to pay a criminal fine of \$22 million.

Jason Edward Steph pleaded guilty on November 5, 2007 and was sentenced on January 28, 2010 to 15 months' incarceration, 2 years' supervised release, and a fine of \$2,000. Steph's sentence reflected a reduction in its severity because of his cooperation with the government.

On January 28, 2010, Jim Bob Brown was sentenced to 12 months and 1 day's incarceration, 2 years' supervised release, and a fine of \$17,500 in connection with his September 2006 guilty plea. Brown's sentence also reflected a reduction in its severity because of his cooperation with the government.

On November 12, Paul G. Novak pleaded guilty to participating in a conspiracy to violate the FCPA. Novak had been a fugitive, but he returned to the United States from Constantia, South Africa, after his U.S. passport was revoked. James K. Tillery is a fugitive and remains at large.

Civil Disposition:

To settle the civil charges filed by the SEC, WGI agreed to disgorge \$8.9 million in profits and \$1.4 million in prejudgment interest.

In order to settle the related civil complaints by the SEC, Jansen, Biggers, Galvez each consented to judgments that permanently enjoin them from future violations of the FCPA. In addition, Jansen and Galvez were subject to civil penalties in the amount of \$30,000 and \$35,000, respectively.

In order to settle the civil charges brought by the SEC, Steph and Brown also consented to the entry of judgments, which permanently enjoin them from future violations of the FCPA. Pursuant to these judgments, the Court will determine later whether Steph and/or Brown will pay a civil penalty and what the amount of such penalty will be.

31. Pacific Consolidated Industries LP

Resulting Criminal Enforcement Actions

- A. United States v. Martin Eric Self (C.D. Cal., May 2, 2008)**
- B. United States v. Leo Winston Smith (C.D. Cal., April 25, 2007)**

Entities and Individuals:

- Pacific Consolidated Industries LP (PCI) (company had ceased to exist).
- Martin Eric Self, President and Owner, charged May 2, 2008.
- Leo Winston Smith, Executive VP & Director of Sales and Marketing, indicted April 25, 2007.

Criminal Charges:

- Conspiracy:
 - to bribe foreign officials (Smith)
 - to commit money laundering (Smith)
- Bribery of foreign officials (both defendants)
- International money laundering (Smith)

- False statement in a tax return (Smith)

Location and Time Period of Misconduct: United Kingdom, 1993-2003.

Summary:

On May 2, 2008, Martin Eric Self, a former Pacific Consolidated Industries (PCI) executive was charged in a two-count information with violating the FCPA in connection with the illicit payment of more than \$70,000 in bribes for the benefit of a U.K. Ministry of Defense (UK-MOD) official in exchange for obtaining and retaining lucrative contracts with the U.K. Royal Air Force for PCI. Previously, on April 25, 2007, another former PCI executive, Leo Winston Smith, was indicted by a federal grand jury in Santa Ana, California, on several counts of FCPA violations and money laundering in connection with his participation in a scheme to make over \$300,000 in illicit payments to the same foreign official from 1993-2003. Smith was also charged with failing to report nearly \$500,000 in commissions from PCI on his 2003 U.S. tax return.

PCI was a private company headquartered in Santa Ana that manufactured Air Separation Units (ASUs) and other equipment for defense departments throughout the world. ASUs generate oxygen in remote, extreme, and confined locations for aircraft support and military hospitals. Self, a U.S. citizen, was a partial owner and the president of PCI at the time the crimes were committed. As president, Self was a signatory on PCI marketing agreements and bank accounts.

In or about October 1999, Self and Smith, PCI's then-executive vice president and director of sales and marketing, caused PCI to enter into a marketing agreement with a person they understood to be a relative of the UK-MOD official. The UK-MOD official was a project manager who was directly involved in the procurement of ASUs on behalf of the UK-MOD and, as a result of his position, was able to influence the awarding of the ASU contracts to PCI. The ASU and related contracts that were awarded to PCI were valued at over \$11 million.

According to court documents, the defendants were not aware of any genuine services provided by the official's relative, and they believed that there was a high probability that the payments were being made to the official's relative in order to benefit the official in exchange for PCI obtaining and retaining the ASU contracts. Despite these beliefs, Self initiated several of the improper wire transfers to the relative and deliberately avoided learning the true facts relating to the nature and purpose of the payments.

Criminal Disposition:

On November 17, 2008, Self was sentenced to two years' probation and a fine of \$20,000 in connection with his May 2008 guilty plea. Defendant Smith pleaded guilty on September 3, 2009 and is scheduled to be sentenced on May 10, 2010. The UK-MOD official pleaded guilty in the U.K. to accepting more than \$300,000 in bribes from PCI and was sentenced to two years in prison.

32. AB Volvo

Resulting Criminal Enforcement Action(s):

- A. United States v. Volvo Construction Equipment, AB (D.D.C., March 20, 2008)**
- B. United States v. Renault Trucks SAS (D.D.C., March 20, 2008)**

Resulting Civil/Administrative Enforcement Action(s):

- C. SEC v. AB Volvo (D.D.C., March 20, 2008)**

Entities and Individuals:

- AB Volvo, deferred prosecution agreement announced March 20, 2008.
- Volvo Construction Equipment AB, charged March 20, 2008.
- Renault Trucks SAS, charged March 20, 2008.

Criminal Charges:

- Conspiracy:
 - to falsify books and records (all defendants)
 - to commit wire fraud (all defendants)

Civil Charges:

- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: Iraq, 2000-2003.

Summary:

On March 20, 2008, AB Volvo, a Swedish company, entered into a deferred prosecution agreement with the Department of Justice and a settlement agreement with the SEC in connection with payments made by two of its subsidiaries to obtain contracts administered by the United Nations Oil for Food Program (OFFP). The subsidiaries, Renault Trucks SAS (Renault Trucks) and Volvo Construction Equipment AB (VCE), were charged in separate conspiracies to commit wire fraud and violate the books and records provision of the FCPA.

According to the court documents, between November 2000 and April 2003, employees and agents of Renault Trucks paid a total of approximately \$5 million in kickbacks to the Iraqi government for a total of approximately €61 million worth of contracts with various Iraqi ministries. To pay the kickbacks, Renault Trucks inflated the price of contracts by approximately 10 percent before submitting them to the U.N. for approval and concealed from the U.N. the fact that the contract prices contained a kickback to the Iraqi government. In some cases, Renault Trucks paid inflated prices to companies that outfitted the chassis and cabs produced by Renault Trucks. Those companies then used the excess funds to pay the kickbacks to the Iraqi government on behalf of Renault Trucks.

Between December 2000 and January 2003, Volvo Construction Equipment International AB (VCEI), the predecessor to VCE, and its distributors were awarded a total of approximately \$13.8 million worth of contracts. During the same time period, employees, agents and distributors of VCEI paid a total of approximately \$1.3 million in kickbacks to the Iraqi government by inflating the price of contracts by approximately 10 percent before submitting them to the U.N. for approval. Similar to Renault Trucks, VCE concealed from the U.N. the fact that the contract prices contained a kickback to the Iraqi government.

Criminal Disposition:

To resolve its criminal liability in connection with this bribery scheme, AB Volvo, on behalf of itself and its subsidiaries, entered into a three-year deferred prosecution agreement with the Department, whereby AB Volvo agreed to pay a criminal fine of \$7 million.

Civil Disposition

In a settlement with the SEC, AB Volvo agreed to a permanent injunction from future violations and to pay \$7,299,208 in disgorgement of profits and \$1,303,441 in prejudgment interest, as well as civil penalties in the amount of \$4 million.

33. Flowserve Corporation*Resulting Criminal Enforcement Action(s):*

- A. United States v. Flowserve Pompes SAS (D.D.C., February 21, 2008)**

Resulting Civil/Administrative Enforcement Action(s):

B. SEC v. Flowserve Corporation (D.D.C., February 21, 2008)

Entities and Individuals:

- Flowserve Corporation, civil complaint filed February 21, 2008.
- Flowserve Pompes SAS, charged February 21, 2008.

Criminal Charges:

- Conspiracy:
 - to falsify books and records
 - to commit wire fraud

Civil Charges:

- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: Iraq, 2001-2003.

Summary:

On February 21, 2008, the Department of Justice and the SEC simultaneously filed a criminal information and a civil complaint against Flowserve Pompes SAS (Flowserve Pompes), and its parent company, Flowserve Corporation (Flowserve), in the U.S. District Court for the District of Columbia. The information charges that Flowserve Pompes engaged in a conspiracy to commit wire fraud and to violate the books and records provisions of the FCPA in connection with a scheme to pay kickbacks to the Iraqi government under the United Nations Oil for Food Program (OFFP). The SEC's civil complaint charges Flowserve with violating the books and records and internal controls provisions of the FCPA in connection with the same underlying conduct.

According to documents filed in the criminal and civil cases, the French and Dutch subsidiaries of Flowserve, a Texas-based manufacturer of pumps, valves, seals, and related automation services for the oil and gas, chemical, and power industries, paid or promised to pay approximately \$820,246 from 2001 to 2003 in connection with the sale of industrial equipment to the Iraqi government. Flowserve Pompes, Flowserve's French subsidiary, concealed illegal payments to the Iraqi government totaling \$604,651 through a Jordanian entity that was its exclusive agent for Iraqi contracts. These payments were made to assist Flowserve Pompes in obtaining fifteen contracts for the sale of large-scale water pumps and spare parts for use in Iraqi oil refineries. Flowserve Pompes also agreed to, but did not ultimately make, an additional \$173,758 in improper payments pursuant to four additional contracts, as delivery under these four contracts had not been completed by the time of the U.S. invasion of Iraq in March 2003. Senior officials at Flowserve Pompes, including its President, allegedly developed different false cover stories to conceal these kickback payments in the company's internal accounting records.

According to the SEC's complaint, Flowserve's Dutch Subsidiary, Flowserve B.V., also entered into one contract involving an improper kickback under the OFFP. Specifically, Flowserve B.V. paid \$41,836 in kickbacks to Iraqi officials in order to obtain a contract to supply water pump spare parts to the Iraqi government-owned South Gas Company.

Disposition:

Flowserve entered into a three-year deferred prosecution agreement with the Department and paid a \$4 million fine. Flowserve also entered into a non-prosecution agreement with the Dutch prosecutor, which included a \$376,000 fine.

Civil Disposition:

To settle the pending civil charges brought by the SEC, Flowserve agreed to pay a \$3 million civil penalty and approximately \$2,270,861 in disgorgement and \$853,364 in prejudgment interest. Flowserve also agreed to an order enjoining it from future violations of the FCPA.

34. Westinghouse Air Brake Technologies Corporation (“Wabtec”)

Resulting Criminal Enforcement Action(s):

A. In Re Westinghouse Air Brake Technologies Corporation (February 14, 2008)

Resulting Civil/Administrative Enforcement Action(s):

B. SEC v. Westinghouse Air Brake Technologies Corporation (E.D. Pa., February 14, 2008)

C. In the Matter of Westinghouse Air Brake Technologies Corporation (February 14, 2008)

Entities and Individuals:

- Westinghouse Air Brake Technologies Corporation, non-prosecution agreement announced, civil complaint filed, and cease-and-desist order issued February 14, 2008.

Criminal Charges:

- Bribery of foreign officials
- Falsification of books and records

Civil Charges:

- Bribery of foreign officials
- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: India, 2001-2005.

Summary:

On February 14, 2008, Westinghouse Air Brake Technologies Corporation (Wabtec), a Pennsylvania-based and New York Stock Exchange-listed manufacturer of brake subsystems and related products for locomotives, freight cars, and passenger vehicles, entered into a non-prosecution agreement with the Department of Justice regarding improper payments made by its Indian subsidiary, Pioneer Friction Limited (Pioneer), to officials of the Indian Railway Board (IRB). On the same date, the SEC filed a settled civil enforcement proceedings charging Wabtec with violations of the anti-bribery, internal controls, and books and records provisions of the FCPA.

According to court documents, from at least 2001 through 2005, Pioneer made over \$137,400 in improper cash payments to officials of the Indian Railway Board, a government agency which is part of India’s Ministry of Railroads. These payments were made in order to: (a) assist Pioneer in obtaining and

retaining business with the IRB; (b) schedule pre-shipping product inspections; (c) obtain issuance of product delivery certificates; and, (d) curb what Pioneer considered to be excessive tax audits.

Criminal Disposition:

In recognition of its voluntary disclosure, thorough internal investigation, full cooperation, and institution of remedial compliance measures, the Department agreed not to prosecute Wabtec or Pioneer for the making or false recording of these improper payments, provided that Wabtec satisfied its obligations under the agreement for a period of three years. Those obligations included continued cooperation, the adoption of rigorous internal controls, and the payment of a \$300,000 criminal penalty.

Civil Disposition:

The SEC filed two settled actions against Wabtec, which required the company to cease-and-desist from future violations, to retain an independent FCPA compliance monitor, to pay a civil penalty of \$87,000, and to disgorge \$259,000, together with \$29,351 in prejudgment interest.

35. Lucent Technologies Inc.

Resulting Criminal Enforcement Action(s):

A. In Re Lucent Technologies Inc. (December 21, 2007)

Resulting Civil/Administrative Enforcement Action(s):

B. SEC v. Lucent Technologies Inc. (D.D.C., December 21, 2007)

Entities and Individuals:

- Lucent Technologies Inc., non-prosecution agreement announced and civil complaint filed December 21, 2007.

Criminal Charges:

- Bribery of foreign officials
- Falsification of books and records

Civil Charges:

- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: China, 2000-2003.

Summary:

On December 21, 2007, the Department of Justice and the SEC settled a multi-year investigation into whether global communications provider Lucent Technologies Inc. (Lucent) provided travel and other things of value to Chinese government officials. As part of the settlement, Lucent acknowledged that, from at least 2000 to 2003, it spent millions of dollars on approximately 315 “pre-sale” and “post-sale” trips for Chinese government officials that included primarily sightseeing, entertainment and leisure. These trips were requested and approved with the consent and knowledge of the most senior Lucent Chinese officials and with the logistical and administrative assistance of Lucent employees in the United States, including at corporate headquarters in Murray Hill, N.J. Lucent also admitted that it improperly recorded expenses for these trips in its books and records and failed to provide adequate internal controls to monitor the provision of travel and other things of value to Chinese government officials.

Lucent acknowledged that it provided Chinese government officials with pre-sale trips to the United States to attend seminars and visit Lucent facilities, as well as to engage in sightseeing, entertainment and leisure activities. In 2002 and 2003 alone, there were 24 Lucent-sponsored pre-sale trips for Chinese government customers. Of these, at least 12 trips were mostly for the purpose of sightseeing. Lucent spent over \$1.3 million on at least 65 pre-sale visits between 2000 and 2003. The individuals participating in these trips were senior level government officials, including the heads of state-owned telecommunications companies in Beijing and the leaders of provincial telecommunications subsidiaries.

Between 2000 and 2003, Lucent also provided Chinese government officials with post-sale trips that were typically characterized as “factory inspections” or “training” in contracts with its Chinese government customers. By 2001, however, Lucent had outsourced most of its manufacturing and no longer had any Lucent factories for its customers to tour. Nevertheless, Lucent provided individuals with trips for “factory inspections” to the United States, Europe, Australia, Canada, Japan and other countries that involved little or no business content. These trips consisted primarily or entirely of sightseeing to locations such as Disneyland, Universal Studios, the Grand Canyon, and in cities such as Los Angeles, San Francisco, Las Vegas, Washington, D.C., and New York City, and typically lasted 14 days each and cost between \$25,000 and \$55,000 per trip.

Criminal Disposition:

To resolve its potential criminal liability in connection with this improper conduct, Lucent entered into a two-year non-prosecution agreement with the Department and agreed to pay a \$1 million criminal fine. Under the terms of this agreement, Lucent was required to adopt new or modify existing internal controls, policies and procedures. Those enhanced compliance controls must ensure that Lucent makes and keeps fair and accurate books, records and accounts, as well as a rigorous anti-corruption compliance code, standards and procedures designed to detect and deter violations of the FCPA and other applicable anti-corruption laws.

Civil Disposition:

In a settlement with the SEC, Lucent agreed to be enjoined from future violations and to pay \$1.5 in civil penalties.

36. Akzo Nobel, N.V.

Resulting Criminal Enforcement Action(s):

A. In Re Akzo Nobel N.V. (December 20, 2007)

Resulting Civil/Administrative Enforcement Action(s):

B. SEC v. Akzo Nobel N.V. (D.D.C., December 20, 2007)

Entities and Individuals:

- Akzo Nobel N.V., non-prosecution agreement announced and civil complaint filed December 20, 2007.

Criminal Charges:

- Bribery of foreign officials
- Falsification of books and records

Civil Charges:

- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: Iraq, 2000-2003.

Summary:

On December 20, 2007, the Department of Justice and the SEC settled allegations against Akzo Nobel N.V. (Akzo), for its participation in a kickback scheme surrounding the United Nations Oil for Food Program (OFFP). Akzo Nobel, a Dutch pharmaceutical company with its headquarters in Arnhem, Netherlands, acknowledged responsibility for the actions of two of its subsidiaries whose employees and agents made nearly \$280,000 in kickback payments to the Iraqi government from 2000-2003, which were characterized as “after-sales service fees” (ASSFs).

In 2000, Akzo subsidiary Intervet International B.V. (Intervet) entered into one OFFP contract involving a kickback payment of \$38,741. During the OFFP, Intervet conducted business in Iraq through two separate agents, who were paid jointly on all Iraqi contracts. In August 2000, the agents’ fees were 2.5 percent each. In September 2000, one of the agents informed Intervet that the Iraqi ministry required that Intervet make a five percent kickback under an OFFP contract under negotiation. Although Intervet initially refused to make the payment, at the contract signing, an Intervet employee who was aware of the kickback demand saw the agent deliver an envelope to one of the Iraqi representatives. Shortly thereafter, the agent sought reimbursement of the five percent kickback made on the contract. In order to reimburse the agent for the kickback while not accurately reflecting the true purpose of the payment in the company’s books and records, the Intervet employees agreed to revert to Intervet’s pre-August 2000 commission arrangement with its two agents, giving each agent a five percent commission. By doing so, the agents could keep the 2.5 percent they were each entitled to receive and the agent who paid the kickback could be reimbursed for the five percent passed on to the Iraqi ministry.

During this period, another Akzo subsidiary, N.V. Organon (Organon), entered into three contracts that involved the payment of \$240,750 in ASSF payments to Iraqi officials. The same agent that worked on the Intervet transaction was involved in each of these transactions. On the first contract, Organon and the Iraqi ministry agreed on an initial contract price. However, when Organon prepared the contract documents that were approved by the U.N., Organon inflated the contract price by ten percent to cover the ASSF payment. On the two subsequent contracts, Organon simply agreed with the Iraqi ministry on an initial contract price that was inflated by ten percent, and then submitted that inflated contract price in the U.N. documents. An Organon employee created backdated price quotes that matched the pricing reflected in the three contracts. The agent’s commission was increased from five percent to fifteen percent to account for the ten percent kickback. On the first contract, the agent requested that Organon pay the extra ten percent commission to an entity called “Sabbagh Drugstore.” On the remaining two contracts, the agent requested that Organon pay the extra ten percent commissions directly to an account in his name. The Organon employees were aware that the contract price submitted to the U.N. was inflated by ten percent and that the increase in the agent’s commission resulted in money going directly to Kimadia, a unit of the Iraqi Ministry of Health.

Criminal Disposition:

With regard to its criminal conduct, Akzo entered into a non-prosecution agreement with the Department, which required the company to cooperate fully with the ongoing investigation. In addition, the agreement stipulated that if Organon reached a resolution with the Dutch National Public Prosecutor’s Office for Financial, Economic and Environmental Offences regarding its conduct, including payment of a criminal fine of approximately €381,000 in the Netherlands, then it would pay no fine in the U.S. If no agreement was reached with Dutch authorities in that time, Akzo would have to pay a criminal fine of \$800,000 in the United States.

Civil Disposition:

The SEC settlement enjoined Akzo from future violations and required the corporation to disgorge \$1,647,363 in profits and \$584,150 in prejudgment interest and pay a \$750,000 civil penalty.

37. Schnitzer Steel Industries, Inc.

Resulting Criminal Enforcement Action(s):

- A. United States v. Si Chan Wooh (D. Or., June 26, 2007)**
- B. United States v. SSI International Far East Ltd. (D. Or., October 10, 2006)**

Resulting Civil/Administrative Enforcement Action(s):

- C. SEC v. Robert W. Philip (D. Or., December 13, 2007)**
- D. SEC v. Si Chan Wooh (D. Or., June 29, 2007)**
- E. In the Matter of Schnitzer Steel Industries, Inc. (October 16, 2006)**

Entities and Individuals:

- Schnitzer Steel Industries, Inc. (SSI), deferred prosecution agreement announced and cease-and-desist order issued October 16, 2006.
- SSI International Far East Ltd. (SSI Korea), charged October 10, 2006.
- Si Chan Wooh, Senior Officer of SSI Korea, charged June 26, 2007; civil complaint filed June 29, 2007.
- Robert W. Philip, President, CEO and Chairman of the Board of SSI, civil complaint filed December 13, 2007.

Criminal Charges:

- Conspiracy
 - to bribe foreign officials (SSI Korea and Wooh)
 - to falsify books and records (SSI Korea)
 - to commit wire fraud (SSI Korea)
- Bribery of foreign officials(SSI Korea)
- Falsification of books and records (SSI Korea)
- Wire fraud (SSI Korea)
- Aiding and abetting SSI's falsification of books and records (SSI Korea)

Civil Charges:

- Bribery of foreign officials (Schnitzer, Philip, Wooh)
- Internal controls violations (Schnitzer)
- Falsification of books and records (Schnitzer)
- Aiding and abetting SSI's bribery of foreign officials (Philip, Wooh)
- Aiding and abetting SSI's internal controls violations (Philip, Wooh)
- Aiding and abetting SSI's falsification of books and records (Philip, Wooh)

Summary:

On October 10, 2006, SSI International Far East Ltd. (SSI Korea), a wholly-owned subsidiary of Schnitzer Steel Industries Inc. (SSI), was charged with conspiracy, bribery in violation of the FCPA, wire fraud, and aiding and abetting the making of false entries in SSI's books and records. These charges stemmed from a decade-long scheme to bribe foreign officials in China and South Korea in order to obtain and retain business for SSI Korea and its Oregon-based parent company. In June 2007, Si Chan Wooh, a former senior executive officer of SSI, was charged by both the DOJ and SEC in connection with his role in the bribery scheme.

According to court documents, from at least 1995 to at least August 2004, SSI, through its officers and employees, including Wooh, authorized and made corrupt payments worth more than \$1.8 million to

officers and employees of government owned customers in China and South Korea to induce them to purchase scrap metal from SSI. Between September 1999 and August 2004, corrupt payments of approximately \$204,537 were paid to managers of government-owned customers in China. As a result of these corrupt payments, during that same time period, SSI realized gross revenue of approximately \$96,396,740 and profits of approximately \$6,259,104 on scrap metal sold to instrumentalities in China.

In a related action, on December 13, 2007, the SEC filed a settled civil complaint charging former Chairman and CEO of SSI, Robert W. Philip, with violating the anti-bribery provisions of the FCPA and with aiding and abetting SSI's anti-bribery, books and records, and internal controls violations. According to the SEC's complaint, from 1999 to 2004, Philip authorized the payment of more than \$200,000 to managers of government-owned steel mills in China in order to induce them to purchase scrap metal from SSI. In addition, the complaint charged Philip with authorizing more than \$1.7 million in payments to managers of privately-owned steel mills in both China and South Korea. SSI later described these payments as "sales commissions," "commissions to the customer," "refunds," or "rebates" in its books and records, in violation of the FCPA.

Criminal Disposition:

SSI Korea pleaded guilty in October 16, 2006, and was sentenced to pay a criminal fine of \$7.5 million. In addition, SSI entered into a three-year deferred prosecution agreement with the Department and agreed to appoint an independent compliance monitor.

Civil Disposition:

On October 16, 2006, the SEC filed a settled action against SSI, requiring it to cease-and-desist from future violations, disgorge \$7,725,201 in ill-gotten profits and \$1,446,106 in pre-judgment interest, and retain and independent FCPA compliance monitor for a period of three years.

Philip agreed to pay a total of \$250,000 to settle the SEC's charges, including \$169,863.79 in disgorgement of bonuses and pay, \$16,536.63 in prejudgment interest, and a \$75,000 civil penalty.

On June 29, 2007, the SEC filed a settled action against Wooh enjoining him from future violations and ordering that he disgorge \$14,819.38 in bonuses and \$1,312.52 in prejudgment interest and pay a \$25,000 civil penalty.

38. Vitol SA

Resulting Criminal Enforcement Action(s):

A. New York v. Vitol SA (New York County, November 20, 2007)

Entities and Individuals:

- Vitol SA, charged November 20, 2007, in New York State Court.

Criminal Charges:

- Grand Larceny

Location and Time Period of Misconduct: Iraq, 2001-2002.

Summary:

In 2007, the Manhattan (NY) District Attorney's Office charged Vitol, S.A. (Vitol), a Swiss oil trading firm, with Grand Larceny in the First Degree for its involvement in a scheme to pay kickbacks to

Iraq in connection with oil purchases made under the United Nations Oil-for-Food Program (OFFP). According to court documents, while the OFFP was in effect, Vitol purchased Iraqi crude oil first as direct purchaser and later from third-parties. In June 2001, after an OPEC meeting, an agent of VITOL was told by Iraqi officials that surcharges had to be paid in order for Iraqi crude oil to be lifted. Over the next year, VITOL paid or caused surcharges to be paid on certain oil purchases in two ways. In direct purchases, VITOL had an associated entity called Vitol Bahrain send the surcharge monies to accounts controlled by the Iraqi regime. In indirect purchases, VITOL financed the purchase of oil through third-parties who then paid the surcharge to the Iraqi regime. VITOL did not inform the UN about the surcharge payments. During the period from June 2001 through September 2002, approximately \$13,000,000 in surcharge monies were paid directly to the Iraqi regime in connection with crude oil purchased directly or indirectly by VITOL.

Criminal Disposition:

On November 20, 2007, Vitol pleaded guilty and was sentenced to pay restitution of \$13 million to the Iraqi people through the Development Fund for Iraq, in addition to a payment of \$4.5 million in lieu of fines, forfeiture and to cover the costs of prosecution.

39. Chevron Corporation

Resulting Criminal Enforcement Action(s):

- A. United States v. Chevron Corporation (S.D.N.Y., November 14, 2007)**
- B. New York v. Chevron Corporation (New York County, November 14, 2007)**

Resulting Civil/Administrative Enforcement Action(s):

- C. SEC v. Chevron Corporation (S.D.N.Y., November 14, 2007)**

Entities and Individuals:

- Chevron Corporation, charged and civil complaint filed November 14, 2007.

Criminal Charges:

- Wire fraud

Civil Charges:

- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: Iraq, 2001-2003.

Summary:

On November 2007, Chevron Corporation (Chevron) was charged by the U.S. Attorney's Office for the Southern District of New York (SDNY), the New York County District Attorney's Office (DANY), and the SEC in connection with a scheme to pay secret, illegal surcharges to the Iraqi government in order to obtain Iraqi oil under the former United Nations Oil-for-Food Program (OFFP). From in or about 2000, up to and including in or about March 2003, the former Iraqi government demanded the payment of secret illegal surcharges on allocations of Iraqi oil. In 2001, oil market participants, including participants who purported to have close ties to officials of the Government of Iraq, informed representatives of Chevron that surcharges were being demanded on Iraqi oil allocations in the OFFP. Subsequently, from 2001 through 2003, in order to purchase Iraqi oil, Chevron paid approximately \$20 million in illegal surcharges to the former Government of Iraq, in violation of United States wire fraud statutes and administrative regulations that prohibited transactions with the former Government of Iraq.

Criminal Disposition:

In a joint settlement with the SEC, SDNY, DANY and the Office of Foreign Asset Control of the Department of Treasury (OFAC), Chevron agreed to pay combined monetary penalties in the amount of \$27 million. Pursuant to the agreement, Chevron's payments were to be split along the following lines: (1) forfeiture of \$20,000,000 to SDNY, which would seek to transfer that money to the Development Fund of Iraq; and, (2) \$5,000,000 to the DANY to be distributed as DANY shall deem appropriate.

In addition to the monetary payments, the joint Agreement obligated Chevron to continue cooperating fully with SDNY, DANY, the FBI, the SEC, OFAC, and any other law enforcement agency designated by SDNY or DANY. In exchange, DOJ agreed not to prosecute Chevron for any crimes related to its purchase of Iraqi oil during the OFFP.

Civil Disposition

On November 14, 2007, the SEC filed a settled action against Chevron enjoining it from future violations and ordering it to pay \$25 million in disgorgement and \$3 million in civil penalties. Pursuant to the joint settlement agreement, the disgorgement required was to be satisfied by the payments to SDNY and DANY detailed above. The remaining \$2 million from the \$27 million joint penalty were paid by Chevron to OFAC.

40. Ingersoll-Rand Company Limited

Resulting Criminal Enforcement Action(s):

- A. United States v. Ingersoll-Rand Italiana SpA (D.D.C., October 31, 2007)**
- B. United States v. Thermo-King Ireland Limited (D.D.C., October 31, 2007)**

Resulting Civil/Administrative Enforcement Action(s):

- C. SEC v. Ingersoll-Rand Company Limited (D.D.C., October 31, 2007)**

Entities and Individuals:

- Ingersoll-Rand Company Limited (Ingersoll-Rand), deferred prosecution agreement announced and civil complaint filed October 31, 2007.
- Ingersoll-Rand Italiana (I-R Italiana) charged October 31, 2007.
- Thermo King Ireland Limited (Thermo King), charged October 31, 2007.

Criminal Charges:

- Conspiracy:
 - to commit falsify books and records (I-R Italiana)
 - to commit wire fraud (I-R Italiana and Thermo King)

Civil Charges:

- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: Iraq, 2000-2003.

Summary:

On October 31, 2007, the Department of Justice filed criminal charges against two subsidiaries of Ingersoll-Rand Company Limited (Ingersoll-Rand), in connection with payments made by these and other subsidiaries to obtain contracts administered by the United Nations Oil for Food Program (OFFP). On the same day, the SEC filed a settled civil complaint against Ingersoll-Rand, charging it with violations of the internal controls and books and records provisions of the FCPA arising out of the same underlying conduct.

According to court documents, between October 2000 and August 2003, employees of three subsidiaries, one unnamed, Ingersoll-Rand Italiana, and Thermo King Ireland Limited, made \$963,148 in kickback payments to the Iraqi government, and promised an additional \$544,697, in exchange for contracts to provide road construction equipment, air compressors and parts, and refrigerated trucks under the OFFP. In order to both pay for and conceal these kickbacks, the subsidiaries inflated the price of contracts by approximately 10 percent before submitting them to the U.N. for approval. The subsidiaries never revealed to the U.N. the fact that the contract prices contained a kickback to the Iraqi government.

Criminal Disposition:

To resolve its criminal liability arising out of this kickback scheme, Ingersoll-Rand, on behalf of itself and its subsidiaries, entered into a three-year deferred prosecution agreement with the Department and agreed to pay a criminal fine of \$2.5 million.

Civil Disposition:

In a simultaneous agreement with the SEC, Ingersoll-Rand was enjoined from future violations of the FCPA, ordered to disgorge \$1,710,034 in profits and \$560,953 in prejudgment interest, and required to pay a civil penalty of \$1.95 million.

41. York International Corporation*Resulting Criminal Enforcement Action(s):***A. United States v. York International Corporation (D.D.C., October 1, 2007)***Resulting Civil/Administrative Enforcement Action(s):***B. SEC v. York International Corporation (D.D.C., October 1, 2007)***Entities and Individuals:*

- York International, charged October 1, 2007; civil complaint filed October 1, 2007.

Criminal Charges:

- Conspiracy:
 - to commit falsify books and records
 - to commit wire fraud
- Falsification of books and records
- Wire Fraud

Civil Charges:

- Bribery of foreign officials
- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: Iraq, Bahrain, Egypt, India, Turkey, UAE, Nigeria, China and various other European and Middle Eastern countries 1999-2006.

Summary:

On October 1, 2007, York International Corporation (York) was charged in a three-count criminal information with conspiracy, falsification of its books and records, in violation of the FCPA, and wire fraud. These charges stemmed in part from the actions of York Air Conditioning and Refrigeration FZE (FZE), a subsidiary, whose employees and agents paid approximately \$647,110 in kickbacks to Iraqi government officials from 2000 to 2003 in order to obtain contracts to provide air-conditioning, ventilation and refrigeration equipment and services to Iraq under the United Nations Oil-for-Food Program (OFFP).

In a related action, the SEC filed a settled civil complaint against York, alleging that York violated the anti-bribery provisions of the FCPA by paying bribes to UAE officials to secure business. Specifically, the SEC charged that in 2003 and 2004, York's Delaware-based subsidiary, York Air Conditioning and Refrigeration, Inc. (YACR), paid approximately \$522,500 to an intermediary while knowing that most of the money was intended to bribe UAE officials to secure contracts in connection with the construction of a government-owned luxury hotel. Altogether, thirteen illicit payments were made on this project, totaling \$550,000. In connection with these corrupt payments, the SEC charged that York had failed to devise and maintain effective system of internal controls to prevent and detect numerous violations and that York failed to accurately record in its books and records the bribes in the UAE, as well as the kickbacks in Iraq and illicit consultancy payments made in various other countries.

In addition to the corrupt payments in the UAE and Iraq, from 2001 through 2006, York, through certain subsidiaries, including YACR, made over \$7.5 million in illicit payments to secure orders on certain commercial and government projects in the Bahrain, Egypt, India, Turkey, China, Nigeria, and various other European and Middle Eastern countries. York's subsidiaries devised elaborate schemes to conceal these kickback payments to certain individuals who had enough influence to secure contracts for York's subsidiaries. These payments were referred to internally as "consultancy payments"; however, no bona fide services were performed in exchange for these payments. A total of 854 improper consultancy payments were made on approximately 774 contracts – with 302 of these projects involving government end-users, such as government owned companies, public hospitals, or schools.

Criminal Disposition:

York entered into a deferred prosecution agreement with the Department of Justice, whereby it agreed to pay a criminal fine of \$10 million and engage an independent FCPA compliance monitor for a period of three-years.

Civil Disposition:

In a settlement with the SEC, York was enjoined from future violations and ordered to disgorge \$8,949,132 in profits and \$1,083,748 in prejudgment interest, and to pay a civil penalty of \$2 million. The SEC's settlement with York also required that the company retain a compliance monitor for three years.

42. Immucor, Inc.

Resulting Civil/Administrative Enforcement Action(s):

- A. SEC v. Gioacchino De Chirico (N.D. Ga., September 28, 2007)**
- B. In the Matter of Immucor, Inc., et al (September 27, 2007)**

Entities and Individuals:

- Immucor, Inc., cease-and-desist order issued September 27, 2007.
- Gioacchino De Chirico, President and CEO, cease-and-desist order issued September 27, 2007; civil complaint filed September 28, 2007.

Civil Charges:

- Bribery of foreign officials (Immucor)
- Internal controls violations (Immucor)
- Falsification of books and records (Immucor)
- False accounting violations (De Chirico)
- Aiding and abetting internal controls violations (De Chirico)
- Aiding and abetting falsification of books and records (De Chirico)

Location and Time Period of Misconduct: Italy, 2004.

Summary:

On September 28, 2007, the SEC commenced administrative proceedings against Immucor, Inc. and its President and CEO, Gioacchino De Chirico, alleging that they engaged in violations of the anti-bribery, books and records, and internal controls provisions of the FCPA, as well as false accounting violations and aiding and abetting related violations. The SEC simultaneously filed a settled civil complaint against De Chirico in the U.S. District Court for the Northern District of Georgia, which charged him with much of the same conduct.

These charges stemmed from an incident in April 2004 when Immucor paid €13,500 to the director of a public hospital in Milan, Italy, as a quid pro quo for the hospital director favoring Immucor in selecting contracts for medical supplies and equipment. The complaint further alleged that De Chirico knowingly approved a false invoice that described the €13,500 payment as a consulting fee for services in connection with opportunities in Switzerland, which De Chirico knew the director had not performed.

Civil Disposition:

To settle the SEC's charges, both Immucor and De Chirico consented to the issuance of a cease-and-desist order enjoining them from any future violations of the FCPA. On October 2, 2007, U.S. District Judge Horace T. Ward also ordered De Chirico to pay a \$30,000 civil penalty.

43. Syncor International Corporation*Resulting Criminal Enforcement Action(s):*

- A. United States v. Syncor Taiwan, Inc. (C.D. Cal., December 4, 2002)**

Resulting Civil/Administrative Enforcement Action(s):

- B. SEC v. Monty Fu (D.D.C., September 27, 2007)**
C. SEC v. Syncor International Corporation (D.D.C., December 10, 2002)
D. In the Matter of Syncor International Corporation (December 10, 2002)

Entities and Individuals:

- Syncor International Corporation (Syncor), civil complaint filed December 10, 2002.
- Syncor Taiwan, Inc., charged December 4, 2002.
- Monty Fu, Founder and Chairman, civil complaint filed September 27, 2007.

Criminal Charges:

- Bribery of foreign officials (Syncor Taiwan)

Civil Charges:

- Bribery of foreign officials (Syncor)

- Internal controls violations (Syncor)
- Falsification of books and records (Syncor)
- False accounting violations (Fu)
- Aiding and abetting internal controls violations (Fu)
- Aiding and abetting falsification of books and records (Fu)

Location and Time Period of Misconduct: Taiwan, 1997-2002.

Summary:

In December 2002, the Department of Justice and the SEC filed criminal and civil charges against Syncor Taiwan, Inc., and its parent company, Syncor International Corporation (Syncor), a radiopharmaceutical company based in Woodland Hills, California. The Department charged Syncor Taiwan in a one-count criminal information in the Central District of California with violating the anti-bribery provisions of the FCPA, while the civil suit filed by the SEC in the District of Columbia charged Syncor with violations of the anti-bribery, internal controls, and books and records provisions of the FCPA.

These charges stemmed from a series of improper payments made by Syncor and its employees to physicians employed by hospitals owned by the legal authorities in Taiwan. At least \$344,110 in “commissions” were paid to state-employed Taiwanese physicians between January 1, 1997 and November 6, 2002, for the purpose of obtaining and retaining business from those hospitals and in connection with the purchase and sale of unit dosages of certain radiopharmaceuticals. These payments were authorized by Monty Fu, Syncor Taiwan’s founder and board chairman, while in the Central District of California, and were paid in cash in Taiwan via hand-delivered, sealed envelopes. For his role in authorizing these illicit payments, the SEC filed a civil complaint against Fu on September 27, 2007 in the District of Columbia.

In addition, Syncor Taiwan made payments to physicians employed by hospitals owned by the legal authorities in Taiwan in exchange for their referrals of patients to medical imaging centers owned and operated by the defendant. These improper payments, also made pursuant to the authorization of Fu, totaled at least \$113,007 during the period from January 1, 1998 through November 6, 2002.

Criminal Disposition:

Syncor Taiwan pleaded guilty on December 10, 2002, to a one-count information charging the company with violating the anti-bribery provisions of the FCPA. Pursuant to its plea agreement, Syncor was sentenced to a criminal fine of \$2 million.

Civil Disposition:

Pursuant to the SEC’s settled civil action, filed on December 10, 2002, Syncor agreed to pay a \$500,000 civil penalty and to accept a cease-and-desist order enjoining it from future violations of the FCPA. As part of the administrative cease-and-desist order issued by the SEC, Syncor was required to retain an independent compliance consultant for a period 130 days. During this period, the consultant was to review and make recommendations regarding Syncor’s compliance programs. Except in certain circumstances, Syncor was then required to implement the consultant’s recommendations within 90 days of having received the consultant’s report.

On September 27, 2007, without admitting or denying the more recent SEC allegations, Monty Fu agreed to a civil penalty of \$75,000 and a permanent injunction against future violations of the FCPA.

44. Bristow Group Inc.

*Resulting Civil/Administrative Enforcement Action(s):***A. In the Matter of Bristow Group Inc. (September 26, 2007)***Entities and Individuals:*

- Bristow Group Inc., cease-and-desist order issued September 26, 2007.
- AirLog International, Ltd., (cease-and-desist order issued against parent).
- Pan African Airlines Nigeria Ltd., (cease-and-desist order issued against parent).

Civil Charges:

- Bribery of foreign officials
- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: Nigeria, 2003 – 2004.

Summary:

On September 26, 2007, the SEC instituted administrative proceedings against Bristow Group Inc., a Houston-based and New York Stock Exchange-listed helicopter transportation services and oil and gas production facilities operation company, for violations of the FCPA. The SEC's administrative order alleged that Bristow violated the anti-bribery, internal controls, and books and records provisions of the FCPA as a consequence of the actions of two of its subsidiaries in Nigeria.

According to the SEC's administrative filing, since at least 2003 and through approximately the end of 2004, Bristow Group's Nigerian affiliate, Pan African Airlines Nigeria Ltd. (PAAN), made improper payments totaling \$423,000 to employees of the governments of two Nigerian states to influence them to improperly reduce the amount of expatriate employment taxes payable by PAAN to the respective Nigerian state governments. At the end of each year, PAAN was subject to an expatriate "Pay As You Earn" (PAYE) tax, which was assessed on the salaries of PAAN employees by the government of each Nigerian state where PAAN operated. PAAN then negotiated with government tax officials to lower the amount assessed. In each instance, the PAYE tax demand amount was lowered and a separate cash payment for the tax officials was negotiated. Once PAAN paid the state government and the tax officials, each state government provided PAAN with a receipt reflecting only the amount payable to the state government. All together, PAAN secured an \$854,000 reduction in its PAYE tax liability in exchange for these improper payments.

During that same time period, Bristow Group underreported PAAN and another Bristow Group Nigerian affiliate's payroll expenses to certain Nigerian state governments. As a result, Bristow Group's periodic reports filed with the SEC did not accurately reflect certain of the company's payroll-related expenses. Accordingly, the SEC's administrative order found that during this time period, Bristow Group had both lacked sufficient internal accounting controls and mischaracterized the payments as legitimate payroll expenses on its books and records.

Civil Disposition:

Without admitting or denying the SEC's allegations, Bristow Group consented to entry of an Administrative Order that required the company to cease-and-desist from committing violations of the anti-bribery, internal controls, and/or books and records provisions of the FCPA.

45. Electronic Data Systems Corporation*Resulting Civil/Administrative Enforcement Action(s):*

- A. In the Matter of Electronic Data Systems Corporation (September 25, 2007)**
- B. SEC v. Chandramowli Srinivasan (D.D.C., September 25, 2007)**

Entities and Individuals:

- Electronic Data Systems Corporation (EDS), cease-and-desist order issued September 25, 2007.
- A.T. Kearney Ltd. – India (ATKI), (cease-and-desist order issued against parent).
- Chandramowli Srinivasan, President of ATKI, civil complaint filed September 25, 2007.

Civil Charges:

- Bribery of foreign officials (Srinivasan)
- Falsification of books and records (EDS)
- Disclosure violations (EDS)
- Regulation violations (EDS)
- False accounting violations (Srinivasan)

Location and Time Period of Misconduct: India, 2001-2003.

Summary:

On September 25, 2007, the SEC filed settled civil and administrative actions against Chandramowli Srinivasan and the Electronic Data Systems Corporation (EDS), alleging that the defendants had violated the anti-bribery and books and records provisions of the FCPA, as well as numerous other federal securities laws. According to the SEC's filings, from early 2001 through September 2003, EDS's former Indian subsidiary, A.T. Kearney Ltd. – India (ATKI), made at least \$720,000 in illicit payments to high-level employees of two Indian state-owned enterprises in order to retain its business with those enterprises. ATKI made these payments at the direction of Srinivasan, ATKI's president, after the officials of the state-owned enterprises threatened to cancel the contracts with ATKI. These bribes allowed EDS to recognize over \$7.5 million in revenues from the Indian companies' contracts after ATKI began paying the bribes.

Civil Disposition:

Pursuant to the administrative proceedings, the SEC issued a cease-and-desist order against EDS, enjoining it from future violations of the FCPA and requiring it to pay \$358,800 in disgorgement and \$132,102 in prejudgment interest.

To resolve the civil suit filed by the SEC, Srinivasan agreed to a permanent injunction enjoining him from future violations of the FCPA and agreed to pay a \$70,000 civil penalty.

46. Paradigm, B.V.

Resulting Criminal Enforcement Action(s):

A. In Re Paradigm, B.V. (September 24, 2007)

Entities and Individuals:

- Paradigm B.V., non-prosecution agreement announced September 24, 2007.

Criminal Charges:

- Bribery of foreign officials

Location and Time Period of Misconduct: Indonesia, 2003; Nigeria, 2003 – 2005; Mexico, 2004 – 2005; Kazakhstan, 2005 – 2006; China, 2006

Summary:

On September 24, 2007, the Department of Justice resolved allegations against Paradigm, B.V., a Dutch LLC with its principal place of business in Houston, Texas. Paradigm B.V. uncovered improper payments to foreign officials as it undertook the due diligence required for its anticipated initial public offering, including corrupt payments to employees of state-owned oil and gas companies in China, Indonesia, Kazakhstan, Latvia, Mexico, and Nigeria.

In one instance, Paradigm paid \$22,250 into the Latvian bank account of a British West Indies company recommended as a consultant by an official of KazMunaiGas, Kazakhstan's national oil company, to secure a tender for geological software. In this case, Paradigm performed no due diligence on the British West Indies company, did not enter into any written agreement with the company, and did not appear to have received any services from the company.

According to the statement of facts, Paradigm also used an agent in China to make commission payments to representatives of a subsidiary of the China National Offshore Oil Company (CNOOC) in connection with the sale of software to the CNOOC subsidiary. In addition, Paradigm directly retained and paid employees of Chinese national oil companies or state-owned entities as so-called "internal consultants" to evaluate Paradigm's software and to influence their employers' procurement divisions to purchase Paradigm's products.

As part of its due diligence, Paradigm also admitted to similar conduct in dealings in Mexico, Indonesia, and Nigeria. In Nigeria, Paradigm representatives agreed to make corrupt payments of between \$100,000 and \$200,000 through an agent to Nigerian politicians to obtain a contract to perform services and processing work for a subsidiary of the Nigerian National Petroleum Corporation.

Criminal Disposition:

In recognition of the fact that Paradigm self-reported and undertook full cooperation with enforcement authorities, the Department agreed not to prosecute Paradigm on the condition that the company upheld certain obligations for a period of 18 months. The non-prosecution agreement obliged Paradigm to continue its full cooperation with the investigation, institute rigorous internal controls and other remedial steps, pay a \$1 million criminal fine, and retain an outside compliance counsel.

47. Textron Inc.

Resulting Criminal Enforcement Action(s):

A. In Re Textron Inc. (August 23, 2007)

Resulting Civil/Administrative Enforcement Action(s):

B. SEC v. Textron Inc. (D.D.C., August 23, 2007)

Entities and Individuals:

- Textron, Inc., charged August 23, 2007; civil complaint filed August 23, 2007.

Criminal Charges:

- Bribery of foreign officials
- Falsification of books and records

Civil Charges:

- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: Iraq, Bangladesh, Egypt, India, Indonesia, UAE, 2000-2003.

Summary:

On August 23, 2007, Textron, Inc., a Rhode Island-based industrial equipment company, settled allegations with the Department of Justice and the SEC relating to kickbacks paid to the former Government of Iraq under the United Nations Oil for Food Program (OFFP). As part of a consent agreement with the SEC and a non-prosecution agreement with the Department, Textron acknowledged responsibility for kickbacks paid to the Iraqi government by its David Brown French subsidiaries in exchange for contracts worth \$1,936,936 to provide industrial pumps, gears, and other equipment to Iraqi ministries under the OFFP. According to settlement documents, the subsidiaries in Textron's Fluid and Power Business Unit paid a total of more than \$650,000 in kickbacks by inflating the price of contracts by 10 percent before submitting the contracts to the U.N. for approval. These kickback payments, which bypassed the U.N. escrow account, were paid by third parties to Iraqi government-controlled accounts. During the course of its own internal investigation, Textron also uncovered an additional 36 illicit payments totaling almost \$115,000 that were made to officials of state-owned companies in countries other than Iraq, including the United Arab Emirates, Bangladesh, Indonesia, Egypt, and India, in order to obtain similar contracts.

Criminal Disposition:

In recognition of Textron's early discovery and reporting of the improper payments, its thorough review of those payments as well as its discovery and review of improper payments made in other countries, and the company's implementation of enhanced compliance policies and procedures, the Department agreed to enter into a non-prosecution agreement with the company. Under this agreement, Textron agreed to pay a criminal fine of \$1,150,000 and continue cooperating with the Department's investigation.

Civil Disposition:

In a settlement agreement with the SEC, Textron agreed to disgorge \$2,284,579 in profits and \$450,461.68 in prejudgment interest, to pay an \$800,000 civil penalty, and to be permanently enjoined from future violations of the FCPA.

48. Delta Pine & Land Company

Resulting Civil/Administrative Enforcement Action(s):

- A. In the Matter of Delta & Pine Land Company, et al (July 26, 2007)**
- B. SEC v. Delta & Pine Land Company, et al (D.D.C., July 25, 2007)**

Entities and Individuals:

- Delta & Pine Land Company, civil complaint filed July 25, 2007; cease-and-desist order issued July 26, 2007.
- Turk Deltapine, Inc., civil complaint filed July 25, 2007; cease-and-desist order issued July 26, 2007.

Civil Charges:

- Bribery of foreign officials (Turk Deltapine)
- Internal controls violations (Delta & Pine)
- Falsification of books and records (Delta & Pine)

Location and Time Period of Misconduct: Turkey, 2001-2006.

Summary:

In July 2007, the SEC filed settled civil and administrative actions against Delta & Pine Land Company (Delta & Pine), a Scott, Mississippi-based company engaged in the production and marketing of cottonseed, and its subsidiary, Turk Deltapine, Inc. (Turk Deltapine), charging them with violations of the anti-bribery, internal controls, and books and records provisions of the FCPA. According to the SEC's complaint, from 2001 through 2006, Turk Deltapine paid bribes of \$43,000 to officials of the Turkish Ministry of Agricultural and Rural Affairs in order to obtain governmental reports and certifications necessary to operate in Turkey. Delta & Pine failed to accurately record these payments in its books and records and failed to establish effective internal controls that could have prevented such payments.

Civil Disposition:

In the administrative proceeding, a cease-and-desist order was issued enjoining both defendants from future violations of the FCPA. In addition, Delta & Pine was ordered to retain an independent compliance consultant to review and make recommendations concerning the company's FCPA compliance policies and procedures. In the federal lawsuit, Delta & Pine and Turk Deltapine agreed to the entry of a final judgment requiring them to pay, jointly and severally, a \$300,000 civil penalty.

49. ITXC Corporation

Resulting Criminal Enforcement Action(s):

- A. United States v. Steven J. Ott (D.N.J., July 25, 2007)**
- B. United States v. Roger M. Young (D.N.J., July 25, 2007)**
- C. United States v. Yaw Osei Amoako (D.N.J., September 6, 2006)**

Resulting Civil/Administrative Enforcement Action(s):

- D. SEC v. Steven J. Ott, et al (D.N.J., September 6, 2006)**
- E. SEC v. Yaw Osei Amoako (D.N.J., September 1, 2005)**

Entities and Individuals:

- ITXC Corporation (ITXC) (never charged – company ceased to exist during investigation).
- Steven Ott, ITXC's Executive Vice President of Global Sales, charged July 25, 2007.
- Roger Young, ITXC's Managing Director for Africa, charged July 25, 2007.
- Yaw Osei Amoako, regional manager for Africa at ITXC, charged September 6, 2006.

Criminal Charges:

- Conspiracy (all defendants)
- Bribery of foreign officials (all defendants)
- Commercial bribery (all defendants)

Civil Charges:

- Bribery of foreign officials (all defendants)

- False accounting violations (all defendants)
- Aiding and abetting falsification of books and records (all defendants)
- Aiding and abetting internal controls violations (Ott and Young)

Time Period and Location of Criminal Activity: Nigeria, 2002-2004; Rwanda, 2002; Senegal, 2001-2003; Ghana, 2001-2002; Mali, 2002

Summary:

Three former executives of ITXC Corporation, a global telecommunications company based in Princeton, NJ, have pleaded guilty to conspiring to violate the FCPA and the Travel Act in connection with a scheme to bribe government telecommunications officials in four African countries. ITXC was a publicly traded company that provided telecommunication services, primarily Voice Over Internet Protocol (VOIP) services, to carriers across the globe. In pleading, the defendants admitted that between September 1999 and October 2004, they conspired with each other and other former ITXC employees and officers to make corrupt payments totaling approximately \$450,000 to employees of foreign state-owned and foreign-owned telecommunications carriers in Nigeria, Rwanda, Senegal, and Mali to obtain and retain contracts for ITXC. For example, in Nigeria, ITXC entered into a service agreement with and agreed to pay a consulting company headed by an official of NITEL, the state-owned Nigerian telecommunications authority, in exchange for assistance in obtaining agreements with other service providers in the country. Between November 2002 and May 2004, ITXC wire transferred approximately \$166,541.31 to the Nigerian bank account of the foreign official's company.

Criminal Disposition:

Steven J. Ott, ITXC's Executive Vice-President of Global Sales, was sentenced on July 21, 2008 to five years' probation, including 6 months' home confinement and 6 months' community confinement, and a \$10,000 fine. Roger Michael Young, ITXC's Managing Director for Africa and the Middle East, was sentenced on September 2, 2008 to five years' probation, including 3 months' home confinement and 3 months' community confinement, and a \$7,000 fine. The third executive, Yaw Osei Amoako, was sentenced in August 2007 to 18 months' imprisonment and a \$7,500 fine.

Civil Disposition:

On May 6, 2008, the SEC announced that it had obtained final judgments in civil suits filed against Ott, Young, and Amoako. Pursuant to these judgments, the defendants were permanently enjoined from future violations of the FCPA. In addition, Amoako agreed to disgorge \$150,411 in wrongfully-received profits and \$38,042 in pre-judgment interest.

50. Oily Rock

Resulting Criminal Enforcement Action(s):

- A. In Re Omega Advisors, Inc. (July 6, 2007)**
- B. United States v. Viktor Kozeny, et al (S.D.N.Y., May 12, 2005)**
- C. United States v. Hans Bodmer (S.D.N.Y., August 5, 2003)**
- D. United States v. Clayton Lewis (S.D.N.Y., July 31, 2003)**
- E. United States v. Thomas Farrell (S.D.N.Y., March 10, 2003)**

Entities and Individuals:

- Omega Advisors, Inc., non-prosecution agreement announced July 6, 2007.
- Viktor Kozeny, Head of Investment Consortium, indicted May 12, 2005.
- Frederic Bourke, Investor, indicted May 12, 2005.

- David Pinkerton, Investment Manager, indicted May 12, 2005.
- Hans Bodmer, Lawyer, indicted August 5, 2003.
- Clayton Lewis, Investment Manager, charged July 31, 2003.
- Thomas Farrell, Employee of Kozeny's investment companies, charged March 10, 2003.

Criminal Charges:

- Conspiracy:
 - to bribe foreign officials
 - to violate the Travel Act
 - to commit money laundering
- Bribery of foreign officials
- Money laundering
- Making false statements

Location and Time Period of Misconduct: Azerbaijan, 1997-1998.

Summary:

On May 12, 2005, Viktor Kozeny, Frederic A. Bourke Jr., and David Pinkerton were indicted in the Southern District of New York on charges of conspiracy to violate the FCPA and Travel Act, substantive FCPA violations, substantive Travel Act Violations, conspiracy to commit money laundering, substantive money laundering charges, and, in the case of Bourke and Pinkerton, making false statements. These charges stemmed from their role in a scheme to pay millions of dollars worth of bribes to Azeri government officials to ensure that the defendants' investment consortium would gain, in secret partnership with the Azeri officials, a controlling interest in the State Oil Company of the Azerbaijan Republic (SOCAR) and its substantial oil reserves.

According to evidence presented in the trial of Bourke, in August 1997, Kozeny allegedly agreed to transfer to corrupt Azeri officials two-thirds of the vouchers and options purchased by his investment consortium, Oily Rock, and to give them two-thirds of all of the profits arising from his investment consortium's participation in SOCAR's privatization. In addition, evidence presented at trial showed that in June 1998, Bourke knew that Kozeny arranged for Oily Rock to increase its authorized share capital from \$150 million to \$450 million so that the additional \$300 million worth of Oily Rock shares could be transferred to one or more of the Azeri officials as a further bribe payment. Bourke also arranged for two of the corrupt officials to travel to New York City on different occasions in 1998 to receive medical treatment, for which Oily Rock paid. Thereafter, in interviews with the FBI in April and May of 2002, Bourke falsely stated that he was not aware that Kozeny had made the alleged payments to the Azeri Officials.

Three others have been charged in connection with their roles in this bribery scheme. The first two defendants were Thomas Farrell and Clayton Lewis, employees of Kozeny's investment companies and a hedge-fund named Omega Advisors, Inc. In 2003, a grand jury in New York returned an indictment charging the third defendant, Hans Bodmer, a Swiss lawyer who represented Kozeny and his investment consortium, 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 2007, the Department entered into a non-prosecution agreement with Omega Advisors, regarding its role as a major investor in the consortium.

Criminal Disposition:

Following a six-week jury trial, Bourke was found guilty by a federal jury in Manhattan on July 10, 2009, of conspiracy to violate the FCPA and the Travel Act, and making false statements to the FBI.

Evidence presented at trial established that Bourke was a knowing participant in a scheme to bribe senior government officials in Azerbaijan with several hundred million dollars in shares of stock, cash, and other gifts. Bourke has since filed an appeal.

On January 26, 2010, the Court of Appeals for the Commonwealth of the Bahamas issued a decision overturning a September 28, 2006 ruling by a Bahamian magistrate, and thereby blocking Viktor Kozeny's extradition to the United States. This decision is currently being appealed to the U.K. Privy Council.

Hans Bodmer pleaded guilty in October 2004 to money laundering. The FCPA count against Bodmer had been previously dismissed by the Court because the court deemed that prior to the 1998 amendments to the FCPA, foreign nationals could not be criminally prosecuted under the FCPA because they were outside U.S. jurisdiction.

On February 10, 2004, Clayton Lewis pleaded guilty before Judge Naomi Buchwald in the Southern District of New York. Lewis is currently scheduled to be sentenced on July 1, 2010.

Thomas Farrell pleaded guilty under seal on October 3, 2003 before Judge Richard M. Berman in the U.S. District Court for the Southern District of New York. Farrell's sentencing is pending.

In order to resolve potential criminal charges, Omega Advisors agreed to enter into a non-prosecution agreement with the Department and to forfeit \$500,000.

In July 2008, the Government dismissed the case against Mr. Pinkerton.

51. Former United States Congressman, William J. Jefferson

Resulting Criminal Enforcement Action(s):

A. United States v. William J. Jefferson (E.D. Va., June 4, 2007)

Entities and Individuals:

- William J. Jefferson, former U.S. Congressman, indicted June 4, 2007.

Criminal Charges:

- Conspiracy:
 - to solicit bribes by a public official
 - to deprive citizens of honest services by wire fraud
 - to bribe foreign officials
- Solicitation of bribes by a public official
- Deprivation of honest services by wire fraud
- Bribery of foreign officials
- Money laundering
- Obstruction of justice
- Racketeering

Location and Time Period of Misconduct: Nigeria, 2000-2005.

Summary:

On June 4, 2007, William J. Jefferson of New Orleans, Louisiana became the first U.S. public official ever charged with violating the FCPA, when he was charged with, among other things, one count of bribery in violation of the FCPA and one count of conspiring to solicit bribes, deprive honest services, and violate the anti-bribery provisions of the FCPA. According to evidence presented at his trial, 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 him and his family members in exchange for his performance of official acts to

advance the interests of the people and businesses who paid him the bribes. In addition, according to court documents and evidence presented at trial, Jefferson conspired to violate the FCPA by offering, promising, and making payments to foreign officials to advance various business endeavors in which he and his family had a financial interest. More specifically, Jefferson was responsible for negotiating, offering and delivering payments of bribes to a high-ranking official in the executive branch of the Government of Nigeria in order to induce the official to use his position to assist a telecommunications joint venture in securing the governmental approvals necessary for its success. In return for taking these official acts in furtherance of this bribery conspiracy, this joint venture agreed to pay Jefferson and his family things of value.

Criminal Disposition:

On August 5, 2009, following a nine-week trial, a federal jury convicted former Congressman Jefferson of conspiracy, bribery, deprivation of honest services, money laundering, and racketeering. While he was acquitted on the substantive FCPA charge, Jefferson was convicted of one count of conspiracy, one object of which was the bribery of foreign officials in violation of the FCPA. On November 13, 2009, Jefferson was sentenced to 13 years' imprisonment, followed by three years' supervised release, and ordered to forfeit more than \$470,000. Jefferson has since filed an appeal.

52. Baker Hughes Incorporated

Resulting Criminal Enforcement Action(s):

- A. United States v. Baker Hughes Services International, Inc. (S.D. Tex., April 11, 2007)**
- B. United States v. Baker Hughes Incorporated (S.D. Tex., April 11, 2007)**

Resulting Civil/Administrative Enforcement Action(s):

- C. SEC v. Baker Hughes Incorporated, et al (S.D. Tex., April 26, 2007)**
- D. In the Matter of Baker Hughes Inc. (September 12, 2001)**
- E. SEC v. Eric L. Mattson, et al (S.D. Tex., September 11, 2001)**
- F. United States, et al v. KPMG Siddharta Siddharta & Harsono, et al (S.D. Tex., September 11, 2001)**

Entities and Individuals:

- Baker Hughes Incorporated (Baker Hughes), cease-and-desist order issued September 12, 2001; charged April 11, 2007; civil complaint filed April 26, 2007.
- Baker Hughes Services International, Inc. (BHSI), charged April 11, 2007.
- Roy Fearnley, BSHI's Business Development Manager, civil complaint filed April 26, 2007.
- Eric L. Mattson, CFO of Baker Hughes, civil complaint filed September 12, 2001.
- James W. Harris, Controller of Baker Hughes, civil complaint filed September 11, 2001.
- KPMG Siddharta Siddharta & Harsono, civil complaint filed September 11, 2001.
- Sonny Harsono, Partner at KPMG Siddharta Siddharta & Harsono, civil complaint filed September 11, 2001.

Criminal Charges:

- Conspiracy:
 - to bribe foreign officials (Baker Hughes, BHSI)
 - to falsify books and records (Baker Hughes, BHSI)
- Bribery of foreign officials (BHSI)
- Falsification of books and records (BHSI)

Civil Charges:

- Bribery of foreign officials (all civil defendants)
- False accounting (Baker Hughes)
- Internal controls violations (Baker Hughes, Mattson, Harris)
- Falsification of books and records (Baker Hughes, Mattson, Harris)
- Aiding and abetting Baker Hughes' internal controls violations (Fearnley, KPMG, Harsono)
- Aiding and abetting Baker Hughes' falsification of books and records (Fearnley, KPMG, Harsono)

Location and Time Period of Misconduct: Indonesia, 1999; Kazakhstan, 2001-2003.

Summary:

In April 2007, Baker Hughes Services International (BHSI), and its parent company Baker Hughes Incorporated (Baker Hughes), were charged in separate criminal informations filed in the Southern District of Texas, in connection with a scheme to pay bribes to Kazakh government officials from 2001 through 2003. According to subsequent plea agreements, Baker Hughes and BHSI violated the FCPA by paying approximately \$4.1 million in bribes to an intermediary, knowing that the intermediary would transfer all or part of the corrupt payments to an official of Kazakhoil, the state-owned oil company. These corrupt payments were paid through a consulting firm retained as an agent for Baker Hughes in connection with a major oil field services contract. On April 26, 2007, the SEC filed civil complaints against Baker Hughes and BHSI's Business Development Manager, Roy Fearnley, charging them with FCPA violations in connection with this same bribery scheme.

According to court documents, 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 a "consulting firm" located on the Isle of Man, to act as its agent. Although the consulting firm 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" from a BHSI bank account in Houston to an account of the consulting firm in London.

In a previous matter, two former employees of Baker Hughes, a partner in an Indonesian accounting firm, and a partner of the accounting firm were charged by the SEC in connection with a scheme to pay bribes to Indonesian government officials. According to the SEC's filings, on March 9, 1999, James Harris, a former Baker Hughes Controller, allegedly learned that Sonny Harsono, a partner in KPMG Siddharta Siddharta & Harsono (KPMG), had authorized payment of \$75,000 to an Indonesian tax official to reduce a tax assessment for PT Eastman Christensen (PTEC), an Indonesian company owned by Baker Hughes, from \$3.2 million to \$270,000. In March 1999, Harris and Eric L. Mattson, the former CFO of Baker Hughes, allegedly authorized payment of the bribe despite the General Counsel's warning that such conduct would violate the FCPA. After receiving the invoice, PTEC allegedly paid KPMG's invoice and improperly recorded the transaction as payment for professional services. On March 23, 1999, PTEC received a tax assessment of approximately \$270,000. After Baker Hughes's General Counsel and FCPA Advisor discovered the subject payment, Baker Hughes attempted to stop the payment and voluntarily disclosed the payment to enforcement authorities.

Criminal Disposition:

As part of the plea agreement, BHSI agreed to pay a criminal fine of \$11 million, serve a three-year term of organizational probation, and adopt a comprehensive anti-bribery compliance program. Baker Hughes, pursuant to a deferred prosecution agreement, 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.

Civil Disposition:

In April 2007, Baker Hughes reached a settlement with the SEC whereby it acknowledged that it had violated a 2001 cease-and-desist order issued by the SEC in connection with the Indonesian bribery conduct. As part of the settlement, Baker Hughes was enjoined from future violations and required to obtain an independent FCPA compliance monitor and pay \$10 million in civil penalties and \$19,944,778 in disgorgement of all profits it earned in connection with the bribes, as well as \$3,133,237.41 in prejudgment interest. In the same civil matter, a judgment was entered against Fearnley enjoining him from future violations and ordering \$5,000 in disgorgement and \$7,635.51 in prejudgment interest.

In 2003, the civil complaint against Mattson and Harris was dismissed by the court.

In 2001, Harsono and KPMG consented to the entry of an injunction from violating and aiding and abetting the violation of the anti-bribery provisions of the FCPA and the internal controls and books and records provisions of the Exchange Act.

53. Monsanto Company

Resulting Criminal Enforcement Action(s):

A. United States v. Monsanto Company (D.D.C., January 6, 2005)

Resulting Civil/Administrative Enforcement Action(s):

B. SEC v. Charles Michael Martin (D.D.C., March 6, 2007)

C. SEC v. Monsanto Company (D.D.C., January 6, 2005)

D. In the Matter of Monsanto Company (January 6, 2005)

Entities and Individuals:

- Monsanto Company (Monsanto), charged, civil complaint filed, and cease-and-desist order issued January 6, 2005.
- Charles Michael Martin, Monsanto's Government Affairs Director for Asia, civil complaint filed March 6, 2007.

Criminal Charges:

- Bribery of foreign officials (Monsanto)
- Falsification of books and records (Monsanto)

Civil Charges:

- Bribery of foreign officials (Monsanto, Martin)
- Internal controls violations (Monsanto)
- Falsification of books and records (Monsanto)
- False accounting (Monsanto, Martin)
- Aiding and abetting Monsanto's internal controls violations (Martin)
- Aiding and abetting Monsanto's falsification of books and records (Martin)

Location and Time Period of Misconduct: Indonesia, 1997-2002.

Summary:

Monsanto, a producer of various agricultural products, hired an Indonesian consulting company to assist it in obtaining various Indonesian governmental approvals and licenses necessary to sell its genetically modified products in Indonesia. At the time, the Indonesian government required an environmental impact study before authorizing the cultivation of genetically modified crops. After a change in governments in Indonesia, Monsanto sought, unsuccessfully, to have the new government, in which the senior environment official had a post, amend or repeal the requirement for the environmental impact statement.

Having failed to obtain the senior environment official's agreement to amend or repeal this requirement, in 2002, Charles Martin, the Government Affairs Director for Asia for Monsanto, authorized and directed an Indonesian consulting firm to make an illegal payment totaling \$50,000 to the senior environment official to "incentivize" him to agree to do so. Martin also directed representatives of the Indonesian consulting company to submit false invoices to Monsanto for "consultant fees" to obtain reimbursement for the bribe, and agreed to pay the consulting company for taxes that company would owe by reporting income from the "consultant fees."

In February 2002, an employee of the Indonesian consulting company delivered \$50,000 in cash to the senior environment official, explaining that Monsanto wanted to do something for him in exchange for repealing the environmental impact study requirement. The senior environment official promised that he would do so at an appropriate time. In March 2002, Monsanto, through its Indonesian subsidiary, paid the false invoices thus reimbursing the consulting company for the \$50,000 bribe, as well as the tax it owed on that income. A false entry for these "consulting services" was included in Monsanto's books and records. The senior environment official never authorized the repeal of the environmental impact study requirement.

Criminal Disposition:

On January 6, 2005, Monsanto Company entered into a deferred prosecution agreement with the Department of Justice in which it agreed to pay a \$1 million penalty and admit to violations of the FCPA

Civil Disposition:

Monsanto consented to pay a \$500,000 civil penalty to the Commission. On March 6, 2007, the SEC filed a settled enforcement action charging Charles Michael Martin. 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.

54. Dow Chemical Company

Resulting Civil/Administrative Enforcement Action(s):

- A. SEC v. Dow Chemical Company (D.D.C., February 13, 2007)**
- B. In the Matter of Dow Chemical Company (February 13, 2007)**

Entities and Individuals:

- Dow Chemical Company (Dow), civil complaint filed and cease-and-desist order issued February 13, 2007.

Civil Charges:

- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: India, 1996-2001.

Summary:

DE-Nocil, a subsidiary of Dow, made approximately \$200,000 in improper payments to Indian government officials, including \$39,700 to an official in India's Central Insecticides Board to expedite the registration of three DE-Nocil products. Most of the payments were made through contractors who added fictitious charges to their bills or issued false invoices to DE-Nocil and then directed the money to "consultants" or officials. DE-Nocil made \$435,000 in profits because of the accelerated registration, \$329,295 of which went to Dow, based on Dow's ownership interest at the time. DE-Nocil also paid approximately \$87,400 in small (\$100 or less) payments to state-level agricultural inspectors to keep them from interfering in the sale of DE-Nocil products. DE-Nocil also made payments to sales tax officials and customs officials, as well as gave improper gifts, travel, and entertainment to other government officials (\$19,000), totaling more than \$70,000.

Civil Disposition:

In an agreement resolving the administrative and civil enforcement actions taken by the SEC, the SEC ordered Dow Chemical to cease-and-desist from future violations and pay a \$325,000 civil penalty.

55. Vetco International, Ltd.⁵

Resulting Criminal Enforcement Action(s):

- A. United States v. Vetco Gray Controls, Inc., et al (S.D. Tex., January 5, 2007)**
- B. United States v. Aibel Group Limited (S.D. Tex., January 5, 2007)**

Entities and Individuals:

- Vetco Gray Controls, Inc., charged January 5, 2007.
- Vetco Gray Controls, Ltd., charged January 5, 2007.
- Vetco Gray UK Ltd., charged January 5, 2007.
- Aibel Group Ltd., charged January 5, 2007; superseding information filed November 12, 2008.

Criminal Charges:

- Conspiracy to bribe foreign officials (all defendants except Aibel Group)
- Bribery of foreign officials (Aibel Group)

Location and Time Period of Misconduct: Nigeria, 2002-2005.

Summary:

On January 5, 2007, three wholly-owned subsidiaries of Vetco International, Ltd., a global supplier of products and services for oil drilling production, were charged in the Southern District of Texas with conspiring to violate the FCPA and violating the anti-bribery provisions of the FCPA in connection with the corrupt payment of approximately \$2.1 million to Nigerian government officials. According to court documents, beginning in February 2001, Vetco International, and its predecessor and several related companies, began providing engineering and procurement services, as well as subsea construction equipment, for Nigeria's first deepwater oil drilling operation, known as the Bonga Project. From at least

⁵ Also see Case 59.

September 2002 to at least April 2005, in connection with their business in Nigeria, these subsidiaries made at least 378 corrupt payments through a major international freight forwarding and customs clearance company to employees of the Nigerian Customs Service, and these payments were intended to assist Vetco in avoiding paying customs duties.

On the same date, Aibel Group, Ltd. (Aibel Group), another wholly owned subsidiary of Vetco International, entered into a deferred prosecution agreement regarding the same bribery scheme. Subsequently, on November 12, 2008, Aibel Group, a United Kingdom corporation, was charged in a two-count superseding information charging the company with a conspiracy to violate the FCPA and a substantive violation of the FCPA.

Criminal Disposition:

On February 6, 2007, Vetco Gray Controls Inc., Vetco Gray Controls Ltd., and Vetco Gray UK Ltd. each pleaded guilty and agreed to 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 required the defendants to hire an independent monitor to oversee the creation and maintenance of a robust compliance program. Aibel Group, another wholly owned subsidiary of Vetco International, simultaneously entered into a deferred prosecution agreement regarding the same underlying conduct.

Subsequently, on November 21, 2008, Aibel Group pleaded guilty to the two-count superseding information, thereby admitting that it was not in compliance with the deferred prosecution agreement it had signed with the Department of Justice in February 2007. As part of the plea agreement, Aibel Group was ordered to pay a \$4.2 million criminal fine and to serve a two-year term of organizational probation that requires, among other things, that it submit periodic reports regarding its progress in implementing anti-bribery compliance measures.

56. Alcatel CIT

Resulting Criminal Enforcement Action(s):

A. United States v. Christian Sapsizian, et al (S.D. Fla., December 19, 2006)

Entities and Individuals:

- Alcatel CIT
- Christian Sapsizian, Alcatel's Vice President for Latin America, indicted December 19, 2006.
- Edgar Valverde Acosta, CEO of Alcatel de Costa Rica S.A., superseding indictment filed March 20, 2007.

Criminal Charges:

- Conspiracy to launder money (Valverde Acosta)
- Bribery of foreign officials (Sapsizian and Valverde Acosta)

Location and Time Period of Misconduct: Costa Rica, 2000-2004.

Summary:

From February 2000 through September 2004, French national Christian Sapsizian, Vice President for Latin America for Alcatel Inc., conspired with co-defendant Edgar Valverde 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 contract. According to court documents, the ICE director was an advisor to a senior government official and the payments were shared with the senior government official. 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.

Criminal Disposition:

Sapsizian pleaded guilty on June 7, 2007, and on September 23, 2008, was sentenced to 30 months in prison and ordered to forfeit \$261,500. Valverde Acosta is a fugitive.

57. Statoil, ASA

Resulting Criminal Enforcement Actions:

A. United States v. Statoil, ASA (S.D.N.Y., October 13, 2006)

Resulting Civil/Administrative Enforcement Action(s):

B. In the Matter of Statoil, ASA (October 13, 2006)

Entities and Individuals:

- Statoil, ASA, charged October 13, 2006; cease-and-desist order issued October 13, 2006.

Criminal Charges:

- Bribery of foreign officials

Civil Charges:

- Bribery of foreign officials
- False Accounting violations
- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: Iran, 2001-2002.

Summary:

In 2001 and 2002, Statoil sought to expand its business internationally, and focused specifically on Iran as a country in which to secure oil and gas development rights. At the time, Iran was awarding contracts for the development of the South Pars field, one of the largest natural gas fields in the world. In 2001, Statoil developed contacts with an Iranian government official who was believed to have influence over the award of oil and gas contracts in Iran. Following a series of negotiations with the Iranian official in 2001 and 2002, Statoil entered into a "consulting contract" with an offshore intermediary company. The purpose of that consulting contract—which called for the payment of more than \$15 million over 11 years—was to induce the Iranian official to use his influence to assist Statoil in obtaining a contract to develop portions of the South Pars field and to open doors to additional Iranian oil and gas projects in the future. Two bribe payments totaling more than \$5 million were actually made by wire transfer through a New York bank account, and Statoil was awarded a South Pars development contract that was expected to yield millions of dollars in profit. On October 13, 2006, Statoil was charged in a two-count information

filed in the Southern District of New York with violating the FCPA by making corrupt payments to Iranian officials and by falsifying its books and records in characterizing the bribe payments as consulting fees.

Criminal Disposition:

Pursuant to a deferred prosecution agreement, Statoil paid a \$10.5 million fine, which had been reduced by \$3 million to take into account a fine paid in Norway. Statoil also agreed to the appointment of a three-year corporate compliance monitor.

Civil Disposition:

Statoil agreed to disgorge \$10.5 million in ill-gotten profits and prejudgment interest to the SEC. Statoil further agreed to an order to cease-and-desist from future violations and to obtain an independent FCPA compliance monitor for three years.

58. InVision Technologies, Inc.

Resulting Criminal Enforcement Action(s):

A. In Re InVision Technologies, Inc. (December 6, 2004)

Resulting Civil/Administrative Enforcement Action(s):

B. SEC v. David M. Pillor (N.D. Cal., August 15, 2006)

C. SEC v. GE InVision, Inc. (N.D. Cal., February 14, 2005)

D. In the Matter of GE InVision, Inc. (February 14, 2005)

Entities and Individuals:

- InVision Technologies, Inc. (InVision) (later became GE InVision, Inc.), non-prosecution agreement announced December 6, 2004.
- GE InVision, Inc. (successor to InVision), civil complaint filed and cease-and-desist order issued February 14, 2005.
- General Electric Company, agreement announced December 6, 2004.
- David M. Pillor, InVision's Senior Vice President for Sales and Marketing, civil complaint filed August 15, 2006.

Criminal Charges:

- Bribery of foreign officials (InVision)
- Failure to implement internal controls (InVision)

Civil Charges:

- Bribery of foreign officials (InVision)
- Internal controls violations (InVision)
- Falsification of books and records (InVision, Pillor)
- Aiding and abetting InVision's internal controls violations (Pillor)

Location and Time Period of Misconduct: Thailand, 2002-2004; China, 2002-2004; Philippines, 2001-2002.

Summary:

In December 2004, InVision Technologies, Inc. (InVision) entered into a non-prosecution agreement with the Department of Justice in connection with a series of improper payments to foreign officials in the Kingdom of Thailand, the People's Republic of China (PRC), and the Republic of the Philippines. These improper payments had been discovered in the course of due diligence conducted by General Electric Company (GE) in connection with its proposed acquisition of InVision. GE and InVision then conducted their own internal investigation and voluntarily disclosed their findings to the Department of Justice and the SEC. The investigations by the Department and the SEC revealed that InVision, through the conduct of certain employees, was aware of a high probability that its agents or distributors in Thailand, the PRC, and the Philippines had paid or offered to pay money to foreign officials or political parties in connection with transactions or proposed transactions for the sale by InVision of its airport security screening machines. In February 2005, the SEC filed a settled civil complaint against GE InVision, InVision's corporate successor, charging the company with violations of the anti-bribery, books and records, and internal controls provisions of the FCPA.

On August 15, 2006, the SEC filed a civil complaint against David M. Pillor in the Northern District of California, alleging that, as InVision's Senior Vice President for Sales and Marketing, Pillor had indirectly falsified InVision's books and records and had aided and abetted InVision's internal controls violations in relation to these improper payments.

Criminal Disposition:

On December 6, 2004, InVision Technologies entered into a two-year non-prosecution agreement with the Department of Justice in which it admitted to violations of the FCPA, agreed to pay \$800,000 in penalties, agreed to implement a rigorous compliance program with an independent monitor, and agreed to cooperate fully in the ongoing parallel investigations by the Department of Justice and the SEC.

In a related agreement, GE, which had recently completed its acquisition of InVision, agreed to ensure compliance by InVision with its obligations under the non-prosecution agreement and to effect FCPA compliance programs within its new InVision business.

Civil Disposition:

On February 14, 2005, the SEC entered a cease-and-desist order from future violations against GE InVision and ordered the company to pay \$589,000 in disgorgement and \$28,703.57 in prejudgment interest and to obtain an independent compliance monitor.

On August 15, 2006, the SEC filed a settled action against Pillor enjoining him from future violations and ordering him to pay \$65,000 in civil penalties.

59. ABB Ltd.⁶

Resulting Criminal Enforcement Action(s):

- A. United States v. ABB Vetco Gray, Inc., et al (S.D. Tex., June 22, 2004)**

Resulting Civil/Administrative Enforcement Action(s):

- B. SEC v. John Samson, et al (D.D.C., July 14, 2006)**
C. SEC v. ABB Ltd. (D.D.C., November 30, 2004)
D. SEC v. Ali Hozhabri (D.D.C., August 6, 2008)

⁶ Also see Case 55.

Entities and Individuals:

- ABB Ltd., civil complaint filed November 30, 2004.
- ABB Vetco Gray, Inc., charged June 22, 2004.
- ABB Vetco Gray UK Ltd., charged June 22, 2004.
- ABB Vetco Gray Nigeria Ltd., not charged.
- John Samson, Regional Sales Manager for West Africa for Vetco Gray Nigeria Ltd., civil complaint filed July 14, 2006.
- John G. A. Munro, Senior Vice President of Operations for ABB Vetco Gray UK Ltd., civil complaint filed July 14, 2006.
- Ian N. Campbell, Vice President of Finance for ABB Vetco Gray UK Ltd., civil complaint filed July 14, 2006.
- John H. Whelan, Vice President of Sales for ABB Vetco Gray, Inc., civil complaint filed July 14, 2006.
- Ali Hozhabri, Project Manager of ABB Ltd subsidiary, civil complaint filed August 6, 2008.

Criminal Charges:

- Bribery of foreign officials (ABB Vetco Gray, Inc. and ABB Vetco Gray UK Ltd.)

Civil Charges:

- Bribery of foreign officials (all civil defendants except Hozhabri).
- Internal controls violations (ABB Ltd. and Hozhabri)
- Books and records violations (ABB Ltd. and Hozhabri)
- False accounting violations (Samson, Munro, Campbell, Whelan)
- Aiding and abetting ABB's internal controls violations (Samson, Munro, Campbell, Whelan)
- Aiding and abetting ABB's falsification of books and records (Hozhabri, Samson, Munro, Campbell, Whelan)

Location and Time Period of Misconduct: Nigeria, 1998-2002.

Summary:

On June 22, 2004, one U.S. and one U.K. subsidiary of ABB Ltd., a Swiss company, were charged with two counts of bribery in violation of the FCPA in connection with oil construction projects in Nigeria. According to court documents, the two subsidiaries, ABB Vetco Gray, Inc. and ABB Vetco Gray UK Ltd., paid bribes to officials of NAPIMS, a Nigerian government agency that evaluates and approves potential bidders for contract work on oil exploration projects in Nigeria, including bidders seeking subcontracts with foreign oil and gas companies. According to the stipulated statement of facts, the companies paid more than \$1 million in exchange for obtaining confidential bid information and favorable recommendations from Nigerian government agencies in connection with seven oil and gas construction contracts related to the offshore Bonga Oil Field in Nigeria, from which the companies expected to realize profits of almost \$12 million.

In a related matter, the SEC charged ABB Ltd., whose stock is traded in the U.S. through American Depository Receipts, with violations of the books and records and internal controls provisions of the FCPA, arising from the Nigerian conduct involved in the criminal proceedings, as well as suspected illicit payments in Kazakhstan and Angola. In addition to the bribes paid to officials of NAPIMS, the SEC's complaint alleged that from 2000 to 2002, ABB's subsidiaries made corrupt payments to engineers employed by Sonangol, the Angolan state-owned oil company, who had responsibility for the technical evaluation of bids submitted to Sonangol. These improper payments were issued in the context of three separate training trips sponsored by ABB, twice to the United States and Brazil, and once to Norway and the United Kingdom. In each instance, ABB's Vetco Gray U.S. and UK subsidiaries paid all the travel, meals, lodging and entertainment of the Sonangol engineers, and also provided them with cash spending

money of \$120 to \$200 per day, at a time when Angola's gross annual per capital income was just \$710. These cash payments—made for the purpose of obtaining or retaining business with Sonangol—were passed out to the Sonangol engineers prior to their departures for each trip, and were improperly recorded in ABB's books and records. In addition, the SEC alleged that from December 2001 through at least February 2003, ABB's Kazakh subsidiaries made more than \$125,000 in improper payments to Kazakh companies owned by a government official employed in Kazakhstan's state oil and gas companies.

In a related case, on July 5, 2006, the Commission filed a settled civil complaint charging four former employees of ABB Ltd. subsidiaries with violating the anti-bribery provisions of the FCPA. The Commission's complaint alleged 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 to offer, approve, and/or pay 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. Another former ABB employee, Ali Hozhabri, was also charged in connection with the bribery scheme in a 2008 civil complaint filed by the SEC in the District of Columbia.

Criminal Disposition:

In July 2004, ABB Vetco Gray, Inc. and ABB Vetco Gray UK Ltd. each pleaded guilty to violations of the FCPA and agreed to pay a combined fine of \$10.5 million.

Civil Disposition:

To settle the civil charges brought by the SEC, ABB Ltd. agreed to disgorge \$5.9 million in illicit profits and prejudgment interest.

On July 5, 2006, Without admitting or denying the allegations in the complaint, Samson, Munro, Campbell, and Whelan consented to the entry of final judgments that: (1) permanently enjoined each of them from future violations of the FCPA; (2) ordered each to pay a civil monetary penalty (\$50,000 as to Samson, and \$40,000 each as to Munro, Campbell and Whelan); and (3) ordered Samson to pay \$64,675 in disgorgement and prejudgment interest.

Without admitting or denying the allegations in the complaint, Hozhabri consented to the entry of a final judgment that enjoined him from future violations and ordered \$234,357 in disgorgement.

60. Titan Corporation

Resulting Criminal Enforcement Action(s):

- A. United States v. Titan Corporation (S.D. Cal., March 1, 2005)**
- B. United States v. Steven Lynwood Head (S.D. Cal., June 23, 2006)**

Resulting Civil/Administrative Action(s):

- C. SEC v. Titan Corporation (D.D.C., March 1, 2005)**

Entities and Individuals:

- Titan Corporation, charged March 1, 2005; civil complaint filed March 1, 2005.
- Titan Africa, Inc. (criminal and civil charges filed against parent).
- Steven Lynwood Head, CEO, Titan Africa, Inc., charged June 23, 2006.

Criminal Charges:

- Bribery of foreign officials (Titan)
- Falsification of books and records (Titan and Head)
- Filing a false tax return (Titan)

Civil Charges:

- Bribery of foreign officials
- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: Benin, 1999-2000.

Summary:

Titan Corporation (Titan), a Delaware Corporation headquartered in San Diego, CA, is a global provider of military intelligence and communications solutions. In October 1998, Titan established a joint venture with Afronetwerk, a Benin telecommunications company, to build a satellite-based telephone system in Benin. In a November meeting between Titan and Afronetwerk, Titan was introduced to a “business advisor” to the president of Benin. Titan subsequently hired the “advisor” to assist with the contract in exchange for 5% of the value of all equipment installed in Benin. Revenues from the contract were close to \$100 million, and Titan subsequently made over \$2.3 million in payments to the agent, including via offshore accounts in Monaco. Titan recorded the payments as “consulting services” in its corporate books and records and broke the payments into smaller increments to make them appear more reasonable.

Criminal Disposition:

On March 1, 2005, Titan pleaded guilty to a three-count information charging it with violating the anti-bribery and books and records provisions of the FCPA and with assisting in the filing of a false tax return. As part of its plea agreement, Titan agreed to pay a \$13 million criminal fine.

Head also pleaded guilty on June 23, 2006, and was sentenced in September 2007 to six months’ imprisonment, 3 years’ supervised release, and a fine of \$5,000.

Civil Disposition:

To settle related civil charges brought by the SEC, Titan also agreed to pay \$15.4 million in disgorgement and prejudgment interest and \$13 million in civil penalties, which was deemed satisfied by payment of the same amount in criminal fines.

61. Bribery of a Senior Iraqi Police Official

Resulting Criminal Enforcement Action(s):

A. United States v. Faheem Mousa Salam (D.D.C., June 7, 2006)

Entities and Individuals:

- Faheem Mousa Salam, Defense Contractor, charged June 7, 2006.

Criminal Charges:

- Bribery of foreign officials

Location and Time Period of Misconduct: Iraq, 2006.

Summary:

Salam admitted that in January 2006, while working in Baghdad as a civilian translator for a U.S. army subcontractor, he offered a senior Iraqi police official \$60,000 in exchange for the official’s assistance in facilitating the purchase of 1,000 armored vests and a sophisticated map printer for a sales price of approximately \$1 million. Salam requested the official use his position with the Iraqi police force

to coordinate the sale of the material to the multinational Civilian Police Assistance Training Team (CPATT), an organization designed to train the Iraqi police and border guard in Iraq. Salam admitted that he later made final arrangements with an undercover agent of the Office of the Special Inspector General for Iraq Reconstruction who was posing as a procurement officer for CPATT. Salam admitted that during the subsequent discussions with the undercover agent he offered a separate \$28,000 to \$35,000 “gift” to the agent to process the contracts.

Criminal Disposition:

Salam pleaded guilty on August 4, 2006, and was sentenced on February 2, 2007, to 36 months’ imprisonment, 24 months’ supervised release, and 250 hours’ community service.

62. Oil States International, Inc.

Resulting Civil/Administrative Enforcement Action(s):

A. In the Matter of Oil States International, Inc. (April 27, 2006)

Entities and Individuals:

- Oil States International, Inc., civil complaint filed April 27, 2006.
- Hydraulic Well Control, LLC (civil complaint filed against parent).

Civil Charges:

- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: Venezuela, 2003-2004.

Summary:

From 2003 through 2004, Oil States International, Inc. (Oil States), through certain employees of one of its subsidiaries, Hydraulic Well Control LLC (HWC), provided approximately \$348,350 in improper payments to employees of Petróleos de Venezuela, S.A. (PdVSA), an energy company owned by the government of Venezuela. Previously, HWC had hired a consultant to help it secure business from PdVSA. In December 2003, three PdVSA employees approached HWC’s consultant and asked the consultant to submit inflated bills to HWC for his services and pay these excess funds to the PdVSA employees in the form of kickbacks. These employees also threatened to undermine or undo HWC’s contracts with PdVSA if the company refused to pay the requested kickbacks. In turn, the consultant told three HWC employees about the scheme, and the employees agreed to accept inflated invoices. Ultimately, from December 2003 through November 2004, HWC approximately \$348,350 in illicit payments to the consultant, knowing that some or all of this money would be transferred to foreign government officials for the purpose of obtaining or retaining business for HWC and Oil States. HWC then improperly recorded the payments in its accounting books and records as ordinary business expenses, which were subsequently incorporated into the books and records of its parent company.

Civil Disposition:

On April 27, 2006, the SEC instituted settled administrative proceedings against Oil States, whereby the company was ordered to cease-and-desist from future violations of the FCPA. No disgorgement or civil penalties were ordered.

63. Tyco International Ltd.

Resulting Civil/Administrative Enforcement Action(s):

A. SEC v. Tyco International Ltd. (S.D.N.Y., April 17, 2006)

Entities and Individuals:

- Tyco International Ltd., civil complaint filed April 17, 2006.

Civil Charges:

- Bribery of foreign officials
- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: Brazil, 1998; Korea, 1996-2000.

Summary:

In 1998, Tyco International Ltd. (Tyco) acquired Earth Tech Brazil notwithstanding the fact that it knew Earth Tech had made various illegal payments to Brazilian officials to obtain business. Another one of Tyco's acquisitions, Dong Bang, a South Korean firm, spent \$32,000 entertaining various South Korean officials and paid \$7,500 to an employee of a nuclear power plant to obtain contracts. Despite the fact that Tyco knew such payments were common in Brazilian and South Korean business practices, it did not have an FCPA compliance program and its system of internal controls failed to prevent subsequent bribes.

Civil Disposition:

On April 17, 2006, the Commission filed a settled complaint against Tyco and imposed a \$50 million penalty for a range of violations of the federal securities laws, including violations of the FCPA by Tyco's operations in Brazil and South Korea. Tyco also paid \$1 million in disgorgement.

64. Bribery of Liberian Officials for False Accreditation of Academic Institutions

Resulting Criminal Enforcement Action(s):

A. United States v. Richard John Novak (E.D. Wash., October 5, 2005)

Entities and Individuals:

- Richard John Novak, indicted October 5, 2005; superseding information filed March 20, 2006.

Criminal Charges:

- Conspiracy:
 - to bribe foreign officials
 - to commit wire and mail fraud
- Bribery of foreign officials

Location and Time Period of Misconduct: Liberia, 2002-2004.

Summary:

In a superseding information filed on March 20, 2006, Richard John Novak was charged with one count of bribery in violation of the FCPA and an additional count of conspiracy to bribe foreign officials, to commit mail fraud, and to commit wire fraud. These charges stemmed from a series of bribe payments, in excess of \$43,000, which were made to several Liberian officials in order to obtain accreditation from Liberia for Saint Regis University, Robertstown University, and James Monroe University, and to induce Liberian officials to issue letters and other documents to third parties falsely representing that Saint Regis University was properly accredited by Liberia. These “online universities” were in fact part of an online “diploma mill” scheme, and they provided no legitimate educational services and had no legitimate academic accreditation. According to court documents, between October 2002 and September 2004, approximately \$19,200 was wired from an account in the State of Washington controlled by Novak’s co-defendants, Dixie Ellen Randock and Steven Karl Randock, Sr., to a bank account in Maryland in the name of the Liberian Consul. These corrupt payments benefited officials of the Liberian Embassy in Washington, D.C., the Director of National Commission of Higher Education of Liberia, and the Director General of Higher Education of Liberia.

Criminal Disposition:

Novak pleaded guilty to the superseding information on March 20, 2006 and was subsequently sentenced on October 2, 2008, to 3 years’ probation and 300 hours of community service.

65. Diagnostic Products Corporation

Resulting Criminal Enforcement Action(s):

A. United States v. DPC (Tianjin) Co. Ltd. (C.D. Cal., May 20, 2005)

Resulting Civil/Administrative Enforcement Action(s):

B. In the Matter of Diagnostic Products Corporation (May 20, 2005)

Entities and Individuals:

- Diagnostic Products Corporation, cease-and-desist order issued May 20, 2005.
- DPC (Tianjin) Co. Ltd., charged May 20, 2005.

Criminal Charges:

- Bribery of foreign officials

Civil Charges:

- Bribery of foreign officials
- Falsification of books and records
- Internal controls violations

Location and Time Period of Misconduct: China, 1991-2002.

Summary:

From late 1991 through December 2002, DPC (Tianjin) Co. Ltd., a subsidiary of Diagnostic Products Corporation (DPC), paid 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 (PRC) in exchange for agreements that the hospitals would obtain DPC Tianjin’s products and services. These bribes constituted violations of the anti-bribery provisions of the FCPA because the physicians and laboratory personnel were employed by hospitals owned by the legal authorities in the PRC, and thus, were “foreign officials” as defined by the FCPA. In most cases, the bribes were paid in cash and hand-delivered by DPC Tianjin salespeople to the person who controlled purchasing decisions for the particular hospital department. DPC Tianjin recorded the payments on its books and records as “selling expenses.” DPC Tianjin’s general manager regularly prepared and submitted to DPC its financial statements, which contained its sales expenses. The general manager also caused approval of the budgets for sales expenses of DPC Tianjin, including the amounts DPC Tianjin intended to pay to the officials of the hospitals in the following quarter or year. The “commissions,” typically between 3 percent and 10 percent of sales, allowed DPC Tianjin to earn approximately \$2 million in profits from the sales.

Criminal Disposition:

On May 20, 2005, DPC (Tianjin) Co. pleaded guilty to violating the FCPA, 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 also paid a criminal penalty of \$2 million.

Civil Disposition:

To resolve civil charges brought by the SEC, DPC agreed to the issuance of an order to cease-and-desist from future violations and to disgorge \$2,038,727 in profits and \$749,895 in prejudgment interest to the SEC.

66. Micrus Corporation

Resulting Criminal Enforcement Action(s):

A. In Re Micrus Corporation (March 2, 2005)

Entities and Individuals:

- Micrus Corporation, non-prosecution agreement announced March 2, 2005.

Criminal Charges:

- Bribery of foreign officials
- Internal controls violations

Location and Time Period of Misconduct: France, 2002-2004; Turkey, 2004; Spain, 2002; Germany, 2003.

Summary:

From January 2002, Micrus Corporation, a privately held company based in Sunnyvale, California, and its Swiss subsidiary Micrus S.A. (collectively Micrus), engaged in, among other businesses, the sale and distribution of embolic coils in foreign jurisdictions. Between January 2002 and August 2004, in connection with sales to public and private medical facilities in some of those countries, Micrus entered into several types of arrangements with doctors, pursuant to which the doctors used or promoted Micrus products in exchange for payments, commissions or honoraria (the “foreign payments”). During that time, Micrus also granted to some of those foreign doctors options to purchase shares of Micrus securities (after those securities were issued to the public in an Initial Public Offering). These payments ultimately totaled approximately \$1,400,000. Of that amount, approximately \$105,000 was paid as part of an arrangement that clearly violated the FCPA and the law in the foreign jurisdiction where the payment was made, and an additional approximately \$250,000 was comprised of payments for which Micrus did not obtain the necessary prior administrative or legal approval as required under the laws of the relevant foreign jurisdiction.

Disposition:

On February 28, 2005, Micrus agreed to a two-year non-prosecution agreement and paid \$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.

67. HealthSouth Corporation

Resulting Criminal Enforcement Action(s):

- A. United States v. Robert E. Thomson, et al (N.D. Ala., July 1, 2004)**
- B. United States v. Thomas Carman (N.D. Ala., March 2, 2004)**
- C. United States v. Vincent Nico (N.D. Ala., March 2, 2004)**

Entities and Individuals:

- Robert E. Thomson, President and COO, HealthSouth in-patient division, indicted July 1, 2004.
- James C. Reilly, Group Vice President of Legal Services, HealthSouth, indicted July 1, 2004.
- Thomas Carman, Executive Vice President, HealthSouth, charged March 2, 2004.
- Vincent Nico, Vice President, HealthSouth, charged March 2, 2004.

Criminal Charges:

- Conspiracy (Thomson and Reilly)
- Falsification of books and records (Thomson and Reilly)
- Commercial bribery (Thomson and Reilly)
- Wire fraud (Nico)
- False statements to law enforcement (Carman)

Location and Time Period of Misconduct: Saudi Arabia, 2000-2003.

Summary:

HealthSouth was a corporation organized under the laws of the state of Delaware with headquarters in Birmingham, Alabama. In March and July 2004, the Department of Justice filed charges against four HealthSouth executives in connection with an alleged scheme to bribe the director general of a Saudi Arabian foundation in furtherance of HealthSouth's effort to secure an agreement to provide staffing and management services for a 450-bed hospital in Saudi Arabia. Under the contract that HealthSouth eventually executed with the Saudi Arabian foundation, HealthSouth was to receive \$10 million annually over a five-year term.

On July 1, 2004, the Department indicted Robert E. Thomson, President and COO of HealthSouth's in-patient division, and James C. Reilly, the Group Vice President of Legal Services for Health South, in the Northern District of Alabama. According to the indictment, the Saudi Arabian foundation's director general solicited a \$1 million payment from HealthSouth, ostensibly as a "finder's fee." Against the advice of counsel, HealthSouth allegedly agreed to pay the Saudi Arabian foundation's director general the sum of \$500,000 per year for a five-year period in return for his agreement to execute the contract on behalf of the Saudi Arabian foundation. In order to conceal the true nature of the scheme, HealthSouth officers, including Thomson and Reilly, allegedly arranged for the Saudi Arabian foundation's director general to execute a bogus consulting contract with a HealthSouth-affiliated entity in Australia. Until the scheme was detected in 2003, HealthSouth paid the amounts due under this phony consulting contract by wiring them to Australia, where they were subsequently wired to the foundation's director general in Saudi Arabia, according to the indictment. The HealthSouth officers allegedly undertook this conduct despite the fact that they had been specifically advised beforehand by an attorney retained by HealthSouth that such conduct would amount to a violation of federal criminal law.

The indictment charged that Thomson and Reilly violated the Travel Act by using the facilities of interstate commerce to promote unlawful activity, namely bribery in violation of Alabama law. In addition, the indictment charges that Thomson and Reilly violated the Foreign Corrupt Practices Act by causing HealthSouth's books, records and accounts to falsely and fraudulently reflect that the payments made to fund the bogus consulting contract were made for legitimate purposes.

Previously, on March 2, 2004, the Department had filed charges against HealthSouth's former Vice President, Vincent Nico, and former Executive Vice President, Thomas Carman. Nico was charged with wire fraud while Carman was charged with having made false statements to the FBI.

Criminal Disposition:

Nico pleaded guilty on April 22, 2004, and was sentenced to 36 months in prison and a \$250,000 fine and forfeited more than \$1 million. Carman also pleaded guilty on April 27, 2004, and was later sentenced to 36 months in prison and a \$500 fine. Thomson and Reilly were acquitted at trial.

68. Schering-Plough Corporation

Resulting Civil/Administrative Enforcement Action(s):

- A. SEC v. Schering-Plough Corporation (D.D.C., June 9, 2004)**
- B. In the Matter of Schering-Plough Corporation (June 9, 2004)**

Entities and Individuals:

- Schering-Plough Corporation, civil complaint filed and cease-and-desist order issued June 9, 2004.

Civil Charges:

- Falsification of books and records
- Internal controls violations

Location and Time Period of Misconduct: Poland, 1999-2002.

Summary:

On June 9, 2004, the SEC commenced civil and administrative enforcement actions against Schering-Plough Corporation (Schering-Plough), a pharmaceutical company, for violations of the books and records and internal controls provisions of the FCPA. The Commission's complaint against Schering-Plough alleged 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. At the time of these payments, the foundation was headed by an individual who was the Director of the Silesian Health Fund, 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 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.

Civil Disposition:

On June 16, 2004, without admitting or denying the Commission's allegations, Schering-Plough entered into a settlement with the SEC, whereby the company was ordered to cease-and-desist from future violations and pay a civil penalty in the amount of \$500,000.

69. BJ Services Company

Resulting Civil/Administrative Enforcement Action(s):

- A. In the Matter of BJ Services Company (March 10, 2004)**

Entities and Individuals:

- BJ Services Company, cease-and-desist order issued March 10, 2004.

Civil Charges:

- Bribery of foreign officials
- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: Argentina, 1998-2002.

Summary:

On March 10, 2004, the SEC instituted settled administrative proceedings against BJ Services Company (BJ Services), for violations of the anti-bribery, internal controls, and books and records provisions of the FCPA. According to the SEC's filing, during 2001, BJ Services, through its wholly owned Argentinean subsidiary B.J. Services, S.A. ("BJSA"), made illegal or questionable payments, totaling approximately 72,000 pesos to Argentinean customs officials. Further, from 1998 through April 2002 certain undocumented or improperly characterized payments were made totaling approximately 151,000 pesos. In certain instances, entries were made in BJSA's books and records to conceal the payments. During the same period, BJ Services experienced certain breaches in the existing accounting policies, controls and procedures in certain areas of its Latin American Region.

Civil Disposition:

BJ Services was ordered to cease-and-desist from future violations. No disgorgement or civil penalty was ordered by the SEC.

70. American Bank Note Holographics, Inc.

Resulting Criminal Enforcement Action(s):

- A. United States v. Joshua C. Cantor (S.D.N.Y., July 17, 2001)**

Resulting Civil/Administrative Enforcement Action(s):

- B. SEC v. Joshua C. Cantor (S.D.N.Y., April 10, 2003)**
C. SEC v. American Bank Note Holographics, Inc. (S.D.N.Y., July 18, 2001)
D. In the Matter of American Bank Note Holographics, Inc. (S.D.N.Y., July 18, 2001)

Entities and Individuals:

- American Bank Note Holographics, Inc. (ABNH), civil complaint filed and cease-and-desist order issued July 18, 2001.
- Joshua C. Cantor, President of ABNH, charged July 17, 2001; civil complaint filed April 10, 2003.

Criminal Charges:

- Conspiracy:
 - to commit securities fraud
 - to falsify books and records
 - to lie to auditors

Civil Charges:

- Falsification of books and records

Location and Time Period of Misconduct: Saudi Arabia, 1998-1999.

Summary:

In July 2001, the Department of Justice and the SEC simultaneously filed criminal and civil charges against Joshua C. Cantor, the President of American Bank Note Holographics, Inc. (ABNH), in connection with certain violations of the FCPA and other federal securities laws. In addition, the SEC filed two settled actions against ABNH, a manufacturer of holographic products that are used in a variety of commercial applications, such as credit cards. According to court documents, the Saudi Arabian Monetary Agency (SAMA) approached ABNH with the opportunity to be the supplier of a hologram for a commemorative Saudi Arabian banknote. In May 1998, one of ABNH's overseas sales agents informed ABNH that its bid would need to include "an additional sum to cover consultancy fees." Cantor, as President of ABNH, knew that at least a portion of these consultancy fees was to go to Saudi Arabian officials in exchange for the contract. ABNH eventually won the bid and consultancy fees in the amount of \$239,000 were transferred to a Swiss bank account in Geneva held in the name of "Satapco." ABNH, along with numerous other former executives, were also charged by the SEC in connection with a broad range of violations of federal securities.

Criminal Disposition:

Cantor pleaded guilty on July 17, 2001. He has not yet been sentenced.

Civil Disposition:

To settle the civil and administrative enforcement actions undertaken by the SEC, without admitting or denying the Commission's allegations, ABNH and Cantor each agreed to the entry of a cease-and-desist. ABNH also agreed to pay a civil penalty of \$75,000.

71. Mercator Corporation

Resulting Criminal Enforcement Action(s):

- A. United States v. James H. Giffen (S.D.N.Y., April 2, 2003)**
- B. United States v. J. Bryan Williams (S.D.N.Y., April 2, 2003)**

Resulting Civil/Administrative Enforcement Action(s):

- C. United States v. Approx. \$84 Million (S.D.N.Y., 2007)**

Entities and Individuals:

- James H. Giffen, Chairman of Mercator Corporation, indicted April 2, 2003.
- J. Bryan Williams, Senior Executive of Mobil Oil, indicted April 2, 2003.

Criminal Charges:

- Conspiracy (all defendants)

- Bribery of foreign officials (Giffen)
- Money laundering (Giffen)
- Wire fraud (Giffen)
- Tax evasion (all defendants)

Civil Charges:

- Forfeiture

Location and Time Period of Misconduct: Kazakhstan, 1995-1997.

Summary:

On April 2, 2003, James Giffen, the Chairman of Mercator Corporation, a small merchant bank with offices in New York and the Republic of Kazakhstan, was indicted in the Southern District of New York on charges that he made a series of illegal payments to senior Kazakh officials in connection with numerous oil deals in that country. According to court documents, Giffen allegedly made corrupt payments to senior Kazakh officials in connection with the following transactions in which Giffen represented the Republic of Kazakhstan: 1) Mobil Oil's 1996 purchase of a 25% share in the Tengiz oil field; (2) Mobil Oil's 1995 agreement to finance the processing and sale of gas condensate from the Karachaganak oil and gas field; (3) Amoco's 1997 purchase of a share in the Caspian Pipeline Consortium; (4) Texaco and other oil companies' purchase of a share in the Karachaganak oil and gas field in 1998; (5) Mobil and other oil companies' 1998 purchase of exploration rights in the Kazakh portion of the Caspian Sea, and; (6) Phillips Petroleum's 1998 purchase of Caspian Sea exploration rights.

According to the indictment, Giffen and Mercator were advisors to the Kazakh government on strategic planning, development of foreign investment and the negotiation of priority investment projects relating to the exploration, development, production, transportation, and processing of oil and gas. During this period, Giffen had held the title of counselor to the President of Kazakhstan. According to the charges, Mobil oil agreed to pay the success fees owed by Kazakhstan to Giffen and Mercator, and out of those fees, Giffen made unlawful payments of \$22 million dollars to secret Swiss accounts beneficially owned by two high level Kazakh officials.

In addition, according to the Indictment, between 1995 and 2000, Giffen caused approximately \$70 million paid by various oil companies into escrow accounts in Switzerland in connection with the purchase of oil and gas rights in Kazakhstan to be diverted into secret Swiss bank accounts under his control. Giffen then used this money to make additional unlawful payments of approximately \$55 million to the two senior officials of the Kazakh Government.

The indictment also seeks forfeiture from Giffen of \$84.33 million including the contents of various bank accounts in the U.S. and overseas. In 2007, the Department of Justice filed a civil forfeiture action against approximately \$84 million, plus interest, which was being held in a bank account in Switzerland belonging to the Kazakh government. According to the Department's filings, this money included at least \$51.7 million in proceeds from Giffen's alleged scheme to commit FCPA, wire fraud and money laundering violations.

On the same date, J. Bryan Williams a senior executive at Mobil Oil, was charged in connection with a kickback and tax evasion scheme involving a related oil deal in Kazakhstan. According to court documents, Williams was sent by Mobil's Chairman to finalize the negotiations with Kazakhstan regarding Mobil's purchase for approximately \$1 billion of a 25% interest in the Tengiz oil field in 1996. After the Tengiz deal closed, Mobil paid \$41 million to a New York merchant bank that represented the Republic of Kazakhstan in the transaction. The merchant bank's President kicked back \$2 million of that payment to Williams, by transferring money through a secret Swiss bank account.

Criminal Disposition:

On September 18, 2003, Williams pleaded guilty to conspiracy and tax evasion and was sentenced to 46 months in prison. Williams was also ordered to pay a \$25,000 fine and is required to pay taxes on the \$2 million kickback that he received in connection with the Tengiz oil field deal.

The Giffen matter has been in protracted litigation since 2003, and many of the details of the matter are classified.

Civil Disposition:

With regard to the civil forfeiture action filed in 2007, the Department reached an agreement with the government of Kazakhstan, which stated that, if the money was not claimed, the funds would be used to fund three social and public programs in Kazakhstan.

72. Bribery of and by World Bank Officials

Resulting Criminal Enforcement Action(s):

- A. United States v. Ramendra Basu (November 26, 2002)**
- B. United States v. Gautam Sengupta (D.D.C., January 30, 2002)**

Entities and Individuals:

- Ramendra Basu, World Bank Trust Funds manager, charged November 26, 2002.
- Gautam Sengupta, World Bank Task Manager for Africa, charged January 30, 2002.

Criminal Charges:

- Conspiracy to bribe foreign officials (all defendants)
- Bribery of foreign officials (all defendants)

Location and Time Period of Misconduct: World Bank, Ethiopia, Kenya, 1997-2000.

Summary:

In 2002, the Department of Justice charged two World Bank officials, Ramendra Basu, a national of India, and Gautam Sengupta, with conspiring to steer World Bank contracts to certain consultants in exchange for kickbacks. According to court documents, the two defendants conspired with a Swedish consultant and others to use their official positions with the World Bank to steer World Bank contracts in Ethiopia and Kenya to certain Swedish companies in exchange for approximately \$127,000 in kickbacks. In addition, the defendants admitted that in January 1999, they received a request for a \$50,000 bribe from a Kenyan government official working on a Project Implementation Unit involved in a World Bank-financed project, which was to be paid by the Swedish consultant. Collectively, Basu and Sengupta forwarded this request to the Swedish consultant and passed along related bank account information, despite knowing that the requested payment was meant to corruptly influence an act or decision of the foreign official in his official capacity, in violation of the anti-bribery provisions of the FCPA.

Criminal Disposition:

Sengupta pleaded guilty on February 13, 2002, and was sentenced in 2006, Sengupta to two months' imprisonment and one year of supervised release, which was to include four months of home confinement. Sengupta was also sentenced to pay a criminal fine of \$3,000.

Basu pleaded guilty on December 17, 2002, and was sentenced on April 22, 2008, to 15 months in prison, 2 years of supervised release, and 50 hours of community service. He is currently appealing his sentence.

73. American Rice, Inc.

Resulting Criminal Enforcement Action(s):

A. United States v. David Kay, et al (S.D. Tex., December 12, 2001)

Resulting Civil/Administrative Enforcement Action(s):

B. SEC v. David Kay, et al (S.D. Tex., July 30, 2002)

Entities and Individuals:

- American Rice, Inc. (ARI) (not charged).
- Douglas Murphy, President of ARI, indicted December 12, 2001; civil complaint filed July 30, 2002.
- David Kay, Vice President of ARI, indicted March 25, 2002; civil complaint filed July 30, 2002.
- Lawrence Theriot, Caribbean Operations consultant for ARI, civil complaint filed July 30, 2002.

Criminal Charges:

- Conspiracy to bribe foreign officials (all defendants)
- Bribery of foreign officials (all defendants)
- Obstruction of justice (Murphy)

Civil Charges:

- Bribery of foreign officials (Kay and Murphy)
- Internal controls violations (Kay)
- Falsification of books and records (Kay)
- Aiding and abetting ARI's falsification of books and records (Kay)
- Aiding and abetting ARI's internal controls violations (Kay)
- Aiding and abetting Kay and Murphy's bribery of foreign officials (Theriot)

Location and Time Period of Misconduct: Haiti, 1998-1999.

Summary:

On December 12, 2001, David Kay, the Vice President of Marketing for American Rice, Inc. (ARI), a Texas corporation, was indicted in the Southern District of Texas on twelve counts of violating the FCPA in connection with a scheme to pay bribes to Haitian customs officials. A superseding indictment against Kay and Douglas Murphy, the President of American Rice, was returned by a grand

jury in the Southern District of Texas on March 25, 2002. In addition to adding Murphy to the twelve counts of bribery in violation of the FCPA, the indictment charged Murphy with obstruction of justice and both defendants with conspiring to violate the anti-bribery provisions of the FCPA.

According to evidence presented at trial, between January 1998 and October 1999, Kay, who as Vice President of Marketing was responsible for overseeing ARI's sales in Haiti, authorized corrupt cash payments to Haitian customs officials. These bribery payments, which numbered at least 12 and totaled over \$500,000, were made to customs officials in exchange for reductions in taxes imposed upon ARI's rice imports. Ultimately, these payments allowed ARI to avoid approximately \$1.5 million in Haitian import taxes. Evidence presented at trial also established that Murphy, as President of ARI was aware of the bribery scheme, but took no action to stop the payments.

The reduced import tax liability assisted ARI in obtaining or retaining business because it allowed ARI to retain its competitive price advantage over competitors, including illegal importers of rice, who paid no import dues.

Criminal Disposition:

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.

On October 6, 2004, Kay and Murphy were convicted on all counts contained in the superseding indictment following a two-week jury trial. On June 29, 2005, Murphy was sentenced to 63 months in prison followed by three years of supervised release. Kay was sentenced to 37 months in prison followed by two years of supervised release. Both appealed, but the convictions and sentences were upheld.

Civil Disposition:

The civil matter against Kay and Murphy was suspended until sentencing, and the SEC has not yet moved to reopen the case. Theriot agreed to the issuance of a cease-and-desist order and paid an \$11,000 civil penalty.

74. BellSouth Corporation

Resulting Civil/Administrative Enforcement Action(s):

- A. SEC v. BellSouth Corporation (N.D. Ga., January 15, 2002)**
- B. In the Matter of BellSouth Corporation (January 15, 2002)**

Entities and Individuals:

- BellSouth Corporation, civil complaint filed and cease-and-desist order issued January 15, 2002.

Civil Charges:

- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: Venezuela, 1997-2000; Nicaragua, 1998-1999.

Summary:

On January 15, 2002, the SEC filed two settled enforcement actions against BellSouth Corporation, charging that two of the company's subsidiaries had engaged in violations of the internal controls and books and records provisions of the FCPA. According to the SEC's Complaint, between September 1997 and August 2000, former senior management of BellSouth's

Venezuelan subsidiary, Telcel, C.A. (Telcel), authorized payments totaling approximately \$10.8 million to six offshore companies and improperly recorded the disbursements in Telcel's books and records, based on fictitious invoices, as bona fide services. Telcel's internal controls failed to detect the unsubstantiated payments for a period of at least two years. As an additional consequence of this control deficiency, the Complaint alleged that BellSouth was unable to reconstruct the circumstances or purpose of the Telcel payments, or determine the identity of their ultimate recipients. Telcel was Venezuela's leading wireless provider, contributing more revenue to BellSouth's Latin American Group segment than any other Latin American BellSouth operation.

In addition, the SEC charged that between October 1998 and June 1999, BellSouth's Nicaraguan subsidiary, Telefonía Celular de Nicaragua, S.A.'s (Telefonía), improperly recorded payments to the wife of the Nicaraguan legislator who was the chairman of the Nicaraguan legislative committee with oversight of Nicaraguan telecommunications.

Civil Disposition:

BellSouth was enjoined from future violations and was ordered to pay a \$150,000 civil penalty.

75. Chiquita Brands International, Inc.

Resulting Civil/Administrative Enforcement Action(s):

- A. SEC v. Chiquita Brands International, Inc. (D.D.C., October 3, 2001)**
- B. In the Matter of Chiquita Brands International, Inc. (October 3, 2001)**

Entities and Individuals:

- Chiquita Brands International, Inc., civil complaint filed and cease-and-desist order issued October 3, 2001.
- C.I. Bananos de Exportación, S.A. (civil complaint filed against parent company).
- Comercio Exterior Asesores Limitada (civil complaint filed against parent company).

Civil Charges:

- Internal controls violations
- Falsification of books and records

Location and Time Period of Misconduct: Columbia, 1996-1997.

Summary:

On October 3, 2001, the SEC commenced two settled enforcement actions against Chiquita Brands International, Inc. (Chiquita), alleging that the company had violated the books and records and internal controls provisions of the FCPA as a result of the conduct of its Colombian subsidiary, C.I. Bananos de Exportación, S.A. (Banadex). According to the SEC's filings, in September 1995, a Banadex employee in charge of material and supplies advised Banadex management that renewal of the company's Turbo, Colombia port facility's customs license was in jeopardy because of two previous citations for failure to comply with Colombian customs regulations. The employee further advised Banadex management that replacing the Turbo facility would cost approximately \$1 million.

Without the knowledge or consent of any Chiquita employees outside Colombia and in contravention of Chiquita's policies, Banadex's chief administrative officer authorized the company's customs broker, as well as Banadex's security officer and controller, to make a corrupt payment of the equivalent of \$30,000 to local customs officials to secure the renewal of the port facility's license. The

subsidiary's books and records incorrectly identified the two installment payments, which were made in 1996 and 1997. In 1997, Chiquita's internal audit staff discovered the payment during an audit review and, after an internal investigation, Chiquita took corrective action which included terminating the responsible Banadex employees and reinforcing internal controls at Banadex.

Civil Disposition:

Pursuant to a settlement agreement with the SEC, Chiquita was ordered to cease-and-desist from future violations of these provisions of the FCPA and to pay a \$100,000 civil penalty.

76. Owl Securities and Investment Ltd.

Resulting Criminal Enforcement Action(s):

- A. United States v. Richard K. Halford (W.D. Mo., August 3, 2001)**
- B. United States v. Albert Reitz (W.D. Mo., August 3, 2001)**
- C. United States v. Robert Richard King, et al (W.D. Mo., June 27, 2001)**

Entities and Individuals:

- Owl Securities and Investment Ltd. (OSI Ltd.) (not charged).
- OSI Proyectos (not charged).
- Richard K. Halford, Part-Owner and CFO of OSI Ltd., charged August 3, 2001.
- Albert Reitz, Vice President and Secretary of OSI Ltd., charged August 3, 2001.
- Robert Richard King, Part-Owner of OSI Ltd., indicted June 27, 2001.
- Pablo Barquero Hernandez, Costa Rican representative of OSI Ltd., indicted June 27, 2001.

Criminal Charges:

- Conspiracy to bribe foreign officials (all defendants)
- Bribery of foreign officials (King and Hernandez)
- Commercial bribery (King and Hernandez)

Location and Time Period of Misconduct: Costa Rica, 1997-2000.

Summary:

In 2001, the Department of Justice filed charges against two executives and a part-owner of Owl Securities and Investment Ltd., a Missouri company, as well as an agent that represented the company and its wholly-owned Costa Rican subsidiary, OSI Proyectos. According to court documents, OSI Proyectos was engaged in the development of port facilities in Costa Rica, including an international airport and various luxury properties. In 1998, the ruling Costa Rican political party signed a letter agreeing to allow OSI and its subsidiary to move forward with developing the port facilities. However, before it granted formal permission, Pablo Barquero Hernandez, OSI's Costa Rican Representative indicated that OSI would be required to pay a final "closing cost" or "toll" of \$1 million. This amount was later increased to \$1.5 million. Together, Robert Richard King, a large shareholder in OSI, and Hernandez allegedly agreed to pay the Costa Rican ruling party a \$1 million "closing cost" to secure the contract. For their roles in this bribery scheme, King and Hernandez were indicted by a federal grand jury in the Western District of Missouri on June 27, 2001.

Two additional OSI executives were charged on August 3, 2001, for their roles in the illicit payments to Costa Rican officials. According to court documents, Richard K. Halford, then the CFO of OSI, had communicated with Hernandez and was aware of the payments to Costa Rican officials. He proposed opening a new account in Panama or the U.S. to route the payments. Albert Reitz, OSI's Vice President and Secretary, assisted in raising funds from investors to pay for the bribe.

Criminal Disposition:

Halford and Reitz each pleaded guilty on August 3, 2001. On July 9, 2002, District Judge Scott O. Wright sentenced Halford to five years' probation and Reitz to five years' probation, including 6 months of home confinement, and 100 hours of community service.

King was convicted at trial in June 2002 and sentenced in November of that year to 30 months' imprisonment, 2 years' supervised release, and a \$60,000 fine. Hernandez is a fugitive.

77. Allied Products Corporation

Resulting Criminal Enforcement Action(s):

A. United States v. Daniel Ray Rothrock (W.D. Tex., June 13, 2001)

Entities and Individuals:

- Daniel Ray Rothrock, Vice President of Allied Products Corporation's Cooper Division, charged June 13, 2001.

Criminal Charges:

- Falsification of books and records

Location and Time Period of Misconduct: Russia, 1991-1993.

Summary:

On June 13, 2001, the Department of Justice charged Daniel Ray Rothrock, the Vice President of the Cooper Division of Allied Products Corporation (Allied), with one count of falsifying his employer's corporate books and records, in violation of the FCPA. The Cooper Division of Allied, a Chicago, Illinois based company and U.S. issuer, was engaged in the business of manufacturing and selling workover rigs and other oilfield well servicing equipment to purchasers throughout the world. According to the one-count information filed against him, in August 1991, the Cooper Division of Allied agreed to pay a sales commission of \$282,076 to a third-party company for the ultimate benefit of the Director General of RVO Zarubezhneftstroy ("Nestro"), a Soviet government purchasing agency, in order to obtain a contract for the sale of 20 workover rigs to Nestro.

In September 1992, this third-party company, of which the Russian official was a director, requested \$300,000 from Allied's Cooper Division, purportedly for services provided by the company in connection with the award of the workover rig contract. Subsequently, in late 1992, Rothrock created a falsified invoice for the consulting company, in the amount of \$300,000, which purported to be for a "consultation fee and market study". Rothrock later admitted that he knew that no consultation fee or market study had been or would be provided by the third-party company and that, in fact, the invoice he provided was for the purpose of disbursing these illicit funds to the company. In October 1992, Rothrock received an invoice for \$300,000, similar to the one he had drafted for the third-party company, which purported to come from a company called "Educa" in Vienna, Austria. Following the signing of a second contract with Nestro for the provision of additional workover rigs in 1993, Rothrock caused the Cooper Division to issue a check to Educa in the amount of \$300,000, despite knowing that Allied had no business relationship with a company called "Educa" and that the invoice was in fact from the third-party company. Rothrock thereby caused false entries regarding this illicit payment to be incorporated into the books and records of Allied.

Criminal Disposition:

Rothrock pleaded guilty before a U.S. Magistrate Judge on June 22, 2001. Rothrock's guilty plea was accepted by U.S. District Judge Orlando L. Garcia on August 24, 2001, and he was sentenced to one years' probation on September 20, 2001.

78. International Business Machines Corporation

Resulting Civil/Administrative Enforcement Action(s):

- A. SEC v. International Business Machines Corporation (D.D.C., December 21, 2000)**
- B. In the Matter of International Business Machines Corporation (December 21, 2000)**

Entities and Individuals:

- International Business Machines Corporation, civil complaint filed December 21, 2000.

Civil Charges:

- Falsification of books and records

Location and Time Period of Misconduct: Argentina, 1994-1995.

Summary:

On December 21, 2000, the SEC filed two settled enforcement actions against International Business Machines Corporation (IBM), alleging that the company had violated the books and records provision of the FCPA in connection with a \$250 million contract to integrate and modernize the computer system of a commercial bank owned by the Argentine government. According to the SEC's filings, certain former senior management of IBM-Argentina, S.A. ("IBM-Argentina"), a wholly-owned subsidiary of IBM, caused IBM-Argentina to enter into a subcontract with Capacitacion Y Computacion Rural, S.A. ("CCR"). Between 1994 and 1995, IBM-Argentina paid CCR approximately \$22 million under the subcontract. Of this amount, at least \$4.5 million was transferred to several directors of the state-owned Argentine bank by CCR.

In connection with the subcontract, IBM-Argentina's former senior management overrode IBM procurement and contracting procedures, and hid the details of the subcontract from the technical and financial review personnel assigned to the contract with the Argentine state-owned bank. In order to override IBM's procurement review procedures, the IBM-Argentina's former senior management provided the company's Procurement department with fabricated documentation, including a backdated authorization letter and a document that stated incomplete and inaccurate reasons for hiring CCR. IBM-Argentina subsequently recorded the payments to CCR in its books and records as third-party subcontractor expenses. While IBM did not falsify or destroy any records, in consolidating its subsidiaries' financial results, this false information was incorporated into IBM's 1994 Form 10-K, which was filed with the SEC on March 23, 1995.

After IBM officials learned about the misconduct by IBM-Argentina, the company took immediate corrective action, including terminating the employees involved and stopping all future payments to CCR.

Civil Disposition:

IBM was ordered to cease and desist from future violations and paid a \$300,000 civil penalty.

79. UNC/Lear Services Inc.

Resulting Criminal Enforcement Action(s):

- A. United States v. UNC/Lear Services Inc. (W.D.K.Y., February 17, 2000)**

Entities and Individuals:

- UNC/Lear Services Inc., charged February 17, 2000.

Charges:

- Falsification of books and records
- Mail fraud
- Making a false statement

Location and Time Period of Misconduct: Saudi Arabia, 1993-1995.

Summary:

On February 17, 2000, the Department of Justice charged UNC/Lear Services Inc. (UNC/Lear), a provider of military parts and services to foreign governments, with mail fraud, making false statements, and falsifying its books and records. The charges against UNC/Lear arose from the company's efforts to conceal \$140,000 in illicit payments, which were made to a Kentucky corporation for the benefit of a Saudi Arabian consultant. The payments were described in the company's books and records as "fees for engineering services," and the consultant provided UNC/Lear with false invoices to support the payments. UNC/Lear was also charged with making false statements to the U.S. Department of Defense by claiming that it had paid no foreign agents and no contingent fees on a sole source Financial Management Information System contract.

Disposition:

UNC/Lear pleaded guilty to all charges on March 6, 2000, and was sentenced to pay a \$75,000 criminal fine, a \$132,000 civil penalty, and \$768,000 in restitution.

80. Metcalfe & Eddy International, Inc.

Resulting Civil/Administrative Enforcement Action(s):

- A. United States v. Metcalfe & Eddy International, Inc. (D. Mass., December 14, 1999)**

Entities and Individuals:

- Metcalfe & Eddy International, Inc., charged December 14, 1999.

Civil Charges:

- Bribery of foreign officials

Location and Time Period of Misconduct: Egypt, 1994-1997.

Summary:

On December 14, 1999, the Department of Justice initiated a settled civil enforcement action against Metcalfe & Eddy International, Inc. (M&E), in connection with the company's improper provision of things of value to Egyptian government officials, in violation of the FCPA. According to the Department's filings, during 1994, Metcalfe & Eddy International, Inc. (M&E) was awarded a contract to

provide services in support of the maintenance of wastewater treatment facilities managed by the Alexandria General Organization for Sanitary Drainage (AGOSD), an Egyptian government agency that was responsible for wastewater and sewage treatment in Alexandria, Egypt. In 1995, M&E was awarded a second contract to provide architectural and engineering support to AGOSD's operations.

In 1994, M&E paid for the Chairman of the AGOSD to travel to Boston, Paris, and San Diego with his family, including cash "per diem" payments given to him in advance in Alexandria, Egypt. In exchange, the Chairman exerted influence over the board in charge of awarding these contracts and recommended that M&E be given \$36 million contracts, which were funded by the U.S. Agency for International Development.

Civil Disposition:

On December 14, 1999, without admitting or denying the Department's allegations, M&E consented to an injunction to pay a fine of \$400,000 and costs of investigation of \$50,000, and to be permanently enjoined from FCPA violations.

81. International Materials Solutions Corporation

Resulting Criminal Enforcement Action(s):

A. United States v. International Materials Solutions Corporation, et al (S.D. Ohio, February 8, 1999)

Entities and Individuals:

- International Materials Solutions Corporation (IMSC), charged February 8, 1999.
- Thomas K. Qualey, President of IMSC, charged February 8, 1999.

Criminal Charges:

- Conspiracy to bribe foreign officials (all defendants)
- Bribery of foreign officials (all defendants)

Location and Time Period of Misconduct: Brazil, 1995-1996.

Summary:

On February 8, 1999, the Department of Justice filed a two-count information in the Southern District of Ohio, charging International Materials Solutions Corporation (IMSC) and Thomas K. Qualey, IMSC's President, with one count of conspiring to violate the anti-bribery provisions of the FCPA and one count of bribing a foreign official. According to court documents, in 1995 and 1996, Qualey prepared and submitted bids on behalf of International Materials Solutions Corporation (IMSC) to sell forklifts to the Brazilian Air Force (BAF) and to service them. In order to secure these contracts, which were worth approximately \$400,000, IMSC agreed to pay \$67,000 in bribes to a Lieutenant Colonel in the BAF, who was stationed as a Foreign Liaison Officer in the United States.

Criminal Disposition:

On February 10, 1999, Qualey pleaded guilty and was sentenced to four months home confinement and a \$5,000 fine. IMSC also pleaded guilty on this date and was later sentenced to pay a \$1,000 criminal fine.

82. Control Systems Specialist, Inc.

Resulting Criminal Enforcement Action(s):

A. United States v. Control Systems Specialist, Inc., et al (S.D. Ohio, August 19, 1998)

Entities and Individuals:

- Control Systems Specialist, Inc.
- Darrold Richard Crites, President of Control Systems Specialist, Inc.

Criminal Charges:

- Conspiracy to bribe foreign officials (all defendants)
- Bribery of foreign officials (all defendants)
- Bribery of U.S. officials (all defendants)

Location and Time Period of Misconduct: Brazil, 1994-1996.

Summary:

On August 19, 1998, the Department of Justice filed a three-count information against Control Systems Specialist, Inc. (CSS) and its President, Darrold Richard Crites, charging both with conspiring to bribe foreign officials, as well as bribing both foreign and U.S. public officials. CSS, an Ohio corporation, was engaged in the business of buying and repairing surplus military equipment for resale. According to court documents, in 1994, CSS and Crites bid on a contract to supply refurbished military equipment to the Brazilian Aeronautical Commission. In order to win this contract, between November 1994 and December 1995, CSS and Crites made more than 21 bribe payments to a Brazilian Air Force Lt. Colonel, who was authorized to purchase military equipment on behalf of the Brazilian government. These bribe payments ultimately totaled more than \$250,000. In addition, CSS and Crites paid approximately \$66,000 to a U.S. Air Force officer to provide CSS with confidential information that helped the contracts with the Brazilian government. As a result of these bribe payments, CSS was awarded the contract with the Brazilian Air Force, which was ultimately worth more than \$670,000.

Criminal Disposition:

CSS and Crites each pleaded guilty before Judge Walter H. Rice on October 15, 1998, and were subsequently sentenced on March 8, 1999. Defendant Crites was sentenced to 3 years' probation, including 6 months' home confinement. CSS was fined \$1,500.

83. Saybolt Inc.

Resulting Criminal Enforcement Action(s):

- A. United States v. Saybolt North America Inc., et al (D. Mass., August 18, 1998)**
B. United States v. David H. Mead, et al (D.N.J., April 17, 1998)

Entities and Individuals:

- Saybolt Inc., charged August 18, 1998.
- Saybolt North America Inc., charged August 18, 1998.
- Frerik Pluimers, Chairman of the Board of Directors of Saybolt Inc., indicted April 17, 1998.
- David H. Mead, President of Saybolt Inc., indicted April 17, 1998.

Criminal Charges:

- Conspiracy:
 - to bribe foreign officials (all defendants)

- to commit commercial bribery (Pluimers and Mead)
- Bribery of foreign officials (all defendants)
- Commercial bribery (Pluimers and Mead)

Location and Time Period of Misconduct: Panama, 1994-1995.

Summary:

In April 1998, a grand jury sitting in Trenton, New Jersey, returned an indictment charging Frerik Pluimers, a Dutch national, and David Mead, a British 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 \$50,000 bribe paid to Panamanian officials. The bribe was paid to secure a lease for Saybolt Panama to move into the Panama canal free zone, which would reduce the company's tax liability. The bribe was discussed and approved at a board meeting of Saybolt Inc. in New Jersey, but the bribe itself was paid from the company's Dutch parent, Saybolt N.A., with the authorization of Pluimers.

Criminal Disposition:

On December 3, 1998, Saybolt Inc. and its subsidiary, Saybolt North America, pled guilty to violating the FCPA and paid a \$1.5 million fine. In a related case, Saybolt Inc. was sentenced to pay a \$3.4 million fine and required to retain a compliance monitor in relation to charges that it had falsified environmental tests of certain of its products.

Subsequent to the resolution, Saybolt sued its attorney, who had advised the company that the bribes could be paid through the Netherlands, for malpractice. The case was settled, but the settlement was never made public.

Mr. Mead was convicted at trial in October 1998 and sentenced to four months in prison and a \$20,000 fine. The United States requested that the Netherlands extradite Mr. Pluimers in March 2000. Despite extended litigation, including a decision of the Dutch Supreme Court authorizing the extradition, the Dutch authorities have refused and rejected the U.S. request for Mr. Pluimers' extradition. The United States is still seeking Mr. Pluimers return to the United States to stand trial.

84. Tanner Management Corporation

Resulting Criminal Enforcement Action(s):

A. United States v. Herbert K. Tannenbaum (S.D.N.Y., July 23, 1998)

Entities and Individuals:

- Herbert K. Tannenbaum, President of Tanner Management Corporation, charged July 23, 1998.

Criminal Charges:

- Conspiracy to bribe foreign officials

Location and Time Period of Misconduct: Argentina, 1996-1998.

Summary:

On March 24, 1998, Herbert Tannenbaum was arrested pursuant to a criminal complaint filed in the Southern District of New York, which charged him with conspiracy to violate the anti-bribery provisions of the FCPA. A one-count information, charging Tannenbaum with conspiracy to violate the FCPA, was subsequently filed on July 23, 1998. According to court documents, Tannenbaum, as President of Tanner Management Corporation, offered to make secret payments totaling 15% of the contract value to an undercover agent posing as a procurement officer of the Government of Argentina in order to induce the agent to purchase garbage incinerators. According to the plea agreement, the offered bribe totaled between

\$120,000 and \$200,000. As part of the conspiracy and in an attempt to disguise the secret payment, Tannenbaum incorporated a fictitious entity named Cybernet USA and opened a bank account in the same name.

Criminal Disposition:

Tannenbaum pleaded guilty on August 5, 1998, and, pursuant to a plea agreement with the United States, was sentenced to a prison term of 1 year and 1 day, to be followed by 3 years of supervised release.