



**DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE AFFAIRS
COMMITTEE ON INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES**

Working Group on Bribery in International Business Transactions (CIME)

ANTI-CORRUPTION INFORMATION OF NON-MEMBER COUNTRIES

(Note by the Secretariat)

This note provides relevant anti-corruption information submitted by non-members as follow-up to the informal information meeting on 5 June 2000. It is made available as background to the discussion under agenda item 5.

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Anti-corruption information of non-member countries

1. Introduction

1. As immediate follow-up to the informal meeting on 5 June 2000 with non-members [see Summary Record DAF/IME/BR/WD(2000)33], the Working Group agreed that the Chairman address a letter to all non-member participants, encouraging them to share their views on how to further effectively combat corruption. To help identify the most appropriate type of co-operation between the Working Group and a non-member, he invited non-member participants to submit relevant anti-corruption information. He also called on them to comment and signal their possible willingness to be involved in the elaboration of the proposed Anti-Corruption Declaration.

2. The Working Group further decided that the Ad Hoc Group on non-members would meet under the chairman, Mr Thomas Delare, in anticipation of the next plenary session to identify possible ways to associate non-members to its work. The Ad Hoc Group will submit its conclusions to the Working Group's October session.

3. This note provides the information received by the Secretariat from 6 non-members. They replied to the questionnaire contained in the information note [DAFFE/IME/BR(99)30/Rev2] ; four of them also commented on the proposed Anti-Corruption Declaration [DAFFE/IME/BR/WD(2000)25].

Overview concerning non-members invited to the informal Information Meeting on “OECD efforts to combat bribery and corruption”(held on 5 June 2000)

Invited Non-Members	Level of participation	Formal request for accession to the Convention and the WG	Submission of answers to the questionnaire	Comments on Declaration
Benin	Expert from the capital	--	--	--
Colombia	Embassy	--	yes	yes
Croatia	Expert from the capital	8 January 1999	yes	yes
Estonia	Expert from the capital	--	yes	--
Hong Kong-China (1)	Expert from the capital	--	--	--
Latvia	Expert from the capital	12 January 2000	yes	--
Lithuania	Expert from the capital	--	--	--
Malaysia	Expert from the capital	--	--	--
Peru	Embassy	--	--	--
Romania	Expert from the capital	9 March 1999	yes	yes
Russia	Expert from the capital	31 March 2000	--	--
Slovenia	Expert from the capital	--	yes	yes
Singapore	No participant	--	--	--
South Africa	Expert from the capital	--	--	--
Thailand	Embassy	--	--	--
Venezuela	Embassy	--	--	--

(1) addressed a letter expressing interest to continue a dialogue with the OECD

Submissions by non-members

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COLOMBIA

Information included:

1) *Reply to the questionnaire to non-members seeking participation in the Working Group and the Convention*

A. Institutional/Legal Framework to fight corruption

B. Participation in International Trade and Investment

2) *Comments on the proposed Anti-Corruption Declaration*

1) COLOMBIA'S REPLY TO THE OECD ON THE QUESTIONNAIRE FOR NON-MEMBER-COUNTRIES WHICH WISH TO TAKE PART IN THE WORKING GROUP ON BRIBERY AND IN THE CONVENTION ON BRIBERY IN INTERNATIONAL TRADE

A. LEGISLATION AND INSTITUTIONS FRAMEWORK TO FIGHT CORRUPTION

Does your country have legislation which makes active and passive corruption by public servants a criminal offence ? Which authorities are responsible for enforcement ? Does this include investigation and prosecution ? Please cite relevant extracts from laws.

The following are the relevant texts:

The Constitution

- Art. 6

“Private citizens are only accountable to the authorities for breaches of the Constitution and the law. Public servants are accountable for the same reasons and for acts of omission and acts *ultra vires* in the performance of their functions.

- Art. 124

“The law will determine the accountability of public servants and the manner of enforcing it.”

- Art. 122, final section:

“Without prejudice to other penalties established in the law, a public servant convicted of crimes against State assets will be disqualified from holding public office.”

- Section 90.2

“If the State is ordered to make reparations for one of such forms of damage as a consequence of the fraudulent or grossly negligent conduct of an agent of the State, the State will exercise the right of repetition against that agent.”

Law 190/95

Article 18 amends Art. 63 of the Criminal Code, to define who are considered to be public servants for the purposes of criminal law.

Art. 18 (amending ART. 63, criminal Code).

“Art. 63 Public Servants. For all purposes of the criminal law, public servants are members of public corporations, employees and workers of the State and its regionally and service-decentralized entities.

For the same purpose, public servants will also be considered to be members of the forces of law and order, private persons performing public functions permanently or temporarily, officers and employees of Banco de la Republica and persons administering the resources specified in Art. 338 of the Constitution”

The new Criminal Code, Law 599 of 24 July 20000, which takes effect one year after being signed into law, transcribes the above as its Article 20.

Criminal Code

There are very many offences which public servants may commit, mostly to be found in Title III, under the heading “Offences against Public Administration” in which the good protected is public administration. There are other offences which attract a higher penalty if the offender is a public servant.

Among the crimes appearing in this Title are the following:

- Embezzlement in its various forms
- Concussion
- Bribery to received personally or for another, or given or offered
- Improper execution of contracts and modes of contract
- Trafficking of influence
- Unlawful enrichment
- Dereliction of duty
- Abuse of authority and its different modes including the disclosure of secrets

The Criminal Code has the following to say on bribery:

- Art. 141 Bribery for dereliction. A public servant who receives for himself or for another any money or other benefit or accepts a promise of remuneration directly or indirectly to delay or omit an act proper to his post or to perform an act contrary to his official duties, will be liable to imprisonment from 4-8 years, a fine of 50-100 minimum monthly salaries (NMMS) and interdiction of public rights and functions for the same term as the principal penalty.

- Art. 142. Bribery for its own sake. A public servant who accepts for himself or for another any money or other benefit or accepts a promise of remuneration directly or indirectly to perform an act proper to his post, will be liable to imprisonment from 3-6 years, a fine of 50-100 minimum monthly salaries (NMMS) and interdiction of public rights and functions for the same term as the principal penalty.

In Colombian internal law, the offence of bribery is known as “subornation by giving or offering” and is defined in Art. 143 of the Criminal Code, as amended by Law 190/95.

- Art. 143

“ He who offers money or another benefit to a public servant in the cases described in the preceding articles will be liable to prison for 3-6 months, a fine of 50-2100 NMMS and interdiction of public rights and functions for the term of the principal penalty and disqualification from making contracts with the administration for the same period.”

The new Criminal Code, Law 500 of 24 July 2000, has defined international bribery in Art. 433, and Colombia has thus complied with its commitments to ratify the Interamerican Convention on Corruption.

- Art. 433 of the new Criminal Code.

“Transnational bribery. A Colombian citizen or a person habitually resident in Colombia and with companies domiciled in Colombia, offers a public servant of a another State, directly or otherwise, any money, object of monetary value or other benefit as consideration for the latter to perform or not to

perform any act in the exercise of his functions, related to an economic or commercial operation, will be liable to imprisonment for 6-10 years and a fine of 50-100 NMMS”.

The penalty for transnational bribery is heavier than that for suborning a local public servant (subornation by giving or offering).

Uniform Disciplinary Code (Law 200/95)

The Code was a major step forward with regard to the system of investigation and punishment of irregular conduct by public servants in disciplinary matters. It offers a general definition of the rights, duties, prohibitions and disqualifications applying to public servants and forms of conduct considered to be disciplinary offences.

The penalties applying to public servants in disciplinary matters, independently of penalties under criminal or tax law, are classified as principal or accessory.

- Art. 29

Principal Penalties

1. Written warning
2. Fine
3. Suspension without pay
4. Dismissal
5. Suspension of the contract of employment
6. Termination of the contract of employment
7. Removal
8. Separation from the post (the Procurator's discretion)
9. Loss of investiture for members of public corporations.
10. Other penalties provided for in special regimes of the forces of law and order.

- Art. 30

Accessory penalties.

1. Disqualification from public office
2. Return, restoration or reparations (as the case may be) of the good affected by the punishable conduct
3. Exclusion from the civil service career.

The authorities responsible for enforcing legislation, including investigation and punishment are the Office of the Attorney General, which investigates and prosecutes; the courts, responsible for the trials; the Office of the Procurator General exercises overall supervision of the conduct of all those in public office, including elected officials; and the Office of the Comptroller General,.

Does internal legislation acknowledge criminal liability on the part of legal entities ?

The jurisprudence of the Constitutional Court states that legal entities can be held to have criminal liability in accordance with the general terms of the criminal law. However, there must be strict compliance with due process and the principle of legality. Finding 320 /98 reads as follows:

“It is evident that the penalties to be applied to legal entities must be of a type which can be imposed and which is justified by the defense of the interest protected. In this sense, the law refers to fines, cancellation of registration, or temporary or permanent suspension of work or closure of the establishment or its installations. This kind of penalty, which affects the dynamics of the enterprise or its assets or its activities, is appropriate to the nature of a legal entity and in no way runs contrary to the functions of a penalty. The definition of situations in which criminal liability can be imputed to a legal entity find no insurmountable

barrier in the Constitution, especially indeed if the intention of to make progress in terms of justice and to improve the means of collective defence.”

However, Colombian law does not attribute criminal liability to legal entities as we understand to be the case in other countries’ legislation, since the criminal Code supposes individual criminal liability and requires action or conduct as the basis for the imputation of crime , and universal doctrine has understood this concept as the attribute of a human being or as an expression of personality.

Colombian law does not consider that legal entities can commit crimes since it holds to the theory by which the unity of conscience and will revealed in an individual is never present in a legal entity. A collective being has no ideas or motives of its own, and is impelled to act by the actions of individuals who respond for fraudulence or negligence.

This does not mean that the criminal law ignores criminality attributable to a legal entity; but the regime of penalties corresponds to administrative criminal law with objective responsibility , that is, legal entities as such are not fraudulent or negligent, and penalties should therefore be compatible with their juridical nature.

This liability, understood In the above terms, operates without prejudice to the fraud or negligence attributable to the individuals involved, who are subject to the ordinary criminal law and to whom the wider implications of a criminal nature can be applied, such as aiding and abetting, attempted crime, etc.

There are penalties which can be applied to legal entities ,m such as civil, commercial and administrative sanctions – fines, cancellation of licences, declarations of forfeiture of contracts made with public entities and disqualification from contracting with the State.

One example of this is Art. 61 A of the Criminal Procedure Code,. As amended by Law 365/97, which contains measures to combat organised crime.

- Art. 61 A

“If at any point of process an officer of the judiciary finds it proven that legal entities, corporations or organisations have engaged all or part of their efforts in criminal activities, he will order the competent authority to act, subject to compliance with the formalities of law, by proceeding to cancel their legal existence or to close their places of business open to the public.”.

The Criminal Code has a list of penalties which can only be applied to individuals:

- Art. 41

Principal penalties. The following principal penalties may be applied:

1. Imprisonment
2. Arrest
3. Fines.

-Art. 42

Accessory penalties. The following may be applied as accessory penalties when not established as principal penalties:

1. House arrest
2. Loss of State employment
3. Interdiction of public rights and functions.
4. Prohibition of the practice of an art, profession or office, industry or trade.
5. Suspension of parental rights

6. Expulsion of aliens from the country
7. Prohibition on the consumption of alcoholic beverages.”

Law 190/95 adds:

“The judicial authorities may lift the corporate veil of a legal entity when necessary to determine the true beneficiary of activities undertaken by the legal entity.”

- Does tax legislation allow tax deductions for bribes, commissions or payments made to national or foreign public servants ?

The Tax Statute (Art. 107) states that for general deductions to be accepted in any income-producing activity, there must be a causal relationship, the amount must be in proportion and the expense must be necessary in relation to the same economic activity.

The acceptability of deductions is limited to compliance with the terms given in Chapter V of the Tax statute.

- Art. 107

“Since bribes which Colombian companies might pay without justification have no causal relationship with the income-producing activity and are not necessary, their deduction (from income) is out of order”.

Articles 123, 647 and 648 of the Statute regulate the rejection or impropriety of such costs and deductions.

- Is your country a Party to (or signatory of) any international instrument ? Which ?

Yes, Colombia signed the Interamerican Convention on Corruption, as approved in Law 412/97, ratified, and now in force.

Most of the provisions of the Convention appear in local legislation – some were there even before the Convention was signed - and therefore the participation of Colombia in the negotiations was especially relevant. Such is the case of the declaration of personal worth and income, mechanisms to secure participation by individuals, unlawful enrichment, transparent systems of State procurement, acts of corruption etc. The crime of transnational bribery has been defined in the new Criminal Code which comes into effect one year after being signed into law.

As mentioned, the new Criminal Code (Law 599 of 24 July 2000, Art. 433) defines transnational bribery as part of Colombia’s implementation of the Interamerican Convention on Corruption.

It should be noted that the Government sent the original draft bill back as being unconstitutional and inconvenient. One of the articles objected to as inconvenient in the field of criminal policy was related to transnational bribery, since the penalty to be imposed would have been the same as for a local offense of subornation by giving or offering. The final version of the article increased the penalty for this offence if a public servant was the offender, and the two forms of conduct were distinguished from each other.

Colombia played an active part in negotiations for the Convention on Transnational Organised Crime, whose final text was adopted by the Special Committee last July. The instrument contains a chapter on corruption and specifically on local and transnational bribery. Colombia has also supported the idea of an International Convention on Corruption in the United Nations, since at world level there are important criteria for doing so. The Colombian government hopes to play a very active role in this task.

It should be noted that the Vienna Declaration on Crime and Justice, facing the Challenges of the 21st Century stressed the urgent need to draw up an effective international instrument to fight corruption independent of the United Nations Convention on Transnational Organised Crime, signed at the 10th UN Congress on the Crime Prevention and the Treatment of Offenders, held in Vienna in April 2000.

At that Congress Colombia was able to present its strategy to fight corruption, in particular, the guidelines of the Presidential Programme to Combat Corruption, as further evidence of the country's seriousness of purpose in this area.

The 10th Congress also mentioned the importance of unifying the international and national agendas so that there could be coordinated work between international requirements and local actions. In the fight against corruption, there was emphasis on the importance of the role played by civil society, the relevance of increasing the risks and costs of corruption and the importance of effective international cooperation, amongst other considerations to be taken into account by the appropriate bodies.

In the ambit of international private organisations, Colombia works actively with the NGO Transparency International and with the International Chamber of Commerce through their national chapters Transparencia Colombia (TICOL) and the Bogota Chamber of Commerce.

Given the need to provide tools for efficiency, efficacy, transparency and morality in public administration, the Government has proposed the alternative of joining the world programme of Transparency International – Islands of Integrity and this is included in President Pastrana's development plan. This tool for the prevention of corruption in State procurement is an attempt to clean up public-interest contracting.

In this context, and in the light of local and international opinion and users of social telephony, the first Integrity Pact was signed in Colombia on 18 August 1999. So far, and in accordance with Pact methods, TICOL has accepted the invitation to accompany over 50 processes of investment of public funds. Most of them are progressing without major problems and many have been successfully concluded.

The Presidential Programme against Corruption has supervised some of the contracts which TICLO has made with national-order entities.

Since 1961 the Bogota Chamber of Commerce has acted as President and General Secretary of the Colombian National Committee of the ICC. The Committee is formed by 51 companies from the private sector and is designed to propose ways in which the private sector can participate so that its criteria and opinions can be heard in international discussions through the ICC and it can thus contribute to the formulation of international trade policies produced by the ICC.

- Does your country have legislation on asset-laundering? In your legislation, is the crime of bribery an offense against the asset-laundering laws?

Law 365/97 sets out to combat organised crime, amongst other things, and extremely severe in its treatment of asset-laundering.

It followed what at the time were the strictest criteria of criminal legislation designed by the community of nations, and now contained in the 1998 Vienna Convention on Narcotics and Psychotropic Substances, which is incorporated into local legislation.

The following is the relevant section of the Criminal Code:

Art. 247-A (added by Law 365/97)

“He who acquires, holds, invests, transports, transforms., takes custody of or administers assets whose immediate or eventual origin of is the product of extortion, unlawful enrichment., kidnap for ransom, rebellion, or offenses related to the traffic in narcotics, toxic drugs or psychotropic substances and gives to those activities the appearance of legality or legalizes them or hides or conceals the true nature, origin, location, destination, movement or rights over such assets or undertakes any other act to conceal or hide their unlawful origin, shall for this sole fact be liable to imprisonment of 6 months to 15 years, and a fine of 500-50,000 NMMS.

The same penalty applies to conduct described in the preceding paragraph when undertaken with assets which have been declared on unlawful origin in the terms of Art. 340 of the Criminal Procedure Code.

Paragraph 1. Asset-laundering will be punishable even when all or part of the crimes giving origin to the goods or of the acts punished in the preceding sections were committed abroad.

Paragraph 2. The penalties provided for above will be increased by one-third to half if the offences involve exchange or trade operations or goods are introduced into Colombian territory.

Paragraph 3. The above increase in the length of the imprisonment also applies if contraband goods are introduced into the country.”

- Art. 247-B Amended by Law 365/97 defines the offence of Omission of Control:

“An employee or manager of a financial institution or savings and loan cooperative who, with the intention of concealing or hiding the unlawful origin of money, fails to comply with any or all of the control mechanisms established by Articles 103 and 104 of Decree 663/93 for cash transactions will for this fact alone be liable to 2 months to 6 years imprisonment and a fine of 100-10,000 NMMS”.

However, bribery does not directly some under this legislation since the offence would be “unlawful enrichment” and its penalties could apply if there were an element of asset-laundering.

We repeat that the new Criminal Code (Law 599) complies with the commitment made under the Interamerican Convention on Corruption and comes into force a year after being signed into law; and it contains the crime of Transnational Bribery as an offence against public administration, which is also open to the application of legislation on asset-laundering.

- Art. 323 of the new Criminal Coce

“Asset-laundering. He who acquires, holds, invests, transports, transforms., takes custody of or administers assets whose immediate or eventual origin of is the product of extortion, unlawful enrichment., kidnap for ransom, rebellion, or offenses related to the traffic in narcotics, toxic drugs or psychotropic substances and gives to those activities the appearance of legality or legalizes them or hides or conceals the true nature, origin, location, destination, movement or rights over such assets or undertakes any other act to conceal or hide their unlawful origin, shall for this sole fact be liable to imprisonment of 6 months to 15 years, and a fine of 500-50,000 NMMS.

The same penalty applies to conduct described in the preceding paragraph when undertaken with assets whose ownership has been declared extinguished.

Asset-laundering will be punishable even when all or part of the crimes giving origin to the goods or of the acts punished in the preceding sections were committed abroad.”

It should be noted that the offence of asset-laundering did not exist as such in the former Criminal Code. After Law 190/95 – The Anti-Corruption Statute – the offence was formally defined as a type of

“receiving”. Law 365 created the specific crime , making it independent of other crimes which were its source and therefore the penalties for asset-laundering can be accumulated to those of the source-crime; and the law included “Omission of Control” to secure compliance with the banks’ reporting requirements regarding cash transactions.

For some time already the financial institutions had been implementing internal policies and regulations to prevent and detect illegal capital movements and they had been observing the principles of the Vienna Convention such as the selection and identification of clients, knowledge of his business or activities, knowledge of the client, registration and documentation of cash transactions and cooperation with the authorities by supplying information for investigations and evidence. The principles agreed by them form part of the Banking Law (Decree 663/93) which lays them out in detail.

In effect the document “Actions of the financial system in the face of asset-laundering” published by Asociacion Bancaria. In March 1998 says specifically that their study of the matter was based on the overall intention to set the highest standards possible, in particular:

- The United Nations Convention on Narcotics and Psychotropic Substances (the Vienna Convention).
- The recommendation of the Council of Europe of 1980 and the Declaration of Principles adopted in December 1998 by the Basel Committee.
- The recommendations of the Interamerican Drug-Abuse Commission CICAD, which is part of the OAS organisation.
- The recommendations of the World Economic Summit (G-7).

Colombia is not at present a member of the International financial Action Group (IFAG) or Financial Action Task Force (FATF)but it is determined to join in the integration and cooperation involved in globalising the fight against corruption and new forms of organised crime and this has meant that it has developed comprehensive legislation including laws for asset-laundering. Unlawful enrichment and the implementation of legal mechanisms such as extinction of ownership through Law 333/96 in harmony with Law 365, for which the UN Narcotics Commission provided advice.

Law 526/99 created the Financial information and Analysis Unit as a special department of the Ministry of Finance, designed to detect and prevent and in general combat asset-laundering. One of the functions of its Director is to “enter into cooperation agreements with similar organisations in other countries and such public or private institutions as may be appropriate.”

Colombia is already part of the Egmont Group whose purpose is international cooperation and exchange of information to combat money-laundering. It joined the Group in Panama in May, at the 8th Private Meeting.

On 16 May the unit held a meeting in Panama with its Spanish counterpart SEPBLAC, in order to develop and intensify mutual cooperation and prevent the use of the financial system and other sectors of the economy as vehicles for money-laundering of the proceeds of crime.

The Unit and SEPBLAC signed an agreement with commitments to mutual cooperation against money-laundering. Also, action has been taken to try and establish agreements with counterparts in France and Portugal.

Under treaties, law and accords, can your country provide mutual legal assistance in investigations and trials ?

Under the terms of treaties and international accords , Colombia can provide mutual legal assistance. In the absence of an international instrument, the Criminal Procedure Code provides for reciprocal legal assistance in corruption matters.

- Art. 543. "Exhortations to Foreign Authorities. The exhortations of foreign judicial authorities requesting cooperation in the conducting of procedural activities by Colombian officials will be remitted through diplomatic channels."

- Art. 544 "Procedure. The Foreign Ministry will remit requests received through diplomatic channels to the Office of the Attorney General for the latter to name an officer to act on them".

- Art. 545 "Legality. If the foreign authority requests procedural activities to be performed under certain conditions, they shall so be performed provided that the conditions are not counter to the provisions of the Colombian constitution or the law."

COLOMBIAN OUTWARD INVESTMENT

Country	US\$							
	1992	1993	1994	Not including oil 1995	1996	1997	1998	1999
OECD Members								
Australia	0	0	0	0	0	0	0	0
Austria	0	0	0	0	0	0	0	0
Belgium	0	0	0	0	0	0	1,816,667	0
Canada	0	0	0	0	0	96,061	0	-96,061
Czech Republic	0	0	0	0	0	0	0	0
Denmark	0	0	0	0	0	0	0	0
Finland	0	0	0	0	0	0	0	0
France	0	0	221,352	4,300	500	0	0	1,113,482
Germany	0	-18,113	121,250	0	0	0	27,225	0
Greece	0	0	0	0	0	0	0	0
Hungary	0	0	0	0	0	0	0	0
Iceland	0	0	0	0	0	0	0	0
Ireland	0	0	0	0	0	0	0	0
Italy	0	0	0	0	0	0	0	900,000
Japan	0	0	0	0	0	0	0	0
Korea	0	0	0	0	0	0	0	0
Luxembourg	0	0	0	0	0	0	0	0
Mexico	0	14,724	3,768,970	86,484	450,479	3,576,474	1,905,728	515,771
Netherlands	0	0	0	0	0	974,274	23,040	0
New Zealand	0	0	0	0	0	0	0	0
Norway	0	0	0	0	0	0	0	0
Poland	0	0	0	0	0	0	0	0
Portugal	37,730,540	12,088,149	0	0	0	-8,058,766	8,058,767	0
Spain	0	0	0	0	0	0	0	0
Sweden	0	0	0	0	0	0	0	0
Switzerland	0	0	0	0	0	0	0	0
Turkey	0	0	0	0	0	0	0	0
United Kingdom	0	0	0	1,636,682	0	812,000	48,000	0
United States	370,000	1,496,000	17,470,410	2,802,244	2,683,357	11,011,572	358,602,043	-19,041,132
Total OECD Members	38,100,540	13,580,760	21,581,982	4,529,710	3,134,336	8,411,615	370,481,470	-16,607,940
Relevant Countries								
Panama	13,099,520	6,001,400	63,747,112	166,563,714	12,904,334	41,130,053	371,586,108	11,902,350
Venezuela	5,642,620	11,659,561	29,686,797	70,124,110	28,841,999	101,682,507	82,799,593	81,580,668
Bermudas	0	0	0	0	0	0	4,395	372,804,000
British Virgin Islands	0	588,900	1,008,663	1,396,039	4,506,929	260,443,181	13,167,686	27,696,098
Ecuador	752,654	474,687	2,157,050	20,171,324	-5,181,552	8,867,335	31,797,769	38,602,461
Peru	61,700	2,757,000	928,529	6,584,328	9,213,224	11,268,015	6,056,205	53,176,199
Cayman Islands	0	0	2,223,923	4,288,808	3,813,267	5,427,000	45,812,966	5,367,243
Bahamas	0	-14,937	1,998,000	5,779,920	4,919,156	5,845,000	28,342,000	20,138,234
Bolivia	0	0	300,000	125,000	258,000	404,817	157,539	7,915,708
Argentina	0	0	150	18,000	0	3,847,553	1,276,377	509,438
Brazil	0	-3,000	70,000	0	1,726,484	700,000	114,291	1,332,000
Costa Rica	0	0	733,250	110,000	-100,107	-244,078	148,065	2,500
Netherlands Antilles	0	0	0	0	0	0	0	0
Israel	0	0	0	0	0	0	0	0
Total Relevant Countries	19,556,494	21,463,611	102,853,474	275,161,243	60,901,734	439,371,383	581,262,994	621,026,899
Other Countries	1,293,980	21,765,900	8,953,885	-1,481,573	10,430,213	-6,000,892	89,751,183	10,495,233
TOTAL	58,951,014	56,810,271	133,389,341	278,204,980	74,466,283	441,782,106	1,041,495,647	614,914,192

FOREIGN INVESTMENT IN COLOMBIA

US\$

Not including oil

Country	1992	1993	1994	1995	1996	1997	1998	1999
OECD Members								
Australia	721,060	984,396	-2,583,168	9,440,329	4,177,289	-1,450,375	-2,877,845	1,896,994
Austria	725,013	33,909	457,271	378,831	1,482,337	850,309	-409,371	-859,998
Belgium	93,717	5,340	121,807	211,087	-919,659	3,061,293	1,653,642	923,920
Canada	6,991,904	4,407,274	59,326,466	21,952,531	44,727,420	27,359,050	-27,395,532	-23,507,831
Czech Republic	0	0	0	0	0	0	0	0
Denmark	-1,054,654	78,011	535,860	77,223	-2,364,291	610,544	-284,449	953,731
Finland	0	0	4,916	0	0	0	0	19,856
France	5,165,313	9,021,116	15,094,061	50,939,426	33,148,923	30,932,410	26,038,594	127,859,617
Germany	2,005,268	5,608,809	33,340,104	24,196,887	51,301,721	83,025,336	41,910,530	101,355,976
Greece	0	0	0	0	0	0	0	0
Hungary	0	0	0	0	0	0	0	0
Iceland	0	0	0	0	0	0	0	0
Ireland	5,264	317,000	3,368,089	18,864,168	681,293	-4,237,750	746,480	13,948,550
Italy	1,064,073	16,098,955	3,174,050	6,130,557	26,892,886	-14,213,342	92,372,295	
Japan	1,942,239	25,728,114	32,865,502	14,776,553	45,030,342	39,667,299	17,767,258	
Korea	0	0	533,578	1,000,000	921	-1,911,542	0	
Luxembourg	188,774	10,702,017	11,383,352	45,887,814	88,333,932	-18,965,367	-714,685	
Mexico	2,164,907	6,863,847	6,280,321	7,393,592	42,807,584	6,669,036	35,038,409	
Netherlands	6,607,672	6,480,684	37,371,568	41,117,150	50,798,338	33,203,730	145,391,522	875,926,999
New Zealand	0	0	0	0	0	0	0	0
Norway	0	3,864	0	174,864	7,406,898	1,174,584	-10,649,978	-1,386,658
Poland	0	0	0	0	0	0	0	0
Portugal	0	0	0	0	46,485	0	18,498,634	2,406,549
Spain	7,529,212	5,154,124	23,223,838	21,805,070	360,343,725	83,617,595	1,652,381,110	-85,034,524
Sweden	164,975	27,713,151	3,040,700	8,314,254	15,569,513	-1,293,029	-1,740,417	9,701,466
Switzerland	6,484,793	5,036,834	24,969,672	34,372,549	3,475,809	46,880,555	67,836,868	102,714,709
Turkey	0	0	0	0	0	0	0	0
United Kingdom	63,593,705	2,554,671	95,493,057	31,121,886	208,040,326	35,615,705	-2,569,873	-16,145,229
United States	97,106,866	153,268,552	736,148,779	613,142,299	545,704,623	1,050,289,141	-123,328,248	823,270,790
Total OECD Members	201,500,101	280,060,668	1,084,149,823	951,297,070	1,526,686,415	1,400,885,182	1,929,664,944	1,934,044,917
Relevant Countries								
Cayman Islands	20,714,795	12,826,481	-9,378,546	88,268,941	164,877,025	929,121,862	560,090,066	659,612,991
Panama	45,919,400	43,925,890	142,296,274	176,131,735	259,390,945	286,638,582	1,431,606,207	7,635,538
British Virgin Islands	17,822,911	12,113,813	70,647,574	124,902,168	115,168,126	357,017,335	70,646,303	411,228,798
Bermuda	2,808,703	110,815	2,491,242	1,993,970	39,852,308	180,580,602	64,967,091	424,976,403
Chile	660,045	12,220,305	16,850,055	12,666,699	9,073,990	27,554,004	-16,112,522	132,123,370
Venezuela	31,733,683	65,809,662	23,183,550	88,797,676	24,290,079	-56,080,631	42,621,493	41,847,007
Ecuador	3,284,875	616,553	2,020,615	70,735,026	22,175,796	10,688,593	-37,617,356	17,857,931
Argentina	590,336	5,628,967	4,610,520	2,952,381	3,033,347	1,063,811	4,885,582	423,219
Brazil	21,581	6,950,393	11,297,174	13,620,918	22,036,822	12,730,342	8,825,175	-3,704,166
Bolivia	0	0	0	0	0	0	50,749	1,803,232
Costa Rica	0	45,978	20	697,914	3,029,239	5,099,537	2,874,061	20,128,350
Peru	2,392,900	1,969,640	2,227,700	1,033,163	405,763	9,796,539	-58,629	15,391,571
Netherlands Antilles	3,097,393	57,912	3,868,963	1,424,989	14,601,135	20,633,128	-4,285,967	46,971,159
Israel	0	0	149,985	90,754	114,692	96,430	343,807	474,161
Total Relevant Countries	129,046,622	162,276,409	270,265,126	583,316,334	678,049,267	1,784,940,134	2,128,836,060	1,776,769,564
Other Countries	19,932,123	-5,839,902	35,040,582	16 28,523,058	-32,526,235	308,863,199	-106,276,208	263,692,521
TOTAL	350,478,846	436,497,175	1,389,455,531	1,563,136,462	2,172,209,447	3,494,688,515	3,952,224,796	3,974,507,002

SECTORIAL FOREIGN INVESTMENT IN COLOMBIA

US\$

Not including oil

CIIU DESCRIPTION	1992	1993	1994	1995	1996	1997
0 NON-SPECIFIED ACTIVITIES	435,807	2,967,416	5,802,885	7,839,931	1,101,514	125,650
1 AGRICULTURE, HUNTING, SILVICULTURE AND FISHING	5,423,610	12,884,566	12,433,171	29,779,616	25,881,048	26,767,114
2 MINING AND QUARRYING	75,494,107	5,987,875	25,446,243	109,313,671	45,533,463	289,444,480
3 MANUFACTURING INDUSTRIES	69,873,487	197,924,305	364,772,687	582,283,680	652,744,611	640,253,853
4 ELECTRICITY, GAS, WATER	53,433	0	6,254,885	8,382,981	145,389,898	947,003,633
5 CONSTRUCTION	19,272,818	18,953,131	33,449,033	31,954,356	22,561,396	44,667,737
6 WHOLESALE AND RETAIL COMMERCE	19,340,315	31,335,145	81,213,611	131,553,937	150,861,668	143,165,816
7 TRANSPORTATION, STORAGING AND COMMUNICATIONS	6,592,922	5,783,084	157,166,424	217,161,069	157,857,976	360,355,408
8 FINANCIAL AND INSURANCE ESTABLISHMENTS, ETC.	92,401,298	115,630,465	113,436,424	193,554,804	667,019,943	455,026,652
9 SOCIAL AND PERSONAL COMMUNAL SERVICES	477,711	1,374,948	1,804,692	9,091,409	11,103,740	26,117,672
TOTAL FOREING DIRECT INVESTMENT	289,365,508	392,840,935	801,780,055	1,320,915,454	1,880,055,257	2,932,928,015
PORTFOLIO	61,113,338	43,656,240	587,675,476	242,221,008	292,154,190	561,760,500
TOTAL	639,844,354	829,338,110	2,191,235,586	2,884,051,916	4,052,264,704	6,427,616,530

DAFFE/IME/BR/WD(2000)34

	COLOMBIA: EXPORTS BY COUNTRY OF DESTINATION																	Contribution to % change
	US\$ thousands						Variación Change (%)					Porcentual Share (%)						
	1994	1995	1996	1997	1998	1999	1995	1996	1997	1998	1999	1994	1995	1996	1997	1998	1999	
(Period = January-December Updated on March 21, 2000)	1994	1995	1996	1997	1998	1999	1995	1996	1997	1998	1999	1994	1995	1996	1997	1998	1999	
TOTAL	8,537,528	10,201,064	10,647,564	11,549,029	10,865,625	11,568,661	19.5	4.4	8.5	(5.9)	6.5	100.0	100.0	100.0	100.0	100.0	100.0	6.5
ANDEAN COMMUNITY	1,133,517	1,986,866	1,846,400	2,120,117	2,143,689	1,636,514	75.3	(7.1)	14.8	1.1	(23.7)	13.3	19.5	17.3	18.4	19.7	14.1	(4.7)
Venezuela	545,049	966,993	779,435	989,780	1,145,597	915,648	77.4	(19.4)	27.0	15.7	(20.1)	6.4	9.5	7.3	8.6	10.5	7.9	(2.1)
Ecuador	324,927	427,780	424,607	541,299	581,532	323,858	31.7	(0.7)	27.5	7.4	(44.3)	3.8	4.2	4.0	4.7	5.4	2.8	(2.4)
Peru	240,920	566,839	612,454	543,137	370,133	357,260	135.3	8.0	(11.3)	(31.9)	(3.5)	2.8	5.6	5.8	4.7	3.4	3.1	(0.1)
Bolivia	22,621	25,254	29,904	45,901	46,427	39,748	11.6	18.4	53.5	1.1	(14.4)	0.3	0.2	0.3	0.4	0.4	0.3	(0.1)
SOUTHERN COMMON MARKET (MERCOSUR)	132,140	177,475	180,265	231,117	201,050	227,193	34.3	1.6	28.2	(13.0)	13.0	1.5	1.7	1.7	2.0	1.9	2.0	0.2
Brazil	59,282	104,417	119,100	131,502	101,600	166,154	76.1	14.1	10.4	(22.7)	63.5	0.7	1.0	1.1	1.1	0.9	1.4	0.6
Argentina	67,982	60,944	51,509	90,216	85,985	49,980	(10.4)	(15.5)	75.1	(4.7)	(41.9)	0.8	0.6	0.5	0.8	0.8	0.4	(0.3)
Uruguay	3,465	8,721	5,274	5,495	8,073	8,090	151.7	(39.5)	4.2	46.9	0.2	0.0	0.1	0.0	0.0	0.1	0.1	0.0
Paraguay	1,412	3,393	4,382	3,904	5,392	2,969	140.4	29.1	(10.9)	38.1	(44.9)	0.0	0.0	0.0	0.0	0.0	0.0	(0.0)
CHILE	117,404	138,546	182,391	194,237	159,268	152,215	18.0	31.6	6.5	(18.0)	(4.4)	1.4	1.4	1.7	1.7	1.5	1.3	(0.1)
NAFTA	3,364,793	3,864,104	4,472,664	4,636,664	4,415,606	6,104,408	14.8	15.7	3.7	(4.8)	38.2	39.4	37.9	42.0	40.1	40.6	52.8	15.5
Mexico	108,473	89,694	89,166	113,969	128,537	201,586	(17.3)	(0.6)	27.8	12.8	56.8	1.3	0.9	0.8	1.0	1.2	1.7	0.7
U.S.A and Puerto Rico	3,163,990	3,610,792	4,274,146	4,379,233	4,150,211	5,782,698	14.1	18.4	2.5	(5.2)	39.3	37.1	35.4	40.1	37.9	38.2	50.0	15.0
Canada	92,329	163,617	109,352	143,463	136,858	120,125	77.2	(33.2)	31.2	(4.6)	(12.2)	1.1	1.6	1.0	1.2	1.3	1.0	(0.2)
CARIBBEAN AND CENTRAL AMERICA	338,802	384,027	516,820	518,317	467,006	531,908	13.3	34.6	0.3	(9.9)	13.9	4.0	3.8	4.9	4.5	4.3	4.6	0.6
Central American Common Market (CACM)	162,056	175,932	185,645	238,362	228,135	252,178	8.6	5.5	28.4	(4.3)	10.5	1.9	1.7	1.7	2.1	2.1	2.2	0.2
Panama and Free Trade Zone	130,320	124,973	149,762	135,772	106,077	144,025	(4.1)	19.8	(9.3)	(21.9)	35.8	1.5	1.2	1.4	1.2	1.0	1.2	0.3
Caribbean Community (Caricom)	46,426	83,122	181,413	144,183	132,794	135,706	79.0	118.2	(20.5)	(7.9)	2.2	0.5	0.8	1.7	1.2	1.2	1.2	0.0
OTHERS AMERICA	123,245	243,682	198,864	229,980	193,261	206,938	97.7	(18.4)	15.6	(16.0)	7.1	1.4	2.4	1.9	2.0	1.8	1.8	0.1
EUROPEAN UNION	2,534,713	2,517,904	2,428,415	2,613,974	2,482,041	1,925,183	(0.7)	(3.6)	7.6	(5.0)	(22.4)	29.7	24.7	22.8	22.6	22.8	16.6	(5.1)
OTHERS WESTERN EUROPE	107,323	92,369	86,661	94,883	50,630	42,337	(13.9)	(6.2)	9.5	(46.6)	(16.4)	1.3	0.9	0.8	0.8	0.5	0.4	(0.1)
Ex-CMEA (Council of Mutual Economic Assistan	38,668	37,991	86,703	141,055	110,214	88,915	(1.8)	128.2	62.7	(21.9)	(19.3)	0.5	0.4	0.8	1.2	1.0	0.8	(0.2)
JAPAN	353,050	363,740	348,967	362,460	268,537	244,980	3.0	(4.1)	3.9	(25.9)	(8.8)	4.1	3.6	3.3	3.1	2.5	2.1	(0.2)
NICs (New Industrialized Countries)	105,006	173,245	66,772	94,945	68,897	87,725	65.0	(61.5)	42.2	(27.4)	27.3	1.2	1.7	0.6	0.8	0.6	0.8	0.2
OTHERS ASIA	38,493	63,428	33,958	45,648	31,522	40,445	64.8	(46.5)	34.4	(30.9)	28.3	0.5	0.6	0.3	0.4	0.3	0.3	0.1
OTHERS	87,315	107,607	108,657	130,267	121,993	109,978	23.2	1.0	19.9	(6.4)	(9.8)	1.0	1.1	1.0	1.1	1.1	1.0	(0.1)
Africa	35,759	23,607	36,036	10,691	20,757	21,021	(34.0)	52.6	(70.3)	0.2	94.2	0.4	0.2	0.3	0.1	(0.2)	0.2	(0.2)
Middle East	65,756	58,212	64,716	79,978	98,838	75,989	(11.5)	11.2	23.6	23.6	(23.1)	0.8	0.6	0.6	0.7	0.9	0.7	(0.2)
Oceania	10,670	13,947	16,097	17,230	13,674	12,967	30.7	15.4	7.0	(20.6)	(5.2)	0.1	0.1	0.2	0.1	0.1	0.1	(0.0)
FREE TRADE ZONES	0	47,856	67,195	124,263	147,100	105,416	*	40.4	84.9	18.4	(28.3)	0.0	0.5	0.6	1.1	1.4	0.9	(0.4)
MISCELLANEOUS AND NON-CLASSIFIED	63,059	2,224	22,832	11,100	4,810	64,507	(96.5)	926.6	(51.4)	(56.7)	*	0.7	0.0	0.2	0.1	0.0	0.6	0.5

COLOMBIA: IMPORTS BY COUNTRY OF PURCHASE

(Period = Jan-Dec) Updated March 21, 2000	US\$ thousands						% Change					% Share					Contribution to % Change	
	1994	1995	1996	1997	1998	1999	1995	1996	1997	1998	1999	1994	1995	1996	1997	1998	1999	1999
TOTAL	11,942,894	13,860,546	13,674,832	15,378,859	14,634,665	10,659,121	16.1	(1.3)	12.5	(4.8)	(27.2)	100.0	100.0	100.0	100.0	100.0	100.0	(27.2)
ANDEAN COMMUNITY	1,561,520	1,825,823	1,790,706	2,143,811	1,898,856	1,261,197	16.9	(1.9)	19.7	(11.4)	(33.6)	13.1	13.2	13.1	13.9	13.0	11.8	(4.4)
Venezuela	1,148,759	1,355,789	1,261,836	1,537,548	1,353,706	835,291	18.0	(6.9)	21.9	(12.0)	(38.3)	9.6	9.8	9.2	10.0	9.2	7.8	(3.5)
Ecuador	265,605	276,915	331,965	392,442	315,214	258,319	4.3	19.9	18.2	(19.7)	(18.0)	2.2	2.0	2.4	2.6	2.2	2.4	(0.4)
Peru	99,952	122,712	125,048	157,574	149,808	115,763	22.8	1.9	26.0	(4.9)	(22.7)	0.8	0.9	0.9	1.0	1.0	1.1	(0.2)
Bolivia	47,204	70,407	71,857	56,246	80,127	51,823	49.2	2.1	(21.7)	42.5	(35.3)	0.4	0.5	0.5	0.4	0.5	0.5	(0.2)
(MERCOSUR)	548,276	618,654	606,219	629,292	607,101	572,961	12.8	(2.0)	3.8	(3.5)	(5.6)	4.6	4.5	4.4	4.1	4.1	5.4	(0.2)
Brazil	337,113	385,610	356,349	423,749	371,761	336,841	14.4	(7.6)	18.9	(12.3)	(9.4)	2.8	2.8	2.6	2.8	2.5	3.2	(0.2)
Argentina	155,751	147,518	161,011	113,393	128,258	97,354	(5.3)	9.1	(29.6)	13.1	(24.1)	1.3	1.1	1.2	0.7	0.9	0.9	(0.2)
Uruguay	53,841	84,786	88,582	91,539	105,731	138,405	57.5	4.5	3.3	15.5	30.9	0.5	0.6	0.6	0.6	0.7	1.3	0.2
Paraguay	1,571	740	276	610	1,351	362	(52.9)	(62.7)	121.0	121.4	(73.2)	0.0	0.0	0.0	0.0	0.0	0.0	(0.0)
CHILE	129,632	197,481	204,078	240,005	214,228	201,825	52.3	3.3	17.6	(10.7)	(5.8)	1.1	1.4	1.5	1.6	1.5	1.9	(0.1)
NAFTA	5,176,197	6,233,719	6,437,182	7,288,637	6,533,587	5,080,617	20.4	3.3	13.2	(10.4)	(22.2)	43.3	45.0	47.1	47.4	44.6	47.7	(9.9)
Mexico	295,162	452,327	477,055	541,332	561,283	404,629	53.2	5.5	13.5	3.7	(27.9)	2.5	3.3	3.5	3.5	3.8	3.8	(1.1)
U.S.A. and Puerto Rico	4,617,087	5,417,146	5,595,941	6,380,033	5,681,049	4,509,209	17.3	3.3	14.0	(11.0)	(20.6)	38.7	39.1	40.9	41.5	38.8	42.3	(8.0)
Canada	263,947	364,245	364,185	367,272	291,255	166,779	38.0	(0.0)	0.8	(20.7)	(42.7)	2.2	2.6	2.7	2.4	2.0	1.6	(0.9)
CARIBBEAN & CENTRALAMER (CACM)	345,747	322,512	318,347	393,166	375,557	406,527	(6.7)	(1.3)	23.5	(4.5)	8.2	2.9	2.3	2.3	2.6	2.6	3.8	0.2
Panama and Free Trade Zone (Caricom)	17,477	21,180	27,979	34,903	36,806	30,863	21.2	32.1	24.7	5.5	(16.1)	0.1	0.2	0.2	0.2	0.3	0.3	(0.0)
(Caricom)	292,722	260,043	256,148	330,086	315,675	362,952	(11.2)	(1.5)	28.9	(4.4)	(44.9)	15.0	2.5	1.9	1.9	2.1	2.2	3.4
	35,548	41,288	34,221	28,177	23,077	12,713	16.1	(17.1)	(17.7)	(18.1)	(44.9)	0.3	0.3	0.3	0.2	0.2	0.1	(0.1)
OTHERS AMERICA	79,538	116,247	62,488	124,779	91,480	82,579	46.2	(46.2)	99.7	(26.7)	(9.7)	0.7	0.8	0.5	0.8	0.6	0.8	(0.1)
EUROPEAN COMMUNITY	2,247,901	2,547,540	2,614,053	2,673,812	2,891,713	1,859,740	13.3	2.6	2.3	8.1	(35.7)	18.8	18.4	19.1	17.4	19.8	17.4	(7.1)
OTHERS WESTERN EUROPE	256,599	285,801	300,755	358,038	364,232	218,333	11.4	5.2	19.0	1.7	(40.1)	2.1	2.1	2.2	2.3	2.5	2.0	(1.0)
Ex-CAME	65,699	68,971	54,101	89,362	99,956	26,326	5.0	(21.6)	65.2	11.9	(73.7)	0.6	0.5	0.4	0.6	0.7	0.2	(0.5)
JAPAN	993,396	1,045,811	707,171	660,760	712,849	392,875	5.3	(32.4)	(6.6)	7.9	(44.9)	8.3	7.5	5.2	4.3	4.9	3.7	(2.2)
NICs	320,301	362,912	333,317	440,675	464,716	289,223	13.3	(8.2)	32.2	5.5	(37.8)	2.7	2.6	2.4	2.9	3.2	2.7	(1.2)
OTHERS ASIA	82,388	97,250	103,336	126,590	149,481	126,538	18.0	6.3	22.5	18.1	(15.3)	0.7	0.7	0.8	0.8	1.0	1.2	(0.2)
OTHERS	86,761	97,830	94,269	113,713	131,978	62,945	12.8	(3.6)	20.6	16.1	(52.3)	0.7	0.7	0.7	0.7	0.9	0.6	(0.5)
Africa	16,460	21,283	16,941	27,718	13,249	13,675	29.3	(20.4)	63.6	0.5	(52.2)	0.1	0.2	0.1	0.2	0.1	0.1	0.0
Middle East	43,274	57,264	66,286	84,784	87,600	41,412	32.3	15.8	27.9	3.3	(52.7)	0.4	0.4	0.5	0.6	0.6	0.4	(0.3)
Oceania	16,250	22,824	8,985	12,512	16,468	7,858	40.5	(60.6)	39.3	31.6	(52.3)	0.1	0.2	0.1	0.1	0.1	0.1	(0.1)
FREE TRADE ZONES	27,879	31,043	42,084	85,037	92,564	69,048	11.4	35.6	102.1	8.9	(25.4)	0.2	0.2	0.3	0.6	0.6	0.6	(0.2)
MISCELLANEOUS AND NON-C	21,059	8,952	6,725	11,182	6,367	8,385	(57.5)	(24.9)	66.3	(43.1)	31.7	0.2	0.1	0.0	0.1	0.0	0.1	0.0

IMPORTS : COUNTRY = Country of Purchase VALUE = US\$ CIF
 Change as compared with same period of preceedin Calculations made by the Dirección on Programming of the Ministry of Foreign Trade, based on DANE-DIAN data
 * : Growth rate > 1000% 1997,98,99 Provisional data

**2) PROPOSAL BY COLOMBIA ON THE WORKING TEXT OF A
DRAFT ANTI-CORRUPTION DECLARATION**

WE, non-member countries of the Organisation for Economic Co-operation and Development (OECD),

WISHING to join in the efforts undertaken through that Organisation and around the world to combat bribery and corruption;

CONVINCED that globalisation has made possible the emergence of new corrupt practices having immense destabilising power;

CONCERNED that such practices can be detrimental to government procurement, and to market entry of and into foreign countries;

ACKNOWLEDGING that the bribery of public officials in international business transactions is a widespread phenomenon, the costs of which are very high because it destroys national economies, severely damages the free market system and undermines the usefulness of business enterprises;

CONCERNED about the repercussions of corruption on public funds and the fact that abuses in the public service are encouraged because the risk of punishment is relatively slight;

RECOGNISING that businesses should compete solely on the basis of the quality, price and utility of their products and services;

CONVINCED that corruption undermines the moral fibre of all societies and infringes economic and social rights, and those of the most disadvantaged in particular, and that the corrupt exploit the lack of harmonisation to commit their misdeeds;

CONVINCED that all countries have a shared responsibility to combat bribery in international business transactions and that it is necessary to expand the areas of agreement in order to combat bribery and corruption,

DECLARE that we:

1. Acknowledge the need for closer co-ordination and co-operation among States, which entails bringing each country's domestic legislation into line with international norms;
2. Acknowledge that the OECD has developed a set of instruments to prevent, control, detect, sanction and investigate bribery and corruption which are realistic and reflect world experience, and that these instruments are continuously updated and analysed, in concert with other international instruments;
3. Support the efforts and experience of the OECD, and consequently embrace the principles set forth in the instruments to fight bribery, and particularly the Recommendation adopted by the Council on 23 May 1997 and the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions signed on 17 December 1999;

4. Pledge to adopt the relevant measures to incorporate the offence of transnational bribery into domestic legislation, in accordance with our national laws, and to promote its introduction by countries around the world;
5. Pledge to analyse the Recommendations of 23 May 1997, to study the possibility of incorporating them into domestic legislation, and in particular the Recommendations involving the non-tax-deductibility of bribes paid to national or foreign public servants, accounting requirements, independent external auditing, internal company controls, transparency in government procurement and international co-operation;
6. Encourage the countries of the world to strengthen their legislation and promote the rule of law, ensuring effective separation of executive, legislative and judicial powers and the independence of judicial bodies;
7. Encourage generally all countries of the world to provide in their laws for the necessary foundations of co-operation in respect of investigation, law enforcement and other legal measures to prevent, control, detect, investigate and sanction bribery and corruption;
8. Commit ourselves to intensifying international measures against corruption, based on the United Nations Declaration Against Corruption and Bribery in International Business Transactions, international and regional conventions and the relevant international fora;
9. Invite and request the OECD to organise an annual forum to exchange experience and points of view on the actions undertaken by countries in order to meet the objectives of this Declaration;
10. Call on OECD Member countries to share their experience in implementing the Convention and the Recommendations, in order to help or to assist the countries in their efforts to meet the objectives of this Declaration;
11. Invite the OECD Working Group on Bribery to formulate specific measures and to lend assistance by sharing experience and lessons learned for keeping the commitments that we have undertaken in this Declaration;
12. Pledge to disseminate this Declaration and to encourage the private sector to make the business community aware of its role in fulfilling the Declaration.

CROATIA

Information included :

1) Prevention of corruption in Croatia

A. Recent and future actions

B. Participation in International Trade and Investment

2) Comments on the proposed Anti-Corruption Declaration

Further information was submitted in

“Prevention of corruption in Croatia” [DAFFE/IME/BR/WD(2000)27]

1) PREVENTION OF CORRUPTION IN THE REPUBLIC OF CROATIA

A) Recent and future actions:

- Drafting of proposals of the Law on Amendments of the Criminal Law, for more comprehensive and effective combating corruption with the international element (bribery in international business transactions) prescribed in Article 89, para 3 of the Criminal Law, by which the notion of the official person would be expanded to include all categories of persons encompassed in international conventions (foreign official persons, representatives of foreign parliaments and international courts, foreign state officials and members of government bodies).
- Proposal of the draft of Law on Prevention of Conflict of Interest in Performing Public Offices, which has been submitted to state and legal structures for examination. Also, there is an ongoing public discussion and presentation of propositions, suggestions and complaints to the Proposal, which represents one of the aspects of the Nacional Programme with Action Plan for combating corruption.
- The multidisciplinary anti-corruption working group has been formed with main goals being prevention, efficient discovery and punishment of corruption. Besides, this working group will draft Nacional Programme with the Action Plan to the Government before the end of September of this year, and send it together with the draft of Law on Prevention of Conflict of Interest in Performing Public Offices to the Management Committee Stability Pact Anticorruption Initiative (SPAI) for the opinion and suggestions.
- Although after the ratification of the Criminal Law Convention on Corruption the monitoring mechanism for its implementation will be automatically activated (GRECO), the Republic of Croatia is ready to sign, in the meantime, the so-called Agreement on GRECO and thus actively participate in the GRECO monitoring activities.
- Forming of an independent office for fight against corruption in the Republic of Croatia, with clear political commitment to prevent political intervention into its operation.
- The Government of the Republic of Croatia appointed the Senior Representative for the Anti Corruption Initiative , who would co-ordinate anti-corruption actions and oversee the commitments, objectives and goals of the Compact and Action Plan of the Anti Corruption Initiative for the South Eastern Europe
- Publishing of the Anti Corruption Initiative text through the national news agency (HINA) and the Internet (official Government web site) in English and Croatian.
- Publishing and public dissemination of data and facts that the state officials are obliged to present to the media, in order to obtain general public support for combating corruption.
- Stimulation of the disclosure of all sources of information on corruption (public opinion, media detection, civil society) and formal sources (official statistical data).
- Development and shaping up of the public consciousness through systematic campaigns that raise awareness of the damage of corruption and develop the ethical condemnation of corruption.
- Organization of a two week workshop with the assistance of the Embassy of USA in Zagreb and the Centre for the education of judges and other judicial officials mainly on the programme of the fight against corruption for judges, public prosecutors and police staff.
- The Republic of Croatia will ever faster and more consequently fulfil its commitments to strengthen legislation and promote the role of law, transparency and integrity of business transactions.

B) Participation in international Trade and Investment

International trade, 1999

	US\$ mn	% of GDP
Exports	7,987.6	39.59
Goods	4,279.7	21.21
Services	3,707.9	18.38
Imports	9,806.6	48.61
Goods	7,777.4	38.55
Services	2,029.2	10.06

Commodity Exchange, 1999

Continent	Exports (000 US\$)	Share of total exports (%)	Imports (000 US\$)	Share of total imports (%)	Total commodity exchange (000 US\$)	Share of total commodity exchange (%)
Europe	3,651,468	85.32	6,624,430	85.18	10,275,898	85.23
Asia	195,034	4.56	601,507	7.73	796,541	6.61
Africa	217,431	5.08	89,379	1.15	306,810	2.54
North and Central America (USA & Canada)	142,439 (96,694)	3.33 (2.26)	361,292 (295,000)	4.65 (3.79)	503,731 (391,694)	4.18 (3.25)
South America	68,053	1.59	93,923	1.21	161,976	1.34
Oceania	5,275	0.12	6,878	0.09	12,152	0.10
Total	4,279,701	100.00	7,777,408	100.00	12,057,109	100.00

Group	Exports (000 US\$)	Share of total exports (%)	Imports (000 US\$)	Share of total imports (%)	Total commodity exchange (000 US\$)	Share of total commodity exchange (%)
EU countries	2,088,347	48.80	4,391,561	56.47	6,479,908	53.74
EFTA countries	147,989	3.46	199,926	2.57	347,915	2.89
CEFTA countries	580,685	13.57	1,080,381	13.89	1,661,066	13.78
Other European countries	834,167	19.49	952,526	12.25	1,786,693	14.82
Developed countries outside Europe	188,261	4.40	583,050	7.50	771,311	6.40
Developing countries outside Europe	440,252	10.29	569,964	7.33	1,010,216	8.38
Total Croatian commodity exchange	4,279,701	100.00	7,777,408	100.00	12,057,109	100.00

Foreign direct investment (US\$ mn)

	1994	1995	1996	1997	1998	1999
Inward	113.1	101.2	533.4	509.8	893.9	1,383.8
Outward	6.8	5.6	24.4	186.1	93.3	42.9

FDI in Croatia, 1993-1999

By country	'000 US\$
USA	1,002,958
Germany	991,311
Austria	703,009
Netherlands	117,660
Sweden	95,581
UK	92,879
Switzerland	91,946
France	65,670
Slovenia	60,003
Italy	51,276
EBRD	76,318

By sector	%
Post and telecommunications	30
Pharmaceutical industry	24
Banking	11
Building materials industry	6
Extraction of crude petroleum and natural gas	3
Manufacture of food products and beverages	3
Wholesale trade	2
Manufacture of chemicals and chemical products	2
Manufacture of food products and beverages	2
Manufacture of communication equipment	2

2) COMMENTS ON THE PROPOSED ANTI-CORRUPTION DECLARATION

In reply to your inquiry on the proposals related to the OECD text of the Proposal for an Anti-Corruption Declaration, I would like to inform you that we have no special remarks in principle on the text. However, I have some recommendations that might be useful to the OECD Working Group in the activities concerning the drafting of the Declaration. In item 5 (Purpose of an Anti-Corruption Declaration), among the protected values, as the stability of democracy, as a political category, economic growth and business climate, as economic categories, the rule of law, as a legal category should be included, moreover as the rule of law is very attacked by the corruption (also, the rule of law is mentioned in "Core principles" under 8 e). Although the aspiration to improve economic relations world-wide through elimination of corruption, in particular in international business transactions, represents the point of departure of OECD anti-corruption efforts, the non-inclusion of the rule of law, as a qualitative prerequisite for the realisation of such relations is not justifiable. The order of stating corruption and bribery should be standardised, for instance the corruption (being a wider expression) is stated before bribery (what makes a specific difference) in some parts of the text /for example, under item 5/, and in others after /for example under item 6/. Under item 7, the Elements of the Declaration, only bribery is stated, and corruption is omitted. Under item 8 c), the working "and conflict of interest legislation" should be added after the wording "and tackling domestic bribery by improving governance standards" because of the importance of regulating conflict of interest. Under 8 d), I propose to state "corporate liability" instead of "corporate responsibility" in order to be more precise about the corporate legal liability of legal persons.

ESTONIA

Information included :

Reply to the questionnaire to non-members seeking participation in the Working Group and the Convention

A Participation in International Trade and Investment

B. Institutional/Legal Framework to fight corruption

ESTONIA'S REPLY TO THE QUESTIONNAIRE TO NON-MEMBERS SEEKING PARTICIPATION IN THE WORKING GROUP AND THE OECD CONVENTION IN COMBATING BRIBERY

A) PARTICIPATION IN INTERNATIONAL TRADE AND INVESTMENT

➤ Please indicate the share of international trade in goods and services as a percentage of Gross Domestic Product.

In 1999 the **preliminary GDP** by expenditure approach was **75360,2 mln kroons** in current prices. **Net exports** of goods and services was **-4295,6 mln kroons**. Net export is **-5,7% of GDP**.

GDP by expenditure approach at current prices, million kroons, annual*

Final consumption	1999
Private consumption expenditure	43603,1
General government consumption expenditure	17827,8
Consumption expenditure of non-profit institutions serving households	511,1
Gross fixed capital formation	18893,9
Change in inventories	-408,3
DOMESTIC DEMAND	80427,6
Exports (f.o.b.)	57943,9
Goods	36036
Services	21907,6
Imports (f.o.b.)	62239,5
Goods	48974,7
Services	13264,8
Statistical discrepancy	-771,8
TOTAL	75360,2

* - <http://www.ee/epbe/makromajandus/2.3.html.en>

➤ What were the annual foreign direct investment (FDI) inflows/outflows (for past five years, if relevant)? FDI stocks?

Annual FDI inflows/outflows for past 5 years, in mln kroons. *

Year	FDI (net)	O/w	
		Inflow	Outflow
1995	2281,8	2312,9	-29,1
1996	1329,9	1814,4	-484,5
1997	1781,2	3694,1	-1912,9
1998	7989,7	8071,4	-81,7
1999	3208,2	4448,0	-1239,8

* - <http://www.ee/epbe/makromajandus/14.3.html.en>

FDI stocks in Estonia as of end Q1 2000 were **43 052,2 million kroons**, **DI stocks from Estonia** to other countries were **4 692,5 million kroons** (<http://www.ee/epbe/fdi/4d.html.en>).

➤ Please provide information on the geographical and sectoral pattern of both international trade and FDI (inward and outward). What percentage of inter-regional trade does your country account for? In what sector is FDI (inward and outward) most prevalent?

1) International Trade Estonia's main trade-partners are Finland, Sweden and Germany, also neighbouring countries Russia and Latvia. Main sector of both import and export is machinery and equipment. Other major import fields are chemical industry products, clothing and foodstuffs. Other main export fields are timber industry products, and also clothing and foodstuffs.

Geographical pattern of international trade (million kroons)*

	Import	%		Export	%
Finland	18684,1	37,0	Finland	8136,4	22,7
Sweden	5042,1	10,0	Sweden	7874,6	22,0
Germany	4775,2	9,5	Germany	2967,7	8,3
Russia	3932,7	7,8	Latvia	2872,6	8,0
Latvia	2174,4	4,3	Russia	1884,2	5,3
Netherlands	1636,4	3,2	Denmark	1639,8	4,6
Denmark	1581,3	3,1	Great Britain	1599,5	4,5
Italy	1434,2	2,8	Lithuania	1174,0	3,3
Lithuania	1051,5	2,1	Netherlands	899,2	2,5
Great Britain	1025,9	2,0	Italy	394,0	1,1
Other	9000,6	17,8	Other	5846,4	16,3
Unidentified	138,2	0,3	Customs free zone	524,7	1,5
Total	50476,7	100,0	Total	35813,1	100,0

*- All figures are calculated by special trade method, and are preliminary figures of 1999.

Information on geographical pattern of export: <http://www.ee/epbe/makromajandus/13.6.html.en>

Information on geographical pattern of import: <http://www.ee/epbe/makromajandus/13.7.html.en>

Sectoral pattern of international trade (million kroons)*

	Import	%
Machinery and equipment	15524,9	30,8
Products of chemical industry	6437,5	12,8
Clothing, footwear, headgear	5666,3	11,2
Foodstuffs	5454,2	10,8
Non-precious metals and metal products	4133,7	8,2
Transport vehicles	3829,5	7,6
Mineral products	3028,5	6
Timber, paper and products thereof	2642,4	5,2
Furniture etc	1288,8	2,5
Other goods	2470,9	4,9
Total	50476,7	100,0

	Export	%
Machinery and equipment	8477,7	23,7
Timber, paper and products thereof	7065,2	19,7
Clothing, footwear, headgear	5946,3	16,6
Foodstuffs	3176,1	8,9
Furniture etc	2755,9	7,7
Non-precious metals and metal products	2719,1	7,6
Products of chemical industry	2390,2	6,7
Transport vehicles	1041,5	2,9
Mineral products	880,2	2,4
Other goods	1360,9	3,8
Total	35813,2	100,0

*- All figures are calculated by special trade method, and are preliminary figures of 1999. Information on sectoral pattern of export: <http://www.ee/epbe/makromajandus/13.8.html.en>; Information on sectoral pattern of import: <http://www.ee/epbe/makromajandus/13.9.html.en>

2) Foreign Direct Investment -- Geographical pattern of FDI stocks*

	EEK thous	%
FDI in Estonia		
Sweden	15 600 757	41,1
Finland	11 434 844	30,1
Denmark	1 552 269	4,1
USA	1 493 564	3,9
Norway	1 304 617	3,4
Great Britain	1 050 846	2,8
Germany	936 013	2,5
Netherland	621 772	1,6
Liechtenstein	607 809	1,6
Switzerland	561 370	1,5
Russia	529 579	1,4
Singapore	483 204	1,3
Austria	413 672	1,1
Italy	241 531	0,6
Other	16 754 604	44,1
Total	37 992 300	100

	EEK thous	%
DI from Estonia to other countries		
Latvia	2 059 603	48,6
Lithuania	1 615 547	38,2
Cyprus	328 308	7,8
Ukraine	90 018	2,1
Norway	45 647	1,1
Sweden	28 413	0,7
Bermuda	x	x
Russia	19 239	0,5
Cayman Islands	x	x
Bahamas	14 701	0,3
Czech Republik	x	x
Belarus	4 384	0,1
Poland	x	x
Mauritania	x	x
Italy	x	x
Malta	x	x
Spain	-54	0,0
Germany	x	x
USA	-1 217	0,0
Austria	x	x
Netherland	-6 773	-0,2
United Kingdom	x	x
Finland	-22 693	-0,5
Unknown	21 847	0,5
Total	4 234 261	100

* - as of end 1999

x - not published due to data security requirement (less than 3 projects)

Information on geographical pattern of FDI stocks: <http://www.ee/epbe/fdi/4b.html.en>

Sectoral pattern of FDI stocks*

Foreign direct investments to Estonia have been directed mostly to the infrastructural development, mainly transport and communication (26,6% of FDI stocks). Financial sector (23,5% of FDI stocks) and manufacturing (22,8% of FDI stocks) are two other dominant fields.

Direct investments from Estonia to other countries is dominated by financial sector (60,3% of DI stocks).

	EEK thous	%
FDI in Estonia		
Transport, storage, communication	10 092 279	26,6
Finance	8 944 386	23,5
Manufacturing	8 658 296	22,8
Wholesale, retail trade	5 955 212	15,7
Real estate, renting and business activities	1 903 096	5,0
Electricity, gas and water supply	665 228	1,8
Agriculture, hunting, forestry	465 935	1,2
Construction	391 474	1,0
Hotels, restaurants	371 574	1,0
Other community, social and personal service activities	228 333	0,6
Mining, quarrying	111 848	0,3
Education	12 395	0,0
Health care	12 290	0,0
Fishing	4 586	0,0
Public administration and defence; compulsory social security	677	0,0
Not classified	174 613	0,5
Total FDI in Estonia	37 992 300	100

	EEK thous	%
DI from Estonia to other countries		
Finance	2 553 683	60,3
Manufacturing	554 207	13,1
Transport, storage, communication	446 969	10,6
Real estate, renting and business activities	326 156	7,7
Wholesale, retail trade	317 348	7,5
Agriculture, hunting, forestry	x	x
Construction	3 846	0,1
Other community, social and personal service activities	x	x
Hotels, restaurants	x	x
Electricity, gas and water supply	x	x
Not classified	18 563	0,4
Total DI from Estonia to other countries	4 234 300	100

* - as of end 1999

x - not published due to data security requirement (less than 3 projects)

Information on sectoral pattern of FDI stocks: <http://www.ee/epbe/fdi/4d.html.en>

In 1999 **Estonia accounted for 33%** of export from and 29% of import to Baltic states, total of **31% of interregional trade of the Baltic states.**

	Export (excl. Baltic states)	%	Import (excl. Baltic states)	%	Flow (excl. Baltic states)	%
Estonia	31826,5	33	47250,8	29	79077,3	31
Latvia	23900,4	25	40159,8	25	64060,2	25
Lithuania	41810,5	43	73572,0	46	115382,5	45
Total	97537,1	100	160982,6	100	258519,7	100

B. INSTITUTIONAL/LEGAL FRAMEWORK

➤ Does your country have national legislation that makes active and passive corruption of domestic public officials a criminal offence? What authorities are responsible for enforcement, including investigation and prosecution of such offences? Please cite the relevant texts of existing legislation.

Estonia has an Anti-corruption Act, which entered into force 28 February 1999. Anti-corruption Act should be viewed together with the Public Service Act, the State Property Act, the State Procurement Act and the Criminal Code that form the framework for understanding corruption and establish the rules of procedure for public officials to observe in their work. In the anti-corruption field it is also important that the draft of the new Penal Code has been currently worked out. The adoption of the new Penal Code in Parliament is planned to be in 2000.

A criminal liability for the active and passive corruption of domestic public officials is established in the Criminal Code. The punishment for accepting, arranging or giving bribe is provided in articles 164, 164¹, 165 and 165¹ of the Criminal Code. Accepting, arranging or giving a bribe is punishable by up to four years' imprisonment and together with additional aggravating circumstances up to seven years' imprisonment.

In addition to articles related to bribes the Criminal Code includes the special article concerning act of corruption (Art 164²). Corruptive activity of an official, according to this article, is the making of undue or unlawful decisions or performance of such acts, or failure to make reasoned and lawful decisions or perform such acts by an official through the use of his or her official position for receiving income derived from corrupt practices or other self-serving purposes. Corruptive activity is punishable by a fine and deprivation of the right of employment in a particular position or operation in a particular area of activity, or up to three years' imprisonment. Together with additional aggravating circumstances the corruptive activity is punishable up to seven years' imprisonment.

According to the Code of Criminal Procedure investigation of corruption-related crimes is divided between the Police Board and the Security Police Board. The Security police Board investigates mainly these corruption offences that are involving higher state officials.

➤ Does your national legislation recognise the concept of corporate criminal responsibility (liability of legal persons)?

Estonian current national legislation doesn't recognise the concept of corporate criminal

responsibility, but the criminal liability of legal persons is foreseen in the new draft of the Penal Code.

- Does your existing fiscal legislation allow for the possibility of income tax deductions for bribes (or commissions, or fees) made to domestic and/or foreign public officials?

No, it doesn't.

- Is your country a Party (or signatory) to any international anti-corruption instrument? If so, which one?

Ratification of the following conventions is planned by the end of 2000:

- *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.*
- *Council of Europe Criminal Law Convention on Corruption. Estonia will sign the convention in 9 June 2000.*
- *Council of Europe Civil Law Convention on Corruption. Estonia signed the convention on 24 January 2000.*

Joining of the following corruption-related conventions is planned upon accession to the European Union:

- *Convention on the Fight Against Corruption involving Officials of the European Communities or Officials of Member States of the European Union;*
- *Convention on the Protection of the European Communities Financial Interest.*

The principles of the above-mentioned conventions are reconciled with the domestic law by the new Penal Code.

Also Estonian representatives have participated in the plenary session and working groups meetings of the European Council GMC (Multidisciplinary Group on Corruption) and in the activities of GRECO (Group of States Against Corruption).

- Does your country have existing money laundering legislation? Is the offence of bribery under your national laws a predicate offence for the application of money laundering legislation?

Estonia has a Money Laundering Prevention Act, which entered into force on 1 July 1999. Estonia signed the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Strasbourg 1990) on 25 June 1999. The Act ratifying the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime was adopted on 8 March 2000 by Parliament. Date of ratification of the convention is 10 May 2000 and it will enter into force on 1 September 2000.

There is no enumerated or list approach to predicate offences. All criminal offences (including corruption and tax evasion) can be predicates in Estonia.

- Is your country able, under its laws, treaties and arrangements, to provide mutual legal assistance for the purpose of criminal investigations and proceedings?

Estonia is able to provide mutual legal assistance for the purpose of criminal investigations and proceedings. Estonia is a party to a number of important multilateral instruments including the 1959 European Convention on Mutual Legal Assistance and its First Protocol.

Requests for general mutual legal assistance are transmitted via the Ministry of Justice. However where Estonia has signed bilateral agreements on mutual assistance these requests can be transmitted directly to legal institutions.

HONG KONG-CHINA

Response to Mark Pieth's letter from 18 July 2000

From: ian_c_mcwalters@doj.gcn.gov.hk on 08/02/2000 12:37 PM

To: nicola.ehlermann-cache@oecd.org
cc:
Subject: OECD Seminar

Dear Mrs. Ehlermann-Cache

I refer to Dr. Pieth's letter of the 18th July. Mr. Hunter and I enjoyed the opportunity of meeting Dr. Pieth and his OECD colleagues and we found the informal meeting both interesting and helpful.

Hong Kong welcomes the opportunity to continue a dialogue with the OECD on efforts to combat bribery in international business transactions. To that end we look forward to hearing from you on the outcome of the Working Group's meeting in October.

Ian McWalters

I.C. McWalters, SADPP

Tel. : 2867 2336 Fax : 2877 3365

LATVIA

Information included :

Reply to the questionnaire to non-members seeking participation in the Working Group and the Convention

A. Participation in International Trade and Investment

B. Institutional/Legal Framework

Further information was submitted in

Fight against bribery and corruption in the Republic of Latvia [DAFFE/IME/BR/WD(2000)28]

**Latvia's Reply to the Questionnaire to non-members seeking participation in
the Working Group and the Convention**

A. PARTICIPATION IN INTERNATIONAL TRADE AND INVESTMENT

Trade of goods and services in Latvian economy, thsd. LVL

	1992	1993	1994	1995	1996	1997	1998	1999
GDP	1004555	1467012	2042555	2349223	2829135	3275456	3589476	3662306
Export	803080	1065847	938681	1101040	1440077	1669116	1841351	1708075
Import	733990	833616	905411	1157759	1668810	1947292	2326752	2109826
Balance	69090	232231	33270	-56719	-228733	-278176	-485401	-401751
Int.trade	1537070	1899463	1844092	2258799	3108887	3616408	4168103	3817901
Int.trade/GDP	153.01%	129.48%	90.28%	96.15%	109.89%	110.41%	116.12%	104.25%

Source: Central Statistical Bureau of Latvia

Due to relatively small local market, the international trade has always been important aspect of Latvian economy. The table above shows that GDP and international trade is comparable figures and rate int.trade/GDP fluctuate bit above 100%.

Regional distribution of foreign trade of goods, % of total

	1995		1996		1997		1998		1999	
	Export	Import	Export	Import	Export	Import	Export	Import	Export	Import
Europe	94	93.5	93.3	93.5	92.5	93.3	89.8	93.3	90.4	94.3
European Union	44	49.8	44.7	49.3	48.8	53.1	56.6	55.3	62.5	54.5
CIS	38.2	28.2	35.8	25.5	29.5	19.7	19	16	12	15
Baltic States	8.6	10.6	11.1	12	11.6	12.3	11.9	12.9	12.2	13.7
Other countries	3.2	4.9	1.7	6.7	2.6	8.2	2.3	9.1	3.7	11.1
America	1.4	2.7	0.8	3.8	1.9	3.7	4.1	3	6.6	2.4

Source: Central Statistical Bureau of Latvia

The top of investors by the stock of foreign investment in the company capital (thsd.LVL.)

	1995	1996	1997	1998	1999	2000*
Country Total	274175	377648.5	552451.7	661526.9	755258	775343.1
Denmark	71346.6	99400.3	100037.9	100189.1	106580.3	107937.2
United States	32844	41045.5	57690.2	70597.3	76720.2	93764.1
Germany	16369.9	17791	48422.3	56662.6	65475.2	70030.4
United Kingdom	13521.5	27601.6	33262	49887.1	57259.9	59893.8
Sweden	7598.5	18473.8	26750.4	44464.9	63947.9	59334.6
Russian Federation	51280.5	50757.8	52665.1	56954.8	56380.2	55872
Finland	7760.1	10371.5	16289.5	30590.7	39814.3	42239.5
Estonia	759.7	5356.6	21951.1	25685.5	38633.1	38355
Norway	52	1498.1	1149.6	26550.8	28583.2	28544.7
Netherlands	10638.6	5629.8	11379	16567	22530.4	24434.4
Singapore	0.2	300.2	44921.1	18790.7	17254	17257.9
Switzerland	9932.5	14937.8	15935.7	15520.6	8533.8	17246.4
Isle of Man	0	926.9	551.5	17159.3	15280.2	15342.8
Liberia	0	9705.4	12272.4	12699.5	12699.5	12699.5
Ireland	10882.7	12025.8	26333.7	34785.3	30495.6	12535.3
Liechtenstein	1284.2	6416	7524.4	8594	11147	11251.2
Japan	0.1	30.9	0	0	0	8241.8
Cayman Islands	0	93.8	177.5	6113.2	8064.6	8172
Hong Kong	0	0	6.4	6.4	6315.7	6316.3
Austria	6700.7	8745	8245.4	8051.8	6806.7	5164.2
Bahamas	730.6	912.5	15.6	1026.6	4632.4	5054.4
Panama	1225	86.2	1868.7	4703.7	4654.2	4654.2
Venezuela	136	202.1	56.1	4027.6	4292.2	4292.2
Lithuania	752.7	659.6	502.5	1608.1	2667.3	2871.3
Ukraine	1154.3	1217.6	1566.8	1596.8	2508	2455.6
Virgin Islands (British)	963.9	650.6	620.3	1095.7	978.9	2242.3
Iceland	541.2	930.5	391.7	66.5	1556.2	1763
Belarus	1652.5	2013.5	1868.1	1724.4	1762.1	1750.9
Canada	83	132.9	133.2	118.3	553.2	1588.1

- - 1st quarter

Source: Central Statistical Bureau of Latvia

Due to finalising of privatisation processes in the country, rate of foreign direct investment has decreased as in all countries of Eastern and Central Europe, who has finished privatisation.

Foreign investment in the company capital in previous years (thsd.LVL.)

	1996	1997	1998	1999	2000*
Investment	103473.5	174803.2	109075.2	93731.1	20085.1

- - 1st quarter

Source: Central Statistical Bureau of Latvia

For the previous years spectre of top investors shows that investment has come from more important trade partners, in 2000 for the first time it is possible to mention investment from Japan. The stable source of investment for the last years is United States.

Top 5 foreign investors in the company capital by country

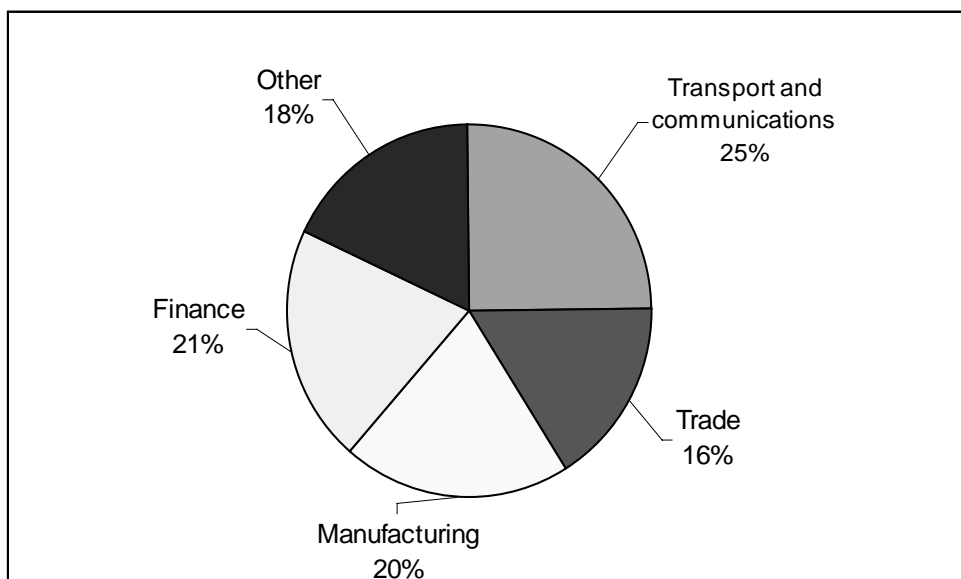
1996	1997	1998	1999	2000*
Denmark	Singapore	Norway	Sweden	United States
United Kingdom	Germany	Sweden	Estonia	Switzerland
Sweden	United States	United Kingdom	Finland	Japan
Liberia	Estonia	Isle of Man	Germany	Germany
United States	Ireland	Finland	United Kingdom	United Kingdom

- - 1st quarter

Source: Central Statistical Bureau of Latvia

In 1999 the transport and communication sector still had the highest share of foreign investment (25%), followed by the financial sector (21%), industry (20%) and trade (16%).

FDI stock in company capital by Kind of Activity (1992-1999)



Source: Central Statistical Bureau of Latvia

The statistics of Latvia's outward investment shows that it is based on two considerations: investment in low rate tax zones and investment in projects in neighbouring countries.

Top 9 destinations of Latvian investment in abroad, thsd.LVL)

Liberia	88205.9
Cyprus	6490.8
Panama	2648.5
Bermund Islands	1082.8
Lithuania	975.3
Ukraina	970.3
Estonia	861.0
Russia	663.5
Belarus	389.6

Source: Central Statistical Bureau of Latvia

B. LATVIA'S INSTITUTIONAL FRAMEWORK

1. Does your country have national legislation that makes active and passive corruption of domestic public officials a criminal offence? What authorities are responsible for enforcement, including investigation and prosecution of such offences? Please cite the relevant texts of existing legislation.

The new Criminal Law of Latvia has entered into force at 1 of April, 1999 and provides the criminal liability for active and passive bribery of domestic public officials (Article 320 and 323).

Criminal Law provides:

Section 320. Acceptance of Bribes

(1) The committing of acceptance of a bribe, that is, the intentional illegal acceptance of valuable property or benefits of material or other nature which has been committed by a State official personally or through an intermediary for the purpose of performing or failure to perform some act in the interests of the giver of the bribe by using their official position,

shall be punished by deprivation of liberty for a term not exceeding eight years, with or without confiscation of property.

(2) The committing of the same acts, if committed repeatedly, or on a large scale, or if they are associated with a demand for a bribe,

shall be punished by deprivation of liberty for a term of not less than three and not exceeding ten years, with confiscation of property.

(3) The committing of the acts provided for by the first and the second Paragraphs of this Section, if they are associated with extortion of a bribe, or if they were committed by a group of persons pursuant to prior agreement, or if committed by a State official holding a responsible position,

shall be punished by deprivation of liberty for a term of not less than eight and not exceeding fifteen years, with confiscation of property.

Section 321. Misappropriation of a Bribe

(1) The committing of misappropriation of a bribe which a person has received in order to provide to a State official, or which they have accepted, pretending to be a State official,

shall be punished by deprivation of liberty for a term not exceeding four years, or a fine not exceeding one hundred times the minimum monthly wage.

(2) The committing of misappropriation of a bribe which a State official has received in order to provide it to another State official, or which they have accepted claiming to be another State official,

shall be punished by deprivation of liberty for a term not exceeding six years.

Section 322. Intermediation in Bribery

(1) The committing of intermediation in bribery, that is, of acts manifested in the furnishing of a bribe received from the giver of the bribe to a person accepting the bribe or the bringing of these persons together,

shall be punished by deprivation of liberty for a term not exceeding six years.

(2) The committing of the same acts, if they have been committed repeatedly, or if they have been committed by a State official,

shall be punished by deprivation of liberty for a term of not less than three and not exceeding ten years, with or without confiscation of property.

Section 323. Giving of Bribes

(1) The committing of giving of bribes, that is, the furnishing of valuable property or benefits of material or other nature personally or through intermediaries to a State official in order that they, using their authority, perform or fail to perform some act in the interests of the giver of the bribe, shall be punished by deprivation of liberty for a term not exceeding six years.

(2) The committing of the same acts, if they have been committed repeatedly, or if they have been committed by a State official, shall be punished by deprivation of liberty for a term of not less than five and not exceeding twelve years, with or without confiscation of property.

Section 324. Release of a Giver of a Bribe and Intermediary from Criminal Liability

(1) A person who has given a bribe shall be released from criminal liability if this bribe is extorted from this person or if, after the bribe has been given, they voluntarily inform of the occurrence.

(2) By extortion of a bribe shall be understood a demand for a bribe in order that legal acts be performed, as well as the demand for a bribe which is associated with threats to harm lawful interests of a person.

(3) An intermediary or abettor respecting a bribe shall be released from criminal liability if, having committed such criminal act, they voluntarily inform of the occurrence.

As The Republic of Latvia has signed the Council of Europe Criminal Law Convention on Corruption at 27 of January, 1997 the necessary amendments to the Criminal Law regarding establishment and introduction of criminal liability for officials of international organisations, members of international parliamentary assemblies, judges of international courts, foreign officials are submitted in the Cabinet of Ministers.

The amendments in the Criminal Law concerning the concept of bribery will be brought in a line with Convention.

For the enforcement (including investigation and prosecution) are responsible the following state authorities:

In the Ministry of Interior directly under the State secretary- **Security police** (special squad for combating corruption mainly in the structure of the Ministry of Interior);

In the State police (under the Ministry of Interior)- Bureau for combating corruption and organised crime (all corruption cases connected with organised crime) and Economic police;

In the State Revenue Service- the Finance police is responsible for combating corruption in the structure of the State Revenue Service;

Prosecutor's office- carries out the role of the state plaintiff, pursues the charge in a court, supervises the police and the others investigative agencies;

2. Does your national legislation recognise the concept of corporate criminal responsibility (liability of legal persons)?

The legislation of the Republic of Latvia doesn't recognise the concept of corporate criminal liability. Criminal liability in the case of criminal acts involving a legal entity rests with the natural persons who committed said acts as the representatives of the legal entity, or who acted on the orders of the legal entity, or who were in the service of the legal entity, as well as collaborators of the said natural persons.

3. Does your existing fiscal legislation allow for the possibility of income tax deductions for bribes (or commissions, or fees) made to domestic and or foreign public officials?

The bribe payments are not tax-deductible under Latvian tax law.

4. Is your country a Party (or signatory) to any international anti-corruption instrument? If so, which one?

The Republic of Latvia has:
signed at 27 of January, 1997 The Council of Europe Criminal Law Convention on Corruption,
joined the Resolution (99) 5 establishing the Group of States against corruption (GRECO), Law on joining the GRECO was adopted by the Parliament in June of 2000;

5. Does your country have existing money laundering legislation? Is the offence of bribery under your national laws a predicate offence for the application of money laundering legislation?

Latvia has ratified European Convention of 8 November 1990 "On Laundering, Search, Seizure and confiscation of the Proceeds from Crime" (entered into force 1 April, 1999).

On 1 June, 1998 Law on prevention of Legalisation of Proceeds from Crime entered into force. According to this law active and passive bribery in a public and private sectors are in the list of predicate offences. According to the criminal legislation legalisation of proceeds from crime is criminal offences.

6. Is your country able, under its laws, treaties and arrangements, to provide mutual legal assistance for the purpose of criminal investigations and proceedings?

The Republic of Latvia is a Party of the European Convention on Mutual Assistance in Criminal Matters (Strasbourg, 20 April 1959, ratified by the Republic of Latvia at 24 of March, 1997) and it's Additional Protocol and the following conventions have been signed and ratified:

Convention on Extradition (Paris, 13 December 1957), it's Additional Protocol and Second Additional protocol,

Convention on the Transfer of Proceedings in Criminal Matters (Strasbourg, 15 May 1972),

Convention on the Transfer of Sentenced persons (Strasbourg, 21 March 1983);

Co-operation with Estonia, Lithuania, Russia, Belarus, Poland, Ukraine, Moldova, Uzbekistan, Kyrgyzstan results from the agreements on legal assistance and legal relations in civil, family and **criminal matters**.

The Republic of Latvia has also signed the Agreement with The United States of America on legal assistance in criminal matters.

ROMANIA

Information included :

- 1) Romania's anti-corruption initiatives at national and international level (in French)*
- 2) Comments on the proposed Anti-Corruption Declaration*

Further information was submitted in

Information on prevention of corruption in Romania [DAFFE/IME/BR/WD(2000)29] and other documents submitted.

1) LES INITIATIVES ANTI-CORRUPTION DE ROUMANIE AU NIVEAUX NATIONAL

Le monde est confronté aujourd'hui plus qu'avant avec des conséquences de plus en plus graves des diverses formes de criminalité organisée. La communauté internationale, face au déficit du crime dans ce nouveau siècle, est bien décidée à mettre en œuvre un véritable programme, par les moyens les plus efficaces, modernes et rapides à la fois. Malheureusement, aucun pays n'est pas épargné à ce fléau. La Roumanie non plus. Des groupes criminels organisés à l'intérieur du pays établissent des contacts avec des infracteurs et hommes d'affaires qui agissent dans le but d'organiser et d'internationaliser les activités illicites : contrebande, trafic des drogues, prostitution, proxénétisme, blanchiment d'argent par des activités commerciales illicites ou par le placement des faux devises, vols des œuvres d'art, de véhicules, exploitation illégale de la force de travail, transfèrement illégal des capitaux à l'étranger.

Bien que la criminalité organisée n'ait pas touché, en Roumanie, ni l'intensité ni l'ampleur atteint par des autres pays, le phénomène infractionnel garde un haut taux. Dans le domaine économique - financière, on constate une tendance à structurer et multiplier les infractions, qui acquièrent une certaine complexité par rapport aux nombres des participants, méthodes utilisées, préjudices causés, importance des agents économique et institutions visées. La falsification d'argent, des titres des valeurs, ainsi que le trafic de fausse monnaie de paiement connaissent une recrudescence inquiétante.

La Roumanie se confronte aussi avec le phénomène de la corruption, étant préoccupée de l'amélioration de l'efficacité des méthodes de combat de celle-ci, tant en plan législatif qu'en celui relatif à l'organisation.

La Gouvernement roumain est de plus en plus conscient du fait que les engagements pris au plan international doivent être suivis au plan national à des mesures radicales pour réduire les phénomènes de corruption et les phénomènes connexes, dont les racines sont le plus souvent à l'intérieur du pays.

A cet égard, il faut préciser qu'en 1996, par un arrêt du Conseil Suprême de Défense du Pays, a été créé le Conseil National d'Action contre la Corruption et le Crime Organisé pour la coordination des mesures prises par différentes institutions de l'État pour le combat de ces phénomènes.

La loi pour la prévention et la sanction des actes de corruption, promue par le Ministère de la Justice, a été adoptée par le Parlement sur le Nr. 78 de 2000 et, suite à la publication officielle, est devenue applicable à présent.

D'autres mesures législatives et institutionnelles ont été entreprises, ayant pour but la création du cadre législatif nécessaire contre les faits incriminés et aussi, encore plus important et surtout efficace, l'application effective de celui-ci.

Sur le plan législatif on peut citer des projets se trouvant dans des différentes étapes sur la voie d'adoption par le Parlement :

- la loi sur le combat du trafic et de la consommation des drogues ;
- la loi concernant la protection des données personnelles et l'accès à la base des données ;
- la loi sur la définition et la condamnation des activités infractionnelles concernant la criminalité organisée ;

- le Code pénal complété par des dispositions concernant la responsabilité pénale pour des faits de corruption commis par des fonctionnaires internationaux, des juges internationaux et des membres des assemblées générales des organismes internationaux ; de même on a introduit dans le Code pénal et le Code de procédure pénale des dispositions nouvelles pour le milieu juridique roumain, à savoir la responsabilité pénale des personnes morales, les agents sous couverture, la protection des témoins, des mesures punitives communautaires qui substituent les peines privatives de liberté.

Beaucoup des projets visant la réforme en la matière se retrouvent à présent dans des textes des lois en vigueur ; à titre d'exemple :

- le Code douanier et le statut du personnel douanier ;
- la loi sur la prévention et la condamnation du blanchiment de l'argent par le biais de laquelle a été adopté le Règlement d'organisation et fonctionnement d'un Office National de prévention et du combat du blanchiment de l'argent ;
- la loi sur la responsabilité ministérielle ;
- le statut des fonctionnaires publics ;
- la loi sur la déclaration et le contrôle des fortunes et des revenus des dignitaires, magistrats, fonctionnaires publics et des personnes aux fonctions de décision.

Le plan institutionnel a été enrichi par l'établissement aux seins des diverses autorités des structures spécialisées dans la prévention et la lutte contre la criminalité organisée et la corruption.

Pour ne donner que quelques exemples on peut citer :

- une section du combat de la corruption et de la criminalité au Parquet auprès de la Cour Suprême de Justice
- des juges spécialisés pour juger les cas de corruption ;
- une direction pour la coordination de la stratégie anti-infractionnelle, au Ministère de la Justice.
- une direction pour la lutte contre la criminalité organisée au sein du Ministère de l'intérieur.

Dans le même ordre d'idées il s'impose à souligner que la réalisation de la stratégie anti-infractionnelle au niveau national ne pourrait avoir l'efficacité nécessaire sans une coordination unitaire, en mettant l'accent sur des actions de coopération et complémentarités. La participation à la stratégie générale des différentes autorités et organismes - conformément aux compétences et qui font partie des différents systèmes du pouvoir - suppose une approche globale interdisciplinaire et non pas seulement sectorielle ce qui impose un cadre de coopération adéquat entre les structures spécialisées des diverses autorités.

Dans le cadre du Programme National d'Adhésion de la Roumanie à l'Union Européenne approuvé par le Gouvernement, les autorités roumaines compétentes ont établi des objectifs, des priorités et des stratégies dans le domaine justice et affaires internes qui facilitent l'assimilation de l'acquis communautaire ; entre outre, l'amélioration des relations de coopération police ? parquet ? instances judiciaires pour le combat efficace de la criminalité organisée et la corruption, occupe une place importante. La lutte contre la criminalité organisée, et notamment contre la corruption, constitue une des priorités nationales pour laquelle le Président de l'État prête une attention spéciale.

Dans le cadre de son processus de réforme législative, la Roumanie accorde une place de première importance à l'assimilation des instruments de droit international, tant sous l'aspect général du rétablissement de son entière législation sur les principes de l'État de droit ? car, sans doute, la lutte contre la criminalité constitue, l'un des instruments d'action propre à l'État de droit ? que sous l'aspect de la participation à la lutte contre la criminalité transnationale organisée.

En tant qu'État membre du Conseil de l'Europe et pays associé en vue de l'adhésion à l'Union Européenne, la Roumanie a déjà ratifié des importantes conventions européennes en matière pénale, à savoir :

- la convention contre la torture ;
- la convention d'extradition ;
- la convention d'entraide judiciaire en matière pénale ;
- la convention sur le transfèrement des personnes condamnées ;
- la convention pour la répression du terrorisme.

La Roumanie cet été va déposer les instruments de ratification pour deux importantes conventions en la matière : la Convention européenne sur la valeur internationale des jugements répressifs et la Convention européenne sur la transmission des procédures répressives.

Afin de réaliser une efficace mise en application des conventions multilatérales ratifiées, le Ministère de la Justice a élaboré trois importants projets de lois sur l'extradition, sur l'entraide judiciaire en matière pénale et sur le transfèrement des personnes condamnées. Lesdits projets traversent à présent les procédures internes en vue d'être adoptés par le Parlement.

D'autres importants instruments internationaux en la matière qui ont été signés par la Roumanie se trouvent dans des diverses étapes sur la procédure de ratification :

- la convention relative au blanchiment, au dépistage, à la saisine et à la confiscation des produits du crime ;
- la convention pénale sur la corruption ;
- la convention civile sur la corruption ;
- la convention sur la protection de l'environnement par le droit pénal.

La Roumanie participe au mécanisme de surveillance mise en place par le Conseil de l'Europe et appelé "Groupe d'États contre la corruption" (GRECO) dont la constitution a été autorisée par la Résolution no.98/7 du Comité des Ministres, le 5 mai 1998.

En tant que pays participant au programme commun du Conseil de l'Europe et de l'Union Européenne de lutte contre la corruption, connu sur le nom d'Octopus, la Roumanie a hébergé le mois de mars à Sinaia un des séminaires multilatéraux sur la thème : "La responsabilité pénale des personnes morales". Il faut rappeler aussi comme une étape importante au cadre de la coopération régionale, dans la lutte contre le fléau de la corruption, l'organisation à Bucarest, au fin du mars, de la Conférence des pays de l'Europe centrale et de l'est dont la thème centrale a été la lutte contre la corruption.

Une des priorités pour le Gouvernement roumain est, sans doute, l'intégration européenne et, par conséquent l'adhésion à l'Union Européenne. De ce fait, l'assimilation de l'acquis communautaire dans la législation interne, est devenu un des importants éléments de la stratégie nationale de l'intégration. C'est la raison pour laquelle les documents élaborés au sein de l'Union Européenne, notamment en la matière qui nous concerne, justice et affaires intérieures (les mesures antiblanchiment évoquées au Conseil Européen de Tampere 1999, le plan pour le combat du crime organisé adopté en 1997 et repris au Conseil Européen de Helsinki en 1999) sont pris en considération par les diverses autorités nationales, dans la démarche constante d'observer le droit communautaire.

Il convient de mettre en exergue le rôle des importants documents élaborés dans le cadre de l'Organisation des Nations Unies, à savoir les codes de conduite pour les responsables de l'application des lois et, des agents publics, instruments précieux pour les législateurs, praticiens, et théoriciens qui travaillent dans le domaine. La Roumanie participe avec intérêt à l'élaboration d'une nouvelle Convention contre la criminalité transnationale organisée et ses protocoles. Il est à saluer la

préoccupation pour achever le plus vite possible l'important document international afin de pouvoir créer les prémisses nationales de son application et afin de stopper par des moyens nouveaux l'essor transfrontalière de la criminalité.

Il est à mentionner que le ministre roumain de la justice a transmis, le 9 mars 1999, au Secrétaire général de l'Organisation de coopération et de développement économique (OCDE) une lettre exprimant l'intention de la Roumanie de participer, à part entière, au groupe de travail sur la corruption dans les transactions commerciales internationales afin de pouvoir participer à la convention élaborée par cette organisation.

La Roumanie est un promoteur active dans le cadre de la coopération régionale. Elle prend part à des diverses organisations parmi lesquelles : l'Organisation de Coopération Economique de la Mer Noire, L'Initiative Central-Européenne L'Initiative de Coopération sud-est Européenne. A Bucarest siège le Centre régional pour combattre la criminalité transfrontaliere. Récemment notre pays a exprimé son intérêt de participer aux actions menées par l'Initiative Anti-Corruption établie dans le cadre du Pacte de Stabilité. Sur le plan bilatéral la coopération internationale développe de relations conventionnelles, en matière pénale (extradition, entraide, transfèrement, coopération policière), avec des pays de l'Europe, de l'Amérique, de l'Asie et de l'Afrique. Les ministres roumains de Justice, de l'Intérieur et des Affaires Etrangères sont en dialogue permanent avec les ministères homologues de plusieurs pays, en vue de conclure, diversifier et moderniser les conventions bilatérales en la matière.

Il est certain que les obstacles signalés parfois, concernant l'inexistence des traités bilatéraux ou l'impossibilité de leur conclusion dans certains parties du monde, devraient être éliminés le plus tôt possible.

Aborder d'une manière globale, la stratégie de la lutte contre le phénomène infractionnel doit se faire par l'implication de plusieurs autorités ayant des attributions spécifiques dans le combat de la criminalité.

Il n'est plus suffisant que chaque autorité à des compétences spécifiques et précises en la matière, fonctionne bien. Il est besoin d'un effort cohérent de leur part, mais là, non plus, elles ne seront pas efficaces dans leur travail sans l'appui de la société civile, sans le rôle active et présent du mass-media.

Les corrompus et les corrupteurs misent sur l'indifférence générale. On parle de la corruption mais on a mal à trouver le corrompus.

Une culpabilité collective mène à l'annulation de la responsabilité. Il appartient à la justice, aux forces publique, à la société civile et au media de prendre conjointement des mesures afin d'éloigner les vieux préjugés qui freinent encore les actions précises.

On parle de plus en plus de la technicité du crime et, en particulier, du crime organisé. A ce sujet, il faut constater qu'en même temps la société contemporaine tout entière connaît une évolution dans le domaine de la science et de la technique et que, donc, il est bien le moment pour que, dans la présentation interdisciplinaire, qu'on tienne compte de la nécessité d'entraîner dans cette lutte, en égale mesure, des scientifiques pour qu'ils aident à bloquer, voire éliminer, l'emploi nocive des découverts de dernière heure ou de haute technicité.

1) LES INITIATIVES ANTI-CORRUPTION DE ROUMANIE AU NIVEAUX NATIONAL ET INTERNATIONAL

La Roumanie se confronte avec le phénomène de la corruption, étant préoccupée de l'amélioration de l'efficacité des méthodes de combat de celle-ci, tant en plan législatif qu'en celui relatif à l'organisation. Le Gouvernement roumain est de plus en plus conscient du fait que les engagements pris au plan international doivent être suivis au plan national des mesures radicales pour réduire les phénomènes de corruption et les phénomènes connexes, dont les racines sont le plus souvent à l'intérieur du pays.

A cet égard, il faut préciser qu'en 1996, par un arrêt du Conseil Suprême de Défense du Pays, a été créé le Conseil National d'Action contre la Corruption et la Crime Organisé pour la coordination des mesures prises par différentes institutions de l'Etat pour le combat de ces phénomènes.

La loi pour la prévention et la sanction des actes de corruption, promue par le Ministère de la Justice, a été adoptée par le Parlement sur le No. 78 de 2000. En vigueur est aussi la Loi No 21 de 1999 sur la prévention et la condamnation du blanchiment de l'argent, par le biais de laquelle a été adopté le Règlement d'organisation et fonctionnement d'un Office National de prévention et du combat du blanchiment de l'argent.

Le plan institutionnel a été enrichi par l'établissement aux seins des diverses autorités des structures spécialisées dans la prévention et la lutte contre la criminalité organisée et la corruption. Pour ne donner que quelques exemples on peut citer la Section du combat de la corruption et de la criminalité au Parquet auprès de la Cour Suprême de Justice, les juges spécialisés pour juger les cas de corruption et aussi la Direction pour la lutte contre la criminalité organisée au sein du Ministère de l'intérieur.

Dans le cadre de son processus de réforme législative, la Roumanie accorde une place de première importance à l'assimilation des instruments de droit international.

En tant qu'Etat membre du Conseil de l'Europe et pays associé en vue de l'adhésion à l'Union Européenne, la Roumanie a déjà ratifié des importantes conventions européennes en matière pénale, à savoir :

- la Convention contre la torture ;
- la Convention d'extradition ;
- la Convention d'entraide judiciaire en matière pénale ;
- la Convention sur le transfèrement des personnes condamnées ;
- la Convention pour la répression du terrorisme.

Cet été la Roumanie va déposer les instruments de ratification pour deux importantes conventions en la matière : la Convention européenne sur la valeur internationale des jugements répressifs et la Convention européenne sur la transmission des procédures répressives.

Autres importants instruments internationaux en la matière qui ont été signés par la Roumanie se trouvent dans des diverses étapes de la procédure de ratification :

- la Convention relative au blanchiment, au dépistage, à la saisine et à la confiscation des produits du crime ;
- la Convention pénale sur la corruption ;
- la Convention civile sur la corruption ;
- la Convention sur la protection de l'environnement par le droit pénal.

La Roumanie participe au mécanisme de surveillance mise en place par le Conseil de l'Europe dans le cadre du "Groupe d'Etats contre la corruption" (GRECO) dont la constitution a été autorisée par la Résolution no.98/7 du Comité des Ministres, le 5 mai 1998.

En tant que pays participant au Programme commun du Conseil de l'Europe et de l'Union Européenne de lutte contre la corruption, connu sur le nom d'Octopus, la Roumanie a hébergé le mois de mars à Sinaia un des séminaires multilatéraux sur le thème : "La responsabilité pénale des personnes morales". Comme une étape importante de la coopération régionale contre le fléau de la corruption, il faut rappeler aussi, l'organisation à Bucarest, au fin du mars, de la Conférence des pays de L'Europe centrale et de l'est dont le thème centrale a été la lutte contre la corruption.

Il convient de mettre en exergue le rôle des importants documents élaborés dans le cadre de l'Organisation des Nations Unies, • savoir les Codes de conduite pour les responsables de l'application des lois et les agents publics, instruments précieux pour les législateurs, praticiens et théoriciens qui travaillent dans le domaine. La Roumanie participe avec intérêt à l'élaboration d'une nouvelle Convention contre la criminalité transnationale organisée. Il est à saluer la préoccupation pour achever le plus vite possible cet important document international afin de stopper par des moyens nouveaux l'essor transfrontalière de la criminalité.

La Roumanie est un promoteur active dans le cadre de la coopération régionale. Elle prend part à des diverses organisations parmi lesquelles : l'Organisation de Coopération Economique de la Mer Noire, L'Initiative Central-Européenne L'Initiative de Coopération sud-est Européenne. Bucarest siège le Centre régional pour combattre la criminalité transfrontalière.

Récemment notre pays a exprimé son intérêt de participer aux actions menées par l'Initiative Anti-Corruption établie dans le cadre du Pacte de Stabilité. Sur le plan bilatéral, la coopération internationale développe de relations conventionnelles en matière pénale (extradition, entraide, transfèrement, coopération policière), avec des pays de l'Europe, de l'Amérique, de l'Asie et de l'Afrique. Les ministres roumains de Justice, de l'Intérieur et des Affaires Etrangères sont en dialogue permanent avec les ministères homologues de plusieurs pays, en vue de conclure, diversifier et moderniser les conventions bilatérales en la matière.

Il est à mentionner que le ministre roumain de la justice a transmis, le 9 mars 1999, au Secrétaire général de l'Organisation de coopération et de développement économique (OCDE) une lettre exprimant l'intention de la Roumanie de participer, à part entière, au Groupe de travail sur la corruption dans les transactions commerciales internationales, afin de pouvoir participer à la convention élaborée par cette organisation, suite à laquelle la Roumanie a été invitée par OECD de participer en qualité de pays non membre à la Réunion informelle du 5 juin 2000 ? Les efforts de OECD pour combattre les pots de vin et la corruption.

2) ROMANIA'S COMMENTS ON THE PROPOSED ANTI-CORRUPTION DECLARATION

MINISTRY OF JUSTICE

Bucharest, 22 June 2000

Dear Mr. Pieth,

As you already know, an important objective for Romania at present is to attain membership of the OECD. Romania is aware of the fact that fighting corruption represents an important element in joining this organization.

Romania acknowledges that corruption is highly detrimental to the stability of all democratic institutions, undermining the confidence of citizens in the fairness and impartiality of the public administration, and the business climate and also discouraging domestic and foreign investment, Romania agrees that the priority measures for the fight against corruption include taking effective measures on the basis of the existing relevant international instruments to strengthening legislation, promoting transparency and integrity in business operations and promoting an active civil society.

Romania is decided to integrate the international efforts into its actions in the legislative, institutional and enforcement fields to combat corruption, as it has been clearly mentioned in the Questionnaire sent to the Working Group before its informal Reunion held in Paris, on June 5.

Taking note of the Proposal for an anti-corruption Declaration, made during the mentioned Working Group reunion, I support the idea of such a Declaration, as a sign of the adherence to the international standards set in the Convention on combating bribery and as an appropriate message on the countries' domestic reform efforts.

I agree with the proposed objectives, which constitute the core principles of the future Declaration. Romania, in its capacity as an accession candidate for the Working Group on bribery and the OECD Convention, is concerned by the threatened and widespread phenomenon such as bribery of public officials in international business transactions and is determined to take strong measures to fight against this flagellum, by ensuring and enforcing the appropriate legal system, and to develop international cooperation in investigations, law enforcement and legal proceedings.

Undoubtedly, the organization of annual OECD forums is an useful opportunity for the candidate countries to share their experiences and problem in implementing the Convention and the Recommendations, as well as an opportunity to receive the necessary assistance from the member countries of the Working Group.

Hoping that the present letter will be interpreted as a commitment to continue the actions Romania has already started in fighting corruption,

I take this opportunity to assure you, dear Mr. Pieth, of my highest consideration.

Valeriu Stoica
Minister of State

Minister of Justice

SLOVENIA

Information included:

1) Reply to the questionnaire to non-members seeking participation in the Working Group and the Convention on the institutional/legal and regulatory framework

A. Letter to Mr Pieth

B. Participation in International Trade and Investment

C. Situation in the field of corruption in the Republic of Slovenia

2) Comments on the proposed Anti-Corruption Declaration

1) Slovenia's reply to the questionnaire to non-members seeking participation in the Working Group and the Convention on the institutional/legal and regulatory framework

A. Letter to Mr Pieth

Dear Dr. Pieth,

I would first of all like to thank you for your kind letter. Slovenia continues to be very interested in becoming as soon as possible a member of the working body which you are managing very successfully, and will prove that by being active in the field of the prevention and repression of corruption both in international business transactions and in general, which of course also includes active work in all OECD working bodies on corruption.

This is why we have prepared an exhaustive review of the situation in the field of legislative, institutional and practical regulation of the fight against corruption in our country, which we are enclosing as additional information to the completed questionnaire for non-member countries. Since it is a comprehensive review of the situation, we have also repeated the answers already given in the questionnaire, taking into account all the changes that have arisen in the meantime. As we wish that the members of the Ad Hoc Group on non-member countries obtain complete data concerning this field in Slovenia, we have composed the information very extensively, wishing to manifest also in this way the wish and readiness of our country to actively participate in the prevention of corruption in the business world.

Yours sincerely,

Drago Kos
Counsellor to the Government

B) PARTICIPATION IN INTERNATIONAL TRADE AND INVESTMENT

1. Please indicate the share of international trade in goods and services as a percentage of GDP?

Export and import of goods and services accounted for 114,8% of GDP in 1998.

2. What were annual foreign direct investment (FDI) inflows/outflows (for past five years, if relevant) FDI stocks?

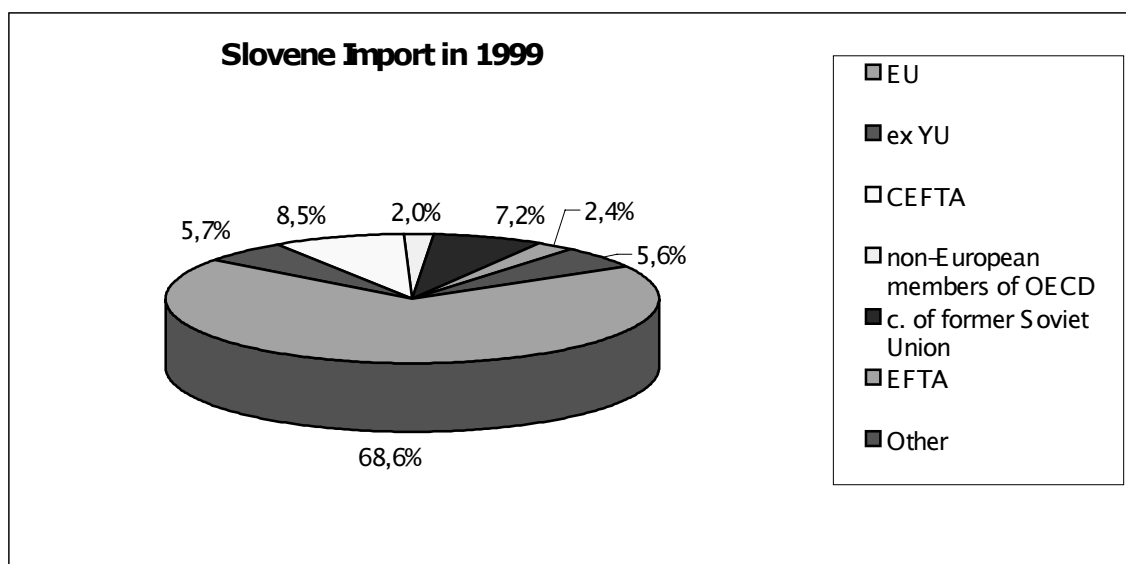
Table 1: FDI in Slovenia and Slovene DI abroad 1994-1998 in million USD

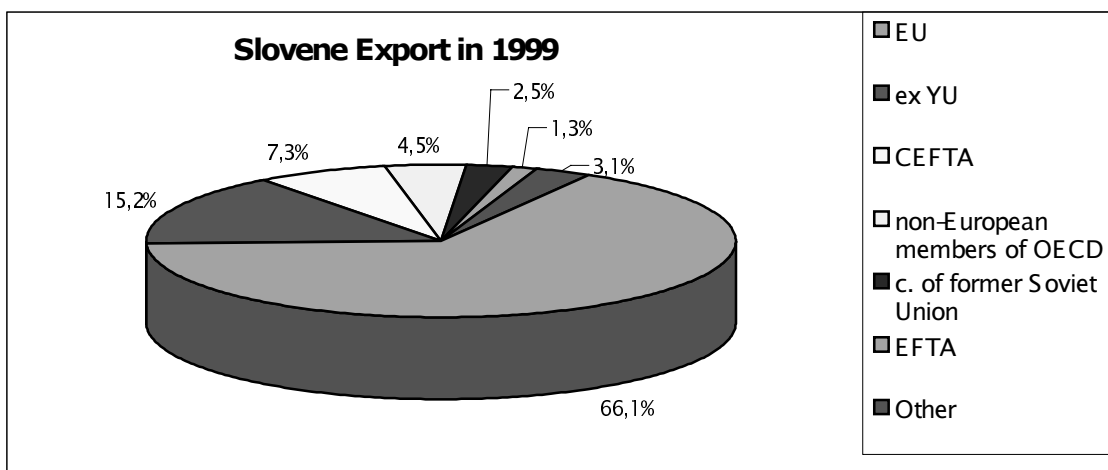
	1994	1995	1996	1997	1998
FDI (stock)	1,325.6	1,758.6	2,069.4	2,297.0	2,907.3
annual inflow	128.1	176.0	185.5	320.8	165.4
Slovene DI abroad (stock)	352.4	504.0	469.1	428.8	563.4

3. Please provide information on the geographical and sectoral pattern of both international trade and FDI (inward and outward). What percentage of inter-regional trade does your country account for? In what sector(s) is FDI (inward and outward) most prevalent?

Geographical distribution:

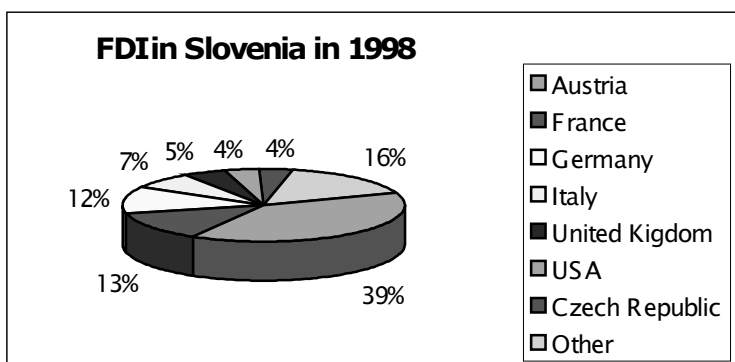
a. International Trade

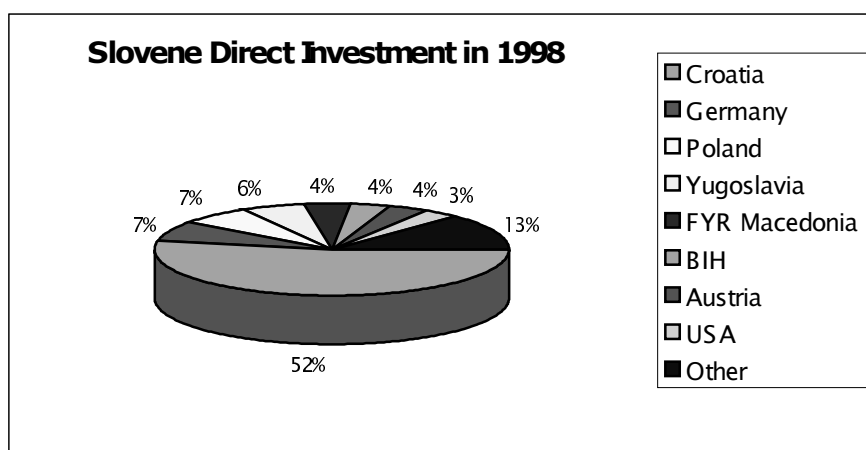




As shown in diagrams, Slovene most important trade partner are countries of the European Union, among them especially Germany, Austria, Italy and France. Imports from EU accounted for 68,6% of total Slovene import in 1999, whereas exports to EU represented 66,1% of the total Slovene export that year. Countries of former Yugoslavia remain important trade partners (5,7% of total imports and 15,2 % of total Slovene exports). Imports from CEFTA countries accounted for 8,5 % of total Slovene imports, Slovenia however exported to these countries 7,3% of its exports.

b. Investment





Sectoral distribution:

a. International trade

Sectoral pattern is a reflection of the most significant export activities. In 1999 those were: manufacturing of machinery and equipment (14,2 % of total export), manufacturing of transport equipment (13,7%), manufacturing of basic metals and fabricated products (11,4%), manufacturing of chemicals and chemical products (11%), manufacturing of electrical and optical equipment (10,7%), manufacturing of furniture (8%), manufacturing of pulp, paper and paper products (5%), manufacturing of rubber and plastic products (4,5%). In the same period most of the imports were from manufacturing of transport equipment (14,9 % of total imports), manufacturing of electrical and optical equipment (13,2%), manufacturing of basic metals and fabricated products (12,4%), manufacturing of chemicals and chemical products (11,5%), manufacturing of machinery and equipment (10,7%), manufacturing of textiles and textile products (7,3%), manufacturing of food, beverages and tobacco (4,7%), manufacturing of coke and petroleum products (4,4%).

b. Investment

- *FDI in Slovenia*: distribution of the foreign direct investment in Slovenia in 1998 by industry was as follows: financial intermediation accounted for 15 % of total FDI, other business activities for 10%, manufacturing of pulp and paper products for 10%, wholesale and commission trade for 8%, manufacturing of chemicals and chemical products represents 7,6 % of total FDI, manufacturing of motor vehicles and trailers for 7%.
- *Slovene direct investment abroad in 1998*: financial intermediation (not insurance) represented 15,6% of total Slovene direct investment abroad, manufacturing of chemicals and chemical products 15,5%, other business activities 12,4%, electricity, gas, steam and hot water 9,6% , wholesale, commission (not motors) 8,4%, manufacturing of food products and beverages 6,5%, water transport 3,6%.

C) LEGAL AND INSTITUTIONAL FRAMEWORK

I. SITUATION IN THE FIELD OF CORRUPTION IN THE REPUBLIC OF SLOVENIA

The Republic of Slovenia does not have the definition of corruption laid down in its regulations or in its theoretical literature. As criminal offences of corruption we process 7 criminal offences, which are regarded as corruption in the narrow sense of the word. Statistically those offences do not represent a big

problem and no serious increase can be perceived long term, although general data on the total number of all criminal offences in Slovenia do indicate their increase. Below we are listing statistical data on the number of criminal offences of corruption detected in Slovenia from 1991 and for comparison also the total number of all criminal offences in the same period as well as their clear-up rate.

Year	Crim. offences of corrup.	All crim. offences	Clear-up rate (in %)
1991	21	42 250	54,3
1992	39	54 085	55,5
1993	51	44 278	57,5
1994	55	43 635	57,5
1995	35	38 178	60,4
1996	32	36 587	65,4
1997	19	37 173	64,5
1998	33	55 473	52,9
1999	56	62 836	46,6

The number of criminal offences of corruption is very low, which is the very reason for concern. The change of property ownership after the independence of Slovenia – privatization – namely brought along a large number of irregularities detected in the changed property ownership, which has however not been reflected in the increased number of detected offences of corruption. Most probably this is the consequence of very liberal economic legislation and lack of practice.

As regards its structure, corruption does not represent a major problem either – the greatest portion belongs to the so called road corruption – bribing of state officials on the lowest levels (traffic and border police officers, customs officers), yearly we only record a couple of cases where bribing of state officials of a higher rank is involved (so far the highest level has been the fourth rank), and here the most exposed fields are certainly the field of public procurement (especially construction work) and medical care. So far operative data have not given us too big a reason for concern either, as on their basis it can not be inferred that the problem of corruption is great or important.

Already in its basic characteristics corruption is an act that in its most serious forms has all the features of organized crime and is therefore only one of its phenomena. So far Slovenia cannot claim that organized criminal associations who deal with other criminal offences as their basic activities also deal with corruption. It would be more accurate to say that groups of perpetrators that associate in order to perpetrate the offences of corruption increasingly operate according to the principles that apply to organized criminal associations. This is also why we have placed the newly established police units for the fight against corruption within wider units dealing with the repression of organized crime. Namely, the methods, means, procedures and way of the fight against both phenomena are identical and their closer connection in future inevitable.

II. SLOVENIAN ANTI-CORRUPTION LEGISLATION

II.1. Basic provisions

In the Slovenian legal order there are, after last amendments, seven criminal offences of corruption laid down in the Penal Code (the Official Gazette of the Republic of Slovenia, no. 63/94 and 23/99 – hereinafter referred to as OG RS), which cover unjustified acceptance and giving of gifts in the performance of economic activity, acceptance of bribe by official persons and giving of bribe to official persons, acceptance of bribe at the election or ballot, influencing free decision-making by the voters by bribing and trading in influence. Below we quote the legal wording of the mentioned criminal offences of corruption:

Unjustified Acceptance of Gifts (Art. 247)

- (1) Whoever, in the performance of economic activity, requests or agrees to accept a disproportionate award, gift or any other benefit in order to neglect the interests of an organization or to cause damage to the same when concluding a contract or performing a service, shall be punished by a fine or sentenced to imprisonment for not more than three years.
- (2) The perpetrator of the offence under the preceding paragraph of the present Art., who requests or agrees to accept a disproportionate award, gift or other benefit for himself or any third person in exchange for making a contract or performing a service, shall be sentenced to imprisonment for not more than three years.
- (3) The perpetrator of the offence under the first paragraph of the present Art. who requests or agrees to accept an award, gift or other benefit, shall be sentenced to imprisonment for not more than one year.
- (4) The accepted gift or award shall be seized.

Unjustified Giving of Gifts (Art. 248)

- (1) Whoever gives, attempts to give or promises to give a disproportionate award, gift or any other benefit to a person performing an economic activity with a view to obtaining any unjustified favour in the making of a contract under Art. 247 of the present Code, shall be sentenced to imprisonment for not more than three years.
- (2) Whoever gives, attempts to give or promises a disproportionate award, gift or other property or non-material benefit to a person performing an economic activity in exchange for making a contract or performing a service shall be sentenced to imprisonment for not more than one year.
- (3) If the perpetrator under the preceding paragraphs declares the offence before it was detected or he knew it had been detected, his punishment may be remitted.
- (4) The given award or gift shall be seized, while in the case under the preceding paragraph the same may be returned to the person who gave it.

Acceptance of Bribe
(Art. 267)

- (1) An official who requests or agrees to accept a gift or other favour or who accepts the promise of the same in order either to perform an official act within the scope of his official duties which should not be performed or not to perform an official act which should or may be performed, shall be sentenced to imprisonment for not less than one and not more than five years.
- (2) An official who requests or agrees to accept a gift or other favour or who accepts the promise of the same in other either to perform an official act within the scope of his official duties which he should or may perform in any case or not to perform an official act which he should not perform in any case, shall be sentenced to imprisonment for not more than three years.
- (3) An official who requests or accepts a gift or other favour with respect to the performance of the official act under the first or second paragraphs of the present Art. after the official act is actually performed or omitted, shall be punished by a fine or sentenced to imprisonment for not more than one year.
- (4) The accepted gift shall be seized.

Giving of Bribe
(Art. 268)

- (1) Whoever gives, attempts to give or promises a gift to an official in order for him either to perform an official act within the scope of his official duties which should not be performed or not to perform an official act which should or may be performed, or whoever serves as an agent for the purpose of bribing an official, shall be sentenced to imprisonment for not more than three years.
- (2) Whoever gives, attempts to give or promises a gift to an official in order for him either to perform an official act within the scope of his official duties which he should or may perform an any case or not to perform an official act which he should not perform in any case, shall be sentenced to imprisonment for not more than one year.
- (3) If the perpetrator under the previous paragraph had declared such an offence before it was detected or he knew it had been detected, his punishment may be remitted.
- (4) The give gift shall be seized while in the case of the preceding paragraph the same may be returned to the person who gave it.

Trading in Influence
(Art. 269)

- (1) Whoever accepts a gift or any other favour in order to use his official or social rank and influence to intervene so that a certain official act be or not be performed, shall be punished by a fine or sentenced to imprisonment for not more than one year.
- (2) Whoever uses his official or social rank or influence to intercede either for the performance of a certain official act which should not be performed or for the non-performance of an official act which should be performed, shall be punished to the same extent.
- (3) If the perpetrator accepts any gift or other favour in exchange for his intervention, he shall be sentenced to imprisonment form not more than three years.

- (4) The above mentioned gift shall be seized.

Acceptance of Bribe at the Election or Ballot
(Art. 168)

- (1) Whoever requires or accepts any award, gift or other material or non-material gain for himself or a third person for voting or not voting, or for casting his vote in favour of or against a certain proposal, or for casting an invalid vote, shall be punished by a fine or sentenced to imprisonment for not more than one year.
- (2) The accepted award, gift or other material or non-material gain shall be seized.

Obstruction of Freedom of Choice
(Art. 126)

- (1) Whoever, at an election or ballot, compels another person to vote, or not to vote, or to cast a void vote, or to vote in favour of or against a particular proposal by means of force, serious threat, bribery, deception or in any other unlawful manner shall be punished by a fine or sentenced to imprisonment for not more than one year.
- (2) If the offence under the preceding paragraph is committed by an official through the abuse of his function relating to the election or ballot, such an official shall be sentenced to imprisonment for not more than two years.
- (3) The bribe which has been given shall be seized.

In order to understand the legal description of the mentioned criminal offences, Art. 126 of the Penal Code is also very important as it defines the concept of an official, of economic activity and of election or ballot.

According to this Art., an official may be:

- 1) a representative in the State Chamber and a member of the State Council;
- 2) any person carrying out official duties in the state bodies or exercising a public function;
- 3) any other person performing official duties authorized by virtue of law;
- 4) a member of the military appointed under special regulations regarding special criminal offences which involve military personnel but which are not prescribed as criminal offences against military duties;
- 5) a person with official status accorded by a foreign state and who meets the conditions under items one, two or three of this paragraph;
- 6) a person with official status accorded by an international organization whose member is also the Republic of Slovenia, and who meets the conditions under items one, two or three of this paragraph;
- 7) a person performing the duty of a judge, prosecutor or another official duty or function at the international court whose jurisdiction is acknowledged by the Republic of Slovenia.

"Economic activity" means the production and trade of goods, the performance of market activity, banking and other operations, and management services as well as participation in the management, representation and supervision of the above mentioned activities, while elections, ballots and voting mean presidential, parliamentary and municipal elections as well as referenda on the adoption of legislation, the confirmation of amendments to the Constitution and the establishment of a municipality.

It can be seen from the above text that the Penal Code covers both active (with the exception of trading in influence) and passive forms of criminal offences of corruption, which comprise the operation of domestic and foreign officials as well as authorities performing economic activities, regardless of whether those authorities are domestic or foreign. Bribe as a subject of a criminal offence is envisaged as a property and non-property benefit, and in this regard both the permitted and non-permitted acts by officials are punishable, including official acts of discretion.

Slovenia has already ratified the Criminal Law Convention on Corruption, while the Civil Law Convention on Corruption and the OECD Convention on the Repression of Corruption in International Business Transactions are in the signing procedure.

II.2 Penal legislation in the field of corruption

Perpetration of criminal offences in an organized manner is not stipulated in the law as a special aggravating circumstance and therefore the judge has to take this fact into account in the framework of general rules for the penalty and the rules on merger of criminal offences. Namely, in the Slovenian legal order criminal association is incriminated as an independent criminal offence under which the founder and the members of a group are punished who intend to commit criminal offences for which a punishment exceeding five years of imprisonment may be applied (Art. 297 of the Penal Code).

Art. 297 of the Penal Code (Criminal Association)

- (1) Whoever establishes a group for the purposes of perpetrating criminal offences for which a punishment exceeding five years of imprisonment may be applied, shall be sentenced to imprisonment for not more than three years.
- (2) Whoever joins the group under the preceding Art., shall be sentenced to imprisonment for not more than one year.
- (3) If the perpetrator of the offence under the first and second paragraphs of the present Art. has prevented the committing of a criminal offence under the first paragraph or has provided information about it, thus enabling the offence to be prevented, or has disclosed a group or its leading members, his punishment for these offences shall be remitted.

The Law on Amendments and Additions to the State Prosecutor Act (OG RS, no. 59/99) in Art. 1 defines organized crime as officially prosecutable criminal offences committed within the framework of an organized association with internal rules of operation, which operates in an entrepreneurial manner and as a rule uses violence and/or corruption with the purpose of gaining illegal property benefit or social power. Those are mainly offences in the field of money laundering, corruption, manufacture and trade of drugs and weapons, white slavery market, procurement and prostitution, criminal association and criminal offences with an international element.

Participation in criminal offences of corruption is punishable according to the provisions of the general part of the Penal Code which define the institute of complicity, criminal solicitation and criminal support. If two or more persons are engaged jointly in the committing of a criminal offence by collaborating in the execution thereof or by the performance of any act representing a decisive part of the committing of the

offence in question, each of these persons shall be punished according to the limits set down in the statutes for the offence in question (Complicity). Criminal support in the committing of a criminal offence is deemed to be constituted also by a priori promises to conceal the crime or any traces thereof, to conceal the perpetrator, instruments of crime, etc. Any person who intentionally supports another person in the committing of a criminal offence is punished as if he himself had committed it or his sentence may be reduced, as the case may be. The Penal Code also incriminates as an independent criminal offence concealment of the property gained through criminal offences (Art. 221), which is distinguished from money laundering (Art. 252), as the object of penal protection in the latter is financial or other economic system whereas with the incrimination of concealment the law protects private or other property that has been taken unlawfully.

The legal wording of the criminal offence of concealment is as follows:

Art. 221
(Concealment)

- (1) Whoever purchases, takes as a pledge or otherwise acquires, conceals or disposes either of the property which he knows to have been gained unlawfully or of the property acquired through the sale of the latter or in exchange for it shall be sentenced to imprisonment for not more than two years.
- (2) Whoever commits the offence under the preceding paragraph and who should and could have known that the property had been gained unlawfully shall be punished by a fine or sentenced to imprisonment for not more than one year.
- (3) If the property under the first or second paragraph of the present Art. is of considerable value or of special cultural or historical significance, or is natural curiosity, the perpetrator shall be sentenced to imprisonment for not more than three years for the offence under the first paragraph and for not more than two years for the offence under the second paragraph.
- (4) If the concealed property has been obtained from a criminal offence for which the perpetrator is prosecuted by private action or complaint, the prosecution regarding offences under the first and second paragraph shall be initiated upon a private action or a complaint respectively.

As regards document falsification it has to be mentioned that the Penal Code incriminates as a criminal offence any abuse of office and of rights, both in cases of officials (Art. 261) and in performing economic activity (Art. 244). Likewise, it defines special cases of abuse, which include forgery of documents (Art. 256), certification of untrue matter (Art. 258) and forgery or destruction of official book, document or file (Art. 265). A document is deemed to be any writing, any carrier of information or another object that is suitable and meant to prove any fact which has a value for legal relations.

The legal wording of the mentioned Art.s is as follows:

Forgery
Art. 256

- (1) Whoever draws up a false document or alters a genuine document with the intention of using such a document as genuine or whoever uses a false or altered document as genuine, shall be sentenced to imprisonment for not more than two years.

- (2) Any attempt to commit the offence under the preceding paragraph shall be punishable.
- (3) Whoever draws up a false public document, will, public or official book or any other book which has to be kept under the terms of the law, alters a genuine document of this kind, or puts into circulation or stores such a false or altered document with the purpose of using it or uses it as a genuine document, shall be sentenced to imprisonment for not more than three years.

Certification of Untrue Matter
Art. 258

- (1) Whoever deceives a competent authority so as to certify any untrue matter in a public document, record, book or official book which is intended to serve as evidence in legal transactions, shall be sentenced to imprisonment for not more than three years.
- (2) Whoever uses a public document, record, book or official book under the preceding paragraph though he knows that to be false, shall be punished to the same extent.

Forgery or Destruction of Official Book, Document or File
Art. 265

- (1) An official who enters false information or fails to enter any relevant information into an official book, document or file, or certifies such a book, document or file containing false information with his signature or renders the creation of such a book, document or file possible, shall be sentenced to imprisonment for not more than three years.
- (2) An official who uses a false official book, document or file as genuine or who destroys or hides books, documents, files under the preceding paragraph or substantially damages or renders the same useless, shall be punished to the same extent.
- (3) Any attempt to commit the offence under the first or the second paragraphs of the present Art. shall be punishable.

II.3 Banking secrecy

In Art. 156 in the Law on Changes and Amendments to the Criminal Procedure Act (Official Gazette of the Republic of Slovenia No. 72/98, which entered into force on 23 January 1999) the judicial and law enforcement authorities find their powers to lift the veil of banking secrecy:

"If justified grounds exist for the suspicion that a particular person has committed a criminal offence which is prosecuted ex officio and which is linked to the acquisition of property benefits, the investigating judge may, based on a reasoned proposal by the public prosecutor, order banks, savings banks or savings-credit services to report information about the deposits, accounts and other transactions of this person and of other persons for whom it is possible to reasonably conclude that they are participants in the financial transactions or other deals of the person committing the offence, if this information could constitute important evidence in the criminal procedure."

The provision above shows that the criminal offences for which courts may obtain confidential bank information are limited by two conditions:

- that the criminal offences committed are of the category of offences that are prosecuted ex officio,
- that the criminal offences are linked to the acquisition of property benefits.

In addition to the Law on Criminal Procedure, access to confidential bank information was regulated in 1994 also by the Law on Money Laundering Prevention (Official Gazette of the Republic of Slovenia No. 36/94 and 63/95; this law entered into force on 7 July 1995 and its amendments on 7 November 1995). This law determined, inter alia, also the obligations of the banks and other financial and non-financial organisations to report certain information to the Office for money Laundering Prevention. On the basis of this law banks and other financial and non-financial institutions must report to the Office the following information:

- all cash transactions that exceed the amount of SIT 4,600,000,
- several connected cash transactions which together exceed the amount of SIT 4,600,000,
- all transactions (cash and other) for which reasons exist to suspect money laundering activity.

The Office may demand from the banks certain information in two cases:

- a) If the Office judges, in connection with certain transactions or particular persons, that there are reasons to suspect money laundering activity, the banks must, on the basis of the Art. 14, submit to the Office the following:
 - all the information which the banks are required to gather and keep record of in accordance with Art. 26,
 - information about assets and bank accounts of the persons referred to above,
 - other data and information which is necessary for the detection of money laundering and
 - all the necessary documentation.
- b) In the performance of the control function the office may, on the basis of the mentioned Art., demand from the banks also written information and documentation related to the banks' performance of duties as required by the Law on Money Laundering Prevention.

Both of the above described provisions apply equally in the framework of investigations and court procedures on corruption cases.

II.4 Money laundering

Money laundering is a separate criminal offence as described in Art. 252 of the Penal Code (in force since 23/04-1999, OG RS, no. 23/99) and reads as follows:

- (1) A person who accepts, exchanges, keeps, handles, uses for a commercial activity or in any other way determined by the law, with money laundering conceals or tries to conceal the source of money or property in the knowledge that it was obtained by the commission of a criminal offence, shall be punished with up to three years of imprisonment.
- (2) The same punishment shall be inflicted upon a person who commits the offence referred to in the preceding paragraph and who is, at the same time, the perpetrator of or party to the criminal offence by which the money or property referred to in the preceding paragraph was obtained.

- (3) If the money or property referred to in the first or second paragraph of this Art. is of a great value, the perpetrator shall be punished with up to eight years of imprisonment and a fine.
- (4) If the offence referred to in the preceding paragraphs is committed by a number of people, who have united themselves with the purpose of committing such criminal offences, shall be punished with from one year and up to ten years of imprisonment and a fine.
- (5) A person who commits the offence referred to in the first, second or third paragraph of this Art., who should and could have known, that money or property was obtained by a commission of a criminal offence, shall be punished up to two years of imprisonment.
- (6) The money or property referred to in the preceding paragraphs shall be confiscated.

All criminal offences are the predicate offences in Slovenia, including the criminal offence of corruption. The attempt is the same as the performance of the criminal offence itself. The perpetrator of the predicate offence can also be the perpetrator of the criminal offence of money laundering. Negligent money laundering and conspiracy to launder money are also covered. The Slovenian legislation in this area is all harmonised and sufficiently clear as well as in conformity with the provisions of international conventions and directives relating to bank secrecy and money laundering.

II. 5 Liability of legal persons

Legal persons are held responsible for all criminal offences of corruption, mentioned in the answer to question 2.1, except for the criminal offences under Art. 168 (Acceptance of Bribe at the Election or Ballot) and Art. 267 (Acceptance of Bribe), due to their special nature. Namely, the Republic of Slovenia and local self-government units as legal persons are not held responsible for criminal offences and the right to vote is a right that only applies to natural persons. Legal persons are also held responsible for the criminal offence of money laundering.

The liability of legal persons for criminal offence is governed by the Liability of Legal Persons for Criminal Offence Act (OG RS, no. 59/99), hereinafter referred to as LLPCOA, which is based on Art. 33 of the Penal Code, which reads as follows:

- (1) The criminal liability of a legal person for criminal offences which the perpetrator commits in his name, on his behalf or in his favour shall be provided for by the statute.
- (2) Sentences, admonitory sanctions and safety measures, as well as the legal consequences of the conviction with respect to a legal person, shall be provided for by the statute.
- (3) Criminal offences, for the committing of which a legal person may be liable, shall be defined by the statute.
- (4) Special provisions governing the initiation of criminal procedures against a legal person shall be prescribed by the statute.

The liability of a legal person is criminal liability, the basis of which is defined in Art. 4 of LLPCOA, which reads:

Grounds for the Liability of a Legal Person
Art. 4

A legal person shall be liable for a criminal offence committed by the perpetrator in the name of, on behalf of or in favour of the legal person:

1. if the committed criminal offence means carrying out an illegal resolution, order or endorsement of its management or supervisory bodies;
2. if its management or supervisory bodies influenced the perpetrator or enabled him to commit the criminal offence;
3. if it has at its disposal illegally obtained property gains or uses objects gained through a criminal offence;
4. if its management or supervisory bodies have omitted obligatory supervision of the legality of the actions of employees subordinate to them.

Domestic and foreign legal persons are liable also for the criminal offences committed abroad, under the conditions stipulated in Art. 3, Paragraph 2 of LLPCOA, which reads:

- (1) Domestic and foreign legal persons shall under this Act also be liable for criminal offences committed abroad if the legal person has its head office in the territory of the Republic of Slovenia or exercises its activity therein and the criminal offence was committed against the Republic of Slovenia, a citizen thereof, or a domestic legal person.

Art. 3, Paragraph 3 of LLPCOA, which defines the liability of domestic persons for criminal offences committed abroad against a foreign country, foreign citizen or a foreign person, reads as follows:

- (3) Domestic legal persons shall under this Act also be liable for criminal offences committed abroad against a foreign state, foreign citizen or foreign legal person, where the liability of the legal person is not dependent on the conditions set out in Art. 122 and the second paragraph of Art. 123 of the Penal Code and the special conditions for the prosecution of a perpetrator under Art. 124 of the Penal Code, except the conditions under the third and fifth paragraphs of this Art..

This means that in such a case a domestic legal person can only be prosecuted for a criminal offence that is also punishable under the law of the country in which it was committed. If this is not the case, special permission by the Minister of Justice is necessary for prosecution, which is issued on condition that the offence at the time of the commission was regarded as a criminal offence according to the general legal principles acknowledged by the international community.

III. SLOVENIAN INSTITUTIONS IN THE FIGHT AGAINST CORRUPTION

In the field of detection, prevention and repression of corruption we can speak about the authorities that deal with it in the narrow sense and about the authorities that deal with it in the wider sense. In Slovenia, the police, the public prosecutor's office and the judiciary can be classified among the former.

III.1. Authorities for the repression of corruption in the narrow sense

In Slovenia there is only one authority that has police powers in detection and prevention of corruption. This is the Police, as an autonomous body within the framework of the Ministry of the Interior. According to Art. 3 of the Police Act one of its tasks is also “ the prevention, disclosure and investigation of criminal offences and misdemeanours, the disclosure and arrest of perpetrators of criminal offences and misdemeanours, the implementation of searches for wanted persons and their hand-over to the proper authorities”.

The police is organized on state, regional and local level.

At the state level there is the General Police Directorate, which is divided into a number of Directorates, one of which also being the Criminal Police Directorate. This directorate is composed of sections, one of which is also the Organized Crime section, which comprises 5 smaller units – divisions. One of those divisions is also Corruption Division. The tasks of this division are listed in Point 2.3.3.4 of the Regulation on Organization and Systemization of Working Places at the Ministry of the Interior and the Police, according to which this division “plans, organizes, directs and supervises activities in the following fields:

- corruption in state authorities,
- corruption in authorities and organizations with public authorizations,
- corruption in obtaining and granting public investment works, investments purchases, concessions, financial subsidies and credits,
- trading in influence,
- other crimes of corruption.”

At the regional level there are 11 Regional Police Directorates, within which there are Criminal Police Offices, which are divided into divisions or groups, depending on the size of the individual regional police directorate. One of such divisions (or groups) is also Organized Crime Division (or Group), which, among other, “directly carries out criminal investigation in the following fields:

- corruption in state authorities,
- corruption in authorities and organizations with public authorizations,
- corruption in obtaining and granting public investment works, investments purchases, concessions, financial subsidies and credits,
- trading in influence,
- other crimes of corruption.”

Thus at the state level co-ordinating, supervisory and planning function is carried out while at the regional level the basic investigative activities are carried out.

At the local level police stations are organized, whose task is also the prevention, detection and investigation of all criminal offences, including corruption, as well as detection, apprehension of perpetrators and their handing over to the competent authorities. The local level deals with the simplest forms of criminal offences.

In the performance of their work police officers can use the following most important police powers, which are listed in:

- Art. 33 of the Police Act: warning, giving orders, determining a person’s identity and carrying out identification procedures, making a security check on a person, issuing summons, performing a safety check, denying entry to a certain territory, arresting and bringing in a person, detaining a person, carrying out strict police surveillance, confiscating items, entering a private residence, making use of transportation and communication means, applying undercover police coercive and any other measures authorised by law.

- Art. 49 of the Police Act: surveillance and tailing with the use of technical equipment for the purposes of documentation, undercover work, undercover co-operation, altered documentation and identification insignia.
- Art. 50 of the Police Act: instruments of constraint (from handcuffs to firearms).
- Art. 148 of the Criminal Procedure Act (hereinafter referred to as the CPA): collection of information, inspection of means of transportation, passengers and their luggage, restriction of movement in a certain area, establishing the identity of persons and objects, issuing of searches for persons and objects, examinations of certain objects and premises in enterprises and other legal entities as well as their documentation.
- Art. 149 of the CPA: sending to the investigating judge, detention at the scene of the offence, photographing and publishing of photographs of suspects, taking of fingerprints and of an oral mucous membrane swab.
- Art. 150 of the CPA: monitoring of telecommunications through bugging and recording, control of letters and other parcels, control of the computer systems of banks or other legal entities which perform financial or other commercial activities, bugging and recording of conversations with the permission of at least one person participating in the conversation – all by court order
- Art. 151 of the CPA: bugging and surveillance in another person's home or in other areas with the use of technical means and where necessary secret entrance into the apartment – by court order.
- Art. 155 of the CPA: feigned purchase, feigned acceptance or giving of bribery – by the order of the public prosecutor.
- Art. 214 of the CPA: house and body search – by court order.
- Art. 218 of the CPA: entrance into another person's apartment.

The authority for criminal prosecution in the Republic of Slovenia is the Public Prosecutor's Office, whose position is governed by the State Prosecutor Act and the Criminal Procedure Act. The latter stipulates in its Art. 45 that the tasks of the public prosecutor in the prosecution of the perpetrators of criminal offences are as follows: Paragraph 45, Paragraph 2 of the CPA:

- (1) In respect of criminal offences prosecuted ex officio, the public prosecutor shall have the jurisdiction:
- 1) to take the necessary steps concerning the detection of criminal offences, tracing of perpetrators and directing of preliminary criminal proceedings;
 - 2) to request that investigations be undertaken;
 - 3) to prefer and press an indictment or a charge sheet before the competent court;
 - 4) to file complaints against judgements that have not become final and apply extraordinary legal remedies against finally binding judicial decisions.

In Slovenia there are the Public Prosecutor's Office of the Republic of Slovenia, four higher public prosecutor's offices and 11 district public prosecutor's offices. District prosecutor's offices are the basic authorities for prosecution dealing with all the crime, although within the larger among them specialization has already taken place, while higher public prosecutor's offices are instance authorities. The head of the Public Prosecutor's Office of the Republic of Slovenia is the General Public Prosecutor of the Republic of Slovenia.

With the amendments to the State Prosecutor Act of 1999 the legal base for the Group of Public Prosecutors for Special tasks was laid down, which since 1995 has been dealing with organized crime and in this context also with some kinds of offences among which corruption is explicitly mentioned. The mentioned group operates for the whole Slovenian territory in such a way that district public prosecutor's offices that have territorial jurisdiction have the duty to inform the group on matters from its jurisdiction as soon as they find out about them. As regards other matters the competencies of prosecutors from this group are the same as prosecutors' general competencies.

Criminal offences of corruption are judged by the courts:

- Local courts (there are 44 in the country) administer justice in procedures for criminal offences where pecuniary penalty or imprisonment for not more than three years is prescribed. Thus out of criminal offences of corruption those courts process Obstruction of Freedom of Choice under Art. 162 of the Penal Code, Acceptance of Bribe at the Election or Ballot under Art. 168, Unjustified Acceptance of Gifts under Art. 247, Unjustified Giving of Gifts under Art. 248, Giving of Bribe under Art. 168, Trading in Influence under Art. 169, Acceptance of Bribe under Art. 267, Paragraph 2 and 3 of the Penal Code.
- District Courts (there are 11 in the country) among other judge in procedures for the criminal offence of Acceptance of Bribe under Art. 267, Paragraph 1 of the Penal Code.
- Higher courts (there are 4) administer justice in appellate procedures.
- The Supreme Court of the Republic of Slovenia is the last instance in court procedures and passes judgement in filed extraordinary appeals.

Criminal matters are judged by the criminal departments of the courts, within which there is a certain specialization of judges. Slovenia also has the institute of the investigating judge, who carries out the investigation against a certain person if there is grounded suspicion that the person has committed a criminal offence, but he also issues orders for the encroachment upon the rights and freedoms of suspects in cases where court decision is envisaged by the Constitution of the Republic of Slovenia and the laws.

Considering the identical territory covered by the regional police directorates, district public prosecutor's offices and district courts the very necessary co-operation between all the three authorities in the prosecution of corruption is ensured.

III. 1.1 Slovenian penal jurisdiction

The rules determining applicability of the Penal Code are defined in its Chapter 13. In accordance with this chapter the Penal Code is applicable to every person who commits a criminal offence in the territory of the Republic of Slovenia. Likewise, it can be applied, on certain conditions, also for the offences of corruption committed abroad both by domestic nationals and foreigners against the Republic of Slovenia and its national or against a foreign country and a foreign person.

The legal wording of the provisions governing the applicability of the Penal Code in the case of criminal offences mentioned in the answer to question 2.1 is as follows:

Applicability to Persons for Criminal Offences Committed in the Territory of the Republic of Slovenia Art. 120

- (1) The Penal Code of the Republic of Slovenia shall apply to any person who commits a criminal offence in the territory of the Republic of Slovenia.
- (2) The Penal Code of the Republic of Slovenia shall also apply to any person who commits a criminal offence on a domestic vessel regardless of its location at the time of the committing of the offence.

- (3) The Penal Code of the Republic of Slovenia shall apply to any person who commits a criminal offence either on a domestic civil aircraft in flight or on a domestic military aircraft irrespective of its location at the time of committing of the criminal offence.

Applicability to Citizens of the Republic of Slovenia for Criminal Offences Committed Abroad
Art. 122

The Penal Code of the Republic of Slovenia shall be applicable to any citizen of the Republic of Slovenia who commits any criminal offence abroad other than those specified in the preceding Art. and who has been apprehended in or extradited to the Republic of Slovenia.

Applicability to Foreign Citizens for Criminal Offences Committed Abroad
Art. 123

- (1) The Penal Code of the Republic of Slovenia shall apply to any foreign citizen who has, in a foreign country, committed a criminal offence against the Republic of Slovenia or any of its citizens and who has been apprehended in the territory of the Republic of Slovenia or has been extradited, even though the offences in question are not covered by Art. 121 of the Present Code.
- (2) The Penal Code of the Republic of Slovenia shall also be applicable to any foreign citizen who has, in a foreign country, committed a criminal offence against a third country or any of its citizens and has been apprehended in or extradited to the Republic of Slovenia. In such cases, the court shall not impose a sentence on the perpetrator heavier than the sentence prescribed by the law of the country in which the offence was committed.

Special Conditions for Prosecution
Art. 124

- (1) If, in cases under Art. 120 of the Present Code, the criminal procedure has been initiated or discontinued in a foreign country, the perpetrator may be prosecuted in the Republic of Slovenia only by permission of the Ministry of Justice of the Republic of Slovenia.
- (2) In cases under Art.s 122 and 123 of the Present Code, the perpetrator shall be prosecuted:
 - 1) if he has served the sentence imposed on him in the foreign country or if it was decided in accordance with an international agreement that the sentence imposed in the foreign country is to be served in the Republic of Slovenia;
 - 2) if he has been acquitted by a foreign court or if his sentence has been remitted or the execution of the sentence has fallen under the statute of limitations;
 - 3) if, according to foreign law, the criminal offence concerned may only be prosecuted upon the complaint of the injured party and the latter has not been filed.
- (1) In cases under Art.s 122 and 123 the perpetrator shall be prosecuted only insofar as his conduct constitutes a criminal offence in the country where it was committed.
- (2) If, in the case under Art. 122, the criminal offence committed against the Republic of Slovenia or the citizen thereof does not constitute a criminal offence under the law of the country where it was committed, the perpetrator of such an offence may be prosecuted only by permission of the Ministry of Justice of the Republic of Slovenia.

- (3) If, in the case under the preceding Art., the criminal offence is not punished in the country where it was committed, the perpetrator may be prosecuted only by permission of the Ministry of Justice and with the proviso that, according to the general principles of law recognized by the international community, the offence in question was constituted a criminal act at the time it was committed.
- (4) In the case under Art. 120, the prosecution of a foreign person may be transferred to another country under conditions provided by the statute.

III.1.2. International legal assistance

International legal assistance in criminal matters is governed by the Criminal Procedure Act (OG RS) in Articles 514 – 520, if an international treaty does not stipulate otherwise.

Below we quote the legal wording of the mentioned Articles:

Art. 514

International aid in criminal matters shall be administered pursuant to the provisions of the present Code unless provided otherwise by international agreements.

Art. 515

- (1) Petitions of domestic courts for legal aid in criminal matters shall be transmitted to foreign agencies through diplomatic channels. Foreign petitions for legal aid from domestic courts shall be transmitted in the same manner.
- (2) In emergency cases and on condition of reciprocity, requests for legal assistance may be sent through the ministry of internal affairs, or in instances of criminal offences of money laundering or criminal offences connected to the criminal offence of money laundering, also to the body responsible for the prevention of money laundering.
- (3) If reciprocity applies or if so determined by an international treaty, international criminal-legal help may be exchanged directly between the Slovene and foreign bodies which participate in the pre-criminal and criminal proceedings, wherein modern technical assets, in particular computer networks and aids for the transmission of pictures, speech and electronic impulses may be used.

Art. 516

- (1) The Ministry of Foreign Affairs shall send petitions for legal aid received from foreign agencies to the Ministry of Justice which shall forward them for consideration to the circuit court in whose territory resides the person who should be served with a document, or interrogated, or confronted, or in whose territory an investigative act should be conducted. In instances referred to in the second paragraph of Art. 515 of the present Code petitions shall be transmitted to the court by the Ministry of the Interior.
- (2) The permissibility and the manner of performance of an act requested by a foreign agency shall be decided by the court pursuant to domestic regulations.

- (3) If a petition relates to a criminal offence for which no extradition is provided by domestic regulations the court shall consult the Ministry of Justice as to whether to grant the request or not.

Art. 517

- (1) Domestic courts may grant the request of a foreign agency for execution of a judgement of conviction passed by a foreign court if so provided by the international agreement or if reciprocity exists.
- (2) In the instance referred to in the preceding paragraph the domestic court shall execute punishment imposed by a final judgement of a foreign court by imposing sanction in accordance with the legislation of the Republic of Slovenia.
- (3) The court of jurisdiction shall pass judgement in the panel of judges referred to in the sixth paragraph of Art. 25 of the present Code. The public prosecutor and defence counsel shall be informed about the session of the panel.
- (4) Territorial jurisdiction of the court shall be determined according to the last permanent residence of a convicted person in the Republic of Slovenia. If a convicted person had no permanent residence in the Republic of Slovenia territorial jurisdiction shall be determined according to his place of birth. If a convicted person neither had permanent residence nor was born in the Republic of Slovenia the supreme court shall assign the conduct of proceedings to one of the courts of real jurisdiction.
- (5) In the enacting terms of the judgement from paragraph three of this Art. the court shall enter in full the enacting terms of the judgement of the foreign court and the name of the foreign court and shall pronounce sanction. In the statement of reasons the court shall state the grounds for the sanction which it has passed.
- (6) An appeal may be lodged against the judgement by the public prosecutor, the convicted person and his defence counsel.
- (7) If an alien sentenced by a domestic court, or a person authorised under a contract, files with the court of first instance petition for the convicted person to serve the sentence in his country, the court shall be entitled to grant petition if so provided by the international agreement or if reciprocity exists.

Art. 518

In the case of criminal offences of counterfeiting money and putting it into circulation, illicit production, processing and sale of narcotics and poisons, white slavery, production and dissemination of pornographic material or some other criminal offence for which centralisation of data has been provided under international agreements, the agency which conducts criminal proceedings shall be bound immediately to send to the Ministry of the Interior data about the criminal offence and its perpetrator, and the court of first instance shall in addition send the finally binding judgement. Whenever the criminal offence of money laundering or a criminal offence connected to money laundering is involved, the data shall be sent without delay to the body responsible for the prevention of money laundering.

Art. 519

- (1) If an alien who permanently resides in a foreign country commits a criminal offence in the territory of the Republic of Slovenia all files for criminal prosecution and adjudication may, beside conditions specified in Art. 522 of the present Code, be surrendered to the foreign country if it agrees to receive them.
- (2) The decision on the surrender of files shall before the ruling on investigation has been rendered lie with the competent public prosecutor. During the investigation the surrender shall be decided by the investigating judge upon motion of the public prosecutor, and until the opening of the main hearing it shall be disposed of by the panel (sixth paragraph, Art. 25) who shall also handle matters from the jurisdiction of the district court.
- (3) The surrender of criminal files may be allowed where criminal offences punishable by up to ten years imprisonment are involved, as well as in case of criminal offence against safety of public transport.
- (4) The surrender of criminal files shall not be allowed if the injured party is a citizen of the Republic of Slovenia who opposes it, except where his indemnification claim has been secured.
- (5) If the defendant is in remand the foreign country shall be requested through the shortest possible channels to report within fifteen days if it assumes prosecution.

Art. 520

- (1) The request of a foreign country to the Republic of Slovenia to assume prosecution of a citizen of the Republic of Slovenia, or a person with permanent residence in the Republic of Slovenia, for a criminal offence committed abroad shall be transmitted, together with the files, to the competent public prosecutor in whose territory that person has permanent residence.
- (2) Indemnification claims filed with the competent agency of a foreign country shall be treated as if they have been filed with the court of jurisdiction.
- (3) Information about the refusal to assume criminal prosecution and the final decision thereon shall be sent to the foreign country which requested that the Republic of Slovenia assume prosecution.

III.2. Authorities for the prosecution of corruption in the wider sense

Authorities dealing with corruption in the wider sense are the Court of Auditors, the Mandate and Immunity Commission of the National Assembly and the Commission under the Act on Incompatibility of Holding Public Office with a Profit-Making Activity.

There is a high possibility for the Court of Auditors in the course of its work to encounter cases of criminal offences and misdemeanours (including those that could contain elements of corruption or indicate that there is a background of corruption).

When an auditor of the Court of Auditors in the course of his work finds out (suspects) that a criminal offence or a misdemeanour has been committed, the Court of Auditors acts in one of the following ways:

- notifies the Minister of the Interior about the criminal offence,
- proposes the institution of a misdemeanour procedure at the competent Misdemeanour Judge,

- informs in writing the authority that is competent to act against such misdemeanours (competent inspection services) about the misdemeanour or the irregularity,
- informs the management of the suspected person about the suspicion of a criminal offence or misdemeanour.

In their work the Court of Auditors uses INTOSAI standards and the European guidelines for the implementation of international auditing standards issued on their basis. The European guideline no. 52 – irregularities, includes guidelines to plan auditing, auditing procedures where there is alleged fraud or other irregularities, and the responsibilities to report on fraud or irregularities. This guideline gives instructions to the auditor on planning, implementation of procedures and reporting on eventual illegalities.

The legal regulation of public procurement and its consistent application can contribute greatly to the prevention of corruption in public sector and in public administration. This is why the Court of Auditors in performing its audits also regularly supervises the granted public orders. It dedicates individual audits to finding out about the regularity of granting public orders.

In the past the Court of Auditors has established a number of irregularities in the field of public procurement. Until 1997 this field was governed by the Governmental Order on the Procedure of Invitations for Public Tenders in Public Procurement, which had substantive deficiencies. In 1997 a new act on public procurement came into force, which regulated this field in detail. This year a new act has been adopted and will come into force in November 2000. It is completely harmonized with the EU acquis and will not bring about any greater substantive changes in the field of public procurement. The Court of Auditors estimates that the situation has substantially improved since the adoption of the act in 1997.

In the procedure of public orders itself, legal security to tenderers is guaranteed, which is carried out by the State Audit Commission for the Audit of Procedures of Granting Public Orders. The work of this Commission greatly affects the regularity of the implementation of individual procedures of public procurement, as in the case of established irregularities the commission partly or wholly annuls the procedure of granting the public order.

The Mandate and Immunity Commission is a working body of the National Assembly of the Republic of Slovenia. It is established on the basis of the ordinance on the composition and election of a Mandate and Immunity Commission of the National Assembly of the Republic of Slovenia (OG RS, no. 5/97). The Commission is composed by the president, vice-president and eight members, who are deputies in the National Assembly. The Commission performs work related to confirming the terms of office of deputies, studies questions in connection of the immunity of deputies and judges of the constitutional court and notified the assembly on cases that result in the termination of a deputy's term of office (for example: if he is sentenced with a final non-conditional sentence to imprisonment longer than 6 months, if in three years from the confirmation of his term of office as a deputy he has not stopped performing the activity which is not compatible with holding a public office, or if he starts to hold a function or to perform an activity which is not compatible with the function of deputy).

Following the information by the Commission under the Incompatibilities of Holding Public Office with a Profit-Making Activity Act, the Mandate and Immunity Commission proposes to the National Assembly to establish whether a deputy has accepted gifts or gained benefits that affected the performance of his function and to initiate the procedure for the termination of his term of office and/or dismissal in accordance with the constitution and the law.

The Commission under the Incompatibilities of Holding Public Office with a Profit-Making Activity Act is established on the basis of the Incompatibilities of Holding Public Office with a Profit-Making Activity Act (OG RS, no. 49/92 and 50/92). The Commission has been established by the National Assembly of the Republic of Slovenia. It is composed of seven members: the president and four members are elected by the

National Assembly of the Republic of Slovenia while two members are elected by the National Council of the Republic of Slovenia. The Commission is established to perform tasks related to the restrictions regarding the performance of a profit-making activity to private ends for persons performing representative and executive function in the national bodies and bodies of local communities (officials) and supervision of their property situation. It decides on matter within its competence on a session, adopting decisions with the majority of votes of all members.

IV. SITUATION REGARDING EXPOSED PROFESSIONS

IV.1. Public officials

The Act on Incompatibility of Holding Public Office with a Profit-Making Activity (OG RS, no. 49/1992 of 10 October 1992) is one of the fundamental regulations in this field . The provisions of this law refer to all persons who perform representative or executive functions in state bodies and bodies of local communities in Slovenia. It therefore binds the President of the Republic, the President of the Government and ministers, as well as state secretaries and all other officials in the state administration, as well as delegates to both “houses” of the Slovenian Parliament. In addition, it applies also to the mayors of Slovene municipalities and to other officials on a local or regional level.

The Act on Incompatibility of Holding Public Office with a Profit-Making Activity stipulates that during his function an official can not perform a profit-making activity, which under this act is incompatible with his office. An official can not receive gifts in relation with the performance of his office; during the time of his office he can not obtain any advantages that could affect his actions. The prohibition of receiving gifts and obtaining advantages is also in force for the official’s spouse or the person he is living with in a joint household, as well as for his children and his adopted children, parents, grandchildren, brothers and sisters living with him in a joint household. An official who performs his office professionally can not perform any profit-making activity during the time of his office that could affect objective performance of his duties that is not influenced by any external factors. An official who does not perform his office professionally can perform a profit-making activity to private ends if this does not affect the performance of his functions and if the nature of the profit-making activity does not affect objective performance of his function. The official has to inform the commission about the data on his financial situation immediately after his office starts or terminates or within one month at the latest. During his term of office the official has the duty to report about his assets every two years and upon the request of the commission also one year after his office is terminated.

Apart from the Act on Incompatibility of Holding Public Office with a Profit-Making Activity (limitations regarding the performance of profit-making activity to private ends for persons performing representative and executive functions in state bodies and bodies of local authorities and supervision of their financial situation), two other acts are in force: the Court of Auditors Act (OG RS, no. 48/94), which stipulates that upon their appointment the members of the Court of Auditors have to submit a written statements on their financial situation, and the Act on Social Attorney of the Republic of Slovenia (OG RS, no. 69/95), which stipulates that the National Assembly can dismiss a social attorney and his deputy if he damages the reputation of the office with his work and his actions.

Supervision of the implementation of the cited provisions is entrusted to a special commission which is founded and operates within the framework of the National Assembly. This collects and analyses above all data on the financial situation of officials and their spouses, who are bound to communicate these to the commission every two years. The cited data, with the exception of salaries which are paid from the budget, are public.

If the commission estimates that an official has received gifts or acquired benefits that affected the performance of his functions, it notifies the body whose member is the official in question or the body that is competent for the election and appointment of the official. If that body establishes that the official has received gifts or acquired benefits affecting the performance of his functions, it initiates the procedure for the termination of his term of office and for dismissal pursuant to the constitution and the law. If on the basis of the data on his financial situation or on the basis of other data the commission establishes that the financial situation of the official and/or of his family members living in the same household as he has increased exceptionally, it has to notify the body whose member is the official or the body that is competent for the election or the appointment of the official. The body that is competent for the election or the appointment of the official can demand such a report from the competent authority at any time.

IV.2. Other professions

The Constitution of the Republic of Slovenia in its Art. 120 stipulates that the authorities of public administration perform their duties and functions independently and pursuant to the Constitution and the law. Judicial protection of the rights and legal entitlements of individuals and organizations against the decisions and acts of the administrative bodies and statutory authorities is guaranteed.

The Act on State Employees (OG RS, no. 15/90, 5/91, 18/91, 2291, 2/91-I, 4/93, 7/97 and 38/99) in Art. 45 among other stipulates as a serious violation of working obligations (which can also be corruption) an act that means a criminal offence against official duty, another criminal offence perpetrated during work or related to work or perpetrated out of dishonourable impulse or a misdemeanour that affects the reputation of the state authority as well as abuse of position or of authorization.

For the mentioned serious violations of the working obligation the obligatory measure of termination of labour relations is envisaged.

In Art. 27 this Act stipulates that an official employed in a state body, except higher administrative officials (secretary general, state undersecretary, counsellor to the government, undersecretary, assistant head, counsellor to the head,...) can, beside his own work, perform activities in economic associations or perform work similar to the one he performs in his office for another body or organization only on the basis of a written permit by his head, except in cases of independent scientific, pedagogical, cultural, artistic, sports, humanitarian or journalist activity. The violation of this provision is listed among the more serious violations of working duties and obligations, where also belong: non-performance, non-conscientious, untimely or negligent performance of work, abuse of position or of authorization, illegal disposing with social means, violation of regulations on the protection of official secrets, act obstructing the customers in exercising their rights and interests at a state body. For some of these violations the mandatory measure of termination of labour relations is envisaged and for others this measure is facultative.

The quoted act in Art. 51 further regulated the liability for damages. An employee has liability for the damages he has caused during his work or in relation to his work in a state body to that state body on purpose or out of gross negligence.

The draft Public Officials Act, which is envisaged to be adopted in 2001, also contains the adoption of an ethical code for public officials. Further, commissions for personnel affairs are envisaged which will decide on employee complaints, while the establishment of the institute of the nullity of the act on the gained position or of the concluded employment contract for individual cases of the most serious violations of legal provisions violating the basic principles and damaging a quality and efficient performance of public functions and by that an adequate level of services to the users. A public official has to act in accordance with the principles of performing public duties and to refuse to carry out orders if by doing so he would commit an anti-constitutional or illegal act. The draft act also introduces the obligation of acting and behaving in the interest of the office. An employee should call the attention of his head, his superiors

or the competent inspector to irregularities in the actions of the employees. A new institute in the draft act is also taking of an oath in order to ensure personal suitability and honourability of the performance of public functions and to protect the employer and the public official.

Slovenia also knows statutory rules and codes of conduct in force for individual professions that are exposed to corruption. Although the provisions of both kinds of instruments are different, the following points in common can be established:

a) Codes of conduct

Police officers, prosecutors and judges, lawyers, officials in the service for the execution of penal sanctions, tax officials, accountants all have their codes of conduct. Military personnel and politicians do not have their codes of conduct. Codes of ethical conduct ensure the application of the following principles: loyalty, efficiency, effectiveness, integrity, fairness, impartiality, prohibition of discrimination, prohibition of undue preferential treatment for any group of individuals, prohibition of abuse of position, prohibition of receiving of gifts and advantages.

Most codes envisage sanctions in case of violations. Professional associations are usually competent for the pronouncing of sanctions, although such cases rarely occur.

b) Statutory rules

A number of statutory rules are in force for public officials, prosecutors and judges, and their points in common are:

they require substantive argumentation of the decisions taken, they establish responsibility for decisions taken, they prohibit removal or destruction of official property, they prohibit the abuse of, and any illegal manipulation with, the resources that the office has entrusted to the individuals, they prohibit the abuse of confidential information, they prohibit the receiving of any gifts that would represent for the officials an obligation to return the favour or to grant a special procedure to the donor, they prohibit the unsuitable exploitation of the official position, influence or knowledge, they prohibit gaining financial benefits through activities outside the office, competition clauses (after the termination of labour relations certain professions such as customs officers, police officers, deputies, prosecutors, judges, officials cannot perform for a certain period work similar to what they performed during their office), obligation to protect confidential information also after termination of their office,...

In the case of violations of statutory provisions disciplinary sanctions apply, which are pronounced by the authorities in two instances.

V. PREVENTION OF UNFAIR COMPETITION

In the field of unfair competition two acts are in force: The Protection of Competition Act (OG RS, no. 18/93, 56/99) and the Prevention of Restriction of Competition Act (OG RS, no. 56/99).

The former prohibits all actions which contrary to the law restrict competition on the market, are contrary to good business practice in appearing on the market or represent illicit speculation and mainly unfair competition (actions of an enterprise on the market which are contrary to good business practice and could cause or are causing damage to other participants on the market). As forms of unfair competition the following practices are listed as well:

- giving or promising of gifts, property or other benefit to another company, its employee or a person working for another company, in order to enable the donor to have an advantage to the detriment of a company or consumers,

- unlawful obtaining of confidential information from another company or unauthorized exploitation of an obtained confidential information of another company.

The implementation of the act is supervised by the Office for the Protection of Competition, and the parties injured in the acts of unfair competition can in a civil procedure demand the prohibition of further acts of unfair competition and the reestablishment of the situation as it was before, and in case of damages also their compensation. An act of unfair competition represents also a misdemeanour for the legal person and its responsible person.

The Prevention of Restriction of Competition Act governs the prohibited restrictions of competition, protection and measures if such restrictions appear, bodies for the protection of competition, their competencies and procedures of state authorities and parties in relation with restriction of competition.

The act stipulates that the Government of the Republic of Slovenia, state authorities, the authorities of local authorities, companies, organisations and individuals performing public authorizations should not restrict free appearance of companies on the market. As restriction of free appearance on the market are considered also all acts and actions which

- unlawfully delay a procedure to issue of a permit,
- unfoundedly guarantee to a company a privileged position in business on the market.

In such cases and in accordance with the substantive law, legal remedies in the administrative procedure are allowed and in any case administrative dispute is allowed, while the responsible person of the state authorities is punished for such an act as for a misdemeanour.

The independent and autonomous Office for the Protection of Competition takes care for the implementation of the act.

VI. PREVENTION OF UNLAWFUL USE OF PUBLIC FINANCE

In Slovenia we have in general two main measures which prevent the unlawful use of public finances, and can be combined with other mechanisms due to specific circumstances.

1. Control and at the same time prevention over the regular use of public funds is established within various state agencies as a system of internal supervisions according to the Law on Public Finance (Official Gazette of the Republic of Slovenia No. 79-3758/1999).

Financial supervision of direct users of the State Budget is a system of internal controls and audit. The system of internal controls is organized as a system of procedures and responsibilities of employees within each specific direct user of the budget on a regular basis.

Supervision of the State Budget falls within the competence of Ministry of Finance, which is obliged to make a report about executed control, findings and decisions to the Government and the Court of Audit of the Republic of Slovenia. The Government, based on the mentioned findings, presents a report to the National Assembly every six months.

2. In general, according to the Article No. 21 of Act of the Court of Audit of the Republic of Slovenia (valid since 20.08.1994 Official Gazette of the Republic of Slovenia No. 48/94), the Court of Audit carries out:
- control over regularity, intended purpose, and economic and effective use of public funds;
 - control over the regularity of individual enactment on the execution of budgets and financial plans;
 - pre-audits and audits of financial statements of budgets and other users of public funds;
 - control over collection of public duties;
 - advising public administration;
 - other tasks, provided for by other acts.

The Court of Audit co-operates in establishing methods for presenting accounting statements and records, as well as in setting the standards for public sector consumption.

For reasons of control over their business operation, the entities referred to in paragraph (1) of Article 19 yearly submit to the Court of Audit their budget plans and other acts determined by the Court of Audit, as well as their annual business reports.

Audits of financial statements are mandatory carried out once a year for the State Budget, the Funds established by the Republic of Slovenia and for the Pension and Disability insurance Agency of Slovenia, the Employment Office of Slovenia and the Health insurance Agency of Slovenia. The audit is carried out prior to the discussion about business reports before the authorities defined by law or other enactment.

The Court of Audit exercises control over the lending relations of the Bank of Slovenia to the State Budgets and over other transactions which the Bank of Slovenia provides for the Republic of Slovenia pursuant to the law.

The Court of Audit a /so may control and/ or audit financial statements at the request of the National Assembly, Government, competent ministries and local government bodies.

Audits of financial statements in other controlled entities, with the exception of those mentioned in paragraph 4 hereof are performed in accordance with the annual programme of the Court of Audit and decisions made by the President of the Court of Audit as regards the frequency of controls.

The Court of Audit of the Republic of Slovenia began to operate on 01. 01. 1995. It is the body with the ultimate responsibility for auditing State finances, the State Budget and monies expended for public purposes. Officers of the Auditor General's Office are appointed by the National Assembly.

The work of the Court of Audit is public. It is independent in the performance of its functions and subject to the Constitution and law as described in Act of the Court of Audit of the Republic of Slovenia (valid since 20.08.1994 Official Gazette of the Republic of Slovenia No. 48/94).

VII. PUBLIC PROCUREMENT

The Republic of Slovenia passed two acts covering the field of public procurement:

1. Public Procurement Act (PPA), published in the Official Gazette of the R.S. No. 24/97, valid since 01.07.1997;
4. Act on Revision of Public Procurement Procedures (ARPPP), published in the Official Gazette of the R.S. No. 78/99, valid since 25.09.1999.

The Slovenian Parliament already passed the new Public Procurement Act, published in the Official gazette of the R.S. No. 39/2000, which will replace the existing act on public procurements from 1997. This act will become valid on 13.11.2000.

Both Public Procurement Acts, the previous still valid one and the new one, contain provisions on prohibition of unfair competition, define the transparency of placing an order and the prohibition of discrimination of bidders.

Both Public Procurement Acts contain the provision in art. 9 and 10 (PPA 1997) and in art.14 (PPA 2000) respectively which demands from the person placing an order to reject the offer, if the bidder that submitted it, gives or is ready to give to an employee of the person placing an order, a customer or similar, any kind of gift or is ready to carry out a favour as an attempt to influence the act or decision or further procedure of placing a public procurement. The attempt of the criminal offence of bribery or its completion must be reported in accordance with the provisions of the Penal Code and the Penal Procedure Act.. The criminal offence of giving or taking the bribe is prosecuted under official duty.

Whoever has the interest to obtain a public contract, may request the revision of procedure of submission of a public contract if he/she thinks that the person hat placed an order, violated the regulations about public procurement. Once the demand for the revision has been submitted it shall automatically stop further activities of the person that placed the order (temporary suspension) until the decision on the revision demand has been reached. The demands for revision shall be decided upon by the independent State body, the Commission for Revisions under the Public Procurement Act, whose decision is final. It is, nevertheless, possible to continue the procedure at the regular court under the rules of civil law procedures, however, entering a lawsuit shall have no suspensive effect.

VIII. FUNDING OF POLITICAL PARTIES

The funding of political parties is regulated by the Act on Political Parties (APP), Official Gazette of R.S. No. 62/94, 13/98, 1/99 and 24/99. It is also necessary to take in consideration the Act on Electoral Campaign (AEC), O.G. of R.S. No. 62/94 and 17/97 which regulates the funding of electoral campaigns, and the Act on Members of Parliament (AMP), o.g. No. 48/92, 15/94, 19/94 and 44/99, which indirectly regulates the funding of political parties.

Political party may acquire funds from the following:

- membership fees;
- contributions from individual, legal and natural persons;
- incomes from property;
- donations;
- legacies;
- budget;
- profit from the income of the company whose owner it is.

A company which is owned by a political party may perform only cultural or editorial activities.

Yearly income of a party from its property or from the profit of its own company can not exceed 20% of the amount of total yearly incomes of a party. The surplus of incomes above the cited amount must be donated by the party to charity.

Parties which members were elected to the Parliament (National Assembly) during the last elections have the right to obtain means from the budget in relation to votes obtained in all electoral units during the last election to the Parliament. Any party has the right to obtain 30 Slovenian tolar (SIT) from the State budget for each vote acquired.

X.2 Prohibition of acquisition of means from certain sources:

It is prohibited that the party would acquire means from:

- contributions from foreign individuals, natural and legal persons,
- incomes from party's property abroad,
- donations and legacies from abroad,
- or any other acquisition of means from abroad or performing services abroad respectively.

Political parties are also prohibited to acquire funds from:

- state authorities,
- public institutions,
- public companies,
- authorities of local communities,
- humanitarian organisations,
- religious communities,
- business societies in which at least 50% of public capital has been invested.

X.3 Limitations of funding

The contribution of legal of natural persons to a party must not exceed the amount equivalent to ten times of the average monthly wage of a worker in Republic of Slovenia as calculated by the Statistical Bureau of the Republic of Slovenia for the running year.

If the contributions of legal or natural persons exceed in their total yearly amount the three times average monthly wage, then the report must include data about the company, its seat or name, family name and address of natural person or individual and name of his/hers company and the amount of total yearly contribution that he/she gave.

Political parties may be funded with the same amount also from municipal budgets, for each vote acquired at the elections for mayor or municipal council.

X.4 Reports of political parties

The keeping of business books of political parties is regulated by the Accountancy Act. Special provision about financial reports is included also in the Act on Political Parties.

The parties are obliged to submit to the Parliament until March 31st of the running year their financial report on operations of the party during the past year, which must include all incomes and expenses of the party and especially the sources of party's income in accordance with the accountancy regulations. This report must separately show data about natural and legal persons which contributions exceeded the amount

of three times of average wage and data about election expenditures. In the report the property of the party must be cited as well, all changes of property must be noted separately, including the citing of sources for increase of property, if such increase exceeded the total amount of five average wages for the reported year.

This report must be reviewed and evaluated by the Court of Auditors of the Republic of Slovenia before its submission to the Parliament. The note of this review must be attached as an enclosure to cited report.

The financial report must be published in the Parliamentary Bulletin.

X.5 Control over the political parties

The control of implementation of provisions of the Act on Political Parties shall be carried out by the ministry competent for administration (Ministry of the Interior) except if otherwise defined by the law.

X.6 Funding of the electoral campaign

The funding of political parties is regulated also by the Act on Electoral Campaign, which otherwise regulates the issues regarding the electoral campaign for election of members of parliament, of President of the Republic and of members of municipal councils and mayors, however, the organisers are first of all the political parties or third natural or legal persons which carry out the electoral campaign by order from political parties.

For funding of electoral campaign the provisions of the act that regulates the funding of parties shall be sued (Act on Political Parties), if it is not otherwise defined by the Act on Electoral Campaign.

The expenses of an electoral campaign are those expenses which are necessary for carrying out an electoral campaign for an individual list of candidates or for an individual candidate and are the following:

- expenses for printing and hanging of posters,
- expenses for publishing of pre-election advertisements and notices in public media,
- expenses for organisation and performing of pre-election rallies and
- expenses for printing, reproduction and mailing of pre-election material that shall be sent directly to voters.

The expenditures of the electoral campaign for election in Parliament should not exceed 60 SIT per individual qualified voter in constituency or electoral unit in which the candidate list has been submitted or in which an individual candidate stands as candidate. For election of the President of the Republic the expenses must not exceed 40 SIT per individual qualified voter in the State, these expenses may be increased by 20 SIT in case of additional voting. The same proportion is valid also for the elections of members of municipal councils or mayors.

The organiser of the electoral campaign must open at least 45 days before the elections a special giro account titled "for electoral campaign". The organiser must collect all financial means, dedicated by himself or received from other legal or natural persons for funding of the electoral campaign on this special account. The organiser shall cover all the expenses for the electoral campaign solely from this giro account.

Any organiser of an electoral campaign who is not a political party, must transfer any surplus of collected means for humanitarian purposes.

X.7 Report by the organiser of the electoral campaign

The organiser of the electoral campaign shall present to the Parliament on the eleventh day before the election day an intermediate report of expenses occurred for the electoral campaign and of all other events which have registered on the special giro account.

The organiser of the electoral campaign for election in Parliament or for the President is obliged, 30 days after the election at the latest, to submit a report to the Parliament and to the Court of Auditors about the following:

- the amount of means collected or used for the electoral campaign,
- of all contributions to the organiser of the electoral campaign, which exceeded the three times amount of average monthly wage,
- of all loans granted to the organiser of the electoral campaign, if the amount of the loan granted exceeded the amount cited in previous paragraph,
- of all postponed payments to the organiser of electoral campaign, if the amount of the payment exceeds the amount of funds collected and used, including the quoting of the legal or natural person that approved the postponement of the payment.

In case if the political party or any other organiser of the electoral campaign transferred to the special account under art. 18 of the cited law, also funds from any other own account, it must submit also the report about transactions carried out from the accounts, from which the means were transferred to the special account, for the period of six months before the election day.

The organiser of the electoral campaign for members of municipal council or for the mayor must send to the municipal council or to the Court of Auditors a report on all funds collected or used for the electoral campaign within 60 days after the election day.

Reports about funds collected and used for the electoral campaign are public.

X.8 Partial reimbursement of expenses for organisation and funding of an electoral campaign

The organiser of an electoral campaign whose lists got the mandates for deputies in the Parliament, have the right to claim the reimbursement of election expenses in the amount of 60 SIT per vote acquired, however, the total amount of funds reimbursed must not exceed the amount of means used as it could be seen from the report by the Court of Auditors.

The organiser of the electoral campaign whose list of candidates received at least 6% of the all given votes in an electoral unit or at least 2% of all given votes throughout the country, has the right to obtain partial reimbursement of expenses for electoral campaign in the amount of 30 SIT for each vote acquired.

The right to get partial reimbursement of expenses for an electoral campaign have also the organisers of electoral campaign or candidates for the President of the Republic, who obtained at least 10% of total number of votes of qualified voters that cast their votes.. The organiser shall receive a reimbursement in the amount of 20 SIT per vote.

The municipalities may through an adequate act define partial reimbursement of electoral expenses also for the organisers or the candidates respectively which participated at the elections for members of municipal councils or for mayors.

X.9 Control of funding of an electoral campaign

Three months after the election day the Court of Auditors shall carry out a revision with all organisers of the electoral campaign for elections of members of Parliament and for the elections of the President of the Republic, who have the right under this law, to claim the partial reimbursement of expenses for an electoral campaign.

The Court of Auditors shall carry out a revision within six months after the election day for all those organisers of electoral campaign that have no right under this law to claim the reimbursement of electoral expenses.

Should the Court of Auditors discover during the review of the reports any irregularities with the funding of an electoral campaign, it shall carry out a revision also for the organiser of an electoral campaign for elections of members of municipal councils or for mayors.

Through the revision the Court of Auditors shall verify:

- the amount of funds collected and used during the campaign;
- if the organiser of an electoral campaign obtained and used the means for an electoral campaign in accordance with the law;
- if the data submitted by the organiser of an electoral campaign are accurate and
- the amount of partial reimbursement of expenses that occurred during the campaign to which the organiser of electoral campaign has the right under this law.

The final report of the Court of Auditors shall be published in the Parliamentary Bulletin.

X.10 Act on Members of Parliament

The Act on Members of Parliament regulates the funding of political parties indirectly. It regulates the issues regarding the ensuring of conditions for work of the M.P's and groups of deputies which occur during the performance of their functions and with the related expenses, born directly by the State or certain means dedicated to groups of deputies for this purpose. Through this political parties are partially relieved from certain expenses which would otherwise occur to them because of performance of the functions of their representatives with implementation of the power.

X.11 The problems regarding the funding of political parties

The Court of Auditors discovered during the review of the reports that some of the provisions of the Act on Political Parties, concerning the funding of the political parties, caused certain problems in practice. Also on the base of proposals and recommendations by the Court of Auditors the Draft law on changes and supplements of Act on Political Parties (currently going through the first reading in the Parliament) some necessary changes have been proposed of those provisions that regard the funding of political parties.

Mainly the corrections are the following: with definition of the upper still admissible financing of the party by legal, natural persons or individual entrepreneurs it was necessary to establish the criteria which could be objectively considered, namely the data about the average monthly wage for the past year and not only for the year in which such contributions were given. It was also necessary to supplement the provisions about the composition and submission and publishing of yearly reports of the parties, since the existing provisions were not uniformly interpreted and used. Thus it will become obligatory for each party that received budget funds to publish a brief yearly report in the Official Gazette of the Republic of Slovenia.

The sanction envisioned for any party that will not submit or publish its yearly report in the Official Gazette is the cessation of funding from State or local budget.

IX. RIGHTS OF THE VICTIMS OF CORRUPTION

The victim of corruption who obtained, because of any criminal offence that could be cited among the so called corruption criminal offences, a financial legal request (because, e.g. a damage has been caused to it) may assert its right already during the penal procedure running against the perpetrator of the offence or it may do so through a lawsuit procedure (the rightful claimant has a possibility to choose). The request may regard either the compensation of the damage, restitution of things or annulment of certain legal procedure (Art.100, par.2, Criminal Procedure Act - CPA). However, the condition is that the financial legal request during the criminal procedure could be entered only by the person that is a rightful claimant that can assert such demand during the lawsuit (Art. 101 of CPA). This demand could be directed also against a third person as a liable person and not only against the defendant – the perpetrator of the criminal offence (Art.111 of the CPA).

The court shall decide on financial legal request in criminal procedure under the rules of the civil law, using as a general material regulations the Act on Obligation Relations (AOR). The rightful claimants may (Art.101 of the CPA) at the same time propose also temporary protection of their demand, which was caused by the criminal offence, under the provisions valid for the executive procedure (Art. 109 , par.1 of the CPA). Concretely this means the possibility to protect the demand with mortgage rights on real estate, with mortgage rights on movable property, with mortgage rights based on the agreement between parties, with issue of a preliminary or temporary decree (Art. 240 of the Act on Execution and Insurance – AEI).

Concerning the annulment of a lawsuit the art.107 of the CPA defines that the court shall state in case, when it recognises such a request as grounded, that such a lawsuit is completely or partially annulled with all the consequences deriving from it, without prejudice to other persons rights. Under the provisions of the AOR the annulment of a contract could be, among others, the consequence of a situation, if there were mistakes done during its making concerning the will of the parties (Art. 111 of the AOR). This means that, if one of the parties concluded a contract, e.g., under the influence of a threat, in essential error, under the influence of a fraud (Art. 65 of the AOR), which could all be a consequence of a bribe to the opposite party from a third party, the first party may impugn such contract and demand its annulment. The error of the will is possible in case of corruption when one of the parties (the corrupted one) caused a mistake by the other one (the wronged party) or keeps it in error with the intention to lead it to concluding of a contract (Art. 65, par. 1 of the AOR). The party which concluded a contract while under deception has the right to demand the reimbursement of the damage sustained (Art. 65, par.2 of the AOR).

By rule the victim of the corruption shall remain outside the frame of the contracting parties. In such a case it won't be able to demand the annulment of the contract but it will have the possibility, under certain conditions, to enforce the nullity of the contract, the contents of which were influenced by the corruption. The nullity of a contract is a more serious form of voidness of contract. Among others, the contract shall be null and void, if it is contrary to the Constitutional principles of the social system or to the compulsory regulations when the intention of the rule breached does not show any other sanction or if the law does not regulate something else in certain case. This means that if one of the essential compounds of the contract has been made in a manner which is contrary to compulsory regulations, the provision of essential element of the contract shall be null and void, which means that the entire contract is null and void in such a case. In case of corruption (bribery) the reason for nullity of the contract lies in the fact that it was concluded contrary to the provisions of the art. 247 (unjustified accepting of gifts) and 248 (unjustified giving of gifts) of the Penal Code of the Republic of Slovenia.

The court is taking care of nullity by official duty and any interested person may refer to it (Art. 109 of the AOR). Such a person may enter a civil lawsuit to ascertain the nullity of the contract (declaratory action) and at the same time also the request for reimbursement of the damage under the general principles of the law of damages regulated by the AOR. It is first necessary to establish – specially in the case when the declaratory demand has been entered without a performance or constitutive demand – if the plaintiff shall obtain legal benefit from ascertaining the existence or non-existence of certain right or legal relation or if if the plaintiff shall have any other legal right from entering such legal action (Art. 181, par.2 of the Civil Procedure Act – CIPA). Both under the provisions of the art. 109 of the AOR as under the quoted provision of the CIPA the victim of the corruption must prove as a plaintiff that the ascertaining of the voidness of contract would enable hem/her, either in court or any other procedure (e.g.: procedure for obtaining public contract), to enforce the rights or benefits ensured by the law.

X. GENERAL PERCEPTION OF CORRUPTION IN SLOVENIA

In analysing the perception of corruption we limited ourselves to data acquired during period 1990 - 1999 in surveys of public opinion such that certain data was accessed in two, three or even more points in time. In this it is necessary to understand that a) corruption is a very illusive phenomena, that is difficult to define and changes with time, social class, region and culture; b) media coverage and its stand against corruption in general and specifically can distort perception; c) the use of many expressions (such as bribery and corruption) influences responses to differing amounts in transactions; d) there can be underreporting or overreporting. We would, therefore, propose developing the proxy method to overcome these shortcomings. As public survey analyses do not contain the proxy approach¹, our report is principally founded on a survey of perception, standpoints and tolerance to the phenomenon of corruption present over the last 10 years in Slovenia.

a) Indirect technique applied to a representative sample of the population

One indirect perception of corruption was measured in levels of trust in social institutions. Annual 10-year measurements of trust in 15 institutions show that trust in 5 (the parliament, the president, the government, political parties and the police) has fallen quite significantly; that trust in 3 (the church, the media and neighbours) has fallen; that trust remained at equal levels in 4 institutions (the currency, trade unions, the army and God) and that trust has increased in the prime minister and even strengthened with respect to the family. For the first time trust has also been measured in work colleagues and superiors at work. This indicator does not reflect a lack of trust in these institutions that have become more corruptive but that an individual has to rely more on his or her own social networking in problem-solving, and perhaps even join in corruptive practices to achieve his or her goals.

Another indirect perception of corruption is the standpoint of the general public with respect to the lawfulness in society. 36.7% of respondents in 1988 thought that the position with respect to lawfulness in society had worsened in the previous 5 years and only 11.6% believed it had improved. This indicator also speaks in favour of the individual applying different (not only legal) methods in realising his or her own interests.

Both these perceptions could be said to reflect a social-networking orientated society.

¹ The only proxy method was used in question of where the person was forced to pay money or to give gifts in order to obtain certain medical treatment sooner than official period in the last 12 months. Positive answer didn't overwhelm 3% of total number.

- b) Direct techniques of measuring the perception of corruption on a representative sample of the population

At two points in time (1995 and 1997) we measured what place the criminal had and corruption in public awareness in Slovenia. Among 37 problems listed, criminals and corruption were in the lower third of urgent problems in 1995, whereas in 1997 they were at the bottom of the list. Such ranking shows that corruption was a small problem in public awareness, especially when it applied to petty corruption that included corruption present in companies.

Political corruption was assessed very differently in 1995. With respect to the breadth of political corruption, 51.1% of respondents believed certain politicians were involved in bribery and corruption, 37.8% thought the majority of politicians, if not all, were involved in bribery and corruption.

In the 1998 survey of public opinion, people were asked whether they thought a person in Slovenia could reach the top of society with corruption alone. 40.2% of respondents firmly agreed with this and 28.4% disagreed. In 1999 61.8% of respondents assessed corruption in Slovenia to be increasing and 20% thought it was remaining at the same level.

We can interpret the data as meaning that Slovenian public awareness with respect to grand corruption is higher than with respect to petty corruption.

- c) Level of tolerance of the Slovenian public to the presence of corruption in society

Large-scale corruption is mostly, though not always, reported by the media as scandals. In the first half of the 1990s many such scandals were reported which involved corruptive practices in political and commercial circles in Slovenian society (HIT, the intelligence service, arms, etc.) In 1993 we surveyed the Slovenian public as to the reasons for the media reporting on scandals. 16.7% believed them to be political fabrications, 2.8% thought it was media sensationalism, 24.3% of respondents were convinced criminals were behind the scandals and 20.7% believed they were the result of the transition of society from one system to another. The responses show a very benevolent attitude and high level of tolerance towards corruptive practices, even large-scale corruption.

In 1990 the question how much people were disturbed by the exploitation of a person's position for personal benefit was answered by a sample of the public. 20.2% of respondents reported that they were not disturbed by this or only a little disturbed. 63.9% stated they were very upset by it. In the same manner 17.1% stated they were not disturbed or only a little disturbed by a person getting his or her way by bribery. This upset 69.2% of respondents.

The following data from three measuring years – 1992, 1995 and 1999 – go to show the different levels of tolerance the Slovenian public had towards petty and grand corruption. As an indicator of tolerance towards petty corruption, we used the questions, »can you accept or not someone not paying their bus fare?« and » can you accept or not someone getting away with not paying taxes where given the chance?« As a relative indicator of grand corruption, we used the question, »can you accept or not someone in a position of trust accepting bribes?« 59.9% of respondents to the first question in 1992 could not forgive not paying one's bus fare. In 1995 this figure had dropped to 54%. In 1992, 66.5% could not forgive people not paying their taxes. In 1995 this figure had fallen to 53.9% but in 1999 had risen again to 59.5% of respondents.

The acceptance of a bribe by a person in a position of trust is an indirect indicator of potential grand corruption so the tolerance to this is probably a good measure of the level of corruption in society. Responses were as follows: In 1992 76.8% of respondents stated they could never forgive such a deed. In 1995 73.9% of respondents were of this opinion and in 1999 73%. It could be concluded that tolerance towards grand corruption was lower than that towards petty corruption. Levels of tolerance in both cases increased over the years.

Data showed trends that were not favourable with respect to the public's perception, tolerance and resulting spreading of corruption in Slovenian society. Measures must not only be taken against instances of corruption itself but to raise the awareness of the public and reduce its tolerance towards it. There appears to be a particular problem with respect to the high level of tolerance towards petty corruption.

XI. CORRUPTION AND THE MEDIA

The Public Media Act (Art. 24) stipulates: “

“State authorities, the authorities of the local communities, individuals performing public functions, public institutions and public companies, as well as other persons performing public services (hereinafter referred to as: sources of information), have to ensure the public nature of their work by giving timely, complete and true information on the issues in their working sphere.

Subjects from the previous paragraph with their acts regulate the way of ensuring the public nature of their work, the way of giving information for the public and appoint the person who is responsible for the insurance of the public nature of their work.

Journalists have the right of access to information under the same conditions. The giving of information can only be refused in cases when the information is defined in the prescribed way as state, military or official secret or if by giving information they would violate the confidentiality of personal data or prejudice the court procedure. In case of refusal of giving information it is necessary to explain in writing the reasons for refusal within eight days, if the journalist demands it.

The source of information can claim compensation for actual costs of the transcript of the required information which comprises five typewritten pages.

The source of information is responsible for the authenticity and accuracy of information he is giving for the public.

The journalist who has obtained a piece of information from a responsible person from Paragraph 2 of the present Art., is not criminally liable if he has published the information with accurate contents in a public media.

If a public medium publishes a piece of information in summary or completely that has been published in another (domestic or foreign) public medium, it has to state the name of the public medium from which it has taken the information. Cases of contractual relations between public media are an exception.”

A problem arises when official sources of information distance themselves with various degrees of confidentiality of information. In spite of this journalists quite often violate the prescribed confidentiality. In doing this they refer to the public interest and so far nobody has suffered any serious consequence because of this. Unfortunately such “investigative journalism” is normally very one-sided and dependent on a single source, which has an interest to “disclose” information which is most often connected to political reasons. On account of limited material resources a journalist as a rule does not have a possibility to dedicate himself to real investigative work.

In order to understand the work of Slovenian journalists one should also be familiar with the situation in mass medial and among the journalists:

Code of Ethical Conduct of the Slovenian Journalists (adopted at the general meeting of the Association of Journalists of Slovenia on 29/11-1991) was modified and amended on the basis of experiences and codes of other West European journalist associations. In relation to corruption the following provisions are relevant:

The first obligation of journalists is “truthful and authentic informing of the public”, while truthfulness is the basis professional orientation. With this are connected the demand for accuracy, authenticity and completeness of information. Deviations from these guidelines are possible in theory and happen in practice because of:

- ignorance and bad education, negligence, inadequate working conditions,
- explicit corruption (promises, expectations and offers of material or another benefit),
- fear from unwanted consequences of honourable actions, which we could call “negative corruption” (pressures by authorities in power and political authorities, by family, friends and acquaintances, threats by the individuals journalists are working on).

The code explicitly prescribes: “Accepting of bribe or publishing information to the benefit of an external orderer is incompatible with the journalists’ code of ethical conduct.”

Corruption of journalists is most often connected to the so called covert publicity – even though the code prescribes that the “publicity messages and advertisements have to be unambiguously and recognizably distinguished from journalistic messages” and even though also the Public Media Act prescribes clear and visible indication of advertisements. Here mainly journalists reporting about tourism, car industry and computer science are exposed. Apart from travels free of charge the “favourable reporting” is linked to a more advantageous purchase of products, their long-lasting “testing” and similar advantages. No cases are known where corruption among journalists would be connected to payoffs of larger cash amounts. The Court of Honour of Journalists has not processed any case of corruption at all, as there have been no adequate complaints. However, there have been some professional discussions, especially on the relation towards the public relations. But in any case the most serious sanction for corruptibility is eventual editor’s criticism and derision of the colleagues. On the other hand journalists complain that due to commercial interests the management forces them into work which is close to publicity.

The limited market in Slovenia is another reason that practice of journalists’ bribing their informants is not very common. “Check-book journalism”, where the editors pay large amounts for exclusive stories, is unknown as well. The code explicitly stipulates that “the public interest does not excuse punishable and immoral forms of journalistic investigation”.

Of course, the universal dilemma remains open: where is the borderline between bribe, gift and a token of attention. We should also mention that top-level journalism is not adequately paid in Slovenia and that due to that fact journalists are – potentially, of course – even more susceptible to various forms of bribes.

2) SLOVENIA'S COMMENTS ON THE PROPOSED ANTI-CORRUPTION DECLARATION

REPUBLIKA SLOVENIJA

MINISTRSTVO ZA NOTRANJE ZADEVE

Služba za evropske zadeve in mednarodno sodelovanje

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Dear Mr. DELARE,

Slovenia welcomes any new idea the purpose of which is to expand the front of corruption prevention and suppression, both at the national and international level. For this reason Slovenia wishes to take an active part in the efforts of the working group for corruption suppression, for which it has already submitted a written request. Of course we are also willing to participate in all the other appropriate activities, of which the drawing-up and adoption of the Anti-Corruption Declaration undoubtedly is one. This is why we are sending you some opinions on the proposed declaration.

We must admit that at first the purpose and meaning of the proposed declaration were not very clear to us. After a detailed study of its contents we are increasingly convinced that the declaration is primarily intended to establish how serious the countries wishing to become members of the working group for corruption suppression are. Considering the considerable interest of non-member states such a step is definitely very rational and sensible. What is more, if the number of countries which will accede to the declaration is very high, this could finally mean that a strong global player is being developed, which is sorely needed in the fight against corruption.

The contents of the declaration, i.e. the Purpose of an Anti-Corruption Declaration, Core Principles, are undoubtedly very good. The chapter "Follow-up Mechanisms and Capacity Building", however, raises some questions:

Item 10: Does the sentence "Countries that adhere to the Declaration would provide information to the Working Group on these actions" mean that these countries would report on their efforts to implement the declaration once a month, maybe more often, and does that mean that a control mechanism is established also for non-member states? Taking into account that under item 16 also members of the Working Group will accede to the declaration, a logical discrepancy occurs for these countries would have to report to each other, which is definitely not a purpose of the Declaration with the existing evaluation system within the Working Group.

It is our proposal that the above sentence is re-worded in a more precise way and the obligations of countries (members and non-members) about reporting on the implementation of the declaration are clearly determined. Only in this way will it be possible to follow the obligation of countries regarding the implementation of the declaration, which will be voluntarily taken on by signing the declaration.

Item 13: As it was already mentioned at the meeting in Paris, it would probably not be a bad idea to invite representatives of other international bodies, associations and donors in the field of suppressing corruption to discussions under this item, so they could pass on the necessary experience at first hand. The sensitive international relations would surely not bear an incomplete and inadequate treatment of such important topics such as the efforts of various international bodies in the fight against corruption. In order to achieve this the wording of this item would have to be minimally changed in the sense that members of the

international bodies the activity of which would be dealt with would be invited to meetings of the Liaison Group.

Item 14 : In the text "the Chairman of the ad hoc group on non-members" is mentioned – does this refer to the Chairman of Liaison group or will non-members elect a special representative within the additional ad-hoc group? The chairman of the liaison group will uncontestedly have to be part of the group for the preparation of the final version of the declaration. If it is technically feasible, a representative of non-members' interests should also be part of this group, which is just an idea. However, there is no need to organise a group of non-members, although it has to be admitted that the views of the liaison group members can be different from the views of non-member countries. And it is this diversity which can contribute to the quality of the wording of the declaration and also the work of the liaison group.

Slovenia as a candidate country for membership in the Working Group is also concerned about whether there is any danger that the procedures regarding the adoption of the declaration and a new way of work (liaison group) should in any way hinder the procedures of admitting new members in the Working Group. It is obvious that the way of work established with the declaration should in the long run facilitate and shorten these procedures, so in our opinion it would have to be certain that all the procedures of integration into the Working Group which have already begun should continue normally until the complete entry into force of the declaration and its mechanisms. In these circumstances Slovenia will do everything possible for a speedy coming into force of the declaration and will as best as it can take part in the efforts to combat corruption in international business transactions in this way too.

With best regards,

Mag. Peter JEGLI•
State Undersecretary