



DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS

**STEPS TAKEN AND PLANNED FUTURE ACTIONS
BY PARTICIPATING COUNTRIES TO
IMPLEMENT THE CONVENTION ON COMBATING
BRIBERY OF FOREIGN PUBLIC OFFICIALS
IN INTERNATIONAL BUSINESS TRANSACTIONS**

SUBMISSIONS AS OF OCTOBER 2005

This document contains submissions from the 36 participating countries. The following countries were not represented during the discussion of this agenda item at the plenary meetings of the Working Group:

January 2005: Bulgaria, Chile, Denmark and Luxembourg.

March 2005: Belgium, Bulgaria, Iceland, Luxembourg and Slovenia.

June 2005: Bulgaria, Ireland, Luxembourg and Slovenia.

October 2005: Belgium, Estonia, Iceland, Ireland and Luxembourg.

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ARGENTINA
(Information as of 18 June 2004)

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

8 February 2001

Implementing legislation

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

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

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

Recommendations for remedial action under Phase 1

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

Countries' international commitments arising from other international instruments

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

Other information

Relevant authorities

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

Relevant Internet links to national implementing legislation

www.anticorrupcion.gov.ar

Signature/Ratification of other relevant international instruments

Signature of the United Nations Convention against Corruption (Mérida, México, 9-12-03).

Working Group on Bribery Monitoring Reports

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

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

AUSTRALIA
(Information as of 6 June 2005)

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

Australia ratified the convention on 18 October 1999.

Implementing legislation

Criminal Code Act 1995 (Commonwealth: Division 70 - Bribery of foreign public officials.

Date of entry into force: 18 December 1999.

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

- *Auditor-General Act 1997 (Cth)*
- *Criminal Code (Cth) – Chapter 2 and Division 400*
- *Commonwealth Authorities and Companies Act 1997 (Cth)*
- *Corporations Act 2001 (Cth)*
- *Extradition Act 1988 (Cth)*
- *Financial Management and Accountability Act 1997 (Cth)*
- *Income Tax Assessment Act 1997 (Cth)*
- *Mutual Assistance in Business Regulation Act 1996 (Cth)*
- *Mutual Assistance in Criminal Matters Act 1987 (Cth)*
- *Proceeds of Crime Act 2002 (Cth)*
- *Financial Transaction Reports Act 1988 (Cth)*

Countries' international commitments arising from other international instruments.

Australia signed the UN Convention Against Corruption on 9 December 2003. Australia considers that it complies with all of the Convention's mandatory requirements. In accordance with Australia's domestic process for treaty ratification, the Convention was tabled before Parliament on 7 December 2004. The Joint Standing Committee on Treaties conducted a hearing into the ratification of the Convention on 7 March 2005 and will issue a report in June 2005. Subject to the views of the Committee, Australia hopes to ratify the Convention later in 2005.

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

Australia ratified the UN Convention Against Transnational Organised Crime on 27 May 2004

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

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

Other information

Relevant authorities

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

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

Relevant Internet links to national implementing legislation

www.comlaw.gov.au

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

AUSTRIA
(Information as of July 2005)

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

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

Implementing legislation

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

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

Concerning other relevant international instruments, Austria has signed the United Nations Convention against Corruption on 10 December 2003 and the Council of Europe Criminal Law Convention on Corruption on 13 October 2000 but both not yet ratified. On the EU-level, Austria has signed, ratified and implemented (by the above mentioned “Strafrechtsänderungsgesetz 1998”), the (first) protocol to the Convention on the Protection of the Financial Interest (notification of the ratification on 21 May 1999) and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (notification of the ratification on 19 January 2000) whereas it has not yet ratified the Second Protocol to the Convention on the Protection of the Financial Interests.

Other information

Relevant authorities

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

Relevant Internet links to national implementing legislation

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

Working Group on Bribery Monitoring Reports

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

Austria has to adopt legislation particularly on the liability of legal persons and the bribery of public officials holding a legislative office in order to conform to the OECD Convention, the Second Protocol to the Convention for the Protection of the Financial Interest of the European Union and other EU

instruments, the Council of Europe Criminal Law Convention on Corruption as well as the UN-Convention against Corruption.

The Austrian Federal Ministry of Justice published a draft bill on the liability of legal persons in June 2004 and invited public consultation. The Ministry received a large number of opinions about the draft. In June 2005, a government bill was adopted; it is on its way to parliament and the law is expected to be adopted later this year.

The draft bill provides for the responsibility of legal persons and other bodies, like partnerships, for all penal offences. Thus, there will be liability for all offences of bribery under the OECD Convention

BELGIUM
(Information as of 15 June 2004)

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

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

Implementing legislation

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

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

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

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

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

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

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

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

Other information

Relevant authorities

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

Relevant Internet links to national implementing legislation

Ministry of Justice: <http://www.just.fgov.be>

Moniteur belge: <http://www.ejustice.just.fgov.be/cgi/welcome.pl>

Central Organ for Seizure and Confiscation: <http://www.confiscaid.be>

Anti-Money Laundering Office: <http://www.ctif-cfi.be>

Federal Police: <http://www.polfed.be>

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

BRAZIL
(Information as of 11 June 2004)

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

Signing of the Convention: December 17, 1997.

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

Implementing Legislation

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

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

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

Other information:

Relevant authorities

Federal Police Department and Public Prosecutor’s Office;

Relevant Internet links to national implementing legislation

<http://www.mj.gov.br/sal>; <http://www.senado.gov.br>; <http://www.camara.gov.br>;
<http://www.cgu.gov.br>; <http://www.brasil.gov.br/emquestao>

Signature/Ratification of other relevant international instruments

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

Working Group on Bribery Monitoring Reports

Legislative reference – Minister of Justice

Legislative reference (application) – Public Prosecutor’s Office and Office of the Controller General;

Legislation Reference (application field) – Non-governmental Organizations that monitor the transparency of the implementation process.

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

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

BULGARIA
(Information as of 24 February 2005)

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

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

Implementing legislation

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

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

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

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

Other information

Relevant authorities

Under Art.174, para. 1 of the Criminal Procedure Code, information on criminal offences, including on bribery offences, should be reported to the bodies of the pre-trial proceedings, i.e. prosecutors, examining judges or preliminary investigators at the Ministry of Interior, or to other public body.

Relevant internet links to national implementing legislation

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

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

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

Signature/Ratification of other relevant international instruments

Bulgaria ratified the Council of Europe Criminal Law Convention on Corruption on 7 November 2001. This convention entered into force on 1 July 2002 and was published in "State Gazette" No 73 of 26 July 2002.

Bulgaria ratified the Council of Europe Civil Law Convention on Corruption on 8 June 2000. This convention entered into force on 1 November 2003 and was published in the State Gazette No 102 of 21 November 2003.

Bulgaria ratified the Additional Protocol to the Council of Europe Criminal Law Convention on Corruption on 4 February 2004.

Bulgaria signed the UN Convention against Corruption during the High Level Political Conference in Merida, Mexico, held from 9 to 11 December 2003.

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

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

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

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

CANADA
(Information as of 17 June 2004)

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

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

Implementing legislation

Canada's implementing legislation, the *Corruption of Foreign Public Officials Act* (CFPOA) received Royal Assent on 10 December 1998 and came into force on 14 February 1999.

Subsequent amendments were made to the Act in January 2002 as a consequence of amendments to Canada's *Criminal Code*. These amendments are of a technical nature.

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

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

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

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

<http://laws.justice.gc.ca/en/c-45.2/text.html>

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

Canada Elections Act

Bill C-24, amending the *Canada Elections Act* and the *Income Tax Act* (political financing) came into force on 1 January 2004. It regulates campaign financing of federal elections. In particular, the Act introduces limits on contributions that may be made to parties, candidates, electoral districts, associations and leadership contestants; it also regulates donations.

The *Canada Elections Act* may be found at:

<http://laws.justice.gc.ca/en/e-2.01/text.html>

Criminal Code

Bill C-45, *An Act to amend the Criminal Code (criminal liability of organizations)* came into force on March 31, 2004. The bill codifies and modernises the Canadian criminal law in relation to corporate criminal liability. In particular, this enactment amends the *Criminal Code* to:

- a) establish rules for attributing to organizations, including corporations, criminal liability for the acts of their representatives;
- b) establish a legal duty for all persons directing work to take reasonable steps to ensure the safety of workers and the public;
- c) set out factors for courts to consider when sentencing an organization; and
- d) provide optional conditions of probation that a court may impose on an organization.

The *Criminal Code* may be found at:

<http://laws.justice.gc.ca/en/c-46/text.html>

Income Tax Act

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

The *Income Tax Act* may be found at:

<http://laws.justice.gc.ca/en/i-3.3/text.html>

Public Service Employment Act

The new *Public Service Employment Act* was enacted on 7 November 2003. It is not in force, except for technical transitory provisions, and the date for its coming into force has not yet been set. The purpose of this Act is to modernise the public service while retaining core values of merit, excellence, representativeness, impartiality and the ability to serve members of the public with integrity in the official language of the public's choice. It also foresees the creation of a public service staffing tribunal which will, among others, look into developing guidelines for public servants wanting to engage in political activities.

The *Public Service Employment Act* can be found at:

http://www.parl.gc.ca/37/2/parlbus/chambus/house/bills/government/C-25/C-25_4/C-25_cover-E.html

Bill C-13, *An Act to amend the Criminal Code (capital markets fraud and evidence-gathering)* received Royal Assent on March 29, 2004. The Act creates a new offence to prohibit threatening or retaliating against employees for disclosing unlawful conduct. The date for its coming into force has not yet been fixed.

Other Information

Relevant authorities

Throughout Canada: Royal Canadian Mounted Police
In Ontario: Ontario Provincial Police
In Quebec: Sûreté du Québec
In several municipalities: the local municipal police force

Signature/Ratification of other relevant international instruments

Inter-American Convention Against Corruption

Signed: 7 June 1999

Ratified: 1 June 2000

United Nations Convention against Transnational Organized Crime

Signed: 14 December 2000

Ratified: 13 May 2002

United Nations Convention against Corruption

Signed: 21 May 2004

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

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

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

CHILE
(Information as of 30 June 2004)

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

- Signature of the Convention: December 17, 1997.
- Deposit of instrument of ratification: April 18, 2001.

Implementing legislation

- Executive Decree No. 496, published in the Official Gazette on January 30, 2002, date on which the Convention was enacted in Chile.
- To comply with the requirements of the Convention as well as to implement Chile's national policy to combat corruption, Law No. 19,829 amended the Chilean Criminal Code by adding article 250 bis A, which penalizes the bribery of a foreign public official in international business transactions, and article 250 bis B, which defines the term "foreign public official". This law also amended the domestic active bribery offence (article 250) to reflect the different sanctions corresponding to the foreign bribery offence. Law No. 19,829 entered into force on October 8, 2002, date on which it was published in the Official Gazette.

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

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

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

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

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

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

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

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

Other information

Relevant authorities

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

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

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

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

CZECH REPUBLIC
(Information as of 6 June 2005)

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

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

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

Implementing legislation

- Act No. 96/1999 Coll., amendment to the Penal Code (Act No. 140/1961 Coll., Penal Code, as amended). This amendment introduced a new provision of Section 162a, which includes the definition of a bribe, as developed by the judiciary, and a definition of foreign public official, which implements definitions pursuant to Article 1 paragraph 4 of the Convention. These concepts apply to general bribery offences that are stipulated in Sections 160 – 162 of the Penal Code. Maximum penalty for aggravated active bribery (Section 161 paragraph 2) was increased from 3 to 5 years of imprisonment. All criminal offences, including corruption offences, are predicate offences for purposes of application of legislation against money laundering.
- This amendment was published on 25 May 1999 and entered into force on 9 June 1999.
- Act No. 492/2000 Coll., amendment to the Income Tax Act (Act No. 586/1992 Coll., as amended). This amendment introduced explicit prohibition of tax deductibility of bribes paid to foreign public officials pursuant to Article IV of the Revised Recommendation.
- This amendment was published on 29 December 2000 and entered into force on 1 January 2001.
- Auditors Act No. 254/2000 Coll., as amended, introduced a duty of the auditors to immediately, in writing, notify statutory and supervisory boards of the accounting unit of any detected facts, which may fall under corruption offences.
- This law was published on 11 August 2000 and entered into force on 1 January 2001.
- Amendment No. 353/2001 Coll. to Act on Accounting explicitly prohibited off-the-book accounts and off-the-book transactions and increased fines for accounting offences.
- This amendment was published on 5 October 2001 and entered into force on 1 January 2002.
- Amendment No. 473/2003 Coll. to Act on Accounting (No.561/1991 Coll., as amended), introduced international accounting standards (IAS) for consolidated accounts and also for annual accounts for companies whose securities are publicly traded.
- This amendment was published on 16 December 2003 and entered into force on 1 January 2004.

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

- As recommended during the Phase 1 Reviews, the Czech Republic enacted legislation explicitly denying the tax deductibility of bribes paid to foreign public officials. At present, the Czech authorities are engaged in the process of drafting a new Penal Code. The law on criminal liability of legal persons designed to implement part of the obligations stipulated by the Convention has been rejected by the Parliament. Therefore the Czech government is currently reconsidering the options for implementation of relevant obligations.
- The Czech Republic is a State Party to the Council of Europe Criminal Law Convention on Corruption. Therefore, it has, inter alia, the obligation to criminalise all cases of corruption of public officials, to prosecute such offences and to provide mutual legal assistance. It entered reservation as to criminalization of private sector corruption, since Czech law does not cover all such situations at present. The Czech Republic is also a State Party to Council of Europe Civil Law Convention on Corruption. Thus, it has, inter alia, the obligation to provide for a right to claim damages caused by corruption, establish sufficient regulation of accounting etc. Since 9 February 2002 the Czech Republic is engaged in GRECO the international body dedicated to fight against corruption and to monitor the implementation of both treaties.

Other information

Relevant authorities

- All criminal offences, including corruption offences, should be reported to the law enforcement authorities (the Police of the Czech Republic or the Public Prosecutor's Offices). Concrete suspicions of corruption cases in the Police of the Czech Republic should be reported to stiznosti@mvcz.cz. Concrete suspicions of corruption cases in the Czech judiciary should be reported to korupce@mzp.justice.cz.

Relevant Internet links to national implementing legislation (not official version)

- Czech wording of the amendment No. 96/1999 Coll. to the Penal Code:
<http://mvcz.iol.cz/sbirka/1999/sb036-99.pdf>
- Czech wording of the amendment No. 492/2000 Coll. to the Income Tax Act:
<http://mvcz.iol.cz/sbirka/2000/sb143-00.pdf>
- Czech wording of the Auditors Act No. 254/2000 Coll.:
<http://mvcz.iol.cz/sbirka/2000/sb074-00.pdf>
- Czech wording of amendment No. 353/2001 Coll. to the Act on Accounting:
<http://mvcz.iol.cz/sbirka/2001/sb134-01.pdf>
- Czech wording of amendment No. 437/2003 Coll. to the Act on Accounting:
<http://mvcz.cz/sbirka/2003/sb145-03.pdf>

Signature/Ratification of other relevant international instruments

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

Working Group on Bribery Monitoring Reports

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

DENMARK
(Information as of 25 February 2004)

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

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

Implementing legislation

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

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

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

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

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

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

The provision has the following wording:

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

(1) [...]

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

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

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

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

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

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

Other information

Relevant authorities

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

The National Contact Point (NCP) in Denmark is:

Ministry of Employment
Labour Law and International Relations Centre
Ved Stranden 8
1061 Copenhagen K.

Relevant Internet links to national implementing legislation

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

Signature/Ratification of other relevant international instruments

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

- European Criminal Law Convention on Corruption: Signed 27 January 1999, ratified 2 August 2000.
- European Civil Law Convention on Corruption: Signed 4 November 1999.
- Additional Protocol on the European Criminal Law Convention on Corruption: Signed 15 May 2003.
- United Nations Convention against Corruption: Signed 10 December 2003.

- United Nations Convention against Transnational Organized Crime: Signed 12 December 2000, ratified 30 September 2003.

In addition, Denmark is party to all EU instruments on combating corruption.

Working Group on Bribery Monitoring Reports

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

ESTONIA
(Information as of 21 June 2004)

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

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

Implementing legislation:

The Convention on Combating Bribery of Foreign Public Officials has not yet been ratified in Estonia. Estonia will be able to ratify the Convention approximately within a year.

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

Recommendations for remedial action in the report on Estonia's participation in the WGB.

The main relevant laws are:

Penal Law
Code of Criminal Procedure
Anti-Corruption Act
Money Laundering and Terrorist Financing Prevention Act
Income Tax Act
Accounting Act

Countries' international commitments arising from other international instruments

Estonia has ratified the Council of Europe Civil Law Convention on Corruption as well as the Criminal Law Convention on Corruption. The Convention of the European Union on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union is in the process of ratification.

Other information

Relevant authorities

The Ministry of Justice – the department of Criminal Policy - is responsible for the overall co-ordination of anti-corruption policy.

The Parliamentary Select Committee on the Application of Anti-Corruption Act is the depository of economic interests' declarations.

The Police and Prosecutor's Offices are responsible for investigating and proceeding corruption crimes.

The Security Police is responsible for investigating corruption crimes of higher officials. It is also responsible for the anonymous hotline to report cases of corruption.

Relevant Internet links to national implementing legislation:

The Ministry of Justice: www.just.ee

The Parliament: www.riigikogu.ee

The Police: www.pol.ee

The Security Police: www.kapo.ee

The Estonian Legal Language Centre (for translated laws): www.legaltext.ee

Signature/Ratification of other relevant international instruments:

Civil Law Convention on Corruption – ratified by the Act RT II 2000, 27, 164

Criminal Law Convention on Corruption – ratified by the Act RT II 2001, 28, 140

FINLAND

(Information as of 25 October 2004)

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

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

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

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

Penal Code, especially section 13.

Act on International Legal Assistance in Criminal Matters

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

Act on Credit Institutions

State Civil Servant's Act

Security Clearance Act

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

Signature/Ratification of other relevant international instruments

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

- European Council Criminal Law Convention on Corruption, signed 27.1.1999, ratified 3.10.2002, entered into force 1.2.2003;
- European Council Civil Law Convention on Corruption, signed 8.6.2000, ratified 23.10.2001, entered into force 1.11.2003;
- Additional Protocol on the European Council Criminal Law Convention on Corruption;
- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, signed 25.9.1991, ratified 9.3.1994 and entered into force 1.7.1994;
- United Nations Convention against Corruption, signed 10.12.2003;
- United Nations Convention against Transnational Organised Crime, signed 12.12.2000, ratified 10.2.2003.

Relevant Internet links to national implementing legislation

The Ministry of Justice

www.om.fi

The Office of the General Prosecutor

www.oikeus.fi/vksv/

The Police

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

The Government of Finland

www.valtioneuvosto.fi

The Parliament of Finland

www.eduskunta.fi

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

www.finlex.fi

Working Group on Bribery Monitoring Reports

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

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

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

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

FRANCE
(Information as of 16 April 2004)

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

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

Implementing legislation

The National Assembly adopted the implementation legislation on 30 June 2000 (*JORF*, N° 151 of 1 July 2000 page 9 944). This Law N° 2000-595 amended the Criminal Code and the Code of Criminal Procedure with regard to the fight against corruption. The Convention entered into force together with the implementation law, on 29 September 2000.

Article 435-3 of the Criminal Code states that any person who bribes or attempts to bribe a foreign public official to obtain or retain an advantage in an international business transaction is liable to a penalty of up to ten years' imprisonment and a fine of 150,000 euros. In addition, a company can be judged criminally liable and punished accordingly. Moreover, the deduction for taxes purposes of "exceptional commercial expenses" paid to a foreign public official, is forbidden by Article 39 the General Tax Code. If the senior manager is found to have acted fraudulently in this way, he will be prosecuted for tax fraud on the basis of Article 1741 of the General Tax Code, which punishes anyone who has fraudulently avoided or attempted to avoid payment of all or part of taxes.

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

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

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

The second anti-money laundering Directive, agreed in December 2001, is being transposed. Legislative provisions have been adopted in February 2004 and regulations should be adopted by summer. It amends the earlier 1991 Directive by applying to activities and professions beyond credit and financial institutions (which were covered by the 1991 Directive) such as accountants, lawyers, notaries, real estate agents, casinos and dealers in high value goods. When the Directive will come into force by summer, all these professionals will be subject to the obligations as regards customer identification, record keeping and reporting of suspicious transactions.

Other information

Relevant authorities

- Ministry of Justice (Public Prosecutor's Office)
- Ministry of Economy, Finances and Industry
- Ministry of Foreign Affairs
- Service central de la Prévention de la Corruption (Central Department for Corruption Prevention)

Relevant Internet links to national implementing legislation, for example.

For the implementation law and for the Criminal Code and the Code of Criminal Procedure, see <http://www.legifrance.gouv.fr> (in French only for the implementation law).

Ratification of other relevant international instruments

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

Signature of other relevant international instruments

- United Nations Convention against Corruption: signed 9 December 2003
- Council of Europe Criminal Law Convention on Corruption: signed 9 September 1999
- Council of Europe Civil Law Convention on Corruption: signed 26 November 1999

Working Group on Bribery Monitoring Reports

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

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

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

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

GERMANY
(Information as of 19 April 2004)

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

Germany ratified the Convention on 10 November 1998.

Implementing legislation

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

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

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

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

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

Other information

Reporting duties incumbent on authorities

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

Relevant Internet links to national implementing legislation

Selected Laws in English:

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

Federal Laws in German:

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

Texts on Corruption Prevention:

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

Signature of other international instruments:

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

Working Group on Bribery Monitoring Reports

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

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

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

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

GREECE
(Information as of 14 June 2004)

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

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

Implementing legislation

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

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

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

Recommendations for remedial action under Phase I

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

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

Countries’ international commitments arising from other international instruments

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

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

Other information:

Relevant authorities

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

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

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation
<http://www.oecd.org/dataoecd/14/7/2386792.pdf>

HUNGARY
(Information as of 12 October 2004)

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

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

Implementing legislation

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

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

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

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

Other information

Relevant authorities

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

Relevant Internet links to national implementing legislation

www.mkogy.hu (Parliament)

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

Working Group on Bribery Monitoring Reports

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

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

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

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

ICELAND
(Information as of 12 November 2004)

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

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

Implementing legislation.

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

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

Following offences are punishable under the General Penal Code:

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

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

Other information.

Relevant authorities

The National Commissioner of Police

Economic Crime Unit

The Prosecutor General

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

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

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

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

IRELAND
(Information as of 6 August 2004)

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

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

Implementing legislation.

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

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

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

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

Irish law on corruption is set out in the Public Bodies Corrupt Practices Act, 1889 and the Prevention of Corruption Acts of 1906 and 1916. These Acts were subsequently amended by the Ethics in Public Office Act, 1995. In order to address any remaining gaps in Irish legislation which might have precluded Ireland from fully implementing the OECD Convention, further legislation was prepared, namely the Prevention of Corruption (Amendment) Act, 2001 which was signed into law by the President on 9 July 2001. All of these Acts are collectively cited as the Prevention of Corruption Acts, 1889-2001. The 1889 Act, as amended, criminalised the corruption of or by certain national office holders, such as Ministers of Government, as well as public and civil servants. The 1906 Act, as amended, was more widely cast, as it applied not only to the same categories as its predecessor, but also to the corruption of or by "agents", who

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

Other information

Relevant authorities

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

Relevant Internet links to national implementing legislation

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

Working Group on Bribery Monitoring Reports.

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

ITALY
(Information as of 26 November 2004)

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

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

Implementing legislation

- a) The Convention was ratified and implemented in Italy through Act No. 300 of 29.9.2000, *“Ratification and enforcement of the following international instruments drawn up on the basis of Article K 3 of the Treaty on the European Union: the Convention on the Protection of the European Communities' Financial Interests, done in Brussels on 26 August 1995; its First Protocol, done in Dublin on 27 September 1996; the Protocol concerning the Preliminary Interpretation, by the Court of Justice of the European Communities, of said Convention, with attached declaration, done in Brussels on 29 November 1996; the Convention on the Fight against Corruption involving Officials of the European Communities or Officials of Member States of the European Union, done in Brussels on 26 May 1997, and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, done in Paris on 17 December 1997. Delegation to the government to regulate the administrative responsibility of legal persons and of bodies without legal personality.”* The Act introduced Article 322-bis into the Criminal Code, which in subsection 2 provides for the criminal responsibility of anyone who bribes or attempts to bribe a foreign public official when the offence is committed in order to procure an undue benefit for himself or others in international business transactions. In addition, Act 300/2000 empowered the government to introduce the criminal responsibility of legal persons; Legislative Decree 231/01 then defined this responsibility and extended it so as to include the bribery of foreign public officials.
- b) Act No. 300 of 29 September 2000 was published in the Official Journal No. 250 of 25 October 2000; the Act entered into force on 26 October 2000.

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

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

Other information

Relevant authorities

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

Relevant Internet links to national implementing legislation

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

Signature/Ratification of other relevant international instruments

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

Working Group on Bribery Monitoring Reports.

Phase 1: Review of implementation of the Convention and 1997 Recommendation
<http://www.oecd.org/dataoecd/39/61/2019055.pdf>

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

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

JAPAN
(Information as of 26 February 2004)

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

Date of accession: 13 October 1998

Implementing legislation

Identification of the law

Unfair Competition Prevention Law

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

Date of adoption and date of entry into force

Date of adoption: 18 September 1998

Date of entry into force: 15 February 1999

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

Recommendations for remedial action under Phase 1

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

Countries' international commitments arising from other international instruments..

None

Other information

Relevant authorities

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

Relevant Internet links to national implementing legislation, for example.

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

Signature/Ratification of other relevant international instruments

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

Working Group on Bribery Monitoring Reports

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

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

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

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

KOREA
(Information as of May 2004)

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

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

Implementing legislation

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

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

- The Financial Transaction Reports Act
 - adopted by the National Assembly on 3 September 2001, came into force on 28 November 2001.
 - stipulates the establishment of a Financial Intelligence Unit (FIU) and requires financial institutions to report information on suspicious financial transactions to the FIU.
- The proceeds of Crime Act
 - adopted by the National Assembly on 3 September 2001, came into force on 28 November 2001.
 - makes money laundering an offence in relation to bribery of domestic and foreign public officials
- The Anti-corruption Act
 - adopted by the National Assembly on 28 June 2001, came into force on 25 January 2002.
 - creates the “Korea Independent Commission Against Corruption (KICAC)”. This body seeks to improve the legal framework for anti-corruption, to formulate and enforce anti-corruption laws and policies, and respond to whistleblowing.

Other information

Relevant authorities

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

Relevant internet links to national implementing legislation

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

Signature/Ratification of other relevant international instruments

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

Working Group on Bribery Monitoring Reports

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

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

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

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

LUXEMBOURG
(Information as of 3 June 2005)

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

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

Implementing legislation

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

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

Among the international instruments having an impact on the implementation of the OECD Convention, the following may be cited, which were approved by the Grand Duchy of Luxembourg by an Act of 30 March 2001 :

- the Convention, based on article K.3 of the European Union Treaty, on the Protection of the Financial Interests of the European Communities, signed in Brussels on 26 July 1995 ;
- the Protocol, based on article K.3 of the European Union Treaty, to the Convention on the Protection of the Financial Interests of the European Communities, signed in Dublin on 27 September 1996 (the First Protocol) ;
- the Protocol, based on article K.3 of the European Union Treaty, on the preliminary interpretation by the Court of Justice of the European Communities of the Convention on the Protection of the Financial Interests of the European Communities, signed in Brussels on 29 November 1996.

Other international instruments will shortly be approved, under draft Law N°5262 of 27 January 2004. These are:

- the Convention, based on article K.3 paragraph 2 c) of the European Union Treaty, on the fight against corruption involving officials of the European Communities or officials of the Member States of the European Union, signed on 26 May 1997 ;
- the Second Protocol, based on article K.3 of the European Union Treaty, to the Convention on the Protection of the Financial Interests of the European Communities, signed on 19 June 1997 ;

- the Council of Europe Criminal Law Convention on Corruption, of 27 January 1999 ;
- the Additional Protocol of 15 May 2003 to the Council of Europe Criminal Law Convention on Corruption ;
- the United Nations Convention against Corruption of 31 October 2003.

Other information

The competent authorities are the Grand Duchy police, the public prosecutors and the examining magistrates.

The central authority for mutual legal assistance is the Prosecutor General (article 2 of the law of 08.08.2000 on mutual legal assistance).

The Grand Duchy of Luxembourg does not yet have criminal liability for legal persons. Having approved or ratified various international legal instruments embodying this principle, among them the OECD Convention, Luxembourg has set up a working group in order to introduce this concept into its legal system. The work of this group of experts is still ongoing. However, the group of experts should shortly be in a position to put forward a draft law, which will then have to be placed before Parliament.

Working Group on Bribery Monitoring Reports

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

<http://www.oecd.org/dataoecd/39/40/2019732.pdf>

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

<http://www.oecd.org/dataoecd/55/4/32017636.pdf>

MEXICO
(Information as of 24 March 2004)

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

The Convention was approved as an international treaty on 22 April 1999, promulgated decree and published in the “Official Gazette of the Federation” on May 12, 1999. The instrument of ratification was deposited with the OECD Secretary-General on 27 May 1999.

Implementing legislation

The Federal Penal Code (FPC) was amended and came into force May 18, 1999. FPC article 222bis establishes the offence of bribing foreign official provides sanctions for natural persons and to a legal person where a representative of a legal person has been convicted of bribing a foreign public official and the offence was committed on his/her behalf.

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

A draft bill to fully implement the Convention was submitted December 2003 to the Congress. This bill, which is to conform to the Working Group recommendations, addresses both the level of pecuniary sanctions as well as the liability of legal persons.

The Access to Information Act was approved by Congress and published in the Official Gazette on 11 June 2003. The public procurement and public works laws are in the process of being amended to include, among others, provisions allowing public consultations to review bidding guidelines of relevant bidding processes and to promote and recognise transparent corporate practices.

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

Mexico hosted the High Level Political Conference for the Purpose of Signing the United Nations Convention against Corruption from 9 to 11 December 2003. Mexico signed the Convention on 9 December 2003 and, on 15 March 2004 it was sent to the Senate for its consideration and ratification.

Mexico deposited the ratification instrument of the Inter-American Convention on Corruption on 2 June 1997.

Other information

Relevant authorities

The relevant authority on bribery offences is the Ministry of Public Administration, <http://www.funcionpublica.gob.mx/>

The authority responsible for penal processes is the General Attorney Office <http://www.pgr.gob.mx/>

Working Group on Bribery Monitoring Reports

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

<http://www.oecd.org/dataoecd/15/30/2388858.pdf>

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

<http://www.oecd.org/dataoecd/53/31/33746033.pdf>

NETHERLANDS
(Information as of 1 March 2004)

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

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

Implementing legislation

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

Brief description:

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

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

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

- (1) The relevant tax laws do not expressly deny the tax deductibility of bribes to foreign public officials. Instead, they deny the tax deductibility of expenses related to “crimes” where there has been a conviction by a Dutch court or a settlement by payment of a fine, etc. with the Dutch prosecutor to avoid criminal prosecution. Pursuant to a new bill, pending before parliament, tax officials would be able to refuse the deduction of certain expenses where they are reasonably

convinced, based on adequate indicators, that the expenses consist of paid bribes (in the Netherlands or abroad), thus removing the requirements of a conviction.

- (2) The “Directive on the investigation and prosecution of corruption of officials”, adopted on 8 October 2002 and entered into force on 15 November 2002 for a period of four years (i.e. 15 November 2006), indicates the factors that will have to be taken into account in determining whether it is appropriate to prosecute domestic and foreign corruption cases. The directive addresses, among others, the use of facilitation payments/gifts for which no specific monetary value is set.

Other information

Relevant authorities

Dutch National Police Internal Investigation Department (Rijksrecherche; email: rijksrecherche@wxs.nl, Tel: 31.70.3411204)

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

Telephone number for anonymous denouncements: 0800-7000

Relevant Internet links to national implementing legislation

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

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

Signature/Ratification of other relevant international instruments

Ratification:

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

Signature:

- The United Nations Convention against Transnational Organised Crime
- The United Nations Convention against Corruption
- The Protocol to the Criminal Law Convention on Corruption of the Council of Europe

Working Group on Bribery Monitoring Reports

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

NEW ZEALAND
(Information as of 1 October 2004)

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

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

Implementing legislation

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

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

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

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

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

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

Other Information

Relevant Authorities

Enforcement

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

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

Policy

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

Links to relevant legislation

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

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

Signature/ratification of other relevant international instruments

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

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation
<http://www.oecd.org/dataoecd/51/62/2088257.pdf>

NORWAY
(Information as of 18 June 2004)

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

The instrument of ratification was deposited 18.12.1998

Implementing legislation

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

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

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

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

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

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

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

Section 276a

Any person shall be liable to a penalty for corruption who

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

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

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

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

Section 276b:

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

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

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

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

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

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

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

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

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

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

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

Other information

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

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

Ministry of Foreign Affairs

Ministry of Justice

Relevant Internet links to national implementing legislation
<http://www.lovdato.no>

Signature/Ratification of other relevant international instruments

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

Norway signed the Council of Europe Civil Law Convention 04.11.1999.

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

Norway signed the UN Convention against Corruption 09.12.2003.

Working Group on Bribery Monitoring Reports

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

<http://www.oecd.org/dataoecd/15/35/2389183.pdf>

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

<http://www.oecd.org/dataoecd/3/28/31568595.pdf>

POLAND
(Information as of 1 November 2005)

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

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

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

Implementing legislation

Act of 9 September 2000 (O.J. 2000 No 93, it. 1027), which entered into force on 4 February 2001 and introduced amendments into the following legal acts:

- Act of 6 June 1997 Penal Code (Journal of Laws of 1997, No 88, item 553, with further amendments),
- Act of 6 June 1997 Code of Penal Procedure (Journal of Laws of 1997, No 89, item 555, with further amendments),
- Act of 16 April 1993 on combating unfair competition (Journal of Laws of 1993, No 47, item 211, with further amendments),
- Act of 10 June 1994 on public procurement (Journal of Laws of 2002, No 72, item 664, with further amendments),
- Act of 29 August 1997 The Law on Banks (Journal of Laws of 2002, No 72, item 665, with further amendments).

The key elements of the implementing act were: the criminalisation of active and passive bribery of foreign public officials, the administrative responsibility of legal persons, the provisions facilitating better mutual legal cooperation and the exclusion of companies having been found to bribe from public procurement contracts.

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

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

Recommendations for remedial action under Phase 1

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

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

The recommendation concerning responsibility of legal persons has already been introduced by the above mentioned Act of 28 October 2002. The problem of discretion and third party benefit had been solved by relevant amendments to the Penal Code (Art. 44 and 45), introduced by the Act of 13 June 2003 (O.J. 2003 No 111, it. 1061). The taxation of the proceeds of corruption and the deduction of the bribe is not possible under the Polish law (however there is no explicit regulation). As there were no cases of criminal proceedings concerning corruption of public foreign officials reported by the end of May 2003, no observation about the practice of those new provisions can be made.

Countries' international commitments arising from other international instruments

Poland is a state party to several international instruments listed below in point 4.

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

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

Other information

Relevant authorities

There is no central authority specialized in the corruption cases in Poland. All allegedly committed offences should be reported to the Police (contact details are available on the web site www.kgp.gov.pl) or to public prosecution authorities (contact details are available on the web site www.ms.gov.pl/organizacja/adresy_prok.doc). There is also a possibility to use the Police hot line + 48 800-120-226.

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

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

Relevant internet links to national implementing legislation

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

The anti-corruption strategy of the Polish government adopted on 17 September 2002 is available in the web site of the Ministry of the Interior and Administration (www.mswia.gov.pl/strategia_antykorup.html).

Signature/ratification of other relevant international instruments

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

- United Nations Convention against Corruption (signed on 10 December 2003, not yet ratified);
- The Council of Europe Criminal Law Convention on Corruption (signed on 27 January 1999, ratified on 11 December 2002);
- The Council of Europe Civil Law Convention on Corruption (signed on 3 April 2001, ratified on 11 September 2002);
- The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (signed on 5 November 1998, ratified on 20 December 2000);
- European Union Convention on the Fight against Corruption involving Officials of the European Communities or Officials of the EU Member States (ratified on 25 January 2005).

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<http://www.oecd.org/dataoecd/39/45/2020928.pdf>

PORTUGAL
(Information as of 7 June 2005)

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

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

Implementing legislation

Identification of the law

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

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

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

Date of adoption and date of entry into force

04-06-2001.

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

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

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

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

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

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

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

Signature/ratification of other relevant international documents

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

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

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

Other information

Relevant authorities

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

Relevant Internet links to national implementation legislation

www.digesto.pt

www.infocid.pt

www.eusoujurista.pt

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

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

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

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

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

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

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

SLOVAK REPUBLIC
(Information as of 22 June 2004)

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

11 February 1999.

Implementing legislation

Act No. 129/1998 Coll. which introduces article 161b of the Criminal Code penalising bribery of a foreign public official in international business transactions

- Publication in official journal: Collection of Laws No 318/99,
- Date of entry into force: 11 February 1999

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

By the Act No 253/2001 Coll. which came into force on 1 August 2001

- Section 161b of the Criminal Code concerning the criminal liability for bribery of foreign public officials was amended to cover bribery acts committed for the benefit of third parties,
- different sanctions for bribery of domestic versus foreign public officials were eliminated,
- statute of limitations for bribery offences increased from 3 to 5 years,
- Section 252 of the Criminal Code prosecuting money laundering offences was changed to cover all incomes or other proceeds from a crime.

The National Council of the Slovak Republic adopted the Law No. 367/2000 Coll. on Protection Against Legalisation of Proceeds from Criminal Activity on 5. October 2000. This law came in to effect 1 January 2001.

These laws were adopted as a result of the evaluation of the Slovak Republic under Phase 1.

Other information

Relevant authorities

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

Relevant Internet links to national implementing legislation

Relevant Internet links to national implementing legislation are www.justice.gov.sk and www.genpro.gov.sk

Signature/Ratification of other relevant international instruments

Concerning other relevant international documents the Slovak Republic has signed:

- the UN Convention Against Corruption on 10 December 2003;
- the Council of Europe Criminal Law Convention of Corruption on 27 January 1999. Convention ratified on 9 June 2000 and came into force on 1 July 2002;
- the Council of Europe Civil Law Convention on Corruption on 8 June 2000. Convention was ratified on 5 May 2003 and entered into force for the Slovak Republic on 1 November 2003;
- the Council of Europe Convention on Searching, Detection, Seizure and Confiscation of the Proceeds from Crime on 8 September 1999. Convention was ratified on 27 February 2001.

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

SLOVENIA
(Information as of 18 October 2004)

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

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

Implementing legislation

Criminalisation of bribery – Criminal Code

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

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

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

Liability of Legal Persons

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

Money Laundering

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

Law on the Prevention of Money Laundering of 2001 (Official Gazette, RS, no. 79/01; entered into force 25 October 2001) and Amendments to the Law on the Prevention of Money Laundering of 2002 (Official Gazette, RS, no. 59/2002; entered into force 20 June 2002).

Effectiveness of investigation and prosecution

Amendments to the Criminal Procedure Code of 1999 and 2004. Expanded the powers of the police/prosecution to use special investigative means (interception of telecommunications, electronic surveillance, simulated corruption offences covert access to and monitoring of financial data and

transactions, etc.) as well as powers of identification and seizure of proceeds of crime in investigation of all bribery and corruption related offences, including bribery of foreign public officials.

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

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

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

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

Other information

Relevant authorities

General Prosecutor's Office

Dunajska cesta 22, SI-1000 Ljubljana, Slovenia
tel: +386 (0)1 433-04-54; fax +386 (0)1 431-03-81
www: [www: www.dt-rs.si](http://www.dt-rs.si)
e-mail: dtrs@dt-rs.si

General Police Directorate

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

Commission for the Prevention of Corruption

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

Office for Money Laundering Prevention

Cankarjeva 5, SI-1502 Ljubljana, Slovenia
Tel: +386 (0)1 425 41 89; fax: +386 (0)1 425 20 87
www: [www: www.gov.si/mf/angl/uppd/index.htm](http://www.gov.si/mf/angl/uppd/index.htm)

Signature/Ratification of other relevant international instruments

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

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

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

SPAIN
(Information as of 22 June 2005)

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

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

Implementing legislation

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

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

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

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

Other information

Relevant authorities

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

Relevant internet links to national implementing legislation

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

- www.igsap.map.es
- www.boe.es
- www.mju.es
- <http://juridicas.com>

Signature/Ratification of other relevant international instruments

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

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

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

SWEDEN
(Information as 1 June 2005)

Date of deposit of instrument

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

Implementing legislation

The bill with the necessary amendments of Swedish legislation in order to enable Sweden to ratify and implement the Convention was passed by Parliament on 25 March 1999 (bill 1998/99:32). The implementing legislation entered into force on 1 July 1999. Relevant text is found in the Penal Code Chapter 17 Section 7 and Chapter 20 Section 2 (Brottsbalken). As of 1 July 2004 the Code was amended i.a. due to the Council of Europe's Criminal Law Convention on Corruption. A serious bribery crime is now punishable by a maximum sentence of six years' imprisonment.

A company can be ordered to pay a corporate fine pursuant to Chapter 36, Section 7 of the Penal Code.

1999:1078 The Accountant Act (Bokföringslag).

1957: 668 The Act on Extradition of Offenders (Lag om utlämning för brott).

1999:1230 Income Tax Law (Inkomstskattelagen).

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

2000:562 The Act on International Access to Justice (Lag om internationell rättslig hjälp i brottmål).

1959:254 The Act on Extradition of Offenders to Denmark, Finland, Iceland and Norway (Lag om utlämning för brott till Danmark, Finland, Island och Norge).

2003:1156 The Act on Extradition from Sweden according to a European Warrant of Arrest (Lag om överlämnande från Sverige enligt en europeisk arresteringsorder).

2003:1174 The Act on Common Groups for Investigation of Crime (Lag om gemensamma utredningsgrupper för brottsutredningar).

Other information

Relevant authorities

Swedish National Economic Crimes Bureau (phone 46 8 762 0000)

National Anti-Corruption Unit (phone 46 8 762 1000)

National Board for Public Procurement (phone 46 8 454 4440)

National Tax Agency (phone 46 8 764 8000)

Division for Criminal Cases and International Judicial Cooperation

Ministry of Justice (Enheten för brottmålsärenden och internationellt rättsligt samarbete, BIRS JU)
(phone 46 8 405 4500)

Relevant internet links to national implementing legislation

www.lagrummet.se (only in Swedish)

Signature/Ratification of other relevant international instruments

Parliament approved in June 2004 ratification of the Council of Europe's Criminal Law and Civil Law Conventions against Corruption.

The UN Convention against Corruption was signed on 9 December 2003.

Convention on international Access to Justice, The Hague 25 October 1980. Entry into force on 1 May 1988 (Konventionen om internationell rättshjälp).

Convention on the Transfer of Sentenced Persons, Strasbourg, 21 March 1983. Entry into force on 1 July 1985 (Europarådets konvention om överförande av dömda personer).

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime. Entry into force 1 November 1996. (Europarådets konvention om penningtvätt, efterforskning, beslag och förverkande av vinning av brott).

The EU Convention on the Protection of the European Communities' financial interests (PIF-Convention) and its first protocol (Konventionen om skydd av Europeiska gemenskapernas finansiella intressen).

The second protocol to the PIF-Convention.

The EU Convention on the fight against corruption involving officials of the European Communities or officials of the EU Member States.

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

Report on on-going or decided cases and MLA

On going

Investigation into Ericsson which is suspected for tax evasion crime. It has been alleged outside of Sweden that bribes have been paid.

Judicial decisions

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

SWITZERLAND
(Information as of 6 June 2005)

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

The instrument of ratification of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (“the OECD Convention”) was deposited with the Secretary-General of the OECD on 31 May 2000.

Implementing legislation

To fulfil its obligations under the Convention, Switzerland had to effect a number of legislative changes.

Criminal provisions relating to corruption – Articles 322^{ter} to 322^{octies} of the Swiss Criminal Code of 21 December 1937 (CP), Book Two: Special provisions, Title 19: Corruption [Systematic Compendium of Swiss Federal Law (*Recueil systématique*, RS 311.0)] – were revised and consolidated. The main amendments were to criminalise active corruption, as with passive corruption, and to introduce a new offence of corrupting foreign public officials (Art. 322^{septies}).

Articles 322^{ter} to 322^{octies} CP (“Revision of criminal law on corruption”) were adopted by the Federal Assembly (Parliament) on 22 December 1999 and published in the Official Digest (*Recueil Officiel*, RO 2000 1121). They entered into force on 1 May 2000. [See message of the Federal Council (Government) of 19 April 1999, Federal Gazette (*Feuille Fédérale*, FF 1999 5045).]

Criminal provisions had to be introduced in respect of the liability of legal entities. Under the new Articles 100^{quater} and 100^{quinquies} CP (Book One: General provisions, Title 6: corporate liability), Swiss businesses that have corrupted foreign public officials can now be fined up to CHF 5 million, independently of any criminal penalties against the individuals arranging the transactions, if the firm in question can be found not to have taken reasonable and necessary steps to prevent the offence.

Articles 100^{quater} and 100^{quinquies} CP were adopted by the Federal Assembly on 21 March 2003 and published in the Official Digest (RO 2003 3043). They entered into force on 1 October 2003. (See also the message of the Federal Council of 26 June 2002, FF 2002 5014.)

With this amendment to the Criminal Code relating to the criminal liability of legal entities, Switzerland has met all of its legislative obligations under the OECD Convention.

Also introduced was a criminal provision vesting new procedural powers in the Confederation in the realms of organised crime and economic crime. Article 340^{bis} CP (Book Three: Entry into force and enforcement of the Criminal Code, Title 3: Federal jurisdiction and cantonal jurisdiction) stipulates *inter alia* that criminal corruption within the meaning of Articles 322^{ter} to 322^{septies} CP shall be subject to federal jurisdiction if most of the punishable acts have been committed abroad or in more than one canton with no obvious preponderance in any one canton.

Article 340^{bis} CP (“New procedural powers vested in the Confederation in the realms of organised crime and economic crime”) was adopted by the Federal Assembly on 22 December 1999 and published in the Official Gazette (RO 2001 3071). It entered into force on 1 January 2002. (See also the message of the Federal Council of 28 January 1998, FF 1998 1253).

Other information

Relevant authorities

A number of federal administrative authorities are involved in combating bribery. The State Secretariat for Economic Affairs deals particularly with issues relating to the OECD Convention, the Federal Office of Justice with those relating to the Council of Europe Convention, and the Department of Foreign Affairs with the UN Convention. The power to prosecute and judge corruption offences is shared between the cantons and the Confederation. For the Confederation, the competent authorities are the Office of the Attorney General, the Federal Criminal Court and the Federal Police (“Fedpol”); in the cantons, they are the cantonal judicial authorities and the cantonal police forces.

The Office of the Attorney General and Fedpol, along with the cantonal judicial and police authorities, are the most appropriate recipients of reports about bribery offences.

Contacts:

State Secretariat for Economic Affairs (seco)
International Investments and Multinational Enterprises Unit
Effingerstrasse 1/ CH-3003 Berne
Tel. + 41 (0)31 323 12 75 / Fax + 41 (0)31 325 73 76
WHIN@seco.admin.ch
www.seco.admin.ch/themen/spezial/korruption/index.html?lang=fr

Federal Office of Justice (OFJ)
Service for International Criminal Law
Bundesrain 20 / CH - 3003 Berne
Tel. + 41 (0)31 322 41 16 / Fax + 41 (0)31 312 14 07
info@bj.admin.ch / www.bj.admin.ch

Federal Department of Foreign Affairs (DFA)
Economic and Financial Affairs Division
Bundesgasse 28 / CH – 3003 Berne
Tel. + 41 (0)31 324 99 84 / Fax + 41 (0)31 324 90 72
PA5-FINANZ-WIRTSCHAFT@eda.admin.ch /
www.eda.admin.ch/sub_ecfin/e/home/docus/corrupt.html

Fedpol
Federal Office of Police
Nussbaumstrasse 29/ CH-3003 Berne
Tel. +41 (0)31 323 11 23, Fax +41 (0)31 322 53 04
www.fedpol.admin.ch

Office of the Attorney General of Switzerland
CH-3003 Berne
Tel. +41 (0)31 322 45 79 / fax +41 (0)31 322 45 07
info@ba.admin.ch
www.ba.admin.ch / www.cybercrime.admin.ch

Relevant Internet links to national implementing legislation

Relevant legislation

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

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

Articles 100^{quater} and 100^{quinquies} CP (“Provisions on corporate liability”):

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

Article 340^{bis} CP (“Provision on federal jurisdiction in the realms of organised crime, the financing of terrorism and economic crime”):

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

Brochure

In order to heighten the awareness of all parties concerned with the problem of bribery, the Swiss State Secretariat for Economic Affairs, in collaboration with the Federal Office of Justice, the Federal Department of Foreign Affairs, the Swiss Business Federation (“economiesuisse”) and Transparency International (Switzerland), published an informative brochure. Aimed at Swiss businesses operating abroad, and especially at small and medium-sized enterprises, the brochure offers advice on preventing corruption, and on the changes to Swiss criminal law.

In English:

<http://www.seco-admin.ch/imperia/md/content/spezialthemen/korruptionsbekaempfung/3.pdf>

In French:

<http://www.seco-admin.ch/imperia/md/content/spezialthemen/korruptionsbekaempfung/2.pdf>

Monitoring report

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

In French:

<http://www.seco.admin.ch/news/00519/index.html?lang=fr>

Signature/Ratification of other relevant international instruments

Switzerland signed the Council of Europe’s Criminal Law Convention on Corruption on 26 February 2001. A draft bill on the transposition and ratification of the Convention was submitted to the Federal Assembly in November 2004. In addition, Switzerland signed the United Nations Convention against Corruption on 10 December 2003.

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

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions
<http://www.oecd.org/dataoecd/43/16/34350161.pdf>

TURKEY
(Information as of 14 September 2004)

Date of Deposit of Instrument of Ratification

26.07.2000

Implementing Legislation

Identification of the Law

Name: “Act on Amendment of some Acts in Order to Prevent Bribery of Foreign Public Officials”

Number: 4782

Description: “Act on Amendment of some Acts in Order to Prevent Bribery of Foreign Public Officials in International Business Transactions” broadens the definition of the offence of bribery in the Turkish “Penal Code” so as to include bribery of foreign public officials and introduces the system of corporate liability for bribery offences.

Adoption and Entry into Force

Date of Adoption: 02.01.2003

Date of Entry into Force: 11.01.2003

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

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

Other Information

Relevant Authority

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

Other Relevant Authorities: Ministry of Justice

Internet Link

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

Relevant International Instruments:

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

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<http://www.oecd.org/dataoecd/17/6/33967367.pdf>

UNITED KINGDOM
(Information as of 5 August 2004)

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

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

Implementing legislation

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

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

The Public Bodies Corrupt Practices Act 1889

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

The Prevention of Corruption Act 1906

In 1906 a new Act was introduced which makes it a crime to bribe any ‘agent’. An agent is anybody employed by or acting for another, whether in the public or private sector.

The Prevention of Corruption Act 1916

In 1916 the law was changed again and the ‘presumption’ of corruption was introduced. Under this provision, if a contractor gives a gift to a public official, that gift shall be presumed to be corrupt unless the accused person can prove otherwise. This can be said to represent a ‘reversal of the burden of proof’, meaning the accused person is in effect denied the presumption of innocence. The Law Commission recommended the abolition of the presumption. The Government has said it will repeal this law soon.

The Anti-Terrorism, Crime and Security Act 2001

UK corruption law then remained largely unchanged until 2002, when the above Act entered into force. This introduced new provisions to give U.K. courts jurisdiction over crimes committed abroad by UK nationals and UK companies.

A Corruption Bill will be put to Parliament as soon as legislative time permits. This bill will replace these disparate Acts and the common law with one comprehensive Corruption Act.

Other information

Relevant authorities

Foreign and Commonwealth Office
King Charles Street
London
SW1A 2AH
Tel: 0207 008 2682
Fax: 0207 008 1629

The Home Office
2 Marsham Street
London
SW1P 4DF
Tel: 0207 035 6955
Fax: 0207 035 xxxx

Relevant Internet links to national implementing legislation

<http://www.hmso.gov.uk/acts/acts2001/20010024.htm>
<http://www.hmso.gov.uk/acts/en2001/2001en24.htm>

Signature/Ratification of other relevant international instruments

The United Kingdom has signed the Council of Europe Criminal Law Convention on Corruption and the U.N. Convention (UNCAC), and joined GRECO (www.greco.coe.int). The round 1 report was published September 2001 and the compliance report published August 2003. An on-site evaluation mission was completed April 2004.

UNCAC Ratification

We will ratify the Convention as soon as we are satisfied that the UK can comply fully with its obligations under it. We hope to be in a position to do this by the end of 2005. The passage of the Serious Organised Crime and Police Act 2005 was a step towards this. It now remains to enact two pieces of secondary legislation later this year.

Working Group on Bribery Monitoring Reports

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

Phase 1bis: <http://www.oecd.org/dataoecd/12/50/2498215.pdf>

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

The site visit by lead examiners and secretariat took place in July 2004. The report was debated at the December 2004 Bribery Working Group meeting and published on 18 March 2005.

Judicial decisions (and enforcement actions)

The UK currently has 42 matters that have been referred to the National Criminal Intelligence Service (NCIS). The NCIS acts as the 'gateway' in the UK for all such referrals or reports. These referrals are passed on to the appropriate police or prosecution agency for a preliminary investigation to take place.

Of the 42 matters that have been referred to NCIS, 24 have the status of investigations. The remainder have either been declared “no further action” or pre-date the introduction of the 2001 Act.

UNITED STATES
(Information as of October 2005)

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

The United States deposited its instrument of ratification on 8 December 1998.

Implementing legislation

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

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

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

Other information

Relevant authorities

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

Relevant Internet links to national implementing legislation, for example.

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

Signature/Ratification of other relevant international instruments

The United States has also ratified the Inter-American Convention against Corruption, signed the Council of Europe Criminal Law Convention on Corruption and the U.N. Convention, and joined GRECO.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation
<http://www.oecd.org/dataoecd/16/50/2390377.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions
<http://www.oecd.org/dataoecd/52/19/1962084.pdf>

Phase 2 Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions
<http://www.oecd.org/dataoecd/7/35/35109576.pdf>

Judicial decisions (and enforcement actions)

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

Micrus Corporation: On February 28, 2005, Micrus Corporation, a privately held company based in Sunnyvale, California, and its Swiss subsidiary Micrus S.A. entered into a two-year deferred prosecution agreement with the Justice Department in which Micrus and its subsidiary admitted paying more than \$105,000 to doctors employed at publicly owned and operated hospitals in the French Republic, the Republic of Turkey, the Kingdom of Spain and the Federal Republic of Germany in return for the hospitals purchase of Micrus' medical devices; agreed to pay \$450,000 in penalties; agreed to implement a rigorous compliance program with a monitor for a period of three years; and agreed to cooperate fully in the investigation by the Department of Justice.

United States v. Titan Corp. (S.D.CA. 2005): On March 1, 2005, Titan Corporation, a San Diego-based military intelligence and communications company, pleaded guilty to a three-count Information charging it with violating the anti-bribery and books and records provisions of the FCPA and assisting in the filing of a false tax return. The charges stem from Titan's corrupt payment of more than \$2 million towards the election of Benin's then-incumbent President. That same day, Titan was sentenced to pay a criminal fine of \$13,000,000 and serve three years' probation. Titan was ordered to adopt a strict FCPA compliance program. Titan also agreed to pay \$15.4 million in a parallel civil case filed by the SEC. The combined civil/criminal penalty of \$28 million imposed is the largest FCPA penalty for a public company.

InVision Technologies Inc.: On December 6, 2004, InVision Technologies, Inc., a U.S. company, entered into a two-year deferred prosecution agreement with the Justice Department in which it admitted to violations of the FCPA in Thailand, China, and the Philippines, agreed to pay \$800,000 in penalties, agreed to implement a rigorous compliance program with a monitor, and agreed to cooperate fully in the ongoing parallel investigations by the Justice Department and the SEC. General Electric Company, which acquired InVision after the criminal conduct, agreed to ensure compliance by InVision of InVision's obligations under its agreement and to effect FCPA compliance programs within GE's new InVision business. GE and InVision conducted an internal investigation of potential FCPA violations discovered in the course of acquisition due diligence and voluntarily disclosed their findings to the Justice Department and the SEC. Related complaints and orders were filed by the SEC.

United States v. Monsanto Co. (D.D.C., 2005): On January 6, 2005, Monsanto Company entered into a deferred prosecution agreement with the Justice Department in which it agreed to pay a \$1,000,000 penalty and admit to violations of the FCPA involving a payment to an Indonesian official to induce him (unsuccessfully) to repeal an environmental regulation, and a related false books and records entry. Pursuant to the agreement, the Government will seek the dismissal of the charges in three years provided the company implements a strict compliance program and continues to cooperate with the Government's investigation. Monsanto also agreed to hire an independent compliance monitor to meet its obligations. Related complaints and orders were filed by the SEC.

United States v. Hans Bodmer (S.D.N.Y. 2003): In 2003, a grand jury in New York returned an indictment charging Hans Bodmer, a Swiss lawyer, with conspiring to violate the FCPA in connection with alleged bribery of senior officials of the Government of Azerbaijan. At the United States' request, Korea extradited Mr. Bodmer to the United States in 2004. In June 2004, the trial court dismissed the FCPA charges based on technical issues relating to extradition. In October 2004, Mr. Bodmer pleaded guilty to money laundering.

United States v. David Kay: In December 2001, a grand jury sitting in Houston, Texas, returned an indictment charging David Kay, an officer of American Rice Inc., with violating the FCPA by allegedly authorizing bribes of Haitian customs officials. In March 2002, the grand jury returned a superseding indictment adding a second defendant, Douglas Murphy, a former officer of American Rice Inc. In April 2002, the district court dismissed the indictment, finding that the conduct alleged did not fall within the FCPA's requirement that the bribes be paid to "assist in obtaining or retaining business." The United States appealed this decision, and, in February 2004, the Court of Appeals for the Fifth Circuit reinstated the indictment. *United States v. Kay*, 359 F.3d 738 (5th Cir. 2004). In July 2004, the United States obtained a second superseding indictment, which added a conspiracy count against both defendants and an obstruction of justice count against Murphy based on his allegedly false testimony to the SEC. On October 6, 2004, Kay and Murphy were convicted on all counts following a two-week jury trial. Sentencing is scheduled for July 2005.

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

United States v. James H. Giffen: In April 2003, a grand jury in New York returned an indictment charging James Giffen, a U.S. citizen, who acts as a counsellor to the Government of Kazakhstan on oil transactions, with inter alia, violations of the FCPA, money laundering, and fraud associated with the diversion of fees paid by oil companies and the deposit of funds into Swiss bank accounts held for the benefit of Kazak officials. The trial, which had been scheduled to begin on October 4, 2004, has been postponed to April 4, 2005.

United States v. Frerik Pluimers: In April 1998, a grand jury sitting in Trenton, New Jersey, returned an indictment charging Frerik Pluimers, a Dutch national, and David Mead, a U.K. national, both of whom were officers of an American company, Saybolt Inc., with conspiracy and violations of the FCPA and the Travel Act in connection with a bribe allegedly paid to Panamanian officials. Mr. Mead was convicted at trial in October 1998. The United States requested the Netherlands to extradite Mr. Pluimers in March 2000. Despite extended litigation, including a decision of the Dutch Supreme Court authorizing the extradition, the Dutch authorities have not yet ordered Mr. Pluimers' extradition.

Other Enforcement Actions

SEC v. GE InVision Inc. (formerly known as InVision Technologies, Inc. Civil Action No. C-05-0660 MEJ (U.S.D.C. N.D. Cal.); Litigation Release No. 19078; Admin. Proc. File No. 3-11827.): On January 14, 2005, the Commission filed a settled enforcement action against InVision Technologies, Inc. (InVision) for authorizing improper payments to foreign government officials in violation of the FCPA. Simultaneous with the filing of the Commission's charges InVision agreed, without admitting or denying the charges, to disgorge \$589,000 in profits plus prejudgment interest of approximately \$28,700, and pay a \$500,000 civil penalty. InVision was acquired in December 2004 by the General Electric Company, and now operates under the name GE InVision, Inc.; the conduct charged by the Commission occurred prior to the acquisition. The Commission charged that from at least June 2002 through June 2004, InVision employees, sales agents and distributors pursued transactions to sell explosive detection machines to airports in China, the Philippines and Thailand. According to the Commission, in each of these transactions, InVision was aware of a high probability that its foreign sales agents or distributors made or offered to make improper payments to foreign government officials in order to obtain or retain business for InVision. Despite this, InVision allowed the agents or distributors to proceed on its behalf, in violation of the FCPA.

SEC v. Monsanto Co. (Civil Action No. 1:05CV00014, (D.D.C.) filed January 6, 2005; Litigation Release No. 19023; Admin. Proc. File No. 3-11789.): On January 6, 2005, the Commission filed settled enforcement proceedings charging Monsanto Company with making illicit payments in violation of the FCPA. The Commission charged that in 2002, a senior Monsanto manager, based in the United States, authorized and directed an Indonesian consulting firm to make an illegal payment totaling \$50,000 to a senior Indonesian Ministry of Environment official ("the senior Environment Official"). The bribe was made to influence the senior Environment Official to repeal an unfavorable decree that was likely to have an adverse effect on Monsanto's business. Although the payment was made, the unfavorable decree was not repealed. Without admitting or denying the Commission's charges, Monsanto consented to pay a \$500,000 civil penalty and consented to the Commission's issuance of its administrative order. In addition, the Commission charged that, from 1997 to 2002, Monsanto inaccurately recorded, or failed to record, in its books and records approximately \$700,000 of illegal or questionable payments made to at least 140 current and former Indonesian government officials and their family members.

SEC v. The Titan Corporation (Case No. 05-0411 (D.D.C.) (JR), filed March 1, 2005, Litigation Release No. 19107.): On March 1, 2005, the Commission filed a settled enforcement action charging The Titan Corporation ("Titan") with violating the FCPA. Simultaneously with the filing of the Commission's complaint, and without admitting or denying its allegations, Titan consented to the entry of a final judgment permanently enjoining it from future violations of the FCPA and requiring it to pay (i) \$15.479 million in disgorgement and prejudgment interest, and (ii) a \$13 million penalty, which will be deemed satisfied by Titan's payment of criminal fines of that amount in parallel criminal proceedings. The Commission's complaint alleges that, in 2001, at the direction of at least one former senior Titan officer based in the United States, Titan funnelled approximately \$2 million, via its agent in Benin, towards the election campaign of Benin's then-incumbent President. The complaint also alleges that some of these funds were used to reimburse Titan's agent for the purchase to T-shirts adorned with the President's picture and instructions to vote for him in the upcoming election. According to the complaint, Titan made these payments to assist the company in its development of a telecommunications project in Benin and to obtain the Benin government's consent to an increase in the percentage of Titan's project management fees for that project.