

ANTI-CORRUPTION REGULATION SURVEY OF SELECT COUNTRIES 2012

汚職行為防止法に関する
調査2012



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汚職行為防止法に関する調査のご案内

多くの国における汚職行為防止法の重要性、及び、その規制に違反し又は当該違反を行っている企業若しくは個人と関係を有することによる潜在的リスクについて、多国籍企業の間で、認識が高まっています。

米国は、汚職行為防止法の執行をより強化し続けており、その中には、米国との関連が限定的な、米国外での事業活動を行っている外国企業に対する執行も含まれています。また、英国は、近年、領域外の行為も対象とする、広範囲にわたる汚職行為防止法を導入しました。規制の内容及び執行状況は国毎に異なっていますが、多くの国において、より多くの規制及びより厳格な執行に向けた明確な動きがみられます。

この調査は、33の先進国及び新興国における、複雑かつ発展中の汚職行為防止法の現状の概要をお伝えすることを目的としています。この調査には、各企業の状況及び必要に応じた様々な利用方法が考えられますが、以下に、いくつかの例を紹介いたします。

- デュー・ディリジェンス この調査は、M&Aの対象や合併事業のパートナーの候補に適用される汚職行為防止法の重要な部分について、その概要を把握するために利用できます。
- ビジネス・パートナーの候補者 この調査は、企業が他国のビジネス・パートナー（例えば、ベンダーや顧客）と新たな関係を構築しようとする場合において、パートナーの現地における事業活動に関連する潜在的リスクの概要を把握するために利用できます。
- コンプライアンス・プログラムの効果の検討 この調査は、国別、地域別又は全世界的なコンプライアンス・プログラムの策定の要否及び策定方法を検討するために利用できます。コンプライアンス・プログラムの策定を検討するにあたり、企業は、はじめに、特定の行為（例えば、贈答や饗応）が現地の規制に違反するかを理解する必要があります。

この調査は、対象国を地域別にアルファベット順で並べ、国毎に一定の事項について記載しています。そのような事項には、(i) 政府関係者及び外国政府関係者に対する贈賄禁止の有無、(ii) 「政府関係者」の意義、(iii) 政府関係者に対する贈答、饗応、旅費に関する規制の有無及び範囲、(iv) 執行に関する問題、並びに、(v) 近時の発展が、含まれています。

この調査はまた、調査対象としている各国のCPIスコア及びランクを記載しています。CPIとは、トランスペランス・インターナショナルにより公表されている、腐敗認識指数（Corruption Perceptions Index）であり、認識された汚職のレベルに基づき、世界中の各国についてスコア及びランクを付けているものです。CPIスコアは10（極めて清廉）から0（汚職率が高い）までとされており、2011年には、CPIはこのスコアに基づき、183カ国をランク付けしています。この調査はまた、調査対象としている各国が締約国となっている主要な国際条約も記載しています。これらの条約は、グロッサリーにおいて定義をしています。

この調査は、特定の国の規制の範囲及び概要を把握するための出発点として利用できますが、特定の事実関係に照らした実際の規制に関する検討の代替とはなりません。

せん。また、この調査は、特定の事実又は状況についての法的なアドバイスとはなりません。

特定の国の汚職行為防止法に関する問題が発生した場合のため、この調査の最終章に、特定の事実及び状況に基づく情報の提供、あるいは、より適切な場合には、現地の弁護士を紹介を行うことが可能な、ジョーンズ・デイの担当者を記載しています。また、複数の法域にまたがる問題が発生した場合には、ジョーンズ・デイのチーム（場合によっては、現地の関係事務所を含みます）が、包括的かつ焦点を合わせた回答を提供するために、効果的に協働してサービスを提供することが可能です。

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Introduction to Anti-Corruption Regulation Survey

There is an increasing awareness among multinational companies of the significance of anti-corruption regulations in many countries and the potential risk of violating these regulations or being associated with companies or individuals that are engaged in such violations.

The United States has become increasingly aggressive in enforcing its anti-corruption regulations, including as to non-U.S. companies operating outside of the U.S. with limited connections to the U.S. The United Kingdom has also recently adopted wide-ranging anti-corruption regulations covering extra-territorial conduct. Even though the regulatory and enforcement environments vary widely from country to country, there has been a clear movement in many countries toward increased regulation and stricter enforcement.

This Survey is intended to give an overview snapshot of the complex and evolving anti-corruption regulations in 33 developed and developing countries. Ways in which it may be useful will vary depending on a company's situation and needs. A few examples follow:

- **Due diligence.** This Survey may be useful to give a sense of key aspects of anti-corruption regulations that apply to the potential target of M&A or partner of a joint venture.
- **Prospective business partners.** If a company is considering entering into a relationship with a business partner (e.g., vendor or customer) from another country, this Survey may be useful to give a sense of potential landmines in relation to the partner's local business activities.
- **Considering efficacy of compliance programs.** This Survey may be helpful in considering whether and how to develop a compliance program, whether on a country, regional or global basis. As a baseline starting point, one needs to have an understanding whether a particular action (for example, certain gifts or entertainment) would violate local regulations.

In this Survey, the countries are organized by region and then alphabetically by country. For each country, the same categories are covered. They include, among others: (i) whether bribery of domestic and foreign public officials is prohibited; (ii) what "public official" means; (iii) whether and to what extent gifts, entertainment and travel benefits are regulated; (iv) issues in enforcement and (v) recent developments.

This Survey also identifies the CPI scores and ranks of each country covered herein. CPI means Corruption Perceptions Index, published by Transparency International, which scores and ranks countries around the world based on perceived levels of corruption. CPI scores range from 10 (very clean) to 0 (highly corrupt). In 2011, the CPI ranked 183 countries based on their scores. This Survey also identifies major international conventions to which each country covered by this survey is a party. These conventions are defined in the Glossary.

This Survey may be useful as a starting point to give some sense of the scope and extent of regulation in a particular country, but is not a substitute for a review of actual regulations in light of a particular set of facts. This Survey should not be construed as legal advice on any specific facts or circumstances.

If questions do come up in relation to the anti-corruption regulations of a specific country, the last section of this Survey lists contacts at Jones Day who would be in a position to

provide information based on the specific facts and circumstances or guidance as to local counsel where appropriate. If questions come up in relation to multiple jurisdictions, the Jones Day team, including its local correspondents where appropriate, can effectively coordinate to provide a comprehensive and focused response.

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GLOSSARY

Term	Meaning
CPI	<p>Corruption Perceptions Index published by Transparency International ranks countries by perceived levels of corruption as determined by expert assessments and opinion surveys. In 2011, 183 countries were ranked by CPI score.</p> <p>The CPI score ranges from 10 (very clean) to 0 (highly corrupt).</p>
OAS	Organization of American States
OAS Convention	OAS Inter-American Convention against Corruption. Adopted in March 1996
OECD	Organization for Economic Co-operation and Development
OECD Convention	<p>OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. 39 countries have acceded as of March 17, 2012. OECD cannot force implementation, but only monitors implementation.</p>
UNCAC	<p>United Nations Convention Against Corruption. It covers criminalization of corruption, prevention, cooperation and information exchange and asset recovery. 161 countries have acceded to, accepted, approved, or ratified, as of July 12, 2012, as well as the European Union.</p>

This publication should not be construed as legal advice on any specific facts or circumstances. The summaries in this publication are general and introductory and are not, and are not intended to be, a comprehensive analysis of any issues or constitute legal advice; the applicable legal rules are technical in nature requiring appropriate legal advice based on the actual facts and circumstances of the situation. The contents of this publication may not be photocopied and may not be quoted or referred to in any other publication or proceeding without the prior written consent of the Firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our "Contact Us" form, which can be found on our web site at www.jonesday.com. The mailing of this publication is not intended to create, and receipt or review of it does not constitute, an attorney-client relationship. The views set forth herein are the personal views of the contributors and do not necessarily reflect those of the Firm.

Region		Africa
Country		Kenya
2011 CPI	Rank	154/183
	Score	2.2
The Law on Bribery	Bribery of Domestic Officials	<p>Kenya has a series of laws that cover bribery, with the Anti-Corruption and Economic Crimes Act of 2003 (ACEC) as the most important law that covers bribery of all kinds (foreign/domestic officials, commercial).</p> <p>The ACEC prohibits bribery of “agents,” which may be anyone who functions on the behalf of another person in both the public and the private sectors; maximum fine of 1 million shillings or 10 years imprisonment, or both, and additional fines if the person receives a quantifiable benefit (ACEC sec. 48).</p> <p><u>Offering a bribe:</u> It is a crime for a person to corruptly give, offer or agree to give or offer a benefit (ACEC sec. 39(3) (b)).</p> <p><u>Receiving a bribe:</u> It is a crime for a person to corruptly receive or agree to receive a benefit (ACEC sec. 39(3) (a)).</p> <p>“Corruptly receiving or offering” pertains to benefits that are inducements or rewards for an agent to do or not do something related to the agent’s principal or show favor or disfavor in relation to the affairs of the principal.</p> <p>The Public Procurement and Disposal Act of 2005 (PPDA) prohibits corrupt practices in procurement proceedings; maximum fine of 4 million shillings or 10 years imprisonment, or both, and public officers will be disqualified from public office.</p> <p>The Penal Code prohibits anyone who is employed in the public sector from abusing the authority of his office to act in a prejudicial way that harms the rights of another (which includes bribery); maximum fine of 1 million shillings or 10 years imprisonment, or both.</p> <p><u>Corporate liability:</u> Under Kenyan law, a legal “person” includes a company, association, or body of natural persons. Fines imposed on corporate persons who broke the law may be more severe than those imposed on natural persons. For example, under the PPDA, the maximum fine for a corporation is 10 million shillings.</p>
	Bribery of Foreign Officials	The ACEC, which prohibits bribery of “agents,” does not distinguish between foreign and domestic officials. The bribery of foreign officials, who are agents of their home government, is criminalized under the ACEC.
	Commercial Bribery	The ACEC covers commercial bribery as well as public bribery. Company employees are “agents” of the company, and the ACEC prohibits the bribery of all agents.
Definitions	Government Employee	<p>Kenyan law generally defines a public officer as an officer, employee, or member of a public body (government), and is implied to include the employees of state-owned or state-controlled companies. Kenya has also adopted the definition provided by UNCAC, which includes any person who performs a public function.</p> <p>However, under the ACEC’s provisions on bribery, the key term is not “public officer,” but “agent.” Agent “means a person who, in any capacity, and whether in the public or private sector, is employed by or acts for or on behalf of another person...” (ACEC sec. 38(2)).</p>
	Gratification (Gifts/ Entertainments/ etc)	A “benefit” could include any gift, loan, fee, reward, appointment, service, etc. The constitution provides that gifts and donations to a public officer would be donations to the state, and should be delivered to the state instead. Generally, public officers may not accept or request gifts in connection with the execution of public functions. The Public Officer Ethics Act, however, allows officers to accept non-monetary gifts that do not exceed 20,000 shillings; other types of gifts given to officers in their official capacity would be treated as gifts to the public officer’s organization. Public officers may also accept gifts from relatives or friends on special occasions recognized by

		custom.
Current Status	Enforcement Body	The Parliament enacted the Anti-Corruption Commission Act, Act No. 22 of 2011, in August 2011, which resulted in the disbanding of the Kenya Anti-Corruption Commission (KACC) and replacing it with the Ethics and Anti-Corruption Commission (EACC) as the new investigatory body. The KACC, which was under heavy political influence, was not effective in cases involving high-level officials. The new EACC has been given authority to prosecute crimes (although it still forwards most cases to the Attorney General), independence from politics (the head of the agency is appointed for a 6-year non-renewable term) and the authority to engage in out-of-court settlements.
	Issues in Enforcement	<ol style="list-style-type: none"> 1) Lack of commitment by senior officials who see no difference between their personal gains and official duties. 2) Ineffective enforcement of whistleblower protection, despite the existence of the Witness Protection Act. 3) The Attorney General has been unwilling to prosecute corruption cases involving high-level government officials because of political pressure and the lack of insulation from such pressure. 4) The EACC has had no leader since its predecessor, the KACC, was disbanded.
	Recent Movement	In May 2012, a new head of the EACC was confirmed, and will be the first leader to run the new anti-corruption agency after the old agency, KACC, was disbanded in September 2011. This might indicate that the EACC, which has been functioning without a head for a period of time, will be able to more effectively engage in anti-corruption efforts going forward.
Participation in International Anti-corruption Conventions	OECD Convention	No
	UNCAC	Signed Dec. 9, 2003; Ratified Dec. 9, 2003
Last Updated		July 6, 2012

Region		Africa
Country		South Africa
2011 CPI	Rank	64/183
	Score	4.1
The Law on Bribery	Bribery of Domestic Officials	<p>The Prevention and Combating of Corruption Act of 2004 (PCCAA) is the primary source of anti-corruption law in South Africa.</p> <p><u>Offering a bribe</u>: It is a criminal offense to give or offer to give any other person any gratification in order to personally act or influence another to act in a dishonest/illegal way, resulting in an abuse of authority, breach of trust or an unjustified result (PCCAA art. 3(b)).</p> <p><u>Receiving a bribe</u>: It is a criminal offense to accept or agree to accept any gratification from any person in order to act or influence another to act in a dishonest/illegal way, resulting in an abuse of authority, breach of trust or an unjustified result (PCCAA art. 3(a)).</p> <p>The PCCAA further identifies specific acts that would be deemed corrupt, given the role, office or authority that the offender holds:</p> <ul style="list-style-type: none"> - Public officers (PCCAA art. 4) - Legislative authority (PCCAA art. 7) - Judicial officers (PCCAA art. 8) - Prosecuting authority (PCCAA art. 9) <p>The punishment is subject to the discretion of the court responsible for sentencing:</p> <ul style="list-style-type: none"> - high court - up to life imprisonment and fines - regional court - up to 18 years imprisonment and fines - magistrate court - up to 5 years imprisonment and fines <p><u>Corporate liability</u>: Any person who holds a position of authority (including within a private corporation) has a duty under the PCCAA to report acts of corruption about which the person knew or reasonably should have known. A failure to report may lead to a fine or imprisonment of up to 10 years (PCCAA art. 34).</p>
	Bribery of Foreign Officials	<p>Bribery of foreign officials is covered by the PCCAA, which mirrors the provisions on domestic public bribery for offerors of bribes, and criminalizes the giving or offering of any gratification to a foreign official to have him personally act, or influence others to act, in an illegal, dishonest, or unauthorized manner such that it constitutes an abuse of authority, breach of trust, or violation of legal duties, or is otherwise designed to reach an unjustified result (PCCAA art. 5). The degree of the penalty is subject to the discretion of the court. However, the PCCAA does not include provisions that criminalize the receipt of the bribe by the foreign official receiving the bribe.</p>
	Commercial Bribery	<p>Commercial bribery is covered by the PCCAA's provisions on the bribery of agents, which prohibit both the accepting or giving of any gratification by an agent, and the accepting or giving of any gratification by a third person to/from an agent (PCCAA art. 6). As with bribery of domestic officials, the degree of penalty is subject to the discretion of the court.</p>
Definitions	Government Employee	<p>A "public official" is anyone who is a member, an officer or an employee of a public body, and includes anyone receiving remuneration from the state, any public servant under the Public Service Act of 1994, and any public corporation officer. However, members of the legislature, prosecuting authorities and judicial officers are not public officials (and are covered in separate articles under the PCCAA).</p> <p>A "foreign public official" under the PCCAA includes anyone holding a legislative, judicial or administrative office in a foreign state, any person performing public</p>

		functions, as well as any official of a public international organization.
	Gratification (Gifts/ Entertainments/ etc)	The PCCAA prohibits any person from accepting or giving “any gratification” in order to act or induce another person to act corruptly. “Gratification” may be something other than money, such as gifts, entertainment, loans, employment and other types of benefits.
Current Status	Enforcement Body	<p>South Africa has a number of anti-corruption agencies with overlapping jurisdictions. The Special Investigating Unit (SIU) is dedicated solely to investigating corruption and reports directly to the president. As it lacks the authority to prosecute and make arrests, it coordinates with the National Prosecuting Authority (NPA). The NPA is South Africa’s primary prosecuting authority and consists of several units.</p> <p>The Directorate of Special Operations (commonly known as the Scorpions) under the NPA was very successful in exposing and prosecuting corruption offenders, but was replaced in 2009 by the Directorate for Priority Crime Investigations (commonly known as the Hawks) for political reasons. The Hawks is under the police ministry and the executive, and the Constitutional Court ruled in March 2011 that its formation was unconstitutional because it failed to secure independence from political influence. The parliament was allowed 18 months to address this issue.</p> <p>The South African Police Service (SAPS) enjoys very little credibility as multiple police chiefs themselves have been convicted of bribery.</p>
	Issues in Enforcement	<ol style="list-style-type: none"> 1) Top-to-bottom corruption in the police force. 2) Anti-corruption agencies are not sufficiently independent from political interference. 3) Cases referred to the national/provincial departments for investigation are often ignored. 4) Investigative agencies lack sufficient resources to conduct full-scale operations, and individual investigators lack experience and skill. 5) Inadequate whistleblower protection; the Protected Disclosures Act was enacted to protect whistleblowers but has been poorly enforced).
	Recent Movement	The South African parliament is currently reviewing a secrecy bill, the Protection of State Information Bill, which has raised concerns that the bill will make it difficult to investigate and expose acts of corruption if relevant documents are shielded from disclosure.
Participation in International Anti-corruption Conventions	OECD Convention	Yes
	UNCAC	Signed Dec. 9, 2003; Ratified Nov. 22, 2004
Last Updated		July 26, 2012

Region		Asia Pacific
Country		Australia
2011 CPI	Rank	8/183
	Score	8.8
The Law on Bribery	Bribery of Domestic Officials	<p>The applicable law on bribery of domestic public officials depends on whether the official in question is an official of a federal entity or a state/territory entity.</p> <p>Bribery of public officials of federal entities constitutes an offense under Divisions 141-142 of the federal Criminal Code.</p> <p>Bribery of public officials of state entities constitutes an offense under the common law offense of bribery (i.e., “the receiving or offering of an undue reward by or to any person in public office, in order to influence that person’s behavior in that office, and to incline that person to act contrary to accepted rules of honesty and integrity.”).</p>
	Bribery of Foreign Officials	<p>Bribery of foreign public officials is primarily regulated by the federal Criminal Code. Division 70.2 of Schedule 1 to the Criminal Code Act 1995 (Act) makes it an offense for a person to provide (or offer to provide, or promise to provide, or cause any of those things to happen) a benefit to a foreign public official when that benefit is not legitimately due to the foreign public official, and the benefit is given with the intention of obtaining or retaining business or a business advantage. Division 70.4 provides that it is a defense if the accused can show that the benefit was a facilitation payment.</p> <p>See also: (a) The Proceeds of Crime Act 2002 (Cth), which provides for the forfeiture of foreign bribes paid, the seizure of the benefits of corrupt activity, and identifies foreign bribery as a predicate offense for money laundering offenses; (b) The Corporations Act 2001 (Cth), which provides for civil, criminal and administrative sanctions for acts ancillary to foreign bribery; and (c) The Mutual Assistance in Criminal Matters Act 1987 (Cth) and the Extradition Act 1988 (Cth), which provides a framework for the investigation of foreign bribery in conjunction with foreign law enforcement agencies.</p> <p>Moreover, although not specifically designed to prevent foreign bribery, foreign bribery-related prosecutions have also taken place under the following legislation: (a) s180(1) of the Corporations Act 2001 (Cth), which imposes statutory duties on directors of Australian corporations related to the exercise of their powers; and (b) The Federal Criminal Code, Division 144, which makes it an offense to make fraudulent documents.</p>
	Commercial Bribery	<p>Bribery in a commercial context is regulated primarily by state and territory law. The Secret Commissions Act 1905 (Cth) having been repealed, there is no federal legislation which specifically regulates bribery in a corporate context; instead, the fraud-type provisions of the Criminal Code are broad enough to capture most cases of commercial bribery.</p> <p>An example of state legislation on bribery in a commercial context is Part 4A of the Crimes Act 1900 (NSW), which makes it an offense for an agent (which includes an employee) to receive (or agree to receive, or to solicit) or be offered a benefit as an inducement to do something, omit to do something, favor someone, or disfavor someone in relation to the affairs or business of the agent’s principal. Similar provisions exist in other states and territories.</p> <p>In addition, employers will typically have remedies against their employees who take secret commissions or other corrupt benefits under the general principles of equity, and may have contractual rights under the employment contract.</p> <p>Finally, it may be possible to bring actions against the party engaging in corrupt conduct under Part 2 of the Australian Consumer Law, which is Schedule 2 to the Competition and Consumer Act 2010 (Cth), on the basis that the bribery is “misleading or deceptive conduct.”</p>

Definitions	Government Employee	<p>The provisions relating to foreign bribery are designed to be read extremely broadly. The relevant recipient for an offense under Division 70 is a “foreign public official.”</p> <p>“Foreign public official” is defined inclusively by 70.1 of the Criminal Code as any person who is an employee, officeholder, appointee of or person owing duties to foreign government bodies, offices, legislatures, militaries, judiciaries and their agents, contractors and intermediaries. Further, the legislation also applies to the employees, etc. of state-owned enterprises and public international organizations.</p>
	Gratification (Gifts/ Entertainments/ etc)	Currently, facilitation payments, being small customary payments, are permissible under Australian law, but this defense to Article 70.2 is in the process of being repealed.
Current Status	Enforcement Body	<p>There is no single enforcement body in Australia. The lead investigative agency for bribery of foreign public officials and bribery of federal public officials is the Australian Federal Police.</p> <p>The lead prosecutorial agency for bribery of foreign public officials and bribery of federal public officials is the Commonwealth Attorney-General’s Office. The weak performance of Australian federal authorities in prosecuting foreign bribery notwithstanding, Australian federal police, prosecutors and courts are generally regarded as adequately-financed and not excessively politicized.</p> <p>The lead investigative agencies for bribery of state/territory public officials and bribery in a private context are the police forces of the relevant states and territories in which the conduct is alleged to have occurred. In addition to state and territory police forces, a number of states have specific agencies with powers to investigate bribery and corruption offenses. Prosecutions of federal offenses typically take place in federal courts. Prosecutions of state/territory offenses typically take place in state or territory courts. There is no substantial difference in the professionalism or procedure of the courts.</p>
	Issues in Enforcement	<ol style="list-style-type: none"> 1) The primary issues in enforcement of the law related to the bribery of foreign officials are the failure to date to successfully prosecute any person under Australian anti-bribery law and the small number of prosecutions initiated. This is a major factor in Australia’s categorization by Transparency International as a jurisdiction in which “little or no enforcement” takes place. 2) Federal prosecutors are arguably inadequately prepared for the complexity of major trials with an international dimension. 3) Where prosecutions relating to foreign bribery have succeeded, the convictions have not been recorded under the anti-bribery legislation. Instead, they have been under broader legislative provisions which are not specific to bribery.
	Recent Movement	Bribery is fast becoming a topic of major concern in the media and in public opinion. There are no political or civil movements centered on corruption, but the public’s understanding or interest in the impact of bribery and corruption on development and business is evolving with some high profile events, specifically the AWB inquiry, the recent prosecution of the Australian Reserve Bank subsidiary, Surrency, for bribery, and the self-reporting by Leighton Holdings for corruption in its Middle East business activities have led to greater corporate and public awareness.
Participation in International Anti-corruption Conventions	OECD Convention	Yes
	UNCAC	Signed Dec. 9, 2003; Ratified Dec. 7, 2005
Last Updated		July 27, 2012

Region		Asia Pacific
Country		China
2011 CPI	Rank	75/183
	Score	3.6
The Law on Bribery	Bribery of Domestic Officials	<p>Criminal Law of the PRC (“Criminal Law”) punishes the following conduct:</p> <p><u>Offering a bribe</u>: A criminal penalty shall be imposed on persons who (1) give state functionaries property in order to seek illegitimate gain; or (2) give state functionaries property, kickbacks or service charges of a relatively large amount in violation of state provisions (Criminal Law art. 389).</p> <p><u>Entities offering a bribe</u>: A criminal penalty shall be imposed on entities (and their responsible personnel) which offer bribes or kickbacks/service charges to state functionaries in violation of state provisions, when the circumstances are serious (Criminal Law art. 393).</p> <p><u>Offering bribes to entities</u>: A criminal penalty shall be imposed on persons who give property to state organs, state-owned entities and people’s organizations to seek illegitimate gain (Criminal Law art. 391).</p> <p><u>Facilitating bribes</u>: A criminal penalty shall be imposed on persons who help others bribe state functionaries, when the circumstances are serious (Criminal Law art. 392).</p> <p><u>Receiving a bribe</u>: A criminal penalty shall be imposed on state functionaries who (1) take advantage of their or other state functionaries’ authority to solicit property, or illegally accept them from others in exchange for benefits to the person providing the property; or (2) accept kickback/service charges for personal use in violation of state provisions (Criminal Law art. 385 & 388).</p> <p><u>Entities receiving a bribe</u>: A criminal penalty shall be imposed on state organs, state-owned entities and people’s organizations (and their responsible personnel) which (1) solicit or illegally accept property from others in exchange for benefits to the person providing the property; or (2) secretly accept kickback/service charges, if the circumstances are serious (Criminal Law art. 387).</p> <p><u>Receiving a bribe by using influence</u>: A criminal penalty shall be imposed on close relatives/affiliates of state functionaries (or former state functionaries) who solicit or accept property of a relatively large amount and seek illegitimate gain for persons providing the property through the official acts or influence of the state functionaries (or former state functionaries) (Criminal Law art. 388A).</p>
	Bribery of Foreign Officials	A criminal penalty shall be imposed on persons giving property to foreign public officials/officials of public international organizations in order to obtain illegitimate commercial gain (Criminal Law art. 164 para. 2, 3 & 4).
	Commercial Bribery	<p>Commercial bribery means any bribery that occurs in the purchase or sale of goods or services. While it could arise in the context of bribery of domestic or foreign officials, it also includes the following:</p> <p><u>Receiving bribes by non-state functionaries</u>: A criminal penalty shall be imposed on non-state functionaries who, by taking advantage of their positions, solicit or accept property of a relatively large amount from others in exchange for benefits to the person providing the property (Criminal Law art. 163).</p> <p><u>Offering bribes to non-state functionaries</u>: A criminal penalty shall be imposed on persons who offer property of a relatively large amount to non-state functionaries for illegitimate gain (Criminal Law art. 164 para. 1, 3 & 4).</p> <p>The Anti-Unfair Competition Law art. 8 imposes civil liabilities on business operators accepting or offering bribes in sales or purchase of commodities, and the Government Procurement Law art. 77(4) imposes civil liabilities on vendors who offer bribes or other illegitimate interests to purchasers or procurement agencies.</p>

Definitions	Government Employee	“State functionaries” means: (1) all personnel of state organs; (2) personnel performing state functions in state-owned corporations, enterprises, institutions and people’s organizations; (3) personnel assigned by state organs, state-owned corporations, enterprises and institutions to engage in state functions in non-state owned corporations, enterprises, institutions and social organizations; and (4) other personnel engaged in state functions according to the law.
	Gratification (Gifts/ Entertainments/ etc)	Commercial bribery laws do permit offering advertising gifts of modest value consistent with common commercial practice. In criminal cases, bribes shall be distinguished from permissible gifts by considering the following factors: (1) background of the property transaction (e.g., relationship of the parties); (2) value of the property; (3) cause, time and method of the property transaction, and whether the offeror has requested any favor from the recipient; and (4) whether the recipient has used his position to reward the offeror.
Current Status	Enforcement Body	<p>The People’s Procuratorate (the “Procuratorate”) is in charge of the investigation and prosecution of all bribery crimes, except for the crime of accepting bribes by non-state functionaries and the crime of offering bribes to non-state functionaries, which are investigated by the Police and prosecuted by the Procuratorate.</p> <p>The State Administration of Industry and Commerce (the “AIC”) and its local branches are responsible for enforcing anti-bribery provisions in the Anti-Unfair Competition Law and the Government Procurement Law by taking administrative actions and imposing fines.</p>
	Issues in Enforcement	<ol style="list-style-type: none"> 1) The Procuratorate and the Police are only authorized to investigate and/or prosecute bribery crimes that meet certain threshold requirements. For instance, for the crime of offering a bribe to a state functionary, PRC authorities will only prosecute bribes of more than 10,000 yuan, unless an exception applies. 2) The AIC’s investigative powers are limited compared to those of the Procuratorate and the Police. As a result, in major cases, the AIC may conduct its investigation in conjunction with the Police and rely on the power of the latter. 3) The AIC’s interpretation of commercial bribery laws may vary between local jurisdictions and some local AIC offices can be very aggressive and stricter than U.S. enforcement authorities, especially with regard to what may constitute a bribe during dealings between commercial entities. Moreover, it is difficult to challenge the AIC’s interpretation of the commercial bribery laws. Whenever commercial bribery amounts to a crime, the AIC should transfer the case to the Procuratorate or the Police to initiate a criminal proceeding. 4) Any off-the-book rebate or discount will be presumed to be a bribe, even when exchanged between entities. 5) Chinese Communist Party members are subject to their own internal rules, which obligate them to report any gift with a value of over 100 yuan and to turn in any gift with a value of over 200 yuan. 6) PRC authorities may follow up on FCPA enforcement actions. Following the Siemens FCPA settlement, for instance, one PRC official who accepted bribes from Siemens entities in China received the death penalty.
	Recent Movement	Government enforcement remains uneven. However, the PRC government continues to profess that anti-corruption efforts are a top priority. Premier Wen Jiabao said in March 2012 at the State Council’s annual conference on anti-corruption work: “Corruption is the most crucial threat to the ruling party.” The PRC government announced that 29,000 people were convicted of bribery, embezzlement and malfeasance in 2011; also, in 2011, over 2,500 officials above the county level, 198 above the prefecture level and 7 at the minister level were investigated.
Participation in International Anti-corruption Conventions	OECD Convention	No (observer status)
	UNCAC	Signed Dec. 10, 2003; Ratified Oct. 27, 2005
Last Updated		July 27, 2012

Region		Asia Pacific
Country		Japan
2011 CPI	Rank	14/183
	Score	8.0
The Law on Bribery	Bribery of Domestic Officials	<p>Anti-bribery provisions are included in the Penal Code (Act No. 45 of April 24, 1907) and the Act on Punishment of Public Officials' Profiting by Exerting Influence (Act No. 130 of November 29, 2000) (APPOPEI).</p> <p><u>Offering a bribe:</u></p> <ul style="list-style-type: none"> - A person who gives, offers or promises to give a "bribe" (as provided for in Penal Code arts. 197 through 197-4) shall be subject to up to 3 years imprisonment with work or a fine of not more than 2.5 million yen (Penal Code art. 198.). - A person who gives "property benefits" (as provided for in APPOPEI arts. 1 and 2) shall be subject to up to 1 year imprisonment with work or a fine of not more than 2.5 million yen (APPOPEI art. 4). <p><u>Receiving a bribe:</u></p> <ul style="list-style-type: none"> - A public officer (current or former) or candidate for office who accepts or promises to accept a bribe in connection with his duties, or in response to a request, or for the commission or omission of an act that contradicts his duty; - up to 5 years imprisonment with work (Penal Code art. 197). - A member of the House of Representatives/Councilors or the assembly of the local governments who, in relation to some contracts to be entered by the central or local government (or state-controlled entity), or administrative sanctions against a certain individual, accepts "property benefits" as consideration for exercising one's official influence over a public officer to commit or omit the public officer's duty with agreement to act in response to a request (APPOPEI art. 1); up to 3 years imprisonment with work (a sentence for imprisonment with work up to 2 years can be imposed on a secretary for a member of the Diet who violates this provision - APPOPEI art. 2).
	Bribery of Foreign Officials	<p>Legislation in the form of amendments to the Unfair Competition Prevention Law (Act No. 47 of May 19, 1993), which became effective as of February 15, 1999 (UCPL), covers bribery of foreign public officials (UCPL art. 18).</p> <p>A person who gives, offers or promises any pecuniary or other advantages to a foreign public official to have the official commit or omit an act in relation to the performance of his official duties, or to have the official use his position, exert upon another foreign official so as to cause him to commit or omit an act in relation to the performance of his official duties, in order to obtain or retain improper business advantage in the conduct of international business shall be subject to up to 5 years imprisonment with work and/or a fine of not more than 5 million yen (UCPL art. 18, paras. 1 and 21).</p> <p><u>Corporate liability:</u></p> <p>Corporate liability is covered only in the UCPL (bribery of foreign public officials).</p> <p>Where a representative, agent, employee or any other staff, etc. of a legal entity has committed a violation of Article 18 of the UCPL in connection with an operation of such legal entity, a fine of not more than 300 million yen can be imposed on the legal entity in addition to punishment of the offender (UCPL art. 22).</p>
	Commercial Bribery	Japan does not have any special law to prohibit bribery in the private sector.
Definitions	Government Employee	<p>Public officer under the Penal Code shall mean a national or local government official, a member of an assembly or committee or other employees engaged in the performance of public duties in accordance with laws and regulations (Penal Code art. 7).</p> <p>Foreign public officials under the UCPL include those who engage in (1) public services for national or local foreign governments; (2) services for special public interest entities; (3) services for state-owned enterprises; (4) public services for international</p>

		organization; and (5) those who exercise a public function which falls under the authorized competence of national or local foreign governments or an international organization and is delegated by them (UCPL art. 18, para. 2).
	Gratification (Gifts/ Entertainments/ etc)	There is no mention of small facilitation payments in Japanese anti-corruption laws, and no action is exempt from punishment under the title of small facilitation payment exemption. Under Japanese anti-corruption laws, “bribery,” “property benefits” and “pecuniary or other advantage” refer to any advantage or profit that serves to satisfy a demand or desire of a person and would cover any tangible or intangible advantages, including non-economic advantages such as a job position.
Current Status	Enforcement Body	The Public Prosecutor’s Office and the National Police Agency.
	Issues in Enforcement	Since the offense of bribery of foreign public officials entered into force in 1999, Japan has obtained convictions for bribery of foreign public officials in only two cases, one in 2007 and the other in 2009. In this regard, the OECD Working Group on Bribery pointed out in its “Phase 3 Report on Implementing the OECD Anti-Bribery Convention in Japan” in December 2011 that “prosecution in two foreign bribery cases in 12 years appears very low in view of the size of the Japanese economy, and the Working Group continues to have serious concerns that Japan still does not appear to be actively enforcing its foreign bribery offense.”
	Recent Movement	None.
Participation in International Anti-corruption Conventions	OECD Convention	Yes
	UNCAC	Signed Dec. 9, 2003; Not ratified
Last Updated		July 27, 2012

Region		Asia Pacific
Country		South Korea
2011 CPI	Rank	43/183
	Score	5.4
The Law on Bribery	Bribery of Domestic Officials	<p>South Korea has a number of laws that prohibit the bribery of domestic public officials, including the Korean Criminal Code, the Act Concerning Aggravated Punishment of Specific Crimes (Specific Crimes Act) and the Act on the Creation and operation of the Anti-Corruption and Civil Rights Commission and the Prevention of Corruption (Anti-Corruption Act).</p> <p><u>Offering a bribe</u>: It is a criminal offense for a person to promise, deliver or manifest a will to bribe a public official (Criminal Code art. 133); up to 5 years imprisonment or 20,000,000 won.</p> <p><u>Receiving a bribe</u>: It is a criminal offense for a public official to receive a bribe in connection with his duties (Criminal Code art. 129); up to 5 years imprisonment and up to 10 years disqualification.</p> <p><u>Improper action</u>: If the public official carries out an improper action before or after the receipt of a bribe (Criminal Code art. 131); at least 1 year imprisonment and up to 10 years disqualification.</p>
	Bribery of Foreign Officials	<p>The bribery of foreign public officials is prohibited by the Foreign Bribery Prevention in International Business Transactions Act (FBPA), which entered into effect in 1999. Under the FBPA, it is an offense to give, offer or promise a bribe (any undue advantage) to a foreign official in connection with the performance of the foreign official's duties (FBPA art. 3.1). However, the FBPA makes an exception when such gifts are allowed under local law, or when the payment was small and given in order to facilitate a routine function that was not subject to discretion (FBPA art. 3.2). Individuals may be subject to up to 5 years imprisonment and a fine up to 20 million won.</p> <p><u>Corporate liability</u>: Corporations may be held liable for acts of bribery carried out by a representative, an agent or an employee, but may be exempt from punishment if they have taken measures to prevent violations. Legal entities may be fined up to 1 billion won, and other penalties may be imposed on the actual individual offender.</p>
	Commercial Bribery	<p>Private commercial bribery is prohibited under the Criminal Code. When one person provides economic benefits to another person, who is entrusted with conducting the business of a legal entity, and the economic benefit is given as consideration for an improper request that the recipient engage in an improper performance in relation to the business (Criminal Code art. 357). However, it is not a criminal offense if the requested action coincides with the recipient's official duties.</p>
Definitions	Government Employee	<p>Domestic public officials include actual employees of state and local governments, senior staff employees of government-controlled corporations that meet certain requirements under the Specific Crimes Act. The Presidential Enforcement Decree to the Specific Crimes Act has identified 54 such entities, including the Bank of Korea and the Financial Supervisory Service.</p> <p>With respect to foreign public officials, the FBPA mostly follows the OECD Convention to include government officials of foreign states, employees of state-controlled entities, as well as individuals with public functions (public agencies) and officials of international organizations.</p>
	Gratification (Gifts/ Entertainments/ etc)	<p>"Economic benefits" is broadly interpreted and can cover all forms of gifts, entertainment, travel, cash, etc., and officials are prohibited from receiving any of these benefits from individuals who may have an interest in the performance of the officials' duties.</p> <p>The Code of Conduct issued by the president in May 2003 provides a number of exceptions, which allow government officials to receive certain gifts under certain</p>

		circumstances, such as meals “within the extent of normal practice.”
Current Status	Enforcement Body	<p>The Anti-Corruption and Civil Rights Commission (ACRC), which is the major anti-corruption agency, was formed in February 2008 through a merger of the old Korea Independent Commission Against Corruption (KICAC), the Ombudsman and the Administrative Appeals Commission, and is responsible for formulating national anti-corruption strategies and evaluating public initiatives.</p> <p>Critics have raised concerns about the ACRC’s abilities to focus on anti-corruption efforts and remain politically independent (the current head of the ACRC is a personal confidant of the president). Moreover, although the ACRC has the authority to accept complaints and whistleblower tips, it cannot investigate independently and must refer them to other agencies or solicit help from public prosecutors and the police.</p> <p>The Supreme Prosecutor’s Office (SPO) has an anti-corruption headquarters and the authority to investigate and prosecute criminal activities but, like the ACRC, it has been criticized for its lack of political independence.</p>
	Issues in Enforcement	<ol style="list-style-type: none"> 1) Weak witness and whistleblower protection laws (the effect of the new whistleblower protection law has yet to be seen). 2) Low-level sanctions, especially for foreign bribery (e.g., fines are capped at 20 million won). 3) General leniency of judiciary toward white-collar crimes.
	Recent Movement	<p>The Act on the Protection of Public Interest Whistle-blowers was passed on September 30, 2011, and was intended to provide greater protection to whistleblowers in relation to corruption in both the public and private sectors.</p> <p>A large-scale bribery scandal surrounding a savings bank came to light in early 2012 and led to the arrests of several major government officials, including an aide to the president. President Lee Myung-bak has been criticized for his weak efforts against corruption and for prioritizing pro-business policies over anti-corruption efforts, and it is generally understood that corruption has worsened during his administration.</p>
Participation in International Anti-corruption Conventions	OECD Convention	Yes
	UNCAC	Signed Dec. 10, 2003; Ratified March 27, 2008
Last Updated		July 26, 2012

Region		Asia Pacific
Country		Taiwan
2011 CPI	Rank	32/183
	Score	6.1
The Law on Bribery	Bribery of Domestic Officials	<p>In Taiwan, anti-bribery practices are governed by the Anti-Corruption Act (the “ACA”), which became effective in 1963 and was newly amended in November 2011, as well as the Criminal Code, which was enacted in 1935. In practice, criminal courts apply the ACA instead of the Criminal Code in dealing with corruption-related cases because the ACA was enacted to address corruption issues and therefore trumps the general law (i.e., the Criminal Code). This summary focuses on the provisions of the ACA.</p> <p><u>Offering a bribe:</u> It is a criminal offense for any person to offer, promise or give a bribe or other unjust interest to a public official to perform a relevant function or activity, regardless of whether or not the public official violates his duty. However, an offender will be subject to more severe penalties if such offender offers, promises or gives a bribe or other unjust interest to a public official to perform a relevant function or activity in violation of that public official’s duties (Paragraph 1 and 2, Article 11 of the ACA).</p> <p><u>Receiving a bribe:</u> It is a criminal offense for a public official to demand, agree to accept or accept a bribe or other unjust interest for the performance of a relevant function or activity, regardless of whether or not the public official violates his duty. However, the public official will be subject to more severe penalties if he violates his duties (Subparagraph 5, Paragraph 1, Article 4 and Subparagraph 3, Paragraph 1, Article 5 of the ACA).</p> <p><u>Corporate liability:</u> Neither the ACA nor the Criminal Code imposes criminal liability on legal entities, and therefore only individual(s) will be subject to criminal punishment.</p>
	Bribery of Foreign Officials	It is a criminal offense for any person to offer, promise or give a bribe or other unjust interest to a public official of a foreign country, Mainland China, Hong Kong or Macao in cross-border trade, investment or other commercial activities, for soliciting the performance of a relevant function or activity, regardless of whether or not the public official violates his duty (Paragraph 3, Article 11 of the ACA).
	Commercial Bribery	In Taiwan, only the bribery of a “public official” will be subject to criminal liability. (Please see below.)
Definitions	Government Employee	<p>“Public officials” is given the following meaning in the Criminal Code:</p> <ol style="list-style-type: none"> 1. People who serve the agencies of the Taiwan government or local autonomy so as to be provided with legal functions, or people who engage in public affairs in accordance with laws so as to be provided with legal functions (Subparagraph 1, Paragraph 2, Article 10, Criminal Code). 2. People who are authorized by the agencies of the Taiwan government or local autonomy in accordance with law for engaging in the public affairs within the authority of the consignor (Subparagraph 2, Paragraph 2, Article 10, Criminal Code).
	Gratification (Gifts/ Entertainments/ etc)	Neither the ACA nor the Criminal Code provides a clear definition of “bribe” or “unjust interest.” Generally, criminal judges would follow the definitions established by Supreme Court precedents: (1) Bribe: money or goods that can be valued by money could be regarded as a bribe; (2) Unjust interest: apart from a bribe, any tangible or intangible interest that can satisfy one’s need or desire could be regarded as an unjust interest.
Current Status	Enforcement Body	In Taiwan, a prosecutor is responsible for launching an investigation into any potential corruption cases and filing the indictment.
	1) Issues in Enforcement	1) On June 7, 2011, the new amendment of the ACA expanded the scope of its application, criminalizing the offering, promising or giving a bribe or other unjust interest to a public official to perform a relevant function or activity within his duty.

		2) High-profile case: recently, the former Secretary-General of Executive Yuan was detained for an investigation into his alleged receipt of a bribe in the amount of over NTD 80 million.
	Recent Movement	In order to consolidate the government’s power and resources over the investigation of corruption, the Agency Against Corruption (the “AAC”) under the Ministry of Justice was established on July 20, 2011. The main duty of the AAC is to investigate potential corruption cases. After its investigation, if the AAC has found signs of corruption, the AAC will transfer the case to the prosecutors for further investigation and indictment.
Participation in International Anti-corruption Conventions	OECD Convention	No
	UNCAC	No
Last Updated		August 27, 2012

Region		Europe
Country		Austria
2011 CPI	Rank	16/183
	Score	7.8
The Law on Bribery	Bribery of Domestic Officials	<p>Under the Austrian Criminal Code (StGB) (as amended by the Anti-Corruption Law of 2009), bribery as a criminal offense rests on a connection between the benefits given to a public official and the public official's performance or non-performance of a task. The criminal charge may depend on whether the performance/non-performance of the official's task is in accordance with, or in conflict with, his duties.</p> <p><u>Offering a bribe:</u> Offering or promising a benefit to a public official in return for:</p> <ul style="list-style-type: none"> - an illegal performance or failure to perform an official act (sec. 307 StGB). - performance of a legal official act (or legal omission), if prohibited by internal disciplinary rules (sec. 307a StGB). <p><u>Receiving a bribe:</u> Public officials who receive benefits or promises for benefits in return for:</p> <ul style="list-style-type: none"> - illegally performing or refraining from performing an official act (sec. 304 StGB). - legally performing or refraining from performing an official act (sec. 305 StGB). <p><u>Preparation of bribery:</u> Acts that constitute the preparation of giving or receiving bribes are also sanctioned (sec. 307b StGB, sec. 306 StGB).</p> <p>*Individuals may be imprisoned for up to 5 years in cases of bribery below 50,000 euros, and up to 10 years for cases above 50,000 euros.</p> <p><u>Corporate liability:</u> Under the Corporate Criminal Liabilities Act (Verbandsverantwortlichkeitsgesetz - VbVG), a company can be held liable for the corrupt acts of an employee or a representative if the company neglected its obligation to prevent such actions (e.g., compliance programs), and can be fined between 11% to 50% of its annual revenue.</p>
	Bribery of Foreign Officials	The bribery of foreign officials is prohibited under the same provisions of the Austrian Criminal Code that criminalize the bribery of domestic officials.
	Commercial Bribery	<p>The Austrian Criminal Code prohibits both the giving and the receiving of commercial bribes. Commercial bribery requires the offering or promising of a personal advantage to an employee of a company in return for an improper business activity. As such, if the benefits are conferred in return for the proper performance of one's duties, then there is no bribery. (In the case of public officials, even proper performance in accord with one's duties constitutes bribery). Both individuals and corporate entities can be liable.</p> <p><u>Offering a bribe:</u> (sec. 168d StGB)</p> <ul style="list-style-type: none"> - individuals - up to 2 years imprisonment. - corporate entity - fines of up to 15% of annual revenue. <p><u>Receiving a bribe:</u> (sec. 168c StGB)</p> <ul style="list-style-type: none"> - individuals - up to 2 years imprisonment for cases below 3,000 euros; up to 3 years for cases above 3,000 euros. - corporate entity - fines of between 15% to 20% of annual revenue.
Definitions	Government Employee	<p>Public officials under the Criminal Code include (sec. 74 para. 1 4(a)):</p> <ol style="list-style-type: none"> 1) member of an Austrian public representative body (as long as he votes or exercises his duties). 2) anyone performing legislative, administrative, judicial or any other official government functions for Austria, a foreign state or an international organization. 3) employee of an entity that is controlled by the General Accounting Office or other

		<p>similar bodies in Austria, which mainly provides services to those covered by 2).</p> <p>*some public officials are partially immune under the definition in the Criminal Code.</p> <p>Employees of state-owned companies are only included if they fall into one of the above-listed categories.</p>
	Gratification (Gifts/ Entertainments/ etc)	<p>All forms of benefits and personal advantages, including gifts, travel and entertainment, may be deemed bribery if they are given in connection with the performance or non-performance on the part of the recipient. In general, small gifts and other gratuities given without an exchange of favors are acceptable and are not considered bribes.</p>
Current Status	Enforcement Body	<p>Austria has two specialized anti-corruption enforcement agencies. The Public Prosecutor's Office for Economic Crime and Corruption (WKStA) investigates and prosecutes malpractice, corruption and other economic crimes with a value of over 5 million euros.</p> <p>The Federal Bureau of Anti-Corruption (BAK) under the Federal Ministry of the Interior has jurisdiction over police investigations concerning criminal offenses, and is an international contact responsible for cases that require international police cooperation.</p>
	Issues in Enforcement	<p>1) Partial immunity for certain public officials given the definition in the Criminal Code.</p> <p>2) Rampant corruption in lobbying activities.</p>
	Recent Movement	<p>In April 2011, the Ministry of Justice proposed stricter anti-corruption laws to address the issue of lobbying-related bribery, however, this was quickly rejected by the ruling OVP party. In April 2012, as a response to high-profile corruption scandals, a coalition of SPO and OVP (the two parties who have monopolized power since WWII) agreed to reform anti-corruption laws and impose stricter reporting requirements for politicians. The parties aim at getting the reforms passed by the end of the year.</p>
Participation in International Anti-corruption Conventions	OECD Convention	Yes
	UNCAC	Signed Dec. 10, 2003; Ratified Jan. 11, 2006
Last Updated		June 28, 2012

Region		Europe
Country		France
2011 CPI	Rank	25/183
	Score	7.0
The Law on Bribery	Bribery of Domestic Officials	<p>Bribery, formally classified as a misdemeanor-type offense (a “délit”), nevertheless carries with it the potential for serious criminal penalties and sanctions, including imprisonment.</p> <p>French Law punishes both giving bribes (“active bribery”) and receiving bribes (“passive bribery”):</p> <p>Active bribery is inducing someone to carry out or abstain from carrying out an act relating to one’s public or private job or position, or by offering or making offers, promises, donations, gifts or advantages.</p> <p>Passive bribery is requesting or accepting offers, promises, donations, gifts or advantages in order to carry out or abstain from carrying out an act relating to one’s public or private job or position.</p> <p>“Trafficking in influence” is defined as abusing one’s real or alleged influence with a view to obtaining a distinction, employment, contract or any other favorable decision from public officials.</p> <p>The French Criminal Code (the “Criminal Code”) as well as the French Code of Criminal Procedure (the “Criminal Procedure Code”) were amended in 2007 to ensure that French law is consistent with its international commitments, and in particular with the OECD Convention. In May 2011, the law was clarified to state that bribes paid after (as opposed to before) the influenced action are equally illegal (i.e., it is now clear that an after-the-fact “thank you” gift is just as illegal as a bribe paid to influence an act in the future).</p> <p>Bribery with respect to French “national public officials” (giving or receiving) is prohibited. A “national public official” is a person who holds public authority or discharges a public service mission, or an elected official (Passive bribery: Article 432-11 of the Criminal Code; active bribery: Article 433-1; passive trafficking in influence: Articles 432-11 and 433-2 of the Criminal Code; active trafficking in influence: Articles 433-1 and 433-2 of the Criminal Code).</p> <p>Judges, prosecutors, jurors or any other person entrusted with a similar role, an arbitrator or an expert appointed either by a court or by the parties, or a person appointed by a judicial authority to carry out conciliation or mediation can also be found liable of bribery and trafficking in influence (Passive bribery: Article 434-9 of the Criminal Code; active bribery: Article 434-9 of the Criminal Code; passive trafficking in influence: Article 434-9-1 of the Criminal Code; active trafficking in influence: Article 434-9-1 of the Criminal Code). Such infractions rise to the level of “obstruction of justice.”</p>
	Bribery of Foreign Officials	<p>France ratified the OECD Convention on July 31, 2000, and it was implemented along with the Convention on the Fight Against Corruption Involving Officials of the European Communities or Officials of Member States of the EU (Convention on European Officials) signed on May 26, 1997 into French law by way of Criminal Act No. 2000-595 (2000), which amended the Criminal Code and the Criminal Procedure Code to prohibit bribery of foreign public officials. The original legislation was subsequently amended in 2007 by the Anti-Corruption Act of November 13, 2007 (Anti-Corruption Act No. 2007-1598 of November 13, 2007 published in JORF No. 264 of November 2007, page 18 648).</p> <p>The law prohibits active and passive bribery of a public official of a foreign state or international organization or judicial staff as well as active and passive trafficking in influence with international public officials and judicial staff.</p> <p>The 2007 Act also created two new infractions regarding bribery of a witness in a foreign or international judicial procedure (Article 435-12 of the Criminal Code) and threats against or intimidation of foreign or international judicial staff (Article 435-13 of the</p>

		<p>Criminal Code) that are counterparts to the domestic infractions in this field.</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Definitions</p>	<p>Commercial Bribery</p>	<p>Articles 445-1 and 445-2 of the Criminal Code address bribery in the private sector. These provisions are inspired from those applicable to corruption of public officials and punish active (giving) (Article 445-1 of the Criminal Code) and passive (receiving) (Article 445-2 of the Criminal Code) bribery of an individual or a legal entity.</p> <p>As with the provisions applicable to bribery of public officials, the definition of the offense is broad, encompassing any person who holds a management position or performs a job for an individual or any organization. As a result, any of the following persons can be found liable: employees, the top management of a company and even professionals, such as lawyers, doctors and accountants.</p> <p>Finally, the Commercial Code prohibits bribery of shareholders and bondholders (Articles L242-9, 3° and L245-11 of the Commercial Code).</p> <p><u>Legal entities:</u></p> <p>If a representative or representative body of a company or other entity has engaged in bribery, the company (or another type of entity) may be held liable, even if the specific individual who is guilty of the prohibited conduct cannot be identified.</p>
	<p>Government Employee</p>	<p>At the national level, public officials are persons holding public authority or discharging a public service mission, or persons holding an elected public office.</p> <p>At the international level, public officials are persons holding public authority, discharging a public service mission, or vested with an elected public office in a foreign state or a public international organization, persons invested with judicial powers in a foreign state or an international court, clerks working for a foreign or international court, experts or mediators appointed by a foreign or international court, or arbitrators whose mission is governed by the laws of a foreign state.</p> <p>Since 2009, the infraction of bribery expressly covers persons working for the International Criminal Court (see Article 434-23-1 of the Criminal Code).</p> <p>Article 435-5 of the Criminal Code also specifies that all organizations created in accordance with the EU Treaties are considered to be public international organizations for the enforcement of Section 1 offenses, entitled “Offenses against the public administration.”</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Current Status</p>	<p>Gratification (Gifts/ Entertainments/ etc)</p>	<p>“Bribery” under French law is broad and covers offers, promises, donations, gifts or advantages that are offered, solicited, or accepted in order to carry out or abstain from carrying out an act pertaining to one’s public or private job or position (attempts to bribe are therefore included in the definition).</p> <p>The notion of “offers, promises, donations, gifts or advantages” is broadly interpreted by French courts and can include a dinner with material gifts, use of an apartment, a cruise and other advantages.</p>
	<p>Enforcement Body</p>	<p>Three authorities are in charge of fighting corruption on a national level:</p> <ul style="list-style-type: none"> - “Tracfin”: established in 1990 – Article L.561-2 of the French Monetary and Financial Code compels some professions to report atypical financial transactions to Tracfin, which can then transfer the information to an investigating authority. - The “Service central de prévention de la corruption”: established by Law n°93-122 signed January 29, 1993, which serves as a technical support service provider for judges who deal with corruption cases. - The “Division nationale d’investigation financières et fiscales” (DNIFF) with its “Brigade centrale de lutte contre la corruption”: established in 2004 – This department handles, in particular, corruption investigations. - Police and Gendarmerie (national military police). <p>The 2007 Act also significantly expanded the investigative powers of French authorities by allowing investigating authorities to use surveillance and undercover measures, telephone tapping in the investigation phase, as well as audio and video recording in certain locations or vehicles and to take preventive measures that, prior to the</p>

		amendments, were only used in cases of organized crime.
	Issues in Enforcement	<p>Following Phase III of the OECD’s assessment of the French anti-bribery system, the Ministry of Justice published a circular on February 9, 2012 which noted that:</p> <ul style="list-style-type: none"> - Only three sentences regarding corruption of foreign public officials have been handed down in France since the adoption of the OECD Convention in 2000. As a result of the modest enforcement level, the circular encourages prosecutors to expand enforcement efforts. - Under French law, currently there is no sanction when a company does not have an anti-corruption program in place. - Public officials and auditors are required to report to the prosecutor all criminal acts they become aware of in the course of their duties. - The three-year statute of limitations period begins to run as soon as the criminal act first occurs. - The OECD’s assessment may lead to legislative changes. <p>The adoption of an anti-corruption program and whistle-blowing program in France often requires interactions with the Works Council. Furthermore, following the entry into force of the 2007 Act, French labor law was amended to protect whistleblowing employees who, in good faith, report either to their employer or to the judicial or administrative authorities acts of bribery they encounter in the course of performing their duties from any form of disciplinary sanction (Article L.1161-1 of the French Labor Code).</p>
	Recent Movement	Please see “Issues in Enforcement” regarding the results of the Phase III review.
Participation in International Anti-corruption Conventions	OECD Convention	Yes
	UNCAC	Signed Oct. 31, 2003; Ratified July 11, 2005
Last Updated		July 27, 2012

Region		Europe
Country		Germany
2011 CPI	Rank	14/183
	Score	8.0
The Law on Bribery	Bribery of Domestic Officials	<p>Anti-corruption provisions in Germany are found in the German Criminal Code (StGB), the EU Anti-Bribery Law (EUBestG), the International Bribery Law (IntBestG) and the International Criminal Court Law (IStGHGG). For domestic bribery:</p> <p><u>Offering a bribe:</u></p> <ul style="list-style-type: none"> - Any person who offers, promises or grants a benefit to a public official, a person entrusted with special public service functions or a soldier in the Armed Forces for that person or a third person for the discharge of a duty shall be subject to imprisonment not exceeding 3 years or a fine (Section 333 (1) StGB). - Any person who commits the same offense but in relation to a judge or an arbitrator shall be subject to imprisonment not exceeding 5 years or a fine (Section 333 (2) StGB). <p><u>Offering a bribe as an incentive to the recipients violating his official duties:</u></p> <ul style="list-style-type: none"> - Any person who offers, promises or grants a benefit to a public official, a person entrusted with special public service functions or a soldier of the Armed Forces for that person or a third person in return for the fact that he performed or will in the future perform an official act and thereby violated or will violate his official duties shall be subject to 3 months to 5 years imprisonment. In less serious cases the penalty shall be imprisonment not exceeding 2 years or a fine (Section 334 (1) StGB). - The same offense but in relation to a judge/ arbitrator shall be subject to 3 months to 5 years imprisonment (for judicial acts performed) or from 6 months to 5 years imprisonment (for judicial acts in the future) (Sec. 334 (2) StGB). <p><u>Receiving a bribe:</u></p> <ul style="list-style-type: none"> - A public official or a person entrusted with special public service functions who demands, allows himself to be promised or accepts a benefit for a third person for the discharge of an official duty shall be subject to imprisonment not exceeding 3 years or a fine (Section 331(1) StGB). - A judge or arbitrator shall be subject to imprisonment not exceeding 5 years or a fine for the same offense but in relation to a judicial act (Section 331(2) StGB). <p><u>Receiving a bribe as an incentive to violating one's official duties:</u></p> <ul style="list-style-type: none"> - A public official or person entrusted with special public service functions who demands, allows himself to be promised or accepts a benefit for himself or for a third person in return for the fact that he performed or will in the future perform an official act and thereby violated or will violate his official duties shall be subject to 6 months to 5 years imprisonment. In less serious cases the penalty shall be imprisonment not exceeding 3 years or a fine (Section 332 (1) StGB). - A judge or an arbitrator shall be subject to 1 to 10 years imprisonment for the same offense, but in relation to a judicial act. In less serious cases the penalty shall be from 6 months to 5 years imprisonment (Section 332 (2) StGB).
	Bribery of Foreign Officials	The EUBestG (Article 2) extended the reach of Sections 332, 334-336 and 338 StGB to EU officials. The IntBestG (Article 2) extended the reach of Sections 334 StGB to foreign officials. The IStGHGG extended the reach of Sections 331-336 and 338 StGB to officials of the International Criminal Court.
	Commercial Bribery	<p>Taking and giving bribes in commercial practice:</p> <ul style="list-style-type: none"> - Any person who, as an employee or agent of a business, demands, allows himself to be promised or accepts a benefit for himself or another in a business transaction as

		<p>consideration for according an unfair preference to another in the competitive purchase of goods or commercial services shall be subject to imprisonment of not more than 3 years or a fine (Section 299 (1) StGB).</p> <p>- Any person who for competitive purposes offers, promises or grants an employee or agent of a business a benefit for himself or for a third person in a business transaction as consideration for such employee's or agent's according to him or another an unfair preference in the purchase of goods or commercial services shall incur the same penalty (Section 299 (2) StGB).</p> <p>- The above also applies to acts in competition abroad (Section 299 (3) StGB).</p>
Definitions	Government Employee	<p>"Public official" means any of the following: (a) civil servants or judges; (b) those who otherwise carry out public official functions; or (c) those who have otherwise been appointed to serve with a public authority or other agency or have been commissioned to perform public administrative services regardless of the organizational form chosen to fulfill such duties.</p> <p>"Judge" means any person who is either a professional or a lay judge.</p> <p>"Persons entrusted with special public service functions" means any person who, without being a public official, is employed by, or is acting for (a) a public authority or agency, which performs public administrative services; or (b) an association, union, business or enterprise, which carries out public administrative services for a public authority or agency, and who is formally required by law to fulfill his duties with due diligence (Section 11 (1) StGB).</p>
	Gratification (Gifts/ Entertainments/ etc)	<p>"Benefit," construed broadly, covers modest gifts, hospitality, charitable donations and standard business contracts ("all advantages which benefit the recipient materially or immaterially and to which the recipient has no legal claim")</p>
Current Status	Enforcement Body	Public Prosecutor's offices (Staatsanwaltschaften), in cooperation with Federal Criminal Office (Bundeskriminalamt).
	Issues in Enforcement	StGB only provides for the punishment of natural persons. The Administrative Offenses Act (OWiG) provides for fines for directors of companies for failing to perform their duties, resulting in corruption, and fines for companies themselves, both up to 1 million euros (may be higher under certain circumstances) (Section 30 and Section 130 OWiG).
	Recent Movement	<p>The number of cases of corruption reported by police increased 148% between 2009-2010 (from 6,354 to 15,746).</p> <p>The number of corruption investigations in Germany in 2010 was 1,813. The OECD reports that Germany imposed sanctions on 30 individuals and came to agreement on sanctions for another 35 individuals. 6 legal persons received administrative sanctions.</p>
Participation in International Anti-corruption Conventions	OECD Convention	Yes
	UNCAC	Signed Dec. 9, 2003; Not ratified
Last Updated		July 27, 2012

Region		Europe
Country		Italy
2011 CPI	Rank	69/183
	Score	3.9
The Law on Bribery	Bribery of Domestic Officials	<p>Under Italian law, anti-corruption laws are included in the Italian Criminal Code (“ICC”). Namely, Articles 318-322-bis ICC criminalize bribery of domestic officers and foreign officers. Under Italian law, criminal liability refers only to individuals and not to corporations or other entities. Therefore, corporations are not criminally liable in case of bribery. However, Legislative Decree No. 231/2001 provides for the direct administrative liability of a company in case any of its corporate officers commit bribery offense in the interest, or for the benefit, of such company. As of today, commercial bribery is not regarded as a crime under the ICC.</p> <p><u>Passive bribery (receiving a bribe):</u></p> <ul style="list-style-type: none"> - Improper Briber: When a public officer receives undue consideration (for himself or a third party) in exchange for the performance of a lawful act pertaining to his office, he shall be punished with 6 months to 3 years imprisonment. If the public officer has already performed the act, and he anyway accepts the bribe, imprisonment is reduced up to 1 year. - Proper Bribery: When a public officer receives undue consideration for himself or for a third party for the performance of a unlawful act (i.e., omission or delay in acts relating to his office; commission of acts in breach of his public duties), he shall be punished with 2 to 5 years imprisonment. - Bribery in Judicial Acts: If the bribery offense occurs in connection with the exercise of judicial functions or the bribery results in a wrongful sentence, criminal sanctions are significantly increased (i.e., up to 20 years imprisonment). <p>In addition to imprisonment, courts also seize the profit or the amount of the bribe.</p> <p><u>Active bribery (offering a bribe):</u></p> <ul style="list-style-type: none"> - Under the ICC, offering or promising to offer undue consideration or other benefits to a public officer is regarded as a criminal offense. In this case, the same criminal sanctions are imposed on public officers. If the public officer does not accept the bribe, the briber shall be subject to a criminal sanction equal to one-third of the sanctions applicable in case the public officer accepts the bribe. <p>Article 320 of the ICC extends bribery offenses also to persons in charge of a public service. However, criminal sanctions applicable to such individuals are lower than the penalties applicable to public officers.</p> <p><u>Concussione:</u></p> <p>The ICC also provides for a different criminal offense called “concussione”. A public officer who abuses of his powers to force or induce an individual to unduly give money or other benefits to him or any third party is subject to 4 to 12 years imprisonment. The individual induced to provide the bribe is regarded as a victim, therefore no punishment is imposed on him.</p> <p><u>Corporate liability:</u></p> <p>Legislative Decree No. 231/2001 (the “231 Decree”) provides for the direct liability of a company where any of its directors, managers, legal representatives, managers de facto or employees commit certain crimes in the interest, or for the benefit, of the company. The liability of the company may occur only in the event that: (i) such representatives commit one of the specific crimes listed under the 231 Decree, and (ii) the crime is committed in the interest, or for the benefit, of the company. The liability of the company is independent from, and additional to, the personal criminal liability of the representative who committed the crime. However, if the representative commits the crime exclusively in his own interest or a third party’s interest, the liability of the company may be excluded. The list of criminal offenses that may trigger the liability of</p>

		the company pursuant to the 231 Decree includes bribery. If the company is found guilty, it may be subject to, <i>inter alia</i> , monetary sanctions and to “disqualifying sanctions.” including debarment from entering into contracts with public administrations/state authorities, seizure of the profit of bribery and prohibition on continuing to carry out such business.
	Bribery of Foreign Officials	Pursuant to the Law No. 300/2000, which has introduced Article 322-bis ICC, bribery offenses now cover foreign officers as well. The criminal offenses pertaining to bribery of domestic officers (i.e., improper bribery; proper bribery; bribery in judicial acts; inducement to bribery) are applicable in case the bribery offense involves: (i) EU public officers, and (ii) public officers of the EU Member States. With respect to foreign officers, only the briber (and not the public foreign officer) is held liable, unless the bribery offense has been committed for the purpose of (a) gaining undue benefit in international economic transactions; or (b) obtaining and/or maintaining an economic and/or financial activity.
	Commercial Bribery	Bribery in the private sector (i.e., bribery in private commercial dealings) is not regarded as a criminal offense under the ICC. Nevertheless, the Italian Civil Code contains a specific provision which criminalizes bribery acts committed by corporate officers. Namely, pursuant to Article 2635 of the Italian Civil Code, bribers and corporate officers of a company are subject to criminal punishment (i.e., up to 3 years imprisonment), if: (i) the corporate officer receives a bribe to perform or omit to perform acts in breach of his duties, and (ii) the company suffers damages in consequence thereto.
Definitions	Government Employee	“Public Officer” means an individual who exercises public legislative, judicial or administrative functions. “Person in Charge of a Public Service” means an individual who performs a public service (i.e., any activity regulated by public laws, but characterized by the absence of the typical powers of the public functions).
	Gratification (Gifts/ Entertainments/ etc)	“Considerations or other Benefits” means money and any other benefit, interest, or gratification suitable for satisfying any personal interest of the receiver, even though such benefit cannot be subject to an economical valuation.
Current Status	Enforcement Body	Bribery laws are enforced by Italian Public Prosecutors who are independent magistrates in the Italian judicial system. Investigations on bribery offences are carried out by the police (i.e., Polizia di Stato, Carabinieri, Guardia di Finanza).
	Issues in Enforcement	The statute of limitations regarding bribery offenses is very short: as a general rule, the statute of limitations is equal to the maximum sanction provided for each specific criminal offense, provided that it cannot be lower than 6 years. This determines issues in connection with the enforcement of bribery laws. Several prosecutions for bribery have ended without convictions due to the operation of the statute of limitations.
	Recent Movement	In recent years, several EU and international anti-bribery measures and regulations have been enacted. In 2011, a new anti-bribery bill was submitted for discussion to the Italian Parliament. On June 14, 2012, Italy’s lower House of Parliament (“Camera dei Deputati”) approved such new anti-corruption bill. The bill provides, <i>inter alia</i> , for: (i) several amendments to the ICC provisions aimed at introducing stricter rules and harsher punishment for bribery offenses; (ii) new criminal offenses relating to commercial bribery; (iii) the establishment of an anticorruption agency entrusted with supervisory functions; and (iv) the introduction of whistle-blowing protection mechanism in the public sector. At present, the new anti-corruption bill has been submitted to the higher House of Parliament (“Senato”) for review and amendments, if any.
Participation in International Anti-corruption Conventions	OECD Convention	Yes
	UNCAC	Signed Dec. 8, 2003; Ratified Oct. 4, 2009

Last Updated		August 24, 2012
Region		Europe
Country		Poland
2011 CPI	Rank	41/183
	Score	5.5
The Law on Bribery	Bribery of Domestic Officials	<p>In Poland, the giving and receiving of bribes in the public sector are crimes under the Penal Code.</p> <p><u>Offering a bribe</u>: Providing, or promising to provide a financial benefit to a person discharging a public function, in connection with the discharge of such function (Penal Code art. 229):</p> <ul style="list-style-type: none"> - Financial benefit: 6 months to 8 years imprisonment (Penal Code art. 229(1)). - Substantial financial benefit: 2 to 12 years imprisonment (Penal Code art. 229(4)). - Involves an act in violation with the law: 1 to 10 years imprisonment (Penal Code art. 229(3)). <p><u>Receiving a bribe</u>: Accepting a material or personal benefit, or a promise of such a benefit, in connection with the performance of a public function (Penal Code art. 228)</p> <ul style="list-style-type: none"> - Material benefit: 6 months to 8 years imprisonment (Penal Code art. 228(1)). - Material benefit of considerable value: 2 to 12 years imprisonment (Penal Code art. 228(5)). - Involves an act in violation with the law: 1 to 10 years imprisonment (Penal Code art. 228(3)). <p><u>Corporate liability</u>: The Law on Liability of Collective Entities establishes corporate liability for bribery cases and sets forth a fine of 1,000 to 20,000,000 zloties. In practice, however, the law is rarely applied and often requires that the natural person who performed the actual act of bribery be convicted before the company may be found liable. Most corporations are fined only the minimum of 1,000 zloties when convicted.</p>
	Bribery of Foreign Officials	<p>The bribery of foreign officials is prohibited under the same articles of the Penal Code that criminalize bribery of domestic officials. The Penal Code, as amended by the Act of September 9, 2000, added provisions that prohibit bribery of “persons discharging public functions in a foreign state or international organization”:</p> <p>Offering a bribe (Penal Code art. 229(5))</p> <p>Receiving a bribe (Penal Code art. 228(6))</p>
	Commercial Bribery	Bribery in the private sector is prohibited under the Penal Code (Penal Code art. 296, 296(a)).
Definitions	Government Employee	The anti-corruption provisions mention “persons discharging public functions.” Elsewhere in the Penal Code, a public official is anyone in the executive, legislative or judicial branches of government, as well as employees of state administrative, audit/inspection, military or security agencies. There is no explicit discussion of the employees of state-owned enterprises, but even if they are not captured under public bribery, they could be covered as private bribery.
	Gratification (Gifts/ Entertainments/ etc)	The Penal Code uses the term “material or personal benefit” in art. 228, but in the more recently updated art. 229, it uses the term “financial benefit.” It is unclear whether anti-corruption laws would only apply in cases where money or monetary benefits were offered.
Current Status	Enforcement Body	There are three major agencies responsible for the enforcement of anti-corruption laws. The Anti-Corruption Department of the Criminal Investigation Bureau and the Internal Affairs Bureau both report to the Chief Commander of the Police. The former focuses

		on corruption cases in general, while the latter investigates corruption among the police. The Central Anti-Corruption Bureau (CBA) was established in 2006 by the Law on the Central Anti-Corruption Bureau as a secret service agency specializing in the investigation of corruption cases. The CBA has been criticized for its invasive surveillance practices, abuse of powers and its functions as a “political police.”
	Issues in Enforcement	<ol style="list-style-type: none"> 1) Immunity from prosecution for many holders of public office. 2) Ineffective corporate criminal liability laws and low level of penalties. 3) There is no clear distribution of labor among the three major anti-corruption agencies; they tend to work in competition with each other. 4) Lack of whistleblowing provisions.
	Recent Movement	None.
Participation in International Anti-corruption Conventions	OECD Convention	Yes
	UNCAC	Signed Dec. 10, 2003; Ratified Sept. 15, 2006
Last Updated		July 9, 2012

Region		Europe
Country		Russia
2011 CPI	Rank	143/183
	Score	2.4
The Law on Bribery	Bribery of Domestic Officials	<p>The Russian Federation (“RF”) is in the process of developing and modernizing existing anti-corruption legislation which includes several clauses in the RF Criminal Code, the RF Code on Administrative Offences, the RF Federal Law “On Counteraction Against Corruption” and the RF Federal Law “On Public Service.” These legislative acts criminalize bribery of domestic and foreign officials as well as commercial bribery.</p> <p><u>Offering a bribe:</u> It is a criminal offense to bribe any domestic public official (a person performing a function of a public nature) if there is an intention to induce the domestic official to perform improperly a relevant function or activity, or reward the domestic official for the improper performance of such a function or activity (Article 291 of the RF Criminal Code).</p> <p><u>Receiving a bribe:</u> It is also a criminal offense for any person performing a function of a public nature to request, agree to receive or accept a bribe (Article 290 of the RF Criminal Code).</p> <p><u>Corporate liability:</u> Russian criminal law provides for a criminal liability of individuals only. At the same time, there is an administrative liability for bribing for legal entities. In particular, “transfer of an unlawful remuneration/compensation” to a domestic or foreign official, officer of a commercial entity or officer of the international public organization for performing action/inaction in favor of the “transferor” and based on the official/officer’s authority or managerial functions is deemed an administrative offense (Article 19.28 of the RF Code on Administrative Offences”).</p>
	Bribery of Foreign Officials	It is a criminal offense to bribe any foreign public official or an officer of an international public organization (Article 291 of the RF Criminal Code).
	Commercial Bribery	It is a criminal offense to bribe an officer engaged in undertaking management functions in a commercial “or other” entity for such officer’s action or inaction in favor of the briber and based on the officer’s managerial functions (Article 204 of the RF Criminal Code).
Definitions	Government Employee	Russian law defines “public official” as an individual officer who discharges the functions of a public authority representative at any level of government (i.e., federal, regional and municipal) as well as in state-owned corporations.
	Gratification (Gifts/ Entertainments/ etc)	<p>RF Federal Law “On Public Service” generally prohibits public officers to accept any gifts, while at the same time RF Civil Code provides that a trivial gift/gratification with a value of 3,000 Rubles maximum is permitted. Such gifts/gratifications cannot relate to the public officer’s action/inaction towards the person providing such gift.</p> <p>There is no exception for facilitation payments under the Russian legislation.</p>
Current Status	Enforcement Body	Different Russian law enforcement agencies are involved in anti-corruption enforcement activity, including the RF Ministry of Interior, the RF Investigation Committee and Federal Security Service. There is no single authority which undertakes the functions of a national anti-corruption enforcement agency.
	Issues in Enforcement	Russian authorities are generally focusing on low-profile domestic corruption investigations while systemic corruption activity remains outside of the enforcement scope. Russian authorities were visibly ignoring obvious grounds for undertaking domestic investigation in the cases where bribing of high-ranking Russian officials was admitted by the defendants in investigations outside of Russia (e.g., Daimler and Siemens investigations in the United States).
	Recent Movement	In 2011, Russian authorities adopted amendments to the criminal law that changed the

		focus from pure imprisonment for bribery to financial sanctions by introducing fines based on multiple amount from the amount of bribe, ranging from 25,000 Rubles to 500 million Rubles.
Participation in International Anti-corruption Conventions	OECD Convention	Yes (newly acceded in 2012)
	UNCAC	Signed Dec. 9, 2003; Ratified May 9, 2006* Although UNCAC was signed by Russia in 2003 and ratified in 2006 (except for Article 20), Russia continues to oppose ratification of Article 20 of UNCAC depriving domestic enforcement from an obvious and effective anti-corruption tool.
Last Updated		August 27, 2012

Region		Europe
Country		Spain
2011 CPI	Rank	31/183
	Score	6.2
The Law on Bribery	Bribery of Domestic Officials	<p>Article 419 et seq. of the Penal Code address corrupt practices involving Spanish public servants.</p> <p><u>Offering a bribe</u>: It is a crime to corrupt or try to corrupt Spanish authorities or public servants by means of promises, presents and/or offerings, with the aim of obtaining from that authority or public servant the execution of an unfair act or omission in the performance of his duties.</p> <p><u>Receiving a bribe</u>: It is a crime to accept propositions given by Spanish authorities or public servants relating to the granting of promises, presents and/or offerings with the purposes stated above. It is also a crime, from the standpoint of the Spanish authorities or public servants, to accept presents and/or offerings in exchange for the execution, in the performance of his duties, of an act or omission described above.</p> <p>Likewise, Articles 428 et seq. of the Penal Code set forth as prohibited influence peddling practices those by means of which (a) a civil servant or authority influences another public officer or authority; or (b) whoever influences a civil servant or authority taking advantage of any situation arising from his personal relation with him or with another public officer or authority, in order to obtain a resolution that may directly or indirectly generate a financial benefit for himself or a third party by means of requesting handouts, presents or any other remuneration from third parties, or accept offers or promises.</p> <p>These prohibitions apply to (a) Spanish authorities and public servants; and (b) any natural (whether acting on his behalf or on behalf of a company) or legal person based in Spain at the time of the corrupt practice.</p>
	Bribery of Foreign Officials	<p>Articles 419 et seq. of the Penal Code also apply to officers and civil servants of the EU as well as civil servants who are nationals of other member states of the EU.</p> <p>Article 445 of the Penal Code addresses corruption in international commercial transactions practices that involve foreign authorities or public servants.</p> <p>It is unlawful to (i) corrupt or try to corrupt foreign authorities or public servants by means of promises, presents and/or offerings, with the aim of preserving or obtaining a contract or any other kind of irregular benefit in the context of international economic activities; or</p> <p>(ii) accept propositions given by foreign authorities or public servants relating to the granting of promises, presents and/or offerings with the purposes stated above.</p> <p>This prohibition applies to any natural (whether acting on his behalf or on behalf of a company) or legal person based in Spain at the time of the corrupt practice, and to Spanish nationals committing these practices in a foreign state where such practices are forbidden by law.</p>
	Commercial Bribery	<p>Article 286 bis of the Penal Code addresses corrupt practices between private individuals.</p> <p>It is unlawful to (i) promise, offer or grant executives, directors, employees or collaborators of a trading company or any other firm, partnership, foundation or organization an unfair benefit or advantage of any nature, to favor him or a third party against others, breaching their obligations in acquisition or sale of goods or in hiring of professional services; or</p> <p>(ii) on executives, directors, employees or collaborators of trading companies, or firms, associations, foundations or organizations to request or accept such benefits or advantages to favor whoever grants, or whoever expects the profit or advantage over third parties, breaching their obligations in the acquisition or the sale of goods or in the</p>

		<p>hiring professional services.</p> <p>This prohibition applies to any natural (whether acting on his behalf or on behalf of a company) or legal person based in Spain at the time of carrying out the conduct that constitutes the corrupt practice.</p>
Definitions	Government Employee	<p>“Spanish authority” is deemed to be held by persons who, alone, or as a member of any corporation, board or collegiate body, have a commanding post or exercise jurisdiction pertaining thereto, including members of the Congress of Deputies, the Senate, the Legislative Assemblies of the Autonomous Communities, the European Parliament, and the Public Prosecutor’s Office (Article 24,1 of the Penal Code).</p> <p>“Spanish civil servants” are those who, by force of the law, or by election or appointment by the authority with relevant powers, participate in the exercise of public duties, including juries, arbitrators, experts, administrators and receivers appointed by the court (Articles 24,2 and 423 of the Penal Code).</p> <p>“Officers of the EU” are those who (a) have civil servant status or that of a hired agent pursuant to the European Community Officers’ Statute or regime applicable to other agents of the EU; (b) are seconded to the EU by the Member States, or by any public or private body exercising the equivalent functions carried out by civil servants or other agents of the EU; (c) are members of bodies created pursuant to the EU Constituting Treaties, as well as the staff of such bodies, to the extent that the EU Officers’ Statute or regime to which other agents of the EU are subject is not applicable to them (Article 427 of the Penal Code).</p> <p>“Foreign civil servants” are those who (a) hold a legislative, administrative or judicial office in a foreign country, both by appointment or by election; (b) exercise a public duty for a foreign country, including a public body or a public company; or (c) are officers or agents of an international public organization (Article 445 of the Penal Code).</p>
	Gratification (Gifts/ Entertainments/ etc)	<p>The Spanish authorities state that “undue pecuniary or other advantage” and “presents, gifts, offers or promises” cover advantages of all kinds, real and personal, tangible and intangible, pecuniary and non-pecuniary. The bribes in question for past domestic corruption offenses include money, a remuneration agreement, a painting and a mink coat.</p>
Current Status	Enforcement Body	<p>The key authority is the Special Prosecutor’s Office for Corruption-Related Economic Offenses, regulated by the Organic Statute of the Attorney General’s Office approved by Act 50/1981 of December 30, and amended by Act 14/2003, of May 26, and by Act 24/2007, of October 6.</p> <p>On July 12, 2006, Direction 4/2006 of Public Prosecutor General’s Office came into force and redefined the authority of the Special Public Prosecutor’s Office against Corruption.</p>
	Issues in Enforcement	<p>There has been no major prosecution in relation to relatively new offenses, such as corruption in international commercial transactions (Articles 445 of the Penal Code) and corruption in private transactions (Articles 286 bis of the Penal Code) as a result of the modification of certain corruption-related economic offenses and the recent enactment of the amendment to the Penal Code (Organic Act 5/2010 of June 22).</p>
	Recent Movement	<p>None.</p>
Participation in International Anti-corruption Conventions	OECD Convention	<p>Yes; Spain signed the OECD Convention on December 17, 1997 and ratified it on January 14, 2000. Following ratification, Spain passed a number of measures to implement the OECD standards. The provisions on foreign bribery applicable to physical persons were adopted in 2000. The relevant provisions of the Penal Code were renumbered and renamed in 2004, and a 2010 amendment of the Penal Code further conformed the Penal Code to the OECD Convention.</p>
	UNCAC	<p>Signed Sept. 16, 2005 Ratified June 19, 2006</p>
Last Updated		<p>August 1, 2012</p>

Region		Europe
Country		United Kingdom
2011 CPI	Rank	16/183
	Score	7.8
The Law on Bribery	Bribery of Domestic Officials	<p>The United Kingdom has comprehensive anti-corruption legislation in the form of the Bribery Act 2010 (UKBA), which took effect from July 2011. The UKBA criminalizes bribery of domestic officials, bribery of foreign officials and bribery in a commercial context. Both offering and receipt of bribes is prohibited. The UKBA also contains a separate strict liability offense, which can be committed by a relevant organization if the organization fails to have adequate processes in place to prevent bribery by its associated persons (the “corporate offense”). In the context of bribery of domestic officials:</p> <p><u>Offering a bribe:</u> It is a criminal offense to offer a financial or other advantage to any person performing a function of a public nature if there is an intention to induce the domestic official to perform improperly a relevant function or activity, or reward the domestic official for the improper performance of such a function or activity. It is also a criminal offense to offer a financial or other advantage to a domestic official where the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity (Section 1, UKBA).</p> <p><u>Receiving a bribe:</u> It is also a criminal offense for any person performing a function of a public nature to request, agree to receive or accept a financial or other advantage intending that, or anticipating that, a relevant function or activity should be performed improperly or as a reward for the improper performance of a relevant function or activity (Section 2, UKBA).</p> <p><u>Corporate liability:</u></p> <p>- <u>Strict liability corporate offense:</u> There is an additional, strict-liability criminal offense under the UKBA where any commercial organization which does part of its business in the United Kingdom can be liable if any person associated with the company bribes another person intending to either obtain or retain business for the company or obtain or retain an advantage in the conduct of business for the company (Section 7, UKBA). Associated persons includes anyone performing services for the company such as employees, consultants and agents. There is a single statutory defense to the corporate offense, that the company had in place adequate procedures designed to prevent persons associated with the company from undertaking such conduct.</p> <p>- <u>Jurisdiction of the UKBA:</u> Individuals, companies, partnerships and other forms of corporate bodies can be prosecuted in their own right for all of the offenses under the UKBA, so references to “person” above include corporate persons. If a company is found guilty of an offense, the UKBA provides that senior officers and directors of the company may also be prosecuted for the same offense in their personal capacities. The UKBA asserts wide extraterritorial jurisdiction and does not only apply to offenses that take place within the United Kingdom. UK companies and UK nationals/residents are subject to the UKBA in respect of all their conduct wherever in the world it takes place. Any business which does part of its business in the United Kingdom is subject to the strict liability corporate offense, no matter where in the world it operates.</p>
	Bribery of Foreign Officials	<p>It is a criminal offense under the UKBA for a person to bribe a foreign public official if the person intends to influence the foreign public official in his capacity as a foreign public official. The person must also intend to obtain or retain business, or an advantage in the conduct of business by the bribe (Section 6, UKBA).</p> <p>A person will only be guilty of the offense of bribing a foreign public official if he, directly or through a third party, offers, promises or gives any financial or other advantage to the foreign public official or to another person at the foreign public official’s request or with foreign public official’s assent or acquiescence, and the foreign public official is neither permitted nor required by the written law applicable to the foreign public official to be influenced in his capacity as a foreign public official by the offer, promise or gift (Section 6, UKBA).</p>

	Commercial Bribery	<p>The same provisions of the UKBA that cover bribery of domestic officials also apply generally to private commercial dealings between individuals and businesses.</p> <p><u>Offering a bribe</u>: It is a criminal offense to offer a financial or other advantage to any person performing a function connected to a business, or in the course of employment, or on behalf of a body of persons, if there is an intention to induce the employee to perform improperly a relevant function or activity, or reward the employee for the improper performance of such a function or activity. It is also a criminal offense to offer a financial or other advantage to an employee where the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity (Section 1, UKBA).</p> <p><u>Receiving a bribe</u>: It is also a criminal offense for any person performing a function connected to a business, or in the course of employment, or on behalf of a body of persons, to request, agree to receive or accept a financial or other advantage intending, or anticipating, that a relevant function or activity should be performed improperly or as a reward for the improper performance of a relevant function or activity (Section 2, UKBA).</p>
Definitions	Government Employee	<p>“Foreign public official” means an individual who:</p> <p>(a) holds a legislative, administrative or judicial position of any kind, whether appointed or elected, of a country or territory outside the United Kingdom (or any subdivision of such country or territory);</p> <p>(b) exercises a public function: (i) for or on behalf of a country or territory outside the United Kingdom (or any subdivision of such country or territory); or (ii) for any public agency or public enterprise of that country or territory (or subdivision), or</p> <p>(c) is an official or agent of a public international organization.</p>
	Gratification (Gifts/ Entertainments/ etc)	<p>The UKBA prohibits bribery in the form of “financial or other advantage.” That is, the bribe does not have to be money, but can be anything that might have value to the recipient, including gifts, meals, entertainment, travel, stock, business opportunities, contributions to favored charities, or offers of employment (for the recipient or a family member). No exception or affirmative defense for expenses in connection with promotional activities.</p>
Current Status	Enforcement Body	<p>Any of the Crown Prosecution Service, the Serious Fraud office and HMRC (UK tax authorities) can consent to the bringing of proceedings under the UKBA.</p>
	Issues in Enforcement	<p>The Act has only recently come into force and there have been no major prosecutions to date. All the prosecutions to date have been against individuals for low-level bribery.</p>
	Recent Movement	<p>None.</p>
Participation in International Anti-corruption Conventions	OECD Convention	<p>Yes</p>
	UNCAC	<p>Signed Dec. 9, 2003; Ratified Feb. 9, 2006</p>
Last Updated		<p>July 27, 2012</p>

Region		Middle East
Country		Saudi Arabia
2011 CPI	Rank	57/183
	Score	4.4
The Law on Bribery	Bribery of Domestic Officials	<p>Saudi Arabia’s efforts to eliminate corruption from the public sector are primarily based on the Combating Bribery Law (the “CBL”) under Royal Decree No. M/36 of 29/12/1412 A.H. (June 30, 1992). The CBL penalizes the offering of any promise or gift to a public official to perform or cease to perform or neglect any of the public official’s duties or to use the public official’s powers to obtain from any public authority an order, decision, commitment, authorization, supply contract, job, employment, service or any kind of privilege, or to use the public official’s powers to follow up on a transaction in any governmental department.</p> <p>The CBL applies to individuals (including public officials) and organizations in Saudi Arabia. Foreign companies doing business in Saudi Arabia, with or without a formal legal presence, are also subject to the CBL with respect to their actions in the country.</p> <p><u>Penalties/Rewards:</u> The penalties set out in the CBL for individual violators (including public officials and principals of companies) vary depending on the offense and may include:</p> <ul style="list-style-type: none"> - up to 10 years imprisonment; - fines of up to 1 million Saudi Riyals; - confiscation of any benefit derived from the offense; or - any or all of the foregoing penalties. <p>In the case of companies or establishments whose manager or employee is convicted of a crime under the CBL and where it is proven that the crime was committed in the company’s interest:</p> <ul style="list-style-type: none"> - fines of up to 10 times the amount of the bribe; and/or - prohibition of purchase contracts, execution of projects or any other work with ministries, government interests or public instrumentalities with juristic personality. <p>The foregoing penalties may be imposed on companies or individual establishments on a strict liability basis.</p> <p>The person making the bribe and the mediator may be exempt from the penalties under the CBL if they voluntarily inform the authorities before the crime is discovered by the authorities.</p> <p>There is no specific requirement for a commercial organization to self-report any act of bribery that it discovers. However, a whistleblower reward scheme is available under the CBL by which any person who is not a briber, participant or mediator, and who provides information to the authorities leading to successfully proving a crime set out in the CBL, can receive a reward of no less than 5,000 Saudi Riyals and up to half of any money confiscated by the authorities. The authorities have discretion in offering a higher reward in certain cases.</p> <p>Exercising influence over public officials is prohibited by the CBL. The CBL prohibits anyone from exercising influence over public officials by means of (unauthorized) requests, recommendations or mediations in order to cause the public official to perform or cease to perform his duties.</p>
	Bribery of Foreign Officials	The CBL makes no distinction between foreign and domestic public officials and the Saudi government may take the view that the CBL also applies to bribery of foreign public officials by Saudi nationals.
	Commercial Bribery	The CBL does not specifically prohibit commercial bribery. However, the law broadly defines “public officials” to include several non-state actors, as noted below.

Definitions	Government Employee	<p>The term “public official” refers to individuals who:</p> <ul style="list-style-type: none"> (a) are employed, whether permanently or temporarily, by the state or public instrumentalities with juristic personality; (b) judges or experts appointed by the government or committees with judicial competence; (c) any person assigned by any government institution or any other administrative authority to perform a given assignment; (d) any person employed by companies or individual establishments that undertake the management, operation or maintenance of public facilities or that directly undertake public service and any person who works for joint stock companies and for companies in which the government has contributed capital and companies or individual establishments engaged in banking activities; and (e) presidents and directors of any organization mentioned in the foregoing paragraph (d).
	Gratification (Gifts/ Entertainments/ etc)	<p>A promise or gift includes any advantage or benefit, of whatever type, name or tangibility.</p> <p>Corporate hospitality and entertainment expenses viewed as “gifts” may be considered as bribes.</p> <p><u>Facilitation Payments</u>: Facilitation payments are not addressed specifically in the CBL, but it is likely that they are prohibited. It is irrelevant that a public official accepted a gift to perform an act where the act itself is otherwise lawful. Further, it is unlawful to provide a gift or a promise to a public official in exchange for following up on a transaction in any governmental department.</p>
Current Status	Enforcement Body	The National Commission for Combating Corruption (NCCC) was established in 2011 to be tasked with addressing all forms of corruption in Saudi Arabia. The NCCC reports directly to His Majesty King Abdullah bin Abdulaziz. A number of other state agencies, such as the Prosecution and Investigation Commission (PIC) and the General Auditing Bureau (GAB), also play important roles in implementing anti-corruption rules.
	Issues in Enforcement	There is little public information regarding enforcement. There are indications that the new NCCC may offer greater transparency regarding enforcement. Notably, there has been a number of enforcement proceedings in other jurisdictions relating to conduct in Saudi Arabia.
	Recent Movement	The NCCC was established in 2011.
Participation in International Anti-corruption Conventions	OECD Convention	No.
	UNCAC	Signed Jan. 9, 2004
Last Updated		September 13, 2012

Region		Middle East
Country		United Arab Emirates
2011 CPI	Rank	28/183
	Score	6.8
The Law on Bribery	Bribery of Domestic Officials	<p>Bribery of domestic officials is prohibited under the Federal Penal Code (Fed. Law No. 3 or 1987), penal codes of individual Emirates (e.g., the Dubai Penal Code), the Federal Human Resources Law (Fed. Decree Law No. 11 of 2008), local human resources laws, and the Dubai Financial Fraud Law (Dubai Law No. 37 of 2009), among others.</p> <p><u>Offering a bribe</u>: It is a crime to offer or promise a public officer or servant a donation or advantage of any kind, in exchange for the officer committing or omitting an act in violation of his duties; up to 5 years imprisonment (Federal Penal Code art. 237).</p> <p>- Dubai only: It is a crime to offer or give gratification to a public servant for an official act; up to 2 years imprisonment and/or fine up to 3,000 dirhams (Dubai Penal Code art. 120).</p> <p><u>Receiving a bribe</u>: It is a crime for a public officer or servant to accept a donation, an advantage of any kind or a promise of such advantages,</p> <p>- Violation of duties: As consideration for committing or omitting an act in violation to his official duties; up to 10 years imprisonment (Federal Penal Code art. 234).</p> <p>- Not a part of duties: As consideration for committing or omitting an act not a part of his official duties; up to 5 years imprisonment (Federal Penal Code art. 236).</p> <p>- Dubai only: Public servant taking gratification for an official act; up to 3 years imprisonment and/or a fine of up to 5,000 dirhams (Dubai Penal Code art. 118).</p> <p><u>Corporate liability</u>: The Federal Penal Code generally adopts the principle of criminal liability of legal persons (e.g., corporations) for bribery offenses.</p> <p>With the exception of governmental agencies and their official departments, corporations are liable for criminal acts committed for their account or in their name by their representatives, directors and agents). A corporation may be subject to fines, confiscations or other criminal penalties set out in the Federal Penal Code, provided that if a punishment besides a fine is imposed, the punishment as to the corporation shall be restricted to a fine of up to 50,000 dirhams. Corporate criminal liability does not prevent the offender from being personally liable for the bribe (Federal Penal Code art. 65).</p>
	Bribery of Foreign Officials	The UAE does not currently have any federal laws that prohibit the bribery of foreign officials. However, the State Audit Institution is currently working on the UAE's first anti-corruption law to demonstrate the UAE's commitments under the UNCAC (including prohibition on the bribery of foreign officials).
	Commercial Bribery	The Federal Penal Code criminalizes bribery in the private sector and prohibits members of the board of directors of a company, a private establishment, a cooperative association or a public benefit association, or its managers and employees from receiving bribes in exchange for committing or omitting an act in violation of their duties (Penal Code art. 236-bis). Offenses are punishable by up to 5 years imprisonment. However, the Penal Code neither criminalizes the act of giving or offering the bribe nor penalizes the offeror of the bribe.
Definitions	Government Employee	Under the Federal Penal Code, "public service employees" refers to individuals who are (1) entrusted with public authority, or working in ministries and government departments; (2) members of legislative, advisory and municipal councils; (3) members of armed forces; (4) entrusted by public authority for a specific job; and (5) chairmen of boards, directors, and all staff of public bodies, institutions, public societies, and public welfare institutions. Employees of state-owned and state-controlled companies are considered public service employees.
	Gratification (Gifts/	In general, any type of gift, travel expense, meal or entertainment is prohibited under the

	Entertainments/ etc)	Federal Penal Code and other anti-corruption laws if it can lead to a conflict of interest. The legitimacy of any such benefit depends on its value, frequency of being given and the intention behind it. The Federal Human Resources Law does, however, allow some organizational units (specified by the ministry) to receive gifts that are symbolic advertising or promotional in nature and bear the name of the offeror.
Current Status	Enforcement Body	There is a special anti-corruption unit under the Defense Ministry as well as within police departments. The State Audit Institution (SAI), an independent organization insulated from political interference, is primarily responsible for auditing spending and public funds. It also has broad authority in handling fraud and corruption. The SAI may independently initiate corruption investigations, and may refer complaints or cases to the police or the public prosecutor.
	Issues in Enforcement	In general, the UAE has been praised for its efforts in the fight against corruption. However, there have been a number of high profile cases since the financial crisis.
	Recent Movement	The SAI is currently working on the UAE's first standalone anti-corruption law (to be separate from the Penal Code). This law is expected to address the UAE's commitments under the UNCAC, and would likely cover the bribery of foreign officials.
Participation in International Anti-corruption Conventions	OECD Convention	No
	UNCAC	Signed Aug. 10, 2005; Ratified Feb. 22, 2006
Last Updated		August 27, 2012

Region		North America
Country		Canada
2011 CPI	Rank	10/183
	Score	8.7
The Law on Bribery	Bribery of Domestic Officials	<p>The Canadian Criminal Code is the main source of law that prohibits the bribery of domestic officials. However, other laws also include provisions that specifically outlaw the bribery of particular groups of people (e.g., The Financial Administration Act prohibits the bribery of officials involved in the collection/ disbursement of public money; The Royal Mounted Police Act prohibits bribing members of the RCMP).</p> <p><u>Offering a bribe:</u> It is a crime to give, offer or agree to give an official a loan, reward, advantage or benefit as consideration for assistance, exercise of influence, act, or omission in connection with any matter of governmental business; up to 5 years imprisonment (Criminal Code sec. 121(1)(a)).</p> <p><u>Receiving a bribe:</u> It is a crime for an officer to receive a loan, reward, advantage or benefit or a promise for such as consideration for exercising the official's position and influence in connection with governmental business on behalf of the person offering the bribe; up to 5 years imprisonment (Criminal Code sec. 121(1)(a)).</p> <p>Other offenses for bribery of specific groups (all sections apply to both the offeror and the recipient of the bribe):</p> <ul style="list-style-type: none"> - Judicial officers and members of parliament or provincial legislatures: up to 14 years imprisonment (Criminal Code sec. 119). - Law enforcement officials and others involved in criminal law: up to 14 years imprisonment (Criminal Code sec. 120). - Municipal officials: up to 5 years imprisonment (Criminal Code sec. 123). <p><u>Corporate liability:</u> Under the Criminal Code, a corporation or organization can be held criminally liable if its senior officer (interpreted widely to include people with decision-making authority on corporate policy) participated in the act with an intention to benefit the corporation or organization (Criminal Code sec. 22.2). A corporation may also be held liable if it knew of the senior officer's intention to commit an act but failed to stop it.</p>
	Bribery of Foreign Officials	<p>The Corruption of Foreign Public Officials Act, SC 1998, c34 (CFPOA) is the Canadian law that specifically prohibits the bribery of foreign officials. It criminalizes the act of paying a loan, reward, advantage or benefit of any kind to a public foreign officer in return for an advantage in the course of business.</p> <p>The CFPOA does allow for gifts that will not be considered illegal under local laws and custom, and also offers a defense with regard to facilitation payments (where the money/benefit paid by the offeror is in return for an act in a routine nature that the official would have done anyways without the payment). Individuals may face up to 5 years imprisonment.</p> <p><u>Corporate liability:</u> Companies can be liable for bribery under the CFPOA. There is no maximum fine that can be imposed on a corporation - the amount is subject to the discretion of the court.</p>
	Commercial Bribery	<p>Commercial bribery is covered by the Criminal Code, which prohibits the payment or offering of secret commission to agents as consideration for the agent's performance or omission in relationship to the affairs of the principal. An employee of a private corporation will fall under the definition of an agent (Criminal Code sec. 426).</p>
Definitions	Government Employee	<p>Under the Criminal Code (which prohibits domestic bribery), an official is a person who holds an office in the government of Canada or a Canadian province, a civil or military commission, a public department or is elected or appointed to discharge a public duty. This is not usually read to include the employees of state-owned enterprises, which would be covered by the commercial bribery provisions instead (Criminal Code sec.</p>

		118). Under the CFPOA, a foreign public official includes a person who performs public duties or functions for a foreign state, or who holds a legislative, administrative or judicial position in a foreign state. It also includes officials of a public international organization (CFPOA sec. 2).
	Gratification (Gifts/ Entertainments/ etc)	Both the Criminal Code and the CFPOA prohibit gifts or benefits of any kind, regardless of how small or nominal they are, if it is proven that the gifts have resulted in a prohibited influence on the official's conduct. However, the small amount or nominal value of a gift may help persuade the court that it was immaterial and did not influence the recipient's actions. The Federal Ethics Code also provides guidelines regarding what types of gifts and hospitality can be received by an officer, and mentions that gifts are generally acceptable if they are infrequent and of minimal value, fall within the normal standards of courtesy, and do not compromise the official's integrity.
Current Status	Enforcement Body	Police forces on all levels (federal, provincial, municipal) have the authority to investigate domestic public bribery cases under the Criminal Code, and foreign public bribery cases under the CFPOA. The Royal Canadian Mounted Police (RCMP), the Canadian national police, has both an Anti-corruption Unit and an International Anti-corruption Unit (established in 2007). Prosecutions under the Criminal Code for domestic bribery are within the exclusive jurisdiction of provincial prosecutors. Prosecutions under the CFPOA for foreign bribery can be done by either a federal or provincial prosecutor.
	Issues in Enforcement	The lack of resources in the RCMP led to weak enforcement and very few convictions under the CFPOA (2 convictions as of the end of 2011).
	Recent Movement	The Canadian government has signaled that it will increase the enforcement of the anti-corruption laws and strengthen CFPOA investigations, which would address the criticism from OECD that Canada has weak enforcement. There are around 30 active investigations as of the beginning of 2012.
Participation in International Anti-corruption Conventions	OAS Convention	Signed June 7, 1999; Ratified June 1, 2000
	OECD Convention	Yes
	UNCAC	Signed May 21, 2004; Ratified Oct. 2, 2007
Last Updated		August 29, 2012

Region		North America
Country		Mexico
2011 CPI	Rank	100/183
	Score	3.0
The Law on Bribery	Bribery of Domestic Officials	<p>Bribery is punishable under the Mexico’s Federal Criminal Code (Código Penal Federal); state criminal codes may apply to local conduct.</p> <p><u>Offering a bribe</u>: It is a crime for any individual in a spontaneous fashion to give or offer money or any other gift to any public servant or to any third party, in order to induce the public servant to take any action or refrain from taking an action, whether fair or unfair, relating to his functions (Federal Criminal Code art. 222).</p> <p><u>Receiving a bribe</u>: It is a crime for a public servant to, indirectly or directly, unduly request or receive for his own benefit or for the benefit of a third party, money or any other gift or accept any promises, for the purpose of taking any action or refraining from taking an action, whether fair or unfair, relating to his functions (Federal Criminal Code art. 222).</p> <p>For either crime, depending on the amount of the advantage or promise in relation to the daily minimum wage in Mexico’s Federal District, the sanctions could be 3 months to 14 years imprisonment, 30 to 1000 days of fine (approximately 1,870 to 62,330 pesos), and destitution and disqualification to occupy public employment from 3 months to 14 years.</p> <p><u>Public contracting bribery liability</u>: Under the Federal Anticorruption Law in Public Contracting, Mexican and foreign individuals and legal entities who participate in corrupt practices in federal public contracting, as well as to those of Mexican individuals and legal entities who participate in corrupt practices in commercial international contracting transactions with the public sector of a foreign state or the granting of permits and concessions thereby can be subject to liabilities and penalties.</p> <p>Individuals may be subject to fines that are certain multiples of the daily minimum wage in Mexico’s Federal District (ranging from 62,330 to 3.1 million pesos) and legal entities may be subject to fines between 600,000 to 124.7 million pesos with the possibility of an additional 50% increase when the benefit received exceeds the amount of the fine, among other reasons. Also, individuals may be prohibited from participating in federal public contracting for up to 8 years and legal entities for up to 10 years. There is a fine reduction program that allows for a 50% to 70% discount of the penalty if the conduct is voluntarily disclosed or “confessed” before the initiation of the administrative penalty procedure and 50% of the penalty if the conduct is disclosed or “confessed” once initiated.</p> <p><u>Corporate liability</u>: In Mexico, only individuals can commit crimes. Thus, if a company is accused of bribing a public servant, it would be the individual managers or officers who could be subject to criminal liability, depending on their degree of knowledge and involvement with the crime; however, entities may be liable for damages caused by crimes committed by their employees, officials and representatives.</p> <p><u>Administrative liability</u>: Public servants may be subject to administrative regulations and the application of administrative sanctions where their personal interests raise conflicts with the public positions they hold. Public servants are prohibited from seeking or agreeing to perform, or refrain from performing, their duties in exchange for receiving, either directly or through a third party: (1) money; (2) real or personal property at lower than market price; (3) gifts; (4) services; (5) jobs; or (6) fees or commissions (Federal Law of Administrative Accountability for Public Servants art.8, para 12).</p>
	Bribery of Foreign Officials	<p>It is a crime for a person to bribe a foreign public servant (Federal Criminal Code art. 222-bis).</p> <p>A person may be found guilty of the offense of bribing a foreign public servant if he, with the purpose of obtaining or retaining for himself or for another party undue advantages in the development or execution of international business transactions, offers, promises or gives, whether by himself or through a third party, money or any other gift,</p>

		<p>whether in assets or services:</p> <ul style="list-style-type: none"> (i) to a foreign public servant or a third party to have him negotiate or refrain from negotiating the performance or resolution of issues related to the functions inherent of his job, duty or commission; (ii) to a foreign public servant or a third party to have him perform or resolve any issue that is beyond the scope of the inherent functions of his job, duty or commission; or (iii) to any person to have him appear before a foreign public servant and require or propose to him that he perform or resolve any issue related to the inherent functions of his job, duty or commission. <p>A foreign public servant may be (1) any person who holds a position, duty or commission in the legislative, executive or judicial body or any other autonomous public body at any level of government of a foreign state, whether appointed or elected; (2) any person who exercises a position of authority in a state-owned enterprise or organization of a foreign state; and (3) any officer or agent of a public international organization.</p> <p>Any person found guilty of the offense of bribing a foreign public servant will be subject to the fines and penalties provided for bribery under the Federal Criminal Code.</p>
	<p>Commercial Bribery</p>	<p>There is no specific crime of “commercial bribery” in Mexico. Paying or receiving a bribe (soborno) between private persons (as opposed to public servants) is not a crime. However, making payments to an employee of a private company may still bring accessory criminal charges depending on the purpose of the payment, as set forth below.</p> <p>Alternatively, business dealings between private individuals and companies may constitute a crime under the Federal Criminal Code if one party intends to “defraud” the other, that is, intends to mislead it in order to obtain an undue profit from that party.</p> <p>A person commits the crime of fraud (fraude) if he misleads another or illegally takes advantage of an error by another person in order to obtain an undue profit from the person misled and/or from the person who is deceived (Federal Criminal Code art. 286).</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Definitions</p>	<p>Government Employee</p>	<p>Public servants include elected representatives, members of the federal judiciary, official and employees of the Congress of the Union, the Legislative Assembly of the Federal District, the Federal Public Administration, employees of institutions to which the Mexican Constitution grants autonomy and local and municipal Constitutions appoint (Mexican Political Constitution art. 108).</p>
	<p>Gratification (Gifts/ Entertainments/ etc)</p>	<p>The Federal Criminal Code generally refers to dádivas or gifts (or otherwise an unlawful advantage other than money). The Federal Anticorruption Law in Public Contracting (Ley Federal Anticorrupción en Contrataciones Públicas Federales) also considers dadivas.</p> <p>Public servants working for the federal executive power branch shall not receive any gifts or gratifications above 10 times the daily minimum wage in Mexico’s Federal District. Guidelines on the reception and use of gifts, donations or benefits received by public servants are published in an administrative resolution issued by the Federal Ministry of Public Administration, and they apply to public servants who work for the Federal Ministry of Public Administration (the executive branch), including employees of public ministries such as the Secretary of the Treasury and Public Credit as well as state-owned companies, such as Pemex (Mexico’s state-owned oil company) and CFE (Mexico’s state-owned energy company).</p> <p>According to the guidelines applicable to public servants, public servants, during the course of their employment and 1 year after their termination, shall not receive personally or on behalf of any third party goods or services, which are free or could be transferred at a price lower than market price, from individuals or entities whose professional, commercial or industrial activities are directly linked to or supervised by such public servants and that imply a conflict of interest. If a public servant receives a gift whose value exceeds the threshold requirements, he must report to the relevant internal control office within 7 days for the government to make a determination on whether he may keep the gift.</p> <p>Notwithstanding the above, the Federal Criminal Code does not consider any threshold or amount allowed for a gift and therefore “any gift” could qualify as bribery if conduct</p>

		<p>specifically matches the acts prohibited by the statute (Federal Criminal Code art. 222).</p> <p>Separate guidelines apply to public servants working for the federal judicial and legislative branches.</p>
Current Status	Enforcement Body	<p>Criminal liability enforcement may be sought by the Public Prosecutor.</p> <p>Administrative liability enforcement under the Federal Law of Administrative Accountability for Public Servants may be sought by the Internal Comptrollers' Office of the Secretary where the public servant works.</p> <p>Administrative liability enforcement under the Federal Anticorruption Law in Public Biddings Contracting, may be sought by the Federal Ministry of Public Administration. Other authorities shall have authority to seek penalty within the scope of their duties.</p>
	Issues in Enforcement	<p>To constitute a crime under Mexican law, the person's conduct must specifically meet all statutory requirements. The provisions will not be read to criminalize other actions that could be remotely construed to resemble bribery.</p> <p>The principle of "indubio pro reo" governs the Mexican criminal system and the prosecution must prove beyond a reasonable doubt that the offender is guilty.</p> <p>To establish proof is a challenging, and sometimes daunting, task under Mexican law. In order to bring a claim; a claimant must identify all available evidence. Evidence must be mentioned in the claim itself, unless the claimant can prove a lack of knowledge of its existence at the time of the filing of the claim.</p>
	Recent Movement	<p>On June 11, 2012, the decree that authorized the Federal Anticorruption Law in Public Contracting was published in the Federal Official Gazette. The new law entered into force on June 12, 2012.</p>
Participation in International Anti-corruption Conventions	OAS Convention	<p>Signed March 29, 1996; Ratified May 27, 1997</p>
	OECD Convention	<p>Signed Dec. 17, 1997; Ratified Dec. 14, 2005</p>
	UNCAC	<p>Signed Oct. 31, 2003; Ratified Dec. 14, 2005</p>
Last Updated		<p>August 3, 2012</p>

Region		North America
Country		United States
2011 CPI	Rank	24/183
	Score	7.1
The Law on Bribery	Bribery of Domestic Officials	<p>Bribery of domestic officials in the U.S. is prohibited by both federal and state laws. In addition to federal and state laws that expressly prohibit the bribery of public officials, liability related to bribery may result from other legal theories such as conspiracy to engage in, or aiding and abetting, bribery.</p> <p><u>Federal law:</u> The general federal bribery statute (18 U.S.C.A. § 201) prohibits the direct or indirect, corrupt giving, offering or promising anything of value to any public official or person who has been selected to be a public official, or offering or promising a public official or person who has been selected to be a public official to give anything of value to any other person or entity, with the intent to (i) influence any official act; (ii) influence such person to commit, aid, collude in or allow any fraud on the U.S.; or (iii) induce such person to do or omit to do any act in violation of his lawful duty (18 U.S.C.A. § 201(b)(1)). The statute also prohibits the seeking, accepting or agreeing to receive or accept anything of value by any public official or person selected to be a public official for a corrupt purpose (18 U.S.C.A. § 201(b)(2)).</p> <p>- Other federal statutes cover certain acts of bribery including bribery of a financial institution examiner (18 U.S.C.A. §§ 212, 212), bribery incident to appointment to a public office (18 U.S.C.A. §§ 212, 212), various loan and bank transactions (18 U.S.C.A. § 215), bribery affecting port security (18 U.S.C.A. § 226) and travel in interstate commerce with the intent to commit bribery (18 U.S.C.A. § 1952(b)). Another federal statute prohibits bribery intended to influence or reward an agent of an organization or governmental agency in connection with a transaction involving \$5,000 or more if such organization or agency receives more than \$10,000 per year in federal funds (18 U.S.C.A. § 666).</p> <p>- Federal sentencing guidelines cover bribery and include a higher base level if the defendant is a public official. The sentencing guidelines base the severity of the punishment on the value of the bribe, which is not always limited to the sum of the bribe offered. A higher base level may also be applicable for elected public officials and public officials in high-level decision-making positions.</p> <p><u>State law:</u> While treatment of bribery is not uniform at the state level, most jurisdictions have defined bribery by statute, which laws generally cover the corrupt influencing of public officials. The crime of bribery has been defined so that it may involve persons other than public officials. Bribery statutes may make the receiving or soliciting, as well as the giving or offering, of a bribe illegal.</p> <p>- Illinois law, for example, specifies that bribery involving public officials is a Class 2 felony (720 ILCS 5/33-1). This statute covers both promises and actual payments and applies to both persons who pay or offer to pay bribes to certain defined persons (including public officers and employees) as well as any defined person who solicits or receives a bribe.</p>
	Bribery of Foreign Officials	<p>The Foreign Corrupt Practices Act of 1977 (FCPA) (15 U.S.C.A. §§ 78m, 77dd-1 to -3, 78ff) is a U.S. federal statute that, broadly speaking, prohibits corrupt payments by certain covered persons to foreign government officials.</p> <p>The FCPA includes two distinct sets of provisions (i) antibribery provisions and (ii) accounting and internal control provisions.</p> <p>The antibribery provisions prohibit corrupt payments to foreign officials or foreign political parties, officials or candidates to influence such foreign official in the exercise of his official duties to assist in obtaining or retaining business (15 U.S.C.A. §§ 77dd-1 to -3).</p> <p>The accounting and internal control provisions prohibit issuers of securities in the U.S. to use the mails or instrumentalities of interstate commerce in furtherance of offers or payments intended to influence the acts or decisions of foreign officials or foreign</p>

		<p>political parties, officials or candidates to assist in obtaining or retaining business (15 U.S.C.A. § 77m).</p> <p>The FCPA includes both criminal and civil penalties. Criminal penalties for individuals include fines of \$100,000 or more, 5-20 years imprisonment, or both. Criminal penalties for companies include fines of \$2 million or more per violation. The maximum fine may be increased to \$25 million for companies and \$5 million for individuals in the case of certain willful violations. In addition, under the Alternative Fines Act (18 U.S.C.A. § 3571(d)), fines for both individuals can be increased to twice the total gain to the defendant or loss to the victim.</p>
	Commercial Bribery	<p>Commercial bribery is generally defined as offering or accepting a bribe to another person’s employee or agent in order to influence the offeree’s relationship with his employer. At the federal level, certain laws such as those in the liquor industry prohibit this type of conduct. In addition, commercial bribery occurring across state lines might violate federal law. The FCPA, however, does not prohibit bribes to officers, employees or agents of private entities.</p> <p>Several states have laws prohibiting commercial bribery. For example, Section 641.3 of the California Penal Code prohibits employees from soliciting or accepting anything of value from a person other than his employer, corruptly and without the knowledge or consent of the employer, in return for using his position for the benefit of that other person, as well as the same conduct on the part of the payor. Violations of this statute are punishable by up to 3 years imprisonment depending on the amount of the bribe.</p>
Definitions	Government Employee	<p>The general federal bribery statute covers public officials and persons who have been selected to be public officials. “Public official” includes members of the U.S. Congress, any officers, employees and anyone acting on behalf of the U.S. or any department, agency or branch of the U.S. government. A “person who has been selected to be a public official” means anyone who has been nominated or appointed to be a public official, or has been informed that he will be nominated or appointed (18 U.S.C.A. § 201(a)(1)).</p> <p>The FCPA covers foreign officials, foreign political parties, officers and candidates. “Foreign official” means employees of a foreign government or any department, agency or instrumentality thereof, or of a public international organization, or any person acting on behalf of any of the foregoing. (15 U.S.C.A. §§ 77dd-1(f)(1)(A), 77dd-2(h)(2)(A) and 77dd-1(f)(2)(A)).</p> <p>For purposes of state antibribery laws, the definition of “public official” and any related term depends on each state’s law.</p>
	Gratification (Gifts/ Entertainments/ etc)	<p>Federal law distinguishes between bribes and gratuities. Bribery requires that the payor intend to influence an official act corruptly (i.e., that there be a quid pro quo) while an illegal gratuity requires only that the payment be for or because of an illegal act. The federal gratuity statute prohibits the direct or indirect giving, offering or promising anything of value to any public official, former public official or person selected to be a public official for or because of any official act performed by such person (18 U.S.C.A. § 201(c)(1)(A)).</p> <p>The statute also prohibits any designated person from seeking or accepting any such gratuity (18 U.S.C.A. § 201(c)(1)(B)). The FCPA arguably only criminalizes bribery payments, which require a quid pro quo, and, as a result, gratuities arguably are not prohibited by the FCPA.</p>
Current Status	Enforcement Body	<p>The U.S. Department of Justice (DOJ) enforces U.S. federal antibribery laws (including the antibribery provisions of the FCPA) and the U.S. Securities and Exchange Commission (SEC) enforces the accounting and internal control provisions of the FCPA. State governments enforce respective state antibribery laws.</p>
	Issues in Enforcement	<p>2010 saw record fines and 7 of the 10 largest FCPA monetary fines to-date, totaling over \$1.4 billion. U.S. enforcement authorities have indicated an expansive view of FCPA jurisdiction, including jurisdiction for corrupt conduct with a minimal nexus to the U.S. such as wire transfers made outside of the U.S. but denominated in U.S. dollars.</p>

	Recent Movement	<ol style="list-style-type: none"> 1) Dodd-Frank Whistleblower Protection Rules, issued by the SEC on May 25, 2011, provide substantial monetary incentives to report wrongdoing under federal securities laws to the SEC and strengthened protection against retaliation. 2) Business groups have called for various amendments and clarifications to the FCPA, including the addition of a willfulness requirement for corporate criminal liability, limiting a parent’s civil liability for acts of a subsidiary and clarifying the definition of “foreign official”. 3) New guidance from the DOJ regarding the FCPA is expected in 2012.
Participation in International Anti-corruption Conventions	OAS Convention	Signed June 2, 1996; Ratified Sept.15, 2000
	OECD Convention	Yes
	UNCAC	Signed Dec. 9, 2003; Ratified Oct. 30, 2006
Last Updated		July 27, 2012

Region		South America
Country		Argentina
2011 CPI	Rank	100/183
	Score	3.0
The Law on Bribery	Bribery of Domestic Officials	<p>The offering, request for or the acceptance of gifts, money or other things of economic value to or by public officials is prohibited under the Argentine Penal Code (the “Penal Code”) and under civil statutes, including those governing public employment and ethics of public office.</p> <p><u>Offering a bribe:</u></p> <ul style="list-style-type: none"> - It is a crime to, directly or indirectly, give or offer gifts, money or any other thing of economic value to a public official to influence or in exchange for the official’s performance, delay or failure to perform an act inherent to his office; subject to 1 to 6 years imprisonment and disqualification from office (Section 258, Penal Code). - It is a crime to offer or confer a benefit on a public official solely due to the public official’s holding of office, without regard to intent to influence; subject to 1 month to 1 year imprisonment (Section 259, Penal Code). <p><u>Receiving a bribe:</u></p> <ul style="list-style-type: none"> - It is a crime for a public official to request, receive or accept (whether directly or indirectly) a gift, a promise, money or any other thing of economic value in exchange for the performance, delay or failure to perform an act within the public official’s duty or office; subject to 1 to 6 years imprisonment and lifetime disqualification from office (Sections 256 and 256bis, Penal Code). - It is prohibited for a public official to receive or otherwise accept benefits for the sole reason of his holding of office, without regard to intent to influence; subject to 1 month to 6 years imprisonment and disqualification from office (Section 259, Penal Code). - It is prohibited for government officials to receive gifts, presents, benefits or privileges of any kind by reason or on occasion of the performance of their duties (Law 25,164 on Public Employment and its Regulations). - Under the Public Ethics Law, it is prohibited for public officials to receive any undue personal benefit related to the performance, delay or failure to perform any act inherent to their office. It is also prohibited for public officials to receive gifts, gratuities or donations (regardless of whether they are goods or services) by reason or on occasion of the performance of their duties. Should a public official receive gifts out of courtesy or as a gesture of diplomatic protocol, the gifts must be recorded in a special registry and incorporated into the state’s property (Law 25,188 on Ethics in the Exercise of Public Office and its Regulations). - Under the Code of Ethics for Public Officials, it is prohibited for public officials to request, receive or accept any money, presents, benefits, favors or other privileges: (a) to perform, delay or fail to perform his duties; (b) to exert influence over another public official to perform, delay or fail to perform his duties; and (c) when the giving of money, present, benefit, favor or privilege would not have been made if the public official were not holding his office. There are several legal presumptions to determine whether the benefit is prohibited and the types of conduct that are not prohibited by law (Executive Order No. 41/1999). <p><u>Judicial bribery:</u> Applicable penalties are enhanced if the person involved is a judge or a member of the Office of the Attorney General (<i>Ministerio Público</i>), in which case the person making the bribe may be subject to 2 to 6 years imprisonment and, if a public official, disqualification from office (Sections 256bis and 258, Penal Code).</p> <p>If the recipient is a judge or a member of the Office of the Attorney General (<i>Ministerio Público</i>), he is subject to 4 to 12 years imprisonment and disqualification (Section 257, Penal Code).</p>

		<u>Corporate liability</u> : As a general rule, criminal liability cannot be imposed on legal entities under the Penal Code. Nonetheless, if a convicted person acted as an officer or director of a legal entity and that legal entity benefited from the criminal act, the assets used to commit the crime and the benefit obtained from the crime may be seized (Section 23, Penal Code).
	Bribery of Foreign Officials	It is a crime to offer or make a payment (including promises, favors or benefits) to public officials of a foreign state and to officials belonging to a public international organization in exchange for the official’s performance or failure to perform an act inherent to his office or to use the influence of his office in a transaction of an economic, commercial or financial nature (Section 258bis, Penal Code). Perpetrators are subject to 1 to 6 years imprisonment; lifetime disqualification from office applies if a public official commits the crime. This prohibition does not currently extend to foreign officials of territorial entities which do not constitute “states.” Currently, there is an effort to address this loophole by amending the relevant Penal Code articles, but no deadline has been set.
	Commercial Bribery	Argentina does not have national laws that prohibit commercial bribery. Nonetheless, certain provisions regulate private conduct in specific areas. For instance, it is a crime to make improper payments to employees and officers of financial institutions, securities brokers and other financial intermediaries (Section 312, Penal Code).
Definitions	Government Employee	There is no unified definition of “public official” or “public employee.” Courts have generally interpreted “public official” to include employees of state-owned enterprises. According to the Penal Code, a public official or employee is any individual who temporarily or permanently participates in the exercise of public office, whether democratically elected or designated by a competent authority (Section 77, Penal Code). The Public Ethics Law defines “public office” (<i>función pública</i>) as any temporary or permanent activity, whether or not paid, made by an individual on behalf, or in the service, of the state or any of its entities, regardless of hierarchies. The Public Ethics Law only applies to public officials performing duties under the Federal Public Administration (i.e., within the Federal Executive Branch).
	Gratification (Gifts/ Entertainments/ etc)	In general, public officials are prohibited from receiving any type of gift, donation (goods or services), benefit or gratuity as a result or on occasion of their office. Argentine law does not provide definitions for these terms or interpretative guidelines except for a few exceptions permitted under the Public Ethics Law and the Code of Ethics for Public Officials: (1) official protocol recognitions from foreign governments, international organizations or non-profit organizations, given in accordance with the relevant laws and official custom; (2) travel and lodging expenses related to participation in academic or cultural activities, provided that they are not incompatible with the office or special laws; (3) gifts or benefits that, given their small pecuniary value, could not reasonably be deemed a means to influence the public official’s will; and (4) small gifts received by public officials from other public officials for reasons of friendship or due to celebrations for which gifts are customarily given. Any permitted gift is required to be recorded in a special registry and may be incorporated as state property. Notwithstanding the aforementioned exceptions, the Penal Code’s broad penalties contain neither exceptions nor interpretative guidelines.
Current Status	Enforcement Body	The Public Ethics Law authorizes the creation of a Federal Public Ethics Commission (“FPEC”) within the Federal Congress to enforce the application of the Public Ethics Law (including the periodic submission of affidavits by public officials). However, the FPEC has not been created to date. The Anti-Corruption Office within the Ministry of Justice (“OA”) and the National Office for Administrative Investigations of the Prosecutor-General’s Office (“FIA”) are the two principal agencies currently involved in the prevention and investigation of corruption crimes within the executive branch. The OA is focused on members of the executive branch, both centralized and de-centralized organs, state-controlled/owned enterprises, and organizations that use public resources. Likewise, the FIA is a specialized organ for the investigation of acts of corruption and administrative irregularities within the Federal Public Administration. While the OA has the authority to independently initiate investigations into domestic cases, it is allegedly susceptible to political influence and lacks independence.
	Issues in	1) Absence of an adequate and integrated set of provisions to enable the punishment of

	Enforcement	<p>legal entities for acts of corruption.</p> <p>2) Inefficient judicial system. Judges are vulnerable to political pressure and lack independence.</p> <p>3) Inadequacy of whistleblower protection (there is whistleblower protection for certain organized crimes, but corruption is not covered).</p> <p>4) Failure to create the FPEC for centralized control of corruption at the federal level. The OA is reportedly under political pressure and may be unable to investigate certain types of crimes.</p> <p>5) Lack of uniform and centralized provisions to provide clear definitions and interpretation guidelines, giving way to excessive judiciary discretion in anti-corruption enforcement.</p>
	Recent Movement	<p>Bills have been submitted to Congress to amend the definition of “foreign public official” under the Penal Code to include foreign public officials of any territory recognized by the Argentine government (other than states) and to extend the jurisdiction of Argentina to adjudicate claims against Argentine citizens and residents for international acts of corruption.</p>
Participation in International Anti-corruption Conventions	OAS Convention	<p>Signed March 29, 1996; Ratified Aug. 4, 1997</p>
	OECD Convention	<p>Yes. Congress approved the Convention by passing Law 25,319 of September 7, 2000. The instrument of ratification was deposited with the OECD Secretary-General on February 8, 2001. The Convention became effective in Argentina on April 9, 2001.</p>
	UNCAC	<p>Signed Dec. 10, 2003; Ratified Aug. 28, 2006</p>
Last Updated		<p>September 12, 2012</p>

Region		South America
Country		Brazil
2011 CPI	Rank	73/183
	Score	3.8
The Law on Bribery	Bribery of Domestic Officials	<p>According to the Brazilian Criminal Code, Law No. 2,848 of December 7, 1940, the practice of bribery may be framed in four different criminal offenses: active corruption, passive corruption, extortion and influence peddling.</p> <p><u>Active corruption</u>: An individual is said to have committed a criminal offense of active corruption if he is found to offer or give an undue advantage to a public official in order to induce him to practice, omit or delay an act pertaining to his functions; 2 to 12 years imprisonment and fine (Criminal Code art. 333).</p> <p><u>Passive corruption</u>: An individual is said to have committed a criminal offense of passive corruption if he is found to solicit or receive, for himself or for a third party, directly or indirectly, even if not in the exercise of his functions or prior to taking office, but as a result of such a position, an undue advantage or to accept a promise for such advantage; 2 to 12 years imprisonment and fine (Criminal Code art. 317).</p> <p><u>Extortion</u>: An individual is said to have committed a criminal offense of extortion if he is found to demand, for himself or for a third party, directly or indirectly, even if not in the exercise of his functions or prior to taking office, an undue advantage; 2 to 8 years imprisonment and fine (Criminal Code art. 316).</p> <p><u>Influence peddling</u>: An individual is said to have committed a criminal offense of influence peddling if he is found to solicit, demand, charge or obtain, for himself or for a third party, an advantage or promise of advantage under the pretext of influencing an act of a public official in the exercise of his functions; 2 to 5 years imprisonment and fine (Criminal Code art. 332).</p>
	Bribery of Foreign Officials	<p>Brazil signed the OECD Convention on December 17, 1997 and deposited its instrument of ratification on August 24, 2000, pursuant to Legislative Decree No. 125, of June 15, 2000. Brazil enacted the implementing legislation in the form of Law No. 10,467, of June 11, 2002, which amended the Criminal Code and Law No. 9,613, of March 3, 1998, and came into force on June 11, 2002.</p> <p>As a result of Law No. 10,467, Criminal Code, Section XI now contains Articles 337-B to 337-D which appear as Chapter II-A (“Crimes committed by individuals against a foreign public administration”).</p> <p>It is a crime to promise, offer or give, directly or indirectly, an improper advantage to a foreign public official or to a third person, in order for him to put into practice, to omit, or to delay any official act relating to an international business transaction; 1 to 8 years imprisonment and fine (Criminal Code art. 337-B).</p> <p>Passive trafficking in influence in an international business transaction is also a criminal offense; 2 to 5 years imprisonment and fine (Criminal Code art. 337-C).</p> <p><u>Corporate liability</u>: There is no corporate liability under Law No. 10,467.</p>
	Commercial Bribery	<p>Brazil does not have any law that specifically prohibits bribery in the private sector. According to the Superior Court of Justice, the commission responsible for the reform of the Criminal Code has decided to include the crimes of active and passive corruption between individuals in the private sector with a predicted penalty of 1 to 4 years imprisonment and a fine.</p>
Definitions	Government Employee	<p>Public officials include persons who hold a position, job or public function, even without remuneration or on a temporary basis as well as persons who hold a position, job or public function in a state-owned company or a company offering services to provide or execute typical functions of the public administration (Criminal Code art. 327).</p>

	Gratification (Gifts/ Entertainments/ etc)	Brazilian law provides that corruption may occur by the simple offering of an undue benefit to a public official. It does not specify, however, the manner by which the advantage is given. It does not provide expressly what such offering would comprise, whether the benefit would be a gift, travel or any other type of expense. The law only mentions an “advantage.” Accordingly, the interpretation of the legitimacy of such advantage would be subject to the court’s scrutiny on a case-by-case basis.
Current Status	Enforcement Body	<p>Apart from being in charge of inspecting and detecting fraud in the use of federal public funds, the Office of the Comptroller General (CGU) is also responsible for developing mechanisms to prevent corruption. The idea is that, besides detecting corruption, the CGU has the role of acting proactively by developing means to prevent their occurrence. The CGU does so through its Corruption Prevention and Strategic Information Secretariat (SPCI). On January 24, 2006, the SPCI was created under Decree No. 5683. Prior thereto, corruption intelligence and prevention activities were carried out by different units of the CGU in a disperse manner. The SPCI serves to centralize all such efforts.</p> <p>The Federal Police and the Public Prosecutor’s Office may also conduct investigations. The Federal Judiciary will preside over proceedings involving public officials.</p>
	Issues in Enforcement	There is no one specific body dedicated to bribery investigations; this makes bribery difficult to uncover unless it occurs on a large scale.
	Recent Movement	At the moment, there is a major trial in progress before the Supreme Court of Justice, said to be the biggest and most important corruption case, involving 38 individuals ranging from former ministers to prominent bankers and businessmen. The result of this case will have a profound impact on future legal decisions regarding corruption crimes.
Participation in International Anti-corruption Conventions	OAS Convention	Signed March 29, 1996; Ratified July 10, 2002
	OECD Convention	Yes
	UNCAC	Signed Dec. 9, 2003; Ratified Jan. 31, 2006
Last Updated		August 22, 2012

Region		South America
Country		Chile
2011 CPI	Rank	22/183
	Score	7.2
The Law on Bribery	Bribery of Domestic Officials	<p>Bribery of domestic officials is prohibited under the Chile Criminal Code, which punishes both the offeror and the recipient of bribes.</p> <p><u>Offering a bribe:</u> Offering or agreeing to offer an economic benefit to a public official in return for a performance or omission of an act within the authority of the official's role (whether in line with or in conflict with his duties): 2 months to 3 years imprisonment, and fines matching the type of performance requested (50% to 100% for performance in line with the official's duty; 100% to 200% if in conflict) (Criminal Code art. 250).</p> <p><u>Receiving a bribe:</u> It is a crime for a public official to request, accept or agree to accept a bribe for himself or for third parties.</p> <ul style="list-style-type: none"> - in line with duty: a fee greater than what is appropriate given his office, or an economic benefit in return for the performance of an act in line with his duty: 2 to 18 months imprisonment, 2 months to 3 years suspension from office and fine of 50% to 100% of the bribe (Criminal Code art. 248). - in conflict with duty: an economic benefit in consideration for the performance or omission of an act in contravention of his official duties, or for influencing another public employee in order to obtain from him a decision that can benefit a third party: up to 3 years imprisonment, absolute or special temporary impediments to holding public office, and fine of 200% of the bribe (Criminal Code art. 248-bis). <p><u>Corporate liability:</u> Law N° 20.393, Criminal Liability of Corporations (in force since December 2, 2009): establishes corporate criminal liability for money laundering, terrorism financing, and bribery of a national or foreign public officer.</p> <p>In general, corporations cannot be criminally liable for offenses under the Criminal Code in Chile. However, the Law of Criminal Liability of Corporations creates an exception in the case of corruption, and allows corporations to be liable for the bribery of local or foreign public officials if the act was done in the corporation's own interest by the corporation's owners, representatives, executives or employees who have proper authority in carrying out the business. It has to be shown that the corporation was in non-compliance with supervision and internal control regulations.</p> <p>A corporation convicted of committing any of the law's felonies can be sanctioned with monetary penalties in favor of the state, the total or partial loss of fiscal benefits or the absolute prohibition of obtaining them during a fixed term, the temporary or perpetual prohibition of executing acts or contracts with state agencies, and even the dissolution of the corporation or the cancellation of its juridical status (this last sanction only applies for a crime based on a money laundering crime committed by agents or employees of the corporation, but not for national or international bribery nor for terrorism financing). Accessory sanctions include publication of an extract of the judicial sentence (paid by the condemned corporation), the confiscation of the crime's products as well as the goods or instruments used to execute it, and when in committing the crime the corporation invests more resources than it generates, the amount invested must be paid to the state.</p>
	Bribery of Foreign Officials	<p>The bribery of foreign officials is also covered in the Criminal Code under a separate provision, which only punishes the offeror and not the foreign official who receives the gift.</p> <p><u>Offering bribes:</u> Criminal Code art. 250-bis A prohibits the offering or promising of an economic or any other benefit to a foreign public official in return for the foreign public official's performance or omission of an act that would provide an unfair advantage in an international transaction (or the business deal) to the offeror of the bribe. Violators may face 18 months to 5 years imprisonment, restrictions on holding public office and a fine equal to twice the amount of the bribe. If the benefit is not financial, the monetary</p>

		<p>penalty will be up to \$1,000 monthly tax units (one tax unit is currently at \$82).</p> <p><u>Corporate liability:</u> Similar to the situation for domestic bribery, corporations can be held criminally liable for foreign bribery under the Law of Criminal Liability of Corporations, and could be punished by a temporary or permanent prohibition from entering into governmental contracts, loss or prohibition of governmental benefits, fines ranging from \$200 to \$10,000 monthly tax units, disgorgement, etc.</p>
	Commercial Bribery	Chile does not have laws that prohibit commercial bribery, although cases may sometimes be pursued civilly under general tort claims.
Definitions	Government Employee	<p><u>Domestic officials:</u> Under the laws of Chile, a public official is someone who holds a public office or discharges a public function at any level of government (central government, municipal, state agencies, etc). This has usually been understood to include employees of state-controlled companies (Criminal Code art. 260).</p> <p><u>Foreign officials:</u> In the context of foreign bribery, the Criminal Code defines a foreign public official as a person who holds a parliamentary, administrative or judicial position in a foreign state, or performs a public duty or function of that state or an official or agent of a public international organization (Criminal Code art. 250-bis B).</p>
	Gratification (Gifts/ Entertainments/ etc)	In general, any type of gift or benefit is prohibited as long as it is granted in order to influence the official or as consideration for a performance or an omission of performance. However, the administrative law allows for gifts that are consistent with customary courtesy, good manners and rules of protocol.
Current Status	Enforcement Body	<p>The Public Prosecutor's Office, which is an independent agency responsible for enforcing all criminal offenses and headed by the National Prosecutor, has a Specialized Anti-Corruption Unit (established in May 2003). The National Prosecutor issued a general instruction on criminal prosecution for corruption offenses in 2007, which is meant to guide the work of the 18 regional offices.</p> <p>The Republic's General Comptroller's Office, which is an independent agency responsible for enforcing all administrative offenses and headed by the Comptroller, will determine if the behavior violated public official's duties and impose administrative sanctions. These sanctions may be appealed in court.</p>
	Issues in Enforcement	<ol style="list-style-type: none"> 1) Weak whistleblower protection (weak protection in public bribery, no protection in commercial bribery). 2) Decentralized organization of enforcement.
	Recent Movement	None.
Participation in International Anti-corruption Conventions	OAS Convention	<p>Signed March 29, 1996;</p> <p>Ratified Sept. 29, 1998</p>
	OECD Convention	<p>Yes. Chile is a member of OECD Convention, ratified by Chile on April 18, 2011. In compliance with the OECD Convention, Chile has passed:</p> <ol style="list-style-type: none"> 1) The Laws N° 19.829 and N° 20.341, through which the penal figures of bribery of foreign public officers were incorporated and perfected in the Criminal Code (Articles 251 bis and 251 ter). 2) The Law N° 20.371, which amended Article 6° section 2° of the Chilean Organic Code of Courts in order to allow national courts to sanction bribery of foreign public employees executed abroad by Chileans or foreigners with legal residence in Chile. 3) The Law N° 20.393, of Criminal Liability of Corporations. <p>Chile is also member of the OAS Inter-American Convention Against Corruption (ratification instrument deposited on October 27, 1998).</p>
	UNCAC	<p>Signed Dec. 11, 2003;</p> <p>Ratified Sept. 13, 2006</p>

Last Updated		August 30, 2012
Region		South America
Country		Colombia
2011 CPI	Rank	80/183
	Score	3.4
The Law on Bribery	Bribery of Domestic Officials	<p>Offering and receiving bribes are criminal offenses under the Colombian Penal Code (Law 599 of 2000) as modified by Law 1474 of 2011.</p> <p><u>Receiving a bribe</u>: It is a crime for a public servant to receive money or any other benefit, or to accept an offer, for his benefit or for the benefit of another person, directly or indirectly, (i) for purposes of withholding or omitting an act under his responsibility; (ii) to perform an act against his duties as public servant; or (iii) to perform an act that shall be performed by such public servant in connection with his duties; punishable by imprisonment ranging between 32 and 144 months, fines and elimination of rights associated with public office (Penal Code art. 405, 406).</p> <p><u>Offering a bribe</u>: It is a crime to give or offer money or other benefits to a public servant (i) for purposes of withholding or omitting an act by such public servant under his responsibility; (ii) to perform an act against his duties as public servant; or (iii) to perform an act regarding acts that shall be performed by such public servant in connection with his duties; punishable by imprisonment ranging between 48 and 108 months, fines and elimination of rights associated with public office (Penal Code art. 407).</p> <p><u>Corporate liability</u>: Under the Penal Code, corporations cannot be held criminally liable for the corrupt acts of their employees that benefit the corporation. However, a corporation may be subject to civil liability and required to pay for the damages caused to the victim. Corporations may also have their legal status suspended if it is shown that the corporation knew about or intended to benefit from the corrupt act (Penal Code art. 91).</p>
	Bribery of Foreign Officials	It is a crime to give or offer money, objects with pecuniary value or other benefits to a foreign public servant, for his benefit or for the benefit of another person, directly or indirectly, for purposes of withholding, omitting or delaying an act related with an economic or commercial transaction; punishable by imprisonment ranging between 9 and 15 years and fines (Penal Code art. 433).
	Commercial Bribery	Law 1474 of 2011, which came into effect in July 2011, prohibits corruption in the private sector. People who engage in bribery with non-officials may be criminally liable.
Definitions	Government Employee	This concept is included in the 1991 constitution. Public servants are members of public entities, employees and workers of the state and of their territorially decentralized branches and service branches (art. 123). A public servant performs a service to the state or the community. Public services include those inherent to the social purpose of the state (art. 365). The scope of public service must be determined by law or regulation. Public servants include individuals who render services to the state, either directly or indirectly.
	Gratification (Gifts/ Entertainments/ etc)	The Colombian Penal Code (art. 141 through 143), in connection with bribery, includes “utilidad” benefits (presumably anything of value) and any promise with remuneration.
Current Status	Enforcement Body	The Attorney General’s Office has the highest responsibility for overseeing the discipline of public servants. The Prosecutor General’s Office investigates all offenses under the Penal Code and prosecutes before Criminal Courts. They are both independent and have the power to initiate investigations, and have done so aggressively for corruption offenses.
		The Presidential Anti-Corruption Program, which reports to the president, plays a role

		in receiving and filing reports of abuse and redirecting them to the proper agency for investigation. The police and Intelligence Service (DAS) also have units that specialize in investigating corruption cases.
	Issues in Enforcement	<ol style="list-style-type: none"> 1) The extent of corruption surpasses the capacity of anti-corruption agencies and resources to handle cases, creating a considerable backlog and inefficiency in investigations (both investigators and judges). 2) A lack of funding and strong political influences at the regional level make regional investigations more difficult. 3) No whistle blowing protection policies and inaccessible witness protection programs. 4) The current statute of limitations of 5 years causes the prosecution of a number of corruption cases to be barred.
	Recent Movement	<p>A number of laws related to the anti-corruption effort have been introduced and are currently being debated.</p> <p>The Colombian Congress recently enacted the new Anti-Bribery Statute (Law 1474 of 2011) .</p>
Participation in International Anti-corruption Conventions	OAS Convention	<p>Signed March 29, 1996;</p> <p>Ratified Nov. 25, 1998</p>
	OECD Convention	<p>No</p> <p>(invited to join in Nov. 2011, undergoing ratification/ ascension process)</p>
	UNCAC	<p>Signed Dec. 10, 2003;</p> <p>Ratified Oct. 27, 2006</p>
Last Updated		October 9, 2012

Region		South America
Country		Ecuador
2011 CPI	Rank	120/183
	Score	2.7
The Law on Bribery	Bribery of Domestic Officials	<p>Under the Criminal Code of Ecuador, both the giving and receiving of bribes to/by domestic officials are prohibited. The giver as well as the receiver may be subject to liability.</p> <p><u>Offering a bribe:</u> It is a crime to make, offer or promise a bribe; up to 8 years imprisonment and a fine of 60 U.S. dollars plus 3 times the amount of the bribe; lawyers who engage in bribery may have their licenses permanently revoked (Criminal Code arts. 290, 359).</p> <p><u>Receiving a bribe:</u> It is a crime to accept a bribe or a promise thereof; up to 8 years imprisonment and a fine of 60 U.S. dollars plus 3 times the amount of the bribe (Criminal Code arts. 285 to 291). If the receiver of the bribe is a public servant, administrative sanctions (oral warning, written warning, fines or dismissal) may be applicable.</p> <p><u>Corporate liability:</u> The general managers or legal representatives of a company may be prosecuted if the company is engaged in the bribery of officials.</p>
	Bribery of Foreign Officials	Ecuador does not have laws that prohibit the bribery of foreign public officials.
	Commercial Bribery	Ecuador does not have laws that prohibit commercial bribery.
Definitions	Government Employee	Public servants include anyone who is employed by any entity at any level of the government (national, local, etc.) and performs a public function, including people who work in any branch of the government, such as law enforcement and military personnel (Organic Law on Public Servants art. 4). Public servants also include employees of state-owned or state-controlled companies (Organic Law on Public Companies art. 18).
	Gratification (Gifts/ Entertainments/ etc)	Gifts and hospitality do not constitute bribery under the Criminal Code unless there is a corrupt purpose attached to the gift (an intention to pay the bribe for an exchange of favors). However, the receipt of any gift or hospitality of any value by a public servant may constitute a disciplinary violation. In such case, only the public official who receives the gift rather than the giver may be punished (Organic Law on Public Servants arts. 10, 24 and 42).
Current Status	Enforcement Body	The Transparency and Social Control branches of the government, created under the 2008 Constitution, and the Anti-Corruption Secretariat, created under a presidential decree in December 2008, are responsible for conducting investigations of acts of corruption and anticorruption strategies. However, the prosecutorial power and discretion remain with the Office of the Prosecutor General.
	Issues in Enforcement	<ol style="list-style-type: none"> 1) The Anti-Corruption Secretariat is not insulated from political influence. The President has discretion in naming the Anti-Corruption Secretariat manager. Also, the President is the final decision-maker of anticorruption policies; the Anti-Corruption Secretariat only makes suggestions. 2) Despite announcements and acts by the government to fight corruption, corruption is still a major issue in Ecuador. 3) Lack of transparency and inefficiency of the judicial system.
	Recent Movement	None.
Participation in International Anti-corruption	OAS Convention	Signed March 29, 1996; Ratified May 26, 1997

Conventions	OECD Convention	No
	UNCAC	Signed Dec. 10, 2003; Ratified Sept. 15, 2005
Last Updated		September 14, 2012

Region		South America
Country		Venezuela
2011 CPI	Rank	172/183
	Score	1.9
The Law on Bribery	Bribery of Domestic Officials	<p>The Law against Corruption of 2003 (the “Anti-Corruption Law”) is the primary source of law that criminalizes the bribery of domestic officials, and punishment applies to both the offeror and the receiver of the bribe.</p> <p><u>Bribes not in conflict with duties:</u> It is a crime when a public official receives a benefit or undue profit or a promise of such in exchange for a performance of his duties; punishable by 1 to 4 years imprisonment and a fine of up to 50% of the bribe (Anti-Corruption Law art. 61).</p> <p><u>Bribes in conflict with duties:</u> It is a crime when a public official receives a benefit or undue profit or a promise of such in exchange for a performance, delay or omission contrary to his duties; punishable by 3 to 7 years imprisonment and a fine of up to 50% of the bribe (penalties can be more severe if the bribe involves a grant of public employment, subsidies and other government contracts) (Anti-Corruption Law art. 62).</p> <p><u>Judicial bribery:</u> It is a crime when a judge receives a bribe in exchange for a favorable decision; punishable by 5 to 10 years imprisonment if the court decision results in a prison sentence of over 6 months (Anti-Corruption Law art. 61).</p> <p><u>Attempted bribery:</u> It is a crime when someone tries to bribe a public official, but is unsuccessful in doing so; punishable by 6 months to 2 years imprisonment (Anti-Corruption Law art. 63).</p> <p><u>Corporate liability:</u> Through the application of the Venezuelan Law against Organized Crime and Terrorism Financing (enacted on April 30, 2012), a corporation may be held accountable for the offenses listed under this law if the corrupt practice qualifies as an action of organized crime, even when the activity is committed by only one individual on behalf of the corporation.</p>
	Bribery of Foreign Officials	Venezuela does not have laws that specifically prohibit the bribery of foreign officials. However, as a signatory to the UNCAC and the OAS Convention, Venezuela will assist foreign anti-corruption authorities in investigating foreign bribery cases.
	Commercial Bribery	Venezuela does not criminalize private commercial bribery. However, commercial bribery is prohibited and a breach could be deemed an administrative violation, and the violator may be fined (Law for the Protection and Promotion of Free Competition art. 17). The fine for such conduct could be up to 10% of the value of the transaction in question, an amount that may be increased to 20% of the value of the transaction.
Definitions	Government Employee	<p>According to Articles 3 and 4 of the Anti-Corruption Law, as well as Article 9 of the Organic Law of the Republic’s Comptroller General of 2010, Venezuelan law defines a “public official” as anyone who performs public functions at the service of any body or entity that exercises public power, such as:</p> <ul style="list-style-type: none"> - any body vested with public functions; - any organ or body with the authority to exercise a public power; - any organ or body that is established by the Republic, states, territories or federal dependencies or metropolitan district and municipalities; - any organ or body where at least 50% of its budget is provided by public funds; - any organ or body where at least 50% of the share capital is owned by the government or state entities; - all public universities; and - the Central Bank of Venezuela.

	Gratification (Gifts/ Entertainments/ etc)	<p>There are no specific rules under the laws of Venezuela with respect to gratification. The Anti-Corruption Laws use the term “undue donation,” but in general, only monetary bribes or benefits constitute corruption. However, the general bribery provisions contained in Articles 71 and 72 of the Anti-Corruption Law may be broad enough to cover government officials and public servants. There are no provisions in relation to the private sector.</p> <p>A contravention of the above provisions is punishable by 2 to 4 years imprisonment.</p> <p>However, because of the ambiguity of the language, a judge may decide whether he will consider a gift as an undue donation. The receipt of a gift, regardless of whether it is criminalized, is a violation of the code of ethics for a public official, and disciplinary penalties may lead to termination.</p>
Current Status	Enforcement Body	<p>The <i>Poder Ciudadano</i> (Citizen Power, in Spanish) was created by the 1999 Constitution as an umbrella organization that coordinates anti-corruption efforts. The General Comptroller’s Office (GCO) monitors government revenues and expenses, and the General Public Prosecutor’s Office is responsible for handling criminal cases (including corruption) and has the power to designate specialized authorities to investigate. The agencies were intended to be politically independent, but are largely influenced by politics in practice.</p>
	Issues in Enforcement	<ol style="list-style-type: none"> 1) Enforcement bodies such as the GCO have little insulation from political influence. Investigations are often conducted pursuant to political agenda (e.g., investigation of presidential candidates to prevent their election). 2) Lack of real commitment to fight against corruption. 3) Mistrust of the justice system. 4) Systematic corruption exists at all levels of society. 5) An increasing impunity rate. GPPO published in its last report a 92% impunity rate in prosecutions. 6) Both the GCO and the GPPO lack institutional resources and funding. 7) No whistleblowing policies and witness protection. Complaints filed with the GCO are not kept anonymous.
	Recent Movement	None.
Participation in International Anti-corruption Conventions	OAS Convention	<p>Signed March 29, 1996</p> <p>Ratified May 22, 1997</p>
	OECD Convention	No
	UNCAC	<p>Signed Dec. 10, 2003;</p> <p>Ratified Feb. 2, 2009</p>
Last Updated		September 14, 2012

Region		South Asia
Country		India
2011 CPI	Rank	95/183
	Score	3.1
The Law on Bribery	Bribery of Domestic Officials	<p>The primary anti-corruption law in India is the Prevention of Corruption Act, 1988 (PCA) that consolidated all prior laws dealing with corruption. Other legislation includes the Prevention of Money Laundering Act, 2002 that provides for confiscation of property derived from, or involved in, money laundering, and the Benami Transaction (Prohibition) Act, 1988 (Benami Act). Subject to certain exceptions, the Benami Act prohibits benami transactions (i.e., a transaction in which property is transferred to one person for consideration paid or provided by another person). However, rules to enforce the Benami Act were never framed. Consequently, to overcome the shortcomings of the Benami Act and to consolidate all prior laws relating to benami transactions, the Benami Transactions (Prohibition) Bill 2011 was introduced in the Lower House in August 2011. The bill is still pending in the Parliament.</p> <p><u>Offering a bribe:</u> The PCA indirectly criminalizes the act of offering a bribe; a person may be punished under the abetment provision of the PCA for offering a bribe to a public servant. A person who abets in the offense of receiving a bribe (as described in (i) through (iv) below), regardless of whether such act is committed as a consequence of the abetment, shall be punishable with imprisonment and fine (PCA §12). This rule is subject to an exception. A statement made by a person in a proceeding against a public servant for an offense under the PCA that he offered a bribe to the public servant shall not subject such person to prosecution (PCA §24).</p> <p><u>Receiving a bribe:</u> The PCA criminalizes the following acts: (i) taking gratification by a public servant in respect of an official act other than legal remuneration; (ii) taking gratification by corrupt legal means to influence a public servant; (iii) taking gratification, for exercise of personal influence with a public servant; (iv) abetment of acts specified in (ii) or (iii) by a public servant, regardless of whether such acts are committed as a consequence of the abetment; (v) for a public servant, obtaining anything of value, without consideration from any person concerned in any proceeding or business transacted or about to be transacted by such public servant; and (vi) criminal misconduct by a public servant (PCA §§ 7, 8, 9, 10, 11 and 13).</p> <p><u>Corporate liability:</u> The PCA does not expressly contain a provision that holds corporations liable for an offense committed under the PCA. A recent Supreme Court decision, however, held that corporations can be prosecuted for criminal offenses under the PCA (C.B.I. v. M/s. Blue Sky Tie-up Limited & Ors. CrI. Appeal No(s). 950 of 2004; see also Standard Chartered Bank v. Directorate of Enforcement (2005) 4 SCC 530; Iridium India Telecom Limited v. Motorola Incorporated & Others (2011) 1 SCC 74).</p>
	Bribery of Foreign Officials	<p>There is currently no law in India that criminalizes bribery of foreign public officials. To overcome this lacuna and to give effect to the UNCAC, the Prevention of Bribery of Foreign Public Officials and Officials of Public International Organizations Bill, 2011 was introduced in the Lower House in March 2011. According to the bill, a foreign public official or an official of a public international organization shall be punished by imprisonment and a fine if he accepts or solicits any undue advantage in the exercise of his official function. Further, in relation to the conduct of international business in order to obtain or retain business offers, any person who gives or promises to give or offer an undue advantage to either type of official such that the official acts or refrains from acting in the exercise of his official duties shall also be punished by imprisonment and a fine. It is also a crime to abet or attempt to commit any of the aforementioned acts under the bill. The bill is pending in the Parliament.</p>
	Commercial Bribery	<p>There is currently no law in India prohibiting private commercial bribery. Reports suggest that the Government has circulated a proposal to amend the Penal Code to criminalize the offering or giving, in the course of economic, financial or commercial activities, bribes to a private sector entity.</p>

Definitions	Government Employee	<p>“Public servant” has been widely defined under the PCA to include any person in government service or working for a state-owned company, any judge, arbitrator or person who holds an office by virtue of which he is authorized or required to perform any public duty, any office-bearer of a registered cooperative society engaged in agriculture, industry, trade or banking, any person receiving or having received any financial aid from the government or from any corporation established by or under a Central, Provincial or State Act, or any authority or body owned or controlled or aided by the government or a government company, an office-bearer or employee of an educational, scientific, social, cultural or any other institution which receives or has received financial assistance from the government (PCA §2(c)).</p>
	Gratification (Gifts/ Entertainments/ etc)	<p>The word “gratification” is not restricted to pecuniary gratification (PCA §7).</p> <p>“Legal remuneration” is not restricted to remuneration which a public servant can lawfully demand, but includes all remuneration which he is permitted by the government or the organization, which he serves, to accept (PCA §7).</p> <p>“A motive or reward for doing” refers to the concept where a person who receives a gratification as a motive or reward for doing what he has not done, does not intend to do, or is not in a position to do (PCA §7).</p>
Current Status	Enforcement Body	<p>The Central Vigilance Commission supervises the Central Bureau of Investigation (CBI) to investigate into certain offenses under the PCA. The CBI Anti-Corruption Division investigates cases under the PCA against public officials and employees of the central government, public sector undertakings and corporations or bodies owned or controlled by the government. State governments investigate corruption cases through the states’ respective anti-corruption bureaus.</p> <p>Special judges are appointed by either the central or state government to try offenses punishable under the PCA.</p>
	Issues in Enforcement	<p>Prosecution of public servants under the PCA requires prior sanction of the government by which the public servant is employed. The Supreme Court of India observed that the relevant authority should take appropriate action within 3 months after a particular case is initiated. As of 2010, 66% of the 236 cases with the central government remained pending for over 3 months. However, the Supreme Court did clarify that no prior sanctions would be required of indirect instances of bribery.</p>
	Recent Movement	<p>In April 2011, Anna Hazare, an anti-corruption activist, began a hunger strike to urge the government to pass the Jan Lokpal Bill. The strike eventually turned into a fully fledged anti-corruption movement that led the Lower House to pass the Lokpal and Lokayuktas Bill, 2011 on December 27, 2011. It provides for the establishment of certain bodies to inquire into allegations of corruption against public functionaries and is pending in the Upper House.</p>
Participation in International Anti-corruption Conventions	OECD Convention	No
	UNCAC	Signed Dec. 9, 2005; Ratified May 9, 2011
Last Updated		August 24, 2012

Region		Southeast Asia
Country		Indonesia
2011 CPI	Rank	100/183
	Score	3.0
The Law on Bribery	Bribery of Domestic Officials	<p>Anti-corruption provisions are included in the Eradication of the Criminal Act of Corruption Law (Law No. 31/1999, amended by Law No. 20/2001 and Law No. 7/2006; collectively, the “Anti-Corruption Laws”), and cover both the offeror and the recipient of the bribe.</p> <p><u>Offering a bribe:</u> Criminal charges may be imposed on one who gives or promises a government employee something:</p> <ul style="list-style-type: none"> - in exchange for (or due to) the commission or the omission of an act that contradicts the civil servant’s obligations: 1 to 5 years imprisonment and/or a fine of 50,000,000 to 250,000,000 rupiahs (Law No. 31/1999 art. 5). - in relation to the power or authority of the position (without requesting an exchange in performance): up to 3 years imprisonment and/or a maximum fine of 150,000,000 rupiahs (Law No. 20/2001 art. 13). <p><u>Receiving a bribe:</u> Criminal charges may be imposed on a civil servant or state operator (or judge) who receives presents or promises knowing/suspecting that they were given:</p> <ul style="list-style-type: none"> - due to his position and authority: 1 to 5 years imprisonment and/or a fine of 50,000,000 to 250,000,000 rupiahs (Law No. 31/1999 art. 11). - to influence his behavior in committing or omitting (or ruling in court) an act that contradicts his obligations; life imprisonment or 4 to 20 years imprisonment and a fine of 200,000,000 to 1,000,000,000 rupiahs (Law No. 31/1999 art. 12). <p>Causing loss to the state: criminal charges can be imposed on anyone who may cause loss to the state finance or economy by:</p> <ul style="list-style-type: none"> - illegally committing an act to enrich himself/another; life imprisonment or 4 to 20 years imprisonment and a fine of 200,000,000 to 1,000,000,000 rupiahs (Law No. 20/2001 art. 2). - abusing his authority with an intention to earn profits; life imprisonment or 1 to 20 years imprisonment or a fine of 50,000,000 to 1,000,000,000 rupiahs (Law No. 20/2001 art. 3). <p><u>Corporate liability:</u> If a corrupt act is conducted by or for a corporation, the corporation or the board may be held liable (Law No. 31/1999 art. 30).</p> <p>*For corrupt acts involving amounts of less than 5,000,000 rupiahs, the maximum term of imprisonment is 3 years and the maximum fine is 50,000,000 rupiahs (Law No. 20/2001).</p>
	Bribery of Foreign Officials	<p>Law No. 7/2006 prohibits the bribery of foreign public officials by ratifying the UNCAC. However, there is no actual legislation that implements this prohibition, and thus, the bribery of foreign officials is not an enforceable crime in Indonesia.</p> <p>The government is working to reform the Anti-Corruption Laws, and the draft in circulation contains provisions that prohibit the bribery of foreign public officials, but it is uncertain if the final version will contain such provisions, and if the bill will be passed.</p>
	Commercial Bribery	<p>Indonesia does not have any law that specifically prohibits bribery in the private sector. However, the broad definition of “government official or employee” in the Anti-Corruption Laws potentially covers a large number of enterprises by including: (1) a corporation that receives assistance from state finance or regional finance; and (2) other corporations that use capital or facilities provided by the state or the public.</p>

Definition	Government Employee	<p>Aside from actual civil servants, state operators (elected and appointed) and members of the armed forces, “government employees” under the Anti-Corruption Laws include:</p> <p>persons receiving salaries or wages from (1) state finance or regional finance; (2) a corporation which receives assistance from state finance or regional finance; or (3) from other corporations which use capital or facilities provided by the state or the public.</p> <p>This definition covers employees of state-owned enterprises but may also be interpreted to include foreign investment companies which enjoy exemptions from import duties (e.g., master list facilities) or banks that receive liquidity loans.</p>
	Gratification (Gifts/ Entertainments/ etc)	<p>The Anti-Corruption Laws do not discuss travel, entertainment, etc., but these may all fall under the category of “gratification,” and may be considered a bribe if they were given in relation to the receiver’s position, or in exchange for performance.</p> <p>If the gratification has a value of 10,000,000 rupiahs or more, then the recipient has the burden of proving that it was not a bribe (if under, the public prosecutor has the burden).</p> <p>A receipt of gratification is not a bribe if the receiver reports it to the Corruption Eradication Commission (KPK); the KPK will determine if the gratification can be kept (Law No. 20/2001, art. 12 B).</p>
Current Status	Enforcement Body	<p>The Corruption Eradication Commission (the KPK) was established pursuant to Law No. 30/2002 and acts as an independent organization that is authorized to investigate and prosecute crimes of corruption where the loss to the state is at least 1 billion rupiahs, involve law enforcement officials, and attract public attention and concern.</p> <p>For crimes that involve lower levels of loss or public concern, the police and the District Attorney’s Office may conduct the investigation.</p>
	Issues in Enforcement	<ol style="list-style-type: none"> 1) Weak protection for whistleblowers - despite the passage of the Protection of Witnesses and Victims Law (Law No. 13/2006), whistleblowers are not always protected from retaliation. The Witness and Victim Protection Agency was not created and funded until 2 years after the Law No. 13/2006 was enacted. 2) The KPK is only authorized to investigate and prosecute crimes that meet certain threshold requirements. 3) The KPK has very limited resources.
	Recent Movement	None.
Participation in International Anti-corruption Conventions	OECD Convention	No
	UNCAC	Signed Dec. 18, 2003; Ratified Sept. 19, 2006
Last Updated		August 21, 2012

Region		Southeast Asia
Country		Malaysia
2011 CPI	Rank	60/183
	Score	4.3
The Law on Bribery	Bribery of Domestic Officials	<p>The primary body of law on anti-corruption is the Anti-Corruption Commission Act 2009 (ACCA).</p> <p><u>Offering a bribe</u>: It is a crime for a person to offer to any officer of any public body any gratification as an inducement or a reward for the officer to vote or refrain from voting with respect to any public body decision-making, to perform or abstain from performing any official act, or to show any favor or disfavor in his official capacity, notwithstanding that the officer did not have the power, right or opportunity to perform or accepted the gratification without intending to perform (ACCA sec. 21).</p> <p><u>Receiving a bribe</u>: It is a crime for an officer of any public body to solicit or accept any gratification as an inducement or reward to perform any of the aforementioned activities (ACCA sec. 21).</p> <p>The Penal Code (PC) predates the ACCA and covers additional domestic bribery offenses.</p> <p><u>Corporate liability</u>: Criminal liability may be imposed on legal persons in theory as “person” includes “a body of persons, corporate or unincorporated” under the ACCA and “any company or association or body of persons, whether incorporated or not” under the PC.</p>
	Bribery of Foreign Officials	<p><u>Offering a bribe</u>: It is a crime for a person to give, offer or promise gratification by himself or through an intermediary as an inducement or reward to a foreign public official to have the official use his position to influence any act or decision of the foreign country or public international organization for which the official performs any official duties, to perform or refrain from performing his official duties, or to assist in procuring or preventing the granting of any contract for the benefit of any person (ACCA sec. 22).</p> <p><u>Receiving a bribe</u>: It is a crime for a foreign public official to solicit, accept or agree to accept or attempt to obtain any gratification in exchange for any of the aforementioned activities (ACCA sec. 22).</p> <p>Citation of conventional practice is not recognized as a defense.</p> <p>Both the offeror and the recipient of the bribe may be subject to up to 20 years imprisonment and a fine which is the higher of 5 times the value of the gratification and 10,000 ringgit.</p>
	Commercial Bribery	The ACCA prohibits both public and commercial bribery (ACCA sec. 16).
Definitions	Government Employee	<p>Domestic public officials generally include members, officers, employees and servants of a public body, such as the administration, the parliament, the state legislative assembly, the federal courts, other parts of the federal government, the state government, local authorities, government majority-owned corporations, registered societies and trade unions, and persons who receive remuneration from public funds.</p> <p>Foreign public officials generally include persons who hold legislative, executive, judicial or administrative offices of a foreign country, whether appointed or elected, exercise a public function in a foreign state, or act on behalf of a public international organization.</p>
	Gratification (Gifts/ Entertainments/ etc)	<p>The definition of “gratification” is expansive, covering pecuniary advantages as well as services and favors.</p> <p>The ACCA does not provide defenses for de minimis payments, but the Guidelines for Giving and Receiving Gifts in the Public Service issued by the Public Service Department in 1998 details limited circumstances in which gifts may be allowed and the</p>

		applicable approval procedures that must be followed.
Current Status	Enforcement Body	<p>The Malaysian Anti-Corruption Commission (MACC) is authorized to investigate bribery offences under both the ACCA and the PC. Other Malaysian law enforcement authorities may also investigate bribery offenses, but they do not have access to certain special investigative tools allowed for the MACC under the ACCA, such as the ability to require disclosure of documents from financial institutions and other types of persons and entities.</p> <p>With the consent of the Attorney of General who acts as the Public Prosecutor, the MACC may prosecute bribery offenses.</p>
	Issues in Enforcement	<ol style="list-style-type: none"> 1) The Whistleblower Protection Act was enacted in 2010 but remains ineffective because of a general lack of political commitment to enforcement. 2) The ongoing battle for power between the two major political parties in Malaysia diverts attention from enforcement of anti-corruption law. 3) The MACC is subject to close control by the ruling party, and its enforcement efforts have appeared selective.
	Recent Movement	None.
Participation in International Anti-corruption Conventions	OECD Convention	No (observer status)
	UNCAC	Signed Dec. 9, 2003; Ratified Sept. 24, 2008
Last Updated		August 17, 2012

Region		Southeast Asia
Country		Myanmar
2011 CPI	Rank	180/183
	Score	1.5
The Law on Bribery	Bribery of Domestic Officials	<p>Anti-corruption offenses are covered under three main laws in Myanmar: the Prohibition of Corruption Act, the Amendment to the Prohibition of Corruption Act and the Myanmar Penal Code. In general, both the facilitator and the receiver of the bribe may be subject to criminal penalties. However, under current Myanmar law, the act of offering a bribe is not an offense.</p> <p><u>Receiving a bribe:</u> It is a crime for a public servant, or for a person expecting to be a public servant, to demand, accept or agree to accept, for himself or for any other person, any gratification (other than legal remuneration) for the official's performance or omission to perform his duty, regardless whether the act or omission is carried out; punishable by up to 3 years imprisonment, a fine, or both (Penal Code sec. 161).</p> <p><u>Facilitating corruption:</u> It is a crime for any person to demand, accept or agree to accept any gratification as a motive or reward for inducing, by corrupt or illegal means, any public servant's performance, omission to perform, or biased performance of his duty, or to render or attempt to render any service or disservice to any public official; punishable by up to 3 years imprisonment, a fine, or both (Penal Code sec. 162).</p> <p>- "Person" in this section includes any company or association, or body of persons, whether incorporated or not (Penal Code sec. 11).</p> <p>- It is a crime for any person to demand, accept or agree to accept any gratification as a motive or reward for inducing the same, but by the exercise of personal influence on any public official; punishable with up to 1 year imprisonment, a fine, or both (Penal Code sec. 163).</p> <p>- It is a crime for a public servant to abet the abovementioned crimes; punishable with up to 3 years imprisonment, a fine, or both (Penal Code sec. 164).</p> <p><u>Criminal misconduct in discharge of official duty:</u> It is a crime for a public servant to engage in the following acts with dishonest or fraudulent intention: if he habitually commits an offense under Penal Code sec 161 or sec 163; to obtain, by corrupt or illegal means or by abuse of his office, any valuable object or pecuniary advantage; to commit fraud to the detriment of public interest; to commit an act of misappropriation or misconduct with public property entrusted to him; punishable by up to 7 years imprisonment and forfeiture to the state all gains found to have been derived from misconduct (Prohibition of Corruption Act, as amended, sec. 4).</p> <p><u>Presumption of corruption:</u> It is a crime for a public servant to demand, accept or agree to accept, for himself or any other person, any valuable object without consideration, or for consideration he knows to be inadequate, from any person he knows to have been, to be, or likely to be, involved in any proceeding or business transacted or about to be transacted by, or in connection with, such public servant; punishable with up to 2 years imprisonment, a fine, or both (Penal Code sec. 165).</p> <p>- Where it is shown at trial for any abovementioned offense that the accused has demanded, accepted, or agreed to accept gratification (other than legal remuneration) or any valuable object, it shall be a rebuttable presumption that such object was a motivation or reward as contemplated in Penal Code secs. 161-165 (Prohibition of Corruption Act sec. 3).</p> <p>- Where it is shown in trial for any abovementioned offense that the accused, or any other person on his behalf, was or is in possession of pecuniary resources or property not commensurate with a legitimate source of income, the court shall presume that it was acquired in connection with the abovementioned offense.</p>
	Bribery of Foreign Officials	Myanmar does not currently criminalize the payment of bribes to officials of foreign governments or international organizations.

	Commercial Bribery	Myanmar does not currently criminalize bribery in the private sector.
Definitions	Government Employee	<p>Public Servant is defined in the Penal Code (Penal Code sec. 21); the same definition is used under the Prohibition of Corruption Act.</p> <p>“Public Servant” means any of the following:</p> <ul style="list-style-type: none"> - A covenanted servant of the government; - A commissioned officer in the army, navy or air forces of the state; - A judge; - An officer of a court of justice; - A juryman, assessor, or member of a village committee assisting a court or public servant; - An arbitrator or any other person to whom any cause or matter has been referred for decision or report by a court of justice or any other competent public authority; - A person who holds any office empowering him to place or keep any person in confinement; - An officer of government whose duty is to prevent offenses, give information of offenses, bring offenders to justice or protect public health, safety or convenience; - An officer in the service of the government or receiving remuneration from the government for the performance of any public duty; - A member of the government; - An officer whose duty is to take, receive, keep or expand property, to make any survey or assessment, or to levy any tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document to ascertain the rights of the people of any village, town or district; or - A person who holds any office empowering him to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election. <p>“Government” means person(s) authorized to administer the executive government in any part of Myanmar (Penal Code sec. 17).</p> <p>“Public Official” includes any public servant, person within the parliament, and person within the government.</p>
	Gratification (Gifts/ Entertainments/ etc)	<p>“Gratification” is defined broadly and not limited to pecuniary gratification or gratification estimable in monetary terms (Penal Code sec. 161).</p> <p>“Legal Remuneration” is not restricted to remuneration which a public servant can lawfully demand; it includes all remuneration which he is permitted by the government to accept (Penal Code sec. 161).</p>
Current Status	Enforcement Body	The law does not create any independent body to be tasked with enforcing anti-corruption laws. The Prohibition of Corruption Act does give the President discretionary powers to appoint “Special Judges” to hear offenses contemplated under Penal Code secs. 161-165. No such judges are currently sitting.
	Issues in Enforcement	Current laws do not delegate enforcement responsibility to any special agency; enforcement falls within the scope of the duty of the local and national police forces.
	Recent Movement	On July 15, 2012, the Myanmar Gazette published a new Anti-Corruption Bill in Burmese which the upper house was then contemplating. The New Light of Myanmar, a state-owned newspaper, reported on September 5, 2012, that an Anti-Bribery Bill had been approved by both houses. Such report would mean that the Bill only required presidential authorization prior to its enactment. It is unclear whether the draft Anti-Corruption Bill, published on July 15, 2012, and the Anti-Bribery Bill, reportedly approved on September 5, 2012, are the same or separate bills.
Participation in	OECD Convention	No

International Anti-corruption Conventions	UNCAC	Signed Dec. 2, 2005
Last Updated		September 13, 2012

Region		Southeast Asia
Country		Philippines
2011 CPI	Rank	129/183
	Score	2.6
The Law on Bribery	Bribery of Domestic Officials	<p>In the Philippines, one primary source of anti-corruption provisions relating to the bribery of domestic officials is the Revised Penal Code (“RPC”), which defines and provides penalties for bribery and corruption of public officials, and which extends to both public officials and private individuals.</p> <p>Another major source of anti-corruption law is the Anti-Graft and Corrupt Practices Act, Republic Act No. 3019 (“RA 3019”), which sets forth a list of specific corrupt practices that also extend to private individuals. Prohibited acts under RA 3019 include: influence peddling, benefitting in connection with a government contract, benefitting from an exercise of authority, obtaining employment from a transacting enterprise, causing undue damages in the exercise of administrative and judicial functions, neglecting to take action in order to obtain private gain, executing a grossly disadvantageous transaction, obtaining an interest in a transacting enterprise, obtaining an interest in a matter before one’s agency for approval, approving unwarranted benefits or permits and breach of confidence.</p> <p>Other anti-corruption laws in the Philippines include:</p> <ul style="list-style-type: none"> - Anti-Plunder Act (“RA 7080”), which defines the crime of “plunder” and sets forth penalties for those public officials who accumulate ill-gotten gains in an aggregate amount of 50 million Philippine pesos; - Code of Conduct and Ethical Standards for Public Officials and Employees (“RA 6713”), which sets forth a code of conduct for public officials that includes a prohibition on soliciting or accepting gifts, gratuities, loans, favors or entertainment in the course of or in connection with their duties; - Act Declaring Forfeiture of Ill-Gotten Wealth of Public Officers and Employees (“RA 1379”), which states that if property is obtained during a public official’s incumbency and is manifestly disproportionate to the official’s salary, other lawful income and lawfully acquired property, then there is a <i>prima facie</i> presumption that such property has been unlawfully acquired. - Act of Punishing Receiving and Giving of Gifts of Public Officers and Employees, (“Presidential Decree No. 46”), which prohibits public officials from receiving gifts and private individuals from offering gifts and hosting parties or entertainment to honor a public official. - Anti-Red Tape Act of 2007 (“RA 9485”), which seeks to improve efficiency in the delivery of government service to the public by reducing bureaucratic red tape, preventing graft and corruption, and prescribing penal sanctions against “fixers,” whether working for the government or not, who facilitate speedy completion of transactions for pecuniary gain or any other advantage or consideration. - Anti-Money Laundering Act of 2001 (“RA 9160, as amended”), which imposes criminal penalties on persons, including government officers, involved in money-laundering activities proscribed as “unlawful activities” under the Act, which involve commission of acts of money-laundering in relation to the other anti-corruption laws. <p><u>Corporate liability</u>: Only natural persons may be prosecuted for criminal violations and be subject to criminal liability. However, where expressly provided by law, a corporation (or any other juridical person) may be subject to fines and even dissolution or revocation of license.</p>
	Bribery of Foreign Officials	The Philippines does not currently have any domestic laws that prohibit the bribery of foreign officials.

	Commercial Bribery	The Philippines does not currently have any domestic laws that prohibit private commercial bribery.
Definitions	Government Employee	<p>The definitions of “public official” vary under the anti-corruption laws.</p> <p>Article 203 of the RPC defines “public official” as “any person who, by direct provision of the law, popular election or appointment by competent authority, shall take part in the performance of public functions in the government of the Philippine Islands, or shall perform in said government or in any of its branches public duties as an employee, agent or subordinate official, of any rank or class.”</p> <p>Section 2(b) of RA 3019 defines “public official,” when used in section 2(a) therein, as elected and appointed officials and employees, permanent or temporary, whether classified or unclassified, who receive compensation, even if the compensation is nominal, from the government.</p> <p>Section 3(b) of RA 6713 defines “public official,” when used in section 3(a) therein, to include elected and appointed officials and employees, permanent or temporary, whether in career or non-career service, including military and police personnel, whether they receive compensation, regardless of the amount.</p> <p>There is no definition in Philippine law for “foreign public official,” except for the definition found in Article 2(b) of the UNCAC.</p>
	Gratification (Gifts/ Entertainments/ etc)	<p>“Gratification” is expansively defined in the relevant anti-corruption laws and includes entertainment, loans, favors and services.</p> <p>The only exception is contained in Section 14 of RA 3019, which expressly states that unsolicited gifts of nominal or insignificant value which are given as an ordinary token of gratitude or friendship in accordance with local custom or usage are exempt from the Act.</p> <p>There is no prescribed pecuniary floor for either the RPC or RA 3019 to apply and courts tend to interpret the definitions under the anti-corruption laws strictly.</p>
Current Status	Enforcement Body	<p>The authorities in charge of anti-corruption efforts are:</p> <ul style="list-style-type: none"> - the Office of the Ombudsman and Office of the Special Prosecutor, which investigate and prosecute cases of corruption; - the Sandiganbayan, a specialized court that handles anti-graft cases, or the Regional Trial Court, depending on the level of the public official involved; -the Philippine National Police, through its Criminal Investigation and Detection Group, and the National Bureau of Investigation, through its Anti-Graft Section, which investigates charges of corruption; and - the Presidential Anti-Graft Commission, which supports the President in regard to the government’s anti-corruption efforts and hears cases relating to Presidential appointees in the executive branch and corporations either owned or controlled by the government. - the Civil Service Commission, an independent constitutional body as the central personnel agency of the Government, is tasked to promote integrity, efficiency and accountability in the government service. It has jurisdiction over administrative cases, including administrative charges for graft and corruption, brought before it on appeal. - the Commission on Audit, another independent constitutional body which has the power, authority and duty to examine, audit and settle all accounts pertaining to revenue, and use and expenditure of public funds and property, with the goal of preventing and disallowing irregular, unnecessary, excessive, extravagant and unconscionable expenditures or uses of government funds and properties.
	Issues in Enforcement	Clogged investigation and court dockets; delay in recovery of ill-gotten wealth; delay in passage of important legislation (such as the Freedom of Information bill, which would give the public broader access to government-held information), as well as a relatively low conviction rate of public officials being prosecuted for graft and corruption-related crimes.

	<p>Recent Movement</p>	<p>In December 2011, former President Gloria Arroyo and other former public officials were charged by the Office of the Ombudsman with violating RA3019 and RA 6713. The charges pertained to a deal between the Philippine Government’s National Broadband Network and a Chinese telecommunication company, Zhing Xing Telecommunications Equipment. The cases are still ongoing and since then additional corruption-related charges have been filed against the accused individuals.</p> <p>In December 2011, the House of Representatives approved a complaint to impeach the incumbent Chief Justice of the Supreme Court, Renato Corona. Among the grounds for impeachment were accusations of graft and corruption, including allegations of favoritism toward former President Arroyo. In May 2012, the Senate voted to convict Renato Corona on one of the charges brought against him in the impeachment action.</p> <p>In July 2012, the Ombudsman filed plunder charges against former President Arroyo and other officials based upon the alleged misuse of 366 million pesos in Philippine Charity Sweepstakes Office funds. The case will be tried by the First Division of the Sandiganbayan.</p> <p>Likewise, in July 2012, corruption charges were filed against various government officials (including former Philippine Amusement and Gaming Corporation Chairman Efraim Genuino and Cebu Governor Gwendolyn Garcia) for alleged corruption.</p>
<p>Participation in International Anti-corruption Conventions</p>	<p>OECD Convention</p>	<p>No</p>
	<p>UNCAC</p>	<p>Signed Dec. 9, 2003; Ratified Nov. 8, 2006.</p>
<p>Last Updated</p>		<p>September 14, 2012</p>

Region		Southeast Asia
Country		Thailand
2011 CPI	Rank	80/183
	Score	3.4
The Law on Bribery	Bribery of Domestic Officials	<p>Anti-corruption offenses are covered in a number of laws in Thailand, including the Thai Penal Code - BE 2499, the Offense of State Organization Staff Act - BE 2502 (State Staff Act), and the Organic Act on Counter Corruption - BE 2542 (Anti-Corruption Act), the Rules of the Office of the Civil Service Commission on the Code of Ethics for Civil Servants B.E. 2537, Code of Moral and Ethics of Policies B.E. 2553 and Notification of the Office of the National Counter Corruption Commission Concerning the Provisions of the Acceptance of Property or Any Other Benefits on Ethical Basis by State Official B.E. 2543. In general, the offeror of the bribe, the facilitator, and the receiver may all be subject to criminal penalties.</p> <p><u>Offering a bribe:</u> It is a crime for one to give, offer or agree to give property or benefits to a public official in order to induce the official to wrongfully discharge, omit to discharge or delay a discharge of his duties (Penal Code sec. 144).</p> <ul style="list-style-type: none"> - punishable with up to 5 years imprisonment and/or a fine of up to 10,000 bahts. - bribing a judge, public prosecutor or other officials tied to a case may result in up to 7 years imprisonment or a fine of up to 14,000 bahts (Penal Code sec. 167). <p><u>Receiving a bribe:</u> It is a crime for a public official to demand, accept or agree to accept a property or benefit that was given or promised in exchange for the official's performance or omission to perform his duty; punishable with 5 to 20 years imprisonment and a fine of 20,000 to 40,000 bahts or the death penalty (Penal Code sec. 149).</p> <p>*Giving bribes is only a crime if the performance or omission of performance sought is in conflict with the official's legal duty. Receiving a bribe is a crime regardless of whether the performance or omission of performance sought is in conflict with the official's legal duty.</p> <p><u>Corporate liability:</u> Companies may be criminally charged for bribery if the bribe was carried out through a company representative who was acting within the scope of his authority and for the benefit of the company. However, only fines can be imposed on the company (although the representative, as an individual, can be prosecuted as a codefendant and sentenced to prison) (Thai Supreme Court Decision No. 787-788/2506).</p>
	Bribery of Foreign Officials	Thailand does not currently criminalize the payment of bribes to officials of foreign governments or international organizations. Thailand's Council of State has proposed amendments to the Penal Code to include bribery of foreign public officials, and the Thai Ministry of Justice has also suggested enacting new laws to address foreign corruption specifically. The current cabinet (formed in mid 2011) has yet to consider these proposals.
	Commercial Bribery	Thailand does not currently criminalize bribery in the private sector. However, when such bribery is related to bid-rigging or other unfair trade practices, it may be prosecuted under other laws (e.g., the Bid-Rigging Act - BE 2542 and the Trade Competition Act - BE 2542).
Definitions	Government Employee	Government employees are defined differently under various anti-corruption laws. "Public official" refers to a person appointed by the Thai government to perform governmental functions, regardless of whether he is paid by the government (Supreme Court Decisions No. 700/2490, 82-86/2506, 1397-1398/2500); an employee of a majority state-owned enterprise may be a "public official" (Penal Code).

		<p>“State staff” includes anyone who works in an organization, company, agency or another entity where more than 50% of its capital is held by the Thai government (State Staff Act).</p> <p>“State Official” refers to a person who holds a political position or performs duties in a state enterprise or agency (Anti-Corruption Act).</p>
	Gratification (Gifts/ Entertainments/ etc)	<p>Under the “3,000 Thai Baht Rule” issued by the National Anti-Corruption Committee (NACC) in 2000, state officials are prohibited from receiving any gift in any form (including travel, entertainment, etc.) that exceeds 3,000 bahts in monetary value, from non-relatives. If the official feels compelled to receive a gift over 3,000 bahts in order to maintain friendship and goodwill, he must report the gift to his superior, who would then decide whether the gift is acceptable or whether it must be surrendered.</p>
Current Status	Enforcement Body	<p>The NACC was established under the 1997 Constitution and the Anti-Corruption Act to prevent and investigate corruption crimes. The NACC has broad powers of investigation but lacks actual authority to prosecute a crime, and must refer the case to the public prosecutor for prosecution (although the 2011 amendment seems to have provided for the eventual establishment of a prosecuting division within the NACC). At the same time, the NACC could send a report to the Senate to determine whether to impeach the offending official.</p>
	Issues in Enforcement	<ol style="list-style-type: none"> 1) Inadequate manpower in the NACC - the original Anti-Corruption Act requires that each investigation subpanel be chaired by an NACC commissioner, but there are only 9 NACC commissioners. 2) Weak whistleblower protection, despite the existence of relevant law (Witness Protection in Criminal Case Act of 2003).
	Recent Movement	<p>There were discussions on amending the Anti-Corruption Act or enacting a new law to cover the bribery of foreign officials, but there are no recent updates.</p> <p>The 2011 amendments to the Anti-Corruption Act (passed in April 2011) included the establishment of Provincial Anti-Corruption Commissions (PACCs), which essentially function as the NACC except at the provincial level. Once the PACCs go into effective in April 2013, there will be 200 local commissioners appointed by the NACC to boost the overall investigatory manpower.</p>
Participation in International Anti-corruption Conventions	OECD Convention	No
	UNCAC	Signed Dec. 9, 2003; Ratified March 1, 2011
Last Updated		August 29, 2012

Region		Southeast Asia
Country		Vietnam
2011 CPI	Rank	112/183
	Score	2.9
The Law on Bribery	Bribery of Domestic Officials	<p>Under the Penal Code and the Anti-Corruption Law of 2005, it is a crime to give, receive or broker bribes.</p> <p><u>Offering a bribe</u>: It is a crime to give a bribe with a monetary value of 2 million Vietnamese dong or more (Penal Code art. 289). Although it is not explicitly mentioned, it is implied (when read together with Penal Code art. 279 and the Anti-Corruption Law art. 1(3)) that the bribe must be given to someone with power or position in a government or public entity.</p> <p><u>Receiving a bribe</u>: It is a crime if (1) the recipient has power or position and takes advantage thereof; (2) received and accepted a bribe of over 2 million Vietnamese dong; (3) performed or omitted a performance based on the bribe (Penal Code art. 279).</p> <p><u>Facilitating a bribe</u>: One who facilitates bribes can be prosecuted under the Penal Code if it is related to a corrupt act.</p> <p>Sanctions are imposed on specific individuals, but not on companies. Individuals may be imprisoned (life or fixed-term), fined up to 5 times the value of the bribe and prohibited from holding certain jobs for a period of time.</p> <p><u>Corporate liability</u>: There is no criminal liability for companies.</p>
	Bribery of Foreign Officials	Vietnam does not have any national laws that criminalize the bribery of foreign officials. While the language of the Anti-Corruption Law is silent on bribery of foreign officials, the common approach is to understand foreign bribery to be out-of-scope. The government is working on anti-corruption reforms that will implement UNCAC plans, but it is unclear whether anti-corruption laws will be extended to apply to foreign officials.
	Commercial Bribery	Vietnam does not have any national laws that criminalize bribery in the private sector. Criminal bribery is associated with a person in a position of power within a government entity.
Definitions	Government Employee	Under the Anti-Corruption Law, “persons with positions and/or power” may include public officials (elected or appointed to office), civil servants (on the government’s payroll), army or police officers, heads and managers of state-owned enterprises. There is also a catch-all provision that includes “persons assigned tasks or official duties who have power while performing such tasks or official duties” (art. 1(3)).
	Gratification (Gifts/ Entertainments/ etc)	<p>Gifts may include money, property and other material interests. Decision No. 64/2007/QĐ-TTg contains Regulations on Giving, Receiving and Returning Gifts Applicable to Bodies, Organizations and Units Funded by the State Budget and Public Officials and Civil Servants and provides guidelines on gifts which officials may accept.</p> <p>Unacceptable gifts are those from organizations or individuals who are under the management or involved in activities under the authority of the official, given without reason, or intended for bribery.</p> <p>Acceptable gifts are those with value of less than 500,000 Vietnamese dong during holidays or under special circumstances.</p>
Current Status	Enforcement Body	There is no independent enforcement body. The specialized enforcement division, the Investigation of Corruption Department, falls under the Ministry of Public Security.
	Issues in Enforcement	<ol style="list-style-type: none"> 1) Criminal penalties only apply to bribes above 2 million dong. 2) Lack of an independent body specialized in fighting corruption; the Investigation of Corruption Department, Vietnam’s special agency that assists the police or directly

		<p>investigates corruption cases, is within the Ministry of Public Security and subject to the influence of high ranking officials.</p> <p>3) The judiciary is not sufficiently independent and may be corrupt itself.</p> <p>4) Lack of whistleblower measures and lack of cooperation from the citizens.</p> <p>5) Approximately half of the Vietnamese companies who participated in an anti-corruption survey reported that they have had to bribe officials in order to do business.</p>
	Recent Movement	None.
Participation in International Anti-corruption Conventions	OECD Convention	No
	UNCAC	Signed Dec. 10, 2003; Ratified June 30, 2009 (with reservations)
Last Updated		July 13, 2012

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