

ANTI-CORRUPTION REGULATION SURVEY OF SELECT COUNTRIES 2015



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Table of Contents

GLOSSARY	iii
Africa	1
Kenya	1
Mozambique	5
South Africa.....	8
Asia Pacific	11
Australia.....	11
China	14
Hong Kong.....	18
Japan	21
South Korea.....	24
Taiwan.....	26
Europe	28
Austria.....	28
Belgium	31
France.....	33
Germany	37
Italy.....	39
The Netherlands	43
Poland.....	45
Russia	47
Spain.....	49
United Kingdom	51
Middle East	54
Saudi Arabia	54
United Arab Emirates.....	56
North America	58
Canada	58
Mexico	61
United States of America.....	65
South America	69
Argentina	69
Brazil	73
Chile	77
Colombia.....	80
Ecuador.....	84
Uruguay	86
Venezuela	89
South Asia	91
India	91
Southeast Asia	94
Indonesia.....	94
Malaysia	96
Myanmar	98
Philippines	101
Singapore	105
Thailand.....	109
Timor-Leste	113
Vietnam.....	116
JONES DAY CONTACTS BY COUNTRY	119

Introduction to 2015 Anti-Corruption Regulation Survey

Welcome to the 2015 edition of the Jones Day Anti-Corruption Regulation Survey of Select Countries. We have added Uruguay to the survey this year in light of its increasing importance to different segments of our client base. This brings to 40 the total number of countries covered by the Survey. We have kept the same uniform format for each country summary as in the 2014 edition. That format is explained below.

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 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 40 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 100 (very clean) to 0 (highly corrupt). In 2015, the CPI ranked 168 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
AUCPCC	African Union Convention on Preventing and Combating Corruption
CPI	Corruption Perceptions Index published by Transparency International ranks countries by perceived levels of corruption as determined by expert assessments and opinion surveys. In 2015, 168 countries were ranked by CPI score. The CPI score ranges from 100 (very clean) to 0 (highly corrupt).
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	OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. 41 countries have acceded as of May 30, 2014. OECD cannot force implementation, but only monitors implementation.
SADCPAC	Southern African Development Community Protocol Against Corruption
UNCAC	United Nations Convention Against Corruption. It covers criminalization of corruption, prevention, cooperation and information exchange and asset recovery. As of December 1, 2015, there are 140 signatories and 178 parties to UNCAC, including the European Union.

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
2015 CPI	Rank	139/168
	Score	25
The Law on Bribery	Bribery of Domestic Officials	<p>Kenya has a series of laws that cover bribery. These include: the Constitution of Kenya, 2010, the Penal Code, the Anti-Corruption and Economic Crimes Act, the Public Officers and Ethics Act, the Elections Act, the Leadership and Integrity Act and international treaties. The principal statute that covers bribery of all kinds is the Anti-Corruption and Economic Crimes Act of 2003 (ACEC).</p> <p>Constitution</p> <p>Chapter 6 of the Constitution deals with leadership and integrity. This Chapter applies mainly to state officers. Article 76 (1) of the Constitution provides that a gift or donation to a State officer on a public or official occasion is a gift or donation to the Republic and shall be delivered to the State unless exempted under an Act of Parliament. Any state officer who contravenes this Article can be removed from office and disqualified from holding any other public office.</p> <p>The Penal Code</p> <p>The Penal Code largely covers persons employed in the public service. It also covers any person who induces, attempts to induce or influences a public officer to fail his duty. Section 102A of the Penal Code provides that a person convicted of an offence is liable on conviction to a fine not exceeding Kenya Shillings one million (K.Shs.1,000,000/=) (approximately USD 9,786.00) or to imprisonment for a term not exceeding ten (10) years or to both.</p> <p>The Public Officer Ethics Act (the POE Act)</p> <p>The POE Act mainly covers public officers. Section 11 of the POE Act prohibits a public officer from using his office to improperly enrich himself or others. It provides that a public officer shall not except as allowed under the POE Act, accept or request gifts or favors from a person. It also provides that a public officer shall not improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for. It further provides that a public officer shall not for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.</p> <p>The Elections Act</p> <p>It applies to all candidates, voters and any person who abets, counsels or procures the commission of or attempts to aid, abet, counsel, or procure the commission of an election offence. A person who commits an offence of bribery or treating is liable on conviction to a fine not exceeding Kenya Shillings one million (K.Shs. 1,000,000/=) (approximately USD 9,786.00) or to imprisonment for a term not exceeding six (6) years or to both.</p> <p>The Leadership and Integrity Act</p> <p>The LIA prohibits a state officer from using the office to unlawfully or wrongfully enrich himself or herself or any other person or accepting a personal loan or benefit which may compromise the state officer in carrying out his/her duties. A state officer may be suspended from office pending the investigation and determination of allegations made against that state officer where such suspension is considered necessary.</p> <p>International Treaties</p> <p>Article 2 of the Constitution of Kenya provides that any treaty or convention ratified by Kenya shall form part of the law of Kenya. Kenya has ratified the United Nations Convention Against Corruption (the "UN Convention") and as such the Convention forms part of the law of Kenya. Other international treaties on bribery and corruption that is applicable in Kenya are the Africa Union Convention on Preventing and Combating Corruption and the International Code of Conduct for Public Officials</p>

		<p>The Anti-Corruption and Economic Crimes Act (the ACEC Act)</p> <p>The ACEC Act covers all persons, including persons in the private and public sector. Section 48 of the ACEC Act provides that a person convicted of an offence under Part V of the ACEC Act shall be liable to a fine not exceeding Kenya Shillings one million (K.Shs.1,000,000/=) (approximately USD 9,786.00) or to imprisonment for a term not exceeding ten (10) years, or to both and an additional mandatory fine if, as a result of the conduct that constituted the offence, the person received a quantifiable benefit or any other person suffered a quantifiable loss. The ACEC Act was amended by the Statute Law Amendment Act which inserted a provision that stated a public officer or state officer who is charged with corruption or economic crime shall be suspended, at half pay, with effect from the date of the charge until the conclusion of the case, provided that the case shall be determined within twenty-four months. <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 Kenya shillings four million (K.Shs 4,000,000/=) (approximately USD 39,144) or ten years imprisonment, or both, and public officers will be disqualified from public office.</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 break the law may be more severe than those imposed on natural persons. For example, under the PPDA, the maximum fine for a corporation is Kenya shillings ten million (K.Shs 10,000,000/-) (approximately USD 97,862) while that for an individual is Kenya shillings four million (approximately USD 39,144).</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>The term “public officer” is defined under the Leadership and Integrity Act, No. 19 of 2012 (LIA) by reference to the meaning assigned to it under Article 260 of the Constitution. Article 260 of the Constitution defines “public officer” as any state officer or any person, other than a state officer, who holds a public office. The term “public office” is defined under the Constitution to mean an office in the national government, a county government or the public service, if the remuneration and benefits of the office are payable directly from the Consolidated Fund or directly out of money provided by Parliament. The term “public officer” is defined under the POE Act to mean “any officer, employee or member, including an unpaid, part-time or temporary officer, employee or member, of any of the following -</p> <ul style="list-style-type: none"> (a) the Government or any department, service or undertaking of the Government; (b) the National Assembly or the Parliamentary Service; (c) a local authority; (d) any corporation, council, board, committee or other body which has power to act under and for the purposes of any written law relating to local government, public health or undertakings of public utility or otherwise to administer funds belonging to or granted by the Government or money raised by rates, taxes or charges in pursuance of any such law; (e) a co-operative society established under the Co-operative Societies Act; (f) a public university; (g) any other body prescribed by regulation for the purposes of this paragraph.”

		<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>
	<p>Gratification (Gifts/ Entertainments/ etc)</p>	<p>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 Kenya shillings twenty thousand (K.Shs 20,000/=) (approximately USD 195); 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.</p> <p>The LIA prohibits a state officer from:</p> <ul style="list-style-type: none"> • Accepting or soliciting gifts, hospitality or other benefits from a person who (i) has an interest that may be achieved by the carrying out or not carrying out of the state officer’s duties; (ii) carries on regulated activities with respect to which the state officer’s organization has a role; or (iii) has a contractual or legal relationship with the state officer’s organization; • Accepting gifts of jewelry or other gifts comprising of precious metal or stones, ivory or any other animal part protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora; or • Accepting any other type of gift specified by the Ethics and Anti-Corruption Commission (EACC). <p>The LIA provides that a state officer may receive a gift given to him in an official capacity provided that the gift: (a) is within the ordinary bounds of propriety, a usual expression of courtesy or protocol and within the ordinary standards of hospitality; (b) is not monetary; and (c) does not exceed such value as may be prescribed by the EACC.</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>The Parliament enacted the Ethics and 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 EACC as the new investigatory body. The KACC, which was under heavy political influence, was not effective in cases involving high-level officials. The EACC has authority to prosecute crimes (although it still forwards most cases to the Director of Public Prosecutions (DPP), independence from politics (the head of the agency is appointed for a six-year non-renewable term) and the authority to engage in out-of-court settlements.</p> <p>Further there are codes of conduct that have also been enacted to prevent bribery by public officers They include: the Public Service Commission Code of Conduct, the Judicial Service Commission Code of Conduct, the National Security Intelligence Service Code of Conduct and Ethics, the Armed Forces Code of Conduct and Ethics, the Electoral Commission Code of Conduct and Ethics for Local Authority Councilors, the Code of Conduct and Ethics for Members of the National Assembly, the Public Service Commissioners’ Code of Conduct and Ethics, the Parliamentary Service Commission Code of Conduct and Ethics, the Controller and Auditor General Code of Conduct and Ethics, the Teachers Service Commissioners Code of Conduct and Ethics, the Teachers Service Commission Code of Conduct and Ethics, the Central Bank of Kenya Code of Conduct and Ethics, the Code of Conduct and Ethics for Public Universities, the Co-operative Societies Code of Conduct and Ethics, the Code of Conduct and Ethics for Members and Staff of the Kenya Anti-Corruption Commission (now the EACC), the Public Procurement and Disposal Act</p>
	<p>Issues in Enforcement</p>	<ul style="list-style-type: none"> • Lack of commitment by senior officials who see no difference between their personal gains and official duties. • Ineffective enforcement of whistleblower protections, despite the existence of the Witness Protection Act. • The perception that the DPP is unwilling to prosecute corruption cases involving high-level government officials because of political pressure and the lack of insulation from such pressure.

	Recent Movement	<ul style="list-style-type: none"> • In March 2015, President Uhuru Kenyatta directed five Cabinet Secretaries and six Principal Secretaries to step aside to allow for investigations into corruption allegations leveled against them. The Ministries affected included, Lands, Agriculture and Transport, Energy and Labor whose Cabinet Secretaries have already been reprimanded by the Ethics and Anti-corruption Commission (EACC). Other Executive offices affected included, Secretary to the Cabinet, Principal secretary for Defence, Deputy President Ruto’s Chief of Staff, CEOs of the Kenya Pipeline Corporation, National Social Security Fund and the Geothermal Development Corporation. • Parliament voted 132-50 for the resignation of EACC Chair Mumo Matemu and his Deputy Irene Keino. The President however spared the commission secretariat which saw the commission chief executive Halakhe Waqo and his Deputy Michael Mubea retain their positions.
Participation in International Anti-corruption Conventions	OECD Convention	No
	UNCAC	Signed Dec. 9, 2003 Ratified Dec. 9, 2003
Last Updated		October 22, 2015

Region		Africa
Country		Mozambique
2015 CPI	Rank	112/168
	Score	31
The Law on Bribery	Bribery of Domestic Officials	<p>The Parliament of Mozambique first adopted legislation on corruption called the Anti-Corruption Act (Law 6/2004, of 17th June) in 2004, supported by its relevant Regulations approved by the Government of Mozambique by Decree 22/2005, of 22nd June) – altogether referred to as “ACA”.</p> <p><u>Offering a bribe</u>: It is a crime to give or promise to public officials, directly or indirectly, money or any material or non-material privilege not due to them in return for actions in violation of their duties and tasks. Violators are subject to imprisonment for 2-8 years and fines. (ACA art. 9, cl. 1). However, the penalties may be reduced if the action was committed to protect the offeror-violator or his family from danger (ACA art. 9, cl. 2).</p> <p><u>Receiving a bribe</u>: It is a crime for public officials, directly or indirectly, to request or receive money or any other assets in return for performing an action in violation of their duties. Violators are subject to imprisonment for 2-8 years and fines. However, if the action at issue is an omission or delay, or if it is not carried out, the penalties may be reduced. (ACA art. 7, cl. 4-5). Moreover, if the offer or promise accepted is voluntarily repudiated by the public official and the amount received, if any, is returned before such action is performed, the penalties will not apply (ACA art. 7, cl. 6).</p> <p>Under Article 11 of the ACA, violators may also be subject to one or more of the following penalties: (1) loss of assets or possessions accrued by illicit actions; (2) full indemnification of damages caused; (3) expulsion from the profession; (4) prohibition from subcontracting to the state or public enterprises and from receiving tax or credit benefits or incentives.</p> <p>The Penal Code also includes penalties for public officials who accept a donation or gift to perform their official task in an unjust way, as well as any persons who offer gifts, presents or promises to public officials in order to obtain a favor. Individuals who engage in the foregoing conduct are subject to incarceration between two and eight years and a fine of up to one year (Penal Code art. 318, 321).</p> <p>The Public Probity Act (Law 16/2012) creates additional offenses for public officials who accept certain gifts or gratuities, abuse their authority or engage in illicit enrichment.</p> <p><u>Corporate liability</u>: Neither the ACA nor the Penal Code imposes criminal liability on legal entities.</p> <p>A new Penal Code was approved in Mozambique, replacing its predecessor which was more than a hundred years old and bringing about a better system for the criminalization of corrupt acts in Mozambique. The new Penal Code dedicates a whole chapter, from Article 501 to 519, stating different kinds of corruption crimes.</p> <p>The crimes established in the new Penal Code for corruption are punished with penalties that vary from fines to sixteen years in prison.</p> <p>The new Penal Code also allows exemptions from criminal proceedings to those who willingly return the amounts received from acts of corruption. Those who present evidence that the acts corruption instigated by public officials as a condition for the performance of the officials’ duties are also exempt from criminal proceedings.</p> <p>Following the approval of the new Penal Code, Mozambique is currently working on a new Code of Criminal Procedure to replace the current code which is almost 100 years old. The parliament as approved by consensus the formal authorization for its Commission for Constitutional and Legal Matter (also known as The First Commission) to start working on the project of the new Code of Criminal Procedure. This project is expected to be made public before the end of 2015.</p>
	Bribery of Foreign Officials	The ACA and Penal Code do not distinguish between foreign and domestic officials.

	Commercial Bribery	Article 2, clause 1 of the ACA penalizes corruption in the private sector only when private companies are outsourced to provide <i>public</i> services. The new penal code confirms this penalization
Definitions	Government Employee	<p>Article 2, clause 2 of the ACA defines “public official” as “any person that exercises or participates in public or similar services” where such person “has been appointed or nominated pursuant to a law, by election or by resolution of the competent entity.” Article 2, clause 3 extends liability to any persons “who promote or contribute towards” a corruption offense even if they are not “public officers or officials.”</p> <p>The Public Probity Act (Law 16/2012, of 14 August) adopted in 2012 establishes the bases and the legal regime concerning public morality and respect for public property by public servants. Its provisions apply to any public servant and to public entities, as well as natural or legal persons entrusted with public powers. Under the Public Probity Act, a “public servant” is broadly defined to include any person officiating by mandate, or occupying a position, job or function in a public entity by virtue of election, appointment, employment or any other form of investiture or link, even if in a transitional function with or without remuneration.</p> <p>Under the new penal code, corruption by public officials/government employees is still more severely punished than corruption by other parties.</p>
	Gratification (Gifts/ Entertainments/ etc)	<p>Neither the ACA nor the Penal Code provides a clear definition of “bribe,” and references to the forms of bribery are limited to “money or other assets” and “material or non-material privileges” (ACA art. 7, cl. 1; art. 9, cl. 1). A non-material privilege includes:</p> <ul style="list-style-type: none"> • favorable treatment of a specific person, company or organization; • benefits, compensation, bribes, loans, adjudication or signing of contracts in violation of the law; • giving information on public tenders against fair competition law; and • fraudulently supplying information on examination tests (ACA art. 9, cl. 3). <p>Under the Public Probity Act, a public servant may not request or accept gifts, donations, favors, tips or benefits of any kind from natural or corporate persons of any nationality in exchange for some form of official action or inaction. Gifts or gratuities may be offered consistent with local protocol on festive dates provided they do not exceed a specified value, except that gifts, regardless of value, may not be accepted from those who have an interest in a decision that the public servant has taken or will take about a particular subject within a specified time period.</p>
Current Status	Enforcement Body	In 2005, the Central Office for Combating Corruption (Gabinete Central de Combate à Corrupção, GCCC) was established within the Attorney General’s Office, replacing the now defunct Anti-Corruption Unit that was established in 2003. The GCCC carries out investigations of corruption-related complaints and operates in Maputo, Beira and Nampula. Although the number of investigations is small compared to that of complaints, the number of cases being handled has increased from 534 in 2009 to 677 in 2011. In 2011, out of the 677 cases that were investigated, 214 resulted in charges and 81 resulted in trial.
	Issues in Enforcement	Political interference is a major problem in the GCCC because its staff is appointed by the Attorney General, who is appointed by the government. Moreover, the GCCC lacks the expertise, resources and political will to fight corruption, especially since it has jurisdiction only to investigate but not prosecute the corruption-related complaints.
	Recent Movement	In addition to the Public Probity Law enacted in 2012, Mozambique adopted a Witness Protection Law protecting witnesses and whistleblowers who report corrupt practices from retaliation. The country approved a new Penal Code which entered into force in July 2015.
Participation in International Anti-corruption Conventions	IACA Agreement	Signed February 2013
	OECD Convention	No
	UNCAC	Signed May 25, 2004 Ratified April 9, 2008

	AUCPCC	Signed Dec. 15, 2003 Ratified Aug. 2, 2006
	SADCPAC	Signed Aug. 14, 2001 Ratified July 9, 2004
Last Updated		October 29, 2015

Region		Africa
Country		South Africa
2015 CPI	Rank	61/168
	Score	44
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 and creates the general offense of corruption.</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 offence 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>In addition to the general offense of corruption (PCCAA art. 3), 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 five years imprisonment and fines <p><u>Corporate liability</u>: A company is a separate legal entity apart from its members, directors and employees and can be prosecuted independently for offenses committed by the company. Corporate liability in South Africa is governed generally by the Companies Act, 71 of 2008 and the Criminal Procedure Act, 51 of 1997. South African law provides that the law treat the acts or states of mind of those who represent or control the company as the acts and states of mind of the company itself. Corporate entities convicted of a corruption offense under the PCCAA may be subject to fines of an unlimited extent. The PCCAA must also be read with Regulation 43 of the Companies Act 71 of 2008, which requires certain companies to appoint a Social and Ethics Committee. The Social and Ethics Committee has certain obligations in respect of corruption, including actively monitoring and taking steps to reduce corruption and ensuring compliance with OECD recommendations regarding corruption.</p> <p><u>Reporting Obligations</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 or suspected. A failure to report may lead to a fine or imprisonment up to up to ten 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.</p>
	Commercial Bribery	<p>Commercial bribery is criminalized by PCCAA, which also contains provisions on the bribery of agents. Those provisions 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</p>

		penalty is subject to the discretion of the court.
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 functions, as well as any official of a public international organization.</p>
	Gratification (Gifts/ Entertainments/ etc)	<p>The PCCAA prohibits any person from accepting or giving “any gratification” in order to act or induce another person to act corruptly. “Gratification” is defined extremely broadly and may be something other than money, such as gifts, entertainment, loans, employment and other types of benefits. There is no minimum threshold stipulating what constitutes gratification.</p> <p>Unlike the U.S. FCPA, the PCCAA does not make any provision for the allowance of facilitation payments.</p>
Current Status	Enforcement Body	<p>South Africa has a number of anti-corruption agencies with overlapping jurisdiction. 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>While the South African Police Service (SAPS) themselves enjoy very little credibility as multiple police chiefs themselves have been convicted of bribery, there are specialized units within the SAPS that were formed to focus on the investigation of more sophisticated offenses. The primary corruption agencies within the SAPS are the Directorate for Priority Crime Investigation (the Hawks) and Commercial Crimes Unit.</p> <p>The Public Protector was established in art. 181 to 183 of the Constitution, 108 of 1996. It is the purview of the Public Protector, as regulated by national legislation, to investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to have resulted in any impropriety or prejudice, to report on that conduct and to take appropriate remedial action. The Public Protector is granted additional powers and functions in terms of the Public Protector Act 23 of 1994.</p> <p>The Public Protector has in recent years been involved in several high profile investigations into various government departments and has been subjected to political interference for carrying out investigations against state departments and senior political officials.</p>
	Issues in Enforcement	<ul style="list-style-type: none"> • Lack of political will to address high profile corruption • Anti-corruption agencies are not sufficiently independent from political interference. • The police and other investigative agencies are themselves plagued by corruption, and lack sufficient capacity and competency to effectively investigate and prosecute complex cases of corruption and white collar crime. • Inadequate whistleblower protection; the Protected Disclosures Act was enacted to protect whistleblowers but is limited to the protection of employees’ occupational detriment and does not provide broad protection for whistleblowers. • Despite being a comprehensive piece of legislation, there have been very few prosecutions under the PCCAA. • South Africa is the only country in Africa that has adopted the OECD convention; however, South Africa has been criticized for failing to implement the provisions of the convention. In March 2014 Transparency International released a report entitled “Phase 3 Report on Implementing the OECD Anti-Bribery Convention in South Africa” which sets out South Africa’s failure to implement the convention and to address bribery of foreign officials in South Africa.
	Recent Movement	<ul style="list-style-type: none"> • The Securities and Exchange Commission (SEC) announced on September 28, 2015 that Tokyo-based Hitachi Ltd. (Hitachi) agreed to pay \$19 million to settle charges that it violated the accounting provisions of the Foreign Corrupt Practices Act (FCPA).

		<p>The SEC alleged that Hitachi’s South African subsidiary inaccurately recorded payments made to an allegedly politically-connected company, Chancellor House, in connection with two government energy sector contracts amounting to \$5.6 billion.</p> <ul style="list-style-type: none"> • This marks the first FCPA settlement for violations that have taken place entirely in South Africa. • The SEC alleged three types of improperly recorded payments by Hitachi: <ol style="list-style-type: none"> 1) Hitachi paid Chancellor House approximately \$1.1 million in 2008 related to two invoices that Chancellor House referred to as “tender support fees”, which were recorded as “consulting fees” in Hitachi’s expense accounts; 2) In June 2012, Hitachi paid Chancellor House approximately \$5 million as “dividends” for its 25% shareholding in the company; and 3) In 2014, Hitachi repurchased the 25% shareholding it had sold to Chancellor House in 2005. Chancellor House had acquired its stake for \$190,819 and sold the shares back to Hitachi for \$4.4 million. • In all, the SEC alleged that payments of approximately \$10.5 million from Hitachi resulted in a return in excess of 5000% for Chancellor House. • In June 2015 former Deputy National Police Commissioner Hamilton Hlela was convicted on charges of corruption relating to the awarding of multimillion-rand contracts. Hlela pleaded guilty and was fined R76 000 and sentenced to 10 years in jail, suspended for five years, by the Specialised Commercial Crimes Court in Pretoria. He admitted to personally benefiting by receiving a total of R76 203.00 (in various forms of gratification) from Midway Two Holdings – a company that was awarded tenders to the value of R4 billion between 2007 and 2008 by the SA Police Service’s bid adjudication committee, which Hlela chaired. • Arrest of senior FIFA officials in May 2015: South Africans have reportedly been implicated in an allegedly corrupt payment forming part of the charges of fraud, money laundering and racketeering being investigated by United States authorities. It remains to be seen whether South African citizens will be charged in connection with the 2010 World Cup that was held in South Africa. • In May 2015 the Durban Regional Magistrate’s Court sentenced former provincial police spokesman Vincent Mdunge to five years in jail for fraud and forgery over fake education qualifications.
<p>Participation in International Anti-corruption Conventions</p>	<p>OECD Convention</p>	<p>Yes</p>
	<p>UNCAC</p>	<p>Signed Dec. 9, 2003 Ratified Nov. 22, 2004</p>
	<p>AUCPCC</p>	<p>Signed March 16, 2004 Ratified Nov. 11, 2005</p>
	<p>SADCPAC</p>	<p>Signed Aug. 14, 2001 Ratified May 15, 2003</p>
<p>Last Updated</p>	<p>November 10, 2015</p>	

Region		Asia Pacific
Country		Australia
2015 CPI	Rank	13/168
	Score	79
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 Schedule 1 to the <i>Criminal Code Act 1995</i> (Cth) (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> <p>In addition, certain state legislation prohibits the bribery of agents and employees, regardless of whether they are in the public or private sector. For example, Part 4A of the <i>Crimes Act 1900</i> (NSW) makes it an offense for an agent 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 or disfavor someone in relation to the affairs or business of the agent’s principal. Similar provisions exist in other states and territories.</p>
	Bribery of Foreign Officials	<p>Bribery of foreign public officials is primarily regulated by the federal Criminal Code. Division 70.2 of the federal Criminal Code 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 of the federal Criminal Code provides that it is a defense if the accused can show that the benefit was minor, was a facilitation payment and was appropriately recorded. Conspiring, aiding and abetting, inciting, or attempting bribery of a foreign official are also criminal offences under the federal Criminal Code.</p> <p>See also: (a) the <i>Proceeds of Crime Act 2002</i> (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 <i>Corporations Act 2001</i> (Cth) which provides for civil, criminal and administrative sanctions for acts ancillary to foreign bribery; (c) the <i>Mutual Assistance in Criminal Matters Act 1987</i> (Cth) and the <i>Extradition Act 1988</i> (Cth) which provide a framework for the investigation of foreign bribery in conjunction with foreign law enforcement agencies; and (d) the <i>Income Tax Assessment Act 1997</i> (Cth) which precludes the tax deductibility of bribes and may form the basis for reassessment and audit of tax liabilities in the event bribes have been wrongfully deducted.</p> <p>Moreover, although not specifically designed to prevent foreign bribery, foreign bribery-related prosecutions may also take place under the following legislation: (a) s180(1) of the <i>Corporations Act 2001</i> (Cth) which imposes statutory duties on directors of Australian corporations in the exercise of their powers; (b) Division 144 of the federal Criminal Code and similar provisions under state/territory law (e.g. s83A of the <i>Crimes Act 1958</i> (Vic)) which make 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 <i>Secret Commissions Act 1905</i> (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>As discussed above, state legislation prohibiting the receiving or giving of undue benefits to agents and employees is also likely to be effective in criminalizing most cases of commercial bribery. Provisions of the <i>Corporations Law 2001</i> (Cth) may also be relevant if a person giving or receiving a bribe is a director of an Australian corporation.</p>

		<p>In addition, employers will typically have remedies against their employees who take secret commissions or other corrupt benefits under general principles of equity, and may have contractual rights under employment contracts.</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 <i>Competition and Consumer Act 2010</i> (Cth), on the basis that the bribery is “misleading or deceptive conduct.”</p>
<p style="text-align: center;">Definitions</p>	<p style="text-align: center;">Government Employee</p>	<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 of state-owned enterprises and public international organizations.</p>
	<p style="text-align: center;">Gratification (Gifts/ Entertainments/ etc)</p>	<p>There is no blanket prohibition on hospitality, gifts or other benefits being provided to foreign government officials, either by type or by value. However, the definition of “benefit” is to be read expansively and includes “any advantage and is not limited to property.” A key question in each instance is whether any benefit provided was “not legitimately due.” Companies must ensure that entertainment, gifts and study tours provided to foreign public officials are not actually or apparently excessive.</p>
<p style="text-align: center;">Current Status</p>	<p style="text-align: center;">Enforcement Body</p>	<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 (AFP). In 2012 and 2013, the AFP was reported to have received substantial additional resources to investigate allegations of foreign bribery, and a number of new cases (arising from both self-reports and complaints) were reported to have been opened. However, it is unclear whether the AFP’s skill base and resourcing are yet adequate to effectively investigate foreign bribery, especially when issues such as organized crime, trade union corruption and transnational terrorism have been prioritized by the Commonwealth.</p> <p>To the extent that Australian corporations are alleged to have engaged in bribery of foreign officials, the Australian Securities and Investments Commission (ASIC, the corporate regulator) may also have jurisdiction to investigate and sanction companies and officers. To date, there has been no significant action by ASIC in the area of foreign bribery.</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.</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 strong coercive powers to investigate bribery and corruption offenses, e.g. the Independent Commission Against Corruption in New South Wales.</p> <p>Prosecutions of federal offenses typically take place in federal courts. Prosecutions of state/territory offenses typically take place in state or territory courts. Australian courts are considered generally professional and free from corruption, if sometimes slow.</p>
	<p style="text-align: center;">Issues in Enforcement</p>	<ul style="list-style-type: none"> • The primary issue in enforcement of the law related to the bribery of foreign officials to date remains the failure to successfully prosecute any person under Australian anti-bribery law. Under these circumstances, corporations do not yet feel that investigation, prosecution and conviction for foreign bribery under Australian law is a significant risk. • Federal prosecutors are arguably inadequately prepared for the complexity of major trials with an international dimension. • AFP officers do not appear to have been provided with the skills and resources to pursue long-running, complex and multijurisdictional investigations. The resources of the AFP are in great demand in relation to higher profile crimes, e.g., terrorism and organized crime.

		<ul style="list-style-type: none"> • The federal government has failed to publish guidelines or pass legislation which incentivize self-reporting, self-investigation, and co-operation with law enforcement. Unlike the US, UK and Germany, deferred prosecution agreements are not possible under Australian law, and Australian agencies have not been able to negotiate formal multijurisdictional settlements with prospective defendants. • Where prosecutions relating to foreign bribery have succeeded, the convictions have not been recorded under the anti-bribery legislation. Instead, they have been recorded under broader legislative provisions which are not specific to bribery, and only after significant delay.
	Recent Movement	<p>Domestic bribery has been the subject of significant media coverage and public concern in the past year. There has been a particular focus on the nexus between property developers and political parties, and between trade unions, organized crime and terrorism. The dramatic revelations of state-based anti-corruption agencies have led to calls for a standing federal anti-corruption commission, although it is not clear whether one will eventuate.</p> <p>In 2014, the OECD published a follow up report on Australia’s phase 3 implementation. Originally highly critical, the OECD noted in its follow up real progress by Australia in enforcing the crime of foreign bribery; and significant improvement in the enforcement infrastructure. The OECD reported that the AFP/DPP are currently investigating 14 active cases.</p> <p>There are currently two corporations that have been charged with the offence of bribing foreign officials and these are currently making their way through the court process. In addition, ASIC is prosecuting former directors of the Australian Wheat Board for their alleged role in bribing Iraqi officials in exchange for sales of wheat. .</p>
Participation in International Anti-corruption Conventions	OECD Convention	Yes
	UNCAC	Signed Dec. 9, 2003 Ratified Dec. 7, 2005
Last Updated		October 20, 2015.

Region		Asia Pacific
Country		China
2015 CPI	Rank	83/168
	Score	37
The Law on Bribery	Bribery of Domestic Officials	<p>Criminal Law of the PRC (“Criminal Law”) imposes criminal penalties for the following conduct:</p> <p><u>Individuals offering a bribe to state functionaries (individuals)</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 to state functionaries (individuals)</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>Individuals/Entities offering bribes to close relatives/affiliates of state functionaries</u>: A criminal penalty shall be imposed on individuals/entities who offer bribes to close relatives/affiliates of state functionaries (or former state functionaries) (Criminal Law art. 390A).</p> <p><u>Individuals/Entities offering bribes to state entities</u>: A criminal penalty shall be imposed on individuals/entities who give property to state organs, state-owned entities and people’s organizations to seek illegitimate gain (Criminal Law art. 391).</p> <p><u>Individuals 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>Individuals 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>Close relatives/Affiliates 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> <p><u>Leniency/Exemption from punishment and self-reporting</u>: When the underlying crimes are relatively minor and the offenders have assisted by exposing the corrupt activities of others, liability maybe mitigated or exempted. Otherwise, offenders who self-report will be entitled to lenient treatment but cannot be completely exempted from liability (Criminal Law art. 390).</p>
	Bribery of Foreign Officials	A criminal penalty shall be imposed on individuals/entities giving property to foreign public officials and officials of public international organizations in order to obtain illegitimate commercial gain (Criminal Law art. 164 para. 2, 3 & 4).
	Commercial Bribery involving Private Individuals	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 bribery of private individuals, including the following:

		<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>Individuals/Entities offering bribes to non-state functionaries</u>: A criminal penalty shall be imposed on individuals/entities 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 administrative fines on business operators (individuals/entities) providing or receiving bribes in sales or purchase of commodities. Any off-the-book rebate or discount constitutes a bribe, even when exchanged between entities. Under the current statutory standard, the AIC can impose sanctions of disgorgement of unlawful monetary gain plus an administrative fine ranging from RMB 10,000 to RMB 200,000. The statute, however, is currently undergoing revision, and the amended statute is expected to raise the ceiling of the penalty to RMB 4,000,000.</p> <p>The Government Procurement Law art. 77(4) imposes civil liabilities on vendors who offer bribes or other illegitimate interests to purchasers or procurement agencies in the context of government procurement.</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Definitions</p>	<p>Government Employee</p>	<p>“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 (Criminal Law art.93).</p>
	<p>Gratification (Gifts/ Entertainments/ etc)</p>	<p>Relevant laws permit offering advertising gifts of modest value consistent with common commercial practice. Under criminal law, 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.</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Current Status</p>	<p>Enforcement Body</p>	<p>The People’s Procuratorate (the “Procuratorate”) is in charge of the investigation and prosecution of all criminal law violations, 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 the anti-bribery provisions in the Anti-Unfair Competition Law and the Government Procurement Law by taking administrative actions and imposing administrative fines.</p> <p>The Central Commission for Discipline Inspection (the “CCDI”) and its local branches are responsible for internal Communist Party discipline and investigation.</p>
	<p>Issues in Enforcement</p>	<p><u>The Procuratorate and the Police</u>:</p> <ul style="list-style-type: none"> • Both departments are only authorized to investigate and/or prosecute bribery crimes that meet certain threshold requirements. For instance, for the crime of individuals/entities offering a bribe to a state functionary (individuals/entities), PRC authorities will only prosecute bribes of more than 10,000 yuan, unless an exception applies. • China’s Supreme People’s Procuratorate (the “SPP”) has established a nationwide database to record and track those who are convicted of the crime of offering a bribe. The general public can access the database via application. According to SPP, from October to April 2015, the database has been consulted 1,188,000 times. The database can be found at http://www.yfw.com.cn/xhfzdacx/. A company with a bribery conviction in the database could potentially be disqualified from participating in certain activities, such as government procurement, government construction, and pharmaceutical and medical device procurement.

		<p><u>The AIC:</u></p> <ul style="list-style-type: none"> • The AIC’s investigative powers are limited compared to those of the Procuratorate and the Police. As a result, in serious cases, the AIC may conduct its investigation in conjunction with the Police and rely on the power of the latter. • The Anti-Unfair Competition Law (the “ACL”) is broadly and vaguely drafted. The AIC’s interpretation of the ACL may vary between local jurisdictions and some local AIC offices adopt aggressive and far-reaching interpretations that characterize some common business practices, which would be legal in other jurisdictions including the U.S., as commercial bribery. This is especially true in the context of business dealings between commercial entities, such as with respect to the provision of free products, rebates and sponsorships to a customer entity. In the event a serious commercial bribery violation may constitute a criminal offence, the AIC should transfer the case to the Procuratorate or the Police to initiate a criminal proceeding. • The government has established a nationwide database to record and track companies who have violated the ACL’s anti-bribery provisions. The address of the online database is http://gsxt.saic.gov.cn/. <p><u>The CCDI:</u></p> <ul style="list-style-type: none"> • The CCDI may investigate Communist Party members suspected of corruption, poor management and misuse of public funds. Additionally, the CCDI may contact private entities as part of its investigation of Party members, especially those entities who may have bribed Party members. Whenever the CCDI believes the misconduct constitutes a crime, it should transfer the case to the Procuratorate or the Police to initiate a criminal proceeding. <p><u>Consequences of Foreign Bribery Prosecutions</u></p> <p>There are limited instances in which PRC authorities appear to have followed up on foreign bribery convictions by imposing penalties against PRC officials who accepted bribes. There are also indications that AIC officials have approached multinational companies who have settled U.S. FCPA prosecutions involving misconduct in China, and have used those settlements as evidence of wrongdoing.</p> <p>Moreover, Chinese public opinion strongly supports pursuing multinational companies in China after they have resolved FCPA charges with the U.S. SEC or the DOJ. Media reports often reveal a nationalist sentiment, arguing that a multinational company who has paid bribes resulting in harm to the Chinese people should not be allowed to walk away for free after paying huge fines to the U.S.</p>
	<p>Recent Movement</p>	<p><u>The Central Government’s Anti-Corruption Campaign:</u> After taking power at the end of 2012, President Xi Jinping has advocated a highly-publicized, zero-tolerance corruption campaign against corrupt Party members. In March 2015, Xi reiterated the need for increased anti-corruption efforts during a plenary session of the Central Committee.</p> <p><u>New laws and regulations:</u> In the past year, China has promulgated several laws and regulations against corruption. One such law was the Ninth Amendment to the PRC Criminal Law, which will become effective on 1 November 2015. Relevant amendments include:</p> <ul style="list-style-type: none"> • Increased punishments for both the bribe recipient and provider, including adding a life sentence without parole for corrupt officials, and monetary penalties in addition to imprisonment for corruption-related crimes; • Replaced the minimum monetary threshold required for different levels of punishment with three flexible categories based on the amount of the bribe (“relatively large”, “huge” or “especially huge”), and other factors influencing the “seriousness” of the offense. The Amendment does not provide definitions of “relatively large”, “huge” and “especially huge”; however, many scholars believe that the SPP and the People’s Supreme Court will release judicial interpretations on these terms. In any event, the Amendment provides officials with increased discretion in making sentencing determinations; and • Added the crime of providing bribes to the close relatives/affiliates of a current or former state functionary.

		<p>Additionally, the government has issued regulations aiming to combat corruption in key sectors that are more susceptible to bribery. For example, on 25 December 2014, the National Health and Family Planning Commission (NHFPC) issued the Provisions on the Establishment of Adverse Records of Commercial Bribery in the Medicine Procurement and Sales Sector (the “Provisions”). According to the Provisions, a company convicted of or penalized for bribery will be included in a commercial bribery database. The medical institutions in the province in which the bribery occurred are prohibited from purchasing medicine, medical equipment and medical supplies from the company or its agents for a two year period following the company’s inclusion in the database, and all medical institutions are prohibited from the above if the company has been included in the database twice within a five year period.</p> <p><u>New Anti-Corruption Bureau</u>: In 2015, the SPP announced that it will set up a new anti-corruption bureau as a move towards the “rule of law”. The new bureau will be at the deputy ministry level, one level higher than the current bureau, in order to minimize interference from other government departments.</p> <p><u>Case Developments</u>:</p> <ul style="list-style-type: none"> • According to the official data of the CCDI, over 30,430 officials have been disciplined for corruption during the first half of 2015, with an increasing focus on county-level officials or above. • In July 2014, Zhou Yongkang, a former member of China’s Politburo Standing Committee (the “PBSC”), was officially placed under investigation for corruption. Zhou, who served as the head of China’s internal security apparatus, is the first former or standing PBSC member to be prosecuted for corruption. In June 2015, Zhou was found guilty of bribery, abuse of power and "intentionally disclosing national secrets," and received a life sentence. • PRC authorities continue to increase enforcement of anti-corruption and competition laws against multinational companies. Following the recent criminal prosecution and conviction of GlaxoSmithKline, there has been a noticeable uptick in AIC enforcement action against multinationals, especially in particular industries. Also, although not bribery-related, PRC authorities have recently imposed sanctions totaling over US\$1 billion against multinationals for anti-competitive behavior in a series of industry sweeps.
<p>Participation in International Anti-corruption Conventions</p>	<p>OECD Convention</p>	<p>No (observer status)</p>
	<p>UNCAC</p>	<p>Signed Dec. 10, 2003 Ratified Oct. 27, 2005</p>
	<p>APEC Anti-corruption Declaration</p>	<p>Signed Nov. 8, 2014</p>
<p>Last Updated</p>	<p>October 10, 2015</p>	

Region		Asia Pacific
Country		Hong Kong
2015 CPI	Rank	18/168
	Score	75
The Law on Bribery	Bribery of Domestic Officials	<p>The primary anti-corruption legislation in Hong Kong is the Prevention of Bribery Ordinance (Cap. 201) (“POBO”) which sets out a number of bribery related offences with respect to public officials and certain persons (defined in the POBO as “agents”) in the private sector. It is supplemented by legislation dealing with election, crime, proceeds of crime and money laundering including the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), the Crimes Ordinance (Cap. 200), the Organized and Serious Crimes Ordinance (Cap. 455), the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap. 615).</p> <p><u>Offering a bribe:</u> It is an offence for any person in Hong Kong or elsewhere to, without lawful authority or reasonable excuse, offer any advantage to the Chief Executive of Hong Kong or any public servant as an inducement to or reward for the performance or abstaining from performance of any act in his capacity as the Chief Executive or public servant (s 4 POBO).</p> <p><u>Soliciting or accepting a bribe:</u> Any prescribed officer who solicits or accepts any advantage without the general or special permission of the Chief Executive of Hong Kong commits an offence (s 3 POBO).</p> <p>It is an offence for the Chief Executive of Hong Kong or any public servant in Hong Kong or elsewhere to, without lawful authority or reasonable excuse, solicit or accept any advantage as an inducement to or reward for the performance or abstaining from performance of any act in his capacity as the Chief Executive or public servant (s 4 POBO).</p> <p>In addition to the above, there are a number of other offences including offering to, or, solicitation or acceptance by, public servants in connection with contracts, tenders and auctions with public bodies, and by persons having dealings with public bodies (ss 5-8 POBO).</p> <p><u>Extra-territorial application of POBO:</u> The offences in relation to the bribery of the Chief Executive and public servants under s 4 of the POBO outlined above are expressed to apply whether the advantage is offered, solicited or accepted in or outside of Hong Kong. There is no express provision for extra-territorial jurisdiction in relation to the other offences, but the Court of Final Appeal in Hong Kong has held that bribes offered in Hong Kong to a foreign public official for acts or forbearance outside Hong Kong are liable to be prosecuted under Hong Kong law and the ICAC will have jurisdiction to investigate. Commentators have concluded that, as a result of this decision, the POBO has an extraterritorial “flavour” and that transactions between “principals” and “agents” (in effect, any commercial transaction) outside Hong Kong may be subject to scrutiny under Hong Kong law if the circumstances result in advantages being offered in Hong Kong.</p> <p><u>Penalties:</u> Penalties for the above offences generally range from HK\$500,000 to HK\$1,000,000 and imprisonment for 7 – 10 years for conviction on indictment, and from HK\$100,000 to HK\$500,000 and imprisonment for 3 years for summary conviction. Penalties for offences under s 3 POPB consist of a fine of HK\$100,000 and imprisonment for 1 year. The court may also order additional fines to be paid.</p>
	Bribery of Foreign Officials	<p>The POBO does not specifically stipulate an offence in relation to the bribery of foreign officials. However, as noted above, the Court of Final Appeal has indicated that the provisions prohibiting bribery of an agent (i.e. the commercial bribery provisions outlined below) may apply in situations where an advantage is offered in Hong Kong to a foreign official and the act or forbearance concerned is in relation to that foreign official’s duties outside of Hong Kong.</p>
	Commercial Bribery	<p>Bribery in the private sector is also prohibited by the POBO. It is an offence for any “agent” who, without lawful authorization or reasonable excuse, solicits or accepts any advantage</p>

		<p>as an inducement to or reward for him to do or forebear from doing any act in relation to his “principal’s” business or affairs. Likewise, it is an offence to offer such advantages to an agent (s 9 POBO).</p> <p>Further, any agent who, with intent to deceive his principal, uses any document in which his principal is interested and which he knows to be materially defective, and intends on misleading, commits an offence (s 9 POBO).</p>
Definitions	Government Employee	<p>Agents” include public servants and persons employed by or acting for another person.</p> <p>“Prescribed officers” are persons who hold an office of emolument under the Government of Hong Kong or are appointed to certain offices specifically set out in the POBO.</p> <p>“Principal” includes:</p> <ul style="list-style-type: none"> (a) an employer; (b) a beneficiary under a trust; (c) a trust estate as though it were a person; (d) any person beneficially interested in the estate of a deceased person; (e) the estate of a deceased person as though it were a person; and (f) in the case of an employee of a public body, the public body. <p>“Public bodies” include Government bodies and certain entities that are deemed to be public bodies.</p> <p>“Public servants” are defined to include prescribed officers and employees of public bodies.</p>
	Gratification (Gifts/ Entertainments/ etc)	<p>"Advantage" is defined in the POBO to include money, gifts, loans, commissions, offices, contracts, services, favours and discharge of liability, but does not include entertainment. "Entertainment" means the provision of food or drink, for consumption on the occasion when it is provided, and includes any other entertainment connected with or provided at the same time as such provision.</p> <p>Generally, seasonal or customary gifts are considered “advantages” regardless of the value of such gifts.</p>
Current Status	Enforcement Body	<p>Anti-corruption laws are primarily enforced by the Independent Commission Against Corruption (“ICAC”) in accordance with powers vested upon it pursuant to the Independent Commission Against Corruption Ordinance (Cap. 204) and the POBO.</p>
	Issues in Enforcement	<p>The POBO does not expressly deal with the liability of companies for the acts of subsidiaries, employees and third parties. In practice, prosecution for bribery is generally against individuals.</p> <p>The terms “lawful authority” and “reasonable excuse” which are referred to in the bribery offences outlined above are not defined in the POBO. They are construed based on the specific facts of each case and the burden of proof lies on the defendant.</p>
	Recent Movement	<p>Since its inception in 1974, the ICAC has been widely credited with low levels of corruption in Hong Kong. ICAC is generally held in high regard for its investigatory skills, efficiency and impartiality. On October 5, 2015, after 3 years of investigation, the ICAC charged the former Chief Executive of Hong Kong, Donald Tsang Yam-kuen, with two counts of misconduct in public office. The first count is for failing to declare or disclose, or purposely concealing, during Executive Council meetings, that he has or had dealings with a major shareholder of a company in which various license applications by that company were being discussed and approved at the Executive Council meetings. The second count is for failing to declare or disclose, or purposely concealing, his interest in the lease of a flat and the engagement of an architect for the interior design work of that flat, when he proposed the same architect be referred for consideration for nomination under the Hong Kong honors and awards system.</p>
Participation in	OECD Convention	No

International Anti-corruption Conventions	UNCAC	Signed: December 10, 2003 Ratified: January 13, 2006 (Hong Kong is a participant by virtue of China's participation in UNCAC)
Last Updated		October 10, 2015

Last Updated		October 16, 2015
Region		Asia Pacific
Country		Japan
2015 CPI	Rank	18/168
	Score	75
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 three 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 one 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 who accepts, solicits or promises to accept a bribe in connection with his duties shall be subject to up to five years imprisonment with work; a public officer who agrees to perform an act in response to a request shall be subject to up to seven years imprisonment with work; and a public officer who agrees to perform an act in response to a request shall be subject to up to seven 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 by an entity where a half or more than a half of the amount of capital subscription is owned by the national or a local government), or in relation to administrative sanctions against a certain individual, accepts “property benefits” as consideration for exercising one’s influence over a public officer to commit or omit the public officer’s duty, with agreement to act in response to a request, shall be subject to up to three years imprisonment with work (APPOPEI art. 1; a sentence of up to two years imprisonment with work can also be imposed on the secretary of the member of the House of Representatives/Councilors who violates this provision (APPOPEI art. 2)).
	Bribery of Foreign Officials	<p>Legislation in the form of amendments to the Unfair Competition Prevention Law (“UCPL”, Act No. 47 of May 19, 1993), which became effective as of February 15, 1999, 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 to influence another foreign official 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 five years imprisonment with work and/or a fine of not more than 5 million yen (UCPL art. 18, para. 1 and art. 21, para. 2).</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 the 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, paras. 1 and 2).</p>

	Commercial Bribery	Japan does not have any special law prohibiting bribery in the private sector.
Definitions	Government Employee	<p>A 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 an agency affiliated with a foreign national government; (3) services for a public enterprise which is given special privileges by a foreign national government, etc.; (4) public services for an international organization; and (5) affairs authorized by national or local foreign governments or an international organization and delegated by them (UCPL art. 18, para. 2).</p>
	Gratification (Gifts/ Entertainments/ etc)	<p>Under the Penal Code, “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.</p> <p>Although there is no clear standard provided in the precedents, gifts that are consistent with customary courtesy may be allowed in certain situations in light of the relationship between the public officer and the giver, positions of the public officer and the giver, and the value of the gift, time, manner, etc. In addition, there is no mention of small facilitation payments in Japanese anti-corruption laws, and no action is exempt from punishment on the grounds that it is a small facilitation payment.</p> <p>Public officials are required to observe ethical codes (Cabinet Order No. 101 of March 28, 2000), which are provided under the National Public Service Ethics Act (Act No. 129 of November 8, 1999). Pursuant to the ethical codes, public officials are prohibited from doing certain activities including: (i) receiving money, goods or real estate as gifts from stakeholders; (ii) borrowing money from stakeholders; (iii) borrowing goods or real estate for free from stakeholders or at a cost to stakeholders; (iv) receiving services for free from stakeholders or at a cost to stakeholders; (v) receiving private equities from stakeholders; (vi) being entertained by stakeholders; (vii) playing golf with stakeholders; (viii) travelling with stakeholders (except for the purpose of public service); and (ix) causing stakeholders to do any of the aforementioned acts. In addition, public officials are prohibited from being entertained or receiving property from non-stakeholders if it is not deemed reasonable by social standards.</p>
Current Status	Enforcement Body	The Public Prosecutor’s Office and the National Police Agency.
	Issues in Enforcement	<p>From 1999, when the offense of bribery of foreign public officials entered into force, through 2014, there were only three cases in which Japan obtained convictions for bribery of foreign public officials. The OECD Working Group on Bribery recommended in December 2013 that Japan establish an Action Plan to organize police and prosecution resources to be able to proactively detect, investigate and prosecute cases of foreign bribery by Japanese companies. Japan’s Action Plan, which became operational in April 2014, creates newly specialized resources for detecting and investigating cases of foreign bribery in the three largest district prosecutors’ offices and each prefectural police office. Although the Action Plan lacks important details, it marks the first time that prosecutors and police in Japan have been assigned responsibility for specific crimes. The Working Group expected the Action Plan to be much more fully developed by December 2014, but this has not come to pass as of yet. According to news reports, in October 2013, an officer of an automobile muffler manufacturer received a summary order and paid a fine of 500,000 yen for giving a bribe to local Chinese government officials in return for overlooking the illegal operations of factories located in China. And in July and August of 2014, a railway consultancy company and its officers were prosecuted for giving bribes to public officials in Vietnam, Indonesia and Uzbekistan in return for receiving favorable treatment.</p>
	Recent Movement	<p>On July 30, 2015, the Ministry of Economy, Trade and Industry revised the Guidelines to Prevent Bribery of Foreign Public Officials (the “Guidelines”). The Guidelines aim to clarify what constitutes bribery of foreign public officials under the UCPL and describe an advisable internal control system to prevent such bribery.</p> <p>The revised Guidelines clarify the legal interpretations of the elements of bribery of foreign public officials (“for the purpose of obtaining or retaining improper business advantages”</p>

		<p>(UCPL art. 18, para. 1)) in order to prevent foreign bribery masked by a social occasion, as well as to avoid excessively shrinking business activities. The revised Guidelines, for example, clarify that demands for bribes from foreign public officials must, in principle, be rejected as such payments would be subject to criminal penalties, even in order to avoid being treated unreasonably and discriminately by the foreign public officials when passing through customs. On the other hand, the revised Guidelines also clarify that the payment may not be subject to criminal penalty if demands for bribes have continued despite the company’s refusal, and the payment has been made reluctantly to avoid damaging the company. As to social activities, the revised Guidelines illustrate examples of activities that would likely be subject to criminal penalty (e.g., providing cashable coupons) and those that may not be subject to such a penalty (e.g., providing reasonable dining or sightseeing incidental to an inspection).</p> <p>Moreover, the revised Guidelines clearly state that a company conducting international business transactions should organize and operate a system for the prevention of bribery of foreign public officials as a part of its internal control system. The revised Guidelines recommend that in organizing and operating such a system, the company should take a “risk-based approach” and consider the risks associated with the target countries, business fields, and types of activities, and list examples of high risk countries, business fields and activities. The revised Guidelines emphasize the importance of promoting, organizing and operating such a system within subsidiaries and other affiliates (including overseas subsidiaries), the importance of monitoring its status, and the necessity of support from the parent company.</p>
<p>Participation in International Anti-corruption Conventions</p>	<p>OECD Convention</p>	<p>Yes</p>
	<p>UNCAC</p>	<p>Signed Dec. 9, 2003 Not ratified</p>
<p>Last Updated</p>		<p>October 16, 2015</p>

Region		Asia Pacific
Country		South Korea
2015 CPI	Rank	37/168
	Score	56
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 Anti-Corruption and the Establishment and Operation of the Anti-Corruption and Civil Rights Commission (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). Violations are punishable by up to five 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, demand or promise to accept a bribe in connection with his duties (Criminal Code art. 129). Violations are punishable by up to life imprisonment (the sentence varies according to the amount of the bribery; if less than 30 million won, then up to five years imprisonment) and a fine which is not less than two times but not more than five times the amount of the bribery (Specific Crimes Act art. 2).</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). Violations are punishable by at least one year imprisonment and/or disqualification for up to ten years.</p>
	Bribery of Foreign Officials	<p>The bribery of foreign public officials is prohibited by the Act on Preventing Bribery of Foreign Public Officials in International Business Transactions (Foreign Bribery Prevention Act; FBPA), which entered into effect in 1999. Under the FBPA, it is an offense to give, offer or promise a bribe (any improper advantage) to a foreign public official in connection with the performance of the foreign public official's duties (FBPA art. 3.1). However, the FBPA makes an exception when such gifts are allowed under the local law governing the foreign public official (FBPA art. 3.2). Individuals may be subject to up to five years imprisonment and/or a fine up to 20 million won (if the pecuniary advantage obtained by such offense exceeds 10 million won, then the fine is up to the amount equivalent to double the pecuniary advantage).</p> <p><u>Corporate liability</u>: Corporations may be held liable for acts of bribery carried out by a representative, an agent, an employee, or a servant, in the course of performing their business, but may be exempt from punishment if they have not neglected to take reasonable care or supervision to prevent violations. Legal entities may be fined up to 1 billion won (if the pecuniary advantage obtained by such offense exceeds 500 million won, then the fine is up to the amount equivalent to double the pecuniary advantage), and other penalties may be imposed on the actual individual offender (FBPA art. 4).</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 illegal solicitation concerning his duty, both persons may be punished by imprisonment or by a fine (Criminal Code art. 357).</p>
Definitions	Government Employee	<p>Domestic public officials include employees of state and local governments as well as 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 46 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 for Public Officials issued by the president and amended in 2010 provides a number of exceptions which allow government officials to receive certain gifts under certain circumstances, such as meals “provided within the scope of conventional practices.”</p>
Current Status	Enforcement Body	<p>The Anti-Corruption and Civil Rights Commission (ACRC), which is the major anti-corruption agency, 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. 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>
	Issues in Enforcement	<ul style="list-style-type: none"> • Weak witness and whistleblower protection laws (the effect of the new whistleblower protection law has yet to be seen). • Low-level sanctions, especially for foreign bribery. • General leniency of judiciary toward white-collar crimes.
	Recent Movement	<p>On 27 March 2015, the Anti-Corruption and Conflicts of Interest Act, also known as the “Kim Youngran Law,” (the “Graft Act”), was enacted to reinforce the existing anti-bribery regime. This comes into force on 28 September 2016 and will drastically change the regulatory landscape with respect to public sector bribery.</p> <p>The Graft Act makes several fundamental amendments to the existing anti-bribery regime. First, it broadens the definition of “public officials” to include school teachers and employees of media and press organizations. Second, it allows criminal prosecution based on the amount of economic benefits conferred, without requiring proof of additional elements required under the former bribery provisions.</p> <p>Accordingly, the Graft Act criminalizes the taking, demanding or promising to receive something with a value exceeding (i) KRW1 million per occasion or (ii) KRW3 million per fiscal year (“Threshold Value”) by a public official or his/her spouse, regardless of whether the benefit was given in relation to the public official’s official duties. Under the Graft Act, the bribe-giver as well as the public official may be subject to a fine up to KRW30 million or imprisonment of up to three years.</p> <p>Further, the Graft Act prohibits the mere act of improperly soliciting a public official (i.e., a request that they act beyond or in violation of their authority) without provision of anything of value, and consequently (i) a person who improperly solicits a public official may face a fine up to KRW20 million and (ii) the public official may be subject to a fine up to KRW20 million or imprisonment of up to two years.</p> <p>Finally, the Graft Act punishes a corporate entity for violations of the Graft Act by its employees with fines up to the same amount to which an individual is subject. However, a corporate entity may be exempted from such punishment if it had undertaken reasonable care and supervision in order to prevent the commission of an offence.</p>
Participation in International Anti-corruption Conventions	OECD Convention	Yes
	UNCAC	Signed December 10, 2003 Ratified March 27, 2008
Last Updated		December 31, 2015

Region		Asia Pacific
Country		Taiwan
2015 CPI	Rank	30/168
	Score	62
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 individuals are 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” is subject to criminal liability.
Definitions	Government Employee	<p>“Public official” is given the following meaning in the Criminal Code:</p> <ul style="list-style-type: none"> • 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). • 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.
	Issues in Enforcement	Two recent high-profile cases: On March 20 2015, Yeh Shih-wen, former Taoyuan County Deputy Magistrate and former Director General of Construction and Planning Agency, Ministry of the Interior, was sentenced to 19 years by the Taipei District Court for his receipt of a bribe in a total of NTD 20 million and Farglory Land Development Co., Ltd.

		chairman Chao Teng-hsiung was sentenced to four-and-a-half years on corruption charges involving two government-sponsored low-cost housing projects. On August 31 2015, former Nantou County Magistrate Li Chao-ching was sentenced to 30 years by the Nantou District Court for taking kickbacks and receiving bribes from contractors with an accumulated amount exceeding NTD 19 million.
	Recent Movement	In order to adopt the United Nations Convention against Corruption (UNCAC) domestically, the Enforcement Act of UNCAC was passed by Legislative Yuan on May 5 2015 and became effective from May 20, 2015. Subsequently, the UNCAC ratification procedure was completed by the President issuing an instrument of ratification. However, according to Taiwan laws, the UNCAC has not become effective because the deposit procedures for the instrument of ratification have not been completed.
Participation in International Anti-corruption Conventions	OECD Convention	No
	UNCAC	No
Last Updated		October 13, 2015

Region		Europe
Country		Austria
2015 CPI	Rank	16/168
	Score	76
The Law on Bribery	Bribery of Domestic Officials	<p>In January 2013, the Austrian Criminal Code Amendment Act (also known as Anti-Corruption Law 2012) entered into force. Under the Austrian Criminal Code (StGB) the relevant regulations with regard to corruption can be divided into 2 groups:</p> <ul style="list-style-type: none"> • <u>Abuse of public power</u> (section 302 StGB) (“<i>Amtsmissbrauch</i>”): This provision generally covers the (knowing) abuse of public power by officials of executive bodies (“<i>Beamte</i>”). The goal of this (non-specific corruption) provision is to guarantee the objective and impartial execution of Austrian law and violations can therefore only be committed by Austrian officials of executive bodies. • <u>Special provisions against corruption</u>: The criminal charge for the following provisions may depend on whether the performance/non-performance of the official’s task is in accordance with or in conflict with his duties or if the bribe was just given with the intent to influence the public official’s (potential) future activities. <p><u>Requesting or Accepting a Bribe:</u></p> <p>§ 304 <u>Public Sector Bribery</u> (“<i>Bestechlichkeit</i>”): Requesting or accepting a personal benefit or a benefit for a third person as a condition for the improper performance or omission of a public function by a public official (for the definition of public official see below). It is not required that the public official actually executes the intended improper performance or omission of a public function.</p> <ul style="list-style-type: none"> • Individuals: Violations are punishable by imprisonment for terms varying with the amount of advantage obtained, e.g., if the advantage is more than EUR 50.000, up to ten years imprisonment (same criminal sanctions for § 307). <p>§ 305 <u>Acceptance of Benefits</u> (“<i>Vorteilsannahme</i>”): Requesting or accepting a personal benefit for a third person as a condition for the proper performance or omission of a business activity:</p> <ul style="list-style-type: none"> • Individuals: Violations are punishable by imprisonment for terms varying with the amount of advantage obtained, e.g., if the advantage is more than EUR 50.000, up to five years imprisonment (same criminal sanctions for § 307a). <p>§ 306 <u>Acceptance of Benefits with the Intention of being Influenced</u> (“<i>Vorteilsannahme zur Beeinflussung</i>”): Requesting or accepting a personal benefit or a benefit for a third person as a condition for exerting influence on a business activity.</p> <ul style="list-style-type: none"> • Individuals: Violations are punishable by imprisonment for terms varying with the amount of advantage obtained, e.g., if the advantage is more than EUR 50.000, up to five years imprisonment (same criminal sanctions for § 307b) <p><u>Offering or Promising a Bribe:</u></p> <p>§ 307 <u>Public Sector Bribery</u> (“<i>Bestechung</i>”): Offering or promising to a public official or a third person a financial or other benefit with the intention to induce the public official to improper performance of a public function.</p> <p>§ 307a <u>Granting of Benefits</u> (“<i>Vorteilszuwendung</i>”): Offering, promising or giving to a public officer or a third person an undue benefit in favor of such public official to properly perform or omit the Performance of a public function.</p> <p>§ 307b <u>Granting of Benefits with the Intent to Influence</u> (“<i>Vorteilszuwendung zur Beeinflussung</i>”): Intentional offering, promising or giving an undue benefit to a public official or a third person under the condition of influencing the public activity of the public official. Since 2013 it constitutes a punishable offense to provide a benefit or an undue advantage to a public official (or arbitrator) with the intention of influencing a future activity of the public official, regardless of whether this relates to an already specified official act.</p>

	Bribery of Foreign Officials	<p>The bribery of foreign officials is prohibited under the same provisions of the Austrian Criminal Code that criminalize the bribery of domestic officials. In addition, the granting of improper benefits and the granting of undue advantages for the purpose of influencing non-Austrian public officials abroad by Austrians constitutes a punishable offense in Austria, regardless of whether the act is an offense under the law of the foreign State in question. If bribery under the provisions of §§ 302-209 was committed abroad and the offender was an Austrian citizen when committing the crime or the bribery was committed for the benefit of an Austrian public official, this act constitutes a crime under Austrian Law regardless of whether this constitutes an offense under the law of the Foreign State where the offence was committed. (s § 64 (1) (2a) StGB).</p> <p>However, with regard to § 302 StGB, only Austrian officials of executive bodies can commit an abuse of power.</p>
	Commercial Bribery	<p>As of January 2013, the provisions with regard to commercial bribery were revised to increase the criminal sanctions (raised to up to five years imprisonment). The former §§ 168d (offering a bribe) and 168c (receiving a bribe) were also revised; both forms of corruption with regard to commercial bribery are now covered by § 309:</p> <p><u>Offering a bribe (§ 309 para 1 StGB) and receiving a bribe (§ 309 para 2 StGB):</u> The Austrian Criminal Code prohibits both giving and receiving 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. However, if the benefits are conferred in return for the proper performance of one’s duties, it is not considered to be bribery. In contrast, conferring benefits on public officials constitutes bribery even if the benefits were conferred for the proper performance of official duties.</p> <ul style="list-style-type: none"> • Individuals: Violations are punishable by terms of imprisonment that vary with the amount of advantage, e.g., if the advantage exceeds EUR 50.000, up to five years imprisonment. • Corporate entity: Violations are punishable by fines of 15% to 20% of annual revenue. <p>Since 2013, action against commercial bribery can be taken by the Public Prosecutor's Office for Economic Crime and Corruption (WKSTA) as well as the police. As a result, the offense will no longer be subject to private criminal action where the plaintiff had to prosecute the crime and provide evidence for it.</p>
Definitions	Government Employee	<p>As of January 2013, the definition of “public officials” under the Criminal Code includes (§ 74 para. 1 4(a)):</p> <ul style="list-style-type: none"> • member of an Austrian public representative body (as long as he/she votes or exercises his/her duties). • anyone performing legislative, administrative, judicial or any other official government functions for Austria, a foreign state or an international organization. • employee of an entity that is controlled by the General Accounting Office (“<i>Rechnungshof</i>”) or other similar bodies in Austria, which mainly provide services to the institutions mentioned above under 2). • any organ of a company and any person working on the basis of an employment contract for such company: (i) in which one or more Austrian or foreign regional administrative authorities directly or indirectly hold(s) at least 50% of the nominal, share or equity capital; (ii) which is actually controlled by Austrian or foreign regional administrative authorities; or (iii) the activities of which are subject to inspection by the Austrian Court of Audit or provincial institutions similar to the Court of Audit or a similar international or foreign monitoring institution. <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. Since 2013, advantages that are not considered as bribes are defined as follows (§ 305 para 4):</p>

		(i) a benefit that is legally allowed or given at an event at which the public official's attendance is officially or objectively justified; (ii) a benefit for charitable purposes, for the use of which no determining influence is exercised upon the public official; or (iii) local or regionally customary small benefits of minor value, unless such benefits are granted on a professional basis.
Current Status	Enforcement Body	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. 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.
	Issues in Enforcement	<ul style="list-style-type: none"> • Partial immunity for certain public officials as defined in the Criminal Code. • Rampant corruption in lobbying activities. (but see Lobby and Interest Representation Transparency Act below) • High number of unreported cases of bribery. However, the provisions with regard to leniency notice ("<i>Kronzeugenregelung</i>"; § 209a StPO = Code of Criminal Procedure), which provide impunity for the offender if he/she discloses information that is decisive to detect and investigate unknown corruption cases, are increasingly encouraging offenders to cooperate with the enforcement authorities.
	Recent Movement	<p>As of January 1, 2013, the new Lobby and Interest Representation Transparency Act (Lobbying und Interessensvertretungs-Transparenz Gesetz; Federal Law Gazette I 64/2012) entered into force. Under this act, lobbying activities, i.e., any organized and structured contact with functionaries with the aim to directly influence specific decision-making processes in the legislation or administration of a nation, province, municipality or local authorities association, have to be registered in the Lobby and Interest Representation Register (Lobbying-und Interessensvertretungs-Register) disclosing certain data about the business and its lobbyists and the fields of activity.</p> <p>In addition, all persons and legal entities involved in lobbying are obligated to comply with a mandatory Code of Conduct. The violation of registration obligations or of the mandatory Rules of the Code of Conduct constitutes an administrative offense (fines up to EUR 20.000). In case of serious violations, the lobbying activities can be prohibited and the registration will be deleted.</p> <p>Agreements with unregistered professional lobbyists and unregistered lobbying assignments will be deemed null and void.</p> <p>As of January 1, 2016 some extensive and significant changes in the Austrian Criminal Code will enter into force (Austrian Criminal Code Amendment Act, published in the Federal Law Gazette under the no 112/2005). However, this Amendment Act does not affect the current anti-corruption provisions in the Austrian Criminal Code which remain unchanged.</p>
Participation in International Anti-corruption Conventions	OECD Convention	Yes
	UNCAC	Signed Dec. 10, 2003 Ratified Jan. 11, 2006
Last Updated		October 16, 2015.

Region		Europe
Country		Belgium
2015 CPI	Rank	15/174
	Score	77
The Law on Bribery	Bribery of Domestic Officials	<p>Bribery of domestic officials is governed by Articles 246 to 249 of the Belgian Criminal Code (hereafter the “BCC”) which prohibit both active and passive corruption:</p> <ul style="list-style-type: none"> • <u>Active bribery</u> (offering a bribe): defined as inducing a public official, directly or through intermediaries, to carry out or refrain from carrying out an act relating to his position (as further described in Article 247 BCC), by making him offers, promises or by offering him any advantage of any kind, for himself or for a third party. • <u>Passive bribery</u> (receiving a bribe): defined as where a public official, directly or through intermediaries, solicits or accept offers, promises or any advantage of any kind (for himself or for a third party), in order to carry out or refrain from carrying out an act relating to his position (as further described in Article 247 BCC). <p><u>Applicable penalties</u>: six months to five years imprisonment (depending on the circumstances of the crime, as described in Article 247 BCC) and a fine.</p> <p><u>Aggravated penalties applicable to</u>:</p> <ul style="list-style-type: none"> • police officers and members of the public prosecutor’s office: penalty is double the “standard” penalty • arbitrators: penalty of up to three years imprisonment and a fine • judges acting in their jurisdictional functions: penalty up to ten years imprisonment and a fine
	Bribery of Foreign Officials	Identical to the provisions applicable to domestic officials (Article 250 BCC).
	Commercial Bribery	<p>Commercial bribery is governed by articles 504 <i>bis</i> and 504 <i>ter</i> BCC which prohibit both active and passive corruption:</p> <p><u>Active bribery</u> (offering a bribe): defined as inducing a director or a manager of a company or an agent or employee of a company or of a natural person, directly or through intermediaries, to carry out or refrain from carrying out an act relating to his position, by making him offers or promises, or by offering him any advantage of any kind (for himself or for a third party), without prior knowledge and authorization of, depending on the case, the board of directors, the General Assembly, the principal or the employer.</p> <p><u>Passive bribery</u> (receiving a bribe): defined as where a director or a manager of a company or an agent or an employee of a company or of a natural person, directly or through intermediaries, solicits or accepts offers, promises or any advantage of any kind (for himself or for a third party) in order to carry out or refrain from carrying out an act relating to its position, without prior knowledge and authorization of, depending on the case, the board of directors, the General Assembly, the principal or the employer.</p> <p><u>Applicable penalties</u>: six months to two years imprisonment and/or a fine.</p>
Definitions	Government Employee	<p><u>Public officials</u> are individuals exercising a public service function. This notion is broadly interpreted and covers any civil servants (at federal, regional or municipal level), persons exercising a public service function by election (e.g. members of the Parliament), notary publics, bailiffs, judges, clerks of the courts.</p> <p>Individuals who are candidates for a public function or who pretend that they will exercise such public function also qualify as public officials (Article 246 § 3 BCC).</p>

	Gratification (Gifts/ Entertainments/ etc)	Bribery under Belgian law is broad and covers offers, promises and any advantage of any kind (even non pecuniary) proposed or accepted as a consideration aiming the person to carry out or refrain from carrying out an act relating to its position/function. Also covered: the offers, promises or advantages given to a third party (e.g. a relative of the public official).
Current Status	Enforcement Body	Local and Federal Police - Public Prosecutor's offices <u>Anti-corruption agencies:</u> <ul style="list-style-type: none"> • Central Office for combating Corruption ("OCRC"- Federal police) • Bureau of Ethical Administrative Conduct (SPF Budget and Management Control)
	Issues in Enforcement	<i>"Real political will is often lacking, and measures in this field are taken only with the purpose of responding to the recommendations of the OECD and the Council of Europe (GRECO). Inadequacy of resources is also an important issue."</i> (Progress Report 2010 of Transparency International) <i>"Inadequacies include a lack of resources, a lack of coordination between investigation and prosecution, insufficient complaints mechanisms and whistleblower protection and a lack of awareness-raising. (...) The workload resulting from EU files is described as heavy and could hinder the fight against corruption at the national level."</i> (Progress Report 2011 of Transparency International)
	Recent Movement	<i>"An important development, dating to 2008, was the creation of an official Expert Network in Corruption Matters ("Réseau d'expertise en matière de corruption"). One of its goals is to improve information exchange on a national and international level."</i> (Progress Report 2010 of Transparency International)
Participation in International Anti-corruption Conventions	OECD Convention	Yes: Belgium has ratified the OECD Convention of December 17, 1997 by the law of June 9, 1999. Belgium has amended the BCC by the law of May 11, 2007 in order to implement certain recommendations mentioned in the report on Belgium (phase 2 of 2005).
	UNCAC	Signed Dec. 10, 2003 Ratified Sept. 25, 2008
Last Updated		October 16, 2015

Region		Europe
Country		France
2015 CPI	Rank	23/168
	Score	70
The Law on Bribery	Bribery of Domestic Officials	<p>French law punishes both giving bribes (“active bribery”) and receiving bribes (“passive bribery”). Bribery carries with it the potential for serious criminal penalties and sanctions, including imprisonment.</p> <ul style="list-style-type: none"> • <u>Active bribery</u>: 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. • <u>Passive bribery</u>: 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. • <u>“Trafficking in influence:”</u> abusing one’s real or alleged influence with a view to obtain a distinction, employment, a contract or any other favorable decision from public officials. <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. (Active bribery: Article 433-1; passive bribery: Article 432-11; active trafficking in influence: Articles 433-1 and 433-2; passive trafficking in influence: Articles 432-11 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 (Active bribery: Article 434-9; passive bribery: Article 434-9; active trafficking in influence: Article 434-9-1; passive 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 (the Anti-Corruption Act No. 2007-1598 of November 13, 2007 published in JORF No. 264 of November 2007, page 18 648, the “2007 Act”).</p> <p>The law prohibits active and passive bribery of a public official of a foreign state or international organization (passive bribery: Article 435-1; active bribery: Article 435-3) or judicial staff (passive bribery: Article 435-7; active bribery: Article 435-9) as well as active and passive trafficking in influence with international public officials (passive trafficking in influence: Article 435-2; active trafficking in influence: Article 435-4) and judicial staff (passive trafficking in influence: Article 435-8; active trafficking in influence: Article 435-10).</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) and threats against or intimidation of foreign or international judicial staff (Article 435-13) that are counterparts to the domestic infractions in this field.</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) and passive (receiving) (Article 445-2) 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 L. 242-9, 3° and L. 245-11 of the Commercial Code).</p> <p><u>Corporate Liability:</u></p> <p>If a representative or representative body of a company or other legal entity has engaged in bribery, the company (or another legal entity) may be held liable, even if the specific individual who is guilty of the prohibited conduct cannot be identified.</p>
<p>Definitions</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 2010, 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>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>Current Status</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. In March 2015, this Service issued guidelines to reinforce measures against corruption in commercial transactions. This Service may in the future be replaced by an Agency for the Detection and Prevention of Corruption. • The “Division nationale d’investigation financières et fiscales” (DNIFF) with its “Brigade centrale de lutte contre la corruption” (BCLC): established in 2004, this department handles, in particular, corruption investigations.

		<ul style="list-style-type: none"> • Police and Gendarmerie (national military police). The 2007 Act also significantly expanded the investigative powers of French authorities by allowing the use of surveillance and undercover measures, telephone tapping in the investigation phase, as well as audio and video recording in certain locations or vehicles and allowing the use of preventive measures that, prior to the amendments, were only used in cases involving organized crime.
	<p>Issues in Enforcement</p>	<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 whistleblower 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 whistleblower 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> <p>On March 12, 2015, the Group of States against Corruption of the Council of Europe published a second intermediary report concerning France. The report states that France has not sufficiently reinforced its legislation regarding anti-corruption measures. For instance, the statute of limitations period for corruption or influence peddling offenses was to be increased but has not been. The Group concluded that France has satisfactorily implemented only 5 of the 17 recommendations contained in the previous report. As for the remaining recommendations, 10 of them have been partly implemented and 2 have not yet been implemented at all.</p> <p>Pursuant to currently proposed legislation, a National Agency for the Detection and Prevention of Corruption endowed with enforcement tools may be established, thus replacing the current Central Service for the Prevention of Corruption.</p>
	<p>Recent Movement</p>	<p>On October 23, 2012, the OECD's Phase III report on France was published by the OECD Working Group regarding the implementation of the OECD convention.</p> <p>The Working Group expressed concern that despite the very significant role of French companies in the international economy, only 33 foreign bribery proceedings had been initiated and five convictions – of which only one, not yet final, concerns a legal person – had been handed down since France became a party to the Convention in 2000. The Working Group was particularly concerned by the lackluster response of the French authorities in relation to companies sanctioned by other Parties to the Convention.</p> <p>However, the Working Group complimented the French government for reforms in the pipeline to guarantee greater independence of prosecutors.</p> <p>On April 17, 2013, a proposal aimed at banning anyone convicted of corruption, illegal taking of interest, trafficking in influence, favoritism or bribery from running in any election was submitted and will soon be debated in the French Parliament.</p> <p>Pursuant to law n° 2013-907 dated October 11, 2013, a High Authority for Transparency in Public Life has been established to ensure the integrity of French public officials. Indeed, 25 years after the first legislation related to financial transparency, Parliament considered the need to implement a comprehensive strategy designed to meet the requirements of an open government and a modern democracy. The general mission of this High Authority is</p>

		<p>to control assets, prevent conflicts of interest, ensure transparency and make the public life of officials more open, accountable and responsive to citizens.</p> <p>On December 6, 2013, a law regarding the fight against tax fraud and economic and financial crime came into force and modified numerous provisions of criminal law and criminal procedure:</p> <ul style="list-style-type: none"> • Measures which were in the past only applicable to organized crime (undercover, interception of mail, etc.), can be used for certain offenses of corruption and trafficking in influence (Article 706-1-1 of the Criminal Code). • The law has increased the potential penalties: <ul style="list-style-type: none"> ○ An individual convicted of bribery and trafficking in influence involving officials or the private sector faces a maximum of 5 to 10 years imprisonment as well as a fine from €500,000 to €1,000,000, depending on the offense. ○ <u>Specific sanctions for legal entities can be imposed</u>: fines up to 5 times the maximum amount of the fines for individuals, i.e., up to €5,000,000 or 10 times the proceeds deriving from the offense. ○ The amount of the fine may be increased to twice the amount of the proceeds deriving from the offense. • The law expands the notion of self-reporting for certain corruption and trafficking in influence offenses. These provisions allow for a reduction in punishment as a reward for reporting offenses to the authorities (Article 324-6-1 of the Criminal Code). • The law creates Article L. 1132-3-3 in the Labor Code, which protects employees from any sanctions for allegations made in good faith on criminal activities witnessed in the workplace or during the carrying out of an employee’s functions. Hence, the previously mentioned law of December 6, 2013 provides protections for the whistleblowers. • A Financial Public Prosecutor has been established to initiate criminal proceedings and prosecute complex offenses in corruption and trafficking in influence cases. The Financial Public Prosecutor has exclusive jurisdiction for market offenses and concurrent jurisdiction alongside with other prosecutors for corruption offences, tax fraud and money laundering. This prosecutor’s office has grown and has been the subject of increased media coverage. • The law provides that associations fighting corruption are entitled to bring criminal actions to obtain damages (Article 2-23 of the Criminal Procedure Code).
<p>Participation in International Anti-corruption Conventions</p>	<p>OECD Convention</p>	<p>Yes</p>
	<p>UNCAC</p>	<p>Signed Oct. 31, 2003 Ratified July 11, 2005</p>
<p>Last Updated</p>		<p>October 2015</p>

Region		Europe
Country		Germany
2015 CPI	Rank	10/168
	Score	81
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 three 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 five 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 three months to five years imprisonment. In less serious cases the penalty shall be imprisonment not exceeding two years or a fine (Section 334 (1) StGB). The same offense but in relation to a judge/ arbitrator shall be subject to three months to five years imprisonment (for judicial acts performed) or from six months to five 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 three years or a fine (Section 331(1) StGB). A judge or arbitrator shall be subject to imprisonment not exceeding five 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 six months to five years imprisonment. In less serious cases the penalty shall be imprisonment not exceeding three years or a fine (Section 332 (1) StGB). A judge or an arbitrator shall be subject to one to ten years imprisonment for the same offense, but in relation to a judicial act. In less serious cases the penalty shall be from six months to five 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 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

		<p>three years or a fine (Section 299 (1) StGB).</p> <ul style="list-style-type: none"> 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). The above also applies to acts in competition abroad (Section 299 (3) StGB).
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	<p>Public Prosecutor’s offices (Staatsanwaltschaften), in cooperation with Federal Criminal Office (Bundeskriminalamt).</p>
	Issues in Enforcement	<p>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).</p>
	Recent Movement	<p>According to the Annual Report 2014 of the German Federal Office of Criminal Investigation, the number of cases of corruption reported by police increased from 7,030 in 2013 to 20,263 in 2014, an increase of almost 190 %. In view of the recent developments, the German government plans certain changes to the German Criminal Code, which will allow for better prosecution of corruption related cases.</p>
Participation in International Anti-corruption Conventions	OECD Convention	<p>Yes</p>
	UNCAC	<p>Signed Dec. 9, 2003; Ratified November 12, 2014</p>
Last Updated		<p>October 30, 2015</p>

Region		Europe
Country		Italy
2015 CPI	Rank	61/168
	Score	44
The Law on Bribery	Bribery of Domestic Officials	<p>Anti-corruption provisions are included in the Italian Criminal Code (“ICC”). Namely, Articles 318-322-<i>bis</i> ICC criminalize bribery of domestic officers and foreign officers. Under Italian law, criminal liability applies only to individuals and not to corporations or other entities. However, Legislative Decree No. 231/2001 provides for the direct administrative liability of a company in case any of its corporate officers commit bribery offenses in the interest, or for the benefit, of such company.</p> <p>Italy implemented further rules on anti-corruption matters. The anti-corruption law No. 190 of November 6, 2012 (hereinafter, the “Anti-Corruption Law”) introduced new provisions aimed at improving transparency in the public sector and providing for new categories of bribery offenses. The Anti-Corruption Law also introduced the <i>Autorità Nazionale Anti-Corruzione</i> (“National Anti-Corruption Authority”) which is granted investigative and remedial powers.</p> <p>Italy recently introduced a new anti-corruption law No. 69 of May 27, 2015 (hereinafter, the “New Anti-Corruption Law”) aimed at increasing the level of the sanctions for Improper Bribery, Proper Bribery, Bribery in Judicial Acts, <i>Concussione</i> and Induced Bribery.</p> <p>Moreover the New Anti-Corruption Law implemented an attenuating circumstance (pursuant to which the penalty may be reduced by a third to two-third) for the convicted officer in the event he/she cooperates, so as to prevent any further offence, preserve evidence of the offence or to identify other officers concurring in the offence or detect the seizable goods which constituted the bribe.</p> <p>Finally, the New Anti-Corruption Law introduced a new provision setting forth a monetary fine, equal to the amount received by the bribed officer, to be paid by the convicted officer upon issuance of the judgment.</p> <p>The overview below takes into account the provisions included in the Anti-Corruption Law.</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 the activities or powers pertaining to his office, he shall be punished with one to six years imprisonment. • Proper Bribery: When a public officer receives undue consideration for himself or for a third party for the performance of an 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 six to ten 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 and the minimum shall not be fewer than 8 years). • In addition to imprisonment, courts also may seize goods which constitute the bribe or, when seizure of the goods is impossible, an amount equal to the profit or the amount of the bribe. <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 subject to the same criminal sanctions as 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 sanction applicable in the case where the public officer accepted the bribe. <p>Article 320 of the ICC also extends bribery offenses 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>

Concussione:

The ICC also provides for a different criminal offense called “*concussione*”. A public officer who abuses his powers to force an individual to give money or other benefits to him or any third party is subject to six to twelve years imprisonment. The individual induced to provide the bribe is regarded as a victim; therefore, no punishment is imposed on him.

Induced briber:

When a public officer or a person in charge of a public service, who, abusing his powers or office, induces an individual to give or promise money or any other benefit for himself or for a third party, he shall be punished with six years to ten years and six months imprisonment. The individual who is unlawfully induced to give or promise such money or other advantage to the public officer or person in charge of a public service also commits an offense (punishable by up to three years imprisonment). In addition to imprisonment, courts also seize the goods which constitute the bribe or, when the seizure of the goods is impossible, an amount equal to the profit or the amount of the bribe.

Illicit exercise of influence:

Any person taking advantage of his relationship with a public officer for the purpose of receiving or promising money or other kind of economic advantage as compensation in exchange for his or her unlawful mediation with a public officer shall be punished with imprisonment up to three years. A criminal offense is also triggered by any person unlawfully giving or promising money or other benefits in exchange for unlawful mediation. The criminal sanction is increased in case the offense is committed by a public officer or a person in charge of a public service, while it is decreased in cases where the facts connected with the offense are non-material.

Corporate liability:

Legislative Decree No. 231/2001 (the “231 Decree”) provides for direct liability of a company where any of its directors, managers, legal representatives, managers de facto or employees commits 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 the company pursuant to the 231 Decree includes bribery and commercial bribery. If the company is found guilty, it may be subject to, *inter alia*, 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.

New measures to be adopted by public administration entities:

Each public administration is required to adopt specific measures to prevent the occurrence of bribery offenses. Such measures include, *inter alia*, (i) the adoption of an anti-corruption plan, (ii) the appointment of a compliance officer, and (iii) the adoption of a code of conduct for public sector employees.

The anti-corruption plan is aimed at checking each administration’s level of exposure to bribery risks. The plan shall identify all activities that entail a degree of risk and provide arrangements which have been or will be made to prevent the occurrence of corruption in such areas. The implementation of the plan shall be monitored by a compliance officer who will also assess the plan’s suitability and its compliance with the law.

On September 11, 2013, the Italian Department of Public Administration approved the three-year (2014-2016) national anti-corruption plan for transparency and integrity. The plan sets forth general guidelines for implementing an anti-corruption action plan by each public administration. Many of them (including local administrations) have already submitted their action plans to the National Anti-Corruption Authority.

Whistleblower protection:

The Anti-Corruption Law provides for specific protection for public officers who report corrupt behavior. Whistleblowers will not suffer dismissal, sanctions or discrimination for having reported corrupt behavior. The whistleblower’s identity cannot be disclosed without express consent.

	Bribery of Foreign Officials	Pursuant to Law No. 300/2000, which has introduced Article 322-bis of the ICC, bribery offenses now cover foreign officers as well. The criminal offenses pertaining to bribery of domestic officers (i.e., improper briber, proper bribery, bribery in judicial acts, induced briber and inducement to bribery) are applicable in cases when 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 private commercial dealings is not regarded as a criminal offense under the ICC. Nevertheless, the Anti-Corruption Law has modified the Italian Civil Code by introducing a specific provision which criminalizes bribery acts committed by corporate officers. Namely, pursuant to Article 2635 of the Italian Civil Code as modified, bribers and corporate officers (i.e., director, general manager, executive, statutory auditor, or liquidator of a company, or any employee of a company acting under the direction or supervision of a corporate officer) are subject to criminal punishment (i.e., up to three years imprisonment), if: (i) a corporate officer acts or omits to act in breach of the duties relating to his office or in breach of the duty of loyalty incumbent upon him, in exchange for the payment or the promise of money or other kind of advantage for himself/herself or for a third party; and (ii) the company suffers damages as a consequence.
Definitions	Government Employee	<p>“Public Officer” means an individual who exercises public legislative, judicial or administrative functions.</p> <p>“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).</p>
	Gratification (Gifts/ Entertainments/ etc)	The term “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 economic valuation.
Current Status	Enforcement Body	<p>Bribery laws are enforced by Italian Public Prosecutors who are independent magistrates in the Italian judicial system. Investigations on bribery offenses are carried out by the police (i.e., <i>Polizia di Stato</i>, <i>Carabinieri</i>, <i>Guardia di Finanza</i>).</p> <p>The Anti-Corruption Law has introduced the National Anti-Corruption Authority. Notably, the National Anti-Corruption Authority has the following tasks: (i) approval of the national anti-corruption plan prepared by the Ministry of Public Administration; (ii) establishment of standards, measures and guidelines to be applied by public officers in order to strengthen their regulatory regimes against corruption; (iii) determination and assessment of the causes underlying illicit conducts and the measures to prevent and sanction them; (iv) issuance of opinions on compliance of public officers’ conduct with their duties and regarding assignments of public offices; (v) cooperation with other local and/or international anti-corruption authorities; and (vi) annual reporting activity to the Parliament on its activity and results in the fight against corruption in the public sector.</p>
	Issues in Enforcement	The statute of limitations regarding bribery offenses is relatively 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 less than six years. This has proven to be a constraint on enforcement of bribery laws. Several prosecutions for bribery have ended without convictions due to the operation of the statute of limitations.
	Recent Movement	Please see “The Law on Bribery” Section above.
Participation in International Anti-corruption	OECD Convention	Ratified on December 15, 2000
	UNCAC	Ratified on October 4, 2009

Conventions	Council of Europe Criminal Law and Civil Law Conventions on Corruption	Ratified on June 13, 2013 – Entered into Force on October 1, 2013
Last Updated		October 28, 2015

Region		Europe
Country		The Netherlands
2015 CPI	Rank	5/168
	Score	87
The Law on Bribery	Bribery of Domestic Officials	<p>Active bribery is an offence pursuant to sections 177 and 178 of the Dutch Criminal Code (DCC). Passive bribery is an offence pursuant to DCC sections 363 and 364.</p> <p><u>Offering a bribe:</u> Pursuant to DCC section 177, it is an offence to make a gift or promise or render a service to a public official with the aim of either inducing him to act or refrain from acting in the course of his employment or rewarding him for past acts or omissions. It is also punishable to bribe a person who is expected to be appointed as a public official, if the appointment takes place as expected. A maximum sentence of six years or a maximum fine of the fifth category (now set at EUR 81,000) applies to violations of DCC section 177.</p> <p><u>Receiving a bribe:</u> Pursuant to DCC section 363, a public official is punishable if he accepts a gift, promise or service when he knows or should have known that the gift or promise was made or the service was rendered with the aim of inducing him to act or refrain from acting in the course of his employment or rewarding him for past acts or omissions. DCC Section 363 also applies if a person who is expected to be appointed as a public official commits these acts and the appointment takes place as expected. The maximum sentence is six years or a fine of the fifth category (now set at EUR 81,000).</p> <p><u>Judicial bribery:</u> Bribery of judges with the aim of influencing the outcome of any legal proceedings is punishable pursuant to DCC section 178. This crime may lead to a maximum sentence of 9 years, or even 12 years in case the bribery takes place in connection with criminal proceedings, and a maximum fine of the fifth category. A judge who accepts or solicits a gift, promise or service is punishable pursuant to DCC section 364 with a maximum sentence of nine years and a fine of the fifth category. If the bribery takes place in connection with criminal proceedings, the maximum sentence is twelve years.</p> <p><u>Corporate liability:</u> Both individuals and legal entities can be held criminally liable. An individual act or omission may lead to corporate criminal liability if a judge holds that it is reasonable to attribute the act or omission to the legal entity. This will in principle be the case if the act or omission has taken place within arm's length or within the setting of the legal entity. Once it has been established that the legal entity has committed bribery, individuals within the legal entity (other than the actual offender) can also be held criminally liable if it can be proven that they have directed or ordered the bribe.</p> <p>In case of criminal liability of a corporate entity, the courts may impose maximum fines of up to 10 per cent of a company's annual turnover.</p>
	Bribery of Foreign Officials	DCC sections 178a and 364a provide that the general provisions on active and passive bribery of public officials are also applicable to foreign officials. The elements of the offence of bribery of public officials apply accordingly to bribery of foreign public officials and officials of international organizations. A foreign public official is defined as a person exercising a public function for a foreign country or public international organization. Rewarding a former public official is also punishable.
	Commercial Bribery	<p>DCC section 328ter provides that it is an offence for an employee or agent to accept or solicit a gift, promise or service in connection with an act or omission in the course of his employment or agency and which is in contravention of that employee's or agent's duties. The active variant is also punishable. A maximum sentence of four years and a maximum fine of the fifth category apply.</p> <p>Again, in case of criminal liability of a corporate entity, the courts may impose maximum fines of up to 10 per cent of a company's annual turnover.</p>

Definitions	Government Employee	The DCC does not provide a definition of the term “public official.” Employees of the state, provinces and municipalities, as well as of public bodies are regarded as such. However, the scope of this term is much broader. The Supreme Court of the Netherlands defined a public officials as a person who has been appointed under the supervision and responsibility of the government to hold employment with a public character and who performs part of the duties of the government. Members of representative bodies, judges and members of the military are also considered public officials.
	Gratification (Gifts/ Entertainments/ etc)	In principle, public officials are not allowed to receive any kind of gifts. In practice, however, small gifts are usually allowed. There is no legal threshold for the value of the gift. Instead, a case-by-case approach is taken.
Current Status	Enforcement Body	The Public Prosecution Service is responsible for initiating criminal proceedings in both domestic and foreign bribery cases. The National Public Prosecutor on Corruption is in charge of coordinating these cases.
	Issues in Enforcement	In an evaluation report published in 2012, the OECD concluded that the Netherlands failed to vigorously act against foreign bribery and that more should be done to guarantee compliance with the prohibition on bribery of foreign public officials. In 2015, the OECD concluded that Netherlands have improved from “Little or No Enforcement” to “Limited Enforcement”. Following from the U.S. practice with respect to corruption investigations, an increasing number of companies in the Netherlands have been self reporting bribery conduct to the authorities. However, to date, no cases of foreign bribery have been tried in the Netherlands.
	Recent Movement	On January 1, 2015, new legislation entered into force, amending the bribery provisions. The provisions have been tighten and the maximum penalties have been significantly increased.
Participation in International Anti-corruption Conventions	OECD Convention	Yes
	UNCAC	Signed Dec. 10, 2003 Ratified Oct. 31, 2006
Last Updated		October 20, 2015

Region		Europe
Country		Poland
2015 CPI	Rank	30/168
	Score	62
The Law on Bribery	Bribery of Domestic Officials	<p>In Poland, the giving and receiving of bribes (by providing, promising to provide or accepting) in the public sector are crimes under the Penal Code.</p> <p><u>Offering a bribe</u>: Providing or promising to provide a material or personal benefit to a person discharging a public function in connection with the discharge of such function (Art. 229 Penal Code):</p> <ul style="list-style-type: none"> • Material or personal benefit: 6 months to 8 years imprisonment (Art. 229 §1 Penal Code). • Substantial material benefit: 2 to 12 years imprisonment (Art. 229 §4 Penal Code). • Involves an act in violation with the law: 1 to 10 years imprisonment (Art. 229 §3 of Penal Code). • Less significant case: up to 2 years imprisonment (Art. 229 §2 Penal Code). <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 (Art. 228 Penal Code):</p> <ul style="list-style-type: none"> • Material or personal benefit: 6 months to 8 years imprisonment (Art. 228 §1 Penal Code). • Substantial material benefit: 2 to 12 years imprisonment (Art. 228 §5 Penal Code). • Involves an act in violation with the law: 1 to 10 years imprisonment (Art. 228 §3 Penal Code). • Less significant case: up to 2 years imprisonment (Art. 228 §2 Penal Code). <p><u>Corporate liability</u>: The Law on Liability of Collective Entities establishes corporate liability for bribery and sets forth a fine of PLN 1,000 to 5,000,000 with a limit of not more than 3% of revenue earned in the financial year in which the offense was committed. 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. Pursuant to court statistics, in 2014, 8 entities were found guilty under the Act and fines between PLN 1,000 and PLN 5,000 were imposed.</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. In 2000, the Penal Code added provisions that prohibit bribery of “persons performing public functions in a foreign state or international organization”:</p> <ul style="list-style-type: none"> • Offering a bribe (Art. 229 §5 Penal Code). • Receiving a bribe (Art. 228 §6 Penal Code).
	Commercial Bribery	<p>Bribery in the private sector is prohibited under the Penal Code.</p> <p><u>Offering a bribe</u>: Providing or promising to provide a material or personal benefit to a person in a managing position in an economic entity or in an employment relationship on any legal ground, in return for abusing the authority granted to him or her, or for not complying with an obligation which could lead to a material damage on the entity, or constitute an act of unfair competition or an unacceptable act of preference: 3 months to 5 years imprisonment (Art. 296a §2 Penal Code).</p> <p><u>Receiving a bribe</u>: Abuse of legally or contractually granted, or corporate power to manage assets or business of an individual or an entity (Art. 296 Penal Code):</p> <ul style="list-style-type: none"> • Substantial damage: 3 months to 5 years imprisonment (Art. 296 §1 Penal Code). • Imminent danger of causing substantial damage to assets or business: (Art. 296 §1a Penal Code). • Material benefit: 6 months to 8 years imprisonment (Art. 296 §2 Penal Code). • Significant material damage: 1 to 10 years imprisonment (Art. 296 §3 Penal Code).

		<p>Requesting or accepting a material or personal benefit or a promise of such benefit to a person in a managing position in an economic entity or being employed by it on any legal ground, in connection with the breach of contractual obligations or the obligations of an employee,</p> <ul style="list-style-type: none"> • Leading to a financial or personal benefit for abusing the granted authority, or failing an obligation, or a breach of unfair competition law or not allowed preferential treatment of a counterpart: 3 months to 5 years imprisonment (Art. 296a §1 of Penal Code). • Significant damage: 6 months to 8 years imprisonment (Art. 296a §4 Penal Code).
Definitions	Government Employee	The anti-corruption provisions mention “persons performing a public functions” (as defined in Art. 115 §19 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 (as mentioned in Art. 115 §15 Penal Code). 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 prosecuted under the private bribery.
	Gratification (Gifts/ Entertainments/ etc)	The Penal Code uses the term “material or personal benefit” in Art. 228 and in Art. 229 Penal Code. It is clear that anti-corruption laws would apply in cases where money or monetary as well as other personal benefits were offered or promised to be offered.
Current Status	Enforcement Body	In Poland, there are three major agencies responsible for the enforcement of anti-corruption laws: (i) the Central Anti-Corruption Office (Polish: <i>Centralne Biuro Antykorupcyjne, CBA</i>), (ii) the Central Investigation Office (Polish: <i>Centralne Biuro Śledcze, CBŚ</i>), and (iii) the Internal Security Agency (Polish: <i>Agencja Bezpieczeństwa Wewnętrznego, ABW</i>). The CBA is a special service created in 2006 to fight corruption in public and economic life, particularly in public and local government institutions, as well as to fight against activities detrimental to the State’s economic interest. The CBŚ (being a one of specialized units of the police) was created to fight against organized crime with a cross-border character, drug and economic (including bribes) offences and terrorism. The ABW protects the internal security of Poland and its citizens. One of its main objectives is to fight against corruption in cases where the scale, individual offender or the subject of a decision can affect the State’s internal security. Additionally, as a general rule regarding prosecuting criminal offences, there are other enforcement bodies in Poland dealing with bribes such as the police and public prosecutors.
	Issues in Enforcement	<ul style="list-style-type: none"> • Immunity from prosecution for many holders of public office. • There is no clear division of tasks among the three major anti-corruption agencies; they tend to work in competition with each other. • Whistleblower protection is afforded by the Act of June 25, 1997 on Crown Witnesses, which expressly applies to corruption crimes envisaged in Art. 228 (§1 and §3-6), Art. 229 (§1 and §3-5) and Art. 296a (§ 1, 2 and 4) Penal Code. This Act releases a person involved in crimes if he or she, prior to indictment, gives the enforcement bodies information on the details of the crime committed which is helpful to disclose other offenders and crimes, if such information is confirmed during court proceedings.
	Recent Movement	None.
Participation in International Anti-corruption Conventions	OECD Convention	Yes.
	UNCAC	Ratified by Poland, September 15, 2006.
Last Updated		October 13, 2015

Region		Europe
Country		Russia
2015 CPI	Rank	119/168
	Score	29
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 a relevant function or activity improperly, 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 criminal liability for individuals only. At the same time, there is administrative liability for legal entities involved in bribery. In particular, “transfer of an unlawful remuneration/compensation” to a domestic or foreign official, officer of a commercial entity or officer of an 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 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. Employees of state-owned corporations are not generally considered “public officials” unless they discharge a public function.
	Gratification (Gifts/ Entertainments/ etc)	<p>RF Federal Law “On Public Service” generally prohibits public officers from accepting gifts, while at the same time RF Civil Code provides that a trivial gift/gratification with a maximum value of 3,000 Rubles is permitted. Such gifts/gratifications cannot relate to the public officer’s action/inaction towards the person providing the gift.</p> <p>There is no exception for facilitation payments under Russian law.</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 their enforcement scope. Russian authorities have visibly ignored obvious grounds for undertaking domestic investigations in cases where bribery of high-ranking Russian officials was admitted by the defendants in investigations outside of Russia (e.g., Daimler, HP and Siemens investigations).

	Recent Movement	Russian authorities continue its trend of recent years of commencing investigations against high-rank officials only on politically-motivated grounds and ignore allegations of corruption involving those officials loyal to the administration. Russian authorities increasingly view anti-corruption as an “anti-Russia adverse foreign influence” and an anti-establishment agenda of those opposing to the administration within Russia.
Participation in International Anti-corruption Conventions	OECD Convention	Yes
	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 of an obvious and effective anti-corruption tool.
Last Updated		October 16, 2015

Region		Europe
Country		Spain
2015 CPI	Rank	36/168
	Score	58
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 for public servants to accept presents and/or offerings in exchange for an act or omission in the performance of his duties.</p> <p><u>Influence peddling</u>: Articles 428 et seq. of the Penal Code prohibits influence peddling practices, including taking improper advantage of personal relations with a civil servant or public officer or authority to obtain a resolution that may directly or indirectly generate a financial benefit for oneself or a third party.</p> <p>These prohibitions apply to (a) Spanish authorities and public servants; and (b) any natural person (whether acting on his own 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	Articles 419 et seq. of the Penal Code also apply to officers and civil servants of the EU or any other foreign or international public organization as well as civil servants who are nationals of other member states of the EU or any other foreign country.
	Commercial Bribery	<p>Article 286 bis of the Penal Code addresses corrupt practices between private individuals.</p> <p>It is unlawful:</p> <ul style="list-style-type: none"> • to promise, offer or grant executives, directors, employees or collaborators of an 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 • for executives, directors, employees or collaborators of 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 hiring of professional services. • for executives, directors, employees or collaborators of sport entities 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 hiring of professional services and for sportsmen, referees or judges to carry out any conduct in order to alter the normal outcome of a particularly relevant competition or match. <p>This prohibition applies to any natural or legal person based in Spain at the time of carrying out the conduct that constitutes the corrupt practice.</p>
Definitions	Government Employee	“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>“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, either 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)	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 past domestic corruption cases included money, a remuneration agreement, a painting and a mink coat.
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 have been no major prosecutions 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> <p>Recent large-scale corruption cases have revealed a number of alleged corrupt practices affecting public funds and financing of political parties.</p>
	Recent Movement	<p>Organic Law 7/2012 of 27 December, has amended the Penal Code in relation to transparency and the fight against tax and social security fraud, and included political parties and trade unions under the general regime for criminal liability of legal entities, in order to overcome the perception of impunity for these two actors of the political sphere.</p> <p>Law 19/2013 of 9 December, on transparency, access to public information and good governance also includes sanctions for breaching rules on conflicts of interest, including an obligation to pay compensation to the public treasury and disqualification from holding public office.</p> <p>Organic Law 1/2014 of 13 March, on the judiciary has implemented Spanish courts’ universal jurisdiction to prosecute corruption in international commercial transactions and corruption in private transactions.</p> <p>Organic Law 1/2015 of 30 March which amends the Criminal Code.</p>
Participation in International Anti-corruption Conventions	OECD Convention	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.
	UNCAC	Signed Sept. 16, 2005 Ratified June 19, 2006
Last Updated		October 18, 2015

Region		Europe
Country		United Kingdom
2015 CPI	Rank	10/168
	Score	81
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”).</p> <p>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 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> <ul style="list-style-type: none"> • <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 include 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. • <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 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.
	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,</p>

		<p>UKBA).</p> <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>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Definitions</p>	<p>Government Employee</p>	<p>“Foreign public official” means an individual who:</p> <ul style="list-style-type: none"> • 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); • 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 • is an official or agent of a public international organization.
	<p>Gratification (Gifts/ Entertainments/ etc)</p>	<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). A bribe can be any amount, there is no de minimis level under which the payment will not be considered a bribe. There is no exception or affirmative defense for expenses in connection with promotional activities, and no exception for facilitating payments.</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Current Status</p>	<p>Enforcement Body</p>	<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>
	<p>Issues in Enforcement</p>	<p>The UKBA is still fairly recent legislation, though we are starting to see the first prosecutions under it. In late 2014 three men were jailed for masterminding a 23 million pound biofuel investment scam. The men were executives or agents of AgroEnergy Plc a company that promoted biofuel investment products, and duped investors in relation to the same. All three were charged with fraud related offences and two with bribery and receiving bribes in breach of the UKBA.</p> <p>Further, in late September 2015 the UK (Scotland) witnessed its first corporate resolution for a violation of s.7 of the UKBA (failure to prevent bribery). The Scottish authorities announced it had agreed a civil recovery order with Brand-Rex Limited. Brand-Rex disclosed by way of self report an instance of failing to prevent bribery by a third party associated with the company (i.e. an associated person).</p> <p>The specifics of the bribery offence in question were as follows. Between 2008 and 2012 Brand-Rex operated an incentive scheme known as “Brand Breaks” for UK distributors and installers. In return for meeting or exceeding sales targets, installers and distributors were eligible for varying degrees of rewards, including foreign holidays. Although this scheme was not unlawful in itself in one incidence an independent installer of Brand-Rex products offered his company’s travel tickets to an employee of one of his customers. This went beyond the intended terms of the scheme, as this customer was an end user of Brand-Rex products, rather than an installer or distributor. The individual who ultimately received the tickets was in a position to influence decisions as to which company they purchased cabling from, and indeed personnel from this company and individuals connected to them did use the tickets for foreign holidays in 2012 and 2013.</p>

		<p>Under the self reporting initiative, the case was deemed suitable for a civil recovery settlement rather than criminal prosecution. Ultimately the figure of the recovery was £212,800.</p> <p>The ability for prosecuting authorities to resolve cases by way of Deferred Prosecution Agreements (DPA) was introduced into the United Kingdom by the Crime and Courts Act 2013. DPAs can be used for fraud, bribery and other economic crimes. They apply to organizations, not individuals.</p> <p>Under a DPA, a prosecutor charges a company with a criminal offence but proceedings are automatically suspended. The company agrees to a number of conditions, such as paying a financial penalty, paying compensation and co-operating with future prosecutions of individuals. If the company does not honor the conditions, the prosecution may resume.</p> <p>The SFO has said that a DPA could be appropriate for bribery offences where the public interest is not best served by mounting a prosecution. Entering into a DPA will be a transparent public event and the process will be supervised by a judge. The SFO has stated it is unlikely to enter a DPA where a company has delayed self-reporting, failed to co-operate with an investigation, or shows repeated misconduct or compliance failings.</p> <p>At the time of writing (October 2015) there is yet to have been a DPA finalized in the UK. However, the SFO have forecasted that at least two will be completed by the end of the calendar year.</p> <p>The Director of the SFO, while emphasizing that a DPA is no ‘soft option’, has stated that the finalization of these initial DPAs is likely to aid the transparency of the process and in turn produce further agreements.</p>
	<p>Recent Movement</p>	<p>In December 2014 the cross-governmental UK Anti-Corruption Plan was published.</p> <p>This provided a number of action points which if implemented would alter the business landscape for UK companies, partnerships and organizations including in respect of (i) creating a single reporting mechanism for anti bribery and corruption, (ii) considering what can be done to incentivize and support whistleblowers, (iii) establishment of a central register at Companies House on which companies will be forced to disclose their beneficial owners or face criminal sanctions, and (iv) various agency streamlining steps and initiatives. It also advised the consideration of a new offence of “corporate failure to prevent economic crime”, which would establish corporate criminal liability more widely and replace the old and often viewed as outdated ‘identification principle’.</p> <p>The suggestion of a new criminal offence for failure to prevent economic crime has since been considered by the UK government in October 2015. The conclusion of the UK government is that there is no need for any change to the rules for corporate criminal liability in the UK.</p> <p>It was notable that most of the action points falling to law enforcement were addressed to the NCA and not the SFO, leading commentators to suggest that the SFO’s future may be in doubt.</p> <p>In addition to the above plan, in a recent speech the director of the SFO announced that an important review of UKBA enforcement was due later in the year.</p>
<p>Participation in International Anti-corruption Conventions</p>	<p>OECD Convention</p>	<p>Yes</p>
	<p>UNCAC</p>	<p>Signed Dec. 9, 2003 Ratified Feb. 9, 2006</p>
<p>Last Updated</p>		<p>October 14, 2015</p>

Region		Middle East
Country		Saudi Arabia
2015 CPI	Rank	48/168
	Score	52
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 dated 29/12/1412 A.H. (corresponding to June 30, 1992). The CBL penalizes the offering of any promise or gift to a public official (as defined below) 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 other 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 in the country, are also subject to the CBL with respect to their in country actions.</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 ten 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, penalties under the CBL may include:</p> <ul style="list-style-type: none"> • fines of up to ten times the amount of the bribe; and/or • prohibition of purchase contracts, execution of projects or any other work with Saudi 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. The person making the bribe and the mediator may be exempt from penalties under the CBL if they voluntarily inform the authorities before the crime is discovered by the authorities.</p> <p>No specific requirement obligates 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 successful proof of 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 to offer higher rewards in certain cases.</p> <p>The CBL prohibits anyone from exercising influence over public officials by means of (unauthorized) requests, recommendations or mediations in order to cause public officials to perform or cease to perform their duties.</p>
	Bribery of Foreign Officials	<p>Saudi Arabia does not have a separate statute dealing with bribery of foreign public officials by Saudi persons and the Saudi government has not indicated whether the CBL may be construed to apply to the bribery of foreign public officials by Saudi persons.</p>
	Commercial Bribery	<p>The CBL does not specifically prohibit commercial bribery. However, the law broadly defines “public officials” to include several non-state actors, as noted below.</p>
Definitions	Government Employee	<p>The term “public official” refers to individuals who:</p>

		<ul style="list-style-type: none"> are employed, whether permanently or temporarily, by the state or public instrumentalities with juristic personality; judges or experts appointed by the government or committees with judicial competence; any person assigned by any government institution or any other administrative authority to perform a given assignment; 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 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. Corporate hospitality and entertainment expenses viewed as “gifts” may be considered bribes.</p> <p><u>Facilitation Payments</u>: The CBL does not specifically address facilitation payments but likely prohibits them. 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 to a public official in exchange for following up on a transaction in any governmental department.</p>
Current Status	Enforcement Body	The National Anti-Corruption Commission (NACC) was established under the National Anti-Corruption Commission Law, Council of Ministers Resolution No. 165 dated 28/5/1432 A.H. (corresponding to May 2, 2011). The NACC is tasked with addressing all forms of corruption in Saudi Arabia and reports directly to the King. Other Saudi agencies, including the Commission for Investigation and Prosecution and the General Auditing Bureau, also play important roles in implementing anti-corruption rules.
	Issues in Enforcement	<p>While the NACC has undertaken several measures to tackle corruption in the public sector (such as pressing for greater transparency in all dealings of Saudi government agencies), the body has also complained that the lack of proper coordination with the different government agencies is hindering its progress.</p> <p>There have also been a number of enforcement proceedings in other jurisdictions relating to conduct in Saudi Arabia.</p>
	Recent Movement	A 2014 report of the NACC shows that it has received and dealt or dispensed with over 22,000 citizens’ reports (complaints) relating to corruption.
Participation in International Anti-corruption Conventions	OECD Convention	No
	UNCAC	Signed Jan. 9, 2004 Ratified April 29, 2013
Last Updated		November 4, 2015

Region		Middle East
Country		United Arab Emirates
2015 CPI	Rank	23/168
	Score	70
The Law on Bribery	Bribery of Domestic Officials	<p>Bribery of domestic officials is prohibited under the Federal Penal Code (Fed. Law No. 3 of 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 five years imprisonment (Federal Penal Code art. 237).</p> <ul style="list-style-type: none"> • Dubai only: It is a crime to offer or give gratification to a public servant for an official act; up to two years imprisonment and/or fine up to 3,000 dirhams (Dubai Penal Code art. 120). <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> <ul style="list-style-type: none"> • Violation of duties: As consideration for committing or omitting an act in violation to his official duties; up to ten years imprisonment (Federal Penal Code art. 234). • Not a part of duties: As consideration for committing or omitting an act not a part of his official duties; up to five years imprisonment (Federal Penal Code art. 236). • Dubai only: Public servant taking gratification for an official act; up to three years imprisonment and/or a fine of up to 5,000 dirhams (Dubai Penal Code art. 118). <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, confiscation 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	<p>The UAE does not currently have any federal laws that prohibit the bribery of foreign officials. However, the State Audit Institution (SAI) has been 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).</p>
	Commercial Bribery	<p>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 five years imprisonment. However, the Penal Code neither criminalizes the act of giving or offering the bribe nor penalizes the offeror of the bribe.</p>
Definitions	Government Employee	<p>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 also considered public service employees.</p>

	Gratification (Gifts/ Entertainments/ etc)	In general, any type of gift, travel expense, meal or entertainment is prohibited under the 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	<p>There is a dedicated anti-corruption unit under the Defense Ministry as well as within police departments. The SAI is primarily responsible for auditing the spending of 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. Also, the SAI operates a system through which users can report suspected instances of fraud or corruption.</p> <p>Additionally, the Abu Dhabi Accountability Authority (ADAA) is responsible for ensuring compliance by public entities within the Emirate of Abu Dhabi. In May 2015, the Crown Prince of Abu Dhabi approved a new anti-corruption unit led by the ADAA. The new unit investigates government bodies that may be involved in corruption or financial breaches, examines legislation and internal audit regulations, and tests financial and administrative systems. Working with the unit, the ADAA is responsible for drafting appropriate legislation; developing and implementing procedures to eliminate financial crimes; and formulating policies for investigating violations involving abuse of public funds and public office, conflicts of interest, profiteering from government contracts, and fraud.</p>
	Issues in Enforcement	<p>In general, the UAE has been praised for its efforts in the fight against corruption, particularly as compared to its neighbors in the region.</p> <p>In 2001, the Director General of Dubai's Ports and Customs Department and a number of other government officials were arrested for graft and embezzlement. Since then, and particularly after the financial crisis, there have been a number of high profile anti-corruption cases.</p> <p>It has been reported that a team of international experts who reviewed the UAE's compliance with the United Nations Convention against corruption in January 2013 hailed the measures taken by the UAE government to prevent corruption but also stressed a need for additional legal tools, such as ways to protect witnesses and informants.</p> <p>In 2015, the ADAA reported it had received complaints about government employees, including one complaint regarding an accounting supervisor who embezzled funds within his custody. The matter was referred to the public prosecutor's office, and the court issued a judgment against the defendant. The defendant was ordered to return the embezzled funds, fined the same amount as that of the embezzled funds, sentenced to five years in prison, and ordered to be deported.</p>
	Recent Movement	It has been reported that the SAI has been drafting the UAE's first stand-alone anti-corruption law (which will be separate from the various anti-bribery provisions found in the Penal Code and other local laws). This law is expected to address the UAE's commitments under the UNCAC and would likely cover the bribery of foreign officials. The draft law appears to have been discussed in the UAE cabinet and the UAE Federal National Council before being submitted to the UAE Federal Supreme Council for ratification, however no timeframe has been provided for such ratification.
Participation in International Anti-corruption Conventions	OECD Convention	No
	UNCAC	Signed Aug. 10, 2005 Ratified Feb. 22, 2006
Last Updated		October 6, 2015

Region		North America
Country		Canada
2015 CPI	Rank	9/168
	Score	83
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 five years imprisonment (Criminal Code sec. 121(1)(a)(i)).</p> <p><u>Receiving a bribe</u>: It is a crime for an official 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 five years imprisonment (Criminal Code sec. 121(1)(a)(ii)).</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 five 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 a 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 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, as amended, (CFPOA) is the Canadian law that specifically prohibits the bribery of foreign public officials. It criminalizes the act of giving, offering or agreeing to give a loan, reward, advantage or benefit of any kind to a foreign public official in return for an advantage or benefit of any kind in the course of business (CFPOA sec. 3). The CFPOA also prohibits the acts of conspiracy to commit, an attempt to commit, being an accessory after the fact in relation to, or any counseling in relation to the offences under the CFPOA (CFPOA sec. 5).</p> <p>In early 2013, Canada significantly strengthened the scope of the CFPOA and penalties thereunder, including by adding a new offense which has expanded the grounds for criminal liability for corporations and their directors, officers and employees. As a result of these amendments to the CFPOA:</p> <ul style="list-style-type: none"> • Canadian companies and individuals who are involved in the bribery of foreign public officials are now subject to Canadian law regardless of where the acts constituting the offence took place, and even if there is no connection with Canada other than their nationality (CFPOA sec. 5); • The maximum penalty for individuals has been increased from five years to fourteen years imprisonment (CFPOA sec. 3(2) and 4(2)); • Companies and their directors, officers and employees now face a separate criminal “books and records” offence for misrepresenting or concealing the bribery of foreign public officials in their recordkeeping (CFPOA sec. 4);

		<ul style="list-style-type: none"> • The bribery offense has been clarified to apply to all business activities, whether or not they are for profit (CFPOA sec. 2); and • The exception allowing “facilitation payments” (small payments made to an official for the purpose of securing the performance of routine administrative acts that are part of the official’s duties or functions) will be eliminated at a future date to be determined by Cabinet order. <p><u>Corporate liability:</u> As noted above, 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>
	<p>Commercial Bribery</p>	<p>The Criminal Code prohibits the payment or offering of a secret commission to an agent 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> <p>The Criminal Code also imposes an offence for deceiving, falsifying or otherwise defrauding the public or any person, whether ascertained or not, of any property, money or valuable security or any service by deceit, falsehood or other fraudulent means (Criminal Code sec. 380).</p>
<p>Definitions</p>	<p>Government Employee</p>	<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 employees of state-owned enterprises, which would be covered by the commercial bribery provisions instead (Criminal Code sec. 118).</p> <p>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). Foreign public official extends to a person exercising a public function for any level and type of government (including local governments) regardless of whether that function is within the scope of that person’s authority. It may include personnel at state-owned enterprises, tribal leaders who are locally recognized as public officials and personnel employed in quasi-governmental sectors.</p>
	<p>Gratification (Gifts/ Entertainments/ etc)</p>	<p>Both the Criminal Code and the CFPOA prohibit gifts or benefits of any kind, regardless of how small or nominal, 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 was not intended to influence the recipient’s actions.</p> <p>The Conflict of Interest Act SC 2006, c 9, s 2 prohibits a public office holder or his/her family member from accepting a gift or other advantage, unless it is received as a normal expression of courtesy or protocol, or is within customary standards that normally accompany the public office holder’s position, is permitted under the Canada Elections Act or is given by a relative or friend (s. 11). The Conflict of Interest Act requires public officials to report gifts or advantages received that total more than \$200 (calculated over a 12 month period) from one source.</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>Police forces on all levels (federal, provincial, municipal) have the authority to investigate domestic public bribery cases under the Criminal Code. Prosecutions under the Criminal Code for domestic bribery are within the exclusive jurisdiction of provincial prosecutors. The Royal Canadian Mounted Police (RCMP), the Canadian national police, established in 2008 a national Anti-Corruption Unit, with two anti-corruption investigative teams (in Ottawa and in Calgary) that specialize in enforcing the CFPOA. The RCMP has exclusive authority to lay charges under the CFPOA (CFPOA sec. 6). Prosecutions under the CFPOA for foreign bribery are carried out by the Public Prosecution Service of Canada (PPSC), a federal prosecutorial body which works directly with the RCMP on CFPOA investigations/prosecutions.</p> <p>Public Works and Government Services Canada administers the Integrity Regime on behalf of the Government of Canada. Pursuant to the Regime a conviction for bribery of domestic or foreign officials results in debarment from federal government procurements for up to ten years.</p>

	Issues in Enforcement	<p>Historically, jurisdictional limitations as well as lack of resources and prioritization in the RCMP led to weak enforcement and very few proceedings under the CFPOA. The 2013 amendments to the CFPOA have sought to address these issues. The RCMP has increased the resources dedicated to CFPOA investigations and has indicated that it has over thirty active proceedings.</p> <p>In addition, providing the RCMP with exclusive jurisdiction and having it work closely with the PPSC should result in a more effective enforcement process. Enforcement of domestic bribery offenses has not been centralized since the cases often have a more local or provincial scope.</p>
	Recent Movement	<p>In May 2014, Canada handed down the first sentence under the CFPOA. Following his conviction in August 2013, Nazir Karigar was sentenced to three years imprisonment for conspiracy to bribe a foreign public official (R. v. Karigar). More recently, charges have been laid against SNC Lavalin for fraud and for alleged violations of the CFPOA. This case is currently before the Court of Quebec.</p> <p>Between 2011-2015 there has been an extensive judicial inquiry into corruption in the construction industry in Quebec which involves bribery of public officials as well as bid-rigging and other offenses. Various follow-up proceedings have resulted from the work of the Charbonneau Commission. Notably, Michael Applebaum (former mayor of Montreal) faces fourteen charges of fraud on the government, conspiracy, breach of trust and corruption in municipal affairs, and Gilles Vaillancourt (former mayor of Laval) faces twelve charges of conspiracy, fraud, breach of trust, and gangsterism. Mr. Applebaum's trial is set to begin September 2017. A trial date for Mr. Vaillancourt has not yet been set.</p> <p>The Extractive Sector Transparency Measures Act, SC 2014, c 39, s 376 came into force June 1, 2015 and requires businesses involved in the exploration or extraction of oil, gas, or minerals to publicly report each year on specific types of payments made to all levels of government, in Canada and abroad.</p>
Participation in International Anti-corruption Conventions	OAS Convention	<p>Signed June 7, 1999</p> <p>Ratified June 1, 2000</p>
	OECD Convention	<p>Signed December 17, 1997</p> <p>Ratified December 17, 1998</p>
	UNCAC	<p>Signed May 21, 2004</p> <p>Ratified Oct. 2, 2007</p>
Last Updated		October 20, 2015

Region		North America
Country		Mexico
2015 CPI	Rank	95/168
	Score	35
The Law on Bribery	Bribery of Domestic Officials	<p>Bribery is punishable under Mexico’s Federal Criminal Code (<i>Código Penal Federal</i>) while state criminal codes 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, the sanctions range from three months to fourteen years imprisonment, fine of 30 to 1000 times the daily minimum wage in Mexico’s Federal District (approximately 1,943 to 64,760 pesos) and destitution and disqualification to occupy public employment from three months to fourteen 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 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 64,760 to 3.2 million pesos and legal entities may be subject to fines between 647,600 to 129.5 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 eight years and legal entities may be prohibited for up to ten 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>: Historically, in Mexico, only individuals could commit crimes, and companies would only be jointly liable to cover the damages caused by their employees, officials and/or representatives during the commission of a crime. Due to recent amendments to the Criminal Code for the Federal District (<i>Código Penal para el Distrito Federal</i>) and the enactment of the new National Code of Criminal Procedures (<i>Código Nacional de Procedimientos Penales</i>) however, companies may be held criminally liable. Thus, if a company is accused of bribing a public servant, both the individuals involved and the company could be subject to criminal liability.</p> <p><u>Administrative liability</u>: Public servants may be subject to administrative regulations and the application of administrative sanctions when their personal interests raise conflicts with the public positions they hold. Public servants are prohibited from seeking or agreeing to perform, or refraining from performing, their duties in exchange for receiving, either directly or through a third party: (1) money; (2) real or personal property at lower price than market price; (3) gifts; (4) services; (5) jobs; or (6) fees or commissions (Federal Law of Administrative Accountability for Public Servants art. 8, paragraph XII).</p>
	Bribery of Foreign Officials	It is a crime for a person to bribe a foreign public servant (Federal Criminal Code art. 222-bis).

		<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, whether in assets or services:</p> <ul style="list-style-type: none"> • 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 to his job, duty or commission; • 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 • 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>
	Commercial Bribery	<p>There is no specific crime of “commercial bribery” in Mexico. Paying or receiving a bribe (<i>soborno</i>) 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>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 the other party in order to obtain an undue profit from that party.</p> <p>A person commits the crime of fraud (<i>fraude</i>) 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>
Definitions	Government Employee	<p>Public servants include elected representatives, members of the federal judiciary, officials and employees of the Mexican Congress, 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 public servants as provided by state Constitutions (Mexican Political Constitution art. 108).</p>
	Gratification (Gifts/ Entertainments/ etc)	<p>The Federal Criminal Code generally refers to <i>dádivas</i> or gifts (or otherwise an unlawful advantage other than money). The Federal Anticorruption Law in Public Contracting (<i>Ley Federal Anticorrupción en Contrataciones Públicas Federales</i>) also considers gifts (<i>dádivas</i>).</p> <p>Public servants working for the federal executive power branch shall not receive any gifts or gratifications that exceed ten 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 Public Administration (the executive branch), including employees of public ministries such as the Ministry of Finance 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 one year after their retirement, shall not receive personally or on behalf of any third party, goods or services which are free or 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 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 the following seven 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 set any threshold or amount allowed for a gift and therefore “any gift” could qualify as bribery if conduct 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 Ministry where the public servant works.</p> <p>Administrative liability enforcement under the Federal Anticorruption Law in Public 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 “<i>indubio pro reo</i>” 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 December 18, 2014, the Criminal Code for the Federal District (Mexico City) was amended to hold companies criminally liable (i) when crimes are committed on their behalf or for their profit or benefit and such conduct is committed by their legal representatives and/or directors or managers, or (ii) when individuals acting under the authority and/or supervision of a company’s legal representatives, directors or managers commit a crime due to a lack of internal controls within the organization, and such crime is committed for the company’s profit or benefit. Such corporate criminal liability would be transferred to the successor company in the event of a transformation, spin off or merger.</p> <p>The new National Code of Criminal Procedures provides that the Public Prosecutor (<i>Ministerio Público</i>) has authority to bring criminal action against legal entities at the State and Federal levels.</p> <p>The National Code of Criminal Procedures and the amendments to the Criminal Code of the Federal District became effective on January 16, 2015 for unintentional crimes (<i>delitos culposos</i>). For all other criminal offenses, such amendments will become effective on June 16, 2016.</p> <p>On May 27, 2015, several amendments to the Mexican Constitution creating the National Anticorruption System (the “<u>Anticorruption System</u>”) were published in the Official Federal Gazette (<i>Diario Oficial de la Federación</i>), to allow several government bodies to coordinate in the prevention, detection, investigation and sanctioning of public servants, individuals and companies that incur in acts of corruption. The Anticorruption System will be coordinated by a Coordination Committee formed by heads and representatives of various government agencies. Among others, the amendments (i) establish new administrative liabilities for public servants, companies and individuals that apply to acts linked to serious administrative violations or acts of corruption, and (ii) enhance the authority of the Superior Auditor of the Federation (<i>Auditoría Superior de la Federación</i>) and the Federal Administrative Justice Tribunal (<i>Tribunal Federal de Justicia Administrativa</i>). The Mexican Congress must approve the secondary laws for the coordination of the Anticorruption System within a year.</p>
Participation in International Anti-corruption	OAS Convention	<p>Signed March 29, 1996</p> <p>Ratified May 27, 1997</p>

Conventions	OECD Convention	Signed Dec. 17, 1997 Ratified Dec. 14, 2005
	UNCAC	Signed Oct. 31, 2003 Ratified Dec. 14, 2005
Last Updated		October 16, 2015

Region		North America
Country		United States of America
2015 CPI	Rank	16/168
	Score	76
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 may arise under other legal theories such as conspiracy to engage in, or aiding and abetting, bribery.</p> <p><u>Federal law:</u></p> <p>As a starting point, Article 2, Section 4 of the United States Constitution provides that: “[t]he President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of [...] bribery, [...]”</p> <p>The general federal bribery statute (18 U.S.C. § 201) prohibits corruptly giving, offering, or promising anything of value, directly or indirectly, 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 anything of value 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. § 201(b)(1)). The statute also prohibits public officials from seeking, accepting, or agreeing to accept anything of value for a corrupt purpose (18 U.S.C. § 201(b)(2)).</p> <p>Other federal statutes cover certain acts of bribery including bribery of a financial institution examiner (18 U.S.C. §§ 212, 213), bribery incident to appointment to a public office (18 U.S.C. §§ 210, 211), bribery for various loan and bank transactions (18 U.S.C. § 215), bribery affecting port security (18 U.S.C. § 226), and travel in interstate commerce with the intent to commit bribery (18 U.S.C. § 1952). The federal program bribery 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. § 666).</p> <p>Some federal statutes also cover bribery of state officials. The mail and wire fraud statutes and the RICO statute both allow for federal prosecution of state officials who violate state anti-bribery laws (18 U.S.C. §§ 1346, 1961(1)(A)). Additionally, the Hobbs Act prohibits both federal public officials and state officials from taking improper payments in exchange for official act and imposes some of the most severe penalties of all the federal corruption statutes (up to 20 years imprisonment) (18 U.S.C. 1951).</p> <p>The 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> Most jurisdictions have defined bribery by statutes, which generally cover the corrupt influencing of public officials. Typically, the crime of bribery has been defined so that it may involve persons other than public officials. Bribery statutes may make the receipt or solicitation, as well as the giving or offering, of a bribe illegal.</p>
	Bribery of Foreign Officials	<p>The Foreign Corrupt Practices Act of 1977 (15 U.S.C. §§ 78m, 78dd-1 to -3, 78ff) (the “FCPA”) is a 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) anti-bribery provisions and (ii) accounting provisions.</p> <p>The anti-bribery provisions prohibit corrupt payments to a foreign official, foreign political party, party official, or political candidate to influence such foreign official in the exercise</p>

	<p>of his official duties to assist in obtaining or retaining business (15 U.S.C. §§ 78dd-1 to -3).</p> <p>The accounting provisions consist of two primary components. Under the “books and records” provision, an issuer of securities in the U.S. must make and keep books and records that accurately and fairly reflect its transactions and the disposition of its assets. Under the “internal controls” provision, an issuer of securities in the U.S. must have an adequate system of internal accounting controls (15 U.S.C. § 78m).</p> <p>The FCPA includes both criminal and civil penalties. Criminal penalties for individuals violating the FCPA’s anti-bribery provisions include fines of up to \$250,000 and imprisonment for up to five years. For each violation of the accounting provisions, individuals are subject to a fine of up to \$5 million and imprisonment for up to 20 years. Individuals are also subject to civil penalties of up to \$16,000, which may not be paid by the individual’s employer or principal.</p> <p>Criminal penalties for companies violating the FCPA’s anti-bribery provisions include fines of up to \$2 million per violation. For each violation of the accounting provisions of the FCPA, penalties for a company include fines of up to \$25 million. Corporations and other business entities are also subject to a civil penalty of up to \$16,000 per violation. In addition, under the Alternative Fines Act (18 U.S.C. § 3571(d)), fines for individuals or companies can be increased to twice the benefit the defendant sought to gain by making the payment.</p> <p>The DOJ has charged both individuals and corporations in FCPA cases with violation of the Travel Act (18 U.S.C. § 1952), which prohibits traveling in interstate or foreign commerce or using the mail or any facility in interstate or foreign commerce, with the intent to distribute the proceeds of any unlawful activity, including violations of the FCPA. Similarly, mail and wire fraud statutes may also be deployed together with the FCPA.</p> <p>Notably, foreign officials cannot be prosecuted for FCPA violations. In such cases and other cases where the U.S. jurisdictional presence is limited, U.S. prosecutors can bring charges based on violations of anti-money laundering statutes (18 U.S.C. §§ 1956 and 1957). In comparison to FCPA charges, anti-money laundering charges carry more significant penalties, therefore increasing prosecutors’ leverage against individuals and corporations in settlement negotiations.</p>
<p>Commercial Bribery</p>	<p>Commercial bribery is generally understood as offering or accepting bribes or things of value in exchange for receiving or giving an improper business benefit. . The majority of U.S. states have laws prohibiting commercial bribery. For example, Section 641.30 of the California Penal Code prohibits employees from soliciting, accepting, or agreeing to accept 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 offeror. Violations of this statute are punishable by imprisonment for up to three years depending on the amount of the bribe. Other state commercial bribery statutes include: Del. Code Ann. tit. 11, § 881; Fla. Stat. § 838.16; 38 Ill. Comp. Stat. 5/29A-1; Mass. Gen. Laws ch. 271 § 39; N.J. Stat. Ann. § 2C:21-10; N.Y. Penal Code § 180.00; Tex. Penal Code Ann. § 32.43; etc.</p> <p>At the federal level, the Travel Act affords prosecutors to charge commercial bribes occurring across state lines. Under the Travel Act (18 U.S.C. § 1952), it is a crime to travel in interstate or foreign commerce or to use “the mail or any facility in interstate or foreign commerce” with intent to “promote, manage, establish, carry on, or facilitate the promotion, management, establishment or carrying on, of any unlawful activity.” “[U]nlawful activity” is defined broadly to include “extortion [and] bribery [...] in violation of the laws of the state in which committed[.]” This definition provides the hook for federal criminal liabilities when individuals violate state commercial bribery laws.</p> <p>Notably, the anti-bribery provisions of the FCPA focus only on official bribery and does not prohibit commercial bribery. However, the FCPA’s accounting provisions may serve as a vehicle for charging companies for acts of commercial bribery if they result in inaccurate books and records or weakened internal controls. An issuer is strictly liable for violations in connection with all transactions under the accounting provisions, not just the transactions violating the anti-bribery provisions of the FCPA. The move to address commercial bribery via the accounting provisions would bring the FCPA enforcement more in line with the UK Bribery Act and other foreign anti-corruption laws that prohibit commercial bribery.</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, delegates, any officers, employees, or anyone acting for and 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. § 201(a)(1), (2)). In <i>Dixson v. U.S.</i>, 465 U.S. 482 (1984), the U.S. Supreme Court held that the open-ended definition of “public official” in 18 U.S.C. § 201(a) applies “to all persons performing activities for or on behalf of the United States, whatever the form of delegation of authority.” Furthermore, “[p]ersons who hold [positions of public trust with official federal responsibilities] are public officials within the meaning of section 201 and liable for prosecution under the federal bribery statute.”</p> <p>The FCPA covers foreign officials, foreign political parties or officials thereof and candidates for foreign political office. “Foreign official” means any officer or employee 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. §§ 78dd-1(f)(1)(A), 78dd-2(h)(2)(A) and 78dd-3(f)(2)(A)). “Instrumentality” has been defined broadly to include an “entity controlled by the government of a foreign country that performs a function the controlling government treats as its own” (<i>U.S. v. Esquenazi</i>, 753 F.3d 912, 925 (11th Cir. 2014)).</p> <p>For purposes of state anti-bribery laws—as well as federal laws that cover state officials—the definition of “public official” depends on state law. Federal courts have determined that the mail fraud statute applies to public officials “acting in their official state capacities.” (<i>See, e.g., U.S. v. Brumley</i>, 116 F.3d 728, 736 (5th Cir. 1997)).</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 <i>quid pro quo</i>), while an illegal gratuity requires only that the payment be for or because of an official act.</p> <p>The federal criminal gratuity statute prohibits directly or indirectly 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. § 201(c)(1)(A)). The statute also prohibits any designated person from seeking or accepting, directly or indirectly, any such gratuity (18 U.S.C. § 201(c)(1)(B)).</p> <p>In order to violate the FCPA’s anti-bribery provisions, a payment, offer, promise to pay or gift must be made with a corrupt intent. As a result, gifts or entertainment that are not provided with the expectation of a <i>quid pro quo</i> arguably would not violate the FCPA, although the amount/type of the gift or entertainment and the intent of the person providing the gift or entertainment are important to this analysis.</p>
Current Status	Enforcement Body	<p>The DOJ enforces domestic federal anti-bribery laws against federal and state officials. In addition, the DOJ can enforce state anti-bribery laws through the Travel Act and the mail and wire fraud statutes.</p> <p>The DOJ and the U.S. Securities and Exchange Commission (SEC) both enforce the FCPA. The DOJ is responsible for criminal enforcement of the FCPA’s anti-bribery and accounting provisions. The DOJ has jurisdiction over “issuers,” “persons,” and “domestic concerns,” as defined in the statute. The SEC is responsible for civil enforcement of the FCPA’s anti-bribery and accounting provisions. The SEC has jurisdiction over “issuers,” as defined in the statute. When the SEC and the DOJ both have jurisdiction over an issuer, both agencies may bring FCPA enforcement actions against a defendant.</p>
	Issues in Enforcement	<ul style="list-style-type: none"> • In 2015, the DOJ and SEC brought a total of 21 enforcement actions against companies and individuals, which was five fewer than the 26 announced in 2014. The size and scope of the monetary resolutions in 2015 declined significantly from 2014. The amount of fines and disgorgements for all FCPA enforcement actions in 2015 was \$140 million, which is less than one-tenth of the amount the DOJ and SEC collected in 2014, a near record year at \$1.57 billion, and less than one-fifth of the \$720 million collected in 2013. The drop in 2015 is largely attributed to the absence of any settlements above \$25 million—2014’s near-record year was driven by the resolution of four settlements above \$100 million. • In October 2015, the DOJ made public statements explaining that the agency’s lower corporate enforcement activity was attributable to the slowdown in self-reported

		<p>“smaller cases” and the DOJ’s shift in focus to high-value enforcement actions. Specifically, the DOJ is adjusting its focus to “bigger, higher impact cases, including those against culpable individuals, both in the U.S. and abroad, [that] take longer to investigate and absorb significant resources[.]”</p>
	<p>Recent Movement</p>	<ul style="list-style-type: none"> • Emphasis on Individual Prosecutions: On September 9, 2015, Deputy Attorney General Sally Q. Yates issued a memorandum titled “Individual Accountability for Corporate Wrongdoing.” The Yates Memo re-emphasized the DOJ’s focus on prosecuting individuals involved in corporate wrongdoing and outlined six key mandates. Importantly, the Yates Memo indicates that disclosure of all relevant facts relating to the individuals responsible for the misconduct is a prerequisite for corporate cooperation credit. Furthermore, the DOJ now requires prosecutors to present a “clear plan” for resolving related individual cases prior to resolving cases against corporations. These mandates will have consequences for FCPA investigations going forward. • The DOJ Boosting Its FCPA Prosecutorial Resources: In 2015, the DOJ announced three major initiatives to boost FCPA enforcement, including tripling the number of FBI agents assigned to foreign bribery investigations; hiring a new “compliance counsel” to advise the DOJ on matters relevant to the prosecution of business entities; and a plan to double the number of prosecutors in its FCPA unit. These additional resources will likely lead to increased FCPA enforcement activity in the future. • The SEC’s Expansive View on “Things of Value”: In its enforcement action against Bank of New York Mellon Corp., the SEC took an expansive view of the FCPA’s prohibition against providing “anything of value” to a foreign official to obtain or retain business, alleging that giving internships to unqualified family members of foreign government officials overseeing sovereign wealth fund constituted something of value. This settled cease-and-desist proceeding is also the first FCPA charges arising out the highly publicized industry sweep against financial institutions interacting with foreign sovereign wealth fund. • The Vitality of Self-Disclosure: In November 2015, the respective head of enforcement at the DOJ and the SEC emphasized the vital role of self-disclosure in enabling a corporation to receive cooperation credit. Furthermore, the agencies clarified that a qualified self-disclosure should occur within a “reasonably prompt time after becoming aware of an FCPA violation” and must occur before a government investigation. In addition, SEC Enforcement Director stated that only those companies who made the self-disclosure will be eligible for resolving the enforcement actions through a DPA or an NPA.
<p>Participation in International Anti-corruption Conventions</p>	<p>OAS Convention</p>	<p>Signed June 2, 1996 Ratified Sept. 15, 2000</p>
	<p>OECD Convention</p>	<p>Yes</p>
	<p>UNCAC</p>	<p>Signed Dec. 9, 2003 Ratified Oct. 30, 2006</p>
<p>Last Updated</p>		<p>February 16, 2016</p>

Region		South America
Country		Argentina
2015 CPI	Rank	107/168
	Score	32
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; violations are subject to one to six years imprisonment (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, even without intent to influence; violations are subject to one month to one 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; violations are subject to one to six 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; violations are subject to one month to two years imprisonment and one to six years disqualification from office (Section 259, Penal Code). • Any person who intermediates an unlawful payment is subject to one to six years imprisonment and disqualification for life if applicable (section 256 bis, Penal Code). • Government officials are prohibited from receiving 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 (Act N° 25,188), 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 a gift (the value of which is not specified by law or regulation) as a courtesy or as a gesture of diplomatic protocol, the gifts must be recorded in a special registry and incorporated into the state’s property. The Public Ethics Law further requires public officials to disclose all assets owned by the official, by the official’s spouse (if marital property) and by any of their minor children. (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 two to six years imprisonment and, if a public official, disqualified from office (Section 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 four to twelve years’ imprisonment and lifetime disqualification (Section 257, Penal Code).</p> <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).</p>
	<p>Bribery of Foreign Officials</p>	<p>It is a crime to offer or to 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).</p> <p>Perpetrators are subject to one to six 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 that do not constitute “states” or foreign public companies.</p>
	<p>Commercial Bribery</p>	<p>Argentina does not have national laws that prohibit commercial bribery. Nonetheless, certain provisions regulate private conduct in specific areas. For instance, employees and officers of financial institutions, securities brokers and other financial intermediaries operating in the securities market may be punished with imprisonment from one to six years, and disqualification for up to six years, for receiving money or other financial benefit in exchange for executing credit, financial or market transactions (Section 312, Penal Code).</p> <p>In addition, an officer of a company who receives a payment to obtain a benefit (whether for himself or for a third party) causing prejudice to the company may be charged with fraudulent administration, which is punishable by imprisonment from one month to six years (Section 173 paragraph 7, Penal Code).</p>
<p>Definitions</p>	<p>Government Employee</p>	<p>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.</p>
	<p>Gratification (Gifts/ Entertainments/ etc)</p>	<p>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.</p> <p>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.</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>The Public Ethics Law called for the creation of a Federal Public Ethics Commission (“FPEC”) as an independent authority within the Federal Congress which was to be composed of members from all branches of the government. Its mission was to enforce the</p>

		<p>application of the Public Ethics Law (including the periodic submission of affidavits by public officials).</p> <p>However, the FPEC was never created. Instead, its functions have been partially and temporarily performed by the Anti-Corruption Office within the Ministry of Justice (“OA”) and the National Office for Administrative Investigations of the Prosecutor-General’s Office (“FIA”), the two principal agencies 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 public administrative bodies, state-controlled/owned enterprises, and organizations that use public resources (but cannot investigate members of the legislative branch, the judiciary or any provincial or municipal government officials). Likewise, the FIA is a specialized body 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.</p> <p>Some amendments to the Public Ethics Law made in 2013 have, among other things, revoked the creation of the FPEC but have not provided for the creation of another independent authority to undertake the role originally assigned to the FPEC. These amendments have broadened the list of individuals required to file disclosure affidavits. However, they have limited the content of these affidavits, including content that may be disclosed to the public.</p> <p>The OA has been empowered to upload the affidavits’ public content to its webpage. Nonetheless, the OA’s role in enforcing the Public Ethics Law remains unclear. Several bills have been proposed to address these loopholes and to clarify appropriate controls on anticorruption, nepotism and conflict of interest involving public officials.</p> <p>Other public bodies charged with controlling administrative acts, though not focused on corrupt practices, may report corruption. On the federal level, these auditing offices are the <i>Sindicatura General de la Nación</i> (SIGEN) and the <i>Auditoría General de la Nación</i> (AGN). The SIGEN is challenged by a lack of independence, as the head of the agency is appointed by the president and its reports are not published. The largest opposition party in congress appoints the AGN president. Thus far, this entity has not had success in fighting corruption.</p> <p>Similarly, the <i>Ombudsman</i> can report corruption cases discovered during its control on public agencies.</p>
	<p>Issues in Enforcement</p>	<ul style="list-style-type: none"> • Absence of an adequate and integrated set of provisions to enable the punishment of legal entities for national and international acts of corruption. • Inefficient judicial system and lack of enforcement. Judges and law enforcement officers are vulnerable to political pressure and lack of independence. • Inadequacy of whistleblower protection (there is whistleblower protection for certain organized crimes, but corruption is not covered). • Failure to create an independent authority for centralized control of corruption at the federal level and unclear jurisdiction of the OA. The OA lacks independence from the Executive Branch and is therefore susceptible to undue influence. • Inadequate regime for the filing of affidavits, hindering control on anti-corruption, conflict of interest and the changes in the net worth of public officials, • Lack of uniform and centralized provisions to provide clear definitions and interpretation guidelines, giving way to excessive judiciary discretion in anti-corruption enforcement. • Lack of financial resources to conduct investigations and bring enforcement actions; inefficiency and corruption in the administration of federal funds.
	<p>Recent Movement</p>	<p>A new Criminal Procedure Code (CPC) was enacted in December 2014, but will not come into force until March 2016. The revised CPC will apply, in a first stage, only to the criminal courts sitting in the City of Buenos Aires. As these courts do not have federal jurisdiction, in this first stage, the new CPC will not change the prosecution of corruption crimes. Whether the revised CPC will be implemented in the federal courts has yet to be determined and it remains premature to assess whether the revised CPC will affect the prosecution of crimes related to corruption.</p>

		<p>In connection with the above, congress enacted minor changes to the Penal Code to make it consistent with the revised CPC. None of these changes relate to crimes of corruption.</p> <p>Legislative proposals to reform the Penal Code completely are not presently discussed in Congress. Last year, in addition to a bill introduced by the ruling, an alternative bill to reform the Penal Code was sponsored by members of the opposition party on matters of jurisdiction, corporate liability, and international bribery. A proposed amendment to Section 303 of the Penal Code would enhance penalties for money laundering and terrorism financing committed by a public official. Another proposed bill provides that public officials may not acquire any state-owned property, with or without valuable consideration, or as assignees. Congressional members of the opposition party(s) also sponsor this bill.</p> <p>Because Congress remains under the control of the current administration, bills sponsored by opposition party members are less likely to receive approval.</p> <p>A new administration will take office on December 10, 2015. Of the three candidates with chances of winning the election, two have indicated their intent to strengthen laws against corruption.</p> <p>After five years of vacancy, in December 2014 the Government appointed a prosecutor in charge of the FIA.</p> <p>Recently, there have been two convictions of former officials of the current administration for acts of corruption. Prison sentences in both cases were suspended.</p>
<p>Participation in International Anti-corruption Conventions</p>	<p>OAS Convention</p>	<p>Signed March 29, 1996 Ratified Aug. 4, 1997</p>
	<p>OECD Convention</p>	<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>
	<p>UNCAC</p>	<p>Signed Dec. 10, 2003 Ratified Aug. 28, 2006</p>
<p>Last Updated</p>		<p>October 16, 2015</p>

Region		South America
Country		Brazil
2015 CPI	Rank	76/168
	Score	38
The Law on Bribery	Bribery of Domestic Officials	<p>According to the Brazilian Criminal Code, Law No. 2,848 of December 7, 1940 (the “<u>Brazilian Criminal Code</u>”), 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 commits a criminal offense of active corruption if he is found to offer or give undue advantage to a public official in order to induce him to practice, omit or delay an act pertaining to his functions; two to twelve years imprisonment and fines (Section 333 of the Brazilian Criminal Code).</p> <p><u>Passive corruption</u>: A public official commits 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; two to twelve years imprisonment and fines (Section 317 of the Brazilian Criminal Code).</p> <p><u>Extortion</u>: A public official commits 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; two to eight years imprisonment and fines (Section 316 of the Brazilian Criminal Code).</p> <p><u>Influence peddling</u>: An individual commits 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; two to five years imprisonment and fines (Section 332 of the Brazilian Criminal Code).</p> <p><u>Corporate Liability</u>: Under Law No. 12,846 of August 1, 2013, also known as the “<u>Clean Company Act</u>”, domestic and international companies with a presence in Brazil who engage in bribery of public officials within Brazil may all be subject to civil and administrative liability. Third parties aiding, abetting or concealing bribery acts perpetrated by companies are also individually liable (Sections 3 of the Clean Company Act).</p> <p>Directors and officers are only liable to the extent of their liability. Joint and several liability for fines and the restitution for damages extend to the parent company, subsidiaries, affiliates and joint venture partners. Successor liability is applicable in mergers, limited to restitution and the payment of fines up to the value of the assets transferred in the transaction. These limits may be disregarded if the transaction was executed with fraudulent intent (Section 4 of the Clean Company Act).</p> <p>The Clean Company Act also allows for the piercing of the corporate veil to reach its officers and shareholders with management roles, whenever the legal entity is used to facilitate, conceal or disguise bribery acts (Section 14 of the Clean Company Act).</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 Brazilian 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. 10,467/2002, the Brazilian Criminal Code now contains Sections 337-B to 337-D which appear as Chapter II-A (crimes committed by individuals against foreign public officials).</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; one to eight years imprisonment and fines (Section 337-B of the Brazilian Criminal Code).</p>

		<p>Passive trafficking of influence in an international business transaction is also a criminal offense; two to five years imprisonment and fines (Section 337-C of the Brazilian Criminal Code)</p> <p><u>Corporate liability</u>: Under the Clean Company Act, Brazilian companies engaging in foreign bribery may be subject to civil and administrative liability.</p>
	<p>Commercial Bribery</p>	<p>Brazil does not have any laws that specifically prohibit bribery in the private sector. According to the Superior Court of Justice (STJ), a Congressional panel responsible for the reform of the Brazilian Criminal Code has decided to include the crimes of active and passive corruption between individuals in the private sector with a predicted penalty of one to four years imprisonment and a fine. This reform will be carried out in order for Brazilian legislation to comply with the United Nations Convention Against Corruption.</p>
<p>Definitions</p>	<p>Government Employee</p>	<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 (Section 327 of the Brazilian Criminal Code).</p> <p>While the Clean Company Act does not provide a definition of government employee, thus using the definition provided by the Brazilian Criminal Code, it does define “foreign public entities” and “foreign public officials” in order to include, respectively, entities directly or indirectly controlled by the public sector of a foreign country (i.e. diplomatic representations and companies controlled by state-owned companies), and individuals with even temporary or unpaid employment at such entities. It further states that public international organizations are considered foreign public entities. Furthermore, the Clean Company Act spells out a control test for determining whether companies with state ownership qualify as public entities whose employees are “foreign public officials” (Section 5, paragraphs 1, 2 and 3 of the Clean Company Act).</p>
	<p>Gratification (Gifts/ Entertainments/ etc)</p>	<p>Brazilian law provides that corruption may occur by the simple offering of an undue advantage to a public official but it does not define “advantage.” Accordingly, the interpretation of that term would be subject to the court’s scrutiny on a case-by-case basis.</p>
<p>Current Status</p>	<p>Enforcement Bodies</p>	<p>On March 18, 2015, Brazil’s Federal Executive issued Decree No. 8,420/2015 (the “Decree”) which outlines how the Clean Company Act will be applied. At the federal executive level, the Decree enables the highest federal executive authorities (governmental agencies, state-owned companies, state-controlled companies and state governmental foundations) to enforce the Clean Company Act. Each Minister of State of the federal government is competent to enforce the Clean Company Act within direct administrative bodies of the federal executive (ministries, secretaries and subordinated bodies). This means that enforcement can be sought by affected government regulators, such as IBAMA (environment), ANVISA (health), ANP (oil and gas), and others. Interpretation and enforcement of the Clean Company Act is likely to proceed in haphazard and conflicting ways, according to differing procedures and subject to differing policy influences.</p> <p>Within the Legislative and Judiciary branches, violations will be investigated by their highest authorities. Enforcement will be carried out by independent <i>ad hoc</i> committees of public personnel staffed at indirect and direct federal administrative levels. The competent enforcing/prosecuting authorities will vary in accordance to where the violations were perpetrated.</p> <p>The Office of the Comptroller General (CGU) has authority to concurrently enforce the Clean Company Act within any level, and also to claim authority over any ongoing domestic administrative proceeding, and in connection with all corrupt practices involving foreign governments. The Office of the Comptroller General (CGU) also has exclusive jurisdiction to negotiate and enter into leniency agreements in connection with domestic and international corruption cases.</p> <p>Law enforcement authorities (State and Federal Police) the State and Federal Prosecutors (<i>Ministério Público Estadual and Federal</i>) may also conduct investigations and file civil and criminal lawsuits. Depending on the violations took place, State and Federal courts will have jurisdiction over cases involving public officials.</p>

<p>Issues in Enforcement</p>	<p>The Decree, which outlines how the Clean Company Act will be applied, covers, among other things, the following areas: (i) penalties that will be applied to violations of the Clean Company Act; (ii) details on how the authorities will incentivize compliance programs (<i>programas de integridade</i>); (iii) the provision of exclusive jurisdiction to the Office of the Comptroller General (CGU) to negotiate and enter into leniency agreements; and (iv) details on administrative proceedings.</p> <p>Violations of Brazil’s Clean Company Act can result in fines which range from 0.1 percent to 20 percent of a company’s gross revenue in the fiscal year prior to the start of the investigation (or from R\$ 6,000.00 to R\$ 60,000,000.00, if the gross revenue criterion is not available). Fines will be limited to the lowest amount between (i) 20 percent of a company’s gross revenue in the fiscal year prior to the start of the investigation and (ii) three times the illegal advantage actually (or intended to be) obtained.</p> <p>To calculate the fines, the following range of percentages of the gross revenue of the company the fiscal year prior to the start of the investigation will be applied: (i) 1% to 2.5% if the violation took place over a long period of time; (ii) 1% to 2.5% if management of the company was aware of the violations; (iii) 1% to 4% if the violation caused the suspension of public services or involved a contract with a public organ; (iv) 1% if company netted profits and had a positive solvency rate in the fiscal year before the investigation; (v) 5% if the company is a reoccurring offender and committed a similar within five year of the publication date of the last administrative judgment; and (vi) 1% to 5% according to the amount of contracts entered into with or intended with governmental authorities (ranging from 1% for contracts above R\$1,500,000.00 to 5% for contracts above R\$ 1,000,000,000.00).</p> <p>Violating companies can benefit from the following reductions in the ultimate fine: (i) 1% if the violation was not completed; (ii) 1.5% if the company remedies the damages caused; (iii) 1% to 1.5% if the company collaborates with the investigation, regardless of the execution of leniency agreements; (iv) 2% if the company is the first to report the violations before the commencement of the proceeding; and (v) 1% to 4% if the company has an effective compliance program in accordance with the factors set forth in the Decree.</p>
<p>Compliance Programs’ Guidelines</p>	<p>The Office of the Comptroller General (CGU) has recently enacted additional rules, clarifications and procedures in connection with the efficiency assessment of the compliance program standards set forth on the Decree. Since the Office of the Comptroller General (CGU) has authority to fine violating companies in the federal level, all recommendations or resource guides drafted by CGU apply to the enforcement of Clean Company Act in connection with violations involving the federal government. The executive branches of States and Municipalities have jurisdiction to enact decrees to regulate the application of the Clean Company Act within their governmental level. Nevertheless, the Decree provides useful general guidelines to better understand the expectations in connection with compliance programs.</p> <p>As per Instruction (<i>Portaria</i>) No. 909/2015, in order to have their programs assessed companies, must produce and file with the Office of the Comptroller General both a “Profile Report” and a “Compliance Report”. The Profile Report must disclose: (i) domestic and foreign markets in which the company has activities, (ii) the internal organizational structure, (iii) the number of employees and collaborators, (iv) the business relationships and agreements (and their value in connection with the company’s gross revenues) entered with governmental authorities in the last three years, (v) the use and relevance of expeditors, consultants, attorneys-in-fact and commercial representatives in connection with business relationships with governmental authorities and (vi) controlling, controlled or joint venture equity interests. In Compliance Reports, the company shall demonstrate the successful use of the compliance program as part of the company’s routine, provide historical data, statistics and specific cases, as well as the effectiveness of the program in the prevention, detection and remediation of violations. Compliance programs unable to demonstrate effective prevention of violations of the Clean Company Act will not mitigate administrative sanctions.</p>
<p>Recent Movement</p>	<p>Brazilian authorities are conducting a high-profile investigation of an alleged kickback scheme in the state-owned oil company, Petrobras. The investigation, known informally as the "Petrolão," focuses on bribes allegedly paid to the political party of Brazil’s president (the Workers Party) and its allies by means of inflated contracts in the company's refinery division. As the alleged crimes were carried out before the Clean Company Act entered into force, the investigation and any eventual indictments will be based on the relevant</p>

		<p>anti-bribery and corruption sections of the Brazilian Criminal Code.</p> <p>In 2013, a committee of Brazil’s Senate approved a bill that would establish commercial corruption as a “heinous crime,” a legal concept that allows for tougher punishments for corrupt practices, including travel and other restrictions that could seriously hamper the ability of executives and companies to carry out operations when facing charges for this category of crime. The bill, which still requires full Senate approval and approval by Brazil’s House of Representatives, would then need to be ratified by Brazil’s President before becoming law. If approved, it would apply to government officials who take advantage of their public position to demand favors and to those who embezzle public funds. It would also apply to individuals and institutions who offer bribes to government officials.</p>
Participation in International Anti-corruption Conventions	OAS Convention	<p>Signed March 29, 1996</p> <p>Ratified July 10, 2002</p>
	OECD Convention	<p>Yes</p>
	UNCAC	<p>Signed Dec. 9, 2003</p> <p>Ratified Jan. 31, 2006</p>
Last Updated		<p>October 17, 2015</p>

Region		South America
Country		Chile
2015 CPI	Rank	23/168
	Score	70
The Law on Bribery	Bribery of Domestic Officials	<p>Bribery of domestic officials is prohibited under the Chilean 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 performance or omission of an act within the authority of the official's role (whether in line with or in conflict with his duties): two months to three years imprisonment, and fines matching the type of performance requested (50% to 100% of the offered/agreed benefit for performance in line with the official's duty; 100% to 200% if in conflict and up to 300% if the bribe is offered for the performance of certain crimes) (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: two to eighteen months imprisonment, two months to three 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: eighteen months to three years imprisonment, absolute or special temporary impediments to holding public office, and fine of 100% to 200% of the bribe (Criminal Code art. 248-bis). • for the commission of certain crimes: an economic benefit in consideration for the commission of certain corruption crimes: eighteen months to three years, unless the committed crime has a higher penalty, special perpetual and absolute temporary or perpetual impediments to holding public office, and fine of 100% to 300% of the bribe (Criminal Code art. 249). <p><u>Corporate liability:</u> Law N° 20.393 on 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 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	The bribery of foreign officials is also covered in the Criminal Code under a separate

	Officials	<p>provision, which only punishes the offeror and not the foreign official who receives the gift. Chilean courts also have jurisdiction in cases of bribery of a foreign public official committed abroad by a Chilean national or a foreigner with habitual residence in Chile, which constitutes an exception to the principle of territoriality generally applicable in Chile.</p> <p><u>Offering bribes:</u> Criminal Code art. 251-bis 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 eighteen months to five years imprisonment, restrictions on holding public office and a fine ranging from 100% to 200% of the amount of the bribe. If the benefit is not financial, the monetary penalty will range from 100 to 1,000 monthly tax units (one tax unit is currently equivalent to approx. USD \$65).</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, disengagement, etc.</p>
	Commercial Bribery	Chile does not have laws that prohibit commercial bribery, although cases may sometimes be pursued civilly under general tort theories.
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. 251-ter).</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, 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). In such proceedings the State Defence Council may act as complainant, defending the interests of the State.</p> <p>The Republic's General Comptroller's Office, which is an independent agency responsible for enforcing administrative offenses, will determine if the behavior violated a public official's duties and impose administrative sanctions, which may be appealed in court.</p>
	Issues in Enforcement	<ul style="list-style-type: none"> • Weak whistleblower protection (weak protection in public bribery cases, no protection in commercial bribery cases). • Decentralized organization of enforcement. • Due to its novelty, there have not been many cases where anti-corruption laws have been enforced against legal entities under the Criminal Liability of Corporations law. No case has gone to trial nor has the adequacy of compliance programs, which may exempt companies from liability, been tested in such context.
	Recent Movement	On June 2015, as a reaction to some high profile alleged corruption cases (particularly cases involving irregular funding of political campaigns) a bill was presented for discussion in Congress, proposing important amendments to anti-corruption regulation, including the increase of penalties for bribery and other corruption crimes, amendments to provisions related to bribery of foreign governmental officials, following recent recommendations issued by the OECD and the regulation and punishment of commercial bribery, which so far is not considered a crime under Chilean law.
Participation in International	OECD Convention	Yes. Chile ratified the OAS Inter-American Convention Against Corruption on October 27, 1998.

Anti-corruption Conventions	UNCAC	Yes. Chile ratified the UN Convention against Corruption on September 13, 2006.
Last Updated		October 20, 2015

Region		South America
Country		Colombia
2015 CPI	Rank	83/168
	Score	37
The Law on Bribery	Bribery of Domestic Officials	<p>Offering and receiving bribes are criminal offenses under the Colombian Criminal Code (Law 599 of 2000) as modified by Law 1474 of 2011 (the Anti-Corruption Statute).</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 80 and 144 months for causes (i) and (ii), and between 64 and 126 months for cause (iii), fines and elimination of rights associated with public office (Criminal Code art. 405, 406).</p> <p><u>Apparent bribe</u>: It is a crime for a public servant to receive money or any other kind of benefit, or to accept an offer, for his benefit or for the benefit of another person, directly or indirectly from a person who has any kind of interest in a subject matter that is under his decision/knowledge; punishable by imprisonment ranging between 32 to 90 months, fines and elimination of rights associated with public office (Criminal Code art. 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 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 (Criminal Code art. 407).</p> <p><u>Corporate liability</u>: Independent of the individual criminal liabilities which may apply, the measures established under article 91 of Law 906 of 2004 apply to legal entities that seek to benefit from the performance of criminal offenses against the Public Administration, or any other punishable conduct related to public funding, performed by its legal representative or its administrators, either directly or indirectly. Article 91 of Law 906 of 2004 establishes several sanctions which would be applicable to the legal entities, including: suspension of activities, cancellation of the company’s registry before the Chamber of Commerce and temporary closure of its commercial establishments.</p> <p><u>Foreign Entities liability</u>: Independent of the individual criminal liabilities which may apply, the measures established under the Anti-Corruption Statute apply to representative offices and to those that represent legal entities incorporated abroad (Anti-Corruption Statute art 131).</p> <p>Regarding criminal offenses against the Public Administration or crimes that affect public funding, the relevant affected state-owned entities may join those companies which participated in the performance of such criminal offenses, to respond to any tort or civil damages claims arising from the crime.</p> <p>In accordance with article 86 of Law 222 of 1995, the Superintendence of Companies may impose pecuniary fines of 500 to 2000 monthly legal salaries when¹, with the knowledge of its legal representatives, or any of its administrators or with acquiescence in any of the aforementioned, the company has participated in the performance of a criminal offense against the Public Administration or public funds (Law 1474 of 2011 art 34).</p>

¹ USD \$112,816 to USD \$451,266 approximately

		<p>Pursuant to article 8 of Law 80 of 1993 those persons that committed criminal offenses against the Public Administration and are punished with imprisonment, or incur in transnational bribery, would not be able to participate in any public tender or to execute any contracts with any governmental entity, for a period of 20 years. Such inability extends to those legal entities shareholders of the entity that is found guilty of the crime, and to its parents and subsidiaries, except to publicly traded corporations.</p>
	<p>Bribery of Foreign Officials</p>	<p>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 to an economic or commercial transaction; punishable by imprisonment ranging between nine and fifteen years and fines (Criminal Code art. 433). Article 433 of the Criminal Code states that a foreign public servant is any person with a legislative, administrative or judicial position in a foreign governmental entity which has been elected or appointed, and any other person which performs a public function for a foreign country (either within a government owned organization or a public utilities/services company). In addition, any person who works in an international organization will be recognized as a foreign public servant (i.e., Inter-American Development Bank, United Nations, etc.).</p> <p>Persons condemned of any criminal offense against the Public Administration are not entitled of any benefit reducing or replacing their punishments (Criminal Code art.68A).</p>
	<p>Commercial Bribery</p>	<p>The Anti-Corruption Statute, 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</p> <p><u>Private corruption</u>: It is a crime to give or offer non-justified money or other benefits, directly or indirectly, to a director, manager, employee or advisor of any corporation, association or foundation, his benefit or for the benefit of another person; punishable by imprisonment ranging between 4 and 8 years and fines (Criminal Code art. 250A).</p> <p><u>Receiving a bribe</u>: It is a crime for a director, manager, employee or advisor of any corporation, association or foundation to receive, request or accept non-justified money or any other benefit; punishable by imprisonment ranging between 4 and 8 years and fines (Criminal Code art. 250A).</p> <p>In case the conduct that resulted in any of the abovementioned criminal offenses causes a negative economic effect to the legal entity, the conduct will be punishable by imprisonment ranging between 6 and 10 years. (Criminal Code art. 250A).</p> <p>Besides the above, conducts relating to unlawful management and inappropriate use of the corporate information, are crimes punishable by imprisonment.</p>
<p>Definitions</p>	<p>Government Employee</p>	<p>This concept is included in the 1991 Constitution and article 20 of the Criminal Code. According to the Colombia 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).</p> <p>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, Constitution). The scope of public service must be determined by law or regulation.</p> <p>Public servants include individuals who render services to the state, either directly or indirectly. In addition, article 20 of the Criminal Code includes as public servants: (i) members of the military; (ii) individuals that perform state activities, permanently or temporarily; (iii) members and employees of the Central Bank; (iv) citizens that are a part of the National Citizen Commission of the Fight Against Corruption; and (v) persons who manage government owned resources.</p>
	<p>Gratification (Gifts/ Entertainments/ etc)</p>	<p>The Criminal Code (art. 405 through 407), in connection with bribery, includes benefits (“<i>utilidad</i>”) (presumably anything of value) and any promise with remuneration (“<i>promesa remuneratoria</i>”).</p> <p>However, there are no specific regulations which encompass gratification gifts, entertainment expenses and other related expenses, the propriety of which will be determined on a case by case basis.</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>The Public Ministry Office has the highest responsibility for overseeing the discipline of public servants. The Judiciary Counsel is responsible of investigating and sanctioning justice servants. The Attorney General investigates all offenses under the Criminal Code and prosecutes before Criminal Courts. The General Comptroller’s office has the responsibility to oversee fiscal management. The foregoing are independent entities which have the power to initiate</p>

		<p>investigations.</p> <p>The Transparency Agency, which reports to the president, plays different roles in fighting against corruption. Among its different roles, the Transparency Agency designs policies against corruption (which it does not enact or issue), coordinates the implementation of international treaties against corruption, designs preventive mechanisms to fight against corruption, and receives reports of abuse and redirects them to the proper agency for investigation, among others.</p> <p>The National Commission for Moralization is committed to adopt an annual strategy for developing transparency, efficiency and morality in public administration. As an additional effort, Regional Commissions for Moralization are responsible for implementing and coordinating at the territorial level the actions of government owned entities to prevent and investigate corruption.</p> <p>The National Citizen Commission of the Fight Against Corruption is responsible for making recommendations, tracking and evaluating anti-corruption policies. It is also responsible for promoting strategies to combat corruption in the private sector.</p>
	<p>Issues in Enforcement</p>	<ul style="list-style-type: none"> • 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). • A lack of funding and strong political influences at the regional level makes regional investigations more difficult. • No whistleblower protection policies and inaccessible witness protection programs. <ul style="list-style-type: none"> a. Public servants, private parties supervising public contracts, rendering services of public entities or managing public funds, that commit any retaliation acts against whistleblowers would incur in a serious infraction (<i>falta gravísima</i>). Sanctions include fines between 10 and 100 monthly legal salaries, elimination of rights associated with public office for 20 years. In case the conduct caused economic damages to the Public Administration, the fine would be two times the damage (Disciplinary Code art. 45, 56). • Lack of regulation regarding lobbying practices. • The lack of regulations relating to self-reporting limits the ability of government and enforcement authorities to understand corruption and bribery phenomena and enforce anti-corruption laws. • Despite a reporting database was established since 2013 (Ventanilla Única de Denuncias), a review database in 2011 (Portal de Transparencia Económica), and a market price data base also in 2011 (Colombia Compra Eficiente), there are no user-friendly corruption databases are available to support citizens and the government to understand and monitor this phenomenon. • Lack of regulation regarding donations.
	<p>Recent Movement</p>	<p>The Colombian Congress recently enacted the new Anti-Bribery Statute (Law 1474 of 2011), and is currently debating the enactment of a law regulating lobbying practices (Law Project 94 of 2014).</p> <p>In December 2013 the Social and Economics Politics National Counsel (Conpes) adopted the policies related to the management of risks related to the corruption and bribery (<i>Política Pública Integra Anticorrupción</i>).The administrative enforcement authorities (i.e. Superintendencies) and the high courts are currently reviewing major corruption cases which could enhance the understanding of the scope of the anti-bribery regulations enacted and issued (Case-law/ Precedent Law).</p>
<p>Participation in International Anti-corruption Conventions</p>	<p>OAS Convention</p>	<p>Signed: March 29, 1996 Ratified: Nov. 25, 1998</p>
	<p>OECD Convention</p>	<p>Signed and ratified: Nov. 20, 2012 Entry into force: Jan. 19 2013</p>
	<p>UNCAC</p>	<p>Signed: Dec. 10, 2003</p>

		Ratified: Oct. 27, 2006
	EU and Colombian Anti-Corruption Convention	Signed: Sep. 2013
Last Updated		October 16, 2015

Region		South America
Country		Ecuador
2015 CPI	Rank	107/168
	Score	32
The Law on Bribery	Bribery of Domestic Officials	<p>Under Ecuador’s new <i>Código Orgánico Integral Penal</i> (2014), known as the “COIP,” 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 for an individual to offer, give, or promise to give a public servant or other state official a donation, gift, promise, advantage, or undue economic benefit or any other asset in order to make, omit, facilitate, postpone or condition any matters related to the recipient’s role as a civil servant or to commit a crime. (Article 280 <i>Cohecho</i>.)</p> <p><u>Receiving a bribe:</u> It is a crime for public servants or other state officials to receive or accept for themselves, or on behalf of a third party, any economic or other benefit for the purposes of facilitating or conditioning any matter related to their function as a public servant. (Article 280 <i>Cohecho</i>.) Furthermore, it also is crime for such individuals to obtain unjustified earnings on behalf of themselves or third parties. In such cases, illicit enrichment is understood to cover not only the taking of money and assets but also the cancellation or forgiveness of any debt. (Article 279 <i>Enriquecimiento ilícito</i>.)</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> <p><u>Extortion:</u> It is a crime for public officials or other state officials to use or to attempt to use their position or relationships to exercise influence over another civil servant to obtain a favorable result on behalf of themselves or third parties. (Article 285 <i>Trafico de Influencias</i>; and Article 286 <i>Oferta de realizar trafico de influencias</i>.)</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 individuals who work in any agency 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 COIP unless there is a corrupt purpose attached to the gift (a <i>quid pro quo</i>). However, the receipt of a gift or hospitality of any value by a public servant may constitute a disciplinary violation. In such a case, only the public official who receives the gift, and not the giver, may be punished. (Organic Law on Public Servants arts. 10, 24 and 42.)
Current Status	Enforcement Body	The Transparency and Social Control agency 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 corruption and for anti-corruption strategies. However, prosecutorial power and discretion remain with the Office of the Prosecutor General.
	Issues in Enforcement	<ul style="list-style-type: none"> The 2015 budget for investigating corruption has decreased by nearly 50% from 2014. (Jose Hernandez, <i>Corruption in Ecuador: Correa Investigates Himself</i>, ECUADOR REVIEW, June 2015, http://www.ecuadorreview.com/in-depth-ecuador/analysis-in-depth-ecuador/corruption-in-ecuador-correa-investigates-himself/). Judicial processes are slow and subject to political influences; the Judicial Council is chaired by the President’s former Private Secretary. (<i>Corruption in Ecuador: Correa Investigates Himself</i>).

		<ul style="list-style-type: none"> • Several scandals have not been resolved, including the major cases involving Fabricio Correa, the President’s brother, and Pedro Delgado, the President’s cousin and former president of the central bank. (<i>Corruption in Ecuador: Correa Investigates Himself</i>). • Lack of transparency and suppression of political speech continue to be aggravating factors.
	Recent Movement	<ul style="list-style-type: none"> • In May 25, 2015, a member of the National Assembly, Maria Esperanza Galvan, and two citizens, all of who are affiliated with the PAIS Alliance movement, were detained by police under corruption charges. Galvan confessed to soliciting a \$800,000 bribe under Vice President Jorge Glas’ name from Miguel Salvatierra. The three were expelled from PAIS by the party’s Ethical Commission. (<i>Ecuador Takes Action Against Corruption</i>, teleSUR, May 26, 2015, http://www.telesurtv.net/english/news/Ecuador-Takes-Action-Against-Corruption-20150526-0033.html). • The National Administration Secretary has created a hotline (1800-SOYHONESTO) and website where citizens can report corruption anonymously (http://www.administracionpublica.gob.ec/). • As of May 2015, a commission of the General Comptroller’s office was set to investigate all 137 members of the National Assembly over a 40-day period. (<i>Ecuador Takes Action Against Corruption</i>). • Public perception of governance and reduction of corruption in Ecuador is the highest in the region. A recent poll conducted by Latinobarametro October 2015, which included 20,000 interviews in 18 countries, found that 52% of Ecuadoreans agreed that corruption in public institutions had been reduced in the previous two years. (<i>Poll Finds Ecuadoreans Strongly Support Government Initiatives</i>, teleSUR, Oct. 4, 2015, http://www.telesurtv.net/english/news/Poll-Finds-Ecuadoreans-Strongly-Support-Government-Initiatives-20151004-0004.html). • In July 2015, the head of the national police, Fausto Tamayo, resigned following an announcement of an investigation into possible corruption in the police force. (<i>Ecuador’s Head of Police Steps Down Amid Corruption Probe</i>, teleSUR, July 3, 2015, http://www.telesurtv.net/english/news/Ecuador-Head-of-Police-Steps-Down-Amid-Corruption-Probe-20150703-0031.html).
Participation in International Anti-corruption Conventions	OAS Convention	Signed March 29, 1996 Ratified May 26, 1997
	OECD Convention	No
	UNCAC	Signed Dec. 10, 2003 Ratified Sept. 15, 2005
Last Updated	October 6, 2015	

Region		South America
Country		Uruguay
2015 CPI	Rank	21/168
	Score	74
The Law on Bribery	Bribery of Domestic Officials	<p>Anti-corruption provisions in Uruguay are found in the Uruguayan Criminal Code, the Anti-Corruption Act (Law N° 17.060), and the Statute of Public Servants.</p> <p><u>Offering a bribe:</u></p> <ul style="list-style-type: none"> It is a criminal offense for a person to induce a public official to accept an economic benefit in exchange for an advantage related to the performance, or the delay or failure to perform any act of their office. Violations are subject to one-half to two-thirds of the sanction prescribed for the crime that the public official is induced to commit if the offer is accepted (see below “Receiving a bribe”). It is considered a special aggravating circumstance to bribe a policeman or an official responsible for the investigation and prosecution of illegal activities. <p><u>Receiving a bribe:</u></p> <ul style="list-style-type: none"> <u>In violation of official duties:</u> It is a criminal offense for a public official to receive or accept, directly or indirectly, an undue benefit or promise of benefit, in return of the delay or omission of an act in conflict with his duties, or in exchange of the performance of an act contrary to his duties. Violations are subject to twelve months to six years imprisonment, banning from holding public functions for a period of two to six years, and a penalty fee ranging from 50 UR (approx. USD 1.405) to 10.000 UR (approx. USD 281.150) (Art. 158 Criminal Code). The following facts are considered as aggravating circumstances, increasing the penalty by one-third to one-half (i) entering into a contract in which involves the public official’s agency; (ii) the execution of an act in contravention of the legal administrative procedures provided for the acquisition of goods or services, and (iii) the injury or benefit that the bribe could cause in a Civil or Criminal proceeding. <u>For the performance of official duties:</u> It is a criminal offense for a public official to receive or accept an undue benefit or promise of benefit, in exchange for performing an act inherent to their functions. Violations are subject to three months to three years imprisonment, a ban from holding public functions for a period of two to four years, and a penalty fee ranging from 10 UR (approx. USD 0.281) to 5.000 UR (approx. USD 14.057) (Art. 157. Criminal Code). <p><u>“Trafficking in influence”:</u> It is a criminal offense for a person to appeal to a real or alleged influence that would allow him to obtain an advantage from a public office or any favorable decision from public officials. It is not necessary to make an offer to commit the criminal offense, it is enough to appeal for a real or not real influence. Violations are subject to three months to three years imprisonment (art. 158 BIS of the Criminal Code).</p>
	Bribery of Foreign Officials	<p>In general terms, there is no criminal liability attached to the bribery of foreign officials. However, there is a specific regulation for those particulars or public officials who offer or promise an economical advantage in return for the foreign public official’s performance of an act that would provide a benefit or advantage in the execution of an international trading operation. Violations are subject to three months to three years of imprisonment. The Criminal Code does not punish foreign official who receives the gift (Art. 29 of the Anti-Corruption Act).</p> <p>This specific provision was adopted from the OAS Anti-Corruption Convention (article VIII).</p>
	Commercial Bribery	Uruguay does not have any regulation (legal or statutory) dealing with commercial bribery.

Definitions	Government Employee	Under the Uruguayan Criminal Code, a public official is someone who holds a public office or perform a public function, either legislative, judicial or administrative, and, in the latest case, can be at any level of government (central government, municipal, state agencies, etc.). It also includes officials who have temporary contracts, and all the forms of contracting temporary staff (Criminal Code, art. 175).
	Gratification (Gifts/Entertainments/ etc)	Uruguayan law does not provide specific definitions for these concepts. It is prohibited for public officials to receive or accepting money, gifts, benefits, favors, promises or other advantages directly or indirectly, for him or others, in connection with the performance of a public function (Art. 30 of the Decree 30/2012, regulatory order of the Anti-Corruption Law). There are three exceptions for this general rule: (a) official protocol recognitions, (b) expenses related to participation in academic conference or cultural activities, (c) small gift received for reasons of customs and practices or due to celebrations for which gifts are usually given, for example: Christmas, New Year's Eve, birthdays (art. 32 of the Decree 30/2012).
Current Status	Enforcement Bodies	Local Police - Public Prosecutor's offices. There is a specialized court ("Court of Organized Crime") which has jurisdiction in connection with the prosecution of corruption cases (Art. 414 of the Act 18.362). The Anti- Corruption Act called for the creation of a "Board of Transparency and Public Ethics", that was originally part of the structure of the Executive Branch, and subsequently was transformed into a decentralized agency (Act. 19.340). Its mission is to enforce the application of the Anti-Corruption Act, including the periodic submission of affidavits by public officials; a requirement that only applies for a selected group of high profile public officials (Arts. 10 and 11 of the Act 17.060).
	Issues in Enforcement	The Board of Transparency and Public Ethics does not have adequate resources to perform their duties. Institutional changes were not reinforced with a satisfactory budget assignment. The Board's structural transformation does not imply that the Board can construct mandatory decisions. Uruguayan laws do not provide specific protections for witnesses and whistleblowers. There is not an adequate institutional structure to efficiently prosecute minor corruption activities. The Anti-Corruption legislation does not expressly deal with the liability of companies for the acts of their subsidiaries, employees and third parties. Prosecution for bribery is exclusively against individuals. Uruguay does not have laws that regulate commercial bribery.
	Recent Movement	The Prosecutor's Office, which was originally part of the structure of the Executive Branch, was transformed into a State's decentralized agency with higher functional and technical independence (Act. 19.334 from August 14, 2015). A new Penal Procedure Code was enacted in December 2014, but will not come into force until February 2017. This Code incorporates an adversarial proceeding, contrasting with the inquisitorial forms that characterizes the current criminal procedure. A proposal is being discussed by the Parliament to reform the Penal Code, which would involve some changes in relation with corruption crimes. One of the most intensive discussions has referred to the derogation of the "abuse of functions" (art. 162. Criminal Code) as an independent, generic and residual crime. This crime does not require a specific subjective intention of taking an economical advantage and only criminalizes the abusive exercise of power, the deviation from standard good practices and other kind of similar abusive conduct.
Participation in International Anti-corruption Conventions	OAS Convention	Yes. Uruguay ratified the Inter-American Convention Against Corruption on October 1998. (Act. 17.006).
	OECD Convention	No.

	UNCAC	Yes. Uruguay ratified the UN Convention against Corruption on December 2006 (Act. 18.056).
Last Updated		December 4, 2015

Region		South America
Country		Venezuela
2015 CPI	Rank	158/168
	Score	17
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. 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 one to four 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 three to seven 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 five to ten years imprisonment if the court decision results in a prison sentence of over six 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 six months to two 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 criminalizes bribery between private parties (Law on Fair Prices). Commercial bribery is also prohibited and a breach could be deemed an administrative violation, with the violator subject to fines based on the value of the transaction. (Law for the Protection and Promotion of Free Competition art. 17).
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 the share capital is owned by the government or state entities; • all public universities; and • the Central Bank of Venezuela.
	Gratification (Gifts/ Entertainments/ etc)	There are no criminal laws specifically with respect to gifts or entertainment. The Anti-Corruption Laws use the term “undue donation,” but in general, only monetary bribes or benefits constitute corruption. Because of the ambiguity of the language, however, a judge may decide whether a non-monetary gift should be considered an undue donation.

		<p>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. Moreover, 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. A contravention of the above provisions is punishable by two to four years imprisonment.</p> <p>There are no relevant provisions in relation to the private sector.</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. The National Financial Intelligence Unit aims to uncover and prevent money laundering, and counter terrorist financing.</p>
	Issues in Enforcement	<ul style="list-style-type: none"> • Enforcement bodies such as the GCO have little insulation from political influence. Investigations are often conducted pursuant to political agendas (e.g., investigation of presidential candidates to prevent their election). • Lack of real commitment to fight against corruption. • Mistrust of the justice system. • Systematic corruption exists at all levels of society. • An increasing impunity rate. GPPO published in its last report a 92% impunity rate in prosecutions. • Both the GCO and the GPPO lack institutional resources and funding. • The government recently initiated whistleblower policies. • Despite a weak judiciary system, there are enforcement actions on corruption that are currently active: For example, on October 15, 2013, the ninth crime control court of Carabobo state, north Venezuela, remanded into custody Valencia’s Mayor Edgardo Parra Oquendo, a member of ruling United Socialist Party of Venezuela (PSUV), for alleged involvement in corruption during his tenure. The Venezuelan Attorney General’s Office charged Parra with collusive bidding, corruption, embezzlement, and criminal association. The court ordered seizure of Parra’s bank accounts and assets, including manors, apartments, boats and technology equipment.
	Recent Movement	<p>At the end of November 2014, President Nicolas Maduro announced a reform of the Anti-Corruption Law. The reform is said to create a special police force – the National Anti-Corruption Body – to help enforce the law, and establishes consequences for international or transnational bribery.</p>
Participation in International Anti-corruption Conventions	OAS Convention	<p>Signed March 29, 1996 Ratified May 22, 1997</p>
	OECD Convention	<p>No</p>
	UNCAC	<p>Signed Dec. 10, 2003 Ratified Feb. 2, 2009</p>
Last Updated		<p>October 13, 2015</p>

Region		South Asia
Country		India
2015 CPI	Rank	76/168
	Score	38
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 and the Lokpal and Lokayuktas Act, 2013 (LLA) which came into force on January 16, 2014. 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. However, this bill lapsed and would have to be re-introduced in Parliament. At the state level, state governments have local laws that address certain aspects of corruption. Maharashtra was the first state to establish a Lokayukta (anti-corruption ombudsman) in the year 1972. Further, in May 2014, the Whistle Blowers Protection Act, 2011, came into force, which enables any person (i.e. a whistleblower) to report an act of corruption, willful misuse of power or discretion, or criminal offence by a public servant. The Whistle Blowers Protection (Amendment) Bill, 2015, which seeks to amend the act is currently pending in Parliament.</p> <p>Offering a bribe: 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 the offense of receiving a bribe (as described in (i) through (v) below) is punishable with imprisonment and fine (PCA §12). This rule is subject to an exception: A witness cannot be prosecuted for testifying in a criminal proceeding against a public servant that he offered a bribe to the public servant. (PCA §24).</p> <p>Receiving a bribe: The PCA criminalizes the following acts: (i) taking of 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; (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>Corporate liability: The PCA does not contain a provision expressly holding 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> <p>The Prevention of Corruption (Amendment) Bill, 2013 was introduced in the Upper House in August 2013. The bill has specific provisions related to giving a bribe to a public servant and giving a bribe by a commercial organization. Subject to certain exceptions, the bill proposes to levy civil and criminal penalties on persons responsible for the conduct of a commercial organization which has been found guilty of an offence relating to bribing a public servant. The Union Cabinet chaired by the Prime Minister gave its approval in April 2015 to make certain amendments to the bill to fill in perceived gaps in domestic anti-corruption laws and help in meeting the country's obligations under the United Nations Convention against Corruption more effectively.</p>
	Bribery of Foreign Officials	There is currently no law in India that criminalizes bribery of foreign public officials. To overcome this and to give effect to the UNCAC, the Prevention of Bribery of Foreign Public Officials and Officials of Public International Organizations Bill, 2011 was

		<p>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, 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 would also be a crime to abet or attempt to commit any of the aforementioned acts under the bill. However, this bill lapsed and would have to be re-introduced in Parliament.</p>
	<p>Commercial Bribery</p>	<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>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Definitions</p>	<p>Government Employee</p>	<p>“Public servant” has been broadly 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> <p>“Public servant” under the LLA has a wider scope than the PCA, and includes any person who is or has been (i) a prime minister, (ii) minister of the union, (iii) member of either house of Parliament; any Group ‘A’ or Group ‘B’ officer of equivalent or above from amongst the public servants defined under the PCA when serving, or who has served, in connection with the affairs of the union; any person who is or has been a chairperson or member or officer or employee in an body or board or corporation or authority or company or society or trust or autonomous body (by whatever name called) established by an act of Parliament or wholly or partly financed by the Central Government or controlled by it; any person who is or has been a director, manager, secretary or other officer of every other society or association of persons or trust, by whatever name called, wholly or partly financed by the Government and the annual income of which exceeds such amount as the Central Government may, by notification, specify; any person who is or has been a director, manager, secretary or other officer of every other society or association of persons or trust in receipt of any donation from any foreign source under the Foreign Contribution (Regulation) Act, 2010 in excess of ten lakh rupees in a year or such higher amounts as the Central Government may prescribe. (LLA § 14).</p>
	<p>Gratification (Gifts/ Entertainments/ etc)</p>	<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 to accept by the government or the organization which he serves (PCA §7).</p> <p>“A motive or reward for doing” refers to the concept where a person 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>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Current Status</p>	<p>Enforcement Body</p>	<p>The Central Vigilance Commission supervises the Central Bureau of Investigation (CBI) to investigate 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> <p>The LLA provides for the creation of a Lokpal for the union which shall have an Inquiry Wing and a Prosecution Wing. It also provides for the creation of a Lokayukta for the states to deal with corruption against certain public functionaries.</p>

	Issues in Enforcement	Except as provided under the LLA, 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 on the representation made by a citizen for sanction of the prosecution of a public servant within three months. As of 2010, 66% of the 236 cases with the central government remained pending for over three months. However, the Supreme Court did clarify that no prior sanction is required for abetment of bribery offenses under the PCA.
	Recent Movement	In April 2011, Anna Hazare, an anti-corruption activist, began a hunger strike to urge the government to pass the Jan Lokpal Bill (often called Citizen’s Ombudsman Bill). The strike eventually turned into a full-fledged anti-corruption movement that finally led to the passing of the LLA, which came into force on January 16, 2014. The LLA widens the scope of public servants who may be prosecuted for corruption charges and includes the prime minister and every government officer and official.
Participation in International Anti-corruption Conventions	OECD Convention	No
	UNCAC	Signed Dec. 9, 2005 Ratified May 9, 2011
Last Updated		October 13, 2015

Region		Southeast Asia
Country		Indonesia
2015 CPI	Rank	88/168
	Score	36
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: one to five 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 three 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 gifts or promises, knowing/suspecting that they were given:</p> <ul style="list-style-type: none"> • due to his position and authority: one to five 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 an act (or ruling in court) that contradicts his obligations: life imprisonment or four to twenty years imprisonment and a fine of 200,000,000 to 1,000,000,000 rupiahs (Law No. 31/1999 art. 12). <p><u>Causing loss to the state:</u> 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 four to twenty 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 one to twenty 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 three 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>

Definitions	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: 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) 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 lower, the public prosecutor has the burden).</p> <p>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, the crime involves law enforcement officials or attracts 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	<ul style="list-style-type: none"> • 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 Government recently amended the Law by Law No. 31/2014, however protection for whistleblowers is still an issue. • The KPK is only authorized to investigate and prosecute crimes that meet certain threshold requirements. • The KPK has very limited resources.
	Recent Movement	<p>KPK and the State Attorney’s Office more often use money laundering articles in the investigation and prosecution of corruption in cases where the crime involves using the proceeds arising from a corrupt act.</p>
Participation in International Anti-corruption Conventions	OECD Convention	No
	UNCAC	<p>Signed Dec. 18, 2003</p> <p>Ratified Sept. 19, 2006</p>
Last Updated		March 24, 2016

Region		Southeast Asia
Country		Malaysia
2015 CPI	Rank	54/168
	Score	50
The Law on Bribery	Bribery of Domestic Officials	<p>The primary body of law on anti-corruption is the Malaysian Anti-Corruption Commission Act 2009 (MACC Act) which came into effect on 1 January 2009. The MACC Act is the successor to the Anti-Corruption Act 1997 and is designed to bring Malaysia’s anti-corruption framework in line with its international obligations under the United Nations Convention Against Corruption.</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, to assist in procuring or preventing the granting of any contract for the benefit of any person 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 (MACC Act 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 (MACC Act sec. 21).</p> <p>Despite the general application of the MACC Act, certain existing anti-corruption laws such as the Penal Code (PC), Customs Act 1967 and Election Offences Act 1954 remain in force and cover 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 MACC Act 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 (MACC Act 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 (MACC Act 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 five times the value of the gratification or 10,000 ringgit (MACC Act sec.24).</p>
	Commercial Bribery	The MACC Act prohibits both public and commercial bribery (MACC Act 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 any money, donation, gift, loan, fee, reward, valuable security, property or interest <i>inter alia</i> in property being property of any description whether movable or immovable, financial benefit, or any other similar advantage.</p> <p>The MACC Act does not provide defenses for <i>de minimis</i> payments, but the Guidelines for Giving and Receiving Gifts in the Public Service issued by the Public Service Department in 1998 detail limited circumstances in which gifts may be allowed and the applicable approval procedures that must be followed.</p>
Current Status	Enforcement Body	<p>The Malaysian Anti-Corruption Commission (MACC) is authorized to investigate bribery offences under both the MACC Act and the PC. Other institutions relevant to the fight against corruption include the Attorney General’s Chambers (“AGC”), the Royal Malaysia Police, the Royal Customs and Excise Department, the Financial Intelligence Unit of the Central Bank of Malaysia, the Ministry of Foreign Affairs, the Public Service Department and the Judiciary.</p> <p>With the consent of the Attorney General who acts as the Public Prosecutor, the MACC may prosecute bribery offences.</p>
	Issues in Enforcement	<ul style="list-style-type: none"> • The MACC has found it difficult to prosecute corporate entities even after the crime of corruption have been carried out by an employee for the benefit of the corporate entity. • The MACC presently has limited power under the MACC Act to investigate public officials who appear to be living beyond their means. • The MACC presently does not have the power to prosecute corruption offences without the consent of the AGC and is therefore viewed as lacking autonomy and independence from the executive branch of government.
	Recent Movement	<p>There have been discussions regarding a possible amendment of the MACC Act to further combat corruption within the country. The proposed amendments include:</p> <ul style="list-style-type: none"> • The introduction of a specific corporate liability provision extending liability to corporations for the acts of their employees who commit offences under the MACC Act. • The introduction of additional powers for the MACC to investigate the ownership of properties by a person suspected of being involved in corruption. Currently, the MACC had no power to request a person to make a declaration of assets without initiating a corruption probe on the individual involved. • A reform of recruitment process which would allow the MACC to exercise control over hiring practices. Currently, the hiring of MACC personnel was controlled by the Public Services Department which is tasked with recruitment for the civil service in general. <p>However, to date the bill has yet to be tabled in Parliament.</p>
Participation in International Anti-corruption Conventions	OECD Convention	No (observer status)
	UNCAC	Signed Dec. 9, 2003 Ratified Sept. 24, 2008
Last Updated		October 13, 2015

Region		Southeast Asia
Country		Myanmar
2015 CPI	Rank	147/168
	Score	22
The Law on Bribery	Bribery of Domestic Officials	<p>Anti-corruption offenses are primarily covered in the Anti-Corruption Law 23/2013 and the Myanmar Penal Code. In general, both the facilitator and the receiver of the bribe may be subject to criminal penalties. Under the recently passed Anti-Corruption Law, the attempt, conspiracy or abetment to commit bribery is punishable (Anti-Corruption Law sec. 3(v)).</p> <p><u>Receipt of 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, or attempt to obtain from any person, 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 three years imprisonment, a fine, or both (Penal Code sec. 161). Under the Anti-Corruption Law, a Political Post Holder found guilty of corruption may be imprisoned up to 15 years and/or fined; a Person in Authority found guilty of corruption may be imprisoned up to 10 years and/or fined; any other person found guilty of corruption may be imprisoned for up to 7 years and/or fined (sec. 55-57).</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 three years imprisonment, a fine, or both (Penal Code sec. 162).</p> <ul style="list-style-type: none"> • "Person" in this section includes any company or association, or body of persons, whether incorporated or not (Penal Code sec. 11). • It is a crime for any person to demand, accept or agree to accept any gratification as a motive or reward for inducing any public servant's performance, omission, or biased performance of his duty, by the exercise of personal influence on any public official; punishable with up to one year imprisonment, a fine, or both (Penal Code sec. 163). • It is a crime for a public servant to abet the abovementioned crimes; punishable with up to three years imprisonment, a fine, or both (Penal Code sec. 164). <p>Under the Anti-Corruption Law, any person who attempts, conspires, organizes or administers the commission of any offense under the law will be liable for such punishment as directed under the law (Anti-Corruption Law sec. 63). While there is no specific language regarding the punishment of facilitation, the definition provided may be construed to include such activities under the broad definition of bribery.</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 two years imprisonment, a fine, or both (Penal Code sec. 165).</p> <p>Under the Anti-Corruption Law, the burden of proof rests on the person being investigated; the person must prove how he has obtained money or property which is the subject of investigation (sec. 64).</p>
	Bribery of Foreign Officials	Myanmar law includes the definition of foreign public servants.
	Commercial Bribery	Before March 30, 2015 Myanmar did not criminalize bribery in the private sector.

		<p>MLSL Note: On March 30, 2015, The Union Government issued Notification 24/2015 and announced that bribery and corruption are included in the offences under the Money Laundering Law (Law No.11 of 2014). Since Money laundering offences relate to commercial matters in the private sector, the previous concept that “Myanmar does not criminalize bribery in the private sector” has changed.</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Definitions</p>	<p>Government Employee</p>	<p>The Anti-Corruption law distinguishes between a Political Post Holder, a High Ranking Officer, a Person in Authority, a Public Office and a Public Servant:</p> <ul style="list-style-type: none"> • Political Post Holder means a person who has been announced by notification by the commission, with the approval of Pyidaungsu Hluttaw. (Anti-Corruption Law sec. 3(g)). • A High Ranking Official means a person who is holding the post of director general and managing director of a government department or who has the same level post or a member of a board of directors, a board member, committee member or a person who has the same rank at a government owned or government and private joint venture company. The term also includes a person who is temporarily holding one of the above- mentioned posts. (Anti-Corruption Law sec. 3(h)). • A Person in Authority means one who has the authority by means of his post or authority of management such as a public servant, external public servant, one who currently holds a political post, higher official or one who has management authority or an agent from a public related organization. (Anti-Corruption Law sec. 3(i)). • Public Official means any permanent or temporary employee working in any position of the legislature, administration and judiciary, working in a public department, organization or specified as a public serviceman under any existing law, whether or not he or she is appointed or elected, whether or not he or she receives salary and allowance. (Anti-Corruption Law sec. 3(e)). • Public Servant is defined in the Penal Code (sec. 21) and means any of the following: <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 or 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 on 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. • “Government” means person(s) authorized to administer the executive government in any part of Myanmar (Penal Code sec. 17).
	<p>Gratification (Gifts/ Entertainments/ etc)</p>	<p>“Gratification” is defined broadly and is not limited to pecuniary gratification or gratification estimable in monetary terms (Penal Code sec. 161). The Anti-Corruption Law provides that gratification may include “pecuniary gratification, property, gifts, service fees, entertainment or any other unlawful benefit.” (Anti-Corruption Law, sec. 3(b)).</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	<p>Much of the new Anti-Corruption Law is dedicated to the creation and regulation of the Office of the Commission which is empowered under the Law to accept, scrutinize and investigate complaints, confiscate money and property, issue prohibitive orders and prosecute offences under the Law (Anti-Corruption Law, sec. 16 and 17). The Commission may form a Preliminary Scrutiny Body (sec. 19 and 20) and an Investigation Body (sec. 21-35) to accomplish these tasks.</p> <p>The 15 member Anti-Corruption Commission was formed by the President on February 25, 2014.</p>
	Issues in Enforcement	<p>Current laws seem to have differing liabilities, and translations of new laws are not always accurate. The newly established Anti-Corruption Law has yet to have any regulations or notifications passed for further enforcement.</p>
	Recent Movement	<p>The Anti-Corruption law was enacted on August 7, 2013 and came into effect on September 17. The Anti-Corruption Commission was formed by the President on February 25, 2014. On November 15, 2013, Myanmar signed a Memorandum of Understanding to enter the South East Asia Parties Against Corruption (SEA-PAC). SEA-PAC, which includes ten member countries and international organizations, works to explore and implement measures to prevent corruption in South East Asia.</p> <p>MLSL Note: On March 30, 2015, The Union Government issued the Notification 24/2015 and announced that bribery and corruption are included in the offences under the Money Laundering Law (Law No.11 of 2014).</p> <p>The Ministry of Home Affairs promulgated the Money Laundering Rules on September 11, 2015.</p>
Participation in International Anti-corruption Conventions	OECD Convention	No
	UNCAC	Signed December 2, 2005; Ratified December 20, 2012
Last Updated		November 4, 2015

Region		Southeast Asia
Country		Philippines
2015 CPI	Rank	95/168
	Score	35
The Law on Bribery	Bribery of Domestic Officials	<p>In the Philippines, the Revised Penal Code (“RPC”) defines and provides penalties for bribery and corruption of domestic public officials. In addition, the Anti-Graft and Corrupt Practices Act, Republic Act No. 3019 (“RA 3019”), 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 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 include commission of acts of money-laundering in relation to corrupt activities. <p><u>Corporate liability:</u> Only natural persons are 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	<p>The Philippines does not currently have any domestic laws that prohibit the bribery of foreign officials.</p> <p>However, under the Implementing Rules and Regulations of RA 9160 (the “IRR”), covered institutions are mandated to take measures to determine whether a customer or beneficial owner is a “Politically Exposed Person,” and to apply enhanced due diligence when engaged in business relationships with such persons.</p>
	Commercial Bribery	<p>The Philippines does not currently have any domestic laws that prohibit commercial bribery in the private sector.</p>

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 United Nations Convention Against Corruption (“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>In <u>Mabini v. Raga</u> (A.M. No. P-06-2150, June 21, 2006), the Supreme Court considered a cash gift of PhP 1,500 shared by twelve employees nominal.</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"> • Office of the Ombudsman and Office of the Special Prosecutor, which investigate and prosecute cases of corruption; • Sandiganbayan, a specialized court that handles anti-graft cases, or the Regional Trial Court, depending on the level of the public official involved; • 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 • 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. • Civil Service Commission, an independent constitutional body as the central personnel agency of the Government, is tasked to promote integrity, efficiency and accountability in government service. It has jurisdiction over administrative cases, including administrative charges for graft and corruption, brought before it on appeal. • 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. • Anti-Money Laundering Council, which is empowered to institute civil forfeiture proceedings, cause filing of complaints for the prosecution of money laundering offenses, initiate investigations of money laundering activities, and freeze any monetary instrument or property alleged to be proceeds of any unlawful activity.
	Issues in Enforcement	<p>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 is awaiting approval by Congress and would give the public broader access to government-held information); a relatively low conviction rate of public officials being prosecuted for graft and corruption-related crimes; unwillingness of witnesses to testify; stringent qualifications before one can be considered a state witness under the Witness Protection, Security and</p>

		<p>Benefit Act, Republic Act No. 6981; and the use of the graft and corruption charges as political tools.</p> <p>Following the 2010 election, President Aquino’s administration has embarked on an aggressive anti-corruption campaign, which has resulted in the prosecution of a number of high profile politicians.</p> <ul style="list-style-type: none"> • 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. • 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. • In July 2012, the Ombudsman filed plunder charges against former President Arroyo and other officials based upon the alleged misuse of PhP366 million (at the time, approximately US \$8.8 million) in Philippine Charity Sweepstakes Office funds. The case is being tried by the Special First Division of the Sandiganbayan. • In August 2013, thousands protested in Manila to express outrage over the alleged misuse by members of Congress of discretionary funds from the Priority Development Assistance Fund (the “PDAF”), which was supposed to be earmarked for development projects. Shortly thereafter, in September 2013, corruption charges were filed against three prominent senators, two former lawmakers and a businesswoman for allegedly misusing more than US \$200 million in funds from the PDAF. • In November 2013, the Supreme Court ruled that the PDAF, widely known as the “pork barrel,” was unconstitutional. The Supreme Court’s ruling on the PDAF is particularly remarkable because it reversed three separate Supreme Court decisions that were issued in 1994, 2001 and 2012. • In light of the developments surrounding the PDAF, questions were raised concerning the constitutionality and validity of the Disbursement Acceleration Program (the “DAP”), a program that was a source of discretionary funds for President Aquino because it allowed the transfer of savings and unused funds from slow-disbursing programs of one department to fast-moving projects of another. Payments from DAP were allegedly used to influence senators, including with respect to the impeachment of former Chief Justice Renato Corona. On July 1, 2014, the Supreme Court declared three specific acts under the DAP unconstitutional. • On April 1, 2014, the Ombudsman announced its decision to prosecute Senators Juan Ponce Enrile, Ramon “Bong” Revilla, Jr., and JinggoyEjercito Estrada along with Janet Lim Napoles, the businesswoman and alleged mastermind behind the “pork barrel” scam, for violation of RA 7080. All four accused have been arrested for the non-bailable charge. On August 14, 2015, 91-year old Senator Juan Ponce Enrile was granted bail by the Supreme Court upon the posting of a PhP 1 million bond. • On July 8, 2014, a complaint for plunder was filed against Department of Budget Secretary Florencio “Butch” Abad. The complaint alleges that Abad systematically misappropriated, converted and misused public funds through the DAP. In September 2015, the Ombudsman announced that an investigation is being conducted on the supposed liability of President Aquino and Secretary Abad for the creation and implementation of the DAP. The investigation is being conducted simultaneously with the investigation on pending DAP-related complaints. • On September 22, 2014, a complaint was filed against Philippine National Police (“PNP”) Chief Director General Alan Purisima for graft, plunder and indirect bribery relating to an undervalued property and the renovation of a multi-million residence at the general police headquarters in Camp Crame. On September 29, 2014, a second complaint for plunder, graft, indirect bribery and violation of RA 6713 was filed against PNP Chief Purisima based on his alleged unexplained wealth and the renovation of the residence in Camp Crame.
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Recent Movement

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<p>Participation in International Anti-corruption Conventions</p>	<p>OECD Convention</p>	<p>OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters Signed: Sept. 26, 2014 Ratified: No</p>
	<p>UNCAC</p>	<p>Signed Dec. 9, 2003 Ratified Nov. 8, 2006</p>
<p>Last Updated</p>		<p>November 6, 2015</p>

Region		Southeast Asia
Country		Singapore
2015 CPI	Rank	8/168
	Score	85
The Law on Bribery	Bribery of Domestic Officials	<p>Anti-corruption provisions are included in the Prevention of Corruption Act (Cap 241, 1993 Rev Ed) (the “PCA”) and the Penal Code (Cap 224, 2008 Rev Ed) (collectively, the “Anti-Corruption Laws”), and cover both the offeror and the recipient of the bribe.</p> <p><u>Prohibitions under the PCA</u></p> <p>The PCA includes general anti-corruption provisions and provisions that prohibit corruption in specific situations.</p> <p>The general anti-corruption provisions of the PCA, Sections 5 and 6, prohibit corrupt transactions by individuals and by agents.</p> <p>Under Section 5 of the PCA, it is an offense for a person who by himself or in conjunction with another person:</p> <ul style="list-style-type: none"> • corruptly solicits or receives, or agrees to receive for himself, or any other person; or • corruptly gives, promises or offers to any person whether for the benefit of that person or another person, • any gratification as an inducement to or reward for, or otherwise on account of <ul style="list-style-type: none"> • any person doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed; or • any member, officer or servant of a public body doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which such public body is concerned. <p>Under Section 6 of the PCA, it is an offense for:</p> <ul style="list-style-type: none"> • an agent to corruptly accept or obtain any gratification as an inducement or reward for doing or forbearing to do any act in relation to his principal’s affairs; • a person to corruptly give or offer any gratification to an agent as an inducement or reward for doing or forbearing to do any act in relation to his principal’s affairs; or • a person to knowingly give to an agent a false or erroneous or defective statement, or an agent to knowingly use such statement, to deceive his principal. <p>The PCA also prohibits corruption in specific situations, including with respect to procuring withdrawal of tenders and bribing Members of Parliament and members of a public body.</p> <p><u>Prohibitions under the Penal Code</u></p> <p>Chapter IX of the Penal Code prohibits:</p> <ul style="list-style-type: none"> • a public servant taking a gratification, other than legal remuneration, in respect of an official act; • a person taking a gratification in order to influence a public servant by corrupt or illegal means; • a person taking a gratification for exercising personal influence over a public servant; • abetment by a public servant of the above offenses; and • a public servant obtaining anything of value, without consideration or with consideration the public servant knows to be inadequate, from a person concerned in any proceedings or business conducted by such public servant.

		<p><u>Other Prohibitions:</u> The Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A, Rev Ed 2000) (the “CDSA”) may also apply to a person who knows or has reasonable grounds to believe that property is the result of a serious crime.</p> <p><u>Corporate Liability:</u> Both individuals and companies can be held liable for offences under the Anti-Corruption Laws. Additionally, in some circumstances companies can be held liable for the acts committed by employees or agent; however, directors and officers are not held strictly liable for the acts of the company.</p> <p><u>Penalties:</u> Under the PCA, the general anti-corruption provisions (which include the bribery (i) of foreign public officials in Singapore and (ii) of foreign officials by Singapore citizens overseas) impose fines up to S\$100,000 and/or imprisonment up to five years. The PCA imposes harsher penalties where offenses involve a government contract or a member of parliament or a public body, imposing fines up to S\$100,000 and/or imprisonment of up to seven years.</p> <p>The PCA also provides for civil remedies and penalties for the restitution of property. A victim of corruption can bring a private action to recover property of which it was deprived.</p> <p>The Penal Code’s anti-corruption provisions impose fines and custodial sentences of up to three years. Moreover, under the CDSA, the court has the power to confiscate the ill-gotten gains of certain convicted defendants.</p> <p><u>Mitigation:</u> While there is no formal mechanism in place for mitigation, those prosecuted under Anti-Corruption Laws may negotiate plea bargains. Other mitigating factors include whether the accused is (and his motivations for becoming) a whistleblower and cooperates with the enforcement bodies and prosecution.</p>
	<p>Bribery of Foreign Officials</p>	<p>There are no express restrictions in the Anti-Corruption Laws against bribery of foreign public officials. When read together, however, the Anti-Corruption Laws prohibit bribery of foreign public officials outside of Singapore.</p> <p>Sections 5 and 6 of the PCA contain general prohibitions against bribery of foreign public officials, and Section 37 of the PCA and Section 4 of the Penal Code create extraterritorial obligations for Singapore citizens and public servants, respectively.</p>
	<p>Commercial Bribery</p>	<p>The PCA’s general prohibitions against bribery extend to private commercial bribery.</p>
<p>Definitions</p>	<p>Government Employee</p>	<p>The definition of government employees varies under the Anti-Corruption Laws.</p> <p>The provisions in the PCA refer to a “member, officer or servant of a public body,” which encompasses a wide range of entities. “Public body” is defined to include any corporation, board, council, commission or other body which has the power to act under, and for the purposes of any, written law relating to public health or to undertakings or public utility or otherwise to administer money levied or raised by taxes or charges pursuant of any written law. This definition thus includes departments of the Singapore government and even, as held in <i>PP v. Tey Tsun Hang</i>, the National University of Singapore.</p> <p>The provisions of the Penal Code use the term “public servant,” which is defined to include an officer in the Singapore Armed Forces, a judge, an officer of a court of justice, an assessor assisting a court of justice or public service, an arbitrator, a person empowered by his office to keep any person in confinement, officers of, or acting on behalf of, the Singapore government and a member of the public service commission or the legal service commission,</p> <p>Employees of state-owned or state-controlled companies are not necessarily public officials or public servants, unless they otherwise fall within the definitions of the PCA and the Penal Code.</p> <p>The Singapore Interpretation Act defines “public officers” as holders of any office of emolument in the service of the Singapore government.</p>

	<p>Gratification (Gifts/ Entertainments/ etc)</p>	<p>The PCA prohibits the provision and receipt of “gratification” with the requisite corrupt intent. “Gratification” is defined to include money or any gift, loan, fee, reward, commission, valuable security or other property; any office, employment or contract; any payment, release from or discharge of any obligation or other liability; and any other service, favor or advantage. There exists a presumption of corruption where it is proved that Singapore public officials have paid or received gratification.</p> <p>Singapore courts have held that it is not a defense that a gratitude was provided according to industry customs.</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Current Status</p>	<p>Enforcement Body</p>	<p>The Corrupt Practices Investigation Bureau (the “CPIB”) is the principal agency for investigating and preventing corruption in Singapore and reports directly to the Prime Minister. The CPIB derives its powers from the PCA and has the power to:</p> <ul style="list-style-type: none"> • investigate the suspect, its family, agents and financial and other records; • require witnesses to submit to interviews; and • investigate certain non-corruption related offences disclosed during the corruption investigation. <p>The Commercial Affairs Department (the “CAD”) is a department of the Singapore Police Force that investigates complex fraud, white-collar crime, money laundering and terrorism financing.</p> <p>In November 2014, the Economic Crimes and Governance Division (“EGD”) of the Attorney-General’s Chambers was renamed the Financial and Technology Crime Division (“FTCD”), in order to bring cybercrimes under the division’s purview. The FTCD is responsible for prosecutions and all related appeals in respect of white-collar and other general commercial crimes, as well as corruption cases and cybercrime.</p> <p>The Monetary Authority of Singapore (the “MAS”) is responsible for issuing guidelines on money laundering, terrorist financing and financial institutions. The MAS does not carry out investigations into these matters.</p> <p>The Singapore government also issues all domestic public officials the Singapore Instruction Manual, which details the circumstances in which gifts and entertainment can be accepted and when they must be declared.</p>
	<p>Issues in Enforcement</p>	<p>While the PCA and the Penal Code are broad enough to cover individuals and corporations, enforcement action in Singapore has, to date, focused on the prosecution of individuals. This is likely a result of the evidentiary challenges in proving the directing mind and will of a corporation. This is in contrast to trends in other jurisdictions such as the United States and the United Kingdom where corporations are facing increased scrutiny.</p>
	<p>Recent Movement</p>	<p>In a recent case (<i>Tjong Mark Edward v PP [2015] SGHC 79</i>), the Singapore High Court held that corruption can be established even if an agent discussed the idea of a reward with the third party alleged to have been favored only after acting in relation to his principal’s affairs. The crucial inquiry was whether the agent showed favor to a third party or was tainted by the contemplation of a reward whilst carrying out his principal’s affairs. If not, the meaning of corruption would be too wide and might turn innocuous gifts or mere contractual or ethical breaches into crimes.</p> <p>The Attorney-General’s Chambers has reportedly been considering the use of Deferred Prosecution Agreements (“DPAs”) in Singapore, however, there are, as yet, no formal rules or guidelines governing deferred prosecution. By their very nature DPAs are designed to assist in enforcement actions against corporations and, if introduced, DPAs are likely to have significant implications for the imposition of corporate criminal liability in Singapore.</p> <p>On January 1, 2015, the Singapore Prime Minister announced that the capabilities and manpower of the CPIB will be strengthened by more than 20% as corruption cases have become more complex and international in nature. The Prime Minister also announced that it intends to establish a corruption reporting centre for complaints to be made and conduct a review and amendment of the PCA. Although it remains to be seen which provisions of the PCA will be the subject of legal reform, some key areas may include, the introduction of a compliance defence, the broadening of the extraterritorial effect of the PCA and the enactment of whistle-blower protection and incentivisation laws.</p>

Participation in International Anti-corruption Conventions	OECD Convention	Yes
	UNCAC	Signed November 11, 2005 Ratified November 6, 2009
Last Updated		October 13, 2015

Region		Southeast Asia
Country		Thailand
2015 CPI	Rank	76/168
	Score	38
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 Polices 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 five years imprisonment and/or a fine of up to 10,000 Baht • bribing a judge, public prosecutor or other officials tied to a case may result in up to seven years imprisonment or a fine of up to 14,000 Baht (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 five to twenty years imprisonment and a fine of 20,000 to 40,000 Baht 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> <p>In addition, according to Section 123/5 of the Anti-Corruption Act as amended by the Anti-Corruption Act (No. 3) BE 2558, any person who gives or requests to give or undertakes to give property or any other benefits to the state official in order to induce to act, not to act or delay the wrongful action breaching his duty, shall be imprisonment for a term of not exceeding 5 years or a fine of not exceeding THB 100,000, or both</p> <p>Paragraphs 2 and 3 of Section 123/5 of the Anti-Corruption Act as amended by the Anti-Corruption Act (No. 3) BE 2558 provides that in the case where the company does not have its internal control measure set properly so as to prevent such offense as may be occurred, regardless of whether such offense shall be committed by the employee, agency, affiliated company or any person acting, with or without authorization, for or on behalf of such benefiting from such offense shall be liable to a fine of one times but not exceeding double of the amount of either damages occurred or benefits.</p>
	Bribery of Foreign Officials	<p>The Anti-Corruption Act as amended by the Anti-Corruption Act (No. 3) BE 2558 provides for liability for the bribery of state official of the foreign country and the official of the international organization.</p> <p>The term of "State official of the foreign country" in Section 4 of the Anti-Corruption Act as amended by the Anti-Corruption Act (No. 3) BE 2558 means a person holding a legislative, administrative, governing or judiciary position of the foreign country, and any person performing duties in state of foreign country, including a state agency or a state enterprise, regardless of whether either such person is designated or elected, or holding a</p>

		<p>permanent or temporary position, or receiving wages or other remunerations, or not.</p> <p>The term of “Official of the international organization” means a person either performing in the international organization or being authorized to act on behalf of such international organization.</p> <p>However, the term of “state official” in Section 123/5 of the Anti-Corruption Act as amended by the Anti-Corruption Act (No. 3) BE 2558 as mentioned above, prescribing the provision regarding bribery of domestic officials, includes either the state official of foreign country or the official of the international organization.</p> <p>Therefore, the penalty under Section 123/5 of the Anti-Corruption Act as amended by the Anti-Corruption Act (No. 3) BE 2558 shall also be applicable in the case of the bribery of foreign officials.</p>
	Commercial Bribery	<p>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., Bid Rigging Act- BE 2542 and the Trade Competition Act - BE 2542).</p>
Definitions	Government Employee	<p>Government employees are defined differently under various anti-corruption laws.</p> <p>“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> <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> <p>“Foreign Official” refers to a person who holds a legislative, executive, administrative or judicial position for a foreign country or any other person who works for the government of a foreign country including an employee of a government agency or state enterprise, whether they are elected or appointed, hold a permanent or temporary position or receive salaries or any other benefit or not (Anti-Corruption Act).</p> <p>“Official of an International Organization” means a person who works for an international organization or who is appointed by an international organization to act on its behalf (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 Baht in monetary value, from non-relatives. If the official feels compelled to receive a gift over 3,000 Baht 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.</p>
	Issues in Enforcement	<p>Under the amended Organic Act on Counter Corruption - BE 2542, the NACC has, among others, the following powers:</p> <ol style="list-style-type: none"> (1) to inquire into facts, summarise the case and prepare the opinion to be submitted to the Senate under Chapter 5, Removal from Office; (2) to inquire into facts, summarise the case and prepare the opinion to be referred to the Prosecutor-General for the purpose of prosecution before the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions under Chapter 6, Criminal Proceedings Against Persons Holding Political Positions under section 308 of the Constitution; (3) to inquire and decide whether a State official has become unusually wealthy or has committed an offence of corruption, malfeasance in office or malfeasance in judicial office;

		<ul style="list-style-type: none"> (4) to inspect the accuracy and actual existence of assets and liabilities of State officials and inspect change of assets and liabilities of the persons holding political positions under Chapter 3, Inspection of Assets and Liabilities; (5) to inquire and rule whether an official of a foreign state and an official of an international organisation or any person commits an offence under section 123/1, section 123/3, section 123/4 and section 123/5; (6) to inquire and rule a commission of an offence, within the scope of powers of the National Anti-Corruption Commission, occurred outside the Kingdom of Thailand. In this regard, cooperation for the purpose of inquiry and ruling shall be in accordance with the law on such matter; (7) to prescribe rules with respect to the determination of positions and classes or levels of State officials obliged to submit an account showing particulars of assets and liabilities; (8) to prescribe rules and procedures for the submission of the account showing particulars of assets and liabilities of State officials and the disclosure of accounts showing particulars of assets and liabilities of persons holding the position of Prime Minister and Minister; (9) to submit an inspection report and a report on the performance of duties together with remarks to the Council of Ministers, the House of Representatives and the Senate annually and publish these reports for dissemination; (10) to propose measures, opinions or recommendations to the Council of Ministers, National Assembly, Courts or State Audit Commission for the purpose of improving the performance of government service or formulating action plans or projects of Government agencies, State enterprises or other State agencies in an endeavour to control corruption and the commission of an offence of malfeasance in office or malfeasance in judicial office; (11) to refer matters to the agency concerned for the purpose of making a request to the Court for an order or judgment cancelling or revoking a right or document of title in respect of which the State official has given approval or granted permission conferring the rights or benefits or issued the document of title to a particular person in contravention of the law or official regulations to the detriment of the Government service; (12) to take action with a view to preventing corruption and building up attitudes and taste concerning integrity and honesty, and to take such action as to facilitate members of the public or groups of persons to have participation in counter corruption; (13) to give approval to the appointment of the Secretary-General; (14) to appoint persons or a group of persons for performing duties as entrusted; (15) to carry out Anti-Corruption Coordination Center in accordance with agreements or conventions made with other countries; (16) to carry out in accordance with a request for assistance from a foreign state in an anti-corruption case as submitted by the Central Authority, under the law on mutual legal assistance in criminal matters, to the National Anti-Corruption Commission or to consider providing assistance to a foreign state in a corruption case even if a request for assistance is not a request under the law on mutual legal assistance in criminal matters"; and (17) to carry out other acts provided by this Organic Act or other laws to be the responsibility of the NACC.
	<p style="text-align: center;">Recent Movement</p>	<p>The Anti-Corruption Act was amended to cover the bribery of state official of the foreign country and the official of the international organization and the penalty for the non-official and the benefiting company.</p> <p>Currently (as of 7 October 2015), Thai government has issued two policies regarding the anti-bribery:</p> <p style="text-align: center;">1. The Act on Facilitation for Consideration of Approvals from the Government Agencies, B.E. 2558</p> <p>This act is issued on 22 January 2015. The main content of this Act is to apply with licensing, registration or reporting as required by laws or regulations prior to operating any act; exclusive of operations made by or involvement of the National Legislative Assembly ("NLA") and the Cabinet, court proceedings, criminal justice proceedings, licensing under the law on natural resources and environment, military operations, control and manufacture of weapons by a private entity, a review (for amendment) every five years from the date of publication.</p>

		<p>A manual on each licensing procedure must be made available for the public by the respective governmental agency; application includes electronics submission to decrease the use of the discretion of the state officer.</p> <p>2. The Khemarat Declaration</p> <p>This declaration was announced by Customs Department on 1 April 2015 at Khemarat Customs Office located in Ubon Ratchathani Province. The main content of Khemarat Declaration is like a promise given by officials and permanent and temporary staff members of the Customs Department that they will behave themselves in good moral/ethics/transparent manners and free from corruption and fraudulent acts. Customs Department also assures the public that by compliance with the Khemarat Declaration, efficiency in providing services by the Customs Department will not be deteriorated. Customs Department has requested that all relevant units and organizations jointly monitor the proceeding performed by Customs Department under the Khemarat Declaration and ask them to stop giving any benefits to the officials and staff members of Customs Department.</p> <p>Customs Department has also set up the Khemarat Steering Committees in central and local Customs Offices consisting of the people from various units from government, private sectors, mass media, Office of the National Anti-Corruption Commission (NACC), Office of the Public Sector Anti-Corruption Commission (PACC) to direct, support the project and solve any problems arising out of proceeding with the project. Customs Department will proceed with a policy to reduce direct connection between export and import business operators, customs brokers and officials of Customs Department by using the technology for customs inspection efficiently.</p> <p>The Thailand Anti-Corruption Agreements Coordination Center was established following Thailand's ratification of UNCAC to comply with section 19 (14) of the Organic Act on Anti Corruption (No.2) B.E. 2554 (2011).</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 March 1, 2011</p>
<p>Last Updated</p>		<p>October 7, 2015</p>

Region		Southeast Asia
Country		Timor-Leste
2015 CPI	Rank	123/168
	Score	28
The Law on Bribery	Bribery of Domestic Officials	<p>Anti-corruption provisions are included in the Criminal Code (Decree-Law No. 19/2009, of April 8, 2009, as amended by Law No. 6/2009, of July 15, 2009, Law No. 17/2011, of December 28, 2011, and Law No. 5/2013, of September 11, 2013) and the Legal Framework for Public Servants (Law No. 8/2004, of June 16, 2004, as amended and restated by Law No. 5/2009, of July 15, 2009).</p> <p>The Criminal Code contains various provisions applicable to anti-corruption and related matters (such as trading in influence) in the public sector:</p> <p><u>Passive Corruption:</u></p> <ul style="list-style-type: none"> Article 292.1 provides that a crime of passive corruption for an unlawful act occurs when “[a]n official, personally or through a third party, with his/her consent or ratification, solicits or accepts for him/herself or a third party, and without being entitled to do so, any monetary or non-monetary advantage, or a promise of such advantage, in order to perform an act or omission which is contrary to the duties of the office he/she holds – even if performed prior to the solicitation or acceptance.” An official that engages in such behavior shall be subject to a prison term of between three and fifteen years. Article 293.1 provides that a crime of passive corruption for a lawful act shall take place when “[a]n official, personally or through a third party, with his/her consent or ratification, solicits or accepts for him/herself or a third party, and without being entitled to do so, any monetary or non-monetary advantage, or a promise of such advantage, in order to perform an act or omission which is not contrary to the duties of the office he/she holds – even if performed prior to the solicitation or acceptance.” An official that engages in such behavior shall be subject to a prison term of up to three years or a fine. Article 293.2 subjects to the same penalty any official that similarly solicits or accepts such an advantage (in the same terms described in Article 293.1) “from a person or entity that has had, has or will have any issue pending before the official to be decided by the latter in the exercise of his/her public office.” <p><u>Active Corruption:</u></p> <ul style="list-style-type: none"> Article 294 provides that an act of active corruption shall occur when a person “personally or through a third party, with his/her consent or ratification, offers or promises to an official, or to a third party with the official’s knowledge, any monetary or non-monetary advantage to which the official is not entitled, in order to perform an act or omission which is contrary to the duties of the office held – even if performed prior to the solicitation or acceptance.” In this case, the agent of the crime shall be subject to a prison term of between three and ten years. Should such act or omission not be contrary to the duties of the office held, the agent of the crime shall be subject to a prison term of up to two years or a fine. <p>The Criminal Code also provides that, when the agent of any of the aforementioned crimes is someone who is entrusted with political or judicial functions, the upper limit of the prison terms is increased by one third.</p>
	Bribery of Foreign Officials	Pursuant to the Criminal Code, foreign officials are subject to the same rules as local officials.
	Commercial Bribery	Timor-Leste law does not contain any provision on trading in influence or corruption in the private sector.

Definitions	Government Employee	<p>For the purposes of the above provisions of the Criminal Code, an “official” shall include, <i>inter alia</i>:</p> <ul style="list-style-type: none"> • A public servant or public service agent; • Members of the armed forces and police; • Any person who, even if temporarily, with remuneration or free of charge, voluntarily or forcefully, has been called to perform or participate in the performance of an activity included in the public or judicial administration; • A foreign public servant who is the holder of legislative, executive, administrative or judicial office of a foreign country, already appointed, or the person who holds public office in a foreign country, including in a public body or a State-owned company; and • An international public organization servant who has been authorized by said organization to act in its name. <p>Pursuant to Article 302.2 of the Criminal Code, the anti-corruption provisions also apply to those who are entrusted with political, government or legislative functions.</p> <p>Under Article 3 of Legal Framework for Public Servants, a public servant is an individual who is hired and appointed for a permanent function in the public administration, with certain duties and rights in accordance with the applicable rules. On the other hand, a public service agent is an individual who, not being a public servant, is hired for a fixed term to perform functions which are typically public and not of a temporary nature.</p>
	Gratification (Gifts/ Entertainments/ etc)	<p>Although no specific definition of gratification is provided for in Timor-Leste laws, nor any amounts are set forth in this respect, the law does contain a general principle according to which government officials shall only receive the compensation, per-diems, etc. set forth by statute and should not receive any additional compensation or remuneration for performing their public functions.</p> <p>Additionally, public servants and public service agents are prohibited from receiving gifts or souvenirs from any person whose behavior is suspected to be related to the performance of the public servant’s or the public service agent’s duties, i.e. when the offering is suspected to have as its purpose the influencing of the servant’s or agent’s actions or omissions.</p>
Current Status	Enforcement Body	<p>The proceedings may be initiated by (i) the Public Prosecutor’s Office or (ii) the Anti-Corruption Commission (created through Law No. 8/2009, of July 15, 2009) before being taken to Court.</p> <p>The rules on the structure and organization of the Anti-Corruption Commission were recently approved by means of Decree-Law No. 23/2015, of July 29, 2015, as well as the rules on the jobs of Anti-Corruption Specialists, by means of Decree-Law No. 24/2015, of July 29, 2015.</p> <p>Also, the new Scientific and Criminal Investigation Police (created in 2014 by means of Decree-Law No. 15/2014, of May 14, 2014) started performing its activities earlier this year. The Scientific and Criminal Investigation Police is responsible for assisting other enforcement bodies in the prevention, detection and investigation of criminal activities, including, amongst others, economic crimes. It assists the Anti-Corruption Commission in investigations pertaining to corruption cases, including bribery, coercion of magistrates, denial of justice and obstruction of jurisdictional activity.</p>
	Issues in Enforcement	<p>The judiciary and attorney-general’s office have prosecuted a number of high profile corruption-related offenses, namely, the conviction for corruption-related crimes of (i) a former Minister of Justice and (ii) a former Secretary of State for the Environment and two members of his staff.</p> <p>The Dili District Court is also presently hearing the case against the former Minister of Finance and former Vice-Minister of Health, both accused of embezzlement related-crimes (economic participation in a State transaction, and financial mismanagement) due to the award of a contract to the former Minister’s husband while she was in office.</p>

		The government has signaled its commitment to fighting corruption, most notably by (i) creating the Anti-Corruption Commission, and (ii) becoming the first country in Asia and the third in the World to become fully EITI compliant.
	Recent Movement	N/A
Participation in International Anti-corruption Conventions	OECD Convention	No
	UNCAC	Yes (National Parliament Resolution No. 25/2008, of December 10, 2008).
Last Updated		October 14, 2015

Region		Southeast Asia
Country		Vietnam
2015 CPI	Rank	112/168
	Score	31
The Law on Bribery	Bribery of Domestic Officials	<p>The Penal Code and the Anti-Corruption Law of 2005 (as amended by Law on Amendment to the Anti-Corruption Law dated 4 August 2007 and 23 November 2012) (“Anti-Corruption Law”) both contain provisions relating to corruption. The Anti-Corruption Law regulations focus on how to prevent corruption (i.e., how the governmental bodies will be structured and preventive measures to avoid corruption, the principles and obligations of state authorities as well as individuals to prevent corruption, etc.) while the Penal Code focuses on the applicable criminal punishments.</p> <p>Under the Penal Code and the Anti Corruption Law of 2005, it is a crime to give, receive or broker bribes, and a person will be considered as committing the following crimes if such person meets certain conditions:</p> <p><u>Offering a bribe:</u> A person who offers a bribe with the value of 2 million Vietnamese dong or more, or offers a bribe of less than 2 million Vietnamese dong that causes serious consequences, or that offers multiple bribes of less than 2 million Vietnamese dong commits a violation of Article 289 of the Penal Code. Although not explicit in the code, it is implied (in consideration of Article 279 of the Penal Code and Article 1.3 of the Anti-Corruption Law) that the bribe must be given to someone with power or position in a government or public entity. The Penal Code is not clear on what constitutes “serious consequences.”</p> <p><u>Receiving a bribe:</u> According to Article 279 of the Penal Code, it is a crime if (1) the recipient of the bribe has power or position and takes advantage thereof; (2) received and accepted a bribe of 2 million Vietnamese dong or more; or accepted a bribe of less than 2 million Vietnamese dong but causing a serious consequence or having been subject to disciplinary penalty or convicted of certain crimes of the Penal Code; and (3) performed or omitted a performance based on the bribe.</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>Individuals may be imprisoned (life or fixed-term), fined up to five times the value of the bribe and prohibited from holding certain jobs for a period of time.</p> <p>For purposes of the Anti-Corruption Law, “corrupt acts” include, among others, the following: (i) embezzling properties; (ii) taking bribes; (iii) abusing positions, power to appropriate properties; (iv) taking advantage of positions, power while performing tasks or official duties for an undue benefit; (v) taking advantage of position, power to illegally use state properties for an undue benefit; (vi) failure to perform tasks or official duties for an undue benefit; (vii) taking advantage of positions, power to cover up law violators for an undue benefit; and (viii) illegally hindering or intervening in examinations, inspections, auditing, investigations, prosecutions, adjudications or judgment executions for an undue benefit.</p> <p><u>Corporate liability:</u> There is no criminal liability for companies. Under Article 1.II.2(b) of Decision 445/2010/QD-TTg promulgating a master plan of implementation of UNCAC in Vietnam (“Decision 445”), it appears that the Vietnamese Government is planning “to additionally define legal persons as a subject of acts of corruption.”</p>
	Bribery of Foreign Officials	<p>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.</p>
	Commercial Bribery	<p>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.</p>

Definitions	Government Employee	Under Article 1.3 of 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.”
	Gratification (Gifts/ Entertainments/ etc)	<p>Gifts are broadly defined and may include money, property and other material interests. Decision No. 64/2007/QD-TTg, as amended by Decree No. 29/2014/ND-CP, 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 five hundred thousand Vietnamese dong during certain holidays or under special circumstances.</p>
Current Status	Enforcement Body	<p>Under Section 1, Chapter V of the Anti-Corruption Law, the following are the relevant State agencies which assist in the detection, and investigation of people caught engaging in corrupt practices:</p> <ul style="list-style-type: none"> • Ministry of Police and the Ministry of Public Security have the responsibility to organize and direct the investigation of corruption-related crimes; • People’s Procuracy and the People’s Courts have the responsibility to organize and direct the prosecution and judgment of corruption-related crimes among others. <p>In addition, the following agencies are also relevant:</p> <ul style="list-style-type: none"> • the Steering Committee for Anti-Corruption, which was established by the Ministry of Politics and led by Mr. Nguyen Phu Trong, the General Secretary of Vietnam’s Communist Party, in accordance with Decision 162/QD-TW on 1 February 2013. Its duties include direction, coordination, and inspection and speeding up of anti-corruption activities; • the Government Inspectorate has the responsibility to organize, direct and guide the inspection of the observance of legal provisions on corruption prevention and combat; in case of detection of corrupt acts, to request competent agencies or organizations to handle them. It is also working jointly with the World Bank on the Vietnam Anti-corruption Initiative Program 2011; and • the State Audit of Vietnam is in charge of organizing audits to prevent, detect and coordinate the handling of corruption cases.
	Issues in Enforcement	<ul style="list-style-type: none"> • Criminal penalties apply only to bribes above 2 million Vietnamese dong, or below 2 million Vietnamese dong when they are committed repeatedly or cause serious consequences. • Lack of an independent body specialized in fighting corruption; the specialized anti-corruption units in the People’s Procuracy, the Ministry of Public Security and the Government Inspectorate are subject to the influence of high ranking officials. • The judiciary is not sufficiently independent and may be corrupt itself. • Lack of whistleblower measures and lack of cooperation from citizens. • Approximately half of the Vietnamese companies that participated in an anti-corruption survey reported that they have had to bribe officials in order to do business.
	Recent Movement	<p>Two important laws were promulgated recently: the Law on Amendment to the Anti-Corruption Law dated 23 November 2012 and Decree 78/2013/ND-CP dated 17 July 2013 guiding the Anti-Corruption Law (“Amending Regulations”) introducing key changes as to:</p> <ul style="list-style-type: none"> • the publication of information, reports, master plans and policies in a number of sectors including, among others, management of investment projects for construction, management of state-owned enterprises, and agriculture and rural development;

		<ul style="list-style-type: none"> • transparency in relation to assets and income of State officials and employees; and • obligations of the heads of the body, organization or unit where the corrupt act is alleged to have occurred as to the persons alleged to have committed the act. <p>Another new regulation to take effect from 1 January 2015 is Circular 04/2014/TT-TTCP which applies to State agencies and officials and provides a mechanism for appraising anti-corruption measures carried out at the local level.</p> <p>So as to encourage people to report corruption, the Government Inspectorate and Ministry of Home Affairs promulgated the Joint Circular No. 01/2015/TTLT-TTCP-BNV dated 16 March 2015, which provides rewards for whistleblowers.</p>
Participation in International Anti-corruption Conventions	OECD Convention	No (endorsement of the Action Plan on July 13, 2004))
	UNCAC	Signed Dec. 10, 2003 Ratified June 30, 2009 (with reservations)
Last Updated		October 12, 2015

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