



## **SLOVAK REPUBLIC: PHASE 2**

### **FOLLOW-UP REPORT ON THE IMPLEMENTATION OF THE PHASE 2 RECOMMENDATIONS**

#### **APPLICATION OF THE CONVENTION ON COMBATING BRIBERY OF FOREIGN PUBLIC OFFICIALS IN INTERNATIONAL BUSINESS TRANSACTIONS AND THE 1997 REVISED RECOMMENDATION ON COMBATING BRIBERY IN INTERNATIONAL BUSINESS TRANSACTIONS**

This report was approved and adopted by the Working Group on Bribery in International Business Transactions on 30 January 2008.

## TABLE OF CONTENTS

SUMMARY AND CONCLUSIONS BY THE WORKING GROUP ON BRIBERY .....	3
WRITTEN FOLLOW-UP TO PHASE 2 REPORT .....	7

## **SUMMARY AND CONCLUSIONS BY THE WORKING GROUP ON BRIBERY**

### **a) Summary of Findings**

1. Slovakia has taken additional steps to implement the OECD Convention since its Phase 2 examination in November 2005. The Working Group notes favourably that Slovakia has put into effect a number of recommendations in the Phase 2 report.

2. Slovakia has taken several measures to raise awareness of the Convention and foreign bribery in the private sector. It has published a Prevention of Corruption Handbook that covers Penal Code corruption offences and international anti-corruption instruments, including the Slovak foreign bribery offence and the OECD Convention. The Handbook is available on the Internet and was widely distributed to Slovak companies, banks, libraries, and NGOs. The Slovak Business and Industrial Chamber, the Ministry of Economy and EXIMBANKA SR also took steps to raise awareness in the business community. The regulatory body for auditors (SKAu) now refers to foreign bribery and OECD anti-corruption documents on its Web site. It also trained auditors on corruption-related auditing issues.

3. Despite these measures, more could be done in some parts of the private sector. The only awareness-raising *viz.* the legal profession was providing the Handbook to the Bar Association, Chamber of Notaries, and Chamber of Executors. The department in the Ministry of Foreign Affairs responsible for official development assistance (ODA) also received the Handbook and provided some special training. Further awareness-raising among the legal profession and companies involved in ODA-funded projects would be useful. As for accountants, the Handbook was posted on the Web site of the Ministry of Finance and provided to the Chamber of Accountants. However, not all practising accountants are members of the Chamber or the SKAu. Slovakia should therefore ensure that awareness-raising efforts reach all Slovak accountants. For these reasons, Recommendations 1(c) and 4(a) have been fully implemented but Recommendation 1(a) has only been partially implemented.

4. Regarding awareness-raising in the public sector, EXIMBANKA's staff can now access the "OECD Best Practices to Deter and Combat Bribery in Officially Supported Export Credits" in Slovak. The Ministry of Foreign Affairs and the Tax Administration informed their employees about foreign bribery. The Supreme Audit Office organised seminars for its auditors on economic crimes (including corruption) and corruption-related accounting issues. The Ministry of Foreign Affairs directed overseas representations to implement the Convention and informed new employees of the Convention. The Ministry of Economy also advised its overseas staff about foreign bribery issues. In light of these efforts, Recommendation 1(b) has been fully implemented.

5. In the area of tax, Slovakia amended its Law on Income Tax to expressly deny deduction of bribe payments to foreign public officials. The amendment entered into force on 1 January 2006. The Tax School added detection of bribery to its curriculum. Training on foreign bribery was given to the Tax Administration's employees, managers, and new recruits. The OECD Bribery Awareness Handbook for Tax Examiners was translated into Slovak, posted on the Internet, and disseminated in print to all tax examiners. Recommendations 2(a) and 2(b) have therefore been fully implemented.

6. Concerning officially supported export credits, EXIMBANKA revised its procedure for granting support. Clients must now submit information concerning the identity of an agent, and the amount and purposes of commissions paid. They must also declare that their agents have not and will not engage in foreign bribery in the subject transaction. These efforts adequately implement Recommendation 3.

7. With respect to guidance on money laundering reporting, the Financial Police have provided daily oral guidance to reporting entities. Banks have received some written guidance. A new draft law will specify 11 indicators of suspicion in a non-exhaustive list. These efforts are commendable but the law's enactment would be reassuring. For now, Recommendation 5 has only been partially implemented.

8. Regarding the reporting of foreign bribery, a new Act on Auditing enters into force on 1 January 2008. The new Act requires auditors to report evidence of corruption in writing to law enforcement and the audited entity's statutory and supervisory boards. This sufficiently implements Recommendation 4(b). As for the general duty on all persons to report bribery under the Penal Code, the widely-disseminated Corruption Prevention Handbook (see above) covers this issue. Furthermore, the Department of the Fight against Corruption (DFAC) was responsible for raising awareness of the reporting duty. DFAC has been staffed since April 2007, contrary to Slovakia's Written Follow-up Report. The Department has raised awareness of bribery reporting in parts of the public sector, such as Legal Aid Centres. In total, Slovakia has fully implemented Recommendation 6(a).

9. On whistleblower protection in the Labour Code, the Ministry of Labour, Social Affairs and Family included this issue in its training on discrimination in the workplace. The training was attended by judges, students, office workers and government employees. DFAC's activities concerning the staff at Legal Aid Centres described above also covered whistleblower protection. Recommendation 6(b) is therefore fully implemented.

10. As for law enforcement agencies, the Slovak Police Academy's courses on corruption investigations and Penal Code corruption offences cover foreign bribery. Also relevant are courses on the use of special investigative techniques in corruption cases and study visits on corruption by judges, prosecutors, and police officers. Recommendation 7(a) is fully implemented. To co-ordinate law enforcement agencies, the Special Prosecutor's Office regularly met bodies such as DFAC, tax authorities, the General Prosecutor's Office, and the Ministry of Interior. The meetings covered topics ranging from employee participation to co-ordination and division of competence. Police, prosecutors and judges also met informally. Furthermore, the Financial Intelligence Unit (FIU) co-ordinated with other law enforcement bodies through seminars and daily meetings. A decree also requires the FIU to co-ordinate with other specialised law enforcement bodies, including DFAC. Considering the totality these efforts, Recommendation 7(b) has been fully implemented.

11. As regards defences to foreign bribery, the Working Group had recommended that Slovakia ensure that the provision of immunity to co-operating offenders does not impede effective enforcement of the foreign bribery offence. Slovakia explained that only Special Prosecutors prosecute corruption cases. Special Prosecutors are relatively few in number, work in the same office, and are familiar with the Working Group's recommendation. As such, no further steps need to be taken to ensure that Special Prosecutors apply the immunity provision in a manner consistent with the Convention. Recommendation 8(b) is considered implemented. As for effective regret, Slovakia has a draft law abolishing the defence in foreign (though not domestic) bribery cases. In the meantime, the defence remains available to foreign bribery and Recommendation 8(a) is therefore not implemented.

12. Turning to the Special Court and the Special Prosecutor's Office (SPO), the Judicial Academy held several seminars on foreign bribery for Special Judges and Prosecutors. Additional training events covered corruption generally. Hence, Recommendation 9(b) has been fully implemented. As for the effectiveness of both institutions, Slovakia advised the Working Group that the August 2006 proposal to abolish the Court has been permanently withdrawn. However, the SPO remains staffed at roughly two-thirds its target level despite on-going recruitment efforts. Recommendation 9(a) remains partially implemented.

13. On the liability of legal persons, the Working Group recommended during Phase 1 in 2000 that Slovakia create criminal liability of legal persons for foreign bribery. In 2005, Slovakia's parliament twice defeated government attempts to pass legislation on this issue. This led the Working Group in Phase 2 to strongly recommend that Slovakia create such liability without delay. Slovakia has now prepared a third draft law which it hopes to present to the government in early 2008 and to parliament thereafter. Meanwhile, sanctions against legal persons for foreign bribery remain insufficiently effective, proportionate and dissuasive. Recommendation 10 accordingly has not been implemented.

14. Regarding the enforcement of the money laundering offence, Slovakia has advised its Special Prosecutors to prosecute such offences in bribery cases. Nonetheless, the number of money laundering convictions relative to bribery convictions remains low. More could be done, such as proactively engaging financial institutions and alerting them to corruption-related money laundering issues. Recommendation 11 is hence only partially implemented.

15. As for accounting and auditing offences, Slovakia issued guidelines and also specifically requested tax examiners to enforce these offences. Recommendation 12(a) is fully implemented. However, there has not been sufficient practice to determine whether sanctions for these offences are effective, proportionate and dissuasive in practice. The Working Group will follow up the implementation of Recommendation 12(b) accordingly.

16. On the subject of statistics, Slovakia provided detailed data on the sanctions imposed for bribery and related offences, thereby demonstrating that Recommendation 13 has been fully implemented. In addition, BFAC maintains statistics on the number and sources of allegations of bribery. The figures do not distinguish between whether an allegation was made by a police informer or a whistleblower because Slovakia does not believe that this is necessary. The Working Group acknowledges Slovakia's position and considers Recommendation 6(c) fully implemented.

17. Finally, the Phase 2 Report identified Follow-up Issues 14(a) to (d). The Working Group will continue to monitor these issues since there have not been developments or practice since the Phase 2 examination.

## **b) Conclusions**

18. Based on these findings, the Working Group concludes that Slovakia has not implemented Recommendations 8(a) and 10, and has partially implemented Recommendations 1(a), 5, 9(a), and 11. Because of insufficient practice, the Working Group will follow up Recommendation 12(b) as part of its future activities to monitor the implementation of the Convention. The Follow-up Issues identified in the Phase 2 report remain outstanding and will continue to be monitored. The remaining Recommendations have been implemented or dealt with in a satisfactory manner. Considering the importance of Recommendation 10, the Working Group invites Slovakia to report within six months (i.e. by 5 June 2008) on the Recommendation's implementation.

## Written Follow-up to Phase 2 Report

**Name of country:** Slovak Republic

**Date of approval of Phase 2 Report:** 9 November 2005

**Date of information:** 15 October 2007

### Part I. Recommendations for Action

#### Text of recommendation 1(a):

1. Concerning raising awareness of the Convention, the Revised Recommendation and the foreign bribery offence, the Working Group recommends that:
  - (a) Slovakia take further action to raise awareness in the private sector, especially among (1) the private sector and the business community, and particularly those enterprises which operate internationally, (2) the accounting, auditing and legal professions, (3) clients and potential clients of EXIMBANKA SR, and (4) companies and individuals who are involved in projects funded by official development assistance (Revised Recommendation I).

#### Actions taken as of the date of the follow-up report to implement this recommendation:

The following bodies are responsible for implementation of this recommendation: Slovak Business and Industrial Chamber (hereinafter referred to as "SOPK"), Ministry of Economy of the Slovak Republic (hereinafter referred to as "MoE SR"), Ministry of Finance of the Slovak Republic (hereinafter referred to as "MoF SR"), Slovak Auditors' Chamber (hereinafter referred to as "SKAu"), Export – Import Bank (hereinafter referred to as "EXIMBANKA SR").

As regards the actions taken by SOPK, in its effort to restrict or exclude bribery of foreign public officials by national businessmen, SOPK is active in the area of consulting activities, e.g. in concluding business contracts, organising training activities, supporting business ethics (for instance, it organises the Grand Prix of SOPK) and supporting publishing activities with the aim to improve the degree of awareness of the OECD Convention among businessmen. SOPK cooperates with MoE in the preparation of relevant legal regulations, particularly in order to enhance their transparency. In this respect, there are also consultations while organized meetings with representatives of the Financial Police.

The awareness of representatives of businessmen in the domain of the fight against corruption in international business is continuously being formed and augmented by trainings and seminars for the business sector, as well as fora and missions organised by MoE and SOPK, where anti-corruption issues are regularly presented. In particular, it is necessary to point out the presentations to employees of MoE who are posted abroad. These presentations encompass practical experiences and recommendations in this area. Relevant information is accessible through the web pages of the representative agencies abroad.

MoF SR has provided relevant officials with “Corruption Prevention” handbook. The copies of this handbook were also delivered to SKAu and Slovak Chamber of Certified Accountants which provides training to its members. However, the profession of accountants is not regulated and the membership of accountants in the above-mentioned chamber is not mandatory. The handbook provides for the basic information about prevention of corrupt behaviour within business relations, relation to the public representatives, international relations and relations with representatives of international institutions.

Furthermore, as regards actions taken by SKAu itself, it created a specific section on the OECD on its web page ([www.skau.sk](http://www.skau.sk)). The following materials have been published:

- Decision of the Slovak Government no. 234 of 15th March 2006
- Working-out of the decision – tasks of SKAu
- Written record on a working meeting of the Financial Police representatives and the presidency of SKAu
- Guidelines ETHICS no. 2/2006 – extent of the reporting obligation of auditors on unusual business transactions
- Guidelines of the Auditors’ Standards Committee no. 2/2006 – reporting obligation
- Fight against corruption – link to MoJ SR web page
- Penal Code with emphasis on the relevant parts concerning corruption issues

The above-mentioned section includes the publication named “Ministry of Justice of Slovak Republic” containing the document: “Electronic handbook on prevention against bribery”. According to statistics, it has been downloaded by 2864 visitors since published on the web page.

On the web page, there are also other documents related to the implementation of other tasks, that being for instance:

- Reports on the plenary meetings of the OECD Working Group on Bribery in Paris in 2005 (2 reports)
- The Convention drawn up on the basis of Article K.3 (2) (c) of the Treaty of European Union on the Fight against Corruption Involving Officials of the European Communities or Officials of the Member States of the European Union (both in Slovak and English)
- The Revised Report of the OECD Working Group on Bribery adopted on 9 November 2005 on the application of the Convention and 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions
- OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

Finally, concerning the actions taken in order to increase awareness of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the OECD Council Recommendations on Bribery and Officially Supported Export Credits, EXIMBANKA SR has taken the following measures:

- (i) During the acquisition meetings and the business meetings, the clients are kept informed on a regular basis about all substantial aspects and internal procedures concerning “Combating Bribery of Foreign Public Officials in International Business Transactions” as defined by the OECD.
- (ii) The EXIMBANKA SR web page has been updated and currently contains information about combating bribery in international trade, as well as the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.
- (iii) Applications of potential clients have been modified so that they comply with the recommendations of OECD’s report DAF/INV/BR(2005)11/REV1.
- (iv) Contracts between EXIMBANKA SR and clients have been modified so that they comply with the recommendations of OECD’s report DAF/INV/BR(2005)11/REV1.
- (v) EXIMBANKA SR has carried out 2 meetings with representatives of commercial banks operating in Slovakia, where it presented the OECD requirements and measures on combating bribery (commercial banks are partners of EXIMBANKA SR for providing refinancing credits and insurance transactions).

There are many more regular information meetings concerning the above topic scheduled for the future.

In order to raise awareness, EXIMBANKA SR, on its web page, published the information on fighting bribery in international business and on the OECD Convention. The relevant information is provided to clients or potential clients verbally during personal meetings with them.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 1(b):**

1. Concerning raising awareness of the Convention, the Revised Recommendation and the foreign bribery offence, the Working Group recommends that:
  - (b) Slovakia raise awareness of foreign bribery among public officials, particularly those of (1) EXIMBANKA SR, (2) the Ministry of Foreign Affairs involved in official development assistance, (3) the tax authority, (4) the Supreme Audit Office, and (5) foreign representations, including embassies (Revised Recommendation I).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

The following bodies are responsible for implementation of this recommendation: EXIMBANKA SR, MoFA SR, MoF SR through the Tax Administration Directorate of the Slovak Republic (hereinafter referred to as “TAD SR”), Supreme Audit Office of the Slovak Republic (hereinafter referred to as “SAO SR”) and MoE SR.

EXIMBANKA SR published on its web page a document for their employees called “OECD Best Practices to Deter and Combat Bribery in Officially Supported Export Credits”. It has not prepared any special training on this issue.

By the letter dated 20 April 2006, the Development Assistance Department of the MoFA SR asked the directors of the administrative–contractual units of Slovak development aid to inform their subordinates of the content of the governmental decision no. 234 of 15th March 2006 (Proposal of measures to ensure implementation of the recommendations for Slovakia adopted by the OECD Working Group on Bribery of Foreign Public Officials in International Business Transactions). The letter also directs employees of the MoFA SR who are involved in official development aid, that they be informed of prosecutions of foreign bribery offences.

In order to inform the employees of the permanent representations and embassies of the Slovak Republic posted abroad about prosecuting of foreign bribery offences and the Report, the Development Aid Department of the MFA SR has ensured that its employees of agencies and missions are informed of the above-mentioned documents.

The OECD Convention was also given to all departments of MoFA which exercise direct authority over Slovak agencies and delegations abroad, with the aim to include implementation of the Convention provisions in the regular assessment of their activities. The Convention was also sent to the personnel office of the MFA SR to inform the new Ministry’s employees of the Convention.

On 7 June 2006, directors of the relevant departments of the Tax Administration Directorate (TAD SR) and subsequently all directors of tax offices were warned in writing of their obligation to inform the employees of the tax offices (particularly tax inspectors) of their deliberations on issues concerning corruption of foreign public officials. Subsequently, this theme was included in the training program of the Tax School.

The OECD Bribery Awareness Handbook for Tax Examiners (CTPA/CFA(2005)36) was translated into Slovak and published on the web site of the tax administration. It is accessible to all employees.

A training cycle “Analysis of Risks in Tax Administration” has been organised in the framework of the internal education of the Tax School. Instructors of the Extraordinary Controls Department present a theme “Specifics of Possible Tax Evasions on the Basis of Other Accessible Materials.” In the framework of the training cycle, the participants are also informed of the detection of possible corruption of foreign public officials. The possible tax impact, as well as forms and manners of clearance bribery of foreign public officials and investors are explained. The training cycle runs during the whole year and the theme is an inseparable part of this type of education.

In the framework of mandatory training of inspectors in 2006, SAO SR ensured that the training focused, inter alia, on Penal Code provisions dealing with economic crimes, the laws on income tax and VAT aiming at application of EU law, and select issues of application of the law on budgetary rules of public administration. To exchange information, SAO SR organised training activities on

“Methods of Certified Control SAPARD and EAGGF” and “Practical Experiences on the Control of Application Programme Interface of the Tax Information System”.

Currently, there is a training course “Inspector of Supreme Audit Office of the Slovak Republic”. The course will include themes such as controlling methods of SAO SR in the field of EU financial sources, cooperation of controlling bodies with law enforcement authorities, accounting, law on public procurement, law on state property administration, control of information systems, etc.

OECD Sigma has provided significant professional aid and support to SAO SR for a long time. It participated in the improvement of professionalism and quality of the controlling work and outcomes of SAO SR. This activity significantly improved the level of examination in accounting and auditing. It contributed to increasing protection of financial interests of the EU and the Slovak Republic, and in the fight against corruption and fraud.

SAO SR is preparing for the 2007 training activities for inspectors of the office which focuses on the examination of accounting issues that might concern corruption. The themes of the training were included in the education project called “Development of the Whole Life Education of the Inspectors of the SAO SR by New Forms and Governance of the Knowledge Basis.” SAO SR asked the European Social Fund (ESP) for financial contributions.

Employees of MoE SR located in foreign agencies and permanent delegations abroad were informed of the tasks in the fight against bribery of foreign public officials in international business transactions by an Instruction of the Director of the International Business Department no. 1520/2005-320 of 2 September 2005. At the same time, the employees were provided the text of the OECD Convention and they were directed to ensure the implementation of the Convention immediately.

In order to raise the awareness of tax auditors and relevant officials concerning the non-tax deductibility of bribes and undue advantages from the tax base, MoF SR has provided tax auditors and relevant officials with translated copies of The OECD Bribery Awareness Handbook for Tax Examiners.

“Corruption Prevention” handbook was delivered to the tax authorities employees. The handbook provides for the basic information about prevention of corrupt behaviour within business relations, relation to the public representatives, international relations and relations with representatives of international institutions.

The internal guidelines for tax examiners concerning corruption issues are placed at the Intranet of TD SR and are accessible to all tax authorities’ employees.

Foreign bribery issues are part of the training programmes within the basic tax course programme delivered to the newly recruited personnel.

Slovak Government resolution Nr.234 from March 15th, 2006, set measures for General Director of EXIMBANKA SR to comply with the requirements from OECD’s report DAF/INV/BR(2005)11/REV1.

(i) In order to increase awareness about OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions among the employees governing bodies and management, EXIMBANKA SR has published OECD’s document “Best practices to deter and combat bribery in officially supported export credits” on its intranet.

(ii) In accordance with OECD Council Recommendations on Bribery and Officially Supported Export

Credits (TD/ECG(2006)24), EXIMBANKA SR has issued new instruction (2/2007 from March 7th, 2007), which implements recommendations from the document within the responsible employees of EXIMBANKA SR.

- (iii) Current problematic issues of bribery are being discussed at trade divisions of EXIMBANKA SR and experiences of the cases are disseminated.
- (iv) The Control and Internal Audit Unit annually examines whether the measures to combat bribery have been met in both Trade Divisions.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 1(c):**

1. Concerning raising awareness of the Convention, the Revised Recommendation and the foreign bribery offence, the Working Group recommends that:
  - (c) the Ministry of Justice publish the manual on the Convention at the earliest possible date (Revised Recommendation I).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

MoJ SR, in cooperation with the General Prosecution of the Slovak Republic (Special Prosecution Office), developed a manual called "Prevention of Corruption" which contains, inter alia, a list of all international legal instruments by which the Slovak Republic are bound, and detailed analysis of relevant provisions of the Penal Code regulating the corruption offences.

Because foreign bribery is only one aspect of corrupt behaviour in general, we considered it necessary and appropriate to include the foreign bribery issue in a wider context.

Further, the manual contains contact information of bodies and institutions for reporting domestic and foreign bribery cases. It also contains the full text of the OECD Convention and the 1997 Revised Recommendation in the Slovak language.

The manual was printed in March 2007 and distributed to the state authorities, ministries, police forces, prosecution offices, Ombudsman Office, Judicial Academy, Public Procurement Office, Financial Market Office, customs' directory, tax directory, Supreme Audit Office, Slovak National Centre of Human Rights, Information Office of the Council of Europe, Centre of Legal Aid, local governments, banks, commercial and industrial chambers, large companies (Matatdor Púchov, SPP, Slovnaft, ČESMAD, US. Steel Košice, Slovak Electricity Company), public libraries, libraries at universities, law faculties, economic faculties, Police Academy, faculties of management, colleges, commercial academies (secondary schools), all Slovak courts, Bar Association, Notary Chamber, Executors'

Chamber, SKAu, Chamber of tax advisers, Chamber of accountants, NGOs – Fair Play Alliance, Transparency International Slovakia, trade unions, associations of towns and villages of Slovakia, etc.)

The manual is published also in electronic form at the web site of the MoJ SR and is fully accessible to public.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 2(a):**

2. Concerning the prevention and detection of foreign bribery through taxation, the Working Group recommends that Slovakia:
  - (a) introduce an express denial of tax deductibility of bribe payments to foreign public officials (Revised Recommendation IV).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

On 28 October 2005, the National Council of the Slovak Republic (Parliament) adopted law no. 534/2005 Coll. which amended law no. 595/2003 Coll. on Income Tax. The amended section 21 (1) (c) now reads:

Section 21

Par. 1 Those expenses (costs) shall not be treated as tax expenses, which are not related to the taxable income, even though the same were filed in the books of accounts of the taxable party as expenses (costs) and also those expenses (costs) the incurrence of which is not sufficiently documented, and also:

- c) bribes or other undue advantages provided to another person directly or indirectly even if the granting of such bribe or other undue advantage is usually tolerated in the relevant state.

The new legislation entered into force on 1 January 2006.

TAD SR ordered tax inspectors to verify during tax controls whether taxpayers claimed deductions for bribes given to foreign public officials.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 2(b):**

2. Concerning the prevention and detection of foreign bribery through taxation, the Working Group recommends that Slovakia:
  - (b) provide guidelines, instructions and training to tax examiners on detecting foreign bribery during tax audits (Revised Recommendation I).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

MoF SR, through the Tax Administration Directorate of the Slovak Republic (TAD SR), is responsible for the implementation of the recommendation.

In order to raise the awareness of tax auditors and relevant officials concerning the non-tax deductibility of bribes and undue advantages, MoF SR has provided tax auditors and relevant officials with translated copies of the OECD Bribery Awareness Handbook for Tax Examiners. The Slovak version of the handbook was sent to the Tax Directorate of the Slovak Republic. It can be used in training tax inspectors.

The handbook is published on a web page of the tax administration and is accessible to all employees.

Within the organisational structure of the Tax Directorate of the Slovak Republic (hereinafter TD SR) there is established an organisational unit called “Internal Control” which incorporates the Anticorruption Unit. The main areas of its activities are: examining notifications which point on the suspicion of a crime committed by an employee of a tax authority in connection with fulfilment of his/her tasks. In order to prevent a corrupt behaviour of the tax authorities’ employees the TD SR has issued a number of internal guidelines and instructions which introduce procedures for execution of so called “risk activities” carried out by its employees. The term “risk activities” express such activities the result of which involves a high degree of subjectivity in decisions making process. The guidelines deal with:

- procedures in examining notifications on employees (Regulation on unified procedures in connection with suspicion of power abuse, obstruction to tasks fulfilment and tax authorities employees corruption, in effect since 14 August 2006)
- procedures of tax authorities in those areas of its activities where there is an increased risk involved in connection with illegal behaviour of tax authorities employees (Anticorruption Programme of Tax Directorate SR and Manual to this Programme, in effect since 1 January 2007, the latter in effect since 1 July 2007)

The above-mentioned guidelines are placed at the Intranet of TD SR accessible to all tax authorities’

employees.

Within the scope of tax authority's activities the fight against corruption issue is also dealt with by providing training to the tax authorities employees. This training focuses on providing information on Penal Code and Crime Rule Acts and is organised in a form of training programmes. These training programmes are incorporated within the basic tax course programme delivered to the newly recruited personnel. Member of management participated in this training within the so called complementary training course. Other employees in positions of tax inspectors, distrainer [*sic.*] officers and so called complex tax administrators (accountants) have participated in this training within technical tax courses.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 3:**

3. Concerning prevention and detection of foreign bribery through export credits, the Working Group recommends that EXIMBANKA SR require a client to disclose sufficient information, such as details on agents' commissions, which would enable EXIMBANKA SR to verify whether the client has engaged in foreign bribery (Revised Recommendation I).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

Statement of an exporter on the observation of the legal provisions concerning bribery in international business was reformulated so that it has a preventive nature, i.e. it includes both the period before and after the signature of the statement. The requirement of submission of agents' commissions of the persons acting on behalf of a company was included into the statement.

EXIMBANKA SR is a member of the Working Party on Export Credits and Credit Guarantees (ECG). It regularly participates in the plenary meetings and consistently follows and applies the relevant recommendations on fighting bribery of foreign public officials in international business transactions.

When processing each individual business case, EXIMBANKA SR requires all clients to submit application with detailed information and calculations that enable to expressly identify non-standard trade conditions which might be applied.

In accordance with the OECD's Council Recommendation on Bribery and Officially Supported Export Credits (TD/ECG(2006)24), EXIMBANKA SR has updated the wording of "Exporter's declaration about fulfilling of legal provisions for fighting bribery in international trade", which includes all statements required by the recommendation from OECD:

- (i) Informing exporters/applicants, requesting support about the legal consequences of bribery in international business transactions;

- (ii) Requiring exporters/applicants, to provide an undertaking declaration that neither they, nor anyone acting on their behalf, such as agents, have been engaged or will engage in bribery in the transaction;
- (iii) Verifying and noting whether exporters/applicants, are listed on the publicly available debarment lists of the stated international financial institutions;
- (iv) Requiring exporters/applicants, to disclose whether they or anyone acting on their behalf in connection with the transaction are currently under charge in a national court or, within a five-year period preceding the application, have been convicted in a national court;
- (v) Requiring that exporters/applicants disclose, upon demand, the identity of persons acting on their behalf in connection with the transaction, and the amount and purpose of commissions and fees paid, or agreed to be paid, to such persons.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 4(a):**

4. Concerning prevention and detection of foreign bribery through accounting and auditing, the Working Group recommends that Slovakia:
  - (a) ensure that accounting and auditing issues related to bribery are regularly examined in the context of the mandatory training requirements for auditors, including auditors of the Supreme Audit Office (Revised Recommendation I).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

The following subjects are responsible for the implementation of this recommendation: SKAu and the Supreme Audit Office of the Slovak Republic (SAO SR).

In the framework of accounting reform and providing auditing and relating services, SKAu has adopted International Auditing Standards (ISA) in 2004 as the national professional standards. The adopted standards regulate corruption particularly in following standards:

- ISA 240 – Liability of an auditor for assessment of fraud in the audit of financial reports
- ISA 260 – Informing of persons in leading positions on audit issues

Regular members of the SKAu – auditors and their assistants - were informed of and trained on these standards during obligatory training in 2004-2005. The training was focused on an overall review of

the International Auditing Standards and their practical application.

The Committee for Control of Quality (CCQ), which focuses on the observation of ISA including the above-mentioned standards, regularly controls auditors registered in SKAu. CCQ controls SKAu through the Questionnaire no. 3 –"Compliance with Law". It also controls the fulfilment of the duty of auditors to report to the management of the accounting unit or to the bodies who control the observation of the legal norms. The CCQ controls elaboration of internal guidelines of auditors or auditing companies on legalisation of proceeds of crime. Elaboration of the guidelines and record of discussion about the guidelines with the employees, are controlled also by the representatives of the Ministry of Interior of the Slovak Republic (hereinafter referred to as "MoI SR").

Main points of the ISA 240 and ISA 260 standards were discussed repeatedly in the framework of methodical days held in territorial departments Bratislava, Trnava and Košice in 2006. The methodical day in the territorial department Banská Bystrica took place in January 2007.

On the basis of recommendations for SKAu, a seminar "Law on Protection against Legalisation of Proceeds of Crime, Corruption of Foreign Experts" was held on 5 June 2006 in the framework of obligatory trainings of auditors and their assistants. The seminar lasted 4 hours. Ing. Daniel Gabčo, the head of the delegation of the Slovak Republic to GRECO, was a lecturer at the seminar. The training focused on the issue of the Law on Protection against Legalisation of Proceeds of Crime was held in the past in connection with the duty to elaborate internal guidelines against legalisation of proceeds of crime.

Similar seminars are an essential part within the framework of mandatory trainings of auditors and their assistants.

Due to amendments of this law, further professional training will take place in the course of the first half of the year 2008 .

Trainings of the Supreme Audit Office inspectors –see the answer to the question 1b.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 4(b):**

4. Concerning prevention and detection of foreign bribery through accounting and auditing, the Working Group recommends that Slovakia:
  - (b) require external auditors to report indications of a possible illegal act of bribery to internal corporate monitoring bodies as appropriate, and consider requiring external auditors to report such indications to competent authorities (Revised Recommendations V.B.iii and V.B.iv).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

SKAu is responsible for implementing the recommendation.

The Penal Code provisions concerning corruption are published on the web site of SKAu in part on the OECD.

Ethics and Independence Committee of SKAu prepared Guideline no. 2/2006 – Extent of the Duty of Auditors to Report Unusual Transactions, which is based on the following documents:

- Ethical Code of Auditors of SKAu
- ISA 240 – Liability of an auditor for assessment of a fraud and a mistake in auditing; ISA 260 – Informing of persons in leading positions on auditing issues
- Law of the National Council of the Slovak Republic no. 301/2005 Coll. Criminal Procedure Code (section 3 – cooperation of state authorities, legal and natural persons)
- Law of the National Council of the Slovak Republic no. 300/2005 Coll. Penal Code (section 340 – failure to report a criminal offence, section 373 - defamation, section 375 – false accusation)
- Law of the National Council of the Slovak Republic no. 367/2000 Coll on Protection against Legalisation of Proceeds of Crime and on Change and Replenishment of Some Laws
- Law no. 466/2002 Coll. on Auditors and on SKAu

The guideline is published on the website of SKAU and is accessible to all registered members of SKAu after enrolment.

According to Section 340(1) and 341(1) of the Penal Code all individuals are obliged to report bribery to law enforcement authorities.

The National Council of Slovak Republic has adopted new Act on Auditing which enter into force on 1 January 2008.

In compliance with Section 18 (1) of the above-mentioned Act the auditors carry out audit according to international standards on auditing (ISAs) issued by IFAC. ISA 240 (the consideration of fraud in an audit of financial statements) states that where “the auditor has obtained evidence that fraud exists or may exist, it is important that the matter be brought to the attention of the appropriate level of management as soon as practicable”.

Section 27 (3) of the above-mentioned Act prescribes auditors external and internal duty to report when in the course of carrying out of the audit the auditor or audit company has obtained evidence or the facts envisaged to be subject-matter of economic crime, crime of corruption or property crime. The auditor or audit company shall be bound to send, without undue delay, a written notice to law enforcement authorities, the statutory board and supervisory board of the audited entity or, when the audited entity is a self-governing unit, to its territorial office and to the audit committee of the audited entity if it is established.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 5:**

5. Concerning prevention and detection of foreign bribery through anti-money laundering measures, the Working Group recommends that Slovakia provide better guidance to entities that are required to report suspicious transactions, for instance, by providing typologies on money laundering where the predicate offence is bribery (Convention, Article 7; Revised Recommendation I).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

The following bodies are responsible for implementing the recommendation: MoI SR through the Financial Intelligence Unit (FIU), National Bank of Slovakia (NBS) and SKAu.

On 23 June 2006, the president of SKAu met representatives of MoI SR. The meeting focused on training concerning the relevant parts of the Law no. 367/2000 Coll. on Protection Against Legalisation of Proceeds of Criminal Activity and on the amendments of some acts introduced by laws no. 566/2001 Coll. and no. 445/2002 Coll., with emphasis on section 3 para. c) where an auditor is a person under duty to report suspicious transactions. Section 4 of the Protection Against Legalisation of Proceeds of Criminal Activity and on amendment of some acts contains a definition of a suspicious transaction. Section 6 lists the duties of the person under duty and section 7 defines a duty to report.

The result of the training was the elaboration of the guidelines Ethics no. 2/2006 and guidelines of the Committee for Auditing Standards 2/2006. Both guidelines are published on the web site of SKAu, in the part on the OECD.

Moreover, it was agreed by the above representatives to further cooperate in preparation of an amendment of the law no. 367/2000 Coll., during the comment procedure, and, if the situation so requires, to continue cooperating in 2007.

In July and August 2006, all members of the Committee for Control of Quality and inspectors of SKAu were familiarised with the content of the working meeting and were retrained on the relevant parts of the law no. 367/2000 Coll. on Protection Against Legalisation of Proceeds of Criminal Activity and on amendment of some acts.

On 26th September 2006 a working meeting of representatives of FIU with the Secretary General of SOPK Mr. Martin Hrivík, and consultant specialist for law and legislation in trade Mr. Pavol Kopál, was held in the seat of the SOPK. The relevant instructions were given by Mr. Jozef Gregus, director of FIU, and Mr. Mario Tuscher, representative of the Controlling of Persons under Duty Department

On the 13th October 2006 a working meeting of representatives of FIU and the director general of the Monitoring and Banking System and Brokers Department, Mr. Milan Horváth, and other representatives of the department, Mr. Pavol Ferianec, Mr. Peter Baláž, Mr. Roman Turok-Heteš and

Mr. Miloš Švantner, was held. The relevant instructions were given by Mr. Jozef Greguš, director of FIU, Mr. Marcel Jakúbek, director of the Unusual Business Transactions Division, and representatives of the Controlling of Persons under Duty Department Mr. Jozef Juriš and Mr. Mário Tuscher.

The National Bank of Slovakia is always prepared to cooperate in implementing the recommendations of the Slovak government. However, in connection with suspicious transactions within the meaning of the Government decision reported by regulated subjects to police authorities, particularly to the FIU, the NBS has no particular information on corruption cases. Subjects controlled by NBS, as persons under duty to report suspicious transactions have no possibility to detect whether the unusual business operations reported to the police were connected to corruption cases, because the Financial Police does not provide such information. No law regulates such obligation and police authorities are bound by the secrecy obligation in particular cases. Concerning the reporting of unusual business operations the NBS is of the opinion that banks and branches of foreign banks are still the most active subjects as regards number of reports among the persons under duty to report according to the law no. 367/2002 Coll on Protection against Legalisation of Proceeds of Criminal Activity. This fact is also confirmed by the statistical data of the FIU. As to the capital market and brokers, there are fewer suspicious transaction reports (given by the specific character of their activities) because of the particularities of the activities in their areas.

Suspicious transaction reports are sent exclusively to the Financial Police, not to NBS. Although the non-existence of feedback from the Financial Police does not prevent the other reports of suspicious transactions, it does not help to develop a typology and schemes of suspicious transactions (particularly for banks). Successful cooperation of NBS to implement the decision of the Slovak government no. 234 of 15 March 2006 is possible if MoI SR and the MoJ SR who are at the same time holders of the main tasks according to the decision, provide the NBS with the necessary data on typology or schemes of behaviour of persons prosecuted for a corruption offence, i.e. at least general information about particular cases or particular final judgments. Without such data it is not possible to develop a typology or provide new information to regulated persons or effectively cooperate in providing better instructions. Since the adoption of the decision of the Slovak Government no. 234 of 15 March 2006, the NBS was not asked by any organisational unit of the above-mentioned ministries to co-operate within the meaning of the governmental decision.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 6(a):**

6. Concerning reporting of foreign bribery cases, the Working Group recommends that Slovakia:
  - (a) raise the awareness within the private sector and among public officials of the legal obligation under the Slovak Penal Code to report foreign bribery to law enforcement authorities (Revised Recommendation I).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

According to the decision of the Slovak government no. 234 of 15 March 2006 and adopted draft measures for ensuring of implementation of recommendations, the Office of the Government was responsible for implementing the recommendations through the Fight Against Corruption Department (the Department currently has no employees). Performance of the tasks is ensured continuously by all members of the Government, particularly through the public and private media.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 6(b):**

6. Concerning reporting of foreign bribery cases, the Working Group recommends that Slovakia:
- (b) continue its efforts to make whistleblower protection under Section 13 of the Labour Code more widely known among companies and the general public (Revised Recommendation I).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

Ministry of Labour, Social Affairs and Family included the protection of whistleblowers under the section 13 of the Labour Code to the general training aimed at protection of employees against discrimination.

The project called “Technical Assistance to the Center of Legal Aid for Providing of Legal Aid in cases involving the corrupt behavior” was approved and will be realized in 2007. The Center for Legal Aid is the governmental authority which provides for free legal aid. Within its consultancy powers, it can also provide for consultancy in the area of corrupt behavior, with the aim to increasing awareness of legal issues. In the practice, there can be a case that the entitled person comes across the signals of corrupt behavior, yet he/she does not know how to react or whom to turn to. For these reasons, it is essential that the employees of the Center of Legal Aid be able to provide for basic legal aid to those persons who turn to the Center of Legal Aid with a suspicion of corrupt behavior.

The expected results of this project:

- seminars for lawyers and employees of the centres for legal aid
- preparation of an explanatory book for providing of legal aid in cases involving corrupt behavior
- preparation of a draft proposal of activities for centres for legal aid with the aim to increase the legal awareness in a society
- publishing a leaflet called “How to act when you come across corruption”

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 6(c):**

6. Concerning reporting of foreign bribery cases, the Working Group recommends that Slovakia:
- (c) maintain statistics as to the number and sources of allegations of bribery (Revised Recommendation I).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

MoI SR is responsible for implementing the recommendation through the Police Forces of the Slovak Republic. Bureau of the Fight Against Corruption (hereinafter referred to as “BFAC”) of the Presidium of Police Forces maintains statistics on all reports including anonymous reports of natural and legal persons on suspicions of both corruption and other criminal offences falling within jurisdiction of the BFAC. BFAC assesses the content of the reports, analyses them and after that it starts to deal with them or it postpones them to the competent bodies.

BFAC maintains also detailed review of detected and investigated criminal offences falling within jurisdiction of the bureau, in particular corruption offences, criminal offences against property or economic crimes, if a damage over 25 – multiple of “small damage” according to the Penal Code (cca 5 882 352 EUR) was caused.

BFAC maintains also statistics on number and sources of operative information gained by operative way (i.e. their own investigation, from an informant, or another source). Protocols are in electronic form and it is possible to search relevant acts, criminal offences or key words through analytic software.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 7(a):**

7. Concerning investigation of foreign bribery, the Working Group recommends that:

- (a) the Slovak Police Academy continue to train police officers and recruits (including those who are not members of the Bureau of the Fight against Corruption) on investigating foreign bribery, including the practical aspects of bribery investigations (Revised Recommendation I).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

College of Investigation of the Police Academy in Bratislava participates on trainings in the field of bribery of foreign public officials and practical aspects of investigation.

The trainings concern following students:

a) in the Security services specialization

- in the fourth year of internal master's study (seventh semester) and in the fifth year of external master's study (ninth semester) in the specialization of "investigation"
- in the specialized police study the students who are both lawyers and non-lawyers study also the theme "Methods of investigation of corruption"

b) in the Protection of Persons and Property specialization

- during the bachelor's study of crediting system of study (fifth semester) in the subject "Basis of investigation" the theme "Methods of summary investigation" is presented
- during master's study (second semester) the theme "Methods of investigation of corruption including corruption of foreign public officials"; the presentations include also practice

College of Criminal Law of the Police Academy in Bratislava ensures in internal, external and specialized police study also trainings on interpretation of criminal offences in the 8th Head of the Penal Code (Criminal offences against public order), part 3 "Corruption". During the trainings on procedural criminal law attention is paid to interpretation of relevant procedural institutes and evidences which serve the purpose of detection, ensuring and procedurally documentation of evidence related to corrupt behaviour.

The Academy of the Police Force in Bratislava, in particular Criminal Law Department, Criminal Police Department and Investigation Department continue to train the police officers involved in corruption cases including corruption (bribery) of foreign public officials (§ 330 of Penal Code) and of other persons (§ 331 of Penal Code).

In addition we continue to train new recruits (including those who are not positioned at the BFAC).

Within the framework of investigation methodology we develop training of practical and tactical procedures in the investigation of corruption (bribery), in this sense the use of special proper evidence

such as e.g. agent, tapping and telecommunication record and production of picture, sound or picture-sound records as well as the use of the institute of break of prosecution against the accused who has been deeply involved in the clarification of corruption case provided the conditions stipulated in § 215 par. 3 of Criminal Procedure Code are met or conditional break of prosecution of the cooperating accused provided the conditions stipulated in § 218 of Criminal Procedure Code are met.

The mentioned issues are being trained also at specialized courses and seminars within the long-life education of investigators and police officers.

The given issues are part of the contents of subjects taught.

Police Academy has also organized lectures on theme “Corruption and possibilities of its detection” and “Legalization of incomes from illegal activities” for members of Customs Criminal Office of MoF SR.

Moreover, 6 specialised seminars for total number of 240 judges of the Special Court, prosecutors of the Office of Special Prosecution and policemen of the Office of Fight Against Corruption have been organised by the Judicial Academy within the framework of the project financed by the European Commission. The project included the study visits to the specialised anti-corruption authorities in Europe. All participants were trained not just about new domestic criminal legislation, however new European penal legislation was mentioned too, since some of European framework decisions have been incorporated to the Slovak criminal legislation in full range.

Another set of training anti-corruption activities is being prepared by the Judicial Academy for the lawyers and other staff of Centre of Legal Aid (providing the free legal aid).

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 7(b):**

7. Concerning investigation of foreign bribery, the Working Group recommends that:
- (b) Slovakia further enhance the co-operation among law enforcement agencies that are involved in combating foreign bribery (Revised Recommendation I).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

According to the Special Prosecution Office, its cooperation with the BFAC in the prosecution of corruption offences has been good.

In 2006, four coordinating meetings were held. The meetings were organised by the Special Prosecution Office.

The coordinating meeting with the representatives of the Tax Administration Directorate, Customs Directorate, Supreme Audit Office and Public Procurement Office was focused on establishing personal participation of the employees of these institutions as experts in investigations of particular criminal offences, including corruption offences.

The coordinating meeting with the Inspection Office of MoI SR focused on corruption in police forces, investigative competencies of the office and coordination of cooperation between its investigators and prosecutors of the Special Prosecution Office in prosecuting corruption offences.

Two coordinating meetings with representatives of the Customs Criminal Office, BFAC and with employees of the Department of Special Police Activities were focused on detection and prosecution of corruption of customs officers, including accepting bribes given by foreigners relating to smuggling of goods and migrants.

Present cooperation with both specialised institutions – Special Court and Special prosecution Office – is assessed by the BFAC as highly professional and effective. According to the BFAC both institutions are reasonable and up to now they are the most effective institutional instruments in fighting corruption and the most serious crimes. The BFAC mentioned particular criminal cases detected and investigated by BFAC, e.g. criminal cases concerning Devin Bank, non-bank subjects BMG Invest and Horizont, and also the case of so called “acid persons”.

It is not possible to assess the cooperation in the foreign bribery cases due to absence of particular cases.

Coordination meetings of prosecutors of the Office of the Special Prosecutors with the senior officials of BFAC and of the Bureau of the Police Inspection take place twice a year. The shortcomings in the past and the forms of cooperation, steps to be taken and the coordination in detection and evidencing the bribery offences, using of special means and techniques of investigation are discussed and analysed.

Seminar organized by the Office of the Special Prosecutor and the General Prosecutor’s Office took place in 24<sup>th</sup> and 25<sup>th</sup> May 2007 for the employees of the Bureau of the Police Inspection and the BFAC. The topic of the seminar was aimed at making the activities of the police corps in the fight against corruption more effective, including the unification of the investigation techniques and methods, increasing of the level of mutual cooperation and coordination of activities. The activity of the BFAC is also aimed at investigation of the offences committed by the policemen. In the second half of the year 2006 its competence was also widened to detect and reveal the corruption offences of the policemen. The aim of this seminar was thus to assist to accomplish the new activities of BFAC, especially in using the special investigation techniques. The issue of bribery of foreign relations was covered by the seminar too.

In addition, the coordination and mutual cooperation of the police, prosecutors and judges is realized on the level of personal contacts, informal working meetings. This cooperation is realized on a daily basis depending on the actual needs and is considered as one of the most effective forms of mutual cooperation by the mentioned law enforcement agencies (example of the concrete “acid” case, or “Devin Bank”, “non-bank subjects BMG Invest and Horizont”).

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 8:**

8. Concerning the offence of foreign bribery, the Working Group recommends that Slovakia (a) amend its legislation to exclude the defence of “effective regret” from the offence of foreign bribery, and (b) ensure the provision of immunity to co-operating offenders is not an impediment to the effective enforcement of the foreign bribery offence (Convention, Article 1).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

- a) The Ministry of Justice (hereinafter referred to as “MoJ SR”), following the decision of the Government no. 234 of 15 March 2006, developed an Analysis of Application of the Provision of the Penal Code on Effective Regret in Corruption Cases. In this purpose, it asked for the relevant information from the Special Prosecution Office of the General Prosecution of the Slovak Republic. After evaluating the results of the analysis, MoJ SR will decide on the next steps.
- b) Due to the absence of foreign bribery cases, the adoption of any measures in a particular criminal case was not necessary.

During the working meetings, all prosecutors of the Special Prosecution Office dealing with corruption cases were advised of the need to thoroughly assess the proposals of investigators to grant immunity to co-operating offenders in foreign bribery cases.

- (a) MoJ SR, on the basis of the recommendation of the OECD WG on Bribery and following the decision of the Government no. 234 of 15 March 2006, developed an Analysis of Application of the Provision of the Penal Code on Effective Regret in Corruption Cases. For this purpose, it asked for the relevant information from the Special Prosecution Office of the General Prosecution of the Slovak Republic in order to evaluate the application of this provision and to decide on the next steps.
- (b) Due to the absence of foreign bribery cases, the adoption of any measures in a particular criminal case was considered not necessary, also from the point of view of practice, since this provision is considered as important and useful tool in investigating and prosecuting bribery offences. The analysis showed that in the period from 1<sup>st</sup> January 2006 till 30<sup>th</sup> June 2007 the immunity provision was used in 6 cases of domestic bribery only in respect of 12 persons. This is evidence of the fact that those provisions of the Penal Code and Penal Procedure Code are used rarely and in cases where such procedure is necessary in order to detect and reveal offenders of bribery. All the cases involved the public officials being the offenders (bribers or bribees). In fact, even in case of domestic bribery offences, granting the immunity to co-operating offenders is taken on case-by-case basis and further to the all circumstances of the concrete case, including sufficient/insufficient evidence, and the person of the offender.

During the working meetings, all prosecutors of the Special Prosecution Office dealing with corruption cases were advised of the need to thoroughly assess the proposals of investigators to grant immunity to co-operating offenders in foreign bribery cases.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 9(a):**

9. Concerning prosecution of foreign bribery, the Working Group recommends that:
- (a) Slovakia ensure that the Special Court and the Office of the Special Prosecutor are effective in the fight against foreign bribery. In particular, they recommend that Slovakia ensure that these institutions are adequately staffed with prosecutors and judges (Revised Recommendation I).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

In a letter of 8 December 2006, the Deputy Prime Minister and Minister of Justice of the Slovak Republic informed the Chairman of the Working Group on Bribery of the reasons which led the Ministry to draft a law to abolish the Special Court and Special Prosecution Office and to submit the draft law for enactment. The “Analysis of Establishment and Functioning of the Special Court and the Special Prosecutor Office and the Legislative Bases for Their Further Existence, Position, and Competence” was enclosed with the letter. In spite of the conclusions of the analysis that both “special” institutions are not in compliance with the Constitution of the Slovak Republic and the relevant international conventions on the position and independence of judges and courts, 1 judge was admitted to the Special Court in December 2006 based on the recruitment procedure.

Fighting domestic and foreign bribery is one of the important priorities dealt with by the Government. In this field the Slovak Republic recognises and observes binding international treaties and conventions and other international obligations. That is the reason why the Government will not submit to the Parliament the draft law to abolish the Special Court and the Special Prosecution Office. However, it will deal with issues of unconstitutionality arising by establishment of the Special Court and Special Prosecution Office.

Any further questions from the Working Group on Bribery concerning the implementation of this recommendation, the arguments stated in the letter of the Deputy Prime Minister and the Minister of Justice, or the enclosed Analysis will be addressed at the plenary meeting of the Working Group.

As for the Office of the Special Prosecutor, the Prosecutor General has announced the selection procedure for the vacancies in the Office, 9 candidates presented their application for the function from among them 2 were chosen and started to work in the Office of the Special Prosecutor as of 1st April 2007, or 1st October 2007, respectively. Further selection procedure was announced in August 2007, 5

candidates presented their application. However, this selection procedure was not finished yet.

There are 18 prosecutors working in the Office of the Special Prosecutor, nevertheless the planned number of prosecutors is 25.

As for the Special Court , there are 13 judges working at permanent basis and two more judges allocated on a temporary basis (until 30th June 2008) from other courts. There are no vacant positions at the Special Court at present.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 9(b):**

9. Concerning prosecution of foreign bribery, the Working Group recommends that:
- (b) the Slovak Judicial Academy organise training programmes on foreign bribery for the Special Judges and Special Prosecutors, including new recruits (Revised Recommendation I).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

According to the Judicial Academy, the lectures on corruption of foreign public officials were presented in 4 seminars in which 7 judges of the Special Court and 7 prosecutors of the Special Prosecution Office participated. Lecturers included judges who participated in the preparation of the laws and experts from Germany and the Czech Republic.

Foreign bribery issues were included in the program of the seminar “Alternative Ways of Winding Up of the Prosecution” on 17 – 18 May 2006 for judges of the Special Court and prosecutors of the Special Prosecution Office. The seminar was held in the Training Institute of MoJ SR in Omsenie. The relevant themes were presented by Mr. Zilinka, prosecutor of the Special Prosecution Office.

The Judicial Academy will continue to include such themes in their seminars.

Other training include:

15-17 May 2006 – Custodial operations, agents in criminal proceedings, new legal regulation and its reasons in the new Criminal Codes, tasks and special proceedings of the military judiciary in the decision-making process on corruption offences of armed forces, case law of the Supreme Court of the Slovak Republic, possibilities of alternative methods and anomalies in the criminal proceedings, corruption aspects of economic crimes under the jurisdiction of the Special Prosecution Office of the General Prosecution of the Slovak Republic,

27-29 September 2006 – Anticorruption activities in legislation, current legal regulation in the Czech

Republic Criminal Codes, anti-corruption legislative measures in Germany and their implementation in practice, evaluation of legal regulations in anti-corruption, evaluation of programs and draft conclusions

7-9 June 2006 – possibility to use evidence obtained through means that are not set out in the procedural rules in the criminal proceedings (audio and video tapes made by natural persons, candid cameras, technical cameras, etc.), anti-corruption activities in legislation, current legal regulation in the Penal Code of the Slovak Republic, accepting, processing and subsequent treatment of reports of corruption arising from judicial and prosecuting authorities, experiences and information in the domain of anti-corruption in Italy and Germany.

Six specialised seminars for total number of 240 participants (judges of the Special Court, prosecutors of the Office of Special Prosecution and policemen of the Office of Fight Against Corruption) were organised within the framework of the project financed by the European Union and realized by the European Consultants Organisation. The project included the study visits to the specialised anti-corruption authorities in Europe.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 10:**

10. Concerning the liability of legal persons for foreign bribery, the Working Group strongly recommends that Slovakia establish such liability without delay, and put in place sanctions that are effective, proportionate and dissuasive (Convention, Articles 2 and 3(2)).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

On 31 August 2005, MoJ SR submitted a draft law on the criminal liability of legal persons to the legislative procedure. The draft was submitted to the National Council of the Slovak Republic (Parliament) in February 2006. Due to the premature general elections, Parliament did not discuss the draft in the third electoral period (currently it is the fourth electoral period).

Currently, in connection with preparation of draft amendments of the Penal Code, MoJ SR is preparing an expert analysis of this issue.

The draft law which will amend law no. 300/2005 Coll. Penal Code, and the draft law which will amend law no. 301/2005 Coll. Criminal Procedure Code, will respond to the practice of the courts and law enforcement authorities and implement the recommendations of GRECO and OECD to the Slovak Republic. The draft laws were included in the framework plan of legislative tasks of the Government of the Slovak Republic in the fourth electoral period. Draft laws are planned for the second quarter of 2007. It is not yet possible to specify the particular content of the draft laws.

Currently, in connection with preparation of draft amendments of the Penal Code, MoJ SR after an

expert analysis of this issue prepared the amendment of the Penal Code no. 300/2005 Coll., and the draft law which will amend law no. 301/2005 Coll. Criminal Procedure Code, which also include the implementation of the recommendations of GRECO and OECD to the Slovak Republic aimed at introducing the liability of legal persons for bribery. The draft laws were included in the framework plan of legislative tasks of the Government of the Slovak Republic in the fourth electoral period. Draft amendments were already submitted to the legislating procedure and the comments of various ministries were obtained. The ministry plans to submit the draft laws to the Government for its approval by the end of this year.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 11:**

11. Concerning the offence of money laundering, the Working Group recommends that Slovakia take appropriate measures to enforce its money laundering offence more effectively, particularly in connection with bribery cases (Convention, Article 7)

**Actions taken as of the date of the follow-up report to implement this recommendation:**

MoI SR is responsible for implementing the task under the governmental decision no. 234 of 15 March 2006.

In pursuing the flows of financial sources from corruption an in-depth assessment of operative information about such transactions is important. It is also important that the FIU consistently pursue and assess accepted reports on unusual business operations. This is because, after accepting such reports (for example from a bank, insurance company, exchange office, etc.), there is a real presumption that there was money laundering. Currently, the BFAC is now in a position to take relevant measures in case of an initiative of FIU or in case of a gain of such operative information.

However, having regard to the techniques of documenting of these two crimes, their occurrence right after they were committed is very rare.

Prosecution of money laundering does not fall within the jurisdiction of the Special Prosecution Office unless the offence is committed with the purpose of covering the origin of incomes from corruption offences. Prosecutors of the Special Prosecution Office have been advised of thorough prosecution of such criminal activities in existing criminal cases.

Sanctions for the laundering of the proceeds of corruption are imposed any time the legal conditions are fulfilled.

No special coordinating meetings were held. However, the possibility of the above-mentioned sanctions was always taken into account in the framework of working meetings of investigators and

prosecutors on particular criminal case.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 12(a):**

12. Concerning the offence of false accounting, the Working Group recommends that Slovakia:

- (a) take appropriate measures to enforce accounting and auditing offences more effectively in connection with bribery cases (Convention, Article 8).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

The following bodies are responsible for implementing the recommendation: MoI SR through the FIU, and SKAu.

On the 21<sup>st</sup> June 2006, a working meeting was held among prof. Ing. Jana Hvožd'árová, PhD., the president of the Ethics Committee of SKAu, Ing. Ondrej Baláž, Ing. Vladimír Zíma, Ing. Helena Jurenová and Ing. Helena Ivaničová with Mr. Gregus, director of FIU, and Mr. Juris, Director of the Controlling of Persons under Duty Department. During the meeting, the next cooperation in preparation of an amendment of law no. 367/2000 Coll. was agreed. The cooperation will be provided during the legislative procedure or other times if necessary.

The Tax Directorate of the Slovak Republic has issued several guidelines concerning imposing of penalties according to the Act on Accounting. Tax authorities are obliged to take into account the gravity, manner and duration of unlawful conduct. Special training programmes for tax examiners are focused on imposing sanctions according to the above-mentioned Act and on the application of the Slovak accounting standards.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 12(b):**

12. Concerning the offence of false accounting, the Working Group recommends that Slovakia:

- (b) ensure that the sanctions for false accounting in practice are effective, proportionate and dissuasive (Convention, Article 8).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

On 1 January 2006, law 300/2005 Coll. Penal Code entered into force. The new Penal Code abolished the previous law no. 140/1965 Coll. Penal Code.

The new Penal Code increased the level of imprisonment under section 250 (misuse of participation in competition) from 2 to 3 years, specified the elements of the delict under section 259 (Distortion of data in financial and commercial records – intentional form of the offence) but did not change the level of imprisonment, and amended the new offence under section 260 (Distortion of data in financial and commercial records – a negligent form of the offence). The level of imprisonment was increased from 3 to 8 years.

From the entry into force of the new Penal Code to the end of September 2006, 22 persons were convicted under section 250. There were no final convictions under sections 259 and 260.

The National Council of the Slovak Republic has amended the Act on Accounting which now allows imposing a fine up to 100 million SKK also in the case when the accounting entity has no assets (shell company).

According to analysis provided by the Tax Directorate of the Slovak Republic the increased level of fines since 2005 is more dissuasive for accounting entities. For example in accordance to Section 38 (5) of the Act on Accounting fines of 6 million SKK and 1,5 million SKK were imposed in 2006 for serious and long term unlawful conduct.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

**Text of recommendation 13:**

13. Concerning sanctions, the Working Group recommends that Slovakia continue to compile statistics on the criminal, civil and administrative sanctions (including confiscation) for domestic and foreign bribery, money laundering and false accounting (particularly those under the Act on Accounting) (Convention, Articles 3, 7 and 8(2)).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

In decision no. 234 of 15 March 2006, the Government of the Slovak Republic imposed on relevant departments an obligation to cooperate in compiling statistics about criminal, civil and administrative sanctions (including confiscation) for home and foreign bribery, money laundering and false accounting offences.

The following bodies are responsible for compiling statistics: MoJ SR and MoI SR. According to the governmental decision, this task has to be implemented by 31 August 2007.

The governmental decision further imposed on MoF SR an obligation to cooperate with the MoI SR in compiling statistics on administrative sanctions for domestic and foreign bribery offences, money laundering and false accounting offences. This task has to be implemented continuously.

According to the Tax Administration Directorate of the Slovak Republic (TAD SR), the MoI SR did not ask the TAD SR to co-operate in compiling the statistics. TAD SR has information since 2003 on taxpayers who have been reported to the police for suspected crimes. This information is maintained in the information system AIS.

Tax authorities continue to compile statistics on sanctions for false accounting imposed according to Section 38 of the Act on Accounting.

Penalties for false accounting imposed in 2005:

2005	2006 (for 6 months)
According to an estimate: 3 378 443 SKK	492 101 SKK
According to Section 38a: 3 993 100 SKK	660 134 SKK
Up to 1% of the total value of assets: 6 940 641 SKK	8 784 100 SKK
Up to 3% of the total value of assets: 9 567 348 SKK	7 334 634 SKK

From the entry into force of the new Penal Code to the end of September 2007, 7 persons were convicted under section 250, one person was convicted under section 259 and four persons were convicted under section 260.

Twenty seven persons were convicted under section 125 of former Penal Code (false accounting)

As far as the Money-laundering is concerned, 15 persons were convicted under section 234 during the above-mentioned period.

In case of domestic bribery 149 persons were convicted.

There were no final convictions as far as the foreign bribery is concerned.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Not applicable.

## **Part II. Issues for Follow-up by the Working Group**

### **Text of issue for follow-up 14(a):**

14. The Working Group will follow up the issues below as cases and practice develop in Slovakia:

- (a) whether the Slovak Penal Code covers the bribery of (1) a judge or an official of an international judicial institution that is not accepted by the Slovak Republic, and (2) an official or agent of a public international organisation of which Slovakia is not a member and with which Slovakia does not have a “conventional relationship” (Convention, Article 1).

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

Slovak Penal Code covers the bribery of a judge and an official of an international judicial institution that is not accepted by the Slovak Republic, an official or agent of a public international organisation of which Slovakia is not a member and with which Slovakia does not have a “conventional relationship” in cases when such official is a Slovak national.

### **Text of issue for follow-up 14(b):**

14. The Working Group will follow up the issues below as cases and practice develop in Slovakia:

- (b) the application of the provision of immunity to co-operating offenders in foreign bribery cases (Convention, Article 1)

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

The application of the provision of immunity to co-operating offenders was analysed in the period from 1<sup>st</sup> January 2006 till 30<sup>th</sup> June 2007. The analysis showed that the immunity provision was not

used in cases of foreign bribery cases, nevertheless it was used in 6 cases of domestic bribery only in respect of 12 persons. This is evidence of the fact that those provisions of the Penal Code and Penal Procedure Code are used rarely and in cases where such procedure is necessary in order to detect and reveal offenders of bribery. All the cases involved the public officials being the offenders (bribers or bribees). In fact, even in case of domestic bribery offences, granting the immunity to co-operating offenders is taken on case-by-case basis and further to the all circumstances of the concrete case, including sufficient/insufficient evidence, and the person of the offender.

During the working meetings, all prosecutors of the Special Prosecution Office dealing with corruption cases were advised of the need to thoroughly assess the proposals of investigators to grant immunity to co-operating offenders in foreign bribery cases.

**Text of issue for follow-up 14(c):**

14. The Working Group will follow up the issues below as cases and practice develop in Slovakia:

- (c) the application of the defence of socially acceptable gifts in foreign bribery cases (Convention, Article 1);

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

Tax authority has issued several guidelines concerning imposing of penalties according to the Act on Accounting. Tax authorities are obliged to take into account the gravity, manner and duration of unlawful conduct. According to analysis provided by the Tax Directorate of the Slovak Republic the increased level of fines since 2005 is more dissuasive for accounting entities. For example a fine of 6 million SKK was imposed in 2006.

Under the Penal Code the bribe is considered anything or other fulfilment of material or non-material nature being provided without legal title, i.e. any undue advantage irrespective of the value. According to the settled case law, the only socially acceptable gifts are flowers, boxes of chocolates, etc.

Since no criminal proceedings was held in respect of the foreign bribery, no real case of socially accepted gift in the international context can be provided.

Tax authority has issued several guidelines concerning imposing of penalties according to the Act on Accounting. Tax authorities are obliged to take into account the gravity, manner and duration of unlawful conduct. According to analysis provided by the Tax Directorate of the Slovak Republic the increased level of fines since 2005 is more dissuasive for accounting entities. For example a fine of 6 million SKK was imposed in 2006.

**Text of issue for follow-up 14(d):**

14. The Working Group will follow up the issues below as cases and practice develop in Slovakia:

- (d) the application of sanctions under the legislation implementing the Convention (i.e. the foreign bribery, money laundering and false accounting offences) (Convention, Articles 3, 7 and 8(2); Revised Recommendation V.A(iii)).

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

Tax authorities' statistics on sanctions for false accounting imposed according to Section 38 of the Act on Accounting.

Penalties for false accounting imposed in 2005:

2005	2006 (for 6 months)
According to an estimate: 3 378 443 SKK	492 101 SKK
According to Section 38a: 3 993 100 SKK	660 134 SKK
Up to 1% of the total value of assets: 6 940 641 SKK	8 784 100 SKK
Up to 3% of the total value of assets: 9 567 348 SKK	7 334 634 SKK

From the entry into force of the new Penal Code to the end of September 2007, 7 persons were convicted under section 250, one person was convicted under section 259 and four persons were convicted under section 260.

Twenty seven persons were convicted under section 125 of former Penal Code (false accounting)

As far as the Money-laundering is concerned , 15 persons were convicted under section 234 during the above-mentioned period.

In case of domestic bribery 149 persons were convicted.

There were no final convictions as far as the foreign bribery is concerned.

**ANNEX (to Questions 13 and 14d)**

**Penal Code**

Excerpts

**Laundering of the proceeds of crime**

**Section 234**

- (1) Any person who fails to inform or report
- a) the facts indicating that other person has committed the criminal offence of laundering the proceeds of crime according to Section 233, or
  - b) an unusual business transaction

although he has such obligation by virtue of his employment, profession, position or function, shall be punished by imprisonment for a term of two to eight years.

- (2) The act referred in paragraph 1 shall not be punishable if the offender cannot make the information or report without the risk of criminal prosecution against himself or a close person.

**Abuse of participation in the economic competition**

**Section 250**

Any person who abuses his/her participation in the economic competition by:

- a) damaging another competitor's reputation through his unfair competitive conduct in business relations, or
- b) acting contrary to provisions of an act on protection of the economic competition and thereby causes substantial damage to another competitor or endangers running of his undertaking

shall be punished by imprisonment for a term of up to three years.

## **Distortion of data in financial and commercial records**

### **Section 259**

- (1) Whoever presents false or grossly distorted data concerning important facts in statement, reports, input data entered into the computer or other documents which serve for
- a) statistical verification with the intention to obtain undue advantages for himself or other persons,
  - b) employee records with the intention to obtain undue advantages for himself or other persons,
  - c) the control of accounting records,
  - d) the control of the use of subsidies or other State budget allocations, allocations from the budgets of public service institutions, State funds, upper-tier territorial units or municipalities,
  - e) assessing the value of property or securities being transferred or assigned to other persons,
  - f) bankruptcy, composition, restructuring or write-off of debt,
  - g) entry into the business register or land register, motor vehicles register or other register on the basis of a special law,

shall be punished by imprisonment for a term of six month to three years.

- (2) The same sentence shall be imposed on any person who with the intent referred to in paragraph 1
- a) interferes with computer hardware or software, or
  - b) destroys, damages, conceals, renders unusable or fails to keep the records referred to in paragraph 1.
- (3) The offender shall be punished by imprisonment for a term of three to eight years if he commits an act referred to in paragraphs 1 or 2
- a) and causes substantial damage,
  - b) as a result of more serious misconduct, or
  - c) for a particular reason.
- (4) The offender shall be punished by imprisonment of five to twelve years if he commits the act referred in paragraphs 1 and 2
- a) and causes large-scale damage, or
  - b) causes a particularly serious disturbance to the running of the economy of the Slovak Republic or other particularly serious consequence.

### **Section 260**

Any person who by negligence commits the criminal offence of distorting data in financial and commercial records pursuant to Section 259 paragraph 1 above except for (a) and (b), thus causing large-scale damage, shall be punished by imprisonment for a term of three to eight years.