



DENMARK: 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 29 July 2008.

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SUMMARY AND CONCLUSIONS BY THE WORKING GROUP ON BRIBERY

a) Summary of Findings

1. Denmark has taken some additional steps to implement the OECD Convention since its Phase 2 examination in June 2006. However only very few of the recommendations issued in Phase 2 have been satisfactorily put into effect by Denmark.

2. Denmark has taken significant measures to raise awareness of the Convention and foreign bribery in the public sector, and assist the private sector in prevention efforts. This includes the publication of a booklet on corruption by the Ministry of Justice (MOJ), the adoption of anti-corruption strategies by the Trade Council of Denmark (TCD) and by Denmark's export credit agency (EKF), and the development by the Ministry of Foreign Affairs (MFA) of the web-based Business Anti-Corruption Portal. These efforts should be maintained. Future awareness raising efforts, including specialised training as appropriate, should also target law enforcement, judges, accounting and auditing professions, and business and law school students. (Recommendations 1 and 5b)

3. In the area of tax, the Phase 2 Report expressed concerns that certain aspects of the Danish tax assessment guidelines and the absence of clear guidance to tax officials on reporting to law enforcement authorities could hinder effective detection and reporting of bribery suspicions. As of the written follow-up report Denmark is yet to take any measures to address these issues (a planned training course is yet to be implemented due to lack of funding and competing priorities). (Recommendation 2)

4. Denmark has not adopted any measures for ensuring stronger whistleblower protection in the private sector. Some measures are at the planning stage, but it is not clear whether these measures, if implemented, will effectively address the concerns expressed in Phase 2 about the lack of rules protecting private sector employees who report in good faith suspicions of bribery committed by their corporate entity or by colleagues and superiors. (Recommendation 3a)

5. Since Phase 2, Denmark has taken steps for EKF to become more active in foreign bribery prevention, detection and reporting. The Danish authorities have also reiterated their confidence in the MFA's procedures for handling reports of bribery suspicions and in Danida's Anti-Corruption Code for ensuring that suspicions are reported effectively. (Recommendation 3b) These measures broadly address the recommendation, although their effectiveness in practice could be followed up in the future (*e.g.* number of reports actually made).

6. At the time of Phase 2, Denmark's trade promotion agency, the TCD, did not have an anti-corruption policy in place. A comprehensive policy has since been adopted, which includes guidance for TCD staff on preventing and reporting foreign bribery. The initiative was found to address the concerns expressed in Phase 2, with a small exception related to the drafting of one of the last subsection of the document. The Working Group finds that this subsection creates ambiguity in that it suggests that TCD staff have – in addition to a duty to report bribery offences to the TCD Secretariat described elsewhere in the document – a duty to bring circumstances that are in breach of Danish and local legislation to the attention of the customer. (Recommendation 3c)

7. With regard to accounting and auditing, Denmark indicated that a new bill had been introduced in Parliament in March 2008 on statutory audits. The bill includes provisions on training, quality-control and public oversight of the profession. The bill does not directly address the concerns expressed in Phase 2, which called for increased guidance for accountants and auditors on the issue of foreign bribery detection and reporting, including in relation to existing legal rules and professional standards. (Recommendation 4)

8. The foreign bribery offence in Denmark provides an exclusion of liability in the case of small facilitation payments. This exclusion (laid down in the *travaux préparatoires* to the law that introduced the foreign bribery offence) could also apply in cases where the payment is granted to make the official act “in breach of his duties”. In an attempt to clarify matters, the MOJ published a booklet after the Phase 2 evaluation stating that payments to make a public official act in breach of his duty in connection with international business transactions are always undue and thus punishable. While generally satisfied with the clarification issued by the MOJ, the Working Group will monitor whether Danish courts follow this approach in their interpretation of the exclusion for small facilitation payments. (Recommendation 6a) The Working Group also welcomed the entry into force of the foreign bribery offence in Greenland set for 1 January 2010 and the future dialogue between the Danish and Greenlandic authorities regarding a lift of the territorial reservation regarding Greenland, as well as the progress made towards extending the Convention to the Faroe Islands. (Recommendation 6b)

9. In Phase 2, there were concerns as to whether the rules and guidance on the liability of legal persons were well-suited to address transnational crimes such as foreign bribery. In light of the discretionary nature of the criminal liability of legal persons in Denmark, the absence of nationality jurisdiction over legal persons, and the absence of any liability of the parent company for offences committed by foreign subsidiaries, the Working Group recommended that Denmark ensure that prosecutors are provided with adequate rules and guidelines for effectively enforcing the foreign bribery offence against Danish companies. While Denmark’s written follow-up report indicates that changes could be introduced in these areas, it is not clear whether prosecutors will be provided with any additional tools or guidance. (Recommendation 6c)

10. Concerning sanctions, in Phase 2 the Working Group had recommended that Denmark increase the level of the penalty for foreign bribery, and that it seriously consider doing the same for accounting offences. As of the written follow-up, it seems that consideration for action has barely begun. (Recommendations 7a and 7b) Increasing sanctions for foreign bribery could also address the unavailability of certain special investigative means in foreign bribery investigations. (Recommendation 5a) The Working Group also notes that statistics required under Recommendation 7b were not provided.

b) Conclusions

11. Based on these findings, the Working Group concludes that Denmark has satisfactorily implemented Recommendations 3b and 6a; and has partially implemented Recommendations 1, 3c, 5b, and 6b. The remaining Recommendations (2, 3a, 4, 5a, 6c, 7a and 7b) have not been implemented.

12. Because of insufficient practice, the Working Group will follow up, as part of its future activities to monitor the implementation of the Convention, whether the measures taken to implement Recommendation 6a prove sufficient to address the concerns of the Working Group. Most Follow-up Issues identified in the Phase 2 report (8a to 8e) remain outstanding and will continue to be monitored.

13. The Working Group invited Denmark to report orally, one year after the written follow-up examination (*i.e.* by June 2009), on the implementation of all recommendations that the Group considers to be not yet fully implemented (1, 2, 3a, 3c, 4, 5a, 5b, 6b, 6c, 7a and 7b), with a particular focus on measures taken in relation to Recommendations 3a, 5a, 7a and 7b.

WRITTEN FOLLOW-UP TO PHASE 2 REPORTS

Name of country: Denmark

Date of approval of Phase 2 Report: 15 June 2006

Date of information: 28 May 2008

Part I. Recommendations for Action

Text of recommendation:

1. Concerning raising awareness of the Convention, the Revised Recommendation and the foreign bribery offence, the Working Group recommends that Denmark take measures to further raise the level of awareness of the Convention, the foreign bribery offence, and the risk that Danish companies engage in bribery abroad (i) among officials in government agencies that could play a role in preventing, detecting and reporting; (ii) among judges and new recruits; (iii) among SMEs and large enterprises doing business abroad, notably by providing guidance and support to the development and adoption of compliance programs; (iv) among accountants and auditors having in mind their reporting obligations; and (v) among business and law school students [1997 Revised Recommendation, Sections I and V.C.i) and following].

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

The Danish Ministry of Justice has published a booklet on corruption "Avoid corruption" which is aimed to raise the general awareness on corruption. It is stated in the booklet that corruption is an unacceptable behaviour which the society and each one of us have to take sharp issue with. The booklet includes the relevant law provisions supplemented with easily read explanations hereof. Furthermore, the booklet contains a wide range of examples in order to illustrate what is and what is not a legal behaviour. Finally, the booklet refers to other relevant authorities and organizations, including OECD. The booklet has been widely distributed to the police, courts and municipals.

The Ministry of Foreign Affairs of Denmark, as a government agency that could play a role in preventing, detecting and reporting foreign bribery offences, has a general policy based on the principle of zero tolerance towards corruption and bribery. The last couple of years, the Ministry of Foreign Affairs has taken further steps to raise awareness of the foreign bribery offence and to put clear internal procedures in place. Detailed policies have been adopted in two main areas where Danish officials in the Ministry of Foreign Affairs could come across bribery offences in the course of their duties: Export and investment promotion as well as development assistance.

In September 2007, the Trade Council of Denmark, as the part of the Ministry of Foreign Affairs of Denmark which is responsible for export and investment promotion, launched a detailed anti-corruption policy based on the cross-cutting principle of zero tolerance. The policy contains reference

to relevant Danish and international law on combating bribery, including the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

The Trade Council's anti-corruption policy contains an internal as well as an external dimension. Internally, the policy codifies and makes explicit the organisations own values, rules and procedures. It comprises clear rules for all staff acting on behalf of the organization, including locally employed staff abroad, on how they should relate to corruption and bribery both as a public authority and as a service provider. The internal policy contains clear guidelines on how to handle suspicions of foreign bribery offences, including procedures for notification and reporting in cases where employees become suspicious or aware of Danish companies using bribery (please also refer to the answer regarding recommendation 3.c). The internal policy is summarized in 7 principles applying to the work of all staff: "How we work". Externally, the anti-corruption policy comprises a number of services offered to Danish companies helping them to avoid corruption and to lower the risks associated with investing in countries where corruption is widespread.

The anti-corruption policy is supported by a web-based toolbox which is accessible for all staff.

To secure full implementation and awareness of the anti-corruption policy among its staff in Denmark and abroad, the Trade Council of Denmark has taken a variety of steps, including:

- September 2007: Issuing of an internal instruction launching and presenting the anti-corruption policy and instructing all staff to carefully familiarize themselves with the content, including the toolbox, the internal regulations and the procedures for notification and reporting.
- December 2007: A kick-off event for all staff of the Trade Council in Copenhagen. This included presentation of the content of the policy and a discussion session with participants.
- January 2008: A half-day anti-corruption session at the yearly "Global summit" where heads of trade and commercial departments at Foreign Ministry missions abroad are gathered in Copenhagen (presentation of the policy, implementation of the policy locally at missions, discussion of cases etc.).
- Ongoing competence development: An anti-corruption course has been developed and is offered all export and investment promotion staff (presentation of the internal regulations and the various services offered to Danish companies, including use of the web-based toolbox). The anti-corruption course is also part of the introduction programme given to all new employees and a part of pre-posting programmes. In total, approximately 200 employees have currently completed an anti-corruption course.
- Ongoing: The issue of anti-corruption is part of the ongoing dialogue between the Ministry in Copenhagen and the missions.
- Planned: A "Frequently-asked-questions" guide targeted at export and investment promotion staff is planned to be developed to support the implementation of the policy.

As mentioned above, the anti-corruption policy of the Trade Council of Denmark also has a substantial external dimension aimed at raising awareness of the foreign bribery offence and assisting SMEs and large enterprises doing business abroad. The Trade Council/missions offer counselling to private enterprises and tools to avoid corruption and reduce risks associated with doing business in high-risk countries, including:

- Country-specific information about bribery and corruption, including information about particularly exposed markets, sectors, and regions.
- Risk assessment on the basis of the company's present and potential market situation.
- Help with identification and preliminary screening of agents, consultants, and distributors.
- Help with preparation of contracts in which anti-corruption measures are incorporated.
- Guidance in connection with public contracts/tenders.
- Access to network of local organizations dealing with corruption issues.
- Information about relevant national and international anti-corruption legislation.
- Assistance in relation to public authorities.

A "product sheet" has been developed and is used in the promotion and awareness-raising of these services. This and other information – as well as links to the anti-corruption portal www.business-anti-corruption.com (see below) and the website of Transparency International – is available on the website of the Foreign Ministry/Trade Council of Denmark (www.um.dk).

In addition, the following initiatives have been taken to further raise awareness among Danish enterprises doing business abroad:

- Public relations: Articles by and interviews with the foreign minister in the Danish press have focussed on the foreign bribery offence, the risk of corruption when doing business abroad as well as on the services offered by the Trade Council.
- Anti-corruption and the services provided by the Trade Council have been raised at meetings between the Trade Council and Danish business associations and interested companies.
- Missions give information about the extent of corruption as part of the general country information provided to Danish companies. For instance, all missions have to provide information on the local risk of corruption on the market opportunities section of their website under "Doing business in". This also includes information about the country's ranking on the Transparency International Index and a link to the website of Transparency International.
- The possibility of having an anti-corruption conference aimed at Danish enterprises doing business abroad is being explored.
- A small booklet covering the anti-corruption services of the Trade Council is planned for production this year.

The anti-corruption policy of the Trade Council of Denmark is annexed.

The Ministry of Foreign Affairs has within the framework of Danida undertaken a range of activities to bring awareness of Danida's Anti-Corruption Action Plan, and the Danida Anti-Corruption Code of Conduct. The Ministry of Foreign Affairs launched an Action Plan to Fight Corruption within the frame of Danish development assistance (Danida) in 2003 covering all aspects of the Danish development assistance. As part of the implementation of the Action Plan, the Danida Anti-Corruption Code of Conduct was adopted in 2004. Several of the issues in the Danida Anti-Corruption Code of Conduct related to the issues mentioned on the Convention, i.e. active and passive corruption, reporting evidence and suspicion of corruption and observance of the code. The notion of 'zero tolerance' is the governing principle with regard to corruption within the Danish aid delivery system. The following activities have been taken to raise awareness of anti-corruption and the Danida policy:

Information about the Action Plan, the Code of Conduct and related activities is available on the home page of the Ministry of Foreign Affairs and on selected embassy-sites in developing countries and as a pamphlet in English, Spanish and French.

All staff working with Danish development assistance, all staff working at Embassies and entities in the Ministry in Copenhagen dealing with Danish development assistance has to participate in an e-learning course. The Ministry of Foreign Affairs has made it possible for local partners in the bilateral development programmes to participate in the e-learning course on Anti-corruption. The Ministry of Foreign Affairs seeks to ensure that local partners, if possible, are included in working groups with mission-staff, when they participate in the group sessions of the e-learning course. This is believed to enable participants to benefit the most of the exchange of information and awareness-raising. An update of the e-learning course will be carried out within the next year in order to include the latest knowledge and instruments in the course.

Establishment of a Danida Hotline for reporting cases of evidence or suspicion of corruption.

In August 2006, the Ministry of Foreign Affairs and the Danish company Global Advice Network launched the internet portal 'Business Anti-Corruption Portal' on www.business-anti-corruption.com. During the latter two years a number of other donors have joined the portal making it possible to dramatically increase the number of countries covered by the Portal.

The Portal is intended to help companies – especially small and medium sized companies – avoid bribery and extortion by providing them with necessary information and tools. The central elements on the Portal are among others: country profiles with detailed information about corruption, facts about public and private anti-corruption initiatives and ratification status on international conventions, due diligence tools for identifying and avoiding corruption risks in typical business situations such as agreements, joint ventures and consultant contracts, integrity system on how to integrate anti-corruption policies and practices in the existing company procedures, contact network – an entry point to public and private organisations in the countries covered, links to business relevant national and international organizations, initiatives and tools that can help companies to combat and avoid corruption and training modules on business anti-corruption.

The Ministry of Foreign Affairs of Denmark has a general policy regarding acceptance of gifts, etc. The policy states that employees are not – as a general rule – allowed to receive gifts etc. from external customers or collaborators. It states more specifically that: We are not allowed to give, ask or receive gifts or other favours that can affect our function, performance or judgement. Employees can accept ordinary hospitality and small gifts.

The Danish Court Administration will in order to raise awareness of the convention take steps to inform the courts about the convention by sending out concrete information about the convention and its implementation. Furthermore the court administration will pay attention to this subject in the future planning of training activities for Danish judges.

With respect to money laundering the Danish Commerce and Companies Agency (DCCA, an agency under The Danish Ministry of Economic and Business Affairs) has issued a leaflet over the Act of Money Laundering in January 2007 providing guidance to enterprises which are statutory requested to be filed in a specific register, www.virk.dk/hvl-reg . The guidance can also be found on DCCA's homepage, www.eogs.dk.

The accountancy profession is not a regulated profession in Denmark and thus the profession has no reporting obligations. All accountants are within the jurisdiction of the Criminal Code. Privately employed persons are covered by the Danish labour law legislation and collective agreements (self-regulation by the partners). The Code of Conduct for Danish Public Employees, issued by the Ministry of Foreign Affairs, applies to all Danish public employees.

The Act of State-authorized and Registered Auditors lays down a rule of auditors' reporting obligations, when the auditor becomes aware of committed crimes made by one or more persons of the enterprise's management and the auditor has reason to believe that the crime concerns essential amounts or is of serious offence. Criminal crimes cover among others bribery in international as well as domestic transactions. The auditors must also follow International Auditing Standards (ISA), ISA 240 and 260 as those are adopted standards by the Danish Auditing Standards Committee (Danish standard-setter on auditing).

In the education to statutory auditor knowledge of criminal activities and fraud and the legislation hereon form part of the training, and as continuous education the institute of Chartered Auditors (FSR) offers and effects seminar in frauds and economic crimes.

In June 2007, the Code of Conduct in the Public Sector was published by the State Employer's Authority. The Code of Conduct applies to all employed persons in the Danish public sector, employees as well as managers. In order to raise awareness of the subject, a paragraph on bribery and suspicion of corruption has been included in the Code of Conduct: "Public employees are not allowed to receive gifts or other benefits in the nature of bribery. Such behaviour would be against the Penal Code. Should the special situation arise that a public employee gains knowledge or reasonable suspicion of corruption, which involves the public administration, the management should immediately be informed. The management must hereafter handle the situation. Alternatively, the employee may, according to the circumstances, contact the police or relevant control or supervisory authorities". In addition, the Code of Conduct contains a description of the public employees' right to disclose information to external parties in case of illegal administration or other reprehensible circumstances in the public sector. Finally, the Code confirms that public employees shall not be subject to disciplinary or any other sanctions for having reported in good faith corruption or suspicion hereof. The Code of Conduct has been distributed to national workplaces.

Following the publication of the Code of Conduct, a number of information activities have been carried out in order to raise knowledge of the Code among public employees in Denmark. These activities have included general and thematic meetings for managers and employees. The Code of Conduct has also been supplemented by a brief edition in both Danish and English with the aim of handing out to new employees, presenting at meetings etc. Apart from printed versions, the Code of Conduct in the Public Sector can be downloaded at various websites, e.g. the website of The State Employer's Authority, www.perst.dk.

If no action has been taken to implement this recommendation, 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:

Text of recommendation:

2. Concerning the prevention and detection of foreign bribery through taxation, the Working Group recommends that Denmark provide enhanced guidance and training to tax officials on the detection of bribe payments disguised as legitimate allowable expenses, and maintain detailed statistical information on tax offences and reporting by tax officials to law enforcement agencies [1996 Recommendation of the Council on the Tax Deductibility of Bribes to Foreign Public Officials ; 1997 Revised Recommendation, Sections I, II.ii) and IV].

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

The Danish Central Tax Administration (SKAT) and The Public Prosecutor for Serious Economic Crime (SØK) have decided to develop a special training course for Tax Officers in the Anti Tax Fraud Units and the Tax Control Units in the Local Compliance Departments.

The planning of this training has started, and will consist of the following main components:

- How to detect, treat and report corruption, bribery, money laundering and financing of terrorism.
- Exchange of information and cooperation with the law enforcement authorities.
- How to guide companies to prevent them from unintended being involved in such situations and set up guidelines on how to report suspicious transactions to the proper authorities.

The special training programme will be a supplement to the already existing comprehensive module based Training Programme on the fight against Economic and Fiscal Crime for Control- and Anti Fraud Officers in the Tax Administration. Officers from SØK will conduct the training.

The training programme was foreseen to be developed and launched in autumn 2007 but because of resource demanding priorities connected with the implementation of the new structure of the Police organisation the implementation of the training has been delayed.

The Trainer Seminars for Tax Officers in the Anti Fraud Units is planned to be held in autumn 2008 and then this training module will be incorporated in the ongoing Control and Anti fraud Training programme provided the necessary financial funding can be guaranteed.

With respect to training of police officers and prosecutors, please see below regarding the answer to recommendation 5 b).

If no action has been taken to implement this recommendation, 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:

Text of recommendation:

3. Concerning detection and reporting of foreign bribery cases, the Working Group recommends that Denmark:

- a) adopt measures for ensuring stronger whistleblower protection in the private sector in order to encourage private sector employees to report suspected cases of foreign bribery without fear of retaliation [1997 Revised Recommendation, Sections I and V.C.iv)];

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

In Denmark collective agreements and the social partners (arbejdsmarkedets parter) play a key regulatory role on the labour market. Protection against unlawful dismissal and other whistleblower protection are accordingly enshrined in many collective agreements. Furthermore, it should be noted that a considerable amount of employees are offered some protection through the Act on the Legal Relationship between The Employers and Salaried Employees.

However, the Ministry of Employment acknowledges that there may be a need to strengthen the whistleblower protection in the private sector and considers this task to be mostly of an informative nature. It has not been sufficiently communicated to stakeholders what the existing protection of whistleblowers actually covers and that this is an issue that may well be addressed in collective agreements even more than it is today.

Accordingly, accepting the recommendation, the Ministry of Employment is preparing a Code of guidance addressing this issue and to publish it before the end of 2008. It is not possible at this early stage to go into detail with regard to how this Code of guidance will be presented but it is the intention of the Ministry of Employment that the Code of guidance will address both the role of the social partners in this matter and be useful for individual employees in the private sector. It is possible that the preparation of such a Code of guidance may take place as part of a more comprehensive informative initiative that also deals with related issues.

If no action has been taken to implement this recommendation, 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:

Text of recommendation:

3. Concerning detection and reporting of foreign bribery cases, the Working Group recommends that Denmark:

- b) take steps to ensure an effective system for reporting, as appropriate, to the Danish and local law enforcement authorities suspicions of bribery of foreign public officials detected in the context of the administration of development funds and export credit guarantees [1997 Revised Recommendation, Sections I, II.v) and VI];

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

Please also refer to the answer regarding recommendation 1.

Overall, there is a set of clear guidelines as well as adequate procedures for handling reports of suspicion or knowledge of bribery in place in the Ministry of Foreign Affairs. The Ministry will continue to focus on internal procedures in light of the experiences accumulated and, in case of problems or other shortcomings, will explore ways to further improve them.

The internal guidelines of the Ministry of Foreign Affairs stipulates an obligation to inform the Ministry in Copenhagen about incidents actually occurred, as well as cases where there is a reason to suspect that such incidents have occurred, although all details have not yet been fully documented. The scope of the obligation covers government funds, inter alia development assistance funds administered by the Ministry of Foreign Affairs, and the funds and subsidies administered by others (authorities in recipient countries, international organizations, institutions, NGOs etc.).

In accordance with the 10th principle of the Danida Anti-Corruption Code of Conduct, the Ministry of Foreign Affairs' staff is obliged to report suspicion or evidence of breaches of the Code. Reporting can take place through various means, including through the superior, a mail to the Ministry of Foreign Affairs or through the Danida Hotline. The Danida Hotline is open for all reports of misuse with Danida funds – not only reports from Danish and local officials employed by the Ministry of Foreign Affairs but also from external parties. Though established with purpose of detecting eventual misuse of development assistance, the Ministry of Foreign Affairs evaluates each report that it receives. The hotline guarantees confidentiality and anonymity according to Danish law. This means, however, that the Ministry of Foreign Affairs cannot proceed with an investigation in certain situations and that an investigation can be more difficult to undertake when based on anonymous report. If an investigation provides sufficient material for a trial, the person who has reported the conditions will be urged to annul the anonymity in order to enable the Ministry of Foreign Affairs to proceed.

The decision to notify Danish or foreign law enforcement authorities is taken by the Ministry of Foreign Affairs in Copenhagen, i.e. the Department for Quality Assurance of Development Assistance and/or the Finance Department in consultation with the International Law Office of the Ministry, on the basis of available information.

If no action has been taken to implement this recommendation, 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:

Text of recommendation:

3. Concerning **detection and reporting** of foreign bribery cases, the Working Group recommends that Denmark:

- c) issue clear guidelines for relevant public servants on how to handle suspicions of foreign bribery offences that they may come across in the course of their duties; this should include providing guidance to diplomatic and trade promotion personnel on the steps that

should be taken – including encouraging reporting the matter as appropriate to the Danish and local law enforcement authorities – when there are credible allegations that a Danish company or individual has bribed or taken steps to bribe a foreign public official [1997 Revised Recommendation, Section I].

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

Please also refer to the answer regarding recommendation 1.

Overall, there is a set of clear guidelines as well as adequate procedures for handling reports of suspicion or knowledge of bribery in place. The Ministry of Foreign Affairs will continue to focus on internal procedures in light of the experiences accumulated and, in case of problems or other shortcomings, will explore ways to further improve them.

Within the framework of the anti-corruption policy of the Trade Council of Denmark, clear guidelines have been issued on how to handle suspicions of foreign bribery offences that diplomatic and trade/investment promotion personnel, including locally employed personnel abroad, may come across in the course of their duties. This includes procedures for notification and reporting of cases of bribery.

In the policy, it is explicitly stated:

“As a consequence of the zero-tolerance policy, it rests with all staff in the TCD both domestically and abroad, including locally employed staff, immediately to notify TCD’s secretariat if they become suspicious or aware of specific cases of Danish companies using bribery.”

Consequently, the diplomatic and trade/investment promotion personnel of the Trade Council of Denmark are under instruction to report to the Ministry of Foreign Affairs in Copenhagen all credible allegations that a Danish company or individual has bribed or taken steps to bribe a foreign public official.

The decision to notify Danish or foreign authorities, including possible reporting to the police, where there is a suspicion or knowledge of specific cases of bribery, is taken by the Ministry of Foreign Affairs in Copenhagen, i.e. the Secretariat of the Trade Council in consultation with the International Law Office of the Ministry, on the basis of the available information.

It follows from the zero-tolerance policy that, as far the most important rule, notification of the authorities will happen in cases of knowledge of specific instances of bribery, including reporting to the police. The same applies to suspicion of bribery based on trustworthy evidence.

Furthermore, as described above regarding the answer to recommendation 1, the Code of Conduct in the Public Sector, which was published in June 2007 by the State Employer’s Authority, includes guidelines on how to handle suspicions of bribery offences etc.: It is thus described, that if a public employee gains knowledge or reasonable suspicion of corruption, which involves the public administration, the management should immediately be informed. The management must hereafter handle the situation. Alternatively, the employee may, according to the circumstances, contact the police or relevant control or supervisory authorities. In addition, the Code of Conduct contains a

description of the public employees' right to disclose information to external parties in case of illegal administration or other reprehensible circumstances in the public sector. External parties include for instance the media, supervisory authorities and the Parliamentary Ombudsman.

It should be added that the rules concerning the obligations of public servants in the handling of suspicions of penal offences are described in The Auditor General's Memorandum nr. RN JUR03/06 of 13 September 2006 to the Danish Public Accounts Committee on the Handling of Fraud etc. The memorandum describes the obligations of Danish officials to notify the superior authorities of any cases of suspected bribery or other irregularities, to report such cases to law enforcement authorities and to inform Rigsrevisionen, the supreme audit institution. The memorandum is public and is generally well known in the governmental administration.

If no action has been taken to implement this recommendation, 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:

Text of recommendation:

4. Concerning detection and reporting of foreign bribery through accounting and auditing, the Working Group recommends that Denmark provide clearer guidance to auditors with regard to the scope of their legal obligation to report suspicions of foreign bribery. This should include guidance on how the rules as provided by the Danish standards on auditing relate to the provisions under the ASARPA with regard to the reporting obligations of auditors [1997 Revised Recommendation, Sections V.B.iii) and iv)].

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

In the existing Act of State-authorized and Registered Auditors it is stated in Art. 10, 5, that a Danish public approved auditor is obliged immediately to report to every member of the management his awareness of criminal crimes committed or under committing by one or more persons of the enterprise's management and the auditor has reason to believe that the crime concerns essential amounts or is of serious offence. If the management not later than 14 days after the auditor's reporting has not documented to take necessary steps towards stopping the crime in progress and has reclaimed the damages caused by the committed crimes the auditor must immediately report to the Public Prosecutor for Serious Economic Crime (SØK). If the auditor finds, that information to the management is unsuitable to prevent continuous crime, the auditor must immediately inform the Public Prosecutor for Serious Economic Crime (SØK) and the same procedure must be followed, if the majority of the management is involved or is aware of the criminal crimes. Criminal crimes cover among others bribery in international as well as domestic transactions.

In March 2008 a bill to a new Auditor Act has been introduced to the Parliament. The bill is based on and implements the EU adopted Directive on statutory audits of annual accounts and consolidated accounts (Directive 2006/43/EC). The bill is expected to be approved by the Danish Parliament in early summer this year. The bill contains the same rule about committed criminal crimes as afore-mentioned and contrary to the existing act the rules has it own heading "Reporting on economic crimes". In the

bill it is stated, that statutory auditors are obliged to participate in a appropriate program of continuous education as to secure, that the auditor permanently maintain his theoretical knowledge and his information of the request for the role as the Public's steward. In addition the bill also contains revised rules about quality-management and –control and public supervision and inspection.

The statutory auditors must also follow International Auditing Standards (ISA), ISA 240 and 260 as those are adopted standards by the Danish Auditing Standards Committee (Danish standard-setter on auditing).

In the education to statutory auditor knowledge of criminal activities and fraud and the legislation hereon form part of the training, and as continuous education the institute of Chartered Auditors (FSR) offers and effects seminar in frauds and economic crimes.

If no action has been taken to implement this recommendation, 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:

Text of recommendation:

5. Concerning investigation of foreign bribery, the Working Group recommends that Denmark:
- a) make special investigative means, such as interception of communications, video surveillance and undercover operations, available in foreign bribery investigations where appropriate [Convention, Article 5 ; 1997 Revised Recommendation, Section I];

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

Please see the answer regarding recommendation 7 a) below.

If no action has been taken to implement this recommendation, 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:

Text of recommendation:

5. Concerning investigation of foreign bribery, the Working Group recommends that Denmark:
- b) ensure that the Danish National Police College provides intensified training of police officers and prosecutors on investigating foreign bribery, including on the practical aspects of bribery investigations [Convention, Article 5 ; 1997 Revised Recommendation, Section I].

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

The Danish National Police College has intensified its training of police officers and prosecutors by developing and delivering a special training programme on investigating financial crime, including investigation foreign bribery, corruption and fraud.

The target group for the training programme consists of police officers and prosecutors dealing with these sorts of crime together with tax officials to ensure a smooth and fast cooperation.

The training programme has been implemented since 2005, and the number of participants from the police service has been approximately 112, prosecutors 32 and tax officials 28.

If no action has been taken to implement this recommendation, 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:

Text of recommendation:

6. Concerning the offence of foreign bribery, the Working Group recommends that Denmark:
 - a) clarify that all instances of small facilitation payments given to induce a foreign public official to act in breach of his/her duties in the context of an international business transaction are illegal pursuant to the Danish Criminal Code [Convention, Article 1 ; 1997 Revised Recommendation, Section I];

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

As stated above regarding the answer to recommendation 1), the Ministry of Justice has published a booklet on corruption. The issue of small facilitation payments in connection with international business transactions is described in the booklet. It is clearly stated that it is in no case allowed to make a public official act in breach of his duty in international business transactions and that this would always be punishable.

Furthermore, the Ministry of Foreign Affairs has a policy of zero-tolerance with regards to all forms of corruption and bribery. Please also see the answers regarding recommendation 1) above.

If no action has been taken to implement this recommendation, 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:

Text of recommendation:

6. Concerning the **offence of foreign bribery**, the Working Group recommends that Denmark:
- b) within the rules governing its relationship with Greenland and the Faroe Islands, (i) extend the OECD Convention to Greenland at the earliest possible date; and (ii) assist the authorities of the Faroe Islands in adopting the necessary legislation in order to extend ratification of the OECD Convention to the islands at the earliest possible date [Convention, Article 1 ; 1997 Revised Recommendation, Section I];

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

With respect to Greenland, the Minister of Justice has introduced a bill regarding a new Greenlandic Criminal Code and a new Greenlandic Administration of Justice Act for the Danish Parliament in this parliamentary session (2007/2008). The bills have been adopted on 8 April 2008 and will enter into force on 1 January 2010. With the new Greenlandic Criminal Code, Greenland will meet the requirements of for instance the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, when the act enters into force. Based on these changes the Ministry of Justice will contact the Greenlandic authorities concerning a lift of the territorial reservation with respect to Greenland and bring the Convention into force in Greenland.

With respect to the Faroe Islands, the Ministry of Justice is preparing a decree which is supposed to set changes of the Criminal Code into force in the Faroe Islands, including the amendment of Section 122 in the Criminal Code that enabled Denmark to ratify the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. However, the decree can not come into force until the Faroese Administration of Justice Act has been amended by the Parliament. The Minister of Justice is expecting to introduce a bill regarding a change of the Faroese Administration of Justice Act in the parliamentary session 2008/2009. Based on these changes the Ministry of Justice will contact the Faroese authorities concerning a lift of the territorial reservation with respect to the Faroe Islands and bring the Convention into force in the Faroe Islands.

If no action has been taken to implement this recommendation, 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:

Text of recommendation:

6. Concerning the **offence of foreign bribery**, the Working Group recommends that Denmark:
- c) ensure that the application of the DPP Guidelines on the liability of legal persons is in no way an impediment to using the full scope of the jurisdictional rules as provided by the Danish Criminal Code [Convention, Article 2 ; 1997 Revised Recommendation, Section I].

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

According to Section 306 of the Criminal Code criminal responsibility can be imposed on companies, etc. (legal persons) under the rules of Part 5 for violation of the Criminal Code.

Criminal responsibility which is imposed upon or which may be imposed upon a legal person does not exclude the possibility of also imposing criminal responsibility under general rules on natural persons.

As stated explicitly in the travaux préparatoires to Section 306 the prosecution as a general rule applies its "principle of choice" for not indicting inferior employees who have been engaged in only minor, negligent offences. Since cases of bribery involve intentional activities, it is presumed that the relevant individuals will also be held criminally responsible, irrespective of their charge. Accordingly, this is the interpretation generally given in Danish criminal law.

The Director of Public Prosecutions has provided some general guidelines on the choice of liable persons in cases involving corporate liability. The guidelines are found in Notice No. 5/1999, which states that the general rule is to prosecute the company as such. In conformity with the travaux préparatoires the notice further states that both a company and an executive employee can be punished in case of gross negligence committed by the executive employee. Thus, concerning companies falling within subsection 26(1) of the Criminal Code (i.e. any legal person including joint-stock companies, cooperative societies, partnerships, associations, etc.), generally the corporate management or an executive employee must be individually prosecuted if the person(s) has acted with intent or gross negligence.

Subordinate employees are generally not prosecuted unless special circumstances apply.

As regards companies wholly controlled by an individual, the same principles apply.

As far as sole proprietorships are concerned, the general rule is also to prosecute the company as such. The owner is prosecuted if he has acted with intent or gross negligence. In such cases the company is not prosecuted as well. Executive employees are also prosecuted if they have acted with intent or gross negligence. In such cases either the company as such or the owner personally is prosecuted too.

Subordinate employees are not prosecuted unless special circumstances apply.

A parent company is not liable for offences committed by its subsidiaries, and subsidiaries are not criminally liable for offences committed by parent companies.

For further details please refer to Notice No. 5/1999.

The rules on criminal jurisdiction are found in Section 6-12 of the Criminal Code.

Section 6 of the Criminal Code provides for Danish jurisdiction over acts committed within the territory of the Danish state. According to Section 9 of the Criminal Code, Danish jurisdiction could also apply over certain punishable acts committed abroad where their consequence has taken effect or was intended to take effect in the Danish territory.

Pursuant to Section 7 of the Criminal Code, acts committed outside the Danish territory by a Danish

national or by a person resident in the Danish state are subject to Danish jurisdiction where the act was committed (a) outside territory recognized by international law as belonging to a state, provided that such acts are punishable by a sentence exceeding imprisonment for four months; or (b) within the territory of a foreign state, provided that it is also punishable under the law in that state.

According to Section 8 of the Criminal Code, certain specific acts committed outside Danish territory may also come within Danish jurisdiction irrespective of the nationality of the perpetrator.

As far as legal persons are concerned, this implies that the basis of Danish criminal jurisdiction is to be found in Section 6 and 9 of the Criminal Code in situations where the acts is committed within Danish territory, or where its consequence has taken effect or was intended to take effect in the Danish territory.

However, Danish criminal jurisdiction must be based on Section 7 or 8 of the Criminal Code, if the only relevant connection to Denmark is the registration of the company (the criminal act can not be related to the country of registration in the shape of an offence which is attributable to one or more persons connected with the company).

Thus, if, for instance, the manager of a Danish company – while being on Danish territory – instructs an employee to use bribery in order to obtain a contract, and the employee – while being abroad – bribes a foreign civil servant, Denmark will have jurisdiction over the legal person (and the manager) according to Section 6 of the Criminal Code.

If the manager is outside Danish territory when he instructs the employee, Danish criminal jurisdiction in relation to the legal person must be based on Section 7 or 8 of the Criminal Code.

However, if the consequence of the criminal acts of the manager and the employee has taken effect or was intended to take effect in the Danish territory, Denmark will also have jurisdiction over the legal person pursuant to Section 9 of the Criminal Code. Furthermore, Denmark will have jurisdiction over an offence committed abroad if the offence has in fact been prepared in Denmark where the company is registered.

A bill concerning changes of the Criminal Code with respect to Danish jurisdiction has been introduced to the Parliament in November 2007 based on a report submitted by a committee set up by the Ministry of Justice. The bill proposes a number of amendments of the Criminal Code in order to give a more precise formulation of the rules on criminal jurisdiction, including a proposal to add a specific provision concerning jurisdiction over legal persons which is in accordance with the presentation above. This proposed amendment will not entail any changes of the present state of the law as it is described above. The bill has not yet been adopted.

A possible revision of the Director of Public Prosecution's guidelines on the liability of legal persons regarding the issue of jurisdiction will await this process."

If no action has been taken to implement this recommendation, 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:

Text of recommendation:

7. Concerning sanctions, the Working Group recommends that Denmark:
- a) increase the level of the penalty of imprisonment against natural persons for foreign bribery as provided by Section 122 of the Danish Criminal Code, and ensure that they are effective, proportionate and dissuasive [Convention, Articles 3 ; 1997 Revised Recommendation, Section I];

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

On the basis of the recommendations regarding the sanctions for foreign bribery, cf. Section 122, and accounting services, cf. Section 296 and 302, the Ministry of Justice will consider this thoroughly in collaboration with the Director of Public Prosecutions and the Public Prosecutor of Serious Economic Crime and with the involvement of the Expert Committee on Financial Crime of the Director of Public Prosecutions with representatives from all local prosecution districts. Furthermore, in this connection the parties will also consider if special investigative means should be available in foreign bribery investigations.

The Ministry of Justice expects that these considerations can be finalized at the end of 2008.

If no action has been taken to implement this recommendation, 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:

Text of recommendation:

7. Concerning sanctions, the Working Group recommends that Denmark:
- b) seriously consider to further increase the sanctions for accounting offences as provided by Sections 296 and 302 of the Danish Criminal Code. It also recommends that Denmark compile relevant statistics on the application of sanctions for accounting offences in view of the follow-up to the Phase 2 evaluation [Convention, Article 8 ; 1997 Revised Recommendation, Sections I and V].

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

Please see the answer regarding recommendation 7 a) above.

If no action has been taken to implement this recommendation, 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:

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

Text of issue for follow-up:

8. The Working Group will follow up the issues below as cases and practice develop in Denmark:
- a) the number, sources and subsequent processing of allegations of violations of the laws against foreign bribery and related offences that are reported to the law enforcement authorities [Convention, Article 5 ; 1997 Revised Recommendation, Sections I and V.B.iii) and iv)];

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:

No relevant cases or changes.

Text of issue for follow-up:

8. The Working Group will follow up the issues below as cases and practice develop in Denmark:
- b) information on the application of the offence of bribery of foreign public officials, and the level of criminal and administrative sanctions for foreign bribery [Convention, Articles 1, 2 and 3 ; 1997 Revised Recommendation, Sections I, II.v), and VI];

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:

No relevant cases or changes.

Text of issue for follow-up:

8. The Working Group will follow up the issues below as cases and practice develop in Denmark:
- c) the effectiveness of the provisions on confiscation in foreign bribery cases [Convention, Articles 3 ; 1997 Revised Recommendation, Sections I];

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:

No relevant cases or changes.

Text of issue for follow-up:

8. The Working Group will follow up the issues below as cases and practice develop in Denmark:
- d) the protection of public sector employees collaborating with the law enforcement agencies, notably employees who report in good faith suspected cases of foreign bribery [1997 Revised Recommendation, Section I];

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:

As stated above regarding the answer to recommendation 1, the Code of Conduct in the Public Sector, which was published in June 2007, includes guidelines on how to handle suspicions of bribery offences, including the possibility of disclosing information to the police or relevant control- or supervisory authorities. The Code confirms that public employees shall not be subject to disciplinary or any other sanctions for having reported in good faith corruption or suspicion hereof.

Text of issue for follow-up:

8. The Working Group will follow up the issues below as cases and practice develop in Denmark:
- e) the application of the criminal liability of legal persons for the bribery of foreign public officials, including: (i) whether in practice legal or procedural obstacles are encountered in proceeding against the legal person where the natural person who bribes a foreign public official has not been or cannot be proceeded against, (ii) the application of the rules for establishing Danish jurisdiction over foreign bribery offences committed by legal persons [Convention, Article 2; 1997 Revised Recommendation, Section I];

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:

No relevant cases or changes.

Text of issue for follow-up:

8. The Working Group will follow up the issues below as cases and practice develop in Denmark:
- f) the application of the 2006 Act on Measures to Prevent Money Laundering and Terrorist Financing, including with respect to the application of sanctions for failure to report; and the development of specific standards by the Danish authorities (in the form of typologies, guidelines and training material) for suspicious transaction reporting [Convention, Article 7 ; 1997 Revised Recommendation, Section I].

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 Danish Financial Supervisory Authority (DFSA) has issued Guidelines on Measures to prevent Money Laundering and Financing of Terrorism where issues as reporting obligations are thoroughly described. Other issues can be mentioned, e.g. written procedures, training, monitoring obligations, record keeping obligations etc. The guidelines also content an interpretation of the Money Laundering Act and practice the DFSA has dealt with as well.

In addition the Danish Financial Intelligence Unit (FIU) has issued a catalogue containing Money laundering and terrorist financing indicators which is public available. The documents aim is to give guidance to persons and entities comprised by the Money Laundering Act who are obliged to report to the FIU if they have a suspicion of money laundering or financing of terrorism and this suspicion cannot be disproved. Most of the indicators are deduced from cases from the whole world and may serve as inspiration to consider if it may be financing of terrorism or money laundering. In addition the annual report from the Danish FIU describes trends and cases.

Sanctions for failure to report

The DFSA supervises banks and other financial institutions. During the ongoing supervision of these entities there has been no lack of reporting suspicious transactions. However, the DFSA has given some measures concerning customer due diligence requirements. The requirements are largely fulfilled except for a few minor deficiencies.

Inspections on money laundering/terrorist financing are normally part of an inspection of financial institutions, including whether they have reported to the State Prosecutor for Serious Economic Crime. The DFSA has this spring introduced a new self-assessment system covering all significant risk areas in financial institutions. The self-assessment is conducted before every on-site inspection and can be used in other situations as well. The DFSA will send a set of self-assessment questionnaires to be answered by the institution. For each risk area, e.g. antimoney laundering and terrorist financing, the institution is required to state whether it is compliant with the rules in the Money Laundering Act. The institution will always be required to explain further if it states that it is not compliant with a specific rule. In some institutions antimoney laundering and terrorist financing is considered to be a risk area, for example if it has considerable private banking activities. Consequently the institution in question will be required to present full and satisfactory documentation if it in the self-assessment questionnaire states that it is not compliant with the rules in the Money Laundering Act. At the on-site inspection both the self-assessment questionnaire and the documentation will be examined.

Anti money laundering and terrorist financing has furthermore been given special attention in the on site inspections, which follows from the DFSA's written inspection procedures. This means i.a. that all institutions shall regularly undergo a full antimoney laundering/terrorist financing inspection with full assessment and full examination, even if the area is not considered a major risk area in the institution.

Level of reporting

Generally the level of reporting has increased during the last years.

Regarding the number of suspicions transaction reports the Danish FIU received 876 reports in 2006, this number is a doubling in comparison with 2005 with 450 reports. During 2007 this number has continued increasing so that the total number of reports in 2007 is 1349. The reporting especially comes from banks and undertakings transferring funds.

ANNEX TO THE WRITTEN FOLLOW-UP

[Room document circulated by Denmark during the June 2008 meeting of the Working Group on Bribery]

Amendment to the answer regarding recommendation 2:

The Danish Central Tax Administration (SKAT) has confirmed that SKAT has statistical information on tax offences and reporting by tax officials to law enforcement agencies and will maintain to do so.

Amendment to the answer regarding recommendation 3 b):

Like other OECD export credit agencies, *Eksportkreditfonden* (EKF) is obliged to obtain a declaration that bribery has not and will not take place in transactions guaranteed by EKF. EKF has required non-bribery declarations since 2001.

Exporters/guarantee holders must now disclose if they are:

- Listed on the publicly available debarment lists of international development banks such as the World Bank Group, EBRD, etc.
- Convicted or charged with bribery.
- Using agents in connection with export credit transactions.

If the exporter/guarantee holder is listed on a debarment list, has been convicted or charged with bribery, or if EKF has any suspicion of bribery, EKF must conduct a full assessment before offering an export credit guarantee.

If an agent is used in connection with a guaranteed transaction, the agent's assignments as well as the commission/fee must be disclosed. If the information regarding the agency warrants it, EKF can require further information. This would be the case if the agent's commission/fee is very large compared to the transaction. It is important to stress that the use of agents is not an obstacle to achieving export credit guarantees.

EKF encourages all the exporters/guarantee holders to develop, apply, and document control systems that combat bribery.

EKF has adopted a zero-tolerance policy regarding bribery and will press criminal charges if EKF receives information of bribery in any EKF guaranteed business transaction. This was decided by EKF's management in the process of implementing OECD Council Recommendation on Bribery and Officially Supported Export Credits (TD/ECG(2006)24).

Section 1 h) of said OECD Recommendation states that export credit agencies should take appropriate measure in "developing and implementing procedures to disclose to their law enforcement authorities instances of credible evidence of bribery in case that such procedures do not already exist".

According to Danish law public officials have an obligation to report to their superior any knowledge or suspicion of bribery. This also applies to EKF. Consequently, any knowledge or suspicion will be reported to EKF's management who, in turn, will decide to inform Danish police authorities.

Amendment to the answer regarding recommendation 3 c):

Furthermore, clear guidelines have been issued by the Ministry of Justice in the booklet “Avoid corruption” on how to handle suspicions of foreign bribery offences. It should be especially noted that it appears from the booklet that if a public servant in relation to his official duties becomes aware that a citizen, a public authority or a private company has granted or has received a bribe, the public servant should immediately inform the management in order for the management to contact the police.