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**Istanbul Anti-Corruption Action Plan for
Armenia, Azerbaijan, Georgia, Kazakhstan,
the Kyrgyz Republic, the Russian Federation, Tajikistan and Ukraine**

**Monitoring of National Actions to Implement Recommendations Endorsed During the Reviews
of Legal and Institutional Frameworks for the Fight against Corruption**

KAZAKHSTAN

UPDATE ON ACTIONS TO IMPLEMENT RECOMMENDATIONS

Presented at the 6th Monitoring Meeting of the Istanbul Anti-Corruption Action Plan
on 13 December 2006 at the OECD Headquarters in Paris

I) NATIONAL ANTI-CORRUPTION POLICY AND INSTITUTIONS

1. At the end of the State Programme for the Fight against Corruption for 2001 – 2005 and the Action Plan conduct a comprehensive in-depth evaluation of its implementation and impact; elaborate a new program for the next five-year term. The new Program and Action Plan should build on the lessons learned from the current Programme, an analysis of the patterns of corruption in the country and should identify and address sectors vulnerable to corruption. It should propose focused anti-corruption measures or plans for selected institutions have a balanced approach of repressive and preventive measures and should be drafted in consultation with main stakeholders active in relevant areas (Civil Society, Business environment representatives, etc.). Ensure that the adopted programme and action plan is widely disseminated within the civil service and among general public.

National implementation actions:

Starting from the moment the State Programme for the Fight against Corruption for 2001–2005 was given the status of a national policy, organisational and legal work aimed at its implementation has become systematic and comprehensive. A total of 83 actions have been implemented and another 85 are planned within the frameworks of this Programme.

Measures taken by the state authorities for its implementation contribute to the stabilisation and strengthening of positive economic trends in the country. There is a tendency towards a consistent decrease of the share of shadow economy. Tax revenues are growing. State incomes are increasing.

To implement the Kazakhstan Development Strategy until the Year 2030, the Message of the President of the Republic of Kazakhstan of 18 February 2005 “Kazakhstan on the Way of Accelerated Economic, Social and Political Modernisation,” as well as RK Presidential Decree No. 1550 of 14 April 2005 “On Measures for Intensifying the Fight against Corruption, Strengthening Discipline and Order in the Activity of Public Authorities and Officials,” and the Governmental Programme of the Republic of Kazakhstan for 2003–2006, the Agency of the Republic of Kazakhstan for the Fight against Economic and Corruptive Crime (financial police) (hereinafter – the Agency) has developed the **State Programme for the Fight against Corruption for 2006–2010** (hereinafter – the Programme), which has been approved by Decree of the RK President No. 1686 of 23 December 2005.

The purpose of the Programme is to lower corruption in all spheres of society’s life by raising the efficiency of coordination of the activity of public authorities and civil society institutions.

It should be mentioned that the Draft Programme was elaborated with the participation of the republican and line public associations, nongovernmental and international organisations. This circumstance constitutes the evidence of transparency of the policy conducted by our state in the area of countering corruption.

The new aspects introduced by the Programme include such effective measures as: legal regulation of lobbying for purposes of its transformation into an open lawful public activity; improvement of legal regulation of preventing a conflict of interest in the civil service; ensuring active participation of civil society institutions in the fight against corruption on the basis of introduction of mechanisms of public influence on the activity of bodies of public administration; improvement of the Kazakhstan legislation regulating the anti-corruption sphere for purposes of its harmonisation with the international standards;

strengthening the institution of protection of confidentiality of information sources, as well as witnesses and persons informing of corruptive practices.

There are plans to introduce a system of countering the legalisation of crime proceeds on the basis of financial monitoring and creation of a single information system and database.

The Programme is to be implemented in **2 stages**.

Stage one (2006–2008) envisages the completion of distribution of powers and a gradual transfer of the functions of the central public authorities to local authorities in such spheres as environmental protection, agriculture, regulation of land relations. With this end in view, amendments and additions will be introduced to 32 legal acts, in particular, to the Code of Administrative Offences, the Land and Water Codes, the Law “On Environmental Protection,” etc. Measures will be taken to ensure transparency of information on the public authorities’ decision-making process, complete the processes of optimisation of licensing and administrative functions at nine ministries and agencies by reducing about 40 forms of activity requiring licenses and permits (e.g. legal and notary activity, customs regimes of free depots and duty-free shops, etc.), and reform the public procurement system by switching to the system of electronic procurement, introduction of legal regulation of the processes of lobbying and preventing a conflict of interest in civil service. Special attention will be given to the processes of involving civil society organisations in anti-corruption activities, forming legal consciousness and legal culture in the sphere of observance of the anti-corruption law, which will ensure further strengthening of social and political stability in the country due to the growth of the civil society’s trust towards the state authorities.

Stage two (2009–2010) envisages the completion of introduction of an effective mechanism of anti-corruption review of laws and regulations, creation of a system of public control of budgetary expenditures, transfer of certain licensing functions to civil society institutions, taking measures towards a maximum reduction of cash circulation and resisting the legalisation of unlawful proceeds. Strict legal regulation will be introduced for the forms and mechanisms of interaction between the public authorities and economic entities, as well as procedures promoting the transparency of issuance of legal decisions and timeliness of their enforcement.

The Programme gives special attention to international cooperation. The complex of planned measures includes the development of international information exchange on companies and entrepreneurs involved in corruptive offences, conclusion of agreements on mutual legal assistance in criminal cases, extradition of persons and return of assets, as well as the rendering of assistance in the training of law enforcement officials, carrying out activities to join anti-corruption international conventions.

Within the frames of the Programme, the Republic of Kazakhstan is expected to join a number of international conventions on the fight against corruption and economic crime, such as the Criminal Law Convention against Corruption (Strasbourg, 27 January 1999), and the Convention on Laundering, Detection, Seizure and Confiscation of Crime Proceeds (Strasbourg, 8 November 1990).

The country’s joining the above conventions will increase the efficiency of cooperation between competent authorities in resisting economic and corruptive crime, and will promote further integration in the world community in the sphere of fighting corruption and economic offences.

There are plans to criminalise bribe-taking by foreign and international officials and bribe-taking in favour of third parties.

Measures are envisaged in the area of mutual cooperation with organisations and informing the international public of the efforts of the Republic of Kazakhstan aimed at countering corruption, developing international information exchange on companies and businessmen involved in corruptive offences.

2. Design a institutional monitoring and reporting mechanism for the Programme, possibly building on the existing Presidential Commission, and ensure transparency and unrestricted participation in the monitoring process of the Civil Society in general and of associations with experience in the area of anti-corruption, as well as the private sector / business community.

National implementation actions:

The Programme is being implemented with the help of the Action Plan approved by Resolution of the Government of the Republic of Kazakhstan No.96 of 9 February 2006 (hereinafter – the Action Plan).

The state authorities responsible for the implementation of measures within the Programme submit reports on the pace of their work to the Agency, which summarises the aggregate information on the pace of the Programme implementation and subsequently submits it annually by 10 January and 10 July to the Government of the Republic of Kazakhstan for consideration at its extended sessions and, if necessary, approval of relevant sector-specific programmes.

To implement the actions envisaged by the Programme, the Government of the Republic of Kazakhstan may set up interdepartmental groups, which are to submit reports within the established deadlines and will bear responsibility for their adequate and timely implementation.

Overall control over the Programme implementation is carried out by the Presidential Administration of the Republic of Kazakhstan.

To ensure transparency and systematic information on the given subject, a whole set of advocate events is envisaged, binding for everyone. They include: the elaboration of quarterly media plans and schedules of media appearances, hot-lines, Doors Open Days, seminars and roundtables, placement of trust lines in the media, explanatory work with target groups, organisation of briefings and news conferences on the most acute questions, informing the public of the measures taken to resist corruption, improve the anti-corruption law, and enhance the image of law enforcement bodies.

The Agency organised a number of seminars and mass media appearances on various subjects, including the choice of optimal and efficient interaction mechanisms between the state authorities and public institutions in the fight against corruption, its legal, economic and social aspects. Overall, there have been **2063** publications on corruption-related issued in mass media in 2005, and **1759** during 10 months of the current year, including **689** in republican mass media. Among them **656** appearances were televised, **317** broadcast over the radio, and **786** published in the press.

On **3 June 2006**, the Agency participated in the ERA-TV social analytical television programme “Open Conversation” on the subject “Corruption in the Public Sphere,” which included a discussion among politicians, representatives of state authorities, deputies, political scientists, representatives of public organisations, on the anti-corruption activity status in the capital city and other regions of the republic, to discuss the causes and conditions leading to corruptive offences.

On **21-22 September this year**, the 8th session of the Coordinating Council of Tax (Financial) Investigation Bodies of CIS Countries was held on the Agency's initiative to consider the issues of further interaction along the principal lines of economic security.

On **17 October this year**, The Agency, jointly with OSCE, the Public Foundation "Transparency Kazakhstan," the Foreign Ministry held a roundtable on the subject "Strengthening Anti-Corruption Measures in the Private Sector of the Republic of Kazakhstan" with the participation of the Head of the OSCE Centre in Almaty Ivar Vikki, the Transparency International Programme Coordinator for East Europe and CIS Countries Ben Elers, OSCE Coordinator for Economic and Ecological Activity Kilian Strauss (Vienna), OECD representatives Olga Savran, Jean-Pierre Buebais (France), as well as representatives of the RK Parliament, Supreme Court, Prosecutor General's Office, Ministry of Interior, National Security Committee, Agency for Civil Service Affairs of the Republic of Kazakhstan, Ministry of Economy and Budget Planning, Union of Women Entrepreneurs of Kazakhstan, OULA "Kazakhstan League of Consumers," the National Union of Entrepreneurs and Employers of Kazakhstan "Atameken," The Kazakhstan Association of Financiers, the RK Consumer Cooperation Union, the Almaty Association of Entrepreneurs of Kazakhstan.

During the roundtable, representatives of state authorities, civil society and international organisations had a stormy discussion of anti-corruption issues as a small and medium business development factor, and administrative barriers leading to the growth of a shadow economy; there was also a presentation of the brochure *For Entrepreneurs on Countering Corruption* prepared by the Agency jointly with Transparency Kazakhstan.

On **1 December 2006**, the Agency will take part in the work of the 5th session of the justice, law and order subcommittee "Republic of Kazakhstan – European Union" (hereinafter – RK – EC), organised by the Prosecutor General's Office, where the Agency will present the *Updates on Measures Adopted by the Republic of Kazakhstan against Money Laundering*.

Earlier, in March 2006, a conference-seminar was held in the city of Aktob on measures taken by the financial police to implement the State Programme for the Fight against Corruption for 2006–2010, with the participation of senior executives of the Agency, representatives of regional offices of bodies of prosecution, national security, justice, internal affairs, the customs authorities, the Financial Control and Public Procurement Department, the Tax Committee, senior officials of territorial branches of the financial police agencies for Aktyubinsk, Kostanai, Kyzylorda, Atyrau, Mangistau, West Kazakhstan regions, representatives of the UN, OSCE, the public foundation Transparency Kazakhstan, the "Atameken" Union of Entrepreneurs of Kazakhstan, and mass media. The work of this seminar was broadly covered by the republican mass media.

Considering the usefulness of such events, it is planned to continue holding seminars on the most urgent anti-corruption issues in other regions of the country in the future.

3. Monitor the activities of the Disciplinary Councils with the view to improve their overall performance.

National implementation actions:

To ensure control functions, the order of Chairman of the Agency of the Republic of Kazakhstan for Civil Service Affairs of 31 October 2005 has approved a new quarterly form of reporting A-2, reflecting the following lines of activity of Disciplinary Councils of the Agency of the Republic of Kazakhstan for Civil Service Affairs in regions and the cities of Astana and Almaty (hereinafter – the Disciplinary Councils):

1. The number of appeals filed against the actions of political and administrative public officials and law enforcement officers;
2. Sources of appeals (from citizens and public officials, from other physical persons, from public authorities, other legal persons, recommendations of the Commission for the Fight against Corruption and Abidance by Official Ethics by Public Officials under the RK President, assignments of the Agency for Public Service Affairs, the regional Akim, mass media);
3. The number of considered appeals, number of appeals referred to other authorities according to jurisdiction, number of inspections conducted, number of appeals remaining unsolved, number of initiative inspections, disciplinary cases initiated, sessions of the Disciplinary Councils;
4. The number of issues considered at the sessions of Disciplinary Councils, the number of senior executives and officials of the local executive authorities and law enforcement agencies and maslikhats heard, numbers of disciplinary cases remaining unsolved, disciplinary cases with the violation of the set deadlines, suspended disciplinary cases, materials of disciplinary cases referred for consideration by competent authorities;
5. The number of recommended disciplinary sanctions (indicating their types), and disciplinary sanctions imposed by senior executives of the public authorities on recommendations of the Disciplinary Council;
6. The number of public officials brought to disciplinary account on recommendations of the Disciplinary Council;
7. The number of disciplinary measures applied to senior executives of the public authorities which have failed to comply with the recommendations of the Disciplinary Council, the number of appealed Disciplinary Council decisions, cancelled or amended Disciplinary Council decisions;
8. The number of recommendations issued for the senior executives of the public authorities to strengthen public discipline, abide by requirements of the anti-corruption law and the Code of Honour, reception of citizens on the sites, conference-seminars, roundtables held, the number of mass media appearances of the Disciplinary Council members.

In accordance with the Statute of Disciplinary Councils of the Agency of the Republic of Kazakhstan for Civil Service Affairs in regions and the cities of Astana and Almaty approved by Presidential Decree of the Republic of Kazakhstan No. 1598 of 30 June 2005, the Disciplinary Councils may, upon the results of consideration of a disciplinary case, issue one of the following decisions:

- 1) Recommend to senior executives of state bodies and organisations to impose a relevant disciplinary sanction on public officials;
- 2) Refer the materials of a disciplinary case for consideration by an authorised public authority or official for issuing a decision on the merits of the case;
- 3) To terminate the disciplinary case.

Upon the results of consideration of recommendations issued by the Commission for the Fight against Corruption and Abidance by Official Ethics by Public Officials under the RK President, assignments of the Agency for Civil Service Affairs, appeals filed by citizens and organisations, as well as mass media reports, the Disciplinary Council may recommend that an inspection be conducted by an authorised public authority or official.

If the actions of a public official contain the elements of criminal or administrative offence, the Disciplinary Council refers relevant documents and materials to law enforcement agencies or other authorised public authorities for deciding the issue of bringing the said person to criminal or administrative account in the prescribed manner. The Disciplinary Councils notifies the Agency for Civil Service Affairs of the referral of materials and documents to law enforcement agencies or other authorised public authorities.

4. Further strengthen human and material resources and capacities of the Agency of the Republic of Kazakhstan for the Fight against Economic and Corruptive Crime and ensure that within the Agency in addition to specialized anti-corruption investigators adequate additional personnel have expertise in financial control matters.

National implementation actions:

Considerable funds are allocated annually from the republican budget for purposes of strengthening the material and technical basis of financial police bodies within the frameworks of the republican budget-funded Programme of Agency of Ensuring the Activity of the Authorised Body for the Fight against Economic and Corruptive Crime, specifically, the sub-programme of material and technical support of the public authorities.

To strengthen the human resources, the Agency is conducting certain activities.

Specifically, the requirements to financial police recruits have been toughened. Special attention is paid to personal, business, professional merits, educational level and health condition of candidates to police service.

A decision to toughen the requirements to persons joining the public service has also been taken at a regular session of the Security Council of the Republic of Kazakhstan.

The educational level of civil servants has been increased in the current year. As of 1 November 2006, the number of officials with higher education totalled 97% of the overall personnel, which means a 2% increase over a similar period last year. Among the overall number of officials with higher education 70.1% have higher legal education and 21.3% – higher economic education.

The Agency has within its structure a unit for detecting financial crime, which is manned predominantly by officials who have higher economic education and experience of work in the financial and banking sectors.

5. Ensure that prosecutors dealing with corruption cases have adequate specialised knowledge in anti-corruption prosecution. Consider introducing a specialisation of prosecutors bringing corruption cases in courts.

National implementation actions:

In connection with a shortage of public prosecutors, there is no opportunity at the moment to introduce specialisation of prosecutors bringing only corruption-related criminal cases in courts.

At the same time, there is a traditional practice of involving prosecutors with rich experience and a high professional level in handling cases of the said category in court.

The functions of each public prosecutor include thorough preparation for participation in court proceedings, profound examination of the materials of a case, and active participation in the court hearings.

The prosecution bodies conduct regular work for raising the quality of public prosecution support by the prosecutors. In addition, the Institute of Advanced Training of Prosecution Officials operates at the Prosecutor General's Office.

On the whole, this recommendation is rather important for the Republic of Kazakhstan, and there are plans to deliberate more thoroughly on it in the near future.

6. Increase analytical capacities of the relevant law enforcement agencies and ensure more efficient statistical monitoring of corruption and corruption-related offences in all spheres of the Civil Service, the Police, the Public Prosecutor's Offices, and the Courts on the basis of a harmonized methodology, which would enable comparisons among institutions. Review and revise the cooperation procedures among various institutions involved in preventing and fighting corruption with a view to increase the efficiency of their activity, subject to proper checks and balances and due regards to human rights standards.

National implementation actions:

An Information and Analytical Department has been set up within the system of the Agency of the Republic of Kazakhstan for the Fight against Economic and Corruptive Crime (financial police), the main function of which is conducting an in-depth analysis of the crime situation in various economic spheres, examining social areas which may pose a threat to economic security of the country, and developing the options of managerial and practical solutions aimed at raising the performance efficiency of the financial police.

To increase the analytical capacities of the public authorities, in keeping with Presidential Decree of the Republic of Kazakhstan No. 1550 of 14 April 2005 "On Measures to Intensify the Fight against Corruption, Strengthen Discipline and Order in the Actions of the Public Authorities and Officials," a review has been conducted of effective laws, bylaws and regulations to establish whether they contain provisions creating conditions for corruptive offences. The review was conducted by a working group formed by representatives of all public authorities of the Republic of Kazakhstan. Public organisations submitted their proposals concerning the review in the course of this work. The review covered 5,126 effective legal acts adopted during the period from 1991 to 2004 and registered with the justice authorities.

The review has revealed 230 laws and regulations, including 35 Government resolutions, 41 departmental orders and 154 resolutions and decisions of the local public authorities containing provisions that create conditions for corruptive offences or do not comply with effective law of the Republic of Kazakhstan.

On 15 December 2005, the Agency will hold a regular session of the Expert Council, which, in pursuance of the Action Plan for Implementation of the State Anti-corruption Programme for 2006-2010, will develop a mechanism of conducting anti-corruption sociological studies by the Financial Police Academy jointly with the Agency's Information Analytical Department, and Transparency Kazakhstan.

7. Consider devising and implementing corruption-specific joint trainings for law enforcement (Agency), prosecutors, judges and other relevant officials.

National implementation actions:

Public officials undergo corruption-specific training at advanced training courses of the Academy of Public Administration under the President of the Republic of Kazakhstan and at Regional Education Centres.

Work is also underway on assignment of the head of state to create an elite national school of administration on the basis of the Academy of Public Administration under the President of the Republic of Kazakhstan with the participation of foreign partners.

The Agency for Civil Service Affairs jointly with the Academy upon the coordination of the RK Presidential Administration is working out proposals on the structure and format of this school.

The main objective of the school is the training of managers for the public sector and systematic upgrading of their qualifications.

Officials new to the civil service will study the legislation on civil service and the fight against corruption, the Public Officials' Code of Honour, and office work. This way they will acquire the necessary amount of knowledge which will help them quickly adapt to civil service.

Officials appointed to senior positions will undergo training in such courses as theory and practice of state administration, management psychology, personnel management, managerial decision-making.

Affiliates of the schools will function on the regional level in order to ensure a single system of on-site training.

For example, in keeping with the educational literature elaboration and issue schedule for higher educational institutions, the **Ministry of Education and Science** has prepared a **layout of the manual *Anti-Corruption Law of the Republic of Kazakhstan***, taking into account the latest approaches and methodologies, which has been tested in special and main courses for post-graduate students, master's degree candidates, full-time and correspondence students.

A working group was set up at the Academy of the **Interior Ministry** for drafting the scientific and technological programme "**Fight against Corruption in the Republic of Kazakhstan**," and a special course "**Corruption and Legal Methods of its Prevention**" was included in the curricula of line higher educational institutions of the Interior Ministry.

The Civil Service Academy at the President of the Republic of Kazakhstan issued the following editions: "***Corruption as a Threat to the Life of Society and the State***," "***Anti-Corruption Policy in the Republic of Kazakhstan***," "***Corruption as a Social Phenomenon and Measures for its Prevention***."

In addition, various anti-corruption aspects were considered in section reports of the international scientific and practical conference on the subject: "World Trends in Effective Public Administration."

Early this year, the Agency held a course of advanced training on the basis of the **Financial Police Academy** on the subject "**Interaction of Financial Police Agencies with other Public Authorities in the Fight against Corruption: Experience and Problems**," with the participation of representatives of other law enforcement agencies.

In addition, advanced training courses are scheduled for the 2nd quarter of 2006 for senior officials of the territorial financial police agencies on issues of organising operative investigation activities of the financial police with the participation of officers of law enforcement bodies and the judiciary of the Republic of Kazakhstan, as well as the Audit Committee and the Financial Control Committee of the Finance Ministry of the Republic of Kazakhstan.

Training groups have been formed at the **Agency's** central office, and professional education curricula and timetables have been approved.

8. Continue to conduct and publish further surveys and relevant research, based on transparent, internationally comparable methodology, to obtain more precise information about the scale of

corruption in the country, and in order to ascertain the true extent to which this phenomenon affects specific institutions, such as the police, judiciary, public procurement, tax and custom services, education, health system, etc.

National implementation actions:

The enhancement of the status of the specialised authorised body and strengthening of the legal framework resulted in the **invigoration and improvement of the work of operative investigation units** of the financial police in the fight against corruptive crimes and offences. According to statistics, the detection trends of corruptive offences have been on the rise over the past three years: in 2003 – 150, in 204 – 999, in 2005 – 1260, and in 10 months of 2006 – 1340 offences have been detected. Moreover, the financial police currently detects over 76% of corruptive offences (1340 out of 1760) in the overall number registered by all law enforcement bodies in the country.

In the current year, the number of corruptive offences detected by the financial police has grown by 22.3% (from 1096 to 1340). The detection of facts of bribery has increased **by nearly a third** (from 204 to 262), **office abuse** – by 51.2% (from 258 to 390), misappropriation or embezzlement of entrusted alien property – by 78.8% (from 99 to 177).

The number of completed criminal cases increased by **32%** (from 762 to 1006). The average compensation rate exceeded **56%** of the inflicted damage.

The number of criminal cases initiated by the financial police against persons authorised to perform state functions and their equivalent persons grew **9.8%** (from 1000 to 1098).

Criminal responsibility was imposed on 671 person, which is **74.7% more** than the similar period of 2005 (384).

During the reporting period, 409 persons were **brought to trial**, which is **23.9%** more than the respective period of last year (330).

The number of officers of the **interior bodies** brought to criminal account has increased by 24.3% (from 37 to 46), **akims** of districts and rural settlements – 2.2 times (from 23 to 50), **court executors** – by 61.5% (from 13 to 21), justice bodies – by 25% (from 8 to 10), and other public officials – by 23.9% (from 205 to 254).

At the same time, it should be mentioned that this year some state authorities have taken all necessary measures to **reduce** corruption. Facts of corruption have reduced among justice officials by 33.3% (from 3 to 2 **judges**), the **customs** officials – by 20% (from 5 to 4), the **tax** officials – by 23.1% (from 13 to 10), officials of the **Ministry for Emergency Situations** – by 69.9% (from 23 to 7).

The organisation and implementation of adequate anticorruption measures can result in positive changes. According to the data of the international organisation Transparency International, the corruption perception index in Kazakhstan has dropped from 122 in 2004 to 107 in 2005. In the mid-term perspective the Republic of Kazakhstan can become one of the 50 least corrupt countries of the world.

9. Continue to conduct awareness raising campaigns and organize training for the relevant public associations, state officials and the private sector about the sources and the impact of corruption, about

the tools to fight against and prevent corruption, and on the rights of citizens in their interaction with public institutions.

National implementation actions:

See recommendation No. 7.

10. Ratify the UN Convention against Corruption.

National implementation actions:

The Republic of Kazakhstan has not yet joined the UN Convention against Corruption (New York, 31 October 2003).

Kazakhstan will be able to join the Convention only after harmonising its national legislation with its provisions, specifically, after the adoption of the Draft Law “On Countering the Legalisation (Laundering) of Crime Proceeds and the Financing of Terrorism,” which is currently being considered by the Mazhilis of the Parliament of the Republic of Kazakhstan.

Speeding up the process of joining the UN Convention against Corruption would enable the law enforcement bodies of Kazakhstan to extend their opportunities in the search and extradition of persons evading criminal prosecution abroad and return of illegal proceeds. The Convention would also allow using effective mechanisms of countering money laundering and strengthening international cooperation for purposes of detection, confiscation, and return of the stolen funds on the basis of thoroughly regulated procedures for international cooperation in the legalisation of illegal proceeds.

In this connection, in September 2006, the Presidential Administration, on the Agency’s proposal, instructed the Ministries of Foreign Affairs and Justice to prepare the necessary documents for ratifying the Convention.

On **16 October 2006**, the Agency has coordinated the issue of expediency of joining and ratifying the Convention with the RK Prosecutor General’s Office.

On **27 October 2006**, the Agency addressed materials on joining and ratifying the Convention to the RK Foreign Ministry for consideration at the next session of the Expert Council for cooperation of the Republic of Kazakhstan with international organisations.

II) LEGISLATION AND CRIMINALISATION OF CORRUPTION

11. Review the current system of disciplinary, administrative and criminal corruption offences, harmonise and clarify relationships between violations of the CC and other relevant legislation (i.e. Law No. 267-1 “On Anticorruption Efforts”).

National implementation actions:

Considering modern realities, the anti-corruption legislation requires further improvement.

The RK President's Message to the Nation of 18 February 2005 "Kazakhstan on the Way towards an Accelerated Economic, Social and Political Modernisation" stressed the necessity of **increasing the responsibility not only of bribe-takers, but also of bribe-givers.**

The session of the Security Council of the Republic of Kazakhstan held on 1 June 2006 under the chairmanship of the RK President issued a decision to **increase administrative and criminal responsibility for corruptive crimes and offences.**

In this connection, the Agency has elaborated the Draft Law of the Republic of Kazakhstan "On Introduction of Amendments and Additions to Some Legal Acts of the Republic of Kazakhstan on Issues Improvement of the Anticorruption Legislation."

The purpose of the draft law is to improve the anti-corruption legislation by introducing relevant amendments and additions to **the Criminal Code, the Code of Criminal Procedure, the Criminal Correctional Code, and the Code of Administrative Offences of the Republic of Kazakhstan.**

Article 311 of the CC (Bribe-Taking) is proposed to be supplemented with part five envisaging responsibility of a person authorised to perform state functions or an equivalent person, personally or through an intermediary, for commission of crimes in the form of taking a bribe on a particularly large scale. This crime is supposed to entail punishment in the form of imprisonment for a term up to fifteen years with confiscation of property.

A particularly large scale of a bribe shall be recognised as a sum of money, the value of securities, other property or pecuniary benefits exceeding two thousand monthly calculation indexes (2,060 thousand tenge).

CC article 312 (Bribe-Giving) is proposed to increase the amounts of imposed fines stipulated by part one from 500 to 2000 minimum calculation indexes, and by part two – from 2000 to 3000 minimum calculation indexes.

In addition, CC article 312 is to be supplemented with part three envisaging the imposition of responsibility for the commission of a crime in the form of bribe-giving:

(a) by a person occupying a responsible state position; (b) by a group of persons on preliminary conspiracy or by an organised group; (c) on a large scale.

CC article 312 is also to be supplemented with part four, introducing responsibility for bribe-giving on a particularly large scale. Maximum penalty for this crime is proposed in the form of imprisonment for a term from seven to twelve years with property confiscation.

Article 313 of the CC (Mediation in Bribery) shall increase the amounts of imposed fines from 300 to 1000 minimum calculation indexes, and from 1000 to 2000 minimum calculation indexes envisaged by part two if this article, accordingly.

In keeping with OECD recommendations, in order to ensure compliance with international standards, it is recommended to consider the amendment of the national legislation of the Republic of Kazakhstan.

In addition to concealment of grave and especially grave crimes, the draft law envisages responsibility **for concealment** of corruptive crimes by addition to article 363 of the CC (concealment of a crime).

OECD also recommended that the criminal law envisage the **confiscation of property** obtained by illegal methods or purchased for illegally obtained funds and transferred by a convicted person to other persons without charge.

In this connection, the draft law supplements article 51 of the RK CC (Property Confiscation) with the following paragraph:

“The commission of corruptive offences shall entail the confiscation, in addition to the property of the convicted person, also of the property obtained by illegal methods or purchased for illegally obtained funds and transferred by a convicted person to other persons without charge.”

In accordance with the OECD recommendations, article 312 of the Criminal Code (Bribe-Giving) introduces **the responsibility of foreign and international officials for bribery**.

For purposes of increasing administrative responsibility for corruptive offences, it is suggested to supplement **the Code of Administrative Offences with article 533-1**, imposing responsibility on a person authorised to perform state functions or an equivalent person, for receiving an unlawful material benefit.

Bodies of financial police shall be authorised to draw up the record of **an administrative offence**, and **the courts** shall be authorised to consider the cases.

The analysis of law enforcement practice shows that the provisions of the RK Code of Criminal Procedure and RK Law “On Prosecution” empower the prosecutors to unilaterally decide the issues of lawfulness of initiating a criminal case, terminating criminal proceedings at any stage of preliminary investigation and issue binding instructions to investigators and inquiry officers.

At the same time, the procedures for cancelling a decision of an investigator or an inquiry officer by a prosecutor is lengthy and does not promote early crime detection and investigation of a criminal case.

In this connection, the draft law proposes an amendment to article 63 of the Code of criminal Procedure (Chief of the Investigation Department) envisaging the authorisation of the chief of the investigation department, on appropriate grounds, with the right to cancel the decisions on refusal from initiating a criminal case, on terminating and suspending cases with obligatory notification of the prosecutor within twenty-four hours.

On 28 September 2006, the government of the Republic of Kazakhstan issued resolution No. 930 to submit the draft law for consideration of the Mazhilis of the RK Parliament.

On **17 October 2006**, the Legislation and Judicial and Legal reform Committee of the Mazhilis of the RK Parliament held its first session to consider the draft law.

In addition, in pursuance of the instructions of the Head of State issued on 1 June 2006 at the session of the Security Council of the Republic of Kazakhstan, the Agency has elaborated the Draft Law of the Republic of Kazakhstan “On Introduction of Amendments and Additions to Some Legal Acts of the Republic of Kazakhstan on Matters of Improving Performance and Extending the Authorities of Financial Police Agencies.”

The Draft Law is aimed at improving the performance and extending the authorities of financial police agencies in the fight against economic and corruptive offences by introducing relevant amendments and additions to a number of legal acts.

The provisions of the Draft Law envisage granting to financial police agencies access to information constituting commercial, banking, and other legally protected secret, unimpeded access to residential and other premises of physical and legal persons, if there are sufficient grounds to assume that a crime is being prepared, has been committed or is being committed, unimpeded access to customs surveillance zones, uncompensated use of the capacities of state-owned mass media for covering the activity of financial police agencies, as well as the right to conduct tax inspections and audits of financial and business activity.

Moreover, in order to eliminate prerequisites for the commission of corruptive offences by tax officials, the draft law strikes sub-item (6) of item 2 (Frequency of Tax Audits) from article **534 of the Tax Code**, envisaging the possibility of conducting extraordinary documental audits on the order of the head of the tax authority.

On 14 August 2006, the draft law was submitted for consideration of the Prime Minister of the Republic of Kazakhstan.

In addition, the Agency has elaborated the Draft Presidential Decree of the Republic of Kazakhstan “On Measures for Improving Performance of Financial Police Agencies” and submitted it for approval to interested state authorities.

The Draft Decree assigns the Government of the Republic of Kazakhstan to work out draft laws on introduction of amendments and additions to effective legislation empowering audit organisations to conduct tax audit of taxpayers from the point of view of compliance with their tax liabilities; vesting financial police agencies with the right to participate in tax inspections and audits of financial and business activity, to unimpeded access to premises of the state authorities, physical and legal entities to conduct inspections within the limits of their competence; and granting criminal prosecution bodies the right to unimpeded access to customs surveillance zones without obtaining a permit of the customs authorities.

The Draft Decree also instructs the Prosecutor General’s Office and the Justice Ministry to submit the Draft Law “On Introduction of Amendments and Additions to Some Legal Acts on Pre-Trial Investigation,” and the Justice Ministry to submit proposals on the elaboration of a draft law on criminal responsibility of legal persons.

In pursuance of the Security Council instruction, the Draft Decree envisages the introduction in the Republic of Kazakhstan of a system of indices for the state authorities’ anti-corruption activity evaluation and a number of measures including the organisation of work to determine the corruption resistance index (internal evaluation) and public estimate of the corruption level (external evaluation) based on polls of outside respondents, as well as determining state authorities’ corruption rating, covering the results in republican mass media and on the website.

12. Amend the incrimination of active and passive bribery in the CC to meet the international standards by ensuring:
- the active and passive bribery of foreign and international public officials is fully criminalized, either through expanding the definition of a public official or by introducing separate criminal offences;
 - the solicitation, promise and offering of a bribe, both in public and private sector, is criminalized;
 - the subject of a bribery, both in public and private sector, covers undue advantages, which include material as well as non-material benefit;
 - bribery for the benefit of third parties is criminalized.

National implementation actions:

On the whole, the provisions of the articles on bribery envisage the encroachment on bribe-taking or bribe-giving. In addition, article 313 of the RK Criminal Code imposes responsibility for mediation in bribery.

Resolution of the Supreme Court Plenary Meeting No. 9 of 22 December 1995 “On the Practice of Applying the Legislation on Responsibility for Bribery by the Courts” stipulates that an official or another person organising bribe-taking or bribe-giving, soliciting a bribe or acting as an accomplice in the taking or giving of a bribe and at the same time fulfilling the functions of an intermediary, shall bear responsibility as an accessory. The responsibility for crimes in the private sector is stipulated by article 231 of the Criminal Code.

In addition, the Draft Law of the Republic of Kazakhstan “On Introduction of Amendments and Additions to Some Legal Acts of the Republic of Kazakhstan on Issues of Improvement of the Anti-Corruption Legislation” (hereinafter – the Draft Law) has recently been developed.

The purpose of the Draft Law is to improve the anti-corruption legislation by introducing relevant amendments and additions to a number of legal acts, which will enable to limit the list of corruptive crimes and offences.

The Draft Law envisages the settling of social relations aimed at the lowering of the corruption index of public officials by introducing amendments and additions to the Criminal Code of the Republic of Kazakhstan and the Code of Administrative Offences of the Republic of Kazakhstan, excluding from the list of corruptive crimes and offences the following elements:

- 1) where the subject of a crime or offence does not pursue the goal of receiving pecuniary benefits, advantages and boons;
- 2) where the subject of a crime receives pecuniary benefits after illegal actions, rather than from other persons;
- 3) economic crimes, which by their nature inflict damage to the economic interests of the state.

In order to restrict the range of subjects of corruptive crimes to senior officials of public and other organisations and enterprises, at the same time excluding rank-and-file public officials performing controlling functions – game wardens, forest rangers, veterinarians, sanitary doctors, etc. – an addition has been introduced to the RK Criminal Code, separating common bribery from grand bribery.

13. Ensure that the offence of money laundering is criminalized in line with the international instruments and that definitions from the CC and Law on Combating Money Laundering and Financing of Terrorism are harmonised. Consider amending the Criminal Procedure Code, the CC and the draft “Law on Fight against Money Laundering and Financing of Terrorism” to ensure that the definition of proceeds of crime, which are subject to confiscation, includes i) property into which proceeds of crime have been transformed or converted; ii) property with which proceed of crime have been intermingled; iii) income derived from i) and ii), as well as from proceeds of crime.

National implementation actions:

See recommendation No. 12.

Many of these recommendations have been reflected in the draft laws of the Republic of Kazakhstan “On Combating the Legalisation (Laundering) of Crime Proceeds and the Financing of Terrorism” and “On Introduction of Amendments and Additions to Some Legal Acts of the Republic of Kazakhstan Related to Combating the Legalisation (Laundering) of Crime Proceeds and the Financing of Terrorism.”

At present, the draft laws are being considered by the Mazhilis of the Parliament of the Republic of Kazakhstan.

At the same time, the provisions of Recommendation No. 33 concerning external auditors will be taken into consideration during the adoption of bylaws after the aforementioned laws enter into legal force.

14. Adopt clear, simple and transparent rules for the lifting of immunity or reduce the scope of immunity to ensure that it is restricted in applications to acts committed in the performance of official duties.

National implementation actions:

The immunity of deputies of the RK Parliament, Chairman or members of the RK Constitutional Courts, judges, as well as the RK Prosecutor General is established by the Constitution of the Republic of Kazakhstan and does not envisage periods in office or out of office for the said public officials (with the exception of article 47 (2) of the Constitution).

In this connection, the extension or reduction of the scope of immunity will cause the necessity to introduce amendments to the national Constitution.

15. Recognising that the responsibility of legal persons for corruption offences is an international standard included in all international legal instruments on corruption, Kazakhstan should, with the assistance of organisations that have experience in implementing the liability of legal persons (such as the OECD, the Council of Europe, and the United Nations), consider how to introduce into its legal system efficient and effective liability of legal persons for corruption.

National implementation actions:

According to the Action Plan of the Agency to implement the protocol of the session of the Commission for the Fight against Corruption and Abidance by Official Ethics by Public Officials under the RK President of 13 December 2005, the Agency of the Republic of Kazakhstan for the Fight against Economic and Corruptive Crime (financial police) gathers proposals of the public authorities on introducing amendments and additions to the RK Criminal Code envisaging the liability of legal persons for bribery.

16. Review the provisions of the Criminal Procedure Code to ensure that the procedure to identify, trace, seize and confiscate proceeds and instrumentalities of corruption offences are efficient and operational. Subject to proper checks and balances and standard of fair trial consider introducing legislation which would require a convicted offender to prove the lawful origin of alleged proceeds of crime.

National implementation actions:

See recommendation No. 12.

17. Consider amending the Criminal Procedure Code to introduce a procedure of judicial appeal of a decision on extradition.

National implementation actions:

In accordance with article 531 of the RK Code of Criminal Procedure, the request on the extradition of a foreign citizens accused of committing an offence or convicted on the territory of a foreign country shall be considered by the Prosecutor General of the Republic of Kazakhstan or an authorised prosecutor, whose decisions constitute grounds for extradition. If there are requests for extradition of the same person from several countries, the decision on which country to extradite the person to shall be passed by the Prosecution General of the Republic of Kazakhstan.

In this connection, this issue is presently being examined by the RK Prosecution General's Office and other law enforcement bodies.

III) TRANSPARENCY OF CIVIL SERVICE AND FINANCIAL CONTROL ISSUES

18. Improve the mechanisms of attestation of state officials, ensure regular assessment of performance and professional skills of state officials in order to determine the needs for improving the qualification of the officials (training), the possibility of promotion or the need for rotation, as well as to verify that the official meets the requirements of the post occupied.

National implementation actions:

The attestation of financial police officers is conducted in accordance with Presidential Decree of the Republic of Kazakhstan No. 1612 of 8 July 2005 "On Approval of a Standard Provision on Attestation of Law enforcement Officials of the Republic of Kazakhstan" and Agency Order No. 163 of 2 August 2005 "On Approval of the Provision on Attestation of the Financial Police Officers."

The qualification of financial police officers is tested during the attestation through examination and interview. A decision is taken upon the attestation results whether the officer is compliant with his official position.

The Supreme Court of the Republic of Kazakhstan has elaborated a draft law, which is already being considered by the Mazhilis of the RK Parliament, envisaging the introduction of amendments to the Constitutional Law "On the Legal System and the Status of Judges in the Republic of Kazakhstan," aimed at increasing the responsibility of judges for violation of judicial ethics and performance of their justice administration duties in bad faith, simultaneously enhancing material and social guarantees of their independence.

19. Improve the system of hiring and promotion of public officials by increasing the value of criteria for assessing personal merits, which can be objectively verified, and by limiting as much as possible possibilities of arbitrary decisions; ensure stricter criteria for hiring staff by public institutions and local authorities in order to minimise the risk of corruption.

National implementation actions:

The Law of the Republic of Kazakhstan “On Introduction of Amendments and Additions to the Law of the Republic of Kazakhstan “On Public Service,” envisaging the implementation of a number of significant anti-corruption measures, was adopted on 8 July 2005.

The Law bars persons who have committed a corruptive offence from public service. All persons convicted of corruptive offences will never be able to join the public service.

To make matters of lifting disciplinary sanctions off administrative public officials for committing corruptive offences sufficiently objective and accountable, the Agency of the Republic of Kazakhstan for Civil Service Affairs is authorised to negotiate pre-term lifting of these sanctions.

Such negotiation is connected with the need to avoid cases of lifting sanctions for the said offences by the heads of public agencies without relevant grounds for it.

The Law also stipulates that public servants who have been subjected to disciplinary penalties for corruptive offences shall not be transferred to public service positions until these penalties are cancelled or lifted in the prescribed manner.

One of the novelties introduced by the Law is the institution of rotation of political public servants, which on the level of direct rendering of public services to the population and organisations constitutes an efficient corruption-prevention tool. Periodic rotation of a certain category of personnel to change the official’s jurisdiction enables to lower the danger of cronyism development between public officials and consumers of their services.

Presidential Decree of the Republic of Kazakhstan No. 1567 of 3 May 2005 has approved the Code of Honour of Public Servants of the Republic of Kazakhstan (Official Ethics Rules of Public Servants of the Republic of Kazakhstan), which incorporates the new detailed standards set to civil servants’ conduct.

In addition, the Agency of the Republic of Kazakhstan for the Fight against Economic and Corruptive Crime (financial police) has tightened the requirements to candidates to financial police during their hiring and promotion. The enrolment to the financial police bodies is conducted in accordance with the laws of the Republic of Kazakhstan of 4 July 2002 No. 336-II “On Financial Police Agencies” and of 23 July 1999 No. 453-I “On Public Service,” the Statute of Service at Financial Police Agencies of the Republic of Kazakhstan approved by Presidential Decree of the Republic of Kazakhstan No. 1642, and other laws and regulations governing the activity of financial police bodies. To ensure more thorough due diligence with respect of a candidate, the hiring for a trial period is practiced. Professional and personal merits of public servants are being thoroughly examined during their transfer.

20. Prepare and broadly disseminate comprehensive practical guidelines for state officials about corruption, conflict of interests, ethical norms, sanctions for non-reporting about corruption; consider introducing regular training at work place for state officials on the above issues.

National implementation actions:

The professional training of financial police officers includes the studying of the Law of the Republic of Kazakhstan “On the Fight against Corruption” and the Code of Honour of Public Servants of the Republic of Kazakhstan. Questions to test the knowledge of this Law and Code of Honour are included in the examination quiz during attestation.

The situation at other public authorities is similar.

21. Improve the system of checking of declarations of assets and income by state officials, by adding to the declaration information necessary for controlling the conflict of interest.

National implementation actions:

In keeping with article 9 of the Law of the Republic of Kazakhstan “On the Fight against Corruption,” candidates to public service positions or positions involving the fulfilment of public or equivalent functions shall submit declarations of income and assets to the tax authority at their place of residence.

However, our legislation requires improvements in the system of checking public officials’ declarations of assets and incomes by adding to the declaration information necessary for controlling the conflict of interest.

In accordance with item 10 of the Action Plan for the implementation of the State Programme for the Fight against Corruption for 2006–2010 approved by resolution of the RK Government No. 96 of 9 February 2006, the Ministry of Labour and Social Protection was instructed to develop before the end of the 1st quarter of 2007 the draft law “On Introduction of Amendments and Additions to some Legal Acts to Regulate the Problem of Conflict of Interest during Officials’ Employment and Discharge of Official Functions.”

22. Improve internal control in state bodies and local authorities, in doing so pay special attention to the activities of those public officials, whose activities are particularly vulnerable to corruption, in order to prevent the conflict of interest of public officials.

National implementation action:

Effective law and in-house regulations of the public authorities of the Republic of Kazakhstan allow exercising a sufficient level of internal control over the activity of their employees.

Internal security units of law enforcement agencies carry out a set of measures aimed at preventing corruptive manifestations among their officers:

- hold inspections of operative investigation departments to detect possible concealments from registration of materials on crimes and offences;
- informing the public of the activity of law enforcement agencies through mass media channels and telephone hot-lines;
- conduct due diligence of candidates to law enforcement officers. Carry out special checks during enrolment to reveal possible compromising materials;
- organise mutual cooperation in checking the available operative information with respect of the officers and candidates to law enforcement officers;
- in order to prevent unlawful interference of financial police officers in entrepreneurial activity, the Agency conducts selective operative monitoring of measures connected with the organisation of inspections of economic entities.

To ensure transparency in the activity of financial police bodies, increase responsibility and accountability to the population, the Agency and its branches implement the following measures with respect of the

examination materials and criminal cases in its proceeding:

- to prevent offences and crimes by financial police officers, specific awareness-raising work is conducted with the population;
- during the checking of the information presented in applications in the course of their consideration by territorial bodies on the site, explanatory work is conducted with the applicants with visits to their work collectives at enterprises or farms, and written notifications of the decisions made are filed.

The financial police authorities make periodical publications in the republican and local mass media, including television, radio and the press, as well as news agencies websites, about the results of investigations of corruptive cases, including on high-profile cases, and other information on work conducted in this area.

The Supreme Court and all local courts have legal ethics commissions, the main objective of which is ensuring the purity of ranks of the judiciary, observance of the rules and standards of legal ethics by judges.

To ensure protection of judges and prevent corruptive phenomena among the judiciary, the Supreme Court has established an internal security department in July 2005. Similar departments are also created in local courts.

A revision of the policy of personnel appointments, rotation and attestation of officers is planned within the system of the customs bodies.

In addition, in accordance with the Plan of Activities of the Commission for the Fight against Corruption and Abidance by Official Ethics by Public Officials under the RK President for 2006 envisages the consideration in September of the issue of improving legal regulation of prevention of a conflict of interest among public servants during the exercising of their official functions.

23. Improve legal regulation, which establish prohibitions and limitations, as well as responsibilities for preventing of conflict of interest for state officials, in order to prevent that the private or material interests of any state official, his/her relatives or business partners can affect his/her performance in the public interests; in order to promote transparency of state officials activities and their accountability to the society, and to promote the trust of the society to the activities of state officials.

National implementation actions:

See recommendation No. 21.

24. Review and further specify provisions of the Law on the Fight against Corruption related to the receipt of gifts, improve the control of implementation of these provisions.

National implementation actions:

The Law “On the Fight against Corruption” does not contain explicit criteria regulating the receipt of gifts, souvenirs, symbolic tokens of attention and hospitality, therefore public officials receiving them do not have to hand them in favour of the state.

In accordance with item 14 of the Plan of Implementation of the State Programme for the Fight against Corruption for 2006–2010 approved by RK Government Resolution No. 96 of 9 February 2006, the Agency for Civil Service Affairs was instructed to develop before the end of the 2nd quarter of 2006 a draft law introducing amendments and additions to the Law of the Republic of Kazakhstan “On the Fight against Corruption” specifying the notion of a “person fulfilling managerial functions at public organisations” and setting explicit criteria for distinguishing gifts from symbolic tokens of attention and hospitality.

25. Harmonise the provisions of the Administrative Code with the Law on the Fight against Corruption.

National implementation actions:

This recommendation poses a certain interest for Kazakhstan and presently is in the process of thorough examination.

26. Review provisions of the Administrative Code, which establish administrative responsibility for false information about corruption, as the corruption facts are difficult to prove and information about them can be purposefully presented as intentional disinformation.

National implementation actions:

There are plans for the near future to review provisions of the Code of Administrative Offences, imposing administrative responsibility for reporting unreliable information about corruption (article 536), as facts of corruption are difficult to prove and information about them can be purposefully presented as intentional disinformation.

27. Introduce in the rules and procedures a common procedure for the natural and legal persons which would allow receiving information from the state and local authorities; provide for a possibility to appeal the refusal to provide such information to these bodies without sufficient grounds.

National implementation actions:

The right to receive information is reflected in article 20 of the Constitution of the Republic of Kazakhstan, which allows freely receiving and disseminating information by any method not prohibited by law.

Article 18(3) of the Constitution of the Republic of Kazakhstan stipulates that the state authorities, public associations, officials and mass media must provide every citizen with a possibility to familiarize himself with documents, decisions and information sources concerning his rights and interests.

Similar provisions are contained in the laws of the Republic of Kazakhstan “On Mass Media” and “On Administrative Procedures.”

According to article 12 (1, para 7) of the Law of the Republic of Kazakhstan “On the Fight against Corruption,” unjustified refusal to present information to physical and legal persons, the presentation of which is envisaged by law, delay in its presentation, presentation of unreliable or incomplete information is qualified as an offence creating conditions for corruption.

Therefore, effective legislation of Kazakhstan provides everyone with an opportunity to freely receive information, except data constituting state secret or other secrets protected by law.

In addition, according to effective law, physical and legal persons may appeal to court against actions or omissions of the public authorities, in connection with which we see no need to provide for a separate provision concerning the refusal to present information without a valid reason.

28. Ensure the right of non-governmental (public) associations to take part in the elaboration of normative acts; regularly involve representatives of non-governmental organisations in other projects related to the prevention and combating corruption, which are important for the society.

National implementation actions:

As already mentioned above, the novelty of the State Programme, which was elaborated with the participation of various civil society institutions, consists in the introduction of such effective anti-corruption measures as ensuring active participation of civil society institutions on the basis of introduction of mechanisms of public influence on the activity of bodies of state administration, strengthening the institution of protecting the confidentiality of information sources, as well as witnesses and persons reporting corruptive offences, legal regulation of prevention of a conflict of interest in public service.

In addition, in accordance with the Law “On Regulatory Legal Acts,” specialists representing various fields of expertise, science institutions, the academia, and representatives of public associations may be involved in the drafting of laws and regulations.

At the same time, the Law of 31 January 2006 “On Regulatory Legal Acts” was supplemented with provisions regulating the development and adoption of laws and regulations concerning the interests of private entrepreneurs. In particular, one of the obligatory conditions of adoption of regulatory acts concerning the interests of private entrepreneurs is the issuance of an expert opinion on the draft by an accredited association of private businesses. Similar provisions are fixed in the Law “On Private Entrepreneurship.”

29. Ensure that all information about public procurement, except for state secret information, is open to the public, in order to reduce opportunities for violations in this field. Consider carefully both components of the public procurement that might be subject of the controls and audits when searching for corruptive acts, i.e. the contract and the procedure. Ensure that legal and institutional framework provides for strict examination of the contract files, controlling of entire procurement process as well as reviewing reliability and effectiveness of internal control system.

National implementation actions:

There are plans to improve the legislation on public procurement by excluding the unnecessary licensing functions with simultaneous enhancement of the responsibility of the customers (tender organisers).

There are also plans to introduce a system of electronic public procurements, enabling to raise the level of transparency at all stages, minimise the influence of subjective human factors in tendering and determining the tender winner.

Control over the observance of the law on public procurement will be intensified, which will raise the efficiency of eliminating violations in the public procurement process, including corruptive offences.

One of the methods of eliminating violations from the public procurement sphere may be the introduction of exchange trade, allowing a more accurate adherence to the principle of effective and optimal budgetary expenditure. In addition, the RK Law “On Public Procurement” envisages public procurement through public commodity exchanges if the public procurement process involves products included in the lists of exchange products subject to sale only through public commodity exchanges. Exchange trade envisages obligatory preliminary market analysis of the process of direct manufacturers, which enables to rule out the possibility of multiple overbidding by mediator companies.

It is expedient to identify the minimal margin of the public procurement value, the exceeding of which means that procurements shall be made only through commodity exchange procedures.

Electronic bidding is the most fair and equitable market. All tender participants are granted absolutely equal treatment. The sales and purchase offers are equally available at any moment to all tender participants.

In **August 2006**, the RK Presidential Administration requested the Agency to consider the expediency of preparing a draft law envisaging the inclusion in the Criminal Code of the Republic of Kazakhstan of an article on the violation of procurement regulations resulting in infliction of damage on the state to a certain value or more.

The Agency has studied this issue. E.g. article 167 (part 6) of the Code of Administrative Offence of the Republic of Kazakhstan (hereinafter – CAO) envisages administrative responsibility for the violation of procurement procedures during open and closed tendering, as well as two-stage tenders entailing additional budgetary expenditure on a large scale.

According to the CC, large scale means a sum exceeding five hundred monthly calculation indexes. The term “large scale” in CAO article 167 (part 6) should be replaced with *budgetary expenditure on a considerable scale*.

CAO recognises as a considerable scale a sum exceeding fifty minimum calculation indexes at the moment of commission of an administrative offence.

Considering that the RK Finance Ministry is currently developing the RK Draft Law “On Introduction of Amendments and Additions to the Criminal Code of the Republic of Kazakhstan” envisaged by RK CC articles 221 (Tax Evasion by a Citizen), 222 (Tax Evasion by Organisations), and for purposes of joint and fruitful interaction aimed at the improvement of the public procurement legislation, the said proposals were forwarded to the Finance Ministry in **September 2006** for inclusion in provisions of this draft law.

30. Address corruption risks that are inherent in the organizational environment with appropriate internal control systems and identify the processes, controls and measures needed to mitigate those risks. Strengthen control environment and established such information system that can assist monitoring activities and financial reporting process throughout all public sector entities. Require internal auditors to conduct proactive auditing to search for corruption offences. Ask an independent external auditor to assist management by providing an evaluation of the entity’s process for identifying, assessing, and responding to the corruption risks. Ensure coordinative functioning of financial control

and auditing bodies to facilitate revealing of corruption offences, and increase accountability for anti-corruption responsibilities and duties.

National implementation actions:

It is necessary to amend the situation in the sphere of tax audit. Monopolisation of tax auditing functions by the tax authorities and the impossibility to double-check the audit results opens up opportunities for corruption.

The control of efficiency and proper use of budgetary funds, detection of cases of theft is currently assigned to the Financial Control and Public Procurement Committee of the RK Finance Ministry and the Audit Committee.

To reduce corruption in the tax authorities, the possibility is currently being examined to introduce tax and post-tax control by other financial bodies. Specifically, there are plans to authorise the financial police agencies to audit economic entities' taxes, and to assign the functions of an independent auditor in settling disputes concerning the legitimacy of decisions of the tax authorities and the holding of an inspection to the Audit Committee for Control of the Execution of the Republican Budget.

31. Review current status and position of the Audit Committee and consider possibilities to develop it into an independent institution subordinated to the Parliament, in accordance with the Lima declaration and ITOSAI auditing standards.

National implementation actions:

The Audit Committee for Control of the Execution of the Republican Budget (hereinafter – the Audit Committee) is the supreme body of state financial control exercising external control of the execution of the republican budget, subordinated and accountable directly to the President of the Republic of Kazakhstan. Therefore, in keeping with effective legislation, being subordinated only to the President, the Audit Committee is an institution independent from all the other branches of power.

As for the subordination of the institution proposed to create on the basis of the Audit Committee, it should be mentioned that effective law already envisages the possibility of exercising parliamentary control over the activity of the Audit Committee.

According to the Constitution of the Republic of Kazakhstan, the Parliament approves the republican budget and reports of the Government and the Audit Committee for Control of the Execution of the Republican Budget at the joint session of the parliamentary chambers, introduces amendments and additions to the budget. At separate sessions of the parliamentary chambers parliamentarians consider the republican budget, reports on its execution, amendments and additions to the budget consecutively, first at the Mazhilis, then at the Senate. Each of the parliamentary chambers independently, without the participation of the other chamber, appoints three members of the Audit Committee for Control of the Execution of the Republican Budget for a five-year term. Deputies may pose verbal questions to members of the Audit Committee for Control of the Execution of the Republican Budget at joint and separate sessions of the parliamentary chambers.

At the same time, in pursuance of the RK presidential instruction to improve the system of state financial control, the following measures are planned:

- to extend the control functions of the Audit Committee by increasing the scope and quantity of control objects;
- on the regional level, to strengthen the institutional framework of the audit commissions of maslikhats by transforming them into public institutions;
- to reorganise the Financial Control and Public Procurement Committee of the Finance Ministry by eliminating its the functions in the sphere of financial control and to raise performance efficiency of the public authorities' internal control services;
- for purposes of coordinating the activity of internal control services, developing standards, tackling the issues related to methodology, training and upgrading the qualifications of internal control officers, to consider the creation of a specialised structural unit within the Finance Ministry.

In addition, there are plans to set up the Financial Violations Research Centre at the supreme financial control institution in order to reduce and prevent conditions generating corruptive offences and crimes.

Considering the above, we see **no need** in creating an independent institution subordinated to the parliament.

32. Devise and adopt a strategy for the tax and custom services which stresses the importance of corruption prevention and proclaims corruption as a serious violation of working responsibilities leading to obligatory termination of employment. Establish and maintain effective internal control in customs that belongs to a highly vulnerable area with respect to corruption.

National implementation actions:

In our opinion, anti-corruption measures are presently regulated and fixed by the legislation of the Republic of Kazakhstan. E.g. RK Presidential Decree No. 1567 of 3 May 2005 has approved the Code of Honour of Public Servants of the Republic of Kazakhstan (Rules of Public Servants' Official Ethics) (hereinafter – the Code of Honour), RK laws “On the Fight against Corruption” and “On Public Service” have been adopted, the Programme approved, etc.

33. Strengthen internal control system to assure effective detection and prevention of money laundering. Make external auditors liable to check if their clients are obliged to any provision resulted from the draft law referring money laundering and to examine if there are any risks involved in money laundering. Impose audit companies to define in their internal acts procedures relating suspicious transactions and identification of entities they enter into business relationship, and ask them to keep adequate records. In cooperation with professional associations of auditors develop a list of indicators of suspicious transactions, and ensure their dissemination to the auditors, which can help identifying business events and circumstances that may indicate money laundering activities.

National implementation actions:

See recommendation No. 13.

The Kazakhstan Head of State Message to the Nation concerning the main lines of development of the domestic and foreign policy focuses on the improvement and raising performance efficiency of the state authorities.

Considering the importance of interaction of the financial police agencies with the other public institutions in protection of economic interests of the state, in November 2004 the Agency launched its work to strengthen interaction with the other public institutions, above all those vested with control and supervisory functions. At present, the Agency is closely cooperating with many ministries and agencies.

In particular, in order to step up cooperation with the public institutions and ensure adequate departmental control, raise the efficiency of managerial impact on the local situation, the Agency has developed and approved this year joint orders with a number of ministries and agencies:

- “On Interaction Procedures between the Agency of the Republic of Kazakhstan for Regulating Natural Monopolies and the Agency of the Republic of Kazakhstan for the Fight against Economic and Corruptive Crime (Financial Police) in Detecting and Terminating Economic Offences Related to the Activity of Natural Monopolies”;
- “On Interaction Procedures between the Agency of the Republic of Kazakhstan for the Fight against Economic and Corruptive Crime (Financial Police) and the Audit Committee for Control of the Execution of the Republican Budget”;
- “On Approval of the Interaction Procedures and Transfer of Audit Materials on the Detected Offences in the Economic Sphere and Budgetary Expenditure between the Financial Control and Public Procurement Committee of the Finance Ministry of the Republic of Kazakhstan and the Agency of the Republic of Kazakhstan for the Fight against Economic and Corruptive Crime (Financial Police)”;
- “On Official Criteria of Performance Evaluation of Certain Public Agencies Engaged in the Fight against Economic Offences” between the Finance Ministry of the Republic of Kazakhstan and the Agency;
- “On Approval of Interaction Procedures between the Tax Service and Financial Police Agencies of the Republic of Kazakhstan in Detecting, Preventing, Terminating Offences and Crimes in the Sphere of Economic Activity”;
- “On Approval of Procedures for Interaction and the Transfer of Natural Monopolies’ Audit Materials on Detected Economic Offences between the Ministry of Industry and Trade and the Agency”;
- “Plan of Organisation and Holding of Regular Joint Actions for Detecting Facts of Illegal Interference in Entrepreneurial Activity, Infringement of the Rights of Entrepreneurs by Officials.”

34. Ensure maximum public accountability (including to the civil society) of the bodies, responsible for controlling the financing of political parties, candidates and elections campaigns, in order to avoid a possibility to discriminate selected parties and candidates and to ensure transparency in financing and expenditures of election funds. Devise and adopt an appropriate legal and institutional framework under which political parties and election funding will be subject of strict controls by an independent audit institution. Annual financial reports of political parties should be examined before publishing. A full audit of reports on election campaigns of all political parties who have the right to claim compensation of financial expenses should be performed before public funds are given from the state

budget. The control body should be obliged to verify the accuracy of data on campaign finance provided in the reports, the legality of the way these funds were collected and used and accuracy of the amount claimed for reimbursement. Improve regulation of party financing from private sources; step up the control of party financing in order to prevent and combat the influence of individuals or separate public groups on the policy of the state and local government authorities. Ensure transparency of financing political parties – from the point of view of incomes and expenses, in order to ensure that each natural or legal body can receive information about donors and the amounts donated by them.

National implementation actions:

This issue is presently being examined by Kazakhstan.

IV) ADDITIONAL INFORMATION

At present, the state authorities, including law enforcement agencies, have adopted a complex of organisational and practical measures aimed at lowering corruption, improving the legal framework, interaction with civil society organisations, anti-corruption policy advocacy, and strengthening international cooperation.

The adopted measures contributed to the improvement of law enforcement statistics. E.g. during ten months of this year the detection of corruptive offences has increased **32%** as compared to the same period of 2005 (from 1333 to 1760). Work has been intensified on detection the most dangerous forms of corruption, such as bribery which grew **51.9%** (from 308 to 468), office abuse – **47.8%** (from 318 to 470), embezzlement or misappropriation of entrusted alien property – **80.7%** (from 109 to 197), official omission – **48.3%** (from 29 to 43).

Anti-corruption activity has been intensified in the sphere of public service. The number of criminal cases initiated by law enforcement bodies against public officials grew **21.5%** (from 1202 to 1460). Criminal responsibility for committing corruptive offences was imposed on 830 persons, which is **79.3%** more than during the same period of 2005 (463), 536 of whom were brought to trial, **33%** more than in the similar period last year.

Considering the priorities proclaimed by the Head of State on 1 March 2006 in the annual Message to the Nation of Kazakhstan “On the Strategy of Kazakhstan’s Joining 50 Most Competitive Countries of the World,” measures have been stepped up for optimising licensing and administrative functions of bodies of state management, gradual transition to work in the “e-government” regime, and ensuring information transparency of the adopted decisions.

E.g. within the frameworks of the Action Plan for the Implementation of the State Programme for the Fight against Corruption for 2006-2010, RK Draft Laws “On the Status of the Republic of Kazakhstan Capital City,” “On Licensing,” and “On Introduction of Amendments and Additions to Some Legal Acts of the Republic of Kazakhstan on Licensing Issues” have been elaborated and submitted to the Mazhilis of the RK Parliament.

The two latter draft laws envisage a considerable reduction of licensable activities and licensing functions of the state authorities, and simplifying licensing procedures.

Draft laws have also been developed envisaging the introduction of amendments and additions to the tax, customs, and procurement legislation.

To determine non-core functions of the national companies and joint-stock companies with participation of the state with their subsequent transfer to the competitive environment, the Ministry of Economy and Budgetary Planning have worked out methodological recommendations for analysing their performance.

The most acute task for law enforcement bodies of Kazakhstan presently is the fulfilment of instructions of the Head of State issued at the Security Council session on 1 June 2006 to step up anti-corruption activities in the most corruption affected areas: public procurement, land relations, as well as the tax and customs authorities, and the road police.

In order to ensure stability and systematic information currents on the subject in question, the state authorities envisage a set of measures. They include such measures as the development of quarterly media plans and schedules of media appearances, hot-lines, placement of trust lines in the media, organisation of roundtables and briefings mentioned above, etc.

To integrate the law enforcement bodies of Kazakhstan in international anti-corruption organisations, the Ministry of Foreign Affairs holds systematic consultations with representatives of the FBI; the national Interpol bureau of the Justice Ministry, the Department for Economic Crime of the Secret Service at the Ministry of Internal Security of the Law enforcement Network for the Fight against Financial Offences (financial intelligence) of the Finance Ministry – with the **USA, OSCE**, The Justice Ministers Committee of European Countries, the Anti-Money Laundering Group (**FATF**) created by G8 in 1989.

In addition, representatives of Kazakhstan participated in the following international seminars and functions: *The fight against mafia and training in compliance with law: Palermo experience (Italy)*; *Matters of early ratification and implementation of the UN Convention against Corruption (Bulgaria)*; *Public sector reform (Singapore)*; *Strengthening the rule of law and good governance – the fight against corruption (Tajikistan)*; *On prevention of corruption in law enforcement bodies (Ireland)*.

There are plans for familiarisation visits of the Interior Ministry Internal Security Department to **Moscow (Russian Federation)** and **South Korea** for studying the anti-corruption experience of the corresponding services.

During the meetings of the Chairman of the RK Agency for Civil Service Affairs with the ambassadors of the **United Kingdom, Israel, Iran, Spain, and China**, prospects for interaction have been determined in the sphere of public service development, fight against corruptive offences, enhancing the quality of public services and public officials' training.

Law enforcement officials have undergone training at the State Policy School of **Singapore** (the course "Corruption and a Shadow Economy"), at the London School of Economy and Political Sciences (**Great Britain**), participated in the seminar in Ashkhabad (**Turkmenistan**) on the subject: "Improvement of International Legal Cooperation in Central Asia," in Kuala-Lumpur (**Malaysia**) in the 1st forum of Organisation of the Islamic Conference member countries on the fight against corruption and strengthening ethic norms, which was attended by delegations of 44 Muslim states, in Beijing (**China**) in the first annual conference and the common session of the international Association of Anti-Corruption Agencies.

The application of the international anti-corruption experience in Kazakhstan was considered in November 2006 at the session of the interdepartmental Anti-Corruption Policy Commission of the Security Council of the Republic of Kazakhstan.