



**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS**

**FINLAND: PHASE 2**

**FOLLOW-UP REPORT ON THE IMPLEMENTATION  
OF THE PHASE 2 RECOMMENDATIONS ON THE APPLICATION OF  
THE CONVENTION AND THE 1997 RECOMMENDATION ON  
COMBATING BRIBERY OF FOREIGN PUBLIC OFFICIALS IN  
INTERNATIONAL BUSINESS TRANSACTIONS**

*This report was approved and adopted by the Working Group on Bribery in International Business Transactions on 23 February 2006.*

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## SUMMARY AND CONCLUSIONS BY THE WORKING GROUP ON BRIBERY

### a) Summary of findings

1. Finland has made clear progress in the implementation of most of the recommendations made by the Working Group on Bribery following its evaluation under Phase 2.<sup>1</sup> Finland presented its Follow-up Written Report, outlining its response to the nine recommendations (and five follow-up issues), at the December 2005 meeting of the Working Group on Bribery.

2. Since the Phase 2 evaluation, Finland has not recorded any convictions for foreign bribery offences. The Written Follow-up Report states that in 2004 there were only seven cases that concerned domestic bribery offences (out of about 80,000 cases in total that come to the prosecutor each year). Courts in Finland have dealt with only one case which involved business operations abroad, although for the purposes of the Convention, it did not involve the bribery of foreign public officials. Finland has reported one foreign bribery case under investigation.

3. Perhaps the most significant development in Finland has been a concerted effort to fight corruption through enhanced coordination and sharing of information both within government, and between the public and private sectors. The Cooperation Network in Finland brings together representatives from the Ministry of Justice, Ministry of the Interior, Ministry of Foreign Affairs, Ministry of Trade and Industry, Ministry of Finance, Office of the Prosecutor General, National Bureau of Investigation, National Board of Taxation, National Board of Customs, Central Chamber of Commerce, Confederation of Finnish Industry and Employers, Central Organisation of Finnish Trade Unions, Federation of Finnish Enterprises, Confederation of Finnish Industries EK, and the Association of Finnish Local and Regional Authorities. This initiative addresses many of the concerns identified in the Phase 2 evaluation about coordination and responsibility within the Finnish administration for the implementation of the Convention (Recommendation 2). The function of the Cooperation Network includes the coordination of actions taken by various ministries for the implementation of international agreements on combating bribery; to monitor the implementation of OECD Convention; to contribute to the provision of guidelines on combating bribery in the public, municipal and private sectors; and to develop and coordinate action policy for combating bribery. The Finnish authorities reported that concrete cases are discussed within the network (all domestic so far) and that there are pre-trial investigators and key prosecutors represented. The Finnish authorities confirmed at the December 2005 Working Group meeting that the Cooperation Network meets regularly both at a technical (experts) level, and also at a policy level.

4. The regular meetings of the Coordination Network have contributed to raising awareness about the Convention across the public and private sectors (Recommendation 1). The Working Group also noted a number of publications that have been produced by Finland to assist particularly public officials and businesses to combat corruption. While the Central Chamber of commerce published general instructions against corruption for the business sector, Finland was urged to further develop its awareness raising and training initiatives in relation to the Convention. Although Finland has a record of a low level of corruption in government, some of its companies operate in markets where the opportunities and pressures

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<sup>1</sup> Phase 2 Report of Finland approved May 2002.

faced by Finnish businesses with regard to foreign bribery are much higher, requiring further ongoing efforts to promote awareness of the OECD Convention. There have been some media reports of allegations of bribery by Finnish companies abroad.

5. An area of concern identified during the Phase 2 evaluation was that Finnish tax legislation did not provide a clear obligation for tax inspectors to report foreign bribery and tax fraud cases to the competent authorities. The Working Group recommended that Finland establish guidelines so that tax inspectors would be obligated to report such cases to the investigative authorities (Recommendation 3). In its Written Follow-up Report, Finland confirmed that existing rules still provide that the tax authorities have a right, but no obligation, to report cases of suspect bribery. The issue is however, being considered in the context of a Bill before the Finnish Parliament (for the adoption of the UN Convention against Corruption) and by the Anti-Corruption Network. Given that no guidelines currently exist, the Working Group determined that Recommendation 3 had not yet been satisfactorily implemented by Finland.

6. Another important issue identified in the Phase 2 evaluation, concerned legal obstacles that could prevent an auditor from reporting suspicious transactions. In this regard, the Working Group recommendation required the introduction of a reporting obligation for auditors (Recommendation 5). The main legal obstacle was identified in Chapter 5, section 25 of the Auditing Act, which forbids an auditor from revealing information about an audited company to an “outsider” unless the auditor has a statutory obligation to reveal the information. In this context, the Working Group had been concerned that because there is no statutory obligation to reveal information about suspicions of foreign bribery, any action by an auditor to report a matter may contravene the law. In its Written Report, Finland indicated that the legal position for reporting had not changed, but that auditors were nevertheless required to apply standard audit practice. This practice is derived from the International Standard on auditing which requires an auditor to report to company management on irregularities. The broader coverage of the new EU directive, soon to come into operation, is also discussed, although this does not contain specific provisions on the auditor’s obligation to report. The Working Group determined that Recommendation 5 had not, at this stage, been satisfactorily implemented.

7. A similar reporting issue was also considered in Phase 2, relating to the absence in Finland of any express duty on persons responsible for keeping accounting records of companies to report suspicious transactions to the competent authorities. It was recommended that Finland evaluate whether an obligation to this effect would improve the prevention and detection of foreign bribery cases (Recommendation 4). In its Written Follow-up Report, the Finnish authorities acknowledged that no such obligation existed, but that it is being considered in the context of the Bill presented to Parliament concerning the adoption of the UN Convention against Corruption.

8. The Working Group welcomed efforts by Finland to inform accounting professionals of the practical consequences of a Supreme Court decision in which it was decided that anyone who exercises actual authority in respect of bookkeeping could be prosecuted for an accounting offence (Recommendation 9). The Supreme Court decision has been made available to practitioners and the public through the internet, standard case reporting mechanisms, and it has also been introduced into training for the accountancy profession.

9. The Phase 2 evaluation of Finland highlighted that the majority of reports of suspected money laundering were made by money exchange bureaus even though they were not reporting entities under the law. It was recommended that Finland ensure that the absence of an express obligation for money exchange bureaus to report suspicious transactions to the Money Laundering Clearing House (MLCH) did not decrease the effective implementation of money laundering legislation (first part of Recommendation 6). In its Written Follow-up Report, Finnish authorities indicated that following legislative amendments in 2003, money exchange bureaus are now reporting entities. This change was welcomed by the Working

Group, although with a note of caution, because it was unclear as to whether the new legal arrangements were confined to money exchange bureaus operated only by deposit banks. That said, the Working Group was satisfied with Finnish assurances that money exchange bureaus across Finland are nevertheless reporting suspicious transactions to MLCH as a matter of practice.

10. The recommendations following the Phase 2 evaluation also required Finland to take a consistent and effective approach to monitoring the compliance of real estate agencies with their reporting obligations to MLCH, after concerns had been expressed about their supervision (second part of Recommendation 6). It had been noted that real estate agencies in Finland are not supervised by the Financial Supervision Authority. While the real estate agencies are clearly subject to reporting obligations, the Working Group noted that an efficient system of methodical guidance and supervision over such agencies has not yet been established.

11. It was recommended during the Phase 2 evaluation that, in relation to the application of the law to legal persons, Finland clarify issues of prosecutorial discretion, statute of limitations, and the application of legal person liability to state owned and state controlled companies, for the benefit of law enforcement agencies and prosecutors (Recommendation 7). The Written Follow-up Report did not address these matters. Since the Phase 2 evaluation, a new law has come into force making legal persons liable for offences committed in their business activities. Finnish authorities indicated that training has been given to prosecutors about the new offence, but separate instructions have not been given because “there has only been one international bribery offence in the court.” The Working Group urged Finland to reconsider this recommendation, taking into account all Finnish cases dealing with legal persons.

12. The Working Group also requested that Finland reconsider a recommendation on providing statistical information (to the Working Group) about the application of sanctions under the legislation implementing the Convention (Recommendation 8). In particular, Finland should include statistics in relation to accounting and money laundering offences as stated in the recommendation.

13. Due to the absence of information presently available on cases and other statistics, very little information was able to be provided by Finland in relation to the five follow-up issues contained within the Phase 2 Report of Finland. Finnish authorities confirmed that the Office of Prosecutor General no longer holds the view that proof of an additional element of requisite authority of a foreign public official, pursuant to the laws of the foreign public official’s country, is necessary in prosecuting foreign bribery offences, in addition to the elements expressly stipulated by the law. Existing provisions are applied whether the requisite authority exists or not. The Working Group agreed to reserve the ability to follow-up these issues in future, as cases develop.

## **b) Conclusions**

14. Based on the findings of the Working Group with respect to Finland’s implementation of the Phase 2 recommendations, the Working Group reached the overall conclusion that recommendations 1, 2, 4 and 9 had been implemented satisfactorily or dealt with in a satisfactory manner; that recommendations 6, 7 and 8 have been partially implemented, requiring further clarification in relation to some issues; and recommendation 3 and 5 have not been implemented.

15. The Working Group invited Finnish authorities to report back to the Working Group on the implementation of recommendations 3 and 5.

## WRITTEN FOLLOW-UP TO PHASE 2 REPORT

**Name of country: Finland**

**Date of approval of Phase 2 Report: May 2002**

**Date of information: 8 November 2005**

### Part I: Recommendations for Action

#### Text of recommendation 1:

The Working Group recommends that Finland:

Undertake effective public awareness activities for the purpose of educating and advising the public and private sectors about the Convention and consider involving interested business associations and other non-governmental bodies in the delivery of these initiatives. (Revised Recommendation, Article I).

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

In Finland, a cooperation network for combating bribery was established in December 2002. The mandate of the network expired in December 2004. After this, in order to replace the network, a cooperation group consisting of high-level officials was established in September 2005, as well as a network at officials' level, in order to develop further actions against corruption.

The cooperation network and working group consist of representatives of the Ministry of Justice, Ministry of the Interior, Ministry for Foreign Affairs, Ministry of Trade and Industry, Ministry of Finance, Office of the Prosecutor General, National Bureau of Investigation, National Board of Taxation, National Board of Customs, Central Chamber of Commerce, Confederation of Finnish Industry and Employers, Central Organisation of Finnish Trade Unions, Federation of Finnish Enterprises, Confederation of Finnish Industries EK and the Association of Finnish Local and Regional Authorities.

The cooperation working group and network for combating bribery are aimed at ensuring that bribery exists to smallest possible extent in Finland. In practice, the working group and network shall

- (1) Present a picture of existing bribery in Finland and of bribery relating to Finnish interests and to keep it up-to-date, and initiate actions against bribery;
- (2) enhance the awareness of bribery in society and contribute to detection, investigation and prosecution of bribery offences;
- (3) contribute to the provision of guidelines on combating bribery in the public, municipal and

private sector;

- (4) coordinate the actions taken by various ministries for the implementation of international agreements on combating bribery;
- (5) monitor the drafting of the UN Convention against Corruption;
- (6) monitor the implementation and contribute to the further development of the OECD Convention on Combating Bribery and Recommendation on Combating Bribery;
- (7) monitor the Finnish implementation of the Recommendations of the Committee of the Council of Europe on Combating Bribery;
- (8) develop and coordinate action policy for combating bribery and
- (9) promote detection, investigation and prosecution of bribery offences.

Inter-governmental seminars on actions against corruption in Finland have been arranged 2003-2005. One large training seminar on bribery offenses has been organised also together with Estonian law-enforcement authorities in autumn 2005.

Training on corruption related questions has been taken as a permanent part of a basic training for police officers and prosecutors. In order to enhance training on confiscation and provisional measures in corruption cases a booklet has been written on these matters in the National Police School. It is available to all police officers on the Internet.

Ministry of Finance has in 2002 published for the State Administration a handbook called "*Values in the daily job – civil servant's ethics*". The purpose of this booklet is to serve as a practical guide to exemplary employer function, assist in supervisory duties and inform state personnel of basic issues attaching the status of civil servants. In order to maintain high ethical standards of state administration, the values must be visible as decisions and deeds in everyday work, and thus become consolidated as good operational practises of state administration. Value-led operation also serves to prevent corruption.

The Central Chamber of Commerce has in December 2002 published together with Transparency International general instructions against corruption for the business sector.

The Department for International Development Cooperation, Ministry for Foreign Affairs, has in year 2003 prepared a document "*Preventing Corruption: A Handbook of Anti-Corruption Techniques for Use in International Development Cooperation*", aiming at making the fight against corruption an integral part of the development cooperation. The handbook also deals with the scope of introducing administrative anti-corruption legislation in this field.

The Association of Finnish Local and Regional Authorities have in October 2005 published recommendations for municipal and regional authorities on acceptable benefits (gifts, travels etc.). The Association's goal is to promote the opportunities for local authorities to operate and co-operate and to promote their vitality for the benefit of the residents.

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

**Text of recommendation 2:**

The Working Group recommends that Finland:

Clarify internally the responsibilities of state authorities for the implementation of the Convention. (Convention, Article 5).

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

See answer to recommendation nr 1. General policies, responsibilities and also concrete cases (domestic so far) have constantly been discussed together in the anti-corruption network. In this network there are also pre-trial investigators and key prosecutors represented.

**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:**

With respect to the reporting of suspected bribery to the appropriate authorities, the Working Group recommends that Finland:

Establish clear guidelines to the effect that tax inspectors are obligated to report cases of suspected foreign bribery and tax fraud to the investigative authorities. [Revised Recommendation, Articles II (ii) and IV].

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

At the moment, no such guidelines exist. Current rules provide that tax authorities have a right, but no obligation, to report cases of suspect bribery. Each year the Finnish Tax Administration reports about 1 300 offences to the police for investigation. The majority of these are tax offences, debtor's offences or accounting offences.

Recently the Finnish Government has presented a bill to Parliament concerning adoption of the UN Convention against Corruption. In this context, it was stated that the possibility of imposing an obligation on tax inspectors to report on offences falling within the OECD Convention in accordance with OECD recommendations should be considered.

The recently established cooperation working group and cooperation network for combating bribery have been commissioned to consider how the recommendation of the OECD Working Group could be implemented in Finland. This work is about to start in November 2005.

**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:**

With respect to the reporting of suspected bribery to the appropriate authorities, the Working Group recommends that Finland:

Evaluate whether an obligation that persons responsible for keeping accounts report suspected bribery transactions would improve the prevention and detection of foreign bribery cases. (Revised Recommendation, Article V).

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

At the moment, no such obligation exists.

Section 3 of the Act on Preventing and Clearing Money Laundering provides that businesses or professions performing external accounting functions are subject to the obligation to report on suspect cases of money laundering. The reporting obligation does not apply to the financial administration staff employed by a company. The Finnish legislation concerning money laundering is based on the EU anti-money laundering directive, which is subject to a review. The provisions of the amended directive will be more stringent than those of the current directive.

Recently the Finnish Government has presented a bill to Parliament concerning adoption of the UN Convention against Corruption. In this context, it was stated that the possibility of imposing an obligation on accountants to report on offences falling within the OECD Convention in accordance with the OECD recommendation should be considered.

The recently established cooperation working group and cooperation network for combating bribery have been commissioned to consider how the recommendation of the OECD Working

Group could be implemented in Finland. This work is about to start in November 2005.

**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:**

With respect to the reporting of suspected bribery to the appropriate authorities, the Working Group recommends that Finland:

Require auditors to report indications of a possible foreign bribery offence to management and, where appropriate, corporate monitoring bodies, and consider requiring that such body in turn has a duty to report suspicions of bribery to the investigative authorities. [Revised Recommendation, Article V B, (iii) and (iv)].

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

The current Finnish legislation provides that auditors are obliged to apply standard audit practice. Good audit practice is based on the International Standard on Auditing and it involves an auditor's obligation to report to the company management on irregularities, including bribery, detected in connection with an audit.

The work for developing the principles of auditing that was initiated in the EU in 1996 has culminated in the drafting of a new Audit Directive. The new Directive was endorsed by the Ecofin Council on 11 October 2005. The Directive will enter into force after some months when some finishing touches have been put to the text. The aim of the new Directive is to ensure the credibility and reliability of final accounts and to maintain investor confidence in the functioning of capital markets. The national legislation on audit is subject to a review in order to make it meet the requirements of the Directive.

Compared to the current Directive, the new Directive is markedly broader, because it also contains provisions on, for instance, auditors' independence, professional ethics, quality assurance and control. The new Audit Directive also contains more specific provisions on the auditor's reporting obligation, while the International Standard on Auditing (ISA) launched by the IFAC (International Federation of Accountants) from now on shall be applied to all audits in the EU. The standard has been applied to audits performed in Finland as a part of the good audit practice provided for in Section 16 of the Finnish Audit Act. Besides control of books and final accounts, the auditor shall also monitor the actions of the company management. When performing this task, the auditor shall control the legality of actions taken by the management. In other words, the auditor assesses whether or not the company management has acted with due diligence.

The Directive does not contain specific provisions on the auditor's obligation to report on irregularities he or she has detected, because that is considered to be a part of normal reporting practice. Neither do the provisions on confidentiality set out in the Directive impose an obligation on the auditor to report to the authorities on irregularities detected. Section 3 of the Finnish Act on Preventing and Clearing Money Laundering provides that businesses or professions performing external accounting functions are subject to the obligation to report on suspect cases of money laundering as provided in the Act.

The rules on an auditor's obligation to report, provide in other words that the auditor is obliged to monitor the legality of actions of the company management and to report on it to company owners or internally, for instance, to the Board of Directors. The endorsement of the Audit Directive and the adoption of the International Standard on Auditing as a part of the EU regulation facilitate, for their part, further the performance of an auditor's reporting duty.

The Audit Directive also contains more specific rules on the independence of auditors. The main principle is that an auditor shall be independent and that he or she may not have any economic, business, employment or other relations to the body subject to audit which could risk his or her independency. The provisions of the Directive are based on the Recommendation on Statutory Auditors' Independence in the EU presented by the Commission in May 2002

Recently the Finnish Government has presented a bill to Parliament concerning adoption of the UN Convention against Corruption. In this context, it was stated that the possibility of imposing an obligation on tax inspectors to report on offences falling within the OECD Convention on Combating Bribery in accordance with the OECD recommendations should be considered.

The recently established cooperation working group and network on combating bribery have been commissioned to consider how the recommendation of the OECD Working Group could be implemented in Finland. This work is about to start in November 2005.

**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:**

With respect to the reporting of suspected bribery to the appropriate authorities, the Working Group recommends that Finland:

Ensure that in practice the absence of an express obligation in the law requiring that money exchange bureaux report suspicious transactions to the Money Laundering Clearing House (MLCH) does not decrease the effective implementation of money laundering legislation, and undertake a consistent and effective approach to monitoring the compliance of real estate agencies with their reporting obligations to the MLCH. (Convention, Article 7).

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

Since June 2003, the Law on Money Laundering (365/2003) contains an obligation of a large variety of different business actors (such as credit and financial institutions, domestic and foreign investment firms, insurance companies and brokers, pawnshops, lotteries, real estate agencies, money exchange bureaux, security depositories, accountants, lawyers etc.) to report suspicious transactions (**STR**) to the Money Laundering Clearing House in the National Bureau of Investigation (**NBI**). The large majority of STRs come from exchange bureaux (> 50%), national and foreign authorities and banks.

Since 2000 the number of STRs reported to the NBI has more than doubled, in 2002 there were 2718 reports corresponding to a transaction value of EUR 703.632,814. In the same year NBI forwarded to pre-trial investigation 114 reports, among which 8 were related to accounting offence and none to other corruption offences. During the period 1994-2003 no corruption offences were detected in the 496 STRs that were forwarded by the NBI to pre-trial investigation.

According to the Act on Preventing and Clearing Money Laundering (Section 12) the NBI has the right to obtain any information needed for clearing money laundering from a legal or natural person and from authorities conducting public duties, notwithstanding provisions on the confidentiality of information. The NBI can also suspend a transaction for at maximum five days, if such suspension is necessary for clearing money laundering (Section 11). In 2003 this provisional measure was used twelve times and transactions in amount of 1 million EUR were suspended.

NBI has now a separate component in the register of suspected persons and offences that are directly linked to corruption. All information on corruption is stored in that register and can be used to enhance the detection of corruption. A Crime Intelligence Centre has been established in the NBI and a new post as leader of the centre has been established. This Centre will handle all information on corruption offences in the NBI register. All relevant authorities and private sector actors have been urged to report suspicions of corruptive practise to the NBI.

The newly adopted provisions of the Penal Code concerning money laundering are formally in line with Article 6 of the Money Laundering Convention. They cover laundering of proceeds from all criminal offences and also negligent money laundering, therefore a set of anti-money laundering preventive and repressive measures could also be used in the fight against corruption.

The Money Laundering Convention is not often used in practice and only five requests were sent and none received on the basis of this convention during the last five years.

**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:**

The Working Group recommends that Finland:

Consider providing guidance to law enforcement agencies and prosecutors clarifying the application of the relevant Penal Code provisions to legal persons in respect of prosecutorial discretion, the statute of limitations and coverage of the law regarding state-owned/controlled companies. (Convention, Articles 2, 5 and 6).

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

After Finland's Phase 2 evaluation a new provision in the Finnish Penal Code entered into force on 31 January 2003 making legal persons liable for offences committed in their business activities. The sanctions for the legal persons are in fine (850 euros and maximum 850.000 euros). Training has been given to prosecutors on this matter but separate instructions have not yet been given because there has only been one international bribery offence in the court.

**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 8:**

The Working Group recommends that Finland:

Provide statistical information to the Working Group about the application of sanctions under the legislation implementing the Convention (i.e., the foreign bribery, accounting, and money laundering offences) to evaluate whether penalties are proportionate, dissuasive and effective in practice. (Convention, Article 3.1; Phase 1 Evaluation, section 4).

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

In Finland, the number of bribery offences is small. The total number of cases that come to the prosecutor is about 80 000 per year. In 2004, there were only seven cases that concerned domestic bribery offences. The court has, so far, processed only one case that can be regarded as relating to business operations abroad. However, there were no foreign public officials involved in that case either. This case is anyway presented here briefly;

The court sentenced the Director-General of the Finnish Maritime Administration for bribery to four months' conditional imprisonment and declared the economic advantage of EUR 11 906 gained forfeit to the State. The Director-General was further suspended from his position. He and his wife had participated in two trips to Norway organised by a Norwegian shipping company. Besides official meetings the trips also comprised leisure-time activities and entertainment. The Director-General and his wife had further been on a trip, paid by the shipping company or its main owner, to Miami and the Caribbean. This trip included hardly any work-related programme at all. The Finnish Maritime Administration had chartered three multifunction ice breakers to the Norwegian shipping company that gained economic advantage from the operation. The profitability of these operations from the Finnish Maritime Administration's point of view was questionable.

A Head of the Department of the Finnish Maritime Administration who had been responsible for shipping operations was sentenced for bribery, because he and his wife had participated in five trips organised by the shipping company to Norway and Iceland, and for aggravated bribery because he, his wife and three children (some of them adults) had participated in a trip, paid by the shipping company, to the Caribbean, South America and Brazil. The court sentenced him to ten months' conditional imprisonment and declared the economic advantage of EUR 54 858 gained forfeit to the State. When being sentenced the Head of the Department already had retired from his position.

The court sentenced a person with responsibility for the practical arrangements for chartering the multifunction ice breakers of the Finnish Maritime Administration to four months' imprisonment and declared the economic advantage of EUR 7 232 gained forfeit to the State. This person had participated in a trip to Norway and received cash from the shipping company on three occasions.

**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 9:**

The Working Group recommends that Finland:

Inform accounting professionals of the practical consequences of the recent Supreme Court decision in which it was decided that anyone who exercises actual authority in respect of bookkeeping could be prosecuted for an accounting offence, to clarify responsibility and raise public awareness in this regard. (Convention, Article 8.2).

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

The Decision of the Supreme Court (86/2001) has been published in publications describing Finnish case law and on the Internet, and introduced as an example of accounting offences into normal training.

After that, section 5 of the Finnish Accounting Act has been amended so that a party with a legal obligation to keep books is considered to have control over a company when the company is being managed together with the target company or when the party with the obligation to keep books in some other respect has actual control over the target company. This amendment entered into force on 31 December 2004. By this amendment the principle mentioned in the Decision of the Supreme Court was introduced into the Finnish law.

**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**

**Issue for follow-up (number 10)**

Decisions of relevant authorities, including the courts, in regard to the differentiation between aggravated and non-aggravated bribery. (Convention, Article 1.1).

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

No case law exists. There have not been any cases of this type in Finland.

**Issue for follow-up (number 11)**

Decisions of relevant authorities, including the courts, with regard to cases involving bribes to foreign public officials through intermediaries. (Convention, Article 1.1).

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

No case law exists. There have not been any cases of this type in Finland.

**Issue for follow-up (number 12)**

The application of the foreign bribery offence to determine whether it is necessary to prove that, pursuant to the laws of the foreign public official's country, the foreign public official had the exact powers to provide the act or omission that the briber intended to obtain. (Convention, Article 1.1; Commentary 3).

**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:**

In Finland, powers of this type or lack of them have not been mentioned among the constituent elements of a bribery offence. Existing provisions are applied whether the powers mentioned above exist or not.

**Issue for follow-up (number 13)**

The application of sanctions under the legislation implementing the Convention (i.e. the foreign bribery, money laundering and accounting offences) and in the framework of this assessment the Working Group will also:

- (i) review the application of confiscation due to the absence of the authority of the court to order monetary sanctions of a comparable effect and the seemingly low sanctions that have been applied to domestic bribery offences. (Convention, Article 3.3; Phase 1 Evaluation, section 2);
- (ii) assess the impact of the Criminal Code provisions on the lapsing of sanctions (in respect of fines, confiscation and imprisonment) (Convention, Article 3.1).

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

No case law exists. There have not been any cases of this type in Finland.

**Issue for follow-up (number 14)**

The consequences in practice of the non-applicability of the accounting offences to legal persons to determine whether Finland is able to effectively address accounting offences connected with the concealment of foreign bribery. (Convention, Article 8.2; Commentary 29; Phase 1 Evaluation, section 5).

**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 case law exists. There have not been any cases of this type in Finland.