

FOLLOW-UP FROM ITALY ON THE IMPLEMENTATION OF SPECIFIC PHASE 2 RECOMMENDATIONS

Name of country: Italy

Date of approval of Phase 2 Report: 29 November 2004

Date of approval of Phase 2 written follow-up: 23 March 2007

Date of information: March 2008

Part I: Recommendations for Action

Text of recommendation 2 (Phase 2 report):

With respect to whistleblowing protection, the Working Group recommends that Italy consider introducing stronger measures to protect employees who report suspicious facts involving bribery in order to encourage them to report such facts without fear of retribution (Convention, Article 5; Revised Recommendation, Paragraph I).

Actions taken as of the date of the follow-up report to implement this recommendation (March 2008):

The High Commissioner against corruption (HC) has drafted a study on measures that can be undertaken by Italy to comprehensively develop whistleblower protection in order to provide stronger protection against reprisals for employees. In particular, the study analyses the current practices for the protection of whistleblowers in other OECD countries with the aim of identifying best practice models that can serve as a platform for legislative process. The study was submitted for comment to the Ministry of Justice and the Ministry of Foreign Affairs. A working group with officials from all relevant Italian public administrations will be set up in order to draft a bill on whistleblower protection. As already indicated under the PHASE 2 evaluation, Italy is of the view that current domestic labour law (*Statuto dei Lavoratori*) would be sufficient to protect whistleblowers from wrongful dismissal. To further encourage whistleblowing, however, the HC is working on an appropriate whistleblowing provision that can be introduced into Italian law. In this respect, it is the opinion of the HC that the protection already provided to public and private employees under the *Statuto dei Lavoratori* can be complemented by a whistleblowing provision such as the one envisaged by the US Law (i.e. section 806 of the Sarbanes-Oxley Act) or the one envisaged by the Slovak Labour Code (section 13).

Text of recommendation 3 (Phase 2 report):

With respect to the prevention and detection of foreign bribery through accounting requirements, the Working Group urges the expeditious amendment of the provisions on false accounting in the Civil Code to ensure full conformity with article 8 of the Convention. In particular, Italy is recommended to ensure that its legislation provides effective, proportionate and dissuasive sanctions for all cases of false accounting regardless of (a) monetary thresholds, (b) whether the offence is committed in relation to listed or non-listed companies, and (c) whether the offence causes damage to shareholders or creditors (Convention, Article 8).