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Authority NND 38111By KJ NARA Date 12/15/11

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## REPORT ON NATIONAL LAWS PENALIZING BRIBERY

This memorandum lists the national laws penalizing bribery of public officials with citations where available. As a statement about the laws of any particular jurisdiction, it should be approached with caution. The chances of errors, omissions, and misinterpretations at some stage of the process of gathering this information are substantial. In a number of cases, precise citations have not been obtained. As a general perspective on world legislation as a whole, however, this list does represent an overview which can be accepted as showing the widespread existence of a common pattern.

The general pattern can be set forth as follows. The typical law defines the crime as the giving or offering of a thing of value to a public official or the soliciting or accepting of a thing of value by a public official with a view to influencing his official conduct. Penalties are provided of up to 10 years imprisonment and the equivalent of \$10,000 in fines. The following listing assumes that such a pattern exists. Significant variations are footnoted. In particular, statutes are noted that appear to omit acts covered by the above standard, such as those laws that seem not to make giving or offering a crime but that penalize only the soliciting or accepting of a thing of value. Of

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course, some principles of conspiracy, accessory, aiding and abetting, etc. may indirectly cover such participation and this is not to be construed as an opinion that such an action is not illegal. Note is made of specially harsh penalties, including forfeitures of property associated with the bribe, and divergences between penalties for recipients and those for makers of bribes. Also noted are additional provisions, such as laws that make any participation by public officials in business activity a crime and those that outlaw their having any share in any contract with the government. Where countries have rules that regulate the use of agents or intermediaries, the footnotes reflect this.

Also attached is a chart which indicates which countries have criminal and/or disclosure legislation on bribery of public officials, political contributions and bribery of corporate officials. This information is subject to the same cautions noted above.

The chart shows that almost every country from which information was obtained has legislation against bribery of public officials. In the case of those which do not, the absence of specific legislation does not necessarily mean that such acts would not be punished under some, possibly more general, laws, decrees or regulations. The pattern with respect to other legislation is more mixed.

NATIONAL LAWS ON BRIBERY

<u>Country</u>	<u>Bribery of Public Officials</u>	<u>Bribery of Others</u>
Abu Dhabi <sup>1/</sup>	Criminal Code, of 1970, art. 118	
Algeria <sup>2/</sup>	Official J., June 11, 1966, ch. 4, Sect. II, arts 126-130	
Afghanistan	Law for the Prosecution and Punishment of Bribery, 1973, art. 1-15	
Argentina	Penal Code, arts 256-258, 265-268	
Australia	Crimes Act, sec. 73; Public Service Act, sec. 121.	Secret Commission Act, 1905-1973
Austria <sup>3/</sup>	Criminal Code of 1974, arts 304, 305, 307, 308	Criminal Code art. 305 and Law against Unfair Competition
Bahamas	Bribery is an offense; no citation given	
Bahrain	Penal Code	
Barbados	Bribery is an offense; no citation given	
Bangladesh	Penal Code, 1860, and Government Servant Efficiency and Discipline Rules, 1960	
Belgium <sup>4/</sup>	Penal Code (ed. 1 Sept 1975) arts. 246-253	

- <sup>1/</sup> Refers only to recipient of bribe.
- <sup>2/</sup> Algeria forbids use of agents in government sales contracts by regulation.
- <sup>3/</sup> Austria forbids taking money for influencing government official to take biased action
- <sup>4/</sup> Belgium provides for forfeiture of bribe, disbarment from public office.

<u>Country</u>	<u>Bribery of Public Officials</u>	<u>Bribery of Others</u>
Benin	Bribery is an offense; no citation given	
<u>1/</u> Bolivia	Penal Code, March 16, 1970.	
Botswana	Penal Code, secs. 99-104	
<u>2/</u> Brazil	Penal Code, arts. 316, 317, 321, 332, 333	Penal Code art. 171
<u>3/</u> Bulgaria	Bribery is an offense; no citation given	
Burundi	Penal Code, Title 4, sec. 7 and Law 1/100 of May 6, 1975; Law 1/105 of June 30, 1975	
<u>4/</u> Burma	Penal Code, Chapter IX; Suppression of Corruption Act.	
<u>5/</u> Cameroon	Bribery is an offense; no citation given	
Canada	Criminal Code, sec. 110	Criminal Code, sec. 383
Central African Republic	Bribery is an offense; no citation given	
<u>6/</u> Chad	Penal Code, arts. 229, 231	Penal Code, art. 230

- 1/ Bolivia requires registration of persons involved in trade and prohibits transaction with state by unregistered persons.
- 2/ Brazilian law penalizes those who take consideration claiming they can influence government official.
- 3/ Bulgaria limits local representation to registered resident foreign representatives or to "Interpred." Punishment for recipient of a bribe may include confiscation of up to one-half of his property and imprisonment for 3 to 15 years.
- 4/ Burma forbids public servants from engaging in trade or bidding on government transactions
- Cameroon forbids acceptance by public servant of interest in transaction with government.
- 6/ Chad forbids public official from directly influencing action in area outside his purview.

<u>Country</u>	<u>Bribery of Public Officials</u>	<u>Bribery of Others</u>
Chile	Decree Law 338, 1960; Penal Code, arts. 240, 248-250	
<sup>1/</sup> Colombia	Penal Code, arts. 156-166	
Costa Rica	Penal Code, arts. 338-45	Penal Code, art. 216
Cyprus	Criminal Code, secs. 100-102	
Czechoslovakia	Penal Code, secs. 160-163	
<sup>2/</sup> Denmark	Criminal Code, secs. 122, 144-45	Criminal Code, §29
Dominican Republic	Penal Code, art. 175-18 <sup>3/</sup> ; Law 5924, Ch. 1	
Ecuador	Criminal Code, art. 285-29 <sup>4/</sup>	
<sup>5/</sup> Egypt	Penal Code, Ch. III, arts. 103-111	
El Salvador	Penal Code	
Ethiopia	Penal Code, art. 423-426, 436, 437	
European Communities	Statute of European Civil Servants	

- 1/ Colombia forbids government contracting except with persons listed on commercial register. Bribery law may cover recipient only.
- 2/ Denmark prohibits outside business activity by public officials.
- 3/ Under art. 178, businessmen engaging in bribery may be prohibited from carrying on any business activity for 2-5 years, in addition to conventional penalties.
- 4/ In addition to fines and imprisonment, public officials bribed must refund three times the value of the bribe.
- 5/ Implementing regulations of Law No. 94 of 1974 set standards for agents, including requirement that information on commissions charged must be specified in license applications.

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<u>Country</u>	<u>Bribery of Public Officials</u>	<u>Bribery of Others</u>
Fed. Republic of Germany	Criminal Code, paras. 331-334	
Finland	Bribery is an offense; no citation given	
France	Penal Code, Art. 177.	Same
Gabon	Criminal Code, sec. 143 <sup>1/</sup>	
<sup>2/</sup> Gambia	Criminal Code, Ch. X, paras. 86-94	Same
<sup>3/</sup> Ghana	Criminal Code, Ch. 5	
<sup>4/</sup> Greece	Penal Code, arts. 235, 236; Royal Decree 285/1972	Penal Code, arts. 386, 389, 390
Guatemala	Penal Code	
Hoti	Penal Code, art. 135	Penal Code, arts. 137-144

1/ Refers only to recipients of bribes.

2/ Criminal Code U. XXXIX, Para. 359-363 concerns secret commissions and corrupt practices.

3/ Ghana Supply Commission may place orders directly with suppliers, in which cases no agent or representative shall receive any commission.

4/ Decision No. 12529 of Feb. 1, 1951 of Minister of Commerce permits agent involvement in sales to Greek Government and provides for terms of payment.

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<u>Country</u>	<u>Bribery of Public Officials</u>	<u>Bribery of Others</u>
<u>1/</u> Honduras	Penal Code, arts. 384-389	Commercial Code, Title II, art.425
Hong Kong	Prevention of Bribery Ordinance, Part II	Same
<u>2/</u> Hungary	Criminal Code, art. 235	
<u>3/</u> Iceland	Penal Code, art. 128-189	Law No. 84 of 1933 art. 13
India	Penal Code, 1860; Prevention of Corruption Act, 1947, sec. 5(1)	Corruption Act, 1956, sec. 338B; Industries Act, sec. 15-18AA
Indonesia	Law No. 19, 1971, "Elimination of the Crimi- nal Act of Corruption"; Penal Code of 1908, paras. 209, 210, 419-421, 425	
<u>4/</u> Iran	Penal Code, arts. 139-147	
Ireland	Common law	
Israel	Bribery law 5712-1952	
Italy	Penal Code, arts. 316-320, 323	

1/ Honduras requires that public employees provide statements of their net worth (Decree 301, sec. 30, 1975; Acuerdo 804, Mar. 22, 1976)

2/ Activities by private agents are prevented by Foreign Trade Law of 1974. Art. A235 makes it illegal to receive benefits in return for using real or pretended influence over public officials. Officials bribed are punishable by imprisonment for up to 3 years whereas persons who bribe official can be imprisoned for up to 1 year.

3/ Officials bribed may be imprisoned for up to 6 years, whereas persons who bribe them may be imprisoned for up to 3 years.

4/ Iran requires reporting of use of agents in commercial transactions.

<u>Country</u>	<u>Bribery of Public Officials</u>	<u>Bribery of Others</u>
Ivory Coast	French Penal Code of 1810	Same
Jamaica	Corruption Prevention Act	Same
Japan	Penal Code, art. 193-198	Law No. 4 of 1944 Law No. 242 of 1947
<sup>1/</sup> Jordan	Penal Code, Law No. 85, 1951; Civil Service Regulation No. 23, 1966, art. 82	
Kenya	Prevention of Corruption Act, Ch. 65	Same, sec. 4
Kuwait	Bribery is an offense; no citations given	
Laos	No citations	
Lebanon	Penal Code, Title III, Ch. <sup>2/</sup> <u>1</u>	
Liberia	Penal Code, Title 27, Ch. 5, art. 116	
Luxembourg	Penal Code, art. 245-253	
Madagascar	Penal Code, art. 177, 179	Penal Code, Art. 177
<sup>3/</sup> Malawi	Penal Code, Ch. X, Sec. 90-95	
Malaysia	Prevention of Corruption Act, 1961 (revised 1971); Ordi- nance No. 22, 1970	Same
<sup>4/</sup> Mali	Bribery is an offense; no ci- tations given	

<sup>1/</sup> Jordan Government regulates use of agents through contractual provisions.

<sup>2/</sup> Officials bribed may be fined up to three times the value of the thing received or solicited; persons bribing them may be fined up to twice the thing offered or promised.

<sup>3/</sup> Corrupt practices involving agents and secret commissions on government contracts are governed by Penal Code Ch. XLI, Sections 395-399 (penalties include imprisonment for up to seven years).

<sup>4/</sup> Agents are prohibited from making payments to government employees.

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<u>Country</u>	<u>Bribery of Public Officials</u>	<u>Bribery of Others</u>
Malta	Criminal Code, Sec. 111, 112, 114-117	Civil Code, Sec. 1030, 1033
Mauritania	Penal Code, art. 171, sec. 1 <u>1/</u>	Penal Code, Art. 171, Sec. 3 and Art. 173
Mauritius	Penal Code, Book III, Ch. III, sec. II, para. IV <u>2/</u>	
<u>3/</u> Mexico	Penal Code, Art. 218; Law on Responsibilities of Government Officials, art. 19, para. IV	
Morocco	Penal Code, art. 248, 250	Penal Code, Art. 249
Mozambique	Portugese Penal Code, arts. 318, 321, 322	
Mal	Anti-corruption Act of 1961	
Netherlands	Penal Code, arts. 177, 363	Penal Code, Art. 328 (Ter)
<u>4/</u> New Zealand	N.Z. Crimes Act; Secret Commissions Act; State Services Act (Sec. 53, 54, 76); Public Service Regulation 47 (Code of Conduct)	Secret Commissions Act
Nicaragua	Penal Code, arts. 420-427	
Niger	Penal Code, Law No. 61-27	

1/ Punishment may include a fine up to double the value of the offer or gift.

2/ Law apparently refers only to the recipient of the bribe. Punishment may include a fine not exceeding double the offer or gift.

3/ Mexican Secretariat of National Party has established a system of registration of suppliers to the government and its agencies in order to avoid excessive commissions to unnecessary middlemen and graft.

4/ Section 5 of Secret Commission Act makes it an offense for an agent who concludes a contract on behalf of his principal to fail to disclose his own pecuniary interest in the contract to the principal.

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<u>Country</u>	<u>Bribery of Public Officials</u>	<u>Bribery of Others</u>
Nigeria	Corrupt Practices Decree (No. 38) of 1975	Same
Norway	Penal Code, Para. 112, 128	Penal Code, Paras. 275, 373; Market Law of 1972, No. 47, Para. 6
Oman	Criminal Code, arts. 155-158	
Pakistan	Penal Code, Sec. 161, 162; Prevention of Corruption Act. Sec. 5	
Panama	No specific statute; general provisions in civil, fiscal and penal codes relating to conduct of public officials may apply	
Papua New Guinea	Criminal Code	
Paraguay	Law No. 200 (Public Employees) <sup>1/</sup>	
Peoples Re- public of China	Not known	
Peru	Penal Code, Sec. 344, 345, 353; Decree Law 17106	
Philippines	Penal Code, Ch. 2, Sec. 2; Republic Act 3019, 1960 2/; Presidential Decree 46, 1972	
<sup>3/</sup> Poland	Criminal Code, art. 239-242	Same

1/ Appears to cover only recipients of bribes.

2/ This statute also requires all public officials to file an annual report of their assets and liabilities, including amounts and sources of income. Officials who acquire unexplained wealth may be dismissed.

3/ Poland Government ministries have regulations requiring disclosure of payments to any person subject to the regulations.

<u>Country</u>	<u>Bribery of Public Officials</u>	<u>Bribery of Others</u>
Portugal <u>1/</u>	Penal Code, arts. 314, 315, 318, 319, 321 <u>2/</u>	Individual Labor Contract Law, <u>3/</u> Ch. 2, Art. 20
Qatar	Penal Code, Sec. 109, 110	
Republic of China	Criminal Code, Sec. 121, 122; <u>4/</u> Statute for Prevention of Corruption, 1963, arts. 4, & 5. <u>5/</u>	
Republic of Korea <u>6/</u>	Criminal Code, art. 129-135; Government Officials Control Act, art. 61 (Law 1325, 1963)	Criminal Code, Arts. 355-357
Rwanda <u>7/</u>	Code et Lois, Sec. VII, art. 147-150	Same
Saudi Arabia <u>8/</u>	Religious Code; Royal Edicts	
Senegal	Bribery law in effect, no citation given	

- 1/ Disclosure by corporations of payments to individuals is required by the Industrial Tax Code, Art. 26.
- 2/ Penalties include imprisonment for up to 20 years, in addition to fines.
- 3/ Includes general regulations on duties of employees, without specific mention of bribery or extortion.
- 4/ Public officials who accept or solicit bribes are punishable by fines and imprisonment for up to 7 years; persons who offer or make bribes are punishable by lesser fines and imprisonment for up to 3 years.
- 5/ This emergency statute provides penalties ranging from imprisonment for 10 years to death for crimes including bribery.
- 6/ Agents engaging in commodity sales brokerage transactions must register with Ministry of Commerce and Industry; foreign nationals must obtain permission from the Ministry.
- 7/ New penal code is being drafted which would provide for fines of up to the equivalent of \$20,000 and imprisonment for up to 20 years.
- 8/ A recent edict bans payment to agents for services in connection with defense sales to the Government.

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<u>Country</u>	<u>Bribery of Public Officials</u>	<u>Bribery of Others</u>
Sierra Leone	Laws of Sierra Leone, 1960 Ch. 33, Vol. 1 (Ordinance 11, 1907; Prevention of Corruption Act.)	Same
Singapore	Singapore Statutes, Ch. 104	Same
Somalia <sup>1/</sup>	Penal Code, art. 244-251	
South Africa	Common law (no specific statute) <sup>2/</sup>	Same
Spain	Penal Code, Ch. V, arts. 539, 540, Ch. IX, arts. 385-393, Ch. XI, arts. 400, 401	Commercial bribery is an offense; no citation given
Sri Lanka	Penal Code, Ch. 9; Laws of Ceylon, Ch. 258; Bribery Act, sec. 17	
Sudan	Bribery is an offense; no citations given	Commercial bribery is an offense; no citation given
Surinam <sup>3/</sup>	Penal Code, Title VIII, Art. 229, 230, Title XXVIII, art. 426-428	

<sup>1/</sup> A government agency is now the only entity authorized to collect agent fees or commissions.

<sup>2/</sup> Discussed in Burchell and Hunt, South African Criminal Law and Procedure, Vol. II, pages 210, 219.

<sup>3/</sup> Commercial agents are licensed by district commissioners.

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<u>Country</u>	<u>Bribery of Public Officials</u>	<u>Bribery of Others</u>
Swaziland	General Orders A.1005(3) <sup>1/</sup>	
Sweden	Penal Code, Ch.17, Para.7 and Ch. 20, para. 2	Law of May 29, 1931, Art. 6,7
Switzerland	Penal Code, art. 288	Penal Code, Art. 159; Federal Code of Obligations, Art. 321. A.1
<sup>2/</sup> Syria	Bribery is an offense; no citation given	
Tanzania	Bribery is an offense; no citation given	Commercial bribery is an offense; no citations given
Thailand	Bribery is an offense; no citation given	Same
Togo	Bribery is an offense; no citations given <sup>3/</sup>	Same
Trinidad and Tobago	Prevention of Corruption Ordinance, 1921 <sup>4/</sup>	
Tunisia	Penal Code, sections not cited	
<sup>5/</sup> Turkey	Criminal Code (Law No. 765), Ch. 2, arts. 209, 210, Ch. 3, arts. 211-227 <sup>6/</sup>	

<sup>1/</sup> Provides only for removal of official from the civil service.

<sup>2/</sup> Commercial agents are regulated by Legislative Decree No. 151(1952) and Administrative Order of March 15, 1975 by Prime Minister.

<sup>3/</sup> Apparently the law refers only to persons bribed. Penalties include fines of up to twice the value of the amount of the promise or gift.

<sup>4/</sup> Apparently refers only to the person who solicits or receives the bribe.

<sup>5/</sup> Ministerial Decree No. 10/58 (1959) prohibits payment of commissions to agents on transactions involving government agencies.

<sup>6/</sup> Penalties include imprisonment for at least 5 years for extortion by public officials, up to 10 years for receiving bribes, and up to 3 years for offering bribes.

<u>Country</u>	<u>Bribery of Public Officials</u>	<u>Bribery of Others</u>
<u>1/</u> USSR	RSFSR Criminal Code, art. 173, 174 <u>2/</u>	
United Kingdom	Common law of bribery and corruption; Public Bodies Corrupt Practices Act; Prevention of Corruption Acts of 1906 and 1916; Representation of the People Act of 1949.	Same
<u>3/</u> United States	U.S. Code, Title 18 (Crimes and Criminal Procedure), sec. 201 <u>4/</u>	U.S. Code, Title Sec. 51-54 <u>5/</u> ; U.S. Code, Title 18 Sec 215-216
Upper Volta	Bribery is an offense; no citation given	Same
Uruguay	Penal Code	
Venezuela	Penal Code	Penal Code
Yemen, Republic of	None	
Yugoslavia	Penal Code, arts. 320 324-326	Penal Code, Art. 218, 325, 326
Zambia	Penal Code, Ch. 146, Sec. 94-103	Commercial bribery is an offense; no citations given.

- 1/ Soviet nationals may not take any private role, including agent role, in international transactions.
- 2/ Defines bribery as a dangerous crime punishable by up to 15 years imprisonment, confiscation of property, exile. Receipt of a bribe by a high official may in some circumstances be punishable by death.
- 3/ U.S. Federal Procurement Regulations require that federal agencies include in every negotiated or advertised contract a "covenant against contingent fees" paid to persons who are not bona fide employees of the contractor or bona fide established commercial or selling agents.
- 4/ Violators are fined up to \$20,000 or three times the equivalent of the thing of value, whichever is greater, or imprisoned for up to 15 years, or both, and may be disqualified from holding office in the United States Government.
- 5/ Provides for reimbursement to the federal government of, and punishment of persons giving or receiving, kickbacks paid by a subcontractor to a primary contractor performing work or services under a contract with the government.

National Criminal Legislation on Corrupt Practices\*

Country	A**	B	C	D	E	F
Abu Dhabi	X					
Afghanistan	X		X			
Algeria	X		X			
Argentina	X		X			
Australia	X	X	X			X
Austria	X					X
Bahamas	X					
Bahrain	X		X			
Bangladesh	X					
Barbados	X					
Belgium	X	X				
Benin	X					
Bolivia	X		X			
Botswana	X	X	X			
Brazil	X			X	X	X
Bulgaria	X		X			
Burma	X		X			
Burundi	X					

\*Including the European Communities

- \*\*Column A: Legislation making bribery of public officials a crime.  
 Column B: Legislation requiring disclosure of payments to government officials.  
 Column C: Legislation governing agents.  
 Column D: Legislation restricting political contributions by companies.  
 Column E: Legislation requiring disclosure of political contributions by companies.  
 Column F: Criminal legislation prohibiting bribery of corporate officials.

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Country	A	B	C	D	E	F
Cameroon	X					
Canada	X	X	X		X	X
Central African Republic	X					
Chad	X					X
Chile	X					
China-ROC	X	X	X			
Colombia	X	X	X	X	X	
Costa Rica	X					X
Cyprus	X					
Czechoslovakia	X	X	X			
Denmark	X	X				X
Dominican Republic	X		X			
Ecuador	X	X				
Egypt	X		X			
El Salvador	X	X	X			
Ethiopia	X					
European Communities	X					
Federal Republic of Germany	X					
Finland	X					
France	X					X
Gabon	X					
Gambia	X		X			X
Ghana	X		X			
Greece	X		X			X
Guatemala	X		X			
Haiti	X					X

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Country	A	B	C	D	E	F
Honduras	X		X			X
Hong Kong	X		X			X
Hungary	X		X			
Iceland	X					X
India	X	X		X	X	X
Indonesia	X	X	X	X		
Iran	X					
Ireland	X					
Israel	X	X	X	X	X	
Italy	X			X	X	
Ivory Coast	X					X
Jamaica	X	X				X
Japan	X		X	X	X	X
Jordan	X					
Kenya	X					X
Kuwait	X	X	X			
Laos						
Liberia	X					
Luxembourg	X		X			
Madagascar	X					X
Malawi	X					
Malaysia	X		X			X
Mali	X		X			
Malta	X					X
Mauritania	X					X
Mauritius	X			X	X	
Mexico	X		X			

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Country	A	B	C	D	E	F
Morocco	X		X			X
Mozambique	X					
Nepal	X					
Netherlands	X					X
New Zealand	X	X			X	X
Nicaragua	X					
Niger	X					
Nigeria	X	X	X			X
Norway	X		X			X
Oman	X		X			
Pakistan	X	X	X			
Papua New Guinea	X	X		X	X	
Paraguay	X					X
Peru	X		X			
Philippines	X					
Poland	X	X	X			
Portugal	X	X		X	X	X
Qatar	X					
Republic of China	X					
Republic of Korea	X		X	X	X	X
Rwanda	X		X			X
Saudi Arabia	X		X			
Senegal	X	X	X		X	
Sierra Leone	X					X
Singapore	X	X	X			X
Somalia	X		X			
South Africa	X					X

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Country	A	B	C	D	E	F
Spain	X	X	X	X	X	X
Sri Lanka	X		X			
Sudan	X	X				X
Surinam	X					
Swaziland	X					
Sweden	X					X
Switzerland	X					X
Syria	X	X	X	X		
Tanzania	X	X	X	X		X
Thailand	X			X	X	X
Togo	X					X
Trinidad & Tobago	X					
Tunisia	X					
Turkey	X		X	X	X	
USSR	X					
United Kingdom	X	X	X		X	X
United States	X		X	X		
Upper Volta	X					X
Uruguay	X					
Venezuela	X	X		X		X
Yemen						
Yugoslavia	X		X			X
Zambia	X		X			X