



## DELIVERING STRATEGIC SOLUTIONS ACCA'S 2000 ANNUAL MEETING

### Transparency International-USA

#### Newsletter

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#### Progress at Mid Year

TI continues to make substantial progress toward its objectives:

- France and Italy ratified the OECD Anti-Bribery Convention and passed implementing legislation, and the UK agreed to enact new implementing legislation.
- OECD ministers recommended foreign bribery should be a predicate offense for money laundering.
- The US Senate ratified the Inter-American Convention Against Corruption.
- TI Chairman Peter Eigen met with the President-elect of Mexico, Vicente Fox, on July 31, 2000 in Mexico City. They agreed that in several days TI would present recommendations for addressing corruption in the country.
- A TI delegation met with high-level officials in Beijing, China.

This progress is attributable in large measure to the worldwide reputation of TI and the growing strength of the TI chapter network.

TI-USA technical expertise as well as financial support from US companies, foundations, and government agencies, contributes significantly to TI's success.

#### News from TI Secretariat

On August 1, 2000, Transparency International formally welcomes Jermyn Brooks to a senior management position with responsibility for internal financial management and other issues. Jermyn retired as Global Managing Partner of PricewaterhouseCoopers in London on July 1.

The TI Annual General Meeting and the first TI Integrity Awards will take place on Sept. 29-30, 2000 in Ottawa, Canada. For more information, see [www.transparency.org](http://www.transparency.org) or contact TI-USA.

#### OECD Anti-Bribery Convention

##### Assessments Note Progress and Steps Required

At their June 26-27, 2000 meeting, OECD ministers noted the "considerable progress" made on the Convention since its entry into force on February 15, 1999. Twenty-four countries, including all the G-7 and representing over 80% of OECD exports, have completed action to ratify and implement the Convention.

The French and Italian Parliaments are the most recent to complete work. The Netherlands' lower house of parliament has completed its work and approval by the upper house is considered a formality.

The OECD Working Group on Bribery has reviewed the quality of the implementing legislation of 21 countries, giving some high marks and recommending changes in others. The Japanese and British legislation were found seriously deficient.

In response to criticism, the UK government reversed its position that a 1906 anti-corruption law sufficed to comply with the Convention. On June 20, it issued a White Paper indicating that new legislation with broad territorial jurisdiction would be enacted. TI will press for passage by Parliament in the fall.

Japan has agreed to go back to its parliament to remedy shortcomings, but it is unclear how soon and how many will be corrected. A number of other countries have already taken remedial steps.

The OECD Phase 1 reports, reviewing each country's legislation, are at: [www.oecd.org/daf/nocorruption/index.htm](http://www.oecd.org/daf/nocorruption/index.htm).

On June 29, 2000, the Departments of State and Commerce submitted Reports to Congress. They note that the OECD monitoring procedures have provided a "thorough, unbiased examination" which has been "rigorous, comprehensive, and frank in identifying shortcomings."

The US government credits Transparency International for playing "a key role" in the monitoring process both in the US and in signatory countries. TI and its national chapters have submitted written comments on implementing laws to the OECD and, where necessary, drawn public attention to shortcomings.

The US government reports are at: [http://www.mac.doc.gov/Tcc/BRIBERY/oecd\\_report\\_2000/index.html](http://www.mac.doc.gov/Tcc/BRIBERY/oecd_report_2000/index.html) and [http://www.state.gov/www/issues/economic/exec\\_summary.html](http://www.state.gov/www/issues/economic/exec_summary.html)

#### Phase 2: Enforcement

**Phase 2: Enforcement**

The OECD Working Group will commence Phase 2 in early 2001 and plans to review the adequacy of enforcement in six countries per year.

On June 16, 2000, TI submitted recommendations to OECD Secretary-General Donald Johnston and to key US Administration officials on steps needed to secure effective enforcement. TI's recommendations include:

- Increasing OECD attention to accounting issues, money laundering of bribes, and bribe payments to political parties.
- Providing adequate staff and budget for the OECD monitoring process which is expected to be at least a 6-year effort; and,
- Making the monitoring process more transparent by holding public hearings with private sector and civil society experts, and by publishing government responses to OECD questionnaires.

The full text is on the TI-USA website.

**Money Laundering & Private Banking**

- TI believes that a comprehensive anti-corruption strategy must include the prevention of money laundering of bribe payments. At the June Ministerial, ministers agreed that bribery of foreign officials should be a predicate offense, triggering money laundering legislation. They recommended eliminating the condition that this would be required only if bribery of domestic officials were also a predicate offense, a position TI has long advocated.
- On June 22, 2000, the Financial Action Task Force on Money Laundering cited 15 non-OECD countries for not cooperating in the fight against money laundering. Treasury Secretary Lawrence Summers called the list a "landmark step" to stop corrupt foreign officials from laundering their ill-gotten gains through safe havens.
- TI and major US and European international banks are continuing their discussions on steps to improve consistency and effectiveness in their anti-money laundering efforts. This yearlong project, in which Stanley Morris and Fritz Heimann are participating, is drafting global anti-money laundering guidelines for private banking. Agreement on the guidelines is expected this fall.

**TI Recommendations on Accounting & Auditing**

On April 27, 2000, Thomas Milan (Ernst & Young), Alan Levenson (Fulbright & Jaworski), Jermyn Brooks and Fritz Heimann presented to the OECD Working Group on Bribery a TI Study on the requirements and practices in 16 OECD countries regarding books and records, internal controls and auditing practices. Article 8 of the Convention and the 1997 Recommendation recognize the essential role financial controls play in combating bribery.

The Study identified several areas of deficiencies. Most countries do not have legal requirements that companies maintain adequate internal controls. Many countries do not apply books and records requirements to all companies engaged in significant international transactions or to subsidiaries outside the country. The Study also revealed shortcomings in auditing standards and practices, in requirements for audited financial statements and in financial disclosure requirements.

TI recommended that Phase 2 country reviews include an assessment of action taken to address the deficiencies.

The TI Study is on the TI and TI-USA websites.

**Bribe Payments to Political Parties**

Recent scandals have drawn attention to the problem of illicit payments to foreign political parties and party officials. Such payments are not covered under the OECD Convention. Fritz Heimann is helping to organize a TI meeting on October 12-14, 2000 in Florence, Italy to develop proposals to present to the OECD this year.

TI Chairman Peter Eigen and TI Advisory Council member, John Brademas, will co-chair the meeting. Participants will include 25 influential leaders with experience in politics, international business, and law enforcement. TI-USA board member Michael Johnston is organizing the preparation of working papers and Advisory Council member Philip Heymann will participate. Other participants include former French Justice Minister Robert Badinter; Lord Neill, chair of the UK Committee on Standards in Public Life; Giulio Tremonti, a leader of the Italian center-right coalition, and leading German industrialists, Edzard Reuter and Herman Franz.

**OECD Guidelines for Multinational Enterprises**

At the OECD Ministerial Meeting, the 29 OECD members and Argentina, Brazil, Chile and Slovakia adopted revised Guidelines for Multinational Enterprises. The Guidelines provide voluntary principles and standards for responsible business conduct including on labor relations, protection of the environment, and reducing corruption.

Agreement on the Guidelines follows complex negotiations. The US business community has reserved its endorsement pending experience with implementation.

See: [www.oecd.org/daf/Investment/guidelines/mnetext.htm](http://www.oecd.org/daf/Investment/guidelines/mnetext.htm)

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### **OECD Export Credit Agency Group**

TI and its national chapters in Belgium, Canada, Germany, and the US, have pressed the OECD and the EU to take action to prevent export credit for deals secured with bribes. They recommended that agencies require a no-bribery affidavit and perform financial audits to determine if bribery took place.

In February, the German export credit insurance agency, Hermes, announced that it would require applicants to sign a no-bribery affidavit. At the April 2000 meeting of the OECD Working Party on Export Credits, the German and Belgian Governments tabled a proposal that all OECD export credit agencies adopt similar measures.

The Working Party is expected to issue a formal "Action Statement" at the November meeting. The European Commission is discussing a common approach for its members.

#### **G-8 Calls for Progress**

The G-8 Communiqué Okinawa 2000 calls for completion of ratification and implementation of the OECD Convention and for the launch of UN talks on a new anti-corruption instrument. The G-7 Finance Ministers also called for broadening the scope of money laundering laws to cover all serious crimes, which would include bribery, and for adequate resources for supervision and compliance.

#### **News of the Americas**

##### **US Ratifies Convention ...**

Responding to strong expressions of private sector support mobilized by TI-USA, the Senate ratified the Inter-American Convention Against Corruption on July 27, 2000.

TI-USA and nine leading business organizations had sent letters to Senator Helms and other Senate Foreign Relations Committee members and many representatives joined TI-USA in educating Hill staff on the importance of the Convention.

Amb. Alan Larson (Under Secretary of State), Amb. Bill Pryce (Council of the Americas), Lucinda Low (American Bar Association), and Nancy Boswell (TI-USA) testified at the May 2, SFRC hearings chaired by Senator Lincoln Chafee.

The SFRC Report, issued on July 7, notes that no implementing legislation is required and calls on the Administration to report annually to Congress on progress by other countries on ratification and implementation and on the adoption of an OAS monitoring process.

##### **... Good Progress on an OAS Monitoring Process**

Since it convened an Experts Roundtable last November, TI-USA has worked to build support for an OAS follow-up process to promote region-wide action on the Convention. On June 5, 2000, the OAS General Assembly took a significant step forward. It adopted a resolution that calls for an analysis of monitoring mechanisms in other fora and a recommendation by year-end on the most appropriate model for the OAS. The resolution hopefully opens the way for action at the April 2001 Summit of the Americas.

To stimulate progress toward this objective, on July 13, 2000, TI-USA and its co-hosts of the Experts Roundtable sent a letter to heads of state and briefed journalists, including from major newspapers in Argentina, Brazil, and Mexico and CNN radio, on the importance of the OAS Convention to region-wide reform. Claudio Grossman, (Dean of the AU Washington College of Law) and Cayetano Povolo, (President of the Inter-American Bar Association) joined Stanley Morris, Lucinda Low, and Nancy Boswell.

The Experts Roundtable recommendations, published by the AU International Law Review, and the letter to heads of state were distributed.

The letter is online at: [www.transparency-usa.org](http://www.transparency-usa.org)

#### **Congress Ties Benefits to Governance**

The Trade and Development Act of 2000, enacted on May 18, 2000, conditions trade benefits on improvements in governance. Under Title II, the United States-Caribbean Basin Trade Partnership Act, to be eligible for lower tariffs or duty-free treatment, these countries must demonstrate steps to ratify and implement the Inter-American Convention Against Corruption and must contribute to multilateral efforts to implement international rules on transparency in government procurement.

Title I, The African Growth and Opportunity Act, conditions the eligibility of sub-Saharan African countries for duty-free treatment on specified products on their efforts to combat corruption and bribery.

TI-USA, including board member Ambassador Herman Cohen, met with experts from the Global Coalition for Africa and other associations that promote trade with Africa to develop guidance for the Administration on how to encourage good governance.

The International Anti-Corruption and Good Governance Act of 2000, passed by the House on July 25, would amend the Foreign Assistance Act of 1961 to make combating corruption a principal goal of US development assistance. Introduced by Rep. Sam Gejdenson, Ranking Member of the House International Relations Committee, the bill would ensure that US aid programs promote anti-corruption activities in countries where there is a significant foreign aid program or where the US has a significant economic interest and there are persistent problems with corruption.

#### **GAO Grades World Bank**

On April 6, 2000, the General Accounting Office released its report to Congress, World Bank, Management Controls Stronger, But Challenges in Fighting Corruption Remain. The Congressionally mandated report concludes that the Bank has undertaken "serious efforts to identify and correct weaknesses in its management controls." However, it notes that challenges remain and "further action will be required before the Bank can provide reasonable assurance that project funds are spent according to the Bank's guidelines."

While the Bank has created oversight structures and increased its financial management staff, the report notes that many borrowers still have weak managerial structures. The Bank is, therefore, working to reduce corruption through programs to build borrowers' institutional capacity.

The report suggests the Bank target procurement and financial management assessments at countries where corruption risks are greatest and raise awareness of the Bank's anti-corruption program among implementing agencies and borrowers.

World Bank Vice President and Controller Jules Muis presented his perspective on the report and on Bank efforts at the TI-USA meeting in June. He underscored the importance of compliance and the need to carefully address obstacles to reform.

#### **Judicial Integrity Initiative**

TI-USA is continuing to work with Linn Hammergren (World Bank) and other experts to develop a mechanism that could act as an incentive to reducing corruption in the judiciary. The idea, first proposed to TI-USA by US Supreme Court Justice Stephen Breyer, is to develop a set of widely-acceptable indicators that justice officials, donors, credit rating agencies, or NGOs, might use to evaluate the likelihood of corruption in judicial systems and to benchmark progress.

Linn Hammergren discussed a preliminary set of indicators at the February 23-25, 2000, Conference of the Center for the Independence of Judges and Lawyers of the International Commission of Jurists. Conference participants developed a "Policy Framework for Preventing and Eliminating Corruption and Ensuring the Impartiality of the Judicial System" and recommended the development of such indicators.

At the June 5-7, 2000, World Bank Conference "Comprehensive Legal and Judicial Development," TI-USA took the discussion one step further by consulting with legal scholars, donors, and supreme court judges from the developing world. They confirmed the value of the project, agreed to help refine the indicators, and suggested regional workshops for judicial officials to test the relevance of the indicators to local conditions.

#### **Corporate Compliance**

**for Small & Medium Sized Enterprises**

A TI-USA Working Group is developing compliance programs tailored to the needs of small and medium-sized enterprises. At its first meeting on June 20, the Working Group began defining the basic elements of such programs, taking into account that some SME's lack compliance personnel.

The Working Group will compile sample programs, training materials and other resources. The working group, chaired by Phyllis Erikson, (J.M. Huber), includes Carlo di Florio (PricewaterhouseCoopers), Dewitt Rogers (Troutman Sanders), Kate Atkinson (Miller & Chevalier) and other participants.

**TI Mission to China**

In May, a TI delegation consisting of Peter Eigen, Tunku Abdul Aziz, Fritz Heimann and Professor Thomas H. Lee were invited to Beijing by the Chinese Government. They met with high-level officials of the Ministry of Supervision and with representatives of the China Society for Administrative Supervision (CSAS), which is closely affiliated with the Ministry.

The discussions were productive, permitting TI to learn about Chinese concerns and enlightening the Chinese about TI's systemic approach. TI presented a list of possible areas for future collaboration and invited CSAS representatives to TI's Annual General Meeting in Ottawa, Canada.

**Central and Eastern Europe****Action at the Council of Europe**

The US Administration has indicated that it is planning to sign the Council of Europe's Criminal Law Convention and join GRECO, the COE's monitoring mechanism, in the near future.

By joining GRECO, the US could participate with 22 other countries in the monitoring that is scheduled to begin this fall. It will start by assessing compliance with the COE's 20 Guiding Principles for the fight against corruption. The first set of countries to be evaluated is Spain, Belgium, Finland, Slovenia and Slovakia. They will submit responses to questionnaires on their laws and practices and will be subject to on-site peer reviews.

TI-USA will convene a consultation with the Administration and the private sector to exchange views. TI-USA is working with members of the ABA Task Force on International Standards for Corrupt Practices to prepare an analysis.

**Russian Anti-Corruption Initiatives**

TI-Russia and the Open Society Institute, ABA/CEELI, Moscow Club of Lawyers, and other local groups held a National Integrity Workshop in Moscow on May 24-25, 2000. Gene Sullivan, chairman of the TI-USA Task Force on Central and Eastern Europe, participated with representatives from TI and TI chapters in the region.

The Russian Federation's Chamber of Commerce and Industry, in cooperation with the US Department of Commerce, has developed Basic Guidelines for Codes of Business Conduct and training programs. Information is available online at [www.mac.doc.gov/INTERNET/Ruleof Law.htm](http://www.mac.doc.gov/INTERNET/Ruleof Law.htm).

Matthew Murray (Sovereign Ventures), a St. Petersburg businessman, described a voluntary Declaration of Integrity in Business Conduct that has been signed by 120 mostly Russian-owned companies and several US corporations, such as Honeywell, KPMG, and Otis.

**TI-USA Publications & Speeches**

"Corruption and Government," S. Rose-Ackerman, University of Ljubljana, Slovenia.

"Human Rights and Ethical Business Practices," N. Boswell, US Chamber of Commerce Conference, DC.

"Improving Public Expenditure Management," S. Rose-Ackerman, Asian Development Bank, Tokyo.

"Diagnosing Judicial Performance," N. Boswell, World Bank Legal and Judicial Development Conference, DC.

"Corruption and Public Accountability," S. Rose-Ackerman, "Corruption and Accountability," M. Johnston, Gulbenkian Foundation Conference, Lisbon.

"AACCLA's Role in Combating Corruption," N. Boswell, AACCLA Forecast on Latin America, DC.

"Concluding Remarks," N. Boswell, Organization of Africans in the Americas, DC.

"Role of International Conventions in Overcoming Corruption," F. Heimann, International Law Association, London.

"Multinational Initiatives Against Corruption," N. Boswell, Greater American Business Coalition, DC.

"An International Perspective on Business Ethics," N. Boswell, AGA Conference, San Francisco.

**Calendar of Upcoming Events**

Sept. 6-10: UN Millennium Assembly, New York

Sept. 14-15: OECD Convention Symposium, Bruges

Sept. 21-23: Anti-Corruption Summit, Alexandria

Sept. 26-28: World Bank/IMF Meetings, Prague

Sept. 29-30: TI Annual General Meeting, Ottawa

Nov: Trust for the Americas Andean Anti-Corruption Summit, Cartagena

Nov. 15-16: APEC Leaders Summit, Brunei

**2001**

April 20-22: Summit of the Americas, Quebec

May 28-31: 2<sup>nd</sup> Global Anti-Corruption Forum, The Hague

Oct. 7-11: 10<sup>th</sup> Intl. Anti-Corruption Conference, Prague

**Transparency International-USA**

1112 16th St., NW, Suite 500, Washington, DC 20036

Tel. (202) 296-7730, Fax (202) 296-8125

[tiusa@aol.com](mailto:tiusa@aol.com); website: [www.transparency-usa.org](http://www.transparency-usa.org)

Chairman: Fritz Heimann

Managing Director: Nancy Zucker Boswell

Managing Director: Nancy Zucker Boswell

Newsletter Editor: Marcia Greville

*TI-USA is the U.S. chapter of Transparency International, headquartered in Berlin, Germany. TI is a non-profit coalition of business, academic, civic, and professional leaders, which promotes anti-corruption reform. Financial support is provided by corporations, law firms, individuals, foundations, and development agencies.*

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