

2. The Vice President's Global Forum on Fighting Corruption: Safeguarding Integrity Among Justice and Security Officials

A. Background – International Crime Control Strategy and the Birmingham Summit

When the President approved his International Crime Control Strategy in May 1998, one of the objectives defined to implement its seventh Goal (“Foster International Cooperation and the Rule of Law”) called for the United States Government to:

Strengthen the rule of law as the foundation for democratic government and free markets in order to reduce societies' vulnerability to criminal exploitation.

The ability of governments to maintain the rule of law is indispensable for societies seeking to establish, consolidate or maintain democratic political and free market economic institutions. This is true for all governments, but particularly so for those in post-conflict situations, or in circumstances of emerging democracy. Maintaining the rule of law against all forms of criminal activity is the definition of a state's duty to its own citizens. It is also the unavoidable condition, in an age of globalization, for the protection of American citizens, activities and interests from all forms of crime with origins or activities beyond United States borders.

The rule of law is established and maintained by the laws and institutions of government, but those institutions consist of humans. The rule of law must be based in the affirmative support of a law-abiding population. However, the rule of law is maintained by officials of governments responsible for identifying and punishing offenses against it. Rule of law thus has as a fundamental premise that the officials of governments can and will effectively, consistently and impartially carry out their duties to uphold it. The public order, security and justice officials of governments have a particular significance in the broad problem of corruption. Their responsibilities are fundamental to the operation of democratic institutions and free markets. The twin principles of combating corruption are transparency and accountability. Accountability for acts of corruption is ultimately accountability before the criminal justice authorities of the state. If there is corruption among the justice and security officials of governments, the ability of these principles to operate to counter all forms of corruption is compromised. Corruption of the officials responsible for the rule of law not only impairs the institutions of government itself, and erodes the potential effectiveness of anticorruption measures in other aspects of a society.

Many of the forms of corruption addressed by United States and international activities discussed elsewhere in this Strategy are basically oriented toward the giver of a bribe. Considering the issue from the standpoint of justice and security officials of governments that receive bribes makes it evident that many forms and sources of corruption potentially come into play. Commercial corruption or “speed money” payments by transnational businesses are a factor but are probably not the most

significant one. Transnational organized crime depends for its functioning on evading the rule of law through bribery and corruption of officials responsible to maintain it. Relationships of corruption may exist between the justice and security officials of a government and their own populations. These can become so pervasive as to impair the legitimacy of the government. The problem of corruption in the justice and security officials of government is most pronounced, but is not in any way limited to, societies with fragile or evolving institutions. Even in mature societies like that of the United States, one of the most damaging aspects of the transnational illicit drug industry has been its corruption of Federal and other officials responsible for border control, law enforcement and crime prevention.

The International Crime Control Strategy identified the question of corruption among justice and security officials of governments as one of central significance to the rule of law. It recognized that corruption among such officials has existed throughout history. It took account of the fact that to effectively combat such corruption, it is necessary to identify and analyze the institutional factors that promote integrity among public officials, or deter corruption by identifying and punishing perpetrators of corrupt acts. It recognized that unlike the issue of bribery in commercial transactions, corruption affecting justice and security officials has been less subject to intensive discussion, analysis and policy definition in dialog among governments. However, and most importantly, it recognized that corruption among the officials of a government that are responsible to maintain the rule of law cannot be "solved", but can be controlled. One of the initiatives set forth in the International Crime Control Strategy is therefore that:

The United States will call for an international conference within the next six months to focus on the development of model approaches for upholding integrity among key justice and security officials. This international conference, which the President has asked Vice President Gore to organize, would examine real life situations relating to the standards of integrity among justice and security officials worldwide and then prepare appropriate policy recommendations.

Justice and security officials include all those who have a key role in maintaining the rule of law, whether they are police, border officials, military personnel, prosecutors or judges. The conference would collect basic facts on compensation, assess corrupting influences, review standards of ethical conduct, and take stock of ongoing, national, regional and global initiatives – all with a view to determining which approaches to upholding integrity work, which do not, and what new approaches might be developed.

In June 1998, almost simultaneously with the approval of the U.S. strategy, the G8 heads of government held an extensive discussion of the relationship between serious

crime and corruption at the Summit in Birmingham, England. Based on that discussion, the principals drafted and added to their Communique a new sentence. This directed the G8 Senior Experts on Transnational Crime ("Lyon Group") to "explore ways of combating official corruption arising from the large flows of criminal money." The Communique directed that the Experts report back on their activities to the next meeting of the G8 Summit, to be held at Koln, Germany, in June 1999.

Vice President Gore issued his call for the conference, officially designated "Global Forum on Fighting Corruption: Safeguarding Integrity Among Justice and Security Officials," in early December 1998, and sent messages of invitation to 80 governments to send participants. Response to the Vice President's invitations was highly positive. By the time this document was prepared, a month before the conference, over fifty governments had indicated their intention to participate; none had yet declined, and many others had expressed their desire to attend, or to participate in follow-on activities against official corruption. Responses indicated that governments saw this initiative to begin international discussion on the specific issue of corruption among justice and security officials as opening a new aspect of the wide problem of corruption. Moreover, this is an aspect of fundamental significance to all governments, whose most basic purpose is to maintain the rule of law.

B. Conference Outcomes

The officials being sent by most governments to the Vice President's Global Forum on Fighting Corruption will not be experts in international agreements. They will for the most part be officials directly responsible for maintaining the integrity and preventing corruption among justice and security officials, financial regulatory officials and procurement/budget officials. The United States called for this conference as a point to begin a process of systematic international consideration of a particular issue of corruption, not as a means of agreeing immediately on an appropriate international response. The set of outcomes which the United States anticipates from the conference reflects this.

i. Guiding Principles and Effective Practices. The Vice President's Global Forum will result in an extensive and detailed examination, reflecting the experience of nearly eighty governments, of issues addressed in this working paper. The consolidation of international consensus represented by this working paper and the report on discussions of these issues should permit a more organized examination by governments of measures they may take to fight official corruption and promote public integrity. The United States will work during 1999 to further elaborate and consolidate international consensus on this issue, employing this working paper as its means for so doing.

ii. Mutual Evaluation. Governments have long had the practice of assisting each other in the implementation of policies in some fields through a process of more or less formalized mutual evaluation of their policies and activities. A process of mutual evaluation has been one of the most important elements in the success against money laundering of the Financial Action Task Force established in 1990. The OECD Bribery Convention requires that parties assist each other in implementation of its provisions through a process of mutual evaluation. Implementation of the Criminal Law Convention Against Corruption recently approved by the Council of Europe by those countries that become party to it will be assisted through a formal process of mutual evaluation by the Council of Europe's Group of Countries Against Corruption. The United States has concluded that such processes of mutual evaluation are very effective means by which governments may cooperate with each other against many aspects of transnational crime. In 1999, the United States will continue to promote the concept that governments should cooperate in carrying out programs of systematic follow-up to monitor and promote the full implementation of appropriate measures to combat corruption. This should be accomplished through mutual assessment by governments of their legal and practical measures to combat corruption, as established by pertinent international agreements.

iii. G8 Consideration. In 1999, the United States will suggest that the Lyon Group consider whether the development and conduct of this Global Forum on Fighting Corruption may be reported to the Summit principals at Koln as an appropriate and effective response to their mandate at Birmingham that the senior experts explore ways of combating official corruption.

iv. A Global Anticorruption Regime. In 1999, the United States will explore the feasibility of incorporating a global commitment by governments to implement effective measures against official corruption in the United Nations Convention on Transnational Crime, which is presently being negotiated. The United States will promote the concept that governments should commit themselves on a global basis to implement effective practices to fight corruption among officials responsible for the rule of law. The conference will document and consolidate further the broad international consensus that already exists concerning guiding principles and practices that are effective to do this.

v. Regional Anticorruption Efforts. In 1999, the United States will build upon the results of the conference to advance its

own ratification of the OAS Convention Against Corruption now pending before the U.S. Senate. The United States will encourage regional groups in Europe, Africa and other regions to consider and draw on the results of the conference in defining a regime of official integrity and anticorruption principles and practices that will be effective in their particular regional situations and circumstances. Where appropriate, the United States will support or participate in such regional initiatives.

vi. **Research, Training, Assistance.** In 1999, the United States will draw upon the results of the conference to identify specific issues or aspects of the problems of promoting integrity and fighting corruption among justice and security officials that should be the subject of further systematic research. The United States will, through its cooperation with established international institutions, seek to promote and support such research. The United States will augment and enhance projects and activities in its bilateral and multilateral international training, cooperation and assistance programs to respond to the need to develop institutional capabilities of governments to define and implement comprehensive government integrity and anticorruption programs, as defined in greater detail below.

vii. **UN Global Program Against Corruption.** The United States will cooperate in and strongly support implementation by the United Nations of the Global Program Against Corruption. The United States welcomes definition by the United Nations in 1999 of this Program. This is yet another reflection of broad international consensus in strong support of effective measures by governments against corruption.

viii. **International Agenda.** In 1999, the United States will draw as appropriate on the results of the conference in its promotion of business, economic governance, public diplomacy and all other aspects of a comprehensive international effort against all forms of corruption. Reflecting the strong outpouring of interest and support among the international community for this conference, the United States will continue to place strong emphasis on the importance of fighting corruption and safeguarding integrity among justice and security officials, as the essential precondition to maintenance of the rule of law. In 1999, the United States will consult with other governments to define follow-on activities to sustain and advance the important elements of international consensus emerging from this first international conference on corruption and integrity issues specific to officials responsible to maintain the rule of law.