

6. The Summit of the Americas and Inter-American Regional Initiatives

A. The Summit of the Americas Process

The Summit of the Americas which was held in Miami in December 1994 launched an ambitious series of initiatives by the governments of the Western Hemisphere to cooperate to improve a broad agenda of issues relating to democratic institutions of government, free trade, sustainable economic development and growth. Many of these initiatives broke new ground by initiating international consultation and cooperation on issues that had previously not been systematically considered, or had been regarded as principally the concern of individual countries. Few of the issues and initiatives that originated at Miami were more significant than its initiative on corruption.

In the Declaration of Principles, the heads of the American states declared collectively that: "Effective democracy requires a comprehensive attack on corruption as a factor of social disintegration and distortion of the economic system that undermines the legitimacy of political institutions." The Action Plan that accompanied the Declaration noted that corruption had become an issue of serious interest not only in the Western Hemisphere but in all regions. It noted that modernization of the state, including deregulation, privatization and simplification of government procedures, reduces opportunities for corruption, and also that all aspects of public administration in a democracy must be transparent and open to public scrutiny. Governments declared their commitments to take measures against corruption, including: ensuring proper oversight of government functions; establishing standards for public employees and penalties for those violating them; advance toward the objectives sought by the OECD in its Bribery Convention; develop cooperation in judicial and banking areas to facilitate international investigation of corruption; improve government regulations and procurement, tax collection, and the administration of justice. It concluded with a commitment that governments would, within the OAS, develop "a hemispheric approach to acts of corruption in both the public and private sectors that would include extradition and prosecution of individuals so charged, through negotiation of a new hemispheric agreement. . . "

At the next Summit of the Americas at Santiago, Chile in April 1998, the heads of the American states declared their determination to "lend new impetus to the struggle against corruption. . ." In the Plan of Action that accompanied that Declaration, they committed their governments to a number of further measures to elaborate the anticorruption regime in the Hemisphere. They called in particular on all to ratify the Inter-American Convention Against Corruption negotiated after Miami. They called for appropriate follow-up to the Convention, and called in particular for laws requiring that senior public officials and other appropriate **officials** disclose their financial circumstances. They agreed also to cooperate to promote rules to regulate contributions to election campaigns, and to prevent contributions derived **from** organized crime and drug trafficking. Fulfilling one of the commitments at Santiago, in August 1998 the Government of Chile sponsored a Symposium on Enhancing Probity in the Hemisphere.

B. The Inter-American Convention Against Corruption

In March 1996, the Inter-American Convention against Corruption was adopted under the auspices of the Organization of American States. Twenty five countries, including the United States, have signed the Convention, and 13 have deposited instruments of ratification. The Convention entered into force on March 6, 1997 . The Clinton Administration submitted the Convention in April 1998 to the Senate, where it is still pending.

Like the OECD Convention, the Inter-American Convention requires parties to criminalize transnational bribery of public officials. However, in conformity with the terms of the Summit Declaration and Action Plan, the Inter-American Convention also addresses broader issues of corruption. It obligates parties to criminalize both the active and passive bribery of domestic government officials for any purpose. It provides procedures for cooperation in extradition, seizure of assets, mutual legal assistance and technical assistance where acts of corruption occur or have effect in the territory of one of its parties. The Convention also contains a series of preventive measures that the Parties agree to consider establishing to prevent corruption. These include systems of government procurement that assure the openness, equity and efficiency of such systems. Unlike the OECD Convention, the OAS Convention does not include in itself an obligatory mutual evaluation process for governments to monitor and assist each other to ensure the full and effective implementation of its commitments.

The first element of the U.S. international strategy against corruption in 1999 to advance this regional anticorruption initiative in our own Hemisphere must obviously be to seek early and positive action by the U.S. Senate to approve the Convention. There has been no indication that the content of the Convention is considered to be in any way controversial, although it has not appeared to be considered a matter of urgency or high priority. Some have expressed some skepticism as to how effectively this Convention will be implemented, in the absence of a mandatory mutual evaluation mechanism like that employed in the OECD Convention. In promoting ratification of the Convention, the Administration should address both of these elements.

One of the important elements of the United States international strategy against corruption that descends from the Vice President's February conference is to encourage the development of regional anticorruption initiatives. Programs at the meeting highlighted the OAS Convention; two sessions directly addressed it. In 1999, the United States will continue to promote public support for early ratification of this important regional anticorruption regime. Support will be sought from the U.S. business community, whose interest in the subject is comparable to the interest that led to strong business support of the OECD Convention: to establish and maintain an appropriate competitive environment for American businesses abroad. Support by non-governmental organizations, in particular Transparency International, will be important in this effort.

Second, without regard for whether the U.S. itself has yet ratified the Convention, the United States will undertake a systematic effort through diplomacy to encourage other

countries in the Western Hemisphere that have not ratified this Convention to do so, and those that have ratified it to act promptly and energetically to implement all of its provisions in full. An effective hemispheric regional anticorruption initiative is an important example to other regions. The broadest possible acceptance of its obligations, and effective action by governments to implement them, serve a wide range of United States interests in the region, and also create conditions that will help to advance our own ratification of the Convention.

Finally, the United States will encourage the OAS and parties to the **Inter-**American Convention to consider how a mechanism for mutual evaluation by parties of implementation of its commitments might be developed. In this regard, it is possible that the procedure for multilateral evaluation of implementation by countries in the Hemisphere of efforts against the production, traffic and abuse of illegal drugs that is being developed in the Inter-American Commission Against Illicit Drugs (CICAD) may offer concepts useful to elaborating such a procedure with respect to the Convention Against Corruption. Progress toward a viable mechanism for mutual evaluation in this regional context would constitute a **helpful** example for other regional initiatives, and would also contribute to creating conditions in which ratification of the Convention by the United States could be advanced.