



# *Economic* **Perspectives**

## **CORRUPTION AND DEVELOPMENT**

**The Case Against Corruption  
and for Rule of Law by  
Under Secretary of State  
Stuart Eizenstat**

**Training Journalists to  
Expose Corruption**

**Resisting Bribery  
in the Rush for  
Procurement Contracts**

**Transparency International's  
Integrity Pact**

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# ECONOMIC PERSPECTIVES

## Corruption: An Impediment to Development

*ECONOMIC PERSPECTIVES*

*A USIA ELECTRONIC JOURNAL*



There is no question that as we move into the global information age, foreign corrupt practices threaten to undermine both the growth and the stability of our global trade and financial system. Nowhere are the consequences more evident than in emerging and developing economies. The financial crises in Russia and Asia have clearly been deepened as a result of cronyism and corruption. As emerging economies open their doors to foreign investment and trade, corruption tends to thrive. At worst, it can impede the ability to attract overseas capital, it can damage economic development and reform, and it can hinder the growth of democratic institutions.

This issue of **Economic Perspectives** explores the economic costs of corruption and bribery and discusses new international strategies for tackling the problem. I hope you will support our efforts to fight this scourge, and I hope this discussion will help us focus on the steps we need to take to build a stronger global economy for people all around the world. — Vice President Al Gore

# ECONOMIC PERSPECTIVES

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## □ PROMOTING THE RULE OF LAW AND ANTI-CORRUPTION IN A GLOBALIZED ECONOMY

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*By Stuart E. Eizenstat, Under Secretary of State for Economic, Business, and Agricultural Affairs*

*The struggle against corruption is part of a larger U.S. aim to introduce rule of law into the international marketplace. In this article, Under Secretary Eizenstat presents the U.S. case for trying to change the way international business has been conducted in the past and describes the benefits the changes will bring.*

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The development of the rule of law and effective anti-corruption strategies in the international arena, especially in developing and transitional economies, is very much in our national interest and has now become an integral component of U.S. foreign policy. The transition of emerging nations toward rule-of-law based societies free of corruption helps to support the development of accountable democratic institutions and market economics and to promote trade liberalization and economic growth from which American firms and workers can benefit.

The Clinton administration has a real sense of optimism about the rule of law and anti-corruption efforts. There has been a sea change in this area, with governments around the world recognizing the importance of having law-based systems and willing to discuss and address in meaningful ways issues of corruption.

The development and implementation of a proper legal framework — modern constitutions with basic freedoms and human rights and an independent judiciary to enforce those rights — is vital to fostering democratic ideals. The ability of citizens to turn to courts for protection of their rights is fundamental. While these concepts are taking root around the world, the process of education and change is a complex and long-term one.

The need for change is not just a matter of new laws or even the building of institutions, but is systemic in nature. It requires nothing short of the building of civil society in cultures long dominated by nondemocratic, autocratic traditions. This includes the cultivation of the

ethos of the rule of law and the need to replace cynicism about the rule of law with optimism. The notions that a government is bound by rules and that individuals have the right to challenge their governments have traditionally not been established norms in many societies. Yet, it is fair to say that the movement globally is in the right direction.

### **FAIR AND PREDICTABLE LEGAL RULES**

Having the necessary legal framework in place also is vital to the development of the global marketplace. The establishment and implementation of a fair, predictable, and flexible set of legal rules is vital to the processes of business formation, the establishment of capital markets, the ownership and transfer of real property, the protection of contract rights, and other key elements which undergird economic development. Likewise, the establishment and enforcement of shareholder rights and rules on intellectual property are critical to fostering market economics and a climate hospitable to the foreign investment necessary to generate economic growth. An independent judiciary also is important as a check against arbitrary government actions that affect business — a common problem in emerging markets — and as a means of resolving private commercial disputes. I cannot emphasize enough the role that an independent judiciary can play in both the development of democratic and market-based institutions. In short, as the Asian financial crisis has revealed, the rule of law is important to long-term economic growth. Nobel economics laureate Douglass North expressed the connection between democratic governance and economic development in his Nobel acceptance speech: “While economic growth can occur in the short term with autocratic regimes, long-term economic growth entails the development of the rule of law.”

The rule of law also supports social stability and peace by promoting decision-making according to rules rather than fiat; by providing reliable, nonviolent methods of settling

disputes; and by creating a framework of justice within which violent conflicts involving war crimes and massive human rights abuses can be resolved. Enhancing the rule of law also improves our domestic security by fostering legal institutions in other countries with the capacity to combat transnational crimes such as terrorism, money laundering, drug trafficking, and trafficking in women before they reach our borders.

The development of the rule of law is also important to the current global efforts to combat corruption — which have been gathering a head of steam and have now reached critical mass. The dilemma is that corruption tends to thrive in developing and transitional economies with incomplete and evolving legal systems; the phenomena are closely related.

The very complexity, overregulation, and lack of predictability in the legal systems in numerous transitional and developing countries where governments lack accountability and transparency serve as windows of opportunity for corruption. Paradoxically, as these economies liberalize and open their doors to foreign investment and trade, the very processes of change — privatization, procurement, and the like — become areas where corruption tends to flourish. Thus, corruption has become more of a factor to U.S. and other firms doing business in these emerging markets in recent years.

Corruption and related lack of transparency take many forms, from grand corruption — outright requests for large payments as a condition for obtaining business — to petty corruption — the small payments typically requested by a foreign customs agent. It includes procurement fraud, money laundering, and classic cases of conflict of interest by foreign government officials. A related set of issues concerns insider dealings — cozy relationships — that can be seen in state-owned or private firms in emerging markets. Also, U.S. firms have been faced with the unwillingness of foreign courts to enforce rulings in their favor.

## **THE HIGH PRICE OF CORRUPTION**

Plainly, corruption damages economic development and reform and hinders the growth of democratic institutions. Corruption impedes the ability of developing countries to attract scarce foreign investment and distorts capital allocation. Finally, corruption hurts U.S. exporters and suppliers — in every state and district in the United States — and impedes international trade.

The U.S. government is aware of allegations of bribery in the last year affecting international contracts worth almost \$30 billion by foreign firms, which are not bound by anti-bribery laws in their home jurisdictions. Of course, in contrast, under the U.S. Foreign Corrupt Practices Act, U.S. firms are criminally barred from participating in the bribery of foreign government officials in international business transactions. Thus, corruption has been a real impediment to American firms seeking to do business abroad.

Paradoxically, while corruption concerns have been on the rise in recent years in emerging and transitional economies, there has at the same time been a fundamental sea change in the willingness of many governments to address these issues. This is reflected in a number of concrete steps being taken internationally to counter corruption and promote the rule of law in a variety of ways — through multilateral conventions, bilateral diplomacy and assistance, international financial institutions, and the work of nongovernmental organizations.

## **A NEW TREATY TO COMBAT CORRUPTION**

Of most significance, on December 17, 1997, on behalf of the United States, Secretary of State Madeleine Albright signed the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. In this convention, 34 nations — our major trading partners — have agreed to enact criminal laws which will closely follow the prohibitions in our own Foreign Corrupt Practices Act (FCPA).

This convention is a major achievement for the rule of law and has been a goal of successive administrations since the 1977 passage of the FCPA. As then-President Carter's chief domestic advisor, I was involved in development of the FCPA and can attest to the high priority attached to getting a commitment from the world's largest industrial countries that they adopt strict anti-bribery laws of their own. The U.S. government, with the support of the private sector, has worked on this steadily and has now met our goal of strengthening the rule of law in international business and providing a more level playing field for U.S. businesses overseas.

The governments that signed the convention have pledged to seek its approval and the enactment of implementing legislation by the end of the year. Significantly, the United States has followed through on

this commitment. The U.S. Senate has ratified it, and Congress has passed implementing legislation, which President Clinton has signed into law. Such early American action will help to spur our major competitors, whose implementation efforts will directly benefit our international interests and U.S. firms and their employees.

The convention obligates the parties to criminalize bribery of foreign public officials, including officials in all branches of government, whether appointed or elected. This prohibition includes payments to officials of public agencies, public enterprises, and public international organizations. This, therefore, would cover government-controlled parastatals, such as airlines, utilities, and state telecommunications companies, which are increasingly important in public procurement. Only those operating on a purely commercial basis would be exempt.

The parties must apply "effective, proportionate and dissuasive criminal penalties" to those who bribe foreign public officials. The convention also requires that the parties be able to seize or confiscate both the bribe and the bribe proceeds — net profits that result from the illegal transaction — or to impose equivalent fines so as to provide a powerful disincentive to bribery.

The convention has strong provisions to prohibit accounting omissions and falsification, and to provide for mutual legal assistance and extradition.

The convention will cover business-related bribes to foreign public officials made through political parties, party officials, and candidates, as well as bribes paid directly to foreign public officials. While the convention does not cover directly bribery of foreign political parties, party officials, and candidates for political office, OECD members have agreed to discuss these issues on a priority basis in the OECD's anti-bribery working group and to consider proposals to address these issues by the May 1999 OECD annual ministerial meeting. A follow-up process in the OECD will allow us to monitor and evaluate national action to implement and enforce the convention.

Also, while the tax deductibility of bribery is not covered by the convention, we are pressing our partners that allow such payments to be deducted as business expenses to eliminate this preferential treatment. Since a 1996 OECD recommendation which called for such action, three countries — Denmark, Norway, and Portugal —

have completed the necessary legislative action, and 9 of 10 remaining countries have begun the process of changing their laws so as to deny the tax deductibility of bribes.

## **THE U.S. STRATEGY**

The convention is the centerpiece of a comprehensive U.S. government strategy to combat corruption and bribery and promote the rule of law. In this hemisphere we successfully concluded in 1996 the Inter-American Convention Against Corruption, which also was recently submitted to the U.S. Senate for ratification. Like the OECD convention, this convention, negotiated under the auspices of the Organization of American States, requires the parties to criminalize transnational bribery of public officials. It also addresses broader issues of corruption. The convention 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 preventive measures that the parties agree to consider, including systems of government procurement that assure openness, equity, and efficiency.

Through a variety of mechanisms, the U.S. government also has taken steps on the demand side of the corruption equation to promote the rule of law and good governance in developing and transitional economies and, in so doing, limit the opportunities for corruption in these dynamic environments. Obviously, it only makes sense to work on these issues in countries where there is some high-level willingness by the governments involved to address these concerns. We are, however, seeing increased interest in these issues in the developing world. We also work closely with the international financial institutions, particularly the World Bank and the International Monetary Fund, to encourage their increased emphasis on anti-corruption activity.

We have identified eight key elements of the corruption problem and are developing programs to deal with each separately.

First, economic policy reform, including deregulation. Onerous and unnecessary licensing requirements need to be removed, discretionary authority over business matters needs to be reduced, and more competition needs to be injected into the economy. This involves reshaping the relationship between government and business into an



arms-length one, within an appropriate but not stifling regulatory framework.

Second, transparency reforms, including steps to streamline and make more predictable administrative processes affecting trade and investment.

Third, public sector/civil service reform to shrink the size of bureaucracies in formerly state-controlled economies and reduce their influence in markets. This includes the establishment of a professional civil service and a merit-based system.

Fourth, public finance reform to create effective surveillance agencies armed with accounting and auditing skills. The need for procurement reform — the establishment of fair and open procedures for public purchasing with World Trade Organization norms — also is important.

Fifth, judicial reform to create independent court systems with powers to enforce their rulings. This includes the development of independent judiciaries that operate pursuant to ethical principles and codes of conduct, and to establish the judiciary as a check against arbitrary state power in both the economic realm and the area of personal freedoms.

Sixth, commercial law reform to create appropriate regulation to deal with securities, shareholders' rights, real estate, intellectual property, bankruptcy, anti-trust, and the environment. The effort here is not only to create new laws but to develop appropriate institutions to administer them.

Seventh, strengthening civil society through public education and civic awareness programs to improve public oversight and participation in government, as well as support for an independent media. U.S. international

broadcasting provides anti-corruption programming on a broad range of issues, broadcast worldwide and to select regions. The U.S. Information Agency also has provided grant funds to organize international conferences and networks on the proactive role that civic education can play in creating an environment resistant to crime and corruption.

Eighth, reform of law enforcement agencies to root out internal corruption and raise respect for human dignity.

In addition, there is the area of ethics reform — the establishment of codes of conduct for government officials and financial disclosure rules.

It is important to underscore that rule of law and anti-corruption efforts are by no means reserved for the public sector. Indeed, our assistance efforts heavily rely on private sector support, and private/public partnerships abound in this area. For example, the American Bar Association's Central and East European Law Initiative is a public service project designed to advance the rule of law by supporting legal reform in Central and Eastern Europe and the Newly Independent States.

U.S. firms doing business abroad can help by establishing their own internal corporate compliance programs and guidelines and follow these standards in our business dealings. The adoption of these private self-help approaches and the broad dissemination of corporate best practices are important in changing the landscape on bribery and corruption and advancing the rule of law in the global business community.

These types of private efforts, together with the administration's efforts, can make a difference in working toward greater acceptance of the rule of law as we move toward the 21st century. □

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## □ THE OECD ANTI-CORRUPTION TREATY: WHY IS IT NEEDED, HOW WILL IT WORK?

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*An Interview With Eleanor Roberts Lewis, Chief Counsel for International Commerce, U.S. Department of Commerce*

*After a decade of negotiations, the 29 members of the Organization for Economic Cooperation and Development (OECD), plus three emerging market countries in South America and two in Eastern Europe, have signed a treaty outlawing the payment of bribes to foreign government officials. The treaty is scheduled to go into effect in December 1998. Will it be successful?*

*Eleanor Roberts Lewis, who has represented the United States in negotiating many international trade and investment agreements including the North American Free Trade Agreement and the OECD anti-corruption treaty, says that although bribery of foreign officials is an accepted business practice in many countries, there is a growing realization that the costs are high not only for the multinational company bribers but also for the development efforts of emerging countries as well. This interview was conducted by USIA Economics Writer Phillip Kurata.*

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**Question:** Why does the United States consider the OECD anti-corruption treaty to be so important?

**Lewis:** In the late 1970s, the United States passed a law called the Foreign Corrupt Practices Act, which prohibited U.S. companies from bribing foreign government officials. Our Justice Department has strictly enforced that statute so that, in general, U.S. companies are not involved in giving bribes. We had thought at the time that other countries would follow us, and we worked through the United Nations and other organizations to encourage them to pass similar laws. They did not. The companies of other countries have continued to bribe foreign officials, and where significant bribes are given, people get the business. U.S. companies are losing billions of dollars a year in business because of this unlevel playing field. We have been working for 10 years in the OECD with other developed countries to try to reach an agreement that no country would allow its firms to pay bribes anymore.

**Q:** Other than make it easier for U.S. firms to get business, what is this treaty intended to accomplish?

**Lewis:** It is important from the point of view of good governance and economic development. Bribes are contaminating developing countries, into which they are mostly paid. Bribery creates a situation that corrupts the governments of these countries, causes dislocations within their economic systems, and often results in the inappropriate allocation of development aid given to these countries. Even though we at the Commerce Department are focused mainly on the effect of the treaty on U.S. business, there are definitely other effects that we should be very concerned about.

**Q:** On the surface, it appears that U.S. business shows little enthusiasm for this international anti-corruption accord. How do you assess support for the treaty among U.S. businesses and foreign businesses?

**Lewis:** As far as the United States is concerned, there is a lot of business support, but companies are reluctant to come forward individually because they feel the topic is so sensitive. It's a little like the anti-boycott act and some of our sanctions treaties; people are afraid that if they address the topic, it looks like they're corrupt or there's something wrong with them. So mostly they've been addressing it through certain organizations. For example, the Business Roundtable and the National Association of Manufacturers — both major U.S. business groups — have written letters to the U.S. Senate and the U.S. House of Representatives strongly endorsing the treaty.

U.S. companies support the treaty because they know they're losing business as the result of bribery. When they bid for a procurement contract with a developing country government, their European and Asian competitors can come in and offer multimillion dollar bribes. U.S. companies know they cannot do that under U.S. law.

Now not all foreign governments support the OECD treaty, for obvious reasons. Their companies have been winning a lot of contracts during the last 20 years. We have had to strongly urge some foreign governments to sign this convention. But I think things are changing for several reasons. One is that a number of key countries

have had serious domestic political corruption scandals that may have made them think twice about publicly objecting to the treaty from the point of view of their constituencies at home. Also, some of their companies have decided that the price has gotten awfully high. Some developing country officials have upped the ante, are asking for more and more money and a higher and higher percentage of the contract. Instead of 1 percent or 5 percent, a few hundred thousand dollars or a million dollars, we're seeing bribes of 20, 30, 40 million dollars. I mean, really big dollars. It's cutting into the bottom line of some of these foreign companies. I think some of them have gone to their governments and said, "Hey, if we could all join hands and cut this out together, we would prefer it too."

**Q:** Critics of this treaty say it is an attempt by the United States to impose its version of corporate morality around the world. Could you respond to that?

**Lewis:** I don't think I could totally deny that. It's not only corporate morality, it's a little bit of good governance morality. We feel very strongly that official corruption is bad for many reasons. As a country that is supposed to be leading in the world, not only militarily but also in economic issues, it is appropriate for the United States to encourage people to line up behind rules that support good governance and appropriate trading and investment relations.

We've done that in a lot of other areas. You could say the whole GATT (General Agreement on Tariffs and Trade) was a U.S. government initiative, really. Many of the rules we have today in the international economic arena are the result of our offering and encouraging and pushing people to set up international relations somewhat the way they do their domestic relations. Under rule of law, instead of having everybody running around like wild and crazy cowboys, you have people or governments or companies working together under agreed-on sets of standards. It regularizes and stabilizes international economic relations. I use the word stabilize very intentionally; our view is that a significant factor in the Asian economic crisis was corruption and cronyism in the governments and the companies and the banks of the countries that are now suffering terribly under this crisis. We'd like to offer an approach that we think is healthier and more stable for everyone.

**Q:** How is the OECD treaty going to be monitored and implemented?

**Lewis:** In the OECD, there is a bribery working group that negotiated the treaty. Every member of the OECD, plus some outsiders who wanted to join the treaty (Argentina, Brazil, Bulgaria, Chile, and Slovakia) have a seat at the table. Once the treaty goes into effect, that group will begin a multiyear monitoring program. I emphasize multiyear because I realize that this is not a magic wand that will make all corruption go away next February.

The bribery working group will start by reviewing all the implementing legislation of all the countries that have ratified the treaty. If we feel some legislation is inadequate, we'll ask countries to improve it. Then we're going to use a peer-review mechanism. We will send teams of experts, mostly criminal prosecutors, to visit each country and see what organizational and physical mechanisms have been set up to enforce the law. Where are they located in their justice ministry? Is somebody in charge of enforcement? What investigative mechanisms and budget have been allocated to anti-bribery efforts? Once that phase is done, we're going to watch as countries bring cases. We have agreed to cooperate on prosecutions and to share information with each other. Let's say a U.S. company comes to the U.S. government and says, "We believe we have good information about bribes in X developing country, and three or four European firms are involved in giving these bribes." If we feel that there is supporting information, we may give it to the European governments involved and take it to the OECD working group and say, "The next time your peer review team visits those countries, follow through and find out what they did with that information. Did they investigate? Did they indict? Did they prosecute?"

**Q:** What gives you confidence that this is going to work?

**Lewis:** One thing that encourages me is that, during the negotiations, I talked with a lot with the prosecutors from many of the countries involved. They were part of their countries' negotiating teams. It turns out that prosecutors everywhere around the world are pretty much alike. They are used to prosecuting companies from their own countries. That's what they do for a living, unlike a trade ministry that is used to supporting and promoting its business people. It is possible that as soon as these local laws go into effect, assuming that they are adequately drafted, anti-bribery prosecutions will start. That was the experience of our Justice Department here in the United States. Our law was passed in 1977. By 1978, we had

some prosecutions and some people paying fines. I think that will happen in a number of countries.

**Q:** Is there any danger that one country will punish bribe-givers with taps on the wrist, while the United States imposes draconian penalties?

**Lewis:** I think that definitely is an issue. The convention itself says specifically that the penalties must be at least as severe as the penalties for domestic bribery and they must be dissuasive. They have to be more than a slap on the wrist. If you have a multibillion dollar corporation giving a bribe of \$50 million, you can't fine it \$1,000. That would not be considered dissuasive under the convention standards. So we'll take a look at the fines that judges actually hand out.

**Q:** You noted that many OECD countries are supporting the anti-bribery treaty reluctantly. What incentives can the United States offer to get the other signatories to enforce the treaty?

**Lewis:** I think the biggest incentive may be enlightened self-interest. A number of companies are finding that big bribes are eating substantially into their bottom lines. If they felt that none of their competitors were giving bribes, they would be quite happy not to give them either, and they've told their governments that. Enlightened self-interest is probably the best enforcement mechanism you have for anything, particularly in the international arena where we don't have bribery police forces to run around and arrest people across borders.

As far as negative leverage, the public diplomacy role is always available. If countries are blatantly uncooperative, at some point we can go public. There are some countries in which the local political dynamics would make that tactic effective.

**Q:** Are any sanctions contemplated?

**Lewis:** No, there are no sanctions in the treaty. We're sitting down to a table of equals and pushing and badgering each other.

**Q:** Will the World Trade Organization (WTO) be playing a role in implementing the OECD treaty?

**Lewis:** Not in implementing this treaty, but the WTO has a very important role to play with regard to another aspect of the corruption problem. This treaty is aimed at the supply side, or bribe-givers. We need the WTO to help us with the demand side, the developing countries. At the moment, there is nothing regulating them. Most of the problems occur in government procurements.

Years ago, the WTO set up a government procurement agreement that was supposed to regulate that area, but they did not make everybody sign it. As of now, only 25 countries or so belong to it — mostly the same rich countries that belong to the OECD. Virtually no developing country has signed this treaty. The United States has proposed that the WTO take up something called a "transparency initiative" under which a government would publicly advertise procurement contracts, publish standards or criteria for those contracts, and open the bids publicly. If people object to the decision, they would have a place to appeal. If the WTO can succeed in that in the next couple of years, that will be a major contribution to solving this problem. Then we'll have both halves of the sandwich, the developed countries and the developing countries. □

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# ❑ CORRUPTION: A PERSISTENT DEVELOPMENT CHALLENGE

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By J. Brian Atwood, Director, U.S. Agency for International Development

*The United States, while spearheading the campaign by the Organization for Economic Cooperation and Development to criminalize bribery by multinational companies, is working with developing countries to lessen the opportunities for government officials to extract bribes. The U.S. Agency for International Development (USAID) is the prime government agent in this effort. Brian Atwood gives an overview of the policies and programs his agency has undertaken to discourage corruption.*

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Worldwide economic conditions in 1998 show that the path to sustained economic growth has taken some unexpected detours. Even the largest and most powerful nations are not sheltered from the economic and political meltdowns happening elsewhere. The economies of virtually all nations are closely linked through electronic commerce, the Internet, and the free flow of international capital. However, the freedoms of the global economy also have an ominous downside if misused.

The recent turmoil in global markets, with its widespread economic and social fallout, will test the commitment of developing countries to free market economies and democratic government. Many of these countries are experiencing severe economic downturns and social disruptions. One contributing factor, perhaps, is the lack of institutional safeguards to protect their economies. Lacking the framework for good governance and the rule of law, and troubled with inadequate regulation of banks, unsound investment decisions, questionable evaluation of risks, nontransparent accounting procedures, and limited openness in government, opportunities for crony capitalism and corruption often surface in developing countries. While economies were booming, these seemed to be ancillary issues. However, they deter economic growth and social progress.

## THE FALLOUT FROM CORRUPTION

In recent years, corruption has had devastating impacts in such countries as Nigeria, Indonesia, and Russia by corroding their economic and political systems. Not

surprisingly, these countries fall at the bottom (most corrupt) of Transparency International's 1998 Corruption Perceptions Index, with ranks of 81, 80, and 76, respectively, out of 85 countries.

In Nigeria, the late General Sani Abacha and his cronies siphoned billions of dollars out of the oil industry, which is the country's primary source of wealth and accounts for 80 percent of government revenue. Diversion of funds from state coffers led to a marked deterioration in infrastructure and social services and a near-collapse of state-owned oil refineries. The country's per capita income, which was as high as \$800 in the 1980s, has now dropped below \$300. As this oil-rich country faced a fuel shortage and depression, the government resorted to ever greater repression to stay ensconced in its position of advantage. Only the untimely death of Abacha has provided a possible opening for political and economic reform.

Another well-known example of government corruption that undermined the national economy is in Indonesia, where state banks channeled money to projects involving former President Suharto's family and friends. In the 1990s, banks allowed arrears on loan repayments to mount unchecked and circumvented rules to prevent excessive foreign-currency borrowing. Consequently, when the value of the rupiah fell in 1997, the whole financial system began to collapse. Bankruptcies and massive layoffs have returned as many as half of Indonesia's 200 million people to poverty.

Russia provides a third notable example of corruption damaging political and economic development. In Russia, corruption linking an oligarchy of financial-industrial groups with government officials has distorted privatization, undermined economic reform, deterred trade and investment, and eroded public confidence in state institutions. The weak state of the economy, combined with the recent financial crisis, has given a substantial political boost to former communists and other opponents of reform.

## SOME POSITIVE STEPS

Despite this sobering picture, many countries are attacking the underlying problems that give rise to corruption. In Africa, for example, major anti-corruption conferences have been held within the last 18 months in Ethiopia, Mozambique, and Ghana. These conferences provided a forum for African leaders to develop innovative strategies to fight corruption, to exchange information with other countries from around the world, and to inform the international community about the steps they need to take to reduce corruption.

Parallel to these Africa-wide initiatives, several African countries have moved from rhetoric to action in addressing corruption. In Botswana, the Directorate on Corruption and Economic Crime is a model for anti-corruption institutions, with more than 4,200 corruption cases handled since 1994. In Uganda, the constitution established an Office of the Inspector General, which has a broad mandate and specific powers to address corruption and which is required to submit periodic reports to parliament.

There is a growing consensus among the developed and developing countries alike that the fight against corruption advances their national and economic interests. At recent summits of the G-7 leaders and at meetings of development ministers, communiqués unambiguously condemn corruption for weakening the global trading system, impeding sustainable economic development, and stifling the functioning of democratic institutions. Combating corruption is now one of the highest priorities on the agenda of both international development agencies and lending organizations.

The United States, through its international affairs agencies, is committed to combating corrupt business practices and improving the poor functioning of institutions that allow corruption to flourish. Bribery is a barrier to trade that hurts U.S. commercial interests and undermines the U.S. objective of promoting democracy and economic development in developing countries. In addition, the prevalence of corruption inhibits our ability to foster the reconstruction of economies where there are important foreign policy interests.

## USAID'S RESPONSE

As a development agency, USAID has a major interest in seeing that bribery does not become commonplace.

Consequently, USAID has identified anti-corruption — which is a key element in the Clinton administration's strategy to fight international crime — as a priority in its development agenda. To borrow a phrase, "all international crime is local." Thus, any long-term solution to the problem of international crime, including corruption, must rely ultimately on strengthening government institutions, engaging civil society, and establishing the rule of law in individual countries. To succeed, the fight against corruption cannot be a short-term, technocratic affair but must involve the public in a long-term, sustained campaign.

USAID is designing a framework, in close consultation with other bilateral and multilateral donors, for addressing corruption and other forms of criminal activity. This framework is based on many of the lessons we have learned from working with developing countries during the past 35 years. These include, most notably, a recognition that political instability, weak public institutions, and poor economic management create an environment in which widespread corruption and certain types of criminal activities flourish, and that these consequences, in turn, undermine economic growth, increase the potential for state failure, and feed the activities of organized crime.

Some of the major USAID activities include:

- **Raising awareness about the costs of corruption.** Efforts to raise awareness about the costs of corruption and to mobilize the political will for fighting it are central components of USAID's program activities. USAID supports efforts to publicize procedures and rights, conduct corruption perception surveys, sponsor integrity workshops, foster anti-corruption nongovernmental organizations, promote civic monitoring, provide training in investigative journalism, promote private sector efforts to prevent corruption, and advocate international cooperation and conventions.
- **Promoting good governance.** USAID works to improve transparency and oversight in government through activities such as integrated financial management systems and training and technical assistance for audit institutions and anti-corruption agencies. USAID also seeks to realign incentives to government officials through ethics codes and financial disclosure requirements.
- **Strengthening the justice sector.** Corruption flourishes

where institutions in the justice sector — including the judiciary, prosecutors, police investigators, and the private bar — are weak and incapable of investigating and prosecuting criminal activity. To strengthen these systems, USAID programs support drafting new criminal and anti-corruption laws, training prosecutors and judges, and improving court administration to prevent tampering with records and reduce delays in hearing cases.

- **Reducing the government's control over the economy.** Governments exert significant control over the economy through state-owned enterprises, licenses, tariffs, quotas, exchange rate restrictions, subsidies, public procurement, and provision of government services. Often such controls create opportunities for abuse and impede economic growth. USAID works to reduce these opportunities through deregulation, delicensing, privatization, and competitive procurement.

## **SPECIFIC USAID INITIATIVES**

In the past year, USAID has taken a number of steps to promote anti-corruption efforts. Washington-based officers have convened an anti-corruption working group that meets monthly to exchange information and coordinate work across bureaus. Given the cross-sectoral nature of corruption, both economics and democracy officers participate in the group. A subcommittee of the working group is developing policy guidance on anti-corruption activities for USAID. This fall, the agency's Center for Democracy and Governance completed a *USAID Handbook on Fighting Corruption*, which is available by e-mail at [docorder@dec.cdie.org](mailto:docorder@dec.cdie.org) or by fax at (703) 351-4039.

USAID is also supporting anti-corruption efforts through a grant to Transparency International (TI). This grant provides \$2 million for intensive anti-corruption work in nine countries and for regional lessons-learned workshops. The country programs will start with an integrity workshop to foster group diagnosis of corruption problems and development of an action plan to fight them. Countries targeted in this grant are Bangladesh, Benin, Bulgaria, Colombia, the Dominican Republic, Ghana, Mozambique, the Philippines, and Ukraine. USAID is also contracting with the Center for Institutional Reform and the Informal Sector (at the University of Maryland) to develop four case studies of successful anti-corruption interventions to feed into regional workshops that TI will organize.

USAID regional bureaus also have developed a number of anti-corruption initiatives. The Latin American and Caribbean Bureau has initiated an assessment of its Regional Financial Management Improvement Project II, which has used \$7 million over five years to improve governmental accountability and financial management and plans to issue a follow-on contract in 1999. The project hosts a donor consultative group, publishes a monthly newsletter entitled *Accountability/Anti-corruption*, sponsors regional teleconferences called Respondacon, and provides technical assistance. Similarly, the Eastern Europe/Newly Independent States Bureau has established an anti-corruption working group, developed an anti-corruption strategy, and set aside \$900,000 over two years to establish a donor consultative group, support training workshops, assist assessment and strategy design exercises, develop a newsletter, and write reports and program materials. The Asia/Near East Bureau has set aside \$200,000 for an assessment and development of a regional anti-corruption strategy.

In addition, USAID is co-sponsoring anti-corruption workshops with the Organization for Economic Cooperation and Development to follow up on and broaden discussion of the anti-bribery convention signed in December 1997. And the agency's Global Bureau is co-sponsoring an international conference on the role of the private sector in fighting corruption to be held in Washington, D.C., in February 1999.

USAID's Inspector General has also furthered anti-corruption efforts through its work with Supreme Audit Institutions (SAIs) in developing countries. These SAIs are national auditing agencies similar in many respects to the U.S. General Accounting Office. Although SAIs can constitute a country's first line of defense in combating fraud, waste, mismanagement, and corruption, in many countries they lack the resources and expertise to fill this crucial role. To help fill this gap, the Inspector General's office has provided basic training to SAI staff in countries receiving USAID development assistance.

## **THE DEVELOPMENT CHALLENGE**

Corruption is a global problem. The industrialized countries are certainly not immune from corrupt practices, and all have a responsibility to be part of the solution. However, corruption appears to exact a higher toll in developing countries and transition economies because they can least afford the consequences. Corruption prevents many countries from addressing

their most serious development challenges, deters foreign and domestic investment, undermines confidence in public institutions, and exacerbates budgetary problems by depriving governments of significant customs and tax revenues.

The recent upheaval in financial markets and in developing country economies underscores the importance of transparency in public institutions and public decisions. USAID programming to further sustainable development and foreign policy objectives supports a wide array of activities to combat the root causes of corruption.

By supporting such efforts, countries become better trading partners with the United States and can attract foreign investment. Also, one of the United States' key foreign policy interests is the promotion of democratic development around the world; by supporting programs to combat corruption, developing country governments gain greater legitimacy and are better able to promote political stability and economic development. And they become better development partners as well as countries in which long-term sustainable development can be achieved. □



## □ A BACK-TO-BASICS ANTI-CORRUPTION STRATEGY

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By James D. Wolfensohn, President, The World Bank

*The World Bank is one of the most vociferous critics of corruption since its president, James Wolfensohn, laid out the bank's anti-bribery policies in October 1996. Mr. Wolfensohn reiterated the Bank's commitment to fight corruption with renewed vigor at the 1998 meeting of the World Bank and the International Monetary Fund in Washington, D.C. He pointed to the practice as one of the prime causes of the financial crisis afflicting much of Asia and other emerging economies. In this article, he spells out the Bank's strategy for dealing with corruption and warns governments in developing countries that they will jeopardize their foreign assistance and investment by condoning corruption.*

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Over the past year, much attention has been paid to the causes and consequences of the global financial crisis. There is no doubting the sense of urgency when it comes to discussions about new financial architecture, better banking systems, and improved surveillance and risk analysis. These are all vitally important, and cooperation in the search for common answers must continue.

But there is another crisis that has received far too little attention. It is the human crisis. Hundreds of millions of people risk being sent back into poverty in countries severely affected by economic turmoil. Decades of social progress hang in the balance. It is a crisis that hurts children by pushing them out of school and into hard and often dangerous labor. It is a crisis that throws millions of people out of work and tears at the cohesion and security of social life. It is a crisis about which we have heard too little.

This crisis must be addressed. There is much to be done, but all strategies must begin with a commitment to building economies and societies that are open, transparent, and, ultimately, accountable. This means making a commitment to fighting the cancer of corruption. No matter how much investment and trade flows into a country, and no matter how fast the economy is growing, economic stability cannot take root

in an environment subverted by corruption. Whether it is cronyism among huge corporations and government decision-makers or low-level bribery of customs officials or judges, corruption undermines the rule of law, strangles economic growth, and hurts the poor most severely.

### THE TRUE IMPACT OF CORRUPTION

For years, it was believed that bribery and other forms of corruption were effective and even necessary tools for doing business in developing countries. By greasing the right palms, so the thinking went, firms achieved a competitive advantage. Not so. Research undertaken by the World Bank and others shows that far from lubricating business activity, bribery actually fuels the growth of excessive and discretionary regulations. Bribery, in short, feeds on itself, producing layer upon layer of bureaucracy eager to get in on the action. The fact of the matter is that in countries where corruption is recognized to be high, firms spend more time with bureaucrats and public officials negotiating licenses, permits, and taxes.

The evidence also shows that countries with notoriously high levels of corruption risk marginalization in a world of rapid economic integration. This is all the more clear today. Many of the challenges we face today can be traced, in part, to cronyism, shallow disclosure requirements, and opaque record-keeping. Open markets cannot work behind closed doors. Both private capital flows and official development assistance are increasingly discriminating with regard to policy performance and institutional integrity. Investors today have too many options, and they are better able to move their money to where the risks of corruption are less pronounced. And official donors, with shrinking aid budgets, have also drawn the line. Well-informed publics and wary aid agencies and development institutions are seeking returns on their aid investments — in the form of poverty reduction and social development — with the same rigor that private investors look for financial returns. Perceptions in donor countries that corruption in

recipient countries sends their aid assistance down a black hole is one of the greatest threats to future aid. Again, it is the poor who suffer.

We at the World Bank, as with other multilateral organizations, are fully aware that despite continued vigilance and state-of-the-art auditing and investigative measures, the projects that we support are not immune from the pressures of corruption. There is simply no way to fully isolate individual projects and program lending from fraud if it is pervasive throughout the environment in which they function. This calls for continued efforts on the part of the Bank to pursue and prosecute fraud wherever we find it, while simultaneously strengthening the institutional structures that will ultimately help stop corruption at its source. It will be a difficult, long-term struggle. But make no mistake, it is a winnable fight, and one that must be fought.

## **TOWARD GOVERNMENT REFORM**

Important steps have been taken. Corruption is not just a domestic public sector problem. For every taker of a bribe there is a giver; often this means private sector agents bribing officials in other countries. Private business people, wherever they are operating and no matter what the conditions, must follow the highest standard of probity. The initiative taken last year by the Organization for Economic Cooperation and Development (OECD) to criminalize the bribery of foreign officials is a major step forward in this direction. Continued progress in this area is essential.

The questions are: what can governments do to reduce corruption, and what is the role of international organizations such as the World Bank? Many would like to see the World Bank use its resources and skills to unilaterally rid a country of corruption overnight. Still others believe the Bank, to be serious, must completely cut off all lending to countries at the first sign of fraud. But we are not, and cannot be, a world policeman. Nor will corruption be eradicated overnight. There are, however, important steps that we can and must take to attack the root causes of corruption. What are these?

Since becoming president of the World Bank, I have traveled to more than 84 developing countries. I can say with certainty that corruption is a severe problem in some poor and transition countries not because the people do not truly want integrity in public life. Rather, corruption flourishes because conditions are ripe for it. Indeed, a

look back at the history of the United States, England, or any other industrial country reveals that all countries have had to struggle against extreme corruption. This battle never ends. In too many developing countries today, however, government institutions that provide the essential regulatory foundation for a healthy economy are either weak or missing altogether. Deficiencies in banking and financial regulation, corporate governance, tax collection, judicial systems, auditing controls, and a number of other areas that create transparency in economic affairs erode investor confidence and mitigate against long-term, stable investment.

Anti-corruption strategies must begin with strengthening these institutions. In the year since the World Bank issued its Anti-Corruption Policy report, more than two dozen developing countries have approached the Bank for assistance in combating the problem. We are in consultation with all of these countries and are already working to support strategies in a number of them. Specifically, the Bank seeks to work with borrowing governments on long-term institution building; on structural changes, such as breaking up monopolies and other market distortions that provide opportunities for exploitation and corruption; in basics such as training civil servants in standardized procurement and disbursement practices; and, of course, in economic policy-making, such as lowering tariff barriers and introducing competitive credit markets that create competition and reduce the stranglehold on important economic resources. These changes are absolutely essential for building markets that place people first and that reduce built-in economic, legal, and social power of the strong over the weak.

In addition to reforming government, we must recognize the powerful influence of public scrutiny and participation. This is important because it shines a light not only on those who are corrupt but also on those who are struggling to bring integrity to public life. The Bank, through its Economic Development Institute (EDI), has brought together policy-makers, journalists, and business people, often for the first time, to uproot and expose sources of corruption. Through such mechanisms as diagnostic surveys on the provision of public services and business practices, and training judges, parliamentarians, auditors, and journalists on how to identify and combat corruption, the Bank is helping local communities and national governments confront corruption in a practical manner. We know that it works. In Botswana, Uganda, Chile, Poland, and a number of other countries, real

progress has been made. People are living better lives because of this progress.

## **CONSIDERING THE HUMAN FACTOR**

In this year that we commemorate the 50th anniversary of the Universal Declaration of Human Rights, it is important to remember that development is about more than economic policies and incentives. Economic growth can only take place alongside dynamic social progress and wide-open civic discourse.

Government institutions that shape the place of citizens in the economy must, if they are to work, be shaped by citizens. We have come a long way in recent years. Voters

no longer tolerate corruption or the misappropriation of public trust. Civil society in nearly every country in the world is holding leaders accountable. The international community, including the private sector, is joining hands to build integrity into the rules that govern global markets.

We have a long way to go. But by remembering that a global economy, while much more than the sum of its parts, is in fact made up of people who live individual lives, with unique dreams, confronting specific challenges, we are better able to build a world marketplace in which everyone benefits. □

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## □ CURBING CORRUPTION: REFORMING THE BRIBE-GIVERS

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By Frank Vogl, Vice Chairman, Transparency International

*“The reality is that to maximize opportunities in the growing markets of Central and Eastern Europe and in developing countries, corporations must strive to be seen as honest, long-term, committed guests,” says Frank Vogl, president of Vogl Communications, Inc., and vice chairman of Transparency International. Vogl argues that even allegations of paying bribes can reduce demand for a company’s products, plunge its share price, and spark political and media investigations.*

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Multinational corporations are beginning to join a global movement to combat corruption. To have suggested this five years ago risked ridicule. Today, even the most established organizations are on board in a vast uphill struggle to fight back against bribery.

Let me cite just a few examples:

- Mark Moody-Stewart, chairman of Royal Dutch Shell, has crafted a whole new code of business ethics for his company that fully embraces the edict that Shell will not engage in any form of corrupt practices.
- World Bank President James Wolfensohn, in recent remarks to finance ministers and central bankers from more than 170 countries, called for a new development framework based on “good governance — transparency, voice, the free flow of information, a commitment to fight corruption.”
- Hans Engelberts, general secretary of Public Services International — the global public sector workers’ union coalition — has said that it is time for unions to bring the issue of corruption center stage “and to start doing something about it.”

### **FOCUSING ATTENTION ON GLOBAL CORRUPTION**

The focus of the movement to stop bribing by multinational corporations is the anti-corruption treaty of the Organization for Economic Cooperation and Development (OECD). The treaty has been signed by the

29 OECD members and five countries with emerging markets in Latin America and Eastern Europe.

This agreement will take the U.S. Foreign Corrupt Practices Act (FCPA) global. Until now, the United States has been alone in making foreign bribery a criminal offense. The OECD convention, once it comes into force, will focus attention on global corruption by leaders of business and labor. Corporations everywhere will face criminal penalties in their home countries if they bribe foreign officials.

The OECD agreement against the bribe-givers also gives momentum to institutions like the World Bank in its efforts to convince developing countries to strengthen their anti-bribery laws, create effective anti-corruption institutions, and, in general, get serious about reducing the abuse of public office for private gain.

Pressures on businesses, national governments, and international institutions also has been increased by Transparency International (TI), a not-for-profit, nonpartisan organization with chapters in over 70 countries.

TI is striving to develop a Bribery Propensity Index (BPI) that would rank the biggest bribe-payers, probably by first looking at the home countries of multinational corporations that, in varying degrees, support foreign corrupt practices by business. The BPI would complement TI’s Corruption Perceptions Index, which looks at countries taking bribes. The BPI will be dynamite in the hands of the media if it can be credibly constructed and will serve to add to the pressure on business to be more honest in global commerce.

But it is not just external pressures that are gradually bringing about change in the halls of business power. Shell has sought to adopt a tougher anti-bribery stance above all because it believes it makes good business sense. It is difficult to expect corporate employees to be honest inside a firm and act with integrity toward their colleagues when they are being encouraged to use bribes, kickbacks, and other unethical practices to win business.

The Foreign Corrupt Practices Act has been around for a generation, and a lot of U.S. firms have learned to live with it and thrive. For example, despite the FCPA, which some business leaders in the United States see as a handicap in their global competitiveness, 6 of the 10 largest corporations in the world, based on the volume of their foreign assets, are American.

Not being able to offer bribes forces competitive global corporations to search for artful and ethical ways to be effective competitors. Many U.S. multinational firms have found useful approaches, and increasing numbers can learn from the leaders.

## **THE EMPHASIS ON REPUTATION MANAGEMENT**

While perceptions of corruption in many of the developing countries of the world are desperately high, consider that Coca-Cola is operational in all of these countries, is doing well, is beating competitors, and is not paying bribes. The company is thoughtful and painstaking about how it enters new markets, how it selects local business partners, and how it conducts itself in foreign countries. Integrity is key to its approaches.

Coca-Cola makes maximum effort to be transparent in its dealings, to win public support, and to develop the kind of strength — from its consumers and the public at large — that makes top officials uneasy about seeking bribes from the beverage giant. What leader in any country is willing to risk a public announcement by Coca-Cola that it is quitting the country rather than pay a fat bribe to the head of state? So far, none.

The reality is that to maximize opportunities in the growing markets of Central and Eastern Europe and in developing countries, corporations must strive to be seen as honest, long-term, committed guests. Corporations must impress upon host governments, customers, suppliers, and the general public that they seek fair, open, long-term relationships.

Coca-Cola, for example, has repeatedly demonstrated around the world its recognition that heavy and consistent investments in reputation management are needed to establish this image. It trains its staff to learn about the traditions, politics, and values of the people in all of the countries in which it operates. It gives key responsibilities to nationals of these countries and ensures that its image is never that of a ruthless multinational

colonialist corporation.

And Coca-Cola goes further. It plays a full role in most of the countries in which it works, supporting education and the arts and social services in a long-term and genuine way. Coca-Cola understands that the key to its success is its determination to show its business partners, no matter what their traditions and nationalities, that this company values integrity and understands the language of partnership and respect. This attitude garners admiration from its host countries.

Another example is Levi Strauss & Company, which sells its clothing around the globe and manufactures it in dozens of countries. It is a corporation guided by a set of values that daily impact its global strategies. It understands the importance of ensuring that hosts in foreign countries are aware of its values from the outset of forging a new relationship. In its public corporate statements, Levi Strauss has stated boldly, for example: “We will not initiate or renew contractual relationships in countries where the legal environment creates unreasonable risk to our trademarks or to other important commercial interests or seriously impedes our ability to implement these guidelines.”

## **THE COSTS OF UNETHICAL PRACTICES**

Paying bribes is only one consideration in the broader arena of reputation management that concerns a growing number of firms — corporations that genuinely believe that acting ethically makes good business sense and that know that to be seen to be unethical can carry huge costs. Allegations of a lack of sensitivity to human rights against Shell, of paying bribes in Argentina against IBM, and of exploiting child labor against Nike can reduce consumer demands for corporate products, plunge the company's share price, make it difficult to recruit outstanding new staff, spark political and media investigations, and massively divert top management from crucial operational work.

It is against this background that increasing numbers of corporations around the world are becoming more sensitive to the risks of being exposed as corrupt and to the merits of pursuing business with integrity. Curbing corruption is a painstakingly slow process. But progress is being made, even with regard to the propensity of multinational corporations that are following or considering no-bribery strategies. And that is good news. □

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## ❑ CORRUPTION IN PROCUREMENT

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By Donald Strombom, President, IDBC

*Government procurement contracts for construction projects such as airports, dams, and highways generate immense opportunities for bribes, kickbacks, and other payoffs. In this article, Donald Strombom, a former chief of procurement for the World Bank, looks at the wasting effects of corruption on development and offers a sober assessment of the difficulties in dealing with the problem. Strombom is currently president of IDBC, a consulting firm that advises and trains its clients to win international contracts by competing intelligently and effectively within the rules, not by corrupt practices.*

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Corruption takes many forms — the petty bureaucratic variety, corruption in police and the judiciary, corruption in the election process, to name just a few. But probably none is more pervasive or has higher costs than corruption related to procurement: government buying of goods, works, and services. The reasons are simple. If one sets aside government salaries and social benefits, procurement typically accounts for the largest share of public expenditures at all levels of government. Both the overall amounts and individual contract amounts are huge, and they offer correspondingly large opportunities for bribes, kickbacks, and other payoffs. The potential reward for a single contract directed to the right winner can exceed the legitimate lifetime salary earnings of a decision-maker. The temptations are enormous and, in too many cases, the risks of punishment are relatively small.

Public works construction projects — airports, dams, highways, subways, water systems — traditionally have provided the biggest, most publicized, and most dramatic cases of corruption worldwide. Other prime targets are “big ticket” equipment items — bus fleets, construction equipment, airplanes, turbines, and generators — as well as simple items like office supplies, pharmaceuticals, textbooks, and uniforms that are purchased in huge quantities year after year.

Corruption practices adapt to changing trends, however. The growing use of external consultants and the increasing outsourcing of contracts for maintenance and

other services formerly provided by in-house staff are just two examples of new opportunities for corruption. Perhaps the ripest new opportunity of all, because of the general lack of familiarity with what it involves and the numerous high-value contracts, is in the information technology field. The most spectacular, attention-catching cases are those in which millions of dollars change hands over the award of a single contract or in which governments and political parties fall because of bribery scandals brought out into the open.

It would be a serious mistake to think that corruption occurs only in these big, high-visibility cases. One could argue, in fact, that these are the more easily monitored and controlled situations — if the will and the means exist to do so. The more difficult corruption to deal with is that which is ingrained in the culture and permeates entire systems of government procurement, from the lowest-level contract officer and inspector in the field to the ministers or higher who have final authority for contract approvals.

### FORMS OF CORRUPTION

How does corruption occur in procurement? The popular image is of a would-be contractor arriving in a minister's or a mayor's office with a suitcase full of cash, just before a critical decision is made about a contract award — an amusing caricature, but an awkward method and hardly in keeping with modern technology. The reality is more likely to be an electronic deposit in a foreign account, corporate stock shares, an elite school scholarship for a son or daughter. The fact that the recipient may use the proceeds for a worthy cause makes combating corruption that much harder. But the direct contractor-client payoff for a contract award is only one of many possible scenarios, and not necessarily the most common or most costly form of corruption.

Bribery often occurs at a much earlier stage in the procurement process: to get a firm included on a restricted list of bidders, for example, or to encourage a client to write specifications in such a way that the winning bidder is a foregone conclusion. Or corruption

may be carried out entirely among competing firms, through collusion and bid-rigging, without the client being involved or even aware it is happening. Firms may agree in advance who will submit competitive bids and at what prices, who will win, and how the profits will be shared. To illustrate how complicated it can be to eliminate corruption, the prequalification of bidders by a client to ensure that only qualified and financially sound firms participate in bidding competition quite unintentionally makes it easier for dishonest bidders to collude, since all prequalified bidders are announced in advance.

Quite likely the most extensive and costly corruption occurs after contracts have been awarded. Corruption is not a charitable game; "winners" have every intention of recovering their bribery costs, and they have a variety of ways to do so. The first stage, especially in collusive bidding, is by inflating their bid prices. Further cost recovery can be achieved during contract performance by over-invoicing for quantities of goods delivered or work performed, reducing the quality of materials used for construction or delivering cheaper models of goods, and obtaining contract change orders to increase the amounts of goods sold or works performed at overpriced unit costs. Again, corruption in the post-award stage of a contract may be with the knowledge and consent of at least some parties in the client's organization, or it may be through well-concealed initiatives of the contractor alone.

In fairness to contractors, many of the above practices are motivated by attempts to hedge against perceived uncertainties and risks in clients' systems of contracting, rather than deliberate corruption. In that sense, better risk management and contracting terms may be part of an approach to reducing "corrupt" practices.

The debate about who is responsible for corruption in procurement is largely irrelevant, for there is no single pattern. Sometimes the initiative clearly comes from the client in the form of explicit demands by a director for a specified percentage of the bid price or from inspectors who "certify" incorrect quantities for payments to contractors. (This highlights one difficulty in fighting corruption: clients are not monolithic, but rather are many different individuals or groups looking out for their own interests.) In other cases the bidder is first to offer inducements. In most cases there is some degree of complicity between client and bidder/contractor. In all cases, the taxpayer and public at large are the losers.

## THE COSTS OF CORRUPTION

What are the real costs of corruption in procurement? One way to measure this is to compare actual prices of similar goods and services delivered under different conditions; for example, in contracts awarded through direct negotiations or restricted bidding in comparison with open and apparently properly conducted competitive bidding. (This does not mean that contracts awarded by direct negotiations or restricted bidding are never appropriate; in some situations these are preferred procedures. The comparisons should be in cases where these are not likely to be the most economical or efficient methods.) Price differentials on the order of 20 to 30 percent are commonly found, and sometimes substantially more. These comparisons are rough approximations at best.

Some would argue that it is virtually impossible to find a reference case that is completely free from the influence of corrupt practices, and that the true cost differences are therefore understated. Conservatively, where corruption is systemic, it probably adds at least 20 to 25 percent to the costs of government procurement. Following a corruption scandal in Milan several years ago, which led to many criminal indictments and closer scrutiny of public contracting practices, unit costs of major works projects fell by more than 50 percent, according to an International Monetary Fund (IMF) working paper, "Corruption, Public Investment and Growth," by Vito Tanzi and Hamid Davoodi. With annual purchasing budgets running in the billions or hundreds of millions of dollars, this begins to involve "real money."

If costs of this magnitude are at stake, why isn't something being done to correct the waste? Some rationalize inaction on corruption by the fact that "it's always been there; it's just part of the cost of doing business." There are those who argue that it isn't really a "problem" because corruption produces economic benefits by "greasing the wheels" of inefficient bureaucracies: how else to get prompt customs clearances, expedite contract payments, and the like? And the reality is that bribery of foreign officials, for example, is not illegal in many countries; until very recently, only the United States had a strong and enforced foreign corrupt practices law. More than anything else, it has probably been a combination of opposition from strong vested interests that benefit from continued corruption and a lack of public appreciation that corrupt practices and their costs can certainly be reduced, even if never completely eliminated.

The good news is that significant steps are being taken to make it clear that corruption is not an acceptable part of public procurement. Various organizations operating on different fronts are mounting a campaign to create public awareness and citizen empowerment, broaden the use of sound procurement practices, and penalize the violators of established norms.

## **ELEMENTS OF SOUND PUBLIC PROCUREMENT SYSTEMS**

What are the characteristics of a good public procurement system? It should be able to deliver the goods and services needed by government to perform its functions in a timely manner and at fair prices; in other words, it should be economical and efficient. Contracting opportunities should be widely publicized. Awards should be made to those who are able to meet the stated needs and required standards and who make the best offers. Rules should be clear and fair, the process transparent, and the results predictable. Underlying the entire system should be a notion that public officials are accountable for the proper use of public funds and should not enrich themselves in the process. Unfortunately, all of these concepts are not yet universally accepted or practiced, and therein lies one of the excuses or causes for corruption.

Wide international experience shows that these desirable characteristics can best be achieved through a system that is based on appropriately designed methods of competition among qualified suppliers of goods and services. There is also broad agreement about the main elements in a competitive bidding process; namely, it should feature:

- Public notification of bidding opportunities;
- Documents that clearly set out the needs, describe the bidding process and contract terms and conditions, and give the criteria for choosing the winner;
- Submission of secret sealed bids that are opened in the presence of the bidders at a specified time and place;
- Impartial evaluation and comparison of bids by competent evaluators without influence or interference by bidders or other parties;
- Award of the contract to the bidder complying with all requirements and offering the best bid, as defined by the published selection criteria.

## **TOWARD A UNIVERSAL STANDARD OF GOOD PRACTICES**

Governments in many countries and at all levels have developed and successfully used procurement procedures built around these basic elements. The major multilateral development banks (MDBs) — the World Bank, the African, Asian and Inter-American development banks, the European Bank for Reconstruction and Development, and others — have all adopted rules for procurement that apply to projects they finance. In order to use funds from their loans, borrowers must follow the prescribed rules; the banks supervise their loans to ensure the rules are properly applied. Failure to follow the rules may result in cancellation of the loans.

In 1993, the United Nations Commission on International Trade Law (UNCITRAL) adopted a Model Law on Procurement of Goods and Construction as a guide for countries to follow for the evaluation and modernization of their procurement laws and practices. This model law was particularly intended to help developing countries and countries in transition from planned to market economies to avoid inefficiency, ineffectiveness, and abuse in public procurement as a result of an inadequate legislative framework. It embodied virtually all of the same principles that the MDBs had built into their procurement rules, as well as administrative and judicial processes for review of procurement decisions, providing an important step toward the development of uniform international rules and procedures.

The most significant accomplishment in this regard was the development, as an integral part of the General Agreement on Trade and Tariffs (GATT) negotiations, of the Agreement on Government Procurement, which was signed in Marrakesh in 1994. This agreement, which entered into force for signature countries in January 1996, is more commonly identified as the World Trade Organization's (WTO) procurement rules. Government members of the WTO are encouraged to accede to this agreement, although this is not a condition for membership. Whether or not there is formal country accession to the agreement, the rules and procedures it contains become the closest thing there is to a universal standard for good practices.

In parallel developments, member countries of the Organization for Economic Cooperation and Development (OECD) joined in a concerted effort to



promote the adoption of national laws, similar in nature to the U.S. Foreign Corrupt Practices Act, that make bribery of government officials, whether at home or abroad, and other forms of corruption in procurement criminal offenses subject to severe punishment. In 1996, the Organization of American States approved an Inter-American Convention Against Corruption. That same year, the International Chamber of Commerce proposed anti-corruption rules of conduct for corporations and corresponding actions for governments. Suddenly, much of the official and corporate world seems to have decided something should be done about corruption.

Transparency International has played a pivotal role by creating public awareness of the scale of the problem and organizing grassroots efforts to combat corruption. Their influence has been a driving force behind many of the reform efforts under way around the world.

Do these converging positive steps mean that the end of corruption in procurement is in sight? Regrettably, no, for while the rules bring order and sound principles to the process, determined corrupters can still find ways around them and get their payoffs. The MDBs, for example, spend considerable staff time and administrative budget to supervise each lending operation, and particularly to monitor and approve procurement procedures and decisions. Yet recent disclosures suggest that 20 percent or more of these funds in some countries may be lost through "leakage," a euphemism for moneys misdirected by corrupt practices into officials' pockets and personal bank accounts.

Even before these estimates became public, the international financing institutions had taken steps to strengthen their hands in combating corruption. They expanded their procurement rules to include explicit prohibitions against fraud and corruption and to impose strict sanctions in cases in which these practices were discovered: denying contract awards to violators, prohibiting their participation in future bidding for contracts financed by the banks, refusing to pay for improperly awarded contracts, and canceling entire loans in extreme cases. In addition to their normal project supervision and financial audit requirements, the MDBs initiated procurement audits by external companies to determine whether borrowers were strictly observing their rules and procedures.

Along with this tightening of project monitoring and supervision, MDBs are taking parallel steps to ensure that

borrowers really understand and are able to apply sound procurement procedures correctly. The World Bank, for example, now requires regular assessments of its borrowers' procurement rules and their organizational capacity to implement them correctly. Conformity with accepted practices and evidence of corruption are two key areas for investigation. These country procurement assessments, conducted in collaboration with the borrower country, become the foundations for designing and funding technical assistance programs where needed to build professional competence.

## **STEPPING UP THE FIGHT**

Experience of the international financing institutions and others demonstrates one of the truisms in procurement: corruption is not stopped or curtailed simply by having sound rules. It is increasingly clear that other, coordinated efforts are needed to make a significant impact on corrupt practices. Everyone must be made aware that violations of the rules are illegal acts that will be discovered and punished. This creates the need for effective monitoring and audit systems and for enforcement agencies that have the will and ability to take actions against violators, regardless of their position. It requires a judiciary system that is not corruptible and is able to make and enforce convictions. Cadres of procurement professionals must be developed who are insulated from political interference in contract award decisions. Temptations for these people to engage in corrupt practices themselves need to be reduced by paying them a reasonable wage that compensates them for their honesty. In short, corruption abatement may require nothing less than a complete overhaul of civil service and governance systems.

Creative thinking and innovative approaches are needed in the fight against corruption. One promising development is the movement to inject transparency into the procurement process by citizen groups that are not amused by government officials getting rich at their expense. Efforts to date are largely concerned with recruiting like-minded citizens and publicizing cases of corruption, but these groups often lack systematic ways to get more deeply into the reform process. Means should be devised for them, as true stakeholders, to take a more active role in monitoring and verifying that procurement processes are not corrupted. The challenge is how to engage them in meaningful ways without corrupting them as well.

The complexity of the fight against corruption should not be taken as an excuse for doing nothing. Many public bodies have already made notable progress in reducing corruption, and enough experience has been gained to point with some assurance to the kinds of measures that are needed and will work. Public reaction against corruption has probably never been stronger, partly because it becomes increasingly clear that the public is the big loser if corruption continues.

There is no better time to mobilize forces in a serious effort to take corruption out of procurement. But reforms must be approached with realistic expectations about how much time and resources will be required. Lasting results will take years to achieve, and sustained efforts must be on a scale commensurate with the problem. It would be particularly tragic if good intentions are backed up by only halfhearted, quick-fix measures that allow corruption in procurement to continue unabated and discourage reformers. □

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## □ THE INTEGRITY PACT: A WAY OUT OF THE TRAP

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By Michael Wiehen and Carel Mohn, *Transparency International*

*Transparency International, a not-for-profit organization, was founded in 1993 by international financiers and businessmen committed to the proposition that corruption should be eradicated from the world marketplace. During its five years of existence, TI has transformed that notion from the marginal to a priority of the World Bank and the Organization for Economic Cooperation and Development (OECD), consisting of 29 developed countries. TI has devised what it calls its Integrity Pact, a concrete program designed to exclude corruption from procurement contracts involving multinational companies and the governments of developing countries. Integrity Pacts have been implemented so far in three Latin American countries. Michael Wiehen, the chairman of the Germany chapter of TI, and Carel Mohn, the chief information officer at TI's international secretariat in Berlin, explain how they work.*

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It's a nightmare for every company, particularly if it is among the more competitive ones in the market. The preselection phase in the bidding process of a public procurement exercise is past you, contract negotiations with the government and the financing institutions have been successfully completed. All of a sudden unforeseen problems are coming to the surface. Junior government officials begin to question details of the contract and demand renegotiating technicalities. Licenses and permits you need to apply for to start implementing the contract — mere formalities as the government representatives affirmed just before the contract was signed — are suddenly stuck in a seemingly impenetrable bureaucratic jungle. And, quite to your surprise, you find that even the more senior-ranking government officials are beginning to question the validity of the project. After having invested millions of dollars and thousands of staff hours on such a major project, everything seems to be in shambles. And the solution to saving the project from suddenly turning foul also gradually edges to the surface — extra payments or, simply, bribery.

When bidding for major projects, companies usually have a strong interest to avoid just that. A company that can rely on the quality of its products simply has no interest in entering into a field where there is no reliability, no

prospects to enforce contracts, no certainty as to the behavior of clients, competitors, or counterparts on the government side. In markets distorted by corruption, companies are facing a prisoner's dilemma: while it may be profitable for all competitors to put an end to corruption, no one wants to take the first move for fear of losing the contract to a less scrupulous competitor.

The OECD Convention that is likely to enter into force in January next year wants to change that situation by creating a level playing field for everyone in the market and by giving the credible assurance that bribing an office holder abroad will be prosecuted as a crime in all OECD countries. While this international framework can be regarded as a major breakthrough and as a victory for those who have long been calling for a stop to the reckless business of exporting bribery from the North to the South, change will not come overnight. It will take time before foreign corruption will be prosecuted with the same vigor and consistency all over the industrialized countries. And in the immediate and mid-term future, the OECD Convention will only partially address the ambiguity and uncertainty that exists in those markets that have traditionally been under the dark clouds of corrupt practices.

In that situation, a case-by-case approach in tackling corruption may prove to be more effective and will certainly give companies greater assurance that they can reap in the profits of freedom from corruption without taking the risk of being the one to make the first move.

### **TI'S INTEGRITY PACT**

The TI Integrity Pact (TI-IP) intends to accomplish two objectives:

— to enable companies to abstain from bribing by providing assurances to them that their competitors will also refrain from bribing, and that government procurement agencies will undertake to prevent any form of corruption, including extortion, and to follow transparent procedures;

— to enable governments to reduce the high cost and the detrimental impact of corruption on public procurement.

A government may wish to begin by establishing first one or several “Islands of Integrity” where for selected projects, or for all projects in a sector, corrupt practices would be eliminated by agreement among the government and those companies interested in bidding for services or the supply of goods. The Integrity Pact concept could also be employed in similar situations, for example, when a government, as part of its privatization program, invites bidders to tender for the acquisition of government assets, or for telecommunications, mining, or logging licenses.

The Integrity Pact would function as follows: a government, when inviting contractors or suppliers of goods and services to tender for a specific contract, informs the potential bidders that their tender offer must contain a commitment, signed personally by the bidder’s chief executive officer (CEO), not to offer or pay any bribes in connection with this contract. This covers, of course, all stages of the procurement process as well as the execution phase. The government, on its part, will commit itself to prevent price-fixing and the acceptance of bribes by its officials, and to follow transparent procurement rules. Legally speaking, these commitments are nothing other than a commitment to respect and invoke the existing laws of the country. It is expected that the explicit commitment and the mode of operation established by it can make a significant difference in the political and business reality.

The sanctions provided for violations, and the monitoring system put in place, may go well beyond the existing legal system. Bidders who violate their commitment not to bribe will be subject to significant sanctions, such as denial or loss of contract, liability for damages (to the government and the competing bidders), and forfeiture of the bid security. The government could also debar the offender from all government business for an appropriate period of time. By empowering unsuccessful bidders, who have evidence of corruption by their competitors or the principal, to enforce sanctions themselves (through the courts or by international arbitration), their confidence in the integrity of the process as a whole will be increased.

Because a bidding company acts through many employees and agents, the chief executive officer’s commitment should (not least for the CEO’s own protection) be

implemented through a compliance program which assures that all employees and agents will observe the no-bribery commitment. Where the company already has a written anti-bribery policy in effect, it can furnish a copy of that policy together with the compliance program implementing that policy. Where a company does not have such a policy, or does not have a written compliance program, it can furnish a copy of the compliance program established for the particular contract.

One key lies in transparency relating to payments to agents and other third parties in connection with the contract. There are, of course, good and valid reasons why agents should be engaged to perform legitimate services. However, agents’ commissions are a traditional avenue for the concealing of bribes. The Integrity Pact therefore envisages a requirement that all past and intended future payments to third parties be disclosed at the bidding stage, and that they be formally recorded and reported during the execution stage by the successful bidder, with appropriate certification by the CEO.

A second feature of the Integrity Pact is the involvement of CEOs personally or through other appropriate senior managers. The procedure requires them personally to certify amounts of payments to third parties. They will be required to be personally involved, so they will not be able to disclaim knowledge of malpractice as is often the case. This requirement is bolstered by the compliance provisions which the successful bidder normally must have in place.

## **MOVING FORWARD WITH IMPLEMENTATION**

While TI has discussed this approach in a number of countries from its very inception in early 1993, it was introduced only in a few rather different cases in Latin America: in a refinery rehabilitation project in Ecuador (1994), in a modified version in the privatization of telecommunications in Panama (1996), and in procurement by the provincial government of Mendoza in Argentina (1997); other initiatives are in varying stages of implementation.

While the Integrity Pact concept has the backing of major international financing institutions — World Bank President James Wolfensohn has endorsed it as have representatives of the regional development banks — Transparency International today faces the challenge of proving that the concept can be applied on a broader basis and that it has matured beyond the pilot project

phase. Numerous companies — many of them playing in the top league of their sectors — have voiced their great interest in taking just the project-oriented approach that the Integrity Pact concept is propagating. They have seen too many government-led anti-corruption campaigns come and go without achieving substantive change. Civil society also stands ready to work on concrete Integrity Pact projects, perhaps in the form of a national chapter of TI, that would monitor the bid evaluation and the

selection of the successful bidder. With the support of the private sector, civil society, and the financing institutions it is now up to governments to demonstrate that they are willing to handle things differently — at least in individual large-scale projects. □

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## □ JOURNALIST TRAINING TO CURB CORRUPTION

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By David Pezzullo, Consultant, Economic Development Institute, The World Bank

*Corruption is a pervasive fact of life in many developing countries, one that transcends politics and eludes tidy programs and quick fixes. Reducing it requires an intensive and protracted effort that includes an aggressive and unfettered press, says David Pezzullo. Pezzullo has worked as an investigative journalist for Nicaragua's La Prensa daily, which crusaded against corruption under the rightist dictatorship of Anastasio Somoza, the leftist Sandinista regime, and the current democratic government. He now designs and leads anti-corruption programs, including journalist training, for the World Bank's Economic Development Institute.*

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Increasingly, evidence gathered by the World Bank and Transparency International suggests that cronyism, nepotism, bribery — corruption petty and grand — sands rather than greases even the strictly economic machinery of society. The costs of corruption for the underlying social and political culture are harder to measure. Yet judging by political stability, social cohesion, and citizen support for the state, the costs are immense, particularly in the developing world.

But where can needed changes in underlying attitude, behavior, and institutions to curb corruption best come from? And what can the world community do to effectively encourage peaceful change?

As corruption moves into the development spotlight, the role of the press in curbing it is coming to the fore. Usually the first line in exposing corrupt acts, the press is often asked to do more because more is needed. The media are called on to press for reform and lead the effort to prevent corruption. Some argue that this is inherently dangerous, that the media should not be taking on responsibilities reserved for government and the wider society. The press, it is said, does not have the wherewithal to effectively step beyond its traditional role of exposing malfeasance. And it is not sufficiently accountable to lead reform.

In what follows, I briefly address the shifting role of the press with regard to corruption in Nicaragua and East

Africa. In Nicaragua, I witnessed firsthand the power of investigative media to expose corruption, as well as the impotence of the media to actually stop it. One solution to this dilemma may lie in the journalist training programs sponsored by the World Bank's Economic Development Institute, which have begun to show positive results in challenging corruption in East Africa.

### THE EXPERIENCE OF NICARAGUA

The Nicaraguan press, particularly during the Somoza dictatorship, was a sanctuary of democratic hopes in a sea of repression and corruption. Since the 1950s, Pedro Chamorro had made the daily *La Prensa* the voice of opposition to the abuses of the Somoza regime and had become the leader of civil society opposition to the dictatorship. The opposition it fostered was broad based, addressing political, economic, and social issues.

Chamorro's assassination in 1978 sparked a popular insurrection that brought the Sandinista regime to power. The Sandinistas adopted the language of reform, but ruled by force and used their power to become rich, much as Somoza had. Pedro Chamorro's widow, Violeta, became the leader of the peaceful opposition to the Sandinistas, and *La Prensa*, of which she was one-third owner, again took up the fight against corruption and repression despite severe censorship.

In 1990, Violeta Chamorro became president of Nicaragua in a free election, but democracy did not sweep away the web of old habits of using power for personal gain that had existed for centuries. Efforts funded by international donors to reform institutions and the economy to serve all citizens and curb corruption were dragged down or distorted by patronage, nepotism, and abuse of power.

The government still reflected the underlying colonial arrangement in which the incoming governor would distribute lands and tribute to supporters by taking from non-supporters. In economic terms, this meant that most government contracts were rigged, bidding was typically a farce, and even reform efforts like privatization were

distorted to enrich insiders. People of influence enjoyed tax and tariff exemptions, rich contracts, and sweetheart loans, pricing out the small and middle entrepreneurs and passing on the high costs to the mostly impoverished public. The judiciary was too weak to impose the few laws forbidding conflicts of interest and cozy deals. And the parliament was too partial to effectively update legislation. In essence, Nicaragua's chance to build a stable society was being undermined by pervasive corruption.

## **RESTRAINING THE BEAST**

We at *La Prensa* began producing investigative reports based on solid documentary evidence detailing how, for example, only \$20 million worth of hospitals were built on a \$40 million loan from Spain. Having built a number of strong cases, we assisted in presenting evidence to the country's auditor general for further scrutiny. Most of these cases were picked up by the international media, multiplying pressure for a full accounting by the government. In the process, we, along with journalists at other media and a number of reformers in and out of government, were able to describe the prevailing mechanism by which generous foreign assistance was either misused or siphoned off. *La Prensa's* reporting generated public outrage but little far-reaching reform. We could only insinuate how key political decisions were twisted for personal monetary gain and how the electoral process was undermined by dirty campaign money.

There have been a number of other cases in Latin America where journalists like Roberto Eisenmann in Panama and Jacobo Timmerman in Argentina have resisted arbitrary rule. However, none of these efforts has been able to generate systematic reform efforts.

Several foreign donors — the U.S. Agency for International Development and the U.S. Information Agency among them — finance journalist training programs principally for the print media. These efforts acquaint hundreds of local journalists with the latest reporting techniques and ethical standards, but interference by owners and editors with political agendas attached to financial backing remains an impediment to faithful reporting. In essence, the conflicts of interest at the top compromise the objectivity of the press. Attempts to modernize the media mirror efforts to modernize the state, a process that is uneven and slow.

But change is on the way. A number of corruption surveys have been published in Nicaragua showing that

bribery is perceived to be high in the police, schools, hospitals and clinics, the judiciary, and parliament. The first National Integrity Workshop in Nicaragua is planned for December 1998 to bring together a broad cross-section of stakeholders to design plans of action to curb theft of relief and reconstruction aid following Hurricane Mitch. The training plans for journalists involve teaching about the possibilities for gathering information from the Internet and the need to double-check sources; they will be cautioned not to publish unfounded rumors or press releases without context. Journalists will be encouraged to raise their sense of professionalism above political loyalties and share information with counterparts from competing media. The workshop will organize discussions on outdated press laws that allow authorities extensive powers to silence reporters.

Journalists will be brought together with government and private sector leaders to enhance comfort and access. The process holds the promise of building consensus around a few measures that can make a difference. Upon this base, reforms proposed by a variety of stakeholders are much more likely to take root. And just the experience of government and civil society working as equals to plan policy creates the opportunity for more open government and more active and constructive civil society participation — making insider deals higher risk and lower benefit during the process of longer-term structural reform toward a more accountable state.

Enhanced confidence and professionalism among journalists is likely to change the newsroom dynamic over time, much as institutional reform and civil service training are likely to gradually modernize government. The Economic Development Institute recently has staged journalist training workshops in Uganda, Tanzania, Ethiopia, Benin, Mauritius, and Cameroon. In addition to Nicaragua, the institute is planning similar workshops in other Latin American countries with the hope of providing ideas to build a responsible and independent media to buttress the transition to fuller democracy.

## **LEARNING FROM EAST AFRICA**

In Uganda, beginning in the late 1980s, an unelected regime dominated by the military launched an ambitious program to reform the corrupt and dictatorial state after a protracted civil war. In the mid-1990s, the government, helped by the Economic Development Institute, began experimenting with a participatory process called an "Integrity System" to build public and civil society into

the process of combating corruption. In Tanzania around the same time, the elected president became a champion of using training and broad-based participatory workshops to build accountability into government.

The Integrity Systems in both countries used surveys to measure public perceptions of corruption, track the prevalence of bribery, and identify problem areas. Focusing on solid survey data, working groups meeting at National Integrity Workshops designed action plans for the various key stakeholder groups — or “pillars of integrity” — such as the executive branch, the parliament, the private sector, the police, and the media. The plans of action emerging from the workshops represented blueprints for anti-corruption policy, wherein longer-term institutional reforms were mixed with shorter-term measures such as pledges, communications campaigns, and opening access to government information.

An ambitious journalist training program was launched as part of the Integrity System in the belief that the media were in need of capacity building if they were to effectively, responsibly, and credibly demand accountability of government.

In both Uganda and Tanzania, more than half the print journalists went through training in basic journalism ethics, as well as investigative and reporting techniques. The journalists were trained in legal concepts such as libel and ethical standards that can enhance their credibility and sources. Reporters were taught about the importance of networking with each other so they could pass information across political lines and get key stories published despite opposition from their editors, who often were wedded to political parties and leaders. In the process, case studies were developed, and the effectiveness of local journalist groups such as the Commonwealth Broadcasters Association was enhanced. In Uganda a new newspaper was founded by newly trained journalists.

As political will from the top to seek greater accountability from insiders has waned, the modernizing media have become the central civil society stakeholder demanding better performance from government. In several instances, government officials have been sanctioned by parliament or forced to resign because of media reports of unaccountable wealth accumulated while in office. And the media have become a check on lapses from the ongoing institutional reform programs designed to substantively redesign the state. In Uganda, the

implementation of an ambitious decentralization program is being linked to radio journalist training at the district level to encourage the process.

Corruption in both countries remains high according to the Transparency International Index and other measures, yet the debate on corruption is much more concrete and broadly based, and the rules have changed. The press is more aggressive, the citizenry more vigilant, and officials more careful. And while factors such as regional tension are likely to determine where the Integrity Systems will lead in the midterm, the training and action planning to date have built substantial impediments to abuses. At the very least, there is far more capacity in civil society and at the local level to demand probity in government.

## THE ROAD AHEAD

Various stakeholders in Nicaragua, particularly those outside the government, have pressed for the adaptation of an integrity-building effort like those adopted in East Africa, precisely because civil society and the press are afforded a central role. Complementing the more strictly technocratic reform measures that much of the public neither understands nor trusts, the Integrity System is attractive because it brings reform programs into the growing public domain. Yet the notion of working together as equals to devise action plans in public view is still foreign to many in government, civil society, and the donor community.

As various stakeholders take on new responsibilities to evaluate and even reform government, they need support in reaching new standards of professionalism themselves. In this regard, media training is likely to be more effective within a broader national process to enhance accountability, such as those being undertaken in East Africa, Nicaragua, and more than a dozen other countries in the developing world. And it can accomplish more by tapping into larger international efforts — such as those of the Organization of American States and the Organization for Economic Cooperation and Development — to curb corruption. But it is still valid on its own. Whether part of a more holistic effort or free standing, media training in the broadest sense is arguably one of the most effective and justifiable means of curbing corruption in societies in need of fundamental institutional reform. □



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## ❑ CORRUPTION: THE POLISH AND RUSSIAN EXPERIENCES

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By Timothy Frye, Assistant Professor, Department of Political Science, The Ohio State University

*Corruption has devastated Russia's attempts to create a prosperous market-based economy but has had less impact on Poland's conversion to capitalism. Frye says that effective bureaucratic reform played a key role in Poland's economic transition and suggests Russia might also benefit from public sector reforms.*

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Stabilization, privatization, and liberalization dominated early discussions of post-Communist transformation. But somewhat surprisingly, corruption has recently emerged as perhaps the most important obstacle to economic reform. While the experiences of Russia and Poland drive home this point, they also reveal very different stories about the development and implications of corruption for their respective economies. The lessons of post-Communist societies suggest that practical steps can be taken to minimize the corrosive effects of corruption on the development of market economies.

Analysis of corruption in Russia and Poland, as well as elsewhere in most of Eastern Europe and the new independent states of the former Soviet Union, should begin with an understanding of how state bureaucracies are organized. This is necessary because corruption undertaken by so-called "disorganized" bureaucracies causes greater economic damage than corruption undertaken by "organized" bureaucracies.

Think of a business person who needs 10 different permits from the state to make her product. Under a scenario of disorganized corruption, 10 different bureaucratic agencies have the power to issue permits needed to produce the good, and therefore each agency behaves like a monopolist. Each agency sets the price (read bribe) for its permits to maximize its individual revenue. Due to the number of independent agencies issuing different permits, they cannot coordinate their actions, creating a situation in which each charges a high price. As the price for permit 1 increases, however, demand for permit 2 falls. This drop in demand for permits 2 through 10 reduces overall demand, and, in turn, reduces each bureaucrat's revenue. The business person also suffers under disorganized corruption because

she cannot pay all the bribes asked of her, does not produce the good, and receives no revenue.

Under a scenario of organized corruption, one agency has the power to issue all 10 permits needed by the business person. In this case, the agency behaves like a joint monopolist and sets the price for permit 1 lower than under the previous scenario because it does not want to reduce demand for permit 2. In turn, the agency sets the price for permit 3 low so as not to reduce demand for permit 4, and so on. The key notion here is that raising the price for permit 1 reduces demand for other permits. While organized corruption still leads to a misallocation of resources, it is less disruptive for the economy than disorganized corruption because the business is able to obtain the permit and produce the good.

### **POLAND AND RUSSIA**

I tested the scenarios described above by conducting surveys of about 250 shopkeepers in three cities in Russia and one city in Poland in 1996 and 1998 on a variety of issues related to bureaucratic organization and corruption. I found that bureaucracies were far more disorganized in Moscow than in Warsaw. On average, shopkeepers in Moscow were inspected by almost four different agencies whose officials came to the average shop 19 times per year. Shopkeepers in Warsaw were inspected by 2.6 agencies whose officials came to the shop only nine times per year. In addition, the average shopkeeper in Moscow had to visit 6.6 different bureaucracies to open his business, versus only 4.3 for Warsaw. Also, the shop registration process lasted 10 weeks in Moscow and less than four weeks in Warsaw.

As the numbers suggest, levels of corruption were higher in Moscow than in Warsaw. We asked shopkeepers somewhat discretely: "How often do you think that the average shopkeeper in your city has to pay bribes, on a scale of 1 to 5 (1, almost never; 2, rarely; 3, sometimes; 4, often; 5, almost always)?" The answer for Moscow was 2.9 and for Warsaw was 2.2 — a difference that is statistically significant. We also asked shopkeepers to rate their biggest problems on a scale of 1 to 10 (1, small

problem; 10, major problem). Moscow shopkeepers rated corruption at 7.4, while Warsaw shopkeepers gave it a 3.1.

To reduce corruption in Russia, an environment must be fostered where separate agencies no longer have the power to arbitrarily set the price for doing business. Indeed, looking within Russia, we find that cities that have streamlined the granting of business permits have lower rates of corruption. For example, bureaucracies were more disorganized in Ulyanovsk than in Smolensk. The average shopkeeper in Ulyanovsk had to receive permits from 6.1 different agencies to stay in business versus 4.4 for shopkeepers in Smolensk. Moreover, the average shopkeeper in Ulyanovsk had to receive 8.8 permits to open his store versus 6.2 in Smolensk.

As expected, corruption is a bigger problem for shopkeepers in Ulyanovsk than in Smolensk. Respondents noted that the average shopkeeper had to pay bribes more frequently in Ulyanovsk than in Smolensk (3.2 versus 2.6, using the five-point scale described above). Shopkeepers in Ulyanovsk rated the problem of corruption 6.3, but shopkeepers in Smolensk rated it 5.4 (using the 10-point scale described above). Again, we find that disorganized bureaucracies tend to produce disorganized corruption that inflicts significant costs on society. This suggests that reductions in corruption in Russia are possible and can be addressed through reform of the public sector.

## **CORRUPTION AND THE INFORMAL ECONOMY**

The evidence from Poland and Russia suggests that corruption, whether organized or disorganized, can levy devastating costs on an economy. It reduces investment due to the potential for arbitrary actions by state officials. It also reduces competition by rationing permits to the highest bidder rather than to the most efficient user.

Corruption, however, also has a more subtle effect on economic reform through its impact on the informal economy. Corruption tends to swell the informal economy because business deals involving corrupt officials cannot be enforced in state courts and are rarely subject to official rates of taxation. Rather than operate in the

formal economy, abide by legal rules, and pay taxes, business people who rely on corruption operate in the informal economy, break legal rules, and pay few taxes. As people pay fewer taxes, the state is less able to provide public goods necessary for economic growth.

By 1995, the informal economy had grown far larger in Russia and Ukraine than in Poland. Relying on rates of the use of electricity in different countries, one study estimates that the underground economy made up 42 percent of the GDP (gross domestic product) in Russia, 49 percent in Ukraine, and only 13 percent in Poland. The dramatic expansion of the informal economy in Russia and Ukraine is somewhat surprising. Prior to 1989, the underground economy to the total economy was much larger in Poland than in the former Soviet countries.

## **PRESCRIPTIONS**

Some scholars argue that certain national cultures are more conducive to corruption. However, we often see levels of corruption change in particular countries, even while the culture remains constant. Moreover, corrupt practices are strikingly similar across very different national cultures. Regardless of its culture, what country does not know corrupt customs agents? To reduce corruption, we should not look to national culture but to the incentives facing bureaucratic agents engaged in it.

The most common solution for reducing corruption is to curtail the discretionary power of state agents. For example, rather than let a bureaucrat grant a license to export a product (and allow him to accept a bribe for doing so), states should abolish export licenses and thereby allow economic factors to decide whether or not to export.

But this can provide only a partial solution since many important social functions cannot be left to the market. Moreover, it is often not politically feasible to assign some functions to the market rather than the state. Thus, if corruption is to be kept in check, public sector reform that makes the state more organized must operate in tandem with economic reform. □

# FACTS AND FIGURES

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## SUMMARY OF THE OECD ANTI-BRIBERY CONVENTION

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*Following is a summary of the OECD Anti-Bribery Convention prepared by the U.S. Departments of Commerce, State, and Justice.*

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The convention is a historic achievement in the fight against bribery. The convention obligates the parties to criminalize bribery of foreign public officials. "Foreign public officials" is defined to include officials in all branches of government, whether appointed or elected; any person exercising a public function, including for a public agency or public enterprise; and any official or agent of a public international organization. A public function includes any activity in the public interest, delegated by a foreign country. A public enterprise is any enterprise over which a government or governments may, directly or indirectly, exercise a dominant influence. An official of a public enterprise shall be deemed to perform a public function unless the enterprise operates on a normal commercial basis in the relevant market, i.e., on a basis that is substantially equivalent to that of a private enterprise, without preferential subsidies or other privileges.

Although the text does not specifically cover political parties, the negotiators agreed that the convention will cover business-related bribes to foreign public officials made through political parties and party officials, as well as those bribes that corrupt foreign public officials direct to political parties. Some persons who are not formally designated as public officials but who may in fact perform a public function (e.g., political party officials in single party states) may, under the legal principles of some countries, be considered to be foreign public officials. In addition, under the legal systems of some countries, an advantage promised or given to a person in anticipation of that person's becoming a foreign public official may fall within the scope of the convention. Negotiators agreed to an accelerated work plan to address several outstanding issues related to the convention, including acts of bribery relating to foreign political parties and relating to persons in anticipation of their becoming foreign public officials.

The results of this review will be reported to ministers by the 1999 OECD Council meeting.

The negotiators agreed to apply "effective, proportionate, and dissuasive criminal penalties" to those who bribe foreign public officials. Countries whose legal systems lack the concept of criminal corporate liability must provide for equivalent non-criminal sanctions, including monetary penalties. The convention further requires that countries be able to seize or confiscate the bribe and bribe proceeds (i.e., net profit), or property of similar value, or that monetary sanctions of comparable effect be applicable.

The convention requires that parties take necessary measures, within the framework of their relevant laws and regulations, to prohibit the establishment of off-the-books accounts and similar practices used to bribe foreign public officials or to hide such bribery. Parties shall make bribery of foreign public officials a predicate offense for purposes of money laundering legislation on the same terms as bribery of domestic public officials.

Parties are to establish jurisdiction over offenses that are committed in whole or in part in their territories. Parties may rely on the general jurisdictional principles — nationality or territoriality — recognized by their legal systems. The territorial basis for jurisdiction is to be interpreted broadly so that an extensive physical connection to the act of bribery is not required. The convention provides that parties will review their current bases for jurisdiction and take remedial steps if they are not effective in the fight against the bribery of foreign public officials. Parties shall consult when more than one party asserts jurisdiction. Participating governments pledged to work together to provide legal assistance relating to investigations and proceedings within the scope of the convention and to make bribery of foreign public officials an extraditable offense.

At the May 1997 OECD Council meeting, ministers recommended that member states submit to national legislatures by April 1, 1998, legislation to criminalize

bribery of foreign public officials and seek the enactment of such laws by the end of 1998. The convention requires the parties to cooperate in a follow-up program, in the framework of the OECD, to monitor and promote full implementation.

The convention will enter into force when five of the OECD's 10 largest exporting countries, which by themselves represent 60 percent of the combined total exports of those 10 countries, deposit their instruments of ratification. If this has not occurred by the end of 1998,

thereafter the convention will enter into force when at least two signatories have deposited their instruments of ratification and declare their willingness to be bound. □

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Editorial note: The convention has been signed by the 29 OECD members plus Argentina, Brazil, Chile, Bulgaria and the Slovak Republic. The complete text of the OECD convention can be obtained from the OECD homepage at: <http://www.oecd.org/daf/cmisis/bribery/20nov1e.htm>. An update on steps taken and planned future actions by each participating country to ratify and implement the convention may be obtained at: <http://www.oecd.org/daf/cmisis/bribery/annex2.htm>.

## TRANSPARENCY INTERNATIONAL'S 1998 CORRUPTION PERCEPTIONS INDEX

Transparency International's Corruption Perceptions Index (CPI) for 1998 ranks 85 countries in the group's most comprehensive survey since it was founded in 1993. The group is a non-profit, non-partisan coalition that works to mobilize civil society, business, academia and government to curb corruption. Transparency International defines corruption as the abuse of public office for private gain. The Berlin-based organization compiled its index from multiple surveys of expert and general public views in many countries. Transparency International says its index deals with the perception of corruption, not corruption itself, which it says it does not have the means to quantify. In the following table, countries are ranked from those viewed as least corrupt to those viewed as most corrupt.

The Transparency International 1998 Corruption Perceptions Index

Country Rank	Country	1998 CPI Score	Standard Deviation	Surveys Used
1	Denmark	10.6	0.7	9
2	Finland	9.6	0.5	9
3	Sweden	9.5	0.5	9
4	New Zealand	9.4	0.7	8
5	Iceland	9.3	0.9	8
6	Canada	9.2	0.5	9
7	Singapore	9.1	1.0	10
8	Netherlands	9.0	0.7	9
	Norway	9.0	0.7	9
10	Switzerland	8.9	0.6	10
11	Australia	8.7	0.7	8
	Luxemburg	8.7	0.9	7
	United Kingdom	8.7	0.5	10
14	Ireland	8.2	1.4	10
15	Germany	7.9	0.4	10
16	Hong Kong	7.8	1.1	12
17	Austria	7.5	0.8	9
	United States	7.5	0.9	8
19	Israel	7.1	1.4	9
20	Chile	6.8	0.9	9
21	France	6.7	0.6	9
22	Portugal	6.5	1.0	10
23	Botswana	6.1	2.2	3
	Spain	6.1	1.3	10
25	Japan	5.8	1.6	11
26	Estonia	5.7	0.5	3
27	Costa Rica	5.6	1.6	5
28	Belgium	5.4	1.4	9

Country Rank	Country	1998 CPI Score	Standard Deviation	Surveys Used
29	Malaysia	5.3	0.4	11
	Namibia	5.3	1.0	3
	Taiwan	5.3	0.7	11
32	South Africa	5.2	0.8	10
33	Hungary	5.0	1.2	9
	Mauritius	5.0	0.8	3
	Tunisia	5.0	2.1	3
36	Greece	4.9	1.7	9
37	Czech Republic	4.8	0.8	9
38	Jordan	4.7	1.1	6
39	Italy	4.6	0.8	10
	Poland	4.6	1.6	8
41	Peru	4.5	0.8	6
42	Uruguay	4.3	0.9	3
43	South Korea	4.2	1.2	12
	Zimbabwe	4.2	2.2	6
45	Malawi	4.1	0.6	4
46	Brazil	4.0	0.4	9
47	Belarus	3.9	1.9	3
	Slovak Republic	3.9	1.6	5
49	Jamaica	3.8	0.4	3
50	Morocco	3.7	1.8	3
51	El Salvador	3.6	2.3	3
52	China	3.5	0.7	10
	Zambia	3.5	1.6	4
54	Turkey	3.4	1.0	10
55	Ghana	3.3	1.0	4
	Mexico	3.3	0.6	9
	Philippines	3.3	1.1	10
	Senegal	3.3	0.8	3
	Ivory Coast	3.1	1.7	4
59	Guatemala	3.1	2.5	3
	Argentina	3.0	0.6	9
61	Nicaragua	3.0	2.5	3
	Romania	3.0	1.5	3
	Thailand	3.0	0.7	11
	Yugoslavia	3.0	1.5	3
	Bulgaria	2.9	2.3	4
66	Egypt	2.9	0.6	3
	India	2.9	0.6	12
	Bolivia	2.8	1.2	4
69	Ukraine	2.8	1.6	6
	Latvia	2.7	1.9	3
71	Pakistan	2.7	1.4	3

Country Rank	Country	1998 CPI Score	Standard Deviation	Surveys Used
73	Uganda	2.6	0.8	4
74	Kenya	2.5	0.6	4
	Vietnam	2.5	0.5	6
76	Russia	2.4	0.9	10
77	Ecuador	2.3	1.5	3
	Venezuela	2.3	0.8	9
79	Colombia	2.2	0.8	9
80	Indonesia	2.0	0.9	10
81	Nigeria	1.9	0.5	5
	Tanzania	1.9	1.1	4
83	Honduras	1.7	0.5	3
84	Paraguay	1.5	0.5	3
85	Cameroon	1.4	0.5	4

Notes: The "1998 CPI Score" relates to perceptions of the degree of corruption as seen by business people, risk analysts, and the general public and ranges between 10 (highly clean) and 0 (highly corrupt). "Standard Deviation" indicates differences in the values of the sources; the greater the standard deviation, the greater the differences of perceptions of a country among the sources. "Surveys Used" indicates the number of surveys involved in assessing a country's performance. Twelve surveys were used; a country had to be named on at least three of them to be included in the 1998 CPI. □

Source: Transparency International, September 22, 1998.

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## □ THE INTERNATIONAL CHAMBER OF COMMERCE'S RULES AGAINST EXTORTION AND BRIBERY

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*The International Chamber of Commerce (ICC) is a global business organization with 63 national committees and over 7,000 member companies and associations from more than 130 countries. The ICC seeks to promote international trade and investment, as well as rules of conduct of business across borders. The Rules of Conduct to Combat Extortion and Bribery was adopted by the ICC in 1996.*

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These rules of conduct are intended as a method of self-regulation by international business, and they should also be supported by governments. Their voluntary acceptance by business enterprises will not only promote high standards of integrity in business transactions, whether between enterprises and public bodies or between enterprises themselves, but will also form a valuable defensive protection to those enterprises which are subjected to attempts at extortion.

These rules of conduct are of a general nature constituting what is considered good commercial practice in the matters to which they relate but are without direct legal effect. They do not derogate from applicable local laws, and since national legal systems are by no means uniform, they must be read *mutatis mutandis* subject to such systems.

The business community objects to all forms of extortion and bribery. It is recognized, however, that under current conditions in some parts of the world, an effective program against extortion and bribery may have to be implemented in stages. The highest priority should be directed to ending large-scale extortion and bribery involving politicians and senior officials. These represent the greatest threat to democratic institutions and cause the gravest economic distortions. Small payments to low-level officials to expedite routine approvals are not condoned. However, they represent a lesser problem. When extortion and bribery at the top levels is curbed, government leaders can be expected to take steps to clean up petty corruption.

### **BASIC PRINCIPLE**

All enterprises should conform to the relevant laws and regulations of the countries in which they are established and in which they operate, and should observe both the letter and the spirit of these rules of conduct.

For the purposes of these rules of conduct, the term "enterprise" refers to any person or entity engaged in business, whether or not organized for profit, including any entity controlled by a state or a territorial subdivision thereof; it includes, where the context so indicates, a parent or a subsidiary.

### **BASIC RULES**

#### **Article 1: Extortion**

- No one may, directly or indirectly, demand or accept a bribe.

#### **Article 2: Bribery and "Kickbacks"**

- No enterprise may, directly or indirectly, offer or give a bribe, and any demands for such a bribe must be rejected.
- Enterprises should not (1) kick back any portion of a contract payment to employees of the other contracting party, or (2) utilize other techniques, such as subcontracts, purchase orders, or consulting agreements, to channel payments to government officials, to employees of the other contracting party, to their relatives, or to business associates.

#### **Article 3: Agents**

Enterprises should take measures reasonably within their power to ensure:

- That any payment made to any agent represents no more than an appropriate remuneration for legitimate services rendered by such agent;
- That no part of any such payment is passed on by the



agent as a bribe or otherwise in contravention of these rules of conduct; and

- That they maintain a record of the names and terms of employment of all agents who are retained by them in connection with transactions with public bodies or state enterprises. This record should be available for inspection by auditors and, upon specific request, by appropriate, duly-authorized governmental authorities under conditions of confidentiality.

#### **Article 4: Financial Recording and Auditing**

- All financial transactions must be properly and fairly recorded in appropriate books of account available for inspection by boards of directors, if applicable, or a corresponding body, as well as auditors.
- There must be no “off the books” or secret accounts, nor may any documents be issued which do not properly and fairly record the transactions to which they relate.
- Enterprises should take all necessary measures to establish independent systems of auditing in order to bring to light any transactions which contravene the present rules of conduct. Appropriate corrective action must then be taken.

#### **Article 5: Responsibilities of Enterprises**

The board of directors or other body with ultimate responsibility for the enterprise should:

- Take reasonable steps, including the establishment and maintenance of proper systems of control aimed at preventing any payments being made by or on behalf of the enterprise which contravene these rules of conduct;

- Periodically review compliance with these rules of conduct and establish procedures for obtaining appropriate reports for the purposes of such review; and
- Take appropriate action against any director or employee contravening these rules of conduct.

#### **Article 6: Political Contributions**

Contributions to political parties or committees or to individual politicians may only be made in accordance with the applicable law, and all requirements for public disclosure of such contributions shall be fully complied with. All such contributions must be reported to senior corporate management.

#### **Article 7: Company Codes**

These rules of conduct being of a general nature, enterprises should, where appropriate, draw up their own codes consistent with the International Chamber of Commerce rules and apply them to the particular circumstances in which their business is carried out. Such codes may usefully include examples and should enjoin employees or agents who find themselves subjected to any form of extortion or bribery immediately to report the same to senior corporate management. Companies should develop clear policies, guidelines, and training programs for implementing and enforcing the provisions of their codes. □

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Note: A related document, *ICC Recommendations to Governments and International Organizations on Extortion and Bribery*, may be obtained on the Internet at:  
[http://www.iccwbo.org/Commissions/Extortion\\_bribery/bribery.doc.html](http://www.iccwbo.org/Commissions/Extortion_bribery/bribery.doc.html)

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## □ FOREIGN CORRUPT PRACTICES ACT ANTIBRIBERY PROVISIONS

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*The following is excerpted from a brochure on the Foreign Corrupt Practices Act Antibribery Provisions prepared by the U.S. Department of Commerce. This U.S. legislation provided the model for the OECD treaty.*

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### INTRODUCTION

The United States' 1988 Trade Act directed the U.S. Attorney General to provide guidance concerning the Department of Justice's enforcement policy with respect to the Foreign Corrupt Practices Act of 1977 (FCPA) to potential exporters and small businesses that are unable to obtain specialized counsel on issues related to the FCPA. The guidance is limited to responses to requests under the Department of Justice's Foreign Corrupt Practices Act Opinion Procedure and to general explanations of compliance responsibilities and potential liabilities under the FCPA.

U.S. firms seeking to do business in foreign markets must be familiar with the FCPA. In general, the FCPA prohibits American companies from making corrupt payments to foreign officials for the purpose of obtaining or keeping business. The Department of Justice is the chief enforcement agency, with a coordinate role played by the Securities and Exchange Commission (SEC). The Office of General Counsel of the Department of Commerce also answers general questions of U.S. exporters concerning the FCPA's basic requirements and constraints.

### BACKGROUND

Investigations by the SEC in the mid-1970s revealed that over 400 U.S. companies admitted making questionable or illegal payments in excess of \$300 million to foreign government officials, politicians, and political parties. The abuses ran the gamut from bribery of high foreign officials in order to secure some type of favorable action by a foreign government to so-called facilitating payments that allegedly were made to ensure that government functionaries discharged certain ministerial or clerical duties. Congress enacted the FCPA to bring a halt to the

bribery of foreign officials and to restore public confidence in the integrity of the American business system. The anti-bribery provisions of the FCPA make it unlawful for a U.S. person to make a corrupt payment to a foreign official for the purpose of obtaining or retaining business for or with, or directing business to, any person.

The FCPA also requires issuers of securities to meet its accounting standards. These accounting standards, which were designed to operate in tandem with the anti-bribery provisions of the FCPA, require corporations covered by the provisions to maintain books and records that accurately and fairly reflect the transactions of the corporation and to design an adequate system of internal accounting controls.

### BASIC PROVISIONS PROHIBITING FOREIGN CORRUPT PAYMENTS

**Anti-Bribery Provisions:** The FCPA makes it unlawful to bribe foreign government officials to obtain or retain business. The anti-bribery provisions apply both to certain issuers of registered securities and issuers required to file periodic reports with the SEC (referred to as "issuers") and to others (referred to as "domestic concerns"). A domestic concern is defined as any individual who is a citizen, national, or resident of the United States, or any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship that has its principal place of business in the United States or that is organized under the laws of a state of the United States, or a territory, possession, or commonwealth of the United States.

The FCPA's anti-bribery provisions extend to two types of behavior. The basic prohibition is against making bribes directly; a second prohibition covers the responsibility of a domestic concern and its officials for bribes paid by intermediaries.

The FCPA's basic anti-bribery prohibition makes it unlawful for a firm (as well as any officer, director, employee, or agent of a firm or any stockholder acting on

behalf of the firm) to offer, pay, promise to pay (or even to authorize the payment of money, or anything of value, or to authorize any such promise) to any foreign official for the purpose of obtaining or retaining business for or with, or directing business to, any person. A similar prohibition applies with respect to payments to a foreign political party or official thereof or candidate for foreign political office.

**Payments by Intermediaries:** It is also unlawful to make a payment to any person, while knowing that all or a portion of the payment will be offered, given, or promised, directly or indirectly, to any foreign official (or foreign political party, candidate, or official) for the purposes of assisting the firm in obtaining or retaining business. "Knowing" includes the concepts of "conscious disregard" or "willful blindness."

**Enforcement:** The Department of Justice is responsible for all criminal enforcement and for civil enforcement of the anti-bribery provisions with respect to domestic concerns. The SEC is responsible for civil enforcement of the anti-bribery provisions with respect to issuers.

## **ANTI-BRIBERY PROVISIONS: ELEMENTS OF AN OFFENSE**

**Basic Prohibition:** With respect to the basic prohibition, there are five elements that must be met to constitute a violation of the act:

1. **Who** — The FCPA applies to any individual firm, officer, director, employee, or agent of the firm and any stockholder acting on behalf of the firm. Individuals and firms may also be penalized if they order, authorize, or assist someone else to violate the anti-bribery provisions or if they conspire to violate those provisions. A foreign-incorporated subsidiary of a U.S. firm will not be subject to the FCPA, but its U.S. parent may be liable if it authorizes, directs, or participates in the activity in question. Individuals employed by or acting on behalf of such foreign-incorporated subsidiaries may, however, be subject to the anti-bribery provisions if they are persons within the definition of domestic concern. In addition, U.S. nationals employed by foreign-incorporated subsidiaries are subject to the anti-bribery provisions of the FCPA.

2. **Corrupt Intent** — The person making or authorizing the payment must have a corrupt intent, and the payment must be intended to induce the recipient to

misuse his (or her) official position in order wrongfully to direct business to the payor. The FCPA does not require that a corrupt act succeed in its purpose. The offer or promise of a corrupt payment can constitute a violation of the statute. The FCPA prohibits the corrupt use of the mails or of interstate commerce in furtherance of a payment to influence any act or decision of a foreign official in his or her official capacity or to induce the official to do or omit to do any act in violation of his or her lawful duty, or to induce a foreign official to use his or her influence improperly to affect or influence any act or decision.

3. **Payment** — The FCPA prohibits paying, offering, promising to pay (or authorizing to pay or offer) money or anything of value.

4. **Recipient** — The prohibition extends only to corrupt payments to a foreign official, a foreign political party or party official, or any candidate for foreign political office. A "foreign official" means any officer or employee of a foreign government or any department or agency, or any person acting in an official capacity. You should consider utilizing the Department of Justice's Foreign Corrupt Practices Act Opinion Procedure for particular questions as to the definition of a foreign official, such as whether a member of a royal family, a member of a legislative body, or an official of a state-owned business enterprise would be considered a foreign official.

Prior to the amendment of the FCPA in 1988, the term foreign official did not include any employee of a foreign government or agency whose duties were essentially ministerial or clerical. Determining whether a given employee's duties were essentially ministerial or clerical was a source of ambiguity, and it was not clear whether the act prohibited certain "grease" payments, such as those for expediting shipments through customs or placing a transatlantic telephone call, securing required permits, or obtaining adequate police protection. Accordingly, recent changes in the FCPA focus on the purpose of the payment, instead of the particular duties of the official receiving the payment, offer, or promise of payment, and there are exceptions to the anti-bribery provision for "facilitating payments for routine governmental action."

5. **Business Purpose Test** — The FCPA prohibits payments made in order to assist the firm in obtaining, or retaining business for or with, or directing business to any person. It should be noted that the business to be

obtained or retained does not need to be with a foreign government or foreign government instrumentality.

**Third Party Payments:** Generally, the FCPA prohibits corrupt payments through intermediaries. It is unlawful to make corrupt use of the mails or of interstate commerce in furtherance of a payment to a third party, while knowing that all or a portion of the payment will go directly or indirectly to a foreign official. The term “knowing” includes conscious disregard and deliberate ignorance. The elements of an offense are essentially the same as described above, except that in this case the “recipient” is the intermediary who is making the payment to the requisite “foreign official.”

**Permissible Payments and Affirmative Defenses:** As amended in 1988, the FCPA now provides an explicit exception to the bribery prohibition for “facilitating payments” for “routine governmental action” and provides affirmative defenses which can be used to defend against alleged violations of the FCPA.

**Exception for Facilitating Payments for Routine Governmental Actions:** There is an exception to the anti-bribery prohibition for facilitating or expediting performance of routine governmental action. The statute lists the following examples: obtaining permits, licenses, or other official documents; processing governmental papers, such as visas and work orders; providing police protection and mail pick-up and delivery; providing phone service, power and water supply, loading and unloading cargo, or protecting perishable products; and scheduling inspections associated with contract performance or transit of goods across country. Actions similar to these are also covered by this exception.

Routine governmental action does not include any decision by a foreign official to award new business or to continue business with a particular party.

**Affirmative Defenses:** A person charged with a violation of the FCPA’s anti-bribery provisions may assert as a defense that the payment was lawful under the written laws of the foreign country or that the money was spent as part of demonstrating a product or performing a contractual obligation.

Whether a payment was lawful under the written laws of the foreign country may be difficult to determine. Those who are in doubt should consider seeking the advice of counsel or utilizing the Department of Justice’s Foreign

Corrupt Practices Act Opinion Procedure review procedure for such issues as (1) the issuance of an advisory opinion by a foreign government agency; (2) the issuance of regulations by a unit of local government; and (3) a course of conduct of a foreign government or government agency indicating that the payment is legal.

Moreover, because these defenses are affirmative defenses, the defendant would be required to show in the first instance that the payment met these requirements. The prosecution would not bear the burden of demonstrating in the first instance that the payments did not constitute this type of payment.

## **SANCTIONS AGAINST BRIBERY**

The following criminal penalties may be imposed for violations of the FCPA’s antibribery provisions. Firms are subject to a fine of up to \$2 million; officers, directors, and stockholders are subject to a fine of up to \$100,000 and imprisonment for up to five years; employees and agents are subject to a fine of up to \$100,000 and imprisonment for up to five years. Fines imposed on individuals may not be paid by the firm.

There can be civil penalties as well. The Attorney General or the SEC, as appropriate, may bring a civil action for a fine of up to \$10,000 against any firm as well as any officer, director, employee, or agent of a firm, or stockholder acting on behalf of the firm, who violates the anti-bribery provisions. In addition, in an SEC enforcement action, the court may impose an additional fine not to exceed the greater of (1) the gross amount of the pecuniary gain to the defendant as a result of the violation, or (2) a specified dollar limitation. The specified dollar limitations are based on the egregiousness of the violation, ranging from \$5,000 for a natural person and \$50,000 for any other person, to \$100,000 for a natural person and \$500,000 for any other person.

The Attorney General or the SEC, as appropriate, may also bring a civil action to enjoin any act or practice of a firm whenever it appears that the firm (or an officer, director, employee, agent, or stockholder acting on behalf of the firm) is in violation (or about to be) of the anti-bribery provisions. The SEC may also enter a cease-and-desist order against a person who violates, or is about to violate, the anti-bribery provisions.

**Alternative Fines:** Under federal criminal laws other than the FCPA, individuals may be fined up to \$250,000 or

up to twice the amount of the gross gain or gross loss if the defendant derives pecuniary gain from the offense or causes a pecuniary loss to another person. The FCPA's penalty provisions do not override the provisions in these other statutes providing for alternative fines.

**Other Governmental Action:** Under guidelines issued by the U.S. Office of Management and Budget, a person or firm found in violation of the FCPA may be barred from doing business with the U.S. government. Indictment alone can lead to suspension of the right to do business with the government. The president has directed that no executive agency shall allow any party to participate in any procurement or nonprocurement activity if any agency has debarred, suspended, or otherwise excluded that party from participation in a procurement or nonprocurement activity. No executive party or agency

will allow any party to participate in any procurement or nonprocurement activity if any agency has excluded that party.

In addition, a person or firm found guilty of violating the FCPA may be ruled ineligible to receive export licenses; the SEC may suspend or bar persons from the securities business and impose civil penalties on persons in the securities business for violations of the FCPA; the Commodity Futures Trading Commission and the Overseas Private Investment Corporation both provide for possible suspension or debarment from agency programs for violation of the FCPA; and a payment made to a foreign government official that is unlawful under the FCPA cannot be deducted under the tax laws as a business expense. □

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## □ THE LIMA DECLARATION AGAINST CORRUPTION

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*Concluded at the 8th International Conference Against Corruption, held September 7 to 11, 1997, in Lima, Peru. The conference brought together senior figures from international organizations and aid agencies, representatives of governments, officers of anti-corruption agencies and professional associations, as well as journalists, academics, businessmen, and representatives of civil society. The Declaration is considered a blueprint for action and progress and will be reviewed when the Conference reassembles in South Africa in 1999.*

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WE, over 1000 citizens drawn from 93 countries, coming from all the continents and from countries large and small, in every stage of development, rich and poor, and from varied backgrounds in government, the private sector, and civil society,

AFTER a searching discussion of the means to contain corruption in all its manifestations around the globe and united in our vision of an era of international and national co-operation in the twenty-first century in which the evil of corruption is suppressed,

NOW JOIN TOGETHER in this Declaration of the 8th International Conference Against Corruption held in Lima, Peru from 7 - 11 September 1997.

CONVINCED that corruption

- erodes the moral fabric of every society;
- violates the social and economic rights of the poor and the vulnerable;
- undermines democracy;
- subverts the rule of law which is the basis of every civilized society;
- retards development; and,
- denies societies, and particularly the poor, the benefits of free and open competition -

BELIEVING that

- fighting corruption is the business of everyone throughout every society;
- the fight involves the defense and strengthening of the ethical values in all societies;
- it is essential that coalitions be formed between government, civil society and the private sector;
- a willingness to enter into such a coalition is a true test of an individual government's commitment to the elimination of corruption;
- the role of civil society is of special importance to overcome the resistance of those with a stake in the status quo and to mobilize people generally behind meaningful reforms;
- there must be a sustained campaign against corruption within the private sector as, with greater privatisation and deregulation, it assumes a greater role in activities traditionally performed by the state;
- and that top leadership sets the tone in all societies, as "You clean a staircase by starting at the top" -

WE NOW CALL UPON governments, international and regional agencies and citizens around the world to mobilize their efforts and energies to join us in achieving the following actions:

### **Actions at the International and Regional Levels**

1. International institutions must support more fully the creative role civil society has to play in advancing the development of good governance and work with them in partnership to this end. They must work together to emphasize the positive aspects of globalisation, and to contain its negative elements.
2. Tax deductibility of bribes by which exporting countries actively subsidize and encourage the corruption of officials in other countries must be ended.

3. The OECD should complete a convention to criminalise the bribing of foreign officials by the end of this year, and its member states should implement its provisions before the end of 1998. The OECD must then carry out a strong monitoring programme to ensure strict enforcement of the convention, with participation by civil society to ensure transparency.

4. All states of the Americas should ratify the OAS Inter-American Convention Against Corruption before the Summit of the Americas in Santiago in April, 1998. We urge the OAS to promote and monitor implementation of the convention, and commend it as an excellent example of regional cooperation against corruption for consideration by other regions.

5. The World Bank and the IMF should accelerate implementation of their new policies against corruption initiated by President Wolfensohn and Managing-Director Camdessus, and particularly the suspension of lending to governments who do not adequately address the corruption issue.

6. The European Union should accelerate implementation of its own anti-corruption policies recommended by the Commission of the European Communities in May, 1997; all EU member states should ratify the European Union Convention on Corruption adopted on 26 May 1997; and all member states of the Council of Europe should join in the work of its multi-disciplinary group against corruption to ensure that the Council's summit in October yields concrete results.

7. The work of the United Nations on action against corruption must be supported. States must implement the United Nations Declaration Against Corruption and Bribery and the International Code of Conduct for Public Officials. International funding agencies and donor governments must further support the technical co-operation activities of the UN.

8. The World Trade Organization must itself join in the global struggle and begin to address the serious impact of corruption on world trade.

9. All multi-lateral and bilateral aid agencies, together with their development partners, must find practical ways of overcoming corruption in their development programs.

10. Funding agencies should increase the assistance they give to strengthen national integrity system programs to

combat corruption. In particular, the transparency of international and national government procurement programmes must be strengthened. Governance and civil service reform must have a focus on suppressing corruption as an essential element, and assure the political neutrality of the civil service itself.

11. International institutions must realize that their international procurement practices are not yet fully satisfactory, and that they should further develop imaginative and new approaches to procurement in partnership with individual governments and the private sector, including the use of anti-bribery and integrity pacts. Bidders who bribe should be blacklisted. The Global Coalition for Africa should continue its imaginative work with Transparency International and governments in this area.

12. International organizations with mandates in the area, including INTERPOL and the World Customs Organization, should take steps to strengthen international law enforcement co-operation.

13. Regulation of the operations of all international banking centers must be improved so as to ensure that assets under their control are governed by agreed international norms and that illicitly gained assets can be traced, frozen and forfeited. This should include exclusion from the international monetary system of off-shore banking centers which fail to meet these standards. Banking secrecy must not provide a shield for criminals and obstruct the exposure of corruption.

14. The reform and modernization of customs systems, with an emphasis on transparency and integrity, is still urgently needed in many countries. Assistance should be increased by the donor community, and particularly through the World Customs Organization (WCO). Members of the WCO should implement fully the Arusha Declaration of 1993 and the Columbus Declaration of 1994 and co-operate to ensure that transparency and integrity feature in all international trade transactions.

15. The International Chamber of Commerce must promote widespread acceptance by companies of codes of conduct and compliance programmes to combat extortion and bribery at home and abroad. We urge the adoption of codes of conduct and effective compliance

programs as a requirement for the right to bid on major projects.

16. The International Association of Prosecutors and the International Bar Association should develop model laws whereby the prosecution of corruption cases in each of our various legal systems can be rendered less complex and more expeditious, while being consistent with international human rights norms.

17. Shareholders around the world should insist that the companies in which they invest subscribe to the objectives of the corporate governance movement.

18. The various international associations of accountants and auditors and the international associations of security regulators must develop clear and universal accounting standards with widespread international recognition. It is particularly important for the fight against corruption that all financial transactions are recorded, and that there are no "off the books" or secret accounts.

19. International professional societies should take a much closer interest in their national affiliates and use their influence to ensure that national professional standards are protected, strengthened and raised.

20. The international financial and donor agencies should co-operate with civil society in developing world-wide indices of the costs of goods and services to identify anomalies created by bureaucracy and corruption.

21. Regional and international institutions must do all they can to advance our Declaration and develop programmes to this end.

#### **Actions at the National and Local Levels**

22. All governments should operate in a transparent and accountable manner at all levels, with the public having access to information to the maximum extent possible. They should ensure that public accounts are open to public scrutiny. The role of civil society is most crucial at the national and local levels, where participation should be fostered by providing open access to decision-makers and the holding of public hearings on matters of importance.

23. Civil society, too, must put its own house in order, with NGOs reforming themselves to ensure that as organs of civil society they practice the same standards of

transparency and accountability that they expect from their governments. It must also be vigilant in defense of those who are persecuted for opposing corruption.

24. All governments must assure the independence, integrity and de-politicization of the judicial system as the cornerstone of the rule of law on which the effectiveness of all efforts to combat corruption depends.

25. The Office of Ombudsman, as a bridge between the government and the people, can make a major contribution to the elimination of bureaucratic obstruction and corruption, and so countries without this necessary post should examine its adoption as an independent office of its elected congress.

26. Governments, in conjunction with civil society and the private sector, should periodically review the accountability features of all relevant organs of the state and of constitutional office-holders, and at the local level, to ensure that these form an effective bulwark against corruption. Conflict of interest rules must receive special attention. In this respect, the critical Office of the Controller (Auditor General) must play an important role maintaining and strengthening his necessary independence.

27. Governments who have not already done so must restrict to the minimum remaining economic opportunities for bribery and corruption, such as monopolies, discretionary fees, onerous taxes, and regulations and licenses that impede business activity.

28. Civil service reform is essential to create an environment to fight corruption. All participants in the process should give particular attention to enabling proper salaries to be paid.

29. Particular attention should be given to the strengthening of financial management systems, and to rendering budget processes transparent and according a role to civil society.

30. Countries should improve the effectiveness of their laws dealing with corruption to the maximum extent possible consistent with their constitutions and international human rights norms including:

— abolishing any requirement to prove that an official who received an illegal gift actually gave favors in return;



- providing a system for the declaration of assets by persons holding public positions of trust (and their families), and placing on them the obligation to justify increases out of line with legitimate sources of income;
- introducing the periodic or random monitoring of the assets and lifestyles of significant decision-makers in the public sector (and their families and associates), where appropriate by an independent agency;
- laws which effectively empower the freezing, seizure and confiscation of the illicitly acquired wealth of officials found guilty of corruption, wherever it may be and by whomsoever it may be held;
- providing appropriate protection for witnesses (and their families) and protecting whistle-blowers;
- providing a system for the recording of gifts received by officials;
- ensuring that officials at all levels cannot hide behind immunities but are fully subject to corruption laws;
- and, debarring convicted criminals from standing for political office and appointment to positions of public trust.

The foregoing steps would make both prevention and prosecution more effective.

31. Governments should review their national and local administration procurement processes, in co-operation with the private sector and civil society, with a view to ensuring that these are fair, open and competitive, and so yield both value for money for the public and an enabling commercial environment for the private sector.

32. Bidders who bribe officials in efforts to win tenders should be blacklisted from competing for official business for an appropriate period, following a fair investigation.

33. As corruption is a major impediment in the electoral and political processes, urgent action must be taken to implement effective ways in which donations to politicians and political parties are regulated and promptly publicly recorded, and campaign spending limits set and strictly audited. Continuing civic education programmes are essential.

34. National professional associations, in particular of

lawyers, accountants, doctors and engineers, must examine the adequacy and effectiveness of their codes of professional conduct and of the means of disciplining those members who facilitate corruption.

35. The role of an independent media is essential, but for it to function effectively there must be freedom from harassment, freedom of information laws (for citizen and journalists alike) and a legal system which cannot be misused to muzzle legitimate expressions of concern. We urge governments, the media itself and civil society to ensure that the conditions exist for the media to play this role.

36. Newspaper editors everywhere should reflect on the roles their publications can play in giving the public a "voice" to counter corruption, and in raising awareness of complaints mechanisms and how the public can use these effectively. They must also consider how they can help foster a climate of public opinion which regards the corrupt, however rich and powerful they may be, with the contempt they deserve. The media itself must guard against accepting bribes and inappropriate hospitality.

37. As reform efforts will be in vain unless the culture of corruption is reversed, governments, schools and religious institutions should launch education initiatives designed to raise awareness in the young of the incalculable harm done by corruption, and of the personal risks they run if they are involved in this.

38. Codes of conduct should be introduced in many spheres of life (including cabinet, parliament, the judiciary and throughout government ministries), and governments should examine arrangements whereby the ethics and integrity of their administrations can be assured.

39. Governments should encourage the use of independent surveys of public satisfaction with services and institutions as a valuable tool in identifying particular areas of difficulty as well as to monitor progress made in improving services by making them less susceptible to corruption.

40. Lastly, governments, civil society and the private sector should consider designating annual "anti-corruption days" or "accountability days", which in several countries has proved to be a focus for awareness raising. This concept could then be extended by the

United Nations designating an annual international day of action.

We request the Chair of the Conference together with the Secretariat of the International Anti-Corruption Conference Council, Transparency International (TI), to take the necessary actions to bring these recommendations to the attention of governments and relevant institutions. We pledge that we, ourselves, will do our part.

We look forward to our meeting again in South Africa, in 1999. We affirm our conviction of the practical usefulness and impact of periodic exchanges of experience and success stories such as have taken place this last week in Lima, and we believe that we have made significant progress in moving forward the international debate on practical steps against corruption. In South Africa in two

years' time we will have the opportunity to assess the progress made both in the struggle against corruption itself, and the accomplishment of the actions proposed herein.

Finally, we express our heartfelt thanks to the Organizing Committee, the people of Peru, their government, their private sector and their civil society, for the warmth of their welcome, the generosity of their hospitality, the development of a rich and relevant agenda, the promotion of civil society participation in the fight against corruption, and the vision of a new millennium of ethics and integrity. □

Lima, Peru

11 September 1997

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## □ THE OAS INTER-AMERICAN CONVENTION AGAINST CORRUPTION

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*The following is a fact sheet issued by the U.S. Department of State on October 15, 1998.*

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The Organization of American States (OAS) Inter-American Convention Against Corruption is the first multilateral anti-corruption treaty instrument negotiated in the world and is expected to enhance cooperation among the nations of the hemisphere in the battle against domestic and transnational acts of corruption. The problem of corruption has been of particular concern to the United States because of its corrosive effects on democratic institutions and economic efficiency and because of the links that often exist between corruption and organized criminal activity such as drug trafficking.

### The convention:

- Breaks significant new ground by requiring parties to criminalize the bribery of foreign officials, similar to the U.S. Foreign Corrupt Practices Act (FCPA);
- Requires parties to update their domestic legislation to criminalize corrupt acts such as bribery;
- Requires states to assist one another in criminal investigations and prosecutions related to such acts; and
- Explicitly disallows the use of “bank secrecy” as a basis for denying assistance.

Where did it come from? The Summit of the Americas Plan of Action invited the Organization of American States (OAS) to develop a hemispheric approach to combating corruption “through negotiation of a new hemispheric agreement ....”

Who has signed? Twenty-five countries have signed the convention since the conclusion of negotiations on March 29, 1996: Argentina, Bahamas, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Trinidad and Tobago, United States, Uruguay, and Venezuela.

Who has ratified? Ten countries have deposited their instruments of ratification with the OAS: Argentina, Bolivia, Costa Rica, Ecuador, Honduras, Mexico, Paraguay, Peru, Trinidad and Tobago, and Venezuela. The Clinton administration submitted the convention to the U.S. Senate for advice and consent to ratification in April 1998.

When did the convention enter into force? The convention entered into force on March 6, 1997, 30 days after the second country deposited its instrument of ratification. It enters into force for each subsequent country 30 days after submitting its instrument of ratification with the OAS. □

# INFORMATION RESOURCES

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## KEY U.S. GOVERNMENT CONTACTS AND INTERNET SITES

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### KEY CONTACTS

**U.S. Agency for International Development**  
Center for Democracy and Governance  
Bureau for Global Programs, Field Support, and  
Research

Washington, D.C. 20523-3100 U.S.A.

Contact: Phyllis Dininio

Telephone: (202) 712-0319

Fax: (202) 216-3232

<http://www.info.usaid.gov/>

**U.S. Department of Commerce**

Anti-Corruption Review

Office of the Chief Counsel for International Commerce

Room 5624 / mailstop 5882

Washington, D.C. 20230 U.S.A.

Telephone: (202) 482-0937

Fax: (202) 482-4076

<http://www.ita.doc.gov/legal>

**U.S. Department of Justice**

Criminal Division, Fraud Section

1400 New York Avenue, N.W.

Washington, D.C. 20005 U.S.A.

Contact: Peter Clark

Telephone: (202) 616-0437

<http://www.usdoj.gov/criminal/fraud/fcpa/fcpa.html>

**U.S. Department of State**

Bureau of Economic, Business, and Agricultural Affairs  
2100 C Street, N.W.

Washington, D.C. 20520 U.S.A.

<http://www.state.gov/www/issues/economic/bribery.html>

**U.S. Information Agency**

Office of Economic Security (I/TES)

301 4th Street, S.W.

Washington, D.C. 20547 U.S.A.

Telephone: (202) 619-4159

Fax: (202) 619-6674

<http://www.usia.gov/topical/econ/bribes/>

**U.S. Office of Government Ethics**

1201 New York Avenue, N.W., Suite 500

Washington, D.C. 20005-3917 U.S.A.

Contact: Stuart Gilman

Telephone: (202) 208-8022

<http://www.usoge.gov/>

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### OTHER KEY INTERNET SITES

**American Bar Association**

Task Force on International Standards for Corrupt  
Practices

Contact: Stuart Deming, co-chair  
c/o Inman Deming LLP

1300 19th Street, N.W., Suite 260

Washington, D.C. 20036 U.S.A.

Telephone: (202) 293-1331

Fax: (202) 293-1338

**Institute for Democratic Strategies**

909 Duke Street

Alexandria, Virginia 22314 U.S.A.

Telephone: (703) 739-4224

email: [demstrat@clark.net](mailto:demstrat@clark.net)

**International Chamber of Commerce**

Standing Committee on Extortion and Bribery

38, Cours Albert 1er

75008 Paris, France

Telephone: (33) 49.53.28.28

Fax: (33) 49.53.28.59

[http://www.iccwbo.org/Commissions/Extortion\\_bribery/briberycom.html](http://www.iccwbo.org/Commissions/Extortion_bribery/briberycom.html)

**Organization for Economic Cooperation and Development**

2, rue Andre-Pascal  
75775 Paris CEDEX 16  
France  
Telephone: (33) 01.45.24.82.00  
Fax: (33) 01.45.24.85.00  
<http://www.oecd.org/daf/cmris/bribery/brindex.htm>

**Organization of American States**

19th Street and Constitution Avenue, N.W.  
Washington, D.C. 20006 U.S.A.  
<http://www.oas.org>

**Transparency International**

Otto-Suhr-Allee 97/99  
10585 Berlin  
Germany  
Telephone: 49-30-34 38-20-0  
Fax: 49-30-34 70-39-12  
<http://www.transparency.de/>

**United Nations Development Program (UNDP)**

Management Development and Governance Division  
Bureau for Development Policy  
304 East 45th Street, 12th Floor  
New York, N.Y. 10017 U.S.A.  
Telephone: (212) 906-5054  
Fax: (212) 906-6471  
<http://magnet.undp.org>

**World Bank**

Governance and Anti-Corruption  
Economic Development Institute  
1818 H Street, N.W.  
Washington, D.C. 20433 U.S.A.  
<http://www.worldbank.org/html/edi/gac/index.htm>

**World Trade Organization**

Working Group on Transparency in Government  
Procurement Practices  
Geneva, Switzerland  
<http://www.wto.org/wto/govt/govt.htm>

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