

**Examination of the impact of Transparency International and the new
OECD-sponsored anti-corruption regime in the fight against corruption
worldwide.**

DIFA - Advanced Topics

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I. Introduction

This report will seek to answer the following questions:

- What is corruption?
- What is the impact of corruption around the world?
- Who are the parties involved in the fight against corruption?
- As major players in the fight against corruption, have Transparency International and the OECD made a significant in stemming the tide of corruption worldwide?

II. Background / Objectives

Given the recent tide of corporate scandals in the U.S. and around the world, as well as numerous corruption scandals which have made headlines around the world, including France, the U.S., and even here at home, it is not surprising that the issue of ethics and transparency has been at the forefront as of late.

Corruption is a widespread problem which for a long time did not garner a lot of coverage in the press, nor was it seen as a “developed nation” problem. The myth of corruption as culture long endured, and we in the North did not see it as our problem.

However, in the last 15 years or so, with the numerous changes occurring in the economic and political landscape such as the fall of communism, globalization, the digital age, etc., corruption has finally been recognized as a major issue impeding the economic development of both economies in transition as well as developing countries. With this has come the formation of numerous groups, both NGOs and civil society organizations with a goal of addressing the problem of corruption, and more specifically, corruption of public officials

The question remains, however, have any of these groups made a difference? And more specifically, has Transparency International, after ten years, as well as the OECD, had a material impact on the problem? This is the question this report will seek to answer.

III. Documents Reviewed / Relied Upon

Thanks to the quality of the websites of most of the organizations being reviewed, most of the documents reviewed were available on the internet. The following websites were particularly helpful in the research undertaken:

- www.transparency.org
- www.oecd.org
- www.oas.org
- www.unodc.org
- www.imf.org
- www.worldbank.org

These websites provided invaluable information on the history of the various organizations, mission statements, programs, and in the case of Transparency International website, full access to the anti-corruption tools and other publications such as press releases, annual reports, etc.

Many thanks also go to Michael Davies, Vice-Chairman of TI – Canada for access to a number of internal memos related to TI and the OECD Convention. These provided an excellent perspective of the relationship between the two groups, and which issues remain to be addressed.

Research papers examined were as follows:

- “An Analysis of the Causes of Corruption in the Judiciary”, Edgardo Buscaglia and Maria Dakolias, 1999 (Legal and Judicial Reform Unit, Legal Department, The World Bank);
- “Press Freedom, Human Capital and Corruption”, Rudiger Ahrend, February 2002, (Departement et Laboratoire d’Economie Theorique et Appliquee);
- “Good Government and Transparency in Honduras After Hurricane Mitch: A

Study of Citizen Views”, Appendix B: Literature Review on Corruption and Support for the Political System, Mitchell A. Seligson, June 2001 (University of Pittsburgh)

IV. Summary of Findings / Conclusions

Based on the research performed, it is my opinion that while the fight against corruption should be viewed as a long-term exercise, and while there are still numerous and significant obstacles to be overcome, such as the non-cooperation of some nations, continuing poverty in the developing world which contributes to corruption, lack of free press in many countries, etc., I believe it can be said that Transparency International has taken some important steps in the fight against corruption, and has reached a respectable number of milestones in only ten years.

At the same time, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, while an important step in fighting corruption has had its shortcomings, mainly at the monitoring stage. This Convention, as any other convention or agreement will be doomed to failure should the monitoring process get derailed. However, by working together in addressing outstanding issues, TI and the OECD should be able to overcome the many challenges which still lie ahead.

The biggest impact TI and the OECD Convention have had, in my opinion, is to bring corruption to the forefront, and making civil society and governments alike realize that corruption is a problem and a serious impediment to development. Realizing that a problem exist is often a large part of the solution.

However, on a realistic if somewhat pessimistic note, based on the limited results TI and the OECD Convention have achieved so far in the grand scheme of things, as well as the continuing coverage corruption scandals in the press, I believe that we are still a very long way away from making a significant dent in worldwide corruption, or even achieving widespread anti-corruption reforms.

The biggest hope rests with civil society and grassroots movements within nations against corruption, coupled with the support of developing nations and organizations like Transparency International's

V. Detailed Findings

I What is Corruption?

A. Corruption Defined

Transparency International defines corruption as: "The misuse of entrusted power for private benefit"¹. Purposely, this definition is broad and can encompass a wide range of activities. Enter "corruption" as a search word on the internet, and you will likely get in excess of 2.6 million hits. We while in Canada are for the most part sheltered, but not immune from it, corruption is a tremendous problem worldwide. I had my first exposure to probably the most popular form of corruption, bribery, at age 7. At the time, my family had moved to Zaire (now known as the Democratic Republic of Congo) as my father had been relocated there for work. On one of our first days there, a policeman (who looked an awful lot like a soldier, with an automatic rifle held in his hand) pulled our Mercedes over for no apparent reason. Instead of writing my father a ticket, something I was familiar with, my father simply gave him a few bills of the local currency, Zaires. To my young and naïve eyes, this seemed strange, but my father calmly explained that "this is how things are done here", and that policemen used bribes as a supplement to their income because they hardly made any money being in the police force or the army.

And largely, this has been the general attitude of the developed world towards corruption in developing nations, all the while ignoring the fact that corruption is likely the biggest threat to development and progress in the Third World. While you may not think that an individual giving a policeman the equivalent of a few cents is all that harmful, corruption has a devastating effect in the countries where it has become the norm. The impact of corruption worldwide will be discussed further in Section B.

As quoted in a European Parliament working paper entitled "Measures to Prevent Corruption in EU Member States" (March 1998)², Dutch archaeologists in Syria found an

¹ Transparency International Source Book, 2000 – Chapter 1: The Challenge of Renovation

² TI Source Book, 2000 – Chapter 1: The Challenge of Renovation

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archive dated from the 13th century BC with data about employees accepting bribes. Corruption, therefore, has likely been around as long as administrative structures have existed, proving recipients for bribe. That said, it is understandable that there may be a high level of skepticism around efforts to eradicate it. Clearly, only efforts aimed at the root causes of corruption can ever have a likelihood of success.

B. Types of corruption

Given that this paper is focused on Transparency International and its work to fight corruption, the focus will be on administrative corruption as opposed to political corruption. Transparency International has been focused on administrative corruption, which it defines in its Source Book as focusing on “the activities of individuals who, in their positions as public officials – as policymakers or as administrators – control various activities or decisions”.

Again in its 2000 Source Book, TI segregates administrative corruption into two categories: “according-to-rule” and “against-the-rule”. These are also referred to as extorsive and collusive corruption, respectively. Under the first category fall instances where an official receives an illegal payment for performing a service he/she is required to perform by law (for example, a civil servant receives a payment to process a driver’s license application). Under the second category are instances where an official receives payment for a service he/she is prohibited from performing (for example, a judge is paid off to rule a certain way in a trial).

Of course, administrative corruption can range in scope in each of these two categories from small scale to grand schemes, and can occur at any level of government.

C. Causes

What causes corruption? Ask almost anyone this question, and the likely response will be poverty. While there is no doubt that this is a major contributing factor, one must dig deeper to get a more thorough picture of the causes of corruption. For instance, what is to be made of cases of corruption in Canada or the U.S., where civil servants can

hardly be described as poor? Is the main driver greed? What environmental factors can cause corruption to flourish? Many have researched this question – The World Bank (Edgardo Buscaglia, Maria Dokolias – “An Analysis of the Causes of Corruption in the Judiciary”, 1999), Alberto Ades and Rafael Di Tella, “The Causes and Consequences of Corruption”, 1996, Rudiger Ahrend, “Press Freedom, Human Capital and Corruption”, February 2002 (Departement et Laboratoire d’Economie Theorique et Appliquee), to name a few. Throughout their research, common themes around the cause of corruption do seem to emerge. While the aim of this paper is not to analyze the causes of corruption, it is important to examine these causes as they will help set the context for TI’s as well as the OECD’s efforts.

While most studies agree that low pay and weak monitoring systems are some of the main causes of corruption, other factors will cause it to thrive. Edgardo Buscaglia and Maria Dokolias in their paper entitled “An Analysis of the Causes of Corruption in the Judiciary”(1999) state: “Corrupt activities occur when the marginal returns from crime exceed the marginal returns from legal occupation by more than the expected cost of the penalty.” From that statement, one can easily surmise what factors will cause an otherwise honest individual to become corrupt. Again, one has to remember a large portion of individuals are inherently susceptible to corruption or fraud. The oft-cited model of 80/10/10 is also applicable here; 10% of individual never steal, 10% will look for any opportunity to steal and 80% will do so if the likelihood of getting caught is now enough compared to the prize.

The main causes of administrative corruption can be summarized as follows ³:

- “a higher concentration of internal organizational roles concentrated in the hands of fewer decision makers within a public agency”;
- “an increase in the number and complexity of procedural steps, coupled with a lack of procedural transparency within a government agency

³ Edgardo Buscaglia and Maria Dokolias in their paper entitled “An Analysis of the Causes of Corruption in the Judiciary”(1999), pp.4-5.

supplying a service”;

- “an increase in uncertainty related to the prevailing doctrines, laws, and regulations”;
- “a decrease in alternative sources of the product or service demanded from the government” and,
- “an increase in collusive behavior among the parties demanding a legal or illegal service from a public agent or agency.”

Other contributing factors include the presence of a free press. While corruption was not found to affect an existing free press, a link was found between the lack of a free press and the prevalence of corruption⁴. One can deduce from this that the risk of exposure by a free press may be a factor that prevents officials from participating in corrupt schemes in nations with democratic institutions such as a free press. This link was found to exist mostly for collusive corruption (Brunetti/Weder, 1999). Education of the civil society was also found to play a role in reducing corruption; the higher the level of education, the higher the ability to monitor public officials, which in turn reduces corruption, as long as effective monitoring mechanisms exist. This could also be explained by the fact the corrupt governments tend to spend less on education (Paolo Mauro, 1998)⁴. Finally, numerous researchers have found that trade openness discourages corruption. Rudiger Ahrend however caution against taking this link at face value and encourage further research, as they have found that at least in the short to medium term, trade openness can actually encourage corruption, if the appropriate monitoring mechanisms are not in place to prevent an environment described above by Buscaglia and Dokolias.⁴

Again, the aim of this paper is not to be a treatise on the causes of corruption – this topic alone could fill numerous volumes. However, I hope to emphasize the fact that the

⁴ Rudiger Ahrend, “Press Freedom, Human Capital and Corruption”, February 2002 (Departement et Laboratoire d’Economie Theorique et Appliquee)

roots of corruption must be understood in order for organizations such as Transparency International to be successful in aiding countries fight corruption.

D. Impact of corruption

“Corruption is damaging for the simple reason that important decisions are determined by ulterior motives, with no concern for the wider community”⁵

A popular myth often used to explain corrupt practices is that it is part of the culture of developing nations. However, events in the recent past have shown that corruption is not only the domain of developing countries. There have been scandals involving corruption in virtually all developed nations as well, some of them on a grand scale. This quickly debunks the second part of that myth. On the first part, where it is often said that corruption is part of the culture of these nations, one must look beneath the surface to see that this statement is erroneous. For instance, if this is true, how do we explain the fact that most countries included in this statement have laws against corruption? Similarly, why would a nation's people, such as the Phillipines, rally against the military rulers of the country to depose its corrupt leaders, risking their lives and freedom? If it were part of the country's social fabric and culture, this would arguably not occur. In many cases of countries where corruption is prevalent, it can readily be seen that the problem most likely started at the top; dictatorial regimes are a prime example. However, as with anything else, it is difficult to generalize when talking about the causes of corruption. Every country's situation may be different.

One topic about which we can be more general is around the impact of corruption on a country and its economy, social fabric and even environment. There is no argument that endemic corruption can have a devastating effect on a nation's development. The World Bank has called corruption “the single greatest obstacle to economic and social development.” (6). This is by no means an exaggeration. Both Transparency International in their Source Book 2000 (Chapter 1; page 6) and the World Bank on their

⁵ TI Source Book, 2000 Chapter 1 – The Challenge of Renovation, p.3

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anti-corruption website (<http://www1.worldbank.org/publicsector/anticorrupt/>) outline the impacts of corruption. Some of the most significant include:

- Corruption, as a result of its effects on the private sector (ie, increasing the cost of doing business due to the payment of bribes, uncertainty of the business environment) discourages foreign investment and as such stifles economic growth;
- Perceived corruption in various levels of government serves to diminish the respect of the people in government and related institutions;
- Corruption by the government, including lower level civil servants may entice others to also participate as the public sees no reason why they should not benefit too;
- Corruption leads to decisions driven by greed as opposed to the good of civil society;
- Time and effort which could be used towards productive task and projects is wasted on trying to circumvent regulations in various systems in order to be able to collect bribes, or having to pay bribes.
- Corruption ends up hurting the poor more given that they must often pay bribes and a higher portion of their income to have access to the most basic services, and as a result income growth and development among the poor grounds to a halt;
- A country's environment can also suffer devastating effects as environmental concerns take a back seat to bribes; for instance polluters may pay off the government in order to avoid cleanup costs, or timber companies may bribe officials to gain logging right in the rainforest;
- Corruption leads to fewer resources being available to the public to pay for basic services such as education and health care.

Given the above, one can easily see that fighting corruption is a must. While some may argue that corruption is sometimes beneficial, for instance allowing individuals and

businesses to circumvent complex and inefficient government channels, the arguments against corruption are much stronger. But just like the war against terrorism in a post 9/11 world, the war against corruption is one against a concept, against an insubstantial enemy which is not easily fought or won.

Fighting the Good Fight – A Who's Who

A number of organizations have been formed with either their primary or one of their primary goals being the fight against corruption. The following provides a brief overview of who is fighting the war against corruption. It is not meant as an exhaustive list, but rather to provide some context around initiatives taken against corruption by various groups and their goals.

A. Non-Governmental Organizations (NGOs)

According to <http://www.ngo.org/ngoinfo/define.html>, "A non-governmental organization (NGO) is any non-profit, voluntary citizens' group which is organized on a local, national or international level. Task-oriented and driven by people with a common interest, NGOs perform a variety of service and humanitarian functions, bring citizen concerns to Governments, advocate and monitor policies and encourage political participation through provision of information. Some are organized around specific issues, such as human rights, environment or health. They provide analysis and expertise, serve as early warning mechanisms and help monitor and implement international agreements..." The World Bank defines NGOs as "private organizations that pursue activities to relieve suffering, promote the interests of the poor, protect the environment, provide basic social services, or undertake community development" (Operational Directive 14.70). In wider usage, the term NGO can be applied to any non-profit organization which is independent from government.

The following are some NGOs involved in the fight against corruption:

1. Organization for Economic Cooperation and Development (OECD)

On its website, the OECD defines itself as: an international organization helping governments tackle the economic, social and governance challenges of a globalized economy". While the OECD Convention will be discussed at length later, it is worth mentioning here that the OECD has tackled the problem of corruption on a number of fronts through a number of initiatives since the 1990's, such as⁶:

- 1997 Convention on Combating Bribery of Foreign Public Officials in International Transactions

This convention will be discussed at length in Section IV, and the full text of the Convention is also available in Appendix G.

- 1996 recommendations against tax deductibility of bribes.
- 1998 Recommendation on Improving Ethical Conduct in the Public Service.
- Since the entry into force in 1999 of the Anti-Bribery Convention, the work on bribery in national export credit systems accelerated, culminating in the December 2000 Action Statement on Bribery and Officially Supported Export Credits.
- The OECD also assists non-member countries in improving their governance and anti-bribery standards through a number of outreach activities in the Anti-Corruption Division and the Public Management Service as well as the work of the OECD Development Centre.
- The OECD has also launched ANCORR Web, an extensive online information and resource centre on corruption, bribery, money

⁶ Source: www.oecd.org

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laundering and related issues.

2. World Bank (Public Sector Group)

The World Bank's mission statement is as follows (source: worldbank.org)

Mission Statement

Our dream is a world free of poverty

- To fight poverty with passion and professionalism for lasting results.
- To help people help themselves and their environment by providing resources, sharing knowledge, building capacity, and forging partnerships in the public and private sectors.
- To be an excellent institution able to attract, excite, and nurture diverse and committed staff with exceptional skills who know how to listen and learn.

Our Principles

Client centered, working in partnership, accountable for quality results, dedicated to financial integrity and cost-effectiveness, inspired and innovative.

Our Values

Personal honesty, integrity, commitment; working together in teams — with openness and trust; empowering others and respecting differences; encouraging risk-taking and responsibility; enjoying our work and our families.

The World Bank was formed in July 1944, and its initial goal was to help rebuild Europe after World War II. Now the focus has shifted to development and the reduction of poverty. The World Bank now has 184 member countries, and roughly 10,000 employees, 8,000 of which are located in Washington D.C.

The World Bank officially committed itself to the fight against corruption in 1996, when President James D. Wolfensohn publicly announced this goal at the World Bank / IMF Annual Meetings. In 1997, the Bank laid out a four-pronged

anticorruption strategy:

- preventing fraud and corruption in Bank financed projects and programs;
- helping countries that request assistance in combating corruption;
- mainstreaming a concern for corruption directly into country analysis and lending decisions; and
- contributing to international efforts to fight corruption.

Similarly to Transparency International, the World Bank's role in helping countries fight corruption is not to identify and prosecute individual offenders, but rather to focus on the systems and policies which can help reduce corruption.

The World Bank is supporting international efforts by:

- helping coordinate both cross-border and in-country anti-corruption efforts,
- focusing the Bank's efforts on areas of its comparative advantage,
- forming strategic collaborations with other organizations,
- gaining and disseminating knowledge about corruption internationally, and
- explaining and developing Bank policy. (Source : worldbank.org)

The World Bank has also collaborated with Transparency International on a number of initiatives in recent years.

3. United Nations Office on Drugs and Crime (UNODC)

According to its website, www.unodc.org: "The United Nations Office on Drugs and Crime (UNODC) is a global leader in the fight against illicit drugs and international crime. Established in 1997, UNODC consists of the Drug Programme and the Crime Programme. UNODC has approximately 350 staff members worldwide. Its headquarters are in Vienna and it has 22 Field Offices as well as Liaison Offices in New York and Brussels. UNODC relies on voluntary

contributions, mainly from governments, for 90 per cent of its budget.”

The UNODC has launched GPAC – Global Program Against Corruption in collaboration with the United Nations Interregional Crime and Justice Research Institute (UNICRI), “to assist Member States in their efforts to build integrity to curb and prevent corruption by increasing the risks and costs of abusing power for private gain.”

There are three main components to the Programme: action learning, technical cooperation, and evaluation. The Programme will involve GPAC at the international, national and sub-national (or municipal) levels. GPAC will launch pilot projects in Asia, the Middle East, Africa and Eastern Europe, and will through those pilot projects try new approaches to the fight against corruption and will track corruption trends through various studies. The focus will be on street level corruption, private sector corruption and high level corruption in both finance and politics⁷. This approach is similar to that used by Transparency International.

4. Organization of American States (OAS)

The OAS in March 1996 adopted the Inter-American Convention Against Corruption, which officially recognized the need to fight corruption among its member states. Article II of the convention summarizes its purpose:

“The purposes of this Convention are:

1. To promote and strengthen the development by each of the States Parties of the mechanisms needed to prevent, detect, punish and eradicate corruption; and
2. To promote, facilitate and regulate cooperation among the States Parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption in the performance of public functions and acts of corruption specifically related to such performance.”

⁷ Source: www.unodc.org

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The Convention provides for the setting up of laws and other systems that deter corruption as well mechanisms for enforcing them, transparent procurement of goods and services by governments, codes of conduct for civil servants, whistleblower protection, the rescinding of favourable tax status for bribe payers, among others.

To this day, 28 nations have signed on to the Convention, including Canada and the U.S.

5. Utstein Anti-Corruption Resource Centre

"The Utstein Anti-Corruption Resource Centre is dedicated to the global fight against corruption. It is organized around two purposes: to guide you to relevant anti-corruption resources, and to inform you about the Utstein partners and their anti-corruption work.

U4 provides:

- An anti-corruption portal with well organized links
- Selected and annotated literature for easy on-line access
- Answers to FAQs on corruption
- Policy and project information on the Utstein partners' anti-corruption efforts
- News and events calendar

U4 is created at Chr. Michelsen Institute, Norway, assisted by Transparency International's Centre for Innovation and Research."⁸

6. Anti-Corruption Network for Transition Economies

The Anti-Corruption Network for Transition Economies (CAN) recognizes the fact that countries in transition, given the fact that laws may be fluid in these times, can be a breeding ground for corruption. The ACN was founded in 1998 by a

⁸ Source: www.unodc.org

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combination of governments, civil society and donor organizations in order to develop a framework to fight corruption in Eastern European countries. The alliance of governments and civil society is in order to leverage knowledge sharing among the various groups, for one.

Countries which are part of the CAN are the following: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, the Former Yugoslav Republic of Macedonia (FYROM), Moldova, Romania, the Russian Federation, Tajikistan, Turkmenistan, Slovenia, Ukraine, Uzbekistan, and the Federal Republic of Yugoslavia.

The ACN's Secretariat sits within the OECD's Corruption Division, and the organization is funded by the OECD, USAID and other donors.

In the first years of its existence, the ACN's focus was on research and seminars on best practices in the area of public procurement, however as countries around the world have implemented programmes in this area, the organization's focus shifted in 2000-2001 to studying actual lessons from the fight against corruption in public procurement. In 2001, ACN members in association with international partners and donors also agreed to undertake projects in the following four areas:

- 1) creating governmental ethics infra-structures;
- 2) building government-civil society coalitions;
- 3) strengthening the rule of law; and
- 4) "donor practices" in the provision of anti-corruption assistance in transition countries.⁹

⁹ Source: www.anticorruptionnet.org

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7. Transparency International (TI)

TI will be discussed at length in Section III below, and is the focus of this paper. TI was formed in 1993 with its mission being “To curb corruption by mobilizing a global coalition to promote and strengthen international and national Integrity Systems.” (Source: www.transparency.org; TI Mission Statement). Since then, it has garnered attention through many achievements, including the well-known Corruption Perceptions Index (see Appendix C), its Bribe Payers Index (see Appendix D) and its annual Global Corruption Report. TI has also been extensively involved with the OECD Convention.

B. Civil Society

1. International Criminal Police Organization (Interpol)

In 1998, Interpol held a conference in Lyon, France entitled: “First International Conference on Corruption Related Crime. At that conference, it was established that the Interpol Group of Experts on Corruption (IGEC) should be founded. The IGEC would be “mandated to develop and implement an anti-corruption strategy, with the objective of not only raising awareness of the major issues, but primarily to improve law enforcement's ability and effectiveness in the fight against corruption.” (Source: www.interpol.int/Public/Corruption/IGEC)

The focus of the IGEC has been the fight against corruption in the police forces. From the beginning, the philosophy of the IGEC was to fight corruption holistically, meaning with the involvement of not only representative from law enforcement from all the Interpol regions (Europe, Asia, the Americas and Africa) but also involving experts from the community at large. According to the IGEC website, “The IGEC is currently chaired by the Honourable Mr. Justice Barry O’Keefe AM, and is comprised of the following experts :

- law enforcement representatives are from Canada, Hong Kong, Kenya, Malaysia, the Netherlands, the United Kingdom, the United States, South Africa, and the Interpol General Secretariat;
- a representative from Transparency International;
- an internationally renowned Judge;
- a representative from the Financial Services Community;
- representatives from the United Nations and the World Bank, and
- two academics from Teesside University and University of Ottawa, respectively.”

So far, the IGEC has met 12 times and has accomplished the following:

- drafted a mission statement and a working definition of corruption;
- drafted a 'Declaration of Intent' for law enforcement, including a 'Code of Ethics' and a 'Code of Conduct',
- conducted a 'Police Integrity Survey' of its 181 Member Countries in order to gauge Member's current ability to combat corruption;
- formulated a draft set of 'Global Standards to Combat Corruption in Police Forces/Services', which were institutionalized by the Interpol General Assembly held in Cameroon in October, 2002.

The Group is currently working on the following:

- “conducting a further 'Police Integrity Survey'”;
- refining and implementing an international network of 'national contact points', to serve as a point of 'first contact' with regards to operational cooperation;
- the publication of this 'Library of Best Practice' (LBP) designed to aid the investigator of corruption cases;
- developing a model for 'Ethics-based training’”¹⁰

¹⁰ Source: www.interpol.int/Public/Corruption/IGEC

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2. Business & Industry Advisory Committee to the OECD (BIAC)

The BIAC was formed in 1962, and plays a consultative role within the OECD. The aim of BIAC is to provide business and industry the opportunity to participate in inter-governmental discussions as well as a say in the shaping long-term policies in OECD countries. BIAC has shown considerable interest and has been involved in the development of the OECD convention, and will likely continue being involved in the monitoring process of the Convention, to be covered in detail further below.¹¹

3. Trade Union Advisory Committee to the OECD (TUAC)

The TUAC plays a similar role to BIAC within the OECD. TUAC was initially formed in 1948 under the Marshall Plan, and in 1962 when the OECD was formed, TUAC continued its role within the new organization. Just as BIAC provides the business community the opportunity to help shape OECD policies, TUAC does the same for trade unions, which has become increasingly important given the impact of globalization on working people. TUAC affiliates include 56 trade unions centers in 30 OECD and represent roughly 70 million workers. The TUAC affiliates fund TUAC's activities, decide on TUAC priorities and elect TUAC officials. TUAC, like BIAC, has been involved in the development of the OECD Convention.¹²

4. International Anti-Corruption Conference Series (IACC)

The IACC Council oversee the IACC Series, and has Transparency International as its Secretariat. These conferences have been held every two years since 1983, and bring together professionals in the fight against corruption from all fields to "exchange information and ideas about the fight against corruption, assess existing strategies and develop new approaches."¹³

Participants in the conferences include politicians, lawyers, accountants, law

¹¹ Source: www.biac.org

¹² Source: www.TUAC.org

¹³ Source: www.transparency.org/iacc

enforcement officials, the media, NGOs, etc. In other words, anyone who in their field may encounter corruption and/or are concerned with combating corruption.

5. International Chamber of Commerce (ICC)

The Commission on Anti-Corruption, which is part of the ICC, has as an objective the following:

“To encourage self-regulation by business in confronting issues of extortion and bribery, and to influence international organizations that have developed international conventions to fight corruption.”

Its current priorities are the following:

- “Publish and promote a study on countering private sector bribery.
- Update and expand ICC publication Fighting Bribery: A Corporate Practices Manual.
- Feed business views into the negotiations for a UN convention against corruption.
- Monitor implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.
- Contribute to the development of an ICC work programme on money laundering.”¹⁴

One of the Vice-Chairs of the Commission on Anti-Corruption is Fritz Heinman, who is also a founding member of TI, Chairman of Transparency International USA and Co-Chair of the TI Working Group on OECD Convention. Just like TI, the ICC has been actively involved in providing input and guidance to the OECD Convention and will no doubt continue to be involved throughout the monitoring stage.

Again, the above list is by no means meant as an exhaustive list of

¹⁴ Source: www.iccwbo.org/home/extortion_bribery

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organizations fighting corruption. There are many more which could be listed, large and small. The important point here is to note that there has been a tremendous increase in awareness with respect to the problem of corruption, much of which occurring in the past ten years or so, and I believe Transparency International can take at least some of the credit for that. While corruption was seen as a necessary evil for many, many years, it is now perceived in most of the world as the scourge it really is, impeding economic, social and environmental development throughout the world.

III. The Impact of Transparency International and the OECD on Corruption Worldwide

A. Transparency International

1. What is Transparency International?

Dr. Peter Eigen was the Director of the Regional Mission for Eastern Africa of the World Bank from 1988 to 1991. During his tenure, he was commissioned to produce a report on corruption in Africa. When the measures he proposed to address the problem of corruption in Africa were considered to be too politically sensitive, he decided to quit his position and founded Transparency International, an NGO which is now active in 87 countries around the world. TI is still the only NGO wholly dedicated to fighting corruption.

Initially, the thought had been to institute a publication which would expose individual cases of corruption. However, it was decided that the confrontational nature of such an approach would likely be ineffective. The approach was then redrafted. The focus would be *coalition-building and working to find solutions against corruption*, rather than criticizing from afar. The plan was initially to start a small NGO which would focus exclusively on the fight against corruption in international business transactions. The key word here is small. Given that no group had previously undertaken such a goal, TI's official birth in May 1993 was seen by many as futile, given the pervasiveness and perceived durability of corruption. Very few, if anyone, would have anticipated that TI would experience such massive growth in only 10 years. It was most definitely an idea whose time had come.

Berlin was selected as the main office for TI. While NGOs in other centers such as Paris, New York, Washington and London have to compete with dozens of others for attention, Berlin then in the first years of German reunification, had no other NGOs headquartered there. It was thought that this would increase TI's chances of not getting lost in the NGO shuffle. The thought at the time would be that TI would likely have no more than 15 international chapters, and likely not require a staff of more than seven.

Ten years later, it has around 90 chapters around the world.

Request for funding by TI was presented to the World Bank, however some staff members there who were against TI (perhaps as a side effect of Peter Eigen leaving the World Bank to start TI?) lobbied the World Bank legal department, saying that the World Bank could expose itself to defamation suits by funding TI. The World Bank also was against the TI Integrity Pact (which will be discussed further below), stating that it would engender non-competitive bidding, as very few bidders would be willing to sign a document stating that they would not pay bribes. Furthermore, the World Bank country manager for Indonesia claimed that there was no corruption in Indonesia (!) and that as such, the TI Source Book should not be used in World Bank funded workshops. The World Bank's stance changed when James Wolfensohn became the head of the World Bank in 1996, and declared that corruption was not a political problem but an economic problem, and also pledged that the World Bank would join the fight against corruption. However, World Bank funding for TI is still not a reality.

However, while the World Bank may have been considered hostile to TI in its early years, it was clearly in the minority. Most other NGOs were supportive of TI's efforts from the very beginning, and showed their support through the provision of resources both for NCs and the Secretariat. Significant funding came from the Ford Foundation¹⁵, which allowed TI to undertake its first big project, developing the TI Source Book, which has now been published in 20 languages worldwide. See Appendix B for a Chronology of TI outlining significant moments in its history from inception to late 2001.

2. How is TI organized?

TI now essentially comprises of two arms: the National Chapters (NCs) and the Secretariat, which is headquartered in Berlin. The Secretariat basically provides support to the NCs and facilitates the exchange of information throughout the network. The NCs

¹⁵ The Ford Foundation is a resource for innovative people and institutions worldwide. Its goals are to: Strengthen democratic values, Reduce poverty and injustice, Promote international cooperation and Advance human achievement

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tackle bribery and other abuses of power, adapting their methods and tools to their country's conditions and environment. The Secretariat also serves as the driving force for TI at the international level on items as the OECD Convention, money-laundering and the new UN draft convention against corruption. The Secretariat also serves as a platform for TI to study and communicate best practices in fighting corruption and generating new approaches to fighting corruption, such as the TI Source Book, National Integrity Source Book, Integrity Pact, Corruption Fighter's Tool Kit, Corruption Online Research and Information System (CORIS), etc. (See Appendix A for the TI Organizational Chart).

3. TI Achievements to Date

a. Raising Awareness

TI has raised the level of awareness on corruption worldwide. From its inception, TI has numerous times generated press attention, albeit sometimes cynical. One newspaper in Spain published a cartoon "depicting TI as a latter-day Don Quixote with its lance skewering a pile of documents"¹⁶ One of the vehicles for raising awareness and of which TI is a part is the International Anti-Corruption Conference (IACC) Series discussed earlier. These biennial conferences enable stakeholders in the fight against corruption to come together and exchange ideas.

Another forum used by TI to raise awareness is the Corruption Perceptions Index (CPI – see Appendix C for a copy of the 2002 CPI). The CPI was first launched in 1995, and it attracted massive global attention for TI. It was developed by an economist intern, Johann Graf Lambsdorf, who worked with Fredrik Galtung to "develop a Corruption Perceptions Index capturing the degrees of corruption perceived by international and domestic business communities. The CPI is issued annually. The CPI is now widely regarded as the most important and most reliable comparative corruption indicator

¹⁶ www.transparency.org/about_ti/history.html

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available, and is used by academics and researchers worldwide".¹⁷ This statement comes from TI's own website, and may be seen as biased. However, although some academics may see the CPI as somewhat flawed for a number of reasons (it is a survey of surveys, some countries are excluded, it has not been run consistently over a long enough period of time, etc.), most research papers reviewed for this report including one by noted World Bank economist Rudiger Ahrend referred to and / or used the CPI in their research.

In 1999, TI launched the Bribe Payer's Index (BPI), which complements the CPI by looking at the supply side of corruption, and the propensity of exporting countries to pay bribes abroad. By doing this, TI exposed the developed world's tendency to pay bribes in developing nations. Again, the BPI generated a high level of interest, and has been issued annually ever since. (see Appendix D for a copy of the 2002 BPI).

In 2001, TI issued the first of what will become an annual edition of the Global Corruption Report (GCR). After the media interest generated by the CPI and BPI, it followed that the GCR also generated much coverage, and again helped TI raise awareness about global corruption. Topics covered include expert analyses of freedom of information legislation around the world, corporate transparency, the media's role, etc., as well as a number of regional reports which cover developments in the fight against corruption in the last year. The GCR also includes the CPI and BPI.¹⁸

In addition to the above initiatives, which are driven by the Secretariat, Regional Centres raise awareness locally via a number of different initiatives. For example, in March 2002, TI's Panama chapter organized along with other NGO, a Human Chain Against Corruption. And in Niger, TI's chapter-in-formation produced three short videos depicting corruption scenarios and their damaging effects, which were then broadcast on television.¹⁹ While some of these initiatives may seem trite to some, it is important to understand that such actions in many countries were unheard of before TI, and some TI

¹⁷ www.transparency.org/about_ti/history.html#tools

¹⁸ TI 2002 Annual Report, p.3.

¹⁹ TI 2002 Annual Report, p.3

chapter members still are subject to threats and intimidation in their efforts to raise awareness in some countries.

b. Building Coalitions

From the beginning, the building of coalitions was seen as essential by TI, since it recognized that one group alone could not eliminate corruption. This involves building links between the private sector, the public sector, NGOs, and private institutions.²⁰ One focus in 2002 was the Forest Integrity Network (FIN). FIN is a broad based coalition backed by the TI Secretariat. Its aim is to curb corruption in the forestry sector, which leads to environmental damage and depletion of valuable natural resources. Another example of coalition building by TI is the Partnership for Transparency Fund (PTF), which was formed in 2000. It is independent from but has strong links to TI. PTF is designed to help civil society fight corruption by funding specific initiatives. Initiatives which are "part of a concerted effort of the public sector and civil society to foster greater transparency, integrity and accountability."²¹ Such initiatives which have received funding to date include whistle blowing campaigns, monitoring programs for public auctions, media campaigns to raise awareness, etc. To date, 13 projects have received funding, which to date has been received from a German UNDP agency and a private UK Foundation.

c. Developing Tools

A significant achievement for TI was the completion of the **TI Source Book**. It has since been adapted to local settings in numerous countries around the world, and translated into over 20 languages. The Source Book was developed around the concept of a National Integrity System, and emphasizes the role civil society must take in combating corruption. According to the Source Book: "The National Integrity System is the sum total of the institutions and practices within a given country that address aspects

²⁰ TI 2002 Annual Report, p.4

²¹ TI 2002 Annual Report, p.5

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of maintaining the honesty and integrity of government and private sector institutions. Any attempt to address corruption effectively and sustainably involves an holistic approach, examining each of these institutions and practices and the various inter-relationships to determine where remedial action is required. Ad hoc reforms are unlikely to succeed.”²² Essentially, the Source Book provides an outline of an environment which is less/not conducive to corruption, where the consequences of corruption are greater than the prize, and is designed to assist countries interested in fighting corruption to design systems and institutions which will help achieve that goal.

TI has also developed what it calls the **Corruption Fighter’s Tool Kit**. The Tool Kit was first published in 2001, and is expected to be published annually. The Tool Kit is essentially an agglomeration of various and innovative anti-corruption tools developed throughout the world by TI National Chapters and other civil society organizations. It can be regarded as a compendium of best practices in the anti-corruption field. The 2002 edition, which is available online, outlines 27 different tools, ranging in areas from corruption awareness, to election financing to business ethics. What the Tool Kit also does is highlight the important role civil society must and can play in fighting corruption.

TI has also implemented the Corruption Online Research and Information System (CORIS), with the help of the UK and Dutch governments. CORIS aims to:

- “be the world’s foremost anti-corruption web portal, disseminating leading-edge knowledge on anti-corruption developments, integrity and “good practice”;
- facilitate effective coalition-building and the formation of better informed anti-corruption strategies;
- create a global network of information, research and learning tools serving activists working for real policy change and offering initiatives and enhanced learning opportunities for anti-corruption practitioners around the world;

²² www.transparency.org/sourcebook/index.html
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- be a pro-active tool aiming to meet the knowledge needs of TI's partners and users; and
- continue to support and complement TI's anti-corruption programmes, currently operating in cooperation with partners at the global, national, and local levels in every region of the world."²³

d. Setting Standards

TI has developed what it calls the Integrity Pact (IP). The IP is an agreement which seeks to reduce/eliminate corruption in public contracting by binding parties to a public procurement bidding process that neither side will seek to collect or pay bribes. The bidders must agree to disclose all commissions paid with respect to the contract, and sanctions apply where there are violations. The effects of such a pact would theoretically be to reduce corruption in public procurement, reducing the cost of obtaining contracts for private industry, reducing the uncertainty of dealing in countries where public procurement previously meant corruption would occur and as such, encourage foreign investment and also hopefully increase civil society's trust in public institutions. Of course, the IP can only be successful when both parties are committed to its success, and when there are adequate provisions for monitoring as well as sanctions for non-compliance. See Appendix F for a listing of essential and desirable elements in an Integrity Pact. IPs have already been implemented with some success in countries like Korea, Italy, Panama, Columbia and Argentina. However in some cases such as in Italy, where IPs have been implemented which included all of the IP core elements, there were some instances where a monitoring provision by the local TI Chapter was missing. These issues will continue to be worked on. In other cases, such as for the Karachi Water and Sewerage Project, the IP clearly showed its value where the price of a significant consulting contract administered under the IP and closely monitored by the local TI chapter came in well below the cost of a similar contract entered into four years previously

²³ TI 2002 Annual Report, p.7

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without the IP.

Also, now that the countries who have signed on to the OECD Convention must disallow the tax deductibility of bribes and make it an offence to bribe foreign public officials, IPs should have more teeth to them in the future, at least in OECD Convention countries.

TI, in collaboration with business, trade unions and NGOs, was involved in developing Business Principles for Countering Bribery, which should be actively promoted in the business community in 2003. The goal of these Principles is to represent best practices for fighting bribery and help businesses create or strengthen systems designed to combat bribery.²⁴

Another significant achievement in the area of standards is the Wolfsberg Group of International Financial Institutions. The Group, which consists of leading private banks and TI, has developed the Wolfsberg Principles "to unify anti-money laundering rules and make it more difficult for ill-gotten gains to find their way into the banking system."²⁵ TI was key in bringing the banks together to achieve this goal. In the wake of September 11, the Group has also issued guidelines with respect to terrorism financing. As part of its ongoing work on money laundering, TI is also providing input into the review process of the Financial Action Task Force (FATF)'s 40 recommendations.

e. International Developments

In December 1997, the OECD Anti-Bribery Convention was adopted. A copy of the full text of the Convention is available in the Document Brief. The convention includes the following provisions:

Each Party to the Convention agrees to:

- make the Bribery of Foreign Public Officials a criminal offence;

²⁴ TI 2002 Annual Report, p.9

²⁵ TI 2002 Annual Report, p.9

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- apply “effective, proportionate, and dissuasive criminal penalties” in the event of bribery of a foreign public official²⁶
- to take the necessary measures within its laws and regulations to ensure adequate accounting and record keeping;
- to provide mutual legal assistance to a party for the purposes of criminal investigations and proceedings covered by the Convention;
- to make the bribery of a foreign official an extraditable offence;
- to cooperate in a monitoring programme to ensure the full implementation of the Convention and;
- if not already done, look at eliminating the tax deductible status. Of bribes.

The Convention was seen as a great step in the war against corruption, and an impressive list of 34 countries ratified it and passed implementing legislation. TI was extensively involved from the very early stages with the Convention, providing input to the OECD on drafts of the Convention. TI also very early on honed in on the importance of the monitoring process, and also helped identify other issues which remain to be addressed as part of the Convention. TI notes in its 2002 Annual Report that there “has been little or no enforcement. TI’s 2002 Bribe Payers Index indicates that business communities in 15 major emerging market countries are barely aware of the Convention and that foreign bribery remains widespread.” TI’s issues with the Convention, and more specifically with the monitoring process will be discussed in further detail below.

TI has also been actively involved with other anti-corruption initiatives such as:

- The Inter-American Convention Against Corruption – TI chapters in OAS countries have submitted recommendations to the OAS Secretary General and the Committee of Experts. TI’s concerns in this case include the lack of adequate resources to assess compliance, timing, and transparency of the process;

²⁶ OECD Convention, Article 3 - Sanctions
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- The United Nations Convention Against Corruption, which is slated to become the first comprehensive global anti-corruption treaty. Negotiations are continuing on this in 2003 – no final text has yet been generated. TI's recommendations include increasing the level of civil society input, extending the definition of public official to include political party officials, ensuring a strong monitoring process and reducing the number of ratifying countries required for the Convention to take effect from the 40 currently contemplated;

These are only three of the international initiatives with which TI has been involved, but are no doubt among the most important.

4. What is next for TI?

TI, in Chapter 29 of its Source Book 2000 (see Document Brief for a copy) outlines the lessons learned so far, and also recognizes that the process of "achieving sustainable anti-corruption reforms will be a long and arduous one". It recognizes that there are no quick fixes. As a result, TI will continue in its endeavors in the long-term.

TI will continue to be involved with the OECD Convention Monitoring Process. It will also continue its involvement with other various international initiatives and provide input and assistance in the development and implementation of systems and agreements to fight corruption, as well as money laundering. It will continue to publish the CPI and TI as well as the Global Corruption Report, and continue to update its Source Book and basically continue to ensure that "transparency and accountability remain high on the (world) agenda"²⁷

²⁷ TI 2002 Annual Report, p.1

B. OECD Anti Corruption Regime

1. What is the OECD Anti-Corruption Regime?

When discussing an Anti-Corruption Regime for the OECD, this must really be discussed in context of the OECD's Convention on Combating Bribery of Foreign Officials in International Business Transactions (Convention). As outlined earlier, this convention was adopted in December 1997, and essentially obliges those who sign it to make bribery of foreign officials a crime wherever in the world it takes place. In theory, the Convention should have a global impact. It should address the supply side of bribery, as the OECD countries signing it are home to most international companies, who are those most likely to pay bribes. When cases of corruption are uncovered, the focus is usually on the public official who has enriched him or herself, and less attention is given on those paying bribes and as a result there is little incentive for bribe payers to curb their activity. Prior to the Convention, only the U.S. Foreign Corrupt Practices Act made it a criminal offence for a U.S firm to pay bribes abroad.

It should also address the demand side of the bribery equation as it will strengthen anti-corruption efforts in developing countries and countries in transition.

According to TI, "The Convention needs to be viewed as part of a comprehensive package of measures which collectively have the potential to significantly reduce the present widespread international costs of corruption"²⁸.

The proposed Monitoring and Follow-up Program mentioned in Article 11 of the Convention will be critical to the success of the Convention. There is always a danger when dealing with such a broad and somewhat general Convention that countries signing it will exploit vagueness and potential loopholes when actually drafting legislation to implement it; that way countries can potentially benefit from the goodwill generated by ratifying the agreement without having to fully comply with the spirit of it. The monitoring program outlined in the Convention, if properly administered should address those

²⁸ TI Memo dated November 5, 1997: "OECD Anti Corruption Convention Leaves Critical Questions Still Open"
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concerns. It is based on the mechanism used to implement the money –laundering regime established by the Financial Action Task force (FATF), where it has proven to be effective. The approach adopted by the OECD is that the monitoring process be divided into two phases:

Phase 1, which includes the evaluation of the adequacy of the legislation implemented by ratifying countries;

Phase 2, which assesses the systems put in place to enforce the legislation.

2. Achievements to Date

So far, 35 OECD countries have signed on to the Convention and 32 have been subject to monitoring, 6 of which under both Phase 1 and 2²⁹. (see Appendix H, as well as the document brief for a document entitled: “Step Taken and Planned Future Actions by Participating Countries to Ratify and Implement the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions”, February 26, 2003 for further details.)

While these statistics sound somewhat promising, there are however some significant issues which TI has identified and which should be addressed in order to ensure the success of the Convention. TI outlined these issues for the OECD in a memo dated June 16, 2000 (Anti-Bribery Convention: Issues for Ministerial)., which is the basis for the following paragraphs. These issues can be summarized as follows:

- Securing Full Support from Major Exporting States;
- Strengthening the OECD Monitoring Process;
- Prohibiting Bribery of Political Party Officials;
- Improving Accounting, Auditing and Financial Controls;

²⁹ www.oecd.org

- Preventing Money Laundering of Bribe Payments;
- Promoting Accession by Additional States; and
- Increasing Public Awareness of the Convention.

Securing Full Support from Major Exporting States:

Concern was raised in this area that unless at least ten of the largest exporters who have signed on to the Convention promptly ratify and fully implement it, other countries will be reticent to follow as they would likely believe that they could suffer a loss of competitive advantage should they implement the Convention and their major competitors wouldn't. An example of the problems encountered in this area is the fact that both the UK and Japan had severe shortcomings in their implementing legislation which were identified as part of Phase 1 of the monitoring process. The UK went so far as to say that no new legislation was required on their part, and that the law they currently had on their books (which incidentally was severely outdated) was sufficient. TI urged the OECD in their memo to strongly press for "prompt completion of ratification and passage of effective implementing laws by all 34 signatories."

Strengthening the OECD Monitoring Process

Significant progress was made in Phase 1 of the monitoring program. However, Phase 2 is not proceeding as well and as swiftly; only six countries have been subject to phase 2, as opposed to the original goal of seven or eight reviews per year.³⁰ TI made the following comments on what is required to ensure successful implementation of the monitoring process in its memo to the OECD dated June 16, 2000:

"TI's work with the OECD has made clear that the available resources are seriously inadequate for the demands of the next phase of the monitoring program and for work required on other closely related issues. Staffing and budgeting must be provided which realistically reflects what needs to be done and that the program will take six years at a

³⁰ TI 2002 Annual Report, p.10

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minimum, and more likely 10 years...It seems incredible that with a staff of 1,800, the OECD cannot assign more than three people to make sure that the Convention achieves its objectives” It is clear that the OECD must take the appropriate steps to allocate proper funding and staff if the monitoring program is to be successful. It has become obvious that the process has been lacking, given that as of the publication of the TI 2002 Annual Report, there had very few prosecutions brought under the auspices of the Convention.

TI also identified the need for strong political support of the Convention, and the application of peer pressure at the Ministerial level to ensure governments who have signed on to the Convention take the implementation phase seriously.

Finally, TI's concerns around the monitoring program also include the fact that efforts should be taken to ensure that the monitoring process be as transparent as possible to not only ensure that civil society perceives the implementation of the Convention as effective and meaningful, but also to include and potentially benefit from valuable input that civil society can provide.

Prohibiting Bribery of Political Party Officials

The Convention prohibits bribe payments to foreign public officials, however it does not criminalize the payment of bribes to foreign political parties or their officials. This is a serious deficiency as it creates a giant loophole bribe payers can use to pay bribes and still act within the law. In order for the Convention to be effective, it is crucial that this loophole be closed.

Improving Accounting, Auditing and Financial controls

"In April (2000), TI submitted to the OECD Working Group on Bribery a detailed survey of current practices and requirements relating to:

- a) Books and Records;
- b) Internal Controls; and
- c) Auditing practices

In 16 OECD countries, including the ten largest exporters. The survey was conducted by a task force consisting of the Big Five international accounting firms... The TI study disclosed that most of the sixteen countries covered did not have explicit legal requirements that companies must maintain adequate systems of internal controls. Many countries do not apply books and records requirements to all companies engaged in significant international transaction or to subsidiaries outside the country. The survey also disclosed shortcomings in auditing standards and practices, in requirements for audited financial statements, and in financial statement disclosure requirements."³¹

TI strongly recommended that this deficiency be addressed in the Phase 2 country reviews.

Preventing Money Laundering of Bribe Payments

Article 7 of the Convention states: "Each Party which has made bribery of its own public official a predicate offence for the purpose of the application of its money laundering legislation shall do so on the same terms for the bribery of a foreign public official, without regard to the place where the bribery occurred." This essentially means that countries whose money laundering legislation makes bribery of a domestic official a criminal offence shall also include as a criminal offence the bribery of a foreign official. Therefore, if a country's money laundering legislation does not include provisions for bribery of domestic officials, the bribery of foreign public officials will not be captured by the Convention. Given that money laundering is more likely in a case involving bribery of

³¹ TI Memo to the OECD dated June 16, 2000.
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foreign officials, this a serious deficiency that TI has recommended be addressed.

Promoting Accession by Additional States

In order to maximize the impact of the Convention, TI has recommended that additional countries which have a significant impact on trade but are not part of the OECD be encouraged to sign on to the Convention.

Increasing Public Awareness of the Convention

Given that the 1999 BPI issued by TI showed that a majority of business leaders in 14 major markets were unaware of the Convention, it goes to reason that additional efforts should be made to ensure that there is adequate public awareness of the Convention in order to ensure compliance.

Finally, TI has also identified the coverage of foreign subsidiaries as an issue. The Convention currently “does not cover independent acts of foreign subsidiaries located in non-signatory countries, if such subsidiaries do not engage in any activity in a signatory country.”³² This could be an important loophole which should also be addressed.

5. What is next for the OECD and the Convention?

Phase 2 of the Monitoring Program is expected to continue in the next several years, although the success of the second phase may to an extent hinge on the OECD acting on TI's recommendations. TI will continue to work closely with the OECD and the rest of the Working Group on the Convention to ensure that the appropriate efforts are made to ensure the successful implementation of the Convention. The success of the Convention will largely depend on not only the efforts of the OECD, and the Working Group, but also largely on the desire of signatory nations to fully comply, and the willingness of civil society to take part in the process of monitoring and holding their

³² TI Memo dated September 4, 1998; “OECD TI Convention: Coverage of Foreign Subsidiaries”

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leaders to account. The stakes are high, and it is crucial that the Convention succeed in order to ensure a reduction in the level of international corruption, but also to pave the way for the success of similar initiatives, such as the upcoming UN Convention Against Corruption and the OAS's Inter-American Convention Against corruption.

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- Transparency International Source Book 2000:
 - Introduction
 - Chapter 1: The Challenge of Renovation
 - Chapter 4: The National Integrity System
 - Chapter 29: Lessons Learned: A Progress Report

- Transparency International Integrity Pact
- Corruption Fighter's Tool Kit

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- November 5, 1997 (TI's Perspective on OECD Convention)
- May 18, 1998 (Key Issues Around Convention Monitoring Process)
- September 4, 1998 (OECD Convention; Coverage of Foreign Subsidiaries)
- October 22, 1998 (TI Comments on OECD Monitoring Procedure)
- October 27, 1998 (TI Proposals on Money Laundering and the Offshore Financial Centres)
- June 16, 2000 (Anti-Bribery Convention: Issues for Ministerial)
- July 17, 2000 (Role of International Conventions in Overcoming Corruption)
- August 6, 2001 (Statement of BIAC, ICC, TUAC and TI Regarding Consultations in Phase 2 of the OECD Monitoring Process)

OECD Documents:

“Convention on Combating Bribery of Foreign Public Officials in International Business Transactions” and related documents, 1997;

“Step Taken and Planned Future Actions by Participating Countries to Ratify and Implement the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions”, February 26, 2003.

Websites:

Information contained the following websites was used throughout this paper as footnoted:

- www.transparency.org
- www.oecd.org
- www.oas.org
- www.unodc.org
- www.imf.org
- www.worldbank.org