



TRANSPARENCY INTERNATIONAL | USA

Recent Developments in the Fight Against Corruption

ALAN LARSON ELECTED CHAIRMAN

The TI-USA board of directors has elected Alan P. Larson, former Under Secretary of State for Economic, Business and Agricultural Affairs, to be the new Chairman.

Mr. Larson, a career foreign service officer, served as economic counselor to five Secretaries of State and as US Ambassador to the OECD. While at the State Department, Mr. Larson was a strong proponent of the anti-corruption agenda and played a key role in securing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Mr. Larson is a Senior Advisor with the law firm of Covington & Burling in Washington, D.C. He is also a Strategic Advisor and Director at the World Economic Forum and a Distinguished Fellow at the Council on Competitiveness.

Development Initiatives

WORLD BANK SEEKS TO PUT POLICY INTO PRACTICE

Since his arrival at the World Bank, President Paul Wolfowitz has underscored his intention to take action to prevent corruption in its operations and programs. On June 14, 2006, an “*Outline-Strengthening Bank Group Work on Governance and Anticorruption*” was circulated and discussion among shareholders and interested parties is anticipated. Input is to be taken into account in a final paper, tentatively scheduled for board discussion on August 30, 2006.

The outline is a significant start to bringing specific and effective tools to the Bank’s approach to fighting corruption. It includes many recommendations TI proposed in its January 11, 2006 meeting with President Wolfowitz and in TI-USA’s testimony before the Senate Foreign Relations Committee in May 2004. It foresees heightened attention to corruption in country assistance strategies, conducting corruption risk assessments, engaging the private sector, and changing Bank practices to take into account ‘lessons learned’ from cases it has investigated. It also foresees providing technical support to countries for implementation of anti-corruption convention commitments.

TI will undertake an analysis and submit detailed recommendations. For now, it has strongly urged that the Bank conduct external consultations with the private sector and civil society in the development of the final paper and has offered to convene consultations. On June 9, 2006, TI-USA joined other civil society representatives in a meeting with the US Alternate Executive Director, Jennifer Dorn. The discussions focused on the need for external consultation and developing broad ownership to make the strategy sustainable and successful.

1023 15th Street NW Suite 300 Washington, DC 20005

Tel: 202-589-1616 Fax: 202-589-1512 transparency@transparency-usa.org www.transparency-usa.org

Development Initiatives

AFRICAN TRADE ACT PROMOTES ANTI-CORRUPTION

The 5th AGOA Forum, opened by Secretary of State Condoleezza Rice on June 6, 2006 in Washington, DC, brought together ministers from sub-Saharan Africa with private sector and civil society representatives. It provided an opportunity to focus attention on the eligibility criteria for trade preferences under the 2000 African Growth and Opportunity Act (AGOA) and in particular that a country “has established or is making continual progress toward *establishing a system to combat corruption and bribery.*” After five years of experience, it is still unclear how this criterion is applied in practice. An annual USTR report to Congress provides only brief insights into country progress. The report can be found at:

http://www.ustr.gov/assets/Document_Library/Reports_Publications/2006/asset_upload_file236_9455.pdf.

As a member of the USAID Advisory Committee on Voluntary Foreign Assistance (ACVFA), TI-USA President Nancy Boswell was invited to discuss the importance of the corruption criteria and how they are applied at a concurrent Public Meeting on June 7th featuring the Director of Foreign Assistance Randall Tobias. The issue is of growing importance since more recent initiatives, such as the Millennium Challenge Account, evaluate eligibility based on progress in fighting corruption.

Progress on Legal Framework

SENATE HOLDS HEARING ON UNCAC

The Senate Committee on Foreign Relations (SFRC) held hearings on US ratification of the United Nations Convention Against Corruption (UNCAC) on June 21, 2006. Chairman Lugar highlighted the importance of the Convention to US national security, economic and development interests.

TI-USA Chairman Alan Larson testified in support of prompt US ratification which will permit the USG to participate fully in decisions on implementation and monitoring at the December 9-13, 2006, Conference of States Parties in Amman, Jordan. State Department Deputy Legal Advisor, Samuel M. Witten, and Deputy Assistant Attorney General Bruce Swartz testified on behalf of the US Government. William A. Reinsch, President of the National Foreign Trade Council, provided a private sector perspective.

Larson underscored the importance of an effective follow-up process and asked that *TI Report on Monitoring Recommendations for UNCAC* be entered into the record. The report was presented on June 15, 2006, to the UN Office on Drugs and Crime in Vienna by TI Chairman Huguette Labelle and TI-USA board member Fritz Heimann. It was developed in consultation with a group including experts from other monitoring mechanisms. It emphasizes that monitoring is essential to achieve consistent and appropriate enforcement, noting the scope of the convention and the diversity among the parties. TI will present the report to UN Secretary General Kofi Annan in June.

TI-USA, working in coalition with the US Council for International Business, the National Foreign Trade Counsel, USA*Engage, the American Society of Civil Engineers, the American Bar Association and others, urged the SFRC to hold hearings. On May 11, 2006, members of this coalition wrote to Chairman Richard Lugar and Ranking Member Joseph Biden urging hearings and timely Senate ratification. On June 19, 2006, several business groups, including the Business Roundtable, NFTC, National Association of Manufacturers, US Business Council for International Business, and the US Chamber of Commerce signed a similar letter of support.

The Convention, which entered into force on December 14, 2005, reflects a global consensus on the international legal system necessary to fight corruption. To date, 140 countries have signed the Convention and 55 countries, including China and Russia, have ratified it. It includes provisions to prevent and criminalize corruption and to facilitate legal assistance and asset recovery. The Convention’s universal prohibition against transnational bribery applies to countries not party to the OECD Convention reducing the competitive disadvantage faced by US companies which have long operated under stringent FCPA rules. The text of the Convention can be found at http://www.unodc.org/pdf/crime/convention_corruption/signing/Convention-e.pdf.

Progress on Legal Framework

2006 PROGRESS REPORT ON OECD ENFORCEMENT

On June 15, 2006, TI presented its *2006 Progress Report on OECD Enforcement* to the OECD Working Group on Bribery in Paris. This second annual report is based on information provided by TI national experts in thirty-one of thirty-six states which have ratified the Convention. These states are responsible for about ninety-five percent of OECD exports. TI-USA board member Fritz Heimann directed the project and fellow board member Lucinda Low, Steptoe & Johnson, provided the report on the US.

The report presents the number of prosecutions and investigations in the countries covered and finds notable progress in one-third of the countries, including France, Germany and Korea. However, there have been no prosecutions in other countries that play a major role in international trade, including Canada, Japan and the UK. Moreover, there are significant enforcement weaknesses in two-thirds of the countries. The full report will be available on the TI website at the end of June.

The clear import of the report, captured in TI's recommendations, is the need for more vigorous enforcement and for weaknesses in enforcement systems to be addressed. Thus, a vigorous monitoring process must be continued and fully funded to call governments to account and strengthen political will.

However, funding for the OECD peer review monitoring process is set to expire at the end of 2007. TI-USA and other TI chapters launched a campaign in the spring to secure continued funding for the future. TI-USA President Nancy Boswell met with US Ambassador Constance A. Morella, US Permanent Representative to the OECD, and joined TI-USA Chairman Alan Larson and Advisory Council member Stuart Eizenstat in meeting with Deputy National Security Advisor for International Economics Faryar Shirzad to urge US support.

TI Chairman Huguette Labelle met with the OECD Secretary General urging continued funding at the required levels. TI submitted a letter recommending continued funding and: (1) continued country visits as the most reliable method for obtaining information on the adequacy of a country's enforcement efforts; (2) a comprehensive study of obstacles to convention enforcement; and (3) increased pressure on governments to correct deficiencies in enforcement identified in prior country reviews. TI national chapters in OECD member states will continue to press for these objectives.

OECD MIDTERM STUDY OF PHASE 2

The OECD published its *Mid-Term Study of Phase 2 Reports* on implementation and enforcement of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions on May 22, 2006. This exhaustive study presents a wealth of useful information drawn from the Phase 2 reviews conducted by the Working Group on Bribery from September 2001 to the end of 2005, covering twenty-one countries.

The OECD Report corroborates TI's findings that "most examined Parties have had few (if any) foreign bribery cases." It points out where there has been notable progress, but it also highlights numerous and significant shortcomings and challenges, some faced by numerous parties. The study supports TI's conclusion that vigorous monitoring must continue in order to address these deficiencies and realize the convention's potential.

The Mid-Term Study can be found at

<http://www.oecd.org/dataoecd/19/39/36872226.pdf>

TI national chapters have participated in the Phase 2 country reviews, providing an important perspective to review teams. The Working Group Phase 2 Reports are available at http://www.oecd.org/infobycountry/0,2646,en_2649_34859_1_1_1_1_1,00.html.

Progress on Legal Framework

OECD EXPORT CREDIT AGENCIES TAKE ACTION TO REDUCE BRIBERY

On May 11, 2006, the OECD Working Party on Export Credits and Credit Guarantees released an updated *Action Statement on Bribery and Officially Supported Export Credits*. TI-USA welcomed the new agreement as a significant step toward reducing bribery in business transactions benefiting from official export credit support.

The 2006 Action Statement includes a number of recommendations TI presented to the Working Party. It requires exporters and applicants to certify that neither they nor anyone acting on their behalf has or will engage in bribery. This is similar to the certification requirement adopted by the World Bank at TI's urging. Export Credit Agencies agree to conduct enhanced due diligence when the exporter or applicant appears on publicly available debarment lists of the World Bank and other multilateral development banks.

TI chapters are working to ensure that export credit agencies in their countries implement these commitments. TI will also recommend guidelines for consistent implementation of the Action Statement. The full text of the Action Statement can be found at [http://webdomino1.oecd.org/olis/2006doc.nsf/Linkto/td-ecg\(2006\)11](http://webdomino1.oecd.org/olis/2006doc.nsf/Linkto/td-ecg(2006)11).

TI AMERICAS CHAPTER PROMOTE REFORM

Brazil was among the final group of countries to be reviewed for compliance with the Inter-American Convention Against Corruption (IACAC) in the 'first round'. With a grant from Merck, TI Brazil submitted views to the experts for consideration in the development of recommendations. The experts' Report on Brazil is available at: www.oas.org.

TI-USA and other national chapters participated in the 36th Regular Session of the Organization of American States (OAS) General Assembly on June 4-6, 2006 in the Dominican Republic. TI presented recommendations to foreign ministers on specific measures to prevent and control corruption and to strengthen the convention monitoring mechanism. TI called on governments to report progress and to reflect concrete results in addition to legal changes.

On the eve of the General Assembly, TI participated in the 3rd OAS Private Sector Forum and provided input to the recommendations business leaders presented to the foreign ministers. The recommendations included implementing the IACAC, using information technology to promote transparency and adopting anti-bribery codes.

Private Sector Tools

UN GLOBAL COMPACT TOOL FOR PRIVATE SECTOR ON 10TH PRINCIPLE

With more than 3,000 companies and organizations now signatories to the United Nations Global Compact, implementation of its voluntary principles, including the 10th principle on corruption, is crucial. The Global Compact and UN Office of Drugs & Crime produced a publication highlighting examples of challenges faced by business in dealing with bribery and corruption and strategies to cope with them. *Business Against Corruption – Case Stories and Examples* deals with topics including:

- implications of the UN Convention Against Corruption;
- implementation of anti-bribery programs;
- criteria for agents and consultants;
- how to handle facilitation payments and gifts;
- corruption in partnership projects;
- whistle-blowing and external reporting on corruption;
- collective action against corruption; and
- engaging in national and regional initiatives against corruption. (*continued on pg. 5*)

(continued from pg. 4)

Transparency International continues to work as a principal partner with the UN Global Compact, with TI Chairman Huguette Labelle serving on its advisory board. TI contributed articles to this Tool on the need for a UN Convention monitoring mechanism, TI Integrity Pacts, basic elements of corporate anti-bribery codes and an overview of emerging practices in company reporting on bribery and corruption. The publication can be found at:

http://www.unglobalcompact.org/NewsAndEvents/recent_publications.html.

Private Sector Tools

OECD TOOL FOR COMPANIES IN “WEAK GOVERNANCE ZONES”

The OECD has developed a *Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones* to help companies operating where governments are “unwilling or unable to assume their responsibilities.” The tool addresses risks and ethical dilemmas that companies are likely to face, with a focus on “heightened care in managing investments, knowing business partners and clients, dealing with public sector officials, and speaking out about wrongdoing.” TI was among the stakeholders providing input. The OECD anticipates further work with business and other stakeholders to capture practical experience in addressing challenges highlighted by the tool. To view OECD’s Risk Awareness Tool for Multinational Enterprises in Weak Governance Zone click on: http://www.oecd.org/document/6/0,2340,en_2649_34889_36887622_1_1_1_1,00.html

TI SELF-EVALUATION TOOL

TI is developing a Self-Evaluation Module (SEM) for companies to assess the completeness and performance of their anti-bribery policies and systems. The SEM is a checklist of 200 indicators and was developed with feedback from focus groups in the US and Europe. In the US, expertise was provided by counsel from Fluor, Huber, PwC and SAP. It was also reviewed positively by World Bank and IDB representatives for potential future use. Several Transparency International national chapters, including in Italy and in the Czech Republic are also developing simplified checklists for corporate self-assessment.

Field-tests on the SEM are currently underway in Europe and the US both at headquarters and in foreign operations. Lessons learned from the pilots will be integrated into the SEM and completion is expected by December 2006.

CALENDAR OF EVENTS

June 15-16: Foreign Corrupt Practices Act Boot Camp, San Francisco, California. Information at <http://www.americanconference.com/fcpabootcamp.htm>.

June 22: World Bank Institute Business & Development Strategy Dialogue, Washington, DC.

June 27: TI-USA Hosts Deputy National Security Advisor and the US Alternate Executive Director of the World Bank.

July 15-17: G-8 Summit, St. Petersburg, Russia.

September 19-20: The International Monetary Fund and the World Bank Group Board of Governors Annual Meetings, Singapore.

November 8-9: 16th National Conference: Foreign Corrupt Practices Act, Washington, D.C. For more information visit:

https://www.americanconference.com/International_Trade_Defense/FCPA.htm.

November 13-14: Transparency International Annual Membership Meeting, Guatemala City and Antigua.

November 15-18: 12th International Anti-Corruption Conference, Guatemala City and Antigua.

JUNE 27TH EVENT

On June 27, 2006, TI-USA will host an event featuring Faryar Shirzad, Deputy Assistant to the President and Deputy National Security Advisor for International Economic Affairs. Jennifer L. Dorn, US Alternate Executive Director of the World Bank will also participate. TI-USA Chairman Alan Larson will host the event at Covington & Burling in Washington, D.C. For further details, please contact Leigh Thompson at lthompson@transparency-usa.org.

INVITATION TO THE INTERNATIONAL ANTI-CORRUPTION CONFERENCE

The 12th IACC will take place in Guatemala City and Antigua, Guatemala from November 15-18, 2006. Transparency International acts as the secretariat for the conference and welcomes broad participation. Past conference participants have included government officials, business professionals, judicial, law enforcement, legal and accounting professionals, academics, international development organizations, the media and non-governmental organizations (NGOs).

For further information please email Roberto Pérez-Rocha at rprocha@transparency.org or Bärbel Carl at bcarl@transparency.org. The IACC website is at www.12iacc.org.

TI-USA PUBLICATIONS & SPEECHES

- "The Long War Against Corruption," Fritz Heimann and Ben W. Heineman, Jr., Foreign Affairs, May/June issue. The article can be found online at www.foreignaffairs.org.
- Professor Michael Johnston, C. Bowman Cutter and TI-USA President Nancy Boswell participated in the Committee for Economic Development forum, "Can Congress Cure Itself: The Impact on American Business," New York, May 24, 2006.
- Michael Hershman spoke at the Independent Commission Against Corruption's 3rd Symposium, Hong Kong, May 9-11, 2006. He also gave a speech before the World Lottery Forum, February 2006.
- Prof. Johnston presented a paper on "Corruption and Conflict in the Caucasus" at a conference in Arlington, Virginia, May 1, 2006.
- At the invitation of the Governments of China and the US, TI-USA President Nancy Boswell addressed the *APEC Workshop on Denial of Safe Haven, Asset Recovery & Extradition* on April 24-26, 2006, in Shanghai, China. The US Consulate arranged for her to address representatives from the Shanghai Municipal Peoples Congress, China Leadership Executive Academy Pudong, American Chamber of Commerce Shanghai, and Jiaotong University and an interview with the *21st Century Business Herald*. In Beijing, the US embassy arranged opportunities to address officials of the Ministry of Supervision and the Olympic Organizing Committee and students and faculty at Beida, CUPSL and Tsinghua, where she was hosted by TI National Contact Dr. Wenhao Cheng.
- Prof. Susan Rose-Ackerman gave the keynote address on "The Political Economy of Corruption," at the "First International Conference on Corruption and Transparency," of the Institute for Social Research, National Autonomous University, Mexico City, Mexico, March 23, 2006.
- Professors Susan Rose-Ackerman and Michael Johnston chaired panels on research on corruption, at a conference sponsored by the Wharton School, University of Pennsylvania, Hills Program on Governance and Corruption and the World Bank, March 3-5, 2006.
- *Syndromes of Corruption: Wealth, Power, and Democracy*, Michael Johnston, Cambridge University Press, December 2005. Order information can be found www.cambridge.org.
- "Political Corruption and Reform in Democracies: Theoretical Perspectives," Susan Rose-Ackerman featured in *Comparing Political Corruption and Clientelism*, Junichi Kawata, Ed., Ashgate, 2006, pp. 45-62. Order information can be found www.ashgate.com.
- *Illicit: How Smugglers, Traffickers and Copycats are Hijacking the Global Economy*, Moses Naim, Doubleday, October 2005. Order information can be found at www.randomhouse.com/doubleday.

We welcome news of other events, publications and speeches. Please email your contributions to

Leigh Thompson at administration@transparency-usa.org.