



TI Finds Major Exporters Beginning Crack-Down on Foreign Bribery

On March 7 2005, TI released its first annual report evaluating how well OECD countries are enforcing the “Convention to Combat Bribery of Foreign Public Officials in International Business Transactions,” which outlaws bribery of foreign public officials. According to the report, which surveyed 24 countries representing 95 percent of all OECD exports, many major exporting countries have started investigating and 11 are prosecuting bribery cases. TI sees this as a “promising start” toward significantly reducing bribery in international transactions, reducing the cost of doing business abroad, and reducing the negative impact of corruption on economic development.

According to the *TI Progress Report on Enforcement of the OECD Convention*, Belgium, Canada, France, Germany, Italy, Korea, Norway, Spain, Sweden, Switzerland and the USA have prosecuted foreign bribery cases in their courts, and Denmark, Finland and the UK have investigations underway.

However, not all governments are prosecuting illicit payments abroad. In nine countries, there has been no enforcement action taken, despite the fact that the treaty entered into force in most signatory countries in 1999 and 2000: Argentina, Australia, the Czech Republic, Greece, Japan, the Netherlands, New Zealand, Poland and the Slovak Republic.

TI Advisory Council member, Chairman of TI-USA and co-author of the report, Fritz Heimann said that governments must step up enforcement in order to send a clear signal to companies that

bribing foreign officials is a high-risk proposition that they can longer afford to take.

To improve enforcement, TI is pressing OECD countries to:

- establish a national office responsible for managing, or at a minimum coordinating, the investigation and prosecution of foreign bribery cases
- increase public awareness that foreign bribery is a crime
- establish a readily accessible reporting system for foreign bribery complaints
- provide adequate protection for whistleblowers
- require tax departments to report evidence of bribery uncovered in the course of a tax audit
- provide for corporate criminal liability where it does not exist
- extend the statute of limitations to allow for sufficient time for disclosure and investigation of a bribe
- promote the adoption of corporate anti-bribery compliance programs
- continue the OECD intergovernmental monitoring program beyond 2007.

TI plans to publish the progress report annually and use it as a tool to spotlight whether countries are upholding anti-bribery laws. The report also will serve as a benchmark for measuring future progress. The full report can be found at www.transparency.org.

Inside this issue:

<i>Berlin Airport Adopts TI Anti-Bribery Pact for Expansion Project</i>	2
<i>World Bank Publishes First Annual Report on Corruption</i>	2
<i>TI-USA Provides Expert Advice on USAID's New Anti-Corruption Strategy</i>	3
<i>TI Focuses on Improving Accountability in Tsunami Relief</i>	3
<i>EC Vice President Visits TI Headquarters to Discuss Anti-Corruption</i>	3
<i>TI-USA Strategic Planning Meeting Identifies 2005 Priorities</i>	4
<i>TI-USA Welcomes New Members and Staff</i>	4
<i>Upcoming Events</i>	5



Berlin International Schönefeld Airport Adopts TI Anti-Bribery Integrity Pact for Expansion Project

The Berlin-Schönefeld Airport (Flughafen Berlin-Schönefeld GmbH) agreed to cooperate with TI-Germany in introducing an Integrity Pact to prevent corruption and illegal transactions in the planned expansion of the Berlin-Schönefeld Airport. Total investment in the 5-year airport expansion project is estimated at EUR 2 billion.

The Integrity Pact, a tool created by TI, commits both Berlin-Schönefeld and potential bidders to take all measures necessary to prevent corruption in the bidding and awarding of contracts and would prohibit all forms of bribery in the bid process. It would also extend to all agents, brokers, intermediaries or subcontractors a bidder would employ. In order to ensure that all parties adhere to the Integrity Pact, Berlin-Schönefeld will appoint an independent monitor to ensure compliance.

The Integrity Pact provides for disqualification, financial penalties and/or future exclusion of bidders should they violate the Pact's provisions. Compensatory damages of up to 5 percent of the contract value can be assessed if a bidder or contractor violates the Pact. In individual cases, compensatory damages can be higher. Any breach after winning a tender can result in the annulment of the contract. In addition, bidders who do not comply with the Integrity Pact can be excluded

from bidding for future Berlin-Schönefeld Airport tenders in the coming years.

According to Thomas Weyer, Managing Director (Technical) of the Airport, the Berlin-Schönefeld Airport Company "wants the use of the Integrity Pact to send a clear signal in support of fair competition, corruption prevention and against illegal transactions. We will take a strict line in enforcing the rules of tender agreements, and our commitment is reinforced by this ground-breaking co-operation with Transparency International."

TI's efforts on the Berlin-Brandenburg Airport construction project are part of TI's broader initiative to combat corruption in the engineering and construction sector, historically one of the sectors most prone to bribery and corruption. In January, TI worked with corporate members of the World Economic Forum to develop anti-bribery principles that were adopted by CEO's of sixty-three leading engineering & construction and extractives companies. In addition this year's Global Corruption Report will contain a special focus on corruption in construction and post-conflict reconstruction. By expanding the use of its Integrity Pact, TI is helping government and the private sector reduce their risk.

World Bank Publishes First Annual Report on Corruption in Bank Operations

On February 24, 2005 the World Bank Institutional Integrity Unit (INT) published its first annual report with startling details from its investigations into allegations of fraud and corruption within the Bank and in Bank-financed projects. The Bank's INT has investigated over 2,000 cases since its inception in 1999, sanctioning more than 300 firms and individuals for fraud and corruption. In 2004 alone, the Bank debarred 55 firms and 71 individuals. The report and the list are publicly available on the World Bank website (www.worldbank.org).

In a forward to the report, World Bank President James Wolfensohn cited TI as a major force in pressing the anti-corruption agenda. "Transparency International...[has] played a significant role in raising awareness of the issue of corruption in the political arena," Wolfensohn wrote, adding that TI helped to "focus attention on the use of development funds and on the efforts by the World Bank and others to combat fraud and corruption." Calling it "an unacceptable drain on development effectiveness," Wolfensohn pledged continued vigilance to root out corruption from all Bank activities.

The report represents a step forward in ensuring that Bank funds are not diverted from their intended purpose of promoting development and eradicating poverty. It also sends a clear message to the international private sector community that the risks of engaging in corruption are rising. These steps will

help level the playing field for firms wishing to operate ethically.

TI-USA has been working with the Bank to improve its own transparency for a number of years in order to foster an enabling environment that allows companies wishing to operate ethically to do so. TI-USA was successful in getting the Bank to require bidders on large civil works projects to sign an anti-bribery certification statement. This was an important first step, especially considering that the World Bank spends billions of dollars annually on infrastructure projects. TI-USA is now pressing the Bank to adopt similar requirements for bidders on all Bank-financed projects. TI-USA is also working to ensure that the Bank uses its country lending and budget support programs to increase transparency and combat corruption. It will also continue to urge the Bank to devote adequate resources and personnel to the Institutional Integrity Unit.

TI-USA applauded the Bank for taking the bold step of publishing its annual report on investigations, and urged other multilateral development banks to follow the World Bank's lead by adopting transparent evaluations of their own operations and publishing blacklisted companies. TI also urged the UN to adopt similar measures, in light of the scandal surrounding its oil-for-food program in Iraq.



TI-USA Provides Expert Advice on USAID's New Anti-Corruption Strategy

Currently, the US Agency for International Development (USAID) spends about \$200 million each year on anti-corruption programs. Yet, 90 percent of USAID missions abroad continue to see corruption as a key obstacle to development.

In January 2005, USAID launched a new Anti-Corruption Strategy. As part of the new strategy, USAID will expand its anti-corruption focus beyond combating low-level or administrative corruption through checks and balances, audits, and management and will begin tackling high-level or grand corruption. In addition, it will integrate anti-corruption strategies into all of its country programs, not solely governance programs that promote the rule of law.

On February 3, 2005, TI-USA participated in a workshop sponsored by USAID to evaluate how the agency could better assess corruption, identify anti-corruption program opportunities, and measure success under its new Anti-Corruption Strategy. The basis of discussion was an analysis of corruption indicators prepared by Colgate Political Science Professor Michael Johnston, a member of the TI-USA Board.

USAID is considering incorporating elements of TI's Corruption Perception Index as well as TI's National Integrity Systems Country Studies into its corruption assessments.

On February 16, 2005, USAID hosted a public meeting of the Advisory Committee of Voluntary Foreign Aid. Nancy Boswell, TI-USA, joined representatives of the Center for International Private Enterprise, the National Endowment for Democracy and the World Bank in commenting on the new USAID strategy. TI-USA applauded USAID's decision to tackle grand corruption more explicitly, and noted the escalating threats to reformers. It underscored the need for donors to avoid duplicative programs and to take consistent approaches in programs and policies. TI-USA noted the importance of donor coordination in the current situation in Kenya.

TI-USA outlined its work with governments and multilateral institutions to create an enabling environment that allows companies who want to operate in a transparent way to do so without being placed at an unfair advantage. It recommended that USAID consider how its strategy and programs could further support these efforts.

TI Focuses on Improving Accountability in Tsunami Relief

The world community has pledged \$6-7 billion in relief and reconstruction assistance to help the region recover from the devastating December 26, 2004 tsunami. In the immediate aftermath, TI-Sri Lanka and TI-Indonesia drew attention to the risks associated with vast amounts of assistance flowing into countries where corruption has been a systemic problem and underscored the need for accountability and transparency to ensure assistance is used effectively.

TI has been a vocal proponent in the press for better transparency and accountability of tsunami relief funds. Most recently, TI was quoted in a February 25th *New York Times* article entitled "Groups Pledge to Account for Tsunami Aid." In April, TI will co-host with the Asian Development Bank a conference in Indonesia to draw attention to the practical steps needed to reduce the risk of bribery and corruption in assistance programs. It will focus on lessons learned from this and other disasters so that accountability procedures can be integrated into all future large scale relief operations from the outset.

TI-USA is advocating concrete steps to help prevent corruption that include requiring all bidders for reconstruction contracts to certify that they will comply with new transnational laws outlawing bribery, and that they have anti-corruption compliance programs in place to ensure that their employees obey the law. In addition, TI-USA is urging donors to dedicate a percentage of relief money toward ensuring accountability and monitoring of assistance programs.

EC Vice President Visits TI Headquarters to Discuss Anti-Corruption Strategy

Siim Kallas, the new European Commission Vice President in charge of Administrative Affairs, Audit and Anti-Fraud issues visited TI headquarters in February to discuss the EC's anti-corruption strategy. Kallas, a former Prime Minister of Estonia, and TI Chairman Peter Eigen agreed that the EU should promote broader disclosure rules, including the adoption of a public registry, the disclosure of all recipients of EU funding in member states and a more transparent regulation of lobbying activities. TI officials used Kallas' visit to advocate for the debarment of corrupt companies from EU contracting, the formation of a European prosecutor's office and a role for TI in evaluating the anti-corruption efforts of EU accession countries.

Following the meeting, TI's Chief Executive David Nussbaum characterized the meeting as exceedingly productive and "in the cooperative spirit of TI's decade-long relationship with the European Union." For his part, Kallas said he was "very much looking forward to working with TI and appreciated the constructive criticism and civil society perspective that the organization offered."

TI continues to lobby for EU-level whistleblower protection at the European Commission, as well as the adoption of anti-corruption clauses in export credit guarantees and foreign aid programs underwritten by EU member states. TI is also pressing to make the new European arrest warrant effective by establishing a European prosecutor.



TI-USA Strategic Planning Meeting Identifies 2005 Priorities

TI-USA held its annual strategic planning meeting on January 24, 2005. At a pre-meeting dinner, Glenn Ware, Senior Institutional Integrity Officer at the World Bank briefed board members on his unit's recent report on investigation into corruption within the Bank and among Bank-financed projects. As noted above, the INT investigated 2,000 cases and sanctioned more than 300 firms for fraud and corruption. Ware gave an overview of the anatomy of transnational corruption and described in some detail how corruption works in the context of World Bank operations. Ware's presentation identified a number of opportunities for TI to expand its program with the World Bank. One of TI-USA's objectives for 2005 will be to encourage the Bank to apply the lessons learned from the INT investigations to change Bank practices to reduce the opportunities for bribery and corruption. TI-USA will also focus on other regional multilateral development banks and export credit agencies to encourage them to adopt similar measures.

Under Secretary of State for Economic, Business & Agricultural Affairs Alan Larson also addressed the Board and praised TI's leadership role in promoting the corruption agenda. Larson said that TI had been instrumental in getting an important set of anti-corruption initiatives launched, and that the challenge going forward will be to sustain the high-level interest and resources required to fully implement these

initiatives. Combating corruption is a long-term proposition, Larson noted, and change is incremental and not always readily apparent. Additionally, changes in top policy positions within the Administration and at the World Bank could put at risk continued high-level support for the anti-corruption agenda. TI-USA will meet with new senior policymakers as they are appointed to brief them on TI's program and to ensure that they continue to make anti-corruption initiatives a priority.

Additionally, in 2005, TI-USA will expand its convention and trade agreement monitoring program and launch new tools to counter bribery and corruption.

- In particular, the UN Convention Against Corruption is expected to enter into force in 2005 and will require a mechanism to monitor and promote appropriate compliance.
- APEC economies have agreed to transparency standards but there is inadequate oversight of their implementation. TI-USA is also exploring cooperation with the TI national contact in China.
- Intensified enforcement of foreign bribery laws calls for better tools. TI-USA is developing a web-based Toolkit for Small and Medium-sized Enterprises (SMEs) and hosting discussions for corporate compliance officers.

TI-USA Welcomes New Board Members

TI-USA welcomed new directors to its board at its January 24, 2005 board meeting.

- **Peter B. Clark** is a partner at Cadwalader, Wickersham and Taft LLP. He was previously Deputy Chief, Fraud Section, Criminal Division, U.S. Department of Justice, Washington D.C, where he was instrumental in the enactment of the US Foreign Corrupt Practices Act and the OECD Anti-Bribery Convention.
- **Katherine Hope Gurun** is Senior Vice President and General Counsel of Bechtel Corporation and a Fellow of the American College of Construction Lawyers and the American Society of International Law.
- **Ben W. Heineman** is Senior Vice President for Law and Public Affairs at General Electric. Mr. Heineman has been involved with Transparency International since its founding in 1993.
- **Jeffrey Kindler**, Vice Chairman of Pfizer Inc. will join the TI-USA board as well. Mr. Kindler also serves as Pfizer's General Counsel and Corporate Compliance Officer.

TI-USA Welcomes New Staff and Interns

TI-USA welcomes **Caroline Walters** as Program Coordinator. Caroline spent a year in Shizuoka, Japan as a high school English Language Instructor on the Japan Exchange and Teaching (JET) Programme. She is a graduate of the University of Notre Dame. **Nancy Izzo Jackson** joins us as a part-time policy and communications consultant.

In addition, three interns are assisting us through the Spring 2005. **Ian Bickis** is enrolled in American University's Washington Semester Program. **Doug Pulse** is working on the Inter-American Convention Against Corruption monitoring program. **Susan Hsu**, a graduate student at the Georgetown Public Policy Institute, is helping with communications and outreach.

Diane Kohn, our Program Director, has left TI-USA to join ARD, a Virginia consulting firm.



Upcoming Events

March 4 -- Nancy Boswell, TI-USA's Managing Director, will be a guest speaker at the Conference Board's Council of Senior International Attorneys meeting. Her talk is on "Judicial Corruption in Latin America."

March 7-12 -- TI-USA will host National Chapters of Latin America participating in the OAS Committee of Experts review of compliance with the Inter-American Convention..

March 15 -- Fritz Heimann will meet with OECD Secretary General Donald Johnston to present the TI Progress Report on OECD Enforcement.

March 17 -- Meeting of the ICC Commission on Anti-Corruption to discuss the proposed revision of the ICC Rules on Extortion and Bribery. Fritz Heimann is a co-author of the ICC rules.

March 15-16 -- TI National Contact in China, Dr. Cheng Wenhao visits Washington, DC thanks to support from the Hills Governance Program at the Center for Strategic and International Studies. Dr. Wenhao is the Director of the Anti-Corruption Research Centre at Tsinghua University in Beijing. As part of a joint initiative with CSIS, TI-USA will co-host a dinner and panel discussion at which Dr. Wenhao will discuss governance challenges in China.

March 16 -- The 2005 TI Global Corruption Report will be released in Washington, London and elsewhere throughout the world. This year's report will focus on corruption in construction and post-conflict reconstruction. TI-USA will host a panel discussion with Robin Hodess, TI's Research Director, Glenn Ware, Senior Institutional Integrity Officer at the World Bank, and Michael Sanio, Director of International Alliances at the American Society of Civil Engineers.

March 18 -- Fritz Heimann will co-chair a meeting of the TI Study Group on Developing Proposals for the UN Convention Against Corruption Monitoring Process.

March 30 -- World Bank President James Wolfensohn will meet with TI-USA and CEOs from the World Economic Forum's Engineering and Construction Task Force to discuss recent Bank efforts to combat corruption and raise private sector standards.

March 31-April 1 -- American Conference Institute meet-

ing on the Foreign Corrupt Practices Act. Participants include senior officials from the SEC, the US Department of Justice as well as senior representatives from the private sector. Nancy Boswell will join the Nicola Bonucci from the OECD in addressing "The Year in Review: A Report Card on International Enforcement."

April -- TI will co-host with the Asian Development Bank and the OECD a regional meeting in Indonesia to discuss the steps necessary for promoting transparency and accountability in tsunami relief efforts.

April 14 -- ABA Spring meeting. Nancy Boswell will join Under Secretary of State Paula Dobrianski and the Director of the National Law Center for Inter-American Free Trade Boris Kozolchik in discussing "The Western Hemisphere's Agenda for Good Democratic Governance: The Summit of the Americas, the Community of Democracies, the Global Forum Against Corruption and the Organization of American States."

April 18 -- The Asia Foundation and the Carnegie Endowment for International Peace co-host a conference on "Legal Reform in China: Problems and Prospects."

May 3-6 -- The International Bar Association hosts its third annual conference on "The Awakening Giant of Anti-Corruption Enforcement" in Paris, France. TI-USA will moderate a panel on "Anti-Corruption Initiatives around the World." Panelists are James Blakeney of Control Risks Group of Hong Kong, Glenn Ware, Senior Institutional Integrity Officer at the World Bank, and Eduardo Bohorquez of Transparencia Mexicana.

May 10 -- Business Principles Steering Committee will meet in London.

May 19-20 -- TI-USA will participate in the US Chamber of Commerce Center for Corporate Citizenship's "2005 Partnership Conference: Corporate Citizenship and Globalization" in Washington, D.C.

May 26 -- TI-USA Board of Directors meeting in New York City

June 6-9 -- The Global Forum IV meets in Brazil. Fritz Heimann will address the issue of monitoring conventions.

We would like to publish news of other events and publications. Please email your information or questions to Caroline Walters at administration@transparency-usa.org



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TI-USA is the U.S. Chapter of Transparency International, headquartered in Berlin, Germany. TI is a non-profit coalition of business, academic, civic, and professional leaders which promotes anti-corruption reform. Financial support is provided by corporations, law firms, individuals, foundations, and development agencies. Private sector donors have included the following:

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