



Transparency International Canada Inc.

NEWSLETTER

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TI-Canada - a Finalist

TI-Canada was a finalist in the "Mark Drake Award recognizing excellence in communicating international development issues," of the "Canadian Awards for International Cooperation 1999," of the Canadian International Development Agency and the Alliance of Manufacturers and Exporters Canada:

"TI-Canada played a key role in ensuring that legislation on bribery and corruption in international business transactions was passed in the federal House of commons by the end of 1998. Working closely with the Government of Canada and the Canadian business community, TI-Canada was able to marshal support and the sense of urgency at the legislative level to allow for timely passage of the bill. The new legislation ensures that Canada can meet its obligations under the 1997 *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* and brings the Convention into force. Transparency International Canada is one of Canada's most prominent and effective champions of fundamental values cherished by Canadians, and its actions on this particular Convention will benefit all sectors of society in countries around the world."

"Who bribes whom and how often?"

In a luncheon seminar on 20 January, sponsored by the Canadian Centre for Ethics & Corporate Policy and TI-Canada, Wes Cragg, TI-Canada Chair and President, and James Cooney, General Manager, Strategic Issues, Placer Dome Inc., spoke to the issue of internationally active Canadian companies finding themselves at a competitive disadvantage when competing against other corporations paying bribes to win contracts, in countries prone to corruption.

The presentations took place in conjunction with Berlin-based Transparency International's release of its Bribe Payers' Survey. Dr. Cragg reviewed TI's three sets of

indices in the Survey: Corruption Perceptions Index (CPI), Bribe Payers' Index (BPI) and the just-released index

of Bribery in Business Sectors. Business executives and business professionals in 14 leading emerging market countries (India, Indonesia, the Philippines, South Korea, Thailand, Argentina, Brazil, Colombia, Hungary, Poland, Russia, Morocco, Nigeria, South Africa) see international bribe-paying to be greatest in the public works and construction sectors, followed by the arms industry.

Transparency International Canada Inc. in cooperation with The Banff Centre for Management presents
**"Corruption Challenges in the International Marketplace:
A focus on Canadian Energy and Resource Sectors"**

May 14-15, 2000

**The Banff Centre for Management
Banff, Alberta**

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The respondents felt the key factors influencing why senior public officials and politicians in many countries take bribes were related to each other and include, in descending order, low public sector salaries, immunity of public officials, secrecy in government, worsening public procurement practices, privatisation, increase in foreign investment and trade, restriction on the media, financial liberalisation and multiparty elections.

Interestingly enough, of the 779 interviewed, only 6% were familiar with the OECD Anti-Bribery Convention, which

BUSINESS ETHICS OFFICE ROOM 200F SCHULICH SCHOOL OF BUSINESS

YORK UNIVERSITY 4700 KEELE ST. TORONTO, ONTARIO CANADA M3J 1P3
TEL: (416) 488-3939/736-5809 FAX: (416) 483-5128/736-5762 E-MAIL: ti-can@transparency.ca
www.transparency.ca

came into force 15 February 1999. When asked how their organisation is responding to the Convention, of the few who are familiar with the Convention, only 19% said a review of practices is planned, being undertaken or has been undertaken; 43% said no action is required; 18% that no decision has been taken, as of yet; 12% said they didn't know how their organisation was responding; and 8% did not respond.

Anyone who thinks that Canada and Canadians are immune to bribery and corruption would do well to read Madelaine Drohan's column in the 21 January edition of *The Globe and Mail* (B10), where she notes that, while bribery and corruption are not rife in Canada, "...Canada's high ranking [in the BPI – where high is considered least likely to offer bribes] – above most industrialized countries except Sweden and Australia – should not lead to some false sense of purity. Given the right set of circumstances, Canadians have shown they are equally capable of paying bribes. It is just that those circumstances infrequently occur in Canada."

In his presentation, Mr. Cooney listed a number of reasons why it is in the self interest of Canadian corporations to not only abide by the OECD Convention but to embrace transparency and develop strategies to deal with bribery and corruption. Some of these, among others, include factors dealing with cost, public image and legal exposure. He went on to note that bribery and corruption are indications of fundamental, systemic problems, similar to those reported by the Survey respondents, that cover a whole set of governance, remuneration and social structures.

Bribery in Business Sectors

Gallup International asked: *Which are the sectors in your country of residence where senior public officials would be very likely, quite likely, unlikely to accept or extort bribes?*

The scores below are mean averages from all the responses on a 0 to 10 basis where 0 represents perceptions of very high levels of corruption, while 10 represents perceptions of extremely low levels of corruption.

The standard error in the responses was small at 0.2 or less.

Public works contracts and construction	1.5
Arms and defence industry	2.0
Power (including petroleum and energy)	3.5
Industry (including mining)	4.2
Healthcare/social work	4.6
Telecommunications, post	4.6

(equipment and services)

Civilian aerospace 5.0

Banking and finance 5.3

Agriculture 6.0

-for the full text of 'The Transparency International Bribe-Payers' Survey,' visit: www.transparency.org

Corruption: it's an old and widespread game

-taken from York University "Gazette," Wednesday, Mar. 1, 2000, Volume 30, Number 22, by Cathy Carlyle

"Corruption: Any attempt, whether successful or not, to persuade someone in a position of responsibility to use his or her position to make a decision or recommendation on grounds other than the intrinsic merits of the case for reasons of the advantage or advancement of him/herself or another person or group to which the individual is linked through personal commitment, obligation, employment or professional group or loyalty. – Wesley Cragg

Corruption is one of the oldest and most widespread games, according to Wesley Cragg, George R. Gardiner Professor of Business Ethics, Schulich School of Business, York University, and Chair and President, TI-Canada. It has been charted in varying forms for thousands of years.

"Corruption and bribery are outlawed in virtually all modern legal systems worldwide," he said. "But that doesn't mean it isn't happening. Corruption is generally thought to be endemic, particularly in developing countries."

At a presentation in February as part of International Development Week 2000, Cragg described corruption as a barrier to economic development. "So what, though. Who cares?" Cragg asked rhetorically. "Bribery has been viewed as a cultural matter, not an economic one. For a number of years, bribery in developing countries was thought by some economists to be a lubricant that greased the machinery of poorly-administered economies.

"This view is now seen to be unfounded. The fact that it is widespread does not prove that it is a widely-accepted or acceptable business practice." For example until recently, corruption was prevalent in Italy. A few years ago a movement to eliminate bribery surged forward within the

legal profession, courts and politics, and this has had a dramatic impact, he said.

Cragg spoke of the difficulties and importance of building non-corrupt political systems in developing countries. “When there is corruption in the developing world it entrenches the ruling elite. It’s in their interest to maintain the status quo once they have a place at the trough. It also puts money into the hands of political parties for purposes of re-election. It corrodes public services, because the funds intended for those services and facilities aren’t going there. And aid funds do not go where they should, which results in such things as missing medical supplies and books for students, and in the ignoring of building regulations.

“Large scale corruption in any country generally is destabilizing,” Cragg said. “The over-all effect can be to deter other countries from investing there. Until recently, countries even in the developed world, for instance in Europe, had laws that encouraged corrupt practices. Bribes were allowed as a legitimate business expense. Many companies still believe that. to get ahead in business, they will need to use bribery.

“The problem is, corruption is like a virus. And it can boomerang on companies that decide to play the bribery game. Companies that offer bribes can never know whose pockets they are lining. It may be the pockets of their own employees and agents. Because bribery is hidden there is nothing to stop employees and agents from pocketing bribe money that they persuaded their company was needed to complete.”

Not all bribery is for personal gain, however, said Cragg. Frequently it is to advance a cause or a political party. “Perhaps someone believes it will further a political idea that will contribute to the welfare of a lot of people. I call this altruistic bribery.”

A major problem in combating the practice of bribery is that it feeds on itself, he said. “If a business person perceives that bribing is expected, it is easy to assume that any official who is, in fact, doing his job by legitimately insisting that certain conditions be met is actually asking for a bribe. The briber then is participating in the process of corruption.

“Working in a climate where bribery is endemic can also undermine honest self assessment. When your company is in competition for a contract and doesn’t provide a bribe, you’ll never know if you didn’t get the job solely because

you didn’t play the game,” he pointed out. “Also, a company might use the lack of offering a bribe as an excuse for not winning a contract. This excuse can disguise the true reason which may lie in the product or services being offered.

“One of the hazards faced in fighting bribery and corruption is the accusation that for us to impose our standards on the developing world is moral imperialism. The fact that bribery and corruption is illegal in all modern legal systems is evidence against this view. There is no evidence that, given a choice, people prefer corrupt political or economic systems.”

Corruption: What can be done?

On 20 March, in Hull, Quebec, the Canadian International Development Agency, Policy Division, sponsored a seminar on Approaches to Combating Corruption, put on by TI-Canada. Recognizing that corruption is a widespread phenomenon, which impedes both social and economic development, and that is important that steps to confront corruption be taken by members of all sectors working internationally, civil servants gathered for a day-long session, designed to provide them with a better understanding of existing anti-corruption tools, particularly integrity pacts. Presenters included Dr. Pablo Idahosa, Coordinator, African Studies, York University, Mr. Timothy Martin, Vice President and General Counsel, International, Canadian Occidental Petroleum Ltd., and Dr. Wesley Cragg, Chair and President, TI-Canada.

The concept of the Integrity Pact (IP) was developed by TI in the mid-1990’s. While the IP has begun to take on some permutations in certain contexts, the main criteria of the concept are: a pact (contract) among a government office (inviting contractors or suppliers to submit tenders for a public sector project – the “principal”) and those companies submitting a tender for this specific project (the “bidders”); an undertaking by the principal that its officials will not demand or accept any bribes, gifts, etc., with appropriate disciplinary or criminal sanctions in case of violation; a statement by each bidder that it has not paid, and will not pay, any bribes “in order to obtain or retain this contract” (thus excluding facilitation payments); an undertaking by each bidder to disclose all payments made in connection with the contract in question to anybody (including agents and other middle men as well as family members, etc., of officials); the explicit acceptance by each bidder that the no-bribery commitment and the disclosure obligation as well as the attendant sanctions remain in

force, for the winning bidder, until the contract has been fully executed;

undertakings on behalf of a bidding company will be made “in the name and on behalf of the company’s Chief Executive Officer”; bidders are advised to have a company Code of Conduct (clearly rejecting the use of bribes and other unethical behaviour) and a Compliance Program for the implementation of the Code of Conduct throughout the company; a pre-announced set of sanctions for any violation, by a bidder, of its statements or undertakings, including (some or all):

- denial or loss of contract
- forfeiture of the bid security
- liability for damages to the principal and the competing bidders and
- debarment of the violator by the principal for an appropriate period of time.

-- for the full text of “The Integrity Pact”

visit: www.transparency.org/activities/ip_status-report.html; for Annexes, visit:

www.transparency.org/activities/ip_annex-a.html, etc.

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INDIVIDUAL MEMBERS (Fee Range -- \$50 to \$100) Individual members will have full participation and voting privileges at all meetings of the members.

VOLUNTARY SECTOR ORGANIZATIONS (Fee Range -- \$50 to \$500)

The designated spokesperson of an NGO has full voting and participation rights at meetings of members.

GOVERNMENT DEPARTMENTS AND AGENCIES (Fee -- \$500)

We welcome government departments and agencies as (arm’s length) members, but government members will have no voting rights.

PROFESSIONAL FIRMS, BUSINESS CORPORATIONS (Fee Range -- \$1,000 to \$5,000)

The designated spokesperson of professional and business firms has full voting and participation rights at meetings of members.

CHARTER MEMBERS (Fee -- \$10,000 over two years)

The purpose of charter membership is to put the chapter on a sound financial footing in its first few years of operation. Charter members will have all the rights and privileges of other members and will have the right to sit on a Corporate Advisory Council and assist in advising the Board on policies and programs.

ALL MEMBERS will receive newsletters, information about conferences and workshops, and the right to participate in these conferences and workshops on a cost recovery basis.

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YORK UNIVERSITY 4700 KEELE ST. TORONTO, ONTARIO CANADA M3J 1P3
TEL: (416) 488-3939/736-5809 FAX: (416) 483-5128/736-5762 E-MAIL: ti-can@transparency.ca
www.transparency.ca

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