



TRANSPARENCY INTERNATIONAL CANADA INC. NEWSLETTER

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Report on Phase 2 OECD Review

The Phase 2 OECD Review of Canada relating to the implementation of the OECD *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* took place in Ottawa and Toronto, 17-21 February 2003. Delegations from Switzerland and the U.S. served as peer examiners, along with representatives of the OECD.

The vast array of Canadians who met with the examiners reflects the importance the issue of anti-corruption has reached, in this country. Participants represented the following Canadian government departments, provincial and municipal representatives and crown corporations: Justice Canada, Department of the Solicitor General, RCMP, Department of Foreign Affairs and International Trade, Treasury Board Secretariat, Public Works and Government Services Canada, Alberta Department of Justice, Canada Customs & Revenue Agency, Public Accounts Committee of the House of Commons, Export Development Canada, Canadian Commercial Corporation, Canadian International Development Agency, Department of National Defence, FINTRAC (Financial Transactions and Reports Analysis Centre of Canada), Department of Finance, Competition Bureau, Industry Canada, Ontario Securities Commission, Ontario Provincial Police, Toronto Police Service, Sûreté du Québec, Ministry of the Attorney General of Ontario, Commission des Valeurs Mobilières du Québec and The Office of the Superintendent of Financial Institutions.

In addition to the government presentations, Vice-Chair of Transparency International Canada, Michael Davies, arranged for a variety of panels which included representatives of the private sector, civil society and organized labour.

TI-Canada Symposium and 6th Annual General Meeting

“TOWARD EFFECTIVE IMPLEMENTATION OF THE OECD ANTI-BRIBERY CONVENTION”

Monday, May 12, 2003

09:00 – 15:30

Ottawa, Ontario

(see insert and article for further information)

Various issues of key importance to TI and TI-Canada were presented in the civil society panel by Wes Cragg, Chair and President, TI-Canada, and Mr. Davies. Bronwyn Best, National Coordinator, moderated the panel. Other non-governmental participants in the various sessions included: Canadian Labour Congress, National Union of Public and General Employees, International Institute for Public Ethics, Canadian Centre for Ethics & Corporate Policy, The Canadian Council for International Business, Canadian Public Accountability Board, a number of major Canadian corporations active internationally and several practicing lawyers as well as The Canadian Institute of Chartered Accountants, The Financial Executives Institute and representatives of the four major accounting firms.

11th International Anti-Corruption Conference

25 – 28 May 2003

Seoul, Republic of Korea

visit: www.IIacc.org

Topics covered general and specific issues relating to the awareness of government agencies and the business sector of the Canadian legislation which implemented the OECD Anti-Bribery Convention, *The Corruption of Foreign Public Officials Act (CFPOA)* and the role of government, civil society and the business sector

*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 WEBSITE: www.transparency.ca

in improving awareness and promoting compliance with the legislation.

Topics also included a discussion of the specific compliance policies of a number of Canadian companies as well as the current state of whistleblower protection in Canada and a number of enforcement issues related to the CFPOA and its application. The CICA, FEI Canada and the four large accounting firms submitted a list of detailed recommendations relating to the accounting, auditing and internal control provisions of the OECD Convention.

The meetings went extremely well. The report of the lead examiners is scheduled to be reviewed by the OECD Working Group on Bribery and Corruption in mid-June following which it will be approved by the OECD in final form and be made public.

TI-Canada Symposium and 6th AGM

In cooperation with the Department of Foreign Affairs (DFAIT) and International Trade and law firm Flavell Kubrick, TI-Canada is hosting a Symposium, "Toward Effective Implementation of the OECD Anti-Bribery Convention," Monday, 12 May 2003. The Symposium will take place from 09:00 – 14:15, in Ottawa, at the Robertson Conference Room, DFAIT.

The Corruption of Foreign Public Officials Act (CFPOA), the Canadian legislative response to the OECD Anti-Bribery Convention, has been in force, in Canada, since 14 February 1999. This Act makes it a criminal offence to bribe a foreign public official. Such offences carry a five-year maximum term of imprisonment, an unlimited fine and are extraditable. Yet, corruption in international business transactions continue. To date, there has been one conviction under this Act.

Following a call for a government-wide anti-corruption agenda by TI-Canada, representatives from various federal government departments and crown corporations will present what they are doing to alert Canadian companies to the CFPOA and its consequences. There will be an opportunity to provide suggestions as to how the Canadian public, private and civil society sectors

could be more effective in publicizing the CFPOA, following a luncheon presentation by The Hon. Susan Whelan, Minister for International Cooperation (invited).

The Sixth Annual General Meeting of TI-Canada will take place at the same venue, 14:30 – 15:30.

To register, please fill out the enclosed registration form. For further information, please contact Tel: 416-488-3939 or E-mail: ti-can@transparency.ca

Canada plays role in new Bulletin on Judicial Cases

A Bulletin on Judicial Cases and Material Relating to Corruption has been inaugurated by TI in partnership with the Commonwealth Legal Education Association, the Commonwealth Association of Magistrates and Judges and the Commonwealth Secretariat, funded by the UNDP. Although the service was designed for Nigeria and executed under the UNDP Nigeria programme, it will be of interest to other countries. This Bulletin aims to fill a gap in the existing literature. It will disseminate relevant case law and other materials, including legislation, to the judiciary, investigative agencies, prosecutors, defence lawyers, law ministries and law schools in common law jurisdictions. In particular, materials will be drawn from Australia, Botswana, Canada, Hong Kong, India, Kenya, Malaysia, New Zealand, Nigeria, The Philippines, Singapore, South Africa, United Kingdom, and the USA.

The Bulletin will be updated continuously and will eventually contain materials covering the following areas: Investigations; Evidence; Burden of proof; Elements of offences; Immunities; Amnesties; International mutual assistance; Jurisdiction; Tracing, freezing and forfeiture of assets; Extradition; Witness protection; Bank secrecy; Legal privilege; Human Rights; Constitutional issues.

For more information, contact the TI Secretariat in London - Email: stucker@transparency.org

Welcome to new Members!

Welcome to those new members, who have joined TI-Canada since the last Newsletter: Professional and Business Member PricewaterhouseCoopers and Individual Members Michael Davies, Ellen Gutterman, J. Elmer Hynes, Joy Kennedy, Adrian Mucalov and John Willson. To view list of TI-Canada members, visit: www.transparency.ca

UN Anti-Corruption Convention

On 21 March 2003, the Third Reading of the UN Anti-Corruption Convention was concluded in Vienna. On that day, TI issued the following press release, warning that unaccountable governments are threatening to derail the UN Anti-Corruption Convention. Transparency International urged countries that are not yet ready to commit to serious anti-corruption measures to withdraw from the drafting group rather than water down the Convention.

Berlin, 21 March 2003 --- The negotiations for a global convention against corruption, currently being drafted in Vienna, are “on the point of being derailed”, says Transparency International (TI), the world’s leading non-governmental organisation engaged in the fight against corruption.

“Many countries are opposing meaningful arrangements for the monitoring of the proposed convention, including participation by civil society, which suggests that they are as yet unprepared to commit themselves to containing corruption,” said Jeremy Pope, Executive Director of TI’s Centre for Innovation and Research. “As it is, the content of the obligations has been steadily watered down over the past ten days.”

“TI commends the support for monitoring given by the delegations from Argentina, Austria, Benin, Cameroon, the Netherlands and Norway, among others, but far too many countries are simply not yet ready to accept meaningful commitments to fight corruption in their own countries,” said Pope. “It would be far better for the process if these countries were to be honest, were to withdraw from the drafting group and indicate that they are not, as yet, ready to accept

commitments that will be reported upon and monitored,” he said. “Otherwise we will end up with an exercise in window-dressing, devoid of content and impact.”

“This is deeply distressing,” said Pope, “as a number of developing countries have been looking to the new convention to provide meaningful and effective measures for the recovery of assets looted by their corrupt leaders.”

“The paradox is that many UN conventions have effective monitoring mechanisms, yet delegates seem intent on turning the clock back by denying these to the draft under consideration now,” he concluded. (For TI’s proposals to the negotiation session, please visit:

www.transparency.org/building_coalitions/international_institutions/un/un_convention.html)

In an earlier press release (March 11), TI called for the UN Anti-Corruption Convention to deter bribery of corporate officials and criminalise private sector corruption:

“Private sector corruption should be subject to preventive measures and should be criminalised just like corruption in the public sector,” says [TI]....

“Bribery of corporate officials has transnational dimensions just like bribery of public officials,” said Jeremy Pope..., “and progress on criminalising private sector corruption at the current drafting stage is crucial to the changes of securing a UN Convention with teeth and global reach.”...

“The private sector is larger than the public sector in many countries, and the line between the two sectors is blurred by privatisation, outsourcing and other developments,” said Jeremy Pope. There is a growing recognition in OECD countries and worldwide of the need for action against private sector bribery, said Pope. “Tolerance of private sector corruption undermines public confidence in the private sector and can have serious economic and political consequences,” he continued, “in particular thwarting sustainable development.”

International Business Attitudes to Corruption

“There is a lot of attention on this [corruption] at the moment, so that might scare people off.”

“On the surface we seem to be beating it [corruption], but underneath it’s like Internet security. People make it better, then other people find ways to sneak through.”

“Corruption (pay-offs) are what we have to do to stay in business. Everyone does it. Most of our work is for government contracts, all of which we have to pay for in some way.”

Three different voices, from three different parts of the world, included in Control Risks Group’s “Facing up to Corruption: Survey Results 2002” of Germany, Hong Kong, Netherlands, Singapore, the UK and the US. Even with the OECD Anti-Bribery Convention in place, there is still extreme uncertainty about the scale of the problem of bribery and the response of companies to it. This report looks at what international business people think about corruption and also what they are doing to counter it. Faster and more effective communications are helping to ensure that there is a continued trend towards tighter enforcement of anti-corruption.

From these three quotes, above, however, it is clear that the battle against transnational business corruption has a way to go.

To access this excellent report, visit www.crg.com

CJFE Report Documents 46 Deaths

Canadian Journalists for Free Express (CJFE) counted 46 journalists and other media workers killed last year, saying the press “continued to pay a heavy price for reporting the truth.” The number includes camera operators and media owners.

The report, “Casualties of Truth,” notes that Colombia continued to be the most dangerous country for journalists – 10 lost their lives, accounting for almost 25 per cent of the world total. Russia ranked second with seven violent deaths, CJFE said. To view the full report visit: www.cjfe.org/specials/attacks02/attacks02.doc

MEMBERSHIP INFORMATION

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.

APPLICATION FOR MEMBERSHIP

Name: _____

Title: _____

Organization: _____

Address: _____

Country: _____

Postal Code _____

Telephone: _____

Fax: _____

EMail: _____

Membership Category

Individual Volunteer/NGO, Government,

Professional/Business, Charter (Circle one)

Fee: Amount _____

(Please enclose cheque, payable to **TI-Canada**)