



*Accountability Report:*  
**Implementation Review of G8 Anti-Corruption  
Commitments**

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## 1. Introduction

Negative effects of widespread corruption have a direct impact on the world economy, affecting developing countries and advanced economies, depriving markets, businesses and economies of the key component of trust. Furthermore, corruption negatively influences decisions on movements of capital and on investments which are channeled from one country to another depending on whether the risks associated with illicit practices are more or less pronounced.

Fighting corruption through the adoption and implementation of effective legislative and institutional frameworks is considered a priority for all modern states. The overall capacity of states to tackle corruption is defined in part by their effective anticorruption policies. These policies should combine prevention with enforcement and cooperation. They require the identification of flaws in the national law enforcement systems and the suggestion of possible remedies. Anticorruption polices should also recognize the important roles that judiciaries, law enforcement institutions, the free press, civil society and anticorruption bodies, among others, play in tackling corruption, and should be designed to bolster their effectiveness and operation free of undue influence.

Since the early nineties, recognition of the need for adoption of common and effective international measures to combat corruption has arisen in the international arena. In this context, the 2003 United Nations Convention against Corruption (UNCAC) represents the first “global” and binding tool against corruption, both for its scope (prevention, criminalization and law enforcement, international cooperation, asset recovery and technical assistance) and for the number of countries which have adopted and ratified it. Remarkable as well is the attention given by the Organization for Economic Cooperation and Development (OECD), the Council of Europe, and other bodies, to the priority of combating corruption. The adoption of specific regional instruments and the establishment of effective review mechanisms to tackle corruption are specific responses to



this end.

G8 Leaders have committed to ratification and implementation of UNCAC and the OECD Anti-Bribery Convention, to provide assistance to other countries, to support the implementation of these and other relevant standards, and to cooperation on issues such as recovery of the proceeds of corruption and denial of safe haven to corrupt officials.

At the 2008 Toyako Summit, the G8 endorsed the *Accountability Report*, which detailed actions taken by each G8 member to implement their anticorruption commitments. In Toyako, the G8 also agreed to update this report annually.

The *Accountability Report* includes eight thematic areas: the UNCAC, the OECD Convention against corruption, money laundering, the denial of safe havens to corrupt officials, transparency of financial markets, asset recovery, transparency in trade agreements, and engagement to support responsive governance in Africa with an emphasis on measures undertaken since the 2008 Toyako report.

The G8 acknowledges that prevention of corruption at both domestic and international levels is one of the main parameters for measuring the effectiveness of their anticorruption policies. Recognizing the centrality of prevention, partners agreed that the *2009 Accountability Report* would include a focus on corruption prevention measures undertaken by each G8 member in the framework of the UNCAC.

\*This report is prepared to review progress made by each G8 member in implementing past G8 commitments on corruption from Evian to Toyako.

\*The statistical data presented by each G8 member in the report may not be standardized or comparable and definitional differences may preclude any direct comparisons.



## **2. Summary of G8 members' Anti-Corruption efforts**

### **[Canada]**

Canada continues to take steps to combat corruption. For example, legislation providing for Canada's jurisdiction over foreign bribery offences on the basis of nationality was introduced in the Canadian Parliament on May 15, 2009.

Canada ratified the United Nations Convention against Corruption (UNCAC) in October 2007. Ratification of UNCAC complements domestic measures implemented as part of the Government of Canada's Federal Accountability Act which received Royal Assent in December 2006. This Act established new institutions, brought amendments to existing laws and led to other pieces of legislation.

Canada has two dedicated anti-corruption units within the Royal Canadian Mounted Police (RCMP). The teams specifically target public sector corruption, including bribery of national and foreign public officials and related laundering of the proceeds of crime.

Complementing its anti-corruption measures, Canada has integrated anti-corruption programming into its development assistance. On the technical assistance side, Canada has supported UNCAC implementation and asset recovery workshops in different regions in partnership with the United Nations Office on Drugs and Crime (UNODC), Canada has also provided funding for UNODC's Criminal Justice Assessment Toolkit which provides a practical and detailed guide to criminal justice issues. The toolkit is intended for use by those charged with the assessment of criminal justice systems and the implementation of criminal justice reform.

In addition to UNCAC, Canada is also party to the Inter-American Convention against Corruption, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the UN Convention against Transnational Organized Crime.

### **[France]**

Having been the first G8 State to ratify the United Nations



Convention Against Corruption, France is committed to combating corruption. That commitment is widely recognized, for example in the OECD evaluation conducted by its peers.

France decided to provide its financial support to the StAR initiative of the World Bank and UNODC. Similarly, France actively supports the Extractive Industries Transparency Initiative (EITI) and contributes to its funding.

In November 2007, the French authorities made substantial improvements to the system of legislation against corruption and trading in influence, extending its scope to cover a wider range of offences and thus strengthen the instruments available to the judicial system to counter this phenomenon.

France's commitment is also reflected in programmes for cooperation and raising awareness. For example, the Central Department for the Prevention of Corruption has focused on three areas in its most recent actions: assisting SMEs in connection with their international dealings by drawing up a guidance document; signing agreements with the sports community; and making available in the near future a guide for local authorities to methods for auditing public procurement contracts.

Where cooperation is concerned, the Ministry of Foreign and European Affairs is promoting a strategy based on technical assistance in order to help strengthen recipient States. This strategy has three major planks:

- Support for civil society: notably through support for the NGO TI and its various national chapters.
- Bilateral cooperation: in order to link the reinforcement of institutional capacities into the fight against corruption, the aim being to restore the legitimacy of the public authorities as perceived by the general public.
- Support for international organisations: in line with its commitment to implementing the UN Convention Against Corruption, France is supporting technical assistance programmes directed at that implementation.



## **[Germany]**

Germany has always supported the idea that the fight against corruption is an important tool preventing crime and achieving the general aim of safeguarding liberties worldwide. Key factors in this fight are the legal instruments established over the past years dealing with this issue on an international level. The UN Convention against Corruption as well as the other existing international anti-corruption instruments as the OECD Convention on combating Bribery of Foreign Public Officials and the Council of Europe's Conventions on Corruption were important steps towards a global action. Therefore, Germany is participating in all of these processes on all levels. Germany is a member of the OECD Working Group on Bribery in International Business Transactions and the Council of Europe's Group of States against Corruption from the beginning of these institutions. Germany was successfully evaluated in both groups and is taking part in the ordinary work of the groups as well as evaluator of other states.

Germany also provides bilateral technical and financial support to help its partner countries in implementing the UN Convention against Corruption (UNCAC) and other anti-corruption initiatives.

## **[Italy]**

Italy is fully committed to fighting corruption at national and international level. Since the 2008 Toyako report, through Legislative Decree No. 231 of 21 November 2007, Italy has transposed into its legal system the Directive 2005/60/EC and introduced the liability of legal persons for money laundering offences. Previously, Legislative Decree No. 231 of 8 June 2001 had introduced legal persons' liability for corruption and other corruption-related offences.

Furthermore, Prime Minister's Decree of 2 October 2008 transferred the functions of the Italian High Commissioner against Corruption (HC) to the Department for Public Administration (DFPA) within the Presidency of the Council of Ministers. The DFPA has established the Anti-corruption and Transparency Service



(SAeT) with a view to effectively supporting the Public Administration action to combat corruption and avoid its negative impact on the national economy.

Among the major international anticorruption instruments, Italy has ratified the Convention on the Protection of the European Communities' Financial Interests and its First and Second Protocols; the Convention on the Fight against Corruption involving Officials of the European Communities or Officials of Member States of the European Union, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the UN Convention on Transnational Organized Crime.

On 21 May 2009, a draft ratification bill was approved by the Council of Ministers and submitted to the Parliament for adoption. The draft bill ratifies and implements the United Nations Convention against Corruption, adopted by the General Assembly by Resolution 58/4, 31 October 2003 and entered into force on September 15, 2005.

At international level, Italy participates in major international anti-corruption review mechanisms, namely the OECD Working Group on Bribery and the Group of States against Corruption (GRECO) within the Council of Europe. Italy is also involved in the "roadmap" mission to the Third Session of UNCAC CoSP (November 2009, Doha, Qatar).

### **[Japan]**

Japan attaches great importance to a global action to prevent and combat corruption. Japan signed the UNCAC in December 2003, and most requirements of the Convention have been already implemented although the bill to amend the domestic laws necessary to implement several provisions of the UNCAC is still under deliberation in the Diet. Japan concluded the OECD Anti-Bribery Convention in October 1998 as the second earliest among the member countries. In February 2009, the Government of Japan made the first formal participation in the EITI meeting and announced to become a supporting country of EITI.



Japan is providing bilateral or regional technical assistance to support efforts of developing countries. Japan made voluntary contribution in the amount of \$40,000 in its fiscal year 2008 through the Crime Prevention Criminal Justice Fund, established within the UNODC, to promote the ratification of the UNCAC. In addition, Japan co-hosted an international forfeiture conference in Tokyo in May 2009, and participants from Hong Kong, Japan, Korea, Singapore and the U.S., who engage in the investigation and the prosecution of organized crimes and asset forfeiture, shared their experiences about asset recovery etc. to promote international forfeiture collaboration throughout the world. Japan also decided to provide US\$625,000 for a program within the framework of the Fund for African Private Sector Assistance (FAPA) administered jointly by the Government of Japan and AfDB.

Regarding the law enforcement aspect, the Ministry of Justice has given instructions to public prosecutors for vigorous investigation/prosecution of cases of the bribery of foreign public officials. 6 natural persons and 1 judicial person who had committed the bribery of foreign public officials have been convicted since 2007. Japan prosecuted 240 cases for money laundering offences and confiscated (including the collection) a total of 3,313 million yen as criminal proceeds in 2007. The number of Suspicious Transaction Reports has increased year by year and was over 230,000 in 2008.

In light of the bribery case related to Japanese ODA in Vietnam, the Governments of Japan and Vietnam established the Japan-Vietnam Joint Committee for Preventing Japanese ODA-related Corruption in September 2008. The Committee discussed and agreed concrete and effective new measures to be taken by Japan and by Vietnam respectively, to prevent recurrence of similar cases in February 2009.

### **[Russia]**

Countering corruption is among priorities for the Russian central authorities, as well as for local authorities. At the same time, given a global scale of the threat, Russia takes an active part in the



international anti-corruption efforts, first of all under the aegis of the UN. Russia signed in December 2003 and ratified in July 2006 the UNCAC and participated with interagency delegations in the work of the Conferences of States Parties to the UNCAC in Jordan in 2006 and in Indonesia in 2008, at which significant efforts were made by the world community to move forward the implementation of the Convention - by seeking to work out efficient mechanisms of monitoring the realization, solving the problem of criminal financial assets recovery and by consolidating technical assistance.

Russia remains of the opinion that global international anti-corruption efforts should be promoted and intensified, but that this should be done in an adequate, i.e. consistent and step-by-step manner, which would allow the world community to move ahead together, without introducing any sort of ranking or competition into the field of international anti-corruption cooperation. We think that this is exactly how the UN is approaching the issues relating to the fight against corruption within the mechanisms established in accordance with the UNCAC.

Russia has consistently put issues of anti-corruption cooperation on the agendas of its relations with all its foreign partners, including within the framework of dialogues and cooperation between ministries and agencies, as well as law-enforcement bodies directly involved in countering corruption within the Russia territory.

Russia is most actively and constructively engaged in the anti-corruption work within a number of European organizations, such as the Council of Europe and the OSCE. In 2006, Russia ratified the CE Criminal Law Convention on Corruption and acceded on this basis the "Group of States against Corruption" (GRECO). The GRECO experts carried out their first evaluation mission to Russia (combined rounds 1 and 2 of evaluation) and during the GRECO plenary held last December presented their assessment of Russia's anti-corruption efforts and put forward 26 recommendations to further improve the anti-corruption system of the Russian Federation. In accordance with the GRECO Rules of Procedure, the Russian Federation was requested to submit, by 30 June 2010, a



report on the implementation of mentioned recommendations. General Prosecutor's Office is entrusted at present with arrangements to cooperate with the GRECO.

The proposal to sign the Civil Law Convention on Corruption, agreed upon by all the competent Russian ministries and agencies, is being sent for consideration to the Government and President of the Russian Federation.

Contacts have been started between the Russia and the OECD to examine ways of promoting interaction, which will have to include Russia's joining the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

The Russian Federation is a party to a big number of multilateral international and intergovernmental agreements on legal assistance and legal relations within the Commonwealth of Independent States, the Shanghai Cooperation Organization and the Organization of the Black Sea Cooperation. Russia has also concluded many bilateral interstate agreements to combat various crimes, including corruption and money laundering.

The Ministry of Justice of the Russian Federation developed Decree No. 92 of the Ministry of Justice of 31 March 2009, on Accreditation of Legal Entities and Individuals as Independent Experts Authorized to Examine Corruptibility of Draft Legislation and other Documents.

Besides, in order to fulfill the relevant instructions of the President of the Russian Federation and the Government of the Russian Federation on enhancing interaction with foreign partners in fighting corruption, the Ministry of Justice works on improving the international legal framework of cooperation of the Russian Federation with foreign States in the field of criminal legislation.

In accordance with Decree of the President of the Russian Federation No. 1316 of 06 September 2008 on Certain Issues Concerning the Ministry of the Interior of Russia, the Ministry of the Interior of the Russian Federation was charged with the responsibility to counteract corruption. The respective units are responsible for one of the priority areas of the operational and



functional activities, i.e. to discover, prevent and suppress corruption.

In order to implement the provisions of the Decree, the order of the Ministry of the Interior of Russia No. 795 of 12 September 2008 established units (departments) to fight corruption crimes under the agencies of the Ministry of the Interior, Central Internal Affairs Directorate and Internal Affairs Directorate of the constituent entities of the Russian Federation dealing with economic and tax crimes.

To establish a system to counter corruption in the Russian Federation and eradicate the causes that engender it, the President of the Russian Federation Dmitry A. Medvedev signed Decree No. 815 of 19 May 2008 on Measures to Counter Corruption that, inter alia, established the Council on Countering Corruption under the President of the Russian Federation and set forth its make-up, including the Presidium of the Council on Countering Corruption under the President of the Russian Federation to handle day-to-day issues of the Council. The Decree also determined the main objectives of the Council, including: to prepare proposals for consideration of the President of the Russian Federation regarding elaboration and implementation of state policy on countering corruption; to coordinate the work of the federal executive bodies, executive bodies of the constituent entities of the Russian Federation and local self-government of the municipalities regarding implementation of state policy on countering corruption; to control the implementation of measures envisaged by the National Anti-Corruption Plan.

The National Anti-Corruption Plan approved by the Decree of the President of the Russian Federation No. Pr-1568 of 31 July 2008 provides for a set of legislative measures aimed at countering corruption, improving public administration in order to prevent corruption, improving the professional level of legal personnel and legal education. Moreover, the Plan contains a List of priority drafts of the legislation of the Russian Federation to be adopted in connection with the National Anti-Corruption Plan. Today, in



pursuance of the National Anti-Corruption Plan, it is planned to change the structure of government agencies. An interaction between them and the law enforcement agencies is being set up regarding implementation of priority measures envisaged by the Plan. Work is underway to identify and suppress unlawful acts committed by officials; the concept of formation and preparation of the candidates reserve for filling civil service vacancies is being elaborated.

On 25 December 2008, Federal Law No. 273-FZ on Countering Corruption was adopted. This law establishes the main principles and the organizational framework for countering corruption, determines preventive measures, sets special requirements for civil and municipal officials, and provides for liability of individuals and legal entities for corruption crimes.

To implement the provisions of the law as well as those of the international Treaties of the Russian Federation in the field of countering corruption, on 25 December 2008, the following Federal Laws were adopted: No. 274-FZ on Amending Certain Legislative Acts of the Russian Federation in connection with Adoption of the Federal Law on Countering Corruption, and No. 280-FZ on Amending Certain Legislative Acts of the Russian Federation in connection with the Ratification of the United Nations Convention Against Corruption of 31 October 2003 and the Convention of Criminal Liability for Corruption of 27 January 1999, and the adoption of Federal Law on Countering Corruption which amended a number of legal acts of the Russian Federation. In particular, the procedure for the control over the income and property of municipal and civil servants was toughened.

These federal laws enshrine the major principles of countering corruption, as well as the legal and organizational framework to prevent and combat it, to minimize and cope with the consequences of corruption offences.

On 7 May 2009, pursuant to the order of the President of the Russian Federation of 16 March 2009, Mr. Alexander V. Kononov, Minister of Justice of the Russian Federation, invested with full



powers on behalf of the Government of the Russian Federation, signed, subject to ratification, the Additional Protocol to the Criminal Law Convention on Corruption of 27 January 1999.

In accordance with presidential decree No. 1799 of 18 December 2008 On the Federal Bodies of the Russian Federation Responsible for Implementation of the Provisions of the United Nations Convention Against Corruption, Related to Mutual Legal Assistance and presidential decree No. 1800 of 18 December 2008 On the Federal Bodies of the Russian Federation Responsible for Implementation of the Provisions of the Criminal Law Convention on Corruption, Related to International Cooperation, the Ministry of Justice and the Prosecutor General's Office were named such bodies.

#### [U.K.]

International co-operation is essential to tackle bribery, corruption and money laundering. The UK ratified the UN Convention against Convention (UNCAC) in February 2006 and is committed to taking forward the recommendations of the G8. These set out what the international community can do to prevent international corruption and promote the better use of resources. In July 2006, the Prime Minister appointed a Ministerial Anti-Corruption Champion to lead the Government's fight against international corruption. The Government initially focused on improving the systems to investigate and prosecute bribery overseas; combat money laundering by PEPS and recover stolen assets; promote responsible business conduct in developing countries; and support international efforts to fight corruption. Current work focuses on developing a foreign bribery strategy and strengthening existing strategies on anti-money laundering and asset recovery.

Since the Toyako declaration further progress has been made by the UK. The criminal legislation is already meeting the mandatory requirements of UNCAC. Laws are in place to assist in all aspects of mutual legal assistance, money laundering, extradition and asset recovery. In order to strengthen and consolidate the UK legislation



further, a new draft Bill was published for Parliamentary scrutiny in March 2009. The UK has provided £6million of funding for two police units to enforce these laws. As a result, since November 2006:

- £20.7m has been returned through criminal and civil procedures;
- £130m of allegedly corrupt assets are under restraint;
- A UK citizen was sentenced to 3 years for money laundering assets of a Nigerian Governor;
- 51 arrests, 4 successful prosecutions achieved, including 2 separate prosecutions and convictions for foreign bribery;
- 13 money laundering investigations and 44 bribery investigations being pursued by the Metropolitan Police, the City of London Police and Serious Fraud Office;
- In October 2008 the UK also convicted and imprisoned a UK national for conspiracy to bribe a US official, although this was not in relation to international business;
- In the same month the Serious Fraud Office recovered £2.25m from a major UK construction company in relation to inaccurate business records arising from irregular payments by an overseas subsidiary;
- In January 2009 the UK Financial Services Authority fined a regulated reinsurance company for failing to take reasonable care to establish and maintain effective systems and controls to counter the risks of bribery and corruption associated with making payments to overseas firms and individuals;

The UK is also funding the work of the International Centre for Asset Recovery and working closely with the World Bank/UNODC Stolen Asset Recovery Initiative (StAR) aimed at assisting international cooperation and capacity building in the recovery of corrupt assets, money laundering and prosecutions. The funding has allowed ICAR to assist many countries including Brazil, Indonesia, Thailand, Kenya, Tanzania, Brunei and the Philippines.

The UK has worked through the G20 for strengthened financial regulation to address developing country priorities.



Work on a foreign bribery strategy includes new anti-corruption advice to exporters, with mainstream UK trade promotion services now including country-specific advice on corruption risks.

The UK continues to support the Extractive Industries Transparency Initiative (EITI) and the progress it has made. Similarly the UK has continued to support the Construction Sector Transparency (CoST) Initiative to combat corruption in Government construction contracts, being piloted in Tanzania and Zambia.

The UK also supports work to implement the European 'Common Industry Standards' of anti-corruption in the defence sector throughout the supply chain and to extend the standards globally.

The UK, through the Overseas Anti Corruption Unit, has embarked on a program of work to deliver awareness, education and co-ordination throughout business, law enforcement agencies, government departments and the 3rd sector.

The UK has fully implemented the Third EU Money Laundering Directive and worked with the EU Committee on the Prevention of Money Laundering and Terrorist Financing to promote full implementation within the EU. During the UK Presidency of the Financial Action Task Force (FATF) in 2007-8, proposals were agreed to assist low-capacity countries to implement FATF standards to strengthen global anti-money laundering efforts.

The UK has also committed to support countries to implement the UN Convention against Corruption through the provision of technical assistance. The UK, along with 29 other countries, has actively participated in the UNCAC pilot review to assist in the development of an effective review mechanism for UNCAC at the next Conference of States Parties later this year.

Further support has been provided to help international efforts to improve governance. This includes £100 million for a new Governance and Transparency Fund that is designed to help citizens hold their governments to account, through strengthening the wide range of groups that can empower and support them.



## [U.S.]

The global fight against corruption remains a high priority for the United States, and is all the more imperative in the context of the international financial crisis. President Barack Obama and Secretary of State Hillary R. Clinton have underscored the importance to U.S. national security and foreign policy objectives of fighting corruption and integrate the issue into U.S. engagement with other countries. Anti-corruption is a tenet of U.S. foreign policy because corrupt practices sabotage development efforts, lead to misuse of public resources, erode confidence in democratic institutions, and ease the way for transnational criminals and terrorists.

The United States is also mindful of the destabilizing impact that corruption has on fragile states, which struggle to maintain the rule of law or provide basic services for their populations. Corruption is a key tool that illicit actors use to infiltrate and subvert law enforcement, justice, and other public institutions and to plunder national coffers, destabilizing the country and stymieing efforts to sustain poverty eradication, economic development, and public security. Kleptocrats capitalize on the weak or nonexistent institutions of fragile states and ungoverned spaces to amass wealth, in turn fostering their use as safe havens for crime and terrorism; hubs for trafficking in people, drugs, and weapons; and platforms for exportation of violence far beyond their borders.

Central to U.S. efforts is working collaboratively with our partners to promote effective implementation of the first global legally binding instrument against corruption, the United Nations Convention against Corruption (UNCAC). Consistent with past G-8 commitments, our focus since the 2008 Toyako report has remained on implementation review, recovery of the proceeds of corruption, and technical assistance. The United States actively has supported development of the terms of reference for an effective UNCAC review mechanism and strongly supports their adoption at the third Conference of States Parties (COSP) in Doha, Qatar. The United States also has provided significant funding and expertise to promote implementation of Chapter V (Asset Recovery) of UNCAC,



by providing bilateral technical assistance, supporting regional activities and training, and working with others on the development of best practice guides. The United States provides hundreds of millions of dollars in technical assistance to aid countries in confronting corruption and promoting good governance. Much of that technical assistance builds capacity to prevent corruption, and the United States has been pleased to work with G-8 and other partners to discuss concepts related to the implementation of the UNCAC Prevention chapter, for consideration at the COSP in Doha. U.S. practice on prevention and the experience of other countries may be instructive. In fact, one of the earliest actions of the Obama Administration was to issue new rules on public ethics.

President Obama has stated, "To those who cling to power through corruption and deceit and the silencing of dissent, know that you are on the wrong side of history, but that we will extend a hand if you are willing to unclench your fist." While cooperation is the backbone of U.S. policy on corruption, the United States also deploys tools to deny safe haven to kleptocrats and their enablers and to target their illicitly-acquired assets. The United States continues to implement the elements of the 2006 "National Strategy to Internationalize Efforts to Combat Kleptocracy," which reiterated U.S. policy of promoting denial of safe haven to corrupt foreign persons, those who corrupt them, and the proceeds of their corruption. Since the 2008 report, the United States has continued to deny or revoke visas to payers of bribes and corrupt officials, with increased scrutiny of those involved in corruption in the extraction of natural resources. Further U.S. engagement on natural resource corruption has taken place through the Extractive Industries Transparency Initiative (EITI), of which the United States is an active supporter, including through additional planned contributions to the EITI multi-donor trust fund since the 2008 report. Under the U.S. Foreign Corrupt Practices Act (FCPA), and in compliance with the OECD Anti-Bribery Convention, U.S. authorities have targeted those who bribe foreign officials, with total corporate criminal penalties exceeding \$900 million in 2008 and the



first months of 2009. The United States has continued its efforts to combat money laundering by kleptocrats and others, through measures in the U.S. domestic regime, capacity building, and contributing to formulation and implementation of multilateral policy.

### **3. Review of the implementation of past G8 commitments**

#### **3.1 UN Convention Against Corruption**

##### G8 Commitments

- Call for the ratification of the United Nations Convention against Corruption (UNCAC) by all countries and a strong and consistent follow-up of the Bali Conference by ensuring effective implementation of UNCAC, including the development of a review mechanism (Toyako, 2008)
- Encourage provision of technical assistance related to effective implementation of the UN Convention Against Corruption (Heiligendamm, 2007)
- Coordinate closely to promote effective implementation of the UNCAC, particularly related to developing effective review mechanisms, strengthening international measures on asset recovery, and encouraging provision of technical assistance (Heiligendamm, 2007)
- Support the global ratification and implementation of the UN Convention Against Corruption (St. Petersburg, 2006)
- Remain committed to become parties to the UN Convention Against Corruption and complete all necessary steps to ratify and implement the Convention (Sea Island, 2004)

##### **[Canada]**

Canada became a signatory to the United Nations Convention against Corruption (UNCAC) on May 24, 2004. Prior to ratification and implementation of UNCAC, technical amendments to the



Criminal Code were required. The Government of Canada introduced proposed legislation on March 22, 2007. Following the Bill's passage by Parliament, the amendments came into force on May 31, 2007. Canada ratified the UNCAC on October 2, 2008. Canada actively participates in the UNCAC open-ended intergovernmental working groups on review of implementation, asset recovery and Technical assistance.

Through a contribution program with the United Nations Office of Drugs and Crime (UNODC), Canada provides annual funding to UNODC for activities in support of UNCAC. Initiatives for supported in fiscal year 2008-2009 included the Anti-Corruption Mentor Programme, the UNODC/World Bank Stolen Assets Recovery (StAR) Initiative and a Caribbean region seminar designed to follow up on work funded by Canada in the previous year. Canada continues to support UNODC efforts to develop a comprehensive information gathering software tool which supports reporting on implementation of the United Nations Conference against Transnational Organized Crime and United Nations Convention against Corruption.

## **FOCUS: CORRUPTION PREVENTION**

While Canada does not have a single agency responsible for the prevention and investigation of corrupt activities in the public, measures to support public servants who report wrongdoing were strengthened when the amended Public Servants Disclosure Protection Act (PSDPA) came into force on April 15, 2007.

The purpose of the PSDPA is to encourage employees in the public sector to come forward if they have reason to believe that serious wrongdoing has taken place, and to prohibit reprisals against them if they do so. It also provides a fair and objective process for those against whom allegations are made. A key role in the regime established by the PSDPA is held by chief executives of public sector organizations, who must establish internal procedures for managing disclosures of possible wrongdoing from employees, and who take corrective action and report publicly if wrongdoing is



found.

The PSDPA also establishes the Public Sector Integrity Commissioner (PSIC) as an agent of Parliament. The PSIC conducts independent reviews of disclosures of wrongdoing made directly to her, issues reports of findings to enable organizations to take appropriate remedial action, and submits annual and special reports to Parliament. The PSIC also reviews complaints of reprisal from federal public sector employees, which may be referred to a new, independent Public Servants Disclosure Protection Tribunal. The Tribunal will adjudicate such complaints, and it may order appropriate remedies if it finds that a reprisal took place, as well as order discipline for any public sector employee found to have committed a reprisal.

Public servants with information about possible wrongdoing in the federal public sector may make disclosures within their organization or to the Commissioner. Any member of the public may provide information concerning wrongdoing in the federal public sector to the Commissioner. Reprisal is prohibited for all employees (not just public servants) who provide information concerning a possible wrongdoing, as well as for public servants who cooperate in an investigation into a disclosure.

The PSDPA requires that information collected in relation to disclosures be kept confidential, including that such information is exempt from release under the Access to Information Act and Privacy Act. Further, identities of persons involved in the disclosure process (including the discloser, witnesses in any investigation, and any person alleged to have committed a wrongdoing) must be protected to the extent possible. If wrongdoing is found, the person or persons who committed the wrongdoing may be identified publicly only if information that may identify the person is necessary to adequately describe the wrongdoing.

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## **[France]**

France was the first G8 country to ratify the United Nations Convention Against Corruption, on 11 July 2005. At the first conference of the States Parties in Jordan in December 2006, France put forward a number of draft resolutions which were subsequently adopted by the conference: the first of these related to the creation of intergovernmental working groups on the recovery of assets and on technical assistance, a call for the States Parties to establish criminal offences in their domestic law, as required by the Convention, and the optional provisions of Article 16-2 of the treaty concerning the criminalization of passive corruption of officials of public international organizations.

Taking this process still further, and demonstrating its commitment, France instigated the adoption by the second conference of States Parties in January 2008 of three resolutions. The first one was on the necessity of rationalizing technical assistance with a view to matching supply and demand for expertise in order to facilitate the implementation of the Convention's provisions. Its adoption is a milestone both for the strengthening of coordination between donors and for the definition of action plans in beneficiary countries. The other two resolutions related to follow-up on the resolutions of 2006 calling for States to adopt the provisions on mandatory criminalization and passive corruption of officials of public international organizations.

In addition, France decided to join the pilot group reviewing the implementation of the UN Convention against Corruption. In this connection, it is currently reviewing Jordan, Finland and Fiji; it is itself also being reviewed by Greece and Argentina.

In 2008, France's contribution to UNODC reached 165 000€, without taking out the cost of French expertise devoted to UNODC work (French experts taking part in the pilot program, French representatives to the working groups of the UNCAC Conference of State Parties).

Prior to the third Conference of State Parties (Doha, November 2009), France has been proactive to achieve an effective UNCAC



review mechanism, holding the EU Presidency during the second semester 2008 and later.

And lastly, France has added to its legislation the law of 13 November 2007 on the fight against corruption. Hitherto, France had not made corruption of foreign public officials and officials of public international organisations a criminal offence other than in the European Union and, outside the EU, only in connection with international trade transactions (pursuant to the OECD convention). After the adoption of the law of 13 November 2007, France introduced into its code of criminal law four criminal offences for international corruption:

- Passive corruption of foreign public officials and officials of international organizations,
- Active corruption of foreign public officials and officials of international organizations,
- Passive corruption of international or foreign judicial personnel,
- Active corruption of international or foreign judicial personnel.

These offences abandon the previous distinction based on whether the acts were committed within the European Union or outside its borders, and in connection with international trade or not.

France has thus chosen to go further than the binding provisions of the Convention on two points by establishing the following criminal offences:

- Acts of active corruption of foreign public officials even in cases where the advantage obtained does not relate to international trade,
- Passive corruption of foreign public officials or officials of international organizations despite the optional status of this provision.

France has also defined two new offences of tampering with witnesses in the context of foreign or international judicial proceedings and threatening or intimidating foreign or international

judicial personnel, these being added to criminal offences already defined in domestic law but which were limited to the perversion of the course of justice at the national level.

This law also establishes four offences of international trading in influence formulated in the same terms as the equivalent criminal offences in domestic law:

- passive trading in influence directed at an official of a public international organization,
- active trading in influence directed at an official of a public international organization,
- passive trading in influence directed at international judicial personnel,
- active trading in influence directed at international judicial personnel,

thus transposing the entirety of Article 18 of the Convention into French national law. The law also establishes in the code of criminal law a criminal offence of active and passive trading in influence by a private individual in relation to members of national judicial personnel (magistrates, clerks to courts, arbitrators, etc.).

Guided by the provisions of Article 50 of the Convention, the legislature also resolved to extend to cases involving corruption and trading in influence certain specific investigative techniques hitherto applicable only to offences involving organized crime (surveillance and undercover operations, intercept evidence gathered in the investigative phase, the recording of conversations and images in specific locations and vehicles and the option of application of provisional judicial measures).

In conclusion, the legislature decided to define in the French code of labour law a provision instituting effective statutory protection against all forms of disciplinary sanctions directed at employees testifying or providing in good faith to their employers or to official or judicial authorities information relating to corruption of which they have become aware in the course of their duties, in accordance with the spirit of Article 33 of the Convention.



## **FOCUS: CORRUPTION PREVENTION**

Prevention of corruption is a paramount subject of the fight against corruption. France has fully supported legal requirements stated in the chapter II of UNCAC. As stated in article 5 of UNCAC, each country « shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability. Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption ».

In order to prevent corruption effectively, France has set up the Central Service for the Prevention of Corruption (SCPC). That service was created in January 1993 by an Act of Parliament, the “Law for the prevention of corruption and transparency in public financial dealings and procedures”. It is attached to the Ministry of Justice, but has an independent and permanent status. Headed by a high-rank magistrate, its staffers hail from various Government Departments.

The area of competence of the SCPC is national. It concerns the risks related to “breaches of integrity”, such as:

- Passive corruption committed by public civil holders,
- Trading in influence committed by public officials or individuals,
- Illegal taking on interests,
- Breach of freedom and fairness in public procurement (inequality in public procurement procedures).

It also covers active corruption, private corruption and international bribery.

In these fields, the SCPC:

- Centralises information,
- Provides assistance, at their request, to prosecutors and others judicial authorities,
- Advises a wide range of Government Bodies as well as



- Local Authorities (especially in cases that may be considered as potential conflicts of interest),
- Realizes actions of training in Civil Servants Schools (such as the National School of Public Administration – ENA ), Schools of Police (National Police School of Gif-sur-Yvette, Judiciary Police School of Fontainebleau), Universities (University Robert Schuman of Strasbourg, University of Law of Aix-en-Provence, University of Paris II, University of Paris V, University of Paris I, University of Poitiers, University of Tours) etc. Those training courses are run by 10 experts of prevention and repression of corruption. In 2007 and 2008, 3000 people were trained each year.
  - Cooperates with private sectors to help companies for fighting against corruption (conventions have been signed between SCPC and 15 major economic and social actors such as EDF – Main French Electricity supplier, GDF – Main French Natural Gas supplier, SNCF – French Railways, Dassault Aviation, EADS, Thalès, Accor, PERIFEM, the French national football League, the French national rugby League),
  - Publishes a yearly report to the Prime Minister and to the Minister of Justice.

On the international level, the Service is a reference on prevention of corruption for a number of bodies:

- The United Nations: the SCPC is the French authority designated by Government to provide assistance to other states for defining and implementing measures to prevent corruption on the implementation of the United Nations Convention Against Corruption (UNCAC).
- The Council of Europe and its Group of States against Corruption (GRECO – SCPC is member of the French delegation to GRECO),
- The European Union (SCPC is the French Focal Point to the European Network against Corruption),



- The Organisation for Economic and Cooperation Development (OECD), regarding the convention on combating bribery of foreign public official in international business transactions and the group on Public Governance.

France's Cooperation has delivered, through SCPC, a large number of bilateral actions to strengthen the prevention of corruption. For instance, in 2007:

- In March 2007, it took part in a seminar on the fight against corruption in Lisboa.
- In September 2007, it took part in a seminar on the fight against corruption in Jordan.
- In October 2007, it took part in the National Forum on Accounts Control in Cape Verde.

In December 2007, it organised a seminar on political parties funding in Hungary. It took part in a seminar on the fight against corruption in Gabon (Libreville). It supplied technical assistance to the national anti-corruption commission in Armenia (Yerevan).

### **[Germany]**

Germany has signed the UN Convention and therefore indicated that it is willing to ratify provided that all necessary legal implementations have taken place. A draft law concerning the implementation has been sent to the German parliament (Bundestag) by the German Government in 2007. The intention of ratification has not changed since the last G8-summit.

Germany participates actively in the ongoing Working Groups on Review of Implementation of the UNCAC, Asset Recovery and Technical Assistance. Convinced that the establishment of an effective review mechanism for the United Nations Convention against Corruption (UNCAC) in a timely manner is crucial, Germany is ready to support a decision on the review mechanism in the third conference of states parties to UNCAC and works hard to convince other countries to do so. To serve the UNODC purpose of assistance for developing countries to implement UNCAC in 2009



Germany subsidized UNODC with the sum of 0,5 Mio. Euros.

It has to be noted that Germany already fulfils many requirements set by the Convention. There is, for example, Chapter IV concerning mutual assistance in international criminal investigations. Germany fully complies with these provisions.

### **FOCUS: CORRUPTION PREVENTION**

Germany especially supports efforts concerning the prevention of corruption (Chapter II of UNCAC). Therefore the German Government has adopted inter alia a directive concerning the prevention of corruption in the federal administration and a general administrative regulation on sponsoring, donations and other gifts.

Furthermore Germany, in line with Chapter VI obligation of UNCAC, keeps on supporting developing countries worldwide in their efforts to implement UNCAC through technical assistance. Besides projects addressing governance improvements in general and in different sectors and areas, Germany supported 24 pilot initiatives directly focusing on the implementation of UNCAC in partner countries from 2005 until mid 2009. For instance, in order to identify gaps in legislation and implementation of UNCAC, Germany supported Bangladesh and Kenya in carrying out UNCAC compliance reviews in 2008 and 2009. Also, a compliance review is ongoing in Yemen and expected to be finished this year. Compliance reviews provide a basis towards a strategic UNCAC implementation action plan. Such a process is, for example, currently in progress in Bangladesh.

Germany is committed to the aims laid down also by the European Union concerning technical assistance as there are:

- establishing rule of law programs involving all relevant provisions on preventing and combating corruption, in particular by supporting good governance and integrity and reforms in the legislative, regulatory, administrative, law enforcement and/or judicial area, depending on the needs manifested by the requesting states;



- facilitating the meeting between the donors' offers for technical assistance and the needs of the requesting states;
- encouraging the coordination of existing bilateral and multilateral initiatives in the area of asset recovery with a view to avoiding duplication of work and overlap with existing initiatives

### **[Italy]**

On 21 May 2009, a draft ratification bill was approved by the Council of Ministers and submitted to the Parliament for adoption. The draft bill ratifies and implements the United Nations Convention against Corruption (UNCAC), which was adopted by the General Assembly in Resolution 58/4, 31 October 2003 and entered into force on 15 September 2005.

The draft bill introduces only minor amendments to the existing Italian legislation (e.g. asset recovery and corruption prevention provisions). Italy notes that the five mandatory criminalization provisions provided for in articles 15, 16.1, 17, 23 and 25 of the UNCAC are already in place in the Italian legislation. The Italian Government intends to complete the ratification process in time for Italy to participate with full status in the next Conference of State Parties (Doha, November 2009).

Among the most significant measures, Article 5 of the draft bill introduces two new articles in the Italian Code of Criminal Procedure with the aim of implementing Chapter V of the UNCAC on asset recovery. Furthermore, Article 6 of the draft bill fully implements Article 6 of the UNCAC which requires States Parties to identify one or more bodies with specific functions and duties in the prevention of corruption. In this respect, the draft bill designates the Department for Public Administration within the Presidency of the Council of Ministers as National Authority for the prevention of corruption.

### **FOCUS: CORRUPTION PREVENTION**



As noted above, the Prime Minister's Decree of 2 October 2008 transferred the functions of the Italian High Commissioner against Corruption (HC) to the Department for Public Administration (DFPA) within the Presidency of the Council of Ministers. The DFPA has established the Anti-corruption and Transparency Service (SAeT) with a view to effectively supporting the Public Administration action to combat corruption and its negative impact on the national economy.

The Anti-corruption and Transparency Service (SAeT) responds to an internationally identified need to create a specialized technical body capable of promoting the fight against corruption, with particular emphasis on its prevention within the public administration. SAeT aims, in particular, to develop and sustain a common cooperation involving all public authorities, representatives of civil society and the private sector so as to produce a national anti-corruption strategy. SAeT carries out administrative investigations in specific sectors of Public Administration (Health care system, public tender, public procurement, etc.). It also carries out analysis and studies on the adequacy of the regulatory framework and practices in the Public Administration, defines guidelines for Public Administration (standards, internal auditing, ethical codes, etc.) and monitors public procurement and expenditure procedures with the aim of protecting the public purse.

At the international level, SAeT participates in two major international anti-corruption initiatives within the aegis of the OECD and the Council of Europe (*i.e.* the Working Group on Bribery and GRECO). An international Memorandum of Understanding has been recently signed between SAeT and UNDP Bratislava Regional Centre.

SAeT has a depth of experience in initiatives focused on trustworthy action against corruption as well as initiatives aimed at preventing and fighting corruption effectively.

As for corruption prevention within the Public Administration, SAeT proposes an operational model that refers to



the concept of the “Hub & Spoke”, i.e. an organizational approach which, through the use of a "network", is intended to develop and enhance contributions of different actors to the prevention and fight against corruption. This organizational model has the advantage of achieving high efficiency in the exchange of information or goods, with very low costs.

The “Hub & Spoke” methodology is being implemented within the Department for Public Administration through the slender structure of the Anti-corruption and Transparency Service (SAeT) which serves as a "hub". Through the signature of Memoranda of Understanding (MOUs) and Agreements, SAeT is making use of systems and resources already in place in other public administrations (the "spokes"). SAeT intends to maximize the work carried out by other public administration offices on the fight against corruption. The players to be involved in the Hub & Spoke are key institutions such as universities, research centres, high schools, ministries, the judiciary, the police forces, authorities, NGOs, professional and business associations, etc.

Through the management of the model, SAeT aims at channeling into the Hub & Spoke know-how and competencies that are needed to effectively prevent and combat corruption (e.g. criminal law, administrative law, labor law, statistics, sociology, risk analysis and management, technical auditing, etc.). The synergy generated by this model is large-scale with high impact and very limited costs.

### **[Japan]**

Japan signed the UNCAC in December 2003, and the Japanese Diet approved its conclusion in June 2006. Japan has not yet concluded the Convention as the bill to amend the domestic laws necessary to implement several provisions of the UNCAC is still under deliberation in Diet, however, most requirements of the Convention have been already implemented by existing domestic laws.

Japan is implementing requirements under Chapter VI of the



Convention through providing bilateral or regional technical assistance to support efforts of developing countries. Japan made voluntary contribution in the amount of \$40,000 in its fiscal year 2008 through the Crime Prevention Criminal Justice Fund, established within the UNODC, to promote the ratification of the UNCAC. Japan has also provided various types of technical assistance through JICA. For example, in 2008, JICA organized 17 group training courses and seminars on anti-corruption, and 186 people from countries of all regions participated in them. In addition, JICA organized 8 training courses on the transparent use of ODA financial resources provided by the Government of Japan in which 89 people participated.

Moreover, the UN Asia and Far East Institute, situated in and funded by Japan, has organized various international training courses and seminars on corruption. Recent examples are the training course on the “Criminal Justice Response to Corruption” of Oct-Nov 2008, held in Tokyo, and the regional seminar for Southeast Asian countries on “Corruption Control in Public Procurement” of July 2008, held in Bangkok. In both the course and the seminar officials involved in the criminal justice systems of countries of various regions participated.

Japan is fully aware of the paramount importance of efforts to be made by the international community for the implementation of the UNCAC, and has participated actively in Conference of State Parties and relevant Working Groups to contribute to promote its implementation.

## **FOCUS: CORRUPTION PREVENTION**

Although Japan has not concluded the Convention, Chapter II of the Convention is already fully implemented.

The basic standards for service discipline and ethics principles related to the duties of national public officials are stipulated in the National Public Service Act, the National Public Service Ethics Act, the National Public Service Ethics Code etc. The National Public Service Act also provides the establishment of two organs which



work on fight against corruption, namely the National Personnel Authority and the National Public Service Ethics Board.

The National Personnel Authority is a specialized, neutral, third-party organization for public employee management, established under the jurisdiction of the Cabinet. The Authority is a central personnel administrative organization responsible for discipline of national public employees. The National Public Service Ethics Board, established within the National Personnel Authority in order to fulfill the maintenance of work ethics, takes charge of affairs such as offering opinions to the Cabinet regarding the establishment, revision or abolition of the National Public Service Ethics Code, guidance and advices to the head of each ministry and agency, examination of the reports, investigations, approval of disciplinary action etc.

Measures taken to combat corruption in public procurement and management of public finances, public reporting, private sector, participation of society etc. are ensured by the Constitution and several legislations, such as the Public Accounting Act, the Public Finance Act, Act on Access to Information Held by Administrative Organs, Penal Code etc.

In order to further prevent money laundering, “the Act on Prevention of Transfer of Criminal Proceeds” was enacted in April 2007, and the Financial Intelligence Unit, which was established in 2000, was transferred from the Financial Services Agency to the National Public Safety Commission/National Police Agency. This enabled further integration of criminal information relating money laundering including corruption cases. Requirements for customer identification, record keeping, and suspicious transaction report obligation were strengthened by the Act. The FIU became a member of Egmont Group in 2000 to enhance international cooperation, and has established information exchange frameworks with 18 foreign FIUs as of the end of May 2009.

**[Russia]**



Countering corruption is among priorities for the Russian central authorities, as well as for local authorities. At the same time, given a global scale of the threat, Russia takes an active part in the international anti-corruption efforts, first of all under the aegis of the UN. Russia signed in December 2003 and ratified in July 2006 the UNCAC and participated with interagency delegations in the work of the Conferences of States Parties to the UNCAC in Jordan in 2006 and in Indonesia in 2008, at which significant efforts were made by the world community to move forward the implementation of the Convention - by seeking to work out efficient mechanisms of monitoring the realization, solving the problem of criminal financial assets recovery and by consolidating technical assistance.

Russia remains of the opinion that global international anti-corruption efforts should be promoted and intensified, but that this should be done in an adequate, i.e. consistent and step-by-step manner, which would allow the world community to move ahead together, without introducing any sort of ranking or competition into the field of international anti-corruption cooperation. We think that this is exactly how the UN is approaching the issues relating to the fight against corruption within the mechanisms established in accordance with the UNCAC.

Russia has consistently put issues of anti-corruption cooperation on the agendas of its relations with all its foreign partners, including within the framework of dialogues and cooperation between ministries and agencies, as well as law-enforcement bodies directly involved in countering corruption within the Russia territory.

Russia is most actively and constructively engaged in the anti-corruption work within a number of European organizations, such as the Council of Europe and the OSCE. In 2006, Russia ratified the CE Criminal Law Convention on Corruption and acceded on this basis the "Group of States against Corruption" (GRECO). The GRECO experts carried out their first evaluation mission to Russia (combined rounds 1 and 2 of evaluation) and during the GRECO plenary held last December presented their assessment of Russia's



anti-corruption efforts and put forward 26 recommendations to further improve the anti-corruption system of the Russian Federation. In accordance with the GRECO Rules of Procedure, the Russian Federation was requested to submit, by 30 June 2010, a report on the implementation of mentioned recommendations. General Prosecutor's Office is entrusted at present with arrangements to cooperate with the GRECO.

The proposal to sign the Civil Law Convention on Corruption, agreed upon by all the competent Russian ministries and agencies, is being sent for consideration to the Government and President of the Russian Federation.

Contacts have been started between the Russia and the OECD to examine ways of promoting interaction, which will have to include Russia's joining the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

The Russian Federation is a party to a big number of multilateral international and intergovernmental agreements on legal assistance and legal relations within the Commonwealth of Independent States, the Shanghai Cooperation Organization and the Organization of the Black Sea Cooperation. Russia has also concluded many bilateral interstate agreements to combat various crimes, including corruption and money laundering.

The Ministry of Justice of the Russian Federation developed Decree No. 92 of the Ministry of Justice of 31 March 2009, on Accreditation of Legal Entities and Individuals as Independent Experts Authorized to Examine Corruptibility of Draft Legislation and other Documents.

Besides, in order to fulfill the relevant instructions of the President of the Russian Federation and the Government of the Russian Federation on enhancing interaction with foreign partners in fighting corruption, the Ministry of Justice works on improving the international legal framework of cooperation of the Russian Federation with foreign States in the field of criminal legislation.



## **FOCUS: CORRUPTION PREVENTION**

In accordance with Decree of the President of the Russian Federation No. 1316 of 06 September 2008 on Certain Issues Concerning the Ministry of the Interior of Russia, the Ministry of the Interior of the Russian Federation was charged with the responsibility to counteract corruption. The respective units are responsible for one of the priority areas of the operational and functional activities, i.e. to discover, prevent and suppress corruption.

In order to implement the provisions of the Decree, the order of the Ministry of the Interior of Russia No. 795 of 12 September 2008 established units (departments) to fight corruption crimes under the agencies of the Ministry of the Interior, Central Internal Affairs Directorate and Internal Affairs Directorate of the constituent entities of the Russian Federation dealing with economic and tax crimes.

To establish a system to counter corruption in the Russian Federation and eradicate the causes that engender it, the President of the Russian Federation Dmitry A. Medvedev signed Decree No. 815 of 19 May 2008 on Measures to Counter Corruption that, inter alia, established the Council on Countering Corruption under the President of the Russian Federation and set forth its make up, including the Presidium of the Council on Countering Corruption under the President of the Russian Federation to handle day-to-day issues of the Council. The Decree also determined the main objectives of the Council, including: to prepare proposals for consideration of the President of the Russian Federation regarding elaboration and implementation of state policy on countering corruption; to coordinate the work of the federal executive bodies, executive bodies of the constituent entities of the Russian Federation and local self-government of the municipalities regarding implementation of state policy on countering corruption; to control the implementation of measures envisaged by the National Anti-Corruption Plan.

The National Anti-Corruption Plan approved by the Decree of



the President of the Russian Federation No. Pr-1568 of 31 July 2008 provides for a set of legislative measures aimed at countering corruption, improving public administration in order to prevent corruption, improving the professional level of legal personnel and legal education. Moreover, the Plan contains a List of priority drafts of the legislation of the Russian Federation to be adopted in connection with the National Anti-Corruption Plan.

Today, in pursuance of the National Anti-Corruption Plan, it is planned to change the structure of government agencies. An interaction between them and the law enforcement agencies is being set up regarding implementation of priority measures envisaged by the Plan. Work is underway to identify and suppress unlawful acts committed by officials; the concept of formation and preparation of the candidates reserve for filling civil service vacancies is being elaborated.

On 25 December 2008, Federal Law No. 273-FZ on Countering Corruption was adopted. This law establishes the main principles and the organizational framework for countering corruption, determines preventive measures, sets special requirements for civil and municipal officials, and provides for liability of individuals and legal entities for corruption crimes.

To implement the provisions of the law as well as those of the international Treaties of the Russian Federation in the field of countering corruption, on 25 December 2008, the following Federal Laws were adopted: No. 274-FZ on Amending Certain Legislative Acts of the Russian Federation in connection with Adoption of the Federal Law on Countering Corruption, and No. 280-FZ on Amending Certain Legislative Acts of the Russian Federation in connection with the Ratification of the United Nations Convention Against Corruption of 31 October 2003 and the Convention of Criminal Liability for Corruption of 27 January 1999, and the adoption of Federal Law on Countering Corruption which amended a number of legal acts of the Russian Federation. In particular, the procedure for the control over the income and property of municipal and civil servants was toughened.



These federal laws enshrine the major principles of countering corruption, as well as the legal and organizational framework to prevent and combat it, to minimize and cope with the consequences of corruption offences.

On 7 May 2009, pursuant to the order of the President of the Russian Federation of 16 March 2009, Mr. Alexander V. Kononov, Minister of Justice of the Russian Federation, invested with full powers on behalf of the Government of the Russian Federation, signed, subject to ratification, the Additional Protocol to the Criminal Law Convention on Corruption of 27 January 1999.

In accordance with presidential decree No. 1799 of 18 December 2008 On the Federal Bodies of the Russian Federation Responsible for Implementation of the Provisions of the United Nations Convention Against Corruption, Related to Mutual Legal Assistance and presidential decree No. 1800 of 18 December 2008 On the Federal Bodies of the Russian Federation Responsible for Implementation of the Provisions of the Criminal Law Convention on Corruption, Related to International Cooperation, the Ministry of Justice and the Prosecutor General's Office were named such bodies.

#### [U.K.]

The UK ratified the UNCAC on 9 February 2006, the second of the G8 countries to do so. The UK has also ratified the OECD Convention on Combating the Bribery of Foreign Public Officials in International Business Transactions and the Council of Europe Criminal Law Convention on Corruption (GRECO).

Through the G8 and other channels the UK has called on other states to ratify UNCAC as soon as possible. The process of formally extending UNCAC to Crown Dependencies and Overseas Territories, is ongoing. The British Virgin Islands have had UNCAC extended to them and the other territories are progressing towards achieving the same goal.

We consider the establishment of a review mechanism for UNCAC a matter of importance and continue to work with other states to negotiate a terms of reference for a review mechanism with



the aim that the third Conference of States Parties (CoSP) will agree and introduce such a mechanism later this year. As part of this process, the UK and another 28 countries have participated in a pilot review mechanism. The UK is one of the countries that also funded the pilot process via the UNODC. The aim of the pilot process is to test possible methodologies of review for possible adoption in the final review mechanism. In addition any lessons learnt during the pilot would help in steering the negotiations which develop the draft terms of reference for the review mechanism.

In the run up to the 2008 UNCAC Intergovernmental Working Group on Technical Assistance the UK worked with Development Assistance Committee GOVNET partners in building a consensus on a country led approach to strengthening the co-ordination of technical assistance around UNCAC. A paper, co-authored by the UK, was presented at the Working Group. The UK is also funding UNODC to take forward the final recommendations of the Intergovernmental Working Group. This support will allow the development of a roster of experts available to support member states. It will also field test improved donor approaches to the provision of technical assistance.

### **FOCUS: CORRUPTION PREVENTION**

The UK considers that prevention is an important element of any strategy to tackle corruption

The UK has included information about the risks of corruption and the obligation to report allegations against UK companies and UK nationals in standard training for Foreign and Commonwealth Office (FCO) staff preparing to go overseas as economic officers, as well as those from the Department of Trade and Industry (DTI) and Ministry of Defence (MOD) engaged in the promotion of UK exports and inward investment to the UK.

We have also made this information available to staff involved in export licensing processes in the UK.

Secondly, we engage in-country and region-specific efforts. The subject has featured in regional conferences for FCO economic



officers, e.g. for South-East Asian posts and for African posts. Since March 2005, we have also conducted specific awareness-raising sessions for FCO staff in China, Russia, Argentina, Thailand, Singapore, Mexico, Spain and Dubai. To complement this, we issue guidance at least once a year to remind all overseas staff of their reporting obligation, drawing their attention to the latest version of the guidance available on the UK legal framework<sup>1</sup>. We have also produced a DVD on corruption and distributed it, along with the revised guidance, to overseas Posts and UK Trade and Investment (UKTI) offices in the UK, as well as to interested civil society organisations.

One example to demonstrate that this policy area is now very much in the mainstream of FCO work concerns the “assessment and development centre” (ADC), which officers must pass to achieve promotion from the grade of first secretary to the FCO’s senior management structure. The ADC is a demanding 2-day mixture of group exercises, individual interviews and written work. One particular role-playing scenario from a recent ADC related to the creation of a unit to cover corruption and transparency, including the handling of foreign bribery allegations.

The MOD Police Fraud Squad has developed training, which is being rolled out across the UK Police Service, and the Squad is regularly called upon to advise other forces in relation to corruption matters. In addition to the investigative work, the MoD Police Fraud Squad seeks to educate and prevent corruption and fraud in the workplace. The Squad is in the process of restructuring to provide for an anti-corruption unit with a specific remit for education, prevention and investigation of these offences.

The Crown Prosecution Service has provided explicit training materials for its specialist staff within the newly created Fraud Prosecution Service. Discussions in relation to the foreign bribery offence are raised on a regular basis at a number of cross-Government groups attended by law enforcement officials.

The Serious Fraud Office (SFO), as part of its Outreach

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<sup>1</sup> <http://www.fco.gov.uk/Files/KFile/briberyleaflet.pdf>



strategy, has encouraged more direct reporting by the public and business communities. The SFO has raised a much greater awareness within the business community of the importance of having a strategic approach to anti-corruption and bribery by ensuring that education and prevention is at the heart of all compliance and good governance programmes.

The Civil Service Code sets out the core values of the Civil Service integrity, honesty, objectivity and impartiality - and the standards of behaviour expected of all civil servants. A revised Civil Service Code was issued on 6 June 2006. The revised Code forms part of terms and conditions of civil servants, and, for the first time, it has been made clear in the Code that it forms part of the contractual relationship between a civil servant and his/her employer. It also makes clear that civil servants should “report evidence of criminal or unlawful activity to the police or other appropriate authorities”. In the context of awareness-raising sessions with business, we encourage companies to report allegations to the appropriate authorities. Minister for Trade, Ian McCartney, raised the issue of international bribery and corruption at the FCO-Trades Union Congress Advisory Council in November 2006. He drew trades union leaders’ attention to revised FCO guidance and the corruption DVD. Together, the Trade and Developments Ministers launched the DVD that month with guests from a wide range of organisations, including trades unions, business groups, individual companies, NGOs, Parliament and the media, as well as officials and colleagues from law enforcement. A panel discussion gave participants the opportunity to ask questions about bribery and corruption.

We have continued our programme of specific awareness-raising sessions for UK companies with events in Russia, China, Argentina, Ghana, India and Thailand. As far as SMEs are concerned, we are contributing substantially towards the further development of the Danish anti-corruption information portal. Separately, the FCO funded the development of a website for the UK network of the Global Compact (<http://www.ungc-uk.net/>).



This features guidance on implementing all ten Global Compact principles, including the tenth principle on anti-corruption, and has a link to the Government's anti-bribery leaflet. We published an article on bribery in a journal for the accountancy profession and have been discussing further activities with them and the Law Society to use their multiplier effect. One of the reasons for increasing the range of awareness-raising activities in the UK, especially for UKTI staff and business audiences in the UK regions, is to lengthen our reach to SMEs. Through the network of UKTI's international trade advisers, we know that SMEs will have more opportunities to obtain the necessary information.

More broadly, the Government is working with companies and other stakeholders in a range of sectors to promote transparency in international business transactions. Building on the successful experience of the multi-stakeholder approach applied in the Extractive Industries Transparency Initiative ([www.eitransparency.org](http://www.eitransparency.org)), we have been looking to help developing countries improve transparency and value for money in procurement through new international initiatives in the construction and health sectors. The initial consultation phase on the construction transparency initiative (CoST) included a broad range of stakeholders from industry and industry bodies (e.g. UK Anti-Corruption Forum), civil society (Transparency International, Engineers Against Poverty), World Bank, academia and procurement specialists. A stakeholder focus group has been set up to act as a reference point during the future design of CoST.

A key aspect of prevention is transparency and open access to information. The Freedom of Information Act 2002, provides any individual a right of access to recorded information held by public authorities. This is an important part of the legislative framework which will prevent corruption and also identify where corruption or any other abuse of power is occurring.

The UK, through the Overseas Anti Corruption Unit, has embarked on a program of work to deliver awareness, education

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<sup>2</sup> Similar but separate legislation applies in Scotland.



and co-ordination throughout business, law enforcement agencies, government departments and the 3rd sector. This began with a debate around the future of corruption and was chaired by the Attorney General, baroness Scotland, and was hosted by the Rt Hon. Lord Mayor of London and the Commissioner for the City of London Police. The event was attended by over 200 leading businesses and the speakers were drawn from key business sectors. The aim is to develop a series of training aids aimed at staff in the work place which will better inform them of the risks and the methods of reporting their concerns, These will be sector specific and completed in partnership with business.

#### [U.S.]

The United States became a party to the UNCAC on November 29, 2006, and has fully implemented the convention.

The U.S. has worked closely with G-8 and other partners to actively promote global ratification and implementation of the UNCAC through multilateral coordination and support for capacity building. The United States was pleased to participate in G-8 coordination efforts at the first and second Conference of States Parties (COSP) in 2006 and 2008 to support progress in developing a proposal for implementation review, as well as steps forward on asset recovery provisions, prevention, and technical assistance. We look forward to continued close collaboration with G-8 partners in preparatory meetings ahead of the third COSP in 2009 in Qatar, at the COSP itself, and beyond.

The United States has strongly supported and itself participated in the information gathering and voluntary pilot review exercises related to review of implementation. The United States provided its timely response in the self-assessment checklist program and participates in the pilot review project, both as a reviewing and reviewed country. The United States funds activities at the regional level designed to increase country capacity to perform UNCAC self-assessment and participate in reviews, and the United States has contributed funding and expertise to UN Office on



Drugs and Crime (UNODC) of an enhanced version of the information-gathering tool. The United States is committed to the adoption of terms of reference for a new UNCAC review mechanism at the third COSP.

In Fiscal Year 2008, the United States provided over \$1 million in financial support to UNODC for UNCAC implementation (exclusive of bilateral country programs for technical assistance). The United States also supports the engagement of regional organizations and frameworks, such as the Asia-Pacific Economic Cooperation (APEC), the Middle East-North Africa Governance for Development Initiative, OECD regional initiatives, and the Organization of American States, in anticorruption efforts and UNCAC implementation. A substantial part of the anticorruption technical assistance to address corruption described below is delivered in partnership with global and regional multilateral organizations.

The United States sponsors anticorruption technical assistance programs that contribute to countries' abilities to implement their UNCAC commitments, more than 65 countries globally. In Fiscal Year 2008, the United States provided a total of over \$760 million in anticorruption and additional assistance related to tackling corruption and strengthening good governance, as well as approximately \$59.9 million through Millennium Challenge Corporation threshold programs signed that Fiscal Year.

U.S. assistance consists of bilateral (country-specific) programs provided through U.S. government experts and partners, regional initiatives, and the placement of UNODC anticorruption advisors who support anti-corruption efforts. Through technical assistance such as training, mentoring, and other skills development, and support for legislative drafting and institutional reform, U.S.-funded programs promote a wide range of reforms to address corruption. Assistance related to enforcement supports increasing the capacity of investigators and prosecutors and strengthening of justice sector laws and institutions, including integrity and internal oversight mechanisms, criminal tax and customs enforcement systems, anti-



money laundering/counter-terrorist financing regimes, asset forfeiture tools, financial intelligence units, criminal code and procedural code reforms, and specialized and vetted law enforcement units.

Assistance also supports adoption of the full range of measures relating to prevention, consistent with the UNCAC and other multilateral instruments that articulate best practices. U.S.-supported programs assist countries with adopting and strengthening transparency measures, frameworks for civil society and media participation and oversight of government, anticorruption preventive bodies, measures relating to integrity of public officials, procurement systems, public financial management capacity, systems for hiring and promotion of public officials, political and electoral transparency and integrity, accounting and other private sector rules, independence and integrity of justice sector institutions, and whistleblower protection.

### **FOCUS: CORRUPTION PREVENTION**

U.S. technical assistance includes support for adoption of the full range of measures relating to prevention, consistent with the UNCAC and other multilateral instruments that articulate best practices. U.S.-supported programs assist countries with adopting and strengthening transparency measures, frameworks for civil society and media participation and oversight of government, anticorruption preventive bodies, measures relating to integrity of public officials, procurement systems, public financial management capacity, systems for hiring and promotion of public officials, political and electoral transparency and integrity, accounting and other private sector rules, independence and integrity of justice sector institutions, and whistleblower protection.

The United States has a robust legal and institutional framework for prevention of corruption, as reflected in the U.S. response to the UNCAC self-assessment checklist. At the broadest level, the U.S. Constitution and laws create a system of checks and balances among the branches of government and based on the rule



of law. There is a wide array of specific preventive measures in place, including those that address the integrity of officials (conflict of interest requirements, codes of conduct, financial disclosure, education, training and counseling), those that address the integrity of governmental processes (transparency, consistency, fairness and accountability in such areas as procurement, financial management, administrative procedures, merit civil service, whistleblower protection, oversight and internal controls) and the promotion of public participation. The Obama Administration has underscored its commitment to the integrity of public officials. Within a day of taking office, President Obama signed an Executive Order strengthening the conduct obligations of his political appointees particularly with regard to gifts from lobbyists, matters about which the appointees may have provided services as a lobbyist before accepting an appointment, acting on matters affecting former clients or employers, and service as a lobbyist after leaving the government.

To expand on two systems that support prevention, the first being within the realm of good governance systems, the U.S. government promotes transparency generally through a robust system that enables the public to access government information. The Freedom of Information Act (FOIA) was enacted in 1966 and generally provides that any person has the right to request access to Federal agency records or information. All agencies of the Executive Branch of the United States Government are required to disclose records upon receiving a written request for them, except for those records (or portions of them) that are protected from disclosure by specified exemptions and exclusions. This right of access is enforceable in court, and it is supported at the administrative agency level by the "citizen-centered and results-oriented approach" of a presidential executive order. A huge amount of government information is available, without having to submit a request simply by accessing the U.S. government's official web portal ([www.usa.gov](http://www.usa.gov)). USA.gov is a centralized place to find comprehensive information from U.S. local, state, and Federal



government agency websites. It utilizes a powerful search engine and an index of web-accessible government information and services so that users can find what they need, and provides on-line data on federal spending (contracts and awards). In the Legislative Branch, proceedings of the House of Representatives and the Senate are televised pursuant to rules established by both Houses of Congress. The U.S. government also has increasingly utilized the Internet to promote the participation of society in government processes and decisions. For example, Regulations.gov ([www.Regulations.gov](http://www.Regulations.gov)) is the public face of the Federal government's eRulemaking Initiative, which facilitates public participation in the Federal regulatory process by improving the public's ability to find, view, and comment on Federal regulatory actions.

With regard to promoting the integrity of individual public officials and the avoidance of conflicts of interest, individuals who are being considered by the President for appointment to one of the approximately 1000 top positions in the executive branch are subjected to a series of checks prior to their nomination for the position. These checks include a rigorous background check as well as a review of each individual's financial disclosure report for potential conflicts of interest. Through this procedure, a potential nominee is introduced to the ethics and conflict of interest requirements of service in the executive branch before s/he is appointed. If his or her (or spouse/minor child's) employment, assets, income sources, outside activities, fiduciary positions, or client's interests could potentially cause an actual or apparent conflict of interest with the duties of the position for which he or she is being considered, that individual is asked to enter into an ethics agreement to take the steps deemed necessary to avoid those conflicts, should he or she be ultimately appointed. Those steps can include the sale of assets, resignation from positions, and agreements to recuse oneself in certain types of matters. The substance of those agreements becomes public upon the President's nomination of the individual; if confirmed and appointed, the

individual is held accountable for meeting the terms of the agreement. This process results in a very effective method of preventing conflicts of interest on the part of new senior officials within the executive branch as well as introducing them in a very personal way to the requirements of the ethics program.

### 3.2. Asset Recovery

#### G8 Commitments

- Strengthen international cooperation on asset recovery including supporting initiatives of relevant international organizations such as the Stolen Asset Recovery (StAR) Initiative promoted by the World Bank and United Nations Office on Drugs and Crime (UNODC) (Toyako, 2008)
- Ensure that developing countries can access and develop technical expertise to help recover illicitly-obtained assets. (Heiligendamm, 2007)
- Implement regional G8 workshops on the recovery of illicitly-obtained assets. (Heiligendamm, 2007)
- Work together and with international and regional institutions to develop and promote mechanisms that support effective return of recovered assets. (St. Petersburg, 2006)
- Support our (Justice and Home Affairs) Ministers' determination to detect, recover and return these illicitly acquired assets. (Sea Island, 2004)

#### [Canada]

Canada can provide mutual legal assistance in criminal matters in relation to requests submitted to Canada under bilateral or multilateral conventions and under administrative arrangements, pursuant to Canada's Mutual Legal Assistance in Criminal Matters Act. The International Assistance Group of the Department of Justice is the central authority for Canada in relation to matters of extradition and mutual legal assistance; it both makes and responds to requests for mutual legal assistance.

Canada responds to requests for technical assistance in this



area on a case-by-case basis, but has been particularly active in multilateral initiatives including UNODC initiatives noted previously, participation at meetings of the Asian Development Bank (ADB)/ Organization for Economic Cooperation and Development (OECD) Anti-Corruption Initiative for Asia-Pacific on International Cooperation.

### **[France]**

At the 2008 spring meetings of the Bretton-Woods institutions, France announced its intention to provide financial support for the StAR initiative of the World Bank and UNODC, an initiative which represents a major stride forward in the international fight against corruption, as well as translating into reality the commitments given by the G8 in Saint Petersburg. France provides €200,000 a year to the trust fund set up to promote technical assistance to developing countries within the context of the StAR initiative.

In addition, in order facilitate requests for mutual legal assistance, a new system was put in place at the time of ratification of the United Nations Convention Against Corruption to allow positive responses to requests for mutual legal assistance made in the six official languages of the United Nations.

France is also proactive in the Intergovernmental Working Group of the Conference of State Parties of the UNCAC.

A bill to “facilitate seizure and confiscation in criminal cases” is currently being examined in the French parliament (Bill n° 1255 introduced by Jean-Luc Warsmann, Chair of the National Assembly’s legislation commission, and Guy Geoffroy). This bill is intended to greatly strengthen capabilities for the seizure, confiscation and restitution of criminally acquired assets. First, it aims to complete the French system of seizure and confiscation by increasing the opportunities for seizure during inquiries so as to enable the seizure of all assets subject to confiscation and by facilitating seizure of some or all of the offender’s property, seizure without dispossession and seizure of so-called complex assets such as real estate and intangible assets and rights (sums deposited in

bank accounts, company shares, financial assets and other intangible rights, goodwill, loans, etc.). In addition, the bill provides for the creation of an agency for the management and recovery of seized and confiscated assets. This public establishment with administrative status, jointly overseen by the ministries of justice and the budget, will have the mission of managing the seized assets entrusted to it by the criminal jurisdictions and assisting criminal jurisdictions which may ask it for legal and practical assistance in carrying out the seizures and confiscations required or in managing the seized or confiscated assets until final judgment is pronounced. The bill is also intended to strengthen France's action to recover assets internationally: in addition to transposing into French law Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders, the bill seeks to "codify" Acts 90-1010 of 14 November 1990 and 96-392 of 13 May 1996, whose scope is limited to the international agreements they are intended to implement. The aim is to make the stipulations of the 1990 and 1996 Acts applicable, except where specified, to any international agreement establishing a legal cooperation mechanism for seizure and confiscation, in particular the United Nations conventions against transnational organized crime (Palermo Convention) and bribery (Mérida Convention).

To give concrete examples of legal action to recover criminally acquired assets, especially under mutual legal assistance, we may cite the following two cases:

1. In 2006, France met a request for mutual assistance from the United States for the seizure of a sum in excess of 4 million euros of drug trafficking profits in a bank account. This request under the bilateral mutual assistance agreement of 10 December 1998 between the two countries was transmitted by the international penal mutual assistance office of the Directorate of criminal affairs and pardons (DACG) of the Ministry of Justice to the territorially competent chief prosecutor, who transmitted it to the local prosecutor, who called on an examining magistrate to execute it. The magistrate blocked the funds that were due to be confiscated. These funds were due to be



shared subsequently between the French and United States authorities.

2. Following the seizure in the summer of 2005 of some sixty kilos of cocaine concealed in the keel of a sailing boat that had entered the port of Toulon, a preliminary investigation was begun within the specialized inter-regional jurisdiction of the Marseille Tribunal de Grande Instance, and a number of British nationals who had come to retrieve the drugs were arrested and charged. Investigation under rogatory commissions in the United Kingdom led to the prosecution of further British nationals who were handed over under European arrest warrants. In addition, while implementing the international rogatory commissions issued by the French examining magistrate, the Serious Organized Crime Agency (SOCA) identified and seized a number of real estate and financial assets located in the United Kingdom. It is to be noted that the British legal authorities executed the interim measures ordered by a French liberty and detention judge under Article 706-103 of the penal procedure code, which allows such measures with respect to the assets of any person charged with organized crime. The relevant Crown Court issued a “restraint order prohibiting disposal of assets” concerning two real estate properties and financial assets to a total value in excess of EUR 700,000.

### **[Germany]**

Germany as a requested country can provide international legal assistance aimed at investigating, securing, seizing and confiscating proceeds (or assets or corresponding value) deriving from criminal acts and therefore from money laundering and its predicate offences. But enhancing the recovery of illicitly obtained assets requires a broad approach and expertise needs to be enhanced in the countries of origin:

Germany supports the work program 2007 and 2008 of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific and sponsored an asset recovery and mutual legal assistance regional seminar and intensive training of the Initiative as well as for the



Indonesian Anti-Corruption Commission in 2007 and will continue supporting these initiatives. Germany cooperates closely with UNODC and the International Centre for Asset Recovery to ensure and offer needed technical expertise to partner countries.

With respect to bilateral development cooperation, Germany cooperates closely with the UN Office on Drugs and Crime (UNODC), the World Bank (StAR Initiative), and the International Centre for Asset Recovery (ICAR) located at the Basel Institute on Governance to ensure and offer needed technical expertise on asset recovery to partner countries.

In spring 2009 the draft legislation to implement Council framework decision 2006/783/JHA of 6 October 2006 has been sent to the German parliament (Bundestag) by the German Government. A first reading of the draft legislation has been taken place on March 23rd 2009. The purpose of this Framework Decision is to establish the rules under which a Member State shall recognize and execute in its territory a confiscation order issued by a court competent in criminal matters of another Member State.

### **[Italy]**

Article 5 of the draft bill ratifying the United Nations Convention against Corruption (UNCAC) has introduced two new articles into the Italian Code of Criminal Procedure: Article 740-bis on “Devolution of confiscated property to a foreign state” and Article 740-ter on “Order of devolution”. These two new articles implement the innovative Chapter V of UNCAC on asset recovery. In a nutshell, Chapter V provides that the goods specified in Article 31 of the Convention (the proceeds of an offence falling within the scope of the Convention, goods, equipment and tools used or intended for the purpose of consumption of these crimes) must be returned to its legitimate owners, even when the goods have been transferred abroad. To this end, states parties are subject to two cooperation requirements: 1) it should be possible to give effect to requests for seizure and confiscation of goods under Article 31 of the Convention; 2) once the seizure and confiscation have been

executed, state parties should return the assets to the state which has requested the seizure or confiscation.

With regard to the first requirement, the provisions under Articles 731 and 737-bis of the Criminal Procedure Code already allow national courts to investigate, seize and confiscate the goods specified in Article 31 of the Convention, at the request of one of the other states party.

As for the return of confiscated assets to the requesting state, Article 740, paragraph 2 of the Code of Criminal Procedure makes this possible only subject to reciprocity. This provision was not compatible with the obligations of cooperation established by the UNCAC relating to asset recovery, which make no reference to reciprocity.

Therefore, it seemed necessary to introduce a special discipline. In fact, the new article introduces a kind of double-track concerning the conditions for assets' disposition: reciprocity, in cases where the international agreement does not regulate the matter, or where it regulates the matter, the application of the requirements established by the relevant International agreement. As for UNCAC, these requirements are set out in Article 57.

The modification has been introduced in the chapter dealing with the effect of foreign criminal judgments (Chapter I, Title IV, Book XI of the Code of Criminal Procedure), as the assets' disposition to the requesting state is the final act of the procedure aimed at recognition of confiscation or seizure by the competent foreign authorities.

The new legal framework on the return of confiscated assets hinges upon three fundamental principles: first, there cannot be assets' disposition without prior recognition of the foreign decision providing for the confiscation of goods (Article 31 of the Convention). This principle has been introduced by the new Article 740-bis, comma 2, letter b) of the Code of Criminal Procedure; the procedure and conditions for recognition are the same as those provided for in Articles 731, 733 and 734 of the Code of Criminal Procedure. In essence, Articles 740-bis and 740-ter of the Code of

Criminal Procedure do not introduce new rules in this area; they simply refer to the notion of return of assets by means of a sentence recognized in pursuance of the (general) provisions laid down in the Code of Criminal Procedure (i.e. Articles 731, 733 and 734). Secondly, by virtue of Article 740-bis, paragraph 2, letter b) of the Code of Criminal Procedure, it is not possible to proceed with assets' disposition without an express request by a foreign state.

Finally, the return of confiscated assets will be ordered with the recognition of the foreign decision or measure that has ordered confiscation (Article 740-ter, paragraph 1, Code of Criminal Procedure). Articles 740-ter, paragraph 1, and 740-bis, comma 2, letter b), read jointly, require the foreign state to request the return of confiscated assets together with the request for recognition of the decision or measure of confiscation of such property. Italy has excluded the possibility of a request to return confiscated assets submitted after the recognition of the foreign decision or confiscation order. This is due to the difficulty of disposing of property already acquired by the state as a result of confiscation, pending submission of the request for return of confiscated assets.

Under Article 740-bis, paragraph 1 of the Code of Criminal Procedure, return of confiscated assets can be ordered only in cases for which provision is made by international agreements entered into by Italy. This norm was applied as referring to the requirements set out in the international agreements that, in the case on UNCAC, are those set out in Article 57. Italy has chosen not to introduce any additional or supplementary provision in the Code of Criminal Procedure, thus leaving the return of confiscated assets directly regulated by the relevant international agreements, according to the general rule established by Article 696, paragraph 1 of the Code of Criminal Procedure.

In this respect, it is worth mentioning that the conditions for recognition of foreign decisions or confiscation orders, established in by Articles 731, 733 and 724 of the Code of Criminal Procedure, do not coincide with the conditions for assets' disposition. The competent Court of Appeal should therefore proceed first deciding



whether the conditions for recognition are met and if so, reviewing the legal basis for assets' disposition. The modalities for implementing return of confiscated assets, once ordered by the court, will be regulated by agreements between the Minister of Justice and the competent authorities of the requesting State.

### **[Japan]**

Japan can provide cooperation to detect, freeze and execute proceeds or assets or equivalent value of criminal acts either through mutual legal assistance or through the application of "the Law for Punishment of Organized Crimes, Control of Crime Proceeds and Other Matters". Japan is also able to return all or a part of the confiscated assets to the requesting countries under the Law.

Japan participates with great interest in discussions on asset recovery held within the framework of the UNCAC such as the Working Group on the Asset Recovery and relevant informal meetings, and is collaborating with the international community to promote its implementation.

In addition, Japan (Ministry of Justice) co-hosted with the United States (Department of Justice) an international forfeiture conference in Tokyo in May 2009. Many prosecutors and officials from Hong Kong, Japan, Korea, Singapore and the U.S., who engage in the investigation and the prosecution of organized crimes and asset forfeiture, participated in this conference and shared their experiences about asset recovery etc. to promote international forfeiture collaboration throughout the world.

### **[Russia]**

Russia considers asset recovery provisions as absolutely crucial to the UNCAC, being the most innovative and, at the same time, the most ambitious and result-oriented part of the Convention. The success of the implementation of these provisions thus would to a great extent define the success of the international anti-corruption cooperation on the basis of the Convention.



Russia is able to provide mutual legal assistance in criminal matters including on the issues relating to corruption. For Russia the optimal framework for such cooperation in current circumstances are multilateral treaties and bilateral agreements on fighting crime concluded with foreign countries, which provide for mutual assistance in countering illegal financial transactions, laundering of proceeds of crimes, including those of corruption nature.

With regard to the coordination of efforts in seizing and recovering of proceeds of crime and information sharing aimed at combating money laundering, the Russian Federation has concluded agreements with more than 70 countries.

#### [U.K.]

The UK has legislation and procedures in place that will ensure that assets can be recovered through both criminal and non-criminal processes. This legislation goes beyond the mandatory requirements of UNCAC. Asset recovery is an important aspect of any attempt to tackle corruption and the UK is at the forefront of attempts to ensure that enforcement and preventive action can be expedited internationally.

In the UK, the Metropolitan Police Service established the Proceeds of Corruption Unit to combat money laundering by Politically Exposed Persons. It is a unit of 12 officers that has worked closely with a number of Anti-Corruption Commissions and other investigative bodies to proactively investigate suspicious assets held in the UK or that have been moved through the UK. By taking the initiative and using domestic anti-money laundering legislation the Metropolitan Police Service has identified £75 million of assets that are now under restraint and £1.3 million of cash has been returned to the country that suffered the loss. The Metropolitan Police Service has also provided advice and support to a number of countries that are in the early stages of introducing asset recovery systems and processes.

This year, the SFO has established a similar specialist unit staffed by 8 investigators and lawyers.



The UK has supported and funded the creation of the International Centre for Asset Recovery (ICAR) which provides training and capacity building for developing countries to identify, trace and repatriate stolen assets. It provides a full range of case management assistance ranging from general advice on how to commence and progress an investigation or a prosecution in a corruption or asset recovery context right through to hands-on coaching in specific cases. The team consists of members who have many years of experience in relation to investigating and prosecuting such cases.

In addition technical assistance was provided by prosecuting authorities to Ghana, Nigeria and Bangladesh to improve capacity in tackling corrupt practices and asset recovery and the UK hosted a very successful G8 workshop in Nigeria on asset recovery and corruption.

The Stolen Asset Recovery Initiative (StAR) was established to further the work and improve on the identification, freezing and repatriation of stolen assets. The UK has provided some funding to this initiative of the UNODC and World Bank to develop mechanisms to support the recovery of assets.

The UK is also fully supportive of efforts to strengthen regional networks and improve linkages between developing countries seeking asset recovery and international financial centres and is funding two African FSRBs (ESAAMLG and GIABA) and two CARIN regional groups in Southern Africa and South America.

The UK has also made available funding to the UNODC and Interpol to assist with the development of an Anti-Corruption Academy. Whilst still in the process of being established, the academy will provide key enforcement training and capacity to states, both developed and developing.

## [U.S.]

The United States continues to vigorously promote recovery of the proceeds of corruption and the implementation of Chapter V of the UNCAC, through multilateral coordination and policy



development, support for the dissemination of best practices, and provision of capacity building technical assistance.

With respect to multilateral coordination, since the 2008 Toyako report the United States has continued to work with G-8 and other partners to raise and discuss approaches for concrete implementation of the asset recovery provisions through intersessional meetings of the inter-governmental Asset Recovery Working Group of the UNCAC Conference of States Parties. The United States also collaborates with other leading organizations and initiatives that are promoting best practices and facilitating asset recovery capacity building, such as the Camden Asset Recovery Information Network, Interpol, and the Stolen Asset Recovery (StAR) Initiative. In 2008-2009, among other activities, the United States provided expertise in development of the StAR guide on Non-Conviction Based Forfeiture and the handbook on asset recovery cases.

The United States places priority on building capacity in partner countries. A range of ongoing U.S.-sponsored technical assistance is targeted to build capacity to recover corruption proceeds. Principal areas include corruption and financial crimes investigation/prosecution capacity-building; anti-money laundering/counter-terrorist financing regimes; training in mutual legal assistance procedures; and a wide range of related criminal justice reforms. In 2009, the United States posted an asset recovery country advisor in Bangladesh to build capacity related to mutual legal assistance and will post similar advisors in two other countries.

The United States participates in donor coordination/expert meetings related to asset recovery and has provided financial and expert support to asset recovery workshops in various regions. In addition to efforts described in the 2008 report, among programs supported by U.S. funding or cooperation are a Fall 2008 APEC Workshop on Special International Cooperation to Facilitate Asset Recovery in Peru, a Fall 2008 StAR regional asset recovery training program in South East Asia, and a June 2009 African regional conference on investigation and prosecution of corruption as a



predicate for international cooperation to recover the proceeds of corruption.

U.S. law enforcement and prosecutorial authorities continued to work closely with counterparts in other governments on investigations and mutual legal assistance to support recovery of assets. The United States has numerous law enforcement attachés posted abroad who can facilitate assistance in support of investigations. In addition to the significant recent cases detailed in the 2008 report, the United States continued to receive and respond to requests for mutual legal assistance under UNCAC, and the United States now has approximately 10 cases pending.

Equally important, when the U.S. central authority receives requests that are inadequate for a response for some reason, it works with the requesting central authority to determine if the request can be amended to provide the information necessary to pursue the case. The United States has engaged in consultations with several foreign counterparts in this regard, and will continue to do so. The United States remains fully committed to the development of the capacity of central authorities as one of the critical steps toward full implementation of the convention.

### 3.3. OECD Antibribery Convention

#### G8 Commitments

- Strengthen enforcement of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions with the commitment to continue effective monitoring through the implementation of a rigorous and permanent peer review mechanism and call for accession to the Convention by emerging countries (Toyako, 2008)
- Investigate and prosecute corrupt public officials and those who bribe them, including by vigorously enforcing our laws against bribery of foreign public officials (St. Petersburg, 2006)
- Reduce bribery by the private sector by rigorously enforcing laws against the bribery of foreign public officials, including prosecuting those engaged in bribery; strengthening antibribery requirements for those applying for export credits and credit guarantees, and continuing support for peer review in line with the OECD Convention; encouraging companies to adopt antibribery compliance programs and report solicitations of bribery (Gleneagles, 2005)
- Implement permanent peer review mechanism under the OECD Antibribery Convention (Heiligendamm, 2007)
- Adhere rigorously to OECD Antibribery Convention enforcement review schedule, honor pledges to serve as lead examiners or examinees, and send prosecutors and other law enforcement officials to participate in peer reviews. (Sea Island, 2004)
- Accelerate peer reviews of each country's implementation of the OECD

#### [Canada]

Canada adopted legislation against foreign bribery in the Corruption of Foreign Public Officials Act in 1999, before it joined the OECD Convention against foreign bribery. Since then, law enforcement authorities have been enforcing the law against offences in the CFPOA in the same manner as they enforce all other criminal offences. To date, there has been one prosecution resulting in a conviction under the Corruption of Foreign Public Officials Act,



in 2005. On May 15, 2009, legislation providing for Canada's jurisdiction over foreign bribery offences on the basis of nationality was introduced in the Canadian Parliament.

At the Canadian International Development Agency (CIDA), all entities involved in CIDA-financed contracts and contribution agreements are expected to declare whether they were convicted in the past, and to note that engaging in corrupt practices would be sufficient grounds for terminating the contractual arrangements or for undertaking other action.

At Export Development Canada (EDC), exporters are required to sign anti-corruption declarations. EDC's insurance policies and loan documents include clauses / representations and warrants against bribery. EDC introduced its Anti-Corruption Policy Guidelines which outline the measures EDC will apply to combat corruption, including a section on debarring companies convicted of bribery as well as a section on disclosure to law enforcement authorities.

In 2006, under the auspices of the OECD Export Credit and Credit Guarantees Group, EDC worked with export credit agencies to enhance the OECD Action Statement on Bribery. Revisions to the Action Statement necessitated a number of changes to EDC's anti-corruption practices. In addition to providing a no-bribery declaration, exporters seeking export credit agency EDC-backed support are required to indicate whether they have been previously convicted of bribery, and whether they have been debarred by the World Bank, the Asian Development Bank, the European Development Bank or the African Development Bank, for which the Export Credit Agencies agreed to undertake enhanced due diligence. Furthermore, EDC asks for details about agents and commissions when they deem it necessary as part of their due diligence process.

EDC encourages companies to adopt anti-corruption programs in several ways. The President writes to all new customers with a copy of EDC's anti-corruption brochure. In his letter, the President reiterates the message of the brochure which encourages



those companies conducting business internationally to fully understand Canadian legislation in the area of corruption, to ensure policies and procedures are in place and employees are well-educated on the issue in order to avoid the risks of corruption in international business transactions. EDC periodically publishes articles in its quarterly newsletter on various anti-corruption issues. EDC's quarterly newsletter has a distribution of over 10,000 subscribers. In addition, EDC is targeting key industry associations to publish an anti-corruption article in their membership newsletters in order to reach even more Canadian companies who may conduct business internationally.

EDC's Anti-Corruption Program includes a procedure regarding disclosure to Canadian law enforcement officials of credible evidence of bribery in international business transactions, of which there have been no such instances to date.

Canada participated in its Phase I and Phase II reviews. Canada contributed to ensure that reviews were completed in the timeframe decided by the Working Group by providing information and organizing meetings on schedule for its own review. Canada also provided a team of experts that was available in the timeframe required and met all the deadlines to complete the peer reviews when Canada was one of the lead examiners.

In addition, Canada organized meetings with all the individuals or groups that the OECD reviewing team wished to meet with at the dates planned for the OECD team visit to Canada.

Canada provided a team of experts to participate with Italy in the Phase II peer review of France in 2003, and with France in the Phase II peer review of UK in 2004 and the Phase II bis of UK in 2008. In each case, the Canadian team of experts included an RCMP officer involved in investigations of corruption and other commercial crimes, and an expert in criminal law. In 2009, Canada provided a team of experts to participate with Switzerland in the Phase 1 review of Israel. In addition, Canada has been represented by a Foreign Affairs officer and a criminal law expert at all meetings of the Working Group on Bribery, and participated actively in the



Working Group.

Canada supports the development of Phase III of the peer review mechanism that is currently under discussion at the Working Group on Bribery. The development of Phase III will ensure the continuation of the peer review of the implementation of the Convention.

**[France]**

France is resolutely committed to the OECD peer review process. The OECD corruption group had in fact arrived at an extremely positive assessment of the implementation by the French authorities of the recommendations submitted in connection with the phase 2 review.

Moreover, France actively supports the ongoing process of revision of the OECD's anti-corruption instruments and the definition of the terms of reference for the future mutual review phase, or the "phase 3" review, aimed at enabling the continuation of mutual evaluations after the completion of phase 2.

Additionally, France has made changes to its legislation in order to cover a wider range of criminal offences involving corruption and trading in influence.

A number of official inquiries have been commenced relating to charges of corruption of foreign public officials.

Since the July 2008 Toyako Report, 2 new cases have been brought for the bribery of foreign or international public officials within the framework of international trade relations, bringing the number of cases pending to 20. One preliminary inquiry and two judicial investigations led to the cases being closed in the absence of any offence or dismissed on the charge of bribery of a foreign public official. One case was taken to court, but the magistrates acquitted on the charge of bribery of a foreign public official and convicted the accused on other charges.

The French Penal Code adopts the principle of the criminal responsibility of legal persons. Article 121-2 paragraph 1 of the Penal Code states that "[j]uridical persons, with the exception of the

State, are criminally liable for the offences committed on their account by their organs or representatives, according to the distinctions set out in articles 121-4 and 121-7..." This responsibility does not exclude that of natural persons committing or abetting these offences. If a legal person is guilty of active bribery of foreign public officials, they incur five times the fine incurred by natural persons, namely 750,000 euros (and 1,125,000 euros for a single offence of criminal bribery) and further penalties prohibiting them from exercising the activity during which or on the occasion of which the offence was committed, probation, closure of one or more establishments used to commit the offence, exclusion from public contracts, removal of the right to launch public financial offerings, issue cheques or use payment cards, confiscation of the object used or intended to be used to commit the offence, the direct or indirect product of the offence and goods whose origin the offender cannot justify, publication of the decision. Since the Toyako report no further legal person has been prosecuted or convicted for the bribery of a foreign public official. The three main recommendations made to France after the Phase I examination concerned the statute of limitations, the system for launching prosecutions and the implementation of jurisdiction based on nationality. With respect to the statute of limitations, French courts have developed a jurisprudence that makes it possible to delay the start of the limitation period and thus postpone its operation. It is also intended to extend the limitation period for bribery. With respect to prosecutions, a criminal policy circular was sent to all French courts in June 2004 asking them to examine victims' complaints with close attention, to exercise public action with determination where conditions are appropriate, and only to close cases on technical criteria. With respect to jurisdiction based on nationality, France has convinced the OECD of the lack of obstacles to prosecution on this basis, since only one recommendation was maintained for France after Phase II, namely the statute of limitations.

Regarding anti-bribery requirements for companies using export credit guarantees, Coface (the French export credit guarantee



agency) adopted a Anti-Corruption Charter at the beginning of 2007. Coface has thus made provision for:

A general obligation to inform beneficiaries of guarantees: Coface has included reminders in its institutional documentation and communications of the legal consequences entailed by corruption of foreign public officials and incentives to set up internal systems for the control and prevention of corruption.

Immediately on receipt of a guarantee application, a duty of due diligence: Coface officials examining applications must verify whether the applicant and the exporter are currently subject to legal proceedings for this type of offence, whether they have been convicted for offences of this kind in the five preceding years, and whether they are on a temporary exclusion list issued by a multilateral bank (World Bank, ADB, AfDB, IBD, EBRD).

At such time as an application is examined, obligations of enhanced vigilance: such obligations may take the form, in cases where Coface entertains doubts, of requests for further information from the exporter (particularly concerning any transaction intermediaries and commission payments) and, in certain defined cases, evidence of the implementation of preventive or corrective measures within the company, or possibly a request for further information from economic missions.

Precautionary measures at other stages in the procedures, for example in conjunction with the monitoring of contracts, compensation (examination of accounts) or the collection of receivables.

Formation of an anti-corruption committee in Coface to comprise the directors of the legal affairs and medium term departments (or the market exploration department): this committee rules on dossiers in which there are “substantive indications of corruption” to be passed on to officials in the DGTPE (French Directorate-General for the Treasury and Economic Policy) with responsibility for export credit guarantees (the latter may then, if the case justifies it – that is to say, if on examination the information provided clearly points to the commission of acts of corruption –



inform the public prosecutor's office pursuant to Article 40 of the French code of criminal law procedure).

Appointment of an anti-corruption correspondent charged with advising Coface departments in the implementation of this system of measures and ensuring its satisfactory coherence.

This Charter is also supplemented by a number of memoranda setting out the mechanisms specific to each type of product (export credit and investment guarantees, exchange insurance, market exploration insurance).

In order to promote information regarding anti-bribery requirements and fight against corruption, France has also distributed in 2008 10 000 copies of a booklet developed by the Mouvement des Entreprises de France (French Business Confederation) to make companies aware of the risks related to bribery when they do business abroad. These booklets were distributed in France and abroad through the economic services of the French Embassies.

### **[Germany]**

Germany was one of the initiating states during negotiations for the OECD anti-bribery convention advocating for the form of a convention rather than non-binding recommendations. It plays an active role in the Working Group on Bribery and as lead examiner carried out the country monitoring reports of Turkey and Italy. Germany also has sent prosecutors to participate in the tour de table discussions and the voluntary prosecutors meetings on a regular basis.

In Germany bribery of foreign public officials is a criminal offence since 1998 (EU) and 1999 (other public officials). This led to numerous prosecutions and several convictions. Germany is participating actively in the Working Group on Bribery in International Business Transactions of the OECD. Germany was successfully evaluated by the Group in two rounds and has taken part in many tasks as the tour de table evaluations as well as reviewing other countries by experts on legislation of acts against



corruption and prosecution of relevant cases. Germany has provided OECD with all necessary information about ongoing legislation and relevant court decisions in the field as far as legally possible. Germany shared information concerning investigations in alleged corruption cases. For Germany an effective mechanism is always the key issue of the peer review process. Developments in 2006 and 2007 explicitly have shown that criminal prosecution is dealing with international corruption cases in an adequate manner as required by the OECD Convention. There is a significant number of cases German prosecution offices deal with. Investigations have an international and global relevance as there are companies involved doing business on a global level.

Therefore Germany actively supports all efforts aimed at combating bribery in order to create transparent and fair trading conditions and a level playing field. In connection with the granting of export credit guarantees the Federal Government of Germany states:

No export credit guarantees will be granted for export transactions or loan agreements the conclusion of which involved any criminal acts such as bribery.

If it is proven later that corruption was involved, the Federal Government can invoke relief from liability pursuant to the General Conditions.

As a member of the OECD Germany was actively involved in the preparation of common principles for the combating of bribery in the field of officially supported export credits. After it was passed by the Council of the OECD, Germany committed itself to applying the provisions of the "Recommendation on Bribery and Officially Supported Export Credits" of December 2006 when granting export credit guarantees. For this reason the applicants have been required to make a "Declaration regarding Combating Bribery in Respect of Business Transactions covered by Federal Export Credit Guarantees" in the course of the application proceedings as of the beginning of 2007.

Furthermore the Federal Government in unison with the big



German industrial associations such as BDI and BDA encourages export companies to actively take up the subject and to set up internal mechanisms designed to prevent corruption. In alleged corruption cases involving German exporters using export credit guarantees of the Federal Government, enhanced due diligence of each export transaction is undertaken and intensive dialogue is sought with the exporter to establish satisfying processes combating bribery within the company.

### **[Italy]**

Italy continues to play a proactive role in the implementation of the key principles of the OECD Anti-bribery Convention. Since year 2000, Italy has enacted and implemented the principles introduced by the OECD Anti-bribery Convention. Fully committed to the Convention's principles and strategies, Italy has engaged in the enforcement and implementation of a policy strategy aimed at giving concrete answers to the fight against corruption.

Since the 2008 Toyako report, the Italian Ministry of Foreign Affairs has promoted on its website ([www.esteri.it](http://www.esteri.it)) an advocacy and awareness campaign on the OECD Convention by creating the portal "Recommendations for economic operators abroad for the prevention of foreign bribery ". This website is addressed especially to the business community and explains principles of the OECD Convention, the risks arising from non-compliance with it, and the preventive action to avert the phenomenon of corruption itself. It also contains case studies that may serve as a practical, user-friendly tool for those who have economic and commercial relations with foreign countries. The portal is intended to be a "practical tool" for those business operators who may be confronted with anomalous situations in their businesses; these operators can therefore easily find in the website practical information to counteract risks of corruption. The Ministry's website contains links to other important websites such as those of the OECD and Transparency International. The website has been a great success, as is demonstrated by the large number of visitors: this shows the attention paid by the



business community to the fight against corruption.

In April 2009, Italian magistrates together with representatives of the OECD Secretariat led a technical assistance mission to Chile. The mission was designed to assist the Chilean Government in the process of drafting legislation on liability of legal persons. The mission is part of the ongoing process for Chile's accession to the OECD. As one of the conditions for accession, the OECD requires Chile to repeal bank secrecy and adopt effective rules on liability of legal persons by means of legislative measures to be adopted by November 2009. In this context, the Chilean government has identified the Italian legal framework on liability of legal persons as a model for the reform.

In particular, the Chilean Government has prepared a draft law in the subject matter, which explicitly incorporates the main features of the Legislative Decree 231/2001 (which introduced the administrative liability of legal persons in the Italian system). The draft Law was submitted to the Parliament in March 2009. During the examination of the draft by the parliamentary committees, the Government of Chile requested a technical assistance mission by Italy. The mission was conceived to assist the Chilean Ministry of Justice in amending the bill. The mission was also an opportunity to highlight to the parliamentary committees and the Chilean academic community, the main issues that emerged in Italy during the debate leading to the adoption of Legislative Decree 231/2001 as well as its application by the courts.

Chile and the OECD stressed the importance, both technical and political, of the mission in question, as it is closely connected with Chile's accession to the OECD.

The positive results of the mission were also highlighted in a thank you letter from the Secretary General to Chilean Presidency of the Republic, Min. Jose Antonio Viera-Gallo Quesney to the Italian Minister of Justice, Mr. Angelino Alfano. The Legal Directorate of the OECD also expressed its appreciation for the assistance provided to Chile by Italy.

Compliance and reputation are invaluable assets for SACE, the



Italian Export Credit Agency (“ECA”), one of the first ECA fully implementing the OECD Convention and the Action Statement on Bribery and Officially Supported Export Credit, by way of amending its insurance policies and related ancillary documentation as well as establishing internal procedures to fully comply with the above mentioned regulatory framework.

In order to apply OECD regulations on fighting bribery, SACE issued three specific documents:

- the Code of Conduct (the Code);
- the Organisation and Auditing Model (the Model) according to Legislative Decree no. 231/2001 governing company’s criminal liability;
- a special anti-bribery procedure (the Procedure) in compliance with Law no. 300/2000 and fully implementing in SACE’s internal organization the principles set by the OECD Convention.

During 2008, the Code and the Model - i.e. the two major “pillars” of SACE’s preventing policy - have been updated and extended to all SACE Group companies.

The Model includes a detailed risk assessment on each activity of SACE and a matrix between risks and control procedures.

Adequate training courses will be provided by the end of 2009 to all SACE’s personnel on both the Code and the updated Model.

The Procedure is fully implemented since 2008: applicants requesting official support to SACE are informed in the policy application form of legal consequences arising from bribery.

Furthermore, applicants are requested to certify:

- no involvement in bribery facts related to the transaction;
- no conviction of corruption (both for company’s management and intermediaries); and
- no ban from any list of International Financing Institutions.

Apart the application phase, a similar declaration must be repeated in case of claims and recoveries distribution, when the



applicant/exporter is under suspicion (i.e.: press reports, legal charges, etc).

If an issue arises (unclear declarations, applicant's reluctance etc.) SACE's Procedure requires an enhanced due diligence procedure ("EDD") before issuing the policy and/or take other actions (such as paying claims). The EDD evaluates the effectiveness of corrective and preventive measures adopted by the applicant in fighting bribery.

Moreover, in any Buyer's Credit transaction supported by SACE, the exporter is required to subscribe a specific undertaking (*Accordo di Manleva e Garanzia*) whereby he declares and guarantees that he, nor anyone acting on its behalf, have or will engage in bribery in the transaction and undertakes to refund SACE of all indemnities paid in favour of the insured party, thus adding significant civil sanction to any criminal punishment applicable to bribery.

### **[Japan]**

Japan signed the OECD Anti-Bribery Convention on December 17, 1997, and deposited the instrument of acceptance on October 13, 1998. Japan's acceptance was the second earliest among the member countries. The implementing legislation, in the form of amendments to the Unfair Competition Prevention Law (UCPL), came into force on February 15, 1999.

Japan has undergone the assessment of phase 1(1999), phase 2(2004) and phase 2-bis (2006). In the context of its strong commitment to implement the Convention, Japan has made serious efforts to meet the requirements for the recommendations of the examination of phase 1 and phase 2 against Japan. At the time of the phase 1 examination, the Working Group of Bribery pointed out the following as the main issues of concerns:

*The "main office" exception contained in the Unfair Competition Prevention Law (UCPL) is inconsistent with the standards of the Convention, and the Working Group feels that the offence of foreign bribery is as "serious" as some of the crimes enumerated in the Penal Code to*



*which nationality jurisdiction applies.*

In view of addressing the concerns expressed in the phase 1 examination, Japan amended the UCPL to remove the “main office” exception and it entered into force on 25 December 2001. Furthermore, the UCPL was amended to introduce nationality jurisdiction in 2004 and it entered into force on 1 January 2005. The Working Group on Bribery was satisfied that Japan had made serious and comprehensive efforts to meet the requirements of the recommendations. Japan has also played the active role of a lead examiner by sending expert team to relevant countries; the phase 1 assessment in US(1999) and Spain(2000), the phase 2 assessment in Germany(2002) and Australia(2005).

Since the criminalization of the bribery of foreign public officials in 1998, the Ministry of Justice of Japan has ensured the public prosecutors to be familiar with the offence through the distribution of reference materials and organizing lectures at the training courses. The Ministry of Justice has also given instructions to public prosecutors for vigorous investigation/ prosecution of such offence and such efforts accordingly have led to the convictions of the 6 natural persons and 1 judicial person since 2007 who had committed the bribery of foreign public officials. Japanese authorities are determined to continue making efforts on investigation/prosecution of the offence. In addition, Japan, upon request by other states including G8 member states, has provided legal assistances positively regarding the cases of foreign public officials.

In 2000, OECD’s Working Party on Export Credits and Credit Guarantees agreed on the “Action Statement on Bribery and Officially Supported Export Credits”, which was then adopted by the OECD Council as the recommendation in 2006. Following up the action statement and recommendation, Japanese export credit agencies, which are Japan Bank for International Cooperation and Nippon Export and Investment Insurance, took necessary procedures and appropriate measures in order to comply with the OECD rules.



## **[Russia]**

Russia is not party to the OECD Convention, but the issue of joining it will be included in the agenda for negotiations between Russia and the Organisation in the near future.

Pursuant to the decision of the Government Commission of the Russian Federation on the issues of the World Trade Organization and interaction of the Russian Federation with the Organization for Economic Cooperation and Development, the Ministry of Justice of Russia in January 2009 has been defined as a federal executive body, coordinating the anti-corruption issues with OECD, including the Russian Federation joining the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and participation of the Ministry of Justice representative in the appropriate working group of the Organization. The representative of the Ministry of Justice of Russia participated in the regular meeting of the Working group (Paris, 17-18 March 2009).

In February 2009 the MFA of Russia informed the OECD Secretary-General of Russia's readiness to join the OECD anti-corruption convention and the appropriate working group.

On March 17, 2009 in Paris the representatives of the Ministry of Justice of Russia and the MFA of Russia had consultations with the OECD experts on Russia's joining the Convention and activities of the group within the framework of the regular meeting the OECD Working group on Combating Bribery of Foreign Public Officials in International Business Transactions (before joining the Convention Russia participates in its work on the ad hoc basis).

In order to enable the federal executive bodies to prevent the inclusion in draft laws and regulations of provisions conducive to corruption, as well as to identify and eliminate such provisions, the Government of the Russian Federation adopted decrees No. 195 and No. 196 of 5 March 2009 approving Methods of Examining Draft Laws, Regulations and Other Documents for Provisions Conducive to Corruption and Rules of Examining Draft Laws and Regulations for Provisions Conducive to Corruption.



A Comprehensive Plan of Joint Activities of the Ministry of Internal Affairs, the Federal Security Service, the Federal Drug Control Service, the Ministry of Defense, the Ministry of Justice, the Federal Tax Service, the Federal Financial Monitoring Service and the Prosecutor General's Office to Combat Economic Crime in 2008-2010 has been worked out and is now implemented. It provides for organizational and practical measures to reveal and suppress corruption and abuse of power by the officials of federal executive bodies and local authorities.

As a result of measures taken in 2008, the units of the Ministry of the Interior in the constituent entities of the Russian Federation charged with fighting economic and tax crime revealed 31,138 (+18.6 percent) crimes committed against the government, the interests of civil service and local government service (Chapter 30 of the Criminal Code of the Russia Federation), including 5,386 (+4.8 percent) cases of bribetaking and 4,542 (+15.2 percent) cases of bribery. The number of revealed large-scale and especially large-scale crimes in this area increased by 6.4 percent (650). The criminal cases concerning 19,964 crimes (+14 percent) were filed to court.

In order to identify and eliminate the systemic reasons and factors giving rise to corruption, the prosecution authorities of the Russian Federation carry out anticorruption examination of laws, regulations and drafts thereof on a regular basis. The anticorruption examination is conducted at both the federal and regional levels. As the experience of supervision has shown, laws and regulations include a great deal of norms leading to corruption.

In 2008, the prosecutors revealed over 11,000 laws and regulations issued by federal bodies and local authorities, comprising 13,457 corruption facts. Of those laws and regulations 9,498 were not in line with the current legislation. The prosecutors submitted 7,913 protests and 1,201 recommendations to eliminate violations of the law, as well as issued 8 warnings against breaches of the law, filed 467 petitions to court, provided 1,020 information bulletins to federal and local government bodies. On the initiative of the prosecutors, anticorruption legislative acts were adopted in



some constituent entities of the Russian Federation.

In 2008, stepping up their efforts, law enforcement agencies revealed 40,243 offences against the government, the interests of civil service and local government service (compared to 35,714 in 2007), including 12,215 cases of bribery (compared to 11,616 in 2007).

### [U.K.]

The UK actively investigates and prosecutes companies and individuals that bribe foreign public officials through the Anti-Corruption branch of the Serious Fraud Office and a 12-strong Overseas Anti-Corruption Unit in the City of London Police. These dedicated enforcement structures have led to approximately 40 further allegations under investigation. This high number of investigations started to feed through into enforcement actions during the second half of 2008 and early 2009.

In September 2008 the UK successfully prosecuted and convicted a director of a UK company for corrupt payments to a Ugandan official, the first conviction for bribery of a foreign public official in international business transactions. In October 2008 the UK also convicted and imprisoned a UK national for conspiracy to bribe a US official, although this was not in relation to international business. In the same month the Serious Fraud Office recovered £2.25m from a major UK construction company in relation to inaccurate business records arising from irregular payments by an overseas subsidiary. In January 2009 the UK Financial Services Authority fined a regulated reinsurance company for failing to take reasonable care to establish and maintain effective systems and controls to counter the risks of bribery and corruption associated with making payments to overseas firms and individuals.

The UK implements the OECD Anti-Bribery Convention through the Prevention of Corruption Acts 1889 - 1916 and the Anti-Terrorism, Crime and Security Act 2001, which gave UK courts jurisdiction over crimes committed wholly abroad by UK nationals and companies and put beyond doubt that UK bribery law applied to the bribery of foreign public officials. The UK is committed to



modernise and reform bribery law and has published a draft Bribery Bill for Parliamentary scrutiny.

The draft Bribery Bill addresses recommendations of the OECD Working Group on Bribery to replace the common law of bribery and 1889-1916 Prevention of Corruption Acts with effective and modern legislation. The draft Bribery Bill addresses specific OECD concerns that the current legislation permits a defence of 'principal consent', introduces a new corporate offence of negligent failure to prevent bribery on a company's behalf and delegates the current requirement for Attorney-General consent to prosecution to the Director of Public Prosecutions and Director of the Serious Fraud Office.

In July 2006 the UK Export Credits Guarantee Department implemented anti-corruption procedures that go beyond OECD requirements, in particular when requiring exporters to disclose the name of agents. These procedures will be reviewed in the second half of 2009. This review will benchmark ECGD against the OECD Export Credits Group position on bribery and corruption and against the anti-bribery and corruption procedures of similar official Export Credit Agencies; consider ECGD's experience during the three years relating to workability, resource and/or other difficulties in the implementation of the July 2006 procedures; consider the case for the use of independent third parties in conducting enquiries about joint venture participant's agents; consider ECGD's experience of applying the July 2006 procedures to applications that involve joint venture partnerships; and review experience of the operation of ECGD's recourse provisions in the context of bribery and corruption and the application of English law to loan contracts.

The UK is taking an active role in the Working Group on Bribery discussions of the Review of OECD anti-corruption Instruments and the next Phase 3 round of country monitoring, and has been involved in peer reviews of Poland and Italy. The UK fully cooperates with the OECD Working Group on Bribery peer review process, and recognises the importance and value of this process in raising standards across the 38 signatory countries. Following the



Phase 2bis review of UK implementation of the OECD Convention the UK is providing quarterly reports on legislative progress and has hosted a Working Group on Bribery delegation to input to the preparation of the draft Bribery Bill.

### [U.S.]

In addition to vigorously investigating and prosecuting domestic corruption, the United States actively prosecutes companies and individuals that bribe foreign government officials. The United States implements the OECD Anti-Bribery Convention through enforcement of the Foreign Corrupt Practices Act (FCPA).

In the past two years, the United States has prosecuted more than 40 enforcement actions against companies and individuals, including the two largest settlements in FCPA history, one of which was resolved in close coordination with German authorities. Total corporate criminal penalties exceeded \$900 million in 2008 and 2009 (as of May). Prosecutions of individuals have also increased significantly in recent years. In addition, the United States leads parties to the OECD Anti-Bribery Convention in resolving Oil for Food investigations, having brought ten cases against companies and individuals to date. Additional U.S. investigations into the Oil for Food program are ongoing. At the time of this report, the United States has approximately 120 ongoing investigations into potential violations of the Foreign Corrupt Practices Act.

The following statistics provide an overview of the level in recent years of U.S. implementation of the OECD Convention through criminal enforcement actions:

- 2000: 0 criminal FCPA enforcement actions
- 2001: 6
- 2002: 5
- 2003: 3
- 2004: 3
- 2005: 5
- 2006: 8
- 2007: 16



- 2008: 16
- 2009: 7 (as of May 2009)

In conjunction with vigorous enforcement, the U.S. government works to raise public awareness of the commitment to fight foreign bribery and to ensure that corporations develop compliance mechanisms and procedures to meet that challenge. For example, the U. S. government participated in numerous conferences in the United States, Europe, and elsewhere on the FCPA, foreign bribery, or related issues during 2008-2009. In addition, companies or individuals can request an opinion by the Department of Justice as to the legality of an act in advance of undertaking it, through the Opinion Procedure. Such opinions are subsequently published on the Department of Justice website. When a case against a corporate entity is resolved, in most cases the agreements include descriptions of the elements of an appropriate compliance program that the company will implement, and those compliance program descriptions are publicly available. The United States also provides mechanisms for direct reporting of FCPA violations to the Department of Justice through an email hotline and encourages reporting of violations to the Foreign Commercial Service abroad.

Procedures are in place to facilitate mutual legal assistance through the Department of Justice and Securities and Exchange Commission's Offices of International Affairs, under bilateral and multilateral treaties and memoranda of understanding, as well as pursuant to the UNCAC. In addition, the United States has numerous law enforcement and judicial attachés posted abroad who can facilitate investigations in real time, as well as build capacity to make such requests. Responses to U.S. requests for assistance have overall been good, with some exceptions. The 2008 Toyako report described robust U.S. implementation of the December 2006 OECD Council Recommendation on Bribery and Officially Supported Export Credits, through the tightening of a variety of anti-corruption standards and institution of new procedures to combat bribery. In furtherance of these efforts, the U.S. Export-Import (Ex-



Im) Bank has adopted "Guidelines for Transaction Due Diligence Best Practices" to improve the transparency and effectiveness of Ex-Im Bank's due diligence policies. These guidelines identify risk factors that should be examined as part of a thorough due diligence practice, including risk of fraud and corrupt practices. Parties doing business with Ex-Im Bank are encouraged to develop, apply and document appropriate controls to combat bribery. Through its website, Ex-Im also provides information to potential transaction participants about the FCPA, anti-corruption policies and public debarment lists of multilateral financial institutions, and the excluded parties list system.

The FCPA itself expressly provides the authority for both civil and criminal actions against legal persons for foreign bribery, as well as penalties for legal persons. In addition, Title 1, United States Code, Section 1, which applies to the interpretation of all federal laws, provides that the "the words 'person' and 'whoever' include corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals." A corporation is held accountable for the unlawful acts of its officers, employees, and agents under a respondeat superior theory, when the employee acts (i) within the scope of his/her duties, and (ii) for the benefit of the corporation. In both instances, these elements are interpreted broadly. Whether the corporate management condoned or condemned the employee's conduct is irrelevant to the issue of corporate liability. The criminal responsibility of the legal person is engaged by the act of any corporate employee, not merely high-level executives. Since 2000, the United States has brought 31 FCPA cases against legal persons, nine of which were brought in the last year.



### 3.4 Transparency and International Financial Institutions

#### G8 Commitments

- Promote improved resource management including fiscal transparency and legislative oversight by resource-rich countries through supporting international financial institutions' efforts to develop international standards and codes to be voluntarily adopted by those countries, and technical assistance, as appropriate (Toyako, 2008)
- Supporting International Financial Institutions' efforts to combat corruption, including the implementation of the World Bank's Governance and Anti-Corruption Strategy to increase assistance to countries to strengthen governance and reduce corruption (Heiligendamm, 2007)
- Take concrete steps to protect financial markets from criminal abuse, including bribery and corruption, by pressing all financial centers to obtain and implement the highest international standards of transparency and exchange of information (Gleneagles, 2005)
- Support, by providing bilateral technical assistance and political support, partner countries that have signed transparency and anticorruption compacts with the G8 (Georgia, Nicaragua, Nigeria, and Peru) (Sea Island, 2004)
- Focus bilateral assistance on countries demonstrating commitment to improve performance on transparency, good governance and rule of law (Evian, 2003)
- Require fiduciary assessments before countries can access budgetary support(as already done with the World Bank Poverty Reduction Support Credit program); work to ensure that all fiduciary and governance diagnostics are made public, and improve coordination and harmonization of our administrative procedures (Evian, 2003)
- Develop with donors and governments a public financial management and accountability performance assessment based on the HIPC tracking exercise (Evian, 2003)
- Work with others to achieve full disclosure of multilateral development bank (MDB) performance allocation systems, require publication of all MDB country assistance strategies, urge presumptive publication of Article IV staff reports, and require publication of staff reports for all exceptional access cases (Evian, 2003)



## [Canada]

Canada strongly supports the efforts of the World Bank and other IFIs to develop and implement strategies to combat corruption.

Canada has introduced recent enhancements to the anti-money laundering/anti-terrorist financing requirements for financial institutions and intermediaries contained in amendments to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and associated regulations including:

New reporting, client identification, record-keeping and compliance requirements, and bringing new sectors such as the legal profession and dealers in precious metals and stones under Canada's regime.

Enhanced information sharing among the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), law enforcement and other domestic and international agencies.

The establishment of a registration regime for money service businesses.

During International Development Association's (IDA) discussions in 2005, donors, including Canada, encouraged IDA to make the key components of their Performance-Based Allocation (PBA) system - the Country Policy and Institutional Assessments ratings and the Country Performance Ratings - publicly available on their external website, and this is now done. For further transparency, IDA plans to publicly disclose their Post-Conflict Performance Indicators, on which allocations to post-conflict countries that fall outside of the regular PBA system are based.

The World Bank's Executive Board has approved several revisions to the Bank's disclosure policy over the last few years to maximize public access to their Country Assistance Strategies (CASs). The Bank first allowed CASs to be publicly released in 1998, but only at the request of the country in question. Now, all CASs are automatically posted on the Bank's external website, except in the rare case that the country in question objects to the disclosure. Canada has been actively supportive of these policy revisions to



increase transparency.

In February 2007, Canada confirmed its official support for the Extractive Industries Transparency Initiative (EITI), providing an initial contribution of \$750,000 to the EITI Multi Donor Trust Fund and subsequent payments of \$100,000 per year. In 2008, Canada provided an additional \$100 000 in support of the EITI Secretariat. In addition to financial contributions, Canada has also been engaged in the development of the governance structure for the Initiative, assuming a one-year term on the EITI Board in February 2009. Further, Canada has contributed technical expertise to expand the applicability of the EITI standards to the mining sector. Canada has provided, and continues to provide, strong political support to the EITI both bilaterally and in key multilateral fora.

Recognizing that corruption is a global phenomenon, the Canadian International Development Agency (CIDA) considers anti-corruption activities a core component of its approach to aid effectiveness and governance priorities. Within that approach, prior to project approval, CIDA assesses countries, recipient institutions, programs and projects for risk and general performance capacity. When approved, all contracts and contribution agreements include an anti-corruption clause and must be consistent with Government of Canada financial frameworks. Projects are also subject to ongoing monitoring and end of project audits and evaluations.

Since 2000, CIDA has supported over 50 projects with an anti-corruption focus or components related to accountability, transparency, oversight, financial reform, management of public resources, stewardship and corporate social responsibility, totaling an investment of approximately CAN\$218 million. The outcomes of these investments include supporting a network of African parliamentarians dedicated to fighting corruption, providing training for 175 auditors from 49 countries in conjunction with the Canadian and Quebec Auditors-General, improving transparency, efficiency and effectiveness in government procurement/contracting (e.g., Nicaragua, Honduras, Philippines), and support for civil society institutions including Transparency



International as well as the Global Organization of Parliamentarians against Corruption (GOPAC).

**[France]**

France has defined a strategic policy document for the combat against corruption connected with its cooperation programmes, and this has been validated by an inter-ministerial committee. With the aim of defining the procedures for action by the various French public stakeholders in this field, the document defines transparency of procedures and practices as a guiding principle for all action, seeking most notably at the same time to ensure the traceability and security of public resources.

France actively supports EITI since 2005, through financial contributions to the Multi-Donor Trust Fund (1.250.000 USD) and International Secretariat (500.000 USD). France is, in 2009, Germany's alternate at the EITI Board and is an active participant at the validation committee, rapid response committee and governance committee. France has devoted 140.000 € to the Niger action plan. France is about to spend 50.000 € on civil society capacity building in Gabon. It has mobilized its diplomatic network, particularly in French-speaking African nations, in order to encourage EITI implementation. France was co-sponsor of the UNGA draft resolution supporting EITI. It supports the projected Mediterranean Conference on EITI (autumn 2008) with a view to bringing the countries of North Africa into the Initiative.

France has played a great role in pressing financial centres to obtain and implement the highest international standards of transparency and exchange of information. After the Toyako Summit, France organised in Paris a Conference on Transparency and Exchange of Tax information, along with Germany, on October 21st 2008. That conference led to strong conclusions and pioneered global move towards greater transparency and exchange of tax information. The Paris conference has been followed by a Berlin Conference on June 23rd. Following that conference, France played a great role to fight tax evasion, at EU level during the French EU



Presidency and at international level during the G20 London summit.

Fiduciary risk assessments are conducted before providing MINEFI Global Budget Support. However, these assessments (that are not made public) do not determine access to budgetary support but delivery procedures and modalities (targeted/untargeted budget support, annual/pluriannual etc.).

### **[Germany]**

Germany invited German (commercial banks/KfW), European (EIB) and regional/international (AsDB) financial institutions to follow transparency standards as for instance EITI.

Germany also participates actively in the work of the Norwegian task force on illicit financial flows to prepare concrete steps to protect financial markets from criminal abuse, including bribery and corruption.

Following its commitments in particular of the Heiligendamm summit, Germany is lending both political and financial backing to the Extractive Industries Transparency Initiative and is itself a member of EITI's Board, sharing a seat with France. Germany contributes to the global initiative with payments to the Multi-Donor Trust Fund of the Worldbank (EUR 1 Mio so far) and the EITI international secretariat (EUR 100.000 p.a. for 2007-2009). Responding to local demands, Germany offers advice to the African regional organisation CEMAC, a Public-Private Partnership (PPP) project and bilateral technical support (Ghana, DR Congo) as well as further multilateral contributions.

Beyond that, Germany supports through its bilateral development cooperation its partner countries in implementing reforms aiming at increasing transparency in risk-prone areas such as public procurement or public service delivery, and supports initiatives such as Transparency International, or the Water Integrity Network (WIN). WIN aims at introducing transparency, accountability and integrity into the water sector. Germany is also funding member of the U4 anti-corruption resource centre, which



provides information and trainings on issues related to corruption.

### **[Italy]**

Since 2003, the coordination of the Italian Global Compact Network (G.C.) has been managed by the International Labour Organization (ILO) in the context of the wider project “Sustainable Development through the Global Compact”, financed by the Italian Ministry of Foreign Affairs- Directorate General for Cooperation to Development. The said project introduced the Corporate Social Responsibilities (CSR) strategies embodied by the G.C. (through training and technical assistance) among the small and medium sized enterprises (SMEs) of countries like Albania, Morocco, Tunisia.

The Italian Network worked within the framework mobilizing holistically SME’s around not only the G.C., but also the OECD Guidelines and the ILO Tripartite Declaration.

On September 2006, it was decided the passage of the Technical Secretariat of the Italian G.C. Network (almost 200 members; 70% of which are enterprises) to FONDACA-Foundation for Active Citizenship: this was the result of a refocus of G.C. mainly on Italian enterprises.

As concern grew in the second half of 2008 about the financial and economic downturn, G.C. as a sustainability driver became the priority.

Furthermore, in 2008 Italy has voiced - through the German Presidency of EITI (Extractive Industry Transparency Initiative) Governing Board Subconstituency C which met in Washington last May- the need to strengthen peer reviews within regional organizations (OAU, CEMAC, Arab League, Arab Maghreb Union, etc.) on the institutional upgrading of their member States’ Mining Supervision Authorities, with a specific focus on monitoring financial transparency.

It is also worth mentioning that Italy (which has officially been an EITI Supporting Country since 2007 and whose private mining company ENI is implementing EITI pilot projects in Nigeria, Timor Leste and Kazakhstan) decided in December 2008 to contribute *una*



*tantum* a grant of EUR 83,000 EURO to the EITI Secretariat's activities.

### **[Japan]**

Japan gives priority, in the provision of development assistance, to countries that make active efforts to pursue good governance with a view to promoting transparency and rule of law, as it is clearly stated in its ODA charter. With regard to the budgetary support, Japan conducts various assessments including fiduciary ones before the provision of the financial assistance.

In light of the bribery case of Pacific Consultants International Co. Ltd., the Governments of Japan and Vietnam established the Japan-Vietnam Joint Committee for Preventing Japanese ODA-related Corruption in September 2008. The Committee discussed and agreed concrete and effective new measures to be taken by Japan and by Vietnam respectively, to prevent recurrence of similar cases in February 2009.

Japan extended assistance to partner countries which signed transparency and anticorruption compact with the G8. Japan provided group training courses targeted to computer engineers and specialists participating from Nicaragua and other Latin American countries in 2006 and 2007 in order to promote E-government in their countries which improve the accessibility of information by the public and enhance transparency. Japan has also provided group training courses to assist capacity building of overseas local governments. A Nicaraguan official participated in one of those courses. Regarding Peru, Japan invited a group of Peruvian local public officials, and organized a capacity building program to promote transparency in March 2005. In addition, Japan has provided group training courses on the Criminal Justice Response to Corruption in 2008, and in Latin America i.e. Japan has supported criminal justice system reforms through the provision of training courses.

Japan made contribution of ca. USD 4.4 million to IMF from 2003 to 2008 in order to provide technical assistance to 22 HIPC



eligible countries with a view to improving public financial management.

In February 2009, the Government of Japan made the first formal participation in the EITI meeting in Doha, Qatar and announced to become a supporting country of EITI.

Japan decided to provide US\$625,000 for a program titled “Support to the Extractive Industries Transparency Initiative in Madagascar” within the framework of the Fund for African Private Sector Assistance (FAPA) administered by the African Development Bank (AfDB).

### **[Russia]**

Concept of Administrative Reform in the Russian Federation was approved by a Decree of the RF President in 2005. In February 2008, the Government of the Russian Federation added additional measures to the Concept, which are to be implemented in 2009-2010. The Concept provides for the achievement of certain goals such as modernization of the public sector through improving quality and accessibility of public services; reduction of public intervention in the economic activities of business agents, including reduction of overregulation; and improved efficiency of executive authorities' activities.

There are public authorities in the Russian Federation entrusted with specific tasks in the field of countering corruption.

The Accounts Chamber of the Russian Federation supervises and audits federal budgetary revenues and expenditures, as well as those of public extra budgetary funds; monitors efficiency and expediency of the use of public property; monitors legality and timeliness of federal budgetary fund transfers, as well as those of federal extra budgetary funds with the Central Bank of the Russian Federation, authorized banks and other financial institutions. The Audit Chamber possesses supervisory authority over all public bodies and institutions in Russia, banks, insurance companies and other financial institutions. Moreover, the Chamber exercises its supervisory powers over the activities carried out by non-



governmental organizations, non-public funds and other nongovernmental non-profit-making organizations when they receive funds from the federal budget or use federal property.

The Accounts Chamber of the Russian Federation was established by the Federal Law on the Public Chamber of Russian Federation of 4 April 2005, (No. 32). The Commission on public oversight of the law enforcement bodies, security structures and reform of the legal system was formed under the Public Chamber. The Commission is responsible for prevention and identification of corruption crimes. Furthermore, a special subcommittee on countering corruption was established that comprises experts and deals with analyzing anticorruption activities. The subcommittee also includes State officials.

The Federal Antimonopoly Service oversees the implementation of legislation on State orders on the basis of Federal Law No. 94 of 2006.

#### [U.K.]

The UK is strongly supportive of the World Bank's 2007 Governance and Anti-Corruption Strategy and with the Netherlands is providing £30 million to support the World Bank's Governance and Anti-Corruption Partnership Facility. This is mobilising additional resourcing and expertise at a country level to address governance and anti-corruption issues.

At the 3rd High Level Forum on Aid Effectiveness in Accra, Ghana in September, DFID launched the International Aid Transparency Initiative, a global initiative to help make overseas aid work better in helping poor people. 14 donors promised to make information on aid flows more accessible, making it easier for poor people and their governments to track how aid is spent at local and national levels.

The UK is focusing its bilateral assistance on countries demonstrating commitment to improve performance on transparency, good governance and rule of law through a policy which requires that countries demonstrate a shared commitment to:



- reducing poverty and achieving the Millennium Development Goals;
- respecting human rights and other international obligations; and
- strengthening financial management and accountability, and reducing the risk of funds being misused through weak administration or corruption.

The UK is a strong supporter of the Extractive Industries Transparency Initiative (EITI). DFID has committed over £14 million to EITI and has provided over £8 million of this since November 2002. Increasing transparency and knowledge of revenues from the extractive sectors empowers citizens to hold governments to account, so that mismanagement of funds away from sustainable development purposes becomes more difficult.

Related initiatives in the pharmaceutical and construction sector are now being launched. For example, the Construction Sector Transparency (CoST) Initiative works to combat corruption in Government construction projects. Designed and implemented by national Governments in partnership with business and civil society, this project is being piloted in Tanzania and Zambia.

The Medicines Transparency Alliance (MeTA) launched in May 2008 is bringing together pharmaceutical companies with Government and civil society to increase transparency in the pharmaceutical supply chain. It will do this by increasing the quality of and access to information for policy makers and other stakeholders. Increased transparency and accountability will ultimately drive improvements in access to affordable, high quality medicines. Currently being piloted in 7 countries including Ghana, Uganda and Zambia, MeTA has made strong progress in getting the stakeholders round the table to agree work plans to collect and disclose robust data on the supply of medicines. MeTA will now focus on implementing these work programmes and supporting policy change to increase medicines access. Examples include Jordan and Ghana, which have worked with the UK National Institute for Health and Clinical Excellence to develop transparent and evidence



based approaches to selecting medicines for use by the public sector. The UK, through DFID, is supporting the MeTA pilot with £10.4 million over the course of the 2.5 year pilot, with an in principle commitment to increase this up to £20m over 10 years.

The UK requires a comprehensive fiduciary risk assessment to be carried out before countries can access budgetary support. In January 2008, the UK updated guidance for country offices on assessing fiduciary risk taking account of broad based consultation including with the UK National Audit Office and other donors.

DFID was one of the founding members of the Public Expenditure and Financial Accountability (PEFA) partnership between the World Bank, the International Monetary Fund (IMF), several national aid agencies and the Strategic Partnership with Africa. This group developed the PEFA Strengthened Approach to public financial management which includes a Framework for measuring the performance of public financial management systems based on internationally recognised standards. This tool has been endorsed by the OECD DAC and roll out of the approach has exceeded expectations. As at end of August 2007, some 67 PFM assessments – based entirely on or significantly incorporating the PEFA Framework at both central and sub-national level- had been finalised or completed. The UK continues to be an active Steering Committee member and funder of this important initiative.

The UK has fully implemented the Third EU Money Laundering Directive and worked with the EU Committee on the Prevention of Money Laundering and Terrorist Financing to promote full implementation within the EU. The UK implementation provides more detailed obligations for customer due diligence and has greatly strengthened supervision. They impose explicit requirements for ongoing monitoring of business relationships and for firms to identify not just customers but beneficial owners and managers, who will be subject to a mandatory ‘fit and proper’ test.

During its Presidency of the Financial Action Task Force (FATF) in 2007-8, the UK secured agreement in principle to increase



FATF surveillance of emerging trends and threats, and developed proposals to assist low-capacity countries to implement FATF standards.

**[U.S.]**

As reported in 2008, the United States supports the good governance and anti-corruption programs of the World Bank (WB) and other International Financial Institutions (IFIs). The United States advocates strong attention to governance and transparency in discussions of country assistance strategies and review of proposed projects and programs by the WB and other multilateral development banks (MDBs).

The United States has supported governance as one of the strategic priorities of the African Development Bank (AfDB), and the 2008-2012 AfDB Governance Action Plan aims to strengthen transparency and accountability in public resources management (including natural resources) at the country, sector, and regional levels, including through the support of regional norms and standards of good financial governance. At the Asian Development Bank (ADB), the United States has worked to promote stronger internal controls and procurement rules and procedures. The United States also has pressed for a stronger role in governance by the Inter-American Development Bank (IDB).

The United States actively has supported the mandate to the UNCAC COSP to consider ways to strengthen action against bribery and corruption in international organizations. The first COSP directed establishment of an open-ended dialogue bringing together Member States and interested international organizations to consider these issues. The second COSP recommended the continuation of the dialogue, with a main purpose to exchange best practices and to address the technical issues highlighted to that point, namely cooperation between international organizations and Member States, the exchange of information on on-going investigations, and issues related to jurisdiction. The United States participated in a January 2009 open-ended experts workshop on



## International Cooperation between Public International Organizations and States Parties to the UNCAC.

The U.S. Millennium Challenge Corporation (MCC) - an innovative development assistance program that rewards a commitment to good governance and combating corruption - negotiates and signs Compacts with countries that score above the median of their per capita income group peers on "control of corruption" and several other measures of governance, economic freedom, and investing in people. To provide further incentive for reform and help additional countries qualify for Compacts, MCC provides Threshold assistance to select countries that fall just short of Compact eligibility. Most of MCC's Threshold Country Programs have an anti-corruption component. Additional information on the level of MCC assistance is provided above.

On the issue of fiduciary assessments, when the U.S. provides direct support to government budgets, fiduciary assessments are undertaken.

The United States has supported the Public Expenditure and Financial Accountability (PEFA) Framework, a diagnostic tool that tracks 28 indicators in assessing countries' public financial management and accountability systems. The United States has have pressed for greater quality control over and more widespread availability of PEFA assessment reports.

Regarding disclosure of performance allocation systems, with strong U.S. support, all MDB performance allocation systems are publicly released. In addition, the IMF has increased significantly the amount of information on its programs that it has made available to the public. The United States has stressed the need to build on this progress and expand the number of publications and IMF practices open to public scrutiny. The U.S. Executive Director consistently encourages countries to publish the full Article IV staff report on the IMF's public website, and the percentage of staff reports published has increased in recent years.

The United States is an active supporter of, and participant in, the Extractive Industries Transparency Initiative (EITI). The United



States is a member of the EITI board of directors through the constituency including Canada and Australia. The United States has supported implementation directly through bilateral assistance programs in selected countries. In 2006-2007, the United States provided almost \$2 million to support civil society participation in EITI in Nigeria, Peru and the Democratic Republic of Congo. The U.S. has pledged to contribute nearly \$6 million in Fiscal Year 2008 and Fiscal Year 2009 funds to the World Bank's EITI's multi-donor trust fund facility.

### 3.5 Denial of Safe Haven

#### G8 Commitments

- Redouble efforts to deny safe havens through national laws to public officials found guilty of corruption (Toyako, 2008)
- Deny safe havens through our national laws to individuals found guilty of corruption with high priority and developing additional measures to prevent such individuals from gaining access to the fruit of their criminal activities in our financial system. (Heiligendamm, 2007)
- Deny safe haven to assets illicitly acquired by individuals engaged in high-level corruption. (St. Petersburg, 2006)
- Seek, in accordance with national laws to deny safe haven to public officials guilty of corruption, by denying them entry, when appropriate, and using extradition and mutual legal assistance laws and mechanisms more effectively. (Evian, 2003)

#### [Canada]

Canadian legislation on proceeds of crime denies a person access to the proceeds of their criminal activity by providing for the seizure, restraint and forfeiture of those proceeds or their return to a legitimate owner.

Canada's Mutual Legal Assistance in Criminal Matters Act allows, under the existence of mutual agreements, for the enforcement of foreign seizure, restraint and forfeiture orders of



property that is the proceeds of crime.

Canada's extradition legislation allows for extradition under multilateral agreements (including the United Nations Convention against Corruption, which Canada ratified in 2007) or extradition treaties, which cover fraud. As well, Canada's mutual legal assistance can be provided under multilateral agreements and under bilateral treaties, which also apply to fraud cases.

Canada's Immigration Refugee and Protection Act provides that a foreign national, a permanent resident or a temporary resident may be found to be inadmissible to Canada on the basis of their past criminal activity. A person may also be found to be ineligible to make a refugee claim if they are found to be inadmissible for "serious criminality", which includes fraud.

Canada's Financial Intelligence Unit (FIU), the Financial Transactions Reports Analysis Centre of Canada (FINTRAC), has expanded its network of MOUs with FIUs in other countries.

In 2006, Canada made amendments to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act that facilitate disclosure of information to the Canada Border Services Agency where there are reasonable grounds to suspect the information would be relevant to the investigation or prosecution of a money laundering offence (including an offence of laundering the proceeds of corruption) and FINTRAC has determined that the information would be relevant to determining whether a person should not be admitted to Canada on the grounds of criminal activity (including in certain cases criminality involving corruption).

The 2006 amendments to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act also include requirements for reporting entities to undertake enhanced monitoring of high-risk situations, correspondent banking relationships and transactions by politically exposed persons. Banks, insurance companies, securities dealers and money service businesses are required to take measures to identify and monitor the transactions of foreign nationals and their immediate family who hold prominent public positions. These provisions come into force on June 23, 2008.



### **[France]**

French domestic legislation allows a court, when it sentences a foreign national for bribery of foreign public officials, to impose a further penalty of denial of access to French territory definitively or for a limited duration of ten years at the most.

When a foreigner, convicted of bribery in a foreign country, comes to France, he can be arrested and, if necessary, transferred or extradited to the country concerned if he has been named in a European arrest warrant (Germany, Italy, United Kingdom) or a request for provisional arrest or extradition (Canada, Japan, Russia, United States)".

Chapter IV of the UNCAC defines accurate mechanisms to ensure effective cooperation between judicial authorities, especially in the field of mutual legal assistance

### **[Germany]**

Chapter VI of the UN Convention on Corruption provides effective mechanisms to the state parties to ensure a close cooperation between judicial authorities, especially in the field of cross-border criminal cooperation. This includes extradition and mutual legal assistance as much as new mechanisms as provided for in art. 50. German law includes already corresponding provisions on a national level.

### **[Italy]**

As reported in the 2008 Toyako report, Italian criminal system legislation provides for mutual legal assistance for detecting, freezing and confiscating the proceeds of crimes derived from corruption, as well as property, equipment or other instruments used in, or destined for corruption. The Italian system also foresees international judicial cooperation for repressing bribery offences by means of international instruments in force in Italy. Among these bilateral and multilateral instruments are: the 1959 Convention of the Council of Europe on mutual assistance on criminal matters, the 1990 Convention of the Council of Europe on Laundering, Search,



Seizure and Confiscation of the Proceeds from Crime and the UN Convention against Transnational Organized Crime (Palermo Convention). In cases where the international conventions do not apply, requests for assistance are regulated by relevant sections of the Code of Criminal Procedure. As far as Mutual legal assistance (MLA) is concerned, Italy has concluded bilateral agreements with Argentina, Australia, Austria, Bolivia, Brazil, Canada, Costa Rica, Egypt, El Salvador, Germany, Japan, Lebanon, Morocco, Peru, San Marino, Switzerland, Tunisia, the USA and Venezuela. All of these agreements allow judicial as well as police cooperation in the field of corruption offences.

#### **[Japan]**

If public officials guilty of corruption falls under the provision of art.5 of “Immigration Control and Refugee Recognition Act”, they shall be denied their entry to Japan.

Under the visa application procedure, Japan (Ministry of Foreign Affairs) may refuse to issue visas to those who have been sentenced to imprisonment for certain period one year or more. Furthermore, in case of the public official yet to be sentenced but his/her travel purpose was found to be an escape, Japan may refuse to issue visas, if the public official in question is identified as a corrupt official.

#### **[Russia]**

Russia’s policy is to ensure effective denial of safe heaven to any criminal - especially those guilty of serious crimes, including those involved in corruption activities. Notably, Russian legislation on extradition allows to extradite criminals under multilateral agreements (such as UNCAC) and bilateral treaties. Adequate mutual legal assistance can be provided to foreign states on the basis of corresponding multilateral and bilateral agreements.

#### **[U.K.]**

The UK has UNCAC compliant laws in place to deal with



asset recovery, mutual legal assistance and extradition. The laws have been used to freeze assets worth millions of pounds suspected to have arisen from criminal or corrupt activities. As well as criminal law provisions, the UK also has an established non-conviction based forfeiture regime to assist recovery of ill gotten gains.

The Border and Immigration Agency has been working closely with FCO to keep out of the UK the most corrupt individuals (politicians, civil servants, businessmen and their families), thereby frustrating the activities of the corruption network and sending a powerful signal that such individuals are not welcome in the UK. Kenya is the first country (so far) in which the Home Secretary's personal power to exclude individuals from the UK is being used systematically to target grand scale corruption. The UK has excluded seven Kenyans, including four former Ministers, on the basis of their involvement in corruption. This is in line with our G8 commitment to consider the denial of safe havens to individuals suspected, or found guilty, of corruption.

The legal powers exist, subject to the ordinary rule of law, to assist states who seek mutual legal assistance or extradition<sup>3</sup>. Individuals accused of crimes in other jurisdictions are thus not ensured of a safe haven in the UK.

Since July 2008, the United Kingdom has received 26 incoming requests for mutual legal assistance related to bribery or corruption offences. In addition 4 outgoing requests were made for assistance in the same period.<sup>4</sup>

## [U.S.]

Presidential Proclamation 7750, issued in January 2004, establishes U.S. authority to deny or revoke visas to corrupt officials and those that corrupt them, in the U.S. national interest. The

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<sup>3</sup> The UK is in the process of updating the Extradition Act 2003 to ensure it is fully compliant with the requirements of UNCAC. In the mean time the UK can consider all requests not captured by existing bi-lateral and multi-lateral treaty arrangements by way of S.194 of the Extradition Act 2003.

<sup>4</sup> Figures based on information available to the UK Central Authority and may not capture all outgoing requests for assistance transmitted under the Schengen agreement. The UKCA procured a new database during this period so figures may be subject to errors as a result of the data migration process.



proclamation is itself an application of the authorities under Section 212(f) of the Immigration and Nationality Act of 1952, 8 U.S. Code 1182f. The proclamation establishes that the Secretary of State will have the responsibility for implementing the measure. The procedures established by the Secretary give the Bureau for International Narcotics and Law Enforcement Affairs the mandate to administer the process. The 2006 "National Strategy to Internationalize Efforts to Combat Kleptocracy" reiterated U.S. policy of promoting denial of safe haven to corrupt officials, those who corrupt them, and the proceeds of their corruption. The United States considers denial of safe haven to be both an immigration and a foreign policy concern, and with other G-8 partners continues to promote the adoption of the principle in other multilateral fora.

Since the issuance of Presidential Proclamation 7750, the U.S. has denied or revoked visas to a large number of corrupt actors, including numerous cases since the issuance of the 2008 Toyako report. The United States will continue vigorously to apply this authority, including through increased scrutiny of those involved in corruption in the extraction of natural resources.

The United States has many bilateral mutual legal assistance and extradition treaties with foreign counterparts. Moreover, international legal cooperation with the United States on corruption-related cases, both as requesting and requested party, has increasingly drawn upon the provisions of the UN Convention Against Transnational Organized Crime, the OECD Anti-Bribery Convention, and the UNCAC. The United States also has pursued, with G-8 and other partners, informal international legal cooperation arrangements to further operationalize the principle of no safe haven.

In December 2008, U.S. government agencies involved in policy implementation on combating kleptocracy organized a conference with the large number of U.S. and international non-governmental organizations working on kleptocracy and other forms of corruption in order to exchange views and information and foster collaboration on fighting high-level corruption.



The United States is an active Participant in the Kimberley Process, the 75-country international system designed to combat the trade in conflict diamonds. In addition to the funding of several technical assistance projects that help to combat corruption in the diamond sector through improved land tenure systems, geologic assessments of diamond production capacity, and databases designed to maintain local production/export data, the United States has taken the Chair of the Working Group on Statistics. By leading the effort to compile and analyze detailed statistics on the rough diamond trade, U.S. officials are able to focus specific attention on countries and trading routes of potential concern, where corrupt activities may be influencing the trade.

### 3.6 Money Laundering

#### G8 Commitments

- Strengthen our cooperation, including experience-sharing, to fight against transnational organized crime, including trafficking in persons, smuggling of migrants, illicit manufacturing of and trafficking in firearms, illicit traffic in narcotic drugs and psychotropic substances, cybercrime and money laundering (Toyako, 2008)
- Fight vigorously against money laundering, including by prosecuting money laundering offences and by implementing the revised recommendations of the FATF-related customer due diligence, transparency of legal persons and arrangements (St. Petersburg, 2006)
- Implement the FATF revised 40 recommendations. (Sea Island, 2004)
- Require that our own financial institutions establish procedures and controls to conduct enhanced due diligence on accounts of "politically exposed persons" (Evian 2003)

#### [Canada]

To bring its regime up to current international (FATF)



standards, Canada continued to make significant changes to its anti-money laundering and anti-terrorist regime. Measures that came fully in force in 2008 include: an explicit prohibition on opening accounts for unidentified customers; application to foreign branches or subsidiaries; non-face-to-face "customer due diligence" measures; use of an agent or mandatory for customer identification (clarifying provision); beneficial owner requirements; enhancing "customer due diligence" and record keeping; politically exposed persons (PEPs) requirements for financial institutions; special attention to complex and unusual transactions (i.e. risk assessment); reporting suspicious attempted transactions; special attention to business from countries of risk (i.e. risk assessment); money service business (MSB) registration; wire transfers travel rule; enhancing measures for casinos, accountants, and real estate; inclusion of lawyers, notaries, and jewelers; and administrative monetary penalties provisions. In addition, in February 2009 the measures came fully into force for one additional "business / profession at risk": real estate developers.

The following is an abridged list of the recent changes to the Canadian regime:

#### Client Due Diligence and Reporting Requirements

- Identify clients whenever a suspicious transaction is conducted.
- Ascertain again the identity of the client where there are doubts about previously obtained client information.
- Expand customer due diligence requirements for accountants and realtors.
- Expand client identification measures for transactions in the non-face-to-face environment.
- Obtain information on beneficial owners.
- Include meaningful information on the originator in the case of electronic funds transfers (EFT) of \$1,000 or more; and
- Require customer due diligence requirements in foreign branches and subsidiaries of Canadian financial institutions in non-FATF countries.



### Risk-Based Customer Due Diligence

- Risk assessments of businesses and clients are a new element of the compliance program.
- Transaction monitoring and keeping client information up-to-date is to be done using a risk-based approach.
- Enhanced customer due diligence must be undertaken for clients that are politically exposed foreign persons and for correspondent banking relationships.

### Prohibitions

- Entering into correspondent banking relationships with shell banks.
- Opening accounts where the identity of the client cannot be established.
- Enforcement Measures

An administrative monetary penalties scheme will allow Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) to levy penalties proportionate to instances of non-compliance with the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

### Information Sharing

- The list of information that the FINTRAC can disclose has been expanded and additional domestic agencies can receive disclosures.
- Enhanced information sharing capabilities on charities between FINTRAC, the Canada Revenue Agency and law enforcement.
- Improved international information sharing on compliance issues and cross-border currency reporting.

### **[France]**

Member States of the European Union harmonized the implementation of the 40 + 9 recommendations [in their June 2003 version] and, to do so, adopted the Directive 2005/60/EC of the European parliament and of the council of 26 October 2005, on the “prevention of the use of the financial system for the purpose of



money laundering and terrorist financing”. France transposed this directive through a national legal instrument on 30 of January 2009 (“ordonnance” n° 2009-104) which strengthened our national system with regards to the 40 + 9 FATF requirements. This text strongly enhanced due diligence measures for PEPs. Even if this regulation is quite new, nearly 20% of the Insurance Companies used to have enhanced due diligence for the PEPs. Concerning the transparency of legal persons and arrangements, France benefit from a central registration system of legal persons which is mandatory, updated and made public, so that those structures are transparent and cannot be used for money laundering or financing of terrorism. Non-profit organizations are also fully registered.

The Interministerial platform for the Identification of Illicit Obtained Assets (PIAC), created in September 2005 with the aim of identify assets that may be seized or confiscated, strengthened our national system with regards to the 40 + 9 FATF requirements and the fight against corruption. This platform is now operational as the numbers of asset seized shows: they have raised by 54% between 2007 and 2008. In 2008, more than EUR 93.000.000 were frozen, seized or forfeited.

The French Ministry of Foreign and European Affairs has developed a multiyear financial instrument: the priority Solidarity Fund dedicated to the fight against money laundering and financing of terrorism and capacity building for FSRBs; this Fund has three focuses:

- Raising the awareness of those subjects to international recommendations against money laundering and the financing of terrorism (banks, insurers, real estate agents, lawyers, etc.) and a strengthening of control bodies.
- Structuring financial intelligence units (FIUs) handling declarations of suspicion by those covered by the recommendations; enhancement of the professional skills and specialization of actors in the criminal law chain (judiciary and police).



- Reinforcement of the capacities of regional bodies of FATF type (e.g. GIABA).

In 2008, that priority Solidarity Fund disbursed EUR 580,000.

Finally, France decided to contribute to the IMF trust Fund dedicated to the AML/CFT direct Technical Assistance, mainly in favor of the African, Middle Eastern and Asian countries.

### **[Germany]**

Taking firm action against money laundering is a priority of German internal security policy. The applicable law to prevent and prosecute money laundering offences based on international standards of fighting money laundering has been successful. The Act Supplementing the Act to Fight Money Laundering and Terrorist Financing (Geldwäschebekämpfungsergänzungsgesetz) which entered into force on 21 August 2008 implements the Third EC Money Laundering Directive (Directive 2005/60/EC) and its implementing directive (Directive 2006/70/EC). Implementing these Directives brings the current national provisions to prevent and prosecute money laundering activities into line with to the updated recommendations of the Financial Action Task Force (FATF). In line with the G8 Commitments, German legislation on fighting money laundering ensures the effective prosecution of money laundering and predicate offences, provides for client-oriented due diligence obligations based on the risk of each individual case, classifies business relations with politically exposed persons as cases of stricter due diligence obligations requiring a greater degree of inspection and monitoring, and creates transparency through strict requirements regarding the identification of customers and beneficial owners and thus prevents laundered money from being introduced undetected into the legitimate financial system.

### **[Italy]**

In line with the evolution of the international rules and practices, the Legislative Decree n. 231 of 2007 has transposed into



the Italian legal system the Directive 2005/60/EC, which aims to give new impetus to the prevention and combating of money laundering and terrorist financing. The Decree requires entities to: (i) establish appropriate risk-based procedures to determine whether the customer is a politically exposed person; (ii) obtain senior management approval for establishing business relationships with such customers; (iii) take adequate measures to establish the source of wealth and funds involved in the business relationship or transaction; and (iv) conduct enhanced ongoing monitoring of the business relationship. The Decree directly prohibits financial institutions from opening or continuing a correspondent banking relationship with a shell bank or with a bank known for permitting its accounts to be used by a shell bank. The Decree also prohibits financial institutions from establishing and maintaining relationships with shell banks or resident foreign financial institutions that permit their accounts to be used by shell banks.

The Decree includes provisions for criminal and administrative sanctions for breaches of the AML/CTF obligations stipulated in the Decree for all designated entities. Criminal sanctions range from fines to imprisonment, as specified in Articles 55-59 of the Decree. Administrative sanctions are also applicable and they range from fines to other measures such as deletion from the register. Whereas previously only responsible staff were sanctioned, the Decree makes criminal sanctions available for both natural and legal persons.

Since January 2008, Italy has established a new financial intelligence unit within the Bank of Italy, providing it with functional autonomy, in accordance with the requirements established at international and EU Level. This unit, known as the *Unità di Informazione Finanziaria* (UIF) has replaced the former Italian Exchange Office (*Ufficio Italiano dei Cambi*) as the responsible body for performing anti-money laundering tasks. The UIF gathers and analyses suspicious transaction reports (STRs) and subsequently informs both the Anti-Mafia Investigation Department (responsible for investigating suspicions of money laundering in connection with



mafia operations) and the special foreign exchange of the financial Police (the so-called NSPV unit within the *Guardia di Finanza*). Legislative Decree 231/2007 has also provided channels for enhancing cooperation and information exchange between law enforcement bodies and the UIF. The UIF is staffed by approximately 94 persons (45 of whom are financial analysts). The internal structure of the UIF is laid out in the Regulation of 21 December 2007, issued by the Bank of Italy.

Since the enactment of the first AML legislation in 1991, approximately 27,800 administrative proceedings have been settled (an average of 1,544 per year), for a total of approximately EUR 98 million (an average of EUR 5.4 million per year).

### **[Japan]**

In Japan, measures against money laundering including the prosecution of offences and the implementation of the revised recommendations of the FATF has been rigorously taken and strengthened. In April 2007, “The Act on Prevention of Transfer of Criminal Proceeds” was enforced and the FIU function was transferred from the Financial Services Agency to the National Public Safety Commission/National Police Agency. This enabled further integration of criminal information relating money laundering including corruption cases and to take further comprehensive measures against money laundering and terrorist financing. The law also expanded the scope of business operators that are obligated to conduct customer due diligence, keep record and undertake suspicious transactions report as well as the financial institutions.

As of Customer due diligence, the Act on Prevention of Transfer of Criminal Proceeds prescribes that business operator shall, in conducting a transaction specified in the Act (conclusion of deposit/savings contracts, large cash transactions exceeding 2,000,000 yen, cash remittance exceeding 100,000 yen ,etc.) with customer, verify identification data (which means the name, domicile and date of birth when the said customer is a natural



person, and the name and location of the head office or main office when the said customer is a legal person) with regard to the said customer by having the said customer show his/her driver's license or by any other method. The number of Suspicious Transaction Reports has increased year by year and was over 230,000 in 2008.

Japan prosecuted 225 cases for money laundering offences and confiscated (including the collection) a total of 889,126,000 yen as criminal proceeds under the Law for Punishment of Organized Crimes, Control of Crime Proceeds and Other Matters, and prosecuted 15 cases for such offences and confiscated a total of 2,424,045,000 yen under the Anti-Drug Special Provisions Law in 2007.

The Financial Service Agency, supervisory administration on financial institutions, releases and distributes the Comprehensive Supervisory Guidelines to Major Banks and to the Small and Medium-Sized/Regional Financial Institutions which set forth the supervisory key points for the due diligences of "politically exposed persons". Based on these, FSA supervises whether financial institutions have established and are maintaining appropriate internal control environments to perform the customer identification and suspicious transaction reporting obliged by the Act on Prevention of Transfer of Criminal Proceeds.

### **[Russia]**

Russia has a well-developed national legislation and highly competent authorities to ensure consistent and efficient countering of money laundering and related crimes, including those of corruption nature.

Among the basic documents in this field are the following: Federal Law of 7 August 2001 on Combating Laundering of Proceeds of Crime and Financing of Terrorism (with amendments introduced in 2002, 2004, 2005 and 2007; the amendments introduced in November 2007 take into account important provisions of the United Nations Convention against Corruption and the CoE Criminal Law Convention on Corruption); presidential



decree of 1 November 2001 establishing a specialized federal executive body, now called Federal Financial Monitoring Service (Rosfinmonitoring) (Russian Financial Intelligence Group), which is duly authorized for combating money laundering and financing of terrorism and for coordinating activities of other federal executive structures in this sphere.

Russian legislation and practice in the field of countering money laundering are entirely in line with the FATF recommendations. Russia became full member of FATF in 2003.

In July 2008, FATF experts completed the third round of assessment of compliance of the Russian system of countering legalization of crime proceeds and financing of terrorism with international standards. The Russian system received quite a high rating, and at the same time FATF experts issued a number of recommendations aimed at improving the current legislation and law enforcement practices in countering money laundering that are now jointly implemented by Rosfinmonitoring and the Russian stakeholder institutions in the described below way.

To implement the recommendations Russia adopted the Plan of Actions aimed at improving its system of countering legalization (laundering) of crime proceeds and financing of terrorism taking into account the recommendations contained in the FATF report on the Russian Federation.

Within this Plan the preparation is underway for the June 2009 inter-agency discussion on enhancing efficiency of measures taken in countering legalization of crime proceeds and financing of terrorism.

The law-making activities to implement the Plan mainly include introducing amendments and additions into Federal Law No 115-FZ of 7 August 2001 "On Countering Legalization (Laundering) of Proceeds of Crime and Financing of Terrorism" (hereinafter Federal Law No 115-FZ) in order to:

- specify the basic terms, such as "client", "beneficiary", "identification", "internal control body";
- authorize Rosfinmonitoring to apply to the relevant



licensing (supervisory) body for revoking (annulling) the license in case of repeated violation of Federal Law No 115-FZ;

- specify the requirements of Federal Law No 275-FZ of 28 November 2007 "On Amending Articles 5 and 7 of the Federal Law "On Countering Legalization (Laundering) of Proceeds of Crime and Financing of Terrorism" concerning measures taken with respect to foreign public officials and their relatives and as regards providing money transfers with information about the payer.

Moreover, the following Federal Laws are currently being drafted:

- on amendments to Articles 858 and 859 of the Civil Code of the Russian Federation regarding the introduction of additional prohibitions for credit institutions to refuse to conclude a bank account (deposit) agreement with a client, permitted cases of refusal by institutions involved in cash or other property transactions to implement an order of a client, as well as a unilateral exemption of credit institutions from civil liability in the above cases;
- on amendments to Article 104.1 of the Criminal Code of the Russian Federation (regarding regulatory support of additional criminal actions (e.g. confiscation of property) by courts to combat economic offences related to the legalization (laundering) of unlawfully obtained funds or other property);
- on amendments to Article 15.27 of the Code of Administrative Offences of the Russian Federation regarding the introduction of an additional sanction such as "warning".

Rosfinmonitoring has concluded 44 agreements on interaction in countering the legalization (laundering) of proceeds of crime as a way to enhance bilateral cooperation.

In 2008, the units of internal affairs agencies for combating



economic crime detected 5,370 offences related to the legalization (laundering) of proceeds of crime, with 1,429 of them being committed in large and very large scale and 257 - by an organized criminal group or a criminal association.

A total of 3,880 criminal cases were sent to courts, 874 persons were prosecuted. The material damage of completed criminal cases amounted to 222.3 million rubles and compensation of 537.5 million rubles was ensured.

Russia seeks to actively promote the implementation of the international Anti-Money Laundering/Combating the Financing of Terrorism Standards: on the Russian initiative the Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG) - a FATF-style Eurasian group on countering legalization of proceeds of crime and terrorist financing and observer to FATF (unites Belarus, China, Kazakhstan, Kyrgyzstan, Russia, Uzbekistan and Tajikistan) - was established on 6 October 2004 and since then is very active in facilitating cooperation between members. 16 States and 12 international organizations are observers to the EAG.

#### [U.K.]

The UK has met all these commitments. Legislation to tackle money laundering is in place and used wherever possible to prosecute such offences.

The UK has established a framework to identify and investigate allegations of money laundering by corrupt PEPs and their associates. DFID (part) funded a dedicated unit (Proceeds of Corruption) within the Metropolitan Police Service to investigate allegations of money laundering by corrupt PEPs and to date has had some notable successes in identifying and securing criminal assets from corrupt PEPs. Since the creation of the MPS team in November 2007 our results are:

- Cash seized £2,949,403
- Cash forfeited £1,128,000
- Assets under restraint £77,800,000
- Amount repatriated £1,330,426



In addition we have:

- Assisted in civil recovery cases valued at £19,400,000
- Dealt with a related case where we obtained a confiscation order for £1,540,000 having already recovered £596,891 in the same case.

The UK implemented the Third Money Laundering Directive in December 2007. That gives effect to all of the FATF 40+9 Recommendations, and imposes specific enhanced requirements on regulated firms in respect of PEPs.

The UK was subject to a FATF (Financial Action Task Force) mutual evaluation of our money laundering regime in 2006/7, and that report was published last year, and received an excellent assessment, for example with more fully compliant ratings than any other country at the time (24 out of 49). And to the extent that there were issues to address many were dealt with by the subsequent adoption of the Money Laundering Regulations 2007.

#### [U.S.]

As reported in the 2008 Toyako report, the United States has consistently worked to comply with the Financial Action Task Force's (FATF) 40 Recommendations for combating money laundering and terrorist financing and 9 Special Recommendations on terrorist financing. The United States most recently underwent a thorough assessment conducted by the FATF to assess its compliance in June 2006.

The United States remains committed to further improving its anti-money laundering/counterterrorist financing regime and reducing the vulnerability to criminal abuse of U.S. depository institutions, money services businesses, broker-dealers in securities, mutual funds, futures commission merchants, introducing brokers in commodities, dealers in precious metals, precious stones, and jewels, insurance companies, casinos, and other financial services providers. In particular, among many other initiatives, the Financial Crimes Enforcement Network (FinCEN), the administrator of the Bank Secrecy Act (BSA) and the U.S. financial intelligence unit (FIU),



put new emphasis in 2008 on providing guidance, administrative rulings, and other feedback to regulated industries to further clarify BSA requirements and application, as well as to improve the quality of suspicious activity and currency transaction reporting. Also, in conjunction with federal and state partners, FinCEN published a manual designed to ensure consistency in the application of BSA requirements to money services businesses, by supervisors and financial institutions alike, to better protect these financial institutions and the financial system itself from criminal abuse. FinCEN continues to examine both the practical impact of existing regulatory requirements as well as areas where additional action may be required – including identification of the practical aspects of, and challenges relating to, maintenance of beneficial ownership information.

In its latest review, FATF determined that the U.S. is largely compliant with FATF Recommendation 6 regarding customer due diligence requirements with regard to politically exposed persons. Per a regulation issued pursuant to section 312 of the USA PATRIOT Act, the U.S. requires relevant financial institutions to develop, implement, and maintain due diligence programs reasonably designed to detect and report any known or suspected money laundering or suspicious activity conducted through or involving any private banking account established or maintained for a non-U.S. person. In connection with private banking accounts maintained for senior foreign political figures, the U.S. requires that a financial institution's due diligence include enhanced scrutiny that is reasonably designed to detect and report transactions that may involve the proceeds of foreign corruption.

Protecting the integrity of financial markets is essential to the global economy. The United States works within FATF, the nine FATF-style regional bodies as well as bilaterally and with G-8 and other multilateral partners to support global observance of FATF 40 Plus 9 Recommendations. Additionally, the United States has engaged in private sector outreach to the Middle East/North Africa region and Latin America to raise awareness and address



implementation of the FATF 40 Plus 9 Recommendations. Finally, along with other G-8 members, the United States participates in promoting global financial transparency and the exchange of investigative information for law enforcement through its participation in the Egmont Group, which facilitates anti-money laundering/counter-terrorist financing cooperation among FIUs.

During calendar year 2008, depository institutions filed over 730,000 Suspicious Activity Reports with FinCEN, and other financial institutions filed just under 560,000 reports.

The United States aggressively investigates and prosecutes money laundering offenses, securing more than 900 convictions in 2007.

### 3.7 Trade Agreements

#### G8 Commitments

- Work towards including in our regional and bilateral trade agreements provisions promoting transparency in procurement and concessions (St. Petersburg, 2006)
- Work towards including in our regional and bilateral trade agreements provisions promoting transparency in procurement and awarding of concessions, and ensure that transparency also constitutes a core element of a WTO trade facilitation agreement (Evian, 2003)

#### [Canada]

Canada is a strong advocate in transparency in government procurement, and has negotiated extended transparency commitments in its agreements with Chile and Colombia that go beyond the normal transparency requirements in a government procurement chapter. Transparency obligations are a key feature of all of Canada's bilateral and regional trade agreements that include government procurement commitments. Canada promotes transparency in all the WTO fora that address government procurement. Canada continues to participate actively in the Doha



Round trade facilitation negotiations and is supportive of proposals to enhance the transparency of trade regulations in that context.

### **[France]**

Regional and bilateral trade agreements do not fall under French competence. Still, France support the Commission efforts to insert transparency provisions in free trade agreements and, at the same time support African countries' and regional economic communities efforts to improve governance by supplying them with technical assistance on trade and customs.

### **[Germany]**

Bilateral and regional trade agreements do not fall under German competence. However, Germany has been advocating the inclusion of rules promoting transparency in procurement and concessions in regional or bilateral trade agreements negotiated on an international level. The EU member states have included provisions on transparency of government procurement in the mandates of the Commission who is currently negotiating several free trade agreements.

### **[Italy]**

Trade is a subject matter falling within the exclusive competence of the EU. In trade policy at European level, the European Commission is continuing its efforts to insert transparency provisions in free trade agreements.

The EU is negotiating several bilateral free trade agreements with different countries and regions (e.g. South Korea, India, ASEAN countries). In order to achieve greater trade liberalisation (and to complement it), a specific chapter on transparency is inserted in the draft texts. This should apply to all measures of general application that affect trade, in particular domestic regulatory measures.

The chapter on transparency usually includes some general principles (e.g. on consistent, impartial, and reasonable administration, non-discrimination, regulatory quality and



performance, good administrative practices) and requirements on the publication of procedures, establishment of enquiry and contact points, and remedies against bad administrative action. Any proceeding should be easily accessible, time-bound, results-oriented, and transparent.

Another chapter which is usually proposed in such agreements deals with public procurement to which the rules on transparency are also applied: in an annex on public procurement there are provisions prescribing transparency for the publication of tenders.

However, since negotiations on these draft texts and trade negotiations are still in progress, these provisions are not yet in force.

The WTO negotiations on Trade Facilitation (simplification of import and export procedures) are an integral part of the “Doha Development Agenda”. These negotiations are making steady progress and in a consensual manner. Work has begun on drafting a legal text of what will ultimately be a new WTO Agreement on Trade Facilitation.

The draft text of the Agreement is in the form of a compilation of members' proposals. In line with the mandate, the text is organized into five areas or chapters, the first dealing with issues related to transparency and legal certainty that arise in connection to expanding GATT Article X on Publication and Administration of Trade Regulations.

This chapter is the most advanced in the compilation. Provisions on the publication of regulations, consultations with businesses and enquiry points are meant to address the issue of transparency. Articles proposing rules on the right of appeal should address the concern of lack of legal certainty. The outstanding issues are access to appeal mechanisms in customs unions and federal states, and the details of publication (language, hard copy or internet etc.) and import alerts.

### **[Japan]**

Japan has concluded Economic Partnership Agreements (EPAs)



that include a chapter on Government Procurement to ensure and enhance transparency in procurement and concessions. For instance, EPAs with Singapore, Mexico and Chile include provisions on detailed and mutually applicable procurement procedures related to national treatment, information disclosure and prohibition of offset, etc., and EPAs with Thailand, Indonesia, Brunei and the Philippines include provisions on government procurement. The provisions on government procurement are also included in EPAs with Switzerland and Vietnam, which Japan has signed recently. Japan will continue its effort to include provisions in our regional and bilateral agreements which promote transparency in procurement and concessions.

Japan has actively led the discussion over transparency in the WTO Negotiating Group on Trade Facilitation by submitting, in collaboration with other WTO members, three proposals; proposals on publication and availability of information, on prior publication and consultation, and on appeal procedures, in order to ensure that the transparency also constitute a core element of a WTO trade facilitation agreement.

#### **[Russia]**

NR

#### **[U.K.]**

The UK Government continues to work with the European Commission, EU Member States and other WTO members towards an ambitious and pro-development outcome to the Doha Development Round within the World Trade Organisation (WTO). The UK fully supports the case for a multilateral agreement on Trade Facilitation, including robust transparency provisions, as part of those negotiations.

A rules based approach for trade facilitation would reduce scope for illegal trafficking, corruption and fraud. Trade facilitation rules in the WTO would ensure that improvements in customs procedures are locked into place and irreversible.



Technical Assistance and Capacity Building is a key element - if the full benefits of the agreement are to be realised it must deliver operational support in its implementation by Developing Countries. The UK is committed to practically supporting Developing Countries during the negotiations:-

- UK provided £200,000 to the WTO needs assessment project to enable developing countries themselves to assess what has to be done to implement the draft trade facilitation agreement and what further support is necessary; and.
- UK contributed £375,000 through WTO to enable participation of capital based delegates from African and least developed countries in meetings of the Trade Facilitation Negotiating Group during summer 2008.

#### [U.S.]

The United States has not concluded any new agreements since the 2008 Toyako report, where it reported that the United States has included transparency and anticorruption language in all of its free trade agreements (FTAs) that have been signed since July 2004 (i.e., FTAs with 12 countries).

Under these FTAs, each party assumes an obligation to make it a criminal offense to offer or accept a bribe in exchange for favorable government action in matters affecting international trade or investment. Additionally, all of these FTAs include Government Procurement Chapters, which set out detailed requirements aimed at ensuring the transparency, predictability, and fairness of the procurements covered by those agreements.

As reported in 2008, the United States has sponsored proposals on transparency in World Trade Organization (WTO) negotiations on trade facilitation, including proposals on advance rulings and on internet publication of documentation and import and export procedures. The United States supports transparency-related proposals on publication of laws, regulations, requirements and decisions, prior consultation on rules, and establishment of inquiry

points.

### 3.8 Africa

#### G8 Commitments

- Support for good governance, including promotion of anti-corruption measures, through the African Peer Review Mechanism (Toyako, 2008)
- Support African countries' efforts to make their governments more transparent, capable and responsive to the will of their people; improve governance at the regional level and across the continent; and strengthen the African institutions that are essential to this. (Gleneagles, 2005)

#### [Canada]

Canadian engagement in Africa is centred on promoting freedom, democracy, human rights and the rule of law. We partner with the AU, regional institutions and individual countries with the aim of improving transparency and good governance.

Within the context of the African Union, Canada strongly supports the Africa Peer Review Mechanism (APRM) and the New Partnership for African Development (NEPAD) as African-led initiatives for the development of good governance structures. Canada has contributed CAD\$5 million (2007-2009) to the APRM. At the Pan-African level, Canada also contributes to strengthening African parliaments through a budget oversight and accountability project of CAD \$14 million (2009-2014) aimed at increasing parliamentary oversight capacity and accountability and creating a more transparent national budget process in select African parliaments. The project provides support, inter alia, to the African Parliamentarians' Network against Corruption (APNAC) for training parliamentarians and civil society on anti-corruption measures.

At the regional level, Canada is contributing over CAD \$600,000



(2008-2010) to the Capacity Building Programme Against Terrorism (ICPAT) of the Intergovernment Authority on Development's (IGAD). This project provides beneficiary states in the IGAD region (Djibouti, Eritrea, Ethiopia) support to further develop their counter-terrorism architectures and to implement required new counter-terrorism measures and standards.

At the country level, Canada is also a strong contributor. For example:

In South Africa, Canada is contributing over CAD \$3 million (2008-2013) to public sector anti-corruption training.

Canada funded the Good Governance Program (GGP) in countries such as Namibia, Malawi, Mali and Uganda. The GGP is implemented by the Institute of Public Administration in Toronto, Canada and focuses on strengthening institutions and public services in developing countries through the provision of technical assistance utilizing senior public servants.

In Ethiopia, Canada is contributing CAD \$15.5 million (2008-2011) to the multi-donor Democratic Institutions Program, which includes support to the Federal Ethics and Anti-corruption Commission. Activities include, building public awareness of ethics and anti-corruption and training public servants in ethics and anti-corruption.

In Tanzania, Canada is contributing CAD \$20 million (2008-2012) to the Public Sector Reform Program that seeks to improve the quality, timeliness and efficiency in the delivery of public programs and services. The program will result in an improvement in the delivery of quality, timely, accessible public services and a more competent, ethical, accountable and efficient public service.

In Sudan, Canada has committed CAD \$3 million to the Forum of Federations. This national and local level initiative provides the Sudanese with training and public awareness about the role of federalism and sustainable peace.

In Mali, Canada is contributing CAD \$4 million (2008-2011) to the Office of the Auditor General to strengthen its institutional development in the short term by implementing modern audit



standards, procedures, and techniques, as well as communication tools for its audit work, and an appropriate planning and internal management process.

The Canadian International Development Agency (CIDA) is the lead donor agency working with the Utstein Anti-corruption Resource Centre (U4RC) to provide anti-corruption training in the education sector in West-Central Africa scheduled for Fall 2009. CIDA has also financed the U4RC's in-country anti-corruption training in Zambia in June 2009.

### **[France]**

For many years France has been resolutely committed with its African partners to a policy of better governance. In implementing its co-operation programmes, the fight against corruption is one of the goals of France's strategy for governance. The direct link between the development of corruption and the ineffectual role of the State make the transparency of the economy and public procedures and responsibility the keystones of the fight against this phenomenon. France's operational initiatives are directed towards the gradual construction of a code of practice in areas related to the exercise of the State's missions (public funds, police and justice, health, education, civil status, international trade). Those issues are part of a wider problem of transparency in the management of public finance, which is a core focus of projects for the support of economic and financial government agencies and departments in many French-speaking countries in sub-Saharan Africa. These projects are based on programmes for reform implemented by the relevant government agencies.

France develops very specific actions regarding anti-corruption capacity building and technical assistance:

France develops capacity building within the justice ministries and financial administrations of 26 African countries, through technical assistance programs (96 experts on the field in may 2009 - based at Justice Ministries, customs and tax offices, Treasury departments, statistics) and specific multiyear projects (21 active, all



integrated to the public reform underway), designed to enhance judicial accountability, transparency and effectiveness in budgetary procedures.

In 26 African countries, French co-operation finances civil society capacity building to help NGOs play an active and convincing role in public debate (notably allocation of public funds).

Activities in partnership with the NGO Transparency International have also been funded in Africa, supporting ALACS (advocacy and legal advice centres - 70 000 €)

France supports government accounting offices, providing technical expertise (short & longer term missions).

The French co-operation implements a multiyear project in the field of anti-money-laundering. This project (2M€) started in 2005 and comprises 3 components which emphasize 3 main issues of AML:

- support of institutions in charge of surveillance and enquiry (financial intelligence units), including the implementation of a common software
- improve the level of information about the legal environment for bankers and financial institutions
- strengthen the capacities of justice and enquiry services in charge of dealing with the suspicious information.

The project has been implemented by the Ministry of Foreign and European Affairs in Tunisia, Senegal, Gabon, Mauritania and Jordan.

France is also elaborating a 2 M€ fight against corruption regional project.

The total amount of the French governance co-operation in 2009 is 60 000 000 € (projects + technical assistance).

France is also committed to promoting EITI (cf. above "Transparency"), notably in connection with the Franco-British Action Plan Against Organized Crime in Africa, adopted in November 2004.

The principal cooperation instruments developed above are essentially directed at Africa.



## **[Germany]**

Germany has been a supporter of the African Peer Review Mechanism process from the outset, while also completely respecting African ownership of the unique process. Germany will provide support of 4 million Euros for the APRM process over the next two years through technical assistance and a contribution to the APRM trust fund. Additionally, Germany will give special attention to countries that, following a Peer Review, implement sound policies consistent with the recommendations of the Peer Review and support those countries in implementing their National Plans of Action. In support of regional integration, Germany has initiated a Capacity Development Initiative in support of RECs in close cooperation with the AfDB. In the first phase, this initiative will be aimed at increasing capacities for the development and implementation of infrastructure projects in cooperation with the Infrastructure Project Preparation Facility. Germany will provide 4 million Euro in support of this initiative. At the meeting of G8 Finance Ministers in Potsdam in May 2007, an Action Plan on Good Financial Governance in Africa was endorsed, aimed at supporting transparency and accountability in public financial management. The Action Plan was presented to the African Finance Ministers at their Conference on Financing for Development in Accra, Ghana, also in May 2007. In December 2007 Germany, Japan and African partners discussed further steps in the implementation process in Addis Abeba. In the years 2008-2010 Germany will provide 9 million Euros in technical assistance to implement the Action Plan.

Germany provides advisory services through its bilateral development cooperation to the African Union on issues related to the implementation of the African Union Convention on Preventing and Combating Corruption (AUCPCC), and on UNCAC implementation, as mentioned above. For instance, Germany supports currently an UNCAC compliance review in Kenya, and has helped the Kenyan Anti-Corruption Commission (KACC) in implementing a whistleblower-system. Further, Germany supports a variety of African countries through bilateral technical and



financial assistance in the area of good governance in different sectors and areas.

### **[Italy]**

The Directorate General for Sub-Saharan Africa (DGAS) of the Ministry of Foreign Affairs manages chapter 4351 of its budget through which funds are allocated under Law 180/92 on the participation of Italy in peace and humanitarian initiatives at international level. Actions undertaken in 2008 include those in favor of "good governance" and "rule of law" to encourage fair and proper administration, law enforcement, respect for human rights, and the fight against corruption in the African continent. Italy fully recognizes the principles of "ownership" and effective "partnership", i.e. that choices be truly shared with the African countries involved in the process. Italy's contribution is fully in line with the Euro-African Joint Action Strategy, launched in Lisbon in December 2007. The strategy aims to promote the development of the African continent through close collaboration to identify strategies to promote the best use of resources to achieve a sustainable development. In this context, the Italian contribution to the process has been as follows:

- Extractive Industry Transparency Initiative (EITI) - EUR 85,000

International organization established in Norway, engaged for years in promoting transparency in the government accounts of those countries that manage resources arising from activities in the mining sector, which is often considered an area lacking in transparency, or in which illegal actions can destabilize particularly sensitive areas of the continent.

- UNDP Guinea - Embassy Dakar - EUR100,000  
Italian contribution to electoral expenses for the upcoming legislative elections in Guinea Bissau.
- UNECA - Addis Ababa - EUR 100,000  
Italian contribution to the UNECA's support to the African



Peer Review Mechanism (APRM).

- Electoral African Union (AU) - Addis Ababa - EUR 200,000  
Italian contribution to the strengthening of institutional capabilities in assisting countries in the African continent's electoral and democratic processes.
- ECOWAS - Abuja - EUR 100,000  
Italian contribution to initiatives aimed at consolidating the peace and security processes and supporting the electoral and democratic processes in the Region.

### **[Japan]**

Japan has been supporting APRM (African Peer Review Mechanism) as a good example of African ownership and conducting training programmes for capacity building in such fields as legislature, public finance and judiciary.

The TICAD IV Yokohama Action Plan, issued in 30th May 2008, states that actions to be taken on promotion of good governance in the next 5 years under the TICAD process will be:

- support the implementation of the Program of Actions of the APRM country review report
- provide assistance to build capacity in legal systems, financial control and the public service
- strengthen economic governance through the NEPAD-OECD Africa Investment Initiative

Japan has been faithfully implementing these commitments. For example, the Government of Japan supported the UNDP program "Capacity Development for Pro-Poor Private Sector-Led Growth through Enhancing Corporate Governance" in Ghana, which is aligned with the Program of Actions of the APRM country review report for Ghana. It has also implemented a technical cooperation project for livelihood improvement through better human rights policy and legislative frameworks such as strengthening juvenile justice reforms for vulnerable children in Kenya, and provided emergency grant aid totalling about US\$1.2 million through UNDP for the purpose of supporting the fair and smooth implementation



of the 2008 presidential election in the Republic of Zambia.

Japan has extended 20 million dollar in total (2005-2008) to Japan Administered Account for Selected IMF activities (JSA), operated by IMF. The areas of the technical assistance include fiscal policy and management, monetary policy and financial systems, and macroeconomic and financial statistics, aiming to help recipient countries strengthen their human and institutional capacity.

In addition, Japan decided to provide 200,000 euros for the NEPAD-OECD Africa Investment Initiative.

As mentioned in the section of Transparency, Japan also decided to provide US\$625,000 for a program titled "Support to the Extractive Industries Transparency Initiative in Madagascar" within the framework of the Fund for African Private Sector Assistance (FAPA) administered by the African Development Bank (AfDB).

### **[Russia]**

Russia is actively involved in international efforts aimed at comprehensive assistance to Africa, including through the G8 framework. The G8 Africa Action Plan, which is being implemented since 2002, provides for a promotion of good public and corporate governance, democratization and fight against corruption on the continent.

We support the Africa Peer Review Mechanism (APRM), which is an inalienable part of the programme "New partnership for African Development", NEPAD, aimed at developing democratic processes and transparency of governance.

We note the effective efforts within the APRM in conducting specific control and inspection work, when various countries are assessed in terms of their compliance with the global political, economic and national standards and are given recommendations on how to eliminate the existing problems. Relevant reports on Algeria, Benin, Burkina Faso, Ghana, Kenya, Nigeria, Rwanda, Uganda and the Republic of South Africa are prepared. We believe that these reports are impartial and critical, and contain recommendations on the practical promotion of the democratization



processes and on the incorporation of good public governance.

Establishment of a new structural subdivision under the African Union Commission, the Department on providing assistance in the development of democracy and elections, is an important step in this direction. We are confident that this body will be helped in providing considerable assistance to the APRM in promoting democratic reforms in Africa.

In 2007, Russia made a 200,000-dollar contribution in the APRM Trust Fund.

In our contacts with the African partners, we keep stressing that they need to ratify as soon as possible the African Union Convention against corruption adopted in July 2003.

#### [U.K.]

As part of its development programme, the UK is providing extensive assistance to improve many different aspects of governance in many countries in Africa. Activities depend on country circumstances and on the assistance being provided by others.

We also provide support for governance initiatives and institutions with a regional or continent-wide focus. We are the largest bilateral donor to the Africa Peer Review Mechanism (APRM), an African response to the challenge of improving governance on the continent, whereby countries are assessed against a set of political, economic and corporate standards and plans are developed to address governance challenges. We have helped to fund APRM activities, centrally and in some of the countries in which reviews have been carried out.

To support regional efforts to combat money laundering in Africa, the UK has contributed to the operation of the Eastern and Southern Africa Anti-Money Laundering Group (ESAMLAAG) Secretariat for the development of its work plan and provided funds to both ESAAMLG and the Intergovernmental Action Group against Money-Laundering in Africa (GIABA), through UNODC.

We are also helping to strengthen African institutions which can



play an important role in improving governance. Together with other donors, the UK is contributing funding to the Africa Union's institutional transformation programme and we are providing support to the Pan African Parliament. We are helping to fund work by the United Nations Economic Commission for Africa, including work on combating corruption. We are a core funder of the Africa Capacity Building Foundation (ACBF), an African-led institution with a remit to help build institutional capacity in Africa. We are a very strong partner of the African Development Bank, now being the largest donor to the African Development Fund and the first country to sign a Technical Cooperation Arrangement with the Bank, part of which is being used to help strengthen their role in promoting improved governance. We are also supporting four of the Regional Economic Communities in Africa: The East African Community (EAC), the Economic Community of West African States (ECOWAS), the Southern African Development Community (SADC) and the Common Market for Eastern and Southern Africa (COMESA).

Specific examples of what the UK has achieved include:

- In Uganda, DFID has helped clean up corruption in the public sector by helping to stop payments to 9,000 'ghost workers'. This and similar initiatives have amounted to a saving of around £12 million.
- In Kenya DFID's Political Empowerment Programme, has funded initiatives which have investigated corruption, encouraged greater participation in democratic processes and monitored the way taxpayers' money is spent.
- In 2007 the SFO by providing MLA helped the Government of Zambia obtained a civil confiscation order against the former President of Zambia, Chiluba, for over \$25m;
- On overseas capacity building the SFO also delivered training for the SFO of Ghana and the S and E of Nigeria on Serious Fraud and corruption.



## [U.S.]

Consistent with the information provided in the 2008 Toyako report, the United States continues to provide a high level of technical assistance support to build African countries' capacity in good governance, anti-corruption programs, and implementation of the UNCAC. Such programs are underway in over 20 countries, and amounted to approximately \$51 million in Fiscal Year 2008. The MCC signed Threshold Country Programs (TCPs) in the amount of \$4.2 million to fund anti-corruption programming in Africa in Fiscal Year 2008, and TCPs have strengthened governance systems and practices to address corruption in Kenya, Uganda, Malawi, Tanzania, Niger, and Zambia. Assistance to implement the UNCAC, and other U.S. good governance programs, will also support African governments that are parties of the AU Convention to implement that treaty.

As reported in the 2008 Toyako report, the United States works with governments and civil society institutions throughout Africa to strengthen budget and financial management policies, legal frameworks, and systems, and to improve oversight and accountability mechanisms.

The United States has bilateral programs in a large number of countries, focusing on issues such as training government auditors to promote budget transparency; state auditing and inspection bodies; assessment and strengthening of government anti-corruption bodies; and transparency and oversight in public procurement. For example, in Kenya's TCP, a main U.S. priority has been to improve transparency by supporting anticorruption initiatives focused on reforms in public procurement, while also working with civil society groups and oversight institutions to advocate reforms and monitor progress of such efforts. The United States provided continued financial support in 2008 to a UNODC program that has placed a regional UNCAC anticorruption mentor in Kenya.

U.S. activities also have focused on budgeting, fiscal management, and financial control systems; local government



accountability; and grants to local organizations for civic education and advocacy campaigns about corruption. In Mali, for example, U.S. support of the decentralization process has strengthened the financial management skills of local government and promoted citizen oversight; as a result, some local governments have seen their tax revenues go up, with increasing citizen confidence that their taxes are being used well. Other bilateral country programs include support for civil society budget-monitoring activities; training for parliamentarians in preparation and analysis of national budgets; support for a computerized, decentralized budgetary and financial systems; training targeted transitional federal institutions focused on transparency and responsiveness; and development of fair electoral processes. The United States is a key supporter of Liberia's Governance and Economic Management Assistance Program, which has been successful in helping the Liberian government control and manage its public finances.

U.S. advisors have worked with the governments of several African countries to address budget policy and administration, tax policy and administration, financial institutions policy and regulation, government debt management, and financial crimes law enforcement. In several other African countries, the United States has provided technical assistance designed to improve capacity to investigate and prosecute allegations of public corruption.

Throughout Africa, U.S. officials continue to encourage governments to meet their targets under IMF and World Bank programs, which require government adherence to standards of budgetary discipline and financial integrity.