Transnational Crime, Transparency & Corruption

Commitment

“We support our [Home Affairs and Justice] Ministers’ determination to detect, recover and return these illicitly acquired assets, including by:

- establishing G8 accelerated response teams;
- enhancing G8 asset recovery case coordination; and
- holding G8 asset recovery workshops.

To meet these goals, we will ensure that:

- each of our countries has rules in place by Summer 2005, where possible, to require due diligence for “politically exposed persons” accounts;
- each of our countries has rules in place, preferably by 12/31/04, to require wire transfer originator information;
- we create G8 best practices for modalities of disposition and return; and
- we explore effective measures to recover assets in corruption cases.

Fighting Corruption and Improving Transparency

Background

The G8 has recognized that corruption and non-transparent governance are hindrances to economic growth and development in both developing countries and advanced economies alike. The G8 has supported the work of various International Financial Institutions to strengthen public financial management and accountability programs. At the 2003 Evian Summit, the G8 pledged to conclude the United Nations Convention Against Corruption as well as committed to strengthening the OECD Anti-Bribery Convention. The G8 has also offered its support in the implementation of the forty recommendations forwarded by the Financial Action Task Force (FATF). At the 2004 Sea Island Summit, the G8 continued its efforts to fight corruption and improve transparency in coordination with various international financial institutions. The G8 also varied its approach to the issue, and asserted a common belief that transparency in both the public and private sector is crucial to economic advancement; countries with large extractive industries sectors as being particularly at risk for corruption. At Sea Island, compacts were formed between the G8 and governments of Georgia, Nicaragua, Nigeria, and Peru to encourage bilateral support and assistance in their endeavors to improve transparency and fight against corruption. The G8’s fight against corruption and attempts to improve transparency continues to embody policy coordination among G8 nations to produce best practices. These include, first and foremost, demonstrating leadership to encourage transparent governance practices in developing nations to maximize these nation’s economic growth as well as that of the global economy.
Assessment

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<th>Country</th>
<th>Non-Compliance</th>
<th>Work in Progress</th>
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Individual Country Compliance Breakdown

1. Canada: 0

Canada has failed to take focused action in addressing specific commitments concerning corruption made at the 2004 Sea Island Summit. Realizing that corruption is a major impediment to good governance and sustainable development, Canada along with Asian-Pacific Economic Cooperation (APEC) leaders from Australia, Chile, China, Japan, Korea and the United States jointly endorsed the Santiago Commitment to Fight Corruption and Ensure Transparency as well as the APEC Course of Action on Fighting Corruption and Ensuring Transparency (COA). On 21 November 2004, Canada announced its plan to contribute $12 million in order to help APEC developing countries effectively combat corruption. At the Committee of the Eleventh United Nations (UN) Congress on Crime Prevention and Criminal Justice, Canada praised the Commission, the UN programme network of institutions and non-governmental organizations for establishing the requisite norms and standards.

Following a bilateral meeting between Prime Minister Paul Martin and the Premier of the State Council of China Wen Jiabao, both Canada and China pledged to “continue to cooperate in the fight against terrorism and transnational organized crime on the basis of the United Nations and its Charter and agreed standards and institutions.” Canada has not carried out the specific commitments necessary for full compliance in spite of having taken positive actions against transnational crime. For instance, at Sea Island, the leaders agreed that asset recovery would be a central goal in their fight against corruption but neither Canada nor any other G8 country has ratified the UN Convention against Corruption, which too stresses the importance of asset recovery.
Canada acknowledges that no state is immune from corruption: To be sure, the government sponsorship scandal has caused Canada to drop to 12th place on a list of 146 most corrupt countries as determined by the Transparency International Corruption Perceptions Index.

Indeed, this latter scandal has raised considerable attention in Canada to the question of “diligence for “politically exposed persons” accounts” as the Sea Island commitment terms it. The sponsorship scandal involves nearly C$100-million in government advertising funds to promote federalism in Quebec, managed by Human Resources Canada and the Prime Minister’s Office, being unaccounted for and largely ending up in the pockets of officials from the ruling Liberal Party. While the government launched a major public inquiry into the matter that is still on going, Parliament has yet to release any new national guidelines for how government funds, especially those directly controlled by ministers, are dispersed. Indeed, Ottawa is likely awaiting the conclusions of the public inquiry due December. In the meantime, many government ministries have announced sweeping new reforms in their transparency in procurement in response to the scandal in order to regain public trust.

2. France: 0

France has continued their effort in attempting to achieve compliance with the commitment outlines at the 2004 G8 Summit, however, many actions did not take place in order for France to register full compliance. Regulations for originator information to be disclosed are contained within the United Nations Convention against Corruption, signed by France in December 2003, but not yet ratified and not in force. Nor has the requirement to perform due diligence on politically exposed persons’ assets been addressed. The French government has participated in anti-corruption workshops, and in fact took an active role in the Baltic Anti-Corruption Initiative Workshop on Private Sector Integrity in Tallinn on 30-31 August 2004. This joint effort by the OECD and the government of Estonia was created in response to the growing salience of corporate governance and integrity in the private sector. French representatives also took part in the Anti-Corruption Network for Transnational Economies general meeting in Istanbul May 30, 2005. French authorities participated in another conference organized by the OECD, the Global Forum on Governance Fighting Corruption and Promoting Integrity in Public Procurement. This event took place on November 29th-30th in Paris and was sponsored by le Ministre de l’Économie des Finances et de l’Industrie de la France; anti-corruption workshops

served as the main focus of the conference. Although the workshops mentioned were not exclusively regarding asset recovery, a commitment pledge at the G8 Sea Island Summit, the anti-corruption workshops are a positive step. In the past, France has signed both the Council of Europe’s Civil & Criminal Law Conventions on Corruption (November 1999 and September 1999, respectively) but has yet to ratify both conventions. France does have a continuing and active anti-corruption role through groups such as the OECD and GRECO, however France appears not to have focused resources specifically at fulfilling its commitment at the G8 Summit.

3. Germany: 0

Germany has extended considerable effort in fighting corruption and improving transparency, however, it is yet to demonstrate full compliance. Although Germany signed the United Nations Convention Against Corruption on 9 December, 2003, the legislation has not yet been ratified in the German legislature. That ratification is crucial, as its provisions legally bind its signatories to cooperate with other governments in the recovery of assets in corruption cases. There is concern that ratification will be difficult, as German lawmakers have previously expressed reluctance to do so. Germany has worked closely with several countries, forming close ties with neighboring states such as Poland, Hungary and the Czech Republic, as well as non-EU nations such as Albania, Bulgaria and Macedonia, with more limited cooperation with Romania. These relationships provide the framework for the dispersion of liaison officers in neighboring countries to provide that country with direct links to foreign law enforcement authorities to facilitate the exchange of information and to speed judicial cooperation. As well, joint investigation teams and international joint customs surveillance operations are undertaken. Much of this cooperation contains the means to ensure that any personal data is not processed or transferred “in a way incompatible with the purposes for which the data were collected.” It is ensured that any transfer of personal data must take place in accordance with the 1981 Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data. Although Germany provides much aid to developing countries to ensure that nascent governments do not succumb to corrupt practices, this aid is focused on legal and institutional

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678 “Anti-Corruption Network for Transitional Economies” Date of Access: May 6, 2005
[www.anticorruptionnet.org/indexgr.html].
679 “Member States of GRECO” Council of Europe. Date of Access: December 22, 2004
[www.greco.coe.int=20].
684 Ibid.
685 www.privacy.org/pi/intl_orgs/coe/dp_convention_108.txt
frameworks for economic development and not on the specific aspects of the commitment made by the G8 in 2004.\textsuperscript{686}

4. Italy: 0

Italy has done little to improve its ability to fight corruption since the Sea Island Summit. Although Italy signed the UN Convention against Corruption on 9 December, 2003, it has failed to ratify the treaty.\textsuperscript{687} The ratification of this convention is crucial to achieving the goals set at the Sea Island summit, as its provisions legally binds the signatories to cooperate with other governments in the recovery of assets in corruption cases.\textsuperscript{688} Although Italy has been willing to cooperate in combating corruption, often through the channels of the EU, its ability to investigate possible cases is limited due to the limits placed upon investigations by the Code of Criminal Procedure. In limiting the amount of time that can be spent on investigating alleged cases of corruption to six months in an attempt to protect those suspected of crimes, the Italian government places limits on the abilities of public prosecutors to successfully compile sufficient evidence both in Italy and abroad to ensure that the case can be prosecuted.\textsuperscript{689} While this limitation does not apparently inhibit domestic cases, the often lengthy processes which must be followed in order to gather information from foreign sources present problems for the limited time period in which evidence may be gathered; while extensions can be applied for, these limitations remain a problem in investigating and prosecuting cases of corruption.\textsuperscript{690}

5. Japan: 0

Japan has taken many initiatives to combat corruption and improve transparency; however, more actions are needed in order to achieve full compliance. Prime Minister Junichiro Koizumi has indicated on several occasions in joint statements with fellow leaders, and most notably through the ASEAN-Japan, declaration his resolve to “strengthen necessary measures to counter and prevent the financing of terrorists and terrorist organizations and the use of alternative means of remittance such as illegal money transfer.”\textsuperscript{691} At the 12th APEC Economic Leaders Meeting, Japan was party to an agreement reached to “endorse the APEC course of action on fighting corruption and ensuring transparency which develops and implements it, including through the APEC anti corruption initiative.”\textsuperscript{692} Japan is vigorously taking part in activities as a central member of the Financial Action Task Force on Money Laundering (FATF) by serving as the chair of the non-cooperative countries and territories (NCCT).\textsuperscript{693} While the Japanese government

\textsuperscript{686} Utstein Anti-Corruption Resource Centre.\url{www.u4.no/projects/search.cfm?freetext=Germany}.


\textsuperscript{690} ibid. pp. 36-37.

\textsuperscript{691} \url{www.kantei.go.jp/foreign/koizumispeech/2004/11/30terrorism_e.html}

\textsuperscript{692} \url{www.kantei.go.jp/foreign/koizumispeech/2004/11/21sengen_e.html}

\textsuperscript{693} \url{www.mofa.go.jp/policy/other/bluebook/2004/chap3-c.pdf}
has signed the UN Convention on Transnational Crime, the country has yet to ratify the
convention, which is imperative in the fight against corruption.\textsuperscript{694} Japan has clearly recognized
the importance of the issues of corruption transparency as evidenced in its cooperation with other
nations, however, further actions must be taken before full compliance can be attained.

6. Russia: 0

Although it has not ratified the UN Convention against Corruption, Russia has made some
positive efforts towards complying with the commitments made at the 2004 Sea Island.\textsuperscript{695} Positive actions on the part of Russia thus far include its adoption of Special Recommendation
IX, a new measure to combat transnational money laundering and terrorist financing, following a
Financial Action Task Force (FATF) meeting\textsuperscript{696} and its plans for the establishment of an
intergovernmental agreement with Association of South East Asian Nations (ASEAN) to counter
“terrorism and other manifestations of transnational crime.”\textsuperscript{697} In a recent discussion held
between the Russian Minister of Foreign Affairs Sergey Lavrov and the UN Undersecretary
General Antonia Maria Costa, prospects for further Russian cooperation with the United Nations
Office on Drugs and Crime (UNODC) in the area of transnational crime were discussed.\textsuperscript{698}
While these are all positive steps in fighting corruption and improving transparency, Russia has
not yet fulfilled the specific commitments to which it agreed.

Corruption remains a major domestic problem for Russia: Russia ranks 90\textsuperscript{th} on the Transparency
International Corruption Perceptions Index.\textsuperscript{699} Concerns include President Putin’s treatment of
the Yukos corporation\textsuperscript{700} and his control of private media and nongovernmental organizations.\textsuperscript{701} Aware that corruption among state officials is an increasing problem, President Vladimir Putin
reiterated his commitment to join current efforts to combat transnational crimes and offered to
focus “the efforts of law enforcement bodies on the fight against crime, including tax

\textsuperscript{694} \url{www.unodc.org/unodc/en/crime_cicp_signatures_convention.html#declaration}
\textsuperscript{696} On the Outcome of a Visit Paid by Ong Keng Yong, Secretary General of the Association of South East Asian
Nations (ASEAN), to Russia [unofficial translation], Ministry of Foreign Affairs of the Russian Federation:
\textsuperscript{697} FATF targets cross-border cash movements by terrorists and criminals. Financial Action Task Force: NCCT
\textsuperscript{698} Russian Minister of Foreign Affairs Sergey Lavrov Meets with Antonio Maria Costa, UN Under-Secretary-
General and Executive Director of the United Nations Office on Drugs and Crime [Unofficial translation], Ministry
Access: 8 May 2005. [\url{www.ln.mid.ru/brp_4.nsf/e78a48070f128a7b43256999005bcebb3/6c76ca4531de8a00c3256fd50040117b?OpenDoc-
ument}]
\textsuperscript{699} Corruption Perceptions Index, Transparency International (London) 22 October 2004. Date of Access: 8
\textsuperscript{700} Russia launches anti-corruption campaign. Xinhua News Agency, 26 October 2004.
\textsuperscript{701} Ortung, Robert and Christopher Walker, Steps toward democracy, Russian leader must accept Western help and
draw on resources of domestic groups for meaningful reform, Newsday, A41. (Long Island) 3 March 2005. Date of
Thus, while the Russian Federation has made an effort to combat corruption and improve transparency, corruption remains a serious problem in the country and no concrete actions have been taken as of yet to meet the commitment made at Sea Island.

7. United Kingdom: 0

The United Kingdom has taken positive steps toward meeting its commitments concerning transnational crime at the Sea Island summit, although full compliance has not yet been realized. On December 14th, 2000, the United Kingdom signed the UN Convention on Transnational Crime; however it has not yet ratified the act, aspects of which are crucial to the fight against corruption and transnational crime. More positively, in November, the Serious Organized Crime Agency was introduced to the House of Commons, where it was announced that various strategies involving, “investigation and prosecution of criminals involved in serious organized crime, the disruption of supply networks, the confiscation of criminal assets, the taxation of undeclared earnings and improving the defences of the financial sector and others against attack by organised criminals.” This is a significant step taken by the UK towards meeting the criteria outlined by the G8 in Sea Island. The International Monetary Fund (IMF) has recently commented on the fact that the UK “has a strong and comprehensive regime to combat money laundering,” although there is still much to be done by the government of the UK in order to achieve full compliance before July.

While full compliance has not yet been achieved, the UK’s Anti Money Laundering Strategy deserves special attention. This initiative is evidence of the UK’s commitment to combating transnational financial crimes, particularly money laundering, and demonstrates the UK’s leadership in this issue area. Most relevant to the commitment are the Strategy’s aims concerning wire transfer originator information and its approach to asset recovery. The strategy notes that the UK, as a member of the FATF Working Group looking at wire transfers and terrorist financing, is reviewing the FATFs Special Recommendation VII [outlines a framework of obligations for financial institutions to send wire transfer originator information] to ensure that it is the most effective means of combating transnational financial crimes. The expected outcome of this initiative is updated wire transfer guidance. The Strategy also places a priority on asset recovery, offering police forces a financial incentive to recovery criminally acquired wealth by awarding them with a stake in the recovered wealth/assets, within limits. Therefore, while the efforts of the UK were not sufficient to meet the specific criteria necessary to achieve full compliance, its efforts demonstrate that the government of the UK is committed to combating corruption and transnational crime.

703 www.unodc.org/unodc/en/crime_cicp_signatures_convention.html#declaration
www.publications.parliament.uk/pa/cm200405/cmbills/005/en/05005x-a.htm
706 Ibid, p. 22.
8. United States: 1

The United States has taken notable steps in fighting corruption and improving transparency since the Sea Island summit, and while it has not met the criteria of the specific commitments made at the Sea Island Summit, it general level of activity is sufficient to consider in compliance with the 2004 commitment. On August 27, 2004, President Bush ordered new policy stating that “[t]he maximum extent consistent with applicable law, agencies shall give the highest priority to (i) the detection, prevention, disruption, preemption, and mitigation of the effects of transnational terrorist activities against the territory, people, and interests of the United States of America.”708 The US worked with G8 partner nations in October 2004 when it hosted a two day foreign affairs meeting of the G8 in Washington, D.C. to work with Georgia, Nicaragua, Nigeria and Peru in their fight against corruption.709 Positive actions were also taken on November 21, 2004 when the US launched its Asia-Pacific Economic Cooperation (APEC) partners, the Santiago Commitment to Fight Corruption and Ensure Transparency and the APEC Course of Action on Fighting Corruption and Ensuring Transparency.710 This commitment supports the commitment made by the United States in Sea Island to detect, recover and return illicitly acquired assets. Furthermore, the US has initiated a program supported by a commitment of US$2.5 million over four years to help developing countries meet their anticorruption commitments with the APEC Anticorruption and Transparency Capacity Building Program.711,712

Positive actions continued in December when a $500 000 (USD) contribution was to the United Nations Office on Drugs and Crime was announced by Assistant Secretary of State for International Narcotics and Law Enforcement Affairs Robert Charles to encourage the ratification and implementation of the UN Convention Against Corruption.713 This money will be used by the U.N. Office on Drugs and Crime to create a program that would implement regional workshops as outlined in their G8 commitment.714 The United States has also pledged to contribute further funding in FY 2005 to the Global Programme against Money Laundering and to offer its technical and financial support to the UN Office on Drugs and Crime’s Terrorism Prevention Branch.715 In the Congressional Budget Justification FY 2006, the President has designated $2,976,000 for fiscal year 2005 and $3,000,000 for fiscal year 2006 for Regional Anticorruption Initiatives such as the provision of training to officials from groups of countries and creating teams of U.S. experts that could build capacity in investigating and prosecuting asset recovery efforts.716

709 Date of Access: December 29, 2004 [www.state.gov/e/rls/rm/2004/36867.html].
713 Date of Access: December 29, 2004 [www.state.gov/g/inl/rls/other/39714.htm].
714 Date of Access: December 29, 2004 [www.state.gov/g/inl/rls/other/39714.htm].
The American creation of International Law Enforcement Academies [ILEAs]- a collaborative effort between the Department of State, Department of justice, Department of Homeland Security, and the Department of Treasury and foreign governments- represent a innovative model of international assistance with various objectives including combating transnational crime. The ILEAs consist of a series of specialized training courses and regional seminars tailored to region-specific needs and emerging global threats, with topics of the Regional Seminars including transnational crimes, financial crimes, and counterterrorism; graduates of the ILEAs exchange information with their U.S. counterparts and assist in transnational investigations. The ILEA budget averages approximately US$16–17 million annually.

9. European Union: 0

The European Union has undertaken initiatives that indicates near, but not quite full compliance with the commitment made at the Sea Island Summit. Partial compliance was achieved through the EU’s heavy involvement in asset recovery workshops, case co-ordination and the exploration of anticorruption best practices. EU compliance was mainly the result of the work conducted by the European Anti-Fraud Office (OLAF). The EU and OLAF hosted the Fifth Conference of International Investigators during the month of September 2004. The conference discussed “the ‘Uniform Guidelines’ created in an effort to assist parties involved in international inquiries to complete their inquiries efficiently, openly and accountably in a transparent manner to guarantee the protection of fundamental rights. The Conference also analyzed the questions that usually arise during the final phase of an inquiry regarding the preparation of the referral of a case to a national judicial authority and the recovery of assets. On 24 November, 2004 OLAF hosted a training seminar focusing on the discussion of strategies and tools to be invoked to prevent fraud and corruption through information and communication. Case coordination was the theme of the OLAF conference on Co-operation with Public Prosecutors in November 2004 which aimed to ensure that participants remained informed of current OLAF proceedings and to further improve the efficiency of the investigative work of the Office in the pursuit of the implementation of judicial measures for follow up. The conference underscored the notion that the aim of an investigation is to preserve relevant national rules to provide the groundwork for sufficiently well founded cases to be sent to national prosecution offices.

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718 Ibid.
719 Ibid.
720 Ibid.
Rules concerning the due diligence of politically exposed persons, part of the commitment a the Sea Island Summit, are set out in a proposal for a directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering, including terrorist financing, dated June 30th, 2004, in Section 3, Article 11.\textsuperscript{725} This directive is not yet law, but is a foundation for future action. The EU has continued their anti-corruption activities in 2005, as highlighted by new antifraud initiatives in Slovakia and Hungary.\textsuperscript{726} Overall, however, the EU appears to have just fallen short of achieving full compliance with the G8 commitment.

Compiled by Courtney Brady, Dana Fisher, Aaron Ghobarah and Susan Khazaei.
G8 Research Group
May 23, 2005.

\textsuperscript{726} “Anti-Fraud Assistance For Hungary And Slovakia” OLAF Press Releases. Date of Access: May 5, 2005.