

Transnational Crime, Transparency and 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 endeavours to improve transparency and fight against corruption. The G8’s fight against corruption and attempts to improve transparency continue to embody policy coordination among G8 nations to produce best practices, in addition to exuding leadership to encourage transparent governance practices in developing nations to maximize the economic growth of these developing nations, as well as global economic growth.

Assessment

Score	Lack of Compliance -1	Work in Progress 0	Full Compliance +1
Canada		0	
France		0	
Germany		0	
Italy		0	
Japan		0	
Russia		0	
United Kingdom		0	
United States		0	
European Union		0	
Overall: 0			

Individual Country Compliance Breakdown

1. Canada: 0

Canada has taken begun work to implement the commitment made at the Sea Island summit concerning fighting corruption and improving transparency. Canada, working with Australia, Chile, China, Japan, South Korea and the United States as Asia-Pacific Economic Cooperation (APEC) leaders, helped develop the Santiago Commitment to Fight Corruption and Ensure Transparency and the APEC Course of Action on Fighting Corruption and Ensuring Transparency.⁵⁰⁸ Canada has agreed to contribute \$12 million (CAD), a portion of which will be used in the development of a training program aiming to strengthen the Vietnamese justice system.⁵⁰⁹ While this is a positive action in fighting corruption, Canada has not yet taken the measures necessary to achieve compliance.

2. France: 0

France has put forth some effort in attempting to achieve compliance with the commitment outlines at the 2004 G8 Summit, however, many actions must be taken before July 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.⁵¹⁰ 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. Organized by the OECD and the government of Estonia, this workshop was created to respond to the increasing attention paid to corporate governance and integrity in the private sector."⁵¹¹ French authorities participated in another conference organized by the OECD, the Global Forum

⁵⁰⁸ www.pm.gc.ca/eng/news.asp?id=329

⁵⁰⁹ www.pm.gc.ca/eng/news.asp?id=329

⁵¹⁰ *United Nations Convention Against Corruption*. United Nations Office of Drugs and Crime. December 21, 2004. www.unodc.org/unodc/en/crime_signatures_corruption.html

⁵¹¹ *Anti-Corruption Network for Transitional Economies*. December 20th, 2004. www.anticorruptionnet.org/indexgr.html

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.⁵¹² 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.⁵¹³ France does have a continuing and active anti-corruption role through groups such as the OECD and GRECO514, however France appears not to have focused resources specifically at fulfilling its commitment at the G8 Summit.

3. Germany: 0

Germany has exerted 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.⁵¹⁵ That ratification is crucial, as its provisions legally binds its signatories to cooperate with other governments in the recovery of assets in corruption cases.⁵¹⁶ There is concern that ratification will be difficult, as German lawmakers have previously expressed reluctance to do so.⁵¹⁷ 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.⁵¹⁸ 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."⁵¹⁹ 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

⁵¹² *Global Forum on Governance Fighting Corruption and Promoting Integrity in Public Procurement*. OECD Online. December 20th, 2004. www.oecd.org/dataoecd/37/33/33790924.pdf

⁵¹³ *Global Corruption Reports: Country Reports*. Pg 47. Transparency International. December 20th, 2004. www.globalcorruptionreport.org/download/gcr2004/10_Country_reports_A_K.pdf

⁵¹⁴ *Member States of GRECO*. Council of Europe. December 22nd, 2004. www.greco.coe.int

⁵¹⁵ United Nations Conventions against Transnational Organized Crime: Signatories Page www.unodc.org/unodc/en/crime_cicp_signatures_convention.htm

⁵¹⁶ Press Release. United Nations Convention against Corruption. Mérida, Mexico, 8 December 2003. www.un.org/webcast/merida/statements/curtain-eng.htm

⁵¹⁷ Deutsche-Welle "German Lawmakers Uneasy About Stricter Anti-Corruption Laws" 10/12/2003 www.unodc.org/unodc/en/crime_cicp_signatures_convention.html

⁵¹⁸ Ernesto U. Savona and Federica Curtol. The Contribution of data Exchange Systems to the Fight Against Organised Crime in the SEE Countries. Final Report. November, 2004. www.stabilitypact.org/upload/documents/044-transcrimereport.pdf

⁵¹⁹ Ernesto U. Savona and Federica Curtol. The Contribution of data Exchange Systems to the Fight Against Organised Crime in the SEE Countries. Final Report. November, 2004. www.stabilitypact.org/upload/documents/044-transcrimereport.pdf

Personal Data.⁵²⁰ 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 frameworks for economic development and not on the specific aspects of the commitment made by the G8 in 2004.⁵²¹ Additional actions taken by the EU through OLAF have also improved Germany's anti-corruption practices; however, additional actions by the Germany government are necessary in order to achieve full compliance.

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.⁵²² 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.⁵²³ 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.⁵²⁴ 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.⁵²⁵ Italy must take significant steps on combating corruption in order to achieve compliance.

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."⁵²⁶ At the 12th APEC Economic Leaders Meeting,

⁵²⁰ www.privacy.org/pi/intl_orgs/coe/dp_convention_108.txt

⁵²¹ Utstein Anti-Corruption Resource Centre www.u4.no/projects/search.cfm?freetext=Germany

⁵²² United Nations Conventions against Transnational Organized Crime: Signatories Page

www.unodc.org/unodc/en/crime_cicp_signatures_convention.htm

⁵²³ Press Release. United Nations Convention against Corruption. Mérida, Mexico, 8 December 2003.

www.un.org/webcast/merida/statements/curtain-eng.htm

⁵²⁴ OECD Directorate for Financial and Enterprise Affairs. Report on the Application of the convention on Combatting Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendations on Combating Bribery in International Business Transactions. Italy: Phase 2. Approved and Adopted by the Working Group on Bribery in International Business Transactions on 29 November, 2004. p. 36 www.oecd.org/dataoecd/0/50/33995536.pdf

⁵²⁵ *ibid.* pp. 36-37.

⁵²⁶ www.kantei.go.jp/foreign/koizumispeech/2004/11/30terrorism_e.html

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.”⁵²⁷ 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).⁵²⁸ While the Japanese government has signed the UN Convention on Transnational Crime, the country has yet to ratify the convention, which is imperative in the fight against corruption.⁵²⁹ 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

Russia has failed to take focused action in addressing the specific commitments made at the 2004 Sea Island Summit. Russia has signed but not yet ratified the UN Convention against Corruption.⁵³⁰ It must be acknowledged that plans to ratify the Convention are in progress.⁵³¹ Positive actions on the part of Russia 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 in October.⁵³² Russia also has 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.”⁵³³ While Russia has made attempts to work with other international bodies on the issue of transnational crime, it is still uncertain how well it will comply with its specific G8 commitments. Corruption appears to be an increasing problem in Russia; it fell to 90th place on the Transparency International Corruption Perceptions Index in 2004 from 86th place in 2003.⁵³⁴ Concerns include President Putin’s treatment of Yuko’s, Russia’s second largest oil company, which has been sold back into state hands.⁵³⁵ Despite the launch of a major corruption fighting campaign in October, government still faces much criticism.⁵³⁶ Much action is needed from Russia in fighting corruption and

⁵²⁷ www.kantei.go.jp/foreign/koizumispeech/2004/11/21sengen_e.html

⁵²⁸ www.mofa.go.jp/policy/other/bluebook/2004/chap3-c.pdf

⁵²⁹ www.unodc.org/unodc/en/crime_cicp_signatures_convention.html#declaration

⁵³⁰ United Nations Convention against Transnational Organized Crime Signatories

www.unodc.org/unodc/en/crime_cicp_signatures_convention.html

⁵³¹ Ministry of Foreign Affairs of the Russian Federation, “Minister of Foreign Affairs Sergey Lavrov Meets with Antonio Maria Costa, UN Under-Secretary-General and Executive Director of the United Nations Office for Drug Control and Crime Prevention,” [unofficial translation]. *Information and Press Releases*, 22 September 2004.

www.ln.mid.ru/brp_4.nsf/e78a48070f128a7b4325699005bcbb3/c098e84e4a8d6c87c3256f18002a9613?OpenDocument

⁵³² Ministry of Foreign Affairs of the Russian Federation, “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]. *Information and Press Releases*, 4 October 2004.

www.ln.mid.ru/Brp_4.nsf/arh/735103733F3B073FC3256F240030D793?OpenDocument

⁵³³ Financial Action Task Force, “FATF targets cross-border cash movements by terrorists and criminals,” *NCCT Reports and News Releases*. 22 October 2004. www.fatf-gafi.org/pdf/PR-20041022_en1.pdf

⁵³⁴ Transparency International, “Corruption Perceptions Index 2004,” 20 October 2004 www.transparency.org/pressreleases_archive/2004/2004.10.20.cpi.en.html

⁵³⁵ “Russia launches anti-corruption campaign.” *Xinhua News Agency*, 26 October 2004.

⁵³⁶ *Ibid.*

improving transparency in order to comply to the commitments it agreed to at the 2004 G8 summit.

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.⁵³⁷ 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 organised 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."⁵³⁸ 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.⁵³⁹

8. United States: 0

The United States has taken notable steps in fighting corruption and improving transparency since the Sea Island summit. On August 27, 2004, President Bush ordered new policy stating that "[t]o the 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."⁵⁴⁰ 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.⁵⁴¹ Positive actions were also taken on November 21, 2004 when the US launched with 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.⁵⁴² This supports the United States commitment to detect, recover and return illicitly acquired assets. In addition the US has initiated a program supported by a commitment of \$2.5 million over four years to help developing countries meet their anticorruption commitments with the APEC Anticorruption and Transparency Capacity Building Program.⁵⁴³⁵⁴⁴ Positive actions continued in December when "Assistant Secretary of State for International Narcotics and Law Enforcement Affairs Robert

⁵³⁷ www.unodc.org/unodc/en/crime_cicp_signatures_convention.html#declaration

⁵³⁸ www.publications.parliament.uk/pa/cm200405/cmbills/005/en/05005x-a.htm

⁵³⁹ www.hm-treasury.gov.uk/media/D57/97/D579755E-BCDC-D4B3-19632628BD485787.pdf

⁵⁴⁰ www.whitehouse.gov/news/releases/2004/08/20040827-5.html

⁵⁴¹ www.state.gov/e/rls/rm/2004/36867.htm

⁵⁴² www.whitehouse.gov/news/releases/2004/11/20041121-4.html

⁵⁴³ Ibid.

⁵⁴⁴ www.whitehouse.gov/news/releases/2004/11/20041121-3.html

Charles announced a \$500,000 contribution by the U.S. Government to the United Nations [Office on Drugs and Crime] to help promote the ratification and implementation of the new United Nations Convention Against Corruption.”⁵⁴⁵ This money will be used by the United Nations Office on Drugs and Crime to create a program that would implement regional workshops as outlined in their G8 commitment.⁵⁴⁶ Despite the fact that the US has yet to meet all of the commitments made at the Sea Island summit, it has made significant contributions to the fight against corruption and the improvement of transparency.

9. European Union: 0

The European Union has undertaken initiatives which indicate partial 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 anti-corruption best practices. EU compliance was mainly the result of the work conducted by the European Anti-Fraud Office (OLAF).⁵⁴⁷ The EU and OLAF hosted the Fifth Conference of International Investigators during the month of September 2004. The conference discussed...“the ‘Uniform Guidelines’ [that] will help all bodies involved in international inquiries to carry out their investigations efficiently and in an open, transparent and accountable manner and thereby ensure the protection of fundamental rights.... The Conference also analysed the questions that usually arise during the final phase of an inquiry when it comes to preparing the referral of a case to a national judicial authority and to the recovery of assets.”⁵⁴⁸ OLAF hosted a training seminar November 24th –26th, 2004 focusing on the discussion of...“strategies and tools in the prevention of fraud and corruption by means of information and communication.”⁵⁴⁹ Case co-ordination was the theme of the OLAF conference on Co-operation with Public Prosecutors in November 2004. “The activity was designed to keep participants informed on OLAF’s proceedings and to further streamline the investigative work of the Office with a view towards judicial follow up measures...the aim of an investigation is to respect all relevant national rules in order to have a case, which is sufficiently well founded to send it to the national prosecution offices.”⁵⁵⁰ Rules concerning the due diligence of politically exposed persons, part of the commitment at 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,

⁵⁴⁵ www.state.gov/g/inl/rls/other/39714.htm

⁵⁴⁶ Ibid.

⁵⁴⁷ *Welcome to OLAF, The European Anti-Fraud Office*. December 23, 2004.

europa.eu.int/comm/anti_fraud/index_en.html

⁵⁴⁸ *Fifth Conference of International Investigators*. OLAF Press Releases. December 23, 2004.

europa.eu.int/rapid/pressReleasesAction.do?reference=OLAF/04/16&format=HTML&aged=1&language=EN&guiLanguage=en

⁵⁴⁹ *OLAF Seminar on Anti-Fraud Communication*. OLAF Press Releases. December 23, 2004.

europa.eu.int/rapid/pressReleasesAction.do?reference=OLAF/04/23&format=HTML&aged=0&language=EN&guiLanguage=en

⁵⁵⁰ *OLAF co-operation with public prosecutors*. OLAF Press Releases. December 27th, 2004.

europa.eu.int/rapid/pressReleasesAction.do?reference=OLAF/04/22&format=HTML&aged=0&language=EN&guiLanguage=en

Article 11.551 This directive is not yet law, but is a foundation for future action. The EU appears to be on its way to achieving full compliance before 2005 summit.

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⁵⁵¹ *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.* December 27th, 2004. europa.eu.int/eur-lex/pri/en/lip/latest/doc/2004/com2004_0448en01.doc