

Ladies and gentlemen,

Thank you for inviting me to speak to you today. I'm happy to have the opportunity to talk about the topic

### **"Corruption as an International Phenomenon"**

and I feel honored that the organizers of this conference have trusted me to represent the founder of Transparency International, who has also for many years been its Chairman, Mr. Peter Eigen.

I'd like to make one thing clear from the very beginning: corruption is not so much a "phenomenon" as an unfortunate reality all over the world, a cancer that is highly destructive to our society.

After briefly telling you about myself and the history of Transparency International and Transparency Germany, as well as the motivation behind their establishment, I will turn to the topic of the Corruption Perception Index, or CPI, the BribePayers Index and the Global Corruption Index. The last three terms refer to large-scale investigations carried out by TI International on the topic of worldwide corruption.

Finally, I will deal with individual issues related to our struggle against worldwide corruption and present specific examples of these issues.

#### **1. About myself.**

I am a trained lawyer with 35 years of experience in public administration (I began as a judge, moved on to a position in general public administration, was then appointed Chancellor of a newly founded Technical College, and at the end of my active service I was the Police Chief of Hamburg for almost three years). It was during the last of these positions that I made contact with Transparency International. Today I am the Federal Deputy Chairman of Transparency Germany, and as a member of that organization's executive board I am responsible, among other functions, for the topic of corruption and the prevention of corruption in municipal government and public administrative bodies.

#### **2. Why must corruption be combated?**

Corruption affects everyone. It intensifies poverty. It hinders social and economic development, it undercuts the quality of public administration and weakens democracy. Instead of fair competition, corruption leads to a competition to see who can offer the largest bribes. This is detrimental to national economies and discourages new investment.

The primary concern of Transparency International is for the weakest members of our society, who suffer directly from the consequences of corruption. That was also the

reason why Transparency International was founded in 1993 on the initiative of a German, Peter Eigen.

Corruption is the abuse of public power for private gain. Corruption means

- that decisions are made not in order to promote the public good, but to further private interests;
- that expensive and highly complex prestigious projects take precedence over cost-efficient development projects;
- that the added costs of bribery, which may make up as much as 30% of project costs, are charged to investments by the public sector.

As a result, the debt burden of individual countries continues to increase; according to an estimate of the World Bank, trillions of dollars flow into corrupt activities every year. In particular, corruption is perverting economic policy in Africa, Latin America and Asia. Here, not only are funds flowing into private pockets, but false priorities are being set on account of corruption. That is the worst damage. As the World Bank recently reported, 11 million children die annually before reaching their fifth birthday on account of illnesses that are due solely to poverty. If we want to have a better and more just form of globalization, dealing with corruption is an absolute necessity.

Peter Eigen left the World Bank in 1991 and founded Transparency International in Berlin in 1993.

In those days, conservative critics complained about the "do-gooders who want to sacrifice Germany's economic interests on the altar of morality" during the controversy over the ban on German exporting companies' corrupt practices abroad. In particular, the issue was the demand for the abolition of the tax-deductible status of bribery payments. "That will make us the honest ones, but in the last analysis we'll be the losers," said the critics.

Before Peter Eigen joined together with friends and colleagues to establish Transparency International, he had tried – at that time in his capacity as the Director of the World Bank for East Africa – to develop anti-corruption concepts within the World Bank. He experienced the equivalent of a slap in the face when he received a memorandum from the legal division forbidding him to do so. The reason given was that the World Bank was not supposed to interfere in the internal affairs of a recipient country.

But especially at that time, and especially in the African region for which he was responsible, he was observing that the projects that were being implemented most quickly were also the ones that were the most useless or even destructive. By contrast, the good projects proceeded very slowly. It would take years before a major road or an important harbor was completed, whereas the bad projects were in many cases offered in turnkey condition, financed by bank consortiums with suppliers from Germany, Japan, Canada, France, the UK, Scandinavia and so on.

Transparency International believes that about a third of the debt burden of the Third World countries can be traced back to corruption-driven projects.

### **3. TI International**

The budget of Transparency International for the year 2004 was approximately 6,184,000 euros. State institutions contribute approximately 4,576,000 euros of that amount (e.g. the European Commission and the Danish Ministry of Foreign Affairs). Foundations contribute approximately 573,000 euros to the total budget. Other development assistance organizations are responsible for 292,000 euros, and individual donors for 11,800 euros. In addition, approximately 320,000 euros come from so-called corporate members, i.e. globally operating companies that are members of TI International (or TI Germany), commit themselves to compliance with a certain code of honor against corruption, and pay membership dues in order to support the aims of the organization. You will find the breakdown for the year 2004 in Slides 1 and 2 of your conference documents. Today, there are chapters of Transparency International in approximately 90 countries all over the world.

### **4. TI Germany**

It's a well-known fact that if you point your finger at someone else, your thumb points back at yourself. That's why Transparency Germany was also founded in 1993. Today we have approximately 500 individual members and 30 corporate members, including two cities. The headquarters of this organization are also in Berlin. By contrast to Transparency International, our central office is very small (with only two employees). The non-administrative work is done by members of Transparency on a strictly voluntary basis. We finance ourselves from three sources: membership fees (from individual members as well as corporate members), foundations and fines (Slide 3).

The range of activities of TI Germany covers almost all areas of daily life. It begins with so-called voluntary benchmarks, the demand for a nationwide register of corrupt companies, which is aimed at excluding them from public calls for tender, the demand for special units in police departments and public prosecutors' offices to prosecute cases of corruption, the Freedom of Information Act, protection for whistleblowers, the prevention of corruption in private businesses, the healthcare sector, municipal authorities and public administration, political corruption (financing of political parties), regulations on the secondary activities of parliamentarians (e.g. the recently widely publicized "non-job-related income") and – a very hot topic today – the demand for the introduction of an obligatory register of lobbyists (Slide 4). As I've already noted, this work is done entirely by working groups consisting of volunteers, in which we specialists come together to deal with individual cases and introduce interested laypersons to these issues.

### **5.**

Transparency International publicizes worldwide the results of three investigations that deal with the problem of corruption:

5.1 The Corruption Perception Index (CPI).

5.2 The Bribe Payers Index.

5.3 The Global Corruption Report.

All three of these investigations aim to direct public attention to the significance and the extent of corruption.

### **5.1 The Corruption Perception Index**

The Corruption Perception Index (CPI) is a list of countries according to the degree to which the people of that country are **aware of** corruption among their public officials and politicians. This index is compiled on the basis of various surveys and investigations carried out by new independent institutions. In the surveys, businesspeople and country analysts are questioned, and surveys of citizens of the respective countries living at home or abroad are also included. The CPI 2005 lists 159 countries in all. In order to be included in the list, data must be available from at least three different sources. One must keep in mind here that the country with the highest value (with 10 being the top evaluation) is perceived as having the lowest level of corruption, and the country with the lowest value is perceived as having the highest level of corruption. However, we must keep in mind that today there are more than 200 sovereign states in the world, and only 159 of them are listed in the CPI 2005. This means that the country that occupies the lowest place on the list is only the country that is perceived as being the most corrupt within the group of countries that have been investigated (Slide 5 a - d).

The Federal Republic of Germany occupies position 16 among the states all over the world (it slipped down by one position when Hong Kong moved ahead of it) (Slide 6).

In Europe we occupy position 11 (Slide 7). It's no coincidence that the countries that are least corrupt are the northern ones, in particular Iceland, Finland, Denmark and Sweden, because these countries have a centuries-old tradition of laws guaranteeing freedom of information. Free access to all the available information creates transparency, and transparency is the kiss of death for corruption.

### **5.2 Bribe Payers Index**

Transparency International last published a Bribe Payers Index (BPI) in 2002. This document also yielded some interesting revelations. It is based on a survey carried out by the Gallup International Association in 15 emerging market countries: Argentina, Brazil, India, Indonesia, Colombia, Morocco, Mexico, Nigeria, the Philippines, Poland, Russia, South Africa, South Korea, Thailand and Hungary. These emerging market countries are among the most important trade partners of multinational companies. The questions in the survey have to do with companies from the 21 leading export nations and their readiness to pay bribes to high-ranking public officials in the emerging market countries under investigation. The ideal value is 10.0, and it indicates that there was no

perception of any readiness whatsoever to pay bribes. This means that the rank order begins with companies from the countries which are perceived as having little readiness to pay bribes to recipients abroad. The data gathered in the investigation indicate that local companies in the 15 emerging market countries under investigation are very ready to pay bribes – much more so than foreign companies (Slide 8).

There were some interesting answers to other questions. For example, respondents were asked: Assuming that you could eliminate corruption in one of the following areas, which one which you choose? (Slide 9) The result: at the top of the list were the courts, followed by political parties and the police. Another question was: Which factors have led to the increase of bribery of high-level public officials by foreign companies? (Slide 10) At the top of that list was "the general public's tolerance of corruption". That indicates the particular importance of such events as the meeting we are holding here today. That item was followed by "the decline of the rule of law", "the impunity of high-ranking officials" and "insufficient monitoring of money laundering". Of course, these items should not let us to neglect the next one: "low salaries in the public sector".

The final question was: Have changes and developments in the following factors helped to reduce the amount of corruption? (Slide 11) And here we find that the most frequently named factor was an increase in the freedom of the press, followed by anti-corruption investigations by the governments and the increased transparency of governmental operations.

Finally, there are two other questions that are of interest – especially in the context of the international composition of this conference: What are some of the other illegal business methods practiced by the governments to gain unfair advantages? (Slide 12) The most frequently named method was "diplomatic or political pressure", followed by "financial pressure" and "trade and price issues". Perhaps even more interesting is the last question: Which three of the listed governments do you basically associate with the aforementioned illegal business methods (other illegal business practices besides bribery, aimed at gaining an unfair advantage in international trade or with regard to investments? (Slide 13) The most frequently named country by far was the USA, followed by France and the UK. Here too, Germany occupied a place in the middle of the list.

### **5.3 Global Corruption Report**

TI International publishes an annual Global Corruption Report. In 2005 this report focused on corruption in the construction industry and in connection with rebuilding projects following conflicts. The Report for 2006, which has just been published in an English version, focuses on corruption in the healthcare sector.

The Report for 2005 is of course of particular interest for our international conference. When the report was published in 2005, Peter Eigen stated: "Corruption in large-scale public projects is an ongoing obstacle to sustainable development. Corruption in the allocation of public contracts is a plague for the developed as well as the developing nations. Especially when the amount of the bribe is higher than the cost of the services rendered, the result is poor-quality construction and inferior infrastructure management.

Corruption wastes money, brings countries to the brink of bankruptcy, and costs people's lives!"

In recent months in particular, we have seen many examples of this thesis. These examples come from the reconstruction process in Iraq (including from the oil-for-food program, by the way) and the reconstruction process after the tsunami. The scandal connected with the oil-for-food program shows very clearly how important it is to set up regulations concerning conflict of interest and to ensure that the competition for contracts is open and transparent. In this connection, another number was cited: The amount that flows into corrupt channels, especially in the construction sector, throughout the world is estimated to be approximately 3.2 billion US dollars a year. And there's one more fact that the Corruption Report of 2005 makes very clear: corruption diverts money away from the areas of healthcare and education toward capital-intensive and questionable large-scale projects. And corruption can have results that are catastrophically destructive to the environment – the Yacyreta Dam in Argentina, the Bataan nuclear power plant in the Philippines and the Bojagali Dam in Uganda are examples what we mean by the wrong way to use funding.

In connection with the Global Corruption Report 2005, Transparency International has therefore launched a worldwide initiative to combat this kind of corruption. The success of this initiative depends on the cooperation of governments, banks, export credit agencies, project managers, construction companies and all of the other parties that are involved. TI has made available a series of publications that provide risk analyses and a number of other anti-corruption tools (including, for example, the so-called Integrity Pact). (Slide 14)

Finally, the Report 2005 includes an evaluation of the situation with regard to corruption in 40 countries.

## 6.

These are some of the instruments used by Transparency all over the world to publicize the problem of corruption, increase public sensitivity to the problem and strengthen awareness of the endless damage caused by corruption. TI is trying to take a holistic approach that does not simply reveal and investigate individual cases of corruption but endeavors to change entire systems. Laws and institutions must be improved, because we have realized that a system of integrity includes a large number of different elements that can protect society against corruption. That's why we are taking a holistic approach. And, as I've said before, this approach means dealing with every area of our daily lives.

For example, an investigation carried out in Bangalore in southern India revealed that poor people have to come up with large bribes in order to use the services of birth clinics. The average patient in one of these birth clinics, which are operated by the city government, must pay an average of 22 US dollars in bribes in order to receive appropriate medical care. An additional 61% of the people surveyed said they had been forced to pay for medicines, although these medicines should actually have been given to them for free.

In many parts of Africa, parents have to bribe teachers in order to get them to teach their children at all, or the teachers expect the children to pay them for good grades. Moreover, corruption destroys markets, prevents international investment and destroys the natural resources of many countries. An investigation carried out by Pricewaterhouse Coopers concerning foreign investment in Russia made this point especially clear: PwC concluded that Russia loses up to 10 billion US dollars a year in the area of foreign investments on account of corruption, inadequate bookkeeping processes, weaknesses in the legal system and the lack of reliable financial data.

In any case, in the Federal Republic of Germany it's difficult to imagine today that only five years ago the political and economic elites of the wealthy countries were of the opinion that bribery by their citizens and companies outside their own national borders was not only necessary but even permitted by the relevant laws (and in some cases even promoted by the tax-deductibility of the bribes!). These principles were accepted in almost all countries, with the exception of the USA, where the Foreign Corrupt Practices Act was already passed in 1977. One of the greatest successes of TI International is therefore the OECD Anti-corruption Convention of 1999 (Slides 15 a + b).

In May 1994 the Council of Ministers of the OECD recommended that all of its member states make it illegal for their citizens to engage in corrupt practices abroad. Initially there was skepticism on the part of government representatives of some powerful states, including Germany, France and Japan. But in the course of regular meetings of experts and interest groups, general agreement evolved that a convention was necessary and useful. It must be stressed that this happened against the background of such a high degree of general acceptance of the necessity of international bribery that some of the apologists even publicly proclaimed that such bribery was morally justified. For example, a renowned professor of ethics, Pater Rupert Lay, announced in February 1995 that "corruption is forbidden only in our European cultural context. I recently spent four weeks in Indonesia. There, corruption is not only permitted in a moral sense, but is even a desirable form of behavior." The multitudes of people who take to the streets in Indonesia, but also in the Philippines, Korea, Brazil, the Congo, Kenya etc. and risk their lives to do away with corrupt governmental cliques must feel deeply insulted when they have to read such assessments of their traditional values and cultures.

But let's get back to the OECD Convention:

TI played a key role in these talks. In particular, the companies that had participated in the previous discussions with TI about combating international corruption made a breakthrough possible by publishing an open letter to their governments. As early as November 1997, the 30 countries that are members of the OECD today and four other states finalized the text of an agreement on combating the bribery of foreign government officials in international business operations (the OECD Convention).

The convention came into force in February 1999, when the critical mass of the 34 signatory states had ratified it and put into place the legal amendments that were necessary for its implementation. Germany acted promptly: on September 10, 1998, the Bundestag approved the ratification and the necessary implementation measures.<sup>4</sup> As of

today, 30 of the 34 signatory states have ratified the convention, and the members of TI, as well as the large anti-corruption community that exists in the world today, have good reason to celebrate a truly dramatic improvement in the international legal structures with regard to cross-border corruption.

To be sure, not everything had been achieved that TI had wanted to achieve, but the elements of the Convention define important obligations under international law for the states that produce more than 80% of world exports:

- Each Party “*shall take such measures as may be necessary to establish that it is a criminal offence under its law for any person intentionally to offer, promise or give any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party, in order that the official act or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage in the conduct of international business.*” (Art. 1 Convention);
- If, as in the case of Germany, criminal responsibility is not applicable to legal persons under the country’s legal system, the country must “*ensure that legal persons shall be subject to effective, proportionate and dissuasive non-criminal sanctions, including monetary sanctions, for bribery of foreign public officials.*” (Art. 3 Convention);
- The Convention calls for the confiscation of bribes and earnings from bribes; the imposition of further sanctions under civil law or administrative law are to be considered;

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<sup>4</sup> Gesetz zu dem Übereinkommen vom 17. Dezember 1997 über die Bekämpfung der Bestechung ausländischer Amtsträger im internationalen Geschäftsverkehr, passed on September 10, 1998

- Measures for establishing jurisdiction regarding cases of international bribery, for the implementation of these measures independently of national economic interests, increased legal assistance and extradition have been agreed on; and
- Special agreements regarding money laundering and improvements to bookkeeping round off the contents of the Convention.

If we keep in mind how stubbornly many powerful states defended, up until a few years ago, the right of their exporters to engage in international bribery, we can see that this is a truly dramatic legal reform. Nonetheless, this is only one step on the road to a basically corruption-free international market. We could even say that this is only the beginning.

That is why the OECD member states have not dissolved their very capable group of experts on international corruption. The implementation of the Convention in national law is to take place in two phases. First, the implementation on paper will be investigated; in the second phase, monitoring tours and hearings in the countries themselves will establish whether the sanctions against international bribery have actually changed the situation on the ground.

Once again, TI is deeply involved in both phases. For example, our national sections in the UK and Japan have criticized the implementation laws in those countries as being insufficient. Germany was generally praised by the German section of TI for its prompt and effective implementation – in particular, there was positive recognition of the abolition of the tax-deductible status of bribery payments and an in-depth reform of the treatment of corruption connected with Hermes sureties – but some partial aspects of the implementation of the Convention, e.g. the punishment of legal persons under the Infringement Law, were criticized as being insufficient.

In some of the member states, the Convention has still not been implemented (Brazil, Chile, Portugal, Turkey) or has been implemented in only a cursory fashion.<sup>5</sup> In addition, we are making efforts to persuade other important exporting countries to sign the Convention. Israel has already applied; South Africa has passed a cabinet resolution to this effect; Malaysia and China have each declared their readiness to join – and at a conference in southeast Asia this summer we will make further efforts to persuade them.

Moreover, TI is interested in making some improvements to the text of the Convention. For example, the events of recent years have strengthened our conviction that the concept of the "foreign public official" is too narrow for the present situation. For this reason, we have recently submitted a memorandum to the OECD which proposes the inclusion of political party officials and politicians. Some time ago, we also submitted an over 250-page paper in which we point out the discrepancies and gaps in the rules concerning bookkeeping in the member states (see website).

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<sup>5</sup> For a more detailed evaluation, see <[www.transparency.org](http://www.transparency.org)>; for an updated status report, see <[www.oecd.org/nocorruption/annex2.htm](http://www.oecd.org/nocorruption/annex2.htm)>

In other words, there's still a lot to do. Above all, we aim to sensitize the general public to the new legislation. All too often, we still hear business people in Germany, or the Ukraine, or Kenya, say: "Nothing works here without bribery!" It's shocking to see how little some companies are doing to prepare their procurement staff for the new risks; meanwhile, other companies have gone to great trouble and expense to set up new codes of behavior and implementation processes. However, even for these companies, it will take some time before they can rely on a new, effective corporate culture that corresponds to the new legislation.

**7.**

Let's cast just one last glance at Germany: the BKA's report on the current level of corruption in this country (Slide 15) shows that here too, corruption is a reality in our everyday lives.

Ladies and gentlemen, I've spoken long enough, and I hope that I have given you a brief overview of the international nature of – I won't say the phenomenon of corruption but rather, the issue of corruption.

Thank you for your attention.