

Emerging Best Practice in Containing Corruption

The following is a list of the documentation available in full text on the TI website as at the date of publication. This is a “living archive” and, as such, is constantly being reviewed and revised. There is no claim of “perfection” advanced in respect of any particular document, but they are listed as each is seen as having value. Comments, and suggestions for future inclusions, may be sent by email to jeremypope1@compuserve.com, by fax to + 44 20 7610 1550 or by post to Transparency International (TI), London Office, 16-18 Empress Place, London SW6 1TT, United Kingdom.

1. Access to Information

• **Australia, Freedom of Information Act 1982**

The object of this law is to extend the right of the Australian community to access to information in the possession of the Government of Australia by (a) making available to the public information about the operations of departments and public authorities and, in particular, by ensuring that rules and practices affecting members of the public in their dealings with departments and public authorities are readily available to persons affected by those rules and practices; and (b) creating a right of general access to information in documentary form in the possession of Ministers, departments and public authorities, limited only by exceptions and exemptions necessary for the protection of essential public interests and the private and business affairs of persons in respect of whom information is collected and held by departments and public authorities. It also contains a rule of interpretation designed to facilitate and promote, promptly and at the lowest cost, the disclosure of information. Provision is also made for the amendment of personal records, complaints to the Ombudsman, and review by the Administrative Appeals Tribunal.

• **Australia, New South Wales, Freedom of Information Act 1989**

This law seeks to extend the rights of the public to obtain access to information held by the gov-

ernment, and to ensure that records held by the government concerning the personal affairs of members of the public are not incomplete, incorrect, out of date or misleading. These objectives are sought to be achieved (a) by ensuring that information concerning the operations of government is made available to the public; (b) by conferring on each member of the public a legally enforceable right to be given access to documents held by the government, subject only to such restrictions as are reasonably necessary for the proper administration of the government; and (c) by enabling each member of the public to apply for the amendment of the government's records concerning his or her personal records. Provision is also made for an internal review of decisions relating to disclosure, a review by the Ombudsman, and a review by Court.

• **Australia, Victoria, Freedom of Information Act 1982**

The object of this law is similar to that of the Freedom of Information Act 1982 of Australia, namely, to extend as far as possible the right of the community to access to information in the possession of the Government of Victoria and other bodies constituted under the law of Victoria by (a) making available to the public information about the operations of agencies; and (b) creating a general right of access to information in documentary form in the possession of Ministers and agencies.

- **Australia, Queensland, Freedom of Information Act 1992: and the Explanatory Notes to the Freedom of Information Bill 1991**

The object of this law is to confer three important rights: (1) a general right of access to all documents held by government agencies, subject to specific exemptions necessary to protect the workings of government and business and personal confidences; (2) the right to examine information relating to the personal affairs of an individual and to seek any amendment necessary to correct errors or inaccuracies; and (3) the right to information on the structure and functions of government agencies.

- **Belize, Freedom of Information Act 1994**

This Act seeks to give to members of the public a right of access to official documents of the government and public authorities, subject to exemptions in respect of certain categories of documents. It also seeks to provide for public examination records relating to the government's financial, contractual and other transactions. The Ombudsman is the designated authority to review decisions made under this Act.

- **Canada, Access to Information Act 1982 (updated 31.12.1998)**

This Act seeks to provide to every person who is either a Canadian citizen or a permanent resident of Canada a right of access to information in records under the control of a government institution in accordance with the principles that government information should be available to the public, that necessary exceptions to the right of access should be limited and specific, and that decisions on the disclosure of government information should be reviewed independently of government (by an Information Commissioner and/or the Federal Court).

- **Hong Kong, Draft Access to Information Ordinance**

This Bill was prepared prior to the transfer of sovereignty for presentation to the Legislative Council as a Private Member's Bill. It was disallowed by the President of the Council on that ground that, being a Bill with financial implications, it was not approved by the Governor. In fact, the Bill was designed to incur minimal funds for its implementation. The draft Bill

sought to confer on the public a general right of access to information in documentary form in the possession, custody or control of government departments and statutory public bodies. It also recognised the right of an individual to apply for the amendment of any such document if he or she was of the opinion that it contained information concerning such person and that information was incomplete, incorrect, out of date or misleading. Thirteen categories of documents were sought to be exempted from the application of the proposed law, including those relating to judicial functions, law enforcement and public safety, inter-governmental relations, personal affairs, business affairs, scientific research, and those subject to legal professional privilege. The Commissioner for Administrative Complaints (the Ombudsman) was the designated authority for the review of determinations made under the proposed law.

- **Ireland, Access to Information Act 1997**

This Act recognises the right of every person to be offered access to any record held by a public body, subject to limited exemptions provided for in the law. It prescribes the procedure for obtaining access; the amendment of records containing personal information which is incomplete, incorrect or misleading; for the review of decisions relating to the implementation of this Act by an Information Commissioner appointed for that purpose; and for appeal to the High Court on a question of law.

- **Korea, Act on Disclosure of Information by Public Agencies**

This law recognises the people's 'right to know' and provides for access to information in the possession of state, local government and government-invested institutions. It prescribes the procedure for the disclosure of information, and provides for an appeal against non-disclosure, first to the public agency concerned, then to an adjudicator under the provisions of the Administrative Appeals Act, and finally to a judge under the provisions of the Administrative Litigation Act. Eight items of information are excluded from the operation of this law.

- **New Zealand, Official Information Act 1982**

The purposes of this law, which replaced the

Official Secrets Act 1951, are described as being (a) to increase progressively the availability of official information to the people of New Zealand in order to enable their more effective participation in the making and administration of laws and policies, and to promote the accountability of Ministers and officials; (b) to provide for proper access by each person to official information relating to that person; and (c) to protect official information to the extent consistent with the public interest and the preservation of personal privacy. The Ombudsman is empowered to investigate and review decisions made by a department or Minister in respect of the implementation of this law

- **Sweden, The Freedom of the Press Act 1989**

Chapter 2 of the Act provides to every Swedish subject a right of access to official documents. It defines what 'official documents' means; and sets out the circumstances in which the right of access may be restricted by law.

- **Uganda. Right of Access to Information, Article 41 of the Constitution of Uganda 1995**

This provision in the Constitution of Uganda guarantees to every citizen a right of access to information in the possession of the state or any of its organs or agencies, except where the release of the information is likely to prejudice the security or sovereignty of the state or interfere with the right to privacy of any other person.

- **United States of America, Freedom of Information Act (Part 552 of Title 5 (U.S. Code))**

The United States of America was a pioneer in the exposition of the principle of access to information. The original law enacted in 1966 imposed an obligation on the federal government to allow access to most documents in its possession. The Freedom of Information Act 1974, which sought to overcome the cumbersome procedures prescribed in the 1966 legislation, also enabled the courts to consider whether particular documents were properly classified as exempt from disclosure. Other supporting legislation includes the Privacy Act 1974 (which gives individuals an opportunity to inspect their files and correct them); the Fair Credit Reporting Act (which gives citizens a right to see the

records held on them by credit reference agencies); the Government in the Sunshine Act 1976 (which allows the public access to meetings of certain government bodies); and the Whistleblowers (Civil Service Reform) Act 1978 (which is designed to protect civil servants from any retribution from the government if they disclose government wrongdoing or malpractice, or releases information which the civil servant reasonably believes shows a violation of any rule or regulation, mismanagement, gross waste of funds or an abuse of authority).

2. Accountability of Public Officers

- **The Philippines, The Constitution of the Philippines 1987**

The Constitution contains 18 provisions designed to secure the accountability of public officers. These include provisions for impeachment of the highest ranking officers, including the President; the establishment of the offices of Ombudsman and Special Prosecutor; the recovery by the state of properties unlawfully acquired by public officers; the declaration of assets and liabilities; and a prohibition on the grant of loans or other form of financial accommodation for any business purpose to a high ranking officer by a government-owned or controlled bank or financial institution

3. Accounting Profession (in preparation)

4. Administrative Law (see Judicial Review)

5. Anti-Corruption Agencies

- **Australia, New South Wales, Independent Commission Against Corruption Act 1988**

This Act seeks to constitute the Independent Commission Against Corruption and to define its functions. It also defines "corrupt conduct" which the ICAC is empowered, inter alia, to investigate. For the purposes of its investigations, the ICAC is empowered to hold a public hearing at which any person may be summoned to appear to give evidence on oath or affirmation or to produce a document or thing. Other institutions established under this law include an operations review committee, a joint committee of Members of Parliament on the ICAC, and a committee of the Legislative Council and a standing ethics committee of the Legislative Assembly to draft codes of con-

duct for their respective Members and to give advice to them on ethical standards.

- **Australia, New South Wales, How is the ICAC accountable?**

This note prepared by the ICAC explains how it is rendered accountable to the people of New South Wales through the Parliament, the operations review committee, regular reporting, and through the Ombudsman and the courts.

- **Botswana, Corruption and Economic Crime Act 1994**

This Act provides for the establishment of a Directorate on Corruption and Economic Crime, with an extensive mandate which includes the investigation of alleged or suspected offences under this Act, the alleged or suspected contravention of the fiscal and revenue laws of the country, and the conduct of any person which may be connected with or conducive to corruption; the examination of the practices and procedures of public bodies with a view to eliminating any which may be conducive to corrupt practices; the education of the public against the evils of corruption; and the fostering of public support in combating corruption. The Act also creates several offences including that of possession of unexplained property.

- **Hong Kong, Independent Commission Against Corruption Ordinance 1974**

The Hong Kong ICAC was established as an independent institution subject only to the direction and control of the Governor. It consists of a Commissioner and a Deputy Commissioner appointed by the Governor, and such other staff as may be appointed by the Commissioner. The duties of the ICAC include the investigation of offences under the Prevention of Bribery Ordinance, the revision of practices and procedures of government departments and public bodies which are conducive to corrupt practices; advice to any person on ways in which corrupt practices may be eliminated; education of the public against the evils of corruption; and the fostering of public support in combating corruption.

- **Hong Kong, Note on the Corruption Prevention Department (Hong Kong ICAC)**

This is a 1994 note on the structure of the Hong

Kong ICAC, and includes a reference to the advisory and review role played by lay persons from outside the organisation.

- **Jamaica, Contractor-General Act 1983**

The office of Contractor-General is established to monitor, on behalf of Parliament, (1) the award and implementation of government contracts with a view to ensuring that such contracts are awarded impartially and on merit; that the circumstances in which each contract is awarded or terminated do not involve impropriety or irregularity; and that the implementation of each contract conforms to the terms thereof; (2) the grant, issue, suspension or revocation of any prescribed licence, with a view to ensuring that the circumstances of such grant, issue, suspension or revocation do not involve impropriety or irregularity and, where appropriate, to examine whether such licence is used in accordance with the terms and conditions thereof.

- **Singapore, Prevention of Corruption Act (Cap 241)**

This 1960 law establishes the Corrupt Practices Investigation Bureau; defines several offences and provides for their investigation and prosecution. The Act applies to citizens of Singapore in respect of offences committed both within and outside the country.

- **Thailand, The National Counter Corruption Commission, Chapter 10, Part 2 of the 1998 Constitution**

Article 297 of the Constitution provides for the establishment of the National Counter Corruption Commission comprising a chairman and eight experts appointed by the King on the advice of the Senate. Its functions include the investigation of state officials for corruption, abuse of power, or being unjust, and the verification of declarations of assets and liabilities submitted by public office holders.

- **Uganda, The Inspector-General of Government Statute 1987**

The Inspector-General is charged with the duty of protecting and promoting human rights and the rule of law in Uganda, and eliminating and fostering the elimination of corruption and abuse of public offices. He has the power to take

necessary measures for the detection, investigation and prevention of corruption in public offices, including the power to secure the revision of methods of work and procedure in public offices, and to enlist and foster public support against corrupt practices.

(See also relevant case law.)

6. Attorney-General

- **Australia, Queensland, Attorney-General Bill 1993**

This Bill sought to establish the office of Attorney-General for Queensland as a Minister of the government, and to define his functions and powers. Where the Attorney-General decides to exercise his powers in relation to a prosecution without first obtaining a decision on the matter from the Director of Public Prosecutions, or overriding a decision of the DPP, the Bill requires the Attorney-General to present to the Legislative Assembly, within 3 days, a statement outlining the circumstances and reasons for his decision. The Bill also requires the Attorney-General to cause to be published in the Gazette and to be laid before the Legislative Assembly any written directions or guidelines relating to the functions of the office of DPP which he may have given.

7. Auditor-General and Audit Standards

- **Australia, Australasian Council of Auditors-General, Memorandum of Understanding on Peer Reviews**

The ACAG peer review process is designed to uphold and embody the principles and fundamental values of objectivity, integrity, independence, quality, and opinions and reports based on sound research and analysis. A peer review is a comprehensive examination of an audit office's operations in order to determine whether that office has managed its activities economically and efficiently; been effective in the discharge of statutory responsibilities; and/or applied appropriate quality assurance standards.

- **International Organization of Supreme Audit Institutions, Lima Declaration of Guidelines on Auditing Precepts**

This declaration was adopted at the IXth Congress of INTOSAI held in Lima, Peru, and focuses on issues such as independence; relationship to Par-

liament, government and administration; powers; auditing methods, auditing staff, and international exchange of knowledge; and reporting.

- **International Organization of Supreme Audit Institutions, Auditing Standards 1992**

This is the June 1992 revision of the INTOSAI Auditing Standards which were originally published in 1989. This revision recognises the particular needs of countries whose SAIs are constituted as courts of account. These Auditing Standards do not have mandatory application, but they reflect a "best practices" consensus among SAIs. It is a "living" document reflecting, to the extent possible, the current trends, issues and concerns in auditing methodology and practice.

- **Israel, The Internal Audit Law 1992 (5752-1992)**

This law requires that an internal audit be conducted in every public body by an internal auditor. His functions include examining whether the activities of the public body are sound from the standpoint of upholding the law, proper management practice, moral integrity, economy and efficiency, and whether these activities contribute to the achievement of their stated objectives.

- **United States of America, Government Auditing Standards**

This is a 1994 revision of a statement of government auditing standards issued by the Comptroller General of the United States.

8. Banking Supervision

- **Basle Committee on Banking Supervision, Core Principles for Effective Banking Supervision 1977**

This list of core principles for effective banking supervision was issued by the Basle Committee on Banking Supervision after endorsement by the G-10 central bank governors. The list contains 25 basic principles that need to be in place for a supervisory system to be effective. It is intended to serve as a basic reference for supervisory and other public authorities in all countries and internationally.

9. Citizen's Charters

- **United Kingdom, Citizen's Charter Unit, Statement of Standards**

The Citizen's Charter was launched in July 1991 as a 10-year programme to improve the quality of public services. The Charter is the government's statement about what people can expect from public services. There are now 42 national charters and thousands of local charters, applying to all public services - schools and colleges, hospitals, rail services, roads, council services, the police, the fire service, the post office, benefits agency offices and job centres, customs and excise, tax offices, and the privatised utilities such as electricity, gas, telephone and water. A charter sets out standards for individual public services and what to do if these are not met.

10. Civil Law (see also Criminal Law)

- **South Africa, Heath Special Investigating Unit**

The Heath Special Investigating Unit (named after its Head, Judge Willem Heath) was appointed by President Mandela of South Africa in March 1997 under the Special Investigating Units and Special Tribunals Act No.74 of 1996. The Unit, which is a novel concept, offers a process through which an allegation of corruption can be taken through investigations and civil proceedings to enforceable civil judgments by a Special Tribunal. This document serves as an introduction to the Unit and the investigation and litigation services performed by its members.

- **South Africa, Special Investigating Units and Special Tribunals Act, No.74 of 1996**

This law provides for the establishment of Special Investigating Units for the purpose of investigating serious malpractices or maladministration in connection with the administration of state institutions, state assets and public money, as well as any conduct which may seriously harm the interests of the public. It also provides for the establishment of Special Tribunals to adjudicate upon civil matters emanating from investigations by Special Investigating Units.

(See also relevant case law.)

11. Codes of Conduct - International and Inter-Governmental Organisations

- **European Bank for Reconstruction and Development, Code of Conduct 1991**

Adopted by the Board of Governors of the EBRD

on 15 April 1991, and applicable to all officials and staff members of the Bank and, when incorporated in their contracts, to experts and consultants engaged by the Bank, this code addresses issues such as confidentiality, business affiliations, gifts and honours, political activities, financial interests, investments, trading activities, and disclosure statements.

- **European Bank for Reconstruction and Development, Code of Conduct: Implementing Order No.1 1992**

The purpose of this implementing order was to clarify certain provisions of the code of conduct relating to the duties and responsibilities of staff members (see above) and to provide guidance with regard to certain practices which the Bank regards as improper and unacceptable.

- **European Union, Code of Conduct for the Commissioners**

The treaty article on the European Commission make special reference to the complete independence enjoyed by the members of the Commission, who are required to discharge their duties in the general interest of the Community. In the performance of their duties they must neither seek nor take instructions from any government or from any other body. The general interest also requires that in their official and private lives Commissioners should behave in a manner that is in keeping with the dignity of their office. The object of this code is to address this concern, particularly by setting limits to Commissioners' outside activities and interests which could jeopardise their independence. It also responds to the need to codify certain provisions relating to the performance of their duties. Among the matters dealt with in this code are the outside activities of the Commissioners; their financial interests and assets; activities of spouses; collective responsibility and confidentiality; rules for missions; rules governing receptions and professional representations; acceptance of gifts and decorations; and the composition of their offices.

- **European Union, Extract from Wise Men's Report 1999**

This extract focuses, inter alia, on the "common core of minimum standards" which binds holders of high public office in the absence of spe-

cific rules or codes of conduct applicable to them. In the view of the “wise men”, the higher the office, the more demanding those standards are in requiring the holders to conduct themselves properly in appearance and behaviour.

12. Codes of Conduct – Judges and Judicial Employees

- **Canadian Judicial Council, Ethical Principles for Judges 1998**

This statement of ethical principles for judges was prepared for the Canadian Judicial Council by a working committee which included four Chief Justices and an academic. It was designed to represent a concise yet comprehensive set of principles addressing the many difficult ethical issues that confront judges as they work and live in their communities, and to provide a sound basis to promote a more complete understanding of the role of judges in society and of the ethical dilemmas they often encounter.

- **Tanzania, Code of Conduct for Judiciary Officers 1984**

This code of conduct for judiciary officers of Tanzania was adopted by the Judges and Magistrates’ Conference held at Arusha in March 1984. A violation of any of the rules contained in the code constitutes judicial misconduct or misbehaviour and may entail disciplinary action.

- **USA, Canons of Judicial Conduct for the Commonwealth of Virginia 1999**

Adopted and promulgated by rules of court, these canons of judicial conduct are intended to establish standards for ethical conduct of judges. The document contains broad statements (canons), specific rules set forth in sections under each canon, and a commentary. The text of the canons and the sections is authoritative, while the commentary is advisory and provides guidance with respect to the purpose and meaning of the canons and sections.

13. Codes of Conduct – Private Sector

- **British Petroleum, Code of Business Conduct 1993**

This code of business conduct was issued by the Chairman of BP on 27 August 1993.

- **European Bank for Reconstruction and Development, Business Standards and Sound Business Practices: A Set of Guidelines**

Recognising that the success of a company depends not only on it having a sound strategy, competent management, good assets and a promising market, but also upon the company maintaining a sound relationship with the various constituencies on which it depends - customers, shareholders, lenders, employees, suppliers, the community in which it operates, and government authorities, the EBRD formulated this set of guidelines as being those which bona fide lenders and investors expect companies to follow in this regard.

- **FMC Corporation, Code of Ethics and Business Conduct Guidelines**

The code of ethics discusses the ethical principles that should guide all FMC employees in their daily work. The business conduct guidelines reflect the policy of FMC Corporation and its domestic and foreign subsidiaries with respect to political contributions, payments to government personnel, commission payments, proper accounting procedures and commercial bribery.

- **General Electric Company, Statement of Ethical Business Practices**

This statement of ethical business practices, which is applicable to all employees of the company throughout the world, relates, in particular, to certain kinds of payments (such as bribes, kickbacks, gifts, contributions, and entertainment) and political contributions.

- **Hong Kong ICAC, Corporate Code of Conduct**

This is a document prepared by the Hong Kong ICAC for the reference of business organisations interested in formulating a code of conduct to guide management and staff. It aims to present in a practical way the guiding principles to be incorporated in a code of conduct, exemplify the options and circumstances for the formulation of a code of conduct, and provide a variety of cases, situations and examples for reference. It also contains a sample corporate code of conduct.

- **An Interfaith Declaration: A Code of Ethics on International Business for Christians, Muslims and Jews 1993, St. George's House, Windsor and the Al Albait Foundation and the Arab Thought Forum in Amman**

Following a series of interfaith consultations between the followers of three monotheistic faiths - Christianity, Islam and Judaism, this Declaration was prepared by a group of eminent scholars, clerics and business people following a comprehensive review of the teachings of the three religions with regard to ethical issues in the conduct of business. It reflects the shared concern for justice, mutual respect, stewardship and honesty indicated in the teachings of the three religions.

- **International Chamber of Commerce, Rules of Conduct to Combat Extortion and Bribery 1996**

The ICC is a global business organisation with 63 national committees and over 7,000 member companies and associations from more than 130 countries. It seeks to promote international trade and investments, as well as rules of conduct of business across borders. These rules of conduct are intended as a method of self-regulation by international business. They are of a general nature constituting what is considered good commercial practice in the matters to which they relate but are without direct legal effect. However, a Standing Committee on Extortion and Bribery established by the ICC seeks, inter alia, to ensure that enterprises and business organisations endorse these rules.

- **International Textile, Garment and Leather Workers' Federation, Draft Code of Labour Practice 1997**

This is a model code of conduct prepared by the federation and recommended to companies, contractors, subcontractors and suppliers in the relevant fields.

- **ITT Corporation, Code of Corporate Conduct**

This excerpt from the ITT code of corporate conduct addresses issues relating to corrupt and illegal practices; political activity; relations with government employees and sales agents.

- **Medical Products, Code of Conduct in respect of the research, development, manufacture,**

- distribution and procurement of, German Federal Association of Manufacturers of Medical Products and the Working Group of German Public Health Insurance Umbrella Bodies 1997**

Based on the provisions of the laws of the European Union, this code is directed at manufacturers, distributors, employees of medical institutions and other service providers in connection with the research, development, manufacture, distribution and procurement of medical products. The code is designed to secure positive competition within the framework of a social health care system by establishing practical rules which would ensure the observance of "high ethical principles", fulfil the requirements of medical research as well as those of the medical industry, and at the same time help to "increase the level of transparency and avoid irritations and inappropriate developments".

- **NYNEX, Code of Business Conduct**

These excerpts deal with entertainment, gifts and gratuities, and is addressed to both managers and employees. The code also contains a provision dealing with the reporting of violations, and of any illegal, unethical or fraudulent acts within the NYNEX companies.

- **OECD, Guidelines for Multinational Enterprises 1997**

These guidelines are in the nature of recommendations addressed by member countries of the OECD to multinational enterprises operating in their territories. They take into account problems which can arise because of the international structure of these enterprises, and lay down standards for the activities of these enterprises in the different member countries. Observance of the guidelines is voluntary and not legally enforceable.

- **Royal Dutch/Shell Group of Companies, Statement of General Business Principles 1997**

This document, issued by the chairman of the committee of managing directors in March 1997, sets out the objectives, responsibilities and economic principles of Shell companies, and focus on business integrity, political activities, health, safety and the environment, the community, competition and communication.

- **Texaco, Corporate Conduct Guidelines**

These guidelines relate to improper payments and gifts, the conduct of international business, the application of the Foreign Corrupt Practices Act, doing business with the government, and the reporting of irregularities.

14. Codes of Conduct – Professions and NGOs

- **Charter for a Free Press, adopted by the Voices of Freedom Conference, London 1987**

This statement of 10 principles was approved by journalists from 34 countries at the Voices of Freedom World Conference on Censorship Problems held in London in January 1987. The conference was held under the auspices of the World Press Freedom Publishers, International Press Institute, Inter-American Press Association, North American Broadcasters Association, and the International Federation of the Periodical Press.

- **International Bar Association, International Code of Ethics 1956**

This statement of 21 rules for the legal profession was first adopted in 1956.

- **International Bar Association, Standards for the Independence of the Legal Profession 1990**

This statement of standards was adopted by the IBA in 1990 and is designed to assist in the task of promoting and ensuring the proper role of lawyers. It seeks to complement the UN Basic Principles on the Role of Lawyers and to provide more detail. While the UN principles are addressed to governments, this IBA statement seeks to address the question of independence of the profession from the view-point of lawyers.

- **International Center for Not-for-Profit Law, Principles of Regulation for the Not-for-Profit Sector**

The executive director of the International Center for Not-for-Profit Law, has, in this excerpt from an article, identified certain principles of regulation for the not-for-profit sector.

- **Nigerian Code of Ethics for Journalists 1996**

Originally drafted in 1996, this code of ethics was endorsed in 1998 by the Nigerian Union of Journalists, the Nigerian Guild of Editors, the Newspaper Proprietors Association of Nigeria, and the Nigerian Press Council.

- **Transparency International, Conflict of Interest Policy**

This policy statement on conflict of interest was issued by the Board of Directors of Transparency International, and is addressed to individuals who represent either TI or its national chapters.

- **Uganda Journalists Association, Code of Professional Conduct**

This code was formulated by the members of the Uganda Journalists Association to serve as a basis for the adjudication of disputes between the press and public and for disciplinary action when the conduct of a journalist falls below the required minimum standards enshrined in it.

- **United Nations, Principles of Medical Ethics relevant to the role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1982**

These 6 principles were adopted by the UN General Assembly by resolution 37/194 of 18 December 1982.

- **United Nations, Basic Principles on the Role of Lawyers 1990.**

These principles were adopted by the 8th UN Congress on the Prevention of Crime and the Treatment of Offenders, and “welcomed” by the UN General Assembly in its resolution 45/121 of 14 December 1990. The UN invited governments to be guided by them in the formulation of appropriate legislation and policy directives and to make efforts to implement them in accordance with the economic, social, legal, cultural and political circumstances of each country. In its resolution 45/166 of 18 December 1990, the UN General Assembly invited governments “to respect them and to take them into account within the framework of their national legislation and practice”.

15. Codes of Conduct – Public Officials, including Ministers and Parliamentarians

- **Africa Leadership Forum, Draft Code of Conduct for African Parliaments 1998**

This draft code of conduct was adopted at the African Leadership Conference on Democratisation of African Parliaments and Political Parties”

held in Gaborone, Botswana in July 1998, and attended by representatives drawn from Parliaments across the African continent. It was offered to African Parliaments in the hope and expectation that it would assist the processes of developing national codes of conduct to guide the various democratic institutions through the challenging years that lay ahead.

- **Australia, Draft Framework of Ethical Principles for Members of Parliament and Senators 1995**

These principles, prepared by a working group, are intended to provide a framework of reference for Members of the House of Representatives and the Senate in the discharge of their duties. They outline the minimum standards of behaviour which, in the view of the working group, the Australian people have a right to expect of their elected representatives.

- **Australia, Draft Framework of Ethical Principles for Ministers and Presiding Officers 1995**

The principles contained in this document, prepared by a working group, are intended to provide a framework of reference for Ministers and the presiding officers of the two Houses of Parliament. They supplement the draft Framework of Ethical Principles for Members and Senators and the provisions of the Standing Orders of both Houses.

- **Australia, Draft Code of Conduct for all Office Holders, Law Reform Commission of Australia**

This model code of conduct prepared by the Australian Law Reform Commission contains ten general principles. In this document, the Commission also suggests how appropriate codes of conduct could be developed in respect of Members of Parliament, staffs of Members of Parliament, Ministers, Ministerial staff, public servants, members of the defence force, staff of Parliamentary departments, consultants, statutory office-holders, staffs of statutory office-holders, certain analogous office-holders, members of tribunals, the media, and lobbyists. The Commission also suggests machinery for the regulation of conflicts of interest and post-separation employment, and recommends amendments to the criminal law.

- **Australia, Draft Code of Conduct, Legislative Council of New South Wales**

This draft code of conduct, prepared by the standing committee of the legislative council on Parliamentary privilege and ethics, focuses on such matters as general conduct, personal conduct, upholding the law, conflict of interest, use of public office for private gain, acceptance of gifts or travel expenses, use of inside information or official resources for personal gain, and post-employment restrictions.

- **Australia, Register of Members' Interests, Parliament of Victoria**

This is the prescribed form to be used for making the primary return under the Members of Parliament (Register of Interests) Act 1978.

- **Australia, Code of Conduct for the Public Employees in South Australia, Commissioners Circular No.64**

This code of conduct for public employees in South Australia contains general principles of public administration (relating to such matters as impartiality, conflict of interest, gifts, avoidance of waste, equal opportunity); service to the government (including responsibility to the Minister obedience to directions, disclosure of information, public comment, freedom of information, whistleblowing, political activity in the workplace, and government motor vehicles); and the criminal law (including bribery and corruption, abuse of public office, extortion, threats and reprisals).

- **Australia, Parliamentary and Electorate Travel: Recommendations for reform, ICAC, New South Wales 1999**

This is the second report of the ICAC on the subject of Parliamentary entitlements. It seeks to detail the results of an analysis of Members' use of their entitlements and allowances and the administrative systems operating within the New South Wales Parliament, and makes recommendations for change. The first report, released in April 1998, examined the conduct of Brian Langton MP and six other Members of Parliament in relation to the use of travel entitlements.

- **Canada, Conflict of Interest and Post-Employment Code for Public Office Holders 1994**

This code seeks to enhance public confidence in the integrity of public office holders and the decision-making process in government by establishing clear rules of conduct respecting conflict of interest for, and post-employment practices applicable to, all public office holders. It also seeks to minimise the possibility of conflicts arising between the private interests and public duties of public office holders, and provides for the resolution of such conflicts should they arise.

- **Canada, Ontario, Members' Integrity Act 1994**

This law prescribes rules of conduct for Members of the Legislative Assembly and the executive council designed to prevent a conflict of interests. It also requires each Member to file a statement disclosing the assets and liabilities of himself, spouse and minor children. Provision is made for the establishment of the office of Integrity Commissioner.

- **Fiji, Code of Conduct, S.155 of the Constitution of Fiji 1997**

This constitutional provision prescribes five rules of conduct applicable to holders of high public office (including the president), and requires Parliament to make a law to more fully implement these rules.

- **Germany, Federal Government Directive concerning the Prevention of Corruption in the Federal Administration 1998**

This directive contains instructions issued to all government offices on measures to be taken to prevent corruption. They include risk analysis, greater scrutiny and transparency, rotation of staff, the appointment of a contact person for the prevention of corruption, internal review, separation of planning, award and billing in respect of public procurement, the principle of public tender, the incorporation of an anti-corruption clause in contracts, and prior consent of the highest administrative authority for the acceptance of gifts or hospitality.

- **Hong Kong, The Acceptance of Advantages and Entertainment, Civil Service Branch Circular 1992**

This circular draws the attention of all officers to the Acceptance of Advantages (Governor's Permission) Notice 1992, which is annexed to it, and to the provisions of Civil Service Regulations on the acceptance of entertainment. In his Notice, the Governor gives permission to all Crown servants to solicit/accept certain types of advantages in certain circumstances.

- **India, The All-India Services (Conduct) Rules 1968**

These rules, applicable to members of the Indian civil service, were made by the central government under the provisions of the All-India Services Act. They deal with such matters as securing employment of near relatives in private undertakings; taking part in politics and elections; connection with press and radio; giving or taking of dowry; participating in public demonstrations in honour of other public officers; engaging in private trade or employment; and speculating in stocks and shares. The rules also require the submission of a statement of assets and liabilities.

- **India, Provisions as to Disqualification on Ground of Defection (Crossing the Floor legislation), Tenth Schedule to the Constitution of India, added by the 52nd Amendment Act 1985.**

This amendment to the Constitution of India provides that if a Member of any Legislature, whether national or state, who belongs to a political party, either voluntarily gives up his membership of such political party, or votes or abstains from voting in such Legislature contrary to any direction issued by the political party to which he belongs, such Member shall be disqualified from being a Member of the Legislature. While it may be argued that a constitutional provision of this nature seriously inhibits the freedom of a Member of the Legislature to act according to his judgment and conscience, this amendment appears to have been designed to address the phenomenon of defections induced by bribery.

- **Ireland, Ethics in Public Office Act 1995**

This Act provides for the disclosure of interests of holders of certain public offices (including Members of Parliament - the oireachtas) and designated directors of and persons employed in designated positions in certain public bodies. It also provides for the appointment by each house of Parliament of a committee on Members' interests, and for the establishment of a Public Officers Commission, to investigate contraventions of the Act.

- **Malta, Code of Ethics of Members of the House of Representatives 1995**

This code of ethics was enacted as an amendment to the House of Representatives (Privileges and Powers) Ordinance, and sought to establish standards of correct behaviour which the Members proposed to observe as elected representatives serving in their country's highest democratic institution. The code also introduced a register of Members' interests.

- **New Zealand, Public Service Code of Conduct, State Services Commission 1997**

This code of conduct was issued by the State Services Commission as a "minimum standard of integrity and conduct" applicable in the Public Service. It was intended to form the basis for any codes that may be required by chief executives to suit the particular operational requirements and circumstances of their departments. The code establishes three principles of conduct which all public servants are expected to observe: (a) employees should fulfil their lawful obligations to government with professionalism and integrity; (b) employees should perform their official duties honestly, faithfully and efficiently, respecting the rights of the public and their colleagues; and (c) employees should not bring their employer into disrepute through their private activities. The principles do not specify every potential act of behaviour but rather, establish the obligations generally expected of public servants in their relationships with government, their chief executive, colleagues, and the public.

- **Nigeria, Code of Conduct for Ministers and Special Advisers of the Federal Government of Nigeria 1999**

This code of conduct was adopted and signed by

all the Ministers and special advisers of the Federal Government of Nigeria following their appointments to office by President Olusegun Obasanjo.

- **OECD, Principles for Managing Ethics in the Public Service 1998**

The Council of the OECD, on 23 April 1998, adopted these principles and recommended that member countries take action to ensure well-functioning institutions and systems to promote ethical conduct in the public service.

- **Papua New Guinea, Organic Law on the Duties and Responsibilities of Leadership 1975**

This law, which seeks to implement the Leadership Code prescribed in the Constitution, enumerates the responsibilities of leadership, which includes furnishing to the Ombudsman Commission a regular declaration of the assets, income, gifts and liabilities of each person to whom this law applies, his spouse and children. The Ombudsman Commission is empowered to verify the declarations and refer appropriate cases to the Public Prosecutor, as well as to investigate on its own initiative or on complaint by any person, any alleged or suspected misconduct in office by a person to whom this law applies. Other conduct incompatible with responsibilities of leadership, dealt with in the law, include the use of office for personal benefit, company directorships, shareholdings, engaging in other paid employment, interests in contracts, acceptance of bribes, acceptance of loans, misappropriation of state funds, and gaining a personal advantage from official information.

- **Philippines, Code of Conduct and Ethical Standards for Public Officials and Employees Act (Republic Act No.6713 of 1989)**

This law seeks to establish a code of conduct and ethical standards for public officials and employees, and provides penalties for violations thereof. It requires the public disclosure of assets, liabilities, net worth, and financial and business interests, and commits the state to a policy of full public disclosure of all its transactions involving public interest. It also establishes an incentives and rewards system for exemplary service and conduct based upon the observance of the norms of conduct laid down in the code.

- **South Africa, Code of Conduct for Elected Members of the ANC 1994**

This code of conduct was adopted by the National Executive Committee of the African National Congress on 12 November 1994. It has to be read in conjunction with the Constitution of the ANC, and applies to all elected Members of the National Assembly, the Senate and Provincial Legislative Assemblies who have been elected on the ANC list or, in the case of the Senate, who were elected to their positions by Provincial Legislatures.

- **South Africa, Code of Conduct in regard to Financial Interests of Members of the National Assembly and the Senate 1996**

This code of conduct, prepared by the Rules Committee of the National Assembly, focuses only on financial interests. The non-financial conduct of Members, such as personal behaviour, is intended to be the subject of further work by the Committee.

- **South Africa, Executive Members' Ethics Bill 1998**

This Bill seeks to provide for a code of ethics governing the conduct of members of the Cabinet, Deputy Ministers, and members of provincial Executive Councils, as required by section 96(1) of the Constitution.

- **South Africa, Register of Members Interests, Parliament of the Republic of South Africa 1999**

South Africa's elected leaders are required to disclose shares and financial interests, remunerated employment outside Parliament, directorships and partnerships, consultancies and retainerships, sponsorships, gifts and hospitality, benefits, travel of certain categories, land and property, and pensions.

- **South Africa, Code of Conduct for Persons in Positions of Responsibility, Moral Summit 1998**

This code of conduct was adopted and signed by all the participants at a "moral summit" convened by President Nelson Mandela in October 1998 to discuss the "moral crisis" of South African political and social life. The participants included representatives of all major political parties and religious leaders.

- **Tanzania, Public Leadership Code of Ethics Act 1995**

This Act established a code of ethics for the President and other "public leaders". (It also contains a relatively weak requirement that every public leader must make an annual declaration of his assets and liabilities and those of his spouse and unmarried children, but that he need not declare any property in the absence of an allegation that he appeared to have "suddenly and inexplicably come into possession of extraordinary riches in relation to his observable sources of income". Also excluded are a wide variety of "non-declarable assets").

- **Transparency International, Questionnaire for Senior Officials**

This questionnaire was developed by Transparency International for use in closed meetings of permanent heads of key government departments as a first step in a process leading to the formulation/revision of a departmental anti-corruption strategy.

- **Uganda, Leadership Code of Conduct, Article 233 of the Constitution of Uganda**

This Article of the Constitution of Uganda requires Parliament to establish by law a Leadership Code of Conduct for persons holding such offices as may be specified by Parliament, and authorises the Inspectorate of Government to enforce the Code.

- **United Kingdom, Code of Best Practice for Board Members of Public Bodies, HM Treasury 1994**

This document sets out a code of best practice for board members of executive non-departmental public bodies. Prepared by the Treasury, the code is intended as a model which the public bodies concerned should adopt with any modifications that may be necessary to take account of their own particular characteristics and circumstances. The code recommends that all boards of public bodies should establish Audit Committees.

- **United Kingdom, The Code of Conduct for Members of Parliament 1996**

This document contains the code of conduct for Members of Parliament prepared by a select committee pursuant to a resolution of the House

of Commons of 19 July 1995; a guide to the rules relating to the conduct of Members; and 10 resolutions of the House of Commons relating to the registration and declaration of Members' interests and advocacy.

- **United Kingdom, The Seven Principles of Public Life, Nolan Committee 1995**
Prepared by the Nolan Committee, these seven principles - selflessness, integrity, objectivity, accountability, openness, honesty and leadership - apply to all aspects of public life.
- **United Kingdom, The Civil Service Code 1996**
The Civil Service Code sets out the constitutional framework within which all civil servants work and the values they are expected to uphold. It is modelled on a draft originally put forward by the House of Commons Treasury and Civil Service Select Committee. It came into force on 1 January 1996 and forms part of the terms and conditions of employment of every civil servant.
- **United Kingdom, Code of Conduct and Guidance on Procedures for Ministers 1977**
This comprehensive 135-paragraph Ministerial Code was issued by Prime Minister Tony Blair in 1997 as a source of guidance and reference designed to assist Ministers to undertake their official duties "in a way that upholds the highest standards of propriety". It deals with the conduct of Ministers in relation to the government, Parliament, their departments, civil servants, constituency and party interests, visits overseas, the presentation of policy, private interests, and pensions.
- **United Kingdom, The Duties and Responsibilities of Civil Servants in relation to Ministers (the "Armstrong Memorandum")**
This updated version of the 1985 Armstrong Memorandum concerns the duties and responsibilities of civil servants in relation to Ministers and elaborates some of the principles in the Civil Service Code issued in January 1996.
- **United Kingdom, Draft Code of Practice for Public Appointments Procedures, Nolan Committee 1995**
This draft code of practice prepared by the Nolan Committee recommends the steps to be taken in

defining the task and the qualities sought; identifying a field of candidates; selecting a short list and recommending candidates to Ministers; choosing the preferred candidate; and confirming the appointment.

- **United Kingdom, A Standard of Best Practice for Openness (in government agencies), Nolan Committee 1995**
This standard of best practice for openness in executive NDPBs and NHS bodies, prepared by the Nolan Committee, requires the adoption of a specific code on access to information; the opening of meetings to the public or making available to the public the minutes of such meetings; and the regular publication of information including plans and strategies, key statistics, results of consultation exercises, reports of regulatory investigations, and annual reports and accounts.
- **United Nations, International Code of Conduct for Public Officials 1996**
This code, contained in Resolution 51/59: Action against Corruption, was adopted by the UN General Assembly on 12 December 1996, and recommended to member states as a tool to guide their efforts against corruption. The code enunciates three general principles, and then focuses on conflict of interest, disclosure of assets, acceptance of gifts or other favours, confidential information, and political activity.
- **USA, Governmental Ethics Ordinance, Municipal Code of Chicago 1997**
This law contains a code of conduct applicable to all elected and appointed officials and employees of the City of Chicago; requires them to file an annual statement of their financial interests; provides for the registration of lobbyists; and creates a Board of Ethics with authority to receive, investigate and report on complaints of violation of the provisions of this law.
- **Vanuatu, Leadership Code Act No.2 of 1998**
This Act gives effect to Chapter 10 of the Constitution of the Republic of Vanuatu by providing for a Leadership Code to govern the conduct of "leaders". It contains provisions relating to a conflict of interest, the applicability of custom, and declaration of assets and liabilities. The

Ombudsman is empowered to investigate and report on the conduct of a leader, and to refer to the Public Prosecutor any breach of the Code, and to the Commissioner of Police any complaint involving criminal misconduct. The Act also prescribes penalties for a breach of the Code, including fine and imprisonment, dismissal from office, disqualification from future office, loss of employment benefits, and deprivation of proceeds of corruption.

- **Zambia, The Parliamentary and Ministerial Code of Conduct Bill 1994**

This Bill sought to establish a code of conduct for Ministers, Deputy Ministers and Members of the National Assembly, as required by the Constitution of Zambia, and to require Ministers to make an annual declaration of their assets, liabilities and income to the President of the Republic. It also sought to empower the Commission for Investigations to investigate any allegation of a breach of the code referred to it by the Speaker or the President or, in certain circumstances, received by it directly.

16. Conflict of Interest (see also Codes of Conduct)

- **Australia, Constitution (Disclosures by Members) Regulation 1983 (New South Wales)**

This regulation requires each Member of the Legislative Council or Legislative Assembly of New South Wales to make an annual return of any interests in real property, sources of income, gifts received, contribution to travel, interests and positions in corporations, positions in trade unions and professional or business associations, debts, dispositions of property, and any other direct or indirect benefits, advantages or liabilities, whether pecuniary or not, which might raise a conflict between his private interests and his public duty as a Member. The returns are tabled in the Legislative Council or the Legislative Assembly, as the case may be, and are then available for public inspection.

- **Lithuania, Law on the Adjustment of Public and Private Interests in the Public Service**

The purpose of this law is to prevent a conflict between the private interests of persons employed in the public service and the public interests of the community. Persons in central

and local public service (including politicians public servants and judges) as well as candidates for elective and appointive offices, are required to make a very comprehensive annual declaration of their private interests, which is then published in the official gazette. The law imposes certain obligations on these persons, including the duty of self-exclusion, restriction of the right of representation, restrictions on the acceptance of gifts or services, the obligation to notify any new job proposals, and limitations on concluding employment contracts after leaving office. An independent Chief Official Ethics Commission is established and charged with the implementation of this law, including the power to bring actions in court for the termination or invalidation of employment contracts and transactions concluded in violation of this law.

(See also relevant case law.)

17. Council of Europe

- **Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, November 1990**

This Convention is designed to deprive criminals of the proceeds from crime through national measures and international co-operation.

- **Combating Bribery in International Business Transactions, Recommendation of the Council 1997**

This recommendation addresses issues such as the criminalisation of bribery of foreign public officials; tax deductibility; accounting requirements, external audit and internal company controls; public procurement; and international co-operation.

- **Guiding Principles for the Fight against Corruption 1997**

This resolution (97) 24 was adopted by the Committee of Ministers of the Council of Europe on 6 November 1997. It contains 20 guiding principles for the fight against corruption elaborated by the Multidisciplinary Group on Corruption (GMC). National authorities are invited to apply these principles in their domestic legislation and practice. The resolution also instructs the GMC to submit a draft text proposing the establishment of an appropriate and efficient mechanism

for monitoring observance of these principles.

- **Criminal Law Convention on Corruption 1998**

Adopted by the Committee of Ministers of the Council of Europe in November 1998, this Convention aims principally at developing common standards concerning certain corruption offences. In addition, it deals with substantive and procedural matters which closely relate to these offences and seeks to improve international co-operation. Attached to the text of the Convention is an explanatory report.

- **Civil Law Convention on Corruption 1999**

Adopted by the Committee of Ministers of the Council of Europe on 9 September 1999, this Convention is a first and unique text dealing with questions relating to civil law and corruption. It addresses such questions as compensation for damage for victims of corruption, liability, including state liability for acts of corruption committed by public officials; contributory negligence; validity of contracts; protection of employees who report corruption; clarity and accuracy of accounts and audits; acquisition of evidence; court orders to preserve the assets necessary for the execution of the final judgment and for the maintenance of the status quo pending resolution of the points at issue; and international co-operation. Compliance by states parties with the commitments entered into under the Convention will be monitored by the Group of States against Corruption (GRECO). The Convention is open to member states, non-member states which took part in its elaboration, as well as the European Community. Attached to the text of this Convention is an explanatory report.

18. Country action plans

- **Global Coalition for Africa, Principles to Combat Corruption in African Countries 1999**

At a meeting at Ministerial level held in Washington DC in February 1999 under the auspices of the GCA, the representatives of 11 African states agreed on 25 principles which would form the basis of a concerted and collaborative effort to combat corrupt practices and thereby contribute to the global fight against corruption.

19. Criminal Law (see also Civil Law)

- **Hong Kong, Prevention of Bribery Ordinance 1970**

This law defines several offences of bribery and prescribes the penalties therefor. The offences include that of possession by a Crown servant of unexplained property, and the penalties include the confiscation of assets. The law also provides for the investigation of offences, including the power to obtain information, restrict the disposal of property, search premises, and require the surrender of travel documents. The law also contains evidentiary provisions, and confers power on the court to prohibit the employment of convicted persons.

- **Kenya, The Prevention of Corruption Act 1956**

This 1956 law creates the offences of corruption in office, and prescribes an increased penalty where the offence relates to a contract with government. It creates a presumption of guilt (unless the contrary is "proved") where the money, gift, loan, fee, reward or other consideration is received by a person in the employment of government or of a public body. Provision is made for the principal to recover, as a civil debt, the money value of any bribe received by an agent. The law also establishes the Kenya Anti-Corruption Authority charged with responsibility for the prevention of corruption in the public, parastatal and private sectors.

- **Malaysia, Anti-Corruption Act 1997**

The giving and accepting of gratifications for certain corrupt purposes are criminalised by this law, as also the bribery of officers of public bodies (defined to include the government, local authorities, prescribed societies, etc.). An Anti-Corruption Agency is established with functions ranging from investigation to instruction, advice and education. Powers of investigation conferred under this law include that of requiring lawyers to disclose information, the interception of communications and the surrender of travel documents. Provision is also made for the forfeiture of property proved to be the subject-matter of an offence. This law is applicable to citizens and permanent residents of Malaysia in respect of offences committed outside the country as well.

- **New Zealand, Secret Commissions Act 1910**

This law, which came into operation in 1911, prohibits the offering or giving, and the soliciting or accepting, of any gift or other consideration to or by an agent, for doing or forbearing to do any act in relation to the principal's affairs or business.

- **Trinidad and Tobago, Prevention of Corruption Act 1987**

This law seeks to define the offence of corruption in office and to prescribe penalties therefor. The corrupt use of official information by an agent is also criminalised.

- **United States of America, Foreign Corrupt Practices Act 1977**

The FCPA makes it unlawful for a firm (as well as any officer, director, employee or agent of a firm or any stockholder acting on behalf of the firm) to bribe a foreign government official, a foreign political party or party official, or any candidate for foreign political office, in order to obtain or retain business. It also makes it unlawful to make a payment to any person, while knowing that all or portion of the payment will be offered, given or promised, directly or indirectly, to any foreign official as a bribe for the purpose of assisting the firm in obtaining or retaining business. A foreign incorporated subsidiary of a US firm, however, is not subject to the FCPA, but the US parent may be liable if it authorises, directs or participates in the activity in question. Exempted from the application of the FCPA are payments made for facilitating or expediting performance of routine governmental action such as obtaining permits, licenses or other official documents, processing governmental papers such as visas, and providing police protection, phone service and power and water supply.

- **Zambia, Corrupt Practices Act 1980**

This law creates several offences of corrupt practice involving public officers or members of public bodies, including the offence of possession of unexplained property, and is applicable to citizens of Zambia in respect of offences committed within or outside the country. It establishes an Anti-Corruption Commission with functions and powers similar to that of the Hong Kong ICAC,

and contains provisions relating to the prosecution of offences, including certain rules of evidence. The law also contains provisions relating to post-resignation/retirement employment of certain categories of public officers.

(See also relevant case law.)

20. Customs

- **Declaration of the World Customs Organization, Customs Co-operation Council, Arusha 1993**

This Declaration recognises that a corrupt Customs will not deliver the revenue that is properly due to the state; will not be effective in the fight against illicit trafficking; will obstruct the growth of legitimate international trade and hinder economic development; and that the Customs has no right to public recognition or trust if its staff break the law habitually. Accordingly, the Declaration identifies the key factors that must be taken into account in a national Customs integrity programme.

21. Declarations of Assets and Liabilities (see Monitoring of Assets)

22. Definition

- Australia, New South Wales ICAC, What is Corruption?
- Black's Law Dictionary

23. Elections and Polls

- **Commonwealth Secretariat, Good Commonwealth Electoral Practice 1997**

This document is the product of discussions held at two workshops for chief electoral officers convened by the Commonwealth secretariat. It is designed to assist policy-makers, and electoral and other officials in the development and strengthening of their electoral systems. It deals with such matters as election administration, registration of voters, delimitation of constituencies, formation of political parties, nomination of candidates, disclosure of party/candidate's income and expenditure, conduct of the campaign, and arrangements for the poll.

- **Commonwealth Secretariat, Domestic Election Observers 1999**

This is the report of a workshop of Commonwealth Domestic Election Observers, and exam-

ines the purpose and effectiveness of domestic observation, and the role of observer bodies in the context of the overall process of democratisation.

- **Hong Kong, Corrupt and Illegal Practices Ordinance 1955**

This law seeks to prevent corrupt and illegal practices at elections. It defines several offences including bribery and treating, and contains provisions relating to election expenses.

- **International IDEA, Ethical and Professional Administration of Elections 1997**

This document contains a code of conduct for the ethical and professional administration of elections. It is designed to assist election administrators by providing general guidelines for their work. In particular, election administration must demonstrate respect for the law; be non-partisan and neutral; transparent and accurate; and be designed to serve the voters.

- **International IDEA, Ethical and Professional Observation of Elections 1997**

This document contains a code of conduct for the ethical and professional discharge of election observation activities. It specifies the behaviour expected of observers and provides guidelines in 'good practice' in observation. The code is intended to be primarily applicable to international election observers, although much of its contents are of direct relevance to national and domestic observers as well.

24. Ethics (see Codes of Conduct: Monitoring Assets and Lifestyles)

25. European Union

- **A Union Policy Against Corruption 1997**

This communication from the Commission of the European Communities to the Council and the European Parliament sets out the main elements of a comprehensive Union Policy against Corruption. Further and more co-ordinated action is called for on several matters including the ratification and implementation of the First Protocol to the Convention on the protection of European Communities' financial interests, and the abolition of tax deductibility in respect of the bribery of foreign officials.

26. Immunities and Privileges

- **Barbados, Parliament (Privileges, Immunities and Powers) Act 1964**

This is an Act to determine and regulate the powers, privileges and immunities of the two houses of Parliament - the Senate and the House of Assembly - and of the Members thereof. It also seeks to regulate the conduct of Members and other persons in connection with the proceedings of Parliament; to give protection to persons employed in the publication of the reports and papers of Parliament; and to regulate admittance to the precincts of Parliament. Sections 32 and 33 make it a criminal offence for a Member of Parliament to seek or accept a bribe, and for any person to offer a bribe to a Member, in respect of the performance of any Parliamentary function or duty.

- **Kenya, The National Assembly (Powers and Privileges) Act 1964**

This Act declares and defines the privileges and immunities of members of the National Assembly, all of which relate directly to the performance of their lawful functions within the Assembly. The Act also prohibits a member from accepting any bribe, fee, compensation, gift or reward for or in respect of the promotion of or opposition to any Bill, resolution, matter or thing submitted or intended to be submitted for the consideration of the Assembly (s.24).

- **Zimbabwe, Privileges, Immunities and Powers of Parliament Act 1971**

This Act recognises the freedom of speech and debate, and the privileges and immunities relating thereto of the Members of the Senate and House of Assembly, and provides for their enforcement.

(See also relevant case law.)

27. International Conventions and Treaties

- **Council of Europe, Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, November 1990**

This Convention is designed to deprive criminals of the proceeds from crime through national measures and international co-operation.

- **Council of Europe, Criminal Law Convention on Corruption 1998**
 Adopted by the Committee of Ministers of the Council of Europe in November 1998, this Convention aims principally at developing common standards concerning certain corruption offences. In addition, it deals with substantive and procedural matters which closely relate to these offences and seeks to improve international co-operation. Attached to the text of the Convention is an explanatory report.
- **Council of Europe, Civil Law Convention on Corruption 1999**
 Adopted by the Committee of Ministers of the Council of Europe on 9 September 1999, this Convention is a first and unique text dealing with questions relating to civil law and corruption. It addresses such questions as compensation for damage for victims of corruption, liability, including state liability for acts of corruption committed by public officials; contributory negligence; validity of contracts; protection of employees who report corruption; clarity and accuracy of accounts and audits; acquisition of evidence; court orders to preserve the assets necessary for the execution of the final judgment and for the maintenance of the status quo pending resolution of the points at issue; and international co-operation. Compliance by states parties with the commitments entered into under the Convention will be monitored by the Group of States against Corruption (GRECO). The Convention is open to member states, non-member states which took part in its elaboration, as well as the European Community. Attached to the text of this Convention is an explanatory report.
- **OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions 1997, and other instruments**
 The OECD Convention represents an important step in the concerted international effort to criminalise bribery. Through it, the 29 member states of the Organization for Economic Co-operation and Development, representing the world's richest countries, agreed to make it a criminal offence for any person to offer, promise or give a bribe, whether directly or through intermediaries, to a foreign public official in order to obtain or retain

business or other improper advantage in the conduct of international business.

- **Inter-American Convention Against Corruption 1996**

This convention, adopted by the member states of the OAS on 29 March 1996, was the first multi-lateral anti-corruption treaty instrument negotiated in the world. Its purpose is to promote and strengthen the development by each of the states parties of the mechanisms needed to prevent, detect, punish and eradicate corruption; and to promote, facilitate and regulate co-operation among the states parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption in the performance of public functions and acts of corruption specifically related to such performance. Among measures which states parties have agreed to take are the adoption of standards of conduct with mechanisms for enforcement; the prohibition of the bribery of foreign officials; the creation of the offence of "illicit enrichment"; and to designate corruption as an extraditable offence. The convention has been signed by 25 countries, and ratified by 10. It entered into force on 6 March 1997.

28. International Financial Institutions

- **Asian Development Bank, Policy Against Corruption, August 1998**

The ADB's anti-corruption policy focuses on three key objectives: first, to support competitive markets and efficient, effective, accountable and transparent public administration as part of its broader work on good governance and capacity building; second, to support promising anti-corruption efforts by member governments on a case-by-case basis and improve the quality of its dialogue with governments on a range of governance issues, including corruption; and third, to ensure that its projects and its staff adhere to the highest ethical standards.

- **International Monetary Fund, The Role of the IMF in Governance Issues – Governance Note, August 1997**

This document contains guidelines adopted by the Executive Board of the IMF covering the role of the IMF in issues of governance. It reflects a consensus on the importance of good governance (including the avoidance of corrupt prac-

tices) for economic efficiency and growth. While observing that its mandate did not allow it to adopt the role of investigative agency or guardian of financial integrity in member countries, the Note nevertheless directed its staff to address governance issues, including instances of corruption, on the basis of the economic considerations within its mandate. Individual instances of corruption are to be raised with the authorities when there is reason to believe they could have significant macroeconomic implications. In respect of international transactions, IMF staff are required to pay equal attention to both sides of corrupt transactions, and recommend that such practices be stopped if they have the potential to significantly distort economic outcomes.

- **International Monetary Fund, Code of Good Practices on Fiscal Transparency – Declaration of Principles, 16 April 1998**

Stressing that fiscal transparency is of considerable importance to achieving macroeconomic stability and high-quality growth, the IMF published this declaration on principles of a Code of Good Practices on Fiscal Transparency. The Code is based around the following key objectives: (a) roles and responsibilities in government should be clear; (b) information on government activities should be provided to the public; (c) budget preparation, execution, and reporting should be undertaken in an open manner; and (d) fiscal information should be subjected to independent assurances of integrity. The Code sets out what governments should do to meet these objectives in terms of principles and practices.

- **World Bank, Corruption and Good Governance – Policy Statement, October 1997**

In this policy statement, the World Bank acknowledges that while it had previously had no systematic framework for addressing corruption as a fundamental problem of development, its 1997 report “Helping Countries Combat Corruption: The Role of the World Bank” and the accompanying guidelines point to a new approach that addresses corruption as a fundamental impediment to long term economic growth and social development.

- **World Bank, Helping Countries Combat**

- **Corruption: The Role of the World Bank 1997**

In this report and the accompanying guidelines, the World Bank requires, inter alia, the disclosure of payments to agents and public advertisement of major consultancy contracts, permits the use of integrity pledges, and simplifies the procedure to suspend disbursements, cancel loans and bar offending firms.

29. International Legal Assistance

- **Switzerland, Federal Office of Police, Checklist for Foreign Mutual Assistance in Criminal Matters**

This document describes the requirements and the procedure for making requests to Switzerland for mutual assistance in criminal matters.

- **Switzerland, International Mutual Legal Assistance in Criminal Matters**

This 1998 contribution by Judith Natterer, assistant to Prof. Dr. Mark Pieth, examines the provisions of the Swiss Federal Law on Mutual Legal Assistance in Criminal Matters.

- **Switzerland, A Guide to Swiss Banking Secrecy (Peter F Mueller)**

This 1998 contribution by Dr Peter F. Mueller, President, Ethics and Business, examines the legal provisions relating to Swiss banking secrecy, and explains how requests for international legal assistance are dealt with.

- **United States of America, Mutual Legal Assistance Law 1986**

This law seeks to make provision for giving effect to the terms of a treaty made between the Governments of the United States of America and the United Kingdom (including the Government of the Cayman Islands) for improving the effectiveness of the law enforcement authorities of the USA and the Cayman Islands in the prosecution and suppression on crime through cooperation and mutual legal assistance in criminal matters.

30. International Statements

- **Global Forum on Fighting Corruption, Declaration on Safeguarding Integrity Among Justice and Security Officials, Washington DC 1999**

The Global Forum on Fighting Corruption was hosted in Washington DC by US Vice President Al Gore and attended by participants from 90 governments. It recognises that corruption cannot co-exist with democracy and the rule of law. It also recognises that corruption is not inevitable. It is intended to continue the dialogue begun in Washington at annual global Ministerial fora on fighting corruption.

- **International Anti-Corruption Conference, The Lima Declaration 1997**

This Declaration was adopted at the conclusion of the 8th International Conference against Corruption held in Lima, Peru, in September 1997 and attended by over 1000 citizens from 93 countries. The participants included senior figures from international organisations and aid agencies, representatives of governments, officers of anti-corruption agencies and professional associations, as well as journalists, academics, businessmen, and representatives of civil society. The Declaration calls upon governments, international and regional agencies, and citizens around the world to mobilise their efforts and energies in achieving the actions enumerated in it at both international and regional levels and at the national and local levels.

31. Judicial Assistance (see International Legal Assistance)

32. Judicial Decisions

[Note: The names of the 140 or so cases relevant to corruption issues and which are noted here have necessarily been omitted here in the interests of conserving space.]

33. Judicial Review of Administrative Action

- **The Commonwealth, Lusaka Statement of Government Under the Law (Lusaka Statement), 1993**

- This document was originally prepared and adopted at a workshop on administrative law held in Lusaka, Zambia, in October 1992. It was endorsed by Law Ministers of the Common-

wealth at their meeting in Mauritius in November 1993, as a notable contribution to the development of administrative law. The Lusaka Statement contains principles which reflect good administrative practice and which, in many instances, are enforceable through the courts.

- **Council of Europe Resolution (77) 31 on the Protection of the Individual in Relation to the Acts of Administrative Authorities, 28 September 1977**

Recognising the necessity to ensure fairness in relations between the individual and administrative authorities, the Committee of Ministers recommended the governments of member states to be guided in their law and administrative practice by the principles annexed to this resolution. These principles, which are designed to protect persons with regard to any individual measures or decisions taken in the exercise of public authority and which are of such nature as directly to affect their rights, liberties or interests, relate to the right to be heard, access to information, assistance and representation, statement of reasons, and indication of remedies.

- **Council of Europe Recommendation No.R(80)2 Concerning the Exercise of Discretionary Powers of Administrative Authorities, 11 March 1980**

Considering that it is desirable that common principles be laid down in all member states to promote the protection of the rights, liberties and interests of persons, whether physical or legal, against arbitrariness or any other improper use of a discretionary power, without at the same time impeding the achievement by the administrative authorities of the purpose for which the power has been conferred, the Committee of Ministers recommended the governments of member states to be guided in their law and administrative practice by the principles annexed to this recommendation. The 11 principles which are applicable to the exercise of discretionary powers by administrative authorities are classified under Basic Principles, Procedure, and Control

- **Uganda, Right to Fairness, Article 42 of the 1995 Constitution**

This provision in the Constitution of Uganda guarantees to any person appearing before any

administrative official or body the right to be treated justly and fairly, and the right to apply to a court of law in respect of any administrative decision taken against him or her.

(See also relevant case law.)

34. Judiciary

- **Centre for the Independence of Judges and Lawyers, Policy Framework for Preventing and Eliminating Corruption and Ensuring the Impartiality of the Judicial System, 2000.**

This 10-page policy framework to address the problem of corruption in the judiciary resulted from a meeting of 16 experts convened by the CIJL in Geneva in February 2000. It is addressed to governments, international financial institutions, members of the judiciary, lawyers, and other policy makers, and urges them to take active steps to prevent and eliminate corruption in the judiciary. It makes six specific recommendations, including the drafting by the judiciary of a statement of judicial ethics with provision for the imposition of sanctions where necessary.

- **International Association of Penal Law, International Commission of Jurists, and the Centre for the Independence of Judges and Lawyers, Draft Principles on the Independence of the Judiciary 1981**

These draft principles on the independence of the judiciary were prepared by a committee of experts at a meeting convened by the IAPL, ICJ and CIJL and held in Siracusa, Sicily in May 1981.

- **International Bar Association, Minimum Standards of Judicial Independence 1982.**

These principles dealing with judges and the executive, judges and the Legislature, terms and nature of judicial appointments, and discipline and removal of judges, were adopted by the IBA at a meeting held in New Delhi in October 1982.

- **LAWASIA, Beijing Statement of Principles on the Independence of the Judiciary in the Lawasia Region 1995**

This statement of principles representing the minimum standards necessary to be observed in order to maintain the independence and effective functioning of the judiciary was adopted by the 6th Conference of Chief Justices of Asia and

the Pacific at a meeting held under the auspices of LAWASIA in Beijing in August 1995.

- **United Nations, Basic Principles on the Independence of the Judiciary 1985**

This document was adopted by the Seventh UN Congress on the Prevention of Crime and the Treatment of Offenders in September 1985 and endorsed by the UN General Assembly in November of the same year. The General Assembly invited governments to respect the principles and to take them into account within the framework of their national legislation and practices.

- **United Nations, Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary 1989.**

These procedures for the effective implementation of the Basic Principles on the Independence of the Judiciary were adopted by ECOSOC and endorsed by the UN General Assembly in 1989. They deal with matters such as publicity, provision of resources, periodic reporting, and technical assistance

- **United Nations, Draft Universal Declaration on the Independence of Justice.**

This draft Declaration is contained in the final report on the independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyers, prepared at the request of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities by Dr. L.M. Singhvi (E/CN.4/Sub.2/1985/18 and Add.1-6). The Commission on Human Rights, at its 45th session, by resolution 1989/32, invited governments to take into account the principles set forth in this draft Declaration in implementing the UN Basic Principles on the Independence of the Judiciary

35. Law Enforcement Officials

- **United Nations, Code of Conduct for Law Enforcement Officials 1979**

This code of conduct was adopted by the UN General Assembly (Resolution 34/169) on 17 December 1979 with a recommendation that favourable consideration be given by governments to its use within the framework of national legislation or practice as a body of principles for observance by law enforcement offi-

cials. Article 7 requires law enforcement officials to refrain from committing any act of corruption, and to rigorously oppose and combat all such acts.

36. Law web sites (in preparation)

37. Legal Profession

- **International Bar Association , International Code of Ethics 1956**

This statement of 21 rules for the legal profession was first adopted in 1956.

- **International Bar Association, Standards for the Independence of the Legal Profession 1990**

This statement of standards was adopted by the IBA in 1990 and is designed to assist in the task of promoting and ensuring the proper role of lawyers. It seeks to complement the UN Basic Principles on the Role of Lawyers and to provide more detail. While the UN principles are addressed to governments, this IBA statement seeks to address the question of independence of the profession from the view-point of lawyers.

- **United Nations, Draft Universal Declaration on the Independence of Justice.**

This draft Declaration is contained in the final report on the independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyers, prepared at the request of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities by Dr. L.M. Singhvi (E/CN.4/Sub.2/1985/18 and Add.1-6). The Commission on Human Rights, at its 45th session, by resolution 1989/32, invited governments to take into account the principles set forth in this draft Declaration in implementing the UN Basic Principles on the Independence of the Judiciary.

- **United Nations, Basic Principles on the Role of Lawyers 1990.**

These principles were adopted by the 8th UN Congress on the Prevention of Crime and the Treatment of Offenders, and “welcomed” by the UN General Assembly in its resolution 45/121 of 14 December 1990. The UN invited governments to be guided by them in the formulation of appropriate legislation and policy directives and to make efforts to implement them in accordance

with the economic, social, legal, cultural and political circumstances of each country. In its resolution 45/166 of 18 December 1990, the UN General Assembly invited governments “to respect them and to take them into account within the framework of their national legislation and practice”.

38. Local Government

- **Bratislava Declaration for Municipal Reform 1999**

This document contains a model developed at a TI conference of representatives from Central and Eastern Europe for improving municipal service delivery in addition to identifying and rooting out corruption.

- **Victoria Falls Charter 1997**

This Charter for building integrity in local government administration was adopted at a workshop for the training of trainers for the development of local integrity systems in East and Southern Africa, held at the A'Zambezi River Lodge, at Victoria Falls, Zimbabwe in August 1997. It adopts a holistic approach by drawing together a number of strands into an integrity system that is capable of sustaining and supporting sound local government.

39. Money Laundering

- **European Union, Council Directive on Prevention of the Use of the Financial System for the Purpose of Money Laundering, 10 June 1991**

The Council of the European Communities required by this Directive that member states bring into force laws, regulations and administrative decisions necessary to comply with several measures set out therein which were designed to prevent the use of credit and financial institutions for the purpose of money laundering.

- **FATF (Financial Action Task Force on Money Laundering), The Forty Recommendations 1990**

FATF is an inter-governmental body whose purpose is the development and promotion of policies to combat money laundering - the processing of criminal proceeds in order to disguise their illegal origin. These recommendations set out the basic framework for anti-money laun-

dering efforts and are designed to be of universal application. They cover the criminal justice system and law enforcement, the financial system and its regulation, and international co-operation.

- **International Chamber of Commerce, Guide to the Prevention of Money Laundering 1998**

This guide is designed to assist those who are unfamiliar with money laundering legislation and those who live in countries where there is no legislation. It is intended primarily for banks, but is also applicable to other financial institutions. Section 1 provides an overview of money laundering, its definition, risks and techniques. Section 2 sets out a framework for self-protection, based on best practice procedures, knowledge of business clients and counterparties and self analysis using the Compliance Chain Analysis (CCA) methodology. Section 3 contains case studies which illustrate the issues and procedures raised in the text. The appendices provide further details from the main body of the text.

(See also relevant case law.)

40. **Monitoring assets and life-styles of public officials**

- **Belize, Prevention of Corruption in Public Life Act 1994.**

This Act requires the regular declaration by every person in public life of assets, income and liabilities of such person, his spouse and his children. It provides for the publication of such declarations in the government gazette and for their verification and report to the National Assembly by an independent Integrity Commission established under the Act. The Act also prescribes a code of conduct, applicable to the Governor-General, members of the National Assembly, public officers, members and employees of all public bodies including local authorities, and members and officers of statutory corporations and government agencies. The code is enforceable by the Integrity Commission.

- **The Gambia, Evaluation of Assets and Properties and the Prevention of Corrupt Practices Act, No.17 of 1982**

This law seeks to establish a Commission to evaluate the assets and properties of public officers,

to investigate suspected cases of corruption, and to inquire into the conduct of public officers in the performance of their duties and the dealings of a non-public officer with a public officer or a public body. The law also defines several offences of corrupt practice. A schedule to the Act contains a form prescribed for the purpose of furnishing information relating to assets and properties. The Commission, however, is required to report its findings to the President, and it is the latter who decides whether or not to refer the matter to the Attorney-General for further action.

- **Papua New Guinea, Statement to Ombudsman Commission of Incomes, All Assets, Business Dealings, Gifts, etc. 1976**

This is the form to be used for the purpose of making a statement to the Ombudsman Commission of income, assets, business dealings, gifts, etc., as required by the Constitution and the Organic Law on the Duties and Responsibilities of Leadership.

- **Thailand, Declaration of Assets and Liabilities, Chapter 10, Part 1 of the 1998 Constitution**

Article 291 of the Constitution requires designated holders of political office (including the Prime Minister, Cabinet Ministers, Members of Parliament and of local councils) to declare the assets and liabilities of themselves, their spouses and minor children to the National Counter Corruption Commission (NCCC) both when they take office and when they leave office. The declarations made by the Prime Minister and Cabinet Ministers are made public with 30 days of their submission. The NCCC is empowered to verify these declarations.

- **Trinidad and Tobago, The Integrity Commission**

Section 138 of the Constitution of Trinidad and Tobago establishes the Integrity Commission, charged with the duty of receiving declarations of assets, liabilities and income of Members of the House of Representatives, Ministers of Government, Parliamentary secretaries, permanent secretaries and chief technical officers.

- **Trinidad and Tobago, Integrity in Public Life Act, No.8 of 1987**

This Act requires every person in public life to

file with the Integrity Commission a declaration of his income, assets and liabilities, including assets placed in a blind trust. The Commission is empowered to verify the declarations and take appropriate action or refer any matter to the Director of Public Prosecutions.

(See also relevant case law.)

41. OAS (Organization of American States)

- **Inter-American Convention Against Corruption 1996**

This convention, adopted by the member states of the OAS on 29 March 1996, was the first multi-lateral anti-corruption treaty instrument negotiated in the world. Its purpose is to promote and strengthen the development by each of the states parties of the mechanisms needed to prevent, detect, punish and eradicate corruption; and to promote, facilitate and regulate co-operation among the states parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption in the performance of public functions and acts of corruption specifically related to such performance. Among measures which states parties have agreed to take are the adoption of standards of conduct with mechanisms for enforcement; the prohibition of the bribery of foreign officials; the creation of the offence of “illicit enrichment”; and to designate corruption as an extraditable offence. The convention has been signed by 25 countries, and ratified by 10. It entered into force on 6 March 1997.

- **Inter-American Program for Co-operation in the Fight against Corruption 1997**

This program, which was adopted by the General Assembly of the OAS on 5 June 1997, contains measures in four areas: legal, institutional, international, and civil society.

42. OECD

- **OECD Recommendation on Bribery in International Business Transactions 1994**

In a landmark development in the campaign against corruption in international business transactions, the member states of the Organization for Economic Co-operation and Development agreed in this Recommendation that each of them should take effective measures to deter,

prevent and combat the bribery of foreign public officials. As anticipated, this Recommendation proved to be an effective catalyst for change, and led to the adoption, three years later, of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

- **OECD Recommendation to Combat Corruption in Aid-Funded Procurement**

This Recommendation calls on countries to require anti-corruption provisions in bilateral aid-funded procurement.

- **OECD 1997 Revised Recommendation on Combating Bribery in International Business Transactions**

This Recommendation sets out measures which countries should take in the fields of accounting, public procurement, and criminalising bribes to foreign public officials. These measures require companies to maintain adequate accounting records, adopt internal company controls, and undergo external audits. In the area of public procurement it is recommended that companies found guilty of bribing foreign public officials be suspended from future public contract bids. Countries are also requested to co-operate in investigations and other legal proceedings to efficiently prosecute cases in which foreign public officials have been bribed.

- **OECD 1998 Recommendation on Improving Ethical Conduct in the Public Service**

This Recommendation calls on countries to take action to ensure well-functioning institutions and systems for promoting ethical conduct in the public service.

- **OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions 1997, and other instruments**

The OECD Convention represents an important step in the concerted international effort to criminalise bribery. Through it, the 29 member states of the Organization for Economic Co-operation and Development, representing the world’s richest countries, agreed to make it a criminal offence for any person to offer, promise or give a bribe, whether directly or through

intermediaries, to a foreign public official in order to obtain or retain business or other improper advantage in the conduct of international business.

43. Ombudsman

- **Belize, Ombudsman Act 1993**

This Act provides for the establishment of the office of a Parliamentary Commissioner to be known as the Ombudsman. He is appointed by the Governor-General on the recommendation of both Houses of the National Assembly, and has the power to investigate where he is of the opinion that a ministry, department or agency of government, the police force, a city council or other statutory body, or an officer or member thereof, has been guilty of corruption or other wrongdoing, or that any person or body of persons have sustained injustice, injury or abuse as a result of any action taken by any such authority. A complaint may be made direct to the Ombudsman. If no action is taken on a recommendation made by the Ombudsman after investigation, he is required to report to the National Assembly. Apart from an annual report, the Ombudsman may be required at any time by the National assembly to report in respect of any matter.

- **The Philippines, The Ombudsman Act 1989**

The office of Ombudsman (Tanodbayan) is created under the Constitution of the Philippines which also prescribes the qualifications for appointment (not less than 40 years of age; of recognised probity and independence; member of the Philippine Bar with 10 years experience in the practice of law or as a judge; and must not have been a candidate for elective office in the immediately preceding election), the procedure for appointment (by the President from a list of at least 6 nominees prepared by the Judicial and Bar Council), and term of office (7 years without reappointment; disqualified from standing for office in the immediately succeeding election). This Act further elaborates the constitutional provisions and defines the Ombudsman's very extensive mandate. His powers include the investigation of any act or omission which appears to be illegal, unjust, improper or inefficient, and his disciplinary jurisdiction extends over all elective and appointed officials of the government

(including members of the Cabinet) except those who may be removed only by impeachment and Members of Congress and the Judiciary. He may institute prosecutions, or direct any officer to perform and expedite any act or duty required by law, or to stop, prevent and correct any abuse or impropriety in the performance of duties, or to take appropriate action against a public officer or employee at fault. He may also recommend to the President and to Congress the repeal or amendment of any law or regulation which he considers to be unfair or unjust.

- **South Africa, Public Protector Act, No.23 of 1994**

The office of Public Protector was established under the Constitution of South Africa to protect the public against maladministration in connection with the affairs of government, improper conduct by a person performing a public function, improper acts with respect to public money, improper or unlawful enrichment of a person performing a public function, and an act or omission by a person performing a public function resulting in improper prejudice to another person. This Act provides for certain ancillary matters pertaining to the office of the Public Protector, including the conduct of investigations and the publication of his findings.

- **Sweden, The Riksdag Act**

This law provides for the Riksdag to elect 4 Ombudsmen to supervise the application in public service of laws and other statutes.

- **Transparency International, The Office of the Ombudsman: Basic Principles**

In this document, TI has identified nine essential elements for the effective functioning of the office of Ombudsman.

- **Vanuatu, Ombudsman Act, No.14 of 1995**

This law supplements the provisions of the Constitution of Vanuatu relating to the office of Ombudsman. It specifies qualifications and conditions of employment. In addition to the normal functions of an Ombudsman, this law empowers him to inquire into any alleged or suspected breach of the Leadership Code. However, his powers of enforcement are limited to publicity of his proceedings, and of the reports and recom-

mendations he makes to the Prime Minister, Parliament or other relevant authority. In certain circumstances, he may apply to Court for an order giving effect to a recommendation made by him which has not been implemented.

44. Open Government

(see Access to Information; Public Procurement; Transparency Provisions)

45. Parliament

- **Australia, Recommendation of the Queensland Electoral and Administrative Review Commission on "Public Administration Committees in Parliament" 1992**

In this extract from an October 1992 report on the Review of Parliamentary Committees, the Commission recommends the establishment of five Standing Committees with power to inquire into and report on any aspect of public administration in Queensland. The five committees are in respect of: finance and administration, legal and constitutional affairs, community services and social development, resources and infrastructure, and business and industry. The report details the specific functions of each committee.

- **Commonwealth Secretariat, The Role of the Opposition 1998**

This is the report of a workshop on the rights and responsibilities of the Opposition organised by the Commonwealth Secretariat and held in London in June 1998. Among the issues addressed are (a) holding the executive to account; (b) the Opposition as the "alternative government"; (c) the legislative function; (d) the Opposition, consensus and the national interest; (e) the Opposition, the people and civil society; and (f) the Opposition in decentralised democracies.

46. Pledges, Integrity

- **Malawi, Lilongwe Integrity Pledge 1996**

Participants drawn from a broad spectrum of Malawian society attending the launch of the Malawian chapter of Transparency International, in November 1996 at Lilongwe, Malawi, made this pledge on integrity.

- **Southern and Eastern African NGOs, Usa River Communique 1995**

The representatives of Southern and Eastern

African NGOs participating in a regional seminar on corruption and its impact on development, held in Usa River, Arusha, Tanzania, in November 1995, acknowledged the extremely negative impact which corruption has had on development and on the fight against poverty, and made this pledge on the role of NGOs in combating corruption.

- **Tanzania, Arusha Integrity Pledge 1995**

This document contains the broad conclusions reached by participants drawn from a broad spectrum of Tanzanian society who participated in the 1995 Arusha Workshop on National Integrity in August 1995. In it, they called upon all political parties and candidates for elective office at a general election due to be held shortly thereafter to demonstrate their political commitment by publicly endorsing a plan of action outlined in it for strengthening national integrity.

- **Uganda, Mukono Integrity Declaration 1995**

This Declaration was made by the participants at the Uganda National Integrity System workshop held in Mukono, Uganda, on 28 November 1995.

47. Post-Public Sector Employment Rules (see Codes of Conduct – Public Officials)

48. Private Sector

- **International Chamber of Commerce, Recommendations to Governments and International Organisations on Extortion and Bribery 1996**

In this document, the ICC enumerates several measures which governments should take in order to deal with the problem of extortion and bribery. They include periodic public reports of measures taken to supervise government officials involved directly in commercial transactions; appropriate measures to prevent the abuse of the power to issue permits or authorisations; mechanisms for the disclosure of political contributions; and legislation requiring the auditing of the accounts of economically significant enterprises by independent professional auditors.

49. Privileges (see Immunities and Privileges)

50. Procurement (see Public Procurement)

51. Prosecutors

- **USA, Independent Counsel (Special Prosecutor Legislation), USA**

Whenever the Attorney-General receives information sufficient to constitute grounds to investigate whether certain designated persons, including the President and the Vice-President of the United States, may have violated any federal criminal law, and the Attorney-General determines that any investigation or prosecution of the person by him may result in a personal, financial or political conflict of interest, the Attorney-General is required to apply for the appointment of an independent counsel. (See also relevant case law.)

52. Public Procurement

- **Asian Development Bank, Guidelines for Procurement under ADB Loans**

The purpose of these guidelines is to inform borrowers of the ADB and prospective suppliers and contractors about the general principles and procedures which should be observed in carrying out procurement of goods and works for Bank-financed projects. These guidelines apply to procurement under loans from both the Bank's ordinary capital and Special Funds resources.

- **Ecuador, Procedures for public bidding and award of contracts: law and practice**

This is a note on the application of the Ley de Licitaciones y Concurso de Ofertas, Ley No.679 of 20 August 1976, which is the basic law governing public bidding in Ecuador

- **Hong Kong, Check list on purchasing and tender procedures, ICAC**

This document issued by the Hong Kong ICAC suggests certain essential control procedures to be implemented in a purchasing and tendering system. These are designed to prevent corruption, and the document therefore covers only those areas which are more susceptible to corruption malpractices.

- **Jordan, Draft statute of the Purchases Supreme Authority 1994**

This law, when enacted, was intended to govern government departments in regard to purchases made in both local and international markets of property, goods, services, commodities, materi-

als, equipment, and appliances. It sought to establish an independent authority known as the Purchases Supreme Authority with power to monitor compliance with the laws, regulations, decisions and directives relating to purchases. The draft law contains provisions which prohibit the payment of commissions or rewards, and the giving of gifts or benefits.

- **South Africa, Transparency in fair and competitive public procurement, Article 187 of the 1994 Constitution**

This provision in the Constitution of South Africa requires that the procurement of goods and services for any level of government be regulated by an act of Parliament which makes provision for the appointment of independent and impartial tender boards; for the tendering system to be fair, public and competitive; for tender boards to record their decisions, and to provide reasons for their decisions to interested parties. It also prohibits improper interference with the decisions and operations of tender boards.

- **Transparency International, Model legislation for public contracts to implement the Anti-Bribery Pact approach 1995**

The Public Contracts (Special Provisions) Act is a model law designed to implement the Anti-Bribery Pact. It prohibits certain practices and provides for the incorporation of implied terms in public contracts.

- **World Bank, Guidelines: Procurement under IBRD Loans and IDA Credits 1996**

These procurement guidelines require borrowers and bidders under Bank-financed contracts to observe the highest standard of ethics during the procurement and execution of such contracts, and specify that the bank will, in respect of such contracts: (a) reject a proposal for award if it determines that the recommended bidder had engaged in corruption in competing for the contract; (b) cancel a loan if it determines that the borrower or its representatives had engaged in corruption during the procurement or execution of the contract; and (c) declare a firm that has engaged in corruption ineligible, either indefinitely or for a stated period of time, to be awarded a Bank-financed contract.

(See also relevant case law.)

- 53. Public Sector Ethics**
(see Codes of Conduct)
- 54. Recovery of assets (includes search, freezing, seizure and forfeiture)**
- **Singapore, Corruption (Confiscation of Benefits) Act 1989(Cap 65A)**
This law seeks to provide for the confiscation of benefits derived from corruption. Whenever a defendant is convicted of a corruption offence, the court is required to make a confiscation order against the defendant in respect of any benefits derived by him from corruption. The confiscation order is then taken into account in determining the nature of the fine (but not any other sentence) to be imposed on him. A 'benefit from corruption' is defined to include any property disproportionate to the defendant's known sources of income.
(See also relevant case law.)
- 55. Religious bodies, Statements by**
- **Latin American Episcopal Council, Ethical Declaration against Corruption 1997**
- 56. Sectoral Initiatives**
- **Health Action International, Statement on Transparency and Accountability in Drug Regulation 1996**
This statement resulted from a meeting of an international working group convened in Uppsala, Sweden, in September 1996, by HAI and the Dag Hammarskjöld Foundation, to seek ways of promoting openness and accountability in drug regulation, both in industrialised and developing countries.
- 57. Surveys (Public Opinion)**
- **New Zealand, Public approval ratings 1997**
 - **Nigeria, Analysis of Values Questionnaire for Permanent Secretaries 1999**
 - **Tanzania, Optional attitude survey of Parliamentarians: questionnaire 1996**
 - **Tanzania, Optional attitude survey of Parliamentarians: summary of results 1996**
 - **Transparency International, Corruption Perception Index 1995**
 - **Transparency International, Corruption Perception Index 1996**
 - **Transparency International, Corruption Perception Index 1997**
- **Transparency International, Corruption Perception Index 1998, 1999, 2000**
 - **United Kingdom, Standards of Members of Parliament**
Gallup Polls conducted in the United Kingdom show that between 1985 and 1994 the level of public distrust of, and alienation from, Members of Parliament grew substantially.
 - **United Kingdom, Public standing of occupational groups**
The results of a survey of the public standing of occupational groups conducted in 1983 and again in 1993.
 - **United Kingdom, What an MP should not accept**
The results of a survey conducted in November 1994.
- 58. Transparency Provisions**
- **Bolivia, Transparency Decree (Article 5 of Supreme Decree No.23318-A of 3 November 1992)**
This decree recognises that the transparent performance of their duties by public servants is fundamental for the credibility of their acts.
 - **New Zealand, Fiscal Responsibility Act 1994**
This law requires the Minister, inter alia, to publish an annual budget policy statement and periodic economic and fiscal updates, including a pre-election update, and to make a disclosure of policy decisions and other matters that might influence future fiscal situations.
 - **The Philippines, Republic Act No.7041**
This law is designed to achieve transparency and equal opportunities in the recruitment and hiring of new personnel by requiring a complete list of all existing vacant positions in all branches, subdivisions, instrumentalities and agencies of government, including government-owned or controlled corporations and local government units, to be published.
 - **South Korea, Real Names Law**
By a presidential decree designed to combat corruption in the bureaucracy, a real name accounting system was applied to all financial transac-

tions, including deposits, savings, stocks and bonds. Those holding existing financial assets in a financial institution under a non-real name were required, within two months, to convert the names of the nominal holders of such assets to real names. Without such conversion, no withdrawal of money was possible.

59. United Nations (see also Judiciary)

- **United Nations, Code of Conduct for Law Enforcement Officials 1979**

This code of conduct was adopted by the UN General Assembly (Resolution 34/169) on 17 December 1979 with a recommendation that favourable consideration be given by governments to its use within the framework of national legislation or practice as a body of principles for observance by law enforcement officials. Article 7 requires law enforcement officials to refrain from committing any act of corruption, and to rigorously oppose and combat all such acts.

- **United Nations, Principles of Medical Ethics relevant to the role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1982**

These 6 principles were adopted by the UN General Assembly by resolution 37/194 of 18 December 1982.

- **United Nations, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 1985**

This Declaration was adopted by the UN General Assembly (Resolution 40/34) on 29 November 1985, and contains, inter alia, provisions relating to restitution and/or compensation to persons who have suffered economic loss through the acts or omissions that are in violation of criminal laws, including those laws proscribing criminal abuse of power.

- **United Nations, Basic Principles on the Role of Lawyers 1990.**

These principles were adopted by the 8th UN Congress on the Prevention of Crime and the Treatment of Offenders, and “welcomed” by the UN General Assembly in its resolution 45/121 of

14 December 1990. The UN invited governments to be guided by them in the formulation of appropriate legislation and policy directives and to make efforts to implement them in accordance with the economic, social, legal, cultural and political circumstances of each country. In its resolution 45/166 of 18 December 1990, the UN General Assembly invited governments “to respect them and to take them into account within the framework of their national legislation and practice”.

- **United Nations Declaration Against Corruption and Bribery in International Commercial Transactions, UNGA Resolution 51/191, 16 December 1996**

In this Declaration, the UN called on member states to take effective and concrete action to combat all forms of corruption, bribery and illicit practices in international commercial transactions. In particular, states were requested to criminalise the bribery of foreign public officials in an effective and co-ordinated manner; to deny tax deductibility of bribes paid by corporate bodies; to encourage the development of business codes, standards and best practices that prohibit corruption; to provide mutual assistance in connection with criminal investigations and legal proceedings; to ensure that bank secrecy provisions do not impede such investigations or proceedings; and to establish illicit enrichment by public officials as an offence.

- **United Nations, Resolution on Action against Corruption, UNGA Resolution 51/59, 12 December 1996**

This resolution recommends to member states the International Code of Conduct for Public Officials, which is annexed to it, as a tool to guide their efforts against corruption, and requests the Secretary-General, in consultation with states and relevant entities, to elaborate an implementation plan and submit it to the Commission on Crime Prevention and Criminal Justice.

- **United Nations Declaration on Crime and Public Security, UNGA Resolution 51/60, 12 December 1996**

In Article 10 of this Declaration, member states agreed to combat and prohibit corruption and bribery by enforcing applicable domestic laws

against such activity. States also agreed to consider developing concerted measures for international co-operation to curb corrupt practices, as well as developing technical expertise to prevent and control corruption. The other Articles of this Declaration deal principally with transnational crime, including the laundering of proceeds from serious crimes.

- **United Nations, International Code of Conduct for Public Officials 1996**

This code, contained in Resolution 51/59: Action against Corruption, was adopted by the UN General Assembly on 12 December 1996, and recommended to member states as a tool to guide their efforts against corruption. The code enunciates three general principles, and then focuses on conflict of interest, disclosure of assets, acceptance of gifts or other favours, confidential information, and political activity.

- **United Nations Resolution 52/87 on International Co-operation Against Corruption and Bribery in International Commercial Transactions, 12 December 1997**

In this resolution the UN General Assembly agreed that all states should take all possible measures to further the implementation of the UN Declaration Against Corruption and Bribery in International Commercial Transactions and of the International Code of conduct for Public Officials. The UNGA also requested the Secretary-General to invite member states to provide a report on steps taken to implement the provisions of the Declaration for consideration by the Commission on Crime Prevention and Criminal Justice with a view to examining further steps to be taken for the full implementation of the Declaration.

- **United Nations, Report of the Expert Group Meeting on Corruption, Buenos Aires, 17-21 March 1997.**

This report, which contains the conclusions and recommendations of the Expert Group Meeting, focuses on the implementation of UNGA Resolutions 51/59 and 51/191. It identifies the institutions that are essential in any programme for the prevention and control of corruption, and recommends 43 different measures, including the elaboration of an international convention against corruption and bribery.

- **Promotion and Maintenance of the Rule of Law: Action against Corruption and Bribery, Report of the Secretary-General 1998**

This report prepared pursuant to UNGA Resolution 52/87 contains an analysis of the information provided by member states on action taken against corruption and bribery and presents an overview of the activities against corruption and bribery undertaken by the Centre for International Crime Prevention and by intergovernmental and non-governmental organisations. It also contains specific recommendations for consideration by the Commission on Crime Prevention and Criminal Justice regarding further work in the area of action against corruption.

60. Whistleblowers

- **Australia, Whistleblowers Protection Bill 1992 (New South Wales)**

The object of this Bill was to encourage and facilitate the disclosure, in the public interest, of corrupt conduct, maladministration and substantial waste in the public sector by enhancing and augmenting established procedures for making disclosures concerning such matters; protecting persons from reprisals that might otherwise be inflicted on them because of those disclosures; and for providing for those disclosures to be properly investigated and dealt with. The Bill, however, lapsed on the prorogation of the New South Wales Parliament.

- **Australia, Whistleblowers Protection Act 1994 (Queensland)**

The principal object of this Act is to promote the public interest by protecting persons who disclose unlawful, negligent or improper conduct affecting the public sector; danger to public health or safety; or danger to the environment. Because the protection is very broad, the Act contains a number of balancing mechanisms intended to focus the protection where it is needed; make it easier to decide whether the special protection applies to a disclosure; ensure appropriate consideration is also given to the interests of persons against whom disclosures are made; and prevent the law adversely affecting the independence of the judiciary and the commercial operation of GOCs. The law affords protection only to a 'public interest disclosure' which is a particular type of disclosure defined

by reference to the person who makes the disclosure, the type of information disclosed and the entity to which the disclosure is made.

- **United Kingdom, Public Interest Disclosure Act 1998**

This law is in the nature of an amendment to the Employment Rights Act 1996. It is designed to encourage people to raise concerns about malpractice in the workplace, and to help ensure that organisations respond by addressing the message rather than the messenger, or by resisting the temptation to cover-up serious malpractice. It applies to people at work who raise genuine concerns about crime, civil liabilities (including negligence, breach of contract, breach of administrative law), miscarriage of justice, danger to health and safety or the environment, and the cover-up of any of these. It applies whether or not the information is confidential and extends to malpractice occurring overseas.

- **United States of America, District of Columbia, Whistleblower Reinforcement Act of 1998**

Two amendments to the District of Columbia Government Comprehensive Merit Personnel Act of 1978 seek to increase protection for DC government employees who report waste, fraud, abuse of authority, violations of law, or threat to public health or safety, and to enforce an enforceable obligation on DC government supervisors to report violations of law when circumstances require, and to afford the same whistleblower protection to employees of DC instrumentalities and employees of contractors who perform work on DC contracts.

(See also relevant case law.)