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EU Anti-Corruption Policy and 10 Principles for Candidate Countries

Presentation by

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EU Anti-Corruption Policy and 10 Principles for Candidate Countries

(1) INTRODUCTION

I am delighted, on behalf of the European Commission, to have the opportunity to participate in this Conference. It is particularly timely to hold such a conference this year as all of us look ahead to the accession negotiations with Turkey which are due to open on 3rd October 2005. The organisation of this conference is yet another indication of Turkey's determination to maintain an active focus on key policy issues which are relevant to these negotiations.

I have prepared a handout to support this presentation. It includes the full text in English of the Commission's Communication on Corruption which forms the basis for my presentation, and secondly it lists reference material and websites which you may find useful if you have a particular need for further information, and I invite you to take a copy of it during the course of the day.

In my presentation, I will, as indicated in the title, bring you up to date on the key elements of the EU's anti-corruption policy, outline the 10 principles which underpin the EU's relations with third countries in this policy area, and also provide some indications of the future developments and areas of work for the EU and Commission over the coming years.

(2) WHY IS CORRUPTION A PRIORITY?

The combating and prevention of corruption is an **integral part** of the European Union's internal and external policies. *Internal*, in that it is a priority in respect of the existing Member States and has also formed a key aspect of the *acquis* for the accession countries; *external*, in that it is a priority in respect of the European Union's approach to international relations, whether in the context of the wider Europe initiative, development policies, the negotiation of international instruments and so on.

(3) ARRIVING AT A COMMON UNDERSTANDING OF "CORRUPTION"

At this early stage of the Conference, I feel it is useful to try to gain a mutual understanding of the meaning of the term "corruption" because this varies so widely, depending on the context. At its heart are the two criminal law offences of bribery:

(1) to promise, offer or give, to a person or entity, directly or indirectly, an undue advantage, for the person himself or herself or another person or entity, in order that the person act or refrain from acting in the exercise of his or her duty

AND

(2) to solicit or accept, directly or indirectly, an undue advantage, for oneself or another person or entity, in order to act or refrain from acting in the exercise of one's duty.

For our purposes here today, I adapted these definitions from the UN Convention against Corruption Articles 15 and 16. Clearly, these offences form two sides of the one coin.

While most States recognise such offences in relation to situations where one of the parties is in the public sector, some States already apply the principle to situations where both parties are in the private sector.

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At the same time, as you are aware, any discussion of the term “corruption” broadens out into a range of related policy topics such as principles of good governance, openness and transparency in elections, financing of political parties and election campaigns, the continuing reform of public administration, as well as conflicts of interest, whistle-blowing, ethics, public access to official information, asset recovery, witness protection etc. To the public, corruption is a term which describes any general sense of improper conduct at either an individual or an institutional level, whether related to an individual scandal or to an ongoing situation. Clearly, tackling something so broad and with so many aspects poses a considerable challenge. While specialist bodies play an important role in addressing particular aspects of corruption, for example an internal unit to tackle corruption within a police force, there is also a benefit to establishing a central body to develop and coordinate national policy in this area, to carry responsibility for maintaining an overview of the situation within a State and inject momentum into the process.

(4) EU ANTI-CORRUPTION POLICY

(a) The 2003 Communication

Turning our attention now to the European Union itself, Article 29 of the Treaty on European Union lists the prevention and combating of corruption, whether arising from organised crime or otherwise, as one of the objectives which support the creation and protection of a European area of freedom, security and justice.

The European Union’s policy in relation to corruption has been brought up to date in the Communication on Corruption which was published in May 2003 by the European Commission. In the Communication, the Commission set out its proposals for the way forward in reducing and preventing corruption within the institutions of the European Union, within Member States and with regard to third countries. In order to become European Union policy, the text of the Communication was then submitted for discussion by the European Parliament and the Council. Both institutions responded very positively to it and have given it the “green light” – by the European Parliament in December 2003 and the Justice and Home Affairs Council in Luxembourg on 14 April 2005.

The purpose of the 2003 Communication was to set out an overview of what has been achieved at EU level, secondly to identify areas where a fresh impetus was needed, and thirdly to identify possible areas where the EU might be an appropriate actor to take future initiatives in the fight against corruption. The Commission states unequivocally that “It is the Commission’s firm intention to reduce corruption at all levels in a coherent way within the EU institutions, in EU Member States and outside the EU, that is political corruption, corrupt activities committed by and collusively with organised crime groups, private-to-private and so-called *petty* corruption.” (page 5 of the Communication)

The Communication calls for the detection and punishment of all acts of corruption, confiscation of illegal proceeds and reductions of the opportunities for corrupt practices through the establishment of transparent and accountable public administration standards. It appeals to Member States to enact swiftly all relevant supranational and international anti-corruption instruments. The Communication emphasises the crucial role of monitoring and peer review evaluation between countries participating in these initiatives. In this regard, I

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must of course mention that in January 2004 Turkey joined the Council of Europe's group, GRECO, which monitors and evaluates compliance with the Council of Europe's Criminal and Civil Law Conventions on Corruption.

The Commission recommends a multi-disciplinary approach to integrity-enhancing strategies for both the public and the private sector. It draws particular attention to the need for transparency in the financing of social partners, pressure and interest groups.

(4) EU ANTI-CORRUPTION POLICY

(b) The 10 General Principles

In the context of the Communication's discussion on external aspects of anti-corruption policy, a list of 10 General Principles is provided in the Annex to the Communication. Their full title is "Ten principles for improving the fight against corruption in acceding, candidate and other third countries". This makes clear that the intention of the 10 principles is to inform the EU's discussions with *all* third countries, and hence they are applicable in a range of situations.

The Commission takes the view that it is reasonable to expect that each candidate country or co-operation partner should ideally subscribe to these principles, and integrate them into their national political, legal and administrative systems.

The 10 **General Principles** address issues within both the public and private sectors, like

- the need for strong, political support to address corruption
- becoming fully aligned with the relevant international instruments
- implementation of legislation in an effective manner
- safeguards in relation to recruitment etc of civil and public servants
- the integrity, accountability and transparency of all sections of the public administration
- development of codes of conduct for all sections of the public administration
- protection for whistle-blowers in both the public and private sector
- encouraging the general public to recognise the impact of corruption
- ensuring that particular entities do not have undue influence over the policy-making process
- supporting the private sector in recognising and combating corruption

(4) EU ANTI-CORRUPTION POLICY

(c) The Acquis

In addition to policy documents, I wish to draw your attention to the key legal instruments in the criminal law area, because these are intrinsic elements of the Acquis. Historically, within the European Union, our attention was initially focused on the protection of the Communities' financial interests, leading to the drafting of the 1995 Convention on the Protection of the Communities' Financial Interests. This was followed by several Protocols, including the Protocol dated September 1996 which specifically addressed offences of corruption in relation to the Communities' Financial Interests. Since May 1997, there is also a Convention in place which criminalises the active and passive corruption of public officials of the Communities and of Member States. That Convention is highly significant, because it is general in nature rather than confined to protecting the Communities' financial interests.

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Subsequently, a Joint Action on corruption in the private sector was agreed in 1998, and in 2003 this was developed into a Framework Decision, which is a stronger form of instrument. Member States are due to comply with the Framework Decision on private sector corruption before the 22nd of this month. Subsequently an evaluation report will be prepared based on input by the Commission and the Council Secretariat. Full references to these instruments have been included in your documentation.

Many other instruments are also of general relevance. Of these, I would single out for mention the area of public procurement, which is globally an area that is particularly vulnerable to corrupt behaviour. In this regard, the two recent Directives on public procurement, No. 17 and No. 18 of 2004, include the concept of mandatory exclusion clauses in relation to a number of criminal offences, including corruption.

(5) IMMEDIATE PRIORITIES

An immediate priority for the Commission is to continue to pursue the implementation of the Communication, taking into account the views expressed by Member States, in particular under The Hague Programme of November last year. This highlighted the links between organised crime and corruption as a topic for detailed examination. A study on political corruption and the financing of social partners and other interest groups within Member States has just been completed (June 2005) on behalf of the Commission by the Heinrich-Heine Institute of Dusseldorf University, and its findings are currently being examined. There is ongoing collaboration internally within the Commission, and between the Commission and the other institutions in the development of anti-corruption measures. Following the recent approval by Member States of the draft Council Decision, the Commission looks forward to signing over the coming months, on behalf of the EC, the UN Convention against Corruption.

(6) MEDIUM-TERM PRIORITIES

Priorities are of course established in a number of different ways. For example, Austria, which will hold the EU Presidency during the first half of 2006, has given a preliminary indication that corruption will be one of its policy priorities in the JHA area, with a particular interest in facilitating the networking of national anti-corruption bodies, to enable them to share their developing expertise and improve their effectiveness in energising the prevention of and fight against corruption.

Priorities are also established by means of five year policy programmes. I've already mentioned the most recent of these, The Hague Programme, which was agreed last November. I want to briefly mention to you three initiatives which have elaborated the general policy which The Hague Programme set out.

On the 2nd to 3rd June, the European Council adopted an Action Plan translating The Hague Programme into specific measures. The Commission will report every year to the European Council on its implementation over the coming five years. In the area of corruption, it mentions:

- Reviewing Member States' implementation of the 2003 Framework Decision on private sector corruption; later it is intended to evaluate Member States' anti-corruption policies within an overall context of strengthening the general approach to evaluation and monitoring procedures

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- the improvement of cooperation between anti-corruption bodies
- examination of the need for codes of conduct on ethics and integrity for public officials
- consideration of whether to introduce obligations on certain categories of officials with regard to reporting bribery as well as disclosure of assets and business interests.

Other relevant measures include the development of comparable crime statistics and the review of legislation on the confiscation of criminal assets.

Also on the 2nd of June, the Commission published a Communication on “Developing a Strategic Concept on Tackling Organised Crime”. This complements the Action Plan, providing a more detailed focus on organised crime issues. It forms the Commission’s contribution to the development of this concept, and will support the discussions with other Union bodies such as Europol and Eurojust, and responds to the European Council’s request via The Hague Programme to do so. With regard to corruption, the Communication recognises that corruption is a key tool of organised crime. The development of the strategic concept is doubtless an ongoing process which will be further deepened over the coming years with our growing understanding of organised crime’s means and methods.

Building on another aspect of The Hague Programme, the aspect of the EU’s external relations, a strategic document is under preparation which will discuss the relationship and intrinsic linkages between the external and internal dimensions of Justice and Home Affairs activities. It will address both long-term support for institution-building as well as the capacity to react quickly to sudden needs or crises. In these matters the close cooperation and involvement of Member States is essential. Firstly, a number of policies and instruments are inter-governmental, such as police and judicial cooperation in criminal matters. Secondly, the Member States possess the particular expertise necessary for operational cooperation with third countries to address such areas as terrorism and organised crime. Thirdly, the various expert and assessment missions to third countries, as well as twinning projects, also draw on professionals from Member States. Finally, contributing to the development of international instruments, eg in the UN or the Financial Action Task Force, is becoming increasingly important.

In the light of all of these priorities, I think it is possible to say, without pre-empting any of the discussions which are currently underway on both the budgetary and content aspects of the New Financial Perspectives for the period 2007 to 2013, that the prevention of and fight against corruption will continue to occupy a key place in the creation and protection of a European area of freedom, security and justice.

(7) CONCLUSION

Given the importance of your theme, I look forward to a fruitful and interesting Conference here in Ankara.

Thank you.