2. Legal Mechanisms to Combat Corruption

Several participants, including Brett Dough Breitkopf (Criminal Law Policy Section, Department of Justice) and Keith Morrill (Criminal Law, Privileges and Immunities Section, DFAIT) addressed legal instruments for combatting corruption. They include:

- The Organisation for Economic Cooperation and Development (OECD): Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions (February 15, 1999). The OECD Convention is focussed, connected to international trade issues, and includes a robust follow-up mechanism.

- The Organisation of American States (OAS): Inter-American Convention Against Corruption. The OAS Convention is much broader than the OECD Convention and deals with issues beyond criminal law (including best practices). One of the shortcomings of the OAS Convention is that it lacks a strong follow-up mechanism.

- The United Nations: Convention Against Transnational Organized Crime. The UN Convention is the most recent attempt to address corruption. It remains to be determined whether the UN instrument should be a convention (treaty) or a resolution/declaration. The scope of the instrument is also largely undetermined.[1]

- The Council of Europe: Criminal Law Convention on Corruption. The Council of Europe Convention is a detailed, broad and well written document. It is aimed at members of the Council of Europe who are not in the European Union. While the follow-up mechanism is strong, the Convention lacks a clear statement of principles.

- Transparency International has brought together 11 leading private banks to sign Anti-

---

[1] In resolution 55/61 (December 4, 2000) the UN General Assembly requested the Secretary General to prepare a report analysing relevant international legal instruments and other documents addressing corruption. In addition, the General Assembly requested the Secretary General to convene an open-ended intergovernmental group of experts from member states of the UN to prepare draft terms of reference for the negotiation of the future legal instrument against corruption. In its resolution 55/188 (December 20, 2000) the UN General Assembly invited this group of experts to examine the question of illegally transferred funds and the repatriation of such funds to their countries of origin. The report of the Secretary General was considered at the tenth session of the commission (Vienna, May 8-17, 2001). The UN process was supported through governments-led Global Forum on Fighting Corruption and Safeguarding Integrity II (Hague, May 28-31, 2001). It is expected that the draft terms of reference will be forwarded to the UN General Assembly for adoption before the end of the year. Subsequently, an ad hoc committee for negotiating the UN legal instrument will be established. The negotiations of the instrument will likely commence in early 2002.