# Corporate transparency in the fight against corruption

*Harriet Fletcher*[1]

Corporate transparency is essential to reduce the potential for illicit dealings with public officials, to promote transparency in public accounts where governments do not provide it, as well as to enhance accountability to shareholders. Addressing corporate corruption requires corporate transparency.

Businesses are naturally cautious about providing access to commercially sensitive information for fear it may help competitors. However, the risk of corruption is one among many factors that demand greater transparency from businesses – indeed, there is a growing recognition that companies have a wide impact on the environment, human rights and the stability of financial markets. Businesses have a responsibility to address this impact, and the public has a legitimate interest in being informed about it.

Businesses that wish to contribute to the fight against corruption can turn for guidance to a growing number of initiatives to set high standards of corporate transparency. There is a real opportunity for these initiatives to be taken up widely since the business case for companies to tackle corruption is being articulated more strongly than ever. A recent survey by fund managers ISIS Asset Management (formerly Friends Ivory & Sime) showed that a significant number of their investee companies consider bribery and corruption a serious business risk (see p. 298).[2]

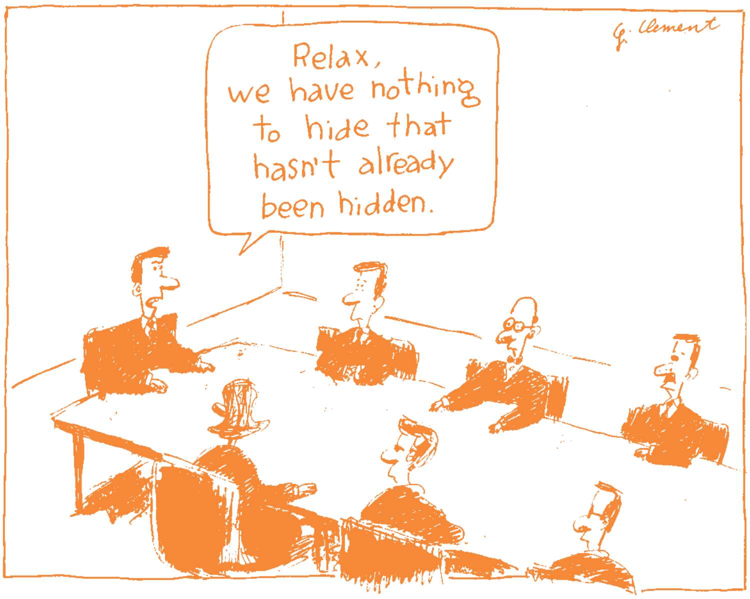
## Codes of conduct

One of the requirements of corporate transparency is that a company disclose whether it has a code of conduct containing specific rules designed to combat bribery, what the contents of that code are, and evaluations of internal controls and its performance in implementing the code. Doing so allows a company to be held to account if it does not meet its self-imposed standards. While many companies that have anti-bribery codes of conduct have made them public,[3] the ISIS Asset Management survey revealed that many others are reluctant to disclose such information.

Voluntary codes and guidelines run the risk of non-compliance; nothing can be as effective as properly enforced legislation. But given the lack of legislation or weak enforcement in many countries, voluntary programmes are essential and companies should be applauded where they have stepped ahead of legislation. Oil multinational Shell, to name just one example, has a 'no-bribes' policy, backed up by several assurance systems that apply to all Shell companies worldwide and must be signed off at the country chairman level. All incidences of bribery and corruption have to be declared and Shell publishes their number in the annual Shell Report. Shell's primer, *Dealing with Bribery and Corruption*, gives detailed guidance for staff and can be accessed by third parties on the company website.[4]

Companies have been supported in their efforts to adopt voluntary anti-bribery standards by a range of organisations: NGOs, private sector bodies such as the International Chamber of Commerce and The Conference Board, as well as intergovernmental bodies such as the World Bank and the European Bank for Reconstruction and Development (EBRD). From the private sector, the large accounting firms boast forensic accounting experts able to investigate fraud and bribery and advise on systems to prevent them, including the provision of verification services. Similar support in developing anti-bribery compliance systems is provided by law firms in many countries. Each of these firms group such services within the larger agenda of providing help to their clients in improving corporate governance.

One such initiative is the Business Principles for Countering Bribery, which brings together two years' work by private sector corporations, NGO representatives led by Transparency International, labour unions and international organisations. This product is designed to facilitate the implementation of anti-bribery policies and systems within the corporate sector, with minimal tailoring to individual company needs. Self-evaluation and external verification modules are to be developed, while the principles themselves encourage public disclosure. The initia-




Clement, *National Post*, Toronto, Canada tive was launched only in late 2002, but already the International Federation of Inspection Agencies is considering requiring its members to adopt the principles and to submit to external verification.

Another initiative that businesses can draw on is the Global Reporting Initiative (GRI), which was established in 1997 with the aim of developing globally applicable guidelines for reporting on corporate economic, environmental and social performance. Convened by the Coalition for Environmentally Responsible Economics in partnership with the United Nations Environment Programme, it is a long-term, multistakeholder international undertaking. The draft 2002 Sustainability Reporting Guidelines explicitly list 'bribery and corruption' as a core reporting element and participating organisations are asked to describe their policies, procedures and management systems for addressing them, including how the organisation meets the requirements of the Organisation for Economic Co-operation and Development (OECD) Anti-Bribery Convention. If a company wishes to state that its report is prepared 'in accordance with' GRI guidelines it must address bribery and corruption in the report.[5]

## Collective action

Voluntary action, of which codes of conduct are an example, may be most effective when businesses work together on collective initiatives. By eliminating the competitive advantage of non-compliance, cooperation reduces the cost of compliance to a single business. Publicly sharing information may be one means of enforcing such cooperation. In addition, the more transparent the collective action, the less likely is it that companies will be seen as collusive.

Several industry groups have developed sector-specific guidelines on tackling corruption and promoting access to information. These initiatives provide valuable models for sectors where corruption is common, or where it is particularly costly for a single business to step ahead of the competition by setting higher standards of integrity.

The International Federation of Consulting Engineers (FIDIC) has produced guidelines for 'business integrity management' in the consulting engineering industry that are currently being tested in five countries. The guidelines offer practical advice to members on how to implement an integrity management system. FIDIC's approach is that companies must back up claims of integrity with concrete information: 'Business integrity has to be documented for it to be managed. Documenting information should be a continuous process, rather than taking place on a single occasion, which runs the risk that important events will be missed.'[6]

The Mining, Minerals and Sustainable Development (MMSD) project, launched in April 2000, was a two-year process of research and consultation to explore challenges faced by the mining industry. Managed by the London-based International Institute for Environment and Development, the MMSD was supported by the industry, but

## Company disclosure in the oil industry

Efforts to increase accountability in Angola's oil industry have led to a growing campaign that could have worldwide implications for accounting practices for resource extraction companies. The campaign originated in December 1999 with a report by the NGO Global Witness that outlined the large-scale disappearance of Angolan state oil revenues.[1] Global Witness called for 'full transparency' from foreign oil companies, which had previously kept secret their tax and other payments to Angola, accusing them of 'complicity' with corrupt state officials. 'By not publishing what they pay,' Global Witness said, 'oil companies endorse a double standard of behaviour that would be unacceptable in the North and make it impossible for ordinary Angolan citizens to call their government to account over the management of revenues.'[2]

These calls had an important early impact, as evidenced by a promise from BP to publish detailed information about its payments to Angola.[3]

### Most oil company payments to Angola are hidden

The problem is as follows. Multinational companies filing reports in Britain or the United States, for example, are required only to file a single set of amalgamated accounts for their worldwide operations. These cannot be easily broken down to provide information on tax and other payments in individual countries. Under current accounting rules, therefore, it is impossible to use public information to work out how much money oil companies pay to the government of Angola.

This is important because typically 80–90 per cent of Angolan government revenues come from the oil industry, but up to 40 per cent of gross domestic product in some years has bypassed the treasury and is channelled into hidden funds.[4] In addition to the flow of revenues from oil extraction, one-off non-recoverable 'signature bonuses' (payments to Angola for individual 'blocks', or licence areas, that confer the right to seek and extract oil from any deposits found there) have added over US $1.5 billion since 1993. Only a small proportion of them are acknowledged in the state budget. Angola claims the 'missing' funds have been used for legitimate state activities and that the data it has published about these flows have simply been inaccurately recorded because of poor technical capacity in the ministries.[5] The International Monetary Fund (IMF), among others, is not convinced by the explanation.[6]

### Companies give flawed justifications for secrecy

Notwithstanding BP's positive response to the campaign, other oil companies have given three reasons for not publishing such data.

First, they have said that in Angola's case the route to transparency should be through the 'diagnostic study' conducted by KPMG, under an agreement with the IMF, which uses information from corporate and official sources to build a detailed picture of the oil revenues accruing to the government.[7] However, implementation of the study entirely depends on sustained political will from Angola's leadership, which has so far refused to publish the study's results.

Second, some companies argue that even if foreign companies published information, total government revenues could still not be calculated because oil revenues also accrue to the state oil company, Sonangol, which traditionally publishes little data. This would mean a significant gap in the calculations. But this argument, which does not shield companies from Global Witness's charge of 'complicity' with Angola's leaders, is also weakened by the fact that a far better approximation of oil revenues could be made if all companies published the information BP promised to provide. What is more, Sonangol's share of oil from its operations is a form of state revenue, so the government could still be called to account on this.

Third, companies argue that the publication of such sensitive information would breach legitimate confidentiality agreements. It may be possible, however, to overcome the problem of confidentiality by amalgamating data from different 'blocks' to produce a single set of nationwide figures that would be impossible to unpick into its constituent parts. It has also been pointed out that while a confidentiality agreement may bind an oil company and Sonangol, taxation and other payments to the government are not covered.

### Sonangol responds angrily to BP's move on transparency

BP's promise prompted a strong letter from Sonangol threatening contract termination, which was copied to other companies operating in Angola.[8] Other companies maintained the wall of secrecy surrounding their Angolan operations lest they lose out on future billion-dollar investments in the country. Lee Raymond, head of ExxonMobil, claimed BP had 'run into deep trouble' as a result of its policy on disclosure.[9]

Just over a week later, however, BP claimed a major victory in Angola when it jumped ahead of ExxonMobil, TotalFinaElf and ChevronTexaco to win approval for its primary investment in Angola, the Greater Plutonio development in Block 18 northeast of Luanda. BP later claimed to have won backing for its policy on disclosure from the highest levels of the Angolan government.[10] BP's gamble on greater transparency appears to have paid off, but no other company has yet followed its lead. It is not clear what compromises BP may have made to achieve this rapprochement.[11]

### International regulation may be the answer

Recognising that moves towards greater transparency were stymied by strong corporate competition in Angola, Global Witness is now advocating a different approach, putting the onus more on international regulators such as the Securities and Exchange Commission in the United States and Britain's Financial Services Authority. This has evolved into the Publish What You Pay (PWYP) campaign, backed by a number of NGOs and the international financier and philanthropist George Soros.[12]

PWYP now argues that instead of a voluntary approach regulators in Europe and the United States should require resource extraction companies to break down their accounts by country. This need not be complicated or expensive, since companies already keep such accounts for internal purposes, and it neatly solves various problems. By making the rules universal, such a move would level the playing field in high-stakes competitive environments and eliminate confidentiality concerns, since such contracts routinely contain clauses that say they can be overridden by regulatory requirements. Such rules would also at a stroke directly address the problem in all countries, and in the case of Angola's oil industry would capture all the major players.

### These are still early days

Angola's oil revenue accounts have been rendered even more opaque by the practice of paying for foreign bank loans with future oil cargoes, which has allowed for the diversion of state funds to irregular ends.[13] There have been no calls as yet to tailor requests for country-by-country disclosure specifically to cover the accounts of banks involved in this form of international lending.

The Angola focus of Global Witness's original campaign has rapidly grown to take on an international dimension. Activists in other oil-rich countries have mostly concentrated on the disclosure of information about the oil industry by governments, not companies. In Kazakhstan, for example, journalists, parliamentarians and campaigners are concerned about the mechanisms governing an autonomous oil fund set up in mid-2001, whose operations are a state secret. The issue of payments from foreign multinationals is not yet high on the agenda, although public awareness of the issues surrounding the oil industry is relatively new in Kazakhstan.

**Nicholas Shaxson**

1 Global Witness, *A Crude Awakening*, December 1999.
2 Global Witness, *All the President's Men*, March 2002.
3 BP appears to have subsequently weakened its promise, raising the question of exactly *how and when* it will disclose this information. In a response to questions from the *Financial Times* website on 1 August 2002, BP said: 'We are now talking with Sonangol and the Angolan authorities about how and when we will publish details of the payments we have made.'
4 IMF reports on Angola 1996–2001. See www.imf.org.
5 Government communiqué on 11 April 2002, in response to the Global Witness publication *All the President's Men*.
6 See, for example, www.imf.org/external/np/ms/2002/021902.htm.
7 'Financial Diagnosis and Monitoring of State Petroleum Reserves', published on the official Angolan government website, www.angola.org.
8 Reproduced in Global Witness, *All the President's Men*.
9 Interview in *Financial Times* (Britain), 12 March 2002.
10 John Browne, group CEO of BP, speaking at Harvard University on 3 April 2002.
11 See *Financial Times* (Britain), 1 August 2002. It is surely no coincidence that just three days after sending its letter to Global Witness promising publication, BP (then BP Amoco) said it had recruited (as Angola country manager) José Patricio, formerly Angola's permanent representative to the United Nations and a member of the powerful MPLA Central Committee.
12 See www.publishwhatyoupay.org.
13 See Economist Intelligence Unit, *Angola Country Reports*, including 2/2002.

remained independent of it. Tackling large-scale corruption was one challenge identified and a number of recommendations emerged, including a call for mining companies to form national coalitions with industry and civil society organisations to establish national and industry-wide guidance and monitoring arrangements. MMSD encouraged individual companies and authorities to publish basic information about wealth generated from projects and about revenues received by governments, as well as how the funds are then spent.[7] The International Council on Mining and Metals issued a declaration that broadly supported the MMSD's final report at the Global Mining Initiative conference in Toronto in May 2002 and asserted that 'accountability, transparency and credible reporting are essential'.[8]

A group of 11 major international banks, brought together by Transparency International, have signed up to a set of global anti-money laundering guidelines known as the Wolfsberg Principles. The guidelines focus on the 'know your customer' principle, under which banks are obliged to obtain full information about the real identity of each customer as well as the source of his or her funds. While the banks do not disclose the information to the public, they have agreed to comply with the anti-money laundering provisions in all jurisdictions in which they are active. It is hoped that more financial institutions will adopt similar principles, especially in financial markets with less stringent supervisory structures and where no requirement exists to report suspicious transactions to the relevant authorities.[9]

## Blowing the whistle on bribery

When a company's code of conduct commits it to full public reporting, it may choose to disclose the cases of corruption in which it has been involved. But management efforts are not always sufficient to uncover corruption throughout an organisation; corporate transparency also needs whistleblowers who are brave enough to expose corruption when they come across it.

Whistleblowers in turn need a legislative environment that protects them and a corporate culture of openness, if they are to feel secure about reporting incidents of bribery and corruption. But they also need to know where to go for advice on the complex ethical dilemmas that sometimes arise.

Companies must provide helplines and establish internal procedures by which employees can report or discuss concerns anonymously. The food and beverages conglomerate Diageo has a code of conduct that highlights the existence of a free and confidential hotline which employees are encouraged to use to report corrupt practices, or when they are unsure of what action to take. There is also a compliance risk office in the company's legal department.[10]

Given the prevalence of corruption in Eastern Europe and the countries of the former Soviet Union, the EBRD has recently instituted a reporting hotline by which employees and outsiders can report their concerns to a specialised external body, thus ensuring their anonymity and easing whistleblowers' anxieties about reporting through internal company channels.

A major problem, however, is ensuring that hotlines are actually used. The ISIS Asset Management survey identified several whistleblower hotlines in European companies, but it was less clear that they were well advertised or utilised.[11] UK-based public interest consultancy Public Concern at Work (PCAW) provides impartial advice and practical training to employers and government departments.[12] It also runs a confidential helpline for employees unsure whether or how to raise concerns about corruption and other malpractices. But PCAW acknowledges that developing whistleblowing policies that have resonance in different countries and cultures is a real challenge for multinationals.

## Financial reporting: to expose both private and public corruption

Post-Enron, there has been urgent interest in finding ways to tighten regulations on financial reporting and on the role of auditors (see box on p. 80). Central to Enron's collapse was its management's ability to hide huge losses off the balance sheet, with the complicity of its auditors, Arthur Andersen, which also provided consultancy services to Enron, compromising their independence. The issues involved are central to the fight against bribery.[13]

The Enron scandal provoked a debate in the U.S. and European media on the relative merits of different accounting standards, and standards have been reviewed elsewhere. It has been argued that U.S. accounting standards emphasise the ticking

## Surveying transparency and disclosure in business

Transparency involves the timely disclosure of adequate information about a company's operating and financial performance and its corporate governance practices. For well-governed companies, standards of transparency are high, enabling shareholders, creditors and directors to monitor management and assess operating and financial performance.

Although the need for timely and accurate corporate reporting is global, there is no universal benchmark for evaluating levels of disclosure. Recognising the gap, Standard & Poor's, a leading provider of independent financial information and risk assessments, launched a major survey of transparency and disclosure in 1,600 companies around the world.

The purpose of Standard & Poor's *Transparency and Disclosure Survey* is to provide investors with an objective ranking of the corporate reporting practices of large companies and to help them understand the differences in reporting levels across markets and business sectors.

The survey uses the latest company annual reports and accounts, the most accessible source of information for the investor. Standard & Poor's identified 98 separate pieces of information that should be disclosed in reports and accounts when best practice is followed. The survey scores companies according to how many of these pieces of information they disclose. The 98 questions fall into three groups:

- Ownership structure and investor relations. (For example, does the annual report identify shareholders? Does it describe shareholders' voting rights?)
- Financial transparency and information disclosure. (For example, is financial information prepared in accordance with internationally recognised accounting standards? Does the company disclose the name of its auditor? Does it disclose how much it pays the audit company both in audit fees and non-audit fees? Does it reproduce the auditor's report?)
- Board and management structure and processes. (For example, does it disclose details of directors' pay?)

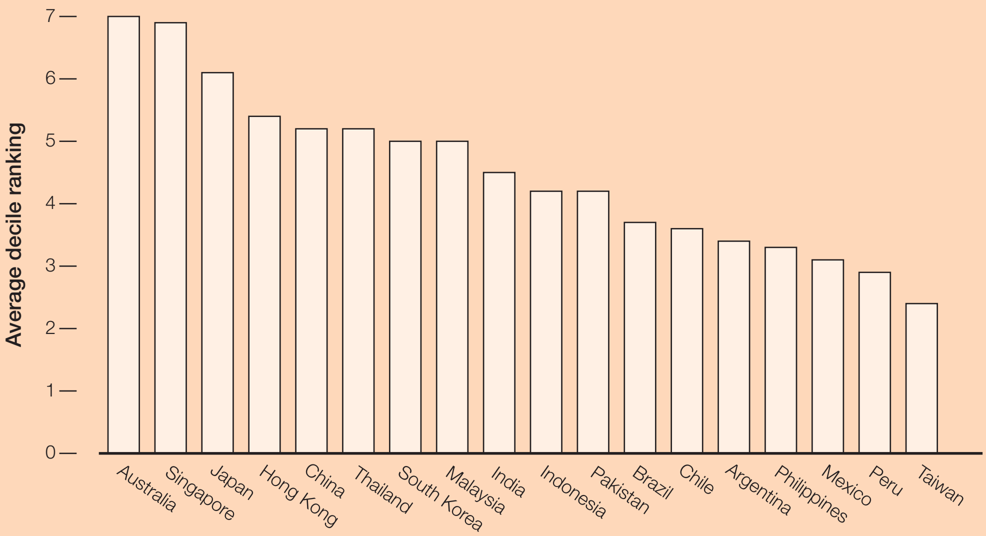
The first two phases of the survey, completed in August 2001, covered more than 350 of the largest companies in Asia and Latin America. Later surveys will cover Europe and the United States. Companies were scored according to the proportion of disclosure items they included in their latest annual report: from the first decile at the bottom (in which less than 10 per cent of items were disclosed) to the 10th decile at the top (in which more than 90 per cent of items were disclosed). The country score shown in the figure is the average decile in which companies from each country appear.

No company made it into the ninth or 10th deciles (none disclosed more than 80 per cent of items). The only countries surveyed in which some companies made it into the eighth decile were Australia and Singapore. In both countries, companies were on average in the seventh decile.

In developing Asian countries, only a handful of companies were in the seventh decile or above. Taiwanese companies are

of boxes to show corporate compliance with specific rules, and that this made possible Enron's aggressive accounting practices. Advocates of the International Accounting Standards (IAS), to which EU countries are converging, argue that the IAS emphasises substance over form, demanding a more flexible assessment of

## Country decile rankings




by far the largest constituents of the bottom two deciles, with no Taiwanese company making it into any of the top six deciles. The scores of companies from other countries in developing Asia were more evenly distributed.

Companies in the Latin American region fared even worse. No companies were in the seventh decile or above. In the Latin American region, of the six highest company scores, three were from Brazil, two from Chile and one from Mexico. No one country stood out as a clear laggard, although the highest-scoring companies in Argentina and Peru only made it to the fourth decile.

From results so far, it would appear that the country dimension is an important influence on the transparency and disclosure of firms. The listing requirements in each country are likely to be an important factor. Looking at the China-based companies in the sample, for example, three-quarters are listed on the Hong Kong Stock Exchange, and more than half have listed American Depository Receipts on the New York Stock Exchange (NYSE), both of which have relatively high disclosure standards.

The methodology employed in the survey, the questionnaire and the results are available on: www.governance.standardandpoors.com.

**Ian Byrne**

whether a company's accounts give a fair view of its finances.[14] Perhaps the clearest conclusion of the debate is that there are vulnerabilities in all existing standards.

The fact that standards vary from country to country may itself be a problem. Peter Wyman, deputy president of the Institute of Chartered Accountants in

England and Wales, has called for a set of global standards: 'We have global companies and global investors, but national rules and national standards – which is crazy.'[15] Variation between national standards prevents a level playing field in international business. More importantly, companies wishing to hide illicit transactions may attempt to take advantage of weaker standards, wherever they are found.

Improving standards of financial reporting can also help expose public sector corruption in countries where there is little or no access to government financial information. In such countries, the disclosure of information about legitimate corporate payments to governments may be the only effective means of finding out the real level of public revenue. This can provide a useful means by which civil society can ascertain the extent to which public revenue is disappearing. Equally, companies can expose cases of extortion by public officials, particularly when companies act together. Some major companies are beginning to understand that they can become a force for good in fighting corruption in countries where they operate.

In Indonesia, for example, the U.S.-based Newmont Mining Corporation, the world's largest gold producer, issues news releases to the local media every time it makes a royalty payment to the government.[16] In Angola, BP announced it would make public detailed information about the taxes and levies it pays to the government, although it has yet to publish the information. The NGO Global Witness argued that if other companies were to follow suit, it would be possible to reveal the true extent of corruption in the Angolan government. As part of the Publish What You Pay campaign, Global Witness and others are now calling for regulatory authorities to require multinational resource extraction companies to break down their accounts on a country-by-country basis (see box, p. 36).

## Conclusion

Although the corporate sector needs to protect commercially sensitive information, some companies are increasingly open to different forms of disclosure. This progress has come partly in response to the reputational and legal risks of non-disclosure, and partly as a result of more enlightened attitudes to building good reputations and, ultimately, cutting costs.

A collective response by businesses in a single sector may be particularly effective, although the role of legislators and pressure groups should not be underplayed. The enabling environment for promoting transparent business transactions requires multifaceted approaches. Such approaches include: regulation and oversight; voluntary codes and guidelines; awareness-raising campaigns; training and a host of practical management systems; and internal controls, sanctions and incentive schemes to ensure that corruption is monitored and reported throughout company operations. This article has tried to highlight some of the policies, practices and initiatives to which companies can sign up if they are to ensure full disclosure and address corruption.

1 Harriet Fletcher is a consultant to the International Business Leaders' Forum (IBLF) on a range of issues including corruption and conflict. The IBLF has an ongoing programme to engage the private sector in practical initiatives to combat bribery and corruption. Business round tables on corruption have been held in the Czech Republic, Poland, Russia and Turkey, and are planned for Indonesia, the Philippines and possibly China and India. The IBLF has also begun work on a series of practical manuals to help companies develop and implement anti-corruption policies, which will be co-produced with various expert organisations. For further information, please contact Tiffany Butterfield (tiffany.butterfield@iblf.org) or Jonas Moberg (jonas.moberg@iblf.org).

2 ISIS Asset Management (formerly Friends Ivory & Sime), *The Governance of Bribery and Corruption: A Survey of Current Practice* (London: Friends Ivory & Sime, 2002).

3 See, for some examples, the Anti-Bribery Toolkit on the website of TI USA, www.transparency-usa.org/Toolkit.html.

4 Shell, *Dealing with Bribery and Corruption: A Management Primer*, 1999.

5 www.globalreporting.org/GRIGuidelines/2002/DraftSRG2002.pdf.

6 International Federation of Consulting Engineers, *Guidelines for Business Integrity Management in the Consulting Industry* (Lausanne: International Federation of Consulting Engineers, 2001).

7 Mining, Minerals and Sustainable Development (MMSD) project, *Breaking New Ground: Mining, Minerals and Sustainable Development* (London: Earthscan Publications, May 2002).

8 International Council on Mining and Minerals, *ICMM Toronto Declaration*, 15 May 2002.

9 www.wolfsberg-principles.com.

10 Diageo plc, *Code of Business Conduct* (London: Diageo, 2001).

11 ISIS Asset Management.

12 www.pcaw.co.uk.

13 States that sign the OECD Anti-Bribery Convention, for example, are required to ensure that their accounting and auditing laws and regulations 'prohibit the establishment of off-the-books accounts, the making of off-the-books or inadequately identified transactions, the recording of non-existent expenditures, the entry of liabilities with incorrect identification of their object, as well as the use of false documents, by companies subject to those laws and regulations, for the purpose of bribing foreign public officials or of hiding such bribery' (article 8, paragraph 1, OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997). See also K. Drew, *Enron, the Foreign Corrupt Practices Act and the OECD Convention* (London: University of Greenwich/UNICORN Global Trade Unions Anti-Corruption Project, 2002).

14 *Financial Times* (Britain), 21 February 2002.

15 *Euromoney* (Britain), March 2002.

16 www.newmont-indonesiaoperations.com/news/info.cfm?id=52.