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JUDICIAL INTEGRITY – WORK OF THE GTZ

International Anti-Corruption Conference
Bangkok, Thailand
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GTZ sponsored session on judicial integrity

The Hon. Michael Kirby AC CMG

**INTERNATIONAL ANTI-CORRUPTION CONFERENCE
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The Hon. Michael Kirby (Australia)

Michael Kirby is the Rapporteur of the Judicial Integrity Group (JIG), a small, high-level group of senior chief justices and judges working over the past decade to define the universal principles of judicial integrity. This quality is essential to upholding the rule of law and the universal human rights of the people to enjoy access to independent, impartial and competent judges, free of corruption, bias or fear.

In his presentation, Michael Kirby outlined the formation of the JIG in 1999; its original meetings, predominantly concerning judges of the common law tradition, and its subsequent reinforcement with judges from the civil law background. Its meeting in Bangalore, India in 2001 when it adopted the *Bangalore Principles* on judicial integrity. These have since been endorsed by the then UN Human Rights Commission (April 2003); ECOSOC (2006) and other international agencies, including UNODC.

Mr. Kirby outlined the 'core principles' endorsed by the JIG, including Independence; Impartiality; Integrity; Propriety; Equality; and Competence and Diligence. He described the structure of each guideline; the expression of the governing principle and applications, together with illustrations. He then elaborated several illustrations, by reference to cases in which he had been involved in the High Court of

Australia, demonstrating that, sometimes, legitimate differences could exist over the application of basic principles in countries having judicial independence and different legal traditions, histories and cultures. A merit of the *Bangalore Principles* is the flexibility of their expression and structure, so that it can be adapted, within limits, to significantly different societies and legal systems.

Mr. Kirby described the two further documents adopted by JIG at Lusaka in January 2010: one on the implementation of the *Bangalore Principles* and the other on promotion of and education about the *Bangalore Principles* to the judiciary throughout the world.

Mr. Kirby then discussed the organisational problems faced by the JIG and the challenges that lie ahead. On the one hand, part of the reason for the success of the JIG has been the very high level, integrity and experience of its initial participants. On the other hand, to extend and expand the influence of the JIG and its principles, it will be essential to secure an appropriate relationship with the United Nations system. This would result in geopolitical consequences, which could weaken somewhat the cohesion of the group. Nonetheless, Mr. Kirby favoured a UN engagement and mentioned UNDP and UNODC as the most likely UN agencies of interest. Also mentioned was the recent work of the World Bank on strengthening judicial infrastructures in developing countries.

Mr. Kirby suggested that the immediate challenge for the JIG was to extend the engagement of the JIG with a broader range of judicial participation, most immediately judges in the Arab world and in Latin America and The Caribbean. Also in Russia and Eastern Europe and

the growing legal areas of China and Central Asia. To date, those regions have not been closely involved in the JIG work.

Mr. Kirby paid a tribute to the German Government and to GTZ for their support of the work of JIG. He concluded that it was virtually impossible to build a strong institutional safe-guard against national corruption without the establishment and maintenance of a judiciary free from corrupt influences and built on the kinds of principles expounded by the JIG in the *Bangalore Principles* of 2002. Securing from national judiciaries a greater understanding of their role as agents in exercising international jurisdiction was a particular challenge, given the ongoing influence of territorial localism in the thinking of most members of the legal profession and judiciary. In the current age, this outlook must be adjusted to a more global perspective, such as has already emerged in technology, trade and other professional disciplines. According to Mr. Kirby, the second decade of the JIG will be its most challenging.
