



Fighting corruption

Issue

As noted by G20 leaders, corruption threatens the integrity of markets, undermines fair competition, distorts resource allocation, destroys public trust and undermines the rule of law.

For decades, the International Chamber of Commerce (ICC) has taken the lead in denouncing corruption and in developing measures to combat it. World business welcomed the G20 leaders' recognition at the Seoul Summit of their special responsibility to prevent corruption and hailed G20 leaders' call for public private partnerships in countering corruption. Indeed it is only through a combination of concrete action by governments, business, and both working together through public-private partnerships that effective progress can be made.

Analysis

The next G20 Summit will take place after years of global economic turmoil that followed the financial crisis in late-2008, and following recent uprisings taking place in a number of states. While the causes and consequences of these developments are still being assessed, it is clear that there is greater attention worldwide to the need for more transparency and accountability, and the desire of citizens to fight corruption.

In 1977 ICC led the way in producing the first edition of the ICC Rules of Conduct to Combat Extortion and Bribery, which contained strong measures to end both bribery and extortion. These Rules have been updated regularly since then and continue to be the leading private sector tool for fighting corruption today. ICC has long been at the forefront of the drive for integrity in business, because only a corruption-free system makes it possible for all participants to compete on a level playing field.

It is estimated that corruption adds up to 10% to the total cost of doing business globally, and up to 25% to the cost of procurement contracts in developing countries. Moving business from a country with a low level of corruption to a country with medium or high levels of corruption is found to be equivalent to a 20% tax on foreign business. Inversely, countries that tackle corruption and improve their rule of law can increase their national incomes by as much as four times in the long-term (*source: World Bank*).

A recent study of 400 companies worldwide revealed that an increasing number of companies recognize their vulnerability to corruption. Among survey respondents, 63% indicate that they have experienced some form of actual or attempted corruption. This study reveals that there is a strong business case for having an anti-corruption strategy that goes beyond avoiding potential enforcement penalties. Almost 45% of respondents say they have not entered a specific market or pursued a particular opportunity because of corruption risks; 39% say their company has lost a bid because of corrupt officials, and 42% say their competitors pay bribes. In addition, 55% of respondents say that if corruption was discovered, the most severe impact would be to corporate reputation. More than 70% believe that a better understanding of corruption will help them compete more effectively, make better decisions, improve corporate social responsibility and enter new markets. (*Source: PricewaterhouseCoopers International*)

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ICC welcomed the two major legal instruments for fighting corruption – the United Nations Convention against Corruption and the OECD Convention on Combating Corruption of Foreign Officials, which have strengthened the international legal framework. More effective enforcement in a growing number of jurisdictions has meant that companies find themselves increasingly liable for employees and agents engaged in corruption. This prompts more and more companies to implement complete corruption prevention systems.

Fighting corruption requires a robust international legal framework with effective review mechanisms involving the largest number of countries, as well as effective legislation against corruption implemented on a national basis.

G20 leaders have rightly pointed to the importance of the UN Convention against Corruption (UN CAC) for ensuring the principles of an effective global anti-corruption regime. For business UN CAC is essential because it has the potential for a truly global scope and so the promise for curbing corruption and creating a level playing field for all participants in the global economy.

In 2009, ICC led a global business initiative joined by the WEF, TI and UN GC, rallying CEOs from around the world to write a letter to UN Secretary-General Ban Ki-Moon urging the adoption of an effective monitoring mechanism for the UN Convention.. This “CEO letter” initiative has been credited with helping to bring about the adoption of a monitoring mechanism at a UN conference of more than 140 UN CAC parties in Doha in November 2009. This represented significant progress but more can be done by governments, especially with the leadership of G20 governments, to ensure full and consistent implementation of UN CAC.

The OECD is also a key forum for anti-corruption reforms. The private sector commends the achievements made by the OECD Working Group on Corruption and also notes the importance for business of the OECD Good Practice Guidance on Internal Controls, Ethics and Compliance (Annex II) of February 2010 for the shaping of genuine corporate Anti-corruption systems.

World business recognizes that doing business with integrity is the only right way of doing business. Companies seen to be doing business with integrity are more likely to attract and retain highly-principled and motivated employees as well as ethically-oriented investors. In contrast, companies confronted with corruption cases have faced reputational damage.

The risk of corruption faced by businesses varies according to a number of parameters, including their size, their international exposure, and the nature, scale and diversity of their activities. More needs to be done for SMEs in particular, which are especially vulnerable and lacking in adequate resources to fully comply with anti-corruption requirements.

Fighting corruption within the private sector, amongst both MNEs and SMEs, is a progressive and incremental process. Combating corruption requires strong top-management commitment and high-quality and systematic organization to ensure that anti-corruption becomes part of the corporate culture at all levels. From a business perspective, what is now needed is thorough and pragmatic implementation of ethics and anti-corruption standards in business. This requires the building of real integrity awareness in all segments of society and in business in particular.

What international business has accomplished so far

World business appreciates the approach of the French Presidency of the G20 to seek concrete and precise progress for the Cannes Summit.

ICC and other business organizations have taken a number of concrete actions already towards achieving greater integrity in business. Indeed, the private sector has a proven track record in fighting corruption, and has developed a number of practical tools and initiatives that need to be further known, scaled-up and implemented, with the support of G20 governments. These include:

- **ICC Rules for Combating Extortion and Bribery** - As noted above, these ICC Rules, first published in 1977, outline the basic measures companies should take to prevent corruption and constitute what is considered good commercial practice. They are presently being revised to integrate the latest anti-corruption developments in the UN and OECD. (<http://www.iccwbo.org/policy/anticorruption/id870/index.html>)
- **ICC Fighting Corruption Handbook** - These ICC Rules are complemented by a corporate practice manual that provides practical advice on key areas such as corporate gifts, political contributions, accounting and facilitation payments. It is a handbook for all companies wishing to put into place an efficient and well-run integrity programme. (<http://www.iccbooks.com/Home/Home.aspx>)
- **RESIST** – This practical tool aims at training company employees on how to prevent solicitation for a bribe from being made and/or how to respond in a safe, ethical and efficient way to a demand for a bribe. RESIST is the result of successful collective action among the leading stakeholders representing the private sector in the fight against corruption - ICC, the World Economic Forum (WEF), Transparency International (TI) and the UN Global Compact (UN GC) (<http://www.iccwbo.org/policy/society/index.html?id=42784>).
- **Nine steps to responsible business conduct** – ICC issued this concrete advice for companies to develop policies and practices for responsible business conduct. (<http://www.iccwbo.org/policy/society/id1188/index.html>)
- **Whistleblowing Guidelines** – These ICC guidelines enable companies to put whistleblowing systems in place, which make it possible for employees to report incidents without fear of retaliation, discrimination, or disciplinary action. ([http://www.iccwbo.org/uploadedFiles/ICC%20Guidelines%20Whistleblowing%20%20as%20adopted%204%2008\(2\).pdf](http://www.iccwbo.org/uploadedFiles/ICC%20Guidelines%20Whistleblowing%20%20as%20adopted%204%2008(2).pdf))
- **Business Case against Corruption** – ICC, along with WEF, TI and UN GC, has sought to demonstrate convincingly why it makes sense for business to fight corruption not just for moral reasons, but from a business point of view. (<http://www.iccwbo.org/uploadedFiles/The%20Business%20Case%20Against%20Corruption19June08.pdf>)
- **Third parties guidelines** – Agents, intermediaries or third parties can present the “weak link in the chain” in terms of an enterprise’s anti-corruption policies and practices. That is why ICC developed and issued in 2010 its ICC Guidelines on use of Agents, Intermediaries and Third Parties, which provide companies with essential advice on

good commercial practice on how to select, remunerate and monitor third parties, so as to obtain the best possible result without harm to the enterprise's reputation.

(http://www.iccwbo.org/uploadedFiles/ICC/policy/business_in_society/Statements/195-11%20Rev2%20ICC%20Third%20Parties%20FINAL%20EN%2022-11-10.pdf).

Recommendations

What international business expects from governments and intergovernmental organizations

- All G20 governments should ratify and implement UN CAC. G20 government should also encourage work with non-G20 states toward a universal adoption and implementation of UN CAC.
- All G20 governments should become parties to the OECD Convention on Combating Bribery of Foreign Public Officials
- High level reporting mechanism: Each national government should consider creating a reporting mechanism to provide assistance to companies that are confronted with a solicitation for bribe and/or extortion, and to resolve other concerns that may arise in the context of public procurement and international projects. To be effective, such a mechanism, which could take the form of an “ombudsman” function, should provide adequate guarantees of independence and be subject to annual reviews of effectiveness.

What more can business do

- World business calls for the development of effective ethics and compliance training to embed best practices for fighting corruption amongst all levels within companies big and small. ICC is committed to actively contribute to the development and implementation of such training.
- World business also recommends extending sectoral initiatives that offer collective guidance and support targeted to the specific challenges of different industries, and that share anti-corruption best practices.

What more can business do in partnership with governments

- World business calls for the further development of external certification, verification or assurance of the effectiveness of company anti-bribery procedures, as called for by UN CAC and by the UK Guidance to the Bribery Bill.
- World business further calls for public-private partnerships on the development of the “self-cleaning process”, as a positive anti-corruption incentive for business, wherein procurement rules be amended to allow for the re-entry into the market of companies debarred under public procurement rules if these companies can do an internal company “self-cleaning” exercise.