

MEETING REPORT

Policy Dialogue “Transparency and the fight against corruption” 26-27 January, Paris Ministry of Economy, Finances and Industry

Introduction

More than 130 Global Compact participants from 17 countries came together at a Policy Dialogue meeting on “Transparency and the Fight Against Corruption”, convened on 26/27 January in Paris.

Opening remarks by Francis Mer, Minister of Economy, Finances and Industry

Mr. Mer stressed France’s commitment to the promotion of corporate social responsibility and to the voluntary nature of the Global Compact approach. The French government took the initiative of convincing the leading industrialised countries to take up this issue and, in Evian, the G7/G8 countries encouraged voluntary initiatives to promote corporate social responsibility. In addition, the President of the Republic of France has also stated his desire that additional French businesses are mobilised to join and promote the Global Compact.

Mr. Mer highlighted the links between corporate social responsibility, sustainable development and combating corruption and expressed his view that the proposed introduction of a 10th Global Compact principle against corruption will send a clear and positive signal by the business community on this critical issue.

Georg Kell, Executive Head of the Global Compact

Mr. Kell stated the three key objectives for the meeting as follows:

1. To outline some of the existing initiatives on transparency and highlight how the Global Compact can support/leverage these initiatives. Two such initiatives were mentioned – the Extractive Industry Transparency Initiative (EITI) and the Equator Principles.
2. To explain how the UN Convention Against Corruption is relevant for business and how the business community can help with its implementation.
3. To outline the relevance of a potential 10th Global Compact principle against corruption and to clarify associated process questions.

Errol Mendes, Professor, University of Ottawa, Canada “Corruption as a Deadly Cancer; The Global Economy, Sustainable Development and the UN Global Compact at Risk”

Mr. Mendes argued that corruption goes to the very core of what the Global Compact is about – to the heart of the global economy - and it has the potential to undermine all of the Global Compact principles. By highlighting a number of practical examples in the areas of human rights, labour and the environment, it was clear that corruption is not simply an abstract issue but rather has serious practical implications, especially for many of the world’s poorest people.

The magnitude of the problem was highlighted by an OECD source which claims that in the year 2000, bribes by Western businesses were conservatively estimated to run up to \$80 billion (U.S.) a year. This is approximately the same amount that the United Nations believes is needed to alleviate global poverty and meet the Millennium Development Goals.

1. An Exploration of Existing Voluntary Initiatives and how they work to address transparency

Extractive Industries Transparency Initiative (EITI), David Stanton, DFID

EITI is a voluntary initiative involving Governments, companies and civil society that aims to increase transparency both over the payments made by companies in the extractive industries, and those revenues received by governments. The overarching principle of EITI is to explore how increased levels of transparency may stimulate growth and help to promote stability and peace. An important characteristic of EITI is that it brings both governments and companies around the table and engages them in a voluntary process to increase transparency.

Equator Principles, Suellen Lazarus, IFC

This voluntary initiative is an example of an industry approach for financial institutions in determining, assessing and managing environmental & social risk in project financing. The principles serve as a common baseline and framework for the implementation of environmental and social procedures and standards for project financing activities across all industry sectors globally. The banks that sign-on to these principles undertake to review carefully all proposals for which their customers request project financing and will not provide loans directly to projects where the borrower does not comply with its environmental and social policies and processes. Together, the 20 Equator banks arranged over 78% of the project finance market through October 2003.

Investment Community Perspective, Karina Litvack, ISIS Asset Management

The large number of corporate governance scandals in recent years, has led to an increased recognition of the need to look beyond a simplistic analysis of share price. The way that companies manage themselves is also critical. Executives and shareholders of companies have an important perspective that can make a difference to this discussion. Investors can help initiatives such as the Equator Principles and the EITI.

2. United Nations Convention against Corruption

United Nations Office on Drugs and Crime, Dimitri Vlassis

The UN Convention against Corruption is an ambitious global framework covering a wide range of actions on both the demand and supply sides of corruption. The main areas covered by the Convention are embezzlement, misappropriation of influence, abuse of function, illicit enrichment, and concealment. For the first time, confiscation and repatriation of illicit assets to the country of origin, as well as private-to-private corruption, are covered by a Convention. Currently there are ninety-nine signatories.

The Convention itself foresees provisions for a vigorous and effective mechanism to ensure follow up on its implementation. Implementation is mainly in the hands of governments and to this end, a number of Governments are thinking of creating an informal "Friends of the Convention" group to ensure the necessary ratifications enter into force within the shortest period of time. Civil society and business can also play an important role, as governments must be prompted, encouraged, supported and held accountable.

The UNODC is planning to establish two informal groups, one that will serve as a forum for civil society and one that will engage the private sector. Guidance and views from the Global Compact are welcomed.

OECD, Kathryn Gordon

The main OECD instrument in this area is the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. The OECD Guidelines for Multinational Enterprises is another notable integrity instrument and although observance is voluntary for companies, the thirty-eight adhering governments have signed a binding agreement to promote them. This inter-governmental implementation mechanism is the key difference between the OECD and the Global Compact.

Based on 2003 OECD data, anti-corruption practices of companies on the UNCTAD list of the top 100 MNEs were presented. One notable statistic mentioned was that MNEs were found to be twice as likely to publish their anti-corruption policies in 2003 than in 1999. However, there was a wide divergence in the nature and scope of anti-corruption

commitments, including facilitation payments, gifts and entertainment, political contributions and the use of agents and other business partners.

It was suggested that the Global Compact could play a useful role to provide operational clarity for business, especially with respect to the total incentive balance that anti-corruption management systems create and the outcomes that they produce in the field, respectively proposing a way to report on corruption performance.

Business perspective, Tim Martin / Nexen Inc.

The UN Convention Against Corruption has also been seen as a watershed event from the perspective of business. However, it is still too early to assess its long-term impact. The main business concerns raised were focused on the actual implementation of the Convention at the country level. As MNEs have to operate on a global level, various interpretations of local laws translate into an enormous operational challenge. An effective response to this problem has been for companies to develop an overall anti-corruption strategy that could then be accommodated to country-specific contexts.

It was recommended that companies should be proactive rather than reactive, and engage in sectoral initiatives, forming alliances with IGO's and NGO's, as well as developing best business practices.

3. Company policies, sectoral and cross-sectoral initiatives, multi-stakeholder initiatives in the fight against corruption

Francois Vincke, International Chamber of Commerce (ICC)

One of the first ICC reports condemning corruption in all its forms was published directly after the Watergate scandal in 1977. In 1996 and with a new addition in 1999, ICC published rules condemning corruption in all its forms. The ICC guidelines call for full compliance programs to be established and implemented throughout all levels of an organization. Attention needs to be paid to all forms of corruption, including solicitation and private-to-private corruption, as well as to how SMEs can be included in the fight against corruption. The ICC fully supports the UN Convention but recognized that there are opportunities for improving its implementation process.

Further, the ICC supports the introduction of a Global Compact principle against corruption as a logical next step in this area.

Caspar Ridley, Royal Dutch / Shell Group

For a company with operations in 135 countries, Shell employees in the field face dilemmas in this area every day. The key success factor for Shell is to establish an anti-corruption culture, introduced in six steps. First, they worked to develop a management

primer, where real life examples and dilemmas are illustrated. This is continuously implemented through internal communication and training, internal and external assurance processes, audits as well as external reporting of bribery. In addition, the company engages with governments and other institutions (i.e. TI Business principles).

Reg Green, ICEM

From an employee perspective, it is important that companies develop clear guidelines to establish a common understanding of expected behaviour. An incentive system should be established to support compliance with such guidelines. Local recruitment should involve training to help overcome cultural differences.

A key element is the establishment of whistle-blower schemes that provide protection for people who report or admit to behaviour that is inconsistent with anti-corruption guidelines. In addition, from the perspective of Unions, it is crucial that Boards of Directors take a more active role in controlling managers to ensure transparency and the avoidance of corruption.

Collective Business Action, SAP – Caroline King

The CBI (Convention on Business Integrity) was founded in 1997 in Lagos by Integrity and Transparency International, Nigeria. CBI is a covenant among businesses operating in Nigeria to build a private sector coalition against corruption and corrupt practices. It does not oppose legal obligations but represents a moral contract among signatories. Companies joining the CBI make a commitment not to engage in corruption, and their ability to abide by this commitment is monitored by the group as a whole. It was the first initiative of its kind to make responsible governance an issue of focus in the Nigerian business world. It started with 15 signatories and gained broad-based support also on the political level. It can be considered a good example for other countries.

Peter Eigen, Transparency International

US companies have followed the Foreign Corrupt Practices Act for almost 30 years, however, many countries are not covered by regulations and have serious corruption issues.

Transparency International has established chapters in over 125 countries world-wide, that help to enable local communities to fight corruption. In addition, business frequently faces a prisoner’s dilemma and competitive disadvantage when it attempts to follow anti-corruption guidelines, Transparency International has developed a program of Integrity Pacts to provide a potential solution to this dilemma.

4. Integration of the fight against corruption to the Global Compact

The idea of the inclusion of a principle related to fighting corruption has been on the agenda of the Global Compact from its inception. With the adoption of the United Nations Convention Against Corruption and the growing political momentum behind it, the issue has gained new relevance. The Secretary-General has recently initiated a transparent, comprehensive and inclusive consultation process with GC participants to solicit their views regarding the possible inclusion of a Global Compact principle on anti-corruption. A formal letter was sent to all participants in the middle of January and any addition to the Global Compact principles will only occur if there is broad-based support.

The International Chamber of Commerce together with Transparency International drafted language for the proposed principle - “Businesses should combat corruption in all its forms, including extortion and bribery.” Views and recommendations will be taken into consideration and results will be presented prior to the Global Compact Leaders Summit on 24 June 2004.

Recommendations

Transparency

- The Global Compact should serve as a network, inspiring and stimulating discussion but should not invent its own standards in this area. The Compact works best when it stimulates multi-stakeholder dialogues at the national, regional or international setting, creating a shared learning process for NGOs, companies, and other stakeholders to help scale-up initiatives that have already been launched.
- Local GC networks could play an important role in countries where legislation does not exist or where legislation is not enforced. Local networks could dialogue with authorities to help build capacity and build upon existing initiatives.
- The Global Compact Office could help to raise awareness of front-running initiatives that already exist in the area of transparency and anti-corruption. Initiatives that business can rally around. (i.e. ICC Rules of Conduct, EITI, Equator Principles, TI’s Integrity Pacts.)
- There is a need to educate SMEs who may find it difficult to adopt some of the initiatives on anti-corruption.
- The Global Reporting Initiative should consider the inclusion of a new standard/annex in the area of transparency and anti-corruption.

EITI

- EITI has a strong momentum but the Global Compact Office could help to further increase its visibility through the GC network in partnership with EITI. The GC could help further communication on EITI.
- The Global Compact can work to gain commitment both from governments and companies to support EITI.
- The GC Office could work to support the World Bank in its new role as collaborator with the EITI.
- The existence of tax havens undermines EITI. It should be explored how tax havens can be made more transparent?

Equator Principles

- The Equator Principles should include civil society organizations to do more within the framework of the initiative.
- The Equator Principles could be extended to the area of corruption and consider the inclusion of labour and human rights.
- The export credit agencies, which are a significant source of financing, have not yet embraced the Equator Principles and efforts should be made to encourage them to do so. How to gain acceptance of the Equator Principles from a basis beyond the commercial banks is an important challenge.
- The Equator Principles should extend beyond project financing to other areas of the bank. The Equator Principles could serve as a model for financial analysts.

UN Convention Against Corruption

- **Awareness-raising:**
 - The following mechanisms were proposed in order to spread awareness to business: lobbying - through international associations, ICC, trade associations, media campaigns, mobilizing civil society, introducing code of conducts.
 - The Global Compact Office could organize meetings for experts on these issues. (i.e. company legal department representatives, Government Officials involved in writing and implementing the Convention, labour and civil society organizations.)
 - Business schools should include information about anti-corruption practices in their curriculums.
- **Monitoring:**
 - Companies cannot substitute government activities re: monitoring and sanctioning. International organizations and/or governments must take the lead, with technical support from the business community.
 - Models that could be used include the peer review process in NEPAD – New Partnership for African Development) and use of OECD focal points to support monitoring. (i.e. companies could report to local OECD contact points on instances of extortion and solicitation cases)

- Capacity-Building:

- Companies can support capacity-building of local institutions and governments.
- Business can disseminate information on the UN Convention and best practices. (i.e. investing in ethics training)
- MNEs can support SMEs in the development of their anti-corruption policies and practices in order to help create a level playing field.

- Implementation:

- Companies can act proactively through professional organizations and should work collectively to implement the norms and standards of existing Conventions.
- Business can establish sector-specific guidelines and best practices both locally and globally, while recognizing cultural sensitivities.
- Purchasing codes of conduct can be developed that suppliers should adhere with.

- Role of Financial institutions:

- Financial institutions can play a special role in establishing incentive systems to promote a culture of honesty.
- The Wolfsberg principles should be further developed.
- Issue of off-shore banking and tax havens: banks should help to create systems that allow financial transactions to be undertaken with integrity.

- Establishment of an international database:

- An international database with aggregated information could be established where companies and governments can record information outlining the difficulties they have in operating in a fair/legal manner.
- Such a database should be credible, central and accessible and could be also used to monitor adherence to the UN Convention.

The potential for a Global Compact principle against corruption

– Substance Issues:

- There was consensus that the addition of a principle against corruption would add value to the Global Compact and would be a signal from the private sector to the public sector of the need for greater transparency.
- Concerns were raised that a 10th principle should not take focus away from implementation of the other GC principles.
- The GC Office must explain exactly what companies will need to disclose by endorsing this principle (i.e. no individual cases of payments can be disclosed due to legal reasons).
- Companies who have expressed concerns about the addition of a GC principle in this area should not be named and shamed as supporting corruption.
- The language of the principle needs to be finalised as soon as possible.
- A tool-kit on the corruption principle that would link into other GC principles could be developed. (i.e. Shell dilemmas could be posted on the web as training

- tool, a link to Transparency International and other best practice could be provided. A clear definition on corruption should be put on the web site.)
- The GC Office should engage with professional associations to ensure a level playing field. It should also support sectoral activities (i.e. obtain the commitment from legal and accountancy groups)
 - Country specific policy dialogues should be organized and civil society and governments should be more actively included.
 - The Global Compact initiative must demonstrate that there is a tangible improvement in the area of corruption as a result of the addition of a 10th principle.
- **Process Issues:**
- The process is perceived to be transparent and formal but clarification is need re: what constitutes “broad-based” support.
 - The addition of a principle on anti-corruption should not open the door for further additions in future.
 - The GC Office should clarify how it will proceed if the UN Convention is not ratified.

Next Steps

- The Global Compact Office will provide on its website further information on the consultation process answering questions that were raised during the Policy Dialogue. Background information on existing instruments in the fight against corruption will be posted.
- Ideas, such as to post dilemmas that business people are facing in every-day work that were presented by Shell will be made available. If any other organization has similar “dilemmas” that they want to share with the Global Compact Office, they also will be quoted.
- The Global Compact Office will continue collaboration with such organizations as Transparency International and the International Chamber of Commerce to better define what is meant by the term “corruption” and how this translates into actions for participants of the Global Compact.
- Support the United Nations Office on Drugs and Crime in the with regard to the informal working group that serves as a forum for the private sector.