

2A.IV Facilitation payments

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Most multinational companies have made progress toward eliminating traditional bribes from their business practices. They have done this by implementing comprehensive compliance programmes, by training local and foreign employees and business intermediaries, and by rigorous internal enforcement. Some of these companies are now taking steps to eliminate “facilitation payments” from their business practices as well. These small bribes, permitted under an exception in the US Foreign Corrupt Practices Act and under the laws of some countries, are made to Government officials to encourage them to perform or expedite routine, non-discretionary Governmental tasks.

In this chapter, TRACE shows why making “facilitation payments” leads to problems and provides suggestions on how companies can implement and enforce their own internal policy against bribes of any kind, both large and small. Much of the following guidance was developed from a recent TRACE survey in which we interviewed 42 companies engaged in international business to learn how they have stopped paying small bribes to Government officials. Many of the companies interviewed have found that it is possible—occasionally even easy—to refuse to participate in bribery schemes. There are certain techniques that work and certain practices to avoid.

The problem

In many companies, a distinction has long been drawn between major bribes and mere “facilitation payments.” The distinction has been confusing. Bribes and “facilitation payments” are both payments or gifts to, or favours for, Government officials in exchange for preferential treatment. If companies pay these small bribes willingly, they are nevertheless bribes. If companies pay these bribes because they believe they have no choice, they are extortionate.

Double standard

Of the countries that permit these small bribes overseas, none permits them at home. A Canadian or American who makes a “grease payment” to a foreign customs official would face criminal penalties for making the same payment to an official at home. Permitting the citizens of one country to violate the laws of another on the grounds that it is “how they do business there,” corrodes international legal standards that otherwise benefit multinational corporations.

A slippery slope

The mixed message of permissible small bribes versus impermissible large bribes creates a risky arena for business activities. Many companies interviewed complained that small bribes involving routine Governmental tasks are both difficult to define and impossible to control. They found that some employees, responding to pressure to

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ensure timely contract performance, paid bribes for distinctly non-routine services. Furthermore, it is difficult to convey to employees why the payment of large bribes to foreign Government officials is likely to cost the employee his job and possibly his freedom, but that the payment of small bribes is acceptable.

Loss of local community’s confidence

It is difficult to maintain a good reputation within a local business community when your company is believed to buy its way past the administrative obstacles that local citizens and companies must endure. When a bureaucratic delay is legitimate—rather than created by the bribe-taker—purchasing preferential treatment for your company bumps others further down the waiting list.

Inherent illegality

Every bribe of a Government official—regardless of size—breaks the law of at least one country. There is no country anywhere with a written law permitting the bribery of its officials. A lack of resources, political will or interest has meant violations are rarely prosecuted, but that is changing. Some countries, eager to be seen combating corruption, are prosecuting the payment of small bribes with increasing frequency. As a result, there is widespread concern amongst the companies that TRACE interviewed that small bribes could lead to costly legal complications.

Accounting dilemma

The laws of countries that permit the payment of these bribes abroad also require companies to maintain detailed and accurate records of each transaction. Many businesspeople interviewed expressed reluctance to record on company books a “payment to Government official for routine task”—creating a record of a violation of local law. Yet, failure to keep accurate records of the expense constitutes a violation of law even in countries where the underlying payment does not.

Consequently, companies making these payments must choose between falsifying their records in violation

of their own laws or recording the payment accurately and documenting a violation of local law.

Foreign subsidiaries

With the implementation in many countries of new laws criminalizing the payment of small bribes to foreign Governments, there is also an increasing risk that a multinational company with foreign subsidiaries will violate the laws of the country where the subsidiary is based. Companies with offices in more than one country expressed concern that if they do not abolish the use of small bribes altogether, they must undertake different compliance programmes based not only upon the location of each office, but the citizenship of the people working there.

International security

In addition to the legal issues, there is a growing concern regarding national security. One US company reported that the terrorist attacks of September 2001 put a new face on the practice of paying small bribes. That company had routinely paid foreign officials for processing work permits and visas, but is now very uncomfortable promoting corruption in this area. If visas can be bought, borders won’t be safe. The practice of bribing immigration officials can lead to serious entanglements with the enhanced security laws of the company’s home country.

Bad for business

Paying small bribes is poor legal practice, but more to the point, it is bad business practice. Widespread small bribes set a permissive tone, which invites more and greater demands. Every company that TRACE interviewed expressed dissatisfaction with these small bribes. They told us that they amount to a hidden tax on business, they tend to proliferate, they buy an uncertain, unenforceable advantage and—the most common complaint—they are simply irritating. Well-run businesses seek clear, dependable terms and enforceable contracts. Small bribes introduce uncertainty, risk and delay.

“It is crucial to have the full support of the highest level of management.”

Reputation as a “soft touch”

The standard argument in defence of bribery is that it is impossible to conduct business successfully overseas without paying bribes to ease the bureaucratic and regulatory burden. If true, business should be more efficient for companies paying bribes, yet this argument is not supported by research or anecdote.

Two World Bank researchers studied the premise that small bribes reduce red tape and found that “contrary to the efficient grease theory... firms that pay more bribes are also likely to spend more, not less, management time with bureaucrats negotiating regulations and face higher, not lower, cost of capital.”²

Decide and commit

Several companies reported that the most difficult part of eliminating the practice of paying small bribes was actually focusing attention on the issue and making a commitment to stop. Once a company decides that it wants to eliminate the practice, it must commit itself to spending the time and money needed to carry out its goal through:

- A clear written policy;
- An internal audit;
- Training employees and intermediaries;
- A robust internal reporting programme;
- Enforcement.

It is crucial that the decision to eliminate the practice have the full support of and formal endorsement by the highest level of management in the company.

Adopt a clear policy

The essential core of any successful anti-bribery strategy is a clear and consistent message to employees, intermediaries and bribe-takers that bribes of any kind will not be paid. Such a message is most effectively conveyed through a clear written policy that includes assurances that no employee or intermediary will be penalized for de-

layed performance that can be directly tied to his or her refusal to pay bribes.

Medical and safety emergency exception

Employees of multinational companies are occasionally asked to travel and live abroad in countries where the standard of living is lower than their own country and the risks to health and safety are higher. Many companies currently rely on the good judgement of their employees in these situations, but some have created a formal medical and safety emergency exception. The situation should be a true emergency and the payment should be accounted for appropriately and reported through management channels both to conform to books and records requirements and to ensure that management is apprised of and can track the risks to personnel in that country.

Assess

A comprehensive inventory of past payments will enable companies to address each risk area appropriately. This assessment should include a review of the company's areas of operation that pose a high risk of exposure, any past legal or ethical problems, existing policies, procedures and compliance efforts, and all relevant laws and regulations.

A key aspect of the internal assessment is the employee interview. It is crucial that those conducting the assessment speak to the right people. The companies that TRACE interviewed stressed this point more emphatically than any other. Employees in the field understand the local challenges better than the head office; their participation in a change of policy will be critical to its success. They can identify situations for which a small bribe has been useful and help devise alternative approaches. They also know when a small bribe is not necessary.

The last point is important. Most of the people interviewed recounted stories of employees, new to a foreign assignment and primed with rumours about corruption in the local business community, thrusting money at a Government official at the first mention of delay.

Types of payments

Payments identified during the assessment are likely to fall into one of four categories and a different response may be required for each.

Expediting payments are usually demanded by entrepreneurial Government officials who threaten delay and red tape if they are not paid small amounts at regular intervals. This category includes payments to secure licenses, to overcome unwarranted delays at customs, to resolve disputes over inflated taxation, and to end harassment by local police or military. Suggested responses to demands for expediting payments include the following:

- Meet with the individual in question and explain the change in policy.
 - Avoid the embarrassment of including superiors in discussions unless it is clear that it is necessary or that they are a part of the problem. If the junior official has been required to funnel a portion of the bribes he collects to a superior, the superior will have to be included in the conversation.
 - Acknowledge that small payments have been a part of the business relationship until now, but that these will no longer be made. Again, explain the change in company policy.
 - Prepare to reject suggestions on how things might be structured to reach the same end by different means such as re-characterizing the payment or channelling payments through third parties.
 - Prioritize shipments or administrative tasks where possible so that the least urgent requests are presented immediately after a change in company policy.
- Maintain records of additional expense resulting from a refusal to make payments and provide copies to senior officials of the relevant Government ministry. If the Government is either a partner or the customer, pass along a portion of the cost of refusing the bribe, together with a detailed explanation. Companies that have done this report a significant reduction in demands for bribes.

Additional services are generally made for a legitimate service that is being purchased through inappropriate channels. Services may include overtime work, work during local holidays, or duties outside the scope of the official's job description. It is important that real value be provided and that these payments do not simply become a way to legitimize bribery. Suggested responses to requests for additional services include:

- Assess the value of the service that has been provided and formalize the relationship. One company stopped paying overtime directly to border guards and began working through the border guard office, requesting a formal agreement and invoices. The result was the same service at the same price, but with new control and transparency.
- Recognize that in some countries, certain Government officials receive no pay at all from their Government. Instead, they are expected to create their own income—and supplement their superiors' income—through corruption. By formalizing and documenting the arrangement, the official is paid for his service, but the haggling and secrecy are brought to an end.
- Seek the approval of the official's superior, where feasible, to hire him under a separate agreement. In some countries, Government

“Training is the most critical step in abolishing small bribes.”

officials are permitted to hold second jobs. The goal is not to impoverish already badly paid officials.

Traditional commercial bribes are payments to obtain a business advantage and are not permitted under any legal exception for small bribes. The suggested response to a traditional commercial bribe:

- If a bribe is paid in order to obtain a business advantage, the employee involved should be sanctioned and the company protected from the consequences to the extent possible by prompt remedial action. The company's broader policy on bribery of foreign Government officials should be invoked to address these situations.

Extortion payments amount to clear, criminal extortion—for example, an employee held at a security check and released only upon payment. Things to consider when an extortionate demand is made:

- If a demand is clearly extortionate and criminal, the employee's safety must be the paramount consideration.
- Once an emergency has passed, companies should advise their embassy and ask that it pursue the matter at the responsible level of Government.
- These situations are of real concern, but the embarrassment they can generate for the host country can result in unexpected leverage for companies. Most companies agree that the best response is to manage the situation in the short term and publicize it in the long term.

Train

After management commitment, training is the most critical step in abolishing small bribes.

Employees

An effective anti-bribery policy must include comprehensive training for employees. Employees should also be required to sign a statement verifying that they have participated in the training and that they will comply with the company's anti-bribery policy.

Business intermediaries

A company can be held responsible for the actions of its business intermediaries—sales agents, consultants, suppliers, contractors and local partners. Consequently, intermediaries should receive the same rigorous anti-bribery training and a copy of the company's anti-bribery policy.

Contracts should include a requirement for all intermediaries to comply with the company's policy.

General training guidelines

The points that follow apply regardless of the type of bribery being addressed:

- The anti-bribery policy should be disseminated to every employee and business intermediary.
- Employees and intermediaries should be assured that they will not be penalized for diminished productivity directly attributable to their refusal to pay bribes.
- Employees who are posted overseas or whose jobs require frequent travel should receive training on the company policy and on how to deal with demands for bribes. This training should include an opportunity to meet with employees who have worked in the territory to which they will be sent.

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- Employees affected most directly—those in the international sector, marketing, operations and finance—should have an opportunity to ask specific questions about the situations they expect to face.
- Company auditors should be alerted to the possibility that rogue employees and intermediaries may attempt to circumvent the new policy by mischaracterizing small bribes as permitted expenses.
- Auditors, in-house lawyers or compliance officers should ensure that payments made under the medical and safety emergency exception are reviewed for potential abuse.

Report

Although this issue has become quite controversial in light of concerns about privacy and “big brother” tactics, a well-organized, secure means by which to report problems within a company when all other channels of communication fail is essential to a sound anti-bribery programme. The reporting programme should be accessible to all employees; it should provide for either anonymous or confidential reports, as appropriate, to protect the reporting employee; it should include screening by a neutral party to safeguard against frivolous or malicious reports; and it should permit collection and tracking of data over time for reporting to senior management. A well-run reporting programme will assist management in assessing the success of its anti-bribery policy and will identify the points at which the programme is breaking down.

Enforce and follow up

It is important for management to stay focused during the implementation and transition period. Anticipated difficulties have proven to be short-lived. Dire warnings that profitability

will plummet and business will grind to a halt are not supported by the experiences of any of the companies interviewed. Most of the 42 companies that TRACE interviewed reported delays and unusual additional bureaucratic steps in the first 30 to 60 days after abolishing small bribes. After this period, business “more or less returned to normal.”

Conclusion

Addressing all forms of business corruption at the same time with a single, coherent message is preferable to labouring under an equivocal policy and waiting until some future ideal time to tackle small bribes. Many companies have adopted strong policies against the payment of small bribes, and the consensus has been that the transition has been simpler, faster and less painful than was expected. The short-term result for many of the companies interviewed has been relief from constant demands for small bribes; the long-term results will include reduced bureaucracy, enhanced predictability and a more stable business environment.

Case story: Royal Dutch Shell plc

Introduction

Royal Dutch Shell plc (“the Shell Group” or “the Group”) has been a participant in the United Nations Global Compact initiative since its inception in July of 2000. This case story focuses on how the Shell Group has made progress toward abolishing facilitation payments from its business practices. It also examines the tools that the Group currently uses to implement and enforce its internal anti-bribery policies. As demonstrated below, the Shell Group takes a very strict stance on bribery; it does not sanction any form of illegal payment, large or small. Facilitation payments are in all cases illegal under the laws of the country in which they are made.

Based on TRACE research on this topic to date, the oil and gas industry is particularly susceptible to demands for facilitation payments. This is true, in part, because of the long-term nature of the relationship that oil and gas companies have with their host countries: companies must maintain good relations with the local community, while engaging with all levels of Government officials for a great variety of services.

Recognizing the specific challenges that the Group faced, Shell embarked on a carefully designed programme to eliminate facilitation payments worldwide. The process has been challenging, and certain areas require additional attention. This is particularly true with respect to discouraging and monitoring facilitation payments made by contractors and other commercial intermediaries. Nevertheless, the obstacles have not been insurmountable. As this case story illustrates, progress can be made if the problem is approached systematically and is addressed with a clear and emphatic message.

Adopt a clear written policy

Shell General Business Principles

The Shell Group publishes a document that is intended to govern the way in which all Group companies conduct their affairs. This guiding document, known as the Shell General Business Principles (SGBP), was established almost thirty years ago and was most recently revised in 2005. It states the Group's principles for economics, business integrity, political activities, health, safety, security and the environment, local communities, competition, communication and engagement, and compliance. The SGBP section on business integrity addresses the Group's stance on bribery, including facilitation payments:

Shell companies insist on honesty, integrity and fairness in all aspects of our business and expect the same in our relationships with all those with whom we do business. The direct or

*indirect offer, payment, soliciting or acceptance of bribes in any form is unacceptable. Facilitation payments are also bribes and should not be made. Employees must avoid conflicts of interest between their private activities and their part in the conduct of company business. Employees must also declare to their employing company potential conflicts of interest. All business transactions on behalf of a Shell company must be reflected accurately and fairly in the accounts of the company in accordance with established procedures and are subject to audit and disclosure.*³

Increasingly restrictive versions of this clause have been a part of the SGBP since their establishment in 1976. Shortly after the SGBP was revised in 1997, Mark Moody-Stuart, former Chairman of the Committee of Managing Directors of the Royal Dutch/Shell Group of Companies and former Chairman of The Shell Transport and Trading Company plc, underscored the Shell Group's commitment to open and honest business practices at a 1998 European Parliament Conference in Brussels. His words reflect the unambiguous stance that the Shell Group takes in its fight against bribery and its efforts to eliminate any and all forms of illegal payments:

*We do not bribe. We do not sanction any type of bribery or illegal payment of any kind anywhere, either directly or indirectly. We do not give or accept bribes and any Shell company employee who is found to have done so will be dismissed and, if possible, prosecuted....All employees of Shell companies are aware that there is zero tolerance of anyone who ignores the policies on these matters. The principle they have to follow is simple: "Just say no."*⁴

Moody-Stuart also highlighted the level of importance given to the SGBP in all of the Shell Group's deal-

ings, including joint ventures, stating: “Ultimately a Shell company would have to withdraw from a venture if there was a serious conflict [with the SGBP] which we could not resolve with our partners.”

The clear written policy adopted by the Shell Group on facilitation payments mirrors its earlier stance on bribes more generally: “Facilitation payments are bribes and should not be made.”

Assess the scope of the problem

In order to address the problem of routine, extortionate demands from Government officials, companies should first undertake an internal review of the scope and pattern of these demands. Each region, and every industry within each region, will face different demands at different levels and different consequences for failing to acquiesce.

In 1998, the Shell Group published its first edition of the Shell Report, entitled “Profits and Principles—Does there have to be a choice?” The report grew out of the Group’s in-depth “look in the mirror” that involved feedback from thousands of members of the general public and hundreds of Shell employees supporting its operations around the globe. The results were mixed. While half of the respondents expressed a favourable opinion of Shell, 40 per cent expressed neutrality and 10 per cent expressed an unfavourable view. Survey feedback reflected that respondents felt the Group was deficient in the areas of human rights and care for the environment. As the authors of the report admitted, “We neither recognized nor liked some of what we saw. We have set about putting it right, and this report is a small manifestation of widespread action taking place across the Group.”⁵

The Shell Group continues to publish an annual Shell Report; each edition provides a summary overview of the Group’s financial, social and environmental performance over the past year. Social performance data includes information on areas such as revenue transparency, business integrity (incidence of bribery, internal reporting mechanisms and procedures), and contracting and procurement.

No problem can be effectively addressed until a company has assessed the degree to which the practice is entrenched. A critical evaluation is an essential first step. TRACE research has found that some companies approach the assessment process on a country-by-country basis, while others evaluate the problem by category of tasks: customs clearance, transportation and license applications, for example. Both methods have been successful; the choice depends on both the size of the company and the nature of its services and marketing model.

Training employees and intermediaries

Data tables published in conjunction with the 2004 Shell Report include information on training and other tools used by Shell Group companies in an effort to increase awareness of the company’s “no bribery” policy and enforce company-wide compliance measures. The data reports that Shell Group company staff in 106 countries participated in training on the use of intermediaries (up from 98 in 2003) and that Group companies in more than 100 countries have procedures in place to prevent facilitation payments by staff, contractors and suppliers.⁶

In addition to the Shell General Business Principles and the annual Shell Report, the Shell Group has also published two training manuals for managers: The manuals were developed to aid employees and business partners in their understanding of company policy and ensure that appropriate behaviours are applied in a variety of hypothetical business situations.

Business integrity principles are outlined in the primer, including specific information on the Group’s policy on facilitation payments.

The anti-bribery commitment is long-standing: the clause has featured in the SGBP since the first edition in 1976. It should be noted that the policy makes no distinction between bribes and facilitation payments. Our policy is not to make facilitation payments and we seek to en-

“Once someone is known as being willing to make such payments, they may well be asked for further payments down the line.”

sure that our agents, contractors and suppliers do not make them either.

In many countries, small facilitation payments to low-level officials are common practice especially for such services as issuing of visas and customs clearance. These are typically areas where Shell employs local agents to expedite routine administrative processes. As part of the SGBP assurance process, Country Chairs are expected to investigate and report on all areas where facilitation payments are made by their agents, contractors or suppliers. They are, in addition, expected to mitigate and, if possible, stop such practices. This may require the cooperation of the authorities as well as other industry players to eliminate the underlying reasons for facilitation payments—e.g. low wages—as well as the practice itself.⁷

Language in the Shell Group primer supports TRACE’s argument that it is never a good idea to pay a bribe, regardless of size, as it could lead to the expectation of additional payments in the future.⁸

Once someone is known as being willing to make such payments, they may well be asked for further payments “down the line” while the person who refuses to make a facilitation payment may be left alone. Equally, once an official has successfully obtained a facilitation payment, he may habitually slow down a process to enhance his gains.

While the management primer acknowledges that facilitation payments are not addressed in the OECD Convention against Bribery of Foreign Public Officials in International Business Transactions (OECD Convention), it does point out that such payments are “generally illegal in the foreign country concerned and that countries should address this ‘corrosive phenomenon’ by supporting programmes of good governance.”⁹

The Shell Group has also developed a training supplement to the primer, “Dealing with Dilemmas,” which is used in staff training sessions and workshops.¹⁰ It contains a series of “grey area” scenarios that are based on actual dilemmas faced by Shell staff. Questions are included with each scenario to help staff understand what they should consider and what actions they should take if faced with similar dilemmas in the field. How to handle knowledge of ongoing facilitation payment schemes and how and when to report bribery accusations are two of the dilemmas in this training supplement.

The Shell Group’s strict “no bribes” policy applies not only to employees, but also to Shell Group contractors. Within the context of the Shell Group’s activities in Nigeria, a statement on the shell.com website explicitly states:¹¹

The penalty for corrupt practices is dismissal and, if possible, prosecution. We also require our contractors, under our General Conditions of Contract, not to pay bribes or commissions. If they do, they lose their contracts and forfeit future business with Shell.

TRACE frequently hears from the Shell Group and other companies that influencing a third party’s actions with respect to bribes and facilitating payments is one of the greatest challenges they face. Third party intermediaries often live and work locally and report only intermittently back to a multinational company’s head office. They may balance the immediate need for timely licenses, customs approvals and transportation against the less clear and more distant admonitions of the head office and decide in favour of expedience. Although large companies may have the negotiating stature to insist on audit rights for third parties, there are rarely resources to undertake the audit and there are valid questions as to how much expense a company should bear in order to monitor the good internal governance of its third party contractors. Like many other companies interviewed by TRACE, the Shell Group is struggling with this challenge and acknowledges that there is room for improvement.

“Individual cases of petty corruption may appear relatively unimportant, but the cumulative effect can destroy decent society and particularly damage those at the bottom of the social scale.”

Establish a robust internal reporting mechanism

In the 2004 Shell Report, the Managing Director of The Shell Petroleum Development Company of Nigeria Ltd. describes how his company makes use of internal reporting mechanisms:¹²

Corruption is a problem at many levels in Nigeria....Increased use of our whistle-blowing facility led to investigations that resulted in the firing of seven staff and the dismissal of 19 contractors. In 2004, we began publishing each proven case of corruption on our internal website.

The Shell Nigeria internal reporting facility is one of 114 national systems established for employees and contractors to report concerns on a confidential basis.¹³ Shell Nigeria concluded that successfully following up on complaints and ensuring subsequent remedial actions for those found to have been involved in SGBP violations resulted in increased employee confidence in the internal hotline. It has become one of the most widely used hotlines in the Shell Group.

Audit and enforcement

Few practices will undermine a robust compliance programme as quickly as failing to investigate and take remedial action when bribery schemes are uncovered. TRACE heard from employees in industries as diverse as aerospace, pharmaceuticals and telecommunications that suspicions that management had a “paper programme” in place with no real means or intention to uncover and sanction wrongdoing was more corrosive of good governance than having no policy at all.

The Shell Group management primer explains in detail the various reporting and auditing structures that support the Group’s business integrity policies. The Board of the Royal Dutch Shell plc is advised by a Group Audit Committee (GAC) that is composed of at least three independent members. The

GAC does not conduct audits; this is the responsibility of internal and external auditors. Rather, the GAC monitors and makes recommendations on the Group’s internal risk management and control system. It also monitors compliance with the SGBP, the Code of Ethics and any legal and regulatory requirements.¹⁴ In addition to the GAC, internal audit committees occasionally review the internal audit plan and monitor the implementation of actions identified in response to business control findings. The internal audit committees also consider SGBP-related information and findings provided in letters submitted by Country Chairs and the CEO of each business and group service organization.¹⁵

The primer also provides specific examples of business integrity violations, guidance on how and when to report “business control incidents,” and definitions of the kinds of corruption Shell Group staff may encounter during business operations. Specifically, the primer focuses on bribery, the use of intermediaries, fraud, vulnerabilities in contracting and procurement, and organized crime.

The 1998 Shell Report includes a two-page section devoted to business integrity and the Group’s policy on bribery. In this discussion, the Shell Group admits that many of its managers are offered bribes or encouraged to pay them. The Report discloses that “in 1997, Shell companies reported 23 instances in which Shell staff were detected soliciting or accepting bribes in any form.”¹⁶ The Report emphasizes that while it actively prosecutes those that do choose to pay bribes (all of the 23 instances reported led to terminations), those who choose to adhere to the Business Principles will not be penalized in any way for the consequences of their decision.

The 2004 Shell Report continues this tradition of transparency in bribery reporting. For the year 2004, “16 bribery incidents and 123 fraud cases were reported, resulting in the dismissal or resignation of 203 staff and contractors.”¹⁷

Conclusion

Shell Group companies operate in more than 140 countries around the globe. Such expansive operations make it difficult to control the actions of all Group company employees. Moody-Stuart acknowledged this reality in his 1998 speech. Similarly, the 2004 Shell Report notes that the Company must continue to work to improve the way in which it detects and gathers data on incidents of bribery.

Nevertheless, there is a continued effort based on a clear policy that facilitation payments are not to be tolerated in any fashion. The development and application of training tools and reporting channels further support the Group's policy and serve to increase awareness amongst those expected to apply the Group's broader principles of business integrity.

A current Shell Group website statement on business integrity sums up the reality that no payment, however small, can be good for business; rather, it can have much broader implications that carry significant risk.¹⁸

Individual cases of petty corruption may appear relatively unimportant, but the cumulative effect can destroy decent society and particularly damage those at the bottom of the social scale who cannot afford to pay... Bribery and corruption lead to a society where economic and political decisions become twisted. They slow social progress, hamper economic development and drive up prices for products and services. A corrupt society is an unequal and unfair society.

Endnotes

- 1 TRACE is a non-profit anti-bribery business association supporting more than 1,000 member companies and intermediaries worldwide with anti-bribery compliance tools and services.
- 2 "Does 'Grease Money' Speed Up the Wheels of Commerce?" Daniel Kaufmann, World Bank Institute and Shang-Jin Wei, Development Research Group, Public Economics, World Bank.
- 3 Royal Dutch Shell plc. *Shell General Business Principles*. Shell International Limited: 2005. Available at: <http://www.shell.com/sgbp>.
- 4 Moody-Stuart, Mark. "Corruption and recent developments in legislation." Shell News & Library: 15 April 1998. Available at: http://www.shell.com/home/Framework?siteId=media-en&FC2=&FC3=/media-en/html/iwgen/news_and_library/speeches/1998/corruptionandrecent_10171348.html
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- 7 Royal Dutch Shell plc. "Dealing with Bribery and Corruption – A Management Primer." 2nd edition. Shell International Limited: 2003, p.9.
- 8 "Dealing with Bribery and Corruption – A Management Primer." p.16.
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- 11 Shell Nigeria. "Shell's Stance against Corruption." Available at: http://www.shell.com/home/Framework?siteId=nigeria&FC2=/nigeria/html/iwgen/leftnavs/zzz_lhn8_6_3.html&FC3=/nigeria/html/iwgen/society_environment/issues_dilemmas/security/corruption/dir_agacorr_u_2703_1040.html
- 12 *Shell Report 2004*. "Location Reports – Nigeria." p. 17.
- 13 According to the *Shell Report 2004*: "Our companies in 114 countries now offer staff hotlines, whistle-blowing schemes and other confidential ways to report possible incidents, up from 109 in 2003." p. 25.
- 14 Royal Dutch Shell plc. "Audit Committee Terms of Reference." p.3. Available at: http://www.shell.com/static/investor-en/downloads/company_information/committees/rds_audit_committee.pdf
- 15 "Dealing with Bribery and Corruption – A Management Primer." pp. 10-11.
- 16 Ibid, p. 23.
- 17 *Shell Report 2004*. "Social: Living by our business principles." p. 25. The number of bribery incidents includes proven cases of bribes paid or accepted by Shell employees, contractors or intermediaries.
- 18 Shell.com. "What is business integrity?" Available at: http://www.shell.com/home/Framework?siteId=royal-en&FC2=/royal-en/html/iwgen/environment_and_society/key_issues_and_topics/issuanddilemmas/businessintegrity/zzz_lhn.html&FC3=/royal-en/html/iwgen/environment_and_society/key_issues_and_topics/issuesanddilemmas/businessintegrity/businessintegrityissue_10091625.html