The Guide was created as the joint effort of:

- World Bank Institute
- United Nations Global Compact
- CIPE Center for International Private Enterprise
- Transparency International
- Global Advice Network
- Siemens

Supporting partners: InWEnt Capacity Building International (Germany), Transparency International - USA

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- Haylide Chemicals (India)
- Microsoft (US)
- Pacto Etico Comercial (Paraguay)
- Sanlam Limited (South Africa)
- The Prince of Wales International Business Leaders Forum (UK)
- ThyssenKrupp AG (Germany)

Short profiles of these organizations are found at the end of the document
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**Fighting Corruption Through Collective Action – a Guide for business**

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This Guide is intended to help companies meet the legal, competitive, economic and ethical challenges posed by corruption as they do business around the world. Information in this Guide is intended for use by business but should also be of interest to governments and other organizations concerned about reducing corruption.

Major advances are occurring in both the law and internal corporate practice to prevent corruption in business. Specifically, international conventions, new national laws, increased enforcement of existing laws, and voluntary initiatives against corruption all contribute to growing global support for anti-corruption measures.

Although most attention has focused on government enforcement and steps taken by individual companies to improve their internal systems and controls, important developments also are occurring in a third area commonly referred to as “Collective Action.” Innovative tools are being developed that allow companies to come together collectively and voluntarily to raise practice standards and to reduce corruption and competitive risks on a project and sectoral basis. These range from integrity pacts for individual procurements to codes of conduct and collective public policy initiatives.

Although a significant number of tools for Collective Actions are now available, and continue to evolve, many companies that want to be more proactive in fighting corruption do not know about these tools or have insufficient practical information to consider them. A coalition of interested businesses and other experienced anti-corruption experts has therefore produced this Guide to support the global business community and other stakeholders by filling this information gap.

"Collective Action" is a collaborative and sustained process of cooperation among stakeholders. It increases the impact and credibility of individual action, brings vulnerable individual players into an alliance of like-minded organizations and levels the playing field between competitors. Collective Action can complement or temporarily substitute for and strengthen weak local laws and anti-corruption practices.

This Guide explains Collective Action, its benefits, and how to use it. It aims at demonstrating that the private sector can be part of the solution to prevent and fight corruption and provides incentives for companies to become more actively involved. It also shows how Collective Action can support Small/Medium Sized Enterprises in their fight against corruption by providing a broader alliance that can support smaller participants.

The Guide is intended primarily for use by anyone with responsibility for a major project or market, and who operates in an environment where corruption is, or may be present. Others who may benefit from this material include senior executives, company board members, government officials, civil society and others directly or indirectly affected by the adverse effects of corruption on business and society.
### Application areas and benefits of the Guide for different target groups

#### Why is this guide useful for me?

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<th>Target Group</th>
<th>Benefit</th>
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<tr>
<td><strong>Senior management</strong></td>
<td>Information to support a company’s anti-corruption values and practices, and examples of operational alternatives for conducting good business</td>
</tr>
<tr>
<td><strong>Regional CEOs \ Division heads</strong></td>
<td>Ability for regional and local managers to positively and proactively impact possible corruption situations – thereby reducing corporate risks of lost business, disputes and/or regulatory involvement</td>
</tr>
<tr>
<td><strong>Chief Compliance Officers</strong></td>
<td>Practical reference guide when faced with corruption dilemmas</td>
</tr>
<tr>
<td><strong>Business associations</strong></td>
<td>Guidance on how to get involved in various forms of Collective Action, and to positively impact membership</td>
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<tr>
<td><strong>Government</strong></td>
<td>Guidance to market participants on ways to supplement and strengthen existing governance framework to fight corruption and support competition</td>
</tr>
<tr>
<td><strong>Non-Governmental Organizations</strong></td>
<td>Advice on ways to participate in and facilitate Collective Action while advancing their own respective goals</td>
</tr>
<tr>
<td><strong>Small/Medium Sized Enterprises</strong></td>
<td>Suggested ways to form and be part of a Collective Action initiative, particularly through business associations, and to thereby directly improve the ability to compete with larger companies or to comply with larger companies’ requirements for suppliers to have anti-corruption policies in place</td>
</tr>
</tbody>
</table>
How to use the Collective Action Guide

There are several ways that readers can use the Guide:

If you are new to the threat of corruption, it may be useful to review the entire document. In particular, Sections 2 ("Background") and 3 ("How to Fight Corruption") explain why it is critical for companies and others to actively promote uniform anti-corruption standards and practices in their business environments.

Readers with a primary interest in the different Collective Action approaches to anti-corruption may choose to go directly to Sections 4 ("Fighting corruption through Collective Action") and 5 ("How to implement Collective Action").

Additional resources and background material are found in Section 6 ("Best practices and contact list.")

The guide provides an overview on collective action; it is not intended to be comprehensive* or dispositive. The facts and circumstances of a particular situation determine which possible form of collective action may be used, and how it can be implemented.

Please note that all processes in this guide are described from a company’s perspective. Non-Governmental Organizations (NGOs) and governments can also benefit from this approach, however. The more each participant’s role is understood by all participants in a collective action, the greater the chances for transparency and success. By reviewing the Guide, NGOs and governments can better understand the corruption-related issues and opportunities faced by companies as they try to conduct business that is “good” – competitive, non-corrupt and ethical business.

Please note that this document and the associated website (see www.fightingcorruption.org) will be evolving resources for those interested in using collective action to combat corruption.

Members of the business and anti-corruption communities are encouraged to share their collective action observations, experiences and methodologies through the website – and to thereby help to making this resource more useful over time. Please contribute to the website’s information and dialogue.

* Specific legal rules, such as those covering facilitation payments, are not directly covered in the Guide, since they are treated differently in various countries. Please see http://www.oecd.org/topic/0,3373,en_2649_37447_1_1_1_1_37447,00.html for country-specific and general anti-corruption information.
Guide provides instruction on how to initiate a Collective Action and contains examples of the different possibilities.

Content of the guide

Find the right approach for your situation

- Classification and definition of Collective Action
- Decision trees

Follow detailed process steps

- Process steps
- Highlighted topics and issues to consider (e.g. anti-trust)

Benefit from various examples and templates

- Contract templates
- Profiles of initiatives
- Contact list

Additional links and examples can be found at www.fightingcorruption.org

Basis

- Definition of corruption, consequences of corruption
- Overview on various ways to fight corruption
Corruption is the misuse of entrusted power for personal gain.

Definition of corruption

**Corruption** is commonly defined as the misuse of entrusted power for personal or private gain. The primary focus of this Guide is on bribery which is used to obtain or retain business, or for any other improper business advantage. Other forms of corruption include embezzlement, fraud, extortion, bid-rigging, political corruption and undue influence, and “state capture” (i.e., fixing the rules of the game).

Common examples of **bribery** include cash or other payments to secure a governmental or commercial contract, steered subcontracts, improper political or charitable contributions, kickbacks, excessive gifts, and illicit payments to obtain a license or other regulatory action.

Collective Action initiatives typically emphasize the “supply” side of bribery, because that is where companies can have the greatest impact. Many of the tools described in this Guide also address bribery’s “demand” side, particularly those with a public advocacy component.

Bribery and other anti-corruption laws can be complicated and it is important to seek expert guidance to understand them.

A good practical rule of thumb for business operations is that if you wouldn’t want others to know about a payment, it probably shouldn’t be made.
Corruption negatively impacts all levels of society

The consequences of corruption

**Individuals**
- Triggers criminal, civil and employment sanctions
- Ruins careers & reputations

**Businesses**
- Causes loss of reputation
- Increases cost of doing business
- Undermines innovation since bribes, instead of performance, determine project award
- Jeopardizes mergers & acquisitions and inhibits ability to conduct capital market transactions
- Debars firms/businesses from tenders (government, development banks)

**Governments / markets**
- Hampers the development of markets and drives away investments
- Undermines the rule of law
- Leads to loss of confidence in institutions and the de-legitimization of government
- Increases costs of services/products and lowers the quality of services as contracts are not ordinarily awarded to the appropriate bidder

Facts

“…since 1990, the [U.S. Department of Justice] has brought over twice as many prosecutions against individuals as it has against corporations…. The burden of responsibility continues to be borne by individuals alongside companies. (Shearman & Sterling 2008)

"Corruption adds as much as 25% to the cost of public procurement" (UN Global Compact 2006)
"31% of firms in Latin America had to pay bribes to 'get things done’" (World Bank survey 2005)

The World Bank website contains a list of debarred firms and individuals which/who have been discovered through Bank investigations to have engaged in fraudulent, corrupt, collusive, or coercive practices. Listed firms and individuals are subject to restrictions concerning eligibility for future contract awards.

http://go.worldbank.org/G9UW6Y0DC0

www.fightingcorruption.org
Fighting corruption collectively with all stakeholders increases the effect of individual action

"Collective Action":
- Is a collaborative and sustained process of cooperation between stakeholders.
- Increases the impact and credibility of individual action.
- Brings vulnerable individual players into an alliance of like-minded organizations.
- Levels the playing field among competitors.
- May complement, or temporarily substitute for and strengthen, weak local laws and anti-corruption practices.

BUT: Collective Action is not quick or easy. It requires patience, hard work and expertise.
Why companies should also engage against corruption collectively - as well as individually?

Businesses understand that corruption is both socially destructive and endemic in many areas. Society and business benefit where corruption is driven from markets – and where fair competition on the merits of goods and services, reduced costs and better value to the customer are therefore possible.

Smart businesses therefore apply different anti-corruption practices and efforts, including Collective Action, in a variety of ways. With the continuing and growing attention on corruption from the media, regulators, and society in general, companies are well advised to be proactive rather than passive in this area.

Collective Action is a proven method of fighting corruption. Mexico, Indonesia, Ecuador and Germany (among many others) are locations where business and other stakeholders presently use various forms of collective action.

It is used in a variety of industry sectors (e.g. energy and construction) and conditions (in both emerging and in developed markets). Collective Action also exists in a variety of different forms – from project-specific “integrity pacts” * containing specified non-compliance remedies, to business associations with more general consensus-building purposes, such as codes of conduct.

It increases an individual company’s impact by making fair business practices more common and elevating individual action or vulnerable individual players such as Small/Medium Sized Enterprises (SMEs) into an alliance of like-minded organizations.

Operationally, Collective Action can be incorporated into a company’s project management, corporate risk management, and compliance activities.

Strategically, using Collective Action is a tangible demonstration of a company’s commitment to many of the principles underlying corporate social responsibility and “effective” compliance program activities. Ancillary corporate benefits may develop from these practices as third party stakeholders (investors, non-governmental organizations and regulators) recognize a company’s emphasis on positive and sustainable business behavior.

* The integrity pact approach was originally developed and is employed by Transparency International and its various national chapters, as a multi-stakeholder tool for promoting project integrity. Integrity pacts involve government, the private sector and civil society in substantive anti-corruption activities.
Small and Medium-sized enterprises can also benefit from and participate in Collective Action

- SMEs are affected disproportionately by corruption and often lack the financial and human resources to install the necessary systems to prevent corruption or to resist corruption demands.

- Corruption is a major reason for SME business failure* - particularly in developing and emerging markets (* outside of normal market economy business risk factors)

- Collective Action can be a way for SMEs to leverage influence and power to more effectively resist corruption.

- Business & professional associations are often a primary support resource for SMEs and can support SMEs in implementing better anti-corruption systems and provide a platform for SMEs to engage against corruption collectively.

- Some business & professional associations working with SMEs have already developed simple and efficient anti-corruption tools in various high risk situations (e.g. business-anticorruption.org )
Collective Action is an advanced step of fighting corruption and helps to “level” the playing field

Three levels to fight corruption as a company

1. Internal
   - Assess risks
   - Implement anti-corruption policies and compliance programs
   - Provide guidance to managers

2. External
   - Share internal policies, experiences, best practices and success stories with external stakeholders

3. Collective
   - Reach out to industry peers, suppliers and other stakeholders via neutral facilitators and initiate joint activities to fight corruption

Even companies that have implemented internal measures to fight corruption may fear competitive disadvantages or lack the leverage to change the business environment through their individual action…

Collective Action helps to "level the playing field" and creates a business environment with reduced risk of corruption

Source: Global Compact – Business against Corruption, a framework for action, 2006

www.fightingcorruption.org
Collective Action usually involves various stakeholders; the activities and degree of enforcement can vary.

Characteristics of Collective Action

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<thead>
<tr>
<th>Key characteristic</th>
<th>Degree of application and enforcement</th>
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<tr>
<td></td>
<td>Ethical commitment</td>
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<tr>
<td>Collective Action involves various</td>
<td>Anti-corruption declaration</td>
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<tr>
<td>stakeholders</td>
<td>Principles bind signatories to not</td>
</tr>
<tr>
<td></td>
<td>engage in corruption during project</td>
</tr>
<tr>
<td></td>
<td>Public commitment leads to</td>
</tr>
<tr>
<td></td>
<td>enforcement 'by honor' and peer</td>
</tr>
<tr>
<td></td>
<td>pressure</td>
</tr>
<tr>
<td></td>
<td>Principle-based initiative</td>
</tr>
<tr>
<td></td>
<td>Principles bind signatories to not</td>
</tr>
<tr>
<td></td>
<td>engage in corruption in their daily</td>
</tr>
<tr>
<td></td>
<td>business</td>
</tr>
<tr>
<td></td>
<td>Public commitment leads to enforcement</td>
</tr>
<tr>
<td></td>
<td>'by honor'</td>
</tr>
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<td></td>
<td>Initiative can advocate anti-</td>
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<td></td>
<td>corruption with government</td>
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</table>

- **Integrity pact**
  - Formal, written contract between customer and bidding companies
  - Bidding and implementation processes monitored by external monitor
  - Sanctions apply where violations established

- **Certifying business coalition**
  - Compliance-related prerequisites for membership
  - Adoption of membership requirements checked by external audits
  - Members get certified or will be excluded

**Companies**

**Civil society**

**Government**
Collective Action can be applied in every region and sector, but it is especially relevant for high-risk regions and sectors

Direct relationship between strong governance and risk of corruption

<table>
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<th>High-risk regions</th>
<th>High-risk sectors</th>
<th>High-risk transactions</th>
</tr>
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<tr>
<td>The risk of corruption exists, to some degree, in every region and country.</td>
<td>The risk of corruption exists in every sector.</td>
<td>The risk of corruption exists in every transaction.</td>
</tr>
<tr>
<td>Country specific sources of information for assessment of specific risks are given on slides 62 - 64</td>
<td>Information on sector specific corruption risks in selected countries can be found at <a href="http://www.business-anti-corruption.org">www.business-anti-corruption.org</a> under country profiles.</td>
<td>Information on high-risk transactions in selected countries can be found at <a href="http://www.business-anti-corruption.org">www.business-anti-corruption.org</a> under resources.</td>
</tr>
<tr>
<td><em>Good state governance</em> limits the risk of corruption. Governance includes the process by which national, regional and local governments are selected, monitored and replaced; the capacity of the government to effectively formulate and implement sound policies; and the respect of citizens and the state for the institutions that govern economic and social interactions (including respect for a free and open media).</td>
<td>Implementing sectoral codes of conducts or industry specific anti-corruption standards can limit the risk of corruption in high risk countries. The formation of industry focused anti-corruption alliances can also be an effective anti-corruption response. Examples and can be found at <a href="http://www.fightingcorruption.org">www.fightingcorruption.org</a> under resources.</td>
<td>Bringing transparency to transactions related to public procurement, high value transaction or projects with many sub-contractors or involvement of intermediaries and agents can greatly reduce the risk of corruption. Integrity pacts, policies on agents/intermediaries can support transparency in such transactions.</td>
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* Certain conditions increase the success probability for Collective Action; see e.g. slide 58
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<td>6. Best practices and contact list</td>
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</table>
There are three levels at which a company may fight corruption – Collective Action is an advanced step.

Three levels to fight corruption as a company:

1. Internal
   - Assess corruption risks
   - Implement anti-corruption policies as part of an overall corporate compliance program
   - Provide specific guidance to managers

2. External
   - Share internal policies, best practices, experiences, and success stories with external stakeholders

3. Collective
   - Reach out to industry peers, suppliers and other stakeholders via neutral facilitators and initiate joint activities to fight corruption

Business environment with corruption reduced or eliminated

Source: Global Compact – Business against Corruption, a framework for action, 2006
To deal with corruption risks, a company needs to establish an ethical corporate culture and implement a strong anti-corruption policy.

Corporate assets to be protected:
People, Property, Reputation etc.
‘Effective' corporate compliance programs start with leadership commitment and include a number of general accepted principles

Success factors and principles of corporate compliance programs

<table>
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<tr>
<th>Success Factors</th>
<th>Principles</th>
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</thead>
<tbody>
<tr>
<td><strong>Strong 'tone from the top'</strong></td>
<td>*</td>
</tr>
<tr>
<td>Leadership, communications, and actions which visibly and consistently support the program and its underlying principles. Avoid any appearance of double standards in behavior</td>
<td>1. Oversight from a knowledgeable Board of Directors</td>
</tr>
<tr>
<td><strong>A business culture which values 'good sales'</strong></td>
<td>2. Standards and procedures to prevent and detect misbehavior – and specifically prohibiting bribery in any form</td>
</tr>
<tr>
<td>Involving compliance in operations and recognizing it as supporting, not preventing, corporate sales – so that sales are more likely to have less corruption risk</td>
<td>3. Program management by senior personnel with operational responsibility and clear lines of authority</td>
</tr>
<tr>
<td><strong>Practices and processes which are practical</strong></td>
<td>4. Preventive operational safeguards consisting of conduct codes, whistleblower “hotlines”, internal controls and audit, anti-retaliation measures and background screening of candidates for substantial authority positions, etc.</td>
</tr>
<tr>
<td>A program which is prioritized, well-communicated and focused on the particular facts and circumstances of the business</td>
<td>5. Communications and training to support the program</td>
</tr>
<tr>
<td></td>
<td>6. Reinforcement of appropriate behaviors through incentives and consistent discipline</td>
</tr>
<tr>
<td></td>
<td>7. 'Lessons learned' responses to discovered incidents – emphasizing root causes, process adjustments and accountability</td>
</tr>
<tr>
<td></td>
<td>8. Engagement with other businesses and other stakeholders</td>
</tr>
<tr>
<td></td>
<td>9. Separation of internal functions and responsibilities</td>
</tr>
</tbody>
</table>

* Both regulatory frameworks (OECD Convention on Combating Bribery, UN Convention Against Corruption, US Sentencing Guidelines, etc) and voluntary frameworks (TI Business Principles, among others) generally reflect many of these program principles.
To continuously improve a compliance program* a company should follow the practices of “Assess” – “Prevent” – “Detect” – “Respond”

<table>
<thead>
<tr>
<th>Assess</th>
<th>Prevent</th>
<th>Detect</th>
<th>Respond</th>
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<tr>
<td><strong>Self Assessment of Corruption Risks</strong></td>
<td><strong>Policies &amp; Procedures</strong></td>
<td><strong>Compliance controls</strong></td>
<td><strong>Consequences for misconduct</strong></td>
</tr>
<tr>
<td>Create risk profiles based on:</td>
<td>Business conduct guidelines</td>
<td>Risk management system</td>
<td>Policy of misconduct and sanctioning process</td>
</tr>
<tr>
<td>- regions</td>
<td>Specific procedures for agents, gifts &amp; entertainment</td>
<td>Guidance and thresholds for escalation of compliance issues</td>
<td>Global case tracking</td>
</tr>
<tr>
<td>- governments</td>
<td>Checks/balances</td>
<td>Integration with existing internal control (e.g. FCPA)</td>
<td>Tracking tool for compliance</td>
</tr>
<tr>
<td>- project size</td>
<td>Program communication</td>
<td>Whistleblower mechanisms</td>
<td>Internal and external reporting on compliance cases</td>
</tr>
<tr>
<td>- project type (e.g. medical, natural resources etc.)</td>
<td>Internal and external (CSR)</td>
<td>Forensic &amp; part of standard audits</td>
<td>Application of lessons learned</td>
</tr>
<tr>
<td>- agents / brokers/ intermediaries involved</td>
<td>Training</td>
<td>Forensic audit function</td>
<td>- Identify root causes and fix processes</td>
</tr>
<tr>
<td>- supply and distribution chains</td>
<td>Targeted training programs for managers and operational personnel</td>
<td>Audit review board</td>
<td></td>
</tr>
</tbody>
</table>

* Additional compliance program information can be found at the websites of various anti-corruption and compliance related organizations.
Publicly communicating company standards and policies will help employees and business partners to resist bribery, and encourage the reporting of bribe incidents.

**External communication**

- Make a clear and unambiguous statement of principles and policy
- Set expectations (e.g. using contractual audit clause) that business partners and supply and distribution chain participants will conform to company policy
- Report to stakeholders on internal activities to fight corruption
- Share experiences and best practices

| Benefits |
|-----------------|----------------------------------|
| Might trigger interaction with other organizations that can give feedback, propose changes and share best practice examples |
| Contributes to mitigate risk of corruption and will help employees to withstand potential demands for bribes and have confidence to report them |
| Builds reputation of being an ethical company |

**CSR:** Corporate Social Responsibility

- Make a clear and unambiguous statement of principles and policy
- Set expectations (e.g. using contractual audit clause) that business partners and supply and distribution chain participants will conform to company policy
- Report to stakeholders on internal activities to fight corruption
- Share experiences and best practices

<table>
<thead>
<tr>
<th>Annual report</th>
<th>Separate section on company website</th>
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<td>CSR report</td>
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<td>Case studies</td>
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</table>

| Presentations at anti-corruption and business conferences | Press releases Round table discussion with journalists |
|  |  |
Collective Action can help to overcome corruption dilemmas by making compliance the norm and isolating bad participants

**Corruption Dilemma**
- Corruption has a negative impact on companies, governments, societies, and economies
- Despite costs to some, certain individuals or groups benefit from corrupt transactions
- Efforts by one individual organization might not be sufficient to change a corrupt environment

<table>
<thead>
<tr>
<th>Governments</th>
<th>Companies</th>
<th>Civil Society</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Officials often have discretionary authority</td>
<td>- Sales employees are often paid extra salary or bonuses if they win contracts</td>
<td>- Civil society often lacks access to information on public procurement transactions</td>
</tr>
<tr>
<td>- Weak governance prevents monitoring and sanctioning of corrupt behavior</td>
<td>- Companies with strong anti-corruption policies lose contracts to corrupt competitors</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- SMEs lack resources to counter demands</td>
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</tbody>
</table>

**Collective Action**
- Is a collaborative and sustained process of cooperation between stakeholders
- Increases the impact and credibility of individual action
- Brings vulnerable individual players into an alliance of like-minded organizations
- Levels the playing field between competitors
- May complement, or temporarily substitute for and strengthen weak local laws and anti-corruption practices

- **The central objectives** of Collective Action are to:
  - Strengthen anti-corruption commitments between and among different stakeholders
  - Create incentives for stakeholders to avoid bribery and corruption in transactions and eliminate violations by individual members
  - Create incentives to avoid corruption by individuals *within* companies and governments
All stakeholders benefit from Collective Action

Benefits of anti-corruption Collective Action from different stakeholders' perspectives*

**Bidding companies**
- Increased chance of fair selection as a supplier and enhanced access to markets
- Protection from legal penalties
- Saving of costs, formerly paid as bribes
- Enhanced reputation
- Employees and competitors behave ethically and responsibly

**Customer**
- Enhanced competition in bidding process – most efficient, not best connected bidder wins bid
- Enhanced reputation
- Avoid time consuming lawsuits / blocking points after decision on supplier company
- Focus of business relationships on quality and reliability of goods and services

**Government**
- Incentives to be transparent
- Strengthened rule of law, increase credibility and political stability
- Higher investment levels from domestic and foreign investors
- Improve image of country
- Effective governance mechanisms and more effective procurement

**Civil Society/Non-governmental Organizations**
- Improved access to essential resources, such as health care and education and better social development if money is invested in social projects instead of in bribery
- Higher quality products and services, less risk of ‘faulty’ products and accidents
- Increased trust and confidence in business
- Consistent and fair enforcement of regulations
- Greater traction for their objective of more transparent environment and attention to corrupt practices

*Furthermore, Collective Action indirectly supports the internal control over decision-making processes: if bribery occurs, that also normally means that the usual controls and chains of command within one or more organizations have been avoided or manipulated, and are therefore weakened.*
Collective Action tends to be more successful if convened and supported by a neutral facilitator

Model 1. One or more companies convene Collective Action
- May raise anti-trust/competition law concerns
- Leading role of one company may prevent other companies from participating
- If only companies participate in initiative, civil society may question the outcomes

Model 2. Facilitator convenes Collective Action
- Individual company can indirectly initiate Collective Action
- Facilitator has better opportunities to approach different stakeholders
- Increased credibility of initiative

Role of facilitator
- Bring stakeholders together and provide neutral platform
- Best-practice sharing / advice
- Nominate external monitor or auditor

Role of company
- "Make first move" and initiate action
- Act as champion

Facilitator candidates
- NGOs
- Credible individuals
- Business chambers

List of potential facilitators on slide 65
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<td>6. Best practices and contact list</td>
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**Contents**

- Decision making process
- Examples of Collective Action
- Possible types of Collective Action
  - Anti-corruption declaration
  - Integrity Pact
  - Principle based initiative
  - Certifying business coalition
Collective Action is more successful if key questions are asked at an early stage

Key decisions

<table>
<thead>
<tr>
<th>Is Collective Action the best way to mitigate the risk of bribery?</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Does the company have anti-corruption policies in place?</td>
</tr>
<tr>
<td>- Do competitors have anti-corruption policies</td>
</tr>
<tr>
<td>- Are there doubts about the clients behavior?</td>
</tr>
<tr>
<td>- Is the company operating in a high risk country / sector / or is this a high risk transaction?</td>
</tr>
<tr>
<td>- Could individual action be sufficient to address the problem?</td>
</tr>
<tr>
<td>- Decision tree 1 (slide 28)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Which type of Collective Action is appropriate?</th>
</tr>
</thead>
<tbody>
<tr>
<td>- <strong>Project-based:</strong></td>
</tr>
<tr>
<td>- Corruption problem exists only in one project?</td>
</tr>
<tr>
<td>- A bigger alliance of companies and stakeholders is not possible?</td>
</tr>
<tr>
<td>- Company wants to test collective action in a pilot project first</td>
</tr>
<tr>
<td>- <strong>Long-term initiative:</strong></td>
</tr>
<tr>
<td>- A broader change of behavior is required</td>
</tr>
<tr>
<td>- Project-based initiative is not possible</td>
</tr>
<tr>
<td>- A successful project-based initiative is expanded into a wider alliance</td>
</tr>
<tr>
<td>- Decision tree 2 (slide 37)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>What factors are needed to sustain the Collective Action?</th>
</tr>
</thead>
<tbody>
<tr>
<td>- <strong>Timeline:</strong></td>
</tr>
<tr>
<td>- Milestones for short-term deliverables and long-term goals</td>
</tr>
<tr>
<td>- Is there an end-point?</td>
</tr>
<tr>
<td>- <strong>Organization:</strong></td>
</tr>
<tr>
<td>- Who will be responsible to manage the project?</td>
</tr>
<tr>
<td>- Who will be the facilitator?</td>
</tr>
<tr>
<td>- Who will host the initiative physically?</td>
</tr>
<tr>
<td>- <strong>Funding:</strong></td>
</tr>
<tr>
<td>- Who will fund the initial stage (facilitator, monitor, auditor, other external parties required)</td>
</tr>
<tr>
<td>- How will the initiative be funded in the longer-run?</td>
</tr>
</tbody>
</table>
How can a company decide if Collective Action is appropriate for its particular situation?

Decision tree

**START**

Is corruption a major risk for your company? *  
- High risk country  
- High risk sector  
- High risk transaction

Yes

No

No need for Collective Action – continue doing business consistent with law and internal compliance policies

Does your company have an anti-corruption policy and procedures?

Yes

No

No need for Collective Action – continue doing business consistent with law and internal compliance policies

Implement internal anti-corruption policies and procedures

Promote Collective Action

Do all your competitors have anti-corruption policies and procedures in place?

Yes

No or don’t know

Promote Collective Action

Are there reasons to doubt that the customer (govt. or company) will conduct a fair tender?

Yes

No

No need for Collective Action

Did other companies express willingness to fight corruption?

Yes

No

Consider other possible responses (slide 57)

Are there local facilitators or other corruption initiatives?

Yes

No

Consider other possible responses (slide 57)

* Decision should be made by, or with the involvement of, the internal compliance / risk assessment team in corporate headquarters. Various sources for country specific assessment are given on slides 62 - 64
There are various types of Collective Action with different degrees of application and enforcement *

Types of Collective Action

**Applications**

**Degree enforcement**

**Ethical commitment**
- **Anti-corruption declaration**
  - Anti-corruption principles bind signatories to not engage in corruption during project
  - Public commitment leads to enforcement 'by honor' and peer pressure (slide 31)
- **Principle-based initiative**
  - Ethical principles bind signatories to not engage in corruption in the daily business
  - Public commitment leads to enforcement 'by honor'
  - Initiative can advocate anti-corruption with government (slide 33)

**External enforcement**
- **Integrity pact**
  - Formal, written contract between customer and bidding companies
  - Bidding and implementation processes monitored by external monitor
  - Sanctions apply in case of violations (slide 32)
- **Certifying business coalition**
  - Compliance-related prerequisites for membership
  - Adoption of membership requirements checked by external audits
  - Members get certified or will be excluded (slide 34)

Color-coding used on following slides to show link to Collective Action forms covered in the Guide

* These four primary options are illustrative of the many different variations of collective action that exist. Individual facts and circumstances will define the best option for a given potential collective action situation.
Successful examples of Collective Action exist that can be used for guidance

References to detailed case descriptions

Contract templates and more case studies on slides 83 - 84

www.fightingcorruption.org
Anti-corruption declarations are a public commitment, without external monitoring, to act appropriately during a project

Concept of anti-corruption declarations

**Objectives**

- Prevent corruption in individual projects and business transactions
- Initiate open discussions on corruption
- Collectively set individual behavior expectations
- Reduce risk of corruption as bribe givers and takers realize that inappropriate behavior may be scrutinized
- Create a signed statement that can be published and shared with sub-contractors

**Customer**

(Government entities or large companies)

- Commitment that employees will not accept or solicit bribes

**Anti-corruption declaration**

- Transparency
- No corruption
- No bribery
- Fair business conduct
- (generally no sanctions included)

**Bidding companies**

- Includes anti-corruption declaration in tender documents
- Commitment that employees will not offer, pay, accept or solicit bribes
Integrity pacts are formal contracts which are externally monitored and help increase transparency in projects.

Concept of Integrity Pacts

**Objectives**

- Preventive measure to reduce risk of corruption by increasing transparency of individual projects and business transactions
- Create level playing field among bidding companies by external monitoring of processes
- Provide consequences for corrupt behavior
- Help protect participants from improper demands
- Send a visible anti-corruption message to the public

**External monitor**

- Monitors all transactions, documents and meetings
- Informs customer in case of violations

**Customer**

(Government entities or large companies)

- Commits that employees will not accept or solicit bribes & enforces policy
- Allows external monitoring
- Discloses relevant project information
- Often initiates the Integrity Pact

**Integrity Pact contract**

- Formal, written contract to establish mutual rights and obligations between customers and bidders
- Introduced at pre-tender phase
- Principles:
  - Transparency
  - No corruption
  - No bribery
  - Fair business conduct
  - Sanctions apply in case of infringement of contract
  - Dispute resolution through arbitration

**Bidding companies**

- Commits that employees will not offer, pay, accept or solicit bribes, or collude
- Allows external monitoring
- Discloses expenses related to offer preparation
- Cooperates in case of violations

Source: Transparency International

Concept was developed by Transparency International in the 1990's

www.fightingcorruption.org
Principle based initiatives against corruption engage various stakeholders to promote transparent business conduct

Concept of principle based initiatives

**Objectives**

- Long-term initiative to promote appropriate business conduct within certain country / sector
- Leverage the voice of the public, NGOs, religious bodies and others to effectively address the problem of corruption
- Join forces to push the government to implement anti-corruption laws (if country legal system does not yet have anti-corruption laws or if enforcement is weak)

Different stakeholders get together to establish an initiative against corruption

Source: WBI e-discussion documentation, others

Slide 33
Certifying business coalitions monitor and certify compliance of their members with core shared principles against corruption

Concept of certifying business coalitions

**Objectives**

- Long-term initiative to promote standards of business conduct within certain country / sector
- Signal to the public that members take measures to fight corruption
- Position standards as a competitive advantage (e.g. certified members do not need to document their compliance measures in every tender)
- Strengthen anti-corruption mechanisms

---

*Independent accounting / auditing companies; trusted third parties (e.g. academic advisor, NGO or association)*
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<tr>
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</tbody>
</table>

- Decide whether Collective Action is project based or longer term
  - How to implement a project / transaction based initiative
  - How to implement a long-term initiative
- Success factors
- How to avoid anti-trust/competition issues
Decide which type of Collective Action is the most appropriate form given the circumstances*

- **Long-term initiative**
  - **Principle-based initiative** (slide 52)
    - **Preferred approach** in difficult / multicultural business environments
    - Focus on changes outside of the initiative (e.g. improve legal system) rather than enforcing policies

- **Anti-corruption declaration / Integrity pacts**: (slides 41-50)
  - **Preferred approach** if company concentrates on large projects
    - Infrastructure (e.g. Power Plants, Transportation)
    - Events (e.g. Olympics, National Games)
    - License application
    - Post-contract-award implementation

- **External enforcement**
  - **Certifying business coalition** (slide 53)
    - **Preferred approach** if company wants certain level of enforcement / verification
    - A trusting business relationship among industry peers is required

- **Ethical commitment**

* The use of one form of collective action does not necessarily preclude the simultaneous use of other forms of collective action or other anti-corruption measures. Facts and circumstances will define what is appropriate to use in the given situation.
Decision tree helps to decide if stakeholders should engage in project based or long-term Collective Action initiatives

Decision tree “Which type of Collective Action is appropriate for me?”

START

Do you face corruption risk in a particular project or in general?*

Project

Do you face corruption risk in a particular project or in general?*

Country

Sector

Do any appropriate business coalitions already exist?

Yes

No

Do you face corruption risk in a particular project or in general?*

Project / transaction based initiative (slides 38-50)

Yes

No

Is customer willing to fight corruption?

No

Join coalition and setup anti-corruption initiative (slide 55)

Yes

How to get started (slide 38)

Long-term initiative (slides 38-40 and 51-56)

Are any potential facilitators available?

Yes

No

* high-risk country or high-risk sector

www.fightingcorruption.org
How to get started

The first steps are the same for both types of Collective Action

Initiate collective action (1/2)

1. Define stakeholders
   - Identify appropriate facilitator
   - Create list of potential partners
     - Companies
     - NGOs
     - Religious groups
     - MDBs
   - Prioritize: which companies / other stakeholders need to take part to ensure sufficient attention / credibility?

2. Establish contacts with facilitator
   1st meeting with facilitator*
   - Present company profile, compliance policy and concept for Collective Action (one may use material from chapter 3 of this guide)
   - Ask for feedback / recommendations

3. Assess role of government
   - Assess the potential oversight role and seriousness of purpose of government (e.g. anti-corruption bureaus)

4. Develop concept note
   - Conduct workshop to evaluate business situation, risk of corruption, benefits of anti-corruption activities and best practice examples
   - Summarize intention and objective of initiative in concept note
   - Facilitator to send out concept note to potential partners and follow-up

*MDB: Multilateral Development Bank
*Facilitator: i.e., trusted third party (e.g. academic advisor, NGO or business association)
How to get started

Initiate collective action (2/2)

- Establish permanent Working Group to follow-up with open issues
- Agree on shared principles and objectives
- Agree on general roadmap how to proceed
- Involvement of media increases commitment of participants and public awareness
- Participants need to assign sufficient resources to Working Group

- Working Group to schedule regular meetings to decide:
  - Who represents initiative
  - Funding
  - Charter of the initiative
  - Monitoring of compliance
  - Sanctions
  - External auditors

- Facilitator may approach further potential participants

On-going discussions with different stakeholders required (government, other NGOs, media)

Source: Interviews
The concept note should summarize the status of discussions - MDBs and Co-Investors can provide feedback and support

Key elements of concept note, potential role of MDBs and Co-Investors

<table>
<thead>
<tr>
<th>Key elements of concept note</th>
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<tbody>
<tr>
<td>- Motivation / need for action</td>
</tr>
<tr>
<td>- Downside risk of non-compliant behavior</td>
</tr>
<tr>
<td>- Key objectives of initiative and benefits for participants</td>
</tr>
<tr>
<td>- Introduction of facilitator</td>
</tr>
<tr>
<td>- Ways of participation / roles and obligations of participants /</td>
</tr>
<tr>
<td>- Current status and next steps</td>
</tr>
</tbody>
</table>

- Wording should emphasize benefits and past experiences
- Concept note should not be too specific to allow other stakeholders to influence approach

<table>
<thead>
<tr>
<th>Potential support from MDBs / Co-Investors</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Initiating company / group of companies may approach MDBs / Co-investors with concept note directly and ask for feedback / recommendations</td>
</tr>
<tr>
<td>- MDBs / Co-Investors can be a source of information and technical assistance in organizing and informing</td>
</tr>
<tr>
<td>- Frequently MDBs / Co-Investors support establishment of anti-corruption policies and legislation such as reforms in procurement laws</td>
</tr>
</tbody>
</table>
Decision tree 3 checks whether prerequisites are in place for project / transaction-based action

START

Is corruption a major risk for your company?*

Yes → Are tender documents already finalized / released?

Yes → Is customer willing to fight corruption?

Yes → 3.1 Promote Collective Action to customer via facilitator

No → No need for Collective Action – continue doing business consistent with law and internal compliance policies

No → If prerequisites for project-related Collective Action are not met – go to decision tree 4 (slide 52) to evaluate possibility of principle – based initiative / certifying association

No → 3.2 Additional elements of an Integrity Pact

* Decision should be made by, or with the involvement of, the internal compliance / risk assessment team in corporate headquarters. Various sources for country specific assessment are given on slides 62 - 64

Slide 41
Even where close customer relationships exist, it is advisable to involve an independent facilitator in project-based initiatives

Promote Collective Action to customer via facilitator (1/2)

1. Establish contacts to facilitator
   - Identify appropriate facilitator
   - 1st meeting with facilitator
   - Present company profile, compliance policy and concept for Collective Action
   - Ask for feedback / recommendations

2. Align concept with facilitator
   2nd meeting:
   - Discuss whom to approach with customer
   - Identify other likely bidding companies
   - Adapt concept to individual situation / needs of customer
   - Ask for feedback

3. Facilitator approaches other potential bidders
   - Promote concept of project-related Collective Action
   - Ask for feedback

A bidding company could initiate Collective Action but a facilitator will be more successful in bringing stakeholders together

Support of other bidders will help to convince customer

Source: Interviews
Promote Collective Action to customer via facilitator (2/2)

- Facilitator asks customer for meeting at appropriate level
- Facilitator presents concept of project-related Collective Action and emphasizes benefits
- Sign agreement of “agree in principle”

- Agreement on Collective Action to be included in tender documents
- Signature recommended for all bidding companies (inclusion of sub-contractors recommended)

Collective Action needs to be launched before tender documents are distributed
If project-based initiative takes the form of an integrity pact, additional elements have to be considered (contract, monitor)

- Customer and facilitator sign agreement
- Facilitator nominates external monitor
- Customer officially launches Collective Action

- Facilitator asks customer for meeting on appropriate level
- Facilitator presents concept of project-related Collective Action and emphasizes benefits
  - Decide jointly on:
    - Nomination and role of external monitor
    - Sanctions
    - Contract rights and responsibilities
  - Sign cooperation agreement

- Customer / government needs to trust external monitor, but must not nominate monitor itself to ensure objectivity
- External monitor has to be:
  - Expert in the Subject matter / can get access to experts
  - Trusted by all stakeholders
  - Highly credible
- For further details refer to slide 46

- Contract on Collective Action has to be included in tender documents
- Signature mandatory for all bidding companies (inclusion of sub-contractors recommended)

Collective Action needs to be launched before tender documents are distributed
An Integrity Pact requires certain mandatory elements such as a formal contract, external monitoring and sanctions.

- **Formal, written contract**, to be signed by CEOs of all primary participating entities (bidding companies, joint venture members etc.)

- **Description of rules & principles** that apply to this project. Rules may be described by referring to applicable law or by explicitly specifying them.

- **Third party monitoring**

- **Arbitration as dispute resolution mechanism**

- **Sanctions / consequences**

**Why include monitoring?**
- Objective of Collective Action is to "level the playing field"
- Independent participation in and documentation of process further reduces risk of non-compliant behavior or non-awarded companies initiating lawsuits later on
- External monitor can advise the customer on process-related issues = additional benefit for the customer

**Why define sanctions?**
- To increase credibility
- "Actions speak louder than words"
- However, details have to be considered (slide 47)

Source: Based on Transparency International's Integrity Pact concept, Project team

Slide 45
The ideal external monitor is an expert in the subject matter, nominated by the facilitator, and paid for by the customer

Characteristics of an 'ideal' external monitor:

<table>
<thead>
<tr>
<th>External monitor</th>
<th>Who nominates external monitor</th>
<th>Tasks and authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is subject matter expert or has access to experts</td>
<td>Facilitator, as independent third party, nominates external monitor</td>
<td>Participates in all meetings (bilateral + multilateral) at all project stages</td>
</tr>
<tr>
<td>Has no conflicts of interest and is trusted by all stakeholders</td>
<td>Customer / government needs to trust the nominated person, but must not nominate external monitor itself to ensure independence</td>
<td>Receives tender documents and all offers for transparency-focused review (and not from general business perspective)</td>
</tr>
<tr>
<td>Has good general reputation and credibility</td>
<td>Must not see role as opportunity to promote career</td>
<td>Participates in all communication (e.g. copied in emails as ‘cc’)</td>
</tr>
<tr>
<td>Must not see role as opportunity to promote career</td>
<td>Does not seek high project visibility</td>
<td>Asks questions for clarification (“Why…?”)</td>
</tr>
<tr>
<td>Does not seek high project visibility</td>
<td>Long-term availability</td>
<td>Informs customer about any irregularities and seeks changes/ remediation</td>
</tr>
<tr>
<td>Long-term availability</td>
<td></td>
<td>As a possible consequence, external monitor could announce that he/she will withdraw from the project if transparency is not ensured</td>
</tr>
</tbody>
</table>

Who pays

- Customer decides who pays and how
- Monitor costs and expenses can be included in overall project cost
- Costs are transparent and reasonable

Where to find appropriate candidates

- NGOs / IOs
- Universities (active or emeritus professors)
- Independent institutions (e.g. Society of Civil Engineers)

External monitor is “witness, not decision maker in the process”
Sanctions give Collective Action strength and credibility but must be carefully designed and enforceable

<table>
<thead>
<tr>
<th>Sanctions / consequences</th>
<th>Forms of sanction possibilities for violations</th>
<th>Potential problems / pitfalls</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Exclusion from tender</td>
<td>Negotiating sanctions may be lengthy process, and involve lawyers rather than business people concerning issues such as defining violations and enforceable sanctions</td>
<td>External monitor needs to have the right to report infringements and publicly resign from project</td>
</tr>
<tr>
<td></td>
<td>Exclusion from future tenders for several years</td>
<td>Sanctions may have problematic consequences:</td>
<td>Penalty may be agreed upon in advance (declared as compensation payment or liquidated damages)</td>
</tr>
<tr>
<td></td>
<td>Penalty (e.g. 3% of contract value has to be paid to customer)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Institute disciplinary measures to employees who have been suspected of corruption</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>External monitor can highlight issues in public, seek for remediation and finally resign from project (resulting in bad project publicity)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>External monitor has obligation to inform law enforcement bodies</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Overall objective:
- Ensure commitment of all signatory stakeholders
- Increase credibility of Collective Action
Sanctions must be fact-based, and should not rely on mere suspicion

<table>
<thead>
<tr>
<th>Possible approaches to establish violations</th>
<th>Arbitration</th>
<th>Process</th>
<th>Legal basis / permanent arbitration committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employees of accused company confess</td>
<td>Without involvement of state / country</td>
<td>Each party nominates independent arbitrator</td>
<td>'Convention on the recognition and enforcement of foreign arbitral awards' (&quot;New York Convention&quot;, 1959)</td>
</tr>
<tr>
<td>Application of contractual standard, e.g.: 'Sanctions apply if, in light of available evidence, no reasonable doubt is possible'</td>
<td>Based on agreements of involved parties</td>
<td>Arbitrators nominate chairman</td>
<td>ICC Arbitration Court</td>
</tr>
<tr>
<td>Arbitration</td>
<td>Specific processes and involved institutions have to be described and nominated in contracts</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

ICC: International Chamber of Commerce
Sources: Transparency International, Berlin Airport
Slide 48
Involvement of Co-Investors / Multilateral Development Banks (MDBs) can help to reduce the risk of corruption

Possible involvement of Co-Investors and MDBs, examples

- Co-Investors / MDBs generally require borrowers and bidders to observe good business practices and high standard of ethics *

- Co-Investors / MDBs may require a provision in the bidding documents whereby bidders, suppliers and contractors agree to permit the co-investor / MDB to inspect all accounts, records, and other documents relating to the bid submission and contract performance, and to have them audited by auditors appointed by the co-investor / MDB

- In case of accusations of corruption, MDBs undertake thorough investigations and publish the names of companies sanctioned for wrong-doing

- Sanctioned companies / individuals may face cross-debarment across MDBs

* Many MDBs are currently reviewing their respective anti-corruption safeguards. Certain of these requirements may be strengthened in the future.

Selected Co-Investors / MDBs

- African Development Bank
- Asian Development Bank
- Canadian International Development Agency
- UK Department for International Development
- European Bank for Reconstruction and Development
- US Export-Import Bank
- Kreditanstalt für Wiederaufbau
- World Bank

www.fightingcorruption.org
MDBs and other Development Donors can be a resource to support project / transaction based Collective Actions

How to involve MDBs / other development donors

- A bidder may approach its customer, who will in turn approach the MDB / Co-Investor and ask to include an Integrity Pact or similar safeguard
- This could enhance the existing anti-corruption policies of the Co-Investor/MDB

- MDBs usually already have own anti-corruption policies
- Discuss how to align collective action concept with those policies

- Contract on Collective Action has to be included in tender documents
- Signature mandatory for bidding companies (inclusion of sub-contractors recommended)

Co-Investors/MDBs may incorporate specific Collective Action elements such as Integrity Pacts, if the government agrees. Once there is agreement with the government, Co-Investors/MDBs can be a resource to provide details and organizational support.
Decision tree 4 helps to evaluate the possibility to setup or join a long-term anti-corruption initiative

Decision tree 4 “long-term initiatives”

START

Does your company perceive corruption as major barrier to do business in a particular region or country? 1)

Yes

Do any appropriate business coalitions already exist? 2)

Yes

Join coalition and setup anti-corruption initiative (slide 55)

No

Do major companies express their will to fight corruption in respective country?

Yes

How to get started (slide 38)

No

Are any potential facilitators locally active? 3)

Yes

Principle-based initiative

Foster improvements in business environment / advocate government (slide 52)

No

No need for Collective Action – continue doing business with integrity

How to get started (slide 38)

Certifying business coalition

Foster independent verification to increase credibility (slide 53)

Prerequisites for anti-corruption initiative not in place? (refer to slide 57 for suggestions concerning this situation)

1) Decision has to be made by internal compliance / risk assessment team in headquarters. Various sources for country specific assessment are given on slides 62-64
2) Criteria to assess coalitions is found on slide 56
3) E.g. local anti-corruption NGOs, local offices of global anti-corruption NGOs, international organizations, MDBs
Principle-based initiatives focus on urging governments to adjust anti-corruption policies and promote anti-corruption efforts

Key steps of Principle-based initiative:

**Steps:**
- Shared principles agreed upon
- Funding and representation of initiative clarified

**Examples for principles:**
- Transparency International Business Principles for Countering Bribery (www.transparency.org)
- World Economic Forum Partnering Against Corruption Initiative (“PACI”) (www.weforum.org/paci)

**Focus mainly on:**
- Guiding governments to optimize anti-corruption policies
- Actively communicating members’ activities to fight corruption (e.g. internal compliance program)
- "Zero tolerance" statement by members’ CEO’s

**Who could offer additional services?**
- Participating companies can benefit from Best Practice Exchange, predefined training content and external marketing

**Additional value-added services could be provided**
- InWEnt
- American Chamber of Commerce
- PACI

**Examples**
- Empresa Limpa (slide 79)

* Sponsorship and support of public policy issues, consistent with local legal requirements
A certifying business coalition adds credibility by verifying compliance with its principles and/or certifying eligibility of members.

Certifying business coalition – additional elements

Auditor

Checks whether companies take effective action to implement principles

Audits

Optional: Involve government, NGOs, IOs and others as facilitator / knowledge source / interested parties

* Independent accounting / auditing companies; trusted third parties (e.g. academic advisor, NGO or association)
### Key elements of an independent audit / verification

#### Independent verification

<table>
<thead>
<tr>
<th>What is audited</th>
<th>Typical process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Successful implementation of internal compliance program based on checklist / agreed upon principles</td>
<td>Company has to fill in questionnaire</td>
</tr>
<tr>
<td>Association has to clearly define minimum requirements for certification</td>
<td>Auditor interviews company management, reviews training material &amp; other documents</td>
</tr>
<tr>
<td></td>
<td>Random interviews with employees</td>
</tr>
<tr>
<td></td>
<td>Written report to audit committee</td>
</tr>
<tr>
<td></td>
<td>Audit council confirms successful audit</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Timing</th>
<th>Auditor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frequency to be decided by association</td>
<td>Independent accounting / auditing companies</td>
</tr>
<tr>
<td>Periodic re-audits required to ensure sustainability of anti-corruption program</td>
<td>Trusted third parties (e.g. academic advisor of association)</td>
</tr>
</tbody>
</table>

#### Incentives for verification / certification

<table>
<thead>
<tr>
<th>Company meets audit standards</th>
<th>Company rejects audit or does not meet standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Company is awarded certification by initiative</td>
<td>Exclusion from initiative</td>
</tr>
<tr>
<td>Initiative publicizes list of certified companies</td>
<td>Potential publication of exclusion from initiative</td>
</tr>
<tr>
<td>Initiative promotes certificate with customers and government to achieve certain benefits for certified companies (e.g. simplified supplier qualification process)</td>
<td>Previously issued certificates are no longer valid</td>
</tr>
<tr>
<td>Increased trust in company’s policies</td>
<td></td>
</tr>
<tr>
<td>Audits can be the basis to showcase areas for improvement</td>
<td></td>
</tr>
</tbody>
</table>

Source: Interviews

Slide 54
Steps to set up a Collective Action with an existing business coalition

1. Perform due diligence on business coalition
   - Is the chamber of commerce / business coalition / trade associations an appropriate basis to set up anti-corruption initiative?
   - Refer to next slide for assessment criteria

2. Get support of business coalition
   - Propose topic in regular meetings of business coalition
   - Identify supporters within business coalition

3. Include other stakeholders
   - Approach other organizations via representative of business coalitions
   - Other coalitions
   - NGOs
   - Religious groups
   - Assess the potential oversight role of government (e.g. anti-corruption bureaus)

4. Define governance of initiative
   - Schedule regular meetings of initiative to decide on:
     - Who represents initiative
     - Funding
     - Charter of the initiative
   - Need to establish permanent structures or an office (may be part of the business coalition's administration)

Scope of topics
- Broad: Appropriate chamber of commerce / business coalition
- Narrow: Anti-corruption initiative
  - Business only
  - Reflecting various groups of society

Scope of participants
- Refer to slides 80 - 82 for specific examples from the Philippines / Colombia

Existing business coalition may act as facilitator in this context – however involvement of NGOs will further increase credibility
Assessing the partnership potential of associations

### Internal considerations
- History of organization’s establishment
- Autonomous of any particular commercial or political interest, openly supports open market competition and rule of law
- Mission-driven and have a track record of promoting ethical business / accountable government and experience with public policy advocacy and has demonstrated facilitation skills
- Proper accounting and disclosure of its own operations, proper governance mechanisms, and a strong certification process
- Local knowledge and credibility
- Duties and responsibilities to members
- Broad representation of business community
- Stable and diversified funding sources
- Sufficient capacity, technical expertise, strong leadership and professional staff

### External considerations
- Association’s standing in the community - through conversations with the media, public officials, civil society groups, members, etc
- Credibility among other NGOs and business associations

### An association could be an inappropriate partner if it
- Represents narrow interests or does not have a large membership base
- Has actual or perceived ethical issues because of its members’ questionable dealings with government officials
- Is poorly managed financially or poorly governed
- Cannot effectively mobilize its membership

A poorly governed association may be a liability and weaken the legitimacy of the Collective Action effort

---

Source: CIPE Diagnostic Tool – contact CIPE on details related to conducting assessments of business associations
What to do if prerequisites for Collective Action are not in place

Possible company responses* to minimize the risk of corruption under the circumstances

- Strengthen and improve internal compliance and anti-corruption programs
- Engage in outreach programs with the public and media, e.g. develop and disseminate issue paper on negative consequences of corruption for companies / sector and society in general
- Continue to actively seek / create window of opportunity, e.g. political changes, economic reforms and/or advocate for less sensitive topics, such as transparency and accountability
- Join regional/global anti-corruption initiatives, such as UN Global Compact, TI, PACI, etc.
- Work with recognized anti-corruption champions, such as the World Bank, TI local chapters, UN Global Compact and join their anti-corruption programs and activities
- Publicly exit from a project / sector / country where corruption is problematic, and communicate the reasons why the company believed that this action was necessary

* More than one response at the same time may be possible and desirable.
Collective Action is not easy and requires patience, but considering certain factors in advance can improve the chances for success

**Success factors**

- Involve a facilitator as a neutral party in the process when initiating and implementing a Collective Action
- Be patient. Do not rush for success. Building trust and confidence among stakeholders takes time
- A well defined and narrow scope (specific sector, specific country) increases credibility and allows easier monitoring and audit
- Clarify funding of initiative at the early stages of the project
- Focus on achievable results and improvements to provide the foundation upon which to build more challenging initiatives later on
- Get the top-management commitment of participating companies
- Create public awareness / initiate broad communication campaign
- Establish certification as positive incentive for participants
- Agree upon clear consequences in case of violations

Source: Global Compact: Business against Corruption - case stories (page131), Business against Corruption – a framework for action (page16, experience from IBLF), interviews
Companies need to be careful not to violate anti-trust laws / competition laws* when initiating Collective Action

### Anti-trust / competition law issues

- Communicating or sharing of competitive information is generally inappropriate and may be illegal
- Non-public meetings of different companies / competitors may raise suspicion of violation of competition / anti-trust laws
- It is advisable to have legal counsel present at competitor meetings – to ensure legal compliance

### Special areas of concern

1. Relating to companies launching a Collective Action program, e.g.
   - Limiting the number of participants
   - Presence of self-regulatory regimes
   - Geographical barriers
   - Requirements on disclosing key business information

2. Relating to specific procurement projects, e.g.
   - Limiting the number of participants
   - Presence of specific licenses or permits
   - Costs of entry or exit
   - Price controls
   - Restrictions on advertisement
   - Biased standards

---

* The need to observe and respect anti-trust/competition laws applies in general, and is not limited to the Collective Action context.
Steps to consider to help avoid possible violation of anti-trust regulations/ competition laws

- Many countries have their own competition policies which can differ from one another – consult both your home country regulations as well as project-related country laws
- Do not approach competitors directly, avoid bi-lateral meetings with competitors without a facilitator being present
- Legal counsel should carefully document content and outcome of meetings
- Avoid communication or other disclosure of actual or perceived competitive information
- Focus on processes which are applicable to all participants, not involving specific competitive information
- Central principle underlying anti-trust regulations: avoid restricting competition by using measures that are not supported by objective business reasoning

For more information consult the OECD Competition Assessment Toolkit at www.oecd.org

Source: OECD Competition Assessment Toolkit, Interview with Clifford Chance
# Table of contents


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<th>Contents</th>
<th>Page</th>
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</thead>
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<td>Detailed examples</td>
<td>35</td>
</tr>
<tr>
<td>Integrity Pact templates</td>
<td>61</td>
</tr>
<tr>
<td>Case summaries</td>
<td>61</td>
</tr>
</tbody>
</table>
## Potential sources to assess the risk of corruption in specific countries

### Resources for country analysis (1/2)

<table>
<thead>
<tr>
<th>Source</th>
<th>Description</th>
<th>Website</th>
</tr>
</thead>
<tbody>
<tr>
<td>WB - Doing business indicator and simulator</td>
<td>Benchmarks on business regulations by the World Bank Group. Country Rankings available, topic specific and country assessments available; custom comparisons and country snapshot available</td>
<td><a href="http://www.doingbusiness.org">www.doingbusiness.org</a></td>
</tr>
<tr>
<td>WB - enterprise surveys</td>
<td>Business perceptions on the investment climate, including corruption, by the World Bank Group. Regional and country assessments available; custom query available; country snapshots available</td>
<td><a href="http://www.enterprisesurveys.org">www.enterprisesurveys.org</a></td>
</tr>
<tr>
<td>WB - Business Environment Snapshots</td>
<td>Present measurable indicators across a wide range of business environment issues and over time. This new web-enabled tool compiles many data on the business environment for each country in an easily accessible, consistent and usable format</td>
<td><a href="http://rru.worldbank.org/besnapshots">http://rru.worldbank.org/besnapshots</a></td>
</tr>
<tr>
<td>OECD country reports</td>
<td>Reports on bribery by the OECD, reports of selected countries available</td>
<td><a href="http://www.oecd.org">www.oecd.org</a></td>
</tr>
</tbody>
</table>
### Potential sources to assess the risk of corruption in specific countries

#### Resources for country analysis (2/2)

<table>
<thead>
<tr>
<th>Source</th>
<th>Description</th>
<th>Website</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TI bribery indices and other tools</strong></td>
<td>Corruption Perception Index (ranking countries), and Bribe Payers Index (ranking supply side), National Integrity Systems (country studies and surveys) tool, topic-specific Global Corruption Reports and other materials</td>
<td><a href="http://www.transparency.org/">www.transparency.org/</a></td>
</tr>
<tr>
<td><strong>Business anti-corruption portal</strong></td>
<td>Assessment of state of corruption in selected countries and industries</td>
<td><a href="http://www.business-anti-corruption.com">www.business-anti-corruption.com</a></td>
</tr>
<tr>
<td><strong>World Economic Forum</strong></td>
<td>Benchmarks on competitiveness, including corruption by the World Economic Forum. Country rankings available</td>
<td><a href="http://www.weforum.org/gcr">www.weforum.org/gcr</a></td>
</tr>
<tr>
<td><strong>Control risks analysis</strong></td>
<td>Business perceptions on corruption in selected countries, benchmarks available</td>
<td><a href="http://www.crg.com">www.crg.com</a></td>
</tr>
<tr>
<td><strong>Global integrity index</strong></td>
<td>Benchmarks on effectiveness of anti-corruption mechanisms in selected countries by Global Integrity, country rankings available. Country reports on government and corruption in selected countries</td>
<td><a href="http://www.globalintegrity.org">www.globalintegrity.org</a></td>
</tr>
</tbody>
</table>

Source: WBI
Business Against Corruption portal provides practical information on corruption in 50 Countries

Information to be found via: [www.business-anti-corruption.com/](http://www.business-anti-corruption.com/)

<table>
<thead>
<tr>
<th>Type of information to be found on the portal</th>
</tr>
</thead>
<tbody>
<tr>
<td>▪ Political climate, regulation &amp; treaties</td>
</tr>
<tr>
<td>▪ Current corruption status in the country</td>
</tr>
<tr>
<td>▪ Public and private anti-corruption initiatives</td>
</tr>
<tr>
<td>▪ Links to resources for detailed country information and research</td>
</tr>
<tr>
<td>▪ Links to organizations (e.g. NGO’s) to fight corruption in the country</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Country profiles for 50 countries available</th>
</tr>
</thead>
<tbody>
<tr>
<td>▪ Profiles available for the dark colored countries</td>
</tr>
</tbody>
</table>

![World map showing countries](www.fightingcorruption.org)
Reaching out to potential facilitators is an advisable practice for Collective Action

Examples of potential facilitator candidates

- Establishing a trustful relationship to a neutral facilitator is essential prerequisite
- If your company does not have such an external network yet: start to reach out to potential facilitators

Organizations with facilitator information

<table>
<thead>
<tr>
<th>Transparency International</th>
<th><a href="http://www.transparency.org">www.transparency.org</a></th>
</tr>
</thead>
<tbody>
<tr>
<td>AmCham (American Chamber of Commerce)</td>
<td>Only local sites, e.g. <a href="http://www.amcham.de">www.amcham.de</a></td>
</tr>
<tr>
<td>FIDIC (International Federation of Consulting Engineers)</td>
<td><a href="http://www.fidic.org">www.fidic.org</a></td>
</tr>
<tr>
<td>ICC (International Chamber of Commerce)</td>
<td><a href="http://www.iccwbo.org">www.iccwbo.org</a></td>
</tr>
<tr>
<td>International Business Leaders Forum</td>
<td><a href="http://www.iblf.org">www.iblf.org</a></td>
</tr>
<tr>
<td>CIPE (Center for International Private Enterprise)</td>
<td><a href="http://www.cipe.org">www.cipe.org</a></td>
</tr>
</tbody>
</table>

Additional facilitator sources can be found at www.fightingcorruption.org

Refer also to www.business-anti-corruption.com for country specific lists of potential facilitators (see under "country profiles")

NGO: Non-Governmental Organization
The Integrity Pact implemented in Berlin is considered a best practice example

Case example: Integrity Pact at Berlin airport

<table>
<thead>
<tr>
<th>Customer / Principal</th>
<th>Project description</th>
<th>Integrity Pact details</th>
<th>Main achievements</th>
</tr>
</thead>
</table>
| Flughafen Berlin Schönefeld GmbH | Construction of a new state-of-the-art airport south of Berlin to replace the existing ones | Large project volume of 2 billion EUR  
First case in Germany where third party is monitoring tendering process  
Bidding companies have to make sure that their suppliers adhere to the principles and also sign the contract | The involvement of external monitors helped to re-start the tender process, which had been stopped due to the high amounts of the originally submitted bids. |

Source: FBS GmbH, newspaper articles
External monitor increased confidence of both participants and public that processes were transparent and objective

Case example: Integrity Pact for Suburban Train project in Mexico (2005)

<table>
<thead>
<tr>
<th>Description</th>
<th>Participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>▪ Participants signed declarations of integrity stating under oath that they would abstain from any conduct that could affect evaluation of bids submitted</td>
<td></td>
</tr>
<tr>
<td>▪ Independent monitor assigned by TI Mexico – was present at all events (&gt;80) related to the bidding</td>
<td></td>
</tr>
<tr>
<td>▪ Observe every stage and act of the bidding process</td>
<td></td>
</tr>
<tr>
<td>▪ Ensure rules and norms are respected</td>
<td></td>
</tr>
<tr>
<td>▪ In case of deviations make sure that the process is transparent and fair</td>
<td></td>
</tr>
<tr>
<td>▪ Publish a report on what was witnessed in local press</td>
<td></td>
</tr>
<tr>
<td>▪ Integrity Pact caused additional cost of ~100,000 USD (Total Project 600 million USD)</td>
<td></td>
</tr>
<tr>
<td>▪ Monitor was paid based on spent hours (~160 hours for initial tender, 80 for later tenders)</td>
<td></td>
</tr>
<tr>
<td>▪ ~8 companies</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Mission</th>
<th>Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>▪ Funding by government to avoid misinterpretations</td>
<td></td>
</tr>
<tr>
<td>▪ Monitor must be known and recognized in his field</td>
<td></td>
</tr>
<tr>
<td>▪ Integrity Pact should be simple and easy to understand (no legal complexity)</td>
<td></td>
</tr>
<tr>
<td>▪ Main instrument for pressure is public withdrawal from tender</td>
<td></td>
</tr>
<tr>
<td>▪ No recourses or complaints</td>
<td></td>
</tr>
</tbody>
</table>

Customer: “I think the Integrity Pact is a tool to move forward in fighting corruption in our country. We need the tool today, the Independent Monitor, project by project, but if we add up these experiences, consistently over time, it will become something structural that guides our behavior.”

Source: Interviews

Slide 67
Federation of Pharmaceutical Manufacturers created an industry wide "Code of marketing practices"

Case example: Code of pharmaceutical marketing practices

<table>
<thead>
<tr>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The “promotion and support of ethical practices” was one of the principles on which the IFPMA was founded in 1968.</td>
</tr>
<tr>
<td>3. Key elements include more restrictive provisions on travel, gifts and scientific events, plus the establishment of a Code Complaint Procedure and a Code Compliance Network, bringing together code experts from all over the world.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The International Federation of Pharmaceutical Manufacturers &amp; Associations is a non-profit, non-governmental Organization (NGO) representing national industry associations and 25 research-based pharmaceutical, biotech, and vaccine companies from both developed and developing countries</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Key Learning</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. A principle-based initiative can also be created and published in a sector-wide effort</td>
</tr>
<tr>
<td>2. IFPMA shows that it is possible to bring together companies from developed and developing countries to agree on shared principles</td>
</tr>
</tbody>
</table>

Source: Interviews, www.ifpma.org

Slide 68
Anti-corruption declaration among contractors at AVA GmbH (Frankfurt) forms basis to conduct discussions on compliance topics – no external monitor involved

<table>
<thead>
<tr>
<th>Description</th>
<th>Mission</th>
<th>Key Learning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract signed by direct contractors in execution phase only – no involvement of all bidding companies in tender phase</td>
<td>The document emphasizes the importance of the laws and is a good basis to discuss corruption issues. The fact that the topic is discussed openly is seen as major step towards environment free of corruption</td>
<td>Open and continuous discussion of issue is seen as constructive step to reduce risk of corruption</td>
</tr>
<tr>
<td>Direct contractors did not want to include sub-contractors</td>
<td></td>
<td>Important that contract is signed by top-management in headquarters and actively communicated to workers on site</td>
</tr>
<tr>
<td>No external monitoring</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Participants All direct contractors for execution phase (&gt;10 companies and individuals)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Costs</td>
<td>Costs were limited - AVA GmbH took over costs</td>
<td></td>
</tr>
</tbody>
</table>
Transparency International Provides Global Multi-Stakeholder Approaches to Developing and Promoting Anti-Corruption Tools

| Global Network | Since 1993, mobilizing a global network of business, government and civil society leaders in 95 countries to promote anti-corruption efforts and increase transparency. |
| Partnering with Private Sector | Creator of Integrity Pacts and provider of credible, independent third party monitors.  
Facilitator of multi-stakeholder initiative to develop model anti-bribery codes and programs -- “Business Principles for Countering Bribery”; “SME Edition” for small- and mid-sized enterprises, Guidance Document; Self-Evaluation Tool and external assurance (under development.)  
Convenor of industry sectors (Wolfsberg international banks, defense industry sector, World Economic Forum PACI) |
| Promoting Policy Reform | Monitor of agreements to prohibit foreign bribery and increase regulatory transparency, particularly for procurement.  
Contributor of anti-corruption and governance expertise to development assistance providers. |
**World Economic Forum Partnering Against Corruption Initiative (PACI) is a global anti-corruption initiative of the private sector**

<table>
<thead>
<tr>
<th>History</th>
<th>Mission</th>
<th>Members</th>
<th>Enforcement</th>
<th>Main achievements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Founded by member companies of the World Economic Forum in partnership with Transparency International and the Basel Institute on Governance in 2004 to level the playing field among industry</td>
<td>To create a common language on corruption and bribery valid for all industries</td>
<td>Signed by over 140 mostly multinational companies</td>
<td>Companies have to support PACI principles publicly</td>
<td>Global and multi-industry recognition and coverage</td>
</tr>
<tr>
<td></td>
<td>To provide platform for top-level commitment from companies</td>
<td></td>
<td>CEO has to sign principles as prerequisite for membership</td>
<td>Increasing membership</td>
</tr>
<tr>
<td></td>
<td>To support companies in developing and implementing anti-corruption programs</td>
<td></td>
<td>External verification / certification process currently in elaboration</td>
<td>Actively providing anti-corruption support to members</td>
</tr>
</tbody>
</table>

Source: Internet, Interviews
Slide 71
The Bavarian construction industry has established an association with far-reaching enforcement mechanisms

Case example: Ethics management system of the Bavarian construction industry

<table>
<thead>
<tr>
<th>BAUINDUSTRIE BAYERN</th>
<th>History</th>
<th>Mission</th>
<th>Members</th>
<th>Enforcement</th>
<th>Main achievements</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>▪ 33 construction companies of different size (as of 2002)</td>
<td>▪ Members must have their compliance program audited by external auditor</td>
<td>▪ German Rail accepts certification as proof of anti-corruption measures for qualification of bidders</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>▪ Members can be excluded if they do not receive or loose certification</td>
<td>▪ Concept is currently rolled out to whole Germany</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>▪ Initiative helped to restore reputation of industry</td>
</tr>
</tbody>
</table>

Initiated by Bavarian construction industry association in 1996 after a series of scandals related to corruption

Foster integrity in the construction sector

Preserve industry reputation

Source: Bavarian construction industry association

www.fightingcorruption.org
A successful coalition against corruption started in 2005 in Paraguay

Case example: Pacto Etico Comercial (PEC) Paraguay

<table>
<thead>
<tr>
<th>History</th>
<th>Main achievements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Founded in 2005 on initiative of the US ambassador and Paraguayan American Chamber of Commerce</td>
<td>150 members signed the pact and there are currently 100 additional applicants</td>
</tr>
<tr>
<td>A leading ethics program in South America</td>
<td>The PEC seal is becoming a branding tool in Paraguay, which is labeled one of the most corrupt countries in the world</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Mission</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Promote business principles based upon fulfillment of current laws, ethics principles, quality management, honesty and transparency</td>
<td></td>
</tr>
<tr>
<td>Gather most important private business representatives covering all sectors</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Members</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Several national and multi-national companies</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Enforcement</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Certification process for members</td>
<td></td>
</tr>
<tr>
<td>Members commit themselves to obey to the values and rules</td>
<td></td>
</tr>
<tr>
<td>Moral enforcement due to publicity</td>
<td></td>
</tr>
<tr>
<td>Random audits</td>
<td></td>
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<tr>
<td>Trainings and workshops</td>
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</table>
Establishment of Pacto Etico Comercial in Paraguay gives a real life example of process  

Pacto Etico Comercial (PEC) Paraguay (1/3)

April - October 2004

- AmCham* leadership met with DOC for initial discussion of program of Good Governance.
- AmCham Directors agreed to cooperate with the Advertiser's Chamber (CAP), the US Embassy and the DOC in the program
- 'Good Governance Program' launched by DOC
- Top business leaders, chambers and organizations attended
- A working group composed of AmCham, CAP and US Embassy began a series of meetings to study the shape of the program, the benefits to those who sign, etc.
- Idea developed of a large public event to explain the program and its value, in hopes of attracting a large number of individuals and groups from the private sector
- Debate over the nature of relation with Government and NGOs
- Decisions made to assign two people to study the Panama and Nicaragua ethics documents and formulate a Paraguayan model of a basic ethics pact
- Presentation of Pacto Etico Comercial to 1,300 companies
- 232 signed a note promising to participate in the study and elaboration of an ethics pact.
- By now Executive Committee was meeting weekly

AmCham: American Chamber of Commerce
DOC: US Department of Commerce
Source: PEC Paraguay
Slide 74
Establishment of Pacto Etico Comercial in Paraguay gives a real life example of process 2.1

Pacto Etico Comercial (PEC) Paraguay (2/3)

October 2004 - August 2005

09.10.

- 100 people attended a Saturday morning session to review the principles of the ethics pact and comment on the draft.
- 10 individuals chosen to represent their group at future meetings

Oct 04 - Mar 05

- The working committee met regularly every week

June 05

- After various drafts were circulated by e-mail, Ethics Pact was approved, published, and distributed

13.07.

- Ethics Pact Signing ceremony for private sector, where over 100 individual businesses signed, agreeing to abide by these ethical principles

04.08.

- Public sector invited to sign as Witnesses. President Duarte Frutos and several ministers attended the event and signed
- Lawyers worked out a concept on how PEC could become a civil association with legal status
- Board of Directors needed to be representative of the wide range of groups involved in the project, but not too big to be inefficient
- The result was a Board of 11 members and two syndicates

AmCham: American Chamber of Commerce
Source: PEC Paraguay
DOC: US Department of Commerce
Slide 75

www.fightingcorruption.org
Establishment of Pacto Etico Comercial in Paraguay gives a real life example of process

Pacto Etico Comercial (PEC) Paraguay (3/3)

August 2005 - December 2006

- At the Assembly, the statutes were approved and legal steps begun to register PEC as a legal entity, capable of receiving donations and independent of AmCham and CAP in leadership.

Train the Trainer Program
- Three week intensive business ethics training program for two participants from each Department of Commerce program country.
- Conducted with business ethics experts and US company representatives in Washington, D.C. and Atlanta, Georgia.

- Participants of the three-week Train the Trainer course in Washington, D.C., gave training courses to the first twenty companies of the PEC.
- Training centered on how to build internal ethics programs and policies.
- Civil servants from the Ministry of Industry and Commerce and the Public Contracting Office in the Ministry of Finance attended as special invitees.
- The objective is to train the 80 plus companies who submitted their financial records for certification within the last year, by September 2007.

AmCham: American Chamber of Commerce
Source: PEC Paraguay
Slide 76
CBLF provides platform to discuss topics related to anti-corruption – however, there are no shared principles and enforcement to date

Case example: China Business Leaders Forum

<table>
<thead>
<tr>
<th>History</th>
<th>Main achievements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Launched in 2005 by the International Business Leaders Forum (IBLF) in partnership with the Renmin University of China</td>
<td>• Funding ensured to establish permanent office</td>
</tr>
<tr>
<td>Provides a regular quarterly Forum for Chinese and foreign business leaders to discuss the improvement of business standards both in China and internationally</td>
<td>• Several events and discussion round held on topics related to anti-corruption</td>
</tr>
<tr>
<td>Initially funded by the UK Foreign &amp; Commonwealth Office, BP, Shell, BHP Billiton, Siemens and GSK</td>
<td></td>
</tr>
<tr>
<td>Being developed into the China Centre for International Business Standards</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Mission</th>
<th>Members</th>
</tr>
</thead>
</table>
| Provides a regular quarterly Forum for Chinese and foreign business leaders to discuss the improvement of business standards both in China and internationally | GSK  
Shell  
Siemens |
| Initially funded by the UK Foreign & Commonwealth Office, BP, Shell, BHP Billiton, Siemens and GSK | |
| Being developed into the China Centre for International Business Standards | |

<table>
<thead>
<tr>
<th>Enforcement</th>
<th>Members</th>
</tr>
</thead>
</table>
| No enforcement | GSK  
Shell  
Siemens |
| Program with 3 key components: | |
| Knowledge exchange | |
| Research & Information | |
| Training | |

Source: CBLF website, interview with Siemens representative
"Transparency pacts" in Colombia are a form of principle-based initiative with a focus on continuous projects.

Case example: "Transparency Pacts" on local and municipal level in Colombia.

Benefits:
- Increase in credibility and trust
- Support from the Presidential Anti-Corruption program

Benefits:
- Government commitment to be transparent in awarding contracts
- Greater prospects for fair competition

Implementation Challenges:
- Frequent changes in responsible government personnel
- Limited genuine interest from local governments
- Lack of objectivity in evaluation
- Lack of resources for evaluation
- Unstable security situation
- Insufficient civil society commitment

Lessons learned:
- Project should be continuous rather than a one time event
- Significant resources are needed to ensure implementation
- Greater involvement of civil society needed

Source: Confecamaras, CIPE
A pact for integrity and against corruption (Empresa Limpa) was initiated in Brazil to fight against illegal practices in business.

Business Pact for Integrity and Against Corruption

**Organization:**
Ethos Institute; Eniethos, Patri, United Nations; United Nations Office on Drugs and Crime – UNODC; Brazilian Committee of the Global Compact.

**Location:**
Sao Paulo, Brazil

**Members:**
> 400

**Mission:**
- Fighting against illegal business practices, especially those involving public agent relationships

**Objective:**
- To disseminate good practices of business ethics that can eradicate corruption.

**Enforcement:**
- Members have to support the written principles publicly;
- Members have to implement internal rules that clearly prohibit any form of bribery.

**Key achievements:**
- Good practices of business ethics are widespread in Brazilian business;
- More than 400 members;
- Successful media campaigns.

Source: [http://www.empresalimpa.org.br](http://www.empresalimpa.org.br)
Example from the Philippines shows how a specific anti-corruption initiative evolved from existing organizations

Coalition against corruption within the network of other organizations, Philippines

- Association of >20,000 private businesses in the Philippines
- Non-profit, private association of 450 businesses in the Philippines
- Dedicated to addressing economic and social policy issues which affect the development of the Philippines
- Non-governmental organization, supports (among others) activities related to anti-corruption
- Coalition of private sector, NGOs and the church
- Mission is to initiate and support anti-corruption projects

Source: Internet research, CIPE
Programa Probidad Colombia is another example of an anti-corruption initiative that was launched by existing organizations.

Programa Probidad, Colombia

- Initiative of Confecamaras
- Objective: Create business community that commits itself to fight corruption, create ethical culture and strengthen competitiveness
- Has initiated program "Combat Corruption"
- Association of Colombian Chambers of Commerce

Scope of participants / members
- Business only
- Reflecting various groups of society

Year of foundation: 1999

Source: Internet research, CIPE
**Confecamaras is an example where a Collective Action is focused on changes in the legal system of a country**

Collective Action related to the procurement law reform in Colombia

<table>
<thead>
<tr>
<th>Why to reform?</th>
<th>Key engaged parties</th>
</tr>
</thead>
<tbody>
<tr>
<td>▪ High levels of corruption</td>
<td>▪ Colombian Confederation of Chambers of Commerce</td>
</tr>
<tr>
<td>▪ Public pressures for greater transparency in government</td>
<td>▪ Political Science Institute</td>
</tr>
<tr>
<td>▪ Outdated legal mechanisms</td>
<td>▪ Business associations</td>
</tr>
<tr>
<td>▪ Inefficient use of public resources</td>
<td>▪ National Congress and various contracting agencies</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Lessons learned</th>
<th>Key steps</th>
</tr>
</thead>
<tbody>
<tr>
<td>▪ Need for on-going follow up on draft laws with various stakeholders</td>
<td>▪ Provided opportunities for the business community and civil society to comment on the draft law</td>
</tr>
<tr>
<td>▪ Government willingness to accept feedback helps, but if it’s absent – still advocate for change</td>
<td>▪ Provided key information on challenges to implementation of the draft law to the National Congress</td>
</tr>
<tr>
<td>▪ Establish open channels of communication to engage broader public</td>
<td>▪ Generated alternative propositions</td>
</tr>
<tr>
<td>▪ Plan sufficient resources to study the impact of the new law (on national and local levels)</td>
<td>▪ Oversight of the process of procurement law reform, follow up on key changes</td>
</tr>
<tr>
<td>▪ Remember, you can’t satisfy all members of legislature, there will be disagreements</td>
<td></td>
</tr>
<tr>
<td>▪ Consensus and leadership among business groups help move this process forward</td>
<td></td>
</tr>
</tbody>
</table>

**Observatory for the reform of the procurement law**

*Source: Confecamaras, CIPE*
Transparency International Integrity Pact (IP) examples

- TI IP from project "Berlin airport"
- Seen as best practice example
- Available in German only

- TI IP contract from project "Hydroelectric power plant", Ecuador (English translation)
- No "External monitor"
- Detailed description of Arbitration Tribunal

Contact TI for details related to integrity pacts; see www.transparency.org

Source: Internet, Interviews
Case summaries provide actual Collective Action examples

<table>
<thead>
<tr>
<th>Mexico suburban train</th>
<th>Colombia Procurement Reform</th>
<th>Russian Business Associations</th>
<th>Latvia National Library</th>
</tr>
</thead>
<tbody>
<tr>
<td>▪ Report by the Mexican Ministry of Communications and Transport</td>
<td>▪ Report by CIPE</td>
<td>▪ Report by CIPE</td>
<td>▪ Report by Transparency International</td>
</tr>
<tr>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Bulgarian Coalition</th>
<th>Chambers of Commerce combating corruption</th>
<th>Exposing Corruption in Serbia</th>
</tr>
</thead>
<tbody>
<tr>
<td>▪ Report by CIPE</td>
<td>▪ Report by CIPE</td>
<td>▪ Report by CIPE</td>
</tr>
</tbody>
</table>

Source: Internet, Interviews
Several elements in a country’s legal environment promote transparency, integrity, accountability and efficiency

<table>
<thead>
<tr>
<th>Positive elements contributing to a transparent legal system</th>
</tr>
</thead>
<tbody>
<tr>
<td>The following elements in the legal and governance structure of a country support transparency, accountability, and efficiency in public procurement and general commerce:</td>
</tr>
<tr>
<td>- An independent judiciary that can resist improper political influence through checks and balances.</td>
</tr>
<tr>
<td>- Impartial, consistent enforcement of the rights and obligations of all firms.</td>
</tr>
<tr>
<td>- ‘Sunshine’ laws that require the government to publish all laws and regulations and inform the public of any proposed changes.</td>
</tr>
<tr>
<td>- Clear laws and regulations that limit officials' discretionary power.</td>
</tr>
<tr>
<td>- Regulations that prevent monopoly power and facilitate the formation and operation of private businesses.</td>
</tr>
<tr>
<td>- Administrative and judicial efficiency – because inefficiency creates incentives to bribe and opportunities to conceal corruption.</td>
</tr>
<tr>
<td>- Rules regarding conflict of interest for the public sector.</td>
</tr>
<tr>
<td>- Asset/income declaration mechanisms for governmental officials.</td>
</tr>
<tr>
<td>- Respect for due process - firms should not be excluded from participating in procurement without a fair hearing based on clear criteria.</td>
</tr>
<tr>
<td>- Alternative dispute resolution is an option - if used, decisions should be binding.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Additional considerations</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Appropriate procurement laws – emphasizing transparency, integrity accountability and efficiency - may not be present</td>
</tr>
<tr>
<td>- Procurement laws may be present “on paper” but viable supporting institutions are missing</td>
</tr>
<tr>
<td>- Procurement laws may be present, as are the supporting institutions, but public officials do not enforce the laws and are not held accountable</td>
</tr>
</tbody>
</table>

Refer to slides 62 - 64 for country specific analyses
Guide was created by Working Group with participants from different sectors and regions

Core members of Working Group

The World Bank Institute (WBI) is the capacity building arm of the World Bank Group. Combining participatory Action-oriented learning, technical assistance, and the power of data, WBI, in collaboration with other units in the World Bank Group, supports countries in improving governance and controlling corruption. With regards to the private sector, WBI facilitates the growing efforts of companies and business associations to integrate anti-corruption measures into their corporate governance and strategy, and engage more actively in the fight against corruption both as advocates for good governance and through Collective approaches.

www.worldbank.org/wbi

Launched in 2000, the UN Global Compact brings business together with UN agencies, labor, civil society and governments to advance ten universal principles in the areas of human rights, labor, environment and anti-corruption. Through the power of collective action, the Global Compact seeks to mainstream these ten principles in business activities around the world and to catalyze actions in support of broader UN goals. With over 3,600 participating companies and hundreds of other stakeholders from more than 20 countries, it is the world’s largest voluntary corporate citizenship initiative.

www.unglobalcompact.org
Guide was created by Working Group with participants from different sectors and regions

Core members of Working Group

| The Center for International Private Enterprise (CIPE) strengthens democracy around the globe through private enterprise and market-oriented reform. CIPE is one of the four core institutes of the National Endowment for Democracy and a non-profit affiliate of the U.S. Chamber of Commerce. Since 1983, CIPE has engaged the private sector in policy advocacy and institutional reform, improving governance, and building understanding of market-based democratic systems. CIPE works with business leaders, policymakers, academia, and journalists to build the civic institutions vital to a democratic society. CIPE has crafted a unique set of development tools that are adaptable to a variety of country conditions and that build institutional capacity. | www.cipe.org |

| Transparency International (TI) is the global civil society organization working to combat corruption and increase accountability in government and international business. With national chapters in more than 90 countries, TI is widely recognized for its unique global reach, high-level engagement with policymakers and the private sector, practical tools and surveys, and extensive experience and credibility in combating corruption and promoting transparency. TI has been represented in this initiative by its U.S. national chapter, TI-USA. | www.transparency.org/ |
Guide was created by Working Group with participants from different sectors and regions

Core members of Working Group

| Global Advice Network is an international consultancy based in Copenhagen, Denmark. Global Advice Network is specialized in advising on environmental and corruption issues. Global Advice Network is the initiator and developer of the www.Business-Anti-Corruption.com portal, a web-based tool which combines in depth country analysis with generic tools for due diligence and integrity systems. | www.globaladvice.dk |
| Grant Thornton International Ltd (Grant Thornton International) strives to speak out on issues that matter to business and which are in the wider public interest and to be a bold and positive leader in its chosen markets and within the global accounting profession. Grant Thornton International is one of the world's leading organisations of independently owned and managed accounting and consulting firms. These firms provide assurance, tax and specialist advisory services to privately held businesses and public interest entities. Grant Thornton International and the member firms are not a worldwide partnership. Services are delivered independently by the member firms. | www.grantthornton.com |
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Siemens AG is a global powerhouse in electronics and electrical engineering, operating in the industry, energy and healthcare sectors. The company has around 400,000 employees working to develop and manufacture products, design and install complex systems and projects, and tailor a wide range of solutions for individual requirements. For over 160 years, Siemens has stood for technical achievements, innovation, quality, reliability and internationality. In fiscal 2007, Siemens had revenue of €72.4 billion and income from continuing operations of €3.9 billion (IFRS).