
Combating International Corruption: The Role of the Business Community

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International Corruption in Perspective

Why Corruption Is Difficult to Control

To evaluate the role of corporations in combatting corruption, we must consider first why corruption is so difficult to control. Corruption is clearly a worldwide problem. It afflicts advanced industrialized economies as well as developing economies, market economies as well as government-controlled economies, states with long democratic traditions, states with authoritarian regimes, and states in transition to democracy. Scandals in Europe, Japan, and South Korea have demolished the notion that corruption is primarily a disease of the developing world.

We must also recognize that the benefits of corruption to the participants are often huge. Corrupt officials can make vastly more money by taking bribes than by being honest. For corrupt companies, paying bribes is an effective way to win orders. Bribery provides a way to beat competitors who have better technology or lower costs. The cost of bribes can often be built into selling prices. Bribes can be treated as tax-deductible business expenses in the home countries of many multinational corporations. The damage done by corruption hurts others, not the corrupt parties.

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The risk of getting caught has traditionally been low. Bribes are always paid in secret, and they are usually channeled through middlemen. Governments whose leaders take large bribes rarely prosecute bribe payers. The home countries of bribe-paying companies disregard what their companies do abroad. Currently, only the United States makes bribery of foreign officials a crime.¹ Bribes are often deposited in states with bank secrecy laws. Prevailing legal systems are ill-equipped to deal with an economic world in which a company from country A bribes an official in country B using an agent from country C, and the funds are deposited in a bank in country D.

Finally, it must be recognized that Gresham's law applies to the morality of the international marketplace. Without strong deterrents, the rules of competition will be influenced by the conduct of the least scrupulous participants.

Need for Comprehensive Countermeasures

Because combatting corruption is such a difficult undertaking, there are no simple solutions. To make progress requires action on many fronts. Corruption must be attacked from both the demand side and the supply side: by private-sector initiatives, such as corporate codes of conduct; by public-sector reforms, such as more transparent procurement rules, deregulation, and privatization; by better enforcement of existing laws prohibiting bribery of domestic officials and by passage of new laws prohibiting bribery of foreign officials; by ending tax deductibility of bribes; by stricter auditing, accounting, and corporate disclosure rules; by changes in bank secrecy laws; by providing easier access to government information and greater freedom to criticize government officials; and by defining clearer conflict-of-interest and ethics rules.

The length of the anticorruption agenda appears daunting. However, as will be discussed below, different reforms reinforce each other. Once several reforms have been enacted, there will be synergistic effects that can rapidly improve conditions even in societies in which corruption has been pervasive. This is illustrated by the experience of the Hong Kong Independent Commission against Corruption. After a very difficult start, the cumulative effects of a series of reforms built on one another to transform a deeply flawed governmental system into a clean one. There appears to be an analogy to the "tipping point" phenom-

1. The Inter-American Convention against Corruption, signed in March 1996, calls on member states of the Organization of American States to make it a crime to bribe government officials of states that ratify the convention. Ratification and enactment of implementing laws is likely to take several years. A number of states, including the United Kingdom and Sweden, have broadly worded antibribery laws that arguably could be applied to foreign bribery. However, that has not been the practice.

enon in epidemic diseases. Efforts to control epidemics often make little progress for long periods until suddenly a tipping point is reached. Thereafter, the incidence of the disease declines rapidly.²

To carry forward a comprehensive reform agenda will require a broad coalition involving national governments, corporations, and international institutions such as the Organization for Economic Cooperation and Development (OECD), the Organization of American States (OAS), and the World Bank. Support will also be required from civic groups and from the media.

What to Avoid

Now that the many steps needed for an effective anticorruption strategy have been listed, it is worth noting two things to avoid. Debates about original sin or about cultural diversity lead nowhere. Both issues should be avoided by those interested in moving forward with reforms.

The argument over who is to blame for corruption derives from two irreconcilable beliefs. In one, the developing world was innocent and pure until multinational corporations brought bribery into the garden of Eden. The second sees previously upright corporations succumbing to extortion by venal officials in the developing world. But debating whether extortion came before bribery, or vice versa, ignores the obvious. Corruption, like other illicit practices performed by consenting adults, requires two willing parties. Unless both sides are willing, the illicit act will not be consummated. There is enough guilt to spread around. Such arguments not only are a waste of time, but they are also counterproductive. Attitudes are polarized, and it becomes impossible to develop consensus behind proposals for reforms, as happened when the United Nations tried to deal with corruption in the late 1970s and early 1980s.

The second mistake is the attempt to justify corruption by citing cultural diversity. Some defenders of the status quo claim that prohibiting foreign bribery is a misguided effort to impose Western moral standards on countries with different cultures and traditions. But so-called respect for cultural diversity is usually an excuse for continuing corruption, offered by those who benefit from it. There is no country in the world where bribery is legally or morally acceptable. Bribes must be paid

2. The program of the Hong Kong Commission initially met with strong opposition and widespread public cynicism. Only after overcoming a police riot and carrying out several successful prosecutions was public confidence established. This led to greater willingness to report abuses, which in turn resulted in improved enforcement (B. E. D. de Speville. Presentation at Transparency International's annual meeting, Mweya Lodge, Uganda, 23 April 1996).

secretly everywhere; officials resign in disgrace when their acceptance of bribes is disclosed. Clearly, bribery violates moral standards in Africa, Asia, and Latin America, just as it does in Europe or the United States.

A variation of the cultural diversity theme is the argument that standards regarding the acceptance of gifts differ greatly around the world, and that the line between gifts and bribes is hard to draw. This is partly true, but it misses the key point. The level of acceptable gifts does vary. (Pentagon officials can no longer accept inexpensive pocket calendars from contractors!) However, as General Olusegun Obasanjo, the former president of Nigeria and chairman of Transparency International's (TI) Advisory Council, has observed, the distinction between gifts and bribes is easily recognizable: a gift can be accepted openly; a bribe has to be kept secret (Olusegun Obasanjo. Presentation at Transparency International's annual meeting, Quito, Ecuador, 27 February 1994).

Corporate Codes of Conduct

There are differences of opinion about the value of corporate codes of conduct. Many in the business community believe that self-regulation is the right solution and that it is preferable to government regulation. Antibusiness groups argue that self-regulation is a sham—that only government action can be expected to curb corruption.

In my view, corporate codes are an important component of a comprehensive anticorruption program, but they are not a substitute for government controls. Both are needed, and each reinforces the other.

The New International Chamber of Commerce Rules of Conduct

In 1977 the International Chamber of Commerce (ICC) issued a report, "Extortion and Bribery in Business Transactions." This was the work of a commission chaired by Lord Shawcross, a former attorney general of Great Britain and Nuremberg prosecutor; Lloyd Cutler was the US representative. The report called for action at three levels: an international treaty to be drawn up by the UN, proposals for actions by national governments, and rules of conduct to serve as a basis for corporate self-regulation. It set an ambitious agenda, much of which remains relevant after two decades.

In one respect, the 1977 report was overly ambitious. It called for the establishment by the ICC of a panel to consider allegations of infringement of the rules of conduct. This recommendation aroused much controversy, and the panel was never established. This controversy, and the general decline of interest in corruption in the 1980s, limited the impact of the ICC program.

In response to the wave of bribery scandals in the 1990s, the ICC established a committee in 1994 to review the earlier report and make new recommendations. François Vincke of Belgium, who is general counsel of Petrofina, served as chairman; Charles Levy of Wilmer, Cutler & Pickering and I were the US participants, representing the US Council for International Business, the American affiliate of the ICC. The committee's recommendations were adopted by the ICC's Executive Board on 26 March 1996.

The 1996 report confirms the basic approach recommended in 1977: the need for comprehensive action by international bodies, by national governments, and by corporations. In key respects, the recommendations have been sharpened and strengthened. The focus for international action is shifted from the UN to the OECD. The ICC urges all governments to implement promptly the May 1994 OECD recommendation to take steps to combat international corruption (see Pieth, chapter 6). The report notes that action relating to the tax deductibility of bribes is of particular urgency. It recommends that the OECD establish close liaison with the WTO. The 1996 report also calls on the World Bank and other international financing institutions to play an active role in reducing extortion and bribery.³

The ICC calls for more transparent government procurement procedures, including disclosure of payments to agents. The ICC recommends that bidders on government contracts be required to provide undertakings to refrain from bribery and comply with corporate codes barring bribery. Governments are also urged to regulate the conditions under which political contributions can be made. Where contributions are permitted, legislation should be enacted requiring that payments be publicly recorded by the payers and accounted for by the recipients.

The 1996 report takes a more flexible approach on the issue of extra-territoriality. The 1977 report had urged national governments to act "within the limits of their territorial jurisdiction." The 1996 report urges governments to act "in conformity with their jurisdictional and other basic legal principles." This brings the language in line with the OECD's May 1994 recommendation.

The revised rules of conduct prohibit extortion and bribery for any purpose. This is a change from the 1977 rules, which prohibited payments only in connection with "obtaining and retaining business." Thus, corruption in judicial proceedings, in tax matters, and in environmental and other regulatory proceedings are now clearly covered by the rules.

The prohibition of bribery has been broadened to bar not only kickbacks but also other techniques, such as subcontracts and consulting agreements, that channel payments to government officials, their

3. At the World Bank's annual meeting in September 1996, Bank President James Wolfensohn announced that fighting the "cancer of corruption" has become a high-priority issue.

relatives, or their business associates. The provision dealing with the use of agents has been sharpened to provide that payments to agents be limited to “appropriate remuneration for legitimate services.” The restriction on agents’ compensation is important because large payments to agents are the most common way to channel bribes to officials. Companies are also required to take steps to ensure that agents do not pay bribes.

The financial provisions of the rules prohibit the use of “off the books” or secret accounts and call for the establishment of independent auditing systems to expose any transactions that contravene the rules of conduct. Boards of directors are to establish and maintain proper systems of control, to conduct periodic compliance reviews, and to take appropriate action against any director or employee contravening the rules. The rules also specify that political contributions may only be made in accordance with applicable law, that all requirements for public disclosure shall be fully complied with, and that all such contributions must be reported to senior corporate management.

The ICC has established a Standing Committee to promote widespread use of the rules of conduct and to stimulate cooperation between governments and world business. The committee will work with ICC national committees in 62 countries to encourage their companies to adopt the rules of conduct. The committee will also serve as an information clearinghouse and will conduct seminars designed to promote the rules of conduct. The Standing Committee will work with the OECD, the WTO, and other international organizations. It will also encourage ICC national chapters to work with their national governments to enact or strengthen legislation combatting extortion and bribery.

The new rules of conduct eliminate the panel to investigate infringements of the rules, called for in 1977 but never activated. It was concluded that such a role could not be performed effectively by a non-governmental organization.

In promoting widespread international adoption of the rules of conduct, the ICC can make a critical contribution to the fight against corruption. Business leaders around the world would like to see an end to corruption. However, many companies are reluctant to adopt antibribery rules unilaterally as long as they believe their competitors continue to pay bribes. For that reason, the ICC program to promote widespread acceptance of the rules of conduct is crucial. Only by developing a broad consensus can the reluctance of individual companies be overcome.

Requisites for Effective Codes of Conduct

The ICC rules are a general statement of the key elements of corporate codes of conduct. The ICC recognized that individual companies must

formulate codes specifically tailored to their own circumstances, including type of business, system of organization, and applicable legal rules. The US chapter of TI has recently completed a “best practices” study of anti-bribery codes of conduct and compliance programs used by American companies.⁴ My discussion is based on this study.

One fundamental point needs to be stressed. Whether a code of conduct is only a fig leaf or whether it effectively governs corporate behavior depends on the compliance program the company uses. Unequivocal commitment by top management is essential. The prohibition of bribery must be more than the policy of the legal or financial department. Without strong involvement from the CEO, the policy will be undermined by cynics who prefer to believe that it is just an exercise designed to shield top management from responsibility when bribes are paid.

Prohibition of bribery At the heart of the policy must be a clear statement that the company prohibits employees, and third parties representing the company, from offering anything of value, directly or indirectly, to a government official to influence or reward an action.

Gifts and entertainment The policy should provide detailed guidelines regarding gifts and entertainment. They must conform with applicable laws and regulations, including policies of the recipient’s organization and of institutions funding the transaction. Gifts and entertainment should also meet an “ordinary and reasonable” standard. This will vary for different categories of customers. One useful criterion is the newspaper test: how would it look on the front page?

Travel expenses Only reasonable and bona fide travel expenses of government officials should be reimbursed. They must be directly related to the work, and they must conform with applicable laws and regulations. Here, too, the newspaper test provides a guide to screen out frolics and diversions, such as trips to resorts and casinos.

Political contributions The starting point must be strict compliance with applicable laws and regulations regarding corporate political contributions, including disclosure requirements. These, of course, vary from country to country. In addition, the policy should prohibit arguably legal political contributions when made to influence or reward

4. This effort was led by Howard Aibel, who was general counsel of ITT for over two decades and is now a partner at LeBoeuf, Lamb, Green, and MacRae. Also actively involved were Jay Singh of Coopers & Lybrand; Don Zarin of Dechert, Price & Rhoads, a leading authority on the Foreign Corrupt Practices Act (FCPA); and Scott Gilbert of GE.

specific governmental acts or decisions. Circumstances and timing are likely to be critical.

Facilitating payments The Foreign Corrupt Practices Act (FCPA) does not apply to facilitating payments: that is, small payments to low-level officials to expedite routine approvals. Most laws prohibiting bribery make no exception for such payments, yet in many places there is a wide gap between legal theory and actual practice. This poses a dilemma for corporate policymakers. Arguments can be made for a consistent, no-exceptions approach. However, it is questionable whether compliance with such a policy can realistically be expected. In places where making facilitating payments is the customary practice, it may be better to provide some administrative flexibility than to ignore the problem.

At this stage in the fight against corruption, the major objective should be to stop large bribes to politicians and senior officials. When extortion and bribery at top levels are curbed, governments can be expected to take steps to clean up petty corruption.

Internal controls and record keeping The policy should require a system of internal controls and record keeping to ensure that company books accurately reflect its transactions. An audit committee, composed of outside directors, should oversee the structure of internal controls, the internal audit function, and the retention of outside auditors.

Sales representatives and other agents Because bribes are customarily channeled through middlemen, the process for selecting, training, and monitoring the work of foreign sales representatives, consultants, and other agents is one of the most critical parts of a corporate compliance program. Because agents are more difficult to control than company employees, the first question should be: is it necessary to hire a sales representative? If an agent is needed, great care should be exercised in selecting someone reputable and qualified.

Written agreements These should be signed by the agent and should explicitly prohibit bribery. It is often difficult to get the message across that the company “really means it.” Many sales representatives abroad have the mind-set that codes of conduct are a charade, that the company is building a paper record to support denials of responsibility, that the agent’s job is to do what it takes to get the order. It is essential that such attitudes be overcome.

Compensation arrangements This is the key factor. Excessive payments to agents are a common way to fund bribes. The test should be whether the agent’s fee represents reasonable compensation for

legitimate services. Where percentage commissions are used, a sliding scale is appropriate, reducing the percentage as the value of the order increases. For example, a 5 percent commission on a \$1 million order may be appropriate; 5 percent on a \$1 billion order should raise red flags. Large payments to agents should require review and approval by senior management. Procurement agencies can help control abuses by requiring disclosure of all commissions paid to sales representatives and other agents.⁵

Reporting mechanisms Employees should be encouraged to report any possible violations of the antibribery policy. This must be coupled with assurances against retribution. Even though whistleblowers are well-regarded by the media and the general public, they are rarely popular within an organization.

Decision making Even a well-drafted policy will not answer all questions. There will inevitably be difficult judgment calls. Higher levels of management must become involved when such issues arise. It must be made clear that management does not want to be shielded from responsibility for controversial decisions.

The Corporate Interest in Prohibiting Foreign Corruption

Foreign bribery is contrary to the best interests of corporations because toleration of foreign bribery has an insidious effect on a company's moral climate. Even when bribing foreign officials is not a crime in the company's home country, it is a crime in the country whose officials are bribed. Therefore the bribe has to be kept secret, and subterfuges, such as off-the-books "slush funds" and masking book entries, must be used to avoid exposure.

Bribery requires all kinds of moral compromises and deceptions. Who in corporate management participates in the decision-making process and who is kept in the dark? How much is told to top officers, to corporate lawyers and accountants, and to outside auditors? Because normal corporate controls are usually bypassed, abuses are likely to occur, such as diversion of funds by middlemen or even by company employees.

There is also the risk that distinctions between foreign and domestic bribery will be ignored and slush funds for foreign bribery will be used at home. The Watergate investigation in the 1970s uncovered widespread use of US companies' foreign slush funds in the United States. This was

5. The World Bank, for example, now requires disclosure of all commissions paid on projects it finances.

the driving force for the passage of the FCPA. There have been recent cases involving similar practices in Germany.

Beyond the risks involved in a particular transaction, there are often unpleasant aftereffects, such as blackmail threats. Can the company terminate relations with a sales representative who paid bribes? Can the employees who were involved be laid off or denied promotions?

The epidemic of well-publicized bribery scandals during the last five years shows that the risks of getting caught have increased. Corporate and political leaders, who previously operated above the law, have been exposed and forced to resign. Corruption is no longer an area in which it pays to take chances. It behooves all responsible companies to adopt and enforce codes of conduct prohibiting bribery.

Synergy between Corporate Codes and Government Programs

In evaluating the role of corporate antibribery codes, their interplay with government programs must be considered. The effectiveness of corporate codes is enhanced by governmental measures. Similarly, corporate codes reinforce the effectiveness of government antibribery programs.

Relevant government programs include such measures as criminalizing bribery of foreign officials, ending tax deductibility of bribes, and procurement reforms. Also important are the effects of actions by international financing institutions, accounting reforms, and the role of the media.

Criminal Laws

The United States made bribery of foreign officials a crime almost 20 years ago. The widespread adoption of corporate codes of conduct prohibiting bribery was the direct result of enacting the FCPA. Corporate compliance programs have, in turn, had a multiplier effect on criminal law enforcement. For every Justice Department employee involved in enforcing the FCPA, there are scores of corporate lawyers and financial people working on compliance programs.

Anyone familiar with corporate compliance programs knows that the threat of criminal penalties has a potent influence. Even cynical managers are concerned about their personal exposure to large fines and prison terms. In any organization there will be tensions between those whose job is to get the next order and those whose job is to protect the company against unreasonable risks. The position of the latter group is clearly strengthened by the existence of criminal sanctions.

The existence of the FCPA has also provided American companies

with a credible basis for rejecting extortion. Refusing to pay a bribe may result in losing an order. However, foreign officials who want to deal with American companies are prepared to accept the fact that criminal sanctions under US law effectively bar the payment of bribes.

The synergy between government enforcement and corporate compliance programs is further enhanced by the Justice Department's sentencing guidelines. These provide more lenient treatment for companies that conduct proper compliance programs. The sentencing guidelines provide a strong incentive for companies to establish compliance programs.

Tax Deductibility of Bribes

The tax treatment of bribes can also make a major difference in corporate behavior. When the tax laws treat bribes as tax-deductible business expenses, they send both a moral and a financial message.

The moral message of tax deductibility is that foreign bribes are considered legitimate business expenses. From the financial standpoint, tax deductibility means that bribery is subsidized by the government. The financial importance of tax deductibility was made clear at a June 1995 hearing in Bonn, in which I participated. A prominent German tax lawyer argued that it would be unfair to German corporations to end tax deductibility of foreign bribes because German corporate tax rates were much higher than those in the United States and in other major exporting countries. He was very upset by the idea of losing a 65 percent subsidy from the German government. It seems clear that there will be less bribery without tax subsidies.

Ending tax deductibility of bribes also introduces internal corporate constraints. Corporate tax returns must normally be signed by a company's chief financial officer (CFO), and filing a false return exposes both the company and the CFO to liability for tax fraud. This means that the company's financial people must undertake to distinguish between proper business expenses and bribes. For example, they must scrutinize payments to foreign sales representatives to determine whether the amounts can be justified as legitimate business expenses.

It has been suggested that tax deductibility of bribes should only be denied when there has been a criminal conviction of bribery. It is argued that the line between bribes and legitimate business expenses is unclear and that the tax authorities could not distinguish between the two. This argument is specious. Tax authorities constantly make distinctions between legitimate and improper business expenses—for example, in the closely related area of business entertainment deductions. When a company makes huge payments to a sales representative in connection with a contract award, and only a small fraction can be shown to have been used for legitimate activities, the conclusion is obvious.

Government policy regarding the tax treatment of bribes can have a significant effect on corporate conduct. Deductibility encourages bribery. Nondeductibility discourages bribery. The action of the Ministerial Council of the OECD on 22 May 1996 urging all OECD member countries to deny tax deductibility of bribes paid to foreign public officials is an important step forward. It should be implemented promptly by national governments.

Government Procurement Policies

There is a clear reciprocal relationship between corporate codes of conduct and government procurement practices. The use of corporate codes and compliance programs will reduce corruption in procurement. This will result in cost savings and the acquisition of better products and services. Government procurement agencies can in turn increase the use of corporate compliance programs by making their use a condition of bidding.

To accelerate government procurement reforms, Transparency International is promoting the use of “antibribery pacts,” an idea proposed by Robert McNamara, former president of the World Bank. McNamara recommended that government leaders convene meetings of procurement officials and prospective bidders to develop understandings designed to prevent bribery. The objectives of these antibribery pacts are to make clear that all bidders will play by the same rules, and that there are serious risks and no rewards for briber payers. These pacts would include the following elements:

- Procurement agencies would commit to follow transparent procurement procedures and to adopt strict measures preventing extortion by government officials.
- Bidders would commit not to pay bribes and to adopt compliance programs covering their employees and agents.
- Monitoring procedures would be established with sanctions for violations, including debarment.
- Only companies signing an antibribery pact would be allowed to bid.

The detailed provisions of antibribery pacts would be tailored to meet the conditions of particular industries and of national procurement systems. Such pacts could be developed for individual projects, for all procurement by a single agency, or for all government procurement in a country. International financing agencies and organizations representing civil society could participate in developing the pacts.

International Financing Agencies

The World Bank could do the most to accelerate the widespread adoption of corporate codes of conduct if it were to require the use of such codes as a condition for bidding on the thousands of projects the Bank finances annually. The multiplier effect of this action could be further augmented because the Bank's procurement rules serve as a model for the other multilateral development banks, including the Inter-American, European, Asian, and African development banks. The Bank's practices also influence bilateral funding agencies.

The OECD's Development Assistance Committee can play a similar role, and their recent actions should be welcomed.

Accounting, Auditing, and Disclosure Requirements

Because bribery can only be conducted in secrecy, accounting rules can play a key role in curbing corruption. Under US law, the failure to maintain proper records and controls can itself become a basis for prosecution. As noted previously, the ICC rules require all financial transactions to be properly recorded and specifically prohibit secret accounts. There is also increasing pressure from corporate governance groups for independent auditing to improve public disclosure.

Financial recording and reporting requirements clearly affect the supply side of the corruption equation. They cause corporate accountants and auditors to exercise greater internal discipline. They also make prosecution easier by providing clearer accounting tracks.

The Media and Civic Society

Civic society and a free press reinforce the demand for public accountability for corruption. Otherwise, corruption is successfully swept under the rug (as occurred after the corruption scandals of the 1970s). A freer press and a more conscientious civic sector provide the best protection against that danger. Their function can be improved by providing freer access to government information and by removing restrictions on criticism of government officials.

US Role: Strengths and Limitations

The United States has gone further in combatting corruption than any other country. Tax deductibility of bribes was terminated in 1958. Bribery of foreign officials became a crime in 1977. American procurement agencies use elaborate systems to prevent corruption. These steps were

taken unilaterally, in order to regulate the conduct of US companies. Even though US companies lose billions of dollars in orders each year to foreign companies that continue to pay bribes, there is no support for repealing the FCPA.

An ironic result of unilateral US reforms is that when Americans promote similar reforms abroad, our motives are called into question. It is alleged that the real motive is to promote the interests of American corporations in obtaining a level playing field. Indeed, that is clearly a motive. However, much more important interests are at stake: preventing corruption from undermining the growth of democratic institutions and market economies around the world. Opponents of antibribery initiatives also argue that the United States is engaging in moral imperialism, seeking to impose puritanical American values on people who have more tolerant traditions and enjoy giving and receiving large gifts. Even some European supporters of antibribery reforms worry whether their political effectiveness will be compromised if they are perceived as closely allied with US interests.

There are undoubtedly a range of motivations behind European concerns about the US role in combatting international corruption. However, when sincere proponents of reform express concern, it means there is a trouble spot that should not be ignored. The United States must remain a leader in the fight against corruption. But the United States must exercise discretion, evaluating carefully which US actions will promote international reforms and which will be counterproductive.

The central point is that corruption is an international problem that requires action by many countries. Progress will be made only if others agree that it is in their own interest to take action. In pounding the table about how much business American companies are losing, government and corporate leaders Americanize the problem. Only by internationalizing the problem can the United States promote solutions.

The most important reforms, including criminalization of foreign bribery and ending tax deductibility of bribes, require legislation by national governments in the major exporting states. This is best achieved through a combination of multilateral initiatives by organizations such as the OECD, the OAS, and the World Bank, as well as active support by local groups such as national chapters of Transparency International. Increased adoption of codes of conduct by foreign companies can be more effectively promoted by the ICC than by unilateral US action.

The dilemma is that international action by its nature will take time, and patience is not a common American trait. Failure to produce quick results then generates pressure for unilateral US moves to punish countries that fail to act. Some US actions, such as proposals for a more active CIA role, would almost certainly be counterproductive. Foreign opponents of reform will use allegations of CIA involvement to shift the debate from the need to curb corruption to charges of improper US

interference. Foreign supporters of reform—who generally come from liberal, social democratic, church, and academic groups—would clearly be turned off by CIA involvement.

Similarly, creation of new legal rights of action in US courts with extraterritorial application will predictably stir up a hornet's nest, as it has in the Cuban context by the Helms-Burton law. Are we creating rights that are practically enforceable in US courts? What kind of counter-measures may be taken against US companies?

Conducting a successful international effort to curb corruption will require political skill, persistence, and patience. Encouraging progress is being made at the OECD, the OAS, and elsewhere. The corruption issue has been successfully internationalized. Unlike the corruption scandals of the 1970s, which were uncovered by US investigations, the much more widespread scandals of the 1990s result from local investigations in many countries.

The difference in the origins of corruption scandals reflects fundamental changes in the post-Cold War world:

- The growth of independent judiciaries has resulted in magistrates with the power to track down corrupt ministers, business leaders, and party chiefs.
- The breakdown of rigidly controlled political systems has led to disclosures that would previously have been suppressed.
- Freedom of the press, and the accompanying investigative journalism, has become much more common.
- The corporate governance movement is spreading abroad and is pressing for greater accountability.
- Whistleblowers are no longer rare birds seen only in North America.
- Transparency International has grown in just four years to a movement with chapters in over 60 countries.
- Perhaps most important, civil society in many countries is fed up with corruption and supports reform.

These are the reasons we now have a realistic opportunity to achieve lasting reforms. Let's not spoil it by trying to Americanize what by its nature must be an international effort.