

## Surveying Corruption in International Business

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**ABSTRACT:** *Global anti-corruption strategies range from regulation and self-regulation in the form of corporate and industry codes to non-governmental organisation (NGO) initiatives. Undoubtedly, these strategies are crucial in the fight against corruption in international business. But are these strategies working? If not, how can they be improved further? Understanding the impact of the strategies on company behaviour is essential for answering these questions and for suggesting improvements to the current strategies.*

*There are numerous surveys that enable the identification of some general issues regarding company practices and attitudes to combating corruption and which give some indication of limiting factors. These insights are a useful starting point but the survey findings are not directly comparable and provide only a descriptive, fragmented understanding of the issues.*

*The authors of this article are currently engaged in an in-depth survey. The aim is to provide a more thorough understanding of the impacts of different strategies and regulatory influences and how anti-corruption efforts might be strengthened. The survey is unique in targeting NGOs in addition to companies in order to investigate the role played by these organisations who are important stakeholders in the field of anti-corruption. As part of this survey a pilot study was undertaken. As well as providing an account of the scope and nature of anti-corruption strategies this paper presents the findings of the pilot survey and highlights some interesting connections and conflicts that will be explored further in the full survey.*

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### INTRODUCTION

In the world of international commerce kickbacks<sup>1</sup> and bribes<sup>2</sup> are common phenomena. Until recently, corruption was a taboo subject even though it was widely known that companies often resorted to such practices when dealing with those working in the public sector, be they

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<sup>1</sup> Part of an income paid to a person having influence over the size or payment of the income by some illegal arrangement.

<sup>2</sup> To promise, offer or give something, often illegally, to procure services or gain influence.

domestic or foreign public officials. In the mid 1970s, the US Securities and Exchange Commission (SEC) found that illegal foreign payments to foreign public officials and foreign politicians were widespread in the US corporate sector.<sup>3</sup> This led to national legal reform and saw the enactment of the US Foreign Corrupt Practices Act 1977 (FCPA). However, it was not until the mid 1990s that the international community responded to the persistent calls for action with regional and international conventions. Undoubtedly, the US played a major role in lobbying for an international response to what it saw as a global problem that seriously affected competitiveness in the world of international business. Further impetus for international measures was also generated by studies from various institutions including the World Bank (WB) which drew attention to the economic and social impact of corruption, for instance the close link between corruption, development and poverty.<sup>4</sup> These developments led to the adoption and ratification of a series of regional and international anti-corruption conventions in quick succession from the mid 1990s to the early part of this century.

Ratification of anti-corruption conventions and their implementation in the national laws of a country of themselves are insufficient to control corruption. Apart from reliance on effective enforcement, the mere 'letter of the law' is likely to be inadequate in bringing about the necessary changes where other issues are not addressed. Companies with substantial economic might and which are guided by profit maximisation and obligations towards their investors have the potential to drive a state's agenda and policies (including investigation and enforcement of corrupt practices) and to engage in questionable and illegal activities in order to obtain or retain business. Just as 'all is fair in love and war' so it seems 'all is fair in business'. Against this background, if any progress is to be made in the fight against corruption, it is important to ensure that companies recognise the responsibilities which they owe to other stakeholders such as local communities and society at large and that they behave

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<sup>3</sup>Committee on Banking and Urban Affairs, *Report of the Securities and Exchange Commission on Questionable and Illegal Corporate Payments and Practices* (1976).

<sup>4</sup>See, e.g., Elliott, Kimberly A. (ed.) (1997) *Corruption and the Global Economy*, Washington D.C.: Institute for International Economics; UNDP (1997) *Human Development Report* Oxford: OUP; and UNDP (2007) *Human Development Report*, Oxford: OUP.

in a responsible manner that takes into account the private sector role in social issues, environmental protection and the eradication of poverty. In other words, corporations must see themselves as having social responsibilities to enable meaningful progress towards fighting corruption.

Of recent, it seems, companies are moving away from their image of profit-centredness and ruthless exploitation and embracing socially responsible behaviour (often termed corporate social responsibility or CSR) by adopting various sector specific or bespoke codes of conduct that promote integrity, transparency and good corporate citizenship within the corporation and in their dealings with others. Much of this change in corporate attitudes seems to have been triggered by civil society, that is, activists, non-governmental organisations (NGOs) and the media who have publicised widely, for instance, illegal logging activities of multinationals in rainforests, the environmental pollution of industrial plants and human tragedies such as the one in Bhopal (India) caused by the Union Carbide factory. Increasingly civil society sees itself as a major player in raising local and global awareness of social issues and as having the capacity to mould the behaviour of state and non-state actors and this status is reinforced by the increased presence of such stakeholders at meetings and negotiations within the international institutions.

Further impetus towards CSR was also provided by developments in international institutions. The Organisation for Economic Co-operation and Development (OECD) in its Guidelines for Multinational Enterprises (GME) adopted in 2000 promotes international voluntary standards for good corporate conduct in areas such as employment, environment and corruption. The United Nations (UN) joined forces in promoting CSR with its adoption of the UN Global Compact (UNGC) in 2000 that set out core standards to be supported and embraced by companies. The UNGC initially promoted human rights, labour standards and the environment. However soon after the adoption of the United Nations Convention Against Corruption (UNCAC) in 2003, UNGC adopted Principle 10 in 2004 which states that “[b]usinesses should work against corruption in all its forms including extortion and bribery”.

As soon as strategies such as those outlined above are adopted to resolve a socio-economic problem the immediate questions that arise concern whether they have had any impact on the ground. Have those affected by the strategies responded or altered their behaviour in a manner that meets the anticipated outcomes of the strategies? If they have not what are the reasons for this and how can the strategies be improved/strengthened to meet the objective of solving this problem?

The same questions arise equally in relation to corruption and can be usefully broken down into further questions. Among these are:

- 1) Are companies aware of anti-corruption conventions and relevant soft-law instruments? How do they perceive these instruments? What impact, if any, have the different instruments had on companies: have they adjusted or changed their behaviour in relation to those?
- 2) Have companies voluntarily adopted codes of conduct or internal measures that promote corporate social responsibility (CSR)? Do these include a commitment to tackling bribery or corrupt behaviour on their part, and on the part of their agents and those in their supply chain? Is CSR a useful tool for combating corruption?
- 3) What role do NGOs play in combating corruption? How have NGOs applied and promoted the tools for tackling corruption? In what ways have NGOs worked with the private sector to address corruption and to what extent has NGO activity and involvement impacted upon companies? Do NGOs play a wider role in publicising and educating the public at large about anti-corruption measures?

This project seeks to address these questions with a view to identifying the various means through which current anti-corruption strategies could be improved.

The traditional method of assessing the impact of specific legislation by examining the number of investigations and prosecutions either within a State or globally is of limited use in the present context since much of the legislative developments through ratification and implementation of conventions are still in their infancy. Further, an assessment based on review of the prosecution figures would fail to take into account the multi-pronged approach

to combating corruption which also involves soft law instruments such as corporate codes of conduct and other sources such as NGO engagement. In these circumstances, the best way to assess the impact of current approaches to combating corruption is to approach those who are affected by and those who promote the strategies and to obtain relevant information that will provide answers, be they negative, positive or ambivalent, to the questions listed above.

Empirical surveys of companies and NGOs were therefore seen as the most appropriate method. As is normal practice, a pilot survey was undertaken using postal questionnaires. This paper presents the findings of the pilot survey. Part 1 provides a broad background of the current anti-corruption strategies and Part 2 engages with the findings of this pilot survey though no firm conclusions should be drawn from these. The full survey is currently in progress and a full report of the findings will be made available in ten months time.

## **1. CURRENT STRATEGIES FOR COMBATING CORRUPTION**

Much has been written about the far-reaching, damaging consequences of corruption on development and a nation's wealth.<sup>5</sup> These need not be rehearsed in detail for present purposes. Corruption is certainly not a new phenomenon. However, the forces of globalisation and the resulting flow of capital to hitherto untapped markets in developing and least developed countries with the potential for sizeable returns present ample opportunities for grand corruption. Despite the relaxation of trade barriers as a result of the General Agreements on Tariffs and Trade 1994 and associated agreements bureaucratic hurdles are all too common in the form of permits, licences, overcoming land acquisition rules and planning permissions and registration requirements in order to engage in business activities such as foreign investment, export/import contracts and sales of know-how. The bureaucratic requirements in some countries can be cumbersome and time-consuming. This opens the

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<sup>5</sup> See, e.g., HMSO (2000) *Eliminating World Poverty: Making Globalisation Work for the Poor* (Command 5006), London: HMSO; and Gray, C. W. & Kaufmann, D. (1998) 'Corruption and Development' *Finance and Development* (35:1) 7.

doors for corruption both from the supply side (the company as bribe giver to the public official) and the demand side (the public sector or politicians as bribe taker) thus distorting the decision-making process and the competitive business environment.

The current global strategy for combating corruption is multi-pronged and includes (1) regulation, that brings about harmonisation across jurisdictions through the ratification and implementation of anti-corruption conventions; (2) self-regulation which is informal in character and promotes the adoption of voluntary codes of conduct; (3) strengthening of accounting practices and auditing standards; (4) mobilisation of public opinion through NGOs and engagement of civil society with both the private and public sector; and (5) the tying of conditions to infrastructure improvement loans to developing countries from international and state development agencies such as the WB and US Agency for International development (USAID). These conditions range from legal reform and transparency in public sector structures and management to civil service and setting up of anti-corruption commissions.

## **1.1. Regulation**

### **1.1.1. Defining Corruption**

Corruption as a concept has moral, social, cultural and economic connotations. It is interpreted in a variety of senses from moral turpitude, intolerable social and political changes to undue economic or material advantage obtained by an individual in a position of power by virtue of that position. This makes it difficult to arrive at a satisfactory generic definition. Nevertheless countless attempts have been made to provide one. As the few examples given below indicate the definitions focus on the exploitation by an individual of his power for private gain. For Kennedy,

corruption is a code word for 'rent seeking' – using power to extract a higher price than that which would be possible in an arms-length or freely competitive bargain – and for practices which privilege locals,<sup>6</sup>

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<sup>6</sup> Kennedy, D. (1999) 'The International Anti-Corruption Campaign' *Connecticut Journal of International Law*, 14(2) p. 455.

while for Nye corruption is

behavior which derives from the formal duties of a public role because of private regarding (personal, close, family, private clique) pecuniary or status gains, violates rules against the exercise of certain types of private-regarding influence. This includes such behavior as bribery (use of reward to pervert the judgment of a person in a position of trust); nepotism (bestowal of patronage by reason of ascriptive relationship rather than merit); and misappropriation (illegal appropriation of public resources for private-regarding uses.<sup>7</sup>

The WB<sup>8</sup> and the major international anti-corruption NGO, Transparency International (TI),<sup>9</sup> also emphasise abuse of power entrusted in a person for personal gain in their definitions. This emphasis is also reflected in the numerous anti-corruption conventions that criminalise behaviour ranging from bribery, the most commonly understood manifestation of corruption that involves a fairly straightforward mutual relationship to the more complex such as peddling of influence and diversion of funds.

### 1.1.2. Anti-corruption Conventions<sup>10</sup>

The period from 1996 to 2003 saw intense activity on the drafting and adoption of anti-corruption conventions. Below is a list of adopted inter-governmental conventions some of which are in force as indicated in the list.<sup>11</sup>

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<sup>7</sup> Nye, J. S. (1967) 'Corruption and Political Development' *American Political Science Review*, 61(2) p. 419.

<sup>8</sup> The World Bank defines it simply as 'the abuse of public office for private gain' Oforu-Amaah, W. P., Soopramanien, R., and Uprety, K. (1999) *Combating Corruption: A Comparative Review of Selected Legal Aspects of State Practice and Major International Initiatives*. Washington D.C.: World Bank.

<sup>9</sup> For TI '[c]orruption is operationally defined as the misuse of entrusted power for private gain.' It further 'differentiates between "according to rule" corruption and "against the rule" corruption. Facilitation payments, where a bribe is paid to receive preferential treatment for something that the bribe receiver is required to do by law, constitute the former. The latter, on the other hand, is a bribe paid to obtain services the bribe receiver is prohibited from providing' See 'How do you define corruption?' in Frequently Asked Questions at [http://www.transparency.org/news\\_room/faq/corruption\\_faq](http://www.transparency.org/news_room/faq/corruption_faq).

<sup>10</sup> This section is derived from Carr, I. (2007) 'Corruption, Legal Solutions and Limits of Law' *International Journal of Law in Context* Vol. 3(3), p. 227.

<sup>11</sup> There is also an EU Convention on Corruption which focuses on bribery, active and passive, of community and national officials.

1) Organisation of American States Inter-American Convention Against Corruption 1996 (OAS Convention). Came into force 6 March 1997.

2) Organisation for Economic Co-operation and Development Convention on Convention on Combating Bribery of Foreign Public Officials in International Business Transactions 1997 (OECD Convention). Came into force 15 February 1999.

3) Council of Europe Criminal Law Convention on Corruption 1999 (COE Convention). Came into force 1 July 2002.

4) Economic Community of West African States Protocol on the Fight Against Corruption 2001 (ECOWAS Convention). Not yet in force.

5) Southern Africa Development Community Protocol against Corruption 2001 (SADC Protocol). Not yet in force.

6) African Union Convention of Preventing and Combating Corruption 2003 (AU Convention). Came into force 5 August 2006.

7) United Nations Convention Against Corruption 2003 (UNCAC). Came into force 14 December 2005.

It would be normal to expect these conventions to define the word 'corruption'. However, in practice, the conventions, other than the SADC Protocol,<sup>12</sup> refrain from providing a general definition of corruption but focus instead on specific types of corrupt behaviour. It is however possible on the basis of the offences created by these conventions to group them into two: 'Group A' and 'Group B' (see below).

Corruption can occur in different contexts but much of the corruption reported is in the public sector, be it at the petty or at the grand level. Group A targets corruption in the public sector and addresses the issue of abuse/misuse of power by those in public office for private gain. Conventions falling within Group B focus on the abuse/misuse of power in the decision making process for obtaining an undue advantage and are broader in scope than

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<sup>12</sup> Art 1 defines corruption as 'any act referred to in Article 3 and includes bribery or any other behaviour in relation to persons entrusted with responsibilities in the public and private sectors which violates their duties as public officials, private employees, independent agents or other relationships of that kind and aimed at obtaining undue advantage of any kind for themselves or others'.



those within Group A, by also including the private sector. Of course the types of misuse, and the kinds of undue advantage outlawed, vary between the conventions as the following paragraphs show.

### **Group A**

The OAS Convention is the earliest anti-corruption convention with the prime objective of eradicating corruption in the performance of public functions. In brief, it creates corruption offences both in the context of mutual exchange between the offeror and the recipient (e.g. bribery) and where there is no mutual exchange (e.g. embezzlement); it includes corrupt activities of public officials and covers both passive bribery (solicitation and acceptance by a public official of a benefit in return for an act or omission) and active bribery (offering or granting of a benefit to a public official in return for the doing or not doing of an act). It has an extra-territorial dimension and it makes active bribery of a foreign public official an offence; and creates a (controversial)<sup>13</sup> offence of illicit enrichment.

The next convention in chronological order which falls within Group A is the OECD Convention.<sup>14</sup> Unlike the OAS Convention the OECD Convention deals only with transnational bribery and makes criminal active bribery of a foreign public official in the context of international business transaction.

### **Group B**

The conventions that fall within this group are wider in ambit and include both the public and private sector. The earliest convention to include both sectors is the COE Convention, which focuses on the abuse of power in return for an undue advantage regardless of the context in which it occurs. It also takes a comprehensive approach in construing the term 'public official' and dispels doubts about which services are or are not included in the public sector by including specific provisions. Corruption however is construed within a narrow band that includes acts of active and passive bribery both at the domestic and international level, and

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<sup>13</sup> Controversial in human rights terms since the onus is on the accused to show the source of his funds.

<sup>14</sup> This was preceded by an Anti-bribery Recommendation in 1994.

trade in influence over persons in the public sector. An accounting offence is also created to address fraudulent practices.

The next three conventions in the chronological list, SADC Protocol, AU Convention and the UNCAC are more comprehensive. The first two are regional conventions and likely therefore to have a limited impact unlike the UNCAC which is an international convention.

The list of the specific acts of corruption made illegal by the SADC Protocol includes active and passive bribery be it by a public official or a person working in the private sector, act or omission by a public official for illicitly obtaining benefits for himself or a third party, diversion by a public official of property, monies or securities of the State, individual or independent agency received by virtue of his position for his own benefit or that of a third party, the fraudulent use or concealment of property obtained from corrupt acts and participation as principal, co-principal, agent, instigator, collaborator or accessory after the fact. The Protocol also has a transnational aspect and includes the bribery of a foreign public official in its list of offences.

The AU Convention follows in the style of the SADC Protocol in listing specific acts of corruption and related offences. Its list includes passive and active bribery in the public and the private sector, the controversial provision on illicit enrichment, trading in influence, diversion of funds and concealment of funds resulting from acts of corruption. Laundering or concealment of proceeds from corrupt activities is also made an offence. The AU Convention includes an interesting provision on the funding of political parties. The only convention to do so, it expects the Contracting States to proscribe the use of funds acquired through illegal and corrupt practices to finance political parties and incorporate the principle of transparency in such funding. The AU Convention however lacks a transnational dimension in not including bribery of a foreign public official in its list.

The UNCAC, last in the chronological list, is more comprehensive than the other Group B conventions discussed above. It criminalizes bribery of national officials, foreign public officials and officials of public international organisations, bribery in the private sector, embezzlement of property both in the public and private sector, trading in influence,

illicit enrichment, abuse of function and laundering and concealing the proceeds of corruption. In taking a comprehensive approach it also addresses aspects that may hinder enforcement and criminalises the use of physical force, threats or the offer of a bribe to induce false testimony or to interfere in the giving of testimony or production of evidence. Equally intimidation of officials in order to interfere with the exercise of their official duties in respect of the offences created by the Convention is made an offence.<sup>15</sup>

## **1.2. Self-Regulation**

Commerce is no stranger to self-regulation. Since mediaeval times, instead of looking to the State for drafting suitable legislation, it has regulated its behaviour through the adoption of voluntary rules and standards which acted as a common language, to govern their business transactions, (termed *lex mercatoria*). The use of the standard trade term CIF (Cost, Insurance and Freight) in international sales is one such example. Rapid growth in international trade also saw the setting up of various organisations such as the London Corn Trade Association and the Grain and Feed Trade Association that played a role in drafting standard contracts and in lobbying parliamentarians.

Businesses are often subject to extortion in states with high levels of corruption and frequently resort to offering bribes in order to obtain or retain business, as the TI Bribe Payers' Index indicates. If any headway is to be made against corruption it is important to engage the corporate sector. Voluntary adoption of codes of conduct seems to be one way forward. The CSR movement has been very effective in making corporations more amenable to taking on environmental, human rights and labour standards issues. It should therefore be possible to convince them of the importance of behaving ethically in the context of corruption. There are numerous examples of the substantial steps that have been taken in this direction. These measures have been promoted by a variety of actors, international

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<sup>15</sup> *Ibid* Table I 'Offences Created by the Ant-corruption Conventions' pp 247-250 for a comparative perspective.

organisations representing business interests, trade/industry associations and international institutions.

An international organisation, set up in the early part of the twentieth century, which has played an important role in harmonising rules and promoting the interests of business and adoption of good practices by businesses is the International Chamber of Commerce (ICC). As far back as 1975, it adopted the Rules on Extortion and Bribery for voluntary adoption by businesses, the earliest code of conduct to address the subject of anti-corruption. This has been replaced with a version adopted in 2005. The ICC has yet again taken centre stage in the drive towards anti-corruption and is actively promoting adoption of ethical codes by outlining the risks of corruption, including the loss of reputation, in its latest brochure 'Business Case Against Corruption' (2008). Equally, industry associations such as the Aerospace and Defence Industries Association of Europe (ASD) are also calling for voluntary adoption of industry specific corporate ethical standards which includes anti-corruption in order to protect the reputation of the industry, a consequence of the issues raised by the bribery allegations in respect of BAE's Al-Yamamah contract with Saudi Arabia.<sup>16</sup>

The work towards widespread adoption of ethical codes is further consolidated by the International Standards Organisation (ISO), an entity that balances the needs of business and the broader needs of society, which is currently working on drafting the Social Responsibility Code (ISO 26000) due for publication in 2010. The OECD has also been instrumental, alongside activists and NGOs, in the move towards setting the standards of corporate behaviour and pushing the CSR agenda in a globalised society with the GME.

That CSR is an important element in the fight against corruption is also acknowledged by the UN anti-corruption regulatory framework. In Art 12(2), the UNCAC expects state parties to promote the development of 'codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good

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<sup>16</sup> For more on the issues surrounding Art 5 of the OECD Convention and the national interest arguments see Carr, I. & Outhwaite, O. (2008) 'OECD Anti-Bribery Convention Ten Years On' *Manchester Journal of International Economic Law*, 5(1), p. 3.

commercial practices among businesses and the contractual relations of business with the State’.

### **1.3. Accounting and Auditing**

Accounting and auditing systems play a unique and specific role in combating corruption. The procedures adopted can be mandatory or voluntary. Internal rules and procedures adopted for these purposes are generally said to form part of a company’s corporate governance system while external controls may be legislative or based on guidelines such as those issued by the relevant stock exchange committees. These systems should provide an effective mechanism for the detection and, based on the principle of deterrence, prevention of corrupt payments and practices.

Clear and effective accounting procedures should help to reduce the level of corruption by increasing the probability of acts of bribery being detected and reported. Transparency in accounting should help to reduce the information asymmetries that can allow corruption to go undetected, to fortify internal controls and to deter the demand side of bribery because of the increased risk of detection.<sup>17</sup> The role of auditors is to check the results of accounting procedures, including financial statements, and to provide assurances of their accuracy. Thus auditors and accountants are regarded as important ‘gatekeepers’ within anti-corruption strategies.

However, around the start of this century, notable problems emerged due to weaknesses in accounting and auditing rules and their implementation. These were highlighted most famously in the Enron/Arthur Anderson scandal. Several failings of the existing rules governing auditors were identified. One was the lack of independence of auditing firms. While being considered a ‘public watchdog’ they are in fact employed by the company which they are auditing.<sup>18</sup> The significant growth in the non-audit services offered

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<sup>17</sup> Wu, X. (2005) ‘Corporate Governance and Corruption: A Cross-Country Analysis’ *Governance: An International Journal of Policy, Administration and Institutions*, 18(2), p, 151.

<sup>18</sup> Shapiro, A. (2005) ‘Who Pays the Auditor Calls the Tune? Auditing Regulation and Clients’ Incentives’ *Seton Hall Law Review*, 30, June, p. 1029.

by auditing firms, including management advice and the design of compliance systems which they would then audit, also raised questions about conflict of interest and the extent to which the audit firms may be too closely dependant on their audited clients.<sup>19</sup> Further, the rules based approach had also enabled auditors to engage in creative compliance, following the letter of the law but not its spirit.<sup>20</sup>

The US Sarbanes-Oxley Act 2002 was enacted to address identified problems associated with the independence of auditors and the rigour and transparency of auditing services. This Act included reforms such as prohibiting auditors from providing certain non-audit services to audit clients; establishing the Public Company Accounting Oversight Board (PCAOB) to oversee the provision of auditing services and with a mandate to approve standards and to carry out inspections and impose penalties on audit firms for the purpose of their enforcement; requiring listed companies to appoint an audit committee comprised of independent directors with responsibility for oversight of appointed auditors; and requiring senior executives to personally certify that the company's financial statements are fairly presented.

The measures introduced by the Sarbanes-Oxley Act have come under criticism, including arguments about the independence of the PCAOB, the cost of compliance and its impact on businesses and that the auditors still wear two hats since they are still employed by the companies which they audit.<sup>21</sup> However, it has also been associated with much greater transparency in auditing and with active enforcement. Whilst the recent reforms in the US have been the most prominent other developments in respect of accounting and auditing standards have also taken place. Stock exchange rules, such as the UK Combined Code on Corporate Governance (2006) provide guidelines on auditing and accounting arrangements as do instruments such as the GME (see Part I:III, Disclosure) though these clearly are not of the

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<sup>19</sup> Bratton, W. W. (2003) 'Sarbanes-Oxley and Accounting: Rules Versus Principles Versus Rents' *Villanova Law Review*, 48(4), p. 1030.

<sup>20</sup> *Supra* note 18, p. 1052-3; and Bratton, W. W. (2007) 'Private Standards, Public Governance: A New Look at the Financial Accounting Standards Board', *Boston College Law Review*, 48(5), p. 54.

<sup>21</sup> *Supra* note 18; and Wallace, P. (2003) 'Accounting, Auditing and Audit Committees after Enron, et al.: Governing outside the Box without Stepping off the Edge in the Modern Economy', *Washburn Law Journal*, 43(1) p. 91.

same nature as the Sarbanes-Oxley Act. The extent to which all these measures impact on company behaviour is unclear.

#### 1.4. Non-Governmental Organisations (NGOs)

The widening interaction of NGOs with the community and media and their influence on the conscience of governments and international policy making institutions is highly visible. Their influence on trade and environment policies in WTO negotiations provides an instance of their emerging role in the global arena.<sup>22</sup> Without doubt, NGOs are now regarded as important stakeholders in activities that have a social impact, from climate change, world trade, education and information technology to corruption. TI is a major international anti-corruption NGO. While the publicity of corruption levels in different states through its annual Corruption Perceptions Index is the most commonly known of its activities, the range of its anti-corruption activity is much wider. It monitors implementation of anti-corruption legislation and compliance with international standards in various countries. TI's United Kingdom chapter for instance speaks vociferously about the lack of clear corruption legislation in the UK and promotes the need for a corruption bill. Equally it has been a major critic, alongside two other NGOs, Corner House and Campaign Against Arms Trade, of the Serious Fraud Office's decision to drop the investigation of the BAE slush fund on grounds of national interest.<sup>23</sup> TI also plays a major role in influencing public policy within governments and international law-making bodies such as the OECD. Country integrity reports that audit the state of corruption within a country are another major contribution of TI providing a

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<sup>22</sup> Bhagwati, J. (2004) *In Defense of Globalization*. Oxford: OUP.

<sup>23</sup> The issue of whether the decision made by the Director of the Serious Fraud Office was unlawful went to judicial review. The Queen's Bench Divisional Court held that the Director's submission to the threat (i.e. threat of withdrawal of security related information by the Saudis were he to continue investigations into the alleged BAE slush fund) was unlawful (see [2008] EWHC 714 (Admin.)). On appeal to the House of Lords it was held that the Director had acted lawfully (see [2008] UKHL 60). A full account of the facts surrounding the decision to drop the investigation is given in paras 2 – 22 of the HOL judgment. On the question of whether Art 5 of the OECD Convention precluded member states the right to rely on a severe threat to national security the Law Lords did not deem it necessary or desirable to resolve this problematic issue since (1) 'the Director throughout based his adherence to article 5 on a belief that it permitted him to take account of the threats to human life as a public interest consideration'; and (2) he had 'given unequivocal evidence that he would undoubtedly have made the same decision even if he had believed, which he did not, that it was incompatible with article 5 of the Convention' [at para. 47].

useful resource for planning remedial action within a state for policy-makers, international and state lending agencies and the corporate sector committed to Principle 10 of the UN Global Impact.

It must be stressed that TI is not alone in taking on the anti-corruption agenda. There are local NGOs, too numerous to list here, who play an important role in educating the public and in exposing corrupt practices. For instance, in Korea and Thailand local NGOs in collaboration with the media have exposed corruption at local and national government levels, leading to convictions.<sup>24</sup> Some of the local NGOs have also adopted novel ways of involving citizens in reporting corruption. For instance, the Public Affairs Centre in India has introduced a 'citizen's report card' which enables citizens to publicise instances of corruption.

That extra legal influences are important in the fight against corruption is also recognised by the international law instruments. The UNCAC in Art 13 requires states to take appropriate measures to promote the active participation of individuals and groups (such as community-based organisation and NGOs) outside the public sector thus endorsing the important role of NGOs in the fight against corruption.

### **1.5. Infrastructural Loans and Conditions**

The WB, as a major international donor institution, had always been aware of corruption in the recipient countries but refrained from saying anything openly about the problem since it was largely seen as a political issue and thus beyond its remit. However, in 1996, on the strength of numerous studies on the close connection of corruption to poverty and economic growth, the WB with its mandate of reducing poverty and increasing economic growth took the bold stand of openly pledging its commitment to fighting 'the cancer of corruption'<sup>25</sup>. The

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<sup>24</sup> Bhargava, V. and Bolongaita, E. (2004) *Challenging Corruption in Asia: Case Studies and a Framework for Action*. Washington D.C.: World Bank.

<sup>25</sup> In 1999 the point importance of addressing the issue of corruption was forcefully expressed by the then President of the World Bank, Mr Wolfensohn when he said:

So far as our institution is concerned, there is nothing more important than the issue of corruption ... At the core of the incidence of poverty is the issue of equity, and at the core of the issue of equity is the issue of corruption. Corruption has to be dealt with by a combination of forces within the country ... as an institution the best we could do was to try and assist in



WB sees corruption as a product of bad governance and weaknesses inherent in public sector institutions. Improving governance and public sector management are seen as the key to reducing corruption. It pursues this agenda proactively by engaging with and helping recipient states to move towards good governance through legal reforms, including the adoption of anti-corruption legislation, civil service reform, transparency in public sector management, judicial reform and the setting up of anti-corruption bureaux. It also actively disseminates strategies for combating corruption through seminars and workshops.<sup>26</sup> There is ample evidence that many countries have undertaken legal reform and restructured their civil service in ways that introduce integrity and transparency into the system along the lines suggested by the WB. Tanzania is one example of such a state.<sup>27</sup>

The WB is also unique in adopting sanctions in its anti-corruption strategy. Where there is evidence of fraud in bank financed projects, the WB can declare the ineligibility of the firm from taking part in future projects funded by the bank. The list of blacklisted firms is also made widely available. Other regional funding agencies such as the Asian Development Bank have also adopted similar anti-corruption strategies including sanctioning of firms who have engaged in illegitimate activities.

State development agencies such as USAID,<sup>28</sup> NORAD (Norwegian Agency for Development)<sup>29</sup> and UK's DFID (Department for International Development) have also tied

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the building of coalitions and in the forging of that interest in the issue of corruption and inequity, and get it out there.

(Address at the Ninth International Anti-Corruption Conference; text available at <http://www.worldbank.org> )

<sup>26</sup> See World Bank (2000) *Helping Countries Combat Corruption Progress at the World Bank since 1997* Washington D.C.: World Bank.

<sup>27</sup> See The United Republic of Tanzania (2004) *Tanzania's Third Phase of Government Fight Against Corruption: Implementing National Anti-Corruption Strategy and Action Plans 2001-2004* Dar es Salaam: GGCU pp. 11-62; Mutahaba, G. (2005) 'Pay Reform and Corruption in Tanzania's Public Service' Paper Presented at the Seminar on 'Potential for Public Service Pay Reform to Eradicate Corruption among Civil Servants in Tanzania' Dar es Salaam, 26 May 2005; The Officer of the Controller and Auditor General Tanzania (1999) *Independent, Government Accountability and the Prevention of Corruption* Draft Final Report The Swedish National Audit Office; Anti-Corruption Bureau and the Presidential Inquiry Commission Against Corruption (1996) *The National Integrity System in Tanzania Parliamentarians Workshop Corruption Survey* Dar es Salaam: CIET International; Good Governance Coordination Unit (2002) *National Integrity Fund Manual for Administration and Financial Management* Dar es Salaam: The United Republic of Tanzania.

<sup>28</sup> See Centre for Democracy and Governance (2000) *Promoting Transparency and Accountability: USAID's Anti-corruption Experience* Washington D.C.: USAID.

conditions to loans and this has resulted in major legal reform, for instance, in the African countries.<sup>30</sup> Tanzania, Mozambique, Uganda and Nigeria are some examples.

The reforms recommended by these organisations in respect of anti-corruption legislation, national and international, neatly dovetail the legal framework adopted in the anti-corruption conventions thus strengthening the anti-corruption strategy using regulation. Indeed many of the recipient countries are parties to the regional conventions such as the AU Convention and the UNCAC.

### **1.6. Anti-corruption Strategies and Surveys**

The success of any adopted strategy to counter or resolve a social problem depends on its suitability to achieve the expected outcomes and its flexibility to adapt suitably in response to assessments of its impact at the ground level. Questions as to the extent and the kind of impact to be measured are complex. The impact is affected positively, negatively, indifferently or unpredictably by a number of variables such as attitudes, expectations, cultures, social backgrounds, motivations and mores. So, just as strategies affect human behaviour, human behaviour also affects strategies. In the context of anti-corruption strategies and how they impact upon companies, a major stakeholder in international business, a more refined understanding of the ways in which company behaviour, experience and attitudes interact with the adopted strategies is required. For instance, linking company perceptions on anti-corruption instruments and regulatory approaches to internal policies and activities could

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<sup>29</sup> The Scandinavian countries have always traditionally been major donors to Tanzania since the 1970s. See Helleiner, G., Killick, T., Lipumba, N., Ndulu, J., and Svendsen, K.E. (1995) *Report of the Group of Independent Advisors on Development Cooperation Issues between Tanzania and its Aid Donors* Copenhagen: Royal Danish Ministry of Foreign Affairs. See also Mukandala, R. (1999) 'From Proud Defiance to Beggary: A Recipient's Tale' in Hyden, G. and Mukandala, R. (ed.) *Agencies in Foreign Aid: Comparing China, Sweden and the United States in Tanzania* London: Macmillan; and Falck, H. (1997) *Aid and Economic Performance: The Case of Tanzania*, Lund: Department of Economics, University of Lund.

<sup>30</sup> According to a recent news item the UK International Development Secretary Mr Hilary Benn hailed Tanzania's progress and announced that the UK will provide £105 million of direct budget to support Tanzania during 2007-2008. Tanzania is DFID's biggest recipient of funding. News item 'International Development Hails Tanzania's Excellent Progress, Unveils Budget Support' dated 1/16/2007 available at <http://www.britainusa.com>.

provide a means to identify and address ‘gaps’ or limitations which act as barriers to combating corruption.

An assessment of the impact of anti-corruption strategies on businesses could be classified into:

- 1) Experience of corruption;
- 2) Awareness of anti-corruption strategies;
- 3) Attitudes to anti-corruption strategies including views of their potential to combat corruption in a comparative context;
- 4) Changes in corporate culture (covering a whole range from adoption of codes, training of executives, reporting mechanisms, accounting and auditing practices);
- 5) Motivations for executing changes, be they external or internal;
- 6) Success of procedures adopted;
- 7) Engagement with organisations promoting anti-corruption strategies such as NGOs;
- 8) Prioritisation of social issues within corporate strategy; and
- 9) Views on improving current strategies.

To date there is very limited data available to build a picture capable of addressing the above classifications. A source commonly referred to is the corruption perception index (CPI)<sup>31</sup> produced by TI which scores countries based on perceptions of the public sector with scores ranging from 0 (most corrupt) to 10 (least corrupt). The CPI is derived from surveys and expert opinions. The 2007 index drew its information from the following sources: Asian Development Bank (ADB), African Development Bank (AFDB), Bertelsmann Transformation Index (BTI), Country Policy and Institutional Assessment by the World Bank (CPIA), Economic Intelligence Unit (EIU), Freedom House Nations in Transit (FH), Global

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<sup>31</sup> The World Bank also publishes Governance Indicators which includes linkages between corruption and development. See Kaufmann, D., Kraay, A. and Mastruzzi, M. (2008) ‘Governance Matters VII: Aggregate and Individual Governance Indicators, 1996-2007’, *World Bank Policy Research Working Paper* No. 4654, (June 24, 2008).

Insight Country Risk Ratings (GI), International Institute for Management Development, Lausanne (IMD), Merchant International Group (MIG), Political and Economic Risk Consultancy (PERC), United Nations Economic Commission for Africa (UNECA), and the World Economic Forum (WEF). The selection of sources is guided by a number of criteria aimed at achieving some degree of uniformity of methodology. Among the criteria are whether the extent of corruption is measured independently of factors such as political instability or civil conflict, and whether they rank the countries. However, the uniformity of methodology does not seem to extend to matters such as the type of questions asked, the type of respondents or the number of countries covered. By way of illustration, CPIA focuses on 77 countries that are eligible for funding from the WB, the BTI on 125 less developed and transition countries and the PERC on 15 countries. The focuses of the questions also vary. For instance, PERC focused on how serious the respondent considered the problem of corruption to be in the public sector whilst BTI focused on the government's capacity to punish and contain corruption.

Given the degree of divergence it would be reasonable to question the reliability of such indices. However it must be pointed out that corruption is a secret activity lacking a paper trail. Hence The observations and experiences of experts and opinions obtained through surveys of the public are therefore important in so far as they reflect to a noticeable degree the extent of the problem within a given society and in particular sectors such as the public sector. Of course conclusions based on such evidence are affected by the subjective and in this sense cannot be said to be a true representation of reality. Nevertheless, as Kaufmann and Kraay state, they provide a perspective of what happens on the ground.<sup>32</sup> For current purposes however the CPI is not of much use since its focus is the incidence of corruption rather than the impact of the anti-corruption strategies, (though it may be possible, based on comparison of scores with previous years, to make tentative statements about the increase or decrease in corruption of a particular country).

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<sup>32</sup> Kaufmann, D. and Kraay, A. (2008) 'Governance Indicators: Where Are We, Where Should We Be Going?' *World Bank Research Observer (WBRO)*, January 2008.

There are of course a number of other surveys which examine empirically company behaviour and attitudes with respect to corruption. A list of the some of the relevant surveys and their remit is set out in Table I below.

**Table I: Summary of anti-corruption surveys**

Author	Date	Title	Details of sample	Data collection methods	Overview
<b>Corruption and bribery surveys (general)</b> Ernst & Young (E&Y 2008)	2008	Corruption or Compliance – weighing the costs. 10 <sup>th</sup> global fraud survey	1186 'senior decision-makers' in large organisation. 'The sample was structured to include respondents from key parts of the company, including senior financial and risk managers as well as the heads of legal, compliance and internal audit groups.'	Telephone interviews. Interviews were conducted in local languages in 33 countries.	Aims to understand how companies are managing the risks associated with bribery of foreign officials, particularly in light of strong enforcement of the US FCPA. Looks at company experience of bribery, views on enforcement of anti-bribery and corruption laws, tools used to manage these risks e.g. internal auditing and awareness of FCPA.
Price Waterhouse Coopers (PwC 2008)	2008	Confronting Corruption: the business case for an effective anti-corruption program	390 executives	Online survey	Considers corruption from perspective of business risk and discusses data in the context of the business case for addressing corruption. Reports findings on impact and incidence of corruption, importance placed on business impacts of corruption e.g. impact on reputation, reported implementation and effectiveness of internal controls
KPMG (Forensic) (KPMG 2007)	2007	Overseas Bribery and Corruption	More than 100 FTSE 350 companies	Survey (unspecified)	Reports on company knowledge of the US FCPA and UK ATCSA, incidence of bribery and corruption practices and discusses of how companies are addressing and could address corruption.
Price Waterhouse Coopers (with Martin Luther University Economy and Crime Research Centre) (PwC 2007)	2007	Economic crime: people, culture and controls	5400 respondents randomly selected. Target number of respondents in each country was based on GDP. Survey also involved a review of the results from 2026 cases of fraud reported by 1435 companies and the opinions of 1568 self-accredited experts on the impact of economic crime in seen emerging markets.	Computer assisted interviews (telephone and web) conducted in 40 countries by specially trained native language speakers.	Focuses on fraud and considers corruption as an aspect of this. Looks at perceived and reported levels of fraud, cost of fraud to companies, adoption of fraud risk management strategies and impacts of ethics and compliance programmes, reported motivations and profile of those committing fraud and issues with emerging economies.
Simmons & Simmons (S&S 2006)	2006	International business attitudes to corruption	350 companies based in seven jurisdictions (UK, US, Germany, France, the Netherlands, Brazil and Hong Kong)	Telephone interviews	Considers corruption is a major obstacle to international business. Looks at incidence and costs of corruption for businesses, impact of anti-corruption legislation including respondents' awareness of domestic legislation and 'emerging best practice' regarding the adoption of internal measures.
Ethical Investment Research Services (EIRI 2005)	2005	Corporate codes of business ethics: an international survey of bribery and ethical standards in companies	1,966 companies on the FTSE All-world Developed Index + an additional 440 smaller UK companies	Analysis of existence and scope of codes of ethics and management systems	Measures the quality of ethics codes and business ethics management systems based on a scale. Discusses risk factors based on own data as well as TI and WB indices.

Author	Date	Title	Details of sample	Data collection methods	Overview
<b>Sector/issue specific corruption surveys</b>					
Association of Certified Chartered Accountants (ACCA 2007)	2007	Bribery and Corruption: the impact on UK SMEs	The sample consisted of two main groups: those actually working in SMEs as accountants or general managers and those in public practice who provide professional services to SMEs. Responses were received from 558 members		Discusses issue for SMEs in light of the OECDs call for more to be done in respect of these businesses. Notes importance of accountants in this area including their advisory role to businesses. Examines participants understanding of corrupt practices, its occurrence for SMEs and the relevance of different sources of help or assistance.
Chartered Institute of Builders (CIOB 2006)	2006	Corruption in the UK Construction Sector	1404 respondents	Web-based questionnaire open to anyone in the UK (members and non-members)	Focuses on perceived presence of different types of corruption encountered in the construction industry and detection and reporting of fraud and corruption (with fraud viewed as an aspect of corruption).
KPMG and University of Amsterdam (KPMG 2005)	2005	International Survey of Corporate Responsibility Reporting	The top 250 of the Fortune 500 and top 100 companies in 16 countries. Response rate was 98%	Questionnaires and analysis of corporate reports	Discuss 'corporate responsibility' as a driver of financial performance and indicator of non-financial performance. Discusses level of reporting, trends in CR reporting such as broadening of scope and inclusion of assurance statements, drivers for CR.
Institute of Directors (IoD 2002)	2002	Corporate Social Responsibility: IoD Member Opinion Survey	500 respondents	Telephone interviews	Focuses on social and environmental aspects of CSR including discussion at board level and CSR reporting. Also examines 'specific CSR issues' which focus on employment and equality issues and on awareness of CSR initiatives and the influence of different stakeholders in influencing CSR policy.

Not all of the above surveys focus specifically on corruption. Some focus on CSR but since they include corruption within the CSR agenda they are relevant to the question of impact. These surveys give some information about corruption in international business but there remain many gaps which limit an understanding of the ways in which the private sector and NGOs have attempted to combat corruption in this field and, in particular, how the perceptions and experiences of these stakeholders may relate to limitations with legal and non-legal regulatory anti-corruption measures. A key difficulty with these surveys is that whilst broad themes can be identified, the specific issues and the sample population involved vary for each survey (see Table I for more details). So any linkages between surveys' findings need to be investigated empirically before more accurate conclusions can be drawn. In addition, the linkages between data within given surveys or with other relevant variables often remain under-explored. For instance, in some cases, the surveys (e.g. KPMG 2007) ask questions about the success of specific measures, but in doing so fail to provide an understanding of how companies view such instruments comparatively, i.e. which are considered to be more successful than others.

It is not the intention here to engage in a thorough discussion of the findings of the existing surveys but some of the general threads emerging from these reports are noted. The extent of corruption experienced by respondents varies between reports but is clearly a concern in all cases. Of even greater concern is that some reports (S&S 2006, CIOB 2006) found that respondents were pessimistic about the likelihood of corruption problems abating in the near future. This highlights further the need to understand the limitations of existing anti-corruption efforts and how these can be improved.

Difficulties facing smaller organisations are another aspect that needs to be addressed since the findings appear to suggest that the larger the company, the more likely and better equipped they will be to tackle bribery and corruption. There may also be variance amongst companies depending on the companies demographic characteristics – location, industry sector and so on. The findings of ACCA 2007, for example, highlight also some of the regulatory needs reported by respondents and it would be helpful to compare these more



systematically with the views of companies from other sectors and of different sizes and geographic locations. A difficulty however is that the surveys findings include both similarities and differences and since the data is not directly comparable it is difficult to draw conclusions. In addition, again the reports tend to include only limited analysis of the data. For instance, according to the E&Y 2008 survey Japanese companies reported experiencing the highest levels of corruption. This is interesting when viewed in light of TI 2007<sup>33</sup> ranking where Japan is listed as one of the countries least affected by bribery. The aforementioned report also noted that these companies experienced corruption mainly in their overseas operations thus raising questions about the type of operations and their locations leading to these much higher experiences of corruption and the degree of congruence with the TI findings (which, as discussed, have been subject to some criticism). Unfortunately the reports do not provide sufficient additional data for these issues to be explored.

In addition to company size, country and industry sector, the surveys indicate other variables which may be important. It is important to understand, for example, the drivers which impact upon businesses' anti-corruption efforts. The findings discussed are sometimes contrasting. For example, ACCA 2007 explored respondents' views on different types of anti-corruption instrument. By some margin, high profile cases of prosecution were considered to be the most effective, followed by guidance from professional and trade associations. The least effective approach was considered to be an ethical code to which businesses could publicly sign, followed by the appointment of an auditor. It can be seen that the regulatory nature of the two options considered most effective were quite different as were the two considered least effective. The reports discuss factors such as the risk of prosecution or negative publicity as motivations for businesses to prevent corruption but the extent to which these are actually taken into account by businesses is still unclear. Similarly some features of internal anti-corruption programmes, such as 'tone from the top', are commonly advocated in surveys and literature but further empirical insights are essential to understand to what extent

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<sup>33</sup> See Corruption Perception Indices 2007 available at <http://www.transparency.org> .

these are present in corporate anti-corruption programmes, to what extent they have been useful and what the limitations are.

CSR has also been identified as a potentially useful approach for combating corruption but this is an area that is under explored. Whilst there may be scope for businesses to incorporate anti-corruption efforts into their CSR frameworks, the surveys suggest that the drivers for combating corruption and the approaches that will be (a) favoured and (b) successful will not necessarily be the same for all CSR components and specifically may differ for corruption. It is important to understand that the drivers which are relevant to one issue, such as environmental protection, may not be the same as for another issue, such as corruption. This again is an area for further research since whilst some aspects of CSR have been the subject of extensive research into business motivations and practices, the same cannot yet be said for corruption. One issue to be explored is the impact of different types of regulatory approach. For example, whilst economic and ethical considerations may be key drivers for corporate responsibility reporting generally, with respect to governance legislative developments may be more significant. Likewise, although the IoD 2002 (see also PwC 2008), emphasises that further regulatory intervention is neither necessary nor welcome others (e.g. CIOB 2006, ACCA 2007) indicate, perhaps surprisingly, that government regulation might be relatively well-supported and/or effective.

Perhaps most clearly the survey findings suggest that success in combating corruption may arise from a subtle interaction between variables which are not yet fully understood. Findings which suggest that the US leads the way with respect to business anti-corruption practices might lead to inferences about the regulatory framework in which those practices operate. However, other countries such as those with higher levels of corporate responsibility reporting might have found alternative effective approaches. Since the surveys do not all focus on the same issues or involve the same sample populations it is impossible to draw solid conclusions from them as to what an effective anti-corruption framework looks like. To address the particular questions of interest in the present case there is a need to build upon the insights provided by the above reports in a more systematic and comparative manner.

### 1.6.1. The Pilot Survey

Although a range of anti-corruption instruments have been developed these will only help to tackle the problem of corruption if they are effective and make a real difference to the practices and policies of those stakeholders to whom they are addressed or applied. While a number of surveys have explored the incidence and experiences of companies with corruption and the adoption of company strategies in response to external pressures there are important limitations with the data to build a picture about corruption in international business transactions and the impact that the anti-corruption strategies have had in this context.

The present research aims to address these gaps and to contribute to the field through a thorough and empirical exploration of key issues identified in the Introduction. In order to gain insights into these questions a survey of businesses and NGOs was implemented. This project is unique in including NGOs and also therefore in creating an opportunity for exploring the interaction and levels of engagement between different stakeholders.<sup>34</sup>

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<sup>34</sup> The sample frame for businesses was large, based on the The Times stock exchange listings. For the purposes of the pilot survey one sector, industrials, was selected from the listings. The sampling strategy was purposeful so that a range of variables, such as multinationals, AIM listed companies and operations in different geographical regions would be included. This sector included 81 companies, 80 of which were targeted since details for one company were not found despite several searches. The sample frame for NGOs was smaller since organisations undertaking work directly related to corruption or those working in the broader field of CSR, particularly where this related to development or governance, were included. The final list included 162 organisations. Ten percent of the list (16 organisations) was randomly targeted for the pilot survey along with two further organisations.

For more on methodological issues in framing questionnaires see, for instance, Bryman, A. (2004) *Social Research Methods*, 2<sup>nd</sup> ed. Oxford: OUP; de Rada, V. D. (2005) 'Influence of questionnaire design on response to mail surveys' *International Journal of Social Research Methodology*, 8(1) p. 61; Dillman, D. A., Sinclair, M. D., and Clark, J. R. (1993) 'Effects of Questionnaire Length, Respondent-Friendly Design, and a Difficult Question on Response Rates for Occupant-Addressed Census Mail Surveys', *The Public Opinion Quarterly*, 57(3) p.289; Dunn, K. M., Jordan, K., and Croft, P. R. (2003) 'Does questionnaire structure influence response in postal surveys?', *Journal of Clinical Epidemiology*, 56 (11) p. 10; Fowler, F. J., Jr. (1993). *Survey Research Methods*, 2<sup>nd</sup> ed., Newbury Park, CA: Sage; Frankfort-Nachmias, C. and Nachmias, D. (1992) *Research Methods in the Social Sciences*, 5<sup>th</sup> ed., London: Hodder Arnold; Jenkins, C. R. and Dillman, D. A. (1995) 'Towards a Theory of Self-Administered Questionnaire Design', available at <<http://www.census.gov/srd/papers/pdf/sm9506.pdf>>; Kalton, G. and Schuman, H. (1982) 'The Effect of the Question on Survey Responses: A Review', *Journal of the Royal Statistical Society. Series A (General)*, 145(1), p.. 42; Oppenheim, A. (1992) *Questionnaire Design, Interviewing and Attitude Measurement*, London: Pinter; and Zukerberg, A. and Lee, M. (1997) 'Better Formatting For Lower Response Burden', U.S. Bureau of the Census, CSMR/SRD, *Proceedings of the Section on Survey Research Methods*, Alexandria, VA: American Statistical Association.

## 2. FINDINGS

Due to the relatively small number of completed questionnaires<sup>35</sup> the findings are discussed without application of the full codebook and statistical analysis.<sup>36</sup> While generalised claims based on this data could be misleading nevertheless these initial findings, taken together with the other outcomes of the pilot surveys, noted above, identify some interesting attitudes and raise a number of questions to be explored further on the basis of the final dataset.

### 2.1. Company Responses<sup>37</sup>

#### A. Company Characteristics<sup>38</sup>

The four responding companies varied in their characteristics (see Table II below). Two were based in the UK, one in the US and one in the British Virgin Islands, with the non-UK based companies identified as being listed on the AIM exchange. No listings on stock exchanges of other countries were reported. One of the UK based companies identified itself as operating only within the UK while the others reported operating in a range of countries worldwide.

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<sup>35</sup> The total number of responses from businesses was 10. However only four completed the questionnaires and a number gave company policy as a reason for not completing the questionnaire. Non-participation in surveys is increasing and this raises some interesting theoretical and practical questions. See Bethlehem, J., Cobben, F. and Schouten, B. (2007) 'Nonresponse in Household Surveys', Version 2, Statistics Netherlands; Bryman, A. (2004) *Social Research Methods*, 2<sup>nd</sup> ed. Oxford: OUP; de Leeuw, E. and de Heer, W. (2002) 'Trends in Household Survey Nonresponse: A longitudinal and International Comparison', in *Survey Nonresponse*, Groves et al (eds), New York: Wiley; Dunn, K. M, Jordan, K., and Croft, P. R. (2003) 'Does questionnaire structure influence response in postal surveys?', *Journal of Clinical Epidemiology*, 56 (11) p.10; and Inaba, A. (2007) 'Problems Relating to Declining Response Rates to Social Survey Research in Japan: Trends after 2000', *International Journal of Japanese Sociology*, 16(1), p.10.

Surveys conducted by various organisations such as ACCA, Ernst and Young show a high number of participants. A note of caution however must be added here. The number of participants does not indicate response rate.

The response rate for NGOs was higher. All three NGOs who responded filled in the questionnaire giving a response rate of 16.7%. For a full discussion of survey methodology including issues surrounding non-response see Carr, I. and Outhwaite, O. (2008) *Investigating the Impact of Anti-Corruption Strategies on International Business: An Interim Report*, Surrey Law Working Paper No.2. Guildford: Surrey Law Publishing.

<sup>36</sup> Detailed and systematic data analysis involving the application of predefined coding schema will be undertaken for the full sample. For more on use of codebook and statistical analysis see Kumar, R. (2005) *Research Methodology*, London: Sage Publications.

<sup>37</sup> The questions and answers provided by the companies are provided in Appendix 1.

<sup>38</sup> See Qn 1, Appendix I.

This UK company therefore potentially has a different experience from other responding companies.

**Table II: Characteristics of Company Respondents**

<b>QUESTIONNAIRE NO.</b>	<b>Head office</b>	<b>Stock exchange listings</b>	<b>Countries of operation</b>
<b>70</b>	USA	UK AIM	US, INDIA, MEXICO
<b>55</b>	UK	UK	WORLDWIDE EXCEPT CHINA, JAPAN, CANADA
<b>3</b>	UK	UK	UK
<b>35</b>	BVI	UK AIM	BVI, CHINA, EUROPE, HK

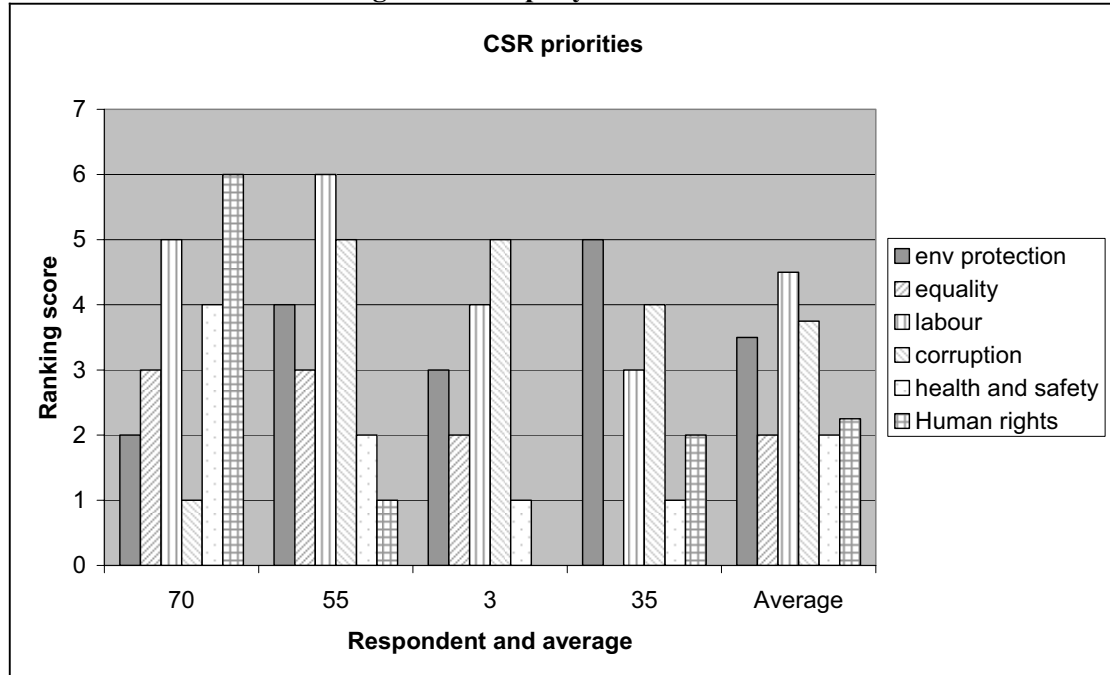
**B. Prioritisation of Corruption in CSR**<sup>39</sup>

Participants were asked early on in the questionnaire to rank different components of CSR in order of priority, with 1 being the most prioritised and 6 the least prioritised with zero indicating that the aspect was not considered to be relevant. Despite the possible response effects that may have been associated with this question, corruption was generally ranked as a low priority, with health and safety and human rights emerging as highly prioritised. The inverse however was true for the US listed company. It should be remembered that these scores are not absolute values. They instead indicate each organisation’s own view of the extent to which these different aspects of CSR are prioritised within their organisation (see Figure I below).

It is feasible that issues such as health and safety are prioritised due to more prescriptive mandatory regulation. This at least is the case in the UK. This may also indicate a possible reason for the variance of the US based company since the US FCPA has seen vigorous promotion since its inception.

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<sup>39</sup> See Qn2 , Appendix I.

**Figure I: Company CSR Priorities**

### C. Perceived Levels of Corruption<sup>40</sup>

The respondents reported the perceived level of corruption existing within their own organisation to be very low, scored as 1 or 2 on a scale of 1 – 10, with 10 being entirely corrupt. The perception of the level of corruption existing within the industry as a whole was only marginally higher – ranked as ‘2’ by two respondents and ‘5’ by one (no. 55).<sup>41</sup> Another possibility with respect to CSR therefore is that these companies do not prioritise corruption because they consider its prevalence to be low and therefore less pressing than other issues. This however would be surprising viewed in the context of the countries in which some of the respondents operate (India, China and Mexico) and which are rated in TI’s CPI as highly corrupt.

It may also be that companies are unwilling to reveal the extent of corruption that exists or simply might not be aware of it. The likelihood of these possibilities is high if there is a tolerance towards or acceptance of certain corrupt practices. A comparison of these responses with data collected in later phases of the survey is therefore necessary to explore the likely reasons behind these findings.

<sup>40</sup> See Qn 9, Appendix I.

<sup>41</sup> Company 3 (operating only in the UK) replied ‘don’t know’.

#### **D. Implementing and Enforcing Anti-corruption Policies**<sup>42</sup>

Despite corruption possibly being a relatively low priority for most of the responding companies, all four organisations indicated that they have an anti-corruption policy, though only company 3 indicated that this policy was publicly available. With the exception of organisation 70, who did not respond to the relevant questions, the companies had implemented the policies between 2005 and 2007 and all had been reviewed in the last 0 – 6 months. The content of the policies, based on the list provided, varied, with most listed aspects being covered by one or more companies. Only ‘bribery/kickbacks’ and ‘facilitation payments’ were reported to be covered in all four policies.

As for the implementation of these policies, measures were generally aimed at Board members and employees and in some cases to aspects of the supply chain. In this respect company 55 reported having introduced a code of conduct/best practice and written materials aimed at Board members and employees; company 3 targeted the same stakeholders but had only introduced written materials.<sup>43</sup> Company 70 indicated that a code of conduct/best practice aimed at board members, employees and aspects of the supply chain and a signed agreement and contractual conditions aimed at employees and aspects of the supply chain had been adopted. An informal audit process was also noted to have been introduced for employees and aspects of the supply chain. These appear, by and large, to be relatively limited attempts to implement the companies’ policies, though relying on contractual provisions may be more stringent. Company 35 had adopted more extensive measures – codes of conduct/best practice were reportedly aimed at shareholders, NGOs or independent bodies and aspects of the supply chain as well as employees and board members. Training sessions or workshops were provided in-house for employees, NGOs/independent bodies, government agencies and aspects of the supply chain. Contractual conditions applied to customers/clients

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<sup>42</sup> See Qns 11, 12, 13 Appendix I.

<sup>43</sup> The company indicated earlier that it had a policy in place regarding corruption so it could be assumed that this policy was not targeted at any of the stakeholders listed, raising the question ‘who is it aimed at’?

as well as to board members, employees and aspects of the supply chain and online and written materials as well as meetings or announcements had also been employed. Despite ranking corruption as a relatively low priority in CSR terms, these reported efforts go substantially further than those reported by the other companies.

Efforts to achieve compliance were split. Companies 3 and 55, based in the UK, reported having taken very few steps to achieve compliance with the company anti-corruption policy, relying primarily on the involvement of external auditors. Company 55 had indicated that external auditing was the only method adopted to achieve compliance and indicated that this was found to be 'somewhat effective'. Company 3 selected 'don't know' when ranking both the involvement of external auditors and the involvement of independent directors.<sup>44</sup> Companies 70 and 35, by contrast, reported employing a range of measures which involve internal company efforts such as in-house monitoring and enforcement processes as well as the involvement of external auditors. These companies rated almost all of the measures adopted as 'highly effective' or in some cases 'somewhat effective' in helping to achieve compliance. The insights gained so far in this respect suggest that the level and success of compliance mechanisms are associated with the individual company as opposed to certain mechanisms being generally found to be more useful than others. Again, in the full survey it will be important to consider whether this observation stands and if so what the particular characteristics of companies reporting successful compliance mechanisms are.

### **E. Influences on Company Behaviour**<sup>45</sup>

A similar division surfaces between the companies in respect their perceptions of the influence of different sources on their company behaviour.<sup>46</sup> Whereas companies 70 and 35

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<sup>44</sup> Company 3 did not rank the value of imposing penalties for breach of the anti-corruption policy though indicated that these had been adopted.

<sup>45</sup> See Qn 14 Appendix I.

<sup>46</sup> The sources listed were: (1) International Law (e.g. agreements or convention), (2) industry specific code or initiatives, (3) general voluntary initiatives (voluntary codes, guidelines, coalitions), (4) national laws in the main country of operation, (5) national laws in other countries of operation (6) national government policies, (7) influence of NGOs or pressure groups, (8) consumer/client demand, (9) attitudes of general public, (10) employee demand, (11) shareholder demand, (12) corporate ethical



ranked all the sources listed, on several occasions companies 55 and 3 either did not respond or indicated that they ‘don’t know or are not aware of the source’. These companies also tended to rank the sources with a middle, neutral value.<sup>47</sup> In the case of company 3, operation only in the UK may limit the extent to which the sources listed are relevant though this in itself would be noteworthy since factors such as protection of reputation possibly ought to be considered as relevant whatever the level of operation, particularly in light of the fact that a large number of companies in the UK are SMEs and may not operate internationally but will still be expected to be compliant with some anti-corruption instruments.

Companies 70 and 35 were polarised in their views of many of the sources listed. Based on a rating scale of 1-10 in which 1 indicates the source has had no influence at all, company 35 scored all the sources listed as 8, 9 or 10 indicating that all were felt to be highly influential and that little difference was perceived between the extent of influence of each factor. Although some of the data (above) indicates that this company may be very actively engaged in combating corruption and might therefore utilise all of these sources it is also possible that this result represents an exaggerated view. It is questionable whether all sources could be considered so equally influential. Nevertheless the data does give some idea of a perceived ranking. On this basis it can be seen that the more formal sources – international law, industry specific codes/initiatives, national laws in the country of operation and stock exchange listing requirements – given a score of 10, are considered to have most influence on company behaviour. Whilst these measures may, as suggested, be more formal in nature it is not to say that they are all mandatory and it is important to consider this distinction when evaluating the influence of different measures. The less formal sources were ranked slightly lower at 9, for instance, the influence of NGOs, shareholder or employee demand and the attitudes of the general public. In addition, the national laws in other (non-Head Quarter) countries of operation were also ranked at this level indicating that for this company domestic

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values, (13) protection of corporate reputation, (14) wishing to remain competitive, (15) economic benefits/operational efficiency and (16) stock exchange listing requirements.

<sup>47</sup> Company 3 gave scores of 5 to sources 10, 11, 12 and 13 and a score of 3 to source 3. Company 55 gave values of 4 to sources 1, 2, 3, 4 & 5 and a score of 8 to source 12.

measures are more stringent than those applied elsewhere, i.e. Europe, China and Hong Kong. Corporate ethics and economic influences were ranked lowest.

These responses can be compared with those given by the US-based company 70. International laws, industry codes, stock exchange listing requirements and national laws in the main country of operation, receiving a score of 10, were again all considered to be the most influential sources. In addition national government policies, corporate ethical values and protection of the reputation were considered to be just as important, hinting at a potential variance in data based on jurisdiction. Although there was a similar split regarding the sources which were considered to be less influential, in this case the variance in rating was much greater; national laws in other countries of operation and voluntary initiatives were scored 3 and the influence of NGOs and public attitudes, the wish to remain competitive and perceived economic benefits were scored 1. That sources such as voluntary initiatives, NGO involvement and employee and public demand are considered to have less or no influence on company behaviour with regard to corruption could have significant policy implications. If this view is relevant for companies more generally then it raises questions about whether and how the type of stakeholder involvement often cited as essential can actually work and how future initiatives should be developed.

#### **F. Influence of Specific Sources**<sup>48</sup>

Company rankings of specific sources reveal more nuanced and, perhaps in some cases, contradictory attitudes.<sup>49</sup> Despite suggesting that they were highly influential in general terms, none of the international instruments listed were scored higher than 1 by company 70.

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<sup>48</sup> See Qn 16, Appendix I.

<sup>49</sup> Scores were given on the same basis as before, using a scale of 1-10. The sources listed were: United Nations Convention, OECD Convention, African Union Convention, SADC Protocol, ECOWAS Convention, OAS Convention, Council of Europe Convention, US FCPA, US Sarbanes-Oxley Act, US False Claims Act, UK Anti-Terrorism, Crime and Security Act, UK Public Interest Disclosures Act, UK Proceeds of Crime Act, UK Fraud Act, London Stock Exchange Combined Code of Corporate Governance, General Listings Rules of London Stock Exchange, listing Rules of New York Stock Exchange, Listings Rules of Johannesburg Stock Exchange, Listings Rules of Hong Kong Stock Exchange, UN Global Compact, OECD Guidelines for Multinational enterprises, ICC Rules of Conduct on Combating Extortion and bribery, Partnering Against Corruption (PACI) Principles for Countering Bribery, and TI Business Principles for Countering Bribery.

Overall, the only measures not to be scored 1 by this company were the US FCPA, the General Listings Rules of the London Stock Exchange (LSE) and the LSE Combined Code on Corporate Governance. As well as suggesting that very few of the existing anti-corruption instruments are considered to have influenced the company's behaviour this also requires us to consider why international instruments were considered so influential in the preceding question.

Company 55 also found the US FCPA (scored 7) and the General Listings Rules of the London Stock Exchange (LSE) and the LSE Combined Code on Corporate Governance (both scored 6) to be the most influential sources, despite not having indicated whether stock exchange requirements were influential in general terms. Consistent with its preceding more general responses, Company 35 gave the LSE sources scores of 10 and likewise cited the UN and OECD Conventions as having a significant impact on company behaviour, giving these sources scores of 9 (other international sources were given neutral scores).

The companies found other national legislative instruments and multilateral instruments to have relatively low (or no) influence, though company 35, which operates in Hong Kong, also found the HK listing requirements and the UK Public Disclosure Act to be relatively influential on behaviour (each scored as 7), though interestingly, and in contrast with companies 70 and 55, it regarded the US FCPA as having limited influence, giving it a score of 3. The US FCPA has often been cited as an instrument that is particularly well known by companies and which has made an established impact on corrupt practices. That this was one of very few instruments considered by the respondents to have had a real impact on their behaviour supports this view but, of course, is based on a very limited number of responses and as can be seen, the responses are not completely clear cut. By the same token it appears that Stock Exchange rules have been one of the biggest influences on companies' behaviour in relation to corruption. Coupled with the insights into the reported influence of different types of instrument generally (above) these findings begin to raise questions about the ways in which anti-corruption instruments might be structured in order to be effective in changing business behaviour. This very early data supports to some extent that of previous

surveys which suggest that more prescriptive and formal rules are favoured over broad based and voluntary initiatives.

Again company 3 appears to have the least knowledge of anti-corruption instruments, indicating in most cases that they do not know what impact the instrument has or are not aware of it. Those that are ranked, the General Listings Rules of the London Stock Exchange (LSE) and the LSE Combined Code on Corporate Governance, receive scores of 1, indicating that they are considered to have no real influence. It can be seen that company 3 appears to be emerging as the least active and engaged of the participants with respect to corruption or at least is experiencing more difficulties and less successful ways of combating the problems, a possibility that may be explored further on the basis of more comparative data.

#### **G. Influence of Enforcement Mechanisms**<sup>50</sup>

A similar pattern can be identified when analysing the influence of enforcement mechanisms on company behaviour. Company 35 tends to rank the mechanisms as having a greater influence on company behaviour than do the other companies but again some relative scale in the way that the mechanisms are perceived can be observed. In this instance however the perceived influence of mechanisms tends to vary more between the individual companies. It is therefore difficult at this stage to draw conclusions from the data except to speculate that one reason for the variation may be that companies have substantially different experiences of being subject to enforcement procedures.

#### **H. Respondents' Views on Further Measures**<sup>51</sup>

Overall, companies were neutral or opposed to an increase in the number and stringency of applicable government regulations but neutral or in favour of an increase in the thoroughness of enforcement and the level and probability of sanctions being imposed. The positive scores regarding the latter came from company 70, the US based company. Opposition to the former measures came from across the companies. Views were mixed regarding an increase in the

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<sup>50</sup> See Qn 17, Appendix I.

<sup>51</sup> See Qn 18, Appendix I.

frequency of enforcement activities, with company 70 the only respondent in favour of an increase. These views again hint at a possible issue of jurisdiction with the views of company 70 being particularly supportive of strengthened enforcement. The specific drivers for these views are not yet clear however.

Measures which were more frequently favoured, though not unanimously (some views were neutral), were an increase in training and education aimed at different stakeholders (directors, employees and the general public), increased compliance with existing anti-corruption measures by competitors with, increased pressure to combat corruption at the board level and the standardisation of codes of conduct. Together with the above responses, this may suggest that it is compliance and enforcement which are more pressing concerns for these companies rather than lack of regulation *per se* or a desire for increased collaboration. Views on industry-wide or multi-stakeholder initiatives were mainly neutral, suggesting that there is no particular desire for an increase in such approaches (and in some cases these are not favoured).

### **I. Views on New Anti-corruption Initiatives**<sup>52</sup>

In response to the question of whether listed factors would increase or decrease the likelihood of their signing to a new anticorruption initiative, there were mixed views but overall these tended to link to those discussed previously. The involvement of NGOs, the initiative having the status of a voluntary agreement, the provision that organisations would be free to implement the initiative in their own preferred manner and a high level of external pressure to achieve the initiative were, overall, least likely to act as an incentive. The opportunity for a high level of input into the negotiation and development of the initiative, the initiative having the status of a binding international legal instrument, the provision for enforcement of the initiative by an external body, and the belief that the initiative would actually be enforced, were more likely to act as an incentive.

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<sup>52</sup> See Qn 19, Appendix I.

### 3.2. NGO Responses

#### A. Organisation Characteristics<sup>53</sup>

Of the three NGOs which had responded in the time frame indicated, two – organisations 160 and 27 – were based in the US, one operating at the international level and the other at the national level. The third organisation, 116, was based in the UK and indicated that it operated at the local, national, regional and international levels. Organisation 160, a membership based organisation, was affiliated with businesses and undertakes activities for its corporate membership which is also the reported source of funding. Organisation 27 was reported to be independent but with a strong relationship with the Business Roundtable, which was cited as a source of funding along with multilateral or international donor agencies and academic institutions. Organisation 116 was reported to be affiliated with ‘civil society organisations, NGOs’ and cited private donors or foundations and other NGOs as sources of funding, noting that ‘a combination of international NGOs and foundations fund the coalition’s activities at local, regional and global levels’.

#### B. Organisation Orientation and Activities<sup>54</sup>

The stakeholders targeted by these organisations varied. Organisation 161 targeted, in particular, businesses, including the overseas intermediaries of MNCs (multinational corporations) and SMEs (small to medium enterprises), trade organisations and the professions. Organisation 116 had a slightly broader target including NGOs, journalists and local interest groups, for example. Organisation 27 targeted a similar variety of civil society organisations, institutions and businesses but targeted fewer stakeholder types overall. All organisations reported targeting MNCs and international organisations. These orientations were reflected in the organisations’ reporting of stakeholders with which it worked jointly/in collaboration or on behalf of for the purpose of research or monitoring (see below). Organisation 161 worked jointly with and on behalf of both MNCs and SMEs and also

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<sup>53</sup> See Qn 1-5 Appendix II.

<sup>54</sup> See Qn 6 Appendix II.

worked in collaboration with international organisations and NGOs. Organisation 116 worked in collaboration with national governments, MNCs, SMEs, and local, regional and international NGOs. Organisation 27 worked with international organisations and NGOs and with academic faculties.

### **C. Research, Monitoring, Networking and Collaboration**<sup>55</sup>

With respect to research and monitoring,<sup>56</sup> Organisation 27 was, unsurprisingly, given its identified sources of funding and affiliations, reported to be involved with several activities and was noted to undertake ‘analysis of policies, issues’, ‘synthesis of existing research or publications’, ‘empirical or action research and surveys’ and ‘benchmarking’. Organisation 116 was also involved in the ‘analysis of policies, issues’ and ‘synthesis of existing research or publications’ but was also involved with more applied enforcement-based activities in the form of the monitoring of businesses and other organisations (on its own behalf) and the application of toolkits for enforcement/monitoring. Organisation 160 was involved with benchmarking and the production/provision of toolkits for monitoring/enforcement.

All organisations reported being involved with some activities in the area of policy development and this was particularly true of 116 which reported being involved in the development of national, regional and international instruments and various types of non-legal initiatives, guidelines and codes and sought to influence governments (domestic and foreign), businesses (MNCs and SMEs) and international and regional organisations. Organisation 161 focused its policy efforts more narrowly on business and industry (as well as international instruments) and 27 was involved in a more limited way, through the development of policy/law reform and publication of papers, targeted at businesses, other NGOs and the general public.

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<sup>55</sup> See Qn 6, Appendix II.

<sup>56</sup> Covering issues such as analysis of policies, issues, production of toolkits for monitoring, campaigning and surveys.

Involvement in ‘campaigning and activism’ was more limited in the case of the US based organisations; 27 cited ‘attendance at meetings/workshops’ as its only activity in this category as did 161 which also noted that

we work with our member companies to ensure that they are aware of local, national and international developments in anti-corruption policy and the enforcement of anti-corruption laws. We also conduct due diligence on and provide training to commercial third parties that work with our multinational member countries to ensure that they are conducting their business in a transparent manner.

Organisation 116 was again involved in a broader range of activities including lobbying directed at a broad range of stakeholders including governments, industry associations, businesses, high commissions and regional and international organisations. Its activities were reported to be targeted at all levels from local to international.<sup>57</sup>

In relation to networking and collaboration, there was some overlap between responding organisations: 116 again interacted with stakeholders through a range of activities – information and resource sharing, development and/or implementation of policies or programmes – and was identified as belonging to a ‘coalition or network of NGOs’ and ‘a multi-stakeholder coalition or network’. Organisation 161 was involved only with information sharing and 27 in information sharing and development and/or implementation of policies or programmes. These organisations were not members of any coalition or network.

#### **D. Capacity Building and Awareness Raising**<sup>58</sup>

Organisation 160 was involved in several specific activities within the category ‘capacity building and provision of services’ and these were all reported to be aimed at businesses though training was also aimed at government agencies. Organisation 27 also targeted businesses in respect of its capacity building activities and provision of services though it was

<sup>57</sup> Organisation 160 reported targeting activities at the international level and organisation 27 did not respond.

<sup>58</sup> See Qn 6, Appendix II.



also involved with the production of guidelines aimed at the general public. A range of activities was also undertaken by 116 and in this case all were aimed at the general public. The organisations undertook a range of activities within the category ‘awareness raising’. With respect to outreach work various stakeholders were targeted but all three organisations reported targeting SMEs. Very few print based or alternative approaches were employed for the purpose of awareness raising but several web-based activities were cited including the provision of policy briefings, education courses/programmes, newsletters, research results/reports<sup>59</sup> and a database of materials<sup>60</sup>. The use of broadcast media was also cited by organisations 160 and 116.

The different foci of these organisations suggested by their affiliations and cited sources of funding can be clearly recognised based on their involvement with different types of activity, as has been highlighted. Organisation 161 adopts a more facilitative or cooperative role, undertaking activities which assist or enable businesses (i.e. its corporate members), the primary focus of its activities. Organisation 27 targeted a range of stakeholders and was involved in different types of activity but focused primarily on academic or policy focused work. Organisation 116 works with a variety of stakeholders and focuses more on more direct actions such as campaigning and capacity building, including activities targeted at the general public as well as businesses (and others). The three organisations offer very different profiles and approaches in their role and activities. Certainly there is no holistic approach to be identified from the general interactions and activities which were reported though this is of course not unexpected given the range of NGOs involved in the sample. What is interesting and will be an important factor to analyse in the full data set is how, if at all, these different general approaches correspond with different anti-corruption efforts and the experience of these NGOs in working with stakeholders, particularly businesses and in return, how these experiences correspond with the experiences and perceptions of participating companies.

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<sup>59</sup> Organisation 27 cited providing these in print as well as on a website.

<sup>60</sup> Organisation 161 indicated that they maintain a database of ‘the gifts and hospitality rules and laws and regulations regarding the retention of commercial third intermediaries in over 70 countries.’

### **E. Promotion of CSR**<sup>61</sup>

Organisations were asked whether they actively support or promote CSR initiatives. Only 27 indicated that it did not. However, the two responding organisations indicated that all areas of CSR listed<sup>62</sup> were considered not to be relevant, with the exception of corruption which in both cases was ranked '1' on a scale indicating that '1' is the most prioritised aspect and '6' is the least prioritised aspect.

In response to the question 'Do you think that promotion or support of CSR initiatives may be relevant to your organisation in the future?' organisation 161 commented, 'the adoption of corporate codes of social responsibility, especially in the area of anti-corruption initiatives will continue to be a priority for our organization.' Organisation 27 commented 'we take an enterprise view of business ethics so we tend to view CSR initiatives as very important, but mostly in terms of how organizations create value for their shareholders.' These organisations (161 and 27) also responded to the question which asked them to rank, on a scale of 1-10, the extent to which different sources and influences have led to an improvement in CSR.<sup>63</sup> The responses are mixed and cannot give, at this stage, an idea of the more general experience of NGOs. In several cases the perceptions of the two organisations contrasted strongly, though one strong possibility here is that this correlates with the type of stakeholder the organisation works with and the involvement that they have with them. For instance, organisation 27 indicated that the general public, collective activists and local NGOs had led to a strong improvement (these were ranked '8' or higher) but organisation 160 considered these to have had a neutral impact or worse. The converse was true for trade unions, international and regional organisations and domestic and foreign governments, which were ranked favourably by organisation 160 but not by 27. As stated, this gives a very uneven picture and must be explored further in light of additional data.

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<sup>61</sup> See Qns 8, 9, 10 Appendix II.

<sup>62</sup> Environmental protection; equality and anti-discrimination; labour rights and standards; corruption; health and safety; and human rights.

<sup>63</sup> With 1 indicating that the source has had no impact and 10 indicating that the source has had a significant impact.

In addition to the obviously different experiences of these organisations it is interesting to note that these observations were made despite the fact that all aspects of CSR except corruption were considered irrelevant by organisation 160 and that organisation 27 did not rank the aspects of CSR and indicated that it did not actively support CSR initiatives. The basis on which these observations of CSR influences were made is then somewhat opaque. One possibility is that these perceptions are based wholly on the organisations experiences with corruption. Another is that aspects of CSR which were not listed informed the respondents' perceptions.

#### **F. Organisations' Activities and Experiences in Combating Corruption**<sup>64</sup>

Only organisation 27 reported not having policies or programmes in place specifically related to corruption giving as reason 'the institute's mission is to embed ethics into the everyday business decision-making and practice of organisations. While this, of course, includes corruption, it is much broader than that. There are other organisations much better equipped to deal with these issues and we support their efforts and rely on their findings in the work that we do.' This response is interesting in that it seems to some extent counter-intuitive. Whilst the organisation seeks to embed ethics, including anti-corruption aims, into business decision-making, it considers that the role of dealing with corruption should fall on other 'better equipped' organisations. This raises questions about how this 'embedding' can be achieved. The role played by this organisation is somewhat mysterious given that it also indicated that it did not actively support CSR initiatives but does undertake activities in areas such as research, capacity building and awareness raising. The organisation indicated that it targets a variety of stakeholders though it is not completely clear how these relate to the objective of embedding of ethics into business decision making. It may be that the comments given above do not relate to these broader aspects of the organisation's activities.

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<sup>64</sup> See Qns 13 – 17, Appendix II.

### **G. Policies, Programme Orientation and Focus**<sup>65</sup>

The policies and programmes of organisation 160 were confined to the private sector whilst that of 116 applied also to the public sector, again reflecting the different orientations of these organisations, observed above. The stakeholders which each organisation identified as targeting with respect to its anti-corruption activities also reflect these orientations, though there is a good deal of overlap in this case and, perhaps as importantly, a good deal of overlap in the stakeholders that are not targeted. Organisation 160 cited MNCs, SMEs and ‘other’ businesses (intermediaries), foreign governments, chambers of commerce and professional/industry/trade bodies. Organisation 116 cited international NGOs, international organisations, MNCs, SMEs and domestic and foreign governments.

Responses on the organisations’ focus with respect to corruption work are worth presenting here:

**Organisation 160** ‘We focus mainly on commercial anti-bribery issues. We work with our membership to help them develop compliance programs, conduct training and perform due diligence on their overseas commercial intermediaries to ensure that they [are] engaging in transparent business practices. We attempt to hold training workshops in each region annually. In some countries, we invite local government officials to participate in these training workshops in order to foster a discussion on anti-bribery issues between the government and the business community. We also provide our members with compliance tools such as guidebooks on various issues, such as eliminating the use of facilitation payments, as well as guidelines on various anti-bribery compliance initiatives such as how due diligence is necessary on various commercial third party relationships. These guidebooks and guidelines are contained on our resource center along with information of the gifts and hospitality laws and the laws regarding the retention of 3rd party intermediaries in over 70 countries.’

**Organisation 116** ‘We help citizens of resource-rich developing countries hold their governments accountable for the management of revenues from the oil, gas and mining

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<sup>65</sup> See Qn 13, 15 Appendix II.

industries. Natural resource revenues are an important source of income for governments of over 50 developing countries, including Angola, Indonesia, Kazakhstan, Nigeria and Venezuela. When properly managed these revenues should serve as a basis for poverty reduction, economic growth and development rather than exacerbating corruption, conflict and social divisiveness. ...'

These comments give a clear illustration of the two very diverse approaches being employed by these responding organisations.<sup>66</sup> Both organisations cited positive outcomes arising from their involvement. What is not known at this stage is to what extent either approach is representative of approaches commonly employed by NGOs with respect to corruption and to what extent, if at all, either approach may relate to the perceptions and experiences of businesses which have worked with NGOs. The linking of such experiences and perceptions along with the identification of the different orientations and of relevant NGOs may enable the development of a more refined conceptualisation of NGO involvement in combating corruption in business in later stages of analysis.

#### **H. Experience of Working with Stakeholders**<sup>67</sup>

Organisation 160, working primarily with businesses, offers some encouraging comments. The respondent indicated that a strength of working with these stakeholders is that the companies which become members are 'motivated to do the right thing' and 'eager for guidance'. The only limitation identified is that the organisation's work necessarily only combats the supply side of bribery.

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<sup>66</sup> The stakeholders which each organisation identified as targeting with respect to its anti-corruption activities again reflects the orientations identified though there is a good deal of overlap in this case and, perhaps as importantly, a good deal of overlap in the stakeholders that are not targeted. Organisation 160 cited MNCs, SMEs and 'other' businesses (intermediaries), foreign governments, chambers of commerce and professional/industry/trade bodies. Organisation 116 cited international NGOs, international organisations, MNCs, SMEs and domestic and foreign governments.

<sup>67</sup> See Qn 16, Appendix II.

### **I. Organisations' Perceptions of Anti-corruption Instruments**<sup>68</sup>

The NGOs were also asked to rank the extent to which they considered different measures have assisted in combating corruption in international business.<sup>69</sup> Respondents were asked to rank the measures on a scale of 1-10 with 1 indicating that the measure had no impact at all and 10 indicating that it had a significant impact. Organisation 116 did not respond to the question but of the data obtained perhaps the most striking finding is that overall the measures were ranked highly (that is, regarded as significant) and no measure was ranked below 4. There was again some difference in perceptions, particularly with respect to 'national laws in other countries of operation', '[National] Government policies', and 'attitudes of general public' but in many cases respondents were in agreement. This consistency is reflected in several, but not all cases in respect of rankings of specific instruments. For example, national legislative measures were ranked higher as a general category than in the case of some of the specific instruments by Organisation 27, which also ranked instruments 'X' in several cases, indicating that they 'don't know' or are not aware of the source. Attitudes towards specific anti-corruption measures also varied somewhat between the two responding organisations and further data is required to enable reliable comments to be made in this respect. It is noteworthy however that Stock Exchange rules were perceived in more neutral terms than they were by the responding companies and that, conversely, multilateral instruments were seen by the NGOs to be more influential. The US FCPA and the Sarbanes-Oxley Act were seen as the most influential of the listed instruments by the two responding NGOs.

### **CONCLUDING REMARKS**

Using postal questionnaires this pilot survey investigated the experience and perceptions of a sample population of companies and NGOs with respect to corruption in international business. The key limitation realised in this pilot survey was the low level of response

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<sup>68</sup> See Qns 21, 22 Appendix II.

<sup>69</sup> See fns 46 and 49 for list of measures and specific sources.

obtained. Non-response is a recognised and increasing phenomenon in postal surveys (as well as other data collection methods). The reasons for these low response levels cannot be determined, at least at this stage, though several factors may have played a role, including difficulties with the postal service, the sensitive nature of the subject-matter, survey fatigue caused by the large number of surveys received by organisations and perceived topic saliency. The perceived status of the 'sponsor' may also have been relevant. Several surveys of a similar nature conducted by different types of organisations such as auditing firms that were more closely aligned with the participants with higher participation figures suggest that this may indeed be the case (see Table 1). Efforts are being made to address the response levels for the full survey through the adoption of follow-up letters with further follow-up by email where relevant. Of course such measures can only be adopted in line with the availability of resources and within the limitations of the project. Another approach is to undertake some analysis of non-responding organisations in order to provide a more detailed picture of the variance between responding and non-responding sample units.

Although the pilot survey highlights interesting questions and insights it would be premature to make generalisations. Similarly, comparisons or distinctions drawn with existing data, for instance regarding the issues identified as emerging from previous surveys, as discussed above, must be limited pending further data collection and analysis. For the purpose of this paper, however, it was useful to review the preliminary data, based on the limited responses received, in some detail. As indicated, this provides an 'opening up' of the data which can be developed through further stages of analysis. Comments made about the data and findings should therefore be considered in this context and statements made about the data should be viewed as potential questions or hypotheses for later stages of analysis.

A striking point emerging initially is the conflict between company perceptions of NGO involvement and the NGOs' own perceptions of their involvement. This, it appears at this early stage, may be a source of some tension. NGOs reported being involved in a wide range of activities and made some positive comments related to anti-corruption work.

Responding companies, however, indicated that they had limited involvement with NGOs and that NGO involvement might in fact be a disincentive in some respects. Another observation, albeit brief, is that whilst some existing research has indicated that corruption may be a serious issue for SMEs, who may not be exposed to the same levels of assistance, as well as being subject to additional resource burdens, NGO responses suggested that with respect to these interactions, SMEs were not overlooked.

Companies reported low levels of corruption both within their organisation and within the industry in which they operate. Whilst these results may be valid there is also a real possibility that response bias may be an issue, particularly since these findings contrast with the relatively high perceptions of corruption found in other surveys. In the same context the issue of sponsorship or out-group effects may also be relevant.

The perceptions of anti-corruption instruments are also interesting. The pilot survey was being conducted at a time when the Serious Fraud Office's decision to drop the investigations into allegations of bribery into BAE's Al-Yamamah contract with Saudi Arabia took centre stage nationally and internationally and the vociferous criticisms from the OECD for UK's failure to comply with the OECD Convention. Against this context one might have expected the companies to have listed international conventions as important influences. Instead the stock exchange listings requirements were seen as a particularly important influence in terms of anti-corruption instruments by the companies. This also goes some way to challenging perceptions that companies only favour or respond to voluntary approaches or that factors such as economic interests *per se* are the key drivers for altering company behaviour. This is not to say that companies desire increased levels of regulation. Responses did not indicate that this was necessarily the case but responses did appear to suggest that an increase in measures to improve the *effectiveness* of regulation, i.e. compliance and enforcement, might be favoured.

The next phase of the project targets the full sample frames – the remaining NGOs from the sample list and other industry sectors from *The Times* stock exchange listings. It is



hoped that this will lead to the collection of further data which will give further insights into the issues emerging from the pilot survey as well as developing additional issues and insights into the impact of anti-corruption strategies that will help towards improving the existing framework for combating corruption.

## Appendix I: Questions and Responses: COMPANIES

*Self-identifying information and similar has been removed to preserve anonymity.*

### SECTION 1: ABOUT CORRUPTION AND YOUR ORGANISATION'S POLICIES

#### 1(A) Where is your head office?

QUESTIONNAIRE NO.	
70	USA
55	UK
3	UK
35	BVI

#### 1(B) In which country/countries are you listed on a stock exchange?

QUESTIONNAIRE NO.	
70	UK AIM
55	UK
3	UK
35	UK AIM

#### 1(C) Please list the countries where your organisation operates (continue on a separate sheet if required)

QUESTIONNAIRE NO.	
70	US, INDIA, MEXICO
55	WORLDWIDE EXCEPT CHINA, JAPAN, CANADA [?]
3	UK
35	BVI, CHINA, EUROPE, HK

### 2. CSR priorities

Below is a list of some different aspects of corporate social responsibility. Please rank these aspects according to the extent to which they are prioritised within your organisation. Rank the most prioritised aspect '1' and the least prioritised aspect '6'. You may replace a number with 'X' if you do not consider the aspect to be relevant.

QUESTIONNAIRE NO.	Env Protection	Equality	Labour	Corruption	Health And Safety	Human Rights
70	2	3	5	1	4	6
55	4	3	6	5	2	1
3	3	2	4	5	1	0
35	5	0	3	4	1	2

### 3. Does your organisation have a policy or policies in place to combat corruption?

Yes  GO TO QUESTION 5 No  GO TO QUESTION 4

QUESTIONNAIRE NO.	[Yes = 1, No = 0]
70	1
55	1
3	1
35	1

#### 4 (A) If you answered 'NO' please state in brief the reasons why your organisation has not adopted a policy related to corruption.

QUESTIONNAIRE NO.	
70	Unit non-response
55	Unit non-response
3	Unit non-response
35	Unit non-response

#### 4 (B) Has your organisation considered, or is it considering, adopting a policy related to corruption? What are the reasons for this?

QUESTIONNAIRE NO.	
70	Unit non-response
55	Unit non-response
3	Unit non-response
35	Unit non-response

**IF YOU HAVE ANSWERED QUESTION 4, PLEASE RETURN THIS COMPLETED VERSION AS INDICATED. END OF QUESTIONNAIRE**

**5(A) In what year(s) was/were your policy or policies first established?**

QUESTIONNAIRE NO.	
70	Unit non-response
55	2006
3	2007
35	2005

**5(B) When was your corruption policy last reviewed?**

0–6 months ago                       7–12 months ago                       13–24 months ago   
 25–36 months ago                       More than 36 months ago

QUESTIONNAIRE NO.	
70	Unit non-response
55	0-6MONTHS
3	0-6MONTHS
35	0-6MONTHS

**6(A) Is the policy in written form?** Yes  No

QUESTIONNAIRE NO	[Yes = 1, No = 0]
70	1
55	1
3	1
35	1

**6(B) Is the policy publicly available?** (if 'YES', please provide a copy if possible)

QUESTIONNAIRE NO	[Yes = 1, No = 0]
70	UNR
55	0
3	1
35	0

**7. Please identify which of the following potential aspects of corruption, if any, are directly addressed in your organisation's written policy/policies. Tick all that are relevant.**

*The policy might address the intentional or unintentional involvement with, offering, promising, giving, receiving or solicitation of the following:*

QUESTIONNAIRE NO	[Yes = 1, No = 0]			
	70	55	3	35
Acts or omissions carried out in country of head office	1	1	1	0
Acts or omissions carried out in other countries of business	1	1	0	1
Activities of the main/parent organization	1	1	1	0
Activities in other aspects of the supply chain	1	1	0	1
Bribery, kickbacks	1	1	1	1
Facilitation payments	1	1	1	1
Giving gifts, benefits, hospitality	1	1	1	0
Receiving gifts, benefits, hospitality	1	1	1	0
Irregularities in invoicing	1	0	0	1
Recording of non-existent expenditure	1	0	0	0
Off-the-book accounting	0	0	0	1
Other off-the-book record keeping	0	0	0	0
Use of false documents	0	0	0	1
Intentional destruction of book-keeping documents earlier than foreseen by law	0	0	0	1
Embezzlement	1	0	0	1
Money Laundering	1	0	0	0
Insider trading	1	1	0	1
Trading in influence	0	0	0	0
Conflict of interest	1	0	0	0
Nepotism/granting advantage to family or friends	1	0	0	1

Political financial contributions/fundraising	1	1	0	0
Other (please specify)	0	0	0	0

**8. Are there any reasons why some aspects are not addressed? Are there any other aspects you would like to include?**

QUESTIONNAIRE NO	
70	We do not see a significant specific issue and it is covered in the [generality] of the policy
55	We are a young company only formed in 2006. Fully comprehensive procedures take time to develop and flesh out
3	UNR
35	The factory is the largest subsidiary company of [x] which is located in China. Therefore, operating the business in China is the most important and complicated thing. The parent companies would be easy to handle with, so there are not too many things to be addressed.

**9(A) Overall, to what extent, if at all, do you consider that corruption is present in the following instances?**

Please circle the number which you consider is most appropriate, with 1 being not at all corrupt and 10 being entirely corrupt. Circle X for 'don't know'.

(i) Within your organisation

QUESTIONNAIRE NO	[X = 11]
70	1
55	1
3	1
35	2

(ii) Within the industry in which you operate

QUESTIONNAIRE NO	[X = 11]
70	2
55	5
3	11
35	2

**9(B) What types of corruption, if any, are most prevalent in (ii)?**

QUESTIONNAIRE NO	
70	We deal with governments in third world countries - Africa and Asia and therefore FCPA is an issue always
55	Bribes for contract awards and senior level access
3	
35	... (Not included to maintain anonymity)

**SECTION 2: IMPLEMENTATION AND ENFORCEMENT**

**10. How, if at all, has your organisation implemented its anti-corruption policies?** Please tick any that are relevant, if possible identifying which stakeholders the measures apply to.

[Board of Directors = 1;  
Investors/shareholders = 2;  
Employees = 3;  
NGOs or independent bodies = 4;  
Customers/clients = 5;  
Government agencies = 6;  
Aspects of the supply chain = 7;  
Other (please specify) =8]

QUESTIONNAIRE NO	70	55	3	35
Introduced codes of conduct/best practice	1, 3, 7	1, 3		1, 2, 3, 4, 7
Provided training sessions/workshops in-house				3, 4, 6, 7
Used training/workshops provided by external organisation				
Meetings or announcements				1, 3, 7
Provided training videos/DVDs				
Provided online/electronic training materials				
Provided online information/ publicity materials				1, 3, 5, 7
Provided written materials		1, 3	1, 3	1, 3
Introduced a signed agreement	3, 7			
Contractual condition	3, 7			1, 3, 5, 7
Other (please specify)	Informal audit process – 3, 7			

**11. Which approaches, if any, has your organisation used to ensure that its anti-corruption policies are complied with?** Tick any that are relevant.

QUESTIONNAIRE NO	[Yes = 1, No = 0]			
	70	55	3	35
<b>• Auditing</b>				
Internal auditing of accounts	1	0	0	0
Internal auditing of other records	1	0	0	0
External auditing (through private body)	0	1	1	1
<b>• Personnel and Management</b>				
Appointment of compliance officer(s)/team(s)	0	0	0	0
Involvement of independent non-executive director(s)	1	0	1	1
Identification of composition of Board of Directors	1	0	0	1
Identification of management personnel	1	0	0	1
<b>• Internal Procedures and Processes</b>				
Incorporating compliance into staff appraisal system	1	0	0	1
Disclosure of financial statements	0	0	0	1
Regulation of remuneration within the organisation	1	0	0	1
Regulation of nomination within the organisation	1	0	0	1
Regulation of Director's shareholdings	1	0	0	1
Adopting measures for appointment of suppliers and similar	1	0	0	1
In-house monitoring of suppliers and similar	1	0	0	1
Penalties for breach of the anti-corruption policy	1	0	1	1
In-house confidential hotline or reporting procedure	1	0	0	1
Other 'whistle-blowing' measures (please specify)	0	0	0	0
<b>• External Procedures and Processes</b>				
Enforcement by government agency	0	0	0	0
Monitoring by industry-specific body	0	0	0	0
Monitoring by NGO	0	0	0	0
Monitoring by other body (please specify)	0	0	0	0
<b>Other</b> (please specify)	0	0	0	0

**12. To what extent do you feel that these approaches HAVE ACTUALLY HELPED TO ACHIEVE COMPLIANCE with anti-corruption policies within your organisation?** Please tick the most relevant response on the scale, indicating whether you think the approach has been effective or ineffective.

[Not relevant = 0  
Highly effective = 1  
Somewhat effective = 2

Neither effective nor ineffective = 3

Somewhat ineffective = 4

Highly ineffective = 5

Don't know = 6

No response = 7]

QUESTIONNAIRE NO/response	70	55	3	35
Internal auditing of accounts	1	7	7	1
Internal auditing of other records	1	7	7	7
External auditing (through private body)	0	2	6	1
Appointment of compliance officer(s)/team(s)	0	7	7	1
Involvement of independent non-executive director(s)	1	7	6	1
Identification of composition of Board of Directors	1	7	7	1
Identification of management personnel	1	7	7	7
Incorporating compliance into staff appraisal system	1	7	7	2
Disclosure of financial statements	0	7	7	1
Regulation of remuneration within the organisation	1	7	7	1
Regulation of nomination within the organisation	1	7	7	1
Regulation of Director's shareholdings	1	7	7	1
Adopting measures for appointment of suppliers and similar	1	7	7	1
In-house monitoring of suppliers and similar	1	7	7	1
Penalties for breach of the anti-corruption policy	1	7	7	1
In-house confidential hotline or reporting procedure	1	7	7	2
Other 'whistle-blowing' measures (please specify)	0	7	7	2
Enforcement by government agency	0	7	7	2
Monitoring by industry-specific body	0	7	7	2
Monitoring by NGO	0	7	7	2
Monitoring by other body (please specify)	0	7	7	2
Other (please specify)	7	7	7	7

**13(A) Have you had any reported instances or allegations of corruption within your organisation, within the past 12 months?**

Yes  **IF YOU ANSWERED 'YES' PLEASE GIVE FURTHER DETAILS IN 13(B)**

No  **IF YOU ANSWERED 'NO' PLEASE GO STRAIGHT TO QUESTION 14**

[Yes = 1, No = 0]

QUESTIONNAIRE NO	
70	0
55	0
3	0
35	0

**13 (B) Please give further details relating to the incident(s) or allegation(s) of corruption:**

- **How many instances or allegations of corruption have you had in the last 12 months?**
- **Which aspects of corruption were involved in the allegation(s) or incident(s)?** Please tick all that are relevant

**SECTION 3: ANTI-CORRUPTION INFLUENCES AND MECHANISMS**

**14. To what extent, if at all, do you consider the following have influenced your organisation's behaviour in relation to corruption?** Please circle the number which you consider is most appropriate, with 1 indicating that the source has had no influence at all and 10 indicating that the source has been extremely influential. Circle X to indicate 'don't know' or that you are not aware of the source.

[ 'x' = 11, no response =12]

QUESTIONNAIRE NO	70	55	3	35
International law (for example, agreements or conventions)	10	4	11	10
Industry specific codes or initiatives	10	4	11	10
General voluntary initiatives (for example, voluntary codes, coalitions, guidelines)	3	4	3	9
National laws in the main country of operation	10	4	11	10
National laws in other countries of operation	3	4	11	9
[National] Government policies	10	12	11	9
Influence of NGOs or pressure groups	1	12	11	9
Consumer/client demand	1	12	11	9
Attitudes of general public	1	12	11	9
Employee demand	9	12	11	9
Shareholder demand	9	12	11	9
Corporate ethical values	10	8	5	8
Protection of corporate reputation	10	12	5	8
Wish to remain competitive	1	12	5	8
Economic benefits/operational efficiency	1	12	5	9
Stock exchange listing requirements	10	12	11	10
Other (please specify)	12	12	12	12

**15. For sources which you identified in question 14, above, please provide further details where possible. (For example, identifying or commenting on particular agreements, bodies or laws).**

QUESTIONNAIRE NO.	
70	Unit non-response
55	Unit non-response
3	Unit non-response
35	Unit non-response

**16. Do you consider that the following SPECIFIC SOURCES OF RULES have had any impact on your organisation's behaviour or approach to corruption?** Please circle the number which you consider is most appropriate, with 1 indicating that the source has had no influence at all and 10 indicating that the source has been extremely influential. Circle X to indicate 'don't know' or that you are not aware of the source.

[, 'x' = 11, no response =12]

QUESTIONNAIRE NO	70	55	3	35
<b>International and Regional Instruments</b>				
United Nations Convention against Corruption (UNCAC)	1	3	11	9
OECD Convention on the Bribery of Foreign Public Officials in International Business Transactions	1	3	11	9
African Union Convention on Preventing and Combating Corruption	1	1	11	5
SADC Protocol against Corruption	1	1	11	6
ECOWAS Protocol on the Fight against Corruption	1	1	11	6
The Inter-American Convention against Corruption (OAS Convention)	1	3	11	6
Council of Europe Criminal Law Convention on Corruption	1	3	11	6
Council of Europe Civil Law Convention on Corruption	1	3	11	6
<b>National Measures</b>				
US Foreign Corrupt Practices Act	10	7	11	3
US Sarbanes-Oxley Act	1	3	11	3
US False Claims Act	1	12	11	3
UK Anti-terrorism, Crime and Security Act 2001	1	1	11	3
UK Public Interest Disclosure Act 1998	1	1	11	7
UK Proceeds of Crime Act 2002	1	1	11	3
UK Fraud Act 2006	1	1	12	3
London Stock Exchange Combined Code on Corporate Governance	10	6	1	10
General Listings Rules of London Stock Exchange	10	6	1	10
Listings Rules of New York Stock Exchange	1	1	11	2
Listings Rules of Johannesburg Stock Exchange	1	1	11	2
Listings Rules of Hong Kong Stock Exchange	1	1	11	7
<b>Multilateral Instruments</b>				
United Nations Global Compact	1	2	11	2
OECD Guidelines for Multinational Enterprises	1	2	11	3
International Chamber of Commerce Rules of Conduct on Combating Extortion and Bribery	1	2	11	3

Partnering Against Corruption (PACI) Principles for Countering Bribery	1	2	11	5
Transparency International Business Principles for Countering Bribery	1	2	11	5
Other (please specify)	1	12	11	12

**17. Do you consider that the following influence your organisation's behaviour in relation to corruption?**

Please tick the most relevant response on the scale.

No influence at all on behaviour = 1

Not very influential = 2

Neutral = 3

Some influence on behaviour = 4

Substantial influence on behaviour = 5

Don't know = 6

No response = 7

QUESTIONNAIRE NO	70	55	3	35
Government fines	4	1	3	7
Individual imprisonment				[6, 7]
	5	4	4	
Refusal/revocation of government licences/permits	4	2	4	3
<b>Government incentives to comply</b>	<b>2</b>	<b>1</b>	<b>3</b>	<b>5</b>
Exclusion from stock exchange	5	3	4	5
Shareholder action	7	1	4	5
Loss of new business opportunities	4	1	4	5
Potential for economic loss	4	1	4	5
Sanctions by trade associations	3	1	3	5
Pressure from NGOs	3	1	3	4
Consumer boycotts	3	1	3	5
Damage to reputation through media coverage	5	1	4	5
Public access to information (e.g. results of audits, disclosure of payments made)	7	1	4	5
Other (please specify)	ETHICS OF COMPLYING WITH LAW - 5			7
		7	7	7

**18. To what extent, if at all, are you opposed to, or in favour of, an INCREASE in the following measures or actions, for the purpose of combating corruption? Please tick the most relevant response on the scale.**

Strongly opposed to increase = 1

Somewhat opposed to increase = 2

Neither opposed nor in favour = 3

Somewhat in favour of increase = 4

Highly in favour of increase = 5

Don't know = 6

No response = 7

QUESTIONNAIRE NO	70	55	3	35
The number of government regulations applied to organizations	1	2	3	3
The stringency of government regulations applied to organizations	1	2	2	3
Greater harmonisation of regulations across and within jurisdictions	5	4	3	3
The <b>frequency</b> of government enforcement activities applied to organisations	4	3	2	2
The <b>thoroughness</b> of government enforcement activities applied to organisations	4	3	3	3
The <b>level</b> of sanction imposed by government agencies following non-compliance with regulations	4	3	3	3
The <b>probability</b> of sanctions being imposed by government agencies following non-compliance with regulations	5	3	3	3
Collaboration within your specific industry to produce voluntary standards or other voluntary initiatives	3	5	3	3
Collaboration with a coalition or range of stakeholders to produce voluntary standards or other voluntary initiatives	3	3	3	3
Collaboration between industry to produce standards or measures to be enforced by an independent agency	2	3	3	7
Collaboration with a coalition or range of stakeholders to produce standards or measures to be enforced by an independent agency	2	3	3	4
The standardisation of corporate codes of practice	4	3	4	4
Increased pressure from senior management/Board of Directors to combat corruption	5	3	3	4
Increased compliance with existing anti-corruption measures or initiatives by competitors	5	5	3	4
Increased training and education measures aimed at organization's senior management or directors	4	3	4	4
Increased training and education measures aimed at organization's staff members at other levels	4	3	4	4
Increased training and education measures aimed at the general public	3	3	4	5



**19. If you were asked to sign your organisation up to a new anti-corruption initiative, to what extent, if at all, would the following factors INCREASE OR DECREASE the likelihood of you signing?** Please circle the number which you consider is most appropriate, with 1 indicating that the factor would strongly decrease the likelihood of signing and 10 indicating that the factor would strongly increase the likelihood of signing. Circle X to indicate 'don't know'.

[ 'x' = 11, no response =12]

QUESTIONNAIRE NO	70	55	3	35
The opportunity for a high level of input into the negotiation and development of the initiative	7	8	3	7
The inclusion of a broad range of similar organisations in the negotiation and development process	5	8	4	6
The involvement of multi-country NGOs or similar bodies in the negotiation and development of the initiative	6	2	3	5
The involvement of local (national or smaller) NGOs or similar bodies in the negotiation and development of the initiative	6	2	3	5
The involvement of consumers in the negotiation and development of the initiative	5	2	4	5
The initiative having the status of a binding international legal instrument (e.g. a treaty or convention)	8	8	4	6
The initiative having the status of a voluntary agreement	4	3	3	5
The provision for enforcement of the initiative by an external body	7	8	4	4
The provision for enforcement of the initiative internally (each organisation conducting its own enforcement)	6	2	3	7
The belief that the initiative would actually be enforced	9	8	5	7
A major competitor signing up to the initiative	12	12	4	12
A major competitor refusing to sign up to the initiative	3	12	4	12
The provision that organisations would be free to implement the initiative in their own preferred manner	3	4	3	6
A requirement for standardised implementation	6	8	4	6
The likelihood that competitors will comply	7	8	3	7
A high level of external pressure to achieve the initiative (e.g. from consumers or the general public)	4	6	3	3
The initiative reflecting the organisation's own 'ethics' or 'morals'	10	5	5	7

**20. Additional information.**

**Please use this space to provide any additional information you feel is relevant about your own anti-corruption policies and/or measures or other points related to the prevention and combating of corruption.** Continue on a separate sheet if necessary.

QUESTIONNAIRE NO	
70	NONE
55	NONE
3	NONE
35	NONE

## Appendix II: Questions and Responses: NGOs

*Self-identifying information and similar have been removed to preserve anonymity.*

### SECTION 1: YOUR ORGANISATION'S IDENTITY

1[A] Where is your head office?

QUESTIONNAIRE NO	
160	USA
116	UK
27	USA

1[B] Please list the countries where your organisation operates. Continue on a separate sheet if necessary.

QUESTIONNAIRE NO.	
160	USA, 'we are based in the United States, but conduct training and workshops around the world each year. Our membership is made of companies and intermediaries that are based around the world'.
116	Australia, Azerbaijan, Cameroon, Chad, Congo Brazzaville, Cote d'Ivoire, Democratic Republic of Congo, France, Gabon, Georgia, Germany, Ghana, Guinea, Indonesia, Kazakhstan, the Kyrgyz Republic, Liberia, Mali, Mauritania, Mongolia, the Netherlands, Niger, Nigeria, Norway, Peru, Sierra Leone, Timor-Leste, the United States and the UK
27	U.S.

2. At what level(s) does your organisation operate? Tick any that are relevant.

[1 = yes, 0 = no]

QUESTIONNAIRE NO.	LOCAL	NATIONAL	REGIONAL	INTERNATIONAL
160	0	0	0	1
116	1	1	1	1
27	0	1	0	0

3. Is your organisation affiliated or linked with any of the following? Tick any that are relevant.

[1 = yes, 0 = no]

QUESTIONNAIRE NO.	160	116	27
Government/government agency or agencies			
o Domestic/national	0	0	0
o Foreign	0	0	0
Political party/parties	0	0	0
Academic institution(s)	0	0	1
Business(es)	1	0	0
International organisation(s)	0	0	0
Regional organisation	0	0	0
Donor agency or agencies	0	1	0
Religious organisations	0	0	0
Other (please specify)	0	1 CIVIL SOCIETY ORGANISATIONS, NGOS	1 BUSINESS ROUNDTABLE - WE ARE INDEPENDENT BUT HAVE A STRONG RELATIONSHIP.

4[A] Which of the following are sources of funding for your organisation? Tick any that are relevant.

QUESTIONNAIRE NO.	160	116	27
Government agencies	0	0	0
o Domestic/national	0	0	0
o Foreign	0	0	0
Political party/parties	0	0	0
Embassy/High Commission	0	0	0
Multilateral or international donor agencies	0	1	1
Private donors or foundations	0	0	0
Individual members or supporters	0	0	1
Academic institutions	0	1	0
Other NGOs	1	0	0
Business(es)	0	0	0
Donor agency/agencies	0	0	0
Religious organizations	0	0	1 BUSINESS ROUNDTABLE

Surveying Corruption in International Business

Other (please specify) \_\_\_\_\_

**4 [B] Please provide further details of funding sources referred to above, if possible.**

QUESTIONNAIRE NO.	160	116	27
	Our member companies pay an annual membership fee.	A combination of international NGOs and foundations fund the coalition's activities at local, regional and global levels.	

**5. Which of the following stakeholders, if any, do you work with and/or target? Tick any that are relevant.**

QUESTIONNAIRE NO.	160	116	27
The general public	0	0	1
Activists			
o Individuals	0	0	0
o Collectives	0	0	0
Local interest groups	0	1	0
NGOs			
o Local	0	1	0
o National	0	1	1
o International	0	1	1
Trade Unions	0	1	0
Schools	0	0	0
Academic faculties or universities	0	0	1
International organisations	1	1	1
Regional organisations	0	1	0
Scientists and/or engineers	0	0	0
Legal profession	1	0	0
Banking profession	1	0	0
Insurance companies	0	0	0
Auditors	0	1	0
Accountants	1	1	0
Businesses			
o Multinational Corporations (MNCs)	1	1	1
o Small to medium enterprises (SMEs)	1	1	0
o Other (please specify)	1	0	0
Government agencies			
o Domestic/national	0	1	0
o Foreign	0	1	0
Political party/parties	0	0	0
Embassies/High Commission(s)	0	1	0
Chambers of Commerce	1	0	1
Industry, trade or professional bodies	1	1	1
Journalists and media	0	1	0
Donor agencies	0	1	0
Religious organisations	0	0	0
Other (please specify)	0	0	0

**6. Please provide detail on the types of work your organisation is involved with. Tick any responses that are relevant:**

**POLICY DEVELOPMENT**

- Which of the following, if any, does your organisation undertake?

QUESTIONNAIRE NO.	160	116	27
Making proposals for policy or law reform	0	1	1
Publication of papers	1	1	1
Consultations with ministers or government bodies	0	1	0
Consultations with Embassies/High Commissions	0	1	0
Involvement in negotiations or development of:			
o National law or policy	0	1	0
o International legal instruments	1	1	0
o Regional legal instruments	0	1	0
o Industry/sector specific codes and other initiatives	1	1	0
o Government/public sector codes and other initiatives	0	1	0
o Business policies or codes	1	1	0
o Other (please specify)	0	0	0
Other (please specify)	0	0	0

• Which stakeholders, if any, does your organisation seek to influence?

QUESTIONNAIRE NO.	160	116	27
Governments	0	1	0
o Domestic/national	0	1	0
o Foreign	0	0	0
Political party/parties	0	0	0
Embassies/High Commission(s)	0	1	0
International organisations	0	1	0
Regional organisations	0	0	1
Other NGOs	0	0	1
The general public			
Businesses:	1	1	1
o Multinational Corporations (MNCs)	1	1	1
o Small to medium enterprises (SMEs)		1. The overseas intermediaries of MNCs and SMEs	0
o Other (please specify)	0	0	0
Other (please specify)			

**CAMPAIGNING AND ACTIVISM**

• Which of the following, if any, does your organisation undertake?

QUESTIONNAIRE NO.	160	116	27
Lobbying directed at			
o Governments			
o Domestic/national	0	1	0
o Foreign	0	1	0
o Embassies/High Commission(s)	0	1	0
o International organisations	0	1	0
o Regional organisations	0	1	0
o Businesses:			
o Multinational Corporations (MNCs)	0	1	0
o Small to medium enterprises (SMEs)	0	1	0
o Other (please specify)	0	0	0
o Private sector/industry associations	0	1	0
o Other (please specify)	0	0	0
Boycotting of products	0	0	0
Boycotting of businesses:			
o Multinational Corporations (MNCs)	0	0	0
o Small to medium enterprises (SMEs)	0	0	0
o Other (please specify)	0	0	0
Boycotting of governments, regimes or countries	0	0	0
Protests, demonstrations, rallies	0	0	0
Mobilization of public for a cause	0	0	0
Litigation or legal representation	0	0	0
Joining or developing coalitions	0	1	0
Attendance at meetings, workshops, conferences	1	1	1
Letter writing	0	1	0
Other advocacy (please specify)	0	0	0
Other (please specify)		1. We work with our member companies to ensure that they are aware of local, national and international developments in anti-corruption policy and the enforcement of anti-corruption laws. We also conduct due diligence on and provide training to commercial third parties that work with our multinational member countries to ensure that they are conducting their business in a transparent manner.	0

• At what level(s) is your campaigning targeted? Tick any that are relevant.

QUESTIONNAIRE NO.	160	116	27
Local	0	1	UNR
National	0	1	UNR
Regional	0	1	UNR
International	1	1	UNR

**RESEARCH and MONITORING**

• Which of the following, if any, does your organisation undertake?

## Surveying Corruption in International Business

QUESTIONNAIRE NO.	160	116	27
Analysis of policies, issues	0	1	1
Synthesis of existing research or publications	0	1	1
Empirical or action research and surveys	0	0	1
Benchmarking	1	0	1
Production or provision of toolkits for monitoring/enforcement	1	0	0
Application of toolkits for monitoring/enforcement	0	1	0
Monitoring of public programmes or policies on own behalf	0	1	0
Monitoring of public programmes or policies on behalf of other stakeholders (please specify)	0	0	0
Compliance or performance monitoring of businesses on own behalf	0	1	0
Compliance or performance monitoring of businesses on behalf of other stakeholders (please specify)	0	0	0
Monitoring the projects or policies of other organisations (please specify) on own behalf	0	1	0
Monitoring the projects or policies of other organisations (please specify) on behalf of other stakeholders (please specify)	0	0	0
Other (please specify)	0	0	0

- **Does, or has, your organisation undertaken research or monitoring JOINTLY/IN COLLABORATION WITH OR ON BEHALF OF any of the following? Tick any that are relevant.**

JOINTLY/IN COLLABORATION WITH			
QUESTIONNAIRE NO.	160	116	27
National governments	0	1	0
Political party/parties	0	0	0
International organisations	1	0	1
Regional organisations	0	0	0
Businesses:			
o Multinational Corporations (MNCs)	1	1	0
o Small to medium enterprises (SMEs)	1	1	0
o Other (please specify)	0	0	0
Private sector/industry associations	0	0	0
NGOs			
o Local	0	1	0
o National	0	1	0
o International	1	1	1
Schools	0	0	0
Academic faculties or universities	0	0	1
Other (please specify)	0	0	0

ON BEHALF OF			
QUESTIONNAIRE NO.	160	116	27
National governments	0	0	0
Political party/parties	0	0	0
International organisations	0	0	0
Regional organisations	0	0	0
Businesses:			
o Multinational Corporations (MNCs)	1	0	0
o Small to medium enterprises (SMEs)	1	0	0
o Other (please specify)	0	0	0
Private sector/industry associations	0	0	0
NGOs			
o Local	0	0	0
o National	0	0	0
o International	0	0	0
Schools	0	0	0
Academic faculties or universities	0	0	0
Other (please specify)	0	0	0

### NETWORKING AND COLLABORATION

- **Does your organisation collaborate with other bodies or organisations for any of the following?**

QUESTIONNAIRE NO.	160	116	27
Information sharing	1	1	1
Resource sharing	0	1	0
Development and/or implementation of policies or programmes	0	1	1
Other (please specify)	0	0	0

- **Is your organisation a member of**

QUESTIONNAIRE NO.	160	116	27

A coalition or network of NGOs	0	1	0
A multi-stakeholder coalition or network	0	1	0
Other network (please give details)	0	0	0

**Does your organisation collaborate with any government enforcement agencies? If yes, please identify the agencies.**

<b>QUESTIONNAIRE NO.</b>	<b>160</b>	<b>116</b>	<b>27</b>
	0	UNR	UNR

#### CAPACITY BUILDING AND PROVISION OF SERVICES

**Which of the following, if any, does your organisation provide or undertake? Please tick any that are relevant, if possible identifying which stakeholders the activities apply to.**

Other NGOs = 1;  
 General public = 2;  
 Businesses = 3;  
 Government agencies = 4;  
 Other (please specify) = 5;  
 No response = 6

QUESTIONNAIRE NO.	160	116	27
Training	3, 4	1	3
Assistance with development of policies or programmes	3	1	3
Advice or recommendations	3	1	3
Consultancy services		1	3
Production of guidelines	3	1	2, 3
Production or provision of decision-making tools			3
Application of decision-making tools (to stakeholders)			
Production or provision of compliance toolkits	3		
Application of compliance tools (to stakeholders)		1	
Provision of manuals or guidebooks	3	1	
Working with local community leaders		1	
Citizens report cards			
Providing anonymous reporting mechanism(s)	3		
Working with other local representatives (please specify)			
Other (please specify)			

#### AWARENESS RAISING

• **Which of the following, if any, does your organisation provide or undertake?**

QUESTIONNAIRE NO.	160	116	27
Outreach work with			
Local community or community groups	0	1	1
Schools	0	0	1
Multinational Corporations (MNCs)	1	0	1
Small to medium enterprises (SMEs)	1	1	1
Other (please specify)	0	0	0
Provision of education programmes or courses on website	1. And live	0	1
Provision of education programmes or courses in print	0	0	0
Policy updates or briefings on website	1	1	0
Policy updates or briefings in print	0	0	0
Newsletters on website	1	1	1
Newsletters in print	0	0	0
Research results and/or reports on website	0	1	1
Research results and/or reports in print	0	0	1
Database of materials (please give details) on website	1. We maintain a database of the gifts and hospitality rules and laws and regulations regarding the retention of commercial third intermediaries in over 70 countries.	0	0
Database of materials (please give details) in print	0	0	0
Other (please specify) on website	0	0	0
Other (please specify) in print	0	0	0
Use of broadcast media (TV, radio, newspapers, short films)	1	1	0
Use of information technology and new media (websites, blogs, podcasts)	1	1	0
Use of dance, street theatre or plays	0	0	0
Use of songs or poetry	0	0	0
Use of comics, or visual art forms	0	0	0

Use of posters, leaflets and/or billboards	0	0	0
Other (please specify)	0	0	0

- Which of the following, if any, does your organisation provide or undertake? Please tick any that are relevant, if possible identifying which stakeholders the activities apply to (e.g. which stakeholders are participants).

Other NGOs = 1;  
 General public =2;  
 Businesses = 3;  
 Government agencies = 4;  
 Other (please specify) =5;  
 No response = 6

QUESTIONNAIRE NO.	160	116	27
Hosting conferences	3, 4	1	1, 3, 4
Provision of seminars or workshops	3, 4	1	3
Informal forums or discussion	3, 4	1	
Provision of other educational resources	3		3
Other (please specify)			

**SECTION 2: CSR AND CORRUPTION**

7. Does your organisation actively promote or support 'corporate social responsibility' (CSR) initiatives?

(1 = yes, 0 = no).

QUESTIONNAIRE NO.	160	116	27
	1	1	0

**8. CSR priorities**

Below is a list of some different aspects of corporate social responsibility. Please rank these aspects on a scale of 1 - 6 according to the extent to which they are actively prioritised by your organisation.

Rank aspects that are highly prioritised '1' and rank aspects that are least prioritised '6'. You may replace a number with 'X' if you do not consider the aspect to be relevant.

[x = 7]

QUESTIONNAIRE NO.	160	116	27
Environmental protection	7	7	
Equality and anti-discrimination	7	7	
Labour rights and standards	7	7	
Corruption	1	1	
Health and Safety	7	7	
Human rights	7	7	

9. Do you think that promotion or support of CSR initiatives may be relevant to your organisation in the future? Please give reasons. Continue on a separate sheet if necessary.

Questionnaire no.	
160	The adoption of corporate codes of social responsibility, especially in the area of anti-corruption initiatives will continue to be a priority for our organization.
116	Unit non response-not relevant
27	We take an enterprise view of business ethics so we tend to view CSR initiatives as very important, but mostly in terms of how organizations create value for their shareholders.

10. Overall, to what extent, if at all, do you consider the involvement of the following has led to an improvement in corporate social responsibility? Please circle the number which you consider is most appropriate, with 1 indicating that the source has had no impact at all and 10 indicating that the source has had a significant impact. Circle X to indicate 'don't know' or that you are not aware of the source.

[X =11, NO RESPONSE = 12]

Questionnaire no.	160	116	27
The general public	4	12	8
Activists			
Individuals	5	12	5
Collectives	5	12	9
Local interest groups	7	12	6
NGOs			
Local	6	12	8
National	6	12	7
International	7	12	6

Trade Unions	8	12	2
Schools	5	12	2
Academic faculties or universities	5	12	4
International organisations	8	12	2
Regional organisations	8	12	5
Scientists and/or engineers	5	12	3
Legal profession	7	12	2
Banking profession	4	12	1
Insurance companies	4	12	1
Auditors	6	12	4
Accountants	6	12	4
Businesses			
Multinational Corporations (MNCs)	7	12	7
Small to medium enterprises (SMEs)	7	12	2
Other	12	12	11
Government agencies			
Domestic/national	9	12	3
Foreign	9	12	5
Political parties	4	12	2
Chambers of Commerce	6	12	4
Industry, trade or professional bodies	6	12	7
Journalists and media	7	12	9
Donor agencies	5	12	4
Religious organisations	4	12	4
Other (please specify)	12	12	12

**11. Does your organisation have any policies, programs or activities in place that are directly related to corruption?**

Questionnaire no.	160	116	27
	1	1	0

**12. Which sectors are targeted or included in these policies, programmes or activities? Tick any that are relevant**

Questionnaire no.	160	116	27
Private sector	1	1	
Public Sector	0	1	
Voluntary Sector	0	0	
Other (please specify)	0	0	

**13. Please outline the main focus of your work with respect to corruption. Which aspects of corruption are most relevant to your work? Continue on a separate sheet if necessary.**

Questionnaire no.	
160	We focus mainly on commercial anti-bribery issues. We work with our membership to help them develop compliance programs, conduct training and perform due diligence on their overseas commercial intermediaries to ensure that they engaging in transparent business practices [sic]. We attempt to hold training workshops in each region annually. In some countries, we invite local government officials to participate in these training workshops in order to foster a discussion on anti-bribery issues between the government and the business community. We also provide our members with compliance tools such as guidebooks on various issues, such as eliminating the use of facilitation payments, as well as guidelines on various anti-bribery compliance initiatives such as how due diligence is necessary on various commercial third party relationships. These guidebooks and guidelines are contained on our resource center along with information of the gifts and hospitality laws and the laws regarding the retention of 3rd party intermediaries in over 70 countries.
116	We help citizens of resource-rich developing countries hold their governments accountable for the management of revenues from the oil, gas and mining industries. Natural resource revenues are an important source of income for governments of over 50 developing countries, including Angola, Indonesia, Kazakhstan, Nigeria and Venezuela. When properly managed these revenues should serve as a basis for poverty reduction, economic growth and development rather than exacerbating corruption, conflict and social divisiveness.
27	...

**14. Do you consider that your work has resulted in positive outcomes in combating corruption? Please make reference to specific approaches, cases, stakeholders or programmes. Continue on a separate sheet if necessary.**



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Questionnaire no.	
160	<p>Yes, we do believe that our work has resulted in positive outcomes in combating corruption. We work with our member companies to make sure that they are aware of the detrimental effects that corruption has on society. One area of success has been helping our member companies ban the use of facilitation payments. Under the laws of the United States, Australia and Canada as well as several other countries, small payments to government officials in order to induce them to perform a non-discretionary, routine government action provide an affirmative defense to charges of transnational bribery. However, we believe that companies should prohibit facilitating payments, even if they are technically allowed in certain jurisdictions for a number of reasons: 1) it's still a bribe; 2) allowing employees to pay certain bribes but prohibiting other bribes sends a mixed message to employees; 3) government officials will repeatedly ask a company or individual that is willing to pay for additional bribes; and 4) making facilitating payments are risky because companies risk books and records violations and the determination by an investigation government that a payment does not qualify as a facilitating payment. We have drafted a guidebook on how companies can eliminate making facilitating payments and prohibit facilitating payments as a corporate policy. We have several member companies that were skeptical at first, but that have now successfully eliminated facilitating payments. They have found that it is actually easier to conduct business when government officials realize that they should not even bother to ask the company for a bribe.</p> <p>One of our initiatives that we are most proud of the launch of [...] a web-based reporting mechanism that allows those that have been asked for a bribe to report the demand anonymously. The website asks a series of drop-down questions including country, the government agency of the bribe requestor, the amount of the bribe (within ranges), and the threatened harm if the bribe wasn't paid. We hope to report the results once we have statistically relevant data and use the information to help companies identify areas of risk and also to put pressure on governments to increase their commitment to transparency.</p>
116	<p>-International Accounting Standards After intense lobbying, in November 2007 the European Parliament called for a new international accounting standard requiring oil, gas and mining companies to report critical financial information, such as payments to governments, on a country-by-country basis.</p> <p>-Extractive Industries Transparency Initiative EITI ... involved in a voluntary multi-stakeholder initiative, EITI, which sets a global standard for companies to publish what they pay and for governments to disclose what they receive. In September 2007, the EITI board passed 15 countries as 'candidate' countries, who can now progress towards full implementation of the initiative.</p>
27	

**15. Which stakeholders, if any, does your organisation target as part of your anti-corruption work?**

Questionnaire no.	160	116	27
The general public	0	0	
Activists			
o Individuals	0	0	
o Collectives	0	0	
Local interest groups	0	0	
NGOs			
o Local	0	0	
o National	0	0	
o International	0	1	
Trade Unions	0	0	
Schools	0	0	
Academic faculties or universities	0	0	
International organisations	0	1	
Regional organisations	0	0	
Scientists and/or engineers	0	0	
Legal profession	0	0	
Banking profession	0	0	
Insurance companies	0	0	
Auditors	0	0	
Accountants	0	0	
Businesses			
o Multinational Corporations (MNCs)	1	1	
o Small to medium enterprises (SMEs)	1	1	
o Other (please specify)	1	0	
Government agencies			
o Domestic/national	0	1	
o Foreign	1	1	
Political parties	0	0	
Embassies/High Commission(s)	0	0	
Chambers of Commerce	1	0	

Industry, trade or professional bodies	1	0	
Journalists and media	0	0	
Donor agencies	0	0	
Religious organisations	0	0	
Other (please specify)	0	0	

**16 [A] What are the greatest advantages or successes of working with these stakeholders? Please refer to the different types of stakeholder you have identified (if relevant). Continue on a separate sheet if necessary.**

<b>Questionnaire no.</b>	
<b>160</b>	The companies that join our organization are motivated to do the right thing and are eager for guidance on how to establish effective anti-bribery programs within their organizations.
<b>116</b>	
<b>27</b>	

**[B] What are the greatest challenges or limitations of working with these stakeholders? Please refer to the different types of stakeholder you have identified (if relevant). Continue on a separate sheet if necessary.**

<b>Questionnaire no.</b>	
<b>160</b>	As I have stated, we deal mainly with businesses, therefore our organization focuses on the supply side of bribery. This provides limited opportunities to work on resolving demand-side issues. We have established an anonymous reporting mechanism to report requests for bribes, which we hope to use to confront the demand-side of bribery.
<b>116</b>	
<b>27</b>	

**17. Are there any reasons why your organisation has not focused on corruption? Do you have plans to introduce any activities or policies focusing on corruption? Continue on a separate sheet if necessary.**

<b>Questionnaire no.</b>	
<b>160</b>	Not applicable, we focus solely on anti-bribery and corruption issues.
<b>116</b>	The institute's mission is to embed ethics into the everyday business decision-making and practice of organisations. While this, of course, includes corruption, it is much broader than that. There are other organisations much better equipped to deal with these issues and we support their efforts and rely on their findings in the work that we do.
<b>27</b>	

**18. To what extent, if at all, do you consider the following have assisted in combating corruption in international business?** Please circle the number which you consider is most appropriate, with 1 indicating that the source has had no impact at all and 10 indicating that the source has had a significant impact. Circle X to indicate 'don't know' or that you are not aware of the source.

[X =11, NO RESPONSE = 12]

<b>Questionnaire no.</b>	<b>160</b>	<b>116</b>	<b>27</b>
International law (for example, agreements or conventions)	9	12	6
Industry specific codes or initiatives	8	12	8
Other voluntary initiatives (for example, voluntary codes, guidelines)	7	12	8
National laws in main country of operation	10	12	8
National laws in other countries of operation	10	12	6
[National] Government policies	9	12	4
Influence of NGOs or pressure groups	8	12	10
Consumer/client demand	7	12	9
Attitudes of general public	4	12	10
Employee demand within business organisations	5	12	9
Shareholder demand within business organizations	6	12	5
Corporate ethical values	8	12	9
Desire of businesses to protect reputation	9	12	9
Desire of businesses to remain competitive	6	12	6
Economic benefits/operational efficiency perceived by businesses	8	12	5
Stock exchange listing requirements	9	12	5
Other (please specify)	12	12	12

**19. For sources which you identified in question 18, above, please provide further details where possible. (For example, identifying or commenting on particular agreements, bodies or laws.)**

<b>Questionnaire no.</b>	
<b>160</b>	The heightened enforcement environment of FCPA violations in the United States [sic] and now abroad has probably been the biggest motivator for companies to establish anti-corruption

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	policies. This is combined with a company's desire to protect its reputation. A company generally does not want to see a front page story about a government investigation into corrupt payments made by its executives, and there have been several instances of country-wide boycotts of a company because of allegations of corrupt payments.
116	
27	

**20. Do you consider that the following SPECIFIC SOURCES OF RULES have had any impact on the behaviour or approach of business organisations regarding corruption?** Please circle the number which you consider is most appropriate, with 1 indicating that the source had no influence at all and 10 indicating that the source was extremely influential. Circle X to indicate 'don't know' or that you are not aware of the source.

[X =11, NO RESPONSE = 12]

Questionnaire no.	160	116	27
<b>International and Regional Instruments</b>			
United Nations Convention against Corruption (UNCAC)	9	12	6
OECD Convention on the Bribery of Foreign Public Officials in International Business Transactions	9	12	7
African Union Convention on Preventing and Combating Corruption	4	12	11
SADC Protocol against Corruption	4	12	11
ECOWAS Protocol on the Fight against Corruption	4	12	11
The Inter-American Convention against Corruption (OAS Convention)	5	12	11
Council of Europe Criminal Law Convention on Corruption	5	12	11
Council of Europe Civil Law Convention on Corruption	5	12	11
Other (please specify)	12	12	12
<b>National Measures</b>			
US Foreign Corrupt Practices Act	10	12	8
US Sarbanes-Oxley Act	10	12	8
US False Claims Act	7	12	3
UK Anti-terrorism, Crime and Security Act 2001	7	12	11
UK Public Interest Disclosure Act 1998	7	12	11
UK Proceeds of Crime Act 2002	3	12	11
London Stock Exchange Combined Code on Corporate Governance	5	12	4
General Listings Rules of London Stock Exchange	5	12	5
Listings Rules of New York Stock Exchange	5	12	7
Listings Rules of Johannesburg Stock Exchange	5	12	11
Listings Rules of Hong Kong Stock Exchange	5	12	11
Other (please specify)	12	12	12
<b>Multilateral Instruments</b>			
United Nations Global Compact	7	12	6
OECD Guidelines for Multinational Enterprises	8	12	5
International Chamber of Commerce Rules of Conduct on Combating Extortion and Bribery	8	12	4
Partnering Against Corruption (PACI) Principles for Countering Bribery	8	12	11
Transparency International Business Principles for Countering Bribery	8	12	7
Other (please specify)	12	12	11
<b>Other instruments (please specify)</b>	12	12	11

**21. Overall, what do you consider to be:**

**[A] The greatest strengths of existing anti-corruption instruments? Please give examples.**

Questionnaire no.	
160	Multilateral anti-corruption instruments such as the UN Convention Against Corruption and the OECD Anti-Bribery Convention, reach a number of different countries and provide a high standard for countries that have signed onto these conventions. This creates a level playing field for businesses and hopefully will increase transparency in those countries that have ratified these instruments.
116	
27	

**[B] The greatest limitations of existing anti-corruption instruments? Please give examples.**

Questionnaire no.	
160	The largest limitation of existing anti-corruption instruments is that there are so many of them and they often have conflicting provisions. There are two international conventions and at least six different regional conventions all with different provisions. For example facilitating payments are treated differently under the different conventions. The OECD Anti-Bribery Convention is silent on the issue of facilitating payments, however the un convention against corruption prohibits them. Countries such as the united states that permit facilitating payments, have ratified both conventions and are clearly not complying with the requirements of the un convention.
116	

<b>27</b>	Corruption does not happen in a vacuum. Instruments should gauge other socio-economic factors for correspondence and see if there might be some new approaches to fighting corruption.
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**22. Do you think that local conditions should be taken into account when developing and implementing anti-corruption instruments? Please give examples.**

Questionnaire no.	
<b>160</b>	<p>Local conditions should be taken into account when developing and implementing anti-corruption instruments if it means that less-developed countries will receive more guidance and support from international organizations on steps that they can take to find and eliminate corruption in their own countries. If taking local conditions into account means that a certain level of corruption should be expected in some countries, then no, local conditions should not be taken into account when developing and implementing anti-corruption instruments. Corruption should not be excused because countries are so poor that they cannot pay their government officials adequate salaries and those officials need to supplement their income with bribe money. By excusing these conditions, those countries would have no incentive to increase transparency within their own governments, leading to a continued cycle of poverty.</p> <p>Local customs are another question. Should anti-corruption instruments take into account local gift-giving holidays and other local customs when there is no corrupt intent attached with items or received? To some extent the language of anti-corruption instruments already take local customs into considerations [sic]. For example "gifts must be customary under the circumstances" is a phrase that appears in some national laws.</p>
<b>116</b>	
<b>27</b>	Yes - see my answer to 21b. One thing you learn from research is to collect lots of data and link your data to other data sets where applicable. There are often surprises hidden in the numbers, and perhaps indices to innovative approaches to problems.

**23. Additional information.**

**Please use this space to provide any additional information you feel is relevant about your own anti-corruption policies and /or measures or other points related to the prevention and combating of corruption.**

Continue on a separate sheet if necessary

QUESTIONNAIRE NO.	160	116	27