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Business Approaches to Combating Corrupt Practices

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BUSINESS APPROACHES TO COMBATING CORRUPT PRACTICES*

Executive Summary

The international business community's anti-corruption efforts are essential parts of broader systems for fighting corrupt business practices. These also include formal law enforcement, where an appropriate regulatory framework is already in place, and regulatory and other public sector reform, where it is not. This paper looks at anti-corruption material published on the websites of companies in UNCTAD's list of top 100 non-financial multinational enterprises. It seeks to understand these companies' views of corrupt business practices as well as their anti-corruption management and reporting practices. The paper answers the following questions:

- *How many of the top 100 non-financial multinational enterprises make public statements on corruption on their websites?* Forty three of the top 100 non-financial multinational enterprises present anti-corruption material on their websites. This is low relative to earlier studies of the top 100 companies' propensity to make public statements on environmental issues (which exceeded 90 percent). This low propensity might reflect several factors -- lack of awareness of the issue, an unwillingness to discuss it publicly or the perception by many of the companies in the sample that corruption is not a major concern for them.
- *Do companies from different sectors show different propensities to include material on corruption on their website?* Companies' practices vary greatly, depending on their sector of operation – most extractive industry companies (8 out of the 12 oil and mining companies in the sample) publish lengthy anti-corruption statements. In contrast, only one motor vehicle company (out of 13 in the sample) publishes any material whatsoever.
- *What kinds of anti-corruption commitments do these statements contain? Is a shared view emerging on the kinds of business practices that are acceptable and on the management tools that are effective?* Among the 43 multinational enterprises that discuss corruption on their websites, there is some evidence of progress toward a shared view in relation to “parties to bribery”: 33 companies mention private-to-private corruption, 26 mention bribery of public officials, and 25 mention both. Thus, 75 per cent of the companies discussing “parties to bribery” mention both sorts, whereas an earlier study, based on 1998 data, found that only one third of the companies mentioned both. However, the international business community continues to show wide divergences in their approaches to most other major issues – political activity, gifts and entertainment, facilitation payments. This could be taken to indicate a need for international dialogue and consensus building on the kinds of behaviours that are acceptable or unacceptable.

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- *How do companies manage the fight against corruption?* The managerial content of those statements that discuss corruption shows heavy reliance on a well-defined set of management tools. Seventy seven per cent (of the companies that discuss corruption) mention whistle-blowing facilities, 72 per cent accurate record keeping and 63 per cent contain threats of disciplinary actions. Other techniques include hierarchical controls, creation of a compliance office, and establishing a role for the Board of Directors. In a sense, then, this study suggests that a *de facto* management standard may be emerging.
- *Do companies report on their performance in this area?* Reporting on company performance against their anti-corruption commitments is not common. Few of the 100 companies in the study report publicly on their performance in implementing these commitments. Seven provided a formal report and 6 had material such as press releases on corruption-related misconduct.

I. Introduction

The international business community's anti-corruption efforts are essential parts of broader systems for fighting corrupt business practices. These also include formal law enforcement, where an appropriate regulatory framework is already in place, and regulatory and other public sector reform, where it is not.

Companies' anti-corruption systems typically involve written commitments on business ethics embodied in company mission, vision or value statements. In many cases, such statements are elaborated in company codes of conduct – or more detailed statements of policy. Such codes are voluntary expressions of commitment addressed to diverse audiences (employees, the general public, regulators). Issuance of these codes or public statements is frequently accompanied by the adoption of management systems designed to help firms honour their commitments in their day-to-day operations. Some companies also report on their performance in this area. This study provides information on these three facets of companies' anti-corruption activities – commitment (section II), management systems (section III) and reporting (section IV). Section V summarises the findings and proposes some interpretations.

The information comes from Secretariat analysis of the anti-corruption statements found on the home pages of the top 100 non-financial multinational enterprises. The list of companies was taken from the United Nations Conference on Trade and Development's (UNCTAD) *World Investment Report 2002*.¹ Annex 1 describes the methodology of the study and Annex 2 describes the attributes used to analyse the statements. This study builds on and updates earlier work done for the Working Group on Bribery's publication, *No Longer Business as Usual* (OECD 2000)² and is closely related to the CIME publication *Corporate Responsibility: Private Initiatives and Public Goals* (OECD 2001).

In looking at this material, the study seeks to shed light on how managers conceive of corruption, of anti-corruption management systems and of their reporting and disclosure responsibilities. This approach is motivated by management theories which emphasise that the individuals involved in business organisations use “mental models” (or ways of interpreting information) when dealing with complex, dynamic business problems³.

The material available on companies' websites provides insights into one particular type of mental model – models that companies make available on their websites for public scrutiny. It is not necessarily the case that these models are broadly shared by organisational actors in the companies that have published them – for example, operations or commercial managers may be using quite different models to deal with the conditions they encounter in the field. Nevertheless, the current period is one in which collective thinking about corruption is evolving. The legal environment has become more stringent in many jurisdictions and

high-profile scandals have made it an important issue for political debate in a number of countries. Recent high-level political declarations (e.g. the Monterrey Consensus, G8 Action Plan for Africa, OECD Ministerial Communiqués) show growing international recognition of corruption as a major impediment to the effective functioning of the global economy. Companies' publicly available material sheds some light on the importance they attach to the issue, their views on corrupt business practices and on their management and reporting responsibilities.

In summarising the anti-corruption content of major companies' websites, the paper provides data relevant for answering the following questions:

- What percentage of the top 100 non-financial multinational enterprises makes public statements on corruption on their websites?
- Do companies from different sectors show different propensities to include material on corruption on their website?
- What kinds of anti-corruption commitments do these statements contain (e.g. bribery of public officials, private-to-private corruption)? Do these commitments show evidence of the emergence of a *de facto* standard – or shared view among international companies -- on the kinds of activities and practices that are considered to be acceptable?
- How do companies manage the fight against corruption? Is there any evidence that companies' anti-corruption management systems are becoming more similar to each other over time?
- Do companies report on their performance in this area?

II. Business Perspectives on Corrupt Business Practices – Policies and Commitments

The difficulty of framing anti-corruption commitments resides mainly in identifying and describing the transactions to be proscribed – that is, in developing a workable mental model of what is acceptable and what is not. The connotation of the words “bribery and corruption” includes the general idea of unethical transfers of resources – but developing useful norms for business conduct requires moving from this general characterisation to a more operational description. Often, the challenge of developing an operational definition of corruption takes companies into “grey areas” where the boundaries between right and wrong are not clearly drawn⁴.

This section reports on whether and how the top 100 multinational enterprises address this challenge (see Table 1). The section examines the following issues: propensity to discuss corrupt business practices; approaches to anti-corruption commitment; extortion; facilitation payments; culture and local custom; gift giving and entertainment; political activities and/or contributions; business partners, and suppliers and subsidiaries.

Table 1. Corruption Content of the Top 100 Multinational Enterprises' Public Statements

Attributes	Percent of top 100 companies with material on their websites
Bribery/corruption mentioned	43
Parties to bribery:	
- Bribery of public officials	26
- Bribery of private actors	33
- Both	25
Activities mentioned:	
- Offering and/or giving bribes	32
- Receiving and/or soliciting bribes	33
- Political contributions/activities	35
- proscribed if violation of law	17
- proscribed if causes embarrassment	2
- proscribed if improper or gives appearance of impropriety	2
- permitted with approval	17
- permitted to protect/advance legitimate company interests	10
- permitted if consistent with local tradition/culture	2
- Facilitation payments	10
- Gifts and/or entertainment	30
- proscribed if excessive/exceeds normal business customs	23
- proscribed if inducement to business	23
- proscribed if gives appearance of impropriety etc	17
- proscribed if in violation of laws	10
- proscribed if damaging to reputation	5
- proscribed if above a specified value	3
Other	
- Suppliers and/or business partners to follow same/similar principles	22
- Subsidiaries to follow same/similar principles	32
- Agents not used to undertake proscribed activities/to follow same or similar principles	22
- Explicit reference to culture/local customs	18
- in the context of gifts and/or entertainment	14

Source: OECD

Propensity to discuss corrupt business practices

This study finds that 43 of the top 100 non-financial multinational enterprises publish material that deals explicitly with corrupt business practices. This is lower than the propensity found in an earlier study of the top-100 list companies' statements on environment, labour relations and health and safety (Figure 1). Companies' public statements show an apparent preference for more positive terms like "integrity," "honesty" or "ethics" to describe company commitments in this area and reluctance to use terms like "bribery" or "corruption." Twenty of the company websites contained general statements (e.g. "we observe strict ethical standards") which could be construed as referring to corrupt business practices (and to other issues, as well) without explicitly mentioning them. These companies are not included among the 43 companies counted as having anti-corruption statements on their websites.

The study also shows that companies from different home countries and operating in different sectors have different propensities to publish anti-corruption material on their websites⁵ (Figure 2). Only one of the 13 motor vehicle companies in the sample published anti-corruption statements, while eight of the 12 extractive industry companies do so. Six of the 12 companies in "electrical and electronic equipment" publish such material.

Approaches to commitment —what and who?

"Never give, offer, or authorize the offer, directly or indirectly, of anything of value (such as money, goods or a service) to a customer or government official to obtain any improper advantage."

From the code of conduct of a network services provider

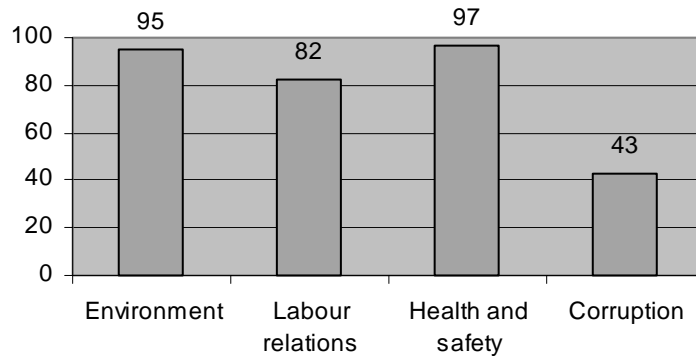
The websites also show a wide range of approaches to defining corruption. Many do not attempt to define "bribery" and "corruption," while others give detailed guidance on activities that, in the company's view, are acceptable or unacceptable. A number of the websites make use of case studies or questions and answers to help employees and others understand the company's commitments and policies.

The public statements vary widely in their vocabulary and language. For example, the following words were used to describe the resources that might be transferred in the course of a corrupt transaction: undue advantage, anything of value, contribution, gratuity, service, gift, hospitality, entertainment, improper payment, benefit, discount, tip, kickback, incentive, donation, illegitimate/personal favour, property, or illegal/improper receipt. When describing acceptable payments, gifts, entertainment or other benefits, words such as appropriate, legitimate, reasonable, business-related, courtesy, token, modest and nominal were often used.

Thirty three of the companies in the study address private-to-private bribery, while 26 explicitly mention bribery of public officials. Only 1 company limits its discussion to bribery of public officials while 8 companies discuss only private-to-private bribery. This finding contrasts with an earlier study⁶ which showed companies roughly evenly divided among those that mention only bribery of public officials, those that mention only private-to-private corruption and those that mention both. This finding provides some evidence of (limited) progress toward a common definition of corrupt business practices.

Figure 1. Policy statements by issue area

(number of companies in top-100 list making statements)

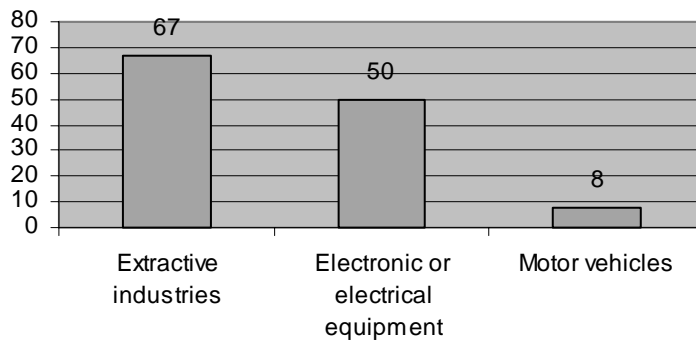


* The first three bars are taken from OECD (May 2001) and the fourth bar from the present study's findings. The two studies use identical text scoring methodologies, but data correspond to two different UNCTAD lists of top 100 multinationals.

Source: OECD.

Figure 2. Anti-corruption statements by sector of activity*

(Percent of companies in sector sample)



* The three sectors in this figure are those that have more than 10 companies in UNCTAD's top-100 list.

Source: OECD.

The material deals with both active bribery (giving bribes) and the passive version (receiving them). Thirty-two per cent of the companies in the study prohibit offering and/or giving bribes, while 33 per cent prohibit attempts at solicitation and/or receiving bribes.

Extortion

A frequent terrorist and criminal tactic... is to attempt to extort companies into paying protection fee rather than risk reputation damage through association with the military. It is, however, possible to obtain army or policy protection that is both effective and free of human rights violation... we seek to keep any dealings with the military as transparent as possible.

Petroleum company's explanation of its policy on security forces

The business community has pointed out on numerous occasions that many payments that might fall under the heading of corruption are actually payments made in response to extortion by private or public actors. It is somewhat surprising, given the attention paid to the issue by the business community, that extortion is mentioned only rarely in the companies' statements. Two companies have material on their websites that describe actual cases of extortion or that mention the word "extortion" explicitly. Some of the texts dealing with operations in specific countries (e.g. Nigeria) describe experiences in those countries that could imply the company was a victim of an extortion attempt.

Facilitation payments

"In early 2001, [our company's] position on [facilitation payments] received a lot of attention... We said.. that whilst facilitation payments are discouraged.... our policy allows them to be made at local management discretion. Many places do not recognise a difference between facilitation payments and bribes and some parties chose to portray [our company] as tolerant of paying bribes. We have accepted that our position on this matter should be strengthened to reinforce our overall strong anti-corruption stance. In February 2002, we introduced a new policy that makes it clear that [our company's] staff anywhere in the world should not make facilitation payments from now on."

From a 2001 report of a petroleum company

"In some countries it may be customary at times to pay government employees for performing their required duties. These facilitating payments, as they are known, are small sums paid to facilitate or expedite routine, non-discretionary government actions, such as obtaining phone service or an ordinary license....Understanding the difference between a bribe and a facilitating payment is critically important. Consult with your division legal counsel before acting."

From the website of a consumer products company

Facilitation payments pose problems of interpretation for both managers and law makers as they attempt to differentiate between acceptable and unacceptable practices. For both, the problem lies in finding a formulation that recognises the difficult situations that enterprises may face in certain business environments without creating a loophole in anti-corruption norms. Ten of the companies in the sample discuss facilitation payments, but (as suggested by the two quotes above) there are divergences of view about whether company policy should tolerate such payments. A few of the companies prohibit them entirely and, in general, there appears to be an overall distaste for them. Some of the companies explicitly tolerate them and some set forth transparency mechanisms (e.g. requiring that such payments be authorised by senior company officials and properly recorded in the company records).

Culture and local custom

“Local customs, traditions, and mores differ from place to place, and this must be recognized. But, honesty is not subject to criticism in any culture.”

From the website of a petroleum company

Based on the material available on their websites, companies appear to be trying to come to grips with cultural differences in attitudes toward corruption. 27 of the websites mention culture and/or local customs in the context of discussing the company stance on facilitation payments, gifts and/or hospitality or other related ethical issues. In addition, the problems posed by what might be called the “endemic bribery” that exists in many countries are also mentioned in some of the statements.

Sixteen companies call attention to the cultural dimension of giving gifts and entertaining, referring to the need to respect local custom. However, six websites also point out that culture should not be used as an excuse for violating ethical business practice, making statements such as “we should never confuse bad practice with culture” and “honesty is not subject to criticism in any culture (see quote above).”

Gift giving and entertainment

We only exchange business courtesies when doing so helps build mutual trust and does not inappropriately influence decision-making.

From the code of conduct of a telecommunications company

The public statements show little evidence of a common model for describing acceptable or unacceptable gift giving and entertainment practices. Many of the websites contained language prohibiting employees (and sometimes also their family members) from accepting improper gifts and/or entertainment. 29 of the websites had material covering the company’s stance on “gifts.” 28 of them present material setting out the company’s position on entertainment.

Most of these companies did not completely prohibit reception or giving of gifts or entertainment from or to business partners. Here, the line between acceptable business practice and bribery is, perhaps unavoidably, fuzzy. Companies use a variety of terms and concepts to provide guidance to employees on what is allowed and what is not. Concepts mentioned include: gifts or entertainment excessive in value and/or that exceed normal business customs (23 companies); gifts or entertainment that are an inducement to business (23 companies); gifts or entertainment that violate the law (10 companies); appearance of impropriety (17 companies), and damaging to the reputation or image of the company or a third party (5 companies). Three of the companies specify a monetary amount to guide employees as to what would be an unacceptable practice. The focus on “appearance” hints at the role of public opinion and social pressure in determining companies’ own assessments of what is and what is not acceptable conduct.

Political activities and/or contributions

[Employee question] Our office has been solicited to make a major donation to the mayor's re-election campaign. He's going to win easily, and our relationship with City Hall is important to us. Is this okay?

[Company response] Donations to political campaigns or parties, whether at the local or national level, can only be made when approved by [our company's] CEO.

From "Questions and answers" published on a metal products company's site

The statements show a wide range of approaches to political activities and contributions. 27 of the companies make publicly available on their websites their policies on political contributions to persons holding office, candidates or political parties and/or the company's involvement in political activities. A few companies have policies of refraining from participating in political activities and not making contributions to political parties. Many companies allow political contributions, in certain circumstances – for example, ten permit them if they protect or advance legitimate company interests. Seventeen companies subject such contributions to controls by management (e.g. by the Board or the CEO). In contrast, a few companies promote active involvement in political activities and note on their websites that they have established funds for channelling employees' political contributions.

Business partners, suppliers, subsidiaries and agents

If you are authorised to engage agents, make sure that they are reputable and require them to agree in writing to [our company's] standards in [the anti-corruption] area.

From the code of conduct of a consumer electronics company

Many of the websites indicate that the company encourages or even requires independent contractors, suppliers or business partners to comply with the company's principles, including through the use of terms to this effect in contracts. 22 of the companies have provisions that prohibit use of agents to carry out activities that the company is itself prohibited, by its code of conduct, to do. 22 of the websites contain a similar provision regarding suppliers and business partners. 32 of the websites explicitly deal with the conduct of subsidiary companies, seeking to bind them (especially those that are wholly owned or controlled) or encourage them to comply with the same or similar principles, including by asking them to adopt their own codes of conduct based on the code developed by corporate headquarters. Not counted in this number are the numerous commitments to forego "*the direct or indirect offer, payment, soliciting or acceptance of bribes is not permitted.*" (emphasis added).

The content of companies' discussions of these issues does not indicate major divergences of view. The main differences among the texts are their length and degree of detail. For example, a few texts provide detailed guidance on how remuneration of agents and the need to ensure that agents are reputable.

Summary of anti-corruption commitments

Because of fundamental differences in firms' circumstances, complete homogeneity of their anti-corruption commitments is neither expected nor desirable. Taken as a whole, the material on company websites shows wide divergences in commitment practices. In particular, it points to:

- *The disinclination of a majority of companies in the sample to publish policies dealing explicitly with corruption.* This could reflect a lack of awareness of the issue, reluctance to discuss the issue publicly (motivated, for example, by concerns that such discussions might create a presumption that the company has serious problems in this area) or the perception that corruption is not a material risk for their business⁷.
- *A strong industry dimension to treatment of these issues.* Companies in the extractive industry are much more likely than companies in other sectors to publish anti-corruption statements on their websites.
- *A lack of consensus on the nature and scope of anti-corruption commitments* and the absence of shared vocabulary and concepts for making these commitments.⁸ In areas such as political contributions, facilitation payments, gifts and entertainment, the companies in the sample show little evidence of agreement in how they think about these basic issues.

III. Management Tools in the Fight against Corrupt Business Practices

Companies that participate in corrupted dealings.. do themselves no favours. Although a business deal here or there may be obtained, the cost includes creating a culture of dishonesty within the company. If cheating or bribery or fixing the books are tolerated for certain purposes, a company can never again be sure that these dealings are not tolerated for others. The whole organisation can come to believe that dishonesty is an accepted approach.

From the website a petroleum company

This section describes what firms say on their websites about how they implement their anti-bribery commitments. Companies' anti-bribery statements are evaluated for their implementation content – that is, for the specific management tools mentioned in the statements, including: statements addressed by top management to staff, establishing a role for the Board of Directors, whistle-blowing facilities and protection for whistleblowers, signatures of directors and/or managers, training, assigning managerial responsibility for various aspects of implementation and compliance, compliance officers and committees, employee signatures, internal auditing and disciplinary action. Sometimes, companies endow existing structures within their organisation -- for example, an internal audit committee -- with new anti-corruption functions. A description of the various types of control mechanisms is given in Annex 2, along with sample texts found on company web pages.

The quotation above exemplifies the link that some companies draw between the problem of combating corruption and the more general financial management control problems they face. They recognise that, when trying to establish a culture of integrity within the company, it is not really possible to separate integrity vis-à-vis particular actors (e.g. protecting shareholders' interests) and integrity vis-à-vis society at large (e.g. complying with law, foregoing bribery). The management challenges of complying with anti-corruption norms are, in principle, quite similar to the general problem of asset protection and financial control (e.g. protecting against embezzlement, insider trading and conflict of interest).

Management systems are key parts of broader systems for controlling business conduct. Firms often have to invest heavily in the acquisition of expertise in order to learn how to deploy different control instruments in response to different ethical and legal compliance challenges (controlling corrupt business practices poses different implementation problems from that of child labour in the supply chain). In this sense, getting the legal and civic environment right is only part of what is required for the successful prosecution

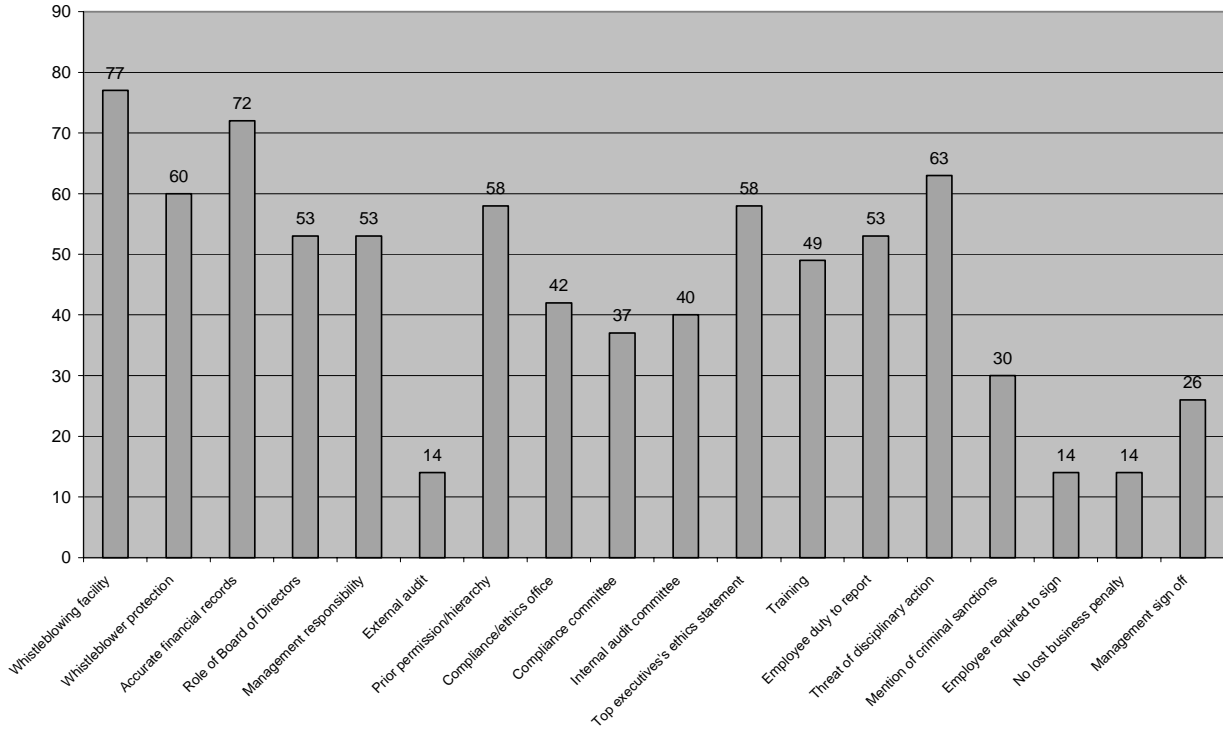
of the fight against corrupt business practices -- the other part concerns technical, managerial, and cultural processes within firms.⁹

Figure 2 shows that a commitment to keeping accurate financial records and reporting is a common implementation measure found on 72 per cent of the websites of companies that publish anti-corruption statements. Other internal measures are also typical — whistle-blowing facilities (77 per cent), protection for whistleblowers (60 per cent), creating compliance offices (42 per cent) or committees (37 per cent), reference to disciplinary action (63 per cent), ethics statements from top management (58 per cent), involving the Board of Directors in implementation or compliance efforts (53 per cent), requiring employees or managers to seek prior permission before engaging in certain activities (58 per cent), training (49 per cent), and requiring employees to report possible violations or ethics issues (53 per cent). Fourteen per cent of the websites contained explicit statements to the effect that companies' ethical commitments were higher priority considerations than business performance and/or stating that employees would not be held accountable for business lost from complying with them.

The analysis of the managerial content of the 100 websites suggests that there is some variation of management practice in the fight against corruption – this is normal as there can be no “one size fits all” approach. Nevertheless, the impression left by the analysis is that the firms with anti-corruption statements on their web-sites show considerable agreement as to the “choice of weapons” in the fight against corruption. The companies rely heavily on such compliance management techniques whistle blowing facilities, record keeping, hierarchical controls, threats of disciplinary action, creation of a compliance office, and establishing a role for the Board of Directors. In contrast to these companies' anti-corruption commitments, these companies speak with some confidence and use shared vocabulary and concepts when discussing the management challenges of the fight against corruption. This apparent agreement may facilitate the emergence of standardised management systems for dealing with corruption.

Figure 3. Anti-corruption Management Tools Used

(Percent of companies making anti-corruption commitments that mention tool)



Source: OECD

IV. Reporting on Corrupt Business Practices

Reporting on company performance against anti-corruption commitments is not common. Seven of the companies include corruption-related material in their CSR reports. Six of the companies reported on corruption related events elsewhere on their websites (e.g. in press releases on corruption-related misconduct). In the entire sample, a total of 12 companies provided some sort of report on corruption-related performance. In contrast, well over half of the companies publish environmental reports. Possible explanations of the differences between environmental and anti-corruption reporting are:

- The availability of standards that facilitate environmental reporting makes it easier for firms to undertake such reporting (while little guidance is available for anti-corruption reporting).
- Companies might feel more at ease with reporting on environmental matters. They may see little 'up side' to reporting on corruption;

V. Implications for Anti-corruption Practitioners

The fight against corruption needs to be conducted on a broad front and to draw on support from a wide variety of actors, especially the business community. The business community's importance derives from the fact that it is on the front lines in the fight against corrupt business practices. Therefore, its understanding of acceptable business practices is important. Similarly, business' management practices determine whether companies will actually be able to comply with the evolving legal framework and with growing societal pressures. Their reporting practices influence the ease with which outside actors can monitor the success of their anti-corruption efforts.

With regard to management processes, the study suggests that firms deploy a relatively homogeneous set of practices in the fight against corruption and that a *de facto* standard of practice appears to exist. Compared with the way they discuss their policies and commitments in the fight against corruption, companies' discussions of anti-corruption management draw on shared vocabulary and concepts. This consensus on management practice may reflect the fact that the fight against bribery draws on the same expertise and uses the same management tools as other areas of financial control. Thus, implementation of compliance programmes in bribery might well have strong, direct synergies with existing control processes. This differentiates anti-corruption compliance efforts from those in other areas. For example, the most influential environmental management standard -- ISO 14001 -- had to be negotiated over several years, a process that may not be necessary for anti-corruption management standards.

In contrast to the apparent consensus on management issues, there is little evidence of a *de facto* standard on companies' published anti-corruption commitments. Fifty-seven of the 100 top multinational enterprises do not explicitly acknowledge the issue on their websites. Although there is some evidence of progress toward a shared view on "parties to bribery" (relative the findings of an earlier study), the top-100 multinational enterprises show divergences on other major corruption issues -- political activity, gifts and entertainment, facilitation payments. Thus, this study suggests that a need persists for international dialogue and consensus building directed at identifying acceptable and unacceptable business practices.

The study also shows that, in contrast to their extensive environmental reporting, few companies report on their performance in this area. This finding suggests that it might be useful to consider the reasons for this and to reflect on whether or not such reporting would enhance transparency.

Annex 1. Methodology

Definition of Public Statements

This study is based on material sourced from the websites of the top 100 non-financial multinational or transnational enterprises as defined by UNCTAD. The list of companies concerned was taken from UNCTAD's *World Investment Report 2002*.

Collection of Material

Relevant material was downloaded directly from the website of the companies. To bolster the accuracy of this process, the OECD Secretariat tried contacting many of the companies on the list via e-mail requesting a list of the material they had published touching on the subject of anti-corruption. However, relatively few responses were received. Even where other material was obtained, only material found on the websites was used. This material is available in paper form at the OECD and can be made available to interested delegations upon request.

Scoring of materials

The material taken from the top 100 multinational enterprises websites was then scored by the OECD Secretariat. The scoring was made with reference to a list of attributes that was developed in cooperation with OECD anti-corruption experts and by reference to external texts (International Chamber of Commerce 1999, Pope 2000). The two Secretariat officials involved in the study duplicated a certain number of the scoring exercises so as to ensure that a common interpretation was given to each attribute. Each company's score with respect to each attribute was entered as a zero-one variable into an Excel spreadsheet. See Annex II for this list of attributes and for some sample texts concerning each attribute. This material can be made available to interested delegations upon request.

Advantages and Limitations

Studies based on publicly available information avoid non respondent bias in surveys based on mailed questionnaire (that is, biases in findings caused by systematic differences between the companies that replied to the survey and those that did not). The methodology used here is also less vulnerable to biases introduced by interviewers in interview-based surveys. However, the methodology used for this study involves several limitations:

- Because the study is based on material found on company websites, it is possible that many of the companies in the study have published material on anti-corruption or that bears on implementation of their anti-corruption commitments but have not made it available on the Internet. In other words, the lack of material may reflect a company's publication policies rather than a lack of concern about corruption. Some company websites refer to codes of conduct or business principles that are not available on the website.
- In addition, firms may rely on unwritten - and therefore unpublished in any form - procedures and practices that affect implementation. Material of this type was not included in the study.
- Only English language versions of the websites were used for the study. It is possible that local language versions contained more content relevant to the fight against corruption. However, "local language" considerations might not be relevant for the top 100 multinational enterprises that are the subject of this study.

Annex 2. Attributes Used in Analysis of Anti-Corruption Statements

Corruption dealt with: The website contains material expressly mentioning bribery and/or corruption. Company statements mentioning only integrity, honesty or ethical conduct, without further elaboration and mention of bribery and/or corruption, have not been included.

Offering or giving bribes : Material on the website explicitly deals with the offering and/or giving of bribes or with payments, gifts, services, entertainment, favours, benefits etc. Example:

“Never give, offer, or authorize the offer, directly or indirectly, of anything of value (such as money, goods or a service) to a customer or government official to obtain any improper advantage.”

Receiving or soliciting bribes: Material on the website explicitly deals with the receiving and/or soliciting of bribes or with payments, gifts, services, entertainment, favours, benefits etc. Example:

“We will never request, accept or offer any gratuities or other payments for providing specific services.”

Political contributions/activities: The Company’s stance on political activities and/or contributing to political parties is set out on the website. Example:

“As a general rule, we refrain from participating in political activities in the name of [Company] or in organizing such activities on [Company] property....Whether or not local laws restrict the use of corporate funds in support of political parties, it is our general policy not to make contributions to political parties at any level of government....”

Compare with:

“The [Company] Civic Action Fund, supported by voluntary donations from [Company] employees, gives campaign contributions to national, state and local political candidates from both major political parties in [country]. A list of contributions made can be viewed at [link].”

Facilitation payments: There is material on the website that describes the company’s stance on facilitation payments. Companies’ positions on this issue differ widely. Example:

“[Company] will never offer, pay, solicit or accept bribes in any form, either directly or indirectly. This includes those transactions formerly known as facilitation payments.”

Compare with:

“In some countries it may be customary at times to pay government employees for performing their required duties. These facilitating payments, as they are known, are small sums paid to facilitate or expedite routine, non-discretionary government actions, such as obtaining phone service or an ordinary license....Understanding the difference between a bribe and a facilitating payment is critically important. Consult with your division legal counsel before acting.”

Excessive or exceeds normal business customs: Material on the website prohibits or regulates gifts or entertainment with reference to its value (whether an amount is specified or not), frequency, reasonableness, or the fact that it is not in accordance with business custom or ordinary business practices. Alternatively, there may be a prohibition on gifts/entertainment that are not for business purposes or in a direct business context. Example:

“We will only give or accept gifts and entertainment that are for business purposes and are not material or frequent.”

Inducement to business: Material on the website indicates that employees are to avoid accepting hospitality or gifts that could place them under an obligation or that were intended to or might influence decision making. This can include a prohibition on accepting gifts or entertainment during particular decision making periods. Example:

“No employee should seek or accept a gift, entertainment or personal favour which might reasonably be believed to have a significant influence on business transactions.”

Appearance of impropriety etc: Material on the website prohibits or regulates gifts, entertainment or payments where there is or may be the appearance of impropriety. It must expressly mention “appearance” or how the gift, entertainment or payment will or may be “seen,” “construed” or “perceived.” Example:

“No employee may, offer, give or receive any gift or payment which is, or may be construed as being, a bribe.”

Violation of laws: Material on the website prohibits the giving or receiving of gifts or entertainment, making political contributions and/or other political activities that is against the law.

“It is against [Company] policy to make unlawful, improper or other kinds of questionable payments to customers, government employees or other third parties.”

Damaging to corporate reputation or image of company or TP: Material on the website indicates that gifts and/or hospitality are not to be given or received where they have the potential to negatively impact the reputation or image of the company or a third party. Only instances where reputation damage were mentioned with respect to gifts and/or hospitality were counted. Example:

“Courtesy objects, such as small presents or hospitality gifts, are allowed only when the value of such objects is small and does not compromise the integrity and reputation of the partners and cannot be construed by an impartial observer as aimed at obtain undue advantage.”

Subsidiaries to follow the same or similar principles: The website contains a provision requiring or encouraging subsidiaries (especially ones that are wholly owned or in which the company owns at least 50% of the voting rights) to adopt the same or similar principles. Example:

“Subsidiaries and other controlled affiliates throughout the world must adopt and follow corresponding policies.”

Agents not to be used to undertake proscribed activities : The website prohibits the use of agents to accomplish what the company cannot do without violating its own principles or the law, and/or requires that persons acting as agents for the company comply with the company’s anti-bribery commitments. Example:

“We will not employ agents to carry out actions that conflict with these commitments.”

Explicit reference to culture/local customs: The website mentions culture and/or local customs in the context of discussing the company stance on facilitation payments, gifts and/or hospitality. Example:

“Local customs, traditions, and mores differ from place to place, and this must be recognized. But, honesty is not subject to criticism in any culture.”

Commitment to accurate financial records : The public statements mention attempts to set forth quality standards for record keeping and reporting. Example:

“All financial transactions are to be properly recorded in the books of account and accounting procedures are to be supported by the necessary internal controls. In turn, all Company books and records must be available for audit.”

Role for the Board of Directors : The website describes a role for the Board of Directors in the implementation of the company’s anti-bribery commitments beyond merely adopting a code of conduct. Among other things, this could take the form of a Board sub-committee, delegating responsibility to a Board member to oversee implementation, Board member involvement in a compliance related activity (such as membership of a compliance committee or council), or requiring that progress on implementation be reported to the Board. Example:

“The [Company] Board is responsible for ensuring these principles are communicated to, and understood and observed by, all employees.”

External audit of compliance with anti-bribery commitments : Material on the website indicates that the company requests or intends to request that their performance against anti-bribery commitments be externally audited. This may take the form of a commitment to external verification or documents evidencing the audit itself.

Prior permission required : Employees are required to seek prior permission before engaging in certain activity, such as receiving or giving gifts or entertainment etc. Example:

“There may be situations when our business associates are invited to company social functions and wish to participate by sharing in the cost of the event. This may be acceptable, but should be approved by management beforehand.”

Compliance and/or ethics office/officer or committee : The company has established a compliance office, officer or committee to be responsible for compliance with the company’s anti-bribery commitments. Example:

“[Company] has established the position of chief compliance officer, who ensures compliance with the company’s Code of Conduct.”

Anti-bribery role for the internal audit committee : The websites states that the company’s internal audit committee has been given a role in implementing the company’s anti-bribery commitments. Example:

“In order to allow for the evaluation of the implementation and follow-up of the Compliance Program, the Compliance Director establishes an annual assessment liaising with the Compliance Officers. This assessment report is submitted to [Company’s] Audit Committee which can propose, for approval by the Board of Directors, all measures to improve its relevance and effectiveness.”

Ethics statement from senior executives : The website contains a statement setting out the company’s anti-bribery commitment that is signed by the board of directors, the chairman of the board, the president or another high level executive. This often takes the form of a signed message to employees as a foreword to a code of conduct text, or it can be a merely a signature on the code or other statement itself.

Training for compliance mentioned : Material on the website states that employees will be or have been trained on the company’s anti-bribery commitments, implementation and/or monitoring. Example:

“[The Ethics Committee] advises the Group’s training departments on the inclusion of a presentation of the Code of Conduct in every training program where it is appropriate, in particular those for new recruits and for management.”

Whistleblowing facility : The website mentions the company ombudsman or a list of persons to contact with concerns and possible violations of the company’s anti-bribery commitment. Sometimes multiple communication channels are identified, with a request that employees first inform their own supervisor if that is appropriate. The channels may include supervisors, other managers (including senior company management), a toll free telephone hotline, the company legal department, compliance officer or committee, an off-site ethics post office box, and/or a dedicated email account. Some of the channels may be made available to people outside the company, including the public. Some companies ask employees to continue to raise their issue using different company channels until the matter is dealt with. Example:

Employees should report suspected Code violations to their manager or higher levels of management, to the Corporate Legal or Audit Departments, or to division legal counsel....”

Protection for whistleblowers: The website indicates that some measure of protection is provided for whistleblowers. Typically, this takes the form of an anti-retaliation provision. Some companies state that reporting a violation will not absolve the whistleblower of responsibility if he or she was involved, but that the fact that the person came forward may be taken into account when determining the appropriate action to be taken. Example:

“...[Company] will not tolerate threats or acts of retaliation against you for making [a] report.”

Employee duty to report on possible violations: Material on the website states that employees are required to report possible violations of the company’s anti-bribery commitment. Example:

“We will report to our superiors or those concerned, such as persons in the legal affairs office, when we suspect that our activities have violated the laws or corporate ethical principles. When an act in violation of law has occurred, we must immediately redress the violation, prevent it from recurring, and be rigid in handling the situation.”

Threat of disciplinary action: The website material mentions that the company will take disciplinary action in the case of non-compliance with the company’s anti-bribery commitments. Example:

“Employees who violate company standards may be disciplined up to and including dismissal, as well as be subject to civil and criminal charges.”

Signature by employees: Material on the website indicates that employees are requested to sign that they have read the company’s code of conduct (which deals with bribery) and will comply with it. Example:

“Within 15 working days of receiving this material, the new employee must have signed and returned a ‘Code of Business Conduct Acceptance Form’ ... stating that they have read and understood these policies and agree to abide by them.”

Management responsibility: Material on the website mentions that it is the task of managers to implement the commitments, monitor compliance and/or conduct periodic reviews. Example:

“It is the responsibility of management to ensure that the Group Code of Conduct and standards are communicated, understood and acted upon. They must positively promote them by personal example and are not entitled to permit exceptions to the required behaviour.”

Management signature report : Material on the website indicates that managers are, from time to time, asked to certify that the employees they supervise are complying with the company's anti-bribery commitments. Example:

“[a]t reasonable intervals, managers confirm that they and those under their direction comply with the business principles.”

Mentioning of possible criminal sanctions : Some companies explicitly refer to the fact that bribery is or may be against the law and raise the possibility of criminal sanctions for bribing foreign public officials or for false reporting. Example:

“Dishonest reporting can lead to civil or even criminal liability for you or [Company].”

Ethical commitments not to be subjugated to business performance: The website states that priority is to be given to ethical compliance even at the expense of business performance. Some of the websites also state that managers and/or employees will not be penalized for any associated loss of business. Example:

“The obligations of [Company] leaders go beyond those required of all employees. Leaders in our company are expected to [b]uild and maintain a culture of compliance by: ...Making sure that employees understand that business results are never more important than compliance....”

Political activities to protect/advance company interests : The website material mentions that the company will or may engage in certain political activities, for example, lobbying and/or engaging in dialogue to protect or advance legitimate company interests. Example:

“[The Company] is actively involved in political dialogue, putting its own positions to general debate and explaining its own interests.”

Political activities and/or contributions are to be consistent with local traditions, customs or culture : The website material shows that the company requires that political activities and/or contributions respect local traditions, customs and/or culture. Example:

“Every employee who could be considered as a representative of the [Company] is required to abstain from political activity in the countries in which he or she is not entitled to exercise civic rights and in which the [Company] is present. Employees must take care not to do anything which would be contrary to such countries' traditions or cultures.”

Political activities and/or contributions that are improper or may appear so : The website prohibits political activities and/or contributions that are improper or may appear so. Example:

“[Company] and its associates may not make any improper contribution to candidates for public office, to political parties or other political interests which are not in accordance with the law or which would otherwise have the appearance of being improper.”

Political activities and/or contributions causing embarrassment : The website shows that the company prohibits political activities and/or contributions that might embarrass the company. Example:

“Approval should not be given to any political contributions which, by their scale or affiliation, might embarrass the [Company].”

Political activities and/or contributions require company approval : Material on the website shows that the company requires approval before certain political activities can be engaged in or contributions made by employees. Example:

“No employee may make or commit to political contributions on behalf of the company without approval from the Office of General Counsel.”

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Notes

- 1 Table IV.1, pp. 86 ff.
- 2 A more detailed description of the same study can be found in Gordon and Miyake (2001).
- 3 These models are constructed, updated and disseminated by individuals through processes of learning and communication. The models combine concepts, values and knowledge of local or specific circumstances in organisations and allow individuals to respond coherently to new situations. To the extent that these models are shared by large numbers of business actors, then individual action will also be coherent at a group level.
- 4 Chapter 4 of a Report by the Ministry of Economic Affairs of the Netherlands (2001) contains a detailed description of these problems, as seen by Dutch companies. Definitional problems identified included facilitation payments, distinction between bribery and solicited donations to charities and foundations, and corruption versus extortion.
- 5 These findings about large sectoral and international differences in companies' anti-corruption practices echo findings reported in Control Risks Group (2002).
- 6 See OECD (2001; page 56) or Gordon and Miyake (2001).
- 7 Friends, Ivory and Sime (2002) find, using a mailed questionnaire survey methodology, that 58 percent of the companies in their sample viewed corruption as a material source of risk to their business.
- 8 A number of other analysts have noted that there is little consensus on what constitutes bribery and corruption. Kaufmann (1999) positions the search for taxonomy of corruption as a question for further "operationally-oriented" research. Gardiner (1993) also emphasises the need to make progress on building agreement on how to define corruption as the basis for a more concerted and effective anti-corruption effort.
- 9 Punch (1996) provides an extensive sociological and managerial analysis of the internal workings of corporate misbehaviour. See also Conley and O'Barr (1997) for a discussion of the cultural and managerial basis of corporate misconduct and Scholz (1997) for a discussion of how firms' internal efforts fit with broader enforcement strategies.