

# Fight Against Corruption Escalates

Transparency International, described as the global coalition against corruption, has released several reports detailing the pervasiveness of corruption and bribery within business across the globe. Despite some positive developments, there's still much progress to be made in creating a corruption-free world.

The fruits of a recently announced U.S. Department of Justice (DOJ) initiative to stop foreign corporate bribery resulted in the arrest for bribery of 22 top-level executives in the arms industry. The case was described as the largest prosecution ever of individuals for foreign corporate bribery under the 1977 Foreign Corrupt Practices Act (FCPA). Included in those arrested was the sales vice-president of Smith & Wesson, the largest manufacturer of handguns in the U.S.

Lanny A. Breuer, U.S. assistant attorney general for the criminal division, described the FBI stings that obtained evidence to support the arrests as “the first time we’ve used the technique of an undercover operation in a case involving foreign corporate bribery.” He added, “The message is that we are going to bring all the innovations of our organized crime and drug war

cases to the fight against white-collar criminals.” Breuer noted, “International cooperation is growing every day and getting better and better.”

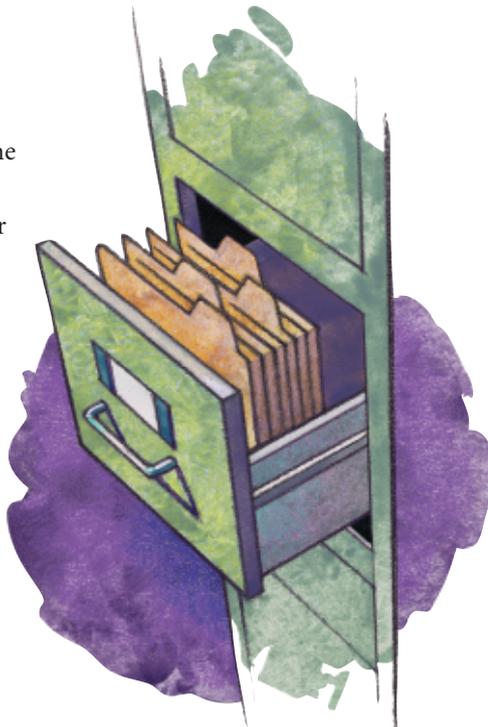
The most prominent group organized to fight corruption on a global scale is Transparency International (TI). TI’s mission is to create change leading to a world free of corruption. It defines corruption as the abuse of entrusted power for private gain. According to TI, corruption hurts everyone whose life, livelihood, or happiness depends on the integrity of

people in a position of authority. Perhaps the group’s best-known research product is its annual *Corruption Perceptions Index* (CPI), which ranks the perceived level of public-sector corruption in 180 countries and territories around the world as measured by expert and business surveys. In the 2009 report, the United States ranked 19th, a slide down from 14th at the beginning of the decade.

In terms of paying business bribes, the *2008 Bribe Payers Index* report from TI ranks Belgium, Canada, the Netherlands, and Switzerland as the least likely of 30 leading exporting countries to use bribes to win business abroad. Countries rated as most likely to use bribery as a sales tool are China and Russia. The U.S. falls in the middle.

TI’s *2009 Global Corruption Barometer* surveyed 673,000 households in 69 countries concerning their perceptions of and experiences with corruption.

The report showed that 53% of respondents believe the private sector of business to be corrupt, using bribes to influence public policy, laws, and regulations, up from 45% in 2004. “These results show a public sobered by a finan-



cial crisis precipitated by weak regulations and a lack of corporate accountability,” said TI Chair Huguette Labelle.

TI also publishes an annual *Progress Report on Enforcement of the Organisation for Economic Co-operation and Development (OECD) Anti-Bribery Convention*. The 2009 document shows that enforcement has been extremely uneven. There’s active enforcement in only four countries and little or no enforcement in 21. The *Report* calls for increased efforts in countries with moderate enforcement because their level of enforcement isn’t high enough to provide effective deterrence. Many senior executives were totally unaware of the contents of this global document. In November 2009, the OECD published a revised *Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions*. The United Kingdom introduced a strengthened bribery bill into Parliament in November 2009.

A more positive note is reflected in the TI *Global Corruption Report 2009*. It reveals “encouraging and real progress” toward stronger corporate integrity despite prominent corruption scandals and the “lack of transparency and accountability that has been shown to lie at the root of the financial crisis.” But corporate performance in this area often doesn’t live up to the commitments made by senior corporate executives. The key message of the *Report* is that “business world-wide now has a clearer responsibility, more profound

self-interest and greater potential” to have a vital role in lessening the burden of corruption.

The *Global Corruption Report 2009* sets forth a number of business-related findings and conclusions that point to a need for change:

- ◆ Corrupt payments to public officials are only one part of the corruption problem. Nepotism and corruption in private business transactions are two issues that deserve much more attention. Corrupt practices tend to invalidate the license that society grants to business to operate, and they damage the legitimacy and trust that business depends on to survive.
- ◆ Corruption within an enterprise is a widespread threat to sustainable performance and accountability. An example is majority business owners who enter into conflicted self-dealing contracts that harm other stakeholders. This type of corruption also hinders companies from acting as good corporate citizens.
- ◆ Corruption in the market for goods and services undermines fair competition and prices and results in higher costs globally. There’s evidence of a new and potent wave of globalized cartel activity involving well-known brand names and key market sectors, ranging from food and vitamins to the most sophisticated high-tech products and consumer services.
- ◆ Corruption risks in corporate lobbying can turn legitimate

participation in the democratic decision-making process into undue influence. The 2009 *Report* contains case studies that document a precariously close nexus between private businesses and public institutions. There are real questions of equal visibility and right to be heard by all citizens who can’t afford to hire lobbyists.

- ◆ Corruption at the individual firm level raises costs and introduces uncertainties and reputational risks. Thus, the business case for fighting corruption is strong—good governance and corporate integrity pay “integrity dividends.” Companies with anti-corruption programs and ethical guidelines experience up to 50% fewer incidents of corruption.

The *Report* combines these findings and conclusions into a number of policy proposals for corporate action:

1. Report publicly on key aspects of corporate citizenship. While great progress has been made in improving nonfinancial reporting practices, TI believes that additional information about lobbying and political finance activities is necessary so that all stakeholders can understand how corporate interests make their voices heard in the political arena.
2. Make commitments to corporate integrity and codes of conduct more verifiable and their monitoring more

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## Ethics

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transparent. This will enable top-performing companies to lead by example and turn promises into more credible performance.

3. Support existing standards and collective action frameworks. Rather than developing idiosyncratic, self-serving reporting methods, companies should embrace, support, and actively engage in extending existing principles, such as the Global Reporting Initiative. Comparable reporting among similar enterprises greatly enhances transparency.

Similar recommendations are included for governments, regulators, and society as a whole.

Another group involved in fighting corruption is TRACE International, a nonprofit membership association that pools resources to provide antibribery compliance solutions. A press release TRACE issued in 2009 reports evolving trends in FCPA enforcement by the DOJ and the Securities & Exchange Commission (SEC). The trends reported include record levels of enforcement, greater multijurisdictional cooperation, and an increasing focus on the prosecution of individual wrongdoers.

The release describes the Nature's Sunshine Products case where its Brazilian subsidiary paid bribes to customs officials to allow importation of unregistered product. The corporate COO and CFO were convicted of failure to supervise employees with responsibility

to maintain accurate books and records and internal controls. It wasn't necessary to show that these executives either knew anything about or participated in the unlawful conduct, only that they held significant decision-making authority.

Principle 10 of the United Nations Global Compact states: "The one who cheats will be cheated against." Even if a company merely tolerates corrupt practices in some situations, that fact will become known—both inside and outside the organization. The Compact continues: "Unethical behavior erodes staff loyalty to the company." It's difficult for employees to understand why high ethical standards should be applied within a company when the same standards don't apply to relations with suppliers and customers. This dichotomy erodes trust and confidence, which are so necessary for effective operations. The lesson for all to learn and continually practice is that ethical behavior is the right thing to do at all times and in all circumstances. **SF**

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