

SUMMARY REPORT

Workshop: Advocacy for enforcement against foreign bribery workshop

Date & Venue: 8–10 September 2014, Malaysia

EXECUTIVE SUMMARY

- The workshop aims to build a coalition of the AP regional chapters to deal with foreign bribery issues using the recommendations of Transparency International's Exporting Corruption Reports
- There are three main issues that particularly hinder activities in promoting foreign bribery and related corruption issues, including: lacking political will, weak prosecution of criminals, and no independent anti-corruption agency
- Analysis of various actions to undertake taking into account different stakeholders with their various levels of influence and attitude towards resolving bribery issues
- Identifying three major foreign bribery themes common to each chapter: attitude and coordination, criminalization, and law enforcement
- AP Chapters have their respective aims in tackling foreign bribery. TI Korea's aim is to help create an independent anti-corruption agency through various campaign methods to achieve this objective

BRIEF BACKGROUND OF THE WORKSHOP

GOAL

Achieve in the countries of the region significant increase of state action countering foreign bribery, both the supply and demand sides.

OBJECTIVES OF THE WORKSHOP

1. Building a coalition of chapters in the Asia Pacific Region to work on foreign-bribery issue particularly in the context of the implementation of the OECD Convention.

2. Building advocacy plan(s) based on the chapters' interest.
3. Taking forward to the recommendations of TI's Exporting Corruption Report

METHODOLOGY

The workshop uses TI's *Developing an anti-corruption advocacy plan: a step-by-step guide* in developing and realizing the workshop. It also employs TI's Exporting Corruption Reports and OECD Progress Reports as basis for planning in addition to the participant's experiences on the issue. Active participation among chapter representatives was required, especially during the exercises.

Intended outcomes of the workshop:

- Identification of key issues relating to foreign bribery
- National advocacy plans
- Cross-border advocacy plan(s)
- Improved knowledge of advocacy and of the advocacy practice of other chapters in the region

PARTICIPANTS: chapter representatives from Australia, Cambodia, Indonesia, Japan, South Korea, Malaysia, Mongolia, New Zealand, and Taiwan

TIS REPRESENTATIVES:

Asia Pacific Department: Rukshana Nanayakara
Conventions Unit: Adam Foldes

CONTENTS OF THE WORKSHOP

DAY 1 (Monday)

Rukshana (TIS) opened the session and moderated the introduction of participants. The purpose and structure of the workshop and some explanation of 'advocacy' was carried out by Adam Foldes (TIS). Country experiences are being shared to the group by representatives from Asia Pacific chapters. Each representative presented foreign bribery issue(s) that relate to each country's business sectors doing business with international or local companies.

We spent time assessing and selecting advocacy priorities to be included in

the advocacy plan. After that activity, it is followed by prioritizing problems through understanding purpose and action and then mapping the causes and effects, then identifying solutions and setting objectives.

DAY 2 (Tuesday)

Stakeholder Analysis

We started analyzing stakeholders by identifying individuals and legal entities that possibly influence processes and are potential allies or opponents. The organizers provided us examples of stakeholders including: government, private business, general public (voters, newspaper readers) and international NGOs.

For South Korea, additions to the samples mentioned above include: ACRC (anti-corruption and civil rights commission), chaebols (such as Hyundai, Samsung, Daewoo, etc.), local NGOs and organizations, general public, among others.

After naming the stakeholders, their attitude, their interest on the issues and their influence over any decision making processes are analyzed based on the following points: very anti (---), anti (-), neutral (0), pro (+), very pro (++), low (L), medium (M), and high (H). The purpose of this exercise is basically to identify entities and rate them according to the aspects mentioned (attitude, importance of the issue, and influence). See *Appendix*: Table 2.

Mapping the decision-making

The expected results of the activity are to identify key decision-making processes and pressure points, as well as linking stakeholders to a problem/solution tree. For TI Korea, there are three major issues identified: 1) political will (weak enforcement of the OECD Anti-Bribery Law, Korean Foreign Bribery and Protection Act, etc.), 2) prosecution (collusion between business and authority/officials), and 3) the issue on independent anti-corruption agency (ACA).

Table Description: an activity (*Appendix*: Table 1.)

The three issues identified above for TI Korea is being rated respectively with values from 0 (lowest) to 3 (highest). The rating of values is based on a number of questions belonging to four categories: 1) importance, 2)

alignment, 3) feasibility, and 4) development. After having assigned values for each issue, each is provided with a total number of values, and the highest among them is considered the most pressing issue related to foreign bribery per chapter.

For 'political will' (e.g. weak enforcement of OECD anti-bribery law and national Foreign Bribery and Prevention Act) issues the total value is 23 points; Prosecution (collusion between business and authorities/officials) is 24; and 'independent anti-corruption agency' is 30. The highest total value earned by the third issue implies that it is the major issue that needs to be tackled in order to help resolve foreign bribery and such related corruption issues.

The group identified three major issues or corruption themes that each chapter is facing as follow:

1. Attitude and coordination (Mongolia, Japan, Australia)
2. Criminalization of bribery (Mongolia, India, Indonesia)
3. Law enforcement & prosecution (South Korea, Cambodia, New Zealand, Taiwan)

Attitude and coordination means that a chapter's environment (sociopolitical and business) lacks interest and willingness to deal and resolve any issue that involves foreign bribery issues or corruption in general. The need to establish a cooperative action among agencies/institutions is necessary to curb and prevent foreign bribery.

Criminalization of bribery entails that a particular chapter's judiciary, policy/lawmakers and such related bodies need to establish laws or policies that impose punishments to any entity or company that is involve in bribery and corrupt practices. In other words, there is no law yet established, or the enforcement of such laws, that will make (foreign) bribery or corruption a criminal offense.

Last, law enforcement and prosecution entails that there are laws foreign bribery laws/policies already set up but realizing them is the issue. In particular, although conventions and laws have been signed or passed their implementation is weak or not fully enforced to create results as they are.

For TI-Korea Chapter, the third issue (law enforcement and prosecution) will rightly fit in due to some reasons. Some of these issues include the absence of an independent anti-corruption agency and the full enforcement of foreign bribery laws such as the Korean Foreign Bribery and Prevention Act and the OECD Foreign Bribery Law in which South Korea is a signatory.

Setting a course (activities and results)

After lunch time, we proceeded to setting a course by defining aims, purpose, results and activities. Just like the other activities, this activity was done in groupings. While each chapter representative contemplates for his/her chapter's expected course of action we share out thoughts with our group members.

TI-Korea's objectives and possible activities

TI-Korea Chapter representative thinks of supporting an activity that will establish an independent anti-corruption agency (ACA) to curb and prevent foreign bribery as its main objective, among other corruption related issues. In order to achieve the agency's independence from government's interference, a change in appointment system (such as appointment of the commissioners) must be based on the standards of law. A great resource that can help establish this agency is an entity independent of the government (parliament or legislative).

The key stakeholders involve in achieving an independent anti-corruption agency includes: the president, ACRC (a puppet), commissioners, parliament, NGOs, international/regional economic cooperation organizations, etc. These and other stakeholders can influence the establishment of the target agency in various levels and ways.

The activities that TI-Korea Chapter will conduct include campaigns to collect evidence of foreign bribery or corruption among companies and show the results as proof of corrupt activities that can be submitted to the government, international economic organizations, among other relevant entities. Second, it can be proven whether the said 'anti-corruption agency' (referring to ACRC) has achieved or done anything to curb or prevent bribery and corrupt activities by companies/business entities.

DAY 3 (Wednesday)

Activity planning

What's next? A way forward

Chapters' further plans/fundraising was not actually dealt with in details since these can only be possibly done within each chapter.

We briefly explored the next steps on what we can do together. For example, the Secretariat can facilitate in exchanging of activities and has Help Desk that can provide guidance regarding foreign bribery issues.

Another thing is that Chapters can exchange information that could offer help to any chapter experiencing a particular foreign bribery issue. Coordination and sharing of tools and information are thought and suggested to be best possible approaches in tackling the cross country bribery/corruption issues.

APPENDIX

Table 1.

S. Korea

(Political Will) (Prosecution)
(Weak) Enforcement of OECD Anti-Bribery / ~~ambiz~~ and
FBPA authority/officials

Independent
Anti-Corruption Agency

	Will resolving the issue...	ISSUE 1 VALUE 0 (lowest) 3 (highest)	ISSUE 2 VALUE 0 (lowest) 3 (highest)	ISSUE 3 VALUE 0 (lowest) 3 (highest)
Importance	Address a key weakness in the National Integrity System?	2	3	3
	Reduce corruption and promote good governance?	3	2	2
	Result in real improvement to people's lives?	2	2	2
	Strengthen anti-corruption networks and alliances?	1	1	3
	Provide opportunities for citizen/stakeholder engagement?	1	2	2
Alignment	Promote awareness of and respect for rights?	2	2	2
	Require your involvement (i.e. there is clear value added)?	3	1	2
Feasibility	Have clear solutions based on good governance?	2	2	2
	Be easy to communicate and understand?	2	2	3
	Provide opportunities for regional synergy and action?	3	3	3
Development	Increase the organisation's visibility and reputation?	0	1	2
	Build internal capacity of the organisation and staff?	1	2	2
	Grow volume and diversity of funding?	1	2	2
	TOTAL (SUM)	23	24	30

Table 2.

