

# COLLECTIVE ACTION IN THE FIGHT AGAINST CORRUPTION

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A joint publication by the members of the World Bank Institute Working Group (the World Bank Institute, the Center for International Private Enterprise, Global Advice Network, Grant Thornton, Siemens, Transparency International and the United Nations Global Compact, internet portal about Collective Action available at [www.fightingcorruption.org](http://www.fightingcorruption.org))

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United Nations Global Compact



SIEMENS

## How can we collectively and effectively fight corruption?

'Collective Action' is a process of cooperation between various stakeholders with the aim to jointly counter corruption. Through such alliance of like-minded organizations the problem can be approached and resolved from multiple angles and the impact of individual action can be increased.

Collective Action means that companies, governments and civil society organizations join forces in order to guarantee transparency in business, e.g. in public procurement processes.

The ultimate aim of these joint efforts is to create fair and equal market conditions – a "level playing field" – for all market players and to eliminate the temptations of corruption for all of them.

Collective Action promotes a fair competitive situation in which a transparent process based exclusively on market economic criteria (such as quality, price, innovation and service) ensures that the contract is awarded to the best bidder. It prevents competition from being distorted and destroyed by corruption, and ensures that companies acting honestly and ethically are not disadvantaged.

## Legal frameworks against corruption

The international legal framework that companies are facing is changing fast and has been strengthened during recent years. More and more attention is paid to reinforcing and enforcing existing legal frameworks. A number of conventions are effective internationally. Their common aim is to establish high level anti-corruption standards on a global scale and the rule of law in this area.

Existing international legal frameworks include:

- The United Nations Convention against Corruption (2003)
- The African Union Convention on Preventing and Combating Corruption (2003)
- The Council of Europe Conventions on corruption (1997-1999)
- The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997)
- The US Foreign Corrupt Practices Act (FCPA) (1977)
- The Inter-American Convention against corruption (1996)
- Local criminal legislation in most countries around the world

### Collective Action usually involves various stakeholders



<http://www.fightingcorruption.org>

In spite of an increasingly stringent legal framework, corruption remains a challenge for companies in many parts of the world. **Collective Action** can provide a complementary way of countering corruption jointly with all stakeholders in environments where corruption is entrenched and/or legal enforcement is weak.

Ultimately, **all actors in society have a role to play in the fight against corruption:**

**Governments** should implement internationally recognized anti-corruption frameworks such as the United Nations Convention against corruption (UNCAC) which is the first multi-national legally-binding anti-corruption instrument. Governments should adopt international conventions into national laws and regulations, ensure rigorous enforcement and create a climate which promotes ethical behaviour and discourages requests for inappropriate payments.

**Companies** should implement effective compliance programs in their organizations to prevent, detect and address corruption.

**Civil society organizations** should take on a 'watchdog role' and monitor the efforts of governments and the private sector in the fight against corruption. They should make the general public aware of the benefits of fighting corruption and bring the different actors together.

**To be successful in the long run, all actors have to build an alliance and act collectively in the fight against corruption.**

## How to drive Collective Action

Collective Action can be initiated and driven through various channels. The available methods range from Integrity Pacts for individual procurement transactions to industry-specific codes of conduct and compliance pacts, as well as joint measures implemented as part of a long-term initiative to raise a country's public awareness and tighten up its regulatory system and procurement guidelines. For

Collective Action to be as effective as possible, such activities should involve companies, the public sector, non-governmental organizations (NGOs) and other interest groups working jointly in an industry specific or a country specific context. It is also crucial to examine potential anti-trust aspects in each individual case.

### Integrity Pacts

Integrity Pacts are formal agreements which are externally monitored and aim at creating fair and transparent bidding in public procurement related to specific projects. The concept was developed by Transparency International in the 1990s. Key criteria are:

- A formal written contract between the contracting public entity (customer) and all corporate bidders which commit to refrain from corrupt practices
- It is introduced in pre-tender phase
- Its principles are transparency, fair business conduct, no corruption or bribery
- Sanctions apply in case of infringement of contract
- An independent monitor is appointed to oversee compliance with the Integrity Pact

### Long-term initiatives

An important tool in the fight against corruption is the cooperation between a country's key stakeholder groups, such as the public sector, the private sector and civil society, with the aim to create a deep-rooted anti-corruption culture in a country or sector. Such long-term initiatives create the fundamental conditions for project-specific Integrity Pacts and industry-specific Compliance Pacts to be effective in the long-run.

Long-term initiatives can include the promotion of Collective Action methods by companies, the organization of business roundtables, best practice sharing, information campaigns and anti-corruption training by local chambers of industry and commerce or NGOs, as well as the cooperation with local anti-corruption authorities on regulatory reform<sup>2</sup>.

2. Zindera, Sabine: 'Collective Action – Der gemeinsame Kampf gegen Korruption' in Handbuch Compliance Management (Ed. Prof. Wieland, Dr. Steinmeyer, Prof. Grüniger).

### Compliance pacts or code of conducts

Compliance pacts are industry or sector-specific contractual agreements between companies. A group of companies operating in the same industry launches an initiative with defined compliance principles or requirements to which its members must adhere. They are particularly suitable for use in high-risk industries and oligopolistic markets. Their success depends on extensive market coverage. These codes of conduct include business principles that reject bribery and corruption. The signing organizations commit to ethical business conduct, e.g. the compliance pact can be based on existing principles, i.e. the Principles for Countering Bribery of the World Economic Forum Partnering Against Corruption Initiative (PACI) and the 'Business Principles for Countering Bribery' initiated by Transparency International<sup>1</sup>. There is no legal enforcement but signatories will be held accountable by the general public and the media. In order to avoid any anti-trust issues a neutral mediator (e.g. an industry association, a chamber of commerce or a non-governmental organization) must be involved in the preparation of the compliance pact.

1. [http://www.weforum.org/pdf/paci/PACI\\_Principles.pdf](http://www.weforum.org/pdf/paci/PACI_Principles.pdf)  
[http://www.transparency.org/global\\_priorities/private\\_sector/business\\_principles](http://www.transparency.org/global_priorities/private_sector/business_principles)

## Benefits of fighting corruption collectively

- Fighting corruption means creating fair competition for everyone
- Corruption-free environments attract ethically-oriented investors, e.g. Collective Action has been integrated in some of the World Bank's lending activities
- Public trust in authorities and business is improved
- Corruption-free business ensures compliance with legal obligations
- It can help to avoid the misallocation of resources
- Bids are awarded only with respect to their level of innovation and quality
- It avoids overpaying for products and services which might be of inferior quality
- It can help to influence future laws and regulations

**Bidding companies** on major projects have an increased chance of fair selection as a supplier and enhanced access to markets. They also save money formerly paid as bribes.

**Customers** benefit from enhanced competition in the bidding process and avoid time consuming lawsuits. Instead they can focus on building business relationships and improving reliability of goods and services.

**Society** gains improved access to essential services, such as health care and education. It also benefits from consistent and fair enforcement of regulations.

**Governments** strengthen the rule of law, increase their own credibility and can attract more investment from domestic and foreign investors<sup>3</sup>.

## Global anti-corruption initiatives with business involvement

In order to fight corruption sustainably it is critical to get the buy-in from all stakeholders and to have even more stakeholders join the coalition against corruption. A growing number of companies joining global anti-corruption initiatives increases peer pressure to commit to anti-corruption and ensures that companies able and willing to demonstrate leadership in the fight against corruption do not risk leaving business behind for scrupulous competitors to pick up.

In order to complement the efforts of governments, the private sector and civil society organizations, investors should insist on effective corporate control systems in place in order to make their investments more secure. Employees and customer should select ethically oriented companies. Auditors have to ensure independent assessments of a firm's accounts and the media can create incentives for ethical behavior through publicity.

All these stakeholders have to join forces and resources in the fight against corruption and disseminate an anti-corruption mindset and policies. Collective Action initiatives are on the rise. Currently, the private sector can actively cooperate in the fight against corruption with organizations such as

- The International Chamber of Commerce (Anti-Corruption Commission)
- Transparency International
- UN Global Compact (10th Principle Against Corruption)
- World Economic Forum Partnering Against Corruption Initiative (PACI)

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3. [http://info.worldbank.org/etools/antic/docs/Business%20Case/Business%20Case%20V2\\_June12\\_Notes.pdf](http://info.worldbank.org/etools/antic/docs/Business%20Case/Business%20Case%20V2_June12_Notes.pdf), p.13

For more information please refer to

- **The World Bank Web Portal** (<http://www.fightingcorruption.org>)
- **The Business Case against corruption** (<http://info.worldbank.org/etools/antic/docs/Business%20Case/TheBusiness-CaseAgainstCorruption.pdf>)