

Supply Side Issues in Procurement Corruption: Is the Developed World Responding Adequately to the Needs of the Developing World?

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A sizeable portion of the government budget in developing countries is spent on procurement of goods and services from developed nations. Corruption in this area has serious implications, possibly derailing the development process. Although procurement corruption has of late attracted the attention of policy makers of both the developed and developing world, little progress has been achieved in addressing the problem. This paper specifically focuses on the inadequacies of supply-side measures adopted by the developed world and offers recommendations for enhancing existing policies.

Introduction

In recent history, corruption has attracted significant attention from governments, civil society institutions and international bodies. Since the 1990s, corruption has been a primary topic for academic research. Yet there has been little evidence suggesting that corruption has decreased.

Public procurement is conducted largely through contracting, which essentially involves a government purchasing agency and a seller firm, either domestic or international. Public servants responsible for awarding contracts are often in an advantageous position of framing procurement rules, which in turn provides them with ample opportunities for corruption.

Corruption in the procurement process manifests itself in various forms: bribe seeking, influence peddling, illicit enrichment, and embezzlement, among other practices. Corruption specific to public procurement harms the poor more directly than other types of corruption because it distorts the allocation of scarce resources (Ackermann, 1998). In poor countries with high levels of corruption, less money is spent on welfare activities like health and education, which offer fewer opportunities for corruption. Instead, massive investments are made on defense and infrastructure spending, or on the procurement of non-essential consumable goods and services, all of which offer a greater potential for bribery and minimize the risk of subsequent auditing (Vishny & Shleifer, 1993). Corruption also raises procurement costs, the burden of which is borne by taxpayers. Moreover, a corrupt transaction often results in the supply of inferior goods or services, which results in poor-quality infrastructure that further impedes economic growth.¹

The World Bank Institute estimates that annual worldwide bribery is to the tune of \$1 trillion.² Transparency International (TI) estimates that the amount lost due to bribery in government procurement alone is at least \$400 billion per year worldwide (Eigen, 2002). U.S. firms have reportedly lost 100 contracts worth a total of \$45 billion to foreign competitors due to graft in 1994-95.³ In a World Bank survey conducted of

multinational companies located in OECD countries in 2000, 30 percent of respondents admitted that they paid bribes to public officials for obtaining contracts in former Soviet Union countries (Hellman, Jones & Kauffmann, 2000). These figures reveal the magnitude of the global corruption problem.

In the past three decades several procurement scandals have demonstrated the significant role of developed-country companies in corrupt developing-country procurement practices. During the first half of the 1970s, more than 450 U.S. companies, 117 of which were listed in the Fortune 500, had made \$400 million in questionable payments abroad. In 1988, "Operation Ill Wind" investigations in the United States resulted in the conviction of 46 individuals and six defense companies. In 1993, two previous defense ministers and the former chiefs of both the navy and the air force were indicted in Korea for procurement corruption (Burguet & Che, 2004). In the early 1990s the "Clean Hands Campaign" in Italy resulted in the conviction of a former prime minister and several prominent political leaders.

This paper focuses on the specific aspect of procurement corruption where the purchaser is a government agency from the developing world and the supplier is a company from the developed world. This specific commercial relationship accounts for billions of dollars in trade annually and substantially affects the economic interests of contracting countries. It is also an area which has attracted the attention of the international community, which has responded with a flurry of activity in the recent past. However, the results of this work have not been commensurate with the efforts that went in. The aim of the paper is therefore to explore the reasons for the failure of the international community to combat corruption effectively, as well as to provide solutions for addressing this deficiency.

The rest of the paper is organized in the following manner. Part II briefly introduces the theories that explain the causes of procurement corruption. Part III gives an overview of procurement corruption and several

remedial measures. Part IV deals with the efforts made by developed countries and multilateral donor agencies to combat supply-side corruption. Part V presents policy recommendations for addressing the shortcomings in developing-country anti-corruption efforts. Part VI provides concluding commentary.

Theoretical Background

Theories on procurement corruption broadly fall under three categories: demand theories, supply theories, and ethics theories.

Demand Theories

Broadly, these models of corruption take two approaches: resource-allocation models, which assess the consequences of the allocation of resources to rent-seeking activities, and principal-agent relationship models (Jain, 1998).

Resource-allocation models are based on the premise that rent-seeking is one aspect of any economic activity and thus part of a firm's resources are devoted to this activity (Krueger, 1974). In a competitive world rent-seeking opportunities are created either by agents through government policy or by underlying societal characteristics (Mauro, 1995). Rents are shared between agents and firms in the form of proceeds of corruption.

Principal-agent models of corruption concern the misuse of power by a ruling government, which is motivated either by the desire to get re-elected or for issues of self interest. Economic policies motivated by self interest lead to the misallocation of resources towards the highest rent-yielding projects (Jain, 1998). As a second aspect of this model, bureaucratic corruption arises from an agent's incentive to disregard the principal's interest due to information asymmetry and the principal's inability to monitor the agent's behavior.

Demand models clearly indicate that agent behavior is the central determinant of corruption and thus demand theorists argue that anti-corruption efforts should be aimed at controlling agent behavior.⁴

Supply Theories

Supply-side theorists put the onus of combating corruption on supplier firms. As per George Moody Stuart (1997), firms pay bribes by their own volition and primarily for three reasons: to counterbalance poor quality or high pricing, to create a market for redundant goods, or to stay in competition.

On the basis of an empirical examination of the 19 biggest exporting countries during 1992-95, Johan G. Lambsdorff (1998) observed that exporting countries that rank highly on a corruption scale attracted a larger market share in corrupt importing countries. He concludes that the inclination to offer bribes therefore emerges as the sovereign choice of exporters.

More recent theories support a more middle-of-the-road approach and observe that corrupt behavior is characterized by the decision calculus of both the payee and the payer based on value maximization. Klaus Abbinik, Bernd Irlenbusch, and Elke Renner (2002) developed an experimental game for analyzing corrupt behavior at the micro level. According to these researchers the essential characteristics of corruption are reciprocity relations (since no corrupt contract can be legally enforceable), negative welfare effects, and sanctions in the case when corrupt practices are discovered. Based on their experiments using game theory they concluded that reciprocity alone establishes stable relations between the payee and the payer and negative externalities like welfare effects have no impact on the level of cooperation. Additionally, the threat of drastic penalties significantly reduces the level of reciprocal cooperation. However, the payer-payee pair has a tendency to underestimate the overall probability of sanctions, which diminishes the deterrence to some extent.

Academic opinion is divided on predicting country behaviors. At one end Klitch (1996) suggests that payer states are motivated to deter the corrupt behavior by ideological motivations. Others attribute economic reasons as guiding factors behind country behavior. As per Philip Nichols (1999), payer states are guided by enlightened self interest, which in turn is dependent on the economic and military interdependence with the payee state. Some commentators take a more utilitarian approach. Kevin Davis (2002) states that a payer state will deter bribery if the service sought through bribery can be obtained at the same quality standards elsewhere where bribery is not required.

Ethics-based Theories

Contrary to utilitarian theories, ethics-based theories advocate self regulation by the agencies involved in procurement processes. Susan Rose Ackermann (2002) argues that multinational businesses have two types of obligations to refrain from corrupt practices. First, businesses have an obligation to maintain market efficiency. Bribery undermines market efficiency and leaves the entire market system open to charges of immorality and illegitimacy. Second, firms are dependent for their success not only on the existence of a functioning market system but also on a state that facilitates market activity and maintains order and stability. Therefore businesses have an obligation not to undermine the legitimacy of the state by indulging in unethical practices. Ethics theories have influenced the creation of instruments like codes of conduct, integrity pacts, and self-regulation rules. These instruments are detailed in subsequent sections.

Common Types of Public Procurement Corruption

Procurement corruption can take place at every stage in the contracting process. At the first instance, a corrupt

agent can inflate demand or create artificial demand for goods and services. The agent may also distort the allocation of scarce budgetary resources for purchasing these goods or services. Defense is one sector that is prone to such manipulations. Naylor (1999) observes that in businesses sensitive to fluctuating cycles, such as the arms business, the creation of artificial demand through forgery and fabrication of false evidence regarding security threats, as well as inducement by bribery, has been quite common. Notably, the creation of artificial demand cannot take place without the collusion of both the purchaser and the seller.

The second stage where corruption can take place is the tendering stage. Potential forms of corruption include tailoring specifications to restrict competition, restricted publicity, abuse of confidentiality, bid rigging, and rejection of bids on frivolous grounds. Except for a few countries, national statutory provisions regarding contracting are either absent or drafted in a vague manner.⁵ This lack of legal precedence gives contracting agencies enormous discretion for determining—and thus manipulating—the rules of the game.

The post-tendering stage also offers opportunities for abuse of authority. The post-tender alteration of contract conditions, acceptance of inferior goods or services, and the waiver of penalties are some of the corrupt practices usually committed at this stage. In many cases, the supplier deliberately provides inferior-quality goods in order to offset the extra costs incurred due to bribery.

It is evident from the above discussion that the possibility for collusion between a government agent responsible for making a purchase decision and a supplier exists at every stage of contracting. Measures for ridding the process of corruption therefore aim at controlling the behavior of the public servant as well as the supplier firm.

The first set of measures involves reducing rent-seeking opportunities. Specific measures include the creation of procurement legislation or rules, transparent procedures, and strong and independent audit institutions. Simultaneously, the principal's (i.e., the public) control over the agent (i.e. political executives and bureaucrats) is tightened by eliminating information asymmetry. Alternatively, information asymmetry can be reduced by strengthening oversight institutions, the media, and civil society. Additionally, the behavior of corrupt public servants can be controlled by strict enforcement of ethical codes of conduct and by criminal sanctions against bribe-taking.

The second set of measures involves controlling supply-side behavior. This approach includes enforcement methods like debarments, penalties, criminal sanctions on bribe payers, or by developing ethical codes of conduct and other self-regulation mechanisms. While these steps are often sufficient for combating corruption where both the purchaser and seller are from the same country, they typically fail when the buyer and supplier are from different countries. First, debarment from future business

and the imposition of penalties on supplier firms is beyond the full control of the contracting country. Second, international criminal law instruments are weak and take significant time to create. Many countries do not extradite their citizens and few extradition treaties and mutual legal agreements are in place at present. Third, international criminal investigations operate on the principle of reciprocity and the supplier country can not cooperate with contracting-country investigations only if bribery is a criminal offence in the supplier country. Fourth, there may be situations when donor-agency funds are misused and where high-ranking officials of the contracting country are involved. In such a situation, it is likely that the contracting country may not conduct a fair investigation. In those cases where a fair investigation is not feasible, the only remedy available for a donor agency is to invoke the jurisdiction of the supplier country. Fifth, improved ethical codes of conduct for business firms in the country where the firm is located can provide further disincentives for bribery. Finally, many bribery transactions originate in countries where the corporate office of the contracting firm is located. However, bribes are often moved electronically through foreign financial institutions and repatriated to the recipient through money laundering. In such situations the cooperation from intermediate countries is necessary to conduct an investigation.

With these difficulties in mind, it can be seen that the joint effort of developing nations and developed countries is necessary for controlling corruption in international procurement transactions. In the next section I discuss international efforts being taken to address this problem and assess the impact of such activities.

International Efforts to Curb Supply-side Corruption and the Impact of Such Activities

U.S. Efforts

The United States was the first country to respond to the issue of bribery of foreign officials by domestic businesses. The Foreign Contributions Prevention Act (FCPA), enacted in 1977 and amended in 1988, criminalizes illicit payments in international business transactions.⁶ The act mandates that companies maintain records concerning foreign transactions, and it contains provisions for both civil and criminal sanctions. One of the main contributions of the FCPA has been the concept of extra-territorial jurisdiction in criminal matters. Foreign bribery occurs outside the United States; however U.S. courts can exercise jurisdiction over offender firms falling under FCPA. Although doubts were initially expressed on the feasibility of exercising such jurisdiction, the law has withstood the test of time and in the developed world it is the only criminal law that has been used to convict the perpetrators of foreign bribery. However, FCPA's impact in preventing corruption has not been high: in TI's 2002 Bribe Payers' Survey, the United States scored just 5.3 on a scale from one to 10.⁷

During the early 1990s, there was a growing realization in the United States that its unilateral anti-corruption actions were harming the competitiveness of domestic businesses vis-à-vis European and Asian firms.⁸ According to commentators, this asymmetrical approach led to lobbying by the United States at both international and regional forums, which culminated in the adoption of two conventions on bribery: the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997) and the OAS' Inter-American Convention on Corruption (1997).⁹

Efforts of the OECD

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997) obligates member states to enact domestic legislation that makes bribery of foreign public officials a criminal offence and to make it a predicate offence under relevant domestic money-laundering acts. Further, it calls for confiscation and forfeiture of property of legal persons (corporate entities). The convention also addresses issues concerning international cooperation, such as criminal jurisdiction, extradition, and mutual legal assistance. Article 12 of the Convention provides for a "program of systematic follow up to monitor and promote the full implementation of this Convention", which is conducted by the OECD Working Group on Bribery. Tax deductibility of bribes paid to foreign public officials is not specifically covered by the Convention. However, a 1996 OECD recommendation to member countries called for re-examination of the tax deductibility of secret payments with the intention of amending tax laws to further curb bribery transactions.

The OECD convention was hailed as a landmark event in the fight against corruption. Monitoring of the convention is accomplished through two phases of self evaluation: first, by member countries and, second, through an evaluation involving an OECD anti-bribery working group.¹⁰ Phase-one evaluations have been completed by the group. By the end of phase one all member countries ratified the convention and enacted the required domestic legislation. The main purpose of the phase-two evaluation is to study the structures put in place to enforce the laws and rules related to implementing the Convention, and to assess their application in practice. However, the phase-two process has been very slow and only fifteen country reports have been prepared by the working group. These fifteen available country reports indicate that in these countries no major activities have occurred with regard to implementation of the convention. No criminal convictions have been reported other than the United States. In seven countries no prosecutions have been launched and two other countries have provided no clear statistics regarding legal actions. Even in the United States, which accounted for the bulk of criminal sanctions, there have been only 26 convictions.

The working group also observed in all 15 country reports that:

- 1) Awareness regarding the provisions of the convention needs to be raised;
- 2) each country needs a central agency for detection, investigation, and prosecution;
- 3) there should be a better system of compiling statistics;
- 4) the capacity of enforcement authorities need to be enhanced through training programs; and
- 5) suitable amendments should be made in criminal laws to make legal persons (i.e., corporations) liable.

The results of surveys conducted by independent agencies regarding progress toward convention compliance are also not very encouraging. According to TI's 2002 Bribe Payers' Survey, 42 percent of the corporate respondents were unaware of the OECD convention and another 32 percent were only nominally aware of it. Approximately 60 percent of respondents felt that corruption had increased or remained constant since ratification of the convention.¹¹ Of the 15 OECD countries involved in the phase-two exercise, seven scored poorly on TI's honesty scale, with scores of less than six out of 10.

The World Bank's empirical analysis of data emerging from the Executive Opinion Survey (EOS) (cited by Kauffman, 2004) of the World Economic Forum 2004 indicates that transnational firms headquartered in OECD countries and operating internationally adopt different ethical standards than those focusing exclusively on the domestic market. When companies operate in other OECD countries they adopt standards closer to domestic ethical norms, but when they operate in developing countries they exhibit much lower standards. High disparity in ethical behavior was found true even in Nordic countries, which rank highest on TI's corruption-perception index. Existence of such corporate behavioral trends since ratification of the convention is evidence of the lack of the instrument's effectiveness.

Efforts of the United Nations and Regional Forums

In September 2003 the United Nations adopted The UN Convention on Corruption.¹² This convention covers all facets of corruption, including bribery. Article 16 of the convention deals with the issue of bribery of foreign officials. Besides mentioning foreign bribery as a criminal offence, the convention also touches upon several important issues that indirectly concern the issue of procurement corruption, such as private-sector corruption, international cooperation, and money laundering. The convention is still in the ratification stage, and therefore it is too early to comment on its impact.

Even before the adoption of the U.N. convention, several regional efforts were made to address corruption. Article 8 of the Inter American Convention against Corruption, adopted by the OAS in 1996, and articles 6 to 11 of the Criminal Law Convention adopted by the Council of Europe address international bribery.¹³

These regional conventions are general conventions touching upon all aspects of corruption, with only a few articles relating to foreign bribery. Of these efforts, the Criminal Law Convention creates one of the best monitoring mechanisms, in the form of GRECO.¹⁴ In particular, it has strong provisions concerning money laundering. Like the OECD working group, GRECO uses a two-phase country-reporting system for evaluating the implementation of the convention. However, similar to the OECD, the GRECO evaluation process has proceeded very slowly.

Efforts of Multilateral Donor Agencies and Other Non-state Agencies

Many multilateral donor agencies have also addressed the issue of procurement corruption, although the bulk of their efforts focus on the demand side. World Bank procurement guidelines contain provisions for sanctions against corrupt bidders. Section 6.03 of the General Conditions Applicable to Loan and Guarantee Agreements for Fixed-Spread Loans, entitled “Cancellation by the Bank,” includes a clause for cancellation of contracts involving corrupt practices.¹⁵ In addition, Section 1.15 of the Bank’s procurement guidelines define “corrupt practice” to include offering, giving, receiving, or soliciting anything of value to influence the action of a public official in the bidding process or in contract execution.¹⁶ Firms violating the provisions are also debarred from further business.

The World Bank’s debarment stipulations have been effective in creating a deterrence effect on corrupt practices, albeit in a limited sphere, related to Bank-funded projects. A recent study on the subject confirms that procurement agencies are generally aware of the debarment provisions and recognize them as a means to protect the integrity of the public procurement process (Pope, Doig, & Moran, 2004). However the study’s authors argue that debarment can only have a limited role in securing integrity in public procurement and its effectiveness is dependent on uniform application across agencies and on conjunctive use with other tools.

As referenced earlier, TI periodically releases the Bribe Payer’s Index, based on surveys conducted in 15 emerging market economies and 21 industrialized countries. The index is a scale from one to ten, based on the bribe-paying tendencies of firms located in these countries. Besides performing a watchdog function, TI is also actively involved in promoting a culture of procurement transparency through Integrity Pacts (IP).⁷ An IP is an agreement between a government agency and bidders for a public-sector contract. It contains rights and obligations to the effect that neither side will pay, offer, demand, or accept bribes to obtain the contract. Violation of the pact would entail denial of a contract, forfeiture of any performance bond, liability for damages, and blacklisting. IPs are a new tool and only a few developing-country governments have started implementing the

concept; as such, there has been too little empirical research on the subject outside of the TI network to assess the effectiveness of IPs.

The International Chamber of Commerce (ICC) has been advocating for self-regulation by businesses in confronting extortion and bribery.⁸ In 1996 it published a set of rules for combating extortion and bribery in international business transactions. Part I of the rules contains recommendations for national governments and Part II contains a code of conduct for firms. In 2001 ICC established an anti-corruption commission with the objectives of encouraging self regulation and influencing international organizations with regard to the fight against corruption. The efforts of ICC are based on the principles of ethics; however, no empirical evidence exists that indicates its impact on firm-level behavior.

Reasons for Poor Implementation

Scholars have put forth several arguments concerning the poor implementation of these various conventions. Some commentators question the core assumption implicit in the conventions, that all countries will have similar motivation levels to deter bribery (Davis, 2002). They argue that the United States pushed through the OECD convention in its own self interest and others followed suit with little intention to implement the provisions. These critics also argue that international conventions are generally inspired by ideological considerations, but individual country behavior is guided by economic considerations.

Some scholars doubt the capacity of states to deter corruption through enforcement (Salbu, 1999). They advocate that NGOs should supplant governmental efforts. Dispute resolution between the affected parties has been identified as a better mechanism to settle complaints regarding bribery. Strong countervails are also offered by some commentators. Philip M. Nichols (1999) favors payer country regulations as the most desirable policy choice in dealing with the issue. According to Nichols, the cost of playing by the rules—the loss of business to competitors—is only short term in nature and does not eliminate long-term economic benefits. While submitting the monitoring report to the OECD in 2003, Transparency International Australia commented that hasty investigations, problems in mutual legal assistance, a lack of complaints, inadequate resources, and a lack of proactive political support are some of the reasons for poor enforcement.⁹

Policy Recommendations

As the previous discussion indicates, there have been path-breaking developments over the past decade in the fight against corruption. Many countries have expressed their intention to fight corruption through a set of conventions and complementary domestic legislative actions and institution-building efforts. But there has been a general lack of enforcement of these legislative provisions. If governments make certain corrections

and adopt fresh policy initiatives, the work conducted in recent years can be made more efficacious. Following are several specific recommendations.

One of the main issues is to what extent state efforts should be supplanted by NGO efforts. One may argue that bribery is a collusive affair and only firms losing business as a result of corruption typically complain about it. But due to the secretive nature of bribery transactions, firms losing out to bribery typically cannot provide evidence that could lead to legal action. Many times competing firms are from different countries, thus encumbering legal action. As such, criminal prosecution is a difficult proposition. In view of such difficulties, and as detailed previously, many scholars believe that involvement of professionally competent NGOs in conducting civil arbitration might lead to quicker and better results. However, multinational companies may not feel sufficiently deterred by civil sanctions imposed through lengthy arbitrations, as compared to criminal sanctions. The remedy therefore lies not in promoting alternate dispute resolution mechanisms but by simplifying legal investigation and prosecution procedures. Therefore, states should step up their efforts concerning criminal prosecutions and remove existing impediments by relaxing prosecution guidelines and by encouraging whistle-blowing.

One of the biggest challenges of anti-corruption efforts lies in convincing the developed world that it is also in its self interest to eradicate bribery in international procurement. A good start in this direction can be made by initially concentrating on two subsets of international trade: cases where the bidders are all from the same country and secondly, contracts pertaining to goods and services that only a few countries of the world have the capability to offer, the defense sector for example. In the first category of cases, unfair practices by one bidder harms the business interest of firms in the same country and would distort the industrial growth of the country in the long run. The self interest angle therefore is obvious. In the second category of cases, the rise in transaction costs due to bribery is bound to harm the business interests of all the concerned countries alike. Since there are only a few countries involved, it is easier to build a consensus among them compared to international conventions. It can be argued that by adopting a step by step approach, the international community can overcome the impasse and achieve some breakthrough. The encouragement received from selective actions can be used later for building up a climate for expanding the activities in the other spheres of procurement activity.

A low level of awareness among both the general public and corporations regarding statutory provisions and institutional mechanisms has been one of the major reasons for sluggish enforcement of international conventions. Here, civil society institutions can play an important role both in publicizing such provisions and in exposing corruption. Countries should encourage the participation of the media and civil society institutions in

the fight against bribery.

One of the main reasons for the lack of criminal prosecutions is the poor investigative skills of anti-corruption investigators. All countries should establish centralized investigation agencies, frame appropriate criminal procedure codes, provide training to law enforcement agencies, and have proper performance-monitoring mechanisms.

To date, most efforts at battling supply-side corruption have been made by OECD member countries. However, the three lowest-ranked countries in TI's Bribe Payer's Index—Russia, China and Taiwan—are not signatories of the OECD convention. In the recent past these non-OECD countries have made rapid progress in international trade and are able to compete much more effectively with OECD nations. As explained above, fear of losing out to competitors is one of the main motivating factors to the firms for offering bribes. Therefore, to keep OECD businesses from engaging in corrupt practices to compete with non-OECD firms, OECD countries should encourage non-OECD countries to implement anti-corruption reforms.

The following gaps in the OECD convention need to be plugged by making the appropriate amendments:

- (a) The convention has no effect on foreign subsidiaries of OECD firms located in the non-OECD countries. As such, OECD can escape sanctions by channeling bribe payments through their subsidiaries.
- (b) The convention excludes payments for 'routine government actions' from the applicability of sanctions. No upper limits have been specified for such expenses, and the convention provides no definition of such expenses. Therefore, such provisions are susceptible to misuse. Most notably, firms can camouflage bribe payments under this heading. There should be cap on such expenses and strict disclosure norms should be imposed on firms.
- (c) The convention does not provide for sufficient checks against the transactions of export credit agencies (ECA). ECAs are government organizations which support domestic exporting companies against the risks involved in transnational trade activities. While doing so, ECAs often underwrite questionable third-party commissions to consultants and agents. ECAs have also been accused of supporting companies of ill repute or that have been blacklisted by multilateral donor agencies. Transparency International voiced its concern regarding ECAs in a meeting of OECD group on Export Credit Guarantees (ECG).²⁰
- (d) The convention does not cover business-to-business transactions or payments to political parties. A sizeable amount of global development

work is executed by private and nonprofit organizations. Also, political party functionaries are among the major beneficiaries of bribes. These two phenomena greatly undermine international efforts. Given that the new U.N. Convention contains provisions concerning the issue of private sector corruption, OECD countries should amend their anti-corruption laws to include private-sector corruption.

To date there have been few instances of successful financial investigations regarding money laundering. Cumbersome procedures, high costs involved in foreign investigations, and the reluctance of payee countries to participate in investigations are the main reasons for this shortcoming. International cooperation on intelligence sharing, financial disclosures, and mutual legal assistance should be strengthened by further simplifying criminal procedure codes and more actively involving agencies like the Financial Action Task Force (FATF) and INTERPOL in anti-corruption efforts.

Conclusion

Corruption in public procurement has been one of the major concerns of developing-world policy makers in recent years. The problem becomes more complex when the supplier of goods and services demanded by a developing nation is from a foreign country, in which case the contracting country's efforts necessarily need to be supplemented by matching efforts from the supplier country. At present, a large percentage of such good and services comes from developed countries. If developed countries possess the necessary willpower, given their mature institutional frameworks they are capable of supplementing the developing world's fight against procurement corruption with action against their own firms. Unfortunately, over the past decade there has been plenty of activity on paper, but little tangible impact on the ground. One may hope that this problem is only temporary and that developed nations will take advantage of the hard work they have accomplished in the past few years in the form of ratifying conventions, reforming criminal laws, reforming taxation laws and banking regulations, and creating new institutions. To consolidate the gains and push the anti-corruption movement to its logical conclusion, developed countries must demonstrate the political will and further strengthen criminal procedure legislation, bolster the capacity of anti-corruption agencies, enhance public awareness, and step up investigation and prosecution activities.

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- 7 See http://www.transparency.org/pressreleases_archive/2002/dnld/2002.05.14.bpi.en.pdf for details.
- 8 See *The Economist*, "The short arm of law," 28 February 2002.
- 9 See http://www.oecd.org/document/21/0,2340,en_2649_34855_2022613_1_1_1_1,00.html and www.oas.org/juridico/english/treaties/b-58.html for details on the respective conventions.
- 10 See http://www.oecd.org/document/21/0,2340,en_2649_34855_2022613_1_1_1_1,00.html for details.
- 11 See http://www.transparency.org/pressreleases_archive/2002/dnld/2002.05.14.bpi.en.pdf for details.
- 12 See www.unodc.org/unodc/en/crime-convention-corruption.html for the full text.
- 13 See <http://conventions.coe.int/treaty/en/treaties/html/> for details.
- 14 See www.greco.coe.int for details.
- 15 See http://www4.worldbank.org/legal/GCconditions/IBRD_FSL_04_text.html for details.
- 16 See <http://siteresources.worldbank.org/INTPROCUREMENT/Resources/Procurement-Guidelines-November-2003.pdf> for details.
- 17 See www.transparency.org/building_coalitions/integrity_pact/i_pact.pdf for details.
- 18 See http://www.iccwbo.org/home/menu_extortion_bribery.asp for details.
- 19 See www1.oecd.org/daf/ASIAcom/pdf?TI-assessment_OECDConventionEnforcement2003.pdf for details.
- 20 See http://www.transparency.org/speeches/wiehen_ecg_action_statement.html for details.

End Notes

- 1 Tanzi and Davoodi (1997) have empirically proved that, ceteris paribus, high corruption is associated with poor infrastructure.
- 2 From the World Bank Institute website, <http://www.worldbank.org/wbi/governance/mediamentions-current.html>.
- 3 See *The Economist*, "The short arm of law," 28 February 2002.
- 4 Recent theories by Celentani and Burguet and Che support the agency theory but reject the earlier theories of Akerman linking corruption and competition.
- 5 South Africa has incorporated public procurement guidelines into its constitution (Art. 187). Hong Kong's Independent Commission against Corruption (ICAC) has evolved essential control procedures for procurement. In Ecuador, contracting is governed by an act of legislature (Source: Transparency International Source Book on Corruption, 2000).
- 6 See www.usdoj.gov/criminal/fraud/fcpa.html for details.