



Russian opposition protesters stage a mock vote against the government in Moscow in 2011. The rally was called by the People's Freedom Party on a platform that includes an end to political corruption in Russia.

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# ANTI-CORRUPTION FIGHT GOES INTERNATIONAL

A NETWORK OF TREATIES ENCOURAGES GOOD GOVERNANCE AROUND THE WORLD

By Robert Leventhal, U.S. Department of State

As little as 20 years ago, discussion of common efforts to combat corruption was largely taboo. Corruption was not a mainstream issue for development agencies or international financial institutions, where it was reportedly referred to as the “c word.” Nongovernmental organizations were not in place to raise awareness and lead the charge. When high-level political leaders met to discuss issues of shared concern, they were silent on graft.

While the burden of graft may be as big as ever, fortunately the environment – in terms of efforts to address it – has changed dramatically. Among countries in Western and Eastern Europe and around the globe, serious efforts are under way to build will and adopt measures to combat corruption. Confronting corruption requires country-led reform and enforcement, but at the regional and global level, a variety of multilateral initiatives has gathered momentum to promote sustained and meaningful country action.

This effort is being driven by an ever sharper understanding of the harm caused by corruption. Countries and other stakeholders around the world have recognized that corruption undermines stability and can feed extremism, fosters transnational crime and other transborder illicit activity, discourages investment, deters business activity, and saps development, democratic consolidation and the rule of law. These are some of the same factors that have motivated the United States for many years to make combating corruption internationally a priority. This effort was recognized again by the May 2010 National Security Strategy<sup>1</sup> and is echoed consistently in the themes raised in international settings by President Barack Obama, Secretary of State Hillary Clinton and other senior U.S. government officials.

Much of the multilateral effort falls into three categories. First, countries have adopted shared commitments, often international treaties that remove anti-corruption efforts from the realm of finger pointing and instead

focus on what to do about it by defining the measures any country should consider. They establish road maps for reform and offer benchmarks to enable peers, investors and citizens to gauge progress.

Of course, as challenging as it may be to agree on shared standards, it often is even harder to ensure their application in practice. The second significant area of international activity consists of initiatives to promote and support implementation and enforcement. Many of the conventions have monitoring processes to gauge progress and spur follow-up by the parties. (In fact, from mid-2010 to late 2011, the U.S. was subject to four such anti-corruption review processes.) In several regions, including parts of Europe, countries with similar legal traditions, language or common interests are banding together to gain greater familiarity with anti-corruption tools and share their good practices. More networks are springing up to bring practitioners together and facilitate cooperation to combat what itself is increasingly a transborder phenomenon. Finally, there is sometimes a will to reform but not yet a way, in terms of capacity. Donors are increasingly providing technical assistance to help countries consider and adopt new laws and institutions and enhance their ability to put them in practice.

In a world of important yet competing priorities, finite resources, and resistance to reform by entrenched interests, a final, vital area of effort involves building and sustaining high-level attention and political will. Public commitments by the world’s leaders, in various regional and economic groups, increasingly underline the importance of tackling corruption, and there is more and more momentum to translate those statements into concrete action and cooperation.

The U.S. has made supporting this dynamic a priority. While no system is perfect and U.S. laws and institutions to combat corruption continue to evolve, the U.S. invests significant effort in leading by example. The U.S. record of enforcement against foreign bribery is unparalleled,<sup>2</sup> and the government is a leader in



Leaders of the Open Government Partnership, led by the U.S. and Brazil, commence their transparency initiative in New York in September 2011. The OGP encourages openness to fight corruption and promote good government.

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promoting cooperation to recover proceeds of corruption stowed abroad (so-called stolen assets). The U.S. continues to deny safe haven by refusing entry into the country to corrupt officials, their enablers and beneficiaries.<sup>3</sup> During the current administration, the U.S. has adopted new public ethics rules, Congress has enacted requirements for U.S. companies to publish payments made related to the extraction of natural resources, new whistle-blower protections have been adopted, and new commitments on transparency in government are underway. The U.S. works closely with European partners on addressing corruption at the global level, and partners with many countries in Eastern Europe and elsewhere on improving governance and combating corruption. The country also energetically pursues domestic corruption cases, including those against high-level officials such as members of Congress and state governors.<sup>4</sup>

### Establishing Shared Standards

Turning to the first area, shared commitments, the number and reach of multilateral treaties on corruption have expanded vastly since they first appeared about 15 years ago. Countries in Western and Eastern Europe may be parties to two or even three such conventions, presenting risks of multiple reviews and overwhelmed experts, but also providing rich opportunity for peer learning, self evaluation and improvement. The earliest anti-corruption treaties were delimited by geography or their specialized subject matter, starting with the 1996 Inter-American Convention Against Corruption, a regional treaty that was the first multilateral instrument on corruption. While the IACAC covers a number of prevention and criminalization measures, the 1999 Organisation for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (often known as the Anti-Bribery Convention, or ABC<sup>5</sup>) is one of the most targeted, focusing on bribes to foreign public officials to win or maintain business abroad, as the U.S. had done through the Foreign Corrupt Practices Act (FCPA).<sup>6</sup> The U.S. adopted the FCPA in the late 1970s in part on the principle that U.S. companies should not do abroad what they were not permitted to do at home, and encouraged other countries to make the same commitment. The ABC also requires parties to adopt “books and records”

measures, such as prohibiting the establishment of off-the-books accounts and inadequately identified transactions. It requires that sanctions be “effective, proportionate and dissuasive” and that countries establish liability for legal persons or companies. In 2009, parties adopted revised recommendations that gave countries updated guidance on implementation of the convention and laid out best practices for companies to prevent corruption.

The ABC has 38 parties (all 34 OECD countries plus Argentina, Brazil, Bulgaria and South Africa), collectively accounting for a large portion of world trade. The Russian Federation recently joined the OECD’s Working Group on Bribery and quickly followed up by acceding to the ABC. India, China and other countries have participated as formal or informal observers. All parties are subject to a robust peer review follow-up process that includes site visits by experts producing publicly available reports that cite gaps and make recommendations for improvement. Recent reviews have focused on parties’ records on enforcement, in many cases citing continuing shortcomings. There have been too few enforcement actions by too few countries, although when enforcement of these laws does occur, as with German and U.S. sanctions against global conglomerate Siemens AG totaling approximately \$1.6 billion, it can send a powerful message.<sup>7</sup>

Many Council of Europe member states in Western and Eastern Europe are parties to the two Council of Europe (CoE) Conventions,<sup>8</sup> which are substantively broad – more so than the Inter-American Convention and much more so than the ABC. The Criminal Law Convention on Corruption entered into force in 2002 and has 43 parties. It forbids active (offering) and passive (accepting) bribery of domestic and foreign officials and of international bodies. It also covers bribery within the private sector itself, accounting offenses, money laundering, liability of legal persons, and trading in influence. The Civil Law Convention on Corruption came into force in November 2003 and has 34 parties. New provisions include civil law remedies for people injured by corruption, international cooperation in civil cases, voiding of contracts that are secured by or advance corruption, sufficiency of statutes of limitations, and whistle-blower protection. Parties, as well as others that join the CoE anti-corruption monitoring body, the Group of States

against Corruption (GRECO), are subject to the group's rigorous peer evaluations, similar to those conducted for the OECD ABC.<sup>9</sup> Kazakhstan is the latest country to apply to join GRECO. Beginning in January 2012, GRECO's latest round of reviews will focus on prevention of corruption in the judiciary, prosecution and parliaments, issues of great relevance in the region. The European Union has begun exploring participation in GRECO, as part of its recent efforts to enhance action against corruption in EU member states (more on this below). This development would raise interesting questions about how a regional body can participate in such a mechanism.

The panorama changed again significantly with the negotiation of the United Nations Convention Against Corruption (UNCAC), the most comprehensive international instrument on corruption.<sup>10</sup> It was opened for signature in December 2003 and entered into force in December 2005. The pace of joining the convention has been very rapid, and 159 countries have become parties, including 47 Western and Eastern European countries, as well as the EU itself. UNCAC offers comprehensive chapters on preventive measures, criminalization and law enforcement, international cooperation, and technical assistance and information exchange. A walk through the convention is a walk through a complete range of anti-corruption issues – from special investigative measures to bribery of foreign public officials, from procurement reform and transparency in the management of public finances to money laundering. As broad as the convention is, it is also politically balanced: There is a mixture of mandatory and optional provisions and, particularly in the prevention chapter, the convention does not require implementation be harmonized. For example, while states must endeavor “to establish measures and systems requiring public officials to make declarations to appropriate authorities,” the particular way to get there is left to the party.

The convention also establishes the first ever comprehensive legal frameworks for recovery of proceeds of corruption moved abroad by corrupt officials – from tracing and freezing, to confiscation and return. Many countries negotiating UNCAC considered the problem of “stolen assets,” corrupt officials acquiring assets illicitly – and hiding those assets in foreign jurisdictions – as one of the key problems a global convention should address.

The convention establishes a Conference of States Parties (COSP) to take political decisions to further implementation. It has met four to five times, most recently in Marrakech, Morocco, in October 2011. The COSPs allow the parties to agree on next steps in areas such as prevention, technical assistance and asset recovery. The 2009 COSP, in Doha, Qatar, agreed to adopt a process for review of implementation. The basic framework is similar to the peer reviews under the other conventions, although site visits to the reviewed country, consultation with civil society, and publication of the full review report (versus an executive summary) were controversial and formally remain optional. Yet many countries under review are considering these features and, in fact, opting in. This round of reviews, which

will take four years to cover all parties, looks at the criminalization and international legal cooperation chapters. Seven Western and Eastern European nations were among the pioneers in the first year of reviews (Bulgaria, Croatia, Finland, France, Lithuania, Spain and Ukraine), as well as the U.S. and others. Twelve countries in Europe, including the Russian Federation, have reviews under way as part of the second year.<sup>11</sup> Many have served as reviewing countries as well. Reviews will not only highlight achievements and gaps, but are also meant to identify technical assistance needs where appropriate.

### From Legal Commitments to Practice

Aside from legal instruments such as treaties, there are a large number of initiatives under way to promote implementation, i.e., continued reform, application of laws in practice, and enforcement. In fact, there are too many to comprehensively survey. Some are supported by international organizations or groups of countries; others are practitioner driven. All can make important contributions. At the global level, an exciting new multistakeholder initiative, the Open Government Partnership (OGP), was launched in September 2011 to focus on increasing transparency, accountability, anti-corruption and citizen participation, including the use of new information and communications technologies.<sup>12</sup> The initiative requires countries to endorse a declaration of principles and make a series of concrete, independently monitored commitments in the areas mentioned above, commitments developed through broad domestic multi-stakeholder consultation and tailored to each country's needs and goals. In addition to a coordinating committee of the eight founding governments and nine nongovernmental organizations, the initiative is open to any government that meets certain basic reform criteria; 52 have indicated their intention to join.<sup>13</sup> An OGP networking mechanism can pair countries with other countries, businesses or NGOs that have good practices or other resources to make reforms. The U.S. has undertaken an ambitious set of OGP commitments, which are available on the OGP website along with the commitments of the other participating countries.<sup>14</sup> The transparency and oversight principles of OGP are reflected in other long-standing initiatives such as the Extractive Industries Transparency Initiative and efforts to increase transparency in aid.

Aside from transparency, another area of intensive work on implementation of international anticorruption commitments is recovery of stolen assets. While there is much interest in asset recovery, the cases can be complex, with different legal systems involved, lack of channels for informal cooperation, formal requirements for mutual legal assistance, and difficulties in tracing assets and establishing their links to crime. Recent declarations by the UNCAC COSP<sup>15</sup> and the G20<sup>16</sup> provide useful road maps for collaboration to overcome these challenges, and partner initiatives exist to help with the follow-up. The Stolen Asset Recovery Initiative (StAR), a joint initiative of the World Bank and the UN Office of Drugs and Crime (UNODC), is a principle

actor in this area.<sup>17</sup> As with organizations such as the International Center for Asset Recovery in Basel, StAR provides capacity building, develops policy recommendations and guides for practitioners, and facilitates cooperation. StAR recently launched the Asset Watch website to report asset recovery around the world. Interpol, working with StAR, serves as the platform for another effort in this area, the global asset recovery Focal Point Initiative.<sup>18</sup> Focal Point establishes a network of expert practitioners in recovering the proceeds of corruption, complementing regional networks such as the Camden Asset Recovery Inter-Agency Network. It allows police and prosecutors from 100 countries around the world to identify each other and communicate over a secured network.

Other initiatives have focused more broadly on supporting anti-corruption authorities and other practitioners. The International Anti-Corruption Academy is a new center of advanced education and study established in 2011 in a state of the art facility outside of Vienna by the Austrian government, UNODC and other partners.<sup>19</sup> It offers training courses, symposia and a graduate degree program in anti-corruption studies. The International Association of Anti-Corruption Authorities, as well as a new World Bank-supported initiative, the International Corruption Hunters Alliance, brings together officials from anti-corruption commissions and specialized units to build solidarity and foster networking and exchange of good practices. As the European experience of the last decade shows, anti-corruption bodies can be critical actors in the fight against corruption, but when effective, are vulnerable to political pressure or institutional or personal reprisal. The World Bank is launching a website dedicated to disseminating good practices and other information about anti-corruption bodies.<sup>20</sup> (In Europe, the European Partners Against Corruption, comprised of police oversight bodies and anti-corruption authorities of EU member states and Council of Europe member countries, is working to similar purposes.<sup>21</sup>)

Mirroring activity at the global level, Europe has developed new tools and initiatives to help – and press – countries to address corruption. In June 2011, the EU, recognizing that four out of five EU citizens regard corruption as a major problem and that corruption costs the EU economy an estimated 120 billion euros per year, announced a new policy to combat corruption.<sup>22</sup> The policy sets up an “EU Anti-Corruption Report,” a mechanism for the periodic assessment of EU member states’ efforts to fight corruption. Every two years, starting in 2013, the report will identify trends and weaknesses, as well as stimulate peer learning and exchange of best practices. The European Commission (EC) will issue the reports based on inputs from a variety of sources, including existing monitoring mechanisms, independent experts, stakeholders and civil society. The policy calls upon member states to improve implementation of



Russians crowd the Luzhkov bridge in Moscow while protesting alleged mass fraud in December 2011 parliamentary elections. The banner reads: “Crooks and thieves! Give us back our elections!”

anti-corruption legal instruments already in place in Europe and abroad. The EC will work toward modernized rules addressing public procurement, accounting standards and audits for EU companies. It will adopt a strategy to combat fraud affecting the financial interests of the EU, focus more on anti-corruption issues within the EU enlargement process and neighborhood policy, and use conditionality more in cooperation and development policies.

A variety of other activities are under way to support reform and reformers in Europe. For the last dozen years, the OECD has coordinated the Anti-Corruption Network for Eastern Europe and Central Asia, which provides regional training and policy dialogue, develops good practices resources and studies in English and local languages, and conducts peer reviews through the Istanbul Action Plan.<sup>23</sup> The Southeast European Regional Anti-Corruption Initiative, developed in the context of the Stability Pact for Southeastern Europe, organizes training and conferences and facilitates exchanges (“twinning”) among anti-corruption authorities in the Western Balkans.<sup>24</sup> Another initiative is the Southeast European Law Enforcement Center (SELEC, the successor agreement to the Southeast European Cooperation Initiative).<sup>25</sup> It is intended to foster operational cooperation to prevent and combat transborder crime. Thirteen countries including Turkey participate, designating one law enforcement and one customs official as liaisons. Complementing SELEC’s work is the South Eastern European Prosecutors Advisory Group, an informal group that can provide assistance on mutual legal assistance and other cooperation. European practitioners also participated in the Transatlantic Symposium on Transnational Illicit Threats, co-sponsored by the EU and the U.S. in 2011 to chart joint action against transborder crime and the convergence of illicit networks and actors.

### Spotlighting Corruption

Expressions of high-level political will are important to sustain momentum for reform. Although it was not common a dozen years ago, high-level gatherings such as leaders’ summits increasingly address corruption. Important declarations in key political or economic forums such as the Summit of the Americas and the Asia-Pacific Economic



Indian anti-corruption activist Anna Hazare waves the flag of India as Kiran Bedi, left, cheers in the background during a seven-hour fast for anti-corruption legislation in New Delhi in December 2011.

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Cooperation (APEC) enunciate priorities, establish principles and incorporate commitments for action that complement politically what countries undertake through treaties. The G8, beginning with the 2003 Evian Summit, has made detailed declarations on combating corruption and raising transparency. A public reporting process in 2008 and 2009 heightened accountability for follow-through by G8 members (APEC is undertaking a similar process). The G8 Deauville Partnership with countries from the post-Arab Spring Middle East includes a prominent anti-corruption and asset recovery component. In Europe, high profile expert meetings, such as the annual series of Counter-Corruption conferences sponsored by the Marshall Center and the U.S. State Department, and the November 2011 World Forum on Governance in Prague, provide additional emphasis.

The world took note when the G20, a group of the world's top economies that gained new prominence during the global financial crisis, decided to take on corruption. The effort began at the Pittsburgh Summit in 2009, but the real achievement was the adoption of a comprehensive action plan at the Seoul Summit in 2010.<sup>26</sup> The plan, among other things, called for broader membership in the UNCAC and ABC, engagement by the Financial Action Task Force on the interaction between corruption and money laundering, adoption of whistle-blower protection measures and enhanced cooperation on asset recovery, and more work on denial of safe havens to corrupt officials. It also promoted increased engagement with the private sector to combat

corruption. Leaders established an anti-corruption working group to coordinate follow-up and gave it a mandate to report back. The public report at the Cannes Summit in July 2011 revealed important signs of progress, such as the adoption of new foreign bribery legislation in China, the Russian Federation and the United Kingdom, and India's ratification of UNCAC. The G20 could be a significant positive force for continued action, uniquely bringing together the largest economies, including emerging countries whose economic growth and political influence make them indispensable players.

What this mosaic should convey is that the world is interested in combating corruption as never before. Success is far from assured: Indicators, themselves imperfect, show a very mixed record of achievement around the world. One observer has compared combating corruption to mowing grass – a job that never ends. Countries are often better at adopting laws than applying them. It's hard work to build and sustain strong, independent institutions. Political will can wane, and increasing transparency and public oversight can be challenging in many places. (This overview has focused on government; another article of equal length would be necessary to do justice to the often valiant efforts of civil society, including the pioneering Transparency International, other NGOs and business.) But the wide range of activity at all levels – global, regional and national – reflects an earnestness to take on corruption and a refusal to accept business as usual. The corrupt are on notice – looking at Europe and the world, the game is definitely on. □

1. [http://www.whitehouse.gov/sites/default/files/rss\\_viewer/national\\_security\\_strategy.pdf](http://www.whitehouse.gov/sites/default/files/rss_viewer/national_security_strategy.pdf)
2. The list of enforcement actions maintained by the U.S. Department of Justice is available at <http://www.justice.gov/criminal/fraud/fcpa/cases/a.html>
3. Presidential Proclamation 7750, one of the authorities for such denial of entry, can be found at <http://edocket.access.gpo.gov/2004/pdf/04-957.pdf>
4. For example, Illinois governor Rod Blagojevich was sentenced to 14 years in December 2011 after he was convicted of 18 corruption charges.
5. [www.oecd.org/daf/nocorruption/convention](http://www.oecd.org/daf/nocorruption/convention)
6. See <http://www.justice.gov/criminal/fraud/fcpa/> for the text of the law and additional background.
7. For details, see <http://www.justice.gov/criminal/fraud/fcpa/cases/siemens-aktiengesellschaft.html>
8. [http://www.coe.int/t/dghl/monitoring/greco/documents/instruments\\_en.asp](http://www.coe.int/t/dghl/monitoring/greco/documents/instruments_en.asp)
9. [http://www.coe.int/t/dghl/monitoring/greco/default\\_en.asp](http://www.coe.int/t/dghl/monitoring/greco/default_en.asp)
10. For the text of the convention, parties, and other background, see <http://www.unodc.org/unodc/en/treaties/CAC/>.
11. Countries to be reviewed each year are listed at <http://www.unodc.org/unodc/en/treaties/CAC/country-pairings-year-1-of-the-review-cycle.html>
12. <http://www.opengovpartnership.org/>
13. Including, in Western and Eastern Europe, Albania, Armenia, Azerbaijan, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Georgia, Greece, Italy, Latvia, Lithuania, Macedonia, Moldova, Montenegro, Netherlands, Romania, Slovakia, Spain, Sweden and Ukraine.
14. See the U.S. commitments at [http://www.opengovpartnership.org/sites/www.opengovpartnership.org/files/country\\_action\\_plans/US\\_National\\_Action\\_Plan\\_Final\\_2.pdf](http://www.opengovpartnership.org/sites/www.opengovpartnership.org/files/country_action_plans/US_National_Action_Plan_Final_2.pdf)
15. <http://www.unodc.org/documents/treaties/UNCAC/COSP/session3/V0988538e.pdf>
16. [http://www.g20-g8.com/g8-g20/root/bank\\_objects/Final\\_G20\\_Anti-corruption\\_Working\\_Group\\_progress\\_Report.pdf](http://www.g20-g8.com/g8-g20/root/bank_objects/Final_G20_Anti-corruption_Working_Group_progress_Report.pdf)
17. More information on the activities and resources of STAR is available at [www.worldbank.org/star](http://www.worldbank.org/star) and <http://www.unodc.org/unodc/en/corruption/STAR.html>
18. <https://www.interpol.int/Public/Corruption/AssetRecovery.asp>
19. <http://www.iaca-info.org/>
20. <http://www.acauthorities.org/faca/>
21. <http://www.epac.at/>
22. [http://ec.europa.eu/home-affairs/policies/crime/crime\\_corruption\\_en.htm](http://ec.europa.eu/home-affairs/policies/crime/crime_corruption_en.htm)
23. [www.oecd.org/corruption/acn](http://www.oecd.org/corruption/acn)
24. <http://www.rai-see.org/>
25. <http://www.secicenter.org/>
26. [http://www.g20.org/Documents2010/11/seoulsummit\\_annexes.pdf](http://www.g20.org/Documents2010/11/seoulsummit_annexes.pdf)