

What is the UK Anti-Corruption Forum?

The Anti-Corruption Forum is an alliance of UK business associations, professional institutions, civil society organisations and companies with interests in the domestic and international infrastructure, construction and engineering sectors. The purpose of the Forum is to promote industry-led actions which can help to eliminate corruption. The members of the Forum believe that corruption can only be eliminated if governments, banks, business and professional associations, and companies working in these sectors co-operate in the development and implementation of effective anti-corruption actions.

Overseas News

EU Commission fines lift cartel €992 million

The European Commission has fined ThyssenKrupp (€479.6 million), Otis (€224.9 million), Schindler (€143.7 million) and Kone (€142.1 million) for operating cartels between 1995 and 2004 for the installation and maintenance of lifts and escalators in Belgium, Germany, Luxembourg and the Netherlands, in violation of Article 81 of the EC Treaty which outlaws restrictive business practices. The decision names 17 subsidiaries of the above groups, together with Mitsubishi Elevator Europe B.V. which was fined €1.8 million for participating in the Dutch cartel. 2 Kone subsidiaries received full immunity from fines under the Commission's leniency programme in respect of the cartels in Belgium and Luxembourg, as they were first to provide information about these cartels. Similarly, Otis Netherlands received full immunity in respect of the Netherlands cartel. The fines imposed on the ThyssenKrupp companies were increased by 50%, as it is a repeat offender. These are the largest ever fines imposed by the Commission for cartel violations.

The companies allegedly informed each other of calls for tender and co-ordinated their bids according to their pre-agreed cartel quotas. Fake bids were lodged by the companies who were not supposed to win the tender, in order to give the impression of genuine competition. The EU Commission states that in all four cartels, high-ranking national management participated in regular meetings and discussions. They allegedly took care to avoid detection; they usually met in bars and restaurants, they travelled to the countryside or even abroad, and they used pre-paid mobile phone cards to avoid tracking.

It is the Commission's practice to address its decisions to all the legal entities responsible for the illegal behaviour. In line with established case law, if the parent company within a group exercises decisive influence over the commercial behaviour of its subsidiaries, then they both form part of the same economic undertaking. There is a presumption that a parent company exercises decisive influence over its wholly owned subsidiary. Legal responsibility for the infringement and the related fine can be attributed to both the subsidiary that actually participated in the cartel and the parent company or companies that exercised decisive influence over the commercial behaviour of that subsidiary at the relevant time.

EU Commission fines switchgear cartel €750 million

The European Commission has fined eleven groups of companies a total of €750 million for participating in a cartel for gas insulated switchgear projects. The companies are ABB, Alstom, Areva, Fuji Electric, Hitachi, Japan AE Power Systems, Mitsubishi Electric, Schneider, Siemens, Toshiba and VA Tech. Between 1988 and 2004, the companies allegedly rigged bids for procurement contracts, fixed prices, allocated projects to each other, shared markets and exchanged commercially important and confidential information. ABB's fine was reduced from € 215 million to zero as it blew the whistle on the cartel.

Cartel members allegedly informed each other of calls for tender for GIS equipment and co-ordinated their bids in order to secure projects for the cartel members according to their respective cartel quotas. Alternatively, they would agree to respect minimum bidding prices. The companies agreed that the Japanese companies would not sell in Europe, and the European companies would not sell in Japan. European tenders were usually allocated according to the cartel rules and the European projects won by cartel members outside their home countries were counted into the agreed global cartel quotas. The Japanese companies have also been fined, despite their nearly total absence from the market for GIS in Europe, because their agreement to abstain from bidding contributed directly to the restriction of competition in the EU market. Members of the cartel allegedly met regularly at the management level to discuss strategic issues and at a lower level to divide projects and to prepare sham bids by the companies not supposed to win the tender, in order to leave an impression of genuine competition. They allegedly took sophisticated measures to keep their communications secret. Code names were used for both companies and individuals. In the last years of the cartel they relied on anonymous e-mail addresses for communication and used encryption for sending messages.

19 political leaders jailed for corruption in Bangladesh

Nineteen former BNP and Awami League ministers and other high ranking officials were arrested in February on corruption charges and sent to Dhaka Jail on 30 days' detention under the Special Powers Act. They were accused of being involved in "massive corruption".

Switzerland pledges to help Indonesia track corrupt assets

Switzerland agreed in February to help Indonesia track millions of U.S. dollars' worth of assets of corrupt people which were possibly placed in Switzerland. Visiting President of Switzerland Micheline Calmy-Rey made the statement in a joint press conference after meeting with her Indonesian counterpart Susilo Bambang Yudhoyono. Switzerland has a law enacted in 1995 that allows it to trace assets, and has already returned corruptly acquired assets to Niger and the Philippines

Bangkok airport - Corruption charges filed

In February, criminal charges were filed in Thailand against four domestic and international companies and their executives for their alleged involvement in procuring what is claimed to be an over-priced baggage handling system for the new US\$4.1 billion Suvarnabhumi Airport at Bangkok. The airport has been mired in allegations of corruption since its opening last September, with complaints of sub-standard materials used in construction of the runways, taxiways and terminal. Airlines have expressed concern about the safety of the runway, and flights have been diverted.

China installs new Olympic supervisor

China in December 2006 installed a new supervisor for construction projects for the 2008 Beijing Olympics. This is part of its efforts to prevent corruption, following the dismissal for alleged corruption of Vice Mayor Liu Zhihua who was in charge of Games construction. The authorities have stepped up their auditing of projects to make sure Olympics funds are not misused.

World Bank debar firms and individuals

Over the past two fiscal years, the World Bank's Institutional Integrity Department (INT) investigated and closed 441 external investigations into fraud and corruption in Bank financed projects. As a result of such investigations, the Bank debarred 58 firms and 54 individuals. Since 1999, the World Bank has sanctioned 338 firms and individuals, with all sanctions published on the Bank's website and publicly announced. The World Bank is the only multilateral development bank that has published the names of the firms it has sanctioned for corrupt practices.

INT also completed 227 internal cases involving staff misconduct over the past two fiscal years. Of these, INT substantiated allegations in 77 of the cases involving 78 staff members. As a result of the

substantiated allegations, the Bank terminated and/or barred from rehire 22 staff, and disciplined 11 others for fraud and corruption.

Asian Development Bank debar firms and individuals

The Asian Development Bank has banned 37 firms and 32 individuals from all transactions with it, due to fraud, corruption or misconduct in 2006. 34 firms were debarred for periods ranging from 1 to 7 years, and 3 firms for 10 years. 14 individuals were debarred indefinitely and 17 for periods ranging from 1 to 7 years. The ADB does not publicly name those in its debarment lists.

The bank said the most common form of fraudulent practice investigated in 2006 was misrepresentation and falsification of documents. Collusive practices accounted for 46% of the corrupt practices cases. The ADB's Integrity Division received a total of 171 complaints of fraud, corruption and misconduct in 2006, slightly down from 199 in 2005.

Project Anti-Corruption System (Construction Projects)

Transparency International has developed a Project Anti-Corruption System (PACS) specifically for construction projects.

PACS is a modular system which applies a variety of anti-corruption measures to all major project participants throughout their involvement in a project. These measures include independent monitoring, due diligence, contractual commitments, procurement requirements, government commitments, a corporate programme, rules for individuals, training, transparency, reporting and enforcement. PACS targets both bribery and fraud.

Although PACS has been designed as a project system, individual modules (such as those relating to disclosure, benefits, training, and rules for individuals) may also be used by companies as general anti-corruption tools.

PACS is currently published by TI as a "Consultative Edition". The consultation period ends on 30 April 2007. The First Edition of PACS will be published in mid-2007. Both this Consultative Edition and subsequent editions will be freely available from TI's website for use on specific projects.

The 19 PACS modules can be accessed through TI's website:

www.transparency.org/tools/contracting/construction_projects

UK News

Major bribery investigation halted by UK Government

A major criminal investigation by the UK Serious Fraud Office into alleged corruption by the arms company BAE Systems and its executives was stopped in December 2006 by the UK Government on the grounds that it would endanger Britain's security if the inquiry was allowed to continue.

This decision has met with wide-spread condemnation, both within the UK and overseas. The OECD has stated that the decision may be in breach of the UK's obligations under the OECD Convention. Major UK institutional investors have claimed that the decision would damage the integrity of the UK's financial markets. The UK Parliament's "Africa All-Party Parliamentary Group" stated that the

decision ran counter to the Government's express anti-corruption commitments and undermined Britain's credibility in the fight against corruption in Africa and elsewhere. President Thabo Mbeki of South Africa accused the UK Government of double standards. A judicial review to challenge the legality of the decision has been launched by two NGOs.

The manner and circumstances of this intervention have caused concern within UK industry. The majority of UK companies and individuals are determined to act, and to be seen to act, with integrity in their business dealings. If the UK government is perceived as adopting double standards, then this perception will also taint UK businesses and professionals. It will also cause a loss of international confidence in UK-led anti-corruption initiatives.

Metropolitan Police sets up a Fraud Forum for the construction sector

Operation Sterling, the anti-fraud initiative set up by the London Metropolitan Police in October 2005 to combat economic crime, has been expanded to include a forum relating to fraud in the construction sector. This is one of fifteen forums within Operation Sterling which relate to different sectors of commerce. The first meeting of the construction fraud forum took place in November 2006 and was made up of members of the construction industry who had been invited by the Police to attend. The fraud forum discussed the findings of the CIOB 2006 Survey "Corruption in the UK Construction Industry". Copies of TI(UK)'s "Anti-Corruption Code for Individuals in the Construction and Engineering Industry" have been distributed by the Police to forum members. This document identifies the relevant law and gives specific examples of bribery and fraud in the industry. The Police are aware of the Anti-Corruption Forum and receive a copy of the Anti-Corruption Forum's Newsletter.

Further information on Operation Sterling can be found at:
<http://www.met.police.uk/fraudalert>.

UK Fraud Act 2006 comes into force

The Fraud Act 2006 came into force in the UK on 15 January 2007. The Fraud Act introduces a number of new offences including fraud by false representation (section 2), fraud by failing to disclose information (section 3), fraud by abuse of position (section 4), being in possession of articles for use in frauds (section 6), making or supplying articles for use in frauds (section 7), participating in fraudulent business carried on by a sole trader (section 9), and obtaining services dishonestly (section 11). The maximum penalty for individuals for offences under the Fraud Act is 10 years' imprisonment. Company officers may also be liable for offences under the Fraud Act if the offence is proved to have been committed with the consent or connivance of a director, manager, secretary or other similar officer of the company, or by a person who was

purporting to act in such a capacity (section 12). In such a case, both the company and the relevant company officer may be liable.

The Fraud Act repeals a number of offences including the obtaining by deception offences (Theft Act 1968 sections 15, 15A, 15B, 16 and 20(2)), and Theft Act 1978 sections 1 and 2). Importantly, however, the false accounting offence (Theft Act 1968 s. 17) and the common law offence of conspiracy to defraud remain in force.

The Fraud Act can be obtained at:
www.opsi.gov.uk/ACTS/acts2006/ukpga_20060035_en.pdf

DFID initiates Governance and Transparency Fund

Following a consultation exercise, the UK Department for International Development has initiated its £100m Governance and Transparency Fund. When the current process of procuring the services of a management agent has been completed, applications will be sought from not-for-profit groups with large scale (£1m to £5m) proposals for strengthening civil society and the media to help citizens hold their governments to account. At least 85% of funds must be allocated to local partners in developing countries.

Further details can be obtained from
<http://www.dfid.gov.uk/procurement/ojec7698criteria.pdf>

Corruption in aid

A recent paper from the Overseas Development Institute examines corruption in aid. The increasing use of general budget support as an aid delivery mechanism is intended to increase country ownership and strengthen budget systems and domestic accountability. However, a number of recent assessments have revealed shortcomings in this system, mainly caused by inadequate public financial management reforms and continuing multiple funding systems still being used by donors. (November 2006 edition of *Development Policy Review* Vol. 24, No. 6, pp. 627-645).

Forum News

Forum web-site

The Forum web-site has received favourable feed-back. It provides information on:

- the Forum's objectives, activities and membership;
- how to join the Forum;
- anti-corruption initiatives, tools, reports and indices; and
- anti-corruption training.

www.anticorruptionforum.org.uk

Forum working groups

The Forum's six working groups are continuing to develop and promote Forum policy in specific areas. These are:

- Debarment Working Group;
- Developing Countries Working Group;
- Overseas Support Working Group;
- Transparency and Reporting Working Group;
- Multi-lateral Bank Working Group; and
- Professional Standards Working Group

Their terms of reference can now be obtained on the Forum's web-site. Enquiries about their activities should be sent to coordinator@anticorruptionforum.org.uk

Eleventh meeting of the Forum

The eleventh meeting of the Forum was held on 9 January 2007. The activities of the working groups and other relevant issues were reviewed, and future actions were agreed.

Joining the Anti-Corruption Forum

For information on how to join the Forum either visit the website or contact the Co-ordinator (see addresses below).

Information on the Anti-Corruption Forum

For information on the Forum, either visit the website:

www.anticorruptionforum.org.uk

Or contact Neill Stansbury, Forum Co-ordinator, at

coordinator@anticorruptionforum.org.uk

Editorial Panel

Editor: John Howell
Hamish Goldie-Scot
Tom Osorio
Neill Stansbury
Andy Walker

For comments on this Newsletter, or contributions and suggestions for future editions, please contact John Howell at Living_Resources@compuserve.com
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