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Towards a fairer world: why is corruption still blocking the way?

Special strategic session: The SME challenge - How can smaller businesses tackle bribery and corruption? A working session

Discussion Paper on the Options for Anti Bribery Principles and Supporting Tools for use by SMEs

1. Purpose

The purpose of this paper is to set out for discussion:

- the reasons why small to medium enterprises should adopt an anti bribery Programme;
- existing Programmes;
- do existing corporate social responsibility and sustainability guidelines adequately address anti bribery?
- if not, what alternatives should be considered?

Three options for action are suggested in section 6.

2. Definitions

SME: Small and medium business - (European Commission definition, organisations with less than 250 employees, a maximum turnover of 50 million Euros and/or the annual balance sheet total does not exceed 43 million Euros. Definitions may vary in other countries.)

Business Principles for Countering Bribery: an anti-bribery code – they are an initiative of Transparency International and Social Accountability International and were developed in partnership with a multi-stakeholder Steering Committee – visit Transparency International’s website to download a copy of the Business Principles – http://www.transparency.org/global_priorities/private_sector/business_principles

CSR: Corporate Social Responsibility - a concept whereby companies decide voluntarily to contribute to a better society and a cleaner environment. (EU Green Paper)

Programme: the entirety of an enterprise’s anti-bribery activities

Sustainability: Development which meets the needs of the present without compromising the ability of future generations to meet their own needs. A process of change in which the exploitation of resources, the direction of investments, the orientation of technological development and institutional change are made consistent with future as well as present needs. (Brundtland Report 1987)

3. Why SMEs should adopt an Anti Bribery Programme

SMEs form over 90% of business organisations. Many will, or will aspire to, operate in supply chains to multinationals and public companies which will require compliance with an anti bribery Programme.

The challenge faced by both large companies and SMEs are:

- unlike large companies, SMEs fall below the line of visibility in that they do not undergo the checks and audits required of public joint stock companies;
- SMEs may, through lack of financial and manpower resources, fail to address anti bribery measures, thus creating a vulnerable weak link in supply chains to large companies; there are huge financial risks for a large corporation, should one of its smaller partners cause it to fall foul of laws such as the US Foreign Corrupt Practices Act or Sarbanes Oxley;
- SMEs may not have a full understanding and knowledge of the benefits of an anti bribery Programme, nor, more importantly, the risks;
- as SMEs usually operate in highly competitive markets, they may see it as a business imperative to give and accept bribes, simply to exist;
- although good practice undoubtedly exists in SMEs, there is no measurable standard and probably little consistency in respect of anti corruption measures. Without a global benchmark it is difficult for them to demonstrate those good practices.

Benefits:

- increased chance of selection as a supplier or third party sales representative to large multinationals, access to international markets;
- more opportunities to acquire government business;
- significant savings of finances formerly paid in bribes;
- enhanced reputation.

Risks of not adhering to anti-corruption principles:

- financial penalties for breaches of local laws countering bribery;
- risk of imprisonment for responsible directors and managers;
- less chance of selection to multinational supply chain and consequent loss of business;
- loss of reputation resulting in bad publicity and the consequent damage to future revenue and sustainability of business;
- blacklisting by World Bank;
- loss of export licenses;
- loss of revenue in bribes.

4. Existing initiatives

A number of tools and voluntary programmes exist, both for international and national use. Most concentrate on the wide range of ethical trading issues, Sustainability and CSR issues i.e. environmental and employment issues as well as anti-corruption policies. As far as it is possible to ascertain, no one international programme for SMEs has been developed for the countering of bribery. Some of those existing may be capable of adaptation. All are voluntary.

There are numerous initiatives and a detailed list is available on the Session website (World Bank <http://developmentandbusiness.org/iacc/smes>). Some examples are:

Tools

- Danish portal developed for Danida by Jens Berthelsen www.business-anti-corruption.dk: specifically addresses anti-bribery risks for SMEs
- Institute of Business Ethics *Developing a Code of Ethics* www.ibe.org.uk
- Good Corporation Standard www.goodcorporation.com
helps businesses towards an accredited standards in sustainability

Standards and Guidelines

- Global Reporting Initiative High 5! A tool to help businesses attain sustainability and CSR objectives
- UN Global Compact www.unglobalcompact.org - guidance and advice on the avoidance of bribery and corruption

5. CSR and Sustainability Guidelines

CSR and Sustainability guidelines cover aspects of community care and ethical behaviour such as environmental issues, respect for people, support to communities, and anti corruption. The important question for TI to consider is, given that bribery is at the heart of most forms of corruption, is it sufficient for it to be addressed as part of such overall guidelines, or should it be given more weight and relevance, and if so how?

6. Options

Three options are suggested below:

a) Development of straightforward principles for SMEs on the countering of bribery, (SMEBP) based on the Business Principles for Countering Bribery.

Then the aim would be for the SMEBP to be adopted by existing programmes such as the UN Global Compact to contribute to implementation of the 10th Principle against Corruption, and integrated into leading CSR and Sustainability guidelines.

A suggested policy would address:

- the promise, giving and receiving of money or in-kind benefits as an inducement to corruption;
- the promise, giving and receiving of gifts or favours as an inducement to influence business;
- how to define the value and control the giving and receiving of gifts and entertainment;
- a policy statement on political donations;
- how to evaluate commissions;
- conflicts of interest

The advantages of this option are:

- it would be simple to implement as the framework and infrastructures already exist;
- given the large range of tools and options available, this would provide a 'one stop' for SMEs;
- as it is likely that such programmes will become a commercial requirement in certain industries, particularly in respect of supply chains of which SMEs form, or aspire to form, a large part, this requirement would place positive pressure on SMEs to adopt them.

The challenge would be to ensure the SMEBP form part of CSR and Sustainability guidelines.

b) TI to facilitate the development of model principles for countering bribery to be used on a voluntary basis by SMEs

This option would provide a basic model code – the SME Business principles (SMEBP) – that could be used by initiatives such as the Danida portal for SMEs. The SMEBP would address bribery in all its forms, i.e. bribes or promises of bribes of:

- cash
- gifts
- favours
- information
- avoidance of legal or other regulatory procedures
- political donations
- and also address conflicts of interest.

The advantages are, it would be relatively simple to draft. The challenge is that it would be purely voluntary. Again, it is not clear how such a code would become a business imperative, without compliance being mandated by a dominant player in each particular market or industry.

c) TI to facilitate the development of an anti corruption standard, similar to an ISO standard, to which SMEs might become accredited

The development of an SME standard similar to an ISO standard, proposes setting out clearly and simply the aims of an anti-bribery Programme along similar lines to the SMEBP set out above. The aim would be to have this code adopted by large businesses, banks, trade associations and others, to form a benchmark, and an assurance of compliance. The intention would be for the anti-bribery standard to achieve a level of ubiquitous adoption similar to that enjoyed by ISO9000 as a quality standard. This would have the effect of making it a business imperative to be certified, and this would significantly offset the business imperative that some SMEs currently feel to engage in bribery.

The advantage of the standard would be:

- the existence of one general standard with an accepted level of compliance and due diligence with renewable, auditable accreditation;
- established model, familiar to business, (i.e. similar to ISO standard);
- gradually gathering a critical mass of SMEs accredited to the standard and establishing positive pressure to other organizations to adopt the standard;
- flexibility in the development of processes to back up the standard.

The challenges would be:

- organising accreditation;
- possible costs;
- time;
- continuing audit.

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For Transparency International
17 November 2006

Conclusion and matters for consideration in implementing a Programme.

This is a large and complex task. In considering how to approach it, it will be worthwhile considering how to implement whichever programme is selected, and also to discuss what continuing support may be required. The following are some initial thoughts:

- one approach would be to select a specific business area which is particularly vulnerable to corruption, linking in to existing programmes such as the UK construction industry project, and to pilot a scheme with SMEs in those supply chains;
- SMEs would need support in implementing an anti bribery code of practice. Helplines within businesses are impractical given the small number of employees in SMEs. One suggestion would be for TI to create a group of advisors, large companies, banks, trade associations, universities and others, to form an advisory group to which SMEs might refer the challenges which they are facing, and seek advice on how to approach and handle them;;
- Consider the appointment of a national Business Champion for SMEs to give support in the implementation of a code of business conduct.

Elaine Burns, November 2006