

ANTI – CORRUPTION and BUSINESS INTEGRITY



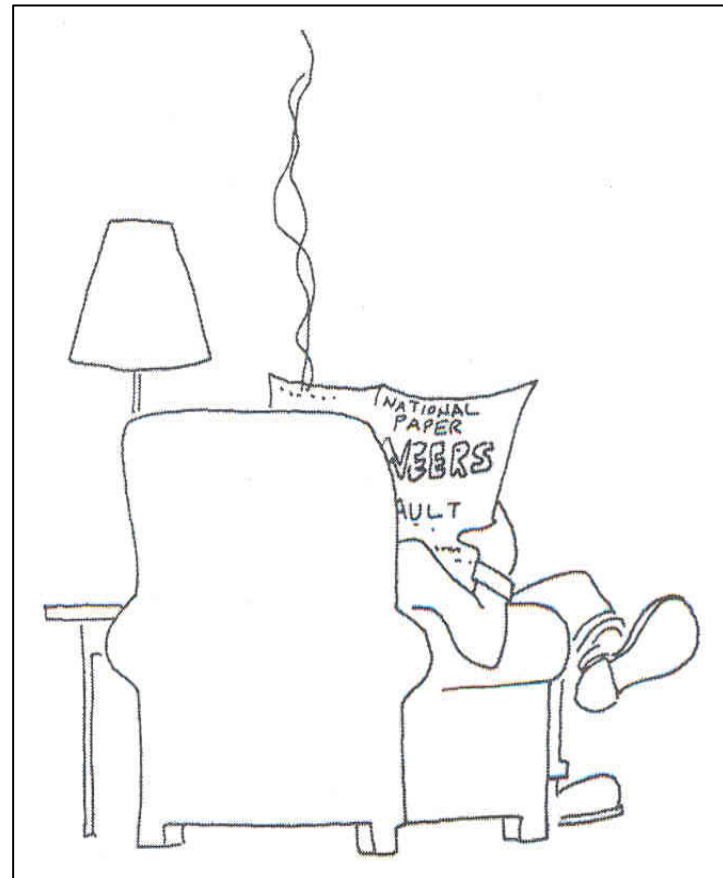
Renko G. Campen

October 2009

Integrity – another definition

A good test to determine if a contemplated action is ethical, is to ask, “Would I want to see it in the headlines tomorrow morning?”

*Jim Howland, Chairman Emeritus CH2M Hill
Consulting Engineers February 1982*



Contents:

- The overall picture of corruption
- The reasons / the practice / the impact
- Reactions / intentions / actuals
- Experiences in Integrity Management
- Food for discussion

VISIBLE CORRUPTION (1)

Various scandals / affairs

- Lesotho Highlands in Southern Africa
- Siemens in Germany
- British Aerospace in UK
- Total in France
-
- Soeharto in Indonesia
- Marcos in de Philippines
-

VISIBLE CORRUPTION (2)

Fraude in the construction industry in the Netherlands

ABP real estate affair in the Netherlands

- Newspapers
- Books
- Magazines
- Publications

Good Governance – Corporate Social Responsibility

Invisible Corruption

XXXXXXXXXXXXXXXX
XXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

- Who's able to hear and to read, knows about corruption, but
- For most people it is a far away show!

Various views

Martin Koper en Roel van der Veen zijn beiden historici en werkzaam voor het ministerie van Buitenlandse Zaken respectievelijk de Adviesraad voor Internationale Vraagstukken. Zij schreven deze bijdrage op persoonlijke titel.

>> Neem de opvattingen van de Afrikanen zelf over corruptie als uitgangspunt

Ons anticorruptiebeleid zal effectiever worden naarmate meer rekening wordt gehouden met de opvattingen over corruptie van de ontvangende landen zelf. Het Nederlandse beleid moet zich vooral richten op die vormen van corruptie die door de Afrikaanse bevolking zelf als buitensporig worden ervaren.

CORRUPTION AND THE (INTER)NATIONAL ORGANISATIONS

Rules - codes - sanctions – legal framework

- FCPA – USA as promotor
- Worldbank/Regional Development Banks
- OECD
- Transparency International
- International Chamber of Commerce
-
- FIDIC – International Organisation of Consulting Engineers
- International Organisation van Contractors
- World Economic Forum
- UN Global Forum
-



Corruption Perception Index 2009

| Rank | Country | Score | Rank | Country | Score | Rank | Country | Score |
|------|-------------|-------|------|--------------|-------|------|-------------------|-------|
| 1 | Denmark | 9.3 | 47 | Jordan | 5.1 | 171 | Congo DR | 1.7 |
| | New Zealand | 9.3 | | Malaysia | 5.1 | | Equatorial Guinea | 1.7 |
| | Sweden | 9.3 | 52 | Latvia | 5 | 173 | Chad | 1.6 |
| 4 | Singapore | 9.2 | | Slovakia | 5 | | Guinea | 1.6 |
| 5 | Finland | 9 | 54 | South Africa | 4.9 | 175 | Sudan | 1.6 |
| | Switzerland | 9 | 55 | Italy | 4.8 | 176 | Afghanistan | 1.5 |
| 7 | Iceland | 8.9 | | Seychelles | 4.8 | 177 | Haiti | 1.4 |
| | Netherlands | 8.9 | 57 | Greece | 4.7 | 178 | Iraq | 1.3 |
| 9 | Australia | 8.7 | 58 | Lithuania | 4.6 | | Myanmar | 1.3 |
| | Canada | 8.7 | | Poland | 4.6 | 180 | Somalia | 1 |

Corruption Perception Index 2009

Valuable in the discussions

Plenty of discussions: Acknowledgement and denial

The Netherlands up and down in ranking

(bribery tax deductible, fraude in the construction inc)

Reasons behind (?)

- Culture
- Income of decisionmakers
- GNP
- Distance to the equator
-

Conclusions:

- No country is corruption free
- Relationship GNP – Score – Doing Business
- Long way to go.....

Lager op mondiale lijst

Nederland corrupt door bouwfraude

Door een onzer redacteurs

DEN HAAG, 18 OKT. Nederland is opnieuw gezakt op de internationale lijst van minst corrupte landen. Op de zogenoemde *Corruption Perception Index 2005* van Transparency International staat Nederland op de elfde plaats.

Dat is de laagste plaats in de afgelopen tien jaar. In 2002 en 2003 stond Nederland nog op een zevende plaats, vorig jaar op tien.

Transparency International is een non-gouvernementele organisatie die wereldwijd corruptie onderzoekt. Bij de samenstelling van die corruptielijst maakt Transparency International gebruik van inschattingen van deskundigen, zakenlieden en risicoanalisten.

Volgens professor H. de Doelder van de Erasmus Universiteit Rotterdam, contactpersoon van Transparency International in Nederland, is de daling van Nederland op die lijst „geen reclame voor ons land”. De Doelder wijt de da-

Corruption and Culture

Many studies and reports:

Corruption, Norms and Legal Enforcement: Evidence from Diplomatic Parking Tickets

Ray Fisman and Edward Miguel – New York USA 2006

We find a striking pattern in the parking data: diplomats from high-corruption countries have significantly more parking violations

Bridging the Gap between the Experience and the Perception of Corruption
Richard Rose and William Mishler – Russia 2007

The longer the Russian government tolerates corruption amongst its officials, the more this leads citizens to become dissatisfied with how their country is ruled.

Petty Corruption in Public Services: Driving Licences in Delhi

Rema Hanna, Simeon Djankov, a.o. – 2004/5

Corruption, therefore, not only raises the price of services, but also causes serious social distortions.

Corruption Perception Index 2009

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Players

| Corruption Line | Givers | Takers |
|------------------------|---------------|---------------|
| Private-Firms | XXXXXX | |
| Public-Government | | XXXXXX |

Notice:

Basis for legal framework

General opinion: Giver is bad, taker is poor

Players

| Corruption Triangle | Givers | Takers | Facilitators |
|----------------------------|---------------|---------------|---------------------|
| Private-Firms | XXXXXX | XXX | X |
| Public-Government | | XXXXXX | XX |
| Financiers | X | X | XXXXXX |

Notice:

Players play different roles.

Role of the Facilitator (often) under estimated.

Project Phases

| | | |
|----|----------------------|---|
| 0. | Inception phase | Initial deal/agreement between F/ T Exploration by G |
| 1. | Tendering phase | Prequalification G / T Tendering G / T Contract negotiations G/ T |
| 2. | Implementation phase | Execution / supply by G / T |
| 3. | Completion phase | Reporting Performance control / acceptance Final payment |

Project environment

In all phases involvement of other parties (than G, T and F)

“Small corruption”

Conception Phase

- Agreement between F en T
- Determine the “Balance of Power” between the players
- Establish the Level Playing Field (LPF)

Tendering Phase

Prequalification, tendering en contract negotiation

Characteristics:

- Time consuming (average 2.5 years)
- Expensive (2 – 10 % of the contractvalue)
- Strong competition (ICB, LCB, QBS, CBS, ...)
- Complicated (administrative requirements, International standards, local data and issues)
- Large impact (multi €M)
- Lot of paperwork
- Financial Guarantees (bid bonds, tender guarantees,)
- Often no level playing field (information, ToR, tenderdocs, ...)
- Bonus/award of the Sales Manager
- Contract negotiations
- Winner takes it all!

All reason to

Implementation Phase

Based on Plan of Work and BoQ etc. (supplies, services)

Characteristics:

- Profit driven
- Earn out of the initial cost (also of the project proposals lost)
- Change of scope / variation orders (BoQ)
- Delays
- Claims
- Reporting / Progress Control
- Payment of installments
- Performance guarantees
- Permanent negotiations

All reason to

Completion Phase

Characteristics:

- Reporting / Approval
- Performance / Compliance / Acceptance
- Installment / Final payment
- Completion of the guarantees

All reason to.....

The faces of Corruption

- Direct cash
- In kind
- In “discount”

In all Project Phases.

DIRECT / INDIRECT

- Agents
- Partners
- Middle man
-

Conclusion: Corruption:

Many reasons
Many temptations
Many possibilities
Many ways

Small Corruption

- Immigration / Residence Permit
- Customs / Forwarding and Clearing
- Tax office
- Utilities: Post, Telecommunication, Power, Water
- Supplies (fuel, staff, housing....)
- Hospital
-

Perfect Picture

- Level Playing Field in all Project Phases
- Controlled “Balance of Power” between the Players
- Transparency
- Compliant with the rules
- Sound Legal and Institutional Framework
- “Fair deal” with a profit margin related to the risk

Constraints

- All players (G, T, and F) have to meet targets in terms of time, budget, supply, performance
- Responsibility for the Project is often delegated to the lower ranks in the Organisations
- Complicated Balance of Power between the Players G, T en F
- Fighting Corruption is often considered a non issue:
- “We know that Corruption is not acceptable from a ethical point of view, but

Excuses

1. You cannot stop it
2. What's new?
3. The client pays for it
4. The whole world is involved
5. What is corruption?
6. Please pay those poor people
7. It is a kind of tax
8. It is minor compared to the profit and acquisition cost....
9.

FIDIC Activities

BIMS – Business Integrity Management System

Developed for the consulting industry

GPIMS – Government Procurement Integrity Management System

Complementary to the BIMS

Consultations with the IFI's
Consultations with Governments
Conferences
Training (kits)
Publications



Activities of the Players

(Some) firms (G)

- Active promotion en implementation of a non corruption policy
- Business Integrity Management System
- Joining international initiatives (WEF, FIDIC,)
- Termination of corruption prone activities
- Blacklisting van clients, governments, partners, shortlisting,
-

(Some) clients/governments (T)

- Rules and regulations
- Sanctions (blacklisting van firms, legal actions, ...)
-

(Some) facilitators (F)

- Starting public debate
- Rules and regulations
- Control
- Sanctions
-

Questions in the debate

- Do the players believe that we will achieve a corruption free world?
- Are the players committed to an effort to kill corruption (at any cost)?
- Are the players able to define what's acceptable and not?
- Do the players aim for full transparency?
- Is culture an issue to be addressed?

Future - Positive

- New administrative and governance schemes support transparency
- Corruption is put on the agenda
- Corruption is part of the discussion
- Corruption is considered non acceptable
- Development of rules and regulations, sanctions in place

Future - Negative

- Increasing interests and budgets
- Import of corruption from other countries
- Poor performance of “big leaders”
- Different cultures
- Discussions still problematic: Players object open discussions

DHV - BIMS

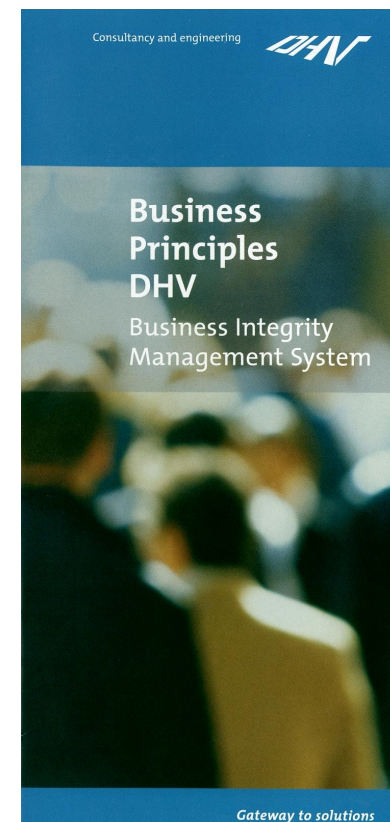
- Business Integrity is Corporate Value
- Code of Conduct FIDIC, ONRI, WEF, etc.
- Zero Tolerance Policy
- Permanent attention, control and modification of the system
- Permanent dialogue with the staff
- Integrity policy impacts operations

Business Integrity – Some Typical Dilemmas

- Client contacts - “wining and dining”
- Conflict of Interest
- Agents and Partners
- Collusion / Price Control
- Corruption
- Personal interest / gain
- Dealing with confidential information

Business Integrity Management System

- Management Commitment
- Business Principles
- Letter of Representation
- Dialogue
- Reference Book
- Business Integrity Management Committee
- Compliance
- Whistleblower Scheme
- Client and Partner Clauses



Compliance Function

- Permanent monitoring
- Identify Problem Areas
- Start audits and investigations
- Sounding board for the management
- Contact for Board of Supervisors and the external auditor

Website: www.dhv.com/code en www.dhv.com/csr

CSR Annual Report

Integrity is one of the key values of DHV and is also a spearhead of CSR policy. It relies on the Business Integrity Management System (BIMS) and is monitored by the compliance function.

The manner in which integrity is implemented within the management processes is described here: [CSR Management processes](#) In 2009, approximately 98% of all staff (FTE) worked in business units certified to [ISO9001:2000](#) standard.

| INTEGRITY | Europe | | North | Asia | Africa | Worldwide |
|--|-------------|------------|---------|------|--------|-----------|
| | Netherlands | (excl. NL) | America | | | |
| Number of reported BIMS incidents | 1 | 2 | ND | 5 | 1 | 9 |
| FTE's working in ISO 9001 certified departments in % | 98 | 78 | 79 | 34 | 96 | 85 |

What can a firm do?

- Don't be naïve
- Take the decision to fight corruption (at all cost)
- Start the discussion
 - Internal
 - Triangle G / T / F
 - External with competitors, branche organisations. etc
- Address / Arrange the LPF
- Promote transparency
- Implement a Business Integrity Management System (BIMS)

The implementation of BIMS

Experiences I

1. Balance of Power is not in your favor
2. Impact on the operations is significant
3. External dialogue is almost impossible
4. Acceptance of Client/Partner clauses relatively easy in private sector, difficult in public sector
5. Black listing of clients and partners is necessary
6. Judgement is by Western, not local standards that are radically changing
7. Bridging cultural differences requires skills

The implementation of BIMS

Experiences II

1. Compliance is essential and show it
2. There is no such thing as a bit of compliance
3. Know the nature and extent of every instance of non compliance
4. Apply sactions for non-compliance and take steps for prevention

The implementation of BIM

Experiences III

1. Discussion and dialogue with the staff is essential
2. Transparency is the key to a successful BIM
3. BIM asset value is still questionable

The implementation of BIMs

Lessons learned

Do's

Be determined and clear: Zero tolerance

Do support your staff

Do discuss and initiate dialogue

Do report

Do share other initiatives: FIDIC/UN Global Compact/World Economic Forum

Do learn from experiences/publications

Don'ts

Don't be naive

Don't expect any support from other parties

Is the World on Track?

Yes and No

- Discussion has started, but is still problematic
- Is “sweeping your own street” and “punishment” the right approach?
- Transparency is key word, but difficult (not accepted?) in practice
- Balance of Power between G, T en F should be part of the discussion:
- Focus at present on G, but T en F have a large role to play.....

What's next?

Thanks!

QUESTIONS and (if possible) ANSWERS