

International Anti-Corruption

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This article surveys developments in the field of international anti-corruption regulation during 2012.¹

I. U.S. Developments

In 2012, the nature of enforcement of the Foreign Corrupt Practices Act (FCPA) by the U.S. Department of Justice (DOJ) and the U.S. Securities and Exchange Commission (SEC) remained largely the same, with no fundamental change in the focus or pace of enforcement efforts being suggested.² Increasingly, credit in various forms was signaled for effective compliance programs and voluntary disclosures. Most importantly, the first-time issuance of FCPA guidance by the DOJ and SEC was a significant development. A summary of some of the more noteworthy FCPA enforcement actions and other major developments in 2012 is provided below.³

A. FCPA RESOURCE GUIDE

The guidance in the form of a report titled *A Resource Guide to the U.S. Foreign Corrupt Practices Act (FCPA Guide)*⁴ reflects, in a rather comprehensive manner, the current state of

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1. For developments in 2011, see Leslie A. Benton et al., *Anti-Corruption*, 46 INT'L LAW. 353 (2012).

2. See Foreign Corrupt Practices Act of 1977, Pub. L. No. 95-213, 91 Stat. 1494 (codified as amended at 15 U.S.C. §§ 78m, 78dd-1 to -3, 78ff (2012)).

3. More complete information on enforcement actions is available on the DOJ website, *FCPA and Related Enforcement Actions*, DEPT. JUST., <http://www.justice.gov/criminal/fraud/fcpa/cases/2012.html> (last visited Feb. 19, 2013), and the SEC website, *Spotlight on Foreign Corrupt Practices Act*, U.S. SEC. EXCHANGE COMMISSION, <http://www.sec.gov/spotlight/fcpa.shtml> (last modified Nov. 14, 2012). For developments in 2011, see Benton, *supra* note 1.

4. THE CRIMINAL DIVISION OF THE U.S. DEPARTMENT OF JUSTICE & THE ENFORCEMENT DIVISION OF THE U.S. SECURITIES AND EXCHANGE COMMISSION, A RESOURCE GUIDE TO THE U.S. FOREIGN CORRUPT PRACTICES ACT (2012), available at <http://www.justice.gov/criminal/fraud/fcpa/guide.pdf>.

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the law in the views of the DOJ and SEC and the manner in which the FCPA is being applied. No change in the law is suggested, and the *FCPA Guide* reaffirms the views of respected commentators. But for most practitioners and in-house counsel, the *FCPA Guide* provides a wealth of useful information. Though described as “non-binding, informal, and summary in nature,” given its authoritative source, the guidance is especially valuable in laying out the perspective of the DOJ and SEC.⁵

The guidance offered relative to gifts and entertainment will provide relief for many entities. In the absence of a fact pattern suggesting improper intent, minor gifts or entertainment of a more isolated and non-systemic nature will not be the focus of enforcement efforts. This simply reflects existing policy. Also noteworthy is the specific reference given to the application of the FCPA’s anti-bribery and accounting provisions to accomplices. This specific reference is important because it emphasizes how the DOJ and SEC can prosecute individuals and entities not directly subject to the FCPA.

The *FCPA Guide’s* discussion of compliance programs suggests a common sense approach. The crucial “hallmarks” cited include the commitment of senior management; clearly articulated policy, code of conduct, and compliance policies and procedures; oversight, autonomy, and resources; risk assessment; training and continuing advice; incentives and disciplinary measures; and third-party due diligence and procedures.

A special effort is made throughout the *FCPA Guide* to provide insight into the range of considerations that enter into decisions whether to bring enforcement actions. An excellent series of hypotheticals is provided to identify factors that may trigger an enforcement action. Equally helpful are the descriptions of factual scenarios where enforcement actions were declined by the enforcement agencies. Of additional note is the reference to the array of other statutes that may be applied by enforcing the FCPA.

B. OPINION PROCEDURE RELEASES

The September 18, 2012 opinion procedure release issued by the DOJ helped clarify the application of the FCPA to members of royal families, although uncertainty remains regarding the meaning of “foreign official.” Mere status as a member of a royal family was found not to be determinative, particularly where the individual was not acting on behalf of the royal family or in his capacity as a member of the royal family. As a result, in becoming a member of the consulting group in question, the member of the royal family was not considered a “foreign official” under the FCPA because he did not have the power to affect the foreign official who had the authority to hire the consulting group.⁶

The October 18, 2012 opinion procedure release related to U.S. non-profit adoption agencies seeking to pay for the travel of a number of foreign officials to the United States to learn about the work of the adoption agencies. In not objecting to the proposed payment of reasonable and bona fide travel expenses directly related to the travel of the foreign officials, the DOJ reaffirmed its previous position that non-profit entities are subject to the anti-bribery provisions of the FCPA.⁷

5. *Id.* at 2.

6. Opinion Procedure Release 12-01, U.S. Dep’t of Justice No. 12-01 (Sept. 18, 2012), *available at* <http://www.justice.gov/criminal/fraud/fcpa/opinion/2012/1201.pdf>.

7. Opinion Procedure Release 12-02, U.S. Dep’t of Justice No. 12-02 (Oct. 18, 2012), *available at* <http://www.justice.gov/criminal/fraud/fcpa/opinion/2012/1202.pdf>.

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C. PURSUIT OF ACCOMPLICES

The DOJ's deferred prosecution agreement (DPA) with a Japanese trading company, Marubeni Corp., for being an accomplice to FCPA violations as part of a decade-long scheme to bribe Nigerian foreign officials, meant that all five entities involved with the scheme, both U.S. and foreign, were successfully pursued by the DOJ.⁸ Two of the individuals charged with FCPA violations in connection with the scheme and extradited to the United States were British citizens.⁹ The breadth of the resolution demonstrates the degree to which the DOJ and SEC will pursue all parties to a violation.

D. PHARMACEUTICAL INDUSTRY

The pharmaceutical industry remained a focal point of enforcement efforts. Smith & Nephew Inc., a U.S. subsidiary of a British-based issuer, Smith & Nephew plc., entered into a DPA for alleged anti-bribery and record-keeping violations for funneling discounts to an off-shore shell company controlled by its distributor to pay cash and other incentives to publicly employed Greek health care providers.¹⁰ The SEC's complaint against Smith & Nephew plc alleged violations of the anti-bribery provisions, ostensibly for willful blindness relative to its wholly owned subsidiaries, as well as the record-keeping provisions, for mischaracterizing payments by its subsidiaries, and violations of the internal control provisions, for failing to require proof of services rendered, to question where payments were made, and to conduct due diligence or audit product sales.¹¹

Biomet Inc., a U.S. issuer, entered into a DPA for alleged anti-bribery and record-keeping violations for improper inducements in promoting its products in China, Brazil, and Argentina.¹² The SEC's complaint alleged violations of the FCPA's anti-bribery, books and records, and internal control provisions.¹³

Orthofix International N.V., a Texas-based Netherlands Antilles issuer, entered into a DPA for what were believed to be alleged internal controls violations for improper inducements by its Mexican subsidiary to Mexican health officials.¹⁴ The SEC's complaint alleged record-keeping violations associated with false invoices and internal controls viola-

8. Press Release, U.S. Dep't of Justice, Marubeni Corporation Resolves Foreign Corrupt Practices Act Investigation and Agrees to Pay a \$54.6 Million Criminal Penalty (Jan. 17, 2012), <http://www.justice.gov/opa/pr/2012/January/12-crm-060.html>.

9. Press Release, U.S. Dep't of Justice, JGC Corp. Resolves Foreign Corrupt Practices Act Investigation and Agrees to Pay a \$218.8 Million Criminal Penalty (Apr. 6, 2011), <http://www.justice.gov/opa/pr/2011/April/11-crm-431.html>.

10. Press Release, U.S. Dep't of Justice, Medical Device Company Smith & Nephew Resolves Foreign Corrupt Practices Act Investigation (Feb. 6, 2012), <http://www.justice.gov/opa/pr/2012/February/12-crm-166.html>.

11. Complaint at 1-2, SEC v. Smith & Nephew PLC, No. 1:12-cv-00187 (D.D.C. filed Feb. 6, 2012), *available at* <http://www.sec.gov/litigation/complaints/2012/comp22252.pdf>.

12. Press Release, U.S. Dep't of Justice, Third Medical Device Company Resolves Foreign Corrupt Practices Act Investigation (Mar. 26, 2012), <http://www.justice.gov/opa/pr/2012/March/12-crm-373.html>.

13. Complaint at 1, SEC v. Biomet, Inc., No. 1:12-cv-00454 (D.D.C. filed Mar. 26, 2012), *available at* <http://www.sec.gov/litigation/complaints/2012/comp22306.pdf>.

14. Deferred Prosecution Agreement at 1, United States v. Orthofix Int'l N.V., No. 4:12-cr-00150-RAS-DDB-1 (E.D. Tex. filed July 7, 2012), *available at* <http://www.justice.gov/criminal/fraud/fcpa/cases/orthofix/2012-07-10-orthofix-dpa.pdf>.

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tions for failing to have a compliance and training program, including in the local language, “commensurate” with its international operations.¹⁵

Eli Lilly and Company was charged by SEC with violations of the FCPA for improper payments its subsidiaries made to foreign government officials to win business in Brazil, China, Poland, and Russia. The SEC alleged payments of millions of dollars to third parties chosen by government customers or distributors which rarely provided any services and in some instances were used to funnel money to government officials.¹⁶

A U.S. subsidiary of Pfizer Inc., a U.S. issuer, entered into a resolution for improper payments to publicly-employed regulators and health care professionals in Bulgaria, Croatia, Kazakhstan, and Russia for anti-bribery and record-keeping violations.¹⁷ The SEC’s complaint against Pfizer related solely to record-keeping and internal controls violations.¹⁸ Pfizer officials were described as not having knowledge of the improper payments made by its subsidiaries.¹⁹

As a result of the due diligence undertaken and voluntary disclosures made after its acquisition of Wyeth LLC, Pfizer was not charged with any FCPA violations stemming from its acquisition of Wyeth LLC.²⁰ Also, due to an absence of knowledge on the part of Wyeth LLC,²¹ the only action taken against Wyeth related to internal controls and record-keeping violations associated with improper payments by Wyeth’s subsidiaries.

In the announcement of its resolution of allegations against Eli Lilly and Company of violations of the FCPA’s anti-bribery and accounting and record-keeping provisions, the SEC pointed to the need for company to avoid a “check the box mentality” in conducting due diligence.²² Through offshore entities, improper discounts, falsified records, and charitable donations, improper payments were made by its Russian, Chinese, Brazilian, and Polish subsidiaries. The absence of specialized audit procedures to address bribery risk in emerging markets was alleged to constitute an internal control violation.

E. IMPORTANCE OF ADEQUATE COMPLIANCE PROGRAMS

In a case involving a Morgan Stanley employee, the DOJ and SEC asserted that significant cooperation and robust compliance programs would be rewarded. The government declined to take enforcement action against Morgan Stanley stemming from conduct of what was described as a rogue employee. In the information and complaint filed against the employee, the extensive controls and compliance program of Morgan Stanley were

15. Complaint at 1-2, SEC v. Orthofix Int’l N.V., No 4:12-CV-419 (E.D. Tex. filed July 10, 2012), *available at* <http://www.sec.gov/litigation/complaints/2012/comp-pr2012-133.pdf>.

16. Press Release, Sec. & Exch. Comm., SEC Charges Eli Lilly and Company with FCPA Violations (Dec. 20, 2012), <http://www.sec.gov/news/press/2012/2012-273.htm>.

17. Press Release, U.S. Dep’t of Justice, Pfizer H.C.P. Corp. Agrees to Pay \$15 Million Penalty to Resolve Foreign Bribery Investigation (Aug. 7, 2012), <http://www.justice.gov/opa/pr/2012/August/12-crm-980.html>.

18. Complaint at 1-2, SEC v. Pfizer H.C.P. Corp., No. 1:12-cv-01303 (D.D.C. filed Aug. 7, 2012), *available at* <http://www.sec.gov/litigation/complaints/2012/comp-pr2012-152-pfizer.pdf>.

19. *Id.*

20. Press Release, Sec. & Exch. Comm., SEC Charges Pfizer with FCPA Violations (Aug. 7, 2012), <http://www.sec.gov/news/press/2012/2012-152.htm>.

21. Complaint at 2-3, SEC v. Wyeth LLC, No. 1:12-cv-01304 (D.D.C. filed Aug. 7, 2012), *available at* <http://www.sec.gov/litigation/complaints/2012/comp-pr2012-152-wyeth.pdf>.

22. Press Release, Sec. & Exch. Comm., SEC Charges Eli Lilly and Company with FCPA Violations (Dec. 20, 2012), *available at* <http://www.sec.gov/news/press/2012/2012-273.htm>.

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described. The employee pled to conspiring to violate the FCPA's internal control provisions for circumventing Morgan Stanley's internal controls to gain a personal profit.²³ The SEC's complaint alleged that he violated the anti-bribery and internal control provisions.²⁴

F. WHAT CONSTITUTES A "FOREIGN OFFICIAL"

The contours of what constitutes a "foreign official" under the FCPA continue to be a focus of litigation where alleged instrumentalities of foreign governments are involved. The issue is before a U.S. Circuit Court of Appeals for the first time in the *Haiti Teleco* case, where two persons were convicted of paying bribes to Haiti telecommunication officials.²⁵ Some of the debate will abate over time as the DOJ can be expected, where possible, to also charge Travel Act violations for commercial bribery where it is unclear whether the intended recipient of the bribe was a foreign official.

G. SETBACKS

Of the setbacks suffered by the DOJ, most prominent was in the "African sting case" where twenty-two individuals were charged concerning the acquisition of military equipment. After a number of acquittals and hung juries, the DOJ ultimately decided not to proceed further, thereby leading to a number of dismissals.²⁶ The setbacks may bear upon what cases and charges are brought in the future. But the DOJ has stated that the direction and aggressiveness of its enforcement practices are not expected to change.²⁷

H. FORFEITURES

As part of its "Kleptocracy Asset Forfeiture Initiative," the DOJ has begun to seek the civil forfeiture of assets associated with the corruption of foreign officials and, where appropriate, return the proceeds to benefit those harmed. Forfeiture actions were brought in a number of jurisdictions against the assets of former Nigerian officials.²⁸ Also forfeited

23. Press Release, U.S. Dep't of Justice, Former Morgan Stanley Managing Director Pleads Guilty for Role in Evading Internal Controls Required by FCPA (Apr. 25, 2012), <http://www.justice.gov/opa/pr/2012/April/12-crm-534.html>.

24. Complaint at 2, SEC v. Peterson, No. CV 12-2033 (E.D.N.Y. filed Apr. 25, 2012), available at <http://www.sec.gov/litigation/complaints/2012/comp-pr2012-78.pdf>.

25. Samuel Rubinfeld, *Justice Department Attacks 'Foreign Official' Challenge in Appellate Brief*, WALL ST. J. BLOG (Aug. 21, 2012, 5:47 PM), <http://blogs.wsj.com/corruption-currents/2012/08/21/justice-department-attacks-foreign-official-challenge-in-appellate-brief/>.

26. See, e.g., Christopher M. Mathews, *Mistrial Declared in Landmark Bribery Sting Case*, WALL ST. J. BLOG (Jan. 31, 2012, 3:22 PM), http://blogs.wsj.com/corruption-currents/2012/01/31/mistrial-declared-in-landmark-bribery-sting-case/?mod=WSJBlog&utm_source=feedburner&utm_medium=feed&utm_campaign=feed%3A+wsj%2Fcorruption-currents%2Ffeed+%28WSJ.com%3A+Corruption+Currents%29; Kevin Grey, *U.S. Prosecutor Says Tough Tactics to Remain on Bribery Fight*, TRUSTLAW (Mar. 2, 2012, 12:18 AM), <http://www.trust.org/trustlaw/news/us-prosecutor-says-tough-tactics-to-remain-in-bribery-fight>.

27. Grey, *supra* note 26.

28. See, e.g., Press Release, U.S. Dep't of Justice, DOJ Forfeits More Than \$400,000 in Corruption Proceeds Linked to Former Nigerian Governor (June 28, 2012), <http://www.justice.gov/opa/pr/2012/June/12-crm-827.html>; Press Release, U.S. Dep't of Justice, U.S. Restrains More than \$3 Million in Corruption Proceeds Related to Former Nigerian Governor (July 23, 2012), <http://www.justice.gov/opa/pr/2012/July/12->

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was US \$2.1 million worth of real estate belonging to the former president of Taiwan's family allegedly purchased with the proceeds of bribes.²⁹

II. Enforcement Actions Abroad

A. CASES

1. *Algeria*

In June 2012, two companies and five individuals were convicted of international bribery offenses by an Algerian court.³⁰ Three of the five individuals were Chinese nationals, employees of ZTE Algérie and Huawei Algérie, which are subsidiaries of the Chinese telecommunications companies ZTE and Huawei. They were sentenced in absentia to ten years in prison and each fined approximately US \$65,000.³¹ Two Algerian citizens were also found guilty of money-laundering and mismanagement and received prison sentences of eighteen years and substantial fines.³² The companies were fined and debarred from bidding on public contracts in Algeria for two years.³³ The convictions stemmed from an investigation related to the construction of a highway in Algeria.

2. *Australia*

In July 2012, David John Ellery, former CFO and company secretary of Securrency International (Securrency), pleaded guilty to false accounting in relation to a US \$79,502 payment to a Malaysian intermediary and agreed to testify against eight of his former colleagues from Securrency and its sister company, Note Printing Australia (NPA).³⁴ Securrency, which is half owned and supervised by the Reserve Bank of Australia, and NPA pleaded guilty in October 2011 to charges of bribing or conspiring to bribe foreign officials in Vietnam, Malaysia, Nepal, Indonesia, and other countries.³⁵

crt-906.html. See also Mikhail Reider-Gordon & Truman Kirkland Butler, *Anti-Money Laundering*, 47 ABA/SIL YIR (n.s.) 387 (2013).

29. Press Release, U.S. Dep't of Justice, U.S. Forfeits \$2.1 Million Worth of Property Purchased with Alleged Bribes Paid to the Family of the Former President of Taiwan (Nov. 14, 2012), <http://www.justice.gov/opa/pr/2012/November/12-crm-1359.html>.

30. *Actualités: Affaire Opposant Algérie Télécom aux Sociétés Chinoises Zte et Huarwei [Case Between Algeria Telecom Companies and Chinese ZTE Huawei]*, LESOIRDALGERIE (June 7, 2012), <http://www.lesoirdalgerie.com/articles/2012/06/07/article.php?sid=135217&cid=2>; Phil Muncaster, *ZTE and Huawei Execs Get Ten Years for Bribery Sentenced in Their Absence by Algerian Court*, THE REGISTER (June 12, 2012, 4:26 AM), http://www.theregister.co.uk/2012/06/12/zte_huawei_bribery_algeria/.

31. *Huawei, ZTE Execs Sentenced to Ten Years for Corruption in Algeria*, TECHINASIA (June 11, 2012, 12:30 PM), <http://www.techinasia.com/huawei-zte-execs-sentenced-ten-years-corruption-algeria/>.

32. *Case Between Algeria Telecom Companies*, *supra* note 30.

33. *Id.*; Muncaster, *supra* note 30.

34. Richard Baker & Nick McKenzie, *Guilty Plea in RBA Scandal*, THE AGE (July 19, 2012), <http://www.theage.com.au/opinion/political-news/guilty-plea-in-rba-scandal-20120718-22ap8.html>.

35. Olivia Dixon, *Corruption and Enforcement II: Does Australia Have a Problem?*, UNSW, <http://www.clmr.unsw.edu.au/article/ethics/white-collar-crime,-aml,-bribery-%26-corruption/corruption-and-enforcement-ii-does-australia-have-problem> (last visited Feb. 19, 2013).

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3. *Bahrain*

Without admitting liability, Alcoa, Inc. agreed to pay US \$85 million to Aluminum Bahrain, B.S.C. (Alba), to settle allegations that between 1997 and 2009, Alcoa and related companies paid millions in bribes to Bahrain officials that resulted in Alba overpaying about US \$420 million for raw materials.³⁶ Alba is majority-owned by the Persian Gulf state of Bahrain.

4. *France*

A Paris court fined French aeronautics and defense group Safran €500,000 for paying bribes in Nigeria to win a €170 million contract in 2000-03.³⁷ Safran was formed when Sagem merged with Snecma in 2005. The judicial inquiry concluded that Sagem's top executives at the time did not know about the corruption.

5. *Germany*

In September 2012, the former management board member of Man SE, Anton Weimann, was sentenced by a German regional court to a ten month suspended jail sentence for aiding and abetting bribery related to the sale of commercial vehicles to Slovenia.³⁸

6. *Greece*

In March 2012, the Greek government approved a €330 million agreement with Siemens to settle bribery allegations.³⁹ The settlement followed investigations of a 1997 – 2002 Hellenic Telecom contract and a security contract from the 2004 Athens Olympics and included the forgiveness by Siemens of €80 million owed to it by the Greek state and a €250 million investment in the country.⁴⁰ It also provides that Greece will not pursue Siemens to pay reparations for the €2 billion claimed to have been lost by Greek taxpayers.⁴¹

7. *India*

In March 2012, the Indian Ministry of Defence announced that it had barred six companies—Rheinmetall Air Defence AG, Israel Military Industries, Singapore Technologies Kinetics, Corporation Defence Russia, T.S. Kisan & Co., and R.K. Machine Tools—from

36. *Id.*; Press Release, Alcoa, Inc., Alcoa and Alba Resolve Civil Litigation (Oct. 9, 2012), http://www.alcoa.com/global/en/news/news_detail.asp?pageID=20121009006367en&newsYear=2012.

37. *French Court Fines Safran for Nigerian Bribes*, TRUSTLAW (Sept. 5, 2012, 2:20 PM), <http://www.trust.org/trustlaw/news/french-court-fines-safran-for-nigerian-bribes>.

38. David Holmes, *Ex-MAN Trucks Chief Admits Guilt in Bribery Probe*, REUTERS (Sept. 19, 2012, 7:55 AM), <http://www.reuters.com/article/2012/09/19/us-germany-man-bribery-idUSBRE88I0MS20120919>.

39. Louise Armitstead, *Debt Crisis: Greek Government Signs €330m Settlement with Siemens*, THE TELEGRAPH (Aug. 27, 2012, 9:18 AM), <http://www.telegraph.co.uk/finance/financialcrisis/9502146/Debt-crisis-Greek-government-signs-330m-settlement-with-Siemens.html>.

40. *Id.*

41. *Id.*

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contracting with the Indian military for ten years stemming from corruption charges known in India as the Ordnance Factory Board (OFB) scam.⁴²

8. *Italy*

In July 2012, Italy was forced to repay €307 million to the European Union after a four-year-long EU investigation found that over €381 million were lost to corruption, fraud, and ghost works.⁴³ The funds were to be used for road repairs and upgrades of the A3 motorway in Southern Italy. It is the largest refund in the EU history.

9. *Kenya*

A Kenyan court found senior government official, Sylvester Mwaliko, guilty of abuse of office and sentenced him to three years in prison or a fine of 3 million shillings (US \$35,400) in the first conviction related to the multi-million-dollar Anglo Leasing corruption scandal.⁴⁴ The case involved state contracts worth hundreds of millions of dollars being awarded to non-existent firms or those with murky ownership. In July 2012, the Kenyan attorney general asked several countries, including Switzerland, Japan, and the United Kingdom, to help recover corrupt cash stashed in overseas accounts stemming from the matter.⁴⁵

10. *Nepal*

In February 2012, Nepal convicted three former police chiefs, a British businessman, and his Nepalese business partner over the purchase of faulty equipment for a U.N. peace mission.⁴⁶ “The Special Court, which oversees corruption cases, found the officers guilty of stealing [NPR] 284 million . . . ([USD]\$3.6 million) while procuring vehicles for Nepali peacekeepers in Sudan.”⁴⁷ The court ordered the U.K.-based equipment supplier Assured Risk Ltd to refund NPR 142 million for the loss.⁴⁸ Michael Rider, the company’s British director, was also fined for his involvement in the corruption. All the Nepalese participants were sentenced to imprisonment and significant fines.

42. *MoD Blacklists Six Companies*, ASIAN AGE (Mar. 6, 2012), <http://www.asianage.com/india/mod-blacklists-six-companies-811>; *Swiss Firm Moves HC Against Blacklisting by Govt*, HINDUSTAN TIMES (Sept. 19, 2012, 10:00 PM), <http://www.hindustantimes.com/business-news/CorporateNews/Swiss-firm-moves-HC-against-blacklisting-by-govt/Article1-932665.aspx>.

43. Bruno Waterfield, *Italy Repays €307 Million to EU After Road Project ‘Mafia Corruption’ Exposed*, THE TELEGRAPH (July 5, 2012, 7:00 AM), <http://www.telegraph.co.uk/news/worldnews/europe/italy/9376202/Italy-repays-307-million-to-EU-after-road-project-mafia-corruption-exposed.html>.

44. Yara Bayoumy, *Kenya Makes First Conviction in Anglo Leasing Graft Scam*, REUTERS (Sept. 5, 2012, 9:00 AM), <http://www.reuters.com/article/2012/09/05/us-kenya-corruption-idUSBRE8840RJ20120905>.

45. Richard Lough & Andrew Roche, *Kenya Looking Abroad for Stolen Cash, Seeks Cooperation*, REUTERS (July 3, 2012, 11:48 AM), <http://af.reuters.com/article/kenyaNews/idAFL6E8I39IX20120703>.

46. *Top Nepal Police Officers Convicted over UN Graft*, HAVEERUONLINE (Feb. 14, 2012, 2:15 AM), http://www.haveeru.com.mv/south_asia/40251#.

47. *Id.*

48. *Id.*

11. *United Kingdom*

In January 2012, a British High Court ordered Mabey Engineering (Holdings) Ltd. to pay over £130,000 as payment for share dividend earnings attributable to construction contracts in Iraq unlawfully obtained by the company in 2001 and 2002.⁴⁹

Also in January, Dr. David Turner, former Innospec Limited Global Sales and Marketing Director, pled guilty to two counts of conspiracy to corrupt government officials in Indonesia and Iraq between 2002 and 2008 to obtain contracts to supply the company's products and of conspiracy to corrupt Iraqi officials by paying money to ensure that tests on a competitor's chemical product would produce unfavorable results.⁵⁰ Innospec's former CEO, Paul Jennings, pleaded guilty in July 2012 to conspiracy charges related to bribing public officials in Indonesia between 2002 and 2008 and in Iraq between 2003 and 2009 to secure contracts for the supply of Innospec products.⁵¹

Oxford Publishing Ltd. (OPL), a wholly owned subsidiary of Oxford University Press (OUP), was ordered to pay approximately £1.9 million in July 2012 as settlement for unlawful conduct by its subsidiaries incorporated in Tanzania and Kenya.⁵² The subsidiaries, Oxford University Press East Africa and Oxford University Press Tanzania, made improper payments in connection with public tenders for contracts to supply governments with textbooks. The court ordered OPL to repay £1,895,435 the company received in unlawful enrichment, with an additional £12,500 to defray the costs of pursuing the order.⁵³

The Serious Fraud Office (SFO), the Government of Tanzania, BAE Systems PLC (BAE), and Britain's Department for International Development signed a memorandum of understanding in March 2012, enabling the payment by BAE of £29.5 million, plus interest, to the Tanzanian people to fulfill the December 2010 settlement with the SFO.⁵⁴ The sum will go toward education projects in Tanzania. BAE was fined £500,000 in December 2010 for failure to maintain proper records of payments to an adviser in Tanzania in acquiring a government contract to supply an air traffic control system.⁵⁵

49. Press Release, Serious Fraud Office, Shareholder Agrees Civil Recovery by SFO in Mabey & Johnson (Jan. 13, 2012), <http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2012/shareholder-agrees-civil-recovery-by-sfo-in-mabey-johnson.aspx>.

50. Press Release, Serious Fraud Office, Innospec Ltd: Former Director Pleads Guilty to Corruption (Jan. 17, 2012), <http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2012/innospec-ltd-former-director-pleads-guilty-to-corruption.aspx>.

51. Press Release, Serious Fraud Office, Innospec Ltd: Former CEO Admits Bribery to Falsify Product Tests (July 30, 2012), <http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2012/innospec-ltd-former-ceo-admits-bribery-to-falsify-product-tests.aspx>.

52. Press Release, Serious Fraud Office, Oxford Publishing Ltd to Pay Almost £1.9 Million as Settlement after Admitting Unlawful Conduct in Its East African Operations (July 3, 2012), <http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2012/oxford-publishing-ltd-to-pay-almost-19-million-as-settlement-after-admitting-unlawful-conduct-in-its-east-african-operations.aspx>.

53. *Id.*

54. Press Release, Serious Fraud Office, BAE Systems Will Pay Towards Educating Children in Tanzania After Signing an Agreement Brokered by the Serious Fraud Office (Mar. 15, 2012), <http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2012/bae-systems-will-pay-towards-educating-children-in-tanzania-after-signing-an-agreement-brokered-by-the-serious-fraud-office.aspx>.

55. *Id.*; Press Release, Serious Fraud Office, BAE Fined in Tanzania Defence Contract Case (Dec. 21, 2010), <http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2010/bae-fined-in-tanzania-defence-contract-case.aspx#>.

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In November 2012, Abbot Group Limited (Abbot), a Scotland-based drilling company, became the first U.K. company to self-report under the 2010 U.K. Bribery Act⁵⁶ provision that allows for an initial self-reporting period from July 1, 2011 through June 30, 2013.⁵⁷ Abbot became aware of possible corrupt payments made related to contracts involving its foreign subsidiaries in May 2011 after an overseas tax authority inquiry. Abbot self-investigated, hiring outside accountants and solicitors who Abbot claimed reviewed twelve-years of one hundred-plus contracts and over one million emails.⁵⁸ In keeping with its 2011 published guidance, the Crown Office only offered a civil settlement after it determined, among other criteria, that Abbot already had a sound anti-bribery detection and compliance program in place, operated in a transparent manner, took immediate action upon detection of potential violation and cooperated with the Crown. Abbot agreed to pay a fine of £5.6million⁵⁹ to the Scottish government under the 2002 Proceeds of Crime Act⁶⁰ to settle the civil charges; and because of the settlement, will face no criminal investigation.

In March 2012, the U.K.-based Privy Council, the final court of appeal for some British Commonwealth countries, ruled that Viktor Kozeny, the Czech-born businessman wanted in the United States for bribery of public officials in Azerbaijan, could not be extradited to New York from the Bahamas. The Council said that the FCPA offenses Kozeny is charged with would not constitute crimes in the Bahamas.⁶¹

In January 2012, a U.K. court sentenced Andrew Rybak, Ronald Saunders, Philip Hammond, and Barry Smith to various prison terms for obtaining corrupt payments, disguised as “consultancy services” fees, for passing on confidential procurement information to bidding suppliers.⁶² The contracts related to a series of high-value oil and gas engineering projects in Iran, Egypt, Russia, Singapore, and Abu Dhabi between 2001 and 2009. Insider information was passed on contracts worth about £70 million.⁶³

12. *Collective Action*

In December 2012, the European Union joined four European countries—Ireland, the United Kingdom, Denmark, and Norway—suspended aid to the Ugandan government after an audit by Uganda’s auditor general revealed that approximately €12 million in aid

56. See Bribery Act, 2010, c. 23 (U.K.), available at <http://www.legislation.gov.uk/ukpga/2010/23/contents>.

57. Press Release, Crown Off. & Procurator Fiscal Service, Abbot Group Limited to Pay £5.6 Million After Corruption Report (Nov. 23, 2012), <http://www.crownoffice.gov.uk/News/Releases/2012/11/Abbot-Group-Limited-pay-%C2%A356-million-after-corruption-report>.

58. Aberdeen Drilling Firm to Pay £5.6m under Proceeds of Crime Laws After Benefiting from Corrupt Payments, DAILY RECORD (Nov. 23, 2012, 3:23 PM), <http://www.dailyrecord.co.uk/news/scottish-news/ab-erdeen-drilling-firm-to-pay-56m-1452597>.

59. Press Release, Abbot Group Limited to Pay, *supra* note 57.

60. See Proceeds of Crime Act, 2002, c. 29 (U.K.), available at <http://www.legislation.gov.uk/ukpga/2002/29/contents>.

61. David Glovin, *Kozeny Won't Be Sent to U.S., U.K. Privy Council Rules*, BLOOMBERG (Mar. 28, 2012, 12:29 PM), <http://www.bloomberg.com/news/2012-03-28/kozeny-won-t-be-extradited-to-u-s-u-k-privy-council-rules-1-.html>.

62. Press Release, Serious Fraud Office, Prison Terms for Corruption in Oil and Gas Contracts (Jan. 31, 2012), <http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2012/prison-terms-for-corruption-in-oil-and-gas-contracts-.aspx>.

63. *Id.*

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from the Scandinavian countries and Ireland was embezzled by officials at Uganda's Office of the Prime Minister.⁶⁴ The four countries are donors to the Peace, Recovery, and Development Program (PRDP), run by the Ugandan Office of the Prime Minister, which is devoted to the reconstruction of war-torn Northern Uganda. In November 2012, the World Bank, Uganda's largest multilateral lender, stated that it was "reviewing its development assistance to Uganda while also strengthening its own measures to ensure that its funds are used for their intended purposes."⁶⁵

13. *The World Bank*

The World Bank and other development banks continued their practice of cross-debarring entities involved in corruption in the development projects they finance.

In 2012, the numbers of individuals and firms debarred and cross-debarred included 127 by the World Bank,⁶⁶ 35 by the African Development Bank,⁶⁷ 107 by the Asia Development Bank,⁶⁸ 48 by the European Bank for Reconstruction and Development,⁶⁹ and 83 by the Inter-American Development Bank.⁷⁰

In February 2012, the World Bank barred Alstom SA from receiving Bank contracts for two of its units for three years after Alstom acknowledged an improper payment of €110,000 (US \$146,000) in 2002 to an entity controlled by a former senior Zambian government official for consulting on a World Bank-financed hydropower project in Zambia.⁷¹ The Negotiated Resolution Agreement also includes a restitution payment by the two companies totaling about \$9.5 million.⁷² Although the parent company, Alstom

64. Fionnan Sheahan, *Uganda Told to Repay €4m in Aid Funds After Fraud*, INDEPENDENT.IE (Oct. 30, 2012), <http://www.independent.ie/national-news/uganda-told-to-repay-4m-in-aid-funds-after-fraud-3277632.html>.

65. *Id.*; Elias Biryabarema, *Norway Becomes Latest Donor to Cut Aid to Uganda over Graft*, REUTERS (Nov. 7, 2012, 1:02 AM), <http://af.reuters.com/article/topNews/idAFJ0E8A600J20121107>; Jackee Budesta Batanda, *Another Case of High-Level Corruption in Uganda*, FOREIGN POLICY (Oct. 31, 2012, 9:16 AM), http://transitions.foreignpolicy.com/posts/2012/10/31/another_case_of_high_level_corruption_in_Uganda; Press Release, The World Bank, *World Bank Group Statement on Recent Corruption Cases in Uganda* (Nov. 14, 2012), <http://www.worldbank.org/en/news/2012/11/14/world-bank-group-statement-on-recent-corruption-cases-in-uganda>.

66. See *World Bank Listing of Ineligible Firms & Individuals, Fraud and Corruption, Table 1: Debarred & Cross-Debarred Firms & Individuals*, WORLD BANK, <http://web.worldbank.org/external/default/main?theSitePK=84266&contentMDK=64069844&menuPK=116730&pagePK=64148989&piPK=64148984> (last visited Feb. 19, 2013).

67. See *List of Cross-Debarred Entities*, AFR. DEV. BANK, <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-related-Procurement/List%20of%20Debarred%20Entities.pdf> (last visited Feb. 19, 2013).

68. See *Sanctions List*, ASIAN DEV. BANK, <http://lnadbg4.adb.org/oga0009p.nsf/sancCrossDebarred?OpenView&count=999> (last visited Feb. 19, 2013).

69. See *EBRD List of Ineligible Entities*, EUR. BANK FOR RECONSTRUCTION & DEV., <http://www.ebrd.com/pages/about/integrity/list.shtml> (last visited Feb. 19, 2013).

70. See *Sanctioned Firms and Individuals*, INTER-AM. DEV. BANK, <http://www.iadb.org/en/topics/transparency/integrity-at-the-idb-group/sanctioned-firms-and-individuals,1293.html> (last visited Feb. 19, 2013).

71. Press Release, The World Bank, *Companies Commit to Pay \$9.5 Million in Restitution Following Acknowledgement of Misconduct in a World Bank-Financed Project in Zambia* (Feb. 22, 2012), <http://go.worldbank.org/ZM2ZQ5JJY0> (use "Go to" windows to navigate to "Feb. 22, 2012").

72. *Id.*

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SA, is conditionally not to be debarred, Alstom Hydro France and Alstom Network Schweiz are subject to cross-debarment by other development banks.⁷³

In July 2012, the World Bank announced a settlement with Oxford Publishing Ltd.⁷⁴ Two of the contracts for which the OPL subsidiaries in Kenya and Tanzania paid bribes to government officials were supported by World Bank Group grants. The Negotiated Resolution Agreement provided for debarment of the subsidiaries for three years, cross-debarment of these entities by other development banks, with conditional non-debarment for Oxford University Press, and payment by OUP of US \$500,000 to the Bank.⁷⁵

In June 2012, the World Bank also temporarily banned from bidding on bank contracts a subsidiary of Canadian engineering company SNC-Lavalin. The ban followed the investigation of the company's involvement in construction of the Padma Bridge, a World Bank funded project in Bangladesh.⁷⁶ The Bank also announced that because of credible evidence of corruption, the Bank was cancelling its US \$1.2 billion International Development Association (IDA) credit in support of the project.⁷⁷ But when the Government of Bangladesh began to address the evidence of corruption identified by the Bank (which the Government previously ignored), and requested the bank to reconsider the financing of the Padma Bridge due to its importance to the development of the region, the Bank announced on September 20, 2012 that it would engage anew in the Padma Bridge project.⁷⁸

B. ANTI-CORRUPTION LEGISLATION AND INITIATIVES

1. Cameroon

In January 2012, a new Cameroonian anti-corruption law went into effect, empowering the Minister of Justice to authorize the dismissal of embezzlement and other corruption charges against defendants who opt to return the ill-gotten assets.⁷⁹

2. Italy

The Italian parliament in October 2012 approved a new anti-corruption bill. The law expands the definition of corruption, makes influence-peddling a crime, increases punishment for several corruption-related offenses, criminalizes private sector corruption, and introduces efforts to stop statutes of limitations from preventing convictions.⁸⁰

73. *Id.*

74. *See supra* note 47-56 and accompanying text.

75. Press Release, The World Bank, World Bank Sanctions Oxford University Press for Corrupt Practices Impacting Education Projects in East Africa (July 3, 2012), <http://www.worldbank.org/en/news/2012/07/03/world-bank-sanctions-oxford-university-press-corrupt-practices-impacting-education-projects-east-africa>.

76. Press Release, The World Bank, World Bank Statement on Padma Bridge (June 29, 2012), <http://www.worldbank.org/en/news/2012/06/29/world-bank-statement-padma-bridge>.

77. *Id.*

78. Press Release, World Bank, World Bank Statement of September 20, 2012 on Padma Bridge (Sept. 20, 2012), <http://www.worldbank.org/en/news/2012/09/20/world-bank-statement-padma-bridge-sept-20-2012>.

79. Mohamadou Houmfa, Yaoundé, *Anti-Corruption Law in Cameroon*, RADIO NETH. WORLDWIDE (Jan. 9, 2012, 12:17 PM), <http://www.rnw.nl/africa/article/anti-corruption-law-cameroon>.

80. *Italy Clamps Down on Corruption to Lure Investment*, DW (Oct. 31, 2012), <http://dw.de/p/16aIV>.

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3. *Philippines*

In early 2012, the President of the Philippines, Benito Aquino, announced a new anti-corruption plan, the Good Governance and Anti-Corruption Cluster 2012–2016. Among the measures outlined in the new plan are: depositing the salaries of government employees directly to employees' bank accounts, electronic bidding in public procurement, procedures to ensure the speedy resolution of corruption cases, strengthening the witness protection program, and requiring all government departments to disclose their budget information.⁸¹

4. *Russia*

On April 17, 2012, Russia became the thirty-ninth party to the Organisation for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.⁸² Acting in conformity with the OECD Convention, the Russian Finance Ministry announced, in September 2012, that bribes paid abroad are no longer tax deductible at home.⁸³

5. *Solomon Islands and East Timor*

In November 2012, Solomon Islands and East Timor joined the ADB/OECD Anti-Corruption Initiative for Asia and Pacific. Solomon Islands' membership in the Anti-Corruption Initiative followed its accession to the U.N. Convention Against Corruption in January 2012.⁸⁴

6. *Kingdom of Tonga*

In February 2012, the Tongan government announced the establishment of an Anti-Corruption Commission (ACC). The Commission will investigate all allegations of corruption perpetrated by government bodies and officials and refer cases to the attorney general for prosecution.⁸⁵

81. *Aquino Oks 4-Year Anti-Corruption Plan*, UNPAN (Jan. 4, 2012), <http://www.unpan.org/PublicAdministrationNews/tabid/115/mctl/ArticleView/ModuleID/1467/articleId/29347/default.aspx>.

82. Press Release, Organisation for Econ. Co-operation & Dev. [OECD], *Russia Joins OECD Anti-Bribery Convention* (Feb. 17, 2012), <http://www.oecd.org/newsroom/russiajoinsoecdanti-briberyconvention.htm>.

83. Scott Rose, *Russia Tells Executives Paying Bribes Abroad Isn't Deductible*, BLOOMBERG (Sept. 4, 2012), <http://www.bloomberg.com/news/print/2012-09-04/russia-tells-executives-paying-bribes-abroad-isn-t-deductible.html>.

84. *Solomons Joins Anti-Corruption Body*, SOLOMON STAR (Nov. 12, 2012, 4:14 AM), <http://www.solomonstarnews.com/news/national/16436-solomons-joins-anti-corruption-body>.

85. *Tonga Developing FOI Policy and Anti Corruption Commission*, ABC RADIO AUSTRALIA (Feb. 15, 2012, 12:13 PM), <http://www.radioaustralia.net.au/international/radio/onairhighlights/tonga-developing-foi-policy-and-anti-corruption-commission>.

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7. *United Arab Emirates*

The state Audit Bureau of the UAE in June 2012 enacted the country's first anti-corruption law aimed at increasing transparency, clarifying company laws, and curbing financial malpractices. The Bureau is the UAE's sole anti-corruption authority.⁸⁶

8. *United Kingdom*

The U.K.'s Justice Ministry announced, in October 2012, its intention to use deferred prosecution agreements (DPAs) as a new tool to help combat fraud, money laundering, and bribery. Organizations that agree to enter into a DPA may be required to make amends to victims, pay substantial financial penalties, and reform their practices to prevent the wrongful conduct from occurring again.⁸⁷

In October 2012, the U.K. SFO issued its "Revised Policies" on facilitation payments, business expenditures (hospitality), and corporate self-reporting. But the Joint Prosecution Guidance issued in 2011 continues to apply with only minor changes.⁸⁸

III. Treaties and International Organizations

A. INTERNATIONAL CONVENTIONS

The United Nations Convention Against Corruption (UNCAC)⁸⁹ added six new members in 2012—Comoros, Côte d'Ivoire, the Federated States of Micronesia, Myanmar, Nauru, Solomon Islands, and Swaziland—and now has 165 state parties.⁹⁰ The Third Session of the UNCAC Implementation Review Group adopted, in June 2012, reviews for Australia, Bulgaria, Croatia, Fiji, France, Georgia, Indonesia, Jordan, Morocco, São Tomé and Príncipe, Togo, and the United States (June)⁹¹ and, in November 2012, reviews for Azerbaijan, Bangladesh, Brunei Darussalam, Estonia, Lithuania, Kuwait, Timor-Leste, South Africa, Switzerland, Ukraine, Vietnam, and Zambia.⁹² The Implementation Review

86. *UAE to Have Anti-Corruption Law to Fight Malpractices*, EMIRATES 24/7 (June 5, 2012), <http://www.emirates247.com/news/emirates/uae-to-have-anti-corruption-law-to-fight-malpractices-2012-06-05-1.461667>.

87. *New Tool to Fight Economic Crime*, U.K. MINISTRY JUST. (Oct. 23, 2012), <http://www.justice.gov.uk/news/features/new-tool-to-fight-economic-crime>; Solicitor General Oliver Heald, Keynote Speech to World Bribery and Corruption Compliance Forum (Oct. 23, 2012), *transcript available at* <http://www.attorneygeneral.gov.uk/NewsCentre/Speeches/Pages/SolicitorGeneralKeynotespeechtoWorldBriberyandCorruptionComplianceForum.aspx>.

88. Press Release, Serious Fraud Office, Revised Policies (Oct. 9, 2012), <http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2012/revised-policies.aspx>.

89. U.N. Convention Against Corruption, G.A. Res. 58/4, U.N. Doc. A/RES/58/4 (Oct. 31, 2003).

90. *UNCAC Signatories and Ratification Status as of 24 December 2012*, UNODC, <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html> (last visited Feb. 19, 2012).

91. *Implementation Review Group of the U.N. Convention against Corruption, Third Session (Vienna, 18-22 June 2012)*, UNODC, <http://www.unodc.org/unodc/en/treaties/CAC/IRG-session3.html> (last visited Feb. 19, 2013).

92. *Implementation Review Group of the U.N. Convention against Corruption, Resumed Third Session (Vienna, 14-16 November 2012)*, UNODC, <http://www.unodc.org/unodc/en/treaties/CAC/IRG-session3-resumed.html> (last visited Feb. 19, 2013).

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Group also adopted Thematic Reports on the implementation of Chapters III and IV of the UNCAC.⁹³

Efforts under the Inter-American Convention Against Corruption⁹⁴ also focused on reviewing the implementation of the Convention. In September 2012, the Twentieth Meeting of the Committee of Experts of the Mechanism for Follow-Up to the Implementation of the Inter-American Convention against Corruption (MESICIC) adopted reports on the implementation of the Convention by Bolivia, Brazil, Mexico, El Salvador, and Paraguay.⁹⁵ These were the fourth such reports issued by MESICIC on those countries. New in 2012 was the introduction of on-site visits by the Technical Secretariat and members of the review subgroups.⁹⁶

The Organization for Economic Co-Operation and Development (OECD) continued its efforts to end foreign bribery. In 2012, the Russian Federation became the thirty-ninth state to join the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.⁹⁷ In 2012, the OECD Working Group on Bribery conducted peer reviews and adopted Phase 3 reports on Australia, France, Hungary, Japan, the Slovak Republic, Sweden, Switzerland, and the United Kingdom.⁹⁸

As part of the OECD Anti-Corruption Network for Eastern Europe and Central Asia, Istanbul Anti-Corruption Action Plan, the second round monitoring reports have been

93. Secretariat of the Implementation Review Group of the U.N. Convention Against Corruption, U.N. Office on Drugs & Crime (UNODC), *Implementation of Chapter III (Criminalization and Law Enforcement) of the United Nations Convention Against Corruption*, U.N. Doc. CAC/COSP/IRG/2012/CRP.1 (June 11, 2012), available at <http://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/18-22June2012/V1254039.pdf>; Secretariat of the Implementation Review Group of the U.N. Convention Against Corruption, U.N. Office on Drugs & Crime (UNODC), *Implementation of Chapter IV (International Cooperation) of the United Nations Convention Against Corruption*, U.N. Doc. CAC/COSP/IRG/2012/CRP.2 (June 12, 2012), available at <http://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/18-22June2012/V1254081.pdf>.

94. Inter-American Convention Against Corruption, Mar. 29, 1996, 35 I.L.M. 727, available at http://www.oas.org/juridico/english/corr_bg.htm.

95. See generally Final Report on Plurinational State of Bolivia, OEA/Ser.L/SG/MESICIC/doc.333/12 rev. 4 (Sept. 14, 2012), available at http://www.oas.org/juridico/PDFs/mesicic4_blv_en.pdf; Final Report on Federative Republic of Brazil, OEA/Ser.L/SG/MESICIC/doc.333/12 cpr. 1 (Sept. 14, 2012), available at http://www.oas.org/juridico/PDFs/mesicic4_bra_en.pdf; Final Report on Mexico, OEA/Ser.L/SG/MESICIC/doc.332/12 rev. 4 (Sept. 14, 2012), available at http://www.oas.org/juridico/PDFs/mesicic4_mex_en.pdf; Final Report on Republic of El Salvador, OEA/Ser.L/SG/MESICIC/doc.331/12 rev. 3 (Sept. 14, 2012), available at http://www.oas.org/juridico/PDFs/mesicic4_slv_en.pdf; Final Report on Republic of Paraguay, OEA/Ser.L/SG/MESICIC/doc.334 rev. 4 (Sept. 14, 2012), available at http://www.oas.org/juridico/PDFs/mesicic4_pry_en.pdf.

96. *OAS Anticorruption Mechanism Holds Its Twentieth Meeting*, ANTI-CORRUPTION NEWSL. (Org. of Am. States, Wash. D.C.), Sept. 2012, at N.92, available at http://www.oas.org/juridico/newsletter/nl_en_92.htm.

97. Press Release, OECD, Russia Joins OECD Anti-Bribery Convention (Feb. 17, 2012), <http://www.oecd.org/newsroom/russiajoinsocdanti-briberyconvention.htm>; see also *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions: Ratification Status as of 20 November 2012*, OECD (Apr. 2012), <http://www.oecd.org/daf/anti-bribery/antibriberyconventionratification.pdf>.

98. For copies of all monitoring reports, including Phase III, organized by country, see *Country Reports on the Implementation of the OECD Anti-Bribery Convention*, OECD, <http://www.oecd.org/investment/countryreports/implementationoftheocdanti-briberyconvention.htm> (last visited Feb. 19, 2013).

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published on Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyz Republic, Tajikistan, Ukraine, and Uzbekistan.⁹⁹

The Council of Europe's Group of States against Corruption (GRECO), which is charged with monitoring compliance with the implementation of the Council of Europe's Criminal Law Convention on Corruption, published evaluation and compliance reports on Armenia, Austria, Belgium, Estonia, FYR Macedonia, Germany, Greece, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, Montenegro, Poland, Portugal, Russian Federation, San Marino, Slovakia, Slovenia, Sweden, Turkey, and the United States.¹⁰⁰ On January 1, 2012, GRECO launched the fourth evaluation round that will focus on prevention of corruption in respect of members of parliament, judges, and prosecutors.¹⁰¹ The first Round IV evaluation report, on Latvia, was published in December 2012.¹⁰²

B. INTERNATIONAL ORGANIZATIONS

Recovery of illicitly gained assets hidden abroad was at the center of international anti-corruption efforts in 2012. At the Group of Eight (G8) meeting in May 2012, leaders adopted the Action Plan on Asset Recovery within the Deauville Partnership with Arab Countries in Transition.¹⁰³ In the Plan, the G8 countries committed to a comprehensive list of actions aimed to promote cooperation, technical and case assistance, and capacity building in support of the efforts of Arab countries in transition in recovering assets diverted by past regimes.¹⁰⁴ In line with the Plan, the First Arab Forum on Asset Recovery took place in Doha, Qatar, in September 2012.¹⁰⁵ The Forum is intended to serve as a coordinating framework mechanism for follow-up on the Asset Recovery Action Plan.¹⁰⁶ To facilitate the efforts, Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States published guides on their asset recovery regimes, all available in Arabic.¹⁰⁷ The U.S. Department of Justice dedicated two attorneys to asset recovery in

99. For copies of all monitoring reports, see *Istanbul Action Plan Country Reports*, OECD, <http://www.oecd.org/corruption/acn/istanbulactionplancountryreports.htm> (last visited Feb. 19, 2013).

100. For copies of GRECO evaluation and compliance reports, see *GRECO Evaluations*, COUNCIL EUR., http://www.coe.int/t/dghl/monitoring/greco/evaluations/index_en.asp (last visited Feb. 19, 2013).

101. *Group of States against Corruption (GRECO), Mutual Evaluations*, COUNCIL EUR., http://www.coe.int/t/dghl/monitoring/greco/evaluations/intro_en.asp (last visited Feb. 19, 2013).

102. See *GRECO Evaluations*, *supra* note 100.

103. Press Release, U.S. Dep't of State, Deauville Partnership with Arab Countries in Transition – Governance Pillar: Action Plan on Asset Recovery (May 21, 2012), <http://www.state.gov/j/inl/rls/190483.htm>.

104. *Id.*

105. Conference of the States Parties to the U.N. Convention Against Corruption, Vienna, Austria, Aug. 30-31, 2012, *Report of the Meeting of the Open-Ended Intergovernmental Working Group on Asset Recovery Held in Vienna on 30 and 31 August 2012*, ¶ 2, U.N. Doc. CAC/COSP/WG.2/2012/4 (Sept. 5, 2012) [hereinafter *Vienna Meeting Report*], available at <http://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup2/2012-August-30-31/V1255775e.pdf>.

106. *Arab Forum on Asset Recovery, Doha, September 2012*, ARAB FORUM ON ASSET RECOVERY, <http://www.afar.pp.gov.qa/Eng/> (last visited Feb. 19, 2013).

107. Press Release, U.S. Dep't of State, The Deauville Partnership With Arab Countries in Transition – Chair's Summary of the Foreign Ministers Meeting (Oct. 1, 2012), <http://www.state.gov/tr/pa/prs/ps/2012/10/198514.htm>.

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the Middle East and North Africa. The attorneys will coordinate their activities with the Deauville Partnership countries and the DOJ's Kleptocracy Unit.¹⁰⁸

The United Nations Office on Drugs and Crime (UNODC), the primary body charged with the implementation of UNCAC, concentrated its anti-corruption efforts in 2012 on providing technical assistance, capacity building, and forging international cooperation, particularly in the area of asset recovery. At the World Economic Forum in Davos in January 2012, UNODC unveiled the Integrity IPO, a project based on UNCAC and intended to create partnerships between the public and the private sector in fighting corruption by having companies financially support the development of anti-corruption legislation and institutions in developing countries and their efforts to promote integrity.¹⁰⁹

UNODC's Open-Ended Intergovernmental Working Group on Asset Recovery held its Sixth Intercessional Meeting in Vienna in August 2012.¹¹⁰ The participants adopted a multi-year work plan and discussed practical aspects of asset recovery, including issues related to cooperation in confiscation of proceeds of corruption under Articles 54 and 55 of UNCAC.¹¹¹

The joint World Bank/UNODC Stolen Asset Recovery (StAR) Initiative continued its work at general capacity-building and training in the areas of investigation, prosecution, and international cooperation for asset recovery.¹¹² The StAR Initiative also assisted Egypt and Tunisia in the recovery of assets hidden abroad by their previous governments.¹¹³ The United States granted US \$1 million to StAR to support training, mentoring, and other projects.¹¹⁴

At the meeting in Los Cabos, Mexico, the Group of 20 (G-20) decided to renew the Anti-Corruption Working Group's mandate until 2014 with the goal of creating an action plan and producing another monitoring report.¹¹⁵ The G-20 members also endorsed the Working Group's recommendation to deny visas to corrupt officials and committed to enforcing legislation against both bribe takers and bribe givers.¹¹⁶

108. Nick Elliott, *DOJ to Dedicate 2 Attorneys to Middle East Asset Recovery*, WALL ST. J. BLOG (Sept. 13, 2012, 1:40 PM), http://blogs.wsj.com/corruption-currents/2012/09/13/doj-to-dedicate-2-attorneys-to-middle-east-asset-recovery/?mod=WSJBlog&utm_source=feedburner&utm_medium=feed&utm_campaign=feed%3A+wsj%2Fcorruption-currents%2Ffeed+%28WSJ.com%3A+Corruption+Currents%29.

109. Press Release, United Nations Office on Drugs & Crime (UNODC), UNODC Chief Invites Private Sector to Embrace Innovation and Lend "Helping Hand" to Fight Corruption (Jan. 27, 2012), <http://www.unodc.org/unodc/en/press/releases/2012/January/unodc-chief-invites-private-sector-to-embrace-innovation-and-lend-helping-hand-to-fight-corruption.html>; see also Press Release, U.N. Office on Drugs & Crime (UNODC), Private Sector Invited to Help Fight Corruption through New UN Initiative (Apr. 24, 2012), <http://www.unodc.org/unodc/en/press/releases/2012/April/private-sector-invited-to-help-fight-corruption-through-new-un-initiative.html>.

110. See Open-Ended Intergovernmental Working Group on Asset Recovery, U.N. OFF. DRUGS & CRIME, <http://www.unodc.org/unodc/en/treaties/CAC/working-group2.html> (last visited Feb. 19, 2013).

111. *Vienna Meeting Report*, *supra* note 105, ¶ 8.

112. *Id.* ¶ 46.

113. *Id.*

114. The Deauville Partnership, *supra* note 107.

115. G20 Conference, June 18-19, 2012, Los Cabos, Mex., *G20 Leaders Declaration*, ¶¶ 1, 80, available at http://www.g20mexico.org/images/stories/docs/g20/conclu/G20_Leaders_Declaration_2012.pdf.

116. *Id.* ¶ 78.

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The OECD Anti-Corruption Network for Eastern Europe and Central Asia (ACN) 2012 High Level Meeting and the Fourteenth ACN Steering Group meeting took place in December 2012 in Paris.¹¹⁷ The meeting participants, representing more than thirty countries, discussed the ways to further anti-corruption policies, to advance reform of criminal legislation against corruption and strengthen law enforcement, to take effective measures to prevent corruption in public administration, and to engage in a dialog with the business sector to prevent corruption.¹¹⁸

In 2012, OECD produced two noteworthy publications related to its anti-corruption efforts: *Identification and Quantification of the Proceeds of Bribery: A Joint OECD-StAR Analysis*¹¹⁹ and *Stocktaking of Business Integrity and Anti-Bribery Legislation, Policies and Practices in Twenty African Countries*.¹²⁰

The World Bank Group, in March 2012, adopted the institution's updated governance and anti-corruption strategy and implementation plan, titled *Strengthening Governance, Tackling Corruption: The World Bank Group's Updated Strategy and Implementation Plan*.¹²¹ The Plan focuses on increasing and systematizing governance and anti-corruption work in Bank programs; strengthening country institutions; better measuring risks and results; supporting governance in global initiatives; and improving the organization of the Bank's internal resources for governance work.¹²² In part to counter corruption in its projects, the World Bank launched, in February 2012, a Two-Year Review of Procurement Policy.¹²³ The review will consist of identifying issues to be addressed and recommendations for the future evolution of the procurement policies.

The World Bank Integrity Vice Presidency hosted the second biennial meeting of the International Corruption Hunters Alliance (ICHA) in June 2012.¹²⁴ ICHA is an association of anti-corruption officials, prosecutors, and investigators around the world. The ICHA 2012 program was attended by over 300 members and focused on the introduction of new approaches, such as crowd sourcing and citizen engagement, the use of open

117. For documentation related to the meeting, see *2012 Anti-Corruption Network High Level Meeting and 14th Steering Group Meeting*, OECD, <http://www.oecd.org/corruption/acn/2012anti-corruptionnetworkhighlevelmeetingandsteeringgroupmeeting.htm> (last visited Feb. 19, 2013).

118. *Id.*

119. OECD, IDENTIFICATION AND QUANTIFICATION OF THE PROCEEDS OF BRIBERY: REVISED EDITION (rev. Feb. 2012), available at <http://dx.doi.org/10.1787/9789264174801-en>.

120. OECD/AFRICAN DEVELOPMENT BANK (2012), STOCKTAKING OF BUSINESS INTEGRITY AND ANTI-BRIBERY LEGISLATION, POLICIES AND PRACTICES IN TWENTY AFRICAN COUNTRIES (2012), available at http://www.oecd-ilibrary.org/governance/stocktaking-of-business-integrity-and-anti-bribery-legislation-policies-and-practices-in-twenty-african-countries_9789264169586-en.

121. WORLD BANK GROUP, STRENGTHENING GOVERNANCE, TACKLING CORRUPTION: THE WORLD BANK GROUP'S UPDATED STRATEGY AND IMPLEMENTATION PLAN 1 (2012), available at <http://siteresources.worldbank.org/PUBLICSECTORANDGOVERNANCE/Resources/285741-1326816182754/GAC-StrategyImplementationPlan.pdf>.

122. Press Release, The World Bank, Governance and Anti-Corruption Remain Integral to World Bank's Work (Mar. 27, 2012), <http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:23153989~pagePK:64257043~piPK:437376~theSitePK:4607,00.html>.

123. *World Bank Launching 2-Year Review of Procurement Policy*, WORLD BANK, <http://go.worldbank.org/PFUHESDFM0> (last visited Feb. 20, 2013).

124. Press Release, The World Bank, The World Bank's International Corruption Hunters Alliance Will Attack Global Corruption with Technology, Partnerships and Knowledge (June 6, 2012), <http://go.worldbank.org/USC3HMU890>.

source data to support forensic investigations and evidence gathering, and the promotion of a culture of corruption prevention.¹²⁵

IV. Civil Society Efforts

A. TRANSPARENCY INTERNATIONAL

Transparency International (TI) launched an Assurance Framework for Corporate Anti-Bribery Programmes.¹²⁶ The Framework defines criteria for independent assurance of corporate anti-bribery program and is intended to encourage the use of independent assurance as a means of strengthening company anti-bribery systems and enhancing the credibility of their efforts to prevent corruption.

TI's 2012 report on OECD country enforcement of foreign bribery laws, titled *Exporting Corruption? Country Enforcement of the OECD Anti-Bribery Convention, Progress Report 2012*,¹²⁷ found that prosecutions continue to increase globally, with 144 new cases in 2011 and sanctions of nearly 250 individuals and 50 companies.¹²⁸ Seven countries, representing nearly 28 percent of world exports, received the highest classification of "active" enforcement.¹²⁹ The United States and Germany are the only countries that have prosecuted more than 100 cases.¹³⁰

Earlier in 2012, TI also published a study examining 105 major global companies on whether and to what extent they disclose the measures they have implemented to prevent corruption.¹³¹ The report, titled *Transparency in Corporate Reporting: Assessing the World's Largest Companies*, noted an increase from 47 percent in 2009 to 68 percent in 2012, of companies reporting having corruption prevention programs.¹³²

Transparency International UK (TI UK) issued its *Defence Companies Anti-Corruption Index*,¹³³ the results of a study of what defense companies are doing to prevent corruption. The study evaluated 129 defense companies based on thirty-four questions regarding their anti-corruption and ethics programs, using publicly available information and, in some cases, additional information provided by the companies.¹³⁴

125. *Id.*

126. JERMYN BROOKS, SUSAN COTE-FREEMAN & PETER WILKINSON, ASSURANCE FRAMEWORK FOR CORPORATE ANTI-BRIBERY PROGRAMMES (2012), available at http://www.business-anti-corruption.com/fileadmin/user_upload/pdf/TI-Assurance-Framework.pdf.

127. KELLY MCCARTHY & GABOR BATHORY, EXPORTING CORRUPTION? COUNTRY ENFORCEMENT OF THE OECD ANTI-BRIBERY CONVENTION, PROGRESS REPORT 2012 (Sept. 6, 2012), available at http://www.transparency.org/whatwedo/pub/exporting_corruption^country_enforcement_of_the_oecd_anti_bribery_conventio.

128. *Id.* at 10.

129. *Id.* at 9.

130. *Id.*

131. BARBARA KOWALCZYK-HOYER, TRANSPARENCY IN CORPORATE REPORTING: ASSESSING THE WORLD'S LARGEST COMPANIES (June 2012), available at <http://www.transparency.org/news/feature/shining-a-light-on-the-worlds-biggest-companies>.

132. *Id.* at 5.

133. MARK PYMAN ET AL., DEFENCE COMPANIES ANTI-CORRUPTION INDEX (2012), available at <http://companies.defenceindex.org/sites/default/files/documents/CI-Report-Single-Hires.pdf>.

134. *Id.* at 3.

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Earlier in the year, TI UK also published final guidance on effective anti-bribery due diligence.¹³⁵ The report, titled *Anti-Bribery Due Diligence for Transactions*, is intended to be a practical tool for companies to use in the context of mergers, acquisitions, and investments.

B. EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE

In 2012, Iraq,¹³⁶ Mauritania,¹³⁷ Mozambique,¹³⁸ Peru, Tanzania, and Zambia¹³⁹ achieved compliance with the Extractive Industries Transparency Initiative (EITI) standards, which indicates that each country has an effective process for annual disclosure and accountability of all revenues from its extractive sector. In total, eighteen countries are currently compliant with the EITI standard.¹⁴⁰

135. PETE WILKINSON, ANTI-BRIBERY DUE DILIGENCE FOR TRANSACTIONS (May 2012), *available at* <http://www.transparency.org.uk/our-work/publications/10-publications/227-anti-bribery-due-diligence-for-transactions>.

136. Press Release, Extractive Industries Transparency Initiative [EITI], Iraq and Tanzania Declared 'EITI Compliant' (Dec. 12, 2012), <http://eiti.org/news/iraq-and-tanzania-declared-eiti-compliant>.

137. Press Release, Extractive Industries Transparency Initiative (EITI), Peru and Mauritania Declared 'Compliant' by EITI, Global Transparency Standard (Feb. 17, 2012), <http://eiti.org/news-events/peru-and-mauritania-declared-eiti-compliant>.

138. Press Release, Extractive Industries Transparency Initiative (EITI), Mozambique Declared 'Compliant' by EITI, Global Transparency Standard (Nov. 2, 2012), <http://eiti.org/news-events/mozambique-declared-eiti-compliant>.

139. Press Release, Extractive Industries Transparency Initiative (EITI), Zambia Declared 'Compliant' by EITI, Global Transparency Standard (Sept. 19, 2012), <http://eiti.org/news-events/zambia-declared-eiti-compliant>.

140. *EITI Countries*, EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE, <http://eiti.org/countries> (last visited Feb. 19, 2013).