

12th IACC
WORKSHOP SHORT REPORT FORM
FOR RAPPORTEURS

Number and title of workshop 7.1 Defence Industry Against Corruption

Date and time of workshop 1400-1630, Wednesday 15 November

Moderator (Name and Institution) John Githongo, St Antony's College, Oxford

Rapporteur (Name and Institution) Dominic Scott TI UK

Panellists (Name, institution, title)

Mark Pyman, TI UK, defence project leader
 Howard Weissman, Lockheed Martin Corp, Assistant General Counsel
 Burak Bekdil, Defense News, Turkish Daily News, journalist
 Steve Shaw, US Air Force, Dept of Contractor Responsibility

Main Issues Covered

Why defence corruption matters. Issues covered include that it compromises the effectiveness of the military, it undermines the legitimacy of the armed forces and government, it leads to the squandering of resources. It was noted that it is often referred to as the most corruption prone sector. Many defence companies do not bid in contracts because they are put off by the level of corruption in that corruption.

There is a growing awareness of a problem. Corruption in defence is only just beginning to be tackled by many governments and militaries.

An overview of such issues in Turkey, including urgent requirement, agents, tender specifications, and the revolving door issue. Turkey spends \$4b on new defence weapons systems. Almost all government services are touched by corruption, as well as industry and banking system. The military institutions ask that they should not be questioned or judged. At the same time things are changing: Under reformist General Ozkok's charge a retired navy commander was tried, and found guilty of fraud and failing to explain his source of income. He was sentenced to 30 months in prison. This incidence has symbolic value.

The TI UK defence project is building awareness of the problem and engaging the major stakeholders including companies. Defence companies are trying to clean up defence contracting: US, European and UK anti corruption fora were set up in 2006. The European anti-corruption forum is a hugely positive step, and is being pushed by the large European companies.

Overview of "best practice leader" Lockheed Martin's policies. LHM strictly complies with FCPA and applicable foreign law, dealing with for instance accounting and off-book records. Lockheed's consultant policy applies to Lockheed and to all wholly owned subsidiaries, but not directly to distributors, consultants, etc. However, Lockheed insists that they comply with all Lockheed policies. Joint venture companies are required by Lockheed to adopt a similar policy. When Lockheed is a minority shareholder, then that joint venture must still comply with Lockheed policies. Red flags: in particularly corrupt countries, Lockheed looks for eg inordinate interest by local official in the hiring of a particular consultant. Lockheed's consultant policy details prohibitions on entertainment, and monitors and reviews agents and consultants. LHM policy states no facilitation payments can be made without prior legal approval (no instance where someone has even asked for legal approval or where it has been given) except in certain circumstances, eg personal safety is threatened. Every consultant that gets hired is interviewed by Howard Weissman himself. All compliance heads are selected by Headquarters.

Overview of how the US government supports (through carrots and sticks) industry efforts to fight corruption. The stick is the oversight of a senior official who looks over a branch of military procurement (Steve Shaw). When every government contract is awarded, the government agency is required to check the debarment list at <http://epls.arnet.gov/>

Main Outcomes

The exchanges and discussions during the workshop contributed to achieving increased awareness among participants about how corruption in the defence sector is and can be combated by industry and government, as well as the limitations of current efforts and how to strengthen them.

Desired outcomes

International defence industry should be encouraged to participate in defence industry anti corruption fora

Such fora must be global in scope due to the global nature of the sector

The initiative must also tackle thorny issues such as dealings with agents, etc and not be simply a PR move

Civilian democratic oversight of the sector must be enhanced

Competition needs to be fostered in the defence sector (a very high proportion of contracts are carried out single source)

Main Outputs

Specifically, the workshop has produced the following outputs:

Different ways identified for industry and by governments to fight corruption in the defence sector.

Necessary next steps for anti-corruption fora identified: ie globalization of standards, and strengthening of standards

The US carrot and stick model was identified as current leading practice

Recommendations, Follow-up Actions

These recommendations were by no means “agreed upon” but were expressed or implied by one speaker or more at some time during the workshop

Importing governments (such as Turkey) should/could

Make companies/agents deal with 2 officials, rather than one, as this might help to fight corruption. Too much discretion, as in the case of Darleen Druyun, can present a corruption risk

Examine the judicial stance as well

Speed up the rotation of government officials and increase the number of decision makers to

make it harder for corrupt agents to abuse their position
 Raise salaries of procurement officials (this is difficult with a budget to balance and other civil servants etc demanding pay increases)
 Ensure a constant stream of prosecutions, and judiciary must be committed to this
 Address state of continuous denial about corruption in military and defence procurement
 Ensure effective oversight in defence procurement in legislative branch, and could follow the lead of Korea in introducing ombudsman overseeing defence procurement
 Enhance civilian, democratic control of the armed forces
 Minimise the use of urgent requirement clauses that allow them to circumvent normal procurement procedure

Industry should/could

Be so committed to fighting corruption that they are ready to walk away from contracts that look like they may be tainted by corruption

Have strong anti corruption policies that are extended to joint venture partners, subsidiaries, minority shareholder companies, consultants and agents. This should include training and sign off certification letters by audit and ethic committees which must be signed off by senior management.

In spite of the creation of anti-corruption fora and consortia, nothing has yet changed though in terms of practice on the ground, and there are many issues that must be tackled such as dealing with agents, and offsets. The fora needs to have teeth, and not to be simply window-dressing, and needs to be a global forum, not a regional one. On whether the US and EU fora are likely to converge into one, there was some pessimism. On a positive side, in Europe, it is a massive change that they are talking together on this subject, so perhaps they will converge but it will happen slowly. TI and companies have different vision for the consortia because the European and US companies are very dissimilar. European companies want standards that are so good that they don't need to adopt the US ones. The impetus for European companies is that they want to get access to US market and so leverage can be applied on them. The US government is also ramping up its enforcement in terms of FCPA compliance, and is keen to chase up even European companies doing business in US.

Exporting and importing governments should/could

Use a carrot and stick approach to encourage clean contracting. Partial debarment may provide a more credible threat than complete debarment where national security is an issue. After Steve Shaw suspended Boeing, the papers reported that Rumsfeld's comment was "why are you not suspending the whole company?" It is notable the support that Steve Shaw has received from within the US Government. Exceptions can be made if there is a national security issue.

Avoid banning agents as this drives them underground

Be aware that tender specifications can be designed in advance to favour one particular firm
 Tackle the "revolving door syndrome" by strictly enforcing cool off periods, and disallowing relatives of officials (recently retired or otherwise) from conducting business in this area

Workshop Highlights (including interesting quotes)

Round of applause for Jack Abramoff who begins his prison sentence today (Shaw)

This is the first time that the IACC has tackled the issue of corruption in the defence sector (Githongo)

Recently retired General Ozkok (chief Commander of the Turkish forces and a reformist) stated that patriotism "cannot be monopolised by men in uniform". Until then, the military had kept taboo about the possibility of corruption in the military. (Bekdil)

When a new government finds corruption in (defence) contracts of the previous government, does the new government have an obligation to cancel those contracts? (Kenyan Minister of Defence). Answer was yes if corruption proved

There has been no instance in Lockheed Martin where someone has even asked for legal approval for a facilitation payment or where it has been given (Weissman)

The US Government's stick programme is credible because of the partial debarment threat (Shaw)

There is a state of continuous denial about corruption in military and defence procurement in Turkey (Bekdil)

That local companies have ties with royal family do not necessarily mean you cannot work with them (Weissman on a fictional Middle Eastern country)

Lockheed Martin walked away from a contract with the Thai air force because they declined to employ the favoured (but dodgy) agent in Thailand (Weissman)

Signed Dominic Scott