

INTERNATIONAL ANTI-CORRUPTION CONFERENCE 2024

Vilnius, Lithuania

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SESSION REPORT

Session Title: New Tools to Fight Foreign Bribery

Date: 21 June 2024

Time: 15:30 - 17:00

Report prepared by:

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Transparency International U.S.

Moderated by:

Scott Greytak

Director of Advocacy

Transparency International U.S.

Panelists:

- France Chain
Senior Legal Analyst
OECD Anti-Corruption Division
- Michele Crymes
Deputy Director of the Anticorruption & Governance Center
Center for International Private Enterprise
- Alexandra Gillies
Director of the Global Anti-Corruption Consortium
Organized Crime & Corruption Reporting Project

- Auwal I. Musa
Executive Director
Transparency International Nigeria
- Amanda Strayer
Senior Counsel for Accountability
Human Rights First
- Steven Young
Special Supervisory Agent, International Corruption Unit
U.S. Federal Bureau of Investigations

Share the thematic focus of the session, its purpose and corruption risks?

The panel discussion moderated by Scott Greytak of Transparency International U.S. provided a comprehensive overview of a new tool in the global fight against foreign bribery, the Foreign Extortion Prevention Act (or "FEPA"), an anti-foreign-bribery law adopted by the U.S. Government in late 2023. The panel featured prominent speakers, including Steven Young from the U.S. Federal Bureau of Investigations ("FBI"), France Chain from the Organisation for Economic Co-operation and Development's ("OECD") Anti-Corruption Division, Michele Crymes from the Center for International Private Enterprise's ("CIPE") Anti-Corruption & Governance Center, Auwal Musa from Transparency International Nigeria, Alexandra Gillies from the Organized Crime and Corruption Reporting Project ("OCCRP"), and Amanda Strayer from Human Rights First.

Greytak began by highlighting the significant progress made by the passage of FEPA last December. This landmark legislation targets the demand side of foreign bribery, with the ability to hold foreign officials who solicit or accept bribes from U.S. persons or companies, from any company listed on a U.S. stock exchange, or from anyone while the official is in the territory of the United States, accountable under U.S. criminal law. Importantly, FEPA has extraterritorial jurisdiction, allowing

for the prosecution of foreign officials who solicit or accept bribes from U.S. persons or companies (or any company listed on a U.S. stock exchange) while outside the territory of the United States.

Summary of the panelists' contributions & discussion points

Steven Young from the FBI discussed the historical context and current application of the Foreign Corrupt Practices Act ("FCPA"), which targets the supply side of foreign bribery (those who offer or give bribes). Young noted that while the FCPA has been a critical tool for decades, its enforcement significantly ramped up only in the past decade. He then shared that the introduction of FEPA aims to fill an existing gap by addressing the foreign officials on the receiving end of bribes. However, Young emphasized that the success of FEPA would heavily depend on international cooperation, particularly from countries with weaker legal institutions. He also pointed out that corruption investigations often involve high-ranking politicians, making international cooperation both crucial and challenging.

France Chain of the OECD highlighted the 25th anniversary of the OECD's Anti-Bribery Convention and the introduction of new standards to address the demand side of foreign bribery. She emphasized that wealthy countries need to take more responsibility, as pressure and transparency are vital for enforcing anti-bribery measures. Chain mentioned an OECD study that revealed that only 20% of foreign bribery cases resulted in a criminal sanction against the official by their home government, indicating a significant enforcement gap.

Alexandra Gillies from OCCRP then illustrated the vital role of investigative journalism in uncovering corruption. She cited a case in Malta where a consulting firm bribed the government, leading to public protests and a bankruptcy filing in the U.S. She emphasized that journalism is crucial for exposing and publicizing corruption cases, thereby increasing accountability.

Michele Crymes from CIPE discussed initiatives to involve the private sector in anti-corruption efforts, particularly focusing on small businesses. She emphasized

the importance of business integrity, and the role civil society organizations ("CSOs") play in supporting ethical practices. Crymes noted that the private sector's involvement is essential for the successful implementation of FEPA, as it needs to understand its obligations and FEPA's implications for business operations.

Auwal I. Musa of Transparency International Nigeria supported FEPA, highlighting its potential impact in African countries where he notes that "justice should not be for sale." Musa stressed the need for tangible sanctions to deter corruption and advocated for integrating these sanctions into legal systems to restore public faith. He pointed out that in many African countries, the judicial system is perceived as corrupt, and FEPA could help instill a "fear factor" among potential corrupt actors.

Amanda Strayer from Human Rights First explained the Global Magnitsky sanctions program ("GloMag"), which targets individuals involved in corruption or human rights abuses. She noted that many cases under GloMag focus on bribery, aligning with the goals of FEPA. Strayer emphasized the importance of sanctions in increasing accountability and highlighted the need for transparency in the enforcement of these tools.

Main outcomes of the session (include quotes/highlights and interesting questions from the floor)

During the Q&A session, the panelists addressed various audience questions, shedding light on the practical challenges in reporting, investigating, and prosecuting foreign bribery crimes. Auwal Musa pointed out the lack of political will in many African countries and the shrinking civic space, which dampens the efforts of CSOs. Steven Young emphasized the complexities of corruption investigations, which often involve powerful politicians, making international cooperation vital but challenging.

France Chain noted that corrupt officials often remain in power, complicating investigations, and Michele Crymes highlighted the difficulties faced by small businesses in reporting corruption. Alexandra Gillies from OCCRP mentioned the

lengthy and complex nature of bribery cases, citing a United Kingdom-Nigeria case that has taken ten years to resolve. The panelists agreed that international cooperation is crucial for the successful implementation of FEPA and other anti-bribery measures.

The discussion also touched on the political component of FEPA's effectiveness. Steven Young stated that politics should not influence bribery investigations, while France Chain reiterated the OECD's stance that investigations should be free from political motives. Amanda Strayer added that despite presenting strong legal cases, some countries might still choose inaction due to political reasons

Key recommendations for the future and concrete follow-up actions

In conclusion, the panel emphasized the need for robust international cooperation and active participation from the private sector, media, and CSOs in order to maximize the impact of legal frameworks like FEPA and GloMag in the fight against corruption.

Rapporteur's Name

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Transparency International U.S.

Date Submitted

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