FIGHTING AGAINST CORRUPTION: A BUSINESS PERSPECTIVE

Interview with
FRANÇOIS VINCKE

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François Vincke serves as Chairman of the Anti-corruption Commission of the International Chamber of Commerce since 1994. This commission has written the “Rules and Recommendations on Extortion and Bribery in International Business Transactions” of ICC. Besides he is co-editor and co-author of “Fighting Corruption, a Corporate Practices Manual” and has authored numerous articles on corporate governance, corporate practices (mainly addressing self regulation and anti-corruption) and competition and is often asked to speak about these subjects in various fora.

In this interview Vincke explains his point of view about private corruption, stresses the significance of taking anticorruption strategies as well as the relevance of working collectively.

Chair: Why does fighting corruption matter for business?

François Vincke: Corruption undermines fair business, as it introduces in the economic transactions a hidden element, which is not based on any of the intrinsic qualities of the competing enterprises. In other words, we consider that economic activity should be based on talent, expertise, creativity, imagination, innovation, service, price advantage and not on obscure advantages.

Simply avoiding corruption is not sufficient however; one must tackle systematically corruption and engage in a battle against it. The International Chamber of Commerce (ICC) does that since 1977 and we have renewed our efforts as from 1994 with a certain number of pioneers.
Chair: Do you consider that corruption is more than a legal crime? Do businesses need to go further than just obeying the law?

FV: The criminalization of different forms of corruption (active, passive, public, private, national, international, traffic of influence, embezzlement...) is an essential step. There has to be what one calls in French “la peur du gendarme”. Some of my English friends say: “Nothing is more convincing than a good public hanging”...

At the ICC, we want to go over and beyond criminal law and build an integrity system in the companies. This requires an elaborate code of conduct, a lot of information and training, the installation of compliance officers, audit, control and whistle-blowing, corrective action etc. We aim in this way not only at the absence of crime but also at the creation of an integrity culture (because, if corruption is in my eyes an anti-culture, integrity is a culture).

Chair: In which way does corruption undermine free market economy? Can it also be a threat for democracy and rule of law?

FV: Very simply, it changes unduly the parameters of offer and demand on the market. In the ideal market imagined by Adam Smith, the satisfaction of the needs of the majority of the people as well as social harmony is possible through fair price competition, where offer and demand meet under the conduct of the invisible hand. No bribes are exchanged in such a market. The market is not anymore free if one of the parties is bound by a bribe. The giving of a bribe creates an undue reciprocity duty.

Chair: There are many companies that do not feel threatened by corruption. Is there a reason for them to implement prevention strategies, or even take part in fighting corruption actions?

FV: I can hardly think of any company which would be totally insulated from any form of bribery and extortion. To believe one is immune from any form of corruptive practice is either totally naïve or particularly hypocritical. I am afraid every company, to some degree or another is exposed or will be exposed to bribery and should therefore get organized to avoid any unhappy occurrence, which can cause enormous harm to its reputation. And reputation is easy to destroy and hard to build up.

The simplest way to create an anti-corruption defence is to seek advice from its business association.
Chair: What are the corruption risks for business? If social environment is significant, would you then considerer corruption a cultural aspect of society?

FV: Corruption is alas (potentially) everywhere. But every enterprise should make its own risk analysis to map the most recurring dangers of corruptive practices.

I must admit that I cannot see corruption as a "cultural" phenomenon. I rather see it as an anti-culture. This is not only a play on words. It means for me that no race, religion, philosophy, geographical position, historical tradition or linguistical heritage has the monopoly of vice or the monopoly of virtue. Corruption is not inherent to any form of society. It can be everywhere, as integrity can be everywhere. The biggest problem is that corruption potentially invades all possible territories in a minimum of time, while integrity takes a lot of time and efforts to be implanted in a society or community.

Chair: Can business fight corruption or is it a task that mainly concerns governments?

FV: Business can not only fight corruption but has the duty to do so. It should however not be isolated in this role. At the Anti-Corruption Commission of the ICC, we have developed contacts with the OECD (Paris), the United Nations Office on Drugs and Crime (Vienna) and the UN Global Compact (New York) as well as to a lesser extent the European Commission (Brussels). Our national chapters have contacts with their national governments.

Our self-regulatory rules are no substitutes for international conventions or national implementation laws but they support and embed them in the day-to-day business life. It may occur that the "soft law" of business is faster and stricter that the "hard law" of the national states. There is a continuous exchange between our private rules and the state norms; some authors speak, in this context, of a ping pong game.

Chair: Can you give an example of an innovative contribution made recently by the business sector in fighting corruption? And a case of a collective action of business, governments and NGOs?

FV: The most recent - and impressive - contribution from the business sector to the fight against corruption, I have seen and contributed to, is the so-called "CEO statement". This document was signed beginning of May by a thirty odd CEO's from everywhere in the world in support of a continuous, coherent and realistic implementation review of the UN Anti-corruption Convention of 2003 (UNCAC).
The idea was the following: UNCAC is at long last the Convention, which can create the opportunity for a corruption-free world. But no convention will ever be respected if it has no review mechanism. Therefore, top people of the business community, invited by ICC, the UN Global Compact, the World Economic Forum and Transparency International, have pressed the States Parties to UNCAC to install such monitoring system. Isn’t that a wonderful example of private-public cooperation?

Chair: A number of initiatives, both public and private, have risen to fight corruption in the last few years, as the ICC Guidelines, the OECD Convention on Combating Bribery, and the United Nations Convention against Corruption, the Council of Europe Criminal Law Convention and the 10th Principle of the Global Compact. Does this proliferation of tools make sense? Would not it be better to develop a joint strategy?

FV: The number of international instruments may seem confusing. The texts are somewhat complex but one must also consider that the phenomenon of bribery is complex too.

Each public law initiative has its own legitimacy but this does not take away that the public authorities should cooperate amongst them in order to give more efficiency to their legal instruments. In addition, one may note that the OECD, which has just finished the review of its instruments, has decided not to add any supplemental mandatory document. So, one may hope that there will not be many more additions.

The private initiatives (ICC, UN GC, WEF and TI) do cooperate on many subjects and do so more and more. In fact, every time we are reviewing if it is possible to achieve something with the "sister organizations". Sometimes, it will be more efficient to act separately (ICC produced recently Guidelines on Whistle-blowing); sometimes it is better to act collectively (the RESIST project). In any case, I can reassure you, in the Anti-corruption community we do not want to be parochial.