

Envisioning a Corruption-free ASEAN Business Community: A Guiding Framework for Regional Collective Action

1. Background

1.1. Corruption: a Threat to ASEAN Integration and Sustainable Development

The Association of Southeast Asian Nations (ASEAN) is currently focused on the impending establishment of the ASEAN Community by 2015. The blueprints for regional economic, political-security and socio-cultural community integration, adopted by ASEAN leaders in 2009, provide a roadmap towards narrowing the development gap in ASEAN and achieving inclusive, equitable and sustainable socio-economic development. The economic integration blueprint envisages ASEAN as a single market and production base, a highly competitive economic region, a region of equitable economic development, and a region fully integrated into the global economy.

Needless to say, the success of ASEAN integration relies heavily on the concerted efforts of the member states and other stakeholders to meet head-on numerous challenges, with curbing corruption a top priority for all. Far from being a victimless crime, the destructive effects of corruption are most evident in developing countries, where most ASEAN member states are classified. Corruption is a major hindrance to development and has a corrosive influence on every fabric of society.

Economically, corruption depletes a country's wealth and imposes a huge cost and high risks on companies. The World Economic Forum (WEF) and World Bank (WB) estimate that cost of corruption equals more than 5% of global GDP (US \$2.6 trillion), with over US \$1 trillion paid in bribes each year. Corruption adds up to 10% to the total cost of doing business in many parts of the world, and up to 25% to the cost of procurement contracts in developing countries.¹ Opportunity cost by corruption could be even higher. Corruption distorts market mechanisms, prevents fair competition, and deters investments, thus stifling growth and future business opportunities. It also exposes companies to legal risks and erodes public investor trust and confidence.

Five ASEAN member states, i.e. Indonesia, Vietnam, Laos, Cambodia and Myanmar, were ranked in the bottom half of the Corruption Perception Index (CPI) 2014 developed by Transparency International (TI), where TI ranked the ASEAN countries' scores in a scale from 0 (very corrupt) to 100 (very clean). Singapore had the highest score of 84 while Cambodia and Myanmar obtained the lowest score of 21. Despite improved scores that allowed Philippines and Thailand to move from the bottom half of the CPI 2013 to the top half of the CPI 2014, the scores of the two countries were still well below 50.



¹ International Chamber of Commerce, TI, UN Global Compact & WEF Partnering Against Corruption Initiative (PACI), *The business case against corruption*, <http://www.weforum.org/pdf/paci/BusinessCaseAgainstCorruption.pdf>

1.2. A Common Desire to Eradicate Corruption

Given the significant negative impact of corruption on all levels of society and in every aspect of development, eliminating corruption has become a common responsibility and goal for all sectors in society.

Government

All ASEAN countries have signed and ratified the UN Convention against Corruption (UNCAC), the first multi-national legally-binding anti-corruption instrument. The UNCAC was adopted through Resolution 58/4 in October 2003, entered into force in December 2005 and ratified by a total of 174 parties as of January 2015. The UNCAC recognizes that it is illegal to bribe public officials, whether they are national public officials, foreign public officials or officials of public international organizations.

In line with the UNCAC, virtually all ASEAN countries have criminalized bribery and corruption when committed domestically. Anti-corruption authorities have also been established following the legislation of national anti-corruption laws. However, the overall effectiveness of laws and the authorities is hampered by numerous factors.

The UNCAC also lists measures for preventing corruption, not only for the public sector but also for the private sector. This includes promoting cooperation between relevant authorities and private entities, the development of standards and procedures designed to safeguard the integrity of private entities, and ensuring that private entities have sufficient internal auditing controls to assist in preventing and detecting acts of corruption, among others.

Civil Society

Civil society has traditionally played a watchdog role and continues to be a key stakeholder in the battle against corruption. TI is an example of how a civil society organization can help influence positive action from other stakeholders. Not only is TI serving a watchdog role by publishing critical annual reports and surveys such as the CPI, but it also works constructively with other sectors, including businesses, to develop tools and measures to address the root causes of corruption.

During the Regional Meeting on an ASEAN Framework for Collaboration on Accountable Governance and Anti-Corruption on 16-17 December 2014 in Naypyidaw (Myanmar), TI has begun a multi-stakeholder process of forming an “ASEAN Integrity Community”.

Business Community

The business community has also started to take a more proactive and stronger stand against corruption. Within ASEAN, various private sector bodies have initiated integrity programs designed to help businesses prevent corruption. These actions stem from the increasing legal and reputational risks faced by companies when they engage in corruption, especially when dealing with public officials or entities.

At the global level, the UN Global Compact 10th Principle states that “*businesses should work against corruption in all its forms, including extortion and bribery*”, urging companies to join civil society, the UN and governments to develop and implement policies and concrete programs to address corruption. At the 10th Anniversary of its 10th Principle on 10 December 2014 in New York (USA), through the “Call to Action: Anti-Corruption and the Global Development Agenda”, businesses publicly asked governments to take action to address corruption and foster good governance as key pillars of sustainable and inclusive global development.

1.3 The Regional Working Group

Envisioning “a corruption-free ASEAN”, the Regional Working Group on Business Integrity in ASEAN (the Working Group) was established in September 2014 in Manila (Philippines) with a mission of promoting and

achieving the highest standard of business integrity in ASEAN through collective action on advocacy, capacity-building and stakeholder engagement. In order to achieve its vision and mission, the Working Group upholds core values of commitment, integrity, collaboration, inclusiveness, sharing and excellence in their joint efforts against corruption.

The Working Group recognizes the UNGC's 10th Principle against Corruption, the UNCAC and other internationally accepted principles and norms. It was formed with support from the UK Foreign & Commonwealth Office's Prosperity Fund.

Through a Memorandum of Understanding on Regional Cooperation against Corruption in the ASEAN Business Community, the members of the Working Group have committed to jointly and separately contribute towards eradicating corruption in their respective countries and at the ASEAN regional level through, but not limited to, the following commitments:

- 1) To promote and implement anti-corruption and integrity initiatives that enable businesses to operate more responsibly and ethically;
- 2) To cooperate with one another in the areas of sharing information, best practices, and technical resources;
- 3) To work together towards developing a common strategy and framework for action against corruption in ASEAN for the private sector.

The Working Group is continuously expanding to include all ASEAN countries. It is currently comprised of 7 private networks from 6 ASEAN countries:

- 1) ASEAN CSR Network;
- 2) Integrity Initiative (Philippines);
- 3) Indonesia Business Links;
- 4) International Chamber of Commerce – Malaysia;
- 5) Singapore Compact for CSR;
- 6) Vietnam Chamber of Commerce and Industry;
- 7) Private Sector Collective Action Coalition against Corruption (Thailand).

To further guide the efforts of the Working Group, this framework has been developed.

2. Framework for Collective Action

2.1. Corruption Must be Dealt with Jointly

No single individual or entity can solve corruption. Corruption in ASEAN has become systemic, with many even saying that it has become ingrained in the cultural norms and expectations of doing business in ASEAN.

Further, corruption is not just a local or a national problem, but to a large extent also a regional and international problem. As ASEAN tries to capitalize on the opportunities presented by regional integration post-2015, corruption is an impediment to increasing international trade and investment.

Though governments take the lead in the anti-corruption crusade, long-term success will require complementing efforts from other stakeholders, particularly businesses. While businesses can individually take proactive steps to counter corruption, they can be more effective by engaging in collective action.

Collective action in this context is a process of cooperation among like-minded organizations. Through such alliances, the impact and credibility of individual actions can be improved and fair market competition – a “level playing field” – can be created for all, including vulnerable players such as small and medium-sized enterprises (SMEs). In this sense, collective action can act as a complement or temporary substitute for weak local anti-corruption laws and practices.²



Successful collective action in the region requires willingness, hard work and expertise of all stakeholders. Most importantly, given the diversity of ASEAN and the business community itself, it must be based on (i) shared understanding, and (ii) shared principles.

2.2. A Shared Understanding of Corruption

In an effort to promote a shared understanding and definition of corruption, the Working Groups offers the following guidance.

What is Corruption?

TI states that “*corruption is the abuse of entrusted power for private gain*”. By this definition, corruption can occur in both the public and private sectors.

The UNCAC, under its chapter on Criminalization and Law Enforcement, criminalizes specific corrupt acts. More relevant to the private sector, criminalized acts include, but are not limited to: bribery of public officials, bribery of foreign public officials and officials of public international organizations, bribery in the private sector, trading in influence, and laundering of proceeds of crime.

In principle, the Working Group adheres to the UNCAC’s classification of corrupt acts, especially bribery, as a criminal act that should not be practiced nor tolerated in the ASEAN business community. Where there is controversy or debate, such as in the case of classifying “facilitation payments”, the Working Group shall endeavor to discuss and formulate a collective position that is in line with internationally accepted principles and standards.

² World Bank Institute (2008), *Fighting corruption through collective action - A guide for business*, http://info.worldbank.org/etools/docs/antic/Whole_guide_Oct.pdf

2.3. Shared Principles

Recognizing the UNCAC, the UNGC's 10th Principle, and other internationally accepted principles and norms, the Working Group believes that:

“Businesses operating in ASEAN should have zero tolerance of corruption in all its forms”

This means that businesses, regardless of their size, sector, area of operation, ownership and structure, should comply with all applicable anti-corruption laws and internationally accepted principles and norms. Businesses shall also seek to prevent, detect and report practices that might lead to a breach of this policy.

The Working Group shall work together with businesses and other stakeholders to ensure that this fundamental principle is embedded and respected. With that, the Working Group also specifically recognizes and encourages that tackling corruption necessitates the following:

Strong “tone from the top”. The tone at the top does matter. A survey conducted by PwC in 2010 revealed that nearly 90% of survey responses agree that “tone from the top” is crucial in the effective mitigation of risk to their organization around Fraud, Corruption and Ethical Behavior.³ Integrity and commitment of business owners, board of directors, and senior management are critical in driving employees to be vigilant, in supporting the anti-corruption program and its underlying principles. Therefore, the Working Group shall strive to encourage business leaders in ASEAN to take a firm and public stand against corruption.

Understanding Corruption Risks. An effective anti-corruption program must be based on a firm assessment of the risks, and even short-term rewards, associated with corruption. By carrying out thorough risk analysis, businesses can better assess how corruption can impact their businesses, which areas of their operation is most at risk, and who among their stakeholders need attention. By understanding corruptions risks better within the context of its operating environment, businesses can craft effective long-term policies and initiatives to help prevent corrupt acts from happening.

Practical & focused practices and processes. Fighting corruption is difficult. While some businesses are doing better in upholding integrity and fighting corruption, many businesses are still struggling. Given limited resources, priorities should be identified, focused on the particular circumstances of the business. Good practices if shared among businesses and stakeholders will not only help to save resources but also enable an effective individual and collective action against corruption. Collective action is therefore a process of learning, exchange and inclusiveness.

Adherence to international standards and norms. In line with the belief that corruption can only be tackled collectively and through shared understanding and principles, the Working Group recognizes that any local actions must be formulated in line with, or above, internationally accepted standards and norms. This can include various sector-specific standards and guidelines.

2.4. How to Drive Collective Action

There are various channels to initiate and drive collective action, from short-term/project-based agreements (anti-corruption declaration/integrity pledge and integrity pact) to medium-term initiatives (corporate governance code of conduct and compliance certification) to long-term initiatives (cooperation between key stakeholder groups).

³ PwC (2012), *Tone from the top - Transforming words into action*, http://www.ibe.org.uk/userimages/pwc_tone_from_the_top_2013.pdf

The goal is to raise the awareness, strengthen the regulatory system and even create a deep-rooted anti-corruption culture. Examples of collective action initiatives may include:

Anti-corruption Declaration/ Integrity Pledge/ Integrity Pact

Anti-corruption declaration or integrity pledge, signed by CEO or equivalent, is a public commitment of businesses to reduce corruption risks and uphold ethical business practices. This includes the commitment and implementation of tangible and measurable anti-corruption policies that are in line with international practices. Often, businesses need to maintain accurate and transparent reporting mechanisms and share their internal experiences to promote best practices.

Integrity pacts on the other hand often refer to joint efforts within a sector or industry to level the playing field. Pioneered by TI during the 1990s, integrity pacts can also refer to programs and tools designed to reduce corruption in public contracting, where government institutions and all bidders enter into an agreement to refrain from bribery and collusion.

Unified Corporate Governance Code of Conduct

The unified corporate governance code of conduct is an agreement between businesses operating in the same country or in the same industry to instill ethical values, in accordance with high standards of integrity, and to deter wrongdoings in compliance with all applicable laws and regulations. It is usually developed by leveraging on and harmonizing existing business codes of conduct and is expected to provide a level playing field for different market players. Participating organizations are expected to ingrain integrity in their day-to-day business, and monitor and report on their progress.

Compliance Certification

Making a commitment is not enough. Transforming commitment into actions is more important. Most importantly, it is critical to measure the progress of compliance and actions against commonly agreed standards. Main steps of a compliance certification may include: self-assessment by companies; external body audits and verifies companies' self-evaluation; a panel reviews the report and decides if companies/members get certified or excluded.

Stakeholder Engagement

Awareness and capacity can be enhanced through cooperation between key stakeholders such as the public sector, the private sector and civil society. Initiatives such as business roundtables, multi-stakeholder dialogues, best practice sharing, advocacy campaigns, anti-corruption training, consultation with anti-corruption authorities will create fundamental foundations for project-based agreements and coalition pacts to be effective in the long run.

2.5. The Regional Working Group's Priority Actions

Challenges & Opportunities

The impending formation of an ASEAN Community presents numerous challenges as well as massive opportunities to tackling corruption.

Increasing inter- and intra-regional trade and investments attracts both good and bad businesses, potentially creating a greater supply of companies willing to pay bribes and engage in corrupt practices. Coupled with inefficient bureaucracies and weak enforcement capabilities in most ASEAN member states, economic growth may also mean a growing market for corrupt transactions.

However, many ASEAN member states are feeling the pressure from its citizens to tackle corruption. With the increased voice for educated youth provided by social media, tolerance for corruption is decreasing as awareness

increases. This voice can also be directed towards the business community, directly increasing both the legal and reputational risk of engaging in corruption.

Priority Actions

Given the ASEAN context, the Working Group has agreed to prioritize the following actions in an effort to enable its members and partners to effectively combat corruption.

Advocacy and Awareness-Raising

The Working Group shall collectively develop and implement the “Integrity Has No Borders” regional advocacy campaign to show that the ASEAN business community is standing up against corruption. The campaign is focused on two core messages – that first, as individuals with integrity, we should practice it both in the confines of our homes and families as well as in our workplace, including in our dealings with both government and private sector officials; and second, as businesses with integrity, it should be practiced across our entire business, across international borders, and spanning our entire value chains, including in our engagements with regulators, investors, suppliers, contractors, retailers, and other business partners.

The Working Group, engaging with a professional communications firm, will strive to reach and engage as many relevant stakeholders as possible in the implementation of the campaign.

Capacity-Building

The Working Group members shall strive to support one another in building skills and capacity to combat corruption by sharing best practices and technical resources, providing opportunities for information sharing and knowledge transfer, and organizing training sessions on relevant skills and strategies.

There are many forms that these initiatives can take and the Working Group recognizes that each member, as well as various external partners, can be an invaluable source of information, skill and resources. The Working Group therefore will continue to operate with no exclusivity on who it chooses to work with, nor on who its members choose to partner with.

Harmonizing Strategies and Programs

A mid to long-term goal of the Working Group is to move its members towards harmonized, and eventually standardized, integrity programs. Harmonized programs have the added benefit of being comparable, presenting opportunities for benchmarking and best practice adaptation. Also, moving towards more harmonized and standardized programs can in the long-term open opportunities for mutual recognition of integrity pledges and certifications across ASEAN.

In the short-term, this can be facilitated by providing continuous opportunities for dialogue among the members and securing the support of regional and international bodies such as TI, UNGC and UNODC, among others.