

Bribing in Foreign Markets will Soon be a Big Crime

Preparing Indian Companies for India's new legislation criminalizing foreign bribery



The accelerated industrial growth along with rise in living standards has been a catalyst for India's trade and affairs with the global market. However, along with cultural differences of trading and others issues, what remains as a big issue is that of corruption and bribery in international business transactions.

Combating bribery in business transactions is integral to effective corporate social responsibility and corporate compliance programs. Companies that do not pay bribes to obtain business contracts build a reputation for clean business practices, and are contributing to a more ethical business environment, strengthening their country's investment climate and corporate reputation, respecting public sector integrity, and ensuring a level playing field in international business.

In this regard, India has signed the UN Convention Against Corruption (UNCAC) in December 2005, Prevention of Corruption Act, 1988 and the Prevention of money laundering act, 2002. Also more recently, India has ratified the UNCAC- the first legally binding global anti-corruption instrument adopted by the world community) in May 2011. Subsequent to that India has formulated the "The Prevention of Bribery of Foreign Public Officials and Officials of Public International Organizations Bill, 2011, which has been introduced in the Parliament.

Recognizing the international obligations created by ratifying the UNCAC, India must make it a criminal offence for its companies to bribe foreign public officials to obtain business and the

importance of the issue, following the discussion in September'11, FICCI partnered again with OECD(Organization for Economic Co-operation and Development, Paris) to hold roundtable discussion on "The Prevention of Bribery of Foreign Public Officials and Officials of Public International Organizations Bill,2011"

The event was organized in May, 2012 both in Mumbai and Delhi for selected group of Vice Presidents, CVO, CCO, Senior officials from GOI, Head of the Anti-corruption Department- OECD etc.

With the reference to the bill, Dr. S.K. Sarkar, Additional Secretary, Ministry of Personnel, Public Grievances and Pensions, gave a full preview of the government initiatives referring to the current consideration and Report of Standing Committee of Parliament on the bill. He stated that for fighting corruption, it's very important that not only the intricate issues of bribery are understood but strong steps are also taken for eradicating it completely from the system. While highlighting about FICCI initiatives for the cause, he said the country needs more support and initiative from all stakeholders including private sector companies.

While Mr. Neville Gandhi, Regional Compliance Officer, Siemens India went in details citing how Siemens as a company has been able to recover from its past infamous crisis through a comprehensive compliance policy. As a senior compliance officer, he expressed various problems that come on the path of vigilance in the business especially when a large part of economy works with 'greasing'. He said that the only answer to it is 'setting compliance with diligence' and setting the tone from top as the essential initial step.

Some of the other main speakers of the event are Mr. KK Upadhyay, Head,FICCI-CSR Department, Mr. Patrick Moulette, Head, OECD, Anti-Corruption Division ; Mr. Shailesh Tewary, Regional HR Director - South Asia, G4S Corporate Services India Pvt Ltd. (TBC) ; Mr. Rohit Mahajan, Partner & Co-Head, Forensic Services, KPMG in India ;

Mr. Pooran Pandey, Executive Director, Global Compact Network India , Ms. AnupamaJha, Transparency International India , Mr. Arpinder Singh, Partner & National Director, Fraud Investigation & Dispute Services (FIDS), Ernst &Young India , Mr. Daniel Clegg, Federal Bureau of Investigation (FBI), United States of America , Ms. Christine Uriarte, Counsellor, OECD Anti-Corruption Division , Melissa Khemani, Legal Expert, OECD Anti-Corruption Division.

The other discussions centered around the issue of corruption in the business, including identification of the main Key Risk Areas in business, challenges of fighting corruption in system, it was successfully concluded with various jointly agreed inputs from the industry officials of the steps to fight bribery such as setting the tone from the top, frame a zero tolerant compliance organization to building a robust Whistleblower policy etc.

