

# Coordination Mechanisms for Inter-Agency Cooperation in Combatting Corruption

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# Introduction

- This presentation covers issues related to cooperation between agencies that are responsible – directly or indirectly - for fighting corruption.
- And highlights practical ways in which cooperation between various agencies involved in dealing with corruption can be enhanced.
- Moreover, it identifies ways in which multi-agency approach can be as an effective way of addressing corruption using all available tools at the disposal of the anti-corruption agency

# Introduction

- The success of Anti-Corruption Commissions (ACCs) strongly relies on the effectiveness and cooperation of many other complementary institutions such as the public prosecutor, the ombudsman, the auditor general, Procurement regulator, Police and law enforcement Agencies, Financial Intelligence Units, the courts, etc whose contribution and interaction play a crucial role.
- Yet, experience worldwide indicates that in most countries, cross-agency coordination remains weak or inexistent.
- Law enforcement agencies are often not well connected and integrated, due to their wide diversity, overlapping mandates, competing agendas, various levels of independence from political interference and a general institutional lack of clarity.

# Jurisdictional Reach

- Fighting corruption and related activities can be complex and resource consuming. The corruption cases may entailed sophisticated schemes with multiple actors and are further complicated by their multi-jurisdictional reach.
- Combating corruption and the laundering of the proceeds of corruption cannot be undertaken by a single agency acting in isolation, no matter how competent this agency and its staff may be.
- It is important to note that depending on a jurisdiction's legal and criminal justice history, will have jurisdiction over the predicate crime of corruption.
- And it is precisely because, this jurisdiction may be in a single or very few agencies, that, it is essential that, there is cooperation in combating corruption.

# Domestic Cooperation

- By domestic cooperation, we mean that relevant government agencies responsible for combating corruption interact with each at both the policy and operational levels.
- The interaction should be in the form of exchanging of information, cooperating on cross cutting agency investigations, exchange of staff in order to share their expertise with another agency, and generally, participation in inter-agency fora on a frequent and ongoing basis

# Why the Need for Cooperation?

- Take the case of a contract between a government and private sector players for the supply of equipment for hydroelectric development; installation of an airport radar; and passport equipment.
- These types of large government projects would typically fall within the portfolio of several ministries and as the cases above illustrate, intelligence that would lead to the detection of corruption activities may potentially come from a variety of sources.
- However, unless anti-corruption agencies establish continuous surveillance over public officials, and/or private sector players involved in these projects, it is difficult to catch corrupt officials committing corrupt acts and private individuals corrupting them.

# Why the Need for Cooperation?

- Therefore, detecting corruption would entail looking into circumstances where these officials, or corrupters, are the most vulnerable, that is, when receiving cash or other assets, when placing these assets in safe havens or in their attempts to legitimize these assets.
- These transactions undertaken with illegal proceeds necessarily will leave traces as they are recorded in different databases.
- Say a car is bought with illegal proceeds, some government agency will undoubtedly have maintained a trace of the transaction: matriculation of the vehicle, the information is out there, but transforming this data into intelligence that can further be exploited, linked to criminal activity and produced as evidence in a prosecution,
- requires the collaborative efforts from key national stakeholders.

# Why the Need for Cooperation?

- Thus combating corruption requires participation from all sectors of government and the private sector.
- In order to effectively combat corruption governments have established specialized anti-corruption agencies, however, these agencies will need to work in concert with other institutions, whether for referral of potential criminal activity, occurring suspicious activities or in order to collect evidence and build a strong corruption case.

## Agencies Directly Involved in Detecting Corruption Activities

- The following institutions would invariably play a role in tackling the problem of corruption.
- Depending on the jurisdiction, each plays a specific role according to the legislative mandate given.
- But regardless of the divergence of responsibilities, there is an overlap in the work done particularly on the ultimate objective, i.e. combat corruption.
- The Audit Office, the Public Prosecutors Office, Integrity Commissions, the Anti-Corruption Agency: the Police/Investigative Agencies, Office of the Ombudsman, Judiciary, etc.

# Avenues for cooperating (or models of cooperation)

- They are numerous ways in which a jurisdiction can establish modalities for ensuring to the extent practically possible, cooperation and coordination among the relevant agencies .
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- Jurisdictions can adopt anyone of the following modalities:
  - Task Force;
  - Coordinating Council or Committee;
  - Memorandum of Understanding; and
  - Interagency Sharing of Intelligence.

# Task Force

- A taskforce is a body formed expressly for the purpose of addressing a particular problem.
- The task force would be responsible for formulating a set of solutions to the problems and pick the most practical solution to each problem, as determined by some set of standards such as the law, regulations, rules and institutional mandates.
- Such a task force can be either permanent or temporary body. It can be permanent with respect to a problem like combating financial crime generally and money laundering in particular.
- Temporary could a body set up to address a specific issue such as for example human trafficking, illegal logging or diamond smuggling.

# Coordinating Council

- Some jurisdictions establish under the anti-corruption laws a high level body responsible to set policy in the fight against corruption and crime.
- Tasked with coordinating and making sure that the public institutions fulfil their responsibilities and undertake actions under their mandate.
- It is an inter-agency body that is dedicated to marshalling the resources of the government as well as demonstrating political commitment at the highest level of government.

# Memorandum of Understanding

- Where, for whatever reason, may be turf wars, or some bureaucratic reason, a multi-agency body cannot be created, one option is to create a forum or coalition that is joined together by way of a memorandum of understanding.
- The memorandum of understanding may provide for modalities of exchange of information – at the operational level – among the agencies;
- share experiences;
- exchange of information,
- providing logistical or operational support; and
- generally address and mitigate any coordination problems.

# Inter-Agency Sharing of Intelligence

- One of the key methods of addressing corruption and money laundering is to have accurate, comprehensive and timely intelligence from relevant bodies that feeds into the investigation and prosecution of corruption.
- Consequently, inter-agency sharing of strategic intelligence is essential. Agencies such as the FIU; the Criminal Investigations Department of the Police; the Audit Institution office; the National Intelligence Service; the Anti-Corruption Agencies themselves; and other relevant intelligence gathering agencies, should have a forum where intelligence can be shared and coordinated.
- For example, the Indian government in its anti-corruption strategy suggested that an inter-agency task force be established for purposes of sharing intelligence.

# Establishing Effective Cross-Agency Cooperation

- In order to establish effective cross-agency cooperation, the agency in charge of coordinating and monitoring the implementation of the anti-corruption policies should have:
  - Sufficient authority,
  - Resources,
  - Capacity, and
  - Political backing to perform its mandate and compel line ministries to implement measures and report on progress.

# Political and Operational Attention from the Design Stage

Many coordination efforts have failed because of initial design flaws.

- Sufficient political and operational attention should be given to the coordination of anticorruption efforts from the onset,
- with coordination issues considered from the design stage of anticorruption policy making, and
- integrated in the overall anti-corruption architecture.

# Strong Leadership and Political Determination

- Securing support and collaboration from other agencies usually implies positioning the anti-corruption institution at a point of maximum influence.
- The overall responsibility for coordination needs to be assigned to a high level political authority or a lead figure, usually in the Office of the Prime Minister or a State Minister with the view to providing the requisite political leverage to deal with powerful line ministries and other public agencies.
- Others have recommended locating the lead agency at the maximum point of influence to give it the necessary political backing and visibility to allow it to take leadership in promoting coordination and if need be, compelling other institutions to cooperate.

# Clear Mandate and Lines of Responsibility

For effective cooperation, the establishment of specialised anti-corruption bodies should relate to what's already in place and their respective roles and mandates clearly defined and well understood.

This implies understanding where and how the various mandates and responsibilities meet and interact.

Respective institutions should be given clear lines of responsibility, especially with regard to who should deal with particular cases of corruption.

Clear rules of engagement should also guide the interaction and collaboration between the various institutions involved.

# Legal Obligation to Cooperate

Some countries such as Hong Kong and Singapore impose stringent legal duties of cooperation on government and the public, compelling them by law to support the Anti-Corruption Agency's work.

Malaysia follows same patterns with 16 deputy public prosecutors being assigned by the Attorney General's office to work on Anti-Corruption Agency's cases.

Whatever the solution, there should be a framework of control to ensure effective enforcement of collaboration.

# Cooperation as a Long-Term Process

- Effective cooperation of anti-corruption efforts is a long-term process that requires times and resources allocated to trust building efforts.
- While ad-hoc cooperation on specific cases can contribute to this process, it is recommended to approach coordination as a long term and ongoing process and
- Establish the necessary structures to facilitate effective long term cooperation in the form of regular interagency forums that allows exchange of information, discussions, etc.

# Appropriate Coordinating Committees or Structures

- Where coordination remains challenging, special committees or institutions may be established to address cross-agency cooperation.
- They can be composed of representatives from the executive, judiciary, legislature, and civil servants in key departments (such as customs, procurements, revenue collection and law enforcement and from local governments).
- They can also include members from civil society such as business representatives, NGOs, religious leaders, etc.
- In all cases, they need to have sufficient power, resource and capacity to deal with powerful ministries.

# Information and Communication Strategy

By nature, cross-cutting reforms depend on good communication and information sharing between all implementing agencies and the public, including access and dissemination of supporting anti-corruption policies and documents.

Recent developments in information technology open new opportunities in this field as well as provide innovative tools to promote effective data and information sharing across agencies, such as the development of cross-agency databases, computerised case-management tracking systems, etc.

At another level, a proactive strategy of systematic information sharing between agencies may help build trust relationships and foster longer term cooperation.

# Conclusion

- In conclusion, memorandums of understanding are one way in which to implement laws authorizing or organizing exchange of information.
- Cooperation among domestic agencies is essential given the complex nature of financial crimes even where they do not cross borders.
- Given the limited human expertise and financial resources, building interagency and cross sectoral partnership should be a critical component to achieving some measure of success in combating corruption.