

Theory of club goods and benefits-based approach to global anti-corruption policy

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Abstract

In contemporary globalized world corruption became one of the most salient problems, requiring global response and efforts of the entire international community. Despite increased anti-corruption legislation and enforcement mechanisms, traditional techniques and tactics of fighting corruption haven't stimulated significant decrease of corruption level and the problem is still prevalent around the world.

Current paper attempts to represent the problem of corruption through the theoretical framework of Club Goods approach to international cooperation and introduce qualitatively new Benefits-Based approach to global anti-corruption policy. The paper argues that desire to become a member of club-like international organization and therefore access benefits, associated with club membership, makes states to actively address their internal issues in order to qualify for membership accession criteria. Consequently, it is argued, inclusion of low corruption into the membership accession requirements of major international organizations will automatically exclude all highly corrupt countries from enjoying the desired club public goods. At the same time it will become an important incentive for states to comply with internationally-agreed anti-corruption norms, policies and practices and more effectively address the problem of corruption. According to Benefits-based approach, low corruption should be represented not as final target itself, but as an important, necessary step toward achievement of the bigger goal, i.e. membership of a club. The paper concludes that such an approach can prove effective in fostering compliance to global anti-corruption norms. This potentially can help to decrease the level of corruption in many countries. Using the example of the European Union and some of its candidates and recent members, the paper attempts to demonstrate the connection between membership of club-like organization and reduction of corruption level.

The paper will provide some of the major policy recommendations, acknowledge weaknesses of the Benefits-based approach and suggest possible ways to overcome those weaknesses and implement the proposed technique.

Table of Content:

- 1. Introduction.....5
- 2. Structure of the paper.....7
- 3. Chapter 1. Phenomenon of corruption: definition, scope and urgency of the problem,
negative impacts.....9
- 4. Negative effects of corruption.....16
- 5. Chapter 2. Analysis of the existing anti-corruption instruments.....23
- 6. Chapter 3. Theoretical framework of the paper: global public goods and club goods approach
to international cooperation.....32
- 7. A brief history of club theory.....37
- 8. Implications of the theory of club goods for the current paper.....39
- 9. Example of the European Union and some of its candidates and recent members.....44
- 10. Major Policy Recommendations, Issues Associated with the Benefits-based approach and
Implementation of the Benefits-based approach.....49
- 11. Conclusion.....53
- 12. Bibliography.....57

Introduction

Corruption is one of the most salient political, economic and ideological problems of every single country in the world, as well as of the entire international community in general. The problem has been around for such a long time, that “proffering and accepting bribes often considered the oldest part-time professions”¹. Moreover, corruption is a growing problem and despite the multitude of anti-corruption legislation and increased enforcement efforts around the world corruption is still prevalent in most countries and regions all over the world. The Transparency’s International 2010 Corruption Perceptions Index indicates that “nearly three quarters of the 178 countries in the index score below five, on a scale from 10 (very clean) to 0 (highly corrupt)”².

Even worse is the fact that corruption will likely to be around and remain a hot topic for a long time in the future, unless governments can figure out effective ways to combat it. This has never been and will not be an easy task³. Its fulfillment, however, still does not guarantee a complete elimination of corruption. Nevertheless, there are possibilities to significantly decrease corruption, at both global and domestic levels. Annual studies, provided by major non-governmental anti-corruption organizations such as Transparency International⁴ indicate certain countries⁵, successfully dealing with and tackling corruption down. In this regard, finding an effective way for combating corruption around the world is essential for successful addressing of the problem at the global level.

¹ Glynn, Patrick, Stephen J. Kobrin, and Moises Naim. “*Globalization of Corruption*”. *Peter G. Peterson Institute for International Economics*. p. 7 http://www.iie.com/publications/chapters_preview/12/1ie2334.pdf

² “Transparency International”. Accessed 20 Dec. 2010. http://www.transparency.org/policy_research/surveys_indices/cpi/2010

³ Mauro, Paolo. “*Why Worry About Corruption?*” *Economic Issues* No.6. IMF, Accessed 14 May, 2011. <http://www.imf.org/external/pubs/ft/issues6/issue6.pdf>

⁴ “Transparency International”. Accessed 20 Dec. 2010 <http://www.transparency.org/>

⁵ See Table 1, p.

Analysis of some of the most important existing anti-corruption instruments and mechanisms allows the conclusion that vast majority of them focus on fighting corruption through popular punitive and retributive techniques. Even though these practices undoubtedly do have certain positive impact on corruption issue, it is still obvious that corruption is prevalent around the world.

The initial idea of this project was to figure out a new, unique policy that, instead of inducing fear of prosecution and “naming and shaming” of corrupt countries will make them to understand how they can benefit from fighting corruption, and create incentives for them to address the problem of corruption more actively. In contemporary globalized world this could be best done through international club-like organizations. Based on the theories of public goods and club goods this paper introduces the so-called ‘Benefits-based approach to global anti-corruption policy’.

Current paper will discuss the problem of corruption within the theoretical framework of club goods approach, a subcategory of public goods, which can prove effective in decreasing corruption level in many countries and, consequently, at the international arena. Paper will argue that including low level of corruption and compliance with internationally agreed norms and policies into the membership accession requirements of any regional or global international club-like organization will automatically exclude all non-complying countries from enjoying the desired club public goods. At the same time such policy may become an important incentive for them to comply with internationally-agreed anti-corruption norms, policies and practices and more effectively address the growing problem of corruption. This is extremely important, because, as will be indicated later, compliance, or lack of compliance to international anti-corruption norms, laws, standards and regulations, is indeed one of the biggest issues in a global struggle against corruption.

Structure of the paper

The current paper consists of three major parts.

First, the paper aims to define, analyze and substantiate the problem of corruption and identify major theoretical and definitional issues of the phenomenon. Introducing some of the most common definitions of the phenomenon, used by international community the author concluded that agreed definition of corruption is necessary for further successful addressing of the issue at the international level. The first chapter will also discuss major negative effects of corruption, proving saliency of the topic and, consequently, importance of the current paper.

Second, the paper will provide brief analysis of major existing international anti-corruption instruments and initiatives and discuss their major strong and weak aspects. As was already mentioned, the paper concludes that vast majority of all existing domestic, regional and global anti-corruption instruments advocate for punitive and retributive methods of fighting corruption and view them as the most important and, at times, single possible way to bring the issue of corruption down.

Third, the paper will introduce and analyze public goods and club goods approaches to international cooperation and explain how the issue of corruption can be represented within the above theoretical framework. Using example of the European Union and some of its candidate countries the author argues that one of the best ways to motivate countries to comply with international anti-corruption norms is to represent reduction of corruption not as final target, but as an important, necessary step towards achievement of the bigger goal, i.e. membership of a club and enjoying membership benefits. Therefore 'Benefits-based approach' can prove effective in fostering compliance to global anti-corruption norms. This potentially can help to decrease the level of corruption in many countries.

Finally the paper attempts to propose some of the general global-policy recommendations regarding corruption and club goods approach. Acknowledging major issues and limitations of using club goods methodology and the benefits-based approach itself in relation to corruption, the final chapter of the paper will discuss possible ways to overcome those weaknesses and implement the proposed policy.

Methodologically, this paper is aiming to apply the theoretical foundation of the club goods approach to international cooperation onto the issue of corruption and unleash the direct connection between membership of international organization and, consequently, greater degree of international integration with other countries and greater enforcement and implementation of internationally-agreed anti-corruption norms and policies and possible lower level of corruption in member states.

The paper will gradually explain this connection between theoretical framework and dependent variable, i.e. reduced corruption and subsequent membership of the desired club-like organization. As countries are willing to join the club and further to remain members of the club for as long as possible, conditionalities, imposed by international organizations as prerequisites for membership, and the 'fear of exclusion' may become important incentives for candidate countries to fulfill those prerequisites and live up to, and even enhance, their commitments upon accession. Representing corruption as one of such prerequisites or conditionalities will lead to increased compliance and implementation of anti-corruption policies and active addressing of the issue of corruption within the country.

Chapter 1

Phenomenon of corruption: definition, scope and urgency of the problem, negative impacts

*“Corruption is a word with many meanings, each dependent upon the specific social and political context in which it is used”.*⁶

Discussing, proposing and analyzing effective ways of fighting corruption is not possible without clear understanding and defining the phenomenon itself. Speaking of global common norms, laws, policies and regulations one needs to be sure that every single country, regional organization and the entire international community view and understand the phenomenon of corruption alike and use same or at least very similar definitions of the latter. Undoubtedly, understandings of corruption can vary from society to society, based on specific political, religious and cultural differences of every country, but common, similar definition is necessary for addressing corruption at the global level.

As noted by A.J. Brown, “there has been unprecedented demand for a single, universal understanding of the idea of corruption, capable of spanning international, cultural and religious borders”.⁷ In addition, the definition of corruption has important implications for creating effective measurement and transparency mechanisms, which are extremely important for developing of effective anti-corruption strategy. Authors of *“Measuring Corruption”* emphasize that “how corruption is defined actually ends up determining what gets modeled and measured”.

Current chapter will discuss and analyze different definitions of corruption, acknowledge major definitional issues and constraints, as well as it will discuss the scope of the problem of corruption. It will further suggest the possible, most appropriate definition of corruption that should

⁶ Charles Sampford et al. *“Measuring Corruption”*. 2006. p.57

⁷ Charles Sampford et al. *“Measuring Corruption”*. 2006. p.57

be used in order to address the problem at the international level. The paper will then proceed to the explanation of why the problem of corruption is so salient and urgent around the world, by acknowledging and discussing some of the major negative impacts of corruption. Thus, the chapter will provide the basis for the further discussion and analysis of the corruption phenomenon within the framework of the club goods approach to international cooperation.

It is important to note, that while there are different trends of corruption, from political to police to corporate corruption, all of them basically point out to some extent to demolition and collapse of political or economic structure of any given country (or company) or, more philosophically, internal erosion of humanity, which causes suffering and damage all over the world. The problem of corruption is “old as the world”. “Corruption has existed ever since antiquity as one of the worst and, at the same time, most widespread forms of behavior, which is inimical to the administration of public affairs”.⁸ Nevertheless, according to the Council of Europe, “notwithstanding the long history and the apparent spread of the phenomenon of corruption in today's society, it seemed difficult to arrive at a common definition and it was rightly said, ‘no definition of corruption will be equally accepted in every nation’”⁹. Possible definitions have been discussed for a number of years in different fora, but it has not been possible for the international community to agree to on a common definition. Instead international fora have preferred to concentrate on the definition of certain forms of corruption, e.g. “illicit payments” (UN), “bribery of foreign public officials in international business transactions” (OECD), “corruption involving officials of the European Communities or officials of Member States of the European Union” (EU)¹⁰. As noted by Petter Langseth, “when the negotiations of the United Nations Convention

⁸ Council of Europe. “*Criminal law convention on corruption*”. (ETS No. 173) Accessed 14 May, 2011 <http://conventions.coe.int/treaty/en/Reports/Html/173.htm>

⁹ Council of Europe. “*Criminal law convention on corruption*”. (ETS No. 173) Accessed 14 May, 2011 <http://conventions.coe.int/treaty/en/Reports/Html/173.htm>

¹⁰ Council of Europe. “*Criminal law convention on corruption*”. (ETS No. 173) Accessed 14 May, 2011 <http://conventions.coe.int/treaty/en/Reports/Html/173.htm>

against corruption began in early 2002, one option under consideration was not to define corruption at all, but to list specific types or acts of corruption”¹¹. Consequently, “many specific forms of corruption are clearly defined and understood, and are the subjects of numerous legal or academic definitions”¹². There is also an opinion, that because definition of corruption is so complex and contested “we should abandon the search for comparative indices of corruption and should stick to country-based studies”¹³.

Even though generally, corruption often viewed as the “abuse of entrusted power for private gains”¹⁴ or “leakage of resources form institutions that are supposed to be using them for social objectives”¹⁵, such brief definition does not reveal the entire picture of the problem: widespread, overall and destructive. The above, so-called “public-offence centered”¹⁶ definitions became a starting point of many (if not most) western definitions and “have been interpreted as a wide definition capturing a broad gamut of corrupt behavior, when it actually captures only specific cross-sections of concerns”.¹⁷ Detailed and specific definition of corruption is necessary for better understanding of the process and finding effective ways to decrease it. Consequently, this chapter will discuss some of the major definitions of corruption, used mostly within domestic, regional and international anti-corruption legal documents and initiatives. These anti-corruption instruments and initiatives will be further discussed in the subsequent chapter of the paper in regards to their goals and approaches to decrease corruption.

The book “*Measuring Corruption*” by Sampford, Charles Shacklock and Arthur Connors offers a great discussion of different types of corruption. For instance authors differentiate between

¹¹ Charles Sampford et al. “Measuring Corruption”. 2006. p.9

¹² Charles Sampford et al. “Measuring Corruption”. 2006. p.9

¹³ Charles Sampford et al. “Measuring Corruption”. 2006. p.53

¹⁴ “Transparency International”. Accessed 14 May, 2011 <http://www.transparency.org/>

¹⁵ Charles Sampford et al. “Measuring Corruption”. 2006.

¹⁶ Charles Sampford et al. “Measuring Corruption”. 2006.

¹⁷ Charles Sampford et al. “Measuring Corruption”. 2006.p.58

“Grand” and “Petty” corruption, indicating that “Grand” corruption is “corruption that pervades the highest levels of a national government, leading to a broad erosion of confidence in good governance, the rule of law and economic stability”¹⁸. In turn, “Petty” corruption can “involve the exchange of very small amounts of money, the granting of minor favors...or the employment of friends and relatives in minor positions”¹⁹. In addition, corruption is usually divided into active, referring to the offering or paying of the bribe, and passive, referring to the receiving of the bribe. Correspondingly, “*The European Union Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union*”²⁰, which deals with “active” corruption, defines the latter as “the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party for him to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties”²¹. Similarly, “*The Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*”²² defines “active” corruption, as the act by any person of “intentionally to offer, promise or give any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party, in order that the official act or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage

¹⁸ Charles Sampford et al. “*Measuring Corruption*”. 2006. Introduction, p. 9. Also available at http://www.unep.org/training/programmes/Instructor%20Version/Part_2/Activities/Interest_Groups/Decision-Making/Supplemental/UN_Anti_Corruption_Toolkit_pages_10to16.pdf Accessed 15 May, 2011

¹⁹ Charles Sampford et al. “*Measuring Corruption*”. 2006. Introduction, p. 9. Also available at http://www.unep.org/training/programmes/Instructor%20Version/Part_2/Activities/Interest_Groups/Decision-Making/Supplemental/UN_Anti_Corruption_Toolkit_pages_10to16.pdf Accessed 15 May, 2011

²⁰ “*The European Union Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union*”. Accessed 1 May, 2011

http://europa.eu/legislation_summaries/fight_against_fraud/fight_against_corruption/133027_en.htm

²¹ “*The European Union Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union*”. Article 3. Accessed 19 April, 2011

http://europa.eu/legislation_summaries/fight_against_fraud/fight_against_corruption/133027_en.htm

²² “*The Convention on Combating Bribery of Foreign Public Officials in International Business*”. OECD, 17 December 1997. Accessed 14 May, 2011 http://www.oecd.org/document/20/0,3343,en_2649_34859_2017813_1_1_1_1,00.html

in the conduct of international business”²³. In another existing regional anti-corruption legislative document, “*African Union’s Convention on Fighting and Preventing Bribery*”²⁴, corruption and related to it offences are represented as either of the following:

- ✓ “the solicitation or acceptance, directly or indirectly, by a public official or any other person, of any goods of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or herself or for another person or entity, in exchange for any act or omission in the performance of his or her public functions;
- ✓ the offering or granting, directly or indirectly, to a public official or any other person, of any goods of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or herself or for another person or entity, in exchange for any act or omission in the performance of his or her public functions
- ✓ any act or omission in the discharge of his or her duties by a public official or any other person for the purpose of illicitly obtaining benefits for himself or herself or for a third party;
- ✓ the diversion by a public official or any other person, for purposes unrelated to those for which they were intended, for his or her own benefit or that of a third party, of any property belonging to the State or its agencies, to an independent agency, or to an individual, that such official has received by virtue of his or her position; the offering or giving, promising, solicitation or acceptance, directly or indirectly, of any undue advantage to or by any person who directs or works for, in any capacity, a private sector entity, for himself or herself or for anyone else, for him or her to act, or refrain from acting, in breach of his or her duties;

²³ “*The Convention on Combating Bribery of Foreign Public Officials in International Business*” . OECD, 17 December 1997. Accessed 14 May, 2011 http://www.oecd.org/document/20/0,3343,en_2649_34859_2017813_1_1_1_1,00.html

²⁴ “*African Union Convention on Fighting and Preventing Bribery*”. Accessed 15 April, 2011. http://www.africa-union.org/official_documents/Treaties_%20Conventions_%20Protocols/Convention%20on%20Combating%20Corruption.pdf

- ✓ the offering, giving, solicitation or acceptance directly or indirectly, or promising of any undue advantage to or by any person who asserts or confirms that he or she is able to exert any improper influence over the decision making of any person performing functions in the public or private sector in consideration thereof, whether the undue advantage is for himself or herself or for anyone else, as well as the request, receipt or the acceptance of the offer or the promise of such an advantage, in consideration of that influence, whether or not the influence is exerted or whether or not the supposed influence leads to the intended result; illicit enrichment;
- ✓ the use or concealment of proceeds derived from any of the acts referred to in this Article; and participation as a principal, co-principal, agent, instigator, accomplice or accessory after the fact, or on any other manner in the commission or attempted commission of, in any collaboration or conspiracy to commit, any of the acts referred to in this article”²⁵.

Similarly to the above, the 1996 “*Inter-American Convention Against corruption*”²⁶ defines corruption as either of the following:

- ✓ “solicitation or acceptance, directly or indirectly, by a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions;
- ✓ offering or granting, directly or indirectly, to a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor,

²⁵ “*African Union Convention on Fighting and Preventing Bribery*”. Accessed 15 April, 2011. http://www.africa-union.org/official_documents/Treaties_%20Conventions_%20Protocols/Convention%20on%20Combating%20Corruption.pdf

²⁶ “*Inter-American Convention against Corruption*” 1996, Article 4. Accessed 20 April, 2011 <http://www.oas.org/juridico/english/treaties/b-58.html>

promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions;

- ✓ Any act or omission in the discharge of his duties by a government official or a person who performs public functions for the purpose of illicitly obtaining benefits for himself or for a third party;
- ✓ The fraudulent use or concealment of property derived from any of the acts referred to in this article; and
- ✓ Participation as a principal, co-principal, instigator, accomplice or accessory after the fact, or in any other manner, in the commission or attempted commission of, or in any collaboration or conspiracy to commit, any of the acts referred to in this article”²⁷.

Additionally, there are such subcategories of corruption as bribery itself, embezzlement, theft, fraud, extortion, abuse of discretion, favoritism and nepotism, conduct creating or exploiting conflicting interests, improper political contributions and so on. All of the above are integral parts of corruption and once again prove the importance and wide scope of the problem.

²⁷ *“Inter-American Convention against Corruption”* 1996, Article 4. Accessed 20 April, 2011
<http://www.oas.org/juridico/english/treaties/b-58.html>

Negative effects of corruption

“Corruption has dire global consequences, trapping millions in poverty and misery and breeding social, economical and political unrest”.

*Transparency International*²⁸

According to former UN Secretary General Kofi Annan “corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism and other threats to human security to flourish”²⁹. Antonio Maria Costa, the Executive Director of United Nations Office on Drugs and Crime, claims: “Fighting corruption has become more urgent than ever. As our knowledge of the phenomenon expands, we realize the extent of the harm it causes”³⁰. He continues: “Corruption impoverishes national economies, undermines democratic institutions and the rule of law, and facilitates the emergence of other threats to human security, such as organized crime, trafficking in humans and terrorism”³¹.

There is no region or country that has been absolutely immune to corruption. This phenomenon is found in all countries—big and small, rich and poor. However, it is in the developing world that corruption effects are most destructive. “Corruption hurts the poor disproportionately by diverting funds intended for development, undermining government’s ability to provide basic services, feeding inequality and injustice and discouraging foreign aid and

²⁸ “Transparency International”. Accessed 13 May, 2011 <http://www.transparency.org/>

²⁹ “*United Nations Convention against Corruption*”. Vienna: United Nations, 2004. Print. Foreword by Kofi A. Annan Secretary-General.

³⁰ Costa, Antonio Maria. Foreword. “*Compendium of International Legal Instruments on Corruption*” Vienna: [United Nations, Office on Drugs and Crime], 2003. Print.

³¹ Costa, Antonio Maria. Foreword. “*Compendium of International Legal Instruments on Corruption*”. Vienna: [United Nations, Office on Drugs and Crime], 2003. Print.

investment”³². It is “both cause of poverty and a barrier to overcoming it”³³. “Corruption is a key element in economic underperformance and a major obstacle to poverty alleviation and development”³⁴. “Corruption undermines fairness, stability and efficiency of a society and its ability to deliver sustainable development to its members”³⁵. “It denies poor people the basic means of survival, forcing them to spend most of their income on bribes. Human rights are denied where corruption is rife, because a fair trial comes with a hefty price tag where courts are corrupt”³⁶. “Corruption jeopardizes sound governance and ethic in the private sector as well as it threatens domestic and international security”³⁷. To summarize, “corruption should be pursued not merely because it's a moral issue (which it is), and not just because it is bad for business (which again, it is), but because people everywhere pay the cost of corruption one way or another, and none more so than the people of the developing world and countries in transition”³⁸. “With governments committing huge sums to tackle the world’s most pressing problems, from the instability of financial markets to climate change and poverty, corruption remains an obstacle to achieving much needed progress”³⁹. For instance, out of six research teams analyzing and forecasting the main threats to achieving Millennium Development Goals by 2015 in specific countries⁴⁰, four⁴¹ identified level of corruption as an important variable affecting country’s development progress. In addition “International financial institutions admitted that corruption was an endemic, pervasive problem in

³² Costa, Antonio Maria. Foreword. “*Compendium of International Legal Instruments on Corruption*”. Vienna: [United Nations, Office on Drugs and Crime], 2003. Print.

³³ “Transparency International”. Accessed 13 May, 2011 <http://www.transparency.org/>

³⁴ “*United Nations Convention against Corruption*”. Vienna: United Nations, 2004. Print. Foreword by *Kofi A. Annan Secretary-General*”.

³⁵ Charles Sampford et al. “*Measuring Corruption*”. 2006. p.58

³⁶ “Transparency International”. Accessed 14 May, 2011. <http://blog.transparency.org/about/>

³⁷ “Transparency International”. Accessed 14 May, 2011. <http://blog.transparency.org/about/>

³⁸ Charles Sampford et al. “*Measuring Corruption*”. 2006

³⁹ “Transparency International”. Accessed.20 Dec. 2010.

http://www.transparency.org/policy_research/surveys_indices/cpi/2010

⁴⁰ Class PAF G 635, Fall 2010. Research conducted on: Vietnam, Uzbekistan, Haiti, Somalia, Dem. Rep. of Congo, Afghanistan.

⁴¹ Somalia, Uzbekistan, Afghanistan, Dem. Rep. of Congo.

the implementation of aid programs and began identifying anti-corruption reform as a necessary condition of aid and then as an aid objective on its own”⁴².

According to the United Nations, “corruption undermines democratic institutions, slows economic development and contributes to governmental instability”⁴³. “Corruption attacks the foundation of democratic institutions by distorting electoral processes, perverting the rule of law and creating bureaucratic quagmires whose only reason for existing is the soliciting of bribes. Economic development is stunted because foreign direct investment is discouraged and small businesses within the country often find it impossible to overcome the ‘start-up costs’ required because of corruption”⁴⁴.

Significant amount of research allows concluding that today corruption is indeed a global issue, solution of which requires global response. A.J. Brown acknowledges that by the end of the twentieth century... “it became clear that corruption is a common problem shared by all countries in the world”. According to Council of Europe “corruption is a subject well-suited for international co-operation: it is a problem shared by most, if not all, member states and it often contains transnational elements”⁴⁵. Thus, corruption is complex social, political and economic phenomenon, which over the past decade and a half has been “transformed from a predominantly national or regional preoccupation to an issue of global revolutionary force...The worldwide backlash against corruption has swept like a firestorm across the global political landscape. Governments have fallen. Longtime ruling parties have been hounded from office. Presidents, prime ministers, parliamentarians, and

⁴² Charles Sampford et al. “Measuring Corruption”. 2006. p.58

⁴³ United Nations Office on Drugs and Crime. “*UNODC and Corruption*”. Accessed 20 Dec. 2010.
<http://www.unodc.org/unodc/en/corruption/index.html>

⁴⁴ United Nations Office on Drugs and Crime. “*Corruption*”. Accessed 20 Dec. 2010.
<http://www.unodc.org/southeasterneurope/en/Corruption.html>

⁴⁵ Council of Europe, “*Civil Law Convention on Corruption*”. Accessed 20 Dec., 2010
<http://conventions.coe.int/Treaty/en/Reports/Html/174.htm>

once mighty corporate chieftains have been grilled by prosecutors and herded onto the docket... Corruption is deeply entrenched across the globe and shows dangerous signs of spreading. In many countries, new leaders have ridden to office on anticorruption platforms, only to be exposed in turn as thoroughly corrupt themselves”⁴⁶.

Indeed, the process of globalization has significantly impacted the problem of corruption. On the one hand, it severely worsened the issue. “Corruption became a political lightning rod more or less simultaneously around the world not because corruption was born in 1990s”⁴⁷, but directly because of globalization. “With an advance of an increasing globalized market, the opportunities for, and scale of corruption, are growing”⁴⁸. In his article “*The Five Wars of Globalization*”⁴⁹ Moises Naim, speaking of corruption amongst other issues, emphasizes that “globalization has not only expanded illegal markets and boosted the size and the resources of criminal networks, but has also imposed more burdens on government”⁵⁰. Broadening and deepening of global economic integration causes the global spread of corruption from one country to another. “The increasing permeability of national borders limits the reach of national territorial jurisdiction and makes it impossible to wall off national economies or policies, to separate the domestic from international. The emergence of an electronically networked international financial system markedly enhances opportunities for corruption, the difficulty of controlling it, and the potential damage it can inflict”⁵¹.

⁴⁶ Glynn, Patrick, Stephen J. Kobrin, and Moises Naim. “*Globalization of Corruption*”. *Peter G. Peterson Institute for International Economics*. p. 8. Accessed 1 March, 2011.

http://www.iie.com/publications/chapters_preview/12/1ie2334.pdf

⁴⁷ Naim, Moisés. “*Illicit: How Smugglers, Traffickers and Copycats Are Hijacking the Global Economy*”. Kindle ed. 2005.

⁴⁸ Charles Sampford et al. “*Measuring Corruption*”. 2006. p.2

⁴⁹ Naim, Moises. “*The Five Wars of Globalization*”. *Foreign Policy - the Global Magazine of Economics, Politics, and Ideas*. Accessed Dec. 2010. http://www.foreignpolicy.com/articles/2003/01/01/five_wars_of_globalization

⁵⁰ Naim, Moises. “*The Five Wars of Globalization*”. *Foreign Policy - the Global Magazine of Economics, Politics, and Ideas*. Accessed Dec. 2010. http://www.foreignpolicy.com/articles/2003/01/01/five_wars_of_globalization

⁵¹ Glynn, Patrick, Stephen J. Kobrin, and Moises Naim. ‘Globalization of Corruption.’ *Peter G. Peterson Institute for International Economics*. p. 12. Accessed 1 March, 2011.

http://www.iie.com/publications/chapters_preview/12/1ie2334.pdf

However, globalization not only facilitates corruption. There have been some positive effects of globalization as well. For example, authors of “*Globalization of Corruption*” argue that “globalization of electronic communications makes it easier to transfer money across borders and to launder funds of dubious origins. But it has also given rise to the most unrestrained media in history”⁵². They further continue: “Government officials are finding it is far from easy to limit the spread of damning information in the age of CNN, the Internet, the fax-modem, and easily affordable desktop publishing”⁵³. Thus, it is obvious, that the a”global explosion of communication and information not only makes secrecy harder to maintain than ever before, it also forces governments to be more responsive to an influential global audience (investors, journalists, politicians, multilateral bodies and international public opinion in general) that adds to the constraints under which they have to operate. The risks for government officials and corporate executives of seeing their names blackened by corruption charges on a global scale are higher than ever”. However, according to Moises Naim, such difficulties cause corrupt parties to look for new ways to conduct their illicit activities, and, usually, investigators and prosecutors are far behind the former⁵⁴.

Nevertheless, the process of globalization, which has been marked by the disruption of borders between the countries, at least in economic terms, provoked global corruption “The separation between international and domestic economics and politics is vanishing rapidly”⁵⁵. Consequently, there is no longer separation between national and international corruption. This

⁵² Glynn, Patrick, Stephen J. Kobrin, and Moises Naim. “*Globalization of Corruption*”. *Peter G. Peterson Institute for International Economics*. p. 12. Accessed 1 March, 2011.

http://www.iie.com/publications/chapters_preview/12/1ie2334.pdf

⁵³ Glynn, Patrick, Stephen J. Kobrin, and Moises Naim. “*Globalization of Corruption*”. *Peter G. Peterson Institute for International Economics*. p. 12. Accessed 1 March, 2011.

http://www.iie.com/publications/chapters_preview/12/1ie2334.pdf

⁵⁴ Naim, Moisés. “*Illicit: How Smugglers, Traffickers and Copycats Are Hijacking the Global Economy*” Kindle ed. 2005. Print.

⁵⁵ Glynn, Patrick, Stephen J. Kobrin, and Moises Naim. “*Globalization of Corruption*”. *Peter G. Peterson Institute for International Economics*. p. 13. Accessed 1 March, 2011.

http://www.iie.com/publications/chapters_preview/12/1ie2334.pdf

allows concluding that response to corruption should be global as well. To address the challenges of corruption, governments need to integrate anti-corruption measures in all spheres, from their responses to the financial crisis and climate change to commitments by the international community to eradicate poverty⁵⁶.

Taking all the above into consideration, one should understand that blaming globalization for enormous spread of corruption all over the world is neither correct, nor helpful in diminishing the problem. As well as it is not correct to think that decreased level of corruption and consequent diminishing of the negative effects of corruption, especially those affecting developing countries, will automatically resolve other problems associated with development, national debts and so forth. Moses Naim acknowledges that “corruption has too easily become the universal diagnosis for a nation's ills. If we could only curtail the culture of graft and greed, we are told, many other intractable problems would easily be solved. But although it is true that corruption can be crippling, putting an end to the bribes, kickbacks, and payoffs will not necessarily solve any of the deeper problems that afflict societies. In fact, this false belief can make it harder, if not impossible, to rally public support for other indispensable public efforts. Necessary tax reforms, for example, become impossible to pass when the general assumption is that any new public revenues will inevitably evaporate in corrupt hands... There is no doubt that corruption is a scourge. But there is also no doubt that many countries crippled by corruption are not sinking. Hungary, Italy and Poland are just a few examples of countries where prosperity has coexisted with significant levels of corruption.

⁵⁶ “Transparency International”. Accessed 20 Dec. 2010.
http://www.transparency.org/policy_research/surveys_indices/cpi/2010

China, India and Thailand are not only not sinking; they are prospering, despite widespread corruption”⁵⁷.

To conclude, corruption is an enormous problem in contemporary world, affecting every nation and every society. Decreasing the level of corruption, domestic and international, is among the most important tasks of today’s world politics. At the same time, one should not forget that as well as there is no possibility to eliminate corruption completely, there should be no expectations that lower corruption levels around the world will automatically resolve many other existing, salient problems of contemporary world.

⁵⁷ Naim, Moises. “*Tunnel Vision on Corruption*”. Washington Post , February 20 , 2005. Accessed 10 May, 2011 <http://www.moisesnaim.com/fr/node/277>

Chapter 2

Analysis of the existing anti-corruption instruments

Previously we have acknowledged that corruption is not a new phenomenon and has been around for very long time. However, the so-called corruption eruption, accompanied by the transformation of the phenomenon from being “predominantly national or regional preoccupation to an issue of global revolutionary force”⁵⁸, occurred in the last 20 years and is inextricably linked to both: the end of the Cold War Era and the process of globalization. “The demise of the Soviet Union, discredited communism and gave free politics and free markets unprecedented popularity”⁵⁹. “As democratic winds swept the world, the dirty deals of once unaccountable dictators and bureaucrats came out into the open. During the Cold War, kleptocratic dictatorships often traded their allegiance to one of the two superpowers for that superpower's countenance of their thievery. With the superpower contest over, such corrupt bargains dried up. And, thanks to the information revolution, if there was even a hint of corruption at the highest levels, it quickly became global news”.⁶⁰ The process of globalization brought corruption, as well as other illicit activities, to a new level: “the smugglers became more international, wealthier and more politically influential than ever before... Globalization has empowered criminals, at the same time weakening agencies in charge of

⁵⁸ Glynn, Patrick, Stephen J. Kobrin, and Moises Naim. “*Globalization of Corruption*”. *Peter G. Peterson Institute for International Economics*. p. 12. Accessed 1 March, 2011.

http://www.iie.com/publications/chapters_preview/12/1ie2334.pdf

⁵⁹ Naim, Moisés. “*Illicit: How Smugglers, Traffickers and Copycats Are Hijacking the Global Economy*”. Chapter 2. Kindle ed. 2005. Print.

⁶⁰ Naim, Moises. “*Tunnel Vision on Corruption*”. Washington Post , February 20 , 2005. Accessed 10 May, 2011
<http://www.moisesnaim.com/fr/node/277>

fighting them”.⁶¹ Therefore, according to Moses Naim, governments are “successfully” losing all ongoing “wars of globalization”⁶², including the war against corruption.

At the same time, the unfolding process of globalization helped countries and entire international community to realize that corruption has indeed become a global problem, affecting each and everyone. Consequently, as was already numerously acknowledged throughout the paper, it is absolutely clear by now that the problem requires international, global response.

This chapter will briefly analyze some of the most important, existing international anti-corruption initiatives and instruments, regional and global, and acknowledge their common weaknesses and gaps.

To date, “*The United Nations Convention against Corruption (UNCAC)*”⁶³, signed and ratified by most countries in the world, represents the major example of existing common norms and standards regarding corruption. The Convention complements earlier United Nations Convention Against Transnational Organized Crime and “introduces a comprehensive set of standards, measures and rules that all countries can apply in order to strengthen their legal and regulatory regimes to fight corruption”⁶⁴. The main purposes of the UNCAC are stated in the Chapter 1, Article 1 of the convention and include the following:

- ✓ “promotion and strengthening measures to prevent and combat corruption more efficiently and effectively;

⁶¹ Naim, Moisés. “*Illicit: How Smugglers, Traffickers and Copycats Are Hijacking the Global Economy*”. Chapter 2. Kindle ed. 2005. Print.

⁶² Naim, Moises. “*Five Wars of Globalization*”. Accessed 10 May, 2011 <http://web.clas.ufl.edu/users/zselden/Course%20Readings/Naim.pdf>

⁶³ United Nations Office on Drugs and Crime. “*The United Nations Convention against Corruption (UNCAC)*”. Accessed 14 May, 2011 <http://www.unodc.org/unodc/en/treaties/CAC/index.html>

⁶⁴ United Nations Office on Drugs and Crime. “*UNODC and Corruption*”. Accessed 20 Dec. 2010. <http://www.unodc.org/unodc/en/corruption/index.html>

- ✓ promotion, facilitation and support of international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery;
- ✓ promotion of integrity, accountability and proper management of public affairs and public property”⁶⁵.

Generally, the UNCAC represents internationally-agreed instrument of prevention, investigation and prosecution of corruption as well as it applies to the freezing, seizure, confiscation and return of the proceeds of offences established in accordance with this Convention⁶⁶. It calls on the state parties to:

- ✓ “ensure the existence of corruption-preventive body, with necessary independence, material, resources and specialized staff in order to be able to carry out its or their functions effectively and free from any undue influence ;
- ✓ increase and disseminate knowledge about prevention of corruption;
- ✓ cooperate with each other as well as with the Secretary-General of the United Nations in developing and implementing specific measures for the prevention of corruption”⁶⁷.

Another important anti-corruption instrument is “*The Inter-American Convention Against Corruption*”⁶⁸ adopted by the organization of American States on March 29th 1996 and mainly determined to make every effort to prevent, detect, punish and eradicate corruption in the performance of public functions and acts of corruption specifically related to such performance. Additionally, the Convention's oversight mechanisms provide for a comprehensive system of inter-state monitoring and compliance assessments⁶⁹.

⁶⁵ “*United Nations Convention Against Corruption*”, Chapter 1, Article 3. Accessed 14 May, 2011 http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

⁶⁶ “*United Nations Convention Against Corruption*”, Chapter 1, Article 3. Accessed 14 May, 2011 http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

⁶⁷ “*United Nations Convention Against Corruption*”, Chapter 1, Article 3. Accessed 14 May, 2011 http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

⁶⁸ “*Inter-American Convention Against Corruption*”. Accessed 14 May, 2001 <http://www.oas.org/juridico/english/treaties/b-58.html>

Also, there are other existing instruments and initiatives, providing different sets of anti-corruption norms and standards, at national, regional and global level. For instance the 1997 OECD “*Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*”⁷⁰, the main purpose of which is “to establish a common standard among all the leading industrialized nations, and thus prevent bribes from being used as a form of unfair competition”⁷¹. Generally it deals with the so called “active corruption” or “active bribery”, meaning the offence committed by the person who promises or gives the bribe, as contrasted with “passive bribery”, the offence committed by the official who receives the bribe. Thus, the OECD anti-bribery convention is aimed at reducing corruption in developing countries by encouraging sanctions against bribery in international business transactions carried out by companies based in the Convention member countries. Its goal is to create a truly level playing field in today's international business environment⁷². Similarly, the 1997 “*US Foreign Corrupt Practices Act (FCPA)*”⁷³, which empowers the US authorities to prosecute US companies and individuals for paying bribes to foreign officials, establishes anti-corruption norms and standards. Other existing international legal frameworks include: “*The African Union Convention on Preventing and Combating Corruption*”

⁷⁰ “*Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and Related Documents*”. Paris: OECD, 1999. Print.

⁷¹ Bray, John. “*Corruption, Compliance and Change Responding to Greater Scrutiny in Challenging times*”. Control Risks. Accessed 10 Dec.. 2011

http://www.iesingapore.gov.sg/wps/portal!/ut/p/c5/04_SB8K8xLLM9MSSzPy8xBz9CP0os3gDf4PQMFMD_1A3g2BDI0MPT28DKADKR5rFO7s7epiY-wD5FpZuBp7ejo7G_q7GRv6uhsToNrAw8vUN9Av0cDQI9XDxczY1hsvj1-3nkZ-bqh-pH2WOoco7FK4qMic1PTG5Ur8gNzSiPN9REQBq15sg/dl3/d3/L2dJQSEvUUt3QS9ZQnZ3LzZfMDgyTU1RTIFIQTBVSEROQzJGMTAwMDAwMDA!/?WCM_GLOBAL_CONTEXT=/wps/wcm/connect/ie/MyPortal/Main/Others/ControlRisksreleasescorruptionreports

⁷² “*Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and Related Documents*”. Paris: OECD, 1999. Print.

⁷³ The United States Department of Justice. “*US Foreign Corrupt Practices Act (FCPA)*”. Accessed 15 May, 2011
<http://www.justice.gov/criminal/fraud/fcpa/>

(2003)⁷⁴, “*The Council of Europe Conventions on corruption*” (1997-1999)⁷⁵ as well as criminal legislation in most countries around the world⁷⁶.

For instance, “*The African Union Convention on Preventing and Combating corruption*” aims to:

- ✓ “Promote and strengthen the development in Africa by each State Party, of mechanisms required to prevent, detect, punish and eradicate corruption and related offences in the public and private sectors.
- ✓ Promote, facilitate and regulate cooperation among the State Parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption and related offences in Africa
- ✓ Coordinate and harmonize the policies and legislation between State Parties for the purposes of prevention, detection, punishment and eradication of corruption on the continent
- ✓ Promote socio-economic development by removing obstacles to the enjoyment of economic, social and cultural rights as well as civil and political rights
- ✓ Establish the necessary conditions to foster transparency and accountability in the management of public affairs”⁷⁷.

Thus, as it is clear from the above brief analysis of the most important existing anti-corruption instruments, the individual countries, groups of countries as well as the entire international

⁷⁴ African Union. “*The African Union Convention on Preventing and Combating Corruption*”. Accessed 15 May, 2011 http://www.africa-union.org/official_documents/Treaties_%20Conventions_%20Protocols/Convention%20on%20Combating%20Corruption.pdf

⁷⁵ UN Anti-Corruption Resource Centre. “*Conventions Overview - CoE Criminal*” Accessed 10 May, 2011 <http://www.u4.no/themes/conventions/coecrimconvention.cfm>

⁷⁶ ‘Collective Action against Corruption.’ *United Nations Global Compact*. Web. http://www.unglobalcompact.org/docs/issues_doc/Anti-Corruption/CollectiveAction2010.pdf

⁷⁷ African Union. “*The African Union Convention on Preventing and Combating Corruption*”. Accessed 15 May, 2011 http://www.africa-union.org/official_documents/Treaties_%20Conventions_%20Protocols/Convention%20on%20Combating%20Corruption.pdf

community now recognize the importance of fighting corruption and bringing it down by the means of international-cooperation and mutual assistance. Therefore, the need for creation and successful implementation of the global anti-corruption framework is undoubted. It is important to mention, though, that the majority of the existing anti-corruption norms, regulations, mechanisms and other techniques mostly focus on fighting corruption by all possible punitive, retributive means. Closer look at all the above documents indicates their focus on successful investigation of corrupt activities and prosecution of corrupt officials or countries, not complying with the regionally or internationally-agreed anti-corruption policies.

According to Thomas Weiss and Ramesh Thakur, “the past sixty five years of UN history are the story of the never-ending search for better compliance mechanisms in the absence of an overriding central authority”⁷⁸. Undoubtedly, nowadays “regulatory enforcement is significantly stronger than in the past”⁷⁹. For example, in OECD countries foreign bribery investigations by prosecutors have significantly increased. Individuals are increasingly being targeted for prosecution as well. Companies began to recognize the risks and claim to be doing more to implement anti-corruption policies and procedures into their compliance programs⁸⁰. For instance, to ensure that signatory countries comply with Anti-bribery convention the “OECD operates a system of ‘peer reviews’ through its Working Group on Bribery in International Business Transactions. The Working Group, which is made up of specialist representatives of signatory governments, has conducted a series of reviews, first to assess each country’s anti-corruption legislation, and secondly to assess the

⁷⁸ African Union. “*The African Union Convention on Preventing and Combating Corruption*”. Accessed 15 May, 2011 http://www.africa-union.org/official_documents/Treaties_%20Conventions_%20Protocols/Convention%20on%20Combating%20Corruption.pdf

⁷⁹ “*Corruption or Compliance - Weighing the Cost: 10th Global Fraud Survey*”. Accessed 14 May, 2011 http://www.fsa.ulaval.ca/personnel/vernag/eh/f/ethique/lectures/Corruption_or_compliance_weighing_the_costs.pdf

⁸⁰ “*Corruption or Compliance - Weighing the Cost: 10th Global Fraud Survey*”. Accessed 14 May, 2011 http://www.fsa.ulaval.ca/personnel/vernag/eh/f/ethique/lectures/Corruption_or_compliance_weighing_the_costs.pdf

effectiveness with which laws against foreign bribery are actually implemented”⁸¹. However, despite all the efforts, the results have been mixed. “In some cases, there have been loopholes in the legislation. In other cases, the letter of the law may be fine, but the government has been slow to publicize it, or to follow up with investigations and prosecutions. The investigation of foreign bribes is in any case expensive and time-consuming, especially if the host government does not co-operate. Many countries have yet to devote adequate resources to this task”⁸². Similarly, in order to ensure compliance to “*US Foreign Corrupt Practices Act*” several tactics have been used: from heavy fines, including “disgorgement” of the profits that they make as a result of bribe payments to heavy legal fees to reputational damage and the possibility of lawsuits by company shareholders. “Under the terms of recent FCPA settlements, companies have been required to accept the supervision of external monitors to ensure that their compliance controls are made more effective. Meanwhile, individual offenders face fines and prison terms”⁸³. These enforcement actions are to some extent effective because of the pattern of increased co-operation between US investigators and their foreign counterparts. However, even though research indicates growing evidence of tighter enforcement among several developed countries, there is no dramatic change in terms of anti-corruption compliance. Despite the best efforts of governments, non-governmental organizations and law enforcement agencies, the risk of bribery and corruption remains prevalent⁸⁴.

⁸¹ Bray, John. “*Corruption, Compliance and Change Responding to Greater Scrutiny in Challenging times*”. Control Risks. Web.

http://www.iesingapore.gov.sg/wps/portal!/ut/p/c5/04_SB8K8xLLM9MSSzPy8xBz9CP0os3gDf4PQMFMD_1A3g2BDI0MPT28DKADKR5rFO7s7epiY-wD5FpZuBp7ejo7G_q7GRv6uhsToNrAw8vUN9Av0cDQI9XDxczY1hsvj1-3nkZ-bqh-pH2WOoco7FK4qMic1PTG5Ur8gNzSiPN9REQBq15sg/dl3/d3/L2dJQSEvUUt3QS9ZQnZ3LzZfMDgyTU1RTIFIQTBVSEROQzJGMTAwMDAwMDA!/?WCM_GLOBAL_CONTEXT=/wps/wcm/connect/ie/MyPortal/Main/Others/Control Risks releases corruption reports

⁸² Same

⁸³ Bray, John. ‘*Corruption, Compliance and Change Responding to Greater Scrutiny in Challenging times*.’ Control Risks.

⁸⁴ Same

In case of corruption as well as in many other areas of global governance, one of the main tactics used to enforce compliance was embarrassment of those who don't comply⁸⁵. Conducted research indicates that while broad and holistic, approaches and methods of fighting corruption worldwide as well as in any given region or country have been mostly focused on promotion and implementation of robust anti-corruption norms and policies. Demonstrative prosecution of officials⁸⁶, law suits against small businesses and large companies, freeze of assistance money flow⁸⁷, hold on accession regional accession negotiations⁸⁸ naming and shaming of countries, failing to comply with internationally agreed standards etc., became regular news themes. Yet, all the above is not enough. Paradoxically, in most cases corruption, while hurting others, does not hurt the corrupt parties, who gain enormous profits from their illicit activity. The risks of being prosecuted don't seem threatening comparing to the possibilities of instant enrichment. For criminals, tougher anti-corruption laws create incentive for finding new ways to abide these laws. All this is exacerbated by weak or fragile governments who often "unwilling or unable to implement agreed-upon elements of international policy"⁸⁹.

Obviously, new mechanisms and tactics are needed to address the problem of corruption.

According to Transparency International "the message is clear: across the globe, transparency and

⁸⁵ Weiss, Thomas George, and Ramesh Chandra Thakur. "Five Gaps in Global Governance". *Global Governance and the UN: an Unfinished Journey*. Kindle ed. 2010. Print.

⁸⁶ For example see: Fofana, Lansana. 'Sierra Leone: Anti-Corruption Campaign Nabs Top Officials - IPS Ipsnews.net.' *IPS Inter Press Service*. Web. 20 Dec. 2010. <http://ipsnews.net/news.asp?idnews=51082> and Darem, Faisal. 'Anti-Corruption Authority Refers Officials to Public Prosecution.' *Yemen Observer - Real News, Real People*. Web. 20 Dec. 2010. <http://www.yobserver.com/business-and-economy/10020335.html>

⁸⁷ For example see: 'AFP: EU Condemns Bulgaria over Corruption, Freezes Funds.' *Google*. Web. 20 Dec. 2010. <http://afp.google.com/article/ALeqM5i2jpSUCzPyn-axr2Pufn8JzUQdDA>

⁸⁸ Romania Bulgaria were held back to join Schengen zone because of corruption

⁸⁹ Weiss, Thomas George, and Ramesh Chandra Thakur. "Five Gaps in Global Governance". *Global Governance and the UN: an Unfinished Journey*. Kindle ed. 2010

accountability are critical to restoring trust and turning back the tide of corruption. Without them, global policy solutions to many global crises are at risk⁹⁰.

⁹⁰ *Transparency International*. Web. 20 Dec. 2010.
http://www.transparency.org/policy_research/surveys_indices/cpi/2010

Chapter 3

Theoretical framework of the paper: global public goods and club goods approach to international cooperation

Theoretical framework used in the current paper is the Club Goods approach to international cooperation. Author will represent the Theory of Club Goods as an important incentive for successful global anti-corruption interstate cooperation.

Current chapter will first briefly discuss the importance of international organizations (regional and global) and incentives for countries to cooperate with each other in contemporary world of international relations. It will then explain basic theoretical elements of both public goods and club goods theories, define basic important terms, used throughout the paper, introduce the Benefits-based approach to global anti-corruption policy and analyze the importance and implications of Club Goods theory for global anti-corruption actions.

According to the authors of “*Why states act through formal international organizations*” K. Abbott and D. Snidal “it is impossible to imagine contemporary international life without formal organizations”.⁹¹ Analyzing why states cooperate with each other the author of the current paper emphasized three major reasons. First, international organizations “enable states to achieve their ends and allow states to create and implement community values and enforce international commitments”.⁹² Indeed, according to Wayne Sandholtz and Mark M. Gray, “international cooperation promotes major policy shifts and reshaping of the domestic economies and politics of

⁹¹ Abbott, K.W, Snidal, D. “*Why States Act through Formal International Organizations in The Journal of Conflict Resolution*”, Vol. 42, No. 1 (Feb., 1998), pp. 3-32, p. 4

⁹² Abbott, K.W, Snidal, D. “*Why States Act through Formal International Organizations in The Journal of Conflict Resolution*”, Vol. 42, No. 1 (Feb., 1998), pp. 3-32, p. 4

countries”.⁹³ Second, the role of international cooperation and consequently international organizations “extends even further to include the development of common norms and practices that help define, or refine, states themselves”.⁹⁴ Finally, based on the theory of public goods, states cooperate with each other in order to jointly produce public goods. According to club goods approach to international cooperation, states form international organizations, i.e. clubs, which make public goods excludable for non-members of organization and thus solves the problem of free-riding, which will be briefly discussed later.

Among the most important terms and definitions for understanding club goods approach to international cooperation and its further application onto global anti-corruption norms and regulations, are the definitions of goods (private and public; pure and impure); definition of clubs; basic principles of club goods theory and principle of exclusion or excludability. Without clear understanding of the above terms analysis of the benefits-based approach within the framework of the club goods does not seem to be possible. Therefore, we shall begin the current chapter with the introduction of the concept of Public Goods and Global Public Goods.

Generally, all existing goods in the world can be classified as either private or public. Private goods are usually characterized by excludability and rivalry towards other people. Simply, “it is reasonably possible to prevent a class of consumers (e.g. those who have not paid for it) from consuming the good” and consumption by one consumer prevents simultaneous consumption by other consumers. Thus, private goods satisfy an individual want”⁹⁵. For instance, simple examples of private goods include bread, clothes and accessories, money and so on. For example, the piece of

⁹³ Wayne Sandholtz , Mark M. Gray. “*International Integration and National Corruption*”. International Organization, Vol. 57, No. 4 (Autumn, 2003), pp. 761-800, p.761

⁹⁴ Abbott, K.W, Snidal, D. “*Why States Act through Formal International Organizations in The Journal of Conflict Resolution*”, Vol. 42, No. 1 (Feb., 1998), pp. 3-32

⁹⁵ AS Economics Revision Notes. Accessed 15 May, 2011.

http://www.simplerevision.com/www.simplerevision.com/Economics_files/As%20Economics%20Revision%20Notes%20FINISH.pdf

bread eaten by one person cannot be eaten by any other person in the world. In this sense, bread is a private good and greatly illustrates the principles of excludability and rivalry towards other people. Similarly, if one person spends certain amount of money in the grocery store, the same money cannot be used to by other people and satisfy their desires.

Unlike private goods, public goods are usually characterized as non-excludable and non-rival, which means that they aim to satisfy a collective want of the society. Public goods may include public parks and gardens, playgrounds, swimming pools and beaches where many people at the same time can spend their time and enjoy the public goods benefits. They also include roads and traffic lights, city parking lots and so forth. According to Richard Cornes and Todd Sandler, goods whose benefits can be withheld by the owner or provider display excludable benefits, while benefits that are available to all once the good is provided are termed non-excludable. Thus, considering that the main properties of the public goods are non-rivalry and non-excludability, unlike private goods, that are both rival and excludable, public goods represent the goods that can be enjoyed by everyone immediately upon achievement.

Public goods can be pure and, therefore, benefit everyone with no exceptions (for example sunlight or air) and impure and, thus, being either partially excludable or partially rival. However, to date there is no doubts that there are very few pure public goods exist in contemporary world. According to Joseph Nye, “pure public goods are rare. Most only partially approach the ideal case of clean air, where none can be excluded and all can benefit simultaneously”⁹⁶. Thus, most of the existing public goods are generally impure.

Global public goods, as evident from the very name, extend to a global level and may include, for instance sunlight, seas and rivers, as well as, global norms, procedures and regulations,

⁹⁶ Joseph Nye. “*America and Global Public Goods*”, 2007 at <http://www.project-syndicate.org/commentary/nye49/English>

such as airport security procedures, flight safety regulations and so on. According to Inge Kaul, Isabelle Grunberg and Marc A.Stern, “global public goods must meet two criteria. The first is that their benefits have strong qualities of publicness – that is, they are non-rival in consumption and are non-excludable. These features place them in the general category of public goods. The second criterion is that their benefits are quasi universal in terms of countries, people and generations”.⁹⁷

Additionally there is also an important subclass of impure public goods: those whose benefits are excludable but partially non-rival – Club Goods. Thus, according to already mentioned above Kaul, Isabelle Grunberg and Marc A.Stern, “club goods are the ‘goods that are non-rival in consumption, but excludable’”.⁹⁸ Similarly, Patrick McNutt in his work “*Public goods and Club goods*”⁹⁹ defines club goods as “public goods that become excludable”¹⁰⁰. Considering that further discussion of the club goods and club goods approach to international cooperation is not appropriate without clear understanding of what club is, we should first turn to the definition of club itself.

According to Richard Cornes and Todd Sandler “club is a voluntary group deriving mutual benefits from sharing one or more of the following: production costs, the member’s characteristics or a good characterized by excludable benefits”¹⁰¹. “Clubs provide goods that are at least partially non-rivalrous and at least partially excludable”.¹⁰² Similarly, Mathew Potoski and Aseem Prakash in their recent (2009) book “*Voluntary Programs: A Club Theory Perspective*” state that “in traditional economic theory, clubs are institutions that supply impure public goods”. Likewise, club

⁹⁷ Kaul, Isabelle Grunberg and Marc A.Stern. “*Defining global public goods*” – pp 2-3. *Global Public Goods: International Cooperation in the 21st Century*

⁹⁸ Kaul, Isabelle Grunberg and Marc A.Stern. “*Defining global public goods*” – pp 2-3. *Global Public Goods: International Cooperation in the 21st Century*. p.5

⁹⁹ McNutt, P. “*Public goods and Club goods*”. 1999. p 928. Accessed 10 April, 2011
<http://encyclo.findlaw.com/0750book.pdf>

¹⁰⁰ McNutt, P. “*Public goods and Club goods*”. 1999. p 928. Accessed 10 April, 2011
<http://encyclo.findlaw.com/0750book.pdf>

¹⁰¹ Cornes, R., Sandler T. “*The theory of externalities, public goods and club goods*”. 1986, p. 159

¹⁰² Masahiro Kawai, Peter A. Petri, and Elif Sisli-Ciamarra. “*Asia in Global Governance: A Case for Decentralized Institutions*”. 2009 p.2.

goods are non-rivalrous in that what one individual consumes is still available for others to consume, at least until the good becomes congested or overcrowded¹⁰³.

Richard Cornes and Todd Sandler specify several important characteristics of the clubs. First of all, they state that clubs are *always voluntary* institutions or organizations. “Club members choose to belong because they anticipate a benefit from membership. Thus, the utility jointly derived from membership and consumption of other goods must exceed the utility associated with non-membership status. This voluntarism serves as one factor by which to distinguish between pure public goods and club goods¹⁰⁴. Second, Richard Cornes and Todd Sandler highlight sharing as another important specification of the clubs. “Clubs involve sharing, whether it is the use of an impure public good or the enjoyment of the desirable attributes of the members. Sharing often leads to a partial rivalry of benefits as larger memberships crowd one another, causing detracting in the quality of the services received”¹⁰⁵. ‘A third distinguishing feature of the clubs is the presence of an exclusion mechanism, whereby users’ ‘rates of utilization can be monitored and non-members and /or non-payers (or those who don’t comply) can be barred’¹⁰⁶. Existence of such exclusion mechanism within clubs is very important, simply because there is one major problem usually associated with the public goods approach – the problem of “free-riding” – an incentive for states to cheat on collective decisions. Basically, it means that countries¹⁰⁷ are prone to strive to avoid any own commitment if there is an opportunity to enjoy the public good from actions taken by others. For instance, Elizabeth R. DeSombre in her book *“Flagging standards: globalization and environmental, safety and labor regulations at sea”* indicates that “much of the difficulty inducing states to create, implement or enforce international regulation comes in cases where states can

¹⁰³ Potoski, M., Prakash, A. “*Voluntary programs. Club Theory prospective*”. 2008. p.20

¹⁰⁴ Cornes, R., Sandler, T. “*The theory of externalities, public goods and club goods*”. 1986, p. 159

¹⁰⁵ Cornes, R., Sandler, T. “*The theory of externalities, public goods and club goods*”. 1986, p. 159

¹⁰⁶ Cornes, R., Sandler, T. “*The theory of externalities, public goods and club goods*”. 1986, p. 159

¹⁰⁷ This principle is true at the individual level as well, but will not be considered in the current paper.

receive much of the benefit from actions taken by others, without having to uphold an agreement themselves”.¹⁰⁸ In turn, the Theory of Club Goods aims to overcome the free-riding problem, by evolving principle of partial exclusion, which means that states are unable to enjoy the public good unless they attain club membership and pay a membership fee or achieve the required accession criteria. In addition “fear of exclusion” from a club makes individuals (and individual countries) to strive to make themselves more attractive as group members by living up to and enhancing their commitments and promises.¹⁰⁹

A brief history of club theory

Club theory has been widely used in economic and political science, including in the analysis of international organizations. The introduction of the theory of public goods and clubs usually associated with names of Paul Samuelson, who in 1954 classified all goods as either public or private¹¹⁰ and James Buchanan who is usually credited with introducing the theoretical concept of clubs in an economic sense. In 1965 he identified clubs as institutions for producing and allocating goods that are neither fully private (rivalrous and excludable) nor fully public. His work “generated a vast literature on clubs...and introduced the club theory to bridge the Samuelsonian gap between private and pure public goods”¹¹¹. In addition, Mancur Olson (1965) “recognized that clubs would form to exploit economies of scale and to share public goods”. He also distinguished between inclusive¹¹² and exclusive¹¹³ public goods.

¹⁰⁸ DeSombre, E. “Flagging standards: globalization and environmental, safety and labor regulations at sea”. 2006. p. 55

¹⁰⁹ Kjell Arne Brekke, Karine Nyborg and Mari Rege. The Fear of Exclusion: Individual Effort when Group Formation is Endogenous, 2006. p1. <http://folk.uio.no/karineny/files/GroupsSJE-rev1.pdf>

¹¹⁰ P. A. Samuelson . The Pure Theory of Public Expenditure. Review of Economics and Statistics. 1954

¹¹¹ <http://www.jstor.org/pss/2724059>

¹¹² Inclusive public goods share pure public goods and require no restrictions on the size of membership

¹¹³ Exclusive public goods share impure public goods and require a size limitation owing to crowding

However, it worth noting that even though most of the theoretical work on club theory have been produced after J. Buchanan's "*Economic Theory of Clubs*" "the origins of "Club Theory" can be traced to the works of A.C. Pigou (1920) and Frank Knight (1924)". For instance in their club theory-related literature review, Richard Cornes and Todd Sandler acknowledge the above statement and also mention Jack Wiseman, who in 1957 "examined a club principle for sharing costs among users of a public utility"¹¹⁴. In recent years, Richard Cornes and Todd Sandler, whose works are greatly used in the current paper, have been responsible for important theoretical advances in and empirical applications of these club concepts. For instance, their 1986 work "*Theories of Externalities, Public Goods and Club Goods*" includes vast amount of theoretical material, helpful for understanding the empirics.

It is crucial to understand that clubs can differ in size, purposes, goals, regulations, membership requirements and so on. For instance, athletic club or golf clubs are great examples of clubs, which allow members to enjoy the club-benefits in exchange for annual fee or other commitment. However, this paper will does not attempt to analyze such clubs. Contrary, throughout the paper clubs directly relate to international organizations: international, global and regional. For instance, one of the best examples of such an international club-like organization is the European Union – an economic and political union of 27 member states, which has developed an integrated system of laws and regulations, political and economic, and allows the free movement of people, goods, services, and capital, enacts legislation in justice and home affairs, and maintains common policies on trade, regional development etc. The World Trade Organization – club-like organization, intending to supervise and liberalize international trade, can be another example of a global club.

¹¹⁴ Cornes, R., Sandler T. "*The theory of externalities, public goods and club goods*". 1986

Implications of the theory of club goods for the current paper

As previously discussed, by now it became clear that corruption is a global problem and fighting corruption can be most successful only through universal efforts taken by every country. Without effective universally-agreed anti-corruption norms, laws and policies we are doomed to continue losing our fight against corruption. At the same time the very existence of universal norms and anti-corruption instruments does not guarantee the success. Universal compliance to these norms and policies is important if not necessary part of the success. At the same time it is compliance, or lack of compliance, that usually nullifies all anti-corruption efforts and progress.

That being stated, the current paper considers low level of corruption and successful addressing of corruption and consequently bringing it down at the global level, a global public good production of which requires aggregate efforts of the entire international community and every single country in particular. Even though, today the most important public good requiring an aggregate effort is global climate change mitigation, addressing the problem of corruption is vital for further world development. The situation is exacerbated by the fact that “global public goods requiring aggregate efforts are particularly susceptible to free-riding” and non-compliance. In addition, in the absence of the world government “with power to tax, to conscript, to regulate or to quarantine” it is much more difficult to make sovereign countries to comply. For instance, Scott Barrett in his book “*Why Cooperate*”¹¹⁵ indicates that there are nearly 200 national governments in the world, each of which is recognized by international law as being sovereign. He argues that in the absence of global institution supplying global public goods, “sovereignty implies that global public goods must be supplied voluntarily”¹¹⁶. Similarly, in the absence of global institution that is not only able to successfully address the issue of corruption at the global level, but also to make countries to

¹¹⁵ Barret, S. “*Why Cooperate*”. Oxford, 2007

¹¹⁶ Barret, S. “*Why Cooperate*”. Oxford, 2007

comply with international anti-corruption norms and regulations, provision of this global public good should be made voluntarily through the “club goods” approach to international cooperation.

Thus, this paper argues that corruption, or relatively low level of corruption, should be considered one of the important pre-requisites for every country willing to join any international club-like organization: EU, WTO, as well as other regional and global international organizations and initiatives. Such an argument evolves from the hypothesis that international cooperation per se and greater degrees of international integration can help to lower levels of corruption in many countries. For instance, Wayne Sandholtz and Mark M. Gray in their article “*International Integration and National Corruption*”, based on data-analysis from more than a hundred of countries conclude that “country’s corruption level is significantly affected by international influences”¹¹⁷ and argue that “the more a country is tied into international networks of exchange, communication and organization, the lower its level of corruption is likely to be”¹¹⁸. Consequently, the argument goes, “countries that are more integrated are likely to be less corrupt”.¹¹⁹

As previously stated, clubs provide public goods that are excludable for non-members. To attain the club membership countries are supposed to either pay a membership fee or achieve the specific membership criteria. For instance, the EU’s Copenhagen Criteria for accession requires that candidate country should achieve stability of institutions guaranteeing democracy, the rule of law, human rights, respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. “Membership presupposes the candidate's ability to take on the obligations of membership

¹¹⁷ Sandholtz W., Gray M.M. “*International Integration and National Corruption in International Organization*”. Vol. 57, No. 4 (Autumn, 2003), pp. 761-800, p.761

¹¹⁸ Sandholtz W., Gray M.M. “*International Integration and National Corruption in International Organization*”. Vol. 57, No. 4 (Autumn, 2003), pp. 761-800, p.762

¹¹⁹ Sandholtz W., Gray M.M. “*International Integration and National Corruption in International Organization*”. Vol. 57, No. 4 (Autumn, 2003), pp. 761-800, p.765

including adherence to the aims of political, economic and monetary union”.¹²⁰ Similarly, the World Trade Organization presupposes unique specific criteria for every candidate countries, based on many aspects of candidate’s trade and economic policies that have a bearing on WTO agreements, followed by bilateral negotiation process. However, corruption has not been yet included as a specific requirement for accession in any club-like organization. Nevertheless, countries are striving for accession and addressing required issues, such as human rights, stability of democratic institutions and other vital issues already automatically address the issue of corruption as well. Therefore, if significant decrease of level of corruption is represented as an important mean towards achievement of the goal, vital for the interests of the country, it will help to enforce compliance and consequently decrease corruption. For instance, while currently elimination of corruption is not among prerequisites for becoming a member of the EU, other requirements indirectly contribute to the better control of corruption. “Liberalization of the economy, including privatization and promotion of new small and medium enterprises, reduces the reach of state officials in the economy. Also, the reform of state institutions, including greater transparency and efficiency, may at least constrain the opportunities for corruption across different levels of government”¹²¹. Consequently, the excludability of the membership benefits, which non-members are prevented to enjoy, may become an important incentive for corrupt countries to strive for corruption diminishing. At the same time, the fear of exclusion from the international club-like organization will prevent newly established club members from further default on their obligations.

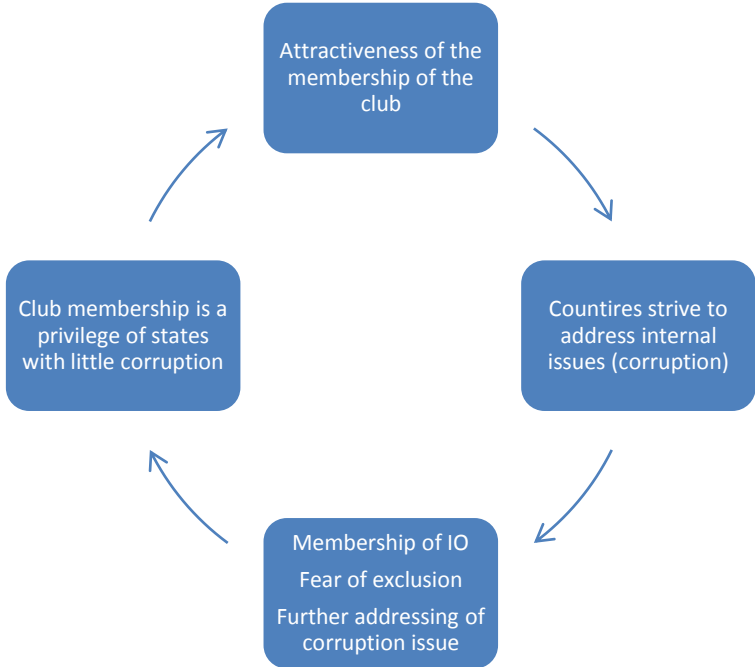
To summarize, there are two main incentives of the Club Goods approach for the issue of corruption, which are important to emphasize. First, inclusion of low-corruption requirement into the membership criteria of international organizations and initiatives will stimulate corrupt states to

¹²⁰ ‘Presidency Conclusions /Copenhagen European Council - 21-22 June 1993.’ Web. www.europarl.europa.eu/enlargement/ec/pdf/cop_en.pdf

¹²¹ Same

actively address the issue and therefore comply with international anti-corruption laws and norms, in order to become club members and consequently enjoy club benefits. Consequently, International organizations and all subsequent membership benefits will gradually become a privilege of low-corrupt states. In a long term more countries will meet the “low-corruption criterion” and therefore the incentives to be in the club of states with little corruption will become even more attractive for other countries to join.

The cycle can be illustrated as follows:



The more attractive membership of International Organization is, the more states will strive to achieve the specific criteria and join the club. The more states are integrated with each other and due to the existence of “exclusion mechanism”, the lower corruption within member states will likely to be. With time, more countries will gradually become less corrupt and integrated with each other through international organizations and therefore club membership will eventually become a privilege of states with little corruption. Consequently, club membership will become even more attractive and remaining highly corrupt countries would want to join the clubs of states with little

corruption. In a long run, low level of corruption should become another, additional benefit of club membership, in line with other already existing benefits. Thus, as was already acknowledged, low corruption, or successful dealing with corruption, for that matter, becomes a public club good, important attribute of club membership.

Uniqueness of the Benefits-based approach to global anti-corruption policy is evident. First of all usually low corruption is not considered a public good and therefore club goods approach has never been applied to the problem of corruption. Second, as Wayne Sandholtz and Mark M. Gray specify, to date, no major international organization requires low corruption levels as a condition of joining. They acknowledge that “no country that we are aware of has ever been denied a membership in an international organization because it was too corrupt”. Indeed, the above examples of major international regional and global organizations, such as EU and WTO, and their membership accession criteria prove such an argument. Therefore, Benefits-based approach to global anti-corruption policy represents a new prospective on dealing with the problem of corruption. However, it is important to understand, that while advocating for Benefits-based approach, this paper does not attempt to discourage other new and existing anti-corruption initiatives. On the contrary, Benefits-based approach should be incorporated with other anti-corruption techniques and should become an integral part of the holistic approach of fighting corruption.

Example of the European Union and some of its candidates and recent members

In the analysis of the applicability of the club goods approach to international cooperation onto the problem of corruption, the best example one could possibly think of would be the European Union – one of the major regional international organizations. In this regard, this chapter will use the example of the European Union to explain how the suggested theoretical framework advocates for a successful approach of ensuring compliance and consequently decreasing levels of corruption. Throughout the paper it was repeatedly argued that one of the best ways to motivate countries to comply with international anti-corruption norms and regulations is to include low (or lower) level of corruption into the list of specific requirements for the membership accession of any international organization or initiative. Especially this should be implemented by major global and regional organizations, including the European Union.

Using the data analysis from several EU candidate countries or its recent members, this chapter will prove that a candidate's desire to become a member of the club and, thus, their ability to enjoy membership benefits, enable countries to better address their domestic issues. Including decreasing of corruption into membership accession criteria, in line with human rights, democracy and other issues, will help countries to comply with global anti-corruption initiatives and fight corruption more actively. At the same time, the "fear of exclusion" and prevention from enjoying club benefits will make immediate members of the international organization to continue, or even enhance, their anti-corruption efforts upon accession. Thus, reduction of corruption is represented as an important mean towards club membership accession and enjoying the membership benefits. If any given country has a specific international goal or target, for example membership the European Union, it is more likely inclined to address most of its internal issues and problems in order to achieve this specific goal.

Today several countries are striving to become EU members. Albania, Bosnia and Herzegovina, Kosovo, Serbia are already candidate countries¹²², while Moldova, Turkey, Ukraine and others are desperate to proceed with negotiation process and become the EU members as soon as possible. Political stability and greater integration amongst European states, increased trade, potentially leading to lower prices for consumers and more exports for industries with a comparative advantage, increased competition, increased inward investment due to a greater stability in the economy, lower trade costs and greater harmonization, social policy's and subsidies, to name a few, are the main benefits of joining the European Union¹²³.

As was already mentioned above, whether the state is eligible for EU membership is clearly defined by the Copenhagen Criteria (1993)¹²⁴ and requires that candidate country should achieve stability of institutions guaranteeing democracy, the rule of law, human rights, respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. "Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union".¹²⁵ Given the great benefits of the EU membership, countries willing to join the EU make every effort to address their domestic issues and qualify for the above criteria. The connection is obvious. If countries, striving to join the EU already dedicate all possible efforts to address their internal issues, and because the benefits of the EU membership are so valuable in contemporary politics, the list of accession criteria can possibly be expanded with other vital issues, persisting all over the world. Corruption should become a top priority amongst

¹²² 'European Commission - Enlargement - Potential Candidates - Enlargement.' *EUROPA - European Commission - Homepage*. Web. 20 Dec. 2010. http://ec.europa.eu/enlargement/potential-candidates/index_en.htm

¹²³ 'Benefits of EU Membership - Economics Help.' *Economics Help - Helping to Simplify Economics*. Web. 20 Dec. 2010. <http://www.economicshelp.org/europe/benefits-eu.html>

¹²⁴ 'EUROPA - Glossary - Accession Criteria (Copenhagen Criteria).' *EUROPA - The Official Website of the European Union*. Web. 20 Dec. 2010. http://europa.eu/scadplus/glossary/accession_criteria_copenhagen_en.htm

¹²⁵ 'Presidency Conclusions /Copenhagen European Council - 21-22 June 1993.' Web. www.europarl.europa.eu/enlargement/ec/pdf/cop_en.pdf

them. If elimination or significant decrease of level of corruption is represented as an important mean to achievement of the goal, vital for the interests of the country, it will most likely help to enforce compliance. Examples of 2007 EU accession by Romania and Bulgaria¹²⁶ can prove the argument. “The EU’s requirements for membership forced candidates to reform the state and the economy, reducing the role of the state in the economy and improving the transparency and efficiency of state institutions”¹²⁷. Moreover, while currently lower level of corruption is not among prerequisites for becoming a member of EU, other requirements already indirectly contribute to the better control of corruption. “Liberalization of the economy, including privatization and the promotion of new small and medium enterprises, reduces the reach of state officials in the economy. Also, the reform of state institutions, including greater transparency and efficiency, may at least constrain the opportunities for corruption across different levels of government”¹²⁸. According to Transparency International many new members of the EU as well as candidate and potential candidate countries have improved their position in terms of corruption prior to the EU accession¹²⁹. For instance, Romania’s Corruption Index increased from 2.6 in 2002 to 3.7 in 2010¹³⁰. Moldova, often referred to as the poorest country in Europe, desperate to join the European Union, has improved its corruption situation and its corruption perception index has increased from 2.1 in 2002 to 3.3 in 2009¹³¹. Turkey, another country striving to become a member of the EU, managed to move from 3.2 in 2002 to 4.4 in 2010¹³².

¹²⁶ Watt, Nicolas, and Alan Travis. ‘Romania and Bulgaria to Enter - with a Warning | World News | The Guardian.’ *Latest News, Comment and Reviews from the Guardian | Guardian.co.uk*. Web. 20 Dec. 2010

¹²⁷ Vachudova, M.A. “Corruption and Compliance in the EU’s Post-Communist Members and Candidates”. *JCMS: Journal of Common Market Studies* 47 (2009): 43-62. Print.

¹²⁸ Same

¹²⁹ *Transparency International*. Web. 20 Dec. 2010.

http://www.transparency.org/policy_research/surveys_indices/cpi/2010

¹³⁰ Same

¹³¹ Same

¹³² Same

Corruption Perception Index in selected countries

(Source: Transparency International)

Country	CPI 2002	CPI 2008	CPI 2010
Romania	2.6	3.8	3.7
Bulgaria	4.0	3.8	3.6
Moldova	2.1	2.9	2.9
Turkey	3.2	4.6	4.4
Albania	2.5	3.4	3.3
Croatia	3.8	4.4	4.1
Macedonia	2.3	3.6	4.1

Consequently, it is possible to argue that implementation of the Benefits-based approach and including corruption into list of necessary prerequisites for the EU accession can be an important, successful step towards possible positive shift in the anti-corruption battle in the region or at least significant progress in this direction. Applying same tactics at regional levels (through all regional cooperation organizations) as well as at the global level (through major intergovernmental organizations) will help to create important incentives for highly corrupt countries to comply with international anti-corruption policies and address the issue of corruption more actively. Simply, as well as it is impossible to become a member of the European Union without ensuring democracy and the rule of law, it should be impossible to become a member of any regional or international organization without significantly reducing domestic level of corruption within the country. For example, Romania and Bulgaria were held back from EU accession in 2002, because their

institutions and economies “were judged to be ‘manifestly unprepared’”¹³³. ‘A key component of this concern was widespread corruption and the lack of transparency and professionalism of state institutions, especially the judiciary’¹³⁴. Similarly, no highly corrupt country should be able to access any international organization and integrate with other countries through international organizations. Additionally, countries failing to continue their anti-corruption efforts after acquiring club membership should be prevented from further enjoying of club benefits and, possibly, excluded from the club. Again, it is important to understand that on the one hand low corruption is represented as necessary prerequisite for acquiring club membership and becoming/remaining club member. On the other hand, membership of the club with little corruption in a long term will become one of the desired public goods provided by the club.

¹³³ Vachudova, Milada Anna. “Corruption and Compliance in the EU’s Post-Communist Members and Candidate”. *JCMS: Journal of Common Market Studies* 47 (2009): 43-62. Print.

¹³⁴Vachudova, Milada Anna. “Corruption and Compliance in the EU’s Post-Communist Members and Candidate”. *JCMS: Journal of Common Market Studies* 47 (2009): 43-62. Print.

Major Policy Recommendations, Issues Associated with the Benefits-based approach and Implementation of the Benefits-based approach

Possible policy recommendations evolve from the main argument of the entire paper: corruption (clearly low level of corruption) should be represented as necessary prerequisite for joining any intergovernmental organization, global or regional. Moreover, ideally any international treaty or agreement, which countries want to have access to or to be part of, should potentially become an important and effective tool of fighting corruption, while at the same time being a major goal itself. Examples are many: WTO, World Bank, IMF, International Labor Organization, World Health Organization, International Civil Aviation Organization and so forth.

However, there are several points, associated with the application of club goods theory onto global corruption issue and the implementation of the benefits-based approach, that are very important to consider.

First, while it is state parties, members of international organizations, institutions and forums, which negotiate all international policies and norms, implementation of the benefits-based approach will not be possible without great efforts of civil society. Clearly, it is unlikely that countries, for example members of the UN Convention against Corruption, will unanimously agree to implement such an approach and welcome additional prerequisites for membership of regional and international organizations. In order for them to be convinced to do so there should be great pressure from the side of global civil society. Cooperation amongst major international nongovernmental organizations, increasing public awareness of the corruption problem and promoting benefits-based approach can become the first important step toward its successful implementation. Thus, major nongovernmental organizations should take a leading role in pressuring major intergovernmental organizations to enforce new rules and policy. Such organizations as Transparency International and Global Integrity should create a strong lobby within major

international organizations for the implementation of the benefits-based approach. Using existing data measuring corruption they should be able to demonstrate the connection between membership of major international organizations and successful addressing of countries' domestic problems, implementation and enforced compliance to international norms, laws, standards and practices.

Second, governments of highly corrupt countries often do not have a capacity to implement international norms and laws. Therefore, the benefits-based approach cannot be successfully implemented by corrupt countries themselves, without help of rich, powerful countries and regional and international organizations. Consequently, countries willing to engage into procedure have to be actively supported by the entire international community. This should include financial assistance, policy assistance, training and educational assistance and so forth. Governments should actively cooperate with major monitoring organizations, such as Transparency International and other local and international NGOs. In order to identify major domestic issues and major factors influencing corruption level in any particular country Strategic Action Plans, similar to those implemented by the EU¹³⁵, should be created on country by country basis. In addition to all the above and in order to ensure that countries live up to their commitments after they achieved their goal and joined the intended institution, organization or regional alliance, monitoring and evaluation mechanisms should be created. Disappointing example of Bulgaria indicated that “when a critical mass of high-level politicians are corrupt, when organized crime has thoroughly penetrated the economy and when the judiciary is weak and corrupt”¹³⁶ all progress may come to naught immediately after corrupt country has achieved its desired goal. When finally Bulgaria and Romania ‘did become full members of the EU in 2007, their membership came with an unprecedented condition: an ongoing ‘co-operation and verification mechanism’ that the Commission would use to monitor whether they

¹³⁵ Vachudova, Milada Anna. “Corruption and Compliance in the EU’s Post-Communist Members and Candidate”. *JCMS: Journal of Common Market Studies* 47 (2009): 43-62. Print.

¹³⁶ Vachudova, Milada Anna. “Corruption and Compliance in the EU’s Post-Communist Members and Candidate”. *JCMS: Journal of Common Market Studies* 47 (2009): 43-62. Print.

lived up to their outstanding commitments in satisfying the requirements of EU membership EU Cooperation and Verification Mechanism for Romania and Bulgaria¹³⁷. Such mechanisms should be created for every member of every international organization in order to ensure country's post-accession compliance. Moreover, it should be further enhanced by proper club exclusion mechanism. The more countries will understand the possibilities of their partial or full exclusion from the club, the more likely they will continue to address corruption upon membership accession.

Among other weaknesses of the proposed policy is that such an approach can only be used in those cases when highly corrupt countries are not yet members of the desired organization. Author recognizes that while such an approach may prove successful for prospective EU candidates, such as Moldova and Turkey and for such WTO candidates as Uzbekistan, Kazakhstan and others. At the same time there are many corrupt or even highly corrupt countries, already members of WTO, UN, EU and other regional organizations. Obviously, such an approach will not motivate them to comply with international norms and standards, if they haven't been complying yet. As noted above, existence of proper exclusion mechanism can partially solve the problem. Existing club members should be aware of the exclusion possibility as well. However, additional tactics to enforce compliance to anti-corruption norms within those countries should not be disregarded. Specific sanctions or even temporary-to-permanent withholding of the membership, as well as freeze of financial flows and development assistance can represent such tactics. In addition, traditional techniques such as 'naming and shaming' can be, to some extent, effective.

Additionally it is not very clear how to enforce compliance in such powerful, but at the same time highly corrupt countries as, for example, Russia. According to Transparency International, Russia ranks 154 out of 178 countries, with corruption perception index of 2.1¹³⁸. At the same time

¹³⁷ Vachudova, Milada Anna. "Corruption and Compliance in the EU's Post-Communist Members and Candidates". *JCMS: Journal of Common Market Studies* 47 (2009): 43-62. Print.

¹³⁸ "Transparency International". Accessed 20 Dec., 2010.

http://www.transparency.org/policy_research/surveys_indices/cpi/2010

Russia is not a member of the WTO. But even though it is included in the list of WTO observers, Russian intentions regarding WTO membership are not clear. Some argue that Russia indeed is not interested in joining the WTO and therefore delays accession for as long as possible. In such case, when membership of WTO or other major international organization is not in the vital interests of the country, benefits-based approach will not be effective. Therefore, further country-based research is required to identify the most desirable goals for all corrupt countries.

Conclusion

The initial aim of the current paper is the application of club goods theoretical framework onto growing problem of corruption and further global policy recommendations. The paper consists of three major parts each of which represents an important step in the explanation of the applicability of club goods theory and, suggested by the author, benefits-based approach, to creating a qualitatively new, effective anti-corruption policy, which possibly can significantly reduce the level of corruption at both national and global levels.

In the introduction, author discussed the issue of corruption, acknowledging the topic of the paper and specified major aspects discussed in the paper. Author explained major methodological aspects of the paper and acknowledged the structural steps in the application of club goods theory onto the issue of corruption.

First chapter of the paper briefly discussed the definition, scope and urgency of the problem of corruption and its negative impacts. Author concluded that corruption is a phenomenon, difficult to define, as it is immensely broad. Nevertheless, rapidly growing problem of corruption during the past two decades, often associated with the end of the Cold War and transformation of the world into increasingly globalized structure and the analysis of negative impacts of corruption make it clear that corruption should be addressed. Moreover, it should be jointly addressed by the entire international community. Countries should dedicate their greatest efforts to creation and successful implementation of global anti-corruption norms and policies, which can possibly help to significantly decrease the level of corruption all over the world. Ultimately, all actors in the society have a role to play in the fight against corruption. To be successful in the long run, all actors have to build an alliance and act collectively in the fight against corruption. Thus, governments should implement internationally recognized anti-corruption frameworks such as the United Nations Convention against corruption, “adopt international conventions into national laws and regulations,

ensure rigorous enforcement and create a climate which promotes ethical behavior and discourages requests for inappropriate payments. On the other hand companies should implement effective compliance programs in their organizations to prevent, detect and address corruption”. Finally, civil society organizations should take on a ‘watchdog role’ and monitor the efforts of governments and the private sector in the fight against corruption. These organizations should make general public aware of the benefits of fighting corruption and bring different actors together¹³⁹. Thus, the topicality of the current paper is obvious.

Second part of the paper briefly discussed major existing global anti-corruption norms and initiatives and acknowledged their main strong and weak parts. General conclusion drawn from such analysis is that to date individual countries, groups of countries as well as the entire international community indeed recognize the importance of fighting corruption and bringing it down by the means of international-cooperation and mutual assistance. However, the majority of the existing anti-corruption norms, regulations, mechanisms and other techniques mostly focus on fighting corruption by all possible punitive, retributive means. Closer look at all the above documents indicates their focus on successful investigation of corrupt activities and prosecution of corrupt officials or countries, not complying with the regionally or internationally-agreed anti-corruption policies. While traditional techniques of ‘naming and shaming’ obviously do have impact on the issue of corruption, it often turns out to be not enough for successful progress towards significant decrease of corruption level all over the world. Once again, the need for qualitatively new approach in tackling corruption down is acknowledged.

Third major part of the paper introduced the theoretical framework: global public goods and club goods approach to international cooperation. Author provided important definitions of major

¹³⁹ United Nations Global Compact. “*Collective Action against Corruption*”. Accessed 20 Dec., 2010 http://www.unglobalcompact.org/docs/issues_doc/Anti-Corruption/CollectiveAction2010.pdf

terms associated with the above theory, such as public goods, clubs, and discussed the important incentives of the club goods theory for further global anti-corruption policy. Author introduced the ‘Benefits-based approach’ to corruption, arguing that the latter should be represented as necessary prerequisite for accession of any existing or emerging international organization and, consequently, for enjoying the desired club goods and membership benefits. Previous chapters concluded that this approach will have several major effects. First, in accordance with the theory of club goods, it will exclude highly corrupt states from attaining club membership and, consequently, from enjoining of desirable club benefits. This will automatically create incentives for corrupt countries to address the issue of corruption more actively and to comply with existing international anti-corruption regulations. Additionally, such an approach will promote international cooperation as well as governmental cooperation with different non-state actors. Finally, because Benefits-based approach aims to be considered and integral part of other anti-corruption initiatives, it will automatically help to empower other traditional techniques of fighting corruption.

To summarize, the main postulates of Benefits-based approach are the following:

1. Low corruption is necessary prerequisite for membership of any international club-like organization and therefore an important mean towards accession of membership benefits, provided by the club.
2. Any international organization, treaty or initiative that states want to be part of can be an effective tool of fighting corruption and enforcing compliance to internationally-agreed anti-corruption policies, norms, laws and regulations.
3. Club membership is a privilege of low corrupt states, while low corruption is a public club good and additional benefit of club membership.

The paper concluded that implementation of the Benefits-based approach will have several major impacts, including decreased level of both domestic and international corruption, increased compliance and increased interstate cooperation and governmental cooperation with local and international NGO's. Major weaknesses of the Benefits-based approach were also acknowledged and possible ways to overcome those weaknesses were proposed. For instance, implementation of this approach requires aggregated global effort, as well as great effort of civil society. Benefits-based approach should be incorporated with other existing anti-corruption instruments, policies and tactics and become an integral part of the global anti-corruption battle.

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