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Interdepartmental Working Group on Combating Corruption

IDWG on Combating Corruption

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Activity Report of the Interdepartmental Working Group on Combating Corruption (2011–2013)



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1. Introduction and mandate of the Federal Council

In Switzerland, the integrity of institutions is the rule and corruptibility is a rare exception. Nevertheless there were indications of corruption during the years under review, particularly in the awarding of IT projects. This is not necessarily correlated with an increase in corrupt behaviour, but may also be the result of effective anti-corruption measures and heightened awareness. Despite a robust anti-corruption framework, Switzerland is not immune to corruption. The issue of corruption remains relevant even for Switzerland. There is a need for continual, uncompromising awareness-raising and strengthening of measures to prevent corruption in both the public and the private sector. Cases of corruption in the federal administration not only harm the Confederation's good reputation but also cost the taxpayer money. Corruption in the private sector also affects Switzerland's good reputation as a place to do business. The Federal Council is determined, therefore, to take measures to further the fight against corruption.

Moreover, Switzerland's legislation against corruption has been a target of international criticism. One critique concerned inadequate tools to investigate corruption allegations related to the activities of international sport organisations based in the country. FIFA has been and continues to be suspected of corruption in relation to the awarding of football World Cups. The Council of Europe has also criticised the lack of transparency in campaign and political party funding in Switzerland.¹

Furthermore, Switzerland-based companies with international operations have been convicted of bribery. Federal prosecutors are currently investigating several cases involving suspicion of bribery of foreign officials by Swiss companies.

The federal authorities are actively monitoring progress and efforts in the international fight against corruption. In particular, Switzerland is active in the specific working groups on combating corruption of key international organisations: the OECD², the Council of Europe³ and the UN⁴. To coordinate the various federal agencies and pursuant to the 2007 recommendations made by the Council of Europe following evaluation of the Swiss legal framework for combating corruption, the Federal Council on 19 December 2008 directed the FDFA to form an Interdepartmental Working Group on Combating Corruption (IDWG on Combating Corruption).⁵ A core group under the leadership of the FDFA Sectoral Foreign Policies Division (DPA/SFPD) is responsible for planning the work of the IDWG and setting its procedures and strategic focus. Further members of this core group are based in the Federal Office of Justice (FOJ), the Office of the Attorney General (OAG), the Swiss Federal Audit Office (SFAO), the Federal Office of Personnel (FOPER) and the State Secretariat for Economic Affairs (SECO). One of the main functions of the IDWG on Combating Corruption consists of developing concerted strategies in the fight against corruption at the national and international level. The IDWG on Combating Corruption endeavours, within the scope of its competencies, to further the prevention of corruption and take measures to raise awareness within the federal administration and the private sector, to propose amendments to legislation, to point out shortcomings and risks and to strengthen exchanges and information flows between the various federal agencies, the private sector and civil society.

In fulfilling its mandate the IDWG on Combating Corruption actively involves cantons, cities, business representatives and civil society in its activities. It organises thematic seminars, primarily as a venue for information exchange and consensus-building among members of

¹ <http://www.ejpd.admin.ch/content/ejpd/de/home/dokumentation/mi/2013/2013-11-21.html>

² OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

³ The Council of Europe has a special commission (the Group of States against Corruption, GRECO).

⁴ United Nations Convention against Corruption – UNCAC.

⁵ See appendix for Mandate of the IDWG on Combating Corruption.



the IDWG on Combating Corruption. It participates in various forums and develops joint strategies with the stakeholders involved in its area of responsibility. It also operates as a contact point and liaison for external enquiries (e.g. from foreign delegations), regularly provides the Federal Council with information and makes recommendations to it for strengthening the anti-corruption framework in Switzerland. The secretariat of the IDWG on Combating Corruption is provided by the FDFA (DPA/SFPD).

In accordance with its charter from the Federal Council, the IDWG on Combating Corruption meets at least once every six months. Normally these meetings (plenary meetings) take place at mid-year and at the end of the year. At the invitation of the FDFA, in addition to the various federal administrative offices, these gatherings are attended by representatives of the cantons and municipalities, private business, civil society and academia to exchange ideas and experiences.

The IDWG's mandate directs it, among other things, to report to the Federal Council and the interested public at regular intervals. The first assessment of Swiss anti-corruption efforts was prepared by the IDWG on Combating Corruption in March 2011.⁶ The present 2011–2013 Activity Report depicts the state of implementation of the recommendations made by the IDWG core group in its first report and describes the Working Group's activities during the period under review along with international developments in combating corruption. In addition, the Activity Report contains new recommendations from the IDWG core group for strengthening Switzerland's anti-corruption framework.

2. Implementation status of the 2011 recommendations of the IDWG on Combating Corruption core group

In its first report in 2011, the IDWG core group formulated recommendations to strengthen the Swiss anti-corruption framework. The work undertaken to implement these recommendations is presented below.

"The enlargement contribution as an example of international cooperation: The core group proposes an evaluation of the extent to which analogous preventive measures exist in other development programmes."

Within the context of cooperation with developing and transition countries, SECO and the Swiss Agency for Development and Cooperation (SDC) have implemented measures similar to those applied in connection with the contribution for the enlarged European Union (EU), although the project approval and monitoring mechanisms are different.

Measures at the programme and project level

In SECO programmes, a certain portion of funds is transferred and managed directly by the partner countries. Where this is the case, due diligence is performed beforehand to ensure that the partner in charge of managing the funds meets strict criteria in respect of good financial management etc., in accordance with PEFA (Public Expenditure and Financial Accountability⁷) standards. As a rule, however, the funds are not transferred directly to the

⁶ "Report of the IDWG on Combating Corruption – an Assessment of National and International Activities to Combat Corruption", 28 March 2011. <http://www.news.admin.ch/NSBSubscriber/message/attachments/22787.pdf>

⁷ <https://www.pefa.org/>



partners in developing or transition countries (payments executed by SECO's head office in Bern or the implementing agency on the basis of meticulous verification that procedures and contractual obligations are being observed). If the partners are in charge of the public procurement process, an audit is performed at different levels by SECO or the implementing agency (defining terms of reference, evaluating bids, adjudication, contractual negotiations, review of invoices).

For its part, the SDC transfers funds to its partners in charge of implementing projects directly, whether these are Swiss, international or local NGOs, the partner government or international organisations. It conducts a risk assessment to verify the soundness and stability of its partners. In particular, it verifies that its partner possess a suitable and functional internal financial auditing system. Should any gaps or risks be identified, the operating unit responsible for the SDC is expected to take the necessary corrective measures in concert with the partner. Certain partners are required to have accounting systems in compliance with the Swiss GAAP FER 21⁸ standards. The SDC is currently refining its risk assessment tool for better risk monitoring.

As is the case for the contribution to the enlarged EU, all project agreements under development cooperation or transition aid programmes contain anti-corruption clauses. In addition, the SDC requires its contractors to sign a code of conduct. Ethical considerations aside, this tends to forestall conflicts of interest and prohibits self-dealing. The local Swiss representations (cooperation offices or embassies) also ensure that projects are closely monitored.

At the head office level, risks of corruption are assessed at different stages of the project. For all funding proposals, corruption risks are analysed using a risk analysis matrix. This matrix is the subject of regular monitoring and reporting, notably by means of periodic project implementation reports. At the SDC, the SCI Compliance Report has been introduced as an instrument at the cooperation office level (in transition countries, at the joint SDC-SECO cooperation offices), making it possible to identify any cases of mismanagement. It contains questions directly linked to corruption. In addition, projects are subject to regular financial audits stipulated in funding proposals and agreements. Besides financial status, the existence, adequacy and effectiveness of the partner's internal audit system are given especially close scrutiny. External auditors are mandated by the SDC or SECO and are expected to adhere to Swiss Auditing Standards (*Normes d'audit suisses*, NAS) or generally accepted international auditing principles (International Standards on Auditing [ISA], and International Federation of Accountants [IFAC]).

SDC and SECO contracts likewise stipulate a right of inspection by those entities or the Swiss Federal Audit Office or any third party it designates. Regular training on corruption risks is also provided for staff at head office and in the field. An online anti-corruption course focusing on the development domain is currently undergoing testing. It is aimed at staff of the SDC and SECO, especially in the field.

Measures at the institutional level

As part of the SECO/ED⁹ structure and process optimisation initiative that took effect on 1 January 2013, ED created two new structures to strengthen controlling of projects. First, a

⁸ Accounting for charitable, social non-profit organisations

⁹ SECO/ED: SECO Economic Cooperation and Development



specialised services unit (160% for judicial, contractual and public procurement issues) was created. Further, controlling officers were appointed in each section with a view to encouraging the adoption of best practices for identification, execution and evaluation of projects. These specialised services must be consulted by the operational sections and oversee the proper implementation of public procurement regulations. The reorganisation also included expansion of Controlling (90%) and Risk (50%). In the area of Controlling, a "Management Cockpit" management information system was developed to improve financial planning and oversight. In the area of Risk, the approach to risk management in ED was revised. A decision was taken to extend SAP to enable systematic recording and monitoring of project risk analyses in SAP. ED is also working with SECO's internal audit department to better coordinate auditing of representations abroad with the SDC.

At the FDFA, the specialised centre for public procurement (*Centre de compétence en contrats et marchés publics*, CCMP), formerly under the SDC, was transferred to the General Secretariat on 1 July 2013. The transfer represents an expansion of the Secretary General's competencies in matters of procurement oversight, already codified in the Organisation Ordinance for the FDFA (see article 5 para. 1 let. f OrgO-FDFA) and of the responsibilities of the CCMP. Indeed, since the transfer, the Centre has been given additional supervisory tasks with the institution of a quarterly report to the Secretary General comprising an assessment of the state of competition at the time when the initial mandate is awarded and of links between contractors for contracts awarded by the FDFA, together with indicators of possible irregularities in the awarding of negotiated mandates that exceed certain threshold values. Based on this report, the Secretary General can require the agencies concerned to take corrective measures.

In 2013 the SDC decided to devote additional human resources (80%) to corruption issues. Accordingly, the work of the SDC's Global Institutions division aims to help shape the policy dialogue at the international level (e.g. implementation of international conventions, development of appropriate ground rules) as well as employing multilateral programmes to support national efforts to combat corruption. Along with active participation in international initiatives (Conference of States Parties and Working Groups of the UN Convention Against Corruption, OECD Anti-Corruption Task Team, among others), this includes financial contributions to global programmes to prevent corruption such as Transparency International¹⁰ in support of civil society and Norway's U4 Anti-Corruption Resource Centre¹¹ for training on corruption issues.

Among measures to combat corruption, the SDC supports programmes to recover stolen assets such as the World Bank and United Nations Office on Drugs and Crime (UNODC) Stolen Asset Recovery (StAR) initiative¹² and the Basel-based International Centre for Asset Recovery (ICAR)¹³, both of which have the aim of institutionally and politically bolstering the fight against corruption and carrying out educational and legal advisory mandates at the national level. The SDC also supports individual bilateral projects to combat corruption such as setting up an anti-corruption commission in Bhutan.

In summary, the SDC and SECO's economic development aid have taken various measures to prevent corruption and have further strengthened their internal control systems. Contracts with partner organisations contain anti-corruption clauses. In addition, their field staff and the

¹⁰ <http://www.transparency.org/>

¹¹ <http://www.u4.no/>

¹² <http://star.worldbank.org/star/>

¹³ <http://www.baselgovernance.org/icar/>



staff of the various partner organisations are informed of corruption risks on an ongoing basis.

In development cooperation, the SDC and SECO's economic development aid have significantly expanded their programmes to combat corruption. A comprehensive list of the various bilateral and multilateral anti-corruption projects financed through Swiss development cooperation programmes would be of value in providing the IDWG on Combating Corruption a good overview of Switzerland's efforts to combat corruption.

➤ ***Recommendation 1: The IDWG core group recommends that the SDC and SECO prepare a list of Swiss development cooperation projects, programmes and other measures to combat corruption and provide this information to the IDWG.***

"Hosting of foreign delegations: Despite the significant cost, it should be weighed whether to extend invitations to further groups of foreign journalists."

Various states (South Korea, Romania, Malaysia, Kuwait) have expressed interest in Swiss legislation and in the practical implementation of the Swiss anti-corruption framework. The IDWG on Combating Corruption hosts foreign delegations and prepares a visitor programme for them. Each of the visits that took place during the years under review focused on a specific aspect of Swiss efforts to combat corruption, such as institution of the reporting obligation, awareness-raising measures for federal staff and the IDWG on Combating Corruption's innovative multi-stakeholder approach. At the initiative of Presence Switzerland (PRS), various journalists from Greece, the United Kingdom and France were also invited to Switzerland to learn about the Swiss financial centre. Swiss efforts to combat corruption and the IDWG on Combating Corruption were among the topics presented during this event. Several representatives of the IDWG on Combating Corruption contributed their expertise and time to make these visits by foreign delegations a success.

Switzerland further intends to take up or expand the dialogue on corruption with major trading partners. As part of bilateral political consultations with selected foreign governments, various topics in combating corruption, international developments and challenges will be discussed at the policy level.

"Amendment of national legislation: The core group proposes extending the reporting obligation to decentralised federal administrative units."

Article 22a of the Federal Personnel Act (FPA, SR, 172.220.1) instituting a reporting obligation entered into force on 1 January 2011. However, this provision applies only to employees of all administrative units and outsourced operations subject to the FPA. Decentralised federal administrative units whose staff are not subject to the FPA are not subject to the reporting obligation under Article 22a FPA. Thus neither the obligation to notify, right to report nor whistleblower protection is stipulated for several administrative units with important regulatory functions. In reference to decentralised administrative units whose staff are not subject to the FPA, the Director of FOPER sent a letter dated 12 May 2011 to the Secretaries General of all departments inviting them to proceed with amendments to specific laws, incorporating provisions identical to Art. 22a FPA. When these specific laws are amended, FOPER requests a modification in this respect during the process of consultation with the relevant offices, if such a modification is not already foreseen. Moreover, FOPER



proposes institution of the reporting obligation as part of the adoption of strategic objectives by the Federal Council. This path should be pursued further.

Below are some examples of decentralised administrative units that have implemented the reporting obligation.

Article 22a of the FPA has been incorporated into the Swiss Export Risk Insurance (SERV) Code of Conduct (in force since 12 June 2012). In addition to all employees, members of SERV's Board of Directors are also bound by this Code of Conduct. It is foreseen that Article 22a FPA will be incorporated into the SERV Act, which is currently being partially revised (expected to enter into force in the second half of 2015).

Auditing firms subject to state oversight are required to notify the SFAO in writing without delay of any circumstances relevant to such oversight (Art. 14 para. 2, Auditor Oversight Act, AOA). The SFAO also accepts anonymous reports (whistleblowing). If such notification strengthens a suspicion of relevant violations, the SFAO notifies the competent oversight authority under a specific law (Art. 22 AOA), the Stock Exchange (Art. 23 AOA) or the criminal prosecution authorities (Art. 24 AOA).

FINMA, in Art. 16 of its Code of Conduct, has a rule that is largely equivalent to that of Art. 22a FPA. This provision is explicitly adapted for FINMA as a decentralised unit of the federal administration. Complementing Art. 16 of the Code of Conduct, Art. 38 para. 3 of the Financial Market Supervision Act (FINMASA, SR 956.1) places FINMA under an obligation to report if it learns of crimes or common-law offences. This reporting obligation also applies to individual staff members.

The Swiss Federal Institute of Intellectual Property (IPI) has incorporated a reporting obligation for suspicion of corruption or other ex officio prosecutable crimes or offences in all of its employment contracts.

On recommendation of the SFAO, Swissmedic adopted the provisions of Art. 22a FPA in 2012.

The IDWG core group remains of the opinion that the necessary measures should be taken to move towards adoption of the reporting obligation in all decentralised administrative units.

➤ ***Recommendation 2: The IDWG core group recommends adoption of a reporting obligation in cases of suspicion of corruption (analogous to Article 22a FPA) for all decentralised administrative units.***

"Revolving door" (conflicts of interest): The IDWG core group proposes amending existing employment contracts with employees of the grades designated in the Ordinance pursuant to Article 94b of the Federal Personnel Ordinance¹⁴ and to incorporate such a provision in future employment contracts."

In the first report of the IDWG on Combating Corruption in 2011, the core group recommended implementing the revolving door clause (Art. 94b Federal Personnel

¹⁴ "Revolving door" clause: Administrative units that take or prepare decisions in respect of oversight, tax assessment, awarding of public contracts or other decisions of comparable import may agree, upon concluding an employment contract with employees in the function of Secretary General, Director, Deputy Director, Vice Director and other members of the Executive Committee, that such employees, for a period not to exceed two years after termination of their employment, shall not be employed or engaged for an employer or client who was significantly affected by such decisions during the last two years before termination of employment.



Ordinance FPersO, SR 172.220.111.3). The purpose of this clause is to prevent conflicts of interest in connection with moving from public-sector to private-sector employment or vice versa. Primarily, this provision aims to strengthen the impartiality of the employee and the independence of the administration by specifying, in its first paragraph, that an employee should recuse himself or herself from taking or participating in a decision if it concerns an employer (particularly any private-law employer) from whom he or she has received (or accepted) a current employment offer. An employee should likewise recuse himself or herself if the decision concerns a party represented by an individual who has worked in the same organisational unit during the previous two years. Indeed, when hiring employees at the most senior levels, the competent authority already considers whether or not the revolving door clause should be included in the employment contract. But only a few senior managers' contracts in the federal administration actually contain such a clause.

➤ ***Recommendation 3: The IDWG core group notes that the "revolving door" clause is not contained in various senior federal employees' employment contracts. The IDWG core group recommends that this clause be adopted, where objectively appropriate, in the employment contracts of senior managers in the federal administration.***

"Party and election campaign funding: The IDWG core group raises the issue of the extent to which the uniqueness of Switzerland and its political culture justifies the lack of political party and election campaign finance legislation."

Switzerland still has no national legislation on political party and election campaign financing. Transparency of political processes is a topic of discussion not only within GRECO, but also in other international organisations and forums (UNODC, OSCE¹⁵, Open Government Partnership), and Switzerland is likely to be a target of international criticism (see also 4.2.1).

The GRECO member states of the Council of Europe recommended in its 21 October 2011 country report that Switzerland, among other things, adopt legislation governing the funding of political parties and election campaigns with the aim of creating greater transparency. The Federal Council deliberated the recommendations on 8 June 2012 and resolved to invite a GRECO delegation for an exchange of views before taking any decision on implementing the recommendations.

On 10 April 2013 Federal Councillors Simonetta Sommaruga and Didier Burkhalter received a GRECO delegation, and explained the Swiss peculiarities that argue against greater transparency in party funding: Switzerland, they explained, is characterised by federalism and direct democracy. The population sees political life and the funding of parties largely as a matter of private commitment and not a matter of state.

Switzerland's political system differs from that of other countries in at least three ways:

- First, direct democracy would make it difficult to subject only elections and not referendums to such transparency rules. As referendums are held frequently, not only political parties but many other players too are active on the political stage. Establishing workable transparency rules for all of these different groups would entail a large and costly effort.

¹⁵ Organization for Security and Co-operation in Europe



- Second, the cantons have a great deal of autonomy in Switzerland's federal structure. Imposing undifferentiated rules to monitor and limit party funding on all of them would be incompatible with the traditions of the country, while rules applying only to activities at the national level would be incomplete and inefficient. Moreover, a comprehensive set of rules would be impossible without amending the constitution.
- Third, private responsibility in this domain means that political parties are primarily financed through private donations. This private engagement is of great importance in Switzerland. Indeed, the political system is largely based on private engagement (known as "Milizarbeit"). As a result, the professionalisation of parties and their concomitant financial needs are significantly less than those of parties in other countries. For these reasons, financing regulations in many countries are linked to state funding of parties, of which there is no tradition in Switzerland.¹⁶

The IDWG on Combating Corruption organised a panel discussion with members of Parliament and academic researchers on 25 February 2014 on the topic of transparency of funding of political parties and political campaigns. The IDWG discussed the issue that had been raised of the extent to which the uniqueness of Switzerland and its political culture justify the lack of legislation in this area.

Three cantons that have already implemented transparency rules or are in the process of doing so (Geneva, Ticino and Neuchâtel) presented their transparency regulations. A second panel, moderated by former Councillor of States and former public prosecutor of the Canton of Ticino, Dick Marty, presented the perspectives of policymakers, academia and the private sector.

The discussions showed that opinions on the introduction of transparency regulations for political parties remain divided. Nevertheless, a trend towards greater transparency was apparent, as various companies voluntarily disclose their donations to political parties and certain parties already disclose their finances.

3. Report on IDWG on Combating Corruption events from April 2011 to December 2013

3.1. Core group meetings, plenary meetings and seminars

3.1.1. Plenary meetings of the IDWG on Combating Corruption

Five plenary meetings have been held since the last IDWG report of March 2011. Session topics in each case were decided by the core group based on current events and pending activities. In addition, the core group wishes the plenary meeting to serve as a platform for different stakeholders in the fight against corruption and members of the IDWG to present their institutions and activities. The various topics and discussions from the plenary meetings are briefly described below.

¹⁶ <http://www.ejpd.admin.ch/content/ejpd/de/home/dokumentation/mi/2013/2013-04-100.html>



Preventing corruption in the chemical and pharmaceutical industry and in the para-governmental sector (plenary meeting, 20 June 2013)

The IDWG organised an exchange with the private sector and Swissmedic on the topic of **preventing corruption in the pharmaceutical and chemical sector**. The compliance officers of three international companies based in Switzerland – Novartis International SA, Clariant International Ltd and Givaudan SA – agreed to present the mechanisms they employ to prevent corruption. The fact that the panel discussion was moderated by a representative of civil society, namely the president of Transparency International Switzerland, is testimony to the foundation of trust that has been established among the members of the IDWG. Switzerland's pharmaceutical and chemical industry is highly self-regulated, owing in part to its activities in "high-risk" territories, i.e. countries where corruption is notoriously high. The companies mentioned above already have extensive internal compliance systems and controls and have introduced general codes of conduct to prevent corruption. Corruption remains an issue for small and mid-sized enterprises (SMEs), which often lack the necessary resources to prevent corruption. The systems of rules developed to fight corruption are only effective when applied systematically.

Corruption in public procurement (plenary meeting of 20 June 2013)

Owing to the large sums of money and order volumes involved, public procurement is exposed to a high risk of corruption. The annual volume of contracts awarded by the Swiss Confederation, cantons and municipalities is estimated at CHF 40 billion. The federal administration, with an annual procurement volume of roughly CHF 5.5 billion, strives to ensure transparency, equal treatment of different suppliers, economic efficiency and competition in its procurement activities. Following introductory reports by the Federal Office for Buildings and Logistics (FOBL) and Federal Office of Police (fedpol) on risks of corruption in procurement, the Federal Roads Office (FEDRO), Swiss Post and the Swiss Federal Railways (SBB) presented the specific measures they have adopted to prevent corruption in procurement at the IDWG meeting. Unlike federal staff, Swiss Post is not subject to the FPA and its reporting obligation. This led the IDWG to consider the question of where and how employees of such decentralised administrative units could submit any potential reports and what measures have been introduced to prevent corruption in procurement. All speakers explained that procurement personnel undergo training on fighting corruption. FEDRO, Swiss Post and the SBB have all undertaken internal control and risk management measures to combat corruption, but specific reports so far have been few in number. The IDWG core group is of the opinion that a reporting obligation analogous to that of Art. 22a of the FPA should also be implemented for all decentralised administrative units.

"Collective action" (plenary meeting of 7 December 2012)

Solicitation of bribes by foreign officials represents a major challenge for Swiss enterprises operating internationally. Recognising this, international companies are increasingly motivated to engage in "collective action"¹⁷ to counter demands for bribes. Often such collective action initiatives form around companies operating in the same sector or in the same country or that are all considering participating in the same public tender. "Collective action" refers to voluntary private-sector initiatives aimed at promoting fair, transparent and corruption-free competition through a joint declaration to combat corruption. The Basel

¹⁷ Definition from the World Bank Institute (WBI) in *Fighting Corruption Through Collective Action, A Guide for Business*: "Collective Action: a collaborative and sustained process of cooperation amongst stakeholders. It increases the impact and credibility of individual action, brings vulnerable individual players into an alliance of like-minded organizations and levels the playing field between competitors. Collective Action can complement or temporarily substitute for and strengthen weak local laws and anti-corruption practices." http://info.worldbank.org/etools/docs/antic/Whole_guide_Oct.pdf



Institute on Governance¹⁸, a member of the IDWG on Combating Corruption, and Siemens Schweiz AG gave presentations on their collective action activities. The Basel Institute on Governance functions as a knowledge hub for collective action initiatives worldwide. It collects and disseminates information and model practices, develops analyses¹⁹, carries out academic research and supports collective action processes worldwide. Siemens Schweiz AG has initiated and led such collective actions against solicitation of bribes in various markets with partner companies in order to improve the competitive situation. For Siemens Schweiz AG, collective action initiatives are an important foundation for preventing corruption. At the international level, the B20²⁰ have also acknowledged the problem of solicitation of bribes by public officials, calling for international measures to counter the phenomenon at the 2011 G20 summit in Los Cabos, Mexico²¹. The formation of the collective action knowledge hub in Basel is the result of a direct mandate from the B20.

Money laundering – amending the FATF²² recommendations (plenary meeting of 7 December 2012)

The IDWG on Combating Corruption plenary meetings also serve as a platform for exchange of information on developments at the international level and their impact on Switzerland. Accordingly, the State Secretariat for International Financial Matters (SIF) presented the challenges facing Switzerland in its efforts to combat money laundering in order to comply with the revised international standards of the Financial Action Task Force (FATF). The FATF is the most important body for international cooperation against money laundering and financing of terrorism. At its plenary meeting in February 2012, the FATF adopted a partial revision of its standards in the areas of money laundering, and proliferation and terrorism financing. The revised measures apply in the fourth round of country reviews, which began at the end of 2013. In the area of combating corruption, the FATF formulated a definition that differentiates between international and national PEPs (politically exposed persons). Moreover, corruption was already defined as a precursor to money laundering in the existing recommendations. Switzerland is now working on implementation and amendment of the Swiss standards to conform to the revised FATF guidelines²³. In addition, the partial revision of the Money Laundering Act entered into force on 1 November 2013. Together with improved exchange of information, the revision also expands the authority of the Money Laundering Reporting Office (MROS) to obtain information from financial intermediaries. In addition, the Reporting Office will in future be able to enter into technical cooperation agreements with foreign money laundering reporting offices autonomously²⁴.

¹⁸ <http://www.collective-action.com/>

¹⁹ "Collective Action and Corruption", Working Paper Nb 13, Mark Pieth, Basel Institute on Governance. http://www.collective-action.com/sites/default/files/120915_WP%2013_Collective%20Action%20and%20corruption_Pieth_final.pdf

²⁰ B20: The B20 is a gathering of major international enterprises from the G20 countries, including major Swiss enterprises. <http://www.b20businesssummit.com/guests/companies>

²¹ B20 Declaration, Los Cabos: "to develop a compendium of best practices in the fight against solicitation, establish appropriate high-level reporting mechanisms to address allegations of solicitation of bribes by public officials, and endorse the setting up of a pilot project in a country willing to test such mechanism", <http://b20.org/documentos/B20-Complete-Report.pdf>

²² FATF: Financial Action Task Force. <http://www.fatf-gafi.org/>

²³ <https://www.sif.admin.ch/sif/en/home/dokumentation/medienmitteilungen/medienmitteilungen.msg-id-51377.html>

²⁴ <http://www.ejpd.admin.ch/content/ejpd/de/home/dokumentation/mi/2013/2013-10-16.html>



Presentation of HTW Chur study "Handling the risks of corruption successfully - Strategies for Swiss SMEs operating abroad" (plenary meeting of 8 June 2012).

The University of Applied Sciences HTW Chur is engaged in research into aspects of corruption with relevance for private industry. In 2012 the HTW Chur published a comprehensive study, "Handling the risks of corruption successfully – Strategies for Swiss SMEs operating abroad"²⁵, in which over 500 Swiss companies with international operations were surveyed about corruption risks and their impact on the company. The study reveals that the current and future growth markets lie primarily in countries and regions of the world that present a high risk of corruption. As a result, Swiss companies with international activities increasingly face a need to deal actively with the issue of corruption. According to the study, informal payments are expected from 40% of the Swiss companies surveyed. Companies that have their own production, distribution or service establishment in a given country or that conduct business with the aid of local agents or intermediaries are especially often confronted with corruption. Other factors associated with heightened confrontation with corruption include the perception of a powerful bureaucracy and generation of a large portion of turnover from state agencies or state enterprises. One-quarter of companies surveyed believe that they have lost an order from a state or private customer to a corrupt competitor in the past two years. Some 10% of companies have not completed entry into a country's market within the past five years owing to an existing risk of corruption. Some 4% of those surveyed have withdrawn from a market owing to risks of corruption in the same time period. The results of the study underscore the importance of Switzerland's ongoing participation in the various international bodies aimed at combating corruption to ensure a level playing field for Swiss companies with international operations.

Sport and corruption (plenary meeting of 8 June 2012)

Media criticism of FIFA²⁶ for lack of transparency in choosing venues for the football World Cup, along with Switzerland's status as home to international sport organisations, prompted the IDWG to hold an event on corruption and sport.

The Basel Institute on Governance gave a presentation on "Sport and Corruption", addressing in particular reform efforts within FIFA. The greatest risks of corruption in sport lie in fixed matches, irregularities in betting, transfers of players and clubs and major events. In response to public criticism, FIFA has initiated comprehensive reforms to its governance structure. In particular, an Independent Governance Committee was established headed by Prof. Mark Pieth²⁷. Addressing the problem of fixed matches, an Early Warning System GmbH was founded in 2007 to oversee betting on matches in all FIFA competitions. A Transfer Matching System was instituted in 2008 to increase transparency of player transfers, although it does not yet record money flows. As regards major events, at the World Cup in South Africa in 2010 FIFA instituted the monitoring of ticket sales and the external review and approval of all expenditures by the local organising committee. Projects of the host country, however, are not covered. The strong and rapid economic growth of FIFA in recent years calls for a revision of internal management and control structures. Implementation of internal governance reforms is welcome, but these are no substitute for an external review.

²⁵ HTW Chur paper "Handling the risks of corruption successfully – Strategies for Swiss SMEs operating abroad" dated October 2012

http://www.htwchur.ch/fileadmin/user_upload/institute/SIFE/3_Forschungsthemen/Internationalisierung/IFBI_Leitfaden_Korruptionsrisiken_HTW_dt.pdf.pdf

²⁶ Fédération Internationale de Football Association (FIFA)

²⁷ Expert in criminal law, director of the Basel Institute on Governance



Reports of suspected corruption in sport reveal the extent to which a newly emerging focal point of international efforts to combat corruption can impact directly on the national agenda. The Federal Council is aware of the risk of corruption in sport and approved a report on combating corruption and match fixing in sport in November 2011.²⁸ The report concludes that measures taken by (international) sporting associations to date are insufficient to efficiently prevent corruption. Uniform, binding good-governance systems are required at all levels of organised sport. Concurrently with the recommendations to the sporting organisations themselves, the report likewise calls on state institutions to create a transparent, clearly regulated yet attractive environment for sport organisations. At stake is not only the integrity of the sport, but also Switzerland's reputation as host country to numerous international sporting associations. Switzerland is now reviewing other measures such as instituting a criminal statute against match fixing. As regards application of penal provisions against private bribery to international sporting associations, the draft amendment to the criminal corruption statute of 30 April 2014 is relevant. For details see Section 4.1.2 on current legislative work.

Corruption cases handled by the Office of the Attorney General (plenary meeting of 9 December 2011)

The roles of the various actors in combating corruption in Switzerland were presented during the plenary meeting. To this end, a representative of the OAG described several anonymised cases of corruption proceedings involving both multinational enterprises and Swiss SMEs as examples of her office's activities. Multiple nested orders to consulting firms, forged consulting contracts, invoices for work that was never performed and intermediary individuals and companies are just a few notable examples of the intricacies that complicate the untangling of international corruption cases.

Presentation of the National Integrity System (NIS) report from Transparency International (plenary meeting of 9 December 2011)

Transparency International Switzerland presented the NIS report²⁹ to the IDWG. The NIS report is a comparative study of the mechanisms to prevent and combat corruption and of the existing regulatory structures in 26 European countries including Switzerland. Data collection was performed by the various national divisions of Transparency International. Representatives of the IDWG on Combating Corruption served as experts on the study committee, contributing their knowledge of the Swiss Confederation's anti-corruption framework.

Corruption in the Commodities Sector (plenary meeting of 9 December 2011)

The non-governmental organisation Berne Declaration (BD) published a book on commodities³⁰ and informed the IDWG of the various risks of corruption in commodity trading and extraction. Switzerland has become a major global commodity trading hub where at least 15–25% of all commodities are traded. It is essential to note differences in the risk of corruption along the commodities value chain, from licensing to marketing. While relatively low in exploration, refining and marketing, it is greater in licensing and trading. Acquisition of shares (of local production sites, for example) and allocation of profits also entail significant risks of corruption, since government offices are often responsible for awarding resource

²⁸ Combating Corruption and Match Fixing in Sport; report pursuant to Postulate 11.3754 of the Council of States Science, Education and Culture Committee dated 28 June 2011,

<http://www.news.admin.ch/NSBSubscriber/message/attachments/28529.pdf>

²⁹ http://www.transparency.ch/de/aktuelles_schweiz/meldungen/2012_02_01_NISPressemitteilung_meldung.php

³⁰ "Commodities – Switzerland's Most Dangerous Business", Berne Declaration, 2012



concessions. The Federal Council's commodities report³¹ of March 2013 includes a section addressing risks of corruption in the commodities sector.

Institute for Economic Crime (ILCE) in Neuchâtel (plenary meeting of 7 June 2011)

The Institute for Economic Crime (ILCE)³² in Neuchâtel presented its activities and educational opportunities, especially its various programmes for advanced training in the field of economic crime and forensics. The Institute also regularly organises colloquiums on topics related to corruption and prepares background studies on specific corruption-related topics.

Focus on assets of politically exposed persons and money laundering (plenary meeting of 7 June 2011)

The Arab Spring marked a new milestone in Swiss asset recovery efforts. The asset freezes imposed in response to it provided an impetus for the Federal Council to formalise existing practices. On 22 May 2013 the Federal Council started the consultation process for the preliminary draft of the Federal Act on the Freezing and Restitution of Illicit Assets held by Foreign Politically Exposed Persons. The consultation process concluded on 12 September 2013. The bill consolidates current law and practice governing restitution of illicitly acquired assets into a single statute. It encompasses the three most important measures in this regard, i.e. freezing of assets, confiscation and restitution. It also provides for targeted assistance to the country of origin in support of rapid judicial determination of the source of assets. Once this act enters into force, the Federal Act on the Restitution of Assets obtained unlawfully by Politically Exposed Persons (RIAA)³³ will become null and void.

Conclusions of plenary meeting discussions

After nine plenary meetings of the IDWG on Combating Corruption, we are pleased to note that attendance has been high, testimony to a continuing lively interest in the issue and an increasing need for discussion of matters related to corruption. The readiness of various actors to engage in dialogue and exchange is encouraging. Exchange is understood as an awareness-raising measure for pointing out risks and highlighting opportunities for action. The IDWG, however, is not authorised to take action on its own initiative or oversee implementation of such actions and depends on the constructive cooperation of the various actors.

3.1.2. Topical seminars

The IDWG on Combating Corruption organises topical seminars as needed on specific topical issues for interested federal offices. The seminars are held in various formats such as lectures, workshops or discussions led by the IDWG on Combating Corruption with these offices. A few of these seminars are presented below.

³¹ Background report on commodities, report of the interdepartmental platform on commodities to the Federal Council, 27 March 2013, <http://www.news.admin.ch/NSBSubscriber/message/attachments/30133.pdf>

³² <http://ilce.he-arc.ch/>

³³ <http://www.rhf.admin.ch/rhf/de/home/straf/recht/national/ruvg.html>



Seminar: "Managing conduct at the edge of legality in activities abroad" (12 September 2012)

Working abroad for the Confederation can sometimes be more complicated than one might imagine back in Bern. Paying "baksheesh", a gratuity or a more substantial sum can advance a project, get a building site approved, move a humanitarian aid convoy through a police checkpoint, free a hostage or get a service flat connected to the water mains. Some Confederation staff members may be faced with similar risks. The temptation of resorting to active corruption or other similar conduct is real. How should an employee of the Confederation respond if a foreign official requests payment of a commission before signing a contract?

At the penal level, Article 322 septies (and octies) of the Swiss Criminal Code (SCC) appears to cover these situations and could be applicable should they occur. The concepts of "negligible advantages" and "common social practice" are to be considered from the Swiss perspective, precluding the argument that such actions should be overlooked when taken abroad. Nevertheless, it should be noted that such situations could potentially fall under the provisions of Article 52 SCC (exemption from punishment) or be legitimate in certain circumstances.

A seminar organised by the IDWG on 12 September 2012 drew some 40 participants to discuss the problem openly and seek pragmatic solutions for limiting risks and improving the situation for individuals involved.

The debates revealed how murky this area remains. Situations are suggested but there are few concrete documented cases. At present the situation is most familiar in the construction sector. The FOBL has a zero-tolerance policy and is prepared to accept consequences such as lengthy delays in completing work.

On conclusion of the seminar the following best practices were noted:

a) In general, resorting to active corruption or actions tending towards active corruption should be avoided.

Several tools for prevention are available:

- Communicating clearly and unambiguously that the Confederation prohibits all practices of corruption or granting of advantages.
- Formulating and requiring partners, general contractors, agents, project leads and subcontractors to sign contractual clauses and codes of conduct that prohibit these practices.
- Formulating and requiring signing of contractual clauses that permit the Confederation to carry out checks on partners.
- Using codes of conduct or employment contracts to obtain a commitment to this policy from staff.
- Instituting training programmes followed by awareness programmes.
- Addressing the issue within the internal control system for the given process.
- Appointing compliance officers or conducting compliance audits, including audits of contractors.
- In international construction or exposition projects, taking action very early and maintaining time reserves to avoid being put under pressure.



b) Weighing interests before resorting to actions that tend towards active corruption.

Human life and health are higher considerations that may, in certain exceptional cases, justify resorting to actions at the edge of legality. This weighing of interests should be documented so that the Confederation can explain and ultimately stand by such conduct in the face of subsequent criticism.

c) If a decision is taken to resort to actions that tend towards active corruption, it should be made official.

The decision should be taken at the appropriate hierarchical level, generally by the directorate of the agency in question or head of the department. It should be documented. Any accounting transactions associated with these operations should be transparent and in conformity with the rules under legislation on Confederation finances.

Along with these best practices, the IDWG considers it necessary to inform the foreign states concerned of any situation in which their officials engage in conduct constituting incitement to corruption or granting of advantages. In its upcoming work, the IDWG will consider practical means of conveying such information and the opportunity to extend such notification to cases observed by Swiss businesses operating abroad.

➤ ***Recommendation 4: The IDWG core group recommends that the FDFA (SFPD) compile a list of offices in different countries where corruption can be reported, especially for use by the private sector.***

Seminar on "Training programmes in combating corruption" (13 September 2011)

Risks of corruption are not just encountered in traditional procurement. They can also be found in relation to activities such as tax assessment, border control, subsidies and oversight. Nevertheless only a very few administrative units have addressed the issue in their training programmes. According to a survey carried out by the IDWG on Combating Corruption on 27 May 2011, not all departments offer training courses in the field of corruption.

Awareness-raising and training of federal staff are key elements in preventing corruption. Accordingly, the IDWG on Combating Corruption invited all training officers along with line managers and interested individuals from the various departments to an information and exchange event on 13 September 2011 about available training modules on corruption. Training courses from the various departments that have been identified as "best practices" were briefly presented and subsequently provided to the participants in the form of working documents. The aim of the seminar was to encourage adoption of a training module on combating corruption and identify suitable training courses. In the medium term, all federal employees should have basic knowledge of combating corruption, be aware of risky forms of conduct, know the legal foundations and ethical rules and be able to apply them in critical situations. Corruption-specific issues can also be incorporated into existing training courses where they can be examined in greater depth, as is already done in training diplomatic and consular staff, procurement personnel and executives. In 2013 the FOPER developed an e-learning module on preventing corruption in German, French and Italian. The module will be systematically integrated into leadership seminars starting in 2014. It can also be used in other courses as appropriate.



Various federal offices subsequently requested assistance from IDWG core group members and education experts in designing these training courses. By organising these events, the IDWG core group took an important first step in ensuring that the different federal offices are familiar with examples of corruption prevention courses and able to use them more broadly. Further action is needed in implementing training modules, raising awareness of corruption risks among all federal staff and particularly in continuing training of at-risk groups.

➤ **Recommendation 5: The IDWG core group recommends identifying specific risk groups in the federal administration and working towards appropriate advanced training in the area of corruption.**

4. Current areas of activity in combating corruption

4.1. National level

4.1.1. Incidents during the period under review, 2011–2013

Reports of suspected bribery and official misconduct in the federal administration multiplied during the years under review, mainly in connection with the awarding of IT contracts. The INSIEME IT project of the Federal Tax Administration (FTA) was the subject of much scrutiny. A working group made up of members of the Finance and Control Committees of the National Council and Council of States is currently investigating the circumstances behind the suspended INSIEME project. To avoid such problems in awarding IT projects in the federal administration in future, the Finance Committee resolved to present a committee motion. This requires the Federal Council to form a pool of IT project managers available to serve the Confederation.³⁴ The motion does not address how the pool would contribute to preventing corrupt dealing in awarding IT contracts in future. Alleged procurement irregularities also came to light at other federal offices such as SECO. An administrative inquiry was launched in connection with the accusations of corruption raised against SECO³⁵ with the aim of reviewing internal rules and processes. It complements the criminal investigation that the OAG has launched at the request of SECO.

These cases have revealed that Switzerland and its administrative offices are not immune to cases of corruption and official misconduct. Investigations by the OAG into official misconduct and bribery at several departments and federal offices are currently pending. The accumulation of reports of suspected corruption does not necessarily imply an increase in corrupt conduct. It may also be the result of effective anti-corruption measures bringing these cases to light.

These cases also indicate that the work of the IDWG on Combating Corruption remains relevant and that continuing efforts to raise awareness are necessary to fight corruption.

Various cases of corruption in the cantons and cities have also drawn attention. In most cases the sums involved have been relatively small. Nevertheless, there is a need for action at the cantonal level as well.

Various Swiss companies face accusations of corruption. For example, Alstom Network Schweiz AG, the Swiss subsidiary of French industrial concern Alstom, was convicted of

³⁴ <http://www.parlament.ch/d/mm/2012/seiten/sda-2012-11-09-2.aspx>

³⁵ <https://www.news.admin.ch/message/index.html?lang=de&msg-id=51927>



bribery in Switzerland in November 2011.³⁶ According to the OAG, Alstom Network Schweiz AG took insufficient precautions to prevent payment of bribes by its employees. As a result, bribes were paid to political officeholders in Latvia, Tunisia and Malaysia in 2008. The Alstom Network Schweiz AG case illustrates the high risk associated with use of business intermediaries in countries with a high corruption rate according to the Transparency International bribery index.

4.1.2. Ongoing legislative work

Amendment of criminal provisions against corruption

On 30 April 2014, the Federal Council approved a draft amendment to the criminal criminal corruption statute.

Switzerland is among the countries least affected by corruption, and its relevant legislation is generally effective. Nevertheless, Switzerland also has certain characteristics that require special attention. Its economy is broadly globalised with extensive involvement in international markets, where enforcement of international standards for combating corruption is sometimes inadequate. Moreover, Switzerland is host to numerous international sporting federations which often manage major economic and financial interests and whose decisions are sometimes tainted by corruption scandals.

In this context, the draft notably proposes making private corruption an offence prosecutable ex officio and punishable even when it does not result in a distortion of competition.

Currently private corruption is only prosecuted upon complaint. However, quite often there is a compelling public interest in prosecuting private corruption. Above and beyond private financial interests, private corruption may, for example, compromise public health and safety if commercial activities in this domain are tainted by corruption. Major interests at stake should also be considered, including important public subsidies, when sporting events of global interest are awarded.

Moreover, private corruption is not punishable today unless it results in distortions of competition as defined by the Unfair Competition Act. This situation should be rectified in order to clarify the actual scope of the offence of private corruption, particularly when it comes to awarding of major sporting events.

Concurrently with the modifications in respect of private corruption, the Federal Council has proposed extending the scope of Articles 322^{quinquies} and 322^{sexies} SCC, which criminalise the granting and acceptance, respectively, of an undue advantage by a public official. This will make it possible also to deal with cases where the undue advantage benefits a third party and not only the public official in question, as it is currently the case.

At the international level, these proposals are part of the extended recommendations of the GRECO made to Switzerland at the end of 2011³⁷.

"Whistleblowing"

On 21 November 2012 the Federal Council decided to pursue the work of amending the Swiss Code of Obligations (CO) in respect of reporting of misconduct (whistleblowing). It adopted a dispatch to Parliament on 20 November 2013. The new provisions principally apply to the private sector, but also to public-sector entities whose employment relationships

³⁶ <http://www.news.admin.ch/message/index.html?lang=en&msg-id=42300>

³⁷ <http://www.ejpd.admin.ch/content/ejpd/de/home/dokumentation/mi/2011/2011-12-02.html>



are governed by the CO or refer to the provisions of the CO. The draft proposes to codify the terms of whistleblowing in law (Art. 321a^{bis} ss P-CO). In principle, an employee should turn first to the employer (Art. 321a^{bis} P-CO) before reporting irregularities to the authorities (Art. 321a^{ter} P-CO) and, as a last resort, to the public (Art. 321a^{quinquies} P-CO). Notifying the authorities directly is permitted in certain cases specified by the law (Art. 321a^{quater} P-CO). The new provisions (Art. 321a^{septies} P-CO) will not apply to employees bound by professional secrecy (Art. 321 CP). Likewise, notification of foreign authorities is not addressed (Art. 321a^{septies}, para. 2, P-CO). Termination as a result of whistleblowing in compliance with the stipulated conditions is wrongful (Art. 336, para. 2, let. d, P-CO) and remains punishable by an indemnity of up to six months' salary, as under the law presently in force. Subjecting whistleblowing employees to disadvantages is prohibited (Art. 328, para. 3, P-CO). The Council of States examined the draft on 22 September 2014. With the exception of one or two details it complied with the rules proposed by the Federal Council.

Acceptance of gifts and invitations

To prevent corruption, the new Federal Personnel Ordinance (Art. 93 and Art. 93a)³⁸ that entered into force on 1 July 2013 includes provisions on acceptance of gifts and on invitations.

Employees are not permitted to accept gifts or other advantages within the context of their occupational duties. Negligible and customary advantages are excepted. "Negligible" comprises in-kind gifts with a market value of no more than CHF 200. Gifts in excess of negligible and customary advantages that cannot be refused for the sake of politeness (for example in the consular or diplomatic service) must be surrendered to the appropriate office. Acceptance of advantages and invitations must not compromise independence, objectivity and freedom of action in performance of the employee's occupational duties nor give rise to an appearance of venality or partiality on the employee's part. Invitations to other countries must be refused unless approved in writing by the employee's supervisor. Employees who are involved in procurement or decision-making processes (e.g. decisions on selection, oversight, tax assessment, subsidies or of comparable import) must refuse even negligible and customary advantages such as invitations if offered in connection with these processes. In case of doubt, the employee should consult with his or her supervisor to determine whether an advantage or invitation can be accepted.

Assets of politically exposed persons

Based on the results of the consultation procedure held in 2013 on the preliminary draft of the Act on the Freezing and Restitution of Assets Illicitly Obtained by Politically Exposed Persons, the Federal Council is preparing a dispatch on the new legislation, which is expected to be adopted during the first half of 2014. The future Federal Act on the Freezing and Restitution of Illicit Assets held by Foreign Politically Exposed Persons (Foreign Illicit Assets Act [FIAA]) will consolidate the existing legal basis and reflect current practice, which will be incorporated into a single piece of legislation.

The FIAA will give the Federal Council a formal legal foundation for dealing with cases involving assets of politically exposed persons, which will bolster the democratic legitimacy of the Federal Council's policy in this area. In response to requirements from Parliament, the

³⁸ <http://www.admin.ch/opc/de/classified-compilation/20011178/index.html#a93>



new law will list the conditions to be met for the freezing of assets. Further, it will strengthen legal certainty and transparency of prosecution. Finally, the FIAA will institute two new practices based on actual experience gained to date: first, the formalities of the communication obligations concerning frozen assets will be streamlined by creating a single point of contact at the Money Laundering Reporting Office Switzerland (MROS); second, express provision will be made for optional sharing of information with the country of origin to facilitate the start of mutual legal assistance.

Amendment of the Lottery Act and Gambling Act

On 13 February 2013 the Federal Council tasked the FDJP with developing a consultation draft of a new Gambling Act (*Geldspielgesetz*). The Gambling Act is intended to implement the new Article 106³⁹ of the Federal Constitution, which stipulates that the Confederation is competent for enacting regulations regarding gambling. The Federal Council wishes the Confederation's gambling legislation to be consolidated into a single statute. The legislation will incorporate measures against fixing of contests as well as the corresponding penal provisions against corruption. This new law is expected to replace the existing Lottery Act and Gambling Act (*Spielbankengesetz*) currently in force. The consultation on the preliminary draft of the law ended on 20 August 2014.

4.1.3. Education and awareness-raising measures in combating corruption

Education is of special importance in preventing corruption. Keeping employees informed at all times in a manner that reflects actual practice helps not only in preventing corruption, but also in uncovering it when it occurs.

Raising awareness of corruption risks in FOPER leadership seminars

Preventing corruption is systematically addressed throughout the Confederation in courses and targeted communications. Raising awareness of the issue has been a part of leadership seminars for lower management as well as information and discussion of case studies for middle and upper management since 2010. From 2015, a new e-learning module on preventing corruption developed in 2013 will be part of all compulsory leadership seminars. The brochures "Corruption Prevention and Whistleblowing" and "Federal Administration Code of Conduct" represent further information measures taken. These brochures were sent to every individual employee by post to their home or to their business e-mail address in three campaigns (2009, 2012 and 2013), together with a cover letter from the director of the FOPER (2009) or the head of the Federal Department of Finance (2012) and the FOPER Information Service (2013). New employees receive the brochures from their human resource office. The brochures are also available at all times free of charge from the FOBL. Further, information on the federal administration's Code of Conduct and on preventing corruption is available online on the Confederation's intranet and website⁴⁰.

³⁹ SR 101

⁴⁰ <http://www.bbl.admin.ch/bkb/00389/02580/index.html?lang=de>



➤ **Recommendation 6: The IDWG core group recommends that specific groups at risk within the federal administration work through the existing e-learning module "Combating Corruption". The module contains references to the legislation, the federal administration's Code of Conduct, information on federal employees' notification obligation and practical case studies. The extension of the recommendation to all employees of the federal administration should be reviewed within the framework of the preparation of the 2014-2017 Activity Report on Combating Corruption.**

Awareness-raising measures on implementation of Art. 22a FPA

The subject of whistleblowing was addressed in the first report of the Interdepartmental Working Group on Combating Corruption, and recommendations on the subject were submitted to the federal administration by the OECD Working Group on Bribery in its Phase 2 and 3 reports on Switzerland⁴¹ and by GRECO in its first Evaluation Report in 2008. Moreover, whistleblowing was mentioned by Transparency International in its National Integrity System Assessment Switzerland. *"In 2009, a flyer on the subject of combating corruption was printed in which reference was made to the option of reporting indications to the SFAO. However, this flyer, which was aimed at the around 35,000 federal employees, was unfortunately not sent by post, but was distributed via hierarchical channels and consequently it is not certain whether the information actually reached all staff."*⁴²

From 1 January 2011, Article 22a of the FPA introduced an obligation for staff to report any crimes or offences prosecutable ex officio to the criminal prosecution authorities, to their hierarchical superiors or to the SFAO and an option to notify the SFAO of irregularities of which they may become aware during performance of their duties. This provision, which takes account of the necessity to protect employees who exercise their duty and right to report such issues, is a key component of the framework for combating corruption within the federal administration.

Having concluded that staff remain insufficiently familiar with Art. 22a FPA, the IDWG has addressed the Conference of Secretaries General of the federal departments to encourage direct dissemination of this information to all employees by e-mail. This proposal was accepted and carried out in September 2013.

Awareness-raising in the FDFA external network (Swiss ambassadors, Swiss Business Hub directors, diplomatic and consular candidates)

FDFA staff members are often confronted with corruption, owing to their work in countries with fragile legal systems. They are exposed to a higher risk of corruption, for example, when issuing visas, providing humanitarian aid in exceptional situations, receiving invitations or

⁴¹ See "Switzerland: Phase 2 Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions", page 56, 146 c: *Examine measures to ensure effective protection for persons cooperating with enforcement authorities, and especially for employees who in good faith report suspected acts of bribery so as to encourage such persons to report them without fear of dismissal [Revised Recommendation, Article I; Annex to the Revised Recommendation, paragraph 6].* See also "Phase 3 Report on Implementing the OECD Anti-Bribery Convention in Switzerland", December 2011, page 52, recommendation no. 10 c: *"[...] inform federal employees explicitly of their obligation to report all instances of corruption, including bribery of foreign public officials [...]."*

⁴² See *National Integrity Assessment Switzerland*, Digression: Whistleblowing, page 41 of the English version published on 7 February 2012.



organising participation at world expositions. Recognising this, the FDFA has increased efforts to build awareness of corruption risks among its staff.

Training of diplomatic and consular interns

All new diplomatic and consular staff undergo a compulsory module of theory and case studies on the subject of combating corruption. The three relevant international conventions (OECD, GRECO, United Nations Convention against Corruption - UNCAC) are presented, information is given on the obligation of all federal staff to report incidents of corruption, and diplomatic and consular interns are trained in advising and building awareness among Swiss companies in the area of combating corruption.

Awareness-raising among directors of Swiss Business Hubs⁴³

At the annual gathering of Swiss Business Hub directors, the IDWG secretariat held its first information and awareness-raising event on corruption risks abroad in 2013. Among the topics discussed was how Swiss Business Hubs abroad can assist businesses dealing with solicitation of corruption. The lively discussion revealed that many uncertainties and grey areas remain to be addressed and clarified. The IDWG secretariat plans to conduct a discussion on combating corruption in greater depth at the next gathering of Swiss Business Hub directors.

Awareness-raising among Swiss ambassadors

The IDWG on Combating Corruption organises a workshop on raising awareness of corruption issues at the annual conference of ambassadors. At the first workshop in 2012 the IDWG secretariat presented the Swiss position in the international anti-corruption conventions (OECD, GRECO, UNCAC). A SwissHoldings representative spoke about the difficulties of major Swiss enterprises operating abroad in transacting business in contexts where the rule of law is fragile and presented ways that Swiss embassies can provide assistance. A panel discussion with the Swiss ambassadors to Sudan, Nigeria, Kenya and Ukraine addressed the various issues that the Swiss embassies face. Potential support services from the embassies to protect the interests of Swiss businesses operating in the host country, such as consular protection, were debated along with examples of cooperation with the anti-corruption authorities of the host countries and projects to strengthen it.

At the 2013 ambassadors' conference the IDWG Secretariat, in collaboration with the OAG, the FOJ, MROS and the FDFA's Directorate of International Law (DIL), held a workshop on "Corruption and Money Laundering" to which representatives of the Swiss Bankers Association were also invited. Topics of discussion included money laundering, illegal financial flows and assets of politically exposed persons and their potential effects on a country's security situation. The IDWG on Combating Corruption views communication and awareness-raising among Swiss ambassadors as a key element in the prevention and early warning of corruption. On several occasions reports of corruption with a possible Swiss connection have reached the competent federal offices by way of our embassies.

The FDFA has also composed a memorandum on the duties of the Swiss diplomatic and consular network in respect of combating corruption which was sent to all representative offices. Preventing corruption and building awareness of corruption risks among Swiss businesses operating in the host country is, beyond doubt, an important task of Swiss embassies and consulates abroad. Bribery is prevented by providing targeted information to

⁴³ Switzerland Global Enterprise is represented by Swiss Business Hubs in the 19 most important markets (export and location promotion). Most local teams are based at a Swiss Embassy or Swiss Consulate-General and offer consulting services for Swiss companies abroad.



businesses so that corrupt behaviour never occurs in the first place. To protect Swiss interests abroad, particularly trade promotion, Swiss companies operating abroad must be provided with information on the legal situation in the accrediting country, local business practices, the general level of corruption⁴⁴ and sectors that are especially impacted by corruption (e.g. public procurement, customs, the justice system). As far as possible, the embassies and consulates advise and support Swiss companies facing solicitation of bribes or placed at a disadvantage by bribery on the part of third-country competitors.

Activities and measures to build awareness in the private sector

The IDWG on Combating Corruption, particularly SECO and the FDFA, have advanced their efforts to build awareness among companies of corruption risks in international business in recent years. Since most large multinational companies have prevention mechanisms and internal control systems, the authorities devote most of their attention to SMEs operating abroad. It is important for the SMEs to receive information on risks and measures to prevent corruption so that they can take appropriate precautions.

Several events were held in 2013⁴⁵ to raise awareness of corruption risks in international business among these companies. These events will continue to be held in the future to protect companies against the risks of corruption.

The IDWG on Combating Corruption, represented by SECO and the FDFA, participated in the bimonthly Compliance Roundtable, an initiative of Siemens Schweiz AG, together with the compliance representatives of Swiss companies, HTW Chur and Transparency International. The round table is a venue for sharing information, developing best practices, supporting SMEs on compliance issues and initiating and executing collective actions. The SECO brochure "Preventing corruption – Information for Swiss businesses operating abroad"⁴⁶ serves as a guideline for businesses. It provides an overview of the issue of corruption in international business and of the provisions of Swiss criminal law. It contains case studies of concrete situations including a legal assessment and indicates ways for companies to avoid and actively combat corrupt behaviour. The brochure is distributed to companies at various meetings and events. SECO also informs anti-corruption stakeholders about Annex II of the revised recommendation on combating corruption in international business transactions, which contains guidance on internal controls, ethics and compliance for businesses.⁴⁷

⁴⁴ The extent of corruption in each country is measured by the "Corruption Perception Index" compiled by Transparency International; see <http://www.transparency.org>. Further useful information is available at the following website: <http://www.business-anti-corruption.com/?L=0>.

⁴⁵ In April 2013 SECO held a seminar together with TI and the Chamber of Commerce Switzerland – Central Europe (SEC) on "Corruption in Central and Eastern Europe: A Risk for Swiss SMEs?" for companies operating in eastern Europe. In June 2013 Swissmem (the association of the Swiss mechanical and electrical engineering industries), SECO, the University of Applied Sciences (HTW) Chur and representatives of various Swiss companies (Siemens, ABB and Conzeta) held an event on preventing corruption in the export business, especially for SMEs.

⁴⁶ This brochure was developed by SECO in collaboration with the FDFA, the FOJ, economiesuisse and Transparency International (TI) and was last revised in 2008.

<http://www.seco.admin.ch/dokumentation/publikation/00035/00038/01711/index.html?lang=en>

⁴⁷ Annex II of the revised 2009 OECD Recommendation for Further Combating Bribery of Foreign Public Officials contains guidance on internal controls, ethics and compliance. The guidelines are directed especially at SMEs operating internationally with the aim of improving the effectiveness of programmes and measures to prevent bribery. (They do not contain legally binding regulations and can be adopted voluntarily.)

<http://www.seco.admin.ch/themen/00645/00657/index.html?lang=en>



- ***Recommendation 7: The IDWG core group recommends continuing the measures to raise awareness among enterprises of corruption risks in international business with a focus on SMEs operating internationally. The topic of combating corruption should continue to be included in business-related events.***

4.1.4. Cooperation with the cantons and cities

There were numerous media reports of cases of corruption in the individual cantons and municipal administrations during the year under review. The IDWG has set itself a goal of expanding cooperation with the cantons and cities. Several cantons lack specific reporting offices for combating corruption, which can make it more difficult to identify competencies in respect of corruption. IDWG representatives had an opportunity to present the group's mandate and activities as well as the OECD's and GRECO's recommendations for the cantons as part of Switzerland's "peer review" process in training seminars for the directors and staff of the cantonal financial auditing offices of the *Conférence latine* (Fribourg, 28 November 2013) and of the Association of Audit Offices of German-Speaking Switzerland and the Principality of Liechtenstein (16 January 2014).

- ***Recommendation 8: The IDWG core group recommends that cooperation with the Conference of the Cantonal Governments (CCG) and the individual cantons and cities should be strengthened.***

- ***Recommendation 9: The IDWG core group recommends that cantons and cities appoint specific individuals or offices with the mission of combating corruption and notify the public and especially the IDWG of these individuals/offices in order to simplify cooperation.***

4.2. International level

4.2.1. GRECO (Group of States against Corruption)

GRECO's objective is to improve the capacity of its members to fight corruption by monitoring their compliance with Council of Europe anti-corruption standards through a dynamic process of mutual evaluation and peer pressure.⁴⁸

As part of the current third evaluation cycle, Switzerland is being assessed on two quite distinct themes: incriminations for corruption under criminal law (Theme I) and funding of political parties (Theme II).

Regarding Theme I (incriminations), GRECO has made five recommendations to Switzerland. These recommendations have been incorporated into draft legislation amending the criminal-law provisions criminalising corruption. The proposed legislative amendments will make it possible to implement all five recommendations concerning the theme of incriminations once the law enters into force. Consultation on the draft bill concluded on 5 September 2013 and the dispatch was approved by the Federal Council on 30 April 2014. In

⁴⁸ GRECO (Group of States against Corruption) is an institution of the Council of Europe. It consists of 49 member states (all of the member states of the Council of Europe plus the United States and Belarus). Switzerland has been a member since 1 July 2006, an automatic result of Switzerland's ratification of the Criminal Law Convention on Corruption (SR 0.311.55).



reference to Theme II (party funding), GRECO has made six recommendations to Switzerland. These recommendations concern the fundamental principles of a system of transparency in this area. They require a standardised accounting system and independent auditing of accounts of political parties and electoral campaigns, publication of accounts (including donations exceeding a certain threshold), a prohibition of acceptance of anonymous donations, independent oversight of the transparency regime itself and the possibility of appropriate sanctions if these rules are violated.

Before adopting potential measures in respect of party funding, the Federal Council has decided to request a discussion with a GRECO delegation on these recommendations (see also page 10).

The measures taken by Switzerland to implement the GRECO recommendations in these two domains were reviewed by GRECO in a Compliance Report adopted in October 2013. Overall, GRECO found that implementation was unsatisfactory, subjecting Switzerland to a non-compliance procedure⁴⁹.

GRECO also launched its fourth evaluation round in 2014, addressing prevention of corruption among members of Parliament, judges and prosecutors. More specifically, it addresses the following issues:

- codification of ethical principles and rules of conduct
- regulation of potential conflicts of interest
- prohibition or restriction of certain activities
- opportunity for a system of declaration of assets, income, liabilities and interests
- monitoring of application of rules in force and possible sanctions
- awareness of various integrity issues.

Switzerland's evaluation should take place in 2015–2016 and specifically address the members of the Federal Assembly, the judges of the federal courts and public prosecutors at the Office of the Attorney General of Switzerland.

4.2.2. OECD Convention on Combating Bribery of Foreign Public Officials

Switzerland ratified the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions⁵⁰ on 31 May 2000.

OECD report on the Phase 3 country evaluation for Switzerland

Switzerland underwent its Phase 3 evaluation in 2011. Along with implementation of the recommendations to the member states from Phases 1 and 2 on legislation and implementation of the criminalisation of bribery of foreign officials, the report on Phase 3 reviews enforcement and sanctions as well as efforts by Switzerland to prevent bribery of foreign officials.

⁴⁹ In a second interim report in June 2014 GRECO concluded that implementation of the recommendations was still unsatisfactory and that Switzerland would therefore remain in the non-compliance procedure. It will be required to submit a new report to GRECO at the end of March 2015.

⁵⁰ OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of 17 December 1997 (SR 0.311.21) has been signed by the 34 OECD member states and six other members (Argentina, Brazil, Bulgaria, Colombia, Russia and South Africa) to date. Entry into force for Switzerland: 30 July 2000.



The OECD Phase 3 Report on Switzerland was adopted at the plenary meeting of the OECD Working Group on Bribery in December 2011 and published in January 2012.⁵¹ In the Phase 3 Report on Switzerland, the OECD praises the work of enforcement authorities and the first conviction of a company for failing to prevent bribery of foreign officials. The Swiss authorities are also praised for international legal assistance, confiscation and recovery of illicitly acquired assets and for their proactive approach to seizures. The obligation of federal employees to report crimes and offences that come to their notice in the performance of their duties, introduced on 1 January 2011, is viewed as positive. Awareness-raising and training measures to combat corruption in both the public and private sectors are also welcomed. The OECD Country Report contains recommendations for improvements. The OECD regrets that, despite numerous prosecutions initiated, there have not been more convictions for foreign corruption. The most important of the twelve recommendations to Switzerland concern the following areas:

- When applying special procedures such as the summary penalty order procedure, the summary procedure or reparations, the reasons for choosing this procedure and the sanctions imposed should be disclosed in more detail, in conformity with applicable procedural rules;
- The prosecuting authorities should be trained in corruption issues in the area of corporate liability. Further, the human and financial resources placed at their disposal should be reviewed regularly and adjusted as necessary to ensure effective prosecution of offences;
- Switzerland should periodically review its policy in respect of criminal liability of small facilitation payments and encourage businesses to prohibit or discourage such payments in their internal guidelines;
- Measures to raise awareness of corruption risks abroad among businesses should increasingly be aimed at small and medium enterprises (SMEs) operating internationally;
- Legal protection for whistleblowers should be extended to the private sector;
- Companies convicted of foreign bribery should be barred from public contracts and contracts funded by public development cooperation programmes for a certain period of time.

In Switzerland's view, the OECD Phase 3 Report provides an accurate picture of the current state of efforts to combat foreign corruption. The relevant agencies and offices of the Confederation and cantons were informed of the recommendations at the beginning of 2012 and consulted on them in May 2013. Certain of these recommendations require concrete measures; others will merely be reviewed. Switzerland presented a written follow-up report on implementation of the recommendations to the OECD in March 2014.

OECD Ministerial Meeting

In the spring of 2012 Switzerland submitted a proposal to the members of the G20 to further the fight against corruption by organising a joint ministerial meeting of the OECD and G20. The project took shape with the idea of reinvigorating efforts at the international level to counter the problem of corruption. To this end, a ministerial meeting is an occasion for both stimulating political will and renewing commitments made by the states. By harnessing synergies between G20 initiatives and the work of the OECD, Switzerland also hopes to promote cooperation in combating corruption with countries that are not members of the

⁵¹ <http://www.seco.admin.ch/aktuell/00277/01164/01980/index.html?lang=en&msg-id=42981>



OECD but are represented in the G20 (China, India, Indonesia, Saudi Arabia). At the G20, the proposal drew a mixed response owing to its OECD component which, repeated G20 declarations in favour of closer cooperation with that organisation notwithstanding, is not yet viewed favourably by all members. As for the OECD, the Swiss proposal was welcomed by the OECD secretariat and by the members of the Working Group on Bribery. It was nevertheless agreed to take time to consider the agenda for such an event in greater depth.

4.2.3. UNCAC (United Nations Convention against Corruption)

Switzerland ratified the UN Convention against Corruption (UNCAC) on 24 September 2009. The UN Convention is the most comprehensive and global agreement against corruption and has been ratified by over 140 states to date. The convention includes provisions on preventing corruption and on international cooperation and technical support for developing and emerging market countries and establishes that illicitly acquired assets must be returned if certain conditions are met. Switzerland plays a leading role on these issues.

The review mechanism established in 2010 is currently in its first round. Switzerland has undergone its first country review under Chapters III and IV of the UN convention on international cooperation and criminalisation of corruption, in which it was reviewed by Algeria and Finland. A comprehensive country visit took place in Bern at the end of February 2012 in which the two examiners and the UNCAC secretariat gathered local impressions and met with various stakeholders in the federal administration, the private sector and civil society. These direct talks with senior representatives of the Confederation, including in particular the Foreign Minister and the Attorney General, were highly appreciated by the examiners. They were seen as an important political signal of Switzerland's commitment and contributed to the positive impression of Switzerland that the two examiners received. The final outcome of the review was a comprehensive country report and a summary of the report. As there is no provision for explicit discussion of country reviews, nor was any such discussion held in the case of Switzerland, publication of the reports marks the conclusion of Switzerland's examination.⁵²

The results of the review were very positive for Switzerland. In part this was because the Swiss anti-corruption framework is in fact quite strong, especially in the areas covered by the UNCAC. Moreover, the provisions of the UNCAC are less far-reaching than those of other conventions (OECD, Council of Europe), so that Swiss law is more readily able to meet its requirements. In comparison with completed UNCAC country reviews of comparable states such as Finland, Switzerland was assessed rather leniently. It should be noted here that no uniform assessment standard has yet emerged.

The recommendations mostly concern non-binding provisions and there is no further need for action. There are no surprises in the few critical points, which correspond to the results of other country reviews of Switzerland. As a result, modifications are already under way in certain areas (e.g. prosecution of private bribery only upon complaint). There is no further reporting requirement in the UNCAC review process. At the earliest, Switzerland will undergo a further evaluation in respect of corruption prevention and asset recovery during the next review cycle starting in 2015. If necessary, the new evaluation will provide the opportunity to report on any follow-up actions in relation to the current cycle.

⁵² <http://www.unodc.org/unodc/treaties/CAC/country-profile/profiles/CHE.html>



Switzerland has a strong interest in remaining involved in the UN process in future with a view to establishing a transparent, inclusive and stricter review mechanism. The objective is for emerging trading partners in Asia, Africa and Latin America to implement the UN Convention effectively so that binding corruption rules apply to them as well. Accordingly, Switzerland has drafted a resolution to enhance the UNCAC review mechanism, which it presented to the Conference of the States Parties in Panama in November 2013. The resolution aims for a transparent, more efficient and more inclusive review mechanism. Negotiations, however, have proven quite difficult owing to strong resistance on the part of certain member states. Ultimately the long and difficult discussions on the resolution resulted in a decision instructing the Implementation Review Group (IRG) to submit concrete proposals for improvement for the second cycle of the review mechanism by the time of the next Conference of the States Parties in Russia in 2015.

Despite this less than satisfactory result, the UNCAC remains the only universal convention on combating corruption. It makes it possible for Switzerland to demand a level playing field in respect of combating corruption for Swiss businesses operating internationally. Still, it will require a great deal of time and energy yet to achieve these ambitious goals.

In November 2013, the Conference of the States Parties to the UNCAC also called on those requesting and requested states having a certain degree of practical experience in asset recovery to develop practical guidelines based on best practices in the matter. On 18 December 2013 the General Assembly of the United Nations also recommended the development of such practical guidelines based on existing best practices. Switzerland launched a process designed to develop such practical guidelines at the 8th Lausanne Seminar in January 2014 in response to the appeal by the Conference of the States Parties. These steps will contribute to enhancing the effectiveness of asset recovery efforts through greater coordination at the international level.

4.2.4. Switzerland's participation in the G20 Anti-Corruption Working Group

To bring the Swiss position and commitment to combating corruption to the table at the G20 Anti-Corruption Working Group, Switzerland has written several "non-papers" for the G20. Based on its experience in asset recovery, Switzerland submitted a background paper to the G20 containing potential improvements in recovery of illicitly obtained assets. Under the 2013 Russian presidency of the G20, Switzerland was invited to join the G20 Anti-Corruption Working Group. The G20 Anti-Corruption Working Group works to implement the G20 Anti-Corruption Action Plan for 2013–2014, which among other things calls for all G20 member states to ratify the UNCAC.

G20 Anti-Corruption Working Group: Switzerland attended the group's meetings on 6–7 June 2013 in Ottawa and 10–11 October 2013 in Paris. In addition to Switzerland, non-G20 members Spain, Singapore and Brunei (the incumbent chair of ASEAN, the Association of Southeast Asian Nations) were invited as observers. Participation was an opportunity to present Swiss concerns in respect of combating corruption to the G20, and to gather interesting views of the working methods and decision-making processes of the G20.



4.2.5. Selected forums and events on recovery of illicitly obtained assets

Thanks to its role and expertise in the matter, Switzerland was invited to the Arab Forum on Asset Recovery in Qatar in September 2012 by the US presidency of the G8. This forum was the result of a recommendation in the asset recovery action plan adopted under the Deauville Partnership for the Arab emerging-market countries initiated by the French presidency of the G8 in 2011. Following the success of the forum, three special sessions on asset recovery challenges at the international level were organised in Qatar, Egypt and London in 2013 by the British presidency of the G8. Switzerland was represented at each of these sessions. A Swiss delegation (FDFA/DIL, FDFA/DP, FOJ) took part in the second Arab Forum on Asset Recovery held in Marrakesh, Morocco on 26–28 October 2013. This forum provided an opportunity for various stakeholders to affirm their political will to encourage rapid restitution of frozen funds following the events of the Arab Spring. In this context, several participants underscored the importance of preventing corruption in order to preclude future misappropriation of assets by a country's leaders through effective implementation of the UNCAC with a transparent and participatory country-by-country review mechanism.

As in 2012, the seventh Practitioners' Workshop on recovery of assets illegally acquired by politically exposed persons was held on 28–29 January 2013 in Lausanne. The topic this year was "The Arab Spring and the Recovery of Stolen Assets: Challenges and Responses Two Years Later". The meeting was an opportunity to take stock of progress and of challenges met and gave representatives of the countries concerned a chance to hold bilateral discussions and build confidence among the actors involved. The last Lausanne Seminar took place on 26–28 January 2014 and was devoted to identifying and promoting a model of best practices for recovery of stolen assets at the international level.

5. IDWG on Combating Corruption conclusions and recommendations to the Federal Council

5.1. Interim conclusions of the IDWG core group

The secretariat of the IDWG on Combating Corruption is situated in the Economic Affairs section of the Sectoral Foreign Policies Division of the FDFA Directorate of Political Affairs. The IDWG has no funding or specific full-time equivalents for a secretariat office of its own. This circumstance not only limits its scope of action (for example in planning activities), but also impairs the optimum execution of the Federal Council's mandate of 2008⁵³ and of IDWG core group recommendations that have been brought to the Federal Council's attention. Moreover, available financial and human resources are insufficient to permit expanding the IDWG secretariat's current activities to include awareness-raising of corruption risks among federal staff.

The formation of the IDWG on Combating Corruption has led to better communication among federal offices that deal with corruption issues and between these offices and interested private businesses, for example at IDWG plenary meetings. Nevertheless, the IDWG core group has found that handling of corruption issues in the federal administration is still highly

⁵³ The Federal Council mandate of 19 December 2008 calls for plenary events twice a year attended by all interested parties in the federal administration along with civil society and private business, topical staff training seminars, development of joint and concerted strategies and reporting on these activities to the Federal Council. The IDWG is tasked with presenting recommendations for improving the Swiss anti-corruption framework.



fragmented. In some countries anti-corruption agencies actually have policing powers. Forming such an agency in Switzerland would be a step too far, but the IDWG nonetheless sees a need for action if the Federal Council's mandate is to be carried out in a more targeted and effective manner. The IDWG secretariat currently serves as a contact point for interested parties within and outside the federal administration who have questions and concerns about anti-corruption efforts. All departments would gladly make use of the IDWG secretariat's services since they lack resources of their own to perform coordination and awareness-raising tasks. But the IDWG is unable to accommodate all such requests owing to a lack of funds. Organising additional training and awareness-raising events would require expanding the IDWG secretariat's human resources. Granting the secretariat a small budget would also permit it to hold conferences with corruption specialists for advanced training of federal staff.

The 2008 Federal Council mandate for the IDWG on Combating Corruption already recognised the need for an additional staff position in the IDWG secretariat, but the position was ultimately cut from the 2009 global human resource assessment for economic reasons. The IDWG core group is of the opinion that this position must be reassessed.

➤ **Recommendation 10: The IDWG core group recommends that additional human and financial resources be allocated to the IDWG secretariat.**

5.2. Summary of recommendations of the IDWG core group

The IDWG core group has formulated ten recommendations to improve the anti-corruption framework in Switzerland.

Recommendation 1: The IDWG core group recommends that the SDC and SECO prepare a list of Swiss development cooperation projects, programmes and other measures to combat corruption and provide this information to the IDWG.

Recommendation 2: The IDWG core group recommends adoption of a reporting obligation in cases of suspicion of corruption (analogous to Article 22a FPA) for all decentralised administrative units.

Recommendation 3: The IDWG core group notes that the "revolving door" clause is not contained in various senior federal employees' employment contracts. The IDWG core group recommends that this clause be adopted, where objectively appropriate, in the employment contracts of senior managers of the federal administration.

Recommendation 4: The IDWG core group recommends that the FDFA (DP/SFPD) compile a list of offices in different countries where corruption can be reported, especially for use by the private sector.

Recommendation 5: The IDWG core group recommends identifying specific risk groups in the federal administration and working towards appropriate advanced training in the area of corruption.



Recommendation 6: The IDWG core group recommends that specific groups at risk within the federal administration work through the existing e-learning module "Combating Corruption". The module contains references to the legislation, the federal administration's Code of Conduct, information on federal employees' notification obligation and practical case studies. The extension of the recommendation to all employees of the federal administration should be reviewed within the framework of the preparation of the 2014-2017 Activity Report on Combating Corruption.

Recommendation 7: The IDWG core group recommends continuing the measures to raise awareness among companies of corruption risks in international business with a focus on SMEs with international operations. The topic of combating corruption should continue to be included in business-related events.

Recommendation 8: The IDWG core group recommends that cooperation with the Conference of the Cantonal Governments (CCG), the individual cantons and cities should be strengthened.

Recommendation 9: The IDWG core group recommends that cantons and cities appoint specific individuals or offices with the mission of combating corruption and notify the public and especially the IDWG of these individuals/offices in order to simplify cooperation.

Recommendation 10: The IDWG core group recommends that additional human and financial resources be allocated to the IDWG Secretariat.