
2.1 Corruption as a Societal Challenge in the 21st Century

Corruption is one of the big challenges to society in the 21st century. There are several reasons that give rise to this claim. First, as explained above, this is a transnational governance challenge that is very difficult for any government to tackle (Rasche, 2012, p. 679; Scherer & Palazzo, 2008, p. 423). Second, corruption is a phenomenon that is difficult to grasp as it occurs in so many different forms. Third, the sheer magnitude of corruption and the profound negative consequences that creep into all spheres of society make corruption one of the great challenges of this epoch.

Before presenting Coordinated Governance Initiatives as a novel approach to combating corruption, it is important to answer the question of what corruption actually is and why it is considered so harmful. The need to adopt an approach of “*self-interested voluntariness*” (Lütge, 2010b) if the private sector, and particularly MNCs, are to be involved effectively in combating corruption is also demonstrated.

2.1.1 Delimiting Corruption

Corruption is undoubtedly an enigmatic term that has gained prominence in recent years in the media⁷ as well as in academia and among politicians and business leaders. Peter Ei-

7 In actual fact, there seems to be more comprehensive media coverage of corruption cases in recent years. A simple search in the archive of the German news magazine ‘Der Spiegel’ provides evidence on this interesting development: From January 1, 1986 to December 31, 1995 the magazine lists 57 articles that contain the word ‘corruption’ either in the heading or in the lead paragraph; from January 1, 1996 to December 31, 2005 the amount of articles rises to 216. In the last decade, from January 1, 2006 to December 31, 2015, the magazine featured not less

gen, former World Bank manager and founder of TI, once referred to corruption as being the “*fundamental evil of our times*” (Eigen, 2003, p. 11). Similarly, the World Bank has called corruption “*the largest obstacle to economic and social development*” (Aguilera & Vadera, 2008, p. 431). Nevertheless, it is hard to tell what corruption exactly is as the term is used so frequently on very different occasions. From an etymological point of view, ‘corruption’ goes back to the participle ‘corruptus’ of the Latin verb ‘corrumpere’. The radical ‘-rumpere’ can be translated as ‘to break’ and ‘corrumpere’ meaning ‘to destroy’, ‘to ruin’, and ‘to break entirely’, hence ‘to break up morally’ (Klein, 1966, p. 357; Partridge, 1958, p. 576). The noun ‘corruption’ thus implies the breach of moral rules and suggests that the word is linked to the society’s prevailing concept of morality. However, these conceptions are subject to constant change and hence what is perceived as corrupt can vary according to time and place (Abele, 1993, col. 573; Klitgaard, 1988, pp. 3; 23).

Before presenting a definition of corruption⁸, which shall be used for this research project, three often heard prejudices about corruption shall be refuted in order to approach this multifarious term. First, from a historical perspective, corruption is not a new phenomenon, but can be traced back to antiquity (Noonan, 1984; Rothstein & Varraich, 2014, pp. 32 et seq.). Although there is the tendency to bemoan an alleged or actual moral decay in Western societies, corruption as the embodiment of moral decay par excellence is not a problem that is exclusive to our modern age. On the contrary, corruption existed in ancient times as archives from the ancient Egypt and the Greek city-states show. For example, Plato points to the problem of bribery in his famous *Nomoi*, especially when it is public officials accepting such undue advantages (Platon, 1959, p. 311). Likewise documents of medieval times and sources of the ancient Rome demonstrate the existence of corruption in those days (Abele, 1993, col. 573). Furthermore, Machiavelli advises on how to deal with corruption in 14th century Florence in his seminal work ‘*Il Principe*’ as he considered corruption to be one of the greatest ills in governance (Aguilera & Vadera, 2008, p. 431; Rothstein & Varraich, 2014, p. 34). However, as a result of ongoing globalization processes the world today is much more interconnected, thus making the negative impact of corruption more visible.

A second often heard presumption is that corruption is mostly an issue for developing or emerging nations (Schneider & Pritzl, 1999, p. 310). Although this one-sided perception of corruption has been challenged in recent years by numerous corruption scandals in Western countries, corruption is associated most often with the rampant type of corruption that can be found in many African countries. In actual fact, corruption is a ubiquitous phenomenon which can be found in all societies, including the industrial nations (Heimann & Mohn, 1999, p. 531). However, it can vary greatly from one country to another in

than 719 stories on the topic of corruption. However, this is probably the result of an increasing awareness of the corruption problem, not a rise in corruption cases itself. [Archival search conducted on June 2, 2016]

8 In this dissertation corruption and bribery are frequently used synonymously. This may be justified given that bribery is probably the most common form of corruption.

terms of its scope and the consequences that may ensue for society and economy. This depends among other things on the existence of robust institutional frameworks and well-designed systems of governance. For example, petty corruption or bureaucratic corruption can be widely observed in developing or emerging countries, whereas grand corruption or political corruption is also frequently found in developed economies (Rose-Ackerman, 1999a, pp. 27 et seq.). Irrespective of these different manifestations of the phenomenon, corruption and bribery are universally condemned. There is not a single country in which corruption is legally permitted – at least not in any law book – or regarded as morally acceptable (Noonan, 1984, p. 702).

Third, it is often stated that corruption affects all members of society equally and pervades every branch of industry. This is not true. Some sectors are more prone to corruption than others (Bannenberg & Schaubenstein, 2007, p. 55). The different degrees of susceptibility to corruption across sectors can be ascribed to the structural characteristics of these sectors. Sectors with highly complex structures usually are more susceptible to corruption than less complex ones (Truex & Søreide, 2011, p. 478). Also, corruption is more common within narrow market segments or on markets characterized by oligopsonies. Incentives for bribery are particularly high when the government is the sole purchaser of a good, as it is often the case in the construction sector (Rose-Ackerman, 1975).

2.1.2 Defining Corruption

Homann (2003, p. 239) and Noll (2013, p. 147) both refer to the fact that there is no clear and commonly accepted definition of corruption. The difficulty in finding an adequate definition also becomes apparent when looking at international organizations: Neither the OECD, nor the Council of Europe, nor the UN Conventions define corruption (OECD, 2008). Corruption merely represents an umbrella term for a multidimensional phenomenon that has enormous variation, both in types and frequency as well as location (Rothstein & Varraich, 2014, p. 16).

From a legal perspective, it is interesting to note that the German Criminal Code ('Strafgesetzbuch') does not contain the term 'corruption' at all (Stierle, 2008, p. 19). Instead, the most important elements of a crime that are commonly subsumed under the term 'corruption' can be found in §§ 331 to 335 of the German Criminal Code, dealing with malpractice in office. § 331 contains the unlawful acceptance of benefits, § 332 deals with taking bribes, § 333 addresses the granting of an undue advantage, § 334 is about giving bribes, and § 335 deals with especially grave cases of unlawful acceptance of benefits or giving bribes. Six additional paragraphs need to be mentioned here, that is: taking and giving bribes in commercial practice (§§ 299, 300); the taking and giving of bribes in the health care sector⁹ (§§ 299a, 299b); bribing voters (§ 108b) and bribing delegates

9 This law on combating corruption in the health care sector is the most recent anti-corruption law in Germany, adopted in April 2016 (Deutscher Bundestag, 2016).

(§ 108e)¹⁰ (Bannenberg, 2002, p. 25; Bannenberg & Schaubenstein, 2007, p. 27). Moreover, fraud, embezzlement, extortion as well as accounting fraud, price rigging, and bid-rigging, among others, are frequently named as offenses that accompany the aforementioned, often in order to obfuscate other crimes committed (BKA, 2016a, p. 4).

However, the legal perspective alone does not capture all aspects of this multi-faceted phenomenon. Rothstein and Varraich (2014, p. 28) explain, “*The problem with this legal type of definition is that this excludes many forms of what others may define as corruption such as various types of favors in which money is not involved.*” Besides, the legal understanding of corruption is too narrow as it fails to consider acts that might be regarded as ethically wrong, even if they are not illegal. In other words, not only do illicit acts, such as bribery, embezzlement, extortion, and fraud, fall under the term ‘corruption’, but also acts typically perceived as illegitimate such as nepotism, cronyism, and clientelism¹¹. The former represent specific elements of an offense as stipulated in the codes of law. The latter three pertain to a group of rather diffuse forms of ethical misconduct. Hence, the concept of corruption is clearly a heterogeneous one (Forte, 2004, p. 123).

Therefore, it might be useful to widen the focus and take a look at definitions that other disciplines have coined. Aside from the legal perspective, political scientists and economists show a mounting interest in corruption and have developed a number of different definitions. Table 1 gives an overview of some of the more prominent ones.

10 The German Federal Office of Criminal Investigation (BKA) provides detailed annual statistics about criminal investigation proceedings of corruption offenses in its ‘Bundeslagebild Korruption’ report (BKA, 2016a). However, as the authors concede the report only sheds light on a very small segment of corrupt offenses. The great majority of the cases remain undisclosed. Therefore, the validity of those numbers is limited since they do not reflect the real situation.

11 Nepotism, cronyism, and clientelism as well as favoritism and patronage all represent concepts which resemble the concept of corruption in many aspects, yet they differ in nuances from each other. For example, nepotistic relationships are characterized by the good or service that is exchanged between the parties involved. As opposed to typical corrupt relationships, it is not money that is exchanged between agent and client in nepotistic relations. Instead, the agent has a special social relation to the client and can lay a general claim to a service in return against the client at a later moment (Dietz, 1998, p. 38). For definitions on these similar phenomena see the glossary of the U4 Anti-Corruption Resource Centre (2016) or TI’s Anti-Corruption Plain Language Guide (TI, 2009a). Rothstein and Varraich (2014) additionally list particularism, patrimonialism, and state capture as phenomena which have an overlap with the concept of corruption, and describe the differences in detail.

Table 1 Selection of Scientific Definitions of Corruption (in alphabetical order of the respective authors)

Definition	Source
Corruption represents “ <i>transactions between the private and the public sectors such that collective goods are illegitimately converted into private-regarding payoffs</i> ”.	Heidenheimer & Johnston, 1989, p. 6
Corruption is “ <i>the privatization of public policy</i> ”.	Kaufmann, 2005, p. 82
“ <i>Corruption is divergence between the principal’s or the public’s interest and those of the agent or civil servant: corruption occurs when an agent betrays the principal’s interests in pursuit of her own.</i> ”	Klitgaard, 1988, p. 24
“ <i>Corruption is behavior which deviates from the formal duties of a public role because of private-regarding ... pecuniary or status gains.</i> ”	Nye, 1967, p. 419
Corruption is “ <i>an illegal payment to a public agent to obtain a benefit that may or may not be deserved in the absence of payoffs</i> ”.	Rose-Ackerman, 2009, p. 353
Corruption is “ <i>the sale by government officials of government property for personal gain</i> ”.	Shleifer & Vishny, 1993, p. 599

What all those definitions have in common is the Weberian distinction between the public and the private sphere (Andvig & Fjeldstad, 2000, p. 11). One speaks of corruption when the borderline between those spheres is blurred. The distinction between the two spheres is sometimes made explicitly, for example by Heidenheimer and Johnston (1989), Kaufmann (2005), and Nye (1967), and sometimes more implicitly, for instance by Klitgaard (1988), Rose-Ackerman (2009), and Shleifer and Vishny (1993). According to these definitions, corruption occurs at the interface of the public and the private sector.

Despite the great variety of definitions, there seems to be a universal understanding of corruption, which also goes back to the public/private distinction. Rothstein and Varraich (2014, p. 49) call this “*the public goods approach*” to corruption. They argue that every society needs to cater for a minimum of public goods like security, national defense, and basic infrastructure. A public good has to be managed and distributed according to principles that differ significantly from those principles that are valid for the management and distribution of private goods. Most notably, public goods are not to be distributed according to the private wishes of those in charge of managing them. The authors remark, “*When this principle for the management and distribution of public goods is broken by those entrusted with the responsibility for handling the public goods, the ones that are victimized see this as ... corruption*” (Rothstein & Varraich, 2014, p. 50).

Some scholars have pointed out that corruption is not only a public sector phenomenon, as there can also be private-to-private corruption (Azfar, 2004). Private-to-private corruption refers to corrupt practices within and between legal entities that do not belong to the public sector (TI, 2014). Argandoña (2003, p. 255) defines private-to-private corruption as the

type of corruption “that occurs when a manager or employee exercises a certain power or influence over the performance of a function, task, or responsibility within a private organization or corporation”. Hence, this definition also applies to NGOs, associations or foundations. § 299 and § 300 of the German Criminal Code deal with this form of corruption.

Private-to-private corruption has gained increasing attention in recent years, not least due to a number of big corruption scandals. The FIFA scandal over payments allegedly made to high-ranked FIFA officials to influence the decision concerning the future Soccer World Cup sites is one of the most recent and most famous examples of a corruption scandal. There is, however, more than anecdotal evidence for the growing awareness of corruption within the private sector. TI’s Bribe Payers Index provides empirical evidence that corruption is also common practice within the business community, whereby the perceived likelihood of this form of bribery is nearly as high as bribery of public officials across all sectors (TI, 2011, p. 19).

However, public sector corruption has usually been seen as more detrimental as it undermines confidence in public institutions. Moreover, in order to control ‘private’ corruption it is necessary to control corruption in the public sector first (Andvig & Fjeldstad, 2000, p. 14). The focus of the case studies analyzed in this research project is clearly on fighting public-to-private corruption. For this reason, private-to-private corruption will not be addressed beyond this short excursus.

So far, legal definitions and a number of definitions by political scientists and economists with common features have been presented. One of the most frequently used definitions, however, TI’s “*abuse of entrusted power for private gain*” (TI, 2006, p. 14, 2016c), does not fit in with any of these general groups. This definition, also employed by the World Bank (1997), is a typical policy definition (OECD, 2008, pp. 22 et seq.), which tends to be broader and lacks the precision of the aforementioned definitions. Nevertheless, TI’s definition has the advantage that it is easy to remember and is widely used. It is composed of three parts: The term ‘private gain’ or ‘private benefit’ refers to receiving money or an in-kind substitute. A private gain may also consist of receiving promises for future favors for relatives or friends. The term ‘entrusted power’ includes both entrusted public power exercised by bureaucrats and politicians and entrusted private power exercised by any individual of the private sector. In the present context, however, the focus is on entrusted public power. Typical situations in which bureaucrats can exercise power include the granting of permits or the awarding of a contract in public procurement. The term ‘abuse’ or ‘misuse’ insinuates public servants exhibiting a behavior which deviates from the formal duties of a public role (Lambsdorff, 2007, p. 16).

2.1.3 Categorizing Corruption

The definitions presented above capture various forms of corruption, such as bribery, embezzlement, extortion, and fraud. One can also distinguish among several types of corruption that are based on different criteria (Lambsdorff, 2007, p. 20). For instance,

scholars frequently make use of the conceptual pair ‘petty’ and ‘grand’ corruption. The terms ‘bureaucratic’ and ‘political’ corruption can be found in the literature as well. Last but not least, situational versus structural corruption and decentralized versus centralized corruption are commonly made distinctions. Table 2 elucidates which criteria are used by scholars to distinguish the different types or categories of corruption.

Table 2 Frequently Made Distinctions of Corruption

Label	Criterion	Explanation
Petty vs. grand	<ul style="list-style-type: none"> Amount of money paid Level of hierarchy at which corruption takes place 	<ul style="list-style-type: none"> Petty corruption refers to small sums of money that are usually demanded by low-level public officials; sometimes called ‘corruption of need’ because the person demanding the bribe depends on the money to supplement his low income. Grand corruption refers to larger sums of money paid to high-level officials. It distorts policies and the central functioning of the state. (Azfar, 2004, pp. 126–130; TI, 2009a, pp. 23; 33)
Bureaucratic vs. political	<ul style="list-style-type: none"> Key actors involved, i.e. either bureaucrats or politicians 	<ul style="list-style-type: none"> Often used synonymously with petty and grand corruption (U4 Anti-Corruption Resource Centre, 2016). Secondary meaning of political corruption: refers to the practices of rulers abusing laws and regulations for their own benefit; associated with weak legal institutions (Andvig & Fjeldstad, 2000, pp. 18 et seqq.).
Situational vs. structural ^A	<ul style="list-style-type: none"> Duration and strength of relationship between briber and bribee 	<ul style="list-style-type: none"> Situational corruption: spur-of-the-moment decision, offense was not specifically planned in advance. Structural corruption: corrupt acts which have been planned consciously and build upon long-term corrupt relationships (BKA, 2016a, p. 3).
Decentralized vs. centralized	<ul style="list-style-type: none"> Predictability of bribing system 	<ul style="list-style-type: none"> Decentralized corruption: occurs when there is a weak central government; different public agencies provide complementary government goods or services independently (independent monopolists); e.g. to receive a permit, a number of different officials need to be bribed; very fragmented, often anarchic system of bribery. Centralized corruption: agency providing the same goods or services; has less adverse effects on efficiency than decentralized corruption as it is more predictable (Bardhan, 1997, pp. 1324–1327).

A With 85% of the court procedures belonging to the category of structural corrupt acts and only 15% falling under the label ‘situational corruption’, Germany is apparently more affected by cases of structural corruption (Bannenberg & Schaupensteiner, 2007, p. 33; BKA, 2016a, p. 3).

Attempts were undertaken to present clear demarcating criteria for each conceptual pair of corruption. This clear distinction does not work in all cases. Some of the categories' features overlap. For instance, petty corruption and situational corruption have some overlapping characteristics. They seem to be used almost interchangeably with the only difference that the term 'petty corruption' puts more emphasis on the amount of money to be paid. By contrast, the term 'situational corruption' describes in more detail the general conditions under which the exchange of goods and services takes place.

There is also a clear link between the terms 'grand corruption' and 'structural corruption'. Grand corruption involves contact with high-level public officials or politicians (TI, 2011). The briber needs time and some dedication in order to establish lucrative relationships with decision-makers. Sweeteners of all kinds may be helpful here. Once such a relationship has been established, it seems therefore good advice to keep entertaining these relations and develop a long-term structural 'partnership'. Generally speaking, 'situational corruption' and 'structural corruption' appear to be more common in German language use¹².

Furthermore, some scholars use petty corruption and bureaucratic corruption synonymously (U4 Anti-Corruption Resource Centre, 2016). It is important to mention here that, although petty corruption usually involves relatively small sums, the amounts are not 'petty' for those who are adversely affected by this type of corruption. On the contrary, the poorest members of society suffer the most from petty corruption if they experience requests for bribes on a daily basis. For instance, small sums of money could be requested for all kinds of services in hospitals, schools, at local licensing authorities, police or taxing authorities.

Similarly, grand corruption and political corruption are sometimes used synonymously, whereby in both cases policies and rules are unlawfully influenced (U4 Anti-Corruption Resource Centre, 2016). Another example for political corruption is the financing of political parties and political campaigns.

The conceptual pair of decentralized and centralized corruption focuses more on the different organization of corruption networks within different regimes. For instance, the way corruption was organized in the Soviet Union varied greatly from the organization of corruption in post-Communist Russia (Shleifer & Vishny, 1993). Whereas in former times the Communist party centralized the collection of bribes, in post-Communist Russia a new form of organizing corruption occurred, whereby different ministries, agencies and local governments all tried to maximize their revenue independently and in a decentralized manner (Bardhan, 1997). The latter type of corruption has particularly serious effects on efficiency (Zenger, 2011), not least because it raises uncertainty and diminishes predictability of the decisions of the bureaucratic apparatus.

12 See also Nagel (2007, pp. 34 et seq.).

2.1.4 Conceptualizing Corruption

In economics, corruption is conceptualized in different ways. For the purpose of this research project a somehow ‘eclectic’ (pragmatic) approach is chosen, drawing on three different conceptualizations of corruption. These three models are not mutually exclusive, but rather complementary, whereby each one highlights a different facet of the complex corruption phenomenon.

2.1.4.1 Corruption as a Principal-Agent Problem

In the economics literature about corruption, the principal-agent theory plays a pivotal role (see for example Rose-Ackerman (1978), Shleifer and Vishny (1993), Dietz (2000), and Lambsdorff (2007)). Klitgaard (1988) was one of the first to apply the principal-agent theory specifically to the problem of corruption by modeling corruption as a breach of contract between principal and agent¹³. More recent examples of corruption research that are predicated on the principal-agent theory include Arnold, Neubauer, and Schönherr (2012) as well as Andersson and Bergman (2009). The predominance of this approach has also been demonstrated in a meta-study by Ugur and Dasgupta (2011), who analyzed more than 100 research articles on the impact of corruption on economic growth and found that all relied to a certain degree on the principal-agent framework.

Principal-agent theory analyzes problems that arise from the delegation of tasks from a principal to an agent (Picot, Dietl, Franck, Fiedler, & Royer, 2012, pp. 89 et seqq.; Richter & Furubotn, 2010, pp. 173 et seqq.). Difficulties in the principal-agent relation are due to diverging interests between principal and agent, information asymmetries, and monitoring problems. These problems result from the fact that contracts between principal and agent are usually incomplete¹⁴. The agent has informational advantages over the principal and therefore enjoys discretionary freedom, which she¹⁵ can exploit to pursue her own interests (Jensen & Meckling, 1976; Milgrom & Roberts, 1992). The theory is based on rational choice logic.

Accordingly, scholars who view corruption through the principal-agent lens attribute the existence of corruption mainly to information asymmetries between principal and agent (Noll, 2013, pp. 147 et seqq.). This approach also implies a focus on the individuals’ calculations about whether or not to engage in corruption. Furthermore, individuals will take into account the degree of transparency and monitoring they are subjected to and the sanctions they might face when caught violating the rules (Marquette & Peiffer, 2015).

13 See table 1 above for his definition of corruption.

14 Homann (2003, pp. 234–238) and Lütge (2012c) regard the incompleteness of contracts not so much as a problem, but rather as an essential element of their business ethics approach. They reason that the incompleteness of contracts can increase a company’s flexibility enormously if there is a corporate culture of trust and fairness.

15 As it is conventional, the female pronoun will be used when referring to the agent.

Dietz (1998) also draws on the principal-agent approach. However, he criticizes that most definitions of corruption which reference principal-agent theory neglect the crucial role of a third party, the client. According to Dietz (1998, pp. 34 et seq.), one constitutive element of an exchange within the corrupt act is not taken into account. Consequently, Dietz (1998, p. 29) suggests the following description of a corrupt act: The agent, who was granted special discretionary power by signing a contract with the principal, acts and decides contrary to the rules stipulated in the contract and in return receives a service by the client, who benefits from the agent's breach of rule. Similarly, Pies and Sass (2006, p. 346) regard corruption as an offense committed in secrecy and involving at least three actors, two of them being the offenders.

The description by Dietz serves as an underlying definition for this dissertation. Such an act of corruption has four different characteristics:

- The contract between principal and agent is always an incomplete one. Incomplete contracts invariably cause information asymmetries between the actors involved, which in turn make it easier for the agent to hide her being involved in corruption or bribery from the principal (Xun, 2005, p. 156).
- The agent is equipped with special discretionary decision power and capacity of acting exactly through the existence of this incomplete contract.
- Both parties benefit from the exchange of goods that is performed between agent (bribee) and client (briber).
- The breach of a rule by the agent is a major constituent of every corrupt act. This very infringement represents the service delivered by the agent in the context of the exchange between agent and client. (Dietz, 1998, p. 29)

A typical corruption case may develop as follows: A contractor, for instance a construction company (the client), is invited to submit a tender for the modernization of a school building. The company is facing a difficult business situation as it has lost three major bids in a row and therefore is forced to win this tender in order to secure jobs. Thus, the sales manager offers a considerable sum to the public official (the agent) in charge of the tendering process if his company were to win the bid. The bribe is paid using a kickback, whereby the construction company will inflate accounts at the expense of the tax-payer (the principal).

In this example, the public official has discretionary power, in that she alone is responsible for deciding which party will win the bid. Moreover, she is better informed than the principal. Both her direct superior and the tax-payer can be regarded as the principals in this example. The principal is not capable of monitoring the public servant closely enough to prevent her from exploiting this situation for her own personal gain.

In order to avoid principal-agent problems (and thus corruption), it is essential to align the interests of principal and agent. Two options are usually available to achieve this goal: Either monitoring is intensified to reduce the agent's discretion or the agent is given incentives to act according to the principal's preferences (Swedberg, 2005, pp. 377 et seq.).

The conceptualization of corruption as a principal-agent problem implies that the focus of anti-corruption interventions is on the demand-side¹⁶ of corruption (Dixit, 2013). The central question is thus how the agent's (i.e. the one demanding or receiving the bribe) discretion can be minimized to align the interests of principal and agent. It is hence assumed that the principal is benevolent and has a real interest in curbing corruption (Klitgaard, 1988)¹⁷. Consequently, good governance programs are frequently directed towards these kinds of principals (be it ministries, state-owned agencies or anti-corruption bodies) (Mungiu-Pippidi, 2013). More precisely, anti-corruption interventions include measures such as diminishing the discretion of public officials, intensifying monitoring efforts, and strengthening sanctions for offenders (Marquette & Peiffer, 2015).

One cannot presume such a benevolent principal, however, especially in countries plagued by systemic corruption. Rather, the principal himself often benefits from corruption and therefore has no incentive to credibly commit to fighting corruption (Dixit, 2014). This is due to the fact that individuals usually take on different roles within different relationships in hierarchies. In actual fact, the principal and the agent could even be the same person (Meyer, 2004, pp. 61–64). It is this assumption of a benevolent principal that critics of the principal-agent approach (applied to corruption research) have dismissed as misleading. They contend that this conceptualization has contributed to a great extent to the failure of anti-corruption programs installed in countries most affected by corruption (Mungiu-Pippidi, 2011, 2013; Persson et al., 2013). Therefore, some argue in favor of another conceptualization, namely corruption as a collective action problem.

2.1.4.2 Corruption as a Collective Action Problem¹⁸

Conceptualizing corruption as a collective action problem leads to a shift in focus to the supply-side of corruption, i.e. the companies or individuals that pay bribes (Dixit, 2013). What benefits do companies obtain from bribery? As previously demonstrated, principals who should monitor their agents' behavior and limit their engagement in corruption often lack the incentives to do so. By contrast, companies acting within a corrupt market environment have a strong interest in avoiding bribery. For them, bribes are perceived as a significant 'tax' (Gray & Kaufmann, 1998), which makes doing business considerably more

16 The demander of a bribe is an official who has the power to offer e.g. a government contract. The supplier is usually a businessperson who wants these favors. This distinction of demand- and supply-side of corruption largely corresponds to the distinction made between 'passive bribery' and 'active bribery'. According to the OECD, 'passive bribery' is the offense committed by the official who receives the bribe. By contrast, 'active bribery' is the offense committed by the person who promises or gives the bribe (OECD, 2011a, p. 13).

17 Klitgaard (1988, p. 22) himself conceded that a "*highly principled principal [is] an unrealistic assumption*", but introduced it for simplification reasons.

18 In a similar manner, Nichols (2004) discusses corruption as an assurance problem making extensive reference to game theory.

difficult. Unlike for the demand-side of corruption, for companies corruption represents more of a collective action problem (Hess, D., 2009).

Firms compete against each other e.g. for new contracts. In a corrupt market environment they must assume that their competitors will pay bribes to public officials in order to secure the contract at the expense of their rivals. All companies are forced to act in the same manner in anticipation of the other players' behavior, thus trying to out-do competing firms by offering a (supposedly higher) bribe to the public servant. Everyone would be better off if the firms abstained from corruption, but they are not able to credibly commit to not bribing. Instead, they expect that their honesty will be punished by their competitors. Hence, companies find themselves in a prisoners' dilemma, from which they cannot escape on their own (Lucke & Lütge, 2011). Individually rational choices lead to a collectively bad outcome. This kind of dilemmatic situation can only be resolved through coordinated anti-corruption efforts, i.e. through collective action. (Dixit, 2014; Olson, 1965; Ostrom, 1998)

It is here that one must distinguish between short-term and long-term interests of companies¹⁹. In the short term, firms are interested in paying bribes to try to capture rent. In the long term, however, they would all benefit from abstaining from corruption as when everyone bribes the advantage of a single company's bribe is lost.

In conceptualizing corruption as a collective action problem, Persson et al. (2013, p. 450) describe the situation as follows: *"... the rewards of corruption – and hence the existence of actors willing to enforce reform – ... depend critically on how many other individuals in the same society are expected to be corrupt. To the extent that corruption is the expected behavior, at least the short-term benefits of corruption are likely to outweigh the costs."* Although the authors talk of individuals here, the same logic applies to companies and their expected behavior when interacting with each other. In like manner, Marquette and Peiffer (2015) highlight the influence individual decisions have on other stakeholders and the actual or expected behavior of others according to the conceptualization of corruption as a collective action problem.

A classic collective action problem occurs when group members find it in their interest not to contribute to a common goal. This results in a situation where the collective benefit cannot be realized completely. In his seminal work 'The Logic of Collective Action', Olson (1965) focused particularly on the potential for free-riding in his analysis. By definition, no-one can be excluded from the usage of public goods. When goods are non-excludable, individuals may find it beneficial to wait until others provide the public good. They can then make use of it without having to contribute to its production. As other individuals expect this behavior, some public goods will not be produced at all (Kirsch, 2004, pp. 168 et seqq.).

Applied to the problem of (systemic) corruption a similar situation can be illustrated: Companies contribute to a corruption-free environment by refraining from bribery. The

19 Lütge (2005a) as well as Pies and Sass (2006, pp. 357 et seqq.) refer here to 'Handlungsinteresse' (in a single act) and 'Regelinteresse' (over a sequence of actions). See also chapter 2.1.4.3.

absence of corruption is then considered as a public good itself (Rothstein, 2011). Yet, as self-interested and rational agents, they will choose to keep on bribing because sticking to corruption is the expected behavior. No interaction partner is capable of credibly committing to law-abiding behavior. Therefore, a market environment free of corruption can hardly be achieved unless stakeholders cooperate with each other. According to Petkoski et al. (2009), Olson's collective action approach can be regarded as a process of cooperation between stakeholders, which increases the credibility of individual action and thereby levels the playing field among competitors. This form of cooperation can substitute, at least temporarily, for a weak regulatory environment.

Persson et al. (2013, p. 464) suggest that the solution to this dilemma lies in changing *"the actors' beliefs about what 'all' other actors are likely to do so that most actors expect most other actors to play fairly."* This suggestion seems reasonable, but is also an ambiguous instruction. Kingston (2008) presents a more clear-cut approach, in that companies could solve the collective action problem and coordinate their anti-corruption efforts by creating an association of like-minded competitors. This association could serve as a platform upon which members initiate mutually beneficial activities, such as sharing information or setting industry standards. The threat of expulsion from the association may then put them in the position to solve the collective action problem. Coordinated Governance Initiatives, the object of analysis in this dissertation, pursue a similar path in trying to curb corruption, as is illustrated in a later section.

Both the principal-agent approach and the collective action approach contribute to a deeper understanding of corruption. Both theories assume individual rationality and individual self-interest. While the former stresses how decisions are calculated by individuals in a hierarchical structure, the latter refers to decisions made in anticipation of a certain behavior of other actors. Therefore, the two conceptualizations should not so much be regarded as competing against each other, but rather as complementing each other (Marquette & Peiffer, 2015).

2.1.4.3 Corruption from an Order Ethics' Perspective

The conceptualizations discussed thus far both share an actor-centered view on corruption. While the principal-agent approach focuses on the internal perspective, i.e. the relation between principal and agent, the collective action approach illuminates the relation between agent and client. Aside from these two actor-centered approaches the overall framework approach of order ethics (Homann & Kirchner, 2003; Lütge, 2012c) is taken into consideration. Order ethics represents an ethical conception that emphasizes the meaning of an institutional framework and rules for implementing ethics (Lütge, 2012c, p. 89). Order ethics draws on contractarianism (Lütge, 2015a). The term 'order' is understood here in a political sense and describes the entirety of all rules, regulations, norms, and laws that shape human coexistence (Wolters, 1995, p. 1088). Order ethics does not attribute social and economic problems such as corruption to immoral preferences or motives of individuals, but to deficiencies in the order framework (Lütge, 2007). It is thus an

ethical conception that takes the social order as its focal point²⁰ (Lütge, 2005a; Mukerji & Lütge, 2014).

The order ethics conception rests on several assumptions. First, order ethics explicitly recognizes the interdependence of ethics with its historical conditions, both in social and economic terms (Lütge, 2012a). This means it distinguishes between pre-modern ‘zero-sum societies’ and modern ‘positive-sum societies’ (McCloskey, 2006): Whereas pre-modern societies were largely characterized by a subsistence economy, which implied that individuals could only gain at the expense of others, modern societies, emerging at the beginning of the 18th century, experienced substantial economic growth. Modern competitive market economies today, especially under conditions of globalization, are able to play ‘positive-sum games’, meaning that individuals can systematically achieve win-win situations (Lucke & Lütge, 2011).

In this context it is crucial to understand that categories of traditional ethics²¹ were developed in those pre-modern societies and are not adequate to analyze modern societies and their economies. Rather, the order ethics conception requires changes to ethical categories: Instead of calling for temperance and sacrifice, which may have been adequate ethical categories in pre-modern economies, order ethics follows the dictum of ‘investing’ (in expectations of long-term benefits) (Lütge, 2010a).

Consequently, the idea of self-interest is also seen in a different light within order ethics. Adam Smith was the first to systematically analyze the role of self-interest in modern economies (Lütge, 2012a, 2015a). He famously concluded, “*It is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own self-interest. We address ourselves not to their humanity but to their self-love, and never talk to them of our own necessities, but of their advantages*” (Smith, 1993, p. 22). Proponents of order ethics made these annotations of Smith regarding the self-interest more explicit when they stated that self-interest is beneficial to all within a carefully devised order framework. This requires the institutional framework to be designed so as to channel the self-interest of actors in a way that encourages win-win situations (Homann, 2002a).

A second crucial distinction is made by order ethicists between actions and rules²² (or conditions of action) (Lütge, 2005a; Lütge, Armbrüster, & Müller, 2016). Traditional ethics usually refers to actions and calls for changes in the individuals’ behavior. By con-

20 In focusing on the social order rather than on individual actors, order ethics underscores the necessity of framing moral problems within an interaction theory instead of being analytically stuck in a theory of action (Homann, 2002b; Homann & Suchanek, 2005, pp. 19 et seqq.; Lütge, 2012c, pp. 98 et seqq.).

21 By ‘traditional ethics’ it is referred to a kind of virtue ethics in the tradition of Aristotle. Virtues are guidelines for individual behavior. Given that premodern societies were characterized by face-to-face structures, virtues such as prudence, temperance, courage, and justice played a pivotal role (Lütge, 2015a).

22 This distinction resembles Buchanan’s distinction between choice of rules and choice within rules (Brennan & Buchanan, 1993).

trast, modern societies – according to order ethics – have to focus on rules. Morality has to be incorporated in incentive-compatible rules (Lütge, 2010a). Or, as Mukerji and Lütge (2014, p. 180) put it, “*The systematic locus of morality is the social order.*” This stressing of rules is due to the fundamental problem of order ethics, i.e. how morality can find recognition, even under competitive conditions.

This proposition requires further explanation: Order ethics explicitly emphasizes the role of competition in market economies, however, the underlying dilemma structures²³ render competition normatively ambivalent (Homann & Kirchner, 2003, pp. 145 et seqq.). Generally speaking, private goods suppliers’ dilemmas²⁴ are desirable whereas dilemma situations in the context of public goods are not (Homann & Kirchner, 2003). Competition thus entails positive as well as negative aspects²⁵. It is considered positive, in that it fosters innovation and tends to destabilize monopoly positions. However, it also encompasses negative aspects. Most notably, competition bears the threat of crowding out morality, which means that actors exhibiting costly moral behavior can be ‘exploited’ by less moral competitors (Homann, 2013; Homann & Lütge, 2013, pp. 26 et seqq.; Lütge, 2012a). In such dilemma situations, be it in the form of the classical prisoners’ dilemma or as a stag hunt game or chicken game, “[actors] *cannot be expected to cooperate because the conditions of the situation are set in a way so that cooperation is punished by defection on part of the other player*” (Lütge, 2015a, p. 18). Hence, actors collectively achieve only Pareto-inferior results exactly *because* they act rationally (Lütge, 2012c).

Order ethics aims to change the order framework in such a way that rules prevent such a Pareto-inferior situation from occurring. Instead, incentives set by rules have to be designed to help implement ethical concerns. In this sense, order ethics is an ethics of incentives and benefits (Lütge, 2005b, p. 76, 2015b, pp. 29 et seqq.): Assuming that individuals are self-interested, rules need to be devised so that self-interest is channeled in a mutually beneficial manner. Consequently, the individual pursuit of advantages within an adequate institutional framework can improve everyone’s position (Lütge, 2005a). Actors comply with norms out of self-interest and ethical behavior is induced indirectly, rather than through directly appealing to moral behavior (Homann, 2007; Lütge, 2015a).

It is important to note that this adherence to rules needs to be beneficial for individuals at least in the long run. It may not be advantageous in a single instance, but certainly over

23 See also Küchle (2012) for a further reading concerning dilemma situations. Küchle gives a thorough analysis of different dilemma situations and particularly compares how the prisoner’s dilemma is construed in business ethics and in social psychology.

24 Suppliers’ dilemmas are ubiquitous in competitive market economies: The structure of competition within a competitive order forces the suppliers of private goods to abstain from cooperating, when cooperation among competitors means cartelizing in order to achieve higher prices (Lütge, 2012c, pp. 89 et seqq.).

25 For a detailed analysis of the ethical content of competition, see Lütge (2014). The author argues that contrary to most people’s intuition, intensified competition can be in many respects conducive to ethical purposes.

a sequence of actions (Homann & Lütge, 2013). This is what is meant when order ethicists refer to “*the ability to invest*” (Lütge, 2007, pp. 199 et seqq.).

Distinguishing between actions and rules has another significant advantage. It is much easier to agree on common rules than on actions and distributional outcomes since no-one is able to know in advance how the rules might affect them in a particular scenario (Lütge, 2012c, pp. 98 et seqq.). Consent (to a rule) is the only valuable normative criterion if one is to take on the contractarian perspective of order ethics (Lütge, 2013). According to this philosophical position, consent represents the central normative criterion. This is all the more true if we assume that living in a pluralistic world implies that there are no longer any common values we can count on (Lütge, 2005a). In this sense, order ethics can be regarded as the operationalization of contractarianism (Müller & Lütge, 2014, pp. 86 et seqq.).

Order ethics can also be applied to the problem of corruption. As discussed above, corruption should be first and foremost tackled by establishing a well-designed order framework, which makes it beneficial to all actors not to bribe or take part in any corrupt activities. Until recently, this was not the case, at least not in Germany, where laws permitted bribes as a tax deduction (Lütge, 2015a). Bribes paid to foreign public officials could be accounted for as costs and correspondingly were regarded as tax-deductible. Hence, although corruption was regarded as something unethical, incentives set by the then-existing order framework were contrary to the ethical point of view and in actual fact fostered unethical behavior. This flaw was remedied only in 1997 when the OECD Anti-Bribery Convention was adopted²⁶ (OECD, 2011a).

Even with the adjusted order framework, dilemma situations with regard to corruption still exist, especially for companies that act in sectors particularly prone to corruption. The effects of criminal law are limited when it comes to tackling corruption, as Pies and Sass (2005, pp. 371 et seqq.) explain: The instruments of criminal law cannot take full effect, in part because corruption is a so-called victimless crime (both briber and bribee are offenders and there is no apparent victim), which makes it difficult to reveal offenses in the first place. This leads to the question of which other instruments could be deployed in order to fight corruption. As previously demonstrated, companies that try to curb corruption, find themselves in a dilemma. Contrary to the suppliers’ dilemma, the underlying dilemma structures in the case of corruption are undesirable. This is due to the fact that a corruption-free environment is considered a public good (Rothstein, 2011), just as morality, which is crowded out in such dilemma situations, can be regarded as a public good²⁷ (Homann, 1990, p. 44). As with all dilemmas collective action is required. In the case of combating corruption, the dilemma can be overcome by establishing a Coordinated Governance Initiative.

26 In Germany the content of the OECD Convention was transferred into German law with the Act on Combating Bribery of Foreign Public Officials in International Business Transactions (IntBestG).

27 Similar to Buchanan’s analysis of law as a public good (Buchanan, 1984, pp. 152–185).

As we have seen, order ethics relies heavily on rules and the idea of an order framework. The question is what happens if there is no viable framework? In light of globalization, it can be inferred that MNCs will increasingly face situations in which the institutional framework is either poorly developed or even non-existent. Here, the concept of order is extended to other, less formal types of orders that draw on the responsibility of corporations (Lütge, 2010a). Agreements at branch level or self-constraining actions by individual companies are typical examples of less formal types of orders (Lütge, 2012a). These agreements are often concluded voluntarily out of self-interest (Lütge, 2010b).

Lütge (2012b) lists three types of responsibilities companies can assume: action responsibility, order responsibility, and discourse responsibility. The first refers to the fact that companies are responsible for their actions and therefore for the consequences that result from those actions. Second, companies take on order responsibility if they engage in developing a social and political framework. Similarly, Homann highlights the pivotal role MNCs will play in designing a new global social order in view of worldwide emerging governance gaps (Homann, 2007). Third, private actors assume discourse responsibility if they actively engage in a public discourse about the social and political order of the global society.

As regards the object of analysis of this research project, companies' order responsibility is especially relevant. In this sense, corporations participating in Coordinated Governance Initiatives in order to tackle corruption assume order responsibility. They do so by joining forces and coordinating their efforts to combat corruption systematically. Hence, Coordinated Governance Initiatives might contribute to curbing corruption by re-conceptualizing the underlying incentive structures such that abstaining from corruption becomes the dominant strategy.

The concept of order ethics has at least two limitations. One is that order ethics is not particularly apt to deal with certain phenomena situated at the action level, such as friendship and love (Lütge, 2012c, pp. 107 et seq.). Order ethics cannot explain the altruism that is displayed in the context of those phenomena. Another similar limitation is that order ethics assumes actors to be self-interested individuals; however, the average person's perception of themselves is not that of a strictly rational and self-interested individual. They rather see themselves as altruistic or at least not exclusively self-interested actors (Lütge, 2012c, pp. 107 et seq.).

Order ethics assumes the rational and self-interested behavior of individuals. It thereby draws on the 'homo oeconomicus' model. However, it has to be taken into consideration that order ethics here makes use of an economic model of action, which is not to be confused with a conception of man (Homann & Lütge, 2013, pp. 67 et seq.; Suchanek, 2007, pp. 177 et seq.). Nevertheless, order ethics still leaves room for altruistic behavior at the individual level or the level of the company. Since the order framework always has deficiencies, market economy, and companies in particular, cannot renounce individual moral behavior (Noll, 2013, pp. 305 et seq.).

It should be mentioned that order ethics represents just one – albeit a widely common²⁸ – approach of business ethics. It stands for an economic ethics, i.e. an ethics with economic means²⁹ (Lütge, 2012a, pp. 17 et seq.). As explained above, order ethics is an ethical conception which draws on contractarianism and which assumes self-interested individuals; the pursuit of advantages within a carefully devised order framework is regarded as mutually beneficial. By contrast and as a further approach in this field, the integrative business ethics by Ulrich (2008) gives ethical behavior priority over the pursuit of self-interest. This approach, sometimes also referred to as republican ethics, is predicated on the discourse ethics of Jürgen Habermas (Lütge, 2015a). Its main focus lies on the individual, not the framework conditions. When in doubt, the individual must categorically give primacy to ethical considerations over the logic of the market (Ulrich, 2013). The same applies to companies: According to the integrative business ethics approach, the business conduct of firms has to be guided first and foremost by ethical considerations and only then by the pursuit of profit. As Ulrich (2013, p. 28) points out, *“this includes the autonomous self-commitment to principles of business integrity in dealings with all stakeholders, as well as republican-ethical co-responsibility for the overall and industry-specific framework conditions of each company’s own business activities”*.

The principal shortcoming of integrative business ethics is reflected in the fact that ethics and economics are ultimately regarded as opposing each other. Unlike insinuated with the label ‘integrative business ethics’, Ulrich and his apologists do not solve the normative conflict between business and ethics. As Trautnitz (2009, pp. 81 et seqq.) points out, Ulrich rather dissolves this conflict by arguing that, apart from ethical considerations, in his conception economic considerations are not necessary since rational ethics (‘Vernunftethik’) already represents the adequate form of business ethics. Therefore, there is in fact no integration of economics in this business ethics approach, but rather a dissolution of economic concerns for the benefit of ethical considerations.

In this research project, however, Homann’s and Lütge’s order ethics approach is regarded as an appropriate approach to conceptualize corruption because it puts the focus on norm implementation under competitive market conditions. By contrast, Ulrich’s integrative business ethics is more concerned about the right norm development without paying much attention whether the implementation of these norms can succeed under competitive market conditions.

28 This is at least true for the development of business ethics as an independent discipline in the German-speaking world.

29 See also Homann and Suchanek (2005, pp. 398 et seqq.) for some concrete examples of application of an ethics with economic means and Suchanek (2007), who explains this conceptualization in more detail.

2.1.5 Assessing Corruption

The negative aspects of corruption and its detrimental consequences have already been mentioned. Corruption has implicitly been considered harmful without actually providing empirical evidence of this assumption. In this chapter, this neglect will be rectified by outlining macro and micro effects of corruption. Although the effects of corruption are primarily negative, in certain situations it can also entail some positive aspects. Finally, the challenges of quantifying the effects of corruption will be addressed.

2.1.5.1 Macro Effects

A great number of empirical studies have analyzed the diverse effects of corruption. The majority of macro-level studies ascertain adverse effects of corruption on growth³⁰ (Rose-Ackerman, 2009). Most of these empirical studies address corruption either in relation to regulation, to public decisions on investment or in relation to bureaucratic behavior.

First, corruption is assumed to cause distortionary regulation and to hamper competition (Lambsdorff, 2002a). Companies are able to earn high profits over a long period particularly in distorted and inadequately regulated markets. In this case, bureaucrats can seize parts of these profits in the form of rents. Market entry barriers that hamper competition can evolve endogenously from the bureaucracy's incentive to establish markets that facilitate the extraction of rents. This mechanism is reflected in the effect corruption has on the level of competitive intensity, which can be expressed in the degree of openness of the economy for foreign companies (Pies et al., 2005, pp. 66 et seq.). Empirical studies found a correlation between the degree of openness of an economy and corruption (A.T. Kearney, 2001; Ades & Di Tella, 1999; Djankov, La Porta, Lopez-De-Silanes, & Shleifer, 2002): the greater the isolation of the economy from the global market, the higher the prevalence of corruption. By contrast, competition will reduce the rents of economic activities by reducing the motivation and ability of public officials or politicians to appropriate parts of these rents by means of corruption.

Second, it is widely held that corruption distorts public expenditure decisions (Azfar, 2004; Rose-Ackerman, 1999a, pp. 30 et seq.). A number of empirical studies have provided evidence for this. For example, Mauro (1998) found that corruption reduces government spending on education. Instead, public resources are often spent on big military or infrastructure projects. This is due to the fact that “... *rational managers and bureaucrats in poor countries want to import goods on which bribes are the easiest to take, not the goods that are most profitable for the state firms*” (Shleifer & Vishny, 1998, p. 106). Hence, one reason why public resources are diverted away from sectors such as health or education to defense or infrastructure projects is that opportunities for corruption are abundant in the latter case, whereas they are limited in the former (Shleifer & Vishny, 1993). Capital-in-

30 However, some scholars, e.g. Lui (1985) and Lien (1986), also found positive effects. Their findings are mainly based on mathematical models.

tensive projects are more lucrative for government officials since they bear greater potential for corruption (Pies et al., 2005, pp. 74 et seqq.). As a result, scarce public resources are often wasted on projects that do not meet the needs of citizens.

Third, corruption can lead to a decrease in investment³¹ (Rose-Ackerman, 1999a, pp. 30 et seq.). Empirical studies found not only a decrease in domestic investment (Mauro, 1995) but also in foreign direct investment (FDI) (Wei, 2000). Foreign investors are deterred by a lack of stability, security, and predictability in countries, factors that are all negatively influenced by corruption. By contrast, countries with a better investment climate reach higher ratios of investment. Corruption and lower levels of FDI are directly linked to lower levels of growth (Mauro, 1995; Nichols, 2004, pp. 1311–1326). Low investment activity in turn leads to a decline in revenues and a loss of jobs alongside with declining innovativeness (Claussen, 2011, pp. 58 et seqq.).

Fourth, corruption can help to activate cumbersome bureaucracies. The studies presented so far all suggest that corruption is a phenomenon which entails serious negative consequences. Nevertheless, for quite a time it was rather common to view corruption as an acceptable practice, and particularly some political scientists argued that it may be useful in certain situations³². Especially proponents of the so-called ‘efficient grease’ hypothesis took up this stance. They perceived corruption as a market-like mechanism capable of restoring once-lost efficiency. This line of argument reflected the ‘invisible hand’ concept, according to which actions are coordinated in a way that the best possible result is achieved. Supporters of this approach maintained corruption is useful in order to activate a cumbersome bureaucracy in developing countries (Leff, 1964; Leys, 1989; Lien, 1986; Lui, 1985; Nye, 1967). According to Nye (1967, pp. 419 et seqq.), corruption can be beneficial in three respects. It can contribute to economic development, national integration, and governmental capacity.

As Leff (1964) explains, companies operating in developing or emerging countries tend to be dragged in a distorted competition when trying to win a contract. In an attempt to influence decisions of public officials for their own advantage, competitors offer higher and higher bribes. This leads to a secret and thereby imperfect auction. The company capable of paying the biggest bribe eventually will be awarded the contract. In the long run, this implies that those companies that manage the bribing process most efficiently and thus have the highest amount of funds for bribes at their disposal will be the beneficiaries of the illegal favors granted by the corrupt public servants. Since such a situation is in fact desirable for particular companies, bureaucratic corruption is considered advantageous, at least in countries with cumbersome bureaucracies.

31 See also Lambsdorff (2007, pp. 100–102) for a more detailed analysis of the negative impact of corruption on investment.

32 It is important to confine this statement to distinctive situations, in which corruption can be useful. None of the above mentioned authors maintained that corruption be useful in general, regardless of the framework conditions.

Lui (1985), who supports this hypothesis in principle, argues that bribing may have an important signaling function when assuming a queuing model. If prices are to be allocated in an ongoing process as it is normally the case in queuing models, bribes being paid in order to achieve a better position in the queue provide useful signals comparable to those effective in price mechanisms. In like manner, Lien (1986) maintains that bribing competitions do not automatically involve a loss of efficiency compared to ordinary bidding processes in developing countries. In all these cases corrupt payments function as a kind of market mechanism³³ (Klitgaard, 1988, p. 31).

Leff (1964) adds that paying bribes in developing countries, which lack a stable institutional framework, can also help stabilize expectations. Entrepreneurial decisions or investment decisions in those countries have to be made under considerable risks and by accepting a high degree of uncertainty. One reason why companies face such a high risk of taking wrong investment decisions is that the behavior of the government can hardly be predicted. If they are able to control the government's decisions and make them more predictable by bribing public officials, this may lead to higher and more constant rates of investment, which in turn benefits the country.

Today, the 'efficient grease' hypothesis is rejected by most scholars both on theoretical and empirical grounds. A number of arguments that refute this hypothesis impressively have been brought forward in this regard. Myrdal (1973, pp. 197 et seqq.) was one of the first to reject the assumption of a bureaucracy that worked better through corruption. He concluded from his studies in South Asia that quite the opposite was the case: Bureaucracies are likely to create artificial bureaucratic bottlenecks in order to be able to generate bigger bribes.

In line with Myrdal's observations, Kaufmann and Wei (1999) criticize that the 'efficient grease' hypothesis considers red tape to be an exogenous factor which exists independently of incentives to demand bribes for bureaucrats. However, this does not seem to be the case. Blackburn and Forgues-Puccio (2009) argue in like manner when bringing forward the argument that distortions which are to be remedied through bribery are often the result of corrupt practices.

All in all, corruption is never more than a second best solution (Lambsdorff, 2002b; Rose-Ackerman, 1978, pp. 6 et seqq.). It may represent an improvement of the current situation, but no adequate substitute for a rectification of the institutional framework (Dietz, 1998, pp. 40 et seqq.). Or, as Klitgaard (1988, p. 35) explains, "*Only when corruption circumvents already existing 'distortions' can it be economically, politically or organizationally useful.*"

Dietz (2000, pp. 117 et seqq.) indicates a further argument against the 'efficient grease' hypothesis, which makes him conclude that it is wrong to regard corruption as normatively ambivalent. The author justifies his view by drawing on institutional economics: Propo-

33 Klitgaard (1988, pp. 30–36) refers to this line of argument as 'the economist's reminder' and names two additional points, the political scientist's reminder and the manager's reminder that argue in favor of corruption as well.

nents of the ‘efficient grease’ hypothesis neglect the importance of the contract between principal and agent. This in turn results from a failure in allowing for differentiation between actions and conditions of action (as order ethics does). Homann and Suchanek (2005, pp. 401 et seqq.) stress the significance of a trustworthy relationship between principal and agent as well. If this relationship is undermined by corrupt practices, the consequences will be discernible in many ways. For instance, labor division, an indispensable element of modern market economies, will be reduced and general confidence in institutions will decrease. Homann (2003) therefore concludes that the harmfulness of corruption becomes evident only when taking an institutional economics perspective.

Apart from these detrimental effects on the economy, corruption also has harmful consequences on society as a whole: It undermines the legitimacy of the state and of the courts. For example, if judges are corruptible, their decisions will be no longer predictable and sanctions will no longer function as a deterrent. Such a situation is a menace to the state’s legitimacy and a society’s stability (Bannenberg & Schaupensteiner, 2007, p. 217).

2.1.5.2 Micro Effects

The ‘efficient grease’ hypothesis has not only been applied to the macro level, but it has also been invoked to account for effects on the micro level. Generally speaking, companies that make use of bribery in countries with cumbersome bureaucracies do so in order to obtain permits more quickly, to be granted concessions more easily or simply to gain access to information. It is often the case that the services they pay for should be at their disposal anyway, but due to excessive bureaucratic regulation they are hindered from using them. According to the ‘efficient grease’ hypothesis, paying bribes has positive effects on companies as they benefit from better bureaucratic services. Yet, empirical studies rebutted this assumption. Kaufmann and Wei (1999) found that managers showing a high propensity to pay bribes do not spend less, but more time negotiating with state officials about bribes. Consequently, this time is lacking elsewhere. For instance, managers cannot focus on serving customers or developing new business. Therefore, a firm’s productivity or innovativeness is likely to decrease (Paine, 2003, pp. 39 et seq.).

Albeit the ‘efficient grease’ hypothesis has been difficult to be maintained, in actual fact there are some arguments in favor of corruption. Most obviously, bribing public officials or being involved in some other kind of corrupt act, can bring about an increase in revenues and profit, at least in the short run. For example, by winning a crucial bid, the company that successfully bribes gains a competitive advantage. Following this line of argument, “*crime often does pay*” (Ashforth & Anand, 2003, p. 6). This is particularly true when the risk of being caught tends to be low. In the context of corruption, risk can be defined as the severity of punishment multiplied by the probability of being convicted (Lucke & Lütge, 2011). Since both parties, the bribe payer and the bribee, have an interest in keeping their relationship secret in order to continue their doings, the probability of being caught is rather low. Moreover, Claussen (2011, pp. 67 et seqq.) remarks that even if offenders are convicted, fines are likely to be low in comparison to the gains realized so

far, as corrupt relationships often last over years until they are discovered and a substantial portion of the accusations might have become time-barred by the point of detection.

However, these short-term advantages are accompanied by serious risks for companies. Since corrupt practices need to take place secretly, they entail high transaction costs³⁴ in three respects (Noll, 2013, pp. 152–154). The increased transaction costs arise first from searching for partners, second from enforcing the agreement, and third from the duration of the corrupt relationship. The search for adequate business partners is more difficult in corrupt relationships than in legal ones because it is unclear who would be willing to engage in corruption in the first place and which amount of a bribe is appropriate. Enforcement of the corrupt agreement is particularly difficult. The illicit character of the agreement makes it impossible for the business partners to rely on the legal system (Claussen, 2011, pp. 55 et seqq.). Here it becomes evident that corrupt relationships are very vulnerable to opportunism. Furthermore, the contracting parties are tied to each other beyond the actual transaction. As the need for secrecy endures and thereby the potential risk of being blackmailed by the respective business partner, it is necessary to cultivate the relationship.

Moreover, engaging in corruption bears several other risks for corporations. In case the corrupt relationship is discovered, firms face fines, not only in their home country, but often also in the United States of America (US) or the United Kingdom (UK), e.g. when the company is listed on the American and/or the British stock exchange. The risk of being caught as well as the potential damage through fines has notably increased in recent years (Humborg, 2009), not least because of the consequent application of the extraterritorial law by US and UK authorities. Apart from monetary sanctions, companies frequently face the risk of being excluded from public tenders for a certain period by being put on debarment lists³⁵, which often poses a greater threat to them than fines.

Alongside with monetary sanctions often go reputational damages (David-Barrett, 2012). The negative effects on reputation should not be disregarded by companies as it can result – in the worst case – in a loss of the license to operate (Suchanek, 2007, pp. 135 et seq.). In a similar vein, Meyer zu Schwabedissen (2008, p. 127) identifies the loss of reputation as the most dangerous risk for companies. Reputational losses can lead to tarnished relations between the company and its customers and suppliers, for example (Pies et al., 2005, pp. 119 et seqq.).

Even if companies' involvement in corruption remains undiscovered, they are likely to suffer from a number of disadvantages. One disadvantage is that firms have to spend considerable time on unproductive activities, such as negotiating with state officials over the amount of bribe to be paid, as was mentioned above. Furthermore, it is difficult for a

34 Lambsdorff (2007, pp. 109–135; 2009) explicitly suggests an anti-corruption strategy that is based on increasing the transaction costs of corruption. Analogously to Adam Smith's invisible hand, he labels this approach 'the principle of the invisible foot'. According to this approach, the frequency of bribery can be reduced by undermining the stability of corrupt transactions.

35 International organizations such as the World Bank frequently make use of this instrument. The World Bank's debarment list is publicly available online (World Bank, 2016b).

firm to have double standards. Usually it will not work out to turn a blind eye on corrupt acts that are committed by employees in order to achieve an advantage over competitors, and prohibit at the same time other forms of corrupt behavior that could damage the own organization. Lange (2008) here distinguishes between ‘corruption on behalf of the organization’ and ‘corruption against the organization’. In most cases companies will not be capable of limiting corruption to the first category, i.e. to corruption on behalf of the organization.

It can be concluded from the findings of numerous studies that corruption must often be regarded as an ‘invisible fist’ rather than as an ‘invisible hand’. Owing to unfavorable framework conditions in an inefficient economy, corruption can lead to even more inefficient results (Pies et al., 2005, pp. 32–36). Therefore, the purportedly ambivalent character of corruption can only be upheld under some quite restrictive assumptions (Rose-Ackerman, 2009).

In most cases, however, corruption has severe detrimental effects, both on the macro and the micro level. The empirical studies quoted here represent only a small segment of what has been found by corruption researchers in recent years. Claussen (2011, pp. 55–79) and Pies et al. (2005, pp. 30–134) provide a detailed overview of empirical studies about the various negative and positive effects of corruption.

2.1.5.3 Quantification of the Effects of Corruption

The identification of the macro and micro effects of corruption leaves open the question regarding the empirical manifestations. The question is how the ‘damage’ from corruption can be assessed in quantitative terms. The quantification of the effects of corruption is a challenge, mainly for two reasons. First, the mere volume of corruption is only known to a very limited extent. Since corruption is a so-called victimless crime (both briber and bribee are offenders and have an interest in keeping their doings a secret), it is naturally difficult to obtain sound empirical data concerning its actual volume³⁶. It is assumed that the great majority of corruption cases remain undisclosed (Dölling, 2007, pp. 6 et seq.). Schaubenstein (2003, p. 76) estimates for Germany that 95% of all corruption cases are not reported. Despite a lack of more recent data, there is no sign that this situation has changed considerably since then. Second, it is not clear what exactly should be considered a damage and what should not. It can be distinguished between tangible (monetary) damage and intangible damage induced by corruption. The tangible damage encompasses

36 For the same reasons it is difficult to estimate the size of a country’s shadow economy. In order to arrive at useful data, researchers have developed different techniques of estimation. On the one hand, they make use of direct inquiry methods such as surveys; on the other hand, and more importantly, they also rely on more indirect approaches which include, for example, discrepancy approaches. Making use of these different techniques, Schneider and Boockmann (2015, p. 21) estimate the size of the German shadow economy to be 12.2% of the official GDP for 2015. See also chapter 2.2.5 for explications on how to assess corruption and the effects of anti-corruption efforts.

those costs that can be directly linked to the corruption case. For instance, the costs that result from inflated bills which have to be paid by the tax-payers. Intangible costs caused by corruption offenses are equally important, however, they are more difficult to depict. They may consist for example in competitive distortions and ultimately in a loss of confidence in the viability of the economic order (BKA, 2016a, p. 8).

In 2015, the monetary damage of corruption in Germany amounted to €222 million according to the statistics of the BKA. For the above mentioned reasons this number is likely to represent only a small part of the actual damage. Furthermore, the overall damage caused by white-collar crime³⁷ in Germany amounted to €2.88 billion in 2015. Over 40% of the damage recorded in the BKA statistics can be attributed to economic crime offenses. The extraordinary harmfulness of such offenses becomes even more evident when taking into account that only about 1% (which equals roughly 61,000 cases of economic crime) of all offenses recorded by the police are indeed white-collar crimes (BKA, 2016b, p. 4). The damage caused by corruption on an EU-level is estimated to be around €120 billion per annum (European Commission, 2014a, p. 3). Finally, the annual cost of worldwide bribery is estimated to range between US\$1.5 and US\$2.0 trillion (IMF, 2016, p. 5).³⁸

A recently conducted study regarding white-collar crime and corruption in Germany found that one out of four companies that had a corruption case in their organization suffered from severe reputational damages owing to this disclosed corruption incidence. Moreover, 40% reported aggravated business relations due to a corruption case (PWC, 2013, p. 69). Results of a similar empirical study which was conducted on a global level differed slightly: Only 17% of the respondents reported reputational losses and/or deteriorated business relations, whereas almost one third named declined employee morale as a negative effect in consequence of the company's involvement in illicit activities (PWC, 2014, p. 12). According to the findings of a recently conducted study by KPMG (2016, p. 14), 53% of the companies affected by corruption cases reported an overall damage of €300,000 or higher. 32% of the respondents indicated investigation costs and consequential costs to be at €75,000 or above.

37 According to the BKA, white-collar crime represents a broader concept than corruption and encompasses, among others, offenses such as fraud or insolvency offenses (BKA, 2016b, p. 4).

38 This estimate for 2015 is an extrapolation by Daniel Kaufmann based on his earlier estimate of \$1.1 trillion in Kaufmann (2005). For a detailed explication of how the original data was derived see Kaufmann (2005, pp. 96–98).

2.2 Coordinated Governance Initiatives as a New Approach for Curbing Corruption

In this research project corruption is regarded as a transnational governance challenge (Rasche, 2012, p. 679; Scherer & Palazzo, 2008, p. 423). At least two implications follow from construing corruption as a transnational governance challenge: First, governments need to cooperate in order to create consistent standards of enforcement, prosecution, and prevention of corruption. Corruption and organized crime do not stop by the border; they often take place in flexible, transnational networks that span around the globe (Sanderson, 2004). Therefore, close cooperation of nation-states is essential. Second, the role of non-state actors, particularly MNCs, in curtailing corruption has to be reassessed. Instead of regarding the business sector exclusively as part of the corruption problem, it should rather be viewed as part of the solution. Admittedly, the business sector has not always been a staunch defender of stricter anti-corruption legislation. In many cases MNCs even attempted – for example through lobbying activities – to unduly exert influence on public policies and institutions in order to prevent new laws from being adopted (Kaufmann, 2005, pp. 88 et seq.). However, companies have a great interest in fighting corruption. Doing business in an environment that is characterized by a high level of corruption, threatens business in a number of ways. Companies need to cope with an often uncertain investment climate and legal uncertainty (Mauro, 1995; Noll, 2013, pp. 152–154). In the event that their involvement in a corruption case is disclosed, they additionally face high fines (Humborg, 2009) and considerable reputational losses (Meyer zu Schwabedissen, 2008, p. 127). In most cases, the risk outweighs the potential benefit.

Therefore, more emphasis should be put on how to unlock the potential of the business sector and how to incentivize companies to participate in the fight against corruption. Their pivotal role in curbing corruption internationally has been highlighted by various scholars (Kaufmann, 2005; Petkoski et al., 2009; Pies, 2002, pp. 39 et seq.; Rose-Ackerman, 1999b, p. 54).

2.2.1 International Anti-Corruption Efforts in Historical Perspective

The importance of rules and an institutional framework for addressing moral concerns has been emphasized in the previous paragraph (chapter 2.1). An overview of the existing international legal framework with respect to anti-corruption is given in this chapter by outlining the historical development from anti-corruption conventions and treaties to soft law approaches. In chapter 2.2.1.1, efforts of governments to work collectively in order to create an effective anti-corruption framework are highlighted. Governments acknowledge that intergovernmental cooperation is indispensable if corruption is to be curtailed meaningfully. Concerning anti-corruption conventions and treaties, the private sector is solely regarded as the target of regulatory efforts and is not given an active part. This begins to change with the rise of soft law approaches in anti-corruption (chapter 2.2.1.2).

2.2.1.1 Intergovernmental Cooperation: Anti-Corruption Conventions and Treaties ('Hard Law')

The international policy environment for anti-corruption legislation has mainly been shaped by a few international organizations, among them the OECD, the Council of Europe, the UN, and other regional groupings (Hough, 2013, p. 20). These different international organizations have specialized in different areas of anti-corruption. Whereas the OECD focuses on fighting the bribing of foreign public officials, the Council of Europe and the UN pursue a broader approach (Wolf, 2014, p. 109).

As far as single nations are concerned, the US had and still has a special role in influencing the international anti-corruption framework. Most importantly, they were the first to make the bribing of foreign public officials a punishable offense by adopting the Foreign Corrupt Practices Act (FCPA) in 1977. The FCPA has extraterritorial jurisdictional reach, which means that it criminalizes the bribing of foreign public officials by US citizens or by agents of US firms, even if the act occurs abroad. It also includes activities by companies that are listed on US stock exchanges, even if these companies have their headquarters outside of the US (Levy, 2011, p. 10). The FCPA could therefore be regarded as a form of intergovernmental cooperation. This is, however, an asymmetrical cooperation between a hegemon (the US) and other nation-states with the aim of establishing a sustainable global anti-corruption regime (Rees, 2006, pp. 15–19). Following the adoption of the FCPA, the US undertook considerable efforts in convincing other states, especially the Europeans, to follow suit and pass a corresponding legislation. However, it took 20 years until the OECD Anti-Bribery Convention was finally agreed upon in 1997, which leveled the playing field between US companies and companies from other OECD countries³⁹.

Apart from the US, the UK has also rendered itself conspicuous in the fight against corruption with the adoption of the UK Bribery Act in 2011⁴⁰. Just as the FCPA, the UK Bribery Act has extraterritorial jurisdictional reach. For UK-registered companies this implies that they can be also held liable for bribery offenses committed by their employees, agents or subsidiaries anywhere in the world. Furthermore, foreign companies with operations in the UK fall under the new law (TI-UK, 2016). In order to avoid corporate liability for bribery, companies need to have 'adequate procedures' in place (TI-UK, 2012b).

As the number of international and intra-continental conventions illustrates, nation-states have intensified their cooperation in the last two decades considerably. As a result, there is a wide variety of international legal instruments on corruption today, which differ with respect to scope, legal status, membership, implementation, and monitoring mechanisms. The aim of these international legal instruments is two-fold: First, they aim

39 See Sacerdoti (1999) for a detailed description of the different steps in the negotiation process involving different institutions that had to be taken until the OECD countries finally adopted the OECD Anti-Bribery Convention.

40 Originally, the UK Bribery Act was planned to enter into force in 2010, but did so only in July 2011.

to establish common standards for addressing corruption at the domestic level, particularly with regard to enforcement, prosecution, and – more recently – prevention of corruption. Second, they seek to promote good practice between member states and facilitate intergovernmental cooperation (Klemenčič & Stusek, 2008, p. 17).

In the following, the most relevant international anti-corruption conventions and treaties are presented in chronological order of their adoption. Instead of giving a comprehensive overview, only the most influential conventions are explicated here⁴¹. Each convention is described briefly with reference to when and how it was first agreed upon, what constitutes its main provisions, and which monitoring bodies (if any) have been installed to ensure its implementation.

In this section, the focus is mainly on international anti-corruption regulations. For the sake of completeness the most important intra-continental conventions are also given in the overview in table 3. These include the EU-Convention on the Fight against Corruption (EU, 1997), the Inter-American Convention against Corruption (Organization of American States, 1996), the Southern African Development Community Protocol against Corruption (Southern African Development Community, 2001), the ADB-OECD Action Plan for Asia-Pacific (OECD, 2016a), and the African Union Convention on Preventing and Combating Corruption (African Union, 2016). Although the Conventions of the Council of Europe concentrate on Europe, they are also open to some non-member states (partly) outside of Europe such as Belarus, Canada, the Holy See, Japan, Mexico, and the US. Therefore, the Council of Europe Conventions are classified as international, not intra-continental conventions.

The OECD Anti-Bribery Convention. The adoption of the OECD Anti-Bribery Convention marks a starting point in the development of international anti-corruption regulation. It was agreed upon in 1997 as the first global convention against corruption and became effective in 1999 (OECD, 2011a). At that time, the OECD Anti-Bribery Convention attracted international attention, and until today it is considered the most prominent international anti-corruption standard. Through this convention the bribery of foreign public officials was made a punishable offense for companies from all OECD countries for the first time⁴². Thereby, the level playing field between US companies, which had been facing fines for bribing foreign public servants under the FCPA since 1977, and companies from other OECD countries was finally restored. The OECD Anti-Bribery Convention was transferred into German law through the adoption of the Act on Combating Bribery of Foreign Public Officials in International Business Transactions (IntBestG). The OECD Convention also served as the basis for the EU Anti-Bribery Law (EUBestG).

The OECD Working Group on Bribery in International Business Transactions (the Working Group), established in 1994, is responsible for monitoring the implementation and

41 For an extensive review and evaluation of international and intra-continental anti-corruption conventions and treaties see Marsch (2010, pp. 43–133) and Nagel (2007, pp. 44–70).

42 Note that the OECD Anti-Bribery Convention covers only active bribery, not passive bribery (Sacerdoti, 1999, p. 212).

enforcement of the OECD Anti-Bribery Convention (OECD, 2016d). Although the Working Group is not an international court, it can put pressure on states to push for implementation of the convention (Pieth, 2012, p. 8). The Working Group consists of representatives from the state parties and meets four times per year in Paris. All country monitoring reports published by the Working Group are accessible online (OECD, 2016b). Moreover, the Working Group is responsible for monitoring the enforcement of the OECD Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions (2009 Anti-Bribery Recommendation) released in 2009. The 2009 Anti-Bribery Recommendation aims to reinforce the state parties' efforts to prevent, detect, and investigate foreign bribery by putting in place a package of new measures (OECD, 2009).

The Council of Europe Criminal Law Convention. In 1998, the Criminal Law Convention on Corruption of the Council of Europe was agreed upon and took effect in 2002. This convention asks signatories to adopt measures against corruption, more specifically measures against active and passive bribery of domestic and foreign public officials, measures against active and passive bribery of members of national, international, and supra-national assemblies, as well as measures against active and passive bribery in the private sector (COE, 2011b; Lezertura, 1999, p. 231). The convention was signed by Germany in 1999, but has not yet been ratified. Along with Liechtenstein and San Marino, Germany is the only member state of the Council of Europe where the convention's ratification is pending (COE, 2016b).

The Council of Europe Civil Law Convention. The Civil Law Convention on Corruption of the Council of Europe, adopted in 1999, regulates the civil claims of the victims of corruption and aims to protect whistle-blowers (COE, 2011a). However, the Convention has not been ratified by Germany either (COE, 2016a). As opposed to the Criminal Law Convention, which could be easily ratified by Germany, a ratification of the Civil Law Convention would only be possible if a new law for protecting whistle-blowers was introduced (Pies et al., 2005, pp. 175–177).

Similar to the OECD's Working Group on Bribery in International Business Transactions there is also a body within the Council of Europe that monitors the state parties' compliance with the organization's anti-corruption standards. It is called the Group of States against Corruption (GRECO) and was established in 1999. Currently GRECO comprises 49 member states, i.e. all 47 state parties to the Council of Europe and two countries that do not form part of the Council of Europe, namely the US and Belarus (COE, 2016c). The state parties have drawn up the 'rules of procedure', a dynamic process of mutual evaluation of the countries' anti-corruption mechanisms. These evaluations comprise recommendations for the further development of each country's anti-corruption policy (Bamberger, 2009, pp. 29 et seq.). GRECO has conducted four evaluation rounds so far, each of which dealt with different topics and provisions. GRECO's current fourth evaluation round, which was launched in 2012, deals with "*corruption prevention in respect of members of Parliament, judges and prosecutors*" (COE, 2016c).

UN Convention against Corruption. The UNCAC was adopted in Mérida, Mexico, in 2003 after more than two years of consultation. It entered into force in December 2005.

The UNCAC claims to be the first globally binding treaty on combating corruption under international law. Initially, international legal anti-corruption instruments concentrated mainly on the establishment of specialized prosecution bodies in order to achieve effective law enforcement. However, with the adoption of the UNCAC the focus shifted towards preventive measures. Consequently, the UNCAC requires member states not only to ensure specialization of law enforcement, but also to install specialized preventive anti-corruption bodies (Klemenčič & Stusek, 2008, pp. 17 et seq.). Moreover, there are rules that stipulate an intensified international cooperation between member states. The convention also contains rules on the recovery of stolen assets, which are of particular relevance for developing countries (Pies et al., 2005, pp. 175–177). After having signed the convention already in 2003, Germany managed to ratify it in November 2014 (UNODC, 2015). The ratification of the convention was possible only after Germany had passed a stricter law on bribing delegates (§ 108e StGB) in September 2014.

Table 3 Synoptic View of Anti-Corruption Conventions and Treaties (in chronological order of their adoption)

Name of Convention/Treaty	Adoption	Entry into Force	No of Signatories ^B
Inter-American Convention against Corruption (OAS Convention)	1996	1997	28
EU Convention on the Fight against Corruption	1997	2005	
OECD Convention on the Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-Bribery Convention)	1997	1999	41
Council of Europe Criminal Law Convention	1998	2002	50
Council of Europe Civil Law Convention	1999	2003	42
Southern African Development Community Protocol against Corruption (SADC Protocol)	2001	2003	14
ADB-OECD Action Plan for Asia-Pacific	2001	--	31
UN Convention against Corruption (UNCAC)	2003	2005	140 signatories, 178 state parties
African Union Convention on Preventing and Combating Corruption (AU Convention)	2003	2006	48

B Note that there is a difference between signing and ratifying conventions. State parties that signed a convention have not necessarily ratified it. The numbers of signatories are valid as of 2016, except for the AU Convention, where the data is of 2014, the SADC Protocol, where the data is of 2012, and the OAS Convention, where no date was available. EU Conventions are generally open to all EU countries, but they are not required to be signed before they can be ratified. Therefore, the field ‘No of signatories’ is left empty here.

The conventions and treaties presented in this chapter reflect a state-centric regulatory system in which the role of the private sector is confined to being the target of regulation (Abbott & Snidal, 2008, p. 505). One could also talk of a hierarchical steering mode within which social and environmental issues are addressed primarily through legislation

(Rasche, 2010, p. 502). In the next paragraph, it is illustrated how the roles of both the state and the private sector have changed in recent years. This has resulted in a system that increasingly focuses on a non-hierarchical steering mode, with the state adopting more the role of an orchestrator (Lobel, 2012).

2.2.1.2 Increasing Participation of the Private Sector: Non-Binding Guidelines and Codes of Conduct ('Soft Law')

When laws and conventions are not enforced properly because nation-states are not able or willing to provide an adequate framework, soft law approaches, such as guidelines and codes of conduct, represent an important instrument. Soft law instruments are said to have a complementary function to hard law (Deutscher Bundestag, 2002, p. 444). They are considered particularly beneficial due to their flexibility and the velocity with which relevant issues can be addressed. Soft law instruments are usually voluntary and non-binding (Roloff, 2011, p. 316).

In the following, an overview of selected anti-corruption guidelines is given⁴³. In order to illustrate how the roles of the state and the private sector have changed, special emphasis is put on the initiating institutions of the guidelines, their primary purpose, and level of dissemination as well as the degree to which business and other non-state actors were involved in drawing up the guidelines and revisions thereof. Table 4 summarizes the characteristics of the most relevant anti-corruption guidelines and codes of conduct. Together with the above discussed international anti-corruption conventions and treaties they constitute roughly the global anti-corruption framework. While the OECD Guidelines represent a government-backed soft law instrument, the Global Reporting Initiative's Sustainability Reporting Guidelines (GRI Guidelines) and the TI Business Principles are NGO-led instruments that claim to have involved the private sector in designing the tools through a multi-stakeholder process. The business sector participated to a greater extent only in the formation of the UN Global Compact (UNGC) and the International Chamber of Commerce Rules on Combating Corruption (ICC Rules). Moreover, when comparing the different guidelines, it becomes obvious that some of the soft law instruments have a wider sustainability approach (such as the OECD Guidelines, the UNGC, and the GRI Guidelines), while others like the TI Business Principles or the ICC Rules focus explicitly on corruption and bribery. Nevertheless, all instruments make explicit reference to the corruption issue.

OECD Guidelines for Multinational Enterprises. The OECD Guidelines for Multinational Enterprises were issued for the first time in 1976. They are recommendations of governments for MNCs that have their headquarters in one of the signatory states. The

43 See Branco and Delgado (2012) for further details concerning the OECD Guidelines for Multinational Enterprises, the Global Reporting Initiative, and the UN Global Compact, and Makinwa (2013) for a broader overview of private sector approaches to fighting corruption, especially from a legal perspective.

voluntary OECD Guidelines aim to promote the concept of sustainable development and include standards for good practices in accordance with the prevailing law. They are derived from international agreements, such as the Universal Declaration of Human Rights and the International Labor Organization's (ILO) Core Labor Standards (OECD, 2011b). Corruption is explicitly mentioned in section VII 'Combating Bribery, Bribe Solicitation and Extortion' of the OECD Guidelines (OECD, 2011b, pp. 47–50).

The OECD Guidelines have been signed by the 34 OECD member states and in addition by 12 non-OECD member states, i.e. Argentina, Brazil, Colombia, Costa Rica, Egypt, Jordan, Latvia, Lithuania, Morocco, Peru, Romania, Tunisia (OECD, 2016c). Signatory states expect their companies to adhere to the OECD Guidelines, which are not legally binding, though. In order to monitor the adherence to the guidelines, the signatory states have agreed to establish so-called national contact points (NCP). These NCPs also serve as complaints offices and attempt to mediate between the parties when complaints are made. In Germany, the NCP is installed in the Federal Ministry of Economic Affairs and Energy (BMWi). To date, 15 complaints have been brought forth against companies, due to alleged violations of the OECD Guidelines, 12 of which have been accepted and investigated further by the NCP. Those companies included but were not limited to Adidas, Audi, Bayer, Deutsche Post DHL, and HeidelbergCement (BMWi, 2016). The OECD Guidelines have constantly been adapted and were last revised in 2011. Apart from NGOs and workers' organizations, business was represented in the consultation process through its Business and Industry Advisory Committee (BIAC) (BIAC, 2016). Although the state acted here as an initiating institution, the private sector contributed considerably to the creation of the guidelines, especially to its revision in 2011.

GRI Guidelines. The GRI Guidelines are voluntary sustainability reporting guidelines elaborated by the independent non-profit standards organization GRI in collaboration with the UN Environment Programme (UNEP). The GRI was formed by the US-based non-profit organization (NPO) CERES (formerly the Coalition for Environmentally Responsible Economies) and the Tellus Institute, a non-profit research and policy organization (GRI, 2016c). The first version of a comprehensive sustainability reporting framework was issued in 2000. The GRI Guidelines today have turned into a widely used reporting tool for MNCs as well as for Small and Medium Enterprises (SMEs) and NGOs (GRI, 2013). Of the world's largest 250 companies, 93% report on their sustainability performance and 82% of these companies reported using the GRI Guidelines (GRI, 2016b). This high degree of dissemination shows that the GRI has gained wide acceptance although it was not initiated by governments, but by private sector actors.

In 2013, the GRI launched the latest version of the GRI Guidelines, the so-called G4 Sustainability Reporting Guidelines (GRI, 2016c). Corruption is addressed in four indicators. Organizations are asked to provide information concerning the 'total number and percentage of operations assessed for risks related to corruption and the significant risks identified' (G4-SO3), 'communication and training on anti-corruption policies and procedures' (G4-SO4), 'confirmed incidents of corruption and actions taken' (G4-SO5), and finally the 'total value of political contributions by country and recipient/beneficiary' (G4-

SO6) (GRI, 2013, pp. 77 et seq.). Disclosing information regarding these indicators serves internal and external purposes: On the one hand, the disclosure process helps members of the organization to hold each other accountable. On the other hand, reporting on anti-corruption issues also holds managers accountable to the public (Hess, D., 2009).

The G4 Guidelines have been produced in a multi-stakeholder process, involving experts, organizations, and individuals from business and civil society. The business sector has played a major role in the development of the new guidelines and has sponsored and supported the process. A number of world-leading companies – Alcoa, Enel, General Electric, Goldman Sachs, Natura, and Royal Dutch Shell – sponsored the project for a three year period, in which the G4 Guidelines were developed; Deloitte, Ernst & Young, KPMG, and PwC provided expertise with regard to the technical features of the current Guidelines, but did not, according to the GRI, take part in decision-making processes of any kind (GRI, 2016a).

TI Business Principles. The TI Business Principles for Countering Bribery are a set of principles which were issued by TI and Social Accountability International (SAI) in 2003. They aim to assist companies in the design and implementation of effective anti-bribery policies (TI, 2013a). The Business Principles have become a major platform for TI's private sector activities and have influenced a wide range of anti-bribery standards and initiatives worldwide. In 2008, the TI Business Principles for SMEs were released, recognizing that smaller companies often have only limited resources to devise appropriate anti-bribery strategies (TI, 2008). In contrast to the GRI Guidelines, the Business Principles focus exclusively on bribery and provide a framework for companies to develop comprehensive anti-bribery programs. The Business Principles, which were revised in 2013, have been produced with the cooperation of a multi-stakeholder Steering Committee drawn from business, academia, trade unions, and other non-governmental bodies (TI, 2013a). Corporate members of the Steering Committee include but are not limited to MNCs such as BP, HSBC, PwC, and Royal Dutch Shell. Non-corporate members are, among others, the European Bank for Reconstruction and Development, SAI, and TI (TI, 2016a). Steering Committee members not only lend their expertise in the continuous development of the Business Principles, but also promote the Business Principles within their own organizations.

UN Global Compact. The UN Global Compact is another example of a soft law instrument involving private sector activities. It is a voluntary initiative launched in 2000 by former UN Secretary-General Kofi Annan to encourage businesses worldwide to adopt sustainable and socially responsible policies. The participation of companies is promoted especially through collective action. For instance, businesses engage in working out guidelines for the organizational implementation of standards on human rights, working conditions, environmental protection, and the prevention of corruption (Pies, Winning, Sardison, & Girlich, 2010, p. 56). In light of globalization, businesses today face growing pressures from customers, business partners, and civil society, not only to act socially and environmentally responsible but also to contribute to the creation of an adequate global framework (Noll, 2010, p. 321). The UNGC reflects this increased responsibility of business.

The UNGC's Ten Principles represent the core of the initiative. They are derived from a number of important declarations, such as the Universal Declaration of Human Rights, the ILO's Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development, and the UNCAC (UNGC, 2016a). As of 2016, nearly 9,000 companies and more than 4,000 non-businesses from over 160 countries have signed the UNGC (UNGC, 2016c), making it the world's largest corporate sustainability initiative.

Although the UNGC was launched in 2000, it was not before 2004 that the 10th principle concerning anti-corruption was introduced. It states that "*Businesses should work against corruption in all its forms, including extortion and bribery*" (UNGC, 2014). In order to implement the 10th principle, the UNGC set up a multi-stakeholder anti-corruption working group. The group today comprises 40 corporate members as well as a number of representatives from civil society, international organizations, academia, and Global Compact Local Networks (UNGC, 2016c). The UNGC is funded through voluntary contributions from governments to the UNGC Trust Fund and by businesses that make annual contributions to the Foundation for the Global Compact. In 2014, over 1,500 businesses made financial contributions to the UNGC (UNGC, 2016b).

The UNGC illustrates very well how governments increasingly take on the role of orchestrators. Despite being initiated by the UN, it soon evolved into an institution which was primarily led by business and other non-state actors. Today, it is understood as a mainly business-driven initiative.

ICC Rules on Combating Corruption. The ICC Rules on Combating Corruption are a set of voluntary anti-corruption rules for business. As opposed to the aforementioned instruments and standards, the ICC Rules have been drawn up by a pure business organization, the ICC. Having gained wide recognition and currency since first published in 1977, they shall be mentioned here. The ICC Rules were last updated in 2011 (ICC, 2011). The revision was based on contributions of ICC national committees, member companies, and experts of the Commission on Corporate Responsibility and Anti-Corruption. This commission consists of more than 200 business executives and private practitioners from 40 countries (ICC, 2016).

As opposed to the conventions and treaties in section 2.2.1.1, the soft law instruments presented in this section reflect more of a non-hierarchical steering mode that is based on voluntary commitment of the participating organizations (Rasche, 2010, p. 502). Governments increasingly take on the role of orchestrators while business and civil society representatives become more actively engaged in further developing regulations. Governments are thus understood to encourage and supervise self-regulation by the private sector. Moreover, all soft law initiatives discussed above represent cross-sector approaches. They do not target a specific industry sector, but create voluntary guidelines for all business sectors equally.

Table 4 Overview of Selected Anti-Corruption Guidelines

Name of Initiative	Date of Creation	Purpose of Initiative	Initiating Institution	Stakeholder Configuration	Reference to Corruption
OECD Guidelines for Multinational Enterprises	1976 (last updated in 2011)	Recommendations for MNCs issued by signatory governments to the OECD	Governments of OECD countries	Business was represented in the consultation process about the 2011 update of the guidelines through the BIAC.	Section VII Combating Bribery, Bribe Solicitation and Extortion
ICC Rules on Combating Corruption	1977 (last revised in 2011)	Voluntary rules for self-regulation developed by the ICC Commission on Corporate Responsibility and Anti-Corruption	Business sector	Based on contributions of ICC national committees, member companies, and experts of the Commission on Corporate Responsibility and Anti-Corruption	Exclusive orientation
UN Global Compact	2000 (incorporation of 10th principle in 2004)	Voluntary initiative launched by former UN Secretary-General Kofi Annan to encourage businesses to adopt sustainable and socially responsible policies	UN	Involvement of companies through collective actions, e.g. working out guidelines on the prevention of corruption	10th principle of the UN Global Compact
GRI Sustainability Reporting Guidelines	2000 (G4 Guidelines are the latest version of the GRI Guidelines, updated in 2013)	Voluntary reporting guidelines developed by the independent NPO GRI in collaboration with UNEP and UNGC	Civil society	Multi-stakeholder process, involving experts, organizations, and individuals from business, civil society, and labor – and different geographical regions	Indicators G4-SO3 to G4-SO6
TI Business Principles for Countering Bribery	2003 (last updated in 2013)	Set of principles issued by TI and SAI to assist companies in the design and implementation of effective anti-bribery policies	Civil society	Multi-stakeholder process with the cooperation of a Steering Committee drawn from business, academia, trade unions, and other non-governmental bodies	Exclusive orientation

2.2.2 Overcoming the Governance Gap

Having anti-corruption conventions and treaties in place and having additionally developed soft law schemes to anti-corruption is just the first step. To put it another way, *“Having state-of-the-art laws doesn’t guarantee their implementation.”* Klitgaard (2012, p. 49). This statement is in line with observations made by Khaghaghordyan (2014, p. 157), who finds that many countries ratify anti-corruption treaties primarily due to pressure from the international community and not because these states are willing to undergo a process of genuine institutional change. Consequently, quite often a gap exists between an official norm and the actual practices in a society. Indeed, neither the enforcement of hard law conventions and treaties has been expedited satisfactorily, nor have soft law standards been promulgated to an adequate degree.

For instance, only slow progress has been made with regard to the enforcement of the OECD Anti-Bribery Convention. According to TI’s annually published report ‘Exporting Corruption’, which looks at the implementation of provisions stipulated in the OECD Convention, there are substantial shortcomings of OECD countries in actively prosecuting the bribery of foreign public officials. As of 2015, only four countries – Germany, Switzerland, the UK, and the US – have been classified as actively prosecuting cases, whereas in 20 countries, among them Belgium, Japan, Russia, and Spain, there is little or no enforcement of the convention at all (TI, 2015). Concerning the promulgation of soft law guidelines and principles, there is a similarly unsatisfactory situation. For instance, approximately 8,900 companies (of which 3,800 are MNCs) participate in the UNGC. Although it is the world’s largest corporate sustainability initiative, its membership is still rather low, given that there are more than 80,000 MNCs and more than 800,000 foreign affiliates to these MNCs worldwide (Bundeszentrale für politische Bildung, 2010).

All in all, the effects of worldwide anti-corruption efforts have been rather limited. A meaningful progress in fighting corruption has been achieved neither through hard law multilateral agreements (Scherer et al., 2013, p. 475) nor through international soft law approaches.

The difficulties in effectively enforcing anti-corruption regulations worldwide are related to the changing roles of states and the private sector. Today’s so-called post-Westphalian order (Kobrin, 2009) is characterized by a governance context in which, on the one hand, the role of the state has become significantly attenuated. Many pressing problems such as corruption are less amenable to state-based resolution (Higgot, 2006, p. 625). Political authority (and likewise regulatory power) has partly shifted laterally from governments to private corporations and NGOs (Lake, 2006, p. 769). Consequently, the capacity of states to exercise exclusive and unchallenged power over their own territorial jurisdictions is undermined through globalization processes (Bevir & Hall, 2011, p. 354). On the other hand, the importance of the private sector, particularly of MNCs, has increased. The increased significance of MNCs also entails greater responsibilities for them. MNCs face demands from various stakeholders to assume broader corporate responsibilities and contribute to the regulation of business (Scherer et al., 2013, pp. 474 et seq.). Failure to respond ade-

quately to these new demands is likely to increase the risk of being pilloried for moral misconduct or even alleged misconduct, especially in the era of globalization. The internet and particularly new social media are extensively used by civil society actors in order to exert pressure on companies. However, even if companies are willing to respond to these demands, the private sector lacks authority to promote hard law (Abbott & Snidal, 2008, p. 543). In this situation, characterized by less powerful nation-states and more powerful MNCs, governance gaps occur.

Governance gaps are *“gaps in the international institutional framework, including the absence of institutions or mechanisms at a global, regional or sub-regional level and inconsistent mandates of existing organizations and mechanisms”* (Gjerde et al., 2008, p. 1). Governance is hereby broadly understood as *“the processes and institutions both formal and informal that guide and restrain the collective activities of a group”* (Keohane & Nye, 2000, p. 12). In a similar vein, Abbott and Snidal (2008, pp. 512; 545 et seq.) talk of an orchestration deficit, from which the transnational regulatory system suffers.

In order to overcome governance gaps with regard to anti-corruption, new regulatory initiatives have emerged in recent years (Rasche, 2010). These new regulatory initiatives are referred to as Coordinated Governance Initiatives (CGIs) in this research project. CGIs are a novel form of collaborative arrangements, consisting of either purely private or public-private initiatives. They represent non-binding, voluntary initiatives in prisoners' dilemma situations. This description comes close to what Abbott and Snidal (2008, pp. 506 et seq.) label 'regulatory standard-setting' (RSS). Standard-setting, however, bears the notion of a predetermined procedure, which eventually results in the creation of a document that stipulates the participants' rights and obligations. By contrast, Coordinated Governance Initiatives describe a dynamic, network-like approach, within which a range of different joint activities take place, all with the aim of contributing to the solution of a collectively identified governance problem.

A CGI can be organized both, as a cross-sector initiative or as a sector-specific initiative. According to the WEF, *“coordinated governance occurs when public and private actors across several states align their efforts to implement an internationally agreed solution to a global or common transnational problem and do so in accordance with guiding principles and fundamental norms that ensure such governance is broadly regarded as legitimate”* (WEF, 2013, p. 3). Although this definition confines coordinated governance to collaborative efforts between public and private actors (thereby not taking into account the possibility of purely private initiatives), it highlights the importance of *implementing* rules for transnational governance challenges. Hence, it picks up on what Klitgaard (2012) identified as a major shortcoming in traditional governance mechanisms. Moreover, the WEF definition implies also that international hard law and soft law approaches are not regarded as being irrelevant, but as guidance for Coordinated Governance Initiatives to be implemented in environments with weak regulatory governance.

Given their heterogeneous nature, it is rather difficult to provide an exact definition of these new regulatory governance initiatives. However, four core principles are the com-

mon denominator which all CGIs adhere to, following in broad terms Lobel (2012) and Abbott and Snidal (2008):

- central role of private actors
- decentralization of regulatory authority
- non-coerciveness
- collective action approach

First, in Coordinated Governance Initiatives private actors play a central role. Representatives of the business sector as well as actors from civil society come together to tackle governance problems, resulting in the creation of either exclusively private or public-private initiatives. The state in most cases takes on a rather modest role, being one actor among many. This normally implies that the state does not occupy the role of an orchestrator either, which it often assumes in the context of soft law regulation. Second, CGIs are characterized by a decentralized regulatory authority in two ways (Abbott & Snidal, 2008). On the one hand, regulatory responsibilities *within* initiatives are shared between the state and private actors. On the other hand, there is also a decentralization of regulatory authority *among* initiatives. Coordinated Governance Initiatives have significantly grown in number in recent years, leading to a great diversity of initiatives. Since no initiative has authority over any other, one can talk of a highly decentralized regulatory authority in the field. Third, initiatives are mostly of voluntary nature. However, ‘voluntary’ is a malleable term. It is used here in the sense that joining the initiatives is not legally required; however, companies frequently adhere due to pressure from NGOs, customers or industry associations (Abbott & Snidal, 2008, p. 506). Finally, CGIs follow a collective action approach. Both terms, ‘collective’ and ‘action’, are of significance here. Coordinated Governance Initiatives are collective in that a particular governance problem is tackled jointly, often in collaboration with stakeholders from different societal sectors. It also encompasses those initiatives in which businesses of the same industry (thus, competitors) come together in order to develop strategies on how to curb corruption in that industry. ‘Action’ refers to the fact that the joint activities go beyond the signing of a memorandum of understanding or a letter of commitment. Initiatives are rather understood as a dynamic network, dedicated to continuous learning, the exchange of good practices, and their implementation. Activities can range from running regular workshops and organizing annual forums to engaging in local projects.

Taking up the differentiation into cross-sector and sector-specific initiatives raises the question if those two types of initiatives can be equally successful in overcoming the governance gap. Baumann-Pauly et al. (2016) hypothesize whether a sectoral focus might be a prerequisite or at least a helpful factor in establishing an effective initiative. Indeed, there are indications that reinforce this assumption and eventually have led to the decision to narrow down the object of analysis to sector-specific Coordinated Governance Initiatives. There are mainly three aspects which justify such an orientation towards sector-specific CGIs.

First, not all sectors display the same level of corruption. Rather, there are some sectors that are more prone to corruption than others (Bannenberg & Schaupensteiner, 2007, p. 55; Rose-Ackerman, 1975). For example, almost two-thirds of the analyzed cases of foreign bribery took place in just four sectors, the extractive sector, the construction sector, the transportation and storage industry and the information and communication sector (OECD, 2014, p. 22). This can be explained partly because of the high level of complexity in these industries: the more complex an industry, the higher the risk of corruption in that branch (Truex & Søreide, 2011). Companies in these industries frequently operate on oligopolistic markets, confronting on the demand-side only a few buyers. In addition to that, quite often the demand is even monopsonistic with the government as the sole buyer (Bannenberg & Schaupensteiner, 2007, pp. 60 et seq.; Noll, 2013, p. 149) and consequently a substantial risk for bribery (Rose-Ackerman, 1975, p. 202). The contract volume and the transaction volume in these sectors are usually quite high. Thus, being uncompetitive or not winning the contract in the worst case may put the existence of a whole company at risk. This is particularly pronounced in the construction sector and to a lower degree in the extractive industry, where companies are normally forced to have a follow-up order ready right in that moment when the preceding contract has been finished. This is because of the nature of these industries where it is impossible to build up stocks, and where companies instead produce one-of-a-kinds (Homann, 2003, p. 255). Generally speaking, to depend economically on one or two purchasers increases the risk of becoming involved into corrupt acts. The willingness to bribe in order to keep up the business relationship rises. According to an empirical rule, one can speak of economic dependence when at least 40% of the sales are allotted to just one customer (Bannenberg & Schaupensteiner, 2007, p. 60). Furthermore, those who decide which party is awarded the contract hold positions in the administration, which might not be remunerated very well in relation to the total amount of the contract to be awarded (Noll, 2013, p. 149). This also increases the risk of corruption in certain sectors. Therefore, it seems reasonable to concentrate on such initiatives that operate in these corruption-prone sectors, rather than analyzing cross-sector anti-corruption initiatives, which naturally cannot take into account the peculiarities of certain industries.

Second, sector-specific initiatives address the challenges linked to combating corruption under competitive conditions better than cross-sector initiatives. They can consider the competitive situation companies find themselves in. One of the main reasons why it is so difficult to curtail corruption effectively is that companies acting in markets in which corruption prevails face a dilemma. Every competitor thinks it needs to bribe in order to do business. At the same time, they know that everyone would be better off if no-one bribed (Rose-Ackerman, 1999b, p. 50). This dilemmatic situation can only be solved by implementing moral norms in a competitive-neutral manner (Homann & Kirchner, 2003; Lütge, 2005a; Noll, 2010). Coordinated Governance Initiatives can be regarded as such a competitive-neutral institutional arrangement apt to overcome the dilemma situation by bringing together like-minded organizations and thus leveling the playing field among competitors (Petkoski et al., 2009; Pieth, 2012, p. 5; WBI Working Group, 2010).

Finally, the witting confinement to sector-specific initiatives is in line with Mungiu-Pipidi's (2013, p. 113) and Hough's (2013, p. 30) request to better contextualize the problem of corruption. Fighting corruption by means of traditional anti-corruption laws implies that uniform rules valid on a nation-state level are being implemented and enforced. However, corruption is an extraordinarily complex and variable phenomenon. This will lower the effectiveness of central anti-corruption provisions on a nation-state level. Therefore, when fighting corruption it is more reasonable to attempt to find rules valid e.g. for particular sectors, in which corruption occurs as a homogenous phenomenon (Pies & Sass, 2005a, p. 379). Sector-specific Coordinated Governance Initiatives can be regarded as a type of rule, established for one particular sector. Taking into account the particularities of a sector constitutes one way of contextualizing corruption.

Thus, it can be inferred that coordinated efforts of like-minded competitors are more likely to yield tangible results. Furthermore, considering these structural characteristics of sectors supports a theoretical perspective from which corruption is regarded as a problem not to be attributed first and foremost to the moral lapses of private actors on the market. Rather, the institutional arrangements and incentive conditions have to be taken into account in order to find adequate solutions to the corruption problem.

2.2.3 Governance Structure and Overview of Coordinated Governance Initiatives

In a joint effort to fill the governance gaps which have emerged in recent years the private sector has initiated (or has been a central player in) a number of anti-corruption CGIs. The initiatives presented below in chronological order of their foundation give insights into how companies and other non-state actors engage in the fight against corruption⁴⁴. Before presenting the anti-corruption initiatives, it is deemed necessary to classify them according to a newly developed scheme for Coordinated Governance Initiatives. This classification scheme as shown in figure 2 has two dimensions, the level of institutionalization and the level of enforceability of initiatives, each of which can assume three values: low, intermediate, and high.

⁴⁴ A comprehensive overview of initiatives can be found in the database which was recently set up by the International Center for Collective Action (ICCA) (Basel Institute on Governance, 2016). This database encompasses a collection of more than 100 initiatives from all around the world. Furthermore, the government-sponsored Business Anti-Corruption Portal provides a good overview of mainly sector-specific initiatives (Business Anti-Corruption Portal, 2016).

Level of Enforceability	High			
	Intermediate			
	Low			
		Low	Intermediate	High
Level of Institutionalization				

Figure 2 Classification Scheme for Coordinated Governance Initiatives

Source: own representation

The rationale for developing the new scheme has been two-fold. On the one hand, it is theoretically substantiated by scholars such as Levy (2011) who highlights three important functions of governance structures in general, namely rule-making, monitoring, and enforcement. The dimensions have been derived from these functions. On the other hand, the development of the new classification is also grounded in rather practical considerations, whereby this classification represents a refinement of a scheme developed by the WBI in 2008.

Regarding the three general functions of governance structures, it can be stated that CGIs are in principle capable of accomplishing all three of these functions (Abbott & Snidal, 2008, p. 507). The function ‘rule-making’ is reflected in the level of institutionalization of an initiative. Martens (2007, p. 22) distinguishes between three levels of institutionalization in multi-stakeholder initiatives, which can be transferred to Coordinated Governance Initiatives by making a few minor modifications⁴⁵. The three levels – high, intermediate, and low – describe to what extent an initiative is capable of fulfilling the rule-making function. A high level of institutionalization implies that initiatives have

45 The feature ‘time horizon’ by Martens (2007) is not taken into account since the great majority of initiatives under scrutiny have a permanent character. Moreover, other than in the original classification system, it is differentiated between rudimentary governing bodies, which consist only of a secretariat and fully established governing bodies, which encompass among others a Members’ Meeting, a Board or a Steering Committee. Finally, the feature ‘written statute’ was added.

- fully established governing bodies (such as a secretariat, a Members' Meeting, a Board or a Steering Committee),
- (in many cases) an own legal status,
- a written statute, and
- a formal membership.

Initiatives with an intermediate level of institutionalization display the following characteristics:

- rudimentary governing bodies (often only a secretariat)
- no legal status
- a written statute
- a formal membership

Initiatives with a low level of institutionalization lack the aforementioned features and their governing bodies, if at all existent, are rather informal. Nevertheless, they can produce considerable results as will be seen later. Table 5 summarizes the characteristics of the three different levels of institutionalization initiatives can adopt.

Table 5 Operationalization of Different Levels of Institutionalization

Feature	Level of institutionalization		
	High	Intermediate	Low
Formal membership	x	x	x
Written statute	x	x	
Governing bodies	x*	x**	
Legal status	x		

*fully established; ** rudimentary

The governance functions 'rule-monitoring' and 'rule-enforcement' are operationalized in the dimension 'level of enforceability'. Two features are taken into account to delineate the different levels of enforceability: the kind of monitoring of the initiatives' participants and the kind of sanctions prescribed if rules are violated. CGIs with a high level of enforceability usually exhibit external third-party monitoring including a certification process, and have sanctions stipulated in the event of violation of the terms of agreement. These sanctions can also include the exclusion of a member from the initiative. Initiatives with an intermediate level of enforceability are equipped with a self-monitoring mechanism. Furthermore, non-compliance with the self-imposed rules normally leads to participants being expelled from the initiative. Finally, initiatives with low levels of enforceability do not have any monitoring nor any sanctions stipulated. These CGIs rather rely on enforcement through peer pressure, a mechanism sometimes also referred to as enforcement by honor. Table 6 sums up the different levels of enforceability.

Table 6 Operationalization of Different Levels of Enforceability

Level of Enforceability		
High	Intermediate	Low
<ul style="list-style-type: none">• External third-party monitoring including a certification process• Sanctions stipulated in case of violation of rules including exclusion from initiative	<ul style="list-style-type: none">• Self-monitoring mechanism• Non-compliance leads to expulsion from the initiative	<ul style="list-style-type: none">• No monitoring, enforcement only through peer pressure• No sanctions stipulated

As indicated above, the new classification matrix has also been developed on the basis of practical considerations. It can be interpreted as a refinement of the WBI’s classification of Collective Action Initiatives, on which it is loosely based (see figure 3). The refinement has been carried out in order to better capture new aspects of anti-corruption initiatives, which emerged during the analysis.

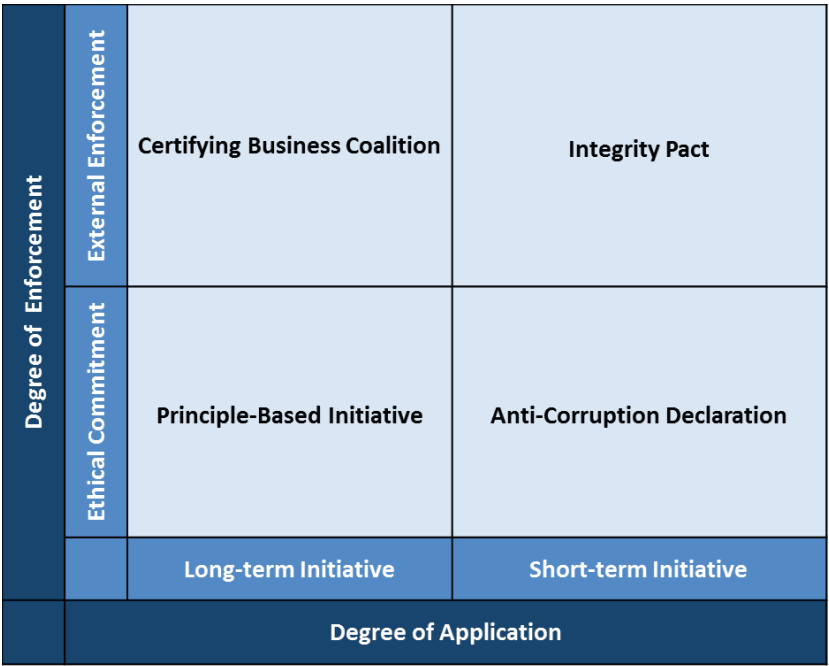


Figure 3 WBI Classification of Initiatives

Source: Adapted from WBI (2008)

Collective Action is defined as “a collaborative and sustained process of cooperation between stakeholders [that] ...increases the impact and credibility of individual action [thus, leveling] ...the playing field between competitors [and complementing] ...weak local laws

and anti-corruption practices” (WBI, 2008, p. 23). Indeed, there is a considerable overlap with the definition of Coordinated Governance Initiatives presented in chapter 2.2.2. Both definitions highlight the collaboration between different stakeholders as a crucial characteristic, although the WBI definition is limited to cooperation between competitors. Despite the similarities the label ‘Collective Action’ is avoided in this research project as it has become a catch-all term for a range of different initiatives and approaches in recent years, often causing confusion instead of clarifying things (Pieth, 2012, p. 5).

The refinements made to remedy the shortcomings of the WBI’s classification scheme include: First, a replacement of the dimension ‘degree of enforcement’ by the new dimension ‘level of enforceability’. The WBI only distinguishes between ‘ethical commitment’ and ‘external enforcement’. ‘Ethical commitment’ refers to a public commitment that leads to enforcement ‘by honor’ or through peer pressure. However, a more sophisticated classification is needed here to depict the range of different monitoring and enforcement mechanisms used in practice. They usually range from almost no monitoring, except through peer pressure (low level of enforceability) to self-monitoring mechanisms (intermediate level of enforceability) to external third-party monitoring (high level of enforceability). Second, a replacement of the dimension ‘degree of application’ by the new dimension ‘level of institutionalization’. The WBI distinguishes between long-term and short-term initiatives. However, this distinction is considered improper to describe the variety of CGIs as the great majority of them are in actual fact long-term initiatives. By contrast, only 15% are categorized as short-term or project-based initiatives according to the database of the ICCA⁴⁶ (Basel Institute on Governance, 2016). Besides, in the opinion of the author, Integrity Pacts, located in the right upper quadrant in figure 3, should not be rated among CGIs. An Integrity Pact is a tool developed by TI in the 1990s to fight corruption in public procurement. It is essentially a contract (‘pact’) between a government or a public authority and all bidders for a public sector contract (TI, 2009b). However, it does not meet two of the four core principles of Coordinated Governance Initiatives. On the one hand, private actors do not play a central role in Integrity Pacts. It is rather government agencies that decide whether to start an Integrity Pact. Companies which accept the invitation to the bid have no choice, but must consent to the pact. On the other hand, there is no decentralization of regulatory authority. Government agencies exert their authority in a traditional way. Therefore, Integrity Pacts should be regarded more as tool to mitigate the corruption risk throughout a project cycle, just like audits or citizen report cards (Hawkins, 2013, pp. 24–34), rather than a CGI.

For these reasons, the focus in this research project is exclusively on long-term initiatives. On this understanding, the distinction between long-term and short-term initiatives has become obsolete. The new dimension ‘level of institutionalization’, consisting of the three different levels explained above, describes the variety of initiatives more adequately.

⁴⁶ As of 2016; in the ICCA typology it is distinguished between Declarations and Joint Initiatives, Standard Setting Initiatives, and Integrity Pacts. The latter are usually project-based and were therefore rated among short-term initiatives.

Having introduced the new classification scheme for CGIs, 15 anti-corruption initiatives are now to be presented, employing the criteria described above. An overview of the selected CGIs is given in table 7 below.

Bavarian Construction Industry's Ethics Management Initiative. The EMB⁴⁷ is an initiative of the Bavarian Construction Industry Association and was founded as early as 1996 by a number of Bavarian construction companies (EMB, 2007a). In 2007, the initiative was adopted by the German Construction Industry Association, thereby becoming a national initiative (EMB, 2007e, p. 13). In recent years, several corporate members from outside Germany joined the EMB with their German subsidiaries. It is thus a primarily, but not exclusively, national initiative. The main purpose of the initiative consists in preventing corruption in the construction sector by implementing a value management system into the organization of all member companies that voluntarily submit to the EMB's rules. Companies willing to join the anti-corruption initiative have to adhere to four central binding elements: codification, implementation, control, and organization. As of June 2016, the initiative has 158 corporate members (Bauindustrie Bayern, 2016; EMB, 2016, p. 11). Given its well-established governance structure and the independent audit scheme the EMB has developed, the initiative is characterized by a high level of institutionalization as well as a high level of enforceability.

Wolfsberg Anti-Money Laundering Principles. The Wolfsberg Group is an association of private banks which initially came together to develop common anti-money laundering standards (AML). The founding members included: Banco Santander, Bank of Tokyo Mitsubishi-UFJ, Barclays, Citigroup, Credit Suisse, Deutsche Bank, Goldman Sachs, HSBC, JP Morgan Chase, Société Generale, and UBS. In June 2015, two new members, the Bank of America and the Standard Chartered Bank joined the group (Wolfsberg Group, 2016). Throughout the years, the group has published a number of 'principles' and 'guidelines', the most important ones being the Wolfsberg AML Principles, revised in 2012 (Wolfsberg Group, 2012), and the Anti-Corruption Guidance, last updated in 2011 (Wolfsberg Group, 2011). Apart from the efforts to harmonize banking standards, the Wolfsberg Group today engages in various other activities, such as running regular workshops, organizing an annual forum with participants from a wider group of banks and regulators, running an academy as a cross-institutional training facility and a program of regular outreach to international organizations, such as the Society of Worldwide Interbank Financial Telecommunication (SWIFT) or the European Banking Federation among others (Aiolfi & Bauer, 2012, p. 105). As the initiative has neither a written constitution nor any formalized set of rules or statutes, it is classified as a CGI with a low level of institutionalization. The group's level of enforceability is equally low: There are no mechanisms that monitor the compliance of its members with the self-imposed standards nor sanctions prescribed, which has been criticized by a number of stakeholders (Pieth, 2006, p. 10).

47 See chapter 4.1 for a more detailed description of the initiative.

Extractive Industries Transparency Initiative. The EITI⁴⁸ is a public-private CGI, which was launched in 2002 by the then British Prime Minister Tony Blair. A global disclosure standard implemented by countries, the EITI aims to improve openness and accountable management of revenues from natural resources by disclosing payments made by extracting companies to governments (Moberg & Rich, 2012). The private sector nevertheless has a pivotal role to play. It is represented at the global level in the EITI Board and at the national level in so-called EITI multi-stakeholder groups (MSGs). The 12 EITI principles build the cornerstone of the EITI. Moreover, there are seven EITI requirements that countries implementing the EITI need to adhere to in order to become EITI 'compliant' (EITI International Secretariat, 2016). As of 2016, 51 countries are implementing the EITI Standard, of which 31 have become 'compliant' (EITI, 2016b). Contrary to the Wolfsberg Group, the EITI has a high level of institutionalization having fully established governing bodies, such as an International Secretariat in Oslo, Norway, an EITI Board, a Members' Meeting, and a global conference. The EITI is the second example of an initiative with a high level of enforceability since there is a well-defined validation process, conducted by external validators. Furthermore, countries that fail to report according to the EITI Standard can be suspended or ultimately delisted (EITI International Secretariat, 2016, pp. 37 et seq.).

Agreement to Prevent Corruption within the Piping Market Sector. The 'Agreement to Prevent Corruption within the Piping Market Sector' was drawn up in 2005 with the aim to fight corruption in public procurement processes. Today, 10 major water and sewage pipe manufacturing companies from Colombia are part of the initiative, which was facilitated by the Colombian chapter of TI. As part of the agreement, an Ethics Committee that is responsible for oversight of administration and enforcement of the agreement has been established (Transparencia Colombia, n.d.). The initiative has an intermediate level of institutionalization, but a high level of enforceability since it has built auditing and enforcement mechanisms which are overseen by the Ethics Committee. TI's 'Business Principles for Countering Bribery' (see chapter 2.2.1.2) have served as a basis for the policies and guidelines that form the Pipe Manufacturers Agreement. The initiative has also contributed to better anti-bribery measures in the internal organization of member companies through greater emphasis on training, expressions of support from the Board level, and exposing third-parties to the agreement.

Construction Sector Transparency Initiative. The Construction Sector Transparency Initiative (CoST) is the second public-private CGI presented here. It was launched in 2012 with the support of the World Bank (CoST, 2016b). CoST aims to disclose project information in publicly-financed infrastructure projects. Thereby, a more transparent and accountable infrastructure sector is created that ultimately leads to good quality public infrastructure at lower cost (Calland & Hawkins, 2012, p. 155). Today, 15 countries actively participate in the initiative (CoST, 2016a). As the initiative's governance structure is reminiscent of that of the EITI (multi-stakeholder approach, implementation on a country

48 See chapter 4.2 for a more detailed description of the initiative.

level), the level of institutionalization is classified as high. CoST possesses an International Secretariat based in London, an international Board as well as national MSGs and national secretariats. Moreover, five principles build the foundation for CoST's activities and can be regarded as a written statute (CoST, 2016c). It proves difficult to assess the initiative's level of enforceability from the information available on the CoST website. Although the disclosed data is to be validated by an independent team, there is no information available regarding potential sanctions for non-compliance. Given the scarce information, the initiative is assigned a low level of enforceability.

Medicines Transparency Alliance. The Medicines Transparency Alliance (MeTA) is a network of individuals and organizations in seven countries. The initiative brings together pharmaceutical companies, governments, and international organizations, such as the World Bank and the World Health Organization (WHO). The multi-stakeholder alliance is supported by the UK Department for International Development. Its primary aim is to increase access to essential medicines for people in developing countries by means of fostering transparency and accountability in medicines procurement (MeTA, 2016). Governments that participate in MeTA commit themselves to disclose a standard set of core data about medicines – and to involve civil society and business in using this data to help confronting problems in the pharmaceutical market. MeTA has a governance structure that is comparable to the structure of the EITI or CoST. It has an International Secretariat, a Management Board, and an International Advisory Group. Therefore, the initiative is characterized by a high level of institutionalization. The level of enforceability is classified as intermediate given that there are clear exit criteria for countries, but no such thing like an audit scheme or a certification process (MeTA, n.d.).

International Forum on Business Ethical Conduct for the Aerospace and Defense Industry. The International Forum on Business Ethical Conduct (IFBEC) was created by member companies of the Aerospace Industries Association of America and the Aerospace and Defense Industries Association of Europe in 2010. As of 2016, more than 30 major companies from the aerospace and defense industry are part of the initiative (IFBEC, 2016). The main aim of this CGI is to promote ethical business practices and integrity in the sector by exchanging information on best practices concerning ethical business challenges, practices, and opportunities. For this purpose, the Global Principles of Business Ethics for the Aerospace and Defense Industry were developed by IFBEC members. These principles address issues such as zero tolerance of corruption, the use of advisors, and management of conflicts of interest among others (IFBEC, 2014). Member companies commit to implementing programs and policies that foster ethical business conduct consistent with the Global Principles in their organization. Having a written statute – the IFBEC Charter – a formal membership, and fully established governing bodies such as the IFBEC Taskforce (Steering Committee), an Executive Secretary, and the IFBEC meeting qualifies the IFBEC as an initiative with a high level of institutionalization. Similarly to the MeTA, the IFBEC's level of enforceability is classified as intermediate as there are self-monitoring mechanisms installed, but no external third-party monitoring (IFBEC, 2012).

Principle-Based Initiative Agreement in the Orthopedic Medicine Industry. Founded in 2011, this principle-based initiative agreement in the orthopedic medicine industry aims to foster integrity standards in the orthopedic medicine industry in Argentina. The initiative brings together representatives from Argentina's orthopedic medicine industry, focusing on anti-corruption, compliance programs, and training (ICCA, 2016b). Its members are mainly family-owned businesses from the orthopedic medicine industry. To date, more than 20 businesses have joined the initiative, which is facilitated by academia, more specifically by the IAE Business School in Buenos Aires. Although the initiative has been formalized by a written signed agreement, there are no formal governing bodies. Therefore, the initiative's level of institutionalization is classified as low. Likewise, its level of enforceability is considered low because there is neither monitoring nor sanctions stipulated in case of a violation of the agreement.

Banknote Ethics Initiative. The Banknote Ethics Initiative (BnEI) was founded in 2012 by six companies from the banknote industry. A not-for-profit association under Belgian law, the initiative's primary goal is to promote ethical business practice with a focus on the prevention of corruption and on compliance with anti-trust law within the banknote industry. As of 2016, the initiative has nine accredited members (BnEI, 2016). At the core of this CGI is the BnEI Code of Ethical Business Practice, which all members must be signatory to and adhere to. The initiative has a complex governance structure with governing bodies such as a General Assembly, a Members' Committee, a Chairman, and a Secretary. It thus displays a high level of institutionalization. The BnEI is also characterized by a high level of enforceability since it has installed an independent BnEI Accreditation Council and auditors that monitor the compliance of BnEI members (BnEI, 2013). All organizations that have signed the code have to become accredited after passing an audit carried out by a third-party auditor. The audit follows the BnEI Framework, supported by the BnEI Guidance Manual. Organizations will have 12 months to undertake and pass the audit, at which time they will become a BnEI Accredited Member.

Conference Vetting System. The Conference Vetting System reviews the compliance of third-party educational conferences with the Eucomed Code of Ethical Business Practice (Eucomed, 2014) to determine the appropriateness for companies to sponsor healthcare professionals to participate in such conferences. Eucomed represents the interests of the medical device industry in Europe. Established in 2012, the Conference Vetting System is a centralized decision-making system that encourages transparency and consistency in medical conferences and alleviates the complex administrative burden previously faced by Eucomed members, who were forced to make their own determinations on whether or not a conference is compliant with the code. The decisions made by the Compliance Officer are binding on Eucomed members, meaning that members of Eucomed and of national associations affiliated with Eucomed may not sponsor healthcare professionals to attend a third-party conference which is found not to be compliant (EthicalMedTech, 2013). Given its rudimentary governing bodies consisting of a Compliance Panel and a Compliance Officer who reviews the conferences submitted, this initiative is assigned an intermediate level of institutionalization. The level of enforceability is likewise classified as intermedi-

ate since there is a self-monitoring system installed but no certification process or external third-party monitoring.

Maritime Anti-Corruption Network. The MACN⁴⁹ was established in 2011 and formalized in 2012 by leading companies of the shipping industry (MACN, 2016a). It is a fast-growing network with around 60 members as of 2016 (MACN, 2016b). MACN members cover the whole supply chain within the maritime sector, ranging from shipping companies to providers of port cost management services and shipping agencies, to ship-owners' associations. The network aims to tackle corruption in its sector by strengthening the members' internal anti-corruption programs and sharing best practices on one side. On the other side, the MACN concentrates on contributing to improvements in the external operating environment by raising awareness, reporting on corruption incidents and engaging in local collective actions together with business, governments, international organizations, and civil society (MACN & BSR, 2014, p. 3). The MACN is a business-to-business network governed by a Steering Committee and a Members' Meeting (MACN, 2012b). It is guided by an operating charter and seven anti-corruption principles (MACN, 2016c). Although it has not yet a legal status, the initiative possesses fully established governing bodies as well as a written statute and a formal membership process. It even distinguishes between regular members and associate members. Thus, the MACN has a high level of institutionalization. With respect to the level of enforceability the initiative is assigned an intermediate level as the responsibility for monitoring the implementation of their internal anti-corruption programs lies with its members (self-monitoring).

Collective Action Agreement to Promote Integrity in the Legal Professions. The Collective Action Agreement to Promote Integrity in the Legal Professions aims to promote integrity, transparency, and compliance with the rule of law in the legal professions in Argentina. Companies can join by signing a Collective Action Agreement. The initiative, which was founded in 2013, is facilitated by academia (Law Department of San Andrés University in Argentina) and the Association of Corporate Counsel (ACC) Latin America, Argentina chapter. In addition, these two institutions are to support members with implementing the agreement into their organizations. The Collective Action Agreement is the core binding element of the CGI, in which members, i.e. corporate in-house lawyers from the ACC, commit themselves to ethics, transparency, and anti-bribery rules (Universidad de San Andrés, n.d.). As the initiative lacks any formal governing bodies as well as effective monitoring mechanisms, it is assigned a low level of institutionalization and a low level of enforceability.

Ethics Standard of Customs Brokers and Sectoral Compliance Pact. The Ethics Standard of Customs Brokers and Sectoral Compliance Pact came into existence in 2013. So far, more than 250 leading customs consultancy firms from Turkey have signed this integrity declaration. The initiative seeks to curb corruption and all integrity-related barriers in customs operations through a holistic approach, which also includes the formation of a business ethics academy for the education of all individuals working in customs opera-

49 See chapter 4.3 for a more detailed description of the initiative.

tions. Although this CGI is business-driven, it collaborates closely with key stakeholders from the public sector and civil society. The initiative has a formalized structure, including a written document and an ethics committee, which was formed of the members of five customs consultancy associations (ICCA, 2016a). As these governing bodies are of rudimentary nature, the initiative is assigned an intermediate level of institutionalization. Given that there are no monitoring mechanisms or explicit sanctions in the event of a violation of the integrity declaration, the CGI is characterized by a low level of enforceability.

Collective Action for Integrity in Québec's Construction Industry. The Collective Action for Integrity in Québec's Construction Industry (ACQ) was established based on the model of the EMB initiative, following a severe crisis induced by a number of major corruption cases in the construction industry in Québec. In order to restore confidence and re-establish the industry's reputation, an integrity program with the aim to combat corruption was piloted and launched in 2014 (ACQ, 2016b). In 2015 the initiative opened up to all ACQ members. To date, it has 14 member companies (ACQ, 2016a). The main purpose of the initiative is to implement an integrity program into the members' organizations which helps to gird the company against corruption. Although comparable to the EMB, this CGI displays only an intermediate level of institutionalization as there are only rudimentary governing bodies. As regards the level of enforceability, the initiative is in the middle of designing an accreditation process to be conducted by an external body that safeguards the integrity and credibility of the process. Once this accreditation process and audit framework is in place, the CGI is expected to have a high level of enforceability.

IRU/UNGC Global Anti-Corruption Initiative. The Global Anti-Corruption Initiative (GACI) was founded in 2014 by the International Road Transport Union (IRU), the UNGC, and the World Customs Organization. Its main goal is to collect information on the existence of cases of corruption, bribery, and extortion along the major global road transport corridors on five continents (IRU, 2016). The information is summarized in reports that are shared with the governments of the countries involved with specific recommendations on anti-corruption activities in the sphere of international road transport. Companies can participate in the initiative by simply expressing their commitment to combat corruption in the road transport sector. Companies then provide their truck drivers with a questionnaire which enables them to report about corruption incidences during the transport. This CGI displays both low levels of institutionalization and enforceability. There are only informal governing bodies and no monitoring at all. However, this may be owing to the nature of the initiative which views its central task in collecting information and raising awareness. Since the initiative has been newly established, its activities may broaden once the initial data collection phase has been completed.

Table 7 Overview of Selected Coordinated Governance Initiatives (in chronological order of their foundation)

Name of Initiative	Date of Creation	Purpose of Initiative	Type and No of Members	Initiating Institution	Level of Institutionalization	Level of Enforceability
Bavarian Construction Industry's Ethics Management Initiative (EMB)	1996	Fostering ethical management and anti-corruption by means of a certified management system	Over 150 companies of the German construction sector	Business sector, collaboration with key stakeholders (academia)	High	High
Wolfsberg Group	1999	Establishing common standards in the banking sector with regard to anti-money laundering and anti-corruption	13 private banks from around the world	Business sector, facilitated by civil society and regulators from the banking sector	Low	Low
Extractive Industries Transparency Initiative (EITI)	2002	Fostering transparency in the extractive industries by disclosing payments made by companies to governments and vice versa	51 (mostly) resource-rich countries and companies operating therein	Multi-stakeholder	High	High
Pipe Manufacturers Agreement	2005	Fighting corruption in public procurement	10 major water and sewage pipe suppliers from Colombia	Business sector, facilitated by civil society (TI Colombia)	Intermediate	High
Construction Sector Transparency Initiative (CoST)	2007	Fostering transparency in the infrastructure sector by disclosing data at key points in project cycle	15 implementing countries and companies operating therein	Multi-stakeholder	High	Low
Medicines Transparency Alliance (McTA)	2008	Better access to essential medicines for people in developing countries, by fostering transparency in medicines procurement	Network of individuals and organizations in seven countries	Multi-stakeholder	High	Intermediate

Name of Initiative	Date of Creation	Purpose of Initiative	Type and No of Members	Initiating Institution	Level of Institutionalization	Level of Enforceability
International Forum on Business Ethical Conduct for the Aerospace and Defense Industry (IFBEC)	2010	Exchanging information on best practices in the area of ethical business practices	Over 30 major defense and aerospace industry companies from around the world	Business sector	High	Intermediate
Principle-Based Initiative Agreement in the Orthopedic Medicine Industry	2011	Fostering integrity standards in the orthopedic medicine industry, including compliance training	Over 20 family-owned companies of the orthopedic medicine industry in Argentina	Business sector, facilitated by academia	Low	Low
Banknote Ethics Initiative (BnEI)	2012	Promoting ethical business practice with a focus on the prevention of corruption and on compliance with anti-trust law	Nine accredited members from the banknote industry	Business sector, facilitated by NPO 'Institute of Business Ethics'	High	High
Conference Vetting System	2012	Reviewing the compliance of third-party educational conferences with the Eucomed 'Code of Ethical Business'	Eucomed – The European Medical Technology Industry Association	Business sector	Intermediate	Intermediate
Maritime Anti-Corruption Network (MACN)	2012	Strengthening members' internal anti-corruption programs and engaging in local collective actions	Over 60 companies from the maritime industry	Business sector	High	Intermediate
Collective Action Agreement to Promote Integrity in the Legal Professions	2013	Promoting integrity, transparency and compliance with the rule of law in the legal professions	In-house lawyers from Argentina	Business sector, facilitated by academia	Low	Low

Name of Initiative	Date of Creation	Purpose of Initiative	Type and No of Members	Initiating Institution	Level of Institutionalization	Level of Enforcement
Ethics Standards of Customs Brokers and Sectoral Compliance Pact	2013	Fighting corruption in customs operations	Over 250 customs consultancy firms from Turkey	Business sector, collaboration with key stakeholder from the public sector and civil society	Intermediate	Low
Collective Action for Integrity in Québec's Construction Industry	2014	Promoting integrity and good business practices in the Québec construction industry	14 companies of Québec's construction industry; open to over 6,000 companies that are members of the Québec Construction Association	Business sector	Intermediate	High
IRU/UNGC Global Anti-Corruption Initiative (GACI)	2014	Collecting and analyzing information on the existence of corruption cases along the major global road transport corridors on five continents	International Road Transport Union (IRU), UN Global Compact, World Customs Organization	Multi-stakeholder	Low	Low

Level of Enforceability	High	--	<ul style="list-style-type: none">• Pipe Manufacturers Agreement• Québec Construction Industry Agreement	<ul style="list-style-type: none">• EMB• EITI• BnEI
	Intermediate	--	<ul style="list-style-type: none">• Conference Vetting System	<ul style="list-style-type: none">• META• IFBEC• MACN
	Low	<ul style="list-style-type: none">• Wolfsberg Group• Orthopedic Ind. Agreement• Integrity in Legal Professions• GACI	<ul style="list-style-type: none">• Ethics Standards for Customs Brokers	<ul style="list-style-type: none">• Construction Sector Transparency Initiative
		Low	Intermediate	High
Level of Institutionalization				

Figure 4 Classification of Selected Coordinated Governance Initiatives

Source: own representation

Figure 4 shows how the sector-specific Coordinated Governance Initiatives presented in this section have been classified according to the new, adjusted classification matrix. Although not all types of initiatives are equally represented, the great variety of CGIs becomes evident. In addition, it can be seen that both ends of the spectrum are well represented: CGIs characterized by both low levels of institutionalization and enforceability and, at the other end of the spectrum, initiatives that have both high levels of institutionalization and enforceability.

2.2.4 Potential Success Factors of Coordinated Governance Initiatives

In view of the numerous Coordinated Governance Initiatives which have been meanwhile established and out of which only a small sample has been described in the previous paragraph, research undertaken in this field is still relatively limited. The following literature

review is supposed to contain the most important contributions and studies, particularly those concerning potential success factors of CGIs. However, the literature review is not claimed to be exhaustive. This “*semi-ignorance*” (Gioia, Corley, & Hamilton, 2013, p. 21) regarding the body of literature is considered beneficial as it ensures the researcher’s openness to input from the field and thus helps the researcher to identify and analyze key variables over the course of the study (Edmondson & McManus, 2007, p. 1162). As a consequence, the danger of a confirmation bias is avoided (Yin, 2014, pp. 76 et seq.). The purpose of the literature review is thus to provide the researcher with some preliminary ideas which directions to look at in the subsequent case study without narrowing down the field of research precipitately. Results of the brief literature review are summarized in table 8, describing the relevant studies with regard to the following characteristics: methodological approach taken, label of initiative used by the author(s), thematic focus, and selected success factors. The multiple-case study presented in chapter 4 will contain both inductive and deductive elements. While a great part of the insights will be gained using an inductive research approach, deductive research elements also play an important role. Those are mostly derived from studying the existing body of literature.

Success factors are defined as essential influencing variables which increase the probability that a CGI’s medium and long-term objectives are achieved (Geibler, 2010, p. 239). As a result of the literature review, six clusters of success factors around participants, goals, decision-making, governance structure, monitoring and enforcement, and institutional framework are identified. With regard to the cluster ‘participants’ a number of researchers point out that the active participation of civil society is essential for a CGI in order to be successful (Aaronson, 2011; Frynas, 2010). Locke and Henley (2013), who review and compare five transparency initiatives from different sectors, specify this point by stating that the involvement of all members has to be continuous if initiatives are not to lose momentum after achieving some early wins in the initial phase. Søreide and Truex (2013) hypothesize that an anti-corruption initiative is more likely to be successful if local stakeholders act as initiators since they know best about particularities of the corruption problem in their country, region or sector. Moreover, it needs clearly defined roles of participants according to Søreide and Truex (2013). Lucke and Lütge (2011) and Pieth (2012) suggest that involving external facilitators, e.g. a local NGO, which does not form part of the initiative as such, conduces to the success of CGIs. This is especially true for sector-specific CGIs where competitors come together in order to tackle the problem of corruption. In these cases it is often important to have a kind of mediating instance which helps to build trust among actors that regard themselves primarily as competitors. According to Pieth (2012, p. 11), an initiative’s success depends also on whether at least one industry champion can be convinced to join the initiative. CGIs that consist of a number of SMEs with only small market shares will not be able to gain momentum and change the rules of the game in a particular sector.

The second cluster of success factors derived from the literature refers to the goals initiatives strive for. For example, Hess, D. (2009) and Søreide and Truex (2013) emphasize that it is of crucial importance to focus on a specific target, resisting the temptation

to include more and more goals. In this regard, the EITI has repeatedly been requested to widen the focus beyond revenue transparency in the extractive sector to other sectors. Up to now the EITI Board has rejected these proposals arguing that it would possibly lose focus if it included all these extensions. “*Clear objectives*” are also seen by Ansell (2012, p. 506) as a major success factor for collaborative governance efforts. Furthermore, Lucke and Lütge (2011) underscore the importance of achievable goals. Working collectively towards a goal is a considerable challenge in itself. Therefore, self-set goals should be formulated as simple and realistic as possible to avoid later disappointment. Finally, Vincke (2012, p. 129) highlights that participants not only need a common goal but also a “*shared concern*”. For instance, they all need to comply with the provisions stipulated in the UK Bribery Act, which prohibits facilitation payments while at the same time operating in an international environment where those payments are widespread.

With regard to the cluster ‘decision-making’, scholars maintain that a broad public engagement in decisions is crucial for an initiative’s success (Aaronson, 2011). This implies that they should not be seen as initiatives steered by a few experts or small elite. Rather, such anti-corruption initiatives should aim to garner broad support from the public by being transparent about their goals and decisions. Other researchers like Mena and Palazzo (2012), whose research focuses on legitimacy issues within governance initiatives, hold that procedural fairness and consensual orientation play an important role. By procedural fairness the authors refer to the fact that there are often power imbalances between different stakeholders taking part in CGIs. For instance, MNCs usually can exert greater influence on decisions than small local NGOs that lack the resources of MNCs. Therefore, CGIs need to find a way to neutralize these power imbalances as effectively as possible. Consensual orientation means that decision-making processes should generally be designed in a way that mutual agreement among participants is promoted. In like manner, Aiolfi and Bauer (2012, pp. 110 et seqq.) suggest that consensus-based decision-making will avoid the splitting of the group.

The fourth cluster is broadly termed ‘governance structure’ and encompasses a number of different success factors. Both, Hess, D. (2009) and Locke and Henley (2013), stress the meaning of flexible governance structures, which allow the initiative to evolve over time. In their view, it is essential that Coordinated Governance Initiatives are designed in a way that ensures initiatives can adapt to altered framework conditions. Apart from flexibility, transparency with regard to structures, processes, and results is another vital factor of success (Mena & Palazzo, 2012; Meyer zu Schwabedissen, 2008, p. 60; Pies et al., 2005, pp. 189 et seq.). Furthermore, governance structures of anti-corruption initiatives should be organized so as to provide incentives for cooperation (Petkoski et al., 2009). This implies according to order ethics theory that the self-interest of participants is channeled in a mutually beneficial manner (Homann, 2002a). Lucke and Lütge (2011) stress that the funding of a CGI needs to be ensured beyond the initial phase. Here, different models of funding have been found in anti-corruption initiatives. While some CGIs are financed primarily through membership dues (like the MACN), others are mainly funded by international donors (like the EITI). Apart from this, understanding the fi-

nancing of an initiative also provides insights into the goals of a CGI and the motivations of its participants.

‘Monitoring and enforcement’ makes up the fifth cluster. Locke and Henley (2013) point out that a monitoring system is indispensable for CGIs to work properly. Likewise, Geibler (2013), Lucke and Lütge (2011), and Mena and Palazzo (2012) advocate for appropriate monitoring and enforcement mechanisms to be implemented. Moreover, Petkoski et al. (2009, p. 817) explicitly state that “*Crafting proportional informal controls (e.g. monitoring, evaluations, and sanctions) and proper incentives to cooperative games across networks ... are the lynchpins of successful collective action programs*”. Yet, which kind of monitoring mechanism is appropriate under which conditions remains unclear. In practice, there is a broad range of different monitoring approaches. Some initiatives rely on self-monitoring while others opt for external third-party monitoring. A topic closely linked to monitoring is sanctions. Wentzel (2003) claims that sanctions are a pivotal element of anti-corruption CGIs in order to enforce the self-imposed rules. Pies et al. (2005, pp. 187 et seq.) explain that only if rules are secured by effective sanctions, will there be the confidence among participants that every member will adhere to the self-imposed rules. However, since initiatives are largely voluntary, means of sanctioning are naturally limited. Most initiatives do not stipulate sanctions that go beyond the suspension of membership or, in grave cases, the termination of the membership.

The sixth cluster is labeled ‘institutional framework’. Scholars such as Pies et al. (2005, p. 180) argue that Coordinated Governance Initiatives also require an effective legal framework. Hence, such initiatives are perceived as having a complementary, not compensatory function. In the same manner, Søreide and Truex (2013) underline the meaning of government support and a stable legal framework. Furthermore, an independent media is regarded as being essential because they can contribute to greater accountability of representatives not only from the public but also the private sector (Frynas, 2010). Lucke and Lütge (2011) talk of an ‘enabling environment’, which they deem necessary to make CGIs work, referring thereby to a strong institutional framework and a functioning jurisdiction. Finally, Søreide and Truex (2013) hypothesize that those initiatives operating in an environment that is characterized by a healthy competition among companies are more likely to be successful.

These clusters provide a first overview of potential success factors. There is some overlap between the clusters. For instance, clearly defined roles of participants can either be regarded as belonging to the first cluster ‘participants’ or to the ‘governance structure’ cluster. In a similar manner, success factors grouped under the cluster ‘decision-making’ could have been integrated in the cluster ‘governance structure’. However, as several authors explicitly address the topic of decision-making, it has been decided to create a separate cluster.

Table 8 Success Factors Found in Literature (in chronological order of publication)

Author	Journal	Methodological Approach	Label of Initiative Used by Author(s)	Thematic Focus	Selected Success Factors
Hess, D., 2009	Journal of Business Ethics	Conceptual	Multi-stakeholder Initiative (refers among others to the EITI), New Governance Initiative	<ul style="list-style-type: none"> Investigation into how the effectiveness of voluntary corporate anti-corruption programs could be increased by policy reforms 	<ul style="list-style-type: none"> Focus on specific target Flexible governance structure: initiative's structure should allow the initiative to evolve over time
Petkoski et al., 2009	Journal of Business Ethics	Conceptual	Collective Action Program, Multi-sectoral Partnership	<ul style="list-style-type: none"> Analysis of anti-corruption efforts of international organizations leveraging the power of the private sector Discussion of the role and value of private sector partnerships 	<ul style="list-style-type: none"> Monitoring, evaluations, and sanctions Incentives for cooperation
Frynas, 2010	Journal of Business Ethics	Empirical (qualitative)	Transparency Initiative, Governance Initiative (refers among others to the EITI)	<ul style="list-style-type: none"> Analysis of CSR activities of companies in the oil and gas sector Revenue transparency as a major governance challenge in the sector 	<ul style="list-style-type: none"> Independent media for greater accountability Participation of civil society Timing (bargaining power of external actors)
Lucke & Lütge, 2011	Ordo Journal	Empirical (qualitative)	Collective Action Initiative	<ul style="list-style-type: none"> Investigation into the challenges of enforcing Collective Action Initiatives by reference to a private sector anti-corruption pact among pipe manufactures in Argentina Identification of crucial factors for success 	<ul style="list-style-type: none"> Focus on achievable goals Active participation of members Involvement of external facilitators Ensured funding of initiative Credibility and integrity of participants Monitoring and enforcement mechanisms Enabling environment (strong institutional framework & functioning jurisdiction)

Author	Journal	Methodological Approach	Label of Initiative Used by Author(s)	Thematic Focus	Selected Success Factors
Aaronson, 2011	Journal of Public Administration & Development	Empirical (qualitative)	Public Private Partnership, Multi-sectoral Partnership (refers explicitly to the EITI)	<ul style="list-style-type: none"> Assessment of the EITI, focusing on its weaknesses 	<ul style="list-style-type: none"> Shared vision of participants Active participation of civil society Broad public engagement in decisions
Mena & Palazzo, 2012	Business Ethics Quarterly	Conceptual	Multi-stakeholder Initiative	<ul style="list-style-type: none"> Examination of conditions of a legitimate transfer of regulatory power from traditional democratic nation-state processes to private regulatory schemes Identification of input and output criteria for legitimate multi-stakeholder initiatives 	<p>Input legitimacy:</p> <ul style="list-style-type: none"> Inclusion of all relevant stakeholders Procedural fairness Consensual orientation among participants Transparency of structures, processes, results <p>Output legitimacy:</p> <ul style="list-style-type: none"> Enforcement, i.e. ability of initiative to ensure that the rules are complied with
Locke & Henley, 2013	Overseas Development Institute Report	Empirical (qualitative)	Transparency Initiative (refers among others to the EITI)	<ul style="list-style-type: none"> Assessment of a number of transparency initiatives in different sectors and attempt to transfer these findings onto a possible land transparency initiative 	<ul style="list-style-type: none"> Clear indicators of success and a monitoring system Flexibility of initiative (evolve over time) Continuous involvement of key stakeholders Clear institutional structure with clear responsibilities at national and international levels
Søreide & Truex, 2013	Development Policy Review	Conceptual	Multi-stakeholder Initiative	<ul style="list-style-type: none"> Investigation of the impact of multi-stakeholder groups in the natural resources sector 	<ul style="list-style-type: none"> Focus on specific target Local stakeholders as initiators Clearly defined roles of participants Healthy competition between private sector stakeholders Government support and stable legal framework

Apart from gaining first insights into potential success factors of anti-corruption initiatives, two other things have become apparent from studying the literature. First, there is no consistent labeling for initiatives. Terms vary to a high degree and labels like ‘Public Private Partnership’, ‘Multi-sectoral Partnership’, ‘Multi-stakeholder Initiative’, ‘Transparency Initiative’, ‘Governance Initiative’, ‘New Governance Initiative’, ‘Collective Action Initiative’, and ‘Collective Action Program’ are all found. Second, although a few success factors could be identified, there is only little empirical evidence with respect to the conditions for success of Coordinated Governance Initiatives. Many research papers are purely conceptual and the few empirical papers found cannot provide sufficient evidence of the effectiveness of these newly emerged governance initiatives. For example, Petkoski et al. (2009) hold that there is scant empirical evidence that is definitive and Søreide and Truex (2013, p. 205) add that *“the evidence base available does not yet allow for generalization”*. Consequently, Corrigan (2014, p. 28) argues that more qualitative studies are needed to find out more about success factors, which a quantitative approach cannot capture. The request for more qualitative research will be answered in this research project by conducting a qualitative multiple-case study that is expected to shed light on the so far under-investigated aspects of CGIs.

2.2.5 Empirical Basis for the Assessment of Anti-Corruption Initiatives

In the wake of increased efforts by international organizations such as the World Bank and the OECD to fight corruption globally, the demand for tools to measure corruption has been growing throughout the last two decades. However, a major impediment to measuring corruption lies in the fact that it is a so-called victimless crime. As opposed to other forms of criminality, the victims of corruption are often not easily identifiable because in many cases they do not even know they have fallen victim to corruption. Often the tax-payers or the public are the victims of corruption. In corrupt acts there are instead two offenders, the briber and the bribee, who have both an interest in keeping their doings a secret. Therefore, the overall extent of corruption cannot be measured directly, but is usually assessed through indirect means, for example through perceptions.

With reference to the assessment of corruption, one can roughly distinguish between three types: surveys exclusively oriented towards the measurement of corruption, surveys designed to assess governance (whereby corruption represents just one category), and crime statistics. Corruption surveys are one of the most frequently used instruments, with a wide variety among them. Some aim to capture the subjective opinions and perceptions of levels of corruption in a given country. Others attempt to evaluate the actual personal experience with corruption, i.e. if citizens have been asked to give a bribe or if they have voluntarily offered something to a public servant (UNDP, 2008, p. 8).

Instruments assessing governance attempt to measure *“the opposite of corruption”* (Rothstein, 2014), e.g. public accountability mechanisms or the quality of institutional frameworks (UNDP, 2008, p. 8). Finally, crime statistics, such as the BKA’s annual sta-

tistics of criminal investigation proceedings of corruption ('Bundeslagebild Korruption') or the BKA's annual statistics of white-collar crimes ('Bundeslagebild Wirtschaftskriminalität') (BKA, 2016a, 2016b), show the number of cases that have become known to law enforcement authorities. However, since 95% of all corruption cases remain undisclosed (Schaupensteiner, 2003, p. 76) the validity of these statistics bears considerable limitations. Table 9 gives an overview of the selected sources of information for assessing corruption⁵⁰, indicating in an abbreviated form their strengths and weaknesses and providing a few examples for each category.

Although most of the statistics mentioned in the table below have become frequently used tools for policy makers – which is especially true for the Corruption Perceptions Index (CPI) and the Worldwide Governance Indicators (WGI) (UNDP, 2008, p. 6) – they have several limitations that make it at times problematic to rely on them as primary source of information. First, there is a lack of definitional consensus among researchers on the terms 'corruption' and 'governance' (Heller, 2009, p. 54; UNDP, 2008, pp. 6 et seqq.). For instance, most indicators claiming to measure corruption thereby refer to corruption in the public sector. However, there are a few indicators that also focus on private sector corruption (e.g. the Executive Opinion Survey by the WEF) or a combination of both (e.g. the WGI). Therefore, the surveys and indices presented here are comparable only to a very limited extent. Apart from this, some of the indicators are quantitative in nature while others combine qualitative and quantitative data (like Global Integrity's Global Integrity Report). Another factor which makes it difficult to compare the indicators is that some tools represent composite indices using aggregated data (e.g. the Executive Opinion Survey by the WEF) whereas others make only use of original data (e.g. the Global Corruption Barometer by TI).

Second, the data derived from corruption measurements tend to be directionally ambiguous (Johnsøn & Mason, 2013). For instance, increasing numbers of corruption cases can either imply that corruption has increased in a particular country or that the government has provided the prosecuting authorities with more and better trained staff so that they can work more effectively. More controls will certainly bring about an increased number of disclosed corruption cases at the beginning. The problem is that these rising numbers of corruption cases are normally not ascribed to intensified controls, but are contributed to higher levels of corruption (Pies & Sass, 2005a, pp. 374–378). Therefore, corruption measurement should be accompanied by the investigation of single cases of corruption and by the evaluation of research statistics that inform about how the public budget is spent, for example.

50 For an exhaustive overview of corruption assessment instruments see the 'corruption assessment toolbox', a comprehensive database established by TI (2016b).

Table 9 Corruption Assessment: Overview of Different Sources of Information

Sources of Information	Strengths	Weaknesses	Examples
Corruption Surveys (perception- & experience-based)	<ul style="list-style-type: none">• Provide broad perceived evidence of the level of corruption within a country (Hawkins, 2013, p. 43)• Allow for comparison between different countries• Allow for monitoring of corruption development over time	<ul style="list-style-type: none">• Unreliable guide to the actual level of corruption• Tend to be susceptible to biases, e.g. 'home-country bias' (Lambsdorff, 2007, p. 23)• Rarely capture grand corruption (Hawkins, 2013, p. 43)• Susceptible to social desirability (Wolf, 2014, p. 31)	<ul style="list-style-type: none">• TI's Corruption Perceptions Index (CPI)• TI's Global Corruption Barometer• WEF's Executive Opinion Survey (is part of the Global Competitiveness Report)• Business Environment and Enterprise Performance Survey by World Bank & European Bank for Reconstruction and Development
Good Governance Assessments	<ul style="list-style-type: none">• Allow for cross-country comparison• Allow for monitoring of development over time	<ul style="list-style-type: none">• WGI: Definition of the six primary indicators unclear (Wickberg, 2013)• Global Integrity Report: Coverage is not global; focus solely on public institutions (Wickberg, 2013)	<ul style="list-style-type: none">• WBI's Worldwide Governance Indicators (WGI), esp. Control of Corruption Indicator (Kaufmann, Kraay, & Mastruzzi, 2009)• Global Integrity Report by the NPO Global Integrity
Crime Statistics	<ul style="list-style-type: none">• Hard figures, provide real evidence of corruption	<ul style="list-style-type: none">• Do not reflect actual overall extent of corruption• Difficult to interpret changes from one year to another (Wolf, 2014, p. 31)	<ul style="list-style-type: none">• BKA criminal investigation proceedings of corruption statistics• BKA white-collar crime statistics• OECD Foreign Bribery Report

Third, most of these indicators tend to have a very broad scope. This broad approach, which allows for cross-country comparisons, is particularly beneficial for donors and the international investment community, who frequently rely on such indicators as a basis for decision-making (UNDP, 2008, p. 20). This makes them also valuable tools for advocacy purposes. For instance, TI obtains considerable media coverage with the publication of its annual CPI, which often leads to a wider debate among policy makers. However, those composite indices aggregating many component variables are less useful for evaluating the effectiveness of anti-corruption actions (Johnsøn & Mason, 2013, p. 2).

Similar to the difficulties in measuring corruption described above, difficulties also arise when trying to assess anti-corruption interventions such as CGIs. In particular, three problems are to be dealt with: First, it is necessary to determine what is meant by success with respect to anti-corruption initiatives. The absence of (new) corruption cases could be regarded as an indicator for success. Yet, the absence of corruption cases does not necessarily mean that there is no corruption, but can simply imply that it has not yet surfaced. Second, when evaluating Coordinated Governance Initiatives, it is important to be clear about what the participants' understanding of corruption in each initiative constitutes. The corruption problem in one initiative may be linked primarily to facilitation payments, which private sector actors of that industry branch attempt to dispose of. In another anti-corruption initiative the term 'corruption' may refer to a more systemic problem of dependencies between principals and contractors. Third, assessing the overall impact of CGIs proves difficult since most of them have come into existence not long ago. Hence, long-term benefits of the initiatives may have not yet taken effect (Corrigan, 2014, p. 18; Frynas, 2010, p. 168). However, as they are very complex initiatives, involving a number of different actors often from diverse societal spheres, it may take considerable time until effects of anti-corruption interventions begin to unfold.

Taking into account the previous statements and explanations on corruption measurement, it becomes evident that the assessment of the CGIs' impact is extremely difficult. Alternative measurement approaches are required. In particular, more contextual information is needed to be able to assess initiatives and identify conditions for success. Johnsøn and Mason (2013, p. 2) advocate in this regard "*prioritizing sensitivity to context over standardization*". Since corruption is a complex and variable phenomenon, it exhibits different characteristics in different national, local or sector-specific settings. A more contextual and sensitive measurement approach is needed as a precondition for devising appropriate tools for reform. Moreover, the authors of 'A Users' Guide to Measuring Corruption' remind us that "*to paint a picture of corruption, ... multiple sources [that is] quantitative data, qualitative narrative analysis, and real-life case studies [are needed].*" (UNDP, 2008, p. 3).

This legitimate claim is considered in the research design of this empirical study. The present research project concentrates primarily on identifying potential success factors using qualitative data analysis as a first step in investigating CGIs⁵¹. An explorative em-

51 The next step in investigating Coordinated Governance Initiatives would then be to measure their impact using more quantitative methods. However, this will not be part of the research project.

pirical study will be conducted, analyzing the newly emerged governance phenomenon as a whole. It is expected that this will contribute to gain insights into how and under what conditions Coordinated Governance Initiatives work properly. Easton’s cause-effect relation model, which suggests three dimensions of effectiveness – output, outcome, and impact – illustrates the thematic priority of the research project (Easton, 1979).

As indicated in figure 5 direct effects can be subsumed under the category ‘output’, whereas ‘impact’ refers to the long-term effects of an initiative. Of most importance for the present dissertation are the medium-term effects (encircled in figure 5), thus the ‘outcome’ or ‘effectiveness’.

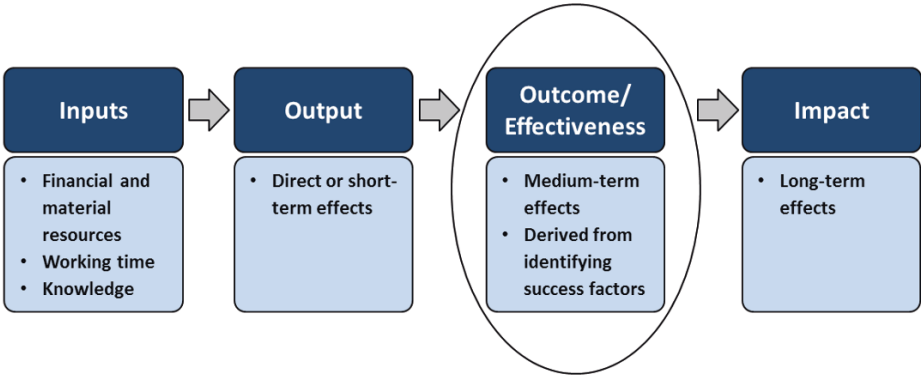


Figure 5 Cause-Effect Relation Model

Source: Adapted from Easton (1979)

2.3 Summary

In spite of increased efforts by the international community in recent years, corruption is still rampant in many countries around the world. Corruption is still a major threat to the rule of law, democracy and human rights, fairness and social justice. It hinders economic development and threatens not only the stability of democratic institutions but also the moral foundations of society.

From a theoretical point of view, corruption can be conceptualized in a number of different ways. This research project follows a pragmatic approach by using three models each of which emphasizes a different aspect of the multi-layered phenomenon. Corruption has been conceptualized as a principal-agent problem, as a collective action problem, and as a problem of deficient framework conditions (order ethics approach). It is assumed that the view from these different angles provides a relatively comprehensive understanding of corruption. In the first conceptualization of corruption as a principal-agent problem, individuals’ calculations about whether or not to engage in corruption and information asymmetries between principal and agent play a central role. Accordingly, corruption is

modeled as an act involving three players. The agent, who is granted special discretionary power by signing a contract with the principal, acts and decides contrary to the rules stipulated in the contract, and receives a service in return by the client, who benefits from the agent's breach of a rule. In a prototypical corrupt act, the client represents the business sector side, whereas the agent and the principal belong to the public sphere. Correspondingly, this definition implies that corruption occurs at the interface of the public and the private sphere.

The conceptualization of corruption as a collective action problem extends the previous model and concentrates on the role of the client. The focus is shifted from the demand-side, i.e. the public officials demanding bribes, towards the supply-side of corruption, hence the companies considered as potential bribe payers. From this perspective, the inherent coordination problem for companies becomes evident. Companies acting in a corrupt environment find themselves in a prisoners' dilemma, from which they cannot escape by their own (Lucke & Lütge, 2011). Individually rational choices (i.e. to bribe) lead to a collectively bad outcome. All actors would gain from abstaining from paying bribes, but they cannot make credible commitments to do so. Such a dilemmatic situation can only be resolved by coordinated anti-corruption efforts, for example by means of Coordinated Governance Initiatives. To sum up, it is only through this latter conceptualization that the importance of involving companies in the fight against corruption becomes fully apparent.

Apart from those two actor-centered approaches, the overall framework approach of order ethics is taken into consideration. Order ethics is an ethical conception which emphasizes the significance of an institutional framework and rules for implementing ethics (Lütge, 2012c). Problematic phenomena such as corruption are not attributed to immoral preferences or motives of individuals, but to defects in the order framework (Lütge, 2007). The central question of order ethics is how moral concerns can find recognition under competitive conditions. Order ethicists propose to design the order framework in a way so that adherence to rules is beneficial for self-interested individuals (Lütge, 2015a). This implies that ethical behavior is incentivized, while unethical i.e. corrupt behavior is rendered costly. Actors then comply with norms out of self-interest, and ethical behavior is induced indirectly, rather than through directly appealing to moral behavior (Homann, 2007; Lütge, 2015a).

Although there is broad empirical evidence concerning the various negative effects of corruption, both on the macro and the micro level, it is still difficult to quantify these effects. Most empirical studies that take on a macro perspective address corruption either in relation to regulation or to public decisions on investment. They hold that corruption may cause distortionary regulation and hamper competition (Ades & Di Tella, 1999; Djankov et al., 2002) and that it may distort public expenditure decisions, as well as lower domestic investment and FDI. The numerous negative effects of corruption have also been demonstrated from a company perspective. The short-term advantages for companies, e.g. the winning of big contracts by employing corrupt practices, are likely to be superseded by a number of disadvantages: First, companies face high transaction costs that arise from the necessity to keep corruption a secret. Second, companies are threatened by reputational

losses and drastic monetary sanctions if the corrupt practices are revealed. Third, the mere amount of money paid in form of a bribe poses a financial burden to the company. Therefore, it is also in the interest of companies to actively engage in anti-corruption strategies.

In this study corruption is construed as a transnational governance challenge, which requires joint efforts of nation-states. The intensified international cooperation in this regard is reflected by the adoption of a number of important international conventions throughout the last two decades, starting with the OECD Anti-Bribery Convention in 1997, followed by the Council of Europe Criminal Law Convention in 1998 and the Council of Europe Civil Law Convention in 1999. This development finally culminated in the adoption of the UNCAC in 2003, which claims to be the first globally binding treaty on combating corruption under international law. Until recently, international efforts to counter corruption have mainly been made up of these government-centric approaches. However, as they primarily followed a punitive approach, which consisted to a great extent in merely tightening anti-corruption regulations, they have not resulted in a significant decrease of corruption. To the contrary, the so-called corruption paradox, according to which “*Corruption is universally disapproved, yet universally prevalent*”, holds true even more than a decade after it was formulated by Hess and Dunfee (2000, p. 595).

One reason for the meager results of the worldwide anti-corruption efforts is that, in light of globalization, a shift in regulatory power from nation-states to private actors is observed. As a consequence, the nation-states’ regulatory capacity declines and governance gaps occur. On the other side, MNCs gain a more prominent role through globalization. This is reflected in their assuming greater responsibility for business activities, thus filling the governance gap, e.g. through actively engaging in soft law approaches. Soft law approaches have a complementary function to hard law and are considered more flexible and faster in the implementation. They are based on the voluntary commitment of participants, whereby governments often assume an orchestrating function. The five soft law approaches presented illustrate in particular how the roles of the state and the private sector have changed by putting special emphasis on the initiating institutions of the guidelines and the degree to which business and other non-state actors were involved in drawing them up. The OECD Guidelines for Multinational Enterprises, the ICC Rules on Combating Corruption, the UNGC, the GRI Guidelines, and the TI Business Principles for Countering Bribery all have in common that they are cross-sector approaches. Some of them have a wider sustainability focus; others have a clear focus on anti-corruption. The conventions and treaties (‘hard law’) and the soft law approaches together roughly build the international anti-corruption framework.

The recent emergence of Coordinated Governance Initiatives can be seen as a continuation of the general shift in global regulatory power. Had the private sector previously been solely the target of regulatory anti-corruption efforts, it has now gained a more important role, in which it contributes actively to shaping the global anti-corruption framework. CGIs are a new form of a collaborative arrangement, consisting of either purely private or public-private initiatives. They are non-binding voluntary initiatives in prisoners’ dilemma situations. Coordinated Governance Initiatives are a dynamic, network-like approach,

within which a range of different joint activities take place, all with the aim of finding an answer to a collectively identified governance problem. They represent a rather heterogeneous group of anti-corruption initiatives, but they share four core principles: the central role taken up by private actors, the decentralization of regulatory authority, the voluntary nature, and the collective action approach which increases the impact and credibility of individual action. As such, they represent a promising approach to counter corruption more effectively insofar as they take into account the inherent collective action problem and focus on prevention and incentives.

CGIs materialize in cross-sector or sector-specific initiatives. In the present study only sector-specific initiatives are the subject of further analysis. This limitation is justified on the following grounds. First, some sectors are – for structural reasons – more vulnerable to corruption than others. Therefore, it seems useful to examine initiatives that target corruption in those particularly corruption-prone sectors. Second, sector-specific CGIs bring together competitors, often along with other stakeholders such as civil society organizations. Under competitive conditions, companies find themselves in a typical prisoners' dilemma situation. They can only escape this dilemma if they succeed in changing the rules of the game. Sector-specific Coordinated Governance Initiatives are a competitive-neutral institutional arrangement suitable to overcome this dilemma situation by leveling the playing field among competitors. Third, sector-specific CGIs take into account the contextualization of anti-corruption interventions called for by a number of anti-corruption scholars. Particularities of a sector can be better taken into consideration. As corruption is a complex and variable phenomenon the chances to effectively tackle corruption are greater if this happens within a particular sector, where corruption occurs as a relatively homogeneous phenomenon.

As there is no consistent labeling for initiatives, a classification scheme which takes account of the wide variety of different anti-corruption initiatives has been developed, based on an earlier classification system of Collective Action Initiatives proposed by the WBI. The 15 Coordinated Governance Initiatives presented have been classified according to this refined classification matrix, encompassing three different levels of institutionalization and three levels of enforceability. The majority of these initiatives were founded within the last five years. Some of them have already gathered over 100 companies, others have just a handful of participants. They all pursue the purpose of combating corruption in their industries, but with slightly different foci: Some concentrate on creating more transparency, others on fostering company values, yet others on compliance with rules and a well-established compliance program. In preparation for the empirical study, a brief literature review has been conducted which provided first insights into where to look for potential success factors in the multiple-case study. Six clusters of success factors around participants, goals, decision-making, governance structure, monitoring and enforcement, and institutional framework were identified. These clusters will serve as a basis for the qualitative in-depth analysis.

In the wake of increased international anti-corruption efforts by international organizations such as the World Bank and the OECD, the demand for tools to measure corruption

has been growing throughout the last two decades. However, a major impediment to measuring corruption lies in the fact that it is a so-called victimless crime. As regards the assessment of corruption, it can be roughly distinguished between three types: surveys that are exclusively oriented towards the measurement of corruption, surveys that are designed to assess (good) governance, and crime statistics. TI's Corruption Perceptions Index or the Worldwide Governance Indicators published by the WBI are well-known examples of corruption assessment tools. All of these approaches have their particular strengths and weaknesses.

Similar to the difficulties in measuring corruption, evaluating anti-corruption interventions such as CGIs also poses a number of problems. First, it is necessary to determine what is meant by success with respect to anti-corruption initiatives. Second, it is important to be clear about what the participants' understanding of corruption in each initiative constitutes, as the corruption phenomena vary from grand corruption to facilitation payments to other forms of corruption. Third, assessing the overall impact of CGIs proves extremely difficult since most of them have come into existence not long ago. For all these reasons, alternative measurement approaches are badly needed. In particular, more contextual information is required to be able to evaluate initiatives and identify conditions for success, as corruption is a complex and variable phenomenon, which has different characteristics in different national, local or sector-specific settings. This study concentrates primarily on identifying potential success factors using qualitative data analysis as a first step in investigating CGIs. The methodological approach taken to sample, collect, and analyze the qualitative data is described in detail in the subsequent chapter.

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