

TI Framework for Independent Assurance of Corporate Anti-Bribery Programmes

Public comments on consultation draft

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1 INTRODUCTION

This is a report on comments received on the draft TI Framework for Voluntary Independent Assurance of Corporate Anti-Bribery Programmes ('the Framework') from a public consultation held between 5 October 2010 and 28 January 2011. The comments are not attributed to the authors.

The Framework is being developed with the aims of:

- Advancing anti-bribery practice through encouraging companies to seek independent assurance and thereby improve their anti-bribery programmes;
- Building the credibility of companies' anti-bribery efforts with stakeholders; and
- Advancing practice by providers of anti-bribery assurance.

The draft Framework was developed by Transparency International with the support of the World Economic Forum Partnering Against Corruption Initiative (PACI) and with advice from representatives of the six major accounting networks.

Comments were obtained in three ways:

- Written submissions
- Electronic survey published on the TI web site;
- Company focus group held at a WEF PACI Task Force meeting in early December 2010.

Respondents

There were 17 respondents to the survey. Additional company input, which was obtained mainly through the PACI focus group, is included in aggregate form in the results of the consultation.

Analysis (valid responses only)

Accounting networks	3	Grant Thornton; PricewaterhouseCoopers, Deloitte
Accounting institutes	2	The Institute of Chartered Accountants in England and Wales (ICAEW); Institut der Wirtschaftsprüfer in Deutschland e.V. (Institute of Public Auditors in Germany)
Non-accounting assurance providers	3	Ethisphere, SGS, Triforensic
Companies	6	Eskom, TNT, anonymous (1)
Business associations	2	The Conference Board, WEF PACI
Individual	1	
Total	17	

2 HIGHLIGHTS

The consultation response rate was limited but the points raised were substantive and will help inform the final version of the Framework.

Companies, while they saw a purpose for independent assurance, expressed concerns about the degree of formality of the assurance process as laid out in the Framework. While some companies were enthusiastic about the Framework and the need it would respond to, several respondents emphasised that they would be more supportive of more flexible tools and efforts that could assist them in improving their anti-bribery programmes. For example, a third party providing feedback on a company's anti-bribery programme through a less formal assessment resulting in recommendations for improvement. This was seen by some as more useful than a formal assurance opinion.

Companies almost unanimously said that they would not wish to make an assurance report public as there was concern about potential legal and other exposure.

Accounting networks expressed broad support for the control objectives outlined in the Framework. However, they voiced concern that the Framework could create undue expectations by the users of assurance reports who might not understand the limitations of such assurance engagements. Some respondents suggested that it would necessary to field test the control objectives as well as the assurance process itself to improve the Framework and gain greater buy-in from all stakeholders.

Concerns were also expressed about the potential liability risks that could be incurred while conducting assurance engagements based on the Framework.]Quality assurance providers appeared less concerned about legal risks, potential stakeholder expectation gap and market demand or preparedness for assurance.

A number of respondents suggested that Type 1 assurance, which, as envisaged in the Framework, focuses on the adequacy of a company's anti-bribery programme, would be insufficient or potentially conducive to 'paper exercises'. They suggested that Type 2 assurance aiming at the 'operating effectiveness' of a company's programme was more likely to provide meaningful information.

Stakeholders were the most positive about the Framework which they felt would provide a means of enhancing the credibility of company claims about their anti-bribery efforts.

You will find below details of the comments received grouped by topic. The Framework will be revised in the light of comments received and we aim to publish the Framework by end 2011.

3 DEFINITIONS

There were few comments on the definitions provided – the most significant issue was the need for a definition of bribery.

Assurance

Comment: Non-standard word usage may affect readability. The term "assurance," is not typically used to describe a certification process; in fact, "certification" may be a more universally understood alternative. Moreover, we note that TI has previously used the term "verification" in Step 5 of its "Business Principles for Countering Bribery: TI Six Step Process," which could potentially create additional confusion for those users who are familiar with TI's typical verbiage.

Comment: We welcome that TI uses the term 'assurance' broadly in the manner we professional accountants use, in accordance with the definition by IAASB.

Bribery

Comment: Stakeholder expectations will also be difficult to meet until there is a common definition of bribery and a consistent understanding of how that definition applies in practice. For example, are facilitation payments which may be common under a local culture, a bribe or business expense? The answers to that question would likely be very different in different jurisdictions. Yet a common definition is vital to the type of reporting and assurance envisaged in the proposed Framework, particularly in a global context.

Comment: How does the Framework interpret a bribe in the context of the different treatment of facilitation payments under US law vs. UK law? This should be defined.

Comment: For consistency and clarity, we suggest the term 'no-bribes policy' used in this definition be replaced with '...zero tolerance anti-bribery...'

Addition

Comment: Consider adding a definition of 'reasonable assurance' consistent with paragraphs 51 and 52 of the International Framework for Assurance Engagements.

4 REFERENCE CODES

Two respondents noted that it appeared unclear which reference code the Framework was using. They inferred or suggested that the Business Principles for Countering Bribery should be used as the reference code.

Comment: With respect to external guidelines, the Framework references a number of principles used as its foundation. These include the Business Principles for Countering Bribery, COSO integrated framework for internal controls, ISAE 3000 (principles and procedures for assurance engagements) and PACI Principles for Countering Bribery. The Framework could benefit from the addition of the principles found in two important guidelines not currently cited:

- 1. The OECD Good Practice Guidance on Internal Controls, Ethics and Compliance; and*
- 2. The hallmarks of an effective compliance program, as promulgated by the U.S. Federal Sentencing Guidelines for Organizations.*

The subject of a reasonable assurance engagement as described in the Draft Framework is to report on management’s assertion that the entity has an effective anti-bribery programme. That assertion and the framework used by management to develop that assertion is critical to the effectiveness of an assurance engagement. We infer that TI regards its document Business Principles for Countering Bribery (“Business Principles Document”) as constituting a framework (criteria) for entities to use in designing and evaluating the effectiveness of their anti-bribery programs, in a manner similar to the Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (“COSO”) originally issued in 1992 (“COSO framework”).

Comment: *Why did the Framework not use the Business Principles for Countering Bribery rather than a non-bribery based set of controls as the reference point for the assurance framework?*

5 AIMS AND VALUE OF THE FRAMEWORK

Respondents were on the whole positive about the usefulness of the Framework for both companies and assurance providers with ‘stakeholders’ appearing to be the most receptive to the Framework and in seeing its usefulness. The positive response was tempered by concerns that it would be premature to contemplate assurance and public reporting at this stage. There was agreement that the Framework could be particularly helpful for entities in improving their anti-bribery programmes. In particular, some respondents showed interest in the Framework as a potentially useful means of improving their anti-bribery measures, for benchmarking their own practices and for focusing the attention of company leadership on deficiencies.

Some respondents felt that the Framework would be useful for internal reviews, for benchmarking use – to get leadership’s attention on certain areas. In addition, several respondents commented that the Framework added value to the discussion on assurance and to TI’s goal of increasing the use of independent anti-bribery assurance engagements.

General

Comment: *Overall, we support the Draft Framework as an important element of advancing TI’s stated objective of increasing the use of independent assurance engagements related to the design and operating effectiveness of corporate anti-bribery programs. Our experience in the United States of America with independent audits of internal controls over financial reporting (required by Section 404(b) of the Sarbanes-Oxley Act of 2002) convinces us that independent assurance increases both the level of company attention to controls and provides a greater level of comfort to third parties that company assertions are, in fact, correct.*

Comment: *We believe that the proposed Framework makes a significant contribution to the global efforts to combat bribery in corporate entities. We welcome, in particular, the proposed set of control objectives that can be used by entities, assurance providers and others when evaluating the design and operations of an entity’s anti-bribery controls. More consultation and experimentation are likely to be needed before the control objectives gain broad suitability of design and operating effectiveness of an entity’s anti-bribery controls. However, even now, the proposed control objectives could be used to help entities evaluate their existing controls and identify gaps.*

Comment: *The TI Framework, in particular its Annex, is helpful best practice guidance for corporate entities in developing anti-bribery procedures. We also believe the guidance on assurance in the*

Framework is useful for entities that have been working on their anti-bribery policies and programmes and now are seeking external assurance on such information. In the UK, the Government has enacted the Bribery Act 2010 and corporate entities are interested in what bribery prevention procedures they need to implement and what assurance, should they decide to obtain any, might be, helpful in their defence to demonstrate that they have put adequate procedures in place.

Comment: The Draft Framework will be useful in performing assurance engagements related to anti-bribery controls. It is critical that the entities which are the subject of the assurance engagement will have also applied the framework in developing and implementing their control programmes.

Comment: It is important to clarify the criteria of a proper independent assurance and to have common tools between the different actors. The recognition of TI would allow such a tool to be recognised by most of stakeholders.

Cost would be an impediment

Comment: The cost of an assurance process would be an impediment to seeking assurance.

Supply chain potential

Comment: The Framework misses the corporate responsibility for the **supply chain**. As this is an emerging area it is recommended to address this issue in the Framework. Organisations should (1) inform their suppliers, clients and other business partners that they fall under the anti-bribery policy of the organisation; and (2) claim audit rights and review rights in the contracts with these business partners that allow enforcement. If not the anti-bribery policy are vulnerable to evasion and window-dressing.

Comment: The most compelling use of assurance would be for supply chain purposes.

Adding credibility to public reporting by entities about their anti-bribery programmes

There was some strong support expressed in the online survey to the view that assurance would add to credibility of their anti-bribery programmes. Additional comments included:

Comment: Bad stuff is bound to happen. Ultimately, the credibility of the assurance process depends on whether it can be demonstrated that it occurs less frequently in organisations with assurance processes.

Comment: ... assurance reports produced on this basis would be valuable for the formulation of involved stakeholders' opinions.

6 ASSURANCE PROVIDERS

It was suggested that the Framework would be useful for assurance providers but it focused more on guidance for potential users of the Framework i.e., companies, than it did for assurance providers. It was felt also that the Framework should provide guidance for companies on the qualities they should seek in independent assurance providers, to ensure their independence, competence and credibility.

The Framework will be useful for assurance providers in undertaking anti-bribery assurance engagements

Comment: We strongly agree that the Framework will be useful for assurance providers in undertaking anti-bribery assurance engagements.

Framework needs to give more guidance for assurance providers or could be focused on corporate entities

Comment: We have noted that the TI Framework explains the preparation for and the course of the assurance process step by step. We believe that this is a helpful approach for corporate entities, as these entities are moving on from implementing and monitoring anti-bribery policies and procedures ('anti-bribery programme') to having aspects of their anti-bribery programmes subject to independent assurance. However, we note that guidance for independent professionals who provide assurance services is limited in comparison. While setting out guidance for corporate entities is appropriate and desirable at this point in time, we are concerned about the imbalance, particularly, for a document that appears to indicate that it is a generic framework for assurance. We would imagine that the readers, including the corporate entities and readers of anti-bribery reports alike, would hope to see guidance for those who provide the assurance service with a view to understanding what an assurance process may entail. We believe that the balance of the document would improve with further guidance for independent professionals across the document, in particular in chapter 7. An alternative may be for the TI Framework to focus on guidance for corporate entities and revise the title accordingly, so that it is clear to readers that assurance considered is primarily from the viewpoint and benefit of corporate entities.

Comment: If the TI Framework is to be a comprehensive framework covering guidance for both corporate entities and independent professionals, there should be guidance as to the sufficiency (quantity) and appropriateness (quality, measured by relevance and reliability) of evidence and materiality aimed at independent professionals.

Guidelines suggested for choosing an independent provider of assurance

Comment: In an assurance engagement, there should be three separate parties. These consist of a party that is responsible for the information (responsible party), the independent professional who carries out the assurance service, and intended users. In the context of the TI Framework, the responsible party is clearly the corporate entity that reports on its anti-bribery programme and issue the management assertion. The definition about the independent professional that assesses the management assertion, or 'an assurance provider' in the TI Framework, is less clear. We believe that it would be helpful if there were some guidelines that explain the characteristics that should be present when management is choosing an independent professional to provide the assurance service.

For example, it would be important for the independent professional who is giving an assurance opinion to be knowledgeable about the subject. It would also be important for the professional to be objective and independent from the corporate entity so that the opinion is credible to those receiving the assurance report. Some professionals would comply with their own code of practice that includes requirement for independence; however, this is not always the case. You might wish to suggest examples to set out your expectation.

Who should carry out the assurance?

A few respondents expressed the view that it would be preferable for quality assurance providers to conduct assurance if it is to be helpful as a means of improving company programmes.

***Comment:** Use the term 'audit profession' instead of 'accounting profession' (which is limited to CAs and CPAs) as the described type of assurance will be typically provided by a mix of accountants and non-accountants. Both the accounting profession and the relevant non-accounting professions should be encouraged to set up standards for performing Type 1 and Type 2 Assurance. 'Audit profession' includes internal and external auditors, which are both key players in the described assurance process. The audit profession includes both the internal and external auditors which are both key players in the described assurance process.*

Need to cover the role of internal auditors

***Comment:** The assurance part of the Framework refers only to external assurance providers, although internal auditors are increasingly valuable in the area of assurance. The Framework states 'Initially, the entity may choose to limit the distribution of the assurance report to an internal audience' (Chapter 7, paragraph 3). We recommend distinguishing between assurance provided by internal assurance providers and by external providers, allowing both to perform Type 1 and Type 2 engagements, while explicitly mentioning the status (internal or external) of the assurance provider in the assurance report.*

Need for credibility of the assurance provider

***Comment:** The question arises as to the legitimacy of the person, conducting evaluation ("Assurance provider") and subsequently, the credibility of the report thus produced. It is not clear who are the "assurance providers" and whether they have the authority and competence to review and pass judgment on the adequacy of companies' anti-corruption programmes and measures. Is it implicit that TI shall be the one? Do companies have to pay to undergo the review and eventually obtain this clean bill of health?*

Assurers and gathering sufficient evidence

***Comment:** Additional information could be provided on how independent professionals gather evidence, how they would use evidence to come to an assurance conclusion; and what forms of assurance conclusions are available.*

In order for independent professionals to carry out an assurance service, it will be necessary to gather sufficient and appropriate evidence that will give confidence to conclude on management assertions regarding the anti-bribery procedures of an entity.

7 INTENDED USERS

Little discussion on who is the intended user of the assurance report

Comment: We have reservations as to how well the proposed criteria satisfy ‘relevance’, one of the characteristics of suitable criteria as required in ISAE 3000. Relevance is judged based on how criteria ‘contribute to conclusions that assist decision-making by the intended users (the International Framework for Assurance Engagements)’. This means that relevance cannot be established without understanding the needs of users who receive anti-bribery reports.

Comment: There is little discussion on the intended users in the TI Framework. Intended users are important because the independent professionals would have them in mind when they are assessing management assertion with a view to issuing an assurance conclusion. Intended users may be those who trade with or invest in the specific corporate entity. It could even be a regulator or a membership organisation. It is important for the corporate entity and the independent professional to know who they are, because the scope of the report needs to match what the intended users want to know and the criteria used to evaluate need to be suitable and available to them.

The consideration of intended users affects all aspects of assurance engagements. Therefore, the information on the three parties that are involved in the assurance process should be included in the early sections of the TI Framework, for example between Chapter 2 (Preparatory steps) and 3 (Elements of anti-bribery assurance) or as part of Chapter 1 (Introduction).

8 PREPARATORY STEPS

Preconditions to an assurance engagement

Comment: There are a number of further preconditions in addition to having suitable criteria that need to be in place before an assurance provider can conduct an assurance engagement. These include:

- an appropriate underlying subject matter (i.e., measurement/assessment) and definition of the design and operating effectiveness of anti-bribery controls
- access by the assurance provider to the evidence needed for the purposes of the assurance engagement (i.e., the entity must have a supportable basis for the assertions being made)
- the engagement having a rational purpose and the assurance engagement resulting in a level of assurance that is meaningful to intended users.

We are not convinced that all of these conditions are in place.

First, Before being able to conclude whether there is an appropriate subject matter, it is important to consider what it means when an auditor says that an entity’s anti-bribery controls ‘were implemented as designed’ at a point in time, or ‘were operating effectively’ over a period of time. Is there a common understanding of what constitutes a bribe? What should be considered effective bribery controls? Are they controls that provide reasonable assurance that all bribes will be prevented or do effective anti-bribery controls only prevent ‘material’ bribes? How would someone evaluate whether the entity and the auditor reached the appropriate conclusions about the effectiveness of anti-bribery controls—taking into account that this question is likely to be asked with hindsight i.e. a bribe subsequently being detected?

Secondly, entities need to have a sufficient basis to support their assertions about the design and operating effectiveness of their anti-bribery controls. Although the proposed Framework discusses the content expected in an assertion about an entity's anti-bribery controls, and the basis for the Assertion, the guidance on what is expected of entities in this regard is relatively high-level. In doing so, it seems to understate the significant effort entities will need to design, document, evaluate and monitor their anti-bribery controls. They will need to do this both to ensure that the underlying subject matter is appropriate, and to provide the evidence needed by the assurance provider as a basis for his or her conclusion on the credibility of the entity's assertions about their anti-bribery controls.

We believe that the issues associated with these pre-conditions must be explored before public reporting and assurance as envisaged is practicable. Experimentation, field-testing and further dialogue with stakeholders will help to progress the agenda. In the meantime, reporting to those charged with governance (e.g., audit committees and boards) on the progress being made in an entity's efforts can nevertheless play a valuable role in furthering the objective of strengthening entities' anti-bribery controls. Because internal stakeholders have a broader insight into the entity, they are better placed to understand the limitations of such reporting in the context of the particular entity. Therefore, there can be greater flexibility in the scope and design, implementation and operating effectiveness of anti-bribery controls, such as risk assessments and gap analyses. Such services may, at least in the short-term, contribute more to entities' efforts to get robust anti-bribery controls in place.

Comment: Chapter 2 'Preparatory Steps', the paragraph relating to implementing the controls, states: 'This will involve a range of activities including...'

This wording implies that organisations must implement all the listed measures.

One of these measures is '...provision of help lines and whistle blowing channels...' which is more popular for example in Anglo-Saxon countries than some other countries and cultures.

We recommend adding the words 'such as' before listing the activities or at least to distinguish between compulsory and non-compulsory procedures. Chapter 4, Management Assertion (fourth bullet point) follows this 'comply or explain approach'.

Comment: We agree the Framework describes the process to be followed. The control objectives are definitively a good approach to evaluate a system. This could be completed by a review of the decision making processes and an approach by project (how a particular project has been identified / awarded/conducted...).

Comment: We believe that Section 2 of the Draft Framework (Preparatory Steps) is somewhat mislabelled in that it represents a discussion of the necessary elements of an entity's anti-bribery controls, as described in the Business Principles Document. These are, in fact, necessary pre-conditions for an independent assurance engagement and serve to provide a basis for the management assertion that such controls are properly designed and operating effectively. In addition, the control objectives used by the independent service provider in performing the independent assurance engagement should be the same as those used by the entity in designing and implementing its anti-bribery controls. We believe it necessary to include the control objectives in the Business Principles Document for consideration by management in designing anti-bribery controls.

Comment: Pages 7 and 8 are no different to a SOX 404 programme for Financial Reporting. They have the elements in the right order but it could be visually presented more appealing.

- Step 1: Create a risk and control framework for anti-bribery programme. Identify risks design controls (and their frequency)
- Step 2: Document procedures to address risks by building in the necessary controls
- Step3: Execute procedures in the work place (training etc.) Page 8 is silent on how long controls should operate before they are tested for effectiveness. This is an important step that is missing. If we have a daily control for example it is easier to test than a monthly control or an ad hoc (upon occurrence). As 2 and 5 prescribe minimum operating effectiveness periods e.g. , daily control is 20 days weekly is five weeks etc., and also defines the minimum sample size to select in order to get reasonable assurance.

Comment: We agree that the description of the process to be followed by an entity in designing and operating an effective anti-bribery programme, as described in Sections 2 Preparatory steps and Section 4 Management Assertion and 5 Basis for the Assertion; is comprehensive and is an appropriate description of the elements of a properly designed and functioning anti-bribery programme. We believe that characterising these steps as 'preparatory' is misleading in that these are actually preconditions for an assurance engagement. An assurance provider would need to determine the degree to which these steps had been accomplished before beginning a Type 1 assurance engagement and that all of them had been accomplished before beginning a Type 2 assurance engagement. We also note that it is possible, although not likely or desirable, that an effective programme of anti-bribery controls might be designed without the use of an internal audit function.

Comment: We suggest adding, at the end of the first sentence of the third paragraph, '...and thereby address identified bribery risks and adding a paragraph noting that most entities will already have controls in place and operating effectively that also address elements of bribery risk and that the entity should include a consideration of these controls in designing additional anti-bribery controls.

Specific control techniques

Comment: We concur that it is important to recognize that entities may effectively employ a wide range of techniques to achieve the stated control objectives and we assume that TI purposefully avoided listing examples of these techniques for purposes of the Draft Framework. However, we suggest that examples of effective controls and techniques be included at a later stage of development of the framework to improve the clarity of the control objectives and, thereby, the effectiveness on anti-bribery control programmes.

9 ELEMENTS OF ANTI-BRIBERY ASSURANCE

Comment: In the first sub-bullet of the second bullet, we question whether the term “risk-appropriate range” will be sufficiently understood. We suggest that the bullet be reworded to read: ‘Developed anti-bribery controls that should, if applied consistently, achieve the control objectives related to the entity’s bribery risks.’ The fourth bullet of this section would require that a component of the management assertion is a listing of the entity’s control objectives with an indication of any objectives that have been added to, or not included from the Framework.

We question whether a listing of control objectives is sufficient to specify the criteria used in the evaluation of controls that supports management’s assessment. Provided that the Framework is sufficient to describe the criteria used, it should not be necessary to list the control objectives.

In any event, since the control objectives in the Framework are stated at the entity level and are characterized as being comprehensive, it would be unlikely that any could be omitted or that others would exist. An important concept embodied in the COSO framework is that all five elements of control (control environment, risk assessment, control activities, information and communication, monitoring) exist in each function and component of an entity.

Comment: Chapter 3 sets out that management makes an assertion on (i) the description of the entity’s anti-bribery programme and (ii) the suitability of the entity’s anti-bribery controls. 25. In relation to (i), we note that there is little related discussion. It would be helpful if there were some discussion as to what are the key characteristics of description, such as being fair and all material information being included.

In relation to ii, it would be useful to have further explanation e.g., that suitability of anti-bribery controls may be evaluated in two different ways: firstly the design suitability, and secondly, the operating effectiveness of anti-bribery controls, and these consist of different subject matters. We note that Type I and II assurance is introduced in Chapter 1 and further discussion follows in Chapter 7 (Assurance engagement and reporting). It would be helpful, however, if the TI Framework further discussed what management would be asserting on. In fact, management may decide to report only on the design suitability in the first instance, which would lead to Type I assurance because the independent professional cannot report beyond what management would assert on. For this reason, we believe that the discussion on the subject matter should take place early on in the TI Framework, for example in Chapter 4 (Management assertion).

10 MANAGEMENT ASSERTION

Companies are unprepared to make assertions.

Comment: For many entities, being able to have a basis for the type of assertion proposed is likely to be an aspiration rather than something that is feasible today. Many entities may not have all of the necessary controls in place. Even those that have explicitly implemented anti-bribery programmes may not have evaluated them to determine whether the policies and procedures put in place would meet the control objectives. Those entities who are reporting on their anti-bribery programmes today are likely to be reporting internally rather than externally, and with a focus more on the steps they have taken to implement an anti-bribery programme rather than making assertions about the design and operating effectiveness of their anti-bribery controls.

Comment: In Chapter 4 'Management Assertion', the 4th bullet point introduces the concept of 'comply or explain' essentially by the following phrase: 'Deletion of any control objectives that are not applicable to the entity with an explanation.' This 'explanation' should elaborate on those measures that compensate for the 'not applicable' measures and to make this explicit in the text.

Comment: The management should also commit to cooperate with the Assurance Provider and to disclose in proper delay the information and documentation required.

Comment: We support the assertion-based approach and understand our accounting colleagues' need for distinguishing between design and implementation as opposed to an effectiveness review.

11 BASIS FOR THE ASSERTION

Comment: With regard to the requirements for management's assertion in the second paragraph of this section, we believe that the proper sequence of actions to provide a basis for the assertion would be:

- Assess the bribery risks that relate to the entity, including consideration of the size of the entity, industry characteristics, location of operations and the types of transactions and agents the entity employs.
- Associate control objectives with specific risks.
- Evaluate the design of controls in terms of their ability to achieve control objectives and thereby to control the identified risk For Type 1 assertions, determine that the controls have been implemented as designed.
- For Type 2 assertions, determine that the controls were operating effectively at the date or during the period specified in the assertion.

12 CONTROL OBJECTIVES AND CRITERIA

There was agreement by companies that the control objectives were appropriate criteria to assess a company's anti-bribery programme.

Comment: The Draft Framework makes a significant contribution by articulating control objectives and commencing the process of stakeholder engagement on the control objectives.

Comment: The control objectives used by the independent service provider in performing the independent assurance engagement should be the same as those used by the entity in designing and implementing its anti-bribery controls. It is therefore necessary to include the control objectives in the Business Principles Document for consideration by management in designing anti-bribery controls.

Comment: Consider adding, to the suggestion that the assurance provider follow ISAE3000, the suggestion that International Standards on Assurance Engagements 3402 Assurance Reports on Controls at A Service Organization, ("ISAE3402") be consulted as providing additional discussion of the issues involved in providing assurance on controls.

The second paragraph could be read to indicate incorrectly that ISAE3000 directly relates to anti-bribery controls. It would be more accurate to state that ISAE3000 requires that '...the criteria used in evaluating or measuring the subject matter of an assurance engagement should exhibit the characteristics of relevance, completeness, reliability, neutrality and understandability.'

Comment: We do not know if the control objectives provide appropriate criteria to assess an entity's anti-bribery programme. The control objectives included in the Framework are designed to provide a set of criteria against which the design of an entity's anti-bribery controls, and whether they achieve the objectives intended in operation, can be evaluated. That may not necessarily be the same as 'assessing an entity's anti-bribery programme', as articulated in the question. In other words, an entity having anti-bribery controls that are designed and operating effectively to provide reasonable, but absolute assurance, that the control objectives are being achieved does not necessarily lead to an overall conclusion that an entity's anti programme is effective. It is, however, undoubtedly a valuable component of such a programme.

We are of the view that basing the control objectives on the COSO framework is helpful —it provides a useful bridge between, on the one hand, the guidance and tools provided to entities on anti-bribery programmes, and, on the other hand, the language of risk and control experts who work with COSO.

The control objectives provide a broad framework which can guide an entity in designing its controls. Importantly, the objectives also provide a basis for entities to be able to evaluate the completeness and robustness of their anti-bribery controls, which we believe is an invaluable contribution to TI's goal of tackling bribery.

However, it is important to recognise that entities need to use these objectives to articulate specific control objectives tailored to their circumstances. An entity's specific control objectives need to be tailored to reflect the nature of the entity and its business, the industry, its structure and the jurisdictions in which it operate, its operations and business partners. For that reason, we would expect a description of a particular entity's anti-bribery controls to be much more specific than the control objectives set out in the proposed Framework. This will require resources and considerable effort to get entities to a place where they can properly assess the effectiveness of their own controls and to be able to make assertions and report on their controls. The Framework would, in our view,

benefit from being clearer about how the control objectives in the Framework would be applied by an entity to specify its own, more specific, control objectives. This might be done by emphasising the fundamental link between the results of each entity's risk assessment results and the development of mitigating controls appropriate to the specific risks faced by the entity, particularly with respect to specific control activities, which will inevitably be much more extensive than the five control objectives set out in the proposed Framework.

Terminology used for 'controls'

There was concern about the definitions, complexity and assurance terms used. It was suggested TI revisit some of the word choices made within the Framework.

Comment: *We advise TI to revisit some of the word choices made within the Framework. The 'Definitions' section of the Framework provides three definitions for 'control' or 'control'-related terms: 'Control - A control procedure designed by an entity to achieve a control objective. Control objective - A statement by an entity of a desired result to be achieved by implementing controls for specific aspects of its operations....Control procedure - A policy or procedure or combination thereof designed to achieve a control objective.'*

'Control' does not appear to convey a consistent meaning throughout the document, nor does its use coincide with standard usage. The definitions are circular and provide little assistance in parsing out the intended meaning of the interrelated terms. As an alternative, we recommend simplifying these definitions, or omitting the Definitions section altogether and defining any term that requires explanation within the body of the Framework itself.

Comment: *We do not like the definitions of Control and Control Objective and suggest the universal definitions within COSO be used.*

Clarity and completeness of the control objectives

Comment: *A set of objectives referring to reporting should be added. In particular, the reporting should cover the following items: strategy in place to eliminate corruption; anti-corruption policies; management systems in terms of prevention and detection; corruption incidents (nature, scope) and remedial actions.*

Comment: *This point relates to the manner in which the Annex is currently drafted. The Annex currently lists COSO Guidance and two anti-bribery codes (the 'Codes') in parallel. As it is, we find it difficult to envisage how management should report the entity's anti-bribery programme which is necessary as a basis for their assertion. It is not clear whether the provisions of the Codes bulleted under each of the five COSO elements satisfy all related COSO objectives (set out as: co) 1, co) 2, . . . and co) 22) and, if not, if there are any unaddressed COSO objectives for which management need to develop relevant anti-bribery control objectives. We are concerned that this would be a significant task for management to carry out, in addition to the need to apply the provisions of the Codes in the particular circumstances of the entity. The number of control objectives listed in the Annex is already large, and we recommend that the TI Framework allows, in early years, management to have a degree of flexibility over which control objectives to address provided that the user needs are met. This is particularly so in the light of the cost of assurance engagements if the entity decides to assign an independent professional to carry out an assurance engagement.*

Comment: *Company representatives and agents should be required to report any suggestions from a foreign official or their agent that a bribe will be required to complete the business. Also the whistleblower system should be entirely independent of the company and support/anonymity provided to the whistleblower.*

Comment: *As stated earlier, there is a practical need to acknowledge the possible differences between the entities that the company controls (e.g., employees of wholly owned subsidiaries) and those that it does not (e.g., joint ventures where the company is a minority participant).
SGS: Mention to financial controls would be worthwhile.*

Comment: *We believe that the control objectives as included in the Annex to the Draft Framework are comprehensive and, taken as a whole provide a basis for evaluating management's assertion regarding anti-bribery controls. However, they do not, by themselves, constitute a complete set of criteria for evaluating the effectiveness of the design and operation of an anti-bribery control programme.*

Comment: *The Framework lists twenty-two 'controls' and the assumption is that to meet the assurance criteria, an entity needs to have each of these controls in place; however, this requirement was not clearly delineated within the Framework. It is recommended that an explanation should be included of how much weight an entity should give to each control—and whether all twenty-two are strictly required—in order to garner independent assurance.*

Comment: *We agree that the control objectives are complete when considered in terms of an entity as a whole. Although we understand that the first objective derives from the Codes, it remains potentially confusing. After reading the entire document, we believe that the intent of the objective is to commit the entity to a goal of eliminating all bribery, without regard to materiality. Since, as the Draft Framework indicates, this is not achievable, using it as a criterion poses the practical issue of how to assess the success of anti-bribery programs when there are exceptions that occur. It would seem that Objective 7 is intended to supply this answer. If so, it seems that that objective should be modified to indicate that the sanctions involved should be consistent with a zero tolerance objective.*

We agree that the objectives are clearly stated. We also believe that the insertion of the COSO description and material from the Codes is useful to understanding the description of the areas of concern into which the objectives are grouped (e.g., control environment, risk assessment) and some of the control techniques that may be employed in accomplishing the objectives. We encourage TI to consider improving the description of the reason for these specific insertions or, alternatively, including the other guidance from the Codes.

Control objectives and third parties

Comment: *Companies should be more thoroughly examined against their effort to eradicate corruption risks within their suppliers*

Comment: *It would benefit from a treatment of control objectives and assurance standards for the company's relations with third parties over which it has less control (e.g., suppliers, agents) and also joint venture situations. In those cases, implementation of the processes that are described here may require significant adaptation which in effect may result in more relaxed standards.*

The control objectives should cover public reporting

Comment: The objectives should encompass the company's reporting on corruption-related issues (in accordance to GRI dedicated KPIs: SO2, SO3, SO4).

Comment: It would be useful to list The Global Reporting Initiative as a resource in the Resource Annex specifically noting the GRI Guidelines corruptions indicators for organisations to use to publicly disclose their management approach and performance on corruption.

Criteria relevance for users - need for stakeholder consultation

Comment: For management to evaluate its anti-bribery programme so as to issue an appropriate assertion, they would need suitable criteria. Independent professionals would also need criteria to assess the validity of the management assertion. As there are currently no established criteria in this area, it is helpful that the TI Framework provides a comprehensive set of criteria in the Annex. We also agree that the COSO Framework is a well-recognised model for the evaluation of internal controls and provides a reasonable starting point. However, we have some reservations as to how well the proposed criteria satisfy 'relevance', one of the characteristics of suitable criteria as required in ISAE 3000. Relevance is judged based on how criteria 'contribute to conclusions that assist decision-making by the intended users (the International Framework for Assurance Engagements)'.

This means that relevance cannot be established without understanding the needs of users who receive anti-bribery reports. The use of the COSO Framework undoubtedly has helped the TI Framework to cover a wide breadth of control objectives, but it would be useful if there were an explicit recognition that criteria development is an evolving process. There would be feedback from corporate entities and users on how useful the proposed criteria are in practice and, we would anticipate that it is possible, over time, for users to focus on different aspects of anti-bribery programmes.

Suitability of the control objectives for different sizes of companies

Comment: These objectives are more suitable to large listed companies that are exposed to corruption risks.

Comment: It isn't so much size as it is the various kinds of entities over which the company needs to exercise control.

Comment: We do not know if the control objectives provide appropriate criteria. The control objectives address recognised framework for financial reporting controls and other aspects of an entity's risk management. Therefore, at least at a high level, the control objectives appear to be comprehensive and we did not identify major gaps in the control objectives identified in each element. However, we do have reservations about whether the control objectives are at a level of specificity and clarity whereby they can be consistently applied by preparers or assurance providers.

Comment: The example control objectives contained in the Appendix to the Framework would be most helpful to entities as they design their anti-bribery programmes. These examples, along with other guidance published by TI, set a benchmark for entities to initially strive towards and prepare for potential external reporting, and we believe that this would be the most appropriate short-term use for the Framework. Additionally, some assurance practitioners may find the control objectives useful as an example set of criteria if an entity requested an internal reporting assurance engagement.

In determining how to define the appropriate criteria for an assurance engagement on an anti-bribery program, it is very important to gather wide stakeholder input on the specific details of the control objectives to be considered, including the completeness of such control objectives. If such input is not received as part of this consultation process, we encourage TI to obtain this information in some other way, for example by consulting with organizations and individuals on a one-to-one basis or through public forums and other means.

Comment: *We strongly recommend adding additional control objectives to make the Framework as robust as possible. Some examples might include an objective on building awareness and knowledge through training and communication; an objective related to implementing an overall culture of ethics; and an objective regarding options for raising concerns.*

Need for stakeholder consultation in developing suitable criteria

Comment: *We agree that control objectives are effective in assessing systematic arrangements such as policies and procedures. We ourselves have successfully introduced control objectives as suitable criteria in assurance reporting on the internal controls of service organisations in financial service activities in AAF 01/06 Assurance reports on internal controls of service organisations made available to third parties. However, this was developed through engagement with stakeholders and the stakeholder panel continues to review the criteria and guidance to ensure that the framework still meets user needs. While the users may be interested in internal control, it is worthwhile maintaining a regular channel with stakeholders to establish whether they remain interested in internal control established by anti-bribery programmes. It is also valuable to understand from them whether they are interested in specific aspects, such as the control environment or monitoring and corrective actions entities have taken.*

Comment: *a number of COs were unverifiable and should be made more precise.*

The control objectives represent achievable good practice

Comment: *We agree that the control objectives are achievable but, since the importance of control objectives varies with the significance of the related risk, the practical application of these control objectives will likely require them to be modified to address specific elements of the risk to which they relate. Risk analysis, also may indicate that certain objectives are not significant to particular operations or functions of the entity.*

Comment: *We agree that the control objectives represent achievable good practice. The proposed control objectives 'marry' the TI Business Principles and the COSO Criteria of Control, both of which are recognised to represent achievable good practice and are broadly accepted by stakeholders. As such, our preliminary reaction is that the proposed control objectives would seem to represent achievable good practice. As noted in our response to Q7 and Q8 above, however, any particular entity applying the control objectives will need to take these broad, high-level controls objectives that are tailored to their particular circumstances. With respect to control activities, for example, that is likely to be quite a significant task.*

13 SPECIFIC CONTROL OBJECTIVES

Comment: *Re Control Objectives 1 and 2: In some countries the local legislation allows facilitation payments. CO2 seeks for confirmation that the entity's policies are in line with local legislation. CO1 however forces the entity into a zero-tolerance policy with regard to paying bribes. The Framework should clarify whether facilitation payments are allowed or not. Re Control Objectives 3 and 4: mention '... and the board...' The Framework should be explicit whether this refers to the executive board (probably) or the supervisory board, or both. Control Objective 6 states: 'Recruits meet the ethical standards articulated in the entity's policies'. According to one respondent, today's anti-fraud standards (for example: 'Managing the Business Risk of Fraud - A Practical Guide', AICPA, IIA and ACFE, 2008) require organizations to have a company-wide integrity program, that focuses on ethical standards, and that is not limited to the recruits. It was recommended that CO6 be extended. : 'Management and staff, including recruits, meet the ethical'*

Comment: *First, we suggest more closely aligning control objectives 1 through 7 with the COSO description that follows by emphasizing oversight and accountability, as well as mandatory compliance with the entity's anti-bribery program.*

Specifically, in control objective 1, we suggest separating values and business principles from policy—both must be present and clearly disseminated throughout any entity. Furthermore, we feel the control objective could be improved upon by emphasizing the entity's duty to comply with company policy and the organizational code, which should explicitly include anti-bribery and anti-corruption language. To comport with best practices, it is important that such documents articulate channels for further guidance and reporting concerns. Further, for any organization operating globally, these documents should ideally be available in multiple languages to reasonably target international employees.

We are concerned that Control Objective 2 may not be achievable in jurisdictions with weak or non-existent laws. For this reason, we strongly suggest either deleting this Control Objective altogether, or substituting the language "all jurisdictions where the entity operates" with "the home country of the entity."

Comment: *We would like to note that Control Objective 3 should be considered only one of the many elements of a comprehensive anti-bribery programme. We suggest this Control Objective expand "the anti-bribery programme" reference to include not only policies and procedures, but also training, communication, organizational codes of ethics and other programme elements. Additionally, we are of the opinion that the Control Objective could be strengthened by better defining "appropriate authority." Such a definition would highlight, for example, a senior executive with reporting lines or access to the general counsel, CEO and/or the governing authority (i.e., the Board of Directors or one of its committees). Doing so would not only contribute to the Framework's overall comprehensiveness, but also help to satisfy the readability recommendations outlined above.*

In regard to Control Objective 4, we believe the role of management and other senior leaders should be expanded by adding active programme oversight, including a robust articulation of commitment from senior and middle management—meaning operational as well as country or regional management. Finally, an entity's senior leaders should be held to a higher level of accountability within the organization. Including this as an assurance requirement would better align TI's Framework with best practices.

Comment: We feel that Control Objective 12 should be expanded to include all programme components, rather than just policies and procedures. Additionally, we suggest increasing this section to include control objectives related to the following principles:

- *Third party due diligence, including agents, consultants, suppliers, business partners and joint ventures*
- *Audit of suspicious transactions and/or a periodic audit of books and records*

Comment: *Control Objective 17 could also be extended to include publicly disclosing who is the most senior person responsible for corruption issues, and also publicly disclosing procedures related to monitoring and corrective and preventive actions, including those related to the supply chain. This would then align the disclosures to those required as part of the Corruption Disclosure on Management Approach in the GRI Guidelines. Control Objective 20 could be extended to externally reporting on specific indicators related to performance, rather than just internal reporting of performance. For example, in the GRI Guidelines organizations are required to publicly report on three corruption related core performance indicators – SO2, SO3 and SO4. These are: SO2: Percentage and total number of business units analysed for risks related to corruption; SO3: percentage of employees trained in organization’s anti-corruption policies and procedures; SO4: Actions taken in response to incidents of corruption.*

Risk assessment

Comment: *This section of the control objectives would benefit from expanding the scope of its reach. Ideally, the ‘Risk Assessment’ section should highlight the need to use adequate methodologies that take into account both the severity and likelihood of a risk event, as well as evaluate the effectiveness of various programme components.*

We recommend that TI considers including a control objective on evaluating employee awareness of the organisational culture of ethics, achievable through employee surveys and interviews. TI may wish to include as part of the Framework, methodologies such as: a continuous risk and programme monitoring objective, with periodic risk and programme assessment; programme benchmarking against good practice standards; and a formal risk mitigation plan and programme improvement roadmap. The overarching goal of these objectives is to outline a company’s need to act promptly when fixing deficiencies in major risk areas.

Comment: *The notion of risk has been totally missed and that the risk of corruption and bribery should be the main driver. Internal controls (behavioural, logical, procedural etc.) within an organisation’s anti-bribery programme should be designed to mitigate all risks and controls tested to prevent or detect operational effectiveness. Risk is mentioned only in Page 7. This section should be rewritten to fully comply with COSO making the language consistent for most companies that have implemented governance codes. Failure to align could cause confusion and result in perceived bureaucracy.*

Comment: *The Assurance Provider will have to be very careful to adapt his/her expectations in terms of controls details to the risk assessment of the organisation. We can't expect companies to have very formalised procedures where they have very low risk. Note: Some requirements may be difficult to be reached for SME's which do not have a dedicated team in charge of compliance.*

Information and Communication

Comment: *We feel that this section could be bolstered by adding a control objective regarding a clear process for reporting actual or suspected misconduct. Another useful control objective TI should*

consider is periodic programme performance updates to the executive management, the governing authority and other stakeholders—internal and external—as necessary.

Monitoring

***Comment:** In this section, we recommend adding continuous monitoring of employee and third party compliance. This can be achieved through compliance tracking tools such as periodic certifications and gifts and entertainment tracking.*

14 ASSURANCE ENGAGEMENT

Several respondents noted that Type 1 Assurance focusing on programme design would be insufficient and that Type 2 Assurance would be more likely to provide meaningful information on company programmes.

***Comment:** The challenges that global entities will face in being able to form a view on the suitability of design and operating effectiveness of their anti-bribery controls in all jurisdictions in which they operate, given different cultural norms and approaches to business practices, should not be underestimated. How an entity's policies and procedures are interpreted and applied in practice in different jurisdictions is very relevant to any judgement regarding the effectiveness of the global entity's controls, and it will be difficult to conclude on the suitability of design of an entity's controls without testing, not only whether they had been implemented, but also whether they were operating as intended. Therefore, the value of a report on Type 1 Assurance on design could be limited and, in some circumstances, possibly even misleading.*

***Comment:** Type 1 and Type 2 assurance is confusing and assurance at a specific date is too weak.*

***Comment:** Companies would contemplate Type 1 Assurance and Type 2 could be useful but the audience would be limited.*

***Comment:** We are apprehensive about the separation of assurances into two classifications: Type 1 (assurance on the suitability of the design of the anti-bribery controls) and Type 2 (additional assurance on the operating effectiveness). In practice, these two separate assurances may be difficult to evaluate. We have found that it is most effective to evaluate controls concurrently, including an evaluation of how they are being implemented.*

It is also not clear whether Type 1 assurance is a prerequisite for obtaining Type 2 assurance; a statement on the relationship between the two would be useful for corporate executives trying to implement the Framework.

Furthermore, we note that Type 1 assurance may seem to encourage the creation of a "paper" programme that exists in principle only (i.e., is not adequately implemented.) In our view, an adequate programme is one that has been properly designed and implemented, therefore merging Type 1 and Type 2 assurances. In other words, combining the design of the controls (and other programme elements) and their effective implementation is a more comprehensive approach. More importantly, there are no specified criteria for what constitutes the "effective operation" of an anti-bribery programme (or the controls that form it), as opposed to a programme that is effectively designed.

Finally, the assurance is based on a "management assertion" to include a description of the controls and express confidence in the suitability of these controls. For Type 2 assurance, management would additionally have to assert that the controls have operated effectively, and provide a basis for such assertion. Although this is intended as a voluntary assurance, we question whether TI intends to validate or audit these management assertions and, if so, to what extent.

***Comment:** It would be worth encouraging the companies which have passed the Type 1 assurance to go through Type 2 assurance. If it makes sense to have two different phases to accompany the companies from design to implementation of the program, it is important to remind that it would be insufficient for an organisation to check only the design and not the proper implementation of its*

system. It should be at least "advised" to go to Type 2 assurance after having passed Type 1 assurance.

Time constraint reduces value of Type I assurance

Comment: Type 1 assurance refers to the suitability of the design of the implemented anti-bribery controls 'at a point in time' (Type 2 assurance referring to the operating effectiveness of these controls 'over a specified period'), the time-constraint of Type 1 assurance reduced the added value of the Type 1 assurance substantially and made it vulnerable to 'window dressing'. It seems of little value to stakeholders to be assured that certain procedures were in place on 31 December 2011 and also on 31 December 2012 whereas you really want to know the procedures that have been in place during 2012.

We recommend that the Type I assurance also refers to the suitability of design of the implemented anti-bribery controls 'over a specified period'. In reality, Type I engagements will refer to a specified period and not to a point in time anyway.

15 ASSURANCE REPORTING

Provision of examples of management assertions and assurance reports for Type 1 and Type 2 Assurance

Comment: We do not believe that providing example reports is an important element of the framework at its current level of development. The creation of example reports should be a component of the process of adapting [International Standards on Assurance Engagements 3000, Assurance Engagements Other Than Audits or Reviews of Historical Financial Statements, \('ISAE3000'\)](#) to performing assurance engagements related to anti-bribery controls.

Expectation gap of users

Some respondents expressed concerns about a potential stakeholder expectation gap and lack of market demand or preparedness for assurance. It was noted, nevertheless, that experience with independent audits of Sarbanes Oxley 404(b) had shown that assurance increased the level of company attention to controls and provided greater credibility to company assertions.

Comment: There is a risk that a significant expectation gap may be created if the public assumes more assurance than can ultimately be provided. The assurance practitioner must determine the level of assurance, if any, that is feasible given the circumstances, and whether a limited or reasonable assurance report would be appropriate. Wording of the assurance report must be carefully considered to ensure that users clearly understand the services being performed.

Limiting the scope of Assertion could cause loss of credibility in public reporting

Comment: The introduction to the control objectives in the Annex states that the control objectives should not be used selectively. We agree. For that reason, we are also concerned about the suggestion on page 9 of the Framework that management could limit the scope of their assertion to a specific area, with gifts and hospitality given as an example. We can appreciate that for internal reporting, an entity might want to focus on a particular area, and that the implications of that limited scope be understood. For public reporting, however, we are concerned that readers will expect that an entity's public report on anti-bribery controls will address those aspects of the entity's business that have the most significant risks for that entity. If the entity's most significant risks are not gifts and hospitality, for example, but rather its business relationships or contracting and tendering practices, even if the scope of the assertion was stated, there is a risk that the entity's public assertion could be misleading. Whilst not wanting to dissuade entities from making public assertions because the scope is too daunting, the risk of the public losing credibility in public reporting because it was done prematurely needs to be taken into account.

Contrasting views on public reporting

Comment: Several business representatives at a meeting of the Institute of Public Auditors in Germany called for the assurance work of auditors to be published as part of the need to raise public perceptions about the efforts of business to comply with high standards.

Comment: We are not in favour of public disclosure of assurance reports as we feel these are for the benefit of management rather than the public.

16 MATERIALITY THRESHOLD

The issue was raised that without a common agreement on the level at which bribery becomes material to stakeholders, entities will be unable to make the Assertion required under the Framework.

***Comment:** We also believe that further discussion is needed regarding reasonable thresholds for “materiality” before it can be said that the control objectives constitute “achievable good practice”. The Background Document refers to scandals seriously eroding the credibility of business and public confidence in the integrity of business being undermined as reasons why entities might seek independent assurance on the claims made regarding their anti-bribery efforts. We agree. Yet even well designed controls cannot eliminate all incidents of bribery. Without a commonly understood and accepted ‘materiality’ threshold, a concept that is embedded in both the design of financial reporting controls and assurance, we question whether entities will feel able to make assertions about the design and operation of anti-bribery controls, and what sort of assurance could be provided publicly (or even privately) that is meaningful and not subject to misinterpretation. Even if an entity was expected to react affirmatively to any identified bribe, regardless of size, designing controls to prevent all bribes from occurring is impracticable. Indeed, financial reporting controls will inevitably be part of the control activities contributing to the entity’s anti-bribery controls, and yet financial reporting controls are designed with the objective of preventing and detecting material misstatements.*

Until there is a common understanding by stakeholders regarding the inherent limitations in anti-bribery controls and the threshold for ‘materiality’ and how it would apply in evaluating the design and operating effectiveness of an entity’s anti-bribery controls, it is unlikely that independent assurance will result in a level of assurance that can be understood and meaningful to a range of different stakeholders. Without a definition of effective anti-bribery controls it is impossible for entities to evaluate and make assertions about the operating effectiveness of their anti-bribery controls or auditors to provide assurance. The risk of misunderstanding, and the resulting expectation gap, would expose both preparers and assurance providers to both loss of credibility and increased liability.

Two different entities might demonstrate zero tolerance to identified bribes, but if they have set different threshold effectiveness of their overall anti-bribery programmes could be perceived as quite different. Therefore, the issue of “thresholds” or “materiality” needs to be more fully explored before the control objective framework is likely to be considered “achievable” in practice. Perhaps worded another way, what is the expected result (output) when anti anti-bribery controls are determined to be effective (i.e., the criteria are met)?

More guidance needed on assurance reporting

***Comment:** There is limited discussion on assurance reporting in Chapter 7, primarily focusing on the scope or subject matter of the assurance engagement. We believe that the TI Framework could provide more guidance on assurance reporting, in particular on matters such as: the types of assurance conclusion; basic components of the assurance report; qualifications; and possibly illustrative conclusion wording even if Transparency International decides that the TI Framework is to provide guidance only for corporate entities. This is because these matters are fundamental if corporate entities are to engage independent professionals to provide an assurance service on their anti-bribery programme. We again refer you to the International Framework for Assurance Engagements and ISAE 3000 for further discussion.*

Public disclosure of the assurance report

There was a general feeling that going public with an assurance report would be problematic. Some companies were concerned about potential legal exposure.

***Comment:** Public reporting and external assurance is at this point premature. It would be prudent to seek further experimentation and dialogue so that public assurance, when ultimately provided is meaningful and credible.*

***Comment:** The notion of going public with the assurance report would be problematic.*

***Comment:** In addition to the need for generally acceptable criteria there are some additional and significant challenges and barriers to overcome before public reporting of bribery controls is likely to be considered practicable. In particular, reservations are expressed that the risk of stakeholders not understanding the inherent limitations of such controls would be a significant impediment to public reporting and assurance, particularly when focussed on the 'suitability of design' and 'operating effectiveness' of anti-bribery controls.*

***Comment:** The notion of going public with the assurance report would be problematic.*

17 READABILITY AND EDITORIAL

***Comment:** The document itself appeared to be finely written, was clear and comprehensive...*

***Comment:** We have found that guidance language is most effective when it is delivered clearly and succinctly. At times, the TI Framework seems unnecessarily verbose, which can significantly impact reader comprehension. The language used in the document should be simplified throughout the document to increase its accessibility—and therefore its effectiveness.*

***Comment:** Use 'may' rather than 'should'.*

18 NEXT STEPS

Field testing

Comment: ... gaining broad-based recognition of the suitability of criteria often requires an iterative process of consultation and experimentation. This consultation is an important first step and we encourage TI to engage as many stakeholder groups as possible in the debate on the acceptability and completeness of the criteria. In addition, we believe that field testing the criteria would be an invaluable exercise. It would be useful if such field testing included evaluating the anti-bribery controls in an entity in which a known bribe has occurred to see whether the evaluation process would have detected it. Field-testing the control objectives would help identify areas where certain of the control objectives may be somewhat vague and, therefore, difficult with which to judge compliance. For example, CO6 is that recruits meet the ethical standards articulated in the entity's policies. How would an entity, or auditor, evaluate whether recruits had met the ethical standards? Does the Framework need to clarify that the evaluation only covers what employees do directly in connection with their employment? It would be useful if such field-testing included evaluating the anti-bribery controls in an entity in which a known bribe has occurred to see whether the evaluation process would have detected it.

Suggest to IAASB that they initiate a project

Comment: As a next step, we would recommend that TI approach the International Auditing and Assurance Standards Board (IAASB) with the Framework and suggest a detailed IAASB project on the topic. TI's input into this project would be very important. It will be crucial for the IAASB to "set the stage" appropriately when promoting public reporting, giving sufficient emphasis on the inherent limitations of any system of internal control.