

Second Biennial Meeting
of the
International Corruption Hunters Alliance
at
Washington DC



Report
of the delegation from
Central Vigilance Commission
INDIA

Second Biennial Meeting of the International Corruption Hunters Alliance (ICHA), Washington DC

Report of delegation from CVC

Preamble

1. World Bank's Vice President, Integrity, had invited Mr. R. Sri Kumar, Vigilance Commissioner and Mr. K.Subramaniam, Director, CVC to make a presentation on the VIGEYE Complaint Handling System during the Conference of International Corruption Hunters alliance at World Bank Headquarters, Washington.

2. With the approval of CVC Shri R. Sri Kumar, Vigilance Commissioner and Shri K.Subramaniam, Director were deputed to attend the Conference and make the presentation vide Govt. of India order dated 4.6.2012. This report highlights the proceedings of the conference along with the lessons learnt and recommendations for action.

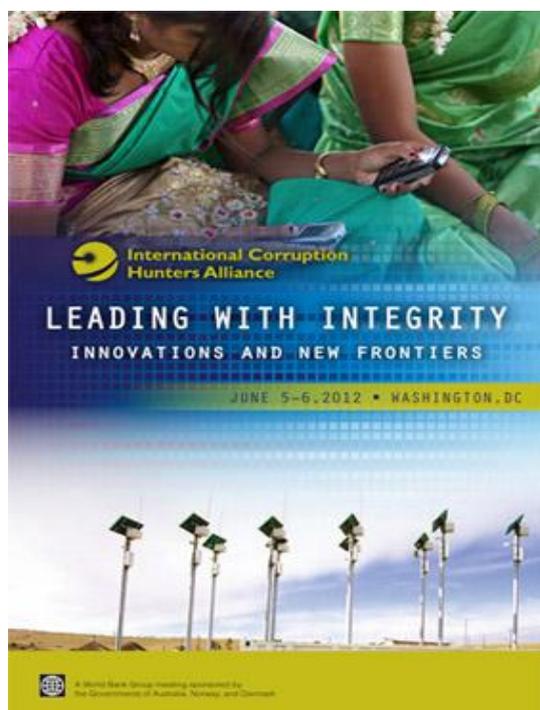
Introduction

3. The International Corruption Hunters Alliance (ICHA) is an initiative of the World Bank Integrity Division. It is a grouping of prosecutors, investigators, heads of anti-corruption authorities, supreme audit institutions and international organisations involved in anti-corruption activities. It is a biennial conference and was first held in 2010. (www.worldbank.org)

4. The second ICHA conference was held at the World Bank Headquarters, Washington DC on 5th & 6th June, 2012. The title of the conference was **‘Leading With Integrity Innovations and New Frontiers’**. The conference focussed on three themes:–

- (i) international cooperation
- (ii) national enforcement; and
- (iii) innovative use of information technology in the fight against corruption.

5. After the two-day conference, a two day training workshop was organised for the participants at the George Washington University, Law School on along with Stolen Asset Recovery Initiative (StAR) on International Corruption Investigations and Mutual Legal Assistance.



6. The World Bank was appreciative of India’s initiative and considers VIGEYE as a good technological innovation in the fight against corruption. The amount of attention received by VIGEYE is borne out by the fact that the cover page of the agenda booklet of the conference carried a photo

of Indian women with mobiles, illustrating the use of VIGEYE (photo above). In his closing remarks at the ICHA valedictory function Mr. McCarthy made a special mention of India's brand "VIGEYE" as "a citizen empowerment facility" to report corruption using mobile with time and geo-stamping and said that World Bank's staff was to have a close look at it once again the next day.

Deliberations during the Conference

Inaugural Session

7. The conference was inaugurated on 5th June, 2012 with a key note address by the World Bank President, Mr. Robert Zoellick and an introduction by Mr. Lenard McCarthy, Vice President Integrity, World Bank.

8. The opening plenary session included a session on 'Tuning Point Benchmarking Exercise' which demonstrated the questionnaire developed by the World Bank (Ms. Francesca Recanatini) for assessing the strength of anti-corruption authorities (ACAs) **Refer Annexure-I**. All participants in the room were given a remote controlled electronic voting card to answer the questionnaire by pressing the multiple option buttons. The result of the survey was immediately flashed on the screen. It also showed a comparative trend analysis of the result of previous year's survey. This was very useful as it highlighted the various problems and strength of ACAs across the world.

9. The CVC delegation participated in the following thematic sessions amongst the parallel sessions that were held on the two days.

Measuring the Results of Anti-Corruption Authorities

10. A panel discussion was conducted by the World Bank's Independent Advisory Board which focussed on determining the parameters and developing metrics to measure the strength and effectiveness of anti-corruption authorities (ACAs). A draft matrix for measuring the activities of ACAs developed by the World Bank was presented. Mr. Peter Castillo, Head of the World Bank's Independent Advisory Board and the former Finance Minister of Australia chaired the session. He stated that ACAs should demonstrate two important things – (a) show proven results and (b) generate public support for their activities. He emphasised that while judging results achieved, the deterrent effect of cases was more important than the value or people involved in the cases. According to him often one gets carried away by the monetary value or the profile of the people involved in the cases. Public support to ACAs can be generated by highlighting their activities in the press and media both within the country and outside. Press should be used to full advantage. It should be remembered that the MNCs do not want bad publicity around the globe and specially want to avoid reputational damage in their home country. ACAs should use this to their advantage in naming and shaming.

11. Mr. Mark Peith, Professor of Law, Geneva University and Chairman of the OECD Anti-Bribery Working Group emphasised that the procedure of punishment and prosecution should be fair and the ACAs should not be over enthusiastic in punishing people.



12. Mr. R. Sri Kumar, Vigilance Commissioner highlighted the performance metrics developed in 2010-11 for measuring the performance of vigilance work in CVC adapting the Malcolm Baldrige criteria. Ambassador Richard Kaularich now in George Mason University and others welcomed this initiative of measuring quality of service, by ACAs as an appropriate application of a proven system of measurement of quality of public service.

Tools and Resources for Sharing Anti-Corruption Information

13. In this session various organisations presented the tools and web portals developed by them for sharing of anti-corruption information. The following organisations presented the knowledge sharing tools created by them:

- a) UNODC – TRACK (Tools and Resources for Anti-Corruption Knowledge)
- b) World Bank - ACA and Stolen Asset Recovery Watch
- c) TRACE International – TRACE and BRIBLINE
- d) Transparency International – Knowledge and Stakeholder Services

14. As these knowledge management tools were still in a nascent stage and not yet fully operational, their impact and effectiveness remained unclear.

15. The Indian delegation highlighted the fact that creation of several knowledge management systems with similar kind of information and for the same purpose would result in redundancy and duplication of efforts. Also some methodology needed to be put in place to ensure the integrity of data pertaining to various anti corruption agencies captured and displayed in these portals. It was also pointed that a constitution of a Task Force on Knowledge Management had been promoted by International Association of Anti-Corruption Authorities (IAACA) as part of its work plan which was approved in the General Body of IAACA in Oct. 2011 at Marrakech and later presented to the Conference of State Parties at Marrakech.

Considering the work being done in this direction by various organisations, the main issue now was to coordinate and integrate these efforts to benefit from each other's contribution and experiences.

16. The panel including the Dy.CAG of Brazil – Mr. Luiz Lavarro agreed with the need for having such a coordinated approach.

Luncheon meeting

17. A working lunch was hosted in honour of the Indian delegation by the South Asia Region Procurement Head – Mr. Nadjib Sefta on 5th June. Several other officials of the World Bank, South-Asian Division were present. It was an informal discussion on the development efforts underway in India and the various World Bank projects undertaken and what steps could be taken to bring about more transparency and efficacy in the processes.

Closed door meeting of South Asia Region

18. A meeting of delegations from South-Asia was held with the World Bank Vice-President of South Asia – Ms. Isabel Guerrero. The subject of discussion was the prevalence of corruption and the various anti-corruption measures being used in the countries of the region. The Indian delegation highlighted the various institutional and regulatory reforms being undertaken by India in fighting both petty as well as grand corruption. The new legislations under consideration were highlighted.

Panel discussion of Attorneys General and Anti-Corruption heads of South-Asia

19. An open door panel discussion was held on the various anti-corruption efforts and the problems faced in the work of anti-corruption authorities in the regions. A common concern of all the countries of the region was found to be the ineffective enforcement mechanism in these countries and the need to strengthen the professional efficacy of the enforcement agencies and speeding up of the justice delivery system.

Presentation on VIGEYE by the CVC delegation

20. For the thematic session “Whistleblower Laws and Corruption Complaints Handling System”, initiatives from three countries viz. Peru, Democratic Republic of Congo and VIGEYE of CVC, India were selected for presentation. These presentations along with case studies showed how to design and implement a good complaint handling system with the help of information technology and mobile applications. The Harvard Law and International Development Society presented their preliminary findings on a comparative study being done by them on whistle blower laws and corruption complaint mechanism including VIGEYE.

21. The Secretary General, Office of the Controller General of Peru presented a mobile based complaint management system especially designed to address corruption in delivery of public services. It was a simple web based model with a centralised

handling of the complaints by the CAG and its regional offices in Peru.

22. A mobile based application developed in Democratic Republic of Congo under World Bank consultancy to enable citizens to report corruption in the mining of minerals in Congo was presented next.

23. Mr. R.Sri Kumar, Vigilance Commissioner, Central Vigilance Commission made a detailed presentation along with live demonstration on the use of the VIGEYE Complaint Handling System and Global Project Management System (GPMS). A copy of the power point presentation is attached as ***Annexure-II***. He highlighted how a popular and easy to use device like mobile phone can be used to report corruption along with the capture of voice and video clips and documents as evidence. Besides highlighting the technological innovation involved in VIGEYE, he also demonstrated how a complaint made in VIGEYE can be further linked with a data base of project information in the VIGEYE GPMS to facilitate quick action on the complaints being received. The presentation was very well received by the audience and there were a number of questions in the Question and Answer session.

24. An officer from the Anti-Corruption Commission of Indonesia (KPK) shared the experience of KPK in dealing with complaints pertaining to delivery of public services. The volume of such complaints was huge and as the complaints were not

resolved within time, there was public dissatisfaction against the Commission.

25. The Indian delegation clarified that some filtering mechanism was required to distinguish between personal grievances arising out of administrative reasons and those arising due to corruption. If the complainant is able to show that he/she has fulfilled the stipulated requirements for the required public service i.e. in terms of documentation and that even after the time stipulated in the citizen's charter, the service is not delivered or inadequate service is provided, then one can assume a case of corruption. The complainant will also need to state that no justifiable explanation is forthcoming from the organisation for the delay/inadequate service. Therefore, the problem could be overcome if some format was developed for making such complaints and the citizens are educated about it

26. Some participants also brought out the possibility of misuse and invasion of privacy by allowing people to capture and upload audio/video of other people. It was agreed that due care should be taken in handling of such information. The CVC had put in a careful scrutiny mechanism to filter out complaints touching upon privacy issues.

27. World Bank officials were of the view that in terms of technology, the CVC initiative was quite advanced. They requested for another presentation on the next day specifically for the World Bank staff. A 1½-hour presentation-cum-demonstration was made by Mr. R.Sri Kumar, Vigilance

Commissioner on 7th June to the World Bank officials which was transmitted throughout the World Bank office. The presentation quality was rated very high. A copy of the evaluation report submitted by one of the participants is enclosed as **Annexure-III**.

28. After the presentation, the World Bank officials expressed a desire to explore the possibility of applying VIGEYE in other contexts especially the development projects funded by World Bank. Mr. Sanjay Pradhan, Vice President, World Bank Institute was also present. A business opportunity (including job creation) exists when Project VIGEYE is taken to the next phase both in India as well as in other parts of the world as an Indian offering to augment whistle blowing efforts leveraging mobile technology.



Training Workshop on International Corruption Investigations and Stolen Asset Recovery

29. A two-day training workshop was conducted by the George Washington University Law School on international cooperation in investigating cases of corruption and money laundering including the recovery of proceeds of corruption laundered in different jurisdictions.

Workshop-I : International Investigation and Tracing Assets Lost to Corruption (7th June)

30. The first session clarified the basic concepts about the offence of bribery and money laundering. It was emphasised that it is essential to first establish the predicate offence i.e. the primary offence of corruption and then proceed with tracing and recovery of assets.

31. Recovery of stolen assets involves the following steps:-

- i) Investigation to establish the predicate offence
- ii) Tracing the assets. The proceeds of corruption/crime may be laundered and invested in various instruments within or outside the country.
- iii) Recovering the assets through an order for confiscation of assets and through mutual legal assistance.

32. The predicate offence in case of corruption would involve abuse of office, misappropriation of public money, bribery or illicit enrichment. The starting point of investigation should be to establish at least one of these offences.

33. The next step is to establish the offence of money laundering. The basic elements of a money laundering offence are:

- (i) The assets are ill-gotten i.e. they are proceeds of crime.
- (ii) The assets are converted or transferred. It involves financial transactions which need to be detected.
- (iii) The purpose of these transactions (i.e. conversion/transfer/investment) is concealing the source of assets or helping the criminal/corrupt evade punishment/legal action.
- (iv) The charged person had the knowledge that the funds came from crime/corruption. This can only be proved through circumstantial evidence i.e. the totality of the circumstances.

34. To establish an offence of money laundering it is essential to recognise and prove the above four essential elements. Therefore, an act of money laundering needs to be broken up into its different elements and then establish each of these elements as offence. At the end of the day, however, a money laundering offence is what the law of the country defines.

35. A doubt was raised by some of the participants as to whether UNCAC Article 23 can be used to prosecute in countries which have signed and ratified the UNCAC. It was stated that this was not possible because it had no penal clause. Therefore, it is only a model language.

36. The second session demonstrated various strategies that would be adopted by anti-corruption agencies for data management. The use of data management including open source intelligence in investigation was demonstrated. It was also shown how Google search can be conducted by using a query with Name – Organisation – Location – Corruption/Corrupt Activity in that order.

37. The third session was an exercise/investigation game wherein participants were divided into five teams and live cases were given to them. As the investigation progressed further evidence was made available to the teams only after successfully cracking the money trail. The evidence were in the form of world/excel documents which could be opened only with the help of a password. The password was made available only if the previous step was correct or in other words if the evidence was accessed in the correct sequence. It was similar to a treasure hunt. This was a very interesting method of imparting skills to investigators.

Workshop-II : Mutual Legal Assistance

38. Experts from various countries demonstrated the importance of correctly drafting the request for Mutual Legal Assistance (MLA). Letter Rogatory is issued when countries do not have an MLA Treaty between them. Many international investigations fail because of incorrect and inappropriate drafting of the MLA request. A practical exercise on writing of MLA request based on a live case was conducted.

39. At the end of the workshop, the Dean, George Washington University Law School gave certificates to all the participants.

Lessons learnt and recommendations

40. The questionnaire developed by the World Bank to assess the strength of ACAs when applied to assess the effectiveness of CVC gave encouraging results.

41. The performance metrics based on Malcolm Baldrige criteria adopted in 2010 to assess the performance of the Commission should be continued. This would help to project the effectiveness of the various facets of anti-corruption work of the CVC to the outside world. CAG is also said to follow a matrix to assess the performance of its field offices which are then categorised as A, B, C & D based on their assessed performance.

42. As highlighted by the World Bank Advisory Board, the ACAs should leverage the media in the fight against corruption. Administrative Reforms Committee in its fourth report (Sec 5.3) has also recommended the use of media for fighting corruption. CVC should push further the plans made in this regard and take participative vigilance to the next level.

43. Interaction with the various organisations which have developed a knowledge sharing tool revealed that most of these

efforts are still in the nascent stage of the implementation. Indian effort was recognised as quite advanced by World Bank officials. Therefore, the primary task of the Knowledge Management Task Force of IAACA should be to coordinate and integrate these efforts to evolve some common facility. India's offer of helping to build a Knowledge Management Portal is to be taken to its logical next step immediately.

44. In terms of concept and technological innovation project VIGEYE has been well received and appreciated in the international forum. Therefore, the Commission may consider carrying it forward in an appropriate manner by addressing the technical and the administrative problems related to its implementation. A proposal in this regard is being put up separately for consideration and necessary follow up action.

45. With regard to international cooperation in anti-corruption investigations and recovery of stolen assets, there is a need for better coordination between the Indian agencies involved in the process namely Central Bureau of Investigation, Enforcement Directorate, Financial Action Task Force and Serious Fraud Investigation Office. Also more capacity building exercise may be considered for these agencies e.g. the two-day training workshop would have been more useful for officers from these agencies.

46. Two top action plans for 2012:-

- i) The VIGEYE Complaint Management System should be suitably augmented and implemented at the earliest as VIGEYE 2.0.
- ii) Coordinated approach should be adopted for international corruption investigations by streamlining and further strengthening the process of mutual legal assistance and recovery of stolen assets. The various agencies involved in this process should be brought on one platform by the CVC both for coordinated action for stolen asset recovery as well as capacity building.

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Director

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