Southwestern Institute for International and Comparative Law
NEWSLETTER
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New Chair for SWIICL's Advisory Board

Francesco Gianni

Francesco Gianni is the new Advisory Board Chair. At the June meeting of the Advisory Board, Franco Gianni of Italy succeeded Anton Maurer of Germany as the Chair of the Advisory Board. Mr. Gianni is the senior partner of Gianni, Origoni, Grippo, Cappelli & Partners in Rome and is a long-time supporter of SWIICL.

Anton Maurer

At the Advisory Board meeting, Mr. Maurer was honored for his extraordinary service. Under his leadership, the Institute adopted a new strategic plan, focused attention on in-house counsel and revamped the Academy of American and International Law. The Institute is deeply in his debt.

The annual meeting of SWIICL's Advisory Board takes place during the Symposium on Global Markets. In this photo, members of the Academy of American and International Law make a presentation during the Symposium. The 2013 Symposium is on June 17-18 (see the article on page 13 of this newsletter).

Jordan Cowman

Bribery and Corruption

Editor Jordan W. Cowman, Shareholder, Greenberg Traurig, L.L.P.

Bribery and corruption are alive and well as we move into 2013. In fact, by most accounts, corruption remains rampant in many countries. Anti-corruption laws can snare even the most sophisticated business professionals. International business increasingly is facing rapidly changing regulations and enforcement agendas across the globe.

In this edition of the Newsletter, we explore some important anti-corruption developments, including Deferred Prosecution Agreements in the UK and whether world is moving towards a global anti-corruption standard. We also briefly explore various developments in the Philippines, and finish with an opinion piece about the FCPA and its perception in India.

Newspaper headlines around the world are replete with sensational enforcement actions of anti-corruption laws. From Australia to Afghanistan, Brazil to Beijing, and Chile to Costa Rica and India, it is easy to find recent or proposed changes to the anti-corruption laws, various enforcements, and general discussion of this very hot topic.

Corruption sometimes is in the eye of the beholder. As the UK Bribery Act and US Foreign Corrupt Practices Act (FCPA) reach to the ends of the earth, I am reminded of the phrase on a poster in my daughter's classroom: "Other cultures are not failed attempts at being us." Most governments have or are taking major strides toward reducing corruption, yet it remains as one of the most pressing public policy issues they face.

No transnational business can afford to fail when it comes to a robust and comprehensive compliance program, especially in the area of risk assessment, anti-corruption policies, procedures and oversight.

Complex business issues involving anti-corruption often require a highly coordinated approach as criminal, civil and administrative investigations and prosecutions often are brought in tandem. In our newsletter earlier this year, we observed the erosion (or, in some cases, the eradication) of the in-house legal professional privilege, which has resulted in many of our clients reaching out to us to conduct internal investigations that in the past have been handled in-house. And with the just published *Resource Guide to the FCPA*, the US Department of Justice and the US Securities and Exchange Commission, provide us, among other things, with fresh insight on the variety of factors they consider in determining whether covered entities have an effective anti-corruption compliance program. No transnational business can afford to fail when it comes to a robust and comprehensive compliance program, especially in the area of risk assessment, anti-corruption policies, procedures and oversight.

We want to hear from you! Please send me your ideas, short articles, legal developments, and your personal updates. With your help and support, our Newsletter can be a real hub of information for all of our SWIICL alumni and friends.

It is my great honor to be of service.

Jordan W. Cowman, Editor

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Enhanced Anti-Corruption and Governance in the Philippines Help Lead to Economic Gains

Emerico O. De Guzman and Joselito M. Bautista, ACCRALAW

Emerico De Guzman

Joselito Bautista

Recent indicators have shown a dramatic improvement in the economy of the Philippines as compared to previous figures reported. According to Mr. Guillermo Luz, the Private Sector Co-Chairman of the National Competitiveness Council, "the Philippines has jumped another ten (10) spots to No. 65 out of 144 economies in the World Economic Forum's 2012/2013 Global Competitiveness Report from the No. 75 the year before." Mr. Luz also reported that "the Philippines is only one of two countries worldwide which has made a double-digit jump in the last two years. Coming from No. 85 only two years ago, this also marks the first year that the country has broken into the top 50% of the world rankings since it was first included in the report in 1994. Philippines once ranked in the bottom 25% of the world's economies."

In his recent article titled "Raising governance standards helps boost competitiveness", Mr. Luz opined:

> ... governance ... plays an important role in global competitiveness reports... In most of these reports, the Philippines has been on an uptrend in the area of governance and anticorruption. We are up 23 ranks in the governance and institutions category of the WEF and up five countries in the governance sections of the IMD report and the Corruption Perception Index. In the latest SWS Enterprise Survey on Corruption, the government's rating from the business community with respect to its fight against corruption registered a dramatic rebound since 2009, the last year the survey was conducted. Of 25 agencies reviewed, including the Office of the President, all but two reflected improved scores, with the Office of the President jumping from a negative 37 percent net rating to a positive 81 percent.
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> What do these ratings mean for the average Filipino? In two words, savings and quality.

Apparently, more and more government projects are being delivered now with more savings in public funds financing them with the right quality.

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It appears that the economic gains being experienced by the Philippines are brought about by the determined campaign of the current administration to curb corruption and focus the programs of the government primarily to develop infrastructures while at the same time seeking ways to raise revenues (*e.g.* the current bill on raising "sin taxes"); to progress the quality of education (*e.g.* the implementation of the K-12 program) and, if not to totally eradicate poverty; to improve the status in life of most Filipinos (*e.g.* the pending bill on reproductive health and responsible parenthood). Judicial reforms likewise are being initiated, highlighted by the successful handling of the impeachment trial early this year of former Chief Justice Renato Corona and the recent appointment of the youngest Chief Justice, Ma. Lourdes Sereno. Her

appointment was depicted by many observers as a move to infuse new and promising reforms into the old justice system.

The Philippines has also adapted to modern times as it recognizes developments in technology and continued reliance on computer and web based information dissemination and data storage by the private and public sector. A few months ago, twin bills addressing the growing concerns on the proliferation of computer and information technology-related offenses were passed into law.

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On 15 August 2012, Pres. Benigno Simeon C. Aquino III signed into law Republic Act No. 10173, otherwise known as the "Data Privacy Act of 2012," where the Philippines recognized the vital role of information and communications technology in nation-building and its inherent obligation to ensure that personal information in information and communications systems in the government and in the private sector are secured and protected. The law was designed to regulate the processing (*i.e.* collecting, recording, organizing, storing, and similar acts) of personal information by setting up parameters on dealing with personal information, most especially those which are sensitive and privileged in nature. Notably, the law explicitly indicates its extraterritorial application such that it will cover acts done or practices engaged in and outside of the Philippines subject to certain conditions. The penalty of imprisonment and monetary fine shall be imposed on any person who commits the unauthorized processing of personal information.

On 12 September 2012, Republic Act No. 10175, otherwise known as the "Cybercrime Prevention Act of 2012," was signed into law. The law aims to protect and safeguard the integrity of computer and similar communication systems and keep the confidentiality, integrity and availability of all information and data stored therein from abuses, misuse and illegal access. It classified computer and technology related offenses as cybercrime offenses punishable by law. The law also created a body to investigate and prosecute cybercrime offenses. With the exponential growth of internet users in the country, this particular law was met with mixed reactions. While this law is intended to restrain abuses over the use of information technology, many people see the law as a means to curtail the constitutionally enshrined freedom of expression, as remarks communicated through the computer system or similar means, if determined to be libelous, were specifically covered and punishable with stiffer penalties. Currently, discussions are ongoing in an effort to address the issues being raised.

With all the foregoing reports and recent developments, one can only have a bright outlook over the prospects of the Philippines in the coming years.

In an article dated 01 February 2012, the Philippine Daily Inquirer reported that financial giant JP Morgan recognized the emerging Philippine economy, explaining that investors were interested in record-low interest rates, an economy with relative political stability, benign inflation, tested resilience of overseas Filipino remittance flows and an expanding growth driver in the business process outsourcing sector.

On 04 October 2012, the same paper reported: "The Asian Development Bank (ADB) has raised its growth outlook for the Philippines from 4.8 to 5.5 percent this year while it scaled down its forecasts for other

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developing countries in the region." It added that ADB's "Asian Development Outlook" noted: "The Philippine economy continues to show strength despite global and regional economic slowdown."

Indeed, while the Philippines may be far from achieving its goals, the increased awareness by its citizens of the problems curtailing its growth, the ostensible effort to promote good governance and the adaptability to modern times altogether comprise the recipe to catapult the Philippines notches higher from where it stands now, enough to recognize the Philippines as an emerging player in the globalized economy.

Attys. De Guzman and Bautista are partners of ACCRALAW in the Philippines, and may be contacted by email at eodeguzman@accralaw.com and jmbautista@accralaw.com respectively.

Holly Quinnen

Lale Kemal

Stakeholder Support for Deferred Prosecution Agreements, the New Tool to Tackle Economic Crime

Holly Quinnen and Lale Kemal, Norton Rose LLP

Introduction

On 23 October 2012, the Government published its response to the UK Ministry of Justice's consultation on Deferred Prosecution Agreements (**DPAs**), reflecting strong support from a range of stakeholders (including corporates, the judiciary, prosecuting agencies and members of the public) for the implementation of DPAs as the "next instrument" to address economic crime committed by commercial organisations in the UK.

DPAs will enable alleged corporate offenders to defer criminal charges subject to their compliance with tough conditions and financial penalties to be agreed with a prosecuting authority, currently either the Crown Prosecution Service or the Serious Fraud Office (**SFO**). The DPA process is intended to hold offending companies accountable for their wrongdoings (including providing compensation for victims), while at the same time avoiding the need for lengthy and expensive legal proceedings. By implementing this alternative US-inspired enforcement measure in the UK, it is hoped that DPAs will enable prosecutors to resolve more cases of economic crime than is currently possible, acting as a deterrent for future offending.

The former Solicitor General Edward Garnier QC MP, a key advocate for the DPA initiative, had indicated during the consultation phase that the Ministry of Justice may take some time to refine draft DPA legislation before laying it before Parliament in March-April 2013. The Government response, supported by current Solicitor General Oliver Heald QC MP, now confirms that DPAs will in fact feature in the draft Crime and Courts Bill to accelerate this timetable, and will be supplemented by a more detailed practical code (the **Code**) in due course. The bill currently is being considered by the House of Lords.

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The Response: Key points

The Government considered 75 responses to the consultation in formulating its response which, on the whole, provides a clearer picture of the role DPAs will play as a new enforcement approach in the UK. The Government has confirmed its position on the following:

- **Ultimate prosecutorial discretion to enter into a DPA**: Any decision by a prosecutor to enter into a DPA with an offending entity is to be approved personally by the Director of Public Prosecutions or the Director of the SFO to ensure a high level of prosecutorial accountability in the DPA process. The response states that where a bribery offence has been committed, this level of oversight will also ensure that a DPA is in line with the Bribery Act 2010 (which requires that the Directors provide their consent prior to a prosecution being launched). The Code will contain important guidelines outlining the general principles to be applied in determining whether a DPA is likely to be appropriate in a given case.
- **The crucial role of the judiciary:** The response confirms that, as DPAs

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are voluntary agreements to be entered into by prosecutors and offending corporates, the role of the judge in the DPA process will be supervisory, providing "independent oversight" of the process to ensure public confidence and transparency. The courts will have the ultimate power to approve or veto a proposed DPA, based primarily on the extent to which the proposed punishment adequately reflects the alleged criminality. It appears that all involved in structuring DPAs are keen to ensure that they are not seen as being "cosy deals", a criticism often levelled at previous non-prosecutorial outcomes to SFO investigations in particular.

- **Public awareness of the DPA process:** The response recognises the need to balance public confidence in the DPA process with the need for a level of certainty and confidentiality, enabling commercial organisations to negotiate proposed terms without the risk of their position being compromised prior to an agreement being reached. It confirms that a private preliminary hearing to assess the suitability of a DPA will be held to enable the parties to discuss DPAs "openly" and "without fear of jeopardising future prosecutions". However, to ensure transparency, the final form DPA and the Crown Court judge's rulings on the approval of the agreement are to be made public. The judge's reasoning for the appropriateness of a DPA and compliance with its terms will also be available in the public domain.
- **The US model – a useful precedent but not to be followed:** Although the US system is cited as a "good example" of the effective use of DPAs, the response distances itself from this model due to its differing legislative framework and the need for greater judicial involvement and transparency in the UK.

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Challenges ahead

Although a positive step towards the formal integration of DPAs into the UK enforcement system, the Government's response to the consultation raises further questions.

For example, it will be interesting to see how the Government addresses the dichotomy between a private preliminary hearing and a fully transparent public forum for approving a DPA. Appropriate measures will need to be put in place to ensure confidential or legally privileged information is not leaked. It is questionable whether the content of negotiations or admissions made by an offending corporate prior to the agreement of a DPA should be admissible in subsequent criminal or civil proceedings, so treatment of material relied on in the DPA negotiation process will be an important issue for corporates. We will be monitoring the passage of the Crime and Courts Bill and formulation of the accompanying Code, and will provide further commentary as they develop.

On a practical level, the enforceability and impact of DPAs in other jurisdictions requires further consideration. Coordination between enforcement agencies on an international basis will need to be stepped up if offending corporates self report their wrongdoings to prosecutors in one jurisdiction and it emerges that commercial organisations located in other jurisdictions are also involved. In addition, guidance will need to be thorough and prescriptive to ensure a fair and consistent process is applied to all parties.

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Sam Eastwood

Is the World Moving Toward a Global Anti-Corruption Standard?

Sam Eastwood and James Burnie, Norton Rose LLP

There are currently developments which suggest that the world may be moving towards a global anti-corruption standard. This article will look at the forces driving these developments.

The first force is from government aid. Wealthy governments which provide financial aid to other countries are likely to support a global anti-corruption standard to ensure that such aid is not abused. The reason for this is demonstrated by Italy, which received more than $60 billion in financing from the European Union to support a wide range of programs from 2000 to 2011. The result of this funding, according to the New York Times, was only a half-completed highway. In the United Kingdom, Lord Ashcroft, a senior Conservative, has urged the prime minister to reduce foreign aid if it supports corruption in developing countries. It may be that the result is that governments will not lend to other countries unless they can show that the finance will not be lost to bribery and corruption - this would lead to a *de facto* anti-corruption standard being imposed on countries receiving government aid.

European Union policy-makers recently voted for similar draft anti-corruption laws across Europe, and this suggests that laws requiring greater transparency are starting to gain traction globally, creating a global anti-corruption standard.

There are already signs that anti-corruption standards are being imposed in similar ways in other sectors. In the United States, the financial regulators have ruled that there should be mandatory transparency requirements for oil, gas and mining companies. Kofi Annan, chairman of the Africa Progress Panel, has pointed out that this decision is impacting on Africa - because the oil, gas and mining companies in the United States have to declare how they are using their resources, their dealings in Africa are able to be scrutinised. Kofi Annan believes that if Africans see that money is being used for corrupt purposes in Africa, this will encourage them to take action against corruption, and hence reduce corruption in Africa. European Union policymakers recently voted for similar draft anti-corruption laws across Europe, and this suggests that laws requiring greater transparency are starting to gain traction globally, creating a global anti-corruption standard. The similarity between the United States legislation and that suggested by European Union policymakers suggests that there is a lot of agreement as to when behaviour constitutes corruption, which again indicates the plausibility of a global anti-corruption standard.

There are even signs that countries which are currently lax in penalising corruption are starting to combat bribery. This is demonstrated by Greece, currently ranked 80th on Transparency International's (**TI's**) Corruption Perceptions Index 2011. The current financial crisis has led to austerity measures being passed in Greece, in order to obtain bailouts from other European countries. The problem with this is that the Greek population, according to the New York Times, believes that corruption has to be dealt with before financial aid will be of benefit to their economy. Costas Bakouris, head of the Athens branch of TI, reports only 10% of Greeks think that there is presently sufficient anti-corruption enforcement, and Greek dissatisfaction with the current situation is demonstrated by riots over this issue. Another example is China, where perceptions of bribery as a result of disgraced politician Bo Xilai mean that the Chinese authorities are keen to be seen as tackling corruption. These

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developments suggest that such countries (or at least the people who live in them) wish to move toward adequate procedures for combating corruption. The question of what is 'adequate' is determined by what is perceived internationally as adequate which reinforces the idea of a global anti-corruption standard.

Even if a country were resistant to a global anti-corruption standard it may be pressured into accepting the standard. TI believes that the Organisation for Economic Cooperation and Development Anti-Bribery Convention is likely to be successful if countries constituting over half of world exports actively tackle corruption. If a majority of nations agree to a global anti-corruption standard, such as that presented by this Convention, then that standard would exist for all – the fact that those who fall below the standard may object its existence does not mean that it would not exist.

There are signs that businesses support the need for a certain level of anti-corruption enforcement. Nearly 80% of businesses globally, according to TI, feel an ethical duty to combat corruption. This is partly why large oil and resource firms have signed up to the Extractive Industries Transparency Initiative, which reduces the scope for such companies to allow corrupt practices by aiding external scrutiny of how their resources are spent. This reaction from business may not be entirely altruistic – the cost of bribery and corruption is demonstrated by Air India, which is reported to have lost millions due to corruption. The level of corruption that businesses are prepared to tolerate thus starts to indicate the globally acceptable anti-corruption standard. It is arguable that some transnationals, as a result of having to comply with anti-corruption laws which have an extraterritorial reach, already have set a global standard. This standard is that of the most stringent anti corruption laws, such as the United States Foreign Corrupt Practices Act and the United Kingdom Bribery Act 2010.

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Certain non-governmental pressure groups are likely to continually push for a global anti-corruption standard. TI is currently supporting the drafting of transparency laws across Europe for oil, gas and mining companies, as well as producing documents which are designed to give best practice as regards dealing with bribery and corruption, regardless of jurisdiction. Jana Mittermaier, director of TI's EU office, has stated that, "Wealth in some of the poorest countries should no longer stay in the hands of corrupt elites, politicians and industry insiders". ONE is campaigning for less corruption across Africa, and wants to bring the anti-bribery and corruption law in African countries up to the correct standard. Such groups are thus naturally inclined to support a global anti-corruption standard.

In conclusion, the world may to be moving toward accepting a global anti-corruption standard. The questions going forward thus become what the standard should be and how, and whether, it should be enforced.

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Joseph Thaikootathil

Opinion

Highlighting Unaddressed International Concerns Over the FCPA

Joseph Thaikootathil, New Delhi, India

While being called upon to write on corruption in the light of the FCPA, the US Act designed to curb business bribery in international deals and to book its agents based on foreign soil, an amusing anecdote caught my imagination. Some decades back, India's then defence minister, late Mr. Bansi Lal, was reportedly visiting a defence establishment. When introduced to some table-drawings of technologies to be shaped into arsenal for India's defence forces, the newly sworn in minister countered: "I do not understand the mumbo jumbo of these drawings. I want to know what you have for me to touch, feel and be proud about India's self-reliance in military-defence." Decades after, perhaps, I am where the Honorable minister was with some plain speaking here. I do not understand the 'mumbo jumbo' of the FCPA or US corruption laws, if I do not have a feel of for whom and what defines what nations call corruption and bribery. I wonder if the world has yet evolved a consensus about definition of corruption by bribery.

Without nations agreeing upon what corruption and bribery mean to each, how does the FCPA cater to the demands of both categories of its consumers whose claims blend in every prosecution under the FCPA?

None doubts that corruption and bribery are global ailments, which is why it is the single largest obstacle to human development through international cooperation. But what indeed is corruption by bribery is pivotal to determination of who bribed or who took bribes? Bribery is a species of the genus corruption.

National laws define corruption the way the proverbial 10 blind men who reported back how they experienced an elephant. Being too large to have its feel at one go, the 10 blind men touched the elephant where each could. Each one had a unique experience and definition of the elephant they touched and felt. They compared it to a large fan, pipe, pillar and an iron rod *etc.,* after feeling its ear, trunk, legs and tusk. Perhaps the world in general and the FCPA in particular stays where the 10 blind stood *vis-a-vis* corruption. The FCPA does not appear to be claiming a better vision than the 10 blind men had. Indeed the FCPA appears to have merely grazed the tip of the iceberg of the definition of corruption. May I say it has touched the teddy bear's tail or its anger over bribery appears to be blowing no stronger than a 'storm in a tea cup' without its grasp of what indeed constitutes corruption by bribery with or without extraterritorial overtones.

The nations asked to contract under the FCPA regime ought to know what the US is requiring of the international community through the FCPA. Is it a technology or a product? If it is a product, that follows with patent rights of the producer which binds patentee not to mess with it. The buyers of the product cannot modify it to help their needs or address their concerns. If it is technology, the buyers retain rights to update it at their ends and sell it too to its national and international consumers including its original seller. Under the FCPA, its consumers are both native and foreign. Without nations agreeing upon what corruption and bribery mean to each, how does the FCPA cater to the demands of both categories of its consumers whose claims blend in every prosecution under the FCPA? That forces a process of bilateral or multilateral consultation and exchange as integral to its adoption by nations other than US, or even including US.

The FCPA in its current form is a product which not only excludes foreign concerns, but leaves it open to US judicial interpretation of corruption by bribery which has few parallels in Asian democracies. For instance, had Mitt Romney won the Presidency,

the FCPA alongside its definition would perhaps undergo change, to include 'Chinese currency manipulation.' It is all a question of how words are traded with judicial, legal and juristic back up. I believe that the US should replace extraterritorial application of the FCPA with its extraterritorial integration of what corruption and bribery means to major democracies who trade with US. That calls for finding middle paths between what is bribery to US and what it is to other emerging economies. The problem could be that hunt for middle-paths could end up in "muddle-paths." For instance, US sensitivity against corruption and bribery in bilateral business or zero tolerance of it in Denmark or New Zealand creates no middle ground with India where corruption is ingrained, dissolved and even judicially promoted or suffered.

By proposed extraterritorial application across contracting nations who adopt it the FCPA tries to sell to foreign national galleries the US's own home-woven concept of corruption by bribery as a universal concept. Its vision for its extraterritorial implementation anticipates that corruption is not a subject for nations other than the US. Little or nil has been done to formulate international consensus to force its international character and definition for its international acceptability. This is an area where international lawyers have a role and international academies have contributions to make as centres of evolution of international laws in targeted areas of international business interest. The domain of corruption militates against the rule of law which is the backbone of international trade. Hence for the US to present the FCPA as final rather than as a catalyst for international consultations as a prelude to its acceptance as law by other nations is a good job half-done.

I believe the FCPA is an important catalyst to force ethics in international contracts. But ethical boundaries are home-woven. National laws follow national ethics. Corruption is an issue in nations where law rules, and not merely reigns. In south east Asian democracies, excluding Singapore, corruption has seen watersheds while law merely reigns.

So long as democracies are at varying transitional stages of ensuring personal freedom for every individual, states' means to achieve that goal are never uniform but are unique and dictated by limitations of immature democracies. the FCPA forces a sense of morality to exercise of that personal freedom in international trade and exchange, which is welcome. But, nothing less than an international awakening can usher in similar spirit in Asia which houses fast developing economies like India and China. No other force than international bar can force that awakening. They should form pressure blocks to force it, because, ethical problems are every lawyer's daily professional hurdle in and out of the courts. International lawyers can define what corruption and bribery means, which, till date, stand defined by those of the ilk of 10 blind men spoken about above.

> *[E]thical boundaries are home-woven. National laws follow national ethics. Corruption is an issue in nations where law rules, and not merely reigns.*

In the absence such universally-accepted definition, courts the world over will play mice to gnaw at just rights of the victims of corruption and bribery. International lawyers and international academies enjoy vision and prowess to force their acceptable definitions in the light of reason which taints or prejudices none. Lawyers can press these definitions down the throat of their judiciaries which are their routes to reaching the masses with it. That takes public interest, initiative, sacrifices, and if the worst falls, the readiness to fire in the air and relax. For the lawyers to take meaningful initiative in that direction, free trading in legal practice is precondition. If national bars guard their professional fortresses as cats guard their territories, they will never strike gold in that endeavour. In my view there is little for nations or their lawyers to lose or courts to guard against by closing justice domain to international bar practice on reciprocal basis.

Until the day when courts become free-trade zones for qualified, talented and the sacrificial warriors in legal practice drawn from contracting nations under the FCPA, the evils the FCPA seeks to redress will stay waylaid by myriad vested interests. That will force the FCPA system to stay doomed as sort of loudspeaker blowing hot and cold in busy streets with none to lend ears to.

Joseph Thaikoottathil may be reached at thaikootathilj@yahoo.in

The 2013 Symposium – Improving a Corporation's Bottom Line

On June 17, in-house and outside counsel will convene a two-day discussion on "How In-House and Outside Counsel Can Add Value to the Corporate Bottom Line." Chaired by Taiwan Semiconductor General Counsel Richard Thurston, the 2013 Symposium will include panel discussions on:

Richard Thurston

- Using technologies to lower in-house costs
- Ten ways in-house counsel can add value to the corporate bottom line – and how outside counsel can help
- Preparing and managing litigation and dispute resolution costs before the problem arises
- When and how to outsource
- Managing outside counsel fees and costs

Conference attendees will include participants in the 2013 Academy of American and International Law, and they will present a panel on "Improved In-House Productivity and Efficiencies in Our Home Jurisdictions."

Please plan to join collegues from more than 25 countries for this timely and practical program.

Worldwide Reunion Celebrates Academy's 50th Birthday

In the year 2013, the Academy of American and International Law reaches a significant milestone – its 50th birthday! Alumni are cordially invited to join colleagues from around the world for this great event.

The schedule:

Sunday, June 16

The festivities will begin with an evening reception, where old friendships will be renewed and new ones made.

Monday–Tuesday, June 17-18

The annual Symposium on Global Investments

Tuesday evening

A dinner/party celebrating the Academy's 50th birthday.

Wednesday, June 19

Academy reunion activities, concluding with a joint dinner with our sister institute, the Institute for Transnational Arbitration. This year marks both the 50th Academy and the 25th ITA Workshop.

Thursday, June 20

If you are interested, you are invited to attend the Transnational Arbitration Workshop.

Please plan to join us next June. And please contact Steve Singleton if you think you might come to the Reunion.

Southwestern Institute for International and Comparative Law

The Center for American and International Law

50th Annual Academy of American and International Law

We are now taking applications for the 50th Academy. Are you interested? Do you know someone who is?

Go to our home page for the Academy of American and International Law. You'll find the current Academy brochure as well as an online application.

Enrollment is going on right now.

Go to the Academy Home Page

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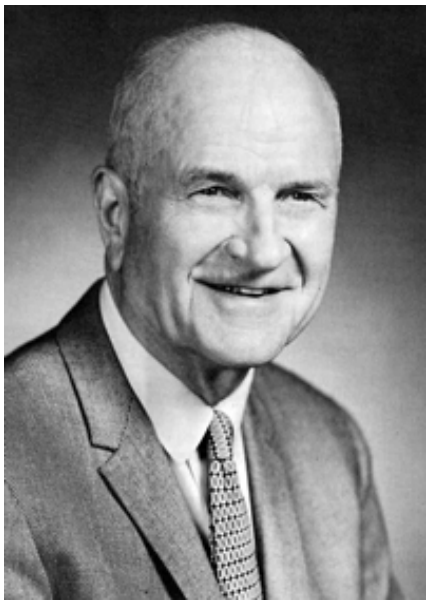
Nominations Sought for Storey Award



Robert G. Storey, Sr.
Dean, SMU School of Law
President, Southwestern Legal Foundation (1947-1972)

The Robert G. Storey International Award for Leadership was established by The Center for American and International Law to pay tribute to our founder. The Storey Award is presented to a past participant in the Academy of American and International Law who exhibits the qualities of leadership and integrity embodied in Dean Storey.

Previous recipients include:

- 1990 – **Hon. Marcelo B. Fernan**, then Chief Justice of the Philippines (and later President of the Philippine Senate)
- 1991 – **Hon. Mochtar Kusuma-Atmadja**, a former Foreign Minister and Minister of Justice of Indonesia
- 1992 – **Hon. Antonio Brancaccio**, Chief Justice of Italy's Supreme Court of Cassation
- 1993 – **Hon. Sergio Abreu**, Minister of Foreign Affairs of Uruguay
- 1995 – **Hon. Rene Blattmann**, Minister of Justice of Bolivia
- 1996 – **Hon. Raul I. Goco**, Solicitor General of the Philippines and former President of LAWASIA
- 1997 – **Hon. Antonio Cassese** of Italy, President, United Nations International Criminal Tribunal for the Former Yugoslavia
- 1998 – **Hon. Didier Opertti**, Minister of Foreign Affairs of Uruguay (and later the President of the U.N. General Assembly)
- 2001 – **Hon. Kunio Hamada**, Justice of the Supreme Court of Japan and Founding President of the Inter-Pacific Bar Association
- 2003 – **Hon. Santi Thakral**, immediate past President of the Supreme Court of Thailand
- 2004 – **Beatriz Merino**, former Prime Minister of Peru
- 2008 – **Jose Luis de Salles Freire**, founding partner, Tozzini Freire Advogados of Brazil
- 2010 – **Bernard Hanotiau**, a world-renowned arbitrator and a founding member of the Belgium law firm of Hanotiau and van den Berg

To suggest a nominee for the 2013 Storey Award, please contact:

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The Academy of American and International Law - A Participant's Perspective

Elena Kozlova, Legal Counsel for BP – Russia Region

I practice law in Russia, which is a civil law jurisdiction. While I provide legal support primarily on Russian law matters, I have been increasingly involved in international legal issues arising under the laws of common law jurisdictions like England, the British Virgin Islands, and Cyprus. I have also been collaborating more and more with my US and UK colleagues.

The Academy featured over 150 hours of academic content delivered in the form of lectures, collaborative workshops, a topical symposium with panel discussions, a conference and various educational visits. We played the role of jurors in a mock trial, we engaged in mock cross-border negotiations, and we became part of a mock law firm, where we were partnered with colleagues from other countries and tackled a real-life compliance problem. For the law firm exercise, the students worked in small teams with each team offered a case to review and asked to draft a law memorandum for the potential client. This exercise was very useful and created a good opportunity to learn to listen carefully and to consider different perspectives, as well as to recognize and acknowledge the contribution of each team member.

Ms. Kozlova receiving her Academy certificate from Mike Marchand, president of The Center

A significant part of the Academy program was focused on understanding issues arising under the US Foreign Corrupt Practices Act (FCPA). During the Academy classes, the students participated in exercises to highlight red flags associated with compliance, and were asked to formulate actions needed to ensure that the executives and staff are aware of the exposures with respect to compliance.

The Academy succeeded in creating an inclusive and diverse forum where everyone is treated with respect and dignity.

In addition to the legal training, the Academy provided a chance to learn more about the U.S. legal environment. The program included visits to prominent US law firms to help understand the internal structure and discipline of an American law firm. And we attended a federal court trial in the U.S. District Court for the Northern District of Texas.

We also had an opportunity to participate in or listen to discussions with senior legal executives coming from transnational companies, including the General Counsel of Exxon and a former Associate General Counsel of Ford. This was a fantastic opportunity which generally does not exist in universities in Russia. The legal training in the Academy was particularly valuable for me. It will help me in my work, broadening my horizons and making me better able to provide advice on common law matters. It also opened the door to valuable collaboration with my common law colleagues, many of whom are now good friends.

SWIICL Members and Academy Alumni meet in Dublin


Richard Breen

Members of the SWIICL Advisory Board and Academy alumni were treated to a reception in Dublin, Ireland hosted by the firm of William Fry and Academy alumnus Richard Breen. The reception was held in the William Fry offices during the Dublin meeting of the International Bar Association.

The distinguished guest list included Advisory Board Chair Francesco Gianni of Italy. According to Mr. Gianni, "Every person I spoke to said good words about the Academy and saves good memories of the time in Dallas. There was a consensus that we should try to organize more of these meetings at the next IBA conferences."

And so we will.

26th Annual European Alumni Reunion

On October 4-7, alumni of the Academy of American and International Law converged on Skopje, the capital of the Republic of Macedonia, at the invitation of Dobrica Arsov of the class of 1997. The purpose of the gathering was to celebrate the 26th Reunion of the European Alumni of the Academy.

In all, 29 people attended the Reunion, coming from Albania, Belgium, Bolivia, Bulgaria, the Czech Republic, Germany, Italy, Macedonia, The Netherlands, Romania, Slovenia, Turkey, and the United States. The program included educational sessions on "The Innovations of Ohrid Framework Agreement from the aspect of International Public Law".and "Business Legal Framework and Investment possibilities in Macedonia." There were also tours of the city and the countryside and a great opportunity to renew friendships – and to make new ones. Here is a photo gallery of the activities.

Academy Dean Mark Smith attended and invited all the alumni to travel to Dallas in June of 2013 to celebrate the 50th anniversary of the Academy of American and International Law.

The European alumni also made plans for a 27th annual Reunion, which will be held in Rome in the fall of 2013. Zdenka Michalichova and Massimo Zizzari agreed to chair the Rome reunion, and SWIICL Chair Franco Gianni will help welcome the group to his home town. Please watch for e-mail announcements and consult the website of the Southwestern Institute for International and Comparative Law's Academy page for further information.

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Latin American Alumni Meet in Santiago

In April, the Latin American alumni of the Academy held a reunion in Santiago, Chile. Featuring a content-rich program, the Reunion attracted 33 alumni from Argentina, Brazil, Chile, Ecuador, Uruguay, and the USA, and even Germany, Italy, and Spain!

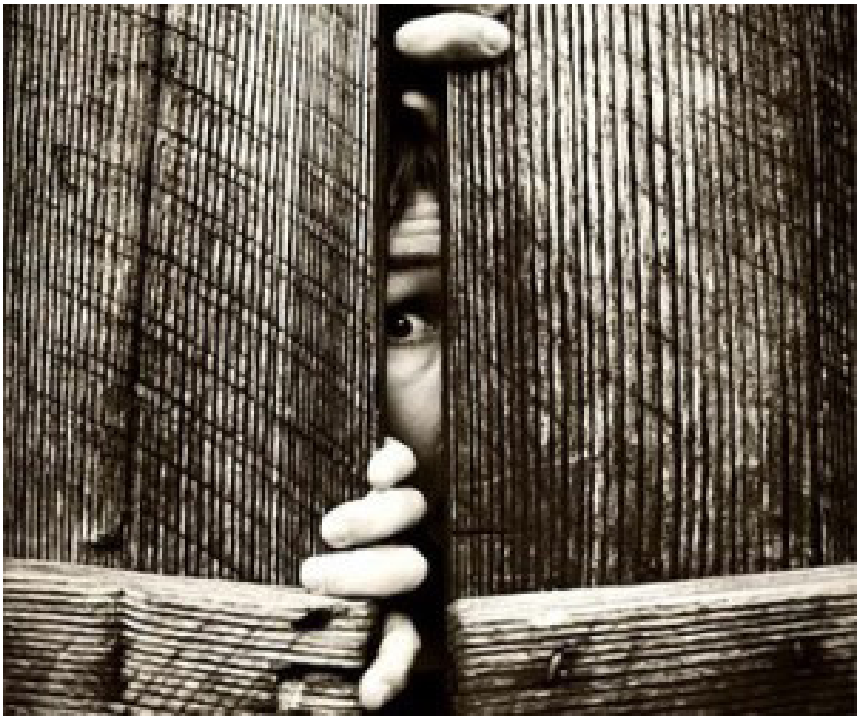
Co-chaired by Alex Maculus of Argentina and Marcelo Sanfeliu of Chile, the program included discussions on renewable energy, compliance and anti-corruption enforcement. SWIICL Advisory Board Vice Chair Jorge Carey hosted the group for breakfast in his law firm and gave the alumni a first-hand look at the Chilean political landscape.


Alex Maculus


Marcelo Sanfeliu

Here is the official program.

Are You an Academy Alumnus? Update Your Contact Information!



No need to hide. We can help you to keep in touch with all of your Academy friends.

Just fill out our quick and easy **Alumni Update Form**.