# 2A.III Case story: The corporate ethics framework – A road to fighting corruption

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*Right from the formation of the new Total Group, senior management paid specific attention to fighting corruption by devising a dedicated anti-corruption process with five main thrusts: identify the risks we are dealing with; make our position on corruption clear; monitor employees' concerns and provide support where needed; verify compliance with rules and principles; and evaluate and improve performance. Emphasis was placed on integrating the standard anti-corruption processes, comprising legal, audit and control procedures, with a clearly defined approach to ethics in general based on a Code of Ethics overseen by an Ethics Committee. This provided a solid framework for reinforcing and extending action to prevent and/or identify and rectify instances of corruption.*

*Five years down the track, it appears that basing anti-corruption measures on a broader approach to ethics has proved to be the right direction. This approach has allowed us to make significant progress in implementing and improving our processes. We are still moving forward, confident that the way ahead is via close integration of ethics, legal and audit processes.*

## Our company

Total is an international energy group. Our origins are French, but we are active in more than 130 countries on all five continents (in terms of share capital, Total is the largest company listed on the Paris Bourse and indeed anywhere in the Euro zone). The Group has more than 110,000 employees working in four main business segments: Exploration and Production (production of 2.6 mb/d and our E&P reserves are 11 billion); Gas and Power (a strong position in LNG and a growing involvement in renewables—solar and wind power); Refining and Marketing (output of 2.5 mb/d from 28 refineries and sales of 3.8 mb/d via 17,000 service stations); and Chemicals (mainly petrochemicals and specialty products).

Total can be considered a young company, as the Group in its present form was born of two successive mergers five years ago, first between Total and the Belgian company PetroFina, and then with the French company Elf Aquitaine.

## Total's business context

The oil industry is a capital-intensive sector. Today's oil companies are called on to invest very large sums of money in infrastructures (the industry's capital investment in exploration and production for 2003 came to US$170 billion). A single project today can last for years and run to billions of dollars, with much of the work being contracted out.

New business opportunities are restricted by the fact that many of the potential production zones have now been identified. An increasing number of these opportunities are in countries that have variable records as regards financial transparency.

Access to business opportunities is limited even more by the fact that several major producing countries are still virtually closed to international companies. This increases the competition for new business. International

*Chairman of Total Group's Ethics Committee companies are also competing with a growing number of new players, most of which are not bound by the business rules laid down by the OECD and/or financial markets. One last aspect should also be kept in mind: International companies account for only a modest 15 per cent of world production (national companies have by far the lion's share), while they have greater media exposure, along with the image risk that this entails.

## A dedicated anti-corruption policy

Given this business context (large sums of money at stake, tough market competition, weak governance in some host countries), and in view of the increasing civil-society scrutiny of high-profile businesses such as international oil companies, Total management decided right from the formation of the new Group in 2000 that an anti-corruption process was a very high priority.

Implementing an effective anti-corruption policy within an international company engaged in multiple business segments and working in numerous countries with different legislative frameworks, cultures and customs poses a number of challenges regarding interpretation, coordination and local implementation. Total needed more than internal legal and audit structures and a general ethics policy/behaviour code. We needed a clearly structured and focused anti-corruption policy to complement them, a process based on Group-wide core principles but with an associated organization to adapt them to each local context.

Starting in 2000, following the double merger of Total, PetroFina and Elf Aquitaine to form the new Total Group, we set about devising and implementing a dedicated process with the following five objectives:

- Identify the risks we are dealing with.
- Make our position on corruption clear (to employees, partners and customers, civil society, financial markets).
- Monitor employees' concerns and provide support where needed.
- Verify compliance with applicable rules and principles and act on non-compliance.
- Evaluate and improve the process.

It was therefore decided to incorporate this dynamic process as the structure of the Group's approach to ethics (covering financial procedures, human rights, employment conditions, etc.), capitalising on Total's recent Code of Conduct and on the coordination potential of its new Ethics Committee. In addition to providing a framework for reinforcing and extending the anti-corruption process, this solution had another value: it would be easier to convince employees to maintain a strong anti-corruption stance if they felt their company was morally credible in all other areas too.

Official support for internationally acknowledged principles or standards is a cornerstone of the process. Reference to the ILO and OECD standards and also to the principles of the Universal Declaration of Human Rights and the United Nations Global Compact (which Total joined in February 2002) provides added internal credibility to the policy where all employees are informed that the company's reputation depends on our ability to fulfil our commitments.

## Identifying corruption risks

Risk identification was the obvious starting point. Three main categories of risks were outlined.

The first type of corruption risks relates to securing new business. The risk here increases as the market becomes more and more competitive. Special vigilance is required where intermediaries or agents are involved in initiating and/or concluding deals. A solid framework for action here is already provided by the OECD and the United Nations Anti-bribery Conventions. French legislation is particularly advanced, as it has incorporated both the OECD and United Nations requirements in 1999 and 2005 respectively. In 2003, France also underwent a successful examination by the OECD commission (CIME) on the way domestic laws complied with OECD recommen-

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dations. As a major national industrial company, Total actively participated in this review.

The second type of corruption risk occurs when awarding contracts. Business outsourced by oil companies ranges from prime contracts on major international projects to quite modest service or equipment supply contracts with local companies in host countries. Particular care must be taken to avoid irregularities in the tendering process—which is a “classic” occasion for bribery—and to ensure that Total is not tainted by irregular or illegal behaviour on the part of our suppliers.

The third type of corruption risk involves product marketing, with the corollary risk of distortion (kickbacks, illicit pricing agreements) of the rules of free competition. This is an area where the regulatory framework has been strengthened via OECD standards, EU regulations and French legislation. Risk management here will involve close cooperation between marketing departments (including their training teams) and company legal officers.

As an extractive industry, we also need to be aware of corruption induced by the lack of transparency in the use of extractive revenues by some countries. While we refuse to interfere in the political process of host countries and we cannot disclose sums paid under confidential contracts, we naturally support any action encouraging greater transparency in the use of such revenues. We are therefore an active supporter of the Extractive Industries Transparency Initiative (EITI), which aims to bring all major players (producing states, all extractive companies, NGOs, etc.) together around a table along with independent mediators (such as the World Bank or the IMF), to work towards greater transparency on all sides. This approach is now bearing fruit in countries such as Azerbaijan, Nigeria, Congo and Gabon, to mention only a few of the countries where we work.

A successful anti-corruption process hinges on vigilance, and Total is constantly on the watch for potential new risks. All new projects and agreements are examined by Risk Committees at both corporate and business segment level. In addition to assessing the technical, commercial and financial risks, these committees are required to report less ”traditional” factors, including potential corruption risk. The Corporate Ethics team also works closely with local subsidiaries to help them identify specific local risks.

## Making our position clear

Right from the start, Total decided to take a forceful stand on corruption and to make that stand very clear to employees, partners and the general public by publishing a Code of Conduct and setting up an Ethics Committee to coordinate communication and compliance.

### Leadership commitment

The Group’s Chairman and CEO took care to leave no ambiguity or margin for interpretation here and to clearly place individual and collective responsibility on each employee. The Code, drafted at his initiative, thus provided a clear message from the top, stating: “Total rejects bribery and corruption in all forms, whether public or private, active or passive. (...) In particular, Total will not resort to bribery or corruption in order to obtain or retain business or other improper advantage in the conduct of international business, as outlined in the OECD Convention on Combating Bribery of Foreign Public Officials.”

### Code of Conduct

As regards the other main corruption risk (the tendering process), the Code is equally explicit: “Total is careful to respect each party’s interest, with transparent and fairly negotiated contract terms.” It goes on to specify: “Employee relations with customers and suppliers should be fair and honest, in strict compliance with contractual undertakings and applicable laws and regulations. The giving or receiving of gifts or entertainment should remain within acceptable limits, having regard to what is customary and the provisions of anti-corruption legislation....Under no circumstances may employees solicit gifts or invitations.”

The Code of Conduct, introduced in 2000, less than six months after the merger, is the Group’s primary reference document here, asserting the fundamental values that underpin all Total's activities and specifying the corresponding operating principles and commitments. Over the five years since the Code was first published, 382,000 copies have been issued internally, not counting copies downloaded from Intranet and Internet sites. The document is now available in 12 languages, with the Chinese, Arabic, Russian, Iranian and Khmer versions being printed in dual-language format alongside English for improved implementation.

The Group's business segments, and even individual subsidiaries, can have their own codes of behaviour. Based on Group principles, they can contain more specific or detailed provisions if required by the local or operational context. These codes are always drafted in consultation with the Ethics Committee. Examples here are the Financial Ethics Code and the Contracts and Purchasing or Free Competition Codes implemented by Exploration and Production, Refining and Marketing and Chemicals. These codes contain more detailed descriptions of tendering procedures, conflicts of interest and the levels of gifts and entertainment tolerated.

**Ethics Committee**

Ensuring that the Code comes alive is the responsibility of the other pillar of Total's approach to ethics: the Ethics Committee. This Committee, set up in 2001, consists of five members, including a representative from each of Total's business segments. The Ethics Committee is charged with making all employees fully aware of the values and principles enshrined in the Code of Conduct; sensitizing Group employees via specific ethics seminars and workshops; providing advice and support to any Group employee facing an ethical dilemma; updating the Code and related procedures; and making appropriate recommendations to Group management regarding ethical matters. The Committee reports directly to Total's Chairman and CEO, which adds to its effectiveness by making it independent of Total's other organizations.

In order to give a concrete dimension to the principles behind the Code of Conduct and provide interactive support, Total has initiated a programme of Ethics awareness seminars, designed to help managers understand just what the Code of Conduct means in terms of their everyday activities.

During these seminars, bribery and corruption concerns are highlighted, often during dedicated workshops, where role-playing puts participants in situations that force them to take a stand, come up with solutions and justify their position. We do not attempt to provide participants with ready-made answers but encourage them to ask questions, to recognize the problems they could face, and to remain vigilant.

Over the past two years, some 30 ethics seminars, lasting a day and a half, have been organized in about 20 countries (more than a third non-OECD countries) and involving more than 1,800 operational managers. These seminars now feature in the regular corporate training catalogue.

**Suppliers and subsidiaries**

In addition, the Group's position on corruption is reiterated at numerous other Group seminars organized along geographical or business-segment lines. We also make our position very clear to partners and suppliers. Indeed, the Code of Conduct explicitly states: "We expect our suppliers to adhere to principles equivalent to those in our Code of Conduct." Suppliers are provided with copies of the Code. The Ethics Committee is currently working on a mechanism to ensure this.

## Monitoring employees' concerns and providing support

Employees who face any dilemma regarding corruption or who are unsure of how to handle a particular situation are encouraged by the Code of Conduct to seek help from their immediate superior. Ethics seminars provide supervisors with advice on how to support subordinates in resolving their dilemma.

In addition, Group employees are allowed, if necessary, to bypass the usual management chain and refer

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issues directly to the Ethics Committee, to seek advice or present a problem, with a guarantee of complete confidentiality and without fear of reprisal. This process was chosen in preference to an anonymous “hotline,” which would limit the interactive support the Committee member can provide. Naturally, employees usually turn to the member of the Ethics Committee representing their own business segment.

This referral procedure is formally encouraged by our Chairman and CEO and clearly described in our Code of Conduct. It is also outlined on our Intranet and during ethics seminars.

## Ensuring compliance

Compliance with the Code of Conduct is encouraged by the fact that there is synergy between the overall approach to ethics and internal operating rules and procedures, particularly those stemming from the legal departments. These rules include the addition of anti-corruption clauses in any contracts with petroleum partners or suppliers or with agents or intermediaries. Our internal control framework was recently revised in accordance with COSO (Committee of Sponsoring Organizations) recommendations. All these mechanisms can help to prevent corruptive practices.

Employees can naturally report any perceived breaches of the Code of Conduct using the procedure set in place for monitoring their concerns and providing support, as outlined above. However, despite a moral willingness to use this procedure, we often notice cultural resistance stemming from the desire not to be seen as informing on colleagues.

This reporting procedure, set up in 2000, was recently opened to individuals outside the company in line with the Sarbanes-Oxley rules on alert procedures. We had to pay specific attention to reconciling the US Sarbanes-Oxley rules with French legislation on denunciation.

In 2002, Total launched a programme of external “ethical audits” of its subsidiaries across the world. This original approach, which allows the Group to assess implementation of the Code by its subsidiaries, also facilitates identification of best practices and potential non-compliance. The independent British accreditation company GoodCorporation has been commissioned to assess more than 30 subsidiaries (from all segments) by examining 84 key processes, of which about 20 are directly related to corruption. Any irregularities are reported to both the Ethics Committee and the unit concerned, and action is taken to rectify them. Relevant best practices are collected and shared with other Group units using a dedicated Web database.

The process includes a follow-up and monitoring of the corrective measures taken. A special guide is prepared on a case-by-case basis to make it easier for the subsidiary or worksite to draft an improvement plan. GoodCorporation reviews and signs off on each remedial action plan. Some subsidiaries can even be reassessed to review their progress.

## Evaluating and improving the process

As our anti-corruption process was implemented in its present form rather recently, we are very aware that we are still in a learning phase and must give high priority to evaluation and improvement.

We regard it as very important to share experience with external stakeholders. Platforms of exchange provided by professional associations such as the IPIECA, and international initiatives such as the United Nations Global Compact Working Group on the 10th Principle are key elements. It is also important to compare our approach to the ones offered by organizations such as Transparency International, the International Chamber of Commerce or the World Economic Forum.

Internally, we monitor awareness, survey employee needs and analyse referral response. Despite a concerted internal communication campaign, a confidential survey (45,000 employees, managers and subordinates, in 100 countries) showed that 25–30 per cent of respondents felt they had not been sufficiently well informed about ethics policies.

## "Conflicts of interest are frequently a starting point for corruption."

Subsequently, we updated the Code of Conduct with narrower focus and we significantly increased the number of copies of all codes being distributed. In 2005, we put on-line a thoroughly overhauled Ethics internal website. This Intranet is accessible by all employees and covers a broad range of issues. It provides in-depth details on ethics-related areas of importance (e.g. anti-corruption, free competition, accepting gifts, conflicts of interest, etc.) with appropriate web-links. The site also explains the stance taken by the Group and the corresponding implementation measures available (including best practices). And lastly, it contains a summary of the relevant legal frameworks and requirements. The external Corporate website also provides information on internal actions implemented at business-segment level. The launch of this new site is being accompanied by campaigns to familiarize employees with Intranet structure and search techniques.

As regards response to the Ethics Committee referral process, the number of cases referred to the Committee (ethical questions in general, including corruption) is increasing steadily (36 in 2002, 54 in 2004,) but still considered low given the size and nature of our company, especially since some referrals concern employee-employer conflicts interpreted as involving ethics or even corruption (i.e. personal abuse of power). Furthermore, the Committee is unable to know how many referrals were made to supervisors instead of to the Committee itself, and it does not plan to collect such information.

In addition, we have to consider that reporting ethical concerns remains essentially a matter of personal judgement. We can encourage this but certainly not make it compulsory. In many regions of the world, the legal and/or cultural context may weaken employees' readiness to report.

We are now using the website and seminars to boost awareness and to encourage greater use of the referral process. We are also using the new Sarbanes-Oxley inspired Web-based financial malpractice alert procedure introduced in 2005 to encourage referral of other ethical and/or corruption issues. And since early 2005, employees have been able to communicate directly with the Ethics Committee via a dedicated e-mailbox.

Ethics seminar feedback has been useful in improving our process too. For example, one survey suggested that we should be more precise in explaining exactly what "conflict of interest" involves. This highlighted some interesting differences in interpretation of the notion, even by cultures within the EU (e.g., France and Britain). This is apparently one area where the Group principle "Total expects its employees to... act with loyalty and integrity towards the Group by avoiding conflicts of interest" needed to be tailored to local contexts, especially because conflicts of interest are frequently a starting point for corruption.

Other action being taken as a result of seminar and survey feedbacks includes:

- More systematic Intranet-sharing of Best Practices (more than 50 so far) identified by the external Ethics Assessments;
- More specific anti-corruption workshops rather than general ethics seminars;
- Workshops run by legal experts to train middle managers in identifying the risks associated with their decisions (extensive decision-making power + strong pressure to get results = high corruption risk);
- Greater synergy with subsidiaries to identify local ethical risks through on-the-spot assessments;
- Further involvement in supply-chain integrity management.

"For an international company, implementing an effective anti-corruption policy also means translating a collective stance into individual behaviour."

The latest improvement to this global process is a self-assessment procedure designed in collaboration with GoodCorporation to help individual units determine for themselves how well they comply with the Code of Conduct. Three pilot sites are currently testing the methodology and its associated package before full implementation. This approach will not only broaden our ethics auditing system but will encourage local teams to think for themselves about where they stand and how their practices could be improved.

## Conclusion

For an international company active in multiple business segments and dealing with numerous cultures and legal frameworks, implementing an effective anti-corruption policy involves finding a satisfactory balance between a strictly defined central code and its application in different local contexts. It also means translating a collective stance into individual behaviour.

During the past five years, Total has found that a forceful and structured approach to ethics in general, based on an "awareness-monitoring-support-verification" structure, was invaluable in helping us to frame, consolidate and extend our anti-corruption measures while also providing employees with a clear reference code on which to model behaviour. By giving our anti-corruption process a solid ethics nexus, we were able to bring declarations of principle down to the individual human level, to translate words into action and give Total's policy the flexibility it needed to have a good chance of success.

We know we have not reached the end of the path. We still have a lot to learn and achieve. Having identified some of the possible improvements of our anti-corruption process, we are now working on them, with the emphasis on reinforcing synergy with the Group's legal and financial audit functions. We are convinced this is the way forward.