

3RD GOPAC GLOBAL CONFERENCE: KUWAIT 2008

PLENARY SESSION 2: TUESDAY NOVEMBER 18, 2008 (9:00 AM – 10:00 AM)

LOCATION: CRYSTAL BALLROOM

CHAIR: DR. MAMDOUH AL ABADI, BOARD MEMBER ARPAC

PANELISTS: MR. RAINER GREIGER (MENA-OECD INVESTMENT PROGRAMME)

THE ROLE OF PARLIAMENTARIANS IN IMPROVING THE INVESTMENT CLIMATE: THE IMPORTANCE OF UNCAC AND ANTICORRUPTION PROGRAMMES

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INTRODUCTION

YOUR EXCELLENCIES, MEMBERS OF PARLIAMENT, THE DIPLOMATIC CORPS,
DISTINGUISHED GUESTS, LADIES AND GENTLEMEN...

I'M HONORED TO BE WITH YOU AT THIS CONFERENCE AS YOU DELIBERATE
AND DECIDE ON COURSES OF ACTION WHICH HAVE THE ABILITY TO GREATLY
INFLUENCE DIRECT INVESTMENT IN YOUR COUNTRIES, AND THEREFORE
ECONOMIC GROWTH, STABILITY, STANDARDS OF LIVING AND THE LEGACIES
THAT YOU PASS ON TO FUTURE GENERATIONS.

**MY FRIENDS, THE WORLD WE LIVE IN HAS CHANGED. AND IT HAS CHANGED
ABRUPTLY. AFTER SEVERAL YEARS OF STABLE AND FAVORABLE ECONOMIC
CONDITIONS THE CURRENT GLOBAL FINANCIAL CRISIS HAS SHAKEN WORLD
FINANCIAL MARKETS, UNDERMINED CONSUMER AND INVESTOR CONFIDENCE,
AND IS THREATENING ECONOMIES AROUND THE GLOBE.**

SINCE THE CREDIT CRISIS BEGAN IN MID-2007, BANKS WORLDWIDE HAVE
INCURRED MORE THAN \$500 BILLION IN LOSSES AND ASSET WRITEDOWNS. IN
JUST THE PAST TWO MONTHS, THE CRISIS LED TO THE BANKRUPTCY,
TAKEOVER, OR GOVERNMENT BAILOUT OF SEVERAL ICONIC FINANCIAL
INSTITUTIONS IN MANY OF OUR COUNTRIES.

AS DIRE AS THIS CURRENTLY SEEMS, THE CRISIS WILL ABATE. CAPITAL
MARKETS AND BUSINESS ARE RESILIENT AND CREATIVE, AND WITH THE
COORDINATED ACTION FROM WORLDWIDE GOVERNMENTS, MOST RECENTLY
THE G20 SUMMIT, A FOUNDATION WILL BE ESTABLISHED ON WHICH WE WILL
BUILD AND MOVE FORWARD.

AFTER GOING THROUGH A PERIOD OF EXTREME RISK MANAGEMENT, COMPANIES WILL LOOK FOR NEW OR PERHAPS PREVIOUSLY REJECTED BUSINESS OPPORTUNITIES. THEY WILL HAVE ACCESS TO NEWLY REJUVENATED CREDIT MARKETS. THEY WILL TAKE ADVANTAGE OF WEAKENED COMPETITORS AND REALIZE STRATEGIC ADVANTAGES. THEY WILL MAKE SIGNIFICANT, VERY SIGNIFICANT, INVESTMENTS IN LOCATIONS THEY BELIEVE WILL HAVE FAVORABLE BUSINESS CONDITIONS, NOW AND IN THE FUTURE. THESE COMPANIES WILL BE THE CORPORATE LEADERS OF THE 21ST CENTURY. THESE COMPANIES, THE NEW GLOBAL JUGGERNAUTS, WANT TO CAPITALIZE ON MARKET OPPORTUNITIES TO GAIN AND SUSTAIN COMPETITIVE ADVANTAGE OVER TIME AND THEY WANT A LEVEL PLAYING FIELD ON WHICH TO CONDUCT BUSINESS. THEY WANT BUSINESS DECISIONS AND CONTRACT AWARDS TO BE BASED ON THE FAIR AND ACCURATE MERITS OF BUSINESS PROPOSALS AND ECONOMICS, AND NOT TO BE UNFAIRLY BIASED OR ARBITRARILY DECIDED OR RIGGED DUE TO REAL OR PERCEIVED LEVELS OF CORRUPTION.

THE KEY QUESTION TODAY TO THIS GATHERING IS: HOW DO YOU ATTRACT THESE COMPANIES AND THEIR INVESTMENT TO YOUR COUNTRY?

AMONG OTHER FACTORS, NATIONS NEED TO BUILD OR RESTRUCTURE THEIR COUNTRY-LEVEL ANTICORRUPTION SYSTEMS TO ATTRACT SIGNIFICANT LONG TERM INVESTMENT THAT WILL PROVIDE ECONOMIC GROWTH, LONG LASTING STABILITY AND HIGH STANDARDS OF LIVING.

I PROPOSE TO YOU THAT THIS TIME OF CRISIS CAN BE AN OPPORTUNITY FOR CORPORATIONS AND GOVERNMENTS TO ADDRESS STRUCTURAL ISSUES THAT HAD PREVIOUSLY BEEN TOO DIFFICULT TO CONFRONT. A CRISIS CAN UNITE STAKEHOLDERS TO CONFRONT THE DIFFICULT CHALLENGES NECESSARY TO ENHANCE COMPETITIVENESS INCLUDING UNDERTAKING LARGE RESTRUCTURINGS.

THE GLOBAL FIGHT AGAINST CORRUPTION HAS SIGNIFICANT MOMENTUM. THERE HAVE BEEN YEARS OF HARD WORK BY RESPECTED INSTITUTIONS SUCH AS TRANSPARENCY INTERNATIONAL (MANY OF YOU ARE HERE WITH US TODAY) , THE WORLD ECONOMIC FORUM AND ITS PARTNERSHIP AGAINST CORRUPTION INITIATIVE, AND THE UNITED NATIONS' GLOBAL COMPACT 10TH PRINCIPLE.

GLOBAL ANTI-CORRUPTION ARCHITECTURE HAS BECOME MUCH MORE ROBUST WITH NEW LAWS AND CONVENTIONS GOVERNING GLOBAL POLICY ON CORRUPTION, MOST NOTABLY:

- **THE OECD CONVENTION ON COMBATING BRIBERY OF FOREIGN PUBLIC OFFICIALS IN INTERNATIONAL BUSINESS TRANSACTIONS, 1999, AND**

- **UN CONVENTION AGAINST CORRUPTION (UNCAC), 2005** (AS DISCUSSED BY MR GIOVANNI GALLO AND OTHERS YESTERDAY)

DO BUSINESS LEADERS CARE ABOUT UNCAC? YES, ABSOLUTELY, POSITIVELY, YES. WHY? BECAUSE THEY SEE THE OPPORTUNITY FOR ANTICORRUPTION ADVANCEMENT, STANDARDIZATION AND CONSISTENCY OF ENFORCEMENT AROUND THE GLOBE.

IN CONJUNCTION WITH THE ECONOMIST INTELLIGENCE UNIT, I WROTE A REPORT EARLIER THIS YEAR ENTITLED **CONFRONTING CORRUPTION**. HERE ARE TWO FINDINGS FROM THE REPORT:

1. ALMOST 45% OF SENIOR GLOBAL EXECUTIVES SAY THEY CURRENTLY AVOID CERTAIN MARKETS OR OPPORTUNITIES BECAUSE OF CORRUPTION RISKS.
2. ALMOST 40% SAY THEY HAVE LOST BIDS BECAUSE OF CORRUPT GOVERNMENT OFFICIALS.

THESE ARE COMPANIES WHO, ONCE BITTEN, WILL NOT BE EAGER TO ATTEMPT TO DO BUSINESS IN THAT COUNTRY. POTENTIAL INVESTMENT DOLLARS MAY NEVER RETURN TO THESE COUNTRIES.

THERE HAVE BEEN MANY HIGH PROFILE CORRUPTION SCANDALS RECENTLY, LEADING BUSINESS LEADERS TO SEARCH FOR RISK MITIGATION STRATEGIES THAT INCLUDE GOVERNMENTAL EFFORTS TO IMPLEMENT STRONG ANTI-CORRUPTION LAWS AND POLICIES. **PARLIAMENTARIANS AND GOVERNMENTS ARE THE KEY PLAYERS IN THIS EQUATION. YOU HAVE AN AWESOME RESPONSIBILITY.** THE MORE TRANSPARENT AND EFFECTIVE YOUR COUNTRY'S ANTI-CORRUPTIONS SYSTEMS ARE, THE GREATER THE POSSIBILITY FOR THE NATION TO RECEIVE INCREASED FOREIGN DIRECT INVESTMENT, IMPROVE POLITICAL STABILITY, INCREASE STANDARDS OF LIVING AND STIMULATE DOMESTIC GROWTH.

PARLIAMENTS CAN INFLUENCE AND BEGIN TO CHANGE THE BEHAVIOR OF CORRUPT ACTORS BY IMPLEMENTING A NATIONAL LEVEL ANTICORRUPTION PROGRAM THAT FOCUSES ON KEY ELEMENTS. FOR EXAMPLE:

- INCREASED PUBLIC DISCLOSURE OF GOVERNMENT FINANCIAL INFORMATION
- CREATING MORE TRANSPARENCY IN PROCUREMENT SYSTEMS

HOWEVER, THESE ACHIEVEMENTS TAKE TIME AND POLITICAL WILL.

WHAT SHOULD PARLIAMENTARIANS DO? | RECOMMEND A THREE STEP APPROACH.

STEP I: CONDUCT AN ASSESSMENT OF YOUR COUNTRY'S EXISTING ANTICORRUPTION ARCHITECTURE

GATHER INFORMATION. UNDERSTAND THE DIFFERENT PIECES OF EXISTING ANTICORRUPTION ARCHITECTURE AND THE CURRENT LEGAL, POLITICAL, AND ECONOMIC CLIMATE. INCLUDE AN ANALYSIS OF RELEVANT HISTORIC AND CULTURAL ISSUES. INVOLVE KEY STAKEHOLDERS IN THE PUBLIC SECTOR, I.E., LEADERS OF THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES OF THE GOVERNMENT. INCLUDE YOUR OPPOSITION PARTIES. BUILD TRUST AND AN UNDERSTANDING OF WHY THIS EFFORT IS IMPORTANT. UNDERSTAND HOW EFFECTIVE THE CURRENT NATIONAL ANTICORRUPTION PROGRAM IS.

STEP II: DEVELOP AN ANTICORRUPTION ACTION PLAN

BENCHMARK YOUR COUNTRY'S EXISTING ANTICORRUPTION EFFORTS AGAINST UNCAC AND PERHAPS OTHER INTERNATIONAL STANDARDS LIKE THE OECD CONVENTION AND EITI. YOU CAN THEN DEVELOP A COMPREHENSIVE ACTION PLAN TO CREATE AND STRENGTHEN ANTICORRUPTION POLICIES, PRACTICES, AND CONTROLS.

AN EFFECTIVE ACTION PLAN WILL COVER FIVE CORE AREAS:

- **ANTICORRUPTION BODY:** AN INDEPENDENT ENTITY IS CHARGED WITH THE CREATION OF ANTICORRUPTION POLICIES, PROCEDURES AND CONTROLS. THIS INCLUDES THE IDENTIFICATION OF THE ROLES AND RESPONSIBILITIES FOR LAW ENFORCEMENT, PREVENTION AND EDUCATION TO ENHANCE INTEGRITY AND TRANSPARENCY. THE ULTIMATE GOAL OF THIS INDEPENDENT BODY IS TO ENSURE THE ANTICORRUPTION ARCHITECTURE IS SUSTAINABLE AND CONSTANTLY BEING MONITORED.
- **PUBLIC FINANCIAL DISCLOSURE:** FINANCIAL DISCLOSURE IS A CORE COMPONENT OF ANY PLAN AND IS ESSENTIAL TO AN EFFECTIVE ANTICORRUPTION PROGRAM. IT WILL ENABLE TIGHTER CONTROLS TO BE DEVELOPED AND IMPLEMENTED THAT INCREASE THE EFFICIENCY, EFFECTIVENESS, ACCOUNTABILITY, AND TRANSPARENCY OF ALL LEVELS OF PUBLIC OPERATIONS.

- **PUBLIC PROCUREMENT:** THE POLICIES AND PRACTICES TO ESTABLISH APPROPRIATE SYSTEMS DESIGNED TO ACQUIRE GOODS AND SERVICES, BASED ON THE CRITERIA OF TRANSPARENCY, COMPETITION AND OBJECTIVITY. CHARACTERISTICS OF AN EFFECTIVE PUBLIC PROCUREMENT SYSTEM REFLECT; A: THE PUBLIC DISTRIBUTION OF INFORMATION, B: ESTABLISHMENT OF CONDITIONS FOR OPEN AND PUBLIC PARTICIPATION; C: USE OF OBJECTIVE AND PREDETERMINED CRITERIA FOR PUBLIC PROCUREMENT DECISION

- **LEGISLATIVE REFORM, CRIMINALIZATION, ENFORCEMENT, AND INTERNATIONAL COOPERATION:** COLLECTIVELY, THESE AREAS REFLECT THE NEED TO ALIGN THE REGULATORY AND LEGISLATIVE FRAMEWORKS TO ENHANCE THE GOVERNMENT'S ABILITY TO DETER THE PERPETRATION OF CORRUPT ACTS AND ENFORCE THE LAWS AND REGULATIONS AGAINST DOMESTIC AND FOREIGN PUBLIC BRIBERY; EMBEZZLEMENT OF FUNDS; MONEY-LAUNDERING AND OTHER CORRUPT ACTIVITIES. IMPLEMENTING THIS ANTICORRUPTION FRAMEWORK WILL ENHANCE THE GOVERNMENTS ABILITY TO COOPERATE AND PARTICIPATE IN TRANSNATIONAL INVESTIGATIONS OF, AND PROCEEDINGS IN CIVIL AND ADMINISTRATIVE MATTERS RELATING TO CORRUPTION.

- **(FINAL) STEP III: IMPLEMENTATION OF THE ANTICORRUPTION ARCHITECTURE** - I REALIZE THIS MAY BE EASIER SAID THAN DONE, BUT THIS IS WHERE YOU OPERATIONALIZE THE ACTION PLAN, ESTABLISHING THE ANTICORRUPTION BODY AND IMPLEMENTING NEW POLICIES, PRACTICES AND INTERNAL CONTROLS ACROSS GOVERNMENT BODIES. THE PREVIOUS PHASE WILL DEFINE WHERE, ON THE SPECTRUM OF ANTICORRUPTION PROGRAMS YOUR NATION IS CURRENTLY POSITIONED. THE POSSIBLE SPECTRUM OF ANTICORRUPTION PROGRAMS CAN BE BROADLY CLASSIFIED AS FOLLOWS:
 - **IF YOU DETERMINE THAT YOUR COUNTRY HAS MANY, OR MOST, ESTABLISHED AND EFFECTIVE CORE COMPONENTS OF AN ANTICORRUPTION PROGRAM, YOU MAY ONLY REQUIRE LIMITED NEW POLICIES AND PROCEDURES REQUIRED.** THIS PROGRAM HAS EXISTING ENFORCEMENT AND LEGISLATION SURROUNDING THE PROGRAM. IN THIS CASE, LITTLE MORE TO DO, SIMPLY HARMONIZATION AND ENHANCEMENTS TO THE CURRENT ANTICORRUPTION ARCHITECTURE.

 - **IF YOU REACH AN ASSESSMENT THAT THERE IS SOME ANTICORRUPTION ARCHITECTURE BUT CERTAIN KEY COMPONENTS ARE MISSING OR INEFFECTIVE, YOU MAY REQUIRE A MODERATE NUMBER POLICIES AND PROCEDURES, AND ANTICORRUPTION PROGRAMS.** THIS PROGRAM WOULD ALSO HAVE SOME LEVEL OF ENFORCEMENT AND LEGISLATION SURROUNDING THE EXISTING PROGRAM. THEREFORE THERE IS A NEED

TO ENHANCE AND SUPPLEMENT EXISTING ANTICORRUPTION ARCHITECTURE WITH NEWLY DEVELOPED COMPONENTS.

- **FINALLY, IF YOU REACH AN ASSESSMENT THAT MOST OF THE KEY ANTICORRUPTION COMPONENTS ARE MISSING AND THERE ARE MINIMAL LEVELS OF ENFORCEMENT AND LEGISLATION SURROUNDING THE EXISTING PROGRAM. THEN YOU HAVE SOME WORK TO DO!** HOWEVER, YOU SHOULD NOT FEEL DISCOURAGED OR DEMORALIZED. THERE ARE MANY COUNTRIES IN THIS POSITION WHO ARE BEING REALISTIC ABOUT THEIR SITUATION AND THE LENGTH OF TIME AND AMOUNT OF EFFORT THAT WILL BE REQUIRED.

CONCLUSION

IN CLOSING, IT IS CLEAR THAT EFFORTS BY BUSINESS, GOVERNMENTS AND NON-GOVERNMENTAL ORGANISATIONS IN THE LAST DECADE HAVE GIVEN THE FIGHT AGAINST CORRUPTION CONSIDERABLE MOMENTUM. WE SHOULD BE VERY HOPEFUL FOR THE FUTURE. SIGNIFICANT CHALLENGES LIE AHEAD. I SUGGEST THAT PARLIAMENTARIANS HAVE A COUPLE OF THINGS TO THINK ABOUT.

THE FIRST IS TO ENCOURAGE THOSE COUNTRIES THAT HAVE RATIFIED BUT NOT ENFORCED CONVENTIONS LIKE UNCAC TO INCREASE THEIR ENFORCEMENTS EFFORTS; AND, AT THE SAME TIME, REACH OUT TO THOSE COUNTRIES WHO HAVE NOT YET RATIFIED THESE CONVENTIONS.

SECOND, PARLIAMENTARIANS HAVE A VITAL ROLE TO PLAY TO DEVELOP, IMPLEMENT AND ENFORCE EFFECTIVE ANTI-CORRUPTION MEASURES. IF DONE CORRECTLY, COUNTRIES WITH FORESIGHT WILL CREATE AND SUSTAIN A BUSINESS ENVIRONMENT THAT WILL DELIVER SIGNIFICANT SELF-GENERATING ECONOMIC BENEFITS FOR FUTURE GENERATIONS.

THANK YOU.

APPENDIX - CREDIT CRISIS: FINANCIAL MARKETS @ NOVEMBER 2008

THIS IS NOT A LOCALIZED EVENT - FINANCIAL MARKETS GLOBALLY HAVE BEEN AFFECTED, CAUSING A TREMENDOUS LOSS OF GLOBAL WEALTH. THIS LOSS IS MOST EASILY SEEN IN THE CURRENT STATE OF FINANCIAL MARKET INDICIES. FOR EXAMPLE, THE UNITED STATES DOW JONES INDUSTRIAL AVERAGE IS DOWN APPROXIMATELY 37% FROM ITS 2 YEAR HIGHS. SIMILARILY, THE HONG KONG HENG SENG INDEX IS 57% OFF, JAPAN'S NIKKEI 225 IS DOWN 54%, GERMANY'S DAX IS DOWN 42%, AND THE UNITED KINGDOMS FTSE 100 IS 37% OF THEIR 2 YEAR HIGHS.

NOTWITHSTANDING, LOCAL MARKETS ARE ALSO IN TURMOIL. SAUDI ARABIA'S ALL SHARE INDEX CLOSED ON 11/12/2008 DOWN 47% YEAR TO DATE. THE KUWAIT STOCK EXCHANGE WAS ORDERED CLOSED ON A TEMPORARY BASIS AFTER SHAREHOLDERS FILED SUIT AGAINST THE EXCHANGE DUE TO EXPERIENCING CONTINUED LOSSES; 31% OF THE EXCHANGE'S VALUE HAS BEEN LOST YEAR TO DATE. ABU DHABI'S ADX INDEX IS DOWN 39% AS WELL, BUT THE LARGEST LOSSES HAVE ARE LOCATED IN DUBAI'S MARKET, DOWN 65% TO YEAR TO DATE.

TIMELINE OF CREDIT CRISIS EVENTS (TO SEPTEMBER 08)

- 1/11/08 BOFA PURCHASES CUNTRYWIDE FOR \$4.1 BILLION IN STOCK. PURCHASE COMPLETED JULY 1, 2008
- 3/16/08 JP MORGAN CHASE AGREED TO MERGE IN A STOCK SWAP WORTH \$2 A SHARE/LESS THAN 10% OF BEAR STEARNS' MARKET VALUE
- 7/11/08 OFFICE OF THRIFT SUPERVISION SEIZES INDYMAC BANK
- 9/7/08 GOVERNMENT ANNOUNCES TAKEOVER AND CONSERVATORSHIPOF FREDDIE MAC AND FANNIE MAE
- 9/14/08 LEHMAN FILED FOR BANKRUPTCY PROTECTION
- 9/15/08 MERRILL LYNCH AGREES TO BE ACQUIRED BY BANK OF AMERICA FOR \$29 PER SHARE
- 9/16/08 FEDERAL RESERVE BANK OF NY WILL LEND UP TO \$85 BILLION TO AIG
- 9/22/08 WACHOVIA ANNOUNCES BANK SUBSIDIARY DIVESTITURES TO CITIGROUP (CITIGROUP SUBSEQUENTLY OUTBID BY WELLS FARGO)
- 9/25/08 OFFICE OF THRIFT SUPERVISION SEIZES WAMU SAVINGS BANK. FDIC SUBSEQUENTLY SELLS WAMU BANKING BUSINESS TO JP MORGAN CHASE