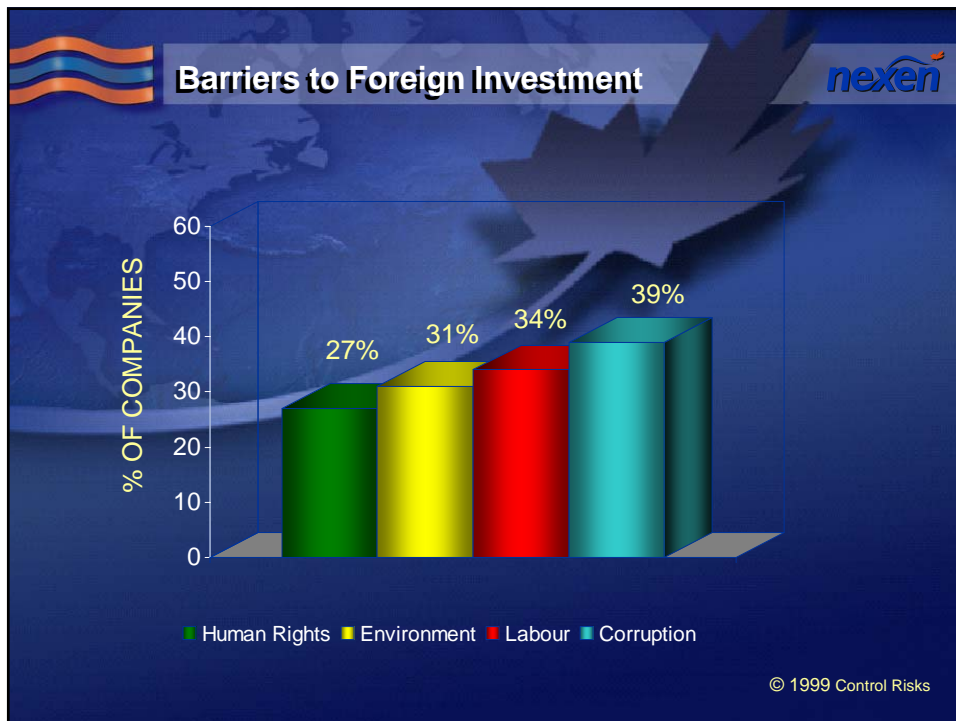




## Anti-Corruption Laws: Opportunities or Barriers?





- UN Convention Against Corruption - Highlights** nexen
- **First truly global anti-corruption treaty**
  - **Will likely become global standard**
  - **Broader in scope than prior regional treaties (eg, OECD)**
  - **Most detailed and complex treaty so far**
  - **Contains multiple levels of obligations – Mandatory and Non Mandatory**
  - **Comprehensive set of legal standards & rules**
  - **Multidisciplinary approach to prevention**
  - **Implementation mechanisms differ from regional treaties**



## UN Convention Against Corruption - Status

- Opened for signature on 9 December 2003
- 24 countries have ratified treaty
- 100 countries have signed but not ratified treaty
- Total of 124 countries
- Treaty open for signing until 9 December 2005
- Treaty enters into force when 30 countries ratify
- No date set for final ratification – likely late 2005
- US will likely ratify in late 2005
- Canada reviewing ratification & implementation
- Canada presently does not have resources to meet Treaty obligations



## UN Convention Against Corruption Key Obligations

### *Criminalization*

- Bribery of National Public Officials
- Bribery of Foreign Public Officials
- Bribery of Officials of Public International Orgs
- Trading in influence (lobbying?)
- Private to private bribery
- Laundering of proceeds of corruption
- Participation in and attempt to bribe





## UN Convention Against Corruption Key Obligations



### *Consequences of Corrupt Acts*

- Annulment or rescission of contracts
- Compensation to parties suffering damages
- Creation of private rights of action (ACTA?)
- Big concern to business!!!

### *International Co-operation*


- Extradition
- Mutual legal assistance
- Asset recovery
- Monitoring & enforcement




## UN Convention Against Corruption A Business Perspective



- Potential for truly global anti-corruption program
- Too early to assess long term impact
- Convention lacks effective monitoring process
- Domestic laws important to business vs Convention
- Countries using menu approach to ratification
- Lack of harmony between treaty & domestic laws
- For both defined offences & enforcement
- Conflicts make business more complex & uncertain
- Needs political commitment & financial resources



**Example of Domestic Law Conflicts  
OECD Convention Against Corruption**



**Countries allowing Facilitating Payments**

- United States/Canada

**Countries not allowing Facilitating Payments**

- England/France/Italy

**Host Country Laws**

- Do not provide for Facilitating Payments
- Rarely address expenses for officials

**Conflict of Corruption Laws**

- Dilemma for companies in many jurisdictions
- Are facilitating payments allowable or not?
- Some companies have eliminated them, others not



**Host Country Laws**



**Host Country laws tend to have the following characteristics:**

- Confusing & even contradictory
- Don't reflect local customs & often ignored
- Applied arbitrarily & inconsistently
- Prosecution is often politically motivated
- Punishment usually is severe
- Approach differs from Canadian & US laws
- UN Convention may bring some consistency



**Bribery Programs at Multilateral Agencies**



- **World Bank**
- **International Monetary Fund (IMF)**
- **European Bank for Reconstruction and Development (EBRD)**
- **African Development Bank**
- **Asian Development Bank**
- **Inter-American Development Bank**



**Multiple Initiatives on Combating Corruption**



- **UN Global Compact**
- **International Chamber of Commerce**
- **World Business Council**
- **Partnering Against Corruption Initiative**
- **Conference Board**
- **TI Integrity Pact**
- **Global Witness**
- **Extractive Industry Transparency Initiative**
- **Numerous Corporate Codes of Conduct**





## Shifting Obsessions: Politics of Anticorruption by Ivan Krastev

nexen

### Questions:

- Why anti-corruption policy is now an obsession
- Justification & feasibility of such policies

### Argues:

- Anti-corruption consensus is result of policies of multilateral agencies to legitimize stabilization policies & US government, not NGO's such as TI
- Movement is justified by *pseudo science* of corruption. Perceptions are not reality. Not measurable & fundamentally flawed.
- Perceptions of corruption in post communist countries reflects dissatisfaction with transition (ie, inequality) not corruption



## Energy and Corruption

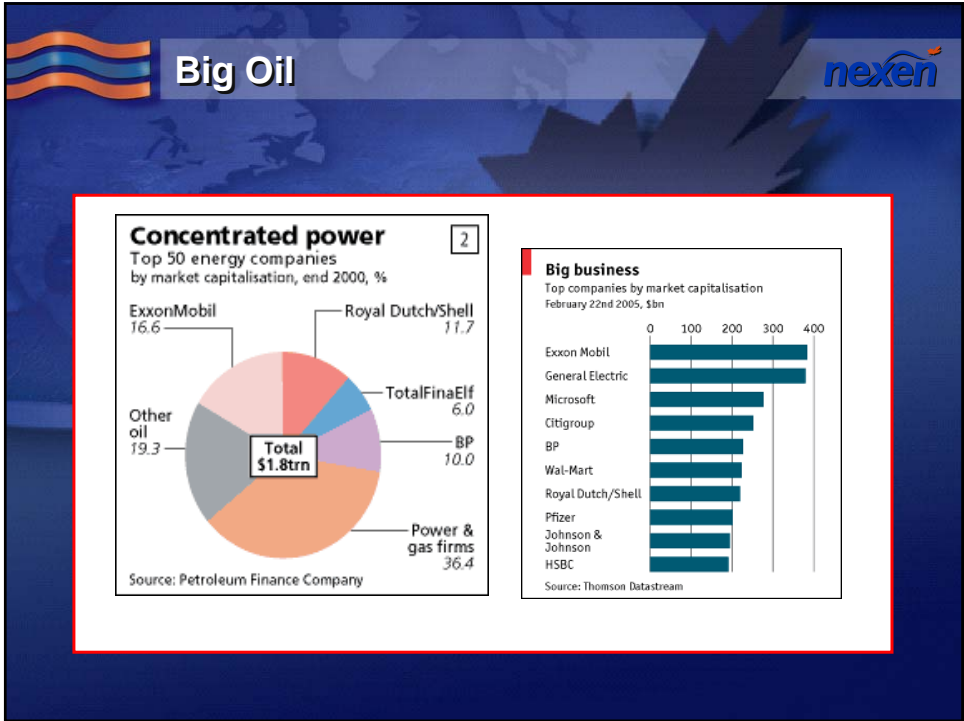
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Major Petroleum Basins

Most Corrupt Regions



**Most of World's Oil and Gas Reserves  
are found in Corrupt Countries**



## Really Big Oil



### Oil's rich list

Top 20 oil companies, by reserves, 2003

| Company         | Country      | State ownership, % | m barrels |
|-----------------|--------------|--------------------|-----------|
| Saudi Aramco    | Saudi Arabia | 100                | 259,400   |
| NIOC            | Iran         | 100                | 125,800   |
| INOC            | Iraq         | 100                | 115,000   |
| KPC             | Kuwait       | 100                | 99,000    |
| PDV             | Venezuela    | 100                | 77,800    |
| Adnoc           | UAE          | 100                | 55,200    |
| Libya NOC       | Libya        | 100                | 22,700    |
| NNPC            | Nigeria      | 100                | 21,200    |
| Pemex           | Mexico       | 100                | 16,000    |
| Lukoil          | Russia       | 8                  | 16,000    |
| Gazprom         | Russia       | 73                 | 13,600    |
| Exxon Mobil     | US           | -                  | 12,900    |
| Yukos*          | Russia       | -                  | 11,800    |
| PetroChina      | China        | 90                 | 11,000    |
| Qatar Petroleum | Qatar        | 100                | 11,000    |
| Sonatrach       | Algeria      | 100                | 10,500    |
| BP              | Britain      | -                  | 10,100    |
| Petrobras       | Brazil       | 32                 | 9,800     |
| Chevron Texaco† | US           | -                  | 8,600     |
| Total           | France       | -                  | 7,300     |

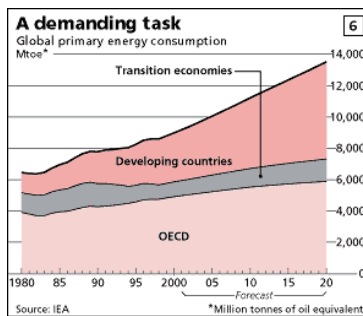
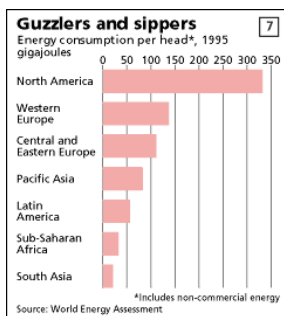
\* Now in effect controlled by government  
 † Does not include newly acquired Unocal

Source: Petroleum Intelligence Weekly





## Growth in Demand



## Trends in Global Energy Industry



- Supply side dominated by NOC's (Saudis, Iran, Russia & Venezuela)
- Demand side dominated by developing countries (China & India)
- Lack of transparency & governance in new players
- Will corruption grow or diminish in energy industry?
- Will western oil companies be non-competitive?
- Does it make sense to drive the Talisman's out of places like Sudan?



## Modifying Corporate Behavior



### What is better – Carrot or Stick?


- If it is Stick – Where is it?
- Increased number of prosecutions – but mostly in US
- Slowly happening in Europe
- Canadian law enacted in December 1998
- Only one prosecution so far, no convictions
  
- If it is Carrot – What is it?
- CEO's have crowded agenda
- Attention focused on bottom line – ie, stock price
- Do good corporate anti-corruption practices reward CEO & stockholders?




## Modifying Government Behavior



- Are anti-corruption treaties making a difference?
- Are governments serious about corruption?
- Or are they paying lip service to problem?
- How are governments & their officials held accountable?
- Has bribery simply gotten more sophisticated as a result of new treaties & laws?
- We may be modifying their behavior, but not in ways we anticipated




Observations on Anti-Corruption Movement 


### Treaties & Laws

- Lots of them with many common goals
- However: not consistent & sometimes contradictory
- May result in complexity, uncertainty & confusion
- If not used, will not be taken seriously

### Anti-Corruption Initiatives

- Lots of them with many different agendas
- Business is being pulled in too many directions
- Legitimacy & effectiveness of movement questioned
- Crowded agenda – Corruption may not be one of them



Some Observations on Corruption 

### Business Environment

- Lots of new players with different set of rules
- Western companies want to combat corruption but are under tremendous competitive pressure
- Need to focus on bringing new players into fold
- Not driving western companies out of corrupt countries

### Government Environment

- Lots of them signing up
- But are they serious?
- Where are rewards for governments to change?
- Where is punishment for allowing corruption?



