

# **A brief introduction on China's anti-commercial bribery**

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Distinguished Dr. Timothy HM Tong, Distinguished Mr.  
Franz-Hermann BRÜNER, Ladies and Gentlemen,

It's my great pleasure to attend the 4th Independent Commission Against Corruption (ICAC) Symposium on the occasion of the ICAC of Hong Kong Special Administrative Region commemorates the 35th anniversary of its establishment. First of all, I would like to take this opportunity to extend my heartfelt gratitude to Dr. Timothy HM Tong, Commissioner of ICAC, for his invitation and hospitality, and express my sincere congratulations to the successful opening of this symposium.

It's especially important that the ICAC hosts the 4th Symposium with the theme of "Deals Under the Table - the Doing or Undoing of Business?", which aims to help us focus our minds on the impact of corruption in business on the global

community at the time of all countries are striving to boost economic development in an effort to get out of the shadow of recession as soon as possible, and under the background of financial recession continues to hover over the world currently.

Since the "reform and opening up" policy began in 1978, China's sociality maintained stable and its economy developed quickly. China's GDP maintained a growth rate of above 10%. According to statistics, China's GDP has increased from \$45.3 billion in 1978 to \$4487.6 billion in 2008, which is equivalent to about 99 times more than 1978. Since 2008, although suffering from the impact of global economic recession, China's economics still maintain a growth rate of 9%. The above-mentioned achievements shall be attributed to China's unceasing anti-corruption campaign, especially the anti-commercial bribery campaign. So today, I would like to take this opportunity to share with you some of our practices on anti-commercial bribery.

I. Ruling party and government attaching constant and great importance to anti-commercial bribery, establishing anti-commercial bribery inter-department co-ordination

mechanism, and adopting a comprehensive approach and comprehensive treatment against commercial bribery.

Some experience in the process of China's reform and opening up I would like to share with you is that China always promoted reform and opening up to the outside world and at the same time combated all kinds of crimes, especially corruption crimes, and attached equal importance to the two aspects. The seriousness of commercial bribery was realized long time ago. In July 2005, Mr. Hu Jintao, General Secretary of CPC Central Committee, has pointed out that fighting against commercial bribery is necessity of maintaining a sound market competition order and also important components of anti-corruption campaign. In December 2005, the Polibureau of CPC Central Committee held a special meeting on anti-corruption campaign. In that meeting, the year 2006 was regarded as the year of fighting against commercial bribery. In February 2006, the General Office of CPC Central Committee and General Office of State Council have issued circulars on fighting against commercial bribery. Fighting against commercial bribery campaign was deployed in the whole country. After that, anti-commercial bribery leading group headed by CPC Central Commission for Discipline Inspection was established, its

members included 22 ministries namely National People's Congress, Supreme People's Court, Supreme People's Procuratorate, Ministry of Public Security and Ministry of Supervision etc. Among them, discipline inspection commission is responsible for discipline violation cases committed by CPC members for offering or accepting commercial bribes, department of supervision is responsible for discipline violation cases committed by public servants for offering or accepting commercial bribes, the people's procuratorate is responsible for criminal cases of commercial bribery which committed by public servants, and the police is responsible for criminal cases of commercial bribery which is committed by companies, enterprises and individuals etc. Every department has its own respective responsibilities and missions, they fulfill their missions independently and also cooperate and co-ordinate well in practice. In this way, a comprehensive approach and comprehensive treatment against commercial bribery are adopted. China adheres to comprehensive anti-corruption strategies, that is fighting corruption in a comprehensive approach both from its symptoms and source; treating punishment and prevention equally with emphasis on the latter; establishing a system on punishment and prevention of

corruption, which attaches equal importance on education, institution and supervision; and adhering to the policy of punishing corrupt criminals severely, at the same time attaches great importance to corruption prevention, and regards the two aspects equally important.

II. Constantly improving domestic legislations against commercial bribery, and fighting against all fields of commercial briberies.

In the anti-commercial bribery process, China attaches great importance to improve its laws, rules and other regulations against commercial bribery, and adopts a combined treatment to commercial bribery, which is criminal punishment and administrative punishment, in an effort to fight against all fields of commercial briberies. For example, in our criminal law, there are 11 articles which stipulate detailed punishments on employees of companies and enterprises or public servants who committed commercial briberies, which are deterrence to deals with power and deals under the table. Besides that, there are still other detailed prescriptions on commercial briberies occurred in different fields in other commercial laws, such as anti-unfair competition law, company law, drugs administration

law, food safety law, construction law, licensed pharmacist law, tendering and bidding law, government procurement law, temporally rule against commercial bribery acts and the discipline punishment regulation of Communist Party of China etc. According to these laws or rules, different malpractices will be imposed administrative punishments or referred to judicial departments for criminal punishments according to its severity.

III. Enhancing transparency of commercial activities, constricting rooms for close-box operation in commercial bribes.

One of the important reasons for the evolution and spread of commercial bribes is that information is not disclosed enough, and business operation is not transparent enough. China brings government procurement and some key industrial business procurement into public business procurement system, and discloses procurement information, including the performance, price and related information of the product, the process of tendering and bidding, and process of procurement and the result of procurement shall be make public, so as to promote information disclosure among business activities, let the sunshine light under the table, improve transparency of

business operation process, and constrict rooms for close-box operation in commercial briberies. These will be conducive to create a fair competition environment for market entities.

#### IV. Establishing credit records for enterprises and individuals.

Credit is a basic protection for a healthy development of market economy, in order to foster market credit system, we should strive to enhance incentive mechanism for enterprises and individuals. In China's financial system, we have established a basic information database of individual credit in the whole country which has included 400 million individuals currently. Through this database, the banks can know the credit of each individual and decides to offer him or her loans. In order to exert full use of legal supervision power of people's procuratorate, and boost social credit system, the Supreme People's Procuratorate established bribery files inquiry system, also named "black list" of briberies in people's procuratorate through out the country in 2006. The malpractice records such as offering briberies and tax evasion etc of enterprises and individuals in market economic fields will be recorded into files, which can be regarded as reference to financial institutions, administrative law enforcement institutions and judicial

institutions. If enterprise or individual has more than one record of offering or accepting commercial bribes, the Industrial and Commercial Administrative Department will deprive his or her market access qualification besides imposing severe punishment on him or her.

V. Enhancing international anti-corruption cooperation unceasingly.

According to statistics, Chinese government has rectified more than 100 international conventions, which include contents of combating transnational crimes, judicial assistance and extradition, such as the United Nations International Code of Conduct for Public Officials, United Nations Declaration against Corruption and Bribery in International Commercial Transactions, United Nations Convention against Transnational Organized Crime, United Nations Convention Against Corruption. Until this October, China has signed nearly 106 cooperative treaties with 68 countries, among which 19 are judicial assistance treaties on civil (commercial) and criminal matters, 27 judicial assistance treaties on criminal matters, and 32 extradition treaties, 6 treaties concerning the transfer of convicted persons. China's procuratorates has also signed



cooperative agreements or memorandum with attorney general's offices, offices of director of public prosecution or ministries of justice more than 90 countries. All of these have established channels of international cooperation against commercial bribery for China and international community.

China attaches constant and great importance to pragmatic judicial cooperation against commercial bribery jointly with international community. Since 1998, China's Supreme People's Procuratorate, Ministry of Public Security, Ministry of Justice have carried out judicial cooperation with more than 100 countries and regions including the U.S.A, Canada, and Russia etc, many corrupt criminals were extradited from abroad, for example, we extradited Yu Zhendong from the U.S.A and Chen Manxion and Chen Jiuxion from Thailand. Since 1995, China has successfully hosted many international conferences on anti-corruption, such as the 7th International Anti-corruption Conference, the 5th Asia-Pacific Regional Anti-Corruption Conference etc. In 2006, China initiated and hosted the International Association of Anti-Corruption Agencies (IAACA). Until now, the IAACA has held 3 annual conferences and general meetings consecutively and successfully, its members include procuratorates, attorney general's offices and anti-corruption

agencies of more than 130 countries in the 7 continents.

Mr. Chairman, Ladies and Gentlemen, Friends:

Chinese government has steadfast confidence on winning the anti-corruption campaign, our stance on international cooperation against corruption is unswerving. China would like to work with international community closely to create a sound environment for economic development for China and the rest of the world, and make greater contribution to the progress of human civilization.

Thank you very much for your attention.