From zero to hero

An analysis of the development of the international anti-corruption regime

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Preface

Not in rewards, but in the strength to strive, the blessing lies.

-J. T. Towbridge-

Although these words at times during the last year seemed distant, they are surely true today, as the task is completed. This thesis is the result of one year of hard work, and regardless of some rocky pathways, the ride has been both interesting and enjoyable.

I would like to say a special ‘thank you’ to my advisor Bent Sofus Tranøy for numerous of hours of inspiring academic discussion, and for giving so much of both your time and insights. It has, without a doubt, widened my horizon, and given this study more depth. I would also like to thank Dag Harald Claes and Jeffrey Checkel at the Department of Political Science, and to Dan Banik at the Centre for Development and the Environment, for providing literature, and giving valuable comments and feedback. The Center for Technology, Innovation and Culture has kindly let me use their facilities during the last six months, and for that I say thank you.

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Chapter 1: Introduction

During the last decade there has been a major change in how corruption is viewed. In 10 years anti-corruption has gone from zero to hero, and anti-corruption policies, conventions and other counter-measures has become a talking point of the international community – be it within business, finance, or the governance sector. Governments, international organizations, and public opinion have joined in a common global anti-corruption initiative since the mid 1990s. Development-agencies and banks are equally committed to combat corruption through anti-corruption strategies or policies. Today, most nations have implemented anti-corruption conventions or policies and are willing to commit to the anti-corruption agenda. Even though corruption has had a negative connotation for most people, it is during the past 15 years that it has gone from being seen as a necessary evil, to something that creates suboptimal solutions in the market, in addition to being morally wrong - at all times. In short, it seems as an international anti-corruption regime has evolved during the last decade.

Why did corruption suddenly become such a hot topic? Only 15 years ago, bribing public officials abroad to obtain contracts or business deals was, if not acceptable, at least a tolerated practice in many Western countries (OECD: 2001:11). Given this somewhat nonchalant attitude towards corruption, and the historic lack of willingness by most countries to engage in international anti-corruption initiatives, it is intriguing why an international regime so suddenly seems to have come about. This thesis seeks to assess this change, by examining the shift in attitude towards corruption, and the institutionalization of anti-corruption norms, that started in the early 1990’s. Thus, for my analysis I have asked the following question:

*Which were the driving forces behind the development of the international anti-corruption regime?*
This question again breaks down to a few sub-questions that are important for understanding and explaining how the regime developed. First of all it is important to identify to what extent we can talk about an anti-corruption regime. Second, it is important to single out the driving forces: Did a hegemonic pressure lead to regime formation? Did an enlightened self-interest develop, where the actors realized that reciprocal benefits could be realized through cooperation? Was regime formation a result of a learning process led by an expert group with new knowledge on the negative consequences of corruption? Or, did a norm-change occur, that altered the way the public and policy-makers had viewed corruption? And if so, was this change strong enough to lead to regime formation?

The presence of a regime or a legal framework does not necessarily solve a problem. We cannot say that because of the development of the international anti-corruption regime, the problem of corruption will disappear. How the legal framework is implemented, whether the mechanisms in place will actually secure openness and accountability, and whether these mechanisms will enable law enforcement officers to identify corrupt behavior and protect whistle-blowers are important issues in this regard. Also how abuses of the law are reacted against by government, and by society as a whole, have consequences for the effectiveness of anti-corruption legislation and therefore for the reduction of corrupt practices in general. As interesting as this topic is, it has not been possible at this stage (because of the time and resources available for this project) to carry out such an “effectiveness” analysis. Thus, this thesis will not address the issue of regime effectiveness, nor will it discuss whether the level of global corruption has gone down as a result of the establishment of the anti-corruption regime.

1.1: Outline

This introductory chapter will provide the reader with some basic knowledge about the concept of ‘corruption’, an introduction to the history of anti-corruption, and an

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1 The word reciprocal refers to an interaction between actors when each action or favour given by one party is matched by another in return (http://en.wikipedia.org/wiki/Reciprocal)
introduction to the theoretical framework for the analysis. Chapter 2 is dedicated to a more thorough discussion of theory and methodology. Since regime development is a dynamic interplay process, it was important that the theoretical framework embodied this aspect. The result is a framework that is based on existing theories of international regimes, but with a broader focus on formalistic perspectives than is usual in traditional regime analysis. This framework and its methodological implications are presented here.

Chapter 3 discusses to what extent we can actually talk about an international anti-corruption regime, by identifying and describing its components and workings. Chapter 4 presents the first part of the analysis and contains a narrative on the development of the regime. It also presents how the four perspectives can explain the development of the regime. In chapter 5 the second part of the analysis is presented. Here the focus is on how the driving forces sometimes are intertwined and can depend on each other temporally. Chapter 6 sums up the main findings and conclusions from this project.

1.2: What is corruption, and why should we bother about it?

“Corruption hurts the poor disproportionately—by diverting funds intended for development, undermining a government’s ability to provide basic services, feeding inequality and injustice, and discouraging foreign investment and aid.”

Kofi Annan, United Nations Secretary-General

Transparency International (TI) and the World Bank define corruption as the use of one’s public position for illegitimate private gain. This is the classic definition of corruption, but as the United Nation’s Global Programme against Corruption (GPAC) points out, corruption can occur in both public and private domains and is often in collusion with individual from both sectors. Therefore I have chosen to use the definition provided by the UN, because this embodies both the public and private sector:

“corruption is the abuse of power for private gain.”

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Corruption was previously seen as a painless problem that took place far away – in other countries. There were seldom identifiable victims of corruption, and as most problems that are out of sight – they are also out of mind. Therefore corruption was to a small extent reacted against. Corruption was by many seen as a necessary evil when doing business, or for getting through tricky or slow bureaucracy. However, during the 90s, a growing awareness about the negative consequences of corruption mounted, and it became clear that corruption has a very high price, for both development and for economic growth and efficiency.

In a corrupt society the balance of power between leaders and the people are distorted. A leader who misuses the powers of his position, and sets himself, his loyalists, or those who pay the most above the law, contributes to the undermining of basic political and social rights that are fundamental in a democratic society. Corruption hurts the poor the most, because state funds intended for public goods are, in a corrupt society, often illegally rerouted. This undercuts services that those with few resources are dependent upon, such as health, education, public transportation or local policing.

It is not only the grand political and financial corruption that causes problems for people in a corrupt society. Corrupt behavior has become an integrated part of many societies and can also be found in local public offices, at schools, or within the policing authority. The problem is again most apparent for the poor, because when, for example, an additional ‘payment’ is required for the delivery of even the most basic government service, such as the issuing of official documentation (or another service that by law is free of charge) they are obliged to pay anyway.

At the business level, enterprises can be encouraged to pay bribes, or they can themselves offer to pay large sums for either public contracts, marketing rights or to sidestep inspections and red tape. Today, corruption causes reduced investment or even divestment, because it has (after much research) become clear that investing in a corrupt society is harmful for business; it creates unequal terms of competition because it gives people or companies with special contacts or the biggest bribe, prerogatives for
contracts or services. It also creates unpredictability in terms of investment, and can thereby reduce stock value. As a result many multinational companies are reluctant to invest in certain countries, thus reducing the level of foreign direct investment and technology transfer to these countries.

Among the many long-term effects of corruption are lack of respect for human rights, and democratic practices such as transparency, accountability and equality under the law. If the public suspect that the judicial system is corrupt and that certain groups are not held accountable for criminal acts it undercuts government legitimacy and undermines the rule of law. Transparency and openness secures equality, and education and access to information increases the likelihood that rule of law is enforced. Corruption is compromising values that are fundamental for democratic societies - like the rule of law. In a society where there is little transparency and accountability the risk of funds intended for the common good being distorted (like infrastructure or public services/benefits) increases significantly.

1.3: From zero to hero: An introduction to the history of the international anti-corruption battle
Throughout the world there is a growing awareness that combating corruption is fundamental for achieving a more effective, fair and efficient government (good governance). More and more countries now realize that bribery and cronyism hinder development and they are willing to commit to a global coalition against corruption. There are many events that reveal how this change came about. A more in-depth and complex analysis of this history will be presented in chapters four and five.

Globalization of the media
How we view and judge a certain behavior or an action is largely the result of our knowledge about it, and knowledge about the consequences that those actions cause. Starting in the 1980s, but particularly during the early 1990s, the media did not only become more open, but was also digitalized. This gave a lot more people access to a lot more information, and allowed it to spread much faster than before. Thus, many
issues that had been long covered up became public knowledge. This exposure showed that the problem of corruption was a lot bigger than one previously thought, both in size and consequence. When the media exposed a series of corrupt practices in the political and financial elite all over Europe in the early 90s, it provoked the public. Corruption was no longer something that happened far away “over there,” but it was here, our politicians, our public officials misusing our resources for their own private gain. This also destroyed much of the argument that corruption was a cultural issue – something one just had to go along with if one wanted to do business, a practice that it would be impossible for a western company to change. During the early 90s, when more information and knowledge about the costs and consequences of corruption developed, the norm went from a pragmatic double standard (here/over there) to a norm where corruption was seen as wrong - at all times.

But, the media and an aggravated civil society was not the only force driving an institutionalization of anti-corruption norms and measures. The US played a vital role in spreading information about corruption, and to committing the other Western countries to the anti-corruption agenda.

**The US initiative**

The first comprehensive anti-corruption initiative came from the US. Two events fuelled the realization of the Foreign Corrupt Practices Act (FCPA) in 1977. First, the Watergate scandal in the early 70s had revealed a series of corrupt practices by American multinationals and illicit funding of Nixon’s campaign. It all culminated in 1976, when the American Lockheed Company was caught paying $25 million illicitly to Japanese officials to secure the sale of its Tristar L-1011 aircraft (Glynn et al 1996:17).

The FCPA was a reaction to this, and to the disclosure of several other accounting and bribery scandals by US companies, and for almost 20 years it was the sole initiative and instrument for fighting corruption, even though it was seldom practiced (26 cases
in 26 years). But still, the legislation was there, and while American companies where bound by the FCPA, the European companies were under no anti-bribery or anti-corruption legislation. Not only could European companies bribe foreign officials, but in many European countries businesses could also deduct bribes off of their taxes. After the FCPA was passed in 1977, it was thought that the Europeans would follow suit. When this did not happen, it became clear that the American companies would have a disadvantage in the market, as the playing field would be skewed. As it was impossible to abolish the FCPA at home (even though efforts were made), a strong American push on European countries to adopt a similar law as the FCPA developed. The Europeans was not easily persuaded though, because defending status quo was the most beneficial strategy at the time (Abbott; Snidal 2002:162). Adopting an anti-corruption convention would be very costly, and a cost they were not willing to carry in the 1980s, when Western markets were stagnant and unemployment growing. At that time many were thinking that giving bribes to foreign officials would support economic growth in Western countries (Wéhrlé: 2004), thus discussions on an anti-bribery convention was out of the question.

The US kept pushing for a change in European attitude, and in 1989 it addressed the OECD in order to try to make it happen. A dialogue was opened, but it took several years of US pressure before a first step agreement was reached in 1994. Other events in the world also played a role in getting the OECD Recommendations on Combating Bribery in International Business Transactions in place. The new geopolitical situation that came with the fall of the USSR and the end of the Cold War, changed the bipolar situation into a unipolar one, with the US as the sole hegemon.

**No more Cold War**

Unconstrained by the antagonizing debate over political systems, possibilities of addressing the problem of corruption opened. During the Cold War both the US and the Soviet Union had spheres of influences, whose loyalty they bought by giving aid.

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3 Interview with Frédéric Whérlé, OECD
“Fearing that rejected states would turn instead to the communist countries for aid, the West propped up several totalitarian regimes in order to stabilize the political climate” 

(Marquette 2002: 17).

Until the late 80’s, “it was widely argued that authoritarian regimes were better at managing economic development and growth, as well as maintaining a stable political climate” (Marquette 2002: 17). Luckily this argument died with the Cold War, and transparent, democratic governments were instead seen as the best facilitators for economic growth, development and for curbing corruption. With the Cold War (and the spheres of influence) out of the way, it became a lot easier to put pressure on authoritarian regimes, and to address corruption problems. During the Cold War, the World Bank for example, would only deal with economic issues, not politics. Corruption was categorized as politics, thus it was out of the question to even speak of it. The problem was of course that numerous of billions of dollars that were given as aid to developing countries during the cold war era, ended up in tax-heavens, or in countries where banks could offer special privacy protections for customers. This left these developing countries with little development, but huge debts. As the Cold War ended, and the link between corruption and economic growth became apparent, anti-corruption programs began going hand in hand with financial aid and loans to developing countries. Unfortunately it is still estimated by the World Bank Economic Development Institute that 30 % of aid and investment to Africa is distorted because of corruption (Langseth 2004).

Getting the World Bank to commit to the anti-corruption battle was an important step, as it paved the way for several other international organizations. But it was not an easy task to make change within the World Bank happen. The World Bank’s legal department considered anti-corruption work as political interference, but with the election of James Wolfensohn as President of the Bank in 1995, this changed. He had a more practical, private sector outlook, and was willing to look differently on the issue of corruption (Langseth 2004). Several scholars argue that the commitment for fighting corruption could not be so strong had there not been for the personal engagement of some people, like Wolfensohn.

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4 Interview with Petter Langseth (UN ODC officer), former employee of the World Bank, December 2004
The impact of personal engagement

It has been argued that a reason for the World Bank’s hesitant stance early in the 1990’s was a lack of leadership commitment. Brummer (1999) states that:

“Wolfensohn has made [the Bank] overtly more political by conducting a public crusade against corruption world wide, despite earlier fears of being seen as overtly political and interfering in the internal affairs of client nations”

(Brummer in Marquette 2002: 8).

In 2000 this was also made clear from Wolfensohn himself, while speaking before a group of NGOs:

Let me say first-off that until three years ago, the word ‘corruption’ was never mentioned at the World Bank. As some of you may know, the true story that when I got to the Bank, the General Counsel called me in to give me my briefing on what I could do and what I could not do as President of the Bank. And he said the one thing you cannot do is to talk about the ‘c’ word. And I said what is the ‘c’ word? He said the ‘c’ word is corruption. And under the charter of the Bank you are not allowed to talk about politics and corruption is politics. Therefore, don’t talk about the ‘c’ word. You can talk about anything else. You can talk about social justice, you can talk about poverty, but for God’s sakes don’t talk about the ‘c’ word because you will get fired. Your shareholders won’t like it…

I took this for about two years until I recognized that there was no way to deal with the issue of equity and poverty and development without tackling the question of corruption. So, I came out in my Annual Meeting speech, I said corruption is a cancer and it is not political but it is social and it is economic and, therefore, I am allowed to talk about it. And if you politicians think that it is political, that is your problem. I think it is social and economic. Therefore, I can talk about it.

(Wolfensohn 2000)

Other people also influenced this change in attitude. Glynn et al. claims that a shift happened in US policy in 1993, when the Clinton administration assumed office. President Clinton; Secretary of State, Warren Christopher and Assistant Secretary of State for Economic and Business Affairs, Daniel K. Tarullo, decided to make the OECD bribery negotiations a State Department priority (Glynn et al. 1996:14), and The Clinton White House has also been successful in putting corporate bribery on the agenda of the WTO (Geo-JaJa; Magnum 2000:247). From the World Bank, a group of people leaded by Peter Eigen, discouraged by the Bank’s former stance of not tackling the problem of corruption, founded the anticorruption NGO, Transparency International (TI) in 1993. TI has 90 chapters around the world, and has played, and is
playing, a vital role in raising awareness and spreading anti-corruption norms and information among statesmen, organizations and public opinion.

In the anti-corruption story, several of the influential actors have been simultaneously motivated by both a moral agenda and business interests. Legal counsel to General Electric, Fritz Heimann, was one of the initiators of TI, and worked with TI-USA, the International Chamber of Commerce and the OECD Business-Industry Advisory Council in support for the OECD Convention. As Abbott and Snidal (2002: 174) concludes: “although his motives surely included interest considerations, there can be little doubt that Heimann adopted anti-corruption values.”

Mark Pieth, Swiss law professor and, chair of the OECD Anti-Bribery Working Group, used his position to open the OECD process to value activists such as TI. He also developed networks where both private and public organizations working against corruption could meet, and a network of national prosecutors (Abbott;Snidal 2002: 166). This led, first of all to a very well coordinated process in the OECD, and second, to a discussion where value activists and normative arguments where present and visible.

**Increased research on corruption**

The economic literature that developed on the topic helped legitimizing the anti-corruption battle. During the 80s negative aid experiences cumulated and economists such as Susan Rose-Ackerman and Joseph Stiglitz started to present micro-economic models of corruption (Andvig 2004)\(^5\). But it was not until the pioneering article by Paulo Mauro\(^6\) showed, from empiric studies, that countries with a lot of corruption have less of their GDP going in to investment, and have lower economic growth rates, that the costs of corruption was fully understood. His findings were supported by the work of Harvard economist Shang-Jin Wei, who argued that corruption acts as a tax on foreign direct investment. The World Bank also followed this logic, stating in 1997 that “no matter how high the degree of predictability of corruption in a country, its rate

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\(^5\) Seminar on International Trade and Corruption (ELSA), September 2004
\(^6\) Paulo Mauro; Corruption and Growth (1995)
of investment would be significantly higher were there less corruption” (The Economist: 1999). This research, in addition to TI’s continued lobbying, led the World Bank to become one of the leading promoters of anti-corruption norms, and information-source on anti-corruption.

The further institutionalization of these anti-corruption norms, notably by criminalization of bribery through the OECD Convention in 1997, and regional conventions, forced more actors to take corruption seriously, especially international corporations. The globalization of world trade has led to increasing cash flows and more Foreign Direct Investment (FDI). As the knowledge of the cost of corruption has spread, more companies see corrupt countries as less interesting to invest in, or to do business with, thus reducing FDI to those countries. The unpredictable nature of corruption can cause delays and add costs to investments. In addition, companies now have to calculate the cost of being caught and heavily penalized for corrupt behavior.

Today, predictability and a belief that everybody will play by the rules is important in the global economy, and a company linked with corruption and scandals does not draw investment. Therefore, it is in the interest of the companies in the stock market to keep up a clean act, maintain a good reputation, and in that way raise confidence and the value of their stocks. A company or country that is a spearhead in the anti-corruption battle, or having a zero-tolerance reputation for corruption often has a comparative advantage, because a good corporate reputation often increases trade and surplus. Sadly, for some corporations, this knowledge about the reputational costs of corruption has only meant developing “fancy,” but empty, rhetoric to please shareholders, while at the same time have become cleverer at concealing corrupt practices in the company.

Increased research on the costs of corruption has increased the understanding that corruption is bad for business, but also events such as the Asian Crisis contributed to bringing awareness about the negative consequences of cronyism and that corruption could have a global impact on both domestic and international markets.
The Asian Crisis

Corruption in the public sector, (especially cronyism), has been described by economists such as Krugman and Stiglitz as one of the reasons for the Asian Crisis in 1997. The Asian financial crisis began with the collapse of the Thai currency in July 1997, lasted through most of 1998, and had a particularly catalytic and beneficial impact on the anti-corruption case.

“While the crisis was largely an example of macroeconomic failure, the huge impact it had on neighboring countries in Asia, and also in Eastern Europe and Latin America, showed the negative consequences of bad governance, and crony-capitalism in public and private decision-making institutions”

(OECD 2000:95).

What the Asian Crisis also illustrated, researchers as Glynn et al foresaw already in 1996: Today it is “easier than ever before to dispose the fruits of corruption” as the…“digitalized international finance system only is partly under control of national authorities” (Glynn et al 1996:8). Before, one had rested on the assumption that as long as corruption happened somewhere else, it was “ok,” and on the logic “out of sight, out of mind.” But, as national economies have become more and more interdependent there is no “somewhere else” or “far away” anymore. There are more examples of the spill over effect from corruption: When the Bank of Credit and Commerce International (BCCI) went bankrupt in 1991, the whole social security fund of Gabon was wiped out (Passas in Glynn et al 1996:12). Official corruption in many Latin American countries can be connected to drug related crime in the US (ibid:12). This has contributed to the understanding that corruption is an international phenomenon and therefore international cooperation is a necessary condition for fighting it successfully.

International cooperation

The spill over effects of corruption became even more apparent after September 11th, when it was revealed that corrupt money was financing many terror organizations. This led to an increased demand for global cooperation and fuelled the work on the global UN anti-corruption convention. In December 2003, the UN Convention
Against Corruption was signed. It represents the first global initiative to fight corruption, and the date, 9th of December is, since then, the international anti-corruption day. Compared to the OECD Convention, the UN Convention represent some value-added in terms of content, especially on the issue of repatriation of distorted/stolen assets. This issue has not been mentioned in any previous conventions. The UN Conventions also goes beyond previous anti-corruption initiatives by criminalizing not only bribery and the embezzlement of public funds, but also trading in influence, and the concealment and laundering of the profits that corruption can create. The UN Convention also deals with those who contribute in obstructing justice, and offences that deal with the problematic areas of private-sector corruption. But most importantly maybe, is that the UN Convention widens the scope of the regime. While the OECD Convention mainly has a business/trade focus, the UN Convention has a global reach and thus a global and a broader focus.

These efforts and development is what has led me to believe that we are talking about an international anti-corruption regime. The question of whether it is legitimate to classify these efforts as a regime will be thoroughly discussed in chapter three.

1.4 International regimes

The new policy dilemmas of the post WWII era led to an unprecedented cooperative behavior among the Western countries in fields including everything from trade and security, protecting the climate and the management of natural resources, and patenting and policing. Anti-corruption also seem to be one of these new fields. This increase in international cooperation also fostered a theoretical debate, based on a more “societal” dimension of the international relations discipline (Haggard; Simmons 1987: 491). In that respect, the regime theory, which emerged from this debate, can be seen as an attempt to fill the historic lacunae between the study of the broad international structure and the more narrow study of formal organizations (ibid: 492).

Analytically the regime theory helps us conceptualize and explain this rapid increase in multilateral agreements and arrangements that states undertake to regulate international and transnational activity. International regimes have received significant attention in the field of international relations, and with its focus on the international community it challenges the time-honoured realist tradition that rest on the Hobbesian perspective of states operating in an international anarchy. Regime theory has instead based its analytical tools on elements from liberal economics and game theory by advocating that states are rational actors that pursue their interest under zero-sum conditions and in that way benefit from cooperation (Keeley 1990:83).

Regime theory consists of several approaches to explain what role, and to what degree, international institutions play when states cooperate (Stokke;Claes 2001: 272), but the general notion within regime theory is that that international institutions do matter in world politics. Traditionally three such schools of thought emerge from regime theory: Power-based realism focus on distribution of power between the actors, with the hegemonic stability theory at its core, interest-based neoliberalism focus on the opportunity a regime offers for realizing common interests that the actors may have, and knowledge-based cognitivism emphasize the role that ideas, discourse and knowledge play in international relations and cooperation.

The international anti-corruption regime differs from other trade or financial regimes. Bukovansky argues that the emergence of this regime highlights an “important but neglected aspect of the evolution of transnational governance in the international political economy…” and diverges from other financial and trade regimes by evocating the moral requirements of a market economy. This is very unlike the technical and instrumental justifications for open markets that dominate the international political economy discourse (Bukanovsky 2002:3). Because the international anti corruption regime has this moral aspect, it has proved useful to also include a norm-based theory to my analysis. This theory is the most recent addition to the theories of international organization, but has established itself within regime theory literature since late 1990’s. Norm-based theory advocates that norms matter in
international relations; that they can be actively built, shape actors’ preferences, and thereby constrain power.

1.5: Timeline approach

In my view, and based on the empirical findings in this case study, these four approaches cannot be seen as competing, but rather as complimenting theories when explaining how the anti-corruption regime developed. Since regimes are dynamic, and are influenced by changes in world politics and history, it is important that we consider this changing nature also when analyzing the anti-corruption regime. Regimes do not develop over night, and this regime in particular has had a many-phased development. What I have found is that the different theories serve well to explain different phases of the regime development. I will therefore argue that it is necessary to see the development as a temporal sequence from the first anti-corruption effort was made in 1977, until today. I will return to this in my further analysis.
Chapter 2: Theory and Method

2.1: International regimes

International cooperation has existed since the emergence of the state system, but *institutionalized* cooperation has a rather recent history (Underdal; Hovi 2000:23). The study of international regimes has been popular with IR scholars since the late 1970s, and has since then evolved to provide more than just “scattered insights about the workings of international institutions” (Breitmeier et al 1996:1). Regime analysis provide a stable research program with “common and comparable conceptualization of the major issues that allow for competition among theoretical statements and provide a sound basis for empirical testing” (ibid:1).

The definition of what constitutes a ‘regime’ has been greatly debated among scholars. There is still no uniform definition of an international regime, and this has created some conceptual confusion about what is meant by it. Stephen Krasner’s definition is nevertheless the most widely used, and it will also be the basis for this thesis.

Krasner defines an international regime as:

“implicit or explicit principles, norms, rules, and decision-making procedures around which actors’ expectations converge in a given area of international relations… Principles are beliefs of facts, causation and rectitude. Norms are standards of behaviour defined in terms of rights and obligations. Rules are specific proscriptions for action. Decision-making procedures are established practices for making and implementing collective choice”

(Krasner 1983: 186).

These four components (principles, norms, rules and procedures) govern the interaction between actors in a regime in a specific area. What that area is, is defined by reference to a problem that the actors wish to manage (Breitmeier 1996:5). In that sense, international regimes are problem driven, because they develop as a solution to a problem that individual actors cannot cope with on their own (ibid:5). A regime provides an institutional frame for international negotiations but differ from international negotiations by, in addition to procedural decisions, having a substantial
core of recognized rights, duties and rules of behaviour (Claes;Stokke 2001: 271). It differs from an international organisation by not being a juridical body that can act in international processes, but an international organisation often play a central role in international regimes. This being said; there is no blueprint for an international regime. Regimes differ along many dimensions, including membership, functional scope, geographic coverage, legal form, degree of formalization, institutional depth etc (Breitmeier et al 1996:19).

**Regime critique**

Susan Strange has been one of several scholars that have doomed regime analysis to failure. Her main criticism concerned the ‘woolliness’ of the ‘regime’ concept; how do you know when a regime (or any of its components) exists in a given issue area, and what distinguishes the components (principles, norms, rules, procedures) from each other (Hasenclever 1996:180)? She also argued that the regime concept is constructed by the powerful for the powerful, so that it excludes the voices of the underprivileged. In that sense, she claimed, it is meaningless to talk about a regime as something just, or consensual (Strange 1983). Thus, the liberal nature of the regime theory poses some problems when it encourages us to view a regime as a benevolent, voluntary, cooperative and legitimate body, both analytically (the concept) and ideologically (as a language of justification for the powerful) (Keeley 1990:84).

Defending the analytical value of regime theory, Ruggie reminds us that popular concepts, such as ‘state’ and ‘power,’ also have contested natures. Thus, the ‘woolliness’ of the ‘regime’ concept seems to be a lot less dramatic than suggested by Strange (Hasenclever et al 1996: 183). For the ideological critique, we will see that there are theoretical developments within the regime theory that can serve as counterweights to this critique.

**Four hypotheses**

As proposed earlier, the main quest of this thesis is to determine which driving forces were behind the development of the international anti-corruption regime. To answer
this question, four hypotheses have been deducted from the theoretical framework sketched out above:

H1: The presence of a powerful hegemon was the driving force behind the development of the regime.
H2: The presence of reciprocal benefits led to regime formation.
H3: A learning process, where one came to understand that corruption really has a very high price, led to the development of the regime.
H4: A norm-change, where corruption went from being a necessary evil to just evil, was the driving force that led to regime development.

The four theories, represented by the four hypotheses, present four different perspectives on how international regimes develop and function. They have different starting points, define different actors as the key players, and focus on different arenas for where premises are formulated and negotiation takes place. A line up of these hypotheses is not based on a notion that one of them is correct and the others are wrong. The aspiration is neither to single out one variable to explain the development of the regime, it is rather an attempt to distinguish the different driving forces that has been present in the process.

The task of this analysis is thus to place the empirical material of my research of the international anti-corruption regime under scrutiny of the four regime theories. By doing this it will be possible to go from general perspectives of regime theory, to specific knowledge about the international anti-corruption regime. To distinguish the driving forces, one independent variable is extracted from each theory.

Four schools of thought
As mentioned, one talks about three schools of thought within regime theory, that each emphasizes different variables to explain the existence of international regimes: Power-based realism focus on the role of a strong and powerful leader – a hegemon. The supporters of this approach claims that without the presence of a hegemon a
regime will not develop and, if a hegemon disappears from an existing regime it will cease to exist. Interest-based neoliberalism focus on the opportunity a regime offers for solving a common problem that the actors have. The two constructivist theories, knowledge-based cognitivism and norm based theory, is different from the power and interest based theories. Instead of focusing on how states and institutions can shape behavior in the international community, knowledge based perspective focus on how a “new” concept, such as corruption, can enable epistemic communities, and that this can initiate learning processes that in turn can change the preferences and priorities of the actors. Norm based theory argues that even if the costs of cooperation are higher than the benefits by joining, an actor would cooperate because it is the right thing to do. The focus is thus on the role that norms can play in shaping the preferences of actors in the international community, and that norms can develop, and grow strong enough to constrain the power of an actor within a certain field, by for example creating identity and moral. In this way, norms can lead to cooperation in fields where it was previously impossible to cooperate because of, for example, the costs for the actors involved.

The four perspectives will be discussed in more detail in the following.

2.2: Driving forces for regime development

Power-based theory

Even though power-based theory is the perspective which has the least faith in the prospect of an ‘international regime’, it does acknowledge that regimes exist and that it represents a “significant phenomena to be accounted for by international relations theory” (Hasenclever et al 1996:196). But even within power-based theory there are disputes about when, and why states sometimes choose to cooperate. The most “famous” approach is the hegemonic stability theory. The assumption of this approach is that how power is distributed among the states determines to what extent cooperation can take place. Hegemonic stability theory argue that cooperation can happen if the power distribution is skewed, and that the actor that dominates a certain
issue area want this kind of cooperation. Thus a hegemon is necessary for an international regime to develop and function. When the regime no longer serves the interests of the hegemon, or power is more equally distributed among the members (ibid: 197), the hegemon will pull out, and the regime will fall apart. Thus, there has to be a highly uneven distribution of power in that issue area for a regime to develop (ibid: 198). In the most basic sense hegemonic stability theory argues that states do not “have the ability to engage in large scale collective action” (ibid: 198), and that if a regime is formed, it is supplied by a hegemon who reaps a clear benefit by engaging in this cooperative action. As we will see in the further analysis, this was exactly the case when the international anti-corruption regime developed.

Stephen Krasner has a slightly different approach to power based theory as he focuses on collective action problems. A strong hegemon may face problems of other states looking for a free ride, because they assume that the hegemon will have enough incentives to produce the good on its own, regardless of other countries contributions. This means that even though the states have a common interest of working together to solve a given problem, this kind of cooperation will still be difficult to produce because states are afraid that others will cheat, and get a free ride, while they are stuck with “paying the bill”. This is often illustrated by the Prisoners Dilemma game where the players end up with a sub-optimal collective behavior instead of the Pareto optimal outcome, because of fear of being cheated by their partners. But the problem is not only the threat of being cheated. States with common interests might also fail to cooperate because they, for whatever reason, cannot agree on how to solve, or how to organize their actions (Hasenclever et al 1996: 200). To deal with both this problem, and that of collective action, Krasner argues that the hegemon can choose to use its powers to pressure other states to contribute. Thus, through power, and bargaining leverage from unequal opportunity costs, cooperation can happen (ibid: 200).

The absence of appropriate international institutions can also make it difficult for states to cooperate. States act out of self interest in an anarchical environment, and since power distribution is the key, states are concerned also about the relative power
situation in this environment. This anarchy, Grieco claims, “creates a structurally induced intolerance for relative loss” (ibid: 202). As a consequence states are attentive of any benefits that its competitors are accruing, and this can result in states disembarking or withdrawing from cooperative ventures (ibid: 197;202).

When discussing whether power based theory has any explanatory strength, two issues are important to take into consideration: The will and the ability that the hegemon has to act. The power structure in the world can influence the hegemon’s ability to act, and stall action even though the hegemon has the necessary will to pursue cooperation in an area. On the other hand, a hegemon might have the ability and the necessary means for action, but might lack the will to do so, because he does not want to carry the costs of cooperation or because of ignorance. Following the logic of the power-based perspective – regimes will not form in either case. In our case we will see that the transition from bipolar to uni-polar power distribution in the world had a defining role for making international cooperation on anti-corruption possible.

The independent variable from this theoretical approach is therefore: The presence of a hegemon. For the further analysis, what we need to establish is whether there is, in fact, a hegemon present and the size of his resources. What we also need to investigate is the overall power distribution and -structure in the world at the time, and how the hegemon’s ability and will to exercise power to pressure other states might have changed over time.

**Interest-based theory**

Interest-based theory is the mainstream approach when analyzing international regimes. Interest based theory shares with power-based theory that states are the most important actors in world politics, and the utilitarian notion that when states act, it is to maximize, or secure, their own interests. But interest-based theory differs from power-based theory when it comes to explaining what role international regimes play in helping states realize common interests (Hasenclever et al. 1996: 183). Interest-based theory focuses on regimes as functional tools to ease international cooperation
by establishing “rules of the game” when states themselves fail to cooperate in a certain issue area. But, neo-liberals uphold that states will only engage in a regime when there is a reciprocal benefit to be earned. Keohane, maybe the most famous advocate of neo-liberal interest based theory, combines functional reasoning with rational choice theory when arguing for why states cooperate: International “institutions exist because they are expected to…increase the welfare of their creators” (Keohane in ibid: 186), and states are only willing to take the transaction cost of establishing a regime if the reciprocal benefits are large. The larger the benefits are thought to be, the easier it will be to establish the regime.

Several approaches can be found within the interest-based theory, but contractualism is the cornerstone and the purest representatives of the neo-liberal theory (Hasenclever et al. 1996: 183). The contractualist approach has a functional argument to why regimes develop. It focuses mainly on the effects that regimes have in situations resembling the Prisoner’s Dilemma game. As mentioned, the neo-liberals, and interest based theory, acknowledges the realist notion that states are egoists. But, what separates it from the power-based theory is the claim that states have independent utility-functions, and “do not gain or loose utility simply because the gains or losses of others” (ibid: 184). Thus, the interest based theory does not share the power-based theory’s scepticism about regime formation when relative gains/losses are at stake.

What is necessary for regime formation, according to the contractualists, is the presence of a reciprocal interest that can be attained only through cooperation (Keohane in ibid: 184). This is illustrated by the Prisoner’s Dilemma, where collective action problems and lack of cooperation leads all players to individually trying to maximize their utility, thus creating a sub-optimal outcome for all. While the power based theory focus on the hegemon’s ability to force cooperation, the contractualists, see regimes as an instrument that states can use to overcome such dilemmas, by establishing a playing-field where information on the players, rules of the game, and procedures for negotiation and decision-making, are open to all. This will provide more predictability and thus reduce the chance of free-riders or cheating. As Axelrod states: “Only if the actors expect to meet again in the future…cooperation become
possible” (ibid: 185). Keohane also focuses on the reputational effects that regimes generate, when he is explaining why regimes work as tools for international cooperation: Countries that do not comply with the rules of the game are not seen as trustworthy, and this can have effect on the ability to achieve goals in the international arena at a later time, goals that might be of considerable importance. Therefore, as compliance is “cheaper” than non-compliance, the chance of actors cheating is lowered.

The independent variable generated by interest based theory is: The presence of reciprocal benefits. The basic premise of interest based theory is that states are selfish and utility maximizing, and that if they do cooperate it is only when a common benefit can be earned. Thus we need to establish whether such a benefit is present, we need to look at the transaction costs of cooperation, and whether cooperation was based on utility maximizing reasoning.

**Knowledge-based theory**
Knowledge-based theory focuses on the origins of ideas, and interests of states, emphasizing the role of knowledge and learning in international politics, and normative and causal beliefs of decision-makers (Hasenclever et al. 1996: 206). “The assumption is that the actors’ perceptions of the world are shaped through international cooperation” (Stokke;Claes 2001: 272). Knowledge-based theory has a different focus than utilitarian power- and interest based theories. Here, the focus is no longer on the state as key actors, but on how international cooperation can strengthen or embed certain ideas and knowledge in actors by initiating learning processes and thus shaping the social context where interactions and decision-making takes place. This elevates international regimes from being just functional tools for a state’s strategic purpose, to a “shaper” of beliefs, preferences and priorities. This approach also rests on more Foucauldian ideas of society as social constructs, and that behavior only makes sense within a framework of a constructed reality. In this sense a regime is an exercise of social engineering that by the use of a certain language, logic and symbols specifies or defines an issue area considered to be of public interest. As a result of social
engineering, a particular behavior is seen as normal, and those who do not follow these standards are viewed as “abnormal, unintelligible, mad or at least beyond the pale of accepted argument” (Keeley 1990: 91;92)

Therefore, while the two previous schools of thought see regimes as institutional answers to the wishes of the actors, the knowledge-based school turns this around (Stokke;Claes 2001: 272), by claiming that regimes can influence, and sometimes also define, the wishes and assumptions of the actors. In the regime formation process this often happens as the actualization of a new concept (like corruption was in the early 1990s) empowers so-called epistemic communities – “trans-national networks of acknowledged experts within a field” (Haas in ibid: 272). These provide legitimacy, and “evidence” for new viewpoints. This is especially apparent if the regime is addressing a problem that is little known, information on the issue is hard to access, the actors have little knowledge on how to react to, or after a crisis (Haas 1989:380). As a result, the people in the expert group (that embody the necessary and often rare knowledge) receive authority; they are consulted and listened to, and often given positions in domestic bureaucracy. Thus, epistemic communities are important to legitimize change in attitude, ideas, or policy, to convince domestic policy-makers to commit to such a change, or to an international agreement where the costs might seem high, and the rational thing would be non-compliance. These networks consist of people who share both a common understanding for a certain problem or issue area, and for how this could best be solved or addressed. In the following analysis we will see that epistemic communities, especially within the OECD process, played an important role in creating national ownerships to the Anti-Bribery Convention. Generally, it is also through epistemic communities that new ideas are channeled and are circulated from society to governments and from country to country (Hasenclever et al. 1996: 209).

Cognitivist argue that it is wrong to regard actor’s interests as given – “rather interests should be treated analytically, as contingent on how actors understand the natural and social world and the nature of their preferences” (Hasenclever et al. 1996: 206).
claim is that while utilitarian theories would only identify a behavioral change of states, it would fail to link these changes of interests to their social origins. The cognitivists claim that social changes, for example technological innovations, alter the landscape of international relations, and “devalue traditional policy strategies” (ibid:207). The claim is that this gives room for other actors than the state to influence policy and ideas, and that this indeed happens:

“Change-inducing decision-making increasingly takes place “transnationally”, within complex institutional arrangements established by a variety of actors operating at different scales across interdependent issue areas, and guided by competing and conflicting interests and motivations. As such, sources of authority and influence are not confined to the material capabilities of states, but are increasingly multifaceted and entangled in complex social relations between a variety of actors”

(Wright 2004: 6)

From the knowledge-based theory, the independent variable: a learning process where one came to understand that corruption has a very high price, is generated. The basic premise for regime foundation in knowledge based theory is that the actualization of an issue area can lead to cooperation as it creates shared beliefs, values, a common “language” and logics of causal mechanisms. When epistemic communities, advocacy organizations or researchers use the same terms of reference in either studies or articles, cumulative knowledge dissemination takes place. So what we have to identify in the empiric material is whether such shared beliefs and logics developed in the early 90s. To identify this convergence in logics and causal mechanisms, it is necessary to look at the development of scientific literature and research, but also to see if epistemic communities have evolved, and if possible, say something about their strength. To define or measure whether the intentions of the actors are based on logic of appropriateness or logic of consequentiality is not easy. Do you comply because it is the “right” thing to do, or do you comply because you fear the consequences if you don’t comply?

Norm-based theory
Norm-based theory is introduced in this analysis because it embodies some important aspects about regime formation that the three traditional theories do not. Some
scholars argue that norm theory does not have enough explanatory power to be regarded as an adequate theory on its own, and claim that it can, at best, be seen as a branch of knowledge based theory since they both draw on some of the same structuralist notions. Others argue that within constructivist theory there are two differing perspectives; one cognitive, and one normative. Cognitive knowledge based theory has its focus on rationality, facts and pragmatics (what works in a given situation), while normative norm-based theory has its focus on moral and how things ought to be. I have chosen to treat it as a separate perspective, as its normative foundation allows us to generate hypotheses that differ rather radically from the cognitive perspective.

But, like knowledge-based theory, norm-based theory represents an opposite to utilitarian power- and interest based theories, by giving weight to norms and their ability to constitute and constrain actor’s behavior in international relations because: “norms do not appear out of thin air; they are actively built by agents having strong notions about appropriate or desirable behavior in their community” (Finnemore & Sikkink: 1998: 896). These agents, or norm entrepreneurs, are central for new norms to surface. New norms never enter into a vacuum (ibid: 897), but must compete with existing, and maybe contradictory norms. So, the way norms are promoted affect the way the broader public see and understand an issue, such as corruption. These norm entrepreneurs remind us a little of the epistemic communities of the knowledge-based theory, but are different in their approach. Whereas epistemic communities are empowered by a focus on a particular issue area which in turn can be triggered by a crisis, norm-entrepreneurs can bring attention to an issue-area. Norm-based theory also focus more on civil society as a bottom-up “force” for norm-change, while knowledge-based theory focus on technical experts and policy-makers for bringing about change directly.

All norm promoters at the international level need an organizational platform from which they can work (ibid: 899). These organizations can be launched for the specific purpose of promoting the norm, such as Transparency International came to promote
anti-corruption norms. Also, norm promoters often work within a larger transnational network, in institutions like the UN, OECD, or the World Bank etc. When the entrepreneurs have convinced enough leading states to adopt and promote the new norms, we can say that the norm reaches a critical point, a ‘tipping point’ (ibid: 901). Sometimes, for a norm to reach this point it needs to be institutionalized. Then it becomes clear what exactly the norm is, what constitutes violation, and which procedures come into action in the case of violation. However, “institutionalization is not a necessary condition for a norm to be accepted by society” (ibid: 900). It also works the other way around.

Strong support for a norm can lead to a push from civil society for institutionalization, or deepened institutionalization. When a norm has reached the tipping point, a norm cascade follows, and we start to see effects internationally. Whether this was the case with the anti-corruption norm, and that this is the explanation for why the regime developed so fast will be discussed in the analysis, as the evidence is a little ambiguous in that respect. Countries begin adopting the norms even without domestic pressure, seeing it of great importance to follow the norm. Such a norm cascade is supported by international networks that promote “international socialization to make norm breakers become norm followers” (ibid: 902). Axelrod (in ibid: 903) refers to this as “social proof” – a psychological need to be part of a group. So the reputational cost of being regarded as a “rogue state,” the need to legitimize your policies to the public, and to raise self esteem by playing alongside the good guys, is important when explaining why this norm cascade occurs after the tipping point.

Whereas both the power and interest-based theories claim that states only will follow the rules if it is beneficial to them, or the reputational costs are higher than non-compliance, cognitivists (both from the radical knowledge-based perspective and the normative perspective) claim that rules and norms have a compliance pull of its own that will make actors feel obliged to follow the rules, even if they have both the

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8 The ‘tipping point’ is a concept originally from epidemiology (popularized by the best-selling book by Malcolm Gladwell). It “suggests that small changes accumulate innocuously until a critical mass is reached, at which point a large-scale, irreversible change occurs in the system under study” (Science Next Wave, July 3rd 2005, http://nextwave.sciencemag.org/cgi/content/full/2005/06/02/5).
incentive and capacity to break them (Hasenclever et al 1996: 211). March and Olsen argues that there is a logic of appropriateness that drives the actors, instead of the logic of consequentiality (ibid 212).

From norm-based theory the independent variable, *the presence of a norm-change in which corruption goes from being a necessary evil to being seen as wrong*, is generated. The basic premise in this theory is that norms can influence, and sometimes also alter states’ behavior. So, what we need to establish to round support for norm based theory is whether former norm breakers have become norm followers, and if that is the case, we need to find out why. For norm based theory to posit any explanatory power, there has to be some norm entrepreneurs that have actively built anti-corruption norms. Thus it is necessary to establish the emergence and presence of norm entrepreneurs and value based organizations/institutions in the time period before the OECD Anti-Bribery Convention was signed. We also need to find out whether there has been a tipping point, and if it has, we need to establish when that was. A way to find this out, is to locate which actors joined the anti-corruption initiative, and when. This will also reveal if it is justifiable to talk about a norm cascade.

### 2.3 Four independent variables

As we have seen four theories emerge from the international regime theory on how regimes develop. The four theories look at the same phenomenon and history, but from different angles as they focus on, and give weight to, change on different independent variables when proposing an answer to why regimes develop.

<table>
<thead>
<tr>
<th>Theoretical approach</th>
<th>Independent variable</th>
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<tbody>
<tr>
<td>Power-based theory:</td>
<td>Presence of a hegemon</td>
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<td></td>
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<tr>
<td>Interest-based theory:</td>
<td>Presence of reciprocal benefits for the state actors</td>
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Knowledge-based theory: Presence of a learning process from which a consensus that corruption is harmful emerged among academics working in the field

Norm-based theory: Presence of a norm-change where corruption went from being seen as a necessary evil to being wrong

### Independent variables → Unit of analysis

- Hegemon → The international anti-corruption regime
- Reciprocal benefit → The international anti-corruption regime
- Learning process → The international anti-corruption regime
- Norm-change → The international anti-corruption regime

**2.4: Timeline approach / Temporal Sequencing**

Young and Osherenko warn that those who seek to find bivariate relationships in a regime formation process will “fail to develop a clear picture of the complex picture of regime formation” (Young; Osherenko in Rittberger 1993: 239). They propose construction of a multivariate model to grasp the regime formation process, but in this case we can take this logic further. What we see from the empirical material is that all four theories have some explanatory power, but that they explain different phases of the regime. Therefore I argue that it is necessary to analyse the regime within a temporal sequence approach. This approach, instead of the traditional competitive testing between theories, or multivariate model, suggests that the theories and hypotheses presented above can work in sequences, and can depend on each other temporally, or work mutually enhancing on each other (Jupille et al 2003: 22).
2.5: Method

In 15 years we have gone from having ‘no focus on corruption,’ to having an ‘overwhelming focus on corruption.’ The goal of this thesis is to find out which mechanisms connect these two very different situations, and to explain a complex social and contemporary phenomenon – that is, how the international anti-corruption regime developed. In the previous pages four different perspectives from the broader regime theory have been presented, and independent variables that can contribute to explain the development of the regime have been deducted from each perspective. In the following, I will present the methodological foundation on which my research design and study has been built.

Considering the exploring character of the research question, and the historic and process oriented way we approach the unit of analysis, the methodological tools to our service are somewhat limited. Since we do not have a universe of comparable cases, quantitative, large-n statistical methods are not usable for this analysis. Even if we had such a universe, the statistical methods, which are derived from the natural sciences, would only produce correlations. These are not sufficient to understand the causal mechanisms of the regime developing process because:

“…the large-n statistical methods tend to bias theory away from processes and toward structures, [and] although structures are important, they alone are unable to explain much variation that occurs within the same structures…”

(Odell 2001: 20).

Since the process, and the specific mechanisms for the international anti-corruption regime, is exactly what we are trying to identify in this analysis, the quantitative approach is not very interesting or suitable for us. In a case of such causal complexity (as the empirical evidence suggests that it is) qualitative methods, that are fundamentally holistic, are better suited (Ragin et al. 1996: 755). Several mechanisms and variables can contribute to explain the development of the international anti-corruption regime; the variables were sometimes working at the same time, sometimes triggered each other, and sometimes had a mutually enhancing effect on each other. And exactly because of this complexity, and such a strong probability of interplay
between the independent variables, the results would be very misleading if we sought to squeeze the international anti-corruption regime through a causal analysis to test the validity of regime theory. Still, the goal of the analysis is to locate some correlation between the independent variables and the dependent - that can help us explain the development of the regime. A plausible way of doing this is to employ a comparative static mode of reasoning; comparing different equilibriums that emerged during the regime development process. This will be elaborated on under 2.8.

The international anti-corruption regime is a complex phenomenon that has developed in a complex historic context. The heuristic case study is therefore a good method for analyzing it, and a method that will allow the complexity of the phenomenon to unfold. Supporters of positivism and the Popperian perspective, have argued that such heuristics do not guarantee or allow statistical control. But the fact that it is difficult to generalize from a single case study is simply not the issue here. What matters, is that it allows for identification of a causal mechanism which in turn gives the researcher a framework within which external validity of the causal claims can be investigated (McKeown 1999:184). Another research design could have been a comparative case study, with many different regimes, to test the relative meaning of the variables. But that would have had a completely different purpose, in addition to being very demanding and time consuming.

2.6 Temporal sequencing

“The historical process by which international political order develop are complex enough to make any simple theory of it unsatisfactory” (March; Olsen 1998: 969). This seems to be true for the development of the international anti-corruption regime. As a result I have chosen a “perspectives” approach in this analysis, meaning that I have generated a “mixed-bag” of variables from the main theoretical perspectives in the literature (regime theory, that is) (Ragin et al. 1996: 754). This allows for a way to adjudicate between different explanations and for “interaction effects” among the variables (ibid: 754). The idea of sequencing theories takes this approach further when it suggests that each theory depends on the other temporally to explain a given
outcome, and that the variables from all the theories thus work together over time to fully explain a phenomenon (Jupille et al. 2003: 22).

Since the empirical material indicates that the hypotheses are not mutually excluding, and because the variables they identify can have a mutually enhancing effect I will build on the idea of sequencing in the following. What I have found during my research is that the different variables seem to have a stronger explanatory effect in certain phases of the process. This strengthens the argument for an eclectic and theory developing research design. So, as a result of this I am trying to show that the development of the international anti-corruption regime can be divided into four main time phases, based on the four different independent variables that have been generated from the four theories. In that way, the details in the process will become clearer, and the interceptions and the mechanisms that are working between the independent variables, presence of a hegemon, reciprocal benefits by cooperation, a learning process and a norm change, will hopefully be better clarified. An eclectic research design, as proposed above, where several theories are used to explain one phenomenon is thus preferable to a nomothetic and theory-testing approach.

2.7 Matrix of the temporal sequencing of the international anti-corruption regime

<table>
<thead>
<tr>
<th></th>
<th>T0</th>
<th>T1</th>
<th>T2</th>
<th>T3</th>
</tr>
</thead>
<tbody>
<tr>
<td>X1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>X2</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>X3</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>X4</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Y</td>
<td>0</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
</tbody>
</table>

Most events can be interpreted differently. One general methodological risk with the case-study method is that the researcher selectively reconstructs the event so that it would favor one theory, by underplaying evidence (consciously or not) that is
inconsistent with the preferred theory, or fails to present available alternative theories (Odell 2001:7). “A check against this risk is faithful presentation of one or more of the most powerful alternative theories, and interrogation of the evidence to check each” (ibid:7). This matrix is an attempt to do this.

This matrix is, of course, a very simple model of the process, and its goal is only to clarify and illustrate the empirical findings and methodological foundation. T0 – T3 represent the regime’s time periods, or phases, where T0 is the starting point (no regime), and T3 is the present time (regime). The X’s represent the alternative theories/variables, where X1 is the power-based theory (variable: presence/no presence of a hegemon), X2 is the interest-based theory (presence/no presence of reciprocal benefits), X3 is the knowledge-based theory (presence/no presence of a learning process) and X4 is the norm-based theory (presence/no presence of a norm-change). Y is the dependent variable; the international anti-corruption regime. The numbers on Y indicate the strength of the regime.

The goal of this exercise is to identify when and if a change occurs on one of the independent variables. This can be done by isolating each variable for certain time periods, and investigate in the empirical material whether a change has occurred in that variable from the previous time period, while controlling for the other variables. This is signalized by the change from 0 to 1 on the variables in question, and makes it possible to identify which variables have the most explanatory power in each time-period. Each of these stages represents different equilibrium, and this is where the comparative static method comes in. By isolating and comparing the different equilibriums we find correlations that will increase the probability that certain mechanisms exists – and that these make up the process that constitutes the development of the anti-corruption regime. The sequencing model will be thoroughly fleshed out in a more substantial manner in chapter five.
2.8 The case study approach

The case study literature is a very useful tool when searching for inter-structural changes, such as how a specific international regime develops or changes over time. The case study method is also a preferred strategy when ‘how’ questions are posed, and when a contemporary phenomenon is addressed (Yin 2003:1). The approach also “allows investigators to retain the holistic and meaningful characteristics of real life events” (ibid:2), such as an organization, a process, or a group of people. Thus, the ‘case’ expression refers not only to a physical unit of some sort, but also to single social phenomena as examples of relatively general phenomena (Østerud et al. 1997: 33). As the development of the anti-corruption regime is a contemporary, single, social phenomenon and a historic process, the case study approach is mostly seen as the best way to get a credible and clearer account of what has happened in the regime development process. Although the single case study method may not test a theory such as the regime theory, the case study shows that one or more known theories can be extended to account for a new event (Odell 2001: 6), such as the development of the international anti-corruption regime.

One weakness of the case study approach has been illustrated by Andresen and Wettestad is their study of environmental regimes:

…”as environmental problems are often interrelated in intricate ways, and policies adopted in one regime context affect policymaking in other regime contexts, a narrow one-regime – one-problem focus may easily lead us to ignore important questions of interplay, context and linkages”

(Andresen; Wettestad 1995:4)

The problem of corruption is, like environmental problems, linked to other aspect of national and international politics, and is thus also affected by developments in other regimes, like the anti-money laundering regime, and by legislation on taxation, international policing, and finance regulations. By sticking only to the anti-corruption regime, we might loose some interesting insights about the broader picture of international countermeasures towards international financial (and bordering) crime. But then again, within the limits of this thesis it would not be possible to carry out
such a large scale research project – it would at best only scrape the surface, and therefore not present many insightful conclusions.

2.9 Sources
The sources of this analysis can be divided into three main groups: semi-structured interviews, public documents, and scientific literature. Combining different sources of information - called triangulation - helps securing reliable results, but because of the time and space constraints of this thesis I have not been able to investigate as many sources as I would have liked to. As a general criticism to the material that forms the foundation for my analysis, it is that I have too few sources to back up the results that I have found.

Semi-structured interviews
I have interviewed two officials at the OECD, and one former World Bank employer. One potential (and general) problem when interviewing officials from organizations is getting real information, and not just an organization’s official policy-answers. This is mostly a problem if the issue area is of a sensitive nature, or if the questions asked has an accusing or intimidating character. Since neither was the case in my interviews, it does not create a problem for the reliability of the answers. The interview with the former World Bank employee was done by email, because he is stationed in Madagascar.

In addition, I have attended several conferences on corruption, with both national and international anti-corruption experts as key note speakers. Personal communications with these, and discussions during the seminars, has given valuable inputs and insights about the issue. I have used these events to shed light on ideas that I have had, and thus added strength and validity to my arguments.

Still, as much as I have tried to secure valid and reliable results, a general criticism to the empiric foundations is that it is based on too few sources. Based of the timeframe and resources available for this project, I still feel that I have presented an adequate
narrative on the development of the international anti-corruption regime. One aspect of
the thesis I would have liked to investigate further is the motives of the key initiators
of the anti-corruption initiative, especially within the TI system and the US
government, to develop a better understanding of the link between the two.

Public documents
Throughout my research I have studied documents from different and independent
sources. I have studied documents from international organizations and countries that
are involved in the regime, I have studied the conventions that have been signed and
now bind the regime, and I have studied the media-coverage and the articles this
generated. As a total it has provided a broad and diverse coverage of what has
happened during the last two decades concerning the anti-corruption regime. There is
no reason why this information should not be trustworthy.

But, a potential problem of relying too much on public documents is that rhetoric in
conventions or “final” documents, seldom give an adequate picture of the process
behind the convention, of the real driving forces, or of the potential power struggle
during negotiations. In such documents the issue is well covered, but one seldom finds
much information about initiation processes or special initiators either. Another
problem might be that the government/organization that publishes the information in
question lacks self criticism or have a stake in being portrayed as one of the “good
guys”, thus information is presented so that things seem better than they really are. In
those cases (especially where it is difficult to validate the information) it becomes
difficult to distinguish between rhetoric and reality.

Situating my contribution: The scientific literature
To outweigh the problem that public documents might pose, I have tried to find as
many sources about anti-corruption and the anti-corruption regime as possible.
Because little has been written about the international anti-corruption regime, it has
been difficult to find sources that don’t cross reference each other. But I have found
some independent sources, and they support the evidence from both my interviews and that of the public documents that I have studied.

Research on corruption is not new. In the 60s, researchers such as Huntington (1968) and Leff (1964) claimed that corruption was beneficial for economic growth. Within economic research this view changed during the 70s and 80s, when a lot of microeconomic work was done on the causes of corruption. This research drew on the economics of information and agency models and was represented by economists such as Krueger (1974), Rose-Ackerman (1978), Wade (1982), Johnston (1986) and Klitgaard (1988) (OECD 2001: 12). In the mid 90s, empiric research i.e. cross country studies, effects on growth in developing countries and redistribution. This confirmed much of the findings from the microeconomic research. Researchers such as Barro (1991), Shleifer and Vishny (1993), Ades and DiTella (1995), Brunetti (1995), Khan (1996), Langseth and Strapenhurst (1997) and Kaufman (1997) and Wei (1997), to mention a few, has contributed to these insights. But the most influential article was the one from Mauro; Corruption and Growth (1995). It was the first systematic cross country empirical analysis that related indicators of bureaucratic honesty and efficiency to economic growth. The main evidence is a negative association between corruption and investment as well as growth both in economic and statistical sense (Mauro 1995: 705)

In 2002, Abbot and Snidal published an article called ‘Values and Interests: International Legalization in the Fight against Corruption.’ This article has given important inputs to this study as it combines both interests and values when explaining why the OECD Anti-Bribery Convention came about. It argues that a rational choice account is essential when explaining how the Convention came into existence; that interests provided a constant pressure and that without it – no agreement would have been reached. But even in a situation with an expansive conception of interests, Abbot and Snidal claim, values also play an important and independent role, and an important backdrop against which value activists and interest entrepreneurs interact. Values are
also important by imparting a “stickiness” to legal arrangements that hinders backsliding even when powerful interests are involved.

My contribution builds on this dual logic between interests and values when analyzing the driving forces behind the anti-corruption “movement.” While Abbot and Snidal’s study has a one-event focus (the OECD Convention), this study presents a cumulative understanding of the regime, using regime theory and temporal sequencing to explain the development of the anti-corruption regime. This study also incorporates the technocratic perspective, claiming that epistemic communities also have played an important role in the regime development process. This dimension is absent in Abbot and Snidal’s study.

Very little research has been done on the anti-corruption regime, and even less on driving forces behind the process and the circumstances in which it developed. This study attempts to contribute to fill this gap.
Chapter 3: The international anti-corruption regime – does it exist?

The international anti-corruption regime consists of a set of collectively negotiated and agreed upon conventions and agreements for the common purpose of reducing corruption. The conventions have different scopes both regarding geography and consistence, because actors within the regime put varying weight to different aspects of the corruption problem. While some might think that corruption first and foremost is an economic efficiency problem, others focus on how corruption undermines the rule of law or hampers development for the poor. But even though actors have different focuses, they share some common values and norms about corruption; that it is ‘bad’ and that everybody is better off without it. The first legal framework came in 1997, with the signing of the OECD Anti-Bribery Convention, and today, 39 countries are bound by this convention. These countries represent collectively over 70 % of world exports, and over 90 % of FDI’s (OECD 2001: 51). So even though only 39 countries are bound by the convention, it still manages to target a large part of the supply side of the world’s corruption. Between 1997 and 2003 organizations as the World Bank (and its regional development banks) IMF, and multinationals, have adopted anti-corruption policies. With the signing of the UN Convention Against Corruption in 2003, the regime got a truly global reach, with 123 signatories (of who 25 has ratified it) as of June 2005, and it is expected that is will enter into force within 2005⁹.

3.1 Principle, norms, rules and decision making procedures

As we have seen, Krasner defines an international regime as:

“implicit or explicit principles, norms, rules, and decision-making procedures around which actors’ expectations converge in a given area of international relations… Principles are beliefs of facts, causation and rectitude. Norms are standards of behaviour defined in terms of rights and obligations.

⁹ www.unis.unvienna.org/unis/pressrels/2005/unisnar903.html
Rules are specific proscriptions for action. Decision-making procedures are established practices for making and implementing collective choice” (Krasner 1983: 186).

The point of this chapter is to identify these elements; the principles, norms, rules and decision-making procedures within the international anti-corruption regime.

**Principle**

Corruption is the problem that the regime is responding to, so the first and foremost principle, or aim, of the anti-corruption regime is to curb corruption. This principle is founded on several causal understandings and beliefs of facts, among them: Fighting corruption is the means to the end of poverty reduction and social equality; fighting corruption will create more fair competition in international trade; fighting corruption will contribute to sustainable development and a clean environment; fighting corruption will strengthen democracy through open governments, and help strengthen global security. Different actors put varying weight on these different causal understandings. Since the first multilateral convention was signed in 1997, the regime has grown stronger, and got a bigger scope. This is apparent if we compare article 1 of the OECD Convention (1997) and the UN Convention (2003). The OECD Anti-Bribery Convention article 1 has a rather narrow, business approach, and says nothing about the broader societal consequences of corruption:

> “Each Party shall take such measures as may be necessary to establish that it is a criminal offence under its law for any person intentionally to offer, promise or give any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party, in order that the official act or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage in the conduct of international business”\(^\text{10}\).

The UN Convention however, signed 6 years later has a broader article 1 (especially illustrated by point (c)), that stress how anti-corruption measures are essential for good governance:

> “The purposes of this Convention are:

\(^{10}\) OECD Anti-Bribery Convention (1997)
(a) To promote and strengthen measures to prevent and combat corruption more efficiently and effectively;
(b) To promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery;
(c) To promote integrity, accountability and proper management of public affairs and public property”

Norms

Even though the scope of the two conventions differs, and some actors might stress different causal relations when arguing against corruption, there are some norms that actors in the regime agree on will facilitate the process of reducing corruption. These norms are transparency and openness in decision making, both in business and politics, accountability for all, codetermination through a functioning democracy, an independent judiciary and an independent media.

Rules

There are also rules that define and restrict the actors’ behavior in more detail. These rules are constituted in the conventions, agreements and annexes that have been signed. As more Conventions, and more anti-corruption strategies and polices have been signed the rules have also grown in scope and strength. From being more narrowly focused on rules to govern behavior in international business transactions (criminalizing bribery and provide adequate legislation, accounting and reporting requirements, and mutual legal assistance), the regime today embodies a broader and more complex framework for rules of behavior. This consists of special requirements for i.e. adopting the national budget and in procurement, developing prevention strategies and awareness raising, asset recovery, protection of whistle-blowers, in addition to accounting and reporting rules, and mutual legal assistance. The area in which the rules apply has also been broadened from business and government, to also include the political, organizational and private sphere.

Decision making procedures

Decision making procedures are established practices or processes for making policies, and secures that decisions are implemented. One example of this is the monitoring processes that make sure that the actors within the regime play by the rules. This is, to a large extent, covered by the different Conventions, as there is no administrative body that controls the activities of the regime as a whole. The UN might fill this gap in the future, as it is the only global initiative. For the OECD countries, and the other signatories to the OECD Convention, the decision making is done within the framework of the OECD Working Group, where all decisions are made within the consensus system, and monitoring to a large extent is based on self evaluation and evaluation by co-members.

For about 20 years, the biennial International Anti-Corruption Conference (IACC) has brought together anti-corruption practitioners and academics to share ideas and information. While the focus was largely on law enforcement and the discussion limited to official corruption, the scope has grown to address the broader concept of corruption, and has a more global focus as the regime has evolved. The IACC Council - the conference body - was established in 1996, with Transparency International (TI) as its Secretariat. The IACC is now the largest global meeting place and forum for exchanging of ideas within the anti-corruption field, and attracts politicians, government- and law enforcement officials, the judiciary, accounting professionals, researchers, representatives of the world of business, international development organizations, NGOs, and the media.

The objective of the IACCs is "…to stimulate the global exchange of experience and methodology in controlling corruption, and to foster international co-operation among citizens and institutions from all parts of the world" (IACC Guidelines).

The normative character of the regime makes it very embarrassing for members to be caught cheating or not comply with the conventions or established guidelines. There is no international body that can issue sanctions on non-compliers, but in countries that

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have implemented anti-corruption conventions, sanctions such as fines and imprisonment are made part of the national legislation. Though often, reputational costs are higher than any other sanctions.

### 3.2 Watersheds

Because regimes are often complex entities, Breitmeier et al. introduces the term temporal watersheds when analyzing international regimes:

> “A watershed, in contrast to a transition from one regime to another, marks a major change within a regime and divides the regime into distinct time periods. A watershed occurs if there is a temporal discontinuity in the operation of the regime, a significant restructuring of principles/key norms (the new principles need not necessarily be at odds with the old ones), a significant change in the group of leading actors, or a significant expansion in functional scope (e.g., a radical deepening of regulative rules)”

(Breitmeier et al. 1996: 8).

Such watersheds can also be found in the international anti-corruption regime, and the watersheds (as presented above) represent a logical and natural way of dividing the regime into, and corresponds with the assumption that different variables have explanatory power in different time phases. These phases are represented in the matrix presented in 2.5 as T0-T3. The first phase represents the period where the US lobbied for a commitment from the OECD on anti-corruption, but no regime existed or developed. It shows a hegemon, with will to create a regime, but with a lacking ability to do so, because of the antagonizing debate over power politics. The end of the Cold War marks an important change in the structuring of world politics, and is represented by the transition to T1 in the matrix. After the Cold War, in the early 1990s, the US gained the ability that it had been lacking under the bipolar Cold War era, and the first multilateral agreement on anti-bribery was reached when OECD member countries and five associated governments signed the Recommendations on Combating Bribery of Foreign Public Officials in International Business Transactions in 1994. This constitutes the temporal starting point for my narrative on the forming of the international anti-corruption regime. The second watershed (T2) came in 1997, when two main events took place. Both were linked to one underlying development; increased research on corruption and its consequences. The first event was that the
OECD Recommendations went from non-binding soft law, to a binding Convention, thus deepening the scope and regulative rules on anti-corruption. The second event was that the World Bank started talking about the “cancer” of corruption. Before 1997, the World Bank had never made any attempts to address the issue of corruption. Not even a policy document on anti-corruption existed. It was seen as to interfere with politics, and that was outside the mandate of the Bank. Now, that had all changed, and this is illustrates by a shift to T2. After the OECD Anti-Bribery Convention was signed, many international labor unions also entered the field, by issuing a joint statement urging governments to ratify it.

In 1999 the International Chamber of Commerce (ICC) issued a revised version of the 1977 ICC anti-corruption rules that were established after the FCPA was passed in the US. But, as corruption disappeared from the international agenda during the 1980s, so did the enforcement of the rules. The revised ICC Rules were closely linked to the OECD Convention, and the ICC also contributed to the development of the Convention. The new ICC Rules prohibit extortion and bribery for any purpose (my emphasis), and thereby goes one step further than the OECD Convention that prohibit foreign bribery in connection with “obtaining or retaining business or other improper advantage” (OECD 2000:171). The late 1990s also saw the signing of two EU anti-corruption conventions – one criminal and one civil, the Inter-American Convention Against Corruption (OAS), and in 2001, the Anti-Corruption Action Plan for Asia and the Pacific was signed. In addition, the Global Coalition for Africa and the Global Forum Against Corruption was formed. Today the actors within the regime include countries, private-public and non governmental organizations, and multinationals.

The year 2003, represents the transition to T3. The signing of the UN Convention, the latest addition to the regime, gave it a new and global scope, and a broader and more detailed framework for fighting corruption.
<table>
<thead>
<tr>
<th>Year</th>
<th>Initiative</th>
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<tbody>
<tr>
<td>1994</td>
<td>OECD Anti-Bribery Recommendations</td>
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<td>1996</td>
<td>Inter-American Convention Against Corruption - Organization of American States (OAS)</td>
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<td>1997</td>
<td>OECD Anti-Bribery Convention</td>
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<td>1999</td>
<td>Council of Europe Criminal Law Convention</td>
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<td>1999</td>
<td>Council of Europe Civil Law Convention</td>
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<td>1999</td>
<td>International Chamber of Commerce, Anti-corruption Rules of Conduct for Companies</td>
</tr>
<tr>
<td>2003</td>
<td>UN Convention Against Corruption</td>
</tr>
</tbody>
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Chapter 4: Four explanations for regime change

Chapter three established that an international anti-corruption regime exists, and described how it looks and functions. Now it is time to address the question of regime formation. What drove the development of the international anti-corruption regime?

4.1 The presence of a hegemon explains the development of the regime

In the following section we are looking for evidence that support the hypothesis that presence of a hegemon explains the development of the regime. It will be argued that the presence of a hegemon was important, but not a sufficient condition for the anti-corruption regime to form in the bi-polar era. Conflicting interests that arose during the antagonizing debate over political systems made it impossible to cooperate on anti-corruption. To fully grasp this we need to go beyond hegemonic theory.

The Foreign Corrupt Practises Act is born

The first formalized anti-corruption initiative has its origin in the USA in 1977, when the Foreign Corrupt Practises Act (FCPA) was passed. It was a reaction to a time where financial “craziness”, involving accounting scandals and bribery of foreign officials by US companies, were threatening to destroy the integrity and reputation of American businesses and the American business system as a whole (Newcomb 200513). A large-scale investigation was enacted by the US Securities and Exchange Commission (SEC) in 1975. This investigation was triggered by the criminal prosecutions that the Watergate Special Council put forth against several US corporations after it was disclosed that they had made illegal contributions (made in cash from “slush funds”) to President Nixon’s election campaign. The SEC commitment was two-fold; the first issue was related to the legislative history that dated back to the Depression in the 1930s. The goal was to secure financial transparency for shareholders and investors also in companies that operated abroad. Second was the issue of what implications corrupt practices by US companies could have on American foreign policy (Cragg;Woof 2002: 105).

13 Seminar on the FCPA with Danfourth Newcomb, February 2nd 2005
The SEC investigation led to more than 400 U.S. companies admitting to having made questionable or illegal payments in excess of $300 million to foreign government officials, politicians, and political parties (Rossmann 1999:1 and Abbott;Snidal 2002). This became a huge story in the American press, and turned into a scandal, similar to the recent Enron scandal (Newcomb 2005; Hishikawa 2003:1). That a liberal administration led by President Carter was in charge, helped secure that the Act was passed in both Houses. President Carter had, in the elections following after the Vietnam War proclaimed a new policy, emphasizing moral and a more ethical standard of conduct. But, who sponsored the bill was Senator William Proxmire of Wisconsin (Hishikawa 2003; Cragg;Woof 2002: 106). What was required, he argued, was:

“a national policy against corporate bribery that transcend the narrower objective of adequately disclosing material information to investors…A strong anti-bribery law would help US multinational companies to resist corrupt demands”


The moral argument and the fear of implications for foreign relations were also evident in Proxmire’s speeches in the Senate:

“Bribery is simply unethical. It is counter to the moral expectations and values of the American public, and it erodes public confidence in the integrity of the free market system. Bribery of some US companies casts a shadow on all US companies. It puts pressure on ethical enterprises to lower their standards and match corrupt payments, or risk losing business…Bribery by US companies also undermines the foreign policy objectives of the United States to promote democratically accountable governments and professionalized civil services in developing countries”

(ibid: 117).

From this it seems as if both a normative argument (bribery is unethical) and a more strategic argument (bribery undermines the foreign policy objectives of the US) together secured that the FCPA was enforced in 1977.

The FCPA has two different aspects to it: First, it imposes rigorous accounting- and record keeping requirements, backed by criminal penalties, upon publicly held firms. Second, the Act criminalizes the payment of bribes to foreign officials, as well as foreign political parties, party officials, and candidates for public office, and to any
third parties where the payor knew or had reason to know that the payment would be made to any officials.\footnote{Foreign Corrupt Practices Act 1977, as amended in 1988}

**The US gets cold feet**

After Congress had passed the FCPA, doubts about its “convenience” rose, especially in the business sector. The fact that most European companies could deduct bribes that were paid abroad off of their taxes created a murmur in the US business sphere. President Carter had, after the passing of the Act, assured the sceptical business sector that other countries would quickly follow the lead of the FCPA, but repeated negotiations on international rules on transnational bribery failed (both bilaterally and at the UN) (Abbott;Snidal 2002: 162). It became apparent that as long as American companies where the only ones operating under the law, they would not only have a considerable disadvantage compared other companies (European companies in particular), who routinely paid bribes to obtain contracts, but they would also have little negotiating leverage.

The problem got worse for the Americans as it became clear that it could neither threaten the Europeans to abolish the FCPA (Abbott;Snidal 2002:162). This was because it proved to be very difficult and problematic to convince any Senator or Congressman to vote against the Act (even though efforts where made). Such a vote would undoubtedly been interpreted as a vote in favour of corruption, something which would be very difficult for any public official to defend (Newcomb 2005) and Abbot;Snidal 2002:162). As a result the Act stood firm, but efforts to minimize its importance were made, most notably under the Reagan administration’s Omnibus Trade Act in 1988. Then three amendments where added, that to a certain extent allowed grease- or facilitation payments, and bona fide expenditures (marketing and product demonstrations) if this was within the ordinary practice of the host country.\footnote{Grease-and facilitation payments were prohibited in the original FCPA, but this paragraph was eased up as it was thought it would contribute to leveling the playing field for US companies. It is especially the term ‘facilitation payments’ that has a rather contested nature. A facilitation payment is strictly speaking a bribe – only it is a small scale bribe, used to “oil” the machinery of sticky bureaucracy. Since there is no definition on when, or at what size a facilitation payment becomes a bribe, it is hard to react against this practice, and even harder to convict on charges of it.}
As Congress understood that it would be impossible to abolish the FCPA it directed the Executive Branch to negotiate through the OECD for an international agreement that would commit all US trading partners, be it companies or countries, to a common anti-bribery and anti-corruption legislation\textsuperscript{16}. In that way, the playing field would be leveled out, and US businesses would not loose so many million dollar contracts to European companies. MSNBC reports that a 1993 CIA report indicates that US intelligence agencies “had identified 250 cases of aggressive lobbying by foreign governments on behalf of their domestic industries that are competing against US firms for businesses overseas between 1986 and 1993” (MSNBC: 2000:3). Thus, one can claim that the decision to start lobbying for an international anti-corruption legislation was based on self interest: As the law seemed un-abolishable the priority became to make sure the same law applied to everyone.

\textbf{Failed negotiations}

Because of this non-leveled playing field, negotiations were started already in 1989, under the Bush sr. administration. The arguments were largely based on the economic consequences of corruption, economic efficiency, and on the need for fairness in the playing field. This line of argument did not result in any concessions from the Europeans, and the negotiations halted. The oil crisis in the 70’s in the Middle East had grave consequences for the Western world. Markets were stagnant, and with growing unemployment everywhere, countries were interested in finding new markets. They were especially interested in finding good bargains relating to the oil and gas market. To achieve their goals many countries preferred to close their eyes, and continue thinking that giving bribes to foreign officials would support economic growth in Western countries (Wéhrlé: 2004).\textsuperscript{17} Economic recovery in Europe and the end of the Cold War changed the negotiation environment for the corruption issue. Because of the superpower-rivalry there had been little room for criticisms of totalitarian governments and/or corrupt practises. This criticism was sacrificed for the “greater good” of ridding the world of communism. This was particularly apparent during the Reagan era, where:

\textsuperscript{16} \url{http://www.usdoj.gov/criminal/fraud/fcpa/dojdocb.htm}

\textsuperscript{17} Interview with Fredéric Wéhrlé, Co-ordinator for the Anti-Corruption Division, OECD
“enforcing the criminalization of bribery would appear to have been compromised in cases where bilateral relations with an important anti-communist ally meant turning a blind eye to corruption in that country”

(Cragg; Woof 2002: 131).

The new uni-polar system gave the US an increased ability to influence the international agenda, than it had had before.

The end of the Cold War represented a major change in the power structure in the world. A uni-polar structure, with the US as the sole hegemon replaced pre-89 bipolarity. This significantly increased the strength of the USA, and gave it ability to act in areas where it had been very difficult to act before. As long as the world was divided in two blocs and each hegemon had its satellite states, it was very hard to raise the question of corruption. Both the US and USSR propped up totalitarian and corrupt regimes fearing that if they did not, they would lose them to “the other side.” With this problem gone, it became a lot easier to argue the cause of anti-corruption.

In addition to a more uni-polar structure where the US got strengthened bargaining powers, the early 1990s also saw increased globalization and interdependence between countries and economies. Increasing numbers of multilateral corporations, FDI’s and continued liberalization of world trade, combined with technological developments has made it easier to cooperate across borders. These developments have positive spillovers, but they also increase the window for criminals. Problems like international corruption, tax heavens and money-laundering illustrated some of the shortcomings of a system based on national jurisdictions. International standards and regulations would, however, apply to more companies, institutions and countries, and it would be harder to hide the “fruits” of corruption. This realization changed the playing field, and a window of opportunity for cooperation on anti-corruption opened.

From this narrative it is plausible to divide the variable ‘presence of a hegemon’ into two time-phases, one before, and one after the end of the Cold War. Using the language from the power-based theory, one can argue that the reason for why a regime
did not develop during the first phase was because the power distribution in the world was too even (with two large hegemons represented by USSR and the US), and therefore the US lacked the ability to make it happen. Continuing this logic, it would make sense that the anti-corruption regime started to develop as the power structure changed. This power structure is represented by the end of the Cold War and fall of one of the hegemons, the USSR.

Hegemonic stability theory developed in a bipolar world, where cooperation happened within the two spheres, not between them. Corruption was, because of its truly international nature, an issue that could not be regarded within spheres. The bipolar era offered many difficulties for international cooperation in general. This was also the case for cooperation on anti-corruption. For the US, the threat of communism, and the quest to contain it was the first priority, thus sacrifices on the anti-corruption issue had to be made to reach its overriding goal. Therefore it became very difficult to develop an international anti-corruption regime during that time period. Today the power distribution has a uni-polar structure, thus international cooperation altogether is easier to achieve. As predicted by scholars of hegemonic stability theory, and supported by evidence from this analysis, power-based theory has a lot more explanatory power when power is unevenly distributed. As for the development of the anti-corruption regime, it coincided with the disappearance of the rivaling debate over political ideology and proxies between the US and the USSR. Thus the end of this rivalry, the evidence suggest, enabled the US to put power behind the want for an international anti-corruption legislation.

4.2 Regime formation is explained by a norm change

In this section we will look for evidence that a norm change explained the development of the regime. It will be argued that we have witnessed a significant norm change on the anti-corruption issue. It will also be argued that it has been an interplay between a top-down agent driven process and a popular (bottom up) event-driven sentiment, and that this was a very potent combination.
Media

The first Clinton administration, which took office in 1993, reopened negotiations with the OECD, after gaining new and strengthened arguments on the anti-corruption issue. A very potent strategy was adopted as commercial/economic interest and normative values were combined in one line of argument. The Clinton administration had also taken use of a new tool in the newly opened negotiations, namely the media. Digitalization of the media in the early 1990s made it easier to spread information, and to get access to it. A growing number of scandals, involving European politicians, bureaucrats, judges and businessmen, were disclosed by investigative journalists, and persistent judges. Business Week wrote on March 1st 1993:

“That first arrest 12 months ago, in what became known as Operation Clean Hands, has snowballed into the biggest criminal investigation in modern Italy. Scores of politicians are under investigation for corruption, including 34 members of Parliament and three Cabinet ministers. It’s not only politicians who are under fire. Also implicated are more than 200 businessmen, from officials of state-controlled ENI, Europe's No. 2 energy group, to dozens of top managers at blue-chip companies that form the very heart of Italian capitalism--auto giant Fiat, chemical group Montedison, the Ferruzzi agricultural empire, and others. Judges are warning that this may be only the beginning.”

And on June 20th 1994:

“Whether or not Europe's business morality is fraying, its securities laws are stiffening, judges are growing irate, small shareholders are crusading for their rights, and the business press is becoming more aggressive. As a result, Europe's long tradition of burying business abuses is ending, believes Roberto Artoni, a former member of Italy's stock-exchange watchdog agency. "The dam has broken," Artoni says…Italy may be Europe's corruption champion, but cases of fraud, embezzlement, and lesser wrongdoing are emerging almost weekly in France, Germany, Spain, and elsewhere. They range from alleged fraud in the collapse of financial holding company Sasea--the biggest bankruptcy in Switzerland's history--to insider-trading charges filed in late May against Pierre Berge, head of French fashion house Yves Saint Laurent.

But what began in Italy turned out to become a clean up in several governments in post-cold war Europe. Magistrates in Paris have worked hard at uncovering high-level corruption during the mid-1990s, and as a result the list of former and present government ministers, mayors, and parliamentary deputies placed under judicial investigation grew longer (Business week, Feb 19, 2001). The Elf scandals got the most publicity. As it unraveled it became evident that this scandal had ties to both politicians and other representatives in the French government and elite. In addition,
politicians and businessmen in other countries, such as Spain, Germany, Kongo and Angola were involved.

The revelation of these scandals aggravated the public, because it revealed power structures that secured unjust prerogatives for certain groups, especially those with money and power. Corruption became an issue that brought people out on the streets: “For once, protestors in Jakarta or Harare are on the same side as the IMF” (Economist: 1999). The Clinton administration and Transparency International (TI) knew how to use the media and the angry public to their advantage. As analyses presented by both Glynn et al (1996), and Abbott & Snidal (2002) shows, it became a much more efficient strategy to use European media and public diplomacy to influence policy, than anything else.

**A dual strategy**

The commercial arguments from the Bush sr. Administration were now supported by findings by US intelligence on corrupt European companies, and many of these stories were leaked to the media (Glynn et al. 1996: 21). In the MSNBC article, “U.S. spies on corruption overseas,” it is claimed that the US began to monitor international bribery in 1994 for the purpose of “reversing some of the contracting decisions and enable American companies to get a fair share of the contracts…” (MSNBC 2000: 3). This information was used by the US to influence either the briber or the one being bribed to change behavior. But as discussions advanced between the US and OECD, European media became very interested in even the slightest suggestion that European officials were blocking anti-corruption initiatives. In 1994, a wave of corruption scandals, both international and domestic, started to come over Europe. This did not only change how Europeans viewed corruption, but also the context in which negotiations took place:

“The scandals made European publics highly sensitive to issues of bribery and corruption and aware of their connection to democratic accountability… The State Department then played on European officials’ fear of press and public criticism. Tarullo carried with him (or told people he did) a list of the 10 largest bribe-paying companies in the world. When officials became recalcitrant, he would tap his
jacket pocket, suggesting he could make the list public. Although many Europeans saw these tactics as diplomatically inappropriate bullying, they were undeniably effective. Tarullo and his successors at the State Department continued their value-based “outside” tactics until the convention was adopted, while on the “inside” they negotiated hard over the mechanics of criminalization (Abbott;Snidal 2002:164).

The idea was that embarrassing scandals would put leverage on the OECD countries to also enforce an anti-corruption legislation. The strategy proved to be very fruitful, as 1994 marks the year when OECD started serious work on what was to become the 1997 Anti-Bribery Convention. This normative value approach was developed with help from Transparency International. These arguments were based on appealing values such as democracy, good governance and “civic virtue” (Abbott;Snidal 2002:163).

Abbot and Snidal (2002) and Glynn et al (1996:18) argue that this media strategy was one of the reasons why the US finally reached an agreement with the OECD. Mr. Wéhrlé at the OECD Anti-Corruption Division confirms that the role of the media and the civil society has been crucial:

“The public in France or Italy did not really care about corruption in foreign countries, but started to care when their own politicians were disclosed. This means it was a strong push from the civil society to make their governments cleaner. This pressure was an incentive for countries to develop a text prohibiting bribery of foreign public officials in foreign markets” (Wéhrlé: 2004).

For 20 years the FCPA was the sole initiative and instrument for curbing corruption, until 1997, when the US and 33 other countries signed the OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions. It had not been an easy task to get there, and there was nothing resembling an anti-corruption regime, before the 29 OECD countries and five non-members decided to join in. In the following years, several organisations and governments committed to the fight against corruption.
From pragmatic double standard to just being wrong

On a general basis the attitude and norms relating to corruption changed from a pragmatic double standard where corruption was seen as a necessary evil – tolerated abroad, to a plain evil in the early 90’s – wrong at all times, in all places. The growing interest in democratization in Africa and Latin America made it evident that corruption helped maintain authoritarian regimes and distorted funds intended for vulnerable groups. Development experts, especially in the World Bank began to lobby within their organizations for a change in policy toward corruption18. In 1993 the non-governmental organization, Transparency International, was formed by a group of former World Bank employees. The purpose of the NGO was to spread information on the negative impact corruption has on all aspects of society, because the World Bank refused to acknowledge the problem of corruption (Marquette 2002 and 2000; Langseth 2004).

At the same time, democracy concerns strengthened also in Europe, and the European corruption scandals transformed the myth that corruption was only a “Southern” problem, into a realization that the problem also affected the North (Abbott;Snidal 2002: 159). The attention these scandals got in the media, helped turn the pragmatic double standard of ‘corruption is a necessary evil’ attitude around. European publics “expressed revulsion on behalf of their political leaders, creating a pool of value actors that activists could mobilize in support of concrete action” (ibid: 159). This new ‘corruption is always wrong’ attitude in civil society, combined with a hegemonic pressure, proved to be a very potent two-way pressure strategy, and eventually led to the signing of the OECD Anti-Bribery Recommendations in 1994. This was the first multinational anti-corruption initiative. Shortly after, some OECD countries, particularly France and Germany started questioning the non-binding, soft law, character of the newly agreed upon Recommendations. If the anti-corruption recommendations were serious, why was it not a binding convention? (Whérlé 2004). The argument was that only a Convention would guarantee that the obligations would be upheld by all member countries (OECD 2000: 33). The work on changing the

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18 Interview with Petter Langseth, UNODC, December 2004. Langseth worked at the World Bank during the 90s, and was one of the advocates of WB anti-corruption commitment.
Recommendations into a Convention was finished in 1997, and the OECD Anti-Bribery *Convention* came into force in 1999.

**The tipping point**

This process of mutual augmentation of the economic and normative arguments, seems to have culminated around 1998-1999, when institutionalization almost happened by itself. This logic reminds a lot of what Finnemore and Sikkink describes as the ‘tipping point’ with a subsequent norm cascade: Strong civil society support for the new norm eventually lead to institutionalization of the anti-corruption agenda, and to several other organizations developing anti-corruption strategies and policies of their own. Another example of such further institutionalisation and international socialisation was when countries that were not members or obligated to by other instruments, approached the OECD to implement the Convention, and of businesses that establish ethical standards of conduct, including anti-corruption and bribery provisions, corporate social responsibility and so fourth, willingly, without laws or regulations demanding it. Kuran and Sunstein (1999) also underscore this normative “effect.” They use the term ‘availability cascade’ for the self-reinforcing cascade process. Their argument is that a combination of informational and reputational motives (learning from beliefs of others, and by shaping their public communication to maintain social acceptance. In this way a certain opinion is able to form a ‘collective belief’ that can trigger a chain reaction that gives the opinion increasing plausibility through rising availability in public discourse.

What also highlights the importance of norms for the international anti-corruption regime is how today, in most countries and firms, the consequences of bad publicity because of exposure of corrupt behavior are more severe than economic penalties (Bukovansky 2002:6). This effect is also seen on the macro level as governments with low rating on TI Corruption Perception Index (or has a reputation of having many corrupt practices) runs a huge risk of loss of FDI’s (ibid:6). Also, by just accusing someone of corrupt behavior will do serious damage to a public person’s image, regardless of if it is true or legal prosecution is instigated (ibid:6). These examples
show that norms really can change, and has changed, actors’ behavior in certain issue areas. In our case the anti-corruption norm changed from having a pragmatic double standard of necessity to do business abroad, to becoming morally wrong at all times and in all places. What we can see from this narrative on the role of norms in the anti-corruption story is that power-politics might be an underlying variable for the success of norms in changing the focus on corruption. In the next chapter a more in-depth discussion of whether norms have explanatory power of its own or if it is just a pretext or a way of manipulation, for a deeper power-based argument.

4.3 A learning process, where it became clear that corruption has a very high price, explain why the regime developed

This section follows on the knowledge based theory presented earlier. It is argued that research on corruption and the knowledge this research brought forth, explains why the anti-corruption regime developed. The claim is that by providing an issue like corruption with empiric “evidence” that it is wrong, and as this evidence becomes known, specialists that provided such evidence will often be empowered by obtaining positions in governments and international negotiations, because the issue is given more attention in the public debate. As a result of these specialists getting a larger say in policy making, the issue often gets higher priority.

Increased research

Until the late 80’s “it was widely argued that authoritarian regimes were better at managing economic development and growth, as well as maintaining a stable political climate” (Marquette 2002: 17). This argument died with the Cold War, and transparent, democratic governments were instead seen as the best facilitators of economic growth and development.

As the focus on corruption increased during the 1990s, so did research on the phenomenon. This research has led to increasingly firm conclusions about the negative impact corruption has on international development and economic growth, even though some economists claim that corruption can act as “oil” in stead of sand in the
machinery of a slow bureaucracy, or a backward economy. This is not, however, the popular argument. Research on the costs of corruption existed before the 1990s, but this research mainly focused on micro-economic models about the actual costs of corruption and did not provide many empiric examples (corruption was, and is still, hard to measure). It was first when Paulo Mauro published his “Corruption and Growth” in 1995, that effort was made to present such empiric material. In the article ‘The Effects of Corruption on Growth, Investment, and Government Expenditure: A Cross Country Analysis,’ Mauro, using a similar regression to one of those in Corruption and Growth,’ shows that corruption affects investment and economic growth (Mauro in Elliot 1996: 90). The argument is that countries with a lot of corruption have less of their GDP going into investment, and have lower economic growth rates. A one standard-deviation (2.38-point) improvement in the corruption index is associated with over a 4-percentage-point increase in a country’s investment rate and over a ½ -percentage-point increase in the per capita growth rate (Mauro in Elliot 1996: 91).

These findings were supported by the work of Harvard economist Shang-Jin Wei, who argued that corruption acts as a tax on foreign direct investment. The economic research and literature showed the high costs of corruption, for businesses and the economy as a whole, and as a hindrance of social development and equality. This stimulated further research and focus on the problem, especially within the World Bank. The World Bank stated in 1997, that “no matter how high the degree of predictability of corruption in a country, its rate of investment would be significantly higher where there less corruption” (The Economist: 1999). This logic (together with pressure from group within the Bank – led by Peter Eigen and Petter Langseth, and later strengthened by Wolfensohn’s personal commitment) led the World Bank into becoming one of the leading promoters of anti-corruption norms, and information-source on how damaging corruption can be. During the Cold War, the Bank would only deal with economic issues, not politics. Corruption was previously seen as a merely political problem, and since the World Bank did not interfere in a country’s

19 Among others; Bagwati (1982), Krueger (1974), Rose-Ackerman (1978) and Tullock (1969)
20 Paulo Mauro; Corruption and Growth (1995)
political issues, corruption was per definition outside its mandate. But as the Cold War ended, and the negative link between corruption and economic growth became apparent, anti-corruption programs began going hand in hand with financial aid and loans to developing countries.

**Epistemic communities**

As more research developed and the focus grew stronger, experts in the field were given more power and influential positions in both bureaucracy, in business and international organizations. These experts form what we can label an ‘epistemic community’, and through their participation in policy-making and information spreading contributed to increase the sentiment in the public and with policy makers that corruption is morally wrong, harmful and that we all would be better off without it (Haas 1989). As people of such skill is required, and career opportunities increases interest in the field by students and academics often increase too.

The OECD also describes what we have labelled ‘epistemic communities’ as central when working to commit its members to the anti-corruption program. The role of epistemic communities was also apparent during the process that led up to the OECD Anti-Bribery Convention. As a part of their dual value/interest approach, the US had from the beginning of the discussions included national prosecutors in their delegations because “of their expertise and commitment and because they have common interests that transcend national boundaries” (Abbott; Snidal 2002:166). When Mark Pieth developed a network for prosecutors within the OECD Working Group, the prosecutors came to represent an ‘epistemic community’ of professionals trained to identify and combat corruption. Because this group of professionals represented a common interest that transcended national boundaries it helped coordinate national behavior, and to legitimize the changed norm: ‘corruption is always wrong.’

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21 Interview with Trygve Bendiksby. Bendiksby is member of the Norwegian Delegation to the OECD and responsible for questions related to corruption.
This increase in research deepened the commitment from the OECD signatories, and in 1997, the soft-law Anti-Bribery Recommendations became a binding Convention. In this period other regions were also inspired to sign similar Conventions, and international organizations like the IMF and the World Bank started including provisions on anti-corruption in their lending policies, and many foreign aid organizations started advocating a zero-tolerance principle for corruption when getting involved in an area or project. The Council of Europe and the Organization of American States were among the institutions to implement anti-corruption policies and frameworks around this time.

What the narrative from the knowledge-based perspective shows is that research by highly educated and well-meaning people is taken seriously\textsuperscript{22}. When these academics became convinced that corruption has high economic costs of, it gave an incitement for more actors to join the infant anti-corruption initiative. This was strengthened through the epistemic communities that formed as a consequence of the actualization of the anti-corruption issue in the early 1990s. Thus, a learning process took place, where it became evident that corruption was not only morally wrong, but expensive, and bad for business.

4.4 The presence of reciprocal benefits explains why the regime developed

It became apparent that as long as American companies where the only ones operating under the law, they would not only have a considerable disadvantage compared other companies (European companies in particular), who routinely paid bribes to obtain contracts, but they would also have little negotiating leverage. Since the US had already committed itself to the FCPA before any international negotiations were initiated, there were no reciprocal benefits to be earned. This is the heart of the matter for why the interest based theory does not explain any of the early phases of regime formation: There simply were no reciprocal benefits present. Because the US had already passed the Act, it could not offer to reciprocate anti-corruption concessions by other

\textsuperscript{22} The result of such research does not even have to be true. What the “real” costs of corruption are is not really the point here – the point is rather that academic research and advice based on this, from highly educated and well-meaning people have power to influence behavior.
governments (Abbot and Snidal 2002: 162) and therefore the incentives for the other states to leave status quo for the lesser attractive option of cooperation, were close to zero. Thus, there has not been a value-change on the variable ‘presence of a reciprocal benefit’ during the regime formation phase.

But, as the regime has developed, gained credibility and supporters, a reciprocal benefit might have developed – namely to sustain the already established regime. Especially since the transaction costs for developing the regime were high it makes sense that the desire to sustain it is high. So, when it is in place the cost of abolishing it is higher than maintaining it. As a result, this logic is contributing to further institutionalization of the regime and to the sustainability of it. What we can argue is that the last phase in the matrix represents the first phase of regime stability, and we can observe a change to 1 on the variable ‘presence of a reciprocal benefit.’ Interest-based theory thus explains why we see further institutionalization and a growing regime even after the US got its will when the OECD countries ratified the Anti-Bribery Convention in 1999.

The starting point of the last phase in the matrix is represented by the signing of the UN Convention Against Corruption, which marks a watershed by being the first global Convention. What is interesting is that the signing of the UN Convention Against Corruption represents a widening of the scope of the OECD Anti-Bribery Convention and the FCPA. The fact that the US has signed the UN Convention is odd, looking from a power-based perspective – because signing it means committing itself to more than the existing juridical demands. Looking back on why the US pushed so hard for an international anti-corruption legislation it was because it wanted an equal playing field when doing business abroad. According to the power-based theory, the US would have stopped when it reached that target. But, as we have seen, this is not the case. The interest-based perspective can offer an explanation to why this has happened.

As the anti-corruption regime has established itself; by deeper commitment to anti-corruption norms, and increased knowledge about the consequences of corruption, this
seems to have led to an understanding that compliance is in the interest of all actors. Research on corruption has increased and expanded to several fields, not only economics. Does the period around the signing of the OECD Anti-Bribery Convention represent a focal point in the anti-corruption story? The evidence suggests that a cascade or a bandwagon effect happened after the OECD Anti-Bribery Convention was signed, and the World Bank and IMF took a clear stand against corruption, international cooperation intensified (see overview in chapter 3) and the scope broadened. Anti-corruption has not just to do with accounting measures and procurement standards anymore, but is an integrated part of any development agency’s strategy, and a large part in most transnational company’s Corporate Social Responsibility Strategy. The number of actors has grown too. Regional conventions and initiatives from both Asia and Africa quickly developed after the OECD Convention was ratified. Several countries that are not obliged by any membership or organization, have in the later years approached the OECD, and showed interest in the Convention and asked to join in (OECD 2000: 155). My argument is that interest based theory can have great explanatory power after a regime has established itself. Then cooperation would arguably be the most beneficial strategy, either because the cost of establishing the regime has been high, or that the regime has come to represent a major solution to a problem and it would therefore seem “bad” or “wrong” not to participate. As the costs of non-compliance are seen as higher than compliance, it would be in the interest of all actors to secure regime sustainability.
Chapter 5: Knitting it all together – The relationship between the perspectives

After having presented a narrative of the anti-corruption history, the different theoretical perspectives and hypotheses on regime formation, it is time to see how the variables are linked to each other, and how the temporal sequencing approach ties the story together. Let’s go back to the matrix proposed in chapter two:

**Matrix of the temporal sequencing of the international anti-corruption regime**

<table>
<thead>
<tr>
<th></th>
<th>T0</th>
<th>T1</th>
<th>T2</th>
<th>T3</th>
</tr>
</thead>
<tbody>
<tr>
<td>X1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>X2</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>X3</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>X4</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Y</td>
<td>0</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
</tbody>
</table>

T0 – T3 represent the regime’s time periods where T0 is the starting point (no regime), and T3 is the present time (regime). The X’s represent alternative theories/variables, where X1 is power-based theory (variable: presence/no presence of a hegemon), X2 is interest-based theory (presence/no presence of a reciprocal benefit), X3 is knowledge-based theory (presence/no presence of a learning process) and X4 is norm-based theory (presence/no presence of a norm-change). A change from 0 to 1 represents *when* an independent variable (X1-X4) changes value, and therefore has potential explanatory power. Y is the dependent variable; the international anti-corruption regime. The numbers on Y indicate the increasing strength of the regime.
A figurative version of the matrix of the anti-corruption regime development

<table>
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<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Power (hegemon)</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Interest (benefit)</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Knowledge (learning)</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Norm (norm change)</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>The regime</td>
<td>0</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
</tbody>
</table>

The goal of this systematization exercise is to find out whether a change has occurred in one variable from the previous time period, while controlling for the other variables. This will give an indication of which variables have the most explanatory power – and when.

5.1 The presence of a hegemon: A necessary, but not sufficient driving force for regime formation

As the model shows, the presence of a strong hegemon (X1) is a necessary condition for regime development, but it is not a sufficient one, as it does not score on Y (regime) in the first phase that started in 1977 (T0). Since the mid 80s, the US had lobbied in the OECD to commit the European countries to a common anti-corruption legislation, without success. Thus, the period between 1977 and the early 1990s, shows a willful hegemon, but with insufficient ability to push for regime formation because of the bipolar power situation and the antagonizing debate over political systems (especially connected to spheres of interests) during the Cold War era.

A willful hegemon alone cannot explain why the international anti-corruption regime developed. But, as the willful hegemon was a necessary condition for the regime to develop in the early 1990s, it was not only the end of the bipolar era of the Cold War that led to regime development. This is illustrated in the previous chapter by the failure of the Bush sr. Administration’s negotiations with the OECD in the late 80s/early 90s. During the negotiations, that partly took place after the Cold War, the focus from the
US was on interest based economic arguments where the main issue was to level the playing field for US companies. These approaches were still rejected by the OECD, after the power-structure had changed. Only when the Clinton administration took up the dual strategy of interest and value arguments was the OECD persuaded to start working on an anti-corruption initiative. But, the US had a clear strategy behind their value-based arguments – they calculated that by turning public opinion in Europe and making them see the importance of multinational anti-corruption legislation, it would influence national politicians, and it would be a lot easier for the US to reach an agreement with the OECD. Then, is the real driving force the power to influence a normative change in public opinion, or is it the driving force the normative arguments in itself?

5.2 Power or Norm? Which is the real driving force?

The history of anti-corruption reveals that there has been both a top-down and a bottom up effect at work. But which one were the strongest? The power based hegemonic push from the US, or the normative moral arguments from civil society? When the hegemon through the media manipulated a norm change in the civil society to create a push for change from below, then which is the real driving force? Is it power or is it norm? Depending on school of thought, one can argue both ways.

“Logic of appropriateness”

Constructivists would lay weight on how morally driven norm entrepreneurs change behavior, and the normative dimension, “logic of appropriateness” (Abbott;Snidal 2002: 141). Even though the US used value-based arguments as a pretext for getting their will in the early/mid 1990s, there was also a real moral concern and sentiment among certain key people in this process – notably people from TI who worked closely with the US government at the time. Especially Peter Eigen, Fritz Heimann, and Mark Pieth acted as norm entrepreneurs in this process as they actively worked for the anti-corruption cause. Later James Wolfensohn played an important role to commit the World Bank system to adopt anti-corruption policies and standards.
An agreement between the OECD and the US was reached not long after negotiations were reopened in 1993. The strategy was use of dual value/interest arguments, and it succeeded. This can be interpreted as evidence for a norm-based perspective, especially considering that the OECD negotiations focusing mainly on the economic arguments against corruption, failed in early 1991.

Looking at history, the normative nature of the anti-corruption issue was also strong from the beginning. The political environment in the US at the time was strongly influenced by the Vietnam War and this contributed, together with revelations of corrupt practices by both US companies and politicians, to the election of Jimmy Carter as President in 1977. His foreign policy platform relied heavily on moral considerations, and this political climate also influenced other areas of politics at the time, such as finance. The leading sponsor of the FCPA, Senator Proxmire’s language in the FCPA hearing had clear normative elements, as illustrated on page 47. Whether ethics and moral was really Senator Proxmire’s motivation for sponsoring the bill, or if there was a hidden agenda somewhere in this debate is hard to identify. But, considering the moral emphasis that developed in the US in the mid-1970s (the Watergate scandal, opposition to the Vietnam War, and the election of Carter for President), it is highly plausible that a moral concern was Senator Proxmire’s main motivation. That the FCPA had a moral foundation is also the conclusion by scholars such as Cragg and Woof (2002), Abbot and Snidal (2002), and Glynn et al. (1996).

This moral concern continued also after Carter’s presidency. In the late 70s, and during the 80s, when the business sector tried to diminish the role of the FCPA, they did not succeed in this because of the “corruption is wrong” attitude. Even if they wanted to vote against the FCPA, it would be political suicide to actually do it, as a vote against the FCPA, would surely be interpreted as a vote in favor of corruption.

“Logic of consequences”
Rationalists would argue that a change in behavior is based on a bargaining over interests, of sanctions for non-compliance, meaning a “logic of consequences”
The US actively used the media to alter the sentiment towards corruption in Europe; sometimes they even leaked information about corrupt European companies to the press, so it would cause scandals. It was an effective strategy – as the US calculated that a strong civil push for change eventually would influence national politicians and cause them to act. Based on this, the rationalists will argue that without the presence of a hegemon there would never have been a regime. It was the active lobbying, use of value-based arguments and the manipulative use of the media by the US that caused the regime to develop. Thus, the norm-based perspective has no explanatory power, as the norm change only came about because it was “staged” by the hegemon, and solely an instrument for the US to persuade the OECD.

My argument runs closer to that of Kenneth Abbott and Duncan Snidal. They claim that international law depends on “the intertwined interaction of values and interests”, and that rationalist and normative accounts must be joined to understand the creation of legal arrangements (2002: 142). The value and authority of international laws, conventions or agreements is entirely dependent on voluntary participation of states in the formulation, observance, and enforcement phase. For a democratic state to engage in international cooperation it needs a mandate from its people, as it would be very hard to make an international agreement that does not resonate with existing norms in civil society.

In the anti-corruption case we have seen that norms influenced the development of anti-corruption conventions, agreements and through the OECD Convention also the implementation of anti-corruption laws into national jurisdiction. But there is also evidence that the process have been working the other way around. The very process of creating and implementing standards and legal arrangements can affect how actors see the issue area that new law represents (Abbott;Snidal 2002: 151). This seems to have been the case with the anti-corruption regime. A strong hegemonic push by normative means led to the adaptation of a multinational law against bribery. This law, in turn, seems to have boosted initiatives elsewhere, such as at the World Bank, the EU and UN, and deepened the commitment to the anti-corruption cause, and contributed to
making the regime stronger. This supports the claim that in this case normative and power based theory is largely intertwined, that they depend on each other, and that this combination of two driving forces (economic self-interest arguments and norms) caused the regime to develop so fast and to have such a catalytic effect on its surroundings.

Another way of looking at the question of norm vs power, is to separate between actors. While elites often are less inclined to accept arguments about the moral wrongs of corruption, and rather focus on power and interest based arguments. Elites, whose everyday work has socialized them into a more realpolitik state of mind, are often less inclined- or prepared to meet value-based arguments. The public, on the other hand, are highly receptive of such normative arguments. If this were an analysis only of, and between, elites, the normative perspective would probably offer less explanation than the power-based perspective. But elites, and particularly political elites, do not exist in a vacuum. In democratic societies the quest for reelection makes them vulnerable to domestic pressure in international negotiations, especially when it comes to commitment on moral issues such as corruption, the environment or poverty. My point is that norms have different impact on different actors, and that the anti-corruption norms that grew from the mid 1990s in public opinion had a catalytic effect on the elite decisions to commit to the anti-corruption agenda through the OECD Anti-Corruption Convention. This can be illustrated as follows:

The same way the American public had contributed to the passing of the FCPA in the US in 1977 after the Watergate scandal, the European public pressured their
governments to commit to the anti-corruption agenda through the signing of the OECD Anti-Bribery Convention. The model can illustrate how the US also influenced the public in Europe, hoping this would lead to a domestic pressure on the respective governments to change their stance on the corruption issue.

5.3 Does knowledge facilitate power, or does power influence what we learn?

Even though power and norms played the largest part in the early phase of regime formation, the knowledge-based perspective played the leading role in the mid 1990s. The more research that developed on the costs of corruption, the more vigor was added to the anti-corruption cause. Not only was corruption seen as morally wrong, and distorted competition in the market, but the main finding was that it was an expensive way of doing business, and that corruption would work as a tax on investments. This gave the regime a new dimension as corruption became a concern for a company’s ability to earn money. The research also showed (in a more substantial manner than before) a clear negative link between corruption and development. This was one of the most important reasons why the World Bank, the regional development banks and the IMF started to develop anti-corruption policies. It was simply an issue that could not be overlooked anymore.

But, patterns of research are often affected by political and legal initiatives, and much of the research on corruption has “almost certainly been stimulated by political pressure designed to see anti-corruption legislation in the U.S. internationalized” (Cragg; Woof 2002: 133). If this is true, it is in accordance with the hypothesis that the knowledge-based dimension, to a certain extent at least, is dependent temporally on the presence of a political pressure from the hegemon. The same question arises as with the norm-based perspective; if the knowledge based perspective is depending on a hegemon that has pushed for research that could provide stronger arguments for the hegemon to get its will, does the knowledge-based perspective have any explanatory power at all? My argument is yes. The evidence from the OECD process and the accounts from the interviewees at the OECD show that epistemic communities were
crucial for the Anti-Bribery Convention to develop, and for it to be implemented so quickly into national legislation. Without the economic logic about the costs of corruption, both corporate- and development wise, the US would probably have had a hard time committing international companies and organizations such as the World Bank and the IMF with normative arguments about moral and fairness.

A learning process about the costs of corruption has taken place, and whether or not this process was initiated by the US by funding or stimulating research, this research has contributed to changed behavior by many states, companies and people. Hence, the knowledge-based perspective does provide explanatory power as to how and why the regime grew both in scope and size during the mid 1990s.

One interesting aspect remains from this discussion is why the majority of economic academics and technocrats entered the process so late, and were so slow in determining that corruption is bad for economic growth. In many environmental regimes, the technocrats are often the first to ring the alarm-bell, and often the norm entrepreneurs (Haas 1989). This has not been the case for the anti-corruption regime. In this case the normative push came before the economists begun to provide evidence of the negative effects of corruption. Why that is, could be interesting to pursue at a later stage.
Chapter 6: Conclusion

The goal of this thesis has been to investigate whether or not we have an international anti-corruption regime, and if so, which driving forces that led to its development. This chapter seeks to sum up the main findings from this study, although chapter 5 has already anticipated parts of the conclusion.

Through chapter three, using Krasner’s definition of a regime, the components of the anti-corruption regime were identified. The first component in a regime is the principle, or aim. In the anti-corruption regime it is to curb corruption, as corruption is the problem that the regime is responding to. The second component is selected norms. These are transparency and openness in decision making, both in business and politics, accountability for all, codetermination through a functioning democracy, an independent judiciary, free competition and free trade, and an independent media. The third component is specific rules that define and restrict the actors’ behavior in more detail. These rules are constituted in the different anti-corruption and anti-bribery conventions, agreements and annexes that have been signed, and include measures to criminalizing bribery and provide adequate national legislation, accounting and reporting requirements, and mutual legal assistance special requirements for i.e. adopting the national budget and in procurement, developing prevention strategies and awareness raising, asset recovery and protection of whistle-blowers. Decision making procedures are the fourth component, and establish practices or processes for making policies, and secures that decisions are implemented.

Thus, I think it is safe to claim that an international anti-corruption regime exists. As that is settled, we can move over to the question of which driving forces that led to the development of the regime. Traditional regime theory offers three possible explanations as to why regimes develop. For this analysis it was necessary to add a forth normative perspective. The result of the analysis of the anti-corruption history was a realization of two things. First, that all four perspectives have explanatory power – but at different stages of the regime development. Second, the first part of the regime
development process was agent-driven (US/TI), while the last part was event-driven (i.e. scandals/increased research). In chapter five a temporal sequence matrix of this regime development is presented.

6.1 But which is the real driving force?
What is interesting, and a little mind boggling, is the discussion on whether the functional perspectives, norms and knowledge, have independent explanatory power, or if these are dependent on the power-based perspective. The evidence is not clear on this issue, and it seems that different answers can be given - depending on your school of thought, and how you choose to interpret the findings in this study. Are you a realist, the answer is a given: Power is the real driving force as the hegemon used the norm entrepreneurs to gain legitimacy for the cause, and manipulated the civil society by wrapping its self-serving intensions in a normative rhetoric.

If you are a constructivist, the role of the norm entrepreneurs, information sharing and the bottom up pressure from civil society overrules whatever self interested intentions presented by the hegemon. As it turns the logic up-side down, the argument becomes that the norm-entrepreneurs such as TI, the information sharing role of the media, and the changed sentiment in civil society influenced and changed the way the European governmental officials and bureaucrats saw the issue of corruption. That the negotiations, focusing on only economic arguments, failed in the early 1990s, is a finding that supports this logic: Without the normative arguments, the learning process that took place in bureaucracies and governments, and a civil society largely in favour of the anti-corruption cause, no agreement with the OECD was reached.

Both stands make valid arguments in the anti-corruption case, and as illustrated in chapter four, my argument is that the perspectives must be seen as complementary rather than conflicting. What I have found are correlations that lend supports to all four hypotheses hence the assumption that different mechanisms have contributed to the regime development process, but at different time-periods. Without the vested interest from the US, the normative pressure for change would probably not have been strong
enough. And without the norm- and learning change that took place because of normative arguments, information sharing, and epistemic communities, it is likely that the process of committing the European countries to the anti-corruption agenda would have been a whole lot lengthier – if not impossible.
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**Interviews**

Mr. Bendiksby is member of the Norwegian OECD delegation, and is responsible for corruption issues

Ms Brewer is a former Enron employee, and was the one that blew the whistle on corrupt behavior in the company
Mr. Newcomb is a Litigation partner and heads the group's Banking practice and advises on compliance problems relating to Foreign Corrupt Practices Act.

Mr. Langseth is a former employee at the World Bank, and one of the people pushing for the World Bank to change their stance on corruption. He now works for the UN Office for Drugs and Crime.

Mr. Wéhrlé is Co-ordinator Anti-Corruption Initiatives, Anti-Corruption Division, Directorate for Financial, Fiscal and Enterprise Affairs at the OECD.

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