

To Norges Bank

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UNOFFICIAL ENGLISH TRANSLATION

Recommendation to place Saipem SpA under observation

Summary

The Council on Ethics recommends that Saipem SpA be placed under observation due to the risk of gross corruption. Saipem is involved in corruption cases in several countries, all of which are under investigation. The most serious case involves Saipem Contracting Algérie. The company and several former senior executives have been indicted for having paid more than USD 200 million in bribes to public officials in Algeria and to senior executives at the Algerian energy company Sonatrach. The Council has concluded that Saipem has not adequately substantiated that it has a systematic anti-corruption programme whose organisation and implementation are capable of preventing, uncovering and responding to corruption throughout its organisation. However, the reason the Council is not recommending that the company be excluded, but instead be placed under observation, is that substantial changes were made in the composition of Saipem's board of directors and group management after the corruption allegations became known in 2013, that important parts of Saipem's anti-corruption programme is relatively newly established, and that the company is currently assessing, with the help of an external consultant, how the programme is implemented in its most important subsidiaries. The Council will therefore re-evaluate the situation in a couple of years. If, at that time, the company cannot document that it is working sufficiently effectively to prevent corruption, the criterion for exclusion may be met.

Saipem SpA (Saipem) is one of the world's largest oil service companies. It was founded in 1950 and was a wholly owned subsidiary of Eni up until 1984, when it was floated on the Milan Stock Exchange. The company employs 45,000 people and has operations in 70 countries.

Saipem is involved in several corruption cases in different countries around the world. The most serious and best documented case relates to corruption in Algeria between 2006 and 2010. Saipem is under indictment because, over several years, one of the company's agents is alleged to have paid out a total of USD 221 million in bribes to the Algerian company Sonatrach and to the country's former energy minister. In July 2016, a former senior executive was convicted on a guilty plea, and the company, along with a further three former senior executives, have been indicted in Italy in connection with the same offences. They are due to go on trial in December 2016.

From April 2014 until September 2016, the Council on Ethics has engaged in a dialogue with Saipem, both by means of written communication and in meetings. The company has contributed information in this matter, and has also commented on a draft recommendation. Saipem has underlined that its internal investigation of the allegations in Algeria concluded that Saipem has not paid bribes to public officials in Algeria, which is a precondition for criminal liability in this case, under national and US law.

The Council on Ethics makes no assessment with respect to criminal liability, but attaches importance to whether internal rules and guidelines seem to have been broken, and whether there therefore exists a risk of corruption. On the basis of what is now known about the case in Algeria, the Council considers that previous internal systems seem to have failed, and that defective internal control systems seem to have allowed corruption to take place in Algeria over several years.

Saipem operates in many countries where the risk of corruption is deemed high, according to international indexes. The oil and gas industry, as well as the construction industry, where large public contracts are common, also exposes the company to the risk of corruption. The company must constantly submit new tenders, and depends on a large number of suppliers. Finding equipment suppliers and subcontractors for construction work is a challenging

process, which presumes that the company has complete control over its own employees. In the Council's opinion, this places particular demands on the company to have robust systems in place and to implement measures that can effectively prevent, uncover and respond to corruption. The onus is on Saipem to prove that it is working systematically and effectively to prevent corruption.

As far as the Council understands, Saipem took decisive steps in 2013 to implement important rules and routines, as well as organisational corruption prevention structures. The company has also made substantial changes in its board and group management after widespread corruption in the organisation was uncovered in 2013. This in itself may signal a new direction. The company also implemented relatively extensive preventive measures immediately after the Algeria case was uncovered in 2013. Moreover, the corruption investigations have had direct consequences for employees involved therein. No member of Saipem's current group management team or anyone now employed elsewhere in the company is implicated in the ongoing investigations.

Nevertheless, on the basis of the written information presented and after conversations with the company, the Council does not consider that Saipem has adequately substantiated that its present anti-corruption programme will effectively prevent corruption in the future. This rests on several grounds, including the company's assessment of its corruption risk and the reporting of presumed non-compliances. However, the reason the Council is not recommending that the company be excluded, but instead be placed under observation, is that the Council is uncertain whether further notified measures will be sufficient to reduce the risk of repeat offences. Saipem has relatively recently taken several steps in the right direction. Here, the Council has attached importance to the probability that internal controls will be improved moving forward. The company is considering the establishment of an independent body which will take complete responsibility for compliance, including the anti-corruption programme. This may remedy several of the apparent defects in its preventive efforts. Here, too, the Council has accorded weight to the fact that an external consultant has been engaged to identify any weaknesses in the implementation of the existing anti-corruption programme in the most important subsidiaries and where the risk of corruption is, in all probability, greatest. The consultant will also offer advice on any need for improvement.

The Council is of the opinion that it would be expedient to re-examine this case in a couple of years. The Council considers that a substantial and continuous effort is needed to alter Saipem's corporate culture and will, at the expiry of this period, look at which measures have been implemented to this end. Furthermore, the Council will consider the extent to which Saipem can document that it is systematically mapping and assessing its corruption risk, that its training and whistleblowing systems are sufficiently effective, that the company has a detailed plan for monitoring and improving its anti-corruption programme, and for the implementation thereof, and that its anti-corruption efforts have the clear support of Saipem's group management and the board of directors.

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1 Introduction

Saipem SpA (Saipem) is one of the world's largest oil service companies. It is a supplier to many major exploration and production companies worldwide. It was founded in 1950 and functioned initially as a division of Eni SpA (Eni), before being spun off as a separate company in 1969. Saipem was a wholly owned subsidiary of Eni until 1984, when it was floated on the Milan Stock Exchange.¹ The company has 45,000 employees and operations in 70 countries.² The company states that it has operations in Brazil, Colombia, Algeria, Angola, Egypt, Libya, Morocco, Nigeria, the Democratic Republic of Congo, Uganda, Qatar, Saudi Arabia, Oman, the United Arab Emirates, Azerbaijan, Kazakhstan, Russia, Turkmenistan, India, Indonesia and China.³ The company's offshore business will, in future, focus particularly on countries like Mozambique and Tanzania, along with Nigeria, Congo and Angola, while Kazakhstan is also extremely important for the company strategically. Key areas for the company's onshore operations are the Middle East, including Saudi Arabia, Oman and Kuwait.⁴ Saipem has 62 subsidiaries (more than 50 per cent shareholding) and 44 associates.⁵

At the close of 2015, the GPFG owned shares in Saipem worth NOK 402 million, corresponding to a shareholding of 1.27 per cent.⁶

1.1 Matters considered by the Council on Ethics

The allegations of corruption made against former employees of Saipem primarily concern the bribery of public officials in Algeria. The Council has also considered a corruption case in Nigeria which is linked to a subsidiary that was acquired by Saipem after the alleged offences are supposed to have taken place.

The Council has considered whether there is an unacceptable risk that Saipem is an accessory to, or is itself responsible for gross corruption pursuant to the guidelines for the observation and exclusion of companies from the GPFG, s 3(1)(5).⁷

The Council has previously based its assessments on the following definition of gross corruption:

¹ Up until January 2016, Eni was the *de facto* controlling shareholder in Saipem, with 43 per cent of the company's shares. In January 2016, Eni sold 12.5 per cent of its shares to Fondo Strategico Italiano SpA. Eni now owns 30.421 per cent of Saipem's shares. Fondo Strategico Italiano SpA owns 12.503 per cent, Dodge and Cox own 12.17 per cent, and the People's Bank of China owns 2.034 per cent of the shares in Saipem, http://www.saipem.com/SAIPEM_en_IT/sommario/Saipem+Shareholders.page?.

² Saipem *Sustainability 2015*. <http://www.saipem.com/static/documents/Saipem%20Sustainability%202015.pdf>.

³ The company's website, http://www.saipem.com/sites/SAIPEM_en_IT/minisiti/saipem-mondo/eng/index.shtml.

⁴ Meetings between Saipem and the Council on Ethics, 30 March 2016. According to the company's *Annual Report 2015*, Saipem has been awarded new contracts largely in the Middle East, in Azerbaijan, Kazakhstan, Georgia, Russia, Turkmenistan, Ukraine and in Africa. http://www.saipem.com/en_IT/static/documents/Annual%20Report%202015.pdf. Saipem *Sustainability 2015* also contains information on the company's business operations in several countries.

⁵ Saipem *Annual Report 2015*.

⁶ The company has Issuer ID 117919

⁷ The guidelines' s 3(1) state: "Companies may be put under observation or be excluded if there is an unacceptable risk that the company contributes to or is responsible for:... 5) gross corruption..." The guidelines for observation and exclusion from the GPFG are available at <http://etikkradet.no/mandat/>.

- 1) *Gross corruption exists if a company through its representatives*
- a) *gives or offers an advantage – or attempts to do so – so as to unduly influence:*
 - i) *a public servant in the execution of public duties or in decisions which may bring the company an advantage, or*
 - ii) *a person in the private sector who takes decisions or has influence on decisions which may bring the company an advantage,*
 - b) *demands or receives bribes,*
- and
- c) *the corrupt acts mentioned in letters a and b are carried out in a systematic or comprehensive manner.*

2) *In its assessment, the Council also places emphasis on whether the company has implemented effective anti-corruption procedures that are organised in a way that enables it to prevent, detect and respond to corruption.*⁸

When assessing the risk that Saipem may become involved in corruption, the Council has emphasised the corruption allegations so far levelled at the company and its response thereto, which countries and business sectors the company operates in, and what the company is currently doing to prevent corruption. The Council takes the position that it is up to the company to substantiate that it is working sufficiently effectively to prevent corruption.

1.2 Sources

References to the corruption allegations derive in part from the contents of a voluntary settlement which the company entered into with the US Department of Justice in 2010 (*Deferred Prosecution Agreement*), as well as other legal documents and proceedings in Italy which have been reported by the media.

The assessment of the company's compliance systems is based on information provided to the Council in meetings with the company in March and September 2016, as well as information available on Saipem's website. Meetings have been held with the company's Board Chair, CEO, CFO, general counsel, head of the anti-corruption advisory group in the Legal Affairs Department, the head of internal auditing and the head of risk management, as well as the country manager for Saipem do Brasil. The Council on Ethics has asked Saipem to comment on the corruption allegations, account for their internal anti-corruption systems and show how these are implemented in the organisation, such that corruption is prevented, uncovered and dealt with in a sufficiently effective manner. The company has received a draft recommendation to exclude, on which it has submitted its comments.

In addition, the Council on Ethics has commissioned the assistance of a consultant with respect to the assessment of anti-corruption systems in companies that may be compared with Saipem, as well as how these efforts should be organised and implemented in order to comply with international standards and best practices.

⁸ The definition is included in the Council on Ethics' recommendation of 21 December 2015 to place Petrobras under observation, available at <http://etikkradet.no/files/2016/01/Tilr%C3%A5dning-Petrobras-21.-desember-2015.pdf>.

2 The Council on Ethics' investigations

The Council on Ethics has examined the allegations of corruption against Saipem in six countries. The corruption case in Nigeria concerns the wholly owned subsidiary Snamprogetti Netherlands BV (Snamprogetti), which is, in turn, a subsidiary of Snamprogetti SpA, and which was a wholly owned subsidiary of Eni when the corruption took place between 1996 and 2004. The allegations of corruption in Algeria involve senior executives at head office and at the wholly owned subsidiary Saipem Contracting Algérie SpA. The corruption allegations in Brazil, which relate to incidents up until 2011, involve the wholly owned subsidiaries Saipem France and Saipem do Brasil SpA.⁹ According to media reports, Saipem is also under investigation for corruption in Brazil, Kuwait, Kazakhstan and Iraq. However, the Council has unearthed few details about these cases.

2.1 Allegations of corruption in Nigeria

The first allegation of corruption involving Saipem, for which the company has been fined on the grounds of successor liability, relates to the acquisition of a permit for the extraction of oil on Bonny Island in the Eastern Niger Delta. Between 1994 and 2004, Snamprogetti Netherlands BV, along with the other partners in a consortium, are alleged to have paid around USD 182 million to Nigerian public officials in return for four *Engineering, Procurement and Construction* contracts awarded by Nigeria LNG Ltd. (NLNG).¹⁰ The contracts had a total value of around USD 6 billion.¹¹ Saipem acquired Snamprogetti SpA from Eni in 2006. The case is nevertheless mentioned in this recommendation because it resulted in Saipem entering into a so-called *Deferred Prosecution Agreement* with the US Ministry of Justice, one of the preconditions for which was that Saipem was not involved in any new cases of corruption for a period of two years. Furthermore, the company undertook to review its internal anti-corruption systems and to improve them where necessary.¹²

In Italy, in July 2013, Saipem was also ordered to pay a fine under *Legislative Decree No. 231/2001* corresponding to USD 730,000 in connection with the same case. Saipem appealed, but the appeal court upheld the decision on 19 February 2015. On 17 March 2016, the appeal court's ruling was itself upheld by Italy's supreme court (*Corte de Cassazione*).¹³ The fine is therefore legally binding. In accordance with an agreement between Saipem and Eni, Eni has paid this fine on the grounds that Eni owned Snamprogetti when the offences occurred.

⁹ *Annual Report 2015*.

¹⁰ 49 per cent of the shares in NLNG are owned by the Nigerian National Petroleum Corporation (NNPC). Snamprogetti Netherlands BV had a 25 per cent shareholding in the consortium, called TSKJ Consortium.

¹¹ TSKJ comprised the former Halliburton subsidiary KBR, which had the leading position, the French company Technip and the Japanese company JGC Corporation. All the partners in TSKJ ended up having to pay substantial fines to the US authorities due to the use of corruption, for which the US Department of Justice held them all liable.

¹² See *Deferred Prosecution Agreement, United States of America v. Snamprogetti Netherlands BV*, 1 July 2010, Appendix C, clause 4. The agreement between the DoJ and Saipem, Snamprogetti Netherlands BV and Eni is available from the DoJ website, <https://www.justice.gov/sites/default/files/criminal-fraud/legacy/2011/02/16/07-07-10snamprogetti-dpa.pdf>, and the agreement between the Securities and Exchange Commission and Snamprogetti Netherlands BV is available at <https://www.sec.gov/litigation/complaints/2010/comp-pr2010-119.pdf>.

¹³ *Saipem Annual Report 2015*, p 129.

2.2 Allegations of corruption in Algeria

Saipem is one of the largest players in Algeria's energy sector, where the company has had operations since 1968. Almost all contracts up until 2010 were awarded by state-owned Sonatrach.¹⁴ Saipem still has contracts with Sonatrach in Algeria.¹⁵¹⁶

In 2013, Saipem was notified that a formal investigation into alleged corruption had been launched in Algeria. This has become known as the Sonatrach 2 case.¹⁷ Several articles have subsequently been published in the international media, in which it is reported that the company is under investigation in Algeria for having paid bribes to Algerian public officials and senior executives of the Algerian company Sonatrach in return for the award of contracts.

In 2012, the Office of the Public Prosecutor (OPP) in Milan also began investigating these allegations of corruption. Several former senior executives at Saipem have testified before a preliminary investigation judge, and several key elements of this testimony have been reported in the media. According to media reports and the prosecuting authority's application for a warrant to search Saipem's offices, senior Saipem executives are said to have paid around USD 221 million in bribes up to 2010 in return for the award of contracts by Sonatrach. All told, the contracts were worth around USD 9 billion. The prosecutors claim that printouts of transactions show that the bribes were paid out via a Hong Kong-based company called Pearl Partners (HK) Limited.¹⁸ The transfers were carried out via accounts in Switzerland and Dubai.¹⁹ Pearl Partners is linked to an Algerian agent who is supposed to have transferred the bribes from this company's account to Sonatrach employees. Another company, Collingdale Consultants Inc, is alleged to have been used for the transfer of USD 15 million to, among others, the family of Algeria's energy minister from 1999 to 2010.²⁰ Saipem's former CEO and the vice-chair of its board of directors, the former CEO of Saipem in Algeria, the former CFO of the company's *Engineering & Construction Business Unit* up until 2008, and the former COO of the company's *Engineering & Construction Business Unit*, as well as two Algerian agents, have been indicted in this corruption case. The case is due to come to court in Italy on 5 December 2016.²¹

An Algerian court recently imposed a corporate penalty on Saipem, in the form of a fine corresponding to USD 42,000, for "*inflating prices on contracts awarded by a public company engaged in industrial and commercial activities, taking advantage of the authority*

¹⁴ Its full name is *Société Nationale pour la Recherche, la Production, le Transport, la Transformation, et la Commercialisation des Hydrocarbures SpA*.

¹⁵ The company's *Country Sustainability Report Algeria*, which was updated in 2010, is available at http://www.saipem.com/en_IT/static/documents/2136AlgeriaCountrySu.pdf.

¹⁶ This is stated in *Saipem General Presentation*, dated August 2016, http://www.saipem.com/en_IT/static/documents/SAIPEM_GENERAL.pdf. The company's 2014 annual report states that Saipem completed contracts for Sonatrach in 2014. The 2014 annual report is available at http://www.saipem.com/en_IT/static/documents/Annual_Report_14.pdf.

¹⁷ Letter from Saipem to the Council on Ethics, 16 June 2016.

¹⁸ Application for a warrant for search and seizure with respect to the offices of Saipem and Eni, and the offices of the former CEOs of Eni and Saipem, *Procura della Repubblica, Presso il Tribunale Ordinario di Milano*, *Proc.n. 25303/10 R.G.N.R.*, 6 February 2013.

¹⁹ See, inter alia, *FCPA-blog*, 9 October 2015, <http://www.fcpcablog.com/blog/2015/10/9/saipem-and-former-execs-going-on-trial-for-220-million-alger.html>, and *La Voce delle Voci*, 4 October 2015, and the prosecuting authority's application for a warrant for search and seizure, *Procura della Repubblica, Presso il Tribunale Ordinario di Milano*, *Proc.n. 25303/10 R.G.N.R.*, 6 February 2013.

²⁰ New York Times, 25 July 2016, http://www.nytimes.com/2016/07/25/world/americas/panama-papers-reveal-wide-use-of-shell-companies-by-african-officials.html?_r=3.

²¹ *Interim Consolidated Report*, Saipem SpA, 30 June 2016.

or influence of representatives of said company".²² According to the Algerian prosecuting authority, the offer price was 60 per cent higher than the real market price.²³ Sonatrach's former CEO and a former director of a state-owned bank are among several individuals who have been sentenced to terms of five and six years in prison for corruption, money laundering and violating the rules governing public procurement in connection with this case. According to Saipem, this fine does not encompass corruption, but illegal price fixing. The company has further stated that the court's ruling has been appealed.²⁴

Allegations have also been made in the media that former Saipem executives have unjustly enriched themselves from contracts in Algeria. Two former Saipem executives have testified to receiving EUR 5 million in illegal kickbacks in connection with this specific case.²⁵ At the same time, one of these executives, the former CEO of Saipem in Algeria, was convicted in connection with this case after pleading guilty as charged. He was sentenced to two years and ten months in prison and ordered to pay a USD 1.3 million fine.²⁶

Saipem has denied criminal liability, since it asserts that it has not bribed public officials in Algeria. At meetings with the Council on Ethics, the company has underlined that it has cooperated with the prosecuting authorities and that it carried out an internal investigation into the allegations with the help of an external law firm in 2013. Moreover, Saipem points to the fact that this investigation did not uncover any evidence that the company paid bribes to public officials in Algeria, though it did reveal violations of internal guidelines and procedures in effect at that time, which may have been detrimental to the company's interests. These violations related to the approval and follow-up of agreements with third parties and suppliers in connection with a number of activities in Algeria.²⁷ A copy of the investigator's report was given to the OPP in Milan.

The company has said that the board of directors, as early as December 2012, decided that no new agreements were to be entered into with agents. This decision remains in force. Furthermore, Saipem has underlined that none of the people under indictment in this case work for the Saipem Group today.²⁸

2.3 Allegations of corruption in Brazil

In July 2015, it was reported in the media that the Brazilian prosecuting authority was of the opinion that Saipem had bribed, among others, the former head of the Services Department at Petrobras SA, in order to win, in 2011, a contract in Brazil worth USD 249 million. According to articles in the Wall Street Journal and the Financial Times, the bribes

²² Press release published on the company's website, February 2016, http://www.saipem.com/en_IT/static/documents/PR%20Saipem%2002-02-2016.pdf.

²³ Saipem *Annual Report 2015*, p 131.

²⁴ Meetings between the Council on Ethics and Saipem, 30 March 2016.

²⁵ *L'Espresso*, 6 September 2013, <http://espresso.repubblica.it/internazionale/2013/09/06/news/saipem-affari-sporchi-in-siria-1.58540>.

²⁶ Reuters, 2 October 2015, <http://www.reuters.com/article/saipem-algeria-trial-idUSL5N1222ZA20151002>, and *Annual Report 2015* p 131, in which it states that a former senior executive received a "plea bargain sentence in accordance with Article 444 of the Code of Criminal Procedure". It has not been possible for the Council on Ethics to obtain a copy of the summary judgment because it is not yet legally binding. <http://www.fcablog.com/blog/2015/10/9/saipem-and-former-execs-going-on-trial-for-220-million-alger.html>.

²⁷ Letter to the Council on Ethics, 16 June 2016, and the company's *Annual Report 2015* p 129.

²⁸ Letter to the Council on Ethics, 16 June 2016.

are supposed to have been paid through Saipem's Brazilian business partner, and allegedly include USD 1 million and 13 artworks worth around USD 577,000. The money was supposed to have been transferred to the former head of the Services Department at Petrobras SA via a shell company in Uruguay, which has a Swiss bank account. In addition to Saipem, the two above mentioned and three other Brazilian citizens are implicated in the case.²⁹

According to Saipem, the OPP in Milan has also started an investigation into these allegations.³⁰

Saipem has said that the company is not involved in the corruption allegations in Brazil, and claims that the media reports are incorrect.³¹ Saipem has not been notified that it is under investigation in Brazil, though the company confirms that Bernardi has been under investigation for corruption there since 2015, and that it has read about this in newspaper articles.³² The company has said that, through the articles, it has become aware that Petrobras is supposed to have been "*unduly influenced*" in 2011 to award Saipem do Brasil a contract called "*Cernambi*", which had an overall value of USD 140 million. In its reply to the Council, Saipem writes that their Brazilian business partner was robbed of USD 31,500 from outside Petrobras's offices. According to the prosecuting authorities, this robbery is supposed to have happened before the Cernambi contract was awarded to Saipem. Saipem further states that in his statement to the prosecuting authorities, the mentioned business partner has said nothing to indicate any illegal activity in connection with the Saipem Group. The business partner has explained that the money of which he was robbed in 2011 was cash he needed to pay expenses relating to a building project that he was managing on behalf of a third party of Saipem.³³

2.4 Allegations of corruption in Kuwait

Saipem is under investigation in Italy for corruption in Kuwait. Saipem is suspected of having received bribes from other Italian contractors in return for the award of contracts.³⁴ Little information relating to these allegations is available. In its dialogue with the Council, the company has let it be known that it considers itself a victim in this case, and that as soon as the matter came to light, it undertook an internal inquiry, which did not reveal any wrongdoing.³⁵

²⁹ *The Wall Street Journal*, 29 July 2015, <http://www.wsj.com/articles/italys-saipem-implicated-in-petrobras-corruption-scandal-in-brazil-1438207770>, and *Financial Times*, 30 July 2015, <http://www.ft.com/intl/cms/s/0/1e19d7f2-3645-11e5-b05b-b01debd57852.html#axzz42Osay8hZ>.

³⁰ Press release published on Saipem's website, 12 August 2015, http://www.saipem.com/sites/SAIPEM_en_IT/con-side-dx/Press%20releases/2015/Saipem%20Communication%20august.page.

³¹ Meetings between the Council on Ethics and Saipem, 30 March 2016.

³² Letter to the Council on Ethics, 16 June 2016. A press release dated 12 August 2015 also mentions that the company's agent is the subject of investigation in Brazil.

³³ Letter to the Council on Ethics, 16 June 2016.

³⁴ *La Repubblica*, 13 March 2012, http://www.repubblica.it/economia/2012/03/13/news/tangenti_petrolio-31432656/.

³⁵ Letter to the Council on Ethics, 16 June 2016.

3 International standards for compliance and corruption prevention

On the basis of international standards for compliance and the prevention of corruption in multinational companies which are comparable with Saipem, certain key principles can be deduced with respect to measures an enterprise ought to take to establish and implement an effective anti-corruption programme. There are plenty of practical guidelines covering this area.³⁶ The Council on Ethics has also received advice from a consultant on what constitutes best practice for anti-corruption programmes in companies that may be compared with Saipem.

All relevant international bodies presume that senior management must be genuinely involved in the work if the company is to be capable of effectively preventing the occurrence of corruption. It is important that management clearly communicates a zero tolerance for corruption, and that the company communicates the importance of its corruption prevention activities to the workforce, business partners and representatives.³⁷

In order to be able to define systems that are tailored to the specific business, a systematic effort is required to identify and assess corruption risk throughout the enterprise. Best practice is for risk assessments to be performed by the body within the company tasked with establishing, implementing and improving the anti-corruption programme. Such assessments should be done regularly in connection with the evaluation of third parties, training and internal inquiries. A comprehensive mapping of corruption risk is often done annually. Important risk factors that must be assessed are the company's size, business model, local and regional factors, and the sector in which the company operates.³⁸ At the very least, the company must implement sound preventive measures in those areas where the company is most exposed to risk.

To achieve the effective implementation of the systems concerned, it is presumed that good training schemes are developed for employees and business partners over whom the company has a controlling or decisive influence. In particular, senior executives, middle managers and

³⁶ A guide to what an anti-corruption programme could look like can be found, inter alia, in the UN's anti-corruption portal TRACK (*Tools and Resources for Anti-Corruption Knowledge*), *Global Compact: A guide for anti-corruption risk-assessment* (2013) and the OECD's *Good Practice Guidance on Internal Controls, Ethics and Compliance* (2010). Transparency International (TI) has listed a number of general recommendations for corruption prevention systems in its document, *Business Principles for Countering Bribery*.

³⁷ UNODC, *Anti-Corruption Ethics and Compliance Programme for Business: A Practical Guide*, chapter III, A; OECD's *Good Practice Guidance on Internal Controls, Ethics and Compliance* (2010), (A)(1), and TI's *Business Principles for Countering Bribery*, point 6.1, http://www.transparency.org/whatwedo/publication/business_principles_for_countering_bribery, as well as in World Bank Group *Integrity Compliance Guidelines* point 2.1, available at <http://pubdocs.worldbank.org/pubdocs/publicdoc/2015/12/489491449169632718/Integrity-Compliance-Guidelines-2-1-11.pdf>.

³⁸ This follows from, inter alia, UNODC, *Anti-Corruption Ethics and Compliance Programme for Business: A Practical Guide*, chapter 2, https://www.unodc.org/documents/corruption/Publications/2013/13-84498_Ebook.pdf, OECD's *Good Practice Guidance on Internal Controls, Ethics and Compliance* (2010), Annex II, A), available at <http://www.oecd.org/investment/anti-bribery/anti-briberyconvention/44884389.pdf>. This also underpins *A Resource Guide to the U.S. Foreign Corrupt Practices Act*, p 59 by the US Department of Justice and Securities and Exchange Commission, available at <http://www.justice.gov/criminal-fraud/fcpa-guidance>, and the UK Ministry of Justice *Bribery Act 2010 Guidance*, Principle 3, <http://www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf>.

employees in at-risk positions must receive specifically tailored training. It is important that the training be made comprehensible for all employees, and that it is based on concrete, real-life examples, including personal experience. It is also best practice that the company performs self-assessments of whether the training programmes are adequately targeted and effective.³⁹

It is also important that the company performs checks on third parties, so-called due diligence, and that third parties in at-risk areas are followed up on a regular basis. It must be verified that payments to such parties are proportional to the work performed.⁴⁰

Management must encourage employees to act in compliance with the anti-corruption programme and report any suspected breaches of internal rules and regulations. Systems should be established so that employees and others can report matters anonymously and with no risk of reprisal.⁴¹ The company should have a clear procedure for investigating any reported non-compliance with corporate guidelines, and the sanctions to be imposed on individuals who violate the rules must be made crystal clear.⁴²

The anti-corruption programme must be monitored and improved on the basis of both internal experience and external factors, such as new legislation and standards of best practice.⁴³

According to international standards for best practice, it is crucial that corruption prevention activities are delegated to a dedicated function or a person with the necessary resources and autonomy. It is important that the compliance department has direct access to group management as well as the board of directors.⁴⁴

3.1 Italian statutory requirements

Pursuant to Italian legislation on corporate penalties, *Legislative Decree No. 231* of 8 June 2001, companies may be held administratively liable for, among other things, acts of corruption performed by their employees and representatives. The payment of bribes to public as well as private parties is covered by this law. According to the legislation, the company may avoid liability if it documents that, at the time the act took place, it had compliance systems which were meant to prevent corruption. It must, furthermore, have appointed an independent advisory committee (*organismo di vigilanza*) which is responsible for monitoring

³⁹ UNODC, *Anti-Corruption Ethics and Compliance Programme for Business: A Practical Guide*, chapter 3(H), OECD's *Good Practice Guidance on Internal Controls, Ethics and Compliance*, (A)(5), TI's *Business Principles for Countering Bribery*, points 6.4 and 6.6., and World Bank Group *Integrity Compliance Guidelines* point 7.

⁴⁰ OECD's *Good Practice Guidance on Internal Controls, Ethics and Compliance*, (A)(6)(i), TI's *Business Principles for Countering Bribery*, point 6.2., and World Bank Group *Integrity Compliance Guidelines* point 5.

⁴¹ UNODC, *Anti-Corruption Ethics and Compliance Programme for Business: A Practical Guide*, chapter 3(I and J), OECD's *Good Practice Guidance on Internal Controls, Ethics and Compliance*, (A)(9 and 11, ii), TI's *Business Principles for Countering Bribery*, points 6.3.1. and 6.5.1, World Bank Group *Integrity Compliance Guidelines* points 8.1, 9.1 and 9.3.

⁴² UNODC, *Anti-Corruption Ethics and Compliance Programme for Business: A Practical Guide*, chapter 3(K), World Bank Group *Integrity Compliance Guidelines* point 10.

⁴³ UNODC, *Anti-Corruption Ethics and Compliance Programme for Business: A Practical Guide*, chapter 3(L), OECD's *Good Practice Guidance on Internal Controls, Ethics and Compliance*, (A)(12), TI's *Business Principles for Countering Bribery*, points 6.8. and 6.10., World Bank Group *Integrity Compliance Guidelines* points 3 and 9.4.

⁴⁴ This follows from, inter alia, *A Resource Guide to the U.S. Foreign Corrupt Practices Act*, chapter 5 p 58, the OECD's *Good Practice Guidance on Internal Controls, Ethics and Compliance*, (A)(4), and World Bank Group *Integrity Compliance Guidelines* point 2.3.

the implementation and effectiveness of the compliance systems, and updating them on a regular basis. This body should be composed of internal and external members. Moreover, the company must document that it has undertaken an assessment of the risk of non-compliance with the law, that corruption prevention procedures have been drawn up and implemented, and that a system of sanctions has been implemented that applies when the law and internal regulations are violated, and that adequate training systems for employees and managers have been established. The company must also ensure that its *Code of Conduct* is updated, and that there is an adequate sharing of information between the relevant bodies.⁴⁵

4 Information provided by the company

4.1 Organisation of anti-corruption activities

According to the company's *Corporate Governance Report and Management System Guidelines Anti-Corruption*, numerous organisational units have responsibilities and tasks associated with the anti-corruption effort.⁴⁶

In line with the provisions of *Legislative Decree No. 231*, Saipem has had a *Compliance Committee* since 2004. The committee comprises the company's general counsel, the head of internal auditing and the head of HR, as well as two external members.⁴⁷ The committee's tasks include monitoring how the compliance systems set out in *Decree No. 231*, including the anti-corruption programme, are implemented and updated within the enterprise. It is also meant to evaluate the effectiveness of the systems, ensure a relevant flow of information between the company's divisions and its subsidiaries' compliance committees, and have overall responsibility for the training programme.⁴⁸ Furthermore, the committee is authorised to enter into, amend and cancel contracts with third parties.⁴⁹ The *Compliance Committee* reports to the CEO, the board of directors, the Audit & Risk Committee and the Board of Statutory Auditors.⁵⁰

The *Anti-Corruption Legal Support Unit* (ACLSU) was established some years ago and tasked with assisting in the implementation of the anti-corruption systems. The unit is part of the Legal Affairs Department and reports to Saipem's General Counsel, Company Affairs and Governance. The company's internal guidelines reveal that the ACLSU is an advisory body.⁵¹ The ACLSU has a mandate to offer advice on matters relating to anti-corruption to bodies working with various parts of the anti-corruption programme within Saipem and its

⁴⁵ The requirements for Italian companies' compliance systems, pursuant to article 6 of the *Legislative Decree No. 231/8*, are described, inter alia, in Norton Rose Fulbright, <http://www.nortonrosefulbright.com/knowledge/publications/73424/italy-adopts-new-anti-corruption-law>.

⁴⁶ Saipem *Corporate Governance and Shareholding Structure Report 2015*, http://www.saipem.com/en_IT/static/documents/Governance%20report%202015.pdf, *Management System Guideline Anti-Corruption* (MSG Anti-Corruption), last updated in June 2015, http://www.saipem.com/en_IT/static/documents/2056MSG-COR-LEGA-002.pdf.

⁴⁷ Saipem *Corporate Governance and Shareholding Structure Report 2015*, p 10.

⁴⁸ This is stated on the company's website, http://www.saipem.com/sites/SAIPEM_en_IT/filtrato/Compliance%20Committee%20and%20Model%20231.page.

⁴⁹ *Model 231*, adopted 27 April 2015, http://www.saipem.com/en_IT/static/documents/1151SAIPEM_EN_Model2.pdf.

⁵⁰ Saipem *Corporate Governance and Shareholding Structure Report 2015*.

⁵¹ *MSG Anti-Corruption*, point 2.3.

subsidiaries. This also involves ACLSU staff keeping up to date on relevant legislation and ensuring that this becomes part of the training programmes. ACLSU staff are also meant to advise on risk evaluation issues and in connection with the due diligence of third parties, and monitor the subsidiaries' anti-corruption efforts.⁵²

Saipem is currently considering whether to establish a department that is independent of the Legal Affairs Department, along the lines of a *Compliance Department*, reporting directly to the CEO and the board. Today, this responsibility is delegated to various bodies within Saipem at different levels. The board will decide by the end of the year whether or not to take such steps.⁵³

4.2 Saipem's anti-corruption systems

In meetings with the Council on Ethics, the company has stated that it has internal corruption prevention systems. The existing anti-corruption systems have been developed after they learned of the corruption allegations in 2013. Saipem is of the opinion that the systems are solid and in line with the requirements stipulated in national and international legislation, as well as international standards for best practice.⁵⁴ Among other things, Saipem has pointed out that IFC recently approved a project in Nigeria that was funded by the World Bank after performing a due diligence on the company's anti-corruption programme.⁵⁵

In meetings with the Council, Saipem's CEO and Board Chair have said that the company needs to alter its corporate culture, but that such a cultural change will take time.⁵⁶ However, they did not mention any specific measures that had been implemented to achieve such a change. According to the company, the tone from the top is an integrated part of Saipem's anti-corruption programme, and its *Code of Ethics* states that there is zero tolerance for corruption in the organisation.⁵⁷

Given the information which the Council on Ethics has received in writing and in meetings, no continuous and structured mapping and assessment of corruption risk appears to be performed within Saipem. The company has pointed out that a high-level assessment of all potential risks in Saipem was carried out in 2013, at which time the company set up a separate *Integrated Risk Management* (IRM) department. In connection with this assessment, 99 company managers were interviewed. It emerged that they too were worried about corruption in the organisation.⁵⁸ However, company documents show that IRM risk assessments are carried out to make sure that the company becomes aware of all the factors which could prevent planned projects from being accomplished.⁵⁹ The company's 2015 annual report

⁵² *MSG Anti-Corruption*.

⁵³ Meetings between the Council on Ethics and Saipem, 30 March 2016.

⁵⁴ Meetings between the Council on Ethics and Saipem, 30 March 2016. Saipem has published some information about its internal compliance procedures on the company's website. The procedures are described in detail in documents such as *MSG Anti-Corruption*, which also applies to subcontractors, business partners, joint venture partners, as well as agents and consultants. Another relevant document is *Model 231 and Corporate Governance Report and Shareholder Structure Report*.

⁵⁵ Letter to the Council on Ethics, 16 June 2016.

⁵⁶ Meetings between the Council on Ethics and Saipem, 30 March 2016.

⁵⁷ *Saipem Code of Ethics*, http://www.saipem.com/en_IT/static/documents/1068CODEOFETHICS_Eng.pdf

⁵⁸ Meetings between the Council on Ethics and Saipem, 30 March 2016.

⁵⁹ *Corporate Governance Report and Shareholding Structure Report 2013*, adopted by the board of directors in March 2014, http://www.saipem.com/en_IT/static/documents/273201CorporateGover.pdf, and *Saipem Annual Report 2014*, http://www.saipem.com/en_IT/static/documents/Annual_Report_14.pdf.

states that the most important risk factors to which the company is exposed, and which are monitored and dealt with on a regular basis, are market, credit and liquidity risk.⁶⁰

Due diligence of third parties is undertaken by the entity responsible for a project or contract (business line). The ACLSU reviews the due diligence reports and identifies potential “red flags”.⁶¹ The company reports that certain business partners have been rejected on the grounds of corruption risk, but has provided no further documentation on this subject.⁶²

According to the company’s *MSG Anti-Corruption*, employees in particularly at-risk positions receive anti-corruption training through workshops. The head of the ACLSU explained that the objective is to teach employees how they can do their jobs in compliance with the regulations. She also said that this training is particularly important because any violation of internal or external rules could result in the individual employee being sanctioned. For this reason, a log is kept of the training provided. The head of the ACLSU explained that it was her department which held the training courses. The general counsel takes part in the training courses given to senior executives in Italy.⁶³ As far as the Council is aware, no internal assessment of the training’s efficacy has been carried out.

Saipem has also explained that employees can report their concerns relating to rule violations to their immediate superior, the ACLSU, the independent advisory body called the *Compliance Committee*, or they may use anonymous whistleblowing channels.⁶⁴ Saipem says that it received just two reports of corruption in 2016, one in 2015 and one report of alleged corruption, fraud and conflict of interest in 2014.⁶⁵ According to the CEO of Saipem do Brasil and the Group’s general counsel, incidents of attempted corruption are not logged and investigated via internal control mechanisms. No self-assessments have been made of whether employees feel comfortable about reporting wrongdoing or whether the systems are effective.⁶⁶

According to Saipem’s *Model 231*, the CEO is responsible for updating the company’s compliance systems when the *Compliance Committee* has indicated that this is necessary. This may, for example, be prompted by changes in regulations, changes in the company’s operations or following the discovery of significant violations of *Legislative Decree No. 231*. The CEO is also responsible for implementing the updates along with *Team 231*, which is made up of representatives from various departments.⁶⁷

⁶⁰ *Annual Report 2015*.

⁶¹ *MSG Anti-Corruption* point 10, and meetings between the Council on Ethics and Saipem, 30 March 2016.

⁶² Meeting between the Council on Ethics and Saipem, 30 March 2016.

⁶³ *MSG Anti-Corruption* point 17, and meetings between the Council on Ethics and Saipem, 30 March 2016.

⁶⁴ Internal Auditing is responsible for investigating all the reports received. A separate *Whistleblowing Team* has been set up as part of the internal auditing function. This team investigates all reports and sends its findings to the *Compliance Committee*.

⁶⁵ Meetings between the Council on Ethics and Saipem, 30 March 2016 and 1 September 2016. All together, Saipem received 130 warning notices in 2015, see also the letter to the Council on Ethics, 16 June 2016.

⁶⁶ The *Compliance Committee* reports all incoming notices regarding compliance system violations to the relevant bodies. Together with the HR department, the committee monitors that disciplinary measures are imposed in accordance with internal regulations. The committee reports regularly to the CEO, the *Audit and Risk Committee* and the *Board of Statutory Auditors*, see *Model 231*, adopted 27 April 2015, http://www.saipem.com/en_IT/static/documents/1151SAIPEM_EN_Model2.pdf.

⁶⁷ *Team 231* reports the outcome of its efforts to the CEO, who must authorise any changes before they are presented to the board for final approval. The company’s *Compliance Committee* monitors this entire process, and notifies the CEO of which measures have been implemented.

Saipem has recently published a document called the *Business Integrity Guide*, which is intended to make it easier for employees to understand their duty to act in accordance with the applicable regulatory framework. Furthermore, Saipem has disclosed that after Eni stopped being its *de facto* controlling shareholder, since when Saipem has had complete responsibility for ensuring that its internal control systems are sufficiently effective, the board has decided that PwC should perform a gap analysis to determine the extent to which Saipem's existing anti-corruption programme is being implemented in the most important subsidiaries. This includes companies which account for around 90 per cent of the Group's total revenues. This analysis will be completed in 2017.⁶⁸

4.3 Most important organisational changes

In its dialogue with the Council, Saipem has pointed out that numerous improvements have been made to its internal control systems since 2013. Several relevant board committees and internal departments have been established, the roles of Board Chair and CEO have been separated, internal corruption prevention policies and procedures have been improved, and control over subsidiaries has been tightened up.⁶⁹

In 2013, the board made the new CFO 'Chief Financial and Compliance Officer', with the company's general counsel reporting to him. The change was made after the stock exchange's supervisory body complained that not all relevant information was included in the financial statements for 2012. However, since 2015, the CFO no longer has overall responsibility for compliance.⁷⁰

In his meeting with the Council on Ethics, Saipem's CFO described both the incomplete financial reporting and the allegations of corruption as a turning point for the company. He said that, initially, the highest priority had been to establish a functioning system in which all risk-related information was collected together and reported correctly to the market. Internal investigations subsequently showed that the company had problems with compliance in a number of areas. The most important measures then implemented were to refrain from entering into any new agreements with middlemen, to investigate all non-conformances, to change a number of procedures and to punish violations of the guidelines.⁷¹

As a result of the regulatory violations, several executives have left the company. Saipem's CEO, CFO, general counsel and COO are no longer employees with the company, and the head of internal auditing is new. While the COO and general counsel were replaced by external appointees, the others were replaced by individuals who had served for many years at management level in Eni or Saipem. However, all of those who are under investigation for corruption have left the company.

Since 2013, many key anti-corruption procedures have been codified and made known. While the overall guidelines have come from Eni, Saipem has been responsible for drawing up more detailed procedures based on the company's needs and experience. Saipem has strengthened corporate governance at its subsidiaries, in that clear rules for the composition of boards of directors and the board's activities have now been put in place. The members of subsidiaries'

⁶⁸ Meetings between the Council on Ethics and Saipem, 1 September 2016.

⁶⁹ Letter to the Council on Ethics, 16 June 2016.

⁷⁰ Meetings between the Council on Ethics and Saipem, 30 March 2016, and Saipem's *Corporate Governance and Shareholding Structure Report 2015*.

⁷¹ The company's *Corporate Governance and Shareholding Structure Report 2015*, also states that the primary objective of measures for improving risk assessment and internal control is to ensure accurate financial reporting.

boards were previously not independent of each other, and did not necessarily have to meet to take major decisions.

The creation of the ACLSU means that all third-party assessments are now controlled centrally. According to both the CFO and the head of internal auditing, the internal auditing function has been substantially strengthened, and non-conformance reports are followed up in an entirely different way than before. The reporting system has also been strengthened, in that the *Whistleblowing Team* is tasked with following up incoming reports.

The CFO also said that the way non-conformances are handled has sent a clear signal to all employees that corruption and regulatory violations will not be accepted, and will, in future, lead to sanctions.

5 Assessment of the Council on Ethics

Based on the information available, the Council has assessed the GPFG's investment in Saipem against the corruption criterion in its guidelines. The Council has considered whether there exists an unacceptable risk that the company has been involved in actions which, under the guidelines, constitute gross corruption, including whether the corrupt practices have been performed in a comprehensive and/or systematic manner, and whether there is a risk that the company may once again become involved in similar incidents.

On the basis of the known allegations of corruption relating to Saipem, the Council has determined that there is indeed an unacceptable risk that the company may have been responsible for actions which must be deemed to constitute gross corruption. In particular, the Council points to the fact that a former senior executive at a subsidiary was recently convicted for, at his own admission, corrupt acts which continued right up until 2010, and that the company and a further three senior executives have been indicted by a court in Italy for the payment of as much as USD 221 million in connection with the same case. Reference is further made to the fact that Saipem has been fined in the USA and Italy on the grounds of successor liability, and that it is currently under investigation for corruption in Brazil in 2011, and for the receipt of bribes in Kuwait. However, because less information is available with respect to these last matters, they have not been accorded particular weight.

Although the allegations of corruption relate to matters which took place some time ago, experience shows that it generally takes a long time before corruption is uncovered, investigated and a verdict handed down. The criminal case in Italy, which relates to alleged corruption in Algeria, has only now come before the court. Furthermore, the Council has in previous cases taken the position that actions in the past can say something about the risk of corruption in the future.

Moreover, the Council has considered whether there exists an unacceptable risk that Saipem may once again become involved in similar acts. In this assessment, the Council emphasises the corruption risk to which the company is exposed, how the company has responded to the allegations of corruption, as well as the extent to which the company has substantiated that it has implemented an anti-corruption programme capable of preventing, revealing and dealing effectively with corruption in its operations.

Saipem operates in many countries in which the risk of corruption is high. For example, Angola, Libya, Iraq, Venezuela, Uganda, Nigeria, Congo, Russia and Kazakhstan are all in the highest category with respect to the presumed risk of corruption in Transparency International's *Corruption Perception Index*, 2015. The oil and gas industry, as well as the

construction industry, where major public contracts are common, also expose the company to the risk of corruption. The company must constantly submit new tenders and depends on a large number of suppliers. Finding subcontractors for equipment and for construction works is a challenging process, which presumes that the company has full control over its own employees. In the Council's opinion, this places particular demands on the company to have solid systems in place and to implement measures that can effectively prevent, reveal and respond to corruption.

In this case, the Council has given weight to the fact that, in 2010, Saipem was found to have successor liability for corruption in Nigeria and ordered to pay a fine. This form of successor liability may have something to say about a company's compliance systems in general. When, after a process of negotiation, a company enters into this type of out-of-court settlement, it is natural to expect that it would review its internal control routines, including its anti-corruption programme. The Council takes the view that Saipem already had an opportunity to implement improvements in its internal control systems in 2010, and not only after it learned of the corrupt practices in Algeria some years later. Saipem states that the internal investigations that were undertaken in connection with the corruption allegations in Algeria uncovered not bribery but violations of internal guidelines. While the out-of-court settlement with the US Department of Justice was being negotiated in the USA, it seems that agreements were still being entered into with agents in contravention of internal guidelines, e.g. by not performing adequate due diligence inquiries and that fees paid were not reasonably proportionate to the services rendered. Irrespective of any criminal liability that may ensue from the ongoing legal proceedings, the Council on Ethics feels this, at the very least, suggests that key routines for the prevention of corruption were not complied with in the company.

The Council also attaches importance to the fact that former senior executives seem to have been directly involved in the agreements that were entered into in violation of the company's own regulations. In a company where senior management is involved in the bypassing of its own regulations and procedures, there is a risk of more widespread non-compliance.

As the Council on Ethics understands it, it was not until 2013 that Saipem took decisive steps to put in place important rules and routines, as well as organisational structures, to prevent corruption. Responsibility for compliance was given explicitly to the CFO, who immediately took the initiative for a number of measures. Although the main focus was that the company should in future provide the market with correct information, measures were also implemented that are assumed to be preventive of corruption. For example, the Council on Ethics points to the improvement of corporate governance systems at Saipem's subsidiaries, the group-wide control of third-party due diligence investigations, and the codification of anti-corruption procedures in, among others, the *MSG Anti-Corruption*. Furthermore, individuals involved in corruption were obliged to leave the company, and senior executives received training on new guidelines and procedures.

On the basis of the written information available and after conversations with the company, the Council on Ethics considers that Saipem has nonetheless failed to substantiate with sufficient force that its current anti-corruption programme will be effectively implemented throughout the organisation. There are several factors which point in this direction.

First and foremost, it does not seem as though senior management is currently demonstrating a "tone from the top" that is necessary to effect an enduring change in the company's corporate culture. Saipem has said that it is attempting to achieve a comprehensive change in attitudes, without at the same time documenting which specific measures are being implemented.

Furthermore, the Council considers that the company has not adequately documented that it is carrying out risk assessments and mapping its corruption risk in the manner prescribed by international standards and best practices. The primary objective of the risk assessments currently being performed seems to be to prevent projects from not being accomplished.

Moreover, the company has training guidelines and procedures, but has not communicated convincingly to the Council that the training is being performed to the extent and with the emphasis necessary to achieve shared standards and a zero tolerance for non-compliance throughout the company.

Reference is also made to the fact that Saipem has introduced an internal whistleblowing system, which is also a significant element in a company's anti-corruption efforts. Nevertheless, employees report potential corruption cases extremely infrequently, despite the large size of the workforce and the company's risk profile. This could indicate that the company's anti-corruption efforts are not adequately communicated down through the organisation, that employees are not sufficiently encouraged to report their concerns, and that the systems do not function as well as they should. Nor, according to the company, is attempted corruption reported, which could result in the corruption prevention measures failing to reflect the real risk picture.

Today, Saipem has not delegated responsibility for corruption prevention to an independent body with the necessary autonomy to be able to implement the anti-corruption programme effectively. The company has failed to adequately document that the current structure of its anti-corruption efforts, in which responsibility for the establishment, implementation and monitoring of the systems is spread widely across the organisation, expediently replaces such a centralised and independent function. With Saipem's current method of organisation, there is a risk that not all links in the chain know what the others are doing, and that responsibility for this work is pulverised.

Nor does it seem, after conversations with the company, that Saipem has an overall action plan for its anti-corruption efforts that is fully supported by the board and that someone in senior management has an explicit responsibility for implementing. Nor has the Council received any information to indicate that the compliance work in several areas is being harmonised, and that, for example, lessons learned from the various activities are used to influence future efforts.

In principle, the above-mentioned factors suggest that the conditions for exclusion of the company have been met. The Council is nevertheless not recommending exclusion at this time, but rather that Saipem be placed under observation because Saipem has somewhat recently taken several steps in the right direction. Reference is made primarily to the company's implementation of relatively extensive preventive measures immediately after the Algeria case was uncovered in 2013, and to the fact that the corruption investigations have had direct consequences for the employees involved. No member of Saipem's current group management team or anyone now employed elsewhere in the company is implicated in the ongoing investigations. The Council has also accorded weight to the probability that internal control systems will be improved moving forward. The company is considering the establishment of an independent body which will have complete responsibility for compliance, including the anti-corruption programme. This will remedy several of the apparent defects in the company's preventive efforts. In this connection, the Council has also accorded weight to the fact that the board has commissioned an external consultant to assess any weaknesses in the implementation of the existing anti-corruption programme in the most important subsidiaries and where the risk of corruption is greatest. Nevertheless, the Council takes the view that several of the key measures are new, and that certain of them have yet to

be decided. What is decisive for the Council's assessment moving forward is how Saipem follows up the new initiatives and plans, and how the company implements corruption prevention activities throughout its organisation.

The Council is of the opinion that it would be expedient to re-examine this case in a couple of years. The Council considers that a substantial and continuous effort is needed to alter Saipem's corporate culture and will, at the expiry of this period, look at which measures have been implemented to this end. Furthermore, the Council will consider the extent to which Saipem can document that it is systematically mapping and assessing its corruption risk, that its training and whistleblowing systems are sufficiently effective, that the company has a detailed plan for monitoring and improving its anti-corruption programme, and for the implementation thereof, and that its anti-corruption efforts have the clear support of Saipem's group management and the board of directors.

6 Recommendation

The Council on Ethics recommends that Saipem SpA be placed under observation due to the risk of gross corruption.

Johan H. Andresen
Chair

(sign.)

Hans Chr. Bugge

(sign.)

Cecilie Hellestveit

(sign.)

Arthur Sletteberg

(sign.)

Guro Slettemark

(sign.)