

# **EIC Autumn Conference 2015**

## **Connecting Partners – Supply Chain Responsibility**

**From Liability to Responsibility?  
Supply Chain Responsibility from  
a Legal Angle**

**Mark Job (Partner)**



EUROPEAN  
INTERNATIONAL  
CONTRACTORS



Pinsent Masons

# Liability to Responsibility



Employer

*liability*



Main Contractor



*liability*



Supply Chain



# Globalisation

"Supply chains have become a lot more complex in the past 20 years. It is not necessarily that there is more risk out there but that our supply chains touch them more"

*John Glen, Chief Economist  
Cranfield School of Management*



## CIP's Quarterly Risk Index

1994: 23.7

X 3.3

2015: 80.1

(High: 82.4, Q3 2013)

Economic Instability  
(direct/indirect effects)

Political  
Instability

Environmental  
Disaster

# Growing Liability Gap

Limits on  
Liability

Jurisdiction

Duration  
of Liability

Procedural  
Complexities

Security

Cash  
Flow



# Employer/Funder Intervention



# Clamping Down on Corruption and Oppression

## Reputational Damage

- Competitive dis-advantage
- Investor confidence
- Debarring

## Economically Adverse

- Increases prices
- Restricts investment
- Distorts marketplace

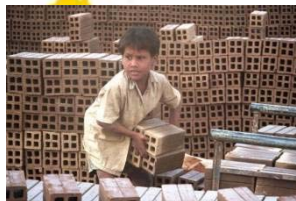


## Contractual Sanctions

- e.g. FIDIC, MDB provisions

## Increasing Civil/Criminal Sanctions

- OECD Anti Bribery Convention (41 countries)
- Global law: FCPA, Bribery Act, Modern Slavery Act
- Fines & Imprisonment



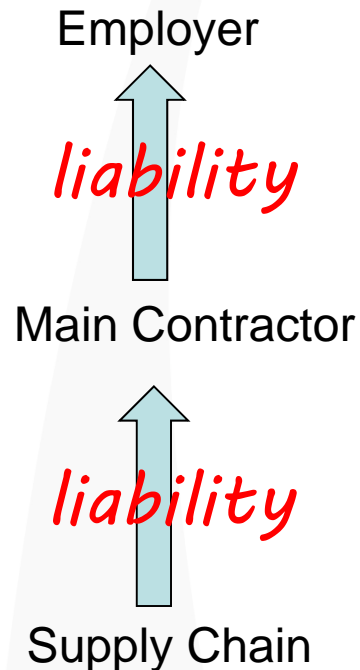
# Top 10 FCPA cases\* of all time

1. **Siemens** (Germany): \$800 million in 2008.
2. **KBR / Halliburton** (USA): \$579 million in 2009.
3. **BAE** (UK): \$400 million in 2010.
4. **Total S.A.** (France) \$398 million in 2013.
5. **Snamprogetti Netherlands B.V. / ENI S.p.A** (Holland/Italy): \$365 million in 2010.
6. **Technip S.A.** (France): \$338 million in 2010.
7. **JGC Corporation** (Japan) \$218.8 million in 2011.
8. **Daimler AG** (Germany): \$185 million in 2010.
9. **<NEW ENTRY> Weatherford International** (Switzerland): \$152.6 million in 2013.
10. **Alcatel-Lucent** (France): \$137 million in 2010

\*An individual, **Jeffrey Tesler** of the U.K., agreed to an FCPA-related forfeiture of \$149 million in 2011.



# Liability to Responsibility

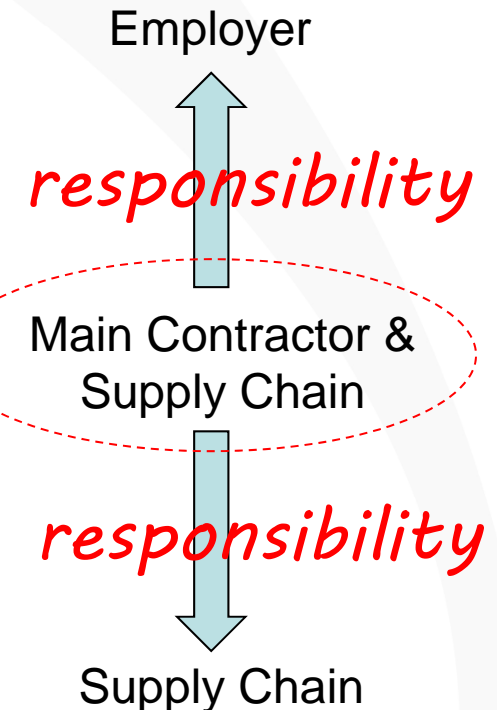


## Supply Chain Transparency

- Established, sustainable relationships
- Understand risks they face

## Continued Engagement

- From order to completion
- Education
- Look for “the warning signs”







## Pinsent Masons

Pinsent Masons LLP is a limited liability partnership registered in England & Wales (registered number: OC333653) authorised and regulated by the Solicitors Regulation Authority, and by the appropriate regulatory body in the other jurisdictions in which it operates. The word 'partner', used in relation to the LLP, refers to a member of the LLP or an employee or consultant of the LLP or any affiliated firm of equivalent standing. A list of the members of the LLP, and of those non-members who are designated as partners, is displayed at the LLP's registered office: 30 Crown Place, London EC2A 4ES, United Kingdom. We use 'Pinsent Masons' to refer to Pinsent Masons LLP, its subsidiaries and any affiliates which it or its partners operate as separate businesses for regulatory or other reasons. Reference to 'Pinsent Masons' is to Pinsent Masons LLP and/or one or more of those subsidiaries or affiliates as the context requires. © Pinsent Masons LLP 2015

For a full list of our locations around the globe please visit our websites:



[www.pinsentmasons.com](http://www.pinsentmasons.com)



[www.Out-Law.com](http://www.Out-Law.com)