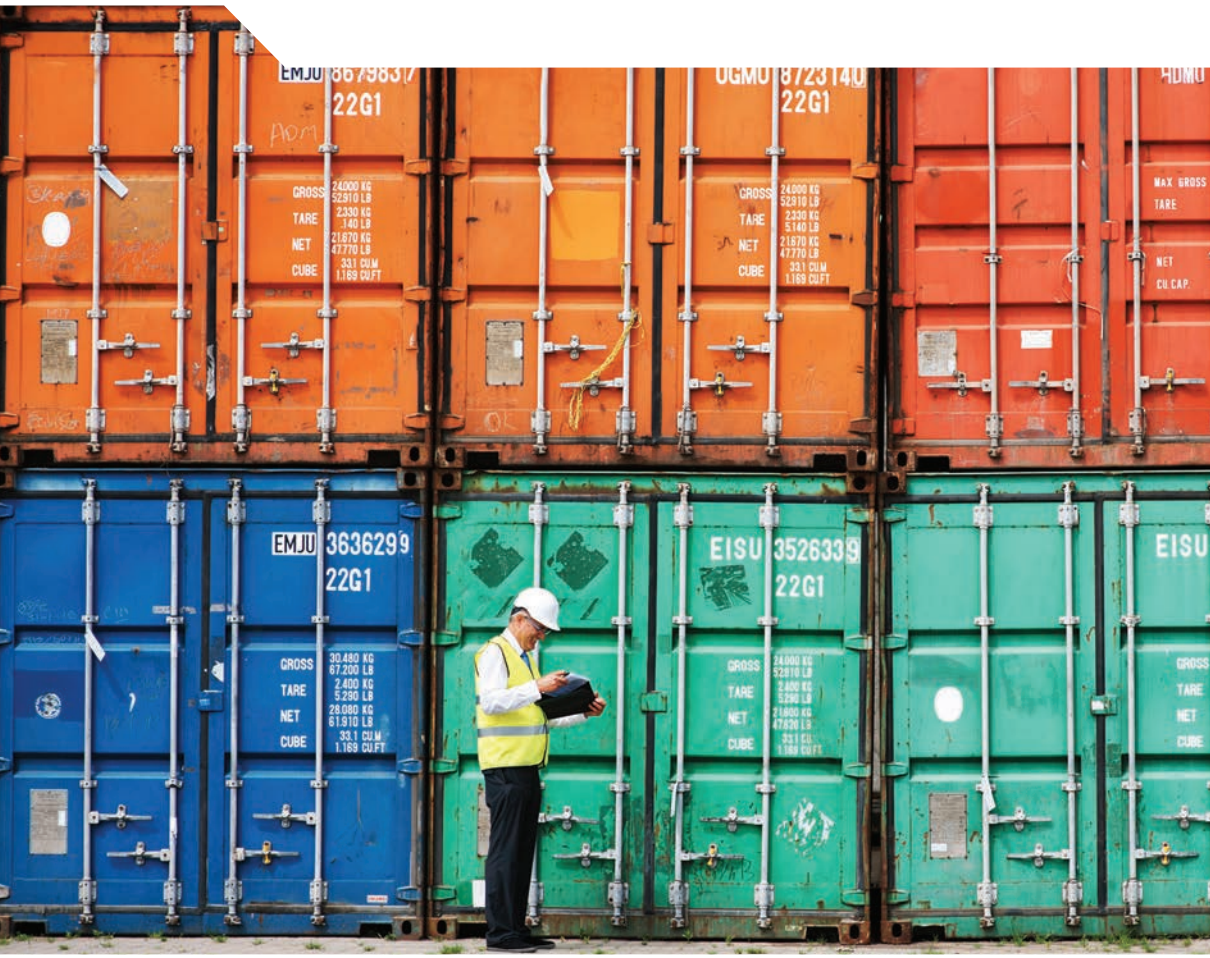
Global Trade Without Corruption

FIGHTING THE HIDDEN TARIFF



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FIGHTING THE HIDDEN TARIFF

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BETTER POLICIES FOR BETTER LIVES

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Foreword

More evidence than ever demonstrates that trade facilitation and reinforcing integrity are mutually-supportive objectives, but lack of integrity in trade remains a challenge for both public and private sectors. Indeed, lack of integrity in global supply chains represents a significant non-tariff barrier to trade, which significantly hampers economic activity and entails enormous costs for global society as a whole. OECD work on trade facilitation, responsible business conduct and integrity in customs identify transparency and integrity as critical factors for leveling the playing field in international economic transactions and for the participation of firms in global supply chains. In the field of customs, transparent and efficient border procedures may both stimulate trade and curb corruption. A common understanding has been achieved among different stakeholders whereby trade facilitation and effective controls against corruption both warrant simplified administrative procedures in customs.

Addressing integrity risks in cross-border trade also helps counter global threats posed by the "dark side" of globalisation, such as illicit trade, smuggling and counterfeiting. Strengthening integrity systems in relation with cross-border trade empowers governments to better prevent and detect illicit trade flows as well as other forms of trafficking and human rights violations.

The OECD has been at the forefront of the issue of strengthening integrity in trade at many levels. For example, the OECD has established Trade Facilitation Indicators to better highlight the potential of specific policies to not only reduce trade costs, but also remove incentives and opportunities for corruption. In addition, OECD's co-operation with the G20 Anti-Corruption Working Group has promoted good practices for simplifying and corruption-proofing customs procedures in order to increase the predictability and user-friendliness of border procedures. Finally, the 2017 OECD Recommendation on Public Integrity, the OECD Guidelines for Multinational Enterprises and the OECD Due Diligence Guidance for Responsible Mineral Supply Chains provides a strategic vision and highlight good practices about how public and private sector actors may effectively address corruption risks.

This report was prepared as the background document of the 2016 OECD Integrity Forum on "Fighting the Hidden Tariff: Global Trade without Corruption" on 19-20 April 2016. It provides an analysis of integrity policies in relation with trade by exposing costs of corruption, mapping corruption risks, and prioritising measures and policy actions to address corruption and further clean trade.

The report was prepared by the Public Sector Integrity Division of the Directorate for Public Governance. Under the direction of Rolf Alter, János Bertok and Julio Bacio Terracino, this document was developed by Frédéric St-Martin and Jeroen Michels, with the valuable input and contributions from Tyler Gillard, Evdokia Moïsé-Freeman, Jack Radisch, Silvia Sorescu, Piotr Stryszowski and Christine Uriarte. Editorial and administrative assistance was provided by Alexandra Chevalier, Meral Gedik, Thibaut Gigou and Andrea Uhrhammer.

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ACRONYMS AND ABBREVIATIONS

ANAO	Australian National Audit Office
BEEPS	Business Environment and Enterprise Performance Survey
CCAB	Consultative Committee of Accountancy Bodies
FAO	Food and Agriculture Organization of the United Nations
FCPA	Foreign Corrupt Practices Act
GRIP	Groupe de recherche et d'information sur la paix et la sécurité
HFW	Holman Fenwick Willan
IFC	International Finance Corporation
ITC	International Trade Center
OECD	Organisation for Economic Cooperation and Development
SEC	Securities and Exchange Commission
TI	Transparency International
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNECE	United Nations Economic Commission for Europe
UNODC	United Nations Office for Drugs and Crime
WBG	World Bank Group
WCO	World Customs Organization
WEF	World Economic Forum
WHO	World Health Organization
WTO	World Trade Organization

Executive Summary

International trade has driven the global economy and development during the last few decades. Trade has risen in nearly all parts of the world, becoming one of the most dynamic sources of growth and a powerful enabler of economic development for many countries. In 2014, total world exports of goods and services amounted to USD 23.6 trillion, of which OECD countries generated USD 14 trillion, and total imports of goods and services reached USD 22.8 trillion, of which 13.9 trillion were accounted for by OECD countries.

Considering the importance of international trade for global economic growth, the costs generated by non-tariff barriers, such as those related to the lack of integrity in border control and customs administrations, can be quite significant for the public and private sectors, citizens and society as a whole. Loss of revenue caused by customs-related corruption is estimated to cost World Customs Organization (WCO) members at least USD 2 billion in customs revenue each year, with India losing USD 334 million and Russia USD 223 million. Moreover, unnecessary trade barriers created by non-transparent, burdensome rules and procedures can constitute vulnerabilities that may create important incentives to engage in corrupt behaviour.

Trade facilitation measures have the potential to benefit all countries. It is estimated that a complete implementation of trade facilitation measures arising from the WTO Trade Facilitation Agreement could reduce trade costs by 16.5% for low income countries, by 17.4% for lower middle income countries, by 14.6% for upper middle income countries, and by 11.8% for OECD countries.

Implementing appropriate governance structures, accountability mechanisms and integrity policies in customs administrations alone has the potential to reduce trade costs by between 0.5% and 1.1% for the same country groups. These measures seek to eliminate opportunities for customs policy capture, extortion, offering bribes, as well as for numerous schemes allowing for the avoidance of taxes and tariffs, such as under-reporting of exports and over-invoicing of imports.

All relevant stakeholders have an interest in elaborating and promoting mutually supportive trade integrity and facilitation policies that would remove unnecessary trade barriers while implementing effective checks and balances on fraud and corruption. Indeed, the cost for inaction is significant

as it exposes society to global threats engendered by the dark side of globalisation. For instance, a lack of effective integrity checks and balances in customs administrations may benefit organised crime by allowing illicit trade and smuggling to thrive, which range from strictly prohibited goods such as narcotics, to counterfeit consumer goods and pirated goods.

The aim is thus to find the right balance between easing red tape while having appropriate controls, taking into account the local context and its inherent risk areas. The main elements of a strategy to promote integrity in trade should respond to identified integrity risks and target most harmful behaviours and opportunities for seeking illicit rents arising from global supply chains. The measures discussed in this report build on OECD standards and good practices for the public and private sectors, and respond to main trade-related risks.

Finding appropriate tools and solutions to tackle corrupt practices in trade is not a simple endeavour, and there is no single fix solution that can effectively address all risks in a broad range of contexts. To effectively address lack of integrity in international trade, a risk-based approach to promoting integrity is required, combined with ongoing dialogue with relevant stakeholders outside government. An important starting point is to establish and enforce clear prohibitions against bribery and corruption that apply to both public and private sectors. Further priority measures emerged from good practices:

- Designing and implementing comprehensive risk management strategies for global supply chains for both public and private sectors
- Reinforcing integrity controls in corruption risk areas in the public sector, including customs administrations and border control agencies
- Combining incentives with enhanced enforcement to encourage businesses to implement good governance and integrity controls
- Harmonising transparency, integrity and trade facilitation standards through trade agreements
- Strengthening collaboration among all stakeholders to increase commitment to abide by existing rules, procedures and standards, and to identify corruption vulnerabilities and effective mitigation measures and to build a culture of integrity in collective action.

Chapter 1.

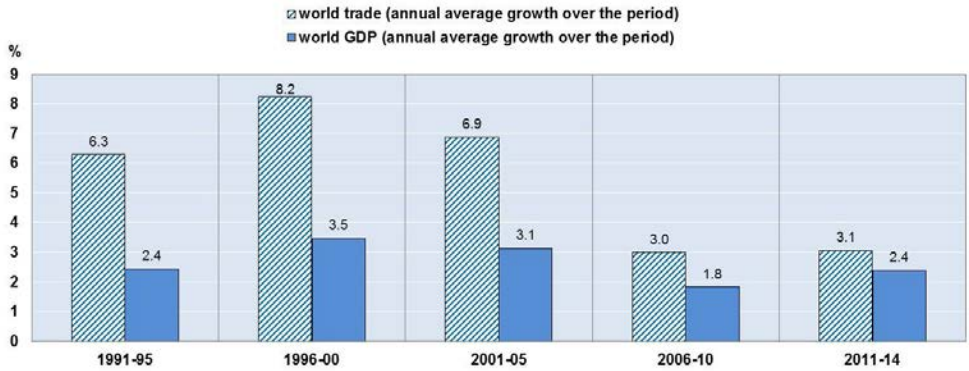
How trade is shaping the world today

International trade is the motor of the global economy and despite a recent slowdown, it still represents increasingly large volumes of exchanged goods, services, and financial flows. That is why lack of integrity in the global supply chain, which represents an important non-tariff barrier to trade, significantly hampers economic activity and entails enormous costs for global society as a whole. Thus, targeted anti-corruption measures aimed at protecting the global supply chain do not only produce economic advantages for the private sector, but also for governments and citizens. The objectives of promoting integrity in the global supply chain and of facilitating trade are mutually-reinforcing, as both of them will stimulate international exchanges of goods and services and ensure a more effective distribution of the benefits arising from international trade, thus contributing to sustainable, fair and inclusive economic growth.

International trade has been driving the global economy and development during the last two decades. Trade as a share of GDP has risen in nearly all parts of the world, becoming one of the most dynamic sources of growth and a powerful enabler of economic development for many countries. Developing countries have become major actors in the world market, both as exporters and importers. The sustained decrease in the costs of transportation and communication has not only powered the integration of goods and services markets, but has also facilitated an accelerated pace of technological dissemination. This remarkable expansion of trade was also driven by a reduction in tariff and non-tariff barriers, as well as in internal trade and transaction costs. Moreover, services, formerly thought to be largely non-tradable, have become a leading sector in global trade (OECD, 2012a). The importance of global value chains (GVCs) has been steadily increasing in the last decades and, with about 60% of global trade consisting of trade in intermediate goods and services incorporated at different stages of production (UNCTAD, 2013). This is a clear reflection of the increased degree of economies' interconnectedness.

Trade experienced fairly strong growth up to 2008, sustained by rising commodity prices over 2002-08. Following the financial crisis, trade fell steeply in 2008 before rebounding strongly in 2010-11. International trade in commercial services has been less volatile than merchandise trade in the last 20 years, indicating the greater resilience of services to global economic turmoil (WTO, 2015). The sluggish post-crisis economic expansion was accompanied by unusually weak trade developments; however, over 2010-14 trade still continued to grow faster on average than world GDP (Figure 1.1). In 2014, the total world exports of goods and services amounted to USD 23.6 trillion, of which the OECD countries generated USD 14 trillion, and the total imports of goods and services reached USD 22.8 trillion, of which 13.9 trillion were accounted for by OECD countries (World Bank, 2016). In the same year, developing countries accounted for 41% of world merchandise trade and 34% of total trade in commercial services (WTO, 2015).

Figure 1.1. World trade and GDP growth, 1991-2014



Source: The World Bank (2016), World Development Indicators (WDI), http://data.worldbank.org/data-catalog/world-development-indicators.

Significant factors – technology, demography, investment, natural resources, transportation and institutions – will continue to shape international trade. Demographic changes will affect trade both through their impact on comparative advantage and on patterns of demand (WTO, 2013). With the coming of age of the digital economy, 21st century trade is increasingly becoming complex. New software simplifies the management of supply chains by cutting overheads linked to marketing, transport and distribution. The internet also creates new opportunities for services trade, key to successful business-to-business and business-to-consumer relationships. Moreover, the internet has become an important global trading platform and the growth of e-commerce is an important factor that will continue to influence the development of international trade patterns and

relationships over the coming years. Firms in developing countries – and SMEs in particular – are increasingly taking advantage of such new technologies in order to better develop their productive capacity, reach new markets and compete globally.

Chapter 2.

The issue: The cost of corruption hampering trade

Considering the importance of international trade for global economic welfare, the costs generated by non-tariff barriers such as the lack of integrity can be quite significant for the public and private sectors, citizens and society at large. Moreover, trade barriers created by ineffective policies, and burdensome rules and procedures can constitute an important incentive to engage in corrupt behaviour. Therefore, all relevant stakeholders have an interest in elaborating and promoting mutually supportive trade integrity and facilitation policies that would remove ineffective trade barriers while maintaining effective checks and balances on fraud and corruption.

Lower revenues for the public sector

Hampering international trade comes at a high cost for the state, as it results in losses in terms of revenue, business attractiveness and state modernisation. Recent estimates show that loss of revenue caused by customs-related corruption costs World Customs Organization (WCO) members at least USD 2 billion in customs revenue each year. Customs-related corruption is more costly for large economies in absolute terms, with India losing about USD 334 million, Russia losing about USD 223 million, and China losing about USD 170 million annually (Michael, 2012). Import revenue losses due to corruption in customs are substantial in Eastern Europe and Africa, considering the size of their economies. Annual losses in customs revenues in Ukraine and Belarus are estimated to USD 45 million and USD 37 million respectively (Michael, 2012). Estimated customs revenue losses appear to be even more acute in Africa, where they amount to USD 43 million in Algeria, USD 37 million in Morocco and Egypt, USD 39 million in Ghana, USD 26 million in Côte d'Ivoire, USD 33 million in Namibia, USD 23 million in South Africa and a devastating USD 38 million for Lesotho alone (Michael, 2012).

Increasing overhead costs and limiting market access for businesses

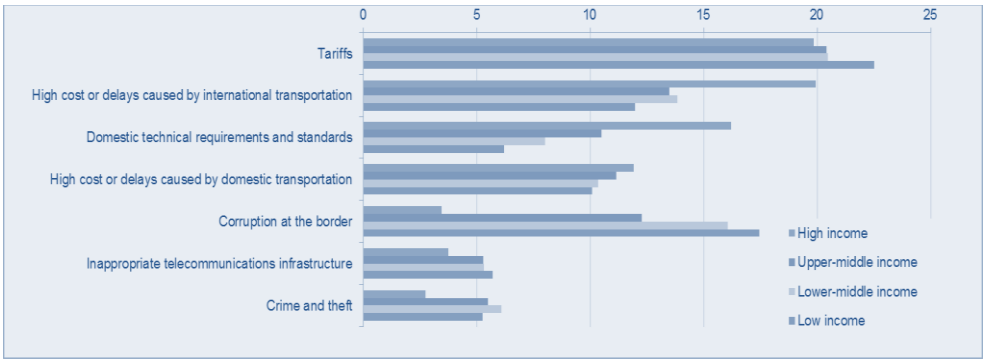
The lack of integrity in the supply chain creates significant additional costs, distorts competition for the private sector, and limits market access for firms who refuse to engage in corrupt activities. Corruption is thus considered as a significant obstacle to doing business, and for this reason the OECD has made combating corruption in business one of its main priorities. Lack of integrity in trade creates a vicious circle for the private sector that is difficult to escape, as it diminishes firms' reputations for clean business, thus making it more difficult for them to find markets, and hampers the overall business environment in which they operate.

Recent surveys show that the private sector considers corruption and burdensome procedures at the border to be key obstacles for both importing and exporting, particularly in the case of low and lower-middle income countries (OECD/WTO, 2015) (Figure 2.1).

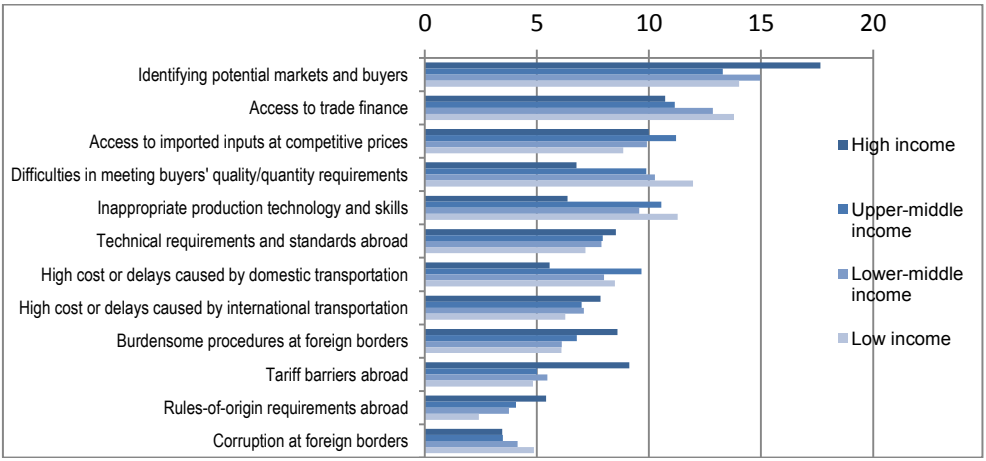
Figure 2.1. **Business perspective: the most problematic factors for trade**

The most problematic factors for exporting and importing, by income group

a. Importing



b: Exporting

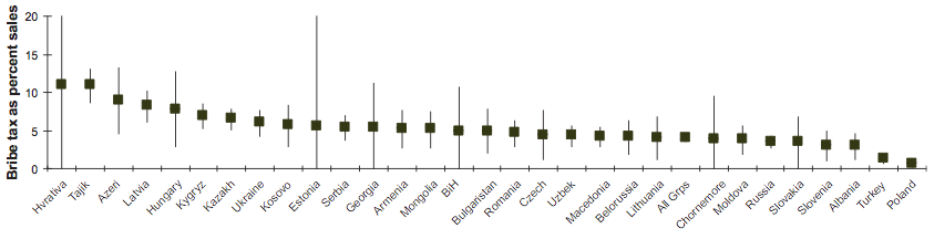


Source: OECD/WTO (2015), Aid for Trade at a Glance 2015: Reducing Trade Costs for Inclusive, Sustainable Growth, OECD Publishing, Paris, http://dx.doi.org/10.1787/aid_glance-2015-en

Bribery is often referred to as an extra tax on companies when they operate internationally. Pascal Lamy, former WTO Director General, argued that "corruption in international trade is basically a tax on the movement of services and people and therefore a hidden increase of the cost of trade" (European Policy Center, 2014).

Recent private sector surveys show that corruption at the border is an issue within the foreign trade sector. The 2010 World Bank Business Environment and Enterprise Performance Survey (BEEPS), which provides firm-level data on informal payments and corruption, shows that bribery imposes an additional tax on businesses that can represent as much as 10% of their sales in Croatia and Tajikistan, and over 5% in many other countries (Figure 2.2).

Figure 2.2. **Estimated "tax" bribery imposed on businesses in Eastern Europe and Central Asia, 2010**



The data in the figure show the relative proportion of bribes paid by local business expressed as a percent of sales (along with 95% confidence intervals drawn around the estimate). In theory, these payments act like a tax and reduce welfare the same way taxes do. In theory, a certain percent change in taxes decreaes GDP by the square of that percent change. In practice through, economic studies show taxes pass through to decreases in GDP levels by roughly double the extra tax (with a very large number of caveats). Bribe taxes shown in the figure likely include the effect of bribes to customs officials, though we can not estimate the percent of total bribe taxes paid to customs from these data.

Source: BEEPS (2010).

Source: Michael (2012), www.tandfonline.com/doi/pdf/10.1080/01900692.2011.635491.

In addition, firms may find it extremely difficult to conduct business without bribing in jurisdictions at high risk for corruption. Transparency International's Bribe Payers' Survey shows that, in 2011, almost 30% of polled firms thought that they had lost business or access to certain markets because competitors had paid bribes.

Some businesses may pay bribes to obtain tolerance from customs officials for illegal practices such as smuggling, under-invoicing or under-valuation (World Bank, 2011). Others may pay bribes to avoid tariffs (WEF, 2013). This puts companies at a significant competitive disadvantage, and in extreme cases, some companies may be forced to exit a market altogether rather than trying to compete on unequal terms. Lack of integrity in trade may particularly affect smaller firms, which are often disadvantaged because they are unable to bear the costs of corruption due to a lack of access to appropriate legal resources, alternative shipping options, and sufficient cash flow. Corruption can thus constitute a major blow to sustainable and inclusive economic development.

Despite recent attempts to provide reliable estimates as referenced in Figure 2.2 above, the full cost associated with paying bribes for businesses

remains difficult to quantify. The WEF refers to corruption as the most sensitive trade barrier for companies to specifically report on. Based on potential liability considerations, most companies will be reluctant to admit paying bribes, which makes corruption-related issues more complicated to address (WEF, 2013).

Finally, businesses may also have to bear the significant costs arising from prosecutions for bribing foreign officials. Private firms can increasingly be held liable for corrupt acts, due in part to an increased enforcement of OECD's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. Indeed, the Convention requires that companies, and not just individual perpetrators, must be held liable for the bribery of foreign public officials. Well known examples of legislation that implements the Convention are the U.S. Foreign Corrupt Practices Act (FCPA) and the U.K. Bribery Act. The Convention also requires that firms be held liable for bribing through intermediaries, and when the bribe is transferred to third parties, such as charities, political parties or business partners.

Ultimately, however, the cost of corruption is borne by the customer in the form of lower quality goods, higher prices and delivery delays.

Chapter 3.

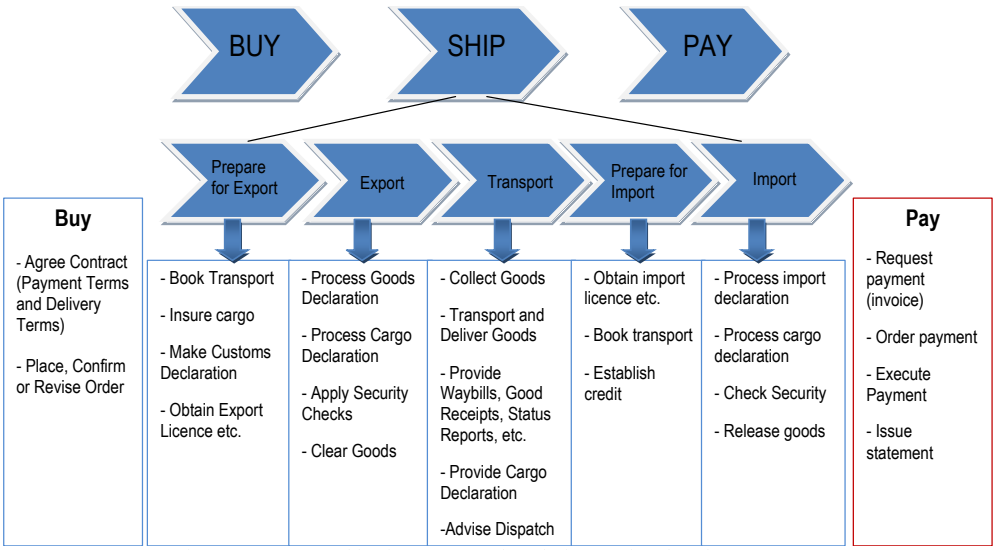
Mapping integrity risks in the global supply chain

The inherent complexity of global supply chains creates vulnerabilities that may encourage some businesses and individuals to engage in corrupt transactions and as such, these complexities must be ironed out as much as possible to remove any incentive to engage into corrupt behaviour, while preserving effective integrity checks and balances.

The complexity of global supply chains

International trade differs from domestic trade in the sense that there are additional actors involved in supply chains, creating additional vulnerabilities to corruption for both the public and private sectors. The important number of actors involved in global supply chains increases the opportunity to derive illicit rents from the international flow of goods and services. Figure 3.1 below shows a simplified version of the global supply chain, as well as of different actors involved.

Figure 3.1. Simplified global supply chain



Source: UNECE, Business processes and business transactions in international trade, http://tfig.unece.org/contents/buy-ship-pay-model.htm

Actors most vulnerable to integrity risks

Thus, it is imperative that public and private sector entities conduct comprehensive corruption risk assessments to define their exposure to integrity risks, which will allow them to prioritise appropriate anti-corruption controls. The following selection of actors who are closely associated with common trade-related integrity risks is based on OECD priorities related to the main drivers of corruption, customs fraud and corruption, and the risk of policy capture through the funding of political parties and election campaigns (OECD, 2012; OECD, 1998; OECD, 2001; OECD, 2016a). This section also addresses integrity risks present in both the public and private sectors, as well as a mix of administrative and petty corruption practices.

Third parties

The main purpose of third parties, defined as agents and other intermediaries, consultants, representatives, distributors, contractors and suppliers, consortia, and joint venture partners by OECD's Good Practice Guidance on Internal Controls, Ethics and Compliance, is to facilitate international trade by supporting business processes, transactions or exchange of information. They assist firms in complying with trade regulations and responding to market requirements, connect buyers and

producers, and provide access to their network of contacts. Third parties can deliver knowledge about foreign markets, experience with import and export processes and with local marketing strategies. Their services may lower negotiation costs such as direct travel and personal expenses, and the ex-ante costs of potential hazards when dealing with unfamiliar foreign customers (Lambsdorff, 2011).

However, third parties constitute an additional corruption risk as they can easily be used to dissimulate bribe payments (Lambsdorff, 2011), and because they create an additional opportunity for seeking rents from global supply chains. Local firms, due to their knowledge of local customs and officials, may be inclined to play the role of intermediaries for foreign firms in corrupt transactions. Similarly, customs brokers may be tempted to use illegal means to avoid certain controls as they face considerable pressure from both the customer and the administration to clear goods as fast as possible (Le Rolland, 2014).

The 2014 OECD Foreign Bribery Report shows that between 1999 and mid-2014, 75% of concluded cases of the bribery of foreign public officials involved intermediaries, 41% of which were local agents, 35% corporate vehicles, 6% lawyers, 3% family members, 2% associates and 1% accountants. Intermediaries are also explicitly mentioned in the OECD Due Diligence Guidance for Responsible Minerals Supply Chains as a potential source of risk. Under the OECD Due Diligence Guidance, companies are expected to put in place enhanced "know your counterparty" measures for intermediaries in their mineral supply chains based in, or sourcing from, high-risk jurisdictions to ensure these economic actors are not contributing to conflict financing as well as illicit and counterfeit trade.

Customs agencies

Significant corruption opportunities can also be found in relation to the work of customs and other border agencies, because of their control authority over the flow of persons and goods, which frequently, though not necessarily, combines discretionary power, weak accountability and difficult supervision. The 2014 OECD Foreign Bribery Report shows that between 1999 and mid-2014, 11% of the officials who took bribes were customs officials (the highest risk category), and the total amount of bribes paid to this category of officials during the relevant period was 1.14% of bribes promised, offered or given. The Report also shows that the purpose of 12% of bribes paid was to obtain customs clearance. This may be explained by the fact that complex and opaque tariff schemes and red tape make collusion all the more tempting for importers and exporters, who can collude with officials so as to evade duties or inspection of goods (OECD, 1998; OECD, 2001; World Bank, 2011; Transparency International, 2014).

Corruption involving public agents, such as those working in airports, ports and other customs agencies is well-documented and can take many forms. For instance, the OECD reported on allegations of corruption of foreign officials to facilitate the smuggling of gold out of the Democratic Republic of Congo into Uganda (OECD, 2015d).

Corruption in customs administrations may involve numerous public agents acting together to systematically support tariff evasion (World Bank, 2011). These corruption schemes are generally driven by senior staff within the public service, and can even involve highest state officials and lead to policy capture by private interests (Box 1). However, corruption in the public service may also involve one or few individuals, where customs staff either have 'clients' whose wrongdoing they facilitate or where they simply exploit their positions for personal gain (Child, 2008).

Box 1. 'La Linea' Corruption Case

In Guatemala, the so-called 'La Linea' case led to the resignation of more than 40 public officials and, most notably, to the resignation and imprisonment of the Guatemalan former president Otto Molina Pérez. It was a straightforward scheme: importers would bribe customs officials to create fake documents granting importers a steep discount on the import duties for their goods. Allegedly, millions of dollars of customs revenue were siphoned away from the state into the private bank accounts of corrupt importers and custom officials.

Source: *Guatemala's Big Corruption Scandal Explained*, InSight Crime, www.insightcrime.org/news-analysis/guatemala-la-linea-customs-scandal-explained

Public agents may also be involved in extortion. Bribes are extorted from importers and exporters in a variety of ways, mainly taking advantage of bureaucratic red tape and customs officials' ability to detain shipments of goods from entering or leaving a country (World Bank, 2011). Corrupt officials may arbitrarily detain shipments until firms "grease the wheels" with bribes. Detention of goods affects the competitiveness of firms, especially those who ship perishable products or valuable products that require secure storage. Corrupt officials may also threaten firms with misclassification of goods into more heavily taxed categories unless a bribe is paid (Transparency International, 2014).

Moreover, suppliers who bypass health and safety requirements, avoid necessary licensing, or otherwise evade legitimate law enforcement by paying bribes, create significant additional liability risks related to product quality. Recent years have seen numerous examples of widespread corruption-related health and safety scares from imported products. In

addition, suppliers engaged to assist customers with government agencies create acute risks if they pay bribes on the customer's behalf to customs officials or licensing authorities (UN Global Compact, 2010).

Transportation and freight

The transport sector can also be subject to corrupt practices (West Africa Trade Hub, 2014; World Bank, 2011; OECD, 2014b). Considering its central role in the global supply chain, lack of integrity in transport and freight is likely to affect a large range of industries. According to the 2014 OECD Foreign Bribery Report, between 1999 and mid-2014, 15% of the cases of bribing foreign public officials during the same period occurred in the transport and storage sector.

A number of studies highlight the integrity challenges that may be associated with the transport industry in some particular areas. For instance, USAID work on road governance along trade routes in West Africa suggests that the high density of checkpoints increases the opportunity to extort bribes, which can go as high as USD 11.91 per 100 kilometres in Mali and USD 11.88 per 100 kilometres in Côte d'Ivoire. Moreover, checkpoints cause delays in the transportation of goods by as much as 28 minutes per 100 kilometres in Mali and 25 minutes per 100 kilometres in Ghana, which may seriously affect perishable goods (West Africa Trade Hub, 2014; Federal Ministry for Economic Cooperation and Development, no date).

Moreover, a study by Transparency International India observes that "truckers are required to pay bribes at every stage of their operations, which starts with getting registration and fitness certificates, and for issuance and renewal of interstate and national permits". While on the road, truck drivers may have incentives to pay bribes instead of fines or other sanctions because of overloaded trucks, traffic violations, parking at no-parking places or entering in 'no-entry zones', and to deal with the payment of toll and other taxes more efficiently. Moreover, truck drivers sometimes pay bribes for the lack of proper documents or use of alcohol (Transparency International, 2007).

Finally, there have been a number of prosecutions of freight forwarders, brokers and agents in the shipping and express delivery arena under the Foreign Corrupt Practices Act (FCPA). For instance, global freight forwarding company Panalpina, Inc. and six other oil services industry companies were found to have violated the FCPA "by paying millions of dollars in bribes to foreign officials to receive preferential treatment and improper benefits during the customs process" (SEC, 2010).

Chapter 4.

The twin devils of corruption and illicit trade

Organised crime and illicit trade can also benefit from complexities and vulnerabilities that are present in global supply chains, and inflict important economic and social costs on society as a whole. Corruption facilitates various forms of illicit trade and may, for instance, allow sub-standard goods to reach consumers by evading quality controls. It is thus critical that the ironing out of unnecessary complexities inherent to global supply chains not be done at the expense of implementing appropriate checks and balances to prevent criminal activities. Policies and controls targeted at preventing fraud and corruption will contribute to both reinforcing integrity in the global supply chain while preventing illicit and counterfeit trade.

Organised crime benefits from complexities in global supply chains

Illicit and counterfeit trade are often associated with organised crime, which may use the cover of a legitimate business to deliberately perpetrate a profit-based crime. However, illicit trade may also involve multiple independent actors who do not necessarily work cohesively. Its harmful effects are the consequence not only of one crime but of a sequence of fraudulent activities or acts of criminal negligence (Picard and Alvarenga, 2012).

Unwarranted complexities and lack of appropriate oversight in trade may create vulnerabilities that allow illicit trade to thrive. Illicit trade includes a wide range of products, from strictly prohibited goods such as narcotics, to counterfeit consumer goods and pirated goods. The massive volumes of world trade overwhelm the capacity of governments to prevent illicit trade by controlling all shipments. Organised criminal networks abuse weaknesses in international trade chains to obfuscate determinations about a consignment's nature, value and country of origin. Moreover, fraudulent transactions may be facilitated by the use of multiple foreign exchange transactions and diverse trade financing arrangements, the commingling of legitimate and illicit funds, and the limited resources that most customs

agencies have available to detect suspicious trade transactions (Transparency International, 2013).

Moreover, the enormous flow of transactions associated with the global supply chain can be exploited by criminal and terrorist organisations as a way to launder money. Trade-based money laundering is defined by the Financial Action Task Force (FATF) as the process of disguising the proceeds of crime and moving value through the use of trade transactions in an attempt to legitimise their illicit origins. In practice, this can be achieved through the misrepresentation of the price, quantity or quality of imports or exports (Global Financial Integrity, n.d.).

Incidentally, other crimes can flourish as a result of lack of integrity controls in global supply chains. For instance, corruption may facilitate human trafficking and illegal migration (OECD, 2015b). Similarly, employment rights, decent pay and working conditions are also affected by corruption, as jobs in the production of counterfeit goods are unregulated and low paid. Workers are placed in a vulnerable position and are not granted the same form of protection as in the more regulated employment market (UNODC, no date). Corruption also facilitates the smuggling of arms, natural resources or other stolen consumer goods, as well as trafficking in drugs, cigarettes and alcohol, among others (OECD, 2015b).

Finally, corruption can protect criminals engaged in illicit trade from investigations and prosecution. Even if a consignment is seized, perpetrators might be released with a warning or fine rather than prosecuted to the full extent. This alters the calculation of risks and reward in favour of multiple infractions. Corruption may also lead to the mishandling of investigations, destruction or misplacement of evidence, intimidation or disappearance of witnesses, light or entirely diverted fines and sentences. Corrupt actors can also help circumvent regulation and controls, and facilitate environmental crime such as the illicit or unlawful disposal of toxic products. Corruption makes those who commit environmental crimes very difficult to identify, and thus legal actions and sanctions are virtually non-existent (UNODC, no date).

Consequences of illicit and counterfeit trade for citizens

In addition to distorting markets and harming state revenue, illicit and counterfeit trade can have extremely serious consequences for consumers, workers and the environment by inflicting a range of economic, financial and social costs on citizens and society as a whole. Trade in counterfeit and pirated goods is estimated to be a multi-billion business by the UNODC. Counterfeit goods can range from fashion and luxury items, to food and cosmetics and to medicines under guaranteed quality labels (OECD, 2015a).

By using labelling fraud and bribes to officials in charge of quality control, producers of counterfeit goods often make consumers unable to identify what they are buying and understand the sometimes significant risks to which they are exposed. Consumers may be led to buy completely different products than what they intended, or pay excessively high prices for innocuous but nevertheless substandard products. In some cases, illicit and counterfeit trade may have dramatic consequences for consumers who inadvertently use harmful products (Box 4.1).

Box 4.1. Example of counterfeit glycerine in Panama

In 2007, the government of Panama unknowingly used Diethylene Glycol falsely labeled as Glycerine to make 260,000 bottles of cough syrup. The origin of the fake chemicals was traced from Panama through trading companies in Spain to a source near the Yangtze Delta in China. The counterfeit glycerin passed through three trading companies on three continents, yet not one of them tested the syrup to confirm what was on the label. Along the way, a certificate falsely attesting to the purity of the shipment was repeatedly altered, eliminating the name of the manufacturer and previous owner. The result of this series of acts of negligence and falsification is dramatic: 100 people died in Panama from ingesting the deadly cough syrup.

Source: Picard and Alvarenga (2012), *Illicit Trade, Supply Chain Integrity, and Technology*, WEForum, www3.weforum.org/docs/GETR/2012/GETR_Chapter1.5.pdf.

Counterfeit trade has damaging economic consequences, as it steals markets from legitimate businesses. This reduces incentive to develop new ideas and products, and hence weakens the innovation processes with negative implications for economic growth. These risks are seen as particularly high for those industries in which the research and development costs associated with the development of new products are high compared to the cost of producing the resulting products (OECD, 2008).

Trafficking of counterfeit medicines is particularly harmful as it may deprive sick people of treatment, leaving them vulnerable to disease. They also make some of the world's most dangerous diseases difficult to treat by contributing to the development of drug-resistant strains (UNODC, no date). In 2006, the WHO estimated that 1% of the medicines in circulation in developed countries were counterfeit and these number went up to over 10% in developing countries (WHO, 2006). In Afghanistan, it is estimated that half of the medicines in circulation are counterfeit due to widespread corruption in customs administration and lack of appropriate oversight (The Guardian, 2015).

As discussed above, lack of appropriate controls in global supply chains facilitating environmental crimes can also have serious consequences for citizens. This is notably the case with the smuggling and dumping of electrical and electronic "e-waste", as well as the trade in ozone-depleting substances (ODS) despite widespread prohibitions. Toxic products are generally illegally disposed of in less developed countries, where criminals take advantage of lax or non-existent environmental controls or less effective enforcement, but the dramatic consequences on soils, water and human health are, in the long run, shared globally (UNODC, 2013).

Targeted integrity controls and policies allow minimising the length at which illicit and counterfeit trade are conducted. The next chapter discusses key measures and integrity controls that will reinforce integrity in the global supply chain while being effective at preventing cross-border illicit trade.

Chapter 5.

Towards integrity strategies for clean trade

The aim is thus to find the right balance between easing red tape while having appropriate controls, taking into account the local context and its inherent risk areas. The main elements of a strategy to promote integrity in trade must respond to identified integrity risks and target the most harmful illicit rents arising from the global supply chain as well as from illicit trade.

A whole-of-government approach combined with ongoing and proactive dialogue with the private sector and other external stakeholders is required to design a comprehensive, coherent and focused integrity and anti-corruption strategy for society as a whole. The updated 1998 OECD Recommendation on Improving Ethical Conduct in the Public Service constitutes a useful reference to strengthen the implementation of a comprehensive integrity framework that can be easily adapted to evolving and emerging integrity risks in the public service, including customs.

One of the most important challenges with respect to promoting integrity in global supply chains is to find effective ways to assess the performance of integrity and anti-corruption measures in the international trade context, as trade-related indicators do not seek to measure levels of integrity. Moreover, many performance-measurement indicators aiming at measuring compliance are generally output-based, which does not necessarily measure the impact of such outputs on achieving the intended objectives (ANAO, 2016). Yet, an increasing number of methodologies seek to measure the outcomes of integrity measures, such as Integrity Action's "Fix-Rate" and Global Integrity's Public Integrity Index.

The "Fix-Rate" methodology seeks to measure whether a particular law or policy was effective at solving a particular problem at the satisfaction of stakeholders (Integrity Action, no date). In addition, the Public Integrity Index rests on almost 300 tangible indicators that seek to measure public sector good governance and that capture three important dimensions, namely (1) the existence of public integrity mechanisms, including laws and institutions, that promote public accountability and limit corruption; (2) the

effectiveness of these mechanisms; and (3) the access that citizens have to the information they need in order to hold public officials accountable (Global Integrity, no date).

Current research and best practices point at effective actions that may be prioritised to promote integrity in trade, and which include:

- continuing to include transparency and anti-corruption provisions in trade agreements
- preventing corruption in customs administrations and border control through
  - harmonising international standards
  - implementing effective internal management tools
  - ensuring transparency and accountability in internal procedures
  - implementing reporting channels for handling complaints
- protecting supply chains through due diligence standards and promoting responsible business conduct
- promoting collective action commitments by :
  - abiding by existing regulations, policies and best practices from the private sector
  - collaborating in identifying corruption vulnerabilities and develop effective responses from the public and private sectors
- harmonising best practices in cross-border investigations
- enforcing cross-border bribery offences more effectively.

The measures discussed below build on OECD's standards for public and private sectors, and respond to the main trade-related risks (OECD, 2016a; OECD, 2012; OECD, 2001; OECD, 1998).

Including transparency and anti-corruption provisions in trade agreements

Public and private actors should continue to commit to transparency and anti-corruption requirements through trade agreements.

Indeed, countries entering into trade negotiations no longer exclusively seek increased market access, they also seek to reduce market opacity (Lejárraga, 2013). A large number of trade agreements currently contain anti-corruption provisions and as such, they can be used as a powerful vector for harmonising and implementing best anti-corruption practices while eliminating unnecessary trade barriers. Anti-corruption provisions range from requiring parties to ratify global anti-corruption conventions, to a

more specific provision depriving trade transactions or investments tainted by corruption of the standard protections offered by the agreement (Lejárraga, 2013; Lejárraga and Shepherd, 2013; Tushe, 2014).

For instance, the recently signed Trans-Pacific Partnership (TPP) agreement includes provisions seeking to eliminate bribery and corruption from matters covered by the agreement. Chapter 26 of the TPP requires parties to ratify the United Nations Convention against Corruption (UNCAC), to adopt and enforce minimal corruption-related offences and sanctions, and to take appropriate measures to promote the active participation of individuals and groups outside the public sector in preventing and fighting corruption in matters affecting international trade or investment (TPP, 2015). Countries could consider including similar provisions in bilateral trade agreements, which could help advance the fight against cross-border bribery if such agreements required major exporters and investors to ratify the OECD Anti-Bribery Convention.

This is consistent with the WTO Trade Facilitation Agreement (TFA), concluded at the 2013 9th WTO Ministerial in Bali. By developing "provisions for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues" (TFA, 2014), the TFA is an important milestone towards reducing red tape and promoting integrity in the global supply chain so that goods can move more quickly and efficiently from country to country (Brown, 2014). Full and swift implementation of the TFA can deliver important benefits for countries at all stages of development: OECD estimates show that this has the potential to reduce worldwide trade costs by between 11.8% and 17.4% (Box 3).

Box 5.1. Trade Facilitation Indicators: Assessing the benefits of a more transparent and streamlined border process

To help governments improve their border procedures, reduce trade costs and reap greater benefits from international trade, the OECD has developed a set of Trade Facilitation Indicators (TFIs) that identify areas for action and enable the potential impact of reforms to be assessed. The TFIs cover the full spectrum of border procedures and are strongly linked to the WTO Trade Facilitation Agreement (TFA) provisions. They are currently available for more than 160 countries across income levels, geographical regions and development stages.

Estimates based on the TFIs provide a basis for governments to prioritise trade facilitation actions and to mobilise capacity-building efforts in a more targeted way. Such analysis shows that trade facilitation measures can benefit all countries whether they are exporting or importing goods by allowing better access to inputs for production and greater GVCs participation. The potential trade costs reduction from a "full" implementation scenario, where countries implement all the options contained in the TFA, is up to 16.5% of total costs for low-income countries, 17.4% for lower middle-income countries, 14.6% for upper middle-income countries, and 11.8% for OECD countries. Benefits of the agreement will be substantially larger depending on the scope and pace of implementation.

The assessment of specific indicators, in particular the ones composing the "top four" for each income group of countries, shows that most of the facilitating elements in areas such as the harmonisation and simplification of trade documents and procedures, the availability of trade-related information, or automation are key in reducing trade transaction costs. Another indicator, directly capturing elements of good governance and impartiality of border administrations, has the potential to reduce trade costs by between 0.5 and 1.1% for the same country groups.

The transparency, predictability and simplification of trade procedures have not only the potential to reduce trade costs and promote economic efficiency but also to remove corruption incentives and opportunities:

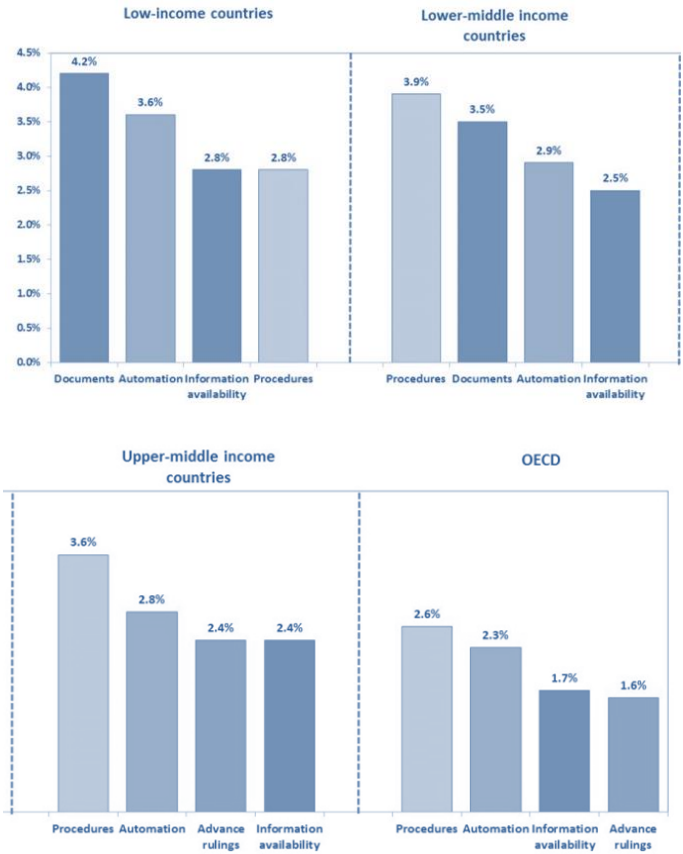
- transparency: underpins the ability of market participants and stakeholders to fully understand the conditions and constraints for entering and operating in a market

- predictability: non-discretionary and consistent application of rules guarantees efficiency and integrity in border agencies

- simplification and streamlining of border procedures: diminishes the discretionary power of customs and other border officials and fosters integrity; automation can also provide additional support in harmonising the interpretation and implementation of regulations across all border points.

Box 5.1. Trade Facilitation Indicators: Assessing the benefits of a more transparent and streamlined border process *(continued)*

Figure 5.1. Potential trade costs reductions by income group for the "top four" sets of measures



Integrity and facilitation of trade can therefore be mutually supportive. The objective of trade facilitation reforms is to create an environment conducive to clean trade and investment by eliminating the high transaction costs related to the complexities of border clearance procedures.

Source: OECD (2015c); OECD(2009).

The B20 Group, which represents businesses from the G20 countries, is supportive of the dual approach of increasing market access and reducing market opacity. The B20 Group recommended that governments harmonise anti-corruption approaches through trade agreements during the 2014 G20

negotiations. Former Director-General of the World Trade Organization, Pascal Lamy, argued that trade regulation could be of great value in the fight against corruption, preferably through multilateral agreements, but in the absence of such agreements, introducing anti-corruption and anti-bribery could also be achieved through bilateral agreements. Trade agreements have the potential to create benchmarks for possible future convergence in multilateral systems, to promote integrity in both the public and private sectors, to curb illicit financial flows and shell banks, and to have binding dispute resolution mechanisms to deal with cases where one of the parties is not fulfilling its obligations" (Center for European Policy, 2014).

Finally, some countries' desire to be part of trade negotiations may constitute an important incentive to discuss and implement anti-corruption measures. Countries that are less inclined to discuss issues surrounding increased accountability and transparency in the public and private spheres may be brought to do so if it is required to increase their access to global markets and stimulate economic growth. In fact, there is a growing tendency to incorporate transparency and anti-corruption requirements in recent regional trade agreements. Countries increasingly recognise that corruption distorts resource allocations, undermines fair competition, impedes the rule of law, and that it can thus severely impair the benefits arising from negotiated trade agreements (Lejárraga, 2013).

Preventing corruption in customs administrations and border control

A whole of government approach is required to design an effective strategy seeking to prevent corruption in customs and border control. For instance, customs administrations' accountability may be increased through external audits conducted by supreme audit institutions or other independent institutions. Key areas for implementation of an anti-corruption strategy should be prioritised based on expected impact and frequency of integrity risks events. Key anti-corruption actions in customs and border control include: (1) harmonising international standards, (2) implementing effective internal management tools, (3) ensuring transparency and accountability in internal procedures, and (4) implementing reporting channels for handling complaints.

There are some specific challenges to combating corruption within customs and border control administrations, as these can be decentralised entities. Governments must implement targeted measures based on proper corruption risk mapping to enhance transparency and accountability in customs as well as in businesses.

The World Customs Organization (WCO) encourages and supports its Member States to adopt effective controls and security measures for the

global supply chain, while promoting greater trade facilitation (Box 4). However, the scope of strategies seeking to promote integrity in customs administration varies to a great extent from a government to another. Not all governments have developed specific integrity strategies tailored for customs administrations, and some rely instead on their overall strategy designed for the entire public service (WCO, 2012; Centre for the Study of Democracy, 2012).

Box 5.2. The World Customs Organization Arusha Declaration

Amongst different declarations and regulations, the World Customs Organization (WCO) passed the *Arusha Declaration (1993) on Integrity in Customs* aiming at enhancing the efficiency of its member states' administrations in the elimination of risks and opportunities for corruption. In 2003, the WCO Council adopted a revision of the Arusha Declaration including an Integrity Development Guide that serves as a comprehensive integrity tool set to address the adverse effects of corruption.

The *Integrity Development Guide* consists of a ten-principle agenda that supports the harmonisation and standardisation of the prevention, measurement and reporting of corruption, as well as the strengthening of integrity in customs administrations. These principles include:

- Leadership and Commitment
- Regulatory Framework
- Transparency
- Automation
- Reform and Modernisation
- Audit and Investigation
- Code of Conduct
- Human Resource Management
- Morale and Organisational Culture
- Relationship with the Private Sector

Source: World Customs Organization, www.wcoomd.org/en/about-us.aspx.

Harmonising international standards

International standards should be harmonised through trade facilitation programmes. Comprehensive trade facilitation programmes have a positive impact on customs-related corruption (Michael, 2012). For instance, the WCO SAFE Framework of Standards, which was last updated in June 2015, seeks to harmonise the requirements for the submission of electronic data on inbound, outbound, and transit cargo shipments. Each country joining the SAFE Framework must endeavour to implement harmonised risk management frameworks to address security threats, and to collaborate with

other nations' requests to inspect higher-risk cargos. Businesses that will comply with the SAFE Framework requirements will be eligible to benefits arising from the Authorized Economic Operator (AEO) status (WCO, 2015).

Businesses that are granted the AEO status are eligible to faster processing of goods by customs, such as through reduced examination rates, which translates into reduced time and costs: "One of the main tenets of the SAFE Framework is to create one set of international standards, and this establishes uniformity and predictability. It also reduces multiple and complex requirements" (WCO, 2015).

Implementing effective internal management tools

Implementing effective internal management tools significantly enhance internal controls and can go a long way in reinforcing the integrity of customs and border control staff. Key internal management tools include a comprehensive and specifically-tailored code of conduct, along with adequate training and interpretative support on an ongoing basis (CCAB, 2014; OECD, 2013b). In addition, supportive human resources management starts with clear and transparent recruitment procedures based on merit and qualifications, as well as pre-determined and agreed-upon job descriptions. Regular and fair career evaluation as well as promotion opportunities are important and should be granted on merit, through transparent processes (Child, 2008). Background checks are also very common among OECD countries, and they could take a risk-based approach. Integrity tests and conflict of interest declarations (including asset declarations) may be used from time to time to ensure customs and border control staff maintains the right level of integrity (OECD, 2005; OECD, 2015; Center for the Study of Democracy, 2012; Michael and Moore, 2010).

Ensuring transparency and accountability in internal procedures

Governments must ensure that the implementation of internal procedures is transparent and that relevant officials are made accountable for their implementation. Most frequently applied operational measures seeking to prevent corruption in customs and border control include the rotation of officers and duties as well as requiring a second-line officer to be present together with the first-line border guard at document control points in ports, airports, and road crossing points (Center for the Study of Democracy, 2012).

Moreover, transparency and clarity are extremely important when it comes to customs clearance and border control. All costs and procedures in the customs and border administration should be fully documented in procedure manuals and desk instructions, specifying both what is required

and what is not required or permitted. Opportunities for corruption can be reduced by making available all procedures, rules, fees, and charges for services, by establishing service charters, and by establishing help-lines and enquiry centres (WCO, 2012).

Reporting channels for handling complaints

Customs administrations and border controls should implement channels for handling complaints. An accessible and well-publicised channel for handling complaints on customs administration would be particularly effective if it falls under the responsibility of an independent third party, such as an ombudsman. The use of electronic data management systems also significantly contribute to increasing transparency and accountability in customs and border control services, such as the European Union (EU)'s Electronic Customs (OECD, 2016b; Child, 2008).

Protecting supply chains through due diligence standards and promoting responsible business conduct

Providing assistance and incentives for the private sector to implement appropriate integrity controls can significantly contribute to reinforce integrity and protect global supply chains. For instance, economic operators who have demonstrated robust governance and anti-corruption controls could benefit from a special status that would make them more competitive and less vulnerable to the extortion of bribes. Finally, additional support could be provided to economic operators to make them aware of applicable rules and how to react when they face demands for bribes.

Promoting responsible business conduct

To begin with, economic operators should adopt anti-corruption policies to expose clearly what is meant by corruption and what is considered acceptable behaviour, as well as associated controls. Policies and controls may include a definition of the various forms of corruption that are faced by relevant employees, and offer guidelines and tools to deal with such situations were they to occur.

The active contribution of the private sector is a key element of success for the global fight against bribery, in support of legitimate and sustainable trade. The OECD Guidelines for Multinational Enterprises ("OECD MNE Guidelines") provide a set of recommendation on responsible business conduct addressed by governments to MNEs operating in or from adhering countries. The Guidelines are the only existing multilaterally agreed corporate responsibility instrument that adhering governments have

committed to promoting in a global context. They express the shared views and values of countries, including major emerging economies that are the sources and the recipients of a large majority of the world's investment flows, and who are also home to a majority of MNEs. The Guidelines cover all major areas of business ethics, including anti-corruption.

The promotion and implementation of the recommendations set forth in the MNE Guidelines can contribute to the reinforcement of global supply chain integrity. As part of the so-called "proactive agenda", a new prospective dimension developed after the 2011 MNE Guidelines update and designed to support companies implement the recommendations of the Guidelines in specific industrial sectors, the implementation programme of the OECD Guidance on Minerals provides a compelling example of the increasing success of OECD standards in that regard.

The OECD has practical due diligence guidance for companies to implement the OECD MNE Guidelines in the minerals (OECD, 2013), agricultural (OECD and FAO, 2016) and garment supply chains (OECD, forthcoming), as well as for the extractives (OECD, 2016c) and financial sectors (OECD, 2016d). These instruments highlight the importance for companies to embed ethical practices into their actual management systems, across business functions (e.g. senior management, compliance, procurement, customer relations, etc.). Using a risk-based approach, companies are expected to progressively identify, prevent and mitigate risks of bribery in their supply chains, sometimes even multiple tiers away, beyond direct business relationships. A range of tools and good practices have emerged to help companies have greater visibility over their supply chain, establish traceability or transparency, obtain necessary data on qualitative conditions, identify and analyse risk of misconduct in the supply chain, strengthen internal controls, monitoring and supply chain assurance. Collaborative efforts like certification or public-private partnerships have also proven effective in tackling systemic risks associated with specific jurisdiction or sectors.

Box 5.3. Combating the illegal exploitation of natural resources through supply chain due diligence

The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas is helping the international community to build a coordinated response to the criminal exploitation of minerals, where corruption plays a central role. It builds on FATF due diligence recommendations, and the guidance has inspired programmes to encourage responsible mineral sourcing and combat the criminal exploitation of minerals.

The OECD Guidance is now referenced in domestic regulations, for example in the US and several African countries, and the EU is drafting a regulation based on the Guidance. As a result, as of 2016 the US and EU markets could be covered by legal provisions requiring mineral supply chain due diligence on all imported products containing tin, tungsten and tantalum (3T) and gold. Hundreds of companies and industry initiatives across the supply chain now implement the OECD due diligence framework to ensure they produce and source responsibly. Governments of non-Members producing minerals are also using the Guidance, including Burundi, the Democratic Republic of Congo, and Rwanda. In parallel, national authorities from the People's Republic of China (China), Turkey and the United Arab Emirates, have also taken steps to support the implementation of the Guidance within their borders, focusing more specifically on smelters and refiners of minerals.

The global private sector has developed multiple initiatives, designed to implement the recommendations of the Guidance in producing areas, with a specific focus on the 3T sector, and so far with an exclusive focus on the Great Lakes region (GLR). These initiatives have demonstrated that responsible supply chain management can help companies contribute towards inclusive growth while combating bribery globally. Furthermore, industry actors have developed a series of programmes specifically focusing on the smelting/refining stage, which has been identified by relevant stakeholders as the 'choke point' of 3TG supply chains. Industry initiatives estimate that approximately 90% of all refined gold, 95% of smelted tantalum and 75-85% of smelted tin produced every year is covered by industry audit programmes designed to implement the Guidance.

Source: *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*, www.oecd.org/corporate/mne/GuidanceEdition2.pdf.

Incentivising the harmonisation of best practices

Moreover and as discussed earlier, economic operators who have implemented robust governance and anti-corruption controls can reap substantial benefits from their investment by being given a special operator status that would increase their competitiveness. Article 7 of the WTO Agreement on Trade Facilitation requires Member States to provide AEO status to operators who meet specific criteria listed at paragraph 7.2 of the Agreement. The EU's Community Customs Code (Regulation EC 648/2005) includes similar requirements by granting AEO status for

economic operators meeting best practices in customs compliance, record-keeping, financial solvency and where relevant, appropriate safety and security standards. The AEO status allows economic operators who have submitted pre-arrival and pre-departure information on goods entering or leaving the EU to benefit from facilitations with respect to certain customs controls.

Increasing transparency on certification rules, regulations and procedures

Economic operators need to be well-informed about prevailing rules and regulations in markets where they operate. Rules and regulations can be prominently displayed in various relevant languages at toll plazas, check-posts, fuel stations and at other prominent places along trade routes. Encouraging truck operators and drivers to practice certain precautions, safeguards and self-regulation measures could be another important step in keeping a check over unfair practices (TI India, 2007).

Centralised and computerised procedures with respect to the approval and certification of imported and exported products should also be encouraged, as they may reduce the opportunity for extorting bribes from transport firms and their employees (TI India, 2007).

Collective action to overcome corruption vulnerabilities

Businesses committed to integrity should collectively endeavour to abide by existing regulations, policies and best practices, and to collaborate with public sector actors to identify integrity vulnerabilities and appropriate responses. Indeed, governments, businesses and civil society's individual efforts to scale back corruption must be coordinated through collective action to increase their effectiveness (BSR, 2014).

Companies worldwide operating and trading abroad can join a voluntary collective commitment to abide by existing regulations and policies to promote integrity in international trade, such as the Export Trading Group's Global Anti-Corruption Policy. This initiative sends a strong signal, as companies are more likely to comply with existing rules and engage in anti-corruption initiatives when they can trust their competitors to follow the same ethical standards. Business associations and chambers of commerce also have the potential to offer a platform for companies operating to collectively implement integrity initiatives and level the playing field (Transparency International, 2013).

AEO status, as discussed earlier, constitutes another form of collective action by bringing together public and private sectors in order to grant

special status to firms that implement pre-determined administrative procedures related to international trade.

Public and private sectors can also work together to identify potential corruption vulnerabilities and develop an effective response. The United Nations Development Programme and the Maritime Anti-Corruption Network (MACN) initiative for Nigeria's ports aims at undertaking a risk assessment study in the Nigerian port sector through a series of consultations and deliberations of all relevant stakeholders.

Detecting corruption through enhanced audit and cross-border collaboration

Customs administrations must implement reliable audit capacity, reporting channels for wrongdoing and reach out to other jurisdictions to effectively detect and prosecute corrupt transactions. State of the art audit of cross-border procedures are key to enhancing integrity and detecting fraud in the international trade chain. Customs agencies worldwide realised this, as many created internal inspectorates responsible for ensuring customs officials comply with applicable rules, for improving internal policies and procedures to enhance efficiency, and for detecting fraud and other wrongdoing in customs (Michael and Moore, 2010).

The compliance and performance role of auditors are as important as their role of detecting fraud and corruption. Internal inspectorates verify if customs officers comply with applicable rules and procedures, and provide recommendations on the improvement of anti-corruption programmes as well as overall operations. If genuine fraud is detected or suspected, internal inspectorates would usually let police forces handle the case (Michael and Moore, 2010).

Creating an environment of openness and trust that will encourage employees to report wrongdoing is a particularly efficient way to enhance the effectiveness of audits made by the internal inspectorate. To reduce the risks of reprisals against whistleblowers, clear and independent reporting mechanisms must be in place and publicised throughout the organisation, along with mechanisms to protect whistleblowers, such as confidentiality and anti-reprisals measures. However, disclosures of wrongdoing should be kept strictly confidential until sufficient evidence has been accumulated to determine that wrongdoing has occurred and a corrective action is warranted. Such confidentiality will ensure that no one is harmed by intentionally misleading allegations, for which the author should be subject to appropriate sanctions (OECD, 2016b).

Finally, it is important to mention that information sharing and strategic cooperation with respect to cross-border corruption cases is on the rise and in some cases, has become the norm. For instance, the US Attorney-General asserted that his office and foreign enforcers often report corruption schemes to one another and that when appropriate, they coordinate their strategies and their investigative techniques in order to obtain the best investigation outcomes as possible, in particular on high impact corruption cases. Moreover, the US Department of Justice (USDOJ) observed that "almost all of DOJ's FCPA investigations are multilateral, and there is a widespread information sharing among the regulators", a trend that constantly played out in multiple ways in 2014 (Covington, 2014).

Cross-border collaboration may also seek to increase controls over illicit flows of funds arising from corrupt activities. For instance, the Stolen Asset Recovery Initiative (StAR), a partnership between the World Bank Group and UNODC, supports international efforts to prevent the laundering of the proceeds of corruption and to facilitate more systematic and timely return of stolen assets. StAR works with financial centres to provide countries with training and capacity-building, policy analysis and knowledge-building, and upon request, assistance to recover stolen assets.

Enforcing cross-border bribery offences more effectively

Governments must effectively enforce the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions to dissuade businesses and individuals from engaging in corrupt cross-border transactions. The Convention focuses on prohibiting the supply of bribes to foreign public officials in international business. The 41 Parties to the Convention (34 OECD countries and seven non-OECD countries) have criminalised such bribery, and practically all the Parties have established some form of corporate liability for the offence. The four G20 countries that have not yet ratified the Convention (China, India, Indonesia and Saudi Arabia) have committed to actively participate in OECD work on combating cross-border bribery, with a view to exploring possible adherence to the OECD Anti-Bribery Convention. The Convention has a significant preventive role, as companies increasingly establish financial and non-financial measures for minimising their bribery risks in international trade. One important factor considered in designing an effective anti-bribery management system is the potential for enforcement of bribery offences, the imposition of serious penalties, and reputational damage due to the related negative publicity.

The OECD Foreign Bribery Report shows that between 1999 and mid-2014, 427 cases of the bribery of foreign public officials were concluded

involving 263 individuals and 164 entities from Parties to the Convention. The Report also shows that the costs of foreign bribery proceedings can be substantial, including fines, debarment from procurement contracting, confiscation and compensation. During the relevant period, the highest combined monetary sanctions imposed in a single case amounted to approximately EUR 1.8 billion. In addition, individuals risk significant prison time. For instance, the highest combined prison sentence imposed during the same period was 13 years.

Chapter 6.

Measures to promote integrity in global trade

Reinforcing integrity in international trade may require significant efforts to design and implement a whole-of-government approach in collaboration with businesses and citizens, but such efforts will likely be outweighed by even higher returns on the investment. Promoting integrity in global supply chains produces increased benefits for the global community as a whole. While there is no 'one-size-fits-all' approach to best achieve this objective, the OECD recommends prioritising the following measures in line with international good practices:

- designing and implementing comprehensive risk management strategies for global supply chains for both public and private sectors
- continuing to commit to transparency and anti-corruption requirements through trade agreements
- preventing corruption in customs and border control by, among others:
  - harmonising international standards
  - implementing effective internal management tools
  - ensuring transparency and accountability in internal procedures
  - providing clear reporting channels for handling complaints and effectively protecting whistleblowers
- providing assistance and incentives for the private sector to implement the following measures:
  - adopting anti-corruption policies to expose clearly what is meant by corruption and what is considered acceptable behaviour
  - implementing robust governance measures and anti-corruption controls
  - accessing information about prevailing rules and regulations in markets where they operate
  - committing collectively to abide by existing regulations, policies and best practices, and to collaborate with public sector actors to identify integrity

vulnerabilities and appropriate mitigation measures and to build a culture of integrity in collective action

- implementing reliable audit capacity, reporting channels for wrongdoing in customs administrations, and reach out to other jurisdictions to effectively detect and prosecute corrupt transactions and to build a culture of integrity
- effectively enforcing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions to dissuade businesses and individuals from engaging in corrupt cross-border transactions, and encourage all the world's major exporters and investors to ratify the Convention.

The fight against corruption falls under the responsibility of all governments, businesses, and citizens. The OECD will continue to support governments and stakeholders in improving their anti-corruption policies, and act as a forum where the global community can share and exchange on best integrity, anti-corruption and international trade practices.

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