

OECD Integrity Forum Global Trade without Corruption

BIAC Key Messages

There is broad-based agreement that corruption is a major obstacle to growth and development and poses significant problems for society at large. Following the 2015 Forum, which explored the link between corruption and investment, BIAC welcomes the focus of this year's Integrity Forum on global trade without corruption and calls upon the OECD to explore specific work areas which support open trade while contributing to the fight against corruption.

International trade is the cornerstone of the global economy, including large amounts of goods, services, and financial flows, and has significantly contributed to growth and development around the world. Unfortunately, corruption in global supply chains greatly affects the success of economic activity, entailing significant costs, as illustrated by estimations according to which corruption costs members of the World Customs Organization USD 2 billion in customs revenue each year. For business operating in international markets, bribery and corruption represent a significant added cost, distort the level playing field and act as deterrents for much needed trade and investments.

While progress has been made in creating cultures of integrity and reducing corruption, much remains to be done to create a corruption-free business environment worldwide. As international trade continues to expand and our economies become increasingly connected, corruption continues to pose significant threats to global trade. Business has identified border corruption as a significant barrier to import and export trade, where customs and transport issues represent serious risk factors.

The private sector has a strong interest in a corruption free business environment and should be considered as a key partner for governments for collaborative work in the fight against corruption. Unfortunately, even the most compliant companies still face corruption challenges and solicitation in a number of countries. BIAC therefore calls upon the OECD to consider specific steps to fight corruption in international trade, with the overall objective of boosting trade and fostering integrity. Among others, we draw attention to the following areas:

Exploring win-win opportunities for trade and integrity: Corruption is a significant barrier to trade. Trade barriers created by inefficient policies and burdensome procedures not only increase costs, but if combined with ineffective policies, can also facilitate engagement in corruptive behavior. Red tape and burdensome procedures at the border create additional layers of complexity and make effective controls more difficult. Business therefore underlines the importance of improving infrastructure and streamlining border procedures, thus contributing to the reduction of corruption in customs clearance.

Addressing the demand side: Companies around the world are often confronted with requests for bribes, e.g. in the context of public procurement procedures, business permits, and in customs procedures. BIAC has therefore consistently underlined the importance of addressing the demand side of bribery. In jurisdictions with high risk of corruption, it is particularly challenging for companies to escape bribe solicitation at the border, e.g. to obtain customs clearance, access to ports, pass checkpoints, etc., without considerable delays. Solicitation for bribes, both large and small, can be a widespread phenomenon with significant negative impacts both for companies and the economy at large. For business to be able to operate properly, it requires a concerted effort to enforce existing laws that reduce the demand for corruption, building capacity for integrity and penalising corruption in public office.

Ensuring adequate reporting channels: It is essential to have channels in place for handling complaints, including in the area of customs administration. A high-level reporting mechanism (HLRM) is an important instrument to strengthen public governance and enforcement of laws. Establishing reporting mechanisms at a high level of government helps ensure cooperation among agencies and provide a channel which would be independent from the agency where the solicitation occurred, making it more likely that the allegation would be considered. Bilateral or multilateral mechanisms agreed and implemented by neighboring countries may be a promising way to foster cross-border trade. Consideration should be given to using OECD general guidance for HLRM to also assist companies dealing with bribe solicitation in customs.

However, reporting mechanisms must take into account the fast pace of international trade. If companies are faced with facilitation payments in cross-border transactions, it is essential that issues can be resolved on site as quickly as possible to avoid delays and related financial losses or legal risks for companies. The question is to which extent a high-level reporting mechanism can contribute to supporting smooth customs clearance in line with applicable laws and without additional delays, and how such a mechanism should be designed.

Implementing Standard Operating Procedures (SOPs): While convergence of regulation across borders to address corruption is a long-term objective, it is based on international negotiations and changes to regulation, which take time. To start with, SOPs for use by officials dealing with customs and border crossing, should be examined as part of the ongoing fight against corruption. SOPs could be practical tools agreed between companies and relevant agencies on issues ranging from clear commitments (no solicitation, no payments) to clear and operational complaint systems for quickly resolving unclear situations. Operational complaint mechanisms could complement or possibly be linked to a high-level reporting mechanism.

Fostering transparency: It is essential that governments ensure that internal procedures, including customs procedures, are transparent and that there are mechanisms in place to make officials accountable for effective implementation of procedures. For this, such procedures must be documented and there must be full transparency on what can and cannot be demanded. The role of information technology in enhancing transparency and facilitating checks should be given due attention. Electronic

customs and cross-border automated clearance systems for example reduce opportunities for solicitation and enable better tracking of transactions.

Addressing the root causes for bribery: It is important to consider prevention when discussing corruption in international trade. A number of factors may affect the solicitation of bribes or other corrupt activities by customs officials. Improved training, adequate equipment, technology as well as adequate remuneration, can bolster countries against the negative effects of corruption while ensuring the transparency of business engaging in international trade. Capacity building and exchange of best practice, including on effective internal management tools, are particularly important.

Fostering business partner compliance: Global adherence to responsible business conduct standards, such as those of the OECD Guidelines for Multinational Enterprises, which cover all major areas of business ethics, including anti-corruption, should be promoted. While multinational enterprises can play a major role in spreading good practice through their business relationships, expectation must be realistic and due consideration must be given to the limitations that companies face in having concrete influence over global supply chains, which are highly complex and variable. Multinational enterprises must play a strong role, but cannot replace good governance and effective action by governments.

Robust compliance due diligence should be considered for all relevant partners, including customs agents and third party intermediaries. Particular attention should be paid to what can be done in high-risk countries with limited infrastructure, requiring clarity on what the company expects in the area of compliance and an open dialogue on the practical realities and ways of mitigating corruption risks.

The role of trade agreements and trade facilitation: A number of trade agreements, including the Trans-Pacific Partnership (TPP), contain anti-corruption provisions, and the European Commission intends to increase transparency in future trade deal negotiations. The WTO Trade Facilitation Agreement (TFA) concluded in Bali in 2013 seeks among others to promote integrity in global supply chains through rules on transparency of customs document requirements and fees related to cost of service for importations and transit, as well as border agency cooperation. Full implementation of the TFA can lead to more cost efficient, transparent, and streamlined border processes, based on principles of integrity. Integrity and trade are mutually supportive.

Ahead of the next round of negotiations regarding the Transatlantic Trade and Investment Partnership (TTIP), we underline the importance of addressing anti-corruption. In this regard, we recommend that if an anti-corruption chapter is included, it should contain rules to promote integrity on public procurement, including those applicable to determining the country to prosecute alleged violations when several may claim jurisdiction, consistent with the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Implementing trade facilitation measures consistent with the Trade Facilitation Agreement can reduce the burden of corruption on business while strengthening the anti-corruption agenda. By addressing issues like transparency and the imposition of fees to process and permit entry of goods, trade agreements can help reduce trade costs and improve efficiency in the fight against corruption. Specific

anti-corruption strategies and approaches can help to ensure a level playing field for all stakeholders engaging in international trade and markets. We recognize that in 2014, the B20 Anti-Corruption Working Group therefore included specific recommendations to address corruption in trade negotiations in its report to the B20 office and task force chairs.

Promoting partnerships: Public-private dialogue is essential to identify current or upcoming corruption risks as well as specific reforms. Governments and business should promote coordinated partnerships to leverage resources for advancing technical assistance efforts and engage in discussions on how companies can join forces with public institutions in the countries where they do business to reduce corruption risks, including at the border, as well as how businesses and/or trade associations can join forces with intergovernmental organizations in order to reduce corruption risks on a broader scale.

An effective means of addressing the demand side of bribery transactions would be collective action between governments and the private sector, including projects focusing on the reduction and elimination of facilitation payments at the border. A number of collective action programs are already in place, e.g. the Turkish customs brokers signed up to occupational ethics standards,¹ which has led to concrete initiatives and the establishment of robust compliance programs for several of them. Information on such collective action and partnerships should be shared, and further specific initiatives should be promoted. Another collective action example is the Maritime Anti-Corruption Network (MACN) focusing on reducing corruption in maritime trade.²

A role for the OECD³

The consequences of corruption at the border can be significant, leading to inefficient economic decisions, illegal conduct, and delays in trade, while increasing the cost of doing business and raising barriers to market entry. Building on the discussions at the Integrity Forum, we encourage the OECD to explore opportunities that foster trade while addressing corruption at the border, including the demand side, and to continue to develop guidance and tools that can assist businesses, in particular small and medium enterprises, to implement practical and cost-effective compliance actions into their daily operations. Corruption is as much a global issue as it is a local issue. Action must therefore include both specific projects on the ground and international cooperation to encourage best practice. The OECD, with its expertise, convening power and ability to work in a cross-cutting way, can make an important contribution in this area.

¹ See [B20 Anti-Corruption Taskforce Policy Paper](#), September 2015

² See <http://www.maritime-acn.org/#home>

³ See also BIAC's overarching comments which are summarized in our [key business messages to the 2016 OECD Anti-Bribery Ministerial](#) and our [BIAC priorities on trade](#).