Executive summary

Good governance and anti-corruption are part of the proposed United Nations Sustainable Development Goals (to follow on from the Millennium Development Goals) and therefore set a framework to be rolled out to all nations. Leading companies are exploring and addressing business ethics and integrity risks in global supply chains. We have produced this briefing to help companies understand, monitor and manage business ethics risks and opportunities in their supply chain.

This briefing:
● Defines common terms;
● Introduces why corruption is a risk to business and society;
● Identifies the most commonly-occurring corruption risks in global supply chains;
● Provides best practice guidance and support to help companies tackle corruption in global supply chains.

Introduction

Corruption is recognised by many as the single greatest obstacle to economic and social development around the world. Corruption has a corrosive effect on society, undermining democratic institutions and the rule of law. It impedes international development and traps millions in poverty. The World Bank has estimated that 0.5% of gross domestic product is lost through corruption each year, with over US $1 trillion paid in bribes each year.¹ Transparency International's research also highlights that in countries where bribery is common, progress on the Millennium Development Goals is slower.²

New and tougher anti-corruption regulations, along with vigorous enforcement by regulators, continue to emerge worldwide. Organisations that are proactive, well-equipped, knowledgeable and take action on anti-corruption can strengthen their brand while doing business with integrity.

The private sector can play a key role by sharing responsibility for finding ways to effectively fight corruption. Implementing an effective anti-bribery and anti-corruption policy can yield numerous benefits (for company good practice examples see the Sedex Supplier Workbook.) It enables a more efficient business environment and promotes a healthy and effective organisational culture. At the global level, these policies underpin government action to tackle corruption. This is important to the investment community which is increasingly valuing efforts to tackle corruption.

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Terms defined:

Business Ethics
The application of a moral code of conduct to the decisions and actions of a business.

Corruption
The abuse of entrusted power for private gain.

Bribery
The offering, promising, giving, accepting or soliciting of an advantage as an inducement for an action which is illegal or a breach of trust.

In the news

● “Why Corruption is a Messy Business” (Financial Times, 24 Sept 2014)
● “GSK to pay £297m fine for Chinese bribes” (Financial Times, 19 Sept 2014)
● “HP Fined $108M by DoJ to Settle Bribery Probe In Russia, Poland, Mexico” (Nasdaq, 13 Sept 2014)
● “FIFA and ethics: It’s not an oxymoron” (LA Times, 13 Sep 2014)
● “Alcoa to pay $384 million to settle Bahrain bribery charges” (CNBC, 9 Jan 2014)
The global context
Corruption - a risk for business

From emerging regions to developed nations, bribery and corruption continues to create an uneven playing field in trade, commerce and the process of government. More than one in four business people worldwide report losing out on business because a competitor paid a bribe, according to Transparency International’s 2013 “Global Corruption Barometer.” Moreover, figures provided in a joint publication by the International Chamber of Commerce, Transparency International, the United Nations Global Compact and the World Economic Forum Partnering Against Corruption Initiative, show that corruption adds up to 10% to the total cost of doing business globally, and up to 25% to the cost of procurement contracts in developing countries. Moving business from a country with a low level of corruption to a country with medium or high levels of corruption is found to be equivalent to a 20% tax on foreign business.

Moreover, many companies are part of or have supply chains in countries where a high risk of bribery occurs. Their operations may also involve activities or sectors at high risk from corruption such as interacting with public officials or using local agents. In this context, most companies set out to win and retain contracts and clients without the slightest intention of acting unscrupulously or without adequately suspecting they could get caught up in anything unscrupulous. They can fall prey to relationships with the wrong third parties recruited to perform legitimate services through government officials in overseas transactions. Some companies report trusting too much in “local” advice or being held to ransom. And even though such third parties are non-employees, companies can be held liable for the actions they take.

A well documented example is facilitation payments for goods clearance or customs release. Some companies report being held to ransom to receive or deliver their own goods and feel that these payments are the only way to expedite this process. However, companies who have stood firm against requests for these improper payments state the reverse is true and once officials know the immovable nature of your policy then the goods will released immediately without any attempts of extortion.

In this context, businesses can face legal liability. This is even if companies, which most are, are without any intention of acting unscrupulously or getting caught up in corrupt practices. In recent years, extensive anti-corruption laws have developed. Of particular interest are the U.S. Foreign Corrupt Practices Act (FCPA) and the U.K. Bribery Act (UKBA). FCPA and UKBA’s jurisdictional breach is broad, applicable no matter where the corrupt activities occur. This means that businesses can be impacted by the actions of a third party with whom they do business, especially where they ‘act on their behalf.

Activities which may contribute to the problem of corruption
- Colleagues pay bribes as a one off or as a matter of course – including small bribes (also called facilitation payments).
- Colleagues demand bribes of suppliers or customers.
- Suppliers / 3rd parties pay bribes on a company’s behalf.
- Suppliers / 3rd parties - or their suppliers - pay bribes or engage in corrupt practices outside a company’s supply chain.
- Business owners do business with other companies that engage in corrupt practices.
Corruption’s link to other supply chain challenges

Corruption is a cross-cutting issue which can exacerbate other supply chain risks.

For example, corruption linked to improper granting of permits and licenses for natural resource exploitation or the petty bribery of officials can make it possible for environmental safeguards to be bypassed and lead to environmental impacts. While damaging from an environmental perspective, the consequences from these unethical practices also impact communities whose livelihoods are tied to the environment.

Food fraud is also reported to be on the rise. This can range from the dilution of ingredients to cut manufacturing costs to mislabelling and mis-selling of products to obtain higher prices - as highlighted by the 2013 horsemeat scandal where horse meat was sold as beef.

Corruption can also lead to labour abuses and occupational health & safety risks to workers. Perhaps one of the most discussed examples of the linkages can be found in Bangladesh. There are multi-dimensional challenges of governance and corruption in the garments sector in Bangladesh that contributed to vulnerabilities leading to the Rana Plaza tragedy of April 2013.

Media reports on the Rana Plaza tragedy highlighted how permission for high-rise buildings can be obtained through bribes. Sohel Rana, the owner of the building, had not received the proper building consent, obtaining a permit for only a five-story building from the local municipality. The building was, however, illegally extended by a further three stories - an act ignored by the authorities due to Rana’s political connections.6

Coverage of the tragedy also suggests the Bangladesh government failed to enforce building codes and curb unlicensed construction in unsafe areas.

Analysis also suggests persistent government failure to enforce workplace health and safety standards for access, crowding, lighting, ventilation, working hours, bathroom breaks, and minimum wage.

A look at the data

Business ethics assessment options - covering corruption issues - were added to SMETA (Sedex Members Ethical Trade Audit) Methodology Best Practice Guidance in 2012 to provide organisations with a holistic view of responsible business activities during the scope of one audit visit.

Key findings:

- Audit data shows that in the past two years, on average, 11.9% of active sites on the Sedex platform have had a business ethics assessment. By sector, the greatest business ethics coverage is in Manufacturing (73%), with Heavy Engineering sites with the fewest proportion (0.01%).

- However, of the audits added in the Sedex system in the last twelve months, 21% include business ethics as part of their scope.

- Sites’ own self assessment data shows that over 47,958 sites (85.5% of sites that responded) say that they have a business ethics policy. However, only 8.7% of respondents report that they cascade their ethics policy requirements to their suppliers.

- How often does the issue occur? Where business ethics assessment is included in audit scope, business ethics issues are identified 14.9% of the time.

- The top observation (27.6% of business ethics issues) was that the site fails to comply with local or national business ethics laws.

- 63.9% of business ethics issues in the system are reported as past deadline dates set for corrective action.

The sample analysed 49,293 sites and 20,006 audits. Includes audits conducted and published within 1st July 2012 to 1st July 2014. Data is correct as of the 25th November 2014. Note: for Business Ethics assessments, findings are recorded as observations, with the target of supporting continuous improvements and defining standards over time.

Sample size split by sector

Percentage of sites with business ethics (BE) assessments by sector

Most common business ethics issues

<table>
<thead>
<tr>
<th>Issue title</th>
<th>% of all BE issues</th>
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<tbody>
<tr>
<td>Site fails to comply with local/ national laws on Business Ethics</td>
<td>27.6%</td>
</tr>
<tr>
<td>Lack of, or inadequate, policy concerning bribery, corruption or unethical business practice and/or communication to all relevant parties</td>
<td>18.9%</td>
</tr>
<tr>
<td>Site has no transparent system in place for confidentially reporting &amp; dealing with unethical business practices</td>
<td>17.0%</td>
</tr>
<tr>
<td>Supplier sites unaware of the Business Ethics standards and/or code requirements of the customers they supply to</td>
<td>15.9%</td>
</tr>
<tr>
<td>Site has no system to monitor Business Ethics standards against relevant laws and customers requirements</td>
<td>8.2%</td>
</tr>
<tr>
<td>Site has no procedures and training in place to avoid bribery and corruption at all levels</td>
<td>7.7%</td>
</tr>
<tr>
<td>Site has no improvements measures/plans in place for bribery and corruption</td>
<td>3.3%</td>
</tr>
<tr>
<td>Site does not take effective steps to prevent any misuse of private and/or confidential data</td>
<td>1.5%</td>
</tr>
</tbody>
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Opportunities to scale up good practice

● Improve verification efforts by companies to better assess corruption in and across business operations
Globally, at the time of this report, 11.9% of sites on the Sedex platform have included a business ethics assessment in the last two years. While businesses are not expected to audit 100% of their suppliers, more business ethics assessments would provide a more effective program for preventing and detecting corruption across the supply chain. Positive progress is being made across Sedex’s global membership - 21% of audits in the system in the last 12 months include business ethics as part of their scope.

● Better systems to help more suppliers deter, detect and remediate corruption
Non-compliance of the site with local/national laws on the area of Business Ethics was cited as the most common observation (27.6%). In addition, policies covering bribery, corruption or unethical business practice are not always available and/or communicated to all relevant parties (18.9%). These are often the starting point for an ethics program. Suppliers would likely benefit from their customers sharing their experience, policies and procedures, as they integrate anti-corruption measures into their day-to-day operations.

● Better communication across the supply chain to increase awareness of ethical requirements
Sites are not always aware of the customer’s Business Ethics standards or code requirements. This trend continues at the site level. The self assessment data shows that only 8.7% of the sites that responded with an ethics policy extend their requirements to their suppliers to meet ethics standards. Better communication and training could help suppliers understand what is expected from them.

● Share more examples of Good Management Practices
63.9% of business ethics issues in the system are reported as overdue, or past the set dates for corrective action. Sedex members are beginning to empower suppliers through training, capacity building and ongoing support to ensure that compliance with these standards becomes a matter of course.
Insights from Verité

**Spotlight: Labour trafficking**

**Link between Corruption and Labour Trafficking**

There is a high correlation between public sector corruption and trafficking in persons for labour exploitation. On-the-ground research, risk assessments, and monitoring work in global supply chains routinely uncover situations where unethical labor brokers and corrupt government officials are instrumental in greasing the wheels of labor trafficking.

**Labour Trafficking activities expose businesses to liability under FCPA or UKBA**

Companies including foreign subsidiaries, franchisees, joint venture entities - or even suppliers - that use third party employment agencies or labor brokers - run the risk of potential FCPA or UKBA liability. The risk arises from the fact that these entities rely on employment agencies and labour brokers who must interact with foreign officials to obtain work and travel permits, visas, etc.

These agents and brokers may be paying bribes to an assortment of players in the foreign labor supply chain including sub-agents and labor department officials involved in immigration, border control, and law enforcement.

The example below, showing Nepal as a Sending Country to Malaysia, identifies possible points or areas of risk where bribery is possible.

Any interaction with a foreign official creates potential for exposure under the FCPA or UKBA. Outsourcing of the employment and management of foreign contract workers by a supply chain participant will not insulate a company from potential liability where corrupt payments result in an indirect or direct benefit such as cheap migrant labour.

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**Example: Nepal as a Sending Country to Malaysia, identifies possible points or areas of risk where bribery are possible. Source: Verité**

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Questions to ask:
- What monies were paid to government entities in receiving and sending countries and by whom? How are they recorded? What were they for?
- Are there anti-bribery provisions and terms regarding payment and recording of fees to government entities in the service agreement with third party agents/brokers?
- What system is in place to ensure that fees paid are legal, ethical and that third parties are operating within the law?

Sedex good practice case studies
Sedex has published resources to support companies in their efforts to tackle bribery and corruption around the world. The Sedex Supplier Workbook provides further guidance on corruption, along with good practice business case studies. Download a copy here.
Insights from Transparency International UK

To manage corruption and bribery issues, a company needs to have robust Business Ethics systems that it uses to conduct its operations legally, ethically and consistently with its values. Transparency International has developed a Six-Step Process practical guide for companies to assist them in developing and implementing an anti-bribery policy.

Transparency International's Six-Step Process can be modified to take into account the size of a company and its ability to complete the steps within the suggested timeframe.

Moreover, given the complexity of the issue, and the context in which businesses often operate, no one company can address it alone. Collaboration will be key to mitigating risks and capturing opportunity.

The Business Principles for Countering Bribery

- The enterprise shall prohibit bribery in any form whether direct or indirect.
- The enterprise shall commit to implementing a programme to counter bribery. The programme shall represent the enterprise's anti-bribery efforts including values, code of conduct, detailed policies and procedures, risk management, internal and external communication, training and guidance, internal controls, oversight, monitoring and assurance.

The Business Principles are based on a Board commitment to fundamental values of integrity, transparency and accountability.

Enterprises should aim to create and maintain a trust based and inclusive culture of individual accountability in which bribery is not tolerated.

For more information on Transparency International’s Six Step Process visit: www.transparency.org
Sedex Supplier Workbook and good practice case studies: an in-depth guide offering practical guidance, case studies and good practice to help suppliers around the world drive ethical improvements in their businesses. The Business Ethics section, offers practical guidance to help suppliers develop business ethics management systems.

SMETA (Sedex Members Ethical Trade Audit): audit methodology that engages supply chain monitors, buyers and suppliers in one common audit approach, reducing duplication and increasing convergence.


Verité White Paper: Corruption & Labor Trafficking in Global Supply Chains

Transparency International UK’s Diagnosing Bribery Risk: guidance providing specific, practical advice based on real-life experience on how to conduct an effective bribery risk assessment.

Transparency International’s Transparency in Reporting in Anti-Corruption: a Report on Corporate Practice

Transparency International’s Business Principles for Countering Bribery: provides a framework for companies to develop comprehensive anti-bribery programmes.

Transparency International’s Resisting Extortion and Solicitation in International Transactions: A company tool for employee training.

Transparency International’s Corruption Measurement Tool

Footnotes:

4. A joint publication by ICC, TI, UNGC and PACI: “Clean Business is Good Business.”
6. "A Deadly Price for Our Clothing" (Huffington Post, 9 May 2013)
About this briefing:

This briefing is the latest in a series of films, publications, resources, webinars and in-person events by Sedex Global and partners. These focus on a range of topics including: key emerging trends for sustainable supply chains by region and emerging CSR topics, risk and performance management in global supply chains, highlighting companies’ achievements of good practice and best practice, impact, collaboration and convergence in responsible business.

See http://www.sedexglobal.com/resources/publications/

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Sedex global statistics:
- >36,000 buyer and supplier members globally
- >30 major industry sectors based on the UNSPSC (United Nations Standard Products and Services Code) listings
- >150 countries
- Sedex members represent more than 18 million workers worldwide
- 49,293 Sites

Disclaimer:

About the partner author organisations:

Sedex Global (sedexglobal.com)
Our mission is to drive collaboration, increase transparency and build the capacity that’s needed to raise standards across all tiers of the supply chain. We offer the world’s largest collaborative platform for managing and sharing ethical supply chain data, along with leading-edge services which multi-national companies use to understand, monitor and manage supply chains risks and improve standards.

Sedex works to drive engagement up and down the supply chain, encouraging follow up corrective actions on audits and facilitating dialogue to address challenges ‘on the ground’. We collaborate with a range of stakeholders to share insights and promote best practice on responsible supply chain issues.

Sedex offers a range of services to enable effective responsible supply chain management. See: http://www.sedexglobal.com/member-services/

Transparency International UK (transparency.org.uk)
Transparency International (TI) has been at the forefront of the anti-corruption movement since its formation in 1993. TI is a non-profit, independent, non-governmental organization dedicated to increasing government accountability and curbing international and national corruption. Through its international secretariat and network of over 90 national chapters worldwide, TI works in a non-confrontational way with governments, civil society and the private sector to develop means to combat corruption.

Verité (verite.org)
Verité is an international not-for-profit consulting, training, and research organization that has been a leader in supply chain social responsibility and sustainability since 1995. Verité’s holistic approach is based on an extensive, applied understanding of common obstacles and effective strategies for managing supply chain risks. Verité services help companies and other stakeholders fully understand labor issues, overcome obstacles, and build sustainable solutions into their supply chains, benefiting companies and workers alike.