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### The Maritime Anti-Corruption Network: A Model for Public-Private Cooperation Against Graft

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# The Maritime Anti-Corruption Network

## A Model for Public-Private Cooperation against Graft

Firms operating in global markets often face systemic corruption issues, such as frequent demands for operational facilitation payments (“grease payments”), sometimes paired with extortion and shakedowns. Many anti-bribery regimes prohibit such payments and the OECD has decried the “corrosive effect of small facilitation payments, particularly on sustainable development and the rule of law.” However, any firm that sets an internal policy against such payments risks being snubbed by government officials in certain markets where facilitation payments are expected. Scholars call this a “collective action problem,” in which the incentives motivating individual firms or government agents toward selfish behavior are misaligned with the best policies for the whole sector.

Companies need a way to join forces, share information and approaches, and engage governments and civil society, without threatening their own competitive advantage and freedom to operate. However, differences in styles, agendas, timeframes, and approaches make it hard for these potential partners to move in lockstep to harmonize policies and undertake meaningful change. Corporate disclosure and liability can pose particularly knotty legal challenges.

The Maritime Anti-Corruption Network (MACN) took an innovative approach to drive collective action against entrenched corruption in the maritime sector. Public integrity practitioners confronting collective-action challenges in other sectors and regions may learn from the MACN’s unique model, which integrates both “supply-side” (bribe payer) and “demand-side” (bribe recipient) approaches to corruption prevention.

### The Corruption Challenge in the Maritime Sector

The maritime industry is a key link in the global supply chain. Around 90 percent of internationally traded goods are transported by sea, passing through ports and the maritime value chain (ICS, 2016) (UNCTAD, 2015). The movement of goods and vessels in and out of countries requires extensive contact with public officials, exposing the maritime industry to multiple layers of corruption risk. Both ships and shipments need to pass various official inspections and exhibit multiple permits and documentations during each port call. There are opportunities at every stage for profiteering and extortion by public officials and incentives for operators to seek extralegal workarounds.

Maritime corruption imposes a large cost on both maritime industries and port countries. For example, it increases operational costs and can endanger worker safety and well-being, if facilitation payment demands are accompanied by extortion. For society, corruption in the maritime sector constitutes a barrier to trade and development, by reducing access to global markets for small and mid-sized exporters (who cannot afford to cover the cost of customs delays) which reduces competitiveness and economic inclusivity. Company data has shown that bribery constitutes an additional tax on companies of as much as 10% of sales in high-risk markets and over 5% in many other countries (World Bank). Moreover, maritime-sector corruption can facilitate tax evasion, diverting public funds. World Customs Organization estimates suggest that a global annual loss of US\$2 billion in customs revenue can be attributed to customs-related corruption (Michael, 2012).

Historically, the industry has been slow to tackle these diffuse and intractable risks, and government bodies have lacked the incentive, capacity, or leverage to enforce crackdowns. However, regulators, civil society, and maritime stakeholders have become increasingly concerned about the scale of the problem, and have begun demanding that

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the maritime sector address its root causes. An increase in anti-corruption enforcement among developed economies and scrutiny and public pressure in emerging economies have added urgency to sector-wide approaches.

Despite the broad scale of these issues, corporate strategies have tended to focus narrowly on internal compliance approaches within firms, such as training employees to resist bribe requests. Such approaches might help with meeting legal compliance requirements, but neither resolve operational costs and delays faced by maritime operators nor address the governance challenges of capacity, culture, and norms that generated them in the first place.

## **The MACN Approach**

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MACN was established in 2011 as an industry-led initiative to work collaboratively to free the maritime industry from corruption to promote fair trade that benefits society at large. The network is comprised of vessel-owning companies within the maritime industry and other companies such as cargo owners and service providers. MACN has expanded rapidly since its formation, and currently has more than 70 global member companies. The network is governed by a member-elected steering committee and facilitated by BSR (Business for Social Responsibility), a global nonprofit organization that works with businesses to develop sustainable strategies and solutions.

Since its launch, MACN has implemented a strategy addressing both the supply and demand sides of bribery and corruption, in other words both the offer or payment of facilitation payments and the request for them or acceptance of them. The strategy consists of two fundamental work streams. The internal, supply-side work stream focuses on strengthening MACN members' anti-corruption and compliance programs. The external, demand-side work stream focuses on improving the operating environment by engaging with stakeholders to reduce demands for bribes and facilitation payments.

The first work stream is focused on raising the bar for corporate internal compliance programs, and covers standard focus areas of policies and standards, reporting on performance, and best practices. The elements of successful compliance programs have been discussed exhaustively, but it is rarer to share information about challenges and best practices due to concerns about collusion, confidentiality, and competitiveness. MACN provides a forum for information-sharing on issues that affect particular markets and ports, and discussions on best practices and innovation opportunities in compliance programs. Members are currently turning their attention to wider questions about organizational culture, considering how best to measure and develop a "cultures of compliance."

The second work stream tackles the demand side via well-defined interventions in specific countries and markets, and by raising awareness about corruption challenges in the maritime sector. MACN member companies work closely with government agencies and civil society to drive systemic change. Because drivers and consequences of corruption vary so widely this is an approach that needs to be calibrated to local market conditions. Furthermore, the MACN approach involves key stakeholders in building and supporting local efforts, since changes in an operating environment will only be successful if such stakeholders buy into those approaches and perceive their benefits. Local employees of MACN member companies and local civil society organizations participate actively in project design and implementation.

Two examples of MACN country initiatives are outlined below. There are also ongoing programs in Argentina and Egypt and future plans for gradual expansion to other markets.

### **Nigeria**

MACN launched its first collective action project in Nigeria in partnership with the United Nations Development Programme (UNDP) in 2012. Nigeria had been identified as a particularly challenging business environment, where extortion, shakedowns, and requests for facilitation payments pose major risks to member companies. MACN began with an integrity risk assessment in the Nigerian port sector, identifying specific forms of corruption, drivers

and possible solutions. The risk assessment identified a lack of standard operating procedures with officials wielding high discretionary powers, and weak infrastructure and capacity—both physical and organizational.

MACN has successfully worked to implement the recommendations of the risk assessment, in collaboration with the Technical Unit on Governance and Anti-Corruption Reforms, UNDP, local NGOs, the Nigerian Ports Authority and the Nigerian Customs Service. Efforts include best practice training workshops for port officials, harmonization of procedures across ports, and the establishment of a mechanism to address grievances. MACN has supported the implementation of an automatic ship entry notice system, used by the Ports Authority and facilitated the implementation of a model for a port sector accountability mechanism hosted by Nigerian Shippers Council, giving industry players and external stakeholders a reporting channel to escalate information about corruption demands. Impact surveys among MACN members suggest that the initiative is having a positive effect on the operating environment. The waiting time for vessels has decreased, and terminal operators and agents have been actively assisting MACN members in rejecting facilitation payment demands.

## Indonesia

In 2015, MACN initiated a collective action project in Tanjung Priok, which currently handles more than 50% of the country's transshipment cargo. With support from the UK Foreign and Commonwealth Office and in partnership with a local NGO (Kemitraan), MACN conducted an integrity risk assessment with member companies and public sector stakeholders. MACN members had highlighted pervasive facilitation payment demands and unclear regulations as key challenges during port calls and import and export clearance. MACN also launched the project as a response to Indonesia's stated ambition to invest and build a more competitive maritime sector, which helped the program secure the active participation of local government stakeholders.

The risk assessment identified issues across the clearance process, and resulted in a number of concrete reform actions. MACN is working with stakeholders to implement reform actions identified. Key actions underway include:

- Upgrading the container tracking system in Tanjung Priok to improve transparency and limit human interaction when tracking goods.
- Moving towards the elimination of cash payments in the export permit process to limit human interaction and opportunities for cash requests.
- Raising awareness about and integrating whistleblowing reporting into the existing business processes of companies exporting goods through Tanjung Priok.

So far, companies have reported to BSR that the project has had a positive impact on the transparency of regulation for import and export of goods and has improved accountability of government stakeholders to the private sector.

## Conclusions

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Research has shown that public corruption can increase security risks, engender human trafficking and labor abuses, degrade public services and infrastructure, and subvert democracy and human rights. The challenges are enormous, and collective action offers the only realistic approach to tackling them. MACN and other collective action projects managed by BSR offer some initial lessons on how practitioners might approach systemic challenges:

- **Stakeholders must have a lot to gain, and a lot to lose.** Since organizations have different goals, agendas and approaches, all actors must perceive serious and measurable problems, with the possibility of clear improvement in a realistic timeframe. Otherwise, parties will lack the energy or interest to stay at the table.
- **Approach the challenge at a manageable scale.** MACN probably would not have succeeded if it had aimed to tackle maritime facilitation payments at a global level. Instead, the network leveraged the global reach and financial clout of member companies with very granular, local engagement in particular markets.

Initiatives that are loose, over-ambitious, and ill-defined often fail. Others are too specific and narrow to keep influential stakeholders engaged.

- **The private sector needs a business argument:** For companies to show up and support an initiative, they need evidence that: (1) the problem is generating significant regulatory, operational, and reputational risk; (2) the solution will ease the costs of doing business; and (3) progress can be measured and documented.
- **Political will is essential:** MACN has focused on countries where members can document and share problems, and where the government is ready and willing to listen. In other countries with systemic port challenges, prospects for change may be less promising, leading to wasted effort.
- **Data spurs action:** Gathering and sharing information on incidents, networks and practices is very powerful in making the case for change, and gives authority to proposals for action. The MACN's focus on gathering and sharing data has been a critical starting point for driving successful change.
- **Local ownership is key:** Multinational companies and organizations will not be successful unless they can work in collaboration with local communities and governments, and give ownership to these stakeholders. Companies are just one part of a wider system that needs to be involved and engaged in the creation of a process that drives change.
- **Focus on practicality and quick wins:** If a collective initiative can tackle a short-term, achievable goal first, this will help build buy in and trust to tackle the larger challenges. If initiatives start with the most ambitious and long-term elements, momentum may be lost early and never recovered.
- **Commit for the long term:** However, progress can only be made over the long term, and mutual commitments are essential. Collaborations need independence, governance, and operating principles—a framework to manage competition and trust, and a safe space to share ideas.

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