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Literature review on corruption at ports and border points in Southern Africa

Query

Can you please provide links to existing material on corruption at ports and border points in Southern Africa? We are particularly interested at looking at forms of port and border corruption, the impact of corruption within ports on shipping and other transit corridors, and tools available to address these forms of corruption, including examples of training that can be/have been used.

Purpose

I am undertaking a terms of reference on the impact of corruption in Southern Africa's ports and border hubs, and the impact on regional trade and SME businesses.

Content

1. Forms and impact of corruption in ports and borders
2. Mitigating corruption risks in ports and borders
3. Examples of anti-corruption tools and initiatives

Summary

Corruption in ports and borders involves a number of different actors such as border guards, customs officials and port operators with different levels of discretionary powers and opportunities to extract bribes. While there is extensive literature on corruption and anti-corruption in customs, there is little research specifically focusing on ports and borders, especially in Southern Africa.

Corruption in ports and borders mostly manifests itself in terms of collusive forms of corruption to evade tariffs and taxes and coercive bribery where port or customs officials extract bribes from companies or individuals for performing routine processes. There is a broad consensus in the literature that port and border corruption has a detrimental impact on shipping costs, trade, revenue collection as well as organised crime and security.

Measures to address corruption at ports and borders include systemic measures addressing the underlying causes of corruption as well as organisational and institutional development to address both the opportunities for corruption and incentive structures that create a supportive environment for corruption.

Author(s): Marie Chêne, Transparency International, mchene@transparency.org
Reviewed by: Robin Hodess, Ph.D., Transparency International, rhodess@transparency.org
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1. Forms and impact of corruption in ports and borders

Weak institutions, poor governance and under-resourced customs services and police forces make many of Africa's borders porous and difficult to control. Customs and border officials often operate in remote posts that are geographically dispersed, and work around the clock with relatively few staff. They often lack adequate supervision, opportunities for corruption abound (Ferreira, Engelschack, and Mayville 2007). As a result, many African states face major corruption challenges at ports and borders.

Corruption at borders and ports involves various actors, including customs officials, border guards and port operators, with different powers and bureaucratic mandates, resulting in different discretionary powers and opportunities to extract bribes. For example, customs officials are responsible for collecting taxes on particular types of goods and for ensuring that import/export procedures are adhered to. They are therefore considered to have greater discretionary powers and opportunities to extract bribes than port operators (Sequeira; Djankov No date).

In terms of the forms of corruption involving customs and port officials, the literature distinguishes between "collusive" corruption when public officials and private agents collude to reduce or evade tariffs and "coercive" corruption where port or customs officials extract bribes from companies or clearing agents for performing routine processes (what is referred to as facilitation payments) (Sequeira; Djankov 2013).

In addition to having a detrimental impact on shipping costs, intraregional trade, international exports, revenue collection and the country's general business environment, corruption at borders and ports is also likely to facilitate a wide range of illegal activities such as smuggling of people and goods, tax-evasion and cross-border crimes involving drugs, illegal immigrants, contraband, fuelling insecurity, violence and in some cases insurgencies.

Data and studies on ports and border corruption in Southern Africa

On the Waterfront: an empirical study into corruption in ports
Sequeira, Djankov, 2008
http://international.cgdev.org/sites/default/files/archive/doc/events/2.10.09/Sequeira_Corruption.pdf

The authors identify three major consequences of this type of corruption: 1) a diversion effect where firms avoid the most corrupt ports to avoid bribe extraction; 2) the revenue effect, as bribes reduce overall tariff revenues and 3) the congestion effect, as the "re-routing" of cargos for avoiding bribes creates imbalances in the regional transport network. The study confirms that bribe payments, far from only "greasing" cumbersome bureaucratic procedures, act as a distortionary tax on trade and a significant revenue drain for the government.

Policies to address corruption in ports can include reducing in-person contacts between clearing agents and customs officials or reducing the number of steps in the clearing process (e.g. online submission of clearance documents or pre-clearance programs). Understanding the patterns of discrimination between high and low bribe shipments may also help concentrate monitoring efforts on certain categories of products.

Corruption and firm behaviour: Evidence from African Ports
Sequeira, Djankov, 2013
http://personal.lse.ac.uk/sequeira/Corruption_Firm_Behaviour_Sequeira_Djankov.pdf

Drawing on the data analysed in the above mentioned initial research, this study further examines the strategies of firms to respond to various forms of corruption. The authors distinguish between collusive corruption, when public officials and private agents collude to share rents generated by the illicit activity or coercive corruption, where port officials are coerced into paying a bribe to clear goods. These types of corruption have a different impact on firms: collusive corruption appears to be cost-reducing while coercive corruption increases costs.

Using the dataset on bribe payments at ports of Durban and Maputo matched to firm-level data, the authors investigate how firms respond to each type of corruption by adjusting their shipping and sourcing

strategies. "Collusive" corruption is associated with higher usage of the corrupt port, while "coercive" corruption is associated with reduced demand for port services, with firms travelling further, and in some cases almost doubling their transport costs, just to avoid "coercive" corruption at a port. Corruption can also affect the cost of imports relative to domestic product sourcing by determining the total cost of using port services and clearing goods through customs. The study suggests that cost-reducing "collusive" corruption is associated with a higher proportion of imported inputs, whereas cost-increasing "coercive" corruption is associated with a higher proportion of domestically sourced inputs.

These findings suggest that firms respond to the opportunities and challenges created by different types of corruption, organizing production in a way that increases or decreases demand for the public service.

Trade costs and corruption in ports
Sequeira, Djankov, No date
http://www.porttechnology.org/technical_papers/trade_costs_and_corruption_in_ports/

This article is a synthesis of the two above papers. There is broad awareness on the role of trade costs in hindering trade, particularly in the developing world where these costs are highest. This article explores the role played by corruption in transport bureaucracies in driving up trade costs. The study distinguishes between two broad categories of port officials with different opportunities for extracting bribes: customs officials who have greater discretionary powers and full access to information on all shipments and port operators who have a narrower mandate and lower bribe-extracting capacity. Corruption opportunities are also determined by the frequency of interactions, the type of management overseeing port operations and the time horizons of each official: customs officials with the shortest time horizon, the broadest bureaucratic mandate and more frequent interaction with clearing agents are more likely to extract bribes.

While firms can engage in both collusive and coercive corruption, tariff evasion appears to be one of the most prevalent forms of corruption in the port of Maputo. Tariff liberalisation in Mozambique resulted in a decline of bribes paid for tariff evasion but shifted to products that did not experience a tariff reduction or other methods of bribe extraction from collusive corruption (tariff evasion) to coercive forms of corruption such as identifying irregularities in documentation or "selling

speed" due to the alleged congestion of the port. This implies that targeted interventions focusing on one form of corruption can result in not eliminating but displacing corruption to other stages of the clearance chain.

Country profiles
Business anti-corruption portal, 2013
http://www.business-anti-corruption.com/country-profiles/sub-saharan-africa/

The business anti-corruption portal compiles reports, resources and data on corruption for a number of countries. In particular, it looks at forms and levels of corruption compiled from various sources in a number of sectors that are relevant to ports and borders activities, such as customs and police forces. In particular, in Sub-Saharan Africa, such country profiles are available for Malawi, Mozambique, Namibia, South Africa, Tanzania, Uganda, Zambia.

Monograph 57: The Challenge to Control South Africa`s Borders and Borderline (link)
Hennop, Jefferson, Mclean, 2001

This research investigated the effectiveness of South African border control mechanisms in preventing illegal smuggling across South Africa's international land borders. It is based on an analysis of the existing border control initiatives, an analysis of two case studies of border areas, and an opinion survey among police at South Africa's 52 land border posts.

The study found that there is substantial interest in improving border control in South Africa both from a national and an international perspective. A number of challenges make corruption, smuggling and illicit cross-border activities possible. Border posts are understaffed and some even lack the basic facilities to undertake effective border policing such as facsimile machines, a consistent electricity supply, and proper living quarters for police/customs/immigration officers, vehicles and proper search and storage facilities.

While structures are in place for some time now to facilitate co-operation between the different government departments involved in border control, there are still challenges, including lack of communication, resulting in the loss of valuable information on crime and crime syndicates, lack of trust between the agencies, resulting in mutual accusations of corruption, and the lack of an adequate coordination mechanism.

Studies and data from other African countries

21st Road Governance Report
ECOWAS, 2013
http://www.watradehub.com/sites/default/files/130117%2021st%20IRTG%20Report_EN.pdf

This report provides information on checkpoints, bribes and delays in 11 corridors in West Africa, based on surveys conducted in the last quarter of 2012. This study is conducted periodically as part of the Road Governance initiative on primary trade corridors. This initiative is a joint effort of the West African Economic and Monetary Union (WAEMU) further to a decision of the Economic Community of West African States (ECOWAS) to establish, among others, observatories of abnormal practices in the region.

Assessment study on corruption at the northern corridor transit point
USAID, 2007
http://eastafrica.usaid.gov/documents/document/document/1185

This study explores the state of corruption from the perspective of "Clearing and Forwarding Agents" (CFAs) as well as customs officials along the Northern corridor at transit points in Kenya, Uganda, Tanzania, Rwanda, Burundi and Democratic Republic of Congo.

Delays and high taxation are perceived to be major constraints to cross-border business and one of the greatest opportunities for bribery. Declaration and valuation are the customs processes which are most prone to corruption. Incidence of corruption ranged from 15% in Kenya to 59% in Tanzania, while as a whole, 28% of all shipments were subject to bribery. The payable bribe is typically based on consignment value, roughly half of all corruption incidences. While corruption is perceived to pervade all public border services, customs and port authorities are viewed to be the most corrupt departments. Revenue loss was made evident by the study in Tanzania, Uganda and Kenya, with Uganda recording the highest revenue loss per transaction.

2. Mitigating corruption risks in ports and borders

Corruption risks are exacerbated by a set of factors that create incentives and opportunities for corruption for port, customs and border officials. These factors include poor infrastructure, lack of human and institutional capacity, low levels of automation and computerisation, lack of training and professionalism, low public service salaries, and weak controls and oversight.

Measures to address corruption at ports and borders include systemic measures addressing the underlying causes of corruption by simplifying and harmonising customs and border procedures, encouraging the use of new technologies, and focussing on organisational and institutional development through better human resources management, integrity training, incentive systems, etc. (Igbanugo 2012; Ferreira, Engelschack and Mayville 2007).

While evidence suggests that measures such as trade liberalisation may be effective in reducing corruption aimed at tariff evasion, it is likely to displace corrupt activity towards coercive forms of corruption to perform routine processes (Sequeira 2013).

On the company side, measures to prevent and avoid bribery can include enforcing clear anti-bribery policies, selecting low corruption risk customs and border posts and conducting comprehensive due diligence processes in selecting customs broker or clearing agents (Igbanugo 2012).

Displacing corruption: evidence from a tariff liberalisation programme
Sequeira, 2013
http://personal.lse.ac.uk/sequeira/Displacing_Corruption_Sequeira.pdf

The author uses the data set from her previous empirical study on 1,300 shipments to analyse the effect of a progressive tariff lifting that took place in 2007-2011. She shows that there was a significant decline (60%) in bribery to customs officials for tariff evasion on imported goods. However, there was also a 70% increase in average bribe per transaction, which can be considered a displacement from collusive to coercive forms of corruption. This displacement effect can have an economic impact as firms are likely to adjust their sourcing strategy accordingly and source a higher percentage of their input domestically, with potential implications on firms' performance. This important substitution effect may diminish the long term impact of trade liberalisation and tariff reduction on bribery as corrupt officials adapt and find other bribe extortion strategies.

Assessing and Minimising Customs-Related corruption in Sub-Saharan Africa's ports

Igbanugo, 2012

http://international.cgdev.org/sites/default/files/archive/doc/events/2.10.09/Sequeira_Corruption.pdf

After an overview of challenges in ports operations, drawing from some of the above-mentioned resources, the author provides some insights on systemic issues that would need to be addressed to create a supportive environment for curbing corruption, including raising salaries of customs officials, simplifying/modernising customs procedures, training and professionalism programmes, routine inspections, etc.

On the company side, the author recommends taking concrete steps such as adopting and enforcing clear policies prohibiting bribery, identifying low-risk customs posts and frontier crossing points with efficient processing times and lower levels of bribery solicitation as well as due diligence processes in selecting customs broker or clearing agents, including a mandatory exhaustive questionnaire which can help identify "red flags" or the assistance of a risk advisory firm with solid vetting capabilities. In addition to due diligence for engaging foreign clearance agents or consultant, it is good practice to require a written agreement that the agent will abide to the anti-corruption clause in the provision of clearance services and avoid resorting to facilitation payments. Internal controls, compliance training and audits by a culturally competent auditor can support the process.

What do we know about corruption (and anti-corruption) in customs?

Michael and Moore, 2010, World Customs Journal

http://www.worldcustomsjournal.org/media/wcj/-2010/1/Michael-Moore.pdf

This article discusses lessons learned in the last decade in fighting corruption in customs. The authors suggest that some basic elements of anti-corruption reforms in customs need to be in place in terms of prevention and enforcement. This includes criminalising corruption, measuring and mapping corruption risks, adopting codes of conduct for customs officials, setting up internal inspectorates, conducting internal audits, requiring assets declarations and conflicts of interest statements from customs officials, handing internal investigations, recording and monitoring data such as import times, inspector names, etc., to create the paper trails needed for domestic and international

investigations. The authors conclude with the need for more research to understand the impact of such measures in different contexts and the underlying causes that prevent some countries from making progress in fighting corruption in their customs administration.

The challenge of combating corruption in customs administrations

Ferreira, Engelschack and Mayville, 2007

https://openknowledge.worldbank.org/bitstream/handle/10986/6848/399850REPLACEM101OFFICIAL0USE0ONLY1.pdf?sequence=1

Given the monopoly of customs over the flow of goods, the potential of corruption in customs administration cannot be overstated. The authors provide an overview of the detrimental impact of customs corruption on a country's revenue collection, trade operations, competitiveness, importation of illegal goods, smuggling, organised crime and security. They then provide a customs corruption risk map with examples of integrity challenges for selected customs functions.

Strategies to curb corruption in customs can include a wide range of measures aimed at addressing both incentives and opportunities for corruption. The 2003 Arusha declaration on integrity in customs for example identifies 10 key areas of intervention, including commitment of leadership, regulatory framework, transparency, automation, simplification, streamlining and modernisation of customs services, audit and investigations, code of conduct, human resource management, organisational culture and relationship with the private sector. To be successful, anti-corruption efforts need to combine strategies addressing business processes and systems to reduce opportunities for corruption and measures aimed at changing incentive systems.

Study on anti-corruption measures in EU border control (link)

Centre for the Study of Democracy, 2012

This study starts by identifying main forms of corruption in border guard services across the EU, including organised crime related corruption (selling information, facilitating the passage of illicit goods, obstructing investigations), petty corruption in the form of border traffic extortion to speed up/facilitate routine processes, and administrative corruption (kickbacks, nepotism-based recruitment and promotion, etc). While in a

minority of countries there are specific anti-corruption measures and codes of conduct designed for border guards, in most countries, there is no specific anti-corruption infrastructure in place targeting border services, although they are subject to broader public sector measures and policies. Some of the key measures specifically addressing border services may include vetting of applicants, anti-corruption training, sanctions and penalties, integrity testing, rotation of border guards, electronic surveillance and specialised investigation units or departments.

Fighting Corruption on the Transdnistrian Border: Lessons from Successful and Failed Anti-Corruption Programmes
Bryane, 2007
http://works.bepress.com/bryane_michael/11

In 2007, Ukrainian and Moldovan authorities took steps to reduce corruption along the Transdniestrian border. Customs and border services were tasked in both countries to design department-specific plans and instructions to implement the national anti-corruption law and action plan. Measures included the dissemination of rules against bribery, testing of staff for psychological pre-disposition towards corruption, ban on pocket money or use of mobile phones during working hours, increased oversight by newly-formed departments for internal security, etc. The author recommends establishing a system of guiding principles instead of rigid rules, and a system of random sampling and audit for detection, with the view to realising cost-efficiency as well as quality gains of inspections, as well as reducing the incentives for bribe-seeking by reducing regulations.

3. Examples of anti-corruption tools and initiatives

Tools supporting systemic reforms

Compendium of Integrity Best Practices (link)
World Customs Organisation, 2007

The World Customs Organisation compiled integrity best practices from member countries for customs along the 10 principles outlined in the above mentioned 2003 Arusha declaration on customs integrity. This includes leadership and commitment, regulatory framework, transparency, automation, reform and modernisation, audit and investigation, code of conduct,

human resource management, morale and organisational culture and relationship with the private sector. The aim of the compendium is to identify and share the most successful operational standards or strategies available in the customs community.

Integrity development guide
World Customs Organisation, 2007
http://www.wcoomd.org/en/topics/capacity-building/activities-and-programmes/cb_integrity.aspx

The integrity development guide is a self-assessment process designed as a practical tool for customs administrations. It focuses on core issues that are central to the development of an effective and efficient integrity program, based on the Arusha declaration's principles. It provides a framework to examine the state of play in terms of management, administrative and integrity strategies and to identify opportunities for further improvement.

Tools for raising ethical standards

Model code of ethics and conduct
World Customs Organisation
http://www.tcboostproject.com/_resources/resource/Model_Code_of_Ethics_and_Conduct%20(WCO).pdf

The World Customs Organisation has developed a model code of ethics and conduct to provide members with guidance on ethical standards. It aims at setting out in very practical and clear terms the standard of behaviour expected of all customs officials. It is organised around 11 core elements, including personal responsibility; compliance with the law; relations with the public; acceptance of gifts, rewards, hospitality and discounts; avoiding conflict of interest; political activities; conduct in money matters; confidentiality and use of official information; use of official property and services; private purchases of government property by staff; and work environment.

Ethics of border security
Centre for the Study of Global Ethics, University of Birmingham
http://www.frontex.europa.eu/assets/Publications/Research/Ethics_of_Border_Security_Report.pdf

As most EU Border Guard agencies operate under Codes of Conduct broadly designed to apply to the

police forces, this study provides border guards with an overview of the specific ethical issues that can arise from their work. The first part is a survey and analysis of codes of conduct currently in use by border agencies in EU countries. The second part of the study addresses these gaps by providing a comprehensive overview of the main ethical principles that relate to border guard practice. The third part of the study provides an overview of the ethical issues arising from the use of detection and identification technologies by border guards.

Examples of Trainings

E-Learning Module on Customs integrity
World Customs Organisation, 2007
http://www.wcoomd.org/en/topics/capacity-building/activities-and-programmes/cb_integrity/details_integrity.aspx

The World Customs Organization has developed a module on promoting the integrity of customs agencies, aiming at familiarising members, partner institutions and private sector operators with the WCO's integrity tools, its model code of conduct, its integrity development guides, and its compendium of integrity best practices.

Training on border surveillance and anti-corruption awareness held in Ukraine (link)
European Union, 2012

Bilateral and multilateral organisations are also providing training on related issues, reflecting a growing awareness. For example, within the framework of the European Neighbourhood Policy, the EU organised three days of training workshops on 'blue border' surveillance and raising anti-corruption awareness in Kyiv, Ukraine in 2012.

In addition to learning about contemporary border surveillance systems, presentations on raising anti-corruption awareness were made. Belarusian and Ukrainian border guards described their experience in blue border surveillance and fighting corruption. This was followed by interactive work and discussions as well as brainstorming about how to fight corruption in Belarus and Ukraine. The workshop included methods on the identification of areas vulnerable to corruption, the legal and organisational aspects of cooperation among law enforcement agencies aimed at the detection and prevention of corruption, the promotion of a zero-tolerance policy, and teaching methods to

educate students of border colleges on anti-corruption basics.

Shipping and Corrupt Practices Intertanko Presentation
Norton Rose, 2011
http://www.intercargo.org/pdf_public/norton%20rose%20bribery%20act%20presentation%20june%2014.pdf

This presentation by Norton Rose[1] discusses the implications of the UK Bribery Act 2010 for the maritime and shipping industry, which has been identified as one of the most 'high risk' industries likely to be affected by the Act. It provides broad guidance for ensuring compliance with the Act. This includes respecting six major principles including risk assessment, top leadership commitment, due diligence, clear policies and procedures, effective implementation, monitoring and review.

Anti-Corruption Initiatives

Maritime Anti-Corruption Network, 2012
http://www.bsr.org/en/our-work/working-groups/maritime-anti-corruption-network

The Maritime Anti-Corruption Network (MACN) was initiated by major shipping companies in 2012 to promote integrity and compliance in corporate practices in the maritime shipping sector. It is a global business network to promote good corporate practice in the maritime industry for tackling bribes, facilitation payments, and other forms of corruption. The network has developed the MACN Anti-Corruption Principles against which members communicate on implementation progress. It also allows members to share best practices, and raise awareness on industry challenges. MACN also collaborates with key stakeholders, including governments, authorities, and international organisations, in markets where corruption is prevalent to its membership, to identify and mitigate the root causes of corruption in the maritime industry.

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[1] Norton Rose is a global legal practice providing corporations and financial institutions with business law services.

Concrete Actions to Combat Corruption – the
MACN-UNDP Nigeria Pilot Project
Maritime Anti-Corruption Network, 2013
https://www.bsr.org/pdfs/our-work/working-groups/bsr-macn-pilot-ntroduction.pdf

This pilot project includes a study by the MACN, UNDP, UNODC and the Nigerian anti-corruption commission to map corruption risks and issues at ports, with the view to identifying corruption problems and issues faced by vessels calling at ports. The study will strive to outline both "low-hanging fruits" as well as systemic problems and underlying governance issues that require longer-term interventions. This study is to be completed by the end of the second quarter of 2013 and will be shared publicly with donor partners. An action plan is to be developed based on the results of this study.