

FIATA World Congress

Combatting Bribery at its Roots

Jake Storey

Strategic Adviser – Maritime Initiatives

TRACE International

Dublin, October 5, 2016



Small bribes / Facilitating payments

- Inherently **illegal** – no laws allowing small bribes
- **Accounting dilemma**– how to properly record them?
- **Complication with foreign nationals** being subject to local laws banning small bribes
- Sets a **permissive tone**, which invites more and greater demands

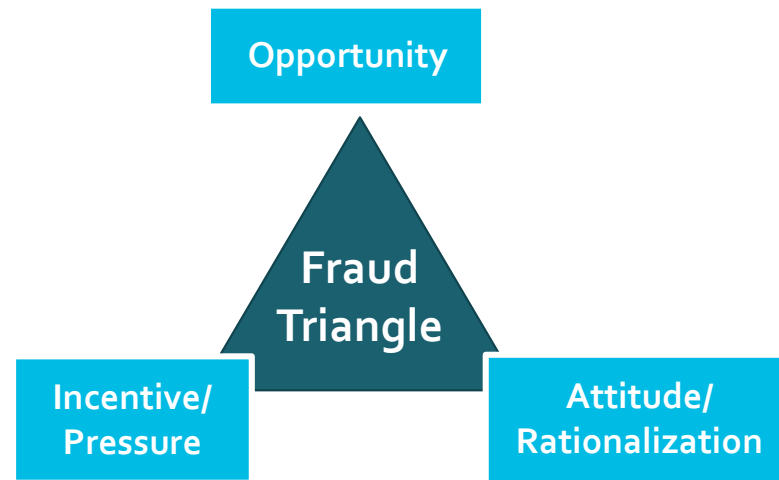


Understanding Bribery

Source: BDO, Webinar Business in Emerging Markets

The Fraud Triangle (D. Cressey, 1973)

- Incentive/pressure:
 - ▶ “I need to meet the expectations of the Headquarter”
- Attitude/Rationalization:
 - ▶ “Everybody in this country is corrupt”
- Opportunity
 - ▶ No effective Anti-Corruption-System in place



Internal Factors Contributing to Bribery Risks

1. Time pressure
2. An **inadequate compliance** structure
3. A **corporate culture** that tolerates and /or encouraged bribery as customary and necessary in various (remote) markets
4. Operating through **numerous subsidiaries** and other third parties; multilayered supply chain

External Factors - Drivers of bribery in ports

- Poor infrastructure
- Lack of human and institutional capacity
- Low level of automation and computerization
- Lack of training and professionalism
- Low public service salaries
- Weak controls and oversight

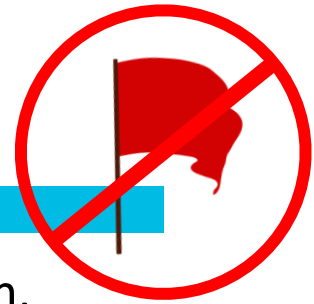


Compliance Program

Compliance programs need to be “proportionate” to the risk:

- Company size and geographical reach, including **country risk** (operations in “high risk” countries)
- The **organizational structure** and operational model
- The **industry sectors** in which it operates
- **Use of intermediaries** and how they interact with government and commercial customers
- The frequency and nature of **interactions with governments and officials**
- Prior compliance **issues/investigations**
- Employee **training** levels, skills and knowledge
- **Compensation incentives** for sales, marketing and commercial management

Risk Assessment - Red Flags - I



- A **history of corruption** in the country of the commercial transaction.
- The intermediary was specifically **recommended by a foreign official**.
- The intermediary **refuses to certify compliance** or does not have an internal Code of Conduct addressing bribery and other forms of corruption.
- The intermediary **refuses to provide complete information** or required disclosures.
- The intermediary requires that **payment be made to a third party** or in a different country or **cash**.

Risk Assessment - Red Flags - II

- A request for an **unusually large commission**.
- Requests for reimbursement for **poorly documented or questionable expenses, un-receipted transactions**.
- The intermediary has **family or business ties to relevant foreign officials**.
- The use of a **shell or holding company** or blind trust.
- **Financial difficulties**.
- Credible **rumours or media reports** of corrupt behaviour.



What are the Requirements for Anti-Bribery Policies?

Compliance Policies and Procedures

- Clearly-stated and updated
- Easily accessible
- Available in all relevant foreign languages
- Appropriate to the nature and size of risk
- Consistent to business model, services
- Specific Anti-Bribery policy and procedures covering:
 - ▶ Use of third parties and due diligence
 - ▶ Facilitating payments



What companies can do to fight bribery?

- Enforce clear ***anti-bribery policies***
- Conduct comprehensive ***due diligence*** processes in selecting customs broker or clearing agents
- Understand the ***anti-bribery clauses you use or your customers use on you***
- Strengthen ***internal controls and audits***
- Conduct ***compliance training***
- ***Work collectively with trade associations and NGOs*** to fight systemic corruption

Thank You

Jake Storey

jstorey@traceinternational.org



Visit us online at

www.TRACEinternational.org

 facebook.com/TRACEinternational

 twitter.com/TRACE_inc

 youtube.com/TRACEinternational

 [linkedin.com/company/
TRACE-international-inc-](https://linkedin.com/company/TRACE-international-inc-)

