



Corruption prevention

to foster small and medium-sized
enterprise development

VOLUME II



UNITED NATIONS
INDUSTRIAL DEVELOPMENT ORGANIZATION



UNODC

United Nations Office on Drugs and Crime

Corruption prevention

to foster small and medium-sized
enterprise development

VOLUME II



UNITED NATIONS
INDUSTRIAL DEVELOPMENT ORGANIZATION



UNODC
United Nations Office on Drugs and Crime

Vienna, 2012

Copyright © 2012 by the United Nations Industrial Development Organization (UNIDO) and the United Nations Office on Drugs and Crime (UNODC)

The present publication was prepared jointly by the Corruption and Economic Crime Branch of the United Nations Office on Drugs and Crime (UNODC) and the Industrial Policy and Private Sector Development Branch of the United Nations Industrial Development Organization (UNIDO).

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations or the Secretariat of UNIDO concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

The opinions, figures and estimates set forth in this publication are the responsibility of the authors, and should not necessarily be considered as reflecting the views or carrying the endorsement of the United Nations or UNIDO. The designations “developed” and “developing” are intended for statistical convenience and do not necessarily express a judgement about the stage reached by a particular country or area in the development process. Mention of the names of firms and commercial products does not imply the endorsement of the United Nations or UNIDO.

Foreword

Rampant corruption in developed and developing countries is jeopardizing the global fight against poverty, threatening to derail the Millennium Development Goals. Every year, billions of dollars badly needed for health care, schools, clean water and infrastructure are lost through bribes and other forms of wrongdoing.

Corruption within the public and private sectors has become one of the main problems for businesses all over the world. While corruption is detrimental to all types of companies—large and small, multinational and local—research reveals that it poses particular problems for smaller firms, as in many cases they do not have a choice but to resort to corrupt practices if they want to survive in the market.

In response to this challenge, the United Nations Industrial Development Organization (UNIDO) and the United Nations Office on Drugs and Crime (UNODC) have launched a joint initiative on corruption prevention to foster the development of small and medium-sized enterprises (SME's). It aims to begin the process of filling the knowledge gap that still exists with regard to the dynamics of corruption in the field of smaller businesses and to identify and implement the tools needed by SMEs to successfully defend themselves in a corrupt business environment.

The present publication draws on the work carried out by the Corruption and Economic Crime Branch of UNODC and the Business, Investment and Technology Services Branch of UNIDO. An important aspect of the work to date was a meeting of experts, business representatives and staff of relevant institutions to discuss the obstacles to SME development created by public and private sector corruption, identify the corporate practices followed in successful efforts to counter corruption and develop tools tailored specifically to fit the needs of SMEs.

Volume I of "Corruption prevention to foster small and medium-sized enterprise development", which was published by the two Organizations in 2007, highlighted general problems faced by SMEs with regard to corruption. The present volume contains a set of recommendations and tools that practitioners can use to support smaller enterprises in their efforts to fight corruption in their business environment and to promote good governance.



Kandeh K. Yumkella
Director-General of UNIDO



Yury Fedotov
Executive Director of UNODC

Preface

Corruption is a serious hindrance to a country's social, economic and political development. Corruption undermines the rule of law, results in the inefficient allocation of scarce resources, demoralizes democratic political systems and undermines respect for human rights. Corruption also impedes economic growth. With rampant corruption, foreign and domestic investment is discouraged because corruption destroys predictability and increases the cost of doing business. It increases the uncertainty and risk attached to investment and reduces incentives for entrepreneurs.

The level of corruption has been identified as a serious constraint to doing business by over 70 per cent of firms in South Asia and almost as many in developing countries in East Asia and in the Middle East and North Africa. Sixty-four per cent of firms in Africa, almost 60 per cent in Latin America and about half in the Commonwealth of Independent States and Central and Eastern Europe report corruption to be a serious impediment to their development.¹

Corruption is perceived as one of the major obstacles that small and medium-sized enterprises (SMEs) face in their business environments. They are usually the first to suffer in a marketplace where corruption exists and they have less power to avoid corruption and, as a result, their profit margins and survival are at stake when corruption takes hold. The high costs of corruption (time and money) are difficult for small firms to sustain. Since SMEs are regarded as the engine of growth in many economies and are hence crucial for the development of societies vulnerable to poverty, the effects of corruption can be devastating.

Recognizing the importance of drifting away from their long-pursued focus on large businesses, members of the international community recently started to search for ways to include the SME sector in their anti-corruption efforts. More and more often, the interests of smaller businesses are a topic for discussion at international anti-corruption forums and practitioners recognize the importance of properly addressing those interests. However, apart from global forum discussions and a few cautious attempts to ensure the relevance of existing anti-corruption guidelines and instruments to SMEs, not much has been done at the international level yet. Two of the most well-known and targeted global initiatives to date are the Business Anti-Corruption Web Portal (www.business-anti-corruption.com), which is managed by the Global Advice Network and was designed to help SMEs avoid corruption when trading and working with developing countries, and a special SME edition of "Business Principles for Countering Bribery".²

While those initiatives are groundbreaking in the way that they address SMEs as a specific group and do not attempt to include them in any existing frameworks that were

¹Geeta Batra, Daniel Kaufmann and Andrew H. W. Stone, "The firms speak: what the World Business Environment Survey tells us about constraints on private sector development", 2004.

²Transparency International (Berlin, 2008).

originally developed to support multinational enterprises in becoming more ethical businesses, they have so far failed to effectively reach out to small firms located in developing countries. This may be because they have focused on export-oriented medium-sized firms or because the tools simply neglect the reality of the target group (which often comprises locally oriented and poor entrepreneurs). For example, in the Congo, 80 per cent of firms have fewer than five workers and about 10,000 companies operate in the informal economy (compared with 2,100 firms in the formal sector). In parts of the developing world, only Government offices, some major non-government institutions and a few privileged individuals (e.g. 5 per cent of the population in Africa) have access to the Internet, so the relevance of web-based guidelines and implementation manuals remains questionable. Some of the problems that SMEs in developing countries may face as a result of their size include:³

- Financial, technical and human capacity constraints
- A preoccupation with solving day-to-day problems and survival
- Limited bargaining power and access to public officials
- Limited access to information and communications technology (ICT), or even electricity
- A high degree of reliance on interpersonal relations with suppliers, clients or the local community
- Difficulties in taking advantage of profitable opportunities outside their local networks of personal relations because of problems accessing information or enforcing contracts
- The cost of training employees, per unit of sales, is much higher than for large enterprises
- Less visible branding, leading to lower brand-related media attention or market pressure
- Low added value to sales or narrow profit margins that limit the scope for introducing innovative improvements to management, processes and products or for taking up new opportunities

Apart from some local initiatives, internationally available anti-corruption tools generally do not take into consideration that corruption is not a matter of choice for many SMEs, but a prerequisite for staying in business and surviving. For example, the Transparency International “Business Principles” recommend the adoption of principles such as “we will not make bribes, nor will we condone the offering of bribes on our behalf” and “we will keep clear and updated records”. While those are useful and valuable to businesses that do have a choice whether to make bribes or not and that have basic bookkeeping processes, the limitations of such tools still need to be recognized. The implementation of guidelines such as those from Transparency International will be less successful in business environments where SMEs do not have the power to fight

³See Halina Ward, “Corporate social responsibility, SMEs and public policy in middle and low income countries: issues and options for UNIDO” (forthcoming).

corruption or implement zero-tolerance policies without being driven out of business and in communities where SMEs lack even basic literacy and accounting skills.

Many private sector anti-corruption strategies that have been adopted by multinational companies are closely linked to corporate social responsibility practices that focus on internal measures (e.g. codes of conduct). One of the reasons why corporate social responsibility has historically been associated with large corporations has to do with the high profiles that those companies maintain—both locally and internationally. By contrast, SMEs do not fear the consequences of, for instance, a bad reputation in the same way as large corporations. It is therefore crucial, on the one hand, to explore what driving forces could encourage SMEs to become ethical businesses, such as stakeholder pressure, Government regulations and expected financial rewards, and, on the other, to create an environment that enables SMEs to conduct business in a responsible manner without having to face severe repercussions or disadvantages. Even though internal measures are usually implemented more easily and quickly in SMEs than in large companies, internal codes of conduct and compliance programmes alone are in many cases not helpful for SMEs. SMEs are usually not motivated to adhere to ethical business practices (as they face limited pressure from stakeholders) or they lack the financial resources or the market power to enforce their zero-tolerance policies.

There is hence a need to move ahead and identify measures that complement existing anti-corruption initiatives by creating conducive business environments that enable SMEs to act according to available guidelines and principles. With the present publication, UNIDO and UNODC aim to contribute to the debate and to analyse generally adopted anti-corruption tools and measures (internal and external to companies) with regard to their applicability in the SME community in developing economies.

The present publication reflects the recognition of UNIDO and UNODC that, in order to effectively fight corruption in the sphere of SMEs, there is a need to first address constraints in their environment that impede them from taking action without being driven out of business. Once the environment is conducive to allowing SMEs to stand up against corruption without jeopardizing their economic viability, there is room for the introduction of measures that address internal company procedures such as codes of conduct, the adoption of ethical business principles or more transparent accounting standards. The publication aims at providing support to practitioners who work with SMEs in developing countries by providing examples of tools to support such firms in fighting corruption in their business environment.

The present publication is the product of a broad participatory process involving invaluable input from numerous experts who contributed a wealth of knowledge, as well as significant enthusiasm and personal and professional commitment. UNIDO and UNODC acknowledge their efforts with profound gratitude.

Both UNIDO and UNODC wish to extend their thanks to the drafters of the publication, Manuela Boesenhofer and Shannon Bullock. Many thanks also to Oliver Stolpe, Natascha Weisert and Jason Reichelt for their substantive comments on the publication.

Contents

	<i>Page</i>
<i>Foreword</i>	<i>iii</i>
<i>Preface</i>	<i>v</i>
Corruption and the development of small and medium-sized enterprises	1
Creating an enabling environment for action by small and medium-sized enterprises	5
Awareness-raising, information dissemination and outreach mechanisms	5
Upgrading public complaint and reporting mechanisms	16
Improving the legal awareness and access to justice of small and medium-sized enterprises	30
Public policies on anti-corruption and the development of small and medium-sized enterprises	39
Overview of public sector roles in preventing corruption	39
State responsibilities relevant to small and medium-sized enterprises under the Convention against Corruption	40
Public policy guidelines for the private sector	40
Legal incentives for reporting corruption	41
Private sector involvement in public policy	42
Strengthening national and local government responses to corruption	44
Paving the way for business partnerships	49
The role of business associations	49
The role of non-governmental organizations	52
Business-to-business assistance	54
Internal prevention and control mechanisms for small and medium-sized enterprises	57
Codes of conduct	57
Internal reporting structures	62
Training of employees	64
Conclusion	67

CORRUPTION AND THE DEVELOPMENT OF SMALL AND MEDIUM-SIZED ENTERPRISES

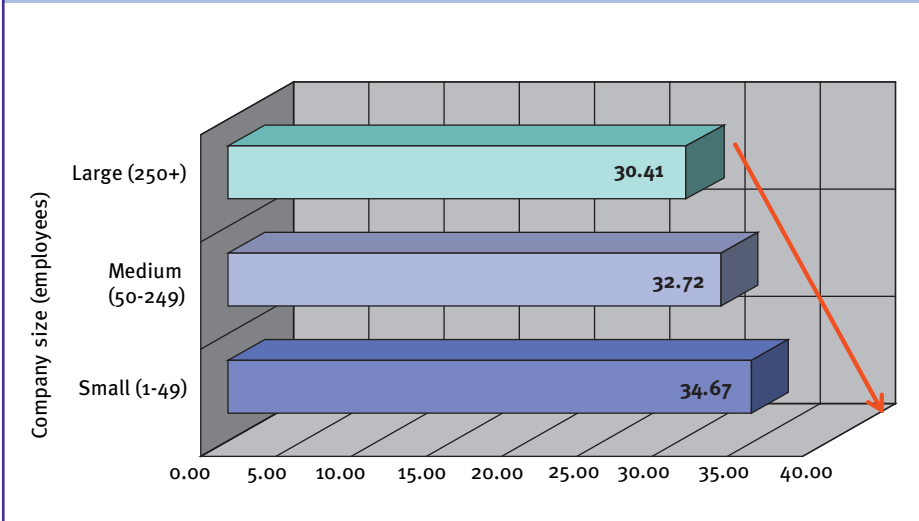
The present chapter summarizes the findings of volume I of “Corruption prevention to foster small and medium-sized enterprise development”. That volume formed part of the initial phase of planned activities by the United Nations Industrial Development Organization (UNIDO) and the United Nations Office on Drugs and Crime (UNODC) and drew on work coordinated by the Corruption and Economic Crime Branch of UNODC and the Industrial Policy and Private Sector Development Branch of UNIDO.

Comparisons between small and large businesses

It is difficult to generalize about the corruption-related problems that SMEs face, as there are significant differences between national companies, foreign investment firms and State-owned enterprises. However, the available data suggest that the smaller the firm is, the more likely it is to be affected by corruption and the more likely it is to perceive corruption as a major business obstacle (see figure I). Surveys have revealed that:

- Persons who work in small and medium-sized enterprises (SMEs) believe more strongly than persons who work in larger businesses that corruption is part of the way things work in their particular country.
- In general, persons working in SMEs perceive corruption in the public sector and the private sector to be more pervasive than those in large companies do.
- Persons working in SMEs are more likely than persons working in large enterprises to state that they have been asked for bribes in order to obtain licences or permits from the local government and in relation to the payment of income tax.
- SMEs make additional payments to get things done much more frequently than large companies.
- SMEs pay a much higher percentage of their annual revenues in bribes to public officials than large companies.

Figure I. Share of companies perceiving corruption as a major business obstacle, by company size (Percentage)



Source: World Bank.

In general, SMEs are more likely than large companies to be affected by corruption, for the following reasons:

- **Structure:** the relatively greater degree of informality and the closer relationships between staff in smaller companies can create a culture where corruption is more easily tolerated.
- **Short-term vision and perspective:** since SMEs tend to think only about the present or the very near future, they often see only the short-term benefits of corruption and do not think about the hidden costs that will accumulate in the long term.
- **Limited financial resources:** shortage of capital and smaller profit margins mean that SMEs in certain environments cannot always afford to refuse to pay bribes or make other unofficial payments, as the repercussions of refusing to engage in corrupt practices could drive them out of business.
- **Inability to exert a strong influence over officials and/or institutions:** SMEs may lack the bargaining power and influence to oppose requests for unofficial payments and similar solicitations, as they do not usually have strong ties and connections to high-level bureaucrats or politicians.
- **Capital structure:** larger companies are generally publicly quoted and are therefore dependent on the public perception of their prospects and are subject to strict stock exchange regulations, but this is not the case for most smaller businesses.

Parties engaged

Even though there are differences between countries and among industrial sectors, the most common areas with regard to which small businesses are likely to receive corrupt requests from public sector officials are customs, licences, taxation, court cases and

public procurement. The most damaging form of corruption for SMEs appears to be the “sale of rights granted by the Government” (licences, permits, contracts, tax incentives, dispensations, etc.). Firms also pay to accelerate procedures, evade laws and regulations and avoid paying tax and customs charges. In some countries, corruption involving the police (extortion) constitutes a huge obstacle for SMEs in their business operations.

In addition to those problems related solely to the public sector, SMEs often face difficulties in the form of requests for unofficial payments from so-called natural monopolies or “network industries”. They are usually public services, such as the supply of electricity, water or gas, which are provided by private sector entities. SMEs cannot run their business without these services.

Furthermore, SMEs face problems related to corruption when interacting with other private sector entities. Corrupt interactions occur within the private sector in terms of embezzlement by employees, bribery of employees of larger companies in order to obtain contracts or favouritism and nepotism within certain business circles. Another example is corrupt bank officials, who are often targeted to approve loan applications that do not meet basic financial criteria and therefore the loans cannot be collected on later.

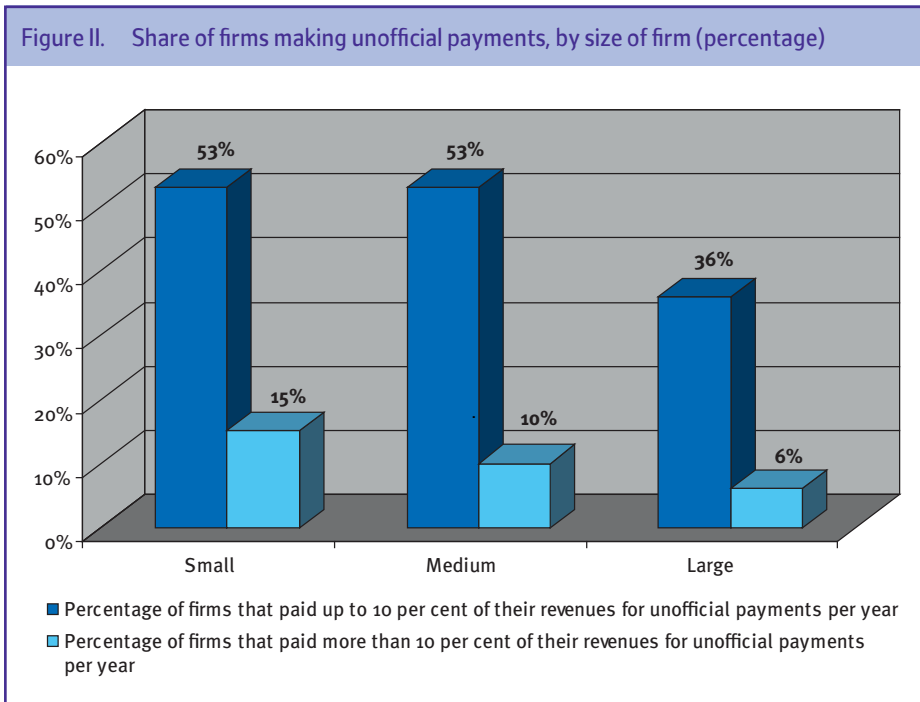
Reasons for small and medium-sized enterprises to engage in corruption

The line between legal practices and corrupt ones is not always easy to define, and SMEs may not always have the capacity to identify it. There are many grey areas and the different customs and business practices in regions sometimes make it hard for businesses to distinguish between legal and illegal practices.

Among the commonly cited rationales for SMEs to turn to corrupt practices are concerns about maximizing profit, surviving among competitors, dealing with bureaucracy and establishing themselves in new market segments. While it is clear that some SMEs, in some circumstances, make a choice about whether or not to engage in corrupt practices, it is also important to recognize other cases where SMEs have little or no choice. More commonly, SMEs are convinced that corruption forms part of daily business and that it is not possible to survive without it. One possible explanation for that attitude could be the fact that in a region where corruption is widespread, SMEs that refuse to provide officials with additional payments, when most of their competitors do pay, will sooner or later encounter difficulties.

Negative impacts

Apart from the tangible monetary costs involved (see figure II), acts of corruption also impose other costs on small businesses, since they may influence the decisions of SME managers to set up, expand, close down or reinvest in their business; look for customers abroad; hire, dismiss and train their workforce; improve product quality; invest in research and development; or change location.



Source: European Bank for Reconstruction and Development and the World Bank, Business Environment and Enterprise Performance Survey (2000).

In *Doing Business in 2004: Understanding Regulation*,⁴ it states that many businesses in the developing world choose to operate in the informal economy because complying with all the regulations is prohibitively costly. One reason for this is the financial cost of regulatory compliance and dealing with administrative obstacles. Those costs are usually the same whatever the size of the business and, therefore, regulation at the federal, regional and municipal levels affects SMEs disproportionately. Hence, in a legal and regulatory environment full of complex requirements, arbitrary decisions and frequent requests for bribes, companies are clearly discouraged from entering the formal sector, and formal sector firms might even be induced to informalize their operations.

In general, there is a lack of awareness among SMEs about the long-term hidden costs of corruption, such as decreasing staff loyalty and retention, staff involvement in fraud and damage to reliable supply chain relationships and investor confidence. SME managers are often unaware of those costs, which in the long term can be quite high, because of the short-term vision that characterizes smaller businesses.

In assessing the impact of corruption on SMEs, it is important to distinguish between small, stand-alone companies and those that form part of a larger network or group of companies. The general perception is that the latter can often find it easier to afford the cost of engaging in corruption owing to the financial support provided by the larger company or companies that they are associated with.

⁴Simeon Djankov and Caralee McLiesh (Washington D.C., World Bank and Oxford University Press, 2004).

CREATING AN ENABLING ENVIRONMENT FOR ACTION BY SMALL AND MEDIUM-SIZED ENTERPRISES

Efforts to enhance governance and reduce corruption in developing countries have tended to focus on supply side-oriented interventions, rather than on the ability of local businesses and communities to claim and protect their rights and hold public institutions accountable. The costs of an adverse business environment fall disproportionately heavily on SMEs as a proportion of their income and barriers to formalization restrict small businesses' access to a variety of services upon which they rely and which larger business can access relatively easily. Moreover, smaller, and in particular informal, businesses lack the organization and resources to tackle those problems privately, seek public redress or engage in reform processes to promote their interests.⁵

Furthermore, the existence of certain factors in the business environment is crucial to enabling SMEs to engage in the fight against corruption. Those factors include:

- Adequate awareness-raising and education mechanisms
- Accessible complaint and reporting systems
- Available and affordable legal aid institutions
- Conducive public policies
- Local business support institutions with the capacity to provide assistance on corruption-related matters facing SMEs

The present chapter contains an overview of tools and measures that can be used to improve the overall business environment in a way that allows SMEs to stand up against corruption. The topics covered below do not constitute an exhaustive collection of all potential interventions, but rather the ones that deserve special attention when it comes to SMEs.

Awareness-raising, information dissemination and outreach mechanisms

Information should be seen as a means of achieving a goal, not as a product in itself. Businesses want their problems solved and hope that a piece of information will bring

⁵David Elliott, Rob Hitchens and Marianne Sulzer, "Improving the environment for small businesses in Indonesia and Russia: experiences from Swisscontact", Making Markets Work for the Poor, Case Studies Series (Bern, Swiss Agency for Development and Cooperation, 2006).

them closer to this objective. Therefore, it is crucial that anti-corruption agencies, public offices, non-governmental organizations (NGOs) and other support institutions become aware that it is not enough to simply provide websites containing complex portals full of corruption-related documents. Such information is only of value if it can be accessed, understood and used—all of which is particularly problematic for smaller businesses, especially in developing countries.

Challenges

Gathering knowledge

Developing countries often have limited capacity to systematically document data because of limited resources and technical know-how. Local institutions may also be unable to conduct high-quality research because of a lack of timely access to data resources, capacity-building and training programmes. One of the frequent deficiencies of knowledge management systems is problems in maintaining certain quality standards while responding to constantly changing conditions and contexts. In the field of corruption, a lot of changes occur, with new positions in public offices, progress in economic development and the issuance of new legislation, to name a few. Data accuracy is also an issue. Raw data on corruption-related issues that are generated by a particular organization might need to be validated externally before being disseminated.

Sharing information

Sharing knowledge on corruption-related issues is not generally common practice among public and non-governmental institutions. The issue of confidentiality may play a role and can be considered as an obstacle in that respect. Furthermore, difficulties are often encountered in communicating locally generated research because of a lack of enabling platforms and communication channels. Challenges of knowledge-sharing within various public and private organizations can also become a complicated task owing to a lack of skills and expertise on dissemination tools and methodologies. Information can only be of use if it is accessible. For many SMEs in developing countries, that is a problem as they often do not have computers with Internet connectivity and sometimes have only limited literacy skills. It is crucial that information is transmitted in local languages through communication channels that are frequently used by entrepreneurs.

Building an effective knowledge management system

In order to effectively reach out to SMEs, awareness-raising campaigns need to build on partnerships between government and local non-governmental institutions and be integrated into a wider national knowledge management system. The key factors in managing knowledge are deciding with whom to share information, what information should be shared, how it should be shared, and sharing and using it. Managing knowledge adds value when the shared knowledge is applied and reused. Sustainable value creation takes place when there is an atmosphere of trust and motivation for people to share and use knowledge, when there are systematic processes to find and create knowledge, and

when there are appropriate mechanisms and technology to store and make knowledge easily available.⁶

There is plenty of literature available describing how to set up effective knowledge management systems in public and private sector organizations. The generally agreed principles and components can also be applied in the field of corruption prevention and SME development. This section will therefore only briefly outline some of the main issues to be considered in that context.

Knowledge creation

Research on corruption and its impact on SMEs should enable public and private sector institutions to take proper action and build upon the knowledge generated. Such research typically includes studies, surveys, evaluations and impact assessments of past initiatives. To overcome capacity constraints and enable wide coverage and dissemination, it is helpful to enter into partnerships with a wide range of research and knowledge-based institutions. A pool of national experts identified over time might be engaged, when appropriate, to provide specialized input for business sectors and localities and with regard to cross-cutting themes to support the relevant institutions.

Knowledge-sharing and dissemination

Academics and practitioners in developing countries and countries with economies in transition are constantly developing a considerable experience and knowledge base about SME development issues and the impact of corruption on SMEs. However, that knowledge is usually quite dispersed and not always fully accessible. There is therefore a need to centralize, organize, analyse and disseminate the available data in a systematic manner.

The impact of awareness-raising activities in Namibia

The 2004 National Integrity Survey of Namibia, undertaken by the Namibian Economy Policy Research Unit, revealed that, while the percentage of respondents that reported being aware of anti-corruption campaigns had increased considerably, many, including those who had seen flyers, posters and newspaper advertisements on corruption, did not fully understand the meaning of corruption. The survey also showed that the higher the level of education of the respondent, the higher the success rate of the information material.

Such findings reveal obvious shortcomings in the information material that is available. In the survey report, it was suggested that more emphasis could be placed on reaching the less educated, in particular in rural communities, as poor and uneducated people were more likely to suffer as a result of petty corruption.

⁶United States of America, Chief Information Officers Council, "Managing knowledge @ work: an overview of knowledge management" (Knowledge Management Working Group of the Federal Chief Information Officers Council, 2001).

Other suggestions made in the report included that anti-corruption materials could be produced in local languages and made more easily comprehensible, that distribution channels for such materials could be improved to maximize outreach, that anti-corruption posters in petrol stations and supermarkets were more likely to reach the target audiences than flyers lying on the shelves in embassies, and that offices of the ombudsman in the regions could be opened.

Source: Christoph Stork, Elisa Hasheela and Willam Morrision, National Integrity Survey 2004, Nepu Research Report No. 29 (Namibian Economic Policy Research Unit, 2004).

In order to successfully disseminate knowledge among SMEs, conferences, seminars, workshops and other knowledge-sharing activities should be organized at the local and municipal levels. Since that involves the organization of a relatively large number of events by a variety of institutions, it is crucial that the same messages are spread to avoid confusion. Formal knowledge-building activities at the institutional level are crucial.

Publications can also support the dissemination of knowledge. However, they need to be written in a language that can be understood by the target audience. Simple messages that can be understood, repeated and further disseminated by everyone is crucial in that context and should be given the highest priority by all stakeholders.

Disseminating knowledge on the effects of corruption in Nepal

The Transparency International chapter in Nepal has carried out a wide range of awareness-raising activities to reach out to civil society at the local level. The organization assisted in the production of radio programmes with investigative reports, news, interviews and opinions from community radio stations. In 2006, more than 120 radio shows on the topic of corruption were broadcast on six radio stations to increase the engagement of local communities in the anti-corruption movement.

In addition, 12 anti-corruption billboards were put up in highly visible public areas with the objective of reminding citizens as well as public officers of the problem of corruption. The chapter has also used street drama (plays and poems) to raise awareness and advocate for anti-corruption actions. In 2006, about 30 performances took place, reaching approximately 7,500 viewers.

Furthermore, as part of a public service announcement campaign, public service announcements on combating corruption, each lasting 30-50 seconds, were broadcast at least twice a week on national television during prime time.

Source: www.transparency.org/regional_pages/asia_pacific/previous_projects/anti_corruption_education.

Information kiosks

Communication strategies should be adapted to the real needs of the local business community. This requires the elaboration of user-friendly information material suitable for people with low literacy skills and the proactive dissemination of such material to

SMEs that have difficulties accessing data. Disseminating information by establishing so-called “information kiosks”⁷ in local communities and remote areas have proved successful in that context.

An information kiosk is a centre that dispenses free information in the form of maps, pamphlets and other literature to citizens. Sometimes they are staffed by an attendant who can offer advice. They can be regarded as nodes within a larger networked landscape that collects, manages, distributes and organizes information in ways that fit the needs of a particular target group.

In some countries, Government departments have started installing information kiosks in their offices. However, they often contain only long and complex documents that the general public do not read and have difficulties understanding. It is hence crucial that such kiosks provide information that is needed and relevant. There is a role for NGOs to take up, with the relevant Government departments, the issue of providing more relevant information in order to improve transparency and allow the local business community to play the role of a watchdog more effectively and to fight corruption in Government departments.

Electronic kiosks also exist in the form of a computer terminal. Some electronic kiosks provide a free information service, while others serve a commercial purpose. Both types of information kiosks are multifunctional and networked installations, generally located in rural communities in developing countries that seek to use information and communications technologies to bring access to information and services to citizens. However, since SMEs in developing countries have only limited access to such facilities, it is important to enter into partnerships with chambers of commerce, business associations or NGOs that act as intermediaries and handle ICT tools on behalf of businesses. Universities may also provide volunteers to support SMEs and give advice to users of the kiosks.

Kiosks enhance access to legal information in the Russian Federation

Russian citizens are used to waiting in long lines to ask judicial assistants questions about their court cases or to file legal documents. Those who cannot afford lawyers spend even more time navigating the legal system. The lack of readily available information about court operations and inconsistent customer service are two reasons why many Russians have lost confidence in their legal institutions.

To help courts in the Russian Federation improve the services that they offer to citizens, a judicial reform and partnership programme initiated by Chemonics, an international development company, involved work with five pilot courts to test and refine court administration and case-management practices, using information technology (IT) in innovative ways. One initiative involved the installation of easy-to-use kiosks that allowed citizens to quickly access the information they needed themselves.

⁷Such kiosks are also known as telecentres, knowledge centres, community information centres and information centres.

Located at the entrances of court buildings, the kiosks provide a range of legal information, including an explanation of court structure and operating procedures; office hours of judges and court employees; samples of documents, such as applications, claims and other forms; detailed information about laws in the Russian Federation; and information about court hearings and decisions.

Because they enable citizens (including business people) to quickly access legal information and they free up clerks from having to answer routine questions, the new kiosks make things easier for court workers as well as the public. The five pilot courts are among the first in the country to have such kiosks, and their success is catching on. Information kiosks were to be installed in all Russian courts by the end of 2011, thus spreading the benefits of the technology across the country.

Source: Russia Judicial Reform and Partnerships Program, "Annual Progress Report: July 1, 2006,– June 30, 2007" (July 2007).

Role of the media

A free and independent media is a principal means for fighting corruption. Their relevance is related not only to the investigation of and reporting on corruption cases, but also to the education of society and the dissemination of anti-corruption efforts. One of the most effective ways of getting a message across to the largest possible audience is through the media, which include television, print media and press, as well as radio. All media have the potential to be extremely effective tools for sharing and disseminating knowledge on corruption. However, in many countries, they have not yet been fully exploited for this purpose.

Knowledge management for operational effectiveness in public institutions

Governments have started to realize the importance of an effective knowledge management system for their policymaking and service delivery. While some Government departments are beginning to place knowledge management high on their agenda, they still have little experience in and best practice examples of applying the general theory to corruption-related issues.

A knowledge management system covers a wide range of activities aimed at facilitating the collection, use and dissemination of information about corruption, its forms, negative impacts and mechanisms to combat it. However, it can also be seen as part of a broader strategy aimed at influencing policy decisions. Knowledge management systems can support the fight against corruption by facilitating the adoption of adequate legislation that minimizes corruption-related risks, promoting the establishment of relevant anti-corruption mechanisms, and providing tools for assessing and monitoring the state of corruption in a particular sector or region. At the same time, such systems contribute to public education, awareness-raising and outreach by making citizens aware of their rights and building demand for good governance. Another key function of knowledge management is the documentation of success stories and failures, the publication of results of initiatives and the dissemination of lessons learned. An efficient knowledge management system builds knowledge on activities and practices that are otherwise scattered and difficult to access.

Knowledge management is not an IT system, although some public offices and non-governmental institutions have tended to rely on so-called “off-the-shelf IT packages” to implement it.⁸ There are a number of reasons why such an approach has not been successful in this past, including:

- The difficulty that people can have in expressing what they know in written form (level of education and literacy)
- The uncertainty people sometimes feel when they are invited to submit formal accounts
- The problem of accessing IT-based systems and communication channels

Innovative knowledge management and dissemination systems using ICT to increase outreach need to be adapted to the needs of people with limited literacy levels and those who are visually impaired. Ideally, such systems should be composed of a combination of ICT and more traditional means of accessing information.

Extending awareness-raising and communication strategies to the sub-national and local levels is important for reaching smaller businesses. Many municipal or city councils, for instance, do not have effective record management systems in place. Hence, they are unable to collect and present information to citizens in a cohesive manner and they lack clear lines of communication.

Knowledge partnerships and networking

The complexity of corruption requires collaboration between a wide range of stakeholders with different types of expertise and capacities. A proper knowledge management system helps to bring all the relevant players together within the framework of public-private partnerships. Such collaborative efforts ensure that strengths are combined and resources are supplemented instead of duplicated. They must go hand in hand with the building of the capacities of the various stakeholders by equipping them with the skills, tools and information they need to hold public offices accountable for their actions.

Outreach strategies targeting small and medium-sized enterprises in developing countries

Communication strategies should be adapted to the real needs of the local business community. Past experiences have shown the importance of oral and face-to-face communication in reaching SMEs located in marginalized or remote communities. That is particularly important in countries where trust in Government offices is low. In that context, the involvement of community leaders or influential persons is crucial, as they are generally deemed to be a trusted source of communication and are able to present a topic in a way that is relevant to the local situation. Outreach activities of that kind may include:

- Local forums: organizing events that allow business people to discuss a particular issue affecting their development

⁸Australian Local Government Association; *Local Government Knowledge Management Toolkit: Building Capacity for Integrated Knowledge Management Solutions* (Canberra, 2004).

- Community events: incorporating corruption-related awareness-raising activities into community or religious events
- Engaging local leaders: setting up information stands in the foyers of churches or at local sporting events at which community leaders (such as priests and village elders and leaders) inform the community about corruption and action against it
- Field visits: distributing information material and providing advice and counselling in areas that have a high concentration of businesses in remote communities, using a team of experts from local NGOs, Government agencies and other offices

As oral and face-to-face communication is difficult to establish and maintain, the use of certain media channels to complement such efforts is important.

The role of local media

The media do not usually grant as much attention to SMEs as they do to larger companies, and that affects the behaviour of those firms and that of public officials towards them. An example of how important a role the media could play is indicated by a survey conducted in Croatia that showed that 43 per cent of the SMEs interviewed believed that official pressure, communicated through the media, was essential in the fight against corrupt practices.⁹

The media do not only play an important role when it comes to increasing the risk of getting caught for engaging in corruption. They can also help to raise awareness and promote good business practices. Useful actions by the media include increasing their coverage of SMEs and cooperating with business associations and other institutions to promote their efforts.

Businesses located in poor or rural communities tend to rely on media such as newspapers, radio and television as sources for their news, information and entertainment.

Community radio

In countries with high illiteracy rates, poor telecommunications infrastructure and a largely rural population, the radio is often the most accessible means of communication and people are accustomed to using the radio as their source of news, information, education and entertainment.

Community radio stations are community-based, independent and participatory. Such stations are generally not staffed by professional journalists, but with people from the community. The programme formats and contents are adapted to the local situation and respond to the service and information requirements of the community. Hence, community media can also focus on a specific issue of concern to community members, such as corruption and other forms of crime. They also offer a good platform for disseminating information on laws and regulations and empowering smaller businesses to stand up against corrupt officials.

⁹Suzana Kosanovic and Allan Bussard, *The Problem of Corruption in Small and Medium Enterprises in Croatia* (Zagreb, Ruke Association and Integra Foundation, 2001).

Community radio exposing corruption in India

In India, community radio stations are going further than just giving the local community a voice—they are acting as investigators and advocates.

In 2007, an Indian woman walked into a Public Distribution System^a shop in Barkhandia, a village located in the Dangs district of India. Pretending to be a poor villager, she requested a favour. For the shop owner, it was the end of his career in selling subsidized food products on the black market as the incident was later played on an investigative programme focusing on unearthing social and political scams, irregularities and corruption in rehabilitation work, the culpability of Government officials and vested interests in different areas.

^aThe Public Distribution System is a major instrument of the economic policy of the Government of India for ensuring food security for the poor. It is built around a network of roughly 460,000 “fair price shops”, often referred to as “ration shops”. It is one of the biggest such systems in the world, if not the biggest.

Source: RWOnline, <http://mt-shortwave.blogspot.com/2007/10/community-radio-stings-uncover.html>.

Radio programmes for small businesses in Uganda

Nekolera Gyange is a commercial radio initiative that emerged from a collaboration between the International Labour Organization and the Ugandan radio network. It aims at giving marginalized business people a voice with which to influence policy decisions related to business and the economy in Uganda. The Central Broadcasting Service broadcasts the 30-minute programme twice a week after the evening news. It features business news and includes talk shows, live calls from listeners and interviews with business people, technical experts and policymakers. About 70-80 per cent of air time consists of interviews, discussion and other interaction, with an emphasis on the pride that comes from being self-employed. Although the main focus is on policy and regulatory issues affecting the self-employed at the local level, the programme occasionally addresses policy issues at the city and national level and how they affect small enterprises. Technical advice and business linkage opportunities are provided, as are linkage opportunities with like-minded businesses. Listener clubs have been established for the purpose of making the programme more relevant to its intended audience in terms of content and participation. About 40 per cent of self-employed persons in the target geographical area, who number approximately 90,000, listen to the programme.

The relationship between the town’s business community and the Nekolera Gyange production team was reinforced by the formation of a listener club that acted as a contact point and watchdog for the programme. The group frequently contacts the production team to inform them of newsworthy issues. That model of a citizen’s watchdog group has been replicated by the Central Broadcasting Service in three areas of the country, providing a unique model for collaboration between the public and the media in local policy reform and monitoring.

In addition to the Central Broadcasting Service, three other radio stations broadcast small enterprise radio programmes based on the Nekolera Gyange format. Two are rural stations in Uganda and one serves the small enterprise area in the Kumasi region of Ghana.

Source: Gavin Anderson and David Elliott, "The role and impact of radio in reforming the rural business environment in Africa: a study of private FM radio in Uganda", paper prepared for the Africa regional consultative conference "Creating better business environments for enterprise development: African and global lessons for more effective donor practices", Accra, 5-7 November 2007.

"Law and development in our communities" radio programme of the Eastern Province Women's Development Association in Zambia

In February 2002, the women's network of the Eastern Province Women's Development Association was represented for the first time on the local community radio station Radio Maria. Every Monday afternoon for 16 weeks, legal questions and problems on the topic "law and development in our communities" were discussed on air. The programme was broadcast in the local language and aimed at reaching the rural communities in the east of Zambia. Apart from providing information on legal issues to the listeners, the Association ran live panel discussions to which they invited paralegals to discuss cases that had been pending for a long time in the courts in order to increase pressure on authorities and accelerate the process. The radio programme was very successful, with many people phoning in and writing letters to ask for legal advice.

Source: www.epwda.org/index.php?option=com_content&view=article&id=16&Itemid=21.

Summary of recommendations on awareness-raising, information dissemination and outreach mechanisms

Stakeholders →	Business associations and chambers	ICT providers	Media	Training and education institutions	Government
Challenges ↓	<p>Cooperate with research institutions and make available company databases for data-collection purposes</p> <p>Organize regular gatherings and events on corruption issues to recognize changing perceptions and trends in the business community</p>	<p>Enter into cooperation with research institutions as regards the design and dissemination of surveys, questionnaires and opinion polls</p>	<p>Maintain communication with local institutions, check for general knowledge gaps on corruption- and SME-related issues and pay specific attention to cases under investigation</p>	<p>Organize competitions among students of business schools and set aside small grants for essays and diploma theses on corruption- and SME-related topics</p>	<p>Support and organize a regular and coherent national statistics and data-collection system</p> <p>Organize regular meetings with research institutions, business associations, NGOs and academia to discuss planned data-collection activities by all parties, discuss research designs to be applied and avoid duplication</p> <p>Maintain constant exchange with other countries and the international community on corruption-related data-collection systems</p>
<p>Sharing information</p>	<p>Train a core team on how to mount public education campaigns</p> <p>Create awareness of the problem of corruption for SMEs through the use of the different media, e.g. community radio programmes, television advertisements and talk shows, magazines, flyers, booklets and regular newspaper coverage</p> <p>Provide technical support to editors on how to cover corruption- and SME-related issues (e.g. through regular briefings on the latest developments by specially nominated public and private sector focal points)</p>	<p>Engage mobile phone operators in the information-sharing process through sending out text messages to SMEs with awareness slogans and key data (e.g. contact details for reporting cases)</p>	<p>Organize awards for journalists' achievements in exposing the issue of corruption and its impact on private sector development in a country, region or sector</p>	<p>Include corruption-related issues in the curricula of business schools, universities and vocational training institutions</p>	<p>Set up a knowledge management system to make effective use of information that is being gathered by various public and private institutions about corruption at the national and local levels to ensure a coherent approach and avoid duplication of efforts</p> <p>Publicize laws, policies and official documents and make relevant information easily available to SMEs (e.g. through local business information centres or kiosks)</p> <p>Appoint "goodwill ambassadors" to secure the support of prominent people for project activities (church leaders, retired politicians, sports people, academics, artists, business people, etc.)</p>

Upgrading public complaint and reporting mechanisms

The introduction of practical and easily accessible public complaint mechanisms to handle reports about corrupt activities can help to enhance the accountability and transparency of public and private sector entities. At the same time, they constitute an important channel for smaller businesses to raise their voice against corruption. This chapter will focus on public reporting mechanisms, assessing their utility from the viewpoint of SMEs and describing ways of making them more accessible to smaller businesses.

The objective of a public complaints mechanism is to enable anyone who becomes aware of acts of corruption or general maladministration to report it to competent authorities. Generally, business people may use three different routes to report acts of corruption: filing complaints through company internal procedures, approaching public agencies and using the media to publicize a case.

Increasing the level of reporting of corruption among smaller businesses would help to ensure that similar patterns of offences are uncovered and that appropriate corruption-prevention strategies are identified and implemented. If the true nature of corruption remains undisclosed and not investigated, it is difficult to devise appropriate measures to guard against it. The community may also suffer when corruption is not dealt with as incidents will not find their way into official statistics and the educational and deterrent effects of publicity in preventing corruption will be avoided.¹⁰ Effective reporting may, instead, enhance the feeling in the business community that corruption is, in fact, unlawful and likely to result in prosecution where it is detected. That is especially important when it comes to educating those firms that have a choice and still decide to pay bribes with a view to gaining undue advantages. Finally, if offenders are not punished, small businesses might be subject to repeated victimization, sometimes at the hands of the same individual or someone else replicating the same form of criminal activity.

At the outset, however, there is a need to assess the scope of the problem of underreporting of corruption, which is alarmingly frequent among SMEs, and to determine the causes of such underreporting in that specific business sector.

Among the most common reasons stated in business surveys for why firms do not report acts of corruption are: (a) the belief that there is inadequate proof or that the matter is not serious enough to warrant any attention or follow-up action; (b) fear of reprisals if incidents are reported; (c) insufficient knowledge about reporting possibilities and procedures; and (d) the lack of confidence that any action will be taken by authorities.

Businesses may also be reluctant to report corruption because of a fear of “sending good money after bad”.¹¹ Their experiences may have led them to believe that it is

¹⁰Russell G. Smith, “Organisations as victims of fraud and deception: encouraging the use of legal redress”, paper presented at the Restoration for Victims of Crime Conference, Australian Institute of Criminology, September 1999.

¹¹Russell G. Smith, “The importance of reporting fraud and corruption by public sector agencies”, keynote address at the Conference on “Public Sector Fraud and Corruption”, Canberra, 28 July 2005.

impossible to recover losses through legal avenues and that the time and resources required to report an incident officially, assist in the prosecution and get involved in lengthy court hearings simply do not justify the likely return on investment. That is particularly true for entrepreneurs who are usually confronted with cases of small-scale corruption; even though the bribes that are being extracted over time severely hurt their business operations, the resources required to go through the reporting and prosecution process may far outweigh the amounts they have to set aside for unofficial payments.

Excerpts of national corruption surveys: reasons for not reporting acts of corruption

The Business Survey on Corruption, published by Social Weather Stations in the Philippines in 2007, revealed that the top four reasons for businesses not to report incidents of corruption were: the expectation that nothing would be done; fears of reprisal; it was standard practice not to; and the notion that the amounts involved were too small to be dealt with by authorities.

In South Africa, an assessment of the extent of corruption carried out by the Institute for Security Studies in 2004^a drew a similar picture. The three main reasons for not reporting corruption were the view that it would not change anything, the fear of being victimized and lack of knowledge about where and how to report it.

In Peru, the second national corruption survey, conducted in 2003, highlighted the main reasons why business refrained from reporting corruption as the view that nothing would change, a fear of reprisals, a lack of knowledge about where to report to and the length of time required to go through the process.

^aHennie van Vuuren, "Small bribes, big challenge: extent and nature of petty corruption in South Africa", *South African Crime Quarterly*, No. 9, 2004.

In order to make reporting mechanisms more effective for SMEs, there is a need to assess, from the viewpoint of smaller businesses, some of the solutions that have been proposed to encourage reporting by citizens and the private sector in general, including the use of hotlines, whistle-blower protection and legislation, as well as the establishment of specialized corruption reporting agencies. As a next step, those measures need to be adapted to fit the needs and constraints of smaller businesses in developing countries, and new avenues of reporting have to be explored.

Why public reporting systems often do not work for smaller businesses

There is a series of challenges that national anti-corruption authorities and other stakeholders need to tackle in order to make reporting mechanisms more accessible and effective for SMEs:

- Lack of awareness: all too often, smaller businesses that operate in remote communities are not aware of the existence of reporting options. The outreach of some of the relevant reporting institutions is too limited to reach those firms and

available information might not be accessible, either because it is only web-based or simply not distributed widely enough.

- Limited access to public agencies, including anti-corruption agencies: national anti-corruption bodies are usually located in capital cities, occasionally with offices in other major cities. While that makes them accessible to larger companies based in major urban areas, many SMEs in developing countries operate in rather remote local communities with only restricted or occasional access to larger cities as a result of bad infrastructure and limited resources. Trying to bridge that deficiency through enhanced Internet presence does not make any difference for the majority of small businesses situated in localities with limited access to ICT facilities.
- Lack of confidence: a poor track record of results arising from reports delivered to anti-corruption agencies leads to a loss of trust by businesses. If SMEs make reports without ever receiving any feedback on what is being done as follow-up, they lose confidence in the system and refrain from taking action in the future. Miscommunication or a lack of communication often leads to wrong assumptions and SMEs may come to the conclusion that public agencies deliberately do not follow up on some complaints in order to protect officials and business people with greater influence at higher levels of authorities. Providing regular feedback to SMEs about what is happening with their cases would not only help to increase their confidence in the system, but would also avoid duplication of investigatory activities such as the conduct of multiple interviews (which also lead to assumptions about inefficiencies or malfunctions in the system).
- Blocked resources: experience may lead SMEs to believe that it is impossible to recover losses through legal avenues and that the time and resources required to report an incident officially and to assist in its prosecution simply do not justify the likely return on investment. Prosecution may entail numerous interviews with the police, extensive analysis of related documents and lengthy involvement in court hearings. The time and energy required to file a complaint are often not considered by national authorities but they constitute a particular problem for smaller firms that are struggling to survive.
- Fear of reprisals: owing to the limited bargaining power and influence of smaller businesses, they risk facing intimidation when reporting corruption involving public officials or more influential business people. In some countries, there is no whistle-blower protection or institutionalized State support for complainants in sensitive cases, and anonymous reports are often not followed up at all. As a consequence, SMEs consider it safer for their business and their families to refrain from reporting corruption.
- Limited literacy skills: in certain cases, it can be immensely important to be able to write coherent, concise, informative and unemotional accounts of an incident in order to make others aware of the issue quickly and efficiently. Such a written statement is often required to provide more thorough disclosure to public agencies, the media, external stakeholders or pressure groups. All too often, entrepreneurs have only limited literacy skills and are so involved with the issue that they find it

difficult to explain it fully to outsiders in order to enable further investigation of the case.

- Cases of petty corruption not always investigated: SMEs in developing countries often have to deal with small-scale administrative corruption. While the small amounts extracted from some SMEs have a negative impact on their business, they are sometimes too small to be investigated by the relevant public offices. In developing countries, those bodies are frequently understaffed and face capacity constraints. As a result they focus on higher-profile cases and do not look into each and every report that is submitted.

Tools to encourage reporting among small and medium-sized enterprises

There are various methods that can be used to enhance the reporting of corruption. They include education about the desirability of reporting offences officially; making full use of whistle-blower protection legislation; establishing a central agency that receives reports from all sources and coordinates investigatory action by sending reports to appropriate bodies; creating electronic systems to make reporting easier and efficient, including the establishment of a hotline or an e-mail address for reporting corruption; providing regular feedback to complainants about what is being done with their cases; and enacting legislation to make it obligatory to report acts of corruption.

The above-mentioned methods require further thinking in terms of their effectiveness, access and outreach to smaller businesses in developing countries. This section will address some of the measures that require particular attention in that context.

Awareness-raising and education

Even though awareness-raising forms part of almost all national anti-corruption strategies, some of the main reasons why businesses do not report corruption (namely the view that it would not change anything and the lack of knowledge about where and how to report) reveal obvious shortcomings in this domain.

Sustained awareness-raising campaigns should be geared towards informing SMEs about why they need to counter corruption and how it can be done, thus encouraging whistle-blowing, as well as making them aware of what channels to use to report corruption. Awareness-raising campaigns often fail to reach out to SMEs because the wrong media is chosen for communication. Simple language, choice of the right media and outreach are the most important criteria when it comes to ensuring that awareness-raising campaigns have an effect in the SME sector. Close cooperation with local NGOs, business associations, religious bodies, sports clubs and radio stations are useful in that context.

For more information on awareness-raising strategies for SMEs, see the section on awareness-raising, information dissemination and outreach above.

Text message campaign against corruption in India

The Anti-Corruption Division of the Central Bureau of Investigation in India has launched a campaign using text messages in Tamil Nadu to inform the public about ways of reporting corrupt conduct. For that purpose, the Bureau has arranged with major mobile telephone service providers to send text messages to their customers containing information on who to contact when encountering corruption.

The campaign received an overwhelming response from the public in Tamil Nadu and more people are coming forward to share their experiences with the investigating agency. According to the Bureau, officials receive about 200 calls a day from all over Tamil Nadu and Pondicherry, in addition to about 40 text messages and e-mails. They also receive valuable information about corrupt officials and those with inappropriate wealth.

Source: Laila Rajarantnam, "CBI SMS campaign for anti-corruption", *Merinews*, 19 August 2008. Available from www.merineews.com/article/cbi-sms-campaign-for-anti-corruption/139622.shtml.

Protection of small and medium-sized enterprises that report corruption

If reporting by SMEs is to be encouraged, appropriate safeguards need to be in place to protect those who report their suspicions and experiences from reprisals. The problems faced by businesses in that context have been documented in a number of studies, which have looked at entrepreneurs who have reported corruption in public sector agencies. The difficulties relate to whistle-blowers being discriminated against or being subjected to harassment, intimidation or reprisals as a consequence of reporting what they believe to be illegal conduct. In such circumstances, SMEs have a reason to fear that, if they speak up, their entire business operation may be placed in jeopardy because they do not have the power to fight against those reprisals or to lobby for the correct treatment by the authorities, an option that may be available to larger firms.

Legislation

The most common response to the problems facing whistle-blower protection is to suggest better legislation. However, as is the case with other laws, such legislation can be quite ineffective in some countries where their implementation only happens sporadically or arbitrarily. As a result, whistle-blower laws may give only the appearance of protection, and may become dangerous for business people who put their trust in the law. Nevertheless, having a legal basis for whistle-blower protection is crucial, as it opens the doors for targeted public-private sector initiatives and reflects social expectations that something can be done about corruption. Despite their shortcomings, such laws offer an acknowledgement that whistle-blowing is legitimate and socially valued.¹² In order to bring such legislation in line with the needs of SMEs, there is a need to avoid opaque and numerous exceptions and to ensure effective implementation.

Whistle-blower legislation is still little known or appreciated in some developing countries. The United Nations Convention against Corruption¹³ is likely to encourage

¹²Brian Martin, "Illusions of whistleblower protection", *UTS Law Review*, No. 5, 2003, pp. 119-130.

¹³United Nation, *Treaty Series*, vol. 2349, No. 42146.

significant changes in that regard, as, pursuant to its article 33, each State party must consider incorporating measures for the protection of persons reporting corruption into its domestic legal system.

Anonymous reporting

Often, SMEs do not feel comfortable using public reporting hotlines that require the disclosure of their identity. Generally, the persons receiving the calls on such hotlines work for a public agency, which might not be trusted by the local business community. It is also possible, for example, that the person nominated to receive calls will actually be the perpetrator of the wrongdoing (e.g. in police stations), creating additional difficulties. In such cases, apart from fearing reprisals, SMEs may not believe that the contact person will properly pursue their allegations.

To overcome such concerns, reporting hotlines could be installed in more neutral intermediary institutions such as local NGOs or business associations. Relevant information could be collected there and passed on to the relevant agency for investigation.

Anonymous reporting at the Anti-Corruption Commission in Sierra Leone

The Anti-Corruption Commission of Sierra Leone has made provision for anonymous online reporting. A form can be filled in on the website that does not require any personal data to be entered. All that is required for collecting additional information and follow-up is an e-mail address. It is suggested that those reporting corruption sign up for free, web-based e-mail accounts for the purpose of corresponding with the Anti-Corruption Commission if they wish to make the report anonymously. To facilitate reporting, the Commission also provides an online guide to reporting corruption for persons who wish to report corrupt practices.

Source: www.anticorruptionsl.org.

From the viewpoint of SMEs, anonymous reporting is only effective if business associations, NGOs or other trusted institutions act as intermediaries and submit the reports on behalf of the firms. Many small business owners do not have access to the Internet and often lack the literacy skills required to use this channel.

Coordinating avenues of reporting

In some countries, several organizations exist to which SMEs can turn to report incidents of corruption, while others have opted for establishing a single central agency that receives reports from all sources and coordinates investigatory action by sending those reports to appropriate agencies.

Often, anti-corruption agencies or bodies are regarded as the first option for reporting corrupt practices. They receive reports, inform other relevant institutions, initiate investigations, compile statistical information and produce best practice guides explaining how reports can be made and how the process works. However, those agencies often have a poor outreach at the local level and are rarely approached by

businesses that operate outside capital cities. Often, the response to that problem is the launch of websites with plenty of resources on corruption-related issues and reporting options. Taking into account that, for instance in sub-Saharan Africa, more than 70 per cent of the population has never even heard of the Internet¹⁴ and that most people in developing countries lack even basic ICT literacy and computing skills, that might not be the best solution from the perspective of entrepreneurs operating in such environments. Hence, new mechanisms need to be developed to ensure that smaller businesses also have access to national anti-corruption agencies and their reporting channels.

Closer cooperation with business associations, chambers of commerce and NGOs offers opportunities in that context. Those institutions not only have far better outreach at the local level but usually also enjoy higher levels of trust among the local business community and could be used as intermediaries to collect and send corruption-related complaints and reports to the relevant authorities. Examples already exist of anti-corruption agencies signing memorandums of understanding with business associations to strengthen their cooperation. That benefits not only the businesses for which it will be more convenient to make a report, but also the public authorities, as it will reduce their workload (if the reports are screened by a business association and only eligible and complete reports are handed over). Such a mechanism is also likely to provide better insights into the occurrences of petty corruption, which are rarely reported.

Cooperation between anti-corruption authorities and business associations, chambers of commerce and non-governmental organizations

In a situation with a low degree of cooperation between anti-corruption authorities and business associations, chambers and NGOs, the latter organizations collect complaints from local entrepreneurs and arrange regular meetings with anti-corruption authorities or other relevant public institutions for general discussions about problems faced by businesses and the situations in which bribes are frequently extracted from companies.

If there is what could be categorized as a medium degree of cooperation, business associations, chambers of commerce and NGOs collect complaints and reports from SMEs and forward them to national anti-corruption agencies for investigation.

If, however, there is a high degree of cooperation, business associations, chambers of commerce and NGOs collect complaints and reports from businesses, screen for eligibility (ensuring that they concern a case of corruption and not other offences) and completeness (ensuring that all required information is available) before forwarding them to anti-corruption agencies for investigation. They also maintain contact with national authorities to follow up the submitted reports and provide regular feedback to the companies.

The case studies below show how effective partnerships between public authorities and private institutions can facilitate the reporting of incidents of corruption.

¹⁴United Nations Industrial Development Organization, "Building e-competence: enabling small business to access opportunities through information and communication technology" (Vienna, 2007).

Business associations in the Russian Federation partnering with public offices to fight corruption

In the Russian Federation, regional business coalitions for reform were formed by 200 local business associations with the support of the Center for International Private Enterprise, the United States Agency for International Development (USAID), the Russian Union of Business Associations and the Russian Chamber of Commerce and Industry. Those coalitions represent local businesses and seek to influence policies and regulations at the local and national level by making legislative recommendations, publicizing abuses by officials, educating entrepreneurs and undertaking legal defence.

The Altai coalition, for instance, implemented a business hotline to identify the issues most relevant to the local business community. The coalition has continued the hotline project as a way of providing entrepreneurs with advice and information and a formal method for interaction between entrepreneurs and the Government. It also collects reports on corruption. When a complaint is registered through the hotline, a legal expert reviews the case before it is submitted to the authorities for follow-up. The Department of Internal Affairs, the Tax Inspection Service, the Consumer Protection Agency and the Ministry for Civil Defence, Emergencies and Natural Disaster Management (EMERCOM) signed agreements with the coalition, committing to comply with existing regulations and address cases brought to their attention through the coalition. That has led to a better business environment in the region and local authorities have realized that formal interaction with the private sector leads to more effective governance.

Source: "Strengthening local democracy in Russia: the case for business associations", Reform Case Study, No. 505 (Washington, D.C., Center for International Private Enterprise, April 2008). Available from <http://info.worldbank.org/etools/antic/detail.asp?ID=22>.

Advocacy and legal advice centres facilitate reporting in Bosnia and Herzegovina, Romania and the former Yugoslav Republic of Macedonia

In 2004, Transparency International national chapters established advocacy and legal advice centres in Bosnia and Herzegovina, Romania and the former Yugoslav Republic of Macedonia, with the objective of providing legal advice to victims of corruption to enable them to file and pursue complaints with State authorities. More broadly, they aim to raise public awareness about corruption, encourage citizen empowerment and support policy and institutional reform against corruption.

Each centre offers the following services: a telephone hotline for reporting corruption; a website explaining its role and purpose and providing practical information for pursuing corruption cases; a citizens' guide to assist ordinary people in understanding and defining corruption; a library of corruption-related publications for use by legal experts, volunteers and clients of the centre; and a database of complaints received, from which statistics can be drawn and trends identified.

In pursuing corruption cases, the centres follow a strict procedure: volunteers (usually law students or recent graduates) screen all cases and eliminate the ones that do not appear to be related to corruption. Based on that screening, legal experts (trained lawyers) conduct face-to-face interviews with persons whose complaints are deemed to be relevant. Cases are not followed up when those preliminary interviews fail to turn up adequate evidence of corruption or a strong suspicion of corruption. In accepted cases, the citizen filing the complaint is given specific advice on how to pursue the complaint, often with direct support from the centre in the form of a covering letter or phone contact. Staff from the centre follow up such cases by contacting the relevant authority and requesting clarification when there is no response to complaints.

Source: www.transparency.org/global_priorities/other_thematic_issues/alacs/information.

Establishment of new reporting channels for small and medium-sized enterprises

Apart from building public-private partnerships to make existing reporting mechanisms more accessible for SMEs by linking various agencies, there is also the option of establishing entirely new channels such as special SME ombudsmen or SME complaint centres at the local level. Both systems have been tested in Indonesia and are described below.

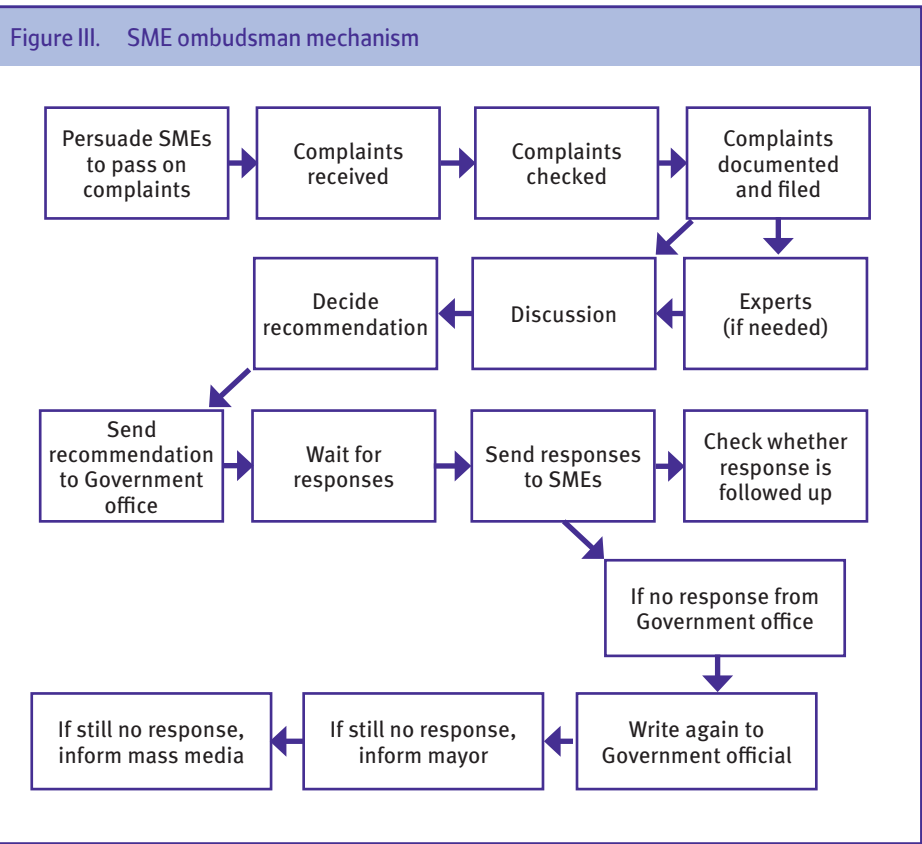
Ombudsman for small and medium-sized enterprises

The idea to introduce an ombudsman for SMEs was developed by Swisscontact,¹⁵ in partnership with the Faculty of Economics of Satya Wacana Christian University and the Center for Micro and Small Enterprise Dynamics, Indonesia. The impetus for the initiative was provided by the Salatiga regional small business association, which had frequently complained about the unresponsiveness of the city administration towards SME concerns. The role of the ombudsman was defined as mediator between the private sector and public agencies.

The SME ombudsman was set up in 2003 as an independent body (outside the local government structure) to handle complaints filed by SMEs and work towards improving the public services provided to those companies by promoting justice, honesty, openness and professionalism in administering and delivering public services to the sector. The ombudsman also fosters law enforcement, in particular for SMEs to obtain business licences and other requirements, and promotes the need for policy reform, in particular supporting the empowerment of smaller business units.

Figure III shows the mechanism of the SME ombudsman.

¹⁵Swisscontact is a Swiss private-sector organization for development cooperation. Its aim is to promote private economic and social development in selected countries through advisory services, training and education.



Apart from providing assistance in setting up the ombudsman, Swisscontact provided advice on developing an e-complaint system and supported the creation and distribution of several guidebooks on how to start and develop the ombudsman. A highly respected and experienced teacher from the University of Salatiga was nominated for the position of ombudsman by private sector representatives.

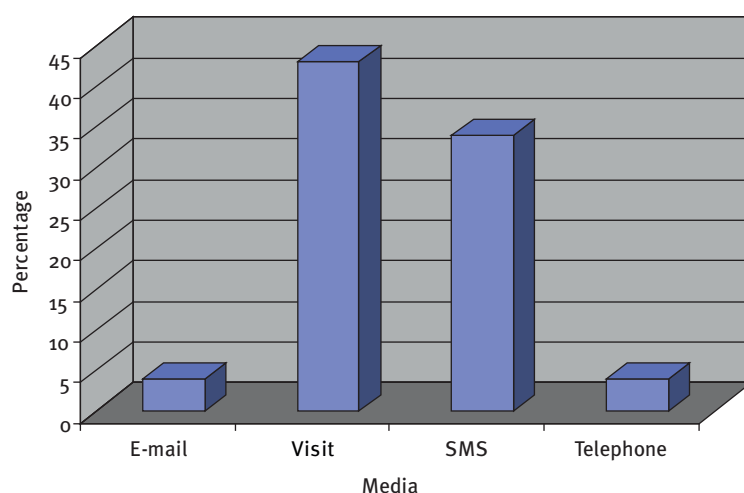
The local government provided an office for the ombudsman where the e-complaint system is located and a staff member to be the operator of the e-complaint system, together with one other staff member assigned by the SME ombudsman. Furthermore, the mayor of Salatiga issued a letter instructing all local government offices in Salatiga to give a quick and positive response to any recommendations made by the ombudsman regarding complaints by SMEs. An umbrella office for the body was established under the State Ministry of Cooperatives and SMEs.

The Centre for Micro and Small Enterprise Dynamics provided one staff member to coordinate the office of the SME ombudsman and an administrative staff member to run the office and operate the e-complaint system. In addition, the Centre maintains links with all the sectors that make use of the services provided by the ombudsman. It has also developed documentation about how the ombudsman operates and a guide for the SME ombudsman.

Following the introduction of the ombudsman, businesses have been voicing their concerns more openly, as they are convinced that complaints are taken care of and problems get solved. SMEs have recognized that public services have gradually improved and have a positive impact on their daily business activities. Local government offices have also shown some improvement in the quality of their services to SMEs.

One of the main challenges was to convince SMEs to make use of different media to submit their complaints (e.g. through the e-complaint system), as they still prefer to visit the ombudsman to deliver their complaints in person (see figure IV).

Figure IV. Means used to contact the SME ombudsman (percentage)



Information and complaint centre

An information and complaint centre was initiated by the mayor of Yogyakarta, Indonesia, as a management instrument and feedback mechanism for bringing the public administration closer to the private sector and the civil society. Through the centre, all citizens and businesses can ask for information or file complaints by letter, phone call or text message.

The centre was established as part of the technical implementation unit at the Public Relations and Information Office in Yogyakarta as a platform for promoting good governance. The Government pays its operational costs and Swisscontact has provided technical assistance and funds for the development of a special software.

The centre provides information to the public by accelerating and facilitating the flow of communication between the local community (including businesses) and local government in order to create an effective and conducive interaction.

The establishment also receives input in the form of questions, criticisms, complaints, information, suggestions and advice from locals, which enables officials to improve the

performance of public agencies and to establish good governance. The centre collects and registers the information and complaints and forwards the requests for follow-up to the relevant government departments (or other related institutions), as well as to the mayor for information and monitoring. The departments in charge are obliged to react to, report on and follow up the complaints.

Since the centre opened it has become a channel for businesses, in particular, to communicate their problems. The initiative has resulted in better performance by local government agencies in their provision of public services, the establishment of good governance and more conducive policies and regulations for microenterprises and SMEs in Yogyakarta.

Involving the local media

The information and complaint centre and the SME ombudsman in Indonesia have been complemented by a strong media campaign. Newspapers and local radios were linked to the institutions to encourage routine interaction, for example by airing complaints. Statistics were published regularly and specific issues were discussed in the media. In Salatiga, for instance, the ombudsman has a regular column in a local newspaper and is a frequent guest on the local radio.

Recommendations for upgrading a public complaints and reporting mechanism

Stakeholders → Obstacles for SMEs ↓	Business associations, chambers of commerce, NGOs	ICT providers (Internet, PCs, telecommunications)	Media	Training and education institutions
Lack of awareness	<p>Establish information kiosks in local communities</p> <p>Conduct visits to villages and remote communities to inform SMEs about reporting options</p> <p>Organize regular meetings with village chiefs and mayors to update them on existing options</p>	<p>Provide computers, software, etc. for information kiosks</p> <p>Send text messages with information on reporting options to business people's mobile phones</p>	<p>Create special advertisements on television, radio and in newspapers, describing hotlines and other reporting options</p>	<p>Insert a page with information on reporting channels and contact details in training materials provided to businesses</p>
Limited access to public agencies	<p>Enter into cooperation agreements and memorandums of understanding with anti-corruption agencies</p> <p>Collect reports from SMEs and forward them to anti-corruption agencies</p> <p>Regularly visit SMEs located in remote areas and provide information on general corruption-related problems faced by businesses to public authorities</p>	<p>Allow reports to be filed online in the information kiosks with the help of a trained attendant</p> <p>Establish "community phones" that can be used to address complaints to public agencies that accept the reporting of corruption in such a manner</p>		
Lack of confidence	<p>Follow up forwarded reports and, if no action is taken in due course, contact high-level authorities or the media</p> <p>Bring problems frequently faced by SMEs to the attention of authorities without mentioning names</p>	<p>Enter into cooperation with associations, NGOs and anti-corruption agencies</p> <p>Establish electronic filing and tracking systems for reports on corruption that allow for a certain degree of anonymity</p> <p>Allow business associations and NGOs to follow progress online and provide feedback to SMEs</p>	<p>Investigate pending cases and provide information on public cases</p>	<p>Cooperate with anti-corruption agencies</p> <p>Provide training to entrepreneurs on the process of reporting and what happens to a complaint once it is filed (create understanding among SMEs of complex processes in public institutions)</p>

Blocked resources	Approach banks and finance institutions to explore possibilities for financial support (e.g. low-interest loans) to help SMEs go through the process without jeopardizing their business operations	Provide possibilities for SMEs to engage with investigators and public officials online through Internet kiosks or similar establishments. That approach will avoid entrepreneurs having to travel to offices far from their hometowns		Provide training courses to entrepreneurs to enhance their IT literacy skills and enable them to engage in interactions with public officials and other key stakeholders using available ICT tools and channels rather than having to travel far to meet people personally
Fear of reprisals	Lobby for legislation that would allow collective redress mechanisms (collective claims filed by groups of affected businesses) Organize meetings with SMEs and inform public authorities and anti-corruption agencies about the general problems faced instead of mentioning single cases Install anonymous complaint mechanisms Provide information to SMEs about who to turn to in the case of intimidation	Support public and private institutions in the development of anonymous complaint mechanisms	Open channels for SMEs faced with intimidation to communicate their cases and publish information to exert pressure on authorities to enact proper and fair treatment	
Limited literacy skills	Develop step-by-step guides to report-writing Visit SMEs, write reports on their behalf and guide them through the follow-up stages Offer regular training courses to enhance the literacy skills of small business owners	Develop computer programs for business information centres and training institutions that guide SMEs, using online media, through the different stages of the reporting process and the actions involved	Offer radio programmes to enhance the understanding of SMEs of the law (e.g. a special 10-minute slot every week explaining one specific legal term and its implications for SMEs)	Offer courses on report-writing Offer courses that convey a basic understanding of law and legal issues relevant to entrepreneurs Provide lists of basic legal vocabulary and corresponding explanations
Cases of petty corruption not investigated	Collect complaints from SMEs Look for reports about requests for bribes from the same official or office Assess possibilities for collective claims Separately refer the cases to the local media if they are still not investigated and increase pressure on authorities Lobby for a switch of criteria for case selection from financial criteria to frequency of occurrence		Enhance the coverage of cases of petty corruption and its negative impact on the well-being of communities Move away from the usual focus on large corruption cases	

Improving the legal awareness and access to justice of small and medium-sized enterprises

Judicial corruption blocks companies' access to justice, hampers economic development and undermines trust in judicial institutions. SMEs, however, face not only the problem of corrupt officials in the justice system, but also of limited access to the judicial system in general.

Obstacles and challenges for small businesses

From the perspective of SMEs, the justice system in developing countries is frequently weakened by:

- Lack of access to adequate legal information
- Prohibitive costs of using the justice system and long delays
- Lack of adequate legal aid systems providing reliable and affordable legal representation (or unsuitable eligibility criteria)
- Abuse of authority and powers in the justice system

Support strategies tailored to small and medium-sized enterprises

Legal awareness

Smaller businesses are frequently regarded as an easy target for corrupt officials. Apart from lacking power and influence, SMEs often fail to comply with all the applicable rules and regulations owing to a limited awareness of them. Accurate information about any kind of legislation that affects their business operations would enable entrepreneurs to take action and reduce the likelihood that they will be asked for bribes by officials in return for "tolerating" non-compliance with regulations.

Another problem that limited legal awareness poses for SMEs is the fact that such firms often decide to satisfy requests for bribes or tolerate favouritism in their community because they simply do not know that legal avenues exist to deal with the problem. Businesses cannot take legal action to counter injustice if they do not know what their rights and entitlements are under the law. Information on remedies must be provided in a form that is comprehensible to SMEs and serves a practical purpose.

The development of the capacities of local public and private support institutions and the effective dissemination of information would help SMEs to develop a better understanding of the following:

- The laws and regulations they need to comply with in order to avoid becoming easy targets of corrupt officials
- Their right to seek redress through the justice system and the steps involved in initiating legal action

In the long run, legal education should lead to the legal empowerment of SMEs and should facilitate change within the sphere of individual entrepreneurs as well as the business environment as a whole.

Strategies to promote the legal awareness of small and medium-sized enterprises

Strategies to promote legal awareness in general require collaboration between Government and non-government actors. Both need to work together and give careful consideration as to how that can be achieved most effectively. In order to make such cooperation work, there is first and foremost a need to provide training to Government officials in legal awareness and access to information strategies, thereby enhancing the capacity of public offices to handle demands for legal education that also fits the needs of entrepreneurs. Since it is also important to involve non-lawyers in the design and delivery of legal education programmes in order to reach out to SMEs, close cooperation with community organizations, teachers, business associations and NGOs is desirable. Those non-government actors can make substantial contributions to raising public awareness regarding the rights and obligations of businesses and the legal remedies they are entitled to. Independently, they may sometimes engage in legal awareness-raising activities at the local level by establishing legal aid clinics or centres, carrying out community awareness-raising campaigns and using community media.

Improving access to legal information in India

The e-Justice initiative in India is a joint undertaking of the Centre for Good Governance, the National Institute for Smart Government and the United Nations Development Programme that aims to provide access to justice through ICT. It aims at promoting legal awareness through an electronic interface by presenting key legislation in a simple manner and by simplifying relevant judgments and certain procedural regulations and providing information on the existence of alternative remedies and making them available to the general public through information kiosks.

Special emphasis has been placed on focusing on the problems faced by marginalized sections of society. Accordingly, land-related laws, laws affecting women, labour laws and general laws affecting day-to-day life have been included.

The information available to citizens makes them aware of the law, the process for solution and the various modes of redress available, whether through the courts or alternate dispute resolution mechanisms such as Lok Adalats,^a or with the assistance of legal services authorities, the Human Rights Commission or civil society organizations.

The e-Justice portal also enables citizens to send queries to the legal experts at the Centre for Good Governance or to file an online application with the National Legal Services Authority or the revenue courts seeking their assistance in resolving a problem. Once the relevant authority considers the person eligible for its services, depending on the nature of the grievance, it proposes the options available, i.e.,

whether the dispute is entitled to be referred only to the court system or to the Lok Adalats. The relevant authority then directs the case to an advocate on its panel to represent the citizen in the appropriate forum. A mechanism will be put in place to ensure that the advocate submits a report on the proceedings of every hearing to the relevant authority, who in turn forwards the report to the web portal where it can be accessed by the citizen concerned so that he or she can find out about the status of the case.

^aLok Adalats deal with cases that may be settled by conciliation and compromise and that are pending in the regular courts within their jurisdiction. The Lok Adalat is presided over by a sitting or retired judicial officer, who is accompanied by two other members, usually a lawyer and a social worker. There is no court fee. The decision of the Lok Adalat is binding on the parties to the dispute and may be executed through the legal process. No appeals are possible against the decisions of the Lok Adalat.

Source: www.indg.gov.in/e-governance/ict-in-legal-services/e-justice.

Legal aid and counselling

While legal awareness can help small businesses to better understand corruption and potential avenues for redress, in order to fight it effectively they generally require the intervention of experts in legal matters. Legal aid and counselling can involve professional lawyers or paralegals, or both. However, the capacities at the local level (from technical expertise to representation) that business people need to be able to initiate and pursue justice are often insufficient. In addition, the costs associated with legal counselling and related processes tend to discourage those with limited financial resources from seeking just remedies.

From the viewpoint of SMEs, availability, affordability and adequacy can be regarded as the three major challenges when it comes to legal aid.¹⁶ Overcoming those obstacles requires the intervention of both Government and non-government actors. Non-government legal aid systems, for instance, can provide supplementary services through pro bono attorneys, legal clinics or public interest law groups, which are generally more accessible for SMEs and less costly.

Legal aid centres and clinics

Legal aid centres and clinics offer free legal assistance and information for people who cannot afford to access such services independently. They are frequently situated in district courts or universities.

Legal aid clinics are often staffed by law students, under the supervision of qualified lawyers. They are given the opportunity to hone their skills while providing communities with access to justice, which leads to the creation of a skill base for qualified and experienced attorneys while at the same time ensuring that people receive free access to legal advice and services. Although students cannot represent citizens on major legal issues, they offer valuable legal assistance to people who otherwise could not retain a lawyer. Such clinics also help SMEs, through information on laws and regulations, to avoid potential conflicts and prevent them becoming an easy target for corrupt officials.

¹⁶Legal aid services need to be oriented to meet the demand and legal needs of smaller businesses—that might imply a focus on legal issues related to taxes, procurement, licences, permits etc.

Small business clinic—students supporting entrepreneurs in the United States of America

The University of Utah operates a small business clinic to introduce students to the range of skills and legal expertise required to represent small businesses. Students consult with their client organizations to define clients' concerns and goals, formulate plans to address them, and provide legal advice and related services under the supervision of a pro bono consulting lawyer.

SMEs can apply for legal consultation through the local small business association or an economic development or loan programme that serves low-income, minority-owned or female-owned small businesses. Students interview and advise client organizations for free.

The legal audits carried out by the students generally focus on forms of organization, compliance with formal legal requirements, including issues relating to capacity and authority, regulatory compliance, employment law issues and special matters arising out of the specific industry or area of activity of the firm.

Source: <http://today.law.utah.edu/2008/10/small-business-clinic-provides-practical-experience-to-students-while-aiding-local-communities>.

Legal clinic at Pannasastra University, Cambodia

In collaboration with the Open Society Justice Initiative, in 2003, Pannasastra University, Cambodia, opened its first legal clinic, as part of the Faculty of Law and Public Affairs. Apart from education-related activities, the legal clinic aims at providing "back-up" legal services for marginalized people who may not have access to the legal system, thereby empowering communities and allowing students to apply their legal knowledge, critical thinking and analytical legal skills. The clinic offers two programmes: a community legal education programme and a juvenile justice programme. Since its establishment, the clinic has provided practice-oriented education to numerous students and has also created a network of alumni that continue to be involved in human rights work after graduation.

Source: <http://puclc.wordpress.com>.

Paralegals

Paralegals are persons with education, training or work experience in legal matters who usually work under the direct supervision of a lawyer. They play a vital role in providing access to legal advice in their communities. In rural magisterial districts where few attorneys are available, paralegals are the only legal service providers. Where attorneys are available, the vast majority of the local SMEs cannot afford them. The case for expanding the role of paralegals in the provision of legal services is twofold: accessibility and costs. Although paralegals are not legally qualified, they are accredited to assist community members with legal matters.

SMEs frequently require advice and assistance to avoid the need to go to court, including alternative dispute resolution mechanisms and other informal settlements. They may also require advice on whether they need legal representation and where they can find pro bono lawyers. Such advice can be given by paralegals or persons with specialized training in providing legal assistance to disadvantaged groups.

Special training courses on corruption and issues closely linked to it (e.g. business licensing, procurement, inspections, etc.) would equip paralegals with the basic legal knowledge and skills needed to enable them to give basic legal advice and provide legal representation to SMEs in remote rural areas.

Paralegals support local communities in Sierra Leone

Timap for Justice is an organization, co-founded by the Open Society Justice Initiative and the Sierra Leonean National Forum for Human Rights, that trains and deploys paralegals in the country's rural areas. In a nation with 5 million people and only 100 lawyers, the need for their services is acute.

Timap's paralegals address justice-related problems that arise between citizens and the authorities, such as corruption in Government services, as well as disputes between individuals. The paralegals use mediation, advocacy and community organizing to resolve such problems. Their efforts are complicated by Sierra Leone's dualist legal structure, which features both a formal legal system of courts and lawyers based on the English model, and a customary system based on traditional approaches to justice. Timap's paralegals apply their knowledge of formal law and their familiarity with local customs to navigate between the two legal systems.

Timap has 13 offices around the country, each with two paralegals. Two lawyers train, supervise and support the paralegals in their work. The directors employ litigation and high-level advocacy to address cases in which a paralegal is not able to achieve resolution, the harm or injustice is severe, and/or there is a possibility of legal impact.

The paralegals are sometimes graduates, former teachers, or both. They are trained in methods of dispute resolution and the law. The majority of cases are resolved through mediation, although a small percentage progress through the local court system. Paralegals also interview witnesses and individuals against whom complaints are lodged; have meetings with Government and court officials; monitor the progress of cases or investigations; convene community meetings or workshops to address recurring problems; and communicate with village chiefs to coordinate activities of local concern and maintain good relations.

Source: www.timapforjustice.org; <http://international.lawsociety.org.uk/node/3000>.

Promoting judicial integrity and efficiency

Enhancing transparency and enforcing professional and ethical standards in the justice sector reduce discrimination against disadvantaged groups, such as SMEs, and enhance their access to the court system.

A serious impediment to the success of any anti-corruption strategy is a corrupt judiciary. An ethically compromised judiciary means that legal and institutional mechanisms designed to curb corruption remain crippled. Judicial corruption influences access to and outcome of judicial decisions: decisions are unfair and unpredictable and consequently the rule of law does not prevail.

Apart from the problem of having to deal with courts that are not wholly objective, the system is often costly and technically complex and processes are lengthy. Even if SMEs are aware of their rights, know what to do when they face corrupt conduct, have access to legal aid and manage to have their case dealt with by a judge who is objective, a burdensome enforcement process could still prevent businesses from taking action.

The International Foundation for Electoral Systems carried out research on the enforcement of court judgments in Latin America.¹⁷ A comparative analysis of some of the key findings revealed that SMEs are significantly affected by the inefficiency of the judicial enforcement system and that SMEs showed a clear aversion to using courts because of delays, excessive costs, corruption and inefficiency.

The conflicting relationship between SMEs and the judicial system in Latin America is another distressing finding. Small businesses do not trust the court system, they face problems when they try to access the courts or the enforcement system and they only resort to the judicial system when it is inescapable. The lack of an effective official, State-sanctioned dispute resolution system has a negative impact on a significant amount of small businesses' activity. The findings regarding the enforcement system parallel previous research on the negative relationship between SMEs and the courts.

SMEs in particular face problems as a result of legal loopholes and procedures that create inordinate delays, numerous legal motions, frivolous appeals, excessive costs, inadequate access to information, unreliable information systems and technical rather than substantive notification requirements. One of the main conclusions drawn in "Barriers to the Enforcement of Court Judgments in Peru: Winning in Court is Only Half the Battle—Perspectives from SMEs and Other Users"¹⁸ is that such problems present almost insurmountable barriers to SMEs.

The most repeated complaint among participants in the research was that the enforcement procedure involved excessive time and delays and that it was costly. In the International Foundation for Electoral Systems survey, 48 per cent of the participants ranked delay as one of the largest obstacles to the fair and effective enforcement of

¹⁷Keith Henderson and others, "Regional best practices: enforcement of court judgments—lessons learned from Latin America", IFES Rule of Law White Paper Series (April 2004).

¹⁸Sandra Elena, Alvaro Herrero and Keith Henderson, IFES Rule of Law Occasional Paper Series (April 2004).

judgements (18 per cent ranked it as the biggest obstacle). A cursory analysis of the data reveals that the cost of the enforcement process, which with 38.5 per cent ranked among the biggest three obstacles, was significantly related to the cost of delays. Delays involve costs such as lost time, diminution of the value of assets over time and the cost of additional legal procedures borne of delays.

“Barriers to the Enforcement of Court Judgments in Peru” mentions the following:

- The time required to enforce a judgement in both theory and practice is inordinately long and therefore costly and is the key reason SMEs do not use the enforcement process.
- The formality and complexity of the enforcement process are the main cause of delays—examples include excessive legal objections and appeals, technicalities related to serving legal documents and an overreliance on written instead of oral procedures.
- The poor performance and lack of accountability of judges and other court officials are other key reasons for delays; examples include judges not following the law or exercising sanctions even when flagrant dilatory tactics are undertaken, judges being perceived as being biased in favour of larger companies, the willingness of judges to entertain numerous legal objections and appeals on purely technical grounds and court officials’ focus on technical processes and procedures such as the notification process.

Exploring the potential of collective redress mechanisms

One way of convincing more and more SMEs to take cases of corruption they encounter to court is to allow for collective claims or redress. In cases, for instance, where the mayor of a village is accumulating personal wealth through the embezzlement of public goods, the same tax inspector collects bribes from the businesses over time, or the electricity company refuses to register businesses that are not able to make additional payments, the impact goes beyond a single individual and can affect the well-being of entire communities. Therefore, SMEs may be more willing to take a case to court as a group.

In many developing countries, individual SMEs are often not willing to attempt to claim redress through the courts, because they are left to individually access the justice system, with all its potential impediments. The time and costs involved often outweigh the prospect of any benefit. As a consequence, the claim is usually abandoned. But even if claims are economically viable, bringing them all to court in one group may overload courts that already face capacity constraints and further increase their backlog of cases. The handling of similar claims in some sort of consolidated procedure could offer a viable alternative.

Collective redress tools could be introduced into the legal system to deal with certain types of corruption cases. Such tools may involve a special type of procedure, prepared with a view to join several similar claims in the same proceedings. A group

representative is usually required to present all parties in court (this function could be undertaken by business associations, community organizations or NGOs).

The potential role of banks and financial institutions

The banking sector has long been identified as a crucial player in the global fight against corruption in the context of ensuring the transparent recording of transactions, uncovering acts of money-laundering and facilitating the return of assets looted by corrupt leaders.

In the context of supporting SMEs to fight corruption in their business environment, there is another role that commercial banks and credit institutions could assume. Since a lack of resources of smaller companies, in combination with the prohibitive costs of accessing the court system, often prevents SMEs from taking action against corrupt officials and peers, the banking sector could develop a series of support measures and tools.

A private bank in London, for instance, offers loans to women who wish to divorce their husbands and cannot afford court proceedings. Such loans are designed to help thousands of women who do not qualify for legal aid or who fall outside reforms in litigation funding.¹⁹ SMEs can often fall into the category of not being eligible for legal aid systems that target the very poor but nevertheless lacking the means to access the justice system. The establishment of similar systems by financial institutions as part of their own contribution to wider development goals (corporate social responsibility) could be an innovative approach to tackling the problem.

Similar mechanisms are already available in some developed countries. They are referred to as lawsuit loans or lawsuit funding and can be taken from a reputed financial institution or a bank. The beneficiary (complainant) does not need to make monthly repayments and can enjoy the benefits of “risk-free credit”. Hence, they are not loans as such but rather cash advances. If the case is lost or if the lawsuit settlement gets finalized at an amount that is much less than the loan amount, the complainant is usually not held responsible for any recovery or payment. Although the interest rates involved may be higher than for other loans, such a loan can offer several advantages. The applicant does not require a good credit history, as it is only the case that is evaluated by the respective institutions and there is no pressure to make monthly payments.²⁰

Discrimination, medical malpractice and workplace injuries are usually the three main areas under which someone can apply for a lawsuit loan. However, the list could be extended to include corruption cases under certain preconditions and different terms. In order to involve institutions in such attempts, it requires a relatively transparent environment, in which they can be sure that cases of corruption are treated seriously and fairly by objective judges.

¹⁹Robert Verkaik, “Loans ‘will help poor wives fund divorces’”, *Independent* (London), 17 October 2001.

²⁰Mark Stuhmer, “Avail the benefits of lawsuit loans today”, 2008.

Recommendations for improving the legal awareness and access to justice of small and medium-sized enterprises

Stakeholders →	Business associations, chambers of commerce and NGOs	ICT providers	Financial institutions	Training and education institutions	Government
Challenges ↓					
Lack of access to adequate legal information	<p>Collect and disseminate legal information through channels that are accessible to SMEs, such as community radios or local information kiosks</p> <p>Cooperate with ICT providers to reach out to a wider target group</p>	<p>Inform entrepreneurs about relevant issues such as the entry into force of a new corruption-related law via ICT tools (e.g. text messages or e-mails)</p> <p>Such an initiative can only be effective if there is ongoing information exchange between the ICT provider, a business association making company data available and the Government providing the information on laws and regulations</p>		<p>Disseminate important legal information to entrepreneurs through the education system</p> <p>Make updated material with legal information available in school libraries</p>	<p>Cooperate with business support and advisory institutions, share relevant information with them for further dissemination and discuss potential means of preparing information material in a language that is understandable to the average entrepreneur</p>
Prohibitive costs of using the justice system and long delays	<p>Collect complaints from SMEs, check for similarities (e.g. if it is always the same official or institution demanding bribes) and discuss potential solutions and alternative dispute resolution mechanisms with relevant public agencies</p>		<p>Provide support to SMEs through targeted initiatives such as lawsuit loans or a temporary suspension of interest payments on loans for the time period a corruption-related claim was filed in court</p>		<p>Introduce general reforms in the justice system that take into account the financial and technical capacity constraints of SMEs</p> <p>Explore possibilities for collective redress mechanisms</p>
Lack of adequate legal aid	<p>Establish legal aid clinics or centres that specialize in servicing SMEs and providing advice on corruption-related issues</p> <p>Train paralegals in communities where the number of lawyers available is not sufficient or they are too costly to support entrepreneurs in their fight against corruption</p> <p>Install alternative dispute-resolution mechanisms for cases of small-scale business-to-business corruption</p>			<p>Encourage law faculties entering into cooperation with NGOs or other public and private institutions to engage law students and professors on a voluntary basis in the provision of legal information and advice to SMEs and support institutions</p>	<p>Assist business support institutions in the initiatives described above</p> <p>Set up affordable and accessible legal aid mechanisms for entrepreneurs</p>
Abuse of authority and powers in the justice system	<p>Cooperate with the independent press in the investigation of corruption in the justice system that affects SMEs</p> <p>Exert pressure on public institutions to enforce higher integrity standards of judicial officers and reform the system</p>				<p>Enact reforms to increase transparency and fairness in the justice system in general</p> <p>Maintain ongoing information exchange with other institutions to monitor SMEs' perceptions as regards the judiciary and establish an effective complaint mechanism</p>

PUBLIC POLICIES ON ANTI-CORRUPTION AND THE DEVELOPMENT OF SMALL AND MEDIUM-SIZED ENTERPRISES

Public policy is vital in creating the enabling environment for fair and open markets to flourish, for SMEs to thrive and for wider social goals to be met. Increasingly it is recognized that a zero-tolerance policy to corruption in the sphere of SMEs cannot be fully realized in isolation from attention to public governance.

Overview of public sector roles in preventing corruption*

Below is a list of four main areas in which the public sector can take action to prevent corruption:

- (1) *Regulation*: an important role of different levels of government is to define, implement and enforce minimum legal standards and regulations for business ethics and integrity. The regulating role also encompasses efforts to strengthen public sector institutions with responsibilities in those areas.
- (2) *Facilitation*: the Government can facilitate anti-corruption efforts by adopting policy frameworks and offering guidance to businesses; implementing “information-based” laws and regulations mandating transparency or disclosure for businesses; promoting dialogue and engagement between companies and local communities; providing tax incentives for SMEs that publicly commit to a zero-tolerance policy on corruption and implement an independent monitoring mechanism; and investing in awareness-raising, research and stakeholder dialogue.
- (3) *Demonstration*: the public sector can demonstrate commitment to the anti-corruption agenda by respecting fundamental laws and by practising transparency and accountability. In a business environment where corruption is endemic and the enforcement of legislative norms is biased, the playing field is not level. By setting an example, Governments can lead and encourage those businesses that already have an interest in further tackling the issue of corruption, while stimulating action by those that do not.
- (4) *Partnership*: where there are public fund and human resource limitations, Governments can partner with private sector actors to combine resources so that they can tackle issues on the responsible business agenda—whether as participants, conveners or catalysts—in a complementary way.

*Adapted from H. Ward, “Responsible business, small and medium sized enterprises and public policy in middle and low-income countries”, 2009.

State responsibilities relevant to small and medium-sized enterprises under the Convention against Corruption

An important step that Governments can take to promote anti-corruption efforts is to ratify and implement the Convention against Corruption.

The Convention has been recognized as a reference framework for the fight against corruption, providing new avenues and guidance for national policies and anti-corruption measures. As of 1 February 2012, there were 159 States parties to the Convention, including a large number of developing countries.

A key underlying principle of the Convention is a coordinated policy and response to preventing and criminalizing corruption. The Convention contains numerous recommendations on how Governments can develop and strengthen public policy to support coordinated anti-corruption measures.

Article 5, paragraph 1, of the Convention stipulates that “Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.”

That reflects the recognition that anti-corruption measures should be embedded in coordinated policies instead of being carried out in isolation or on an ad hoc basis. It emphasizes that preventing and combating corruption is not an end in itself, but a means to promote integrity, accountability and the proper management of public affairs. In that context, policymakers face the challenge of ensuring that national anti-corruption strategies not only create linkages between the areas of corruption prevention and law enforcement, but that they are also embedded properly in a wider framework of policies and reforms aimed at strengthening a country’s governance systems.

While that holds true for other fields of public policies as well, anti-corruption strategies are a particularly complex undertaking, as the provisions of the Convention are often pursued through a series of cross-cutting policies under the auspices of different ministries and public agencies.

Pursuant to articles 5-10 of the Convention, Governments must put certain regulatory measures in place to prevent corruption. They include: ensuring the existence of a body or bodies to prevent corruption; establishing a merit system for the public sector; promoting a code of conduct for all public officials, including asset declaration; developing a transparent, accountable public procurement system; and enhancing access to public information. By establishing and implementing a strong legal framework, Governments can set an example of zero tolerance to corruption, which can have a cascading effect on both large private sector companies and SMEs.

Public policy guidelines for the private sector

Governments provide the national regulatory frameworks and jurisdiction in which private sector companies operate. They therefore have the responsibility of ensuring that

legislation is formulated in a comprehensive manner to provide a foundation for operations within a country. Without clear laws that outline the responsibilities of private sector companies, uncertainty about which activities are corrupt may arise. Loose definitions and interpretations of corruption may flourish where corruption forms part of day-to-day life.

States should consider the important role the private sector can play in developing and implementing a comprehensive anti-corruption strategy. Governments have a responsibility under the Convention against Corruption to create a regulatory framework for the private sector that punishes wrongdoers and provides incentives for those willing to step forward and report cases of corruption. While such principles should broadly encompass the private sector, special consideration must be made as to how SMEs, with their limited human and financial resources, can be encouraged to comply with legal requirements.

Pursuant to article 12 of the Convention, Governments should take measures to prevent corruption involving the private sector and provide civil, administrative or criminal penalties for non-compliance with such measures. The structure and size of private enterprise must be taken into account when ensuring sufficient internal auditing controls are in place. Owing to their size and nature, SMEs may not have the means to implement complex financial control systems, but, at a minimum, State-defined limits should be specified and met.

Some basic requirements for private sector entities are the maintenance of books and records, financial statements, accounting and auditing standards to prevent off-the-books accounts, off-the-books transactions, recording of non-existent expenditure, entries of liabilities with incorrect identification, use of false documents and intentional destruction of bookkeeping documents. Furthermore, pursuant to articles 21 and 22 of the Convention, States should consider making bribery and embezzlement of property in the private sector criminal offences.

Those requirements mean that Governments have an obligation to make financial rules and regulations affecting the private sector accessible to all private sector companies, including rural SMEs. Special considerations should be made with regard to SMEs that have limited access to the Internet and limited technical and human resource expertise, so guidelines and legal requirements should be distributed in a clear and accessible manner suitable for all types of private sector enterprises. If guidelines are overly complicated, SMEs may not have the capacity to implement them, thereby making them vulnerable to corruption and general non-compliance.

Legal incentives for reporting corruption

Despite the availability in many countries of hotlines and complaints mechanisms, staff of SMEs and larger enterprises do not always report acts of corruption, as there are often insufficient incentives for doing so. SMEs, in particular, may not be aware of the avenues available for filing complaints. In addition, they might not feel that their complaint will lead to action or they may even fear reprisals or dismissal should their company become aware that they had reported incidences of corruption.

Pursuant to article 39 of the Convention against Corruption, States parties should encourage the public to report acts of corruption to the national investigating and prosecuting authorities. To further encourage reporting, States parties should put systems in place to protect witnesses, experts and victims in corruption cases. Some of the measures envisaged under the Convention are: procedures for physical protection, evidentiary rules such as allowing video testimony, and possible relocation arrangements with other States. Consideration should also be given to enacting legislation that protects persons reporting corruption. By effectively implementing witness protection programmes, Governments can demonstrate by example that those who come forward and report acts of corruption will be protected by the law.

A major challenge in any country is how to encourage private companies and individuals to come forward and report corruption, when they themselves may be implicated in the criminal offence. Laws should encourage people who have participated in a corruption-related offence to supply information and factual help to authorities. Pursuant to article 37, paragraph 2, of the Convention, States parties should consider mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of a corruption-related offence. Through cooperating offender programmes, individuals may see that if information leads to successful prosecution, the authorities will grant immunity or other relief to the reporting person.

Private sector involvement in public policy

SMEs, and the private sector in general, have a unique perspective on corruption and, as such, can provide a valuable contribution to policy creation and review processes. While many corruption-related offences involve both Government and the private sector, the two entities often have differing priorities and have different organizational and operational structures. It can be difficult to find common ground for beginning discussions on a comprehensive set of actions to prevent corruption. Governments may also be sensitive to criticism of their performance and accusations of corruption within their ranks. Each may prefer to see the other as the source of the problem rather than openly admitting that both sides contribute to the problem and that joint information-sharing and action are the most effective ways of ensuring a comprehensive anti-corruption strategy.

While progress has been made in encouraging private sector involvement in anti-corruption initiatives at the international level through the work of the United Nations Global Compact, it is most often large multinational corporations that participate in and contribute to the global anti-corruption agenda. By bringing together diverse representatives of the business community with Governments at the national level, more comprehensive strategies can be developed and implemented that provide guidelines for business principles and good governance.

In most developing countries, the vast majority of private companies are SMEs; however, it is only in recent years that some Governments have started to recognize the positive benefits of involving SMEs in anti-corruption policy review and planning processes.

Public and private cooperation in Nigeria

The UNODC project “Promoting ethics and transparency in business transactions in Nigeria” was implemented in 2008, with the aim of involving the private sector in the fight against corruption in Nigeria. The project aimed at promoting transparency and ethical business practice in the Nigerian private sector through the conduct of risk assessment studies, the development of sound business principles and related training.

Corruption risk assessments were performed at the Nigeria Customs Service to identify and quantify levels of risk for corruption at the organization, process, individual and interaction levels of business.

Diverse stakeholders also developed business ethics principles through:

- A baseline survey involving hundreds of businesses and business associations through surveys and focus groups to identify the shared values across the private sector. The survey formed the basis for the formulation of the principles.
- Endorsement of the principles by the Nigerian Economic Summit, an annual event for public and private sector leaders.
- Dissemination of the principles at a variety of events targeting the constituencies of various business associations and partners, including the Nigeria Labour Congress, the Lagos Chamber of Commerce and Industry, the Nepad Business Group and the Global Compact local network Nigeria.
- Integration of the principles into a training programme on combating money-laundering for financial service providers and into the know-your-customer regulations.

The project demonstrated the importance of private sector collaboration in efforts to combat corruption.

The role of small and medium-sized enterprises in the national anti-corruption strategy of Malawi

One of the objectives of the national anti-corruption strategy of Malawi refers to strengthening corruption prevention and promoting integrity in the private sector. In that context, the involvement of SMEs is particularly important. As part of the strategy, the Anti-Corruption Bureau, in collaboration with various Government and private sector stakeholders endeavour to develop anti-corruption mechanisms to prevent corruption among SMEs and promote business ethics in order to sustain economic growth and reduce poverty in Malawi.

The programme foresees, among others, the following activities:

- Review and formulation of Government policies and strategies in relation to SMEs
- Strengthening of the complaints-reporting mechanism
- Capacity-building and implementation of business ethics with SMEs
- Public education

Strengthening national and local government responses to corruption

While major policy frameworks are normally developed at the national level, it is also important to consider other levels of government that can contribute to drafting and implementing laws and to providing guidelines for private sector companies on codes of conduct. In some countries, anti-corruption bodies operate at the national and state level, with each state having divergent regulations. Such lack of harmonization can create confusion for companies as to which laws apply in which cases and as to the specific jurisdiction applicable. The situation can be further complicated by local politics and government policies that are not fully aligned at the municipal, state and national levels.

Clarity on rules and regulations must be provided in order for SMEs to protect themselves from corrupt acts and to understand exactly which acts are considered corruption and which laws apply to their operations. SMEs often have close contact and work directly with local government officials with regard to activities prone to corruption, such as licensing, customs, taxation and procurement. Governments have a responsibility to ensure that knowledge of anti-corruption policies filters down to local government and that the information is subsequently made available to SMEs.

To effectively fight corruption in the sphere of SMEs, it is crucial that they are properly addressed in national anti-corruption policies; private sector development strategies incorporate corruption-related issues affecting the business community; and the issue of SME development in relation to corruption prevention forms part of wider poverty-reduction strategies as well as corresponding development assistance packages.

While many elements of anti-corruption strategies are conceived and planned at the national level, their effectiveness depends on them being implemented at the local level. National tools and institutions should be adapted for local use to facilitate vertical and horizontal integration of local efforts and to encourage public participation. In developing countries, decentralization increases citizen participation in local decision-making with advantages and disadvantages for the control of corruption. Local leaders can increase their efforts and capacity to execute local reforms. Obtaining local participation and “ownership” of programmes is vital to public education and mobilization, as is ongoing evaluation and monitoring. While help from their Government and from the Governments of other countries, including donor countries, will undoubtedly be necessary in bringing anti-corruption values and activities to local communities, such influences should not be allowed to dominate local proceedings.

Local government anti-corruption strategy in South Africa

In 2007, the Department of Provincial and Local Government of South Africa launched a local government anti-corruption strategy to prevent, detect and investigate corruption at the municipal level. The initiative forms part of the anti-corruption campaign of the Government of South Africa, which focuses on local

government. The strategy was first launched at the national level and later in the provinces; all provinces are expected to launch the strategy in their respective municipalities. The main purpose of the launches at the provincial level was to raise awareness about the strategy and to encourage communities to participate in the Government's corruption-prevention initiatives. Furthermore, the process was deemed helpful for the creation of a culture of transparency whereby communities can demand accountability and transparency from councillors and other public officials. The strategy should be understood in the context of broadening public participation in governance at the municipal level to build up a culture of good governance.

What is important in that context is that the commitment to prevent corruption is further reflected in the five-year local government strategic agenda. It focuses on improving municipal governance, performance and accountability as one of the three strategic priorities. The key pillar of the strategy is strengthening community participation at all levels, including exposing and reporting corruption. Government representatives hope that it will create a culture of transparency where communities are able to demand accountability and good governance, and where public officials engage the communities in their anti-corruption initiatives.

The Department of Provincial and Local Government developed an implementation framework for the strategy, which has been endorsed by provinces as a national plan of action in line with the five-year strategic agenda. The framework will guide the local sphere of government on how to put systems, procedures and policies in place to promote good governance and accountability at the local level. The implementation framework also caters for the development of the communication strategy as a priority area. With a growing number of municipal communicators being appointed, the communication strategy will assist local leaders in managing negative perceptions that often result in unstable municipalities.

Source: www.nwpg.gov.za.

Recommendations: public policy on anti-corruption and development of small and medium-sized enterprises

Stakeholders →		National Governments	Local government and community leaders
Obstacles for small and medium-sized enterprises ↓			
Regulation	<p>Become a State party to the United Nations Convention against Corruption and other applicable anti-corruption instruments</p> <p>Review existing legislation, rules and regulations for compliance with the Convention against Corruption</p> <p>Promote legislative reform for greater compliance</p> <p>Take into special consideration the unique business environment in the country and the roles of different levels of government and the private sector, including large businesses and SMEs</p> <p>Adopt information-based laws and regulations mandating transparency or disclosure for businesses</p> <p>Share information with different levels of government by setting up multilevel coordination meetings</p>	<p>Compare and align the action plans in place</p> <p>Develop a municipal strategy</p> <p>Harmonize existing local laws with national and state laws, where possible and where they represent good practice</p> <p>Enhance public officials' knowledge of legal requirements</p>	
Facilitation	<p>Recognize that legislation alone does not ensure effective anti-corruption policies</p> <p>Complement legal frameworks with practical rules and regulations that explain how laws can be interpreted and applied on a daily basis</p> <p>Identify measures to ensure that corruption-prevention activities targeting businesses are mainstreamed in all relevant public offices (including reporting requirements)</p> <p>Ensure that monitoring implementation forms an integral part of anti-corruption programmes</p> <p>Integrate anti-corruption components into SME and business development schemes in order to streamline policies</p> <p>Encourage the inclusion of SME development issues in relation to corruption prevention in poverty-reduction strategies</p> <p>Promote the integration of tools at the national level in local government settings</p> <p>Promote dialogue and engagement between companies and local communities</p> <p>Provide tax incentives for SMEs that publicly commit to a zero-tolerance policy on corruption and join an independent monitoring mechanism</p> <p>Invest in awareness-raising, research and stakeholder dialogue</p>	<p>Encourage public participation in anti-corruption discussions at the local level</p> <p>Assess local administrative structures</p> <p>Assess good governance factors</p> <p>Assess quality and quantity of interaction between citizens and the Government</p> <p>Assess service delivery</p> <p>Formulate workplans and strategies for addressing the challenges in the local context</p>	

<p>Demonstration</p>	<p>Demonstrate commitment to anti-corruption through action and showing respect for fundamental laws Practise transparency and accountability Investigate and punish corrupt officials Show commitment to working and maintaining a dialogue with the private sector Set up legal incentives that encourage reporting of corruption-related incidents</p>	<p>Identify local leaders with the political will and capacity to execute reforms Demonstrate commitment to anti-corruption through action and showing respect for fundamental laws Practise transparency and accountability Investigate and punish corrupt officials Show commitment to working and maintaining a dialogue with the private sector Set up legal incentives that encourage reporting of corruption-related incidents</p>
<p>Partnership</p>	<p>Involve private sector companies that show an interest in anti-corruption efforts Consult business associations and other non-governmental institutions during the process of drafting governmental action plans to fight corruption to ensure that the needs of SMEs are adequately addressed Motivate a wide range of actors, including SMEs, to participate in programmes Explore combining funding sources for joint programmes and stakeholder meetings</p>	<p>Obtain local participation and ownership of local programmes Involve private sector companies that show an interest in anti-corruption efforts Consult business associations and other non-governmental institutions during the process of drafting governmental action plans to fight corruption to ensure that the needs of SMEs are adequately addressed Motivate a wide range of actors, including SMEs, to participate in programmes Explore combining funding sources for joint programmes and stakeholder meetings</p>

PAVING THE WAY FOR BUSINESS PARTNERSHIPS

Collective action by companies is also critical as part of a sustainable response to corruption. First, real progress in eliminating corruption can only be achieved by a change in practice within the business community and other sectors (as well as by Governments). Second, there are aspects of corruption that are specific to the business sector and are best addressed by the companies in the relevant sectors acting collectively. Third, the manifestation of corruption in different communities often needs companies from different sectors to join together to improve practices. Fourth, individual companies may find themselves at a competitive disadvantage when they refuse to conform to corrupt local practices.²¹

The involvement of other institutions and organizations in the public and private sectors is of particular importance to the success of anti-corruption efforts by SMEs because SMEs typically are faced with a variety of human, financial and managerial resource constraints. In addition, in an environment of pervasive corruption, individual SMEs that decide not to engage in acts of corruption would encounter severe difficulties, in particular by being put at a disadvantage in relation to corrupt competitors. For those reasons, SMEs are usually very reluctant to take such a step alone. Therefore, a comprehensive multi-stakeholder approach is required, involving various institutions and bodies that offer their support in the course of the implementation of anti-corruption measures and complement the efforts of SMEs wherever the necessity arises.

The role of business associations

Business associations that bring together SMEs from a certain geographical region or business sector can do a lot to increase the efficiency of anti-corruption initiatives launched by individual enterprises.²² One of the most important ways that such associations can support SMEs is by acting as a focal point for and a channel and coordinator of collective action. They can also serve as platforms that reach mutual agreements, make commitments to ethical standards—including collective agreements to establish and honour a code of conduct—and carry out other joint actions to prevent corrupt practices. Those forms of collective initiatives are especially attractive for SMEs because

²¹Business Action for Africa, “Africa All Party Parliamentary Group: report on corruption and money laundering”, 2006.

²²In some cases, companies in a certain business sector are natural allies; in other cases, because of geographical distribution, it would be difficult to organize an association for a specific sector, and an association for businesses within a certain city or region makes more sense.

individual businesses do not have to be concerned about the negative repercussions that usually occur when only some companies oppose corrupt conduct, while the majority of businesses continue to engage in it. Furthermore, it should also be noted that in some parts of the world, competition law might mean that using business associations is the only way that companies can take collective action legally.

As already described in previous sections, business associations can also assist SMEs by collecting information on reported acts of corruption and establishing a complaints board for different industry sectors. In response to clear cases of non-compliance, the board can either take action itself or, if it does not have a mandate to impose sanctions, can notify an appropriate body that does.

In addition to organizing and facilitating collective action, business associations in some countries have launched forms of corporate citizenship awards for different categories of companies in recognition of ethical business conduct and compliance with anti-corruption standards. Such contests are voluntary and, if linked to certain incentives—for example, easier access to financing — can attract many applicants.

Ideally, there should be two levels of action involving business associations: defending their members and lobbying for their interests; and acting as a confederation that can take action at a high level and have a stronger political impact than companies acting alone. In many cases, such associations also build networks and make connections with the Government, which can help to resolve certain cases and situations. The association might not be always able to approach ministries or accuse individual public officials of being corrupt, but they may be able to ask for assistance in obtaining certain permits or in clearing shipments through customs.

In some cases, where appropriate, some of the above tasks might be carried out by trade unions instead of business associations. It may well be that in certain countries, and on certain issues, unions have more influence and power, and can have greater impact. Chambers of commerce can also assist SMEs in their fight against corruption through the activities mentioned above. They can, for instance, educate entrepreneurs and help them to recognize the longer-term costs of corruption compared with the short-term gains derived from, for example, bribing an inspector in order to avoid certain taxes. In many SMEs, human resource constraints mean that managers may not be in a position to consider the implications of corrupt practices. However, it should be borne in mind that chambers of commerce, in particular, are usually involved to some extent in national politics, and therefore might not be the most suitable bodies to implement some of the anti-corruption measures identified above.

Business associations in the Russian Federation support entrepreneurs to fight corruption

In the Russian Federation, the Perm coalition, which is part of regional business coalitions for reform, has successfully brought individuals and business organizations together in the fight against arbitrary administrative barriers. Members of the

coalition worked to support an entrepreneur whose rights were violated when city officials with no authority in licensing fined the entrepreneur for business licence infractions. The local court agreed that the fine was unjust, setting a precedent for future cases. The coalition has supported entrepreneurs in 10 such cases, winning 3 cases and settling 6 out of court. Currently, the coalition is consolidating documents that members can use when similar cases arise. Although Russian law is not precedent-based, by creating and highlighting case precedents, the coalition has set effective norms for business people, bureaucrats and the local legal community.

Source: "Strengthening local democracy in Russia: the case for business associations", Reform Case Study, No. 505 (Washington, D.C., Center for International Private Enterprise, April 2008). Available from <http://info.worldbank.org/etools/antic/detail.asp?ID=22>.

Business association in Mozambique provides anti-corruption toolkit for members

The Commercial and Industrial Association (ACIS) of Mozambique is a non-profit association founded in 2000 with the aim of contributing to the promotion and development of commerce and industry through the strengthening and sustainability of local businesses, as well as contributing to the development of an economy based on private sector participation.

ACIS places a strong focus on transparency and ethical business conduct. In that context, it developed an anti-corruption toolkit to support companies doing business in Mozambique. Based on a survey of member companies, ACIS identified corruption as one of the biggest issues affecting the development of companies and, as a consequence, the development of the country's economy. In partnership with the Center for International Private Enterprise, ACIS developed the toolkit, which includes details of discussions with the private sector, the anti-corruption law and strategy of the Government and a series of tools to support firms in their fight against corruption. In addition, the association encourages its members to sign up to a code of business principles.

The toolkit also covers SMEs. It acknowledges that corruption is worse for smaller companies and that the private sector should consider developing a strategy to improve business ethics and support SMEs. In the toolkit it is also recognized that there is a need to improve market conditions and the business environment to give companies, particularly SMEs, a chance to develop and that anti-corruption initiatives in companies could be promoted by a whistle-blower protection scheme. It is acknowledged that multinationals could put such schemes in place more easily and it is suggested that small companies may respond to the issue by grouping together and forming an association, which may act as the recipient of information on corrupt practices and provide protection for whistle-blowers.

Source: Associação Comercial e Industrial de Sofala, Combating Business Participation in Corruption in Mozambique: Toolkit (ACIS, 2006).

Regional associations of owners of small and medium-sized enterprises fight corruption in Indonesia

In Indonesia, networks of SME business associations were established to strengthen their bargaining power with the Government. The associations have been used by entrepreneurs to participate in the policymaking process on typical SME policy issues and also on broader issues, such as security and infrastructure. Such associations are now established in about 70 municipalities, with more than 10,000 members from all over Indonesia. One of their objectives is to strengthen the business community in the field of fraud prevention and to create a pressure group to take a stand against corruption.

The associations were established to allow SME owners to communicate their concerns and to advocate for a better policy environment for their businesses. Members meet regularly to discuss pertinent issues and upcoming activities, attend workshops or meet policymakers to advocate for better regulations and governance. All associations convene at a national conference every two years.

In Makassar, for instance, the association, together with media outlets and NGOs, tackled corrupt and anti-competitive practices in the local port that had reduced the opportunities for Makassar SMEs to access markets in East Kalimantan. Together, the parties managed to trigger a commitment from the Government and port authorities to initiate a reform programme that would allow for the equal treatment of all products going through the port.

Source: Asia Foundation, "Business policy reform in Indonesia", January 2002.

Measures to consider

Business associations, trade unions and chambers of commerce can make a significant contribution by:

- Organizing and facilitating collective action and providing opportunities for networking and information exchange
- Helping SMEs to reach collective agreements such as anti-corruption standards, ethical business principles and codes of conduct
- Setting up help desks and complaint boards for members
- Forming confederations of business associations to have a stronger influence (lobbying for change) at higher levels of authority

The role of non-governmental organizations

NGOs can also assist SMEs in combating corruption by conducting research, publishing information, educating businesses, raising awareness and taking on some of the tasks suggested for business associations above. The usefulness of NGOs in that respect

usually depends on the strength and outreach of the respective NGO and the level of trust that it commands in the business world.

In terms of awareness-raising, for example, various surveys and interviews have shown that some SMEs would highly value the establishment of a neutral NGO that publishes proved corruption practices anonymously in the mass media. For example, 38 per cent of SMEs surveyed in Bulgaria stated their willingness to inform a neutral anti-corruption organization about the size of bribes paid, as well as the name of the person who asked for the bribes, provided that their anonymity was guaranteed.²³ In a similar survey of small Croatian enterprises, 69 per cent of the respondents stated that they would be prepared to admit paying bribes and reveal the details, if their anonymity was guaranteed.²⁴

Non-governmental organizations fighting corruption in Bulgaria

Coalition 2000 is an initiative of a number of Bulgarian NGOs that aims at combating corruption through a process of cooperation among governmental institutions, NGOs and individuals by drafting an anti-corruption action plan for Bulgaria and implementing an awareness-raising campaign and a monitoring system. The process of establishing the Coalition began in 1997 as a result of an initiative of the Center for the Study of Democracy and a number of other Bulgarian NGOs, with the support of the United States Agency for International Development (USAID). It was officially launched on 7 April 1998.

In particular, the Coalition aims at promoting public awareness of corruption and related issues, establishing mechanisms that support anti-corruption efforts, contributing to the development of democratic institutions and taking on the role of a watchdog to monitor the reform process. Following the development and wide national endorsement of a comprehensive anti-corruption action plan, Coalition 2000 now leads an annual process of assessment of the political, institutional and legal developments in the country with regard to corruption. Coalition 2000 has also been the main proponent of the creation of an ombudsman institution in Bulgaria. It drafted the legislation that established the institution and is now helping to build the capacity of the national and local ombudsman offices.

The Coalition has a corruption monitoring system, which consists of a set of quantitative and qualitative monitoring instruments and generates information about the dynamics of corrupt undertakings, the scope of corruption-related attitudes and assessments, and the expectations of the general public, public sector officials and specific social and professional groups. Anti-corruption work undertaken by NGOs is supported by Coalition 2000 through a small grants programme.

Source: Center for International Private Enterprise, "Reform toolkit", January 2011.

²³Vitosha Research Agency, *Corruption in Small and Medium-Sized Enterprises* (2002).

²⁴Kosanovic and Bussard, *The Problem of Corruption in Small and Medium Enterprises in Croatia*.

Measures to consider

NGOs can make a significant contribution by:

- Conducting research, collecting and disseminating data and carrying out regular assessments of the scope and dynamics of corruption affecting SMEs
- Providing education and training on anti-corruption measures to entrepreneurs
- Carrying out awareness-raising campaigns
- Disclosing the corrupt practices of public officials and other companies
- Organizing contests and awards for ethical business practices
- Publishing information on good and bad practices
- Providing legal assistance
- Setting up whistle-blower hotlines

Business-to-business assistance

In terms of improving business processes and ethics, encouraging entrepreneurship and promoting sustainable business growth, there are numerous examples of successful partnerships between SMEs and multinational companies, in particular those forming part of the United Nations Global Compact network. In the context of assisting SMEs to combat corruption, those partnerships can be enhanced in a variety of ways. For example, anti-corruption toolkits may include provisions on the assessment and monitoring of the extent to which partners in business (agents, suppliers, etc.) adhere to ethical standards. Bearing in mind that the business case is one of the most important elements of any anti-corruption strategy for SMEs, compliance standards can work well with smaller companies if their supply chain partners—in many cases their main customers—demand adherence to the standards as a condition for doing business with them.²⁵

In addition to requiring certain forms of ethical conduct, larger companies can also assist SMEs in their individual corruption-related problems by utilizing their greater bargaining power and making themselves heard by the Government. Large multinationals that have invested heavily in a certain geographical region are good partners in that respect.

Another option to consider is the convening of regular round tables to exchange experiences and discuss problems as well as action plans and strategies with other businesses.

An interesting form of business-to-business assistance is the clustering of various stakeholders that are committed to fighting corruption, for example, a bank, a newspaper agency, a big IT company and a group of SMEs. The idea is for every stakeholder to offer a certain incentive to the smaller businesses if they could demonstrate an active commitment to reducing corruption. The incentives could be special credit lines at

²⁵It should be taken into consideration that the vast majority of SMEs only operate locally and do not have access to foreign markets. While exporting companies are encouraged to implement responsible business practices that adhere to international standards and the requirements of the businesses they work with out of a need to stay competitive, that may not apply to locally oriented firms.

lower rates, facilitated access to technology and training or promotion through the media. Telecommunications companies could assume a crucial role in that context by helping to facilitate awareness-raising efforts by business associations and NGOs. For example, text messages could be sent to entrepreneurs indicating the number of a reporting hotline or advising of important changes to laws and regulations. Such an initiative has the advantage of reaching companies that are located in remote areas and those that may not have access to the Internet.

Access to finance is one of the most severe problems that SMEs face, particularly in the developing world. If financial institutions linked anti-corruption compliance to certain financing incentives it would create an incentive for SMEs to avoid engaging in corrupt practices. Possible initiatives could include: offering better loan conditions for companies that apply certain ethical standards; providing special credit facilities for SMEs that have launched legal proceedings in corruption cases in order to help minimize resulting losses or damage to the businesses owing to delays in the legal process; and freezing repayment obligations while legal proceeding, involving corruption cases that significantly damages the business are in progress.

Programme for integrity and transparency in small and medium-sized enterprises in Colombia

Transparencia por Colombia, the Transparency International chapter in Colombia, has developed a programme for integrity and transparency in SMEs called “Rumbo Pymes Integras y Transparentes”. The programme is a management tool aimed at improving the practices of the private sector in preventing corruption and at creating trust and ethical business behaviour throughout value chains. The core strategy for promoting the programme has been forming alliances with larger companies that have already taken a lead in implementing corporate social responsibility in their business practices. Through the leadership of these organizations, ethical business behaviour has become a strategic selection criterion during negotiations by SMEs with their value chain, creating trust and increasing the sustainability and competitiveness of all companies involved. Currently, 10 companies have formed alliances with about 200 SMEs that have joined the programme on a voluntary basis, strengthening the companies and benefiting more than 17,000 employees.

The programme provides participating SMEs with a set of survey questions, software that computes survey findings and several training modules. First, the person in charge of the initiative in the SME distributes the survey to employees. The survey measures five aspects of organizational culture: ethics of leadership; communication about ethics; rewards and sanctions; employees’ understanding of ethical values; and frequency of observed misconduct. Based on the survey findings, SME leaders identify areas for training. If, for example, the organization performs poorly with respect to the ethics of leadership, they can take the training module on ethical leadership.

The programme is now being launched in El Salvador, Guatemala, Honduras, Nicaragua, Panama and Paraguay.

Source: Transparency International, Transparencia por Colombia, Results of Companies Implementing the Rumbo Pymes Program (Bogota, 2009).

Business action against corruption in Africa

Business Action Against Corruption, the flagship governance programme of Business Action for Africa, was launched in Johannesburg, South Africa, on 10 October 2005, with the support of the Southern African Forum Against Corruption. Implementation of the programme is led by the Commonwealth Business Council and the Human Rights Trust of Southern Africa and involves joint working groups comprising representatives of businesses and anti-corruption commissions.

The programme was founded on the view that change requires the African private sector and its international partners to find practical ways to collaborate with Governments to tackle corruption. Priority areas include disclosure of interests (codes of conduct), the issuing of licences and permits, procurement, customs, political party financing and improving corporate governance within the private sector itself.

Source: www.baacafrika.org.

Measures to consider

Business initiatives can make a significant contribution through:

- Developing a system for promoting business ethics and anti-corruption standards across supply chains, involving the introduction of a system of incentives and sanctions
- Engaging supply chain partners in the conclusion of anti-corruption agreements
- Seeking alliances with multinational companies in order to make use of their influence and bargaining power to support SMEs in their fight against corruption
- Convening regular round tables with supply chain partners with the objective of exchanging experiences, discussing problems and assessing possibilities for joint action
- Launching anti-corruption initiatives within selected industries and firm clusters
- Forming specific stakeholder alliances (e.g. with banks, ICT providers and large companies) to encourage a certain group or sector of smaller firms to fight corruption through special incentives
- Involving ICT service providers (telecommunications and IT companies) and gaining their support for specific anti-corruption initiatives (specifically in the areas of training and awareness-raising)
- Exploring possibilities of engaging financial institutions in helping SMEs fight against corruption (e.g. by facilitating access to credit to reward good business practice or to enable entrepreneurs to take legal action)
- Strengthening business coalitions by articulating particular requirements for SMEs
- Initiating negotiations to adapt existing codes of conduct to the needs of smaller businesses

INTERNAL PREVENTION AND CONTROL MECHANISMS FOR SMALL AND MEDIUM-SIZED ENTERPRISES

The present chapter contains a description of measures generally adopted by businesses, independently of other actors, to prevent and sanction corrupt conduct and an assessment of their potential for application in SMEs. While those tools can be useful for certain businesses, it is clear that the majority of SMEs in developing countries would not be able to survive in a corrupt environment by simply proclaiming a zero-tolerance policy. The tools presented below can be applied by SMEs that are able to refrain from corruption without facing competitive disadvantages or being driven out of business and should be applied in parallel to anti-corruption efforts by the Government and intermediary institutions.

Codes of conduct

A code of conduct (or ethical business principles and standards) prohibiting all forms of corruption is often implemented by companies around the world to demonstrate their commitment to fighting corrupt conduct. However, there is evidence that smaller businesses either do not feel comfortable introducing such codes or do not expect any gains or advantages from doing so.²⁶ In particular, SMEs express concern that such codes are unlikely to help them to cope better with a corrupt business environment because they put them at a disadvantage compared with a competitor that is not adhering to the code. Therefore, practitioners will have to keep in mind that codes of conduct will probably not be an appropriate tool for individual SMEs in many developing countries. However, if adopted throughout an entire business section and addressed to a larger group of SMEs, such codes could be a valuable tool to promote integrity in industries that are dominated by smaller firms.

A code of conduct is an important management tool for establishing and articulating a company's values, responsibilities, obligations and ethical ambitions and the way it functions. It also serves as a reference in support of day-to-day decision-making, as it clarifies the corporate mission and principles, linking them with standards of professional conduct.

²⁶Only 10 per cent of the SMEs surveyed in Mexico, for instance, have implemented a code of conduct that explicitly forbids bribery. Of those, only 20 per cent have initiated internal proceedings against corrupt conduct or sanctioned an employee for such behaviour (Arturo del Castillo and Eduardo R. Ampudia, "Diagnóstico sobre el impacto del fraude y corrupción en las PyMES", paper prepared for CEI Consulting and Research, 2005).

One of the arguments in favour of such codes, or ethical standards, is the business advantage that arises out of trust. Generally speaking, confidence is a very important element in business, because companies gain contracts and clients when other market players trust them. For that reason, a proper code of conduct can be an excellent business tool in some situations, and has the potential to improve a company's profitability. In addition, codes of conduct offer an invaluable opportunity for SMEs to create a positive public identity, which can, in the long run, lead to a more supportive political and regulatory environment.

A properly written code of conduct sets out the behavioural standards expected of employees and helps them to solve ethical dilemmas they encounter in everyday work. It is supposed to be a "living document" that shapes the culture of a firm, not just a paper pinned on a wall of the manager's office. Such a code should improve the way employees deal with ethical dilemmas, prejudices and grey areas they face at work. However, codes of conduct are only meant to complement (or be based on) relevant legislation, rules and standards, not to be a substitute for them.

A code of conduct can only be effective and useful in practice if it is disseminated, implemented, monitored and embedded at all levels so that behaviour is influenced.

A code of conduct should:

- State a company's core values and principles that should guide decisions
- Specify methods for addressing specific issues that are in line with corporate values
- Describe how employees can seek guidance in ethically unclear or demanding situations
- Detail how to report breaches of the code
- Provide a set of incentives and sanctions that ensure compliance

The manner in which the code is written, organized and presented will have an important impact on the degree to which employees understand and refer to it. One common mistake made by SMEs is to start by looking at the complex codes developed by some of the larger multinational companies. Such codes generally do not provide any useful guidance for SMEs because of the different nature of the company and the situations in which its employees may find themselves.

Since an organization generally intends its code to be read by employees at different levels of responsibility and in a wide range of functional areas, it should be written in uncomplicated, plain and direct language that may not be typical in other business documentation, in order to make it understandable to employees with lower levels of education. For employees that are illiterate, arrangements should be made for the code to be read aloud on a regular basis and graphics or drawings should be inserted for easier understanding. Business Unity South Africa—a confederation of South African chambers of commerce and industry, professional and corporate associations and uni-sectoral employers' organizations—has published "Corruption: an anti-corruption

guide for South African SMEs".²⁷ The guide is written in a simple and easily understandable manner and contains pictures and graphics to depict various scenarios involving corruption, as well as possible solutions.

How to draft a code of conduct

- Be clear about the objectives that the code is intended to accomplish.
- Seek support and input for the code from employees at all levels of the company.
- Reflect relevant laws and regulations. Write in a simple and clear manner, avoiding legal jargon and passive voice.
- Make reference to real-life situations (particularly next to definitions of what is forbidden).
- Include practical examples.
- Include resources for further information and guidance.
- Make it user-friendly, otherwise it will not be used.

Identification of core values

Core values form the foundation of a code of conduct. They reflect what the workforce believes to be right, good and fair, and may have been informally recognized for a long time within the company.

By equipping employees with corporate values, they can make decisions based on those principles and will be able to take action even when specific guidance is not available. That is crucial, as it is almost impossible to make reference to each and every problematic situation that might occur in the workplace in the code itself or accompanying guidance documents.

Elements of a code of conduct

Apart from listing types of unethical conduct that are forbidden, the following issues are generally included in a code of conduct:

- Corruption in general and the forms it can take
- Conflict of interest (gifts and hospitality, political activities of staff, outside employment, family members and friends, and disclosure of financial interests)
- Record-keeping (maintaining records and information, confidentiality, transparency and access to information, disclosure and accuracy of books and records)
- Relationships with partners in business (procurement, contract negotiation)

²⁷August 2009. Available from www.busa.org.za/docs/BUSA_SME_Anti-corruption_guide.pdf.

- Hiring practices, in particular in relation to favouritism and nepotism
- Employment practices (harassment, fair treatment and equal opportunities, discrimination, health and safety in the workplace, illegal drugs, alcohol and smoking, use of company property, etc.)
- Reporting misconduct
- Guidance on ethical dilemmas
- Sanctions and incentives

Case studies and practical examples

There is evidence that employees often have difficulties understanding the different forms of corruption typically outlined in codes of conduct (e.g. trading in influence or embezzlement) and how they could be translated to the workplace. Describing real-life or hypothetical situations provides clarification with regard to the exact meaning of the provisions of the code.

Grey areas

A code of conduct usually implies that employees need to justify any deviations from its principles. However, in some situations, it might not be clear where the line should be drawn between, for instance, a bribe and a gift. Since the code cannot separately list the right actions to be taken in every specific situation in the workplace, employees have to decide on an appropriate course of action. Therefore, it is advisable to provide general guidance on how to deal with different situations and to make reference to the core values.

The following questions may assist employees in taking the right decision:

- What does the law say? Are there any rules or standards that refer to such a situation?
- What do the company's standards and strategies say? What action would be in line with the company's policies and values?
- How would the most important stakeholders of the company (business partners, customers, suppliers, etc.) react if they read about the action in a newspaper? Would it withstand public scrutiny?
- What would be the impact on colleagues, the department and the company as a whole?

Enforcement mechanism

One core element of a code of conduct is an enforcement mechanism. Such a mechanism ideally encompasses the following elements:

- Guidance in case of ethical dilemmas: a focal point (integrity officer) can be appointed within the company to provide assistance to employees.

- **Sanctions and incentives:** to ensure compliance with the code, reference to it should be made in all employment contracts. Through clear links to disciplinary procedures and example cases, employees will become aware of the consequences of breaching the principles of the code. Another option is the introduction of incentive schemes for outstanding performances or participation in policy development and enforcement processes.
- **Reporting acts of misconduct:** a code of conduct needs to outline how and to whom acts of corruption or any observed breaches of the principles should be reported. A company should ideally offer two possibilities—anonymous reporting and direct feedback to the appointed integrity officer.

Making the code a “living document”

It is often observed that, after having written a code of conduct, managers print copies, post them on factory walls or bulletin boards and regard the process as complete. However, such a code will only be effective and provide guidance for making ethical business decisions that balance conflicting interests if it becomes a “living document” that is encouraged and valued at the highest levels.

The code should be endorsed by the management or owner of the company. That is particularly important in SMEs whose business environment has a high degree of informality and reliance on interpersonal relations. Leaders who refuse to tolerate misconduct and who follow high standards of integrity, transparency and trustworthiness can best demonstrate commitment to ethical behaviour, which increases the probability that other workers will follow suit.

A company’s ethics policy or code of conduct has to be distributed among employees, suppliers, business partners and other interested stakeholders. In addition, corporate strategies may change over time. A regular review mechanism ensures that a company’s ethics policy is adapted to allow it to fit to new situations and contexts. It is important that employees, as well as management, regularly reconfirm that they understand and apply the provisions of the code and that they raise issues related to areas not being properly addressed. It is also important that training is provided at all levels of the company on the different areas covered by the code.

Strict enforcement is crucial for an anti-corruption policy to become effective. If a case of misconduct is discovered, sanctions have to be applied as foreseen in the code. The failure of management to do so will have a demoralizing effect on all employees and all the efforts and time invested in the development of an anti-corruption policy or code will be undermined.

How to make codes of conduct effective in the sphere of small and medium-sized enterprises

Instead of focusing on individual companies, it may be more effective to promote a code of conduct for SMEs within a business association or an industry sector. Such an

approach ensures that firms do not face competitive disadvantages when they no longer engage in corruption. Furthermore, by having a whole sector complying with certain standards, the impact on the business environment will be much greater.

Code of conduct development facilitated through a business association in Morocco

The General Business Confederation of Morocco (CGEM) is the largest private sector business association in Morocco. It has about 2,000 members, about 70 per cent of which are SMEs. The CGEM Board founded the CGEM Foundation in 1998, which is dedicated to promoting the adaptation and proliferation of values of good governance and ethics in all levels of Moroccan society, including business, academia, media, NGOs and Government. It supports the advocacy work of CGEM by organizing seminars and conferences about economic and social issues affecting the private sector; developing and implementing studies and surveys on economic issues; providing business training seminars to upgrade the skills of the private sector in Morocco; and building strategic alliances on behalf of CGEM with other civil society actors. The Foundation works as a think tank for entrepreneurship issues; provides economic sectoral studies and upgrades the skills of chief executive officers and board members in Morocco.

CGEM has also promoted a code of conduct within the business sector that covers three chapters: relationships with customers, relationships with personnel and relationships with the community.

It took time to convince the business community to sign up to the code of conduct, but when it started to produce results, more and more SMEs joined. Even though some companies that signed the agreement do not comply with the standards, it had a positive effect overall by changing the behaviour of some important strategic companies in the sector, which in turn improved the overall business environment.

Source: Morocco, Commission nationale gouvernance d'entreprise, Code Marocain de Bonnes Pratiques de Gouvernance d'Enterprise (2008); Organisation for Economic Co-operation and Development, OECD Investment Policy Reviews: Morocco 2010 (Paris, OECD Publishing, 2010).

Internal reporting structures

Internal systems need to be in place to assure employee compliance with established standards, codes or policies. They should include staff training, evaluations of compliance, appropriate resources for the ethics officer and employees and protection for people who report misconduct or actions that they perceive as contrary to the principles of the code.

For that purpose, larger corporations generally establish help lines so that employees can seek guidance when they are faced with an ethical dilemma or encounter unethical conduct. For smaller companies, that might not be an option because relations between employees are more informal and, because of the relatively small number of employees

working in an SME, anonymity cannot be guaranteed. The introduction of an open-door policy or the establishment of anonymous complaint boxes are possible alternatives.

Reporting hotlines

Anonymous hotlines are telephone numbers dedicated to the reporting of relevant matters. Most commonly, the person receiving the calls will be part of the company, such as a manager, although some people may not feel comfortable reporting to someone within their own firm. It is possible, for example, that the person nominated to receive calls will be the perpetrator of the wrongdoing, creating additional difficulties. To overcome such concerns, some hotlines may be externally maintained, although that may not be allowed in some jurisdictions under whistle-blower protection legislation. Where it is permitted, employees can call the hotline and somebody neutral (e.g. from a business association) will take the call. Information can be provided anonymously if desired. Relevant information will then be passed on to the company for investigation. Externally maintained hotlines are particularly useful in encouraging reporting because they can make people feel comfortable in speaking out against those they know and work with. Often, potential whistle-blowers may feel frightened of that person, or of their possible reaction to their claims. Alternatively, they may not believe that the contact person will properly pursue their allegations. In addition, internal reporting mechanisms will rarely provide for the possibility of truly anonymous reporting, even in larger agencies, as there is always a risk that an individual's voice will be recognized. Many individuals may feel more willing to be open and honest if their anonymity is protected.

Consequences of improper conduct

When violations do occur, it is crucial to identify why, in order to reduce the possibility that similar violations will be repeated.

There is clear evidence that it is neither effective nor ethical to simply dismiss a person suspected of dishonesty from their employment without taking further action. However, such practice continues to be prevalent. On the other hand, failure to take official action causes a number of problems as those who have acted illegally may believe that because they have not suffered any adverse consequences from their conduct, they are free to act illegally again in the future. Failure to take action may also result in any general deterrent effects on the rest of the staff being diluted or avoided if the illegal behaviour of one of their number fails to result in official action. That may lead to a more generalized downgrading of the ethical standards within the organization owing to the management being seen to be unwilling to take action.

Once a case of corruption involving an employee is discovered, the challenge is contacting the other party involved, which is in many cases a public official. Particularly in cases where a bribe is being demanded as a condition for providing a service that is crucial for the survival of a small company, reporting the case to the manager is not enough to solve the problem. The chain of reporting needs to be expanded to reach relevant Government offices. Unless proper external reporting mechanisms exist, SMEs may in many cases not be in a position to fight corruption without jeopardizing their competitiveness.

Training of employees

Training for SME owners and employees is often cited as an important tool for effective corruption prevention. Employee education and training is an ongoing process. The first stage of raising awareness among employees can be coupled with training workshops. The second stage is to turn awareness of the issues into action by implementing good practice and changing behaviour.

Staff involvement in awareness-raising will help people understand the importance of the challenge of overcoming corrupt practices. Representatives from different divisions can also help disseminate good practice through their own teams and by involving staff in the review process and reporting procedures.

Holding a one- or two-day workshop can be an ideal way of helping people understand what corruption entails. It can also help overcome cultural boundaries and set limitations on what the company is willing to tolerate.

An ideal training course should involve interactive elements such as role plays to demonstrate dilemmas and alternative action to help people reach effective decisions that correspond to good business practice. The use of case studies also helps people to identify and recognize situations in which they may be compromised.

How to find suitable trainers

Finding qualified trainers for corruption-related training courses for SMEs may be difficult in developing countries. The following organizations often have qualified experts that can be hired for a training course:

- National anti-corruption bodies, agencies or bureaux: such institutions are created by the Government to eradicate corruption in a country. Most of them have programmes in place for the private sector and provide training to companies. The services they offer are relatively cheap or even free of charge. They are also excellent sources of information on national laws and regulations and can explain how best to react when faced with public officials' demands for bribes.
- Business associations or chambers of commerce: such institutions usually provide different types of training services for member firms and some may include corruption-related issues in their training portfolio.
- International organizations and NGOs, such as United Nations Global Compact local networks, Transparency International national chapters and the International Business Leaders Forum: such organizations can provide a regular forum for business leaders and senior executives to exchange best practice on improving corporate governance and reducing corruption. They may also organize meetings and round tables, collate practical tools in local languages and set up collective action projects and programmes for young leaders.

The drawback for smaller companies is that they often lack the financial resources to develop appropriate training materials and often face time constraints that prevent the

conduct of regular training in an effective manner. One way to overcome the problem would be to provide training to SME managers or owners, leaving them to instruct the other employees.

Particular attention should be given to the training of the appointed “ethics officer”. Since he or she will be the first point of reference for employees seeking guidance, the officer needs to have a good understanding of the issue. Since more intensive regular training sessions can constitute a high cost for the SME, the officer could attend conferences or expert meetings to gain more insight into relevant issues.

There is usually a certain element of shame when talking about corruption, and discussion of the issue among staff members can become conflictive and accusatory. For those reasons, a third party or neutral person is often used to provide training to entrepreneurs and lead discussions on corruption prevention. Large companies often use a member of their human resources department or a compliance officer for that task. However, small companies usually do not have human resource personnel or a compliance officer, and in that case they should invite somebody from outside the company—a member of civil society, a member of a business association or their lawyer—to provide the training.

Another possibility, which is common practice in the United States, is for SMEs to form small groups to share their knowledge and receive training and then to pass on their expertise to other SMEs. Experience has shown that in many cases SMEs appreciate the concept of learning from other small companies because they understand the issues involved and the training is perceived to be more practical.

Business-to-business training in Kenya

The Kenya Management Assistance Programme was established in 1986 to assist SMEs through the human resources of large- and medium-scale businesses based in Kenya, in the form of technical and managerial training and advice. It was launched by a locally based entrepreneur who believed that successful businesses should help small and fledgling enterprises to develop and grow.

The Programme seeks to transfer expertise from established enterprises in the form of: (a) growth-focused assistance to existing SMEs; and (b) start-up assistance to potential entrepreneurs. Its approach to SME service provision through the innovative use of the experience and technical capacity of large-scale businesses is distinctive. Businesses become members of the Programme by paying membership subscriptions and releasing executives (on a voluntary basis) to the Programme to provide its advice and training services. The Programme therefore not only seeks to assist SMEs (its clients) but also provides a vehicle for larger businesses (its members) to contribute to SME and national development.

Advice (one-to-one technical assistance)

Registration as a client of the Programme entitles SMEs to five advice sessions. They take place at mutually acceptable times, usually weekends, when both

the client and adviser can meet without disrupting their work. For further advice sessions, the SMEs are required to re-register and pay an additional fee, although in practice that is not strictly adhered to. Assistance focuses on business planning, proposal preparation, business development and business diagnosis and rehabilitation. When it was noted that member companies found it increasingly difficult to allow executives to provide advice services, the Programme also started to draw on the services of private consultants, advisers and technical specialists.

Training

Training offered by the Programme includes short training workshops, some tailor-made products and intensive training courses that are made up of class-based workshops, practical sessions and complementary advice sessions. Those are longer courses (typically between five and seven days), delivered over a number of weeks and designed to cater to the needs of SMEs as they develop and grow over time. They comprise four main training areas: business start-up, business growth, female entrepreneurship and export.

A number of the services provided by the Programme rely on direct collaboration with other organizations, most notably its credit facilitation services, including Barclays and the Co-operative Bank. The Programme maintains links with a wide range of other organizations on a formal and informal basis including universities, NGOs and companies in the commercial sector.

Source: Jim Tanburn, *How Sustainable Can Business Development Services Really Be?*, report prepared for the Committee of Donor Agencies for Small Enterprise Development, 1998.

CONCLUSION

Owing to restricted bargaining power, limited access to information on legislation, legal recourse and sometimes less-developed levels of financial and human resource capacity to implement anti-corruption measures, SMEs do not always have the bargaining power and tools at their disposal to understand the regulatory framework in which they operate. In some developing countries, legislation is not fully compliant with the recommendations put forward as good practices in the Convention against Corruption; sporadic enforcement of laws also leads to a climate where corruption cannot be fully addressed. The situation is compounded by the belief held by many SMEs that there are no effective avenues for redress when confronted with corrupt Government officials.

While the present publication does not provide all the answers for SMEs, it aims to be one of the few internationally developed resources available for those working with and in SMEs that provides descriptions and tools that can be used by diverse actors to level the playing field for SMEs facing corruption-related challenges. Knowledge-management tools are needed in developing countries in order to collect information on legal frameworks, policies and Government practice, as well as on types of cases and recourses available and the different types of corruption. Despite their small size, SMEs should have the right to access information and to have a clear concept of what corruption is, what the law states and what they can do to stop it.

Important tools at the disposal of SMEs are public complaints and reporting systems, which are available in most countries. If SMEs are made aware of the services and of confidentiality or protection measures that can be applied to avoid the negative consequences of reporting corruption, more businesses might report incidence of corruption. Business associations should examine joint reporting and filtering systems that allow SMEs to anonymously report complaints in groups with less fear of reprisals.

Aside from knowledge management and general outreach to SMEs, anti-corruption actors should make sure that strategies and programmes provide SMEs with increased access to legal information, cost-effective legal aid and collective redress mechanisms. Financial institutions can play a role in supporting anti-corruption cases through small loans and legal offices can provide free or cost-efficient services.

The role of Government is crucial in developing and implementing public policy that creates an enabling environment for SMEs to develop with limited exposure to corrupt business practices. By signing or ratifying the Convention against Corruption,

Governments are required to establish basic guidelines or minimum standards for private sector accounting and reporting systems. States are also encouraged to provide legal incentives for SMEs and other businesses to report corruption without fear of reprisal. The establishment of witness protection and whistle-blower programmes can assist in encouraging increased reporting of corruption.

The business community has its own unique experiences and understanding of corruption and the realities of the business climate they operate in. Businesses can form associations, chambers of commerce or unions in order to collectively voice their complaints about corruption in the private and public sectors. By agreeing to not engage in corrupt acts, such as through integrity pacts or collective action, SMEs can increase the strength of their voices.

SMEs themselves can make changes to their internal procedures and policies that can show their commitment to reducing corruption within their business. While complex codes of conduct and integrity manuals might not be appropriate for small companies, actions along those lines can still be taken to identify the values and behaviours they want to represent their company.

The present publication should encourage practitioners in this field not to consider the private sector as a homogenous mass, but to develop distinct and tailored programmes for SMEs, as a one-size-fits-all approach has proved not to have any effect on that particular group.



UNODC

United Nations Office on Drugs and Crime

Vienna International Centre, P.O. Box 500, 1400 Vienna, Austria
Telephone: (+43-1) 26060-0, Fax: (+43-1) 26060-5866
E-mail: unodc@unodc.org, Internet: <http://www.unodc.org>



UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION

Vienna International Centre, P.O. Box 300, 1400 Vienna, Austria
Telephone: (+43-1) 26026-0, Fax: (+43-1) 26926-69
E-mail: unido@unido.org, Internet: <http://www.unido.org>