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MACN Collective Action Brief

Indonesia



MACN
Maritime Anti-Corruption Network



BSR

About This Brief

This brief provides a summary of the first phase of the Collective Action project launched by the Maritime Anti-Corruption Network (MACN) in Indonesia in mid-2015. The project has been implemented with support from the local NGO Kemitraan and the UK Foreign and Commonwealth Office (UKFCO). The project was co-financed by UKFCO and MACN.

The brief also provides an overview of how MACN, through its collective action approach, works towards its vision of a maritime industry free of corruption that enables fair trade to the benefit of society at large. The project was undertaken in the context of the MACN collective action program.

This brief is written by BSR with input and direction from the MACN Steering Committee. Please direct all comments to macn@bsr.org.

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About the Maritime Anti-Corruption Network

MACN is a global business network working toward its vision of a maritime industry free of corruption that enables fair trade to the benefit of society at large. Established in 2011 and formalized in 2012, MACN is composed of vessel-owning companies within the main sectors of the maritime industry and other companies in the industry, including cargo owners and service providers. BSR (Business for Social Responsibility) is the secretariat and lead facilitator of MACN.

MACN and its members promote good corporate practice in the maritime industry for tackling bribes, facilitation payments, and other forms of corruption by adopting the MACN Anti-Corruption Principles, communicating progress on implementation, sharing best practices, and creating awareness of industry challenges. MACN also collaborates with key stakeholders, including governments, authorities, and international organizations, to identify and mitigate the root causes of corruption in the maritime industry and to develop sustainable solutions.

About Kemitraan

Kemitraan – the Partnership for Governance Reform in Indonesia is a multi-stakeholder organization working with government agencies and civil society organizations to advance reform at both national and local levels. The Partnership builds crucial links between all levels of government and civil society to promote good governance in Indonesia. The mission of Kemitraan is to disseminate, advance, and institutionalize the principles of good and clean governance among government, civil society, and business, while considering human rights, gender balance, the marginalized, and environmental sustainability.

About BSR

BSR is a global nonprofit organization that works with its network of more than 250 member companies to build a just and sustainable world. From its offices in Asia, Europe, and North America, BSR develops sustainable business strategies and solutions through consulting, research, and cross-sector collaboration. Our mission is to work with business to create a just and sustainable world. We envision a world in which everyone can lead a prosperous and dignified life within the boundaries of the Earth's natural resources.

Acknowledgements

The implementing parties would like to express appreciation to all individuals and organizations who made this project possible. We are particularly grateful for the keen commitment and support provided by DG Customs & Excise, Pelindo II—particularly JICT and TPK Koja—through and beyond the execution of this project. We would like to thank the endorsement and support provided by the Corruption Eradication Commission (KPK) during the project inception, and all companies who actively engaged in the discussion and provided input throughout the project.

Our sincere appreciation to the British Chamber of Commerce in Jakarta, which assisted us with outreach and awareness raising about the project.

We would finally like to express our gratitude to the UK Foreign and Commonwealth Office and the British Embassy in Jakarta for their financial and technical support.



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Introduction

It is widely agreed that the private sector has a critical role to play in eliminating corruption. While companies recognize that there is a pressing need for them to take a firm stance against corruption and to actively fight it, it is becoming increasingly clear that only by working collectively will the private sector be able to bring about the systemic changes in the external operating environment that are required to eliminate corruption. This is particularly true in the global maritime industry, where corruption occurs as a result of the interplay of a multitude of public and private sector stakeholders.

Corruption in the maritime sector not only generates additional operational costs for the maritime industry and endangers the safety and well-being of the crew, it also reduces access to global markets and thus constitutes a barrier to trade and development. Moreover, corruption in the port sector can facilitate tax evasion and thereby have a detrimental impact on national revenue collection.

Around 90 percent of products in the global trade system are transported by sea and pass through ports, where the developing world meets the developed world. Recent research demonstrates how corruption in the transport and port sector is driving up trade costs. This is particularly evident in developing countries, where trade costs are the highest and where the cost of corruption in the port and transport sector constitutes a non-tariff trade barrier, impeding economic and social development. Resolving corruption challenges in the port and maritime sector is therefore essential in promoting development.

The Strategy of the Maritime Anti-Corruption Network

As a global business initiative, MACN believes that sustainable, transformational change requires multi-stakeholder collaboration, that collaboration must provide win-win solutions to motivate and incentivize all stakeholders to contribute, and that business itself must adopt strong anti-corruption management practices.

As a consequence, since its inception in 2011, MACN has pursued a comprehensive, multifaceted strategy addressing both the supply and demand side of bribery and corruption.

- » Supply side: MACN focuses on strengthening members' internal anti-corruption management practices and programs through building capacity, sharing best practices, creating tools and training programs, policies, standards, and reporting on performance.
- » Demand side: MACN focuses on contributing to improvements in the external operating environment, recognizing that in the absence of changes in the operating environment, internal improvements are unlikely to yield the desired benefits. MACN works to raise awareness, report on corruption incidents and trends, and engage in and catalyze collective action by business, government, international organizations, and civil society to drive tangible improvements in the operating environment and promote a culture of integrity.

COLLECTIVE ACTION IN PRACTICE

This brief demonstrates how MACN seeks to influence the external operating environment by catalyzing collective action from a number of stakeholders—in this case, in one of Indonesia's busiest ports in Tanjung Priok, Jakarta. As such, the report showcases only one aspect of the MACN strategy for influencing the external operating environment. To learn about the full MACN approach, please visit the MACN website at: <http://www.maritime-acn.org/>.

The essence of the MACN collective action approach is that successful, lasting changes in the operating environment will take effect only if they are enabled and supported by, and beneficial to, key stakeholders. As such, key stakeholders must be involved in both assessing the challenges and devising the solutions. The approach also stresses the importance of transparency throughout the process of engaging in collaborative efforts. Stakeholder inclusiveness, local ownership, and transparency are thus fundamental to the collective action approach by MACN.

MACN plays a key role in the collective action projects, providing industry expertise in identifying the often highly specific drivers of corruption in a certain port or country, e.g., irregular cargo inspection or vessel clearance processes. Importantly, as a collective of significant businesses in the maritime industry, the network wields considerable commercial influence and can play a major role in shaping an industry free of corruption and bribery.

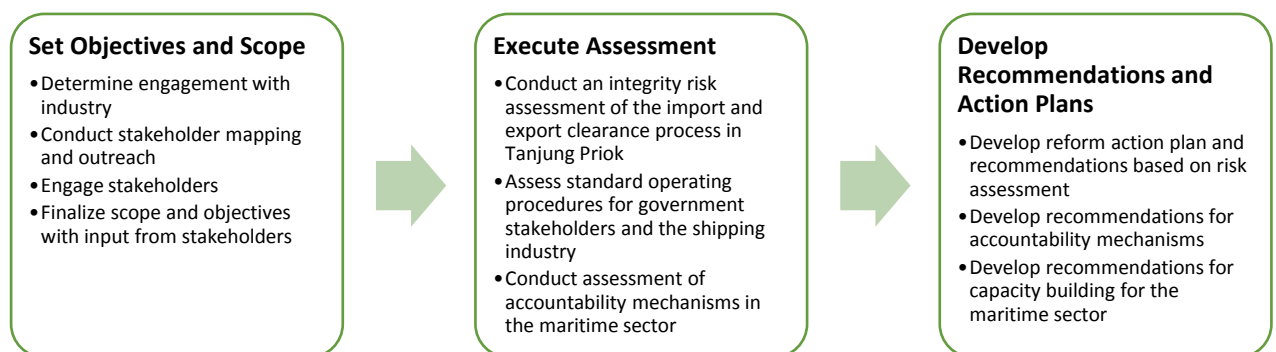
Building Integrity in the Indonesian Maritime Sector

In 2015, the Maritime Anti-Corruption Network launched a collective action project in Indonesia with support from the UK Foreign and Commonwealth Office and in partnership with the NGO Kemitraan. Indonesia had been identified as a corruption hotspot among MACN member companies calling port in the country. The risk of corruption in Indonesian ports was considered high, and a key challenge faced by the maritime industry was ambiguous laws and regulations. Illicit facilitation payments are common in Indonesian ports, including requests in form of in-kind demands such as cigarettes, beverages, hospitality, and entertainment. Maritime companies refusing to pay or accommodate in-kind requests are often penalized through delays or by being fined for alleged noncompliance. Challenges like these motivated MACN to collectively take action to promote integrity and legal transparency in the Indonesian maritime sector

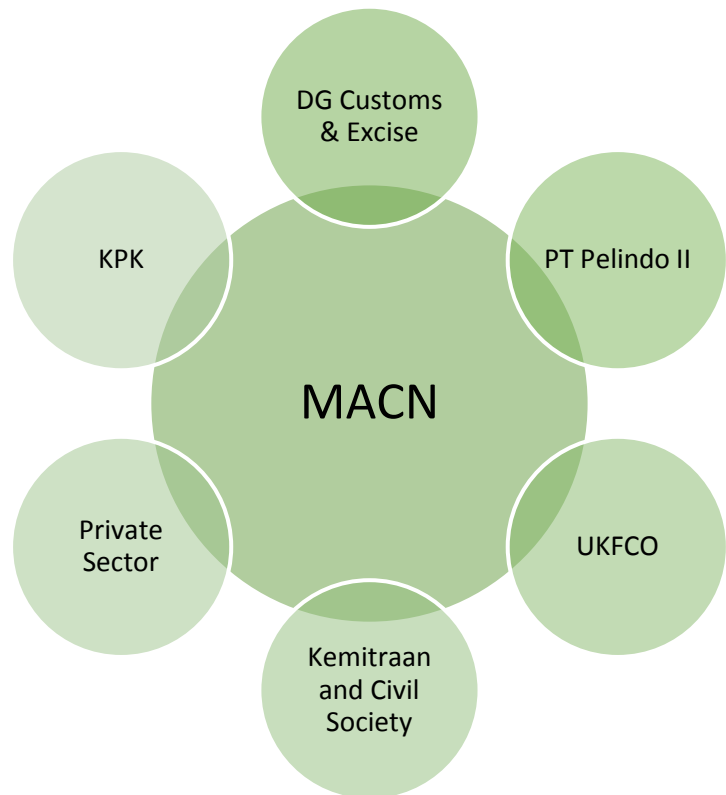
MACN also launched the project as a response to Indonesia's ambition to invest and build a more competitive maritime sector, and to take actions to tackle corruption. President Joko Widodo has set out to improve the performance of the maritime sector both by improving the regulatory environment and by making investments in infrastructure, as part of the president's maritime-axis doctrine launched in 2014. The collective action project aligns well with the president's ambitions, a fact that has helped it to receive buy-in and support from local governmental stakeholders. Moreover, as evidenced by both the UK Bribery Act (2010) and the more recent UK Anti-Corruption Plan (2014), the combating of corruption through private sector engagement is high on the British government's agenda and was a clear rationale for the UKFCO's decision to support the project.

After engaging locally with key public and private stakeholders in Indonesia and with MACN members, MACN defined the objective and scope of activities for the collective action. The overall objective of the collective action was to increase the transparency of port operations, remove trade barriers such as facilitation payments, and increase the ease of doing business for British, international, and local businesses operating in Indonesia. The immediate objective of the project was to increase transparency in regulations and to address integrity risks in the import and export clearance process for goods in Tanjung Priok Port in Jakarta—one of Indonesia's busiest ports.

Guided by the corruption risk mapping methodology developed by the World Customs Organization, the project unfolded in the following three phases:

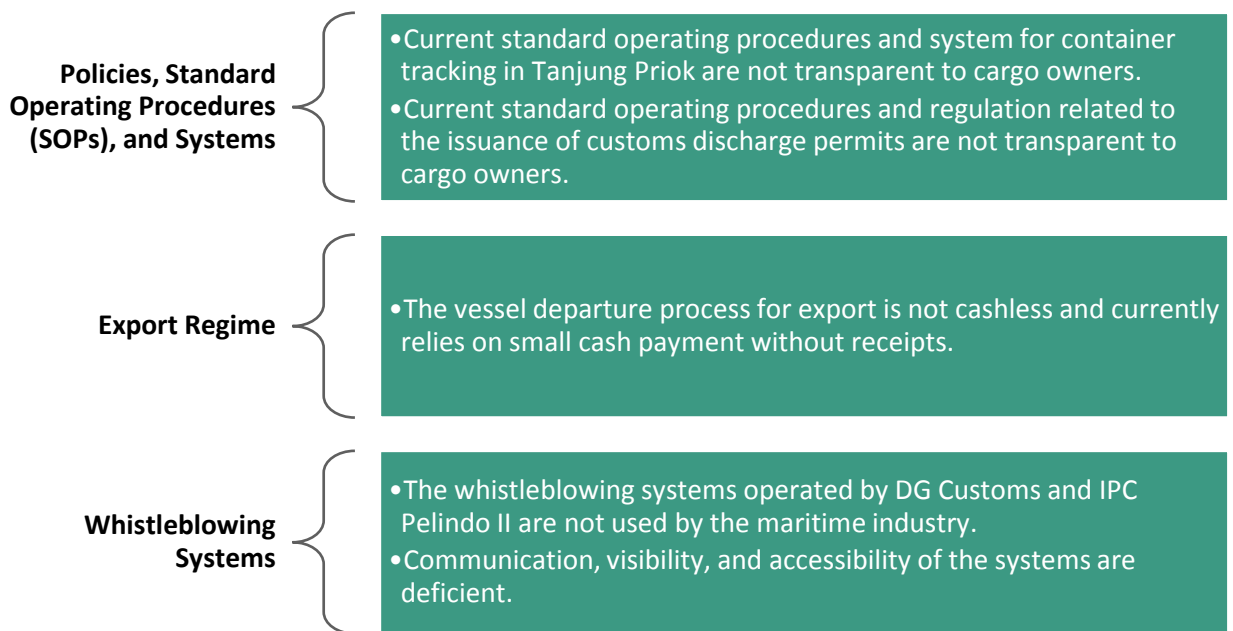


During the inception phase of the project, MACN conducted a stakeholder mapping of relevant port and maritime sector stakeholders. Since the project scope focused on the import and export clearance process in Tanjung Priok, we specifically mapped out stakeholders involved in this process. Based on the mapping we reached out and engaged stakeholders in the project we saw as critical to its success. This included cargo owners, freight forwarders, vessel operators, and port operators, who had firsthand experience in the import and export of goods through Tanjung Priok. Part of the exercise involved identifying motivating factors and integrity champions among the stakeholders. The key stakeholders that have been involved in the project are the Maritime Anti-Corruption Network and other private sector stakeholders across the maritime supply chain; DG Customs & Excise; PT Pelindo II; and the Corruption Eradication Commission (KPK).



Findings and Actions

The assessment resulted in the following findings, highlighting key transparency risks in the import and export clearance process:



Based on the risk assessment, the stakeholders were first asked to identify solutions, and then to identify solution owners among the stakeholders. The discussion resulted in a number of action plans per risk, including next steps, solution owners, and timelines for implementation. The table below provides a summary of the key actions the stakeholders agreed to take forward:

Key Actions

High-Level Actions	Action Owner	Timeframe
Establish an improved container tracking IT system that is transparent for cargo owners	PT Pelindo II	Short term
Establish a stakeholder forum, where government agencies and the maritime industry convene to discuss integrity challenges	All stakeholders	Short term
Raise awareness about SOPs and regulations related to goods transfer and import procedures	DG Customs	Short term
Integrate whistleblowing reporting into existing business processes and SOPs	All stakeholders	Long term
Support the establishment of a cashless system for export licenses	DG Customs and MACN	Long term

Impacts to Date

MACN also assessed the initial impact of the project on the private sector by conducting an impact survey among participating companies. From the result of the survey, we see that the project is having the following implications and benefits to the private sector:

Impact Area	Impact
Transparency of Regulation	<ul style="list-style-type: none"> » Improved the transparency of the business process and standard operating procedures for importing and exporting good through Tanjung Priok » Improved awareness and access to standard operating procedures and regulation for importing and exporting good
Good Governance	<ul style="list-style-type: none"> » Improved the accountability and responsiveness of key government stakeholders towards the private sector
Public-Private Sector Dialogue	<ul style="list-style-type: none"> » Promoted a culture of integrity and knowledge sharing between government stakeholders and the private sector, through multi-stakeholder dialogue and awareness-raising
Private Sector Leadership	<ul style="list-style-type: none"> » Promoted private sector leadership on combating corruption in the port sector

Private sector stakeholders report that the project has improved the transparency of regulation and SOPs for importing and exporting goods through Tanjung Priok. Participating companies also highlight the accountability and responsiveness of key government stakeholders toward the private sector as one of the main benefits of the project. Several companies see the involvement in and commitment to the project of DG Customs as very valuable. Stakeholders also note that the project has improved the dialogue between the private and public sector on integrity issues, as evidenced by the quotations below:

“

H&M has a zero tolerance for all kinds of corruption, bribery, and facilitation payments. Our values, business principles, transparency, and Code of Ethics are important tools in the H&M Anti-Corruption program. We see that the involvement and commitment from the Customs & Port Authority to identify and address integrity risks and jointly develop plans to improve the integrity practices will benefit our garment suppliers in delivering our business.

— Shipping Manager, H&M Indonesia

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As a result of this project our company has been able to establish a dialogue with DG Customs & Excise about the integrity challenges our business is facing. This has in a direct way helped us to understand the import and export clearance process, including the escalation procedure such as DG Customs whistleblowing systems.

— Compliance Specialist, Extractives Industry

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“

Directorate General of Customs and Excise has a strong commitment to promote the values of integrity, professionalism, synergy, good services, and excellencies. In sincere intentions, Directorate General of Customs and Excise together with the business sector and society build integrity in public sector to bring a strong foundation of services to look after the welfare and protection of the society.

— Subdirektorat Pencegahan, Direktorat Kepatuhan Internal, Direktorat Jenderal Bea dan

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MACN Response

The current project reflects a long-term commitment by MACN and its members in the maritime industry to improving the business climate and reducing the number of requests for facilitation payments in the Indonesian maritime sector. MACN has from the outset foreseen a multi-year engagement in the country because, in our assessment, Indonesia will become an even more important maritime nation and trading partner in the coming years. MACN has secured buy-in from all stakeholders to continue the engagements beyond the end of the project. Moreover, over time MACN intends to deepen and broaden the project by involving additional stakeholders to further elevate impact and scale.

In parallel, MACN will continue to work on improving members' internal anti-corruption management programs and practices, including by seeking to align operational procedures to support more consistent practices when calling port in Indonesia. This more consistent, aligned, and collaborative approach will enhance the value that MACN brings to the fight against corruption.

Call for Action and Collaboration

If you are interested in learning more about how you could support the implementation of the recommended actions, or in getting involved in MACN's collective action program, please contact us at macn@bsr.org

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