



EXECUTIVE SUMMARY

ANTI-CORRUPTION IN DOING BUSINESS: AN ASSESSMENT FROM ENTERPRISE PERSPECTIVE

BACKGROUND

Corruption in Vietnam has been a widespread phenomenon, threatening the sustainable development of the economy and causing serious consequences to all aspects of social lives. Corruption suppresses and drains the spirit of business integrity and innovative entrepreneurship, hinders fair competition and degrades the market economy. Particularly, corruption unleashes torrential illegal cash flows outside the economy, under the guise of tax evasion, bribery and money laundering... In the past few years, Vietnam Government has

spent considerable efforts in improving business climate via a variety of measures such as institutional reforming and simplifying administrative procedures aiming at creating a healthier and corruption-free business environment... However, the results at the implementation level of all these efforts have not been highly effective as they are limited to the areas of business registration and investment procedures. Corruption Perceptions Index (CPI) 2016, scoring and ranking 176 countries based on perceptions of experts and

business people, illustrated that Vietnam (**ranking 113/176** in the global index, with a score of 33/100) remains in the group of countries where corruption is considered serious.¹ In addition, according to the Global Corruption Barometer (GCB) 2016, assessing views and experiences of corruption from Vietnamese citizens, 38% respondents believed business executives are one amongst three groups that are highly corrupt (the other two being tax officials and police, with 48% and 57%).²

Enterprises play a double role as both victims and causes of corruption. 66% of the enterprises surveyed for VCCI's 2015 Provincial Competitiveness Index responded that they have paid unofficial charges; 46% of foreign invested enterprises rated corruption as one of the three most major risks to enterprises; and 59% of the FDI enterprises have paid unofficial charges in customs procedures.³ At the same time, 62% of enterprises give money and almost all the enterprises give “kickbacks” to partners at varying degrees.⁴ The Government has positively recognized the important role of enterprises in anti-corruption and encouraged them to apply internal control as well as work with business community and competent State agencies to promote the effectiveness of anti-corruption works. Recent studies in the world and in Vietnam have highlighted some advantages of anti-corruption activities in business such as increasing revenues, attracting customers, reducing operational cost and capital, and reducing risks. In reality, however, a large number of

enterprises, small and medium-sized enterprises (SME) included, are still skeptical. What they lack is not only a solid “cost and benefit” analysis of anti-corruption measures for enterprises operating in Vietnam but also some practical instructions to apply effectively the viable policies.

Although there have been a large number of studies focusing on the situation of corruption in business sector in Vietnam, the issue of how to combat corruption in business sector and what measures have been taken within enterprises in Vietnam are rarely mentioned.

This study is part of the project entitled “Promoting the application of international standards on business integrity to enhance international integration and improve business environment in Vietnam”, conducted by the Centre for Social Governance Research (CENSOGOR) in collaboration with Vietnam Institute for Economic and Policy Research (VEPR), with the support of the Prosperity Fund of the United Kingdom managed by the British Embassy in Hanoi.

OBJECTIVE & METHODOLOGIES

Objective

The report aims at studying corporate experience in applying and implementing anti-corruption policies and procedures (also referred to in this document by Corporate Integrity Program) at non-state enterprises registered and currently operating in Vietnam, including FDI enterprises and private

¹ Corruption Perception Index 2016: Vietnam's score improves slightly, Towards Transparency, (<https://towardstransparency.vn/vi/chi-cam-nhan-tham-nhung-2016-viet-nam-tang-nhe-ve-diem>)

² Towards Transparency, Global Corruption Barometer (GCB) 2016

³ Vietnam Chamber of Commercial and Industry, USAID, *Provincial Competitiveness Index (PCI) 2015*, pg 18, 91

⁴ Integrity and Transparency in Business Initiative for Vietnam

enterprises. This report will also propose some recommendations to promote the effectiveness of anti-corruption measures within the enterprises.

Research question

“What practical benefits can proactive anti-corruption measures bring to enterprises and what measures are feasible in Vietnam’s business environment?”

Methodologies

To conduct the report, the research team uses two methodologies: a literature review and field survey.

Studying national and international documents on: corruption in business, impacts of corruption acts on enterprises, anti-corruption in doing business and impacts of anti-corruption measures on enterprises; international anti-corruption standards and legal framework on anti-corruption in Vietnam.

Conducting in-person interview with representatives of 35 enterprises in Ha Noi and Ho Chi Minh City, including several members of the Vietnam Business Forum (VBF), Governance & Integrity Working Group (GIGW), Saigon Hi-Tech Park (SHTP), and other enterprises in the network of the Vietnam Chamber of Commerce and Industry (VCCI).

- *Objectives of field interviews:* to access the understanding of enterprises regarding types and impacts of corrupt acts in business, their knowledge of international and domestic standards on anti-corruption, and which measures they applied to promote business transparency. The interviews also focused on economic benefits brought by these anti-corruption measures.
- The main content of the interview was as follows:
 - ✓ What anti-corruption measures are applied and their impacts on enterprises.
 - ✓ Recommended measures to promote anti-corruption in enterprises.
- *The interviews were conducted as follow:*
 - ✓ The questionnaire was designed based on three groups of questions on (1) Commitments by the board of management; (2) Anti-corruption measures, and (3) inspection and review measures. For each question, enterprises’ representatives could choose either option *Yes, No, Partial* or *Intent to*. If an enterprise’s representative answers *yes*, he/she will be asked detailed questions, specifically about the anti-corruption measures; the benefits and costs of adopting anti-corruption measures and the lessons from successful adoption cases. In the case where an enterprise’s representative responds to *No, Partial* or *Intent to*, he/she will be asked more in-depth reasons, whether having difficulties in implementation or the reasons for “not” or “not yet” adopting anti-corruption measures.
 - ✓ The interview for each enterprise took about one hour. Interviewees were often heads of enterprises or department heads in charge of related areas
- *The interviews were conducted in November and December 2016.*

RESEARCH RESULTS

International standards and Vietnamese legal framework

International standards

This report focuses on [Business Principles for Countering Bribery](#) of Transparency International and [Reporting Guidance on the 10th Principle against corruption](#) of UN Global Compact, which have been referred to for the application of enterprises in Vietnam. In detail:

- Business principles for countering bribery: (i) The enterprise shall prohibit bribery in any form whether direct or indirect; (ii) The enterprise shall commit to implementing a Programme to counter bribery.
 - ✓ The countering bribery programme at a minimum should cover the following areas: bribes, political contributions, charitable contributions and sponsorships, facilitation payments; gifts, hospitality and expenses.
 - ✓ The principles also sets out the requirements that enterprises should meet at a minimum when implementing the programme, including requirements on organization and responsibilities, business relationships, human resources, training, raising concerns and seeking guidance, communication, internal

controls and record keeping, monitoring and review, cooperation with relevant authorities, external verification and assurance.⁵

- Reporting Guidance on the 10th Principle against Corruption of United Nation Global Compact provides a comprehensive set of 22 reporting elements, which are divided into 3 main groups: commitment and policy, implementation, and monitoring. The components of a comprehensive anti-corruption programme are identified.

Seven basic reporting elements contain:

- ✓ Publicly stated commitment to work against corruption in all its forms, including bribery and extortion;
- ✓ Commitment to be in compliance with all relevant laws, including anti-corruption law;
- ✓ Translation of the anti-corruption commitment into actions;
- ✓ Support by the organization's leadership for anti-corruption;
- ✓ Communication and training on the anti-corruption commitment for all employees;
- ✓ Internal checks and balances to ensure consistency with the anti-corruption commitment;
- ✓ Monitoring and improvement processes.

⁵ Transparency International, *Business principles for countering bribery*, 2013, p.8-12.

Vietnamese legal framework

In Vietnam, businesses have been encouraged to participate in the fight against corruption that has been officially recognized in state legal documents. Since 2009, the Government issued a National Strategy on Anti-corruption until 2020. One of the solutions pointed out is: “Promoting the role of businesses, business associations in the fight against corruption through building and practicing fair business culture, anti-corruption; coordinating with competent state agencies to prevent and detect corrupt acts of officials.”⁶

The two key legal documents on fighting corruption in business in Vietnam are the *Law on Anti-corruption 2005* (amended in 2007 and 2012) and the *Decree 47/2007/ND-CP Detailing and guiding a number of provisions of Law on Anti-corruption on the role and responsibilities of businesses in anti-corruption*. To be more specific, Article 87 of Law on Anti-corruption and Chapter IV of the Decree 47 generally provide for the following responsibilities of enterprises, business associations, and professional associations:

- (i) Dissemination of anti-corruption regulations and encouragement of companies’ officers and employees, members of their business associations and professional associations to implement the Anti-Corruption

Law. In addition, associations also have the responsibilities to motivate and encourage their members to build a fair, non-corrupt business culture, while developing, issuing and organizing the implementation of the code of conducts of their officers and employees to prevent corruption.

- (ii) Implementing the measures to prevent and detect corruption:
 - ✓ Practicing and promoting fair competition.
 - ✓ Fully implementing their obligations to the State and their employees.
 - ✓ Performing statistical reports as required by laws.
 - ✓ Ensuring disclosure and transparency in operations of enterprises.
 - ✓ Developing and implementing internal control regulations.
- (iii) Encouraging the denunciation of corrupt acts, reporting to and coordination with State authorities in settlement of cases with signs of corruption.
- (iv) Making recommendations for improvement of the policies and laws on anti-corruption.

One of the prominent responsibilities is publicity and transparency in the operation of the enterprises. Meanwhile, pressure from market is also one factor pushing enterprises to be more

⁶ Resolution 21/NQ-CP of the Government dated 12/5/2009 issuing A National Strategy on Anti-corruption until 2020.

transparent in their operation and to fight corruption. To reflect this, Law on Securities 2006 (amended in 2010)⁷ contains one provision specifying the public companies' obligation to disclose information.

Survey results

The survey results showed a number of key findings and examples of the application of anti-corruption measures in businesses in Vietnam as follows:

Key findings

Interviews revealed that 29 out of 35 enterprises expressed anti-corruption commitments in their code of conduct. However, making public such commitments via product labeling, advertising and promotional campaigns has not been widely used among enterprises.

At enterprise level, interviewed enterprises have applied a number of anti-corruption policies, among which: 26 out of 35 interviewed enterprises set up and maintain internal reporting channel, such as hot line, emails, website, anonymous mailbox; 24 enterprises have policies against facilitation payment; 22 enterprises conduct annual corruption risk assessment; 22 enterprises have policies on prevention of conflict of interest; 19 enterprises have policies on gifts, hospitality and entertainment. However, only 2 out of 35 enterprises have specific regulations on charitable donation and sponsorship.

Regarding dissemination of anti-corruption policies: 27 out of 35 enterprises have organized trainings on application of anti-corruption measures for their leaders, managers and staff.

Regarding review and assessment of efficiency of anti-corruption policies: 31 enterprises conduct periodic internal reviews and 22 enterprises conduct regular reviews on anti-corruption policy. However, the review and assessment of the appropriateness of anti-corruption programs conducted by an independent body have not been popular. Only 5 out of 35 interviewed enterprises have had reviews and assessments of anti-corruption programs conducted by an independent Audit Committee, and 9 enterprises have disclosed the efficiency of anti-corruption programs.

It is also noteworthy that not all enterprises successfully applied anti-corruption measures. For instance, many enterprises suppose that complete removal of facilitation payments in administrative procedures has not been feasible as existing legal loopholes still create opportunities for harassment and bribery seeking. The interview results also show that while being capable of obtaining licenses and performing customs clearance on their own, many enterprises still used services offered by a third intermediary party to mitigate regulatory risks related to facilitation payment.

At partner level, 19 out of 35 enterprises disseminated policies to business

⁷ Consolidated document No.27/VBHN-VPQH Law on Securities dated 18/12/2013

partners and relevant stakeholders like intermediaries, clients... Although interviewed enterprises respect the integrity of business partners, the majority of them have not considered training and disseminating anti-corruption policies to business partners mandatory. Rather, they only require their partners to sign commitments. The implementation and compliance with such commitments depend on willingness and voluntariness of partners and other stakeholders. That is why only 11 enterprises have had training courses for their business partners and stakeholders.

At business environment level, interviews show that enterprises' trust in detecting and handling enterprises committed to corruption is still limited. Such resolution has not proven efficient on large-scale (except for a few grand corruption cases which have been prosecuted). All interviewed enterprises agreed that it would be necessary to mitigate legal burdens, remove legal loopholes and ambiguous regulations, and prevent service providers from acting as intermediaries for petty corruption.

Some examples on application of anti-corruption measures in businesses in Vietnam

1. Communication and dissemination on business ethics and integrity

A company operating in electronic product sector in Ho Chi Minh City proactively shares and communicates with partners, students and the youth on its core values, highlighting integrity value, business

ethics and social accountability of enterprises.

⇒ **Enterprise believes that practicing healthy and integrity business helps build and protect enterprises' reputation and credibility.**

2. Periodic assessment on corruption risks

A risk management policy of company A includes review and identification of corruption risks. Culture of corruption identification and prevention has been recognized and frequently practiced within the entire company. The company director always regards risk assessment as foundation for anti-corruption work and supports initiatives and solutions for risk detection and mitigation.

The company director also leads risk assessment task and gives specific assignment to the Head of Risk Management Department. Risk assessment is done at several levels: national, sectorial, and business operational. At business operational level, each stage in the operational processes is examined/reviewed to identify potential risk of non-compliance, conflicts of interest, collusion, bribery, etc. When risks are identified, Risk Management Department will conduct analysis and work closely with relevant units to assess efficiency of the current internal control system, and if needed, will provide recommendations to strengthen the control system and mitigate risks. These recommendations will later be updated in the relevant management processes of the company.

⇒ **Enterprise believe that conducting measures for corruption risk management help mitigate risk in doing business.**

3. Building up transparent and integrity working environment

Enterprise B operating in the high-technology industry said that its priority is to create a working environment that encourages the sense of initiative and innovation among staff. Enterprise B believed that implementation of the corporate integrity policy helps employees understand the message and expectations of the company's leaders about integrity in the performance of their duties; they feel motivated and encouraged to work. In addition, the implementation of such policies enables employees to fairly compete with their colleagues on the basis of capacity and creativity and to be equally treated and rewarded.

⇒ **Enterprise believes that conducting business integrity helps improve the sense of initiative, innovation and productivity among staff.**

4. Applying anti-corruption measures in business to satisfy high demand of international partners

Enterprise C provides services to many international customers; during contract negotiation process, this enterprise has regularly undergone the assessment on capacities and measures to prevent and combat corruption which might be committed by their clients before signing the contract.

When enterprise C conducts merger and acquisition with a branch in a developed country applying strict anti-corruption legislation in business, they must meet requirements of anti-corruption regulations during the negotiation, preparation and completion of procedures to acquire the branch in the foreign country. Multinational companies are subject to strict anti-corruption laws of developed countries, requiring their business partners in Vietnam to implement comparable anti-corruption measures. Should not they be able to meet this requirement, Vietnamese enterprises might face rejection and business termination.

⇒ **Enterprise believes that conducting business integrity paves the way to international market**

5. Management of conflict of interest

22 out of 35 interviewed enterprises have policy on conflict of interest and effectively implement regulations requiring employees to annually declare the potential risks of conflict of interest.

Few enterprises have internal regulations requiring procurement staff to declare their conflict of interest before proceeding with any procurement over VND 100 million. A number of enterprises have set up: 1/ a process for disclosing and monitoring conflict of interest, 2/ procedure on additional declaration when new conflict of interest arises, and 3/ declaration forms for employees.

⇒ **Enterprises believe that prevention and management of conflicts of**

interest risks help reduce losses and increase business efficiency.

6. Applying channels for supporting and receiving corruption-related reports

26 out of 35 interviewed enterprises set up and maintain internal reporting channel such as “Hot line”, emails, website, anonymous mailbox, and direct reporting between whistleblowers and company leaders. Some even organize ad-hoc or periodic meetings between leaders and employees (in forms of dialogues or lunch) to receive feedback from employees. According to these enterprises, the whistleblowing channels must be tailored to employees at different groups and levels, based on their various levels of awareness, perspectives and their preferred ways of reporting, to encourage laborers to report corruption.

⇒ **Enterprises believe that channels for supporting and receiving corruption-related information, reports help them to early detect and quickly respond to serious corruption-related issues, which in turn mitigate consequences and damages in terms of finance, human resource and reputation.**

CONCLUSION AND RECOMMENDATIONS

Based on international standards, pursuant to national legal framework, and drawing from cases in the field survey, the report’s results provide evidences that

anti-corruption measures in business may be applied in Vietnam. These evidences also serve as incentive for enterprises to recognize the importance of and forms of action against corruption in order to strengthen the business effectiveness towards a healthy environment for sustainable development of enterprises.

To be proactively engaging in the fight against corruption, enterprises will need to synchronize measures at three levels: internal, with business partners and through collective actions. Based on main results of the report, and in compliance with the scope of research, the following recommendations for enterprises were made:

- **First**, proactively develop and apply anti-corruption measures that have been standardized as ISO 37001⁸ and Business Principles for Countering Bribery⁹.
- **Second**, review the integrity records of candidates during recruitment with reference to their previous workplaces.
- **Third**, effectively apply and implement declaration and prevention of conflict of interest policy.¹⁰ This will enhance economic efficiency and reduce corruption and waste in enterprises.
- **Fourth**, strengthen prevention against bribes and “kick-backs” in

⁸ International Standard Organization, ISO 37001 on anti-bribery management systems

⁹ Transparency International, *Business Principles for Countering Bribery*, 2013

¹⁰ Towards Transparency’s Conflict of Interest management toolkit

corporate procurement. Enterprises need to issue transparent and consistent policies for giving and receiving gifts, hospitality, commissions and per diem to staff.

- **Fifth**, establish and effectively maintain the corporate whistleblowing channel (either run by the enterprise or an external party) to receive complaints and denunciations (even anonymous denunciations) with unequivocal, intelligible and reliable policies and procedures as cornerstones for enhanced business integrity policy monitoring. When appropriate, enterprise can assign this task to a third party for greater objectivity and confidentiality.
- **Sixth**, enterprises are advised to conduct careful due diligence before establishing any business partnership. The due diligence should incorporate criteria to probe for any corruption acts or bribery in the past and the partner's capacity in anti-corruption.
- **Seventh**, enterprises should support and join collective efforts of business association, clubs, or groups, such as: the Governance and Integrity Working Group under Vietnam Business Forum; the Business Integrity Initiative under the framework of Project 12 – VCCI; the Collective action Initiative of national high-tech parks (including

Sai Gon high-tech Park, Da Nang high-tech Park and Hoa Lac high-tech Park). These collective actions aim at promoting and sharing good standards and best practice in business integrity, demonstrating solidarity to enterprises that are victims of corruption, denouncing enterprises making gains from corruption acts and harming other enterprises.

However, to create an enabling environment for enterprises to take part in the fight against corruption, an adequate, strict and consistent institutional framework shall be the precondition. This requires the Government to revise and improve as well laws on anti-corruption as specialized laws such as Law on Enterprises, Law on Securities, Law on Customs, tax laws. At the same time, the Government shall encourage and create favorable conditions for initiatives in corporate anti-corruption. The government shall also support the establishment of an effective cooperating mechanism for anti-corruption initiatives emerging from enterprises and other stakeholders such as customs and tax agencies, specialized management agencies, audit, ranking organizations, investors, civil professional associations and workers.

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