

Corruption in Customs Domain

Master thesis, MSc. Customs and Supply Chain Compliance

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Preface

During my studies at RSM University in Rotterdam I have learned new skills and competencies in customs, supply chain and compliance. Also, I recognized customs and border crossing related regulatory and legislative matters to be broad and interesting from several aspects point of view. Often highest interest in customs area is paid to the core customs elements, like duties, taxes and border crossing procedures, and less attention is paid to more niche areas. I have recognized anti-corruption to be one raising areas for attention, as authorities are paying more and more attention to customs related anti-corruption matters. Via this thesis work I have been able to dive deeper into corruption cases, and have found fascinating to read stories about historical cases. As the case descriptions are public and available from the authority web-site, I recommend interested colleagues to search the cases and read so called “statement of facts” appendixes.

Also as result of this thesis work, in addition to the theory on motivating factors for supply chain actors to bribe customs authorities, this thesis includes also some recommendations for corporate anti-corruption programs. Hopefully the recommendations are helpful for as many as possible companies globally.

I want to thank RSM as opportunity to study the customs related corruption as the topic for my master thesis, as well as my thesis supervisors, study colleagues, and all the RSM organization for pleasant and educating course.

Jouni Vatanen

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Executive summary

In the recent years authorities have started to pay more and more attention to customs area in connection with anti-corruption. Therefore importance of customs related activities as part of corporate anti-corruption program has grown, which has created need for corporations to include customs area in their anti-corruption programs. Despite of practice need, there is gap in literature to be base for corporate anti-corruption program in customs area. This thesis attempts to reduce the gap by studying motivating factors for supply chain actors to bribe customs authorities and considering lessons learned for corporate anti-corruption programs.

This thesis uses literature from customs, anti-corruption, and supply chain areas to conclude propositions on what gains supply chain actors are looking for, as well as methods for supply chain actors, when they bribe customs authorities. Also, to collect lessons learned for corporate anti-corruption compliance program literature was reviewed to understand elements that anti-corruption program should include. Then propositions are tested using case study research. Published United States Foreign Corrupt Practices Act (FCPA) cases are used as material for the case study. All three hundred cases that were published at the United States Department of Justice website at the end of the year 2016 were first analysed to seek any customs relevance. There was found thirteen customs relevant cases that were analysed deeper and used as test material to evaluate propositions for theory building. The cases had occurred in twelve countries, involving companies from 22 countries.

Based on literature it was proposed supply chain actors to bribe customs authorities to receive a gain, in form of less or smaller payment of customs duties, taxes, fees or penalties, or to enable good subject to restrictions or prohibitions to cross the customs border or speed up border crossing process. The cases supported proposed gains. The propositions included also means for supply chain actors to receive the gains. Most of the means were supported by the studied cases. Most common mean was to pay bribes for customs to accept smuggling of goods through the customs by using improper customs procedure or customs not to impose customs controls and inspections for the consignment. There was less support for bribery during license or permit application phase to receive licenses for prohibited or restricted goods. There was also a case where penalties were avoided by bribing auditing customs officer at a company site.

Then based on propositions and studied cases lessons learned for corporate anti-corruption programs were formulated. During the thesis work there was found four lessons learned for corporate anti-bribery programs. First, a robust and effective customs compliance program is also an element for effective anti-corruption program. Second, customs brokers, transportation companies and other agents dealing with customs authorities on behalf of the company should be

considered as risky third parties, and therefore be subject to special anti-corruption program measures. Third, companies should not assume employee in any function or level to be safe from anti-corruption risk. And finally fourth learning is that companies should verify invoices charged by customs brokers and other third parties that are dealing with customs to ensure payments to be appropriate and bribes being not hided.

Therefore this thesis makes contribution to the knowledge base by creating understanding on why supply chain actors bribe customs authorities and by collecting lessons learned for corporate anti-corruption programs. However there are several limitations, mainly related to use of only the FCPA cases as material. Also several ideas for future study possibilities have been presented. Both limitations and future study ideas are presented in the chapter 9.

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1 Introduction

This introduction chapter describes the nature and scope of this master thesis, discussing first background, and then explaining problem definition and research question, continuing by scope of the work and methodology and finally conclusions and recommendations are summarized.

1.1 Background

Need for anti-corruption laws and regulations was recognized in the United States in aftermath of Watergate scandal during 1970s and as result Foreign Corrupt Practices Act (FCPA) was regulated 1977 (Koehler, 2012). Later also several other countries have set either separate anti-corruption laws or anti-corruption clauses in other laws. Currently over forty countries have anti-corruption legislation in place (Global Compliance News, 2016). However there is no one global legislation but globally anti-corruption legislation varies and there is no common definition for legal versus illegal activities (Kaufman, 2004). However anti-corruption legislation typically includes broad definitions which apply also customs related corruption. As penalties in corruption cases can be very high, even billions of dollars, and multiple if compared to gains (U.S. DoJ, 2016a), anti-corruption is essential part of corporate compliance program. Corruption in customs domain has not been in focus of corporate customs compliance programs in history. However recently authorities have started to pay more attention to customs related corruption, for example United States Department of Justice (DoJ) has mentioned customs in Deferred Prosecution Agreements (DPA) as an area where a company needs to establish risk based compliance policies and procedures (U.S. DoJ, 2016b).

There exist theories and studies about corruption in academic literature, as well as documents about corporate anti-corruption programs. Also academic literature exists from society point of view about corruption, including also customs authorities. However there has not been found any academic literature or theory about corporate corruption in customs area – what benefits corporations are targeting when bribing customs authorities, and how companies should address customs related corruption risks in compliance programs. Thus there is lack of theory and practical guidance for companies for their efforts to build corporate anti-bribery compliance programs and measures for customs area. This master thesis starts working in the area by studying motives for supply chain actors to bribe customs authorities and collecting as lessons learned possible control measures for corporations against bribery. Thus this master thesis aims to enlarge the existing knowledge base on customs related corruption to be base for further studies and practice to build and enhance corporate compliance programs on the area.

1.2 Problem introduction and research question

In present day corporations have policies and procedures to avoid corruption. Anti-corruption laws and regulations cover wide range of business interaction. So far academic world, as well as also many companies have focused on other areas than customs in their anti-corruption efforts.

Therefore there has not been found academic literature to create building blocks for corporate anti-corruption programs on customs area. This master thesis is starting to develop such building blocks by creating understanding of gains that supply chain actors are looking for when bribing customs authorities. Also after theory is created and tested for gains targeted via bribery, lessons learned will be collected for corporate anti-bribery programs to be developed later. Thus this master thesis is attempting to answer question: *What are the motivating factors for supply chain actors to bribe customs authorities and what are the lessons to be learned for corporate anti-bribery programs?*

1.3 Scope and Methodology

To contribute to the literature on customs domain, this thesis intends to create knowledge to understand motives why supply chain actors bribe customs authorities and to list possible learnings for corporate anti-corruption measures from the customs related corruption cases. In first phase, by using literature from compliance, corruption and customs domains, propositions are built for explain what gains corporations are looking for when bribing customs authorities. Then in the second phase the created propositions are tested by evaluating the theory against historical cases. Also understanding of corporate anti-corruption programs is collected from literature, and then learnings are collected from the cases for corporate anti-corruption programs.

Due to sensitivity of the topic, it was considered very difficult to conduct interviews for companies involved in corruption, as they may not be willing to talk about the matter. Therefore to ensure availability of material for testing the propositions, public United States Department of Justice (DoJ) FCPA related cases are used as material to test the theory created. To collect test cases, all published FCPA enforcement cases are collected from DoJ website and analysed to find customs relevant cases. The list of analysed cases with indication of customs relevance is listed in appendix II. The oldest analysed cases are from year 1982, four years after introduction of the FCPA, and latest cases included in the study are from the end of year 2016. Thirteen cases were found to have customs relevance. Those thirteen cases are analysed more in details later in this thesis chapter 6 for testing the propositions.

The FCPA related DoJ enforcement cases are selected for couple of reasons. First, the material is readily available. Second, as FCPA is forty years old, there exists already customs related enforcement cases that have reached final judgement. Third, the cases are in English, making it more practical from language point of view for the author. And fourth, material is considered more

objective than interviews as material is outcome of legal proceedings and agreements, having authorities acted as rigor for the material.

Finally in the discussion and conclusions section it is discussed possible preventive measures against bribery in customs domain.

1.4 Summary of conclusions and recommendations

As result of study this thesis concludes supply chain actors to seek gains in two main areas when bribing customs authorities. The first of those is financial benefit either by paying less customs duties, taxes or fees or reducing customs penalties. And the second is enabling goods to cross customs border faster or improper goods to cross customs border.

Also this thesis presents four lessons learned for corporate anti-bribery programs to help mitigating customs related risks. The first learning is that a robust customs compliance program is also an effective anti-compliance program measure. The second learning suggests that customs brokers, transportation companies and other agents dealing with customs authorities on behalf of the company should be considered as risky third parties, and therefore be subject to special anti-corruption program measure. The third learning suggests that companies should not assume employee in any function or level to be safe from anti-corruption risk. And the fourth learning suggests that companies should verify invoices charged by customs brokers and other third parties that are dealing with customs to ensure payments to be appropriate and bribes being not hidden behind vague invoice lines.

As this thesis is the first bribery study in customs corruption from supply chain actors point of view, there are some limitations listed in chapter 8, as well as recommendations for further study. Most of the limitations are related to use of only FCPA cases as material to evaluate propositions.

However FCPA was compared to other anti-corruption jurisdictions and cases included several countries where bribery had occurred. Most of the further study recommendations are related to further building corporate anti-corruption program to include also customs domain and to further verify results of this study in other jurisdictions.

Supporting material, used in this thesis is presented in the appendix, and is referred in the text where relevant.

2 Problem definition

Corruption is not allowed by several laws, therefore it is in interest of corporations to have anti-corruption programs in place also for customs activities. The corruption itself has been studied and there are several publications regarding corruption and its presence in different areas, also among customs authorities. Also there exist academic papers regarding corruption from supply chain point of view. However those have been focusing on procurement and operations. So, there has not been found academic papers written about corruption from supply chain actors' point of view to understand root causes on why they bribe customs authorities. Lack of such academic literature is mentioned by Groenenveld (2014): *"the academic literature lacks convincing research on how to cope with corruption in international business beyond entry mode and hence lacks the implications for managers"* (Mezias & Mezias, 2010; Rodriguez, Siegel, Hillman, Eden, 2006).

To have solid base of building corporate compliance program, it is in interest of corporations to understand deeper the reasons for supply chain actors to bribe customs authorities, despite of the corporation state of will not to have corrupting acts, as well as to understand possible preventive measures against bribery

The corruption relates to customs regulations as that form legislative structure where border crossing related bribery occurs. Some of possible gains via bribery are assumed to be related to the customs regulations. Such are supposed to include intents to gain positive results from customs decision or avoid negative consequences.

The topic has also supply chain relevance as border crossing and customs are part of supply chain. Timely delivery, total time what delivery takes as well as border crossing cost are important for supply chain performance, and thus might be reasons for bribery if border crossing procedures take long time. Understanding if those or other supply chain elements lead to corrupting acts make supply chain connection for the study.

Structure of this thesis after this chapter is as follows: Chapter 3 includes a literature review that collects knowledge from customs, supply chain and anti-corruption for formulation of propositions in chapter 4. Study methodology is presented in chapter 5, and studied cases are described in chapter 6. Cases are analysed in chapter 7, where also lessons learned are considered. Finally conclusions, recommendations and future study ideas are presented in chapter 8. After that there is still list of references and appendixes.

3 Review of research literature

There has not been found an academic paper discussing directly about corruption in customs domain from supply chain actors point of view. Therefore study of literature from domains of corruption, customs and supply chain was conducted derive theory.

This literature review discusses first relevant legislation from customs and anti-corruption areas, then about border crossing part of the supply chain and finally about guidance for corporate compliance programs.

3.1 Relevant Legislation

As relevant legislation in this chapter literature for anti-corruption and customs legislation are discussed.

3.1.1 Anti-Corruption legislation

United Nations Convention Against Corruption (UNCAC), being effective since December 2005, is currently widest legally binding anti-corruption instrument (United Nations, 2017). Most of the United Nations member states have joined the convention, having committed to establish anti-corruption measures in their national legal systems. The national measures to be regulated should address both domestic and foreign corruption as well as private and public sector corruption (United Nations, 2004).

There are also other international anti-corruption conventions, like The Inter-American Convention against Corruption and Council of Europe Group of States against Corruption (U.S. DoJ, 2012).

The FCPA was regulated at 1977 and amended 1988 and 1998, to be part of the U.S. Stock Exchange Act of 1934. FCPA broadly denies to give anything of value corruptly to foreign officials on a purpose of influencing any act or their decision in official capacity or to receive any other improper advantage in order to obtain or retain business. Obtaining or retaining business has been interpreted broadly to include also payments to reduce import duties U.S. DoJ (2004): *“Avoiding or lowering taxes reduces operating costs and thus increases profit margins, thereby freeing up funds that the business is otherwise legally obligated to expend. And this, in turn, enables it to take any number of actions to the disadvantage of competitors. Bribing foreign officials to lower taxes and customs duties certainly can provide an unfair advantage over competitors and thereby be of assistance to the payor in obtaining or retaining business.”* Foreign official has wide definition for parties that are subject to the FCPA concerns and measures, including also customs officers (U.S., 1977a).

FCPA has three main provisions; anti-corruption, accounting and internal controls.

Anti-corruption provision defines and denies bribery, having wilfulness as key element for a bribe being denied by anti-corruption provisions. The anti-bribery provision does not deny only payments, but provision of anything of value on a purpose of receiving corruptive gain. (U.S. DoJ, 2012). Such items include among other items material gifts, services, travels and holidays.

Historically it was found that companies hid corporate bribery by falsifying related payments in their books and records (U.S. 1977b). To close the gap related to wilfulness requirement in the anti-bribery provisions, accounting provisions were set for companies to become liable for FCPA violations via accounting provision, as it requires companies to record each payment correctly and accurately in their books and records. There are cases where company has been sentenced via FCPA books and records provisions in cases where a third party has been acting on behalf of the company without disclosing to the company to bribe public officers and has recharged bribes from the company via false, legitimate looking, invoices (Atkinson, Tille, 2005).

Internal control provision sets requirement for companies to have reasonable measures to ensure the reliability of financial reporting and the preparation of financial statements, i.e. compliance program to address related risks.

Main provisions of the UNCAC for private sector are prevention of corruption, enhancement of auditing and accounting standards, and enforcement with relational penalties within national legal systems. (United Nations, 2004). So, at first look UNCAC main provisions looks similar to the FCPA, however closer look shows UNCAC scope to be wider than scope of FCPA as UNCAC includes also provisions for bribery within private sector, however measures involving public sector are similar (Shulman, 2014). There exists also differences between FCPA and local laws in other countries, for example UK Bribery act does not allow small facilitating payments that are allowed by FCPA (Henderson, 2011). Also UK Bribery act has broader scope than FCPA, as it covers globally any act by companies that carry business in the U.K. (United Kingdom, 2010).

3.1.2 Customs legislation

Each country has own customs legislation as part of its legal system. For purposes of this thesis, corruption being a global phenomenon, an individual country customs legislation has been considered lower priority than to understand general mission of customs on a global level, and what customs actions are targeted towards importers and exporters.

Typically customs authorities are responsible for the collection of import and export duties and taxes, enforcement of prohibitions and restrictions as well as several other elements that may vary from country to country (Grainger, 2014). For example European Union defines mission of customs to include measures for *“a) protecting the financial interests of the Union and its Member States; (b) protecting the Union from unfair and illegal trade while supporting legitimate business activity; (c) ensuring the security and safety of the Union and its residents, and the protection of the*

environment, where appropriate in close cooperation with other authorities; and (d) maintaining a proper balance between customs controls and facilitation of legitimate trade.” (European Union, 2013).

Collection of mostly import but also sometimes export duties is the key financial interest that customs is protecting for countries. There exists on a global level recognition of key elements impacting customs duty, such being value of transaction, customs tariff classification and customs country of origin (Massimo Fabio, 2010). Principles for the key elements have been agreed and are managed in the frameworks of World Customs Organization (WCO) and World Trade Organization (WTO). Customs duty is normally depending on product duty rate and amount of product moving across the customs border. Product duty rates vary highly globally as well as each country have variable customs duty rates for different products (World Trade Organization, 2017). There are normal customs duty rates and special customs duty rates, which can result lower or higher than the normal customs duty rates being levied. For example preferential trade agreements may decrease level of customs duties levied, or anti-dumping or countervailing measures can result levy of higher customs duty levels levied (Heetkamp, Tusveld, 2011). Customs country of origin is recognised key element for both preferential trade and anti-dumping measures. Also special duties and taxes, for example excise or consumption, might be collected by customs (Tusveld, 2015). Even though such duties and taxes as well as anti-dumping and countervailing that are collected by customs, these are not considered as customs duties or duties having similar effect (Lyons, 2010). In most cases customs duties are proportional to the customs value of the goods, however in some cases customs duty might be depending on other unit of measure, for example weight (World Trade Organization, 2017)¹. In some cases customs collects also other charges and fees in addition to the customs duties. Such include service fees for customs procedures, storage fees, stamp taxes, license fees, statistical taxes and additional other charges. (The Organisation for Economic Co-operation and Development (OECD, 2005).)

Certain products are subject to import and export measures, restrictions and prohibitions, enforced by customs. Such include licence requirement, quotas, procedural and technical requirements, for both economic and non-economic reasons, like for example safety and security reasons or conservation of nature. Import and export limitations for drugs, weapons and endangered species are examples of the latter category (OECD, 2005). Also various export control regimes restrict and set requirement for exports (Micara, 2012)

Customs procedures form the way for the actual import and export transaction execution. Companies have reported several concerns for customs rules and procedures creating

¹ The WTO list of customs duties includes countries like Switzerland that typically levy import duties based on weight, instead of value like most countries.

inefficiencies for border crossing for goods. Companies have expressed concerns specifically about technical standards, varying and bureaucratic customs procedures and slow customs clearances (OECD, 2005). Typically there are different customs processes, procedures and requirements for different purposes. Such differentiation exist for example for low value consignments, temporary imports or exports, or for special reasons. Special reasons includes various suspensive procedure where duties are not levied or are levied with reduced rate, like transit process where non-imported consignment passes customs territory without import duties being levied (Lyons, 2010).

Customs regulations includes also fines and penalties for violations of legislative norms within national legal systems. As penalties are defined on national level, there is high variation in penalties and procedures related to imposition of penalties. Typically countries have both administrative penalties imposed by customs, and criminal penalties imposed by national judicial system. For example in U.S. penalties imposed by customs may include fines, revocation of authorization or goods seizure and forfeiture of the goods. Penalties might be fixed amounts, depend on value of the goods or amounts of duties avoided. Forfeiture of the goods is typical in cases where import restrictions or prohibitions are violated or goods are smuggled into country (U.S. Customs and Border Protection, 2004). The administrative customs procedures to determine and impose penalties can be long and time consuming processes. (U.S. Customs and Border Protection, 2004).

3.2 Border crossing as part of corporate supply chains

Logistics as part of international supply chains is moving goods from country to another, crossing also customs borders. According to Green, Whitten & Inman, 2008, logistics performance impacts indirectly company financial performance. Customs is recognized to impact logistics performance via costs associated and speed of border crossing (Farahani, Asgari, Davarzani, 2009). Thus efficiency of border crossing via customs may have impact to the company financial performance. There is not much information available about means how customs selects consignments for further inspection. However any information that is declared to the customs is available for the customs decision making, in addition to the consignment itself. It is assumed a declarant to be able to influence customs decision via false declaration of the consignment content. Especially such elements includes customs tariff code, value, country of origin, sender and receiver information, as learned during the courses of Customs and Supply Chain Compliance at RSM².

² The topic of automated customs control and methods how customs selects consignments for specific inspection was touched several times during the RSM program on Customs and Supply Chain Compliance. Specifics of the topic were told to be customs secrets and were not disclosed in total. However author has created his own understanding by combining information from couple of discussions during the program. The discussions have happened during visit to

3.3 Corporate anti-corruption programs

There exists good amount of literature on corporate anticorruption programs on general level, however specific literature was not found about anticorruption programs for corporate customs activities. This chapter reviews literature for general corporate anti-corruption programs to provide material for considerations on lessons learned for corporate anti-corruption programs.

Committee of Sponsoring Organizations of the Treadway Commission (COSO) report Internal Control – Integrated Framework is used often as basis for corporate anti-corruption compliance programs (Henderson, 2011). The original COSO report has been updated couple of times, previously at 2013, to take into consideration development and learnings over the years. The key internal control elements according to COSO are Control Environment, Risk Assessment, Control Activities, Information and Communication, and Monitoring Activities (COSO, 2013).

Another key element to define requirements for corporate anti-corruption program, especially for FCPA, is United States Sentencing Commission Guidelines Manual where chapter 8.B.2 describes requirements for effective compliance program to be used as mitigating factor when considering FCPA violations (U.S. Sentencing Commission, 2016). According to Paula Desio (Deputy General Counsel, United States Sentencing Commission), the effective compliance program criteria are (Desio, 2016):

- *“Oversight by high-level personnel,*
- *Due Care in delegating substantial discretionary authority,*
- *Effective Communication to all levels of employees,*
- *Reasonable steps to achieve compliance, which include systems for monitoring, auditing, and reporting suspected wrongdoing without fear of reprisal,*
- *Consistent enforcement of compliance standards including disciplinary mechanisms,*
- *Reasonable steps to respond to and prevent further similar offenses upon detection of a violation.”*

The third key element as for corporate anti-corruption program is Good Practice Guidance on Internal Controls, Ethics, and Compliance published by The Organisation for Economic Co-operation and Development (OECD) as guidance for private sector in their efforts to build anti-corruption programs. Key elements of the OECD guidance are: management commitment, corporate policy to deny bribery, requirement for each employee to comply with bribery denial, existence of senior corporate officer to be responsible for anti-bribery program, existence of compliance measures to prevent bribery when anything in value is given out from the company,

the customs at Schiphol airport on April 12, 2016, and during lecture about statistical auditing held by Han Bosch on September 13, 2016 at RSM Rotterdam.

existence of anti-bribery measures when dealing with or operating with risky third parties, effective internal controls for finance and accounting to ensure that bribery cannot be hidden in books and records, periodic training of all employees, creation of anti-bribery positive culture, disciplinary actions in case of bribery, possibility for employees to receive urgently guidance in case of need, confidential reporting possibility for all employees of bribery risk, and periodic review of the compliance program (OECD, 2010).

U.S. DoJ also sets requirements for FCPA compliance programs in recently published evaluated cases having separate appendix for each agreement (U.S. DoJ, 2016b). The DoJ requirements typically include similar elements like the OECD Guidance, however the DoJ goes step deeper by mentioning more specifically actions that company has to do. The DoJ requires companies to create policies and procedures based on risk assessment, considering also "*volume and importance of goods and personnel clearing through customs and immigration*", according to attachment C Corporate Compliance Program to the Deferred Prosecution Agreement between United States of America and Embraer S.A. 2016 (U.S. DoJ, 2016b). However the DoJ does not guide activities that company has to do more in details, but it leaves formulation of the compliance program to the responsibility of the company.

The COSO principles of effective internal controls are general for various specific control activities, whereas U.S. Sentencing Commission organizational guidelines is specific for effective compliance program, and the OECD guidelines are specific for anti-bribery program, however any of those not address specific elements that corporate anti-corruption program should have to address customs related corruption. Only the DoJ requirements mention customs border crossing as a special activity where companies has to pay attention.

There exist great variation how companies operate and what are their risk profiles, therefore also corporate compliance programs vary. That applies also to the way how corporations needs to implement anti-corruption measures in their compliance programs (Henderson, 2011).

Also, there exists variation on how corruption is observed to exist in various countries (Transparency International, 2017).

3.4 Conclusion to the literature review

This literature review has shown existence of great number of literature that discusses about anti-corruption, customs and also supply chain. However also this literature review was not able to find a document that would have had answered straight to the research question of this thesis. Most of the corruption studies found are focusing on corruption either from society point of view or from public actors point of view, and less from private actors point of view. The corruption studies addressing corruption from private actors' point of view have been found to address corruption from either generally or from other than border crossing point of view, typically sales. The customs

or supply chain related literacy was not found to address specifically corruption, but to discuss specifics in those areas. Therefore the gap in the theory still exists for this master thesis to address customs related corruption. As the anti-corruption is subject of raising interest among big international corporations, there is demand to understand also customs related corruption deeper as base for anti-corruption program development. Due to heavy enforcement and potential penalty risks customs related corruption needs considerable research to be done to be basis for corporations to create solid anti-corruption program including also customs area.

The cross-functional literature review above explains elements for making conclusions to derive model in next chapter to understand why supply chain actors bribe customs authorities, as well as gives understanding of corporate anti-corruption program to be basis for considering lessons learned later in this thesis.

4 Developing propositions

Based on research question and methodology selected for this thesis, to create knowledge the first step is to create propositions to understand reasons for supply chain actors to bribe customs authorities. And then in the second phase test the created proposition via the published FCPA cases, as well as consider learning for corporate anti-bribery programs.

This chapter discusses theories that were introduced in the literature review chapter of this thesis to make connections between anti-corruption, customs regulations and supply chain.

4.1 Bribery

Anti-corruption regulations, both FCPA and UNCAC, consider bribery as an act where to gain benefit something with value is given to a target on a purpose to impact acts of the target. The possible gains are not defined in the regulations, and thus leave it open for different interpretations for gains. However gain is the key expression in the regulations that needs to be understood in customs context to be able to answer the research question.

According to literature (see chapter 3.2.2 of this thesis), customs authorities are participating in supply chain by controlling border crossing, enforcing restrictions and collecting border crossing related duties, taxes and other payments, as well as imposing penalties for violations. Based on activities, customs can be seen from corporations' point of view setting and enforcing requirements for border crossing, that supply chain actors have to comply with to cross the customs border. Therefore corporations may receive gain if they can mitigate or eliminate such requirements or enforcement of the regulations. Therefore following proposition can be formulated:

Proposition 1: Supply chain actors may bribe customs authorities to receive improper gain in border crossing related payments, controls and restrictions, or customs enforcement.

The first proposition above is on a high level. Later in this section the potential gains and potential means to achieve the gains are discussed more in details, and more detailed propositions are presented.

4.2 Potential gains on customs duties and taxes

Customs duties are very common for imports, however in some cases also export duties are collected. Customs duties are directly relational in most cases to customs value and customs duty rate. However in some cases also amount of product is used as base for customs duty, like weight. Customs duty rate in turn depends on customs tariff code and other product characteristics, of

which customs country of origin is most essential³. Typically also other border crossing related taxes are related to the customs value of the product, like for example Value Added Tax. Countries may collect also various customs processing fees. Typically such processing fees are either depending on customs value or are fixed amounts.

As customs duties and taxes are cost elements for liable persons, any reduction of normal customs duty and tax amounts can be seen as a gain. In case a gain is achieved via improper payments to customs authorities it could be seen as a bribe. As a way to impact customs duty and tax amounts customs value might be the most essential element, because customs value is common element for both customs duty and other also related taxes and customs value impact directly to the amounts of payments collected by customs. Thus, in case customs value is declared artificially low it creates improper gain for the liable person.

Customs tariff code defines customs duty rate, and sometimes even small difference in customs tariff code may impact customs duty rate. Therefore customs tariff misclassification of products into lower customs duty category might give improper gain to the liable person for customs duties.

Regarding other product characteristics customs country of origin and especially eligibility for preferential trade may impact to the amount of customs duty levied. General customs country of origin impacts customs duty levels via imposing or excluding product from additional duties, like anti-dumping or countervailing duties. False declaration of origin or preferential trade via potential impact to the customs duties might also be a way to receive improper gain by liable persons. Thus the second proposition can be formulated:

Proposition 2: Improper gain in border crossing related payments might be achieved via bribing customs officers to accept incorrect declaration of customs value, customs tariff code, country of origin or certificate.

4.3 Potential improper gains around restrictions

Nature of customs restrictions is to set requirement that needs to be fulfilled as a criteria for goods to cross the customs border. Some of the restrictions are based on requirements coming from customs regulations, and other restrictions are based on requirements set by other regulating parties. This thesis considers only the part of restrictions that is handled by customs. Still, it cannot be excluded existence of similar corruptive elements also related to other actors handling restrictions. Such other actors include agencies handling product type approvals and other similar product specific authorizations, licenses or designations.

The customs is involved in monitoring and enforcing restrictions as well as managing applications for some restrictions, thus potential improper gains around restrictions might be related to

³ Like described in the literature review of this thesis, customs country of origin impact preferential trade that may reduce amount of customs duty levied and also anti-dumping and countervailing duties.

applications to receive authorizations or permits for restrictions, or related to control of restrictions at the border crossing situation. In case there is no permit in place for a restricted product, the product cannot legally cross the border. Thus, from the supply chain actor point of view, restrictions are limiting possibilities to place the product on the market. Therefore improper gain reached via non-compliance for restrictions is to get restricted goods to cross the border without necessary authorization or speeding up possibility to cross the border by influencing grantor of the authorizations. However methods might be either to receive authorizations for ineligible products, or to cross border without necessary authorization or with inadequate authorization. The latter includes cases where customs controls are bypassed, and thus are connected to gains reached via improper border crossing process gains explained in the next chapter.

Proposition 3: Improper gain to enable restricted or prohibited goods to cross customs border might be received via bribing customs officers to grant licenses, or other authorizations for ineligible products.

The proposition 3 might be expandable to all customs authorizations, not only directly border crossing related, but also other application handling for statuses and simplifications granted by customs⁴. Customs officers may receive improper influence when handling applications, not only for content of the application, but also to speed up the application handling procedure. That leads to fourth proposition.

Proposition 4: Improper gain to enable restricted or prohibited goods to cross customs border sooner than appropriate might be received via bribing customs officers to grant licenses, or other authorizations faster than appropriate.

4.3 Potential improper gains related to border crossing process

In this thesis the border crossing process includes all the phases necessary for consignment to cross the customs border, having interaction with customs authorities. Typically national customs regulations require various notifications, declarations and inspections during the border crossing. It was observed that time required to cross the customs border vary, and was complained by companies. As in the supply chain delivery time, both speed and accuracy, is a performance factor, therefore improvements in these areas would give gain for the company. Thus long, unknown, time it takes to pass customs has negative impact to the performance of the supply chain. Therefore gains are available if the customs turnaround time can be shortened or eliminated. Anti-corruption becomes relevant if the gains are reached via improper payments to the customs authorities. There might exist various non-compliant ways to improve border crossing turnaround time by avoiding customs process completely or using lighter than required process.

⁴ Such other statuses and simplifications includes among other authorizations to use certain suspensive customs procedures or supply chain security statuses.

In case consignment is smuggled through customs border without it being subject to customs procedures it enables any goods to quickly pass the border without appropriate payments and controls. Thus if goods are smuggled with a customs consent due to bribery it might give improper gain via faster border crossing turnaround time or leaving customs duties uncharged.

Requirements and controls as part of customs processes vary. Typically characteristics of consignment are elements that define process to be used, according to certain thresholds. Value thresholds are key elements to determine lighter process for low value goods. However also other information included in customs declaration may impact process, and especially customs supervision in the process.

Some customs processes are customs duty suspensive in nature. By using suspensive customs processes and procedures company can legally avoid or reduce levied customs duties. However if customs duty suspension is achieved via misuse of customs processes on the customs consent due to the bribes paid, it is considered improper gain for the purposes of anti-corruption regulations.

Like described above avoiding customs controls or misuse of customs processes may lead several improper gains for a company. Those gains are summarized in proposition 5.

Proposition 5: Improper gain via speeding up customs turnaround time, paying less border crossing related customs payments or cause restricted or prohibited goods to pass customs border might be received by bribing customs officers to allow consignment to cross border without customs control or inspection or via use of inappropriate customs procedure.

4.4 Avoidance of penalties

Customs authorities are monitoring, inspecting and auditing companies also outside of actual border crossing event. In case customs learns noncompliance with company activities, depending on seriousness of the findings, company receives customs action. In lightest cases consequence might be a warning, and most serious cases are typically escalated to the criminal proceeding according to national legal system. In between of very light and most serious cases there is typically an area where customs administrative penalties are imposed. Customs administrative penalties are not limited to fines, but may include also penalty duties or revocation of customs permits, statuses or licenses or forfeiture of the goods after seize. In some cases penalties imposed by customs to companies may be high as multi-million euros, thus if not significant, at least recognizable for any company. Thus if a penalty can be avoided it is a gain for the company. In case customs seizes and company forfeits goods, that is loss for the company, and thus if that can be avoided it would be gain for the company.

As the processes to determine and impose penalties are long and time consuming there are several process steps where improper influence might happen. In the early phase of each case there might be less people involved on customs side as well as less formal documentation filed, therefore highest probability for corruptive actions might be in the early phase of the penalty process.

In case customs inspector or auditor makes a finding of customs regulation violation, it might be any matter regulated in the customs regulations. Thus the bribery targeted to the customs inspector or auditor might be targeted both to avoid penalty and receive gain from the original customs regulation violation.

Proposition 6: Improper gain via reducing customs penalties and to receive gain from customs regulation violations might be received by bribing customs officer in charge not to impose penalties or cause consequences due to customs regulation violations.

4.5 Conclusion of the propositions

This chapter concludes development of propositions presented in the previous chapter. Table 1 presents the propositions as collection of potential gains for each means.

Most of the means are predicted to enable avoidance of payments collected by customs authorities. Such payments includes customs duties, taxes and other fees collected by customs, or penalties. Several of the means are predicted to allow ineligible border crossing. Ineligible border crossing is understood import or export of consignment that cannot be legally imported or exported due to lack of required authorization. The required authorization might be related to customs or other controlling regulation, for example export controls. Logistical benefit via speeding up border crossing is predicted to be achieved via avoiding customs controls or misuse of customs process, which both in practice could be called also as smuggling of the goods. Remaining two means are a bit different in the nature to the earlier described ones as those are not targeted to the operative controls at the border, but either application handling as prerequisite for border crossing or other customs decision or customs monitoring or auditing after the customs border transaction.

As conclusion of this chapter it has been possible to derive propositions that describe gains as motivating factors to create understanding why supply chain actors bribe customs authorities. Also it has been derived potential means how the gains could be intended to be achieved. The validity of the propositions will be tested in the chapter via real life customs related bribery cases.

TABLE 1
Summary of propositions

		Bribery Gains					
		Avoid payments (duties, taxes and fees)	Avoid customs penalties	Receive customs permits and statuses	Faster customs turnaround time	Receive authorizations faster	Enable ineligible border crossings
Improper Means	Declare too low customs value or amount	X					
	Declare wrong customs tariff	X					
	Declare wrong country of origin	X					
	Incorrect declaration of a document (certificate or license)	X					
	Avoid customs border control	X			X		X
	Misuse of customs process	X			X		X
	Influence application handling			X		X	X
	Influence monitoring customs officer	X	X				X

5 Research methods

Based on the literature review propositions have been derived in the previous chapter of this master thesis.

The propositions will be tested in the following chapter using published United States Department of Justice published FCPA cases as test material comparing if the historical cases can be explained by the propositions. First all published FCPA cases were collected from the DoJ website and then each of the case was evaluated if it has customs relevancy or not. All the analysed cases are listed in Appendix II with links to the DoJ published documentation. In case a case does not have customs relevancy it is rejected from further study phase, where are customs relevant cases are evaluated further to understand the cases in details. So, there was no other selection or restriction of for the cases in addition to the fact that it was published at the DoJ web-site by end of the year 2016.

The cases have variable information available on DoJ website depending on case history. Most cases have been agreed between involved parties and DoJ by signing either deferred prosecution, non-prosecution, or plea agreement. Each of those agreements have typically statement of facts appendix, where both DoJ and company agree statement of truth. As official party has acted as rigor for the facts, statement of facts was considered as highly reliable information. Where available statement of facts appendix has been used as information source, that not been separately mentioned in the case descriptions. However it has been mentioned in case other sources have been used.

Finally this master thesis discusses lessons learned from the theory and cases to draw conclusions for benefiting creation of corporate anti-bribery programs, and to have stronger linkage to the practice and ideas for future study topics.

Reliability of testing of the propositions is limited to the extent of the cases used. There was found thirteen cases, which is restricting internal validity of the study, however already those cases give some variation of the phenomena and thus give indication if the propositions can be confirmed or rejected. Corruption has been recognized as a global phenomenon (Global Compliance News, 2016). The FCPA is in force globally for United States companies or companies listed in any of the stock exchanges located in the United States. Therefore use of FCPA cases as test material gives flavour of global phenomena. However there is not existing enough test cases to have a case for each country. Customs regulations have some global extent via international organizations and agreements. Via that way customs principles are similar in different countries. That increases reliability and external validity of the testing.

6 Case descriptions

This chapter includes description of customs related FCPA cases searched from DoJ website for testing the propositions. The all analysed cases are listed in Appendix II with links to the DoJ published documentation as well as case identification used in this chapter. Case IDs are used here in this chapter instead of real actor names, as it was considered important for the study to understand what has happened instead of actors involved. In total there was analysed 300 FCPA enforcement cases, of which 13 included customs related bribery.

6.1 Case 1 (U.S. DoJ, 2007)

The case has occurred between years 2002 and 2004, and includes several different instances where bribes were paid to customs officers to facilitate importation in cases where necessary import permit did not exist, use preferential duty rate without necessary documentation, speed up importation process, to import without paying high enough bonds as guarantee of duties and taxes for suspensive customs procedure, and to settle customs regulation violations recognized by customs. Violations recognized by customs were related to goods taken into consumption from customs warehouse without filing a customs declaration to save time, i.e. misuse of customs warehouse process. In the case bribes were paid to customs officers via third party transportation company that acted as customs broker. The customs broker charged bribes from its customer by using several different expressions that did not disclose true nature of the payments. The company employees on manager and coordinator level were aware of the payments being corrupted, as well as recognized that company did not pay customs duties.

Regarding the propositions, the bribery scheme in the case 1 above is predicted by prepositions 1, 2, 5 and 6, thus the case supports those prepositions.

6.2 Case 2 (U.S. DoJ, 2009)

The case includes customs related corruption in two countries. In the first country, between years 2004 and 2008, bribes were paid to import and export goods without required certificates, import goods that were on a list of denied articles for import, and import goods with lower than correct duty rate. The last is understood to refer determination and use of wrong customs tariff classification. In the second country bribes were paid to import goods and export goods that were not compliant to the country import and export regulations. Specifically the bribes were paid to avoid full inspection of the goods by customs. In the case bribes were paid to customs officers both directly by the company and via third party customs broker. The customs broker charged bribes

from its customer by using several different expressions that did not disclose true nature of the payments. The company employees were aware of the payments being corrupted.

Regarding the propositions, the bribery scheme in case 2 above is predicted by prepositions 1, 2, and 5, thus the case supports those prepositions.

6.3 Case 3 (U.S. DoJ, 2004)

In the case, between years 1990 and 1995, the company issued two sets of documents for each shipment of rice, one with correct weight and value and other set with artificially low amounts. The arrangement was led by company vice president of marketing. Bribes were paid to customs officers for them to accept counterfeit bill of lading and other documents that understated weight and value of imported goods. Via that way company did not pay full amount of customs duties. The bribes were paid both directly by the company and via customs broker.

The case documentation was collected from Opinion of the United States Court of Appeals for the Fifth Circuit in case United States of America versus David Kay; Douglas Murphy, 2004.

Regarding the propositions, the bribery scheme in case 3 above is predicted by prepositions 1 and 2, thus the case supports those prepositions.

6.4 Case 4 (U.S. DoJ, 2010a)

The case is related to temporary import process, between years 2003 and 2007, where goods are allowed to be transported to a country without paying import duties and taxes with condition that the goods are exported during defined timeframe or permanently imported with import duties paid. The items in question were expensive production equipment's subject to normal 10-20% import customs duty. To avoid import duties the items were temporarily imported to the country. Then as the time limit of temporary import was approaching, company arranged export of the item on paper and soon after import of the item on paper by paying bribes to customs officers, without physically moving the items. The process enabled the item to remain in productive use long time without payment of import duties. Also export and import on paper saved time for the company if compared to the situation that it would have had really exported and imported the items. The bribes were paid via third party customs broker by using artificial descriptions. The bribery scheme had involved high level company officers including chief financial officer, company controller, vice president of sales and head of internal audit, as well as other lower level employees.

Regarding the propositions, the bribery scheme in case 4 above is predicted by prepositions 1, and 5, thus the case supports those prepositions.

6.5 Case 5 (U.S. DoJ, 2010b)

Company in this case is a big international transportation company that has acted also as customs broker for several clients, bribing customs officers at least in seven countries between years 2002 and 2009. Overall the case included over thousand corruptive payments. There has been several reasons for corruptive payments to customs officers including avoidance of customs process, avoid payment of correct amount of customs duties, and avoid penalties for items imported in violation. Customs process avoidance was more specified to include cases where bribes were paid to import goods without necessary import licenses or certificates and avoid customs inspections. The company paid bribes on behalf of its customer as customs broker and charged bribes from its customers. The customer invoices did not disclose payments being for bribery. There was typically two invoices, one based on weight and another for non-weight related instalments. The latter invoice category included bribery related charges.

Regarding the propositions, the bribery scheme in case 5 above is predicted by prepositions 1, and 5, thus the case supports those prepositions.

6.6 Case 6 (U.S. DoJ, 2010c)

The case 6 being for parent company of the company in case 5 repeats the same corruption scheme, with additional element being bookkeeping violations where bribes paid to customs officers were not described properly in the company bookkeeping. Some of the bribes were paid in cash without receipt to the customs officers, however the payments were charged from customers with inadequate terminology.

Regarding the propositions, the bribery scheme in case 6 above is predicted by prepositions 1, and 5, thus the case supports those prepositions.

6.7 Case 7 (U.S. DoJ, 2013a)

The company in case 7 was found being violated customs regulations by customs at 2004. As consequence customs had determined multimillion level penalty to be paid by the company. Company appealed to a customs panel about the penalty, and paid bribes to the panel members to reduce penalty. The panel reduced penalty by 80%. The company paid bribes indirectly via customs agent through third party law firm to the panel members. Company executives from legal, finance and compliance functions were involved with the bribery.

Regarding the propositions, the bribery scheme in case 7 above is predicted by prepositions 1, and 6, thus the case supports those prepositions.

6.8 Case 8 (U.S. DoJ, 2010d)

The case 8 includes customs related corruption in two countries. In the first country customs had seized company goods with claim that the company had undervalued goods in customs import declaration and thus avoided customs duties. The company disputed the allegations and appealed to customs panel. Company paid bribes to the panel members for them to issue favourable decision for the company. In the second country customs inspector had found during on-site inspection company not declaring all imported goods to the customs. Company paid bribe to the customs inspector for him not to report the finding in the inspection report. The bribe was paid via marketing agent. Several company director, manager and lower level employees were involved in the case.

Regarding the propositions, the bribery scheme in case 8 above is predicted by prepositions 1, and 6, thus the case supports those prepositions.

6.9 Case 9 (U.S. DoJ, 2013b)

The case 9 relates to import of products where import licenses and inspections were required. Bribes were paid to receive import license paperwork faster than normal process would have had given, to receive import licenses for ineligible products, import goods without necessary documentation and to avoid customs inspections, during and between years 2004 and 2009. Lengthy process to receive import license and clear customs with inspection were mentioned as root causes. Thus the bribery enabled faster introduction of products to the market. Bribes were paid via customs agent. The company in the case is big international corporation, and country general manager was leading the bribery scheme.

Regarding the propositions, the bribery scheme in case 9 above is predicted by prepositions 1, 4 and 9, thus the case supports those prepositions.

6.10 Case 10 (U.S. DoJ, 2010e)

The case 10 has occurred during years from 2004 to year 2006. Root cause for the bribery has been to expedite delivery process by skipping customs clearance and related inspections that would have had taken long time. Normal customs import processes were skipped by using express courier process. Express courier import process was allowed only for certain specific consignments. The shipments in question did not fulfil requirements to qualify for express courier import process. As consequence of the process official import customs duties and taxes were not paid, even though time saving was the ultimate reasons for the company to bribe. The bribes were paid by transportation company that acted also as customs broker. Several company employees

on manager and lower level were aware of the practice, and fact that the company did not pay customs duties for dutiable products.

Regarding the propositions, the bribery scheme in case 10 above is predicted by prepositions 1, and 5, thus the case supports those prepositions.

6.11 Case 11 (U.S. DoJ, 2010f)

The case 11 includes separate customs and tax cases in different countries. Only the customs part of the case is considered relevant for this thesis study. The customs part of the case is related to temporary import of goods, being similar to the case 4. Different to the case 4 in this case has higher variation of different things around temporary import process. Such were mentioned to include import before temporary import was authorized or necessary bond was set up, use of equipment with violation of temporary import terms and conditions, and export only after temporary import time had expired. Bribes were paid to customs authorities to allow before listed misconducts. Root cause for misconducts has been to keep the equipment in production use constantly long time without paying import duties. The company vice president of operations, country general manager, finance director and other lower level employees were aware and involved with corruptive payments paid by freight forwarding agent.

Regarding the propositions, the bribery scheme in case 11 above is predicted by prepositions 1, and 5, thus the case supports those prepositions.

6.12 Case 12 (U.S. DoJ, 2010g)

In the case 12 corrupting misconduct practice related to temporary import process by exporting and importing equipment on paper without physically moving the equipment is similar to the case 4. Both cases 12 and 4, as well as case 11 have happened in the same country with similar kinds of equipment. The case 12 has happened during years 2002 and 2007, about the same time frame like cases 4 and 11. Motives in case 12 were to keep the equipment in production use constantly without paying import duties. In this case bribes were paid via third party transportation company, and were known by company operations employees, including vice president.

Regarding the propositions, the bribery scheme in case 12 above is predicted by prepositions 1, and 5, thus the case supports those prepositions.

6.13 Case 13 (U.S. DoJ, 2010h)

In the case 13 corruption scheme is similar to case 10. In both cases express courier service was used for consignment that did not meet criteria. Specific to the case 13, it was mentioned weight

limit 50 kilograms for express courier consignments, whereas weight of some imported items via express courier process were as much as 500 kilograms. The express courier process was introduced to the company by freight forwarding company as way to speed up import process and to save customs duties. When using the express courier process the company did not pay customs duties and taxes, but paid very high transportation fees. Additionally there has been corrupting payments to customs officers for them to release goods from customs inspections, i.e. to speed up the import process. Also the case includes bribes for customs to allow removal of goods from customs control area to normal use in country without import declaration and for customs to escort people hand carrying urgent products through customs and immigration without customs declaration. The previous cases were considered smuggling. Bribery to support hand carry had happened in cases when an item was required even faster than what express courier process was able to transport and import. The bribes were paid by the freight forwarding company. In the beginning company was not aware of bribery, but had realized corruption after a year use of the process. After realizing the bribery company started to use it more broadly. Manager and lower level company employees were involved in the bribery. The bribery had lasted from September 2002 at least until April 2005.

Regarding the propositions, the bribery scheme in case 13 above is predicted by prepositions 1, and 5, thus the case supports those prepositions.

7 Case analysis

This chapter evaluates created propositions against the cases, and then describes other observations made from the cases that are relevant for the conclusions and lessons learned.

7.1 Propositions comparison against the cases

The previous chapter 6 analysed the cases and their relevance for propositions was listed for each case. Summary of the findings is collected to the following table 2. In the table propositions are marked as X like also in the table 1. Additionally each case is marked to the table by a case number used in the case descriptions in chapter 6, to enable visual evaluation of correlation between propositions and cases.

Most of the propositions are supported by cases, and there was no sample case that would not have been predicted by propositions. Lack of cases showing real life example for few potential gain-mean combinations can be considered as lack of such case, and should not be considered as disproof for the proposition. The first proposition predicted high-level gains that supply chain actors may reach when bribing customs authorities. The other propositions defined the bribery in more details. All the cases supported the first proposition, and there was no samples that would not have been predicted by proposition 1.

The proposition 2 predicted possibility to avoid improperly payment to customs if customs approves wrong country of origin via bribery. As in earlier chapter it was explained, in theory, this should be possible method to avoid antidumping or countervailing duties, however the samples studied did not include a case containing such event. The proposition 2 predicted also possibilities to receive improper gain via declaring too low customs value, wrong customs tariff code or via improper certificate. There was sample supporting all of those three alternatives. Thus there was partial support for proposition 2.

The proposition 3 predicted influence to customs application handling to enable ineligible goods to pass customs border. Sample for supporting such scenario was not found, however such scenario can be considered possible for example if an applicant bribes licensing officer to receive import or export license for consignment that is not eligible for the license. However as the supporting case was not found from the analysed case this proposition needs further study.

The proposition 4 predicted influence to application handling to enable receiving licenses or other authorizations faster than appropriate. There was one sample supporting the proposition 4.

TABLE 2

Summary of gains achieved by means. The X indicates propositions and number supporting cases.

		Bribery Gains					
		Avoid payments (duties, taxes and fees)	Avoid customs penalties	Receive customs permits and statuses	Faster customs turnaround time	Receive authorizations faster	Enable ineligible border crossings
Improper Means	Declare too low customs value or amount	X, 3					
	Declare wrong customs tariff	X, 2					
	Declare wrong country of origin	X					
	Incorrect declaration of a document (certificate or license)	X, 1					
	Avoid customs border control	X, 5, 6, 10, 11, 12, 13			X, 1, 9, 10, 11, 12, 13		X, 1, 2, 5, 6, 9
	Misuse of customs process	X, 1, 4, 5, 6, 10, 11, 12, 13			X, 1, 4, 11, 12, 13		X, 1, 5, 6
	Influence application handling			X, 9		X, 9	X
	Influence monitoring customs officer	X, 8	X, 1, 7, 8				

The proposition 5 predicted six separate scenarios which all were supported by couple of sample cases. Overall nine cases of thirteen were supporting proposition 5. The strong support for proposition 5 indicates possibility that it might have been easier to influence customs officer at the border to accept use of improper customs process or allow goods to pass border without proper

customs control than improperly obtain authorizations for goods to pass the border. The proposition included two separate means to receive the gain. The means were misuse of customs process or avoid customs controls at the border. The sample cases included roughly equal support for both means, likewise also for three gains. The gains were avoidance of payments to customs, faster customs turnaround time and to enable ineligible border crossings.

The proposition 6 predicted influence to the auditing or monitoring customs officer in charge to enable reduction of penalties and other payments to the customs. There was one case where customs duty reduction was received and three cases where penalty was reduced as consequence of the bribery.

7.2 Other case observations

In all of the studied cases bribes were handed over to customs authorities in form of money, so the cases did not include travels or material gifts given to the authorities. Common element in the cases, described in chapter 6, is hiding corruptive payments by using several different vague expressions that did not disclose true nature of the payments in the company's books and records. Only in few cases company paid bribes directly to a customs officers, but in all cases a third party has been involved. That is in line with general FCPA observations where over 90% of reported cases have involved third party intermediaries (Henderson, 2011). Typically third party has paid bribes to customs, and then charged bribes from the company. Combined list of used expressions for bribery related payments in third party invoices is presented in the Appendix III. Some of the used descriptions for bribe payments seems at first look quite a normal fees related to transportation of goods, like "Freight and Shipping/Courier Charge" (U.S. DoJ, 2010g). There exists also vague expressions that does not give indication of true nature of the cost, like "miscellaneous fee" (U.S. DoJ, 2010d), or "other services" (U.S. DoJ, 2007).

In all of the cases company employees were or became aware of the payments being corrupted, as well as recognized company to receive improper benefits. There was few cases where company employees were not aware of bribery in the beginning, but learned during the years. There was several cases where even as company employees learned the bribery, it was still allowed to continue for some time at least. In the studied cases, as knowledge of the bribery became wider, companies reacted via legal, compliance or internal audit functions. However there was also a case where bribes were arranged by legal director and another case where internal audit function, including a vice president and company chief finance officer were involved and allowed corruption to continue (U.S. DoJ, 2010a). There was some cases where not higher than manager level employees were involved in bribery. In several cases vice president level employees were involved, and there was one case where company compliance executive was involved in the

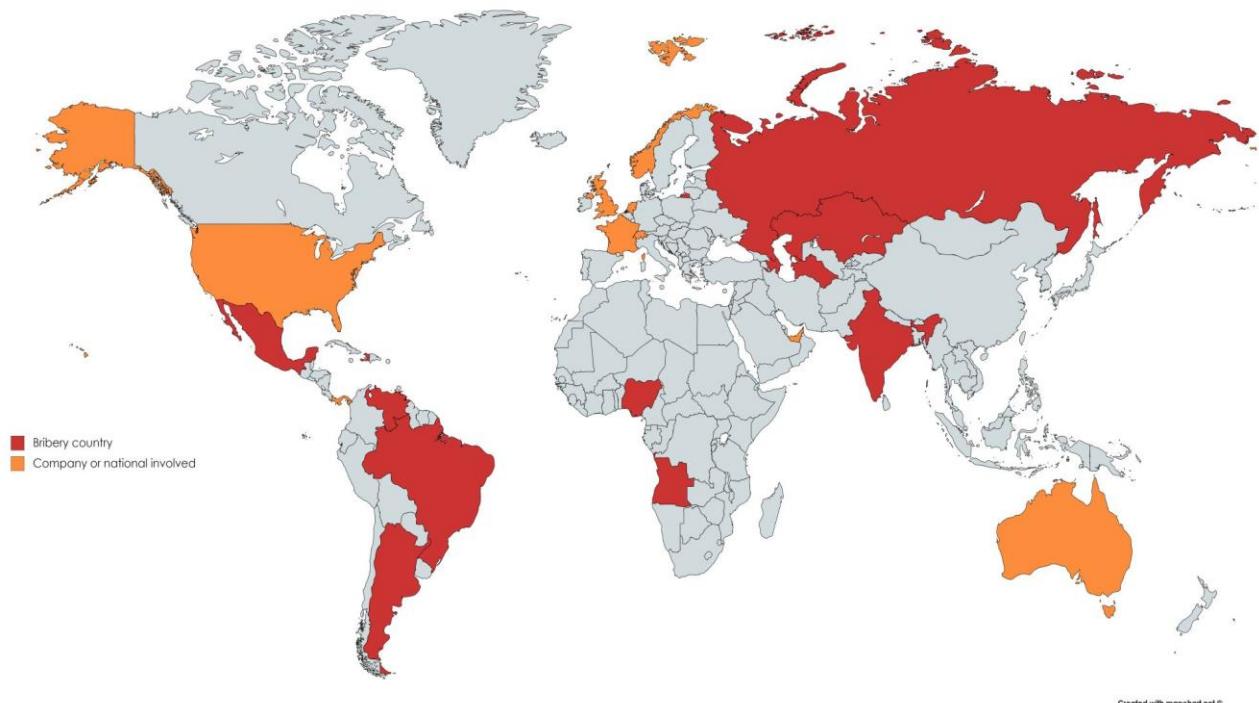
bribery (U.S. DoJ, 2013a). So, based on cases studied there were employees involved in bribery from low levels in the organization to top management, including also employees from legal, compliance and audit functions. Thus, there seems not to be an employee group that should be excluded from anti-corruption risks.

From geographical point of view the cases included bribery in 13 countries, involving companies from 22 countries and nationals of 24 countries. The countries involved are shown in figure 7.2. There were some small countries involved in the Caribbean region that are not shown in the figure. Customs authorities were bribed in countries shown red, and orange indicates additional countries where either company or nationals of the country were involved in bribery.

The involved companies were either subsidiaries of United States companies, or companies listed in the United States stock exchanges. Thus, even though the cases were collected only from United States jurisdiction, from geographical point of view there was more variance.

FIGURE 1

Involved countries⁵



⁵ The list of countries where customs related bribery had occurred is: Angola, Argentina, Azerbaijan, Brazil, Haiti, India, Kazakhstan, Mexico, Nigeria, Russia and Turkmenistan. Additionally companies from following countries were involved: Bahama, British Virgin Islands, Cayman Islands, France, Netherlands, Norway, Panama, Switzerland, United States and United Kingdom. And additionally nationals of Australia and United Arab Emirates were involved.

7.3 Lessons learned for corporate anti-corruption programs

The corporate anti-corruption compliance program elements found from literature are mostly general guidelines and are not considered specific for customs related anti-corruption actions.

Anti-corruption program elements that were considered general includes management commitment, general compliance requirement, training and guidance, nomination of responsible compliance officer, compliance culture, violation reporting, disciplinary actions and periodic review of compliance program. Remaining three of the OECD compliance program guidance elements were considered to be in the interest of specific customs related actions, and thus those are discussed in this chapter to determine what lessons can be learned. Finally table 3 illustrates connection of lessons learned to the studied cases indicating lessons that would have mitigated each case.

7.3.1 Lessons learned from payments

The corporate anti-corruption compliance program elements found from literature are mostly general guidelines and are not considered specific for customs related anti-corruption actions.

Anti-corruption program elements that were considered general includes management commitment, general compliance requirement, training and guidance, nomination of responsible compliance officer, compliance culture, violation reporting, disciplinary actions and periodic review of compliance program. Remaining three of the OECD compliance program guidance elements were considered to be in the interest of specific customs related actions, and thus those are discussed in this chapter to determine what lessons can be learned.

Depending on company mode of operation it may use third party, like customs broker, to first pay duties, taxes and fees to customs authority and who then charge the costs from the company, in addition to their service fees. Or company may pay also directly to the customs authority. One of the guided anti-corruption program element is to have measures in place to prevent and detect bribery. In customs context one of the bribery key elements is to give anything of value in return of favour from customs authorities. In the studied cases only monetary payments were present as bribes to customs authorities, even though legislation covers also other benefits given, like for example gifts, holidays, entertainment, and expenses. Therefore to detect and prevent bribery key element is to understand if it is compliant when giving anything of value out from the company. At the end, even if a physical gift would be given it needs to be paid at some point, so, it typically relates to some sort of payment. Therefore, focusing to any payment is to be considered as a good anti-corruption measure. The border crossing related payments can be divided into the official payments and service payments.

The official payments are duties, taxes and fees that are based on laws, rules and regulations. To ensure compliance of such payments, and to ensure that bribes are not hidden on behind invoice line title of duties, taxes and fees, company should understand correct amount of such payments. Like found in the literature review, customs value, customs duty rate, potential free trade and other customs measures are key elements to determine correct amount of customs duties. To ensure understanding of correct amount of border crossing related authority payments, the correct amount of such payments should be calculated based on legislative norms. Then, as compliance measure, the authority payments charged should be compared to the calculated correct amount of payments. Thus, if the duties, taxes and fees are verified via calculation to be correct it reduces corruption risk⁶, as in that case there is no room for bribery or benefit from bribery. Several studied cases included bribery either to speed up border crossing or to allow restricted or prohibited goods to pass border. In those cases typically also customs duties were not paid at all or were underpaid. So, not only for customs compliance program, but also for anti-corruption program underpayment of customs duties should be seen as a red flag.

Service fees are other element where bribery payments can be hidden, not only for customs broker, but also other supply chain actors, as there existed some cases where a transportation company had paid bribes to the customs authority. It might be more difficult to determine that bribes are not hidden into service fee payments, as there is no typically any regulation in place on how much a transportation or customs clearance should cost. In one studied case the bribes were hidden into too high transportation fee. However, typically, companies make an agreement with customs brokers and third parties to agree price in advance for the service third party provides. In that phase it would be recommendable to review the service fees in detail to understand what elements will be included in each service fee invoice line. So, if the company reviews legitimacy of all payments to the customs authorities either directly or via third parties, it would be a good measure for anti-corruption compliance program. In customs context understanding of correct amount of payments requires typically special expertise of customs compliance. Therefore robust customs compliance program would have mitigated all studied cases, either by avoiding customs violations or recognizing non-compliant border crossing in earlier phase.

7.3.2 Lessons learned for use of third parties

Depending on company mode of operation it may use customs brokers or self-file customs declarations. In all of the cases studied a third party was used in connection to the bribery

⁶ Verification of correct payment amount of customs duties taxes and fees is also measure of customs compliance program, and thus it works for both customs compliance and anti-corruption programs. Also effective customs compliance program would recognize misuse of customs procedures, which was recognized as one of the means to cross customs border improperly.

payments to customs authorities. The third parties used as intermediary for paying bribes included in most cases customs brokers or transportation companies, but there was also a marketing agent and a legal consult used. As mentioned in the literature review OECD recommends and DoJ requires anti-corruption measures for high risk third parties Based on learnings from the study, customs brokers, transportation companies and agents that are dealing with customs authorities on behalf of the company should be considered as parties subject to anti-bribery risk, and thus be subject to the anti-corruption measures. Having anti-corruption measures against high risk customs related third parties would have mitigated all other studied cases, except cases 5 and 6. In this respect cases 5 and 6 are different because these are against a transportation company that had bribed customs authorities on behalf of its customers. Typical measures listed in the OECD recommendations are contractual agreements to commit for anti-bribery policy, due diligence requirement and anti-corruption training to the third party (OECD, 2010).

7.3.3 Lessons learned for financial and accounting procedures

The anti-corruption regulations requires and compliance program guidelines instructs companies to set up internal control measures to ensure company's books and records to be accurate. In all of the studied cases bribery payments were not disclosed accurately in the company's books and records, but vague expressions, that did not disclose true nature of the payments to the customs authorities, were used. Therefore invoice verification is applicable mitigation element for all studied cases. List of the used vague expressions in the studied cases is presented as Appendix III. The companies may have both customs duty payments and service fee payments to third parties. Typically someone in the company is verifying and approving invoices before payment. To ensure accuracy of the books and records, the vague expressions should be questioned, and only payments which content and true nature are known should be approved for payment.

TABLE 3
Applicability of lessons learned.⁷

	Lessons Learned			
	Customs compliance program is also an element for effective anti-corruption program)	Recognition of high risk parties to be subject for anti-corruption program measures	Companies should not assume employee in any function or level to be safe from anti-corruption risk.	Customs related invoice verification.
Cases	Case 1	X	X	X
	Case 2	X	X	X
	Case 3	X	X	X
	Case 4	X	X	X
	Case 5	X		X
	Case 6	X		X
	Case 7	X	X	X
	Case 8	X	X	X
	Case 9	X	X	X
	Case 10	X	X	X
	Case 11	X	X	X
	Case 12	X	X	X
	Case 13	X	X	X

⁷ The lessons learned are: 1: A robust and effective customs compliance program is also an element for effective anti-corruption program. 2. Customs brokers, transportation companies and other agents dealing with customs authorities on behalf of the company should be considered as risky third parties, and therefore be subject to special anti-corruption program measures. 3. Companies should not assume employee in any function or level to be safe from anti-corruption risk. 4. Companies should verify invoices charged by customs brokers and other third parties that are dealing with customs to ensure payments to be appropriate and bribes being not hided.

The cases 5 and 6 were different to the other studied cases because those cases were against a transportation company that had bribed customs authorities on behalf of their customers.

8 Contribution for the research and practice

This master thesis has been studying customs related corruption for creating knowledge to be basis for further development of corporate compliance programs. The study conducted indicates support for the created propositions, and thus derive the first theoretical understanding on reasons why supply chain actors bribe customs authorities. Understanding the motivating factors for supply chain actors to bribe customs authorities is the main contribution to the research of this master thesis.

As part of the literature review and studied cases lessons learned for corporate anti-bribery programs were derived. The lessons learned gives contribution to the practice, being direct guidance elements that corporations can take into account when creating or modifying either their anti-corruption or customs compliance programs.

9 Conclusions and Recommendations

Target of this master thesis was to investigate corruption where supply chain actors bribe customs authorities to create understanding to form base for corporate anti-bribery programs. In the first part this conclusion summarises key elements of this thesis and answers the research question. The second part considers lessons learned for the corporate anti-bribery programs. In the final chapter limitations and further research ideas are described.

9.1 Conclusions

To contribute target of this master thesis literature was reviewed in chapter 3, including anti-bribery, customs and supply chain areas. Then in the next chapter propositions were concluded based on findings from literature. Chapter 5 described reasons for selected case study method. The studied cases were described in chapter 6 and finally analysed with comparison to the propositions in chapter 7, as well as lessons learned were considered in chapter 7.

This work gives grounds to answer the research question:

The research question can be divided into two parts, first to create understanding on motivating factors for supply chain actors to bribe customs authorities, and second to learn lessons for corporate anti-bribery programs.

In this thesis it was found supply chain actors to seek gains when bribing customs authorities. Further in details benefits that companies are looking for, are related reduction of payments to the customs or to allow products to pass customs border either faster or inappropriate goods to pass customs border. The payments where reductions are looked for includes both normal border crossing related customs duties, taxes and fees, as well as customs penalties. There was found two corruption categories to reduce cost at the customs border related to customs duties, taxes and fees. The first was to issue customs declaration with false data, like customs value or customs tariff code, and the second was to smuggle goods through the border, both with customs approval or assistance due to bribes. Inappropriate goods to pass customs border includes all goods where necessary licenses or quotas were not in place, or goods were completely prohibited to cross the border. Also it was learned bribing the customs officer at the border to accept goods to pass border without required controls or using improper procedure to be the most common method to seek the benefits. Less frequent were cases where in itself correct procedure was used, but customs officer was bribed to accept wrong customs declaration data to reduce payments. Payments were reduced also by bribing customs officer on enforcement duty, either performing audit or as a customs panel member considering plea.

There was also several lessons learned for corporate anti-bribery programs when studied cases were considered together with propositions created based on literature.

First, a robust and effective customs compliance program is also an element for effective anti-corruption program. The customs compliance program supports anti-corruption efforts by three ways. First by eliminating customs violations, second by enabling company to understand and pay correct amount of border crossing related duties, taxes and fees, and third by recognizing use of improper processes to pass customs border.

Second learning is that customs brokers, transportation companies and other agents dealing with customs authorities on behalf of the company should be considered as risky third parties, and therefore be subject to special anti-corruption program measures

Third learning from the cases is that companies should not assume employee in any function or level to be safe from anti-corruption risk, as there was high variation in titles and functions of employees involved in bribery.

And finally fourth learning is that companies should verify invoices charged by customs brokers and other third parties that are dealing with customs to ensure payments to be appropriate and bribes being hidden behind vague statements. The appendix III list of descriptions, that are used to hide bribes in the invoices charged by third parties, can be used as reference when creating list of red flags for invoice check.

9.2 Limitations and scope for further research

Main limitation of this thesis comes from the fact that cases were selected only from US DoJ published materials. Also, there might be other FCPA violations that are not published by the DoJ, for example there might exist cases that have not been discovered by the DoJ or are still under investigation. Typically there was couple of years delay from discovery of the case by the company to the company agreement with the DoJ. Even though the studied thirteen cases are giving useful information of the phenomena, larger scale further research is necessary to determine the extent how generally results from this thesis can be applied to customs related supply chain actor corruption.

The studied cases relate also to the second limitation. There was six propositions tested and some of the propositions received strong support from the cases. Also, there was few propositions that were supported by only few of the cases. However there was one proposition that seems possible, but was not supported by any of the cases. Future study with larger number of samples or study with special focus on that phenomenon should be conducted to create further knowledge on that scenario.

Also as only the FCPA related cases were studied, the study is limited to that jurisdiction. In the literature review FCPA was compared to global situation via UNCAC, and there was recognized some differences, however from customs corruption point of view those differences were not considered significant. Also cultural differences may impact corruption as phenomena. Also as each country sets anti-corruption legislation within its own legal system and there also exists variation how corruption is present in various countries, impact of the variation to the results of this study should be studied to understand how widely the results can be generalized over the globe.

There exists variation on how corruption is observed to exist in various countries (Transparency International, 2017). All the studied customs cases have occurred in countries that are below average in the Transparency International Corruption Perceptions Index (CPI). It might be interesting to study further the extent and means on how the International corruption perceptions index could be used in risk management when developing anti-corruption program for customs area. However there might be difficulties to find enough material for such studies specific to the customs related corruption.

This thesis addresses actual creation of corporate anti-corruption program for customs area only to limited extent via lessons learned. It would be recommended as next step to study most effective and efficient way to address customs corruption risk in the corporate compliance program. An interesting question to study might whether the anti-corruption elements could be built into customs compliance program, or customs elements in the anti-corruption program, or would there be a third, even better, way to address customs related corruption risks in the corporate anti-corruption program.

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Appendix I: Propositions

Proposition 1: Supply chain actors may bribe customs authorities to receive improper gain in border crossing related payments, controls and restrictions, or customs enforcement.

Proposition 2: Improper gain in border crossing related payments might be achieved via bribing customs officers to accept misdeclaration of customs value, customs tariff code, country of origin or certificate.

Proposition 3: Improper gain to enable restricted or prohibited goods to cross customs border might be received via bribing customs officers to grant licenses, or other authorizations for ineligible products.

Proposition 4: Improper gain to enable restricted or prohibited goods to cross customs border sooner than appropriate might be received via bribing customs officers to grant licenses, or other authorizations faster than appropriate.

Proposition 5: Improper gain via speeding up customs turnaround time, paying less border crossing related customs payments or cause restricted or prohibited goods to pass customs border might be received by bribing customs officers to allow consignment to cross border without customs control or inspection or via use of inappropriate customs procedure.

Proposition 6: Improper gain via reducing customs penalties and to receive gain from customs regulation violations might be received by bribing customs officer in charge not to impose penalties or cause consequences due to customs regulation violations.

Appendix II: All analysed DoJ FCPA cases

Below is list of all analysed DoJ FCPA cases in alphabetical order according to enforcement target name. Columns below have following content: Case No. is a running number, Case includes name and link to the case in the DoJ website, Customs relevant has yes or no depending on if the case has customs related bribery, and Thesis case ID is identification of the case in this thesis. There was not found documentation for case no 153 from the DoJ website, thus that case is marked as "Not Known".

Link to the DoJ website is: <https://www.justice.gov/criminal-fraud/related-enforcement-actions>

Case No.	Case	Customs relevant	Thesis case ID
1	U.S. v. ABB Inc.: Docket No. 10-CR-664	No	
2	U.S. v. ABB Ltd - Jordan: Docket No. 10-CR-665	No	
3	U.S. v. ABB Vetco Gray, Inc., et al.: Docket No. 04-CR-279	No	
4	U.S. v. AGA Medical Corporation: Docket No. 08-CR-172-JMR	No	
5	U.S. v. AGCO Limited: Docket No. 09-CR-249-RJL	No	
6	U.S. v. Enrique Aguilar, et al.: Docket No. 10-CR-1031	No	
7	U.S. v. Aibel Group Limited: Docket No. 07-CR-005	Yes	Case 1
8	In Re Akzo Nobel N.V. (2007)	No	
9	U.S. v. Alcatel-Lucent, S.A.: Docket No. 10-CR-20907	No	
10	U.S. v. Alcatel-Lucent France, S.A., et al.: Docket No. 10-CR-20906	No	
11	U.S. v. Alcoa World Alumina LLC: Docket No. 14-CR-00007-DWA	No	
12	U.S. v. Alfred C. Toepfer International Ltd.: Docket No. 13-CR-20062-MPM-DGB	No	
13	U.S. v. Alliance One International AG: Docket No. 10-CR-017-JLK	No	
14	In Re Alliance One International, Inc. (2010)	No	
15	U.S. v. Alliance One Tobacco Osh, LLC: Docket No. 10-CR-016-JLK	No	
16	U.S. v. Alstom S.A., et al. : Docket No. 3:14-cr-00245-JBA et al.	No	
17	U.S. v. Daniel Alvirez, et al: Docket No. 09-CR-348-RJL	No	
18	U.S. v. American Totalisator Company, Inc.: Docket No. 93-Cv-00161-FNS	No	
19	U.S. v. Yaw Osei Amoako: Docket No. 06-CR-702-GEB	No	
20	U.S. v. Robert Antoine: Docket No. 09.CR-21010-JEM	No	
21	In Re Aon Corporation (2011)	No	
22	U.S. v. Avon Products, Inc.: Docket No: 1:14-cr-00828-GBD	No	
23	U.S. v. Avon Products (China) Co. Ltd.: Docket No: 1:14-cr-00828-GBD	No	
24	U.S. v. Applied Process Products Overseas, Inc.: Docket No. 83-CR-004	No	
25	In Re Archer Daniels Midland Company (2013)	No	
26	In Re Armor Holdings, Inc. (2011)	No	
27	U.S. v. Helmie Ashiblie: Docket No. 09-CR-347-RJL	No	
28	U.S. v. BAE Systems plc: Docket No. 10-CR-035-JDB	No	
29	U.S. v. Joo Hyun Bahn, Ban Ki Sang, and Malcom Harris, Docket No. 16-CR-00831	No	
30	U.S. v. Baker Hughes Services International, Inc.: Docket No. 07-CR-129	No	
31	U.S. v. Ramendra Basu: Docket No. 02-CR-475-RWR	No	
32	U.S. v. Fernando Maya Basurto: Docket No. 09-CR-325	No	

33	U.S. v. Gary D. Bateman: Docket No. 83-CR-005	No
34	U.S. v. Andrew Bigelow: Docket No. 09-CR-346-RJL	No
35	U.S. v. Bilfinger SE: Docket No. 4-13-CR-745	No
36	U.S. v. Biomet, Inc.: Docket No. 12-CR-080-RBW	No
37	In Re Bio-Rad Laboratories, Inc. (2014)	No
38	U.S. v. Richard T. Bistrong: Docket No. 10-CR-021-RJL	No
39	U.S. v. Bizjet International Sales and Support, Inc.: Docket No. 12-CR-061-CVE	No
40	In Re BK Medical ApS	No
41	U.S. v. John Blondek, et al.: Docket No. 90-CR-062	No
42	U.S. v. Hans Bodmer: Docket No. 03-CR-947-SAS	No
43	U.S. v. Frederic Bourke: 05-CR-518-SAS	No
44	U.S. v. Jim Bob Brown: Docket No. 06-CR-316	No
45	U.S. v. Braskem S.A.: Docket No. 16-CR-644	No
46	U.S. v. Bridgestone Corporation Docket No. 11-CR-651	No
47	U.S. v. Manuel Caceres: Docket No. 10-CR-20881	No
48	U.S. v. R. Patrick Caldwell, et al: Docket No. 09-CR-345-RJL	No
49	U.S. v. Joshua C. Cantor: Docket No. 01-CR-687	No
50	U.S. v. Thomas Carman: Docket No. 04-CR-093-LSC-JEO	No
51	U.S. v. Harry Carpenter: Docket No. 85-CR-353	No
52	U.S. v. Stuart Carson, et al: Docket No. 09-CR-077-JVS	No
53	U.S. v. Rose Carson: Docket No. 09-CR-077-JVS	No
54	U.S. v. C.E. Miller Corporation, et al.: Docket No. 82-CR-788	No
55	U.S. v. Benito Chinea: Docket No. 14-CR-240-DLC	No
56	U.S. v. Frederic Cilins: Docket No. 13-CR-00315-WHP	No
57	U.S. v. Tomas Alberto Clarke Bethancourt: Docket No. 13-CRIM-670	No
58	U.S. v. Wojciech J. Chodan: Docket No. 09-CR-098	No
59	U.S. v. Daren Condrey: Docket No. 8:15-cr-332-TDC	No
60	U.S. v. Paul Cosgrove: Docket No. 09-CR-077-JVS	No
61	U.S. v. CNH France S.A.: Docket No. 08-CR-379-RJL	No
62	U.S. v. CNH Italia S.p.A.: Docket No. 08-CR-378-RJL	No
63	U.S. v. Yochanan R. Cohen: Docket No. 09-CR-343-RJL	No
64	In Re Comverse Technology, Inc. (2011)	No
65	U.S. v. Control Components, Inc.: Docket No. 09-CR-162-JVS	No
66	U.S. v. Control Systems Specialist, Inc., et al.: Docket No. 98-CR-073-WHR	No
67	U.S. v. JGC Corporation: Docket No. 11-CR-260	No
68	U.S. v. Mario Covino: Docket No. 08-CR-336-JVS	No
69	U.S. v. Crawford Enterprises, Inc., et al.: Docket No. 82-CR-224	No
70	U.S. v. Daimler AG: Docket No. 10-CR-063-RJL	No
71	U.S. v. DaimlerChrysler Automotive Russia SAO: Docket No. 10-CR-064-RJL	No
72	U.S. v. DaimlerChrysler China Ltd.: Docket No. 10-CR-066-RJL	No
73	U.S. v. Daimler Export and Trade Finance GmbH: Docket No. 10-CR-065-RJL	No
74	U.S. v. Dallas Airmotive: Docket No. 3-14-CR-483-D	No
75	U.S. v. Data Systems & Solutions LLC: Docket No. 12-CR-262-LO	No
76	U.S. v. Joseph Demeneses: Docket No. 14-CR-240-DLC	No
77	In Re Deutsche Telekom AG (2011)	No
78	U.S. v. Juan Diaz: Docket No. 09-CR-20346-JEM	No

79	U.S. v. Diebold, Inc.: Docket No. 13-CR-00464-SO	No
80	U.S. v. DPC (Tianjin) Co. Ltd.: Docket No. 05-CR-482	No
81	U.S. v. Peter Dubois: Docket No. 11-CR-183-GKF	No
82	U.S. v. Rene Duperval: Docket No. 09-CR-21010-JEM	No
83	U.S. v. Eagle Bus Manufacturing, Inc.: Docket No. 91-CV-00171	No
84	U.S. v. David Edmonds: Docket No. 09-CR-077-JVS	No
85	U.S. v. Asem M. Elgawhary: Docket No. 14-CR-00068-DKC	No
86	U.S. v. Bobby Jay Elkin, Jr.: Docket No. 10-CR-015-JLK	No
87	U.S. v. Embraer S.A.: Docket No. 16-CR-60294	No
88	U.S. v. Joel Esquenazi, et al: Docket No. 09-CR-21010-JEM	No
89	In Re Faro Technologies, Inc. (2008)	No
90	U.S. v. Thomas Farrell: Docket No. 03-CR-290-RMB	No
91	U.S. v. F.G. Mason Engineering, Inc., et al.: Docket No. 90-CR-029	No
92	U.S. v. Dmitry Firtash: Docket No. 13-CR-515	No
93	U.S. v. Flowserv Pompe SAS: Docket No. 08-CR-035-RJL	No
94	U.S. v. Jean Fourcand: Docket No. 10-CR-20062-JEM	No
95	U.S. v. Vicente Eduardo Garcia: Docket No. 15-CR-366	No
96	In Re General Cable Corporation (2016)	No
97	U.S. v. General Electric Company: Docket No. 92-CR-087	No
98	U.S. v. Haim Geri: Docket No. 09-CR-342-RJL	No
99	U.S. v. Suren Gevorgyan: Docket No. 13-CR-515	No
100	U.S. v. James H. Giffen, et al.: Docket No. 03-CR-404-WHP	No
101	U.S. v. Amaro Goncalves, et al. : Docket No. 09-CR-335-RJL	No
102	U.S. v. Maria de los Angeles Gonzalez de Hernandez: Docket No. 13-CRIM-901	No
103	U.S. v. Goodyear International Corp.: Docket No. 89-CR-156	No
104	U.S. v. Jorge Granados, et al: Docket No. 10-CR- 20881	No
105	U.S. v. Alfonzo Eliezer Gravina Munoz, Docket No. 15-CR-00637	No
106	U.S. v. Gerald Green, et al.: Docket No. 08-CR-059-GW	No
107	U.S. v. Patricia Green: Docket No. 08-CR-059-GW	No
108	U.S. v. John Gregory Godsey, et al. : Docket No. 09-CR-349	No
109	U.S. v. Richard K. Halford: Docket No. 01-CR-221	No
110	U.S. v. Knut Hammarskjold: Docket No. 14-CR-00065-JEI	No
111	U.S. v. Dmitrij Harder: Docket No: 2:15-cr-00001-PD	No
112	U.S. v. Harris Corporation, et al.: Docket No. 90-CR-456	No
113	U.S. v. Steven Lynwood Head: Docket No. 06-CR-1380-BEN	No
114	In Re Helmerich & Payne, Inc. (2009)	Yes Case 2
115	U.S. v. Denny J. Herzberg: Docket No. 94-CR-254	No
116	In Re Hewlett-Packard Mexico, S. de R.L. de C.V. (2014)	No
117	U.S. v. Hewlett-Packard Polska, SP. Z O.O.: Docket No. CR-14-202 EJD	No
118	U.S. v. ZAO Hewlett-Packard A.O.: Docket No. CR-14-201 DLJ	No
119	U.S. v. Misao Hioki: Docket No. 08-CR-795	No
120	U.S. v. Richard Hirsch: Docket No: 3:15-cr-00358-MLC	No
121	U.S. v. Lawrence Hoskins: Docket No. 12-CR-238-JBA	No
122	U.S. v. Ali Hozhabri: Docket No. 07-CR-452	No
123	U.S. v. Jose Alejandro Hurtado: Docket No. 13-CRIM-673	No
124	In Re IAP Worldwide Services, Inc. (2015)	No
125	U.S. v. Ingersoll-Rand Italiana SpA: Docket No. 07-CR-294-RJL	No

126	U.S. v. Innospec Inc.: Docket No. 10-CR-061-ESH	No
127	U.S. v. International Harvester Company: Docket No. 82-CR-244	No
128	U.S. v. International Materials Solutions Corp., et al.: Docket No. 99-CR-008-WHR	No
129	In Re InVision Technologies, Inc. (2004)	No
130	U.S. v. Iveco S.p.A.: Docket No. 08-CR-377-RJL	No
131	U.S. v. David J. Janasik: Docket No. 88-CR-366	No
132	U.S. v. William J. Jefferson: Docket No. 07-CR-209-TSE	No
133	U.S. v. Jald Jensen: Docket No. 12-CR-06-CVE	No
134	U.S. v. JGC Corporation: Docket No: 11-CR-260	No
135	U.S. v. Johnson and Johnson (DePuy): Docket No. 11-CR-099	No
136	In Re JPMorgan Securities (Asia Pacific) Limited	No
137	U.S. v. Charles Paul Edward Jumet: Docket No. 09-CR-397-HEH	No
138	U.S. v. David Kay, et al.: Docket No. 01-CR-914	Yes Case 3
139	U.S. v. Kellogg Brown & Root LLC: Docket No. 09-CR-071	No
140	U.S. v. Kenny International Corp.: Docket No. 79-CR-372	No
141	U.S. v. Marquis D. King: Docket No. 83-CR-020	No
142	U.S. v. Robert Richard King, et al.: Docket No. 01-CR-190	No
143	U.S. v. Gary S. Klein: Docket No. 93-CR-052	No
144	U.S. v. Andras Knopp: Docket No. 13-CR-515	No
145	U.S. v. Bernd Kowalewski: Docket No. 12-CR-07-GKF	No
146	U.S. v. Viktor Kozeny, et al.: Docket No. 05-CR-518-SAS	No
147	U.S. & SEC v. KPMG Siddharta Siddharta & Harsono, et al.: Docket No. 01-CV-3105	No
148	U.S. v. Gajendra Lal: Docket No. 13-CR-515	No
149	U.S. v. LATAM Airlines Group S.A.: Docket No. 16-CR-60195	No
150	U.S. v. Latin Node, Inc.: Docket No. 09-CR-20239-PCH	No
151	U.S. v. Clayton Lewis: Docket No. 03-CR-930-NRB	No
152	U.S. v. Richard H. Liebo: Docket No. 89-CR-076	No
153	U.S. v. Litton Applied Technology Division, et al.: Docket No. 99-CR-673	Not Known
154	U.S. v. Lockheed Corporation, et al.: Docket No. 94-CR-226	No
155	U.S. v. Louis Berger International Inc. Docket No: 2:15-mj-03624-MF	No
156	In Re Lucent Technologies Inc. (2007)	No
157	In Re Lufthansa Technik AG (2012)	No
158	U.S. v. Ernesto Lujan: Docket No. 13-CRIM-671	No
159	U.S. v. Joseph T. Lukas Court Docket Number 2:01-CR-522	No
160	U.S. v. Magyar Telekom, Plc.: Docket No. 11-CR-597	No
161	U.S. v. Christian Javier Maldonado Barillas, Docket No. 15-CR-00635	No
162	U.S. v. Marubeni Corporation: Docket No. 12-CR-022	No
163	U.S. v. Marubeni Corporation: Docket No. 14-CR-00052-JBA	No
164	U.S. v. Maxwell Technologies, Inc.: Docket No: 11-CR-329-JM	No
165	U.S. v. James McClung Docket No: 3:15-cr-00357-MLC	No
166	U.S. v. David H. Mead, et al.: Docket No. 98-CR-240-AET	No
167	U.S. v. Metcalf & Eddy, Inc: Docket No. 99-CV-12566-NG	No
168	In Re Micrus Corporation (2005)	No
169	U.S. v. Vadim Mikerin: Docket No. 8:14-cr-00529-TDC	No
170	U.S. v. Moises Abraham Millan Escobar, Docket No. 16-CR-00009	No

171	U.S. v. Saul Mishkin: Docket No. 09-CR-344-RJL	No
172	U.S. v. Monsanto Company: Docket No. 05-CR-008-ESH	No
173	U.S. v. Richard Morlok: Docket No. 09-CR-005-JVS	No
174	U.S. v. George V. Morton: Docket No. 90-CR-061	No
175	U.S. v. John M. Mushriqui, et al: Docket No. 09-CR-336-RJL	No
176	U.S. v. Ousama M. Naaman: Docket No. 08-CR-246-ESH	No
177	U.S. v. Napco International, Inc., et al.: Docket No. 89-CR-047	No
178	U.S. v. An Quoc Nguyen, et al Court Docket Number: 2:08-CR-522	No
179	U.S. v. Kim An Nguyen, et al Court Docket Number: 2:08-CR-522	No
180	U.S. v. Nam Quoc Nguyen, et al.: Docket No. 08-CR-522-TJS	No
181	U.S. v. Vincent Nico: Docket No.04-CR-092-SLB-JEO	No
182	In Re Noble Corporation (2010)	Yes Case 4
183	In Re The NORDAM Group, Inc. (2012)	No
184	U.S. v. Paul Grayson Novak (2009) Docket No: 4:08-cr-00022	No
185	U.S. v. Richard John Novak: Docket No. 05-CR-180-LRS	No
186	U.S. v. Novo Nordisk A/S: Docket No. 09-CR-126-RJL	No
187	U.S. v. Och-Ziff Capital Management Group LLC	No
188	U.S. v. Odebrecht S.A., Docket No. 16-CR-643	No
189	U.S. v. Olympus Latin America Inc	No
190	In Re Omega Advisors, Inc. (2007)	No
191	U.S. v. Orthofix International, N.V.: Docket No. 4:12-cr-00150-RAS-DDB-1	No
192	U.S. v. John Joseph Oæ...hea: Docket No. 09-CR-629	No
193	U.S. v. Steven J. Ott: Docket No. 07-CR-608-GEB	No
194	U.S. v OZ Africa Management GP, LLC	No
195	U.S. v. David R. Painter, et al.: Docket No. 09-CR-337-RJL	No
196	U.S. v. Panalpina, Inc.: Docket No. 10-CR-765	Yes Case 5
197	U.S. v. Panalpina World Transport (Holding) Ltd.: Docket No.10-CR-769	Yes Case 6
198	In Re Paradigm B.V. (2007)	No
199	In Re Parametric Technology (2016)	No
200	U.S. v. Parker Drilling Company: Docket No. 13-CR-176	Yes Case 7
201	U.S. v. Pankesh Patel: Docket No. 09-CR-338-RJL	No
202	U.S. v. Ofer Paz: Docket No. 09-CR-339-RJL	No
203	U.S. v. Antonio Perez : Docket No. 09-CR-20347-JEM	No
204	U.S. v. Garth Peterson: Docket No. 12-CR-224	No
205	U.S. v. Pfizer H.C.P. Corporation: Docket No: 12-CR-169	No
206	U.S. v. Frederic Pierucci: Docket No. 12-CR-238-JBA	No
207	U.S. v. Richard G. Pitchford: Docket No. 02-CR-365	No
208	U.S. v. David Pinkerton: Docket No. 05-CR-518-SAS	No
209	U.S. v. William Pomponi: Docket No. 12-CR-238-JBA	No
210	U.S. v. Joaquin Pou, et al.: Docket No. 89-CR-802	No
211	U.S. v. Pride Forasol: Docket No. 10-CR-771	No
212	U.S. v. Pride International, Inc.: Docket No. 10-CR-766	Yes Case 8
213	U.S. v. Shu Quan-Sheng: Docket No. 08-CR-194-HCM-TEM	No
214	In Re RAE Systems Inc. (2010)	No
215	U.S. v. Mizanur Rahman: Docket No. 12-CR-00438-LO	No
216	U.S. v. Jose Luis Ramos Castillo: Docket No. 15-CR-00636	No
217	In Re Ralph Lauren Corporation (2013)	Yes Case 9

218	U.S. v. James Rama, Court Docket Number: 15-cr-00143-GBL	No
219	U.S. v. Albert Franklin Reitz: Docket No. 01-CR-222	No
220	U.S. v. Renault Trucks SAS: Docket No. 08-CR-068-RJL	No
221	U.S. v. Flavio Ricotti Docket: No. 09-CR-077-JVS	No
222	U.S. v. Alain Riedo: Docket No. 13-CR-03789	No
223	U.S. v. Roberto Enrique Rincon Fernandez: Docket No. 15-CR-00654	No
224	U.S. v. Alfonso A. Rodriguez: Docket No. 83-CR-044	No
225	U.S. v. Carlos Rodriguez: Docket No. 09-CR-21010-JEM	No
226	U.S. v. Rolls-Royce PLC Docket No. 16-CR-247	No
227	U.S. v. Daniel Ray Rothrock: Docket No. 01-CR-343-OLG	No
228	U.S. v. David Rothschild: Docket No. 12-CR-223-WWE	No
229	U.S. v Boris Rubizhevsky: Docket No. 8:15-cr-332-TDC	No
230	U.S. v. Ruston Gas Turbines, Inc.: Docket No. 82-CR-207	No
231	U.S. v. Faheem Mousa Salam: Docket No. 06-CR-157-RJL	No
232	U.S. v. Manuel Salvoch: Docket No. 10-CR-20893	No
233	U.S. v. Sam P. Wallace Company, Inc.: Docket No. 83-CR-034	No
234	U.S. v. Christian Sapsizian, et al.: Docket No. 06-CR-20797-PAS	No
235	U.S. v. Saybolt North America Inc., et al.: Docket No. 98-CR-10266-WGY	No
236	U.S. v. Martin Eric Self : Docket No. 08-CR-110-AG	No
237	U.S. v. Ng Lap Seng and Jeff C. Yin: Docket No. 15-CR-00706-VSB	No
238	U.S. v. Gautam Sengupta: Docket No. 02-CR-040-RWR	No
239	U.S. v. Uriel Sharef, et al.: Docket No. 11-CR-1056	No
240	U.S. v. Shell Nigeria Exploration and Production Company Ltd.: Docket No. 10-CR-767	Yes Case 10
241	U.S. v. Abraham Jose Shiera Bastidas, Docket No. 15-CR-00654	No
242	U.S. v. Siemens Aktiengesellschaft: Docket No. 08-CR-367-RJL	No
243	U.S. v. Siemens S.A. (Argentina): Docket No. 08-CR-368-RJL	No
244	U.S. v. Siemens Bangladesh Limited: Docket No. 08-CR-369-RJL	No
245	U.S. v. Siemens S.A. (Venezuela): Docket No. 08-CR-370-RJL	No
246	U.S. v. Joseph Sigelman: Docket No. 14-CR-00263-JEI	No
247	U.S. v. Silicon Contractors, Inc.: Docket No. 85-CR-251	No
248	U.S. v. Juthamas Siriwan, et al.: Docket No. 09-CR-081	No
249	U.S. v. Leo Winston Smith: Docket No. 07-CR-069-AG	No
250	U.S. v. Smith & Nephew, Inc.: Docket No. 12-CR-030-RBW	No
251	U.S. v. Snaprogetti Netherlands B.V.: Docket No. 10-CR-460	No
252	U.S. v. Jonathan M. Spiller: Docket No. 09-CR-350-RJL	No
253	U.S. v. SSI International Far East, Ltd: Docket No. 06-CR-398	No
254	U.S. v. Albert Jackson Stanley: Docket No. 08-CR-597	No
255	U.S. v. Statoil, ASA: Docket No. 06-CR-960	No
256	U.S. v. Herbert B. Steindler, et al.: Docket No. 94-CR-068; 94-CR-029	No
257	U.S. v. Jason Edward Steph: Docket No. 07-CR-307	No
258	U.S. v. Periyasamy Sunderalingam: Docket No. 13-CR-515	No
259	U.S. v. Syncor Taiwan, Inc.: Docket No. 02-CR-1244-SVW	No
260	U.S. v. Herbert Tannenbaum: Docket No. 98-CR-784-TPG	No
261	U.S. v. Technip S.A. : Docket No. 10-CR-439	No
262	In Re Tenaris S.A. (2011)	No
263	U.S. v. Jeffrey Tesler, et al.: Docket No. 09-CR-098	No
264	U.S. v. Teva Pharmaceutical Industries LTD., Docket No. 16-CR-20968-FAM	No

265	U.S. v. Teva LLC, Docket No. 16-CR-20967-KMW	No
266	In Re Textron Inc. (2007)	No
267	U.S. v. Thermo King Ireland Limited: Docket No. 07-CR-296-RJL	No
268	U.S. v. Mahmoud Thiam: Docket No. 16-MAG-7960	No
269	U.S. v. Robert E. Thomson, et al.: Docket No. 04-CR-240-IPJ-HGD	No
270	U.S. v. Tidewater Marine International, Inc.: Docket No. 10-CR-770	Yes Case 11
271	U.S. v. James K. Tillery, et al.: Docket No. 08-CR-022	No
272	U.S. v. Titan Corporation: Docket No. 05-CR-314-BEN	No
273	U.S. v. Total, S.A.: Docket No. 1:13-CR-239	No
274	U.S. v. Transocean Inc.: Docket No. 10-CR-768	Yes Case 12
275	In Re Tyco International, Ltd. (2012)	No
276	U.S. v. Tyco Valves and Controls Middle East, Inc.	No
277	U.S. v. Tyson Foods, Inc.: Docket No: 11-CR-037-RWR	No
278	U.S. v. Neal Uhl: Docket No. 11-CR-184-GKF	No
279	In Re Universal Corporation (2010)	No
280	U.S. v. Universal Leaf Tabacos Ltda.: Docket No. 10-CR-225-REP	No
281	In Re UTStarcom Inc. (2009)	No
282	U.S. v. Juan Pablo Vasquez: Docket No.10-CR-20894	No
283	U.S. v. Vetco Gray Controls, Inc., et al.: Docket No. 07-CR-004	Yes Case 13
284	U.S. v. VimpelCom LTD. Court Docket Docket No. 16-CRM-137	No
285	U.S. v. Vitusa Corporation: Docket No. 94-CR-253	No
286	U.S. v. Volvo Construction Equipment, AB: Docket No. 08-CR-069-RJL	No
287	U.S. v. John W. Warwick: Docket No. 09-CR-449-HEH	No
288	U.S. v. Weatherford International Ltd.: Docket No. 13-CR-733	No
289	U.S. v. Weatherford Services, Ltd.: Docket No. 13-CR-734	No
290	U.S. v. Israel Weisler, et al.: Docket No. 09-CR-340-RJL	No
291	U.S. v. Gregory Weisman: Docket No. 13-CR-00730-JEI	No
292	In Re Westinghouse Air Brake Technologies Corporation (2008)	No
293	U.S. v. John Benson Wier III: Docket No. 09-CR-341-RJL	No
294	U.S. v. Willbros Group, Inc., et al.: Docket No. 08-CR-287	No
295	U.S. v. J. Bryan Williams: Docket No. 03-CR-406-HB	No
296	U.S. v. Si Chan Wooh: Docket No. 07-CR-244	No
297	U.S. v. W.S. Kirkpatrick, Inc.: Docket No. 85-CR-415	No
298	U.S. v. York International Corporation: Docket No. 07-CR-253-RJL	No
299	U.S. v. Roger Young: Docket No. 07-CR-609-GEB	No
300	U.S. v. Young & Rubicam, Inc., et al.: Docket No. 89-CR-068	No

Appendix III: Expressions used to describe bribe payments

Below is list of expressions used to describe bribery payments in the company books and records, collected from the FCPA customs cases studied for this thesis.

administration/transport charges	manifest
administrative/transport fee	miscellaneous fee
airfreight at a premium rate	miscellaneous Operating Expenses
clearing bills	negotiated fee
CPC Processing	operational Expenses
crewboat, Workboat, Tug Hire	other services
customs escravous offshore clearance	outward clearance
customs facilitation fee	paper move fee
customs processing fee	paper process fee
electricity maintenance	Pre-releases
evacuations	Professional fees
export formalities	recycling
express courier service	regular fee
extra expenses	special charges
extraordinary expenses	special handling
facilitation payments	special handling charges
favor	stamp Tax/Label Tax
freight and shipping/courier charge	success fee
interventions	TI bond assessment
Inward clearance	TI bond cancellation
loading and delivery expenses	unlisted services
local handling	urgent dispatch
local processing fee	urgent processing fee
local processing fees	variation order request
	VOR request