

Fostering Good Governance through Trade Agreements

An evidence-based review for the workshop 'EU
anticorruption chapters in EU free trade and
investment agreements'

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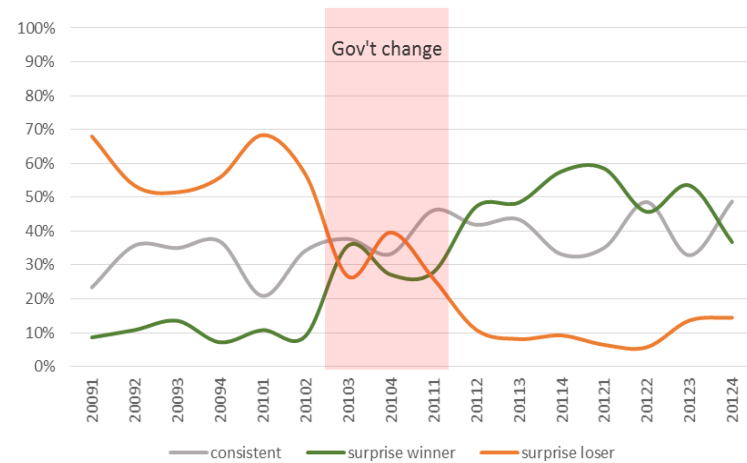
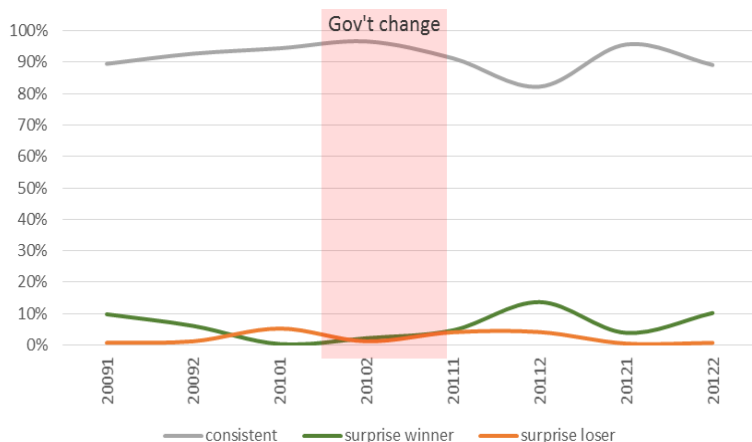
Questions addressed

- I. What is the connection between trade and corruption?
- II. What is the practice in regard to free trade agreements and anticorruption provisions ?
- III. How have the current international and European policies on transparency and anticorruption performed so far and what synergies could enhance the impact between trade and anticorruption?
- IV. What are the options for EU, seeing that it is also the world's largest development donor?

I. What is the connection between trade and corruption?

How does government favoritism look like ? Markets ruled by connections with bribes used to open access

Control of corruption is the capacity of a society to prevent ruling elites from channelling social allocation on the basis of particular interests, rather than market (price) or citizenship (equal treatment)



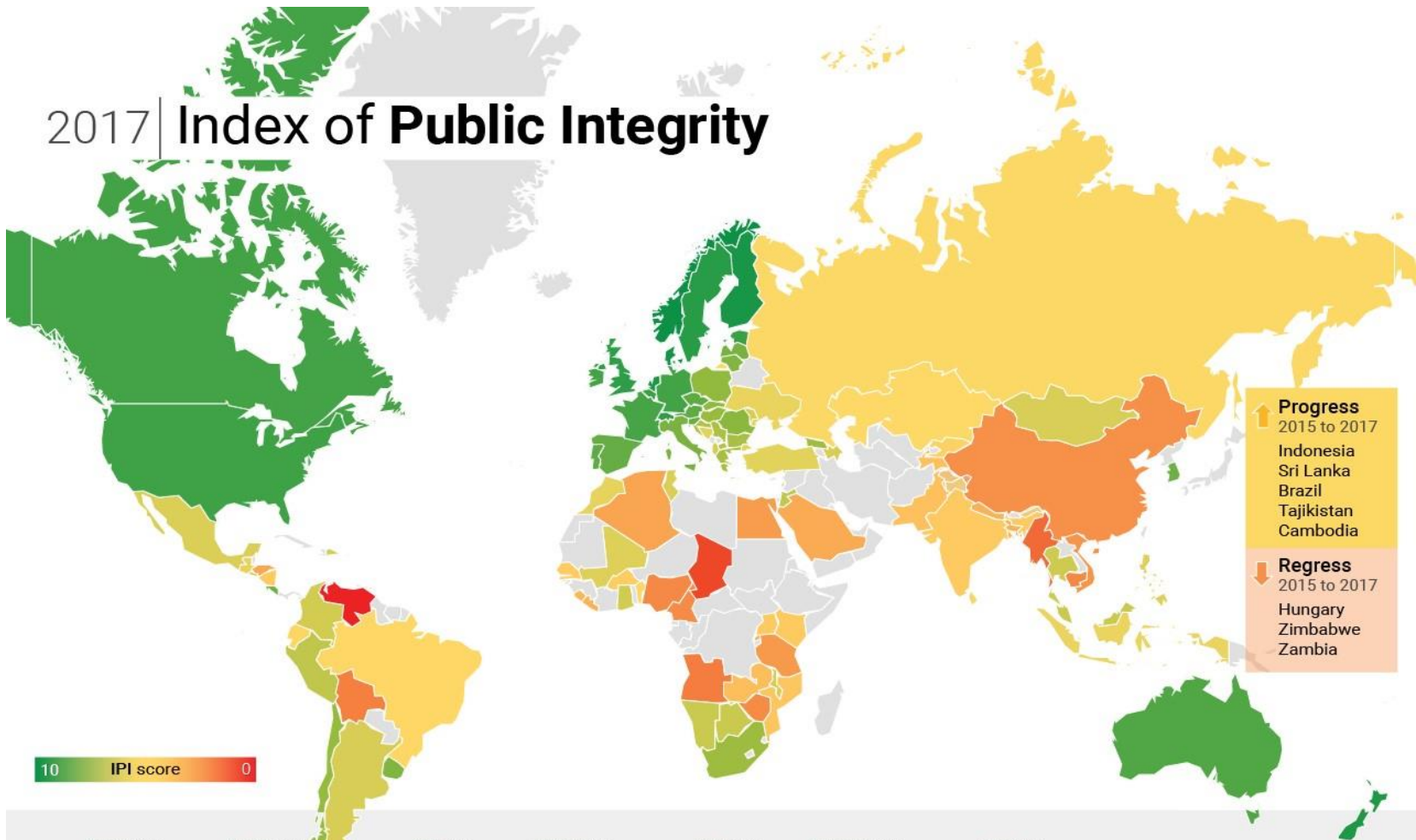
- Companies lose/win surprisingly when government changes
- Hungary and UK

Source:
againstcorruption.eu
(M. Fazekas)

Where is it safe to trade?

www.integrity-index.org

2017 | Index of Public Integrity



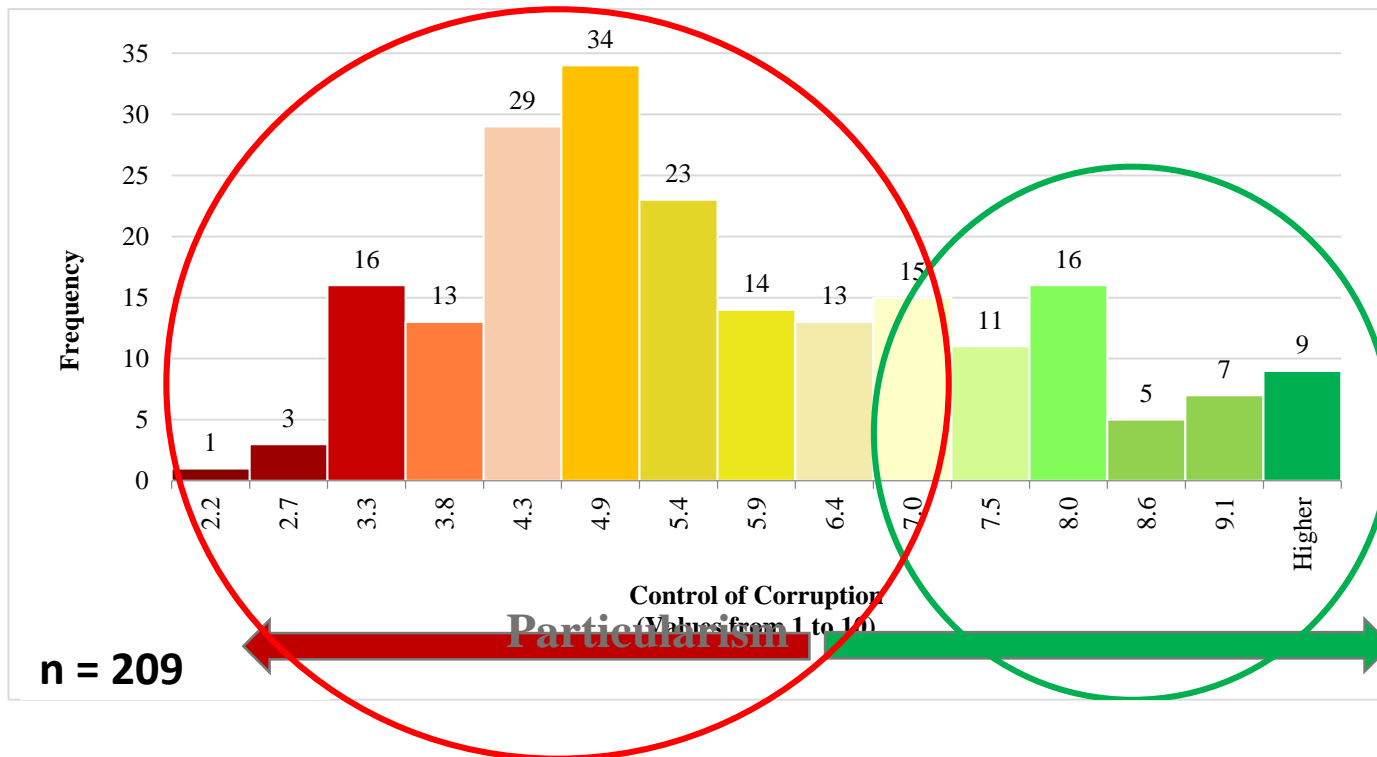
10 IPI score 0

Norway 9.79	Australia 8.57	Chile 7.50	Thailand 6.61	Qatar 6.26	Nicaragua 5.60	Egypt 4.78
Denmark 9.61	Portugal 8.35	Hungary 7.43	Ghana 6.55	Morocco 6.25	India 5.60	Tanzania 4.72
Finland 9.49	Czech Rep. 8.33	Colombia 6.54	Ghana 6.55	Guatemala 6.24	Uganda 5.57	Vietnam 4.64
Netherlands 9.39	Austria 8.33	Trinidad & Tobago 7.40	Dominican Rep. 6.50	Ukraine 6.20	Mozambique 5.50	China 4.58
New Zealand 9.33	Spain 8.22	Georgia 7.30	Malawi 6.48	Timor-Leste 6.16	Tajikistan 5.42	Cameroon 4.48
Sweden 9.20	Slovenia 8.20	Greece 7.25	Albania 6.48	Indonesia 6.15	Pakistan 5.42	Zimbabwe 4.47
Luxembourg 9.13	Korea, Rep. 8.09	Bulgaria 7.18	Argentina 6.46	Sri Lanka 5.98	Zambia 5.39	Nigeria 4.42
United Kingdom 9.11	Costa Rica 8.03	Serbia 7.14	Moldova 6.44	Russia 5.90	Lebanon 5.27	Cambodia 4.39
Switzerland 9.07	Malta 7.99	Croatia 7.03	Azerbaijan 6.43	Kazakhstan 5.88	Sierra Leone 5.27	Bolivia 4.25
Estonia 8.93	Latvia 7.93	Macedonia, FYR 6.97	Mongolia 6.42	Brazil 5.83	Nepal 5.20	Angola 4.22
Belgium 8.90	Italy 7.89	Peru 6.81	Mexico 6.40	Benin 5.82	Liberia 5.18	Myanmar 3.83
United States 8.82	Lithuania 7.82	Jordan 6.80	Tunisia 6.40	Ecuador 5.80	Bangladesh 5.17	Chad 3.14
Germany 8.77	Uruguay 7.82	Namibia 6.67	Mali 6.36	Kyrgyz Rep. 5.74	Rwanda 5.15	Venezuela 1.94
Canada 8.74	Romania 7.66	Malaysia 6.66	Philippines 6.33	Burkina Faso 5.63	Saudi Arabia 5.05	
Ireland 8.74	Slovak Republic 7.57	Botswana 6.66	Turkey 6.31	Senegal 5.61	Honduras 4.97	
France 8.73	Poland 7.56	El Salvador 6.61	Bosnia & H. 6.29	Kenya 5.61	Algeria 4.94	

Country details, full rankings & methodology available at www.integrity-index.org
Follow us at www.againstcorruption.eu



Under the threshold of 6 (1-10), most likely connections and bribes are norm



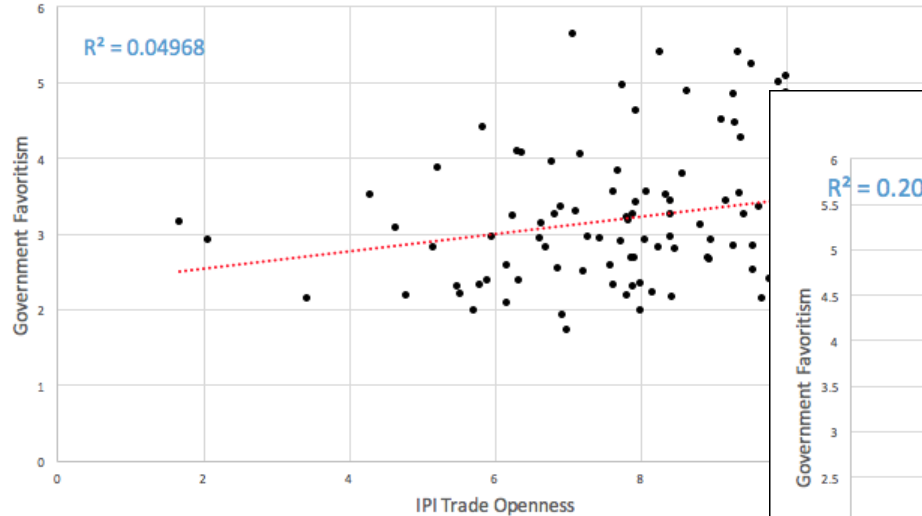
So has globalization brought more corruption?...

Top ten FCPA enforcement actions of all time come from 'cleanest' countries doing business in corrupt ones

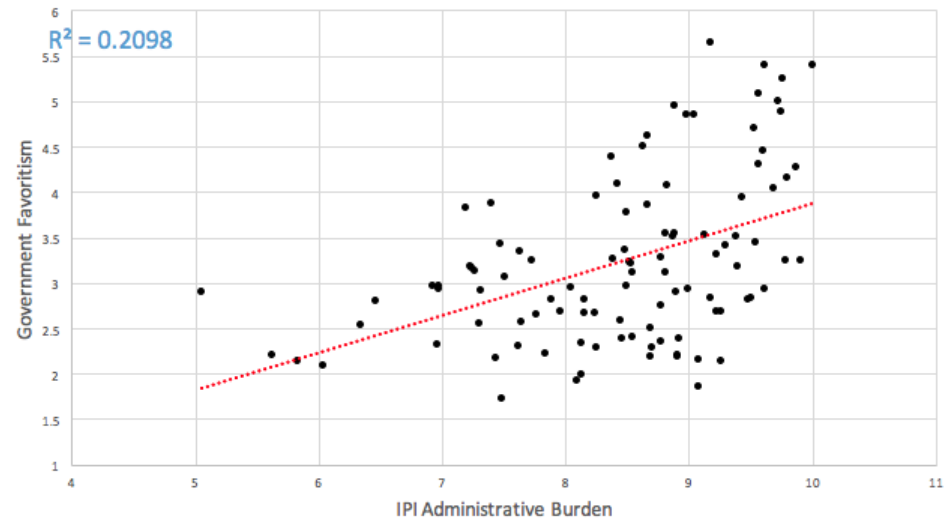
- 1. [Telia Company AB](#) (Sweden): \$965 million in 2017.
- 2. [Siemens](#) (Germany): \$800 million in 2008.
- 3. [VimpelCom](#) (Holland) \$795 million in 2016.
- 4. [Alstom](#) (France): \$772 million in 2014.
- 5. [KBR / Halliburton](#) (United States): \$579 million in 2009.
- 6. [Teva Pharmaceutical](#) (Israel): \$519 million in 2016.
- 7. [Och-Ziff](#) (United States): \$412 million in 2016.
- 8. [BAE](#) (UK): \$400 million in 2010.
- 9. [Total SA](#) (France) \$398 million in 2013.
- 10. [Alcoa](#) (United States) \$384 million in 2014.

Corruption correlates strongly with non-tariff barriers, such as trade openness and red tape

Scatter-plot Trade Openness and Government Favoritism



Scatter-plot Government Favoritism and Red Tape

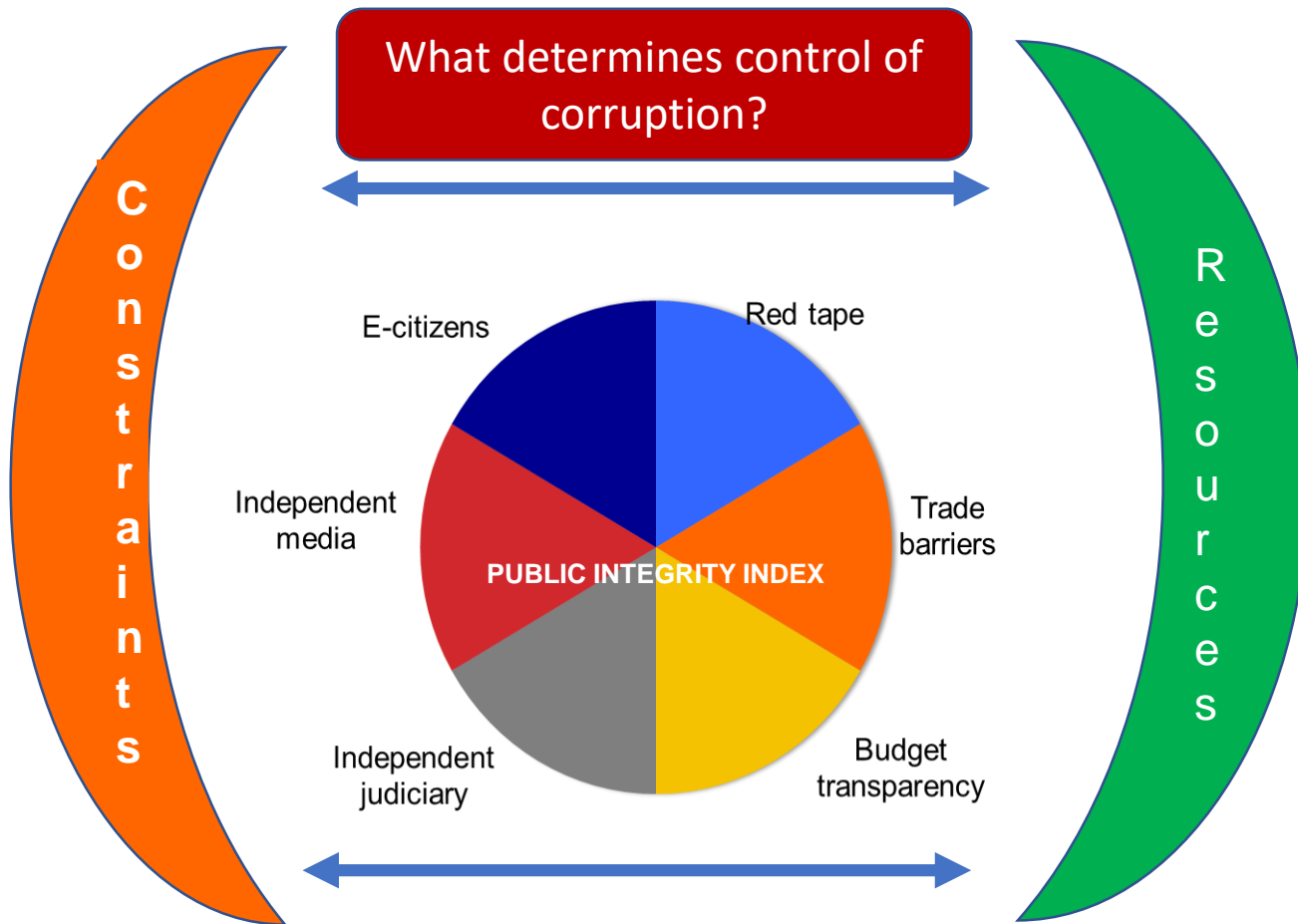


But does the opposite work, does more competition leads to less corruption?

	(1)	(2)	(3)	(4)	(5)	(6)
HDI 2013	2.256***	3.395***	2.389***	3.311***	3.069***	1.984*
	(5.93)	(6.70)	(3.57)	(6.34)	(4.42)	(2.55)
Judicial Independence	0.309***					
	(10.76)					
Red tape		0.148***				
		(3.47)				
Trade Openness			0.168***			
			(4.20)			
Budget Transparency				0.0893*		
				(2.44)		
E-Transparency					0.0892*	
					(2.31)	
Digital Citizens						0.159***
						(3.43)
Constant	-3.281***	-3.649***	-3.006***	-2.949***	-2.749***	-2.329***
	(-12.63)	(-9.11)	(-8.38)	(-8.48)	(-7.28)	(-5.98)
Countries	87	87	87	87	87	87
Adj. R-squared	0.769	0.502	0.509	0.480	0.468	0.498

OLS regressions. The dependent variable is WGI control of corruption 2013. t statistics in parentheses * p < 0.05; ** p < 0.01; *** p < 0.001. Robust std. err. are used. Note for one country in our sample (Slovakia), HDI data was not available.

Source: Mungiu-Pippidi and Dadasov 2016; Time series with Control of corruption correlations controlled by development

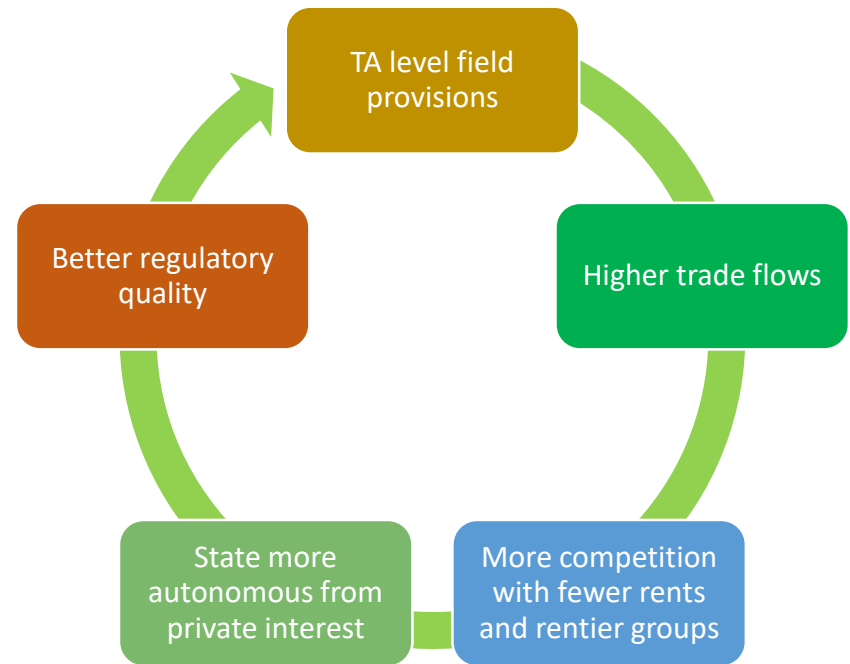
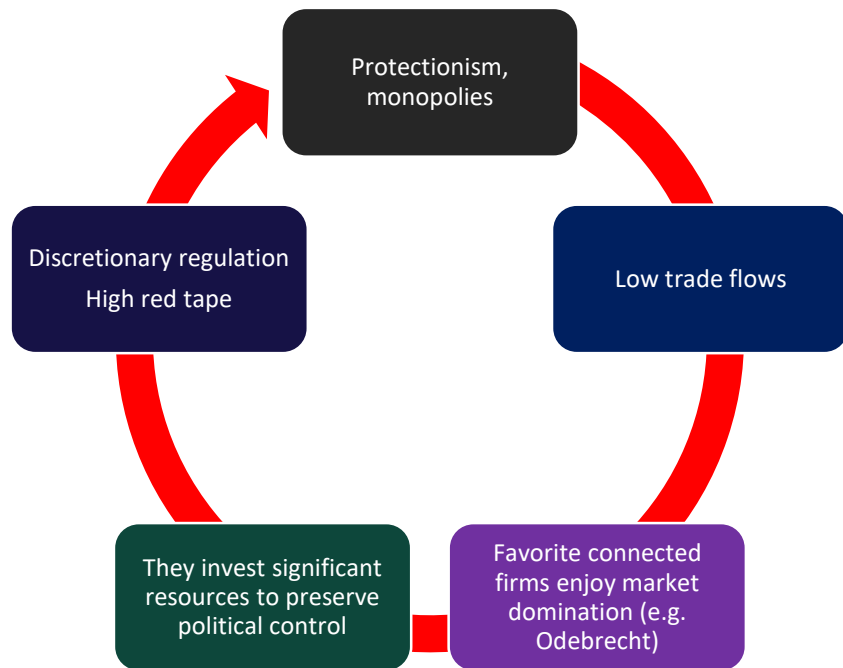


Transparency helps trade inflows, and indirectly corruption

- ❑ Positive empirical relationship between transparency obligations and the level of trade- each provision in an RTAs is estimated to increase by bilateral trade exceeding 1%
- ❑ As expected, countries with more democratic institutions and those with higher levels of governance are more likely to include comprehensive coverage of transparency commitments, such as a full-fledged transparency chapter in the RTA.
- ❑ Gains from improving transparency in APEC are substantial relative to other reform options: at least \$148 billion or 7.5% of baseline 2004 trade in APEC.

Sources: Lejárraga, I. and B. Shepherd (2013), "Quantitative Evidence on Transparency in Regional Trade Agreements", *OECD*; Helble, M., Shepherd, B., & Wilson, J. S. (2007). *Transparency & Trade Facilitation in the Asia Pacific: Estimating the Gains from Reform*. Department of Foreign Affairs and Trade, <http://developing-trade.com/wp-content/uploads/2014/11/DTC-Article-Chapter-2007-2.pdf>

The vicious- virtuous circle trade-good governance; looking for the entry point



Sources: Ades and di Tella; Schleifer and Vishny

II. What is the practice in regard to free trade agreements and anticorruption provisions ?

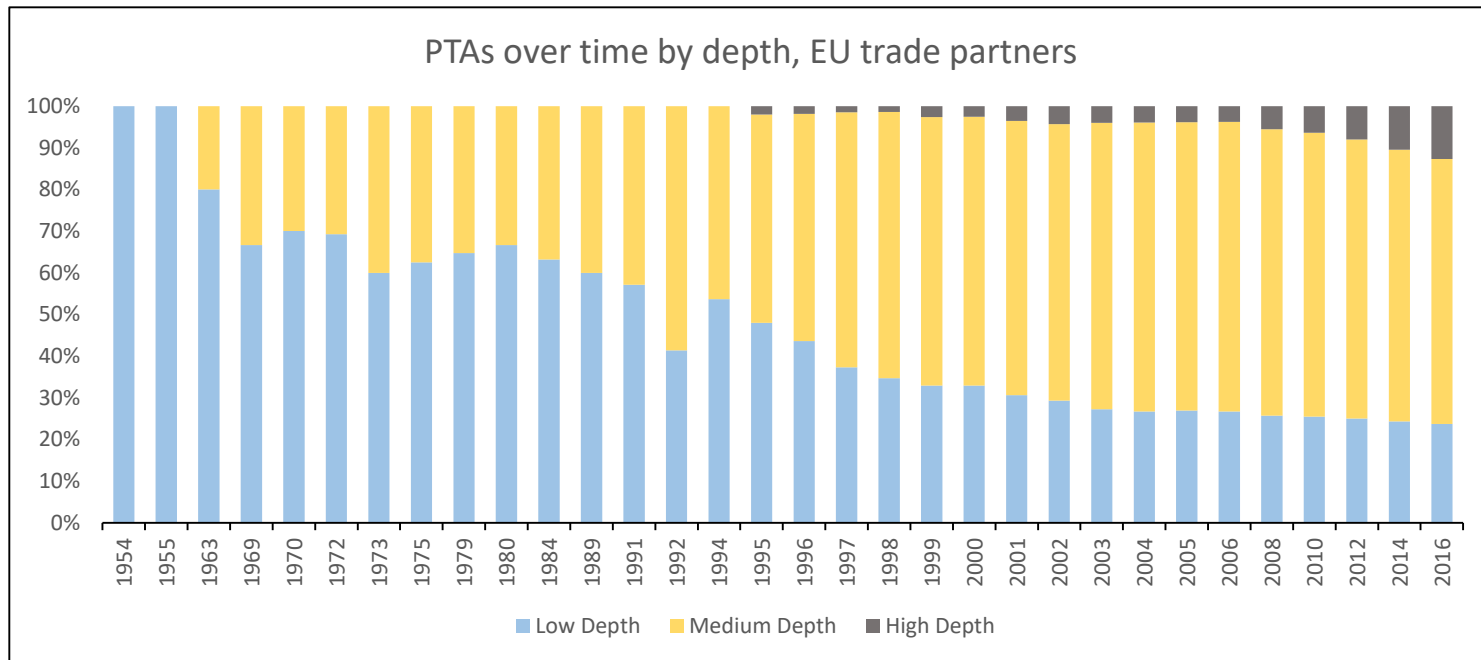
LEGAL ACT	Adoption year	Members to-date	Number sanctions
FPCA	1977, 1998	1, but wide jurisdiction	204 SEC, 312 DOJ
OECD	1997	43	58 entities sentenced 500 investigations are ongoing in 29 Parties.
EU anticorruption convention	1997	28	MCV Romania and Bulgaria
Cotonou agreement	2000	79	Liberia sanctioned Liberia sanctioned
UNCAC	2005	183 (140)	Peer review mechanism with no sanctions
UN Convention against Transnational Organized Crime	2000	188 (144)	Peer review mechanism with no sanctions
WTO- GPA	1996, revised last 2014	47 WTO MS (19 P) 31 observers, 10 prospective	WTO Committee on Government Procurement WTO's binding dispute settlement system
WTO Trade Facility Agreement TFA	2017	164	

US experience as good practice: the key is in enforcement by FPCA

- Adherence to and implementation of international conventions on AC and bribery, strong FCPA enforcement, extending jurisdiction
- National legislation defining both active and passive bribery as a criminal offence
- Sanctions and procedures to enforce criminal penalties
- In jurisdictions where firms are not covered by criminal responsibility, non-criminal sanctions (fines, debarment, see World Bank mechanism)
- Whistleblower protection

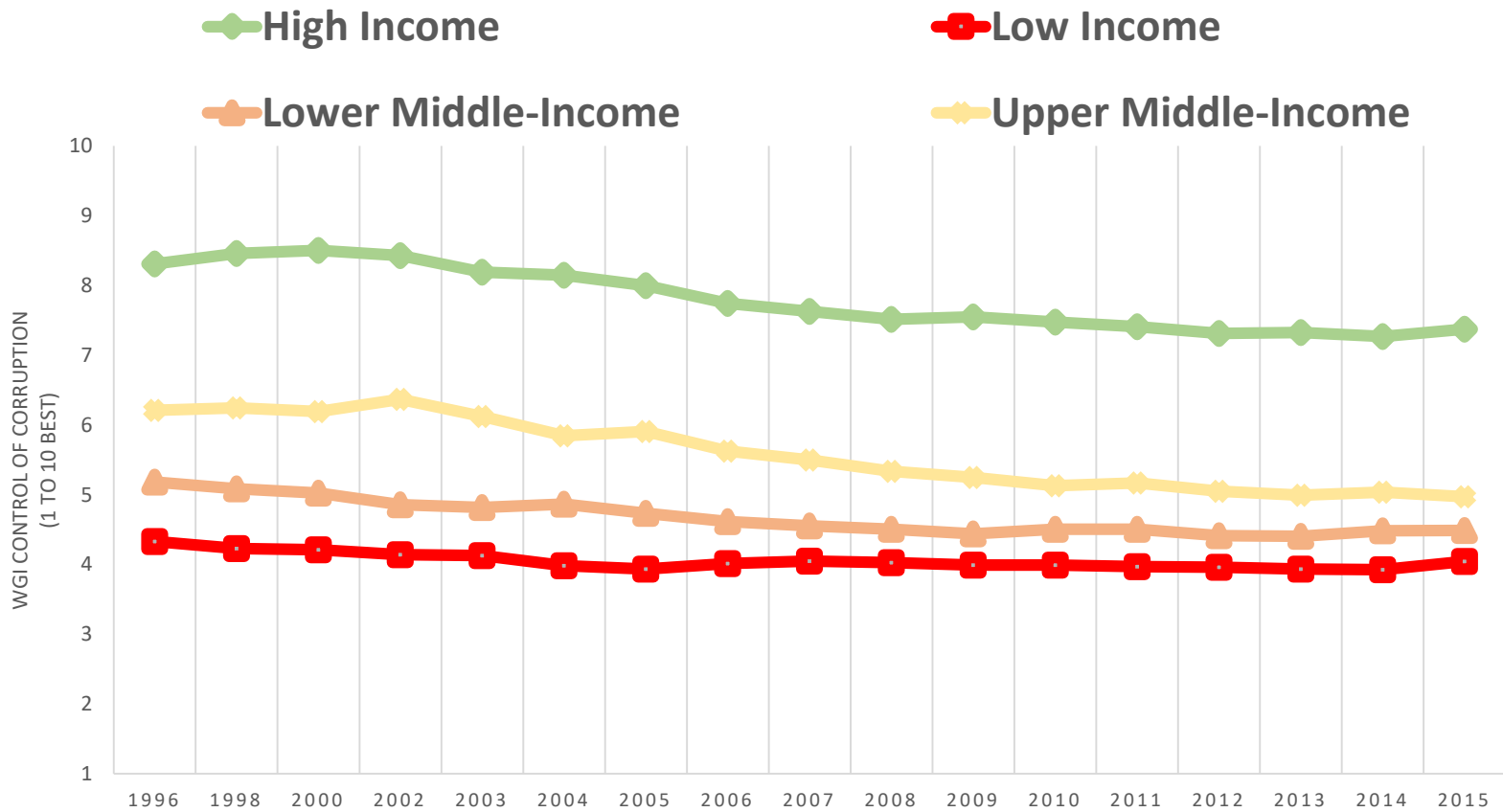
RTAs - increasingly more transparency and procurement provisions

- - North-South RTAs are more transparency-intensive than North-North or South-South RTAs. Country pairs are more likely to display deeper transparency commitments in their RTAs if the per capita income difference between them is relatively large.
- - OECD countries tend to exhibit higher transparency thresholds in their bilateral trade treaties with non-OECD countries. Source: OECD



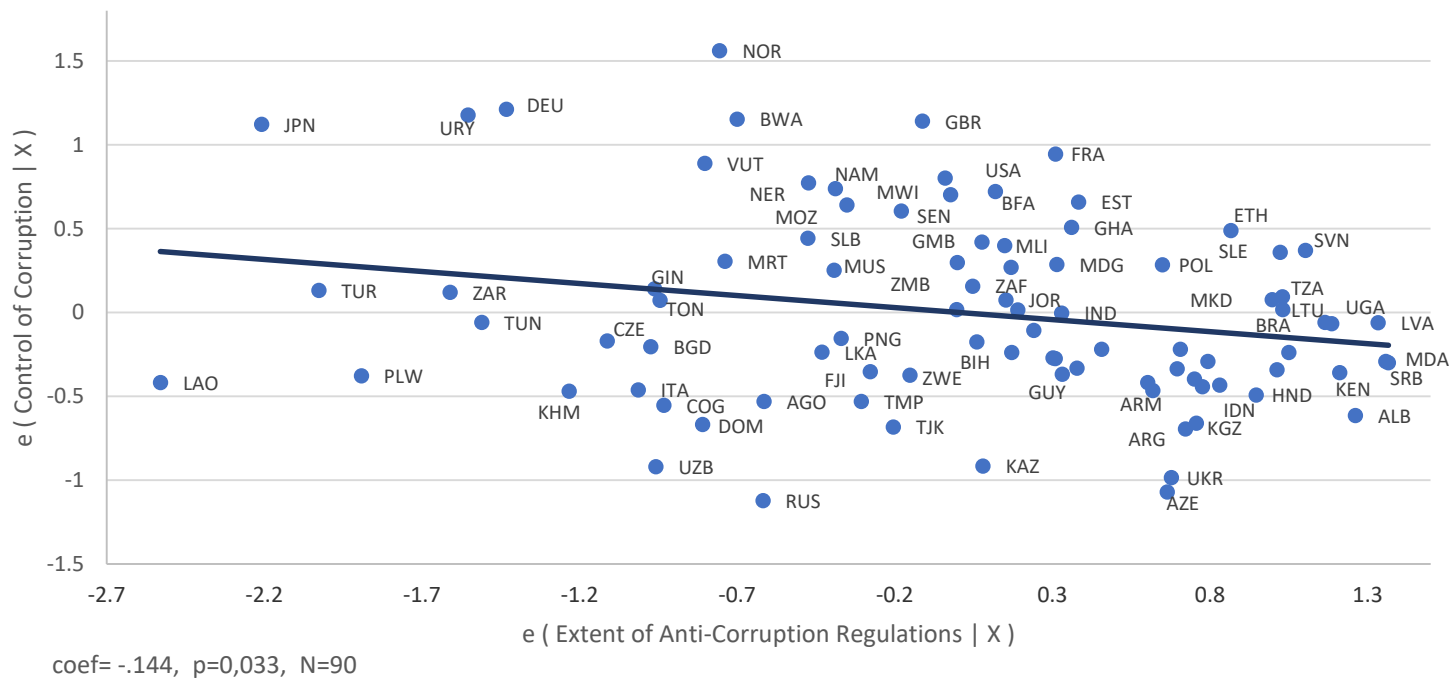
III. How have the current international and European policies on transparency and anticorruption performed so far and how can we help one another?

In 2017, the world progressed on the average to 6.64, up from 6.57 in 2015 on a 1-10 scale of integrity scale
Not much progress in any income group



Data source: World Governance Indicators & World Bank

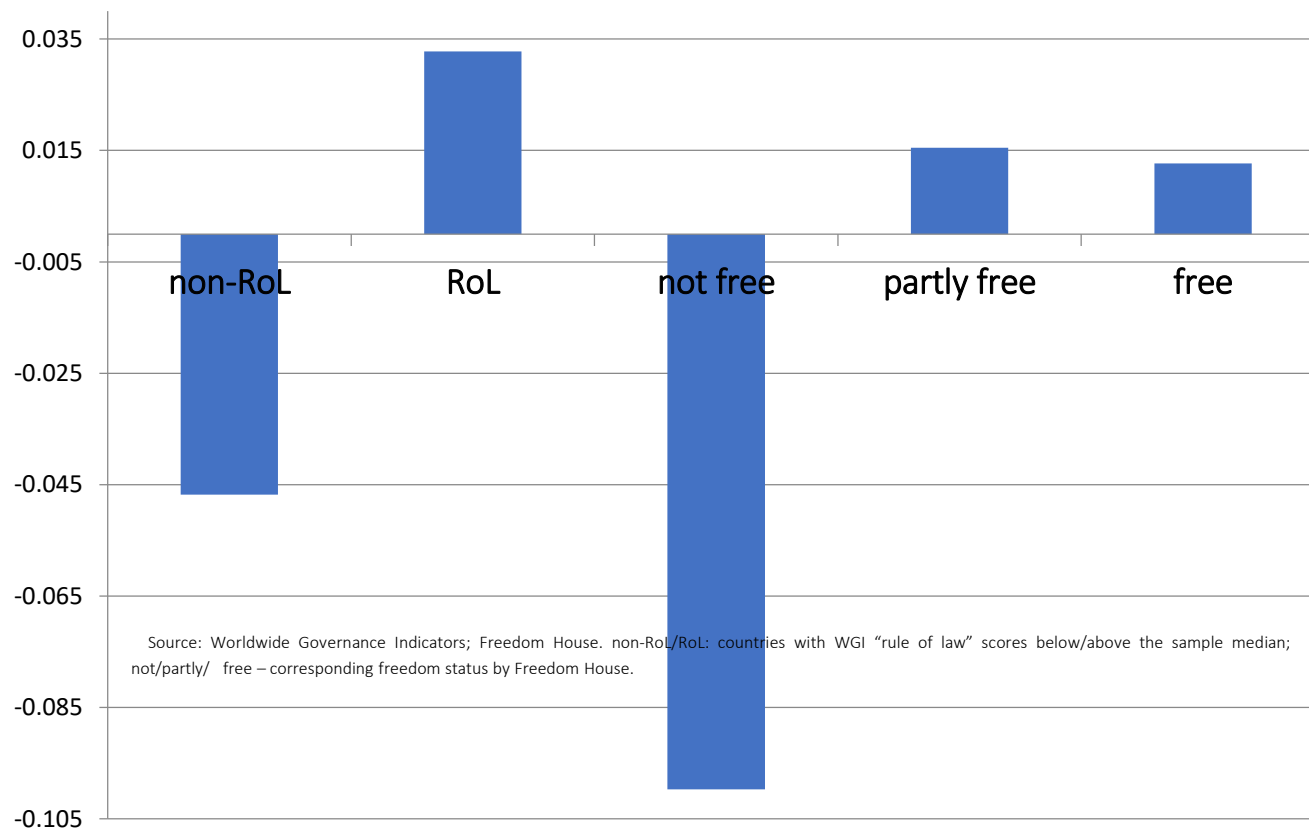
Why? Wrong AC strategy -too many rules that nobody follows



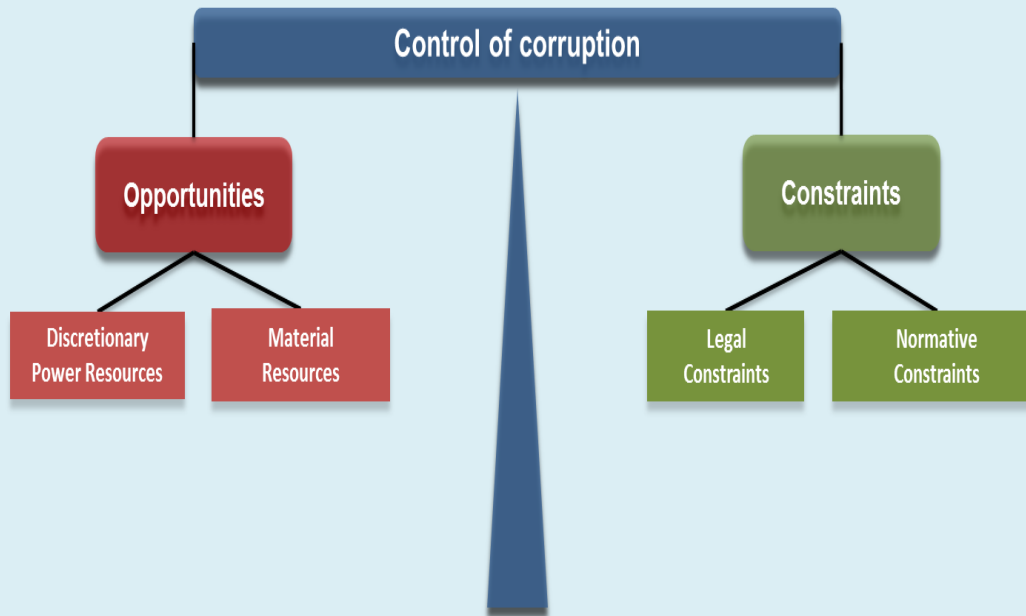
More anticorruption laws do not mean less corruption (implementation gap)

- Societies higher on integrity are under-regulated, not overregulated (Sweden, Denmark, Netherlands)
- The most corrupt societies have the most laws (Latin saying)- literally true anticorruption

No progress on corruption control in countries without rule of law and not free for the past fifteen years

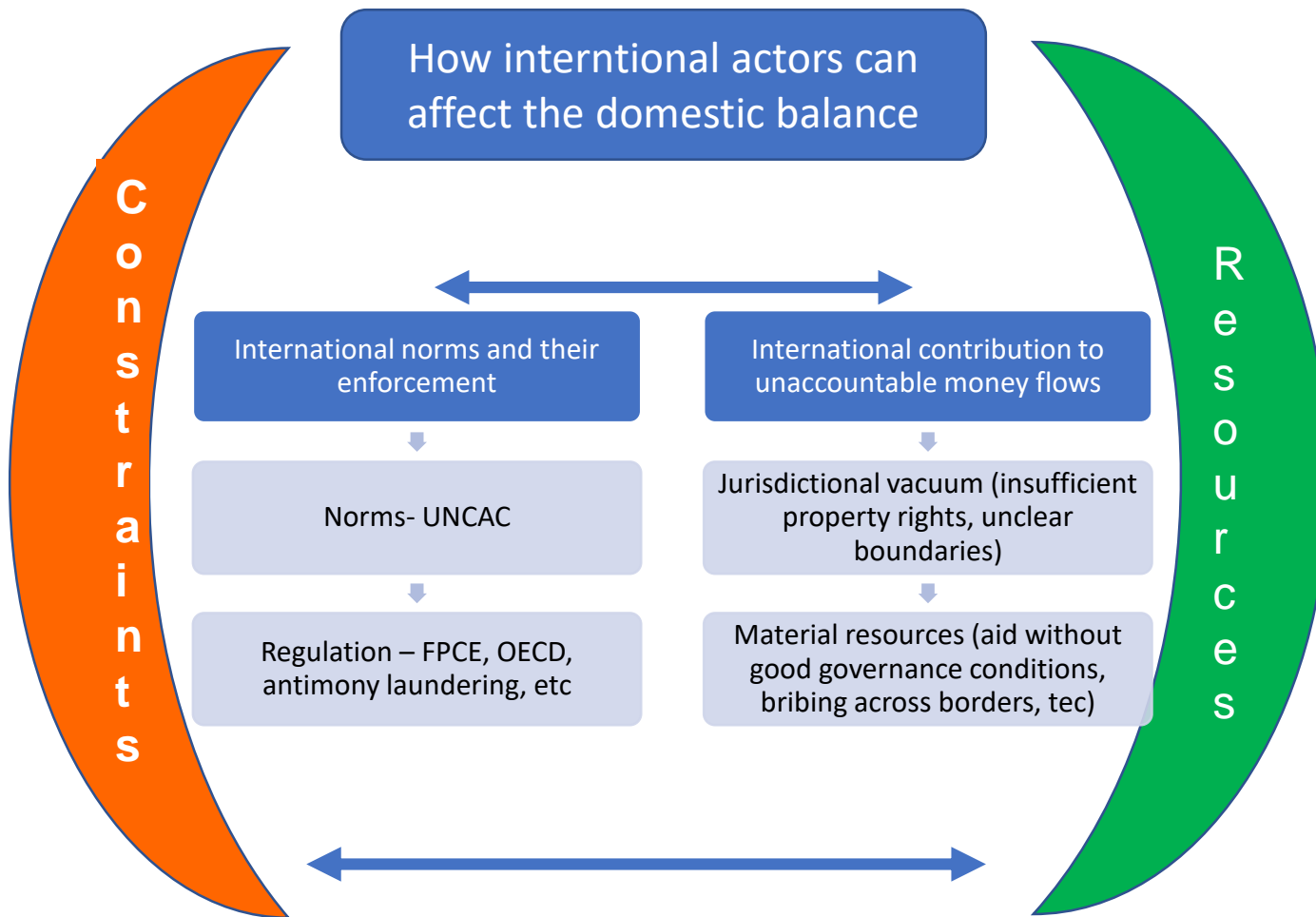


WHAT SHOULD WE DO? CONTROL OF CORRUPTION = A BALANCE LARGELY DOMESTIC



Source: Own Graph. Based on Mungiu-Pippidi's (2011) Control of Corruption model.

- We need to cut resources for corruption, as well as increase constraints
- We need to manipulate both sides of balance
- We need to work with the state, as well as society



The international factors adds constraints, but also resources to corruption
A smart strategy would cut both

OPTIONS

The stated objective (Trade for All)

Corruption is a plague on economies and societies...

Trade policy already contributes to the fight against corruption, for example by increasing the transparency of regulations and procurement processes and by simplifying customs procedures. Under the GSP+ the EU offers trade preferences to countries that ratify and implement international conventions relating to good governance, including the UN Convention Against Corruption

The Commission will:

- use FTAs to monitor domestic reform in relation to the rule of law and governance and set up consultation mechanisms in cases of systemic corruption and weak governance; and
- propose to negotiate ambitious provisions on anti-corruption in all future trade agreements, starting with the TTIP

Source: European Commission

http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf,
4.2.6

The options to reach it ?

a) THE 'BUSINESSMAN ANTICORRUPTION'

Anticorruption by stealth and market means (focus on non tariff barriers, opening procurement markets, transparency)

b) THE 'LAWYER ANTICORRUPTION'

Focus on treaties and ambitious legislation adoption, strong on legal anticorruption, but mostly unenforceable and harder to accept by partners

c) THE 'IMPERIAL' ANTICORRUPTION

Coordination of development aid and trade policies, for instance on procurement transparency. In theory, strong on both resources and constraints (but watching the Kosovar example...)

➤ **Monitoring % competitive tenders % total procurement**

➤ **But for now we do not even have this figure for EU 28!**