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How Reforming Procurement Saves Lives

Liz Dávid-Barrett

Professor of Governance and Integrity
Director of the Centre for the Study of Corruption

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How Reforming Procurement Saves Lives

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Introduction

1. The procurement of medicines is a vital part of healthcare systems, but one which is highly vulnerable to corruption.[1] The overall amount lost to corrupt practices in healthcare is estimated to be $500 billion annually, and procurement is the biggest risk area.[2]

2. The market is complex – regulation differs among countries, the same medicine can be sold in generic and branded versions, and guidance on dosages and delivery mechanisms also varies. All of this makes prices opaque and accountability difficult to achieve.

3. Yet for ministers looking to reform the healthcare system, medicines procurement is also a promising place to start. Reform in this area, if done right, can deliver tangible benefits to patients and multi-million-dollar savings to the budget relatively quickly, helping to build a wide base of support and set aside funds for further reforms.

4. This report examines how partnering with a specialist external agency for the administration of medicines procurement can deliver rapid efficiency gains. It provides in-depth analysis of an ongoing reform of this kind in Ukraine, and distils learning from other cases in Zambia and Botswana.

5. Ukraine's Ministry of Health achieved efficiency gains across the medicines programme and a total of 40% in savings for the budget - amounting to over $62m over 5 years. Even in the first year of using an external agent, more than 75% of medicines were procured at a lower unit cost than the previous year.

6. Patients are pleased with improved access to medicines and better health outcomes, including approximately 4,000 lives saved in stent-related cardio vascular operations alone.

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[1] Savedoff, W. and Hussmann. 2006. 'The causes of corruption in the health sector', in Transparency International (ed.) Global Corruption Report. London: Pluto Press; Vian, T. 2008. Review of corruption in the health sector: theory, methods and interventions. *Health policy and planning*, 23(2), 83-94.
[2] Bruckner, T. (2019), *The Ignored Pandemic*, Transparency International: London.

And local and international manufacturers gained access to a sizeable market, without having to worry about late payments or sudden changes to contracts.

7. However, the path to reform is not simple, and it is critical to prepare for the political and technical challenges that arise at each stage. Based on in-depth interviews with stakeholders representing all aspects of the process - government, civil society organisations, external implementers, and medicines suppliers – the report seeks to inform decision-makers involved in reforming medicines procurement.

Part I: Deciding to use an external procurement partner

8. The opportunity for healthcare reform in Ukraine came with the Revolution of Dignity in February 2014, also known as the Euromaidan revolution. Elections in May of that year brought a new reform-oriented government to power, although the ground for healthcare reform had already been prepared. Ihor Perehinets, a Ukrainian then working at the local World Health Organisation (WHO) office, was part of a group of experts that had been convened before the revolution and tasked with developing a healthcare reform strategy.[3]

9. A former Soviet country with a population of 45 million, Ukraine had made very little change to its national health system in the preceding two decades. Perehinets describes the state of the sector by 2014:

> ***"The government maintained the infrastructure, wasting resources on many inefficient hospitals, but the people were subsidising the system by making informal personal payments for services that were supposed to be free. Access to pharmaceuticals was one aspect where the previous stakeholders and the pharmaceutical companies were exploiting the situation: 80% of the out-of-pocket payments from the public went to buying medicines."[4]***

10. Patients in hospitals barely received any medicines from the state. "Chief doctors would tell them 'we don't have any drugs, go to the pharmacy and buy them there'. Patients didn't know at all that they have a right to free drugs. All of them thought that drugs are not free and they should pay for drugs. That was normal."[5]

11. Out-of-pocket payments for healthcare were estimated to have reached 42.3% of total healthcare expenditure in 2012, and this was dominated by payments for pharmaceuticals. One World Bank study published in 2010 found that, for a patient with three or more chronic conditions, average out-of-pocket payments per visit were $1.30 for transport, $3.30 for gratuities, and $30.60 for medicines, per visit.[6]

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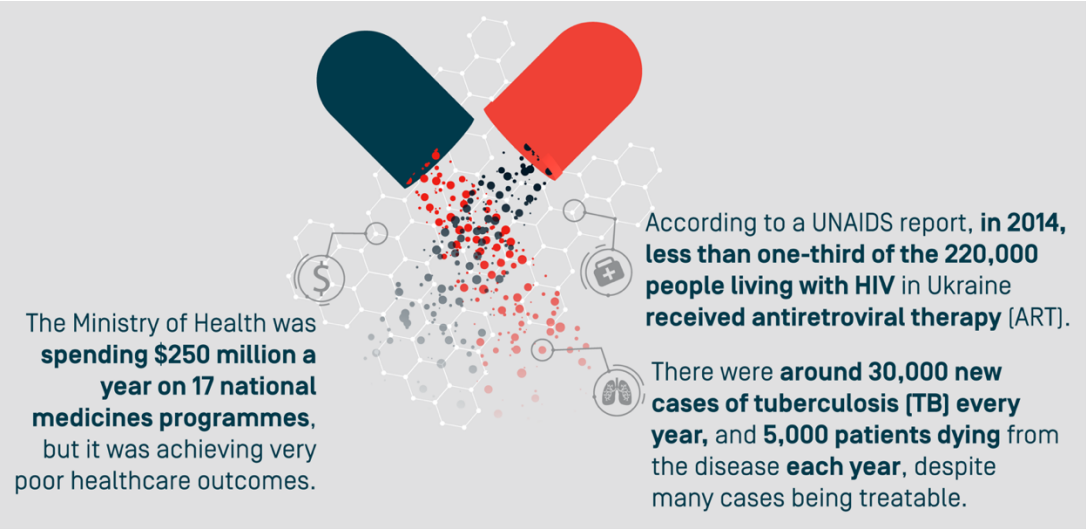
[3] The group was convened prior to the revolution, with funding from the Renaissance Foundation.
[4] Interview 19.
[5] Interview 5.
[6] Menon, R., & Frogner, B. (2010). What underlies Ukraine's mortality crisis? (No. 71301). The World Bank.

Figure 1: The situation prior to reform, in 2014



12. Figure 1 shows how the system's failings in 2014 was impacting on patients. Five years later in 2019, thanks to the reform, 54% of adults living with HIV were receiving ART as were more than 95% of children with HIV. The death rate had fallen to 7.3 per 100,000, from 8.9 per 100,000 in 2013.[7]

13. The reform was driven by some key patient groups who started to campaign for change. Two of them - Patients of Ukraine and the All-Ukrainian Network of People Living with HIV/AIDS – were funded by international donors, including the Global Fund to fight AIDS, Tuberculosis and Malaria. From this position of independence, they could afford to criticize the government's provision, sometimes using radical techniques, for example organising a funeral march to parliament with pall bearers carrying a coffin covered in slogans, and an exhibition of the shoes of those who might have lived, had more medicines been available.

14. The patients' organisations had been monitoring healthcare provision over several years and built up an evidence base to underpin their advocacy. Their case was helped by having a clear benchmark against which to judge state provision: there were two buyers of HIV medicines in Ukraine at the time. As well as the Ministry of Health (MoH), the All-Ukrainian Network, supported by the Global Fund, was also purchasing medicines. But the Network

[7] https://knoema.com/atlas/Ukraine/topics/Health/Risk-factors/Tuberculosis-death-rate

found that it was able to buy medicines at much cheaper prices than the state. The prices for particular medicines purchased by the MoH in 2012 were 150-300% higher as compared to prices for similar medicines purchased by the All-Ukrainian Network, and AntAC determined that $4.9 out of $21.9 million were wasted on overinflated prices in 2012, and $2 million out of $7.3 million in 2013.[8] That was hard evidence that the Ministry was mismanaging procurement. Government auditors estimated that Ukraine was overpaying by 40% for medicines, and found that informal payments were widespread.[9]

15. The root cause was a lack of competition for contracts, underpinned by collusion. The Ministry was buying too few medicines in the first place, despite adequate budget allocation, because it was purchasing them at inflated prices from a tiny network of companies that won contracts through kickbacks or political connections. Complicit in the graft, the Ministry then failed to hold these suppliers to account if they delivered late or their products were substandard. As one stakeholder recalls, "Everybody knew that the ministers manipulated the tenders. The government was cheating on itself by overpaying."[10]

16. Even when medicines did reach hospitals, they were not always made available to patients. In some cases, staff within the healthcare system siphoned them off and sold them on the black market, telling patients that they needed to pay for the medicines when they should have received them free. These individuals also became vested in maintaining the status quo and opposed change. Many other doctors and healthcare staff were distraught at the situation but lacked the power to change things.

[8] Appendix 1 d/d 07.10.2013 to the Report of the Provisional Investigatory Commission of the Verkhovna Rada of Ukraine for investigating the facts of legislation violations in public procurement, inefficient application of budget funds and the abuse of office conducted by the officials of the Ministry of Health of Ukraine, other state enterprises, institutions and organizations working in the field of health care and pharmaceuticals, cited in ANtAC (2013) *Who makes money on epidemics of HIV/AIDS and tuberculosis in Ukraine*, Kyiv. Available here: https://www.aidsactioneurope.org/sites/default/files/2013_who_makes_money_on_epidemics_of_hivaids_and_tuberculosis_in_ukraine_0.pdf

[9] Government of Ukraine (2014), *Report on Diagnostic Study of Governance Issues Pertaining to Corruption, the Business Climate and the Effectiveness of the Judiciary*, prepared with the Assistance of the Legal Department of the International Monetary Fund, 11 July 2014.

[10] Interview 16.

A RIGGED PROCUREMENT SYSTEM

Supported partly by the patients' groups, the Anti-Corruption Action Centre (AntAC) gathered evidence on the many ways in which medicine procurement was being corrupted.
First, tenders were 'staged', such that they appeared open and competitive, but in fact the bidders were either multiple companies controlled by one actual (beneficial) owner or multiple companies operating as a cartel, colluding among themselves to increase the prices of their bids and share out contracts among themselves over time. AntAC's analysis revealed that often multiple bids – supposedly from different suppliers - had been prepared on the same computer. And on the government side, there were people embedded in the Ministry of Health – on the tender evaluation committee or hired as official consultants of the Ministry of Health, who were thought to be receiving kickbacks and other incentives to support specific decisions (Interview 9).
Second, the state pharmaceutical factory Indar had been turned into a shell company that purchased pharmaceuticals from offshore companies and sold them to the MoH at an unreasonably high margin.
Third, the Register of Bulk Release Prices was manipulated to overestimate the 'reasonable prices' for medicines set out in tenders, so there was no way of holding the Ministry to account for the prices it paid.

17. The capture of the system was obvious to other suppliers and deterred them from entering the market. Interviewed for this research, representatives of an international pharmaceutical manufacturer recalled a number of ways in which the system appeared designed to exclude them[11], including:

- *restrictive pre-qualification requirements that effectively excluded non-local companies;*
- *a lack of transparency about how decisions were made by the tender evaluation committee; spurious requirements for submitting bids, e.g., requiring prior application to the Ministry of Health for permission to enter the building to submit a bid;*
- *incomplete lists of tenders;*

[11] Interviews 12, 13.

- *issuing tenders for lots that included multiple varied items, including mixes of pharmaceutical products and medical devices, effectively excluding manufacturers that specialise in a few products.*

18. One of the executives commented, "it was a very closed club of companies that were very close to that tender committee in the MoH".[12] Not surprisingly, no international manufacturers were prepared to compete in those conditions. One local procurement expert commented, "the Ukrainian healthcare system was perceived as completely corrupt in 2015 and you could hardly find a producer willing to work there. Reputable producers with FCPA and UKBA compliance don't want to be involved in that kind of market." (17)

A solution emerges

19. Inna Ivanenko, Executive Director of CF Patients of Ukraine, remembers the moment when the idea of outsourcing medicines procurement to external agencies was suggested. "It was during one of our meetings with international experts when the idea about using international organisations was born. [One of them] told us, 'don't you want to use the mechanism of international agencies that already procure medicines for different other countries, instead of the Ministry of Health? Take this mechanism and use it in Ukraine.'"[13]

20. The idea appealed because the patients' organisations simply did not trust the Ministry to improve its own procurement.[14] Despite the revolution and new government, many of the officials in the Ministry remained opposed to changing the procurement system. As one expert mused, "I cannot say that they had huge support from Ministry of Health at that

[12] Interview 12.
[13] Interview 5.
[14] Interviews 5, 6, 17.

time."[15] But the patients' groups pressed ahead. They hired some lawyers to draft a law[16] stating that medicines procurement would be conducted by international agencies, and within months it was approved by the Rada, Ukraine's parliament.

21. Reformers often face a decision about whether to implement change radically or incrementally, and the decision to outsource was also one of whether to bring in outside partners or keep it local. Civil society organisations made a convincing case for radical reform, even if it meant asking external agents to assist with a core government function. The stories of victims continuously brought home the urgency of reform.

> ***If you have a humanitarian focus, if you want to help people and stop diseases from spreading, it's better to stay engaged and make international organisations do the procurement. So if you want to save lives, and provide good quality healthcare reform to those in need, then it is important to have these international organisations."***[17]

22. There was also a sense that such deep corruption could only be tackled with external partners.

> ***[outsourcing] truly helps to cut out the pharma mafia - who are not even pharma they are just intermediaries. In many countries, the pharma mafia has been controlled and overseen by the security services – they had agents embedded in the Ministry of Health whose key role was to control corruption and they received a lot of kickbacks from pharma intermediaries for not 'noticing' what they were seeing."***

23. Thus, the patients' organisations and anti-corruption groups started to campaign for outsourcing the procurement function for medicines, with the aim of removing decisions about the allocation of contracts from the government entirely: "we took all the procurement function away from the Ministry of Health and gave it to organisations with a very good reputation in the world."[18]

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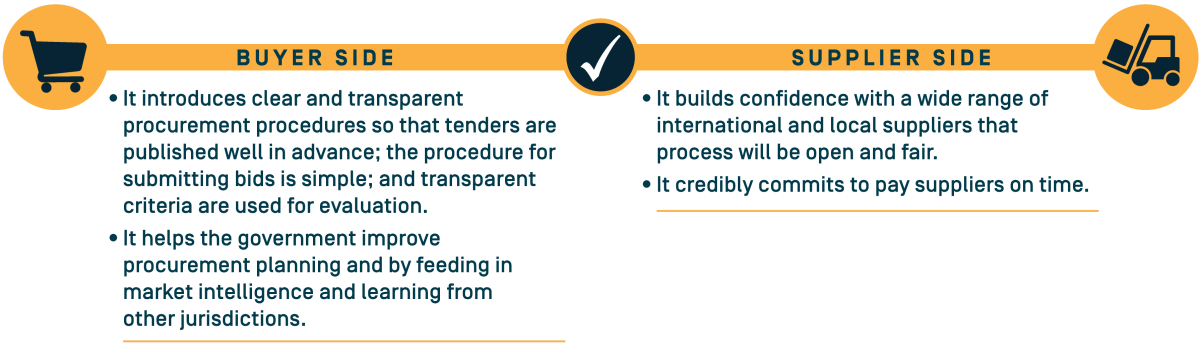
[15] Interview 17.
[16] In fact, the law involved amendments to three existing laws: the law on medicines, the law on public procurement, and the law on languages (because the packaging of products registered in Ukraine needed to be in the Ukrainian language).
[17] Interview 12.
[18] Interview 5.

24. Another obstacle remained: new suppliers had to be convinced to enter the market. Daria Kaleniuk of ANtAC recalls,

> ***"there was also an issue with foreign companies that were supplying those medicines. We had to think about how to make them interested in supplying directly to the government? There was no way because of a peculiarity with how the state budget works in Ukraine – the budget law envisions spending for one year, whereas large corporations wanted long-term planning. Also the documentation needed for public procurement was very complex and in Ukrainian, and corruption meant no guarantee of fair playing field, so no big international company was interested."***

25. Giving the function to an external agent sends a strong signal that the system has changed and that future tenders will be conducted fairly. "The international organisations were credible. When they started conducting tenders for Ukraine, international producers realised they could bid directly and didn't need to use an intermediary. The size of the Ukrainian market is not that small – it is a pretty big piece of pie."[19]

Figure 2: Bringing in an external agent changes incentives on buyer and supplier sides



26. The civil society groups selected some external agents to take over the procurement function. To make sure that the decision to outsource medicines procurement to external agents would not be overturned, they ensured that it was written into law, even naming a series of agents: the UN Organizations, International Dispensary Association, Crown Agents (a UK not-for-profit international development company), Global Drug Facility, Partnership for Supply Chain Management.[20] This would prompt criticism later and complaints that the

[19] Interview 17.

[20] In fact, only two UN agencies – UNDP and UNICEF - and one private-sector company, Crown Agents, took part in the process, although all of those named in the law were invited to participate every year. The law is available here: https://zakon.rada.gov.ua/laws/show/1197-18#Text

system was too closed, but it was regarded as essential to avoid the reform being derailed. Viktor Nestulia, who represented Transparency International Ukraine at the time, remembers that it took “a lot of fights until civil society managed to push through this legislation”.

27. Crown Agents had earned a strong reputation from running procurement systems in other countries all over the world for many decades, contracted by a number of governments. In the 1980s, its main client in this area was Japan, which wanted to use Crown’s expertise as a way of protecting and giving credibility to its growing aid investments in Africa. Japan was relatively new to international development and keen to comply with the OECD’s Development Assistance Committee’s standards. JICA and the Japan International Cooperation System sought assistance from Crown Agents as they moved into Africa. One CA employee recalls, “they said we need an organization that understands Africa to implement these programs in Africa for us and they came knocking on our door.”[21]

28. Using a procurement agent offered transparency and helped the Japanese government to demonstrate to its own public that overseas development assistance (ODA) was being spent wisely. It also provided distance from ‘Japan Inc’ at a time when the international donor community was becoming critical of ‘tied aid’- the idea that a donor country should benefit economically from the aid it ‘donated’. JICA benefited from Crown Agents’ expertise in running procurement fairly and efficiently, but also its reputation – which sent a signal to other donors, as well as to aid-recipient governments, to local and international suppliers, and even to the Japanese electorate – about how aid money would be spent.

29. Crown Agents (originally known as Crown Agents for Oversea Governments and Administrations Limited) boasted a strong track record of undertaking procurement on behalf of governments for over 180 years. At the time the coalition in Ukraine was choosing

[21] Interview 2.

partners, Crown Agents was working with numerous governments to operate procurement in particular sectors or for state-owned enterprises, including the management of medicines procurement in Bolivia, Botswana, Moldova, Sri Lanka and Zambia. In Sri Lanka, Crown Agents had been procuring specialist drugs for the Medical Supply Division department within the Ministry of Healthcare and Nutrition for almost 30 years.

The outcome – reaping the benefits

30. The external agents immediately brought a new approach to Ukraine's medicines procurement. They organised the tenders as one product - one lot, making contracts more accessible for manufacturers; they published the evaluation criteria; and bids could be submitted only via email or through a special tender system. Crown Agents held public meetings alongside the Ministry and with business associations, providing information on the rules, requirements, and procedures, including the rule that once a tender had been announced, no contacts were allowed between suppliers and buyers. Crown Agents also advised companies on how to prepare their tender documentation.

31. One representative of an international manufacturer commented,

> ***"This was absolutely new for Ukrainian business. Not only international companies participated, but also for Ukrainian producers it was also absolutely new, tabula rasa. They had to provide information about their background etc."***[22]

32. The external agents demonstrated that it was possible to conduct tenders directly with manufacturers, with international companies and that it was possible to receive pre-payment and then supply. Companies started to see that the system was truly competitive:

> ***"We were the first international company to take part in a tender directly, not through a distributor. When we realised it was safe, it was a stable tender with predictable process and requirements, we were able to participate. The process was absolutely transparency, payment in time, we supply also in time, no penalties and the contract is written in such a clear and understandable manner. For international companies that was absolutely ok, requirements were clear, procedure was clear, no hidden agenda, and it was 100% match with our anti-bribery policy and FCPA compliance."***[23]

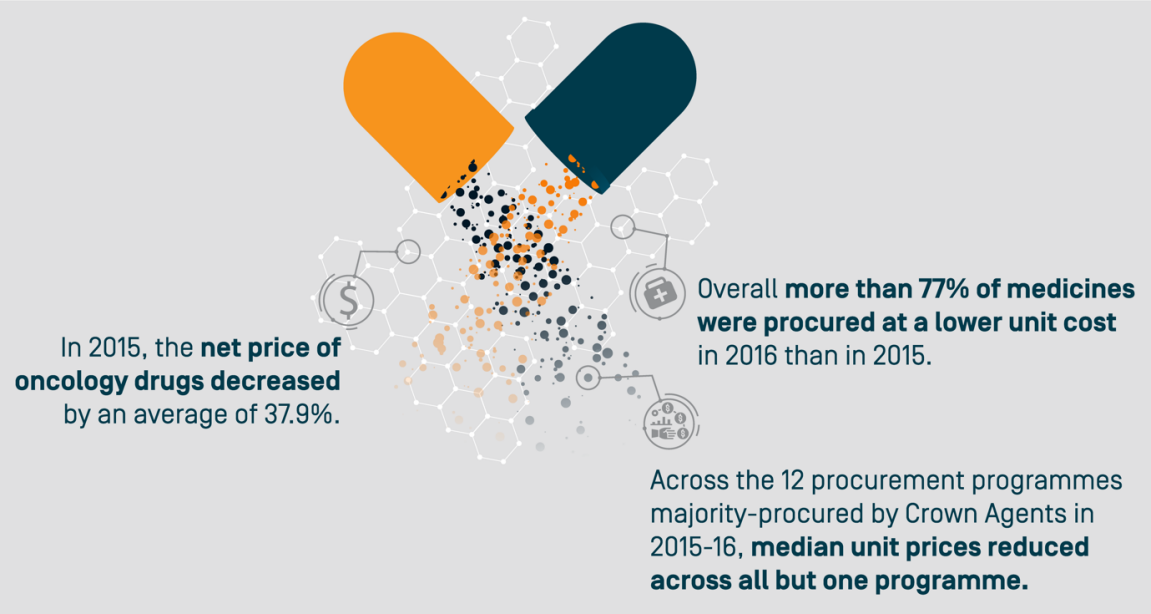
33. Before long, more and more companies started to bid for tenders.

34. The system was also much better for the state budget. ANtAC has monitored medicines procurement on an annual basis for many years, and finds that there has been a significant

[22] Interview 13.
[23] Interview 12.

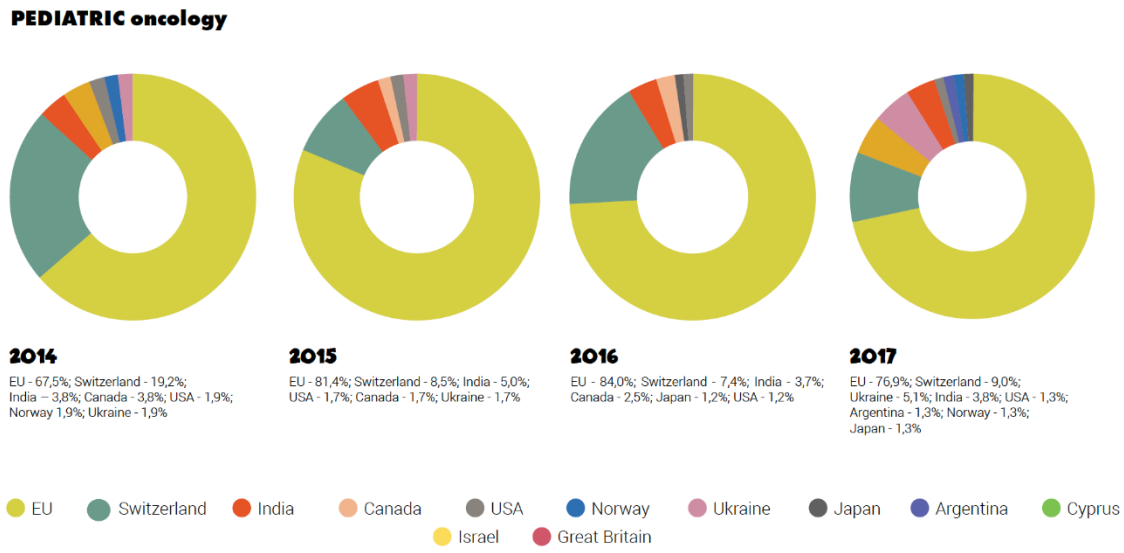
and consistent decrease in prices paid for essential medicines over time whilst maintaining high quality.[24] These savings to the budget were evident in the first year of reform.

Figure 3: Efficiency savings in the first two years



35. Over time, increased competition led to sustained price reductions. Figure 1 below shows how the market for pediatric oncology medicines developed over the first four years, in terms of the country of suppliers winning contracts:

Figure 4: Country of origin of suppliers of pediatric oncology drugs



Source: AntAC, Four years of healthy procurement: Detailed analysis of the 4-year treatment of corruption in the sphere of procurement of medicines, 2018.

[24] Anti-corruption Action Centre (AntAC), Four years of healthy procurement of medicines.

36. In 2014, the market had been dominated by distributors, with international manufacturers regarding it as too risky to enter and – for example – receiving only 0.5% of state contracts by value for pediatric oncology medicines. By 2017, manufacturers were receiving two-thirds of contracts by value. The number of suppliers to this market increased from eight in 2014 to 26 in 2017. In adult oncology, the number of suppliers increased from six to 26 in the same period. This increased competition led to major savings: for pediatric oncology, 84% of medicines were cheaper in 2017 than in 2014, while there were savings on 90% of medicines for adult oncology.

37. The new system was also yielding tangible benefits for patients. Patients' representative Ivan Zelenskiy says: "Nowadays, all patients in oncology has access to these drugs because international organisations buy 100% of the need and we don't have patients without drugs. These are basic drugs. They are not innovative, they are very simple, but we have them. Before the reform when the Ministry of Health bought oncology medicines, we had only 7-40% of needs. Patients had to buy their own and if they didn't have money they died. We started to feel the difference in 2015."[25]

38. Patients also appreciate transparency. "Crown Agents and UNDP are most transparent", Zelenskiy says. Oncology drugs have sometimes been procured by Crown Agents, and at other times by UN agencies. Zelenskiy sees a difference in their communications. "Crown Agents and UNDP both publish almost everything. They have people who communicate with different stakeholders." This communication is important because patients want to know why they are being given a certain medicine, whether generics are as effective as branded drugs, and what the pros and cons of different dosages are.

39. The benefits were becoming clear, but not everything was to go smoothly.

[25] Interview 9.

Part II: Implementation

40. Adopting the primary legislation was only the very first step. To implement the transition to external agents operating procurement, it was also necessary to adopt a lot of secondary legislation. It became obvious that the reformers needed allies in the Ministry of Health, which was still responsible for many aspects of the procurement cycle. The Ministry was responsible for identifying demand, for example, a critical step in which the core decisions are made about what and how much should be purchased. Similarly, the Ministry determined all of the technical requirements, including whether it was permissible to buy generics or only branded drugs and what dosages should be procured. All of this then needed to be approved for approximately 1300 different items and devices.

41. Ihor Perehinets became deputy minister in late March 2015, responsible for medicines procurement among other things, and the law was adopted in mid-April. But when he and his team started dissecting it, they realised that an immense amount of secondary legislation was necessary to make it actionable. For example, the law clearly stipulated that international organisations must conduct the procurement and even included the names of the agents, and yet the Ministry of Health was mandated to design selection procedures for for appointing these organisations. “It made no sense. But when we started to develop these procedures, the opponents of the reforms started to try to prevent this from happening by asking questions asked about how we had selected these agencies. They tried to claim that we had designed selection criteria to prevent other organisations from bidding.”

42. After only one month in office, Perehinets faced personal attacks,

> ***“after the parliament’s health committee had met, the same people that advocated for the law called me and the minister in to report on why the public procurement hadn’t happened yet and made us explain why there were no medicines in Ukraine. We explained that we had to create so many new regulations. But their whole concept was to kill the process at the beginning. They had wanted to benefit politically by advocating for it previously, but they had been almost certain it was not possible to deliver.***

Then when they saw that it was actually happening, they thought they would benefit a second time by trying to stop it."

43. He received a formal disciplinary warning from the cabinet of ministers - a criminal investigation had been opened against him for allegedly mismanaging a polio vaccination programme. Later he would be criticised for his role in a host of other non-related areas of his work at the Ministry.

> ***This was real proof that the groups who were losing control were going big. It made me feel very vulnerable but also very determined, like David and Goliath. But I also felt that, if I drop it, I have no back-up whatsoever. The advocacy groups will say I didn't deliver, the ministry will say 'well of course, it can't be done', but the patients would still be waiting." He explains that, as a civil servant in the Ministry of Health, every week there is a two-hour open session when members of the public can sign up to talk to you. Anybody can sign up to talk. "When the first time came, I had 45 people signed up to talk to me, and I saw desperate families with children who had orphan diseases but they couldn't afford to buy the medicines, and it was urgent. These stories motivated me more than the risks of being prosecuted or humiliated."***

44. But the attacks kept coming, and made it harder to retain allies in the Ministry. "Out of 50 people at the beginning who wanted to help, I ended up with four people who shared the same values and said, 'we will do it no matter what'."

45. Perehinets and his team started methodically to develop the regulations. He needed to build a relationship with the advocacy groups who had got the law passed in the first place, but there was a lack of trust, he recalls. "First they treated me as part of a rotten system. I said, 'you are simplifying the process. It is more complicated than you believe.'" Over time, they started to trust him, and created a supportive environment. That helped to undermine some of the opponents on the inside, who began to see that it would be politically risky for them to openly block the reform.

46. As the relationship developed, Perehinets grew more confident about the potential of the project. At one point, he recalls, "I said, if we are going for international procurement, then let's go bigger than this and expand it. I didn't want to waste the opportunity." The programme was extended to include, in addition to the three original programmes,

children's oncology and orphan diseases, in total around 60% of the medicines budget. By the end of 2015, Perehinets had gotten the Cabinet of Ministers to put 100% of national programmes through international procurement.

47. The original idea was that procurement should be entirely international. But some politicians started to argue that local producers should be allowed to bid too. Regulations had to be updated to allow local producers to submit bids, but in a way that separated producers from the distributors who were associated with the corruption of the old system. The distributors argued that the new system would kill local production, and the reformers had to show that they were not trying to exclude good local firms.

> ***We had to send a message that we are not against producers of high quality. We are against wasting resources on non-transparent procedures and paying for nothing. After a while, we won support from local producers again. Some of them approached us saying 'we always wanted transparency, but we couldn't achieve it'. That gave us significant support at the local level." (16)***

48. Reflecting on the process, Perehinets argues that all of the stakeholders had their strengths and limitations, and that they were not well prepared. "Some promises were made. It was a big experiment, but it went through with an insane effort from a small group of people who made it happen."

49. It would take seven cabinet of ministers' decrees and 15 Ministry of Health orders before the contracts could be signed, money transferred, and the first tenders issued. In addition, the Ukraine National Bank had to change some regulations to allow payments to be made in advance, and the customs services also had to update its regulations in order to enable international trade. Under intense scrutiny from corrupt officials and companies who wanted the reform to fail, as well as from the civil society organisations who wanted him to succeed, Perehinets sought to be as transparent as possible to satisfy all sides that he was simply trying to implement a law which the Ministry was bound to execute. When he created a working group in the Ministry, he also made sure it had a clear voting protocol, that all minutes were published, and all decisions transparent. Overall, it took 9-10 months to get the system set up.

PRE-PROCUREMENT – THE MINISTRY'S TASKS

1. Design policy eg determine priorities, and whether to buy generics or not
2. Assess needs: understand how many medicines should be ordered, through liaison with regions and hospitals
3. Write technical specification in consultation with experts
4. Approve requests for each type of medicine

All of this needed to be done for 1300 different items and devices
"Only after this really tremendous work was done could the government sign a contract with international organisations" (17)

New leadership

50. In the following year, healthcare reform received a new injection of leadership, with the appointment of Ulana Suprun MD as Minister of Health in July 2016. Suprun soon found that the reform was at a delicate stage. Only a few concrete results were visible, and political will was draining fast. Many Members of Parliament now resisted the procurement of medicines through international organisations, despite having voted for it in 2015. And the system was blighted by red tape, with the Ministry having to sign off on many parts of the process. In her first weeks in office, Suprun spent far too much time signing papers to get medicines through customs and released to the regions.

51. Part of the problem was a lack of capacity in the Ministry. A 2014 Government of Ukraine report prepared with assistance from the IMF had characterised the civil service as "bloated, inefficient and politically-controlled" as well as "characterized by lack of transparency in its processes and decisions, low pay, an insufficient skills base and duplication of responsibilities among agencies".[26] In addition, the patients' organisations had wanted there to be many checks and balances on the procurement process, to avoid the old abuses of power, hence even the new systems were inefficient.

[26] Government of Ukraine Report on Diagnostic Study of Governance Issues Pertaining to Corruption, the Business Climate and the Effectiveness of the Judiciary, prepared with the assistance of the Legal Department of the International Monetary Fund, 11 July, 2014.

52. Suprun invited the patients' organisations to advise her on how to organise procurement better, and embarked on a process of streamlining decision-making:

- *The technical working groups for different types of medicines, each with a single physician required to approve purchases (and potentially embedded in the old corrupt networks), were entirely replaced.*
- *The writing of technical requirements was delegated to experts, but now all approvals were made by one joint working group.*
- *New experts were recruited, and all were required to sign conflict of interest declarations.*

53. By the end of 2018, the procedures were more streamlined and the programmes for the following year had been approved in advance, for the first time. As soon as the funds became available (after budget approval in March), procurement was able to start right away, with almost all the medicines being delivered on time.

54. Another technical issue related to assessing the needs of the different healthcare providers and keeping track of stocks: essential precursors to deciding what needs to be procured in the coming year. There was huge variation in the medicine requests from different regions, most of which were not tracking demand in any systematic way; the Ministry had previously bought whatever was requested. Suprun encountered huge pushback when she tried to introduce a system for tracking medicine availability in the regions, because hospitals were used to selling the medicines and profiting from the proceeds. Healthcare workers would sometimes sabotage government supplies by telling patients that vaccines supplied by the government were poor quality, so they should purchase alternatives downstairs at the pharmacy, or by displaying information about patients' rights to medicines in obscure places.

55. The delays were creating problems for the external agents – at one point, in 2018, they were managing procurements from three different budget years. Moreover, the Ministry of

Health was not prioritising or giving guidance on which were most important, but rather said that everything was urgent. One local procurement expert commented, “If you are a strategic buyer like Crown Agents, and you receive a request to procure 40 programmes for three years and immediately, it is impossible.” (17) Another problem was the one-year Ukrainian budget cycle. “Every year we selected international organisations to run procurement for those medicines for one year, and every year they had to publish new tenders. There were no multi-year frameworks. The process was not very efficient on the Ministry side.”

56. Although so many these technical issues needed to be solved, Suprun reflects that “It’s the political aspect of any reform that is really critical. If you don’t have the political part, you will never get the technical parts through.” This is the area where she is most often asked for advice. “You can get the technical assistance but nobody teaches healthcare ministers the political aspect.”

57. Her political strategy was threefold. First, she built relationships with the key stakeholders outside the ministry, who then became her allies in advancing the reform. For example, the patients’ organisations helped, by communicating to patients about their rights to access free drugs, even developing a website called Eliky where hospitals publish information about medicines procured by the state and available in hospitals. While coverage remains incomplete, around 2000 hospitals in Ukraine now upload data to the system. Although all hospitals are now obliged to publish data on their stocks, they are permitted to do so in different ways, with some effectively burying the information on the websites of regional departments.

58. Suprun also benefited from a good relationship with the external procurement agents, particularly Crown Agents, which had invested in building up a local office and recruiting local staff who sought to build lasting relationships with government partners. Suprun recalls, “Crown Agents would tell us that they couldn’t buy a medicine which the Ministry had requested because it was so obscure and they didn’t even know where it was made.” At other times, Crown Agents would recommend a medicine that was equivalent to the one they had been asked to buy but cheaper, but their suggestion was not on the essential

medicines list and hence could not be bought. This meant circling back into the regulatory process to get an approval, all of which took time. Thus, while Suprun recalls that they "got a lot of help from Crown Agents and the other agencies in changing what medicines we bought", it was also the case that some good proposals made by the international organisations could not be accepted because it would mean regulatory delays.

59. Second, Suprun recruited top talent into her team at the Ministry. For example, she convinced Olga Stefanyshyna from CSO Patients of Ukraine to join as her deputy. Stefanyshyna was "struck by the number of young professionals leaving secure private sector jobs or internationally-funded NGOs to work for the Ministry of Health", which she said "indicates that people see a real opportunity to fundamentally change health care".[27] The hiring of new talent also helped overcome a systemic lack of capacity in public administration, since in the post-Soviet system individuals had often been hired for loyalty over competency.

60. Third, she invested in a major communications campaign, to convince the public that reform was necessary and to explain how it was going to work – but also to defend herself against the negative attacks with which she and her allies were soon bombarded. One expert interviewed for this report commented, "Suprun had a lot of motivation and took a lot of risks. She was almost destroyed. This pharma mafia started to present her as Doctor Death." (9) Suprun had been brought up in America, making it easier for the media to portray her as alien. Indeed, she did challenge local norms. Rather than dress in Chanel and travel in a black government car like other government ministers, she wore pants and walked to work with her backpack. She says "that shattered a lot of expectations or images of what a minister should be." But she wanted to be much closer to the people. She would visit oblasts unannounced to speak to the patients and doctors.

61. Sometimes there were threats which led to pressure for her to have protection, but she decided that accepting a bodyguard would be letting the other side would win. "It would

[27] Stefanyshyna will focus on creating an electronic database to track the availability of medicines in the regions" see https://www.atlanticcouncil.org/blogs/ukrainealert/ministry-of-health-gets-major-shot-in-the-arm/

have distanced me from the people. We didn't change our behaviour." This helped her to build trust and respect over time. "In the first year some people did walk up to me in the street and complained. In the second year and third year, a lot of that sentiment changed. It became quite positive."

62. The external procurement agents faced all manner of attacks in the media – from allegations that they were buying poor-quality medicines that would kill the population to scare stories that they planned to steal the state budget money. People complained that the money for the medicines was transferred to them in advance, not appreciating that this was important for two reasons – as a commitment for suppliers concerned that payments might be delayed and, at a time of high inflation, to fix medicines procurement costs in hard currency. As one interview respondent commented, "it was criticism without any background, any evidence base. It was because those people who were sitting in the tender committee saw that the situation started changing, and their [corrupt] benefits started disappearing."

63. Crown Agents tried to be as transparent as possible, to build up trust with the population and with key stakeholders. One of the negative media campaigns highlighted the confidentiality of the contracts as a source of suspicion. Crown Agents in the end said they would show the contract, despite this being a break with normal practice. The media also criticised the external providers for charging for their services, as if they were stealing money. In Ukraine, this negative campaign was pushed by a media sector with heavy pro-Russian ownership and became entwined with broader anti-American and anti-UK propaganda.

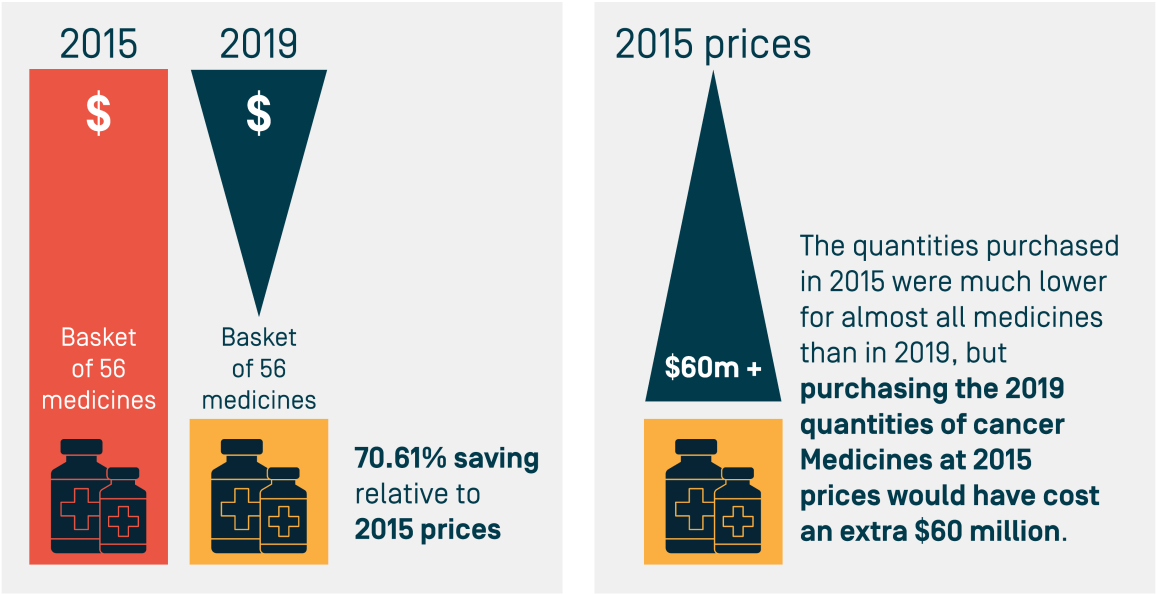
64. At one point, there was a concerted attack on the company relating to its procurement of medicines for child cancers. According to its contract, Crown Agents was supposed to take possession of goods after they had passed customs. But the local importer refused to pay the customs fees it owed, meaning that the medicines sat in customs for two months, not cleared for release. The media whipped it into a big scandal, laying the blame unfairly on Crown Agents – and eventually, prompting intervention by the British Embassy which issued

a statement that the problem was not the fault of Crown Agents or the UK, but rather the Ukrainian distributor had breached its contract.

65. Crown Agents has experienced similar opposition elsewhere. One representative of the company noted that the criticism usually weakens over time as they start to deliver results. "It can be seen as an imposition. But we shorten delivery times, take headaches away. We are usually working with departments that are under-resourced. And we provide continuity in contexts where political change can disrupt reforms."[28]

Figure 5: Price savings over 2015-19 according to ECRI

The price savings over the whole period 2015-19 are impressive.
ECRI analysed savings for 'Procurement Programme 3', for oncology medicines, over the whole period.



ECRI find that the main explanations for this price improvement are **the selection of different brand drugs** (made available owing to the availability of new generics and biosimilars), and **price decreases for some brand drugs** due to improved negotiations, higher volumes and the presence of competing alternatives on the market.

66. Indeed, the excellent results achieved built support among a range of different stakeholders. Patients were pleased with their improved access to medicines and better health outcomes. The Ministry of Health – and Ministry of Finance – were able to boast 40% budget savings and efficiency gains across the medicines procurement programme. And

[28] Interview 4.

manufacturers in Ukraine and beyond were benefiting from selling their products on a sizeable market, not having to worry about late payments or sudden changes to contracts. Just as these stakeholders were now allies and supporters of reform, the interest groups who had benefited from the old way of doing things had been undermined or bypassed. Ukraine was on the way to creating new norms, but was the change sustainable?

Part III: Building sustainable capacity and expertise

67. In addition to handling the day-to-day administration of procurement activities, external agents can also work with government partners to build local capacity and expertise in procurement, to achieve lasting change. In Ukraine, while the procurement function was run by external agents, the Ministry of Health laid the foundations for a new medicines procurement agency that would be ready to take over in 2020. Since Ukraine also has a highly-reputed auction-based system, proZorro, it also sought to bring some medicines procurement, at least for simpler products where price is the prime consideration, into proZorro.

68. However, if the key factor in persuading new suppliers to enter the market since 2015 had been the excellent reputation of the external agents, then a major challenge for the new state-owned enterprise, Medical Procurement of Ukraine (MPU), was to match this credibility.

69. The external procurement agents therefore engaged in a programme of knowledge transfer activities for a whole year before the MPU started to procure. The MPU learned a great deal about how to communicate with the market and gather market intelligence:

> ***"guys from our team met with guys from the international organisations with similar areas of responsibility. We had a short lecture from the international organisations and then an opportunity to raise questions. And now we maintain contact with them as a source of advice and to collaborate."***[29]

70. The MPU also took on some of the external agents' procedures, putting in place similar tender rules, thereby providing continuity for suppliers. Overall, the partnership between

[29] Interview 14.

the external agents and the state has helped Ukraine's Ministry of Health to reform medicines procurement rapidly and to ensure that the gains are sustained over time.

Disrupting corrupt networks in Zambia

71. Another example where Crown Agents has assisted with medicines procurement is Zambia. In 2004, during a wave of donor-funded efforts to reform Essential Medicines Stores in sub-Saharan Africa, the company had won a contract to be the management agent for Zambia's Medical Stores Limited. Its remit was to improve the performance of the organisation and turn it into something that could be trusted by the public and the health sector more broadly.

72. A previous effort to outsource the function in 1998 had seen the role given to a South African company called GMR, named after its founder Giovanni Mario Ricci. The company was providing 'logistics' to a number of criminal groups operating in the region, and proceeded to use its access to the Medicine Stores' distribution network to support the illegal trade in smuggling diamonds, gold, and guns, much of it to finance and facilitate armed coups, especially to parts of north and west Zambia, abutting the DRC and Angola.

73. By 2003, however, Zambia was a highly indebted poor country seeking debt relief. The IMF made this conditional on implementation of a number of public administration reforms, among them that the government should cease GMR's contract and bring in a reputable team to run the medical stores.

74. One of the CA team recalls,

> ***"It was such a hot situation to go into. We were well placed because we had an office there and knew about the problem but even then we were hesitant. It was politically sensitive and we didn't know how easily this company would go, or who in the ministry of health was heavily invested in the status quo. And because of the nature of GMR's business, we had some concerns about personal safety." [15]***

75. In the 2000s, a number of audits and surveys in sub-Saharan Africa were showing that medicine availability at clinics was very poor. Many countries had similar institutions

responsible for procurement – usually known as Central Medicines Stores or similar. Hence various donors, including World Bank and DFID, sought to put pressure on companies to implement major reforms of these medical stores – and also supplied funds and technical assistance to facilitate. More broadly, the politics of the aid sector in the 2000s was making procurement reform more important. As donors moved away from Sector Improvement Programmes (SIPs) towards wider approaches, and also started to provide budget support instead of project funding with earmarked spending, it became more urgent to try to improve local procurement systems to stop funds going astray.

76. Donors helped to initiate change in Zambia and Botswana, but Crown Agents' staff reflect that success depends on there being genuine government buy-in for reform. In Zambia, CA's remit was to reform the Medicines Store, but it was only responsible for warehousing at a national level and for distribution, with the Ministry of Health retaining control of procurement itself. Recognising that the biggest efficiency gains depended on reforming other parts of the procurement cycle, CA advocated for improvements in other areas but encountered obstacles. The procurement unit ignored their calls for forward planning and instead often let the situation deteriorate into an emergency, so that - by law – it was permitted to invoke the provisions for an emergency, overcoming the need for an open and competitive tender. "That was almost a perpetual situation", a Crown Agents' team member recalls. "At one point we convinced the ministry to put in place pricing agreements and that worked – but only for a few months."[30]

77. When CA sought to gain a pledge that the Ministry would transition medicines procurement to the Medicines Store, it met more opposition from officials who seemed to fear loss of control. CA was nevertheless able to have an impact on procurement, partly through gathering intelligence about the needs of the market, and informing decisions about what needed to be bought.

[30] Interview 15.

> ***Sometimes we were able to identify red flags like, if there was only one or two suppliers registered to provide a particular molecule. That could indicate that a supplier had improperly influenced the regulator. Very often the most efficient entry point for companies who want to make money from the procurement process is the regulatory process, where medicines are approved. If you can influence that, so that only a particular molecule is permitted to treat a certain disease, there may be only one or two suppliers registered that can do it."***[31]

Improving efficiency in Botswana

78. In Botswana, Crown Agents won a three-year US-funded contract to improve the management of medicines procurement, in cooperation with the in-house team in the sub-unit of the Ministry of Health responsible for this function. One CA staff member recalls, "The government had got fed up with the poor performance of the medicine stores. There had been a couple of big high-profile scandals. The idea was that we would work alongside their managers for a while and then hand it back."[32]

79. The Crown Agents team found that the unit was procuring through some large annual tenders but also buying many medicines through stop-gap emergency procurement. The latter allowed for the use of non-competitive procedures and was more prone to corruption. There were 200 pharmaceutical molecules listed as 'vital' in Botswana, and Crown Agents put in place framework agreements for those products.

80. The Public Procurement Agency tried to block the use of framework contracts, arguing that it was "not the done thing here" and arguing that contracts should have a fixed value (whereas the framework contracts had only a small minimum value". CA's project manager recalls, "I had to argue very hard to get the PPA to agree to Framework contracts, even though it was allowed for in the public procurement regulations. They fought us every step of the way."

81. In dealing with such conflicts, it was an advantage to be an outsider.

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[31] Interview 15.
[32] Interview 18.

> ***"It is easier to be a foreigner in those situations, especially in a small country where everyone knows each other. It was so densely connected and it makes it hard for two people to have professional arguments with one another. It was much easier for me to do because I wasn't part of that system."***[33]

82. However, Crown Agents also had support from the upper echelons of the leadership, which was committed to the reform. "We would get grilled every month by the president himself. We would send progress reports and President Khama would read them all and make his own notes." Having the support of US government donors also provided leverage: "We had some advantages. It would have been harder for local managers to do what we were doing."

83. The framework contracts were let to two suppliers – one Dutch and one local – with fixed prices and delivery dates. This allowed for much better planning and security on the government side. Through this change, Crown Agents was able to increase the availability of vital medicines from 55% to 95%. Moreover, with framework contracts in place, it is much rarer to slide into emergency supply situations: "Rather than be forced into launching an emergency tender, you just send a purchase order. It's good for the supply chain and it's also a good anti-corruption measure. It brings stability."[34]

84. Crown Agents would share with the suppliers its weekly assessments of stock levels as well as information about consumption rates over the previous 12 months. The suppliers would then propose a schedule. "It is much more of a partnership, rather than an adversarial approach. [With framework agreements], there is an incentive to try and understand each other better and work together. Suppliers of framework contracts typically charge lower prices because of the guaranteed demand.

85. The impact on local suppliers was mixed. Some local companies were persuaded to bid where they had not before, but there were also companies that had benefited from the old system, who now became harsh critics. "Some very much liked what we were doing. There

[33] Interview 18.
[34] Interview 18.

were others who didn't. They would complain to the minister, and stories would appear in the papers alleging that we were corrupt."[35] International suppliers were consistently attracted to the market, reassured by the company's international reputation and credibility.

86. Partnerships require clearly defined reporting lines. Crown Agents also provided a lot of training and support to managers, finding ways to make that compatible with the civil service's own performance management system and organisational culture. Reflecting on the whole project, one Crown Agents manager concluded, "We need to think longer term about these problems. If you're going to work with something as politically sensitive as a procurement system, you have to accept that it is not a three-year project."[36] However, Crown Agents' experience in Ukraine shows that the partnership can evolve and adapt as needs change, and maintaining links with such an external partner can also help to respond quickly to emergency surges in demand.

[35] Interview 15.
[36] Interview 15.

Ten-point Action Plan for Reformers

87. The Covid-19 crisis has highlighted the impact of weak healthcare systems all around the world, and the way that corruption undermines service delivery and leads to worse outcomes.[37] But there is also increased public pressure on governments to drive forward healthcare reforms, and potentially greater donor support to do so. For those seeking to reform medicines procurement, these cases offer some clear lessons.

ACTION PLAN FOR REFORMERS

THE POLITICS OF REFORM

1. Demonstrate your local political mandate for change - and lock it in - by enshrining the reform in law. This will make it easier to implement the reform and harder for vested interests to reverse the decision.
2. Encourage international financing institutions such as the IMF and World Bank to make aid and loans conditional on achieving reform success. This leverage can help reformers win support from colleagues and keep the Finance Ministry on side.
3. Build coalitions that span government, civil society and the private sector. The success of reform in Ukraine owes a great deal to the way in which the reformers in government, the civil society organisations [both patients' organisations and anti-corruption watchdogs] and the procurement agents were willing to invest in building relationships and collaborating to overcome obstacles.
4. Invest in a communications strategy. It is essential to explain the need for reform to the public, to raise awareness about how the new system will work, and to proactively prepare for negative attacks from opponents.

THE TECHNICAL SIDE

5. Partner with an external agent that has a track record for managing procurement processes and an impeccable reputation for facilitating fair competition. Establish clearly responsibilities and reporting lines between the government and the external agent.
6. Include as much of the procurement cycle as possible in the reform. Parts which are left with the Ministry remain vulnerable to politicisation, meaning that reforms may not survive a change of leadership or government.
7. Professionalise the procurement function, encouraging the transfer of knowhow from the external agent to local officials, and embedding continuing professional development into performance management systems.
8. Teach local companies how to write competitive bids for tenders. The external agent can help by providing training sessions for producers and distributors.
9. Build a comprehensive data management system for assessing needs and stocks in different regions of the country and enforce compliance.
10. Invest in the pre-procurement planning function in the Ministry to encourage efficient decision-making, but maintain integrity checks – eg conflict of interest declarations for those assessing needs and writing technical specifications.

[37] The Ignored Pandemic behind Covid-19: The impact of corruption on healthcare service delivery, 2020, Transparency International.

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