KPK
Komisi Pemberantasan Korupsi

INDONESIA'S GLOBAL COMMITMENTS ON UNITED NATIONS CONVENTION AGAINST CORRUPTION (UNCAC) AND G20 ANTI-CORRUPTION WORKING GROUP (ACWG) 2012-2020

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FOREWORD
CORRUPTION ERADICATION COMMISSION (KPK) COMMISSIONER
INDONESIA'S GLOBAL COMMITMENTS ON UNITED NATIONS CONVENTION AGAINST CORRUPTION (UNCAC) AND G20 ANTI-CORRUPTION WORKING GROUP (ACWG) 2012 – 2020

First and foremost, I would like to express my utmost gratitude to Allah SWT for the launching of Indonesia's Global Commitments on United Nations Convention Against Corruption (UNCAC) and G20 Anti-Corruption Working Group (ACWG). I would also like to express my sincerest appreciation to the team from Corruption Eradication Commission (KPK) and Indonesian Ministry of Foreign Affairs (MoFA) for their great contribution and strong collaboration on multiple international fora in anti-corruption over the last decade. Furthermore, I thank all the related stakeholders for their immense support and contribution on the KPK's efforts in combating corruption through international cooperation.

Corruption not only engender state financial loss, but also has a disproportionate impact on national development and violates social and economic rights. Furthermore, corruption has the ability to transcend national borders and involving more than one country on its practice. It requires an extraordinary effort and enormous public participation to tackling corruption, that acknowledged as an extraordinary crime. Moreover, global attention and international cooperation are needed to eradicate the corrosive effects of corruption.

International community has agreed to categorize corruption as an extraordinary crime, that has transnational aspect in its nature, with the perpetrators, illicit financial flow, and the impacts go beyond borders. Concerned about the seriousness of problems and threats

graft posed by corruption to the stability and security of societies, the General Assembly has adopted the United Nations Convention Against Corruption (UNCAC) on 18 December 2003 in Merida, Mexico, where Indonesia contributed as one of its signatories. The Convention introduces a comprehensive set of standards, measures and rules that all countries can apply in order to strengthen their legal and regulatory regimes to fight corruption. UNCAC consists of international guidance and provisions on corruption prevention, criminalization and law enforcement, international cooperation and asset recovery. The implementation of UNCAC reflects the State Party's commitment in the fight against corruption including the implementation of good governance principles and enforcing the rule of law.

Indonesia has ratified UNCAC on 19 September 2006, hence considered as UNCAC's State Party. Until 6 February 2020, there are 187 UNCAC State Parties. Through law number 7 of 2006, Indonesia has shown its anti-corruption commitment by ratifying UNCAC into national legislation. Furthermore, Indonesia has the obligation to implement the articles of UNCAC in domestic level. UNCAC has the Implementation Review Mechanism (IRM), which is a peer review process that assists States parties to effectively implement the Convention. The review separates into 2 cycles with each cycle has five-years duration. The first cycle of the Review Mechanism started in 2010 and covers the chapters of the Convention on Criminalization and Law Enforcement and International cooperation. The second cycle, which was started in 2016, covers the chapters on Preventive measures and Asset recovery. This review process can be benefitted as a strategic momentum to exhibit Indonesia's commitments on implementing the articles of UNCAC and also to improve national's legislation and policy.

Besides UNCAC, Indonesia also committed in G20 cooperation. As the biggest global economic forum, G20 emphasizes the use of dialogue to build its leaders' political commitments on facing and resolving economic challenges including corruption through the G20 Anti-Corruption Working Group (ACWG).

G20 Anti-Corruption Working Group (G20) was established at G20 Toronto Summit, in June 2010 as a form of commitment from G20 countries to promote anti-corruption values

into national and international instruments. G20 ACWG plays a key role on formulating comprehensive recommendations to enhance the efforts of G20 countries in the fight against corruption. The G20 has the opportunity to adopt a ground-breaking policy document, in the form of High Level Principles (HLPs), that may offer guidance namely in terms of better prevention and more effective detection and investigation. Several anti-corruption issues have been discussed in the G20 HLPs, among other national anti-corruption strategies, managing conflict of interest, beneficial ownership transparency, ensuring integrity in State-Owned Enterprises, private sector integrity, effective protection of whistleblowers, promoting public sector integrity through the use of information communication technology (ICT), and several other issues. The G20 HLPs could be used as international standards in combating corruption.

2020 marks the tenth anniversary of the G20 ACWG, in this regard, a ministerial declaration was formed through ministerial communique. This declaration contains anti-corruption commitments by G20 countries and further agenda on anti-corruption movement. For over ten years, Indonesia has been actively contributing to the process of formulating and negotiating the ACWG outcome documents before being adopted by the G20 Head of State during the G20 Summit which held every year.

This book contains a compilation of Indonesia's commitments on UNCAC and G20 ACWG from 2012 to 2020. This book is a reminder to all of us that Indonesia has a strong determination on combating corruption both in domestic and international level. In the face of a rapidly changing global environment, we commit to collective actions pursuing a comprehensive and holistic anti-corruption agenda in effective and accountable manners.

In line with the preparation of Indonesia's Presidency for the G20 in 2022, we sincerely hope this book could spread and disseminate information about Indonesia's commitments on international forum in the issues of anti-corruption. We also hope this book could deliver a comprehensive knowledge for people who is eager to learn about Indonesia's implementation of global commitments, as well as a reminder for Indonesia government to put more attention into several recommendations that need to be followed up.

Lastly, we humbly realized the fight against corruption can't be done if the KPK works alone. In accordance with the KPK's vision "together with the people, decrease the level of corruption for better Indonesia" we invite the whole elements of Indonesia to actively participate and contribute to achieve the common vision of Indonesia free from corruption.

Warm Regards,

Firli Bahuri
Chairman of KPK

FOREWORD
FROM
MINISTER OF FOREIGN AFFAIRS

Corruption take various forms and occurs in various sectors. It has a negative impact on various aspects of life, not only to the economy, but also to the social, political and democracy, as well as law and security. The characteristics and complexity of the challenges in the prevention and eradication of corruption is an issue of common concern to the international community. Therefore, efforts to prevent and eradicate corruption require close cooperation among countries in the world at various levels and forums, including within the framework of the United Nations and the G20. In this regard, it is relevant and necessary to disseminate the achievement and developments of the joint efforts of the countries in the prevention and eradication of corruption to the stakeholders.

The Compilation of Indonesia's Global Commitments to the Anti-Corruption Forum of the United Nations Convention against Corruption (UNCAC) and the G20 Anti-Corruption Working Group (ACWG) in 2021 is an update to the first book published by the Corruption Eradication Commission (KPK) in collaboration with the Ministry of Foreign Affairs in 2019. The book documents Indonesia's participation in the development of efforts to prevent and eradicate corruption in the UNCAC and G20 ACWG meetings in the 2012-2020 period.

Updating the book in 2021 is timely, considering that in 2022, Indonesia will serve as President of the G20 ACWG. I am hopeful that this book can improve Indonesia's modalities during our Presidency to the G20 ACWG and increase Indonesia's role with regard to efforts to prevent and eradicate corruption within a broader international framework.

I also hope that the publication of this book, will benefit all stakeholders, including decision makers and policy makers both the government and non-government alike. No less important, this book is expected to educate the public to the dynamic of the discussion of anti-

corruption issues at the international level, in order to increase awareness, understanding and ownership of anti-corruption issues as well as sense of shared responsibility in preventing and eradicating corruption. Furthermore, this book will hopefully foster public awareness of the importance of Indonesia's participation in international forums towards genuine efforts to prevent and eradicate corruption.

Last but not least, I would like to express my deepest appreciation and gratitude to all those who have sincerely worked hard in making the Compilation of Indonesia's Global Commitments at the UNCAC Anti-Corruption Forum and the 2021 ACWG G20.

Jakarta, May 2021
Minister of Foreign Affairs

Retno L.P. Marsudi

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ACWG
Implementation Review Group
Third session
Vienna, 18-22 June 2012
Item 2 of the provisional agenda*

Review of implementation of the United Nations Convention against Corruption Indonesia

Legal system

The Indonesian legal system is a civil law system built on the legacy of the Dutch colonial rule. Due to historical reasons, three distinct legal systems co-exist in modern Indonesia: Adat law (customary law), Dutch colonial law and Islamic law.

The incorporation of the United Nations Convention against Corruption into the Indonesian legal system was ensured by Law No. 7/2006, by which Indonesia ratified the Convention. The law of ratification of the Convention ranks below the Constitution but same ranks with other laws.

Criminalization and law enforcement

Criminalization

The offences established in accordance with the Convention are found mainly in Law No. 31/1999 on Corruption Eradication, as amended by Law No. 20/2001, the Criminal Code, and Law No. 8/2010 on the Prevention and Eradication of the Crime of Money-Laundering.

Indonesia has criminalized an important number of corruption and related offences.

These include active and passive bribery of national public officials, abuse of functions, participation in an offence and attempt, embezzlement of property in both the public and private sectors, laundering of proceeds of crime, and concealment. A comprehensive range of offences, including any offence committed abroad and punishable with a penalty of imprisonment for four years or more, is a predicate offence to money-laundering.

With regard to liability of legal persons, Indonesian authorities recognized that the law on corporate liability is still rudimentary, and confirmed their commitment to broaden its application. The reviewers welcomed Indonesia's self-assessment and commitment.

Indonesian legislation does not contain a general definition of the abuse of functions offence, even though existing norms reflect most of its definition. It was observed that the law requires that the abuse is made with a view to enrichment, which implies receiving a material advantage, while the Convention is broader and covers any advantages including those of a non-material nature. Article 3 of Law No. 31/1999 contains a reference to the detrimental effect of the perpetrator's behaviour to the finances of the State. This pre-occupation with the need to show a loss to the State might limit the fight against corruption.

The reviewers noted that abuse of functions is punishable with life imprisonment, while the bribery offence is punishable with between one to five years of imprisonment. This discrepancy may require a reassessment of these penalties.Terkait pertanggungjawaban perusahaan, pihak berwenang di Indonesia mengakui bahwa UU terkait pertanggungjawaban pidana korporasi masih belum berkembang, dan pihak berwenang di Indonesia telah menegaskan komitmen mereka untuk memperluas penerapan UU tersebut. Para peninjau menyambut baik kajian mandiri sekaligus komitmen dari Indonesia.

Bribery of foreign public officials and officials of public international organizations, trading in influence, illicit enrichment, and bribery in the private sector have not yet been established as offences. Consideration has been given towards their criminalization in the draft law on corruption eradication and the draft law on asset forfeiture. The

reviewers urge this process to continue.

The following recommendations have been identified as strengthening and improving the current criminalization provisions.

- √ Mempertimbangkan untuk mengkaji kembali ancaman hukuman atas tindak pidana suap dan penggelapan;
- √ Consider reassessing the penalties applicable to the bribery and embezzlement offences;
- √ Criminalize active bribery of foreign public officials and officials of public international organizations, and consider criminalizing passive bribery of these officials;
- √ Remove articles 12B and 12C from Law No. 31/1999 as amended by Law No. 20/2001, which, by defining an aggravated form of bribery (art. 12B) and providing immunity for an official who reports receipt of a bribe within 30 days of receiving it (art. 12C), present problems of compliance with articles 15 and 37 of the Convention;
- √ Ensure that the terminology used in the legislation about embezzlement covers clearly any property or any other thing of value, in accordance with article 17 of the Convention;
- √ Ensure that the existing norms on abuse of functions cover also non-material advantage, and consider revising the laws to remove the reference to state loss.

Law enforcement

Legal provisions pertaining to the investigation and prosecution of corruption and related offences are mainly found in the Criminal Procedure Code and the Criminal Code of Indonesia.

Investigative functions are fulfilled by the KPK (Corruption Eradication Commission), the AGO (Attorney General's Office) and the Police. The KPK in principle has jurisdiction in top-level cases. In other proceedings, the AGO has the primary jurisdiction, although the KPK has the power to supervise and/or take over proceedings. The Police also

investigate corruption offences. The KPK can investigate specific categories of high-ranking officials without seeking prior written approval of the Minister of Home Affairs or the President.

Anti-corruption actions by the KPK, the AGO and the Police are supported by the work of the PPATK (Indonesian Financial Intelligence Unit).

The KPK has privileged access to banking information. However, for other agencies, the Chairman of the Central Bank "may issue permission" (art. 2, Law No. 8/1998).

The KPK must prosecute a case that it investigates. However, not all cases handled by the AGO are brought to court. Discretionary powers may be exercised to discontinue a case based on grounds such as lack of evidence, public interest, and de minimis. In particular, the AGO can be instructed to set aside a case for the sake of protecting the public interest even if the case is technically sound (deponering). This practice would appear to be against the spirit of the Convention, and risks creating the impression of political interference and leaving an unclear result that is unsatisfactory for all concerned. The reviewers recognized that it is rarely used in practice, but it is objectionable in principle and is open to abuse in a corruption case. The reviewers recommended that this issue be addressed in the process of the revision of the anti-corruption law.

Minor bribery cases among policemen are not brought to court, but are dealt with by an internal ethics committee.

The statute of limitations cannot be suspended. The prescription starts running from the time of the commission of an offence. For corruption and related offences, the prescription is 12 years (for crimes punishable with more than three years of imprisonment) and 18 years (for crimes punishable with life imprisonment).

Provisions on obstruction of justice are considered satisfactory. However, it is rarely possible to bring cases of obstruction of justice to the court.

Prosecutors do not have the authority to offer any mitigation of punishment or guarantee immunity from prosecution to a person who provided substantial cooperation in the investigation or prosecution of a corruption case. They can only take note of cooperative behaviour and make recommendations to the judge, who makes the final decision on sentencing.

Under Law No. 43/1999 on Government Officials, a civil servant suspected of having committed an offence is temporarily suspended from office and is dismissed after having been convicted for a crime liable to imprisonment of four years or more. Law No. 19/2003 on State-Owned Enterprises and Law No. 19/2003 on Limited Liability Companies contemplate the disqualification of persons convicted of a corruption offence from holding office in such enterprises and companies.

Witnesses, experts and victims are protected under Law No. 13/2006 on the Protection of Witnesses and Victims. The LSPK (Witness Protection Agency) is dedicated to their protection. Under the Criminal Procedure Code, a person who experiences loss as a result of an offence has a right to institute a claim for compensation where criminal procedures are ongoing.

The following recommendations have been identified to strengthen or improve relevant existing legislation.

- √ Consider using the criminal courts to prosecute minor cases of bribery committed by policemen;
- √ Consider establishing procedures through which a public official accused of an offence established in accordance with the Convention will be suspended at the point of investigation and removed post-conviction;
- √ Consider reviewing the information-gathering powers of the PPATK in the light of Law No. 8/2010, taking into account good practices in other countries;
- √ Consider carrying out a study on the implementation of provisions on obstruction of justice to identify enforcement issues and technical assistance requirements;
- √ Consider amending the statute of limitations so that (i) the period starts only when the crime comes to the notice of the prosecutor, and (ii) the period will be

interrupted in cases where the alleged offender has evaded the administration of justice;

- √ Consider allowing also the AGO and the Police to investigate high-ranking officials without seeking prior permission;
- √ Consider either abolishing the power of an investigator to change the type of detention from imprisonment to city arrest or exercising such power under strict judicial supervision;
- √ Ensure a complete management of seized, frozen and confiscated property;
- √ Ensure that the gravity of the offence of corruption is taken into account when early release or parole of convicted persons is considered;
- √ Ensure the protection of reporting persons;
- √ Consider taking additional measures so that corruption may be considered a relevant factor in legal proceedings to annul or rescind a contract, withdraw a concession or other similar instruments or take any other remedial action;
- √ Ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation in the absence of prior criminal cases;
- √ Explore the possibility of guaranteeing non-punishment or mitigated sanctions for perpetrators of corruption offences who spontaneously and actively cooperate with law enforcement authorities;
- √ Ensure that bank secrecy can be overridden by other agencies effectively.

International cooperation

Extradition

Syarat dan prosedur yang mengatur ekstradisi dari dan ke Indonesia tercantum pada UU No. 1/1979 tentang Ekstradisi. Prinsip kriminalitas ganda merupakan syarat bagi terlaksananya suatu ekstradisi. The conditions and procedures regulating extradition to and from Indonesia are found in Law No. 1/1979 on Extradition. Dual criminality is a requirement for extradition.

Extradition from Indonesia is granted based on the existence of a treaty. In the absence of such a treaty, extradition may be conducted in the conditions that there is a "good relationship and if the interest of the Republic of Indonesia requires it". Indonesia can grant extradition on the basis of the Convention if the requesting State is party to the Convention. Indonesia has seven bilateral extradition treaties with neighbouring countries.

Extradition shall be conducted for the offences listed as extraditable. With regard to requests involving offences that are not included in the list of extraditable offences, extradition may also be conducted based on the "policy" of the requested State party. Extradition shall not be denied on the sole ground that the offence is considered to involve fiscal matters.

Extradition shall not be conducted in cases of political offences. Exceptionally, the offender may be extradited in certain types of political offences only if there is an agreement between Indonesia and the concerned country.

Nationals of Indonesia are in principle not extraditable. Exceptionally, extradition may be conducted if the person concerned would be better adjudicated where the offence was committed.

Overall, Indonesia has in place an important number of measures required by the Convention. The following steps could further strengthen existing extradition procedures.

- √ Consider indicating in the law a time limit for deciding to extradite to ensure expeditious procedure;
- √ When denying an extradition request against a national, ensure that the case is considered for prosecution in Indonesia;
- √ With regard to extradition requests against a national and relating to the enforcement of a sentence, ensure the enforcement of the sentence in Indonesia if the extradition request is denied.

Mutual legal assistance

The conditions and procedures regulating mutual legal assistance are found in Law No. 1/2006 on Mutual Legal Assistance in Criminal Matters. In addition to the ASEAN Treaty on Mutual Legal Assistance in Criminal Matters, Indonesia is bound by two bilateral agreements with Australia and the People's Republic of China.

Mutual legal assistance is afforded based on the existence of a treaty. Without such a treaty, mutual legal assistance may be provided "based on good relationship under the reciprocity principles". Mutual legal assistance can be afforded in the absence of dual criminality.

Mutual legal assistance in relation to legal persons has not been ensured. Consideration was given towards ensuring it in the draft law on mutual legal assistance in criminal matters.

Requests must be addressed to the central authority — the Ministry of Law and Human Rights — that passes to the KPK all requests within its remit. Requests must indicate the desired time limit for their execution. In practice, however, when receiving a request that does not indicate such a deadline, Indonesia obtains clarification from the requesting State. When the provided information is not sufficient for approval, Indonesia may ask for additional information.

Indonesia has executed all mutual legal assistance requests received.

Overall, Indonesia has in place most of measures required by the Convention. The following steps could further strengthen existing mutual legal assistance procedures.

- √ Menjajaki kemungkinan untuk mempertimbangkan kembali syarat pemberian bantuan hukum timbal balik tanpa adanyaperjanjian agar bantuan hukum timbal balik yang tidak melibatkan upaya paksa setidaknya tetap dapat diberikan;
- √ Explore the possibility of reconsidering the conditions on which mutual legal assistance can be afforded without a treaty in order to enable, at least, non-coercive measures of mutual legal assistance to be provided;

- √ Enable mutual legal assistance in relation to offences for which a legal person may be held liable;
- √ Ensure that information can be transmitted to another State party without prior request;
- √ Explore the possibility of providing competent authorities (National Police Office, AGO, KPK) with the authority to override bank secrecy in the execution of mutual legal assistance requests;
- √ Explore the possibility of designating the KPK as the central authority for all corruption cases;
- √ In consistency with the practice, specify in the laws that the condition of indicating a desired time limit for request execution is not mandatory, and that Indonesia shall consult with the requesting State when the information contained in the request is not sufficient for approval;
- √ Explore the possibility of ensuring that the execution of a request can be postponed on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding in Indonesia;
- √ Ensure that mutual legal assistance cannot be refused on the ground that it may burden the assets of the State by providing that the costs will be borne by the requested State, unless otherwise agreed;
- √ Although information available to the general public has been transmitted to a requesting State, ensure that such practice is specified in the law;
- √ Explore the possibility of transmission of information and documents which are not available to the general public to a requesting State.

Law enforcement cooperation

Indonesian law enforcement agencies are required to share information with foreign agencies in cooperation between law enforcement agencies. Indonesia has concluded bilateral agreements with 15 countries and has been negotiating agreements with five other countries. Indonesia has not entered into bilateral or multilateral agreements on the transfer of sentenced persons.

The KPK has established a formal partnership with 20 institutions from 15 countries. The PPATK has cooperated with 30 foreign Financial Intelligence Units. The Police have some experience in joint investigations in a few cases pertaining to terrorism. Some joint investigations in corruption cases have been established between the KPK and other foreign agencies. However, Indonesia still needs to enhance its joint investigations in corruption cases.

Indonesian Police Liaison Officers and Prosecutors are posted in 20 countries based on bilateral agreements. 15 countries have police attachés in Jakarta. The Police have seven cooperation arrangements with foreign law enforcement agencies.

The reviewers stressed that it would be important to enhance public trust towards the Police before considering conveying to it the power to intercept communications at the investigation stage with regard to corruption cases.

Overall findings

Since democracy was restored in 1999, Indonesia has made a forceful start on tackling corruption, both through legislation and the creation of the KPK with investigative and prosecutorial powers. There is a high political commitment to eradicate corruption in both the public and private sectors. The National Strategies and Action Plans on Corruption Eradication 2010-2025, developed by the Government in consultation with various representatives of the civil society, identify strategic efforts in the framework of accelerating corruption eradication, including steps to implement the Convention in Indonesia.

A draft law on corruption eradication has been in preparation, as well as others dealing with non-conviction based forfeiture, extradition, mutual legal assistance, and the KPK. The need to amend relevant existing laws regulating these subjects is justified or clarified by the findings above.

Good practices

The KPK and the Court of Corruption were considered good practices with regard to their capacity, mandate and positive results of their work.

Established in 2002, the KPK is a special independent Government body that deals with top-level cases of corruption. The KPK appears to have necessary independence and considerable powers under Law No. 30/2002 on the Commission for the Eradication of Criminal Acts of Corruption. It has brought cases against former Ministers, Members of Parliament, senior officials, Mayors, company directors, and one of its own staff. The KPK is widely trusted by the public and is greatly respected by international law enforcers and NGOs. The reviewers recommended that any legislative changes that take place on eradication of corruption do not result in any changes to the current legal mandate of the KPK to investigate and prosecute cases of corruption that fall within its mandate.

The Court of Corruption has proved an effective partner for the KPK in handling corruption cases. The first Court of Corruption was established by Law No. 30/2002 and was based in Jakarta to have jurisdiction over cases brought by the KPK. Since 2010, other Courts of Corruption have been established all over the country. There will be 33 Courts of Corruption in total by 2012. The reviewers fully supported the Government's plan to expand the number of such courts so that they could handle not only the KPK's cases but all corruption cases.

Challenges

The reviewers concluded that the main challenge in implementation lies in enhancing cooperation between enforcement agencies — the KPK, the AGO and the Police. The reviewers welcomed the heightened awareness by all these agencies of the challenge posed by the lack of cooperation and coordination, and their will to deal constructively with these challenges and overcome them. Additional steps to improve and strengthen

cooperation and coordination are essential.

The reviewers stressed that cooperation would be enhanced by a comprehensive analysis of the state of corruption, its structure, dynamics and trends, as well as analysis of the activity on detection and prevention of crime in order to identify the main future directions for countering corruption. To this end, the central collection of statistics, unified reporting on corruption cases and consolidation of the reports by a single body, and regularly convened coordination councils of the law enforcement and supervising bodies are needed.

Technical assistance

Technical assistance would assist Indonesia in the following areas: criminalization of bribery of foreign public officials and officials of public international organizations, liability of legal persons, obstruction of justice, transfer of criminal proceedings, joint investigations, the use of special investigative techniques, and mutual legal assistance. There is also a need for technical assistance to train investigators and prosecutors in the "follow-the-money" approach and promote greater use of the anti-money-laundering legislation.

Reporting and notification obligations

The reviewers invited Indonesia to fulfil its notification obligation under articles 23.2(e) and 44.6(a) of the Convention.

REVIEW OF IMPLEMENTATION OF THE UNITED NATIONS CONVENTION AGAINST CORRUPTION (UNCAC) INDONESIA CYCLE 2 – EXECUTIVE SUMMARY

CAC/COSP/IRG/2018/CRP.5

Review of implementation of the United Nations

25 April 2018
English only

Implementation Review Group
Ninth session
Vienna, 4–6 June 2018
Item 2 of the provisional agenda*

Convention against Corruption Executive summary: Indonesia

Note by the Secretariat
The present conference room paper is made available to the Implementation Review Group in accordance with paragraph 36 of the terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption (Conference of the States Parties resolution 3/1, annex). The summary contained herein corresponds to a country review conducted in the first year of the second review cycle..

1. Introduction: overview of the legal and institutional framework of Indonesia in the context of implementation of the United Nations Convention against Corruption

Indonesia signed the United Nations Convention against Corruption on 18 December 2003 and ratified it on 19 September 2006.

Indonesia was reviewed during the first year of the Implementation Review Mechanism's first cycle (CAC/COSP/IRG/I/1/1/Add.4).

The main implementing legislation incudes: Law No. 31 of 1999 on Eradication of the Criminal Act of Corruption, as amended; Prevention and Eradication of Money Laundering Criminal Act No. 8 of 2010 (Law on MLCA); Law No. 5 of 2014 on State Civil Apparatus (ASN); Law No. 8 of 1974 on Principles of Civil Service, as amended; Law No. 14 of 2008 on Public Information Disclosure; Law No. 28 of 1999 on State

Administration that is Clean and Free from Corruption, Collusion and Nepotism; Regulation No. 54 of 2010 on Public Procurement of Goods and Services, as amended; and Law No. 1 of 2006 concerning Mutual Legal Assistance in Criminal Matters (MLA Law).

Institutions involved in preventing and countering corruption include: Corruption Eradication Commission (KPK); Attorney General's Office (AGO); judiciary; Ministry of Law and Human Rights; Ministry of Foreign Affairs; Ministry of Finance; Indonesian National Police; Supreme Audit Board (BPK); Finance and Development Supervisory Agency (BPKP); National Ombudsman Commission; Financial Intelligence Unit (PPATK); Financial Service Authority (OJK); Ministry of National Development Planning (Bappenas); Ministry of Administration and Bureaucratic Reform (AR&BR); Civil Service Commission (KASN); Public and Procurement Agency (LKPP) and Judicial Commission (KY).

2. Chapter II: preventive measures

2.1.Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

The National Strategy on Corruption Prevention and Eradication (Stranas PPK), adopted by Presidential Regulation No. 55 of 2012, contains targets, evaluation indicators, a roadmap for implementation, and a coordination mechanism.

The coordination mechanism for implementation is elaborated in Minister of National Development Planning's Regulation No. 1 of 2013. Monitoring and evaluation are carried out monthly under the coordination of Bappenas, the Ministry of Home Affairs and Provincial Inspectorates.

Evaluation results are submitted quarterly through an online monitoring system to Bappenas and compiled into an annual report. Based on those results, Bappenas may invite concerned ministries to explain any deviations from the targeted results. The report is presented annually by the Executive Office of the President, KPK and Bappenas to the President of the Republic. Bappenas uploads the report on its website, and civil society can provide input online or through other channels.

Activities under the Action Plans are prioritized in line with Presidential priorities in the government work plan. Potential corruption risks in priority areas are reviewed in accordance with Presidential Instructions, for strategic action to be taken by ministries and agencies.

Indonesia has assessed the effectiveness of the Strategy, including measurable achievements and progress in achieving its objectives. Revision is currently in the hands of the President of the Republic.

Several institutions, including KPK, Bappenas, Ministry of AR&BR and Central Statistics Agency, conduct assessments of the effectiveness of anti -corruption programmes.

The review and evaluation of legal instruments with a view to their harmonization is carried out by Bappenas in accordance with the National Strategy of Regulatory Reform of 2015 and National Medium Term Development Plan (RPJMN 2015 –2019). Law No. 12 of 2011 on the Establishment of Laws and Regulations further sets out the right of individuals to comment on laws and regulations (article 96).

KPK is in charge of coordination and supervision of authorized institutions in their anti-corruption activities, as well as conducting corruption prevention measures, including awareness raising (article 6, Law No. 30 of 2002 on KPK). Further, corruption prevention units are established in every government agency. KPK cooperates with BPKP to ensure coordination and supervision of corruption prevention programmes in provincial, district and local governments.

KPK, as an independent institution, is responsible to the public in performing its duties and submits reports openly and periodically to the President, Parliament (DPR), and BPK (article 20, KPK Law). KPK publishes annual reports and audited financial reports. All KPK staff are subject to prohibitions aimed at avoiding conflicts of interest.

KPK receives public complaints related to corruption. The Ombudsman receives complaints regarding maladministration and public services. Several local governments also receive public complaints through their complaint handling units or via direct link with the Head of Local Government.

Government Regulation No. 53 of 2010 on Civil Service Discipline provides for the obligation of civil servants, inter alia, to report promptly to the supervisor on any matters that could harm or prejudice the State or Government. Internal reports related to alleged corruption in government can be submitted to the inspectorates general or compliance units in the respective institutions (Government Regulation No. 60 of 2008 on Government Internal Control System (SPIP)). Specialized internal reporting structures and supervisory units in each institution also receive corruption-related complaints.

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

Law No. 5 of 2014 on ASN regulates the merit system (art. 1), basic principles of the ASN profession (art. 3), basic values (art. 4), intent and purpos e of the code of ethics (art. 5), and the principle of freedom from intervention by any group or political party (art. 9).

KASN ensures that recruitment is on the basis of merit, runs transparently and in accordance with competencies and qualifications through open announcements and structured interviews. There is no specific procedure for the selection and training of individuals for public positions considered vulnerable to corruption or for their periodic rotation.

Law No. 7 of 2017 on General Election prescribes criteria concerning candidature for and election to public office. Asset declaration constitutes a requirement for nomination as a candidate for the office of president, vice president, and head and deputy head of local government. The Elections Commission publishes information on the candidates, process, and results of elections on its website.

Measures to enhance transparency in the funding of candidates for elected public office and political parties are contained primarily in Law No. 7 of 201 7. The rules require the identification of funding sources, accounting, safekeeping, limitations on contributed amounts, and reporting and audit. The Elections Supervisory Body (Bawaslu) conducts supervision on campaign funds.

Several laws and regulations promote integrity, honesty and responsibility among public officials, notably article 5 of Law No. 28 of 1999 and article 3 of Law No. 5 of 2014, which also contains the Code of Ethics and Code of Conduct of civil servants (article 5). More specific codes of ethics and conduct are applicable in ministries, local government and other government agencies.

KASN has the authority to oversee, monitor and evaluate the implementation of policies and management of ASN, including the codes of ethics (article 25, Law No. 5 of 2014).

However, challenges are reported in the receipt, management and coordination of complaints pertaining to public services, including breaches of codes of ethics. These include the absence of a public complaints management system and super vision in all agencies, as well as awareness raising.

Regulation of Minister of AR&BR No. 37 of 2012 stipulates the General Guidelines for Handling Conflict of Interest, which are applicable to all ministries, agencies and regional governments. The Guidelines are followed up by government agencies by adoption of more detailed guidelines, although this is not implemented uniformly across agencies. The Guidelines specify a reporting obligation by state officials of potential conflicts of interest to their supervisor, with verification conducted by each institution. Monitoring is conducted by the Ministry of AR&BR in coordination with

relevant institutions (section VIII, 3 Regulation No. 37). In addition, chapter 3 of Law No. 30/2014 on Government Administration obliges Government employees to report potential conflicts of interest to their supervisors (article 43(2)). Verification is done by each institution in coordination with KPK. Violations of the Conflict of Interest Guidelines are subject to the same administrative sanctions as violations of the codes of conduct, although there is no effective oversight of the imposition of sanctions by institutions.

Civil servants are obliged to report gifts and benefits to KPK (Law No. 30 of 2002, article 16), unless the conditions or context of receipt are exempt (KPK Circular No. B1341/01-13/03/2017). While government officials are precluded under Law No. 20 of 2001 from accepting any gratification related to their position and contrary to their functions, there are different thresholds established in the implementing regulations. KPK has issued Guidelines on Gratification Control in June 2015 and Guidelines on Conflict of Interest Handling in 2009 to facilitate graft control and handle conflict of interest.

Based on Supreme Court Regulation No. 6 of 2016, the selection process of judge candidates is conducted transparently to the public. Every judge candidate must attend training on the code of ethics and judicial code of conduct. KY can monitor the behaviour of judges, including Supreme Court judge candidates (Law No. 18 of 2011 on KY).

Law No. 48 of 2009 on Judicial Power regulates the integrity of judges and requires adherence with the code of ethics and judicial code of conduct. In the event of any breach of the code of ethics, administrative sanctions can be imposed ranging from oral reprimands to dishonorable discharge. Judges' conflicts of interest are regulated in article 17 of Law No. 48 and several regulations. Internal and external oversight over the conduct of judges shall be conducted by the Supreme Court Monitoring Unit and Judicial Commission (KY), respectively.

Prosecutors' conflicts of interest are regulated in Law No. 16 of 2004 on the Public Prosecution Service. In addition, the code of conduct of prosecutors is regulated in Attorney General's Regulation 014/A/JA/11/2012 about the Behaviour of the Prosecutor. In case of violations, administrative sanctions are imposed.

Based on Attorney General's Regulation No. PER-064/A/JA/07/2007 on recruitment of Civil Servants and Candidates for Prosecutors of the AGO, the selection process of candidates for prosecutors shall be open to the public through announcements. Prosecutors are public officials and must disclose their assets to KPK (Law No. 28 of 1999).

All court hearings are open to the public, except matters involving sexual offences or related to minors (article 153(3), Criminal Procedure Code (CPC)). The public can access court decisions online and can follow court proceedings through the Case Tracking System (SIPP).

Public procurement and management of public finances (art. 9)

Public procurement is regulated in several instruments, notably Presidential Regulation 54 of 2010 on Public Procurement of Goods and Services, as amended.

The Regulation does not have the status of law with clear legal superiority over other existing rules and does not allow for the imposition of criminal sanctions. Separate procurement rules govern procurement of construction services and procurement by some State-Owned Enterprises.

The principles of transparency, competition and objective criteria in decision -making form the foundation of Presidential Regulation 54/2010 (Chapter II, article 5). In principle, the government procurement of goods and services shall use the public tender method. However, in practice direct procurement and direct appointment are used more frequently.

Tenders must be advertised on the website of the procuring institutions, on the official notice board for the public, and via the Electronic Procurement System LPSE (article 25(3), Presidential Regulation 54/2010). In addition, procuring entities must publish all evaluation criteria in the notice of procurement (article 48, Presidential Regulation 54/2010). All regulations concerning public procurement are accessible online and procuring entities are obliged to publish the outcome of tenders, including the successful bidders.

Supervision and audit are performed internally by procuring institutions (article 116, Presidential Regulation 54/2010). There are no mandatory or periodic external audits. While BPK is authorized to conduct audits of state financial management, its focus is purely financial and does not include the procurement process itself or the outcome.

Bidders may file an objection to the Head of the procuring agency in case of any deviation from the procurement procedures (article 82). However, the Regulation does not spell out the procedure to be followed in reviewing complaints or sanctions for violations. While LKPP can be heard during the appeal process at the request of the head of agency, the final decision rests with the procuring entity. Any person may file a complaint to the internal government auditor (APIP) or to LKPP on indications of any procedural irregularities, corruption, collusion, nepotism, or violation of fair competition. LKPP maintains a blacklist of tenderers, including those related to corruption.

There is no specific conflict of interest requirements for procurement personnel.

The process of budget preparation is regulated by the 1945 Constitution (article 23(2)) and Law No. 17 of 2003 on State Finance (articles 11 –15). Local government budget preparation is regulated in articles 16–20, Law 17/2003.

According to Law No. 14 of 2008, public agencies shall provide information on their project work plan, annual expenditure estimates (article 11) and financial statements (article 9). The rules on central and local government financial reporting are stipulated in articles 55–56 of Law No. 1 of 2004 on State Treasury.

BPKP functions as the Government internal auditor under SPIP. The general responsibility for internal controls is exercised by the Inspectorates General, Provincial Inspectorates and District/City Inspectorates that perform internal supervision of all government activities funded by the state, provincial, district or city budgets.

The 1945 Constitution, article 23E provides that the audit of state financial management and accountability shall be carried out by BPK. Audited financial statements are submitted by the President to the House of Representatives no later than 6 months after the fiscal year ends (article 30(1), Law 17/2003). After deliberation by the government and parliament, the Law on Accountability of State Budget Execution is issued and published in the state gazette and online.

Accounting Standards used by the Government are regulated in Law 1/2004. A Central Government Accounting System (SAPP) ensures transparency and accountability in government financial statements.

Pursuant to Law No. 15 of 2004 on Audit of State Financial Management and Accountability, audit reports are submitted by BPK to the Houses of Representatives and are open to the public (arts. 17, 19). Pursuant to Article 20, State financial management officials must provide explanations to BPK on the follow-up to audit recommendations within sixty days. BPK periodically monitors the follow -up to audit recommendations and submits its monitoring results to the Houses of Representatives and responsible parties. There is no procedure for parliament to systematically follow up on the results of audit monitoring. However, corrective measures in the form of administrative or criminal sanctions may be taken to address violations of financial reporting, accounting and auditing procedures, or in follow-up to audit reports.

Training and accreditation requirements for external and internal auditors are in place. However, reported challenges in professional education and certification affect auditors' capacity and the quality of audits in line ministries and local government inspectorates, with little focus on risk-based audit.

Public reporting; participation of society (arts. 10 and 13)

Law No. 14 of 2008 states the right of the public to obtain information and enhance its active participation in State administration and in public decision -making processes. The law requires agencies to appoint public information officers (art. 13). However, this has not been fully implemented. Public agencies are obliged to provide at all times a list of all public information under their control. In addition, the Central Information Commission (KIP) regularly organizes dissemination, advocacy and education sessions on public information disclosure. A mechanism to appeal the denial of requests for information is established.

Indonesia has made a commitment to delivering transparent and accountable administration under the Open Government Action Plan.

Presidential Regulation No. 97 of 2014 mandates Central and Local Governments to implement Integrated One Stop Services (PTSP) for licensing and non -licensing services.

Presidential Regulation No. 87 of 2014 stipulates the dissemination of laws, draft laws and legislation priorities (prolegnas) by parliament and government, with a view to providing information and obtaining public or stakeholder input (article 170).

Private sector (art. 12)

Indonesia has adopted non-binding initiatives aiming to prevent corruption in the private sector. As a measure to enforce the guidelines, Indonesia issued OJK Regulation No. 21/POJK.04/2015, Corporate Governance Guideline for Public Companies.

The International Standards on Auditing were adopted as Indonesia 's Public Accountant Professional Standards in 2012.

Publicly listed companies are required to implement the principle of full disclosure in their financial statements (OJK Regulation No. 21/POJK.04/2015). However, there is no law or regulation requiring the full disclosure or fair presentation of financial

statements by private sector entities other than publicly listed companies, as foreseen under article 12(3) of the Convention. The intentional destruction of bookkeeping documents earlier than foreseen by the law is stipulated in Law No. 8 of 1997 regarding Company Documents.

Indonesia does not impose restrictions for employment of former public officials by the private sector.

There is currently no law criminalizing bribery in the private sector.

KPK can investigate corruption in the private sector if there is a link to the public sector (article 11, Law No. 20/2001). Legal persons registration and administration is carried out through the Legal Entity Administration System "SABH" that is publicly accessible. Subsidies misuse prevention is ensured through various means such as the PTSP and electronic licensing.

Indonesian law does not explicitly stipulate the prohibition of including bribes as tax-deductible expenses.

Measures to prevent money-laundering (art. 14)

The anti-money laundering (AML) legal regime consists notably of the Law on MLCA, OJK Law No. 21 of 2011, and relevant regulations and circulars of PPATK, OJK and BI.

"Know Your Customer'" (KYC) standards are required for all financial and non-financial institutions (FSIs) as well as goods and service providers (DNFBPs) (articles 17–18, Law on MLCA; article 3, Government Regulation No. 43 of 2015), including money remitters (articles 41–46, BI R.19/10/PBI/2017).

Each Supervisory and Regulatory Agency (LPP) supervises the compliance of reporting parties with KYC principles (article 18(4) Law on MLCA) and the reporting obligation of suspicious transactions (article 31(1) Law on MLCA). Such supervisory function is conducted by PPATK in the event that the dedicated LPP is not available or determined (articles 18(6) and 31(2) Law on MLCA). OJK holds the role as LPP for FSIs.

Supervision is also conducted through a special audit scheme by PPATK (article 43(c) Law on MLCA). Furthermore, with a view to avoid overlapping in its implementation, OJK and PPATK conduct monitoring coordination meetings on a regular basis to exchange information on the compliance of the reporting parties.

According to article 23 of Law on MLCA, each reporting party shall report suspicious financial transactions to PPATK. This includes FIs, NBFIs and DNFBPs (article 3 Government Regulation No. 43 of 2015).

The imposition of sanctions is the authority of each relevant LPP or PPATK, when the LPP is not established (articles 1(11) and 30(2), Law on MLCA).

Steps towards incorporating a Risk Based Approach in the AML/CFT framework and adopting risk-mitigating policies are being taken.

Indonesia has established a National Coordination Committee for the Prevention and Eradication of MLCA. Internationally, PPATK cooperates through various multilateral forums, such as FATF, APEC, Interpol, IOSCO and has signed 52 MoUs with its counterparts. OJK has signed 22 cooperation agreements with foreign authorities whose scope of cooperation includes cross -border supervision and information exchange.

Law on MLAC, Chapter V establishes a cross-border declaration legal framework of cash and negotiable instruments. Failure to declare or misreporting is punishable under articles 34–35. However, enhanced scrutiny in case of incomplete information on the transaction's originator is not required.

As a member of the Asia-Pacific Group on Money Laundering (APG), Indonesia completed a National Risk Assessment in 2015. The second Mutual Evaluation Review is ongoing.

2.2. Successes and good practices

√ The framework for public participation in monitoring anti - corruption actions

of government. Further, Indonesia uses a variety of measurements to map out corruption and anti-corruption efforts (art. 5).

- √ The international and regional cooperation efforts of Indonesian institutions (art. 5(4)).
- √ The Integrity Pact in Government Procurement and Indonesia 's electronic procurement system (art. 9(1)).

2.3. Challenges in implementation

It is recommended that Indonesia:

- √ Continue efforts to strengthen the capacity of authorities to prevent and eradicate corruption at all domestic levels, in particular at the provincial, district and local levels; accelerate the amendment of the National Strategy on Corruption Prevention and Eradication for more structured coordination and more integrated prevention programmes; strengthen coordination amongst all relevant authorities for the development, implementation and supervision of corruption prevention programmes; promote anti-corruption awareness raising; continue efforts to adopt a more structured approach towards KPK 's prevention work (art. 5(2), 6(1)).
- √ Ensure the independence of anti-corruption bodies to carry out their functions effectively and free from undue influence, by considering adoption of the Jakarta Statement on Principles for Anti -Corruption Agencies, including full support to the necessary material resources and specialized staff (art. 6(2)).
- √ Consider adopting additional measures for the selection and training of individuals for public positions deemed vulnerable to corruption and their rotation, where appropriate (art. 7(1)).
- √ Continue efforts towards the full implementation of the rules on conflicts of interest (AR&BR Regulation No. 37 of 2012) and gratification control (Law No. 20/2001), to further the prevention, detection, enforcement and administrative sanctioning of conflicts of interest, and consider strengthening oversight of the enforcement of conflict of interest r ules by institutions (art. 7(4), 8(5)).
- √ Continue efforts to address challenges in the receipt, management and

coordination of complaints pertaining to public services, including breaches of codes of ethics, and consider adopting an integrated system of public complaints management and supervision in all agencies, as well as raising awareness of relevant reporting mechanisms (art. 8(6)).

√ Take steps towards enacting a comprehensive law on public procurement with clear provisions regulating the complaint handling procedure (including an appeals mechanism to an independent body) and sanctions for violations. Consider establishing a system for procuring entities to report to a relevant authority, such as LKPP, on the results of their internal supervision and audits, and consider establishing mandatory or periodic external audits of public procurements. Continue to ensure the consistent application of open tenders as the norm for regular public procurements. Consider strengthening integrity measures for procurement personnel (art. 9(1)).

√ Consider strengthening the risk-management system in the area of public financial management. Enhance professional education of internal and external auditors, with a focus on risk-based audits (including fraud risks). Ensure corrective action is taken to address violations of financial reporting, accounting and auditing procedures, or in follow-up to audit reports (art. 9(2)).

√ Continue to strengthen the application of integrity measures in justice institutions such as the courts and prosecution, and address remaining recommendations from Indonesia's first cycle review, in particular regarding investigative and prosecution functions of KPK, AGO and police (art. 11).

√ Strengthen measures to prevent corruption in the private sector, including:

a. consider criminalizing bribery in the private sector, reinforcing cooperation between the private sector and law enforcement agencies, and providing, where appropriate, sanctions in case of non-compliance;
b. continuing efforts to promote transparency of legal persons and arrangements;
c. consider restricting for a reasonable period of time the employment of former public officials by the private sector; and
d. consider further developing anti-corruption guidelines for the private sector in light of international best practices (art. 12(1).

- √ Improve legislation on companies' financial reports in line with article 12(3) and enhance the transparency of the private sector in line with international standards, including disclosure requirements, reporting and monitoring mechanisms, and accounting standards (art. 12(3)).
- √ Legislatively clarify the non-deductibility of expenses that constitute bribes or are incurred in furtherance of corrupt conduct (art. 12(4)).
- √ Continue efforts towards full implementation of Law No. 14 of 2008, including to ensure that all public agencies are endowed with public information officers (art. 13(1)(b)).
- √ Continue efforts to implement the risk-based approach, including to address threats and vulnerabilities identified in the National Risk Assessment. Consider improving the regulatory framework on beneficial ownership transparency and accelerate its implementation (arts. 14, 52).
- √ Consider adopting measures to comply with art. 14(3)(c).

2.4. Technical assistance needs identified to improve implementation of the Convention

- √ Capacity building on innovative approaches and new technologies to prevent and combat corruption, including development of gratification and asset declaration reporting systems (art. 5).
- √ Capacity and institution-building in conflicts of interest management (art. 7).
- √ Capacity-building in managing public complaints and coordinating responses, as well as code of conduct training (art. 8).
- √ Capacity-building: 1. training/certification for fraud examiners, forensic auditors, risk management and internal control. 2. Comparative study/benchmarking on fraud prevention strategies (art. 9).
- √ Capacity building on judicial integrity and transparency (art. 11).
- √ Capacity building on typologies of corruption in the private sector (art. 12).

3. Chapter V : asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

Confiscation and asset recovery requests are executed based on bilateral and multilateral treaties, including this Convention. In the absence of such agreements, requests may be conveyed directly to the Minister of Law and Human Rights.

PPATK spontaneously transmits information on money laundering offences to its foreign counterparts (Article 90(2), MLA Law), either directly or through relevant networks, such as INTERPOL and the Egmont Secure Web.

Indonesia is party to five multilateral agreements containing relevant asset recovery provisions and has ratified six bilateral MLA agreements.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

Customer Due Diligence requirements for financial and non-financial institutions are listed in articles 17–18 of Law on MLCA, articles 2 and 3 of Government Regulation No. 43 of 2015 and article 15 of POJK APU -PPT.

The obligation for financial institutions to identify and verify beneficial owners is set forth in articles 27–29 of POJK APU-PPT and relevant regulations of the reporting parties (e.g., articles 22–23, POJK APU-PPT; article 5, Ministerial Decree No. 55/PMK.01/2017 related to public accountants and accountants). President Regulation No. 13 of 2018 on Beneficial Ownership obliges notaries and legal persons to include information on beneficial ownership in the registration process.

Politically Exposed Persons, family members and related parties are subject to Enhanced Due Diligence (EDD) (articles 1(26) and 30(f), POJK APU -PPT).

Financial institutions are required to adopt and implement a risk -based approach (RBA), involving EDD of high risk persons, accounts and transactions as well as account opening and maintenance procedures (articles 2–5 and 30, POJK APU-PPT); record keeping is addressed in article 56. EDD requirements are also found in BI circular letters for commercial and sharia banks. OJK conducts AML/CFT training of monitored institutions.

POJK APU-PPT (article 36) foresees a mechanism for updating the database of persons subjected to EDD based on FATF lists.

Article 7 of BI Regulation No. 11/1/PBI/2009 on Commercial Banks obliges banks to establish a registered domicile. POJK APU -PPT further prohibits financial services providers from establishing business relations with "shell banks," including through cross-border correspondent banking (articles 42 and 50, POJK APU -PPT).

State Administrators are obliged to report their assets and sources of income (Law No. 28 of 1999, Law No. 30 of 2002, KPK Regulation No. 7 of 2016 on the Procedure for Registration, Audit and Publication of State Administrators' Property Reports). High-ranking officials report to KPK, while civil servants report to thei r respective Heads of agencies. Financial disclosures, which cover overseas assets, are publically available in summary form as supplements to the State Gazette (articles 2 and 5, Law No. 28 of 1999). Violations of such provisions are punishable pursuant article 20 of the same law.

Indonesia is a member of the APG, Egmont Group, Asset Recovery Interagency Network – Asia Pacific, and an observer in the Camden Asset Recovery Interagency Network.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

Indonesian legislation does not specify recovery mechanisms for States to establish title or ownership of property, or be awarded compensation or damages for injuries, through domestic proceedings. The general principle of civil liability (article 1365, Civil Code) obliges defendants causing damage to pay compensation, and the procedure for submission of claims is contained in article 118 of the Revised Code. Furthermore, article 98 of the CPC allows for joining of civil claims to criminal proceedings.

In order to enforce a foreign confiscation order, a domestic procedure to seize and confiscate assets must be initiated (arts. 51–52, MLA Law). The requirements for submitting requests are addressed in articles 28, 51 and 52 of the MLA Law.

There is no legislation on non-conviction based confiscation.

Foreign orders for search and seizure are also not directly enforceable, but must first be submitted to the courts for execution (article 41, MLA Law).

Because of limited capacity of the office of State Detention and Storage of State Treasuries, seized assets are managed by several agencies depending on the stage of the criminal proceeding. The police manage seized assets being investigated and prosecutors manage seized assets in cases being prosecuted.

Return and disposal of assets (art. 57)

Indonesia does not have specific domestic provisions providing for the return of assets as prescribed under article 57, including for offences under the Convention.

According to article 55 of the MLA Law, expenses incurred in the implementation of requests for assistance shall be charged to the requesting State.

3.2. Successes and good practices

The use of several networks and instruments to facilitate international cooperation in asset recovery (art. 59).

3.3. Challenges in implementation

It is recommended that Indonesia:

- √ Specify in the law the recovery mechanisms for States to establish title or ownership of property, or be awarded compensation or da mages for injuries, through domestic proceedings (art. 53(a) to (c)).
- √ Develop relevant measures as may be necessary to permit competent authorities to give effect to a confiscation order issued by a foreign court (art. 54(1)(a)).
- √ Consider adopting measures allowing for non-conviction based confiscation (art. 54(1)(c)).
- √ Take measures to permit competent authorities to freeze or seize property upon a freezing or seizure order and upon a request issued by a foreign court or competent authority (article 54(2)(a), (b)).
- √ Strengthen mechanisms for the preservation of property pending confiscation, including through the establishment of an adequately resourced central asset management office, and consider adopting comprehensive asset management guidelines (art. 54(2)(c)). Consider establishing a specific body that is authorized to manage seized and/or confiscated assets, including the supervision role (art. 54).
- √ Amend the MLA Law to provide for the return of proceeds in accordance with all provisions of article 57, in particular in cases of embezzlement of public funds or of laundering of embezzled public funds, and review relevant treaties in this regard (art. 57).
- √ Regulate the costs of MLA in line with articles 46(28) and 57(4) of the Convention. Review existing asset sharing agreements in light of chapter V of the Convention (art. 57).

3.4. Technical assistance needs identified to improve implementation of the Convention

- √ Best practices in managing assets pending confiscation (art. 54).
- √ Capacity-building on cross-border asset tracing and recovery (art. 54).
- √ Capacity-building on money-laundering investigation and prosecution (art. 52).
- √ Capacity-building in opening and channeling communication with requested States to facilitate the making of MLA requests (art. 57).

JAKARTA STATEMENT ON PRINCIPLES FOR ANTI-CORRUPTION AGENCIES

Jakarta Statement on Principles for Anti-Corruption Agencies Jakarta, 26-27 November 2012

On 26-27 November 2012, current and former heads of anti-corruption agencies (ACAs), anti-corruption practitioners and experts from around the world gathered in Jakarta at the invitation of the Corruption Eradication Commission (KPK) Indonesia, the United Nations Development Programme (UNDP) and the United Nations Office on Drugs and Crime (UNODC) to discuss a set of "Principles for Anti-Corruption Agencies" to promote and strengthen the independence and effectiveness of ACAs.

The participants included several heads of ACAs and representatives of regional networks, notably the Network of National Anti-Corruption Institutions in West Africa, the Southeast Asian Parties Against Corruption, the Arab Anti-Corruption and Integrity Network, the Southern African Forum Against Corruption, the East African Association of Anti-Corruption Authorities, and the European Partners Against Corruption/European anti-corruption contact point network (EPAC/EACN). Representatives from the United Nations Development Programme, the United Nations Office on Drugs and Crime, the United Nations Office of the High Commissioner for Human Rights and Transparency International took part in the proceedings. The Organization for Economic Cooperation and Development and the World Bank also submitted contributions to the Conference.

The participants reviewed and discussed country experiences from around the world, challenges faced by ACAs, and key requirements to ensure the independence and effectiveness of ACAs.

Considering that the Conference sought to discuss and elaborate guidance for ACAs as to how to promote and strengthen the independence and effectiveness of ACAs;

Acknowledging the diversity of ACAs around the world in combating corruption

with some ACAs mandated to prevent corruption, others focused on investigation or prosecution, or a combination of these functions;

Recalling the international commitments and obligations at the regional and global level, including the United Nations Convention against Corruption (UNCAC), to ensure independence of ACAs;

Recalling the Marrakech Declaration by the International Association of Anti-Corruption Authorities (IAACA) adopted at its Fifth Annual Conference and General Meeting, in particular, the pledge to "joint action and support [...] to ensure that anti-corruption authorities [...] are able to function with the necessary independence, secure and stable funding and specialized staff with professional training, in order to operate effectively and free from any undue influence, in accordance with articles 6 and 36 of the UNCAC";

Recalling also Resolutions 3/2, 3/3 and 4/4 adopted by the Conference of the States Parties of the UNCAC at its third and fourth sessions that acknowledge the "vital importance of ensuring the independence and effectiveness" of ACAs.

Taking note with appreciation of the Anti-Corruption Authority Standards developed by the European Partners Against Corruption/European anti-corruption contact point network (EPAC/EACN) as welcomed by the 6th Annual Conference and General Meeting of the IAACA;

Taking note with appreciation of the G20's resolve to lead by example by "strengthening the effective functioning of anti-corruption bodies or enforcement authorities in the prevention and fight against corruption, enabling these authorities to carry out their function free from undue influence";

Taking note with appreciation of Transparency International's efforts at the 15th International Anti- Corruption Conference in Brasilia to promote the independence and effectiveness of ACAs;å

The participants::

1. Recommend the following principles to ensure the independence and effectiveness of ACAs:

- **MANDATE:** ACAs shall have clear mandates to tackle corruption through prevention, education, awareness raising, investigation and prosecution, either through one agency or multiple coordinated agencies;
- **COLLABORATION:** ACAs shall not operate in isolation. They shall foster good working relations with state agencies, civil society, the private sector and other stakeholders, including international cooperation;
- **PERMANENCE:** ACAs shall, in accordance with the basic legal principles of their countries, be established by proper and stable legal framework, such as the Constitution or a special law to ensure continuity of the ACA;
- **APPOINTMENT:** ACA heads shall be appointed through a process that ensures his or her apolitical stance, impartiality, neutrality, integrity and competence;
- **CONTINUITY:** In the event of suspension, dismissal, resignation, retirement or end of tenure, all powers of the ACA head shall be delegated by law to an appropriate official in the ACA within a reasonable period of time until the appointment of the new ACA head;
- **REMOVAL:** ACA heads shall have security of tenure and shall be removed only through a legally established procedure equivalent to the procedure for the removal of a key independent authority specially protected by law (such as the Chief Justice);
- **ETHICAL CONDUCT:** ACAs shall adopt codes of conduct requiring the highest standards of ethical conduct from their staff and a strong compliance regime;
- **IMMUNITY:** ACA heads and employees shall have immunity from civil and criminal proceedings for acts committed within the performance of their mandate. ACA heads and employees shall be protected from malicious civil and criminal proceedings.

- **REMUNERATION:** ACA employees shall be remunerated at a level that would allow for the employment of sufficient number of qualified staff;
- **AUTHORITY OVER HUMAN RESOURCES:** ACAs shall have the power to recruit and dismiss their own staff according to internal clear and transparent procedures;
- **ADEQUATE AND RELIABLE RESOURCES:** ACAs shall have sufficient financial resources to carry out their tasks, taking into account the country's budgetary resources, population size and land area. ACAs shall be entitled to timely, planned, reliable and adequate resources for the gradual capacity development and improvement of the ACA's operations and fulfilment of the ACA's mandate;
- **FINANCIAL AUTONOMY:** ACAs shall receive a budgetary allocation over which ACAs have full management and control without prejudice to the appropriate accounting standards and auditing requirements;
- **INTERNAL ACCOUNTABILITY:** ACAs shall develop and establish clear rules and standard operating procedures, including monitoring and disciplinary mechanisms, to minimize any misconduct and abuse of power by ACAs;
- **EXTERNAL ACCOUNTABILITY:** ACAs shall strictly adhere to the rule of law and be accountable to mechanisms established to prevent any abuse of power;
- **PUBLIC REPORTING:** ACAs shall formally report at least annually on their activities to the public.
- **PUBLIC COMMUNICATION AND ENGAGEMENT:** ACAs shall communicate and engage with the public regularly in order to ensure public confidence in its independence, fairness and effectiveness.

2. ***Encourage*** ACAs to promote the above principles within their respective agencies, countries and regional networks of ACAs;

3. ***Encourage*** ACAs to promote these principles to assist members of the executive and the legislature, criminal justice practitioners and the public in general, to better understand and support ACAs in carrying out their functions;

4. ***Call upon*** ACAs to appeal to their respective Governments and other stakeholders to promote the above principles in international fora on anti-corruption.

5. ***Express*** appreciation and gratitude to the Corruption Eradication Commission of Indonesia for hosting the International Conference "Principles for Anti-Corruption Agencies" with support from the United Nations Development Programme and the United Nations Office on Drugs and Crime to reflect and agree on principles for ACA

G20 ACWG 2012

- G20 HLP on asset disclosure by public officials
- G20 Common Principles for Action: Denial of Safe Haven

G20 ACWG 2012
High-Level Principles on asset disclosure by public officials
G20 Common Principles for Action: Denial of Safe Haven

1. G20 Leaders asserted their commitment to fight corruption by adopting an Anti-Corruption Action Plan in Seoul where they pledge "to promote integrity, transparency, accountability and the prevention of corruption, in the public sector, including in the management of public finances."

2. Following up on this commitment, G20 Members agreed in the 2011 Monitoring report endorsed in Cannes to "adopt and implement financial and asset disclosure systems for relevant officials to prevent, identify and appropriately manage conflicts of interest."

3. Indeed, a rigorous system of asset disclosure by relevant officials has been identified as a powerful tool to prevent conflicts of interest, corruption and hold government accountable. G20 countries have a diversity of asset disclosure systems within their complex strategy of fighting and preventing corruption in place where legal and/or procedural provisions address either or both of these objectives: i) ensuring government decision making is not compromised by conflicts of interest, and consequently increasing trust in public institutions; and/or ii) providing information and evidence for the detection, investigation, imposing administrative remedies for and/or prosecution of corruption.

4. The following high-level principles are based on the APEC Principles for Financial/Asset Disclosure by Public Officials and are consistent with the UN Convention Against Corruption, the OECD Guidelines for Managing Conflict of Interest in the Public Service and the results of the World Bank and the StAR Initiative analysis on financial disclosures. By

endorsing these principles, G20 countries would both take concrete steps to implement their commitments and further the APEC leadership in outlining core attributes for effective financial disclosures regimes.

5. Recognizing the diversity of asset disclosure systems among G20 countries, these principles aim to provide high level guidance to G20 Members wishing to establish, review, or enhance their legislative and/or administrative standards for asset disclosure of public officials, irrespective of the objective(s) pursued and without prejudice to Members' privacy protection rules.

6. In this context, G20 members are invited - while fully respecting elementary laws and rights of their officials - to ensure that their asset disclosure systems are:

1 . Fair

-- Disclosure requirements should be set forth clearly for the public official and for the general public and should be an integral component of laws, regulations and/or administrative guidelines, as appropriate, governing the conduct of public officials in order to establish shared expectations for accountability and transparency.

-- Disclosure systems should be as comprehensive as necessary to combat corruption but should require only the submission of information reasonably and directly related to the implementation of laws, regulations, and administrative guidelines, as appropriate, governing the conduct of public officials.

2 . Transparent

- Disclosed information should be made as widely available as possible, both within the government and to the general public, in order to facilitate accountability while still taking into consideration reasonable concerns for personal and family safety and privacy and for the laws, administrative requirements and traditions of the Economy.

-- Information about the overall administration of the disclosure system, including information about disclosure compliance rates and enforcement activities, should be made available to the public, in accordance with applicable law, regulation and/or administrative guidelines.

3 . Targeted at senior leaders and those in at-risk positions

-- Disclosure should first be required of those in senior leadership positions and then, as capacity permits, of those in positions most influencing public trust or in positions having a greater risk of conflict of interest or potential corruption.

4 . Supported with adequate resources

-- Disclosure system administrators should have sufficient authority, expertise, independence, and resources to carry out the purpose of the system as designed.

5 . Useful

-- Disclosed information should be readily available for use in preventing, detecting, investigating, imposing administrative remedies for and/or prosecuting corruption offenses regarding conflicts of interest, illicit enrichment, and/or other forms of corruption.

-- Disclosure should be required on a consistent and periodic basis so that the information reflects reasonably current circumstances.

6 . Enforceable

-- Penalties and/or administrative sanctions for late submission of, failure to submit, and submitting false information on a required disclosure report should be effective, proportionate, and dissuasive.

Common Principles for Action: Denial of Safe Haven

G20 Leaders have committed to action in the area of preventing corrupt officials and those who corrupt them from being able to travel abroad with impunity. National policies, legal frameworks, and enforcement measures will vary, but should be sufficient to comply with our Leaders' mandate. The common principles detailed below are meant to support that process and foster cooperation.

- Each G20 country should have sufficient authorities (that is, policies, legal frameworks, an enforcement measures) and should actively apply them when the circumstances present themselves. Where there exist formal common approaches to the crossing of external borders, such as provided in the Schengen Convention implementing the Schengen Agreement, participating countries will need to coordinate closely and act individually where appropriate towards the goals outlined below.

- Our objective is to send a strong signal to corrupt individuals that corruption and impunity are unacceptable and that G20 members are, therefore, committed to denying safe haven to those who engage in such behavior. The target is corrupt behavior and the individuals who engage in it, not specific countries or regions.

- Countries have the sovereign right to control their borders so that ultimately all decisions to deny entry reside with the relevant national authorities and are taken at their discretion.

- The definition of conduct that will trigger denial of entry, should, as a starting point, be determined in reference to the corruption offences that are criminalized in the member country in question, drawing on the offences listed in the UN Convention against Corruption and other corruption instruments as

appropriate.

- Countries are encouraged to adopt denial of entry authorities (policies, legal frameworks, and enforcement measures) that apply, specifically and by explicit reference, to corrupt conduct.

- To have greatest impact, particularly given the stated aim of tackling impunity, countries should seek to deny entry even absent a prior conviction where there is sufficient other information to make a determination.

- Countries should consider extending their authorities to deny entry to family members or close associates who are considered to have derived personal benefit from corrupt behavior of the principal target (for example, by broadening the definition of corrupt persons to capture such individuals), with similar requirements for substantiation as is required for the principal.

- Cooperation is useful to ensure the greatest effectiveness of our actions in this area. G-20 countries can usefully share points of contact for their respective relevant authorities for the purposes of cooperation, as a starting point. Our respective relevant authorities are encouraged to cooperate for purposes of meeting the Leaders commitment in this area.

G20 ACWG 2013

- G20 Guiding Principles to Combat Solicitation
- G20 High-Level Principles on Mutual Legal Assistance
- Asset Recovery: Key Principles / Key Elements for an Institutional Framework
- G20 Guiding Principles on Enforcement of the Foreign Bribery Offence

G20 Guiding Principles to Combat Solicitation

The following guiding principles build on the best practices developed by countries in confronting the challenge of bribes solicitation and identify mechanisms that may be useful for effectively preventing and combating solicitation by public officials and supporting companies' efforts to resist solicitation. These guidelines should be read in conjunction with the Guiding Principles on Enforcement of the Foreign Bribery Offence.

These guiding principles provide a reference to countries wishing to step up their actions against solicitation, encouraging in particular actions in partnership with the private sector or collective action by G20 countries. Taking into account the diversity of legal and administrative systems among G20 countries, they are broadly framed and offer flexibility to enable countries to use them within their institutional and legal constraints. The principles are intended as guidance to enhance and complement existing anti-corruption commitments and not weaken or replace them.

A. *Robust Legal, Regulatory and Integrity Framework*

1. As already agreed upon in UNCAC, a robust legislative framework should provide for i) a clear and explicit passive domestic bribery offence which reflect the key elements of the internationally agreed definition, i.e. solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties; and ii) the availability of dissuasive sanctions and other measures to deter public officials from demanding bribes further. Passive bribery offences should also be explicitly included as predicate offences for money laundering offenses.

I. The integrity of public officials should be promoted through the development and nurturing of a strong culture of integrity in public service with clear standards of conduct, reinforced by disciplinary measures where such standards are breached. To this end, training for public officials should be provided on a regular and continuous basis.

II. Strict disciplinary, administrative, civil and/or criminal measures should be adopted and applied against those who fail to comply with administrative and integrity standards concerning the receipt and disclosure of gifts or other undue advantages.

Easily Accessible Reporting Channels

2. Easily accessible channels for companies and individuals that have been solicited to report to public authorities should be provided. Although the choice of the mechanism should be left to each government, examples of such channels could take the form of contact points established in embassies, consulates or other diplomatic missions abroad or of governmental help lines to which companies could turn. Domestic reporting systems should also be readily available and publicized. Confidentiality throughout the reporting process should be ensured to enhance confidence of business in the system. We will identify best practices to encourage businesses to self-report voluntarily suspected breaches of bribery laws, bearing in mind that reporting to in-country authorities where solicitation has taken place may pose risks in some circumstances.

Engage in Collective Actions

3. Particular efforts to engage with the private sector in the fight against solicitation should be made, in particular through the following measures:

I. Countries should consider promoting collective action initiatives in which active participation by companies could be encouraged.

II. Adequate support towards initiatives aimed at reducing solicitation at public-private sector interface should be provided.

4. Continue to cooperate with existing groups, including those initiated by non-state actors such as private sector companies and associations, non-governmental policy bodies and civil society, which may play an essential role in assisting companies in developing effective tools to resist bribe solicitation and setting up concrete collective actions.

G20 High-Level Principles on Mutual Legal Assistance

Mutual legal assistance in criminal matters is a process, generally governed by treaty or authorized by domestic law, by which countries seek and provide information that may be used as evidence in criminal cases. Regarding corruption, effective and efficient MLA is essential in the investigation and prosecution of transnational corruption cases, and the recovery of assets derived from such criminal conduct.

Article 46.1 of the United Nations Convention against Corruption (UNCAC) provides that *"State Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention."*

Article 9 of the OECD Anti-Bribery Convention provides that *"Each Party shall, to the fullest extent possible under its laws and relevant treaties and arrangements, provide prompt and effective legal assistance to another Party for the purpose of criminal investigations and proceedings brought by a Party concerning offences within the scope of this Convention."*

Although not limited to corruption, the United Nations Convention against Transnational Organized Crime (UNTOC) requires, in its Article 8 that parties criminalize corruption. Pursuant to Article 18.1, States Parties are required to afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by the Convention. In addition, States Parties are also obliged to reciprocally extend to one another similar assistance where the requesting State has reasonable grounds to suspect that one or some of these offences are transnational in nature, including that victims, witnesses, proceeds, instrumentalities or evidence of such offences are located in the requested State party and that they involve an organized criminal group.

The following principles build on practice developed by G20 countries and beyond regarding MLA, and identify mechanisms that have proven useful for addressing related challenges. These principles have been developed on the basis of recommendations on best practices arising from the implementation of the UNCAC and the UNTOC or agreed upon in relevant United Nations fora, as well good practices identified by

the OECD Working Group on Bribery through its Typology exercise and its regular monitoring of States Parties' implementation of the Anti-Bribery Convention.

Taking into account the diversity of legal systems among G20 countries, these principles are broadly framed and offer flexibility to enable countries to use them within their institutional and legal constraints. They are intended as guidance to enhance and complement existing anti-corruption commitments and not weaken or replace them.

Principle 1 An effective legal basis for providing and requesting MLA in bribery and corruption cases should be adopted.

Principle 2 An effective institutional framework for MLA should be established, including by:

i. designating a Central Authority and exchanging central authority contacts with other states; and
ii. ensuring resources for the provision and requesting of MLA are adequate and efficiently used.

Principle 3 Mechanisms for timely responses to MLA should be put in place, including by:

i. providing clear, accessible information regarding the procedural requirements for MLA;
ii. ensuring prompt transmission of requests by the central authority to the executing authorities;
iii. maintaining open and direct lines of communication between central authorities, and encouraging whenever possible mechanisms for informal cooperation before the submission of an MLA request; and
iv. allowing for flexibility regarding the manner and form in which MLA requests are executed in the requested State to allow for the full use of the assistance granted in the requesting States' proceedings in accordance with countries' legal systems.

Principle 4 Cooperation and coordination between jurisdictions should be facilitated, in accordance with countries' legal systems, including by:

i. facilitating, where appropriate, direct contacts between law enforcement agencies;
ii. clarifying the circumstances in which alternative forms of cooperation should be preferred to formal requests for MLA;
iii. developing mechanisms for collaborative or joint investigations.

Principle 5 International exchange of information through other mechanisms, should be allowed, in accordance with countries' legal systems, including by:

i. facilitating exchange of financial intelligence obtained by FIUs;
ii. facilitating exchange of tax information; and
iii. facilitating exchange of information with securities and other regulators.
iv. facilitating cooperation, as appropriate, with intergovernmental organizations.

Principle 6 States should continue their efforts to build and promote flexible and efficient schemes of cooperation targeting the proceeds of corruption and bribery by, inter alia:

i. developing or reviewing domestic legislation or practice to enable greater flexibility in providing assistance in asset recovery requests in line with chapter V of the UNCAC and consistent with other relevant international standards, including the Financial Action Task Force recommendations.

ASSET RECOVERY
KEY PRINCIPLES / KEY ELEMENTS FOR AN INSTITUTIONAL FRAMEWORK

Introduction

During the Paris meeting of the working group, and building on the concept paper then pre-sented, the World Bank and UNODC – under StAR – were requested to report back to the Working Group on:

- √ Key principles for asset recovery (taking into consideration the Swiss proposal).
- √ Key elements of an institutional framework through which asset recovery can effectively be channeled and on lessons learned from asset recovery cases.

This paper aims at addressing these two issues, following up on the concept paper and building on a review of asset recovery cases in a StAR database expected to be made public soon. In addition, per the Group's request, a specific horizontal review of asset tracing capabilities by G20 members has been undertaken. More details on these, as well as statistical information on asset recovery, are presented in the attachments to this "chapeau paper."

In addition to their participation in the different mechanisms for peer review on asset recovery related issues, G20 countries can show leadership by **developing a policy** to tackle the proceeds of corruption, and **put in place key legislative and institutional structures** that will facilitate the recovery of assets. The characteristics of the necessary policy, legislative and institutional developments are outlined below.

Policy Development

1. **Make asset recovery and return a policy priority; align resources to support policy.** To make progress on domestic commitments and international cooperation, such a policy could help communicate the importance of asset recovery as an integral part of broader anti-corruption efforts, empower authorities leading asset recovery cases, mobilize them with the appropriate resources and expertise to trace, seize, confiscate and return stolen assets, promote the proactive pursuit of cases (rather than waiting for an MLA request), and encourage the widest range of assistance to other countries. It would identify the steps needed to promote, sustain, and strengthen the development of specialized expertise in the appropriate bodies and include a roadmap, appropriate to the country, to adopt legal and/or institutional measures to support effective implementation of the policy. The policy would serve to define goals and targets and to make stakeholders accountable.

Legislative Framework

2. **Strengthen preventive measures against the proceeds of corruption consistent with international standards such as those set forth in the FATF recommendations.** Strengthened preventive mechanisms to protect the financial system against the proceeds of corruption are critical. Measures requiring that financial institutions and designated nonfinancial businesses and professions (DNFBPs) conduct customer due diligence, identify and monitor PEPs, and collect and make available beneficial ownership information are essential in this regard: without obtaining this information, subsequent asset tracing, freezing, confiscation and return efforts are ren-dered futile. It is also essential that supervisory authorities effectively enforce these requirements, and make public such enforcement actions, subject to domestic procedures.

3. **Set up tools for rapid locating and freezing of assets.** To facilitate the prompt identification of bank assets that may be proceeds of corruption, establishing tools that would allow competent authorities to obtain information from financial

institutions in a timely fashion to determine whether an individual has access to banking facilities in that jurisdiction is critical. Such a search could be initiated upon appropriate domestic or international request. This could be achieved either through a register(s) of bank accounts that can be directly accessed by competent authorities or through a system which allows competent authorities to directly and without delay query banks within a jurisdiction. The system should also enable competent authorities to rapidly freeze assets, whether through a temporary administrative freeze, automatic freeze upon the filing of charges or an arrest, or by order of an investigating magistrate or prosecutor.

4. **Establish a wide range of options for asset recovery.** Experience shows that multiple avenues can be used for asset recovery, including systems that allow for recovery through non-conviction based confiscation or equivalent (at a minimum in cases of death, flight, absence), unexplained wealth orders, and private (civil) law actions. Further, consistent with the UNCAC, it is necessary to have in place the legal and institutional framework to allow for direct recovery and the return of confiscated proceeds of corruption to prior legitimate owners, subject to the rights of bona fide third parties.

5. **Adopt laws that encourage and facilitate international cooperation**. Permitting foreign authorities to obtain all relevant information on the proceeds of corruption in a timely manner and enabling prompt legal action in response to foreign requests are the cornerstone of asset recovery efforts. This should entail:

   a. Permitting the direct enforcement of foreign orders unless inconsistent with fundamental principles of domestic law. This would include wherever possible non-conviction based confiscation orders, at a minimum in the circumstances foreseen by UNCAC. Such direct enforcement should be permitted even in the absence of a domestic system for non-conviction based confiscation or other equivalent avenue.

b. Ensuring that mutual legal assistance can be granted in the absence of a bi-lateral legal assistance agreement (i.e., an ad hoc basis) when dealing with asset recovery of PEPs. In addition, UNCAC should be recognized as a sufficient legal basis for mutual legal assistance.
c. Ensuring that MLA requests for freezing can be permitted on an ex parte basis (i.e., no requirement to give the asset holder the opportunity to contest be-forehand the provision of MLA).

Institutional Framework

6. **Create specialized asset recovery teams – a kleptocracy unit.** Success is closely related to the existence of specialized team of investigators and prosecutors that focus on the recovery of assets, including on behalf of countries harmed by grand cor-ruption.[1] Such specialization can be undertaken notwithstanding efforts to more systematically include asset recovery in all efforts against financial crime. Such units should be properly resourced, have proper expertise and training, and have access to relevant databases, registries, and financial information to allow practitioners to identify, locate, and freeze assets. They should also have authority to cooperate with foreign authorities with similar mandates (which could include FIUs, law enforcement, and judicial authorities), and to provide upon request technical assistance in "following the money" to third party countries.

7. **Actively participate into international cooperation networks:** National institutional frameworks should be set up to ensure that foreign authorities are able to obtain all relevant information on the proceeds of corruption in a timely manner and to enable prompt legal action in response to foreign requests. Such institutional frameworks include:

   a. Encourage upstream contacts with foreign counterparts particularly be-fore the presentation of mutual legal assistance requests.

[1] In some jurisdictions, an asset recovery office may fulfill this role.

b. **Establishing focal points of contact** for law enforcement and clear and effective channels for mutual legal assistance requests related to corruption and asset recovery.

c. **Working with existing networks (policy or operational)**, such as UNCAC, Interpol/StAR, the International Corruption Hunters Alliance, CARIN, and the meeting of law enforcement authorities at the OECD, amongst others, to identify possible gaps and identify best course of action in multi-countries international investigations and prosecutions.

d. **Make information available** on applicable procedures and legal requirements for pre-MLA and MLA international cooperation (including whether UN-CAC is a sufficient basis for MLA).

e. **Allow spontaneous peer-to-peer outreach by domestic authorities**, a pro-active form of assistance which alerts a foreign jurisdiction to an ongoing investigation in the disclosing jurisdiction and indicates that existing evidence could be of interest.

f. **Improve capacity to respond to MLA requests in grand corruption cases.** Mutual legal assistance should not be rejected solely on the grounds of non-material technical or formal deficiencies. Such situations should be proactively remedied by increased consultations between the two parties. Allocating in-creased staff and resources to work with the foreign jurisdiction in the drafting or clarification of requests will help to avoid such deficiencies.

8. **Provide technical assistance to developing countries**. Past cases demonstrate that asset recovery and international cooperation usually require a domestic criminal investigation and proceedings in the jurisdiction harmed by corruption. To build up sufficient expertise in all countries, developed jurisdictions should provide technical assistance on how to investigate, restrain and confiscate the

proceeds of corruption to those countries in need of it. Training or mentorship programs that enable the achievement of results in cases over the long-term should be the primary focus in this regard; and assistance should be coordinated among the donors. Other jurisdictions which lack such expertise should undertake to request such assistance from donors and international organizations.

9. **Collect data on cases and share information on impact and results.** To ensure the momentum for action is maintained, it is very important to step up the tracking of measures and operational actions being taken. It is also very important to track actual asset recovery cases, to show that "it works." Existing forums, such as the UNCAC Asset Recovery Working Group, the OECD anti-bribery working group or CARIN and similar networks, should be used for discussions of asset recovery cases (even if only sanitized or when completed) and exchanges on lessons learned. Where information on cases is public, countries should ensure that this information is shared more broadly, via channels that minimize duplication of information-gathering exercises (for example the StAR Asset Recovery Database).

G20 Guiding Principles on Enforcement of the Foreign Bribery Offence

The following guiding principles, which must be read in conjunction with the Guiding Principles to Combat Solicitation, are derived from the best practices of many countries in their enforcement of the foreign bribery offence and identify mechanisms that have proven useful for effective enforcement at all stages of the process, including detection, investigation, prosecution and sanctioning of the offence.

These guiding principles provide a reference to countries wishing to increase their enforcement. Taking into account the diversity of legal systems among G20 countries, they are broadly framed and offer flexibility to enable countries with a foreign bribery offence to use them within their institutional and legal constraints.

Robust Legislative Framework

1. As already agreed upon by G20 members in international instruments such as the United Nations Convention Against Corruption and the OECD Anti-Bribery Convention, a robust legislative framework should provide, in particular, for:

    i. a clear and explicit foreign bribery offence which covers the key elements of the internationally agreed definition, including offering, promising or giving of a bribe, bribery through intermediaries, and bribes paid to third party beneficiaries;

    ii. where statutes of limitations exist, sufficient time to allow for investigation and prosecution of the offence;

    iii. broad jurisdiction over the offence, including nationality

jurisdiction in conformity with a country's legal system; and iv) effective, proportionate, and dissuasive sanctions for both natural and legal persons, including confiscation of the bribe and the proceeds of bribery.

Effective Detection and Domestic Coordination

2. Exchange of information should be encouraged and facilitated between investigative and prosecutorial authorities in charge of the foreign bribery offence and other competent authorities in charge of related economic and financial crime, in accordance with countries' legal systems. These authorities could include tax, financial intelligence, money laundering authorities and securities and other regulators.

3. Engagement with relevant agencies such as overseas missions, broader tax administrations, trade promotion, public procurement and export credit agencies, as well as with the private sector, should be ensured to raise the level of awareness, educate companies involved in international business transactions, and improve the possibilities for detection and reporting of the foreign bribery offence.

4. Appropriate channels for reporting and protection of whistle-blowers in both the private and public sectors should be provided.

Effective Investigation and Prosecution

5. Investigation and prosecution of foreign bribery should not be subject to improper influence based on concerns of the national economic interest, the potential effect upon relations with another State, or the identity of the natural or legal person involved.

6. Adequate investigative powers should be granted to law enforcement authorities to proactively and effectively investigate and prosecute foreign bribery, including access to information from financial institutions. Law enforcement authorities should receive specialized training on detecting, investigating, and prosecuting foreign bribery.

7. Clear procedures should be in place to ensure prompt and effective handling of both outgoing and incoming mutual legal assistance requests. Informal assistance should be encouraged where possible, in conformity with a country's legal system.

8. In case of multiple jurisdictions over the same alleged acts of foreign bribery, consultations should be carried out, when appropriate, between the relevant jurisdictions, during the investigation, prosecution and sanctioning phases of the case, and in conformity with the relevant countries' legal systems. Investigations should be coordinated as early in the process as is feasible.

G20 ACWG 2014

- G20 High-Level Principles on Beneficial Ownership Transparency
- G20 High Level Principles on Corruption and Growth

G20 High-Level Principles on Beneficial Ownership Transparency

The G20 considers financial transparency, in particular the transparency of beneficial ownership of legal persons and arrangements, is a high priority. The G20 Leaders' Declaration from

St Petersburg states, 'We encourage all countries to tackle the risks raised by the opacity of legal persons and legal arrangements'. In order to maintain the momentum, Leaders called upon Finance Ministers to update them by the 2014 G20 Leaders' Summit on the steps taken by G20 countries 'to meet FATF standards regarding the beneficial ownership of companies and other legal arrangements such as trusts by G20 countries leading by example.'

At their meeting in Sydney in 2014, Finance Ministers and Central Bank Governors requested the ACWG provide them with an update before their April meeting on concrete actions the G20 could take to lead by example on beneficial ownership transparency and the implementation of relevant FATF standards. Following the G20 ACWG meeting in Sydney, ACWG co-chairs reported to Finance Ministers and Central Bank Governors that the ACWG agreed that G20 countries will lead by example by developing G20 High-Level Principles on Beneficial Ownership Transparency that will set out concrete measures G20 countries will take to prevent the misuse of and ensure transparency of legal persons and legal arrangements.

Improving the transparency of legal persons and arrangements is important to protect the integrity and transparency of the global financial system. Preventing the misuse of these entities for illicit purposes such as corruption, tax evasion and money laundering supports the G20 objectives of increasing growth through private sector investment.

The G20 is committed to leading by example by endorsing a set of core principles on the transparency of beneficial ownership of legal persons and arrangements that are applicable across G20 work streams. These principles build on existing international instruments and standards, and allow sufficient flexibility to for our different constitutional and legal frameworks.

1. Countries should have a definition of 'beneficial owner' that captures the natural person(s) who ultimately owns or controls the legal person or legal arrangement.

2. Countries should assess the existing and emerging risks associated with different types of legal persons and arrangements, which should be addressed from a domestic and international perspective.
    a. Appropriate information on the results of the risk assessments should be shared with competent authorities, financial institutions and designated non-financial businesses and professions (DNFBPs[6]) and, as appropriate, other jurisdictions.
    b. Effective and proportionate measures should be taken to mitigate the risks identified.
    c. Countries should identify high-risk sectors, and enhanced due diligence could be appropriately considered for such sectors

3. Countries should ensure that legal persons maintain beneficial ownership information onshore and that information is adequate, accurate, and current.

4. Countries should ensure that competent authorities (including law enforcement and prosecutorial authorities, supervisory authorities, tax authorities and financial intelligence units) have timely access to adequate, accurate and current information regarding the beneficial ownership of legal persons. Countries could implement this, for example, through central registries of beneficial ownership of legal persons or other appropriate mechanisms.

[6] As identified by the Financial Action Task-force

5. Countries should ensure that trustees of express trusts maintain adequate, accurate and current beneficial ownership information, including information of settlors, the protector (if any) trustees and beneficiaries. These measures should also apply to other legal arrangements with a structure or function similar to express trusts.

6. Countries should ensure that competent authorities (including law enforcement and prosecutorial authorities, supervisory authorities, tax authorities and financial intelligence units) have timely access to adequate, accurate and current information regarding the beneficial ownership of legal arrangements.

7. Countries should require financial institutions and DNFBPs, including trust and company service providers, to identify and take reasonable measures, including taking into account country risks, to verify the beneficial ownership of their customers.
    a. Countries should consider facilitating access to beneficial ownership information by financial institutions and DNFBPs.
    b. Countries should ensure effective supervision of these obligations, including the establishment and enforcement of effective, proportionate and dissuasive sanctions for non-compliance.

8. Countries should ensure that their national authorities cooperate effectively domestically and internationally. Countries should also ensure that their competent authorities participate in information exchange on beneficial ownership with international counterparts in a timely and effective manner.

9. Countries should support G20 efforts to combat tax evasion by ensuring that beneficial ownership information is accessible to their tax authorities and can be exchanged with relevant international counterparts in a timely and effective manner.

10. Countries should address the misuse of legal persons and legal arrangements which may obstruct transparency, including:

a. prohibiting the ongoing use of bearer shares and the creation of new bearer shares, or taking other effective measures to ensure that bearer shares and bearer share warrants are not misused; and

b. taking effective measures to ensure that legal persons which allow nominee shareholders or nominee directors are not misused.

The G20 is committed to leading by example in implementing these agreed principles. As a next step, each G20 country commits to take concrete action and to share in writing steps to be taken to implement these principles and improve the effectiveness of our legal, regulatory and institutional frameworks with respect to beneficial ownership transparency.

G20 High Level Principles on Corruption and Growth

G20 Leaders established the Anti-Corruption Working Group at the Toronto Summit in 2010 in recognition of the significant negative impact of corruption on economic growth, trade and development. In 2014, under the Australian Presidency, G20 countries have collectively agreed that G20 efforts must focus on those issues that directly support the growth and resilience agenda. G20 countries have committed to implementing ambitious but realistic policies with the aim to lift collective GDP by more than 2 per cent above the trajectory implied by current policies over the coming 5 years.

Under Australian's G20 Presidency in 2014, the Group welcomed an analytical study prepared by the OECD, in collaboration with the World Bank Group, on Consequences of corruption at the sector level and implications for economic growth and development. The study demonstrates the ongoing value of anticorruption efforts to achieving the G20's growth targets.

These Principles outline the specific ways in which corruption is a severe impediment to economic growth and will frame our practical steps to fight corruption under the 2015-16 Anti-Corruption Action Plan. The G20 has both the capacity and responsibility to create a global culture of intolerance to corruption, and to forcefully tackle its drivers and manifestations. To support these efforts, the G20 ACWG in collaboration with the OECD and World Bank, will develop policy guidance to assist the G20 in the design and implementation of future anti-corruption measures. G20 countries endorse these principles and reaffirm the importance of acting collectively to combat corruption as a vital part of the broader G20 growth agenda.

1. Corruption damages citizens' confidence in governance institutions and their supporting integrity systems, and weakens the rule of law.

2. Corruption impacts the costs of goods and services provided by government, decreasing their quality and directly increasing the cost for business, reducing access to services by the poor, ultimately increasing social inequality.

3. Corruption discourages foreign investment by creating an unpredictable and high risk (financial and reputational) business environment.

4. Corruption reduces healthy competition through deterring the entry of additional market players, thereby lowering incentives for innovation

5. Corruption distorts decision making at the highest level and can cause severe economic damage through the ineffective allocation of public resources, particularly when diverted to benefit private and not public interests. The laundering of corruption proceeds can impact the national economy and the integrity of the international financial system.

6. Corruption may reduce the impact of development assistance and hinder our collective ability to reach global development goals.

7. Corruption facilitates, and is fueled by, other forms of criminal activity including transnational organized crime, money laundering and tax crime which may represent significant threats to global and national security and to national budgets.

G20 ACWG 2015

- G20 Principles for Promoting Integrity in Public Procurement
- G20 High-Level Principles on Private Sector Transparency and Integrity
- G20 Anti-Corruption Open Data Principles

G20 PRINCIPLES FOR PROMOTING INTEGRITY IN PUBLIC PROCUREMENT

Public procurement represents a significant share of G20 countries' economies, on average over 13% of GDP. Procurement is also a strategic tool used by governments to deliver public services of the highest quality and best value for money. Taking into account the vast resources and close interaction of the public and private sectors, public procurement processes are particularly vulnerable to waste, misconduct, corruption and collusion which lead to inefficient allocation of public resources and a diminution of trust by citizens in the good governance of their country.

Recognizing that sound management of procurement contracts is critical for transparent and accountable spending of tax payers' money and essential to building stronger, inclusive and sustainable growth and promoting development outcomes, special scrutiny should be devoted to public procurement processes. Digital technologies and open data provide new opportunities throughout the public procurement cycle for addressing growing expectations of transparency and access to the extent permitted by law. Also recognizing that the entire public procurement cycle is a high risk activity that requires governments to apply transparency and integrity, adoption of measures against conflict of interest and corruption, as well as limitation on exceptions to the use of competitive tendering should be standard, according to internal legislation.

Integrity in public procurement is also an interest of business: according to the OECD Foreign Bribery Report, in 57% of the cases bribes are paid in order to obtain public procurement contracts. Providing a level playing field in procurement requires joint efforts and has also been identified by the private sector as a priority. At their 2014 Summit, the B20 called on G20 governments to apply best practice procurement

processes in all large and/or publicly significant infrastructure projects. The B20 Anti-Corruption Task Force has also established a work stream on Government Procurement.

G20 countries committed to ensure they have in place *"systems of procurement based on transparency, competition and objective criteria in decision-making to prevent corruption"* and called on the OECD to develop a Compendium of Good Practices for Integrity in Public Procurement (OECD Compendium) approved by the G20 in 2014.

In support of these commitments, the G20 supports the following good practices which build on the results of the OECD Compendium and are in line with relevant international standards such as those contained in Article 9 of the UNCAC and, where appropriate, the OECD Recommendations on Public Procurement, on Further Combating Bribery of Foreign Public Officials in International Business Transactions, on Fighting Bid Rigging in Public Procurement and on Anti-Corruption Proposals for Bilateral Aid Procurement. The good practices identified in the whole procurement cycle – from needs assessment until payment and contract management – are applicable to all public procurement systems at the central government level, though differences in form of government, legal framework and level of development of the public procurement system may yield differences in application in various country contexts. Countries should also seek their application at subnational level, where appropriate.

An adequate degree of transparency and accessibility of general procurement information, including through the use of information and communication technologies and open data, promotes integrity and competition, minimizes waste and prevents corruption.

1. **Public procurement laws, regulations, policies and procedures should be easily accessible to, and understandable by, the interested public.** To pursue this objective, G20 countries should promote:

    1.1. Timely and online publication and awareness of relevant laws, regulations, policies and procedures and public procurement opportunities in plain language.

2. **G20 countries should improve the effectiveness of the public procurement system and foster openness and competition, including by promoting** :2.1 Fair and equitable - impartial treatment of potential suppliers, for example by publishing selection criteria and the method and reasons for awards and contract details as far as feasible and appropriate.

    2.2. Transparency of public procurement opportunities and awards, except where reasonable exceptions apply (e.g., security concerns or low-value procurements).

    2.3. Use of competitive tendering procedures and specific, limited exceptions to the use of competitive tendering, as set in applicable national laws and regulations.

3. **To reduce the risk of corruption, G20 countries should work to streamline public procurement processes, increase transparency and reduce red tape including through the use of information technology.** To pursue this aim, they should promote:

    3.1. The use of integrated e-procurement solutions to the maximum extent possible and practicable.
    3.2. The use of generally accepted best practices to increase information sharing and efficiency, such as the online publication of public procurement information and data with easy access.

Effective remedies for challenging procurement decisions are essential to build confidence in the integrity and fairness of the procurement system

4. **G20 countries should have in place adequate complaint mechanisms for suppliers.** To undertake this objective, G20 countries should promote:

4.1. Laws, regulations, policies, and procedures for handling complaints in an impartial, timely, effective, and transparent way.
4.2. Awareness of channels for pursuing complaints, and the practical implications for suppliers.
4.3. Effective redress and sanctions in cases of corruption and collusion.

5. **G20 countries should maintain clear laws, regulations, policies and procedures to facilitate competition and private-sector and civil society participation**. To this end, G20 countries should promote:

5.1. Public procurement laws, regulations, policies and procedures that are coherent and operate in a predictable manner.
5.2. Opportunities for public input when amending public procurement laws and regulations.
5.3. Opportunities for input from civil society and the general public on the public procurement processes.
5.4. Participation, during the pre-tendering phase, of relevant stakeholders, including representatives of suppliers, users and civil society consistent with law.

High standards of propriety and professionalism of public officials and integrity programs for private sector suppliers serve to mitigate the risks associated with public procurement..

6. **Integrity in public procurement should be facilitated by developing or enhancing appropriate capabilities within the civil service**. In order to achieve this, G20 countries should promote:

6.1. High standards of integrity and ethics for all public procurement officials, and provide tools for application in daily practice, for example by disclosures of relevant private interests that could improperly influence the performance of official duties and responsibilities to prevent conflict of interest.

6.2. Procurement officials meeting appropriate professional standards in education, training and practice.

7. **Effective and accountable public procurement institutions or offices responsible for policy development or purchasing or both should be established.** G20 countries should promote:

7.1. Clear chains of responsibility for the oversight of public procurement.

7.2. The coordination and integration of laws, regulations, policies and procedures regarding management and relevant controls, including financial controls and internal audit.

7.3. Periodic reviews of various stages of the public procurement cycle, including both for oversight and for identification of best practices.

7.3. Implementation of anti-corruption provisions in the rules of operation of development agencies, and in particular the introduction of anti -corruption provisions governing bilateral aid-funded procurement.

8. **G20 countries should foster a culture of integrity in public procurement among suppliers by:**

8.1. Encouraging supplier efforts to develop internal corporate controls, and compliance measures, including competition and anti-corruption programs and looking at ways in which due recognition could be given to suppliers that have effective controls, measures and programs in place.

8.2. Providing appropriate procurement guidance for companies, especially SMEs.

8.3. Having mechanisms to protect the government in conducting public procurements from suppliers that have been convicted of or admitted to corruption, for example establishing records of debarred suppliers convicted of corruption and requiring suppliers to report whether they have been convicted of corruption.

G20 HIGH-LEVEL PRINCIPLES ON PRIVATE SECTOR TRANSPARENCY AND INTEGRITY

Preamble

The private sector is an essential partner of governments in the fight against corruption, and its commitment to transparency and integrity plays an integral role in achieving anti-corruption goals. The G20 has long recognized that corruption and bribery impose a heavy price on international business and society as a whole, and the G20 has committed to lead by example in combating domestic and foreign bribery. G20 Leaders reiterated their commitment in Brisbane to improve the transparency and integrity of the public and private sectors. The 2015-16 G20 Anti-Corruption Action Plan identifies private sector transparency and integrity as a high priority in the fight against corruption, and recognizes that the G20 must work closely with the private sector in this respect.

The High-Level Principles on Private Sector Transparency and Integrity set out below are intended to complement and raise awareness of more detailed international guidelines and principles for combatting corruption, including those listed in the Annex, such as the Anti-Corruption Ethics and Compliance Handbook for Business prepared at the request of the G20 by UNODC, OECD and the World Bank and the UNODC An Anti-Corruption Ethics and Compliance Programme for Business: A Practical Guide.

The Principles are not intended to create new standards or represent any form of legally binding requirement for business or G20 member states. Rather, they aim to encourage the commitment of businesses, ranging from small and medium sized enterprises (SMEs) to large businesses, for internal controls, ethics and compliance,

transparency and integrity.

The measures listed in this document are suggested general elements for developing or enhancing effective internal controls and ethics and compliance programs. There is no `one size fits all' approach. Emphasis on specific elements will vary from one business to another depending on, among other factors, the particular risks engendered by the business. A business may wish to consider seeking advice from compliance or other professionals to learn more about what kind of internal controls and ethics and compliance program is most appropriate for its business and the jurisdictions where it operates.

Implementation by G20 countries of their existing guidance and commitments, in particular the Guiding Principles on Enforcement of the Foreign Bribery Offence (2013), the Guiding Principles to Combat Solicitation (2013), the High-Level Principles on Beneficial Ownership Transparency (2014), and the G20 Principles for Promoting Integrity in Public Procurement (2015) will further support transparency and integrity in the private sector.

The G20 will continue to work with business and other stakeholders, including the B20 and C20, to combat corruption by promoting compliance through collective action and public-private sector dialogue. The G20 will also continue to encourage the implementation of effective internal controls and ethics and compliance frameworks. The G20 supports the development and implementation of anti-corruption programs for SMEs as appropriate given their size, resources, and risks, and welcome initiatives from business organizations and civil society, to provide guidance, training and awareness-raising.

Principles

The G20 encourages businesses to develop strong, robust and effective internal controls, ethics and compliance programs and/or measures on the basis of a risk

assessment to better understand the risk exposure linked to the business's industry, size, legal structure and geographical area of operation, and to allocate resources efficiently and effectively. The following Principles include elements that are important to consider in the development of effective internal controls and ethics and compliance programs, and in promoting transparency and integrity in the private sector. They are intended to be adapted by businesses, in particular SMEs, according to their individual circumstances, including their size, type, legal structure and geographical and industrial sector of operation, as well as the jurisdictional and other basic legal principles under which they operate.

1. Businesses should have a clear and accessible policy on prohibiting corruption.

2. Senior management, as well as the board of directors as appropriate, should clearly express and commit to the business's internal controls and ethics and compliance program, good corporate governance, transparency and integrity, for the detection and prevention of corruption. The internal controls and ethics and compliance programs must be enforced at all levels within the business, and senior managers must set the proper tone at the top for employees to follow.

3. The board has a key role in setting the ethical tone of a business, not only by its own actions, but also in appointing and overseeing key executives and consequently the management in general.

4. Oversight of internal controls and the ethics and compliance program should be the duty of one or more senior corporate officers, endowed with an adequate level of autonomy, resources and independence from management.

5. In line with their duties, all individuals within the business should uphold the internal controls and ethics and compliance program, and take responsibility for ensuring the effectiveness of internal controls and the ethics and compliance program.

6. Businesses should consider, where appropriate, external communication of their commitment to effective internal controls and ethics and compliance programs.

7. The compliance program should be supported by auditing and monitoring of systems of internal accounting controls, which ensure the maintenance of fair and accurate records and detect and prevent corruption.

8. Depending on the business's individual circumstances, the internal controls and ethics and compliance program should include appropriately detailed policies and procedures for particular risk areas; such as payments to domestic and foreign public officials, payments to third parties, facilitation payments, gifts, hospitality, entertainment and expenses, travel, political contributions, charitable donations and sponsorships, as well as conflicts of interest, solicitation and extortion.

9. Businesses should conduct appropriate due diligence. Due diligence includes vetting new hires, agents, and business partners, and extends to the formation of joint ventures and mergers and acquisitions. Due diligence should be an ongoing process and be commensurate with the associated corruption-related risk factors.

10. In cases of mergers and acquisitions, businesses should, as appropriate, promptly incorporate the acquired business into its internal controls and ethics and compliance program.

11. Businesses should ensure that their subsidiaries, as well as affiliates over whom they have effective control, have internal controls and ethics and compliance measures commensurate with the risks they face.

12. Businesses should take steps to encourage or, according to risk and where appropriate, to ensure that their business partners have effective internal controls and ethics and compliance measures.

13. Periodic reviews of the internal controls and the ethics and compliance program should be undertaken to evaluate and improve their effectiveness and take into account evolving standards, business risks, and other circumstances as appropriate.

14. Businesses should ensure regular training on their internal controls and ethics and compliance programs.

15. Businesses should promote and incentivize observance of their internal controls, and ethics and compliance programs.

16. Appropriate corrective and disciplinary action should be taken for failure to comply with internal controls and the ethics and compliance program.

17. Effective and easily accessible reporting mechanisms and whistleblower protection should be provided to employees and others who report, on good faith and reasonable grounds, breaches of the law, or violations of the business's policies and procedures. Businesses should undertake appropriate action in response to such reports.

Annex

RELEVANT INSTRUMENTS ON BUSINESS TRANSPARENCY AND INTEGRITY

The following instruments and tools provide guidance for countries to promote the adoption by business of compliance programs and codes of conduct to prevent and detect corruption and for companies to set up such programs. The G20 High-Level Principles on Business Transparency and Integrity complement but are not to supplant this existing guidance.

International anti-corruption conventions:

- United Nations Convention against Corruption (UNCAC) (https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf) Organization for Economic Co-operation and Development (OECD) Convention Combating Bribery of Foreign Public Officials in International Business Transactions and its 2009 Recommendation. Businesses seeking to develop The Principles may also wish, in those countries which adhere to the following inter-governmental tools, to consider;

- OECD Good Practice Guidance on Internal Controls, Ethics and Compliance (2010) (http://www.oecd.org/daf/anti-bribery/44884389.pdf)

- OECD Guidelines for Multinational Enterprises (2011) and related Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (http://www.oecd.org/corporate/mne/GuidanceEdition2.pdf)

- G20-OECD Principles of Corporate Governance (2015) (http://www.oecd.org/g20/meetings/antalya/Corporate-Governance-Principles-ENG.pdf)

- World Bank Group Integrity Compliance Guidelines (2010) (http://siteresources.worldbank.org/INTDOII/Resources/IntegrityComplianceGuidelines_2_1_11web.pdf)

- APEC General Elements of Effective Voluntary Corporate Compliance Programs (2014)* (http://mddb.apec.org/Documents/2014/SOM/CSOM/14_csom_041.pdf)

- Anti-Corruption Ethics and Compliance Handbook for Business prepared by UNODC, OECD and the World Bank (https://www.unodc.org/documents/corruption/Publications/2013/Anti-CorruptionEthicsComplianceHandbook.pdf)

- UNODC An Anti-Corruption Ethics and Compliance Programme for Business: A Practical Guide (https://www.unodc.org/documents/corruption/Publications/2013/13-84498_Ebook.pdf) *G20 Members of APEC; Australia, Canada, China, Indonesia, Japan, Korea, Mexico, Russia and United States

INTRODUCTORY NOTE TO THE G20 ANTI-CORRUPTION OPEN DATA PRINCIPLES

Open Data in the G20

In 2014, the G20's Anti-corruption Working Group (ACWG) established open data as one of the issues that merit particular attention in the promotion of public sector transparency and integrity priority area.

In this regard, the development of the G20 Open Data Principles by the Anti-corruption Working Group has been identified as a first step towards leveraging open data as a crucial tool to enable a culture of transparency, accountability and access to information as efforts to prevent corruption.

These Principles have been developed considering international standards, good practices and under the scope of three pillars:

1. The exponential progress in digital technologies and the unparalleled **increase in the amount, sources, quality of available data** and common data standards provide the right environment and necessary tools to promote the availability and use of open data in the fight against corruption.

2. **Transparency** is paramount in the anti-corruption agenda and can be mutually reinforced through an active collaboration based on the availability and use of open data; and,

3. As such, Open Data can help **prevent, detect, investigate and reduce corruption**.

G20 Anti-corruption Open Data Principles

Background

Open data: digital data that is made available with the technical and legal characteristics necessary for it to be freely used, re-used, and redistributed by anyone, anytime, anywhere.

1. The world is witnessing a significant global transformation, facilitated by technology fuelled by data and information. One that has enormous potential to foster more transparent, accountable, efficient, responsive, and effective governments and civil society and private sector organizations, and to spur social and economic development. Open data is at the center of this global shift.

2. Building a more prosperous, equitable and just society requires transparent, accountable governments that engage regularly and meaningfully with citizens. Accordingly, there is an ongoing effort to advance collaboration around key social challenges, to provide effective public oversight of government activities, to support sustainable economic development, innovation, and the development of effective, efficient public policies and programmes. Open data is crucial to meeting these objectives.

3. Open data can help improve the flow of information within and between governments, and make government decisions and processes more transparent. Open data increases transparency around what government is doing, which promotes accountability and good governance, and enhances public debate. Open data presents multiple opportunities to prevent and to combat corruption. **Open Data for Anti-corruption.**

4. Open data can help prevent and tackle corruption, accordingly to national law and experiences, by shedding light on government activities, decisions, and expenditures; as well as increasing levels of accountability, allowing citizens and government to better monitor the flow and use of public money within and across borders. Open data can facilitate this by, in particular:

   Following the money: showing how and where public money is spent, which provides strong incentives for governments to demonstrate that they are using public money effectively;

   Open contracting: allowing advanced search, analysis and understanding of public procurement processes, through the increased disclosure of reusable data in machine-readable formats around procurement's whole lifecycle, including planning, tendering, award, implementation and evaluation stages, in accordance to national laws and regulations, as well as national capabilities.

   Changing incentives: by modifying corruption-prone environments, and preventing regulatory capture, conflict of interest, and lobbying and revolving door opacity, through transparency and the increased monitoring of government affairs from all sectors of society; and,

   Enabling cross sector collaboration: supporting governments, citizens, and civil society and private sector organizations to collaborate on the design of policies to prevent corruption and increase government integrity.

5. Open data can help increase government performance, enabling decision-makers to design better policies for anti-corruption through the creation of incentives to avoid illegal acts by increasing the odds of exposing governmental misconduct. At the same time, open data can help discover and dismantle corrupt activities by facilitating critical information, tools and mechanism for judicial enforcement, and for media and society to detect the abuse of entrusted power for private gain

6. Open data can help create significant economic benefits for the private sector by providing companies with real-time information to strengthen their investment decisions and assess risks and opportunities in a specific market or sector.

7. Open data provides a platform to help expand social participation and enhance co-responsibility in areas such as, public procurement, political financing standards, judiciary and law enforcement, public officials' integrity, and fiscal and budget transparency.

8. Furthermore, the benefits of open data can multiply as more private sector and civil society organizations adopt open data practices for transparency as an instrument in the fight against corruption, by sharing their own data with the public.

9. Used in these ways, open data is a key public good which can reinforce transparency, increase trust, improve public sector integrity, strengthen rule of law and promote prosperity at a global scale.

10. We, the members of the G20 Anti-corruption Working Group, agree that open data is an under-used resource with potential to fight corruption and build stronger, transparent, and more accountable governments and societies.

11. We therefore agree to follow a set of principles based on the international Open Data Charter that will be the foundation for access to, and the release and use of, open government data to strengthen the fight against corruption.

12. These principles are:
    i. Open by Default;
    ii. Timely and Comprehensive;
    iii. Accessible and Usable;
    iv. Comparable and Interoperable;

v. For Improved Governance and Citizen Engagement;
vi. For Inclusive Development and Innovation.

13. We will work towards the implementation of these Principles in accordance with our political, legal frameworks, and taking into account our national contexts and maturity of our open data efforts, bearing in mind the technical best practices and standards

14. Furthermore, we will promote these common Principles in other priority areas of the G20, including working groups and task forces, by other relevant stakeholders, such as B20 and C20 work streams, and will support the development and adoption of common international standards around open data, to provide the foundation for countries to share their experience and ideas, strengthen the quality of data released and increase its potential impact.

Principle 1: Open Data by Default

Access to information has been widely accepted as a tool to increase transparency and fight corruption. Open data by default goes a step beyond transparency, as it promotes the provision of reusable data from its source, without requiring requests for information and increasing access in equal terms for everyone; while at the same time, assuring the necessary protection to personal data in accordance to laws and regulations already established in G20 countries.

15. We recognize that free access to, and the subsequent use of, government produced data promotes transparency, and is therefore of significant value to society and the economy, and that government data, should therefore, be open by default.

16. We acknowledge the need to promote the global development and adoption of tools and policies for the identification, creation, use, and exchange of anti-

corruption related open data.

17. We recognize that the term 'government data' could also apply to public data commissioned by and created for governments by external organizations, and data that can have public value which is held by external organizations and related to government programmes and services.

18. We recognize that open data can only be unlocked when citizens are secure in the knowledge that openness will not compromise their right to privacy, and that citizens have the right to influence the collection and use of their own personal data or of data generated as a result of their interactions with governments, provided the protection of personal data is assured in accordance to national regulations.

19. Therefore, we will:

    - Promote, where possible, the development of information technology systems, adoption of policies, and best practices to ensure that all government data, , is made open by default, while recognizing that there are legitimate reasons why some data cannot be released and providing clear guidelines for when certain data cannot be released;

    - Work towards the establishment of an anti-corruption culture of openness and prevention with the help of training and awareness programs, tools, guidelines and communication strategies designed to increase data literacy in government, civil society, and private sector, and promote awareness of the benefits of open data; and,

    - Observe domestic laws and internationally recognized standards pertaining to security, privacy, confidentiality, protection of personal data and intellectual property, trade secrets and subject to these legislation and standards, anonymize data prior to its publication, ensuring that sensitive, personally-identifiable data is removed.

Principle 2: Timely and Comprehensive

Releasing comprehensive data sets - which are accurate, timely and up to date, published at a disaggregated level, adequately documented, and following internationally agreed upon standards, metadata and classifiers - is crucial to increase data use for anticorruption. Such data openness will allow a better understanding of government processes and policy outcomes in as close to real-time as possible.

20. We recognize that it may require time and human and technical resources to identify data for release or publication, and that countries will work towards these goals in accordance to their capacities and national contexts.

21. We recognize the importance of consulting with data users and experts in the public sector transparency, including citizens, other governments and civil society and private sector organizations, to identify which datasets should be prioritized for release and/or improved for anti-corruption efforts.

22. We recognize that in order to be valuable to governments, citizens, and civil society and private sector organizations, open data as a tool to prevent corruption must be comprehensive and accurate.

23. Therefore, we will:

- √ Work towards a compendium of good practices and lessons learned on open data that can promote mechanisms for the identification of specific anti-corruption related datasets, standards and tools, and for the development of anti-corruption related data holdings;

- √ Publish high quality open data sets that are timely, comprehensive, fully described, primary and accurate in accordance with prioritisation that is informed by public

requests;

- √ To the extent possible, release data in their original form and at the finest level of granularity available, and that can be linked to any visualisations or analyses based on the data;

- √ Allow users to provide feedback, and continue to make revisions to ensure the quality of the data is improved as needed; and,

- √ Apply consistent information lifecycle management practices, and ensure historical copies of datasets are preserved, archived, and kept accessible for a reasonable period of time.

Principle 3: Accessible and Usable

Lowering unnecessary entry barriers, and by publishing data on single window solutions such as central open data portals increases the value of data, as more citizens and organizations are able to find and use it to reduce opacity in government institutions.

24. We recognize that when open data is released, it should be easily discoverable and accessible, and made available without bureaucratic or administrative barriers, which can deter people from accessing the data. This is especially true with anti-corruption and transparency-related data.

25. Therefore, we will:

- √ To the extent possible, publish open data on central portals, or in ways that can increase its accessibility, so that it can be easily discoverable and accessible for users;

- √ Release data in open formats to ensure that it is available to the widest range of users to find, access, understand and use. In many cases, this will include

providing data in multiple, standardized formats, so that it can be processed by computers and used by people;

- √ Release open data that is free of charge, under an open and unrestricted license and without mandatory registration, allowing users to choose to download data without being required to identify themselves; and,

- √ Promote initiatives to raise awareness of open data, data literacy, and capacity building for effective use of open data;

Principle 4: Comparable and Interoperable

Enabling the comparison and traceability of data from numerous anti-corruption related sectors increases its potential to inform decisions and feedback between decision-makers and citizens.

26. We recognize that in order to be most effective and useful, data should be easy to compare within and between sectors, across geographic locations, and over time.

27. We recognize that data should be presented in structured and standardized formats to support interoperability, traceability and effective reuse.

28. Therefore, we will:

- √ Implement to the extent possible, open standards related to data formats, interoperability, structure, and common identifiers when collecting and publishing data;

- √ Ensure that open datasets include consistent core metadata, and are made available in human- and machine-readable formats;

- √ Ensure that data is clearly described, that all documentation accompanying data

is written in clear, plain language, and that data users have sufficient information to understand the source, strengths, weaknesses, and analytical limitations of the data; and,

√ Engage with domestic and international anti-corruption standards bodies and other standard-setting initiatives to support increased interoperability between existing international standards, to support the creation of common, global data standards where they do not already exist, and to ensure that any new data standards we create are, to the greatest extent possible, interoperable with existing standards.

Principle 5: For Improved Governance and Citizen Engagement

Open data empowers citizens and enables them to hold government institutions into account. Open data can also help them understand, influence and participate directly in the decision-making processes and in the development of public policies in support of public sector integrity. This is paramount to build trust and strengthen collaboration between governments and all sectors of society.

29. We recognize that the release and use of open data strengthens the governance of our public institutions and provides a transparent and accountable foundation to improve decision-making and enhance the provision of public services, so as to better meet the complex realities faced by our populations.

30. We recognize that open data encourages better development, implementation, and assessment of programs and policies to meet the needs of our citizens, and enables civic participation and better informed engagement between governments and citizens.

31. We recognize that engagement and consultation with citizens can help governments to understand which types of data are in high demand, and can lead to improved data. Because of that, open data policies must promote the use of

information by civic society as a whole.

32. Therefore, we will:

- √ Promote the use of digital participation platforms to engage with organizations working in the domain of transparency, accountability and anti-corruption to determine what data they need;

- √ Provide tools, success stories and guidelines designed to ensure government officials are capable of using open data effectively;

- √ Implement research, oversight and review processes to report regularly to the public on the progress and impact of open data as a tool to prevent corruption;

- √ Establish and improve the mechanisms and procedures around the use and application of open data by citizens and the public sector.

Principle 6: For Inclusive Development and Innovation

Open data, through reinforced transparency and integrity, can promote greater social and economic benefits by providing actionable information to build effective, accountable and responsive institutions; this alone can increase economic output and efficiency in government operations. Furthermore, while preventing corruption open data facilitates the development of new insights, business models and digital innovation strategies at a global scale.

33. We recognize the importance of openness in stimulating accountability, creativity and innovation. The more governments, citizens, and civil society and private sector organizations that use open data, the greater the social and economic benefits that will be generated.

34. We recognize the value of open data for identifying challenges and delivering,

monitoring and achieving sustainable development worldwide, especially by promoting transparent and inclusive institutions.

35. We recognize that the potential value of our open data is greatly increased when it can be used in combination with open data from other governments and civil society and private sector organizations, considering that open data is an equitable resource which empowers all citizens by allowing them to access data regardless of who they are or where they live.

36. We recognize the role of governments in promoting good governance and development does not end with the release of open data. Governments must also play an active role in supporting the effective and innovative reuse of open data to strengthen transparency and integrity and to prevent corruption, as well as ensuring government employees, citizens, and civil society and private sector organizations have the data they need and the tools and resources to understand and use that data effectively.

37. Therefore, we will:

- √ Promote the adoption of open data related items in other principles and activities supported by the G20´s ACWG where the application of open data can be useful.

- √ Encourage citizens, civil society and private sector organizations, and multilateral institutions to open up data created and collected by them in order to move towards a richer open data ecosystem with multiple sources to strengthen transparency and integrity and to prevent corruption;

- √ Create or explore potential partnerships with relevant stakeholders working in the anti-corruption sector to support the release of open data and maximize their impact through effective use;

√ Share technical expertise and experience with other governments and international organizations, and to create or support programs and initiatives that foster the development or co-creation of visualizations, applications, APIs, data mashups, and other tools based on open data.

G20 ACWG 2016

- G20 High-Level Principles on Cooperation on Persons Sought for Corruption and Asset Recovery

G20 High-Level Principles on Cooperation on Persons Sought for Corruption and Asset Recovery

Corruption damages citizens' trust in government, undermines the rule of law, and hinders economic growth and development. For the G20, preventing and combating corruption contributes to the shared objective of building an innovative, invigorated, interconnected and inclusive global economy, and fostering international cooperation constitutes a critical step to this end.

In accordance with the United Nations Convention against Corruption (UNCAC), and building upon *the G20 Common Principles for Action: Denial of Safe Haven, the G20 High-Level Principles on Mutual Legal Assistance and the G20 key asset recovery principles* as well as proposals endorsed at previous G20 leaders' summits on strengthening international law enforcement cooperation against corruption, the G20 commits to leading by example and endorses the following set of principles.

While implementing these principles, G20 members recognize that fighting corruption requires a strong foundation, which includes respect for international law, a commitment to respecting human rights and the rule of law as well as a commitment to respect the sovereignty of each country and their international commitments and domestic legal systems. Nothing in these principles should be interpreted as enabling a G20 member to undertake activities in the territory of another state.

I. Our Stance: Zero Tolerance

1. Aware of the detrimental effects of persons sought for corruption fleeing and transferring the proceeds of corruption abroad, we should, where appropriate,

work towards denying safe haven to these persons and the proceeds of their crimes.

2. We recognize the value of international law enforcement cooperation and mutual legal assistance and acknowledge that working together can foster effective and efficient international anti-corruption cooperation.

II. Our Institutions: Zero Loopholes

3. Relevant public authorities should have effective procedures in place for denying safe haven to persons sought for corruption should their actions be unlawful in the country that they are seeking to enter or have already entered. We encourage all countries to review, consistent with their international obligations, relevant immigration programmes or policies, to prevent them from being abused by persons seeking safe haven for themselves and their proceeds of crime.

4. We recognize the utility in domestic coordination mechanisms through which relevant authorities in charge of detection, investigation and prosecution of corruption offences as well as the recovery of the proceeds of such offences, and international cooperation can effectively collaborate with each other.

5. We recognize the important baseline for international legal cooperation established by UNCAC, including for civil and administrative proceedings where appropriate and consistent with domestic legal system. We are encouraged to support

effective international cooperation in anti-corruption matters based on a variety of legal frameworks. We will endeavour, where appropriate, to apply effectively the extradition and MLA provisions of UNCAC and other applicable international conventions. In support of this objective, the G20 calls upon UN member states to ratify or accede to UNCAC if they have not already done so. We also support the use, where appropriate, of international co-operation provisions of other legal instruments such as the United Nations Convention against Transnational Organized Crime and the OECD Convention against Bribery of Foreign Public Officials in International Business Transactions.

III. Our Objective: Zero Barriers

6. We acknowledge that effective and timely communication and cooperation between competent authorities, in accordance with applicable laws, can curb the movement of persons sought for corruption, as well as assets generated by corruption offences. To this end, we are encouraged to use appropriate points of contact to facilitate information exchange between each other, as set out in existing agreements or international fora, such as the G20 Denial of Entry Experts' Network.

7. We encourage each other to facilitate case-specific multilateral and bilateral cooperation against corruption, including, as needs arise, the designation of competent authorities for case coordination.

8. We encourage close coordination between/among law enforcement authorities to establish contact with persons sought for corruption, subject to applicable international and domestic law. We will consult, where appropriate and in strict compliance with existing bilateral agreements and G20 members' commitments, to establish proper working procedures in this regard, where such procedures do not already exist.

9. We reaffirm that asset recovery is a fundamental principle of UNCAC and are committed to the implementation of Chapter V of the Convention.

10. To enhance the effectiveness of international cooperation in anti-corruption matters, we are encouraged to enhance capacity building, institutional values and ethics, and experience-sharing in this area, in close coordination with existing relevant international and regional organizations, initiatives and networks.

G20 ACWG 2017

- G20 High Level Principles on Countering Corruption in Customs
- G20 High Level Principles on the Liability of Legal Persons for Corruption
- G20 High Level Principles on Organizing Against Corruption

G20 High Level Principles on Countering Corruption in Customs

Trade and competition are powerful drivers of growth, increased living standards and job creation. The G20's growth strategies include reforms to facilitate trade by lowering costs, streamlining customs procedures, reducing unnecessary regulatory burdens and strengthening trade-enabling services.

Customs have significant responsibilities for regulating cross-border trade, including collecting taxes, deterring illicit trade, controlling goods subject to prohibitions or restrictions, and contributing to economic competitiveness by facilitating trade.

Ineffective and inefficient customs, whether caused by under-resourcing, cumbersome customs procedures, or corruption, can negatively impact the benefits of international trade, trust in government, as well as sound economic and public sector reforms.

Effectively preventing and combating corruption in customs is essential to an enabling business environment and investment climate. Corruption can be combated effectively only as part of a comprehensive strategy that is adapted to national and local contexts.

1. Leading by example

G20 Countries should ensure that customs administrations operate in accordance with a risk-based integrity strategy that, where applicable, is well-integrated with the national anti-corruption framework. G20 countries should also ensure that an adequate

amount of resources is devoted to the implementation of customs' integrity strategies, and that customs administrations management lead by example in the discharge of their official duties.

G20 countries should ensure that customs administrations build a culture of integrity through transparent internal decision-making, integrity awareness-raising and training activities, as well as an open organizational culture that is responsive to integrity concerns.

2. Implementing appropriate integrity standards

G20 countries should set integrity standards for customs officials that encourage high standards of conduct, good governance, and adherence to public service values. Integrity standards should be established with a view to provide a clear basis for disciplinary, administrative, and criminal sanctions based on appropriate law enforcement processes.

3. Transparency

G20 Countries should ensure that its customs procedures are applied in a predictable, consistent and transparent manner, taking into account international standards and good practices. Appeal and administrative review mechanisms should be accessible for traders to challenge or seek review of customs-related determinations.

4. Automation

G20 Countries should endeavour to:

i. take into account, as appropriate, international standards and recommendations on customs related matters, particularly those related to procedures for the timely release of goods, including those developed by the World Customs Organization (WCO);

ii. make electronic systems accessible to customs users. Automated customs systems should be configured in such a way as to increase efficiency, remove opportunities for corruption and increase the level of accountability; and

iii. enhance automated systems for risk analysis and targeting.

5. Reform and Modernization

G20 Countries should periodically review their customs systems and procedures, aiming to streamline out-dated and burdensome practices and procedures, and increase transparency in decision-making with a view to minimize opportunities to engage in unethical, fraudulent or corrupt acts.

6. Human resources management

G20 Countries should ensure that customs administration human resources policies are based on principles of fair and transparent systems for recruitment, hiring, retention, promotion and retirement of customs officials in accordance with their merits, equity and aptitude, as well as on organizational and ethical standards among customs officials. G20 countries should also ensure that customs administrations retain qualified and high performing individuals by providing them with adequate benefits and opportunities to enhance their professional careers.

7. Relationship with the Private Sector

G20 Countries should promote open, transparent and productive relationships between their customs administrations and the private sector.

8. Audit and Reporting

G20 Countries should enhance strategies to prevent, detect and reduce corruption in customs, including the implementation of appropriate monitoring and control

mechanisms such as internal and external auditing, as well as effective investigation and prosecution regimes. Such strategies should encourage higher levels of integrity and effective mechanisms to detect incidents of corruption at all levels, and strengthen accountability.

Customs officials and customs users should be provided clear channels to report wrongdoing, misbehaviour and unethical activities and, when such information is provided, it should be investigated in a prompt and appropriate manner.

9. Collective action to promote integrity

Each G20 country should adopt a comprehensive strategy to promote integrity in customs, bearing in mind these High Level Principles and taking into account, as appropriate, the good practices identified in the OECD's Compendium on G20 Members practices on Integrity in Customs and other international recommendations, including those developed by the World Customs Organization, and the United Nations Convention Against Corruption. G20 countries are encouraged to continue sharing their respective strategies and experiences as well as to disseminate best practices to effectively address the risk of corruption in customs.

G20 High Level Principles on the Liability of Legal Persons for Corruption

Establishing and enforcing the liability of legal persons is critical to the global fight against corruption. Recognising this, the G20 have highlighted the importance of the liability of legal persons in their Anti-Corruption Action Plans since 2013–14. Following the G20 Leaders' commitment in September 2016 to "lead by example in combating bribery" including by "establishing and, where appropriate, strengthening the liability of legal persons for corruption offences", G20 countries agreed to the following high-level principles on the liability of legal persons for corruption.

Through international instruments such as the **United Nations Convention against Corruption** (UNCAC)1 and/or the **OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and related instruments** (OECD Anti-Bribery Convention)2 G20 Members have already committed to the implementation of legal person liability for corruption offences, including bribery, and related offences established in accordance with the applicable international conventions.

Compliance with these Conventions is assessed through their respective review and monitoring mechanisms. Furthermore, the **State of Implementation of UNCAC study**, which contains a comprehensive analysis of the implementation of Chapters III and IV, provides a horizontal analysis on implementation of Article 26. The OECD Working Group on Bribery also published in December 2016 a stocktaking report on the Liability

1. Article 26 of UNCAC states that "Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the offences established in accordance with this Convention..." It thus requires States parties to extend liability for Convention offences to "legal persons", which may be criminal, civil or administrative, consistent with a State's legal principles, provided that the resulting sanctions are "effective, proportion-ate and dissuasive".

2. Similarly, Article 2 of the OECD Anti-Bribery Convention provides that "Each Party shall take such measures as may be necessary, in accordance with its legal principles, to establish the liability of legal persons for the bribery of a foreign public official." The 2009 OECD Recommendation on Further Combating Bribery of Foreign Public Officials in International Business Transactions, in particular Annex I, sets forth good practices on fully implementing the relevant articles on the responsibility of legal persons.

of Legal Persons for Foreign Bribery, which presents a "mapping" of the features of the systems for liability of legal persons in the 41 Parties to the Anti-Bribery Convention.

There are several rationales for ensuring liability of corporations and other legal entities: today's economy, both at the national and international level, is mainly driven by commercial entities, i.e. legal persons. Fighting corruption would fall short if only the natural persons involved were punished while the legal person was exempt from sanctions. Furthermore, in an increasingly complex and global economy, it can often be difficult to identify and/or prosecute responsible individuals, while the liability of, and illegal benefits derived by, a legal person can be more clearly established. Decision-making processes can involve multiple layers within an organisa-tion, operating through complex business structures and collective decision-making processes. Perpetrators and instigators may attempt to hide behind the corporate veil to evade liability. In addition, responsible individuals may reside in another State, which is especially common for bribery involving multinational enterprises. Ensuring that a legal person, as well as the culpable individuals, can be held liable can therefore have an important deterrent effect, motivating and incentivizing enterprises to make compliance a priority along with investing in adequate and effective internal controls, ethics and compliance programmes or measures to prevent and detect corruption. The liability of legal persons shall be without prejudice to the criminal liability of the natural persons who have committed the offences.

The following Principles are primarily derived from the relevant international Conventions and related instruments, as well as the legislation and practices of many countries that have legal systems which already hold legal persons liable for corruption. The Principles identify mecha-nisms and practices that have proven useful to the establishment and enforcement of the liability of legal persons for corruption and related offences. Acknowledging the diversity of legal systems among G20 countries, the Principles are broadly framed and flexible so that countries can apply them in line with their domestic legal principles. They are intended as guidance to enhance and complement existing anti-corruption commitments and not weaken or replace them.

ADOPTING A ROBUST LEGAL FRAMEWORK FOR THE LIABILITY OF LEGAL PERSONS

Principle 1: A robust legal framework should be in place for holding legal persons liable for corruption, including domestic and foreign bribery, and related offences.

Effective enforcement against legal persons for acts of corruption can only take place pursuant to clear legislation. In addition to criminalising corruption, including bribery, committed by natural persons, countries should thus have clear legislation on the liability of legal persons. In the event that, under a country's legal system, criminal responsibility is not applicable to legal persons, such responsibility may be civil or administrative. In all cases, sanctions should be "effective, proportionate and dissuasive" (see also below Principle 8). Liability should cover in particular corruption offences, including bribery of national and foreign public officials, as well as related offences that facilitate corruption established in accordance with the applicable international Conventions.[4]

Principle 2: Corporate liability legislation should capture all entities with legal rights and obligations.

To ensure legal persons cannot escape liability by structuring their businesses to circumvent corporate liability laws, countries should have a clear legislative definition of "legal person" that covers all entities with a legal personality under the applicable law.

Principle 3: Liability of legal persons should not be restricted to cases where the natural person or persons who perpetrated the offence are prosecuted or convicted.

Corporate liability regimes should allow for proceedings to take place against legal persons irrespective of any proceedings against any natural person or outcomes of such proceedings. Corporate operations and decision-making are becoming

[3]. See Liability of Legal Persons for Foreign Bribery (https://www.oecd.org/daf/anti-bribery/Liability-Legal-Persons-Foreign-Bribery-Stocktaking.pdf.

[4]. For example, see UNCAC, Chapter III, Criminalization and Law Enforcement and Articles 1, 2, 7 and 8 of the OECD Anti-Bribery Convention.

increasingly diffuse and complex, which can pose serious difficulties in identifying specific individuals involved in corporate wrongdoing.

Principle 4: Liability of legal persons should not be limited to cases where the offence was committed by a senior manager.

Limiting the liability of a legal person to cases where the offence was committed by a senior manager does not cover all potentially relevant situations, in particular offences regarding legal persons with decentralised decision-making processes. To be effective, corporate liability provisions should thus at the very least either (1) adopt an approach where the level of authority of the natural person whose conduct triggers the liability of the legal person is either not relevant at all or is flexible, reflecting the wide variety of decision-making systems in legal persons; or (2) allow for liability of the legal person to be triggered in the following cases: where a manager or officer with the requisite level of authority commits the offence; where such a person directs or authorises a lower level person to commit the offence; and where such a person fails to take adequate measures to prevent a lower level person from committing such an offence, including through a failure to supervise him or her or through a failure to implement adequate internal controls, ethics, and compliance programmes or measures. In this regard, countries may wish to provide guidance on what may constitute adequate standards for control and supervision required by a legal person.

Principle 5: A legal person should not be able to avoid responsibility by using intermediaries, including other legal persons to commit a corruption offence on its behalf.

Countries should make sure that their laws capture corruption offences committed through intermediaries on a company's behalf, including related legal persons (e.g. parent and subsidiary companies and entities within the same corporate group) and unrelated legal or natural persons (e.g. shell companies, third-party agents, consultants, trusts, joint ventures or contractors).5 The frequent use of intermediaries in transnational corruption demonstrates the importance of ensuring that a corporation does not escape liability by funnelling bribes through intermediaries.

Principle 6: Companies should not be able to escape liability by altering their corporate identity.

Countries should ensure that companies cannot escape liability by restructuring or otherwise altering their corporate identity (e.g. by way of a merger). Countries should have appropriate rules which may include legislation, case law or traditional legal principles, on when and how changes in company identity and ownership impact the liability of legal persons.

Principle 7: Effective jurisdiction should be provided over legal persons.

Transnational corruption offences, by their very nature, involve multiple jurisdictions. In order to avoid impunity, countries should therefore establish effective territorial jurisdiction over legal persons, in accordance with their domestic legal system, to cover situations where the offence is committed in whole or in part in its territory and should not require an extensive physical connection between the act of corruption in question and its territory.

Countries should also consider relying on the "nationality" of the legal person as grounds for pursuing a suspected case of transnational corruption, including in cases where companies are organised with subsidiaries in various countries. The "nationality" of a legal person is determined by the national law of a country (e.g. using as criteria the laws under which the legal person was formed or is organised, or the legal person's headquarters or effective seat of operation), and may also be determined by way of international treaties or bilateral or multilateral arrangements. Where nationality jurisdiction is dependent on dual criminality, this requirement should be deemed to be met if the act is unlawful where it occurred, even if under a different criminal statute.

5. The 2014 OECD Foreign Bribery Report highlights that 75% of concluded foreign bribery cases that it reviewed in its analysis involved intermediaries, see p. 8.

EFFECTIVE, PROPORTIONATE, AND DISSUASIVE SANCTIONS

Principle 8: Legal persons should be subject to effective, proportionate, and dissuasive sanctions.

Enforcement actions against legal persons will only have a deterrent effect where the sanctions are sufficiently effective, proportionate, and dissuasive.[6] Where a country's legal system does not attribute criminal responsibility to legal persons, it should make effective, proportionate and dissuasive non-criminal sanctions available, including monetary fines.

Negotiated settlements may also be a useful option for states to consider in the fight against corruption. Such settlements have resulted in significant monetary sanctions for companies. Countries using negotiated settlements should, where appropriate and consistent with their domestic legal system, consider making public through any appropriate means certain essential elements of the settlement, such as the main facts, the terms and duration, and the penalties or other sanctions and remedies imposed. Such disclosure contributes to the dissuasive nature of sanctions, ensures public accountability, raises awareness of such enforcement actions and provides guidance.

Principle 9: The bribe and proceeds of corruption should be able to be seized and confiscated from legal persons or monetary sanctions of comparable effect should be applicable.

In addition to the imposition of financial sanctions, it is important that countries are able to seize and confiscate the proceeds of corruption, or property the value of which corresponds to that of such proceeds, or that monetary sanctions of comparable effect are applicable. Confiscation of the proceeds of corruption is one of the most effective means for deterring corruption because it divests those involved of the benefits obtained by the bribery transaction. The combined effect of fines and confiscation ensures that companies do not simply treat bribes as a cost of doing business. Where a country's legal system does not provide for asset confiscation, it should make monetary sanctions

[6] Cf. also the 2013 G20 Guiding Principles on Enforcement of the Foreign Bribery Offence (1. (iv)).

of comparable effect available. Where the legal person has not yet handed over the bribe or where it was rejected by the person to be bribed, seizure and confiscation of the offered bribe (as an instrumentality) should also be possible. Authorities should have adequate powers and resources to trace and quantify the proceeds of corruption offences, including bribery, and related offences, and seize and confiscate such property from the perpetrator and/or third parties.

Principle 10: Introducing additional measures against legal persons should be considered.

In addition to sanctions such as fines and confiscations, countries may wish to consider introducing additional measures against legal persons. These may include judicial or administra-tive measures, as appropriate, such as suspension or exclusion from entitlement to public benefits or aid; temporary or permanent disqualification from participation in public procure-ment or the practice of other commercial activities; judicial supervision; dissolution; and publication of sentence. Such additional measures may be imposed by a court or at the discretion of public agencies.

INTERNATIONAL COOPERATION

Principle 11: International cooperation in corruption cases should be provided to the fullest extent possible where appropriate and consistent with a country's legal system, including with respect to proceedings involving legal persons.

Given that corruption offences often span multiple jurisdictions, international cooperation in criminal cases is essential, including with respect to investigations, prosecutions and judicial proceedings involving legal persons.[7]

In addition, where appropriate and consistent with their domestic legal system, countries should also to the fullest extent possible under their law assist each other in investigations and proceedings in civil and administrative matters against legal persons relating to corruption. Countries are also encouraged to consult with one

7. See 2013 G20 High-Level Principles on Mutual Legal Assistance.

another in order to, where appropriate and in accordance with their domestic legal systems, conduct parallel investigations and/or set up joint investigation teams.

Principle 12: Where more than one country has jurisdiction over a legal person, countries should consult with each other.

In transnational corruption cases, it is common for more than one country to have jurisdiction over the same alleged acts. In such circumstances, countries should consult with each other and, where appropriate and consistent with their domestic legal systems, consider coordinating on the most appropriate jurisdiction for prosecution. Countries may also wish to consult, where appropriate and consistent with domestic legal systems, on the issue of sanctions to be imposed against legal persons.

ENGAGING WITH THE PRIVATE SECTOR

Principle 13: Development of effective internal controls, ethics, and compliance programmes or measures to prevent and detect corruption should be encouraged.

The private sector is a key partner in the fight against corruption, and its commitment to transparency and integrity is of particular importance when it comes to corruption involving legal persons. The G20 encourages the private sector to adopt effective internal controls, ethics and compliance programmes or measures, which are critical to the prevention and detection of corruption within businesses. Business organisations and professional associations are encour-aged to support efforts by businesses, in particular small and medium sized businesses, to develop and adopt internal controls, ethics and compliance programmes or measures to prevent and detect corruption. Key elements of an effective anti-corruption compliance programme are set out in numerous resources, including the 2015 G20 High Level Principles on Private Sector Transparency and Integrity.

Principle 14: Concrete incentives should be considered to foster effective compliance by businesses.

While government enforcement of anti-corruption laws against legal persons is an essential component of an effective corporate liability regime, the private sector also has a key role in the development and implementation of effective compliance mechanisms within businesses. Countries may therefore take into consideration, as appropriate, the existence of corporate anti-corruption ethics and compliance programmes or measures in public procurement decisions or other processes to grant public benefits such as export credits.

Moreover, efforts made by businesses to develop and implement effective anti-corruption internal controls, ethics and compliances programmes or measures, as well as voluntary self-reporting and cooperation by businesses with law enforcement may also, where appropriate and consistent with a country's legal system, be taken into consideration in legal proceedings, for example, as a potential mitigating factor or as a defence. Countries may wish to consider establishing rules.

G20 High Level Principles on Organizing Against Corruption

Corruption hampers the efficient and effective operation of government, its fairness and impartiality of decision-making and the delivery of government services. A public administra-tion, resilient against corruption, underpinned by a culture of integrity, accountability and transparency not only fosters citizens' trust but can also affect the attractiveness of a country as a business location. Goal 16 of the United Nation's 2030 Agenda for Sustainable Development also includes as a target the substantial reduction of corruption and bribery in all their forms.

At the Brisbane summit in 2014, G20 leaders reiterated their commitment to improve the transparency and integrity of the public and private sector. The G20 Anti-Corruption Action Plan 2017-2018 identifies public sector integrity and transparency including organizing against corruption (i.e. structuring the public administration to detect and minimize corruption risks) as a priority. Fighting corruption in public administrations should not only focus on measures targeting individual employees, responses to reporting of corruption and effective law enforcement, but also on building a comprehensive, transparent and accountable organizational structure that makes public administration more resilient against corruption.

G20 countries have already committed themselves to a number of measures to strengthen transparency and integrity in the public sector, including requirements for the conduct of public officials.[1] However, corruption prevention measures with regard to the organizational structure and workflow management are also essential for the fight against corruption. As one of the most recent contributions, the OECD Recommendation on Public Integrity provides an up-to-date guidance for building resilient public organizations and mitigating corruption risks.[2] The OECD Recommendation has a much broader approach than the following High Level Principles that concentrate on

[1] Cf. G20 High Level Principles on Asset Disclosure by Public Officials, G20 Guiding Principles to Combat Solicitation, G20 Anti-Corruption Open Data Principles, G20 Principles for Promoting Integrity in Public Procurement, the G20/OECD Compendium on Whistleblower Protection, [the G20 High Level Principles on Countering Corruption in Customs].

[2] See http://www.oecd.org/gov/ethics/Recommendation-Public-Integrity.pdf.2

the structural organization of public administration against corruption.

G20 countries agree that certain organizational measures should be taken in order to tackle corruption risks. They should not only focus on administrative procedures, but also on awareness-raising amongst public officials at all levels and on human resources management.

The G20 is committed to leading by example by endorsing a set of core principles on organizing their public administration in a way that helps to detect and minimise corruption risks. The following principles build on UNCAC (in particular Articles 5, 6 and 7). Acknowledging the diversity of legal systems among G20 countries, the Principles are broadly framed and flexible so that countries can apply them in line with their domestic legal principles. They are intended as guidance to enhance and complement existing anti-corruption commitments and not weaken or replace them.

GENERAL PRINCIPLES

1. States should promote and continuously support a culture of integrity and impartiality in their administrations.

2. States should consider corruption prevention as a key factor when deciding how to organize or reform public agencies or bodies.

3. Consistent with their domestic legal systems, States are encouraged to apply and promote these principles also on the local and regional level.

4. States should ensure that bodies (including autonomous and independent ones) with a responsibility for the development, implementation, enforcement and/or monitoring of elements of the corruption prevention system are provided with appropriate training[3], mandate and resources to effectively fulfil their responsibilities.

3 Cf. Article 6 (2), 2ndsentence of UNCAC.

ADMINISTRATIVE MEASURES

5. States should define clear responsibilities for designing, leading and implementing corruption prevention measures across the public administration at all relevant levels.

6. States, through appropriate institutions, should conduct periodic risk analyses to identify positions, tasks and processes in the public administration which are particularly vulnerable to corruption.

7. States should take appropriate and effective measures to address the risks identified without creating disproportionately burdensome processes. Depending on the identified risks and the domestic context, such measures could include, but are not limited to

   a. approval of decisions involving corruption risks by at least two individuals ("four eyes principle"),
   b. detailed documentation to allow scrutiny and accountability of decision making,
   c. risk-based human resources management including segregation of duties and rotating functions [4],
   d. regular audits of high-risk processes, decisions and work areas.

8. States should consider providing as much as possible public services online, particularly in areas with high corruption risks, thus not only improving both effectiveness and efficiency of public service delivery through e-services, the use of electronic tamper-proof workflows and automated procedures, but also helping to minimise opportunities for corrupt behaviour.

9. States should consider reducing the risk of corruption by fostering, in their public administration, the transition from cash payments to secure and traceable digital payments including, as far as possible, by using non-cash in-and out-payments.

[4] Cf. Art. 7 (1) (b) UNCAC.

10. If appropriate, States may also consider defining fixed processing periods for the completion and delivery of public services.

HUMAN RESOURCES

11. States should take into account corruption risks when selecting staff, particularly if the staff member is designated to perform tasks that are prone to corruption. States should consider conducting pre-employment screening when recruiting staff.

12. States should create a merit based professional public administration based on public service values and good governance. They should consider appropriately recognizing behaviour of integrity amongst their officials.

13. States should promote adequate remuneration that provides a secure livelihood to their public officials. States should be accountable for the composition of salaries including for top-level management and for any additional payments or non-cash benefits by the employer, including bonuses and allowances.

TRAINING –AWARENESS-RAISING

14. States should invest in developing leaders with integrity and the capacity to promote a culture of integrity within their organisations through personal leadership, appropriate training, guidance and advice for their staff.

15. States should ensure that public service staff members are provided throughout their career with clear and up-to-date information about their organization's policies, rules and administrative procedures relevant to corruption prevention. They should be given sufficient information, training, guidance and timely advice on corruption risks and on how to avoid or minimize them.

16. States should, where appropriate, inform the public about their corruption prevention measures including administrative measures and integrity policies.

MONITORING –ACCOUNTABILITY –TRANSPARENCY

17. States should provide senior officials with training on how to identify and manage corruption risks within their organization, and hold them accountable for doing so as well as for reporting incidents of suspected corruption and measures taken in response.

18. States should establish systems and methods to regularly monitor the implementation of their corruption prevention rules and the performance of their corruption prevention pro-grams by collecting relevant data and other information from all relevant agencies. For monitoring purposes, States may also rely on external audit institutions such as Supreme Audit Institutions (SAIs), other autonomous national audit or ombudsman offices or private companies. States should make this information available to the public.

19. To allow public scrutiny and to build public trust, States should promote the transparency of relevant public data in line with the G20 Anti-Corruption Open Data Principles where appropriate, consistent with data protection and subject to national security considerations.

20. States should ensure that all credible allegations of corruption are followed-up to establish the facts of the case in a timely manner and take appropriate action in line with their domes-tic legal and administrative system.

21. States should consider working towards the concept of open governments to counter corruption risks and strengthen transparency and accountability.

COORDINATION UNIT / CONTACT PERSON

22. States should strive towards a coherent and coordinated integrity system across the public administration, for example by designating contact persons for corruption prevention or establishing a specific unit or units responsible for coordinating corruption prevention measures within public entities. States may wish to task contact persons with advising, training and keeping management, staff and the public informed about corruption prevention measures and integrity policies.

23. States should consider strengthening the function of these contact persons or units. They should grant them the necessary independence, in accordance with the fundamental principles of their legal system, to enable them to carry out their function effectively and free from any undue influence.[5] The person or units should be enabled to directly report to the head of the agency and to comply with any domestic privacy or whistleblowing provision concerning the source of their information. States should also consider providing a mechanism for anonymous reporting where appropriate.

International Cooperation

24. The G20 commit themselves to continue the international exchange of best practices on corruption prevention, and to provide other countries, especially States Parties to the UNCAC with technical assistance, where requested and required and within available re-sources, particularly with a view to any technical assistance need identified in the Second Cycle of the UNCAC review process on the implementation of the prevention chapter of UNCAC (Chapter II) and to the overall aim of achieving Target 16.5 of the SDGs Establishing and enforcing the liability of legal persons is critical to the global fight against corruption. Recognising this, the G20 have highlighted the importance of the liability of legal persons in their Anti-Corruption Action Plans since 2013–14. Following the G20 Leaders' commitment

[5] Cf. Art. 6 (2) 1st sentence, UNCAC.

in September 2016 to "lead by example in combating bribery" including by "establishing and, where appropriate, strengthening the liability of legal persons for corruption offences", G20 countries agreed to the following high-level principles on the liability of legal persons for corruption.

G20 ACWG 2018

- G20 High-Level Principles for Preventing and Managing 'Conflict of Interest' in the Public Sector
- G20 High Level Principles on Combatting Corruption Related to Illegal Trade in Wildlife and Wildlife Products
- G20 High-Level Principles for Preventing Corruption and Ensuring Integrity in State-Owned Enterprises

G20 High-Level Principles for Preventing and Managing 'Conflict of Interest' in the Public Sector

Introduction and context

The G20 has long recognised the necessity of promoting high integrity standards on behalf of public officials. In this regard, G20 countries have previously committed to a number of measures to strengthen integrity in the public sector including commitments related to effective asset disclosure systems and to taking steps to establish effective organisational structures to combat corruption.[1]

In addition to the previous commitments made by G20 countries, the G20 is further committed to taking concrete steps to prevent and manage 'conflict of interest', which arise when there is an actual, potential or apparent conflict between the public duty and the private interest of a public official, in which the official's private-capacity interest could improperly influence the performance of their official duties and responsibilities. Although the majority of G20 countries have laws, policies and guidance, opportunities remain for strengthening systems for preventing and managing conflict-of-interest situations.

As a result, preventing and managing 'conflict of interest' remains a priority issue for G20 countries, as reflected in the 2017-2018 Action Plan of the G20 Anti-Corruption Working Group. The Action Plan includes the commitment to take action to "promote a culture of integrity and accountability in our institutions, including by preventing and resolving conflicts of interests affecting public officials". In addition, Argentina set 'conflict of interest' as a priority issue for the 2018 G20 Presidency with the aim to

1..G20 High Level Principles on Organising Against Corruption; G20 High Level Principles on Asset Disclosure by Public Officials; G20 Guiding Principles to Combat Solicitation; G20 Anti-Corruption Open Data Principles; G20 Principles for Promoting Integrity in Public Procurement; the G20/OECD Compendium on Whistleblower Protection; and the G20 High Level Principles on Countering Corruption in Customs.

share experiences on how to prevent and resolve conflicts of interest affecting public officials, taking into account the potential of financial disclosure systems. In support of these initiatives, the Argentine G20 Presidency has pursued the following two products:

- √ *High-Level Principles for Preventing and Managing 'Conflict of Interest' in the Public Sector.* These build upon existing policy standards and good practices, in particular those from the United Nations and the OECD. They identify a set of key concrete actions that governments could commit to undertake in accordance to their needs and country context.
- √ *Good Practices Guide for Preventing Conflict of Interest in the Public Sector.* These support implementation of the High-Level Principles by sharing experiences and highlight good practices on how to deal with specific conflict-of-interest situations.

These High-Level Principles build on relevant international instruments and standards such as those from the United Nations, OECD, World Bank, Council of Europe, Organization of American States, African Union, and APEC, as well as previous G20 High-Level Principles in related areas, and knowledge work such as that produced by the World Bank and the Stolen Asset Recovery Initiative.

Applicability, scope and definitions

The following G20 High-Level Principles identify a set of key concrete actions that G20 countries commit to undertake, in accordance to their needs, country context and domestic legal principles, to prevent actual, potential and apparent conflicts of interest. For the purpose of the Principles, the term 'public official' is used generically. Each country shall define the term and apply it in line with their national laws and public sector context, bearing in mind the UNCAC definition of public officials. The High-Level Principles focus on three core pillars: 1) developing standards and a system to prevent and manage 'conflict of interest', 2) fostering a culture of integrity and 3) enabling effective accountability.

Developing standards and a system to prevent and manage 'conflict of interest'	**Standards of conduct for public officials** 1. G20 countries should establish specific, coherent and operational standards of conduct for public officials. These standards should provide a clear and realistic description of what circumstances and relationships can lead to a 'conflict of interest' situation. These standards should further advance public officials' understanding and commitment to a) serving the public interest, and b) preventing any undue influence of private interests that could compromise, or appear to compromise, official decisions in which they officially participate. 2. G20 countries should further consider the need for additional standards of conduct for those public officials working in high-risk areas, reflecting the specific nature of these positions, exposure to conflict of interest risks and public expectation. **Applying the conflict-of-interest standards** 3. G20 countries should put into place clear means for developing, implementing and updating conflict-of-interest policies at the appropriate level in the public sector. The implementation, effectiveness and relevance of conflict-of-interest policies should be periodically reviewed using an evidence-based approach. G20 countries should also consider consulting relevant stakeholders, including the private sector and civil society, when developing and reviewing their conflict-of-interest policies. Consideration could be given to the designation of one or more special bodies to oversee systems for preventing and managing conflict of interest. **Risk-based approach to managing conflict of interest** 4. G20 countries should identify "at-risk" activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures. G20 countries should establish effective organisational responses through, as appropriate, specialised bodies established for managing conflict-of-interest and/or competent officials within each organisation. G20 countries should pay specific attention to safeguarding the public interest in the recruitment, nomination and promotion of public officials. Particular due diligence should be applied as appropriate to assessing and resolving conflicts of interest before individuals undertake public functions, as well as establishing appropriate post-employment restrictions, such as cooling-off periods

Developing standards and a system to prevent and manage 'conflict of interest'[i]	**Open organisational culture where dealing with conflict of interest matters can be freely raised and resolved** 5. G20 countries should nurture an open organisational culture in the public sector, taking steps to promote the pro-active identification and avoidance of potential conflict-of-interest situations by public officials. This should include ensuring that public officials can seek guidance and advice from competent officials regarding how to avoid potential conflict-of-interest situations, without fear of reprisal. Appropriate measures should be established to protect disclosures from misuse.

Fostering a culture of integrity	**Averting conflict of interest risks in public decision making** 6. G20 countries should ensure that effective management policies, processes, and procedures are established for preventing and managing conflicts of interest in public decision making in order to safeguard the public interest and avoid undue influence. Such procedures could include management and internal controls, providing ethical advice on the application of conflict-of-interest policies to specific circumstances, recusal from decision-making as appropriate, the use of ethics agreements and other arrangements, such as reviewing interest declarations, recusal statements and orders, to mitigate potential conflicts of interest. 7. G20 countries should establish guidance and mechanisms, such as disclosure of interests, for members of boards, advisory committees and expert groups, in order to prevent unduly influencing the public decision making processes. **Raising awareness, building capacity and commitment** 8. G20 countries should endeavour to ensure that sufficient information, guidance, training and timely advice are provided to public officials upon taking up positions, throughout their careers, and upon leaving their position, in order to enable them to identify and manage actual, apparent and potential conflict-of-interest situations. **Partnership with the private sector and civil society** 9. Preventing and managing conflicts of interest is a shared responsibility of the public and private sectors. Hence G20 countries should take steps to promote awareness within the private sector and the general public on the standards of conduct in place to prevent and mitigate public officials' conflicts of interest, as well as to promote the core values of public service in the society at large.

Enabling effective accountability	**Disclosure, transparency and verification** 10. G20 countries should adopt and implement appropriate and effective mechanisms for the prevention, identification and management of conflicts of interests, such as periodic financial, interest and asset disclosure systems for relevant public officials consistent with G20 High Level Principles on Asset Disclosure by Public Officials and applicable law. 11. Countries that have established declarations systems or are considering establishing them, are encouraged to support each other, where domestic law and institutional mandates permit, facilitating the identification and exchange of information on public officials' interests abroad and/or sources that could be consulted by foreign authorities to gather and/or confirm information on officials' interests abroad. In this regard, G20 countries should make appropriate use of new technologies, without prejudice to personal data protection. **Effective Enforcement** 12. G20 countries should implement adequate mechanisms to resolve identified conflicts of interest, as well as enforcement mechanisms for proportionate and timely sanctions for violations of conflict-of-interest policies. This could include a specific set of disciplinary measures.

G20 High Level Principles on Combatting Corruption Related to Illegal Trade in Wildlife and Wildlife Products

In the Implementation Plan for the G20 Anti-Corruption Action Plan 2017-18, the G20 commits to focusing its attention on corruption related to the illegal trade in wildlife and wildlife products.

Worth an estimated 8 to 20 billion Euro annually,[1] illegal trade in wildlife and wildlife products[2] is, due to high demand, one of the largest and most profitable forms of organized cross-border crime[3] with links to financing armed conflicts and possibly terrorism.[4] It not only threatens the very survival of many protected and endangered species and the biodiversity of this planet, but has negative impacts on the economic development in many countries and represents a threat to health and safety, security, good governance and the sustainable development of states.[5] The 2015 UN Sustainable Development Goals thus call "to end poaching and trafficking of protected species of flora and fauna and address both demand and supply of illegal wildlife products."[6]

Illegal trade in wildlife and wildlife products is facilitated by high levels of corruption. Over recent years, this linkage has been increasingly recognized by the international community and corruption has been identified as a key enabling factor for illegal trade in wildlife and wildlife products in range, transit and destination countries. It facilitates the establishment of an illegal market and the mixing of illegal with legal products, reduces opportunities for legitimate revenue generations and livelihoods, undermines enforcement efforts to curb poaching and trafficking, and hinders attempts to apprehend and prosecute perpetrators.

1. European Parliament, Study. EU trade policy and the wildlife trade, 2016: "The EU estimates that the global illegal wildlife trade is worth between EUR 8 billion and EUR 20 billion annually, but the range of estimates from different agencies value it between US$7-23 billion annually".

2. For the purpose of these High Level Principles the terms "wildlife and wildlife products" have the same scope as in UNEA Resolution 1/3 of 27 June 2014 on "Illegal trade in wildlife", reference to "illegal trade in wildlife and wildlife products" includes domestic and cross-border trade, as well as all illegal activities linked to such trade, including the poaching of wildlife.

3. UNODC, World Wildlife Crime Report: Trafficking in protected species, 2016.

4. For the link of illegal wildlife trade to armed conflicts see for example the 2016 Report of the UN Secretary General "Tackling illicit trafficking in wildlife" to the UN General Assembly (A/70/951) with reference to UN Security Council resolutions 2262 (2016) and 2198 (2015); Christy, B. (2015): How Killing Elephants Finances Terror in Africa, National Geographic; the link of illegal wildlife trade to terrorism is for example suggested in the G7 Leaders Declaration of 2015 (Elmau) and in the EU Action Plan for strengthening the fight against terrorist financing (COM(2016) 50/2). For the possible link with terrorism, further see FATF on Central and West Africa www.fatf-gafi.org/media/fatf/documents/reports/Terrorist-Financing-West-Central-Africa.pdf.

5. See UN General Assembly Resolution A/69/L.80 Tackling Illicit Trafficking in Wildlife, 2015.

6. Sustainable Development Goal Target 15.7.

The extremely high value of some of the illegally traded wildlife and wildlife products makes their trade highly profitable and thus fuels and incentivizes corruption at all levels. Illegal trade in wildlife and wildlife products is therefore often still a low-risk, high reward sector.[7]

In addition, illegal trade in wildlife and wildlife products often involves organized criminal groups[8] with large transnational networks, resources and access to information and institutions throughout the supply and demand chains. For these groups, illegal trade in wildlife and wildlife products is one business opportunity amongst other forms of illicit trade.

A variety of potential entry points for corruption arises from the participation of many actors from different sectors, as well as from the possibility to misuse the complex cross-border and permit-based system under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)[9], including through bribing officials to illegally issue permits that make it appear as if the illegal wildlife product was sourced and traded legally.[10]

Oversight in protected areas and at borders can be insufficient due to corrupt officials (e.g. bribery, misuse of power and office). Corruption can be used as a means to influence the effectiveness of investigation and prosecution of offenders.[11] Furthermore, even where anti-corruption laws for illegal trade in wildlife and wildlife products exist, they are not always applied effectively, due to, inter alia, governance gaps, weak enforcement capacities and often.

little incentives for integrity and transparency.[12] Finally, cases of illegal trade in wildlife and wildlife products are often investigated and prosecuted under the sourcing/ trafficking aspect only, while neglecting the underlying corruption.

For several years, a number of international conferences on illegal trade in wildlife and wildlife products[13] as well as international treaty bodies[14] have urged countries to

7. OECD, Illicit Trade: Converging Criminal Networks, 2016. http://www.keepeek.com/Digital-Asset-Management/oecd/governance/charting-illicit-trade_9789264251847-en#.WHZJ2k32aos#page77.

8. INTERPOL, Environmental Crime and its Convergence with other Serious Crimes. Environmental Security, 2015.

9. CITES provides the legal framework for the regulation of international trade in more than 35,000 listed species. CITES generally prohibits trade in species threatened with extinction and regulates trade in species that may become threatened if trade is not strictly regulated. A number of CITES-listed species are high-value items targeted by organized crime groups, which also make these permits a target for wildlife traffickers.

10. E.g. through misclassification of species, origin or volume.

11. E.g. through corruption-induced tip-offs ahead of searches, weak sentences and lenient bail terms as well as deliberate mistakes in evidence gathering and case management.

12. Compare e.g. the Report of the UN Secretary General "Tackling illicit trafficking in wildlife", 2016, UN Doc. A/70/951, para. 33: "Although several Member States indicated that existing corruption laws apply to all forms of corruption, including corruption linked to illicit trafficking in wildlife, many pointed out that corruption laws are not always applied to illicit trafficking of wildlife cases. Conscious of this shortcoming, some Member States highlighted the need to identify specific links between corruption and illicit trafficking in wildlife."

13. E.g. London 2014, Kasane 2015, Hanoi 2016; see also Wilton Park OECD conference (2015): www.wiltonpark.org.uk/wp-content/uploads/WP1423-report.pdf.

14. Such as the 17th Meeting of the Conference of the Parties to CITES, a global convention with 183 State Parties, which adopted a resolution on corruption and illegal wildlife trade that urges Parties to adopt anti-corruption measures in this regard (https://cites.org/sites/default/files/document/E-Res-17-06.pdf).

"prohibit, prevent and counter any form of corruption that facilitates illicit trafficking in wildlife and wildlife products,"[15] and to "promote and implement policies of zero tolerance towards all illegal activities including corruption associated with the illegal trade in wildlife."[16] Most recently, the CITES Parties adopted a resolution[17] making reference to "all points of the trade chain, in source, transit and market countries" and calling on its members to ensure the implementation, enforcement and effectiveness of CITES by "adopt[ing] measures to […] detect and counter instances of corruption".

In light of the global, cross-border, and organized nature of corruption linked to illegal trade in wildlife and wildlife products, international cooperation, coordinated policy responses, and strong leadership are needed. The G20, representing three quarters of international trade and two thirds of the world's population, is uniquely placed to take action and lead by example.

Building on its existing work regarding asset recovery, denial of safe haven, asset disclosure by public officials, beneficial ownership transparency, combatting solicitation, mutual legal assistance, foreign bribery, cooperation on persons sought for corruption and asset recovery, organizing against corruption, the liability of legal persons and whistleblower protection,[18] these High Level Principles provide a reference to countries wishing to strengthen their efforts to combat corruption related to illegal trade in wildlife and wildlife products.

Acknowledging the diversity of legal systems among G20 countries, the Principles are broadly framed and flexible so that countries can apply them within their domestic legal systems. They are intended as guidance to enhance and complement existing anti-corruption commitments and not weaken or replace them.

1. Strengthening frameworks to combat corruption linked to illegal trade in wildlife and wildlife products

a. Enhancing and strengthening legislative frameworks: Reviewing and, where necessary, amending existing legislation and regulations to ensure that

15. United Nations A/RES/69/314 (2015), op. 10; re-affirmed in the follow-up Resolution A/RES/70/301 (2016).

16. UNEA Resolution 1/3, para. 2 (g). Plea reiterated in UNEA Resolution 2/14 of 27 May 2016 on "Illegal trade in wildlife and wildlife products", para. 2 (b).

17. CITES Resolution Conf. 17.6 on "Prohibiting, preventing, detecting and countering corruption, which facilitates activities conducted in violation of the Convention".

18. Nine Key Principles on Asset Recovery (2011), G20 Common Principles for Action Denial of Save Haven (2012), G20 High Level Principles on Asset Disclosure by Public Officials (2012), G20 Guiding Principles to Combat Solicitation (2013), G20 High Level Principles on Mutual Legal Assistance (2013), G20 Guiding

every State, consistent with its treaty obligations, including, provisions of the United Nations Convention Against Corrup-tion, as applicable, can prosecute corruption linked to illegal trade in wildlife and wildlife products and seize and recover assets related thereto.

b. *Wildlife enforcement networks:* Promoting the incorporation of anti-corruption measures in work plans of national, regional and sub-regional wildlife enforcement networks[19] and platforms for cross-border information exchange.[20] Promoting peer learning and exchange of good practices in those networks. The International Consortium on Combating Wildlife Crime (ICCWC) should continue to support national wildlife law enforcement authorities and sub-regional and regional networks in the identification, prevention and combat of corrupt practices related to wildlife trafficking.

c. *Technical assistance and capacity-building:* Including measures to prevent and combat corruption as well as measures to assess and mitigate corruption risks linked to illegal trade in wildlife and wildlife products in technical assistance and capacity-building programs related to wildlife.

d. *CITES permit system:* Supporting measures aimed at making the CITES permit system more resilient against corruption, e.g. through ensuring robust findings, introducing and/or im-plementing electronic systems for managing permits[21], increasing the traceability of wild-life products, sharing permit data and reporting on trade using international standards, increasing international cooperation and efforts to address corruption as well as through the promotion of capacity building for CITES authorities and authorities responsible for administration, regulation and enforcement of the Convention.

e. *Encouraging a multi-sectorial dialogue:* Encouraging close cross-departmental cooperation at national level between wildlife management authorities and anti-corruption authorities, such as anti-corruption commissions, law

Principles on Enforcement of Foreign Bribery Offence (2013), G20 High-Level Principles on Beneficial Ownership Transparency (2014), G20 High Level Principles on Cooperation on Persons Sought for Corruption and Asset Recovery (2016), G20 High Level Principles on Organizing against Corruption (2017) and G20 High Level Principles on the Liability of Legal Persons for Corruption Offences (2017); cf. also OECD Study on Whistleblower Protection Frameworks, Compendium of Best Practices and Guiding Principles for Legislation (2011).

19. e.g. the Association of Southeast Asian Nations Wildlife Enforcement Network (ASEAN WEN), the North American Wildlife Enforcement Group (NAWEG), the European Union Enforcement Group, the European Environmental Crime Network (ENVICRIMENET), the South America Wildlife Enforcement Network.

20. Such as the EUROPOL Information Exchange System (SIENA), World Customs Organizations's Environet or TWIX (Trade in Wildlife Information eXchange; e.g. EU TWIX, Africa-TWIX, or the proposed SADC TWIX).

21.Such as the eCITES project implementation framework that provides a stepwise approach for management authorities to automate procedures and that creates transparency, streamlines procedures, creates accountability and allows use of modern management and control mechanisms, overall reducing opportunities for corruption.

enforcement agencies, financial intelligence units, and judicial authorities, including sharing of information relevant to corruption re-lated to illegal trade in wildlife and wildlife products. Enhancing the capacity for joint ac-tion and, where appropriate, creating multi-agency taskforces.

2. Prevention

i. *Raising awareness:* Raising awareness regarding the existence, causes and costs of corruption related to illegal trade in wildlife and wildlife products, and raising awareness and changing attitudes on the supply of and the demand for illegally traded wildlife and wild-life products.

ii. *Identifying corruption risks along the entire trade chain:* Undertaking institution-specific corruption risk assessments to identify corruption risks along the entire trade chain and taking action to address weaknesses.

iii. *Risk mitigation:* Building systems and institutional capacity to help understand and mitigate corruption risks related to illegal trade in wildlife and wildlife products in all areas of the public sector (agencies, workplaces, human resources etc.) and in particular in positions in trade hubs where networks of organized crime are most active.

iv. *Integrity and transparency policies:* Establishing and enforcing policies on integrity such as guidelines or codes of conduct for relevant public officials, as well as policies to improve monitoring systems and enhancing overall transparency in the wildlife sector.

v. *e. Private sector:* Engaging the private sector to foster more integrated approaches across the public and private sectors and to encourage the adoption of adequate internal controls, upstream traceability systems in line with international standards, and ethics and compliance measures for businesses, including financial institutions, involved in legal trade. [22]

22.Cf. 2015 G20 High Level Principles on Private Sector Transparency and Integrity.

vi. *Civil society:* Engaging with civil society organisations active in the fight against corruption related to wildlife and wildlife products.

3. Investigation, prosecution and sanctioning

a. Capacity building: Strengthening the capacity of investigators and prosecutors for corruption offences related to illegal trade in wildlife and wildlife products, including through targeted awareness-raising measures and trainings[23].

b. Best practices: Identifying best practices of previous cases including the use of investigative techniques and applying those best practices to the prosecution of corruption cases related to illegal trade in wildlife and wildlife products.

c. Investigation: Ensuring that investigations and prosecutions of all wildlife crimes, particularly those identified as a result of seizures, extend, as appropriate, to potential corruption linked to the illegal trade in wildlife and wildlife products, including through the tracking of financial flows.

d. Multi-agency/Multi-jurisdictional investigations: Facilitating multi-agency and multi-jurisdiction coordination in accordance with countries' legal systems, particularly after large wildlife seizures to determine whether corruption has occurred. Seeking to ensure that officials responsible for wildlife trade regulation and enforcement are responsive to requests for information in accordance with domestic laws and regulations.

e. Sanctions and Asset Recovery: Fully applying anti-corruption provisions of national and international law to corruption related to illegal trade in wildlife and wildlife products and ensuring corrupt practices associated with illegal trade in wildlife and wildlife products on both the supply and demand side are punishable as criminal offences. Sanctioning persons, including legal persons[24], involved in corrupt practices related to illegal trade in wildlife and wildlife products with

23 For instance by means of specific training courses, including those of international agencies such as CEPOL, INTERPOL, EUROPOL or AMERIPOL, ITTO, UNODC, OECD, World Bank, WCO and other providers, as well as mentoring and on-the-job-training approaches.

24. In the event that, under a country's legal system, criminal responsibility is not applicable to legal persons, such responsibility may be civil or administrative, cf. G20 High Level Principles on the Liability of Legal Persons, Principle 1.

effective, proportionate and dissuasive sanctions and seizing and recovering assets.

f. *Witness protection:* Given the involvement of organized crime groups, putting in place mechanisms that allow for effective protection of witnesses from retaliation and intimida-tion by criminal groups when testifying in cases related to corruption and illegal trade in wildlife and wildlife products.

g. *Whistleblower protection:* Putting in place mechanisms that allow for effective protection from retaliation of whistleblowers coming forward against corruption related to illegal trade in wildlife and wildlife products.

4. (Self-) Assessment of Progress

a. *Further research to better understand how corruption facilitates and drives illegal trade in wildlife and wildlife products:* Developing and disseminating evidence and typologies on how corruption drives illegal trade in wildlife and wildlife products and identifying areas where opportunities may exist to address this corruption.

b. *Data Collection:* Collecting, analysing and systematical using data on cases of corruption related to illegal trade in wildlife and wildlife products.

c. *Evaluating the impacts and promoting peer learning:* Reviewing progress made across countries by leveraging the data collected on cases of corruption related to illegal trade in wildlife and wildlife products, conducting more regular mappings of relevant cases and making findings accessible to the public e.g. by platforms such as Wildlex[25] and UNODC's Sherloc portal[26] or in networks such as the OECD Task Force on Countering Illicit Trade as appropriate.

25.www.wildlex.org.
26 https://www.unodc.org/cld/v3/sherloc/
25. www.wildlex.org.

G20 High-Level Principles for Preventing Corruption and Ensuring Integrity in State-Owned Enterprises

Introduction and context

State-owned enterprises (SOEs) are a significant presence in the global economic landscape. Currently around 22% of the world's largest companies are owned or controlled by the state, and that share is growing as SOEs internationalise their operations and as economies with large SOE sectors experience high rates of growth[2]. State ownership typically occurs in sectors such as the network industries, public utilities, and the extractive and financial sectors, on which most of the private commercial sector depends for its downstream competitiveness[3]. Moreover, the operations of SOEs can have important fiscal implications and may give rise to liabilities, including in legal terms, to the government that is responsible for their finances.

The governments of G20 countries have recognised the importance of addressing integrity in SOEs, as recognised in the 2017-2018 Implementation Plan of the G20 Anti-Corruption Working Group, and as prioritised by Argentina as a G20 ACWG priority for its 2018 G20 Presidency. As the world's largest foreign traders and investors all G20 members have a direct interest in promoting a culture of integrity in SOEs, including by tackling corruption, enforcing adequate legal frameworks against such corruption and ensuring effective implementation by their SOEs of all relevant laws and ethics rules. Leading by example in this area can contribute to improving the governance and integrity of SOEs in different regions of the world.

G20 countries encourage, and in their jurisdictions will take steps to assist with, legal and practical measures including, but not limited to: fighting corruption in SOEs;

2. OECD (2016), State-Owned Enterprises in the Global Marketplace: A Challenge or an Opportunity?, OECD publishing.

3. Moreover, the presence of SOEs may affect the private sector's ability to participate in these sectors.

strengthening awareness among SOE managers and employees of the need to combat corruption; encouraging SOE efforts to improve integrity and avoid corruption; strictly enforcing rules criminalising corruption and related misconduct; and managing and mitigating any damage inflicted by corruption.

Applicability, scope and definitions

The High-Level Principles are guidance for G20 and other governments and for those state representatives that are charged with exercising ownership rights in SOEs on behalf of the government. The High-Level Principles should moreover provide useful guidance to SOEs' governance bodies and employees on preventing corruption and promoting integrity in their organisations. These High-Level Principles draw on general corporate governance standards according to which the state should act as an active and informed owner of enterprises, but should abstain from intervening in their daily management. Company-internal methods for preventing corruption in individual SOEs can be mandated by the state, but should normally be implemented by the corporate management under the supervision of the board of directors, subject to oversight by the relevant auditing bodies[4]. SOEs should be expected to develop and implement a culture of integrity.

G20 countries differ with respect to the range of institutions that they consider as state owned enterprises. Each country may have its own definition of what constitutes an SOE according to its own domestic legal framework.

These High-Level Principles focus on SOEs at the central or federal levels of government. They may also be applied at the subnational level of government. Throughout the present document, the "ownership entity" is the part of the state responsible for the exercise in ownership rights of any given SOE. It can be understood to mean either a single state ownership agency, a coordinating entity or a government ministry responsible for enterprise ownership.

4. For example, the OECD Guidelines on Corporate Governance of State-Owned Enterprises, which are addressed to government officials and policy makers, make reference to the *OECD Good Practice Guidance on Internal Controls, Ethics and Compliance* as a point of reference for the state ownership entity.

For the purpose of the Principles, the word "corruption" generally covers acts of corruption within the scope of the UN Convention against Corruption. The word "integrity" is taken to mean adherence to applicable rules, including laws, regulation and company-internal rules of conduct.

Recommendations:

A. INTEGRITY OF THE STATE

State-owned enterprises are overseen by governments and public officials. Integrity in SOEs is therefore based upon a more general commitment to good practices and high standards of conduct among public officials.

Principle 1: Apply high standards of conduct to those exercising ownership of SOEs on behalf of the general public

Negara-negara G20 harus menetapkan standar perilaku yang tinggi bagi pejabat publik dan perwakilan negara yang memegang hak kepemilikan negara atau yang mengawasi BUMN. Integritas di BUMN terkait erat pada komitmen umum terhadap praktik baik dan standar yang tinggi dalam berperilaku etis di seluruh kalangan pejabat publik. BUMN harus dijalankan sesuai dengan tujuan perusahaan dan komersialnya serta tunduk pada Undang-undang antikorupsi yang berlaku, dan tidak disalahgunakan sebagai sarana melakukan kegiatan ilegal.

Principle 2: Establish ownership arrangements that are conducive to integrity

G20 countries should design their State ownership arrangements for SOEs in a way that is supportive of high standards of integrity, including, where feasible and in accordance with domestic legal systems, *inter alia* by separating ownership from

other government functions and minimising opportunities for inappropriate ad-hoc interventions and other undue influence by the State in SOEs. The ownership structure and internal transactions should, without compromising the autonomous corporate nature of SOEs, be transparent and the state should encourage professional co-operation between the relevant state authorities.

B. OWNERSHIP AND GOVERNANCE

States should act as active and engaged owners, holding SOEs to high standards of performance and integrity, while also refraining from unduly intervening in the operations of SOEs or direct control of their management.

Principle 3: Ensure clarity in the legal and regulatory framework and in the State's expectations

The legal framework outlining an SOEs' governance structure and policies should clearly define the respective responsibilities of owners, boards, executive management and employees in preventing, detecting and reporting corruption in SOEs. G20 countries should ensure that the state's intentions and expectations as an enterprise owner are clearly defined, ideally by developing a formalised state ownership policy supplemented by company specific objectives for individual SOEs. G20 countries should clarify through formal rules which anti-corruption legal framework is applicable to their SOEs.

Principle 4: Act as an informed and active owner with regards to integrity in SOEs

G20 countries should ensure that relevant agencies, including but not limited to the ownership entity if applicable, monitor SOEs' corruption risks, integrity and anti-corruption efforts as part of risk analysis and performance monitoring. Information-sharing among the relevant State agencies should occur, particularly when State

ownership is not centralised in a single agency or ministry, or when other government functions are involved in monitoring SOEs, such as Supreme Audit Institutions or State Comptrollers.G20 countries should also, where applicable, make their SOEs follow good governance practices adopted by commercial companies.

C. CORRUPTION PREVENTION

A cornerstone of ensuring integrity and fighting corruption in SOEs is effective internal compliance and other programmes or measures designed to prevent, mitigate, detect and enforce rules on corruption-related risks. Essential elements should include corporate codes of conduct, compliance functions, integrated risk management and internal control systems and external controls. Elements of such good practices should be integrated into SOEs' general corporate governance structures or could take the form of specific integrity programmes.

Principle 5: Require adequate mechanisms for addressing risks of corruption

G20 countries should ensure that SOEs understand, manage and, when appropriate, communicate corruption risks to their owners and other relevant stakeholders, including compliance and other corruption-related risks. SOEs should develop risk management systems consistent with corporate best practices and tailored to responding to the risks in the sectors where they operate. Where possible and appropriate, integrity mechanisms should be based on risk analysis that addresses corruption-related risks. Risk detection regarding corruption may also benefit from the support of external experts.

Principle 6: Require adoption of high quality integrity mechanisms within SOEs

G20 countries should hold SOEs to generally high integrity requirements. Without

unduly intervening in the management of individual SOEs, countries should take all relevant steps to encourage the strengthening of internal SOE governance, for instance through internal controls that are integrated into corporate governance, effective risk management, and auditing in line with national laws and agreed standards. Integrity mechanisms should be monitored by SOEs' senior management and, in particular, by their boards of directors. Key tools could include, but are not limited to, corporate codes of conduct or ethics, whistle-blower or complaints mechanisms and specific policies for high-risk areas such as gifts, hospitality, procurement, asset divestment, conflicts of interest and lobbying.

Principle 7: Safeguard the autonomy of SOEs and their decision-making bodies

G20 countries should ensure that SOEs are overseen by effective and competent boards of directors, as well as executive management, who are empowered to oversee the companies' management and operations. G20 countries should ensure that board appointment criteria are clear, fair and consistent, and that selection processes, as well as subsequent evaluations, include due diligence to establish the personal integrity and professional qualifications of candidates. The respective roles allocated to boards and executive managers should be clearly delineated in accordance with national law and agreed good practices.

D. CORRUPTION DETECTION AND RESPONSE

To ensure proper detection of corruption, as well as investigation and enforcement, it is important that key processes are entrusted to institutions that are granted with the necessary independence, and that individuals who may be party to irregular practices are unable to suppress said processes or public information regarding their conduct. Strong and transparent external auditing bodies, including for example Supreme Audit Institutions and State Comptrollers, are means of ensuring financial probity and informing shareholders about overall company performance.

Principle 8: Establish appropriate accountability and review mechanisms for SOEs

G20 countries should ensure that SOEs are subject to adequate controls regarding their operational performance. In some national contexts this may include occasional or regular reporting to the national legislature or other elected, or governing, bodies of State, and the publication of regular reports on the performance of SOEs. It may also include assuring that SOEs' financial statements are subject to regular audits according to high-quality auditing standards. In this context, governments may wish to consider supplementing their state audit functions with independent audits by professional auditors.

Principle 9: Taking action and respecting due process for investigations and prosecutions

G20 countries should ensure that all cases of corruption involving SOEs are investigated and prosecuted according to domestic legal procedures, in accordance with the G20 High-Level Principles on the Liability of Legal Persons for Corruption. International co-operation in this respect is encouraged. This includes ensuring that the SOEs, as well as government agencies cooperate fully with the relevant enforcement authorities. G20 countries should encourage self-reporting by SOEs that have detected irregular practices. Also, effective whistleblowing procedures and protections should be established to provide assurances to potential whistle-blowers that they will be protected from retaliation for reporting in good faith suspected acts of corruption and other wrongdoing.

Principle 10: Invite the inputs of civil society, the public, media and the business community

G20 countries should, where possible and appropriate, cooperate with stakeholders such as civil society, trade unions, private sector representatives and the public

and media in identifying and addressing problems of corruption in SOEs. This includes providing accessible channels for stakeholders to raise concerns, including anonymously and subject to appropriate protections. Special care should be taken to ensure that State or SOE representatives, who may themselves be party to irregular practices, are not empowered to silence or stifle criticism.

G20 ACWG 2019

G20 High-Level Principles for the Effective Protection of Whistleblowers

G20 High-Level Principles for the Effective Protection of Whistleblowers

The effective protection of whistleblowers and handling of protected disclosures are central to promoting integrity and preventing corruption. Whistleblowers can play a significant role in revealing information that would otherwise go undetected, leading to improvements in the prevention, detection, investigation and prosecution of corruption. The risk of corruption is heightened in environments where reporting is not facilitated and protected.

The need for effective protection of whistleblowers is already recognised in international and regional instruments. However, implementation of these standards varies significantly across jurisdictions. In addition, some jurisdictions have legislated to protect whistleblowers but many have little or no form of protection. The resulting fragmented approach leads to a lack of predictability and a general misunderstanding about the scope and purpose underlying protection regimes, ultimately discouraging disclosures by whistleblowers and impairing the effective enforcement of anti-corruption laws in G20 countries.

Protecting whistleblowers is a priority issue for Japan's 2019 G20 Presidency, which aims to respond to the 2019-2021 Action Plan of the G20 Anti-Corruption Working Group's (ACWG) call to "assess and identify best practices, implementation gaps and possible further protection measures as appropriate." This issue has been at the forefront of the agenda of the G20 countries since the Seoul Summit in 2010. In

response to the call by the G20 Leaders, in 2011, the ACWG tasked the OECD with preparing a "Study on Whistleblower Protection Frameworks, Compendium of Best Practices and Guiding Principles for Legislation".

The High-Level Principles, developed under Japan's G20 Presidency, and endorsed by the G20 countries, build upon existing standards and good practices from the United Nations[1] and several other international/regional bodies. The Principles reaffirm the importance of acting collectively to ensure the effective protection of whistleblowers. Moreover, they could form the basis for establishing and implementing more effective protection frameworks for whistleblowers in G20 countries, and are not intended to be an exhaustive list of legislative and policy measure that the G20 countries may take. These principles are complemented by the 2015 G20 High Level Principles on Private Sector Transparency and Integrity.[2] In this context, G20 countries also recognised the need to look into gender-specific aspects related to whistleblowing.

Applicability, scope and definitions

The following High-Level Principles build on the aforementioned Study and provide reference for countries intending to establish, modify or strengthen protection frameworks, legislation, and policies for whistleblowers and are intended to complement existing anti-corruption commitments and not weaken or replace them. They could help countries to assess their whistleblower protection frameworks. To supplement these Principles, a non-exhaustive menu of good practices will be developed and will set out more specific and technical guidance that countries may choose to follow. The High Level Principles offer flexibility to enable countries to effectively apply them in accordance with their respective legal traditions. The principles can also provide guidance to those responsible for setting up and operating protection frameworks for whistleblowers in the public sector at the national and, consistent with national legal systems, sub-national levels and, as appropriate, the private sector. The High-Level Principles use the term "whistleblower" because of its longstanding and widely understood use in the context of the G20. For the purpose of the High Level Principles,

[1] 1 Article 33 of UNCAC states that "Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention".

[2] 2015 G20 High Level Principles on Private Sector Transparency and Integrity (http://g20.org.tr/wp-content/uploads/2015/11/G20-High-Level-Principles-on-Private-Sector-Transparency-and-Integrity.pdf). The document aims to encourage the commitment of businesses, ranging from small and medium sized enterprises (SMEs) to large businesses, for internal controls, ethics and compliance, transparency and integrity. Principle 17 addresses reporting mechanisms and whistleblower protection. It reads, "Effective and easily accessible reporting mechanisms and whistleblower protection should be provided to employees and others who report, on good faith and reasonable grounds, breaches of the law, or violations of the business's policies and procedures. Businesses should undertake appropriate action in response to such reports."

the term "whistleblower" is equivalent to the term "reporting persons" mentioned in Article 33 of the United Nations Convention against Corruption (UNCAC) as further specified in Principles 2-4 below. The High-Level Principles focus on five core pillars: 1) legal framework, 2) scope of protected disclosures, 3) procedure for protected disclosures, 4) remedies and effective protection against retaliation, and 5) effective enforcement and self-evaluation of the legal framework.

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Principles
LEGAL FRAMEWORK

Principle 1: Establish and implement clear laws and policies for the protection of whistleblowers

G20 countries should establish and implement clear laws and policies for the protection of whistleblowers. Where appropriate, G20 countries should consider the adoption of legislation that is dedicated exclusively to such protections.
G20 countries should also encourage organisations to establish and implement protections, and provide guidance on the elements of these protections.

SCOPE OF PROTECTED DISCLOSURES
Principle 2: The scope of protected disclosures should be broadly but clearly defined
G20 countries should endeavour to adopt a broad but clear definition of wrongdoing for protected disclosures. Mindful of the scope and purpose of the High Level Principles, G20 countries are encouraged 3

to clearly specify the limited exceptions that may apply to protected disclosures. The disclosure of information tending to show the deliberate concealment of these wrongdoings should also be protected.

Principle 3: Protection should be available to the broadest possible range of reporting persons

G20 countries' protection frameworks should extend to the broadest possible range of persons, as a minimum, for example to, employees, public officials or workers, irrespective of the nature of their contractual relationship. In addition, G20 countries should seek to provide appropriate protection to persons reporting corruption to competent authorities outside of an employment situation including confidentiality.

PROCEDURE FOR PROTECTED DISCLOSURES

Principle 4: Provide for visible reporting channels and adequate support to whistleblowers

To facilitate reporting and promote trust, G20 countries should ensure that diverse, highly visible and easily accessible reporting channels are available to whistleblowers and extend protection to all eligible persons reporting through those channels, which could include internal reporting channels established within organisations, external reporting to law enforcement or other competent authorities and where permitted by domestic legal frameworks, to public reporting. Organisations are advised to create internal channels that are granted with the necessary independence for receiving, assessing, investigating and acting on reports, and foster an organisational culture that builds confidence in reporting, proportionate to their size. Internal reporting can contribute to an early and effective resolution of the risk to the public interest and may be encouraged.

Without prejudice to the exceptions under Principle 2, G20 countries should ensure that, contractual or, as appropriate, civil service obligations, including non-disclosure or other employment agreements, such as severance agreements, do not prevent whistleblowers from making protected disclosures, deny them protection or penalise them for having done so.

Principle 5: Ensure confidentiality for whistleblowers

G20 countries' protection frameworks should ensure confidentiality of the

whistleblower's identifying information and the content of the protected disclosure, as well as the identity of persons concerned by the report, subject to national rules, for example, on investigations by competent authorities or judicial proceedings.

Where appropriate, G20 countries could also consider ways to allow and support whistleblowers to make a report without revealing their own identity while being able to communicate with the recipient of the report.

REMEDIES AND EFFECTIVE PROTECTION AGAINST RETALIATION.

Principle 6: Define retaliation against whistleblowers in a comprehensive way

Retaliation against whistleblowers may take many forms, not limited to workplace retaliation and actions that can result in reputational, professional, financial, social, psychological and physical harm.

In developing their protection frameworks, G20 countries are advised to define the scope of retaliation as comprehensively as possible, and are advised to offer guidance and in their legislation provide a not-exhaustive but comprehensive list of types of retaliation that may trigger the protection of whistleblowers to provide more legal certainty and avoid limiting unfavourably the scope of protection.

Principle 7: Ensuring robust and comprehensive protection for whistleblowers

G20 countries should ensure that whistleblowers who make a protected disclosure are protected from any form of retaliatory or discriminatory action, should consider providing effective remedies that address direct and indirect detriment suffered as a result of any retaliatory action, and may consider allowing for effective interim protection pending resolution of legal proceedings.

G20 countries should consider having mechanisms that attribute the burden of proof in a proportionate way that protects whistleblowers, including in the case of dismissal.

G20 countries should also consider making available assistance to whistleblowers in order that they are aware of the available reporting channels and how to make use of them, the protections available where retaliation occurs as a result of making a report,

and the proceedings available to request a remedy for alleged retaliation.

Principle 8: Provide for effective, proportionate and dissuasive sanctions for those who retaliate

G20 countries should consider providing for effective, proportionate and dissuasive sanctions for those who retaliate against whistleblowers or breach confidentiality requirements, and ensuring that the sanctions are applied in a timely and consistent manner, regardless of the level or position of the person who retaliated. 5

Principle 9: Ensure that whistleblowers cannot be held liable in connection with protected disclosures

G20 countries should consider ensuring that those who make protected disclosures using channels in accordance with Principle 4, are not subject to disciplinary proceedings and liability, based on the making of such reports. This Principle is without prejudice to the liability of the person making the report for their involvement in an offence that is the subject of the report and where the reporting person had no reasonable grounds to believe that the information reported was accurate. It is also without prejudice to national rules on the treatment of cooperating offenders.

G20 countries may consider effective, proportionate and dissuasive sanctions for whistleblowers' reports proven to be knowingly false. Where appropriate, measures may be put in place for compensating persons who have suffered damage from such false reports.

EFFECTIVE ENFORCEMENT AND EVALUATION OF THE LEGAL FRAMEWORK

Principle 10: Conduct training, capacity-building and awareness-raising activities

G20 countries should promote awareness of their frameworks for the protection of whistleblowers, including with a view to changing public perceptions and attitudes towards protected disclosures and whistleblowers. Similarly, they should encourage awareness raising with regard to the usefulness of reporting and the available protected reporting channels and policies on protection from retaliation, including information on where to appeal or seek support.

G20 countries should consider providing for adequate training to the recipients of protected disclosures in the public sector and ensure that detailed and clear guidelines are in place to ensure that these organisations can effectively establish and operate internal protection frameworks.

Principle 11: Monitor and assess the effectiveness and implementation of the framework

G20 countries are encouraged to periodically review their frameworks for the protection of whistleblowers. In doing so, G20 countries may consider ways of assessing and improving effectiveness and conducting regular monitoring and evaluation of the entire protection framework, including its impact on corruption reporting, collecting systematically relevant data and information, and where appropriate, reporting on the data while ensuring confidentiality and privacy safeguards.

Principle 12: Lead the way on the protection of whistleblowers

Leading by example in this area, G20 countries are encouraged to provide technical assistance to other countries that wish to establish or strengthen their frameworks for the protection of whistleblowers.

G20 ACWG 2020

- G20 Anti-Corruption Ministerial Communiqué
- G20 High-Level Principles for the Development and Implementation of National Anti-Corruption Strategies
- G20 High-Level Principles for Promoting Integrity in Privatization and Public-Private Partnerships
- G20 High Level Principles for Promoting Public Sector Integrity Through the Use of Information and Communications Technologies (ICT)

Ministerial Communiqué

Komunike Tingkat Menteri

1. **We, the G20 Ministers with responsibilities for preventing and combating corruption, met on 22 October 2020 under the Saudi Presidency, to discuss our commitments as G20 members as we continue to lead by example in the global fight against corruption.** This year marks the tenth anniversary of the G20 Anti-Corruption Working Group (ACWG), established to make comprehensive recommendations for consideration by leaders on how the G20 could continue to make practical and valuable contributions to international efforts to combat corruption and lead by example. We acknowledge the contributions made by all member countries and international organizations, and we thank previous presidencies for their leadership.

2. **In a context of unprecedented global social and economic fragility caused by the COVID-19 pandemic, we stress the heightened threat from and serious impact of corruption on economic growth, sustainable development, quality investment and innovation, and trust between governments and citizens.** Emergency measures are essential in times of economic crisis and recovery but may create the risk of misappropriation, fraud and other forms of corruption. We individually and collectively commit to strengthening our anti-corruption engagement and, in particular, we look forward to contributing to both the upcoming special session of the United Nations General Assembly against corruption, the 14th United Nations Congress on Crime Prevention and Criminal Justice and the 9th session of the Conference of the States Parties to the United Nations Convention against Corruption. To this end, we note the essential role of multilateral action in the fight against corruption, particularly through the implementation and monitoring of our

international commitments and norms, and in the exchange of information and good practices while recognizing that this must be achieved without prejudice to national sovereignty, domestic law and the fundamental principles of human rights.

3. **We stress the importance of the existing international anti-corruption architecture**, particularly the obligations and commitments outlined in the United Nations Convention against Corruption (UNCAC), the United Nations Convention against Transnational Organized Crime (UNTOC), the Organisation for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and related instruments, and the Financial Action Task Force (FATF) Standards. These instruments collectively comprise a strong set of measures which countries should put in place to prevent and combat corruption, money laundering and other related serious economic crimes. Accordingly, we pledge to more effectively implement our existing obligations and commitments and we recognize that these instruments should serve as the foundation for future efforts to expand international cooperation and coordination against corruption and related challenges.

2020 Anti-Corruption Priorities

COVID-19 crisis

4. **We express our deepest sympathies for the tragic loss of lives and wider suffering resulting from the COVID-19 pandemic.** The pandemic has revealed the potential direct and disproportionate impact of corruption on vulnerable populations, as legitimate trade, the integrity and transparency of public procurement and public finances, global health, safety, and security are all more vulnerable than ever to corruption at this time of crisis. We commit to collaborate in delivering a global response to this crisis in the spirit of solidarity, and in line with the G20 Extraordinary Leaders' Statement published on 26 March 2020.

5. **We acknowledge that although the crisis has necessitated rapid action, the speed and scale of the economic support provided in response to the crisis may increase the risk of corruption, fraud and misappropriation**. This could in turn hamper the effectiveness of relief efforts, undermining trust in public institutions and ultimately harming the well-being of our citizens. Anti-corruption measures should be embedded within national and international crisis response programs to ensure transparency and integrity; we commit to continued collective and coordinated action to combat corruption in the wake of COVID-19 we accordingly endorse the G20 Call to Action on Corruption and COVID-19 (Annex A), developed by the ACWG as an outline of the key areas of focus for these efforts. To support countries further in developing and implementing such measures, both during this crisis and in preparation efforts for any future events, we also welcome the G20 Good Practices Compendium on Combating Corruption in the Response to COVID-19 (Annex F), which provides an initial view of good practices in preventing and combating corruption in the health sector and the delivery of emergency support (aid, stimulus and relief).

Riyadh Initiative for Enhancing International Anti-Corruption Law Enforcement Cooperation

6. **We acknowledge, bearing in mind article 48 of UNCAC, the need to further strengthen cooperation between anti-corruption law enforcement authorities, particularly in the preliminary stages of investigations.** In this respect, with the aim to facilitate international cooperation, including mutual legal assistance, we welcome Saudi Arabia's initiative towards the creation of a Global Operational Network of Anti-Corruption Law Enforcement Authorities. This will complement existing platforms and networks for informal international cooperation, such as the OECD Global Law Enforcement Network (GLEN) and the OECD Working Group on Bribery Law Enforcement Officials (LEOs) and the INTERPOL/StAR Global Focal Point Network, and should foster, in an inclusive manner, the direct contact between anti-corruption law enforcement authorities. In this regard, we welcome the Riyadh Initiative (Annex B).

2020 High-Level Principles

7. **In line with the G20 Anti-Corruption Action Plan 2019-2021, we endorse the High-Level Principles developed under the 2020 Presidency**: the G20 High-Level Principles for the Development and Implementation of National Anti-Corruption Strategies, the G20 High-Level Principles for Promoting Public Sector Integrity through the Use of Information and Communications Technologies (ICT), and the G20 High-Level Principles for Promoting Integrity in Privatization and Public-Private Partnerships (PPPs). These documents will provide guidance to countries that wish to (i) revise, develop or implement national anti-corruption strategies; (ii) effectively and safely leverage ICT for the prevention, detection and fight against corruption, with respect to personal data protection rules; and (iii) engage the private sector in the process of privatization or PPPs while minimizing corruption risks (Annex C).

Accountability and Transparency

8. **We commit to the delivery and implementation of our shared commitments towards greater accountability and transparency.** The various G20 Anti-Corruption High-Level, Guiding and Common Principles represent our key recommendations as endorsed by our G20 Anti-Corruption Ministerial Communiqué 22 October 2020 leaders, developed in line with international law and without prejudice to sovereign laws. We resolve to ensure effective implementation of previously endorsed deliverables, as well as to follow up on our pending commitments and wider objectives, as set out in the G20 Anti-Corruption Action Plan 2019–2021. Additionally, in line with the Action Plan, and as a key mechanism to reflect our individual and collective progress in implementing our shared commitments, we welcome the reformed approach to the G20 Anti-Corruption Accountability Report (Annex D), which for the first time provides an in-depth review of our collective progress on international cooperation and asset recovery and would inform potential future areas of work in these areas. This approach may be built upon by future presidencies and the ACWG will publish accountability reports on an annual basis going forward. In doing so, we will improve the accessibility of G20 ACWG

outputs and facilitate the engagement of individuals and groups outside the public sector, including civil society, non-governmental organizations, community-based organizations, academia, media, the private sector, and other stakeholders.

Ongoing Anti-Corruption Priorities

International Cooperation and Asset Recovery

9. **We recognize that international cooperation is essential to the investigation and prosecution of transnational corruption cases, including those involving the recovery of proceeds of crime; we therefore commit to enhancing case investigation, communication and experience-sharing in this area.** We accordingly commit to acting in accordance with previously endorsed deliverables regarding asset recovery. Effective efforts in this area require all countries to take domestic action and engage in international cooperation. We pledge to work together to trace, freeze and confiscate proceeds of crime as well as to ensure such confiscated assets are returned or disposed of in an effective and transparent manner, as appropriate, and in a manner consistent with our domestic laws and international obligations, such as UNCAC. We also pledge to approach asset return in a spirit of partnership between transferring and receiving countries, other prior legitimate owners and as appropriate, civil society. To this end, we welcome the Scoping Paper on International Cooperation Dealing with Economic Crime, Offenders and the Recovery of Stolen Assets, prepared by the OECD in collaboration with the Financial Action Task Force (FATF) Secretariat, the United Nations Office on Drugs and Crime (UNODC) and the World Bank Group (WBG) for the G20 (Annex F). Building upon this paper, we endorse the G20 Action on International Cooperation on Corruption and Economic Crimes, Offenders and Recovery of Stolen Assets (Annex E).

Beneficial Ownership Transparency

10. **We commit to effectively implementing, and as necessary, take additional measures to prevent the misuse of legal persons and arrangements for money laundering or terrorist financing, including where corruption is the predicate offence.** We will redouble our efforts to lead by example in implementing measures to identify the ultimate beneficial owners of legal entities and arrangements.

Denial of Safe Haven

11. **We commit to acting collectively to deny safe haven to persons who have committed offences established in accordance with UNCAC, and to the proceeds of their crimes, in a manner consistent with our domestic laws.** We pledge to prevent such offenders from evading justice, regardless of their rank, position or status, curb the cross-border concealment of the proceeds of corruption, and pursue the criminalization and prosecution of corruption offences and the recovery and return of confiscated stolen assets, where appropriate, consistent with our domestic laws and international obligations under UNCAC. We further commit to strengthening information exchange and case investigation cooperation, and considering, as may be necessary, the possibility to conclude bilateral and multilateral agreements or arrangements on extradition and mutual legal assistance, as appropriate.

Criminalizing Bribery

12. **We commit to ensuring that each G20 country has a national law in force to criminalize bribery, including bribery of foreign public officials and to bolster efforts to effectively prevent, detect, investigate, prosecute and sanction domestic and foreign bribery.** The fight against corruption in international trade and investment, as a key dimension to promote a level playing field, remains a top priority of the G20. We encourage countries to promote cooperation with the private sector on this topic and we encourage enterprises of G20 countries to take appropriate measures to raise awareness of corruption risks and deploy effective mitigation and compliance systems. We will strive to foster a regulated, law-based and clean business environment based on international consensus exemplified by UNCAC. We further welcome the deepening of our engagement with the OECD Working Group on Bribery. We will demonstrate concrete efforts by 2021 towards criminalizing foreign bribery and enforcing foreign bribery legislation in line with article 16 of UNCAC, and with a view to possible adherence by all G20 countries to the OECD Anti-Bribery Convention. The ACWG will review and provide an update on this progress in 2021.

Public Sector Integrity

13. **We commit to enhancing public sector integrity and efficiency by guaranteeing the transparency of, and access to, public procurement information, acting in line with previously endorsed High-Level Principles.** We commit to promoting inclusive, sustainable and equitable growth for all, built upon the principles of sound governance, by promoting fairness, integrity and transparency in public procurement and public budgets. To this end, we welcome collaboration between anti-corruption bodies and supreme audit institutions, amongst others. We also stress the need to promote the wider participation of the private sector and of civil society as part of a holistic approach to preventing corruption and we recognize that improved procurement laws, regulations, internal and external audits, policies and procedures can foster the trust that this requires.

Private Sector and NGO Integrity

14. **We commit to promoting integrity in cooperation with the private sector and non-governmental organizations (NGOs).** To achieve this, we will encourage the adoption of adequate anti-corruption ethics and compliance programs and codes of conduct by relevant private entities as well as sports organizations. We recognize the important role that civil society can play in fostering a culture of integrity and in supporting the effective implementation of relevant previously endorsed High-Level Principles, consistent with our domestic laws and international obligations.

Stakeholder Engagement

15. **We commit to taking and promoting a multi-stakeholder approach to preventing and combating corruption by strengthening our partnerships with international organizations, individuals and groups outside the public sector, including civil society, non-governmental organizations, community-based organizations, academia, media and the private sector.** We acknowledge that our shared goals cannot be achieved without a collective effort from all groups of society. We also welcome efforts to deepen our collaboration with other G20 workstreams.

Way Forward

16. **In the face of a rapidly changing global environment, we commit to individually and collectively pursuing a comprehensive and holistic anti-corruption agenda, with due regard for the fundamental principles of the rule of law and human rights.** We recall our stance of "zero tolerance towards corruption, zero loopholes in institutions and zero barriers in action." Leading by example, we welcome potential future work on topics such as gender and corruption, corruption in times of crisis, the measurement of corruption, the protection of whistleblowers, and new and emerging avenues of corruption, as well as all other areas referenced in the G20 Anti-Corruption Action Plan 2019-2021. In addition, we will endeavor to improve our technical assistance and capacity-building efforts for developing countries over the coming years.

17. **We thank the Saudi Presidency for its leadership through a particularly challenging year and for convening the inaugural Anti-Corruption Ministerial Meeting. Ten years after the creation of the ACWG, this meeting represents the enduring commitment of G20 members to build a culture that rejects corruption in all its forms and ensures G20 members continue to play a leading role in combating corruption.** We invite future presidencies to periodically reconvene this Ministerial Meeting as appropriate to this end as well as to support the delivery of commitments made under previous Leaders' Declarations and set the direction of the ACWG's future work.

G20 High-Level Principles for the Development and Implementation of National Anti-Corruption Strategies

Introduction

The 2019-2021 Action Plan of the G20 Anti-Corruption Working Group provides that the Group will "Share experiences and best practices on developing and implementing national anti-corruption strategies and actions". Amongst the core principles underlying the United Nations Convention against Corruption (UNCAC) is the significance of a holistic, inclusive and transparent approach to anti-corruption policy development. States have taken many approaches to the successful implementation of UNCAC, including, among others, through the development of dedicated national anti-corruption strategies.

While many States have sought to address corruption, and promote the principles of integrity, transparency and accountability through the development of such strategies, a failure to adequately account for challenges during both the development and implementation stages often undermines the effectiveness of the activities undertaken. The Kingdom of Saudi Arabia set the development and implementation of national anti-corruption strategies as a priority issue for the 2020 G20 Presidency with the aim to share experiences on good practices in methodology and approach on these issues, and how the successful implementation of anti-corruption actions can foster sustainable development and the achievement of the 2030 Agenda. The Saudi G20 Presidency tabled an innovative program aiming for pragmatic outputs, working with

international organizations in developing, among others, the following:

- High-Level Principles for the Development and Implementation of National Anti-Corruption Strategies.

These principles build on existing international instruments and good practices. The aim is to identify a set of key principles that governments can consider during the development and implementation of national anti-corruption strategies.

Applicability and Scope

Globally, there is a wide variety of examples and experiences in the drafting and implementation of national anti-corruption strategies. A single model does not exist for how to develop such strategies, nor are there any set norms for how extensive such strategies should be, the level of detail it must reflect, or which substantive elements should receive the highest priority. The successful development and implementation of national anti-corruption strategies requires the understanding that there is not a "one-size fits all approach" and that national strategies for anti-corruption must take into consideration the cultural, political and legal context, as well as the priorities and challenges unique to each individual country.

While formal, written strategies are not required for compliance with article 5 of UNCAC, many countries may decide that drafting, publication and implementation of such dedicated national anti-corruption strategies could provide a comprehensive policy framework for planned actions to combat and prevent corruption. National strategies could also be a useful tool for mobilizing and coordinating the efforts and resources of the government and other stakeholders for policy development, implementation and monitoring.

National anti-corruption strategies will therefore necessarily vary according to the national context and should align with other existing policies or strategies (such

as development, crime prevention, cross-border criminal justice cooperation etc.). In addition, there has been considerable diversity in the degree of effectiveness of different countries' approaches to developing and implementing effective anti-corruption strategies. This is exemplified in the UNODC publication National Anti-Corruption Strategies: A Practical Guide for Development and Implementation (2015) which has sought to share good practices and lessons learned and to develop practical guidance for States parties to the UNCAC who wish to develop national anti-corruption strategies.

In accordance with resolution 7/5 of the Conference of the States Parties to the United Nations Convention against Corruption, its subsidiary body, the Open-ended Intergovernmental Working Group on the Prevention of Corruption examined the topic of lessons learned in the development, evaluation and impact of anti-corruption strategies under article 5 of the Convention in September 2019. The working group concluded the examination of the topic with encouraging States parties to continue to exchange good practices and lessons learned on the development and implementation of anti-corruption strategies. Moreover, the Conference of States Parties to the Convention in resolution 8/8 encouraged States parties to develop, revise and update, where appropriate and in accordance with the principles of their legal systems, national anti-corruption strategies and/or action plans, addressing, inter alia, the needs identified during their country reviews.

Although there are multiple approaches States can take once they decide to develop anti-corruption strategies, a common core set of identified guiding principles or good practices can help inform future efforts, in accordance with national principles of domestic laws and regulations. These principles are intended to provide guidance to States who have decided to develop dedicated national anti-corruption strategies. They are to enhance and complement and not to weaken or replace existing anti-corruption commitments.

A. Developing Anti-Corruption Strategies

Principle 1: Ensure diagnostic analysis, appropriate governance, and political support. Measures to achieve these ends may include, inter alia:

a) G20 countries are encouraged to ensure, at the design stage, that national anti-corruption strategies are based on a preliminary diagnostic of the strengths and gaps of the existing anti-corruption framework. This diagnostic could analyze, for instance: the existing legal and institutional framework; international commitments (for example, conventions, other G20 HLPs, standards, results of review mechanisms such as UNCAC and, where applicable, other mechanisms); national policies or strategies on related issues (for example, asset recovery, combatting organized crime, cross-border corruption, foreign bribery, money laundering); as well as resources and capacity available. The preliminary diagnostic would support the identification and prioritization of existing challenges in the country.

b) The design process is an important stage for the development of national anti-corruption strategies. In accordance with their national needs and priorities, G20 countries should assign clear responsibilities for the design process, as appropriate under domestic legal systems. Those responsible should be provided with the necessary highest level of political support to be effectively autonomous from undue influence during the design process.

c) Acknowledging the variety of approaches which countries may pursue, G20 countries are encouraged to ensure that if applicable, any appointed leader(s) or chair(s) for the body or bodies has the mandate to maintain the required political momentum for the design process to ensure that any set targets or timelines are met, while ensuring effective communication with other senior political leaders, heads of ministries and institutions.

Principle 2: Take steps to ensure an inclusive design and development process. Measures to achieve these ends may include, inter alia:

a) G20 countries should strive to ensure a broad range of voices have the opportunity to contribute to the design and development process, particularly from institutions and entities that will be responsible for some part of the implementation process. Such institutions and entities are not limited to the public sector or government bodies, but should also consist of individuals and groups outside the public sector, such as civil society and the private sector. Ensuring inclusiveness of the design process, for example through public consultations, will strengthen the quality and scope of the strategies under development. It will also impart a degree of ownership to these stakeholders in the strategies, which can support the effective and successful implementation process. As appropriate, G20 countries are encouraged to consider gender specific issues in the design and development of national anti-corruption strategies.

b) G20 countries should ensure that adequate measures are taken to foster cooperation by key implementation partners, institutions and entities at all levels. Such cooperation can be made more likely by including these implementation partners, where appropriate, in the design and development phase of the process, and also during the implementation stage.

Principle 3: Undertake a corruption risk analysis and, if needed, strengthen systems for the collection and use of data.

Based on the results of the preliminary diagnostic, countries can undertake a risk analysis of the different corruption threats and vulnerabilities faced. This may entail the identification of sectors or institutions at greater risk of corruption, as well as threats and vulnerabilities at the national and international levels, including those from related areas such as money laundering and economic crimes. Based on their understanding of risks, countries can apply a tailored, risk-based approach to allocating resources and implementing measures to prevent or mitigate them. Taking into

account the importance of data for such decision-making, and given the complexities and challenges of data collection, countries are encouraged to identify and address evidence gaps and put in place processes to strengthen the overall collection and use of anti-corruption related data.

Principle 4: Adopt an approach that is tailored and ambitious but realistic in scope.

G20 countries should make efforts to ensure that national anti-corruption strategies are ambitious yet realistic and comprehensively address identified key areas in a practical manner. Such identified objectives may be based on, but not limited to, the evaluation outcomes of UNCAC review cycles, and if applicable, other evaluation mechanisms. The existing political will, national resources, and capacity and training available to be employed in the design, development, and implementation process, should be taken into consideration when setting ambitions and, where possible, in the strategies, in order to manage political and public expectations for the successful implementation of the strategies.

Principle 5: Articulate a clear vision, explaining why action against corruption is needed and how planned activities will contribute to the achievement of that vision.

The final agreed strategies should be approved by the appropriate authority and made public, as appropriate. It is helpful to show why action against corruption is needed and how planned activities will contribute toward the achievement of that vision. This will support assessment of the effectiveness of the strategies' implementation. On publication, efforts to disseminate and build awareness of the strategies' aims may be undertaken.

B. Ensuring Effective Implementation, Monitoring, Evaluation and Reporting
Principle 6: Where appropriate, develop an action plan to address identified priorities of these anti-corruption strategies. Measures to achieve these ends may include, inter alia:

a) G20 countries are encouraged to ensure, if relevant, that anti-corruption strategies are complemented by an action plan. This should be designed with the aim of producing concrete results and be grounded in the provisions of UNCAC and where appropriate, other relevant anti-corruption instruments.

b) In addition to reflecting the core objectives such as integrity, transparency, and accountability in public sector entities, any action plan should consider key factors which may include: relative prioritization of activities; the short, medium, or long term implementation timeframe for and ownership of identified activities; required phasing of activities; high-level resources requirements; and/or sector and context specific considerations. G20 countries are also encouraged to identify the needed instruments and tools to support implementation and where appropriate, ongoing reporting mechanisms.

Principle 7: Dedicate sufficient resources to ensure successful implementation.

G20 countries should ensure consideration is given to the allocation of resources that will be required for the achievement of identified outcomes in the strategies.

Principle 8: Establish processes or mechanisms to monitor and evaluate implementation. Methods to achieve these ends may include, inter alia:

a) G20 countries should consider identifying mechanisms to oversee the implementation process, which may, as appropriate, include mandating a body or bodies, in line with articles 6 and 36 of the UNCAC. The chosen mechanism is encouraged to cover the oversight and evaluation of implementation progress, coordination of stakeholders and identification of any required improvements or additional support.

b) G20 countries are encouraged to take steps to ensure transparency in the implementation process, including the implementation of reviewed existing strategies, which may not only provide encouragement when successes have been achieved, but may also be used to identify and resolve any challenges or barriers identified during the

implementation phase.

c) G20 countries are encouraged to identify indicators that demonstrate progress against strategies and any associated implementation plans. Selected indicators, where possible, should be 'specific, measurable, achievable, relevant and timely', as recommended by the United Nations Development Programme (UNDP)[1]. Although it may be difficult to show the attribution between activities in the strategies and the achievement of the outcomes, clear indicators of implementation progress, where applicable, will aid the monitoring body in reporting the status of implementation and provide benchmarks of achievement over time. [2]

Principle 9: Ensure that implementation is effectively reported. Methods to achieve these ends may include, inter alia:

a) G20 countries should make efforts to ensure that mechanisms or procedures are established to facilitate regular reporting on the progress of implementation to a wide range of stakeholders, potentially including political bodies or officials, and implementing partners. Reporting should be easily accessible to the general public where appropriate.

b) Reports may take various forms depending on the audience, including the use of an online platform. Taking this into account, G20 countries should consider whether reporting mechanisms or procedures include an aspect of public reporting to adequately inform the public of what is being done to prevent and counter corruption and to enhance overall public support in the fight against corruption.

1 United Nations Development Programme. (2009, P.58). Handbook on Planning, Monitoring and Evaluating for Development Results. New York, NY.

2 (2017, Principle 18) G20 High-Level Principles on Organizing Against Corruption.

d) G20 countries are encouraged to consider adopting and conducting regular oversight monitoring and evaluation processes of any identified indicators relating to implementation progress, in consistency with the relevant provisions of the G20 High level Principles on Organizing Against Corruption2.

G20 High-Level Principles for Promoting Integrity in Privatization and Public-Private Partnerships

Introduction

The rationale for state ownership and management of assets may change over time. In this regard, G20 countries may consider private sector engagement, either through privatization or through a public-private partnership (PPP), as an effective means of delivering the national policy objectives. For example, private sector engagement may improve the delivery of public services through additional investment, transferring and sharing risk, exchanging experience, technology and innovation, access to appropriate expertise, such as compliance, and use of more efficient delivery mechanisms. Therefore, countries may choose private sector engagement to deliver new or existing services in the form of privatizing state assets, and/or the transfer of activities to the private sector.

Despite the benefits privatization and PPPs may offer, both approaches pose inherent corruption risks, which must be considered and appropriately mitigated. Acknowledging the differences between privatization and PPPs, for example, in objectives and mechanisms, there are significant commonalities with regards to these corruption risks; hence, for the purpose of this document they are considered together. Both privatization and PPPs are highly complex in nature, involve large scale, long-term commitment of public funds, and engagement of a large number of stakeholders including public sector, private sector, and third-party advisors. As such, these engagements increase both opportunity and incentive for those wishing to direct the process for personal gain, either individually or collectively (i.e. increasing the corruption risk). Such risks could include, among other acts, improper or unclear rationale for

the engagement, improper asset valuation, involvement of suspicious legal or natural persons, conflict of interest, and lack of transparency and accountability throughout the tendering process. While specific mechanisms to mitigate these corruption risks will vary depending on the exact nature of engagement (PPP, part-transfer of assets, privatization etc.) and the national frameworks and legal systems in place, a common set of High-Level Principles can guide the engagement process.

The (2019-2021) Action Plan of the G20 Anti-Corruption Working Group (ACWG) recognizes the necessity to "address the risks of corruption in all identified high-risk sectors" and defines sharing of experiences and information on promoting integrity and transparency within privatization processes, as a priority issue for G20 countries. Based on this commitment, the Saudi Arabian G20 Presidency has tabled an innovative agenda aiming for pragmatic outputs, working with international organizations in developing among others, the following:

- High-Level Principles for Promoting Integrity in Privatization and Public-Private Partnerships.

These High-Level Principles build on existing international standards, including the G20 Anti-Corruption Open Data Principles and G20 Principles for Promoting Integrity for Public Procurement, and United Nations Convention against Corruption, in particular its articles 7(4), 9(1) and 9(2), 10, 12 and 13, as well as good practices. They are oriented towards identifying a set of key concrete actions that governments could consider undertaking when engaging the private sector in either privatization or PPP projects.

Applicability, scope, and definitions

The present policy paper discusses the following activities: (1) privatization of state-owned assets; and (2) the transfer of activities to the private sector for delivery of new or existing public services. For the purpose of this paper, the word "privatization" generally refers to the sale of state-owned assets and rights either partially or entirely to

private investors[1], while "Public-Private Partnership" refers to the long term contractual arrangement between the government and a private partner whereby the latter delivers and funds public services using a capital asset, and shares the associated risks[2]. However, each country is encouraged to define the term "Privatization" as well as "Public-Private Partnership" (PPP) and apply it in line with their national laws and public sector context.

A- Establishing Frameworks to Promote Integrity in Privatization and PPPs
Principle 1: Define clear rationales and frameworks for privatization and PPPs to reduce opportunities for corruption

Privatization and PPP engagements can be subject to illicit interference, such as collusion and bribery, by corrupt actors. Such interference can affect the assessment of related risks, expenses and timeframes and in addition could lead to the project failing to reflect national priorities. Before embarking on privatization or PPP arrangements, policy makers should have clear objectives, as well as appropriate tools and frameworks to support effective transparent decision-making to reduce opportunities for corruption and help mitigate the risk of illicit interference.

a) G20 countries should take appropriate measures to ensure that the initial decision to undertake a privatization or PPP project is free from undue influence. This could include developing appropriate tools to support effective and transparent decision-making and ensuring any assessment processes are protected against manipulation and are in line with national priorities.

b) G20 countries should identify the optimal form of private sector engagement (e.g. privatization or PPP) to best meet the objectives and support the integrity of the engagement.

c) G20 countries should ensure that objectives of the sale or contractual arrangement are pre-identified, clear and measurable from the outset to support effective and

transparent decision-making throughout the privatization or PPP process, and to allow ongoing evaluation. The specific needs should be demonstrated and plausible, and whenever possible, backed by cost-benefit analysis.

d) G20 countries should ensure that existing or developed frameworks covering privatization and/or PPP processes are based on high standards of integrity. These should be coherent with any related frameworks (for example, but not limited to, public procurement or infrastructure investment) as well as national legal systems. Any gaps should be identified and addressed appropriately.

Principle 2: Ensure transparency and public awareness to build accountability

Transparency, accessibility of information, and public consultation with concerned stakeholders regarding the costs and benefits of proposed and ongoing projects can help to build accountability, prevent corruption, and build public understanding, trust, and acceptance. This can also encourage citizens (e.g. as "tax-payers" and/or "end-users") to provide input in early stages of such projects.

a) G20 countries should ensure openness and transparency, and promote public awareness of the relevant frameworks, laws and processes governing privatization and PPP projects. This could be achieved through clear and accessible online publication as appropriate. Transparent, fair, informed, and inclusive decision-making processes are the cornerstone of good governance.

b) G20 countries should consider ensuring end-to-end transparency and public awareness, for specific privatization or PPP projects, including objectives, benefits in terms of financing and official support, risks and proposed mitigations, and economic implications, including for debt sustainability (e.g. any explicit or contingent liabilities including government expenditure to ensure the affordability of the public finance, or off-balance sheet debt). For example, countries should consider publication of project progress updates, and/or stakeholder consultation.

[4] OECD (2012) Recommendation of the Council on Principles for Public Governance of Public-Private Partnerships [Rekomendasi Dewan OECD tentang Prinsip-Prinsip Tata Kelola Publik dalam Kemitraan Publik-Swasta].

Principle 3: Ensure that the sector's regulatory and competition frameworks are sound to prevent, detect, and respond to corruption risks

An appropriate regulatory framework covers all stages of the process, including ex-ante decision-making about private sector participation in state activities, and provides effective anti-trust and anti-corruption regulations to ensure a healthy degree of competition, to avoid inappropriate purchases and/or contracts and to promote integrity.

G20 countries should ensure that appropriate regulations and frameworks for the relevant sector are in place prior to moving towards privatization or a PPP undertaking, such as appropriate anti-corruption and competition frameworks, and market regulations. This is particularly important where a sector is moving substantially away from public sector delivery. These regulations should be clear, transparent, and enforceable to reduce corruption risks of unregulated environments.

Principle 4: Ensure clear governance and integrity to address corruption risks

Clear legislative measures to address corruption, backed by a strong institutional framework promote good governance and integrity in privatization and PPP arrangements. The absence of such measures for privatization and PPPs can provide a smokescreen for corruption, allowing for opaqueness in management and decision-making processes.

a) G20 countries should ensure that criminal and non-criminal legislative measures exist and are enforced to address corruption in frameworks applying to privatization and PPPs. These measures may include temporary or permanent debarment of actors engaged in corrupt or other illegal activities as defined in national legislation.

b) G20 countries should also ensure that, where applicable, policies and procedures are in place to eliminate, to the extent possible, or manage any potential conflict of interest on the part of those engaged in or having influence over a privatization or PPP project.

c) G20 countries should ensure, where applicable, effective division of roles,

responsibilities, and commitments among different supervisory, regulatory and enforcement authorities involved in privatization and PPPs to avoid risks that may create loopholes or opportunities for abuse (e.g. overlap, duplication, fragmentation and/or concealment).

d) G20 countries should promote integrity by ensuring, where applicable, that entities are separated, have clear lines of accountability, and have risk management functions that mitigate corruption risks in privatization or PPPs, as provided in the G20 High-Level Principles on Organizing against Corruption or in other multilateral anti-corruption frameworks, instruments and knowledge products.

B- Defining Processes for Sale and Tendering to Safeguard Public Interest and Reduce Corruption Risk

Principle 5: Use transparent methods to determine the modes of delivery, transaction and valuation of assets to help combat corruption

Transparent methods to determine modes of delivery, transactions and valuation of assets help to demonstrate legitimacy and credibility, and to promote integrity of the project outcome (e.g. value for money) by reducing opportunities for bribery, collusion, illicit enrichment, trading in influence, and abuse of functions.

a) G20 countries should consider which approaches most effectively meet the objectives identified at the outset in order to create transparency and accountability. In particular, clear justification should be provided where a noncompetitive transaction mode is used (as permissible by the legal framework). In the case of privatization, this may include mode of sale and valuation of the asset; for PPPs this should include evaluation of risk factors and, as appropriate, economic impact.

b) G20 countries should, when appropriate, have an impartial and independent expert opinion on valuation to facilitate legitimate pricing and an optimal outcome for the country and the protection of public interest. As appropriate, an economic assessment

and/or feasibility study can be used to compare options and identify how to best meet project objectives (e.g. identifying the options which represent best value for money).

c) G20 countries should, where appropriate, have approval processes in place for decision-making regarding the modes of delivery, transaction and valuation of assets to reduce opportunity for illicit interference. This could include, for example, multi-layered approval processes.

Principle 6: Ensure high standard of participants' integrity

Privatization and PPPs occur through a series of complex processes, which require a combination of data collection, analysis, technical activities, strategy formulation, and decision-making. A diverse range of participants (e.g. in-house resources and/or external advisors) are involved in these processes and their integrity risks must be properly managed.

a) G20 countries should ensure participants involved in steering privatization and PPP transactions are selected based on competency, experience and adherence to high-standards of integrity, in accordance with fundamental principles of domestic law.

b) G20 countries should also establish appropriate measures aimed at preventing and managing any actual, potential, or perceived conflict of interest situations to safeguard the public interest and bring the intended impartiality to the process, as agreed in the G20 High-Level Principles for Preventing and Managing 'Conflict of Interest' in the Public Sector. G20 countries, where appropriate, and in accordance with fundamental principles of domestic law, should promote the implementation of integrity mechanisms. They should also consider providing clear guidelines of what is expected in terms of integrity mechanisms. Within these measures, countries should ensure that conflict of interest provisions are in place for decisions made by government officials, state-owned enterprise employees, and, as appropriate, private sector employees.

c) G20 countries should have appropriate risk management and due diligence processes in place for the engagement of external advisors, including measures aimed at ensuring that external advisors are free from undue influence.

Principle 7: Implement mechanisms to promote accountability, transparency and competition in tendering and sale

The sale/tendering process of privatization and PPPs, similar to public procurement, is vulnerable to corruption. Demonstrating accountability, transparency, and legitimacy in the sale or PPP process will serve to attract serious investors while deterring those with illicit intentions. This can offer potential investors comfort regarding the circumstances according to which the sale or tendering process will be implemented.

a) G20 countries should, guided by article 9 of UNCAC and the G20 High Level Principles for Promoting Integrity in Public Procurement, apply procedures that ensure transparency and accountability in tendering and sale related to privatization and PPPs. This could include inter alia, fair and equitable treatment of prospective bidders during the tendering and sale process, as well as guarantee for application of remedies and exclusion criteria for participants who are found guilty of fraud or corruption.

b) G20 countries can further enhance transparency efforts through effective implementation of international standards, including the Financial Action Task Force standards regarding beneficial ownership.

C- Assessing & Monitoring the Processes to Better Prevent, Detect, and Investigate Corruption

Principle 8: Establish mechanisms for monitoring and evaluating privatization and PPPs to promote transparency and accountability

Establishing mechanisms, such as appropriate record keeping and auditing procedures, to

assess the process during and after the privatization or PPP transaction is made will help safeguard transparency and accountability, while facilitating the prevention, detection, and investigation of corrupt activities

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a) G20 countries should safeguard accountability and transparency during and after privatization and PPPs by ensuring that privatization and PPP projects are subject to a clear, comprehensive, independent, and efficient audit and evaluation process during and after the selection process, in accordance with fundamental principles of domestic legal systems, and based upon the objectives agreed at the outset.

b) G20 countries should consider ensuring that the associated outcome of the monitoring and performance management systems may include auditing procedures or occasional or regular reporting to the national legislature or other elected or governing bodies.

c) G20 countries should ensure that mechanisms are in place for monitoring and evaluation systems aimed at preventing, detecting, and investigating corruption and related serious issues or concerns during and after the privatization or PPP processes.

Principle 9: Promote stakeholder scrutiny and enable access to information in order to enhance the effectiveness of anti-corruption measures

A wide range of stakeholders, including civil society can help prevent and detect corrupt practices in privatization and PPPs. Easily discoverable, accessible, equal, and simultaneous disclosure of information is key to facilitating input from concerned stakeholders.

G20 countries should, with reference to articles 10 and 13 of UNCAC and where appropriate and in accordance with fundamental principles of their legal systems, promote opportunities for concerned stakeholders such as civil society, and private and public sector representatives to track the development of privatization and PPPs, and report any suspected corrupt conduct to the competent authorities.

G20 High Level Principles for Promoting Public Sector Integrity Through the Use of Information and Communications Technologies (ICT)

Introduction and context

Technology and the increased availability of data have evolved rapidly in the last decades, transforming the public and private sectors in numerous ways, raising expectations of citizens, and elevating the importance of responsible digital innovation for governments around the world. The use of ICT in public administration and in the delivery of public services, if harnessed appropriately, can reduce opportunities for corruption and increase transparency and accountability across the public sector. ICT can also be used to support public engagement on the topic of anti-corruption, for example allowing wider public reach when sharing information and seeking public engagement. Finally, ICT can be leveraged directly by the public sector, private sector and civil society, working separately and jointly, to improve the effectiveness of detection, reporting and investigation of corruption. Embracing responsible ICT innovations in anti-corruption can enhance cooperation and partnership in the fight against corruption and in the protection of government integrity, by enabling cross-sector collaboration among state institutions, citizens, civil society, academia, and private sector organizations.

It should also be considered that ICT opportunities bring associated risks, including criminal misuse, potential misuse by public entities and security and accessibility concerns. The use of ICT for anti-corruption purposes should include safeguards

against criminal misuse and for the protection of human rights and fundamental freedoms and in particular the right to be free from arbitrary or unlawful interference with privacy, including as related to the protection of personal data. In addition, some people may have limited or no access to digital solutions (e.g. no internet or smart phone) and therefore traditional channels should be maintained (e.g. Town Hall, radio etc.). In this sense, multichannel approaches should be embraced to secure that all segments of the population are included, and ensure that no one is left behind.

The relevance of ICT has been recognized in five resolutions adopted by the Conference of the States Parties to the United Nations Convention against Corruption (UNCAC): resolution 6/7 entitled "Promoting the use of information and communications technologies for the implementation of the United Nations Convention against Corruption"; resolution 6/8 entitled "Prevention of corruption by promoting transparent, accountable and efficient public service delivery through the application of best practices and technological innovations"; resolution 7/6, entitled "Follow-up to the Marrakech declaration on the prevention of corruption"; resolution 8/5 entitled "Enhancing integrity by raising public awareness"; and resolution 8/13 entitled "Abu Dhabi Declaration on enhancing collaboration between the supreme audit institutions and anti-corruption bodies to more effectively prevent and fight corruption". These resolutions provide a framework on the use of ICT for achieving the goals of the Convention.

The G20 Anti-Corruption Action Plan 2019-2021 calls for the ACWG to "take concrete actions to strengthen and promote integrity and transparency in the public and the private sector", and "share experiences and best practices relating to opportunities and risks of new technologies in relation to corruption." As part of its anti-corruption effort, the ACWG, under the Japanese G20 presidency, agreed on the compendium of good practices for promoting integrity and transparency in infrastructure development, which identified specific measures to be taken by G20 and non-G20 members to strengthen integrity and transparency of public infrastructure projects by utilizing ICT. Therefore, the Kingdom of Saudi Arabia has identified promoting public sector integrity

through the use of information and communications technologies as a priority issue for the 2020 G20 Presidency, with the aim of sharing experiences on how the use of technology could enhance effectiveness and efficiency in the public sector; strengthen transparency, government data, and public trust; and help prevent corruption. The Saudi G20 Presidency tabled an innovative program aiming for pragmatic outputs, working with international organizations in developing, among others, the following:

High-Level Principles for Promoting Public Sector Integrity through the use of Information and Communications Technologies (ICT).

Applicability, scope and definitions

The High-Level Principles focus on three core pillars: A. Effective and transparent public administration and digital public services; B. ICT in public engagement on anti-corruption; C. ICT in the detection, reporting and investigation of corruption.

These Principles build on existing international standards and recommendations by international organizations, including the Introductory Note to the G20 Anti-Corruption Open Data Principles and G20 Principles for Promoting Integrity in Public Procurement. The High-Level Principles offer flexibility to enable countries to effectively apply them in accordance with their respective legal systems.

The Principles do not seek to be prescriptive about any specific technologies to be used given that the most suitable technologies will vary over time, and between countries depending on national priorities, resources and digital maturity. There is no 'one size fits all' solution. Instead, these High-Level Principles support identification of opportunities to use ICT in the fight against corruption and provide pragmatic guidance for developing anti-corruption ICT solutions.

For the purposes of these Principles, the following definitions and references will be used:

"Transparency" refers to disclosure of government information, data, rules, plans, processes, and actions. It ensures that public officials act visibly and understandably, and report on their activities. It also means that the public can easily perceive and understand what actions are being performed by the government.

"Accountability" refers to holding individuals, agencies and organizations responsible for reporting their activities and executing their powers properly. Typical approaches to transparency and accountability as enablers of government openness focus on reducing information asymmetries. Transparency and accountability are essential principles of guarding against corruption and help increase trust in the institutions. Both are amongst the fundamental purposes of the United Nations Convention against Corruption (UNCAC) – the global Anti-Corruption legal framework.

"Information and Communications Technologies (ICT)" refers to existing and emerging digital technologies including the Internet, mobile technologies and devices, as well as data collection and data analytics used to improve the generation, collection, exchange, aggregation, combination, analysis, access, searchability and presentation of digital content, including for the development of services and software.

"Financial inclusion" means that individuals and businesses have access to useful and affordable financial products and services that meet their needs – transactions, payments, savings, credit and insurance delivered in a responsible and sustainable way.

A. Effective and Transparent Public Administration and Digital Public Services

Principle 1: Provide digital public services in order to improve efficiency and reduce opportunities for corruption

a) G20 countries should explore the ways in which ICT can facilitate programmes that are consistent with United Nations Convention against Corruption (UNCAC) for the proper management of public affairs and public property.

b) G20 countries should introduce or enhance the use of such technologies, where

appropriate, to provide government services, such as identity documents for citizens, company registration, taxation, customs clearance, licensing, etc. Since, corruption often occurs in, and is masked by, slow and non-transparent bureaucratic processes, such digital innovations can reduce corruption risks by improving efficiency and reducing opportunities for corruption in the delivery of government services by restricting where appropriate, the discretion of public officials. It can also enhance through automation, the measurement of productivity and accountability for service delivery.

c) In doing so, G20 countries should ensure that adequate measures are introduced to address the risk that these technologies can be used for illicit purposes and ensure that the use of ICT does not weaken the enforcement of other anti-corruption measures.

Principle 2: Promote E-Procurement and Open Data Standards to enhance transparency and promote fair competition

E-procurement and open data standards are a means of preventing corruption, enhancing transparency and promoting fair competition. Online platforms facilitate access to public tenders, reduce direct interaction between procurement officials and companies, increase outreach and competition, and allow for easier detection of irregularities, such as bid rigging. The digitalisation of procurement processes strengthens internal anti-corruption controls and detection of integrity breaches, and it provides audit trails that may facilitate investigation activities. G20 countries should develop and promote, within available resources, the use of electronic tools for the provision of managing and publishing the public procurement processes, including planning, tendering, awarding, and post awarding. G20 countries are also encouraged to develop and implement open data standards (such as the Open Contracting Data Standard) across government, including in budget expenditure for public procurement. G20 countries should also consider as appropriate leveraging big data, and exploring new technologies, to better identify risks and red flags in procurement, expose corrupt practices, and enhance preventive measures.

Principle 3: Use electronic payment systems to reduce opportunities for corruption and increase transparency and traceability

In line with the G20 High-Level Principles on Organizing Against Corruption, G20 countries should consider expanding the use of electronic payment tools to reduce cash transactions in public administration. This can reduce opportunities for corruption and increase transparency and traceability. This should be done with due attention to adequate provision of data security and financial inclusion.

Principle 4: Ensure an inclusive approach to the availability of innovative ICT systems in order to increase the effectiveness of anti-corruption measures

When providing digital public services, G20 countries should ensure that digital applications and tools are easily accessible to the widest range of users (e.g. by considering ease of access, language options, digital literacy of users, etc.) and that privacy and security of personal data are protected. This may encourage greater use of services and therefore may increase effectiveness of the anti-corruption measures (e.g. by increasing use of online grievance redress mechanisms, digital government services etc.). G20 countries should welcome responsible innovation that could improve efficiency, enhance competition, and expand access, however, such innovation must not come at the expense of national security and other public policy objectives. As appropriate, G20 countries are encouraged to consider gender-specific issues in this inclusive approach.

B. ICT in public engagement on anti-corruption

Principle 5: Promote the adoption and implementation of open government standards

a) G20 Countries are encouraged to publish and to give access to government information, unless there are clearly circumscribed exceptions, as provided by national legislation and in line with UNCAC article 13 1d, including through the creation of government information platforms.

b) Taking into account standards pertaining to security, privacy, confidentiality, and protection of personal data, G20 countries should promote secure online platforms to facilitate public consultation in order to encourage a wide range of participation and citizens' feedback on essential public services, public policies, and legislation.

c) G20 countries should explore the possibility of using ICT to encourage the effective, proactive engagement of civil society, academia, and the media, in order to increase public awareness of corruption risks, for instance, through existing or new online platforms, or exploring the possibility for upcoming consultation opportunities on social media.

C. ICT in the detection, reporting and investigation of corruption

Principle 6: Facilitate the exchange of information and networking to better prevent, detect, and respond to corruption risks

a) G20 countries should, consistent with the fundamental principles of their domestic legal systems, explore the possibility of utilizing ICT systems which facilitate electronic sharing of relevant information (i.e. that which can assist in the prevention, detection, investigation and response to corruption risks) between public sector organizations with anticorruption responsibilities. The protection of privacy rights and other legal protections attaching to data should be ensured, including clear and strong rules on the limits for storing and exchanging data.

b) Recognizing increasing digitization in both the public and private sector, G20 countries are encouraged to explore how ICT can facilitate cooperation between national authorities and the private sector in line with article 39 of the UNCAC.

Principle 7: Consider the use of new technologies to prevent, detect, and investigate, corruption

G20 countries should, consistent with the fundamental principles of their domestic legal systems, consider utilizing new technology-based systems to identify possible instances of corruption. This may help public sector organizations to identify and manage corruption and money-laundering risks. When developing and using these tools, G20 countries should ensure full respect of individual rights, including in terms of privacy.

Principle 8: Improve the monitoring of public finances

G20 countries should consider, where appropriate, utilizing ICT, and innovative technologies, to monitor public finances and projects in order to better detect corruption risks and inefficiencies. This may contribute to more transparent, accountable and effective public financial management. This could include partnering with stakeholders outside of the public sector to develop innovative technologies and/or methods to monitor public finances.

Principle 9: Encourage reporting on corruption

G20 countries should establish ICT-based communication channels, measures and systems to facilitate public reporting of corruption offences in line with the G20 High-Level Principles for

the Effective Protection of Whistleblowers and in accordance with articles 13 & 33 of the UNCAC. G20 countries should require that such public reporting is appropriately followed up by the competent authorities.

Principle 10: Promote the use of ICT in international anti-corruption cooperation

G20 countries should consider utilizing ICT to facilitate and improve the efficiency and effectiveness of international anti-corruption cooperation. For example, by utilizing online platforms for the communication and exchanges of information between anti-corruption law enforcement officials from different jurisdictions.

Principle 11: Promote effective capacity-building

G20 countries should make efforts to ensure that anti-corruption investigators, prosecutors and public officials with anti-corruption responsibilities are equipped with sufficient knowledge, appropriate digital skills, tools, guidelines, and broad-based education. This will allow them to operate in the rapidly changing world of technology to tackle corruption related risks more effectively.

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