



ARGENTINA 2018

BUILDING CONSENSUS FOR FAIR  
AND SUSTAINABLE DEVELOPMENT

# G20 ANTI-CORRUPTION WORKING GROUP

# ACCOUNTABILITY REPORT 2018

## OVERVIEW

Reducing corruption remains a top priority for the G20. Preventing and fighting corruption, as well as strengthening integrity, are core to maintaining the rule of law and public confidence in our institutions, to build national and global economic prosperity. No country is immune and governments cannot tackle it alone: we need the support of business and civil society to help prevent, uncover and fight against corruption.

Since G20 Leaders established the Anti-Corruption Working Group (ACWG) at the Toronto Summit in 2010, the group's work has been guided by biennial Action Plans which have been designed to identify priorities for action focused on practical and valuable contributions to international efforts in the fight against corruption. The current Action Plan 2017-18 was endorsed by Leaders at the 2016 Hangzhou Summit and the accompanying Implementation Plan by Sherpas at their meeting in Wuhan in October 2016.

The Anti-Corruption Action Plan 2017-2018 identifies the following priority areas: “public sector integrity and transparency” “private sector integrity and transparency”, “bribery”, “practical cooperation”, “beneficial ownership”, “vulnerable sectors”, “international organisations”, and “capacity building”. During 2018, the ACWG has focused on continue working on pending initiatives from the current Action Plan and Implementation Plan 2017-2018, while putting special emphasis on two main priorities: the prevention and management of Conflicts of Interest and the promotion of integrity in State-Owned Enterprises (SOEs).

Also, a critical task during the current year has been constructing a new working method and the preparation of the ACWG for 2019 and beyond. This has consisted of developing the new three year 2019-2021 G20 Anti-Corruption Action Plan, which seeks to include concrete and practical actions that aim at making a real difference in the global fight against corruption and support the broader G20 growth agenda. The new Action Plan will be complemented by annual work plans.

From the beginning, G20 States have and continue to hold themselves publicly accountable for the commitments described in the Action Plans by reporting regularly on individual and collective progress made to implement and enforce all outstanding G20 anti-corruption commitments. The accountability report is thus an important tool to outreach non G20 members and to provide essential information to non-state actors. It is also a useful basis for states' reviews before the main international organisations.

## KEY ACHIEVEMENTS

Co-chaired by Argentina and France, the ACWG has, to date, made the following key achievements since the last Accountability Report of 2017:

### High-Level Principles for Preventing and Managing Conflicts of Interest in the Public Sector:

The G20 has long recognised the necessity of promoting high integrity standards on behalf of public officials. Here, G20 countries identify a set of key concrete actions that governments could commit to undertake in accordance to their needs and country context and domestic legal principles, to prevent actual, potential and apparent conflicts of interest.

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

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. These should moreover provide useful guidance to SOEs' governance bodies and employees on preventing corruption and promoting integrity in their organisations. They also draw on general corporate governance standards.

### ACWG Action Plan 2019-2021 and future of the Group:

Throughout the discussion during the first meeting in Buenos Aires, the ACWG has reached a consensus by extending the duration of successive action plans (from two to three years). From now on, the Action Plans would be complemented each year by a yearly "work program" reflecting the priorities of the Presidency and collective goals, and the G20 countries agreed not to carry on drafting implementation plans. The ACWG has adopted the 2019-2021 Action Plan. This new document takes into account the Group's desired improvement of its working methods to facilitate the implementation of past G20 commitments, increase the impact of the anti-corruption agenda and develop further targeted actions where the G20 can best add value.

## UPDATE ON PROGRESS IN 2018

In 2018, the ACWG has focused on effective implementation and enforcement of all outstanding commitments under the 2017-2018 Anti-Corruption Action Plan and Implementation Plan. To date, the ACWG has made the following progress since the last Accountability Report:

### Public sector integrity and transparency

In 2018, the ACWG chose as one of its priorities the prevention and management of conflicts

of interest in the public sector, taking into account the potential of asset and income disclosure systems.

The ACWG continues to promote transparency in public contracting, including the use of open data across the contracting cycle, consistent with applicable law, and the use of e-procurement. The Group was briefed by Open Contracting on the Contracting 5 and Open Government Partnership on the use of open data for the prevention of corruption, and agreed to carry on cooperating with these fora. Also, the ACWG has received briefings by international organisations as well as updates by ACWG countries on their good practices with regards to public integrity.

The ACWG has developed a Questionnaire on the Existing Laws and Practices Relating to Immunities from Prosecution for Corruption Offences, which was introduced at the last ACWG meeting in Paris with a view to be adopted by end of 2018.

## Private sector integrity and transparency

The ACWG has considered the role government can play to promote a culture of integrity in the private sector, especially within State-Owned Enterprises. Throughout the year, delegations have updated the Group on their good practices and integrity frameworks in SOEs.

Also, the ACWG organised a Side Event on *Curtailling corruption and promoting integrity in SOEs* on 27th and 28th of February in Buenos Aires.

The event focused in the following three goals: to detect key factors that may lead to corrupt practices in SOEs, show good practices concerning the implementation of transparency measures for the prevention of corruption within SOEs and to highlight the role of government as an owner, regulator and auditor of government enterprises. Throughout the meeting, influential high-level government officials, representatives from civil society, international organisations, academics, and SOEs directives discussed the current integrity and transparency systems within, for, and required for, these enterprises, with a view to supporting future guidance on anti-corruption and integrity measures in this sector.

We've shared good practices in promoting public sector integrity and transparency, including the contribution made by an anti-corruption body or bodies. Led by the initiative of Korea which started in 2017, the ACWG has conducted a survey of G20 countries' frameworks for encouraging domestic public institutions to implement anti-corruption measures, which serves as a tool to give a comprehensive overview on the subject matter.

## Bribery

The Group was updated by the OECD on Foreign Bribery during all three meetings held by the ACWG in 2018 and delegations gave updates on their implementation of anti-bribery legislation.

For the Third ACWG meeting, and for the first time since this group exists, the G20 ACWG and the OECD Working Group on Bribery (WGB) held a joint session throughout the morning

of 9th of October. This first joint session aimed at solidifying the shared goal of strengthening G20 countries' commitment to combat the bribery of foreign public officials in international business transactions, or foreign bribery. Combating foreign bribery has been a top priority of the G20 anti-corruption agenda since 2010, when G20 Leaders adopted their first Anti-Corruption Action Plan and established the G20 ACWG.

Based on the work and experience of these two groups and their members, the joint ACWG/WGB has: (a) highlighted commonly faced challenges to the implementation of international standards and guidance against foreign bribery, including the OECD Anti-Bribery Convention, the UNCAC, and G20 ACWG HLPs; (b) shared experiences for addressing these challenges, including with respect to high-risk sectors and activities; and (c) identified areas of work that could be mutually beneficial in the medium to long-term (e.g. on whistleblower protection).

## Practical co-operation

The G20 Denial of Entry Experts Network (DoEEN), established in 2015 to further support implementation of the G20 Common Principles for Action: Denial of Safe Haven (2012) and to advance the ACWG's efforts to ensure that corrupt officials are unable to travel abroad and enjoy the proceeds of their crimes with impunity, held its fourth meeting in Paris in October 2018.

During the meeting co-chaired in Paris by Argentina and France on 10<sup>th</sup> October 2018, a stocktaking exercise underlined the achievements of the DoEEN. The delegations also agreed to a roadmap on the future work of the DoEEN.

## Beneficial ownership

With the support of the World Bank, the ACWG considered procedures for linking beneficial ownership information with other information sources, such as information provided in financial declarations, to identify conflicts of interest and other forms of malfeasance, consistent with applicable law.

The ACWG was also briefed by Member countries on domestic progress and new legislation.

## Vulnerable sectors

**Sports:** The Hamburg declaration in 2017 mentions that “we will continue our work to address integrity in sports and urge international sports organisations to intensify their fight against corruption by achieving the highest global integrity and anti-corruption standards. In this respect, we strive for a common understanding regarding corruption risks in bids to host major sport events.”

For this reason, we have sought briefings by experts and international organisations as well as updates by ACWG countries on their good practices with regards to the prevention of corruption in sports, in order to explore possible ways going forward.

Also, the G20 Anti-Corruption Working Group, jointly with the Organisation for Economic Co-

operation and Development (OECD) and the United Nations Office on Drugs and Crime (UNODC), organised a Side Event on “*Partnering against Corruption in Sports*”. This side event focused on multi-stakeholder approaches to strengthening the capacity of sports organisations, governments, and the international community to address the challenge of corruption in sport. Experts from international sports organisations, G20 countries and NGOs participated in fruitful discussions (e.g. supporting the ongoing work of various fora, including multi stakeholder initiatives)

**Wildlife:** Desirous of further advancing work in this important area, and given the global threat caused by wildlife trafficking the G20 Anti-Corruption Working Group has developed the *Questionnaire on the Implementation of the G20 High Level Principles on Combating Corruption Related to Illegal Trade in Wildlife and Wildlife Products* to collect information on the implementation of the High Level Principles, in view of preparing a compendium of best practices on corruption related to wildlife trade. Led by France and UNODC, this initiative was intended to be illustrative, rather than comprehensive, of measures countries have in place to implement the High-Level Principles. The work shall be pursued in order to gain more information on the way G20 countries implement the principles.

## International organisations

We have been interacting strongly with the main international anti-corruption organisations, such as the **United Nations Office on Drugs and Crime (UNODC)**, **World Bank** and the **Organisation for Economic Co-operation and Development (OECD)**, and benefited from their expertise. We have also asked other international organisations to update the ACWG periodically on their efforts in the fight against corruption. These presentations included an update by the **International Monetary Fund (IMF)** on the costs and mitigation of corruption and its new Framework for Enhanced Engagement on Governance and its role going forward, on their work on beneficial ownership transparency by the **Financial Action Task Force (FATF)**, on **Egmont Group’s** working methods and its role in the fight against corruption, and finally on the Study Report on Illicit Financial Flows by the **World Customs Organisation (WCO)**.

Also, the ACWG has looked for ways to strengthen cooperation among anti-corruption mechanisms. This has been approached through an update by **UNODC** on UNCAC latest developments, including technical assistance, implementation reviews and outcomes of the working group meeting on prevention, as well as **GRECO** on strengthening synergies.

## Cross-cutting

The ACWG continued to keep track of on-going work on the role of cash, including high denomination banknotes, in facilitating corruption, taking account of the work of other expert groups. In this sense, the UN’s Better Than Cash Alliance was received at the ACWG’s third meeting, who have highlighted the importance of shifting from cash to digital payments to strengthen public sector integrity and rebuild trust in institutions.

Business and civil society are important partners for the ACWG in helping to achieve our anti-corruption goals. Since its beginning, the ACWG has worked closely with G20

engagement groups to implement the G20 anti-corruption agenda, and this close co-operation continues in 2018. In particular, C20 and B20 were invited to brief on developments related to their respective anti-corruption work streams during the three ACWG meetings, as they play a valuable role in ensuring the G20 anti-corruption agenda going forward, which remains focused on concrete actions, making a real difference to businesses and communities.

We continue to work for a closer, respectful, constructive and sustainable partnership with civil society and the business community, including but not limited to the B20 and C20.

## Emerging themes in the ACWG

The ACWG has worked throughout 2018 on deepening its understanding and considering possible actions on “emerging issues”:

**Gender**: The ACWG has begun to deepen its understanding of the gendered impact of corruption and discuss possible actions. The ACWG also explored how the gender dimension could be included in anti-corruption programming and policies.

**Measurement**: The ACWG continued to deepen its understanding of corruption indicators and encouraging the development of effective measures to obtain an accurate and reliable representation of the effective levels of corruption. This will help better assess policies and establish a more complete and effective monitoring both on national and international levels.

**Infrastructure**: Infrastructure is at the forefront of the international agenda. As it is an area particularly vulnerable to corruption, the ACWG started looking at ways to contribute to the international agenda by identifying the key anti-corruption features that are needed to promote integrity and transparency in this sector. The ACWG has interacted with other G20 working groups -such as the IWG- and experts for ensuring consistency.

All questionnaires filled out by delegations are annexed to this report.



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# ACCOUNTABILITY REPORT 2018 – ANNEX: COUNTRIES RESPONSES

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## ARGENTINA

### Summary of National Progress

1. Please provide a high-level summary (maximum of 500 words) of the most significant anti-corruption measures or initiatives that your country has introduced or implemented since the Accountability Report of 2017. The 2017 Accountability Report as well as previous reports can be accessed at <https://www.g20.org/en/g20-argentina/work-streams/anti-corruption>.

**ENTRY INTO EFFECT AND REGULATION OF THE CRIMINAL LIABILITY OF LEGAL PERSONS LAW:** On March 1, 2018, Law 27.401 came into force, approving the Criminal Liability Regime applicable to private legal entities. This regulation allows companies to be sanctioned for corruption offenses and promotes cooperation between the public and private sectors, providing for such purposes the possibility of achieving collaboration agreements with companies in exchange for information in order to identify the individuals that committed the crimes. In addition, Decree No. 277/2018, published in the Official Gazette of the Argentine Republic on April 6, 2018, approved the regulatory standards for the proper implementation of the provisions of articles 22, 23 and 24 of the aforementioned Law N° 27.401. In this regard, among other aspects, it is established that the Anticorruption Office will establish the guidelines that are necessary for the best compliance with the provisions of articles 22 and 23, regarding the implementation of integrity programs in companies and their content.

**GUIDELINES FOR THE IMPLEMENTATION OF INTEGRITY PROGRAMS:** The purpose of these Integrity Guidelines for better compliance with the provisions of articles 22 and 23 of Law No. 27.401 on Criminal Liability of Legal Entities is to provide a technical guide to companies, civil society organizations, state agencies, justice system operators and the expert professional community.

**GUIDELINES ON THE GOOD GOVERNANCE OF STATE-OWNED ENTERPRISES (SOEs):** These Guidelines constitute a set of good governance practices and business management in which the State is a shareholder. Its main objective is to communicate to the companies the expectations that the State has regarding how they should be organized and function.

**INTEGRITY OF STATE-OWNED COMPANIES NETWORK:** Meetings are being held with SOEs representatives in order to promote transparency and integrity in the private sector and its interaction with the public sector. This space gives the opportunity for sharing experiences, good practices and/or challenges faced when implementing integrity programmes and risk assessment measurements.

### Practical co-operation:

2. Please give an update on the progress made and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on

## Persons Sought for Corruption and Asset Recovery.

- A law regarding the extinction of property from proceeds of crime is currently under legislative procedure
- Officials from the Ministry of Foreign Affairs and Worship attended the 10th Practitioners' Workshop on the Return of Illicit Assets of Politically Exposed Persons "Lausanne X, from February 27 to March 1, 2017, Lausanne, Switzerland.
- Return of assets from corruption crimes has been achieved through MLA requests
- The Ministry of Foreign Affairs and Worship co-organized along with the United States, a workshop on "Foreign Bribery Training Agenda", which has been held in Argentina, on April 4 and 5, 2017.
- Officials from the Ministry of Foreign Affairs and Worship organized and attended a Workshop on the OECD Anti-Bribery Convention, October 31, 2017

## Beneficial Ownership Transparency

3. Please give an update on the progress made against your National Implementation Plan (if applicable) and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Beneficial Ownership Transparency and the relevant Financial Action Task Force recommendations on beneficial ownership transparency.

Below are some of the regulatory advances that were made in 2018 related to Beneficial Ownership:

Article 164 of Decree 27/2018 modified Article 21bis of Law 25.246 and established that: *"(...) in all cases, (the Obligated Subjects) must adopt reasonable measures from a Risk-Based Approach to identify the owners, final beneficiaries and those who exercise real control of the legal entity, affectation heritage or legal structure, together with its structure of ownership and control.*

*When there are doubts about whether the clients are acting on their own account, or there is certainty that they are not acting on their own, they must adopt reasonable and proportionate additional measures, using a Risk-Based Approach, in order to obtain information on the true identity of the person on behalf of which the clients act.*

*For such purposes, they must pay special attention, in order to prevent natural persons from using legal structures, such as screen companies or "patrimony of affectation", to carry out their operations.*

*Because of this, they must make reasonable efforts to identify the final beneficiary. When this is not possible, they must identify the members of the administrative and control bodies of the legal entity; or failing that to those persons who have*

*administrative and / or disposition faculties, or who exercise control of the natural person, legal structure or patrimony of affectation, even when this was indirect.*

*Likewise, they must adopt specific measures to reduce the Risk of Money Laundering and the Financing of Terrorism, when a service and / or product is contracted with customers who have not been physically present for identification; The verification measures must be completed in a reasonably practical time, provided that the risks of Money Laundering and / or Financing of Terrorism are managed effectively and are essential in order not to interrupt the normal course of activity.*

*In all cases, the risk of the Client and of the operation must be determined, appropriate measures for their mitigation must be established, and rules of continuous monitoring and control must be established that are proportional to them; taking into consideration a Risk-Based Approach."*

Additionally, subsequently, Law 27.446 was passed, which established "Art. 13.- Substitute article 21bis of Law 25.246 and its amendments, by the following:

*Article 21 bis: For the purposes of subsection a) of article 21 of this law, all natural persons, legal persons, patrimony of affectation, or other legal structures, and those acting on behalf and order thereof, are considered clients; with which it is established, occasionally or permanently, a contractual relationship of a financial, economic or commercial nature.*

*1. Regarding its clients, the obligated subjects must complete the following obligations:  
a) Identify them by means of the information, and in its case the documentation, that is required according to the norms that the Financial Information Unit dictates and that can be obtained from them or from reliable and independent sources, that allow with reasonable certainty to prove the veracity of its content.*

*The task includes the individualization of the client, the purpose, characteristic or nature of the link established with the obliged subject, the risk of money laundering and / or financing of terrorism associated with them and their operations.*

*In all cases, they must adopt reasonable measures from a risk-based approach to identify the owners, final beneficiaries and those who exercise actual control of the legal entity, patrimony of affectation or legal structure, together with its structure of ownership and control.*

*When there are doubts about whether the clients are acting on their own account or not, they must adopt reasonable and proportionate additional measures, using a Risk-Based Approach, in order to obtain information on the true identity of the person on behalf of which the clients act.*

*For such purposes, they must pay special attention, in order to prevent natural persons from using legal structures, such as screen companies or patrimony of affectation, to carry out their operations.*

*Because of this, they must make reasonable efforts to identify the final beneficiary. When this is not possible, they must identify the members of the administrative and control bodies of the legal entity; or failing that to those natural persons who have administrative and / or disposition faculties, or who exercise control of the person, legal structure or patrimony of affectation, even when this was indirect.*

*They must also adopt specific measures to reduce the risk of money laundering and terrorist financing, when a service and / or product is contracted with customers who have not been physically present for identification; The verification measures must be completed in a reasonably practical time, provided that the risks of money laundering and / or terrorist financing are managed effectively and are essential so as not to interrupt the normal course of activity.*

*In all cases, the risk of the client and of the operation must be determined, appropriate measures for their mitigation must be established, and rules of monitoring and continuous control must be established that are proportional to them; taking into consideration a risk-based approach.*

*When dealing with politically exposed persons, intensified due diligence measures should be adopted to establish alerts, which allow taking appropriate measures to detect possible deviations in the client's profile, in order to mitigate the risk of money laundering and / or financing of terrorism linked to the inherent risk of this and / or its operations ... "*

On the other hand, through Resolution SSN No. 816/2018, the SSN launched the "Final Beneficiary" Computer System, under the purview of the Prevention and Control of Money Laundering and Terrorism Financing Management, which will have by objective to identify the shareholders, individuals and legal entities -including their shareholders- of the local insurer or reinsurer, the components of the economic groups or conglomerates and the final beneficiaries.

In this framework, the "Instructions for Use of the Final Beneficiary Computer System" (Annex I) and the "List of data to be reported by the Entities" (Annex II) were approved.

For these purposes, said companies (local insurers and reinsurers) must designate an agent responsible for data entry, who shall provide the information provided therein according to the following schedule: a) for a single time, within 30 days from the date of publication of the resolution (14/8/18), and b) with an annual periodicity, between the days 1 and 15 of the month of March of each year, which will have the characteristic of an Asset Declaration.

The standard clarifies that the implementation of this new computer system does not exempt entities from complying with procedures that require the presentation in physical or digital format of the same information, including a diagram or chart that shows graphically, in a schematic form, the position of the members of the economic group or

conglomerate and, where applicable, of the final beneficiary, and the relationships they have with each other.

On the other hand, Resolution UIF No. 21/2018, of Capital Markets, states the obligation of the Obligated Subjects therein consigned to identify the owners / final beneficiaries.

Regarding UIF Resolution No. 28/2018, addressed to the Insurance Sector, in the same terms as the standards previously discussed, it states the obligation to identify the final owners / beneficiaries (Conf. Article 29 subsection b) item 7).

### Private Sector Integrity

4. Since the last Accountability Report, has your government instituted any new measures to promote the development of anti-corruption initiatives, such as anti-corruption training and education by the private sector, including for Small and medium-sized enterprises (SMEs) and the non-financial professional services sector<sup>1</sup>?

Yes  No

If yes, please provide details.

Argentina has carried out a set of initiatives aimed at promoting integrity and preventing corruption, in particular through actions carried out by the Anti-Corruption Office of the Ministry of Justice and Human Rights.

The Anti-Corruption Office established, through Resolution 186/2018, its Action Plan 2018-2022 and defined as one of its priority objectives that of *“fostering collaboration between the private sector and the public sector in the prevention and investigation of corruption.”* The Plan focuses on establishing principles and guidelines, monitoring integrity programs and good practices in SOEs and strengthening of the SOEs Integrity Network.

The SOEs Integrity Network is a joint work of the Anti-corruption Office, Chief of Cabinet of Ministers and the Internal Auditing Body (SIGEN).

Then, also within the framework of actions to promote integrity in SOEs, through Administrative Decision 85/2018, the Office of the Chief of Cabinet of Ministers approved the Guidelines on the Good Governance of SOEs. In addition, the Committee on Good Governance of State-Owned Enterprises was created (Resolution 1/2018 of the Office of the Chief of Cabinet of Ministers) for the promotion of good practices of corporate governance and the adoption by the companies of the aforementioned Good Governance Guidelines. The Committee is constituted by representatives of the Office of the Chief of Cabinet of Ministers, of SIGEN, of the Anti-corruption Office, of the

<sup>1</sup> non-financial professional services sector could include: computer services, real estate, research and development, legal services and accounting

National Securities Commission and of the Secretariat of Institutional Strengthening.

On the other hand, it is important to point out that the government of Argentina has carried out various integrity training activities, implemented by the Anti-corruption Office.

5. Since the last Accountability Report, have there been any changes or proposed changes to your country's legislation or other measures related to private sector integrity?

Yes  No

If yes, please provide details.

On November 8, 2017, the Argentine Republic enacted Law 27,401 on Corporate Criminal Liability for corruption offenses, which entered into force on March 1, 2018. This regulation allows companies to be sanctioned for corruption offenses and promotes cooperation between the public sector and the private sector, providing for such purposes the possibility of achieving collaboration agreements with companies in exchange for information in order to identify the natural persons who committed the crimes.

Likewise, the National Executive Branch, through Decree No. 277/18, published in the Official Gazette of the Argentine Republic on April 6, 2018, approved the regulatory norms of the aforementioned law. The regulation conferred on the Anti-corruption Office the responsibility to establish those principles and guidelines that are necessary for the compliance with the provisions of articles 22 and 23, that is, in relation to the design and implementation of Integrity Programs. Additionally, the Decree clarified the amount of the contracts reached by subsection a) of article 24 of the law - which refers to the obligation to have an adequate Integrity Program to be able to contract with the State - and also determined the moment in which the existence of an Integrity Program by each participating company must be accredited in the bidding processes.

In virtue of the responsibility imposed by the Decree on the Anti-corruption Office, the agency prepared a draft document of Guidelines for the implementation of Integrity Programs. It was submitted to public consultation during the month of August 2018 through an online platform (<https://www.argentina.gob.ar/lineamientos-para-la-implementacion-de-programas-de-integridad>) and a meeting was also held on September 4, 2018 to discuss the content of the document with experts from the specialized community. In this framework, during September, the agency has made the necessary adjustments to the document based on the contributions received, and provides for the publication of the final version in October 2018 (<https://www.boletinoficial.gob.ar/#!DetalleNorma/193241/20181004>)

6. Does your country apply anti-corruption legislation to SOEs (employees and executives), including anti-bribery legislation? Please provide a response for both active and passive bribery with regard to domestic and transnational bribery of public officials.

Yes  No

If yes, please provide details.

The Public Ethics Law No. 25.188 defines:

*ARTICLE 1 - The present law of ethics in the exercise of the public function establishes a set of duties, prohibitions and incompatibilities applicable, without exception, to all persons who perform in the public function at all levels and hierarchies, permanently or transitory, by popular election, direct appointment, public contest or by any other legal means, extending its application to all magistrates, officials and employees of the State.*

*Public function is understood as any temporary or permanent activity, remunerated or honorary, performed by a person on behalf of the State or at the service of the State or its entities, in any of its hierarchical levels.*

Code of Ethics (Decree 41/99) defines:

*ARTICLE 4 - SCOPE OF APPLICATION. This Code applies to public officials of all agencies of the National Public Administration, centralized and decentralized in any of its forms, autarkic entities, companies and state companies and companies with majority state participation, mixed economy companies, Armed Forces and Security, social security institutions of the public sector, banks and official financial entities and of any other entity in which the National State or its decentralized entities have a total or majority share of capital or in the formation of corporate decisions, as well as the national commissions and the entities of regulation of public services.*

Law 27.401 on the Liability of Legal Persons defines its scope in article 1: regarding the subjects, it deals legal persons, whether of national or foreign capital, with or without state participation, that is, mainly commercial companies incorporated under any of the figures provided for in Law No. 19,550, as well as civil associations and foundations. As commercial companies, the SOEs are formed as joint stock companies with majority (or total) shareholding and the State Companies of Law No. 20,705.

The following crimes are covered:

- A. Bribery and influence peddling, national and transnational, provided by arts. 258 and 258 bis of the Penal Code;*
- B. Negotiations incompatible with the exercise of public functions, provided by art. 265 of the Penal Code;*
- C. Extortion, provided by art. 268 of the Penal Code;*
- D. Illicit enrichment of officials and employees, provided by arts. 268 (1) and (2) of the Penal Code;*
- E. Balance and false reports aggravated, provided by art. 300 bis of the Penal Code.*

If no, has your country taken steps to propose or to make changes to your country's anti-corruption legislation related to SOEs (employees and executives)?

N/A

**Active and Passive Bribery Offences**

7. Does your country currently have legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

Argentina has established sanctions for offences such as active and passive bribery, gratuities, bribery of a public official, accounting fraud related to bribery and money laundering of the benefits obtained through these crimes. Liability is set for both legal and natural persons

Active/passive Bribery and gratuities

Such legal definitions are established in the Argentine Penal Code (APC) as follows:

*Article 256. Any public official who, himself or through another person, receives money or any other gift or accepts a direct or indirect promise to make, delay or stop doing something within his/her functions shall be punished with reclusion or imprisonment of one to six years and perpetual disqualification.*

*Article 256bis. Any person who, by himself or through a third party, requests or receives money or any other gift or accepts a direct or indirect promise, to unduly assert his influence on a public servant to act, delay or omit to do something within his/her functions, shall be punished with reclusion or imprisonment of one to six years and perpetual disqualification from holding public office.*

*If this behaviour was intended to assert undue influence of a magistrate of the judiciary or prosecutors, in order to obtain the issuance, dictation, delay or omission by a ruling, order or judgment in matters under its jurisdiction, the maximum of detention or imprisonment shall be increased to twelve years.*

*Article 257. - Any magistrate from the Judiciary Branch or the State Attorney's Office who personally or through an intermediary, receives money or any other gift, or directly or indirectly accepts the promise of these, in order to issue, decree, delay or omit any resolution, sentence or judgment concerning any matters under his or her jurisdiction. In such a case, the defendant shall be punished with imprisonment from four to 12 years and disqualification for life.*

*Article 258. - Any person who personally or through an intermediary gives or offers any gift for the purpose of soliciting the crimes punished by Sections 256 and 256 bis,*

*paragraph 1 shall be punished with imprisonment from one to six years. If the gift is given or offered with the purpose of soliciting the conduct described in Sections 256 bis, paragraph 2 and 257, the punishment shall be imprisonment from two to six years. If the perpetrator is a public official, special disqualification from two to six years shall also be imposed in the first case, and from three to 10 years in the second case.*

*Article 259. - A public servant who allows gifts, which were given in consideration of his office while he remains in the position, shall be punished by imprisonment of one month to two years, and absolute disqualification of one to six years. The person who presents or offers the gift shall be punished by imprisonment of one month to one year*

*Article 259 bis - With respect to the crimes provided in this chapter, a fine shall be imposed jointly, from two (2) to ten (10) times the amount or value of the money, gratuity, benefit or monetary advantage offered or given*

#### Bribery of a Foreign Public Official

Its prosecution is foreseen in the APC. The last modification was made through Law N°27.401 which came into effect in March 2018.

Extraterritorial jurisdiction on natural and legal persons arises from article 1:

*ARTICLE 1.- This Code shall apply to:*

- 1. Offences committed or whose consequences take place in the territory of the ARGENTINE REPUBLIC, or in places under its jurisdiction;*
- 2. Offences committed abroad by representatives or employees of Argentine authorities in the exercise of their duties.*
- 3. The offence provided in ARTICLE 258 bis that is committed abroad by Argentine citizens residing or legal entities with registered offices in the ARGENTINE REPUBLIC, including both the address established in their Articles of Incorporation and that of their establishments or branches in the Argentine territory.*

Legal classification of the offence is set in Article 258 Bis.

*Article 258 bis.- It shall be punished with a prison term from one to six years and perpetual special debarment for the exercise of public functions the person who, directly or indirectly, offers, promise or gives, unduly, to a public official of a foreign State or of a public international organization, whether in their own benefit or that of a third party, a monetary sum or any other object of monetary value or other compensations such as gratuities, favours, promises or advantages, in exchange for the public official to do or abstain from doing an act related to the exercise of their public functions, or to assert the influence derived from their position, in a matter related to a transaction of an economic, financial or commercial nature.*

*A public official of a foreign country, or of any territorial entity recognized by the Argentine Republic, shall be defined as any person who has been designated or elected*

*to exercise public functions, at any level or territorial division of government, or within any kind of body, agency or state-owned enterprise where that State exerts a direct or indirect influence.*

*Likewise, accounting fraud is aggravated when in connection with bribery payments*

**ARTICLE 300:**

*1º. Any person that may generate the rise or decrease of the price of merchandise, public offer funds or securities, by means of false news, fake negotiations or by agreement of the main holders of a good, in order to sell or to refrain from selling at a specific price, will be sanctioned with imprisonment, which may range from six months to two years.*

*2º. the founder, director, trustee, liquidator or receiver of a corporation or cooperative, or of any other legal person who knowingly publishes, certifies or authorises either a false or incomplete inventory, balance sheet, profit and loss account or related reports on any event material to the assessment of the company's financial position, whatever the purpose sought, will be sanctioned with imprisonment, which may range from six months to two years.*

*ARTICLE 300 bis: When the criminal acts provided for in subsection 2 of article 300 have been carried out in order to conceal the commission of the offenses set forth in articles 258 and 258 bis, a prison sentence of one (1) shall be imposed to four (4) years and a fine of two (2) to five (5) times the value falsified in the documents and acts referred to in the aforementioned clause*

*Every type of bribery constitutes a predicate offence of the money laundering offence*

**ARTICLE 303. -**

- 1) A prison term of three (3) to ten (10) years and a fine equal to two (2) to ten (10) times the amount of the relevant transaction will be imposed on any persons who transform, transfer, manage, sell, tax, conceal or in any other way circulate goods originated in criminal offences, with the possible consequence of having the origin of the original or surrogate goods appear lawful, and as long as they have a value equal to or over three hundred thousand Argentine pesos (ARS 300,000), whether the crime constitutes a single act or repeated and related different actions.*
- 2) The punishment established in 1) above will be increased by a third of its maximum value and half of its minimum in the following cases:*
  - a) Where the offender regularly engages in the activity or is a member of an association or group created for the purpose of regularly engaging in activities of such a nature; and*
  - b) Where the offender is a public official committing the crime during the exercise or as part of its functions. In the latter case, the offender will also be punished with a special ban on engaging in business for a term of three (3) to ten (10) years. This penalty will also be applied to any person acting within the scope of a profession or trade that requires any*

*special authorization.*

- 3) *Any person who receives money or other goods originated in a criminal offence with a view to using them in any of the transactions described in 1) above and giving them a legitimate appearance will be punishable by a prison term of six (6) months to three (3) years.*
- 4) *Where the value of the goods is below the amount stated in 1) above, the offender will be punishable by a prison term of 6 (six) months to 3 (three) years.*
- 5) *The provisions hereof will apply even where the predicate criminal offence was committed outside the scope of the territorial implementation of this Code, as long as the crime committed is punishable in the place where it was committed.”*

*ARTICLE 304. - “Where the crimes punishable by the above Article are committed in the name, with the participation, or for the benefit of a legal entity, the entity will be punishable by the following sanctions, either jointly or alternatively:*

1. *A fine equal to two (2) to 10 (ten) times the value of the goods involved in the crime.*
2. *Total or partial suspension of activities for a maximum term of ten (10) years.*
3. *Ban from participating in public calls for bids for public works or services, or in any other activities related to the Government, for a maximum term of ten (10) years.*
4. *Cancellation of legal entity status in the event that the corporation has been created for the sole purpose of committing the crime, or where said activities are the main activity of the entity.*
5. *Loss or suspension of any State benefits that may have been granted.*
6. *Publication of an excerpt of the conviction, to be paid by the legal entity.*

*In order to determine the punishment to be imposed, the courts will take into consideration the infringement of internal rules and procedures, the lack of supervision over the activities of principal and accomplices, the extent of the damage caused, the amount of money involved in the commission of the crime, and the size, nature, and economic capacity of the legal entity.*

*Where it is of the essence to preserve the operational continuity of the entity or of a given work or service, the sanctions provided for in (2) and (4) above will not be applied.”*

*All of these offences imply liability for natural and legal persons (Law N°27.401).*

*Law N° 27.401*

*Art. 1. - Purpose and scope. The present law establishes the criminal liability regime applicable to private legal persons, whether of national or foreign capital, with or without State ownership, for the following offenses:*

- A. *Bribery and peddling in influence, national or transnational, established in articles 258 and 258 bis of the Penal Code;*
- B. *Negotiations incompatible with public office, as established in Section 265 of the Argentine Penal Code;*
- C. *Illegal exactions established in article 268 of the Penal Code;*

- D. *Illicit enrichment of public officials and employees, established in articles 268 (1) and (2) of the Penal Code;*
- E. *Aggravated false account balance sheets and reports, established in article 300 bis of the Penal Code.*

8. If your country has not criminalized foreign bribery, has your country proposed or made changes, since the last Accountability Report, to your country's legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?
- Yes  No

If yes, please provide details.

N/A

**Liability of Legal Persons**

9. Has your country established the liability of legal persons for corruption and corruption-related offences?
- Yes  No

If yes, please provide details (e.g. about the type of liability, including whether criminal, civil, or other).

On November 8, 2017, the Argentine Republic enacted Law 27,401 on the Criminal Liability of Legal Persons, which entered into force on March 1, 2018. This regulation allows companies to be sanctioned for corruption offenses and promotes co-operation between the public and the private sector, providing for such purposes the possibility of achieving collaboration agreements with companies in exchange for information in order to identify the natural persons who committed the crimes.

Regarding the subjects covered by the law, these are private legal entities, whether national or foreign capital, with or without state participation, that is, mainly commercial companies incorporated under any of the provisions of Law No. 19550, as well as civil associations and foundations. As commercial companies, the State Owned Companies (SOEs) are formed as joint stock companies with majority (or total) shareholding and the State Companies of Law No. 20,705.

Following crimes are covered:

- A. Bribery and influence peddling, national and transnational, provided by arts. 258 and 258 bis of the Penal Code;
- B. Negotiations incompatible with the exercise of public functions, provided by art. 265 of the Penal Code;
- C. Extortion, provided by art. 268 of the Penal Code;

- D. Illicit enrichment of officials and employees, provided by arts. 268 (1) and (2) of the Penal Code;
- E. Balance and false reports aggravated, provided by art. 300 bis of the Penal Code.

Regarding the liability model, the law provides that legal persons are responsible for those crimes when they have been made, directly or indirectly, with their intervention or in their name, interest or benefit. In addition, the liability extends to the cases in which the person acting for the benefit or interest of the legal entity was a third party that lacked the authority to act on behalf of the legal entity, provided that the legal entity had ratified the management, even if in an unspoken way.

As for the model of imputation of the Argentine law, it is a vicarious model, in which the responsibility for the criminal action carried out by the natural person is transferred to the legal person. No imputation is required for the imputation on the configuration of the internal organization or the characteristics of the control and supervision implemented by the legal entity on its dependents or related parties.

The control and supervision, however, do have gravitation in the measurement of the sentence and even possibilities of exemption from punishment if it is combined with other factors (spontaneous self-denial and return of the illicit benefit).

Likewise, the law provides for successive liability, as it provides that it extends to those companies that result after a process of corporate transformation. It clarifies, however, that criminal liability persists in those companies that, in a concealed or merely apparent manner, continue their economic activity and maintain the substantial identity of their clients, suppliers and employees, or of the most relevant part of all of them.

If no, has your country taken steps since the last Accountability Report to establish the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details.

N/A

### Public Sector Integrity and Transparency

10. Since the last Accountability Report, has your country taken significant steps to propose or to make changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

**Modernization of Procurement and Contracting Processes**

Argentina has designed and put into operation new digital developments that accelerate the procedures and times with which these processes have been managed and resolved. For this purpose, the platforms COMPR.AR, CONTRAT.AR and SUBAST.AR were developed, which have not only simplified administration times and made them more efficient, but also made the operations between the government and other private entities more transparent, and provided citizens and civil society organizations with tools for monitoring these processes, reducing the existence of irregularities and corruption.

The publication of public procurement and contracting on the website [comprar.gob.ar](http://comprar.gob.ar) and on the website [contratar.gob.ar](http://contratar.gob.ar), fulfills two vital functions for making the management of the Executive Branch more transparent: allowing for equal opportunities to access a bid or contract by the State and, at the same time, information is provided on the same platform and accessible databases are produced for civil society organizations and citizens to keep control of public accounts. A large amount of information obtained through digital tools allows for the possibility of having indicators that allow for evaluating the results of public procurement in terms of cost-efficiency; opportunity; quality; transparency; integrity and fair treatment. Based on consistent, reliable and up-to-date data, it is possible to carry out accurate assessments.

As part of the Transparency and Integrity Agenda in Argentina, the team of the National Contracting Office (ONC) is working on the adoption of the Data Standard for Open Contracting (EDCA) for the mentioned systems and, since November 2017 Argentina has become member of the Contracting 5, together with the governments of France, the United Kingdom, Ukraine, Mexico, Colombia and in close collaboration with Open Contracting Partnership.

Government entities process and publish their contracting cycle through the platform, and suppliers present their bids in an agile, transparent and secure manner.

11. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to public disclosure by public officials?

Yes  No

If yes, please provide details.

12. Does your country have in place standards and a system for preventing and managing conflicts of interest in the public sector? This may include the establishment of standards

of conduct, especially for public officials working in high-risk sectors; putting into place clear means for developing, implementing and updating conflict-of-interest policies; and identifying “at-risk” activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures.

Yes  No

If yes, please provide details.

Chapter V of Law 25.188 (hereinafter Public Ethics Law) regulates conflicts of interest, that is, those situations in which there is a conflict between the particular interests of the official (whether personal, economic, professional) with the public that, from its function, they should protect.

These are objective rules that do not judge the intention of the official to obtain an advantage or personal gain, directly prohibiting the configuration of certain situations or imposing certain duties (resignation, abstention, publicity of interests) with the mission of preserving impartiality in making public decisions and preventing possible acts of corruption.

The authority in the field of the National Public Administration is the Anti-Corruption Office (according to Decree 174/2018 and earlier by virtue of Decree 164/99 and Resolution MJyDH 17/00).

**Actual conflicts of interest (Law 25.188)**

Article 13 subsection a) of Law 25,188 prohibits those who perform public functions: "directing, administering, representing, sponsoring, advising or, in any other way, providing services to whoever manages or has a concession or is a supplier of the State, or carry out activities regulated by it, provided that the public office held has direct functional competence, with respect to the hiring, obtaining, management or control of such concessions, benefits or activities".

**Potential conflicts of interest (Law 25.188)**

Article 15 subsection b) of Law 25,188 establishes the duty of the official to *refrain from intervening*, in the exercise of his or her management, with respect to matters particularly related to the persons or matters to which he or she was linked in the last three (3) years.

In relation to the *shareholding* of an official in companies with respect to which he has attributions or must adopt any decision, the Law of Public Ethics also imposes the duty of abstention, while maintaining the character of partner, with respect to the issues or matters that refer to them in particular.

Another way to manage potential conflicts of interest is provided in Article 2 paragraph i) of Law 25,188 which includes, within the ethical duties, "to refrain from intervening in any matter with respect to which it is included in any of the causes of excuses foreseen

in the civil procedural law ".

**Apparent conflicts of interest (Decreets 201/17 and 202/17)**

- The management of apparent conflicts of interest in the trials in which the State is a party (Decree 201/2017)
- The management of apparent conflicts of interest in public contracting (Decree 202/2017)

**Special provisions for higher authorities of the National Executive Branch (Law 22.520)**

Law of Ministries 22,520 that establishes specific incompatibilities for those who hold positions of hierarchy equal or superior to Assistant Secretary.

In this regard, Article 24 of the aforementioned law states that “During the performance of their duties, Ministers, Secretaries and Assistant Secretaries shall refrain from exercising, with the sole exception of teaching, any type of commercial activity, business, company or profession. that directly or indirectly has links with the national, provincial and municipal branches, organisms or companies”.

Article 25, for its part, states: “Neither may they intervene in lawsuits, litigation or proceedings in which the Nation, the provinces or municipalities are parties, nor exercise a liberal profession or perform activities in which, without being compromised, the interest of the State, its status as an official may influence the decision of the competent authority or alter the principle of equality before the law enshrined in Article 16 of the National Constitution.”

**Post-employment restrictions (Decree 41/99 and Law 25.188)**

- Restrictions on the performance of private activities after the termination of a public office (Article 46 of Decree 41/99)
- Restrictions on the performance of activities in the State subsequent to the cessation of public office (Article 14 of Law 25.188)

**The ethical duties that complement and integrate the regime of conflicts of interest (Decree 41/99 and Law 25.188)**

The aforementioned standards must be complemented with the principles, guidelines and duties of ethical behavior contained in article 2 of Law 25,188 and in Chapters III and IV of Decree 41/99, including independence of criteria, prevalence of public interest over in particular, the appropriate use of the information accessed in the exercise of public office and the mandate to act in a manner that is probable, transparent and prudent.

In particular, it is worth mentioning the duty not to “... engage in situations, activities or interests incompatible with their functions” and “... abstain from any conduct that may affect their independence of criteria for the performance of their duties” (Article 23 Decree 41 / 99), as well as the prohibition of “... maintaining relations [or] accepting situations in which their personal, labor, economic or financial interests may be in

conflict with the fulfillment of the duties and functions under their responsibility” (Article 41 Decree 41/99).

It should also highlight the duty of prudence contained in Article 9 of the aforementioned Decree, according to which “The exercise of public function should inspire confidence in the community ...”, the official should “... avoid actions that could jeopardize the purpose of the public function, the patrimony of the State or the image that the society must have regarding its servants. “

**Asset declarations of external lawyers hired by the State (Resolution PTN 34/2018)**

On April 19, 2018, through the Resolution of the National Treasury Attorney General’s Office No. 34/2018, a specific regime was established for filing asset declarations of lawyers or external legal studies that are hired to fulfill a specific function in favor of the State.

**Gifts to Public Officials Regime (Law 25.188 and Decree 1179/2016)**

Article 18 of the Law on Ethics in the Exercise of Public Function states that “Public officials may not receive gifts, gifts or donations, whether of things, services or goods, on or occasion of the performance of their duties. In the event that the gifts are of courtesy or diplomatic custom, the enforcement authority will regulate their registration and in what cases and how they should be incorporated into the State’s patrimony, to be destined for health, social action and education purposes or to the patrimony historical-cultural if applicable.”

Like the provisions on conflicts of interest, the regulations cited seek to maintain the impartiality of the decisions of the officials, prohibiting receiving gifts or benefits that could vitiate the decision-making processes.

**General actions of the Anticorruption Office in the prevention of conflicts of interest**

- General dissemination of prohibitions, restrictions and obligations by public officials
- Self-consultation tools - Conflict of interest simulator
- The designation of “liaisons” within the National Public Administration

**Preventive action on particular cases (officials of higher hierarchy or in risky areas)**

- Main tools for detecting conflicts of interest developed by the Anti-corruption Office:
  - Control and publication of asset and interest disclosure statements.
  - Preventive notes to Public Officials (on the basis of journalistic information or analysis of asset declarations) by consultation or complaint

13. Has your country established whistleblower protections under your domestic laws?

Yes  No

14. Since the 2015 Accountability Report, has your country proposed or made changes to its whistleblower protection framework in both public and private sectors?

Yes  No

If yes, please provide details.

15. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

See question 10

16. Is your country a member of the Open Government Partnership?

Yes  No

Please provide details including information on the collective actions taken by your country since the last Accountability Report.

Argentina joined the Open Government Partnership in 2012 and has already developed three Action Plans (the third in the implementation period of 2017-2019). The distinctive aspects of the 3rd plan are, on the one hand, its scope (involvement of 28 agencies and areas throughout the State, that is, beyond the Executive, Judicial, Legislative and external control bodies as well as 11 provincial governments) also the diversification of issues addressed in the commitments, aligned to the SDGs, such as climate change, gender, health, education, habitat and housing, among others specific to the transparency agenda (open budget, open contracting, etc.).

A year ago, the National Open Government Roundtable (in pilot mode) was launched, an instance of coordination between government and civil society that leads the open government process within the framework of Argentina's participation in the Open Government Partnership. In order to institutionalize this forum, the current members of the National Board (4 by government and 4 by civil society) are working on a draft

regulation, which will be published in the public consultation platform to receive comments and contributions from citizens and external parties. At the moment they integrate this space: the Undersecretariat of Public Innovation and Open Government and the Secretariat of Institutional Strengthening of the Chief of Cabinet's Office; the Secretariat of Political and Institutional Affairs of the Ministry of the Interior, Public Works and Housing; the Anti-Corruption Office, and 4 civil society organizations (ACIJ, CIPPEC, Poder Ciudadano, and Legislative Directory).

In terms of governance, OGP is led by a Steering Committee with 11 government representatives and 11 civil society representatives chosen from individual applications, letters of support, evaluations and votes from each sector globally. As of October 1, 2018, Argentina will be part of the OGP Steering Committee as vice president. It will play this role with Robin Hodess of The B Team as a counterpart of civil society, while the presidency will be in the hands of the Government of Canada and Nathaniel Heller of Results for Development.

More info at <https://www.argentina.gob.ar/mesasogp>

Third Action Plan at [https://www.argentina.gob.ar/sites/default/files/digital\\_-\\_tercer\\_plan\\_de\\_accion.pdf](https://www.argentina.gob.ar/sites/default/files/digital_-_tercer_plan_de_accion.pdf)

Monitoring of compromises at <https://trello.com/tercerplandeacciondegobiernoabierto>

Documents of the OGP process in Argentina at

<https://drive.google.com/drive/u/0/folders/0B6plaXO3RncLMGZ1dGFfOFduaWs>

17. Does immunity for public officials from investigations and prosecutions for corruption related offences exist in your country?

Yes  No

If yes, how is an appropriate balance ensured between any immunities and the need to effectively investigate, prosecute and adjudicate corruption offences, in accordance with article 30(2) of UNCAC?

The National Constitution and the law only provide partial immunity for some public officials for the prosecution of all crimes. This is the President, Vice President, Chief of Cabinet of Ministers and Ministers, members of Congress (congressmen and senators), ombudsman, judges and prosecutors. The source is the National Constitution (articles 69, 86, 110, 114, 115) and laws 24946, 25320 and 27149.

This immunity is only for arrest (deprivation of liberty). It does not prevent the investigation of crimes, nor the trial, nor the conviction in all instances, but arrest, detention, preventive detention and effective enforcement of prison sentences.

In the case of members of Congress, certain investigative measures must be authorized by the legislative chambers at the request of the judge of the case.

In cases where it is necessary to proceed with one of the measures reached by the

immunity, the officer must be subjected to a political trial or jury of prior prosecution in which, in case of conviction, his separation from office and loss of the legal privileges.

In the case of the President, Vice President, Chief of Cabinet of Ministers and Ministers, Legislators, members of the National Supreme Court of Justice, National Attorney General, National General Defender this trial is done by the Congress (articles 53 and 59 of the CN).

In the case of the judges of the other instances, the Court of the Judicial Council.

In the case of prosecutors and official defenders of the other instances, the Court of the Public Prosecutor's Office.

**Sectors**

18. Since the last Accountability Report, have there been any changes or proposed changes to your country's legislation or other measures related to combating corruption:

a. in Sports? Yes  No

If yes, please provide details.

b. as a facilitator of illegal trade in wildlife and wildlife products? Yes  No

If yes, please provide details.

19. Is your country supporting or implementing any sector-specific initiatives?

Extractive Industries Transparency Initiative (EITI)

Implementing Yes  No

Supporting Yes  No

Construction Sector Transparency Initiative (CoST)

Implementing Yes  No

Supporting Yes  No

Customs (World Custom Organization-Arusha Declaration)

Implementing Yes  No

Supporting Yes  No

Others

Please specify.

Implementing Yes  No

Supporting Yes  No

Please provide notable details on each of the sectoral initiatives, listed or not listed above, supported by your country or domestic measures taken in relation to specific sectors.

**EITI**

The National Government has as objective the transparency and publication of the information and the data of the sector, which will be contributed to the extent of its competences by the different provincial jurisdictions.

Thus, below is the information referring to the main public policies planned for the period 2019-2023 by the agency in charge of contributing to the priority objectives of the National Anti-corruption Plan (NAP) for institutional strengthening, modernization of the state and intelligent insertion to the world. These policies are part of the Strategic Guideline N° 1 of said plan called “Transparency and Open Government” and, particularly, of the subject referred to the initiatives of promotion of transparency in the extractive industries.

The planned public policies are linked to and aligned with two international initiatives that address the same purpose of the NAP: the Extractive Industries Transparency Initiative (EITI) and the Open Government Partnership (OGP).

Policy 1: Denomination: Co-direction of the incorporation and participation of Argentina in the Extractive Industries Transparency Initiative (EITI)

Brief description: the objective of this policy is to manage, together with the national administration bodies referring to other extractive industries, the incorporation of Argentina to the EITI standard, in order to promote the open and transparent management of non-renewable natural resources whose exploitation, Ultimately, it must contribute to the objectives of sustainable development and benefit all citizens.

The Secretariat of Mining Policy along with the Secretariat of Strategic Energy Planning and the Secretariat of Hydrocarbons began the preparation of the process of candidacy of Argentina to the EITI from the year 2016. In the month of December of 2017 the then National Minister of Energy and Mining made the public declaration of the national government and the announcement of the country's candidacy to this standard. Since

then and until now, the call for and establishment of the Multipartite Group has been managed and a regulation has been drawn up in order to advance the implementation of Argentina's National Action Plan for the EITI.

**WCO**

From 5 to 8 December 2017, the WCO conducted a Workshop on Single Window implementation in the City of Buenos Aires, Argentina, hosted by the Argentine Customs and the Single Window Team from the Secretary of Commerce of the Ministry of Production.

The main objective of the Workshop was to provide cross-border regulatory agencies in Argentina with the WCO perspective and tools on Single Window implementation, presenting the experiences and best practices from other countries that already implemented similar solutions.

The workshop was attended by different authorities of Argentina, such as Mr. Diego Dávila – Director General of Customs, Mr. Braun – Secretary of Commerce, Mr. Luciano Di Gresia – Executive Director of Single Window (VUCEA). They highlighted the value of the workshop as an environment for collaboration to improve the engagement of stakeholders involved.

Around 50 officials from cross-border regulatory agencies and other government agencies in Argentina attended the workshop and tackled the challenges related to implementing the Single Window Project.

The WCO experts presented several WCO instruments and tools about trade facilitation to provide guidance to participants in developing and designing the Single Window Environment in line with stakeholders' needs and expectations. During the workshop, WCO experts outlined the concepts of Coordinated Border Management (CBM), Single Window Project Management and Performance Evaluation, Business Process Analysis and Re-engineering, Data Harmonization, Certificate of Origin, etc. supported by case studies from different countries.

In addition, the participants, with the support of experts, carried out practical exercises to build key performance indicators for de Single Window Project, Business Process Analysis and Data Harmonization for Single Window.

The WCO workshop proved highly effective in engaging the different stakeholders involved in the Single Window and identifying future challenges for the implementation of this ambitious project.

With the commitment of the agencies involved and Argentina Customs, the WCO will continue to support this project next year with an assessment and recommendations based on WCO Tools.

**International Anti-Corruption Instruments**

20. Has your country begun or completed the second cycle of UNCAC peer review process as a country under review?

Yes  No

If yes, please indicate.

Begun

Completed

If no, please indicate when your country is scheduled to be reviewed

N/A

21. For either or both cycles, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so?

a. Publication of full report

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

b. Involvement of civil society

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

c. Involvement of business

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

d. Country visits

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

Please provide details (e.g. web link for published report, how and when civil society and/or business were engaged during the review process, date of country visit). If your country has voluntarily published its questionnaire response, please indicate as well.

UNODC official link for first cycle Argentina's published report:  
<http://www.unodc.org/unodc/treaties/CAC/country-profile/CountryProfile.html?code=ARG>  
 Joint meeting in Vienna, June 5th 2018

22. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

Yes  No

a. If yes, please provide details.

Training seminars designed specifically for judicial officials have been held annually to provide information on the activities of the Argentine Central Authority, the mechanisms for processing extradition requests, mutual legal assistance, applicable conventions. Regarding the latter it was emphasized the United Nations Convention against Corruption can be used as a normative basis for the processing of these requirements, among other issues.

Argentina has strengthened the effectiveness of international cooperation through active participation in negotiations for the implementation of bilateral and multilateral treaties on mutual legal assistance and extradition. Since 2017, bilateral agreements have been negotiated with more than five countries, with (1) new treaty on extradition coming into force.

b. If you have responded to all or some of the recommendations, have you made those responses publicly available?

Yes  No

If yes, please provide details (including web links, if available).

23. Is your country party to the OECD Anti-Bribery Convention?

Yes  No

If no, please give an update on steps taken by your country to

- a. participate actively with the OECD Working Group on Bribery, including through possible Participant status and
- b. adhere to the OECD Anti-Bribery Convention.

N/A

24. Has your country begun or completed an OECD Anti-Bribery Convention peer review process as a country under review?

Yes  No

If yes, please indicate.

- |            |                                |   |
|------------|--------------------------------|---|
| a. Phase 1 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| b. Phase 2 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| c. Phase 3 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| d. Phase 4 | Begun <input type="checkbox"/> | Completed <input type="checkbox"/>            |

Please provide information on your country's OECD peer review process and/or any other relevant information (such as reports and links)

The Argentine Republic will be evaluated under Phase 3 bis and Phase 1 bis on June 2019.

25. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in previous OECD Anti-Bribery Convention evaluations?
- Yes  No

If yes, please provide details (including a link to the written follow-up report, where applicable).

Since December 10th 2015, a new Government has taken office in Argentina. Integrity, transparency and fighting corruption have become a major issue and are being addressed by different government areas concerning their functions, missions and scope of interest.

In fact, the Congress approved on march 2018 the Corporate Liability Bill N° 27.401, which established criminal liability of legal persons in our country for both foreign and domestic bribery, as well as nationality jurisdiction in relation to foreign bribery and a clear definition of a foreign public official.

Also, a new Criminal Procedural Code, which establishes an accusatory system and streamlines criminal procedures, will be gradually implemented.

Regarding the activities carried out by the Ministry of Foreign Affairs and Worship on mutual legal assistance, it is important to mention that during 2017 and 2018, two working meetings were held (October and March) under a workshop format, to which, judges and prosecutors, who are intervening in foreign bribery cases, were invited. The main purpose of the meetings was to exchange experiences, provide practical training and strengthen the links between the different bodies that participate in mutual legal assistance requests in criminal matters and related to the crimes included in the OECD Convention on Bribery.

Moreover, the Ministry of Foreign Affairs and Worship has been offering advice to judges and prosecutors prior to the preparation of requests of mutual legal assistance and contact is promoted prior to their completion. Also, the Ministry has made a manual survey of requests for international assistance in criminal matters issued within the

framework of the Convention, which is constantly being updated.

Furthermore, this Ministry issues twice a year two internal communications addressed to all Argentine representations abroad and internal areas of the Ministry. In one of the communication, the steps to be followed in the case of becoming aware of the possible commission of an offense are recalled and a transcription of the relevant articles of the CPPN, Decree 1162/00 and Bill 25.164 are included. The other communication relates to information regarding the obligation to provide advice, assistance and information on the fight against bribery of foreign officials to Argentine companies interested in conducting business abroad. In addition, part of article 1 of the mentioned OECD Convention and article 258 bis of the National Criminal Code are transcribed.

As for the awareness raising activities carried out by the Ministry of Foreign Affairs and Worship, it is important to mention that the official website Argentina Trade Net, in which there is information about the OECD Anti-Bribery Convention, is being updated.

It is equally important to mention that the phase 3 bis report recalls that Argentine authorities have made substantial efforts to engage the private sector and promote corporate compliance programs. Efforts to raise awareness of foreign bribery within the Argentine public administration were also made. Furthermore, it recalls that Judicial investigations have been opened in several foreign bribery cases, though some cases should be pursued more proactively. Also, it mentions that Argentina has taken steps to extend the application of International Financial Reporting Standards. The regime to debar companies from obtaining public procurement contracts has also been expanded. Financial information forwarded to law enforcement has increased.

<http://www.oecd.org/corruption/anti-bribery/Argentina-Phase-3bis-Report-ENG.pdf>

26. Is your country party to other international or regional anti-corruption instruments (such as the Inter-American Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the Council of Europe Criminal Law Convention on Corruption or the Council of Europe Civil Law Convention on Corruption)?

Yes  No

If yes, please indicate which instrument(s).

Argentina is Party to the Inter-American Convention against Corruption. Date Ratification (accession, etc.) by Argentina 09/10/1997.

27. Has your country been under review related to any kind of international or regional anti-corruption review mechanism other than the UNCAC peer review process?

Yes  No

If yes, please provide links to review and any compliance reports, if available.

OAS: During 2017 Argentina underwent the fifth round of the “Follow-up Mechanism on the Implementation of the Inter-American Convention against Corruption” (MESICIC). The full report is available on [http://www.oas.org/juridico/PDFs/Mesicic5\\_InformeARG\\_es.pdf](http://www.oas.org/juridico/PDFs/Mesicic5_InformeARG_es.pdf).

OECD: Argentina resumed by the end of 2016 the Phase 3bis evaluation on the implementation of the OECD Convention on Combating Corruption in International Business Transactions. In march 2017, the full report has been published publicly with still pending recommendations. This can be found here: <http://www.oecd.org/corruption/anti-bribery/Argentina-Phase-3bis-Report-ENG.pdf>.

There has been a follow-up

FATF: 11TH FOLLOW-UP REPORT Mutual Evaluation of Argentina (June 2014). Full report can be found here:

[http://www.fatf-gafi.org/media/fatf/documents/reports/mer/FUR%20Argentina\\_reduced.pdf](http://www.fatf-gafi.org/media/fatf/documents/reports/mer/FUR%20Argentina_reduced.pdf)

## AUSTRALIA

### Summary of National Progress

1. Please provide a high-level summary (maximum of 500 words) of the most significant anti-corruption measures or initiatives that your country has introduced or implemented since the Accountability Report of 2017. The 2017 Accountability Report as well as previous reports can be accessed at <https://www.g20.org/en/g20-argentina/work-streams/anti-corruption>.

The Australian Government has introduced a number of legislative reforms to Parliament to strengthen our response to corruption and bribery. These reforms, which are still before Parliament, will (if passed):

- strengthen Australia's foreign bribery laws and introduce a Deferred Prosecution Agreement (DPA) scheme ([Crimes Legislation Amendment \(Combating Corporate Crime\) Bill 2017](#))
- require the registration of a greater scope of key participants in election campaigns (including non-party political actors), introduce restrictions on foreign donations and modernise the enforcement and compliance regime for political finance regulation ([Electoral Legislation Amendment \(Electoral Funding and Disclosures Reform\) Bill 2017](#))
- consolidate and broaden existing protections and remedies for corporate and financial sector whistleblowers and create a whistleblower protection regime for disclosures of information by individuals regarding breaches of tax laws or misconduct relating to an entity's tax affairs ([Treasury Laws Amendment \(Enhancing Whistleblower Protections\) Bill 2017](#))

The Government passed laws on 16 August 2018 to allow the sharing of information for the purposes of preventing, detecting, investigating or dealing with fraud or corruption against the Commonwealth Government (in the [Crimes Legislation Amendment \(Powers, Offences and Other Measures\) Act 2018](#)).

The Government passed laws on 7 December 2017 to strengthen its anti-money laundering regime ([Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2017](#)).

The Australian Government also established the [Independent Parliamentary Expenses Authority](#) on 1 July 2017 to give advice to parliamentarians and their staff about the use of their travel expenses and travel allowances, as well as monitor, report on and audit their usage.

The Government has delivered the majority of its commitments made under the first [Open Government National Action Plan 2016-18](#), including in relation to open contracting and reviewing Australia's compliance with the Open Contracting Data Standard (among other commitments). The Government will continue to report on

commitments not yet delivered (and delayed) under that Plan, in addition to reporting on current commitments under Australia's second [Open Government National Action Plan 2018-20](#).

**Practical co-operation:**

2. Please give an update on the progress made and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Persons Sought for Corruption and Asset Recovery.

No further update.

**Beneficial Ownership Transparency**

3. Please give an update on the progress made against your National Implementation Plan (if applicable) and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Beneficial Ownership Transparency and the relevant Financial Action Task Force recommendations on beneficial ownership transparency.

In February 2017, the Government held a four week consultation seeking input from the public on ways to increase the transparency of beneficial ownership. Following these consultations, the Government is now considering advice on what action may be needed to improve the transparency of beneficial ownership information of companies.

The Government reaffirmed its commitment to improving transparency around who owns, controls and benefits from entities to assist relevant authorities in combating illicit activities in its [response to the Black Economy Taskforce Final Report](#).

*AML/CTF statutory review*

The statutory review of Australia's anti-money laundering and counter-terrorism financing (AML/CTF) regime, tabled in April 2016, made 84 recommendations to shape a modern and efficient regulatory regime that can respond to new and emerging threats.

The Government is implementing reforms to the AML/CTF regime in phases. Phase 1 was completed with the entry into force of the Anti-Money Laundering and Counter-Terrorism Financing Amendment Act 2017 on 3 April 2018. Future phases will include measures to simplify, stream-line and clarify AML/CTF legislation and strengthen compliance with the FATF standards.

**Private Sector Integrity**

4. Since the last Accountability Report, has your government instituted any new measures to promote the development of anti-corruption initiatives, such as anti-corruption training and education by the private sector, including for Small and medium-sized enterprises (SMEs) and the non-financial professional services sector<sup>2</sup>?

Yes  No

If yes, please provide details.

5. Since the last Accountability Report, have there been any changes or proposed changes to your country's legislation or other measures related to private sector integrity?

Yes  No

If yes, please provide details.

See pending law reforms discussed above at question 1.

6. Does your country apply anti-corruption legislation to SOEs (employees and executives), including anti-bribery legislation? Please provide a response for both active and passive bribery with regard to domestic and transnational bribery of public officials.

Yes  No

If yes, please provide details.

There are a range of offences in the *Criminal Code Act 1995* for conduct underpinning corruption, fraud and bribery (including foreign bribery), which apply equally to body corporates, including state-owned enterprises (SOEs). Part 2.5 of the Criminal Code sets out the principles for corporate criminal responsibility. Among others, the Criminal Code includes offences for bribery of foreign public officials, bribery of Commonwealth public officials, and for Commonwealth public officials that receive a bribe.

In addition to the above federal offences, under Australia's federal system of government, criminal law and enforcement is primarily a matter for Australia's states and territories. There are also a range of criminal laws in state and territory legislation relating to corruption, fraud and bribery that might apply to SOEs. States and territories generally have offences for agents that give, receive or solicit bribes.

<sup>2</sup> non-financial professional services sector could include: computer services, real estate, research and development, legal services and accounting

If no, has your country taken steps to propose or to make changes to your country's anti-corruption legislation related to SOEs (employees and executives)?

**Active and Passive Bribery Offences**

7. Does your country currently have legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

See information and factsheets available at <https://www.ag.gov.au/CrimeAndCorruption/Foreignbribery/Pages/default.aspx>. See the relevant legislation (the *Criminal Code Act 1995*) available at <https://www.legislation.gov.au/Details/C2018C00346>.

8. If your country has not criminalized foreign bribery, has your country proposed or made changes, since the last Accountability Report, to your country's legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

N/a

**Liability of Legal Persons**

9. Has your country established the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details (e.g. about the type of liability, including whether criminal, civil, or other).

See Australia's response to last year's accountability report (response to question 26).

If no, has your country taken steps since the last Accountability Report to establish the

liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details.

N/a

**Public Sector Integrity and Transparency**

10. Since the last Accountability Report, has your country taken significant steps to propose or to make changes to your country’s legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

*Open data*  
 On 1 May 2018, the Australian Government committed to reforming public sector data governance by establishing a National Data Commissioner (NDC) and introducing legislation to better realise the benefits of increased data use, while maintaining trust and confidence in the system.

In line with the Australian Government Public Data Policy Statement, the new legislation will help increase use and re-use of public sector data by removing inefficiencies and inconsistencies to improve social and economic outcomes for all Australians. The reforms will reaffirm the Australian Government’s policy that non-sensitive data should be made open by default.

In March 2017, Australia adopted the International Open Data Charter.

*Open contracting*  
 Under Commitment 4.3 of Australia’s first *Open Government National Action Plan 2016-18*, the Government assessed its compliance with the Open Contracting Data Standard. Following this assessment and a public consultation process, the Government agreed to progress options to increase its compliance with the Open Contracting Data Standard by publishing AusTender contracting data in an OCDS-compliant schema.

As noted in the Australia’s second *Open Government National Action Plan 2018-20*, Australia will progress the publication of existing federal Government procurement data using the Open Contracting Data Standard schema to publish an additional AusTender dataset on data.gov.au. Additionally, Australia will review existing procurement due diligence processes, report on the outcomes of the review, and consider opportunities to further support the Open Government Partnership values of transparency and accountability.

11. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to public disclosure by public officials?

Yes  No

If yes, please provide details.

12. Does your country have in place standards and a system for preventing and managing conflicts of interest in the public sector? This may include the establishment of standards of conduct, especially for public officials working in high-risk sectors; putting into place clear means for developing, implementing and updating conflict-of-interest policies; and identifying "at-risk" activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures.

Yes  No

If yes, please provide details.

*Public Governance, Performance and Accountability Act 2013*  
<https://www.legislation.gov.au/Details/C2017C00269>

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and PGPA rules require public officials to exercise their powers and perform their functions in accordance with certain standards of behaviour. Under section 29 of the PGPA Act, an official of a Commonwealth entity who has a material personal interest that relates to the affairs of the entity must disclose details of the interest. A Commonwealth entity includes a department of state, a parliamentary department, a listed entity and a body corporate established by a law of the Commonwealth. The PGPA Act also imposes a set of general duties on officials and to meet these duties, officials need to consider and, where relevant, comply with:

- financial laws, which includes the PGPA Act and rules and instruments made under the PGPA Act
- the systems of risk management and internal control in their entity established by their accountable authority (including any delegations or authorisations), and
- any other duties contained in other Commonwealth laws; under an employment contract or employment frameworks; or any principles or rules of Australian common law or equity.

Officials who do not discharge their general duties can be subject to employment

sanctions, including termination of employment (for staff) or termination of appointment (for board members or office holders).

*Public Service Act 1999* (<https://www.legislation.gov.au/Details/C2017C00270>)

The other principle Act governing the operation of the Australian Public Service (APS) is the *Public Service Act 1999* (PS Act), which includes sections outlining APS Values (s10), Employment Principles (s10A) and the APS Code of Conduct (s13). All APS employees, including APS agency heads, are bound by the PS Act and are required to uphold the values and code of conduct contained therein.

Subsection 13(7) of the PS Act deals explicitly with conflicts of interest, stating that '[a]n APS employee must (a) take reasonable steps to avoid any conflict of interest (real or apparent) in connection with the employee's APS employment; and (b) disclose details of any material personal interest of the employee in connection with the employee's APS employment.'

A breach of the APS Code of Conduct (as outlined in section 13 of the PS Act) can result in sanctions that include:

- a reprimand
- a fine
- a reduction in salary
- re-assignment of duties
- a reduction in classification, and
- termination of employment.

The APSC also develops and makes available to all agencies training materials that promote transparency and address conflicts of interest.

It is also accepted that managing conflicts of interest is the shared responsibility of APS agency heads, leaders and managers, and individual APS employees. All employees are responsible for the occasions where their actions or decisions could give rise to a real or apparent conflict of interest, and if so, to take action to manage that. Agencies are expected to have in place independent policies and procedures to manage real and apparent conflicts of interest.

#### *Lobbying Code of Conduct and Register of Lobbyists*

The Lobbying Code of Conduct (Code) and Register of Lobbyists (Register) ensure that contact between lobbyists and Australian Government representatives are conducted in accordance with public expectations of transparency, integrity, and honesty. The public nature of the Register is intended to ensure that any potential conflicts of interests of either lobbyists or Australian Government representatives are minimised through transparency. The Code underpins the Register and sets out the requirements for contact between third-party lobbyists and Government representatives. The Code also indicates what details will be publicly available on the Register and outlines the conditions for successful registration of lobbyists. The Code contains a number of sections designed to uphold the integrity of the Register. These include principles of engagement with Government representatives which prohibit lobbyists from engaging in conduct that is corrupt, dishonest or illegal. The Code also places prohibitions on lobbying activities for former government representatives and executive members of

political parties.

*Elected Officials* (<https://www.legislation.gov.au/Details/C2018C00259>)

There are also legislative measures to prevent elected officials from exploiting or concealing conflicts of interest. The Constitution provides foundational principles for election of Members of Parliament, and further details are regulated by the *Commonwealth Electoral Act 1918* (the Electoral Act). Several of the grounds for disqualification of Members of Parliament and candidates for election in sections 44 and 45 of the Constitution are directed partly at ensuring that Members of Parliament do not have conflicts of interests.

Under section 45, a Member of the House of Representatives or Senator will be disqualified if he or she:

- takes the benefit, whether by assignment, composition, or otherwise, of any law relating to bankrupt or insolvent debtors, or
- directly or indirectly takes or agrees to take any fee or honorarium for services rendered to the Commonwealth, or for services rendered in the Parliament to any person or State.

Ministerial appointees are entrusted with the conduct of public business and must act in a manner that is consistent with the highest standards of integrity and propriety. They are required to act in accordance with the law, their oath of office and their obligations to the Parliament. In addition to those requirements, it is vital that Ministers conduct themselves in a manner that will ensure public confidence in them and in the government. The expected standards for that conduct are set out in the Statement of Ministerial Standards.

Ministers are also to ensure their dealings with lobbyists are conducted consistent with the Lobbying Code of Conduct so that they do not give rise to a conflict between public duty and private interest. Ministers are required to withdraw from any professional practice or the day to day management of any business. They may not receive any significant income other than as provided for by the Standards, or from personal exertion other than as a Minister and Member of Parliament.

13. Has your country established whistleblower protections under your domestic laws?

Yes  No

14. Since the 2015 Accountability Report, has your country proposed or made changes to its whistleblower protection framework in both public and private sectors?

Yes  No

If yes, please provide details.

In the 2016-2017 Budget, the Government announced that it would develop legislation

to protect individuals who blow the whistle on tax avoidance behaviour, tax evasion and other tax issues.

On 7 December 2016, Australia's first *Open Government National Action Plan 2016-18* was released. Under the Plan, the Government committed to ensuring that appropriate protections are in place for people who report corruption, fraud, tax evasion or avoidance, and misconduct within the corporate sector.

On 20 December 2016, the Government released a consultation paper seeking public comment on the introduction of appropriate protections for tax whistleblowers the adequacy of existing whistleblower protections in the corporate sector. The consultation closed on 10 February 2017; 37 submissions were received.

On 21 November 2016, the Government strengthened the whistleblower protections in the *Fair Work (Registered Organisations) Act 2014*, which give whistleblowers protection to confidently expose corruption by expanding the categories of whistleblowers and introducing higher penalties and automatic disqualification of those convicted of offences under the legislation.

On 30 November 2016, the Senate referred an inquiry into whistleblower protections in the corporate, public and not-for-profit sectors to the Parliamentary Joint Committee (PJC) on Corporations and Financial Services. The Inquiry reported in September 2017 and made 35 recommendations to strengthen whistleblower protections.

On 28 September 2017, the former Minister for Revenue and Financial Services, the Hon Kelly O'Dwyer appointed an Expert Advisory Panel to provide advice to Government on the draft tax and corporate whistleblower protections legislation prior to it being introduced into Parliament. The Panel also provided advice on recommendations made by the PJC Inquiry.

On 7 December 2017, the Treasury Laws Amendment (Enhancing Whistleblower Protections) Bill 2017 (the Bill) was introduced into the Senate. The Bill strengthens corporate sector whistleblower protections and introduces new protections for tax whistleblowers.

This legislation delivers on the Government's commitment in the *Open Government National Action Plan 2016-18*. That is, to strengthen corporate sector whistleblower protections and introduce new tax whistleblower protections, by introducing legislation into parliament by December 2017. It also delivers on the 2016-2017 Budget commitment to protect individuals who blow the whistle on tax avoidance behaviour, tax evasion and other tax misconduct.

On 8 February 2018, the Senate referred the Bill to the Senate Economics Legislation Committee for inquiry and report. The Senate Committee released its report on 22 March 2018. The Senate Committee made three recommendations: that the Bill is passed and that two amendments be made to the Bill. Additional comments were made

by Labor Senators and the Greens, who made one recommendation. A dissenting report from Senator Rex Patrick included twelve recommendations for the Bill.

The Bill was scheduled to commence on 1 July 2018. It is currently awaiting debate in Parliament.

The Government is considering both the Senate Committee and PJC reports' recommendations, and will release its response to each of these reports in due course.

15. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

See response to question 10.

16. Is your country a member of the Open Government Partnership?

Yes  No

Please provide details including information on the collective actions taken by your country since the last Accountability Report.

Since the last Accountability Report in 2017, Australia has delivered most of the commitments contained in its first *Open Government National Action Plan for 2016-18* and released its second *Open Government National Action Plan for 2018-20* on 21 September 2018. Australia's *Open Government National Action Plan 2018-20* contains eight commitments, building on the lessons and successes of Australia's first Plan to enhance accountability, transparency, public participation and innovation across government.

Australia also established the Open Government Forum (OGF) in July 2017, to replace the OGP Interim Working Group. The OGF consists of eight government members (representing agencies with lead responsibility for implementing commitments in the first National Action Plan) and eight civil society representatives. Members of the OGF meet approximately every two months to discuss open government issues including updates on the implementation of the commitments by various Commonwealth agencies. As Australia's multi-stakeholder OGP forum, the OGF is tasked with monitoring and driving implementation of the current National Action Plan, helping to develop the next National Action Plan, and raising awareness about open government.

Further information on Australia’s involvement in the Open Government Partnership can be found at <http://ogpau.pmc.gov.au/>.

17. Does immunity for public officials from investigations and prosecutions for corruption related offences exist in your country?

Yes  No

If yes, how is an appropriate balance ensured between any immunities and the need to effectively investigate, prosecute and adjudicate corruption offences, in accordance with article 30(2) of UNCAC?

**Sectors**

18. Since the last Accountability Report, have there been any changes or proposed changes to your country’s legislation or other measures related to combating corruption:

a. in Sports? Yes  No

If yes, please provide details.

The Australian Government commissioned a Review of Australia’s Sports Integrity Arrangements which examined the current sports integrity threat environment and the adequacy of Australia’s current sports integrity capability. The final report was released in August 2018 by the Minister for Sport and makes 52 recommendations across five key themes:

1. A stronger national response to match fixing
2. Australian Sports Wagering Scheme
3. Enhancing Australia’s Anti-doping Capability
4. A National Sports Tribunal
5. A National Sports Integrity Commission

A Sports Integrity Review Taskforce has been established to drive the development of a coordinated whole-of-government response to the Review’s recommendations in close consultations with stakeholders and the broader Australian public.

b. as a facilitator of illegal trade in wildlife and wildlife products? Yes  No

If yes, please provide details.

The Australian Department of the Environment and Energy is currently developing a new permit administration system for international wildlife trade permits.

The new system will improve data sharing with the Australian Border Force and is expected to deliver online acquittal functionality, allowing instantaneous confirmation of shipment details by permit holders and supporting verification and exception reporting by regulators. As a result, the new permit system will reduce the risk of corruption or fraudulent use of permits at Australian and international borders.

19. Is your country supporting or implementing any sector-specific initiatives?

Extractive Industries Transparency Initiative (EITI)

Implementing Yes  No

Supporting Yes  No

Construction Sector Transparency Initiative (CoST)

Implementing Yes  No

Supporting Yes  No

Customs (World Custom Organization-Arusha Declaration)

Implementing Yes  No

Supporting Yes  No

Others

Please specify.

Implementing Yes  No

Supporting Yes  No

Please provide notable details on each of the sectorial initiatives, listed or not listed above, supported by your country or domestic measures taken in relation to specific sectors.

**International Anti-Corruption Instruments**

20. Has your country begun or completed the second cycle of UNCAC peer review process as a country under review?

Yes  No

If yes, please indicate.

Begun

Completed

If no, please indicate when your country is scheduled to be reviewed

Australia is currently under review; our review is likely to finish by the end of 2018.

21. For either or both cycles, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so?

a. Publication of full report

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

b. Involvement of civil society

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

c. Involvement of business

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

d. Country visits

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

Please provide details (e.g. web link for published report, how and when civil society and/or business were engaged during the review process, date of country visit). If your country has voluntarily published its questionnaire response, please indicate as well.

22. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

Yes  No

a. If yes, please provide details.

b. If you have responded to all or some of the recommendations, have you made those responses publicly available?

Yes  No

If yes, please provide details (including web links, if available).

23. Is your country party to the OECD Anti-Bribery Convention?

Yes  No

If no, please give an update on steps taken by your country to

- a. participate actively with the OECD Working Group on Bribery, including through possible Participant status and
- b. adhere to the OECD Anti-Bribery Convention.

24. Has your country begun or completed an OECD Anti-Bribery Convention peer review process as a country under review?

Yes  No

If yes, please indicate.

- |            |                                |   |
|------------|--------------------------------|---|
| a. Phase 1 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| b. Phase 2 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| c. Phase 3 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| d. Phase 4 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |

Please provide information on your country's OECD peer review process and/or any other relevant information (such as reports and links)

Information about Australia's peer review process, including the full report and the news release, is available on the [OECD's website](#).

Most recently, Australia's Phase 4 Monitoring Report was agreed by the OECD Working Group on Bribery in December 2017.

25. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in previous OECD Anti-Bribery Convention evaluations?

Yes  No

If yes, please provide details (including a link to the written follow-up report, where applicable).

While a formal response has not been published, Australia has been working through the recommendations of the Phase 4 report. A number of the recommendations in the report relate to progressing policy issues which would enhance our response to foreign bribery, and to this end the OECD WGB's recommendations have informed policy thinking on these issues since December 2017. Australia has taken tangible steps to implement some of the recommendations, such as finalising and publishing the draft Best Practice Guideline on Self-Reporting of Foreign Bribery and Related Offending by Corporations (recommendation 5b).

26. Is your country party to other international or regional anti-corruption instruments (such as the Inter-American Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the Council of Europe Criminal Law Convention on Corruption or the Council of Europe Civil Law Convention on Corruption)?

Yes  No

If yes, please indicate which instrument(s).

27. Has your country been under review related to any kind of international or regional anti-corruption review mechanism other than the UNCAC peer review process?

Yes  No

If yes, please provide links to review and any compliance reports, if available.

## **BRAZIL**

### **Summary of National Progress**

1. Please provide a high-level summary (maximum of 500 words) of the most significant anti-corruption measures or initiatives that your country has introduced or implemented since the Accountability Report of 2017. The 2017 Accountability Report as well as previous reports can be accessed at <https://www.g20.org/en/g20-argentina/work-streams/anti-corruption>.

- On November, 2017, Decree n. 9,203/17 was issued, complemented by Ministerial Order Nº1089, of April, 2018. Such regulations require public organizations in the federal level to designate an integrity unit and to develop an integrity plan, specifying concrete measures to mitigate risks and defining a timetable for their implementation. The Ministry of Transparency and Office of the Comptroller General (CGU) is the federal agency responsible for assisting and monitoring the implementation of integrity programs in the Executive branch. According to the new regulation, public organizations are required to assess their risks and to implement measures to prevent, detect and react to corruption, which include, among other things, defining clear rules of employees' conduct, preventing nepotism and conflict of interest, strengthening whistleblowing channels and creating effective Ethics Committees and Disciplinary Boards.

- On June 28, 2018, the New Portal of Transparency of the Brazilian Federal Government was launched. This new version provides a more friendly and interactive experience. The New Portal brings a brand-new design, several different interactive functionalities and geo-location, graphs and dashboards, and a google-like search engine. The opening ceremony was followed by Technical Workshops on Information Technologies, Transparency and Public Participation for the press, civil society, government officials, representatives from several different countries, addressing the Brazilian Experience in implementing the New Portal, including its coordination with civil society organizations for its construction, use of technologies for the development, techniques for effective citizen-government communication, among others.

### **Practical co-operation:**

2. Please give an update on the progress made and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Persons Sought for Corruption and Asset Recovery.

Brazil's migration law (Law n. 13,445, of 24 May 2017) has been recently updated. The new legislation establishes that Brazilian authorities can deny entry to foreigners who acted in a manner contrary to the principles established within the Federal Constitution

or "whose name has been included in a list of restrictions through a judicial order or a commitment made by Brazil in an international forum".

Brazil legal framework also allows it to apply effectively the asset recovery, extradition, MLA and other international cooperation provisions of UNCAC, as well as other applicable international conventions, including the United Nations Convention against Transnational Organized Crime and the OECD Convention against Bribery of Foreign Public Officials in International Business Transactions.

### **Beneficial Ownership Transparency**

3. Please give an update on the progress made against your National Implementation Plan (if applicable) and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Beneficial Ownership Transparency and the relevant Financial Action Task Force recommendations on beneficial ownership transparency.

The Brazilian Central Bank has a data-basis accessible through a digital system (Cadastro Nacional de Clientes do Sistema Financeiro – CCS) that indicates the Brazilian financial institutions in which natural persons, legal entities and companies maintain accounts and other kinds of financial assets. In that sense, and in regard to the financial system, information on beneficial owner may be obtained directly from the financial institutions (in accordance with Central Bank’s rules) or by matching the information on the CCS with other data-basis, such as the National Data-basis on Legal Entities (CNJP) or the National Data-basis on Natural Persons (CPF). Additionally, the Brazilian Federal Revenue Service has developed the “Sped e-Financeira”, a system that centralizes the information sent by financial institutions, being such system used for fiscal purposes.

It is also worth mentioning the RFB Normative Ruling n. 1,634, issued in May, 2016, and updated in August, 2017, by Normative Ruling n. 1,729. Such norms bring the definition of beneficial owner and set forth the obligation of every person doing business in Brazil to inform the beneficial owner of companies. In October, 2017, the Declaratory Act n. 9 was issued, establishing the procedures for companies to present information on the beneficial owner. Companies that were registered before July 2017 will have until December 2018 to update their information.

Finally, we inform that the Brazilian BO Guide was published by the World Bank in February, 2018: <https://star.worldbank.org/content/beneficial-ownership-guides>

### **Private Sector Integrity**

4. Since the last Accountability Report, has your government instituted any new measures

to promote the development of anti-corruption initiatives, such as anti-corruption training and education by the private sector, including for Small and medium-sized enterprises (SMEs) and the non-financial professional services sector<sup>3</sup>?

Yes  No

If yes, please provide details.

The Pro-Ethics Program was developed by the CGU in 2010 and was redesigned in 2014, considering the lessons learned since its launch and the coming into force of the Corporate Liability Law (Anticorruption Law). The Program conjugates efforts by both public and private sectors in order to promote the voluntary adoption of integrity measures by companies, who are publicly acknowledged for their engagement in the prevention, detection and remediation of acts of corruption and fraud, regardless of their size or branch of activity.

Within the Pro-Ethics, the companies' integrity programs are evaluated, taking into account different aspects, including the commitment and support of senior management and the existence of reporting channels and risk mitigation rules, policies and procedures. The analysis is made considering the reality of the company and the specific rules applied to its business. At the end of the evaluation process, all the companies analyzed receive a report containing recommendations for the improvement of the integrity program, and the companies that reach an established level of excellence make up an annual list, that is made publicly available.

The 2017 edition of the Pro-Ethics counted on the participation of 375 companies, and 171 met the requirements for participating and were evaluated. After the evaluation process, 23 companies were approved and recognized as a Pro-Ethics Company 2017. The announcement was made during a Conference held in December, 2017.

With regard to training and education activities regarding SMEs, Brazil has developed the "Empresa Íntegra" Program, an initiative developed by the CGU and the SEBRAE (Brazilian Support Service for SMEs) to encourage SMEs to develop compliance programs. Within the Program, two booklets were developed, containing guidelines for the SMEs (available in Portuguese in: <http://www.cgu.gov.br/Publicacoes/etica-e-integridade/arquivos/integridade-para-pequenos-negocios.pdf>) and for municipal managers, with concepts of ethics and compliance. A smaller, more user-friendly version of the booklets to SMEs was also designed, containing a more direct and interactive content and some infographics. The Program also aims at offering training for small and micro-entrepreneurs and local public managers in those issues, and will provide online and face-to-face courses, in the context of SEBRAE's capacity building events all over the country. In 2018, the capacity building events have reached 655 micro-entrepreneurs and 687 related agents.

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<sup>3</sup> non-financial professional services sector could include: computer services, real estate, research and development, legal services and accounting

5. Since the last Accountability Report, have there been any changes or proposed changes to your country's legislation or other measures related to private sector integrity?

Yes  No

If yes, please provide details.

On September, 2018, the CGU issued the Joint Ordinance n. 6, that launches a manual to guide on the evaluation of compliance programs of companies under investigation, in the context of a liability administrative proceeding on the terms of the Brazilian Corporate Liability Law.

The manual aims at standardizing the work undertaken by the commissions in charge of conducting the liability proceedings, as well as guiding the private sector with regard to the aspects that will be considered in the analysis of the effectiveness of compliance programs.

6. Does your country apply anti-corruption legislation to SOEs (employees and executives), including anti-bribery legislation? Please provide a response for both active and passive bribery with regard to domestic and transnational bribery of public officials.

Yes X No

If yes, please provide details.

Law 13,303/2016 - Provides for the legal status of SOEs, within the Union, the States, the Federal District and the Municipalities. Law 13,303/2016 became known in Brazil as the Statute of SOEs. The first section of the Law is dedicated to establishing a corporate governance framework for State-Owned Enterprises, while the second establishes a new set of rules for the procurement processes of those companies. The Law includes aspects of risk management; controls; selection, appointment and evaluation of Board members and Executive Directors; integrity measures; institution and functioning of governance bodies, such as the Board of Directors and Audit Committee, among other aspects.

Law 13,303/2016 also determines the adoption, by SOEs, of a Code of Conduct and Integrity that provides for the prevention of conflicts of interest and prohibition of acts of corruption and fraud. In addition, the code must indicate the internal instances responsible for its application and must make reference to the channels available to receive internal and external information concerning, among other things, the practice of acts of fraud and corruption (hotline).

Furthermore, this legislation makes it explicit that the Brazilian Corporate Liability Law is integrally applicable to the SOEs and their subsidiaries, being the only exceptions the sanctions provided by Article 19, II (partial suspension or interdiction of its activities), III (compulsory dissolution of the legal entity), and IV (prohibition from receiving incentives,

subsidies, grants, donations or loans from public agencies or entities and from public financial institutions or government-controlled entities)

Decree 8,945/2016 - Regulates, at the Federal level, Law 13,303/2016, which provides the legal status of SOEs, within the Union. Both Law 13,303/2016 and Decree 8,945/2016 mandate that SOEs adopt internal control and risk management systems, as well as anticorruption compliance (integrity) measures. They require SOEs to establish a risk department as well as an integrity department, headed by a statutory Executive Director, reporting directly to the CEO. The responsibility for the oversight of risk and control systems is attributed to the Board of Directors, in accordance with international best practices. It is also specified that the integrity officer must be able to report directly to the Board in cases of suspected irregularities involving the CEO or if the CEO does not take the appropriate measures regarding irregularities brought to his/her attention.

If no, has your country taken steps to propose or to make changes to your country's anti-corruption legislation related to SOEs (employees and executives)?

**Active and Passive Bribery Offences**

7. Does your country currently have legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

The active bribery of a Brazilian public official is a criminal offence under Article 317 of the Brazilian Penal Code. Article 333 of the Penal Code makes it an offence for a Brazilian public official to accept a bribe. Brazil penalized an act of bribery of a foreign public official through the enactment of the implementing legislation (Law No. 10,467, of 11 June 2002), which added to the Penal Code, Section XI, Chapter II-A entitled "Crimes committed by individuals against a foreign public administration" that contains the offence of Active bribery in an international business transaction and the definition of a "foreign public official". The Portuguese version of the Penal Code is available at: [http://www.planalto.gov.br/ccivil\\_03/Decreto-Lei/Del2848compilado.htm](http://www.planalto.gov.br/ccivil_03/Decreto-Lei/Del2848compilado.htm)

8. If your country has not criminalized foreign bribery, has your country proposed or made changes, since the last Accountability Report, to your country's legislation or other measures related to the criminalization of active and/or passive bribery of domestic

and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

**Liability of Legal Persons**

9. Has your country established the liability of legal persons for corruption and corruption-related offences?

Yes X No

If yes, please provide details (e.g. about the type of liability, including whether criminal, civil, or other).

Brazil has established the administrative and civil liability of legal persons for corruption and corruption-related offences committed against national or foreign public administrations (Law No. 12,846/2013).

If no, has your country taken steps since the last Accountability Report to establish the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details.

**Public Sector Integrity and Transparency**

10. Since the last Accountability Report, has your country taken significant steps to propose or to make changes to your country’s legislation or other measures related to open data, including open contracting?

Yes X No

If yes, please provide details.

On October 13, 2017, the Open Data National Infrastructure Steering Committee issued Resolution n. 03, which set forth that: (a) all Open Data Plans (ODP) shall be effective for 02 (two) years, starting from the date of disclosure; b) it is mandatory to use civic participation mechanisms for prioritizing the opening of bases; c) all Open Data Plans must be endorsed and instituted by the top manager of the body or entity and must be

disclosed on active transparency; d) all ODP bases must be listed on the Brazilian Open Data Portal observing the same classification.

Additionally, on June 28, 2018, the New Portal of Transparency of the Brazilian Federal Government was launched. This new version provides a more friendly and interactive experience. The New Portal brings a brand-new design, several different interactive functionalities and geo-location, graphs and dashboards, and a google-like search engine. The opening ceremony was followed by Technical Workshops on Information Technologies, Transparency and Public Participation for the press, civil society, government officials, representatives from several different countries, addressing the Brazilian Experience in implementing the New Portal, including its coordination with civil society organizations for its construction, use of technologies for the development, techniques for effective citizen-government communication, among others.

As one of the milestones of the Commitment 3 of the OGP Brazil's 3<sup>rd</sup> National Action Plan (Enhance mechanisms in order to assure more promptness and answer effectiveness to information requests, and the proper disclosure of the classified document list), a qualitative assessment on the implementation of the Access to Information Act on all ministries was carried out until August 2018. The assessment comprised issues on active transparency, passive transparency, omissions and open data disclosure.

As for the omissions to answering the information requests, a task force was carried out in order to lower the number of requests and appeals which had been put aside by governmental bodies. This action resulted in a reduction of omissions to 0,17%.

11. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to public disclosure by public officials?

Yes  No

If yes, please provide details.

12. Does your country have in place standards and a system for preventing and managing conflicts of interest in the public sector? This may include the establishment of standards of conduct, especially for public officials working in high-risk sectors; putting into place clear means for developing, implementing and updating conflict-of-interest policies; and identifying "at-risk" activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures.

Yes  No

If yes, please provide details.

Law n. 12,813 of 2013 regulates, for all public agents of the Federal Executive Branch, the circumstances that constitute conflict of interest and the requirements and constraints to holders of office or job who have access to inside information (English version available at <http://www.mpf.mp.br/atuacao-tematica/sci/normas-e-legislacao/legislacao/legislacao-em-ingles/law-n-12-813-conflict-of-interests>).

The body responsible for the monitoring and evaluation of conflicts of interest depends on the branch of government and the position held by the agent in question. In the Federal Executive Branch, the Public Ethics Committee (Comissão de Ética Pública - CEP) is responsible for overseeing and evaluating cases involving: ministers of State; president, vice-president and director, or person occupying similar position at autonomous government agencies, public foundations, state-owned companies or government-controlled companies; members of the Group of High Level Direction and Advice – DAS levels 6 and 5, or similar. The other cases in the Federal Executive Branch are, in a first moment, the responsibility of the Human Resources department of the organ or entity itself. If the HR finds evidence or suspicion of conflict of interest, the case is sent to the Ministry of Transparency and Office of the Comptroller General (CGU) to analyze and make a decision.

As a mechanism to help prevent and remedy conflicts of interest, the CGU developed the system SeCI – Electronic System of Consultations, through which civil servants or public employees can consult the Human Resources department of their organs or entities about the existence of a conflict of interest and request authorization for the exercise of private activities. The system is regulated by Interministerial Ordinance n. 333 of September 19, 2013, of the CGU and the Ministry of Planning, Budget and Management (available at: <http://pesquisa.in.gov.br/imprensa/jsp/visualiza/index>). After a request is registered in the system, the HR department of the organ or entity expresses its opinion on the possible existence of conflict of interest. If the organ or entity suspects or is convinced that there is a possibility of conflict of interest, the consultation is sent to the CGU to decide. If the CGU decides that there is a risk of conflict of interest, the civil servant or employee can appeal, in which case the same authority in the CGU is asked to reconsider. If the authority confirms the initial decision, the case is sent to CGU's Executive Secretary for a final decision. Everything is done electronically and with defined deadlines.

13. Has your country established whistleblower protections under your domestic laws?

Yes  No

14. Since the 2015 Accountability Report, has your country proposed or made changes to its whistleblower protection framework in both public and private sectors?

Yes  No

If yes, please provide details.

In January, 2018, Brazil enacted Law n. 13,608, which establishes hotlines for authorities to receive reports on cases of corruption. Art. 4 of the Law establishes the possibility of the Union, States and Municipalities to issue regulations that provide for ways of rewarding individuals that offer information useful to the prevention, investigation or sanctioning of crimes or administrative wrongdoings. (<http://www2.camara.leg.br/legin/fed/lei/2018/lei-13608-10-janeiro-2018-786085-publicacaooriginal-154740-pl.html>)

15. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

16. Is your country a member of the Open Government Partnership?

Yes  No

Please provide details including information on the collective actions taken by your country since the last Accountability Report.

Brazil is on the verge of concluding the execution of the 3<sup>rd</sup> National Action Plan (2016-2018), at the same time the 4<sup>th</sup> NAP is under development (2018-2020). The country had a great and successful experience in drafting the 3<sup>rd</sup> NAP, as for the formulation of the co-creation process methodology and monitoring strategy, which has been recognized and reproduced by other countries. Some of the commitments on the 3<sup>rd</sup> NAP have been subject of experience sharing with other countries. Concerning the 4<sup>th</sup> NAP, the co-creation workshops were carried out from May to August. 11 (eleven) commitments have been set so far. More details on the drafting, execution and monitoring of the plans can be accessed at [www.governoaberto.cgu.gov.br](http://www.governoaberto.cgu.gov.br).

17. Does immunity for public officials from investigations and prosecutions for corruption related offences exist in your country?

Yes  No

If yes, how is an appropriate balance ensured between any immunities and the need to effectively investigate, prosecute and adjudicate corruption offences, in accordance with

article 30(2) of UNCAC?

The Federal Constitution and the Criminal Procedural Code set forth cases of immunities and jurisdictional prerogatives. For example, they refer to the President of the Republic's immunities, as well as to other high authorities such as judges, ministers or governors amongst others.

However, in general, such cases of immunities and jurisdictional prerogatives do not hinder investigation, prosecution and adjudication. What is worth mentioning is that there is a special system of competence for judging certain authorities, which is known as "privileged forum according to public functions".

Through such system, certain investigations and proceedings are not supervised by an ordinary judge, of first degree, but by Courts, according to what the Federal Constitution states:

- a. municipal mayors - Court of Justice (or Federal Regional Court, in case of federal offence) - Article 29, X;
- b. state representatives - idem;
- c. judges of law (state) - Court of Justice;
- d. federal judges, military audit judge, labour judges and members of the Federal Prosecutor General – Federal Regional Court - Article 108, I, a;
- e. state and Federal District's governors, higher judges at States' and Federal District's Courts of Justice, members of the Courts of Accounts of States and the Federal District, members of the Federal Regional Courts, Labour and Electoral Regional Courts, members of the Municipal Councils or Courts of Accounts, and members of the Federal Prosecutor General - Superior Court of Justice - Article 105, I, a;
- f. the president of the Republic, the vice-president of the Republic, members of the National Congress, ministers of the Federal Supreme Court, Prosecutor General, state ministers and Navy, Army and Air Force commanders, members of the Superior Courts, of the Court of Accounts of the Union and permanent diplomatic missions heads - Federal Supreme Court - Article 102, I, b and c.

In these cases, investigation is supervised by a judge of a competent court and, after the charge is provided (with indictment), the suit is adjudicated by the court.

**Sectors**

18. Since the last Accountability Report, have there been any changes or proposed changes to your country's legislation or other measures related to combating corruption:

a. in Sports? Yes  No

If yes, please provide details.

b. as a facilitator of illegal trade in wildlife and wildlife products? Yes  No

If yes, please provide details.

19. Is your country supporting or implementing any sector-specific initiatives?

Extractive Industries Transparency Initiative (EITI)

Implementing Yes  No   
 Supporting Yes  No

Construction Sector Transparency Initiative (CoST)

Implementing Yes  No   
 Supporting Yes  No

Customs (World Custom Organization-Arusha Declaration)

Implementing Yes  No   
 Supporting Yes  No

Others

Please specify.

Implementing Yes  No   
 Supporting Yes  No

Please provide notable details on each of the sectorial initiatives, listed or not listed above, supported by your country or domestic measures taken in relation to specific sectors.

**International Anti-Corruption Instruments**

20. Has your country begun or completed the second cycle of UNCAC peer review process as a country under review?

Yes  No X

If yes, please indicate.

Begun

Completed

If no, please indicate when your country is scheduled to be reviewed

Brazil is scheduled to be reviewed in 2019

21. For either or both cycles, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so?

a. Publication of full report

aa. First Cycle Yes x No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so x

b. Involvement of civil society

aa. First Cycle Yes x No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so x

c. Involvement of business

aa. First Cycle Yes x No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so x

d. Country visits

aa. First Cycle Yes x No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so x

Please provide details (e.g. web link for published report, how and when civil society and/or business were engaged during the review process, date of country visit). If your country has voluntarily published its questionnaire response, please indicate as well.

Brazil's first cycle full report is available at:

[http://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2017\\_01\\_19\\_Brazil\\_Final\\_Country\\_Report.pdf](http://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2017_01_19_Brazil_Final_Country_Report.pdf)

The country visit was conducted between 3-5 August, 2011.

22. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

Yes  No

b. If yes, please provide details.

Brazil is conducting an effort to systematically follow-up on recommendations made in the context of peer review processes under UNCAC and other relevant mechanisms, such as OECD Working Group on Bribery and MESICIC. In that sense, the CGU is developing a methodology for follow-up and will launch an implementation plan involving the relevant bodies and agencies.

Specifically in relation to UNCAC, some efforts were reported in the past (<https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/14-16November2016/GoodPractices/2016.91/Brazil.pdf>) and other measures were adopted, including some actions under the National Strategy to Combat Corruption and Money Laundering (ENCCLA). For instance, in 2018 one of the actions is devoted to the development of a Bill for criminalizing bribery in the private sector (Action 5).

b. If you have responded to all or some of the recommendations, have you made those responses publicly available?

Yes  No

If yes, please provide details (including web links, if available).

23. Is your country party to the OECD Anti-Bribery Convention?

Yes  No

If no, please give an update on steps taken by your country to

- a. participate actively with the OECD Working Group on Bribery, including through possible Participant status and
- b. adhere to the OECD Anti-Bribery Convention.

24. Has your country begun or completed an OECD Anti-Bribery Convention peer review process as a country under review?

Yes  No

If yes, please indicate.

a. Phase 1	Begun <input type="checkbox"/>	Completed <input checked="" type="checkbox"/>
b. Phase 2	Begun <input type="checkbox"/>	Completed <input checked="" type="checkbox"/>
c. Phase 3	Begun <input type="checkbox"/>	Completed <input checked="" type="checkbox"/>
d. Phase 4	Begun <input type="checkbox"/>	Completed <input type="checkbox"/>

Please provide information on your country's OECD peer review process and/or any other relevant information (such as reports and links)

Brazil was evaluated in phase 3 in 2014 and had its two-year follow-up report published in 2017. The Working Group concluded that several recommendations were completed and decided to continue to follow-up on Brazil's enforcement efforts in Brazil's Phase 4 evaluation (currently scheduled for 2022). The reports are available at: <http://www.oecd.org/daf/anti-bribery/brazil-oecdanti-briberyconvention.htm>

25. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in previous OECD Anti-Bribery Convention evaluations?

Yes  No

If yes, please provide details (including a link to the written follow-up report, where applicable).

As mentioned above, Brazil is conducting an effort to systematically follow-up on recommendations made in the context of peer review processes under relevant mechanisms, such as OECD Working Group on Bribery, UNCAC and MESICIC. In that sense, the CGU is developing a methodology for follow-up and will launch an implementation plan involving the relevant bodies and agencies.

Specifically with regard to the OECD Convention, relevant steps were taken to respond to recommendations identified by the Working Group on Bribery, such as the enactment of the Corporate Liability Law, its implement-ing decree, and ratification of the Convention on Mutual Administrative Assistance in Tax Matters. A written report is available at: <http://www.oecd.org/corruption/anti-bribery/Brazil-Phase-3-Written-Follow-Up-Report-ENG.pdf>

26. Is your country party to other international or regional anti-corruption instruments (such as the Inter-American Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the Council of Europe Criminal Law Convention on Corruption or the Council of Europe Civil Law Convention on Corruption)?

Yes  No

If yes, please indicate which instrument(s).

Inter-American Convention against Corruption

27. Has your country been under review related to any kind of international or regional anti-corruption review mechanism other than the UNCAC peer review process?

Yes  No

If yes, please provide links to review and any compliance reports, if available.

Brazil has already completed the five rounds of review by MESICIC – the Mechanism responsible for conducting peer review processes regarding the implementation of the Inter-American Convention against Corruption.  
The country reports are available at: <http://www.oas.org/juridico/english/bra.htm>

## **CANADA**

### **Summary of National Progress**

1. Please provide a high-level summary (maximum of 500 words) of the most significant anti-corruption measures or initiatives that your country has introduced or implemented since the Accountability Report of 2017. The 2017 Accountability Report as well as previous reports can be accessed at <https://www.g20.org/en/g20-argentina/work-streams/anti-corruption>.

#### **Remediation agreements**

A Remediation Agreement (RA) regime is now in force in Canada. It was enacted in Canada through Bill C-74, the *Budget Implementation Act, 2018, No. 1*, which received Royal Assent on June 21, 2018. The regime came into force 90 days after Royal Assent.

An RA is a new tool available for use by prosecutorial authorities – at their discretion, in the public interest and in appropriate circumstances – to address corporate criminal wrongdoing. It is an agreement, between an organization accused of committing a listed offence and a prosecutor, to stay any proceedings related to that offence, if the organization complies with the terms of the agreement.

The regime features a set of objectives, including: denouncing wrongdoing; holding the organization to account through effective, proportionate and dissuasive penalties; promoting a culture of compliance; enhancing the detection of related crimes by encouraging the voluntary disclosure of wrongdoing and requiring that the organization help identify individuals so that they may be prosecuted; providing reparations for harm done to victims or the community; and reducing the negative consequences of prosecution and conviction of an organization for those who are innocent of the wrongdoing, such as employees, customers and pensioners.

An RA must be approved by the court for it to enter into force. Before approving the agreement, the court must be satisfied that the organization is charged with a listed offence to which the agreement applies, the agreement is in the public interest and the terms of the agreement are fair, reasonable and proportionate to the gravity of the offence.

#### **Justice for Victims of Corrupt Foreign Officials Act**

In October 2017, the *Justice for Victims of Corrupt Foreign Officials Act (JVCFOA)* entered into force in Canada. The JVCFOA allows Canada to restrict dealings in property and freeze the assets of foreign nationals responsible for or complicit in acts of significant corruption. Under the JVCFOA, certain financial institutions are required to report to appropriate supervising or regulatory agencies whether they are in possession or control of any property owned, held or controlled by or on behalf of a targeted individual.

Through the JVCFOA, the Special Economic Measures Act (SEMA) was also

amended to allow Canada to impose economic measures against a foreign state where a national of a foreign state, who is either a foreign public official or an associate of such an official, is responsible for or complicit in acts of significant corruption. Financial institutions also have a duty to report on whether they are in possession or control of property that is owned, held or controlled by or on behalf of a targeted person under. Persons listed in the regulations made under the JVCFOA and SEMA are also inadmissible to Canada under the Immigration and Refugee Protection Act (IRPA).

**Open Government**

Since the Accountability Report of 2017, the Government of Canada has made significant progress on open government, an important mechanism for advancing government transparency and accountability. Key accomplishments include completing Canada’s 2016-18 National Action Plan on Open Government, which included ambitious commitments from across government; centralizing proactive disclosure of diverse records contributing to government accountability (e.g., information on grants, contracts, travel, hospitality, reclassification of positions etc.); and providing greater transparency around how government makes various types of disbursements (e.g., international aid funds, grants and contributions). The Government of Canada also assumed a new leadership position at the Open Government Partnership (OGP), beginning its term as lead government chair on October 1, 2018. In this role, Canada will advance the priorities of inclusion, participation and impact through open government and will host the next OGP Global Summit in May 2018. The Summit is expected to attract leading anti-corruption practitioners and experts from across the world and result in concrete and measurable actions to steer the OGP forward in this thematic area.

**Facilitation payments**

The *Corruption of Foreign Public Officials Act* (CFPOA) criminalizes the bribery of a foreign public official and the maintaining or destruction of books and records to facilitate or hide the bribing of a foreign public official. On October 31, 2017, the amendment to the CFPOA to repeal an exemption in the Act relating to small payments to facilitate routine government transactions came into force. Such payments are now included under the foreign bribery offences listed in the CFPOA.

**Practical co-operation:**

2. Please give an update on the progress made and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Persons Sought for Corruption and Asset Recovery.

In addition to the passage of the Justice for Victims of Corrupt Foreign Officials Act, regulations imposing measures on 53 foreign nationals from Russia, Venezuela, South Sudan and Myanmar have been made under the JVCFOA, including 25 specifically for corruption.

**Beneficial Ownership Transparency**

3. Please give an update on the progress made against your National Implementation Plan

(if applicable) and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Beneficial Ownership Transparency and the relevant Financial Action Task Force recommendations on beneficial ownership transparency.

In December 2017, Canada's Finance Ministers reached an Agreement to Strengthen Beneficial Ownership Transparency. This included an agreement in principle to pursue legislative amendments to federal, provincial and territorial corporate statutes or other relevant legislation to ensure corporations hold accurate and up to date information on beneficial owners that will be available to law enforcement, and tax and other authorities, and to make best efforts to implement these changes by July 1, 2019.

They also agreed to continue work to assess potential mechanisms to enhance timely access by competent authorities to beneficial ownership information.

See Agreement to Strengthen Beneficial Ownership Transparency:

[https://www.fin.gc.ca/n17/data/17-122\\_4-eng.asp](https://www.fin.gc.ca/n17/data/17-122_4-eng.asp)

Budget 2018 subsequently announced federal government's intention to amend the relevant federal statute, the *Canada Business Corporations Act* to strengthen beneficial ownership transparency. It also announced plans to introduce enhanced income tax reporting requirements for certain trusts to provide additional information on an annual basis, applicable for the 2021 and later taxation years, to improve availability of beneficial ownership information.

See Budget 2018, Chapter 1- Increased Reporting Requirements for Trusts- Beneficial Ownership:

<https://www.budget.gc.ca/2018/docs/plan/chap-01-en.html#Cracking-Down-on-Tax-Evasion-and-Combatting-Tax-Avoidance>

On May 1, 2018 amendments to the *Canada Business Corporations Act* and the *Canada Cooperatives Act* came into force that clarify that corporations and cooperatives are prohibited from issuing share certificates, warrants, options or other conversion privileges in bearer form. Canadian provincial and territorial Finance Ministers have also agreed in principle to pursue any needed legislative amendments to their corporate statutes to eliminate the potential use of bearer shares.

See *Canada Business Corporations Act* (S. 29.1 (1)(Restriction regarding bearer shares):

<http://laws-lois.justice.gc.ca/PDF/C-44.pdf>

In June 2018, the Department of Finance proposed amendments to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* that would strengthen Canada's AML/ATF Regime by updating customer due diligence requirements and beneficial ownership reporting requirements.

See proposed regulatory amendments in *Canada Gazette*, Part I:

<http://www.gazette.gc.ca/rp-pr/p1/2018/2018-06-09/html/req1-eng.html>

**Private Sector Integrity**

4. Since the last Accountability Report, has your government instituted any new measures to promote the development of anti-corruption initiatives, such as anti-corruption training and education by the private sector, including for Small and medium-sized enterprises (SMEs) and the non-financial professional services sector<sup>4</sup>?

Yes  No

If yes, please provide details.

In the past year, Export Development Canada (EDC) has continued its promotion of anti-corruption best practices through bi-annual emails from the President and CEO to new customers. EDC has also sought out opportunities to promote anti-corruption best practices with companies of all sizes through online webinars, podcasts, engagement with Canadian stakeholders such as the Canadian Centre for Excellence for Anti-Corruption (CCEAC) and partnerships with key stakeholders including Transparency International. EDC also has online tools which are available to business associations, companies, and the general public, if they are looking to raise their knowledge about anti-corruption compliance.

5. Since the last Accountability Report, have there been any changes or proposed changes to your country's legislation or other measures related to private sector integrity?

Yes  No

If yes, please provide details.

See response to question 1 on remediation agreements.

6. Does your country apply anti-corruption legislation to SOEs (employees and executives), including anti-bribery legislation? Please provide a response for both active and passive bribery with regard to domestic and transnational bribery of public officials.

Yes  No

If yes, please provide details.

See response to question 7

If no, has your country taken steps to propose or to make changes to your country's

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<sup>4</sup> non-financial professional services sector could include: computer services, real estate, research and development, legal services and accounting

anti-corruption legislation related to SOEs (employees and executives)?

n/a

**Active and Passive Bribery Offences**

7. Does your country currently have legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

The bribery of domestic public officials is made a criminal offence in various provisions of the *Criminal Code*, depending on the form of the bribery transaction, and includes both active and passive bribery.

The active bribery of foreign public officials is addressed in the *Corruption of Foreign Public Officials Act* (CFPOA). In July 2002, in relation to the first case in Canada under the *Corruption of Foreign Public Officials Act*, a U.S. immigration officer pleaded guilty to accepting secret commissions in Canada contrary to subparagraph 426(1)(a)(ii) of the *Criminal Code* (passive bribery of a foreign public official).

Active and passive bribery in the public and private sectors is made criminal under section 426 of the *Criminal Code* (secret commissions).

8. If your country has not criminalized foreign bribery, has your country proposed or made changes, since the last Accountability Report, to your country’s legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

n/a

**Liability of Legal Persons**

9. Has your country established the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details (e.g. about the type of liability, including whether criminal, civil, or other).

Canada has corporate criminal liability, including for corruption and corruption-related criminal offences. Section 22.2 of the *Criminal Code* renders an organization liable for the commission of an offence that requires proof of fault other than negligence.

Section 2 of the *Criminal Code* defines an organization as follows: “organization’ means (a) a public body, body corporate, society, company, firm, partnership, trade union or municipality, or (b) an association of persons that (i) is created for a common purpose, (ii) has an operational structure, and (iii) holds itself out to the public as an association of persons.”

If no, has your country taken steps since the last Accountability Report to establish the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details.

n/a

**Public Sector Integrity and Transparency**

10. Since the last Accountability Report, has your country taken significant steps to propose or to make changes to your country’s legislation or other measures related to open data, including open contracting?

Yes X No

If yes, please provide details.

Since the last Accountability Report, the Government of Canada has advanced open data. It currently provides access to over 80,000 open data sets from over 60 federal departments and agencies. Major accomplishments in the past year relating to open data include: development of an Open Government Guidebook, providing guidance across government facilitate the release of high quality open data; significant efforts to align open data across Canada, including with subnational jurisdictions; and enhancements to open.canada.ca, which includes the Government of Canada’s open data portal. Examples of specific successes include guidance to help federal departments set priorities for the release of high-value open data and new portal functionality, allowing open data users to access open data from a subnational jurisdiction through the federal portal. Canada officially adopted the International Open Data Charter in March 2018 and in April 2018 endorsed the Summit of the America’s declaration, *Lima Commitment on Democratic Governance Against Corruption*, which includes a reference to the role of open government and open data in the fight against corruption.

With regards to open contracting, Canada committed to enhancing openness of information on government spending and procurement in its Third Biennial Plan to the OGP (2016-18). A pilot project was implemented to update the federal procurement website, [Buyandsell.gc.ca](http://Buyandsell.gc.ca), to provide access to the full details of contracts (in addition

to awards), contract amendments, and termination of contracts. Public Services and Procurement Canada delivered on three of the five stages of the [Open Contracting Data Standard](#) used to pilot updates to [Buyandsell.gc.ca](#). Pilot data currently includes information on tenders, awards, and contracts for all procurements conducted by Public Services and Procurement Canada on behalf of Public Services and Procurement Canada and federal government departments, crown corporations and agencies.

11. Since the last Accountability Report, has your country proposed or made changes to your country’s legislation or other measures related to public disclosure by public officials?

Yes  No

If yes, please provide details.

n/a

12. Does your country have in place standards and a system for preventing and managing conflicts of interest in the public sector? This may include the establishment of standards of conduct, especially for public officials working in high-risk sectors; putting into place clear means for developing, implementing and updating conflict-of-interest policies; and identifying “at-risk” activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures.

Yes  No

If yes, please provide details.

The *Values and Ethics Code for the Public Sector* outlines the values and expected behaviours that guide public servants in all activities related to their professional duties. By committing to these values and adhering to the expected behaviours, public servants strengthen the ethical culture of the public sector and contribute to public confidence in the integrity of all public institutions.

The acceptance of the values and adherence to the expected behaviours is a condition of employment for every public servant in the federal public service, regardless of their level or position. A breach of these values or behaviours may result in disciplinary measures being taken, up to and including termination of employment.

Upon being hired, every public servant is provided with their letter of offer a copy of or a link to the *Values and Ethics Code for the Public Sector* and the *Policy on Conflict of Interest and Post-Employment*. Employees are, thus, strongly encouraged at the very outset of their employment in the public sector to familiarize themselves with these important policies. By signing their letter of offer, public servants attest that they have read and will abide by the Code.

In particular, under the *Values and Ethics Code for the Public Sector*, public servants are expected to take all possible steps to prevent and resolve any real, apparent or potential conflicts of interest between their official responsibilities and their private affairs in favour of the public interest.

More information about the *Values and Ethics Code for the Public Sector* can be found here: <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=25049>

A database of Frequently Asked Questions on the Values and Ethics Code for the Public Sector can be found at: <http://www.tbs-sct.gc.ca/psm-fpfm/ve/code/faq-eng.asp>.

The Values Alive: Discussion Guide to the Values and Ethics Code for the Public Sector can be found at: <http://www.tbs-sct.gc.ca/psm-fpfm/ve/code/va-vaq-eng.asp>.

The Application Guide for Post-Employment under the “Policy on Conflict of Interest and Post-Employment” can be found at: <http://www.tbs-sct.gc.ca/psm-fpfm/ve/conflict-confliit/agcipe-gaciameng.asp>.

13. Has your country established whistleblower protections under your domestic laws?

Yes  No

14. Since the 2015 Accountability Report, has your country proposed or made changes to its whistleblower protection framework in both public and private sectors?

Yes  No

If yes, please provide details.

n/a

15. Since the last Accountability Report, has your country proposed or made changes to your country’s legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

See response to question 10

16. Is your country a member of the Open Government Partnership?

Yes  No

Please provide details including information on the collective actions taken by your country since the last Accountability Report.

Since the 2017 Accountability Report, Canada has completed implementation of its Third Biennial Plan to the OGP (2016-18). Significant progress was made over the last year, with 16 of the 22 commitments fully completed and the remaining 6 commitments substantially completed. Particular successes during the period include establishing a new accountability tool for tracking progress on open government commitments. In Summer 2017, the Government of Canada launched an online tracker to provide quarterly updates on progress in implementation of open government commitments that allows citizens to get involved in addressing challenges.

This approach goes beyond the OGP’s requirements for annual self-assessment reports and set a new global precedent. The Government of Canada made progress in launching Canada’s Multi-Stakeholder Forum on Open Government in January 2018 as a permanent dialogue mechanism for civil society guidance and oversight on the Government of Canada’s commitments on open government. The Government of Canada is scheduled to release its 4th National Action Plan to the OGP, which was developed in collaboration with over 10,000 Canadians, in Fall 2018.

17. Does immunity for public officials from investigations and prosecutions for corruption related offences exist in your country?

Yes  No

If yes, how is an appropriate balance ensured between any immunities and the need to effectively investigate, prosecute and adjudicate corruption offences, in accordance with article 30(2) of UNCAC?

n/a

**Sectors**

18. Since the last Accountability Report, have there been any changes or proposed changes to your country’s legislation or other measures related to combating corruption:

a. in Sports? Yes  No

If yes, please provide details.

n/a

b. as a facilitator of illegal trade in wildlife and wildlife products? Yes  No

If yes, please provide details.

n/a

19. Is your country supporting or implementing any sector-specific initiatives?

Extractive Industries Transparency Initiative (EITI)

Implementing Yes  No

Supporting Yes  No

Construction Sector Transparency Initiative (CoST)

Implementing Yes  No

Supporting Yes  No

Customs (World Custom Organization-Arusha Declaration)

Implementing Yes  No

Supporting Yes  No

Others

Please specify.

n/a

Implementing Yes  No

Supporting Yes  No

Please provide notable details on each of the sectorial initiatives, listed or not listed above, supported by your country or domestic measures taken in relation to specific sectors.

Canada's Extractive Sector Transparency Measures Act (ESTMA) provides an equivalent level of reporting to the EITI Standard. The ESTMA requires commercial entities that are: active or have assets in Canada, listed on a Canadian stock exchange, or meet certain size-related thresholds, to publicly report, on an annual basis, payments totalling \$100,000 or more which are made to all governments both in Canada and abroad related to the commercial development of oil, gas, or minerals.

Types of payments reported include: taxes, royalties, fees, production entitlements, bonuses, dividends, and infrastructure improvement payments. There may be opportunities for increased coordination between the ESTMA program and the EITI.

A background on ESTMA can be found here:

<http://www.nrcan.gc.ca/mining-materials/estma/18180>

**International Anti-Corruption Instruments**

20. Has your country begun or completed the second cycle of UNCAC peer review process as a country under review?

Yes  No

If yes, please indicate.

Begun

Completed

If no, please indicate when your country is scheduled to be reviewed

Canada will be reviewed in the fifth year of the second UNCAC review cycle. Canada's review will begin in 2020.

21. For either or both cycles, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so?

a. Publication of full report

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

b. Involvement of civil society

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

c. Involvement of business

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

d. Country visits

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

Please provide details (e.g. web link for published report, how and when civil society and/or business were engaged during the review process, date of country visit). If your country has voluntarily published its questionnaire response, please indicate as well.

The executive summary and full first cycle review report are available on the UNODC Country Profile Page for Canada.

<https://www.unodc.org/unodc/treaties/CAC/country-profile/CountryProfile.html?code=CAN>

A country visit, agreed to by Canada, was conducted from 21 to 24 October 2013. During the country visit, the reviewing experts met with representatives of civil society, including GOPAC, Transparency International, the Canadian Bar Association and Bennett Jones LLP.

22. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

Yes  No

c. If yes, please provide details.

An exemption in the *Corruption of Foreign Public Officials Act (CFPOA)* relating to small payments to facilitate routine government transactions, “facilitation payments,” was removed from the CFPOA. The repeal came into force on October 31, 2017 and such payments are now included under the foreign bribery offences listed in the CFPOA.

This responds to the observation in Canada’s first cycle UNCAC review that “In accordance with the recent amendments to the CFPOA, continue efforts to eliminate the exemption for facilitation payments.”

b. If you have responded to all or some of the recommendations, have you made those responses publicly available?

Yes  No

If yes, please provide details (including web links, if available).

n/a

23. Is your country party to the OECD Anti-Bribery Convention?

Yes  No

If no, please give an update on steps taken by your country to

- a. participate actively with the OECD Working Group on Bribery, including through possible Participant status and
- b. adhere to the OECD Anti-Bribery Convention.

n/a

24. Has your country begun or completed an OECD Anti-Bribery Convention peer review process as a country under review?

Yes  No

If yes, please indicate.

- |            |                                |   |
|------------|--------------------------------|---|
| a. Phase 1 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| b. Phase 2 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| c. Phase 3 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| d. Phase 4 | Begun <input type="checkbox"/> | Completed <input type="checkbox"/>            |

Please provide information on your country's OECD peer review process and/or any other relevant information (such as reports and links)

The reports on Canada's Phase 1, 2 and 3 reviews as well as follow-up to the Phase 2 and Phase 3 reviews are available on the OECD website:

<http://www.oecd.org/daf/anti-bribery/canada-oecdanti-briberyconvention.htm>

25. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in previous OECD Anti-Bribery Convention evaluations?

Yes  No

If yes, please provide details (including a link to the written follow-up report, where applicable).

An exemption in the *Corruption of Foreign Public Officials Act (CFPOA)* relating to small payments to facilitate routine government transactions, "facilitation payments," was removed from the CFPOA. The repeal came into force on October 31, 2017 and such payments are now included under the foreign bribery offences listed in the CFPOA.

26. Is your country party to other international or regional anti-corruption instruments (such as the Inter-American Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the Council of Europe Criminal Law Convention on Corruption or the Council of Europe Civil Law Convention on Corruption)?

Yes  No

If yes, please indicate which instrument(s).

Canada is a party to the Inter-American Convention against Corruption.

27. Has your country been under review related to any kind of international or regional anti-corruption review mechanism other than the UNCAC peer review process?

Yes  No

If yes, please provide links to review and any compliance reports, if available.

Canada has completed five review rounds within the Mechanism for Follow-Up on the Implementation of the Inter-American Convention Against Corruption (MESICIC).

All five review reports, as well as written inputs provided to reviewers are available on the Anticorruption Portal of the Americas page for Canada.

<http://www.oas.org/en/sla/dlc/mesicic/paises-pais.html?c=Canada>

## CHINA

### Summary of National Progress

1. Please provide a high-level summary (maximum of 500 words) of the most significant anti-corruption measures or initiatives that your country has introduced or implemented since the Accountability Report of 2017. The 2017 Accountability Report as well as previous reports can be accessed at <https://www.g20.org/en/g20-argentina/work-streams/anti-corruption>.

The CPC and the Chinese government attach utmost importance to Party integrity and anti-corruption efforts. The 19<sup>th</sup> CPC Central Committee has made clear instructions on China's anti-corruption work for the coming years.

**Firstly**, China carried out a reform on national anti-corruption system. Based on the pilot work in previous years, China enacted the *Supervision Law of P.R.C* and established the National Commission of Supervision on March 20, 2018, extending supervision on all personnel performing public duties. The supervisory organs perform the duties of supervision, investigation and disposal in accordance with the *Supervision Law* and relevant laws and regulations.

**Secondly**, while taking out tigers, China has begun to focus on "swat flies", addressing the corrupt practices closely related to people's livelihood, such as the inappropriate acts in areas of poverty-relief, environmental protection and etc. In the first half of 2018, anti-corruption authorities throughout the country received 1.683 million complaints, handled 740,000 case clues, put on file 302,000 cases and punished 240,000 persons, including 28 high-ranking officials (ministerial level) and over 230,000 petty officials.

**Thirdly**, China has continued strong oversight on public officials' adherence to the eight-point decision on improving Party and government conduct and taken tough actions against the practice of formalities for formalities' sake, bureaucratism, hedonism, and extravagance, and have staunchly opposed privilege seeking. In the first half of 2018, 25,677 cases in violation of the "Eight-Point Regulation" were investigated. 36,618 officials received punishment.

**Fourthly**, China has continued to fight corruption through on-site inspection. A new round of on-site inspection has started at the beginning of 2018, covering 14 provinces and sectors. The on-site inspection has proved to be an "effective weapon" in detecting corruption.

**Fifthly**, China has strengthened efforts on institutional building against corruption, especially on weaving a systematic legal framework for fighting corruption. Besides the *Supervision Law*, the *CPC Regulation on Punishment for Disciplinary Violations* was revised in August 2018 to respond to changing situation in the anti-corruption campaign.

**Sixthly**, China has further participated in international anti-corruption cooperation, playing an active role in major mechanisms such as UNCAC, G20, APEC, BRICS and so on. Aware of the growing needs for anti-corruption law enforcement cooperation, China has striven for more exchanges and communication with anti-corruption law enforcement agencies with other countries/regions. Meanwhile, China's overseas hunt for corrupt fugitives picked up pace. The *Skynet 2018* was launched in April 2018. In June 2018, China spotlighted 50 fugitives in search for corrupt officials hiding abroad. And in August 2018, China published a notice calling for public-private partnership to bring corrupt fugitives back to justice and to ask those fugitives to surrender themselves to the anti-corruption authorities in China.

### Practical co-operation:

2. Please give an update on the progress made and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Persons Sought for Corruption and Asset Recovery.

China has further participated in international anti-corruption cooperation mechanisms such as UNCAC, G20, APEC, BRICS and etc, calling for more close and effective anti-corruption law enforcement cooperation, especially on persons sought for corruption and asset recovery.

Internationally, aware of the growing needs for anti-corruption law enforcement cooperation, China has striven for more exchanges and communication with foreign anti-corruption law enforcement agencies, holding several rounds of discussion and having parallel case investigations with the counterparts from U.S., Canada, Australia and other countries/regions. Progresses are notable. One of the examples is the repatriation of XU Chaofan in July 2018, who was a former bank official in China who had been accused of embezzling \$485 million in bank funds and fled to U.S. in 2001. With joint efforts of China and U.S., nearly \$300 million was recovered from this case and the offenders were brought back to justice. Meanwhile, China has been actively holding capacity building activities for countries faced with similar problems. A training workshop on asset recovery within the APEC Anti-Corruption and Law Enforcement Practitioners' Network was hosted by China together with UNODC and NACC of Thailand in March 2018, with a document "No Safe Heaven to Stolen Assets -10 recommendations on Asset Recovery" published after the workshop.

Domestically, China's hunt for corrupt fugitives having fled overseas picked up pace. The *Skynet 2018* was launched in April 2018. In June 2018, China spotlighted 50 fugitives in search for corrupt officials hiding abroad. And in August 2018, China published a notice calling for public-private partnership to bring corrupt fugitives back to justice and to ask those fugitives to surrender themselves to the anti-corruption authorities in China.

### **Beneficial Ownership Transparency**

3. Please give an update on the progress made against your National Implementation Plan (if applicable) and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Beneficial Ownership Transparency and the relevant Financial Action Task Force recommendations on beneficial ownership transparency.

China is making more efforts in improving transparency of beneficial ownership, especially in the financial sector. In 2017, People's Bank of China issued the *Notice on Improving Customer Due Diligence for Anti-Money Laundering* (No. 235) and the PBC Notice on Further Measures on Beneficial Ownership Identification (No.164), which stipulate detailed standards and CDD procedures to identify beneficial ownership. (<http://www.mpaypass.com.cn/Download/201805/23103854.html>) It was the first time that Chinese authority issued specific explanation on BO. China is receiving the 4<sup>th</sup> round of FATF mutual evaluation in 2018-2019, and a report including China's work on BO is likely to be submitted in the 1<sup>st</sup> half of 2019.

### Private Sector Integrity

4. Since the last Accountability Report, has your government instituted any new measures to promote the development of anti-corruption initiatives, such as anti-corruption training and education by the private sector, including for Small and medium-sized enterprises (SMEs) and the non-financial professional services sector<sup>5</sup>?

Yes  No

If yes, please provide details.

Since 2017, China has made efforts to improve corporate compliance. Some policy documents were issued on regulating corporate governance including overseas operation, such as the *Instructions on Regulating Overseas Operation of Chinese Enterprises* (<http://www.flymote.com/stocknews-31345.html>) and the *Codes of Conduct for Overseas Operation of Private Enterprises* ([http://www.ndrc.gov.cn/gzdt/201712/t20171218\\_870751.html](http://www.ndrc.gov.cn/gzdt/201712/t20171218_870751.html)) and so on. Training programs have been offered by the state authorities to enterprises on corporate compliance and anti-corruption. For example, the CCPIT held a seminar on Anti-Bribery and Compliance of Chinese Enterprises in Beijing in Nov. 2017, and the CCDI (Central Commission for Discipline Inspection), SASAC (State-owned Assets Supervision and Administration) and World Bank held the Training Workshop on Corporate Compliance of Chinese Enterprises Operating in Belt and Road Countries in Jan. 2018. The private sector, academia and think tanks have also been encouraged to contribute to improving corporate governance.

5. Since the last Accountability Report, have there been any changes or proposed changes to your country's legislation or other measures related to private sector integrity?

Yes  No

If yes, please provide details.

Some policy documents were issued on regulating corporate governance including overseas operation, such as the *Instructions on Regulating Overseas Operation of Chinese Enterprises* (<http://www.flymote.com/stocknews-31345.html>) and the *Codes of Conduct for Overseas Operation of Private Enterprises* ([http://www.ndrc.gov.cn/gzdt/201712/t20171218\\_870751.html](http://www.ndrc.gov.cn/gzdt/201712/t20171218_870751.html)) and so on.

6. Does your country apply anti-corruption legislation to SOEs (employees and executives), including anti-bribery legislation? Please provide a response for both active and passive bribery with regard to domestic and transnational bribery of public officials.

Yes  No

<sup>5</sup> non-financial professional services sector could include: computer services, real estate, research and development, legal services and accounting

If yes, please provide details.

The *Supervision Law of P.R.C.*, enacted in March 2018, stipulates explicitly that conducts of SOE personnel will be supervised. It is the first time that SOE personnel are clearly covered and supervised by the national anti-corruption law. The *Criminal Law of China* and its 8<sup>th</sup> Amendment has criminalized the corruption and bribery activities in and outside China of enterprises including SOEs.

If no, has your country taken steps to propose or to make changes to your country's anti-corruption legislation related to SOEs (employees and executives)?

### Active and Passive Bribery Offences

7. Does your country currently have legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

The *Criminal Law of China* and its 8<sup>th</sup> Amendment has criminalized the corruption and bribery activities in and outside China of enterprises including SOEs.

8. If your country has not criminalized foreign bribery, has your country proposed or made changes, since the last Accountability Report, to your country's legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

### Liability of Legal Persons

9. Has your country established the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details (e.g. about the type of liability, including whether criminal,

civil, or other).

The articles 30, 31 and 164 of the *Criminal Law of China* as well as its 8<sup>th</sup> Amendment make specific stipulations on the liability of legal persons for criminal offenses including corruption and corruption-related offenses. Moreover, China's *Criminal Law* holds the dual punishment principle, which means that not only the legal persons but also the individual persons involving in the same offence will be punished by law.

If no, has your country taken steps since the last Accountability Report to establish the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details.

### Public Sector Integrity and Transparency

10. Since the last Accountability Report, has your country taken significant steps to propose or to make changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

China is now revising the *Regulations on Government Information Transparency*, aiming to further expand the scope of government information disclosure, improve public access, and make government operation more transparent.

11. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to public disclosure by public officials?

Yes  No

If yes, please provide details.

China issued the *Regulations on Report on Personal Matters by Leading Public Officials* and the *Guidance on Handling Unfaithful Report on Personal Matters by Leading Public Officials* in Feb 2017. In Dec 2017, CPC Central Committee released the *Provisional Regulations on Open Management of CPC Party Affairs*, which requires Party affairs to be managed in a transparent and democratic way.

12. Does your country have in place standards and a system for preventing and managing

conflicts of interest in the public sector? This may include the establishment of standards of conduct, especially for public officials working in high-risk sectors; putting into place clear means for developing, implementing and updating conflict-of-interest policies; and identifying “at-risk” activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures.

Yes  No

If yes, please provide details.

According to the Supervision Law of China, the supervisors are disallowed to work in professions that are related to supervision and judicial work within 3 years of their resignation or retirement, or that may trigger conflict of interests; the supervisors shall shun from business if there exist COI risks in the work they are doing. The Law on Public Officials of China also makes clear stipulation on COI for public officials who are in or out of office. COI regulations can also be found in the Criminal Procedure Law, Civil Procedure Law and Administrative Procedure Law of China.

For inner-Party regulation, the *CPC Regulation on Punishment for Disciplinary Violations* also stipulates COI regulations for Party members, such as prohibition from taking part in profit-seeking activities, from seeking benefits for family members, from taking certain offices after retirement and etc. China has also in place the regulations on COI for leading personnel in SOEs and in stock investment of public officials.

13. Has your country established whistleblower protections under your domestic laws?

Yes  No

14. Since the 2015 Accountability Report, has your country proposed or made changes to its whistleblower protection framework in both public and private sectors?

Yes  No

If yes, please provide details.

15. Since the last Accountability Report, has your country proposed or made changes to your country’s legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

China is now revising the *Regulations on Government Information Transparency*, aiming to further expand the scope of government information disclosure, improve public access, and make government operation more transparent.

16. Is your country a member of the Open Government Partnership?

Yes  No

Please provide details including information on the collective actions taken by your country since the last Accountability Report.

17. Does immunity for public officials from investigations and prosecutions for corruption related offenses exist in your country?

Yes  No

If yes, how is an appropriate balance ensured between any immunities and the need to effectively investigate, prosecute and adjudicate corruption offences, in accordance with article 30(2) of UNCAC?

**Sectors**

18. Since the last Accountability Report, have there been any changes or proposed changes to your country's legislation or other measures related to combating corruption:

a. in Sports? Yes  No

If yes, please provide details.

The state authority is now working on plan of supervision for the 2022 Winter Olympics to be held in China.

b. as a facilitator of illegal trade in wildlife and wildlife products? Yes  No

If yes, please provide details.

China enacted the Law on Wildlife Protection on Jan. 1 2017, in which the article 36 and 42 stipulate clearly how to deal with malfeasance in wildlife protection ([http://www.npc.gov.cn/npc/xinwen/2016-07/04/content\\_1993249.htm](http://www.npc.gov.cn/npc/xinwen/2016-07/04/content_1993249.htm)).

19. Is your country supporting or implementing any sector-specific initiatives?

Extractive Industries Transparency Initiative (EITI)

Implementing	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Supporting	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Construction Sector Transparency Initiative (CoST)

Implementing	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Supporting	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Customs (World Custom Organization-Arusha Declaration)

Implementing	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Supporting	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Others

Please specify.

Implementing	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Supporting	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Please provide notable details on each of the sectorial initiatives, listed or not listed above, supported by your country or domestic measures taken in relation to specific sectors.

China is now focusing efforts on prevention and eradication of corruption in poverty-relief sector and financial sector, as the former is closely related to people’s livelihood and the latter the stability of national economy. Special campaigns have been launched to address corrupt activities in those sectors. In the first half of 2018, 45,300 cases of corruption and improper working style have been addressed and 61,500 persons punished in the poverty-relief sector. Several high-ranking officials in the financial sector are under investigation due to corrupt acts, such as LAI Xiaomin, president of China Huarong Asset Management Co. Ltd, one of the major financial companies in China.

**International Anti-Corruption Instruments**

20. Has your country begun or completed the second cycle of UNCAC peer review process as a country under review?

Yes  No

If yes, please indicate.

Begun

Completed

If no, please indicate when your country is scheduled to be reviewed

2019

21. For either or both cycles, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so?

a. Publication of full report (to be decided)

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

b. Involvement of civil society

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

(to be decided)

c. Involvement of business

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

(to be decided)

d. Country visits

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

(to be decided)

Please provide details (e.g. web link for published report, how and when civil society and/or business were engaged during the review process, date of country visit). If your country has voluntarily published its questionnaire response, please indicate as well.

The country visit was in August 2015, during which the review team held a meeting with experts from NGO, legal profession, scholars and private sector in Tsinghua University.

22. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

Yes  No

d. If yes, please provide details.

Concerning International Cooperation (Chapter V), China is recommended to continue efforts on the adoption of the Law on Mutual Legal Assistance in Criminal Matters. Responding to that, China's legislature has drafted the Law MLA in Criminal Matters of China. The first reading of the legal texts has been completed. Based on public comments, the legislature is reviewing the draft and preparing it for the second reading.

b. If you have responded to all or some of the recommendations, have you made those responses publicly available?

Yes  No

If yes, please provide details (including web links, if available).

The draft legal texts of the Law on Mutual Legal Assistance in Criminal Matters were put online for public comments.

23. Is your country party to the OECD Anti-Bribery Convention?

Yes  No

If no, please give an update on steps taken by your country to

- a. participate actively with the OECD Working Group on Bribery, including through possible Participant status and
- b. adhere to the OECD Anti-Bribery Convention.

NCS of China is now working with OECD WGB to host the 2<sup>nd</sup> roundtable of OECD Anti-Bribery Convention for further exchanges and discussions.

24. Has your country begun or completed an OECD Anti-Bribery Convention peer review process as a country under review?

Yes  No

If yes, please indicate.

- |            |                                |                                    |
|------------|--------------------------------|------------------------------------|
| a. Phase 1 | Begun <input type="checkbox"/> | Completed <input type="checkbox"/> |
| b. Phase 2 | Begun <input type="checkbox"/> | Completed <input type="checkbox"/> |
| c. Phase 3 | Begun <input type="checkbox"/> | Completed <input type="checkbox"/> |
| d. Phase 4 | Begun <input type="checkbox"/> | Completed <input type="checkbox"/> |

Please provide information on your country's OECD peer review process and/or any other relevant information (such as reports and links)

25. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in previous OECD Anti-Bribery Convention evaluations?

Yes  No

If yes, please provide details (including a link to the written follow-up report, where applicable).

26. Is your country party to other international or regional anti-corruption instruments (such as the Inter-American Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the Council of Europe Criminal Law Convention on Corruption or the Council of Europe Civil Law Convention on Corruption)?

Yes  No

If yes, please indicate which instrument(s).

China is member of the Asian Ombudsman Association, the ADB-OECD Anti-Corruption Initiative, and etc. China has also initiated the China-ASEAN Anti-Corruption Cooperation and the China-Africa Anti-Corruption Cooperation.

27. Has your country been under review related to any kind of international or regional anti-corruption review mechanism other than the UNCAC peer review process?

Yes  No

If yes, please provide links to review and any compliance reports, if available.

## EUROPEAN UNION

### Summary of National Progress - Relevance: Q1.

Recently adopted EU anticorruption measures include the fifth anti-money laundering directive to enhance transparency of financial transactions and the powers of EU Financial Intelligence Units (FIU's), new rules protecting the EU's financial interests, such as the establishment of the European Public Prosecutor's Office, and a new Financial Regulation to strengthen the protection of the EU budget.

In April 2018, the Commission proposed measures to establish common minimum standards for the protection of whistleblowers in the EU. Other proposed legislation includes provisions to reduce obstacles to accessing and exchanging financial information for the purposes of combating serious crime and terrorism and the revision of minimum rules on the definition of criminal offences and sanctions related to money laundering. The EU continues to support private sector and civil society initiatives under the Internal Security Fund, the European Structural and Cohesion Funds and the Structural Reform Support Programme.

#### *Details:*

### Beneficial Ownership Transparency - Relevance: Q3.

- *The 5<sup>th</sup> anti-money directive on money laundering*

EU strengthened the anti-money laundering framework by adopting Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU. The Directive entered into force on 9 July 2018; Member states will have to implement it by 10 January 2020. The directive primarily seeks to strengthen the fight against terrorist financing, setting out a series of measures that increase transparency of financial transactions. More specifically, the new legislation:

- increases **transparency** about who really owns companies and trusts to prevent money laundering and terrorist financing via opaque structures;
- improves the work of **Financial Intelligence Units** with better access to information through centralised bank account registers;
- tackles **terrorist financing risks** linked to anonymous use of virtual currencies and of pre-paid instruments;
- improves the **cooperation and exchange of information** between anti-money laundering supervisors and with the European Central Bank;
- broadens the **criteria for assessing high-risk third countries** and ensure a common high level of safeguards for financial flows from such countries.

Source: [Directive \(EU\) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive \(EU\) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing](#)

- *Proposal for a Directive on combating money laundering by criminal law*

The proposed Directive on combating money laundering by criminal law (COM/2016/0826 final) was agreed among the EU institutions in June 2018 and will be subject to final adoption in October 2018. It will establish minimum rules on the definition of offences and sanctions related to money laundering. The proposal contains a comprehensive set of predicate offences, and also includes self-laundering. The provisions will facilitate prosecution in Member states, for instance it will not be necessary to prove all elements of the predicate offence, which was previously indicated as an important obstacle that can make the cross-border fight against money laundering particularly difficult.

- *2016 Commission proposal for a Regulation on the mutual recognition of freezing orders*

The new regulation covering freezing and confiscation orders (COM (2016) 819), directly applicable in the EU, will be adopted in the autumn 2018. It aims to ensure the effective freezing and confiscation of criminal assets across the EU. This will contribute to making the EU more secure by combating the financing of crime, including terrorist activities. This will resolve the issues linked to the implementation of the existing instruments, which have led to insufficient mutual recognition.

The general principle of mutual recognition will prevail: all judicial decisions in criminal matters taken in one EU country will normally be directly recognised and enforced by another member state. The regulation only sets out a limited number of grounds for non-recognition and non-execution. The institutions agreed on the inclusion of a ground for non-recognition based on fundamental rights but under very strict conditions.

- *European Public Prosecutor's Office (EPPO)*

The Regulation establishing the European Public Prosecutor's Office (EPPO) under enhanced cooperation was adopted in October 2017. Currently 22 EU Member States are taking part in the enhanced cooperation. The legal basis and the rules for setting up the EPPO are laid down in Article 86 of the Treaty on the Functioning of the EU (TFEU). The EPPO will have competence to tackle passive and active corruption as defined in Article 4(2) of Directive 2017/1371.

Source: [Council Regulation](#) (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO')

- *Measures to enable access for competent national authorities and exchange of financial and other information*

In April 2018, the Commission proposed legislation to reduce the obstacles to accessing and exchanging financial and information for the purposes of combating serious crime and terrorism. The proposal also aims to improve cooperation between law enforcement authorities and Financial Intelligence Units (FIUs) and between FIUs by providing law enforcement authorities with the possibility to request financial information from FIUs as well

as an improved access for FIUs to law enforcement information. The proposal grants law enforcement authorities and Asset Recovery Offices with direct access to the centralised bank account registries. Europol will be granted indirect access via the Europol National Units.

[Source: Proposal for a directive laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences](#)

– *New Financial Regulation*

The EU strengthened the protection of its budget by adopting a new Financial Regulation, which entered into force on 2 August 2018. The new provisions concern among others the enhancement of the early detection and exclusion system to protect the EU interests against unreliable economic operators with additional scope and grounds of exclusion, and definition of conflict of interests.

Source: [Regulation \(EU, Euratom\) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union](#)

**Private Sector Integrity** - Relevance: Q4-6.

– *Financial support*

Anti-corruption is a key component of the programming of EU funding, including the European Structural and Investment Funds, to help build institutional capacity and modernise public administration in the Member States. Anti-corruption actions are also financed under the more modest envelopes of the Internal Security Fund for Police, Horizon 2020 and Hercule II and III programmes. In the new funds architecture, support is also provided through the Structural Reform Support Programme (SRSP) and covers areas such as rule of law, anti-corruption, anti-money-laundering and anti-fraud.

The full database of projects co-financed by the EU, including civil society projects on the fight against corruption, can be consulted online. [http://ec.europa.eu/budget/fts/index\\_en.htm](http://ec.europa.eu/budget/fts/index_en.htm)

Funds are available for countries outside the EU as well.

– *Whistleblower protection*

The European Commission's [Proposal for Directive on the protection of persons reporting on breaches of Union law \(COM/2018/218 final\)](#), presented in April 2018, proposes rules aims at ensuring that all large and medium-sized companies set up clear, effective and easily accessible reporting channels for potential whistleblowers reporting on breaches of EU law falling within the scope of this Directive. The accompanying Communication promotes relevant good practices identified at national level, such as guidance to and training to private sector employers and employees, support to businesses etc.

### **Active and Passive Bribery Offences - Relevance: Q7-8.**

The latest development dates back to July 2017 when the [directive on the fight against fraud to the Union's financial interests by means of criminal law](#) was adopted. This directive establishing minimum standards of protection against fraud and related offences affecting EU funds, it entered into force on 5 July 2017. The transposition date by Member states expire on 6 July 2019. Under this directive, Member states have to transpose definitions of criminal offences affecting the Union's financial interests, sanctions and limitation periods; criminalise corruption in relation to the Union's financial interests; ensure liability of heads of businesses or any person having power to take decisions or exercise control within a business; provide that MS have jurisdiction over offences which take place completely or partially within their territory or the offender is a national of the MS.

Previous legislation includes the 1997 Convention against corruption involving officials and the Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector. On the basis of the 1997 Convention, each Member State must take the necessary measures to ensure that conduct constituting an act of passive corruption or active corruption by officials is a punishable criminal offence. The framework decision created an obligation to criminalise active and passive corruption in the private sector. The implementation of these rules in Member states is subject to a third evaluation by the European Commission this year.

### **Liability of Legal Persons - Relevance: Q9.**

All directives and formerly adopted framework decisions, including the 2003/568/JHA framework decision on private sector corruption and the money laundering directives include provisions on the liability of legal persons.

### **Public Sector Integrity and Transparency - Relevance: Q10-17.**

- *Prioritizing integrity and the fight against corruption in the European Semester of Economic Governance*

The Commission prioritises integrity and anti-corruption also in the European Semester of economic governance. Corruption is still a key issue in a number of Member States, hampering investment, efficient resource allocation, economic performance and growth. The situation calls for continued, persistent and coherent action. *The [2018 Annual Growth Survey](#) recognises corruption a barrier to investment in some Member States, creating uncertainty in the business environment, slowing processes and potentially imposing additional costs. Building integrity and transparency in public administrations, including the implementation of effective corruption prevention, are crucial to delivering high quality services for businesses and citizens.*

- *New Code of Conduct for Commissioners*

The new [Code of Conduct for Commissioners\\*](#) (established by Commission Decision [C\(2018\) 700 final](#)) entered into force on 1 February 2018. The Code significantly enhances

the ethics framework at political level. The new Code reinforces the rules applicable to the declaration of Commissioners' interests, and in particular foresees the disclosure of loans and, under certain conditions, of financial interests of spouses, partners and minor children. It also provides for increased transparency. The new provisions extend the "cooling-off period" from 18 months to 2 years for former Commissioners to and 3 years for former Presidents. A reinforced Independent Ethical Committee assists in the application of the rules and its opinions on former Commissioners' post-mandate activities will be public. The Commissioners' meetings with interest representatives are made public as well as the Commissioners' missions and related expenditure.

*\*COMMISSION DECISION of 31.1.2018 on a Code of Conduct for the Members of the European Commission; [C\(2018\) 700 final](#)*

– *Transparency Register, public disclosure by officials*

At the very start of its mandate, the Juncker Commission decided that decision-makers at the political level (Commissioners) and those directly responsible for advising them (Cabinet members and Directors-General) would only meet with interest representatives which feature on the Transparency Register, and that information about such meetings would be published proactively. These unprecedented commitments for the EU institutions were first set out in a Decision\* and subsequently enshrined in the new Code of Conduct for Commissioners. They represent a key element under the Democratic Change priority of this Commission. The transparency measures have enhanced the reputation of the Commission as an open public administration and have led to a significant increase in the number of entities which have signed up to the Transparency Register and the associated Code of Conduct. Details on more 17,000 lobby meetings has been published on Europa since December 2014.

*\*Commission decision on the publication of information on meetings held between Members of the Commission and organisations or self-employed individuals ([2014/839/EU, Euratom](#))*

– *Preventing and managing conflicts of interests*

The new Code of Conduct for Commissioners imposes an obligation to Commissioners to publish their declarations of interests on the web in an electronic and machine-readable format and to notify any situation which could be perceived as a conflict of interest to the President. High level officials (in fact, all officials) of the European Commission are under an obligation to submit a declaration of conflicts of interests, if there is any, under Art 11 of the Staff Regulations.

The EU strengthened the protection of its budget by adopting a new Financial Regulation, which entered into force on 2 August 2018. The new provisions concern among others the rules to follow in case of conflicts of interests

– *Best practices*

It is essential to continuously exchange views and experience among anti-corruption practitioners with a view to identify even better ways to fight corruption. The Commission launched an experience sharing programme to offer anti-corruption practitioners from EU Member States a forum for exchanging views on the challenges being faced, and policy levers to address these. The open, collaborative environment we envisaged is designed to allow people to exchange views on topics of common interest, seek inspiration from legislative and institutional reforms and policy initiatives that have been attempted or are in the pipeline in other Member States, as well as to learn from others' experiences. In addition to this, the idea is also to create a community of anti-corruption practitioners working on various topics across the EU, who can have a frank exchange on elements of success of anti-corruption measures and reform, but also on challenges and obstacles in effectively setting these in place.

The programme is part of the broader context of the EU support to the Member States, which consists of analyses and recommendations in the European semester, legal initiatives that include anti-corruption provisions and technical and financial support.

Since 2015 the Commission organised ten workshops in the framework of the programme. More than 300 experts from the MS public institutions, civil society, academia or international organisations participated. The workshops addressed topics such as: effective asset declaration systems, whistleblower protection, corruption in specific sectors (healthcare, public procurement, private sector), political immunities, conflicts of interest and revolving doors, measuring corruption and assessing its social and economic impact, the role of prosecution in fighting high level corruption

– *Public procurement*

New EU rules on public procurement came into force in April 2014. The new provisions have a stronger anticorruption focus and enhance considerably the transparency of the public procurement procedures, particularly by introducing mandatory e-procurement from 2018.

Important pieces of legislation are currently being negotiated and are likely to be adopted by the end of 2018 or the first quarter of 2019. These include the public sector information directive and an update to the public procurement standard forms, effectively the EU's open contracting standard. Concerning other measures, the EU has broad non-legislative support for open data, such as setting up the EU's Open Data Portal and financing through the Connecting Europe Facility. In 2018, this has included funds explicitly for procurement contract registers and open data. Finally, 2018 was also the conclusion of the EU-funded Digiwhist.eu project, which has made available all data from Tenders Electronic Daily and a lot of national procurement data in a harmonized open contracting data standard.

– *Whistleblower protection*

On 23 April 2018, the European Commission presented a [package of initiatives](#) that includes a Proposal for Directive on the protection of persons reporting on breaches of Union law and a Communication, with a view to establishing a legal framework for effective whistleblower

protection at EU level.

The European Commission's Proposal for Directive on the protection of persons reporting on breaches of Union law, presented in April 2018, proposes rules that provide for the protection against retaliation of public servants and other categories of persons who make a public disclosure about a breach of EU law that falls within the scope of the proposal, where they meet the conditions set by the proposal (e.g. that they first reported internally and/or externally but no appropriate action was taken in response to the report or that they could not reasonably be expected to use internal and/or external reporting channels due to imminent or manifest danger for the public interest, or to the particular circumstances of the case, or where there is a risk of irreversible damage)

The proposed measures, which are addressed to the Member States of the EU, set EU wide common minimum standards which aim at ensuring that: potential whistleblowers have clear reporting channels available to report both internally (within an organisation) and externally (to an outside authority); when such channels are not available or cannot reasonably be expected to work properly, potential whistleblowers can resort to public disclosure; competent authorities are obliged to follow up diligently on reports received and give feedback to whistleblowers; retaliation in its various forms is prohibited and punished; if whistleblowers do suffer retaliation, they have adequate remedial measures at their disposal. At the same time, the proposed rules provide for safeguards to: protect responsible whistleblowing genuinely intended to safeguard the public interest; proactively discourage malicious whistleblowing and prevent unjustified reputational damage; and fully respect the rights of defence of those concerned by the reports.

The European Commission's Staff Regulations for EU staff stipulate that staff are obliged to report any information on possible illegal activity, including fraud or corruption or serious failure to comply with the obligations of officials. The Staff Regulations impose on the institutions an obligation to adopt internal rules in this regard and to put in place a procedure for the handling of complaints made by the whistleblowers concerning the way they were treated. The Commission and other EU institutions have adopted such implementing rules highlighting the protection offered to whistleblowers.

– *Immunities*

EU officials are covered by immunity from legal proceedings in relation to acts performed in their official capacity. This immunity is however granted solely in the interests of the European Union. Each institution is required to waive this immunity unless the waiver is contrary to the interests of the European Union. In case of suspicions of corruption, immunity is usually lifted.

Moreover, the European Union's Anti-Fraud Office can investigate any case of suspected corruption in relation to EU staff without the requirement of a prior waiver of immunity.

## FRANCE

### Summary of National Progress

1. Please provide a high-level summary (maximum of 500 words) of the most significant anti-corruption measures or initiatives that your country has introduced or implemented since the Accountability Report of 2017. The 2017 Accountability Report as well as previous reports can be accessed at <https://www.g20.org/en/g20-argentina/work-streams/anti-corruption>.

#### Transparency in Public Life

A number of significant measures have been taken over the last past years to strengthen French legislation on the fight against corruption and the transparency of public life.

Two emblematic measures concern the creation of the Financial Prosecutor Office (PNF) and the High Authority for Transparency in Public Life (HATVP) created by two sets of laws in 2013: by ensuring better control over public officials and more severe repression of economic and financial delinquency, these institutions already have several significant results to their credit: from preventive actions to the emblematic condemnation of former ministers, former members of the Parliament and other public figures. The Laws of 2013 defined the notion of conflict of interest and created a mission of prevention of conflicts of interests implemented by the High Authority, in addition to its mission of control of asset and interest disclosure for 15 800 high-ranking elected and non-elected public officials and post-public employment for former ministers, local elected officials and members of boards of independent administrative agencies.

Two laws were adopted in 2017 :

- **Organic law 2017-1338 of 15<sup>th</sup> September 2017 on trust in political life** strengthens members of parliament integrity monitoring mechanism. The law provides for a conflict of interests check with a sanction mechanism by the French Constitutional Court.
- **Law 2017-1339 of 15<sup>th</sup> September 2017 on trust in political life provides for :**
  - (i) The details of the conflict of interests check. The law provides for the obligation to create deontology bodies within each of the parliamentary assemblies and a public register provides for the details on each Member of Parliament choosing to deny participating to a debate on a topic raising a conflict of interests.
  - (ii) A stronger monitoring system for lobbyists. Lobbyists are banned from paying money to members of parliament and their staff members, as well as government members and the President and the Ministers' offices staff members.
  - (iii) The prohibition for government members and members of parliament to hire their family members
  - (iv) : The obligation for members of parliament to provide precise bills for their

refundable expenses

- (v) : a stronger control of political parties and electoral campaigns financing

**Update :**

- The HATVP referred 36 cases for suspicions of violations to the Laws of 11 October 2013 to a prosecutor since 2014. About 20 additional cases have also been referred to the prosecutor’s office for other corruption incriminations ;
- All cases referred to the judicial authorities resulted in proceedings ;
- The first definitive sanctions have already been pronounced (mostly fines, ineligibility and suspended prison sentences).

**Transparency, fight against corruption and modernization of economic life**

Moreover, France completed a significant anticorruption reform with the anticorruption component of the "Sapin 2 law". Indeed France passed a law on “transparency, fight against corruption and modernization of economic life” (“Sapin 2”) on 9 December 2016. This law provides for innovative measures that significantly strengthen the anticorruption framework for companies, but also for public organizations. The main measures include the following items: (i) Companies and public bodies over a certain size have to adopt prevention and compliance programs to be able to prevent and detect corruption (ii) a new Deferred Prosecution Agreement system (Convention judiciaire d’intérêt public, CJIP), was introduced (iii) the French Anticorruption Agency (Agence française anticorruption, AFA). The AFA is in charge of ensuring that companies comply with the anticorruption obligations provided by law. AFA also monitors the compliance programs imposed by the courts or within a DPA. Finally, AFA also provides public and private-owned companies, central government departments and local authorities with general guidance (recommendations) and specific support.

**Update :**

- Around 55 control missions will be completed by the AFA by the end of 2018.
- A first set of recommendations (guidelines), drafted in consultation with the private sector and civil society, was publically released in December 2017 (English version: [https://www.economie.gouv.fr/files/files/directions\\_services/afa/French\\_Anticorruption\\_Agency\\_Guidelines.pdf](https://www.economie.gouv.fr/files/files/directions_services/afa/French_Anticorruption_Agency_Guidelines.pdf)).
- The first annual activity report of the AFA is available online ([https://www.economie.gouv.fr/files/files/directions\\_services/afa/Rapport\\_annuel\\_-\\_22\\_mai\\_2018.pdf](https://www.economie.gouv.fr/files/files/directions_services/afa/Rapport_annuel_-_22_mai_2018.pdf))
- 5 DPA have been homologated since the Enactment of the “Sapin 2 law”, including a joint resolution of common case between the National Financial Prosecutor's Office (PNF) and the US DoJ on 4th june 2018 [https://www.economie.gouv.fr/files/files/directions\\_services/afa/24.05.18\\_-\\_CJIP.pdf](https://www.economie.gouv.fr/files/files/directions_services/afa/24.05.18_-_CJIP.pdf)
- Furthermore, “Sapin 2 law” improves transparency between public authorities and the economic field by creating a national register of interest representatives: lobbyists have the obligation to register, to declare their

activities with public authorities and to respect ethical duties and obligations. This register, managed by the HATPV is available online. More than 1 600 lobbyists are now registered and had to declare for the first time their influence activities upon public officials for the last term of 2017 before 30 April 2018. More than 5 550 activities have been declared on 11 September 2018. Control of registrations and declarations is currently underway.

- Finally, a multi-year National Strategy against Corruption is currently being developed under the lead of the AFA, and will be discussed by other Departments, and both the civil society and the private sector will be consulted.

### Practical co-operation:

2. Please give an update on the progress made and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Persons Sought for Corruption and Asset Recovery.

As responded in the 2017 accountability report, under French law, one has to distinguish between short stay and long stay visas. The EU has set up a common visa policy for short stays, i.e. stays up to three months, which is applied through the delivery of "Schengen visas". France belongs to the Schengen area and applies the Visa code for short stays. Threat to public order is a general ground for denial.

The EU may lead bilateral negotiations on free access to the Schengen Area. These negotiations are based on the progress made by the countries concerned in implementing major reforms in areas such as rule of law strengthening, combating organized crime or corruption.

There is an information sharing system within the Schengen zone: the Schengen Information System. There also is a national data file gathering information on wanted or convicted persons (the national convicted person's data file). This data file focusses on final convictions. Data from this file are transferred to the SIS. Therefore, there is a complete information sharing system within the Schengen Zone.

Long-stay visas remain under national competence For long stays visas, the relevant set of rules are compiled under the "*Code de l'entrée et du séjour des étrangers et du droit d'asile en France*" (Code on aliens entry, stay and asylum). Threat to public order is also a general ground for denial.

For further information, you may have a look at the French Code on aliens entry, stay and asylum on the following link :

<https://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070158>

You can also the EU Directorate General for Migration and Home Affairs website :

[http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/index_en.htm)

### Beneficial Ownership Transparency

3. Please give an update on the progress made against your National Implementation Plan (if applicable) and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Beneficial Ownership Transparency and the relevant Financial Action Task Force recommendations on beneficial ownership transparency.

As a result of Ordinance 2016-1635 of 1st December 2016 and Decree 2017-1094 of 12th June 2017, France currently implements a register of beneficial owners of enterprises, via the register of trade and companies. This register is accessible to the competent authorities in the field of AML-CFT, taxable entities and persons with a legitimate interest. France is hence implementing its national implementation plan.

In addition, the directive (UE) 2018/843 enhances the obligations related to identification of beneficial owners. Concerning central registers gathering information on beneficial owners of corporate and other legal entities within their territory, Member States must now provide for sanctions in the event of companies' breach of the obligation to obtain and retain information on their beneficial owners. Member States shall also implement measures to make sure beneficial owners communicate information to allow the legal entity to identify them and, finally, central registers are substantially strengthened (public access for most of the information, mechanisms implemented in order to guarantee information held in beneficial owners register are adequate, accurate and current, etc). Central registers gathering information on beneficial owner of trusts are also reinforced within this new anti-money laundering directive, including their transparency. France has already started working on the transposition of these new obligations in order to enhance its beneficial owner's registries.

International NGOs such as Transparency International have publicly acknowledged France's efforts in this area, and have placed France among the top three G20 countries in implementing the 2014 High Level Principles on beneficial ownership.

[https://transparency-france.org/wp-content/uploads/2018/04/TI\\_G20-Leaders-or-Laggards.pdf](https://transparency-france.org/wp-content/uploads/2018/04/TI_G20-Leaders-or-Laggards.pdf)

### Private Sector Integrity

4. Since the last Accountability Report, has your government instituted any new measures to promote the development of anti-corruption initiatives, such as anti-corruption training and education by the private sector, including for Small and medium-sized enterprises (SMEs) and the non-financial professional services sector<sup>6</sup>?

Yes  No

<sup>6</sup> non-financial professional services sector could include: computer services, real estate, research and development, legal services and accounting

If yes, please provide details.

As in 2017, “Sapin 2 law” lays down an obligation to implement a corruption prevention plan in large companies. The French Anticorruption Agency ensures that companies with a workforce of over 500 and whose annual turnover exceeds EUR 100 Million set in procedures to prevent against the risk of corruption, for example by training their employees. The Agency is able to sanction any failings in the 1,600 companies in France in this bracket. In this way, the Agency will be able to issue a formal warning or impose a fine of up to EUR 1 Million for legal entities and EUR 200,000 for natural persons, and make the pro-posed penalty public. More generally, the French Anticorruption Agency centralizes and spreads information to prevent and detect corruption in the entire private sector. It supports State administrations, regional authorities and any natural or legal person preventing corruption. The agency provides, as well, training schemes, awareness actions and assistance initiatives about the prevention of corruption. Furthermore, the agency drafts recommendations to support legal entities in the prevention and detection of corruption. These guidelines are specific to the size of the legal entity and the risks pointed out.

**Update :** This set of recommendations (guidelines), drafted in consultation with the private sector and civil society, was publically released in December 2017 (English version:

[https://www.economie.gouv.fr/files/files/directions\\_services/afa/French\\_Anticorruption\\_Agency\\_Guidelines.pdf](https://www.economie.gouv.fr/files/files/directions_services/afa/French_Anticorruption_Agency_Guidelines.pdf)).

Among the several national and international technical trainings provided by the AFA, in cooperation with national and international partners, it is worth mentioning the recent development of an interactive [online-course](#) (MOOC) on “How to prevent corruption, favoritism, and embezzlement at the local level”.

Finally, the French Ministry of Foreign Affairs strongly takes into account the prevention of corruption in both its Paris-based departments and the diplomatic network abroad. First, the Ministry provides training on the fight against corruption for Ambassadors appointed for the first time. Moreover, the Ministry sends every year circular information in connection with other Departments (Ministry of Finance, AFA, and Department of Justice) to all the Embassies abroad on integrity and the fight against corruption in order to make embassies fully aware of corruption risks and the legal framework. French Treasury also provides educational and practical information in its economic network services to help its agents to prevent from corruption risks and to advise and sensitize companies. Economics services heads receives each year a physical training on this issue alongside the AFA.

5. Since the last Accountability Report, have there been any changes or proposed changes to your country’s legislation or other measures related to private sector integrity?

Yes  No

If yes, please provide details.

Please refer to developments in the first question about the AFA, the national register of interest representatives, and the 2017 laws on trust in political life.

6. Does your country apply anti-corruption legislation to SOEs (employees and executives), including anti-bribery legislation? Please provide a response for both active and passive bribery with regard to domestic and transnational bribery of public officials.

Yes  No

If yes, please provide details.

In terms of preventing bribery, French law does not distinguish between private and public companies.  
 For example, the provisions of the “Sapin 2 Law” (<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000033558528&dateTexte=20180910>) apply equally to private and public companies, as long as they meet the criteria of workforce size and turnover provided for by law.

If no, has your country taken steps to propose or to make changes to your country’s anti-corruption legislation related to SOEs (employees and executives)?

Irrelevant, as French law does not operate any distinction between private and public companies (see above) in this field.

**Active and Passive Bribery Offences**

7. Does your country currently have legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

Yes. Active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations Foreign bribery are criminalized by the French Penal code (Articles 435-3; 435-7; 435-1; 435-9; 453-4; 453-10; 453-2; 453-8).  
  
 The “Sapin 2 law” has extended the offense of trading in influence to foreign public officials, giving it the same scope as corruption, in order to address recommendations from both OECD and UNODC conventions reviews.  
 In addition, the law removes obstacles to the full deployment of the competence of French prosecuting authorities in matters of corruption and trading of influence when

these offenses have been committed abroad, by removing the conditions previously required (for example, the condition of reciprocity of offence or the condition that the offence be established by a final decision of the foreign court)

8. If your country has not criminalized foreign bribery, has your country proposed or made changes, since the last Accountability Report, to your country's legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

**Liability of Legal Persons**

9. Has your country established the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details (e.g. about the type of liability, including whether criminal, civil, or other).

France has a full liability system for legal persons. Since the reform of the Criminal Code in 1994, legal persons are liable for criminal offenses. Article 121-2 of the Criminal Code provides that except the State, legal persons are criminally liable for offenses committed in their behalf. There are some specifications with respect to local authorities. Beforehand, liability of legal persons was only possible if it was specifically provided for in the Criminal Code. Since the law of 9th march 2004, legal persons shall be liable for any offence, unless it is stated that an offence shall not apply to legal persons. Case law has provided substantial details on the conditions for such a liability.  
Moreover, legal persons are also subject to civil liability.

If no, has your country taken steps since the last Accountability Report to establish the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details.

**Public Sector Integrity and Transparency**

10. Since the last Accountability Report, has your country taken significant steps to propose or to make changes to your country’s legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

Since 2016 and the Digital Republic Bill, the “open data by default” principle is written in law. Administration now have to give a valid reason to refuse to open up their data. The Digital Re-public Bill also created the “Data Public Service”. In practical terms, after a time of public consultation, the Government, collectively with citizens, identified 9 reference databases (among which the French business registry), crucial for many producers and used every day to deliver public services. Producers now have to respect legal obligations in terms of data availability, updates, quality and open data standards. Beyond these 9 data sets, this also concerns data of Industrial and Commercial Public Services and Public Service Delegations, data on energy, on jurisprudence, on housing, on subventions, etc. Moreover, there is a provision on data circulation between administrations: any administration can now access the data produced by other administrations freely (if it is relevant to its public mission). There are also restrictions to producers who intend to limit the re-uses of their data (when necessary, to ensure the respect of open data standards). This also applies to public algorithm – which have to be communicated when requested by citizens.

**Update :**

The Open Data issue remains very important in France. For instance by the creation of a digital directory of interest representatives open in source, or the implementation of a public data portal of the State in order to encourage the reuse of data by civil society beyond their primary use by the administration (<https://www.data.gouv.fr/fr/>)

In this regard, France has a specific project concerning public procurement. As for October 2018, 17 critical information will mandatorily be published by all administrations, national and local, this concerns more than 80 billion euros of expense every year.

France chaired over the Open Government Partnership (OGP) in 2016, which included a strong anti-corruption dimension. In this context, France has actively promoted the use of open data to prevent and combat corruption. The OGP Presidency has identified the fight against corruption as one important priority and this has given rise to several collective commitments in this area. Also, France contributed to the launch of the Contracting 5 initiative.

Finally, in one year, France has moved up thirteen places in the ranking established since 2012 by the [Open Knowledge Foundation](#) (OKF). The level of openness of French public data now stands at 80%, among the ten fields selected by the OKF association. On the data.gouv.fr site, developed by the Etalab mission, 13,827 data sets are currently accessible and reusable.

France, which was already placed at the top of the European "e-governments" by the UN in September 2014, has seen its many efforts in the field of opening up public data recognized.

11. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to public disclosure by public officials?

Yes  No

If yes, please provide details.

**Update :**

- As stated above, more than 1 600 lobbyists are now registered and had to declare for the first time their influence activities upon public officials for the last term of 2017 before 30 April 2018. Control of registrations and declarations is currently underway.
- Recommendations for further legislative and regulatory improvements have been drafted and made public in the Activity report for 2017 such as replacing the current sanction of removal from office of Members of the Parliament in cases of non-submission of their declarations by the sanction applicable to all declarants or publishing the asset declarations of MPs on the website of the HATVP instead of making them available in *Préfectures* for instance.

Otherwise, the 2017 response still applies :

The law of 11th October 2013 relating to transparency of public life renewed the asset disclosure system and enlarged its scope. The initial scope of the obligation included about 8.000 public officials. As a result of additional laws, including the law n°2016-483 of 21st April 2016 on deontology, rights and obligations of civil servants, as well as the law n°2017-261 of 1st March 2017 aiming at preserving ethics in sports, improving transparency in the professional sports sector and clubs competitiveness, about 15.800 public officials shall now file asset and interest declarations. These high-ranking elected and non-elected public officials cover :

- Members of the Government, a pre-vetting procedure may take place before their nomination,
- Members of the Parliament,
- Candidates to the presidential election (declaration are published at least two weeks before the first round)
- French Members of the European Parliament.

- Major local elected officials (president of regional or departmental councils, mayors of towns of 20 000 inhabitants and more, etc.),
- High-ranking civil servants nominated by the Council of Ministers (ambassadors, prefects, central administration directors, Secretaries general, etc.)
- Advisors to the President of the Republic, Ministers, Presidents of the National Assembly and Senate, but also directors, deputy-directors and heads of cabinets of major local elected officials, etc.
- Members of the Supreme Council of the Judiciary: in France, there is no dedicated institution in charge of controlling declarations of assets and interest of judges. Provisions regarding such obligation and control were included in the Law n° 2016-1090 of 8 August 2016 relating to statutory guarantees, ethical obligations and the recruitment of magistrates and to the Supreme Council of the Judiciary but were censored by the Constitutional Council in its decision n° 2016-732. The Constitutional Council considered that by submitting only the most important magistrates to a declaration of asset, the law disregarded the principle of equal treatment between all judges. Nonetheless, all members of the judiciary have to file a declaration of interests to the President of their court or to their Prosecutor.
- Members of boards of independent administrative authorities,
- Heads of publicly owned entities;
- Some civil servants and military officials;
- Chairpersons of sports federations, sport professional leagues and organizing committees of major sports events (like the 2024 Olympics).

For further information, please check the following links :

Last version of the law of 11th October 2013 relating to transparency of public life

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000028056315>

**Update** : Annual report of the High Authority for transparency of public life :

[https://www.hatvp.fr/wordpress/wp-](https://www.hatvp.fr/wordpress/wp-content/uploads/2018/05/HATVP_RA2017_pages.pdf)

[content/uploads/2018/05/HATVP\\_RA2017\\_pages.pdf](https://www.hatvp.fr/wordpress/wp-content/uploads/2018/05/HATVP_RA2017_pages.pdf)

12. Does your country have in place standards and a system for preventing and managing conflicts of interest in the public sector? This may include the establishment of standards of conduct, especially for public officials working in high-risk sectors; putting into place clear means for developing, implementing and updating conflict-of-interest policies; and identifying “at-risk” activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures.

Yes  No

If yes, please provide details.

To prevent conflicts of interests, the High Authority for Transparency in Public Life (HATPV) collects and controls declarations of interests. The scope is broad and allows to list all current and past activities, financial investments, positions in public or private organizations, professional activity of the spouse, and volunteer activities.

For the first time in French Law, [law of 11 October 2013](#) (English version) on transparency in public life defined the notion of conflict of interest as “a situation in which a private or public interest interferes with a public interest in such a way that it influences or appears to influence the independent, impartial and objective performance of a duty”.

This definition highlights three criteria about the conflict of interests. Firstly the public official holds an interest which can be direct or indirect, private or public, material or moral. Secondly, this interest must interfere with the exercise of a public duty, this interference can be material, geographical or temporal. And finally, this interference may influence, or appear to influence the “independent, impartial and objective performance of a duty”, it implies the examination of the intensity of the interference: there is a conflict of interest when the interference is sufficiently strong to raise reasonable doubts as to a public official’s capacity to carry out his or her functions objectively.

When a situation of conflict of interests is detected, the High Authority has different lever of actions:

- The High Authority can meet a public official to recommend him an appropriate solution to prevent or to stop a conflict of interest. The options can be, the revelation of the problematic interest, the reorganization of work (to avoid handling a subject linked to his or her interest) or the abandonment of an interest.
- If the situation continues, the High Authority can issue injunctions against public officials (except ministers and members of Parliament) requiring them to cease the activity causing the conflict of interest. The injunction can be made public, and it can be transfer to a prosecutor. Any non-compliance is a criminal offense liable to a year of imprisonment and a 15,000 € fine.

In its mission of prevention of conflicts of interests, the High Authority also provides guidance and recommendations upon request to any public official falling within its scope:

- at an individual level, when facing an ethical dilemma in the daily exercise of his or her public duties;
- at an institutional level, when his or her institution defines an ethical code or charter (services of the French Presidency of the Republic, Public Housing Offices of the City of Paris, etc. for instance) and/or sets up schemes of promotion of integrity (City of Paris, Ile de France Region, etc.).

In addition, the High Authority was entrusted with a mission of regulation of revolving doors for about 1 200 public officials falling within its scope by the Laws of 11 October 2013. The aim is to prevent illegal taking of interest of such former public officials when they start new private activities. More information on this mission can be found here:

<https://www.hatvp.fr/en/high-authority/ethics-of-publics-officials/list/#how-to-ensure-the-integrity-of-former-public-officials-rp>

Please see more information at :

<https://www.hatvp.fr/en/high-authority/ethics-of-publics-officials/>

13. Has your country established whistleblower protections under your domestic laws?

Yes  No

14. Since the 2015 Accountability Report, has your country proposed or made changes to its whistleblower protection framework in both public and private sectors?

Yes  No

If yes, please provide details.

The legal framework has been significantly strengthened. The above-mentioned law of 6th December 2013 provided for protection in both public and private sectors and gave specific jurisdiction in this field to the former Anticorruption authority to collect information from whistleblowers.

The law of 9th December 2016 (Sapin 2) created an obligation for companies hiring more than 50 people to set up whistleblowers information collecting systems. Moreover, a sophisticated 3 steps-procedure shall be followed (internal communication-communication with relevant authorities-public information). Whistleblowers shall be able to report anonymously.

It also requires public entities, including SOEs, to comply with a robust compliance program. In particular, private and public companies with more than 500 employees and a yearly record turnover of more than €100 million have to implement the following obligations. One of these obligations requires to shape an internal whistleblowing system for company employees to be able to report on non-compliant acts to the Code of Conduct;

Finally, The decree of 20 April 2017 on the procedures for collecting alerts issued by whistleblowers within legal persons governed by public or private law or State administrations is in force. This system complements the obligation on civil servants to declare to the criminal judge crimes and offences of which they are aware, known as "article 40" (Code of Criminal Procedure).

15. Since the last Accountability Report, has your country proposed or made changes to your

country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

Please see above.

16. Is your country a member of the Open Government Partnership?

Yes  No

Please provide details including information on the collective actions taken by your country since the last Accountability Report.

France has co-chaired the Open Government Partnership until September 2017, alongside the World Resources Institute

At the OGP handover ceremony held on the sidelines of the 72nd United Nations General Assembly, France, represented by its President of the Republic Emmanuel Macron, and the World Resources Institute, handed over to Georgia and Mukelani Dimba, Director of Development at the International School for Transparency supported by the Canadians Vice Co-Chairs.

The fight against corruption was one of the three priorities of the French chairmanship of the OGP. It was called "Transparency, Integrity and anticorruption". During the OGP Summit taking place in Paris in December 2016, many events and conferences dealt with this topic. The French Government organized a roundtable on beneficial ownership transparency as well as events on the law of 9th December 2016 against corruption ("Sapin 2 law"). Thus, a set of collective actions was undertaken in the framework of the "Transparency, Integrity and anticorruption" area. The Paris summit gave rise to nine collective actions in this area. France committed to six actions out of nine, namely : Open public procurement; Ending abuse of anonymous companies; Innovation and data driven approaches to expose and fight corruption; Transparency on lobbying; Transparency and participation in budgets and fiscal policies; Engaging citizens in an open and inclusive law-making process.

Since then, France has remained strongly involved in the OGP as a steering committee member and its commitment to a more transparent and collaborative public action was upheld at national and international level.

France submitted its second National Action Plan in April 2018. This NAP is the outcome of co-creation process held throughout 2017 with a consultation followed by an extensive cross-government process and a final online call for comments. This new action plan for 2018-2020 comprises 21 commitments involving 12 ministries, 2

independent authorities or courts (Cour des comptes, the supreme body for auditing the use of public funds in France; High Authority for Transparency in Public Life - HATVP) and several government agencies (National Cybersecurity Agency - ANSSI; France’s inclusive public development bank - AFD; French Environment and Energy Management Agency - ADEME and the French Agency for Biodiversity - AFB). It builds on the commitments made in the first action plan and goes even further in opening up digital resources and government Administrations. Several projects have already been up and running since last May: legislation for greater trust in political life, reform of the 2022 Program for Public Action (Action Publique 2022), launch of a number of citizen consultations, etc.

The French National Assembly has itself set a major reform in motion, as has the Economic, Social and Environmental Council (CESE).

The Paris Declaration and the 20 collective actions elaborated on the occasion of the World Summit of the OGP in December 2016 made it possible to define the framework for enhanced international cooperation on certain themes. As co-chair of the Thematic Leadership Subcommittee, along with the association Fair Play Alliance, France continues to identify priorities among the 20 collective actions and to launch international coalitions. In 2018 France has worked in particular on transparency of public procurement, notably by chairing the “Contracting 5”, and on open data.

Finally, an ambitious cooperation project on open government in French-speaking Africa, financially supported by the French Development Agency to the tune of €4.5m, has been launched this year (1m to the OGP Multi-Donor Trust Fund and 3.5m to support OGP reforms in Tunisia, Burkina Faso and Ivory Coast).

17. Does immunity for public officials from investigations and prosecutions for corruption related offences exist in your country?

Yes  No

If yes, how is an appropriate balance ensured between any immunities and the need to effectively investigate, prosecute and adjudicate corruption offences, in accordance with article 30(2) of UNCAC?

Depending on the public person, there are several immunity systems under French criminal law. Immunity system may apply to lack of probity and/or integrity offenses. There are three different categories as explained below :

**1) Parliamentary immunity:**

The French constitution provides for a specific procedural immunity for members of parliament, called “*parliamentary inviolability*”.

Article 26 of the Constitution reads as follows: “*No member of parliament shall be*

*subject, regarding both criminal and correctional matters, to arrest, a custodial measure or a measure resulting in limiting personal freedom, without prior authorization from the Parliament office to which he or she belongs. There is no need of prior authorization in case of crimes or offences committed “flagrante delicto”, as well as in case of final conviction. Custody, measures resulting in limiting personal freedom or prosecution of a member of parliament shall be suspended during the parliamentary session in case the parliamentary assembly request so”.*

**Such immunity is not absolute, as its main goal is to ensure that the members of parliament perform their term of office with dignity and independence.** Therefore, as provided for in the Constitution, **immunity neither removes the unlawful or illicit dimension of the offence** committed by the Member of Parliament, **nor does it allow him/her to escape from the judicial consequences of the offences he or she has committed.** Immunity does not provide for personal privilege precluding the implementation of general law to the members of parliament. Moreover, immunity only applies during the term of office and shall end after the end of it. Parliamentary immunity does not prevent from opening an inquiry or prosecuting a member of parliament.

Therefore, a member of parliament may be prosecuted in criminal, correctional and civil matters and convicted during the performance of the term of office, as long as inquiry measures comply with the above-mentioned parliamentary inviolability. A judge may also call a member of parliament in the framework of an investigation, hear him/her as a witness, or indict him/her. Parliamentary inviolability does not preclude searches at members of parliament’s private homes.

## **2) Ministers’ immunity**

Ministers do not have actual immunity. Nevertheless, according to article 68-1 of the Constitution, members of parliament incur criminal liability before an “ad hoc” court, namely the Law Court of the Republic” (“*Cour de justice de la République*”), **only in case of a crime or offence committed while performing their duties.** In case of an offence committed outside the scope of their duties, ministers shall be held liable before ordinary courts.

## **3) President of the Republic’s immunity**

The President of the French Republic has immunity from jurisdiction and shall not be submitted to any legal proceeding during his/her term of office. Limitation periods are suspended as well. One month after the end of his/her term of office, procedures may start again and shall be performed before ordinary courts.

## **Sectors**

18. Since the last Accountability Report, have there been any changes or proposed changes to

your country's legislation or other measures related to combating corruption:

a. in Sports?

Yes

No

If yes, please provide details.

As previously stated, France adopted the law n°2017-261 of 1<sup>st</sup> March 2017 aiming at preserving ethics in sports, improving transparency in the professional sports sector and clubs competitiveness is a significant update and create some significant obligations.

Please refers to the previous accountability report for more details about this law :

<https://www.bmjv.de/SharedDocs/Downloads/EN/G20/List%20of%20Country%20Responses%20for%202017%20Accountability%20Report/France.html?nn=8933740>

**Update** : France has adopted the law n° 2018-202 of March 26th, 2018 relative to the organization of the Olympic and Paralympic games (title 4 : capacities relative to the ethics and to the integrity). For further information, please check the following link :

<https://www.legifrance.gouv.fr/eli/loi/2018/3/26/SPOV1729269L/jo/texte>

At the international level, The French Ministry of Sports has proposed that the LEED Directing Committee develop a Recommendation with the objective of establishing a general framework to facilitate and support the viability and impact of international events in the service of the public good, the complementarity of different public measures and local economic development. Recommendation adopted by the Council meeting at Ministerial level on 30 May 2018. The text also includes recommendations to ensure greater transparency in the Pre-bid, bid and planning process for global events.

In addition, France has joined the International Partnership Against Corruption in Sport (IPACS) as an active member. France is represented in particular in Task Force 3 "compliance and good governance of international sports organizations" (French Anticorruption Agency, AFA) and Task Force 2 "conflicts of interest" (High Authority for Transparency in Public Life, HATVP).

Regarding the Olympic games, the Paris 2024 Board have established in July 2018 the Audit and Ethics Committees. This committee is responsible for supervising the ethical policy of Paris 2024 and ensuring that employees respect the individual and collective ethical values on which Paris 2024 bases its action. It also ensures the prevention of conflicts of interest. It is composed of six independent personalities, representing the highest French jurisdictions, the Human Rights Defender, the French Anti-Corruption Agency and OECD.

b. as a facilitator of illegal trade in wildlife and wildlife products?      Yes       No

If yes, please provide details.

France is highly involved in the fight against wildlife trafficking. Please refers to the previous accountability report :

<https://www.bmjv.de/SharedDocs/Downloads/EN/G20/List%20of%20Country%20Responses%20for%202017%20Accountability%20Report/France.html?nn=8933740>

**Update:** In 2018, France worked alongside Argentina and UNODC on the development of a questionnaire which aims to collect information on the implementation of the High Level Principles on Combatting Corruption Related to Illegal Trade in Wildlife and Wildlife Products, with a view to preparing a compendium of best practices on corruption related to wildlife trade. France also took actively part to international events on the fight against illegal wildlife trade (i.e. by taking part to a panel on the margins of the last CCPCJ, and by participating to the international conference in illegal wildlife trade in London).

19. Is your country supporting or implementing any sector-specific initiatives?

Extractive Industries Transparency Initiative (EITI)

Implementing      Yes       No

Supporting      Yes       No

Construction Sector Transparency Initiative (CoST)

Implementing      Yes       No

Supporting      Yes       No

Customs (World Custom Organization-Arusha Declaration)

Implementing      Yes       No

Supporting      Yes       No

Others

Please specify.

France supported the launch of the International Specialist Centre of Excellence for Public-Private Partnership Policy, Laws and Institutions in May 2015. It is part of UNECE International PPP Centre of Excellence. The Specialist Centre of Excellence is in charge of drafting a charter called “Zero tolerance corruption on PPP projects”. After a public consultation, a new draft has been submitted to UNECE Bureau.

Implementing Yes  No   
 Supporting Yes  No

Please provide notable details on each of the sectorial initiatives, listed or not listed above, supported by your country or domestic measures taken in relation to specific sectors.

**International Anti-Corruption Instruments**

20. Has your country begun or completed the second cycle of UNCAC peer review process as a country under review?

Yes  No

If yes, please indicate.

Begun  Completed

If no, please indicate when your country is scheduled to be reviewed

21. For either or both cycles, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so?

a. Publication of full report

aa. First Cycle Yes  No  Committed to do so   
 bb. Second Cycle Yes  No  Committed to do so

b. Involvement of civil society

aa. First Cycle Yes  No  Committed to do so   
 bb. Second Cycle Yes  No  Committed to do so

c. Involvement of business

- aa. First Cycle                      Yes       No       Committed to do so
- bb. Second Cycle                    Yes       No       Committed to do so

d. Country visits

- aa. First Cycle                      Yes       No       Committed to do so
- bb. Second Cycle                    Yes       No       Committed to do so

Please provide details (e.g. web link for published report, how and when civil society and/or business were engaged during the review process, date of country visit). If your country has voluntarily published its questionnaire response, please indicate as well.

France had its country visit in May 2018 and representatives from both the civil society and business organizations were involved in the said country visit. These non-state actors had an opportunity to meet with reviewers without any government representatives.

22. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

- Yes       No

a. If yes, please provide details.

As already mentioned, France did take steps to respond to recommendations resulting from the 1<sup>st</sup> cycle review ahead of last accountability report

b. If you have responded to all or some of the recommendations, have you made those responses publicly available?

- Yes       No

If yes, please provide details (including web links, if available).

The measures adopted, (e.g. the creation of a trading in influence offense) are public and easily accessible on the French Official Journal website.

23. Is your country party to the OECD Anti-Bribery Convention?

- Yes       No

If no, please give an update on steps taken by your country to

- a. participate actively with the OECD Working Group on Bribery, including through possible Participant status and
- b. adhere to the OECD Anti-Bribery Convention.

24. Has your country begun or completed an OECD Anti-Bribery Convention peer review process as a country under review?

Yes  No

If yes, please indicate.

- |            |                                |   |
|------------|--------------------------------|---|
| a. Phase 1 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| b. Phase 2 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| c. Phase 3 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| d. Phase 4 | Begun <input type="checkbox"/> | Completed <input type="checkbox"/>            |

Please provide information on your country's OECD peer review process and/or any other relevant information (such as reports and links)

Phase 1 <http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/2076560.pdf>  
 Phase 2 <http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/26242055.pdf>  
 Phase 3 <http://www.oecd.org/daf/anti-bribery/Francephase3reportEN.pdf>  
 Phase 4 is scheduled on June 2020.

25. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in previous OECD Anti-Bribery Convention evaluations?

Yes  No

If yes, please provide details (including a link to the written follow-up report, where applicable).

France has made major progress since its previous review by the OECD Anti-Bribery working group. Progress has been made in particular on:

- Increasing the resources allocated to the prevention, detection and punishment of acts of corruption and offences against probity, with the creation of the French Anti-Corruption Agency (AFA) in 2016, the High Authority for the Transparency of Public

- Life (HATVP) and the National Financial Prosecutor's Office (PNF) in 2013.
- The requirement of a compliance system for public or private companies based on the highest international standards, monitored by the AFA.
  - The increase in criminal sanctions for the foreign bribery offence.
  - The introduction of settlement agreements, facilitating international cooperation and allowing to sanction companies that acknowledge acts of corruption before public action is taken. 5 settlements (DPA) have been homologated since the enactment of the "Sapin 2 law". The amount of the fine can reach 30% of the company's turnover.
  - The creation of a complementary compliance penalty. The monitoring of the sanctioned legal person is carried out by the AFA.
  - The reinforcement of whistleblowers protection.
  - The possibility for anti-corruption associations to bring civil actions
  - The establishment of the offence of trading in influence by foreign public officials in order to adapt French criminal procedure to the latest developments in foreign bribery.
  - The lifting of obstacles to the full deployment of the competence of French prosecuting authorities in the field of bribery and trading in influence when these acts have been committed abroad, by removing the conditions previously required (for example, the condition of reciprocity of offence or the condition that the offence be established by a definitive decision of the foreign court).
  - The suppression of individual instructions from the Minister of Justice to the Public Prosecutor's Office
  - A substantial increase of foreign bribery cases and the first final conviction of a legal person for foreign bribery in March 2018.

26. Is your country party to other international or regional anti-corruption instruments (such as the Inter-American Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the Council of Europe Criminal Law Convention on Corruption or the Council of Europe Civil Law Convention on Corruption)?

Yes  No

If yes, please indicate which instrument(s).

- EU Convention against corruption involving officials of the European Communities or officials of Member States of the European Union [Official Journal C 195 of 25 June 1997].
- Council of Europe Civil Law Convention on Corruption (ratified in 2008)
- Council of Europe Criminal Law Convention on Corruption (ratified in 2008)

27. Has your country been under review related to any kind of international or regional anti-corruption review mechanism other than the UNCAC peer review process?

Yes  No

If yes, please provide links to review and any compliance reports, if available.

GRECO First evaluation round :

- Evaluation report (2001) : <https://rm.coe.int/16806c5db4>
- Compliance report (2003) : <https://rm.coe.int/16806c5db2>
- Addendum to Compliance Report (2006) : <https://rm.coe.int/16806c5db0>

GRECO Second evaluation round :

- Evaluation report (2004) : <https://rm.coe.int/16806c5db5>
- Compliance report (2007) : <https://rm.coe.int/16806c5db9>
- Addendum to Compliance report (2009): <https://rm.coe.int/16806c5db7>

GRECO Third evaluation round :

- Evaluation report (2009) : <https://rm.coe.int/16806c5dcd> and <https://rm.coe.int/16806c5dcf>
- Compliance Report (2001) : <https://rm.coe.int/16806c5dd1>
- Second Compliance Report (several reports) : <http://www.coe.int/en/web/greco/evaluations/france>

GRECO Fourth evaluation round :

- Evaluation report (2014) : <https://rm.coe.int/16806c5df9>
- Compliance report (2016): <https://rm.coe.int/16806c5dfb>

Second Compliance report : pending

## **GERMANY**

### **Summary of National Progress**

1. Please provide a high-level summary (maximum of 500 words) of the most significant anti-corruption measures or initiatives that your country has introduced or implemented since the Accountability Report of 2017. The 2017 Accountability Report as well as previous reports can be accessed at <https://www.g20.org/en/g20-argentina/work-streams/anti-corruption>.

Following federal parliamentary elections, a new “coalition agreement” was closed in March 2018 which is the basis for the political agenda of the federal government that took office also in March 2018. According to the coalition agreement the liability of legal persons for criminal offences (including corruption) will be reformed, including by increasing the maximum corporate fine to 10% of a company’s turnover, by abandoning the principle of discretionary prosecution and by creating new procedural rules and fining criteria which are meant to increase legal certainty for companies.

On 13 July 2017, section 12a of the Act to Promote Electronic Government (E-Government Act) entered into force. Following a one year transition period in which administrative bodies were allowed to become familiar with the process of making their data publicly available, all federal public administration bodies are now obliged to publish open data (effective as from 13 July 2018) unless the data underlies data privacy laws, contains personal information or discloses business secrets. For details, please see the answer of question 10.

As a follow-up to the German G20 Presidency, the Federal Ministry of the Interior, Building and Community hosted an event in January 2018, bringing together experts from the business sector, academia, civil society and government. They discussed approaches to increase awareness for integrity in the society, particularly through education and cooperation of all stakeholders. The second panel addressed the question if the private sector concept of “compliance” can be transferred to the public sector, taking into account that the public sector is already bound by the rule of law.

### **Practical co-operation:**

2. Please give an update on the progress made and/or on any other steps taken by your

country since the last Accountability Report to meet the G20 High Level Principles on Persons Sought for Corruption and Asset Recovery.

German development cooperation launched the Africa-Europe Dialog on Asset Recovery in March 2018 in Berlin. The platform fostered dialogue on asset recovery strategies, legal provisions and different institutional arrangements. Policy makers and law enforcement practitioners also discussed concrete cross border cases, identified bottlenecks in the area of Mutual Legal Assistance (MLA) and exchanged approaches on solutions. The Africa-Europe-Dialogue helps to intensify mutual legal assistance between African and European representatives of ministries, asset recovery agencies and law enforcement practitioners.

Also in March 2018, German development cooperation organized a study tour for representatives from the Asset Recovery Interagency Network for Eastern Africa (ARINEA). During this weeklong study tour the participants were able to get to know their counterpart institutions for preventing, investigating and recovery of proceeds of corruption in Germany. In particular, they met the Camden Asset Recovery Interagency Network (CARIN) contact persons from the German federal police and the federal office of justice.

In October 2018, German development Cooperation will organize a Workshop between Tunisia and Germany on Mutual Legal Assistance concerning Asset Recovery in Tunis, Tunisia. Based on the principle of shared responsibility, the workshop will foster mutual exchange between Tunisian and German Asset Recovery practitioners. The legal, organizational and institutional framework of the MLA procedure will be discussed, the most important obstacles in the area of MLA between Germany and Tunisia will be identified and analysed. As far as possible, the work will be based on cases and practical tools.

### **Beneficial Ownership Transparency**

3. Please give an update on the progress made against your National Implementation Plan (if applicable) and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Beneficial Ownership Transparency and the relevant Financial Action Task Force recommendations on beneficial ownership transparency.

In addition to the progress reported in the 2017 Accountability Report Questionnaire, we can now report that Germany has established a beneficial ownership register (“Transparenz-Register”) on 26 June 2017. It has been accessible for registration since 5 July 2017. The register is online since 27 December 2017 and can be accessed by competent authorities and persons showing a legitimate interest.

**Private Sector Integrity**

4. Since the last Accountability Report, has your government instituted any new measures to promote the development of anti-corruption initiatives, such as anti-corruption training and education by the private sector, including for Small and medium-sized enterprises (SMEs) and the non-financial professional services sector<sup>7</sup>?

Yes  No

If yes, please provide details.

The Federal Ministry of Justice and Consumer Protection together with the Federal Ministry for Economic Affairs and Energy have intensified cooperation with the Foreign Office. Trainings are provided for diplomats to better enable them to assist companies abroad and to raise awareness of bribery risks abroad. In this regard, the ministries are about to release a new brochure addressed at companies, in particular SME, with a focus on export businesses that provides information on the prevention of corruption.

Furthermore, the Federal Ministry of Education and Research has funded a project that involved private sector representatives, the German Association of Small and Medium-Sized Enterprises, police and other authorities and focused on corruption risks, assessing them from different perspectives. As a result of the project the Association of Small and Medium-Sized Enterprises has released a brochure on corruption prevention in SME.

5. Since the last Accountability Report, have there been any changes or proposed changes to your country’s legislation or other measures related to private sector integrity?

Yes  No

If yes, please provide details.

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<sup>7</sup> non-financial professional services sector could include: computer services, real estate, research and development, legal services and accounting

Regarding the intended reform of the corporate liability, please see above under question 1.

As reported in the Accountability report 2017 (question 20), the Federal Ministry of the Interior has established the “Private Sector/ Federal Administration Anti-Corruption Initiative” that brings together representatives of large and medium sized companies, industry associations and federal ministries with the aim of developing a common corruption prevention strategy of the public and private sector and of improving thereby their mutual efforts. On 5 September 2017, the Private Sector/Federal Administration Anti-Corruption Initiative held its annual meeting. The next meeting will take place in October and address topics such as an exchange about best practices regarding conflict of interests and the revision of a FAQ brochure. This brochure was published in 2011 as a result of the close cooperation with the private sector and provides answers to FAQ about accepting gifts, hospitality or other benefits. It has been developed by the Private Sector/Federal Administration Anti-Corruption Initiative.

The brochure is available on the Federal Ministry of the Interior, Building and Community website:

[https://www.bmi.bund.de/SharedDocs/downloads/DE/publikationen/themen/moderne-verwaltung/korruptionspraevention/faqs-korruptionspraevention.pdf;jsessionid=FB060FCBCC6F964CA61BE7D4ECFCBF0B.1\\_cid287?\\_\\_blob=publicationFile&v=3](https://www.bmi.bund.de/SharedDocs/downloads/DE/publikationen/themen/moderne-verwaltung/korruptionspraevention/faqs-korruptionspraevention.pdf;jsessionid=FB060FCBCC6F964CA61BE7D4ECFCBF0B.1_cid287?__blob=publicationFile&v=3)

The new brochure will be also public available.

6. Does your country apply anti-corruption legislation to SOEs (employees and executives), including anti-bribery legislation? Please provide a response for both active and passive bribery with regard to domestic and transnational bribery of public officials.

Yes  No

If yes, please provide details.

Active and passive bribery of domestic and foreign SOE executives and employees is covered by the offences of bribery of public officials where the executives or employees qualify as domestic or foreign public officials. The German definitions of foreign and domestic public official are in line with the UNCAC and the OECD Anti-Bribery Convention. If SOE employees or executive should not qualify as public officials, active

and passive bribery is covered (both domestically and internationally) by the offences bribery in the private sector. For details regarding the bribery with regard to domestic or transnational bribery of public officials, please see our answer on question 7.

If no, has your country taken steps to propose or to make changes to your country's anti-corruption legislation related to SOEs (employees and executives)?

**Active and Passive Bribery Offences**

7. Does your country currently have legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

For details regarding the German law, we refer to our answer regarding question 22 in our report 2017. We have criminalized

- active bribery involving domestic public officials,
- passive bribery involving domestic public officials,
- active bribery involving foreign public officials and officials of public international organizations and
- passive bribery involving foreign public officials and officials of public international organizations.

8. If your country has not criminalized foreign bribery, has your country proposed or made changes, since the last Accountability Report, to your country's legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

**Liability of Legal Persons**

9. Has your country established the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details (e.g. about the type of liability, including whether criminal, civil, or other).

Administrative liability of legal persons is established under the Act on Regulatory Offences (OWiG). Liability of legal persons is triggered where any “responsible person” (as listed in OWiG section 30 para. 1; including a broad range of senior managerial stakeholders and not only an authorised representative or manager), acting for the management of the entity commits a criminal offence including bribery or an administrative offence including a violation of supervisory duties (and resulting failure to prevent another person in a non-managerial position from breaching a duty) which either violates duties of the legal entity, or by which the legal entity gained or was supposed to gain a “profit” (section 30 in conjunction with section 130 OWiG).

In addition to a regulatory fine, which carries an upper limit of EUR 10 million, the legal person can also face confiscation of its illegally obtained assets and any benefits derived there from, and for which there is no upper limit (OWiG sections 17 and 30, and the Criminal Code sections 73 and 75). On the reform of Germany’s corporate liability regime, see above under “question 1.

If no, has your country taken steps since the last Accountability Report to establish the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details.

**Public Sector Integrity and Transparency**

10. Since the last Accountability Report, has your country taken significant steps to propose or to make changes to your country’s legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

An open data policy became effective in 2017. On 13 July 2017, section 12a of the Act to Promote Electronic Government (E-Government Act) entered into force. Following a one year transition period in which administrative bodies were allowed to become familiar with the process of making their data publicly available, all federal public administration bodies are now obliged to publish open data (effective as from 13 July 2018) unless the data underlies data privacy laws, contains personal information or discloses business secrets. The policy introduces the “open by default” principle for raw data collected by government, mandating the default publication by the federal administration of datasets in accordance with open data principles (machine-readable, unmodified, unrestricted access, re-usable, etc.). It also enshrines the “open by design” principle (with regard to the use of open data when establishing administrative procedures or procuring IT systems) and tasks the creation of an advisory unit.

Also, a central consulting unit for other public bodies has been in place since 1 September 2018. This advises other public federal bodies on data publication. The policy also foresees an evaluation of the implementation of open data in Germany and a subsequent revision of the current policy by 2021.

To facilitate the process of making data publicly available, the Federal Office of Administration (Bundesverwaltungsamt) published in June 2018 a handbook regarding open data ([https://www.verwaltung-innovativ.de/DE/E\\_Government/Open\\_Data/open\\_data\\_node.html;jsessionid=DAD912EC3D4D0018839ED26F87853111.1\\_cid332](https://www.verwaltung-innovativ.de/DE/E_Government/Open_Data/open_data_node.html;jsessionid=DAD912EC3D4D0018839ED26F87853111.1_cid332)).

11. Since the last Accountability Report, has your country proposed or made changes to your country’s legislation or other measures related to public disclosure by public officials?

Yes  No

If yes, please provide details.

12. Does your country have in place standards and a system for preventing and managing conflicts of interest in the public sector? This may include the establishment of standards

of conduct, especially for public officials working in high-risk sectors; putting into place clear means for developing, implementing and updating conflict-of-interest policies; and identifying “at-risk” activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures.

Yes  No

If yes, please provide details.

Management of Conflict of Interest is regulated in several legal provisions relevant for public officials. As an example, sections 20 and 21 of the Administrative Procedure Act and section 6 of the Regulation on the Award of Public Contracts can be mentioned. They describe situations leading to an exclusion of certain persons to act in administrative procedures, particularly in procurement, and the obligation to disclose potential conflict of interest. Other provisions such as on gifts and benefits, secondary employment and post-public employment are in the Act on Federal Civil Servants, the Collective Bargain Agreement for the Public Service, the Act on the Legal Status of Military Personnel, the Members of the Bundestag Act, the Act governing Federal Ministers, the Act governing the Legal Status of Parliamentary State Secretaries et al.

Risk assessment is a key element of the Directive for Corruption Prevention in the Federal Administration. Article 2 of the Directive stipulates that “In all federal agencies, measures to identify areas of activity which are especially vulnerable to corruption shall be carried out at regular intervals and as warranted by circumstances. For the identified areas of activities the conduct of risk analysis shall be considered.

The results of the risk analysis shall be used to determine any changes in organisation, procedures and personnel assignments.”

The Directive as well as a compilation of conflict of interest provisions can be found in the brochure “Rules on Integrity” available on the Federal Ministry of the Interior, Building and Community website

(<https://www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2014/rules-on-integrity.html>) and can be ordered as a hard copy free of charge.

Furthermore, Rule 6 of the Code of Conduct for Members of Parliament (CoC) establishes additional disclosure obligations if there is any link between interests and the subject to be debated in a committee of the Bundestag. The CoC is, along with

further information, available on

[https://www.bundestag.de/blob/195006/a1232d4a394f7cdee1b9bccc2f374880/code\\_of\\_conduct-data.pdf](https://www.bundestag.de/blob/195006/a1232d4a394f7cdee1b9bccc2f374880/code_of_conduct-data.pdf).

13. Has your country established whistleblower protections under your domestic laws?

Yes  No

Yes. German case law has been complemented by a 2011 decision from the European Court of Human Rights which restates the principle that an employee can, as a last resort, disclose information to a third party when it is clearly impracticable to report the matter internally. The decision also confirmed that the right to freedom of expression of the employee has to be balanced against the right of the employer to expect loyalty and avoid damage to its reputation. When taking measures against employees, employers have to observe the general regulations on the protection of employees, including the employment protection legislation ("Kündigungsschutzgesetz"), the prohibition of victimization under section 612a Civil Code, the constitutional rights (freedom of expression under article 5, general freedom of action under article 2 and the rule of law under article 20 paragraph 3) as well as relevant case law. If a dispute arises, a court will decide the issue where an employer takes a decision that negatively affects the employees' interests, e.g. by terminating their employment. The protection against repressive measures by the employer is guaranteed by the aforementioned laws as they have been shaped by the courts. However, due to fundamental principles, a court may have to decide whether the protection offered by the law applies in a concrete case.

14. Since the 2015 Accountability Report, has your country proposed or made changes to its whistleblower protection framework in both public and private sectors?

Yes  No

If yes, please provide details.

Yes. Germany participates in the negotiations on the European Commission's proposal of a 'directive on the protection of persons reporting on breaches of Union law' in the Working Party 'FREMP' of the European Council. After the directive's adoption, Germany will implement it in to the domestic law.

15. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

Please see our answer on question 10.

16. Is your country a member of the Open Government Partnership?

Yes  No

Please provide details including information on the collective actions taken by your country since the last Accountability Report.

A first national action plan was adopted in August 2017 and is now in active implementation. In April 2018 a proposal to involve the federal states and municipalities in the national OGP-process was adopted by the IT-Planning Council (an English translation is available at [https://www.it-planungsrat.de/SharedDocs/Sitzungen/DE/2018/Sitzung\\_25.html](https://www.it-planungsrat.de/SharedDocs/Sitzungen/DE/2018/Sitzung_25.html)). In June 2018 responsibility for coordinating Germany's participation in the OGP changed from the Federal Ministry of the Interior, for Building and Community to the Federal Chancellery.

17. Does immunity for public officials from investigations and prosecutions for corruption related offences exist in your country?

Yes  No

If yes, how is an appropriate balance ensured between any immunities and the need to effectively investigate, prosecute and adjudicate corruption offences, in accordance with article 30(2) of UNCAC?

There are **no** special criminal procedures or immunities **for judges, prosecutors and for other public officials** in Germany within the meaning of section 11 subsection 1 No. 2 of the Criminal Code (StGB).

**No** special criminal procedures apply for **Members of Parliament**, but they **enjoy immunity** in principle from criminal prosecution during their mandate. Immunity protects

Members of the Federal Parliament (Bundestag) while in office from prosecution and arrest, thereby ensuring that Parliament is able to conduct its business at all times. In accordance with Article 46 of the Basic Law, Members may only be called to account or arrested for a punishable offence with the permission of the Bundestag, unless they are apprehended in the act of committing the offence or in the course of the following day. The Bundestag's permission is also required for any other form of restriction of members' personal liberty. If a Member is to be called to account, the Public Prosecutors' Office must, therefore, request the President of the Bundestag to lift his or her immunity before it can initiate criminal proceedings. This request is passed on immediately to the Committee for the Scrutiny of Elections, Immunity and the Rules of Procedure.

Since 1969 it has been standard practice for the Bundestag, on the basis of a decision taken anew at the beginning of each electoral term, to grant general permission for preliminary investigations to be initiated against any of its Members for criminal offences, with the exception of insults of a political nature. However, before such investigations can commence the President of the Bundestag must be informed and, unless there are reasons to believe that this might obstruct efforts to ascertain the truth, so too must the Member concerned. In this way, the Bundestag in effect grants its permission for criminal proceedings to be initiated, not, however, for charges to be brought, arrests to be made or any other measure to be taken which might restrict the liberty of Members, such as, for instance, search and seizure operations in Members' residential or business premises outside the Parliament buildings.

In all other cases involving parliamentary immunity, the Committee submits a recommendation for a decision to the plenary, which adopts it without prior debate. Generally speaking, the Bundestag only refuses to waive a Member's immunity in the case of insults of a political nature. Requests for permission to search rooms used by a Member of the Bundestag present a particular problem. In one case, the Bundestag even had to be recalled from its summer recess. Should the Bundestag grant such permission, it does so only on the condition that a representative of the parliamentary group to which the Member in question belongs is present during the search. The President of the Federal Republic of Germany, while in office, enjoys the same immunity rights as described above in relation to Members of the German Bundestag.

The members of the parliaments of the German states (Landesparlamente) also enjoy immunity rights while in office. Leaving aside diplomatic immunities, no other public officials are afforded immunity rights.

According to the Criminal Code (StGB), criminal limitation period shall be stayed as long as prosecution is not possible due to immunity.

**Sectors**

18. Since the last Accountability Report, have there been any changes or proposed changes to your country's legislation or other measures related to combating corruption:

a. in Sports? Yes  No

If yes, please provide details.

In 2011, an association of sponsors with the participation of the Federal Ministry of the Interior and the Federal Ministry of Justice published the guidelines "Hospitality and Criminal Law". These guidelines should raise awareness among employees in companies of the legal regulations that must be observed in connection with invitations to sports and cultural events for business partners, customers and other persons (e.g. public officials). They are intended to help identify and observe criminal law boundaries and to avoid criminal law risks. Due to changes in corruption criminal law in the meantime, the guidelines "Hospitality and Criminal Law" were revised in 2017.

After Germany signed the Convention of the Council of Europe on the manipulation of sports competitions, the Federal Ministry of the Interior launched an initiative to establish a national platform for fighting the manipulation of sports competitions. The main objective is to facilitate the exchange of information between the relevant public authorities, sports organisations, competition organisers, sports betting operators and national platforms of other states. In September 2018, the responsible bodies of the Federal Government and the federal states (esp. police, prosecutors, betting authorities, sports administration) came together in a working group associated with the Conference of Interior Ministers with the intention to find an agreement on creating a German national platform involving non-governmental stakeholders.

b. as a facilitator of illegal trade in wildlife and wildlife products? Yes  No

If yes, please provide details.

Under the German Presidency, the G20 in 2017 adopted the High Level Principles on Combatting Corruption Related to Illegal Trade in Wildlife and Wildlife Products.

19. Is your country supporting or implementing any sector-specific initiatives?

Extractive Industries Transparency Initiative (EITI)

Implementing	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Supporting	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Construction Sector Transparency Initiative (CoST)

Implementing	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Supporting	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Customs (World Custom Organization-Arusha Declaration)

Implementing	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Supporting	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Others

Please specify.

Climate Finance Integrity Learning Alliance (CFI LA)

Implementing	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Supporting	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Please provide notable details on each of the sectorial initiatives, listed or not listed above, supported by your country or domestic measures taken in relation to specific sectors.

Regarding EITI:  
 On 23 February 2016, the EITI International Board announced Germany as candidate country of the Extractive Industries Transparency Initiative (EITI). The German EITI (D-EITI) published its first EITI Report on 23 August 2017 showing contextual information about the German extractive sector and a disclosure of government extractive industry revenues and material payments to government by oil, gas and mining companies. D-EITI information is also available in open data format on [www.rohstofftransparenz.de](http://www.rohstofftransparenz.de) (in English and German). In June 2018 Germany hosted the 40<sup>th</sup> International EITI Board Meeting in Berlin. According to the EITI Standards provisions the validation of the

progress of implementation is foreseen for the first two quarters of 2019.

Germany is a long-term supporter of the Extractive Industries Transparency Initiative on the global level and implements the EITI nationally since 2014. Germany currently supports EITI implementation in 20 countries through German development cooperation and financial contributions to the International EITI Secretariat and the World Bank Extractives Global Programmatic Support Trust Fund. Since 2016, Germany has supported several partner countries of German development cooperation (Afghanistan, Colombia, Sierra Leone) in developing roadmaps and reforms for the launch of beneficial ownership registers. Those public registers or at least the disclosure of beneficial ownership information in the EITI reports are required by the newest EITI Standard and are aimed at increasing transparency and accountability as well as tackling tax avoidance and illicit financial flows in the extractive sector. Since 2006, Germany has provided over 44 Mio. Euros in financial and technical assistance to the EITI (figures as of 2017).

Regarding CFI LA:  
 German development cooperation implemented by GIZ launched a peer-to-peer learning alliance (CFI LA) on climate finance actions. It aims to support learning and exchange on integrity and anti-corruption policies between institutions in partner countries that are implementing climate finance actions. The learning alliance consists of individuals that have the respective mandate to work on these areas in their institutions that have or are applying for direct access to the Green Climate Fund.

**International Anti-Corruption Instruments**

20. Has your country begun or completed the second cycle of UNCAC peer review process as a country under review?

Yes  No

If yes, please indicate.

Begun

Completed

If no, please indicate when your country is scheduled to be reviewed

21. For either or both cycles, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so?

a. Publication of full report

- aa. First Cycle                      Yes x              No               Committed to do so
- bb. Second Cycle                      Yes x              No               Committed to do so

b. Involvement of civil society

- aa. First Cycle                      Yes x              No               Committed to do so
- bb. Second Cycle                      Yes x              No               Committed to do so

c. Involvement of business

- aa. First Cycle                      Yes x              No               Committed to do so
- bb. Second Cycle                      Yes x              No               Committed to do so

d. Country visits

- aa. First Cycle                      Yes x              No               Committed to do so
- bb. Second Cycle                      Yes x              No               Committed to do so

Please provide details (e.g. web link for published report, how and when civil society and/or business were engaged during the review process, date of country visit). If your country has voluntarily published its questionnaire response, please indicate as well.

The Country-Visit of the First Cycle took place on 8-10 March 2016, the Country-Visit of the Second Cycle on 10-12 September 2018.

Regarding the First and Second cycle, Germany published the questionnaire responses and both agendas for the Country-visits on the website of the Federal Ministry of Justice and for Consumer  
[https://www.bmju.de/DE/Service/Fachpublikationen/Fachpublikationen\\_node.html](https://www.bmju.de/DE/Service/Fachpublikationen/Fachpublikationen_node.html)

The reports will be made public once they are finalized.

Germany signed the Transparency Pledge for the Second Cycle  
[https://uncaccoalition.org/en\\_US/uncac-review/transparency-pledge/](https://uncaccoalition.org/en_US/uncac-review/transparency-pledge/).

Regarding the involvement of the civil society:  
 First cycle: Transparency International took part in the Country-Visit, Panel 6.  
 Second Cycle: Transparency International took part in the Country-Visit, Panel 4.

Regarding the involvement of business:  
 First Cycle: The Federation of German Industries (BDI) took part.  
 Second Cycle: Responsible persons of the German Institute for Compliance (DICO e.V.) and of the German International Chamber of Commerce took part and furthermore, the Compliance Chief of MAN SE and of the German Railway Company (Deutsche Bahn).

Additionally, in both Country-Visits prosecutors of the Länder and police officers took part.

22. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

Yes  No

Not applicable, the reviews have yet to be finalized

e. If yes, please provide details.

The reviews have yet to be finalized

b. If you have responded to all or some of the recommendations, have you made those responses publicly available?

Yes  No

If yes, please provide details (including web links, if available).

23. Is your country party to the OECD Anti-Bribery Convention?

Yes  No

If no, please give an update on steps taken by your country to

- a. participate actively with the OECD Working Group on Bribery, including through possible Participant status and

b. adhere to the OECD Anti-Bribery Convention.

24. Has your country begun or completed an OECD Anti-Bribery Convention peer review process as a country under review?

Yes  No

If yes, please indicate.

a. Phase 1	Begun <input type="checkbox"/>	Completed <input checked="" type="checkbox"/>
b. Phase 2	Begun <input type="checkbox"/>	Completed <input checked="" type="checkbox"/>
c. Phase 3	Begun <input type="checkbox"/>	Completed <input checked="" type="checkbox"/>
d. Phase 4	Begun <input type="checkbox"/>	Completed <input checked="" type="checkbox"/>

Please provide information on your country's OECD peer review process and/or any other relevant information (such as reports and links)

Phase 4 report:  
<http://www.oecd.org/corruption/anti-bribery/Germany-Phase-4-Report-ENG.pdf>  
  
 A German translation of the report will soon be available.

25. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in previous OECD Anti-Bribery Convention evaluations?

Yes  No

If yes, please provide details (including a link to the written follow-up report, where applicable).

Initial steps have been taken to implement recommendations from the phase 4, such as sharing the report and its findings with the Ministries of Justice of the laender and prosecutors and discussing implementation options. On the recommendation on corporate liability for foreign bribery see above under question 1.

26. Is your country party to other international or regional anti-corruption instruments (such as the Inter-American Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the Council of Europe Criminal Law Convention

on Corruption or the Council of Europe Civil Law Convention on Corruption)?

Yes  No

If yes, please indicate which instrument(s).

Council of Europe Criminal Law Convention on Corruption and Additional Protocol (both entered into force with respect to Germany on 1 September 2017).

27. Has your country been under review related to any kind of international or regional anti-corruption review mechanism other than the UNCAC peer review process?

Yes  No

If yes, please provide links to review and any compliance reports, if available.

The evaluation and compliance reports can be found on the GRECO website:  
<http://www.coe.int/en/web/greco/evaluations/Germany>.

As a founding member state of the Council of Europe's "Group of States against Corruption (GRECO)", Germany took part in four evaluation rounds based on a peer-evaluation of anti-corruption measures. Germany was evaluated with regards to the following themes:

First evaluation round

- Independence, specialisation and means available to national bodies engaged in the prevention and fight against corruption
- Extent and scope of immunities

Second evaluation round

- Identification, seizure and confiscation of corruption proceeds
- Public administration and corruption (auditing systems; conflicts of interest)
- Prevention of legal persons being used as shields for corruption
- Tax and financial legislation to counter corruption
- Links between corruption, organized crime and money laundering

Third evaluation round

- Incriminations provided for in the Criminal Law Convention on Corruption (ETS

173), its Additional Protocol (ETS 191) and Guiding Principle 2 (GPC 2)

- Transparency of Party Funding with reference to the Recommendation of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns (Rec (2003) 4)

Fourth evaluation round

- Prevention of corruption with respect to members of parliament, judges and prosecutors

The next (fifth) evaluation round will be dedicated to the prevention of corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies.

## INDIA

### Summary of National Progress

1. Please provide a high-level summary (maximum of 500 words) of the most significant anti-corruption measures or initiatives that your country has introduced or implemented since the Accountability Report of 2017. The 2017 Accountability Report as well as previous reports can be accessed at <https://www.g20.org/en/g20-argentina/work-streams/anti-corruption>.

Corruption is principal major challenges to the objective of transforming the lives of the poor and the marginalized. India is focused on fighting it by providing a system based and policy driven governance structure that is sensitive, transparent and accountable.

2. India's fight against corruption is led by a robust and time tested legislative and institutional framework. The effective legal provisions include the Prevention of Corruption Act, the Judges (Inquiry) Act, the Lok Pal and Lok Ayukta Act 2013, Whistle Blowers Protection Act 2011, Prevention of Money /Laundering Act, Benami Transactions (Prohibition) Act, (Black Money) Undisclosed Foreign Income and Assets and Imposition of Tax Act 2015 etc. The institutions include an independent Central Vigilance Commission, the Comptroller and Auditor General, Central Bureau of Investigation, Income Tax Department, Directorate of Revenue Intelligence, National Crime records Bureau, Central forensic institutions etc.

3. India's "zero tolerance to corruption" approach, as well as "minimum government and maximum governance" approach resulted in simplification of the governance model in recent years. Through Direct Benefit Transfer (DBT) benefits of social welfare schemes are transferred directly to beneficiaries' bank accounts with authentication through the Aadhaar (Unique Identification No.) to curb pilferage and corruption.

4. Apart from corrective / punitive provisions, the system also focuses on preventive aspects, such as a mandatory declaration of their assets on an annual basis by all civil servants and on every election cycle by the elected representatives. Other steps include weeding out inefficient public servants and those of doubtful integrity above the age of 50 years, prematurely.

5. To address corruption in extractive sectors, measures like e-auction of coal reserves, video-recording of proceedings, mining surveillance systems through space technology and integrity Pacts with bidders and buyers have been established. Government of India has created an internal e-commerce platform for purchases by its agencies across the country named GeM: Government e-marketplace. GeM through its faceless, paperless and cash less procurement process is making big strides to improve transparency and efficiency in Government Procurement.

6. The world is witnessing an emergence of a disturbing trend, where an individual or a group of individuals commit grave economic offences in their countries and flee from the jurisdiction of courts of such countries, frustrating the commencement of criminal proceedings against them. These Fugitive Economic Offenders often take refuge in foreign havens. Such crimes pose threat to financial and fiscal sustainability of

a country. In an effort to further strengthen our domestic laws and deter the fugitives from evading, India has recently enacted the Fugitive Economic Offenders Ordinance, 2018. It seeks to confiscate properties of such economic offenders and has given more teeth to the investigating authorities for non-conviction based confiscation of their assets.

7. With recent amendments in Prevention of Corruption Act, India has taken positive steps towards implementing Principles of UNCAC by introducing the term 'undue advantage' and widening the definition of criminal misconduct to include the bribe giver too. Time bound completion of disciplinary proceedings and investigations against public servants have been made strict.

### Practical Co-operation:

2. Please give an update on the progress made and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Persons Sought for Corruption and Asset Recovery.

**Fugitive Economic Offenders Bill, 2018** : The Bill is expected to re-establish the rule of law with respect to the fugitive economic offenders as they would be forced to return to India to face trial for scheduled offences. This would also help the banks and other financial institutions to achieve higher recovery from financial defaults committed by such fugitive economic offenders, improving the financial health of such institutions.

#### Salient features of the Bill:

- I. Application before the Special Court for a declaration that an individual is a fugitive economic offender;
- II. Attachment of the property of a fugitive economic offender;
- III. Issue of a notice by the Special Court to the individual alleged to be a fugitive economic offender;
- IV. Confiscation of the property of an individual declared as a fugitive economic offender resulting from the proceeds of crime;
- V. Confiscation of other property belonging to such offender in India and abroad, including benami property;
- VI. Disentitlement of the fugitive economic offender from defending any civil claim; and
- VII. An Administrator will be appointed to manage and dispose of the confiscated property under the Act.

If at any point of time in the course of the proceeding prior to the declaration, however, the alleged Fugitive Economic Offender returns to India and submits to the appropriate jurisdictional Court, proceedings under the proposed Act would cease by law.

### Beneficial Ownership Transparency

3. Please give an update on the progress made against your National Implementation Plan (if applicable) and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Beneficial Ownership Transparency and the relevant Financial Action Task Force recommendations on

beneficial ownership transparency.

The new Rules notified by Ministry of Corporate Affairs under Companies Act 2013 to capture Beneficial Ownership information are as follows :-

(i) The concept of beneficial ownership is in section 89 of the Companies Act, 2013. Sections 88 and 89 of the Companies Act 2013 require the company to have declarations of beneficial owners and record this information in their register and also to file a return with the registrar within a specified period of time.

(ii) The Companies (Amendment) Act, 2017 prescribes to provide for the following to capture the details of natural persons who hold significant ownership in the company:-

(A). In section 89 of the principal Act, after sub-section (9). The following sub-section shall be inserted, namely:-

(10) For the purposes of the section and section 90, beneficial interest in share includes, directly or indirectly, through any contract, arrangement or otherwise, the right or entitlement of a person alone or together with any other person to-

(i) Exercise or cause to be exercised any or all of the rights attached to such share; or

(ii) Receive or participate in any dividend or other distribution in respect of such share.”

(B) “Section 90(1), every individual, who acting alone or together, or through one or more persons or trust, including a trust and persons resident outside India, holds beneficial interests, of not less than twenty – five per cent. Or such other percentage as may be prescribed, in shares of a company or the right to exercise, or the actual exercising of significant influence or control as in clause (27) of section 2, over the company (herein referred to as “significant beneficial owner”), shall make a declaration to the company, specifying the nature of his interest and other particulars, in such manner and within such period of acquisition of the beneficial interest or rights and any change thereof, as may be prescribed:

Provided that the central Government may prescribe a class or classes of persons who shall not be required to make declaration under this sub-section”.

(2) Every company shall maintain a register of the interest declared by individuals under sub-section (1) and changes therein which shall include the name of individual, his date of birth, address, details of ownership in the company and such other details as may be prescribed.

(3) The register maintained under sub-section(2) shall be open to inspection by any member of the company on payment of such fees as may be prescribed.

(4) Every company shall file a return of significant beneficial owners of the company and changes therein with the registrar containing names addresses and other details as may be prescribed with such time, in such form and manner as may be prescribed.

(5) A company shall give notice, in the prescribed manner to any person (whether or

not a member of the company) who the company knows or has reasonable cause to believe-

- (a) to be significant beneficial owner of the company;
- (b) to be having knowledge of the identity of significant beneficial owner or another person likely to have such knowledge; or
- (c) to have been a significant beneficial owner of the company at any time during the three years immediately preceding the date on which the notice is issued, and who is not registered as a significant beneficial owner with the company as required under this section.

(6) The information required by the notice under sub-section(5) shall be given by the concerned person within a period within a period not exceeding thirty days of the date of the notice.

(7) The company shall,-

- (a) Where the person fails to given the company the information required by the notice within the time specified therein; or
- (b) where the information given is not satisfactory,

Apply to the Tribunal within a period of fifteen days of the expiry of the period specified in the notice, for an order directing that the shares in question be subject to restrictions with regard to transfer of interest, suspension of all rights attached to the shares and such other matters as may be prescribed.

(8) On any application made under sub-section (7) the Tribunal may, after giving an opportunity of being heard to the parties concerned, make such order restricting the rights attached with the shares within a period of sixty days of receipt of application or such other period as may be prescribed.

(9) The company or the person aggrieved by the order of the Tribunal may make an application to the Tribunal for relaxation or lifting of the restrictions placed under sub-section (8).

(10) If any person fails to make a declaration as required under sub-section(1), he shall be punishable with fine which shall not be less than one lakh rupees but which may extend to ten lakh rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the failure continues.

(11) If a company, required to maintain register under sub-section (2) and file the information under sub-section (4), fails to do so or denies inspection as provided therein, the company and every officer of the company who is in default shall be punishable with fine which shall not be less than ten lakh rupees but which may extend to fifty lakh rupees and where the failure is a continuing one, with a further which may extend to one thousand rupees for every day after the first during which the failure continues.

(12) If any person willfully furnishes any false or incorrect information or suppresses any material information of which he is aware in the declaration made under this section, he shall be liable to action under section 447.

2. The Ministry of Corporate Affairs has notified the Companies (Significant Beneficial Owners) Rules, 2018 vide its Notification No. G.S.R. 561(E) dated 13th June, 2018. The followings are as under:

1. “significant beneficial owner” means an individual referred to in sub-section (1) of section 90 (holding ultimate beneficial interest of not less than ten per cent.) read with sub-section (10) of section 89, but whose name is not entered in the register of members of a company as the holder of such shares, and the term ‘significant beneficial ownership’ shall be construed accordingly;

Explanation I. - For the purpose of this clause, the significant beneficial ownership, in case of persons other than individuals or natural persons, shall be determined as under—

(i) Where the member is a company, the significant beneficial owner is the natural person, who, whether acting alone or together with other natural persons, or through one or more other persons or trusts, holds not less than ten per cent. share capital of the company or who exercises significant influence or control in the company through other means;

(ii) where the member is a partnership firm, the significant beneficial owner is the natural person, who, whether acting alone or together with other natural persons, or through one or more other persons or trusts, holds not less than ten per cent. of capital or has entitlement of not less than ten per cent. of profits of the partnership;

(iii) Where no natural person is identified under (i) or (ii), the significant beneficial owner is the relevant natural person who holds the position of senior managing official;

(iv) Where the member is a trust (through trustee), the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with not less than ten per cent. interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership;

Explanation II.—It is hereby clarified that instruments in the form of global depository receipts, compulsorily convertible preference shares or compulsorily convertible debentures shall be treated as ‘shares’ for the purpose of this clause;

(2) Words and expressions used in these rules but not defined and defined in the Act or in Companies (Specification of Definitions Details) Rules, 2014 shall have the meanings respectively assigned to them in the Act and the said Rules.

2. Declaration of significant beneficial ownership in shares under section 90.-

(1) Every significant beneficial owner shall file a declaration in Form No. BEN-1 to the company in which he holds the significant beneficial ownership on the date of commencement of these rules within ninety days from such commencement and within thirty days in case of any change in his significant beneficial ownership.

(2) Every individual, who, after the commencement of these rules, acquires significant beneficial ownership in a company, shall file a declaration in Form No. BEN-1 to the company, within thirty days of acquiring such significant beneficial ownership or in case

of any change in such ownership.

3. Return of significant beneficial owners in shares.-

Where any declaration under rule 3 is received by the company, it shall file a return in Form No. BEN-2 with the Registrar in respect of such declaration, within a period of thirty days from the date of receipt of declaration by it, along with the fees as prescribed in Companies (Registration offices and fees) Rules, 2014.

4. Register of significant beneficial owners.-

(1) The company shall maintain a register of significant beneficial owners in Form No. BEN-3.

(2) The register shall be open for inspection during business hours, at such reasonable time of not less than two hours, on every working day as the board may decide, by any member of the company on payment of such fee as may be specified by the company but not exceeding fifty rupees for each inspection.

5. Notice seeking information about significant beneficial owners.-

A company shall give notice seeking information in accordance with under sub-section (5) of section 90, in Form No. BEN-4.

6. Application to the Tribunal.-

The company may apply to the Tribunal in accordance with sub-section (7) of section 90, for order directing that the shares in question be subject to restrictions, including –

- (a) restrictions on the transfer of interest attached to the shares in question;
- (b) suspension of the right to receive dividend in relation to the shares in question;
- (c) suspension of voting rights in relation to the shares in question;
- (d) any other restriction on all or any of the rights attached with the shares in question.

7. Non-Applicability.-

These rules are not made applicable to the holding of shares of companies/body corporates, in case of pooled investment vehicles/investment funds such as Mutual Funds, Alternative Investment Funds (AIFs), Real Estate Investment Trusts(REITs) and Infrastructure Investment Trusts (InvITs) regulated under SEBI.

8. The Ministry of Corporate Affairs has notified Companies (Significant Beneficial Owners ) Rules , 2018 which provides filling of return of Significant Beneficial Owners in Shares in Forms No. BEN-1, BEN-2 and BEN-3 as prescribed on MCA21 Portal for the public view.

**Private Sector Integrity**

4. Since the last Accountability Report, has your government instituted any new measures to promote the development of anti-corruption initiatives, such as anti-corruption training and education by the private sector, including for Small and medium-sized enterprises

(SMEs) and the non-financial professional services sector<sup>8</sup>?

Yes  No

If yes, please provide details.

5. Since the last Accountability Report, have there been any changes or proposed changes to your country's legislation or other measures related to private sector integrity?

Yes  No

If yes, please provide details.

(i) The concept of beneficial ownership is in section 89 of the Companies Act, 2013. Sections 88 and 89 of the Companies Act 2013 require the companies to have declarations of beneficial owners and record this information in their register and also to file a return with the registrar within a specified period of time.

(ii) The Companies (Amendment) Act, 2017 provide for the following to capture the details of natural persons who hold significant ownership in the company:-

(A). In section 89 of the principal Act, after sub-section (9). The following sub-section shall be inserted, namely:

(10) For the purposes of the section and section 90, beneficial interest in share includes, directly or indirectly, through any contract, arrangement or otherwise, the right or entitlement of a person alone or together with any other person to-

(i) Exercise or cause to be exercised any or all of the rights attached to such share; or

(ii) Receive or participate in any dividend or other distribution in respect of such share.”

(B) “Section 90(1), every individual, who acting alone or together, or through one or more persons or trust, including a trust and persons resident outside India, holds beneficial interests, of not less than twenty – five per cent. Or such other percentage as may be prescribed, in shares of a company or the right to exercise, or the actual exercising of significant influence or control as in clause (27) of section 2, over the company (herein referred to as “significant beneficial owner”), shall make a declaration to the company, specifying the nature of his interest and other particulars, in such manner and within such period of acquisition of the beneficial interest or rights and any change thereof, as may be prescribed:

Provided that the central Government may prescribe a class or classes of persons who shall not be required to make declaration under this sub-section”.

(2) Every company shall maintain a register of the interest declared by individuals under sub-section (1) and changes therein which shall include the name of individual,

<sup>8</sup> non-financial professional services sector could include: computer services, real estate, research and development, legal services and accounting

his date of birth, address, details of ownership in the company and such other details as may be prescribed.

(3) The register maintained under sub-section (2) shall be open to inspection by any member of the company on payment of such fees as may be prescribed.

(4) Every company shall file a return of significant beneficial owners of the company and changes therein with the registrar containing names addresses and other details as may be prescribed with such time, in such form and manner as may be prescribed.

(5) A company shall give notice, in the prescribed manner to any person (whether or not a member of the company) who the company knows or has reasonable cause to believe-

(a) to be significant beneficial owner of the company;

(b) to be having knowledge of the identity of significant beneficial owner or another person likely to have such knowledge; or

(c) to have been a significant beneficial owner of the company at any time during the three years immediately preceding the date on which the notice is issued, and who is not registered as a significant beneficial owner with the company as required under this section.

(6) The information required by the notice under sub-section(5) shall be given by the concerned person within a period within a period not exceeding thirty days of the date of the notice.

(7) The company shall,-

(j) Where the person fails to given the company the information required by the notice within the time specified therein; or

(k) where the information given is not satisfactory,

Apply to the Tribunal within a period of fifteen days of the expiry of the period specified in the notice, for an order directing that the shares in question be subject to restrictions with regard to transfer of interest, suspension of all rights attached to the shares and such other matters as may be prescribed.

(8) On any application made under sub-section (7) the Tribunal may, after giving an opportunity of being heard to the parties concerned, make such order restricting the rights attached with the shares within a period of sixty days of receipt of application or such other period as may be prescribed.

(9) The company or the person aggrieved by the order of the Tribunal may make an application to the Tribunal for relaxation or lifting of the restrictions placed under sub-section (8).

(10) If any person fails to make a declaration as required under sub-section(1), he shall be punishable with fine which shall not be less than one lakh rupees but which may extend to ten lakh rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the failure continues.

(11) If a company, required to maintain register under sub-section (2) and file the

information under sub-section (4), fails to do so or denies inspection as provided therein, the company and every officer of the company who is in default shall be punishable with fine which shall not be less than ten lakh rupees but which may extend to fifty lakh rupees and where the failure is a continuing one, with a further which may extend to one thousand rupees for every day after the first during which the failure continues.

(12) If any person willfully furnishes any false or incorrect information or suppresses any material information of which he is aware in the declaration made under this section, he shall be liable to action under section 447.

6. Does your country apply anti-corruption legislation to SOEs (employees and executives), including anti-bribery legislation? Please provide a response for both active and passive bribery with regard to domestic and transnational bribery of public officials.

Yes  No

If yes, please provide details.

The Prevention of Corruption (PC) Act 1988 Section 2 (iii) is applicable to SOEs (employees and executives). India has established active bribery of Public Officials as a standalone offence both directly and through intermediaries through the latest amendments in the Prevention of Corruption (Amendment) Act, 2018. India has also criminalized active and passive trading in influence as an offence. With the Prevention of Corruption (Amendment) Act, 2018, India is using uniform terminology in the forms of undue advantage as mentioned in UNCAC. The term improper, dishonest performance of public duty has also been inserted in the new act. India has criminalized illicit enrichment so as to align its provision with article 20 of UNCAC. With the new Section 9 & 10 of Prevention of Corruption (Amendment) Act, 2018, the act of giving a bribe by commercial organizations as also to create a vicarious liability in respect of Senior management if such an act is done with the consent and connivance of such senior management. With new section 7 & 7A inserted through 2018 Amendment Act bring in element of attempt as a substantive offence of bribing public servant.

With respect to Foreign Bribery, Foreign bribery Bill lapsed with the dissolution of the 15th Lok Sabha in 2014, it was proposed to introduce a fresh Bill in Lok Sabha on the lines of 2011 Bill. The proposal was placed before the Law Commission of India which in its 258th Report has made its recommendations on the draft Bill. The recommendations made by the Law Commission of India have been considered and a fresh Bill has been prepared. The matter is presently under active consideration of Inter-Ministerial Group.

If no, has your country taken steps to propose or to make changes to your country's anti-corruption legislation related to SOEs (employees and executives)?

### Active and Passive Bribery Offences

7. Does your country currently have legislation or other measures related to the

criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes ✓ No

If yes, please provide details.

With the latest amendments in The Prevention of Corruption Act 1988, both Active and Passive bribery has been criminalized in compliance with UNCAC provisions.

With regards to Foreign Bribery, Foreign bribery Bill lapsed with the dissolution of the 15th Lok Sabha in 2014, it was proposed to introduce a fresh Bill in Lok Sabha on the lines of 2011 Bill. The proposal was placed before the Law Commission of India which in its 258th Report has made its recommendations on the draft Bill. The recommendations made by the Law Commission of India have been considered and a fresh Bill has been prepared. The matter is presently under active consideration of Inter-Ministerial Group.

8. If your country has not criminalized foreign bribery, has your country proposed or made changes, since the last Accountability Report, to your country's legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes No ✓

If yes, please provide details.

Same as above in Q.No. 7

### Liability of Legal Persons

9. Has your country established the liability of legal persons for corruption and corruption-related offences?

Yes ✓ No

If yes, please provide details (e.g. about the type of liability, including whether criminal, civil, or other).

As per General Clause Act 1897 Section 3 (42) , "person" shall include any company or association or body of individuals, whether incorporated or not;

Also the new Amendments in the Prevention in Corruption Act 1988 are aimed at checking big ticket corruption and strike hard against corporate bribery and would become a trigger and a catalyst in new and clean form of corporate governance. Through the new law it is envisaged that the actual bribe giver i.e. the senior management of a corporate is exposed in the event of any consent or connivance is attributable to such senior level incumbents and a vicarious liability is sought to be established in such cases, which would prevent only the lower functionaries being made scapegoats. In such cases, the new provisions provides that not only the

commercial organization be subject to fine commensurate with the gravity of the offence but at the same time the incumbent in the senior management shall be subject to a minimum punishment of three years which may extend to seven years.

If no, has your country taken steps since the last Accountability Report to establish the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details.

### Public Sector Integrity and Transparency

10. Since the last Accountability Report, has your country taken significant steps to propose or to make changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

A Central Public Procurement Portal (CPP Portal) has been set up for providing comprehensive information and data relating to public procurement. The Ministries/Departments of the Central Government have been mandated to use standardized digital platform for managing the procurement process and contracting with estimated value of Rs. 2.5 lakh or more. The total value of procurement made through CPPP is more than \$300 Billion.

Government of India has created an internal e-commerce platform for purchases by its agencies across the country named GeM: Government e-marketplace. It integrates the buyers from across the government to make best buy purchases for their needs. By amending the General Financial Rules-2017, procurement through GeM has been made mandatory in respect of goods and services which are available on the portal. GeM through its faceless, paperless and cash less procurement process is making big strides to improve transparency and efficiency in Government Procurement. More and more products are being brought under the single umbrella. As on 1st April, there are about 79,970 registered sellers/service providers offering about 493, thousand products/services to 19,260 buyer organizations of Government. GeM has helped in enhancing transparency, efficiency and speed in public procurement. With the introduction of simple online tools for e-bidding, reverse e-auction and demand aggregation, the conventional tendering process, which is complicated, discretionary and time consuming has been replaced with simpler, transparent and faster procurement process.

11. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to public disclosure by public officials?

Yes ✓ No

If yes, please provide details.

The Parliament Standing Committee has submitted 97th Report on Lokpal Act wherein framing of rules under Lokpal Act for Public disclosure by Public Officials is under consideration of the Parliament.

12. Does your country have in place standards and a system for preventing and managing conflicts of interest in the public sector? This may include the establishment of standards of conduct, especially for public officials working in high-risk sectors; putting into place clear means for developing, implementing and updating conflict-of-interest policies; and identifying “at-risk” activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures.

Yes ✓ No

If yes, please provide details.

There are no separate laws for public servants to address conflict of interests but these are imbibed in their codes of conduct. All public sector organisations in India have elaborate set of their Conduct & Discipline Rules/laws/guidelines which provide adequate safeguards for preventing conflict of interest of public servants. All listed companies are required under Federal laws to implement code of conduct for their Core Management and put in place a vigil mechanism for public officials. These provisions are compliant to Article 7.4 of UNCAC.

In India, the conflict of interest for public servants have been elaborately addressed in their conduct rules like AIS(Conduct) Rules, 1968, CCS(Conduct) Rules, 1964, CDA Rules of various PSUs, Banks,etc.. There are separate conduct rules for various categories of public servants, but all of them take care of the conflict of interest with similar provisions. Further, there are other laws and guidelines as well, like Section 44 of Lokpal & Lokayuktas Act, 2013, Rule 10 of CCS (Pension) Rules, 1972, etc. that address the issue appropriately. These are the best practices in India for managing conflict of interest.

The code of conduct adequately addresses it. Besides, the Federal Government has issued several laws/guidelines on financial/procurement related matters which have been imbibed by individual public sector organisations largely. These are :

- (i) General Financial Rules, 2017
- (ii) General Financial Rules, 2005
- (iii) Manual for Procurement of Goods, 2017
- (iv) Manual for Procurement of Consultancy & other Services, 2017
- (v) Manual on Policies and Procedures for Purchase of Goods, 2006
- (vi) Manual on Policies and Procedures for Procurement of Works, 2006
- (vii) Manual of Policies and Procedure of Employment of Consultants, 2006
- (Viii) All India Services (Conduct) Rules, 1968 and CCS (Conduct) Rules, 1964

(IX) Section 44 of Lokpal & Lokayuktas Act, 2013 for all categories of public servants  
 (X) Cooling off period of one year after retirement mandatory :Every retired Group A Officer should take the permission of the Government before he accepts any commercial employment within one years of his retirement.

They take care of conflict of interest adequately.

**Averting conflict of interest risks in government decision making**

Transparency laws/guidelines already exist for engaging consultants (advisory and expert groups) viz. CVC Circular No. 08/06/11 dated 24.06.2011 and 01/01/17 dated 23.01.2017; Manual of Policies and Procedure of Employment of Consultants, 2006 of Ministry of Finance, Government of India

13. Has your country established whistleblower protections under your domestic laws?

Yes  No

14. Since the 2015 Accountability Report, has your country proposed or made changes to its whistleblower protection framework in both public and private sectors?

Yes  No

If yes, please provide details.

**In Public Sector:** The Government introduced the Whistle Blowers Protection (Amendment) Bill, 2015 in Parliament which has been passed by the Lok Sabha. The Bill is presently pending in the Rajya Sabha.

**In Private Sector :**

The Companies Act, 2013 prescribes the following protection framework as under:

(a) Section 177(9) and (10) of the Companies Act, 2013 mandates creation of an internal/in-house mechanism to address victimization in a company. It provides a mechanism where an Audit Committee is required to create a vigil mechanism to address genuine concerns of the directors and employees.

(b) In addition Rule 7 of the Companies (Meeting of Board and its Powers) Rules, 2014 provides for establishment of vigil mechanism for every listed company. Every company which accept deposits from the public and every company which has borrowed money from banks and public financial institutions in excess of fifty crore rupees.

(c) The vigil mechanism should provide for adequate safeguards against victimization of employees and directors who avail of the vigil mechanism and also provide for direct access to the Chairperson of the Audit Committee or the director nominated to play the role of Audit Committee, as the case may be, in exceptional cases.

15. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

Same as to our response in Q.No 10 above

16. Is your country a member of the Open Government Partnership?

Yes  No

Please provide details including information on the collective actions taken by your country since the last Accountability Report.

17. Does immunity for public officials from investigations and prosecutions for corruption related offences exist in your country?

Yes  No

If yes, how is an appropriate balance ensured between any immunities and the need to effectively investigate, prosecute and adjudicate corruption offences, in accordance with article 30(2) of UNCAC?

**Sectors**

18. Since the last Accountability Report, have there been any changes or proposed changes to your country's legislation or other measures related to combating corruption:

a. in Sports? Yes  No

If yes, please provide details.

b. as a facilitator of illegal trade in wildlife and wildlife products? Yes  No

If yes, please provide details.

19. Is your country supporting or implementing any sector-specific initiatives?

Extractive Industries Transparency Initiative (EITI)

Implementing	Yes	No <input checked="" type="checkbox"/>
Supporting	Yes	No <input checked="" type="checkbox"/>

Construction Sector Transparency Initiative (CoST)

Implementing	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Supporting	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Customs (World Custom Organization-Arusha Declaration)

Implementing	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Supporting	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Others

Please specify.

Implementing	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Supporting	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Please provide notable details on each of the sectorial initiatives, listed or not listed above, supported by your country or domestic measures taken in relation to specific sectors.

A Coal Mine Surveillance & Management System (CMSMS) and Mobile Application known as 'Khan Prahari' was launched. The basic objective of CMSMS is reporting, monitoring and taking suitable action on unauthorised coal mining activities. The CMSMS is a web based GIS application through which location of sites for unauthorised mining can be detected. The basic platform used in the system is of Ministry of Electronics & Information Technology's (MeiTY) map which provides village level information. The leasehold boundary of all the coal mines are displayed on this map. The system will use satellite data to detect changes by which unauthorised mining activity extending beyond the allotted lease area can be detected and suitable action

can be taken on it.

The system also uses information provided by responsible citizens using smartphones using the mobile application “Khan Prahari”. Khan Prahari is a tool for reporting any activity taking place related to illegal coal mining like rat hole mining, pilferage etc. One can upload geo-tagged photographs of the incident along with textual information directly to the system. Hence, both satellite data and human information will be used to capture information on the unauthorised mining activities. Once reported, the information will be automatically directed to the nodal officers to take suitable action on those activities. The complainant can also track his complaint through the system. The identity of the complainant shall not be revealed.

The uniqueness of the system is that it uses satellite data as well as public input to capture information on unauthorised coal mining activities and also take appropriate action on them with due transparency.

**International Anti-Corruption Instruments**

20. Has your country begun or completed the second cycle of UNCAC peer review process as a country under review?

Yes  No

If yes, please indicate.

Begun

Completed

If no, please indicate when your country is scheduled to be reviewed

Year 2020

21. For either or both cycles, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so?

a. Publication of full report

aa. First Cycle	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Committed to do so <input checked="" type="checkbox"/>
bb. Second Cycle	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Committed to do so <input checked="" type="checkbox"/>

b. Involvement of civil society

aa. First Cycle	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Committed to do so <input type="checkbox"/>
bb. Second Cycle	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Committed to do so <input type="checkbox"/>

c. Involvement of business

aa. First Cycle	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Committed to do so <input type="checkbox"/>
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bb. Second Cycle                      Yes ✓      No       Committed to do so

d. Country visits

aa. First Cycle                      Yes ✓      No       Committed to do so

bb. Second Cycle                      Yes ✓      No       Committed to do so

Please provide details (e.g. web link for published report, how and when civil society and/or business were engaged during the review process, date of country visit). If your country has voluntarily published its questionnaire response, please indicate as well.

The Executive summary and Country Reports for the first cycle review is yet to be finalized. With respect to 2<sup>nd</sup> cycle review , India will be reviewed in 5<sup>th</sup> year.

22. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

Yes ✓      No

f. If yes, please provide details.

Yes, India's has made appropriate changes in The Prevention of Corruption Act, 1988 as per the UNODC's recommendations to address the Active and Passive Bribery issues with the recently passed Prevention of Corruption (Amendment) Act 2018. To criminalize foreign Bribery, the proposed bill is under serious consideration of the Inter Ministerial Group.

b. If you have responded to all or some of the recommendations, have you made those responses publicly available?

Yes      No ✓

If yes, please provide details (including web links, if available).

India's Country Review Report and Executive Summary is still not finalized.

23. Is your country party to the OECD Anti-Bribery Convention?

Yes       No ✓

If no, please give an update on steps taken by your country to

a. participate actively with the OECD Working Group on Bribery, including through

possible Participant status and

b. adhere to the OECD Anti-Bribery Convention.

24. Has your country begun or completed an OECD Anti-Bribery Convention peer review process as a country under review?

Yes  No

If yes, please indicate.

- |            |                                |                                    |
|------------|--------------------------------|------------------------------------|
| a. Phase 1 | Begun <input type="checkbox"/> | Completed <input type="checkbox"/> |
| b. Phase 2 | Begun <input type="checkbox"/> | Completed <input type="checkbox"/> |
| c. Phase 3 | Begun <input type="checkbox"/> | Completed <input type="checkbox"/> |
| d. Phase 4 | Begun <input type="checkbox"/> | Completed <input type="checkbox"/> |

Please provide information on your country's OECD peer review process and/or any other relevant information (such as reports and links)

25. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in previous OECD Anti-Bribery Convention evaluations?

Yes  No

If yes, please provide details (including a link to the written follow-up report, where applicable).

26. Is your country party to other international or regional anti-corruption instruments (such as the Inter-American Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the Council of Europe Criminal Law Convention on Corruption or the Council of Europe Civil Law Convention on Corruption)?

Yes  No

If yes, please indicate which instrument(s).

27. Has your country been under review related to any kind of international or regional anti-corruption review mechanism other than the UNCAC peer review process?

Yes  No

If yes, please provide links to review and any compliance reports, if available.

## **INDONESIA**

### **Summary of National Progress**

1. Please provide a high-level summary (maximum of 500 words) of the most significant anti-corruption measures or initiatives that your country has introduced or implemented since the Accountability Report of 2017. The 2017 Accountability Report as well as previous reports can be accessed at <https://www.g20.org/en/g20-argentina/work-streams/anti-corruption>.

#### **National Strategy on Corruption Prevention**

Since the 2017 accountability report, Indonesia continues to improve its corruption prevention strategy at the national level. The Government of Indonesia has enacted the Presidential Regulation No. 54 years 2018 on the National Strategy on Corruption Prevention (Stranas PK). This regulation aims to strengthen the Medium and Long Term National Strategy on Corruption Prevention and Enforcement which has been regulated in the Presidential Regulation No. 55 years 2012. This new national strategy is focusing on corruption prevention in three areas:

- Licensing and Governance
- State Budget
- Law Enforcement and Bureaucratic Reform

Following the issuance of the regulation, a national team was established to supervise the implementation of this corruption prevention strategy. KPK (Indonesia anti-corruption agency) together with the Executive Office of the President, the Ministry of Home Affairs, the National Development Planning Agency (Bappenas) and the Ministry of State Apparatus and Bureaucratic Reform are the members of the national team to oversee the implementation of the anti-corruption strategies.

#### **Preventing Corruption in the Private Sector**

As mentioned in the last accountability report, KPK has initiated the establishment of a forum called the Anti-Corruption Advisory Committee to build a cooperation between the private and the public sector to prevent corruption. This forum facilitates discussion between policy makers and the business sector to address challenges and strategic issues on corruption in business sector, such as licensing and public procurement. The committee is planned to be established at 34 provinces in Indonesia. Currently, 30 committees have been established at the Provincial level with the aim of promoting integrity in the private sector and increasing ease of doing business.

### **Practical co-operation:**

2. Please give an update on the progress made and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Persons Sought for Corruption and Asset Recovery.

Indonesia has taken part in APEC ACT-NET Training Workshop on Asset Recovery

held in Bangkok on March 2018 by sending asset recovery experts as speakers to share Indonesia experience on tracing and recover the stolen asset. Several officials of Indonesia Financial Intelligence Unit (PPATK) and KPK also participating in the workshop to improve the capacity of law enforcement agencies and policy makers in dealing with asset recovery process.

### **Beneficial Ownership Transparency**

3. Please give an update on the progress made against your National Implementation Plan (if applicable) and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Beneficial Ownership Transparency and the relevant Financial Action Task Force recommendations on beneficial ownership transparency.

Indonesia has finished the risk assessment and study on beneficial ownership transparency of legal persons in 2018. The assessment has identified the limited liability company has the higher risk of being misused as criminal vehicles in money laundering and terrorist financing. The study on beneficial ownership also has successfully identified the gap between the existing regulation on beneficial ownership and the international standard, for instance:

- Indonesia does not have any regulation which require legal persons to obtain and maintain BO information;
- Indonesia has no legal framework related to BO information. The requirement to obtain and record BO information provision only available in certain sectoral regulation, i.e. POJK 12/2017, PBI 19/10/2017, and MCSME Regulation no. 10 of 2015;
- There is no designated parties responsible for verifying the accuracy of BO information that is submitted to company registry and no submission deadline on the BO information update to relevant ministry for all entities;
- There is no provision that govern requirement to provide accurate and up to date information for lawyer, land-deed official, financial planner, and non-professional trustees (i.e. a person which is a trustee but is not a notary nor accountant);
- No specific regulations that specifically govern protocols for trustees to provide information to relevant competent authorities.

Therefore, to address the gap Indonesia has enacted the Presidential Regulation No.13/2018 on Beneficial Ownership Transparency. This regulation provides a guidance for corporations to be able to identify their beneficial owner. According to this regulation, corporations including legal persons are required to declare their beneficial owners to the Ministry of Law and Human Rights. Furthermore, a series of dissemination of information on how to implement this new regulation is currently ongoing. Starting in May 2018, Indonesia is also conducting a risk assessment on legal arrangement. This study aims to identify the risk of legal arrangement being used as a vehicle of money laundering and terrorism financing.

### **Private Sector Integrity**

4. Since the last Accountability Report, has your government instituted any new measures to promote the development of anti-corruption initiatives, such as anti-corruption training and education by the private sector, including for Small and medium-sized enterprises (SMEs) and the non-financial professional services sector<sup>9</sup>?

Yes  No

If yes, please provide details.

Corruption Eradication Commission (KPK) continue to develop several programs under PROFIT (Professional with Integrity Movement) since its launched in 2016. As mentioned in the last report, PROFIT is a program to prevent corruption and enhance integrity in the private sector. This program also includes anti-corruption education for the private sectors and state owned enterprises. In 2017, the KPK has launched a guidelines on corruption prevention for small and medium enterprises (SMEs). This guideline provides a step by step guide to develop an anti-corruption compliance and assist the SMEs in identifying and addressing challenges to prevent corruption within the company.

5. Since the last Accountability Report, have there been any changes or proposed changes to your country's legislation or other measures related to private sector integrity?

Yes  No

If yes, please provide details.

Anti-Corruption Advisory Committee

In the 2017 Accountability report, Corruption Eradication Commission (KPK) has initiated the establishment of a forum called Anti-Corruption Advisory Committee. This forum facilitates discussion between policy makers and business sector to address challenges and other strategic issues related to corruption prevention, such as licensing and public procurement. At the national level, the committee focus on primary sectors including oil and gas, infrastructure, food, health and forestry. Each committee has a set of action plan which will be implemented as the result of the discussion between the policy makers and the private sector. For instance:

- The oil and gas sector's Committee will increase the transparency and simplify the Explosive Materials Licensing process;
- Reforming the governance of drugs licensing and procurement as well as improving sponsorship regulation in the health sector,
- Data Integration in the food sector;
- Enhancing transparency in licensing in the forestry sector.

<sup>9</sup> non-financial professional services sector could include: computer services, real estate, research and development, legal services and accounting

At the provincial level, the committee is planned to be established at 34 provinces in Indonesia. Currently, 30 committees have been established at the Provincial level with the aim of promoting integrity in the private sector and increasing ease of doing business.

Online Single Submission (OSS)

Indonesia has launched web-based business licensing system called the Online Single Submission (OSS) in July 2018. This system integrates licensing application from both national and local levels to increase the ease of doing business. OSS is designed to simplify and expedite the business related-licenses/permits and to increase transparency as well as to prevent bribery in the licensing process.

Guidelines of Adequate Procedure for Corruption Prevention

The Supreme Court Regulation No 13/2016 on Case Handling Procedures for Corporate Crimes emphasizes the importance of adequate procedure for preventing corruption in corporation. In order to implement this measure, KPK in cooperation with the Supreme Court, Indonesian Chamber of Commerce and representative from the private sector are developing the Guidelines of Adequate Procedure for Corruption Prevention. This guideline provide adequate procedure that should be undertaken by the companies to prevent corruption and bribery.

Indonesian National Working Competency Standard for Certified Integrity Officers

The Ministry of Employment has enacted Minister Decision No 338/2017 on The Indonesian National Working Competency Standards (SKKNI) for the Certification of the Integrity Officers. This competency standards is developed to assist public institutions and private sector/industry to build the integrity system in their organization. The purpose of this standard is to ensure the inclusion of anti-corruption and anti bribery program in the corporate compliance standard. To implement this measures, KPK established anti-corruption professional certification agency (LSP PII KPK) in 2018. This agency provide certification for public sector officers/employees of companies based on the aforementioned standard (SKKNI).

6. Does your country apply anti-corruption legislation to SOEs (employees and executives), including anti-bribery legislation? Please provide a response for both active and passive bribery with regard to domestic and transnational bribery of public officials.

Yes  No

If yes, please provide details.

Indonesia anti-corruption law, Law No. 20 of 2001 on the Amendment of Law No.31 of 1999 on corruption eradication regulates both active and passive bribery as a criminal offence and apply to all public officials and state organizers (including the Parliament Members, the Judiciaries, and the executive of State Owned Enterprises).

If no, has your country taken steps to propose or to make changes to your country's

anti-corruption legislation related to SOEs (employees and executives)?

### Active and Passive Bribery Offences

7. Does your country currently have legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

Indonesia has criminalized bribery since 1971 as stated in Law No.3 of 1971 on the Eradication of Corruption. Further, the law has been amended by the Law No.31 of 1999 on the Eradication of Corruption and the Law No. 20 of 2001 on the Amendment of the Law No. 31 of 1999 to regulate both active and passive bribery.

In 2002, Corruption Eradication Commission (KPK) was established to prevent, investigate and prosecute corruption, including bribery. Since its establishment, KPK has successfully prosecuted 773 high-level corruption cases, including 466 bribery cases. Nevertheless, the legal provisions criminalizing active and passive bribery in our Law on Eradication of Corruption do not yet apply to foreign public officials and officials of public international organizations. However, a new draft of law on corruption eradication has been in process in order to bring the legislation in line with the requirements of the provisions of the UNCAC, including foreign bribery that will be criminalized as an offence.

8. If your country has not criminalized foreign bribery, has your country proposed or made changes, since the last Accountability Report, to your country's legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

### Liability of Legal Persons

9. Has your country established the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details (e.g. about the type of liability, including whether criminal,

civil, or other).

The liability of legal persons for corruption and money laundering related offences is regulated under the Law no. 31 of 1999 on the Eradication of Corruption as amended by Law No. 20 of 2001 on the Amendment to Law no. 31 of 1999 on the Eradication of Corruption (“Anti-Corruption Law”). In accordance with the prevailing regulations, corporate criminal liability charges may be pursued against a corporate board, as the leader of the organization, as well as against the corporations itself, as stipulated in the Article 20 paragraph (1) of the Anti-Corruption Law.

The liability of legal person for money laundering is regulated under Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering. In money laundering cases involving corporations, the sentence may be applied to both the corporation and/or to persons in control of the corporation, in accordance with the Article 6 of the Money Laundering Law. Under the Article 7, the primary sentence applied to the corporation is fine of up to IDR100 billion.

While corporations are subject to a number of criminal sanctions in numerous laws, there have been few criminal cases where a corporation was brought before a judge and sanctioned. To address this problem, Indonesia enacted the Supreme Court Regulation No 13 of 2016 on the Case Handling Procedures for Corporate Crimes. This regulation provides a step by step guide for judges and other law enforcement agencies in handling corporate crime. Until mid-2018, KPK has successfully prosecuted one companies for corruption and prosecution on other 2 companies are currently ongoing.

If no, has your country taken steps since the last Accountability Report to establish the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details.

### Public Sector Integrity and Transparency

10. Since the last Accountability Report, has your country taken significant steps to propose or to make changes to your country’s legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

The government of Indonesia is finalizing the Open Government Indonesia Action Plan 2018-2020. The action plan consist of government’s priorities which divided into 13 main actions and 2 other initiatives to improve transparency and accountability. The priorities include the beneficial ownership transparency, the increase of transparency on government budget for health and education sectors, the improvement of public participation in the local government planning and budgeting, the improvement public participation in regulation or policy-making, and the implementation of open contracting in

the public procurement. The implementation of these action plan will involve all related ministries/agencies and local governments.

In relation with the implementation of open contracting, the Indonesian Public Procurement Agency (LKPP) is developing the list of public information on public procurement document.

11. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to public disclosure by public officials?

Yes  No

If yes, please provide details.

Indonesia is continue to improve the online public official's asset disclosure platform (e-LHKPN). Through this system, public officials are able to register, submit their asset information electronically, including the information on their family members, properties, income and other kind of assets. Further, this online asset reporting will be followed by examination and verification process in KPK and the summary report of declared asset will be announced online. The public including the public official himself can download the summary of asset declared report online with e-announcement feature. There are several development on this system' features:

1. e-audit

This tool is designate to accelerate the examination process to be more effective and efficient by modifying the user interface display for examiner;

2. Public complaint system

In the e-announcement features, the summary of public official's asset declared report is accessible for the public. At the moment, KPK is adding a new feature in e-announcement which allowing the public to report or share information if they have any information related with the asset reported by the public officials.

3. Integration with Telusur

The e-LHKPN system is now connected with, a search engine application developed by KPK in cooperation with several government institutions. With this search engine, KPK can have access to data such as personal identity, land ownership, and car registration number. The integration of these system, the e-LHKPN and search engine, improve the ease of verification and examination process of the asset declaration report.

12. Does your country have in place standards and a system for preventing and managing conflicts of interest in the public sector? This may include the establishment of standards of conduct, especially for public officials working in high-risk sectors; putting into place clear means for developing, implementing and updating conflict-of-interest policies; and identifying "at-risk" activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures.

Yes  No

If yes, please provide details.

As an effort to prevent corruption, collusion and nepotism and to create good governance, the Minister Regulation of State Apparatus Performance and Bureaucratic Reform (AR&BR) No. 37 of 2012 stipulates the General Guidelines for Handling Conflict of Interest. This General Guidelines should be used as reference by other government agencies to develop particular guidelines on conflict of interest that is applicable within their respective agencies. The monitoring and evaluation of the implementation of this regulation shall be conducted by the Ministry of AR&BR in coordination with the relevant institutions.

The General Guidelines contain the following:

1. Definitions of conflict of interest, public officials, government agencies and public institutions.
2. Category of officials with potential conflict of interest in the executive, judiciary and other officials appointed by the President or Minister.
3. Forms of conflict of interest that often occur and are faced by public officials.
4. Types of conflict of interest that often occur in the executive and judiciary.
5. The sources of the conflict of interest.
6. The basic principles in handling conflict of interest.
7. Stages in handling conflict of interest.
8. Factors supporting a successful handling of conflict of interest.
9. Measures against potential conflict of interest.
10. Procedures to address conflict of interest.
11. The Regulation provides the following actions and procedures to overcome conflicts of interest.

13. Has your country established whistleblower protections under your domestic laws?

Yes  No

14. Since the 2015 Accountability Report, has your country proposed or made changes to its whistleblower protection framework in both public and private sectors?

Yes  No

If yes, please provide details.

Indonesia has enacted several regulations to protect reporting person such as the Supreme Court Circular Letter (SEMA) No.4 of 2011 and Joint Regulation of the Minister of Law and Human Rights, the Attorney General, the Chief of National Police, the Commissioners of the Corruption Eradication Commission (KPK), and the Chairman of the Witness and Victim Protection Agency (LPSK) on the Protection of the Reporting Person, Whistleblowers, and Justice Collaborator. Indonesia also amended the Law No. 13 of 2006 by the Law No. 31 of 2014 on Witness and Victim Protection.

This year, LPSK launched a hotline to facilitate the public consultation and online application on protection request for witness, whistleblower or justice collaborator. Previously, the application should be submitted in person to the LPSK office. This innovation is very useful because the LPSK office is only located in the capital.

15. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

The government of Indonesia is finalizing the Open Government Indonesia Action Plan 2018-2020. The action plan consist of government's priorities which divided into 13 main actions and 2 other initiatives to improve transparency and accountability. The priorities include the beneficial ownership transparency, the increase of transparency on government budget for health and education sectors, the improvement of public participation in the local government planning and budgeting, the improvement public participation in regulation or policy-making, and the implementation of open contracting in the public procurement. The implementation of these action plan will involve all related ministries/agencies and local governments.

In relation with the implementation of open contracting, the Indonesian Public Procurement Agency (LKPP) is developing the list of public information on public procurement document.

16. Is your country a member of the Open Government Partnership?

Yes  No

Please provide details including information on the collective actions taken by your country since the last Accountability Report.

Stated in number 15

17. Does immunity for public officials from investigations and prosecutions for corruption related offences exist in your country?

Yes  No

If yes, how is an appropriate balance ensured between any immunities and the need to effectively investigate, prosecute and adjudicate corruption offences, in accordance with article 30(2) of UNCAC?

**Sectors**

18. Since the last Accountability Report, have there been any changes or proposed changes to your country's legislation or other measures related to combating corruption:

a. in Sports? Yes  No

If yes, please provide details.

b. as a facilitator of illegal trade in wildlife and wildlife products? Yes  No

If yes, please provide details.

19. Is your country supporting or implementing any sector-specific initiatives?

Extractive Industries Transparency Initiative (EITI)

Implementing Yes  No   
 Supporting Yes  No

Construction Sector Transparency Initiative (CoST)

Implementing Yes  No   
 Supporting Yes  No

Customs (World Custom Organization-Arusha Declaration)

Implementing Yes  No   
 Supporting Yes  No

Others

Please specify.

Implementing Yes  No   
 Supporting Yes  No

Please provide notable details on each of the sectorial initiatives, listed or not listed

above, supported by your country or domestic measures taken in relation to specific sectors.

### International Anti-Corruption Instruments

20. Has your country begun or completed the second cycle of UNCAC peer review process as a country under review?

Yes  No

If yes, please indicate.

    Begun

    Completed

If no, please indicate when your country is scheduled to be reviewed

21. For either or both cycles, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so?

a. Publication of full report

    aa. First Cycle                      Yes     No     Committed to do so

    bb. Second Cycle                    Yes     No     Committed to do so

b. Involvement of civil society

    aa. First Cycle                      Yes     No     Committed to do so

    bb. Second Cycle                    Yes     No     Committed to do so

c. Involvement of business

    aa. First Cycle                      Yes     No     Committed to do so

    bb. Second Cycle                    Yes     No     Committed to do so

d. Country visits

    aa. First Cycle                      Yes     No     Committed to do so

    bb. Second Cycle                    Yes     No     Committed to do so

Please provide details (e.g. web link for published report, how and when civil society and/or business were engaged during the review process, date of country visit). If your

country has voluntarily published its questionnaire response, please indicate as well.

<https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/4-6June2018/V1802693e.pdf>

22. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

Yes  No

g. If yes, please provide details.

From the first cycle of UNCAC implementation review report, we have progress on the implementation as follow:

1. Since 2011, Indonesia has enacted several regulations on reporting person protection to ensure the protection of whistleblowers and/or rewarded perpetrators who actively cooperate with the law enforcement authorities in corruption cases, as follow:
  - a. Supreme Court Circular Letter (SEMA) No. 4 of 2011
  - b. Joint Regulation of Minister of Law and Human Rights, the Attorney General, the Chief of National Police, the Commissioners of Corruption Eradication Commission (KPK), and the Chairman of the Witnesses and Victims Protection Agency (LPSK) on the Protection of the Reporting Person, Whistleblower and Justice Collaborator. Indonesia also amended the Law on Witness and Victim Protection in 2014;
2. In 2012, the government has amend the Government Regulation on the Terms and Procedures for the Implementation of the Right of Prisoners to ensure the gravity of corruption offence included in the requirement for early release or parole of convicted persons.
3. In 2018, Indonesia has amend the Presidential Regulation on public procurement of goods and services to enable the government institutions annul or rescind a contract if the vendor is related to corruption case;
4. In 2018, the Government has enacted Presidential Regulation No.13 of 2018 on Beneficial Ownership Principles to obliged the legal persons, limited partnerships, and firms, to report its beneficial ownership to the Registration House. At the moment, the government is strengthening the system of companies registry in the Ministry of Law and Human Rights.

b. If you have responded to all or some of the recommendations, have you made those responses publicly available?

Yes  No

If yes, please provide details (including web links, if available).

- Law No. 31 of 2014 on Witness and Victim Protection that regulate protection for the reporting person, whistleblower and justice collaborator  
<http://peraturan.go.id/uu/nomor-31-tahun-2014.html>
  
- Government Regulation No.99 of 2012 on second amendment of the Government Regulation No. 32 of 1999 on Terms and Procedures for the Implementation of the Right of Prisoners  
<http://peraturan.go.id/pp/nomor-99-tahun-2012-11e44c4f6d43d170b3aa313232313134.html>
  
- Presidential Regulation No.16 of 2018 on public procurement of goods and services. That regulate the government institution can annul or rescind a contract if the vendor is related to the corruption case  
<http://peraturan.go.id/perpres/nomor-16-tahun-2018.html>
  
- Presidential Regulation No.13 of 2018 on Beneficial Ownership Principles. Through this regulation, notaries and legal persons are obliged to include information on beneficial ownership in the registration process  
<http://peraturan.go.id/perpres/nomor-13-tahun-2018.html>

23. Is your country party to the OECD Anti-Bribery Convention?

Yes  No

If no, please give an update on steps taken by your country to

- a. participate actively with the OECD Working Group on Bribery, including through possible Participant status and
- b. adhere to the OECD Anti-Bribery Convention.

Indonesia considers OECD as a key partner in a broad array of policy issues including anti-corruption. Indonesia had signed a Framework of Cooperation Agreement with the OECD, which is the formal basis guiding the bilateral cooperation between the OECD and Indonesia. It was renewed in June 2017 on the sidelines of the OECD's Ministerial Council Meeting in Paris and signed by the OECD Secretary-General Angel Gurría and the Indonesian Minister of Finance, Sri Mulyani Indrawati.

Under the agreement, Indonesia and OECD have two years Joint Work Programmes, which have allowed Indonesia and the OECD to learn from each other in shaping policy and developing standards. This document outlines priorities of both parties and contains high priority areas and includes new emerging issues of priority to Indonesia, including designing sound anti corruption policies.

Under the new Program, the OECD supports Indonesia's efforts to establish an offence prohibiting cross-border bribery by Indonesian companies and entrepreneurs. The OECD also encourages Indonesia to establish an appropriate institutional framework for preventing, detecting, investigating and prosecuting cases of cross-border bribery.

24. Has your country begun or completed an OECD Anti-Bribery Convention peer review process as a country under review?

Yes  No

If yes, please indicate.

a. Phase 1	Begun <input type="checkbox"/>	Completed <input type="checkbox"/>
b. Phase 2	Begun <input type="checkbox"/>	Completed <input type="checkbox"/>
c. Phase 3	Begun <input type="checkbox"/>	Completed <input type="checkbox"/>
d. Phase 4	Begun <input type="checkbox"/>	Completed <input type="checkbox"/>

Please provide information on your country's OECD peer review process and/or any other relevant information (such as reports and links)

25. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in previous OECD Anti-Bribery Convention evaluations?

Yes  No

If yes, please provide details (including a link to the written follow-up report, where applicable).

26. Is your country party to other international or regional anti-corruption instruments (such as the Inter-American Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the Council of Europe Criminal Law Convention on Corruption or the Council of Europe Civil Law Convention on Corruption)?

Yes  No

If yes, please indicate which instrument(s).

27. Has your country been under review related to any kind of international or regional anti-corruption review mechanism other than the UNCAC peer review process?

Yes  No

If yes, please provide links to review and any compliance reports, if available.

## ITALY

### Summary of National Progress

1. Please provide a high-level summary (maximum of 500 words) of the most significant anti-corruption measures or initiatives that your country has introduced or implemented since the Accountability Report of 2017. The 2017 Accountability Report as well as previous reports can be accessed at <https://www.g20.org/en/g20-argentina/work-streams/anti-corruption>.

Since the [2017 Italian Accountability Report](#), Italy has approved the reform of the Antimafia Code ([Law n. 161/2017 Codice Antimafia](#)) by modifying also the Penal Code, the Code of criminal procedure and other provisions, including Legislative Decree 231/2001 about the liability of legal persons.

The new regime extends the confiscation of assets, long used as a preventive measure against those convicted of offences through a criminal association, to new crimes with specific reference to the offences against the public administration, as bribery and corruption, which are assimilated to mafia crimes.

Italy has also adopted a new law on the protection of whistleblowers (Law n. 179/2017 whistleblower protection) which enforces the protecting measures in the public sector already introduced by the Anticorruption Law (Law n. 190/2012) and extends them for the first time to the private sector (see question 14).

Most recently, the Government has adopted a bill on new anticorruption measures as the debarment (“Daspo”) and undercover agents. Those definitively convicted for corruption (and for other 8 corruption-related offences) are banned to contract with a Public Administration. The banning order can last from 5 to 7 years due to convictions up until 2 years. If the conviction exceeds two years, the banning order will be lifetime effective. A withdrawal is possible only through a rehabilitation procedure, which can be requested 12 years from expiation and needs, to be adopted, 3 more years (see question 22).

Italy is going through its second cycle review under the UN Convention against Corruption. In adherence to commitments made during the first cycle of the IRM, Italy has involved civil society and the private sector in the review and has pledged to post related documents publicly (see questions 20 and 21).

### Practical co-operation:

2. Please give an update on the progress made and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Persons Sought for Corruption and Asset Recovery.

Italian judicial authorities have the capacity to provide information to foreign authorities, both upon request and pro-actively.

Italy has entered into several mutual agreements/arrangements to enhance international cooperation under the UNCAC Convention. Such agreements include arrangements governing information exchange and asset disposition.

Italy has a well-established regime for asset recovery based on the Code of Criminal Procedure (e.g. arts. 740-bis, 740-ter) and mechanisms for cooperation with other jurisdictions, particularly through MoUs governing asset disposition.

A recent reform of the Code of Criminal Procedure ([Legislative Decree n. 149 of 3](#)

[October 2017 international judicial cooperation](#)) has modified the competence for the execution of the requests for MLA, in order to improve and speed up cooperation, conferring this competence directly to the Public Prosecutor Offices (PPOs) and imposing that they must be executed “*without delay*” (new artt. 723 and followings CPP). Italy has also implemented, through Legislative Decree n. 108/2017, the European Investigation Order, which provides for an improved cooperation in the field of the gathering of evidence among most EU member States and strict limits for the execution of the requests of assistance. Such provision has also implemented the EU Convention on Mutual Legal Assistance in criminal matters.

The competent Italian authorities (Ministry of Justice) have been and are pro-active in negotiating and implementing bilateral treaties with non-EU countries in the areas of extradition and mutual legal assistance (e.g. the Italian Parliament is currently examining the bill for the ratification of two Treaties on extradition and mutual legal assistance signed by Italy and by the Government of United Arab Emirates). Such treaties will provide Italian judicial authorities with more effective tools in combating serious crimes including corruption crimes.

### **Beneficial Ownership Transparency**

3. Please give an update on the progress made against your National Implementation Plan (if applicable) and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Beneficial Ownership Transparency and the relevant Financial Action Task Force recommendations on beneficial ownership transparency.

Also implementing its beneficial ownership [national action plan](#), Italy developed a new register for enterprises.

The Business register (held by the Chambers of Commerce) is a public register in which all entrepreneurs must be registered. It guarantees the legal publicity of the information contained therein.

In 2017, Italy amended Legislative Decree n. 231/2007 (Anti Money-Laundering Law) introducing in the Business Registry a specific Register of Beneficial Owners of Legal Persons and Trusts ([Leg. Decree n. 90/2017](#)). As per articles 21 and 22 of the new AML Law, comprehensive information is included in the Register not only related to the owner of legal persons and trusts but also to their managers.

Ministerial Decree on the BO register is expected to be issued soon, following the publication of the V AML EU Directive in June 2018.

Italian competent authorities in charge with the fight against ML/TF and the Tax Administration have multiple sources to query and cross-check in order to get the most truthful and up-to-date information. As a consequence, there exist procedures that will allow to link BO information, as it will be recorded in the business register, with other information sources. The already existing information sources are: the Tax Register; the Business Register; the Register of Accounts; the Real Property Register; the Register of Mortgages; the Vehicle Register.

Thus the Italian legal system is preparing already for the upcoming implementation of the new [EU AML Directive \(2018/843\)](#) that will require all Member States to interconnect the BO information - contained in national central register - via the European Central Platform.

Italy prohibits false corporate reporting by individuals and legal persons. In Italy, the tax deductibility of bribes is expressly excluded by law since 2002 (article 2(8) of Law n. 289/2002).

Recently, Italy implemented in its legislation the Council Directive (EU) 2016/2258 (DAC 5) regarding access to anti-money laundering information by tax authorities through the Legislative Decree n. [60 of 18th May 2018](#) (in force on 6th June 2018), whose goal is to enhance transparency of the cross-border transactions and to prevent international tax base erosion.

Italy has a domestic regulatory and supervisory regime for banks and non-bank financial institutions, which has been enhanced through its enactment of the AML Law. Italy's primary agencies responsible for AML supervision include the Ministry of Economy and Finance (MEF), the Bank of Italy (BoI), and the Ministry of Justice. A risk-based approach typically defines the frequency and types of due diligence obligations. Moreover, the Italian AML Law includes requirements for customer due diligence (CDD) and beneficial owner identification/verification (art. 17 et seq.), record keeping (art. 31 et seq.) and the reporting of suspicious transactions (art. 35 et seq.).

The Italian UIF is the national Financial Intelligence Unit responsible for the receipt, analysis and dissemination of suspicious transaction reports (STRs) related to money-laundering, associated predicate offences and terrorist financing. UIF is responsible for establishing and updating anomalous indicators that were previously conducted by competent supervisory authorities on UIF's proposal. UIF has also been regularly elaborating, issuing and updating patterns and schemes representative of economic and financial anomalous behaviors.

Italy has the capacity to exchange information with foreign FIUs through networks such as Egmont and regional networks. On a domestic level, Italy's UIF disseminates STRs and the outcomes of the related analysis to competent law enforcement agencies specifically indicated by the law (L.D. n. 231/2007, as amended by L.D. n. 90/2017, art. 40, lett. d)): the Nucleo Speciale di Polizia Valutaria (NSPV) of Guardia di Finanza (GdF) and the Direzione Investigativa Antimafia (DIA).

Taking into account the findings of the FATF Mutual Evaluation, the new AML Law provides improvements in domestic collaboration on information exchange among competent authorities. In particular, in addition to NSPV and DIA, information can be forwarded by UIF, in cases of specific interest, to the Intelligence Services. Furthermore, the National Antimafia Directorate (DNA) receives from UIF, through NSPV and DIA, ID data of subjects reported or connected to STRs. NSPV and DIA transmit to the National Anti-Mafia and Counter-Terrorism Prosecutor the reports that are relevant to organized crime or terrorism. The new AML Law, while granting UIF the access to law enforcement information, has subjected this access to limitations deriving from investigation secrecy (L.D. n. 231/2007, as amended by L.D. n. 90/2017, arts. 12(4), 13(1)).

Italy has established a declaration system to monitor cross border movement of cash and bearer negotiable instruments, requiring natural persons entering or leaving Italy with EUR 10,000 or higher to declare to Italian Customs (art. 3 of L.D. n. 195/2008). In cases of false declaration, Customs and Guardia di Finanza can seize amounts equal to 30 or 50% of the amounts transferred over EUR 10,000, depending on the value of the undeclared amount (arts. 6 and 9, L.D. n. 195/2008).

Italy has created a strong legal framework for ensuring access to information through its Freedom of Information Act (L.D. n. 33/2013 as amended by L.D. n. 97/2016).

4. Since the last Accountability Report, has your government instituted any new measures to promote the development of anti-corruption initiatives, such as anti-corruption training and education by the private sector, including for Small and medium-sized enterprises (SMEs) and the non-financial professional services sector<sup>10</sup>?

Yes  No

If yes, please provide details

Since 2017, several initiatives in the private sector have developed the diffusion of integrity and transparency in the business activities. Training of staff specifically devoted to anti-corruption and integrity has considerably increased. These actions are coherent with the implementation of Legislative Decree n. 231/2001 that sets out the principle of liability of legal entities for acts of corruption committed to their advantage by persons who are either in senior executive positions or subject to the supervision or direction of the latter. Private entities are exonerated from liability only if the organizational model they have implemented is proven to be adequate and actually implemented, according to appraisal of the criminal judge. Legislative Decree n. 231/2001 stems from the OECD Anti-Bribery Convention.

Italy has taken steps to help preventing corruption involving the private sector through collaborative programs between Public Administrations and Confindustria, the largest private sector association of businesses. Confindustria has adopted a Code of Ethics and Associative Values for its members and has worked on practical guidance for smaller businesses. It also engages awareness-raising activities and provides advice on governance models that promote high standards of compliance.

Confindustria promotes the development of a competitive culture, where anti-competitive behaviors are socially regarded with disrepute. Confindustria recalls companies to the fundamental commitment to spreading efficient payment practices. In fact, punctual contractual times and punctual payments generate benefits for suppliers, on one hand; on the other, they strengthen both reputation and competitiveness on national and international markets. In order to encourage companies to adopt responsible behaviors, Confindustria also carries out intense awareness-raising activities and advises companies that adopting organizational models and high legal standards is crucial both to prevent offences and to improve corporate governance. In addition, Confindustria promotes initiatives aimed at enhancing the commitment of companies that voluntarily adopt these reinforced security measures (i.e. Legality Protocol with the Ministry of Interior; legality rating).

Last year Confindustria and TIM SpA published a survey on the effective spread among SMEs of organizational models ex lege 231 and anti-corruption measures. The survey was a follow-up to the anticorruption toolkit for SMEs published in November 2015. It shows that 36% of the 45 companies interviewed had adopted the model and that other companies were primarily discouraged by the complexity of legislation, excessive organizational burdens and uncertainty with regards to the judges' assessment of suitability of the model.

<sup>10</sup> non-financial professional services sector could include: computer services, real estate, research and development, legal services and accounting

However,  $\frac{3}{4}$  of the companies still lacking the model are willing to adopt it. Within the companies that have the organizational model, 87% adopt a whistleblowing protection system. In general, companies are growingly aware of the reputational risks associated with economic crime and corruption. All major companies adopt and implement detailed anti-corruption strategies; most of them adopt appropriate behavioral rules for public relations or procedures to handle activities that imply a greater risk of corruption.

In terms of training and education for Italian companies, especially SMEs, the project “Sportelli in rete” (meaning Training Desks) has been set up by the majority of the national enterprises’ associations together with Consip - the Italian Central Purchasing Body - in order to support and train SMEs when using e-procurement. Capacity building, education and training are core activities of the project, in addition to change management activities that have allowed to overcome the initial resistance shown by SMEs towards the use of electronic means of negotiation when dealing with public procurement. There are almost 350 Training Desks operating all over the country, at local and regional level, providing free assistance and training to thousands of Italian small and micro- enterprises on the benefits of a clean and transparent public procurement system, achieved also through digitalization.

For more information:  
<https://www.acquistinretepa.it/opencms/opencms/main/programma/servizi/Sportellirete/index.html>.

As far as the Chambers of Commerce are concerned, upon the initiative of Unioncamere network system they develop activities addressed to enterprises, particularly SMEs, with special focus on preventing corruption. These activities include:

- 1) promoting awareness and providing information on anticorruption legislation and on corruption risk factors.
- 2) identifying the dynamics of corruption, its impact on the economic system and corruption risk prevention measures: (see ACTs project <http://www.acts-project.eu> and the C-Detector <http://www.c-detector.eu>). C-Detector is a digital self-assessment tool of corruption risks, created to support micro-SMEs operating in Europe in the implementation of appropriate measures to prevent and combat corruption. Through a short questionnaire, C-Detector provides an assessment of corruption risks that the company could be exposed to; after the appraisal of the results, the test can provide useful guidelines in order to prevent corruption, as well as concrete suggestions on actions to be taken to mitigate the occurrence of corruptive acts.
- 3) carrying out research, development and validation of analytical tools for assessing corruption risk and criminal infiltration in the economic context.
- 4) educating on “legally-shaped economic environments”, aimed also at strengthening ethical business principles among young people. In this regard, the Chambers of Commerce have undersigned, together with the Ministry of Education, a “Charter of intents on education for economic legality”, with a particular focus on anti-corruption, involving also other institutions. These Guidelines are addressed to all Italian schools, with specific content and targets in terms of ethics and anti-corruption: [https://www.bancaditalia.it/chi-siamo/provvedimenti/CARTA\\_D\\_INTENTI.pdf](https://www.bancaditalia.it/chi-siamo/provvedimenti/CARTA_D_INTENTI.pdf).

The private sector is also developing dialogue and cooperation with the central Public Administrations such as the Ministry of Economic Development and the Ministry of

Foreign Affairs, in the latter case specifically with the Coordinator of international anti-corruption activities.

In this framework, in 2017 the Ministry of Foreign Affairs in conjunction with Transparency International-Italia and some of the major Italian companies operating abroad organized the first edition of the "[Italian Business Integrity Day](#)" (IBID). Three events, in coincidence with the National Anticorruption day (9 December), have been held to present the organizational models adopted by those companies to prevent corruption and promote integrity in their domestic and overseas business. The events were hosted by the Italian Embassies in Washington DC and in Oslo and by the Permanent Representation of Italy to the OECD, in the framework of the WGB. The format chosen epitomizes the new multi-shareholder approach that calls companies upon to come to the fore in combating corruption.

5. Since the last Accountability Report, have there been any changes or proposed changes to your country's legislation or other measures related to private sector integrity?

Yes  No

If yes, please provide details.

The new law on the protection of whistleblowers (Law n. 179/2017) concerns also the private sector providing for certain mandatory requirements on whistleblowing for those companies which have chosen (or choose) to implement an Organizational Management and Supervisory Model in line with Legislative Decree n. 231/2001 (so called "Model 231"). The Whistleblowing Law, by amending the Legislative Decree n. 231/2001, introduces in the Model 231 one or more channels of communication that allow to present detailed reports based on precise and consistent factual elements which expose offences listed in the catalogue of crimes relevant for the Legislative Decree n. 231/2001. These communication channels shall guarantee the confidentiality of the whistleblower in the management of the reports; additionally, at least one alternative reporting channel must be provided to guarantee - using IT-based techniques - the confidentiality of the identity of the whistleblower. The Model 231 must also prohibit acts of retaliation, direct or indirect discriminatory actions against the whistleblower for reasons connected to the report/alert itself. Sanctions must be introduced in the disciplinary system adopted with the Model 231, both for those who breach the measures to protect the whistleblower, as well as for whistleblowers themselves who make malicious or grossly negligent reports that prove to be groundless. Discriminatory measures can be notified to the Italian Labour Authorities ("Ispettorato del Lavoro") and to the relevant trade unions. Furthermore, discriminatory redundancies, changes of tasks and any discriminatory measures adopted against the whistleblower will be null and void unless the company is able to prove that they are in no way related to the whistleblowing activity.

6. Does your country apply anti-corruption legislation to SOEs (employees and executives), including anti-bribery legislation? Please provide a response for both active and passive bribery with regard to domestic and transnational bribery of public officials.

Yes  No

If yes, please provide details.

As for private companies owned by public bodies (aka SOEs), the Model 231, when existing, must be supplemented by a program of anti-corruption measures. Specifically, in relation to the prevention measures intended to implement administrative transparency, the regulation established for public entities is also applied to publicly owned private entities as regards both its organization and the range of activities performed. The solution collectively chosen by the Legislator originates from the desire to achieve a substantial assimilation (limited to these aspects) between the owned private entity and the public entity.

When a private entity is only partially State-owned, then only the rules on transparency are applied (and not all the others on the prevention of corruption), establishing, moreover, that this latter regulation is to be used "*only in relation to activities carried out in the public interest*". This is a broad interpretation of the legislative structure that emerges from Article 22 of Legislative Decree n. 175/2016 and Legislative Decree n. 97/2016, according to which any private entity that performs (even non-exclusively) public functions must be transparent with regard to these provisions. The structure has important consequences in terms of public access, which can, therefore, be exercised even with regard to partially State-owned private companies.

Italy also requires listed companies - and companies whose financial instruments are widely distributed - to follow International Financial Reporting Standards, as adopted by the EU, in both consolidated and individual (separate) financial statements. Italy's false accounting offences require the publication of accurate and complete accounting records. Listed companies, accounts of joint stock companies and a number of non-listed companies are subject to external audit as well as requirements for internal auditing controls. There are effective, proportionate and dissuasive criminal penalties for natural persons for failure to comply with accounting requirements, and pecuniary sanctions against legal persons for false accounting violations.

Italy has taken measures intended to promote the development and implementation of effective compliance programs within companies. It has also established post-government employment restrictions on former public officials who have exercised authoritative or negotiating powers on behalf of the public administration; there are no post-employment restrictions on Members of Parliament or Magistrates. A private sector employer of a former official who benefits from the actions of that former official is also subject to sanctions including the voiding of contracts, the return of compensation and a time-limited restriction on future contracts with public administration.

If no, has your country taken steps to propose or to make changes to your country's anti-corruption legislation related to SOEs (employees and executives)?

### Active and Passive Bribery Offences

7. Does your country currently have legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials

and/or officials of public international organizations?

Yes  No

If yes, please provide details.

Italy has implemented the OECD anti-Bribery Convention, including the criminalization of foreign bribery and the liability of legal persons.

In terms of criminal sanctions, Law n. 69/2015 has raised both the minimum and maximum prison sentences for almost all corruption offences. More specifically, sanctions have been substantially increased in cases of active and passive corruption of domestic officials and of foreign officials.

The heaviest sanction is provided for corruption in the justice sector, with Article 319ter of the Criminal Code establishing a sanction imprisonment of 6-12 years, which may be increased up to 20 years for aggravated offences. For active and passive corruption of public officials in general, the maximum sanction has been increased to 10 years of imprisonment. For the offence of “undue inducement”, the maximum sanction is now 10 years and 6 months imprisonment.

The increased level of maximum sanctions also produced an impact on the minimum limitation period, which is even further increased in cases where the perpetrator is a recidivist.

Moreover, the suspension of the sentence is always conditioned on the payment of a sum equivalent to the profit or to the amount of the bribe paid. The conviction for corruption offences always imposes on natural persons the payment of a sum equivalent to the amount of the bribe received. The possibility to conclude a plea bargain (*patteggiamento*) is contingent upon full restitution of the price or profit deriving from the crime.

The National Anticorruption Authority (ANAC) has been granted additional competences. It is now more involved in criminal cases and systematically informed by the Public Prosecution Offices (Procure della Repubblica) of all new cases of corruption, including those of foreign bribery.

Lastly, more severe sanctions have been reintroduced for false accounting offences. Italy prohibits false corporate reporting by individuals and legal persons.

In Italy, the tax deductibility of bribes is expressly excluded by law since 2002 (article 2(8) of Law n. 289/2002).

8. If your country has not criminalized foreign bribery, has your country proposed or made changes, since the last Accountability Report, to your country’s legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

### Liability of Legal Persons

9. Has your country established the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details (e.g. about the type of liability, including whether criminal, civil, or other).

Legislative Decree n. 231/2001 lays the ground for the prevention of corruption in the private sector.

Italy has introduced the liability of legal persons for corruption offences as a well-established international standard included in the mandatory provisions of international anti-corruption instruments, such as:

- Article 3 of the Second Protocol to the EU Convention on the Protection of the Financial Interests of the European Communities (1997)
- Articles 2 and 3 of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997)
- Article 18 of the Council of Europe Criminal Law Convention on Corruption (1999);
- Article 26 of the United Nations Convention against Corruption (2003)

Legislative Decree n. 231, adopted on June 8th 2001, provides for an administrative liability which may be attributed to legal persons for certain criminal offences committed by a natural person in the interest or to the advantage of the legal person, including: domestic and foreign bribery, concussion, undue inducement to give or promise advantages, false accounting, corruption in the private sector, receiving of stolen goods, money laundering and self-laundering. Among these listed crimes are included also the offences against the public administration, corporate crimes, organized crime (see UNTOC list), counterfeiting of money, crimes of terrorism, exploitation of illegal migrants and others. It is also worth noting the particular significance of the recent introduction of environmental crimes among the “predicate” offences of liability of legal entities under Legislative Decree n. 231/2001.

The 231 regime recommends companies to adopt and implement adequate organizational models to prevent corruption and manage the risk of unlawful behaviors, rewarding them with an exemption from corporate liability. The “exemption” from liability goes in favor of the legal person that has adopted and effectively implemented an “organizational model” aimed at preventing an offence that has nevertheless occurred. The law provides for administrative penalties including fines, disqualification, confiscation of company assets, publication of the decision.

In the Italian legal framework, liability of legal persons is a “quasi criminal” responsibility.

Legislative Decree n. 231/2001 goes beyond: in fact it is applied not only to legal persons, but also to companies and associations without legal personality. Recently such legal regime has been extended to no-profit organizations. The relevant implementing legislation has been adopted in 2017. In terms of international cooperation, it is worth mentioning the Legislative Decree n. 74/2016 giving execution

to the "European Criminal Records Register", although the "National Criminal Register" contains much more data, since it also includes pending charges for natural and legal persons and the register of administrative penalties from offences, applied to institutions. Moreover, the "European Criminal Records Register" contains information solely related to natural persons and there is no provision allowing data exchange among Member States, also for cases of (administrative) liability of legal persons.

If no, has your country taken steps since the last Accountability Report to establish the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details.

### Public Sector Integrity and Transparency

10. Since the last Accountability Report, has your country taken significant steps to propose or to make changes to your country's legislation or other measures related to open data, including open contracting ?

Yes  No

If yes, please provide details.

In 2017 a new version of the Open Data national internet portal, [www.dati.gov.it](http://www.dati.gov.it), was released.

The new portal, presented on the occasion of the Open Government Week (see also question 16), implements the EU Directive PSI *Public Sector Information*.

After the adoption of the Freedom of Information Act (FOIA) by Legislative Decree of 25 May 2016 n. 97, which was described in detail in the 2017 Accountability Report Questionnaire, two important measures have been introduced in order to guarantee the effective application of the general access (*accesso civico*) by all citizens:

1) the Guidelines of 28.12.2016 of the National Anti-Corruption Authority: "*Guidelines containing operational indications for the definition of exclusions and the limits to civic access*". The Guidelines were prepared in agreement with the Data Protection Authority, the approval of the "Unified Conference" (State-Regions-Metropolitan cities) and with the comments made by the local authorities;

2) the Circular of 30.05.2017 of the Minister for Public Administration: "Circular for the implementation of the general civic access legislation". The Circular, drafted by the Department for Public Administration in agreement with ANAC, takes into account the applicative experience and the critical issues that emerged through the monitoring carried out by the Department, in the first months of implementation of the FOIA legislation.

Italy has a de-centralized system of public procurement. At State level, the most

relevant Central Purchasing Body is Consip SpA, set up and controlled by the Ministry of Economy and Finance. Italy has implemented the EU directives on public procurement.

Laws regarding public procurement provide for transparency in all acts by contracting authorities and contracting entities relating to the planning of works, services and supplies. They also include minimum standard time frames, the conditions for participation and the establishment of award criteria. In general, procurements require competition, although a restricted procedure where only invitees are allowed to compete is also available at the discretion of the contracting authority. The procedures fully set out legal recourses and appeals processes. There is a waiting period of 35 days between the selection and the award of the contract. With regard to procurement personnel, Italy has some screening requirements for those selected. To enhance general transparency of procurement in Italy, ANAC collects, analyses and publishes all relevant procurement data.

Italy has established procedures for adopting a budget, and revenue and expenditure reports are produced on a regular basis.

With regard to systems of accounting and auditing, as well as systems of risk management and internal control, Italy is taking steps to implement a performance audit system. At the central level, the State General Accounting Department can perform also some internal audit function; at the regional level this function can be carried out by the accounting departments; at local level, independent and professional auditors can be used. The “Corte dei Conti” (Court of Auditors) can and does perform “ex ante” audits on legal conformity and “ex post” audits on the State budget. In the Italian system, the Corte dei Conti exercises competences to assess financial and reputational damage for the public expenditure (State, Regions, local Authorities) State budget, thus contributing to prosecuting corruption related to the use of public resources.

With regard to measures intended to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure and revenues or to prevent the falsification of such documents, competent Authorities use a software for the integrated management of economic and financial accounting for central State administrations. To date, no cases are reported in which accounting books were falsified.

The New Code of Public Contracts (Legislative decree n. 50/2016) strengthens ANAC functions in order to prevent corruption within Public Procurement. The New Code improves existing ANAC database about public contracts; it also contains measures to promote transparency through digital platforms; it strengthens requirements for the publication of the whole public tendering process, from the design to the financial management of the contracts.

Since 1999, the former AVCP (recently merged with other bodies to form ANAC) collects, analyses and publishes all relevant procurement information. The Authority has the power of requiring that the contracting authorities as well as companies provide data and information about contracts in progress, design and public contracts awards. Such activity is performed by the Observatory within ANAC that acquires electronically data and information in a national Database (aka Banca Dati Nazionale dei Contratti Pubblici or BDNCP) concerning public contracts, formulates standardized costs and provides statistical as well as economic analyses to support ANAC mandate. The scope of the Database is to reduce the administrative burdens arising from the fulfilment of the

obligation to ensure the efficiency, transparency and control of the administrative action for the allocation of public expenditure and to prevent corruption, according to the Italian Digital Code (article 62 bis of Legislative Decree n. 82/2005, as amended by Legislative Decree n. 235/2010). The database can be consulted by anyone having an interest to protect, according to the principles of disclosure for the exercise of the right to access administrative records and of legal claims. The data are freely available to all citizens: <http://portaletrasparenza.anticorruzione.it/microstrategy/html/index.htm>.

#### 1. INFORMATION COLLECTED:

- Tender and contract notices
- Awarding procedures
- Awarded contracts
- Economic operators taking part in public contracts
- Contract execution

Data are processed in order to

- 1) Assess the Gap between actual and planned costs;
- 2) Assess the Gap between actual and scheduled times;
- 3) Assess dysfunctions;
- 4) Compute reference prices and standard costs of works, services and supplies;
- 5) Produce statistical reports for the European Commission.

#### 2. DATA PUBLISHED IN ORDER TO ENSURE TRANSPARENCY IN THE MARKETS FOR PUBLIC CONTRACTS:

- 3-years planning and annual programs
- Tender and contract notices
- Awarded contracts
- List of qualified contractors
- Guidelines and reference documents for Contracting Authorities

ANAC publishes these data on its website. Contracting Authorities (CA) shall publish on their web site the most relevant information regarding public contracts; they shall also report such information on digital format to ANAC which will publish them on its website, in a section freely available to all citizens: <https://dati.anticorruzione.it/#/home>.

In case the information is not provided or has been given false information, ANAC can impose administrative sanctions. Actually most of the data are already at ANAC disposal within the monitoring procedure provided by the Code of Public Contracts. Those data are analyzed and processed in the perspective of anticorruption, to promote transparency, simplification and fair competition in the entire procurement process. ANAC is so taking advantage from the quality and the accuracy of the Database in order to improve its supervisory and regulatory functions and to promote in this way transparency in the pre-bidding and post-bidding phases.

ANAC uses the database information for specific anticorruption purpose by developing indicators to detect corruption in public procurement.

Indicators stemming from the notice step

- Indicator of centralized purchasing
- Indicator of not open procedures
- Indicator of the estimated value of the contract

- Indicator of fractioning

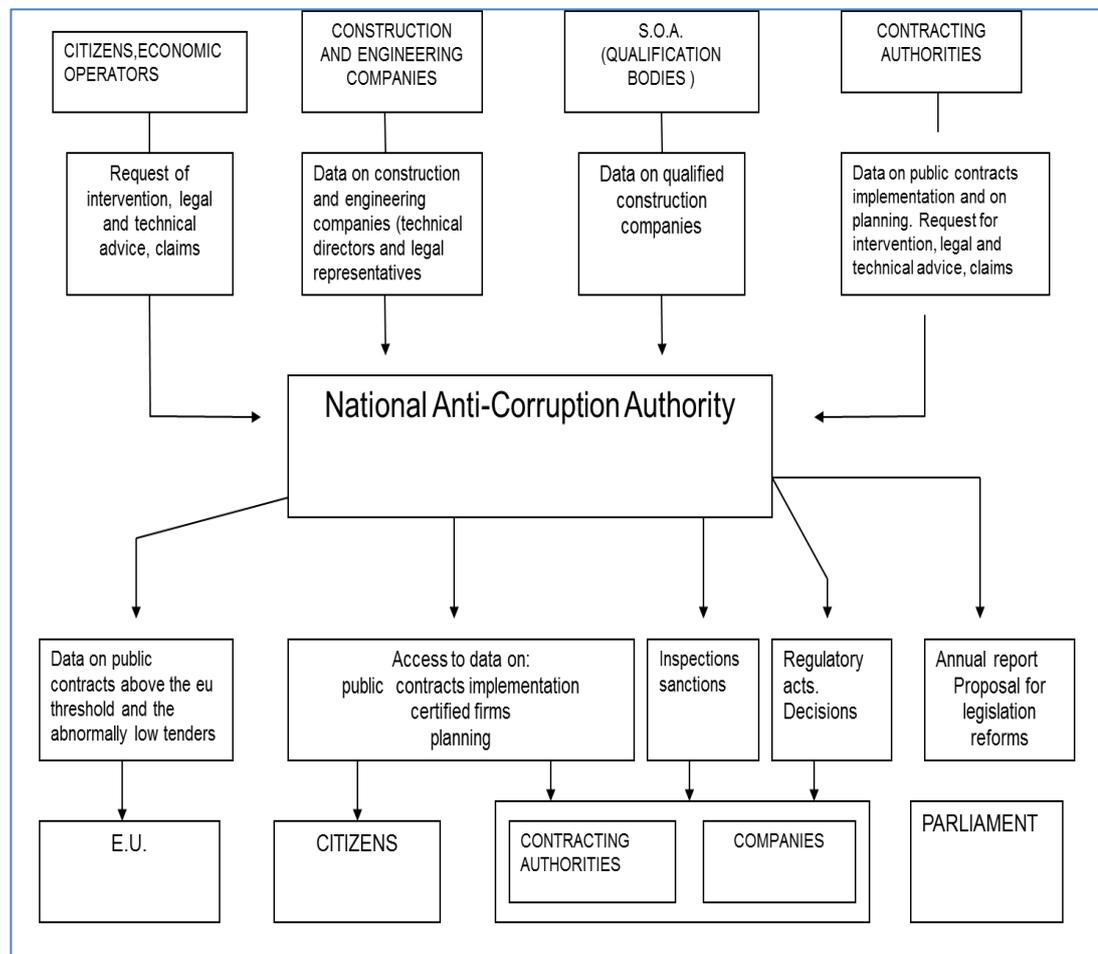
Indicators stemming from the awarding step

- Indicator of centralized purchasing
- Indicator of not open procedures
- Indicator of the estimated value of the contract
- Indicator of fractioning

Indicators stemming from the execution of the contract

- Indicator of contract variances
- Indicator of contract extension
- Indicator of costs rising
- Indicator of time length

### PUBLIC CONTRACTS DATA FLOW



The provisions on corruption prevention and transparency are applicable to Professional Bodies. National Council of Notaries and District Notarial Councils - in the Italian legal system they have the nature of Public Bodies - have to be conform to the norms on transparency. In order to guarantee the greatest transparency, the

functionality and the quality of the notarial performance, the National Notaries Council is completing a vast program of “digitalization of notary services” aiming at standardizing and simplifying the procedures.

As far as professionalization of CAs and greater efficiency in managing complex and/or high value tenders is concerned, two important steps have been undertaken:

1) The introduction of Procurement Aggregators, included in a list of max 35 subjects composed by: (i) Consip as the National Central Purchasing Body (CPB), (ii) Regional CPBs, (iii) selected buyers (i.e. metropolitan cities). The list requires a process of selection and qualification. ANAC defines the criteria for funds allocation for the procurement aggregators.

The Code has created (art. 9) a permanent technical working table (TWT) composed by the procurement aggregators. TWT shall:

- Coordinate and plan activities, improving effective analysis and forecasting on procurement needs
- Define common methodologies
- Build up a common and complete database in order to provide information to policy-makers, enhancing transparency in the entire procurement cycle and gathering data on the needs expressed by public administrations
- Monitor the effects of demand aggregation
- Define and exchange best practices
- Promote the use of e-procurement

Public entities are obliged to transmit the planning of their purchases above 1 mln € to the TWT and to publish the text of their contracts deriving from the planning. The health purchasing bodies are obliged to purchase the list of health goods and services, above defined thresholds, defined by the decree, from Consip or from regional CPBs.

2) The need to qualify CAs.

Art. 38 of the new Public Procurement Code introduces CAs qualification for those authorities that do not make use of one of the Procurement Aggregators. ANAC sets up the list of qualified CAs on the basis of the following requirements:

- Basic: organization, internal structure, skills of employees, training of employees, respect of terms of payment;
- Additional: quality certifications, number of complaints, use of electronic means of communications, use of social and environmental criteria.

Qualification is mandatory for purchases above € 40.000. There are 4 levels of qualification, depending on the value of the tender: higher tender value requires higher number of qualified internal employees.

Art. 38 enforces the recourse to CPBs, procurement aggregators or joint procurement for non-qualified CAs and establishes that CAs Qualification Register will be mandatory for tenders' value over € 150.000 for works and over € 40.000 for goods and services. Moreover a platform for construction sites monitoring will be mandatory starting from 2019.

ANAC is cooperating with other public bodies, namely Consip and ISTAT, the Italian

National Statistical Office, in order to enhance integrity, transparency and anti-corruption standards in public procurement also by using open data.

On the basis of a bilateral agreement, ISTAT and ANAC are sharing the information of their databases, in view of conducting an exploratory analysis of the public procurement database and data of enterprises. The cooperation covers also statistical analysis of economic relations between Public Administrations and business, as well as the economic and financial performance of companies to which public contracts have been awarded. Statistical analysis will include the economic and financial profile of enterprises which are incurred in a procedure of exclusion from tenders or contract termination due to proceedings adopted by ANAC.

In October 2017 ISTAT presented the results of an innovative survey on Corruption based on the direct experience of households. Data are derived by an ad hoc module on the Italian victimization survey - the Citizens' Safety Survey 2015-2016, in order to study corruption: <https://www.istat.it/it/files/2017/10/La-corruzione-in-Italia.pdf?title=La+corruzione+in+Italia+-+12%2Fott%2F2017+-+Testo+integrale+e+nota+metodologica.pdf>

[https://www.istat.it/en/files/2017/10/EN\\_Corruption\\_in\\_Italy.pdf?title=Corruption+in+Italy+-+12+Oct+2017+-+Full+text.pdf](https://www.istat.it/en/files/2017/10/EN_Corruption_in_Italy.pdf?title=Corruption+in+Italy+-+12+Oct+2017+-+Full+text.pdf)

11. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to public disclosure by public officials?

Yes  No

If yes, please provide details.

Members of Government and senior civil servants are required by law to file declarations disclosing certain sources of income, assets and outside positions held, along with a copy of their latest tax returns. This information is to be published, also to detect the existence of actual or potential conflicts of interest.

Data and information to be published consists of: a statement on real rights on immovable properties and movable properties recorded in a public register, ownership of company shares and equity participations, ownership of companies, any company directorships or posts as internal company auditors.

In 2017 the requirement for publication of income and asset declarations has been challenged by high rank civil servants, on grounds of violation of the right to privacy, the protection of personal data and the principle of proportionality. Since then, while the obligation to disclose assets remains in force and operational, the publication of this information for senior civil servants has been suspended; a Constitutional Court's ruling on this matter is expected in the near future. Publication of the information by holders of political offices (including at national, regional and municipal level) is fully operational. See art. 14 of the Legislative Decree n. 33/2013, amended by Legislative Decree n. 97/2016.

Members of the Chamber of Deputies and of the Senate are required to file declarations

containing property rights, assets recorded in public registers, corporate shares, equity interests in companies and copies of their latest tax return in respect of income subject to personal income tax. Some of this information is available on the website of the Parliament and on each individual member's website. Magistrates are required to file statements to the High Council of the Judiciary (Consiglio Superiore della Magistratura, CSM) covering the same type of information as the members of Parliament, but there is no public access to the information except by grounded request. The High Council of the Judiciary determines whether to allow access to the statements.

12. Does your country have in place standards and a system for preventing and managing conflicts of interest in the public sector? This may include the establishment of standards of conduct, especially for public officials working in high-risk sectors; putting into place clear means for developing, implementing and updating conflict-of-interest policies; and identifying "at-risk" activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures.

Yes  No

If yes, please provide details.

Italy addresses conflicts of interest in public administration and in the Government by setting out in the law a number of ineligibility and incompatibility restrictions, as preventive measures, and by including in the general Code of Conduct for public employees a requirement that a public servant carrying out executive functions disqualify him or herself from participating in certain matters which may create an actual or potential conflict of interest. There are also restrictions on activities following public service for some public officials (see end of this paragraph).

Italian law does not provide one single general definition of "conflict of interest". Rather, there are several provisions, both in the Constitution and in other laws and regulations, that directly deal with potential conflict of interest situations.

The Italian legal framework provides different and specific legal provisions for each of the three main areas of categories of individuals: 1) Public Administration; 2) Judiciary; 3) Members of the Parliament and of the Government.

- Provisions on conflict of interest shall apply to public employees (general category including: elected and not elected public officials; civil servants; judges; MPs and members of the Government; as well as other public office holders);

- Conflict of interest also deals with incompatibility and disqualification. The discipline of conflict of interest is specified in cases in which the role of public employee cannot be conferred at all (*inconfiribilità*) or can be given only if the person chooses to divest from the incompatibility (for example, terminating or dismissing the position in conflict).

- The Criminal code also provides for specific offences when administrative office is used to gain unfair material advantage for public office holders or persons associated with them;

- Incompatibility: aims at preventing the continuation of the administrative

mandate for the person who is in a particular situation of conflict;

- Disqualification: it is a general preventive measure (the illegitimate behavior is avoided ex ante through the prohibition to accept the office).

There is a general Code of Conduct (Presidential Decree DPR no. 62/2013) applicable to most public officials, except for members of Government, which is usually complemented by specific codes of conduct developed by each administration/agency. The Code is not applicable to employees of some economic public bodies and publicly controlled companies, although ANAC recommended that each body adopts a code as a part of its Corruption Prevention Program. In addition, the Chamber of Deputies has issued a code of conduct for its members.

The general Code defines the standard of conduct of due diligence, loyalty, impartiality and proper behavior public officials have to comply with. The code recalls the general principles of conduct enshrined in the Constitution (art. 52, 97) and specifies them, by addressing the duty of abstention in case of conflicts of interest. The code also establishes that public officials are not allowed to receive gratuities due to the risk of corruption of the public function they exercise. The code also establishes that public officials have to fully comply with the anti-corruption plan adopted by the public administration they belong to, as well as with the legal framework on transparency. The violation of the code is a ground for disciplinary measures.

ANAC may impose a monetary sanction to public entities considered responsible for not having adopted anti-corruption plans or codes of conduct.

ANAC has also the competence to monitor compliance by the public administrations of the provisions referred to non-conferrable status or incompatibility of public officials (article 16 of Legislative Decree of 8 April 2013, n. 39). The scope of this Decree is to separate political function and administrative function; it contains provisions on non-conferrable status of top administrative offices for holders of political offices. In particular cases, ANAC can declare null and void the acts of assignments of top administrative offices, whereas it has no competence on the validity of political elected offices.

ANAC has also developed guidelines for the public sector at large (public financial agencies, publicly controlled private law companies, controlled or financed private law companies, independent authorities) in order to define a common framework and uniform standards for the codes of conduct and ethics to be adopted by all subjects requested to do so (according to the Law n. 190/2012).

Magistrates, both professional and lay magistrates, are subject to a more cogent system of rules than a code of conduct: it encompasses legislation on the judicial system, disciplinary liability and directives issued by the High Council of the Judiciary, the self-governing body of the judiciary. The magistrates integrate this system of rules through additional specific training held by the School of the Judiciary, which annually organizes specific courses on ethics and through the internship that newly appointed magistrates are obliged to attend, in all the courts and public prosecutor's offices, for a period of at least 18 months on average.

The Italian legal system contains a specific provision aimed at contrasting “*pantouflage*”. Anti-corruption Law n. 190/2012 prohibits public employees who, in the last three years of service have exercised authoritative or negotiating powers on behalf of public administrations, to carry out, in the three years following the end of their working relationship, work or professional activity in private companies who are recipients of the activity of the public administration. In case of violation of such obligation, the contracts concluded and the assignments conferred are void and those private companies are barred from contracting with the public administrations for the following three years.

Despite limited case law on the matter, [ANAC has already assessed some cases of “\*pantouflage\*”](#). In one case in particular, following the termination of the employment relationship with the Public Institution, the former manager signed a consultancy contract with a company belonging to a holding and had relations with the public Authority he previously chaired, clearly violating the law.

13. Has your country established whistleblower protections under your domestic laws?

Yes  No

14. Since the 2015 Accountability Report, has your country proposed or made changes to its whistleblower protection framework in both public and private sectors?

Yes  No

If yes, please provide details.

Italy has adopted a new law on the protection of whistleblowers in both public and private sectors (Law no. 179 of 30 November 2017, published in the Gazzetta Ufficiale/Official Journal n. 291, 14 December 2017).

The Law has a large scope and aims at ensuring that reports or complaints be in the interests of the integrity of both the public administration and the private entity. The claim of the whistleblower shall expose a reasonable belief, based on factual elements, that unlawful conduct has effectively taken place. It is prohibited to disclose the identity of the whistleblower, in either the disciplinary, criminal and administrative procedures.

The main points of the law are the following:

a) On the recipients of reports:

There are 3 main alternative recipients of reports:

- 1) the National Anti-Corruption Authority (ANAC)
- 2) the ordinary judicial or accounting authority (introduced by Law n. 190 of 2012)
- 3) the “person responsible for the prevention of corruption and transparency” in the organization/company concerned;

In abidance by law, ANAC has set up an on-line platform and a dedicated department for reporting acts of corruption. The platform became operational on 8<sup>th</sup> February 2018. Since then, at the end of August 621 reports have been registered by the Authority and 334 files are open.

b) On the subjects bound by the law:

A double extension of protection is provided, namely:

- 1) For employees of the public sector, in the widest interpretation possible (including workers and employees of enterprises providing goods or services and performing works in favor of public administration);
- 2) Article 2 of the Law extends the protection to private sector employees who report illegalities or violations of the organizational and managerial model of the company that become known while performing their functions.

c) Concerning the Object of the report and the Objectives of the reporting system:

In order to protect the integrity of the organization involved, there shall be one or more channels that allow safe reporting to those who have become aware of irregularities in performing their duties. More specifically, among the possible systems used to transmit alerts while protecting the confidentiality of the whistleblower, at least one solution should be a computer-based model. The Law confers to ANAC the task of drawing-up of the guidelines relative to alerts' submission and management procedures. ANAC is also engaged, in consultation with the National Authority for the protection of personal data, to define guidelines for the implementation of the law in the public sector. The recommendations will specify the methodology as to file and manage reports/complaints, with the aim of guaranteeing the confidentiality of the reporting.

d) On the sanctions:

ANAC may impose sanctions in the following cases:

- In case of discriminatory or retaliatory measures against the employee who reports, ANAC can issue administrative fines from 5,000 to 30,000 €, without prejudice to other kind of liabilities.
- For the adoption of procedures non-compliant with the guidelines or the lack thereof, ANAC can issue a fine from 10,000 to 50,000 €;
- In case of failure to carry out supervisory activities and analysis of the reports/complaints, ANAC can issue a fine against the responsible person, from 10,000 to 50,000 €.

ANAC determines the measure of the penalty taking into account the size of the organization referred to by the report. In both public and private sector, in case of disputes related to the imposition of disciplinary sanctions or to the adoption of measures adversely impacting on working conditions (whether they are demotion, dismissal, transfer or other organizational measures), the employer holds the burden to prove that the adoption of such measures was not retaliatory (i.e. motivated by the employee's complaint/report).

There is an "exclusion clause", meaning that protection is not guaranteed if:

- the whistleblower has been found guilty, through a criminal procedure (even at first-degree/non-final ruling), of slander or defamation, or
- the whistleblower has acted with fault or gross negligence.

e) Disclosure of secret information:

Law 179 recognizes as a "*fair reason*" ("*giusta causa*") to waive professional secrecy, scientific and industrial secrecy and breach of the obligation of loyalty to the entrepreneur by the lender, the cases in which the whistleblower, through his/her revelation, aims at pursuing/protecting the (deemed higher) interest of the integrity of both public and private organizations and the prevention and repression of maladministration.

During its own inspection, ANAC has also the competence to assess “the adoption of discriminatory measures”.

ANAC obtains sanctioning powers to be applied against:

- a) the responsible person for the adoption of discriminatory measures;
- b) the responsible person to receive reports and establish reporting procedures;
- c) the manager, for the failure to carry out the verification and analysis procedures of the single report received.

15. Since the last Accountability Report, has your country proposed or made changes to your country’s legislation or other measures related to open data, including open contracting ?

Yes  No

If yes, please provide details.

*Please see above, the answer to question n. 10*

16. Is your country a member of the Open Government Partnership?

Yes  No

Please provide details including information on the collective actions taken by your country since the last Accountability Report.

The implementation phase of the [Third National Action Plan 2016–2018](#) was closed on 30 June 2018. The 2016-2018 Action Plan covered the entire national territory with 34 actions of central and local governments. The actions envisaged by the Plan, in line with OGP standards, were grouped in three areas:

1. Transparency and open data;
2. Participation and accountability;
3. Digital citizenship and innovation.

The second edition of the Italian Open Government Week took place from 5 to 11 February 2018. On the first day of the Week we held the European Open Government Leaders’ Forum. The Forum was organized by the Italian Government and the City of Milan, together with the Open Government Partnership (OGP). Over the course of one day in Milan, the Forum gathered from across Europe members of Governments, policy-makers, senior civil servants, high-level experts, Civil Society Organizations as well as representatives from the European Union and the OECD. Agenda and multimedia material are available on the Forum's webpage <http://open.gov.it/saa/european-open-government-leaders-forum/>.

The process for the Fourth National Action Plan 2018 - 2020 was launched in May 2018. The Action Plan will be adopted in the second half of 2018.

In the context of open data it is worth mentioning the project “*Open Data aziende confiscate*” that has been launched within the National Operational Programme PON Security 2014-2020 and is being implemented by Unioncamere in partnership with the Agency for Seized and Confiscated Assets (ANSBC). The project aims at providing access to an integrated information system on the management, destination and recovery of confiscated businesses, which is reusable and freely accessible by institutional stakeholders and civil society. The platform would create opportunities for analysis, re-use of data and the exercise of social control over the recovery and destination of confiscated assets.

The initiative takes place in the framework of Law n. 161 of 17 October 2017 (published in the Official Journal n. 258, 4 November 2017) which, by amending the Antimafia Code, enforces the tools available for the confiscation of assets and firms due to mafia crimes and their reintroduction in the legal economy.

The Chambers of Commerce with the coordination of Unioncamere has developed digital systems aimed at ensuring transparency and easy access to information on firms listed in the Business Registry and on procedures and administrative relations between the companies and Public Administrations. An example of this, is the digital toolkit (<https://impresa.italia.it>) where the firm can access the information on procedures through a single entry point and know all company data; another is the portal Telemaco which allows the access to data and documents of all the Italian firms. Another digital tool is RiVISUAL which offers in real time a graphical representation of all B2B relationships.

17. Does immunity for public officials from investigations and prosecutions for corruption related offences exist in your country?

Yes  No

If yes, how is an appropriate balance ensured between any immunities and the need to effectively investigate, prosecute and adjudicate corruption offences, in accordance with article 30(2) of UNCAC?

Such immunity covers only the President of the Republic. Any other public official is not immune from investigation and prosecution. It is believed that an appropriate framework in accordance with article 30 of UNCAC is ensured.

## Sectors

18. Since the last Accountability Report, have there been any changes or proposed changes to your country’s legislation or other measures related to combating corruption:

a. in Sports? Yes  No

If yes, please provide details.

The Italian National Olympic Committee (CONI) and CONI Servizi SPA  
 - adopt an anti-corruption program and have an anti-corruption responsible (compliant with Law n.190/2012)  
 - publish data on their website consistent with the Legislative Decree n. 33/2013

(transparency)

Moreover, CONI Servizi has adopted an organizational control model compliant with the Legislative Decree 231/2001, concerning legal entities' liability.

CONI is finalizing a specific project in order to comply with ISO 37001 and issue a policy on "related party and associated persons" for conflict of interest and supply chain management.

The Sport Justice bodies belonging to CONI guarantee the respect of the rule of law within the sport regulation system. They are meant to verify and repress punishable behaviors through the application of appropriate sanctions. Over the years, since their establishment they have dealt with several cases pertaining to the so-called match-fixing phenomenon and have harshly penalized those found culpable.

The Italian Government Office for Sport ([www.sportgoverno.it](http://www.sportgoverno.it)):

- Has sponsored in synergy with the Foreign Ministry the UNCAC Resolution 7/8 on Sport and Corruption adopted at COSP7 on 10<sup>th</sup> November 2017;
- The parliamentary ratification of the CoE Convention on the Manipulation of Sport Competitions made a step forward in October 2017 with the approval of the Lower House, while the end of legislature did not allow to obtain the approval of the Higher House; the ratification process has been triggered again last July and is expected to be successfully concluded by the Parliament within the next months.
- The composition of the National Platform against match-fixing (Units UISS and GISS at the Interior Ministry/Police Department, established in 2011) has been strengthened with the inclusion of the Office for Sport last October 2017;
- Has implemented an innovative project co-funded by EC DG Home which has become a strategic intervention program: <http://www.anti-match-fixing-top-training.net>
- In the same vein a protected reporting digital platform has been launched and is currently being piloted: <http://www.sportpulitoitalia.it> + <http://www.rischioreatosport.it>, with a special focus in a pilot area in the city of Palermo;
- Has organized three international conferences in order to improve the cooperative international environment: Milan 29<sup>th</sup> September 2014, Rome September 27<sup>th</sup> 2017 <http://www.anti-match-fixing-formula.eu/index.php/eng/streaming-event> and Rome April 19<sup>th</sup> 2018, in cooperation with the Foreign Ministry, ANAC and CONI <http://www.anti-match-fixing-formula.eu/images/Documenti/Programma%20Conferenza%20-%20Match%20Fixing%20-%20Apr2018%20-%20A4%20-%2006%20ENG.pdf>
- Is implementing two extensive training programs in Italy in strict cooperation with CONI: <http://www.anti-match-fixing-top-training.net> and T-PREG
- Has promoted a strong conceptual and operational link between countering corruption in sport and the practice of sport as a lever for economic development and social inclusion, through the ongoing process of a dedicated Forum: <http://www.milan2018sportsocialinclusion.net/node/35?language=en>

The Antimafia Parliamentary Commission in 2017 has included sport in the topics to be addressed.

Both ANAC and the DIA (Antimafia Investigative Unit) have included sport in the outreach of their prevention and contrast activities.

b. as a facilitator of illegal trade in wildlife and wildlife products? Yes  No

If yes, please provide details.

The extensive anti-corruption legislation can indirectly be also applied to illegal trade of wildlife and wildlife products; the legislative framework giving execution to the Washington Convention (CITES) (L. 150/1992) contemplates a mandatory confiscation for wildlife and wildlife products that are illegally introduced, exported, detained or sold. Since the adoption of G20 high-level Principles in July 2017, no specific initiatives were implemented.

19. Is your country supporting or implementing any sector-specific initiatives?

Extractive Industries Transparency Initiative (EITI)

Implementing Yes  No

Supporting Yes  No

Construction Sector Transparency Initiative (CoST)

Implementing Yes  No

Supporting Yes  No

Customs (World Custom Organization-Arusha Declaration)

Implementing Yes  No

Supporting Yes  No

Others

Please specify

Implementing Yes  No

Supporting Yes  No

Please provide notable details on each of the sectorial initiatives, listed or not listed above, supported by your country or domestic measures taken in relation to specific

sectors.

The Italian Customs and Monopolies Agency supports the World Customs Organization (WCO) in the development of common standards to combat corruption phenomena by participating in specific meetings and completing WCO questionnaires on integrity.

The main preventive defense against corruption in the Italian customs consists of implementing modern procedures that reduce face-to-face contact between traders and customs officials, reducing the discretionary power of such officials through the computerization of all customs procedures.

An automated risk analysis system selects the customs declarations to be checked, identifying also the type of control (documentary checks, scanner checks, physical checks). This system reduces the full discretionary power of the officials and avoids the contact between the operators and their intermediaries.

Furthermore, the electronic system of customs declarations:

- a. Processes the declarations according to the order of submission;
- b. Compares the customs declarations with the cargo manifests submitted by the operators to the customs;
- c. through the automated risk analysis system, it also manages profiles related to goods which could fraudulently be classified under codes contiguous to the correct one in order to avoid duties or restrictions (quotas, licenses, permits, etc.)
- d. It manages the controls in an EU-wide integrated manner by the application NCTS (New Computerized Transit System) using electronic messages exchanged between the Customs point of entry and exit of the goods.
- e. The system component related to the automated risk analysis also includes profiles for minimum thresholds of declared value for certain types of goods (eg. Textiles)
- f. In cases of suspected declaration or declaration selected by the automated risk analysis system (also for a possible ex-post review) the origin/movement certificates can be verified by means of mutual administrative assistance with the country where the same have been issued.

The Italian Customs and Monopoly Agency has recently implemented the computerization of a specific administrative procedure that, from experience, was proven to be particularly exposed to corruption risks: the VAT refund on purchases made by subjects domiciled or residing outside the EU (article 38d of the Presidential Decree DPR no. 633/1972). The OTELLO system (Online Tax Refund at Exit: Light Lane Optimization) is an IT application, designed and implemented by the Agency, which digitalizes the process of obtaining the customs stamp on the invoice to benefit from the direct VAT relief or refund on goods purchased within the national territory by persons domiciled or resident outside the EU. It reduces the queues to obtain a customs stamp and enhances the effectiveness and efficiency of controls, since they are based on the risk analysis, which takes into account the objective and subjective characteristics of the repayment / remission requests.

From last September 1, 2018, with the entry into force of the obligation to issue electronic invoices for the tax free shopping, the system is operational at all the "tax free" exit points throughout the national territory (airports, ports and land borders). It thus ensures the traceability of all the activities carried out, in particular, as regards the identification of the customs officer who affixes the "digitalized customs stamp" and the subjects who make multiple requests for VAT refunds. This allows to obtain useful information for the creation of risk profiles and the identification of any anomalous behaviors.

Within the framework of the Arusha declaration, as regards the fight against illicit trafficking and the facilitation of legitimate trade, the Italian Customs and Monopolies Agency is engaged also at international level in the fight against undervaluation and

money laundering. This effort has been pursued, by enhancing cash controls at border crossings and by developing synergies with the Bank of Italy's Financial Information Unit and the National Antimafia and Counterterrorism Directorate.

The Legislative Decree n. 90/2017 (implementation of the IV AML EU Directive, entered into force on 4 July 2017) has represented a major step forward in this regard allowing the National Antimafia and Counterterrorism Directorate to receive all information and data from the Italian Customs and Monopolies Agency necessary to identify any possible connection between goods flows at risk and suspicious financial flows, on the basis of technical protocols.

**International Anti-Corruption Instruments**

20. Has your country begun or completed the second cycle of UNCAC peer review process as a country under review?

Yes  No

If yes, please indicate.

Begun  Completed

If no, please indicate when your country is scheduled to be reviewed

21. For either or both cycles, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so?

a. Publication of full report

aa. First Cycle	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Committed to do so <input type="checkbox"/>
bb. Second Cycle	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Committed to do so <input checked="" type="checkbox"/>

b. Involvement of civil society

aa. First Cycle	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Committed to do so <input type="checkbox"/>
bb. Second Cycle	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Committed to do so <input type="checkbox"/>

c. Involvement of business

aa. First Cycle	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Committed to do so <input type="checkbox"/>
bb. Second Cycle	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Committed to do so <input type="checkbox"/>

d. Country visits

aa. First Cycle	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Committed to do so <input type="checkbox"/>
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bb. Second Cycle                      Yes       No       Committed to do so

Please provide details (e.g. web link for published report, how and when civil society and/or business were engaged during the review process, date of country visit). If your country has voluntarily published its questionnaire response, please indicate as well.

The implementation by Italy of chapters III and IV of the Convention was reviewed in the third year of the first cycle. The executive summary of that review was published on 19 November 2013 (<https://www.unodc.org/unodc/treaties/CAC/country-profile/CountryProfile.html?code=ITA>).

Both civil society components (such as NGOs, representatives of media, academia, legal professions, accounting and notaries) as well as business were actively engaged in a direct dialogue with the reviewing States during the country visits, which took place on September 9-13 2013 (first review cycle) and February 13-15 2018 (second review cycle, underway).

22. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

Yes       No

h. If yes, please provide details.

In relation to the recommendations on “*Criminalization and law enforcement*”, Italy has taken the following actions.

Concerning the length of proceedings and the risk of time limitation, it is to be noted that - by adopting [Law n. 103 of 23 June 2017](#) (“Amendments to the Criminal Code, the Code of Criminal Procedure and the Penitentiary System”), Italy has introduced a wide-ranging reform of the criminal system. The new Law has taken effective action, *inter alia*, with regard to the statute of limitation, by extending its time-limit period and by introducing a specific extension for corruption offences.

In particular, Law 103/2017 provides that the course of time limitation is suspended in the following situations: a) after the deposit of the first instance judgment, for a maximum of 18 additional months; b) after the deposit of the second instance judgment, for a maximum of 18 additional months. The time limitation period is also suspended in case of requests for receiving mutual legal assistance from abroad (up to a maximum of 6 months) or in cases where the authorization of the Minister of Justice or of the Parliament is necessary. Moreover, the new Law has increased the statutory limitation period with regard to corruption offences, including the offense of international corruption (art. 322 bis c.c.), up to the level of the maximum sanction plus one half (instead of the maximum plus one quarter previously provided).

In the context of the above-mentioned reform, it is also worth mentioning Legislative Decree n. 11 of 6 February 2018, which has amended a number of provisions of the Italian Criminal Procedural Code regulating criminal proceedings in the appeal phase and before the Court of Cassation, with a view to expediting trials. Such objective has been pursued mainly by limiting (to the extent compatible with the respect for the right to defense) cases where the public prosecutor and the defendant may challenge first instance judgements before the competent Court of Appeal and decisions rendered by the Court of Appeal before the Court of Cassation. The same Legislative Decree also

introduced several limitations as to cases of appeal before the Court of Cassation, against judgments concerning criminal offences falling under the jurisdiction of the Justice of the Peace.

Moreover, the need for preventing the excessive length of proceedings and ameliorating the whole “Justice service” has been addressed by adopting Legislative Decree 13 July 2017, n. 116, which lays down a comprehensive reform of honorary magistrates. Such decree establishes a single status for lay magistrates and aims at enhancing their professional training, supervision and assessment, while extending the scope of lay judges’ competence, in order to include a number of proceedings that currently fall under the competence of ordinary judges. This intervention is expected to reduce the workload of ordinary judges, thus allowing them to work more expeditiously. At the same time, the simpler procedure that applies before honorary judges appears to be able to better guarantee the respect of a reasonable length of proceedings.

In the last years the Ministry of Justice has taken significant steps to increase the administrative staff in judicial offices. On 22 November 2016 a competition for 800 posts as judicial assistant was launched. With two further decisions, the final ranking list of the competition has been extended in order to add other 600+420 eligible candidates. Therefore, by including also eligible candidates selected from previous competitions, the final number of administrative staff in judicial offices recruited in the last two years will reach the number of 3000 persons.

As for money laundering incriminations, through Law 186/2014 Italy had also introduced the new art. 648 ter.1 in the Criminal Code, thus criminalizing self-laundering in accordance with article 23, paragraph 2 (e) of UNCAC.

With regard to other incriminations, it is to be noted that on the 6<sup>th</sup> September 2018 the Government adopted a new anti-corruption bill, which – *inter alia* – removes the requirement of a complaint by the victim for the offences of corruption in the private sector and of serious embezzlement in the private sector (See the official press release at [the following link: https://www.giustizia.it/giustizia/it/mg\\_6\\_9.page?contentId=NOL136158&previousPage=homepage](https://www.giustizia.it/giustizia/it/mg_6_9.page?contentId=NOL136158&previousPage=homepage); for further detail see also the summary sheet at [https://www.giustizia.it/giustizia/it/mg\\_6\\_9.page?contentId=NOL136254&previousPage=mg\\_6\\_1\\_1](https://www.giustizia.it/giustizia/it/mg_6_9.page?contentId=NOL136254&previousPage=mg_6_1_1) )

Concerning the notifications, it is to be mentioned that during the UNCAC second review cycle, Italy has provided copies of several laws that give effect to the UNCAC. Among such documents, there were translations of the provisions of the Italian Criminal Code punishing money laundering conducts (i.e. articles 648, 648bis, 648ter, 648ter.1 c.c.) as well as any other relevant provisions incriminating corruption offences.

In respect of the recommendations concerning international cooperation, Italy has taken the following steps.

Regarding the collection of data, the Ministry of Justice - Office for International Legal Cooperation in Criminal Matters - has implemented an IT system which provides statistical information concerning extradition procedures and MLA requests covering the period starting in June 2015. It is possible to process and acquire information concerning e.g. the typologies of crimes to which extradition procedures and MLA requests refer, countries involved, outcome of the procedures.

As for time limits, at the EU level the new regime of the European Investigation Order, implemented by Italy through D. Leg.vo 21 June 2017, n. 108, provides for strict limits for the execution of the requests of assistance. A further reform of the code of Criminal Procedure has modified the competence for the execution of the requests for MLA, conferring this competence directly to the PPO's, in order to speed up and make more efficient the overall procedure, and imposing that they must be executed "without delay" (new artt. 723 and followings CPP).

In respect of languages, according to Art. 7, par. 2, of the Law n. 116/2009, which has ratified the United Nations Convention against Corruption, MLA requests shall be sent to Italian authorities accompanied by a translation in Italian language.

Finally, the above-mentioned new anticorruption bill, adopted by the Government on the 6<sup>th</sup> September 2018, allows for the use of special investigative techniques in the investigation of corruption offences, thus making such techniques available also in the context of MLA.

b. If you have responded to all or some of the recommendations, have you made those responses publicly available?

Yes  No

If yes, please provide details (including web links, if available).

23. Is your country party to the OECD Anti-Bribery Convention?

Yes  No

If no, please give an update on steps taken by your country to

- a. participate actively with the OECD Working Group on Bribery, including through possible Participant status and
- b. adhere to the OECD Anti-Bribery Convention.

24. Has your country begun or completed an OECD Anti-Bribery Convention peer review process as a country under review?

Yes  No

If yes, please indicate.

- |            |                                |   |
|------------|--------------------------------|---|
| a. Phase 1 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| b. Phase 2 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| c. Phase 3 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| d. Phase 4 | Begun <input type="checkbox"/> | Completed <input type="checkbox"/>            |

Please provide information on your country's OECD peer review process and/or any other relevant information (such as reports and links)

Phase 1: Report published <http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/2019055.pdf>

Phase 2: Evaluation report published <http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/33995536.pdf>

Follow-up report published <http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/38313133.pdf>

Phase 3: Report published <http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/Italyphase3reportEN.pdf>

Follow-up report published

Phase 3 Oral

<http://www.oecd.org/daf/anti-bribery/ItalyP3WrittenFollowUpReportEN.pdf>

25. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in previous OECD Anti-Bribery Convention evaluations?

Yes  No

If yes, please provide details (including a link to the written follow-up report, where applicable).

As for the implementation of previous OECD evaluations, it is worth mentioning the anticorruption criminal provisions adopted by the Law 27.5.15 n. 69, OJ 30.5.2015. Following the framework anticorruption Law adopted in November 2012 (Law 190/2012), this law improves the response to corruptive phenomena, both on the preventive and on the repressive side. On the basis of the latter, the main content of Rec. 4. f) is satisfied while Italy continues to explore ways for further implementing the Convention (see below under 2).

Law 69 has, *inter alia*, further increased the level of prison sanctions provided for corruption offences, including foreign bribery (max from 8 to 10 years). Together with a stronger dissuasive effect, the increased level of maximum sanctions also produces an impact on the minimum time limitation period (for foreign bribery) which has now been extended to 12,5 years and is further and heavily increased in case the accused person is a recidivist.

The key issues of the new regime, entered into force on the 14 June 2015, were already reported to the WGB in October 2015. They can be summarized as follows:

- Increased penalties and time limitation periods for certain corruption crimes

- Criminalization of false accounting
- Strengthening of National Anticorruption Agency (ANAC) supervisory function over certain categories of public contracts (i.e., those requiring special security measures; contracts awarded under international rules)
- Public Prosecutors to inform ANAC of criminal investigations into crimes against the public administration, including corruption
- Administrative Tribunals to forward to ANAC information about any violation of transparency rules arising from administrative disputes concerning public contracts.

See also answer to question n. 8 above.

While, all along 2016, Italy implemented not less than 10 EU instruments relevant for the fight against organized and economic crimes, including the EU Convention on MLA and the instruments on freezing, seizure and confiscation of assets, in 2017 the OECD Phase 3 Recommendation 4(f), focused on time of limitation, has been fully implemented.

Last year the Parliament adopted a structural reform of the Criminal Code and of the Code of Criminal Procedure ( Law n. 103 of 23 June 2017, published in the Official Journal n. 154 4 July 2017).

The Law provides for a structural modification of the time limitation regime.

As far as corruption offences are concerned, the main changes can be summarized as follows:

- Introduction of a new additional ground which suspends the course of time limitation in case of rogatory requests for receiving mutual legal assistance from abroad (up to a maximum of 6 months)
- Introduction of new additional grounds which suspend the course of time limitation and, more specifically, the following:
  - i. After the deposit of the first instance judgment, the time limitation period is suspended for a maximum of 18 additional months;
  - ii. After the deposit of the second instance judgment, the time limitation period is suspended for a maximum of 18 additional months;
- Increase of a time of limitation period specifically for corruption offences, including the offense of foreign bribery (*corruzione internazionale* ex art. 322 bis Criminal Code), up to the level of the maximum sanction plus one half (instead of the previous maximum plus one quarter);
- Suspension of time limitation in cases where the authorization of the Justice Minister or of the Parliament is needed in order to avoid that a delay of such procedures could negatively affect the time limitation period.

26. Is your country party to other international or regional anti-corruption instruments (such as the Inter-American Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the Council of Europe Criminal Law Convention on Corruption or the Council of Europe Civil Law Convention on Corruption)?

Yes  No

If yes, please indicate which instrument(s).

Italy has ratified both the Council of Europe Criminal Law Convention on Corruption (Law n. 110/2012, published in the Official Journal n. 173 26.07.2012) and the Council of Europe Civil Law Convention on Corruption (Law n. 112/2012, published in the

Official Journal n.174 27.07.2012).

27. Has your country been under review related to any kind of international or regional anti-corruption review mechanism other than the UNCAC peer review process?

Yes  No

If yes, please provide links to review and any compliance reports, if available.

GRECO Joint I and II Evaluation Round:

- Evaluation Report published – 2009 (<https://rm.coe.int/16806c692a>)
- Compliance Report published – 2011 (<http://www.coe.int/en/web/greco/evaluations/italy>)
- Addendum to Compliance Report published – 2013 (<https://rm.coe.int/16806c694f>)

GRECO III Evaluation Round:

- Evaluation Report published – 11 April 2012 (<https://rm.coe.int/16806c6956>)
- Compliance Report published – 20 June 2014 (<https://rm.coe.int/16806c69e5>)
- Second Compliance Report published – 2 December 2016 (<https://rm.coe.int/16806cc120>)
- Addendum to the Second Compliance Report published 29 June 2018 (<https://rm.coe.int/third-evaluation-round-addendum-to-the-second-compliance-report-on-ita/16808b7947>)

GRECO IV Evaluation Round:

- Evaluation Report published – 19 January 2017 (<https://rm.coe.int/16806dce15>)

## **JAPAN**

### **Summary of National Progress**

1. Please provide a high-level summary (maximum of 500 words) of the most significant anti-corruption measures or initiatives that your country has introduced or implemented since the Accountability Report of 2017. The 2017 Accountability Report as well as previous reports can be accessed at <https://www.g20.org/en/g20-argentina/work-streams/anti-corruption>.

- In June 2018, the Article 350-2 through 350-15 of the Code of Criminal Procedure were put into effect, which enabled public prosecutors to reach agreement with a suspect/defendant where the suspect/defendant cooperates to the prosecutor regarding the case against the third person in return for favorable treatments by the prosecutor regarding the case against the suspect/defendant. The cooperation by a suspect/defendant includes deposing the truth during investigation, testifying at trial, and presenting evidence against the third person. The favorable treatments by a prosecutor include suspending or terminating indictment, indicting for lesser offense, and seeking lighter sentence. Applying this measure, one foreign bribery case was prosecuted in July 2018.
- Japan took the presidency of the Asset Recovery Interagency Network - Asia Pacific (ARIN-AP) during the year 2017, and hosted the Annual General Meeting in Tokyo in September 2017.
- Japan has developed several sets of guidelines for private business operators, national administrative organs and local governments to handle reports based on Whistleblower Protection Act . We formulated private business operators and national administrative organs guidelines in 2005 in accordance with the Act legislated in 2004. These guidelines have been revised for several times to promote further compliance with the law. We revised the guidelines for private business operators in 2016 and those for the national administrative organs in 2017. In addition, the guidelines for local governments were newly formulated in 2017.
- Furthermore, reviewing of Whistleblower Protection Act is currently under consideration.

### **Practical co-operation:**

2. Please give an update on the progress made and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Persons Sought for Corruption and Asset Recovery.

- Japan concluded the UNCAC in July 2017 following the passage of the bill to amend the Act on Punishment of Organized Crimes and Control of Crime Proceeds (AOCL),

which enabled Japan to provide asset recovery assistance to other countries based on the UNCAC. In accordance with the UNCAC, Japan continues to commit to the implementation of asset recovery.

- Japan took part in the inaugural meeting of the Global Forum for Asset Recovery (GFAR) in December, 2018, and held bilateral consultations on the actual asset recovery cases at its margin.
- Japan took the presidency of the Asset Recovery Interagency Network - Asia Pacific (ARIN-AP) during 2017, and hosted the Annual General Meeting in Tokyo in September 2017.
- Japan FIU communicates and cooperates with foreign FIUs by Egmont Secure Web which is an electronic communication system that allows encrypted sharing among members of emails and financial intelligence, as well as other information of interest to members.

### **Beneficial Ownership Transparency**

3. Please give an update on the progress made against your National Implementation Plan (if applicable) and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Beneficial Ownership Transparency and the relevant Financial Action Task Force recommendations on beneficial ownership transparency.

- Japan published the national risk assessment on money laundering and terrorist financing in November 2017 which indicates the level of risks etc. in each category of transactions carried out by business operators.
- Following the amendment of the Act on Prevention of Transfer of Criminal Proceeds in November 2014, the revision of relevant cabinet orders and ministerial ordinances came into force on October 1st in 2016. As a result, financial institutions, including trustees as well as designated non-financial business and professions are obliged to verify the natural person as a beneficial owner of a legal person or a legal arrangement.
- Japan FIU has established the framework of information exchange with 102 foreign FIUs to enhance cooperation.

### **Private Sector Integrity**

4. Since the last Accountability Report, has your government instituted any new measures to promote the development of anti-corruption initiatives, such as anti-corruption training

and education by the private sector, including for Small and medium-sized enterprises (SMEs) and the non-financial professional services sector<sup>11</sup>?

Yes  No

If yes, please provide details.

- In the Phase 3 Report in December 2011 as well as in the follow-up report in February 2014, Japan was recommended to adopt the necessary amendments to the AOCL to establish a legal basis for confiscating the proceeds of bribing foreign public officials and to make foreign bribery a predicate offence for the purpose of money laundering.
- A bill to amend the AOCL was passed in the Diet on 15th June 2017 and entered into force on 11th July of the same year. In response to the amendment, Japan revised the Guidelines for the Prevention of Bribery of Foreign Public Officials in September 2017.
- Japan has organized seminars on preventing foreign bribery more than 10 times per year and is continuing to organize them all over Japan mainly for SMEs. Along with the series of seminars, we have distributed information materials about foreign bribery to those who took part in seminar to raise their awareness and to promote prevention of the foreign bribery.

5. Since the last Accountability Report, have there been any changes or proposed changes to your country’s legislation or other measures related to private sector integrity?

Yes  No

If yes, please provide details.

6. Does your country apply anti-corruption legislation to SOEs (employees and executives), including anti-bribery legislation? Please provide a response for both active and passive bribery with regard to domestic and transnational bribery of public officials.

Yes  No

If yes, please provide details.

In Japan, bribery offences, including passive and active bribery, are applied to the

<sup>11</sup> non-financial professional services sector could include: computer services, real estate, research and development, legal services and accounting

employees and executives of the SOEs.

If no, has your country taken steps to propose or to make changes to your country's anti-corruption legislation related to SOEs (employees and executives)?

**Active and Passive Bribery Offences**

7. Does your country currently have legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

- Japan criminalizes active and passive bribery of domestic public officials by following legislation;  
Article 197 to 197-4 and 198 of Penal Code
  
- Japan criminalizes active bribery of foreign public officials and officials of public international organizations by following legislation in accordance with Article 1(2) of OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions ;  
Article 18 (1) and 21 (2) (vii) of Unfair Competition Prevention Act

8. If your country has not criminalized foreign bribery, has your country proposed or made changes, since the last Accountability Report, to your country's legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

**NOTE: N/A**

Yes  No

If yes, please provide details.

**Liability of Legal Persons**

9. Has your country established the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details (e.g. about the type of liability, including whether criminal, civil, or other).

- The Unfair Competition Prevention Act of Japan provides criminal sanctions on legal person in case of active foreign bribery.
- The Act on Punishment of Organized Crimes and Control of Crime Proceeds (AOCL) provides criminal sanctions on legal persons in the case of money laundering and concealment of proceeds of crime.

If no, has your country taken steps since the last Accountability Report to establish the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details.

### Public Sector Integrity and Transparency

10. Since the last Accountability Report, has your country taken significant steps to propose or to make changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

- In December 2016, the Basic Act on the Advancement of Utilizing Public and Private Sector Data was published and enacted. The act has introduced the obligation for central and local government to publish public sector data as open data. Further amendment has not been done so far.  
  
<The basic Act on the Advancement of Utilizing Public and Private Sector Data>  
[http://japan.kantei.go.jp/policy/it/data\\_basicact/data\\_basicact.html](http://japan.kantei.go.jp/policy/it/data_basicact/data_basicact.html)
- Also, based on the above-mentioned law, " Declaration to be the World's Most Advanced IT Nation: Basic Plan for the Advancement of Public and Private Sector Data Utilization" was adopted by IT strategy headquarters on May 30, 2017.  
  
<Declaration to be the World's Most Advanced IT Nation: Basic Plan for the Advancement of Public and Private Sector Data Utilization>  
[https://japan.kantei.go.jp/policy/it/2017/20170530\\_full.pdf](https://japan.kantei.go.jp/policy/it/2017/20170530_full.pdf)

- The Basic Plan is to be updated yearly and the Plan of 2018 has been published.

<Declaration to be the World’s Most Advanced Digital Nation: Basic Plan for the Advancement of Public and Private Sector Data Utilization>  
[https://cio.go.jp/sites/default/files/uploads/documents/digital\\_sengen\\_honbun\\_2018.pdf](https://cio.go.jp/sites/default/files/uploads/documents/digital_sengen_honbun_2018.pdf)

11. Since the last Accountability Report, has your country proposed or made changes to your country’s legislation or other measures related to public disclosure by public officials?

Yes  No

If yes, please provide details.

12. Does your country have in place standards and a system for preventing and managing conflicts of interest in the public sector? This may include the establishment of standards of conduct, especially for public officials working in high-risk sectors; putting into place clear means for developing, implementing and updating conflict-of-interest policies; and identifying “at-risk” activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures.

Yes  No

If yes, please provide details.

- Regarding the National Public Employees in regular service, National Public Service Ethics Act and the National Public Service Ethics Code provide the employees with rules to prevent acts that may bring about suspicion and distrust from the citizens. For instance, the rules prohibit or restrict the employees from such act as receiving gifts and accepting hospitality from interested parties.
- Local Public Service Act prohibits local public employees from holding the position of officer or other positions stipulated in by-laws, in a profit-making enterprise, nor operating on his/her own account, any profit-making enterprise.
- Local public employees in regular service are restricted or prohibited to contact with interested parties according to the by-laws and codes of each local government.

13. Has your country established whistleblower protections under your domestic laws?

Yes  No

14. Since the 2015 Accountability Report, has your country proposed or made changes to its whistleblower protection framework in both public and private sectors?

Yes  No

If yes, please provide details.

- Japan has developed several sets of guidelines for private business operators, national administrative organs and local governments to handle reports based on Whistleblower Protection Act . We formulated private business operators and national administrative organs guidelines in 2005 in accordance with the Act legislated in 2004. These guidelines have been revised for several times to promote further compliance with the law. We revised the guidelines for private business operators in 2016 and those for the national administrative organs in 2017. In addition, the guidelines for local governments were newly formulated in 2017.
- Furthermore, reviewing of Whistleblower Protection Act is currently under consideration.

15. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

Please see the answer to Question 10.

16. Is your country a member of the Open Government Partnership?

Yes  No

Please provide details including information on the collective actions taken by your country since the last Accountability Report.

17. Does immunity for public officials from investigations and prosecutions for corruption related offences exist in your country?

Yes  No

If yes, how is an appropriate balance ensured between any immunities and the need to effectively investigate, prosecute and adjudicate corruption offences, in accordance with article 30(2) of UNCAC?

**Sectors**

18. Since the last Accountability Report, have there been any changes or proposed changes to your country’s legislation or other measures related to combating corruption:

a. in Sports? Yes  No

If yes, please provide details.

The law for promoting anti-doping activity, which includes measures for promoting training of anti-doping experts, awareness raising for society, and sharing of information among relevant agencies, was enacted in June, 2018. The Law is going to enter into force on October 1, 2018.

b. as a facilitator of illegal trade in wildlife and wildlife products? Yes  No

If yes, please provide details.

The amended Law for the Conservation of Endangered Species of Wild Fauna and Flora entered into force in June 2018. The Law imposes stricter restrictions on the domestic transactions of designated wildlife specimens.

19. Is your country supporting or implementing any sector-specific initiatives?

Extractive Industries Transparency Initiative (EITI)		
Implementing	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Supporting	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Construction Sector Transparency Initiative (CoST)		
Implementing	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Supporting Yes  No

Customs (World Custom Organization-Arusha Declaration)

Implementing Yes  No

Supporting Yes  No

Others

Please specify.

Implementing Yes  No

Supporting Yes  No

Please provide notable details on each of the sectorial initiatives, listed or not listed above, supported by your country or domestic measures taken in relation to specific sectors.

### International Anti-Corruption Instruments

20. Has your country begun or completed the second cycle of UNCAC peer review process as a country under review?

Yes  No

If yes, please indicate.

Begun

Completed

If no, please indicate when your country is scheduled to be reviewed

21. For either or both cycles, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so?

a. Publication of full report

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle                      Yes       No       Committed to do so

b. Involvement of civil society

aa. First Cycle                      Yes       No       Committed to do so

bb. Second Cycle                      Yes       No       Committed to do so

c. Involvement of business

aa. First Cycle                      Yes       No       Committed to do so

bb. Second Cycle                      Yes       No       Committed to do so

d. Country visits

aa. First Cycle                      Yes       No       Committed to do so

bb. Second Cycle                      Yes       No       Committed to do so

Please provide details (e.g. web link for published report, how and when civil society and/or business were engaged during the review process, date of country visit). If your country has voluntarily published its questionnaire response, please indicate as well.

N/A
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22. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

**Note: N/A**

Yes       No

i. If yes, please provide details.

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b. If you have responded to all or some of the recommendations, have you made those responses publicly available?

Yes       No

If yes, please provide details (including web links, if available).

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23. Is your country party to the OECD Anti-Bribery Convention?

Yes  No

If no, please give an update on steps taken by your country to

- a. participate actively with the OECD Working Group on Bribery, including through possible Participant status and
- b. adhere to the OECD Anti-Bribery Convention.

24. Has your country begun or completed an OECD Anti-Bribery Convention peer review process as a country under review?

Yes  No

If yes, please indicate.

- |            |   |   |
|------------|---|---|
| a. Phase 1 | Begun <input type="checkbox"/>            | Completed <input checked="" type="checkbox"/> |
| b. Phase 2 | Begun <input type="checkbox"/>            | Completed <input checked="" type="checkbox"/> |
| c. Phase 3 | Begun <input type="checkbox"/>            | Completed <input checked="" type="checkbox"/> |
| d. Phase 4 | Begun <input checked="" type="checkbox"/> | Completed <input type="checkbox"/>            |

Please provide information on your country's OECD peer review process and/or any other relevant information (such as reports and links)

**Phase 1 to Phase 3**

Phase 1 report (2002)

<http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/2387870.pdf>

Phase 2 report (2005)

<http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/34554382.pdf>

Phase 2bis report (2006)

<http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/37018673.pdf>

Follow-up on Phase 2 report (2007)

<http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/39591489.pdf>

Phase 3 report (2011)

<http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/Japanphase3reportEN.pdf>

Follow-up on Phase 3 report (2014)

<http://www.oecd.org/daf/anti-bribery/JapanP3WrittenFollowUpReportEN.pdf>

**Phase 4**

In 2019, the Phase 4 evaluation will be carried out in accordance with the following schedule;

- (1) The on-site visit will be conducted over a period of four days in the week starting from 28 January 2019.
- (2) In the OECD Working Group on Bribery (WGB) meeting scheduled from 25 to 28 June 2019, the Phase 4 draft report will be evaluated and the recommendations will be finalized. As soon as possible after being adopted by the WGB, the evaluation report will be published on the OECD website and announced through the agreed press release.
- (3) Within 24 months of the adoption of the evaluation report, the follow-up report will be evaluated and approved during the WGB meeting. The summary and conclusions adopted by the WGB will be published on the OECD website.

25. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in previous OECD Anti-Bribery Convention evaluations?

Yes  No

If yes, please provide details (including a link to the written follow-up report, where applicable).

- In the Phase 3 Report, Japan was recommended to consider the use of new investigative techniques for foreign bribery. In June 2018, the Article 350-2 through 350-15 of the Code of Criminal Procedure were put into effect, which enabled public prosecutors to reach agreement with a suspect/defendant where the suspect/defendant cooperates to the prosecutor regarding the case against the third person in return for favorable treatments by the prosecutor regarding the case against the suspect/defendant. The cooperation by a suspect/defendant includes deposing the truth during investigation, testifying at trial, and presenting evidence against the third person. The favorable treatments by a prosecutor include suspending or terminating indictment, indicting for lesser offense, and seeking lighter sentence. Applying this measure, one foreign bribery case was prosecuted in July 2018.
- In the Phase 3 Report in December 2011 as well as in the follow-up report in February 2014, Japan was recommended to adopt the necessary amendments to the AOCL to establish a legal basis for confiscating the proceeds of bribing foreign public officials and to make foreign bribery a predicate offence for the purpose of money laundering. A bill to amend the AOCL was passed in the Diet on 15th June 2017 and entered into force on 11th July of the same year. In response to the revision, Japan revised the Guidelines for the Prevention of Bribery of Foreign Public Officials In September 2017.

26. Is your country party to other international or regional anti-corruption instruments (such as the Inter-American Convention against Corruption, the African Union Convention on

Preventing and Combating Corruption, the Council of Europe Criminal Law Convention on Corruption or the Council of Europe Civil Law Convention on Corruption)?

Yes  No

If yes, please indicate which instrument(s).

27. Has your country been under review related to any kind of international or regional anti-corruption review mechanism other than the UNCAC peer review process?

Yes  No

If yes, please provide links to review and any compliance reports, if available.

## KOREA

### Summary of National Progress

1. Please provide a high-level summary (maximum of 500 words) of the most significant anti-corruption measures or initiatives that your country has introduced or implemented since the Accountability Report of 2017. The 2017 Accountability Report as well as previous reports can be accessed at <https://www.g20.org/en/g20-argentina/work-streams/anti-corruption>.

Together with the people’s aspiration for a transparent country, the new government launched in Korea in May 2017.

In line with the Moon administration’s policy task for ‘Make Korea a country of integrity through anti-corruption reforms’, the Anti-Corruption Policy Consultative Council was established in September 2017. This Council, composed of anti-corruption related agencies, is chaired directly by the president. In April 2018, the Council announced a “Five Year Comprehensive Anti-Corruption Plan,” including four strategic areas of collective anti-corruption efforts; clean public sector; transparent business environment and putting integrity into action, in order to comprehensively and faithfully implement governmental policy to combat corruption, including foreign bribery offences.

#### <Major tasks for 4 strategic areas in the Five Year Comprehensive Anti-Corruption Plan>

4 strategies	Major tasks
<b>Collective anti-corruption efforts</b>	<ul style="list-style-type: none"> <li>· To build a network for cooperation with citizens in fighting corruption</li> <li>· To reinforce anti-corruption bodies, Including the creation of the High-level Public Officials Corruption Investigation Office</li> </ul>

<p><b>Clean public sector</b></p>	<ul style="list-style-type: none"> <li>· To make legislative and institutional efforts to prevent leakage of public finances</li> <li>· To promote enforcement of stronger integrity standards including the Improper Solicitation &amp; Graft Act</li> <li>· To build systems to prevent conflicts of interest of public officials</li> <li>· To change the culture of abusing power in the public sector</li> <li>· To continue to tackle irregularities regarding recruitment of public employees</li> <li>· To improve legal and institutional frameworks to prevent collusive ties between the public and private sectors</li> </ul>
<p><b>Transparent business environment</b></p>	<ul style="list-style-type: none"> <li>· To improve effectiveness in the operation of corporate compliance system</li> <li>· To increase support for anti-corruption and accountable business management</li> <li>· To enhance transparency in the management of non-profit foundations</li> </ul>
<p><b>Putting integrity into action</b></p>	<ul style="list-style-type: none"> <li>· To increase effectiveness in disciplinary action against the corrupt</li> <li>· To promote disclosure of corruption and public interest violation and protect whistleblowers</li> <li>· To spread the Transparent Society Pact to all sectors of society</li> </ul>

This Council meeting was also attended by the members of Public-Private Council for Transparent Society which consists of representatives of various areas of the civil society.

In December 2017, in order to strengthen the effectiveness of confiscation and collection against bribery offences, revision of the Criminal Act has extended the previous three-year statute of limitation for confiscation and collection to five years.

The Anti-Corruption Policy Consultative Council, which reports directly to the President, was established in September 2017 and has endeavored to implement comprehensive governmental policy to combat corruption since.

In recognition of the risks of cash transactions, Korea FIU is preparing an amendment to lower the threshold for cash transaction reporting from KRW 20mil to KRW 10mil. The prepared amendment is currently undergoing consultation and will be enforced on July 1<sup>st</sup>, 2019.

**Practical co-operation:**

2. Please give an update on the progress made and/or on any other steps taken by

your country since the last Accountability Report to meet the G20 High Level Principles on Persons Sought for Corruption and Asset Recovery.

In February 2018, permanent departments that exclusively take charge of recovery of crime proceeds were established: the Criminal Asset Recovery Division in the SPO and the Criminal Asset Recovery Department in the Seoul Central DPO.

**Beneficial Ownership Transparency**

3. Please give an update on the progress made against your National Implementation Plan (if applicable) and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Beneficial Ownership Transparency and the relevant Financial Action Task Force recommendations on beneficial ownership transparency.

FIU intends to get access to the National Tax Service information on beneficial ownership of legal persons in order to take a more timely action. FIU and NTS are discussing ways to share the beneficial ownership information held by NTS with FIU; we will proceed with amending the law once we reach a conclusion.

**Private Sector Integrity**

4. Since the last Accountability Report, has your government instituted any new measures to promote the development of anti-corruption initiatives, such as anti-corruption training and education by the private sector, including for Small and medium-sized enterprises (SMEs) and the non-financial professional services sector<sup>12</sup>?

Yes  No

If yes, please provide details.

The Anti-Corruption and Civil Rights Commission (ACRC) carries out various projects—provision of up-to-date domestic and international trends of private sector ethics and

<sup>12</sup> non-financial professional services sector could include: computer services, real estate, research and development, legal services and accounting

compliance, development and distribution of ethics and compliance models, training on ethics and compliance, etc.—to promote culture of anti-corruption, ethics and compliance. The ACRC works to address difficulties of businesses in doing business in Korea and supports sustainable development of the private sector.

In addition to such activities, in December 2017, the ACRC, in a close cooperation with Korea Standard Association, published and distributed the “Guidebook for Anti-corruption Management” to help companies apply the ISO37001 as soon as possible.

From 2017, the government’s training program for companies shifted its focus to nurturing compliance officers within companies from introducing the government’s anti-corruption policies.

5. Since the last Accountability Report, have there been any changes or proposed changes to your country’s legislation or other measures related to private sector integrity?

Yes  No

If yes, please provide details.

To secure participation of the entire society, such as the public sector, businesses, civil society, the academia and the media, in establishing, examining, and evaluating anti-corruption policies, “Private-Public Consultative Council for Transparent Society was launched according to the “Regulation on the establishment and operation of the Private-Public Consultative Council for Transparent Society (Prime Minister Directive) which was enacted in January 2018. To ensure sustainable operation of the Council, a legislation bill is now being drafted to upgrade the above mentioned Regulation, which is the Prime Minister Directive, to an Act.

As for a change to legislation, the Enforcement Decree of the Improper Solicitation and Graft Act was amended in January 2018. Under the amendment, the upper limit on gifts that may be offered to public officials as an exception to facilitate his/her smooth performance of duties, etc. has been raised to KRW 100,000 from the previous limit of KRW 20,000, only in case where the gifts are agricultural, livestock and fishery products or processed products thereof. The maximum amount of cash gifts for weddings or

funerals was lowered to KRW 50,000 from the previous limit of KRW 100,000.

6. Does your country apply anti-corruption legislation to SOEs (employees and executives), including anti-bribery legislation? Please provide a response for both active and passive bribery with regard to domestic and transnational bribery of public officials

Yes  No

If yes, please provide details.

Criminal Act, Anti-corruption Act and Improper Solicitation & Graft Act are applied to SOEs.

Especially, with an aim to curb the vicious cycle of solicitation and entertainment leading to illegal acts and corruption, the Improper Solicitation & Graft Act came into force on 2016.

Those subject to the Act are public officials of central and local governments, heads of public service-related organizations including their executive officers and employees, public institutions, representatives and employees of media companies, principals and faculty members of schools of various levels, executives and employees of educational corporations, and private persons performing public duties, etc. The Act provides for the prohibition of improper solicitation in 14 corruption-prone areas including licensing/permission, personnel management, contracts, assessment, and audit/inspection, and also provides that a public official shall be subject to criminal punishment if they accept money and goods, etc. in excess of 1 million won at a time or 3 million won in any given fiscal year from the same person, regardless of the motive for such offer and the relationship between such offer and their duties and that acceptance of money and goods, etc. of up to 1 million won shall be subject to an administrative fine if related to their duties, etc..

Criminal Act Article 133 punishes person who promises, delivers or manifests a will to deliver a bribe, thus criminalizing active bribery. Criminal Act Article 129 punishes public official who receives, demands or promises to accept a bribe in connection with his/her duties, thus criminalizing passive bribery.

According to Supreme Court Decision 2000do4593, public official as stated in Criminal Act Article 129 means someone who manages a task of the government, local government, or an equivalent public legal person. Therefore anti-corruption legislation including anti-bribery legislation is being applied to SOEs.

If no, has your country taken steps to propose or to make changes to your country's anti-corruption legislation related to SOEs (employees and executives)?

**Active and Passive Bribery Offences**

7. Does your country currently have legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

Criminal Act Article 133 punishes person who promises, delivers or manifests a will to deliver a bribe, thus criminalizing active bribery. Criminal Act Article 129 punishes public official who receives, demands or promises to accept a bribe in connection with his/her duties, thus criminalizing passive bribery.

Act on Combating Bribery of Foreign Public Officials in International Business Transaction(Foreign Bribery Prevention Act, FBPA) criminalizes active bribery of foreign public officials.

8. If your country has not criminalized foreign bribery, has your country proposed or made changes, since the last Accountability Report, to your country's legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

FBPA already criminalizes foreign bribery.

### Liability of Legal Persons

9. Has your country established the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details (e.g. about the type of liability, including whether criminal, civil, or other).

Corruption related acts including Improper Solicitation and Graft Act, Act on Regulation and Punishment of Criminal Proceeds Concealment, and FBPA all have joint penal provisions in order to impose liability on legal persons.

The Improper Solicitation and Graft Act, which took effect in September 2016, has a dual criminality provision under which not only the employee who offered money or valuables to a public official, but also the legal person who was negligent in paying due attention and supervision to prevent his or her employee's such corruption are subject to punishment.

The Act on the Protection of Public Interest Whistleblowers (amended in January 2016) also provides dual criminality provisions to punish both an employee who violated the Act and his employer who was negligent in paying due attention to and supervising to prevent such corrupt behaviors.

If no, has your country taken steps since the last Accountability Report to establish the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details.

### Public Sector Integrity and Transparency

10. Since the last Accountability Report, has your country taken significant steps to propose or to make changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

Since the “Act on Promotion of the Provision and Use of Public Data” (hereinafter referred to as Open Data Law) was enacted in 2013, the Ministry of the Interior and Safety (MOIS) has institutionalized the promotion of the provision and use of data that public institutions acquire and manage. By guaranteeing the right to use the public data and encouraging the use of public data in the private sector, the Government of Korea aims to make a better life for all and boost the national economy.

Taking a step further, in 2017, the Government of Korea submitted the draft of “Act on Promotion of Data-driven Administration” to the National Assembly for approval which entails a scientific, evidence-based administration through data sharing among public institutions and public big data centre to be established.

(ACT ON PROMOTION OF THE PROVISION AND USE OF PUBLIC DATA (OPEN DATA ACT)) : <https://goo.gl/uTnHV7>

In accordance with the Act on Promotion of the Provision and use of Public Data, Public Procurement Service (PPS) has been providing procurement data to the public since 2013.

11. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to public disclosure by public officials?

Yes  No

If yes, please provide details.

Korea amended Enforcement Decree of the Public Service Ethics Act in July 2018.

- i) To report the higher price between the valuation and the transaction price in the real estate sector in order to reinforce the real value of public official's asset declaration
- ii) Announce a list of associations that restrict the employment of retired public officials to enhance transparency of the post-employment restriction system

12. Does your country have in place standards and a system for preventing and managing conflicts of interest in the public sector? This may include the establishment of standards of conduct, especially for public officials working in high-risk sectors; putting into place clear means for developing, implementing and updating conflict-of-interest policies; and identifying “at-risk” activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures.

Yes  No

If yes, please provide details.

**Overview of the amendment of the Code of Conduct for Public Officials**

- Considering its necessity and urgency, the amended Code of Conduct for Public Officials took effect in April 17<sup>th</sup> 2018, as a previous step for enacting the anti-conflict-of-interest act. The amendment includes provisions of enhanced conflicts of interest prevention and prohibition of improper solicitation to private citizens.
- It was designed to systematically end public official's abuse of public position to gain personal interests, as seen in recent scandals of employment irregularities in public institutions and a general's abuse of authority and human rights violation against a soldier assigned to serve at his residence.
  - Prohibition of improper solicitation to private citizens by public officials
  - Prohibition of directing duty-related parties or subordinates to do personal affairs
  - Submitting high-ranking public official's business activities in the private sector
  - Prohibition of acts to gain private interests related to public duties

- Restriction on employment of family members of high ranking officials and personnel management officers
- Restriction on private contract with high ranking officers and public officials in charge of contract work
- Report of personal contact with a retiree who is a duty- related party
- Report of conflict of interest with duty-related party
- Report of transaction with duty-related party such as money, real estate or supplies
  
- The analysis of outcome of the conflict of interest measurement in the Code of Conduct for Public Officials will be reflected to the legislation of the conflict-of-interest act.

13. Has your country established whistleblower protections under your domestic laws?

Yes  No

14. Since the 2015 Accountability Report, has your country proposed or made changes to its whistleblower protection framework in both public and private sectors?

Yes  No

If yes, please provide details.

- <Changes in the whistleblower protection system in the public sector>
1. If disadvantageous measures against a corruption reporter are expected to be imposed or in the process of imposition, the corruption reporter can ask tentative cease of such disadvantageous disposition to the head of the organization he or she belongs.
  2. Areas subject to corruption reporting were expanded to the schools of every level and faculty members.
  3. Under a new provision to the whistleblower protection framework, in case where a whistleblower's personal information was disclosed or published, the ACRC may check how his personal information was disclosed or published and request for disciplinary measures against those who did so.

<Changes in the whistleblower protection system in private sector>

1. It was made it mandatory to inform protection procedures and rewards to public interest whistleblowers.
2. For two years after protection measures for a whistleblower is taken, a regular monitoring should be made to check whether such protection measures are actually implemented and whether there has been any further disadvantageous measure against the whistleblower.
3. Introduction of punitive damages in the area of public interest whistleblower
4. Introduction of representative report system through lawyers to reinforce the confidentiality of public interest whistleblowers.
5. Charge for compelling compliance with the protection measure increased from KRW 20,000,000 to KRW 30,000,000. This non compliance charge will continue to be imposed until the protective measures are implemented.

15. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to open data, including open contracting?

Answered at Q.10

Yes  No

If yes, please provide details.

16. Is your country a member of the Open Government Partnership?

Yes  No

Please provide details including information on the collective actions taken by your country since the last Accountability Report.

The Government of the Republic of Korea, as a Steering Committee member of the Open Government Partnership (OGP), has pursued values and principles of open

government by developing a biannual open government plan, referred to as the 4<sup>th</sup> National Action Plan (NAP), in partnership with civil society.

With an aim of sustaining the co-creation process with civil society, the Government of Korea organized a multi-stakeholder forum called OGP Forum Korea which has expanded the scope of partnership.

At the international level, the Government of Korea hosts the OGP Asia-Pacific Regional Meeting in November, 2018. Under the theme of *“promoting participatory democracy, improving governance for a better life for all, and renewing public trust through government innovation”*, the OGP Asia-Pacific Regional Meeting will be an opportunity for open government reformers around the region from the government and civil society to identify common challenges and forge new alliances in finding ways to build better societies through open government.

17. Does immunity for public officials from investigations and prosecutions for corruption related offences exist in your country?

Yes  No

If yes, how is an appropriate balance ensured between any immunities and the need to effectively investigate, prosecute and adjudicate corruption offences, in accordance with article 30(2) of UNCAC?

**Sectors**

18. Since the last Accountability Report, have there been any changes or proposed changes to your country’s legislation or other measures related to combating corruption:

a. in Sports? Yes  No



Implementing Yes  No

Supporting Yes  No

Please provide notable details on each of the sectorial initiatives, listed or not listed above, supported by your country or domestic measures taken in relation to specific sectors.

### International Anti-Corruption Instruments

20. Has your country begun or completed the second cycle of UNCAC peer review process as a country under review?

Yes  No

If yes, please indicate.

Begun

Completed

If no, please indicate when your country is scheduled to be reviewed

Second cycle to begin  
in 2019

21. For either or both cycles, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so?

a. Publication of full report

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

b. Involvement of civil society

- aa. First Cycle                      Yes       No       Committed to do so
- bb. Second Cycle                    Yes       No       Committed to do so

c. Involvement of business

- aa. First Cycle                      Yes       No       Committed to do so
- bb. Second Cycle                    Yes       No       Committed to do so

d. Country visits

- aa. First Cycle                      Yes       No       Committed to do so
- bb. Second Cycle                    Yes       No       Committed to do so

Please provide details (e.g. web link for published report, how and when civil society and/or business were engaged during the review process, date of country visit). If your country has voluntarily published its questionnaire response, please indicate as well.

The reviewers had meetings with members of civil society and business of Korea during the country visit that took place on March 18-21, 2013 in Seoul.

22. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

Yes       No

j. If yes, please provide details.

**(Recommendation 2.1)**  
*Consider explicitly criminalizing the giving and soliciting of undue influence to or by any other person.*

The Improper Solicitation and Graft Act was implemented on September 28, 2016. The Act introduced criminal liability for both individuals and legal persons making improper

solicitations or offering graft.

**(Recommendation 2.2)**

*Consider clearly stipulating in the Criminal Act that Article 357 will apply in the cases of active bribery of the persons who work in any capacity for a private sector entity; also in cases when an undue advantage is promised, offered or given indirectly for the persons themselves or for other persons in order that they breach their duties, act or refrain from acting.*

The Korean government amended the Criminal Act (Article 357) on May 29, 2016 to prohibit a third party from receiving financial or other advantages. Under the amended law, a public official or relevant person who helps a third person to receive financial or other advantages in return for an improper solicitation, will also be subject to criminal punishment and confiscation of his or her property.

k. If you have responded to all or some of the recommendations, have you made those responses publicly available?

Yes  No

If yes, please provide details (including web links, if available).

*Improper Solicitation and Graft Act took effect on September 28*  
<http://www.acrc.go.kr/en/board.do?command=searchDetail&method=searchDetailViewI nc&menuId=020501&boardNum=61628>

*Criminal law amended to eradicate private-to-private corruption*  
<http://www.acrc.go.kr/en/board.do?command=searchDetail&method=searchDetailViewI nc&menuId=020501&boardNum=61628>

23. Is your country party to the OECD Anti-Bribery Convention?

Yes  No

If no, please give an update on steps taken by your country to

- a. participate actively with the OECD Working Group on Bribery, including through possible Participant status and OECD
- b. adhere to the OECD Anti-Bribery Convention

24. Has your country begun or completed an OECD Anti-Bribery Convention peer review process as a country under review?

Yes  No

If yes, please indicate.

- |            |   |   |
|------------|---|---|
| a. Phase 1 | Begun <input type="checkbox"/>            | Completed <input checked="" type="checkbox"/> |
| b. Phase 2 | Begun <input type="checkbox"/>            | Completed <input checked="" type="checkbox"/> |
| c. Phase 3 | Begun <input type="checkbox"/>            | Completed <input checked="" type="checkbox"/> |
| d. Phase 4 | Begun <input checked="" type="checkbox"/> | Completed <input type="checkbox"/>            |

Please provide information on your country's OECD peer review process and/or any other relevant information (such as reports and links)

Phase 4 began in March 2018. The evaluating parties for South Korea include Finland, Italy, and the OECD Secretariat. On-site visit was also completed in July 2018. Currently we are waiting on the preliminary report from the OECD Secretariat.

25. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in previous OECD Anti-Bribery Convention evaluations?

Yes  No

If yes, please provide details (including a link to the written follow-up report, where applicable).

26. Is your country party to other international or regional anti-corruption instruments (such as the Inter-American Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the Council of Europe Criminal Law Convention on Corruption or the Council of Europe Civil Law Convention on Corruption)?

Yes  No

If yes, please indicate which instrument(s).

27. Has your country been under review related to any kind of international or regional anti-corruption review mechanism other than the UNCAC peer review process?

Yes  No

If yes, please provide links to review and any compliance reports, if available.

## MEXICO

### Summary of National Progress

1. Please provide a high-level summary (maximum of 500 words) of the most significant anti-corruption measures or initiatives that your country has introduced or implemented since the Accountability Report of 2017. The 2017 Accountability Report as well as previous reports can be accessed at <https://www.g20.org/en/g20-argentina/work-streams/anti-corruption>.

The National Anti-Corruption System (NACS) is the mechanism in Mexico through which government, with the participation of organizations and citizens, faces the problem of corruption in a different and broader manner. Anti-corruption normativity stated in the General Law of the NACS has been replicated in 32 local systems at every federative state. The progress on the adaptation of the regulatory framework, by state, of the **Local Anti-Corruption Systems** until June 2018 can be found at the following web page: [https://www.gob.mx/cms/uploads/attachment/file/338783/Avance\\_Marco\\_Normativo\\_22\\_06.pdf](https://www.gob.mx/cms/uploads/attachment/file/338783/Avance_Marco_Normativo_22_06.pdf)

On the other hand, throughout 2017 and 2018, the **High Level Group to Follow-up the International Anticorruption Conventions (GAN)**, led by the Ministry of Public Administration (SFP), held 5 meetings. The main goal of these meetings is to identify Mexico's commitments regarding international conventions, establish efforts to implement recommendations and strengthen the space for an inter-institutional dialogue to treat priority issues identified in those instruments.

Furthermore, the GAN created working groups on different topics to help comply with the international commitments. One working group was established as the Drafting Commission of the "**Protocol to Deter, Detect, Investigate and Punish the International Bribery in any of its modalities (Anti-Bribery Protocol)**", <http://sna.org.mx/wp-content/uploads/2018/09/ProtocoloAnticohecho.pdf>. This document intends to cover a very broad spectrum in the multi-frontal fight to international bribery in Mexico. Another working group was established to work on **Beneficial Ownership** in Mexico.

The most commended achievements of Mexico by international organizations are the establishment of the NACS, the responsibility of legal persons –in criminal and administrative scopes–, the reforms to the Federal Criminal Code, the new judicial statistical collection and publication on cases of bribery, the publication of the Business Integrity Program Model focus to work integrity with the private sector, the adopted Anti-Bribery Protocol and the inclusion of anticorruption chapters in trade agreements such as NAFTA and Mexico-EU FTA.

In addition, Mexico is the first country to implement the "Open Guide: using Open Data to combat corruption". This action is innovative because it considers the application of

international standards, includes global institutions and local civil society, as well as it admits the importance of promoting technical and government openness in the process of fighting corruption.

**Practical co-operation:**

2. Please give an update on the progress made and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Persons Sought for Corruption and Asset Recovery.

**Beneficial Ownership Transparency**

3. Please give an update on the progress made against your National Implementation Plan (if applicable) and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Beneficial Ownership Transparency and the relevant Financial Action Task Force recommendations on beneficial ownership transparency.

In 2018, Mexico's inter-institutional working group on Beneficial Ownership aims to map the existing official systems and databases with information related to the ownership of legal persons, as well as the federal institutions that should be involved in the construction of a national policy on Beneficial Ownership identification and transparency.

Representatives of the Attorney General's Office, the Ministry of Economy, the Ministry of Energy, the Ministry of Finance and Public Credit, the Executive Secretariat of the NACS, the National Bank of Foreign Commerce, the National Banking and Securities Commission, the National Hydrocarbons Commission, the Federal Prosecutor's Office, ProMéxico and the Tax Administration Service, among other institutions, attended the first session of the working group.

The Coordinating Committee of the National Anticorruption System (SNA) approved the following document "Analysis for the Identification and Transparency of Beneficial Ownership in Mexico" in order to be considered by the corresponding agencies as part of an integral anti-corruption policy of the Mexican State.

The agreement to approve this document by the Coordinating Committee includes a series of principles for the identification of beneficial ownership to fight against corruption in Mexico.

More:

<https://www.gob.mx/sfp/prensa/instalan-en-sfp-subgrupo-de-trabajo-del-gan-en-materia->

[de-beneficiario-final](#)

Analysis for the identification and transparency of beneficial ownership in Mexico  
<http://www.dof.gob.mx/2018/SESNA/Beneficiario-Final.pdf>

### Private Sector Integrity

4. Since the last Accountability Report, has your government instituted any new measures to promote the development of anti-corruption initiatives, such as anti-corruption training and education by the private sector, including for Small and medium-sized enterprises (SMEs) and the non-financial professional services sector<sup>13</sup>?
- Yes  No

If yes, please provide details.

On June 12, 2017, the Ministry of Public Administration (SFP) presented the "**Business Integrity Program Model**" (*Modelo de Programa de Integridad Empresarial*) to several Chambers of Commerce, the United Nations Program for the Development (UNPD) and the United Nations Office on Drugs and Crime (UNODC).

This document develops the ethical culture in the private sector and guides companies to implement an integrity policy in their companies through suggestions and best practices.

The Model was promoted among various companies and is published on the web site "Tu Empresa" on <https://www.gob.mx/tuempresa>. The Ministry of Economy designed this portal to guide enterprises. It provides key information, useful for different stages of the cycle of a company: from its opening, through the operation, until its closure. This key document is shared in section "Best Practices", in order to provide companies in operation, a useful and general application tool to develop corporate compliance measures: <https://www.gob.mx/tuempresa/articulos/modelo-de-programa-de-integridad-empresarial-173037>.

Additionally, the SFP in collaboration with UNPD, made the project "**Accompaniment and Strengthening of the Business Integrity Program**", whose objective is to consolidate the business integrity policy in Mexico with the implementation of the Program for Integrity of the SFP.

The project contains six tools that support small and medium businesses to implement a business integrity policy, which are published on the website of the SE.

<sup>13</sup> non-financial professional services sector could include: computer services, real estate, research and development, legal services and accounting

5. Since the last Accountability Report, have there been any changes or proposed changes to your country's legislation or other measures related to private sector integrity?

Yes  No

If yes, please provide details.

6. Does your country apply anti-corruption legislation to SOEs (employees and executives), including anti-bribery legislation? Please provide a response for both active and passive bribery with regard to domestic and transnational bribery of public officials.

Yes  No

If yes, please provide details.

The General Law on Administrative Responsibilities (GLAR), articles 49 to 64, establishes the list of administrative offences (serious as well as non-serious) committed by public officials including SOEs employees and executives. Especially, the offence of bribery committed by a public official is under article 52. On the other hand, pursuant to article 66 of the same law, the offence of bribery is established also regarding the participation of a natural person.

Additionally, the NACS adopted on the 13 of September 2018, **guidelines of the Codes of Ethics** to be issued in the public service, related to article 16 of the General Law on Administrative Responsibilities (GLAR).

If no, has your country taken steps to propose or to make changes to your country's anti-corruption legislation related to SOEs (employees and executives)?

### Active and Passive Bribery Offences

7. Does your country currently have legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

Domestic bribery and foreign bribery are both typified in the Federal Criminal Code, in

the articles 222 and 222 bis, respectively.

**“Article 222.** Commits the offense of bribery:

- I.- The public official that by himself or by an intermediary, illicitly requests or receives for himself or for another, money or any other benefit, or accepts a promise to perform or refrain from performing an act related to his functions inherent to his employment, position or commission;
- II.- Who gives, promises or delivers any benefit to any of the persons mentioned in the article 212<sup>14</sup> of this Code, for him to perform or fail to perform an act related to his functions, his employment, position or commission; and
- III.- The federal legislator that, in the exercise of his functions or attributions, and in the framework of an approval process of the relevant expenses budget, manages or requests:
  - a) The assignment of resources in favor of a public body, demanding or obtaining, for himself or for a third person, a commission, gift or consideration, in money or in kind, different from the one that corresponds for the exercise of his charge;
  - b) The granting of public work or services contracts in favor of certain natural or legal persons.

The same penalty shall apply to any person that manages, requests in the name of or in representation of the federal legislator the resources assignments or the granting of contracts referred to in the paragraphs a) and b) of this article.

Whoever commits the offense of bribery will be imposed the following sanctions:

When the amount or the value of the gift, the goods or the promise does not exceed from the equivalent of five hundred times the value of the Measure and Update Unit at the moment of the commission of the crime, or this is not valuable, it will be imposed from three months to two years of imprisonment and from thirty to one hundred fine-days.

When the amount or the value of the gift, goods, promise or consideration exceeds five hundred times the daily value of the Measure and Update Unit at the moment of the commission of the crime, it will be imposed from two to fourteen years of imprisonment and from one hundred to one hundred and fifty fine-days.

In any case the money or gifts delivered will be returned to the responsible of the offense of bribery, these will be applied in benefit of the State.

## **Chapter XI**

### **Bribery of foreign public officials**

**Article 222 bis.-** The penalties provided in the previous article shall be imposed on those who, for the purpose of obtaining or retaining undue advantages, for themselves or for another person in the development or conduct of international commercial transactions, offer, promise or give, for themselves or through an intermediary person, money, or any other gift, either in the form of goods or services:

<sup>14</sup> Said article refers to the persons that shall be considered public officials.

I.- To a foreign public official, for his or her benefit or that of a third party, so that said public official manages or refrains from managing the processing or resolution of matters related to the functions inherent to his/her employment, position or commission;

II.- To a foreign public official, for his or her benefit or that of a third party, for said public official to manage the processing or resolution of any matter that is outside the scope of the functions inherent to his/her employment, position or commission, or

III.- To any person, so that she/he goes before a foreign public official and requests or proposes to carry out the processing or resolution of any matter related to the functions inherent to the employment, position or commission of the latter.

For the purpose of this article, a foreign public official is understood to mean any person who performs an employment, position or commission in the legislative, executive or judicial branch of a public autonomous body in any order or level of government of a foreign State, being designated or elected; any person in the exercise of a function for an authority, agency or public enterprise or of state participation of a foreign country; and any official or agent of an international public body or organization.

When any of these crimes contained in this article is committed in the cases included in article 11 of this Code, the judge will impose a fine of up to one thousand fine-days to the legal person, and may order his/her suspension or dissolution, taking into consideration the degree of knowledge by the administration bodies, in respect to the bribery in the international transaction and the damage caused or benefit obtained by the legal person.”

8. If your country has not criminalized foreign bribery, has your country proposed or made changes, since the last Accountability Report, to your country’s legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

**Liability of Legal Persons**

9. Has your country established the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details (e.g. about the type of liability, including whether criminal, civil, or other).

Note: There have been no changes on this matter since the Accountability Report Questionnaire of 2017.

Regarding **criminal liability**, in Mexico this is regulated in the Federal Criminal Code and the National Code of Criminal Procedures.

The article 11 of the Federal Criminal Code establishes that when a member or representative of a legal person (with the exception of the State-owned legal persons) commits a crime with the means provided by said legal person, in a way that the offense is committed in the name of or on behalf of the legal person, the judge can, in the exclusive cases specified by the law, issue a suspension or winding-up sentence, when he deems it necessary for the public safety.

Article 11 bis of the same Code, mentions the crimes by which commission the legal persons may be held liable, including trading in influence, fraud, bribery, bribery of foreign public officials, concealment, laundering of proceeds of crime, among others.

Article 421 of the National Code of Criminal Procedures also establishes the criminal liability of legal persons for the offenses committed in their name, on their account, in their benefit or through the means provided by them, when it has been determined that there was also a failure to observe due control in their organization. The imposition of the foregoing liability shall be imposed regardless of the liability that corresponds to the relevant natural person.

The GLAR considers as **serious administrative offences** bribery, embezzlement, diversion of public resources, hidden enrichment, influence peddling, misuse of information, bribery and collusion.

These administrative offenses have in common the public servant, the citizen or a moral person. Those who obtains benefits in cash or in kind for himself or for his spouse, consanguineous relatives, civilians or third parties with whom they have professional, labor or business relations or for partners or companies in those that the public servant, the citizen or the aforementioned persons are part of.

If no, has your country taken steps since the last Accountability Report to establish the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details.

## Public Sector Integrity and Transparency

10. Since the last Accountability Report, has your country taken significant steps to propose or to make changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

### Open Data

In December 12, 2017, it was published the update of the “**Implementation Guide of the Open Data Policy**”. This document establishes, as new requirements, among others, the enforcement of citizen participation mechanisms and the adoption of the “Open guide: using open data to combat corruption” standards and data improvements.

### Open Contracting

In the budget expenditures for 2017, it is established that the information related to the contracts that imply the disbursement of public resources, should be public and in an open data format.

On January 5, 2017, Mexico published a Secretariat Agreement in the Official Gazette that establishes the obligation to incorporate into the **National Public Procurement System (CompraNet)**, the information related to the entire process of public procurement (including planning, contracting and execution) that are regulated by the laws of acquisitions and public works.

From this date on, different federal entities and agencies are being gradually introduced into the use of the **National Open Contracting Platform** (Plataforma de Contrataciones Abiertas Mx), for them to include their own procurement processes in an open data format.

On March 6, 2017, Mexico installed the **Alliance for Open Contracting in Mexico**. This Alliance is an inter-institutional collaboration group that promotes open contracting principals in Mexico. This Alliance is integrated by the Ministry of Public Administration (*Secretaría de la Función Pública, SFP*), the Ministry of Finance and Public Credit (*Secretaría de Hacienda y Crédito Público SHCP*), the National Digital Strategy Coordination (*Coordinación de Estrategia Digital Nacional CEDN*), the National Institute of Transparency, Access to Information and Protection of Personal Data (*Instituto Nacional de Transparencia, Acceso a la Información y Protección de Datos Personales, INAI*), and Transparency International Mexican Chapter (*Transparencia Mexicana TM*).

On November 8, 2017, Mexico through SFP, SHCP and CEDN, with the participation of strategic allies, INAI/TM, and technical collaboration of the World Bank and the Open Contracting Partnership (OCP) published the Open Contracting Platform with the information about the contracting processes of the Federal Public Administration under the Open Contracting Data Standard. Furthermore, on January 9, 2018, the OECD published "**Mexico's e-Procurement System: Redesigning CompraNet through Stakeholder Engagement**", which contains 34 recommendations to be implemented in

the short, medium and long-term to improve the procurement system of the Mexican Federal Government. The study was the result of the Plural Working Group on Public Procurement, composed of members of the private sector, civil society and the public sector participated.

In addition, on March 5, 2018, Mexico published the EDCA MX the Mexican version of that standard adapted to the Mexican Law of Public Contract and Transparency that integrates additional information to the international version of the standard. Moreover, the Operation Rules, the Adhesion Guide and informative infographics were published to strengthen this initiative.

**Implementation of the "Open Guide: using Open Data to combat corruption"**

The Mexican Government, through the Coordination of the National Digital Strategy of the Office of the Presidency (CEDN) and the Ministry of Public Administration (SFP), together with the International Open Data Charter (ODC), Mexican Transparency Mexicana (TM), and Cívica Digital (CD), with the financial support and technical cooperation of the Inter-American Development Bank (IDB), developed an Open Anticorruption Data Package in Mexico. This project is an effort to identify cases of use of priority databases and data standards.

The development of the "Open Guide: using Open Data to combat corruption" consisted in the identification, publication and improvement of open anti-corruption data from 17 institutions. After the evaluation, specific recommendations were made for each set of data analyzed, in order to improve its quality and openness and thus build the "Anticorruption Data Package" of Mexico.

This practice is innovative worldwide not only because Mexico is the first country to implement the "Open Guide: using Open Data to combat corruption", but also because it considers the application of international standards, includes global institutions and local civil society, as well as it admits the importance of promoting technical and government openness in the process of fighting corruption.

11. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to public disclosure by public officials?

Yes  No

If yes, please provide details.

One year after the publication in the Official Gazette of the Federation, the **GLAR** came into force on the 19 of July 2017. This law establishes a list of serious, non-serious administrative offences of public officials and, for the first time, natural persons related to serious administrative offences were included as subjects of the Law.

12. Does your country have in place standards and a system for preventing and managing conflicts of interest in the public sector? This may include the establishment of standards of conduct, especially for public officials working in high-risk sectors; putting into place

clear means for developing, implementing and updating conflict-of-interest policies; and identifying “at-risk” activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures.

Yes  No

If yes, please provide details.

Article 58 of the GLAR establishes a specific sanction for the action under conflicts of interest for public officials.

In order to prevent and manage this type of behavior, article 58 establishes the mechanisms that the public officials must follow so they do not commit an administrative fault.

When a the public officials has knowledge of a situation that incurs in a conflicts of interest, they must do the following:

- 1.- Inform the immediate boss.
- 2.- Refrain from intervening in the matter.
- 3.- Follow the instructions that the immediate boss provides.

The SFP published the **Guide to Prevent Action Under Conflict of Interest** as a supporting document to identify and manage conflicts of interest in the public sector. [https://www.gob.mx/cms/uploads/attachment/file/241091/Guia\\_Conflictos\\_de\\_Interes\\_L\\_GRA\\_v2.pdf](https://www.gob.mx/cms/uploads/attachment/file/241091/Guia_Conflictos_de_Interes_L_GRA_v2.pdf)

Additionally, The SFP developed an application for mobile phones that allows public officials to perform a self-diagnosis regarding those behaviors that may constitute a conflict of interest. [http://funcionpublica.gob.mx/web/UnidadDeEtica/Conflictometro/App\\_Conflictometro.pdf](http://funcionpublica.gob.mx/web/UnidadDeEtica/Conflictometro/App_Conflictometro.pdf)

Finally, on September 14 of 2018, the Coordinating Committee of the National Anticorruption System National approved the “Format for the Declaration of Assets and Interests”. Among its objectives, it allows citizens to have information about public officials of the three levels of government -federal, state and municipal-, becoming a tool that facilitates transparency and accountability.

The format has an impact at the national level and it includes asset information, declaration of interests of the public officials in compliance to articles 29, 34 and 48 of the General Law of Administrative Responsibilities.

13. Has your country established whistleblower protections under your domestic laws?

Yes  No

14. Since the 2015 Accountability Report, has your country proposed or made changes to its whistleblower protection framework in both public and private sectors?

Yes  No

If yes, please provide details.

Before the amendment of March 12, 2015, the Federal Law for the Protection of Persons Involved in Criminal Procedures only provided for protection measures for persons involved in criminal procedures related to serious crimes or organized crime. However, by modifying Article 13, the law extended its scope to "cases in which are related people who are in a situation of risk because of their participation directly or indirectly in a criminal procedure regarding serious crimes, organized crime **or when the provisions of the International Treaties to which the Mexican State is a party expressly establish the obligation to provide such protection.**" Therefore, the Federal Law in question now provides protection measures for the reporting of other crimes different to organized crime, as long as a treaty so provides, such as the United Nations Convention against Corruption (article 32).

On the other hand, with the publication of the GLAR in the Official Gazette of the Federation on the 16 of July 2016, it was established that the design and supervision of self-regulatory mechanisms with natural and legal persons who participate in public procurement, as well as with business chambers, industrial or commercial organizations, would contain tools for the complaint and protection of whistleblowers.

Likewise, it was established that public servants who report a serious administrative offence or offences committed by individuals, or are witnesses in the proceedings, might request reasonable protection measures and it will correspond to the public entity where the complainant serves, evaluate and attend in a timely manner said request.

15. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

See response 10.

16. Is your country a member of the Open Government Partnership?

Yes  No

Please provide details including information on the collective actions taken by your country since the last Accountability Report.

Mexico is founder member of the **OGP**. On August 31, 2018, Mexico reached a compliance level of 93% on its **Third Action Plan**. The themes included in this Action Plan are: 1) Human rights and Rule of Law strengthening; 2) Gender Equality; 3) Poverty and inequality; 4) National Anticorruption System; 5) Climate change; 6) Water Public Service; 7) Health Public Service.

Also, as part of the OGP Priority Themes, Mexico has carried out the following actions:

1. **Open Contracting**: on November 8, 2017, Mexico published the Open Contracting Platform with the information about the contracting processes of the Federal Public Administration under the Open Contracting Data Standard. Furthermore, on January 9, 2018, the OECD published "Mexico's e-Procurement System: Redesigning *CompraNet* through Stakeholder Engagement ", which contains short, medium and long-term recommendations to improve the procurement system of the Mexican Federal Government. The study was the result of the Plural Working Group on Public Procurement that includes members of the private sector, civil society and the public sector participated.
2. **Beneficial Ownership**: the Mexican Federal Government installed an inter-institutional working group to promote a Public Policy about Beneficial Ownership in Mexico. On the other hand, on October 25, 2017, Mexico became a member of EITI and presented a roadmap to publish information on Beneficial Ownership of companies in the extractive sector in January 2020.

17. Does immunity for public officials from investigations and prosecutions for corruption related offences exist in your country?

Yes  No

If yes, how is an appropriate balance ensured between any immunities and the need to effectively investigate, prosecute and adjudicate corruption offences, in accordance with article 30(2) of UNCAC?

In Mexico there is the figure of *fuero* (privileges), which is a privilege conferred on certain public officials to maintain the balance between the powers of the State and safeguard them from any unfounded accusations. Therefore it is necessary to promote against the official who holds the *fuero* a political trial, so that the *fuero* is withdrawn and a criminal process can be instituted against him for the crime that is imputed.

In accordance with articles 13 and 61 of the Political Constitution of the United Mexican States, the only limitation that could exist to effectively proceed with the investigation

and prosecution, are the *fuero de guerra* (war privilege) for those responsible for crimes and offenses against military discipline, and the constitutional *fuero*, for Deputies and Senators, as well as the constitutional *fuero* of senior officials of the Executive, Legislative and Judicial Branches of the Federation and of the States.

The constitutional *fuero* is a limitation for the exercise of criminal action, which can be overcome through the declaration of impeachment, provided in Article 111 of the Constitution for the purpose of criminally proceeding against the officials mentioned in the previous paragraph, for the commission of crimes they have committed during the time of their assignment. In this regard the Chamber of Deputies will declare by absolute majority of its members present in session, whether or not it has to proceed against the official, so if its resolution were positive, the public official will be at the disposal of the competent authority to formally initiate the criminal process against him. If the resolution of the Chamber were negative, all subsequent proceedings will be suspended, but this will not be an obstacle for the imputation for the commission of the crime to continue its course when the public official has concluded the exercise of his assignment, since it does not prejudge the foundations of the imputation. The declaration and resolution of the Chamber of Deputies are unassailable.

However, for the specific case of the President of the Republic, the Chamber of Deputies is the body authorized to present the accusation only for serious crimes of common order or treason against the homeland, before the Chamber of Senators, which will determine whether or not to separate him from his position.

The effect of the declaration of impeachment against the public official will be to separate him from his position as long as he is subject to criminal proceedings. If this concludes in an acquittal, the public official may resume his function. If the sentence is condemnatory and it is a crime committed during the exercise of his order, the pardon will not be granted.

The criminal sanctions will be applied in accordance with the provisions of the criminal legislation, and in the case of crimes for which the author obtains an economic benefit or causes damage to property, they must be applied in accordance with the profit obtained and with the need to satisfy the damages caused by his unlawful conduct.

**Sectors**

18. Since the last Accountability Report, have there been any changes or proposed changes to your country's legislation or other measures related to combating corruption:

a. in Sports? Yes  No

If yes, please provide details.

b. as a facilitator of illegal trade in wildlife and wildlife products? Yes  No

If yes, please provide details.

19. Is your country supporting or implementing any sector-specific initiatives?

Extractive Industries Transparency Initiative (EITI)

Implementing	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Supporting	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Construction Sector Transparency Initiative (CoST)

Implementing	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Supporting	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

**Customs (World Custom Organization-Arusha Declaration)**

Implementing	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Supporting	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Others

Please specify.

**Mexico has taken several actions to align with the Revised Arusha Declaration.**

Within the framework of the G20 ACWG, Mexico in cooperation with the OECD and the WCO, led an initiative to include Customs as a high risk sector. The initiative resulted in three deliverables: 1) A strategic document on preventing and countering corruption by promoting integrity in Customs; 2) A stock-take of good practices of integrity in Customs, and 3) A paper stating High-Level Principles on Countering Corruption in Customs. The leaders of the G20 endorsed these high-level principles in 2017, which are strongly related to the Revised Arusha Declaration (RAD).

During the present Administration, Mexico has centered integrity as one of its main concerns during the development of policies and procedures. As consequence, Mexico Customs has taken many steps towards aligning with the RAD and the G20 ACWG HLP. In fact, under the five pillars of the strategy “Towards the 21<sup>st</sup> Century Customs” Mexico aligns its integrity policy in customs with both instruments:

1. **Smart** – Under this pillar, Mexico vows to consolidate the automated customs clearance process and perform dynamic risk analysis. Thus, lowering direct contact of frontline officers with the foreign trade stakeholders, as well as diminishing discretionary criteria at Customs.
  2. **Transparent** – Involves the publication of processes and criteria, providing a high degree of predictability and certainty to foreign trade stakeholders.
  3. **Competitive** – The projects under this pillar simplify and standardize processes and procedures, reducing red tape, eliminating duplications and burdensome procedures to avoid bribes and facilitation fees.
  4. **Collaborative** – The goal of this pillar is to maintain the exchange of information with main trading partners and stakeholders, fostering an open, transparent and productive relationship with the private sector and other domestic and international authorities.
  5. **Global** – Under this pillar, several cooperation efforts with other countries and international organizations are taken to implement international best practices focused on reducing discretionary criteria, increasing transparency and promoting seamless trade from one country to another.
- Clockwise to the efforts mentioned above, the Administration General of Customs signed a cooperation agreement with the United Nations Office on Drugs and Crime (UNODC) to develop the project “Preventing and Countering Corruption in the Mexican Customs System”. Under this Project, Mexican Customs opened its processes and procedures to the scrutiny of the UNODC in order to determine the areas of opportunity and to identify best practices in terms of preventing and countering corruption, mainly based on the measures taken by the Customs Administration in the past years towards the automation of processes and modernization reforms.

Implementing Yes  No   
 Supporting Yes  No

Please provide notable details on each of the sectorial initiatives, listed or not listed above, supported by your country or domestic measures taken in relation to specific sectors.

**International Anti-Corruption Instruments**

20. Has your country begun or completed the second cycle of UNCAC peer review process as a country under review?  
 Yes **X** No

If yes, please indicate.

Begun **X**

Completed

If no, please indicate when your country is scheduled to be reviewed

21. For either or both cycles, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so?

a. Publication of full report

aa. First Cycle                      Yes **X**      No       Committed to do so

bb. Second Cycle                    Yes       No       Committed to do so **X**

b. Involvement of civil society

aa. First Cycle                      Yes **X**      No       Committed to do so

bb. Second Cycle                    Yes **X**      No       Committed to do so

c. Involvement of business

aa. First Cycle                      Yes **X**      No       Committed to do so

bb. Second Cycle                    Yes **X**      No       Committed to do so

d. Country visits

aa. First Cycle                      Yes **X**      No       Committed to do so

bb. Second Cycle                    Yes **X**      No       Committed to do so

Please provide details (e.g. web link for published report, how and when civil society and/or business were engaged during the review process, date of country visit). If your country has voluntarily published its questionnaire response, please indicate as well.

Representatives of the civil society and private sector were invited to participate in the on site visits of the First and Second Cycle (the latter was carried out from 9 to 11 May, 2017).

Specific closed sessions for these two sectors were included in the agendas of the visits, in order to guarantee a proper space for the exchange of views and information with the experts.

22. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

Yes **X**      No

I. If yes, please provide details.

A punctual follow-up has been given to the resulting recommendations of the UNCAC peer review report of the First Cycled (the report of the Second Cycle is under elaboration at the moment) in the framework of the High-Level Group for the Follow-Up of the Anti-Corruption International Conventions (GAN, by its acronym in Spanish).

In 2017, the GAN, led by the Public Function Secretary (SFP) established and started the implementation of a detailed plan to comply, in the term of a year and a half, with all or the majority of the recommendations made to Mexico as a result of the peer reviews of UNCAC, the OECD Working Group on Bribery and the Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption (MESICIC) of the OAS.

In that regard, the institutions that conform the GAN committed at the highest level to take the necessary actions to achieve the proposed results and to report them approximately every 6 months to the SFP for the corresponding interinstitutional monitoring.

Regardless of said specific measure within the GAN, each competent institution is compelled to implement actions to fulfill the international commitments of the Mexican State.

The GAN has met approximately every four months with the participation of the highest authorities of more than 20 key national institutions on the detection, investigation and sanction of corruption in Mexico, and responsible for complying with the international conventions –including UNCAC-.

As mentioned in the 2017 ACWG Accountability Report, to facilitate the timely monitoring of the progress of each institution on the compliance with international conventions in Mexico, the SFP also developed a computerized internal control system, through which each responsible institution records the progress made on the implementation of the recommendations of the monitoring mechanisms of each convention. Among the actions taken, the SFP is working jointly with UNODC to implement the National Application Mechanism to Local Anti-Corruption System, which is a peer-to-peer review among Mexican states focus to comply with the UNCAC.

b. If you have responded to all or some of the recommendations, have you made those responses publicly available?

Yes **X**      No

If yes, please provide details (including web links, if available).

**I. Inter-American Convention against Corruption (OAS)**

The information related to Mexico's reports and its recommendations can be found in the following web page: <http://www.oas.org/juridico/spanish/mex.htm>

**II. Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD)**

The information related to Mexico's reports and its recommendations can be found in the following web page: <http://www.oecd.org/daf/anti-bribery/mexico-oecdanti-briberyconvention.htm>

**III. United Nations Convention against Corruption (UN)**

The information related to Mexico's reports and its recommendations can be found in the following web page: <https://www.unodc.org/unodc/treaties/CAC/country-profile/CountryProfile.html?code=MEX>

23. Is your country party to the OECD Anti-Bribery Convention?

Yes  No

If no, please give an update on steps taken by your country to

- a. participate actively with the OECD Working Group on Bribery, including through possible Participant status and
- b. adhere to the OECD Anti-Bribery Convention.

24. Has your country begun or completed an OECD Anti-Bribery Convention peer review process as a country under review?

Yes  No

If yes, please indicate.

- |            |   |   |
|------------|---|---|
| a. Phase 1 | Begun <input type="checkbox"/>            | Completed <input checked="" type="checkbox"/> |
| b. Phase 2 | Begun <input type="checkbox"/>            | Completed <input checked="" type="checkbox"/> |
| c. Phase 3 | Begun <input type="checkbox"/>            | Completed <input checked="" type="checkbox"/> |
| d. Phase 4 | Begun <input checked="" type="checkbox"/> | Completed <input type="checkbox"/>            |

Please provide information on your country's OECD peer review process and/or any other relevant information (such as reports and links)

Mexico is currently under evaluation in the Phase 4 of the OECD Working Group on Bribery. The on-site visit took place last May and in addition to the relevant public authorities (from the Executive, Legislative and Judicial branches, as well as from the state level), representatives of the civil society and the private sector were also present in two closed sessions each.

At the moment, the WGB Secretariat and the experts are preparing the draft evaluation report, which is to be presented during the Third Plenary Meeting 2018 of the WGB, next October.

Mexico's implementation and enforcement of the OECD Anti-Bribery Convention is monitored by the OECD Working Group on Bribery (WGB) through a rigorous peer-review monitoring system. Monitoring is subject to specific agreed-upon Principles and takes place in several phases, which include a standard and supplementary questionnaire, an on-site visit, the preparation by lead examiners and Secretariat of the WGB, in consultation with evaluated country, of a preliminary evaluation report on country performance, including recommendations and issues for follow-up, and the publication of evaluation report and press release on OECD website.

- Mexico's Phase 1 Evaluation Report (2000): <http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/2388858.pdf>
- Mexico's Phase 2 Evaluation Report (2004): <http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/33746033.pdf>
- Mexico's Phase 3 Evaluation Report (2011): <http://www.oecd.org/daf/anti-bribery/Mexicophase3reportEN.pdf>
- Mexico's Phase 4 Evaluation Report (2018): *soon on-line in October 2018.*

Additionally:

- Mexico's Follow-Up to Phase 2 Evaluation Report (2007): <http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/38376307.pdf>
- Mexico's Follow-Up to Phase 3 Evaluation Report (2014): <http://www.oecd.org/daf/anti-bribery/MexicoPhase3WrittenFollowUpEN.pdf>

25. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in previous OECD Anti-Bribery Convention evaluations?

Yes  No

If yes, please provide details (including a link to the written follow-up report, where applicable).

In 2018, Mexico was assessed in Phase 4 of implementation of the OECD's Anti-Bribery Convention, which covers the following: 1) Mexico's progress with respect to previous examinations, 2) Detection of transnational bribery, 3) Application of the norm in matter of transnational bribery, 4) Responsibility of legal persons and 5) key cross-cutting issues for the WGB. The final Mexico's Phase 4 Evaluation Report was adopted during the Third Plenary Meeting of the WGB on October 9-11. The report will be available online on the OECD's webpage: <http://www.oecd.org/daf/anti-bribery/mexico-oecdanti-briberyconvention.htm>

26. Is your country party to other international or regional anti-corruption instruments (such as the Inter-American Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the Council of Europe Criminal Law Convention on Corruption or the Council of Europe Civil Law Convention on Corruption)?

Yes  No

If yes, please indicate which instrument(s).

Inter-American Convention against Corruption of the OAS  
Anti-corruption and Transparency Working Group of APEC

27. Has your country been under review related to any kind of international or regional anti-corruption review mechanism other than the UNCAC peer review process?

Yes  No

If yes, please provide links to review and any compliance reports, if available.

To ensure compliance, the **Follow-up Mechanism for the Implementation of the Inter-American Convention against Corruption (MESICIC)** has conducted five rounds of analysis on different topics.

In this regards, Mexico has been assessed on the total of the Rounds. The compliance reports, First to Fifth round, are available on the MESICIC website: <http://www.oas.org/juridico/english/mex.htm>

## **RUSSIA**

### **Summary of National Progress**

1. Please provide a high-level summary (maximum of 500 words) of the most significant anti-corruption measures or initiatives that your country has introduced or implemented since the Accountability Report of 2017. The 2017 Accountability Report as well as previous reports can be accessed at <https://www.g20.org/en/g20-argentina/work-streams/anti-corruption>.

1. The new National Anti-corruption Plan for the years 2018 through 2020 was adopted under the Decree of the President of the Russian Federation No. 378 dated June 29, 2018. The measures of the Plan provide for the improvement of the anti-corruption bans, restrictions and requirements system, tackle the issues of prevention and management of conflict of interests, combating corruption in the area of public procurement, control over public officials' expenses, enhancement of efficiency of anti-corruption educational and formative programmes for public officials, promotion of anti-corruption standards among the general public and development of legal consciousness, protection of entrepreneurship, increasing of effectiveness of anti-corruption international cooperation with the participation of the Russian Federation.
2. Some new provisions under the Anti-Corruption Law, which imposes the maintenance of the Register of individuals dismissed due to the loss of confidence according to the commission for corruption offences, entered into force in 2018. The penalty information in the Register is to be kept for the term of five years since the respective decision of the commission and is available for the general public via the specially designed governmental web site.
3. In December 2017 in order to improve the legal framework for international cooperation in the area of search, freezing, seizure, confiscation and recovery of assets a new chapter was added to the Criminal Procedure Code of the Russian Federation. It provides for the recognition and implementation of decisions of foreign courts regarding the confiscation of the proceeds acquired via criminal offences and located in the Russian Federation. It also indicates the provisions to be included in the official request of a competent authority of a foreign State and the necessary attachments, as well as the procedure of transmission of the request and its processing, from the competent foreign authority to the Ministry of Justice of the Russian Federation and to a Russian court. The request is addressed by a judge in open court.  
The Criminal Procedure Code of the Russian Federation provides an exhaustive list of grounds for the refusal to recognize and enforce decisions of foreign courts. In all other cases Russian court makes positive decisions.

### **Practical co-operation:**

2. Please give an update on the progress made and/or on any other steps taken by your

country since the last Accountability Report to meet the G20 High Level Principles on Persons Sought for Corruption and Asset Recovery.

Following the indications of the Bureau of the Anti-Corruption Council of the President of the Russian Federation provided on April 18, 2017, the General Prosecutor's Office of the Russian Federation together with relevant stakeholders is preparing draft legal acts for internal procedures for the identification, arrest and returning from foreign jurisdictions of assets obtained through corruption offenses.

### **Beneficial Ownership Transparency**

3. Please give an update on the progress made against your National Implementation Plan (if applicable) and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Beneficial Ownership Transparency and the relevant Financial Action Task Force recommendations on beneficial ownership transparency.

The national assessment of risks in the area of money laundering and terrorism financing was undertaken. The data is publicly available on the web site of the Federal Financial Monitoring Service and contains the information regarding the areas of risk, certain risks which are to be taken into consideration by public authorities when they elaborate policies, and by financial organizations in serving their clients, including legal entities.

The Decree of the Government of the Russian Federation dated July 31, 2017 adopted the Rules of reporting the information concerning the beneficial ownership by legal entities under the Federal Law No. 115-FZ upon the request of the Federal Financial Monitoring Service and the Federal Tax Service of the Russian Federation. The Decree of the Federal Financial Monitoring Service No. 372 dated November 13, 2017 adopted the list of the officials of the Service who have the right to sign the respective requests addressed to legal entities. The Decree of the Service No. 373 dated November 13, 2017 approved the respective official paper form for sending the request.

### **Private Sector Integrity**

4. Since the last Accountability Report, has your government instituted any new measures to promote the development of anti-corruption initiatives, such as anti-corruption training and education by the private sector, including for Small and medium-sized enterprises (SMEs) and the non-financial professional services sector<sup>15</sup>?

Yes  No

If yes, please provide details.

<sup>15</sup> non-financial professional services sector could include: computer services, real estate, research and development, legal services and accounting

The National Anti-Corruption Plan for the years 2018 through 2020 recommends the Chamber for Industry and Commerce of the Russian Federation together with the NGOs “Russian Union of Industrialists and Entrepreneurs” and “OPORA of Russia”, other relevant stakeholders, officials of public authorities responsible for implementing national anti-corruption policy, scientific and educational entities, unions of entrepreneurs, commercial organizations, state-owned enterprises and organizations, involved in international anti-corruption cooperation, to annually provide for the organization of all-Russia initiatives aimed at introducing anti-corruption standards, internal control procedures, ethical norms and compliance procedures in business environment.

The Chamber for Industry and Commerce of the Russian Federation and the NGO “Russian Union of Industrialists and Entrepreneurs” regularly hold anti-corruption trainings and workshops for representatives of business environment, including SMEs.

The Ministry of Labour and Social Protection of the Russian Federation prepared the list of suggested issues recommended for analyzing at the anti-corruption trainings in order to develop a unique anti-corruption approach among employees of all organizations independently of their form of ownership, organizational structure, sphere of activity, etc. The Ministry recommended the following training programmes: “The issues of elaboration and adoption of anti-corruption measures by organizations”, “The issues of identification and prevention of bribery of foreign public officials and false accountability”. The trainings permit the participants to get acquainted with national and international anti-corruption legislation, basic principles of combating corruption in organizations, elaboration of anti-corruption policy of an entity, fight against the bribery of foreign public officials, identification and prevention of false accountability.

5. Since the last Accountability Report, have there been any changes or proposed changes to your country’s legislation or other measures related to private sector integrity?

Yes  No

If yes, please provide details.

The new National Anti-corruption Plan for the years 2018 through 2020 provides for the improvement of the anti-corruption measures in the business environment, including the protection of subjects of entrepreneurial activity from abuse of authority by officials.

In particular, the Government of the Russian Federation together with the Chamber for Industry and Commerce of the Russian Federation and the NGOs “Russian Union of Industrialists and Entrepreneurs” and “OPORA of Russia” should elaborate by May 1, 2019 proposals to stimulate the participation of entities in anti-corruption activities.

The Government of the Russian Federation with the participation of subjects of entrepreneurial activity should examine by October 1, 2019 the issues regarding the mechanisms and conditions of the introduction of anti-corruption standards in organizations and their application, in particular, in case of establishing business relations with partners; in specific economic spheres, subject to corruption risks or having strategic importance for the State; in case of the participation in procurement of goods and services for public and municipal needs.

Besides, the Ministry of Labour and Social Protection of the Russian Federation together with the Ministry of Economic Development of the Russian Federation and other relevant federal public bodies and organizations is updating the Methodical recommendations for the elaboration and adoption of anti-corruption measures by organizations. These recommendations are aimed at developing a unique anti-corruption approach among organizations independently of their form of ownership, organizational structure, sphere of activity and other conditions. On the basis of the recommendations organizations elaborate their anti-corruption programmes and policies, taking into consideration the peculiarities of their economic activity.

The Ministry of Labour and Social Protection of the Russian Federation together with the General Prosecutor's Office, the Ministry of Economic Development of the Russian Federation and other relevant federal public bodies and organizations is preparing amendments to the legislation to improve the efficiency of the implementation of corruption prevention measures by organizations. In particular, it proposed to compose the list of corruption prevention measures that should be adopted by specific categories of organizations.

A draft of a federal law should provide the possibility to impose on the organizations, exercising public functions or having public financing, the responsibility to elaborate and approve through local normative acts anti-corruption policy and a professional code of an organization, containing the rules and procedure of the management of conflict of interest, exchange of gifts and other policies aimed at preventing corruption. The draft of a federal law should also provide the necessity to hold trainings for employees by organizations, accept and examine in an organized and confidential manner notifications about corruption offences, protect whistleblowers and guarantee the cooperation with public bodies in the anti-corruption area.

6. Does your country apply anti-corruption legislation to SOEs (employees and executives), including anti-bribery legislation? Please provide a response for both active and passive bribery with regard to domestic and transnational bribery of public officials.
- Yes  No

If yes, please provide details.

Managers and certain employees of state-owned enterprises, public not-for-profit organizations, and other organizations founded under the federal law, functioning and implementation of tasks of the federal public authorities are subject to anti-corruption bounds, responsibilities and restrictions.

If no, has your country taken steps to propose or to make changes to your country's anti-corruption legislation related to SOEs (employees and executives)?

### Active and Passive Bribery Offences

7. Does your country currently have legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

**The Criminal Code of the Russian Federation:**

**Article 290. Bribe-taking**

1. Receipt by an official, a foreign official, or an official of a public international organization, whether personally or through an intermediary, of a bribe in the form of money, securities, and any other assets, or in the form of unlawfully rendering him/her property-related services, granting other property rights and other undue advantages (including when the bribe on the instruction of an official is handed over to another physical person or legal entity) for the commission of the actions (omissions) in favor of a bribe-giver or the persons represented by him, if such actions (omissions) are related to the office held by this person or if he by virtue of his official position may facilitate the said acts (omissions), and likewise for general patronage or condonation in the service. The act should be punished by a fine in an amount of up to one million rubles or in the amount of earnings or revenue of the convicted person for the period of up to two years, or in the value of between ten to fifty times the amount of the bribe with disqualification from holding certain positions or engaging in certain activities for a term of up to three years or by correctional works for a term of from one to two years with disqualification from holding certain positions or engaging in certain activities for a term of up to three years or by forced labor for a term of up to five years with disqualification from holding certain positions or engaging in certain activities for a term of up to three years or by deprivation of freedom for a term of up to three years with or without a fine in the amount of between ten and twenty times the value of the bribe.

2. Receiving of a bribe by an official, a foreign official or an official of a public international organization on a considerable scale should be punished by a fine in an amount of from two hundred thousand to one million and five hundred thousand rubles or in the amount of earnings or revenue of the convicted person for a period of from six months to two years, or in the value of between thirty to sixty times the amount of the bribe with disqualification from holding certain positions or engaging in certain activities for a term of up to three years or by deprivation of freedom for a term of up to six years with or without a fine in the amount of up to thirty times the value of the bribe and with or without disqualification from holding certain positions or engaging in certain activities for a term of up to three years.

3. Receiving of a bribe by an official, a foreign official or an official of a public international organization for unlawful actions (omissions) should be punished by a fine in an amount of from five hundred thousand to two million rubles or in the amount of earnings or revenue of the convicted person for a period of from six months to two years, or in the value of between forty to seventy times the amount of the bribe with

disqualification from holding certain positions or engaging in certain activities for a term of up to five years or by deprivation of freedom for a term of from three to eight years with or without a fine in the amount of up to forty times the value of the bribe and with or without disqualification from holding certain positions or engaging in certain activities for a term of up to five years.

4. The acts specified in parts one-three of this article and committed by a person who holds a public position of the Russian Federation or a public position of a constituent entity of the Russian Federation, and likewise by the head of a local self-government body should be punished with a fine in the amount of from one million up to three million rubles or in the amount of earnings or revenue of the convicted person for a period of from one to three years, or in the value of between sixty to eighty times the amount of the bribe with disqualification from holding certain positions or engaging in certain activities for a term of up to seven years or by deprivation of freedom for a term of from five to ten years, with or without a fine in the amount of up to fifty times the value of the bribe and with or without disqualification from holding certain positions or engaging in certain activities for a term of up to seven years.

5. The acts specified in Parts one, three and four of this Article, if they have been committed:

- a) by a group of persons by prior collusion, or by an organized group;
- b) with extortion of a bribe;
- c) on a large scale

should be punished by a fine in the amount of from two million up to four million rubles or in the amount of earnings or revenue of the convicted person for a period of from two to four years, or in the value of between seventy to ninety times the amount of the bribe with disqualification from holding certain positions or engaging in certain activities for a term of up to ten years or by deprivation of freedom for a term of from seven to twelve years, with or without a fine in the amount of up to sixty times the value of the bribe and with or without disqualification from holding certain positions or engaging in certain activities for a term of up to ten years.

6. The specified in Parts one, three, four and paragraphs (a) and (b) of Part five of this article, committed on an especially large scale should be punished by a fine in the amount of from three million up to five million rubles or in the amount of earnings or revenue of the convicted person for a period of from three to five years, or in the value of between eighty to a hundred times the amount of the bribe with disqualification from holding certain positions or engaging in certain activities for a term of up to fifteen years or by deprivation of freedom for a term of from eight to fifteen years, with or without a fine in the amount of up to seventy times the value of the bribe and with or without disqualification from holding certain positions or engaging in certain activities for a term of up to fifteen years.

Notes. 1. A considerable amount of a bribe for the purposes of this Article as well as Articles 291 и 291.1 of the present Code, shall be understood the amount of money, the value of securities and other assets, property-related services, other property rights exceeding twenty five thousand rubles, large-scale bribes shall be understood those exceeding one hundred and fifty thousand rubles, especially large scale bribes shall be considered those exceeding one million rubles.

2. For the purposes of this Article as well as Articles 291 и 291.1 and 304 of this Code an international official shall be understood any appointed or elected person holding any

position in a legislative, executive, administrative or judicial body of a foreign state and any person exercising any public function for a foreign state, including for a public agency or a public enterprise; an official of a public international organization shall be understood an international civil servant, or any person authorised by such organisation to act on its behalf.

**Article 291. The giving of a bribe**

1. The giving of a bribe to an official, a foreign official or an official of a public international organization in person or through an intermediary (including when a bribe on the instruction of the official is handed over to another physical person or legal entity), should be punished with a fine in an amount of up to five hundred thousand rubles or in the amount of earnings or revenue of the convicted person for a period of up to one year, or in the value of between five to thirty times the amount of the bribe or by correctional works for a term of up to two years with or without disqualification from holding certain positions or engaging in certain activities for a term of up to three years, or by deprivation of freedom for a term of up to two years with or without a fine in the amount between from five to ten times the value of the bribe.

2. The giving of a bribe to an official, a foreign official or an official of a public international organization in person or through an intermediary (including when a bribe on the instruction of the official is handed over to another physical person or legal entity), on a large scale shall be punished with a fine in an amount of up to one million rubles or in the amount of earnings or revenue of the convicted person for a period of up to two years, or in the value of between ten to forty times the amount of the bribe or by correctional works for a term of from one to two years and with or without disqualification from holding certain positions or engaging in certain activities for a term of from one to three years, or by deprivation of freedom for a term of up to five years with or without a fine in an amount of from five to fifteen times the value of the bribe.

3. The giving of a bribe to an official, a foreign official or an official of a public international organization in person or through an intermediary (including when a bribe on the instruction of the official is handed over to another physical person or legal entity), for the commission of knowingly unlawful actions (omissions) shall be punished with a fine in an amount of up to one million and five hundred thousand rubles or in the amount of earnings or revenue of the convicted person for a period of up to two years, or in the value of between thirty to sixty times the amount of the bribe with or without disqualification from holding certain positions or engaging in certain activities for a term up to five years, or by deprivation of freedom for a term of up to eight years, and with or without a fine in an amount of up to thirty times the value of the bribe and with or without disqualification from holding certain positions or engaging in certain activities for a term up to five years.

4. The acts specified in Parts one-three of this Article, if they were committed:

- a) by a group of persons by prior collusion, or by an organized group;
- b) on a large scale

shall be punished with a fine in an amount of from one million up to three million rubles or in the amount of earnings or revenue of the convicted person for a period of from one year up to three years, or in the value of between sixty to eighty times the amount of the bribe with or without disqualification from holding certain positions or engaging in certain activities for a term up to seven years, or by deprivation of freedom for a term of from

seven to twelve years with or without a fine in the amount of up to sixty times the value of the bribe and with or without disqualification from holding certain positions or engaging in certain activities for a term up to seven years.

5. The acts specified in Parts one-four of this Article, if they were committed on an especially large scale shall be punished with a fine in an amount of from two million up to four million rubles or in the amount of earnings or revenue of the convicted person for a period of from two to four years, or in the value of between seventy to ninety times the amount of the bribe with or without disqualification from holding certain positions or engaging in certain activities for a term up to ten years, or by deprivation of freedom for a term of from eight to fifteen years with or without a fine in the amount of up to seventy times the value of the bribe and with or without disqualification from holding certain positions or engaging in certain activities for a term of up to ten years.

Note. A person who has given a bribe shall be relieved from criminal liability if he/she actively assisted in solving or investigating the crime, or this person has been subjected to extortion on the part of an official, or if this person after committing the crime reported the bribe-giving to the body competent to initiate criminal proceedings.

**Article 291.1. Mediation in bribery**

1. Mediation in bribery, that is, direct handing over of a bribe on the instructions of the bribe-giver or bribe-taker or other kind of assistance to the bribe-giver and/or bribe-taker in achieving or implementing of an agreement between them on taking or giving a bribe on a considerable scale -

shall be punished by a fine in the amount of up to seven hundred thousand rubles or in the amount of earnings or revenue of the convicted person for a period of up two one year, or in the amount of between twenty to forty times with or without disqualification from holding certain positions or engaging in certain activities for a term of up to three years or by deprivation of freedom a term of up to four years with or without a fine in an amount of up to twenty times the value of the bribe.

2. Mediation in bribe-taking for the commission of knowingly unlawful actions (omissions) or by a person with the use of his official position shall be punished by a fine in the amount of up to one million rubles or in the amount of earnings or revenue of the convicted person for a period of up to one year, or in the amount of between twenty to fifty times the value of the bribe with or without disqualification from holding certain positions or engaging in certain activities for a term of up to three years or by deprivation of freedom for a term of up from three to seven years with or without a fine in an amount of up to thirty times the value of the bribe with or without disqualification from holding certain positions or engaging in certain activities for a term of up to three years.

3. Mediation in bribery committed:

- a) by a group of persons by prior collusion, or by an organized group;
- b) on a large scale

shall be punished by a fine in the amount of up from one to two million rubles or in the amount of earnings or revenue of the convicted person for a period of from one to two years, or in the amount of between fifty to seventy times the value of the bribe with or without disqualification from holding certain positions or engaging in certain activities for a term of up to five years or by deprivation of freedom for a term of up from five to ten years with or without a fine in an amount of up to sixty times the value of the bribe with

or without disqualification from holding certain positions or engaging in certain activities for a term of up to five years.

4. Mediation in bribery committed on an especially large scale shall be punished by a fine in the amount of up from one million and five hundred thousand to three million rubles or in the amount of earnings or revenue of the convicted person for a period of from two to three years, or in the amount of between sixty to eighty times the value of the bribe with or without disqualification from holding certain positions or engaging in certain activities for a term of up to seven years or by deprivation of freedom for a term of from seven to twelve years with or without a fine in an amount of up to seventy times the value of the bribe and with or without disqualification from holding certain positions or engaging in certain activities for a term of up to seven years.

5. A promise or proposal of mediation in bribery shall be punished by a fine in the amount of up to three million rubles or in the amount of earnings or revenue of the convicted person for a period of up to three years, or in the amount of up to sixty times the value of the bribe with or without disqualification from holding certain positions or engaging in certain activities for a term of up to five years or by deprivation of freedom for a term of up to seven years with or without a fine in an amount of up to thirty times the value of the bribe and with or without disqualification from holding certain positions or engaging in certain activities for a term of up to five years.

Note. A person who has committed a crime provided by this Article shall be relieved from criminal liability, if he/she actively assisted in solving and (or) suppressing of the crime, and voluntarily reported the committed crime to the body competent to initiate criminal proceedings.

8. If your country has not criminalized foreign bribery, has your country proposed or made changes, since the last Accountability Report, to your country's legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?
- Yes  No

If yes, please provide details.

**Liability of Legal Persons**

9. Has your country established the liability of legal persons for corruption and corruption-related offences?
- Yes  No

If yes, please provide details (e.g. about the type of liability, including whether criminal, civil, or other).

Russian legislation provides for administrative liability of legal entities for corruption and

corruption-related offences. Article 19.28 of the Code of Administrative Offences of the Russian Federation provides for liability for unlawful remuneration on behalf of a legal entity (unlawful transfer on behalf or in the interests of a legal entity to a official, to a person exercising managerial functions in a profit-making or other organization, to a foreign official or a official of a public international organization of money, securities or other property, as well as unlawful rendering thereto of services of a pecuniary nature or granting of property rights for making actions (for omitting to act) in the interests of the given legal entity by the official, by the person exercising managerial functions in the profit-making or other organization, by the foreign official or by the official of the public international organization connected with the official positions held by them).

Article 19.29 of the Code of the Russian Federation on Administrative Offences provides for liability for unlawful employment or engaging for performing works or rendering services of a public or a municipal servant or a former public or municipal employee.

If no, has your country taken steps since the last Accountability Report to establish the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details.

### Public Sector Integrity and Transparency

10. Since the last Accountability Report, has your country taken significant steps to propose or to make changes to your country’s legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

Under the Federal Law No. 504-FZ dated December 21, 2017 since January 1, 2019 customers, authorized bodies and entities should organize competitive tendering procedure, competitive tendering with limited participation, two-phase competition, invitation to tender and invitation for proposal not otherwise than by digital methods. Since June 1, 2018 the participants of the contracting system should use digital signature for the electronic document flow.

Since January 1, 2019 the unified information system will contain a unified register of tender participants. The participants will be registered electronically and free of charge. The operators of digital platforms should accredit their participants after their registration in the unified information system.

Under the Federal Law No. 505 dated December 31, 2017 the regulations on

procurement should be brought in line with the Federal Law No. 223-FZ dated July 18, 2011 by January 1, 2019. After this date the customers who fail to do so shall organize tenders in accordance with the requirements of the Federal Law No. 44-FZ dated April 4, 2013.

11. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to public disclosure by public officials?

Yes  No

If yes, please provide details.

12. Does your country have in place standards and a system for preventing and managing conflicts of interest in the public sector? This may include the establishment of standards of conduct, especially for public officials working in high-risk sectors; putting into place clear means for developing, implementing and updating conflict-of-interest policies; and identifying "at-risk" activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures.

Yes  No

If yes, please provide details.

In accordance with Article 10 of the Federal Law No 273-FZ dated December 25, 2008 "On Combating Corruption" (hereinafter referred to as the Law on Combating Corruption) a conflict of interests means a situation when personal interest (direct or indirect) of a person who occupies a position whose occupation provides for the responsibility to take measures to prevent and settle a conflict of interest, affects or can affect proper, objective and impartial performance of their official (professional) duties (exercise of power).

In Part 1 of the article personal interest is understood as a possibility to obtain profits in the form of money, other property, including property rights, property services, work deliverables or any benefits (advantages) by a specified person and (or) by persons closely related to that person (parents, spouses, children, brothers, sisters, as well as brothers, sisters, parents, children of the spouse and spouses of children), citizens or organizations, with whom the specified person and (or) persons closely related to that person are bound by property, corporate or other close relations.

According to Article 12.1 of the Law persons holding public positions in federal bodies of the Russian Federation should inform in the manner established by the regulatory legal instruments of the Russian Federation of emergence of personal interests while

performing professional duties that results or may result in a conflict of interests, as well as take measures to prevent or settle this conflict of interests.  
 The procedure for preventing and settling a conflict of interests is established by Article 11 of the Law.  
 A person who occupies a position whose occupation provides for the responsibility to take measures to prevent and settle a conflict of interest (specified person) should inform in the manner prescribed by a representative of the employer in accordance with the regulatory legal instruments of the Russian Federation of the conflict of interests emerged or of the possibility of its emergence as soon as it comes to his notice. A representative of the employer is obliged to take preventive measures or settle the conflict of interests if it comes to his knowledge that the specified person has a personal interest that results or may result in a conflict of interests.  
 The prevention or settlement of a conflict of interests may bring to the change of the official position or official capacity of the specified person who is a party to the conflict of interests, up to their restriction from duty in accordance with the applicable procedure, and/or his refusal to keep the benefit which caused the conflict of interests.  
 When the specified person is part of the conflict, the prevention and settlement of the conflict of interests is ensured by the removal from office or resignation of that person.  
 The brochure on conflict of interests is available on the web-site of the General Prosecutor's office:  
<https://eng.genproc.gov.ru/upload/iblock/8c4/Handbook%20Conflict%20of%20Interests.pdf>

13. Has your country established whistleblower protections under your domestic laws?

Yes  No

14. Since the 2015 Accountability Report, has your country proposed or made changes to its whistleblower protection framework in both public and private sectors?

Yes  No

If yes, please provide details.

15. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

Under the Federal Law No. 504-FZ dated December 21, 2017 all the procedures of procurement are digitalized. Besides online tenders, the Law provides for an open competitive tendering procedure, competitive tendering with limited participation, two-phase competition, invitation to tender and invitation for proposal.

Under the Decree No. 656 dated June 8, 2018 and the Provision No. 1447-r dated July 12, 2018:

- uniform requirements are applied to the operators of digital platforms, the operators of specialized digital platforms, these kinds of platforms and their functioning;
- a uniform list of operators of digital platforms is approved;
- a uniform procedure for concluding contracts on the results of various electronic operations on digital platforms through the unified information system (since January 1, 2019) is adopted;
- new digital platforms will be launched on October 1, 2018.

Under the Decree No. 626 dated May 30, 2018, the Decree No. 748 dated June 29, 2018 and the Provision 1451-r dated July 13, 2018 the money for covering the orders should be transferred to special accounts in the banks listed in the Provision. The requirements to the contract of the special bank account, the operating procedures of a bank account of a participant of procurement as a special bank account are specified in the abovementioned acts.

Under the Decree No. 608 dated May 29, 2018 and the Decree No. 440 dated April 12, 2018 the requirements applied to the banks issuing guarantees for tenders and public contracts. Under the new rules the ordering customers should accept the guarantees of the banks which correspond to the requirements of the Government of the Russian Federation. These requirements are identified by the Decree No. 440.

Under the Federal Law No. 311-FZ dated August 3, 2018 the ordering customers do not have anymore the right to apply the criteria to evaluating tenders and final proposals in the area of public procurement other than those indicated in the Law.

According to Federal Law No. 505-FZ dated December 31, 2017 and the Decree No. 657 dated June 8, 2018 since October 1, 2018 a competitive tendering with the participation of SMEs is organized by an ordering customer through a digital platform which operates under the Federal Law No. 44 and further requirements established by the Government of the Russian Federation.

16. Is your country a member of the Open Government Partnership?

Yes  No

Please provide details including information on the collective actions taken by your country since the last Accountability Report.

17. Does immunity for public officials from investigations and prosecutions for corruption related offences exist in your country?

Yes  No

If yes, how is an appropriate balance ensured between any immunities and the need to effectively investigate, prosecute and adjudicate corruption offences, in accordance with article 30(2) of UNCAC?

In accordance with the Constitution of the Russian Federation and national legislation the following categories of high-ranking officials enjoy the immunity from prosecution: the President of the Russian Federation, the members of both chambers of Parliament (the Federation Council and the State Duma), judges, members of jury courts and the Commissioner for Human Rights.

The President of the Russian Federation has the immunity under article 91 of the Constitution. According to national legislation the person leaving the post of the President keeps the immunity after the end of their term in office. The President may be dismissed by the Federation Council only on the basis of a charge of State treason or other serious offence brought by the State Duma and confirmed by a ruling of the Supreme Court of the Russian Federation that the actions of the President of the Russian Federation show evidence of an offence and a decision by the Constitutional Council of the Russian Federation to set in motion the correct procedure for issuing an indictment. A decision by the State Duma to bring a charge and a decision by the Federation Council to dismiss the President should be taken by a two-thirds majority of the full membership of both chambers on the basis of a motion by not less than one third of the members of the State Duma and following the conclusions of a special commission established by the State Duma.

The Members of the Federation Council and of the State Duma (not candidates for membership) enjoy the immunity under article 98 of the Constitution. They may not be detained, arrested or searched, except in cases in which they may be detained at the scene of an offence, or subjected to a search of their person, except where such action is required under federal law to ensure the safety of other persons.

Under article 120 of the Constitution, judges are independent and answer only to the Constitution and Federal Law. Under article 122 of the Constitution, all judges enjoy the immunity. A judge is not subject to criminal prosecution, except in cases provided for by the Law. Under article 16 of the Status of Judges in the Russian Federation Act of 1992 disciplinary, administrative and criminal prosecution cases fall under immunity. The procedure for limiting the immunity, initiating criminal proceedings and prosecuting a judge depends on the judge's rank.

Article 447 of the Code of Criminal Procedure sets out a specific procedure for handling criminal cases involving particular categories of officials. The procedure depends on the agreement among relevant bodies, according to their respective competence, to impose coercive measures and initiate criminal procedure actions against these officials. The authorities of the Russian Federation have given practical examples of the use of such provisions, including cases where immunity and other privileges of officials were lifted and the corresponding investigation of such persons launched.

Under article 38 of the Code of Criminal Procedure, an investigator is authorized to conduct the course of an investigation independently and take decisions on initiating investigative and other procedural actions, except in cases where, under the Code, a

judicial decision or the approval of the head of the investigatory body is required. According to the Code of Criminal Procedure, some procedural measures, such as temporary suspension from office, may be taken against the suspect/accused person. Article 45 of the Criminal Code provides for such penalties as deprivation of the right to occupy a certain position or to be engaged in a certain activity.

**Sectors**

18. Since the last Accountability Report, have there been any changes or proposed changes to your country’s legislation or other measures related to combating corruption:

a. in Sports? Yes  No

If yes, please provide details.

The Ministry of Sport of the Russian Federation is currently managing the process of ratification of the Council of Europe Convention on the Manipulation of Sports Competitions by the Russian Federation according to the appropriate plan adopted by the Decree of the Government of the Russian Federation No. 2221-r dated October 12, 2017.

The Council of Europe Convention on an Integrated Safety, Security and Service Approach at Football Matches and Other Sports Events was ratified by the Federal Law No. 185-FZ dated July 26, 2017. The Convention entered into force for the Russian Federation on December 1, 2017.

b. as a facilitator of illegal trade in wildlife and wildlife products? Yes  No

If yes, please provide details.

19. Is your country supporting or implementing any sector-specific initiatives?

Extractive Industries Transparency Initiative (EITI)

Implementing Yes  No

Supporting Yes  No

Construction Sector Transparency Initiative (CoST)

Implementing Yes  No

Supporting Yes  No

Customs (World Custom Organization-Arusha Declaration)

Implementing Yes  No

Supporting Yes  No

Others

Please specify.

Implementing Yes  No

Supporting Yes  No

Please provide notable details on each of the sectorial initiatives, listed or not listed above, supported by your country or domestic measures taken in relation to specific sectors.

**International Anti-Corruption Instruments**

20. Has your country begun or completed the second cycle of UNCAC peer review process as a country under review?

Yes  No

If yes, please indicate.

Begun  Completed

If no, please indicate when your country is scheduled to be reviewed

21. For either or both cycles, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so?

a. Publication of full report

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

b. Involvement of civil society

- aa. First Cycle                      Yes       No       Committed to do so
- bb. Second Cycle                    Yes       No       Committed to do so

c. Involvement of business

- aa. First Cycle                      Yes       No       Committed to do so
- bb. Second Cycle                    Yes       No       Committed to do so

d. Country visits

- aa. First Cycle                      Yes       No       Committed to do so
- bb. Second Cycle                    Yes       No       Committed to do so

Please provide details (e.g. web link for published report, how and when civil society and/or business were engaged during the review process, date of country visit). If your country has voluntarily published its questionnaire response, please indicate as well.

The country visits were organized on August 10 and 11, 2012. Within the framework of the peer review process the representatives of major Russian business associations met with the peer reviewers and presented their position. Transparency International Russia prepared its own report “Input to the UNCAC Implementation Review Mechanism: Second year of review of UNCAC chapters 3 and 4” and presented it at the Fifth session of the Conference of the States Parties to the United Nations Convention against Corruption.

The full report is published (in Russian) at the official web site of the Prosecutor General’s Office of the Russian Federation:  
<http://www.genproc.gov.ru/anticor/doks/document-82921>.

22. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

- Yes       No

m. If yes, please provide details.

b. If you have responded to all or some of the recommendations, have you made those responses publicly available?

Yes  No

If yes, please provide details (including web links, if available).

The results of the implementation of the recommendations made to the Russian Federation were officially and publicly reported at the 5th resumed session of the Implementation Review Group (Vienna, October 13-15, 2014).

23. Is your country party to the OECD Anti-Bribery Convention?

Yes  No

If no, please give an update on steps taken by your country to

- a. participate actively with the OECD Working Group on Bribery, including through possible Participant status and
- b. adhere to the OECD Anti-Bribery Convention.

24. Has your country begun or completed an OECD Anti-Bribery Convention peer review process as a country under review?

Yes  No

If yes, please indicate.

- |            |   |   |
|------------|---|---|
| a. Phase 1 | Begun <input type="checkbox"/>            | Completed <input checked="" type="checkbox"/> |
| b. Phase 2 | Begun <input checked="" type="checkbox"/> | Completed <input type="checkbox"/>            |
| c. Phase 3 | Begun <input type="checkbox"/>            | Completed <input type="checkbox"/>            |
| d. Phase 4 | Begun <input type="checkbox"/>            | Completed <input type="checkbox"/>            |

Please provide information on your country's OECD peer review process and/or any other relevant information (such as reports and links)

Phase 1 Report:  
[www.oecd.org/daf/anti-bribery/anti-briberyconvention/49937838](http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/49937838)  
 Phase 2 Report:  
[www.oecd.org/daf/anti-bribery/RussianFederationPhase2ReportEN.pdf](http://www.oecd.org/daf/anti-bribery/RussianFederationPhase2ReportEN.pdf)  
 Follow-up to Phase 2 Report  
[www.oecd.org/daf/anti-bribery/Russia-Phase-2-Written-Follow-up-Report.pdf](http://www.oecd.org/daf/anti-bribery/Russia-Phase-2-Written-Follow-up-Report.pdf)  
 Additional follow-up to Phase 2 Report  
[www.oecd.org/document/DAF/WGB\(2018\)8/en/pdf](http://www.oecd.org/document/DAF/WGB(2018)8/en/pdf)  
 Russia joins OECD Anti-Bribery Convention:  
[www.oecd.org/russia/russiajoinsoecdanti-briberyconvention.htm](http://www.oecd.org/russia/russiajoinsoecdanti-briberyconvention.htm)

In October 2018 Russia is invited to present within Phase 2 evaluation process additional follow-up report that demonstrates legislative changes in the key areas.

25. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in previous OECD Anti-Bribery Convention evaluations?

Yes  No

If yes, please provide details (including a link to the written follow-up report, where applicable).

Phase 2 Report:

[www.oecd.org/daf/anti-bribery/RussianFederationPhase2ReportEN.pdf](http://www.oecd.org/daf/anti-bribery/RussianFederationPhase2ReportEN.pdf)

Follow-up to Phase 2 Report

[www.oecd.org/daf/anti-bribery/Russia-Phase-2-Written-Follow-up-Report.pdf](http://www.oecd.org/daf/anti-bribery/Russia-Phase-2-Written-Follow-up-Report.pdf)

Additional follow-up to Phase 2 Report

[www.oecd.org/document/DAF/WGB\(2018\)8/en/pdf](http://www.oecd.org/document/DAF/WGB(2018)8/en/pdf)

In October 2018 Russia is invited to present within Phase 2 evaluation process additional follow-up report that demonstrates legislative changes in the key areas.

26. Is your country party to other international or regional anti-corruption instruments (such as the Inter-American Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the Council of Europe Criminal Law Convention on Corruption or the Council of Europe Civil Law Convention on Corruption)?

Yes  No

If yes, please indicate which instrument(s).

The Council of Europe Criminal Law Convention on Corruption

27. Has your country been under review related to any kind of international or regional anti-corruption review mechanism other than the UNCAC peer review process?

Yes  No

If yes, please provide links to review and any compliance reports, if available.

Since February 1, 2007 Russia has been a member of the Group of States against Corruption (GRECO). In the joint first and second evaluation rounds various aspects of activities of national agencies specializing in the prevention and suppression of corruption (their independence, competence, financing and efficiency), issues of

reasonableness and scope of provision to certain categories of officials of the immunity from criminal prosecution, as well as peculiarities of the national legislation and law enforcement practice in the identification, seizure and confiscation of proceeds and other assets derived from corruption, prevention of corruption in public administration, liability of legal entities for corruption offenses committed for their benefit were examined. Russia successfully completed the evaluation rounds in 2012.

At the 79<sup>th</sup> plenary session in March 2018, the Addendum to the Second Compliance Report on the Russian Federation (3rd Evaluation Round on “Incriminations” and “Transparency of Party Funding”) was adopted. According to the document, 12 recommendations were considered as fully implemented and 9 recommendations as partly implemented. The work on the implementation of the remaining recommendations continues.

In 2016 the 4th Evaluation Round “Corruption prevention in respect of Members of Parliament, Judges and Prosecutors” was launched. The GRECO Secretariat and experts made their evaluation visit in Moscow in March 2017. In October 2017, at the 77th plenary session the Evaluation Report containing 22 recommendations was adopted. The implementation of these recommendations is currently underway. More detailed information may be found via the link:

<http://www.coe.int/en/web/greco/evaluations/russian-federation>

## **SAUDI ARABIA**

### **Summary of National Progress**

1. Please provide a high-level summary (maximum of 500 words) of the most significant anti-corruption measures or initiatives that your country has introduced or implemented since the Accountability Report of 2017. The 2017 Accountability Report as well as previous reports can be accessed at <https://www.g20.org/en/g20-argentina/work-streams/anti-corruption>.

1. The Anti-Bribery Law was revised on September 11, 2018 to make it consistent with some articles in the UNCAC. The revised law contains new provisions to criminalize bribery in the private and NGO sectors in Saudi Arabia, as well as foreign bribery in international organizations. It also considers 'promising' bribery to be as punishable as 'offering' bribery.
2. Saudi Arabia established specialized departments in Public Prosecution to investigate cases of corruption and prosecute those involved in such cases. Also, new divisions in the criminal courts were set up solely to handle corruption cases

### **Practical co-operation:**

2. Please give an update on the progress made and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Persons Sought for Corruption and Asset Recovery.

The Saudi Anti-corruption Commission is still cooperating and coordinating with all relevant government agencies to ensure that all G20 high-level principles are implemented. However, this may take time as some of these principles require modifications to existing laws and bylaws.

### **Beneficial Ownership Transparency**

3. Please give an update on the progress made against your National Implementation Plan (if applicable) and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Beneficial Ownership

Transparency and the relevant Financial Action Task Force recommendations on beneficial ownership transparency.

Saudi Arabia adopted its national strategy to mitigate both money laundering and terrorist financing risks in August 2017. Also, in late 2017 Saudi Arabia passed comprehensive revisions of its Anti-Money Laundering Law (AMLL), and Law on Terrorism Crime and Financing (LTCF) to bring its legal framework in line with updated FATF recommendations.

Details of measures taken to enhance beneficial ownership transparency can be found in Saudi Arabia's latest Mutual Evaluation report, which was published on 24 September 2018 on the following website:

<http://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-saudi-arabia-2018.html>

#### Private Sector Integrity

4. Since the last Accountability Report, has your government instituted any new measures to promote the development of anti-corruption initiatives, such as anti-corruption training and education by the private sector, including for Small and medium-sized enterprises (SMEs) and the non-financial professional services sector<sup>16</sup>?

Yes  No

If yes, please provide details.

The national Anti-corruption Commission (Nazaha) has built a strategic relationship with the Council of Saudi Chambers. Through this partnership, Nazaha has conducted several anti-corruption training courses for the private sector, starting with professional enablers, such as lawyers, as they play an essential gatekeeping role in preventing, detecting, and reporting corruption. Nazaha also organized industry-specific workshops dealing with such issues as how to address corruption risks in the health and health insurance sectors. Furthermore, Nazaha hosted several workshops for university students to promote the culture of integrity in future business generations.

On 5<sup>th</sup> April 2018, Nazaha organized its third international conference focusing on protecting integrity and fighting corruption in privatization programs. The conference

<sup>16</sup> non-financial professional services sector could include: computer services, real estate, research and development, legal services and accounting

hosted 36 international speakers and was attended by more than 700 business leaders, officials, and educators.

Also, other government institutions, such as the Capital Market Authority and the Saudi Arabian Monetary Agency, held a number of workshops in 2017 and 2018 relating to corporate governance regulations, changes and updates.

5. Since the last Accountability Report, have there been any changes or proposed changes to your country's legislation or other measures related to private sector integrity?

Yes  No

If yes, please provide details.

The Anti-Bribery Law has been revised to criminalize bribery in the Saudi private sector.

6. Does your country apply anti-corruption legislation to SOEs (employees and executives), including anti-bribery legislation? Please provide a response for both active and passive bribery with regard to domestic and transnational bribery of public officials.

Yes  No

If yes, please provide details.

All Saudi SOEs are being monitored by the National Anti-corruption Commission (known as 'Nazaha'). Nazaha monitors SOEs in two ways. The first is by encouraging the general public to report any instance of corruption in exchange for financial compensation, with absolute protection of whistleblowers' identities. The second is by reviewing SOEs policies and procedures to close loopholes that allow or facilitate corrupt practices.

In addition to that, the vast majority of SOEs are listed on the Saudi Stock Exchange therefore, they are subject to rigid corporate governance regulations. Such regulations ensure full transparency of SOEs' operations (including conflict of interest, and reporting of misconduct) and ensure that SOE's boards of directors, executives and employees have clean records.

With regard to anti-bribery legislation, the Saudi Anti-bribery Law criminalizes both active and passive bribery domestically; however, only transnational bribery of international organization officials are criminalized.

If no, has your country taken steps to propose or to make changes to your country's anti-corruption legislation related to SOEs (employees and executives)?

### Active and Passive Bribery Offences

7. Does your country currently have legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

Saudi Arabia criminalizes active and passive bribery offences domestically under the Anti-Bribery Law issued by Royal Decree No. (M/36).  
With regard to foreign bribery, Saudi Arabia only criminalizes active and passive bribery related to international public organization officials.

8. If your country has not criminalized foreign bribery, has your country proposed or made changes, since the last Accountability Report, to your country's legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

As mentioned previously, the Anti-Bribery Law has been revised to criminalize active and passive bribery of officials of international public organizations.

**Liability of Legal Persons**

9. Has your country established the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details (e.g. about the type of liability, including whether criminal, civil, or other).

Saudi Arabia imposes criminal and civil liabilities for legal persons convicted of corruption and corruption-related offences under the Companies Law issued by Royal Decree No (M/3).

If no, has your country taken steps since the last Accountability Report to establish the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details.

**Public Sector Integrity and Transparency**

10. Since the last Accountability Report, has your country taken significant steps to propose or to make changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

11. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to public disclosure by public officials?

Yes  No

If yes, please provide details.

12. Does your country have in place standards and a system for preventing and managing conflicts of interest in the public sector? This may include the establishment of standards of conduct, especially for public officials working in high-risk sectors; putting into place clear means for developing, implementing and updating conflict-of-interest policies; and identifying "at-risk" activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures.

Yes  No

If yes, please provide details.

All public officials in Saudi Arabia are obliged to adhere to the Code of Conduct and Ethics of the Public Job issued by the Council of Ministers Resolution No. (555) on 29<sup>th</sup> August 2016.

The Saudi Code of Conduct and Ethics set standards and moral values that must be maintained by public officials. This includes requiring public officials to disclose, in writing to their agencies, any possible situation of conflict of interest before making a decision or expressing an opinion in the case of the conflict. The Code expands the definition of conflict of interest to include cases where public officials are dealing with one of their immediate or extended families, up to their fourth-degree relatives.

Also, the Code limits opportunities of conflict of interest by prohibiting public officials from engaging in any trade activity, directly or indirectly, participating in the establishment of companies, or accepting membership on their boards of directors, unless they are designated by the government to work there.

13. Has your country established whistleblower protections under your domestic laws?

Yes  No

14. Since the 2015 Accountability Report, has your country proposed or made changes to its whistleblower protection framework in both public and private sectors?

Yes  No

If yes, please provide details.

Royal decree number (41043) dated 2<sup>nd</sup> May 2018 was issued to protect whistleblowers in government institutions. The royal decree instructed the National Anti-Corruption Commission to report, to the King, any government institutions that take any disciplinary actions against its officials for reporting corruption to the competent anti-corruption authorities.

With regard to the private sector, in 2017 the Capital Authority Market issued a circular to listed companies encouraging them to create a whistleblower policy for their employees to increase the integrity and fairness of the Saudi market. Also, the Corporate Governance Regulations in Saudi Arabia state the following:

"The Board shall, based upon a proposal from the Audit Committee, develop the necessary policies and procedures to be followed by Stakeholders when submitting complaints or reporting any violations, taking the following into consideration:

- 1) Facilitating the method by which Stakeholders (including company employees) report, to the Board, conducts and practices of the Executive Management that violate applicable laws, regulations and rules or raising doubts as to the financial statements or the internal audit controls or others, whether such conducts or practices are against them or not, and conducting the necessary investigation in that regard;
- 2) Maintaining the confidentiality of reporting procedures by facilitating direct contact with an independent member of the Audit Committee or other specialised committees;
- 3) Appointing an employee to receive and address complaints or reports sent by Stakeholders;
- 4) Dedicating a telephone number or an email address for receiving complaints; and
- 5) Providing the necessary protection to the Stakeholders."

15. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to open data, including open

contracting?

Yes  No

If yes, please provide details.

16. Is your country a member of the Open Government Partnership?

Yes  No

Please provide details including information on the collective actions taken by your country since the last Accountability Report.

17. Does immunity for public officials from investigations and prosecutions for corruption related offences exist in your country?

Yes  No

If yes, how is an appropriate balance ensured between any immunities and the need to effectively investigate, prosecute and adjudicate corruption offences, in accordance with article 30(2) of UNCAC?

### Sectors

18. Since the last Accountability Report, have there been any changes or proposed changes to your country's legislation or other measures related to combating corruption:

a. in Sports? Yes  No

If yes, please provide details.

b. as a facilitator of illegal trade in wildlife and wildlife Yes  No

products?

If yes, please provide details.

19. Is your country supporting or implementing any sector-specific initiatives?

Extractive Industries Transparency Initiative (EITI)

Implementing Yes  No

Supporting Yes  No

Construction Sector Transparency Initiative (CoST)

Implementing Yes  No

Supporting Yes  No

Customs (World Custom Organization-Arusha Declaration)

Implementing Yes  No

Supporting Yes  No

Others

Please specify.

Implementing Yes  No

Supporting Yes  No

Please provide notable details on each of the sectorial initiatives, listed or not listed above, supported by your country or domestic measures taken in relation to specific sectors.

**International Anti-Corruption Instruments**

20. Has your country begun or completed the second cycle of UNCAC peer review process as a country under review?

Yes  No

If yes, please indicate.

Begun

Completed

If no, please indicate when your country is scheduled to be reviewed

21. For either or both cycles, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so?

a. Publication of full report

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

b. Involvement of civil society

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

c. Involvement of business

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

d. Country visits

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

Please provide details (e.g. web link for published report, how and when civil society and/or business were engaged during the review process, date of country visit). If your country has voluntarily published its questionnaire response, please indicate as well.

The following web link regarding the participation of Safaah (as a representative of the

civil society) and the Council of Saudi Chambers (as a representative of the private sector) on the second review cycle of the UNCAC:

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<https://www.nazaha.gov.sa/Media/News/Pages/news1027.aspx>

22. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

Yes  No

n. If yes, please provide details.

Saudi Arabia is still working on the alignment of its legal system to bring it in line with the mandatory provisions in the UNCAC. Lately, the Anti-Bribery law has been revised to address some challenges of implementations presented in the first review cycle.

b. If you have responded to all or some of the recommendations, have you made those responses publicly available?

Yes  No

If yes, please provide details (including web links, if available).

23. Is your country party to the OECD Anti-Bribery Convention?

Yes  No

If no, please give an update on steps taken by your country to

- a. participate actively with the OECD Working Group on Bribery, including through possible Participant status and
- b. adhere to the OECD Anti-Bribery Convention.

24. Has your country begun or completed an OECD Anti-Bribery Convention peer review process as a country under review?

Yes  No

If yes, please indicate.

- |            |                                |                                    |
|------------|--------------------------------|------------------------------------|
| a. Phase 1 | Begun <input type="checkbox"/> | Completed <input type="checkbox"/> |
| b. Phase 2 | Begun <input type="checkbox"/> | Completed <input type="checkbox"/> |
| c. Phase 3 | Begun <input type="checkbox"/> | Completed <input type="checkbox"/> |
| d. Phase 4 | Begun <input type="checkbox"/> | Completed <input type="checkbox"/> |

Please provide information on your country's OECD peer review process and/or any other relevant information (such as reports and links)

25. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in previous OECD Anti-Bribery Convention evaluations?

Yes  No

If yes, please provide details (including a link to the written follow-up report, where applicable).

26. Is your country party to other international or regional anti-corruption instruments (such as the Inter-American Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the Council of Europe Criminal Law Convention on Corruption or the Council of Europe Civil Law Convention on Corruption)?

Yes  No

If yes, please indicate which instrument(s).

The Arab Anti-corruption Convention.

27. Has your country been under review related to any kind of international or regional anti-corruption review mechanism other than the UNCAC peer review process?

Yes  No

If yes, please provide links to review and any compliance reports, if available.

## **SOUTH AFRICA**

### **Summary of National Progress**

1. Please provide a high-level summary (maximum of 500 words) of the most significant anti-corruption measures or initiatives that your country has introduced or implemented since the Accountability Report of 2017. The 2017 Accountability Report as well as previous reports can be accessed at <https://www.g20.org/en/g20-argentina/work-streams/anti-corruption>.

The Protected Disclosures Amendment Act, 2017 was assented to and signed by the President on 31 July 2017. Highlights of the Protected Disclosures Amendment Act include:

- Extending protection to non-permanent employees and workers,
- Providing civil and criminal protection,
- Increasing legal obligations on employers to keep whistleblowers informed, and
- Extending the bodies to which people can make protected disclosures.

### **Practical co-operation:**

2. Please give an update on the progress made and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Persons Sought for Corruption and Asset Recovery.

None.

### **Beneficial Ownership Transparency**

3. Please give an update on the progress made against your National Implementation Plan (if applicable) and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Beneficial Ownership Transparency and the relevant Financial Action Task Force recommendations on beneficial ownership transparency.

The Country has conducted a risk assessment. Report to be released soon.

### **Private Sector Integrity**

4. Since the last Accountability Report, has your government instituted any new measures to promote the development of anti-corruption initiatives, such as anti-corruption training and education by the private sector, including for Small and medium-sized enterprises

(SMEs) and the non-financial professional services sector<sup>17</sup>?

Yes  No

If yes, please provide details.

**Private Sector Integrity**

As part of the multi-agency approach adopted by government, the Anti-Corruption Task Team (ACTT) Programme 4 that is mandated to implement pro-active interventions to mitigate corruption and conduct vulnerable sector risk assessments has identified through risk assessment that “ineffective stakeholder collaboration” in various sectors (e.g Health Sector) is one of the major contributing factors that give rise to corrupt activities.

As an output to the Health Sector Vulnerability Assessment, the Health Sector Anti-Corruption Forum (HSACF) was established with a primary mandate of fostering collaboration between various stakeholders in the Health Sector (e.g non-governmental organizations, civil society, public and private sector). The identified areas of collaboration, which are regulated by the approved Terms of Reference, focus on anti-corruption skills development, mobilizing civil society through anti-corruption awareness and reporting, training exchange programmes between public and private sector to enhance prevention, detection and prosecution of corruption in the Health Sector.

5. Since the last Accountability Report, have there been any changes or proposed changes to your country’s legislation or other measures related to private sector integrity?

Yes  No

If yes, please provide details.

The **Companies Amendment Bill, 2018** (the "**Bill**") was released for public comment by the Minister of Trade and Industry on 21 September **2018**. The **Bill**, if introduced in its current form, proposes a number of changes to the **Companies Act, 2008**. Among other things the Bill proposes the mandatory appointment of a social and ethics committee for a public company or a state-owned company, at each annual general meeting. It sets out the composition of that committee and its functions. The committee’s report will have to be presented to shareholders at the AGM. It also deals with the appointment of auditors to ensure their independence.

6. Does your country apply anti-corruption legislation to SOEs (employees and executives), including anti-bribery legislation? Please provide a response for both active and passive bribery with regard to domestic and transnational bribery of public officials.

<sup>17</sup> non-financial professional services sector could include: computer services, real estate, research and development, legal services and accounting

Yes  No

If yes, please provide details.

Though the PRECCA does not contain specific provisions in respect of corruption committed by an employee or executive of an SOE; but the PRECCA in terms of section 3 make provision for the general offence of corruption. The provisions of the section applies to corruption committed by any person.

In terms of section 3 of the PRECCA it will be an offence for an employee or executive of an SOE to offer and/or a domestic or a transnational public official to accept bribery a from an employee or executive of an SOE.

The provisions are utilized by the law enforcement agencies, thus the prosecution authority to prosecute employees and executives of the SOE's who are involved in corrupt activities with regard to domestic bribery. The provisions applies to both active and passive acts of bribery.

On the other hand, due to the State Capture and the requirements in terms of the OECD, there are proposed amendments to the PRECCA and the proposals contain provisions dealing specifically with bribery committed by private sector and officials/employees attached to SOE's.

If no, has your country taken steps to propose or to make changes to your country's anti-corruption legislation related to SOEs (employees and executives)?

### Active and Passive Bribery Offences

7. Does your country currently have legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

The Department of Justice and Constitutional Development has published the [Prevention and Combating of Corrupt Activities Amendment Bill, 2017](#), for public comment. The Bill aims to to amend the Prevention and Combating of Corrupt Activities Act, 2004, so as to deal with passive corruption in respect of foreign public officials; to extend the offence of unacceptable conduct relating to ordinary witnesses to include whistle-blowers and members of the accounting profession; and to increase the monetary sanctions provided for in the Act.

8. If your country has not criminalized foreign bribery, has your country proposed or made changes, since the last Accountability Report, to your country's legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?
- Yes  No

If yes, please provide details.

### Liability of Legal Persons

9. Has your country established the liability of legal persons for corruption and corruption-related offences?
- Yes  No

If yes, please provide details (e.g. about the type of liability, including whether criminal, civil, or other).

The liability legal persons for the criminal offences including corruption and corruption related offences are dealt with in terms of the provisions of the PRECCA, as the definition of a person in terms of South African law refers to both natural and legal persons. Furthermore, the liability of legal person for the commission of an offence are provided for in terms of section 332(1) of the Criminal Procedure Act, No. 51 of 1977 as amended. In terms of the section legal persons can be prosecuted and be held criminally liable for any offence whether under common or statutory law.

The liability of legal persons for civil and in terms of other laws are dealt with in terms of the provisions of the Companies Act. No 71 of 2008 as amended by the Companies Amendment Act. No. 03 of 2011 as well as other laws which applies to civil liability.

- If no, has your country taken steps since the last Accountability Report to establish the liability of legal persons for corruption and corruption-related offences?
- Yes  No

If yes, please provide details.

Yes, there has been prosecutions on the basis of corruption instituted against a legal persons.

Since, 2015 to date there has been a total number of 7(seven) prosecutions on

corruption and corruption related offences instituted against legal persons.[: namely:-- Project Department of Education- Free State, Project African Paper, Project North Sea Jazz Festival, State of Capture- Estina Leg, Project Liviero, Project Chow, Department of Health – Free State- S v Bassie Leeuw and Others].

**Public Sector Integrity and Transparency**

10. Since the last Accountability Report, has your country taken significant steps to propose or to make changes to your country’s legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

11. Since the last Accountability Report, has your country proposed or made changes to your country’s legislation or other measures related to public disclosure by public officials?

Yes  No

If yes, please provide details.

12. Does your country have in place standards and a system for preventing and managing conflicts of interest in the public sector? This may include the establishment of standards of conduct, especially for public officials working in high-risk sectors; putting into place clear means for developing, implementing and updating conflict-of-interest policies; and identifying “at-risk” activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures.

Yes  No

If yes, please provide details.

The Minister for the Public Service and Administration has designated certain categories of employees to disclose their financial interests. Disclosed financial interests are verified against the Companies’ register, vehicle register, and Deeds register. The Public Service Commission is responsible for verifying interests disclosed by senior managers and identifying potential and/or actual conflict of interests. Heads

of Department verifies disclosures submitted by other categories of employees below senior management.

13. Has your country established whistleblower protections under your domestic laws?

Yes  **X** No

14. Since the 2015 Accountability Report, has your country proposed or made changes to its whistleblower protection framework in both public and private sectors?

Yes  **X** No

If yes, please provide details.

The Protected Disclosures Amendment Act, 2017 was assented to and signed by the President on 31 July 2017. Highlights of the Protected Disclosures Amendment Act include:

- Extending protection to non-permanent employees and workers,
- Providing civil and criminal protection,
- Increasing legal obligations on employers to keep whistleblowers informed, and
- Extending the bodies to which people can make protected disclosures.

15. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No  **X**

If yes, please provide details.

16. Is your country a member of the Open Government Partnership?

Yes  **X** No

Please provide details including information on the collective actions taken by your country since the last Accountability Report.

17. Does immunity for public officials from investigations and prosecutions for corruption related offences exist in your country?

Yes  No

If yes, how is an appropriate balance ensured between any immunities and the need to effectively investigate, prosecute and adjudicate corruption offences, in accordance with article 30(2) of UNCAC?

No.

**Sectors**

18. Since the last Accountability Report, have there been any changes or proposed changes to your country's legislation or other measures related to combating corruption:

a. in Sports? Yes  No

If yes, please provide details.

b. as a facilitator of illegal trade in wildlife and wildlife products? Yes  No

If yes, please provide details.

19. Is your country supporting or implementing any sector-specific initiatives?

Extractive Industries Transparency Initiative (EITI)

Implementing Yes  No

Supporting Yes  No

Construction Sector Transparency Initiative (CoST)

Implementing Yes  No

Supporting Yes  No

Customs (World Custom Organization-Arusha Declaration)

Implementing Yes  No

Supporting Yes  No

Others

Please specify.

Implementing Yes  No

Supporting Yes  No

Please provide notable details on each of the sectorial initiatives, listed or not listed above, supported by your country or domestic measures taken in relation to specific sectors.

**International Anti-Corruption Instruments**

20. Has your country begun or completed the second cycle of UNCAC peer review process as a country under review?

Yes  No

If yes, please indicate.

Begun

Completed

If no, please indicate when your country is scheduled to be reviewed

21. For either or both cycles, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so?

a. Publication of full report

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

b. Involvement of civil society

- aa. First Cycle                      Yes     No     Committed to do so
- bb. Second Cycle                    Yes     No     Committed to do so

c. Involvement of business

- aa. First Cycle                      Yes     No     Committed to do so
- bb. Second Cycle                    Yes     No     Committed to do so

d. Country visits

- aa. First Cycle                      Yes     No     Committed to do so
- bb. Second Cycle                    Yes     No     Committed to do so

Please provide details (e.g. web link for published report, how and when civil society and/or business were engaged during the review process, date of country visit). If your country has voluntarily published its questionnaire response, please indicate as well.

The report of the 1<sup>st</sup> Cycle Review is published on the UNODC website and on the department of Public Service and Administration Website: <http://www.dpsa.gov.za/dpsa2g/documents/accc/2013%20UNCAC%20FINAL%20COUNTRY%20REPORT%20SOUTH%20AFRICA.pdf>

The Country has only published the report.

Civil society and business were involved during the country visit.

Date of the Country visit was from 10 – 14 September 2012.

22. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

- Yes     No

o. If yes, please provide details.

- The Protected Disclosure Act has been amended. Signed by the President on 31 July 2017.
- The corruption legislation (Prevention and combatting of Corrupt Activities Act, 2004 is currently under review to incorporate recommendations of the first cycle review.
- The National Anti-Corruption strategy is also under review. The discussion document

can be accessed at:  
[https://www.gov.za/sites/default/files/NACS%20Discussion%20Document%20-%20Final\\_a.pdf](https://www.gov.za/sites/default/files/NACS%20Discussion%20Document%20-%20Final_a.pdf)

b. If you have responded to all or some of the recommendations, have you made those responses publicly available?

Yes  No

If yes, please provide details (including web links, if available).

The Protected Disclosures Amendment Act, of 2017, was published in the Government Gazette on 2 August 2017: <http://www.justice.gov.za/legislation/acts/2017-005.pdf>

23. Is your country party to the OECD Anti-Bribery Convention?

Yes  No

If no, please give an update on steps taken by your country to

- a. participate actively with the OECD Working Group on Bribery, including through possible Participant status and
- b. adhere to the OECD Anti-Bribery Convention.

24. Has your country begun or completed an OECD Anti-Bribery Convention peer review process as a country under review?

Yes  No

If yes, please indicate.

- |            |                                |   |
|------------|--------------------------------|---|
| a. Phase 1 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| b. Phase 2 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| c. Phase 3 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| d. Phase 4 | Begun <input type="checkbox"/> | Completed <input type="checkbox"/>            |

Please provide information on your country's OECD peer review process and/or any other relevant information (such as reports and links)

South Africa underwent the Phase 1 evaluation in 2008 and a report was adopted by the Working Group on Bribery (WGB) during the same year. In 2009, South Africa commenced with the Phase 2 evaluation, which was completed and a report was published in June 2010. The Phase 3 review of South Africa commenced in 2013 and a Country Report was published in March 2014.

Since then, South Africa provided follow-up reports to address the OECD Convention recommendations. The March 2016 Follow-up Written Report found that out of the 40 recommendations made by the WGB, 6 were fully implemented, 23 were partially implemented and 10 not implemented. One recommendation was found to be no longer relevant (see Attached report, March 2016). Most of the partially implemented recommendations stems from the WGB's concern around a perceived lack of enforcement action on South Africa's side and a lack of enforcement of corporate liability and insufficient sanctions for legal persons.

All South Africa's country reports are available on the OECD website.

25. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in previous OECD Anti-Bribery Convention evaluations?

Yes  No

If yes, please provide details (including a link to the written follow-up report, where applicable).

The OECD recorded significant improvements pertaining to the following (see March 2016 Report):

- Legislative amendments such as: Adoption of the Financial Intelligence Centre Act, amendments to the South African Police Service Act and the Protected Disclosures Act, as well as current amendments to the Prevention and Combating of Corrupt Activities Act.
- Improved reaction to mutual legal assistance requests.
- Increased awareness of the foreign bribery offence within the private and public sectors.
- Improved protection of whistle-blowers.
- The detection of foreign bribery through Official Development-Assistance-funded contracts.

- Effective enforcement of non-deductability of bribe payments.

26. Is your country party to other international or regional anti-corruption instruments (such as the Inter-American Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the Council of Europe Criminal Law Convention on Corruption or the Council of Europe Civil Law Convention on Corruption)?

Yes  **X** No

If yes, please indicate which instrument(s).

- African Union Convention on Preventing and Combatting Corruption
- South African Development Community Protocol against Corruption

27. Has your country been under review related to any kind of international or regional anti-corruption review mechanism other than the UNCAC peer review process?

Yes  No  **X**

If yes, please provide links to review and any compliance reports, if available.

## **SPAIN**

### **Summary of National Progress**

1. Please provide a high-level summary (maximum of 500 words) of the most significant anti-corruption measures or initiatives that your country has introduced or implemented since the Accountability Report of 2017. The 2017 Accountability Report as well as previous reports can be accessed at <https://www.g20.org/en/g20-argentina/work-streams/anti-corruption>.

Spain introduced a number of reforms and new legislation in the period 2014-2015, including a reform of the Criminal Code.

Over the last year, and in addition to the continued implementation of the previous reforms, progress has been made in several areas. Key initiatives include:

- an amendment of the legal framework for the prevention of money laundering and terrorism financing in the financial system (through the completion of the transposition of Directive (EU) 2015/849 of 20 May 2015 by means of Royal Decree Law 11/2018 of 31 August);
- the enactment of Law 9/2017 of 8 November, on Contracts of the Public Sector, which overhauls the public procurement system and improves governance and transparency, inter alia through the creation of two new bodies (the Cooperation Committee on Public Procurement and the Independent Office for Regulating and Monitoring Procurement) and the expansion of the functions of the State Public Procurement Advisory Board; and
- the adoption of a comprehensive National Action Plan against Wildlife Trafficking in February 2018.

### **Practical co-operation:**

2. Please give an update on the progress made and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Persons Sought for Corruption and Asset Recovery.

Efforts since 2015 have focused on the implementation of the reform of the legal framework introduced that year with a view to providing more effective legal instruments for the recovery of the proceeds of crime and their efficient management. This reform transposed Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union. The Asset Recovery and Management Office (*Oficina de Recuperación y Gestión de Activos*, ORGA) was created in October 2015 and prepared action plans for 2016, 2017 and 2018/2019 (see <http://www.mjusticia.gob.es/cs/Satellite/Portal/es/areas-tematicas/oficina-recuperacion-gestion>). The current plan focuses on the strengthening of location and recovery of

assets (including by reinforcing the cooperation with third countries), the consolidation of ORGA's asset management activities, the launch of a commission for the allocation of proceeds of crime, and the strengthening of material and human resources for ORGA's operations.

### **Beneficial Ownership Transparency**

3. Please give an update on the progress made against your National Implementation Plan (if applicable) and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Beneficial Ownership Transparency and the relevant Financial Action Task Force recommendations on beneficial ownership transparency.

The database on beneficial ownership information set up and in the General Council of the Notaries is up and running, with fluent access by all competent authorities. Police, FIU, tax authorities and the Public Prosecutor's Office made 1,393 queries in 2016. Financial institutions are also accessing this information (509,704 queries in 2015/16), and so are other entities required to use the database.

A second beneficial ownership database will be operational soon (October 2018). This database is currently under development phase in the Anti-Money Laundering Council of the Registrars.

Order of the Ministry of Justice JUS/319/2018 of 21 March introduced new templates for the filing of annual accounts at the Commercial Registry. These include a new form to declare the beneficial owner of all legal entities required to file annual accounts at the Commercial Registry.

Additionally, the Financial Ownership File established in SEPBLAC (Spanish FIU) has been operational since May 2016. This file is updated on a monthly basis by financial institutions operating in Spain and contains all the information on holders of all bank accounts (current, saving and deposit accounts) as well as securities accounts. Amendments made to Law 10/2010 in August 2018 have also included information on the holders of security boxes of the credit institutions. Among the data available in the database there is information on the beneficial owners of all legal entities holding one of these instruments.

### **Private Sector Integrity**

4. Since the last Accountability Report, has your government instituted any new measures to promote the development of anti-corruption initiatives, such as anti-corruption training and education by the private sector, including for Small and medium-sized enterprises

(SMEs) and the non-financial professional services sector<sup>18</sup>?

Yes  No

If yes, please provide details.

According to article 39 of the Regulation implementing Law 10/2010, of 28 April on the Prevention of Money Laundering and Terrorist Financing (ML/TF), obliged entities (both financial and non-financial) are required to adopt an annual training program on the prevention of ML/TF, including a specific study on the main risks affecting the obliged entity. Compliance with this requirement is audited by an external audit every year, according to article 38 of the same Regulation. Infringements to this obligation by obliged entities have led to several economic sanctions and admonitions by the AML/CFT Spanish Commission.

SEPBLAC has issued comprehensive Guidelines on Corruption in International Economic Activities, which sets out a series of risk indicators of corruption in international economic activities and describe the obligations for financial entities and non-financial sector: (i) examining with special attention any event or operation, with independence of its amount, which, by its nature, may be related to ML from acts of international bribery, (ii) communicating to SEPBLAC any fact or operation, even the mere attempt, that after the special examination, contain any indication or certainty that it is related to ML linked to international bribery and (iii) refrain from executing operations related to ML linked to international bribery. For more information, see: [https://www.sepblac.es/wp-content/uploads/2018/03/corrupcion\\_en\\_las\\_actividades\\_economicas\\_internacionales\\_indicadores\\_de\\_riesgo.pdf](https://www.sepblac.es/wp-content/uploads/2018/03/corrupcion_en_las_actividades_economicas_internacionales_indicadores_de_riesgo.pdf).

5. Since the last Accountability Report, have there been any changes or proposed changes to your country's legislation or other measures related to private sector integrity?

Yes  No

If yes, please provide details.

Royal Decree Law 11/2018 of 31 August has amended the framework of legal obligations contained in Law 10/2010, to prevent money laundering and terrorist financing, including changes related to private sector integrity. Among other provisions, this Law:

- develops the obligation to have internal communication systems to allow employees to report breaches of the law or of internal procedures of the entity in question.
- establishes a confidential communication system to report of infractions of Law

<sup>18</sup> non-financial professional services sector could include: computer services, real estate, research and development, legal services and accounting.

10/2010.

6. Does your country apply anti-corruption legislation to SOEs (employees and executives), including anti-bribery legislation? Please provide a response for both active and passive bribery with regard to domestic and transnational bribery of public officials.

Yes  No

If yes, please provide details.

Anti-corruption legislation is applicable to SOEs, which are criminally liable like other legal persons. Article 31 bis of the Spanish Criminal Code provides for a general criminal liability regime for all legal persons with no exceptions other than those foreseen in the first paragraph of Article 31 quinquies. This provision reads as follows:

“1. The provisions related to criminal liability of legal persons shall not be applicable to the State, to the territorial and institutional Public Administrations, to the Regulatory Bodies, to Public Agencies and Corporate Entities, to international organisations under Public Law, or to others that exercise public powers of sovereignty or administration.

2. In the case of State Mercantile Companies that implement public policies or provide services of general economic interest, only the penalties foreseen in Sub-Paragraphs a) and g) of Section 7 of Article 33 may be imposed. This limitation shall not be applicable when the Judge or Court considers that the legal form was established by the promoters, founders, managers or representatives thereof with the aim of eluding a possible criminal liability.”

Domestic bribery is regulated in articles 419 to 427 bis of the Criminal Code and foreign bribery of public officials, specific provisions are foreseen in articles 286 ter, 286 quarter and 288 of the Criminal Code. The concept of “public official” is defined in article 24 of the Criminal Code and article 427 of the Criminal Code includes a reference to SOEs (“empresas públicas”).

Criminal Code - Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal - <https://www.boe.es/buscar/act.php?id=BOE-A-1995-25444>

If no, has your country taken steps to propose or to make changes to your country’s anti-corruption legislation related to SOEs (employees and executives)?

### Active and Passive Bribery Offences

7. Does your country currently have legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials

and/or officials of public international organizations?

Yes  No

If yes, please provide details.

Articles 419 to 427 bis of the Criminal Code prohibit active and passive domestic and foreign bribery.

Articles 24 and 427 bis define the concepts of domestic officials, foreign public officials and officials of public international organizations.

In addition, any gift, favor or service under advantageous conditions that go beyond the usual, social and courtesy uses shall be rejected by public officials, without prejudice to what is established in the Criminal Code. (Article 54 of the Royal Legislative Decree 5/2015 of 30 October approving the consolidated text of the Public Employee Basic Statute Act).

8. If your country has not criminalized foreign bribery, has your country proposed or made changes, since the last Accountability Report, to your country's legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

### Liability of Legal Persons

9. Has your country established the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details (e.g. about the type of liability, including whether criminal, civil, or other).

In Spain the criminal liability of legal persons was established in 2010 and revised in 2015. At present, the criminal liability of legal persons is regulated in articles 31 bis to 31 quinquies of the Criminal Code. In addition, article 427 bis establishes the penalties than can be imposed to legal persons for corruption offences and article 288 for foreign bribery offences.

If no, has your country taken steps since the last Accountability Report to establish the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details.

### Public Sector Integrity and Transparency

10. Since the last Accountability Report, has your country taken significant steps to propose or to make changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

In July 2015, law 37/2007, of 16 November, on the reuse of public sector information, was amended. The highlights of the renewed law are the following:

- the obligation for governments and public sector bodies to allow the re-use of documents, with the exception of information that is restricted or excluded under national law or a EU Directive;
- the law has been extended to libraries, including university libraries, museums and archives, and the extensive information resources they already have and are currently producing as part of digitisation projects;
- whenever possible and appropriate, the information should be provided in an open and machine-readable format, along with its metadata, thereby ensuring interoperability
- the new law incorporates from the Directive the principle of marginal costs in the calculation of tariffs for the re-use of documents;
- Tariffs are kept under control by using electronic media to publish information and by transparency in rates; and
- The use of open licences is encouraged, in order to minimise restrictions on the re-use of information.

In addition, and in the context of the III Action Plan of Spain for the Open Government Partnership, the Aporta programme, aimed at opening up public sector information, will be strengthened by developing the law on the reuse of public sector information, and the national catalogue of open data will be expanded.

Finally, in order to transpose into the Spanish legal system Directive 2013/37/EU of the

European Parliament and of the Council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information, a draft royal decree is about to be approved. This draft aims to promote the reutilisation of documents from the public sector, recognizing the enormous potential of the valuable resources at disposal for society as a whole. This draft establishes the principle of open access and the exceptions subject to authorisation, under the umbrella of Law 37/2007, amended in 2015.

Specifically regarding open contracting, pursuant to Article 347.2 of Law 9/2017 the contracting profiles (the so called “perfiles de contratante”) of all the contracting authorities of the state public sector must be stored, managed and published exclusively through the Central State’s Contracting Platform. Article 347.3 of the same Law enables the autonomous communities and autonomous cities to create information services similar to the Central State’s Contracting Platform. Autonomous communities and autonomous cities must in any case publish the call of all their procurement bids as well as their results through the Contracting Platform. Law 9/2017 reinforces this obligation by declaring its infringement a nullity cause under Article 39.2.c). This provision is having an impact in promoting compliance. Finally, Law 9/2017, through Article 63, takes a big step towards open contracting by considerably expanding the information that has to be published by contracting authorities in their contracting profiles.

11. Since the last Accountability Report, has your country proposed or made changes to your country’s legislation or other measures related to public disclosure by public officials?

Yes  No

If yes, please provide details.

Royal Decree Law 11/2018 of 31 August has amended the framework of legal obligations contained in Law 10/2010, to prevent money laundering and terrorist financing. This Law introduced changes related to public disclosure by public officials through new rules regarding persons with public responsibility (PEPS). As a result, the public disclosure regime has become stricter in relation to persons with domestic public responsibility, in all cases and with respect to any product. The obligation for senior management to approve this type of business relationship may be stratified at different levels within the entity, depending on the type of person, operation or service subject to the business relationship. This provision goes beyond what is required by FATF Recommendations and is in line with the EU ML/FT Directives.

12. Does your country have in place standards and a system for preventing and managing conflicts of interest in the public sector? This may include the establishment of standards of conduct, especially for public officials working in high-risk sectors; putting into place

clear means for developing, implementing and updating conflict-of-interest policies; and identifying “at-risk” activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures.

Yes  No

If yes, please provide details.

The applicable legal framework on conflicts of interest comprises:

- Law 53/1984, of 26 December, on incompatibilities of the staff working in Public Administrations,
- The Code of Conduct of public employees which is an integral part of the Basic Statute of Public Employees (articles 52, 53 and 54, Legislative Royal Decree 5/2015, 30 October),
- Law 3/2015, of 30 March, regulating the exercise of high office in the Central Administration, and
- other specific laws for other employees of bodies such as the National Securities Commission (“Comisión Nacional del Mercado de Valores”) or the Central Bank (“Banco de España”).

In the area of public procurement, conflicts of interest are regulated and defined under Article 64 of Law 9/2017 of public sector contracts. This provision requires public officials to prevent, identify and solve conflict of interests.

Article 332 of Law 9/2017 of public sector contracts creates the Independent Office of Monitoring and Regulation of Procurement. The Office is responsible for verifying that obligations and good practices of transparency, particularly those related to conflicts of interest, are applied to the maximum extent, as well as for detecting any irregularities that may occur in public procurement

In the event that the Office is aware of facts constituting a crime or infraction at the state, regional or local level, it will immediately transfer the case, depending on its nature, to the prosecutor's office or competent judicial bodies, or to the competent entities or administrative bodies, including the Court of Accounts and the National Commission of Markets and Competition.

The autonomous communities are also allowed to create their own monitoring and regulating Offices.

Moreover, under Article 64 of Act 9/2017 public officials are obliged to prevent, identify and solve conflicts of interest as therein defined.

13. Has your country established whistleblower protections under your domestic laws?

Yes  No

14. Since the 2015 Accountability Report, has your country proposed or made changes to its whistleblower protection framework in both public and private sectors?

Yes  No

If yes, please provide details.

In April 2018, the European Commission tabled a proposal for a Directive of the European Parliament and of the Council on the protection of persons reporting on breaches of Union law which is currently being discussed at the Council.

At the National level, the Minister of Justice announced in a parliamentary hearing in July 2018 a number of measures to strengthen the fight against political and economic corruption, such as the preparation of a new comprehensive law for the protection of witnesses, the strengthening of whistleblower protection and the introduction of incentives for persons who bring these crimes to the attention of the competent authorities.

15. Since the last Accountability Report, has your country proposed or made changes to your country’s legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

See question 10, above.

16. Is your country a member of the Open Government Partnership?

Yes  No

Please provide details including information on the collective actions taken by your country since the last Accountability Report.

“From the start of the Open Government Partnership (OGP), in 2011, Spain has shown a strong engagement in the principles and values underlying this initiative: Transparency, Accountability, Participation and Technological Innovation. Since then, two Action Plans have been implemented (2012 and 2014).

The current Third Action Plan within the context of the OGP was published on 27 June 2017, following a very intensive consultation process which ran through the first half of 2017 with the participation of civil society as well as every level of Public Administration in Spain.

Among the measures included in the plan is the commitment to improve and expand on the contents of the General State Administration Service's Transparency Portal and to develop and approve a Transparency Act in this parliamentary term.

The *Aporta* programme, aimed at opening up public sector information, will be strengthened by developing the law on the reuse of public sector information, and the national catalogue of open data will be expanded by at least 20%.

In the field of justice, the aim is to improve access to judicial information with measures such as making available to citizens more information about oral hearings and judicial case file documentation, among others, and to provide a streaming broadcast service for certain court hearings.

Meanwhile, public employees will be trained in the principles and strategies of open government, the awareness of civil society will be raised through free and open information resources, and education in open government will be promoted through activities in schools.

In order to develop all these measures a sectorial commission has been set up to work with the Autonomous Regions, as well as a network of local authorities to promote transparency policies at a local level. An Open Government Forum will also be set up to work alongside the social society stakeholders involved: representatives from the academic world, consumer and user organisations, not-for-profit associations, and third sector organisations.

The III Action Plan, to be implemented between July 2017 and June 2019, includes a total of 20 commitments and 223 activities, all of which are under the umbrella of 5 main axes: Transparency, Collaboration, Participation, Accountability, and Education and Awareness. The Plan is available under the following link:

[http://transparencia.gob.es/transparencia/transparencia\\_Home/index/Gobierno-abierto/allIPlanAccion.html](http://transparencia.gob.es/transparencia/transparencia_Home/index/Gobierno-abierto/allIPlanAccion.html)

As of 30 June 2018 (after one year of implementation) 34% of the activities laid down in the Action Plan had been completed and 48% were ongoing. The main achievements include:

- The creation of the Open Government Multisectoral Forum
- The preparation of a draft Transparency regulation
- The consolidation of the transparency network of local authorities
- The creation of a participatory web space for the follow-up of the III Open Government Plan

- The development of a methodology for the evaluation of participation in plans and programs
  - Considerable improvements to the Transparency Portal
  - The publishing of new open data datasets
  - Advances in Open Justice: A pilot project has begun for the automatic extraction of the statistical data of the judicial activity, also progressing on reusing information and streaming broadcast service for certain court hearings.
  - Introduction of Open Government education plans and teacher training
  - Organisation of the Open Administration Week with more than 300 events
  - Training of public employees in Open Government
- Details of these achievements can be accessed in the following link:  
[http://transparencia.gob.es/transparencia/transparencia\\_Home/index/Gobierno-abierto/allIPlanAccion/CompromisosIIIPGA.html](http://transparencia.gob.es/transparencia/transparencia_Home/index/Gobierno-abierto/allIPlanAccion/CompromisosIIIPGA.html)

17. Does immunity for public officials from investigations and prosecutions for corruption related offences exist in your country?

Yes  No

If yes, how is an appropriate balance ensured between any immunities and the need to effectively investigate, prosecute and adjudicate corruption offences, in accordance with article 30(2) of UNCAC?

**Sectors**

18. Since the last Accountability Report, have there been any changes or proposed changes to your country’s legislation or other measures related to combating corruption:

a. in Sports? Yes  No

If yes, please provide details.

Spain is part of the Copenhagen Working Group established under the auspices of the Council of Europe EPAS (Enlarged Partial Agreement on Sports) to promote the creation of national platforms under the Council of Europe’s Convention on the Manipulation of Sports Competitions as well as to promote best practices and experiences.

Spain is currently working on a national platform to counter the manipulation of sports competitions and betting fraud through a task force involving several government

agencies, the National Police, LaLiga, the Royal Spanish Football Federation and the Royal Spanish Tennis Federation. A draft ministerial order regulating the coordination body for this platform has been prepared.

b. as a facilitator of illegal trade in wildlife and wildlife products? Yes  No

If yes, please provide details.

In 2015, there was an improvement of wildlife trafficking definition in the last update of the Spanish Criminal Code.

In addition, in February 2018, Spain adopted a comprehensive National Action Plan against Wildlife Trafficking. This Plan builds upon the EU Action Plan against Wildlife Trafficking, adopted by the European Commission in 2016, and adapts its objectives and measures to the Spanish context. The preparation of the plan took place in 2016 and 2017 with the involvement of several ministries and government agencies. The plan focuses on three main priorities: (1) prevent the international illegal trafficking of wildlife species and address its root causes through the involvement of public administrations and civil society; (2) enforce existing rules and combat illegal practices more effectively; and (3) strengthen the global partnership between origin, transit and consumption countries. The Action Plan includes a monitoring framework.

19. Is your country supporting or implementing any sector-specific initiatives?

Extractive Industries Transparency Initiative (EITI)

Implementing Yes  No

Supporting Yes  No

Construction Sector Transparency Initiative (CoST)

Implementing Yes  No

Supporting Yes  No

Customs (World Custom Organization-Arusha Declaration)

Implementing Yes  No

Supporting Yes  No

Others

Please specify.

Implementing Yes  No   
 Supporting Yes  No

Please provide notable details on each of the sectorial initiatives, listed or not listed above, supported by your country or domestic measures taken in relation to specific sectors.

**International Anti-Corruption Instruments**

20. Has your country begun or completed the second cycle of UNCAC peer review process as a country under review?

Yes  No

If yes, please indicate.

Begun  Completed

If no, please indicate when your country is scheduled to be reviewed

Spain will be reviewed in year 5 of the second cycle (2020/2021)

21. For either or both cycles, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so?

a. Publication of full report

aa. First Cycle Yes  No  Committed to do so   
 bb. Second Cycle Yes  No  Committed to do so

b. Involvement of civil society

aa. First Cycle Yes  No  Committed to do so   
 bb. Second Cycle Yes  No  Committed to do so

c. Involvement of business

- aa. First Cycle                      Yes       No       Committed to do so
- bb. Second Cycle                    Yes       No       Committed to do so

d. Country visits

- aa. First Cycle                      Yes       No       Committed to do so
- bb. Second Cycle                    Yes       No       Committed to do so

Please provide details (e.g. web link for published report, how and when civil society and/or business were engaged during the review process, date of country visit). If your country has voluntarily published its questionnaire response, please indicate as well.

For the first cycle, the country visit to Spain was conducted from the 5<sup>th</sup> to the 7<sup>th</sup> of April 2011.

Links to the first Country Review Report:

<http://www.unodc.org/unodc/treaties/CAC/country-profile/CountryProfile.html?code=ESP>

<http://www.exteriores.gob.es/Portal/es/PoliticaExteriorCooperacion/GlobalizacionOportunidadesRiesgos/Documents/España%20Info%20España%20s-aplicac%20Conv.NN.%20UU.%20contr%20corrupción.pdf>

22. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

- Yes       No

p. If yes, please provide details.

The measures announced in July 2018 regarding whistleblower protection will address some of the recommendations of the First Review conducted in 2011.

b. If you have responded to all or some of the recommendations, have you made those responses publicly available?

- Yes       No

If yes, please provide details (including web links, if available).

23. Is your country party to the OECD Anti-Bribery Convention?

Yes  No

If no, please give an update on steps taken by your country to

- a. participate actively with the OECD Working Group on Bribery, including through possible Participant status and
- b. adhere to the OECD Anti-Bribery Convention.

24. Has your country begun or completed an OECD Anti-Bribery Convention peer review process as a country under review?

Yes  No

If yes, please indicate.

- |            |                                |   |
|------------|--------------------------------|---|
| a. Phase 1 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| b. Phase 2 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| c. Phase 3 | Begun <input type="checkbox"/> | Completed <input checked="" type="checkbox"/> |
| d. Phase 4 | Begun <input type="checkbox"/> | Completed <input type="checkbox"/>            |

Please provide information on your country's OECD peer review process and/or any other relevant information (such as reports and links)

The Phase 3 review process was finalized in October 2015. The Phase 4 report on Spain is foreseen to be adopted by the WGB in December 2021. More information available at: <http://www.oecd.org/daf/anti-bribery/spain-oecdanti-briberyconvention.htm>.

25. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in previous OECD Anti-Bribery Convention evaluations?

Yes  No

If yes, please provide details (including a link to the written follow-up report, where applicable).

Further to the legislative reforms adopted in 2015, progress towards the detection and enforcement of foreign bribery has continued.

In February 2017 a case concluded with a final conviction sentence for foreign bribery.

26. Is your country party to other international or regional anti-corruption instruments (such as the Inter-American Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the Council of Europe Criminal Law Convention on Corruption or the Council of Europe Civil Law Convention on Corruption)?

Yes  No

If yes, please indicate which instrument(s).

- Council of Europe Criminal Law Convention on Corruption (ETS 173)
- Council of Europe Civil Law Convention on Corruption (ETS 174)
- Additional Protocol to the Council of Europe Criminal Law Convention on Corruption (ETS 191)

27. Has your country been under review related to any kind of international or regional anti-corruption review mechanism other than the UNCAC peer review process?

Yes  No

If yes, please provide links to review and any compliance reports, if available.

Spain is one of the 17 founding members of the Group of States against Corruption (GRECO) of the Council of Europe.

In the framework of the Fourth evaluation round, the compliance report was adopted by GRECO at its 72nd Plenary Meeting (27 June-1 July 2016). An interim compliance report was adopted by GRECO at its 78<sup>th</sup> Plenary Meeting (4-8 December 2017). Spain will be submitting additional information to GRECO before the end of 2018. More information available at: <http://www.coe.int/en/web/greco/evaluations/spain>.

## **TURKEY**

### **Summary of National Progress**

1. Please provide a high-level summary (maximum of 500 words) of the most significant anti-corruption measures or initiatives that your country has introduced or implemented since the Accountability Report of 2017. The 2017 Accountability Report as well as previous reports can be accessed at <https://www.g20.org/en/g20-argentina/work-streams/anti-corruption>.

Turkey continues its efforts to fight against corruption both at national and international level. Since the last accountability report, Turkey passed law no. 6706 on international judicial cooperation in criminal matters. Turkey maintains its cooperation at national and international level with the relevant authorities for the detection, investigation and criminalization of corruption and executes the requests for mutual legal assistance, extradition and repatriation of proceeds of crime in an effectively and timely manner.

Furthermore the review processes are ongoing under the OECD, GRECO, UNCAC and FAFT. Turkey follows up and responses the recommendations identified in review processes. In this respect, Turkey has completed the first cycle review under the UN Convention against Corruption's Review Mechanism and the second cycle review has begun. Finally, Phase 3 Evaluation of Turkey under the OECD Review Mechanism is continuing.

### **Practical co-operation:**

2. Please give an update on the progress made and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Persons Sought for Corruption and Asset Recovery.

The law no 6706 on international judicial cooperation in criminal matters came into force in 2016 and this law includes provisions on mutual legal assistance, extradition, transfer of sentenced persons, mutual recognition of criminal judgments and transfer of proceedings.

Turkey recognizes the important baseline for international legal cooperation established by UNCAC, GRECO, FAFT and OECD and continue to work on making its domestic legal system consistent with the applicable international documents and conventions.

Turkey supports effective international cooperation in anti-corruption matters based on a variety of legal frameworks. and implements effectively the extradition and MLA provisions of UNCAC and other applicable international conventions

In order to enhance capacity building, institutional values and ethics, and experience-sharing in this area, in close coordination with existing relevant regional organizations,

the Ministry of Justice held a two-day symposium in Turkey. The event was participated by a large number of judges and prosecutors from regional courts, supreme court members, academics, law firms, and universities. In the context of this symposium experts gave presentations on selected aspects of international legal cooperation in criminal matters and the feedback from the participants were positive. The aim of the symposium was raising awareness and promoting cooperation between the relevant parties.

### Beneficial Ownership Transparency

3. Please give an update on the progress made against your National Implementation Plan (if applicable) and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Beneficial Ownership Transparency and the relevant Financial Action Task Force recommendations on beneficial ownership transparency.

As it is known, G20 High Level Principles on Beneficial Ownership Transparency was published in 2014 and member countries have prepared their action plans with regard to the adopted principles. Steps taken in order to attain progress on this action plan is summed up below:

#### Definition:

Turkey set forth the definition of beneficial owner and measures for identification of beneficial ownership in terms of customer due diligence measures in 2008 and amended its regulations in line with FATF standards in 2014. Accordingly, Beneficial Owner definition in Article 3(1)(h) of the Regulation on Measures Regarding Prevention of Laundering Proceeds of Crime and Financing of Terrorism (RoM) is complied with the FATF standard thanks to the Regulation Amending the RoM which entered into force on 10 June 2014 as shown below:

*“Beneficial owner means natural person(s) who ultimately control(s) or own(s) natural person who carry out a transaction within an obliged party, or the natural persons, legal persons or unincorporated organizations on whose behalf a transaction is being conducted within an obliged party.”*

Besides, Article 17/A is also introduced to the RoM by the same regulation in order to prevent conflict of the meaning between the concepts “those acting for benefit of others” and “beneficial owner”. By this means,

- For customers that are legal persons registered to trade registry, obliged parties shall be subject to the requirements in Art. 17/A(2), (3), (4), (6).
- For customers that are other legal persons and legal arrangements, obliged parties shall be subject to the requirements in Art. 17/A(5), (6).
- For customers that are real persons, obliged parties shall be subject to the requirements in Art. 17/A(1), (6).

For customers that are legal persons, all obliged parties including financial institutions shall take necessary measures to detect the natural person(s) who is/are ultimately controlling the legal person. (Art.17/A(3) and (5) of the RoM).

Obliged parties shall determine whether beneficial owner exists or not and then take reasonable steps to obtain sufficient identification data to verify the identity of that person. While making the research, obliged parties shall conduct on-going monitoring on the customer and so business relationship whether they are in compliance with the information regarding financial status, job, risk profile, business history etc. (Art. 19 of the RoM and Article 15(3)(ç) and (f) of the RoC).

Moreover, in cases where there is a suspicion that the person is acting in his/her own name but for the benefit of someone else although he/she has declared that he/she is not acting for the benefit of someone else, measures for the identification of the beneficial owner shall be applied (Article 17(3) of the RoM)

Article 17/A of the RoM is shown below:

*Identification of Beneficial Owner (Added – Official Gazette – 10.06.2014/29026)*

*ARTICLE 17/A- (1) Obligated parties shall take necessary measures in order to detect the beneficial owner.*

*(2) When establishing permanent business relationship with legal persons registered to trade registry, obliged parties shall identify, in accordance with article 6, the natural person partners holding more than twenty-five percent of the legal person's shares as the beneficial owner.*

*(3) In cases where there is a suspicion that the natural person partner holding more than twentyfive percent of the legal person's shares is not the beneficial owner or where there is no natural person holding a share at this rate, necessary measures shall be taken in order to detect the natural person(s) who is/are ultimately controlling the legal person. And natural person(s) detected shall be considered as beneficial owner.*

*(4) In cases where the beneficial owner is not detected within the scope of paragraphs 2 and 3, the natural person(s) holding the position of senior managing official, whose authorization to represent the legal person is/are registered to trade registry, shall be considered as beneficial owner.*

*(5) Within the scope of permanent business relationship with other legal persons and unincorporated organizations, necessary measures shall be taken in order to detect the natural person(s) who is/are ultimately controlling the legal person. In case where the beneficial owner is not detected, the natural person(s) holding the position of senior managing official within them shall be considered as beneficial owner.*

*(6) In the scope of the paragraphs (1) to (5), obliged parties shall identify the beneficial owner and take necessary measures in order to verify the beneficial owner. In this framework, a notarized circular of signature including identity information can be used.*

*(7) When establishing permanent business relationship with legal persons registered to trade registry, obliged parties shall also identify, in accordance with article 7, the legal person partners holding more than twenty-five percent of the legal person shares.*

Turkey gives priority to implementation of this obligation. Following the legislative amendment, a guideline was published by MASAK in 2016.

### **National Risk Assessment**

Turkey is currently working to finalize country's first national risk assessment on anti-

money laundering / combating financing of terrorism (AML/CFT).

**Central Registry**

Turkey uses a number of mechanisms to obtain beneficial ownership (B.O.) information. As it is mentioned above, this information can be gathered through the obliged parties which have business relationships with those legal persons registered to trade registry. In addition to obliged parties' records, B.O information can also be gathered from trade registries. All commercial companies are required to prepare a written article of association document and they acquire legal personality by registering in trade register. Besides, in all commercial companies, except joint-stock companies, current shareholder information is registered in trade register. In terms of joint-stock companies Turkish Commercial Code doesn't require registration of share transfers. However, it is obligatory that company records in the share register the names, trade names and addresses of the owners of uncertified shares and registered shares and usufruct rights. And also, companies are obliged to hold a general meeting every year. After the meeting, the board of directors is obliged to submit the list of participants together with the meeting minutes to the trade register (article 422). Therefore, list of participants to general meeting is kept by trade register. All registrations made in the trade register are published in Turkey Trade Registry Gazette. This newspaper is published online at "ticaretsicil.gov.tr" and is publicly available.

Besides, all commercial registry transactions are carried out by the electronic registry system, MERSİS (Central Trade Registry System), and the data stored in electronic environment. Users may access certain information about companies by creating a free membership on "mersis.gov.tr". As a result, shareholder structure of companies including the beneficial ownership information can be accessed via Ministry of Trade records timely.

MERSİS has two portals; Citizen and Trade Registry Offices

- In citizen portal; natural and legal persons who are given unique key number can establish new companies, conduct registration and make amendments in the articles of incorporation such as capital increases, business title changes etc. So all transactions which are subject to registration can be conducted electronically. Transactions are conducted through reliable electronic signature certificate or the authentication method in the system.
- In Trade Registry Office portal, authorized persons from Trade Registry Office check the information submitted by natural and legal persons and approve/reject this information.

Thus, in the system, users can carry out the establishment and amendment procedures related to trade registry in MERSİS portal, and articles of incorporation and amendments of the procedures performed are approved by notaries in electronic environment and conveyed to Trade Registry Offices to be approbated. Trade Registry Officials complete registry procedure by controlling the articles of incorporation within the system in line with registry documents. All registries related to amendments from establishment to closure of the enterprise are kept in the system by the dates. Major data fields in the system are as follows:

ENTERPRICES	MAJOR DATA FIELDS
-------------	-------------------

(Companies (Inc. – LTD, COLL. – COM.) COMMERCIAL ENTERPRICES (Sole Proprietorships, Enterprises of Foundations Associations – Cooperatives)	Title
	Address
	Capital (Total Capital and Number of Shares)
	Partners (TR Identity Number or Passport Number)
	Joint Capital (Joint Capital Share and Number of Shares)
	Line of Business (NACE Rev.2)
	Executive Organs (Board of Directors – Manager)

In addition to Ministry of Trade records, Revenue Administration’s records include the shareholder structure of companies which are obliged to make tax declarations periodically.

According to article 7 and 9 of the Law No 5549, MASAK has the authority to request every kind of information from every natural and legal persons and it can access to the data processing systems of relevant public institutions which keep records regarding to economic activities, wealth items, tax liabilities, census information and illegal activities. As a result, shareholder and BO information of legal persons can be gathered by MASAK whenever required.

**Trust and Legal Arrangements**

Turkish legislation doesn’t allow establishment of trusts. Besides, Turkey is not party of Hague Convention on the law applicable to trusts and their recognition. Thus, domestic law does not encompass any provision with regard to foundation and operations of trusts. We are of the view that this criterion is non-applicable for Turkey.

**Financial Institutions and DNFBPs**

Turkey takes into consideration the implementation of this obligation during the supervision activities. A total number of 12 obliged parties have been subject to administrative fines (TRY-6.007.175,00) because of the violations on identification of beneficial ownership since 2012.

Besides, MASAK has published a guideline on principles with regard to identification of beneficial ownership in 2016.

## **International Cooperation**

In Turkey, MASAK serves as the central administrative authority for exchanging information on AML/CFT related issues. MASAK is able to exchange basic and beneficial ownership information of companies when requested by other countries' competent authorities. In this regard, MASAK may either sign memoranda of understanding (MoU) with its counterparts in foreign countries or use secure communication platforms such as Egmont Secure Web [Articles 231(1)(L)(M) and 231(5) of the Executive Order 1].

## **Bearer Shares and Nominee Shareholders**

First of all, Turkey uses a combination of mechanisms in order to ensure that bearer shares are not misused to conceal the true ownership structure of legal persons.

According to Turkish Commercial Code, only joint-stock companies are allowed to issue bearer shares [Article 339(2) of TCC]. Currently, joint stock companies publicly traded at the exchange (in Borsa Istanbul) are recorded and monitored through Central Registration Agency which is established under the provisions of the Capital Market Law (CML) and governed by its articles ("Dematerialization of Capital Market Instruments - Article 13" and "Central Registry Agency - Article 81") and relevant decrees of the CML. Accordingly, it is the central securities depository of Turkish capital markets for dematerialized securities. MKK's central dematerialized system (CDS) is segregated at participant level and the securities are kept in beneficial owner level.

Dematerialization of shares that are not (publicly) traded at the exchange is also possible. As stated in article 13(1) of the CML, the Capital Market Board has the discretion to determine the security types to be issued in dematerialized form or the securities to be dematerialized. Companies that are not publicly traded at the exchange but would like to have their shares dematerialized and kept in dematerialized form are required to apply to CMB. Once CMB approves the request, these companies are then required to contact with MKK for having their shares dematerialized and kept at MKK at beneficial owner level. Companies that are not publicly traded at the exchange but would like to have their shares dematerialized and kept in dematerialized form are required to apply to CMB. Once CMB approves the request, these companies are then required to contact with MKK for having their shares dematerialized and kept at MKK at beneficial owner level.

Additionally, there are some other measures to detect the true owner of bearer shares. For example, joint stock companies issuing bearer shares have to indicate it in the articles of incorporation and be registered in the trade registry, and be announced during registry procedure [Article 339(2) of TCC]. According to the Article 486(2) of TCC, bearer shares should be printed by Board of Directors within three months from the date of full payment of share value and disseminated to all shareholders.

Besides, a legislative amendment is currently in progress with regard to tracing ownership information of bearer shares. According to this on-going study, bearer share holders will be obliged to make a notification upon acquisition of the share. Otherwise, share ownership will not be valid.

Secondly, nominee shareholders and directors are not allowed under Turkish

Legislation.

**Private Sector Integrity**

4. Since the last Accountability Report, has your government instituted any new measures to promote the development of anti-corruption initiatives, such as anti-corruption training and education by the private sector, including for Small and medium-sized enterprises (SMEs) and the non-financial professional services sector<sup>19</sup>?

Yes  No

If yes, please provide details.

5. Since the last Accountability Report, have there been any changes or proposed changes to your country’s legislation or other measures related to private sector integrity?

Yes  No

If yes, please provide details.

6. Does your country apply anti-corruption legislation to SOEs (employees and executives), including anti-bribery legislation? Please provide a response for both active and passive bribery with regard to domestic and transnational bribery of public officials.

Yes  No

If yes, please provide details.

The Turkish Court of Accounts audits the activities of SOEs on behalf of the Parliament and reports its findings to SOE Commission in the Parliament. SOE commission may decide to approve the accounts and the activities of SOE boards or not. If they decide to approve, the accounts finalize and the SOE board stays in power. However, if they don’t approve the SOE board, the legal proceeding starts. This legal proceeding could be finalized with the dismissal of SOE board members or even the imprisonment and any other penalty.

The main legislation applying to against corruption in our country is the Turkish Criminal

<sup>19</sup> non-financial professional services sector could include: computer services, real estate, research and development, legal services and accounting

Code No.5237 (the Criminal Code which entered into force on 1 June 2005) which prohibits bribery, malversation, malfeasance, embezzlement and other forms of corruption such as negligence of supervisory duty, unjustified disclosure of office secret, fraudulent materials to obtain illegal benefits, etc.

Apart from the Criminal Code, the core statutory basis of Turkish anti-corruption legislation can briefly be summarised and categorised as follows:

- Turkish Criminal Procedure Law No. 5271;
- Law No. 657 on Public Officers (Law No. 657);
- Law No. 3628 on Declaration of Property and Fight Against Bribery and Corruption;
- Law No. 5326 on Misdemeanours;
- Regulation on Ethical Principles for Public Officers and Procedures and Principles for Application (Regulation on Ethical Principles);

So that, in case of corruption or other rule-breaking, SOE boards can litigate to criminal court. If the cause of corruption is the boards, the state ownership entity may apply to the court.

If no, has your country taken steps to propose or to make changes to your country's anti-corruption legislation related to SOEs (employees and executives)?

**Active and Passive Bribery Offences**

7. Does your country currently have legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

It is important to stress that Turkey recognizes the important baseline for international legal cooperation established by UNCAC, GRECO, FAFT and OECD and continue to work on making its domestic legal system consistent with the applicable international documents and conventions.

In its renewed version of Article 252 of the Turkish Criminal Code (TCC), paragraph 1

governs giving bribe, paragraph 2 governs receiving bribe, paragraph 4 governs acts of requesting, promising and offering bribe, paragraphs 5 and 6 govern commission of the offence of bribery through intermediaries and indirectly, paragraph 8 governs bribery in the private sector, and paragraph 9 governs bribing foreign public officials (the foreign bribery offence).

**Article 252 of TCC amended by Law No. 6352**

**Bribery**

**Article 252**

**(1)** Any person who provides any undue advantage directly or through intermediaries to a public official or anyone else to be indicated by the public official in order to act or refrain from acting in the exercise of his/her duty shall be sentenced to a penalty of imprisonment for a term of four to twelve years.

**(2)** Any public official who provides any undue advantage directly or through intermediaries for himself/herself or to anyone else to be indicated by himself/herself in order to act or refrain from acting in the exercise of his/her duty shall also be sentenced to the same penalty stipulated in the first paragraph.

**(3)** Where the parties agree upon a bribe, they shall be sentenced as if the offence were completed.

**(4)** In cases where a public official requests a bribe but this is not accepted by the person or a person offers or promises any undue advantage to a public official but this is not accepted by the public official, the penalty imposed in accordance with the provisions of first and second paragraphs shall be decreased by one half.

**(5)** Any person acting as an intermediary for transferring the offer or the request for bribe to the other party, making the agreement on bribery or providing the bribe to the other party shall be sentenced as principal offender, irrespective of being a public official.

**(6)** Any third person who has been provided any undue advantage indirectly within the bribery relation or the representative of the legal entity accepting the undue advantage shall be sentenced as principal offender, irrespective of being a public official.

**(7)** Where the person who receives or requests a bribe or agrees to such is a person in a judicial capacity, an arbitrator, an expert witness, a public notary or a professional financial auditor, the penalty to be imposed shall be increased by one third to one half.

**(8)** The provisions of this Article shall also apply in the case of providing, offering or promising of any undue advantage, directly or through intermediaries, for persons - irrespective of being a public official- who act on behalf of the legal entities listed below;

requesting or accepting bribe by such persons; intermediating to these activities; providing any undue advantage to another person through this relation, in order to act or refrain from acting in the exercise of their duties:

- a) Public professional organisations,
- b) Companies incorporated by the participation of public institutions or public organisations or public professional organisations,
- c) Foundations acting under public institutions or public organisations or public professional organisations,
- d) Associations working in the interest of public,
- e) Cooperatives
- f) Public joint stock companies.

**(9)** The provisions of this Article shall also be applied in the event that the persons listed below, directly or through intermediaries, are provided, offered or promised any undue advantage, or request or accept such undue advantage in order to act or refrain from acting in the exercise of their duties or to secure or preserve a business activity or any undue advantage due to international commercial transactions:

- a) The elected or appointed public officials in a foreign state,
- b) The judges, jurors or other officials working for international or supranational courts or foreign courts,
- c) International or supranational parliamentarians,
- d) The persons carrying out a public activity for a foreign country including public institutions and public enterprises,
- e) The national or foreign arbitrators assigned within the framework of the arbitration procedure applied for the settlement of a legal dispute,
- f) The officials or representatives of international or supranational public organizations established on the basis of an international agreement.

**(10)** Where the bribery offence that falls within the scope of paragraph 9 is committed, although by a foreigner abroad, with regard to a dispute to which:

- a) Turkey,
- b) a public institution in Turkey,
- c) a private legal person established in accordance with Turkish legislation,
- d) a Turkish citizen

is a party, or to perform or not to perform a transaction concerning these institutions or persons, ex-officio investigation and prosecution shall be initiated against the persons who give, offer or promise a bribe; who receive, request, accept the offer or promise of

a bribe; who intermediate these; who are provided with any undue advantage due to bribery relation, if they are present in Turkey.

8. If your country has not criminalized foreign bribery, has your country proposed or made changes, since the last Accountability Report, to your country’s legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?
- Yes  No

If yes, please provide details.

**Liability of Legal Persons**

9. Has your country established the liability of legal persons for corruption and corruption-related offences?
- Yes  No

If yes, please provide details (e.g. about the type of liability, including whether criminal, civil, or other).

Pursuant to Article 20/2 of the Turkish Criminal Code, “no punitive sanctions may be imposed for the legal persons. However, the sanctions in the form of security precautions stipulated in the law for the offenses are reserved”.

As a result of the continental law system, "**criminal liability of legal persons**" is not accepted in the Turkish Criminal Law. However, Turkey has accepted the system that is effective and deterrent administrative judicial fines (Article 43/A of the Law on Misdemeanours) and security precautions (Articles 60 and 253 of the Turkish Criminal Code).

In Article 60 titled “Security Measures Specific to Legal Entities” of the Turkish Criminal Code numbered 5237, it is regulated how security precautions could be applied in respect of legal persons. According to this, in the case of commission of an intentional offence in participation of the organ or representative of the legal person and such offence being for the benefit of the legal person, measures like cancellation of license, confiscation of articles, and confiscation of earning could be applied.

In accordance with Article 60/1 of the Turkish Criminal Code, in the case of conviction of a crime through participation of the organs or representatives of a private-law legal person operating under the license granted by a public institution or misuse of authorization conferred upon by this license, decision on cancellation of this license is rendered. It is stated in the second paragraph of this Article that the provisions relating to confiscation are applied also to the private-law legal persons for offences committed on their behalf.

That is said, it is indicated in the third paragraph of this Article that in cases where cancellation of the license of the legal person or confiscation provisions to be applied is likely to create heavier consequences than the committed act, the judge may refrain from imposition of such measures. On the other hand, the provisions of Article 60 are applicable to the cases specifically defined by the law.

In the event that the real persons commit crimes intentionally in favor of legal persons, the real persons are imposed criminal sanctions in line with the provisions provided for their offences, where as security measures enshrined in Article 60 of the Turkish Criminal Code are decided on the concerned legal persons according to conditions.

In the case where unfair advantage is provided to the legal person through the commission of offences of "Theft", "Abuse of Trust" and "Theft by deception" security measures under article 169 of the Turkish Criminal Code, "Fraud During a Tender", "Fraud During Discharge of Contractual Obligations", "Manipulation of the Price", "Causing Shortage of the Items Required by the Public", "Disclosure of Confidential Documents or Information Relating to Commerce, Banking or Private Customers", "Avoidance of Supply of Goods and Services" and "Usury" measures under article 242 of the Turkish Criminal Code, "Accessing a Data Processing System", "Preventing the Functioning of a System and Deletion, Alteration or Corruption of Data", "Misuse of Banks and Credit Cards" measures under article 246 of the Turkish Criminal Code, "Bribery" measure under article 253, application of security measures under article 60 of the said Code is regulated as mandatory provision.

On the other hand, Article 43/A was added to the Code of Misdemeanours with the amendment dated 26 June 2009, in line with the "Convention on Combating Bribery of Foreign Public Officials in International Business Transactions". According to this provision, where a body or representative of a legal person or, not being any of them, a person who undertakes a task within the scope of that legal person's activity commits the bribery offence and other listed offences, for the benefit of that legal person, a further administrative fine of ten thousand Turkish Liras to two million Turkish Liras can

be imposed on that legal person, unless it constitutes a misdemeanour which requires heavier administrative fine. In accordance with second paragraph of the article, the administrative fine in question may be imposed by the high criminal courts assigned to handle bribery offence. According to this provision in the Code of Misdemeanours, a further administrative fine could also be imposed apart from the security measures to be applied in respect of the legal persons within the scope of the Turkish Criminal Code. Apart from these provisions, a real person having committed the offence of bribery in favour of a legal person could be sentenced to imprisonment from 4 to 12 years as per Article 252 of the Turkish Criminal Code, which sets out the offence of bribery.

If no, has your country taken steps since the last Accountability Report to establish the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details.

### Public Sector Integrity and Transparency

10. Since the last Accountability Report, has your country taken significant steps to propose or to make changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

Transparency is one of the main principles set out in the article 5 of the Public Procurement Law (PPL). Tender notices must be published according to the PPL and rules regarding publication of tender notices and mandatory information to be made publicly available in tender notices and tender documents are stated in articles 13, 24, 25 and 27 of the PPL.

Moreover, information related to signed contracts must also be made publicly available according to the article 47 of the PPL. Tenders can be searched on the website of the Public Procurement Authority (PPA) based on various criteria and detailed information

can be obtained for each tender which are subject to the PPL (<https://ekap.kik.gov.tr/EKAP/Ortak/IhaleArama/index.html>)

In addition, the PPA issues public procurement monitoring reports each 6 months. These reports display lots of data gathered during 6 months including number of procurements held, average bids submitted, the ratio of contract price to estimated cost, number of complaints, types of procedures, blacklist decisions etc. However, since the last Accountability Report there has been no change in the legislation or other measures related to open contracting on public procurement.

11. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to public disclosure by public officials?

Yes  No

If yes, please provide details.

Law No. 3628 Concerning the Declaration of Assets and Combating Bribery and Corruption requires certain public officials to declare their assets in order to monitor any increase in those assets.

Pursuant to Law No. 3628, the public officials who are required to declare their assets on a regular basis include officials who are nominated through the selections; the notaries; certain higher officials of the Turkish Air Institute and Turkish Red Crescent; officials of the public entities such as ministries, municipalities, economic state enterprises, etc.; presidents of political parties; managers of foundations, cooperatives and unions; individuals who publish newspapers as well as the higher employees of newspapers. Those falling within the scope of this law mentioned above are required to notify their immovable's, money and other negotiable instruments, gold and jewellery Individuals who are required to declare assets must also declare the assets of their wives and children. Although there has been some amendments in the wording, no amendment made in the essence of the law.

12. Does your country have in place standards and a system for preventing and managing

conflicts of interest in the public sector? This may include the establishment of standards of conduct, especially for public officials working in high-risk sectors; putting into place clear means for developing, implementing and updating conflict-of-interest policies; and identifying “at-risk” activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures.

Yes  No

If yes, please provide details.

Regarding preventing and managing conflict of interest in public procurement in Turkey, the relevant provisions in the Public Procurement Law no 47341 are as follows:

“Ineligibility Article 11- The following persons or authorities cannot participate in any procurement, directly or indirectly or as a sub-contractor, either on their own account or on behalf of others:

- a) ...
- b) ...
- c) the contracting officers of the contracting authority carrying out the procurement proceedings, and the persons assigned in boards having the same authority,
- d) those who are assigned to prepare, execute, complete and approve all procurement proceedings relating to the subject matter of the procurement held by the contracting authority,
- e) the spouses, relatives up to third degree and marital relatives up to second degree, and foster children and adopters of those specified under paragraph (c) and (d),
- f) the partners and companies of those specified under paragraph (c), (d) and (e) (except for joint stock companies where they are not a member of the board of directors or do not hold more than 10 % of the capital).
- g) ...

The contractors providing consultancy services for the subject matter of the

procurement cannot participate in the procurement of such work. Similarly, the contractors of the subject matter of the procurement cannot participate in procurements held for the consultancy services of such work. These prohibitions are also applicable for the companies with which they have a partnership and management relation and for the companies where more than half of the capital is owned by above-mentioned companies.

Whatever their purposes of establishment are, the foundations, associations, unions, funds and other authorities included within the body of the contracting authority carrying out the procurement, or related with the contracting authority and the companies to which such authorities are partners, cannot participate in the procurement held by these contracting authorities.

The tenderers who participate in the tender proceedings despite these prohibitions shall be disqualified, and their tender securities shall be registered as revenue. Moreover, in case the contract is awarded to one of those tenderers due to failure in detecting such situation during evaluation stage, then the tender proceedings shall be cancelled and tender security shall be registered as revenue. ...”

Furthermore, participating in procurement proceedings although prohibited pursuant to Article 11 is one of the prohibited acts and conducts according to the point (e) of Article 17 of the Public Procurement Law. It is prescribed in the said article that the provisions stated in Chapter 4 of Public Procurement Law, which is about prohibition from participating in future procurements and criminal liability, shall apply to those who have been involved in these prohibited acts and conducts.

In addition, the provision in Article 60 that regulates the penal liability of public officials in Chapter 4 of Public Procurement Law is as follows:

“In case it is established that the contracting officer, the chairperson and the members

of the tender commissions and other related persons assigned at any stage of the procurement proceedings from the beginning until the signing of contract, have committed acts or conducts specified in Article 17; have failed to fulfill their duties in accordance with the legal requirements or failed to act impartially; or have been involved in defaults or negligent acts which inflict loss upon one of the parties, these persons shall be given a disciplinary punishment in accordance with the related legislation. Criminal prosecution shall also apply for these persons depending on the nature of their acts or conducts, and in addition to the punishment rendered by the court, these persons shall compensate for all the loss and damage inflicted upon the parties in accordance with the general provisions. The persons who have been convicted for the acts and conducts contrary to this Law shall not be assigned to duties within the scope of this Law.

The personnel who have been incurred to any punishment by judicial bodies due to acts and conducts included within the scope of this Law shall not be appointed and assigned by any Public institutions and authorities covered by this Law, to any duties or authorized positions related with the implementation of this Law or other related regulations...”

Moreover, according to the Law no 2531 on Prohibited Activities of Former Public Servants, former public servants, no matter what the reason of leaving the job is, for three years starting from the date on which they left their job, cannot directly or indirectly get a job, duty or contract from or act as a broker and agent to the department, authority, institution or entity which they served in the last two years before leaving job, on subjects which are related to their former position and the field of activity in that department, authority, institution or entity.

Besides, according to the Article 13 of the Regulation on Civil Servants Ethical Conduct Principles and Application Rules and Procedures, civil servants have a duty to avoid any conflict of interest situation and any benefits within that scope. The said article provides that those civil servants are personally responsible for a conflict of interest situation and requires them to report a conflict of interest situation to their supervisors

immediately. Based on that article, conflict of interest refers to any benefit provided to civil servants, their relatives, friends or persons or organizations they have a relationship with, and financial or other obligations related to them and being in position to have a similar personal interest that affects or appears to affect performing their duties in an objective and impartial manner.

As it can be seen from the several provisions mentioned above, there is a strong and effective regulation in respect of preventing and managing conflict of interest in public procurement in Turkey.

13. Has your country established whistleblower protections under your domestic laws?

Yes  (However Turkey does not have a specific  
whistleblowers protection law) No

14. Since the 2015 Accountability Report, has your country proposed or made changes to its whistleblower protection framework in both public and private sectors?

Yes  No

If yes, please provide details.

15. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

16. Is your country a member of the Open Government Partnership?

Yes  No

Please provide details including information on the collective actions taken by your country since the last Accountability Report.

17. Does immunity for public officials from investigations and prosecutions for corruption related offences exist in your country?

Yes  No

If yes, how is an appropriate balance ensured between any immunities and the need to effectively investigate, prosecute and adjudicate corruption offences, in accordance with article 30(2) of UNCAC?

The prosecution of public officials is subject to the permission of and preliminary investigation by relevant administrative authorities according to Articles 3 and 5 of the Law on Trial of Civil Servants and Other Public Officials No.4483, which in essence creates a jurisdictional privilege. Such internal investigations are conducted by internal inspection board. The inspection boards are reporting to the corresponding ministers. All inspection boards are also obliged to submit regular reports to the Prime Minister Inspection Board and also conduct investigations at the request of the latter. The Prime Minister Inspection Board can conduct all types of investigations and audits of and request information from other government agencies and state-owned enterprises. It also supervises other inspection boards and carries out a coordination function. Where the instances of certain corruption offences are detected during such internal investigations, they have to be reported to public prosecutors pursuant to Articles 17 and 18 of Law of Law on Declaration of Assets and Combat against Bribery and Corruption No.3628 (as cited under article 20 above).

*The investigation of judges and prosecutors requires a permission of the Ministry of Justice (art. 83 of the Law on Judges and Prosecutor No. 2802).*

According to Article 17 of Law No:3628, the requirement of the permission of prosecution listed in Law No 4483 does not apply to those accused of “offences enumerated in this Law, the offences provided for by the Law on Banks dated 18/06/1999 and numbered 4389 or those accused of the offences of extortion, bribe, simple and aggravated embezzlement, smuggling on duty or due to duty, rigging official tenders and purchases and sales, disclosure of State secrets or causing disclosure of State secrets and accused of abetting these offences”. Although, many of corruption

offences are included in this list, some important offences relevant to UNCAC implementation like trading of influence (Article 255 CC), abuse of functions (Article 257 CC), abuse of trust (Article 155 CC), money laundering (Article 282 CC) are not included; therefore, civil servants accused of those offences may still be able to benefit from the privileges afforded by Law No. 4483, i.e. a direct prosecution of their corrupt conduct would not be possible to initiate without the preliminary investigation and authorisation by relevant authorities. Also, according to paragraph 2 of Article 17 of Law No:3628, the lifting of privileges in case of the commission of corruption offences is not applicable to the undersecretaries, governors and district governors.

**Except the provisions of Law No: 4483, Turkey follows the principle of mandatory prosecution. The prosecutors have very limited discretion in initiation and prosecution of cases (art. 160, 170, 171 CPC).**

### **Law on trial of civil servants and other public officials numbered 4483**

#### **Courts empowered to give permission**

Article 3 - The power of giving permission shall be exercised in person by;

- a) the district governor for civil servants and other public officers incumbent in the district,
- b) the governor for civil servants and other public officers incumbent in the city and central district,
- c) the governor for the civil servants and public officers holding office in the institutions and bodies organized at a regional level,
- d) Highest administrative chief of the institution for other civil servants and public officers holding office in the central or affiliated or related bodies of the prime ministry and ministries,
- e) (Amended paragraph: Law dated 17/07/2004 and numbered 5232, Article 1) \*1\* Relevant minister or the Prime Minister for the civil servants and other public officers holding office in the Prime Ministry or ministries or central organizations of affiliated institutions, appointed by the decision of Council of Ministers,
- f) General Secretary of the Grand National Assembly of Turkey for the civil servants and other public officers holding office in the Grand National Assembly of Turkey and Speaker of the Grand National Assembly of Turkey for the General Secretary of the Grand National Assembly of Turkey and deputies thereof,
- g) General Secretary of the Presidency of the Republic for the civil servants and other

public officers holding office in the Presidency of the Republic and the President of the Republic for the General Secretary of the Presidency of the Republic,

h) Minister of Internal Affairs for the metropolitan mayors, mayors of city and district municipalities and members of the council of metropolitan municipality and city and district municipalities as well as members of the city council,

i) district governor for the mayors of settlement municipalities and members of municipal council; the governor of the city for the mayors of settlement municipalities in the central districts and members of the settlement municipality council, and their deputies in their absence.

The determination of the competent court shall be based on the office of the civil servant or public officer at the time of the offense.

In case of complicity of the low and high-rank officers in the same act, the permission shall be demanded from the court to which the higher-rank officer is bound.

#### **Preliminary investigation**

Article 5 - The court having the authority to give the permission shall commence a preliminary investigation as it becomes aware in person or in the manner written in the above article that an offense falling under the scope of this Law has been perpetrated.

(Paragraph added: Law dated 17/07/2004 and numbered 5232, Article 3) The offices of public prosecution and the courts empowered to give the permission shall not process the application in the case of existence of a preliminary investigation previously concluded with respect to the notice and complaints.

The preliminary investigation may be either carried out by the court empowered to give the permission or commissioned to one or more auditors to be designated by such court or one or more than one civil servants and public officers ranking over the person that is subject to the investigation. It is fundamental that those who will carry out the investigation should be determined from among the public institution or body in which the court empowered to give the permission holds office. This court may, depending on the nature of the affair, request that personnel of any other public institution or body carry out such investigation. Fulfilment of such request depends on the discretion of the relevant institution.

Members of judiciary and those employed in judicial bodies as well as soldiers may not be designated in preliminary investigation of other courts.

Where more than one person is designated for the preliminary investigation, any of them shall be designated as the president.

**Sectors**

18. Since the last Accountability Report, have there been any changes or proposed changes to your country’s legislation or other measures related to combating corruption:

a. in Sports? Yes  No

If yes, please provide details.

Turkey has satisfactory regulations in its legislation on fight against corruption in sports. Under Law No: 7258 on “Regulations on Betting and Games of Chance on Football and Other Sports Competitions”, illegal betting is accepted and identified as a crime and sanctions are imposed against this crime. Similarly, under Law no: 6222 on “Law on Prevention of Violence and Disorder in Sports”, match-fixing and incentive pays are identified as crimes and are penalized by Laws. As mentioned above, regulations on fight against corruption in sports are satisfactory in Turkey and since the last Accountability Report, there have been no amendments or changes in this regard.

b. as a facilitator of illegal trade in wildlife and wildlife products? Yes  No

If yes, please provide details.

19. Is your country supporting or implementing any sector-specific initiatives?

Extractive Industries Transparency Initiative (EITI)

Implementing Yes  No

Supporting Yes  No

Construction Sector Transparency Initiative (CoST)

Implementing Yes  No

Supporting Yes  No

Customs (World Custom Organization-Arusha Declaration)

Implementing Yes  No

Supporting

Yes  No

Others

Please specify.

Implementing

Yes  No

Supporting

Yes  No

Please provide notable details on each of the sectorial initiatives, listed or not listed above, supported by your country or domestic measures taken in relation to specific sectors.

Concerning Construction Sector Transparency,

Infrastructure construction works and activities are carried out by the Ministry of Transport and Infrastructure through tender held within the scope of the Public Procurement Law in force and exceptions stipulated by the Law.

Construction works regarding States Airport are under the supervision of the Ministry of Transport and Infrastructure, the Court of Accounts and the Parliamentary Commission of the Parliament.

Furthermore, financial transactions are subject to independent testing; airport constructions/ modifications are audited by Directorate General of Civil Aviation in accordance with ICAO Annex-14 standards before putting into service.

In the works within the scope of the PPP, the principles of the concession agreements concluded as a result of the tender are implemented.

In order to overcome the problems experienced in the process, Quality Management System and Internal Audit mechanisms are utilized. The questions of the third party legal entities or natural persons regarding the tendering procedures or the question proposals forwarded by the Assembly are also answered by the CIMER Information System or by the official correspondence channel based on the archive registered in the DHM online system.

In case of violation of the rules in the process, the Inspection Board of DHMI has been

authorized to start an investigation to evaluate and rectify the violation.

**International Anti-Corruption Instruments**

20. Has your country begun or completed the second cycle of UNCAC peer review process as a country under review?

Yes  No

If yes, please indicate.

Begun

Completed

If no, please indicate when your country is scheduled to be reviewed

21. For either or both cycles, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so?

a. Publication of full report

aa. FirstCycle Yes  No  Committed to do so

bb. SecondCycle Yes  No  Committed to do so

b. Involvement of civil society

aa. FirstCycle Yes  No  Committed to do so

bb. SecondCycle Yes  No  Committed to do so

c. Involvement of business

aa. FirstCycle Yes  No  Committed to do so

bb. SecondCycle Yes  No  Committed to do so

d. Country visits

aa. FirstCycle Yes  No  Committed to do so

bb. SecondCycle Yes  No  Committed to do so

Please provide details (e.g. web link for published report, how and when civil society and/or business were engaged during the review process, date of country visit). If your

country has voluntarily published its questionnaire response, please indicate as well.

In the first cycle of the review, the country visit took place on December 10, 2014.

On 10 December 2014, following a meeting with the representatives from the relevant public authorities, the delegates from the UN Secretary and the reviewing States had confidential discussions with the Head of the Turkish Transparency Association and the representative of Turkish Union of Chambers and Commodity Exchanges.

22. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

Yes  No

q. If yes, please provide details.

The Law no 6706 on the international judicial cooperation in criminal matters came into force in 2016.

b. If you have responded to all or some of the recommendations, have you made those responses publicly available?

Yes  No

If yes, please provide details (including web links, if available).

23. Is your country party to the OECD Anti-Bribery Convention?

Yes  No

If no, please give an update on steps taken by your country to

- a. participate actively with the OECD Working Group on Bribery, including through possible Participant status and
- b. adhere to the OECD Anti-Bribery Convention.

24. Has your country begun or completed an OECD Anti-Bribery Convention peer review

process as a country under review?

Yes X      No

If yes, please indicate.

a. Phase 1	Begun <input type="checkbox"/>	Completed <input type="checkbox"/>
b. Phase 2	Begun <input type="checkbox"/>	Completed <input type="checkbox"/>
c. Phase 3	Begun <input type="checkbox"/>	Completed X
d. Phase 4	Begun <input type="checkbox"/>	Completed <input type="checkbox"/>

Please provide information on your country's OECD peer review process and/or any other relevant information (such as reports and links)

<http://www.oecd.org/daf/anti-bribery/turkey-oecdanti-briberyconvention.htm>

25. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in previous OECD Anti-Bribery Convention evaluations?

Yes X      No

If yes, please provide details (including a link to the written follow-up report, where applicable).

<http://www.oecd.org/daf/anti-bribery/turkey-oecdanti-briberyconvention.htm>

26. Is your country party to other international or regional anti-corruption instruments (such as the Inter-American Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the Council of Europe Criminal Law Convention on Corruption or the Council of Europe Civil Law Convention on Corruption)?

Yes x      No

If yes, please indicate which instrument(s).

Turkey is party to the following Conventions:

- Council of Europe Criminal Law Convention on Corruption

-The Council of Europe Civil Law Convention

- Additional Protocol to the Criminal Law Convention on Corruption.
  - Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism
  - Organisation for Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions
  - United Nations Convention against Transnational Organised Crime
  - United Nations Convention against Corruption
- In addition to the multilateral treaties above, Turkey has been a member of the GRECO; OECD and FAFT.

27. Has your country been under review related to any kind of international or regional anti-corruption review mechanism other than the UNCAC peer review process?

Yes  No

If yes, please provide links to review and any compliance reports, if available.

Turkey has been assessed on its implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, as well as by the Group of States against Corruption (GRECO) and the Financial Action Task Force (FATF).

[https://one.oecd.org/document/DAF/WGB\(2018\)23/en/pdf](https://one.oecd.org/document/DAF/WGB(2018)23/en/pdf)

<https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680792de8>

<http://www.fatf-gafi.org/media/fatf/documents/reports/mer/Turkey-FUR-2014.pdf>

## UNITED KINGDOM

### Summary of National Progress

1. Please provide a high-level summary (maximum of 500 words) of the most significant anti-corruption measures or initiatives that your country has introduced or implemented since the Accountability Report of 2017. The 2017 Accountability Report as well as previous reports can be accessed at <https://www.g20.org/en/g20-argentina/work-streams/anti-corruption>.

The UK published its first national Anti-Corruption Strategy in December 2017. The strategy sets out how we will address corruption in order to bolster national security, prosperity and public trust in our institutions. The strategy sets out six key priority areas: tackling the threat posed by corrupt insiders; improving the reputation of the UK as a global financial centre, improving public and private sector integrity; addressing corruption risks in procurement; leveling the global playing field for business; and working with other countries.

Also in December 2017, the UK Prime Minister announced the appointment of a Prime Minister's Anti-Corruption Champion, John Penrose MP. The Champion's role is to oversee implementation of the Anti-Corruption Strategy, drive the development of new policy and raise ambition, and represent HMG at political level at global anti-corruption events and fora. The Champion regularly meets with Ministers, civil society and the private sector and has spoken at a number of public fora, including the 2018 OECD Integrity Forum.

In June 2018 the UK hosted a three day event at Wilton Park on tackling the Illegal Wildlife Trade, ahead of the international IWT conference in London in October 2018. Tackling corruption associated with the illegal wildlife trade will form a key part of the event.

In December 2017 the UK co-hosted the Global Forum on Asset Recovery with the US. GFAR focused on returning stolen assets to Nigeria, Sri Lanka, Tunisia and Ukraine, and saw the publication of a set of principle on transparency in the asset return process. In January 2018 UK introduced Unexplained Wealth Orders. UWOs are a new investigatory order enabling courts to require individuals to set out the precise nature of the ownership of particular assets, making it easier for a court to establish whether these assets are the proceeds of crime.

The UK Government has consulted on developing of a world first public **beneficial ownership register for foreign companies** who own or wish to buy property in the UK. A draft Bill was published for consultation in summer 2018 and legislation will be introduced in 2019. The register is expected to be implemented in 2021. The draft Bill is available to view here: <https://www.gov.uk/government/consultations/draft-registration>

[of-overseas-entities-bill](#) In parallel the government will start to collect beneficial ownership information for foreign companies bidding on government contracts.

The UK launched the Business Integrity Initiative in April 2018 to help UK businesses integrate analysis and management of integrity issues into their strategies for doing business successfully in overseas markets. This will help tackle the supply of bribes as one of the international drivers of corruption in developing countries.

The UK was reviewed under the UNCAC second cycle in 2018 and welcomed examiners for an onsite visit in July. The UK was also reviewed under the GRECO 5<sup>th</sup> round in 2017 and under FATF in 2018.

The UK continues to drive the International Partnership Against Corruption in Sport (IPACS) and will host the third meeting in London in December 2018. IPACS has three taskforces focusing on: reducing the risk of corruption in public procurement of sporting events; mitigating risk and managing conflict of interest in the selection of major sporting events; and optimising the processes of compliance with good governance principles to mitigate the risk of corruption.

**Practical co-operation:**

2. Please give an update on the progress made and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Persons Sought for Corruption and Asset Recovery.

The UK continues to strengthen our response to illicit finance and improve the amount of criminal assets confiscated by the State (and, where possible, returned to victims). In the year ending 31 March 2018, £185m of criminal proceeds were confiscated, representing an 8% increase compared with the year ending 31 March 2013 (£171m). Cash forfeiture has averaged around £40m a year for the past 5 years.

We implemented the Criminal Finances Act in early 2018, including the introduction of a new investigatory order enabling courts to require individuals to provide information on the precise nature of the ownership of particular assets, failure to respond leads to a presumption that the property is the proceeds of crime and can be recovered under subsequent court proceedings. UWOs came into force on 31 January 2018 and several have already been secured by the National Crime Agency. The Act also introduced two new non-conviction based asset recovery powers including the power to freeze and subsequently forfeit accounts where the money is the proceeds of, or intend for use in, crime.

The UK continues to work closely with our international partners to aid the recovery of assets both in the UK and overseas. On 4-6 December 2017 the UK and US co-hosted the first Global Forum on Asset Recovery (GFAR) in Washington DC, following our commitment to do so at the London Anti-Corruption Summit in May 2016. Over 300 participants representing 26 governments as well as international organisations, civil

society and media, made progress on significant asset recovery cases. Nigeria, Switzerland and the World Bank signed a new MOU to return \$321m of stolen assets to Nigeria. The co-hosts and focus countries agreed a set of principles on returning stolen assets to their countries of origin. A subsequent side event at the UNCAC Working Group meetings in June 2018 discussed these principles and how they could work in practice.

In December 2017 the UK updated its Asset Recovery Guide and made this available on the GFAR website. This guide is directed primarily at foreign jurisdictions seeking mutual legal assistance to recover the proceeds of crime.

In July 2017 the UK launched the International Anti-Corruption Coordination Centre (IACCC) to bring together specialist law enforcement officers from multiple agencies around the world to tackle allegations of grand corruption. This remit includes work on recovering stolen assets. Membership is currently made up of Australia, Canada, New Zealand, Singapore, the UK, the US and Interpol.

### **Beneficial Ownership Transparency**

3. Please give an update on the progress made against your National Implementation Plan (if applicable) and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Beneficial Ownership Transparency and the relevant Financial Action Task Force recommendations on beneficial ownership transparency.

The UK's Persons of Significant Control Register continues to gather company beneficial ownership information. The register was accessed over 2 billion times in 2017 and can be viewed here: <https://beta.companieshouse.gov.uk/>. A statutory review of the operation of these arrangements is anticipated to be published in 2019.

The UK Government has consulted on developing of a world first public beneficial ownership register for foreign companies who own or wish to buy property in the UK. A draft Bill was published for consultation this summer and legislation will be introduced in 2019. The register is expected to be implemented in 2021. The draft Bill is available to view here: <https://www.gov.uk/government/consultations/draft-registration-of-overseas-entities-bill> In parallel the government will start to collect beneficial ownership information for foreign companies bidding on government contracts.

Our Crown Dependencies and six of our Overseas Territories with financial centres now have central registers or similarly effective systems which enable the sharing of company beneficial ownership information with UK law enforcement agencies. A recent

review of these arrangements, published to Parliament in May, found the arrangements to be working effectively. The review summary can be accessed here: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Lords/2018-05-01/HLWS641/>

In May 2018 the Sanctions and Anti-Money Laundering Act received Royal Assent committing the government to support the governments of the British Overseas Territories (OTs) to establish a public beneficial ownership register, and if the relevant jurisdictions have not introduced them by the end of 2020, prepare a draft Order in Council requiring their introduction.

The UK established a register of trusts which generate a UK tax consequence in July 2017. This is accessible to Her Majesty's Revenue and Customs and other law enforcement authorities, and enables them to access information on the trustees and beneficiaries of all trusts that generate a tax consequence in the UK.

### Private Sector Integrity

4. Since the last Accountability Report, has your government instituted any new measures to promote the development of anti-corruption initiatives, such as anti-corruption training and education by the private sector, including for Small and medium-sized enterprises (SMEs) and the non-financial professional services sector<sup>20</sup>?

Yes  No

If yes, please provide details.

#### Business Integrity Initiative

The UK launched the Business Integrity Initiative in April 2018 to help UK businesses integrate analysis and management of integrity issues into their strategies for doing business successfully in overseas markets. Enabling companies to put integrity front and centre of their strategies is in the interest of developing countries, as this will attract long-term, sustainable investment, and help tackle corruption and human rights abuses. The initiative is expected to:

- Attract investment into high-risk markets, where corruption is one of the main barriers to trade and investment;
- Tackle one of the international drivers of corruption in developing countries (i.e. the supply of bribes by UK companies); and
- Use the influence of potential, big investors to bring pressure on host governments to undertake policy reforms.

<sup>20</sup> non-financial professional services sector could include: computer services, real estate, research and development, legal services and accounting

By providing practical information and advice on how to implement integrity responsibilities, we will support companies to protect and strengthen brand reputation, enjoy more sustainable commercial success, and minimise the risk of prosecution.

Flag It Up Anti-Money Laundering Campaign

‘Flag It Up’, HMG’s anti-money laundering campaign, has been expanded in scale and scope in order to tackle illicit finance, including funds resulting from predicate offences such as bribery and corruption. In 2018/19 we will continue to deliver Flag It Up in partnership with the accountancy and legal sectors, in order to deter at-risk professionals from potential involvement in money laundering. Campaign activity focuses in particular on targeting SMEs and sole practitioners in these sectors.

Flag It Up has a proven record of driving greater engagement from professionals with best practice in compliance, effective due diligence, and reporting suspicious activity. Evaluation from the 2016/17 campaign demonstrated that professionals who recognised Flag It Up were twice as likely to say they submitted a Suspicious Activity Report either to their Money Laundering Reporting Officer or directly to the National Crime Agency, compared to those professionals who did not recognise the campaign. This trend continued in 2017/18. Building on Flag It Up’s successes to date, we are looking to expand the campaign to other sectors.

5. Since the last Accountability Report, have there been any changes or proposed changes to your country’s legislation or other measures related to private sector integrity?

Yes  No

If yes, please provide details.

The UK government is currently considering responses to its consultation on proposals to reform limited partnership law to limit the risk of misuse of limited partnerships and to bring this law more in with that governing limited companies.

The proposals include a series of improvements reflecting the lifecycle of a limited partnership from registration to dissolution. For example, the proposals include requirements for limited partnerships to be registered via an anti-money laundering supervised body and to complete an annual confirmation statement, and also through new powers for the competent authority to strike off the companies register limited partnerships that fall within scope of certain conditions. The Government will legislate when parliamentary time allows.

6. Does your country apply anti-corruption legislation to SOEs (employees and executives),

including anti-bribery legislation? Please provide a response for both active and passive bribery with regard to domestic and transnational bribery of public officials.

Yes  No

If yes, please provide details.

In the UK, SOEs are subject to the [Bribery Act 2010](#) which applies equally to both the public and private sector.

In summary this provides that both active and passive bribery are criminal offences with a maximum sentence of 10 years imprisonment in conjunction with a fine. The Bribery Act has broad territorial scope and criminalises both domestic and transnational bribery committed by companies incorporated in the UK as well as by individuals who are British citizens or resident in the UK.

The Bribery Act includes the specific offence of bribery of foreign public officials. This includes bribery of holders of legislative, administrative or judicial positions, those who exercise public functions and officials or agents of public international organisations and is relevant to any bribery in relation to their acting in their capacity as an official.

If no, has your country taken steps to propose or to make changes to your country's anti-corruption legislation related to SOEs (employees and executives)?

N/A

### Active and Passive Bribery Offences

7. Does your country currently have legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

Bribery offences are legislated for in the Bribery Act 2010. <https://www.legislation.gov.uk/ukpga/2010/23/contents>. The Act establishes the two basic crimes of giving and receiving bribes, and created the crimes of bribery of foreign public officials, and of the failure of Commercial organisations to prevent bribery.

The House of Lords Bribery Committee, appointed in May 2018, is providing post legislative scrutiny of the implementation of Bribery Act legislation. Between July – September 2018 it heard evidence from public sector agencies, civil society and the

private sector. The committee will examine the effectiveness of the Act; whether there has been stricter prosecution of corrupt conduct, a higher conviction rate, and a reduction in such conduct; the impact of the Act on SMEs; and Deferred Prosecution Agreements in relation to bribery.

8. If your country has not criminalized foreign bribery, has your country proposed or made changes, since the last Accountability Report, to your country’s legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?
- Yes  No

If yes, please provide details.

N/A

**Liability of Legal Persons**

9. Has your country established the liability of legal persons for corruption and corruption-related offences?
- Yes X No

If yes, please provide details (e.g. about the type of liability, including whether criminal, civil, or other).

In the UK it is an offence for a company to fail to put in place comprehensive and effective measures to prevent bribery, or to fail to prevent the facilitation of tax evasion.

In 2017, the UK Government carried out a call for evidence on corporate criminal liability for economic crime, to seek views on whether changes were necessary to the corporate criminal liability regime in the UK which is (except the law on bribery and the facilitation of tax evasion) governed by common law rules. The evidence is still being considered and a Government response will be issued in due course.

- If no, has your country taken steps since the last Accountability Report to establish the liability of legal persons for corruption and corruption-related offences?
- Yes  No

If yes, please provide details.

N/A

**Public Sector Integrity and Transparency**

10. Since the last Accountability Report, has your country taken significant steps to propose or to make changes to your country’s legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

The UK has delivered on its commitments made as part of the UK's National Action Plan for Open Government 2016- 2018, including commitments to open data and open contracting.

The UK was the first G7 country to commit to the Open Contracting Data Standard (OCDS) for contracts administered by a central purchasing authority. We started publishing Crown Commercial Service (CCS) data in OCDS format in November 2016.

We are also the first G20 country to establish a public register of domestic company beneficial ownership, and in July 2018 the Government published the draft legislation to establish a public register of company beneficial ownership information for foreign companies who already own or buy property in the UK.

And in 2018 we launched the updated version of [data.gov.uk](http://data.gov.uk) - now called Find Open Data - in public beta. It will make finding, evaluating and downloading datasets simpler for users.

11. Since the last Accountability Report, has your country proposed or made changes to your country’s legislation or other measures related to public disclosure by public officials?

Yes  No

If yes, please provide details.

N/A

12. Does your country have in place standards and a system for preventing and managing conflicts of interest in the public sector? This may include the establishment of standards

of conduct, especially for public officials working in high-risk sectors; putting into place clear means for developing, implementing and updating conflict-of-interest policies; and identifying “at-risk” activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures.

Yes  No

If yes, please provide details.

For Civil Servants:

The UK [Civil Service Management Code](#) sets out the high-level terms and conditions for civil servants, including on managing conflicts of interest. Departmental HR department provide detail on how the Code is applied in practice. The Code states that:

- Civil servants must not misuse their official position or information acquired in the course of their official duties to further their private interests or those of others. Where a conflict of interest arises, civil servants must declare their interest to senior management to determine how best to proceed.
- Civil servants must not receive gifts, hospitality or benefits of any kind from a third party which might be seen to compromise their personal judgement or integrity.
- Civil servants must declare to their department or agency any business interests (including directorships) or holdings of shares or other securities which they or members of their immediate family hold, to the extent which they are aware of them, which they would be able to further as a result of their official position. They must comply with any subsequent instructions from their department or agency regarding the retention, disposal or management of such interests.

For Ministers:

The UK [Ministerial Code](#) states that Government Ministers must ensure that no conflict arises, or could reasonably be perceived to arise, between their public duties and their private interests, financial or otherwise. A public statement covering Ministers’ relevant interests is published twice yearly. On appointment Ministers must provide their Permanent Secretary with a full list of all interests, which might be thought to give rise to a conflict. This is reviewed by the Propriety and Ethics team in the Cabinet Office, the Permanent Secretary of the relevant Government Department and by the Prime Minister’s Independent Adviser on Ministers’ Interests who will provide advice on handling as appropriate.

On appointment, Ministers are asked to notify their relevant interests in a number of categories: all financial interests (including any interests overseas), directorships and

shareholdings, investment property, public appointments, charities and non-public organisations, relevant interests of spouse, partner or close family member. On appointment to each new office, Ministers must provide their Permanent Secretary, the most senior public servant in their department, with a full list of all interests, which might be thought to give rise to a conflict (including the interests of the Minister's spouse or partner and close family which might be thought to give rise to a conflict). This is reviewed by the Propriety and Ethics team in the Cabinet Office, the Permanent Secretary of the relevant Government Department, and by the Independent Adviser on Ministers' Interests who will provide advice on handling as appropriate.

Where appropriate, the Minister will meet the Permanent Secretary and the independent adviser on Ministers' interests to agree action on the handling of interests. Ministers must record in writing what action has been taken and provide the permanent secretary and the independent adviser with a copy of that record. The personal information which Ministers disclose to those who advise them is treated in confidence, however a statement covering their relevant interests is published twice yearly. Ministers report any changes in their interests to the Propriety and Ethics team in the Cabinet Office and through then the independent adviser on an ongoing basis.

If there is an allegation of a breach of the Ministerial Code - including on conflict of interests - it is for the Prime Minister, as the ultimate judge of the standards of behaviour expected of a Minister, to decide the appropriate consequences. If the Prime Minister, having first consulted with the Cabinet Secretary, feels that the matter warrants further investigation, she will refer the matter to the independent adviser on Ministers' interests.

13. Has your country established whistleblower protections under your domestic laws?

Yes  No

14. Since the 2015 Accountability Report, has your country proposed or made changes to its whistleblower protection framework in both public and private sectors?

Yes  No

If yes, please provide details.

In 2017 the UK updated:

- The [guidance](#) to employers on how to handle whistleblowing disclosures, providing best practice advice on how employers should receive and handle whistleblowing disclosures made by workers.
- The [guidance](#) to prescribed persons (the external bodies prescribed to hear whistleblowing disclosures on certain matters). This guidance includes information on their role and advice on how to handle and report on disclosures. It sets out good practice for the prescribed person, including recommendations on the publication of processes followed, information on how the prescribed

person investigates a disclosure and the importance of setting realistic expectations. In 2017 this advice was updated to take account of the new reporting duty for prescribed persons.

The reporting duty for prescribed persons was introduced through The Small Business, Enterprise and Employment Act 2015 and Prescribed Persons (Reports on Disclosures of Information) Regulations 2017. It requires prescribed persons to produce an annual report on whistleblowing disclosures made to them by workers. The first annual reports from prescribed persons are due to be published shortly and will cover the period 2017-18. The new reporting duty aims to increase public confidence that prescribed persons are taking whistleblowing disclosures seriously through greater transparency about how disclosures are handled; in particular that they investigate where appropriate and take action where necessary.

The UK will shortly review recent changes to the whistleblowing framework, as introduced by the Enterprise and Regulatory Reform Act 2013.

15. Since the last Accountability Report, has your country proposed or made changes to your country's legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

The UK has delivered on its commitments made as part of the UK's National Action Plan for Open Government 2016- 2018, including commitments to open data and open contracting.

The UK was the first G7 country to commit to the Open Contracting Data Standard (OCDS) for contracts administered by a central purchasing authority. We started publishing Crown Commercial Service (CCS) data in OCDS format in November 2016.

We are also the first G20 country to establish a public register of domestic company beneficial ownership, and in July 2018 the Government published the draft legislation to establish a public register of company beneficial ownership information for foreign companies who already own or buy property in the UK.

And in 2018 we launched the updated version of [data.gov.uk](https://data.gov.uk) - now called Find Open Data - in public beta. It will make finding, evaluating and downloading datasets simpler for users.

16. Is your country a member of the Open Government Partnership?

Yes  No

Please provide details including information on the collective actions taken by your country since the last Accountability Report.

The UK has now delivered its third National Action Plan for Open Government (2016 - 2018) and is developing its fourth (2018 - 2020).

In addition to actions set out in the answer to question 10:

- The UK has published data representing over £100bn of UK Government grants as part of the commitment to Grants data publication.
- We have also made significant progress in the implementation of commitments around natural resource transparency. The second UK EITI Report was published on 31 March 2017 and the UK commenced validation in July 2018.
- Following consultation, the UK published the revised FOI Code of Practice in July 2018.
- The Data Ethics Framework was published in June 2018. It sets out clear principles for how data should be used in the public sector, and will help us maximise the value of data whilst also setting the highest standards for transparency and accountability when building or buying new data technology.

17. Does immunity for public officials from investigations and prosecutions for corruption related offences exist in your country?

Yes  No

If yes, how is an appropriate balance ensured between any immunities and the need to effectively investigate, prosecute and adjudicate corruption offences, in accordance with article 30(2) of UNCAC?

N/A

**Sectors**

18. Since the last Accountability Report, have there been any changes or proposed changes

to your country's legislation or other measures related to combating corruption:

a. in Sports? Yes  No

If yes, please provide details.

The UK continues to drive the International Partnership Against Corruption in Sport (IPACS), in partnership with the OECD, UNODC, Council of Europe and member governments. The third IPACS meeting will take place in London in December 2018. IPACS has three taskforces focusing on: reducing the risk of corruption in public procurement of sporting events; mitigating risk and managing conflict of interest in the selection of major sporting events; and optimising the processes of compliance with good governance principles to mitigate the risk of corruption.

The UK sports strategy '[Sporting Future](#)' sets out the government's determination to protect integrity in domestic and international sport and contains several provisions on tackling doping, match-fixing and other forms of corruption, and on promoting good governance.

In January 2018 the UK published a [tailored review](#) of UK Anti-Doping (UKAD) the UK's designated National Anti-Doping Body.

A [Code for Sports Governance](#) was introduced in the UK in 2017. The Code sets out 8 principles that UK sports bodies must meet in order to be eligible for government funding, including transparency, and integrity.

b. as a facilitator of illegal trade in wildlife and wildlife products? Yes  No

If yes, please provide details.

The UK is working with the United Nations Office on Drugs and Crime (UNODC) and organisations including the World Wildlife Fund for Nature (WWF) to develop an understanding of how and where corruption is facilitating IWT. This has included funding for the second world wildlife crime report and the UNODC West and Central Africa threat assessment.

Through the UK IWT Challenge Fund, the UK has funded several projects to develop typologies for illicit financial flows linked to IWT and to prevent these financial transfers from occurring. Through the Challenge Fund around £18.5 million has been allocated to 61 projects. We plan to allocate further funding to UNODC later in 2018 in order to conduct financial investigations into those found guilty of wildlife crime. We are also supporting the IWT Financial Taskforce initiative in collaboration with the Royal Foundation, which encourages the banking sector to take measures to tackle illicit

financial flows related to IWT.

The UK is hosting an international IWT conference in London in October 2018 and tackling associated corruption will be one of the central themes. This follows the UK government hosted Wilton Park Conference in June 2018 which focussed on tackling illicit finance and corruption associated with IWT, and was attended by international civil society, academia and financial intelligence specialists including the Egmont Group. The UK is currently chairing the Interpol Wildlife Crime working group, the next meeting of which will be held in the margins of the London conference.

19. Is your country supporting or implementing any sector-specific initiatives?

Extractive Industries Transparency Initiative (EITI)

Implementing	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Supporting	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Construction Sector Transparency Initiative (CoST)

Implementing	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Supporting	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Customs (World Custom Organization-Arusha Declaration)

Implementing	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Supporting	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Others

Please specify.

The Contracting 5 (C5) Partnership

Implementing	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Supporting	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Please provide notable details on each of the sectorial initiatives, listed or not listed above, supported by your country or domestic measures taken in relation to specific sectors.

**EITI:** The UK's EITI membership page can be found [here](#). The UK requires transparency on beneficial ownership information from all of its domestic companies via the [Persons with Significant Control Register](#), owned by Companies House. We have

also committed to implement a further register of beneficial ownership information for overseas companies who own or seek to buy UK property or bid on UK public contracts.

The UK's Contracting 5 membership page can be found [here](#). The UK is an active contributor to the C5, leading work in 2017 on establishing a common baseline for the C5 OCDS implementation projects. The UK is committed to Open Government and has committed to adopting Open Contracting principles and to implementation of OCDS via its OGP National Action Plans.

We have implemented the Arusha Declaration and have supported other WCO members to implement, including Afghanistan, which acceded in 2017, as part of our Trade Facilitation Agreement.

**CoST:** The UK's Department for International Development provides funding for CoST and the UK is actively engaged with the programme. For example, the British High Commission in New Delhi is working with CoST to help implement the India-UK Strategic Partnership. A key element of the partnership is mobilising UK investment to help address India's infrastructure deficit. A scoping study is being completed to show how CoST could provide safeguards, improve investor confidence and increase the flow of investment.

**International Anti-Corruption Instruments**

20. Has your country begun or completed the second cycle of UNCAC peer review process as a country under review?

Yes  No

If yes, please indicate.

Begun  Completed

If no, please indicate when your country is scheduled to be reviewed

21. For either or both cycles, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so?

a. Publication of full report

aa. First Cycle Yes  No  Committed to do so

bb. Second Cycle Yes  No  Committed to do so

b. Involvement of civil society

aa. First Cycle                      Yes X        No         Committed to do so

bb. Second Cycle                    Yes X        No         Committed to do so

c. Involvement of business

aa. First Cycle                      Yes X        No         Committed to do so

bb. Second Cycle                    Yes            No X            Committed to do so

d. Country visits

aa. First Cycle                      Yes X        No         Committed to do so

bb. Second Cycle                    Yes X        No         Committed to do so

Please provide details (e.g. web link for published report, how and when civil society and/or business were engaged during the review process, date of country visit). If your country has voluntarily published its questionnaire response, please indicate as well.

First review cycle:

- A site visit was held in London on 25-29 March 2012
- A roundtable discussion session was held with civil society and the private sector to ensure their views were fed into the final report.
- The final report is [here](#)
- The UK published its self assessment questionnaire [here](#)

Second review cycle:

- A site visit was held in London on 4-8 July 2018
- A roundtable discussion session was held with civil society and the private sector to ensure their views were fed into the final report.
- The final report is not yet available
- The UK published its self assessment questionnaire [here](#)

22. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

Yes         No

r. If yes, please provide details.

Since the last accountability report, the UK has not yet received its cycle two recommendations.

b. If you have responded to all or some of the recommendations, have you made those responses publicly available?

Yes  No

If yes, please provide details (including web links, if available).

N/A

23. Is your country party to the OECD Anti-Bribery Convention?

Yes X No

If no, please give an update on steps taken by your country to

- a. participate actively with the OECD Working Group on Bribery, including through possible Participant status and
- b. adhere to the OECD Anti-Bribery Convention.

N/A

24. Has your country begun or completed an OECD Anti-Bribery Convention peer review process as a country under review?

Yes X No

If yes, please indicate.

- |            |                                |             |
|------------|--------------------------------|-------------|
| a. Phase 1 | Begun <input type="checkbox"/> | Completed X |
| b. Phase 2 | Begun <input type="checkbox"/> | Completed X |
| c. Phase 3 | Begun <input type="checkbox"/> | Completed X |
| d. Phase 4 | Begun <input type="checkbox"/> | Completed X |

Please provide information on your country's OECD peer review process and/or any other relevant information (such as reports and links)

The UK's Phase 4 report can be found [here](#)

The UK's Phase 3 report can be found [here](#)  
 The UK's Phase 2 report can be found [here](#)  
 The UK's Phase 1 report can be found [here](#)

25. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in previous OECD Anti-Bribery Convention evaluations?

Yes  No

If yes, please provide details (including a link to the written follow-up report, where applicable).

The UK's phase 4 written follow-up report is due in March 2019. The UK Joint Anti-Corruption Unit is working with departments and agencies across government to ensure the phase 4 recommendations are acted upon. Activity will be set out in the follow up report.

Key activity over the last 12 months has included:

- In April 2018 the government announced that core funding for the Serious Fraud Office has been increased from £34 million to £52.7 million with retention of scope for blockbuster funding.
- In June 2017 a new Serious Fraud Office director was appointed on a 5 year term. In December 2017 the UK announced the creation of a new National Economic Crime Centre (NECC) which will improve intelligence sharing and cooperation across UK government, including on foreign bribery.
- A House of Lords Bribery Committee, appointed in May 2018, is providing post-legislative scrutiny of the implementation of Bribery Act legislation. Between July – September 2018 it heard evidence from public sector agencies, civil society and the private sector. The committee will examine the effectiveness of the Act; whether there has been stricter prosecution of corrupt conduct, a higher conviction rate, and a reduction in such conduct; the impact of the Act on SMEs; and Deferred Prosecution Agreements in relation to bribery.
- In September 2018 Transparency International's 'Exporting Corruption' report again noted that the UK is an 'active enforcer' (the highest category) of the OECD Convention on Foreign Bribery.

26. Is your country party to other international or regional anti-corruption instruments (such as the Inter-American Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the Council of Europe Criminal Law Convention on Corruption or the Council of Europe Civil Law Convention on Corruption)?

Yes  No

If yes, please indicate which instrument(s).

The Council of Europe's Group of States Against Corruption (GRECO)

27. Has your country been under review related to any kind of international or regional anti-corruption review mechanism other than the UNCAC peer review process?

Yes  No

If yes, please provide links to review and any compliance reports, if available.

**GRECO**

The UK's 5<sup>th</sup> Round Evaluation Report can be found [here](#)

The UK's 4<sup>th</sup> Round Evaluation Report can be found [here](#)

The UK's 3<sup>rd</sup> Round Evaluation Report can be found [here](#) and [here](#)

The UK's 2<sup>nd</sup> Round Evaluation Report can be found [here](#)

The UK's 1<sup>st</sup> Round Evaluation Report can be found [here](#)

**OECD Convention on Foreign Bribery:**

The UK's Phase 4 report can be found [here](#)

The UK's Phase 3 report can be found [here](#)

The UK's Phase 2 report can be found [here](#)

The UK's Phase 1 report can be found [here](#)

**IMF Article IV**

The UK has agreed to have an anti-corruption section included in its IMF Article IV evaluation from 2018.

## **UNITED STATES**

### **Summary of National Progress**

1. Please provide a high-level summary (maximum of 500 words) of the most significant anti-corruption measures or initiatives that your country has introduced or implemented since the Accountability Report of 2017. The 2017 Accountability Report as well as previous reports can be accessed at <https://www.g20.org/en/g20-argentina/work-streams/anti-corruption>.

The United States continues to be a global leader in the fight against corruption both at home and abroad. Since the last accountability report, the United States strengthened its protections for whistleblowers when President Trump signed legislation reauthorizing the Office of the Special Counsel, which is responsible for protecting whistleblowers from retaliations (see question 14). In May, the U.S. Department of the Treasury's May 2016 Customer Due Diligence (CDD) Rule went into full effect, strengthening regulations to improve financial transparency and prevent criminals and terrorists from misusing companies to disguise their illicit activities and launder their ill-gotten gains (see question 3). The United States also strengthened its already robust financial disclosure framework when, in July, the U.S. Office of Government Ethics (OGE) published a final rule amending the regulations that govern Executive branch financial disclosure, qualified trusts, and certificates of divestiture. These changes include a requirement that public financial disclosure filers report transactions of securities (such as stocks and bonds) promptly throughout the calendar year, instead of once annually, and that certain public financial disclosure filers report mortgages secured by their personal residence (see question 11).

The United States also continues to enforce its existing anticorruption laws and policies. In February, the U.S. Department of States issued its first public designation under Section 7031(c), which allows the Department to deny visas to current and former corrupt officials and their beneficiaries (see question 2).

Finally, the United States has begun its second cycle review under the UN Convention against Corruption's Implementation Review Mechanism. Similar to commitments made during the first cycle of reviews, the United States will include civil society and the private sector in the review and has pledged to post all related documents publicly, including the self-assessment checklist and the full final report (see question 21).

### **Practical co-operation:**

2. Please give an update on the progress made and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on

## Persons Sought for Corruption and Asset Recovery.

In December 2017, President Trump signed [Executive Order 13818](#) declaring a national emergency with respect to serious human rights abuse and corruption around the world and providing for the imposition of sanctions on actors engaged in these malign activities. This order built on the Global Magnitsky Human Rights Accountability Act passed by the U.S. Congress in 2016. In an annex to the order, President Trump imposed sanctions on 13 serious human rights abusers and corrupt actors. In addition, the Treasury Department's Office of Foreign Assets Control (OFAC), acting on behalf of the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, imposed sanctions on an additional 39 affiliated individuals and entities under the newly-issued Order. In 2018, an additional 13 individuals and 19 entities have been sanctioned under this authority.

The United States also continues to implement a number of laws and policies in place to deny entry to persons suspected of engaging in acts of corruption. The most prominent corruption-related visa denial authorities are Presidential Proclamation 7750 (PP 7750) and the Anti-Kleptocracy and Human Rights Provision in the annual Appropriations Act (Section 7031(c)). The Department uses either PP 7750 or Section 7031(c), or both, to deny visas to current and former corrupt officials, as well as certain other individuals, who the State Department has reason to believe engaged in corruption, as well as certain of their family members. Issued in 2004, PP 7750 suspends entry to the United States by certain individuals involved in public corruption that has serious adverse effects on U.S. national interests. As a result of significant Congressional interest in U.S. efforts to address kleptocracy, Congress has included a corruption-related visa ineligibility provision in the annual Appropriations bill since 2008.

In February 2018, the State Department issued its [first public designation](#) under Section 7031(c), denying entry to a former Albanian official who engaged in corruption. Since then, the United States has made several public designations under this authority.

The full text of Presidential Proclamation 7750 can be found here:  
<https://www.gpo.gov/fdsys/pkg/FR-2004-01-14/pdf/04-957.pdf>

The full text of Section 7031(c) of the Fiscal Year 2017 Consolidated Appropriations Act can be found here: <https://www.congress.gov/bill/115th-congress/house-bill/244/text>

The United States is also committed to cooperating with other countries on corruption and asset recovery matters. As outlined in detail in Question 22, the Department of Justice has committed to improving efficiencies to execute requests for mutual legal assistance and extradition in a timely manner.

3. Please give an update on the progress made against your National Implementation Plan (if applicable) and/or on any other steps taken by your country since the last Accountability Report to meet the G20 High Level Principles on Beneficial Ownership Transparency and the relevant Financial Action Task Force recommendations on beneficial ownership transparency.

In May 2018, the U.S. Department of the Treasury’s May 2016 Customer Due Diligence (CDD) Rule went into full effect; all covered financial institutions—banks, brokers or dealers in securities, mutual funds, futures commission merchants, and introducing brokers in commodities—will now be examined for compliance with this Rule by their regulator, and subject to civil and criminal penalties for non-compliance. The CDD Rule amended Bank Secrecy Act (BSA) regulations to improve financial transparency and prevent criminals and terrorists from misusing companies to disguise their illicit activities and launder their ill-gotten gains. It clarifies and strengthens customer due diligence requirements for covered financial institutions and adds a new requirement for these institutions to identify and verify the identity the natural persons (known as beneficial owners) of legal entity customers who own, control, and profit from companies when those companies open accounts.

With respect to the new requirement to obtain beneficial ownership information, financial institutions will have to identify and verify the identity of any individual who owns 25 percent or more of a legal entity, and in all cases, an individual who controls the legal entity

The CDD Rule also amended BSA regulations to clarify customer due diligence obligations in line with the FATF standards. The anti-money laundering program rules for covered financial institutions now require covered financial institutions to establish and maintain written risk-based policies and procedures for, among other things, understanding the nature and purpose of customer relationships to develop customer risk profiles; and conducting ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information. The beneficial ownership information collected by covered financial institutions also feeds into these obligations.

### Private Sector Integrity

4. Since the last Accountability Report, has your government instituted any new measures to promote the development of anti-corruption initiatives, such as anti-corruption training and education by the private sector, including for Small and medium-sized enterprises (SMEs) and the non-financial professional services sector<sup>21</sup>?

Yes  No

<sup>21</sup> non-financial professional services sector could include: computer services, real estate, research and development, legal services and accounting

If yes, please provide details.

The United States government carries out a number of ongoing initiatives that over the past year continued to engage the private sector on anti-corruption issues. Examples of such initiatives include:

Engagement with Companies on Anti-Corruption Issues:

The Department of Justice (DOJ), the Securities and Exchange Commission (SEC), the Department of Commerce, the Department of State and other U.S. government agencies conduct routine outreach to the business community and continue to coordinate with the private sector on anti-corruption issues. To this end, DOJ continues to provide businesses, through its Foreign Corrupt Practices Act (FCPA) opinion release procedures, the opportunity to seek an opinion as to whether certain prospective, non-hypothetical conduct conforms with DOJ’s enforcement policy. High-level Commerce officials also meet with business leaders around the world and advocate with government officials on rule of law and anti-corruption issues, and the Commercial Law Development Program (CLDP) meets regularly with U.S. businesses to better understand their concerns about, and provide programming in priority countries on, the legal and regulatory reforms needed to reduce corruption and level the playing field in developing countries for U.S. companies.

Anti-Corruption Publications:

U.S. government agencies continue to provide information to companies through a number of U.S. and international publications designed to assist firms in complying with anti-corruption laws, including The Foreign Corrupt Practices Act Resource Guide.

FCPA Training:

State and Commerce continue to provide FCPA and related anticorruption training to Commerce’s U.S. and Foreign Commercial Service officers and State Foreign Service officers so that they may raise awareness about corruption and compliance programs and assist U.S. companies as appropriate when confronted with corruption overseas.

5. Since the last Accountability Report, have there been any changes or proposed changes to your country’s legislation or other measures related to private sector integrity?

Yes  No

If yes, please provide details.

In 2016, the U.S. Department of Justice (DOJ) Justice Department initiated a Pilot Program within its Foreign Corruption Practices Act (FCPA) Unit that provided guidance

to prosecutors and transparency to companies about the definition and benefits of voluntarily self-disclosing misconduct, cooperation, and remediation in FCPA cases. After a marked increase in voluntary disclosures, DOJ replaced the Pilot Program in November 2017 by announcing a new FCPA Corporate Enforcement Policy that was made permanent in the U.S. Attorneys' Manual (the manual that applies to all Department of Justice prosecutors).

The new policy states that when a company satisfies the standards of voluntary self-disclosure, full cooperation, and timely and appropriate remediation, there will be a presumption that DOJ will decline to prosecute the company, and if a criminal resolution is warranted due to aggravating circumstances, the company will receive a significantly more lenient resolution. Specifically, if a company voluntarily discloses wrongdoing and satisfies all other requirements, but aggravating circumstances compel an enforcement action, the Department will recommend a 50% reduction off the low end of the Sentencing Guidelines fine range, except where the company is a repeat offender.

The policy also provides details about how the Department evaluates an appropriate compliance program, and specifies some of the hallmarks of an effective compliance and ethics program. Examples include fostering a culture of compliance; dedicating sufficient resources to compliance activities; and ensuring that experienced compliance personnel have appropriate access to management and to the board.

The new policy does not provide a guarantee individuals and entities will not be prosecuted.

6. Does your country apply anti-corruption legislation to SOEs (employees and executives), including anti-bribery legislation? Please provide a response for both active and passive bribery with regard to domestic and transnational bribery of public officials.
- Yes  No

If yes, please provide details.

The U.S. Code does not provide a single universal definition of the term “government corporation.” However, a range of entities linked to the Federal government exist with varying degrees of government ownership, control, and participation in governance and funding. The applicability of constitutional and statutory rules, including antitrust law, and the availability of sovereign immunity defenses, vary depending on the nature of the entity. Each government corporation is chartered through an act of Congress. The use of separate acts to charter each corporation has resulted in wide variance in the legal and organizational structure of government corporations. The Government Corporation Control Act of 1945, as amended, does provide for the standardized budget, auditing,

debt management, and depository practices for those corporations listed in the act.

Executive branch employees, including those in government corporations that are agencies of the Executive branch, are subject to a series of ethics policies and provisions. These include, but are not limited to, the criminal conflict of interest statutes (18 U.S.C. § 201 et seq.), which provide for both criminal and civil penalties for certain bribery, graft, and conflict of interest activities by government employees or former employees, as well as Executive Order 12674 on Principles of Ethical Conduct, as modified by Executive Order 12731, the uniform Standards of Ethical Conduct for Employees of the Executive Branch at 5 C.F.R. Part 2635, and the Ethics Pledge as set forth in Executive Order 13770.

Furthermore, the Foreign Corrupt Practices Act makes it illegal for any citizen, national, or resident of the United States, including those working for a government corporation to offer, promise, or give a corrupt payment to a foreign official in order to obtain or retain business. A payment can be money or anything of value.

If no, has your country taken steps to propose or to make changes to your country's anti-corruption legislation related to SOEs (employees and executives)?

**Active and Passive Bribery Offences**

7. Does your country currently have legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?

Yes  No

If yes, please provide details.

The U.S. federal domestic bribery statute is set out in Title 18, U.S. Code, Section 201, and prohibits active and passive domestic bribery insofar as it criminalizes the solicitation, receipt, and provision of anything of value in exchange for influencing an official act. There is also a criminal and civil statute, Title 18 U.S. Code, Section 209, which prohibits employees from accepting any salary or supplementation of salary from a person other than the United States as a compensation for their official Government duties. In addition, the executive branch standards of conduct establish strict rules regarding the solicitation and acceptance of gifts that are given by any person or organization that is doing business with, is regulated by, or has interests that may be impacted by an employee's agency, or that are given on the basis of the employee's official position. Employees are also precluded from accepting a gift in return for being influenced in the performance of an official act; improperly soliciting or coercing the offering of a gift; accepting gifts from the same or different sources on a basis so frequent that a reasonable person would be led to believe the employee is using his public office for private gain; and accepting a gift in violation of any statute.

As mentioned above, the Foreign Corrupt Practices Act (FPCA) makes it illegal for any citizen, national, or resident of the United States, including those working for a government corporation to offer, promise, or give a corrupt payment to a foreign official in order to obtain or retain business. A payment can be money or anything of value.

8. If your country has not criminalized foreign bribery, has your country proposed or made changes, since the last Accountability Report, to your country’s legislation or other measures related to the criminalization of active and/or passive bribery of domestic and/or foreign public officials and/or officials of public international organizations?
- Yes  No

If yes, please provide details.

**Liability of Legal Persons**

9. Has your country established the liability of legal persons for corruption and corruption-related offences?
- Yes  No

If yes, please provide details (e.g. about the type of liability, including whether criminal, civil, or other).

General principles of corporate liability apply to the Foreign Corrupt Practices Act (FCPA). A company is liable when its directors, officers, employees, or agents, acting within the scope of their employment, commit FCPA violations intended, at least in part, to benefit the company. Similarly, just as with any other statute, DOJ and SEC look to principles of parent-subsidary and successor liability in evaluating corporate liability. There are two ways in which a parent company may be liable for bribes paid by its subsidiary. First, a parent may have participated sufficiently in the activity to be directly liable for the conduct. Second, a parent may be liable for its subsidiary’s conduct under traditional agency principles. DOJ and SEC evaluate the parent’s control—including the parent’s knowledge and direction of the subsidiary’s actions, both generally and in the context of the specific transaction— when evaluating whether a subsidiary is an agent of the parent. Successor liability is an integral component of corporate law and, among other things, prevents companies from avoiding liability by reorganizing. Successor liability applies to all kinds of civil and criminal liabilities, and FCPA violations are no exception. Whether successor liability applies to a particular corporate transaction depends on the facts and the applicable state, federal, and foreign law.

More information can be found in the [Resource Guide to the Foreign Corruption Practices Act](#)

If no, has your country taken steps since the last Accountability Report to establish the liability of legal persons for corruption and corruption-related offences?

Yes  No

If yes, please provide details.

**Public Sector Integrity and Transparency**

10. Since the last Accountability Report, has your country taken significant steps to propose or to make changes to your country’s legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

Since the last Accountability Report, the U.S. Department of the Treasury launched the new and improved USASpending.gov website. USASpending.gov is the official source for displaying the lifecycle of funds, from award to spend data, across the U.S. Government. New features and updates to the website include, a ‘Spending Explorer’ so users can drill down into financial spending data, such as budget function, agency, and object class; improvements to the Award Search and Download features so users can track spending over time by quarter and month.

11. Since the last Accountability Report, has your country proposed or made changes to your country’s legislation or other measures related to public disclosure by public officials?

Yes  No

If yes, please provide details.

In July 2018, the U.S. Office of Government Ethics (OGE) published a final rule amending the regulations that govern Executive branch financial disclosure, qualified trusts, and certificates of divestiture. The amendments reflect extensive input from the Executive branch ethics community, as well as OGE’s consultation with the Department

of Justice (DOJ) and the Office of Personnel Management. The amendments come into effect on January 1, 2019.

The final rule incorporates the reporting requirements imposed by the Stop Trading on Congressional Knowledge (STOCK) Act of 2012. These changes include a requirement that public financial disclosure filers report transactions of securities (such as stocks and bonds) promptly throughout the calendar year, instead of once annually, and that certain public financial disclosure filers report mortgages secured by their personal residence. The rule also makes changes to the confidential filing requirements, adds and updates examples, and conform the language of the regulation more closely to that of the Ethics in Government Act.

12. Does your country have in place standards and a system for preventing and managing conflicts of interest in the public sector? This may include the establishment of standards of conduct, especially for public officials working in high-risk sectors; putting into place clear means for developing, implementing and updating conflict-of-interest policies; and identifying “at-risk” activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures.

Yes  No

If yes, please provide details.

The U.S. Federal Executive branch has established a comprehensive program for defining and preventing conflicts of interest on behalf of officers and employees of the Executive Branch. All officers and employees of the Executive branch are subject to the Standards of Ethical Conduct for Employees of the Executive Branch and the Principles of Ethical Conduct set forth in Executive Order 12674, as modified by Executive Order 12731. Agencies and OGE may also jointly publish regulations that supplement the Executive branch-wide regulations to address issues or risks specific to that agency. OGE periodically reviews the Standards of Conduct and issues modifications as needed. For example, in 2016, OGE issued amendments to the Standards governing solicitation and acceptance of gifts from outside sources and the Standards that apply to employees who are seeking non-Federal employment.

Further, all employees are subject to the provisions of 18 U.S.C. § 201 et seq., making criminal certain bribery, graft, and conflict of interest activities by employees or former employees. And senior politically appointed officials are subject to civil outside activity and employment restrictions found in civil statutes at 5 U.S.C. app. §§ 501-505 and implemented, in part, in 5 C.F.R. Part 2636.

All full-time non-career Executive branch appointees are also subject to the Ethics

Pledge as set forth in Executive Order 13770, which includes recusal obligations in addition to those imposed by statute or regulation, post-employment restrictions in addition to those imposed by statute, and a ban on accepting gifts from lobbyists or lobbying organizations.

One of the primary ways that potential conflicts of interest are prospectively identified and mitigated is through the collection and review of financial disclosure reports from high-level and “at risk” officials. The Ethics in Government Act of 1978, as amended, requires senior Executive branch officials to file public financial disclosure reports. Individuals in positions that require public financial disclosure must file their disclosures upon entry into the position, annually, and then upon leaving the position. 28,352 public reports were filed in 2017. Additionally, employees in positions requiring public financial disclosures must file periodic transaction reports of certain personal financial transactions in stocks, bonds, and other securities. These transaction reports are due within 45 days of the transaction or within 30 days of notification of the transaction, whichever is earlier. 13,755 periodic transaction reports were filed in 2017.

Less senior officials who occupy “at risk” positions that involve the exercise of discretion in sensitive areas such as contracting, procurement, administration of grants and licenses, and regulating or auditing non-Federal entities, file confidential financial disclosure reports upon entry into a covered position and annually. Confidential financial disclosure reports require similar information to the public financial disclosure reports but do not require the listing of values of assets, income, liabilities, and gifts or the listing of certain other interests such as cash bank accounts and diversified mutual funds that are unlikely to give rise to a conflict of interest. 382,874 confidential reports were filed in 2017.

Completed public financial disclosure reports for officers and employees of the Executive branch are available from the department or agency in which they serve following the public release provisions of the Ethics in Government Act. Completed reports for individuals who have been nominated by the President to Executive branch positions requiring Senate confirmation as well as Presidential candidates are also available from the U.S. Office of Government Ethics. Confidential financial disclosure reports are not publicly available.

Consequences of wilfully failing to file a public or confidential report or information required on such report, or wilful falsification of any information required to be reported, include civil fines, criminal prosecution, and administrative adverse action including loss of job or suspension, demotion, administrative reprimand and required further training. A fine can also be imposed for filing a public report late.

Another way that conflicts of interest are prevented is through ethics education and training programs. As part of Executive-branch-wide ethics program management regulations, agencies must issue notices to prospective employees in written offers of employment regarding the agencies’ ethics programs and applicable ethics requirements. Employees who are in supervisory positions also are required to receive information on the heightened expectations that come with their roles as managers

within a year of the employee's initial appointment.

Within 3 months from the time an employee begins work for a federal agency the agency must provide the employee with initial ethics training. The initial ethics training must focus on ethics laws and regulations and must address concepts related to financial conflicts of interest, impartiality, misuse of position, and gifts. Over 300,000 employees received initial ethics training in 2017. Many Executive branch employees are also required to complete annual training requirements, determined by the type of position held (such as financial disclosure filers and contracting officers). Over 460,000 officials received annual training in 2017. This includes ethics training on financial conflicts of interest. Employees who are serving in Presidentially appointed, Senate-confirmed (PAS) positions receive substantial counselling with regard to the application of the federal conflict of interest laws prior to appointment and in conjunction with their preparation and submission of their first public financial disclosure report for purposes of their nomination and appointment. All such employees are to receive a live ethics briefing within 15 days of appointment, in addition to receiving initial ethics training. 522 PAS trainings were held in 2017.

All employees are covered by a lifetime bar on "switching sides" and representing an outside party back to the U.S. Government on any particular matter involving specific parties he or she worked on while in government (e.g., a contract, grant, or lawsuit). Other restrictions apply depending on how senior the employee was during his or her government employment, for example:

- Supervisors are restricted for two years after leaving the government from knowingly making, with the intent to influence, any communication to or appearance before the United States on behalf of someone other than himself or herself or the United States, in connection with a particular matter in which the United States is a party or has a direct and substantial interest, and which the former employee knows or reasonably should know was pending under his or her official responsibility within a period of one year before the termination of his or her employment. This provision applies to supervisors and managers who did not personally handle a matter, but over which they were responsible.
- "Senior Employees" are prohibited for one year after leaving a senior position from representing any person back to any government agency where they worked in the past year. It doesn't matter if they worked on the matter before, whether it was pending before the agency when they were in government, or whether it is wholly new.
- "Very Senior Employees" are prohibited for two years after leaving a very senior position from representing any person back to any government agency where they were a "very senior employee." They are also barred for two years from contacting other high-level officials at other agencies, such as cabinet and agency heads.

The criminal and civil statutes and the Standards of Conduct are investigated and enforced using *standard procedures* that are not unique to these restrictions and did not have to be designed specifically for them. When confronted with an allegation of abuse, the agency can turn to its independent Inspector General (IG) for investigation or, if the agency is small and without an IG, it may be able to make arrangements to

“borrow” an investigator from another agency. If an official engages in misconduct that violates only the administrative Standards of Ethical Conduct for Employees of the Executive Branch, the agency is responsible for instituting administrative penalties against the official according to standard procedures. If the misconduct violates a civil or criminal statute, the Department of Justice is responsible for pursuing those matters through the courts. An agency must refer potential criminal conduct to the Department of Justice for investigation. An official may be subject to both administrative and civil or criminal sanctions for the same conduct.

13. Has your country established whistleblower protections under your domestic laws?

Yes  No

14. Since the 2015 Accountability Report, has your country proposed or made changes to its whistleblower protection framework in both public and private sectors?

Yes  No

If yes, please provide details.

In December 2017, President Trump signed into law legislation reauthorizing the U.S. Office of Special Counsel (OSC). The legislation, included in the National Defense Authorization Act for Fiscal Year 2018, reauthorizes OSC through 2023. Importantly, the bill (in Section 1097) clarifies that when complying with OSC’s information requests, federal agencies may not withhold information and documents from OSC by asserting common law privileges such as attorney-client privilege. The reauthorization measure also promotes greater efficiency and accountability within OSC, improves protections against retaliatory investigations and other forms of reprisal for whistleblowing, and requires managers across the federal government to respond appropriately to disclosures of waste, fraud, and abuse. It comes after the enactment of the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017, which enhanced disciplinary penalties for supervisors who engage in whistleblower retaliation, among other key improvements.

In June 2018, President Trump signed into law the Whistleblower Protection Coordination Act, to permanently reauthorize a “Whistleblower Protection Coordinator” at each agency’s Office of Inspector General (OIG). The position, previously referred to as Whistleblower Protection Ombudsman, is tasked with educating agency employees about prohibitions against retaliation and with assisting the OIG in coordinating with the U.S. Office of Special Counsel (OSC), Congress, and other relevant entities to ensure allegations are handled appropriately. Pursuant to the Whistleblower Protection Enhancement Act of 2012, each OIG designated a Whistleblower Protection

Ombudsman to educate their agency’s employees about prohibitions on retaliation for whistleblowing, as well as employees' rights and remedies if anyone retaliates against them for making a protected disclosure. The authorization for the Ombudsman position was subject to a five-year sunset and expired on November 27, 2017. The Whistleblower Protection Coordination Act codifies and makes permanent this important function.

Also in June of 2018, the Government Accountability Office released a report with recommendations on how the Office of Special Counsel can increase the efficiency with which it processes Whistleblower complaints. Recommendations included having the Special Counsel review and revise as appropriate, its policy for agency extension requests; communicating expected processing timelines to whistleblowers, and developing, documenting, and implementing a standardized training program for entry-level employees, across units. The OSC concurred with all seven GAO recommendations and announced it had already undertaken steps to begin implementing them.

15. Since the last Accountability Report, has your country proposed or made changes to your country’s legislation or other measures related to open data, including open contracting?

Yes  No

If yes, please provide details.

See question 10

16. Is your country a member of the Open Government Partnership?

Yes  No

Please provide details including information on the collective actions taken by your country since the last Accountability Report.

The United States is in the midst of developing its fourth U.S. National Action Plan as it continues to implement commitments drawn from the third U.S. National Action Plan.

Examples of continuous impactful U.S. National Action Plan commitments include:

National FOIA Portal launched in March 2018: As part of its FOIA modernization efforts, the Department of Justice released the first iteration of the National FOIA Portal on FOIA.gov. Developed with a user-centric focus relying heavily on both public and

agency feedback, the National FOIA Portal allows a member of the public to submit a request, using a customized form, to over one hundred agencies from a single website. The National FOIA Portal also assists requesters in finding information that is already public, identifying the right agency, and understanding what happens after a request is made. The site also centralizes and provides ready access to each agency’s FOIA regulations, FOIA website, FOIA Reference Guide, and FOIA Library. The Department of Justice plans to enhance the portal going forward and actively solicits input from both agencies and the public.

Foreign Assistance Data Review (FADR): The Foreign Assistance Data Review (FADR) currently underway at the Department of State is a significant effort to improve foreign assistance data quality and availability. The Department of State has been implementing a new foreign assistance reporting solution along with updates to Department managed systems used to maintain foreign assistance data in accordance with recommendations produced by FADR, which have already improved the quality and completeness of data on ForeignAssistance.gov. Improvements have included an increase in the volume of Department of State transaction data published on ForeignAssistance.gov and enhanced reporting on the data elements established as part of Phase 2 of FADR.

17. Does immunity for public officials from investigations and prosecutions for corruption related offences exist in your country?

Yes       No

If yes, how is an appropriate balance ensured between any immunities and the need to effectively investigate, prosecute and adjudicate corruption offences, in accordance with article 30(2) of UNCAC?

No public official in the US federal government has statutory or Constitutional immunity from criminal investigation or prosecution relating to corruption. Certain procedural and timing considerations do exist for certain officials and those are discussed below by position and branch of government in which the individual serves.

Legislative Branch: Outside the scope of narrowly protected legislative activity, members of Congress are subject to criminal prosecution to the same degree as other citizens. Pursuant to the “Speech or Debate” clause of the United States Constitution, legislative acts may not be used to prove the elements of a criminal prosecution of a Member of Congress. The Speech or Debate Clause of the Constitution provides that, “for any Speech or Debate in either House, [Senators and Representatives] shall not be questioned in any other Place.” U.S. Constitution, Article 1, Section 6, Clause 1.

The United States Supreme Court has noted that the clause is intended “to protect the

integrity of the legislative process by insuring the independence of individual legislators.” While the clause generally precludes the use of a legislative act, such as a vote or the content of a speech in legislative session, to prove an offense, it does not insulate a Member of Congress from prosecution for corrupt conduct. Indeed, the protection may be better understood as an issue relating to the inadmissibility of certain evidence rather than as an absolute bar to prosecution. Generally, bribery and other corrupt conduct may be proven by evidence independent of protected legislative activity.

Executive Branch: Executive branch officials have no general immunity or privilege protecting them from criminal prosecution or investigation while in office for offenses involving corruption. The President is similarly not immune from prosecution or investigation, except that he may not be criminally prosecuted while in office. The issue is not explicitly addressed in the U.S. Constitution or by statute. However, no President has ever been charged with a criminal offense while in office, and the U.S. Department of Justice has long concluded that the prosecution of a President must wait until after he leaves office. Congress has the constitutional responsibility to impeach and remove a President from office for the commission of a crime, after which he may then be subject to prosecution.

Judicial Branch: No immunities or privileges apply to members of the judicial branch that would prevent them from being prosecuted for corruption. The courts have consistently upheld the power of the executive branch to prosecute sitting federal judges for criminal offenses involving corruption.

**Sectors**

18. Since the last Accountability Report, have there been any changes or proposed changes to your country’s legislation or other measures related to combating corruption:

a. in Sports? Yes  No

If yes, please provide details.

b. as a facilitator of illegal trade in wildlife and wildlife products? Yes  No

If yes, please provide details.

19. Is your country supporting or implementing any sector-specific initiatives?

Extractive Industries Transparency Initiative (EITI)

Implementing Yes  No

Supporting Yes  No

Construction Sector Transparency Initiative (CoST)

Implementing Yes  No

Supporting Yes  No

Customs (World Custom Organization-Arusha Declaration)

Implementing Yes  No

Supporting Yes  No

Others

Please specify.

Implementing Yes  No

Supporting Yes  No

Please provide notable details on each of the sectorial initiatives, listed or not listed above, supported by your country or domestic measures taken in relation to specific sectors.

**International Anti-Corruption Instruments**

20. Has your country begun or completed the second cycle of UNCAC peer review process as a country under review?

Yes  No

If yes, please indicate.

Begun

Completed

If no, please indicate when your country is scheduled to be reviewed

21. For either or both cycles, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so?

a. Publication of full report

- |                  |   |                             |  |
|------------------|---|-----------------------------|--|
| aa. First Cycle  | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | Committed to do so <input type="checkbox"/>            |
| bb. Second Cycle | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | Committed to do so <input checked="" type="checkbox"/> |

b. Involvement of civil society

- |                  |   |                             |  |
|------------------|---|-----------------------------|--|
| aa. First Cycle  | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | Committed to do so <input type="checkbox"/>            |
| bb. Second Cycle | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | Committed to do so <input checked="" type="checkbox"/> |

c. Involvement of business

- |                  |   |                             |  |
|------------------|---|-----------------------------|--|
| aa. First Cycle  | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | Committed to do so <input type="checkbox"/>            |
| bb. Second Cycle | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | Committed to do so <input checked="" type="checkbox"/> |

d. Country visits

- |                  |   |                             |  |
|------------------|---|-----------------------------|--|
| aa. First Cycle  | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | Committed to do so <input type="checkbox"/>            |
| bb. Second Cycle | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | Committed to do so <input checked="" type="checkbox"/> |

Please provide details (e.g. web link for published report, how and when civil society and/or business were engaged during the review process, date of country visit). If your country has voluntarily published its questionnaire response, please indicate as well.

The United States' UNCAC First Cycle Review Country Report can be found on the U.S. country profile page of the UNCAC website, located at:

<http://www.unodc.org/unodc/treaties/CAC/country-profile/CountryProfile.html?code=USA>

For the United States' First Cycle Review, a country visit took place April 4-8, 2011 by Sweden and Macedonia. During the country visit, the reviewing experts met with a variety of independent civil society organizations and representatives from the private sector, including Transparency International-U.S.A.; Pfizer; Paul Weiss Rifkind Wharton and Garrison LLP; Regulatory Data Corp, Inc.; Government Accountability Project; and

Public Citizen

22. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

Yes  No

s. If yes, please provide details.

In response to the Executive Summary and country report on implementation of Chapters III and IV of the UNCAC, and since the 2015 questionnaire, the United States has continued to consider ways to enhance efforts to ensure efficiency in executing mutual legal assistance (MLA) requests received from abroad, including through the collection of data. The U.S. Central Authority for MLA—the Department of Justice's Office of International Affairs (OIA)—has implemented a number of changes intended to respond to MLA requests in a timely and more effective manner. Given the large number of cases that OIA handles, the office has used an electronic case management system for a long time. However, as with most electronic case management systems, there always remains room for improvement. OIA's system operates with outdated technology that lacks versatility. Attempts made in 2015 and 2016 to transition to a more versatile and modern system did not come to fruition. Nevertheless, OIA continues to consider ways to improve its ability to maximize the use of information from its current system.

Improving OIA's electronic case management system continues to be a goal of a broader initiative -- known as "MLAT Reform" -- intended to create efficiencies within the U.S. Central Authority. Beginning in Fiscal Year 2015, OIA initiated a number of changes to process MLA requests more efficiently. They include:

- Changing OIA's leadership structure to allow closer oversight of the MLA execution process;
- Augmenting staffing to address all the work of OIA as the U.S. Central Authority;
- Creating specialized teams in OIA to execute foreign MLA requests by seeking court orders for the production of business and electronic records from the federal court in Washington, D.C., and coordinating with law enforcement agencies to provide other types of assistance;
- Creating new procedures to expedite the execution of requests that OIA;
- Dedicating staff to assist federal prosecutors working to extradite foreign criminals from the United States; and
- MLAT Reform goes beyond improvements to the execution of foreign MLA requests. It has significantly enhanced OIA's ability to produce results in U.S. cases by focusing resources on the work of returning fugitives and obtaining essential evidence to secure convictions in U.S. courts. U.S. efforts are not yet complete, but the changes implemented to date have yielded positive results.

b. If you have responded to all or some of the recommendations, have you made those responses publicly available?

Yes  No

If yes, please provide details (including web links, if available).

In 2015, the United States submitted to the UNCAC Secretariat an overview of the actions taken or considered by the U.S. government in response to the Executive Summary and country report on U.S. implementation of Chapters III and IV of the UNCAC. This response can be found publicly on the U.S. country profile page of the UNCAC website as well as at the following link:

[http://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/14-16November2016/GoodPractices/2015.46/United\\_States\\_of\\_America.pdf](http://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/14-16November2016/GoodPractices/2015.46/United_States_of_America.pdf)

23. Is your country party to the OECD Anti-Bribery Convention?

Yes  No

If no, please give an update on steps taken by your country to

- a. participate actively with the OECD Working Group on Bribery, including through possible Participant status and
- b. adhere to the OECD Anti-Bribery Convention.

24. Has your country begun or completed an OECD Anti-Bribery Convention peer review process as a country under review?

Yes  No

If yes, please indicate.

- a. Phase 1      Begun       Completed
- b. Phase 2      Begun       Completed

c. Phase 3      Begun       Completed

d. Phase 4      Begun \*      Completed

(\*the United States has started preparing for its Phase 4 evaluation, which will begin in 2019)

Please provide information on your country's OECD peer review process and/or any other relevant information (such as reports and links)

<http://www.oecd.org/daf/anti-bribery/unitedstates-oecdanti-briberyconvention.htm>

25. Since the last Accountability Report, has your country taken steps to respond to recommendations identified in previous OECD Anti-Bribery Convention evaluations?

Yes       No

If yes, please provide details (including a link to the written follow-up report, where applicable).

The United States' Follow-up on Phase 3 report can be found on the OECD Anti-Bribery Convention website located at <http://www.oecd.org/daf/anti-bribery/unitedstates-oecdanti-briberyconvention.htm>

26. Is your country party to other international or regional anti-corruption instruments (such as the Inter-American Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the Council of Europe Criminal Law Convention on Corruption or the Council of Europe Civil Law Convention on Corruption)?

Yes       No

If yes, please indicate which instrument(s).

The United States is a State party to:

- The Inter-American Convention against Corruption (IACAC) and The Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption (MESICIC)

- The Council of Europe's Group of States against Corruption (GRECO)

27. Has your country been under review related to any kind of international or regional anti-corruption review mechanism other than the UNCAC peer review process?

Yes  No

If yes, please provide links to review and any compliance reports, if available.

[Council of Europe's Group of States against Corruption \(GRECO\)](#)

1st Round, March 2004, Compliance May 2006, Addendum June 2008

2nd Round October 2006, Compliance Dec. 2008, Addendum Dec. 2010

3rd Round December 2011, Compliance March 2014, Addendum pending

4th Round December 2016, Compliance June 2017

[Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption \(MESICIC\)](#)

1st Round September 2005

2nd Round June 2008

3rd Round March 2011

4th Round March 2015

5<sup>th</sup> Round August 2018

[Financial Action Task Force](#)

Third Round Review 2006

Fourth Round Review 2016