

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

Introduction and context

State-owned enterprises (SOEs) are a significant presence in the global economic landscape. Currently around 22% of the world's largest companies are owned or controlled by the state, and that share is growing as SOEs internationalise their operations and as economies with large SOE sectors experience high rates of growth¹. State ownership typically occurs in sectors such as the network industries, public utilities, and the extractive and financial sectors, on which most of the private commercial sector depends for its downstream competitiveness². Moreover, the operations of SOEs can have important fiscal implications and may give rise to liabilities, including in legal terms, to the government that is responsible for their finances.

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

G20 countries encourage, and in their jurisdictions will take steps to assist with, legal and practical measures including, but not limited to: fighting corruption in SOEs; strengthening awareness among SOE managers and employees of the need to combat corruption; encouraging SOE efforts to improve integrity and avoid corruption; strictly enforcing rules criminalising corruption and related misconduct; and managing and mitigating any damage inflicted by corruption.

Applicability, scope and definitions

The High-Level Principles are guidance for G20 and other governments and for those state representatives that are charged with exercising ownership rights in SOEs on behalf of the government. The High-Level Principles should moreover provide useful guidance to SOEs' governance bodies and employees on preventing corruption and promoting integrity in their organisations. These High-Level Principles draw on general corporate governance standards according to which the state should act as an active and informed owner of enterprises, but should abstain from intervening in their daily management. Company-internal methods for preventing corruption in individual SOEs can be mandated by the state, but should normally be implemented by the corporate management under the supervision of the board of directors, subject to oversight by the relevant auditing bodies³. SOEs should be expected to develop and implement a culture of integrity.

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

¹ OECD (2016), *State-Owned Enterprises in the Global Marketplace: A Challenge or an Opportunity?*, OECD publishing.

² Moreover, the presence of SOEs may affect the private sector's ability to participate in these sectors.

³ For example, the OECD Guidelines on Corporate Governance of State-Owned Enterprises, which are addressed to government officials and policy makers, make reference to the *OECD Good Practice Guidance on Internal Controls, Ethics and Compliance* as a point of reference for the state ownership entity.

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

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

Recommendations:

A. INTEGRITY OF THE STATE

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

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

G20 countries should set high standards of conduct for public officials and state representatives exercising the State's ownership rights or overseeing SOEs. Integrity in SOEs is moreover anchored in a more general commitment to good practices and high standards of ethical behaviour among all public officials. SOEs should be operated according to their corporate and commercial purposes subject to applicable anti-corruption laws, and not be misused as conduits for illicit activities.

Principle 2: Establish ownership arrangements that are conducive to integrity

G20 countries should design their State ownership arrangements for SOEs in a way that is supportive of high standards of integrity, including, where feasible and in accordance with domestic legal systems, *inter alia* by separating ownership from other government functions and minimising opportunities for inappropriate ad-hoc interventions and other undue influence by the State in SOEs. The ownership structure and internal transactions should, without compromising the autonomous corporate nature of SOEs, be transparent and the state should encourage professional co-operation between the relevant state authorities.

B. OWNERSHIP AND GOVERNANCE

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

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

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

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

G20 countries should ensure that relevant agencies, including but not limited to the ownership entity if applicable, monitor SOEs' corruption risks, integrity and anti-corruption efforts as part of risk analysis and performance monitoring. Information-sharing among the relevant State agencies should occur, particularly when State ownership is not centralised in a single agency or ministry, or when other government functions are involved in monitoring SOEs, such as Supreme Audit Institutions or State Comptrollers. G20 countries should also, where applicable, make their SOEs follow good governance practices adopted by commercial companies.

C. CORRUPTION PREVENTION

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

Principle 5: Require adequate mechanisms for addressing risks of corruption

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

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

G20 countries should hold SOEs to generally high integrity requirements. Without unduly intervening in the management of individual SOEs, countries should take all relevant steps to encourage the strengthening of internal SOE governance, for instance through internal controls that are integrated into corporate governance, effective risk management, and auditing in line with national laws and agreed standards. Integrity mechanisms should be monitored by SOEs' senior management and, in particular, by their boards of directors. Key tools could include, but are not limited to, corporate codes of conduct or ethics, whistle-blower or complaints mechanisms and specific policies for high-risk areas such as gifts, hospitality, procurement, asset divestment, conflicts of interest and lobbying.

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

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

D. CORRUPTION DETECTION AND RESPONSE

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

Principle 8: Establish appropriate accountability and review mechanisms for SOEs

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

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

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

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

G20 countries should, where possible and appropriate, cooperate with stakeholders such as civil society, trade unions, private sector representatives and the public and media in identifying and addressing problems of corruption in SOEs. This includes providing accessible channels for stakeholders to raise concerns, including anonymously and subject to appropriate protections. Special care should be taken to ensure that State or SOE representatives, who may themselves be party to irregular practices, are not empowered to silence or stifle criticism.