G20 Anti-Corruption Working Group

2022 Pilot initiative to support implementation of previous G20 ACWG commitments

Overview

In 2022, Australia led a pilot initiative in its capacity as co-chair of the G20 Anti-Corruption Working Group (ACWG) to facilitate the implementation of previous G20 ACWG commitments through collective learning and exchange of good practices.

The initiative involved presentation of case studies to showcase successes, lessons learned and strategies for overcoming challenges in the implementation of High Level Principles and other commitments previously adopted by the G20 ACWG. The initiative also included the option to share the case study presentations in other international anti-corruption fora.

The pilot initiative is aligned with a key overarching objective of the Anti-Corruption Action Plan 2022-2024 which is to promote the implementation of existing G20 ACWG commitments and treaty obligations to increase the impact of the international anti-corruption agenda.

Implementation challenges

The 2022 pilot initiative focused on four implementation challenges drawn from the G20 ACWG’s reformed Accountability Reports for 2020 and 2021. The following areas for development were identified:

1. Improving the ways in which data is collected on how corruption manifests and is addressed, and how this information is then shared
2. Enhancing the use of existing legal frameworks to encourage better integrity practices in the private sector
3. Streamlining mutual assistance processes; in particular, improved coordination and management of responses to mutual legal assistance requests and the utilisation of flexible methods of communication between countries and domestic agencies, and
4. Providing further targeted technical assistance in relation to criminal corruption frameworks and enhancing the global leadership role of the G20 ACWG in anti-corruption efforts.

Case study presentations

At the second G20 ACWG meeting (5-8 July 2022):

- Brazil presented on the collection of data and information sharing, focusing on the National Strategy Against Corruption and Money Laundering (ENCCLA), which uses IT platforms to enable the collection of high-quality and centralised data, and streamline information sharing to promote stronger multi-agency engagement on anti-corruption.
- Mexico presented on improving private sector integrity and compliance, focusing on the Business Integrity Register, an innovative online initiative that uses a Business Integrity Badge to provide recognition for comprehensive integrity policies, and incentivise corporate compliance through a points system.
At the third G20 ACWG meeting (26-29 September 2022):

- Germany presented on timely and efficient mutual assistance, focusing on the *International Cooperation in Criminal Matters Act*, which provides a legal basis for the spontaneous sharing or exchange of information without a request for legal assistance, either as a matter of police or judicial cooperation.

- South Africa presented on technical assistance and capacity building, focusing on the *Prosecutor Placement Program*, which provides newly appointed prosecutors with practical skills and knowledge to manage asset forfeiture cases through office co-location with experienced asset confiscation lawyers.

- Italy also presented on technical assistance and capacity building, focusing on the *Anti-Corruption Capacity Building Strategy*, a multi-faceted strategy that provides technical assistance through initiatives including the provision of professional training, sharing of regulatory frameworks and the strengthening of international judicial and police cooperation.

Following the third meeting, Australia compiled feedback from G20 ACWG members to further refine the implementation initiative process and case study questionnaire used to inform the presentations. A summary of the implementation initiative process and the case study questionnaire are attached to this report to assist future presidencies who may choose to continue this initiative.

**Acknowledgements**

Australia is grateful to Accountability Lab for providing initial insights into the identification of implementation challenges, to G20 ACWG members who delivered presentations, and to Indonesia for its support to the initiative under its G20 presidency.

**Attachments**

A. Summary of the Implementation Initiative process
B. Questionnaire for case studies
C. Completed case studies by Germany, Italy, South Africa, Mexico and Brazil
In advance of first meeting, project leader identifies common implementation challenges drawn from the reformed Accountability Reports (past 2 years).

Project leader circulates survey to G20 members to seek their views/preferences on topics in advance of the first ACWG meeting. These topics may align with the ACWG Presidential priorities for that year.

Member states review survey responses, identify challenge focus areas and reach agreement at, or shortly after, the first ACWG meeting.

Project leader emails all members seeking volunteers to present on each of the topics and provides case study to volunteers for completion.

Completed template document distributed to all ACWG members via email prior to second and third meetings.

Presenting countries participate in panel discussions at second and third ACWG meetings on two topics each meeting.

Presentation slides (if used) are distributed to the ACWG after each meeting. If they wish, presenting countries may provide follow-up engagement opportunities.

At the third meeting, project leader reflects on the outcomes and mutually beneficial learnings from the case studies.

With agreement from presenting countries, case study documents are published on UNODC website under G20 Anti-Corruption resources.

Presenters may wish to consider opportunities to share their presentations with other international anti-corruption fora to raise the ACWG’s profile and encourage mutual learning e.g. UNCAC CoSP, OECD Anti-Bribery Working Group, APEC ACTWG.
Supporting the implementation of G20 ACWG commitments

Case Study

The purpose of this document is for G20 member countries to share information about challenges associated with the implementation of G20 ACWG commitments. This document accompanies presentations provided to the G20 ACWG and aims to provide further detail to support mutual learning.

Please provide a short summary of the example that will be discussed as well as information about how the G20 commitments have helped inform the delivery of domestic strategies:

Name the G20 commitment(s) being implemented and the domestic approach that made use of the G20 commitment (please identify and extract the relevant paragraphs and hyperlink the specific G20 document which contains this/these commitment(s):

Which government agencies or domestic experts were responsible for assisting with the implementation of the commitment(s)?
Set out the challenges associated with implementing these commitments and the ways in which G20 commitments helped to inform the implementation of a domestic initiative:

What solutions and strategies did your country use to address the challenges identified above?

What were the outcomes of using these strategies?
Were academia, civil society, media, public interest groups, business representatives, any specific G20 engagement groups or other stakeholders consulted during the implementation process? If yes, what did this participation look like and how did this assist with implementation?

On reflection, are there any lessons learned, or could anything have been done differently to improve implementation? If yes, please describe.

Please provide any additional information or links to resources, where relevant.

Are there any implementation challenges related to the G20 commitments identified above that remain or are ongoing?

Are there any additional implementation challenges that would be helpful for the ACWG to consider?
Would you be interested in sharing your presentation with another international anti-corruption fora (e.g. UNCAC Conference of States Parties, OECD Working Group on Bribery, APEC Anti-Corruption Transparency Experts Working Group) fora? If yes, please list the relevant fora below:


Would you be happy for this document to be published on the UNODC website (noting that contact details will be removed prior to publication to ensure personal privacy):

☐ Yes
☐ No

Contact Information

Please provide contact details for potential follow-up questions. Contact details will be treated confidentially.

Country:

Government Agency:

Team/Section:

Contact Name:

Position:

Phone Number:

Email:
Supporting the implementation of G20 ACWG commitments - Case Studies

Germany – Spontaneous exchange of information in the provision of mutual legal assistance

Spontaneous exchange of information without a previous request by another State is permissible under German Law either as a matter of police cooperation or judicial cooperation in the framework of Mutual Legal Assistance (MLA). An overview on the legal requirements illustrates how data transmissions are permissible in Germany in accordance with different standards depending on the addressee, e.g. an EU-State or non-EU-State and its legal protections in particular regarding the protection of personal data.

As one option to improve exchange of information to further this objective, as reported in 2020 Accountability Report questionnaire, page 116, the German Act on International Cooperation in Criminal Matters ("Gesetz über die internationale Rechtshilfe in Strafsachen", IRG) provides for the possibility of data transfer without a previous request for legal assistance (so-called spontaneous exchange of information) and this option is in practice used by German prosecution authorities.

Public prosecutors’ offices and courts are authorized to spontaneously exchange information towards third countries (Section 61 a IRG) or within the EU (Section 92 c IRG)

Furthermore, Section 26 of the Act on the Federal Criminal Police Office and cooperation between the Federal Government and the Länder in criminal matters (Bundeskriminalamtgesetz — BKAG) enables the Federal Criminal Police Office to submit information in certain cases.

Relevant implementation challenge and G20 commitment(s) (please identify and extract the relevant paragraphs and hyperlink the specific G20 document which contains this/these commitment(s):

1. The Anti-Corruption Action Plan 2022-2024 Substantive priority: 3 International cooperation, denial of safe haven and asset recovery:

"International cooperation is essential to prevent and counter cross-border corruption and to recover stolen assets. We will strive to deepen mutual understanding and trust among G20 countries and will actively promote enhanced global cooperation to deny entry or safe haven to persons who knowingly benefit from the proceeds of crime and to recover these proceeds and in a manner consistent with domestic laws and the United Nations Convention against Corruption. We will encourage active assistance, where possible, in identifying, seizing, and confiscating stolen assets and returning them to the prior legitimate owners and locating corrupt actors."

2. G20 High-Level Principles on Mutual Legal Assistance

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

i) providing clear, accessible information regarding the procedural requirements for MLA;

ii) ensuring prompt transmission of requests by the central authority to the executing authorities;

iii) maintaining open and direct lines of communication between central authorities, and encouraging whenever possible mechanisms for informal cooperation before the submission of an MLA request; and
iv) allowing for flexibility regarding the manner and form in which MLA requests are executed in the requested State to allow for the full use of the assistance granted in the requesting States’ proceedings in accordance with countries’ legal systems.

Principle 4 - Cooperation and coordination between jurisdictions should be facilitated, in accordance with countries’ legal systems, including by:
  i) facilitating, where appropriate, direct contacts between law enforcement agencies;
  ii) clarifying the circumstances in which alternative forms of cooperation should be preferred to formal requests for MLA;
  iii) developing mechanisms for collaborative or joint investigations.

Which government agencies or domestic experts were responsible for assisting with the implementation of the commitment/s?

- Federal Ministry of Justice, Federal Foreign Office
- Federal Office of Justice (agency subordinated to the Federal Ministry of Justice, central authority for requests for mutual legal assistance)
- Federal Criminal Police Office

What circumstances made it challenging to implement the commitment?

Spontaneous exchange of information remedies the challenge, that MLA is reactive and thus a State’s prosecutors or courts might lack the necessary information to commence their own investigations and file MLA requests based on such investigations.

What strategies did your country use to address the challenges identified above?

Spontaneous exchange of information as mutual legal assistance

The Act on International Cooperation in Criminal Matters (IRG) provides for the possibility of data transfer without a request for legal assistance (so-called spontaneous exchange of information) and this option is used by German prosecution authorities.

In order to remedy the challenge stated above, under the legal authorization to spontaneously exchange information, personal data can be exchanged preemptively – without a previous request for MLA – yet the transfer of data has to comply with the requirements and conditions an (hypothetical) later request for said information under MLA would have to fulfill. Germany as the state submitting the data is responsible for maintaining those standards, which is hindered by the fact, that the usual safeguards of MLA (like binding guarantees) are not available for preemptive transfers of data.

Consequently, certain limitations for the spontaneous transfer of data exist:

a. Purpose and conditions of transmission

Regarding third countries, spontaneous exchange of data is permissible, inter alia, if it is necessary to enable the addressed State to request assistance under MLA and such a hypothetical request regarding the transmitted information would be permissible. For a request for information to be permissible, inter alia, fundamental rights of the person concerned have to be guaranteed – e.g. that a fair trial will be ensured, and no inhuman or degrading punishment could be furthered by the information provided. An important issue in this regard is prison conditions.
Furthermore, the acts committed by the person concerned have to indicate that a criminal provision under German Law might be violated that imposes a maximum sanction of at least 5 years of imprisonment.

Within the EU – vis-à-vis EU Member States or, where applicable, EU institutions, spontaneous exchange of information by judicial authorities is permissible to a broader extend. The common legal framework on cooperation in criminal matters within the EU establishes the principles of mutual trust and mutual recognition in MLA and ensures common standards for protection of fundamental rights and data protection. Thus, sharing of information is subject to a lower threshold and is permissible if it permits a Member State to initiate or move along criminal proceedings, without the need to hypothetically establish that a later MLA request would be permissible.

b. procedural safeguards

Certain further procedural safeguards are applicable to any information submitted, to ensure that the rights of the person concerned are adequately protected: inter alia, information submitted is subject to time limits upon which it has to be deleted and no transfer is permissible if the data subject’s legitimate interests prevail in an individual case.

For transmissions to third countries, more detailed safeguards require the adequate guarantees on the protection of personal data are in place in the addressed State and the transmission is prohibited, if there is insufficient guarantee, in the individual case, that the personal data concerned will be handled in an adequate manner and in line with basic human rights.

Police cooperation

Summarized in very general terms, the Federal Criminal Police Office and in certain cases, the Ländere police, may within the EU submit information without previous request. Notably, the authorizations for the Federal Criminal Police Office to exchange information within the EU forms part of police cooperation and permits transfer of information for a broader range of purposes, e.g. if the information is necessary to perform the tasks of the Federal Criminal Police Office or the addressed agency, in particular law enforcement and maintenance of public security.

Correspondingly, information submitted under this section is usually submitted under the conditions that it may not be shared further, must be used for the intended purpose only and that any use of the information transmitted for law enforcement purposes (as evidence in a trial) requires a previous MLA request. Submissions to third countries are possible, if regulated in treaties under public international law.

What were the outcomes of using these strategies?

The authority to spontaneously transmit data to EU Member States or third countries is in practice used by courts or prosecutors. Furthermore, the Federal Criminal Police utilize their competence to transmit data. In practice, certain limitations exist, when the standards for submissions are not fulfilled. Reasons are e.g., that the information is not self-contained to establish whether a criminal act took place, or the standards for protecting personal data cannot be ascertained.

Specifically, regarding EU Member States, the Federal Criminal Police Office in the past applied their authorization to spontaneous exchange of information in certain data-leak cases: In instances where the Federal Criminal Police Office acquired large collections of data e.g. on potentially illicit financial dealings concerning individuals and companies in various countries, it could structure said material by country affected and distribute such country-relevant data within in EU. Said approach was
necessary, as regularly the information as such might indicate criminal activity, however the assessment is incomplete without further correlating information. As an example, financial activity might be illicit or effectively legal, depending on the individual case.

In practice, transmissions of data might also be staggered over subsequent steps: While at a first stage, a minimum of information is submitted to enable to addressed State to commence its own investigations, on subsequent steps, the State might formally request assistance, or within the established communication, more information might be submitted after it has been established that the preconditions are met.

Were academia, civil society, media, public interest groups, business representatives, any specific G20 engagement groups or other stakeholders consulted during the implementation process? If yes, what did this participation look like and how did this assist with implementation?

The legal authorization for spontaneous exchange of information was implemented in Federal Law since before 2008. The enactment of Federal Laws requires participation by relevant stakeholders, which are able to comment on the draft legislation (inter alia, the German Länder, and in case of the IRG, e.g. the associations of judges, (criminal law) lawyers).

Moreover, the Act on International Cooperation in Criminal Matters is subject to a general reform. Approximately until the end of 2022, several working groups with experts from courts, prosecutor’s offices, the competent ministries and defense lawyers intend to formulate proposals for a reform, which will also cover the provisions on spontaneous exchange of information.

On reflection, are there any lessons learned, or could anything have been done differently to improve implementation? If yes, please describe.

The potential for spontaneous exchange of information vis-à-vis any given State increases, if a mutually binding and robust legal framework towards the protection of individual rights and data protection is in place.

As the State transmitting the information spontaneously is responsible to ensure that individual rights are protected, the practitioners (courts or prosecutors) concerned may submit information more easily if necessary individual assessments are reduced because general protections are in place and can be relied upon.

Please provide any additional information or links to resources, where relevant.


Are there any implementation challenges related to the G20 commitments identified above that remain or are ongoing?

While the proposals to reform the Act on International Mutual Assistance in Criminal Matters are currently in development and thus still subject to change in the legislative process, in principle the authorizations for spontaneous exchange of information are reviewed with a view to potentially increase their usefulness in practice.
Are there any additional implementation challenges that would be helpful for the ACWG to consider?

N/A

Would you be interested in sharing your presentation with another international anti-corruption fora (e.g. UNCAC Conference of States Parties, OECD Working Group on Bribery, APEC Anti-Corruption Transparency Experts Working Group) fora? If yes, please list the relevant fora below:

Yes, if the ACWG considers relevant.

Contact Information

Please provide contact details for potential follow-up questions. Contact details will be treated confidentially.

Country: Germany

Government Agency: Federal Ministry of Justice

Team/Section: Unit II B 7
Italy – Anti-Corruption Capacity Building Strategy

Italy’s anti-corruption international technical assistance methodology, adopted by G20 ACWG in 2017-2018, integrates a case study in strengthening regulatory harmonization processes and spreading virtuous models. In particular, its four pillars, i.e. Capacity, Institution, Law and Consensus Building, are intuitive and strategic for legal frameworks development, enforcement of bodies and authorities, including for evidence gathering, information sharing, and collaboration, to safeguard human rights and fundamental freedoms, in deep coherence with the Rule of Law.

In addition, technical assistance is coessential to the multilateral peer review processes as a tool available to boost the implementation of multilateral commitments and recommendations in peer review processes and mechanisms.

Co-ownership and multi-shareholder approaches, ensured by the method, complete the scheme of a modern and comprehensive knowledge management sharing of best practices and experiences in fighting holistically corruption, organized crime and money laundering.

Italy, in the EU framework and bilaterally, is currently developing many technical assistance programs inspired to this methodology and the G20 ACWG commitments. The Falcone Borsellino, EL PAcCTO, EUROFRONT and COPOLAD 3 programmes are examples of this engagement, largely performed in consortium with other EU member countries, especially for the Latin American and Caribbean partners. The Italian – Latin American International Organization (IIIA), under the coordination of Ministry of Foreign Affairs and International Cooperation, is performing all these programmes.

The upcoming Team Europe Initiative on Justice and Security for Latin America and Caribbean Region will be also inspired to the same G20 ACWG methodology.

Relevant implementation challenge and G20 commitment(s) (please identify and extract the relevant paragraphs and hyperlink the specific G20 document which contains this/these commitment(s):

- The development of the 2017-2018 G20 ACWG Implementation Plan, which contains the following commitments:

  “Capacity building: We will support capacity building and the provision of effective and efficient technical assistance to assist countries in tackling corruption, including the effective global implementation of the provisions of UNCAC.”

  “Through provision of capacity building and technical assistance, G20 countries will assist, where appropriate, other countries in becoming States Party to, and effectively implementing, relevant international instruments such as UNCAC or the FATF standards, particularly in addressing recommendations emanating from reviews, including through cooperation with the UNODC and other international organisations.”

- The programmes Italy presents also develop the holistic vision of corruption delineated under 2021 G20 ACWG Presidency through the High-Level Principles on Corruption related to...
The capacity building programs in progress, founded by European Union or directly by Italy, are aimed to disseminate the culture of legality to fight corruption and related serious crimes, through the direct testimony of the highest European and Italian institutional authorities involved in the fight against corruption, organized crime and money laundering; they also share institutional models of enforcement, whose tried and tested effectiveness in crime prevention and repression is highlighted as an international best practice (e.g. Italy’s National Anti-Corruption Authority – the Autorità Nazionale Anticorruzione, National Anti-Mafia Directorate, Ministries of Foreign Affairs, Interior, Ministries of Justice, Public Prosecutor Offices, Police Forces and FIUs).

**Which government agencies or domestic experts were responsible for assisting with the implementation of the commitment/s?**

The capacity building programs in progress, founded by European Union or directly by Italy, are aimed to disseminate the culture of legality to fight corruption and related serious crimes, through the direct testimony of the highest European and Italian institutional authorities involved in the fight against corruption, organized crime and money laundering; they also share institutional models of enforcement, whose tried and tested effectiveness in crime prevention and repression is highlighted as an international best practice (e.g. Italy’s National Anti-Corruption Authority – the Autorità Nazionale Anticorruzione, National Anti-Mafia Directorate, Ministries of Foreign Affairs, Interior, Ministries of Justice, Public Prosecutor Offices, Police Forces and FIUs).

**What circumstances made it challenging to implement the commitment?**

The most important challenge to this commitment is identifying new forms of corruption, starting from a preliminary geo-historical analysis of the criminal phenomenon, in order to deepen the most realistic legal, institutional, and regulatory needs.

This fieldwork has to be carried out in co-ownership with the beneficiaries (partners countries), in line with the partnership approach, isolating the critical points and highlighting good practices. In other words, any systemic initiative follows the tried and tested operational canons of bilateral and multilateral legal diplomacy in matters of Justice and Security.

The promotion of activities that aim to offer anticorruption technical assistance and training, strengthen the institutions, renew the regulatory frameworks, and disseminate the values of legality is one of the cornerstones of the multilateral initiative. It responds to a growing demand from a large number of countries, and it is geared, above all, to sharing anti-corruption models and protocols already adopted in the international sphere.

Particularly adequate actions are focused, for instance, on the topics of the technique for drafting calls for tenders for public works and public supply contracts to avoid any form of infiltration of corruption and organized crime.

In addition, it is worth mentioning that the upcoming new initiatives are conceived in the same spirit: the concept note of the Team Europe Initiative for Justice and Security in Latina America and Caribbean officially turns around the [G20 High-Level Principles on Corruption related to Organised Crime](https://www.g20.org/documents/g20-high-level-principles-on-corruption-related-to-organised-crime.html), “G20 high-level principles on corruption related to organized crime implemented in the EU-LAC context, preventing the infiltration of organized crime in legal economy and state institutions”.

---

**Organized Crime** and the **High-Level Principles on Preventing and Combating Corruption in Emergencies**.
Italy’s Anticorruption Capacity Building strategy has gone beyond international cooperation, towards a new era of anti-corruption enforcement. The anti-corruption technical assistance enabled a journey through space and time towards better regulatory models. In space, it permitted to translate, share and export norms, institutions, organisational models, and value systems. It also enables scenarios to be anticipated, as if in a hypothetical journey through time. Often, national models - indicated or recognised as terms of reference - become standards in multilateral fora and, through conventional mechanisms, end up influencing the national legislation of tomorrow. Studying these phenomena in advance and in depth offers a novel approach to tackling and governing them in the best possible way.

In some contexts, judicial and police cooperation, however admirable and efficient, is probably no longer sufficient: the increasing complexity of corruption requires a more effective preventive system. Traditional bilateral agreements on judicial cooperation are often rendered obsolete and
The initiative has been developed, not only by public sector authorities, but also by all sectors of society (educational agencies, the press, the private sector), with a view to establishing long-term prevention programmes to reduce vulnerabilities at administrative, social, and economic levels, thus limiting the space available to grey areas, the breeding ground for global organised crime. A multi-stakeholder approach has been needed and ensured. The multi-shareholder approach has permitted to increase innovation, improve effectiveness, build the institutional memory, enhance organizational agility, expose critical points and encourage the territorial replicability and capillarity of the technical assistance interventions.

On reflection, are there any lessons learned, or could anything have been done differently to improve implementation? If yes, please describe.

With regard to the lessons learned we can enumerate in perspective some insights:
1. It is necessary to avoid overlapping and duplication in this area: systemising what has been implemented in the past by other organizations and institutions, to optimise efforts through coordination, increased the concrete overall impact of the contribution of our efforts.
2. The four pillars should be framed according to the specific situation of a country (tailor-made approach): a “one size fits all” approach does not correspond to the G20 vision. A careful needs assessment analysis is necessary (ex., Country profiles of UNCAC) to maximize results.

The tailor-made approach adds to the locally translated import of best practices three further complementary guidelines:
1. We have to take advantage of locally generated practices, by putting them to full capacity;
2. We have to bring out the silent forms of anti-corruption activities which are latent: this attention could come in the form of Rapid Results type Technical Assistance interventions;
3. We should turn into common practice the existing local oasis of procedural excellence in the field of anti-corruption.

Please provide any additional information or links to resources, where relevant.

https://www.arug.it/2022/05/25/busia-la-mafia-e-cambiata-la-corruzione-e-il-suo-modus-operandi/
With regard to remaining challenges, it is relevant to mention:

1. Lack of human resources to comply with all the requests from our international partners;
2. Hurdles in defining the exact counterparts. Specific Anticorruption (independent) Authorities do not exist everywhere but, even where present, do not have the same competences.

The main ongoing challenge: The need to give to the action a global projection, accordingly with the growing dimension of corruption and Transnational Organized Crime, considering also new scenarios of emergency and recovery.

Are there any additional implementation challenges that would be helpful for the ACWG to consider?

The ACWG could commence discussions on the possible future adoption of a document dedicated to technical assistance in the form of a concept note, high-level principles or compendium.

Would you be interested in sharing your presentation with another international anti-corruption fora (e.g. UNCAC Conference of States Parties, OECD Working Group on Bribery, APEC Anti-Corruption Transparency Experts Working Group) fora? If yes, please list the relevant fora below:

- UNCAC Conference of States Parties, OECD Working Group on Bribery

Contact Information
Please provide contact details for potential follow-up questions. Contact details will be treated confidentially.

Country: Italy

Government Agency: Ministry of Foreign Affairs

Team/Section: General Directorate on Global Issues

South Africa – Prosecutor Placement Program and Capacity Building

The Prosecutor Placement Programme
The Prosecutor Placement Programme is an initiative of the United Nations Office on Drugs and Crime (UNODC) and forms part of the Global Programme against Money Laundering, Proceeds of Crime and Financing of Terrorism (GPML). The GPML Prosecutor Placement Programme is a sustainable capacity building programme designed to give newly appointed confiscation prosecutors a practical understanding of asset confiscation practises and procedures by placing them in the office of an experienced and capable confiscation lawyer. Participants then implement these new skills in their Asset Recovery Units.

ARIN Southern Africa & The Prosecutor Placement Programme
The Asset Recovery Inter-Agency Network for Southern Africa (ARINSA) is an informal multi-agency network for participating countries. This platform enables participating members to exchange information, model legislation and legislation in asset forfeiture, confiscation and money laundering. With the assistance of UNODC, ARINSA was established in March 2009.

The Prosecutor Placement Programme hosted by the Asset Forfeiture Unit of the National Prosecuting Authority of South Africa
Since 2009, the Asset Forfeiture Unit of the National Prosecuting Authority of South Africa (AFU) hosted the ARINSA Prosecutor Placement Programme. The Programme focuses exclusively on South African asset recovery case law, practice and procedure based on the provisions of the Prevention of Organised Crime Act, 1998 (POCA), which inter alia provides for:

- Criminal (conviction) based forfeiture to recover the benefit derived from crime (in terms of Chapter 5 of POCA)
- Civil (non-conviction) based forfeiture to recover the proceeds of unlawful activities and instrumentalities of offences (in terms of Chapter 6 of POCA)

The legal scheme of POCA applies to all crimes, not only corruption, and is designed to even apply to cases of individual wrongdoing. The Programme is attended to by asset recovery prosecutors from ARINSA and elsewhere in the Southern African Region, 3 times a year, with support from donors, and involves a placement program in South Africa for 1 month. A similar program for Financial Investigators has been developed by the AFU, with the first pilot rolled out during October 2021 and November 2021 to Eswatini and Zambia.

Relevant implementation challenge and G20 commitment(s) (please identify and extract the relevant paragraphs and hyperlink the specific G20 document which contains this/these commitment(s):


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

2. G20 Action on International Cooperation on Corruption and Economic Crimes, Offenders and Recovery of Stolen Assets (2020) notes the importance of the provision of technical assistance and capacity building, including in relation to asset recovery:
“Countries could actively support the provision of technical assistance and capacity-building in the area of international cooperation and asset recovery, including by supporting the implementation of the requirements embodied in UNCAC, FATF Standards and other relevant international instruments, and facilitating the organization of training courses and expert meetings to that effect, to create further platforms for information and knowledge exchange and national capacity-building while emphasizing coordination and avoiding duplication.”

3. G20 Anti-Corruption Action Plan 2022-2024, the development of which was informed by the paper above and which includes international cooperation, denial of safe haven and asset recovery as a key priority:

“International cooperation is essential to prevent and counter cross-border corruption and to recover stolen assets. We will strive to deepen mutual understanding and trust among G20 countries and will actively promote enhanced global cooperation to deny entry or safe haven to persons who knowingly benefit from the proceeds of crime and to recover these proceeds and in a manner consistent with domestic laws and the United Nations Convention against Corruption. We will encourage active assistance, where possible, in identifying, seizing, and confiscating stolen assets and returning them to the prior legitimate owners and locating corrupt actors.”

Which government agencies or domestic experts were responsible for assisting with the implementation of the commitment/s?

- United Nations Office on Drugs and Crime (UNODC)
- Asset Recovery Inter-Agency Network for Southern Africa (ARINSA)
- National Prosecuting Authority of South Africa (NPA)
- Asset Forfeiture Unit of the National Prosecuting Authority of South Africa (AFU)
- Trainers (litigators and financial investigators) of the Asset Forfeiture Unit of the National Prosecuting Authority of South Africa

What circumstances made it challenging to implement the commitment?

**DIFFERENT LEGAL SYSTEMS**
- South Africa has a mixed legal system based on British common law, Roman Dutch law and customary law.
- Not all country participants in the Prosecutor Placement Programme follow a similar type of common law or adversarial legal process system.
- The difference between the adversarial and inquisitorial legal process systems provides significant challenges in respect of both training and asset recovery legal/technical assistance.
- Further, no general database exists containing updated asset recovery legislation, practice, procedure and case law for each participating country.

**FUNDING**
These training programmes are dependent on funding from both the UNODC and ARINSA. Funding remains an issue and impact on the training initiatives.

**PANDEMIC**
The COVID-19 pandemic impacted on the training. This Programme has not been run in-person since 2020 due to the COVID-19 pandemic. Training did however proceed on-line.
In 2021/2022 the National Prosecuting Authority of South Africa introduced and delivered in-country training as opposed to joint training in South Africa. This has been very successful and possibly even better as it is directly relevant and customised to a country’s needs.
What strategies did your country use to address the challenges identified above?

- The UNODC, through Asset Forfeiture Unit of the National Prosecuting Authority of South Africa, introduced an online pilot training programme for both the Prosecutor and Investigator Placement Programmes.
- These pilot training programmes have already been rolled out with the assistance of the UNODC and the University of Cape Town (South Africa).
- In 2021/2022 the National Prosecuting Authority of South Africa introduced and delivered in-country training as opposed to joint training in South Africa. This has been very successful and possibly even better as it is directly relevant and customised to a country’s needs.

What were the outcomes of using these strategies?

Training was well received and successful.

Were academia, civil society, media, public interest groups, business representatives, any specific G20 engagement groups or other stakeholders consulted during the implementation process? If yes, what did this participation look like and how did this assist with implementation?

- United Nations Office on Drugs and Crime (UNODC)
- Asset Forfeiture Unit of the National Prosecuting Authority of South Africa (AFU)
- University of Cape Town (South Africa)

On reflection, are there any lessons learned, or could anything have been done differently to improve implementation? If yes, please describe.

- Virtual training should have been considered and introduced long before the urgent need therefore arose during the COVID pandemic.
- South Africa should have moved to e-learning sooner as it has been in the mainstream for years. South Africa has however been slow to introduce this concept.
- The shift to in-country training could also have been considered and explored earlier.

Please provide any additional information or links to resources, where relevant.

The information can be accessed from the ARINSA website: https://new.arinsa.org/

Are there any implementation challenges related to the G20 commitments identified above that remain or are ongoing?

1) Funding remains an ongoing issue.
2) The differences in legal systems remains an issue, but is not insurmountable. Asset recovery language and concepts are generic so the law can interface, sharing is possible etc. Operational set-ups are similar in nature following the South African example and lessons learned. Also, African countries depend heavily on foreign case law, especially South African law so they are already familiar with South African law and have built cases around our legislative steer. Their legislation incorporates a lot of South African legislation regarding asset recovery. We also support their litigation, for example argue cases, provide input on drafts, so collaboration is not difficult. We also have developed a core of seasoned international trainers who are available and willing to deliver training.
Are there any additional implementation challenges that would be helpful for the ACWG to consider?

Not applicable.

Would you be interested in sharing your presentation with another international anti-corruption fora (e.g. UNCAC Conference of States Parties, OECD Working Group on Bribery, APEC Anti-Corruption Transparency Experts Working Group) fora? If yes, please list the relevant fora below:

The presentation may be shared.

Contact Information

Please provide contact details for potential follow-up questions. Contact details will be treated confidentially.

Country: South Africa

Government Agency: National Prosecuting Authority of South Africa

Team/Section: Asset Forfeiture Unit
Mexico – Business Integrity Register

Mexico’s Business Integrity Register is a Federal Government effort that seeks to improve the synergy between the government and companies. Its key objective is to promote integrity, ethics, honesty and equality, through the voluntarily enrolment of companies interested in adopting integrity practices.

Enrolment grants a Business Integrity Badge that recognizes companies that have an integrity policy that contains at least the minimum requirements stated in Mexican domestic law, as well as the best corporate practices, by promoting ethical behaviour in their operations, with their collaborators and their suppliers.

Relevant implementation challenge and G20 commitment(s) (please identify the specific G20 document which contains this/these commitment(s):

1. ACWG Action Plan 2022-2024, substantive priority 2
   “We will continue to encourage and support efforts by the private sector to strengthen effective internal controls and anti-corruption ethics and compliance programmes, including for small and medium sized enterprises (SMEs) and the non-financial professional services sector.” “Promote good practices in business integrity and anti-corruption ethics and compliance programmes…”

2. G20 Anti-Corruption Ministers Meeting Ministerial Communiqué (2020), number 14
   “Private Sector and NGO Integrity. We commit to promoting integrity in cooperation with the private sector… To achieve this, we will encourage the adoption of adequate anti-corruption ethics and compliance programs and codes of conduct by relevant private entities…”

3. G20 Principles for Promoting Integrity in Public Procurement (2015), p 8.1
   “Encouraging supplier efforts to develop internal corporate controls, and compliance measures, including competition and anti-corruption programs and looking at ways in which due recognition could be given to suppliers that have effective controls, measures and programs in place.”

   Principle 13 “...The G20 encourages the private sector to adopt effective internal controls, ethics and compliance programmes or measures, which are critical to the prevention and detection of corruption within businesses. Business organisations and professional associations are encouraged to support efforts by businesses, in particular small and medium sized businesses, to develop and adopt internal controls, ethics and compliance programmes or measures to prevent and detect corruption.

   Principle 14 “...efforts made by businesses to develop and implement effective anti-corruption internal controls, ethics and compliances programmes or measures, as well as voluntary self-reporting and cooperation by businesses with law enforcement may also, where appropriate and consistent with a country’s legal system, be taken into consideration in legal proceedings, for example, as a potential mitigating factor or as a defence.”

5. G20 High-Level Principles for Promoting Integrity in Privatization and Public-Private Partnerships (2020), p 1b
“G20 countries should identify the optimal form of private sector engagement (e.g. privatization or PPP) to best meet the objectives and support the integrity of the engagement.”


“Encouraging, where appropriate and in line with domestic laws, businesses to strengthen internal controls, ethics and compliance programmes, supply chain due diligence and ethical codes for effective corruption and fraud prevention and to ensure the adherence to integrity programmes and policies through periodic internal evaluations and reviews in order to address new risks that may emerge as a result of a crisis.

Encouraging businesses to strengthen and enforce anti-corruption programmes in case of non-compliance with anti-corruption policies and procedures.

Encouraging the private sector to adopt and implement effective, easily accessible and secure mechanisms for internal reporting of violations and extending whistle-blower protection to persons reporting such violations in good faith and on reasonable grounds, in line with domestic legal frameworks.”

Which government agencies or domestic experts were responsible for assisting with the implementation of the commitment/s?

For Business Integrity Register and specified commitments above:

- Ministry of Public Administration (SFP acronym in Spanish) of Mexico

Other relevant Mexican agencies:

- Attorney’s General Office (FGR)
- Ministry of Finance and Public Credit (SHCP)
- Ministry of Economy (SE)

Please identify the challenges which affected implementation of the commitment/s.

- Encourage supplier companies and contractors of the Federal Public Administration to establish and implement integrity policies.
- Adapt the promotion and implementation of integrity policies according to the size of the companies.
- Simplify and making efficient the procedure of join to the Business Integrity Register e-system.

Which strategies were employed to address the identified challenges?

✓ Technological and regulatory reconfiguration of the Business Integrity Register, in order to make the application process efficient through the following activities:
  - Simplification of the questionnaire, reduction of the number of questions by 65%.
  - Updating of the platform and interconnection with the Single Registry of State Suppliers and Contractors, so that companies can link their information and the application process is more agile.
  - Strengthening of the regulatory and procedural framework, such as: the issuance of internal manuals of procedures and specific provisions for the application for registration in the Register.
✓ Development of a proposal for a business integrity policy model to guide companies, which contains the basic elements that an Integrity Policy should contain, and thereby provide free tools to Small and Medium Companies that wish to implement their own policy.
✓ Establishment of new guidelines to promote integrity in companies, professional associations and business sectors.
What were the outcomes of using these strategies?

1. Draft Guidelines for the operational running of the Business Integrity Register.
2. Inter-operability among Business Integrity Register and the government procurement e-platform CompraNet

Were academia, civil society, media, public interest groups, business representatives or other stakeholders consulted during the implementation process? If yes, did this assist with implementation?

Yes. Exchanging experiences and information with the United Nations Office for Project Services and the Anti-Corruption Office of Argentina allowed us to enrich the drafting of Guidelines, as well as the new questionnaires for enrolling the Register. Furthermore, the national business chambers have contributed to promote the Business Integrity Register and they provided feedback to the platform’s version 1 (beta).

In joint efforts with business chambers and industrial or trade organizations, seminars and forums on business integrity have been held, which have allowed the dissemination of the Business Integrity Register among the different economic sectors.

From this engagement, through the establishment of working groups, there has been feedback from companies on the beta version of the Register Platform, which has allowed the technological tool to be enriched.

On reflection, are there any lessons learned, or could anything have been done differently? If yes, please describe.

Among the lessons learned, the following stand out:

1) the importance of companies’ participation from the beginning in the implementation of this type of projects or mechanisms;
2) consider the exchange of information that should be obtained from other public institutions, and
3) learning from the experience of other countries that have gone the same path.

Please provide any additional information or links to resources, where relevant.

The Business Integrity Register’s website (in Spanish) is currently under renewal, but Mexico can provide the new domain details in the coming months.

Please provide any suggestions for future consideration by the ACWG.

Establishing a follow-up and liaison mechanism to exchange knowledge, experiences and good practices among G20 members by thematic areas would be very useful in order to enhance bilateral co-operation.
The National Strategy Against Corruption and Money Laundering (ENCCLA) is an overarching and cross-cutting institutional coordination mechanism that has been in place since 2003. Consisting of 90 public institutions, from all government levels and branches, and seven private sector entities, ENCCLA serves as the main platform for the formulation of public policies, proposal of new legislation, and coordinated joint solutions to prevent and fight corruption and money laundering in Brazil.

Member institutions get together annually at a plenary session to discuss and agree, by consensus, on “actions” to be developed over the following year to combat corruption and money laundering. Each action is implemented by a thematic working group, under the supervision of a sponsor agency, that reports back to the plenary on the results achieved.

The strategy has greatly contributed, among other things, to promoting the exchange of information and collaboration among different institutions, as well as introducing the use of new technological tools in the fight against corruption. Most notably, it is worth highlighting:

- the creation of the National Register of Clients of Financial Institutions (CCS), which is a centralized database containing information on all financial institutions’ account holders and clients, as well as their legal representatives, increasing the transparency of the financial sector (Goal 04/2008).

- the development of the Banking Transactions Investigation System (SIMBA), through which financial institutions transmit banking data to law enforcement agencies using a standard template, increasing the speed and quality of the information shared (Action 20/2010).

- the establishment of the first Laboratory of Technology Against Money Laundering (LAB-LD) and, subsequently, the National Network of Laboratories of Technology Against Money Laundering (REDE-LAB) to harness the use of information technology tools and scientific methodologies to analyze large volumes of data related to corruption and money laundering cases, optimizing judicial proceedings (Goal 16/2006).

Relevant implementation challenge and G20 commitment(s) (please identify the specific G20 document which contains this/these commitment(s):

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

2. **G20 High-Level Principles for Promoting Public Sector Integrity Through the Use of Information and Communications Technologies (ICT)** (2020).
   - *Principle 6: Facilitate the exchange of information and networking to better prevent, detect, and respond to corruption risks.*
   - *Principle 7: Consider the use of new technologies to prevent, detect, and investigate, corruption.*

- Principle 4: Countries should ensure that competent authorities (including law enforcement and prosecutorial authorities, supervisory authorities, tax authorities and financial intelligence units) have timely access to adequate, accurate and current information regarding the beneficial ownership of legal persons.

Which government agencies or domestic experts were responsible for assisting with the implementation of the commitment/s?

- ENCCLA member institutions
- Central Bank of Brazil
- Investigative Police (Federal and States)
- Prosecution Service (Federal and States)
- REDE-LAB members

Please identify the challenges which affected implementation of the commitment/s.

CCS – initially only the Central Bank of Brazil could perform searches on the database. Now, other government authorities have password-protected access to the registry, enabling them to conduct searches directly in the system. However, a few challenges still remain:

a) need to create an automated way to carry out these searches in the system;
b) integrate it with SIMBA.

SIMBA – need for constant updates; future development of a web tool to facilitate access; integration with other databases (e.g. CCS).

REDE-LAB – there are still significant differences in the infrastructure available in each judiciary police unit (in different states and the federal level) and different public prosecution offices to implement their LABs-LD; different technology maturity levels of different units of LABs-LD. There are still the challenges of carrying out an effective institutional coordination and proposing the harmonization of work routines and methodologies of data analysis and cross-checking for financial investigation and criminal investigation more broadly. The motivation for the creation of the LAB-LD came from the observation by the bodies participating in ENCCLA that investigations into cases of money laundering or corruption involved the lifting of bank secrecy of numerous accounts, in addition to telephone and tax secrecy, covering large periods.

Which strategies were employed to address the identified challenges?

CCS – identification of a specific need to access the database; agreement that it is not a “fishing expedition”; unified financial system clients database; provision of data by all financial institutions; establishment of norms and regulation to be followed and strengthening of the “know your client” policy.

The CCS records the list of financial institutions and other entities authorized by the Central Bank of Brazil (BCB) with which a customer has a relationship (such as checking, savings and investments accounts). The system informs the start date and, if applicable, the end date of the relationship with the financial institution, but does not contain data on amounts, financial transactions or account and investment balances.

Rules regarding bank secrecy and the right to privacy must be observed in every CCS operation. The public entity’s access to the CCS information must be requested through the presentation of a standard administrative request and adhesion term, which can be signed electronically, with a digital certificate.

In the administrative request, the public entity must demonstrate the usefulness or necessity of access to the CCS for the performance of its legal attributions and indicate the normative basis that authorizes it to treat the
confidential information contained therein. The BCB is responsible for assessing the request and may reject it when it does not verify compliance with the legal and regulatory requirements for direct access to the CCS or when there is any other obstacle of a legal or operational nature.

SIMBA – creation of a “data template” (Federal Prosecution Service, Federal Police, Central Bank and the Brazilian Banking Federation – FEFRABAN); development of an electronic system; deep discussion about security parameters and data protection; dissemination of this tool with other public authorities.

SIMBA was developed by the Federal Prosecution Service and made available, through a Technical Cooperation Agreement, to more than 90 public bodies, including the Federal Police, State Public Prosecution Services, Civil Police, Superior Electoral Court, Superior Labor Court, among others.

After the financial secrecy is lifted by a court decision, the bank data sent by financial institutions are received by SIMBA through an encrypted channel, in a robust platform, focused on the security and integrity of the information received, contributing to a faster and more accurate performance of criminal investigation authorities. SIMBA is an essential tool particularly in cases involving a large number of targets and/or considerable time lapse, facilitating data analysis and the discovery of financial events relevant to the investigation.

REDE-LAB – creation of the first LAB-LD within the Ministry of Justice; realization that only one lab unit would not be enough; plan to establish specialized LAB-LD units in all judicial police forces and prosecution services offices throughout Brazil; secured federal financing for the acquisition of hardware and software for the first LAB-LD units; creation of an institutional coordination network between the LAB-LD units; improvement and harmonization of the main technological tools, routines and work methodologies for all LAB-LDs.

What were the outcomes of using these strategies?

CCS and SIMBA – greater ease and reliability in obtaining and processing customer registration information and financial data; improvement of financial analysis and criminal investigations; dissemination of the use and cross-check of databases in criminal investigations.

REDE-LAB – constant improvement of criminal investigation models that demand analysis of large masses of data; development of specific technological tools by the LAB-LD themselves and the subsequent sharing of these models and tools among all members of the REDE-LAB; establishment of a relationship of mutual trust and integration between LAB-LD units throughout Brazil, in all judicial police forces and all public prosecutor offices; strengthening of the relationship between the Brazilian Financial Intelligence Unit and these specialized units.

Were academia, civil society, media, public interest groups, business representatives or other stakeholders consulted during the implementation process? If yes, did this assist with implementation?

The creation of the SIMBA tool and the institutional coordination network was restricted to the public sector, mainly due to operational security and secrecy issues.

In the development of CCS, financial institutions, including representatives of the FEBRABAN, participated in the discussions led by the BCB within the framework of ENCCLA.
On reflection, are there any lessons learned, or could anything have been done differently? If yes, please describe.

CCS, SIMBA and REDE-LAB are constantly evolving. The main lesson learned refers to cooperation and integration between different institutions to carry out activities that benefit all of them and the Brazilian society in general. These three initiatives were the result of ENCCLA – the main Brazilian institutional coordination network for the discussion of public policies and solutions for the prevention, detection, and repression of these illicit acts.

Please provide any additional information or links to resources, where relevant.

ENCCLA – All ENCCLA actions, achieved outcomes and participating public agencies and institutions are available at: [http://enccla.camara.leg.br/](http://enccla.camara.leg.br/)

CCS - [https://www.bcb.gov.br/acessoinformacao/cadastroclientes](https://www.bcb.gov.br/acessoinformacao/cadastroclientes)

Simba - [http://www.mpf.mp.br/atuacao-tematica/sppea/sistemas/simba-1](http://www.mpf.mp.br/atuacao-tematica/sppea/sistemas/simba-1)


P.S. The websites for ENCCLA, CCS, SIMBA and REDE-LAB are currently only available in Portuguese. We are currently working on translations into English and Spanish. However, there is no specific date for conclusion yet.

Please provide any suggestions for future consideration by the ACWG.

N/A