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Conference room paper submitted by the European Union: EU contribution to the outcome document of the Special Session of the UN General Assembly on corruption*

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EU contribution to the outcome document of the Special Session of the UN General Assembly on corruption

Corruption leads to a waste of public resources, hampers the efficient management of public finances, reduces the provision of welfare, disproportionately affects the poor, undermines citizens' trust in governments and public institutions, poses a threat to stability, and can facilitate various forms of crime. Corruption also undermines the business climate and fair competition, acts as a non-tariff barrier to trade, raises transaction costs and reduces foreign investment. Corruption is estimated to cost the world at least USD 2.6 trillion annually, approximately 5 per cent of the global gross domestic product (GDP). It is estimated that more than USD 1 trillion is paid in bribes by businesses and individuals every year.¹ USD 1.26 trillion is lost by developing countries to corruption, bribery, theft and tax evasion each year, according to United Nations estimates.² This is approximately nine times Official Development Assistance funding.³

Corruption is still an enormous challenge worldwide. In order to reinforce the global fight against corruption, it is paramount to strengthen international cooperation with a view to enabling States Parties to efficiently prevent, detect, investigate and prosecute corruption, as well as to apply effective, proportionate and dissuasive sanctions and recover criminal assets, while fully respecting human rights and fundamental freedoms.

Fighting corruption is a fundamental precondition for upholding the rule of law, peace and security, achieving sustainable development and respect for human rights and fundamental freedoms. It is also enshrined in international law – the United Nations Conventions against Corruption (UNCAC), which is the only universally legally-binding anti-corruption instrument and to which all Member States and the Union are Parties. Fighting corruption is an integral part of the international commitments to end poverty, protect the planet and ensure that all people enjoy peace and prosperity by 2030, in the framework of the UN Sustainable Development Goals, particularly Sustainable Development Goal 16.

In light of the above considerations, the outcome document to be adopted at the special session of the 2021 United Nations General Assembly should be meaningful, concise and bring added value, in line with Sustainable Development Goal 16 and in accordance with commitments under international law, with strong and clear commitments, grounded on the following principles:

(a) Recognize that respect for the rule of law, crime prevention and criminal justice responses and sustainable development are complementary and mutually reinforcing. Determined action in these areas significantly contributes to the implementation of the 2030 Agenda for Sustainable Development.

(b) Stress the need for holistic, comprehensive prevention strategies that increase transparency and integrity in all sectors of society and focus on root causes, threats, vulnerabilities and risk factors.

(c) Emphasize that an effective approach to fighting corruption must rely on a combination of crime prevention and criminal justice responses, as well as international cooperation in criminal matters, while fully respecting human rights and fundamental freedoms.

(d) Stress the need for reliable integrity measures, efficient corruption prevention systems and effective, accountable and transparent public institutions at all levels.

¹ World Economic Forum and World Bank estimates.

² <http://www.un.org/sustainabledevelopment/peace-justice/>.

³ <http://www.oecd.org/development/development-aid-stable-in-2017-with-more-sent-to-poorest-countries.htm>.

(e) Promote a constructive and inclusive dialogue with civil society and the private sector as a critical element for combatting corruption and achieving the implementation of the 2030 Agenda for Sustainable Development.

(f) Stress the need to build and maintain independent and impartial justice systems that effectively enforce anti-corruption legislation by conducting impartial investigations and prosecutions and the application of effective, proportionate and dissuasive sanctions for corruption and corruption-related crimes and due recovery of stolen assets.

(g) Enhance international cooperation on crime prevention and criminal justice, in the context of fighting corruption, by the effective implementation of existing global and regional instruments, in particular the United Nations Convention against Corruption, the Council of Europe Conventions in the area of anti-corruption monitored by GRECO and the OECD Anti-Bribery Convention, and by strengthening existing regional, interregional and international networks.

(h) Emphasize multilateralism, the implementation of international norms and standards, respect for human rights, the rule of law and international law, including its protection of national sovereignty, as cornerstones in the fight against corruption and international cooperation.

(i) Promote that the Parties support the implementation review mechanism of UNCAC and make the best use of it, also beyond the end of the current review cycle.

(j) Reaffirm the importance of effective technical assistance, experience sharing and capacity building and emphasize the important role of the United Nations Office on Drugs and Crime (UNODC) in these areas.

The political declaration would therefore need to include the following elements:

1. A comprehensive framework for preventing and detecting corruption

(a) Support the development of comprehensive and interdisciplinary corruption prevention policies at international, regional, national and local levels that involve all relevant authorities and stakeholders, including the private sector and civil society, and which take into account the principles of open government.

(b) Focus corruption prevention strategies and activities in a holistic manner on root causes, threats, vulnerabilities and risk factors. Accordingly, corruption should not be addressed in isolation, but through a comprehensive and coherent approach, that includes respect for the rule of law, human rights and fundamental freedoms, support for democratic governance, transparency, accountability, participation and access to information. In the same context, anti-corruption provisions should be mainstreamed in all relevant policy sectors to have an effective impact on the ground.

(c) Strengthen evidence-based corruption prevention policies, including through improving, strengthening and systematizing data collection and measures increasing integrity, transparency and the use of open data, while fully respecting fundamental rights.

(d) Support effective compliance with international standards, such as the Financial Action Task Force Recommendations, on preventing and combating money laundering and terrorist financing, including by enhancing beneficial ownership transparency, interagency cooperation at national and international level and effective compliance through monitoring.

(e) Raise awareness to prevent corruption, in particular among the general public, and promote public-private partnerships in prevention efforts. Civil society has an important role to play in raising awareness.

(f) Support the role of free and independent media and in particular the work of journalists and media workers. Independent and pluralistic media and civil society

are essential for combating corruption. They can shine a light on inefficiency and malpractice in both the public and private sector.

(g) Protect persons reporting corruption in both the public and the private sector from all forms of retaliation, while strengthening at the same time disclosure mechanisms that ensure confidentiality.

(h) Strengthen legislation to provide for effective, proportionate and dissuasive sanctions for corruption and corruption-related crimes, both for individual perpetrators and legal persons.

2. An integrated approach to the challenges facing the criminal justice system

(a) Ensure an effective criminal law response to corruption through effective and impartial investigation and prosecution, fair trials and the application of effective, proportionate and dissuasive sentences for corruption and corruption-related offences.

(b) Improve criminal justice systems to be able to protect the public institutions, as well as public and private interests against abuse of power and corruption.

(c) Step up efforts to build the capacity of law enforcement and judiciary authorities for effective investigations, prosecutions and convictions. Put in place sufficient resources for specialized police and the prosecutorial services to increase capacity to prosecute corruption and corruption-related crimes.

(d) Strengthen the rule of law and in particular the independence, impartiality, efficiency and quality of national justice systems, including the capacity to carry out impartial investigations and the prosecution of corruption offences, including high profile cases. Build accountable, impartial and inclusive criminal justice institutions, in particular impartial prosecution services and independent courts. Integrate this objective into national and bilateral assistance efforts, as well as into the United Nations Office on Drugs and Crime technical assistance programmes.

(e) Uphold the protection of human rights and fundamental freedoms in criminal proceedings, and in particular strengthen the fair trial rights of suspects and accused persons by ensuring appropriate safeguards in national law. Respect of the right to an independent and impartial judge, the right to a fair hearing and rights of defence are also essential to build trust in judicial authorities.

(f) Reinforce training, including on international cooperation and asset recovery, for law enforcement and judicial authorities.

(g) Establish measures, strengthen legislation and provide resources for recovering assets stolen by perpetrators involved in corruption and corruption-related crimes.

(h) Reinforce measures on the liability of legal persons involved in corruption and corruption-related crimes.

3. Building effective, accountable, impartial and inclusive institutions and considering social, educational and other relevant measures while respecting cultural identities and diversity, including fostering a culture of lawfulness

(a) Develop integrated, inclusive and comprehensive approaches to promote and support the rule of law that include relevant stakeholders at national, regional and international levels.

(b) Invest in civic education, including raising awareness among the general public of the risks of corruption and encourage the private sector to choose legal and legitimate avenues to reach their goals.

(c) Work towards reliable, relevant, accessible and reusable public data on precursors and indicators to corruption and corruption-related offences, such as

beneficial ownership registries and banking data, including centralized account registers.

(d) Develop and use indicators to measure the concrete impact of anti-corruption measures and actively use them to adapt evidence-based anti-corruption policies.

(e) Improve understanding of the link between gender and corruption.

(f) Enhance and facilitate anti-corruption research, education and training for practitioners from all sectors of society.

4. International cooperation and technical assistance to prevent and address corruption and corruption-related offences

(a) Promote international cooperation, including the possibility of establishing joint investigative teams (JIT), as a cornerstone element of an effective response to fighting corruption globally, while respecting domestic legal systems.

(b) Share and adopt best practices and strengthen cooperation and coordination at all levels, including interagency cooperation and international networks.

(c) Adapt crime prevention to include an analysis of recent trends and best practices in preventing and countering, inter alia, corruption, money laundering and organized crime.

(d) Enhance international cooperation and coordination to support the recovery and return of stolen assets effectively.

(e) Strengthen regional and cross-regional law enforcement and judicial cooperation networks as platforms for the development and dissemination of specialized knowledge on corruption, and make full use of the formal and informal exchange of information among relevant authorities, including e.g. anti-corruption authorities, customs, competition authorities, tax and regional/local administrations.

(f) Enable effective judicial cooperation between the relevant United Nations bodies and States Parties to the United Nations Conventions against Corruption and on Transnational Organized Crime and the European Public Prosecutor's Office, in accordance with the applicable procedures.

(g) Strengthen actions targeting the proceeds of crime, including by using available instruments for tracing, freezing, confiscation and return of illicit assets. Enhance international cooperation on asset recovery to target the proceeds of crime.

(h) Combat corruption and money laundering, by enhancing beneficial ownership transparency, ensuring effective and efficient access to relevant financial information by the financial intelligence units and other competent authorities, addressing risks posed by new financial products and services, strengthening inter-agency and international cooperation and reinforcing partnerships with the private sector.