**C20 Position Paper on Anti-Corruption**

1. **Two High-Level Priorities**
2. **G20 members should establish an anti-corruption network** of public authorities and civil society organisations, including journalists with the following purposes:

* Cooperation in dissemination of best practices in fighting corruption across the G20
* Establishment of closer cooperative ties between civil society and state bodies concerned with corruption
* Establishment of country-based coordination points for civil society and national media across the G20 and worldwide
* Exchange of information from public and official sources, e.g. on criminal and civil prosecutions
* Unification of already existing databases and journalist investigations across borders
* Tracing of illicit financial funds
* Undertake joint research

1. **Each** **G20 member should undertake horizontal thematic reviews of the treatment of high-risk customers and business relationships by financial institutions in their country and publish the results to prevent criminal misuse.**
2. **Background**

Corruption is an obstacle to economic growth and as such very much in line with the priority of the Russian G20 Presidency on increasing economic growth through trust and transparency, through effective regulation and through quality jobs and investment. As stated by the G20: “*Corruption threatens the integrity of markets, undermines fair competition, distorts resource allocation, destroys public trust and undermines the rule of law.*”[[1]](#footnote-1) In response to the growing recognition of the lack of transparency and accountability of the crisis-stricken global financial system, the G20 created an Anti-Corruption Working Group at its Toronto Summit in June 2010. This Group drafted the first G20 Anti-Corruption Action Plan which was published at the Seoul G20 Summit in November 2010.

As the G20 has acknowledged in the 2012 Los Cabos Communiqué, the biggest challenge in the fight against corruption is “closing the implementation and enforcement gap”. Fighting corruption not only requires new laws and official regulations, but also enforcement actions, enhanced transparency in day-by-day government activities, and a firm commitment to hold parties accountable for abusing the public trust. Therefore the new G20 Anti-Corruption Action Plan (2013 – 2014) rightly puts an emphasis on identifying obstacles to implementation of anti-corruption measures and sharing best practices as well as increasing international cooperation and information-sharing.

Transparency International has defined corruption as “the abuse of entrusted power for private gain.” This definition encompasses two of the most commonly-known forms of corruption: fraud – intentional deception in order to gain an unfair or illegal advantage – and bribery, which can take the form of paying officials either to receive preferential treatment or to obtain prohibited services.

Among the public, there is increasing global awareness of the devastating effects corruption can have on peoples’ livelihoods and the proper functioning of a society, and along with it, we see growing momentum behind popular movements to combat corruption. Anti-corruption sentiments were featured in the Arab Spring protests, and in movements in various countries around the world, e.g., India, Kenya, and Azerbaijan. The new leader of China has remarked that anti-corruption efforts within his government are a high priority. Overall, there is political momentum that can be harnessed to make greater strides toward the reduction of corruption.

1. Recommendations
2. **Curbing illegal financial transactions**

Observation: The G20 has not been persistent enough in the fight against tax havens and illicit financial flows. Many financial institutions – not only in offshore financial centres, but also in G20 countries – remain safe havens for all types of illicit money — from corrupt officials, to tax-dodging companies, to criminals. In July 2012 the US Senate uncovered the services provided by HSBC to Mexican drug cartels, and the UK financial regulator enquiry in June 2011 highlighted the failure of many British banks to properly deal with the risk of handling the proceeds of corruption.

Proposal: The Russian Presidency should draw the attention of the G20 to their obligations under Financial Action Task Force (FATF) regulations on money laundering, in particular as the 2013 FATF review will focus on implementation. In this regard we welcome the G20 commitment in the Anti-Corruption Action Plan to “*share experiences on how to promote implementation by regulated entities of measures to combat money-laundering, consistent with domestic law, including through horizontal/thematic reviews of the treatment of high risk customers and business relationships.* “ We are also supportive of the G20 commitment to continue regular meetings between the G20 Anti-Corruption Working Group and FATF officials.

* To avoid criminal misuse of legal entities, G20 countries should create registers that disclose the beneficial ownership of trusts and companies and are accessible to relevant investigative and judicial authorities and the public, except in instances where a compelling case can be made not to do so. Such registers could also assist financial institutions with their customer due diligence processes. In this regard we support the work of the Financial Stability Board’s Legal Entity Identifier (LEI) Private Sector Preparatory Group, of which Transparency International and the Task Force on Financial Integrity are members. Countries should also take measures to prevent the abuse of nominee directors and shareholders by implementing the FATF recommendation that nominees must declare that they are nominees and on whose behalf they are working.
* To enable more effective cross-border information-sharing on tax matters, G20 countries should implement greater domestic and international inter-agency cooperation to overcome existing legal, operational and political barriers to legal assistance. In this regard, all G20 countries should sign the Convention on Mutual Administrative Assistance in Tax Matters, encourage other countries to join and support the provision for automatic exchange of tax information.
* To facilitate asset recovery processes, G20 countries should speed up mutual legal assistance procedures, for example by designating contact people and by providing in-depth information on their respective legal systems and the relevant processes required and adopt the recommendations from StAR’s ‘Barriers to Asset Recovery’ report. Furthermore, we encourage G20 member states to put in place legal frameworks to enable victims of corruption and civil society to take asset recovery cases to court, both in countries where assets were stolen and assets are deposited.
* To combat corruption in the financial sector and restore public trust in global financial reforms, we encourage the G20 Anti-Corruption Working Group to extend its collaboration with the G20 Finance Ministers on corruption and governance issues in the financial sector. This includes issues such as improved risk management and risk governance through enhanced corporate transparency and accountability and actual and potential conflicts of interest between regulators and financial institutions.
* To demonstrate their commitment against impunity, G20 countries should implement robust sanctions against malfeasance, including market manipulation and vigorously and consistently prosecute financial crime.

1. **Creating a civil society coordination mechanism**

Observation: Article 13 of UN Convention against Corruption calls upon member states to promote the involvement of civil society in the fight against corruption

Proposal: “anti-corruption network of the G20”

G20 members should establish an anti-corruption network of public authorities and civil society organisations, including journalists with the following purposes:

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1. **Standardizing legislation protecting whistle blowers across the G20 states**

Observation: Under the framework of the Anti-Corruption Working Group, the Russian government developed a draft law on whistleblower protection that is understood to be debated by the Russian parliament in spring 2013.

Proposal: Based on the G20 commitment in the Anti-Corruption Action Plan that ”*the G20 countries that do not already have whistleblower protections will enact and implement whistleblower protection rules, drawing on the principles developed in the Working Group, for which Leaders expressed their support in Cannes and also take specific actions, suitable to the jurisdiction, to ensure that those reporting on corruption, including journalists, can exercise their function without fear of any harassment or threat or of private or government legal action for reporting in good faith*” the Russian Presidency should commit itself to adopting this law. We welcome the OECD principles on whistleblower protection.

* To protect whistleblowers from reprisals, all G20 countries should pass whistleblower protection legislation for public and private sectors without loopholes and that establishes comprehensive protection procedures. Such legislation should ensure prompt, effective and independent follow-up of disclosures.

1. **Promoting anti-corruption trainings for both civil society, public sectors and private sector**

Observation: UNODC has proposed organizing anti-corruption seminars

Proposal: Based on the G20 commitment in the G20 Anti-Corruption Action Plan “*continuing to promote education and training initiatives that support the prevention of corruption through education in the public and private sector*” civil society welcomes this initiative and would like the Russian Presidency to ensure the widest possible use by civil society, private sector and public sector.

1. **Promoting information sharing between civil society and G20 states**

Observation: Under the Mexican and United Kingdom G20 co-chairmanship of the G20 Anti-Corruption Working Group, a commitment was made to circulate civil society documents to the entire working group.

Proposal: the Russian and Canadian Co-Chairmanship of the G20 Anti-Corruption Working Group should make a similar commitment to disseminate civil society research and policy documents.

1. **Bringing transparency in the extractive industries**

Observation: The Government of Russia supports oil, gas and mining transparency. RosAtom took the first step, relevant to state procurement, to publish information on payments to governments in “transparency councils”.

Proposal: The Russian Presidency should promote that all G20 members disclose their revenues from oil, gas and mining sectors.

* To empower citizens to hold companies and governments to account for the use of natural resource revenues and to assist investors in their risk assessment, all G20 countries, in particular those with significant markets in the extractives sector, should pass legislation requiring oil, gas and mining companies to disclose the payments they make to governments of all the countries where they operate on a project-by-project basis. Following the Dodd-Frank Act in the United States, and the forthcoming revisions to the Accounting and Transparency Directives in the European Union, this type of legislation should become a global standard. Mandatory reporting is complementary to the voluntary Extractive Industries Transparency Initiative (EITI) and strengthens the initiative by codifying its best practices. Mandatory reporting will lead to the generation of timely, disaggregated and easily comparable data and will apply to those countries that remain outside the voluntary system.

1. **Ratification, Review and Enforcement of the UN Convention against Corruption (UNCAC)**

Observation: We welcome that Saudi-Arabia has now ratified the Convention. G20 members Germany and Japan have not yet ratified UNCAC. Furthermore, there is a lack of active implementation of the Convention in all G20 countries. Article 13 of the UN Convention against Corruption calls upon member states to promote the involvement of civil society in the fight against corruption. In the third year of the four year UNCAC review cycle the results in this area are mixed and civil society is looking forward to more actively contribute in upcoming reviews. The full involvement of civil society in this process is essential to ensure that work of G20 governments in this area is viewed as credible.

Proposal: Based on the G20 commitment in the Anti-Corruption Action Plan: “*The remaining three G20 countries will ratify and fully implement the UNCAC as soon as possible. G20 countries will lead by example in enhancing the transparency and inclusivity of their UNCAC reviews by making use on a voluntary basis of the options in the terms of reference to the UNCAC review mechanism, namely allowing country visits, involving the private sector and civil society in reviews and publishing in full the reports of reviews. We undertake each to respond to those deficiencies that are identified in our peer reviews and to make these responses publicly available.”* G20 countries should step up their efforts in this regard.

* To demonstrate their commitment to global anti-corruption efforts, G20 members Germany and Japan should urgently ratify the UNCAC. Furthermore, G20 countries should actively apply and enforce the relevant national laws implementing UNCAC. In compliance with their pledge to lead by example they should support increased transparency and inclusiveness in the UNCAC review process, including participation of civil society and other stakeholders such as the private sector in national reviews; country visits by review teams; as well as publication of the full review reports.

1. **Enforcement of Foreign Bribery Legislation**

Observation: We welcome that Russia has joined the OECD Anti-Bribery Convention and that almost half of the Conventions’ parties have taken action sanctioning companies and individuals under criminal proceedings for foreign bribery. However, in over half of the parties there has been little or no enforcement. Transparency International’s 2012 ‘Exporting Corruption?’ report found that only 7 of the 37 signatories surveyed actively enforce the Convention.

Proposal: In line with the G20 commitment in the Anti-Corruption Action Plan to “*continue in our efforts to adopt and enforce laws and other measures against foreign bribery, which will include establishing the liability of legal persons*” G20 countries should increase their efforts to combat foreign bribery.

* To demonstrate their anti-bribery commitment G20 members China, India, Indonesia and Saudi Arabia should become parties to the OECD Anti-Bribery Convention and its peer review process. All G20 countries should criminalise foreign bribery.
* To shed light on how they are performing in the fight against impunity, all G20 members should collect detailed information and provide regular public reports on the enforcement of all their anti-corruption laws, including those on foreign bribery.
* As stated in the Convention’s Article 5, investigation and prosecution of the bribery of a foreign public official should not be influenced by considerations of national economic interest, the potential effect upon relations with another state or the identity of the natural or legal persons involved.
* To enable accountability, all G20 governments, and entities controlled by governments, should report on all payments received from companies.
* To recognize the costs of corruption, G20 governments should promote compensation to victims, including countries and companies, in the context of foreign bribery cases and set up robust legal mechanisms in this regard.

1. **Public Sector Integrity**

Observation: A lack of transparency in the public sector fuels mistrust by citizens and can lead to political instability. Corruption in the public sector leads to mis-allocation of scarce public resources to the benefit of the few at the expense of the many.

Proposal: Based on the G20 commitment in the Anti-Corruption Action Plan “*ensuring we have in place systems of procurement based on transparency, competition and objective criteria in decision-making to prevent corruption, and by the end of 2014, continuing our analytical work in this area and developing and sharing good practices in the field of public procurement anticorruption policies, measures, and legislation including, for example, electronic procurement*” all G20 countries should conduct independent assessments of their procurement systems and publish the results. Furthermore, we welcome the recognition of important partner multilateral processes such as the Open Government Partnership and the Global Initiative on Fiscal Transparency.

* G20 governments should adopt and urge all governments to promptly enact the standards for procurement and public financial management consistent with Article 9 of the UNCAC and the OECD Principles on Enhancing Integrity in Public Procurement. All G20 countries should join the Open Government Partnership. Furthermore, to ensure their companies do not undermine public procurement processes in other countries, all G20 governments should ensure that export credit agencies enforce rules forbidding bribery, fraud or collusion.
* To prevent corruption of public officials, G20 governments should urgently implement the principles for asset disclosure by public officials agreed on at the Los Cabos Summit in 2012. Asset disclosure regimes should guarantee public access to declarations and cover a wide range of income and benefits from different sources. Conflicts of interest need to be proactively disclosed and adequate accountability mechanisms should be introduced.
* To ensure accountability for corruption offences, G20 governments should not allow elected public officials to enjoy immunity when charged with corruption offenses.
* To protect the independence of the judiciary, G20 countries should provide for such independence by law and in systems for hiring, assignment and promotion of judges and should prohibit political interference to pressure judges for rulings in favor of political or economic interests, including in corruption cases. In particular, there should be appropriate constitutional and legal mechanisms that shield judges from sudden dismissal or transfer without the benefit of an impartial inquiry. Furthermore, judicial work should be fully resourced to make judges and other court personnel less vulnerable to bribery.

1. 2010 Anti-Corruption Action Plan [↑](#footnote-ref-1)