

G20 Anti-Corruption Working Group
Accountability Report Questionnaire 2014



SUMMARY OF NATIONAL PROGRESS

1. Please provide a high-level summary of the most significant Anti-Corruption measures or initiatives that your country has introduced or implemented since the last progress report. (maximum 1 paragraph).

The 2013 Progress Report can be accessed at http://en.g20russia.ru/docs/g20_russia/materials.html

UNITED NATIONS CONVENTION AGAINST CORRUPTION (UNCAC)

2. Has your country ratified the UNCAC?

YES NO X

If no, is there a process underway to ratify the Convention?

Once enacted, the Organised Crime and Anti-Corruption Legislation Bill (intended to be introduced to Parliament shortly) will allow New Zealand to ratify the United Nations Convention against Corruption.

3. Since the last progress report, has your country proposed or implemented any changes to its legislation to comply with the UNCAC?

YES X NO

If yes, please provide details.

The Organised Crime and Anti-Corruption Legislation Bill, intended to be introduced to into Parliament shortly, will implement a number of legislative changes to various criminal statutes which will enable New Zealand to comply with the UNCAC.

4. Has your country begun the UNCAC peer review process as a country under review?

YES NO X

If yes, please indicate what stage of review your country has completed and the date.

5. If yes, has your country made use of any of the UNCAC peer review voluntary options, or committed to do so (if the review is not already started)?

a. Publication of full report YES NO X COMMITTED TO DO SO

b. Involvement of civil society YES NO X COMMITTED TO DO SO

c. Involvement of business YES NO X COMMITTED TO DO SO

d. Allowing country visits YES NO X COMMITTED TO DO SO

If yes, please provide details (e.g., Web link for published report, how and when civil society / business was engaged during the review process, date of country visit)

6. Has your country taken steps to respond to recommendations identified in its UNCAC peer review report?

YES YES TO SOME NO X NOT YET RECEIVED THE REPORT

If yes, please indicate what steps your country has taken / is taking.

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

YES NO X NOT YET

8. Has your country taken measures to promote, facilitate and support technical assistance in the prevention of and fight against corruption?

If yes, please provide a short overview indicating in which regions and topics you have provided technical assistance.

BRIBERY

Note - questions relating to implementation of the *G20 Principles on the Enforcement of the Foreign Bribery Offence* endorsed by Leaders in 2013 and the *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* are included in a separate questionnaire. The questions below concern other aspects of bribery not covered by this set of principles.

9. Has your country criminalized the domestic offer or payment of bribes (active bribery)?

YES NO

10. Has your country criminalized the domestic solicitation or acceptance of bribes (passive bribery)?

YES NO

11. If no, is your country taking steps to criminalize active and/or passive bribery?

YES NO

If yes, please provide details.

The Crimes Act 1961 criminalises solicitation, payment and acceptance of bribes.

12. Has your country instituted measures to discourage the solicitation of bribes?

YES NO

If yes, please provide details.

The Crimes Act 1961 criminalises solicitation, payment and acceptance of bribes. The maximum term of imprisonment for the offence is seven years.

13. Does your country provide support for/work with business in resisting solicitation?

YES NO

If yes, please provide details.

New Zealand has undertaken numerous awareness-raising initiatives. This includes:

- updating and maintaining relevant information on detecting and preventing, as well as the investigation and prosecution of, corruption and bribery offences on the relevant government websites (Serious Fraud Office, the Ministry of Justice, the Ministry of Foreign Affairs and Trade, New Zealand Trade and Enterprise and the New Zealand Export Credit

Office).

- Active public communications strategy including public speaking opportunities and interest from media as well as the private sector

Private sector organisations have also engaged in awareness raising exercises for business. These activities have included Bribery and Corruption Surveys and providing information and advice on bribery and corruption risks to business.

14. Has your country instituted measures to discourage facilitation payments?

YES NO

If yes, please provide details.

ANTI-MONEY LAUNDERING

15. Since the 2013 progress report, has your country taken any measures to implement the revised FATF standards on anti-money laundering?

YES NO

If yes, please provide details.

New Zealand enacted the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT Act), which came into force on 30 June 2013. The Act The AML/CFT Act puts into place a comprehensive domestic regulatory and supervisory regime for financial institutions including banks, financial institutions, trust and company service providers and casinos. The regime includes requirements for customer due diligence, beneficial owner identification, record-keeping and the reporting of suspicious transactions. The AML/CFT Act contributes to public confidence in New Zealand's financial system, and will assist in the detection and deterrence of money laundering and terrorist financing.

16. Since the last progress report, have changes to your country's anti-money laundering legislation been proposed or implemented?

YES NO

If yes, please provide details.

The Organised Crime and Anti-Corruption Legislation Bill proposes amendments to the AML/CFT Act to improve the ability to detect and investigate money laundering. The Bill will require financial institutions to report transactions of two prescribed high risk classes to the Financial Intelligence Unit of the Police. This means all international wire transfers over \$1,000 and all physical cash transactions over \$10,000 will be reported.

DENIAL OF ENTRY

17. Have any changes to your country's legislation, regulations or powers to deny entry to foreign officials charged with or convicted of corruption offences been proposed/implemented since the last progress report?

YES X NO

If yes, please provide details.

Under the Immigration Act 2009, the Government has the power to refuse entry into New Zealand if the person:

- has been convicted and sentenced to imprisonment for 5 years or more (this applies even if any the person's offences have later been taken off the record),
- was convicted and sentenced to imprisonment for 12 months or more, in the past 10 years
- is subject to a period of prohibition on entry to New Zealand
- has been removed or deported from any country, including New Zealand,
- is excluded from New Zealand under any enactment;

The Minister of Immigration may also refuse entry to a person if he or she believes the person is likely to commit an offence in New Zealand that is punishable by imprisonment.

If no, is such legislation under consideration?

YES NO

If yes, please provide details.

INTERNATIONAL COOPERATION

18. Is your country's administration of mutual legal assistance consistent with the G20 High Level Principles?

YES X NO

If your country's approach is not yet consistent, are you taking steps to implement the Principles?

YES NO

If yes, please provide details.

19. Are you aware of your country having used one or more of the G20 country Guides to Mutual Legal Assistance?

If yes, please provide details.

20. Are you aware of non-G20 members having used the G20 Guide to Mutual Legal Assistance to request mutual assistance from your country?

If yes, please provide details.

21. Have any changes to your country's legislation related to international cooperation been proposed since the last progress report?

YES X NO

If yes, please provide details.

The Organised Crime and Anti-Corruption Legislation Bill proposes amendments to the Mutual Assistance in Criminal Matters Act 1992 to ensure New Zealand can provide international cooperation in corruption investigations and prosecutions and in sharing DNA databank profile information.

22. Has your country either used UNCAC, or stated that it will allow the use of UNCAC, as the treaty basis for mutual legal assistance (MLA) and/or extradition?

a. Has used as the treaty basis for MLA YES NO X

b. Will allow use as the treaty basis for MLA YES NO X

c. Has used as the treaty basis for extradition YES NO X

d. Will allow use as the treaty basis for extradition YES NO X

23. Do domestic authorities in your country cooperate and share information with the integrity offices of international organizations?

a. Cooperate and share information

b. Could cooperate, but has not been asked

c. Cannot cooperate

If you cannot cooperate, please provide details.

24. Has your country designated an appropriate authority responsible for mutual legal assistance and law enforcement requests relating to asset recovery (a point of contact)?

YES NO

If yes, to which organizations:

a. UNODC

b. StAR/Interpol Focal Point Initiative

c. Camden Asset Recovery Network

d. Other(s)

If yes to 'Other(s)', please provide details.

Mutual Legal Assistance – The New Zealand Crown Law Office

Asset Recovery – The New Zealand Police

ASSET RECOVERY

25. Does your country have legislation allowing for asset recovery by foreign authorities or is such legislation proposed?

YES NO

If yes, please provide details.

The Criminal Proceeds (Recovery) Act 2009 (CPRA) establishes a civil forfeiture regime that enables New Zealand authorities to register restraining and forfeiture orders in relation to criminal proceeds. The CPRA regime is also accessible by foreign jurisdictions through a mutual assistance request. CPRA has been in force in New Zealand since 1 December 2009.

26. Has your country established a specialist/dedicated unit for the recovery of the proceeds of corruption?

YES X NO

If yes, please provide the name of the specialist unit and contact details.

The Assets Recovery Unit within the New Zealand Police was set up in 2009 to implement the Criminal Proceeds (Recovery) Act 2009 (CPRA), which came into effect in December 2009. This legislation allows for the restraint and forfeiture of assets acquired or derived from the proceeds of crime using only the civil standard of proof i.e. on balance of probabilities, as opposed to the criminal threshold of 'beyond reasonable doubt'. It also provides for the restraint and forfeiture of assets used during the commission of crime. The Units have been set up in four regional centres; Auckland, Hamilton, Wellington, and Christchurch. They were established The unit works closely with the new police National Intelligence Centre, the Organised and Financial Crime Agency of New Zealand (OFCANZ) and the Serious Fraud Office (SFO).

27. Does your country publish or otherwise make publicly available details of amounts frozen, seized, recovered or returned?

YES X NO

If yes, please provide details.

New Police releases regular media releases on its website <http://www.police.govt.nz/>

28. Is your country providing technical assistance to developing countries aimed at helping the recovery and return of proceeds of corruption?

YES X NO

If yes, please provide details.

The New Zealand Government is focussed on achieving tangible results that make a positive difference to people's lives. The mission of the New Zealand Aid Programme, managed by the International Development Group within the Ministry of Foreign Affairs and Trade is "sustainable development in developing countries, in order to reduce poverty and contribute to a more secure, equitable and prosperous world".

New Zealand aims to strengthen community safety and democratic and transparent systems and processes in the Pacific. It does this through funding that strengthens the capacity of Pacific policing, judiciaries, and ombudsman, and through organisations and programmes such as the

Pacific Association of Supreme Audit Institutions and for the Pacific Institutional and Network Strengthening Programme (PINSP). The latter is implemented by the Transparency International Secretariat with technical support from Transparency International New Zealand.

TRANSPARENCY OF LEGAL ENTITIES

29. Does your country have transparency requirements for legal persons, including companies, bodies corporate, foundations and partnerships?

YES X NO

If yes, please provide details.

Companies have certain obligations and compliance requirements under the Companies Act 1993. Companies must register on the Companies register. There are certain documents that must be prepared and filed with the Companies Office every year. New Zealand companies must:

- Prepare annual financial statements
- Hold an annual meeting
- File an annual return

Further, the Act requires every company to keep and maintain certain records:

- Company records;
- Share register; and
- Accounting records.

30. Does your country require that the beneficial ownership and company formation of all legal persons organized for profit be reported by the legal person?

YES NO X

If yes, to whom is it reported?

31. If yes, is this information available to the public?

YES NO

32. If this information is not available to the public, is it available to law enforcement?

YES X NO

WHISTLE BLOWER PROTECTION

33. Does your country have legislation to protect whistleblowers:

a. In the public sector YES X NO

b. In the private sector YES X NO

34. Have changes to whistle blower protection legislation been proposed or implemented since the last monitoring report?

YES NO X

If yes, please provide details.

35. Since the last progress report, has your country implemented any measures to protect journalists reporting incidents of corruption?

If yes, please provide details

PROCUREMENT

36. Does your country publish online any of the following?

a. Procurement laws and policies including any legislation defining the use of exceptions YES X NO

b. Selection and evaluation criteria YES X NO

c. Awards of contracts and modifications of contracts YES X NO

Please provide details.

Under the Government's purchase framework established by statute and the Government's

Procurement Policy, agencies must abide by the particular principles when purchasing services. The Government provides the following guidance and policies to agencies:

- Government Rules of Sourcing
- Guide to mastering procurement
- Procurement toolkit
- Developing procurement capability
- Annual Procurement plans
- Government Model Contracts

37. Since the last progress report, have any new initiatives to promote public procurement transparency and integrity been proposed or implemented?

If yes, please provide details.

38. Are there regulations and procedures for public procurement officials to govern conflicts of interest?

YES NO

If yes, please provide details.

The New Zealand State Services Commissioner is responsible for setting standards of integrity and conduct across most of the State Services. He has done this in a code of conduct for the State Services. The code of conduct has been applied to Public Service departments, to Crown entities within the Commissioner's mandate, and to many Crown entity subsidiaries. Staff in those organisations must comply with the standards in the code.

The code of conduct requires officials to be fair and impartial, which includes disclosing any conflicts of interests. The State Services Commission has also published the following guidance material to manage conflicts of interest:

- Board Appointment and Induction Guidelines (2012)
- Managing conflicts of interest: guidance for public entities (2007)

39. Are companies that have been found to be involved in corrupt contracting practices excluded from future participation in public tenders?

YES NO

If yes, please provide details.

The Standards of integrity & Conduct issued by the State Services Commissioner have been applied to over 200 State sector agencies. The Code requires officials to, inter alia, ensure their actions are not affected by personal interests or relationships; to never misuse their position for personal gain; and to decline any gifts or benefits that place employees under any obligation or perceived influence. The State Services Commission Integrity help desk enables the public as well as State servants to raise and report any suspected breaches of the Code by a State sector employee.

PUBLIC OFFICIALS' IMMUNITIES

43. Does your country provide immunities from prosecution to individuals holding public offices for corruption related offences?

a. All public office holders YES NO

b. Certain public office holders YES NO

c. No immunities available to public office holders YES X NO

d. While in office YES NO

e. Permanently YES NO

If yes, which public office holders are immune and if immunity is limited, please explain.

EDUCATIONAL INITIATIVES

44. Is your country involved in any of the following international anti-corruption educational initiatives?

International Anti-Corruption Academy YES NO

UNODC Anti-Corruption Academic Initiative YES NO

Other international anti-corruption educational initiative(s) YES NO

If yes, please provide details.

45. Does your country provide anti-corruption educational/training programs for officials, including public office holders?

YES NO

If yes, please provide details.

In 2013, the Serious Fraud Office's (the office responsible for investigating allegations of bribery and corruption) secondment programme enabled cross-overs in building intelligence capability through secondments of four detectives seconded from Police and four forensic SFO accountants to Police on short term secondments during the year.

In addition the SFO collaborated with the Financial Markets Authority (the body responsible for enforcing securities, financial reporting, and company law as they apply to financial services and markets) on a joint training programme and on investigations which resulted in greater intelligence available across all relevant agencies and has resulted in quicker conclusions in the relevant investigations.

46. Does your country or business associations in your country promote anti-corruption training for the private sector?

YES NO

If yes, please provide details.

Transparency New Zealand in partnership with The Serious Fraud Office and BusinessNZ has released a free online Anti-Corruption Training module. The package explains the various bribery and corruption offences that exist under both domestic and international laws. The package also sets out best practice options for preventing or avoiding bribes. The training concept is based on the training package produced by Transparency International in the United Kingdom.

47. Has your country disseminated G20 products and documents developed by the group with relevant domestic authorities?

YES NO

If yes, please provide details.

JUDICIARY

48. Has your country taken any measures to promote and disseminate the Bangalore Principles for Judicial Integrity?

If yes, please provide details

The Guidelines on Judicial Conduct, issued by the judiciary, refer to, and expound on, the Bangalore Principles in providing guidance to judges on appropriate behaviour.

49. Has your country taken other measures to promote the accountability and independence of the Judiciary?

If yes, please provide details

An integral feature of New Zealand's system of government is the separation of power between the three independent branches of government: the Legislature, the Executive, and the Judiciary. Part 4 of the Constitution Act 1986 reinforces judicial independence by limiting the circumstances in which a judge can be removed from office, as well as protecting judges' salaries. Judicial independence is further reinforced by the Standing Orders of the House of Representatives which prohibit MPs commenting on any case before the courts until the final judgment has been delivered.

The judiciary are appointed by the Crown and are held accountable in two key ways:

- the public nature of their work and the requirement that they give reasons for their decisions; and
- by the judicial complaints process established by the Judicial Conduct Commissioner and Judicial Conduct Panel Act 2004 – the act provides the public with a transparent and accessible process for making complaints about judicial conduct.

The Judicature Modernisation Bill, introduced into parliament in November 2013, clarifies the situation for judges undertaking extra-judicial activities, including requiring the Chief Justice, in consultation with other Heads of Bench, to develop and publish a protocol containing guidance on employment and types of employment the Chief Justice considers consistent with being the judge of a particular court.

SECTOR-SPECIFIC TRANSPARENCY INITIATIVES

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

Extractive Industries Transparency Initiative (EITI)

Implementing YES NO

Support YES NO

Construction Sector Transparency Initiative (CoST)

Implementing YES NO

Support YES NO

Other (specify below)

Implementing YES NO

Support YES NO

Please provide details on other sectoral initiatives supported by your country, or domestic measures taken in relation to specific sectors.

51. Does your government have integrity pacts with the business sector?

YES NO

If yes, please provide details.

FISCAL AND BUDGET TRANSPARENCY

52. Has your country taken steps to implement the IMF Good Practices in Fiscal Transparency?

YES NO

If yes, please provide details.

New Zealand has been a pioneer in fiscal transparency, and continues to exhibit international best

practice in many respects.² It was the first country to publish a full balance sheet of the government, and the approach to mandating transparency in the Fiscal Responsibility Act 1994 influenced the subsequent development of international fiscal transparency standards. With respect to central government, virtually all fiscal activities are on-budget, on balance sheet, or in supplementary reporting. For instance, New Zealand scored 93 out of 100 on the Open Budget Index (OBI) 2012, and was ranked first out of 100 countries surveyed. Outside the scope of the OBI, there have been other improvements in fiscal transparency recently, including:

- The publication of three statements on NZ's Long Term Fiscal Position, in 2006, 2009, and 2013, the last report produced after a substantial public outreach exercise.
- The publication of an Investment Statement in 2010, providing additional information on the Crown's assets and liabilities.
- The publication of an Annual Portfolio Report, providing information on the performance of the portfolio of government-owned enterprises.
- The Open Data Initiative.

Further, the Public Finance Act requires transparency around priorities for resource allocation, inter-generational impacts, and the consistency of past fiscal policy with announced fiscal strategy.

53. Has your country taken steps to implement the OECD Best Practices on Budget Transparency?

YES NO

If yes, please provide details.

New Zealand's yearly Budget Policy Statement sets out the overarching policy goals that will guide the government's Budget decisions and the government's priorities for the forthcoming Budget. The Statement is published conjointly with the Half Year Economic and Fiscal Update. The update provides the latest economic forecasts and the forecast financial statements of the Government, including the implications of Government financial decisions.

Other documents published by the Government that reflect the OECD Best practices include:

- Budget proposal
- Approved budget
- Sensitivity analyses of fiscal and/or macroeconomic models
- Budget circular
- Pre-budget report
- Long-term perspective on total revenue and expenditure

Thank you for your time in completing this questionnaire.