

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

Since the last progress report South Africa has introduced or implemented the following measures or initiatives:

- (a) The Prosecution Policy of the National Prosecuting Authority was amended to make it clear that prosecutorial decision-making in foreign bribery cases shall 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.
- (b) Fines that may be imposed for corruption offences as prescribed by section 26(1)(a) of the Prevention and Combating of Corrupt Activities Act (PRECCA), 2004 (Act 12 of 2004) were increased with effect from 1 February 2013.
- (c) The money laundering regime is being reviewed in order to address gaps identified by the FATE, including lack of enhanced due diligence for politically exposed persons (PEPs), identification of beneficial owners and special attention for higher-risk countries.
- (d) The role and functioning of the Anti-Corruption Task Team (ACTT) has been concretised and expanded through the permanent establishment of an Anti-Corruption Component within the Directorate for Priority Crime Investigation (DPCI) to operationalise government's anti-corruption agenda. This gives effect to dealing with corruption as a national priority within the South African 2014-2019 Medium Term Strategic Framework (MTSF), giving effect towards the objectives of the National Development Plan (NDP), Chapter 14.

UNITED NATIONS CONVENTION AGAINST CORRUPTION (UNCAC)

2. Has your country ratified the UNCAC?

YES X NO

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

Not applicable.

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

YES NO

If yes, please provide details.

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

YES NO

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

The review process was completed in October 2012 and the report was adopted on 13 November 2012 at the meeting of the Implementation Review Group.

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 <input checked="" type="checkbox"/> | NO <input type="checkbox"/> | COMMITTED TO DO SO <input type="checkbox"/> |
| b. Involvement of civil society | YES <input checked="" type="checkbox"/> | NO <input type="checkbox"/> | COMMITTED TO DO SO <input type="checkbox"/> |
| c. Involvement of business | YES <input checked="" type="checkbox"/> | NO <input type="checkbox"/> | COMMITTED TO DO SO <input type="checkbox"/> |
| d. Allowing country visits | YES <input checked="" type="checkbox"/> | NO <input type="checkbox"/> | COMMITTED TO DO SO <input type="checkbox"/> |

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)

Country visit was conducted in July 2012. Business/civil society had a session with examiners during the country visit. The report is available on the following links:
<http://www.dpsa.gov.za/dpsa2g/documents/accc/2013%20UNCAC%20FINAL%20COUNTRY%20REPORT%20SOUTH%20AFRICA.pdf> and
http://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2013_05_09_South_Africa_Final_Country_Review_Report.pdf

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

YES YES TO SOME NO NOT YET RECEIVED THE REPORT

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

The country has developed a draft action plan to address these recommendations.

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

YES NO NOT YET

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

YES NO NOT YET

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

Not applicable

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 X NO

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

YES X NO

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

YES NO

If yes, please provide details.

Not applicable

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

YES X NO

If yes, please provide details.

Passive corruption

Section 3 of the Prevention and Combating of Corrupt Activities Act (PRECCA), 2004 (Act 12 of 2004), creates the general offence of corruption. This offence applies to any person and covers offences committed in the **public sector as well as the private sector**. Section 3(a) of the PRECCA provides that any person who, directly or indirectly, **accepts or agrees or offers to accept any gratification** from any other person, whether for the benefit of himself or herself or for the benefit of another

person in order to act, personally or by influencing another person so to act, in a manner describes above.

Furthermore, **section 21** of the PRECCA provides as follows:

“Any person who—

- (a) attempts;
- (b) conspires with any other person; or
- (c) **aids, abets, induces, incites, instigates**, instructs, commands, counsels or procures another person,

to commit an offence in terms of this Act, is guilty of an offence.”. (Emphasis added)

Active corruption

Part 2 of Chapter 2 of the PRECCA provides for offences in respect of corrupt activities relating to **specific persons**. Section 4 of the PRECCA creates offences in respect of corrupt activities relating to **public officers**. In terms of **section 4(1)(a)** it is an offence if any **public officer**, directly or indirectly, **accepts or agrees or offers to accept** any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person in order to act, personally or by influencing another person so to act, in a manner as described above.

In terms of **section 4(2)** of the PRECCA the expression "**to act**" in section 4(1) includes—

- (a) voting at any meeting of a public body;
- (b) performing or not adequately performing any official functions;
- (c) expediting, delaying, hindering or preventing the performance of an official act;
- (d) aiding, assisting or favouring any particular person in the transaction of any business with a public body;
- (e) aiding or assisting in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person in relation to the transaction of any business with a public body;
- (f) showing any favour or disfavour to any person in performing a function as a public officer;
- (g) diverting, for purposes unrelated to those for which they were intended, any property belonging to the state which such officer received by virtue of his or her position for purposes of administration, custody or for any other reason, to another person; or
- (h) exerting any improper influence over the decision-making of any person performing functions in a public body.

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

YES X NO

If yes, please provide details.

South Africa arranged organised consultations with business, labour and NGOs in anti-corruption activities in the establishment of the National Anti-Corruption Forum (NACF) in 2001. The NACF is a coalition by the Public, Business and Civil Society Sectors against corruption that advises government on national policy initiatives in implementing anti-corruption strategies and has been chaired by leaders from all three sectors.

The NACF's Anti-Corruption Programme is aimed at advocating rights, obligations, sanctions and protection under anti-corruption legislation and ensuring its full implementation; promoting ethical practices through awareness and training programmes; providing platforms for national, provincial and local engagement on anti-corruption issues and implementation of cross-sectoral anti-corruption programmes.

A specific example of the awareness raising initiatives is the *Understanding the Prevention and Combatting of Corrupt Activities Act (PRECCA)* booklet that provides a user-friendly illustration of the Act and related offences.

South Africa has taken steps to raise awareness of corruption in the private sector. The Department of Public Service and Administration has partnered with Business Unity South Africa (BUSA), a South African business organisation, to develop a three-year programme to increase private sector capacity to prevent and combat corruption. The Convention, OECD Good Practice Guidance and other anti-corruption training materials are made available on BUSA's website.

In 2012, South Africa also launched a communications campaign, in which billboards and posters were developed to raise awareness of anti-corruption issues, including foreign bribery. The campaign covered major airports, train stations and highway off-ramps to target business travellers. In 2010, DIRCO organised briefings with business communities in its overseas missions. DIRCO officials "continuously" brief South African companies conducting business abroad on the OECD Convention and its implications.

The government has also engaged with the Institute for Internal Auditors of South Africa whereby the auditing obligations under the Convention were presented during the 7th Institute of Internal Auditors of South Africa and Association of Certified Fraud Examiners Fraud Conference.

The South African Revenue Service has made the OECD Bribery Awareness Handbook for Tax Examiners Handbook available on its website and informed tax inspectors about it in its newsletter. Furthermore, SARS has continued to raise awareness of the foreign bribery offence and detection methods among tax examiners using revised versions of the Handbook in yearly trainings.

14. Has your country instituted measures to discourage facilitation payments?
YES X NO

If yes, please provide details.

South Africa does not allow facilitation payments. All payments with the intent to bribe are prohibited and have been criminalised in the Prevention and Combating of Corrupt Activities Act (PRECCA), 2004 (Act 12 of 2004). In terms of Section 29 of the Financial Intelligence Centre Act, 2001 (Act 38 of 2001), business is required to report suspicious and unusual transactions to the Financial Intelligence Centre. Since a "facilitation payment" is illegal it would fall within the scope of what has to be reported under this section if a business detects that such a payment has been made.

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 X NO

If yes, please provide details.

It was reported in 2013 progress report that South Africa is in the process of reviewing the country's anti-money laundering legislation (the Financial Intelligence Centre Act, 2001 (Act 38 of 2001)). This process has moved into a phase of consultation with a wide range of financial and other institutions with a view of preparing draft legislation for a Parliamentary process.

The objectives of the review process mentioned in the 2013 progress report, in summary, include the introduction of a risk-based approach to customer due diligence, requiring enhanced due diligence for PEPs and special attention for higher-risk countries and better identification of beneficial owners.

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

YES NO X

If yes, please provide details.

Several proposals for the amendment of the current Asset Forfeiture legislation (the Prevention of Organised Crime (POCA), 1998 (Act No.121 of 1998) and the National Prosecuting Authority Act, 1998 (Act 32 of 1998)) are to be made. These include the following:

- The provision for joint and several liability of defendants in restraint and confiscation proceedings.
- A proposal to allow for the limited investigation powers for financial investigators in relation to civil recovery proceedings.
- Strengthening the provisions barring fugitives and other persons, under certain circumstances, from participating in proceedings.
- Limiting the circumstances under which orders can be amended or rescinded.
- Improving the ability of the National Prosecuting Authority to gain access to information held by State Institutions.
- Providing for the State to recover benefit from the value of the confiscation order from any future income the defendant may receive.
- Providing that defendants may not use assets subject to a freezing order for legal expenses and that legal aid will be provided at State expense instead.

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 NO X

If yes, please provide details.

If no, is such legislation under consideration?

YES X NO

If yes, please provide details.

Denial of entry has been incorporated as an issue in government's anti-corruption agenda, to be addressed by the Anti-Corruption Task Team.

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.

Not applicable

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

YES NO X

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?

YES NO X

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 NO X

If yes, please provide details.

Not applicable

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 X NO
- c. Has used as the treaty basis for extradition YES X 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 YES X
- b. Could cooperate, but has not been asked
- c. Cannot cooperate

If you cannot cooperate, please provide details.

Not applicable

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 X NO

If yes, to which organizations:

- a. UNODC YES
- b. StAR/Interpol Focal Point Initiative YES
- c. Camden Asset Recovery Network
- d. Other(s) YES

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

Others include the Organisation for Economic Cooperation and Development and the Commonwealth.

The Office of the Director-General of the Department of Justice and Constitutional Development has been designated as the Central Authority. Thus this Office coordinates all the international cooperation matters. The Asset Forfeiture Unit (AFU) – a unit within the National Prosecuting Authority (NPA) – in conjunction with the International Cooperation Desk in the Office of the National Director of Public Prosecutions (ONDPP) is responsible for mutual legal assistance and law enforcement requests relating to asset recovery.

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ASSET RECOVERY

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

YES X NO

If yes, please provide details.

The International Cooperation in Criminal Matters Act, 1996 (Act No. 75 of 1996), provides for the recognition of both foreign freezing orders and forfeiture/confiscation orders. It provides for both conviction-based and non-conviction-based orders under certain conditions. Such orders are registered with the High Court and can be executed as though they were obtained in South Africa. It is not necessary to provide the evidence on which the order was based.

It is also possible to request South Africa to obtain anew non-conviction based freezing and forfeiture orders in terms of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998). In such cases the relevant evidence must be provided by the requesting state to be presented to court and the case can be finalised without the need for a conviction in the criminal case. This is useful for requesting countries that do not have asset forfeiture legislation or in cases where perpetrators cannot be convicted, for example if they have died or are fugitives.

Upon completion, the recovered proceeds will be repatriated to the requesting state. The proceeds will usually be shared in terms of a sharing agreement, and actual costs incurred will usually be deducted from the proceeds.

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 Asset Forfeiture Unit (AFU) in the National Prosecuting Authority was established in 1999 as a

dedicated capacity focussing on the forfeiting of proceeds of crime and instrumentalities of serious offences. The Unit was established administratively and may therefore be disestablished administratively.

The mandate of the Unit is to deal with all crime, but corruption is one of its major priorities and account for more than 60% of the value of assets frozen.

The contact details as follows:

Mr Willie Hofmeyr

Head: Asset Forfeiture Unit

National Prosecuting Authority of South Africa

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Mobile: +27 82 499 7850

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.

The performance of the Asset Forfeiture Unit is reported upon in the Annual Reports and Strategic Plans of the National Prosecuting Authority, which Report is tabled in Parliament and publicly available.

The information is audited and regularly reported upon to the Department of Justice and Constitutional Development and the National Treasury. The information is also made available to journalists and other interested parties on request.

The information can also be obtained through a request in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

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.

South Africa provides regular training to other African countries and has hosted numerous delegations from neighbouring countries through regional bi-lateral cooperation and the South African Regional Police Chiefs Co-operation Organisation (SARPPCO) and involves countries in the Southern Africa Development Community (SADC).

South Africa has also facilitated the establishment of the Asset Recovery Inter-Agency Network of Southern Africa (**ARINSA**) to increase the effectiveness of members' efforts, individually and collectively, on a multi-agency basis, in depriving criminals of instrumentalities of crime and illicit profits.

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.

Refer to the extensive input provided to the 2013 G20 Accountability report (Question 36) as it relates to the following applicable legislation:

- The Companies Act (Act No 71 of 2008)
- The Co-operatives Act (Act No 14 of 2005)

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

Not relevant

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

YES NO

Not relevant

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 X NO

If yes, please provide details.

The Department of Justice and Constitutional Development is currently considering proposals by the South African Human Rights Commission relating to the proposed amendment of the Protected Disclosures Act, 2000 (Act 26 of 2000) with the view to:

- extending the ambit of the Act beyond the traditional employer and employee relationship;
- creating a new remedy for an employee who has been victimised by an employer in contravention of the Act; and
- Granting an employee who makes a protected disclosure immunity from criminal and civil liability under circumstances where the content of the disclosure relates to the commission of a crime.

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

YES X NO

If yes, please provide details

The Bill of Rights enshrined in the **Constitution of South Africa** protects the right of all citizens. The development of the **Protection of State Information Bill** further recognises that access to State information is a basic human right. Section 45 of the Bill makes it an offence for any person to classify information for the purpose of concealing offences under the PRECCA, therefore sufficient guarantees has been built into it to ensure that it cannot be invoked to prevent whistle blowers (including journalists) from disclosing criminal activity, nor may it be used to conceal evidence proving criminal offences.

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 <input type="checkbox"/> |
| b. Selection and evaluation criteria | YES X | NO <input type="checkbox"/> |
| c. Awards of contracts and modifications of contracts | YES X | NO <input type="checkbox"/> |

Please provide details.

- All regulations, related policies and procedures that deal with procurement are published on the website of National Treasury
- Legislation requires that when an invitation for bid is published regardless of the media that the selection and evaluation criteria form part of the invite
- For all transversal tenders facilitated by National Treasury the results /awards are published on the website stipulating the name of contractor, service provided, price and any modification during the contract term. There are however some procuring institutions that are in the process of implementing this process.

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

YES X NO

If yes, please provide details.

A process of modernising procurement process has started through the establishment of the office of The Chief Procurement Officer. The legislative environment is currently being reviewed to give powers to this office to prescribe any measures that will enhance transparency and integrity in public procurement.

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

YES X NO

If yes, please provide details.

In terms of the Regulations issued in terms of the Public Finance Management Act (PFMA), 1999 (Act 1 of 1999) and Municipal Finance Management Act (MFMA), 2003 (Act 56 of 2003) people who are in the employ of Government are not allowed to bid for government tenders. It is further a requirement to complete a declaration of interest portion within the standard bidding documents for all tenders.

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

YES X NO

If yes, please provide details.

After following due process companies and individuals found guilty of having committed any incorrect activities can be barred from doing business with government for a period ranging from five (5) to ten (10) years and their names are placed in the register that is published on the website of National Treasury.

40. If yes, is the debarment list of International Financial Institutions taken into account?

YES X NO

41. Are the names of companies excluded from future participation in public tenders made publicly available?

YES X NO

If yes, please provide details.

The list of all companies and individuals who are excluded from doing business with Government is published on the National Treasury website

DISCLOSURE BY PUBLIC OFFICIALS

42. Does your country require disclosure by public officials of:

- | | | |
|--------------------------|---|--|
| a. Income | YES <input checked="" type="checkbox"/> | NO <input type="checkbox"/> |
| b. Assets | YES <input checked="" type="checkbox"/> | NO <input type="checkbox"/> |
| c. Conflicts of interest | YES <input checked="" type="checkbox"/> | NO <input type="checkbox"/> |
| d. Gifts | YES <input checked="" type="checkbox"/> | NO <input type="checkbox"/> |
| e. Other | YES <input type="checkbox"/> | NO <input checked="" type="checkbox"/> |

If yes, please provide details.

The Financial Disclosure Framework provides detailed guidelines in this regard.

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 <input type="checkbox"/> | NO <input checked="" type="checkbox"/> |
| b. Certain public office holders | YES <input type="checkbox"/> | NO <input checked="" type="checkbox"/> |
| c. No immunities available to public office holders | YES <input checked="" type="checkbox"/> | NO <input type="checkbox"/> |
| d. While in office | YES <input type="checkbox"/> | NO <input checked="" type="checkbox"/> |
| e. Permanently | YES <input type="checkbox"/> | NO <input checked="" type="checkbox"/> |

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

South Africa does not provide immunity from criminal investigation or prosecution for public officials.

- Section 252A of the Criminal Procedure Act (CPA), 1977 (Act 51 of 1977) provides limited criminal immunity for law enforcement officers acting in an undercover capacity.
- On a very broad basis sections 204 and 105A of the CPA, could be regarded as a jurisdictional privilege based on investigation and prosecution techniques and privileges. In the case of section 105A of the CPA there will be an agreement between an accused and the prosecution to plead guilty to certain charges, which may exclude a charge of corruption in lieu of fraud or even a lesser offence, because of whatever legitimate reason. In the case of section 204 of the CPA it is also a decision that is made by the prosecution in consultation with the police to rather use a cooperating accused as a witness, in which case such witness, if meeting the requirements of section 204, will not be prosecuted. In both cases, people who are *prima facie* guilty of corruption may not be charged.
- A 3rd example is the use of section 252A of the CPA in terms of which a Director of Public Prosecutions may authorize an agent of the state to be involved in *prima facie* unlawful activities with a view of gathering evidence against a suspect. Such agent will not be prosecuted since there was lawful authority based on a statutory justification. This is clearly an investigative method which may be used when investigating complex crimes such as organized crime,

terrorism, corruption and gang-related crimes.

- One may also argue that once an interception direction has been granted by a Designated Judge in terms of section 16 of RICA, the interceptor, being aware of the commission of a crime, is guilty as a participant should he not disclose such information, but rather retains it for purposes of the on-going investigation. So, although such interceptor is aware of a conspiracy to commit corruption, for instance, he is not guilty of failure to disclose the information since he (together with the investigating team) is busy with a larger-scale investigation, the currently obtained information, of which is merely part of the evidential material in the bigger investigation of racketeering, for instance.

EDUCATIONAL INITIATIVES

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

International Anti-Corruption Academy YES NO X

UNODC Anti-Corruption Academic Initiative YES NO X

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

If yes, please provide details.

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

YES X NO

If yes, please provide details.

The National School of Government provides targeted training to different categories of officials on ethics and anti-corruption.

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

YES X NO

If yes, please provide details.

Business Unity South Africa conducts anti-corruption training programmes including e-Learning programmes to officials within the private sector.

Learning programmes and qualifications provided by tertiary institutions (e.g. the University of Stellenbosch and University of South Africa (UNISA) offer specific courses in relation to fraud, corruption and ethics training

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

YES NO

If yes, please provide details.

The G20 principles on foreign bribery and the principles on combatting solicitation and mutual legal assistance were presented and distributed to South Africa's Anti-Corruption Task Team for inclusion in inter-departmental awareness and training initiatives.

JUDICIARY

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

YES NO

If yes, please provide details

The Bangalore Principles are intended to establish standards for ethical conduct of judges. They are designed to provide guidance to judges and to offer the judiciary a framework for regulating judicial conduct. SA – which contributed to the development of the Bangalore Principles - has modelled its own legislated Code of Judicial Conduct (as contained in the Judicial Service Commission Act) on these principles. The Code of Judicial Conduct applies to all members of the judiciary. The legislation follows the previous Guidelines for Judges of South Africa, issued by the Chief Justice, the President of the Constitutional Court, and the Presidents of High Courts, the Labour Appeal Court, and the Land Claims Court, March 2000. In addition to the Judicial Code of Conduct applicable in SA, Section 177 of the South African Constitution stipulates that a judge may be removed from office if the Judicial Service Commission (JSC) finds that the judge suffers from incapacity, is grossly incompetent or is guilty of gross misconduct. The National Assembly can call for the removal of a judge through a resolution adopted by two thirds of Parliament. Once the resolution is adopted, the President must then remove the judge.

The Judicial Service Commission Act as amended in 2008 makes allowance for a variety of sanctions and levels of complaints. The Act also sets out the full complaint hearing mechanism -- the complaint must be submitted as "an affidavit or affirmed statement." The grounds for a complaint vary from a judge's inability to perform his or her duties, to a breach of the Code of Judicial Conduct, to conduct unbecoming of a judicial officer. The complaint then goes to the chairperson of the JSC, the Chief Justice. The Chief Justice, or a head of court, can dismiss lesser complaints which are found to have no substance. However, serious valid complaints, which could lead to the impeachment, will be referred to a judicial conduct committee by the Chief Justice. The conduct committee can hold inquiries into serious, non-impeachable complaints and impose sanctions ranging from a written apology to the complainant, to a reprimand or written warning. The committee can also impose training, counselling and "any other appropriate corrective measure".

South Africa recently also proclaimed standards and norms that apply to the whole judiciary. This in line with the Superior Court Act 2013 which reaffirms the Chief Justice as the head of the Judiciary responsible for the establishment and monitoring of norms and standards for the judicial functions of all courts. The Act further empowers the Chief Justice to issue written protocols or directives, or give guidance or advice, to judicial officers – (a) in respect of norms and standards for the performance of the judicial functions; and (b) regarding any matter affecting the dignity,

accessibility, effectiveness, efficiency or functioning of the courts.

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

YES X NO

If yes, please provide details

Chapter 14 of the National Development Plan (NDP) addresses the issue of corruption and in particular also the accountability of the judiciary.

Specific measures and progress in this regard include the following:

- Legislation pertaining to the judiciary provides for a code of conduct.
- South Africa recently proclaimed standards and norms for the judiciary.
- South Africa recently also enacted the Superior Court Act, 2013 (Act 10 of 2013).
- Until recently the judiciary was accountable to the Minister of Justice and Constitutional Development. All judiciary is now accountable to the Chief Justice of South Africa.

The independence and accountability of the Judiciary bin SA is enshrined in our Constitution. The Constitution of the Republic of South Africa, 1996 provides for the independence of the judiciary, protects judicial independence by prohibiting any interference with the functioning of the courts. It further imposes a duty on organs of state to assist and protect the courts to ensure, amongst other things, their independence, impartiality and efficiency. Furthermore the Constitution as amended in 2013 formalises the Chief Justice as the head of the judiciary and entrusts him with the responsibility for the establishment and monitoring of norms and standards for the judicial functions of all courts. It also designates the Constitutional Court as the highest court in all matters. All of the judiciary in SA is accountable to the Chief Justice of South Africa. In line with this the Office of the Chief Justice (OCJ) is a newly established National Department proclaimed by the President of the Republic of South Africa on 23 August 2010. Subsequent to the Proclamation of the OCJ as a National Department, the Minister for Public Service and Administration made a determination regarding the purpose and objectives of the OCJ as follows:-

- To ensure that the Chief Justice can properly execute his mandate as both the head of the Constitutional Court and the head of the Judiciary;
- To enhance the institutional, administrative and financial independence of the OCJ; and
- To improve organisational governance and accountability, and the effective and efficient use of resources.

SECTOR-SPECIFIC TRANSPARENCY INITIATIVES

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

Extractive Industries Transparency Initiative (EITI)

Implementing

YES

NO X

Support

YES

NO X

Construction Sector Transparency Initiative (CoST)

Implementing
Support

YES NO X
YES NO X

Other (specify below)

Implementing
Support

YES NO
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 X

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 X NO

If yes, please provide details.

South Africa is in the process of complying with all elements of Good Practices in Fiscal Transparency. This is overseen by the National Treasury.

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

YES X NO

If yes, please provide details.

South Africa is one of the most fiscally transparent countries. To date significant progress has been made towards alignment with the OECD Best Practices on Budget Transparency.

Thank you for your time in completing this questionnaire.