

G20 Anti-Corruption Working Group Progress Report 2013

PART II: NATIONAL PROGRESS

The following provides highlights of the progress made by each G20 member to develop introduce and implement further anti-corruption measures or initiatives since the publication of the 2012 monitoring report.

Argentina's newly created (December 2012) Procuracy of Economic Crimes and Money Laundering (PROCELAC) focuses on crimes against public administration, money laundering and terrorist financing, economic and banking frauds, capital market frauds, tax crimes and smuggling, and bankruptcy frauds. In October 2012, Argentina sent a letter to join the Open Government Partnership to promote transparent government, encourage citizen participation, fight corruption and coordinate actions with other OGP members. On May 7th 2012 Argentina created a special Commission within the Ministry of Justice and Human Rights aimed at discussing and providing a draft Criminal Code this year to replace the 1921 version. Working with leading criminal specialists, this work includes recommendations suggested at OECD bribery Convention, FATAF, as well as other corruption-linked issues such as the extension of criminal jurisdiction, an autonomous definition of foreign public official, some non-conviction based cases of forfeiture, criminal liability of legal persons, cooperation with law enforcement authorities, whistle blowing protection, bribery, trade of influences, fraud against Public Administration, illicit enrichment.

Australia introduced in Parliament the Public Interest Disclosure Bill in March 2013. The Bill provides a framework to investigate public interest disclosures, establishes protections for whistleblowers, and provides for the circumstances in which disclosures maybe made outside government. Work is continuing on Australia's first National Anti-Corruption Plan, which aims to provide a comprehensive policy framework to coordinate and guide Australia's anti-corruption activities and strengthen Australia's ability to prevent, detect and respond to corruption. The Public Service Amendment Act 2013 was passed which, amongst other things, strengthens provisions for dealing with former employees suspected of breaching the Australian Public Service (APS) Code of Conduct and employees who provide false or misleading information in connection with their recruitment.

Brazil's President approved in late July Law N. 12.846/2013 which will come into force on January 24, 2014. The bill creates corporate liability for bribery (vice liability only for natural persons) and provides for a cooperation credit for voluntary disclosure, a potential penalty reduction for the existence of a compliance program, and severe penalties for overseas bribery including significant fines, prohibition on receiving funding from state agencies / financial institutions, and in some circumstances, compulsory dissolution of the defendant firm. Brazil

has also amended its law on money laundering to expand the list of entities required to provide financial information to Brazil's FIU and to eliminate the list of specific criminal offenses considered as predicates for a money laundering offences. In addition, it has enacted a law on conflict of interest governing its central government, and has established a Pro-Ethics Company Registry, which gives visibility to companies that invest in ethics, integrity and corruption prevention.

Canada's Parliament passed the *Fighting Foreign Corruption Act* in June 2013. It amends the *Corruption of Foreign Public Officials Act* by giving the Royal Canadian Mounted Police exclusive authority to lay charges; introducing nationality jurisdiction to make it easier for Canada to prosecute Canadians or Canadian companies for foreign bribery; establishing a books and records offence that prohibits certain bookkeeping practices and transaction types related to foreign bribery; eliminating the requirement that business must be conducted "for profit"; removing the facilitation payment defence at a date to be set by Cabinet; and increasing maximum imprisonment from five to 14 years. The *Faster Removal of Foreign Criminals Act* also passed. This Act includes a new ministerial authority to refuse temporary resident status to foreign nationals on the basis of public policy considerations. Proposed guidelines related to the new authority describe behaviours and activities whereby a foreign national, including corrupt public officials, may be refused temporary resident status.

China has launched an initiative to prevent and control corruption risks, which includes risk identification, risk evaluation and risk control on the possibility of corruption of public officials and aims to regulate the exercise of public power. To standardize and improve the market system for public construction projects and other government procurement, the establishment of centralized and unified transaction market for public resources is encouraged. Up to the end of 2012, 1190 markets had been established nationwide. China's next five-year anti-corruption work plan (2013-2018) is being formulated and the efforts to prevent and punish corruption be enhanced through reform and institutional innovation.

France is working on a set of innovative reforms aiming at enhancing transparency and the fight against corruption. It has tabled several bills in Parliament which address disclosure of assets, avoidance of conflict of interest by public officials, transparency and reporting in the banking sector, and financial and economic crimes (including tax evasion, tax fraud and anti-money laundering). In addition, the bills establish an « Haute Autorité de la transparence de la vie publique ». The French Justice Ministry is also working on other reforms, notably on the possibility for associations and non-governmental organisations fighting against corruption to ask for damages during a national or foreign bribery case. The Ministry is also preparing a bill to strengthen the institutions that investigate and prosecute corruption.

Germany enacted amendments to the Regulatory Offences Act raising the scale of fines for criminal offences (including foreign bribery) by legal persons from one million to ten million euros (confiscation of profits are on top of the fine and not capped). The amendments respond to a recommendation of the OECD Working Group on Bribery and entered into force in June 2013. In February 2013, Germany amended its Anti-Money Laundering Act to include online gambling operators and their intermediaries under the Act's customer due diligence provisions. In 2012, Germany launched its new anti-corruption strategy which reinforces its cooperation with civil society, private sector and governments, both internationally and at home. The

strategy puts more attention on anti-corruption and integrity in project design and implementation, and is binding on institutions responsible for official development cooperation.

India reached a decision in Jan 2013 to accede to the Agreement by which the International Anti-Corruption Academy, Vienna, was established. Due diligence action to deposit the instrument of ratification is under process. Amendments to the Prevention of Money Laundering Act 2002 for more effective compliance of FATF standards came into force effective February 15, 2013. Recent amendments to this Act include: the definition of the offence of money laundering in Section 3 to incorporate therein the elements of “concealment, possession, acquisition or use” of proceeds of crime; imposition of fine on offenders proportionate to the gravity of the offence which will be determined by court (by removing the earlier limit of Rs.5 lakh); and, the addition of an explanation to Section 70 to clarify that prosecution or conviction of legal/juridical persons is not contingent on the prosecution or conviction of natural persons.

Indonesia enacted Presidential Decree No.55/2012 on National Strategy on the Prevention and Eradication of Corruption, on May 23, 2012, which covers long term period of 2012-2015 as well as medium term period of 2012-2014. The national strategy consists of 6 pillars namely the prevention; law enforcement; international cooperation and asset recovery; harmonization of relevant laws and regulations; education strategy and anti-corruption culture; and reporting mechanism. Through Presidential Instruction No.1/2013 on the National Action Plan on Prevention and Eradication of Corruption for 2013 which was signed on January 25, 2013, all national stakeholders are encouraged to implement the National Strategy and to regularly report the progress to the national planning agency. The national strategy and action plan was designed in line with the provisions of UNCAC in the effort to effectively implement the Convention at the national level. Indonesia is in the process to ratify the Agreement on the Establishment of International Anti-Corruption Academy (IACA) as an international organization, which is in the last stage and is expected to be finalized by mid 2013.

Italy's Parliament adopted Law n°190 on 6 November 2012. It aims to prevent and repress corruption in Public Administration and establishes as a new national Anti-corruption Authority - the National Commission for Evaluation, Transparency and Integrity (CIVIT), a whistleblower protection mechanism, and a National Anti-corruption Plan. The law aligns Italy's legal system with 1997 EU Convention against Corruption, 1997 OECD Convention against Bribery in International Business Transactions, 1999 Council of Europe Criminal Convention against Corruption, 2003, UNCAC, and implements the OECD and Council of Europe Bodies' mutual evaluation procedure recommendations. A Code of Conduct for public servants (with a specific section for public managers), adopted by Presidential decree 16 April 2013, aims to ensure service quality, prevention of corruption, duties of diligence, loyalty and impartiality. The Legislative Decree on the causes of incompatibility in assignments within public administrations and private bodies under public control entered into force 7 May 2013. The Legislative Decree “Reorganisation of the rules on the obligations of disclosure, transparency and dissemination of information by public administration” was published on, and entered into force, 5 April 2013.

Japan produced a national guide on international cooperation on asset recovery following its participation in the September 2012 Arab Forum on Asset Recovery in Doha. The Act on

Prevention of Transfer of Criminal Proceeds was revised in April 2011 and the subordinate decrees of the Act were promulgated in March 2012. These laws and regulations have been enforced since April 2013. For promoting public procurement transparency and integrity, revised articles of the Cabinet Order concerning the Budget, Auditing and Accounting came into effect as from April 1, 2013.

Mexico published its Federal Anti-Corruption Law in Public Procurement (Anti-Corruption Bill) on June 11, 2012. It sets out the responsibilities and punishments of natural and legal persons of Mexican and foreign nationalities.

Russia adopted on December 3, 2012 Federal Law N230 "On controlling spending of public office holders and other public officials". Certain categories of public officials are now required to disclose acquisition of certain assets with a price over a specified limit. The Public Prosecutor's Office is entitled to initiate civil litigation to expropriate the assets which price does not match the official income of a public official and his immediate family. Presidential Decree N309 "On implementation of the Federal Law "On combating corruption"" of April 2, 2013 introduced new whistleblower protection measures. On April 5, 2013 new legislation on public procurement was adopted - Federal Law N44 "On Federal Contract System" implies the most significant upgrade of the Russian public procurement system since 2005. On June 28, 2013, new legislation on combating illegal financial transactions was adopted that for the first time introduced the "beneficial owner" concept into the Russian legislation.

Saudi Arabia ratified the United Nations Convention against Corruption, which will come into force 29 May 2013, and acceded to the International Anti-Corruption Academy. Four corruption related laws, rules and regulations have been prepared, and are in the final stages of the approval process, including: a Protection of Public Funds law; Implementing Regulations for Reporting Corruption Cases; Integrity Protection Rules and Incentives for Whistle-Blowers on Corruption Cases; and Financial Disclosure Rules, and Oath of Office Controls for Some Public officials.

South Africa established a Forum in January 2013 within the Department of Home Affairs between Immigration Services and the Counter-Corruption Unit to look at corruption that facilitates illegal migration in visas and at ports of entry.

South Korea's Anti-Corruption and Civil Rights Commission (ACRC) has diversified its approach to the assessment of the integrity of public organizations. It now undertakes specialized integrity assessments for corruption prone areas, such as for national and public universities (done in 2012). Similar assessments are planned for local legislatures and for the medical sector. In 2012, South Korea was awarded the UN Public Service Award 1st prize recognizing these integrity assessments. The "Guideline when Meeting with Interested Parties" (implemented in October 2012) stipulates visit procedures in order to prevent corruption arising. Korea's amendment to Article 17 of the Financial Transaction Reports Act came into force on March 22, 2013 and establishes sanctions against financial institutions and their employees that violate customer due diligence obligations. In addition, the Enforcement Decree of Act on Special Cases Concerning the Confiscation and Return of Property Acquired through Corrupt Practices came into force on November 20, 2012.

Spain's Parliament adopted in February 2013 a resolution which foresees a wide range of political, legislative and operational actions to establish more limits and improve transparency within public activity in order to fight corruption. In March 2013, a working group - chaired by a Ministry of the Presidency Vice-Minister, with participation of representatives from the Ministries of Justice, Finance and Public Administrations and Interior, was established to proceed with implementation. Legislative initiatives are envisaged or have already been adopted, including: a law to control the economic and financial activity of political parties; reform of the law on the Court of Audit; reform of the law on public procurement; a law on the statute of high level public officials; revision of the Criminal Code; and revision of the Criminal Procedural Law. Parliament is currently discussing a draft bill on transparency, access to information and good governance.

Turkey is undertaking a project to strengthening the coordination of anti-corruption policies and practices with help from the Council of Europe. Turkey's new Law on Prevention of the Financing of Terrorism (TF) was adopted February 7, 2013 and establishes a new financing of terrorism offence to comply with the "International Convention for the Suppression of Financing of Terrorism", UN Security Council Resolutions and FATF Special Recommendation II. A mechanism freezing assets to prevent financing of terrorism has also been established. The Law on Establishment of the Office Ombudsman, passed in June 2013 by the Turkish Grand Assembly, is in effect. The Head Ombudsman, other ombudsmen and personnel have been appointed, and the office is now receiving complaints, including more than 300 in its first week.

The United Kingdom announced on 22nd May that it will implement EITI. Discussions will now begin with stakeholders on the framework for reporting. On 18th June, the UK published an Action Plan on preventing misuse of companies and legal arrangements and to implement the revised FATF standard on beneficial ownership (<https://www.gov.uk/government/publications/uk-action-plan-to-prevent-misuse-of-companies-and-legal-arrangements>). New legislation will require companies to hold beneficial ownership information, which will be available to authorities through a central registry. A public consultation will consider whether the registry should be publicly available. Further reviews will consider improvements to supervision and enforcement of trust and company service providers and on the use of bearer shares and nominee directors. UK recently established an Asset Recovery Taskforce to improve coordination and responsiveness to requests from transition countries <https://www.gov.uk/government/speeches/arab-spring-asset-recovery-task-force>. UK asset recovery legislation is also being reviewed.

The United States announced in September 2012 that it would appoint two Department of Justice attorneys specializing exclusively in recovery of illicitly acquired assets to work with counterparts in Middle East and North Africa transition countries as part of US support of the Deauville Partnership and the Asset Recovery Action Plan adopted in May 2012. One was designated in December 2012 and has begun a comprehensive training partnership with criminal justice officials in the region; the other was designated in June 2013. In November 2012, the United States published *A Resource Guide to the Foreign Corrupt Practices Act* which discusses enforcement efforts, including the importance of an effective compliance program to detect and prevent FCPA violations. The Department of the Treasury is working to enhance financial transparency to combat financial crime, including money laundering, terrorist

financing and tax evasion. A key element is strengthening customer due diligence (CDD) by US financial institutions, including by obtaining beneficial ownership information of accountholders. Treasury is now assessing public input received in response to an advance notice of proposed rulemaking (issued in March 2012) to inform a proposed rule on CDD and beneficial ownership. In addition, the Department of Justice submitted to Congress in 2012 a comprehensive money laundering and forfeiture legislative proposal designed to address gaps in our current legal authority that collectively hamper the government's ability to exercise the full weight of its money laundering and forfeiture authorities. That legislation is expected to be re-introduced this year.

European Union Work is underway on the EU anti-corruption reporting mechanisms (EU Anti-Corruption Report) through which EU Member States' anti-corruption efforts are being evaluated. This is the first mechanism of its kind at EU level. The first EU Anti-Corruption Report will be published in the second half of 2013 and subsequent reports will follow every two years from then. The European Commission proposed new EU legislation in March 2012 to make it easier for EU Member States to confiscate assets derived from serious and organised crime, including corruption. In April 2013, the EU institutions reached a political agreement to require the disclosure of payments to governments on a country and project basis by listed and large unlisted companies with activities in the extractive (oil, gas and mining) and forestry sectors. In February 2013 the European Commission adopted two proposals to reinforce the existing EU rules on anti-money laundering and fund transfers.